

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

NANCY GIMENA HUI SHA-HUI SHA, *et al.*,

Plaintiffs,

V.

ALEJANDRO MAYORKAS, Secretary of Homeland Security, in his official capacity, *et al.*,

Defendants.

No. 1:21-cv-00100-EGS

**PLAINTIFFS' COMBINED REPLY MEMORANDUM IN SUPPORT OF MOTIONS
FOR CLASSWIDE PRELIMINARY INJUNCTION AND CLASS CERTIFICATION**

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INTRODUCTION

Since February, when the case was held for settlement discussions, circumstances have substantially further undercut Defendants’ position that asylum-seeking families must be sent back to danger without procedures to determine whether they are entitled to protection under U.S. law.

Likelihood of Success on the Merits. This prong of the preliminary injunction analysis has already been decided by this Court. In *P.J.E.S. v. Wolf*, the Court held that Title 42 did not provide DHS with statutory authority to bar unaccompanied minors from seeking protection in the United States. 502 F. Supp. 3d 492, 511-16 (D.D.C. 2020). Dispositive here, the Court did not rely primarily on statutes specific to minors, but rather on the lack of expulsion authority in Title 42 and the general protection statutes equally applicable to the families in this case. Defendants simply rehash arguments already rejected in *P.J.E.S.*, particularly the “unsupported” and “unwarranted” position that the CDC wields an unprecedented power to expel people that is nowhere mentioned in the statute on which they rely. *Id.* at 536. *Cf. Alabama Ass’n of Realtors v. Dep’t of Health & Hum. Servs.*, 141 S. Ct. 2320, 2320–21 (2021) (Kavanaugh, J., concurring) (stating that the CDC eviction moratorium “exceeded its existing statutory authority” under Section 264 of Title 42, but providing fifth vote to maintain stay of injunction because policy was scheduled to expire shortly).

Irreparable Harm to Families. As the declarations in this case show, the government is literally pushing families, including those with very young children, into the hands of criminal cartels in Mexico. “CBP expulsions of migrants occur in predictable locations at predictable times in areas where kidnappers and organized crime are rampant.” Supplemental Declaration of Taylor Levy (“Supp. Levy Decl.”) ¶ 2. Families are forced back over the bridges by our government while cartels stand waiting to kidnap, traffic, rape, and assault them. *See, e.g.*, Declaration of Julia Neusner (“Neusner Decl.”), ¶¶ 5-15; Declaration of Jennifer Harbury (“Harbury Decl.”), ¶¶ 6-13; Declaration of Erika Pinheiro (“Pinheiro Decl.”), ¶¶ 27-40. One declarant testifies that more than one in five of the migrants she works with report that they were kidnapped in Mexico, with many of the women raped during their capture or after expulsion; another reported that 40% of her clients

in Nuevo Laredo suffered an actual or attempted kidnapping (or both). Declaration of Savitri Arvey (“Arvey Decl.”) ¶ 1; Levy Decl. ¶ 4. The declarations describe in vivid detail the brutality that occurs on a regular basis. Not surprisingly, therefore, Defendants do not seriously dispute that families are subject to irreparable harm.

Balance of Harms. Despite the horrific consequences of Title 42, and the lack of statutory authority, Defendants claim that DHS should be permitted to continuing expelling asylum-seeking families because of the potential risk of COVID-19 transmission. But as this Court emphasized in *P.J.E.S.*, the government cannot avoid “acting within the bounds set by Congress” by refusing “to make difficult decisions about *allocation of resources* to mitigate the risks caused by COVID-19.” 502 F. Supp. 3d at 519-20 (emphasis added). Public health experts stress that ample risk mitigation steps are available if DHS would simply *choose* to take them, such as setting up outdoor processing centers, quarantine facilities, and proper testing protocols. *See* Supplemental Declaration of Former CDC Officials (“Supp. Former CDC Off. Decl.”) ¶¶ 4, 18, 36; Declaration of 32 Medical and Public Health Experts (“Med. & Pub. Health Decl.”) ¶¶ 4–8, 13–28. Most importantly, highly effective vaccines are now universally available, for free, to anyone who wants one. And DHS officers have had privileged access for many months, undercutting any claim of risk to them.

Defendants seek to create the misleading impression that an injunction barring the use of Title 42 for families would result in a sea change. But Defendants have already reduced the percentage of families expelled at the Southern border under Title 42—from 62% in January to 14% in June—demonstrating that they can process families safely through the immigration system Congress established.¹ Thus, even assuming that additional mitigation steps were still necessary, an injunction would require the government to take only those steps needed to accept the remaining 14% of families. In contrast, in the absence of an injunction, the lives of these families, which include young children, are put at grave risk.

¹ U.S. Customs & Border Protection, Southwest Land Border Encounters, <https://www.cbp.gov/newsroom/stats/southwest-land-border-encounters> (select “FMUA” for “family unit aliens” in “Demographic” down-menu) (last visited Aug. 10, 2021).

Defendants seek cover from CDC, but CDC's analysis is squarely in line with this Court's view in *P.J.E.S.* As public health experts emphasize, CDC's recent August 2 Order, ECF No. 114, Ex. A ("CDC Order"),² did *not* state that DHS was incapable of safely processing asylum-seeking families; rather, it says only that DHS must allocate the resources necessary to take the proper mitigation steps. And it is hard to imagine how DHS lacks the resources, given the agency's \$81 billion budget for FY 2021, almost a quarter of which is for CBP.³ Thus, as the public health experts pointedly state, the "CDC Order is an indictment of the DHS's yearlong failure to adopt reasonable mitigation steps in order to safely process asylum-seeking families, and not a conclusion by CDC that migrants present an unacceptable public health risk." Med. & Pub. Health Decl. ¶ 4. Notably, the experts also explain that "where the federal government has wanted to allocate resources toward mitigation protocols for migrants entering the United States, it can do so, as it did when it exempted unaccompanied minors from Title 42." *Id.*

ARGUMENT

I. PLAINTIFFS ARE LIKELY TO SUCCEED ON THE MERITS.

P.J.E.S. correctly held both that 42 U.S.C. § 265 grants no expulsion authority, and that in any event it cannot override the specific protections established in the immigration statutes. 502 F. Supp. 3d at 511-16, 534-44. Defendants' opposition barely acknowledges (much less rebuts) those holdings. Indeed, with only cosmetic changes, their same arguments were made and rejected in *P.J.E.S.*

A. Section 265 Does Not Authorize Expulsions.

No Implied Expulsion Power. Defendants assert that § 265 "plainly allows for the expulsion of persons." Opp. 15, ECF No. 76. But this Court already rejected that argument, and all the tools of statutory construction underscore the absence of any expulsion power. PI Mot. 10-12, ECF No. 57-1. Defendants do not, and cannot, contest that Title 42 nowhere contains "the

² The Order is now published in the Federal Register. 86 Fed. Reg. 42828-02 (Aug. 5, 2021).

³ Department of Homeland Security, FY 2021 Budget in Brief, <https://tinyurl.com/28byu8tx>.

word ‘expel’” or synonyms thereof. *P.J.E.S.*, 502 F. Supp. 3d at 512. Rather, Defendants’ central response is that the Court should read an *implied* power to expel into the statute. *See* Opp. 2, 15-16. As in *P.J.E.S.*, their argument is ultimately this: Because Congress’s *goal* was to keep out disease, it implicitly authorized any and all *means* to do so. Opp. 2, 17; *see, e.g.*, Defs.’ Objs. to R&R 12, *P.J.E.S.*, ECF No. 69 (“*P.J.E.S.* Obj.”). But “agencies are ‘bound, not only by the ultimate purposes Congress has selected, but by the means it has deemed appropriate, and prescribed, for the pursuit of those purposes.’” *Merck & Co. v. U.S. Dep’t of Health & Human Servs.*, 962 F.3d 531, 536 (D.C. Cir. 2020); *see P.J.E.S.*, 502 F. Supp. 3d at 543; PI Mot. 18-19.

Defendants rehash various other statutory arguments made and rejected in *P.J.E.S.* For example, Congress established specific, non-expulsion penalties for violations of a § 265 order, *see* 42 U.S.C. § 271; if it had intended to address a threat to public health with an expulsion power, it could have said so—as it has in many statutes (even beyond immigration), PI Mot. 10-11, 15. Defendants’ contrary suggestion that language in one statute “usually sheds little light” on others, Opp. 16-17 (quoting *Russello v. United States*, 464 U.S. 16, 25 (1983)), was properly rejected in *P.J.E.S.*: “[T]he Supreme Court routinely points to other statutes as evidence that Congress knows how to legislate in particular ways.” 502 F. Supp. 3d at 514. The Court similarly dispensed with Defendants’ reliance on the statutory requirement that orders issued under § 265 be “*in accordance with regulations.*” Opp. 17 (emphasis in original). “[I]f Section 265 does not provide the authority to expel persons; then it does not delegate the authority to issue regulations to expel persons.” *P.J.E.S.*, 502 F. Supp. 3d at 513. Defendants also again rely on a neighboring provision, 42 U.S.C. § 264, arguing that its general rulemaking authority indicates deference to the Executive in this context. Opp. 19-20; *see P.J.E.S.* Obj. 14 (same). But, as *P.J.E.S.* concluded, insofar as it has any relevance, § 264 actually supports Plaintiffs’ position. Even with regard to those traveling from abroad, the outer bounds of the Executive’s public health powers under that statute are limited to the “apprehension, detention, [and] conditional release of individuals.” 42 U.S.C. § 264 (b)-(d). “Tellingly, Section 264 does not contemplate regulations that authorize expulsion from the United States,” *P.J.E.S.*, 502 F. Supp.

3d at 537, providing additional “contextual support for interpreting Section 265 to not provide authority to expel persons,” *id.* at 513.⁴

Defendants likewise again argue that § 265 provides “the power to prevent persons from entering the country,” so it must also provide the “power to . . . expel persons who manage to cross.” Opp. 2; *id.* at 15-16, 19; *see P.J.E.S.* Obj. 10-11. The Court properly rejected this argument in *P.J.E.S.*, explaining that “as a matter of ordinary language” prohibiting introduction “does not encompass expulsion.” 502 F. Supp. 3d at 511. Relatedly, Defendants again also seek to draw support from the use of the term “entry” in the immigration laws. Opp. 16; *see P.J.E.S.* Obj. 11-12. But, as the Court explained, Title 42 and the immigration laws are not the same. 502 F. Supp. 3d at 511 n.5 (declining to accept Defendants’ reliance on “the meaning of entry as a matter of immigration law”). Whatever the immigration laws may or may not permit, Title 42 by its terms permits arrests, fine, and imprisonment.⁵

⁴ Notably, the government’s broad interpretation of § 264 has been repeatedly rejected this year in the context of CDC’s eviction moratorium. *See, e.g., Tiger Lily, LLC v. United States Dep’t of Hous. & Urb. Dev.*, ___ F. 4th ___, 2021 WL 3121373, at *2 (6th Cir. July 23, 2021); *Alabama Ass’n of Realtors v. United States Dep’t of Health & Hum. Servs.*, ___ F. Supp. 3d ___, 2021 WL 1779282, at *6 (D.D.C. May 5, 2021); *Skyworks, Ltd. v. Centers for Disease Control & Prevention*, ___ F. Supp. 3d ___, 2021 WL 911720, at *10 (N.D. Ohio Mar. 10, 2021); *see also Florida v. Becerra*, ___ F. Supp. 3d ___, 2021 WL 2514138, at *27 (M.D. Fla. June 18, 2021), *stay denied*, No. 21-12243 (July 23, 2021) (concluding that cruise ship order exceeded CDC § 264 authority). The D.C. Circuit reached a different conclusion, holding (in a nonprecedential order) that CDC had a likelihood of success on its § 264 authority arguments. *Alabama Ass’n of Realtors v. United States Dep’t of Health & Hum. Servs.*, No. 21-5093, 2021 WL 2221646, at *1 (D.C. Cir. June 2, 2021) (per curiam). Five Supreme Court Justices disagreed: Four would have vacated the stay outright, and Justice Kavanaugh, while agreeing CDC “exceeded its existing statutory authority,” voted to deny the motion to vacate the stay only because the program was ending in a few weeks and to allow an “orderly” process. *Alabama Ass’n of Realtors*, 141 S. Ct. at 2321.

⁵ The government wrongly suggests that *P.J.E.S.* concluded Defendants do have the authority to physically bar entry. The Court merely stated that, even *assuming* for purposes of argument that the government’s definitions of prohibiting “introduction,” were correct, “[e]xpelling persons, as a matter of ordinary language, is entirely different from interrupting, intercepting, or halting the process of introduction.” 502 F. Supp. 3d at 511. Defendants are also wrong to suggest that Plaintiffs conceded that Title 42 allows persons to be barred from entry. Opp. 14. No such concession was made. 502 F. Supp. 3d at 513 (noting Plaintiffs’ concession *only* of the power to prohibit entry “through the regulation of vessels (including airplanes)”).

Finally, Defendants again fail to grapple with the implications of their argument. If expulsion could be implied as a power to effectuate § 265, that would be true for all “persons” covered by the statute—including U.S. citizens—as Defendants have conceded. PI Mot. 12; *P.J.E.S.* 502 F. Supp. 3d at 539-40 (noting concession). As Magistrate Judge Harvey observed, the implications of Defendants’ position are thus “breathtakingly broad.” *Id.* at 539. Defendants contest whether the canon of constitutional avoidance applies here, emphasizing that the CDC has not acted to expel citizens in this instance. *See* Opp. 18-19. It does apply, but in any event this argument gets Defendants nowhere.⁶ They are claiming a sweeping implied expulsion power, applicable even to citizens, that appears nowhere in the terms of the statute. “[T]he breadth of the [government’s] asserted authority is measured not only by the specific application at issue, but also by the implications of the authority claimed.” *Merck*, 962 F.3d at 541. In *Merck*, the D.C. Circuit explained that the government’s “construction of the statute would seem to give it unbridled power,” seriously undermining that interpretation even though such concerns were not presented by “*this* rule.” *Id.* at 540. So too here.

Ultimately, all Defendants can offer is their claim that they *need* the expulsion power to “flexibly respond to the exigency posed by the spread of communicable diseases.” Opp. 17. But that claimed need—even if credited—does not mean such power has been granted by Congress. *Cf. Alabama Ass’n of Realtors*, 141 S. Ct. at 2321 (Kavanaugh, J., concurring).

Regulation of Transportation. Not only does § 265 not authorize expulsions, but it is also limited to the regulation of *transportation entities* that *introduce* people into the country. *See* *Historians Amicus*, ECF No. 79 (explaining history of statute). As previously noted, the

⁶ Though the Court need not reach the issue, *see P.J.E.S.* 502 F. Supp. 3d at 516 n.7, Defendants are wrong about constitutional avoidance. “If one [proposed statutory construction] would raise a multitude of constitutional problems, the other should prevail—whether or not those constitutional problems pertain to the particular litigant before the Court.” *Clark v. Martinez*, 543 U.S. 371, 380-81 (2005). The cases Defendants cite to the contrary are inapposite. *See, e.g., FCC v. Fox Television Stations, Inc.*, 556 U.S. 502, 516 (2009) (rejecting “more stringent arbitrary-and-capricious review [for] agency actions that implicate constitutional liberties”—not the *statutory construction* canon) (emphasis added).

Court need not reach this argument, PI Mot. 13, but it provides an additional ground to enjoin these expulsions.

The text—especially Congress’s use of the term “introduction” into the country—demonstrates that § 7 of the 1893 Act (predecessor to § 265) was directed at the regulation of transportation companies, not individuals. PI Mot. 14-16. Defendants contest the meaning of “introduction,” insisting that “a person may ‘introduce’ himself or herself without relying on any third party.” Opp. 20. “Introduce” is used that way in other contexts—to introduce oneself to a new neighbor, for example. But the context here is that § 265 refers to introduction into a *place*. In 1893, as today, that is an action taken by a third party. PI Mot. 14. Defendants cite a dictionary quote as contrary evidence, but the reference is so dated (1639) that they must resort to repeatedly modernizing its spelling. *See* Introduce, *Oxford English Dictionary* (“He used such meanes that he introduced himselfe into this Castle.”) (quote modified at Opp. 20). Sources more contemporaneous with the enactment of the 1893 Act, however, paint a very different picture. *See* PI Mot. 14 (citing *Walsh v. Preston*, 109 U.S. 297, 298, 314, 315 (1883)). For example, nineteenth century state statutes made it unlawful “for any free . . . person of color to migrate into this State, or be brought or introduced into its limits.” 1835 Statutes at Large of South Carolina, at 470-72 (Act No. 2653), Ex. A; *see also* 1842 Code of Mississippi, at 538 (Art. 17) (similar), *id.*, Ex. B. This contrast between *migrating* and being *introduced* into the state by someone else reflects the ordinary meaning of the term “introduce.”⁷

Defendants’ contextual arguments likewise fall short. The 1893 Act was singularly focused on regulating ships transporting people to the United States. PI Mot. 14-15. Defendants argue, however, that because § 7 (the predecessor to § 265) does not use the term “vessels,” the context actually supports Defendants’ interpretation. Opp. 21. But Plaintiffs’ interpretation already accounts for the use of the term “vessels” in other parts of the 1893 Act. While the latter

⁷ Defendants’ reliance on *Compagnie Francaise de Navigation a Vapeur v. Louisiana*, 186 U.S. 380 (1902), is misplaced. That case concerned a *transportation entity’s* introduction of people into a state, *id.* at 381—entirely consistent with Plaintiffs’ interpretation of § 265.

provisions are limited to ships, the terms of § 7 were broad enough to permit regulation of all manner of transportation, including trains (and, now, airplanes). PI Mot. 17-18.

Defendants’ legislative history arguments fare no better. That Senator Chandler said that under § 7 “the President could ‘exclude all other passenger travel *as well as immigration*,’” Opp. 22 (quoting 24 Cong. Rec. at 471), underscores Plaintiffs’ point. With the inclusion of the word “other,” Senator Chandler’s phrasing demonstrates that he understood “immigration” to be a *form* of passenger travel—of noncitizens intending to remain permanently. Likewise, Defendants’ reliance on a rejected proposal to bar “all passenger travel,” *id.*, is misplaced. The proposal was to authorize stopping “all passenger travel, *but not immigration alone*,” in order to bar discrimination against certain travelers, again underscoring that “immigration” was being used as a subset of “passenger travel.” 24 Cong. Rec. at 470 (emphasis added). The word Congress ultimately settled on—“introduction”—refers, like “passenger travel” and “immigration” (in this context), to the transportation of people. *See id.* at 471; *Historians Amicus* at 2-3, 5-6.

B. Even If § 265 Did Authorize Expulsions, It Would Not Override The Specific Statutory Provisions For Those Seeking Protection.

Defendants do not dispute that Congress has carefully and repeatedly enacted special safeguards for persons fleeing persecution and torture. Instead, they argue that § 265 permits the Executive to override all such protections. *P.J.E.S.* squarely and correctly rejected that claim, and Defendants offer nothing to alter that conclusion. 502 F. Supp. 3d at 514-16, 540-43; *see also J.B.B.C. v. Wolf*, 20-CV-01509-CJN, 2020 WL 6041870, at *2 (D.D.C. June 26, 2020) (Nichols, J.) (same). Thus, even assuming that § 265 implicitly authorized expulsions (which, as discussed above, it does not), Title 42 summary expulsions would still be unlawful to expel families entitled to seek protection.

Defendants again argue that “Section 265 plainly takes precedence” over the immigration laws’ protections for asylum seekers. Opp. 24. But, as *P.J.E.S.* explained, a party asserting that Congress intended for one statute to “override[]” a separate regime “bears the heavy burden of showing a clearly expressed congressional intention that such a result should follow.” *Epic Sys.*

Corp. v. Lewis, 138 S. Ct. 1612, 1624 (2018) (internal quotation marks omitted). And here, “the language of Section 265 contains no ‘clear intention’ to authorize the suspension of the relevant provisions of Title 8.” *P.J.E.S.*, 502 F. Supp. 3d at 515. That is the end of the matter.

Defendants resist this conclusion by pointing, as they did in *P.J.E.S.*, to the requirement that a § 265 order be predicated upon a finding that “a *suspension of the right* to introduce . . . persons and property [from the designated country] is required in the interest of public health.” 42 U.S.C. § 265 (emphasis added). Defendants suggest that “suspension” refers to the suspension of *laws*, and that “the right to introduce . . . persons and property” should be read to “include[] the immigration laws.” Opp. 24-25. *P.J.E.S.* correctly rejected this same argument. 502 F. Supp. 3d at 515. Section 265 is clear about the substantive power it grants: “the power to prohibit, in whole or in part, the introduction of persons and property from [designated] countries.” 42 U.S.C. § 265. Defendants do not suggest that this grant of authority itself explicitly allows the Executive to override the immigration laws, and instead point to a subordinate clause describing a *finding* the agency must make before exercising that substantive power. See Opp. 24-25. It defies common sense that Congress would delegate authority to override all other federal statutes in a dependent clause describing a background finding the agency must make. See *Epic Sys.*, 138 S. Ct. at 1626-27.

In fact, the “suspension of the right” language reinforces Plaintiffs’ argument, *supra* Part I.A, that § 265 authorizes regulation of transportation entities, not expulsions. That phrase most naturally refers to suspension of such entities’ *licenses* conferring “the right” to ply certain routes.⁸ Indeed, Defendants betray their own deviation from the statutory text by seeking to transform § 265’s reference to “the *right to introduce*” into a “cessation of . . . laws pursuant to which a

⁸ See, e.g., *Barron v. Burnside*, 121 U.S. 186, 200 (1887) (discussing state license granting corporation the “right to carry on commerce”); *Hazeltine v. Miss. Valley Fire Ins. Co.*, 55 F. 743, 746 (C.C.W.D. Tenn. 1893) (statute authorized agency to “suspend the right of a licensed foreign insurance company ‘to do business in the state’”).

person might otherwise claim the *right to be introduced*.” Opp. 24 (emphasis added). But the statute says nothing about a right to *be introduced*.⁹

Finally, Defendants again assert that the specific-over-general canon favors § 265 over immigration laws because the former applies only during health emergencies. Opp. 25. But that canon cuts the other way here. As *P.J.E.S.* held, 502 F. Supp. 3d at 515, the later-enacted immigration laws “speak[] directly” to “the question before [the Court],” *Epic Sys.*, 138 S. Ct. at 1631, and these statutes do not permit summary deportation without a screening for persecution or torture. By contrast, § 265 “doesn’t mention [expulsion or asylum procedures] at all.” *Id.* at 1632. Indeed, in 1996 Congress went out of its way to mandate special asylum procedures as part of the expedited removal process for the *precise* group designated as “covered aliens” subject to the Title 42 Process—those who arrive without documents. *See* PI Mot. 20 (describing “credible fear” process). As a group of leading scholars of immigration and refugee law explain, the “CDC Orders deny these protections to the same persons covered by the INA’s expedited removal procedures,” even though “Congress already considered” whether and how those people should be expelled from the country, and decided such noncitizens are “*entitled*” to the asylum hearings, procedures, and protections Congress enshrined. Refugee Scholars Amicus Brief 2-3, 6-7, ECF No. 77 (emphasis added); *see also* IRAP Amicus Brief 4, 10, ECF No. 78. Yet Defendants claim that § 265—which has nothing to say about any of these matters—allows them to cast aside those considered congressional judgments. That claim is wrong and should again be rejected.¹⁰

C. No Deference Is Warranted.

Finally, Defendants fall back on a claim for deference under *Chevron, U.S.A., Inc. v. NRDC*, 467 U.S. 837 (1984). Opp. 30. As *P.J.E.S.* held, no deference is warranted here. 502 F. Supp. 3d at 516, 544 n.15; *see also J.B.B.C.*, 2020 WL 6041870, at *2. Deference fails at

⁹ Nothing in the legislative history indicates an intention to override all other laws, much less a clear and manifest intention. *See* Opp. 26-29; *P.J.E.S.*, 502 F. Supp. 3d at 515.

¹⁰ As previously explained, the Title 42 Process also violates the requirements of the Convention Against Torture. PI Mot. 21 n.9. Plaintiffs preserve this argument but agree that the Court need not decide that issue at this time. *See P.J.E.S.*, 502 F. Supp. 3d at 540 n.12.

Chevron’s first step because, as already explained, Defendants’ asserted new expulsion power is at odds with “the traditional tools of statutory interpretation—including the statute’s text, history, structure, and context.” *Loving v. I.R.S.*, 742 F.3d 1013, 1021-22 (D.C. Cir. 2014); *see also SAS Inst., Inc. v. Iancu*, 138 S. Ct. 1348, 1358 (2018) (rejecting agency’s argument that silence as to asserted authority created ambiguity). And for similar reasons, Defendants’ interpretation would warrant no deference at *Chevron*’s second step “because it is unreasonable in light of the statute’s text, history, structure, and context.” *Loving*, 742 F.3d at 1022; *see also District of Columbia v. Dep’t of Labor*, 819 F.3d 444, 454 (D.C. Cir. 2016) (rejecting “novel reading” that would “significantly enlarge” longstanding statute’s effect). Moreover, no deference is due to the claim that § 265 overrides the immigration statutes for an additional reason: “The reconciliation of distinct statutory regimes is a matter for the courts, not agencies.” *P.J.E.S.*, 502 F. Supp. 3d at 544 n.15 (quoting *Epic Sys.*, 138 S. Ct. at 1629) (cleaned up).¹¹

Defendants offer no response to *P.J.E.S.*’s conclusions on these issues. Instead, they rely entirely on a claim to deference based on the CDC’s “expertise.” As *P.J.E.S.* held, however, the interpretative question here is purely legal—does § 265 authorize expulsions and override the immigration laws, or does it not? *See* 502 F. Supp. 3d at 516. The CDC’s “epidemiological expertise in how best to respond to a public health crisis,” Opp. 30, might impact what power it thinks is *needed*, but Defendants have “not explained how that scientific and technical expertise” meaningfully bears on the question *whether Congress granted that power*, *P.J.E.S.*, 502 F. Supp. 3d at 516; *see also NRDC v. Daley*, 209 F.3d 747, 755-56 (D.C. Cir. 2000) (refusing to defer to scientific expertise where agency never explained how it informs statutory interpretation).

¹¹ Defendants’ alternative plea for *Skidmore* deference fails for the same reasons. *Skidmore* deference applies only “to an agency administering its own statute.” *United States v. Mead Corp.*, 533 U.S. 218, 228 (2001) (emphasis added). And under *Skidmore*, an agency’s interpretation is only “eligible to claim respect according to its persuasiveness.” *Id.* at 221. For the reasons already given, Defendants’ interpretation is not persuasive.

II. THE CLASS WILL SUFFER IRREPARABLE INJURY ABSENT A PRELIMINARY INJUNCTION.

Plaintiffs previously put forward substantial, un rebutted evidence regarding the irreparable injury that class members face upon expulsion, including persecution, physical harm (or even death), and the deprivation of the right to seek humanitarian relief. PI Mot. 23-25 (describing evidence of harms and State Department reports documenting country conditions). Advocates and attorneys now describe the grave harms faced by families across the border, who are sitting ducks for violent cartels upon expulsion by our government. As one declarant describes, “CBP has routinely expelled my clients, including newborns, into the waiting arms of kidnappers biding their time next to the port.” Supp. Levy Decl. ¶ 30; *id.* ¶ 34 (“Others have reported being kidnapped by supposed taxi drivers who park near the ports and either kidnap the migrants directly or . . . hand them over to kidnappers.”); Neusner Decl. ¶ 8. (“As of June 17, 2021, Human Rights First has tracked 3,250 kidnappings and other attacks, including rape, human trafficking, and violent armed assaults, against asylum seekers and migrants expelled to Mexico or blocked from crossing the U.S.-Mexico border since January 2021.”). To cite a few other examples of noncitizens preyed on by criminal elements after expulsion:

- “[A] Honduran woman I interviewed in a Juárez shelter told me that she and her seven-year-old daughter were kidnapped immediately after DHS expelled them to Juárez via a lateral expulsion flight from the Rio Grande Valley in April 2021. . . . [A]rmed men kidnapped the family and held them captive for two months in a house where they were forced to sleep on the floor with dozens of other kidnapping victims and deprived of sufficient food and clean drinking water They managed to escape while being transported to another location.” Neusner Decl. ¶ 8.
- “Over two thousand migrants are [at an encampment now], including elderly persons, pregnant women, injured persons and numerous small children. . . Not surprisingly, the gangs raid this small encampment every night, kidnapping many and dragging them away to awaiting vehicles. A local police car is parked there regularly, but the officers either look the other way or drive off when the kidnappers arrive.” Harbury Decl. ¶¶ 1, 10.
- “One Honduran woman I spoke with in April 2021 was expelled with her young daughter by CBP officials at night through the Hidalgo Port of Entry. After she exited the international bridge into Reynosa, several armed men grabbed her and covered her face with a black hat and forced her in a car. While being held, she was raped multiple times and she begged her captors not to harm her daughter. Her daughter was released by herself

and crossed the border unaccompanied. After a month, the woman was able to escape with other women who were being held.” Arvey Decl. ¶ 16.

- “In Reynosa, one of our clients who had previously tried to seek asylum at the border but who was expelled under Title 42 was kidnapped shortly thereafter with her young son. The mother and child were held for days without food until they finally escaped.” Pinheiro Decl. ¶ 37.

Other migrants describe horrendous stories of sexual assault and gender-based violence they experienced after expulsion:

- In April 2021, I spoke with a Guatemalan Indigenous woman who was raped in the street in Tijuana after DHS expelled her there with her three young children in February 2021.” Neusner Decl. ¶ 14.
- “One of my female clients from El Salvador . . . was kidnapped by two men who put a wet rag over her mouth, causing her to lose consciousness. When she awoke, she was alone, mostly naked, dumped in the desert, and had been raped. She walked until she found a woman who gave her pants and some money for a bus ride . . . [T]he police officers told her that they were not going to accept her complaint because she was a migrant and ‘migrants liked to be raped.’ She later realized that she was pregnant as a result of the rape and went to the public hospital for prenatal care. At the hospital, a doctor, without informing my client or obtaining her consent, forcibly induced an abortion. As a Christian, my client does not believe in abortion and wanted to keep her baby . . . despite being the product of rape.” Supp. Levy Decl. ¶ 16.
- “In one case received by our organization, a mother and her 5-year-old daughter were expelled to Mexico from the United States after fleeing sexual assault and domestic violence in Guatemala. After being expelled to Ciudad Juarez this mother was raped. The family also faced ongoing extortion and death threats from smugglers in Mexico following their expulsion.” Rivas Decl. ¶ 16.

Still more migrants describe other forms of violence perpetrated on them and their family members.

- “[A] father was approached by the cartel in Nuevo Laredo who demanded that he work for them. He refused, and they beat him so badly that they broke his hip and told him that he was going to have to start working for him once he healed. The family was so terrified that they hid in the migrant shelter rather than try to seek medical care; as a result, the father can no longer walk unassisted.” Supp. Levy Decl. ¶ 37.

- “After DHS turned the family away, they tried to sleep in the tent encampment near the port of entry. A man in the encampment charged her money to stay there, then a group of men assaulted the woman’s teenage daughter.” Neusner Decl. ¶ 22.

Noncitizens subjected to expulsion or barred from coming to the United States have also experienced dire impacts on their health, or even death. *See, e.g.*, Pinheiro Decl. ¶ 2 (“[T]hree . . . clients have died after being denied the ability to seek medical care in the U.S.”); *id.* ¶ 30 (Haitian migrants describing discrimination by medical staff in Mexico); *id.* ¶ 32 (Haitian woman unable to access follow-up care or cleaning for third-degree burn); Neusner Decl. ¶ 25 (describing mother with kidney disease who “is experiencing severe abdominal pain, headaches, and back pain from sleeping on the ground”); *id.* ¶ 27 (mother was ovarian cyst who could not obtain treatment); Supp. Levy Decl. ¶ 21 (baby with Down’s Syndrome and heart murmur denied medical care in Mexico); Harbury Decl. ¶ 12.C (grandmother with blindness who fell gravely ill after expulsion to Mexico, and passed away in hospital). They are being forced to live in large tent encampments in unsanitary and horrendous living conditions, where gangs and criminal cartels prey upon them. *See, e.g.*, Neusner Decl. ¶ 24 (describing tent encampment in Reynosa, Mexico, where thousands of migrants are living); Arvey Decl. ¶ 7 (“[M]any have been forced to sleep in abandoned houses, in the bus terminal, under bridges or on the streets . . . [F]amilies with young children have struggled to access the most basic necessities, such as food and water”).¹²

Some camps are so dangerous that even advocates are unwilling to go to them. *See* Pinheiro Decl. ¶ 28 (“Aid workers [at the El Chaparral camp in Tijuana, Mexico] have received numerous threats from those controlling the camp. Few groups are willing to provide in-person services, so there is a lack of food and supplies for those living at the camp.”). Others report that they tried to plead their situations to CBP, only to be turned away. *See, e.g.*, Declaration of Astrid Dominguez (“Dominguez Decl.”) ¶ 2 (describing father who “carried his visibly disabled daughter

¹² Recently, DHS has reportedly expelled hundreds of Honduran, Salvadoran, and Guatemalan migrants to southern Mexico, where they are sent to a remote village in Guatemala and stranded without housing or transportation. The Washington Post, *Mexico has pushed hundreds of migrants expelled from the U.S. on to Guatemala, stranding them in a remote village far from their homes* (Aug. 10, 2021), <https://www.washingtonpost.com/world/2021/08/10/mexico-deport-guatemala/>.

[with spinal injuries] across the border but were nevertheless expelled”); Pinheiro Decl. ¶ 34 (describing expulsion of 19-year-old who “had lost his right arm and leg”); Declaration of Chelsea Sachau (“Sachau Decl.”) ¶ 22 (describing expulsion of pregnant woman experiencing contractions despite her “detailing her kidnapping at the border” to CBP); Supp. Levy Decl. ¶ 45 (describing five new mothers expelled while bleeding and in pain from giving birth within last 48-72 hours); Rivas Decl. ¶ 14 (Haitian children expelled without their shoes to Mexico). This Court has also granted stays of removal for multiple families who fear return to countries they fled. *See, e.g.*, ECF Nos 25, 42, 46.

Defendants argue, as they unsuccessfully did in *P.J.E.S.*, that the “individualized nature” of the threats facing class members precludes a classwide finding of irreparable harm. Opp. 32. But they do not dispute that all class members face the same deprivation of statutory procedures to seek protection in the United States. *See P.J.E.S.*, 502 F. Supp. 3d at 517 (“[T]he putative class members are being returned without any opportunity to apply for asylum or withholding of removal. Once expelled from the United States and outside the jurisdiction of the Court, it is not clear that a remedy can be provided.”). Moreover, Defendants offer no evidence that class members face materially disparate dangers once expelled. To the contrary, as described above, the proposed Class members are experiencing sadly all-too-common harms.¹³

III. THE BALANCE OF HARMS AND PUBLIC INTEREST WEIGH IN FAVOR OF INTERIM RELIEF.

Border Processing Capacity. The harm faced by families outweighs any burden on Defendants. Defendants, as before, broadly state that the CDC has determined that the Title 42 Process “is necessary to protect the country” Opp. 32. But, as noted above, the recent CDC Order does *not* say that accepting additional migrant families into the country cannot be done consistent with public health. Rather CDC’s view is fully consistent with that of numerous former

¹³ Defendants also argue that the Title 42 Process’s procedure for assessing a noncitizen’s claims under CAT mitigates such risks, Opp. 32, disregarding that this assessment does not screen for asylum or withholding claims (which are distinct from CAT and have different criteria), and is rife with deficiencies *even as to CAT*, PI Mot. 21 n.9; *supra* Part I.B.

CDC officials and public health experts who have explained the steps the federal government can take to reduce risks. *See* Med. & Pub. Health Decl. ¶¶ 9, 13–32 (“By combining multiple strategies, including vaccinations, testing, masking, ventilation, and sanitizing, [CBP] can safely process asylum-seeking families while minimizing transmission of COVID-19.”); Supp. Former CDC Off. Decl. ¶¶ 29–37; *see also* Declaration of Médecins Sans Frontières Medical Coordinator in Mexico (“MSF Decl.”) ¶¶ 20–23. Indeed, the recent CDC Order repeatedly states that this is a question of resource allocation and that asylum-seeking families can be safely processed as long as DHS is willing to take mitigation steps, precisely what this Court held in *P.J.E.S.* *See, e.g.,* CDC Order 3 (“recogniz[ing] the availability of testing, vaccines, and other mitigation protocols can minimize risk” of COVID-19 transmission during border processing), 22 (acknowledging that DHS can “partner with state and local agencies and nongovernmental organizations to provide testing, consequence management, and eventually vaccination to [family units]” and encouraging “expansion of such COVID-19 mitigation programs . . . as soon as practicable”). Defendants’ own declarant does not dispute mitigation steps are available, stating that DHS has taken “significant steps to develop systems to facilitate testing, isolation, and quarantine of those individuals who are not immediately returned to their home countries after encounter.” Shahoulian Decl., ECF No. 116, ¶ 9.

As the experts pointedly observe: “The CDC Order is . . . not a conclusion by CDC that migrants present an unacceptable public health risk,” but rather a push for DHS to take the necessary mitigation steps that the agency is plainly capable of taking and has taken in the past where it was pushed to do so. Med. & Pub. Health Decl. ¶¶ 4–6. Thus, far from supporting Defendants’ litigation position, public health experts explain that the CDC Order is simply saying that DHS can safely process asylum seekers if it chooses to take the proper mitigation steps. *Id.* ¶¶ 5 (“[T]he CDC ‘recognizes [that] the availability of testing, vaccines, and other mitigation protocols can minimize risk’ of COVID-19 transmission during border processing.”), 6 (“The CDC further recognized that the federal government has successfully implemented those

mitigation steps in order to process unaccompanied children without posing ‘a significant level of risk for COVID-19 spread into the community’—DHS simply has not done the same for families.”).

Despite DHS’s 81 billion dollar budget, about a quarter of which is CBP’s, Defendants’ claim that “infrastructure and resource limitations” prevent DHS from taking the necessary mitigation steps. Yet, as noted above, 86% of families arriving at the southwest border are *already* allowed into the United States and processed for regular removal proceedings, largely because the “Mexican government has placed certain nationality- and demographic-specific restrictions on the individuals it will accept” under Title 42, and large Mexican states are refusing to accept back families with young children. CDC Order 15. Thus, an injunction would only require the government to accept an additional 14% of families—about 362 individuals per day across the entire Southern border. Declaration of Aaron Reichlin-Melnick (“Reichlin-Melnick Decl.”) ¶ 22. That is the equivalent of just 0.1% of the number of people allowed through ports of entry for other reasons. *Id.*

Relatedly, Defendants claim that the “historic” levels of immigration encounters at the border means they cannot safely process the 14% of families currently subject to expulsion under Title 42. Shahoulian Decl., ECF No. 16, ¶ 20. But given their budget, that position is untenable. In any event, Defendants’ statistics are “misleading.” Reichlin-Melnick Decl. ¶¶ 22. Title 42 itself “has artificially inflated the number of ‘encounters’” between asylum seekers and CBP “as compared to the actual number of *people* seeking to cross the border and find protection in the United States.” *Id.* ¶ 9. That is so because the policy has led desperate people seeking a hearing to attempt to cross multiple times, sometimes 10 times or more, and each attempt is counted as a new “encounter.” *Id.*; *see id.* ¶ 11 (recidivism rate climbed from less than 7% to 40% under Title 42); *id.* ¶¶ 15-16 (CBP acknowledges this effect of Title 42 and that encounter statistics thus “overstate the number of unique individuals arriving at the border”). When it comes to how many individuals are actually coming to the United States, stripped of the inflated number of

“encounters,” the first nine months of the current fiscal year are, in fact, comparable to Fiscal Year 2019. *Id.* ¶ 13.

Moreover, as explained in the declarations, shelter providers and advocates along the U.S.-Mexico border have developed systems (often without meaningful federal aid) to test asylum seekers, quarantine positive cases, and give them vaccines. *See* Declaration of Teresa Cavendish (“Cavendish Decl.”) ¶ 2 (“Our organization and our partners [in Tucson, Arizona] have invested significant time and resources in building systems designed to receive migrants, [and] test them for COVID-19 and quarantine them when necessary”); Declaration of Kate Clark (“Clark Decl.”) ¶¶ 6-16 (similar, in San Diego, California); Declaration of Marisa Limón Garza (“Limón Garza Decl.”), ¶¶ 14 (“Despite our efforts, which we undertook at the encouragement of the federal government, much of our capacity [in El Paso and New Mexico] remains unused, while the government expels families back to Mexico.”); *see also* Dominguez Decl. ¶¶ 5 (describing systems in Brownsville and Hidalgo).

Critically, these shelter providers and advocates state that they could accommodate more families if Title 42 were lifted—especially if the federal government devoted more financing to mitigation efforts. Limón Garza Decl. ¶ 13 (estimating that “as of July 2021, less than 10 percent of [El Paso area’s receiving] capacity was currently in use”); Cavendish Decl. ¶ 13 (stating that existing reception programs “could [] be scaled up” with more government support); Clark Decl. ¶ 16 (recommending that federal government “channel money and resources to local agencies with proven track records, or even build[] up their own physical and other infrastructure”); MSF Decl. ¶¶ 9-13 (describing COVID-19 protocols in Matamoros camp). And the government could offer vaccines to migrants in border facilities, further mitigating risk.¹⁴ *See* Med. & Pub. Health Decl. ¶¶ 16–18; MSF Decl. ¶ 21(D) (describing excess vaccine doses that can be re-routed to migrants at the border).

¹⁴ Robert Preidt & Robin Foster, *Biden Offers COVID Vaccines to Migrants In Custody Along Mexican Border*, U.S. News & World Report (Aug. 4, 2021).

Ultimately the issue boils down to what this Court emphatically emphasized in *PJES*: the government must allocate proper resources to comply with congressional mandates.

Harm to DHS Personnel and the General Public. Defendants also suggest that a preliminary injunction would endanger DHS personnel and the U.S. population, but those assertions are equally unfounded. *First*, whatever force the government’s reliance on danger to DHS personnel once had, DHS personnel now have ready access to highly effective vaccines; those who have not gotten vaccinated have chosen not to do so. Supp. Former CDC Off. Decl. ¶¶ 6-17 (describing how “[t]he widespread availability of vaccines has no doubt changed the course of the COVID-19 pandemic”), ¶¶ 38-41 (“Defendants do not disclose how many CBP employees have actually been vaccinated . . . As more CBP employees get vaccinated . . . infection and hospitalization rates should correspondingly decrease.”), ¶¶ 42–44 (“The fact that CBP officers likely have a lower rate of infection compared to the American public . . . suggests that CBP is able to process immigrants safely . . .”).

Second, the government contends that the possibility of asylum seekers being infected threatens U.S. communities more broadly. Opp. 34, 36. And in its latest order, the CDC weakly concludes that asylum seekers “*may ultimately* increase community transmission rates in the United States.” Order at 16 (emphasis added). But critically, Defendants do not claim that migrants present a greater risk than numerous activities sanctioned by CDC, including “in-person schooling, travel, religious practice, indoor sporting events and other regular activities.” Supp. Pub. Health Decl. ¶¶ 3, 8 (“The risks from allowing migrants fleeing persecution and danger into the United States are minimal considering the number of mitigation tools available, and certainly not greater than risks associated with many activities that the CDC currently sanctions.”). Defendants also fail to address that “[t]he number of people entering the United States lawfully at ports of entry,” including “truck drivers, students, and people attending business meetings, is vastly larger than the number of family unit members apprehended and currently subject to Title 42.” Reichlin-Melnick Decl. ¶ 2; *id.* ¶ 22 (families subjected to Title 42 represent 0.1% of the average 361,976 people who enter at land ports from Mexico daily).

Evidence of COVID-19 tests administered to 5,340 asylum seekers in Mexico requesting exemptions from Title 42 show that only 1.14% tested positive. Declaration of Luis Lizarraga Tolentino ¶ 3; Declaration of Samuel Bishop ¶ 3; Declaration of Alan E. Valdez Juárez ¶ 3; Declaration of Edgar Ramírez López ¶ 3; Sachau Decl. ¶ 10; Supp. Levy Decl. ¶ 8. And more than 50% of adults in the five Mexican states on the border have received at least one vaccine dose, and in areas nearest the border in four of those states that figure is above 75%. Pinheiro Decl. ¶ 11; *see also id.* ¶ 13 (citing 107 average cases/day in Tijuana Mexico in August, 2021 compared to 1,415 average cases/day in San Diego County).

And unvaccinated individuals in U.S. communities—who are the overwhelming majority of those at risk for serious disease and hospitalization—can protect themselves with free and widely available vaccines. Supp. Former CDC Off. Decl. ¶¶ 11–17. Denying statutory rights to asylum to vulnerable families will not address the central cause of the continuing risk of infection and hospitalization for those who choose not to get vaccinated.

Third, Defendants also claim concern for the health of the families themselves. Opp. 34–35. But this asserted concern rings hollow in light of the ways in which they implement expulsions. “Defendants have irrationally sought to expel detained families who have been safely quarantined for weeks and are therefore known to be uninfected.” PI. Mot. 27. Defendants have also placed families on crowded planes and buses from the Rio Grande Valley to other locations in Texas, or places as far away as Arizona and San Diego, and then expelled some while releasing others into the U.S (“lateral” transfers). Plaintiffs’ declarants report that these families are not being tested before boarding flights or buses by the dozens or hundreds. Limón Garza Decl. ¶ 23 (“My understanding is that as many as 100 hundred noncitizens can be put on a single flight [and] that none of these noncitizens are tested before being put on a flight, or after they are designated for expulsion.”); Pinheiro Decl. ¶¶ 18–19; Neusner Decl. ¶¶ 16–18; Supp. Levy Decl. ¶¶ 3, 30; Rivas Decl. ¶ 15. A policy truly grounded in public health, rather than immigration concerns, would not cavalierly place these individuals on crowded buses or planes without first testing them and isolating those who test positive. Supp. Former CDC Off. Decl. ¶¶ 23–26; Med. & Pub. Health

Decl. ¶ 33. And as described above, these lateral flights put families directly into the hands of criminal organizations—a perverse result for a policy supposedly seeking to protect the health of those same families. *See, e.g.*, Neusner Decl. ¶ 9 (describing Honduran woman with young child expelled via lateral flight, then kidnapped and held captive for two months by armed men).

Effect on Future Migration. As they did in *P.J.E.S.*, Defendants again make dire predictions about overcapacity if the Title 42 Process were to be enjoined with respect to families, arguing that an injunction could serve as a “pull factor” attracting more families. Opp. 34-35. But, as in *P.J.E.S.*, “[t]he government has not established that the additional [arrivals] would actually overwhelm the . . . system.” 502 F. Supp. 3d at 519 (citation omitted). Defendants’ only purported example of such an effect is a 16% increase in encounters of unaccompanied children in the weeks after entry of this Court’s injunction in *P.J.E.S.* in November 2020. But that increase was part of a larger upward trend that predated the injunction by *many months*—and it was smaller than the percentage increase for each month from April to October 2020, when Title 42 was being enforced against unaccompanied children. Declaration of Cecilia Menjívar, Ph.D. (“Menjívar Decl.”) ¶ 15. There is thus “no basis” for the suggestion that this continued uptick was “attributable to the injunction.” *Id.* Migration levels of children and families are instead driven by dangerous conditions in the countries they flee, *id.* ¶¶ 16-32, as Defendants now appear to acknowledge, *see* CDC Order 13 n.70 (“According to data from DHS, encounters at the southern border have been rising since April 2020 due to several factors, including ongoing violence, insecurity, and famine in the Northern Triangle . . .”). *See also, e.g., Flores v. Sessions*, No. 85-CV-4544-DMG-AGRX, 2018 WL 4945000, at *2 (C.D. Cal. July 9, 2018) (rejecting similar “pull factor” theory as unfounded).

Defendants’ portrayal of migration numbers also both conflates families with other groups, and omits critical facts. First, much of Defendants’ discussion deals with single adults, who are not at issue here and make up the “vast majority” of those apprehended and subjected to Title 42. CDC Order 14. Moreover, as explained above, the increased number of apprehensions along the southern border is partly attributable to the *Title 42 Process itself*, which has created a revolving

door whereby desperate asylum seekers are expelled without asylum hearings, and then re-cross in an effort to seek safety and obtain a hearing. Reichlin-Melnick Decl. ¶¶ 1, 10-17; Menjívar Decl. ¶ 15.

Notably, shortly after the *P.J.E.S.* injunction was stayed by the D.C. Circuit, Defendants announced that they would voluntarily refrain from applying the Title 42 Process to unaccompanied children—despite their earlier dire warnings that the sky would fall. And as CDC itself acknowledges, the government has developed systems—including testing, quarantine, and safe release procedures—that have minimized the danger to both unaccompanied children and the general public. *See* CDC Order 22. These circumstances show that when the government invests sufficient resources into developing infrastructure, it can accommodate many more migrants than its current statements suggest.¹⁵ As noted, that is consistent with the view of Plaintiffs’ declarants on the ground, who similarly state that the systems they have been developed are scalable to accommodate additional asylum-seeking families if the government devotes the necessary resources. Cavendish Decl. ¶ 13; Limón Garza Decl. ¶¶ 30-31; Clark Decl. ¶ 16; Pinheiro Decl. ¶¶ 20-26.

Indeed, past practice demonstrates that Defendants are capable of creating additional capacity, if need be, in as little as two to three weeks—thereby providing space while they swiftly process noncitizens out of custody. For instance, between January 19 and February 9, 2021, CBP reactivated a 185,000-square-foot temporary facility in Donna, Texas.¹⁶ CBP also created multiple

¹⁵ A government declarant claims that, “[h]istorically, ICE has experienced high absconder rates when it comes to non-detained family units,” Declaration of Russell Hott, ECF No. 76-3, ¶ 28, but this is simply not true. An analysis of fifteen years of data showed that *96% of families applying for asylum had attended all their immigration court hearings*. Ingrid Eagly, Steven Shafer, & Jana Whalley, *Detaining Families: A Study of Asylum Adjudication in Family Detention* (2018), available at <https://tinyurl.com/fewkn8wb>.

¹⁶ *CBP Announces Opening of Temporary Processing Facility in Donna, Texas*, U.S. Customs and Border Protection (Feb. 9, 2021), <https://tinyurl.com/ftjcf64y>; Christian von Preysing, *US Customs and Border Protection to Build Temporary Immigration Facility in Donna*, KRGV (Jan. 20, 2021), <https://tinyurl.com/4psvfv6p>.

temporary facilities in 2019, before removing them due to fewer immigrant arrivals in 2020.¹⁷ In the past, CBP has stated that temporary facilities are safe and acceptable to care for immigrant families.¹⁸

Other Public Interest Considerations. Defendants’ claim that an injunction would prevent the government “from effectuating statutes enacted by . . . its people,” Opp. 35, gets it backwards. Here, “government officials are not acting within the bounds set by Congress.” *P.J.E.S.*, 502 F. Supp. 3d at 520. Defendants also again ask this Court to defer to “Government officials tasked with ensuring the public health,” Opp. 36. But as the Court stated in *P.J.E.S.*, Defendants are not free to engage in actions beyond what Congress has authorized. Moreover, to the extent Defendants are relying on CDC, it is CDC that is saying that migrants can be safely processed if only *DHS takes the available mitigation steps*.

Defendants further assert that “countries around the world” have issued travel restrictions to prevent the spread of COVID-19, Opp. 1, but they omit that many countries, including the United Kingdom and nearly all of Europe, have kept their doors open to *asylum seekers*, in recognition of the non-derogable nature of their treaty obligations. *See* U.N. High Commissioner for Refugees, *COVID-19 Platform: Temporary Measures and Impact on Protection*, https://im.unhcr.org/covid19_platform (last updated Aug. 7, 2021) (identifying countries that exempt asylum seekers from COVID-based restrictions on entry). Thus, rather than align their practices with those of other western democracies, Defendants have aimed their most onerous border restrictions at those most vulnerable. Indeed, UNHCR has singled out the United States for criticism in this regard, explicitly calling for an end Title 42.¹⁹

¹⁷ *New Temporary Facilities in Texas and Arizona Expand CBP Holding Capacity*, U.S. Customs and Border Protection (Aug. 6, 2019), <https://tinyurl.com/ymzrptjb>; Valerie Gonzalez, *Border Patrol Deconstructing Soft-sided Facilities in RGV, Yuma and El Paso*, KRGV (May 19, 2020), <https://tinyurl.com/4hewm8xn>.

¹⁸ *CBP to Open Temporary Facility in Response to Sustained Large Volumes of Family Units in Yuma, AZ*, U.S. Customs and Border Protection (June 28, 2019), <https://tinyurl.com/24r8ecdy>.

¹⁹ UNHCR, *Statement attributable to UN High Commissioner for Refugees Filippo Grandi on the need to end US COVID-19 asylum restrictions* (May 20, 2021), <https://tinyurl.com/6498ba32>.

As in *P.J.E.S.*, an injunction “may force [the government] . . . to make difficult decisions about allocation of resources to mitigate the risks of COVID-19,” but such resource-allocation challenges cannot outweigh the fundamental public interest favoring Defendants’ “faithful adherence to [their] statutory mandate, which does not permit expulsion.” *P.J.E.S.*, 502 F. Supp. 3d at 519-20 (cleaned up).

IV. DEFENDANTS’ CHALLENGE TO PLAINTIFFS’ MOTION FOR CLASS CERTIFICATION IS UNFOUNDED.

Defendants’ sole challenge to class certification is that the proposed class definition is “vague and ambiguous,” Opp. 14, because it “uses a term—‘the Title 42 Process’” that is “not defined in the class definition” itself, *id.* 13. But, as in *P.J.E.S.*, Plaintiffs have identified and challenged “a uniform policy or practice” of “expulsion,” and sought relief enjoining application of the challenged CDC orders to the class. 502 F. Supp. 3d at 509-10 (certifying class of unaccompanied children). Defendants do not seriously claim to misunderstand the contours of this legal challenge, as they admit “it is no secret that Plaintiffs challenge the ‘practice of summary expulsion under the Title 42 Process’ and the alleged lack of access to asylum.” Opp. 14 (quoting Class Mot. 2). And, of course, the Court could, if it felt it necessary, simply add a definition of “the Title 42 Process” when certifying the class and issuing the injunction.

V. SCOPE AND TIMING OF INJUNCTION.

1. Any injunction should encompass the new August 2, 2021 CDC Order and any subsequent CDC Order applying the Title 42 Process to families, as “there is no relevant material distinction” between that most recent Order and the prior CDC Orders as to the class at issue here.

See P.J.E.S., 502 F. Supp. 3d at 520 (citing *Ne. Fla. Chapter of Assoc'd Gen. Contractors of Am. v. City of Jacksonville*, 508 U.S. 656, 662 (1993)).²⁰

2. Defendants have requested that the Court stay any injunction. Opp. 36-37. Plaintiffs do not oppose a short one to two week stay should the Court conclude that Defendants need a brief period in which to implement additional protocols, provided that any stay prohibits the government from expelling families at a higher rate during such a stay than it was expelling them at the time the parties returned to Court on August 2.

CONCLUSION

This Court should grant Plaintiffs' Motions for Class Certification and for Classwide Preliminary Injunction.

Dated: August 11, 2021

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²⁰ Plaintiffs are submitting an updated proposed order with this brief to cover the August 2 CDC Order, and are prepared to amend the complaint to add that Order should the Court deem it necessary.

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11. Declaration of Astrid Dominguez

12. Declaration of Chelsea Sachau

13. Declaration of Médecins Sans Frontières Medical Coordinator in Mexico

14. Declaration of Teresa Cavendish

15. Declaration of Kate Clark

16. Declaration of Aaron Reichlin-Melnick

17. Declaration of Alan E. Valdez Juárez

18. Declaration of Edgar Ramírez López

19. Declaration of Samuel Thomas Bishop

20. Declaration of Luis Alberto Lizarraga Tolentino

21. Declaration of Cecilia Menjívar, Ph.D.

- a. Exhibit A. CV of Cecilia Menjívar, Ph.D
- b. Exhibit B. U.S. Border Patrol, Southwest Border Sectors, Total Illegal Alien
Apprehensions By Fiscal Year (Oct 12th through Sept 30th)

Dated: August 11, 2021

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SUPPLEMENTAL DECLARATION OF TAYLOR LEVY

I, Taylor Levy, hereby declare, pursuant to 28 U.S.C. § 1746:

SUMMARY

1. Having worked with border communities for over ten years, including having represented over 1,200 migrants impacted by the Title 42 policy, I am deeply familiar with the humanitarian crisis fueled by the policy and the policy's disconnect from COVID-19 concerns.
2. CBP expulsions of migrants occur in predictable locations at predictable times in areas where kidnappers and organized crime are rampant. As a result, many migrants are kidnapped immediately upon CBP releasing them into Mexico from a U.S. port of entry.
3. The risks to migrants are particularly acute when CBP engages in so-called lateral expulsions, in which migrants are apprehended at one part of the border (often the Rio Grande Valley in Texas), detained for as long as seven days, transported by plane or bus to another part of the U.S. border (as far away as San Diego, California), and then expelled into a completely different part of Mexico. Such expulsions make asylum-seekers even bigger targets for organized crime because the migrants (1) are easily identifiable outside the ports of entry, (2) are unfamiliar with their new surroundings, (3) have no shelter or other resources in the area, and (4) they likely have no more money to pay extortion ("protection fees") to another local gang or cartel (after already being extorted at their previous location).
4. My clients in Mexico suffer abuse from every possible source. For instance, one El Salvadoran woman had been expelled by the United States, then kidnapped, raped, and dumped in the desert, before the Mexican police told her that "migrants like to be raped" when she tried to report it; she then discovered that she was pregnant from the rape and suffered a forced abortion while seeking prenatal care at a public hospital. Overall, approximately 40% of the clients I worked with in Nuevo Laredo, Mexico report either an actual or attempted kidnapping (or both).
5. The horrific conditions that migrants endure in Mexico, combined with the federal government's decision to exempt children but not their parents from Title 42, have also forced parents to make gut-wrenching decisions to send their children across the border alone, unsure whether they will ever reunite.

6. Many of my clients were also actively harmed by CBP during their expulsions. Mothers who recently gave birth were expelled—while still bleeding profusely—with their U.S.-citizen newborns. Others had their critical medications seized and disposed of.
7. Through my work, I have become familiar with border processing, as well as shelter operations on both sides of the border. In my experience, Customs and Border Protection (CBP) has demonstrated that it can process families quickly, and shelter operators have taken extensive measures to prevent COVID-19 transmission among migrants, including testing and quarantine.
8. I have helped facilitate COVID-19 testing for 858 clients, and only 22 people (2.56%) tested positive.

QUALIFICATIONS

9. I am an attorney admitted to practice in Texas. I became licensed in 2019. I am in good standing with the State Bar of Texas (State Bar No. 24113588). I specialize in immigration law, and run a private law firm called Taylor Levy Law through which I provide primarily pro bono legal services to individuals along the U.S.-Mexico border.
10. Since 2009, I have worked as an attorney and advocate in various capacities for noncitizens at or near the southern border. Among other roles, I have worked as Legal Coordinator for Annunciation House in El Paso, Texas. Prior to my attorney licensure, I worked for five years as an accredited representative for the U.S. Department of Justice representing individuals in immigration court in the El Paso, Texas area.
11. Beginning in March 2020 I began going to the Mexican side of the Paso del Norte Port of Entry in Ciudad Juarez, Mexico to provide free legal advice to migrants presenting for their (canceled) Migrant Protection Protocols (“MPP”) hearings. From March 2020 through August 2020, I went to the Paso del Norte Port of Entry almost every weekday from approximately 4 am to 10 am and provided free legal advice and free consultations. From March 2020 through November 2020, I also frequently visited migrant shelters to give free legal advice and consultations to families who had been expelled under Title 42. In addition to my work in Juarez, I served as a free mentor to immigration attorneys from across the country. Since March 2020, I have consulted on numerous cases involving asylum-seeking families expelled across the southern border.
12. Since May 2021, I shifted my focus from my work in the Ciudad Juarez region to Nuevo Laredo (in partnership with the nonprofit organization VECINA) due to the alarming rates of expulsions under Title 42, which has subjected individuals seeking asylum to dangerous conditions in Nuevo Laredo, Mexico. I also work with some clients subjected

to Title 42 in Reynosa and Piedras Negras. I also communicate extensively with other immigration attorneys and humanitarian aid organizations providing services across the Mexican border.

13. I have also represented and helped many people seek exemptions from the CDC's Title 42 policy and be successfully processed at various ports of entry since April 2021. I have also helped arrange COVID-19 tests for hundreds of migrants prior to their entry into the United States since June 2021.

Migrant Families Are Trapped in Horrific Conditions in Mexico As They Await the End of Title 42.

14. Migrant families are extremely vulnerable in Mexico because, among other things, they are routinely (1) targeted for kidnapping, rape, trafficking, and extortion; (2) denied medical care even for serious illnesses; (3) displaced, homeless, and often forced to sleep on the street or in a plaza; (4) discriminated, harassed, and attacked based on race, gender, and sexual orientation; (5) assaulted by a combination of police and private actors; and (6) prevented from accessing basic services and legal protection due to language barriers.
15. Since May 2021, I have represented 398 families, and 22% of them had been kidnapped in Mexico. Twenty-one percent managed to escape from an attempted kidnapping. Overall, 41% experienced an actual or attempted kidnapping or both.
16. One of my female clients from El Salvador, who had been expelled three times under Title 42, was kidnapped by two men who put a wet rag over her mouth, causing her to lose consciousness. When she awoke, she was alone, mostly naked, dumped in the desert, and had been raped. She walked until she found a woman who gave her pants and some money for a bus ride. My client went to the municipal police to report the rape, and the police officers told her that they were not going to accept her complaint because she was a migrant and "migrants liked to be raped." She later realized that she was pregnant as a result of the rape and went to the public hospital for prenatal care. At the hospital, a doctor, without informing my client or obtaining her consent, forcibly induced an abortion. As a Christian, my client does not believe in abortion and wanted to keep her baby, who was innocent, despite being the product of rape.
17. That client's trauma was severe but not unique. I also represented a Black Honduran mother and her 7-year-old son—they were kidnapped in Reynosa, and the mother was severely beaten and raped in front of her son. When she sought help, Mexican police officers refused to help her and instead taunted her, asking her how much she would

charge to give them a turn. Since this trauma, the 7-year-old became extremely depressed and has frequently told his mother that he wants to die.

18. Another client told me that she was “lucky,” because even though the kidnappers gang-raped her repeatedly, they always did it in a separate room so that her 8-year-old daughter and 6-year-old son did not have to watch.
19. Kidnappers target migrants in hopes of extracting ransom from family and friends in the U.S. Migrants, particularly Black migrants and other racial minorities, are readily identified based on their appearance and their proximity to the border.
20. Many of the families I work with have serious medical conditions and they are unable to access appropriate medical care in Mexico. They report going to the public hospitals to seek emergency treatment (as officially required under Mexican law) only to be denied care because of their status as migrants. My clients’ untreated medical conditions have included cerebral palsy, seizures resulting from brain injuries suffered during beatings, brain tumor, vaginal infection, skin rashes, hernias, fainting, heart problems, diabetes, high blood pressure, asthma, anxiety, depression, suicidality, diarrhea, serious weight-loss, bed-wetting, gallstones, kidney stones, pediatric liver disease, anemia, ovarian cysts, spina bifida, hyperthyroidism, blood disease, autism, epilepsy, and scoliosis.
21. I represented a Honduran family whose one-year-old baby was denied emergency medical attention when he stopped breathing. The baby has Down’s Syndrome and a heart murmur. The family sought help at a public Mexican hospital and was told explicitly that they were denied care because they were foreigners. This family has been expelled to Mexico twice after trying to seek asylum in the United States.
22. I also represented a young Venezuelan man with spina bifida who was in a wheelchair, whose immobility made him particularly vulnerable to kidnapping. He was unable to receive necessary check-ups for his condition, and he ended up with an infection that moved to his kidneys as a result.
23. Another client had experienced vaginal bleeding for 3 months and was told by a doctor at the public hospital that she had over 20 uterine fibroids and was in severe need of surgery. However, the hospital refused to perform the operation because she was a migrant.
24. One of my clients was an 8-year-old girl with an enlarged heart that results in her turning purple and struggling to breathe. When the family sought out medical treatment for her,

doctors at public hospitals refused to serve them on numerous occasions, saying that Mexicans were more deserving of their help.

25. Families also frequently report a severe fear of leaving the shelters to seek out medical treatment because they are worried about being kidnapped, especially those families who have already survived one kidnapping and worry that their families will be unable to gather another ransom if requested.
26. My clients frequently report being harmed by Mexican law enforcement. Many families report being robbed, bribed, kidnapped, beaten, and sexually assaulted by Mexican police. Other migrants report Mexican immigration officials demanding \$500 bribes in exchange for their release; some expelled migrants report being handed over directly to kidnappers by Mexican immigration officials immediately upon expulsion.
27. I represented a Black Honduran asylum-seeker who was six-months-pregnant and suffered a miscarriage due to extreme distress caused by frequent police raids at her apartment.

Title 42 Has Exacerbated the Dangers that Migrant Families Face in Mexico.

28. In addition to prolonging the time that people spend under dangerous conditions, Title 42 elevates the risks that migrants face in Mexico and inflicts additional trauma on asylum-seekers.
29. CBP expulsions of migrants occur in predictable locations at predictable times in areas where kidnappers and organized crime are rampant. As a result, many migrants are kidnapped immediately upon CBP releasing them into Mexico from a U.S. port of entry.
30. The risks to migrants are particularly acute when CBP engages in so-called lateral expulsions, in which migrants are apprehended at one part of the border (often the Rio Grande Valley in Texas), detained for as long as seven days, transported by plane or bus to another part of the U.S. border (as far away as San Diego, California), and then expelled into a completely different part of Mexico.
31. Such expulsions make asylum-seekers even bigger targets for organized crime because the migrants (1) are easily identifiable outside the ports of entry, (2) are unfamiliar with their new surroundings, (3) have no shelter or other resources in the area, and (4) they likely have no more money to pay extortion (“protection fees”) to another local gang or cartel (after already being extorted at their previous location).

32. At multiple ports of entry in Texas (Laredo, El Paso, Eagle Pass, and Hidalgo), CBP has routinely expelled my clients, including newborns, into the waiting arms of kidnappers biding their time next to the port. Migrants become immediate targets as soon as they are marched over the boundary line into Mexico. Several of my clients have reported kidnappings and attempted kidnappings by armed men in trucks and vans waiting near the spots where Title 42 expulsions occur.
33. During those incidents, children are sometimes ripped from the arms of their mothers and fathers and pulled into the kidnappers' vehicles. Oftentimes migrant families run from these kidnappers trying to escape, resulting in family separation where some members escape while others are not so lucky. In some cases, the family members who survived the attempted kidnapping never again hear from their missing family members.
34. Others have reported being kidnapped by supposed taxi drivers who park near the ports and either kidnap the migrants directly or who refuse to take them to their destination and instead hand them over to kidnappers.
35. I represented a father and his six-year-old son, who were kidnapped and almost kidnapped a second time, each time immediately after being expelled from a U.S. port of entry. The first time, they were immediately kidnapped after CBP expelled them into Reynosa; the father was trafficked for labor. After they were released, the family tried to seek asylum again—this time, CBP transported the family and expelled them into Nuevo Laredo, where they narrowly escaped another kidnapping attempt.
36. Another client family, consisting of a mother and her seven-year-old son from El Salvador, were expelled into Mexico on several occasions trying to seek asylum in the United States. On their final attempt, they were kidnapped immediately upon expulsion to Nuevo Laredo and held for eight days while their family gathered the money to pay their ransom. The mother reported that her son did not eat anything during the entire kidnapping and was deeply traumatized.
37. I also represented a Honduran mother, father, and their children, ages eight and one. The mother was kidnapped and held for a month before finally being released after her family in the United States paid a ransom. Later, the father was approached by the cartel in Nuevo Laredo who demanded that he work for them. He refused, and they beat him so badly that they broke his hip and told him that he was going to have to start working for him once he healed. The family was so terrified that they hid in the migrant shelter rather than try to seek medical care; as a result, the father can no longer walk unassisted.

38. Another client was immediately kidnapped after being expelled from El Paso and was repeatedly sexually assaulted by her captors.
39. I also worked with a young mother of three who attempted to cross at Reynosa, Mexico but the family was apprehended and expelled more than a thousand of miles away into Tijuana, Mexico. On their second attempt, they were deported to Nuevo Laredo, where the family was kidnapped for five days and threatened with dismemberment for a ransom of \$20,000. The family is now traumatized from the event.
40. In another case, a mother and her two sons—including one who has severe autism and is nonverbal—were kidnapped for three weeks after being expelled into Mexico. The family had fled their home country after the children's father was murdered.
41. Another mother and her 8-year old son seeking asylum were expelled and then kidnapped for several days until her son fell ill and they were released "so her son would die elsewhere."
42. I also worked with a family of four that included a nine-month-pregnant mother, a father, and two children ages four and nine. The family originally sought asylum in the Reynosa area, only to be expelled. During their second attempt to seek safety, the family was accosted by cartel members. The young children made it across the river (thereby becoming unintentional unaccompanied minors), but the mother and father were kidnapped, separated, and brutalized. Eventually, the mother was released when she went into labor, and her baby was born with severe complications.
43. Title 42 has also resulted in more dangerous crossings. Prior to Title 42, I had rarely witnessed or learned of families attempting to climb over the border wall, but now, this has become a more common occurrence for desperate families subject Title 42 expulsions. I worked with a family who attempted to jump over the border wall and the two children fell off; one broke their leg and the other was seriously injured.
44. I have also represented clients who suffered direct harm at the hands of the Border Patrol during the expulsion process. For instance, expelled families frequently report having their medications seized by the Border Patrol. For example, I recently represented a Honduran mother with a chronic heart condition whose medication was taken away by Border Patrol upon apprehension and never returned; this resulted in her having extremely high blood pressure and swelling in her feet. I also represented a mother and her two-year-old son, whose asthma medicine was seized.

45. Since March 2021, I have represented five Central American mothers who were expelled into the streets of Piedras Negras, Mexico, within 48-72 hours after giving birth to a U.S. citizen baby in Eagle Pass, Texas. All of the mothers reported being expelled with limited baby formula, diapers, and clothing. The mothers—including one who had a cesarean section—all told me that they were in significant pain from given birth and unable to access medical care in Mexico. One mother told me that the Border Patrol took away all her belongings prior to expulsion—including her cell phone, money, clothing, and sanitary napkins—such that she had bled through her only pair of underwear and pants. All five mothers were expelled prior to obtaining birth certificates for their infants. Once in Mexico, they were unable to obtain appropriate medical attention for their babies because of their undocumented status.

Title 42 Has Caused Innumerable Families to Become Separated From Their Children.

46. Given the dangerous conditions in Mexico, the continued application of Title 42 to migrant families has forced parents to make heart-wrenching decisions to send their children to the United States alone, not knowing when (or if) they would ever see each other again.

47. I have witnessed the desperation that has forced parents to send their children unaccompanied to the border, because the Biden administration will accept only unaccompanied minors and not families under Title 42. Parents believe that is their only option. I have heard parents say, “no me queda de otra” (“I have no other option”).

48. For example, I worked with an indigenous mother with limited Spanish fluency who tried to seek asylum with her eight-year-old daughter. Immediately upon expulsion, the family was pursued by masked men with guns. The mother told her daughter to run, and the child was able to narrowly escape while the mother was abducted. The daughter ended up in the custody of the Office of Refugee Resettlement (“ORR”)—deeply traumatized—and thinking for over a month that her mother had been killed.

49. Another one of my clients was the mother of a nine-year-old boy fleeing forced gang recruitment in Honduras. After an attempted kidnapping in Mexico, the child’s mother sent him alone to the U.S, where he was languishing in ORR custody with no viable sponsor and about to be placed in long-term foster care.

50. I also represented a family that crossed the border twice in April 2021 seeking asylum. After being expelled both times, the family decided to send their son across alone. The remaining adult family members narrowly escaped an attempted kidnapping in Ciudad Juarez. They were also accosted and robbed by Mexican police officers. The father also

had uncontrolled diabetes and was unable to access proper medical care in Mexico. An attorney for the child, who was in ORR custody, contacted me for assistance applying for a humanitarian exemption from Title 42 for the adult family members, because the child—who had been identified as a victim of human trafficking—was suffering severe psychological trauma worrying about his family’s safety.

51. It is my professional opinion that the unaccompanied minor increase at the border is directly linked to the Title 42 expulsions and the decision to only exempt children (but not their parents and adult relatives) from expulsion.
52. Almost all of the parents I have worked with who sent their kids ahead alone as unaccompanied minors did so only after first being expelled as a family unit.
53. I have worked with dozens of such families, including many who sent across young children. Some families decided to only send their older children across the border alone, keeping their younger children with them. After sending their kids across the border unaccompanied, the parents then continue to try and enter the country, as single adults.
54. I have worked with clients who have attempted to cross into the United States as many as nine times out of desperation, being expelled each time without an asylum hearing that could have been provided the first time they sought entry, thereby avoiding multiple contacts with CBP.
55. Instead of deterring families from coming into the United States, Title 42 forces families to enter again and again, because there is no other way to seek protection or to reunite with their children.
56. In many of these cases, unless the parent is allowed to enter the United States, the child would be stuck in government foster care indefinitely, potentially for years. I frequently field phone calls and emails from attorneys representing unaccompanied minors in ORR custody who have been designated “Category 4”—meaning that there is no parent or other sponsor able to take custody of the child in the United States.

DHS’s Selective Application of Title 42 Discriminates on the Basis of Nationality.

57. Although the Title 42 policy on its face applies to undocumented persons regardless of country of origin, in reality, DHS engages in selective application of Title 42 that discriminates on the basis of nationality.

58. As the federal government has acknowledged, DHS generally does not expel nationalities that the Mexican government refuses to accept. *See* Centers for Disease Control and Prevention, *Order Suspending the Right to Introduce Certain Persons from Countries Where a Quarantinable Communicable Disease Exists* (Aug. 2, 2021) (hereinafter “CDC Order”) at 15, https://www.cdc.gov/coronavirus/2019-ncov/downloads/CDC-Order-Suspending-Right-to-Introduce-_Final_8-2-21.pdf. Mexico in turn “will only accept the return of Mexican and Northern Triangle nationals,” with “limited exceptions.” *Id.*
59. By adopting Mexico’s nationality preferences, DHS is distinguishing between migrants under Title 42 for geopolitical reasons, rather than on the basis of public health.
60. As a result of DHS’s selective enforcement, Mexican, Guatemalan, Honduran, and Salvadoran migrants are much more likely to be expelled into Mexico compared to other nationalities, even though they may present the exact same COVID-19 risk. *See* CBP, *Southwest Land Border Encounters* (last visited Aug. 10, 2021), <https://www.cbp.gov/newsroom/stats/southwest-land-border-encounters>.

CBP Can Process More Families at Ports of Entry, Including at El Paso.

61. Rather than force families to cross dangerous terrain to seek asylum, CBP can and should make orderly presentment at ports of entry a possibility for asylum-seeking families. I have worked with many families who approached ports of entry for an opportunity to prove their asylum claims before they were prevented from entering the port.
62. Although the government claims that every individual takes hours to process, based on my experience, CBP is capable of processing people more quickly than that.
63. I am also familiar with families and individuals being processed for humanitarian exemptions from the Title 42 policy via the so-called consortium process, which enables certain NGOs to identify and refer vulnerable individuals to the federal government to receive exemptions. Those individuals are able to be quickly processed without being detained for hours in congregate settings.
64. Over the past several months, I have maintained a waiting list of hundreds of families who were waiting for a humanitarian exemption from Title 42. Many of these families have been waiting in Mexico for a chance to pursue their asylum claims in the United States since before the onset of Title 42, due to various other Trump administration policies undermining access to asylum. Some of those families have waited their turn for 1-2 years under dangerous conditions, hoping to follow the law and do everything the “correct” way. Now that NGOs responsible for referring exemption requests to DHS are

no longer accepting new cases because of a backlog, those families whose desperation has reached a tipping point after years of suffering are now left with no options.

65. In the past, families were able to be processed much more quickly than the amount of time that the government is currently contending. Prior to 2018, I seldom witnessed noncitizens being immediately issued Notices to Appear (NTA), which formally commence removal proceedings and create a process for asserting asylum claims. Now, DHS has opted to issue NTAs immediately and asserts that the complexities of issuing an NTA requires significant processing time (and the detention of the noncitizen while the paperwork is being prepared). However, as past practice would indicate, DHS is not required to issue NTAs immediately, particularly when doing so unnecessarily prolongs detention and strains processing capacity. DHS and CBP could easily address their capacity issue by merely returning to historical practices. In the past, noncitizens could be quickly issued release documents and informed to check in with ICE at their ultimate destination to receive their NTA.
66. Another practice that should be adopted to speed up the processing times and reduce time in congregate settings is to utilize available space around the ports of entry. For example, due to my extensive work in the El Paso area, I am extremely familiar with the port of entry and its ability to utilize outdoor spaces for processing. I have witnessed the use of mobile fingerprinting stations, trailers, and tents for the quick processing of migrants. The El Paso port of entry and nearby Border Patrol facilities have ample outdoor spaces and empty parking lots where mobile processing stations could be set up for faster and COVID-safe processing. Notably, CBP has developed innovative ways to process noncitizens, but unfortunately is employing these methods to undertake Title 42 expulsions, and not for regular asylum processing.

Testing, Quarantine, and Shelter Capacity

67. Through my extensive work at the border, I have personal experience with the non-governmental organizations (NGOs) that assist noncitizen families in Juarez and El Paso as well as Nuevo Laredo and Laredo.
68. My work with Annunciation House for a decade provided me with intimate knowledge in the ways that these shelters and organizations can and are more than willing to accommodate larger numbers of people entering the country.
69. The work of these organizations was happening prior to the pandemic, it continued through the pandemic, and currently they are waiting to be able to take in more people. I

have personally been responsible for setting up pop-up shelters in churches, community centers, and hotels when expansions were needed.

70. Shelters and other NGOs on both sides of the border have worked to provide COVID-19 testing and implement steps designed to reduce the risk of COVID-19 transmission in migrant shelters. For example, from March 2020 through November 2020, I observed first-hand the various mitigation measures undertaken in the migrant shelter system in Ciudad Juarez, Mexico. There were various “filter” shelters erected to house, quarantine, and treat migrants who were COVID-19 positive and those who had not yet been tested. The rest of the shelters severely restricted in-and-out privileges to reduce the risk of contagion, and masks are generally required indoors. Hand sanitizer, bleach, and soap were plentiful. Visitation was limited to those providing essential services (such as legal aid) and occurred outdoors, masked, and with sufficient social distancing.
71. Similarly, I work closely with a network of migrant shelters in Nuevo Laredo and Monterrey, Mexico. While I have not visited them in person, I have heard about their COVID-19 protocols from both the pastor managing the shelters and the migrants themselves. Migrants are instructed not to leave the shelters except for doctor’s appointments or work; regardless, most rarely leave upon arrival because of the danger faced by migrants in Nuevo Laredo. There are plentiful masks, hand sanitizer, and cleaning supplies. The shelters are cleaned twice per day by the migrants. People who test positive for COVID-19 or who have high temperatures are transferred to a special quarantine shelter and isolated from the general population. A local lab comes to the shelters to administer COVID-19 tests as needed.
72. In both Juarez and Nuevo Laredo, families who receive a humanitarian exemption from Title 42 are able to access free or affordable COVID-19 tests before their appointments at the ports of entry, to ensure that they are not carrying the virus into the United States.
73. As part of my representation of clients seeking humanitarian exemptions, I have tracked their COVID-19 test results because those who test positive for COVID-19 were rejected by CBP.
74. Overall, 2.56% of my clients (22 out of 858) tested positive for COVID-19 in Mexico when they received a test prior to their appointments at the Laredo Port of Entry.
75. On the U.S.-side, shelters like Annunciation House that receive families released by CBP have developed procedures for COVID-19 testing, quarantine, and isolation as well. They provide rapid tests on-site and move positive families to quarantine locations.

76. Vaccinations are also available in Texas on demand without an appointment.

77. Prior to, during, and after the pandemic, I have been and will be working with families to ensure safe and humane processing into the United States while they await an asylum decision. Based on years of direct experience, I know there are ways to process people quickly and in a manner that is safe for both my clients, border communities, and government personnel.

I declare under the penalty of perjury under the laws of the United States of America and the State of California that the foregoing is true and correct. Executed in El Cerrito, California.

Dated: August 10, 2021

/s/ Taylor Levy
TAYLOR LEVY

DECLARATION OF JULIA NEUSNER

I, Julia Neusner, pursuant to 28 U.S.C. § 1746, declare as follows:

1. I am a Legal Fellow in the Refugee Protection Program at Human Rights First. I make this declaration based on my personal knowledge and my interviews with refugees and migrants who have entered or attempted to enter the United States along the U.S.-Mexico border.
2. This declaration addresses three overarching issues. First, under Title 42 asylum seekers are being expelled to Mexico where they are targeted by criminal organizations for kidnappings, extortion, or other attacks. By expelling them, often at night, the U.S. government is putting vulnerable people directly in harm's way. Second, DHS is conducting expulsions in a manner that increases the likelihood that they will get sick, specifically by flying them from one part of the border to another for expulsion without testing or basic COVID protocols (so-called "lateral flights"). Third, asylum seekers blocked from seeking safety in the United States are living in encampments in unsafe conditions, where they lack access to adequate health care and become even more obvious targets for gangs and criminal elements.

My Research and Expertise

3. I have worked for Human Rights First since September 2020. Human Rights First is a national non-profit, non-partisan organization that provides pro bono legal services to asylum seekers and advocates for the United States government to uphold its human rights obligations abroad and at home, including its duties to refugees and asylum seekers under U.S. law and international treaties. I received a Juris Doctor from Stanford Law School and a master's degree in international policy from Stanford University in June 2020.
4. During the past year I have led Human Rights First's research on the effects of the Title 42 expulsion policy, interviewing hundreds of asylum seekers returned to Mexico or turned away at ports of entry. I conducted field research in migrant shelters and tent encampments in Tijuana for three weeks in March and April 2021 and in Ciudad Juárez for one week in June 2021. I also remotely interviewed hundreds of asylum seekers located in Mexican cities including Piedras Negras, Monterrey, Reynosa, Matamoros, Nuevo Laredo, and others. I have also interviewed numerous individuals working with asylum seekers, including Mexican immigration officials, migrant shelter staff, pastors and members of religious orders assisting asylum seekers, non-profit legal and social service providers, and private immigration attorneys. Based on these investigations, I co-authored four human rights reports.¹

¹ Human Rights First, "Humanitarian Disgrace: U.S. Continues to Illegally Block, Expel Refugees to Danger," (December 2020) *available at* <https://www.humanrightsfirst.org/resource/humanitarian-disgrace-us-continues-illegally-block->

Asylum Seekers Expelled to Mexico Face a Perilous Security Situation

5. Asylum seekers sent by DHS to Mexico under Title 42 are exposed to violent attacks and exploitation. During the time asylum seekers are forced to wait in Mexico for the opportunity to request U.S. protection, they have been and are targeted based on characteristics that mark them as foreign nationals in Mexico, including their accent and/or primary language and physical appearance, as well as on account of race, gender identity, and sexual orientation, among other characteristics.
6. Many asylum seekers and service providers told me that criminal organizations specifically target migrants returned to Mexico by DHS for kidnappings, extortion, and other attacks—often with the participation or complicity of Mexican police and/or other Mexican security forces. DHS sometimes expels families in the middle of the night without their shoelaces, a practice which clearly marks the families as expelled migrants and makes them even more vulnerable to kidnapping by cartels.² More than ten asylum seekers told me they were kidnapped after DHS expelled them to unfamiliar cities far from where they’d entered the U.S. Some were kidnapped within minutes of being expelled.
7. My colleagues at Human Rights First and I track publicly reported cases of violent attacks against asylum seekers blocked or expelled to Mexico under Title 42. This tally is based on direct interviews my colleagues and I conduct with asylum seekers and/or their attorneys, incidents reported by other human rights groups and service providers (including Al Otro Lado, Human Rights Watch, Amnesty International, and Doctors Without Borders), as well as published media accounts.
8. As of June 17, 2021, Human Rights First has tracked 3,250 kidnappings and other attacks, including rape, human trafficking, and violent armed assaults, against asylum seekers and migrants expelled to Mexico or blocked from crossing the U.S.-Mexico

expel; Human Rights First, Al Otro Lado, and Haitian Bridge Alliance, “Failure to Protect: Biden Administration Continues Illegal Trump Policy to Block and Expel Asylum Seekers to Danger,” (April 2021) *available at* <https://www.humanrightsfirst.org/resource/failure-protect-biden-administration-continues-illegal-trump-policy-block-and-expel-asylum>; Human Rights First: “Update: Grave Dangers Continue for Asylum Seekers Blocked In, Expelled to Mexico by Biden Administration,” (June 2021) *available at* <https://www.humanrightsfirst.org/resource/update-grave-dangers-continue-asylum-seekers-blocked-expelled-mexico-biden-administration>. Human Rights First and Hope Border Institute, “Disorderly and Inhumane: Biden Administration Continues to Expel Asylum Seekers to Danger While U.S. Border Communities Stand Ready to Welcome.” (July 2021) *available at* <https://www.humanrightsfirst.org/sites/default/files/DisorderlyandInhumane.pdf>.

² “Failure to Protect: Biden Administration Continues Illegal Trump Policy to Block and Expel Asylum Seekers to Danger,” p. 28.

border since January 2021.³ This tally includes incidents published in media, interviews of asylum seekers by Human Rights First, information from attorneys and humanitarian services providers at the border, as well as more than 2,700 reported incidents of violent attacks against migrants and asylum seekers stranded in Mexico that were received through an ongoing electronic survey conducted by the organization Al Otro Lado and reviewed by Human Rights First.

9. For example, a Honduran woman I interviewed in a Juárez shelter told me that she and her seven-year-old daughter were kidnapped immediately after DHS expelled them to Juárez via a lateral expulsion flight from the Rio Grande Valley 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. Immediately after mother and child left the COESPO office, armed men kidnapped them and held them captive for two months in a house where they were forced to sleep on the floor with dozens of other kidnapping victims and deprived of sufficient food and clean drinking water, with nothing but potatoes and eggs to eat. They managed to escape while being transported to another location. As of June 2021, the family remained in danger in a Juárez migrant shelter, experiencing nightmares and difficulty sleeping due to the trauma they suffered.⁴
10. I interviewed at least 20 asylum seekers who had requested U.S. protection after having been kidnapped in Mexico who reported that DHS expelled them without asking if they feared returning to Mexico. DHS expelled a Salvadoran woman and her two children in June 2021 immediately after the family had escaped from kidnappers who had forcibly held them for 10 days, extorted the woman's sister for thousands of dollars, and fired shots at the family as they ran away. The woman told me that U.S. immigration officers mocked her 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 took her cell phone. As of June 2021, the woman's sister was still receiving threatening messages from the kidnappers and the family was terrified to leave the Juárez shelter where we spoke.⁵
11. Another Guatemalan family with two young children reported having been kidnapped immediately after DHS expelled them to Nogales by armed men who demanded a \$15,000 ransom for their release. Border Patrol agents had transferred the family 17 hours by bus from where they had entered Texas to request asylum. When their

³ Human Rights First, "Human Rights First Tracker of Reported Attacks During the Biden Administration Against Asylum Seekers and Migrants Who Are Stranded in and/or Expelled to Mexico" (last updated 6/17/2021) *available at* <https://www.humanrightsfirst.org/sites/default/files/AttacksonAsylumSeekersStrandedinMexicoDuringBidenAdministration.6.17.21.pdf>

⁴ Disorderly and Inhumane: Biden Administration Continues to Expel Asylum Seekers to Danger While U.S. Border Communities Stand Ready to Welcome," *supra* note 1 at 3.

⁵ *Id.* at 4.

captors released them, they put them on a bus to Tijuana, where the traumatized family was still waiting in fear when I interviewed them in April 2021.⁶

12. I interviewed many asylum seekers who were kidnapped or attacked in Mexico while waiting for U.S. asylum processing to resume. A Honduran woman fleeing death threats by a gang that murdered her partner was kidnapped in Mexico and trafficked for sexual exploitation for three months before she managed to escape in April 2021 and reunite with her 12-year-old daughter, who had been staying with another family member in Mexico. I spoke with the woman by phone while she was hiding in a Tijuana shelter, traumatized, depressed, and terrified that her traffickers would find her again. Though she has contacted multiple legal services organizations for help, she and her daughter have been unable to access the Title 42 exemption process and remain in danger in Mexico as of August 2021.
13. Several asylum seekers told me that Mexican police refused to investigate kidnappings and attacks against them or were complicit in their perpetration. A Honduran mother with three young boys recalled being kidnapped by Mexican police in Reynosa at the end of March 2021. Police ordered her and other families onto a bus, then sold the busload of people to a cartel, who held them captive until her family paid ransom. Badly shaken, she and her children crossed the U.S. border to seek asylum. DHS expelled them back to Mexico.⁷ Another Salvadoran mother told me that Mexican police kidnapped, tortured, and robbed her 16-year-old son in Piedras Negras in April 2021 while the family was waiting to request U.S. asylum.
14. Asylum seekers fleeing gender-based violence risk being discovered by their persecutors in Mexico. I interviewed several women escaping abusive ex-partners who had located them in Tijuana. In April 2021, I spoke with a Guatemalan Indigenous woman who was raped in the street in Tijuana after DHS expelled her there with her three young children in February 2021. The family had crossed the border at Mexicali to seek asylum after fleeing abuse and threats by the woman's ex-partner. I also interviewed a Salvadoran mother and children who had entered the United States seeking protection in March 2021 after the woman's ex-partner had tried to kill her. DHS expelled them to Tijuana, where the woman received threatening WhatsApp messages from her abusive ex-partner, who knew which shelter she was staying at and told her he had eyes on her in Tijuana.⁸

⁶ Julia Neusner, "Kidnapped, Raped, and Robbed: Dangerous Title 42 Expulsions to Mexico Continue," (May 2021) available at <https://www.humanrightsfirst.org/blog/kidnapped-raped-and-robbed-dangerous-title-42-expulsions-mexico-continue>.

⁷ "Failure to Protect: Biden Administration Continues Illegal Trump Policy to Block and Expel Asylum Seekers to Danger," *supra* note 1.

⁸ "Kidnapped, Raped, and Robbed: Dangerous Title 42 Expulsions to Mexico Continue," *supra* note 6.

15. Mexican asylum seekers are particularly vulnerable, trapped in the very country they are trying to flee. Multiple Mexican asylum seekers have reported that they were fleeing the country after brutal murders of their family members. A Mexican grandmother fled to the border with her nine young grandchildren and their mothers after gang members had murdered the woman's two sons on the doorstep of the family home and threatened the rest of the family. They had also shot her two-year-old granddaughter, who had been standing outside with her father. The bullet passed through the child's body and out her arm. Another Mexican grandmother told me a cartel had killed her husband, daughter, and son. They took over her house, forcing her to flee with her two grandchildren before they had time to gather anything for the trip. When I met the families in a Tijuana shelter in April 2021, they had been waiting for more than a month for asylum processing to resume, terrified their persecutors would find them there.⁹ In a shelter in Ciudad Juárez, I interviewed a grandmother from Michoacán fleeing with her surviving family members who had 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 as of late June 2021, the family could not seek asylum in the United States due to Title 42.¹⁰

DHS Endangers Migrants By Moving Them from One Border Location to Another for Expulsion

16. At various points in 2021, DHS has transferred migrants via plane from one sector of the border to another, and then expelled them at the second location, in a program known as "lateral transfers." In April 2021, I interviewed more than 50 families with young children in a shelter who had been expelled to Tijuana via lateral transfer flights after having entered the United States in the Rio Grande Valley or other parts of the border.¹¹ The families recalled nearly identical experiences in DHS custody. They recalled being detained with their children for days in extremely cold, crowded holding cells after border patrol agents seized all but one layer of their clothing. Many had to sleep on the floor. All reported that DHS did not separate sick detainees from the group, provided minimal or no medical care, and failed to test anyone for COVID-19. The families were transferred in packed vans to the airport, then flown 1,500 miles to San Diego, where they were again packed into vans and expelled to Tijuana. Some told me that other families they'd met in the holding cells were released into the United States.

⁹ "Kidnapped, Raped, and Robbed: Dangerous Title 42 Expulsions to Mexico Continue."

¹⁰ Disorderly and Inhumane: Biden Administration Continues to Expel Asylum Seekers to Danger While U.S. Border Communities Stand Ready to Welcome," *supra* note 1 at 4.

¹¹ See Kate Morrissey, "Biden expelling asylum-seeking families with young children to Tijuana after flights from Texas" San Diego Tribune (April 2021) *available at* <https://www.sandiegouniontribune.com/news/immigration/story/2021-04-09/biden-expelling-families-tijuana>

17. All families transferred from the Rio Grande Valley reported that DHS seized all their belongings, including clothing, medication, and food for their children, and did not return their belongings when they were expelled. Most reported receiving little or no food in DHS custody. I watched Mexican government vans deliver a group of about forty migrants to the shelter who had been transferred by flight from the Rio Grande Valley earlier that day. They exited the van with no belongings except a clear plastic bag containing their cell phones and documents. Their shoelaces had all been removed. The pastor running the shelter told me that the Mexican government had been delivering 50 to 100 asylum seekers expelled this way each day for weeks, and that many were arriving at the shelter weak and without having eaten for several days.¹²
18. A Honduran woman told me DHS expelled her while she 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.¹³ I also spoke to a Honduran grandmother with blindness who told me that in July 2021, DHS expelled her alone to Reynosa after separating her from her daughter and grandchildren, with whom she had entered the U.S. to ask for asylum protection after the family fled death threats by gangs in Honduras and was kidnapped for 15 days in Mexico. A pastor had to find another asylum seeker to take care of the grandmother, who requires 24-hour assistance due to her blindness.

Asylum Seekers Expelled to Mexico Are Living In Places Without Access to Adequate Health Care, and Where Criminal Elements Can Easily Prey on Them

19. Asylum seekers blocked from the U.S. border or expelled to Mexican border cities lack access to secure housing. In August 2021 I have spoken with asylum seekers and service providers who reported that shelter capacity is lacking in the Mexican cities of Tijuana, Ciudad Juárez, Piedras Negras, and Reynosa; and that many are forced to sleep in the streets or in other precarious conditions. Large tent encampments have emerged in Tijuana and Reynosa. I spoke with many asylum seekers with medical issues who endure challenging living conditions and lack access to the medical care they need. Without money, resources, or employment opportunities, many asylum seekers who have been expelled to Mexico do not have enough to eat.

¹² “‘They Lied to Us’: Biden Administration Continues to Expel, Mistreat Families Seeking Asylum.” Human Rights First (May 2021) *available at* <https://www.humanrightsfirst.org/blog/they-lied-us-biden-administration-continues-expel-mistreat-families-seeking-asylum>

¹³ Disorderly and Inhumane: Biden Administration Continues to Expel Asylum Seekers to Danger While U.S. Border Communities Stand Ready to Welcome,” *supra* note 1.

20. In Tijuana, more than 2,000¹⁴ asylum seekers blocked from crossing the border or returned to Mexico by DHS under Title 42, including large numbers of children, are sheltering in a makeshift tent encampment immediately adjacent to the San Ysidro port of entry, which renders them an obvious and easy target for rape, kidnapping, human trafficking, robbery, assault, and extortion. The Mexican government does not provide regular police or private security to guard the camp. When I visited the camp in April 2021, there were no police officers in sight. A Honduran asylum seeker who was staying in the camp told me that in April 2021, Mexican men he believed to be gang members had approached him in the camp and asked him to transport drugs and threatened him with death if he refused.
21. Multiple asylum seekers staying in the camp told me that people they believed to be gang members had forcibly removed at least eight Central American men from their tents and forced them into cars. As of May 2021, the men who were taken had not returned to the camp.¹⁵ Some Mexican asylum seekers refused to leave their tents, frightened at the prospect that they might be seen by gang members patrolling the area. One father had been beaten nearly to death by gang members that were trying to recruit his sons in Michoacán. He told me, “the same gang that was after us back home operates here.” He and his sons were so afraid to go outside that they went to the bathroom in buckets inside their tent. A trans woman from Chiapas, Mexico crossed the border to seek U.S. asylum after she suffered abuse for her gender identity. U.S. immigration officers expelled her to Tijuana, and as of April 2021 she remained in the tent encampment, constantly afraid for her safety.¹⁶
22. More recently, I interviewed a Mexican woman by phone who, after being threatened with death in Michoacán, asked for U.S. asylum with her family at the San Ysidro port of entry in July 2021. After DHS turned the family away, they tried to sleep in the tent encampment near the port of entry. A man in the encampment charged her money to stay there, then a group of men assaulted the woman’s teenage daughter.
23. Another family from Michoacán had a similar experience in June 2021. After gang members tried to kill them, they asked for asylum at the San Ysidro port of entry and were turned away. A man in the tent encampment who had offered to help the family assaulted the mother. I also spoke to a Salvadoran man who was robbed of all his belongings in the Tijuana tent encampment in July 2021 after he had attempted to ask for asylum at the San Ysidro port of entry and DHS officers turned him away. Though both families from Michoacán and the Salvadoran man have contacted advocacy organizations for help, they have been unable to access exemption processes and all remain in danger in Mexico as of August 2021.

¹⁴ “Failure to Protect: Biden Administration Continues Illegal Trump Policy to Block and Expel Asylum Seekers to Danger” *supra* note 1.

¹⁵ *Id.*

¹⁶ “Kidnapped, Raped, and Robbed: Dangerous Title 42 Expulsions to Mexico Continue,” *supra* note 6.

24. In Reynosa, approximately 3000 migrants and asylum seekers are staying in a tent encampment in Plaza las Américas, the city's center plaza, where they endure horrendous living conditions and are vulnerable to violent crime.¹⁷ I interviewed more than 15 asylum seekers by phone in July and August 2021 who are currently staying in the Reynosa encampment, sleeping on the ground in tents or out in the open. All reported horrible living conditions in the encampment, including dirty, fly-infested toilets, excruciating heat, and destructive storms. An Afro-Honduran woman told me she developed a fungus on her feet after walking barefoot in the toilet area. Many reported that their children became sick with nausea and flu symptoms in the encampment. Several asylum seekers told me they or their children lost significant amounts of weight because they did not have enough to eat.
25. Asylum seekers living with health conditions in the Reynosa encampment are unable to obtain the care they need. I spoke to a Honduran woman who, after fleeing death threats by gang members who killed her brother, is now staying with her 12-year-old daughter in the Reynosa tent encampment. The mother, who has kidney disease, is experiencing severe abdominal pain, headaches, and back pain from sleeping on the ground. Her daughter is so depressed that she's stopped speaking and her hair is falling out. They have been unable to obtain healthcare. Though they have contacted advocates for help, as of August 2021 they remain in danger in Reynosa.
26. Another Honduran woman and her 9-year-old daughter were robbed of all their money and valuables in Reynosa immediately after the U.S. government expelled them there in July 2021. After sleeping on the ground in a tent for weeks, cysts in the woman's breasts became inflamed and painful. Her daughter became ill with stomach pain so severe she could not sit up.
27. I interviewed another Honduran woman who was kidnapped with her 9-year-old son and held captive in horrendous conditions for 10 days before the woman's sister managed to pay ransom. Unable to ask for U.S. protection at the port of entry due to Title 42, the traumatized family went to the Reynosa tent encampment, where they slept on the ground for months. The child became weak, tired, and malnourished. The mother, who had been diagnosed with an ovarian cyst, was in severe pain, but as of July 2021, neither could access medical care in Reynosa.
28. I interviewed many asylum seekers facing threats to their personal security in the tent encampment. At least one asylum seeker has been kidnapped directly from the encampment.¹⁸ In July 2021 a Honduran woman told me she was terrified to leave her


¹⁷ Sandra Sanchez, "Mexican officials order migrant shelter in Reynosa to evacuate or face bulldozing," Border Report (July 2021) *available at* <https://www.borderreport.com/hot-topics/immigration/mexican-officials-order-migrant-shelter-in-reynosa-to-evacuate-or-face-bulldozing/>

tent because of a man in the camp who was harassing her and had repeatedly threatened to assault her. Another Honduran woman told me that in July 2021, a group of men had repeatedly recorded photos and videos of her teenage daughters, who were terrified to leave their tents for fear of being kidnapped. Another Honduran woman fleeing domestic abuse with her 8-year-old son told me she was robbed of all her belongings in Mexico before asking for U.S. protection. DHS expelled her to Reynosa where, desperate to avoid the tent encampment, she accepted an offer to work and live with a local family. Her employer repeatedly abused her in August 2021, forcing her to stay in the encampment, where she and her son remain in danger.

I declare under penalty of perjury under the laws of the United States and New York that the foregoing is true and correct.

Executed on: August 10, 2021, in Brooklyn, New York, United States.

Signature:



Julia Neusner

AFFIDAVIT OF JENNIFER K. HARBURY

RE: IMPACT OF TITLE 42 ON ASYLUM SEEKERS IN REYNOSA, MEXICO

AUGUST 9, 2021

I, Jennifer K. Harbury, declare under penalty of perjury pursuant to 28 U.S.C. §1746, that the following is true and correct to the best of my knowledge:

1. I am submitting this declaration to provide information about the severe harm that Title 42 is inflicting on the migrant families currently being expelled to Reynosa, Mexico. This is a city in Tamaulipas, the most dangerous Mexican state along our southern border, where powerful gangs and cartels target and brutalize migrants on a daily basis. These criminal networks operate with impunity because local police and officials are unable and often unwilling to protect migrants. I have met with and interviewed hundreds of migrant families who, because of Title 42, have suffered one or even multiple acts of kidnapping, extortion, rape, and/or assault. There have been many deaths as well.
2. I graduated from the Harvard School of Law in June, 1978 and received my Texas law license shortly thereafter. I practiced law there until 2018, when I went into inactive status. Most of my practice focused on civil rights issues here in the Texas-Mexico border area of the lower Rio Grande Valley. I have also spent substantial time periods monitoring and assisting human rights in Guatemala and am very familiar with the realities on the ground in Central America.
3. I am a founding member of the Angry Tias and Abuelas, (“Angry Tias”), an organization based here at the border, and dedicated to the preservation and promotion of human rights and human dignity for migrants on both sides of the Rio Grande. Our organization is made up of volunteers who provide humanitarian assistance to migrants, including basic necessities, transportation, shelter and other support. We assist thousands of migrants every year. In addition to meeting their physical needs, the Angry Tias collaborate with local NGOs, provide funds for legal counsel, and highlight the plight that asylum seekers face in media and policy circles.
4. In 2017 I began to do extensive volunteer work in Reynosa, Mexico with the asylum seeker community there. In late 2018 I retired from my public interest legal career and began to do full time volunteer work there, as well as on the Texas side of the border. This work has included interviews of thousands of migrant families over the years. Although the United States government began sending migrant families back to Reynosa under Title 42 in spring 2020, this practice greatly expanded earlier this year. That is when I began to interview as many families as possible. I would estimate that I have personally interviewed several hundred families this year alone.
5. This declaration is based on my direct experience and work with migrant families since the United States government began sending them back to Reynosa under Title 42. I have provided support to well over 300 families subject to Title 42 this year alone. This has

included assisting them in obtaining needed exemptions to lawfully cross the border on humanitarian grounds.

Dangers for Expelled Migrant Families

6. Reynosa, Mexico is one of the most dangerous areas anywhere in the world. Reynosa is in Tamaulipas state, which is categorized as a Category Four “Do Not Travel” security risk by the U.S. Department of State due to danger stemming from crime and kidnapping.¹ This is equal to the ranking of areas like Afghanistan and Iraq. U.S. officers are warned not to enter this region. This extraordinary danger results from the total control of the area by violent gangs and cartels. As the State Department notes: “Heavily armed members of criminal groups often patrol areas of the state and operate with impunity particularly along the border region from Reynosa to Nuevo Laredo. In these areas, local law enforcement has limited capacity to respond to incidents of crime.”²
7. Migrant families are a favorite target for kidnapping and trafficking throughout Tamaulipas, and especially in Reynosa. This is because it is well known that there will be no consequences for such crimes. Local officials and police are unable and often unwilling to protect the migrants. It is also widely understood that, although the migrants themselves are penniless, they have relatives in the north who will do anything to save them. Even impoverished friends and family members will take on heavy debts to rescue their loved ones. Thus, gang and cartel members have great incentive to kidnap migrants, and hold them for ransoms of \$5,000 or per person, or even larger amounts. This has become a booming business.
8. To make matters worse, most of the Mexican government officials in the region are fully entwined with, or have already joined, the gangs/cartels. For example, in February 2019, Telemundo aired footage showing that a number of families were being secretly held in the basement of the Mexican immigration building for \$3000 ransom.³ The monies were traced back to the Reynosa Director of the National Institute of Immigration (“INM”) himself. This is but one example. I have spoken to many families who have been robbed and/or kidnapped by local officials.
9. Currently, when migrants are expelled from the United States back to Reynosa under Title 42, they must walk back across the international bridge to the Mexican INM building. There they are processed back into the country. The majority of the migrants tell me that they were taken to side rooms and thoroughly searched, sometimes strip-searched, and that the Mexican official confiscated all of their money and any valuables, including their phones. Some reported that they had to call a relative to send hundreds of dollars to pay an officer before they could be released at all. The families are given no

¹ U.S. State Department, Mexico Travel Advisory (July 12, 2021), <https://travel.state.gov/content/travel/en/traveladvisories/mexico-travel-advisory.html>.

² *Id.*

³ Noticias Telemundo, “Revelan que policías mexicanos extorsionan a migrantes” (Feb. 14, 2020), <https://www.telemundo.com/noticias/edicion-noticias-telemundo/video/revelan-que-policias-mexicanos-extorsionan-migrantes-tmvo8890349>.

information and have no idea where to go. Those who take taxis are often kidnapped by the drivers.

10. Most of the families initially find their way to the small park diagonally across from the international bridge. Over two thousand migrants are there now, including elderly persons, pregnant women, injured persons and numerous small children. Human rights networks have provided portable toilets and tents, and local pastors provide food and water as often as possible, but the conditions are terrible. Not surprisingly, the gangs raid this small encampment every night, kidnapping many and dragging them away to waiting vehicles. A local police car is parked there regularly, but the officers either look the other way or drive off when the kidnappers arrive.
11. Two church-run shelters exist in Reynosa. But one, Casa de Migrantes, gives only three days of lodging. The other, Senda de Vida, is suddenly under threat of demolition by local officials despite their fifteen years of close collaboration.
12. I think that the accounts of the migrants themselves best indicate the horrific effects that Title 42 has upon the migrant families. Set forth below are a few of the in-person accounts I have received.⁴
 - A. A mother (“A”) tried to save her young daughter when the gangs arrived to rape her. The gangs beat A and kidnapped the girl, who did not return for nearly a year. When the mother received still more threats, she fled north with her mentally disabled 15-year-old son. The son had the functional development of a 5-year-old. The trip was terrifying. The family tried twice to cross the river, but U.S. officials sent them back both times under Title 42. In Reynosa, the mother realized she could not keep her son safe from the endless kidnappings and assaults going on around her. If she tried to cross with her son again, they would both be sent back. If he crossed alone, he would be sent to her family in the United States because Title 42 did not apply to unaccompanied minors. Like so many other desperate parents, she finally sent him across again, this time on his own. He was found dead shortly thereafter. Initial reports suggest torture and mutilation. Based on my experience, I suspect the gangs approached the boat in which he was a passenger and asked for “claves,” or passwords each traveler gets once they have paid the proper crossing “fees” to the gangs. If anyone attempts to cross without such payment, they are killed. Had the gangs asked this young man for his password, he would have been unable to answer and therefore killed.
 - B. A young mother (“B”), seven months pregnant, was in her car with her husband and two small children when gang members ambushed them and opened fire with automatic weapons. B’s husband was killed, and she took seven bullets. At the hospital, doctors were unable to remove the bullet lodged near her cervix. Worse yet, the killers found out that B was still alive, and that she had recognized them. She took

⁴ For safety reasons I am not giving names or identifying information. Moreover, I am reporting only the cases of persons we have assisted to lawfully cross on humanitarian grounds.

her young children and fled north. She tried twice to cross the Rio Grande with her children, but both times U.S. officials sent the surviving members of the family back to Mexico under Title 42 despite her serious medical condition and pregnancy.

- C. An older woman (“C”) survived a gang massacre which left seven in her family shot to death, including her 17-year-old son. C and several others were wounded but survived. The survivors took their blind 94-year-old grandmother (C’s mother), and fled north. They crossed the river, but U.S. officials sent them straight back under Title 42, despite the grandmother’s frailty. The grandmother fell gravely ill back in Reynosa, but the family, like so many other migrants, had a very hard time getting her admitted to a hospital given the local anti-migrant sentiments. She died shortly thereafter. C suffered a kidnapping attempt while she was with her mother at the hospital.
 - D. A teenaged boy was being aggressively recruited by local gangs, but he turned them down. To keep him alive, his mother (“D”) sent the boy with his father to a highly remote area where communications are nearly impossible. She then fled with her daughter, a minor who is mentally disabled. They made it to the Reynosa area, where they were kidnapped and D was raped. They tried to cross the Rio Grande but were sent back under Title 42. In Reynosa they were dumped back into the unprotected Plaza near the international bridge. As described above, the gangs arrive every night to rob and kidnap people, with the consistent acquiescence of the police officers posted nearby.
 - E. A young woman (“E”)’s family testified against gang members responsible for the kidnapping and mutilation of a relative. The gang then came after the family. E was dragged into a car but escaped by leaping from the moving vehicle. Her shoulder was badly smashed, requiring multiple surgeries. Her uncle was later killed, as was a young man who grew up in their family home. She fled north and tried to cross to Texas but was immediately sent back under Title 42 by U.S. officials. Mexican immigration officials stole \$500 from her as she returned. She then tried to take a taxi at the foot of the bridge, but the driver kidnapped her. When she ran, he dragged her back by her hair, but she was later able to escape and make it to a shelter. Her shoulder then became badly infected, putting her life at risk.
 - F. A young Trans woman (“F”) went through hellish persecution in her homeland. The gangs beat her so severely that she fled in early 2019. She made it to Reynosa, but U.S. officials sent her back under the MPP program. F tried to go back to the border for her immigration court appointment in Laredo, but the local gangs pulled over the bus and dragged everyone off. Eventually she got away, but she had missed her hearing. A few months ago, she tried again to cross the Rio Grande but was sent back to Mexico. This time the gangs beat her and raped her. Worse yet, she now has HIV from her assailants.
13. Please note that there are thousands of migrants in Reynosa, with similarly horrifying stories and traumatic experiences, who have not yet even been interviewed.

I, Jennifer K. Harbury, declare under penalty of perjury of the laws of the United States of America that the foregoing is true and correct to the best of my knowledge and belief.

Executed on August 9 2021 at MANASSAS, VIRGINIA, United States.


Jennifer K. Harbury

DECLARATION OF ERIKA PINHEIRO

I, Erika Pinheiro, declare under penalty of perjury, that the following is true and correct to the best of my knowledge:

Summary

1. In my expertise as an attorney with 18 years of experience in the immigration legal field who regularly works across the U.S.-Mexico border (principally in Southern California and corresponding areas of Mexico) and who has advised the Biden Administration on immigration policy, I have witnessed the failures and extraordinary harm of the Title 42 policy.
2. Although widespread testing and vaccination access is available in both Baja California, Mexico and San Diego to safely process migrant families seeking asylum, CBP has chosen to implement a policy that only exacerbates COVID-19 in the region. CBP is not taking basic mitigation measures to limit the spread of COVID-19 among migrants and in fact actively introduces COVID-19 into the region by flying migrants in crowded flights from other parts of the southwest border to San Diego and expelling them.
3. Title 42 expels families into extreme danger in Tijuana, where few have access to safe housing, or medical care, and face kidnapping, rape, extortion, and other violence on a regular basis. Since March 2021, three of AOL's clients have died after being denied the ability to seek medical care in the U.S.

Experience and Expertise

4. I am the Litigation and Policy Director at Al Otro Lado ("AOL"), a nonprofit advocacy and legal services organization based in Los Angeles, California, with offices in San Diego, California and Tijuana, Mexico. I have been the Litigation and Policy Director since April 2017. I am currently based primarily in Tijuana, Mexico, and oversee various programs and operations in all AOL locations.
5. I am an immigration attorney and have been working in the immigration legal field since 2003. I hold a JD from Georgetown University Law Center, a Masters of Public Policy from the Georgetown Public Policy Institute, and a Certificate in Refugee and Humanitarian Emergencies from Georgetown University Institute for the Study of International Migration. Throughout my legal career, I have specialized in high-volume legal representation and education for immigrants detained in immigration or criminal custody, as well as those seeking asylum at the US-Mexico border. In each position I have held, I have created, maintained, and analyzed extensive databases to identify the effects of policies governing the admission, detention, transfer, and release of immigrant adults and children at the border and in criminal and/or immigration custody. Prior to joining AOL, I administered federally funded legal access programs for immigrant adults in ICE custody and unaccompanied children in Office of Refugee Resettlement custody, serving thousands of individuals per year. Since 2010, I have personally observed and

tracked migration and detention trends, especially with respect to adults, unaccompanied children, and family units seeking asylum at the US-Mexico border.

6. AOL provides legal and humanitarian support to indigent refugees, deportees, and other migrants, including providing free direct legal services on both sides of the US-Mexico border and beyond.
7. As the Litigation and Policy Director, I supervise attorneys and other staff who work directly with migrants on both sides of the US-Mexican border. I also travel frequently across the US-Mexican border. I also engage with elected officials on immigration matters, educate policymakers about border issues, and provide technical assistance to Congressional committees and government agencies. From November 2020 through January 2021, I engaged with the Biden transition team and Secretary Mayorkas in numerous meetings concerning US border policy; since President Biden's inauguration, I meet frequently with officials at the White House, DHS, DOS, and other federal agencies to participate in immigration and border security policy discussions. I am also one of the leads of the California Welcoming Task Force, a coalition of around 100 nonprofit organizations working with the White House, federal agencies, California state government, local city and county governments, and Mexican government officials to plan and execute policies related to asylum processing at the US-Mexico border.
8. I help supervise AOL's work representing families, individuals, and children seeking a humanitarian exemption from the Title 42 expulsion process. Since April 2021, AOL has represented approximately 5,900 individuals, including 2,450 children in obtaining humanitarian exemptions.
9. This declaration is based on my personal experience working with noncitizens at the US-Mexico border as well as my experience supervising attorneys who provide legal services to them. I am also familiar with the Tijuana – San Diego border region as I work regularly on both sides of the border.

Vaccination and testing is widely available in Baja California

10. I have resided in Baja California since 2017, and have been on the ground providing humanitarian and legal support to refugees and other migrants residing in Tijuana and throughout Baja California since the start of the COVID pandemic. Generally, vaccines and testing are widely available in Baja California, and migrants have had relatively low COVID positivity rates as compared to the broader population due to intensive mitigation efforts, although those efforts have been frustrated by the expulsion of individuals DHS has brought to the region on lateral flights from other parts of the U.S., as explained below.
11. The Mexican government has been making a concerted effort to maximize COVID-19 vaccination in the northern border region as part of its push to more fully reopen the land border with the United States. As of August 5, 2021, more than half of adults in the five

Mexican states along the U.S. border had received at least one dose of a COVID vaccine.¹ The adult vaccination rate is 80% in Baja California, 60% in Sonora, 75% in Chihuahua, 56% in Coahuila, and 64% in Tamaulipas.² In the Mexican municipalities (the equivalent of U.S. counties) closest to the border, rates are even higher: as of July 27, 2021 at least 75% of those in border municipalities had received at least one vaccine dose in Baja California, Sonora, Chihuahua, Coahuila, and Nuevo Leon.³ As of August 1, 2021, more than 97% of adults between 18 and 39 had received at least one dose in Tamaulipas.⁴

12. Baja California is the first state in Mexico to have “fully” vaccinated its adult population (18+); approximately 80% of the adult population has been vaccinated with at least one shot. Vaccines continue to be regularly distributed at large-scale vaccination sites located in all of the state’s municipalities and are available to anyone over the age of 18, regardless of immigration status. Municipal and state departments of health also conduct specialized outreach campaigns to vulnerable and hard-to-reach populations, such as Indigenous communities residing in remote locations. In July and August 2021, local health authorities held a vaccination drive at the migrant camp located outside the Ped West Port of Entry and at seven migrant shelters, and other shelter providers have organized transportation to bring migrants to mass vaccination sites.⁵ The local departments of health continue to develop outreach strategies to vaccinate vulnerable populations, including migrants.

13. Although there has been a recent slight increase in positive COVID cases due to the spread of the Delta variant, numbers remain extremely low in Baja California. For example, on August 8, 2021, there were 69 new positive cases in Tijuana, a city of around 2 million residents. The seven-day average is 107 new positive COVID cases/day. The rate of new COVID cases in Tijuana is exponentially lower than in San Diego County, California, which saw 2,754 new positive cases on August 8, 2021, with a seven day average of 1,417 new positive cases per day for a population of around 3.3 million.⁶ This discrepancy is likely due to the relatively high vaccination rate in Baja California (80% adults vaccinated in Baja California vs. 73.2% in San Diego County), as well as the consistent use of masks in most indoor spaces in Mexico. Unlike the United States, Baja California never lifted its mask mandate, even for vaccinated individuals. I have observed

¹ Gobierno de Mexico, Secretaria de Salud, *COVID-19 Mexico Comunicado Tecnico Diario*, at 9 (Aug. 5, 2021), <https://tinyurl.com/w2enjmh3>.

² *Id.*

³ *Id.*

⁴ Miguel Dominguez, *Afirman Vacunar Casi al 100% de Jóvenes en Tamaulipas*, Reforma (Aug. 1, 2021), <https://tinyurl.com/y8d476kb>.

⁵ Alexandra Mendoza, *Migrants in Tijuana vaccinated at camp, shelters* (Aug. 4, 2021), <https://tinyurl.com/dmf2d9m>.

⁶ *COVID-19 Data Repository*, Center for Systems Science and Engineering (CSSE) at Johns Hopkins University, <https://github.com/CSSEGISandData/COVID-19>.

almost all individuals in Baja California consistently using masks in most public indoor spaces and crowded outdoor spaces, whereas in San Diego, I rarely, if ever, see individuals using masks outside, and have observed a rising percentage of individuals who do not use masks in public indoor spaces.

14. COVID-19 testing is readily available at pharmacies and health providers across Tijuana. Pricing for tests varies among providers, but generally starts around \$10-12 USD for an antigen test. Local and state Departments of Health also have free mobile testing programs, and have offered free COVID testing at the Chaparral migrant encampment and at various shelters. Several local medical nonprofits also offer free testing to migrants, and universities on both sides of the border have conducted numerous COVID-related studies through which they have administered free tests to thousands of individuals.⁷
15. Many asylum seekers have already been vaccinated before presenting at the port of entry. Dozens of our clients have sent photos of their vaccination records. Many of our clients have told our staff and volunteers that they are eager and willing to be vaccinated to protect themselves and others against COVID-19.
16. Beginning in March 2021, AOL began representing vulnerable families, children, and adults to seek humanitarian exemptions from the Title 42 expulsion process. Individuals approved for an exemption are tested for COVID-19 before presenting at a port of entry. A U.S.-based foundation has covered the cost of COVID testing for all of AOL's clients, as well as others being processed through the exemption process. CBP has required all children seven years or older to submit a negative COVID-19 test taken within 72 hours of presenting at a port of entry. Those who test positive are denied entry if they attempt to present.
17. Before the widespread availability of vaccines in Baja California, AOL worked with a network of nonprofits, international intergovernmental organizations (i.e. IOM and UNHCR), as well as with local, state, and federal government agencies to develop effective strategies that reduced the spread of COVID among migrant populations. AOL helped install hand washing stations and clean water access points at shelters and medical clinics, distributed masks and other PPE, conducted public health education, and provided funding to build capacity at local medical nonprofits serving the migrant population. IOM and the local government also established a COVID "filter" hotel, at which migrants would stay for 10-14 days before moving on to shelters. AOL also provided grocery cards, medication, PPE, quarantine housing, and other direct

⁷ See, e.g., City News Service, *COVID-19 Survey Finds Baja California Faring Better than Other Mexican States*, KPBS (June 16, 2021), <https://www.kpbs.org/news/2021/jun/16/covid-19-survey-finds-baja-california-faring-bette/>.

humanitarian support to help migrants residing outside of the shelter system to remain in quarantine during periods of high community spread.

CBP's policy of lateral flights has a negative effect on COVID-19 rates in the region

18. The mitigation efforts described above were extremely successful, and we saw very little COVID spread among migrants until March of 2021, when the US government began flying migrants who crossed in Texas on lateral flights to San Diego and expelling them there. Despite our regular engagement with the White House and DHS on border policy matters, we were given no notice, and nonprofits and government agencies working in Tijuana were ill-prepared to receive the 100 migrants being expelled each day from lateral flights, in addition to hundreds of others already being expelled or removed to Tijuana each day. Because migrants were placed in close proximity to one another on lateral flights and expelled to Tijuana, we saw a much higher COVID positivity rate among lateral flight migrants than among the local migrant population in general. Shelters receiving lateral flight expulsions began to see more COVID positive cases, but local health authorities and non-profits lacked the capacity and resources to quickly create a comprehensive public health strategy to address the problems posed by lateral flights.
19. DHS ceased the practice of lateral flight expulsions to Tijuana around June 21, 2021, which has enabled those of us working in Baja California to reassert control over the spread of COVID among the migrant population, especially in shelters, using the mitigation measures described above and by promoting vaccines. However, DHS resumed lateral flights to San Diego in the last week of July 2021, and resumed expulsions to Tijuana on Friday, August 6, 2021, when we received 135 migrants expelled from a flight that originated in Texas. Our shelter partners in San Diego, who work with San Diego County and the State of California to administer COVID tests to all migrants arriving in the region, have confirmed that the COVID positivity rate is highest among migrants who arrive via lateral flights (as compared to migrants processed at the Port of Entry or those who enter without inspection locally). Undoubtedly, the practice of lateral flight expulsions has a negative effect on COVID rates in the region and undermines the ability of government agencies and service providers on both sides of the border to control COVID spread among the migrant population.

CBP has additional capacity to process asylum seeking families at ports of entry in the San Diego region

20. CBP has consistently used "capacity" limitations as a pretext for reducing the number of asylum seekers processed at Ports of Entry, both before and during the pandemic. *Al Otro Lado* is the organizational plaintiff in *Al Otro Lado v. Mayorkas*, 3:17-cv-02366-BAS-KSC (S.D. Cal.), filed in July 2017, a class action lawsuit challenging CBP's practice of unlawfully turning away asylum seekers who seek to present at Ports of Entry, as well as "metering" policies that force asylum seekers to wait in Mexico on informal lists.

Evidence obtained through discovery in that case, including depositions of DHS officials, confirm that CBP has consistently understated its capacity to process asylum seekers at Ports of Entry in an effort to reduce access to the US asylum system. An October 2020 Office of Inspector General Report, citing in part evidence obtained from a CBP whistleblower, confirmed that CBP lied about capacity to reduce asylum seeker processing,⁸ and recently, the court in *AOL v. Mayorkas* sanctioned the government for destroying evidence protected by a court order. CBP officials also admitted in a deposition that the processing of asylum seekers is given low priority among other types of processing at ports in terms of officer and resource allocation, going so far to admit that livestock would be given processing priority over asylum seekers. Nothing in the recent past indicates that these policies and priorities have changed significantly.

21. In June 2021, CBP processed approximately 412,000 pedestrians at the San Ysidro Port of Entry. Notably, CBP is processing about 500,000 *less* pedestrians per month at the San Ysidro POE than they were before Title 42 was put into place; for example, in June 2019, CBP processed over 917,000 pedestrians at the San Ysidro Port of Entry. This discrepancy should give CBP plenty of capacity to safely process asylum seekers, even allowing for the fact that processing refugee families takes longer than processing most travelers.
22. Under Title 42, US citizens, Lawful Permanent Residents, and Mexicans with certain types of visas are able to cross the border freely. Throughout the pandemic, I have personally observed large numbers of U.S. citizens crossing the border into Tijuana, Rosarito, and Ensenada for tourism and other “non-essential” purposes. I have also crossed the border, on average, about once per week since June of 2020 to the present. Based on my personal experience, CBP does not employ any COVID screening protocol for travelers not subject to Title 42 restrictions. I have personally observed numerous CBP officers working without masks, or with their masks pulled down around their chins. CBP officers have never asked me any COVID or other health-related questions when entering the United States.

CBP is not taking adequate steps to limit the spread of COVID-19 among migrants who cross between ports of entry.

23. When CBP encounters asylum-seeking families who cross the border between ports of entry, it does not take meaningful steps to prevent the spread of COVID-19, aside from providing masks. Migrants are flown on full planes and ride together in busses to the border to be expelled. CBP does not provide COVID-19 testing and only coordinates with third parties to test migrants when they are released from CBP custody. Those who

⁸ *CBP Has Taken Steps to Limit Processing of Undocumented Aliens at Ports of Entry*, Office of Inspector General (Oct. 27, 2020), <https://tinyurl.com/266bbcfm>.

exhibit COVID-19 symptoms are not separated from others in CBP/Border Patrol custody.

24. The state of California has provided funding for COVID testing of all migrants who come to the California border, whether through a Port of Entry, between ports of entry, or on lateral flights. California has established a testing, quarantine, treatment, and vaccination protocol for all migrants, and set up several hubs in the border region to create additional capacity. The federal government does not currently cover the costs of these regional hubs, nor do they currently cover the costs of shelter and transportation. California state and numerous counties have stepped in to create a robust migrant reception system that treats migrants with dignity while protecting public health.
25. Families that are exempt from Title 42 in Tijuana are released to a network of shelters in the San Diego area. There are two main shelter hubs in the San Diego area. Jewish Family Service provides testing, quarantine, and case management to any migrant being processed through the Port of Entry, including those who come on lateral flights. Catholic Charities serves those who cross between ports. The state, counties, and cities all work together to create local capacity for migrants as needed. For example, Long Beach, San Diego, and other cities provided convention centers and other facilities to meet the needs of unaccompanied children during a recent increase. The California Welcoming Task Force, a coalition of around 100 nonprofit organizations formed in February of 2021 working with governments on both sides of the border, coordinates to ensure that all migrants in the region receive legal, humanitarian, and other vital services upon arrival in California.
26. The biggest challenge over the past six months has not been the capacity to serve the number of migrants in the region, but rather the lack of processing at the ports of entry, and an overall lack of communication from DHS regarding its implementation of Title 42 expulsions, such as through lateral flights.

Title 42 places asylum-seeking families in extreme danger

27. Migrant families expelled under Title 42 to Tijuana face extreme danger and live in precarity. Few have access to safe housing, medical care, or work to support themselves. They face kidnapping, rape, extortion, and other violence on a regular basis. Clients frequently report to us that they are unable to afford food, medicine, and other basic necessities. Families travelling with minor children frequently report kidnapping attempts on their children. Families with children who identify as female frequently report sexual harassment and other sexual violence. Three of our clients have died since March 2021 because they were denied the ability to seek medical care in the U.S.
28. Thousands of migrants live in a makeshift tent encampment in El Chaparral next to the port of entry. They sleep under plastic tarps, without bathrooms, and are subject to extreme weather conditions. There is no running water or sanitation. Organized criminal

groups control the camp and AOL has received reports of kidnappings, assaults, and sexual abuse against migrants. Smugglers pressure migrants into hiring them through fraud and force. AOL has received multiple reports of migrants who were held for ransom by smugglers. Others have been kidnapped by traffickers and forced into prostitutions or other types of labor. The situation at the El Chaparral camp is so dangerous that AOL does not provide services there. Aid workers have received numerous threats from those controlling the camp. Few groups are willing to provide in-person services, so there is a lack of food and supplies for those living in the camp.

29. Families with family members who identify as LGBTQ are frequently subjected to violence and discrimination. One family that we represented in this process was forced to leave from three different housing situations after the owners of each property discovered that the mother was in a same-sex relationship. Another LGBTQ couple that we represented were both kidnapped and raped in Mexico and both subsequently contracted HIV. While in Tijuana, they were forced to leave a shelter because they were constantly receiving threats. Another client, a Haitian LGBTQ man who was unable to seek asylum due to Title 42, was living in a rented room in Tijuana when armed men broke into his dwelling, raped him, and stole all of his belongings and documents. He had to go into hiding because these same people continued to threaten him.
30. Migrants who are not from Mexico frequently struggle to access medical care. When they are able to be admitted to a hospital, they frequently report discrimination at the hands of medical staff. Multiple Haitian clients have reported to us that they refer to the hospitals in Tijuana as “where Haitians go to die.”
31. AOL staff members transported a Honduran man with an epidural hematoma between hospitals because the initial hospital refused to touch him without an upfront payment in full for the emergency neurosurgery he required. At this point, he was lying on a bed with a nosebleed and struggling to breathe. When staff members tried to call for an ambulance because of the delicate nature of his condition, the hospital said that they were unable to communicate with the receiving hospital and thus it would not be possible to send an ambulance. Staff members were left with no alternative but to transport him themselves or risk his death.
32. A Haitian woman who wanted to seek asylum along with her husband and young daughter suffered third degree burns while living in Tijuana. Her injuries were so severe that an external fixator had to be applied to hold the bone in her arm together. While she was able to access emergency treatment, she was unable to access any follow-up care or cleaning for her burn wounds. The family was living in the tent camp where she had no access to running water or sanitation.
33. Because of Title 42, at least 13 mothers who gave birth while in CBP custody have been expelled to Mexico along with their U.S. citizen babies. These infants were rendered

essentially stateless in Mexico because they were expelled without any kind of legal identity documents.

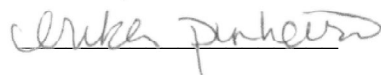
34. Title 42 has separated countless vulnerable families. A 19-year-old asylum seeker was turned away under Title 42 in Tijuana even though he was permanently disabled after falling off a train. He had lost both his right arm and leg and was thus forced to live at the mercy of strangers in a shelter. He had been trying to join his mother and siblings but Title 42 kept them separated for nearly a year.
35. Four siblings, two under 18, from Nicaragua were separated from their father due to Title 42. Their father was in the U.S. and had been granted immigration relief. When the siblings' mom was disappeared in Nicaragua, they fled to seek asylum and join their father. However, Title 42 left them living in a tent camp.
36. A Honduran woman with multiple gunshot injuries and diabetes was pursuing her asylum case in the United States in 2019. She returned to Mexico when she learned that her teenage daughter had been raped and kidnapped. She left her two younger children in the care of a friend in the U.S. Once she reunited with the daughter who had been raped and kidnapped in Mexico, she was not permitted to rejoin her two minor children in the U.S. and to continue her asylum case. Around the same time, her brother was kidnapped and almost certainly killed by cartel members as he attempted to cross the border with a smuggler because Title 42 closed all legal options to request asylum.
37. AOL's clients in other cities across the southwest border face similarly dangerous situations after being expelled through Title 42. In Reynosa, one of our clients who had previously tried to seek asylum at the border but who was expelled under Title 42 was kidnapped shortly thereafter with her young son. The mother and child were held for days without food until they finally escaped.
38. Another client in Reynosa, traveling with his wife and children, was kidnapped by a criminal group. He was tortured and left for dead, covered in blood with burn and stab wounds all over his body. He survived and the family fled to Tijuana, unable to seek asylum in the U.S. due to Title 42. They were then forced to live in the tent camp at Chaparral, where the client's wounds became infected due to lack of medical treatment and sanitation.
39. In Nuevo Laredo, a client was waiting to be able to cross with her U.S. citizen daughter when they were kidnapped by armed men while walking down the street. The men took them to a house, shaved their heads, and beat them severely. The U.S. citizen daughter's face was slashed with a knife on both sides. She lost so much blood from her injuries that she had to be hospitalized.
40. CBP expelled one asylum-seeking client in Nuevo Laredo in the middle of the night and he was immediately kidnapped by gang members. His family paid the ransom and he was

released. He was then immediately kidnapped by a cartel. His family has heard nothing from him since.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on: August 11, 2021, in Mexico City, Mexico.

Signature:

A handwritten signature in dark ink, appearing to read "Erika Pinheiro", written over a horizontal line.

Erika Pinheiro

DECLARATION OF SAVITRI ARVEY

I, Savitri Arvey, pursuant to 28 U.S.C. § 1746, hereby declare:

Summary

1. As a migration policy advisor who has worked with hundreds of migrants being subjected to the Title 42 policy, I am deeply familiar with the harms that the policy has inflicted on migrant families. The Title 42 policy has forced asylum-seeking families, including pregnant mothers and individuals with U.S. citizen children, to live in squalid and dangerous conditions in Mexico, often sleeping under bridges or on the street. More than 1 out of 5 of the asylum seekers I have worked with reported being kidnapped in Mexico, and many of the women were raped during their capture. The government's process for exempting certain families from Title 42 is an inadequate substitute for regular port processing of asylum seekers, all of whom have a right to be heard on their claims.

Qualifications

2. I am currently a Policy Advisor, within the Migrant Rights and Justice program at the Women's Refugee Commission ("WRC"), a non-profit organization that aims to improve the lives and protect the rights of women, children, and youth displaced by crisis and conflict. In this role, I advocate on regional protection issues for women, children, and families in Mexico and Central America. Before assuming this role, I worked as a consultant for WRC from March to June 2021 where I focused on issues related to access to protection at the U.S.-Mexico border and asylum processing at ports of entry. I hold a bachelor's in International Relations from Connecticut College and a master's in public policy from the University of California ("UC"), San Diego.
3. From October 2018 to July 2021, I collaborated on an initiative as the Central America & Mexico Policy Initiative Fellow at the Strauss Center for International Security and Law at the University of Texas at Austin and as a Graduate Student Researcher and Border and Migration Fellow at UC San Diego Center for U.S.-Mexican Studies to document U.S. Customs and Border Protection's ("CBP's") metering practices and the conditions faced by people seeking protection waiting in Mexican border cities to be inspected and processed by CBP officials. In these roles, I made regular visits to the U.S.-Mexico border and conducted phone and in-person interviews with people seeking protection,

migrant shelter staff, representatives of international and nongovernmental organizations, and Mexican federal and local government officials in eleven Mexican border cities.¹

4. I have also helped 251 people seek humanitarian exemptions from an order issued by the Centers for Disease Control and Prevention (“CDC’s”) under Title 42 of U.S. Code, obtain COVID-19 tests, and be successfully processed at four ports of entry² since April 1, 2021.
5. For these reasons, I am deeply familiar with conditions at the U.S.-Mexico border and CBP’s ability to safely process people seeking asylum at ports of entry.

The Devastating Toll of Title 42

6. Title 42 endangers the lives and safety of individuals seeking asylum, by leaving them waiting in squalid conditions in the Mexican border cities for many months.
7. In Piedras Negras, for example, the municipal government has prevented migrant shelters from reopening at even a limited capacity due to COVID-19. As a result, many have been forced to sleep in abandoned houses, in the bus terminal, under bridges or on the street, leaving them more vulnerable to the extreme elements and abuse from exploitative actors. In these conditions, families with young children have struggled to access the most basic necessities, such as food and water, and suffered from inadequate sanitary conditions.
8. In addition, there are hundreds of families living in tent camps in Tijuana and Reynosa, where they vulnerable to criminal elements and lack access to services.
9. The inability to request asylum at a port of entry forces migrants, including women, to wait in conditions where they are vulnerable to harm and unable to access basic medical care. Several women I interviewed have recounted being sexually assaulted or otherwise harmed while sleeping on the street in Mexican border cities.
10. I have supported thirteen pregnant women in seeking exemptions from Title 42, most of whom struggled to access basic medical or prenatal care in Mexico and the limited humanitarian assistance in Mexican border cities such as Piedras Negras and Ciudad Acuña. One woman experienced bleeding and became worried that her pregnancy was

¹ Those cities are: Matamoros, Tamaulipas; Reynosa, Tamaulipas; Nuevo Laredo, Tamaulipas; Piedras Negras, Coahuila; Ciudad Acuña, Coahuila; Ciudad Juárez, Chihuahua; Agua Prieta, Sonora; Nogales, Sonora; San Luis Rio Colorado, Sonora; Mexicali, Baja California; Tijuana, Baja California. I have also conducted interviews in Monterrey, Nuevo León.

² Those four ports of entry are: San Ysidro, Eagle Pass, Del Rio, and Hidalgo.

high risk, while another who was able to visit a health clinic was told that she was at risk of a miscarriage. Others expressed deep concern that the insecurity and extremely unstable living conditions would negatively affect the health of their babies.

11. Title 42 expulsions have also endangered asylum seekers with medical conditions, including families with U.S. citizen children. I sought an exemption for a lesbian couple from El Salvador who were expelled to Piedras Negras days after one of the mothers gave birth to a U.S. citizen baby, while she was still recovering from a cesarean delivery. The U.S. citizen baby was severely sick for several weeks, and the couple struggled to access affordable medical care in Mexico. The couple approached the port of entry and showed the documentation for their U.S. citizen newborn, but they were prevented from entering the bridge by Mexican authorities who told them they needed a visa.
12. While waiting in Mexican border cities, numerous people seeking asylum who I have spoken to in the last few months have reported being extorted, robbed, physically assaulted, and threatened by authorities and other individuals, leaving them fearful for their lives.
13. Individuals seeking protection in Mexican border cities face a high risk of being kidnapped, and this risk is particularly heightened in the state of Tamaulipas, due to the presence of the Gulf Cartel and Cartel del Noreste. Kidnappings of migrants in Mexico that have occurred since February 2021 have been documented through public testimonies, interviews, and an electronic survey by Human Rights First.³ Approximately one out of every five individuals I interviewed through the exemption process affirmatively reported that they had been kidnapped (32 people), suffered a kidnapping attempt (20 people), or received threats of kidnapping (2 people) in Mexico. This figure is likely a significant undercount because I did not directly solicit information about kidnapping from individuals and many people may have been afraid to report such experiences.
14. Kidnappings of migrants often occur at bus stations, outside migrant shelters, or outside an international bridge or near the port of entry.
15. Title 42 expulsions, especially expulsions to Nuevo Laredo and Reynosa, Tamaulipas, force individuals seeking protection into a situation where they can be easily targeted. After migrants and individuals seeking protection are identified on the street, they are

³ Human Rights First, *Tracker of Reported Attacks During the Biden Administration Against Asylum Seekers and Migrants Who Are Stranded in and/or Expelled to Mexico* (June 2021), <https://www.humanrightsfirst.org/sites/default/files/AttacksonAsylumSeekersStrandedinMexicoDuringBidenAdministration.6.17.21.pdf>.

generally forced into vans by armed men and driven to a safe house where they are asked for contacts of people will pay ransom, or their phones are searched for U.S. numbers. Those contacts, who are usually family members in the U.S., receive a call demanding thousands of dollars and threatening to harm those in captivity. While being held in the safe house, women are often raped by their captors.

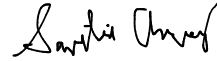
16. One Honduran woman I spoke with in April 2021 was expelled with her young daughter by CBP officials at night through the Hidalgo Port of Entry. After she exited the international bridge into Reynosa, several armed men grabbed her and covered her face with a black hat and forced her in a car. While being held, she was raped multiple times and she begged her captors not to harm her daughter. Her daughter was released by herself and crossed the border unaccompanied. After a month, the woman was able to escape with other women who were being held. She did not know where her daughter was until she was finally contacted by a U.S. shelter.

Restoring Access to Asylum at Ports of Entry

17. Instead of forcing families to cross dangerous terrain in between ports of entry to seek protection, CBP should restore access to asylum at ports of entry.
18. Throughout the exemption process, I have worked with many families who approached ports of entry for an opportunity to present their asylum claims but they were blocked from entering the port. For example, two weeks ago, a single mother with a U.S. citizen child who has special needs approached the Eagle Pass Port of Entry but was prevented from entering.
19. Although Defendants assert that thousands of people have been processed via ports of entry for exemptions from Title 42 (over a period of several months), Shahoulian Decl. (ECF No. 113-1) ¶ 11, those exemption processes cannot meet the needs of the majority of individuals seeking protection at the border and shift burdens onto nongovernmental organizations (“NGOs”) to gather information from vulnerable asylum seekers, including under dangerous conditions in Mexico.
20. Many asylum seekers do not have access to NGOs, and, due to the very limited number of exemptions granted each day, the majority of asylum seekers will not be able to obtain an exemption from Title 42, no matter how vulnerable they are.

I declare under the penalty of perjury under the laws of the United States of America and the State of New York that the foregoing is true and correct. Executed in New York, New York.

Dated: August 10, 2021

A handwritten signature in black ink, appearing to read "Savitri Arvey", written over a horizontal line.

Savitri Arvey

variants of the COVID-19 virus, there remains no valid public health basis for expelling immigrant families.

Highly Effective, Widely Available Vaccines Protect Against All Known Variants of the COVID-19 Virus and Reduce the Risk of Transmission in the United States.

6. In the United States, COVID-19 vaccines are now widely available and accessible to all individuals over the age of 12, at no cost to the recipient. Vaccines are available on demand in convenient locations, including local pharmacies.
7. As of August 10, 2021, 71% of adults in the United States have received at least one COVID-19 vaccination shot, exceeding President Biden's national goal.² Vaccination rates are higher among older, more vulnerable demographics, with more than 90% of adults 65 or older having received at least one dose; over 80% of adults 65 or older are fully vaccinated.³
8. Overall, as of August 10, 2021, more than 195,000,000 people in the United States (more than 58% of total population) have received at least one dose of the COVID-19 vaccine, and more than 166,000,000 are fully vaccinated (more than 50% of total population).⁴ With respect to those individuals who are vaccine-eligible (people ages 12 and up), 68.9% of that population has received at least one dose and 58.8% is fully vaccinated.
9. Although the CDC Order claims that "vaccination uptake has plateaued," CDC Order at 10, the CDC's own data show that the daily administration of first doses has more than doubled over the last month (seven-day moving average increased from 218,696 daily doses to 438,461 daily doses between July 7 and August 7, 2021).⁵
10. The widespread availability of vaccines has no doubt changed the course of the COVID-19 pandemic. As shown below, the number of new daily cases, hospitalizations, and deaths from COVID-19 have fallen drastically in the United States as vaccination numbers have increased. Even as restrictions have been lifted, cases, hospitalizations, and deaths are now a fraction of their peak.

² CDC, *COVID-19 Vaccinations in the United States* (last updated Aug. 10, 2021), <https://covid.cdc.gov/covid-data-tracker/#vaccinations>.

³ *Id.*

⁴ *Id.*

⁵ CDC, *Trends in Number of COVID-19 Vaccinations in the US* (last updated Aug. 10, 2021), https://covid.cdc.gov/covid-data-tracker/#vaccination-trends_vacctrends-onedose-daily.

Daily Trends in Number of COVID-19 Cases in the United States Reported to CDC

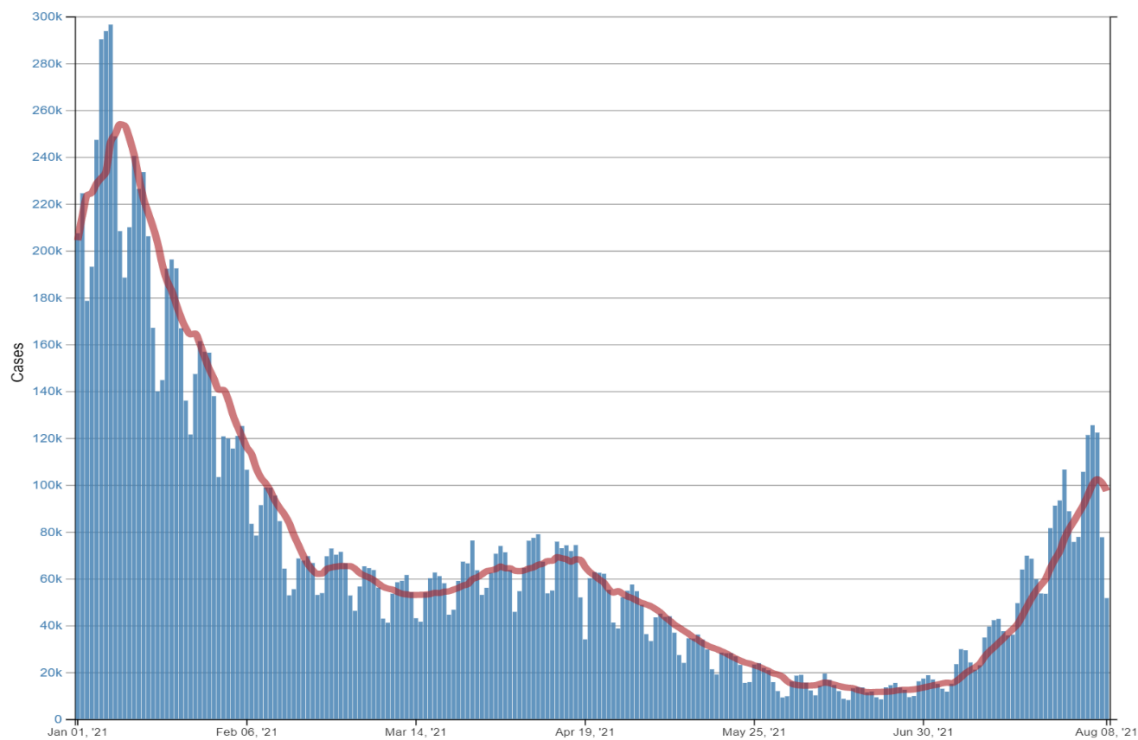


Figure 1 - Source: CDC, *Trends in Number of COVID-19 Cases and Deaths in the US Reported to CDC* (last visited Aug. 10, 2021), https://covid.cdc.gov/covid-data-tracker/#trends_dailytrendscases.

**Prevalent Hospitalizations of Patients with Confirmed COVID-19, United States
August 01, 2020 – August 08, 2021**

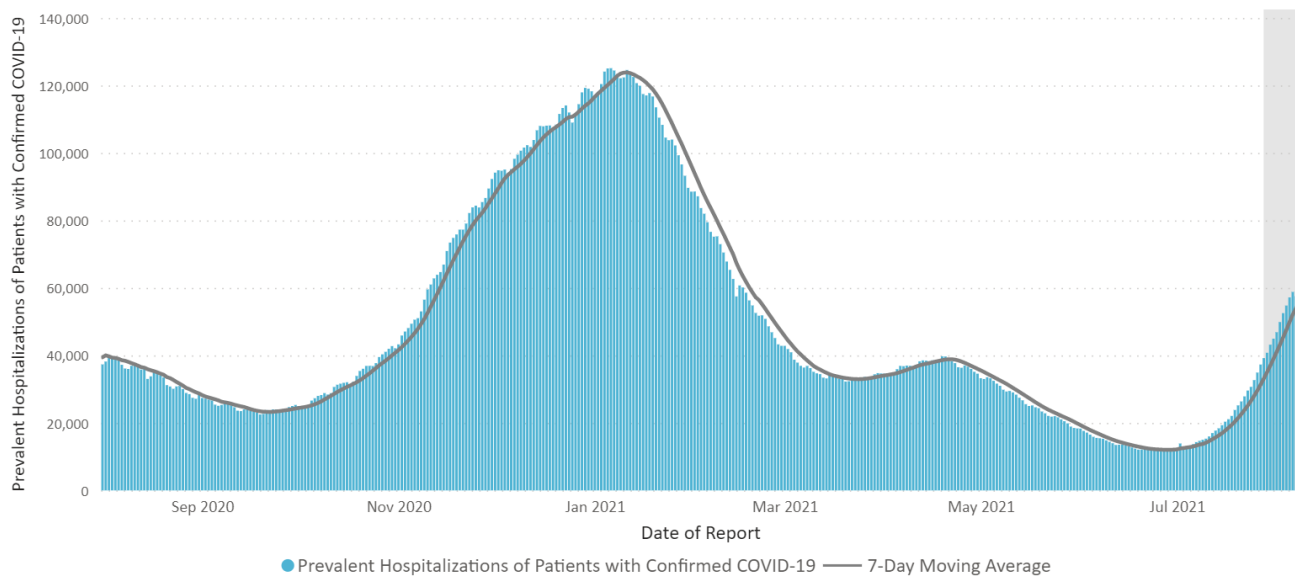


Figure 2 - Source: CDC, *Prevalent Hospitalizations of Patients with Confirmed COVID-19, United States, August 01, 2020 – August 08, 2021* (last visited Aug. 10, 2021), <https://covid.cdc.gov/covid-data-tracker/#hospitalizations>.

Daily Trends in Number of COVID-19 Deaths in the United States Reported to CDC and Cumulative Count of Total Doses Administered.

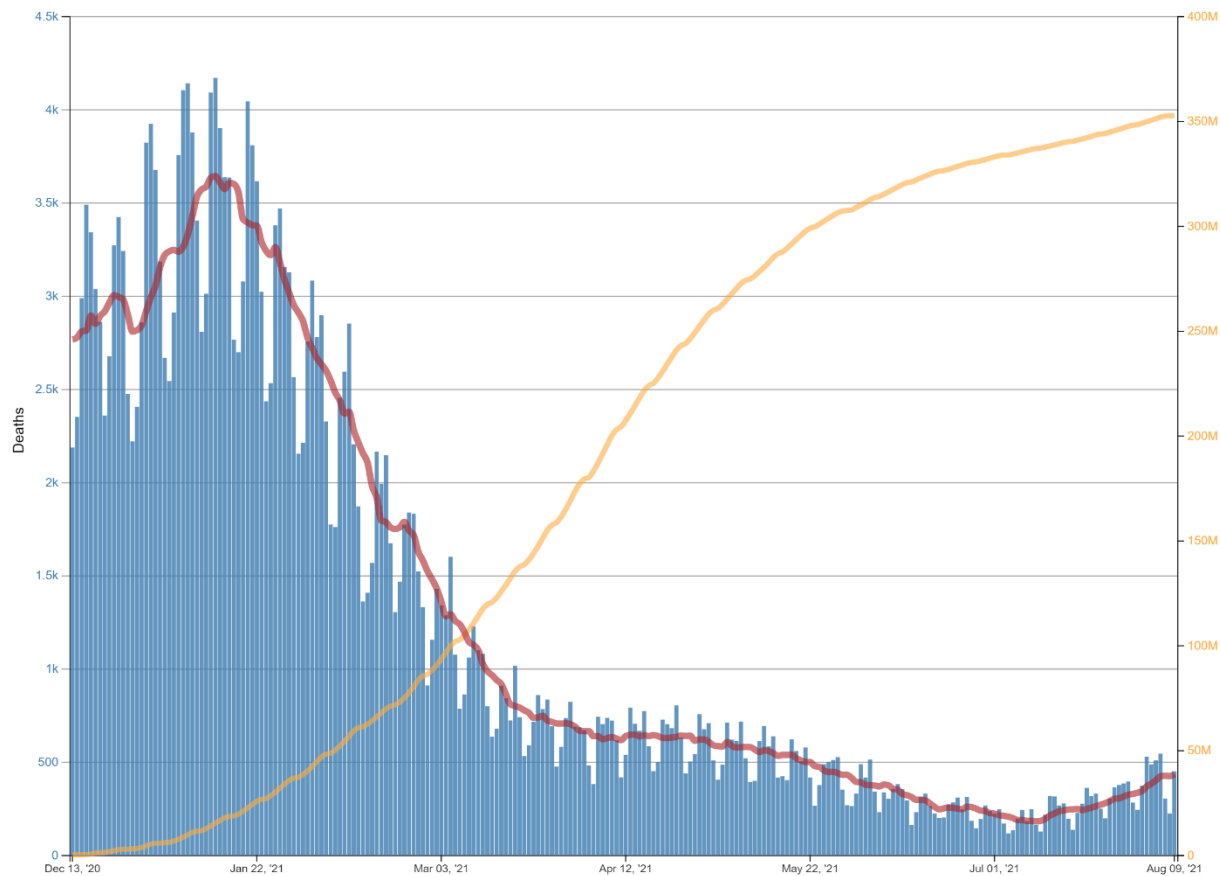


Figure 3 - Daily Number of COVID-19 Deaths vs. Total Vaccine Doses Administered. Source: CDC, *Trends in Number of COVID-19 Cases and Deaths in the US Reported to CDC, by State/Territory* (last visited Aug. 10, 2021), https://covid.cdc.gov/covid-data-tracker/#trends_dailytrendscases.

11. Since vaccines became widely available in February and March 2021, the number of individuals who die from or are hospitalized due to COVID has dropped significantly. Figure 3, above, shows the inverse relationship between COVID-19 deaths and administered vaccine doses.
12. According to the CDC, studies show that all vaccines authorized for use in the United States—Pfizer-BioNTech, Moderna, and Johnson & Johnson—are effective against all known variants, including the Delta variant. CDC, *About Variants of the Virus that Causes COVID-19* (Aug. 6, 2021), <https://www.cdc.gov/coronavirus/2019-ncov/transmission/variant.html>.
13. Individuals who are vaccinated against COVID-19 are far less likely to become infected, to require hospitalization, and to transmit the virus to others. Individuals receive significant protection even after one dose of a two-dose vaccine. Vaccination produces better protection from infection and illness than surviving a naturally occurring case of

COVID-19 illness. If fully vaccinated people become infected with COVID-19 (though still rare), they are less likely to have symptoms or to transmit the virus to others.

14. The vaccines commonly used in North America are very effective at preventing illness, hospitalization and death from all known forms of the virus, including the Delta variant that has become the dominant form.
15. While so-called “breakthrough” infections are possible in vaccinated individuals, vaccinated individuals remain unlikely to develop a symptomatic illness and only very rarely will they become seriously ill or require hospitalization even if infected.
16. According to CDC data, less than 0.001% of vaccinated individuals have died from COVID-19.⁶ Unvaccinated individuals account for more than 99% of recent COVID-19 deaths.⁷
17. According to a survey of 50 hospitals around the country, unvaccinated individuals make up the overwhelming majority (nearly 95%) of COVID-19 hospitalizations and deaths.⁸
18. There is some evidence that individuals with breakthrough infections from the Delta variant can carry the virus and potentially transmit infection to others, but according to the CDC, mitigation methods such as masking, social distancing, and proper building ventilation are effective ways of preventing transmission. *See, e.g.*, CDC Order at 7, 9, 13.
19. Apart from vaccinations, an additional 10 to 15% of the U.S. population has likely recovered from a prior COVID-19 infection.⁹ Although prior infection confers less protection than a vaccination, studies show that individuals who have recovered from COVID-19 are unlikely to become infected again, and such individuals tend to develop milder symptoms even if re-infected.¹⁰

⁶ CDC, *COVID-19 Vaccine Breakthrough Case Investigation and Reporting* (last updated Aug. 5, 2021), <https://www.cdc.gov/vaccines/covid-19/health-departments/breakthrough-cases.html>.

⁷ NPR, *U.S. COVID Deaths Are Rising Again. Experts Call It A ‘Pandemic Of The Unvaccinated’* (July 16, 2021), <https://www.npr.org/2021/07/16/1017002907/u-s-covid-deaths-are-rising-again-experts-call-it-a-pandemic-of-the-unvaccinated>.

⁸ ABC News, *Vast majority of ICU patients with COVID-19 are unvaccinated, ABC News survey finds* (July 29, 2021), <https://abcnews.go.com/US/vast-majority-icu-patients-covid-19-unvaccinated-abc/story?id=79128401>.

⁹ Frederick J. Angulo, *Estimation of US SARS-CoV-2 Infections, Symptomatic Infections, Hospitalizations, and Deaths Using Seroprevalence Surveys*, JAMA Network Open (Jan. 4, 2021), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7786245/>.

¹⁰ *See, e.g.*, Adnan Qureshi et al., *Reinfection With Severe Acute Respiratory Syndrome Coronavirus 2 (SARS-CoV-2) in Patients Undergoing Serial Laboratory Testing*, Clinical Infectious Diseases (Apr. 25, 2021), <https://academic.oup.com/cid/advance-article/doi/10.1093/cid/ciab345/6251701>

20. Even in the face of a more transmissible variant form of the virus, current cases detected in the U.S. remain far below what they were at the peak of the epidemic, even while many restrictions and regulations have been relaxed. COVID-19 vaccines have almost certainly contributed to suppressing transmission and are the best form of protection against illness, hospitalization and death.
21. Given that asylum-seeking families make up a tiny percentage of daily inbound individuals, expelling asylum seekers at the southern border would do almost nothing to reduce the number of cases or the rate of transmission in the U.S. Instead, layered protection including masking, physical distancing, and improved ventilation, along with vaccination and testing, should be expected to prevent additional cases among this group and the Customs & Border Protection (CBP) personnel they interact with.

Defendants' Expulsion Practices Are Inconsistent with Public Health.

22. A basic public health concept is that most public health actions produce a combination positive and negative effects, which must be weighed against one another. Notably, the CDC Order appears to be nearly devoid of any consideration of the adverse consequences of the Title 42 policy, both to the asylum seekers and to the health of the U.S. public.
23. The CDC Declaration acknowledges that, notwithstanding COVID-19 variants, numerous safety measures remain effective in preventing the transmission of COVID-19, including in congregate settings. *See, e.g.*, CDC Order at 7, 9, 13. Those measures including rapid testing, quarantining, providing vaccines, masking, distancing, improving ventilation, and others.
24. According to reports by advocates and the media,¹¹ Defendants are carrying out “lateral” expulsions, which involve flying or bussing untested migrants already in the United States from one part of the border to another region before expelling them into Mexico.
25. We also understand from attorneys representing immigrants subject to Title 42 that some of their clients are detained in congregate facilities for days or weeks, before they are

¹¹ *See, e.g.*, NBC News, *Biden admin again flying migrants who cross border in one place to another place before expelling them* (June 18, 2021), <https://www.nbcnews.com/politics/immigration/biden-admin-again-flying-migrants-who-cross-border-one-place-n1271211>; Washington Post, *Fewer migrant families being expelled at border under Title 42, but critics still push for its end* (June 13, 2021), https://www.washingtonpost.com/immigration/fewer-migrant-families-being-expelled-at-border-under-title-42-but-critics-still-push-for-its-end/2021/06/13/422c702c-c7cc-11eb-81b1-34796c7393af_story.html; San Diego Union-Tribune, *Biden expelling asylum-seeking families with young children to Tijuana after flights from Texas* (Apr. 9, 2021), <https://www.sandiegouniontribune.com/news/immigration/story/2021-04-09/biden-expelling-families-tijuana>.

expelled from the United States, sometimes after testing negative for COVID-19 or after completing quarantine or isolation. *See, e.g.*, Hidalgo Decl. (ECF No. 57-8) ¶ 6; Levy Decl. ¶ 30.

26. Such practices, if undertaken by the Department of Homeland Security, increase the risk of transmission on both sides of the border, compared to actual public health strategies such as testing and quarantining or offering vaccines to migrants and releasing migrants from congregate settings.
27. Migrants in Mexico have also begun receiving COVID-19 vaccines since at least May 2021, according to multiple media reports.¹² Like other vaccinated individuals, migrants who have received a vaccine are extremely unlikely to transmit COVID-19, compared to unvaccinated travelers who are permitted to cross the Southwest border daily.
28. There is no public health basis for expelling immigrant families, particularly those who have been vaccinated against, tested negative for, or previously recovered from COVID-19, while allowing hundreds of thousands of other travelers to enter the United States daily via the Southwest border with no restrictions.

Immigrant Families Subject to Title 42 Are Not a Significant Source of COVID-19 in the United States.

29. The CDC premised its Title 42 order on the need to prevent the “introduction” of COVID-19 into the United States. CDC Order at 1.
30. In public health and epidemiology, “introduction” generally refers to first contact with a disease in an area where it was previously unknown or undocumented.¹³
31. Since the first confirmed case of COVID-19 in January 2020, there have been nearly 36,000,000 confirmed cases of COVID-19 in the United States as of August 10, 2021.¹⁴ The actual number of infections is likely much higher.

¹² Reuters, *Mexico to vaccinate migrants in Baja California under new border initiative* (June 18, 2021), <https://www.reuters.com/world/americas/mexico-vaccinate-migrants-baja-california-under-new-border-initiative-2021-06-19/>; Reuters, *U.S. bound-migrants vaccinated for COVID-19 in Mexican border city* (May 6, 2021), <https://www.reuters.com/world/americas/us-bound-migrants-vaccinated-covid-19-mexican-border-city-2021-05-06/>.

¹³ KE Nelson and CM Wilson [eds] (2007), *Infectious Disease Epidemiology Theory and Practice*, 2nd Edition. Sudbury, MA: Jones and Bartlett.

¹⁴ CDC, *United States COVID-19 Cases, Deaths, and Laboratory Testing (NAATs) by State, Territory, and Jurisdiction* (last updated Aug. 10, 2021), <https://covid.cdc.gov/covid-data-tracker/#cases>.

32. According to the CDC, there were over 91,000 new confirmed COVID-19 cases reported on July 31, 2021, more than 80% of which were caused by the Delta variant.¹⁵ There is no evidence that the Delta variant originated in a migrant crossing the Southwest border, and, at this point, asylum-seeking families cannot meaningfully introduce the variant into the United States, where it is already the dominant strain.
33. According to public data from CBP, the agency has expelled an average of 8,600 family unit noncitizens per month in the last two months, or approximately 285 people per day.¹⁶
34. Even if 100% of those approximately 285 people per day were to test positive for COVID-19 (which they will not), they would still represent only a negligible addition to the more than 70,000 new cases that have been reported each day in the United States on average over the most recent week.¹⁷
35. Given that noncitizen families represent a very small fraction of the hundreds of thousands of inbound people allowed to cross the Southwest border each day (without COVID-19 testing or vaccination requirements),¹⁸ even with entry to congregate conditions, asylum seekers cannot plausibly constitute a meaningful additional COVID-19 risk to the U.S. public. That minimal risk is further diminished by a majority of Americans and a large majority of vulnerable age groups receiving COVID-19 vaccinations.
36. The minimal risk that those few asylum-seekers could infect others could be further mitigated by a testing and quarantine process or via widely available vaccinations. According to Defendants, DHS has already developed, in coordination with state, local, and NGO partners, capacity to test, quarantine, or isolate noncitizen families. Shahoulian Decl. ¶¶ 8–9. Apart from that capacity, noncitizen families can be directed to self-quarantine with the help of their family, friends, or other sponsors in the United States. A recent study found that “91.9% [of asylum seekers] have family or close friends who live in the U.S.”¹⁹

¹⁵ CDC, *Trends in Number of COVID-19 Cases and Deaths in the US Reported to CDC, by State/Territory* (last visited Aug. 10, 2021), https://covid.cdc.gov/covid-data-tracker/#trends_dailytrendscases. CDC, *Variant Proportions* (last visited Aug. 10, 2021), <https://covid.cdc.gov/covid-data-tracker/#variant-proportions>.

¹⁶ CBP, *Southwest Land Border Encounters*, <https://www.cbp.gov/newsroom/stats/southwest-land-border-encounters>.

¹⁷ CDC, *Trends in Number of COVID-19 Cases and Deaths in the US Reported to CDC* (last visited Aug. 10, 2021), https://covid.cdc.gov/covid-data-tracker/#trends_dailytrendscases.

¹⁸ Department of Transportation, *Border Crossing Entry Data* (last visited Aug. 9, 2021), <https://explore.dot.gov/views/BorderCrossingData/Annual?:isGuestRedirectFromVizportal=y&embed=y>.

¹⁹ U.S. Immigration Policy Center at UC San Diego, *Seeking Asylum: Part 2* 13 (Oct. 29, 2019), https://usipc.ucsd.edu/publications/usipc-seeking-asylum-part-2-final.pdf?fbclid=IwAR07M_jP1Wy8KIn85d0jnw0Kobiz-MR7XeAIT77c9afuRInkd7sHL21FE1Q.

37. Additional quarantine or isolation capacity can be acquired by expanding the use of hotel or by utilizing temporary, mobile housing units that can be rapidly deployed by HHS and CDC in coordination with local partners.

Defendants Make Misleading Claims About the Infection Risks That Agency Personnel Face.

38. Defendants' suggestion that CBP employees are at elevated risk for COVID-19 due to contact with immigrants is unfounded.
39. If vaccinated with one of the widely available vaccines, CBP employees would be highly unlikely to contract COVID-19 and develop symptomatic or serious illness.
40. Defendants assert that the rate of infection has been increasing among CBP officers, despite significant numbers of fully vaccinated employees since January 2021. *See* ECF No.113-1, ¶ 13. However, Defendants do not indicate whether any of the recently infected CBP officers had been vaccinated, or whether any breakthrough infections had led to serious disease. Moreover, Defendants' infection figures appear to include all CBP employees, including those who are not located at the Southwest border (or even in the United States).²⁰
41. Defendants also do not disclose how many CBP employees have actually been vaccinated. We understand that the federal government has only recently required all federal employees and contractors to either attest to vaccination, or otherwise comply with testing and masking requirements.²¹ As more CBP employees get vaccinated or begin to follow more rigorous testing and masking protocols, infection and hospitalization rates should correspondingly decrease.
42. Because CBP employees are far more likely and able to be tested than the average American citizen, the fact that 12.36% of CBP employees may have tested positive for COVID-19 (as of February 15, 2021) compared to 8.16% nationally is not probative. *See* ECF No. 76-2, ¶ 18. Indeed, a nationwide sero-prevalence survey conducted prior to the availability of vaccines, suggested that 14.3% of the United States population had been infected as of mid-November 2020, more than twice the number of confirmed cases.²²

²⁰ CBP, *Agency COVID-19 Information* (last updated Aug. 6, 2021), <https://www.cbp.gov/newsroom/coronavirus>.

²¹ Safer Federal Workforce Task Force, *COVID-19 Workplace Safety: Agency Model Safety Principles* (July 29, 2021), https://www.saferfederalworkforce.gov/downloads/revised%20COVID19_Safe%20Federal%20Workplace_Agency%20Model%20Safety%20Principles_20210728.pdf

²² Frederick J. Angulo, *Estimation of US SARS-CoV-2 Infections, Symptomatic Infections, Hospitalizations, and Deaths Using Seroprevalence Surveys*, JAMA Network Open (Jan. 4, 2021), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7786245/>.

43. In fact, based on CBP's latest public data, CBP employees have likely had a lower incidence of confirmed COVID-19 cases compared to the overall adult population in the United States. Between February 15 and August 6, 2021, 1,905 CBP officers tested positive for COVID-19, out of 63,457 employees.²³ Accordingly, approximately 3.00% of CBP personnel contracted COVID-19 during that time. During that same period, 3.01% of adults in the United States tested positive for COVID-19.²⁴ Because CBP officers are tested more frequently than the average adult in the United States, the fact that they have almost identical rates of confirmed cases suggests that CBP officers are less likely to be infected with COVID-19 than the rest of the adult population in the country.
44. The fact that CBP officers likely have a lower rate of infection compared to the American public as a whole suggests that CBP is able to process immigrants safely, given vaccinations and other mitigation measures, despite having to work in congregate settings at times.
45. Notably, the CDC Order cites no evidence for its contention that the Title 42 policy has "helped lessen the introduction, transmission, and spread of COVID-19 among border facilities and into the United States while also decreasing the risk of exposure to COVID-19 for DHS personnel and others in the facilities." CDC Order at 15-16. Given the likely lower incidence in CBP personnel, including during the asserted period of increased facility crowding in 2021, this statement is likely incorrect.

Defendants Make Misleading Claims About the Risk of Infection Posed by Travelers from Mexico.

46. Defendants note that Mexico has "had the third highest total number of deaths from COVID-19 in the world," Opp. at 4, which is no longer the case. Moreover, the statement omits noting that the United States has reported the *most* COVID-19 deaths in the world cumulatively and that the COVID-19 death rate on a per capita basis is nearly identical in the US and Mexico.²⁵
47. In any event, Defendants' reliance on total deaths as a measure of infection risk is misguided: National death counts vary depending on factors such as the quality of

²³ See Miller Decl. (ECF No. 76-2) ¶ 18; CBP, *Agency COVID-19 Information* (last updated Aug. 6, 2021), <https://www.cbp.gov/newsroom/coronavirus>.

²⁴ CDC, *Trends in Number of COVID-19 Cases and Deaths in the US Reported to CDC, by State/Territory* (last visited Aug. 10, 2021), https://covid.cdc.gov/covid-data-tracker/#trends_dailytrendscases.

²⁵ World Health Organization, WHO Coronavirus Disease (COVID-19) Dashboard (last updated Aug. 10, 2021), <https://covid19.who.int/table>; Johns Hopkins University of Medicine Coronavirus Resource Center, Mortality Analysis (last updated Aug. 10, 2021), <https://coronavirus.jhu.edu/data/mortality>.

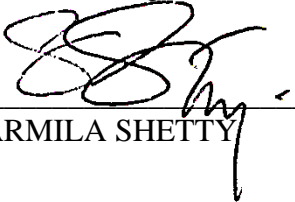
medical care once infected and differences in population and demographics, none of which reveals the likelihood that a traveler from Mexico is carrying the virus that causes COVID-19. Not only is quality healthcare less accessible in Mexico, the Mexican population also suffers from high rates of obesity and other chronic conditions that place them at particular risk for severe illness and death from COVID-19.²⁶

48. In the latest CDC Order, the only data that the agency cited regarding COVID-19 prevalence in Mexico show that the United States is experiencing more than twice as many cases per capita compared to Mexico. CDC Order at 4. The Order also cites data indicating that the recent rate of increase of confirmed COVID-19 cases in the United States is three times higher than Mexico's. *Id.*
49. While Defendants have previously asserted that Mexico is underreporting its COVID-19 cases and deaths, sero-prevalence studies, as explained in our initial declaration, confirm that Mexico's lower counts cannot be fully explained by differences in reporting. *See* ECF No. 57-6, ¶ 24.
50. In short, the CDC has not provided any evidence or reason to believe that migrants arriving from Mexico are more likely to have COVID-19 than the average person in the United States.

²⁶ Diego Rolando Hernández-Galdamez, et al., *Increased Risk of Hospitalization and Death in Patients with COVID-19 and Pre-existing Noncommunicable Diseases and Modifiable Risk Factors in Mexico*, Archives of Medical Research (July 22, 2020), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7375298/>.

I, Sharmila Shetty, declare under penalty of perjury of the laws of the State of New York and the United States of America that the foregoing is true and correct to the best of my knowledge and belief.

Executed on August 10, 2021 in Massapequa Park, New York.


SHARMILA SHETTY

I, Stephen Patrick Kachur, declare under penalty of perjury of the laws of the State of New York and the United States of America that the foregoing is true and correct to the best of my knowledge and belief.

Executed on August 10, 2021 in New York, New York.


STEPHEN PATRICK KACHUR

I, Leslie Roberts, declare under penalty of perjury of the laws of the United States of America that the foregoing is true and correct to the best of my knowledge and belief.

Executed on August 11, 2021 in Bocaranga, Central African Republic.


LESLIE ROBERTS

I, Bradley A. Woodruff, declare under penalty of perjury of the laws of the United States of America that the foregoing is true and correct to the best of my knowledge and belief.

Executed on August 11, 2021 in Victoria, British Columbia, Canada.


BRADLEY A. WOODRUFF

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

NANCY GIMENA HUI SHA-HUI SHA, et al.,

Plaintiffs,

V.

ALEJANDRO MAYORKAS, Secretary of Homeland Security, in his official capacity, et al.,

Defendants.

No. 1:21-CV-00100-EGS

DECLARATION OF 32 MEDICAL AND PUBLIC HEALTH EXPERTS

The undersigned hereby declare:

1. We make this declaration based on our own personal knowledge and if called to testify could and would do so competently and truthfully to these matters.
2. We have carefully reviewed the latest Title 42 order issued by the Centers for Disease Control & Prevention (CDC) and conclude that it still does not provide adequate public health justifications for expelling asylum-seeking families at the border. *See CDC, Order Suspending the Right to Introduce Certain Persons from Countries Where a Quarantinable Communicable Disease Exists* (Aug. 2, 2021) (hereinafter “CDC Order”), https://www.cdc.gov/coronavirus/2019-ncov/downloads/CDC-Order-Suspending-Right-to-Introduce-_Final_8-2-21.pdf.
3. Based on our professional opinion as epidemiologists, medical doctors, public health experts, and former officials from the CDC, we believe that:
 - Families seeking asylum at the southwest border can be admitted, processed, and transported in a manner that safeguards public health, notwithstanding the COVID-19 pandemic and the currently circulating variants of the COVID-19 virus;
 - Migrants are not responsible for increases in COVID-19 infections, nor did they introduce the current variants into the United States;
 - Processing of asylum seekers, with mitigation strategies, presents no greater risk than that posed by countless activities currently allowed by the CDC (such as indoor sporting events, dining, and concerts); and
 - The CDC Order does *not* conclude that the processing of asylum seekers cannot be done safely. Rather, the CDC has concluded that the Department of Homeland Security (DHS) has not taken all of the recommended mitigation steps, despite having had more than a year to do so.

4. In short, the CDC Order is an indictment of the DHS's yearlong failure to adopt reasonable mitigation steps in order to safely process asylum-seeking families, and not a conclusion by CDC that migrants present an unacceptable public health risk. The CDC Order also makes clear that where the federal government has wanted to allocate resources toward mitigation protocols for migrants entering the United States, it can do so, as it did when it exempted unaccompanied minors from Title 42.
5. In its order, the CDC "recognizes [that] the availability of testing, vaccines, and other mitigation protocols can minimize risk" of COVID-19 transmission during border processing. CDC Order at 3. Thus, according to the CDC, the primary reason that asylum-seeking families are still being subjected to Title 42 is because of DHS's failure to expand available mitigation measures:

CDC considers these efforts [to expand testing, consequence management, and vaccination programs] to be a critical risk reduction measure and encourages DHS to evaluate the potential expansion of such COVID-19 mitigation programs for [family units] such that they may be excepted from this Order in the future.

Id. at 22. The CDC also stated that it "encourages DHS to develop such programs as quickly as practicable." *Id.*

6. The CDC further recognized that the federal government has successfully implemented those mitigation steps in order to process unaccompanied children without posing "a significant level of risk for COVID-19 spread into the community"—DHS simply has not done the same for families. *See id.* at 17.
7. To date, Title 42 has not been lifted for any subset of asylum-seeking families, even though the CDC has concluded that "[i]n light of available mitigation measures," "the gradual resumption of normal border operations under Title 8 is feasible" with "careful planning." *Id.* at 18.
8. Effective mitigation measures have enabled this country to re-open, return to in-person schooling, travel, religious practice, indoor sporting events and other regular activities. The risks from allowing migrants fleeing persecution and danger into the United States are minimal considering the number of mitigation tools available, and certainly not greater than risks associated with many activities that the CDC currently sanctions.
9. By utilizing highly effective vaccines and following the other practical mitigation recommendations (set forth below), Defendants can ensure the health of government

employees, noncitizens, and communities in the United States. These mitigation concepts are not novel in the context of border processing.¹

SARS-CoV-2 and Its Variants Do Not Provide a Public Health Basis to Exclude Asylum-Seeking Families From the United States.

10. The CDC has recognized that mitigation strategies continue to be effective against all known variants of the COVID-19 virus, including the Delta variant, the dominant strain currently circulating in the United States. *See, e.g.*, CDC Order at 7.
11. Title 42 expulsions at the southwest border cannot prevent the introduction of the Delta variant into the country, because the variant is already widespread in the United States.²
12. There is no evidence that any of the four variants of concern to the CDC originated in a person crossing the southwest border.³

Minimizing Transmission Risk During Border Processing.

13. A package of risk mitigation strategies is effective even if no individual strategy completely blocks transmission on its own. By combining multiple strategies, including vaccinations, testing, masking, ventilation, and sanitizing, Customs and Border Protection (CBP) can safely process asylum-seeking families while minimizing transmission of COVID-19.
14. On July 29, 2021, President Biden announced a requirement that millions of federal employees and contractors be vaccinated or be subjected to rigorous safety protocols.⁴
15. Ensuring that only fully-vaccinated government agents are placed in migrant-facing roles would largely eliminate the risks of serious illness, hospitalization, and death among government personnel from COVID-19; it would also significantly reduce transmission of SARS-CoV-2 between government personnel and migrants.
16. Offering COVID-19 vaccinations to migrants would further dampen cycles of transmission. All migrants should be offered a vaccine when they come into CBP

¹ Columbia Mailman School of Public Health, *Public Health Recommendations for Processing Families, Children and Adults Seeking Asylum or Other Protection at the Border* (Dec. 12, 2020), <https://www.publichealth.columbia.edu/research/program-forced-migration-and-health/public-health-recommendations-processing-families-children-and-adults-seeking-asylum-or-other>.

² *See* CDC, *Variant Proportions* (last updated Aug. 3, 2021), <https://covid.cdc.gov/covid-data-tracker/#variant-proportions>.

³ *See* CDC, *SARS-CoV-2 Variant Classifications and Definitions* (last updated Aug. 3, 2021), <https://www.cdc.gov/coronavirus/2019-ncov/variants/variant-info.html>.

⁴ The White House, *Fact Sheet: President Biden to Announce New Actions to Get More Americans Vaccinated and Slow the Spread of the Delta Variant* (July 29, 2021), <https://www.whitehouse.gov/briefing-room/statements-releases/2021/07/29/fact-sheet-president-biden-to-announce-new-actions-to-get-more-americans-vaccinated-and-slow-the-spread-of-the-delta-variant/>.

custody, or shortly after leaving CBP custody, regardless of whether or not they are ultimately allowed to remain in the country.

17. The U.S. government has adequate vaccine supplies to take this step.⁵ DHS should also offer vaccine information in multiple languages to increase vaccine uptake.
18. Vaccination programs for migrants arriving at the southwest border are reportedly being considered by DHS and CBP and should be implemented immediately, as recommended by the CDC.⁶ In the past, CBP has reportedly resisted the CDC's recommendation to vaccinate migrants, acting contrary to public health.⁷
19. In addition to vaccinations, transmission could be further reduced by maximizing outdoor processing, such as by repurposing parking lots and other well-ventilated spaces. The CDC Order noted that processing for Title 42 expulsions generally takes place outdoors. CDC Order at 15. However, if CBP were to similarly shift processing for those allowed to enter the country to outdoor settings or semi-outdoor spaces with open-sided structures, transmission risk would be substantially reduced.
20. Even if congregate processing indoors were necessary, there are numerous safeguards that minimize the risk of transmission in such settings.
21. For instance, as one layer of protection, indoor facilities can utilize air filtration or other means of improving ventilation, such as reducing recirculation of air and opening windows.
22. When families are indoors, transmission can be mitigated through masking, social distancing, and hand-sanitizing, all of which remain effective against all known variants of the COVID-19 virus. All building occupants could be instructed to wear masks in the correct manner and to use surgical masks or respirators with better filtration instead of cloth masks. *See CDC, Improve the Fit and Filtration of Your Mask to Reduce the Spread of COVID-19* (last updated Apr. 6, 2021), <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/mask-fit-and-filtration.html>.
23. Mobile testing units deploying rapid antigen tests could be used to test individuals for COVID-19 before they enter an indoor, congregate setting. According to the CDC, in congregate settings, "rapid testing can be implemented to identify infected persons so

⁵ See, e.g., The White House, *Fact Sheet: President Biden Announces Major Milestone in Administration's Global Vaccination Efforts: More Than 100 Million U.S. COVID-19 Vaccine Doses Donated and Shipped Abroad* (Aug. 3, 2021) (stating that United States government will deliver "hundreds of millions of more doses" to other countries "in the coming weeks"), <https://www.whitehouse.gov/briefing-room/statements-releases/2021/08/03/fact-sheet-president-biden-announces-major-milestone-in-administrations-global-vaccination-efforts-more-than-100-million-u-s-covid-19-vaccine-doses-donated-and-shipped-abroad>.

⁶ See The Washington Post, *Biden administration preparing to offer vaccines to migrants along Mexico border* (Aug. 3, 2021), https://www.washingtonpost.com/national/biden-vaccines-migrants-border/2021/08/03/afaff516-f471-11eb-83e7-06a8a299c310_story.html.

⁷ CNN, *CDC urged US Customs and Border Protection to vaccinate migrants, but they rejected the idea* (Nov. 26, 2019), <https://www.cnn.com/2019/11/26/health/cdc-vaccinations-migrants-border-patrol/index.html>.

they can be isolated until they no longer pose a risk of spreading infections.” CDC Order at 9. The rapid testing could be part of the COVID-19 medical screenings and temperature checks already conducted by CBP prior to taking noncitizens into custody. *Id.* at 13.

24. Any individual who tests positive for COVID-19 from the antigen test should be immediately referred for medical care and isolation while they await a PCR test to confirm the COVID-19 diagnosis. CBP can work with local health authorities, shelters, and humanitarian assistance organizations to find additional facilities, like unused dormitory and hotel facilities, to allow such individuals to isolate and undergo additional testing.
25. According to the CDC, CBP already has testing, quarantine, and isolation systems set up for most family units, who are not typically detained. *See id.* at 14.
26. According to the CDC, CBP has already been implementing several other mitigation strategies at its facilities. *Id.* at 13 (“CBP has implemented a variety of mitigation efforts to prevent the spread of COVID-19 in [CBP] facilities. CBP has invested in engineering upgrades, such as installing plexiglass dividers in facilities where physical distancing is not possible and enhancing ventilation systems. All CBP facilities adhere to CDC guidance for cleaning and disinfection. Surgical masks are provided to all persons in custody and are changed at least daily and if or when they become wet or soiled. Personal protective equipment (PPE) and guidance are regularly provided to CBP personnel. Recognizing the value of vaccination, CBP is encouraging vaccination among its workforce.”).
27. We are not aware of any reason that DHS could not take additional mitigation steps beyond those it has already taken, if it were willing to allocate sufficient resources. Nor does the CDC Order explain why DHS could not take such additional mitigation steps.
28. The above precautionary measures, combined with testing (including rapid testing), quarantine, isolation, and vaccinations, provide multiple layers of protection against transmission, minimize disease transmission, and enable asylum-seeking families to be processed without posing a significant public health risk.

Minimizing Transmission Risk During Transport.

29. Mitigation strategies are effective in preventing transmission of COVID-19 when asylum-seeking families have to be transported by CBP prior to release.
30. Ensuring that all migrant-facing CBP personnel are vaccinated and masked, and that all noncitizens are tested prior to boarding, cohorted by COVID-19 status and known exposure, and masked will significantly reduce transmission risk. These steps for minimizing transmission during air and ground transportation are already outlined in CDC guidance. *See CDC, Interim Guidance for Transporting or Arranging Transportation by Air into, from, or within the United States of People with COVID-19 or*

COVID-19 Exposure (Jan. 19, 2021), <https://www.cdc.gov/quarantine/interim-guidance-transporting.html>.

31. Transmission risk can be further mitigated by using larger capacity vehicles, improving ventilation by opening windows, minimizing recirculation of air by the heating/cooling system, seating individuals in a socially distanced manner, and sanitizing vehicles between uses.
32. In the event that a longer trip is necessary, vehicle occupancy can be reduced to mitigate transmission risk.

Public Health Alternatives to Expulsion.

33. Expulsions magnify the risks of COVID-19 transmission to CBP personnel and border communities.
34. Title 42 expulsions encourage repeat interactions between noncitizens and CBP. According to CBP, “[t]he large number of expulsions during the pandemic has contributed to a larger-than-usual number of noncitizens making multiple border crossing attempts.” CBP, *CBP Announces May 2021 Operational Update* (June 9, 2021), <https://www.cbp.gov/newsroom/national-media-release/cbp-announces-may-2021-operational-update>. Noncitizens subject to expulsion are generally expelled across the border into Mexico via the nearest port of entry. *See* CDC Order at 14.
35. According to CBP statistics, approximately 35-40% of noncitizens encountered at the southwest border are repeat encounters. *See* CBP, *CBP Announces June 2021 Operational Update* (July 16, 2021), <https://www.cbp.gov/newsroom/national-media-release/cbp-announces-june-2021-operational-update>. CBP, *CBP Announces May 2021 Operational Update* (June 9, 2021), <https://www.cbp.gov/newsroom/national-media-release/cbp-announces-may-2021-operational-update>.
36. Rather than increasing transmission opportunities by multiplying the number of direct interactions, DHS and CBP should implement proven public health strategies, such as testing and quarantine and vaccination programs for migrants.
37. According to the CDC, a protocol for testing, quarantine, and vaccination (when age-appropriate) has enabled unaccompanied children to be placed in congregate shelters or released to sponsors (who can assist with compliance with medical guidance) “without posing a significant public health risk.” CDC Order at 17.
38. The same can be done for asylum-seeking families, the overwhelming number of whom have sponsors, family, or friends in the United States who can assist with compliance

with medical and public health direction. A recent study found that “91.9% [of asylum seekers] have family or close friends who live in the U.S.”⁸

39. According to the CDC, CBP has already developed partnerships “with state and local agencies and non-governmental organizations to facilitate COVID-19 testing of [families] upon release from CBP custody.” CDC Order at 14. Highly effective vaccines are already available upon demand in the United States, free of charge, to all individuals 12 or older, in local pharmacies and other accessible locations.
40. To the extent that such resources for testing and quarantine are limited, DHS and HHS should procure additional testing and quarantine capacity or provide funding to local and state groups. The use of quarantine hotels or motels could be quickly scaled up or down as needed.
41. Asylum-seeking families in the United States can also be directed to shelter in place at their ultimate destinations.
42. Additionally, HHS and CDC should assist with expanding quarantine and isolation capacity through the use of temporary or mobile housing units, in coordination with local health authorities.

⁸ U.S. Immigration Policy Center at UC San Diego, *Seeking Asylum: Part 2* 13 (Oct. 29, 2019), https://usipc.ucsd.edu/publications/usipc-seeking-asylum-part-2-final.pdf?fbclid=IwAR07M_jP1Wy8KIn85d0jnw0Kobiz-MR7XeAIT77c9afuRIInkd7sHL21FE1Q.

I, Joseph J. Amon, declare under penalty of perjury of the laws of the United States of America that the foregoing is true and correct to the best of my knowledge and belief.

Executed on August 9, 2021 in Princeton, New Jersey.



JOSEPH J. AMON, PhD, MSPH

Director of Global Health

Clinical Professor, Community Health and Prevention

Dornsife School of Public Health, Drexel University

Former Epidemiologist, Epidemic Intelligence Service, Centers for Disease Control and Prevention

I, Stefano M. Bertozzi, declare under penalty of perjury of the laws of the United States of America that the foregoing is true and correct to the best of my knowledge and belief.

Executed on August 8, 2021 in Berkeley, California.



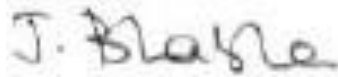
STEFANO M. BERTOZZI, MD, PhD

Dean Emeritus and Professor, Health Policy & Management

UC Berkeley School of Public Health

I, Jacqueline Bhabha, declare under penalty of perjury of the laws of the United States of America that the foregoing is true and correct to the best of my knowledge and belief.

Executed on August 11, 2021 in Cambridge, Massachusetts.



JACQUELINE BHABHA

Professor of the Practice of Health and Human Rights, Harvard T.H. Chan School of Public Health

Director of Research, François-Xavier Bagnoud Center for Health and Human Rights
Harvard University

I, Ietza Bojorquez, declare under penalty of perjury of the laws of the United States of America that the foregoing is true and correct to the best of my knowledge and belief.

Executed on August 8, 2021 in Tijuana, Mexico.



IETZA BOJORQUEZ, MD, PhD
Department of Population Studies, El Colegio de la Frontera Norte
Tijuana, BC, Mexico

I, Joanne Csete, declare under penalty of perjury of the laws of the United States of America that the foregoing is true and correct to the best of my knowledge and belief.

Executed on August 10, 2021 in New York, New York.



JOANNE CSETE, PhD, MPH
Associate Professor
Columbia University Mailman School of Public Health

I, Charles Nicholas Cuneo, declare under penalty of perjury of the laws of the United States of America that the foregoing is true and correct to the best of my knowledge and belief.

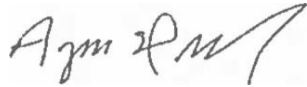
Executed on August 9, 2021 in Baltimore, Maryland.



CHARLES NICHOLAS CUNEO, MD, MPH
Assistant Professor of Medicine and Pediatrics
Johns Hopkins University School of Medicine (Division of Hospital Medicine, Pediatric Hospital Medicine Division)
Johns Hopkins Bloomberg School of Public Health (Center for Public Health and Human Rights – Migrant Health & Human Rights Program, Center for Humanitarian Health)

I, Ayman El-Mohandes, declare under penalty of perjury of the laws of the United States of America that the foregoing is true and correct to the best of my knowledge and belief.

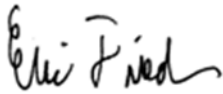
Executed on August 10, 2021 in New York, New York.



AYMAN EL-MOHANDES, MBBCh, MD, MPH
Dean
CUNY Graduate School of Public Health & Health Policy

I, Eric Friedman, declare under penalty of perjury of the laws of the United States of America that the foregoing is true and correct to the best of my knowledge and belief.

Executed on August 8, 2021 in Washington, DC.



ERIC A. FRIEDMAN
Global Health Justice Scholar
O'Neill Institute for National and Global Health Law
Georgetown University Law Center

I, Gregg Gonsalves, declare under penalty of perjury of the laws of the United States of America that the foregoing is true and correct to the best of my knowledge and belief.

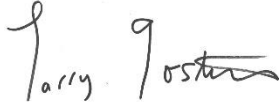
Executed on August 10, 2021 in New Haven, Connecticut.



GREGG GONSALVES, PhD
Associate Professor of Epidemiology
Yale School of Public Health

I, Lawrence Gostin, declare under penalty of perjury of the laws of the United States of America that the foregoing is true and correct to the best of my knowledge and belief.

Executed on August 9, 2021 in Washington, DC.



LAWURENCE GOSTIN

Linda D. & Timothy J. O'Neill Professor of Global Health Law
Faculty Director, O'Neill Institute for National & Global Health Law
Professor of Medicine, Georgetown University
Member of the National Academy of Medicine

I, M. Claire Greene, declare under penalty of perjury of the laws of the United States of America that the foregoing is true and correct to the best of my knowledge and belief.

Executed on August 9, 2021 in New York, New York.

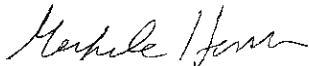


M. CLAIRE GREENE

Postdoctoral Research Scientist
Columbia University Mailman School of Public Health

I, Michele Heisler, declare under penalty of perjury of the laws of the United States of America that the foregoing is true and correct to the best of my knowledge and belief.

Executed on August 10, 2021 in Ann Arbor, Michigan.



MICHELE HEISLER, MD, MPA

Professor of Internal Medicine and Public Health
Co-Director, Michigan Center for Diabetes Translational Research (MCDTR—NIDDK
P30DK092926)
University of Michigan, Ann Arbor, MI

I, Monik C. Jiménez, declare under penalty of perjury of the laws of the United States of America that the foregoing is true and correct to the best of my knowledge and belief.

Executed on August 9, 2021 in Brimfield, Massachusetts.



MONIK C. JIMÉNEZ, ScD, SM, FAHA
Assistant Professor
Brigham and Women's Hospital/Harvard Medical School

I, Stephen Patrick Kachur, declare under penalty of perjury of the laws of the United States of America that the foregoing is true and correct to the best of my knowledge and belief.

Executed on August 10, 2021 in New York, New York.



STEPHEN PATRICK KACHUR, MD, MPH
Professor of Population and Family Health
Columbia University Mailman School of Public Health
Former Branch Chief, Malaria Branch, Centers for Disease Control and Prevention

I, Ameeta Kalokhe, declare under penalty of perjury of the laws of the United States of America that the foregoing is true and correct to the best of my knowledge and belief.

Executed on August 10, 2021 in Atlanta, Georgia.



AMEETA KALOKHE, MD MSc
Associate Professor
Emory University School of Medicine, Division of Infectious Diseases
Emory Rollins School of Public Health, Department of Global Health

I, Michel Khoury, declare under penalty of perjury of the laws of the United States of America that the foregoing is true and correct to the best of my knowledge and belief.

Executed on August 10, 2021 in Atlanta, Georgia.



MICHEL KHOURY, MD
Assistant Professor, Department of Neurology, Emory University
Co-Director, Georgia Human Rights Clinic

I, William D. Lopez, declare under penalty of perjury of the laws of the United States of America that the foregoing is true and correct to the best of my knowledge and belief.

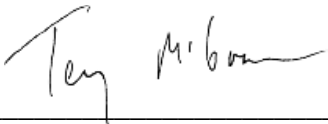
Executed on August 10, 2021 in Ann Arbor, Michigan.



WILLIAM D. LOPEZ, PhD, MPH
Clinical Assistant Professor
University of Michigan School of Public Health

I, Terry McGovern, declare under penalty of perjury of the laws of the United States of America that the foregoing is true and correct to the best of my knowledge and belief.

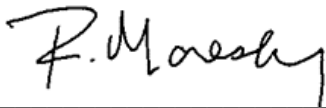
Executed on August 10, 2021 in New York, New York.



TERRY MCGOVERN, JD
Professor and Chair
Heilbrunn Department of Population and Family Health, Mailman School of Public Health,
Columbia University

I, Rachel T. Moresky, declare under penalty of perjury of the laws of the United States of America that the foregoing is true and correct to the best of my knowledge and belief.

Executed on August 10, 2021 in New York, New York.



RACHEL T. MORESKY, MD, MPH

Director, Columbia University sidHARTe - Strengthening Emergency Systems Program & Global Emergency Medicine Fellowship
Associate Professor, Population and Family Health & Emergency Medicine Departments,
Columbia University Irving Medical Center

I, Katherine R. Peeler, declare under penalty of perjury of the laws of the United States of America that the foregoing is true and correct to the best of my knowledge and belief.

Executed on August 9, 2021 in Boston, Massachusetts.



KATHERINE R. PEELER, MD, MA

Medical Expert, Physicians for Human Rights
Instructor of Pediatrics, Global Health and Social Medicine, and Bioethics, Harvard Medical School
Medical Director, Harvard Students Human Rights Collaborative Asylum Clinic

I, Benjamin Pinsky, declare under penalty of perjury of the laws of the United States of America that the foregoing is true and correct to the best of my knowledge and belief.

Executed on August 9, 2021 in San Francisco, California.



BENJAMIN PINSKY, MD, PhD

Associate Director of Clinical Pathology for COVID-19 Testing
Director, Clinical Virology Laboratory
Stanford Health Care and Stanford Children's Health

I, Leslie (“Les”) Roberts, declare under penalty of perjury of the laws of the United States of America that the foregoing is true and correct to the best of my knowledge and belief.

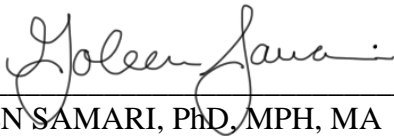
Executed on August 11, 2021 in Bocaranga, Central African Republic.



LESLIE ROBERTS, MPH, PhD
Professor of Population and Family Health
Columbia University Mailman School of Public Health
Former Epidemic Intelligence Service Officer and Senior Assistant Scientist, Centers for Disease Control and Prevention

I, Goleen Samari, declare under penalty of perjury of the laws of the United States of America that the foregoing is true and correct to the best of my knowledge and belief.

Executed on August 10, 2021 in New York, New York.



GOLEEN SAMARI, PhD, MPH, MA
Assistant Professor
Program on Forced Migration and Health
Columbia Mailman School of Public Health

I, John Santelli, declare under penalty of perjury of the laws of the United States of America that the foregoing is true and correct to the best of my knowledge and belief.

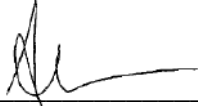
Executed on August 10, 2021 in New York, New York.



JOHN SANTELLI, MD, MPH
Professor, Population and Family Health and Pediatrics
Mailman School of Public Health
Vagelos College of Physicians and Surgeons
Columbia University

I, Anandi Sheth, declare under penalty of perjury of the laws of the United States of America that the foregoing is true and correct to the best of my knowledge and belief.

Executed on August 10, 2021 in Atlanta, Georgia.



ANANDI SHETH, MD, MSc
Associate Professor
Emory University School of Medicine

I, Sharmila Shetty, declare under penalty of perjury of the laws of the United States of America that the foregoing is true and correct to the best of my knowledge and belief.

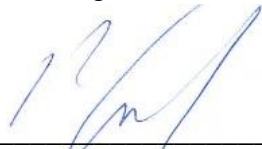
Executed on August 10, 2021 in Massapequa Park, New York.



SHARMILA SHETTY, MD
Vaccines Medical Advisor,
Médecins Sans Frontières – Access Campaign
Former Epidemiology Lead, Global Rapid Response Team, Centers for Disease Control and Prevention

I, Paul B. Spiegel, declare under penalty of perjury of the laws of the United States of America that the foregoing is true and correct to the best of my knowledge and belief.

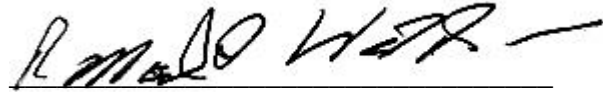
Executed on August 10, 2021 in Baltimore, Maryland.



PAUL B. SPIEGEL, MD, MPH
Professor of Practice and Director
Johns Hopkins Bloomberg School of Public Health, Center for Humanitarian Health
Former Medical Epidemiologist, International Emergency and Refugee Health Branch,
Centers for Disease Control and Prevention

I, Ronald Waldman, declare under penalty of perjury of the laws of the United States of America that the foregoing is true and correct to the best of my knowledge and belief.

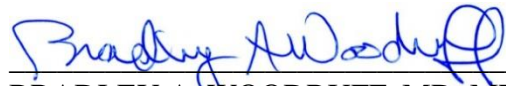
Executed on August 11, 2021 in Washington, DC.



RONALD WALDMAN, MD, MPH
Professor Emeritus of Public Health
Milken Institute School of Public Health
The George Washington University
Former Director, Technical Support Division, International Health Program Office, Centers for Disease Control and Prevention

I, Bradley A. Woodruff, declare under penalty of perjury of the laws of the United States of America that the foregoing is true and correct to the best of my knowledge and belief.


Executed on August 11, 2021 in Victoria, British Columbia, Canada.



BRADLEY A. WOODRUFF, MD, MPH
Consultant, UNICEF, WHO, WFP
Former Senior Medical Epidemiologist and Acting Chief of International Emergency and Refugee Health Branch, Centers for Disease Control and Prevention

I, Monette Zard, declare under penalty of perjury of the laws of the United States of America that the foregoing is true and correct to the best of my knowledge and belief.

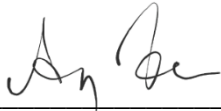
Executed on August 10, 2021 in New York, New York.



MONETTE ZARD, MA
Allan Rosenfield Associate Professor of Forced Migration and Health
Director of the Forced Migration and Health Program
Heilbrunn Department of Population and Family Health
Columbia University Mailman School of Public Health

I, Amy Zeidan, declare under penalty of perjury of the laws of the United States of America that the foregoing is true and correct to the best of my knowledge and belief.

Executed on August 10, 2021 in Atlanta, Georgia.



AMY ZEIDAN, MD
Assistant Professor of Emergency Medicine
Co-Director, Georgia Human Rights Clinic
Emory University School of Medicine

I, Jon Zelner, declare under penalty of perjury of the laws of the United States of America that the foregoing is true and correct to the best of my knowledge and belief.

Executed on August 9, 2021 in Ann Arbor, Michigan.



JON ZELNER, PhD
Assistant Professor
Dept. of Epidemiology
Center for Social Epidemiology and Population Health (CSEPH)
University of Michigan School of Public Health

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

NANCY GIMENA HUISHA-HUISHA, *et al.*,

Plaintiffs,

v.

ALEJANDRO MAYORKAS, Secretary of Homeland
Security, in his official capacity, *et al.*,

Defendants.

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)
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)
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) No. 21-cv-00100-EGS
)
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SECOND DECLARATION OF MING CHEUNG

I, Ming Cheung, hereby declare:

1. I am an attorney at the American Civil Liberties Union Foundation Immigrants' Rights Project, and am counsel for Plaintiffs in this case.

2. Attached as Exhibit A is a copy of an excerpt of the 1835 Statutes at Large of South Carolina (No. 2653, An Act More Effectually to Prevent Free Negroes and Other Persons of Color From Entering Into This State; And For Other Purposes), available at Thomas Cooper, Editor; McCord, David, Editor, Statutes at Large of South Carolina (1836-1873), at 470-74, as downloaded from the HeinOnline database.

3. Attached as Exhibit B is a copy of an excerpt of the 1842 Code of Mississippi (Art. 17, An Act to Amend the Several Acts of this State in Relation to Free Negroes and Mulattoes (Feb. 26, 1842)), available at A. Hutchinson, Code of Mississippi: Being an Analytical Compilation of the Public and General Statutes of the Territory and State, with Tabular References to the Local and Private Acts, from 1798 to 1848 (1798-1848), at 537-40, as downloaded from the HeinOnline database.

I, Ming Cheung, declare under penalty of perjury of the laws of the State of New Jersey and the United States of America that the foregoing is true and correct to the best of my knowledge and belief.

Executed on August 10, 2021, in Jersey City, New Jersey.



MING CHEUNG, ESQ.

Exhibit A

A. D. 1835.

Acts relating to Slaves.

abetting, where any game of chance is played, as aforesaid, such person, upon conviction thereof, by indictment, shall be whipped, not exceeding thirty-nine lashes, and fined and imprisoned at the discretion of the court trying such person.

VII. This Act shall take effect from the first day of April next.

In the Senate House, the seventeenth day of December, in the year of our Lord one thousand eight hundred and thirty-four, and in the fifty-ninth year of the Independence of the United States of America.

H. DEAS, *President of the Senate.*

PATRICK NOBLE, *Speaker of the House of Representatives.*

No. 2653. AN ACT MORE EFFECTUALLY TO PREVENT FREE NEGROES AND OTHER PERSONS OF COLOR FROM ENTERING INTO THIS STATE; AND FOR OTHER PURPOSES.

I. *Be it enacted* by the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That from and after the passing of this Act, it shall not be lawful for any free negro or person of color to migrate into this State, or be brought or introduced into its limits, under any pretext whatever, by land or by water. And in case any free negro or person of color, (not being a seaman on board any vessel arriving in this State,) shall migrate into, or be introduced into, this State, contrary to this Act, it shall and may be lawful for any white person to seize and convey him or her before any magistrate of the district or parish where he or she may be taken; and it shall be the duty of the sheriff or any constable in the parish or district in which said entry shall be made, and of the city marshalls in the city of Charleston, should the entry be made in Charleston, upon information of the migration or introduction of any such free negro or person of color, to arrest and bring before some magistrate of the district or parish where the said free negro or person of color shall be taken; which magistrate is by this Act empowered to commit to prison, or, at his discretion, to hold to bail, such free negro or person of color, and to summon three freeholders and form a court, as the law directs for the trial of persons of color, and examine such free negro or person of color, within six days after his or her arrest, and, on conviction, to order him or her to leave the State, and to commit such free negro or person of color so convicted, to close prison, until such time as he or she can leave the State; or to release him or her on sufficient bail, for any time not exceeding fifteen days, at the discretion of the magistrate. And every free negro or person of color so bailed, and ordered to leave the State, as aforesaid, who shall not have left the State within the time for which he or she shall have been released on bail, or who, having left the State after conviction as aforesaid, shall return into the same, shall be arrested and committed to close prison as aforesaid; and upon proof before a court, to be constituted as this Act directs, of his or her having failed to leave the State as aforesaid, or of his or her having returned into the State after having left the same as aforesaid, he or she shall be subjected to such corporal punishment as

Prohibiting
their entrance
into this State.

Duty of officers
upon informa-
tion.

Penalty for not
leaving the
State.

*Acts relating to Slaves.*A. D. 1835.


the said court in their discretion shall think fit to order. And if, after said sentence or punishment, such free negro or person of color shall still remain in the State longer than the time allowed, or having left the State, shall thereafter return to the same, upon proof and conviction thereof, before a court to be constituted as hereinbefore directed, he or she shall be sold at public sale as a slave; and the proceeds of such sale shall be appropriated and applied, one half thereof to the use of the State, and the other half to the use of the informer.

II. *And be it further enacted* by the authority aforesaid, That it shall not be lawful for any free negro or person of color to come into this State on board any vessel, as a cook, steward or mariner, or in any other employment on board such vessel; and in case any vessel shall arrive in any port or harbour of this State, from any other State or foreign port, having on board any free negro or person of color, employed on board such vessel, as a cook, steward or mariner, or in any other employment, it shall be the duty of the sheriff of the district in which such port or harbour is situated, immediately on the arrival of such vessel, to apprehend such free negro or person of color, so arriving contrary to this Act, and to confine him or her closely in jail, until such vessel shall be hauled off from the wharf, and ready to proceed to sea. And that when said vessel is ready to sail, the captain of the said vessel shall be bound to carry away the said free negro or person of color, and to pay the expenses of his or her detention. And in every such case, it shall be the duty of the sheriff aforesaid, immediately on the apprehension of any free negro or person of color, to cause said captain to enter into a recognizance, with good and sufficient security, in the sum of one thousand dollars for each free negro or slave so brought or introduced into this State, that he will comply with the requisitions of this Act; and that on his neglect, refusal or inability to do the same, he shall be compelled by the sheriff aforesaid, to haul said vessel into the stream, one hundred yards distance from the shore, and remain until said vessel shall proceed to sea. And if said vessel shall not be hauled off from the shore as aforesaid, on the order of the sheriff aforesaid, within twenty-four hours after the said order, the captain or commanding officer of said vessel shall be indicted therefor, and, on conviction, forfeit and pay one thousand dollars, and suffer imprisonment not exceeding six months.

Sheriff's duty.

Penalty on
masters of ves-
sels.

III. *And be it further enacted* by the authority aforesaid, That whenever any free negro or person of color shall be apprehended and committed to jail, as having arrived in any vessel in the capacity of cook, steward, mariner, or otherwise, contrary to this Act, it shall be the duty of the sheriff, during the confinement in jail of such free negro or person of color, to call upon some justice of the peace or quorum, to warn such free negro or person of color, never to enter the said State, after he or she shall have departed therefrom; and such justice of the peace or quorum, shall, at the time of warning such free negro or person of color, insert his or her name in a book to be provided for that purpose by the sheriff, and shall therein specify his or her age, occupation, height, and distinguishing marks; which book shall be good and sufficient evidence of such warning. And said book shall be a public record, and be subject and open to the examination of all persons who may make application to the clerk of the court of general sessions, in whose office it shall be deposited. And such justice shall receive the sum of two dollars, payable by the captain of the vessel in which said free negro or person of color shall be introduced into this State, for the services rendered in making said entry. And every free negro or person of

Sheriff's duty-

Justice's fees.

A. D. 1835.

Acts relating to Slaves.

color, who shall not depart the State, in case of the captain refusing or neglecting to carry him or her away, or having departed, shall ever again enter into the limits of this State, by land or by water, after having been warned as aforesaid, shall be dealt with as the first section of this Act directs in regard to persons of color who shall migrate or be brought into this State.

Penalty for introducing free negroes and persons of color into this State.

IV. *And be it further enacted* by the authority aforesaid, That it shall not be lawful for any master or captain of any vessel, or for any other person, to introduce or bring into the limits of this State any free negro or person of color, as a passenger, or as a cook, mariner, steward, or in any other capacity, on board of such vessel, whose entrance into this State is prohibited by this Act. And if any master or captain of any such vessel, as aforesaid, shall bring in or introduce into this State any such free negro or person of color, whose entrance is prohibited as aforesaid, or if any other person shall introduce by land, as a servant, any free negro or person of color, every such person shall, for the first offence, be indicted therefor, and on conviction, be fined in a sum not exceeding one hundred dollars; and for the second offence, be liable to forfeit and pay, for each free negro or person of color so brought into this State, the sum of one thousand dollars; and shall, moreover, be liable to be imprisoned for any term of time not exceeding six months. And such free negro or person of color, so introduced, whose entrance into this State is prohibited as aforesaid, shall be dealt with as is prescribed in the first section of this Act.

Penalty for returning, after leaving the State.

V. *And be it further enacted* by the authority aforesaid, That it shall not be lawful for any free negro or person of color, who has left the State at any time previous to the passing of this Act, or for those who may hereafter leave the State, ever to return again into the same, without being subject to the penalties of the first section of this Act, as fully as if they had never resided therein.

Not lawful to bring slaves from foreign parts.

Slaves taken out of the State cannot be brought back again.

VI. *And be it further enacted* by the authority aforesaid, That it shall not be lawful for any citizen of this State, or other person, to bring into this State, under any pretext whatever, any slave or slaves from any port or place in the West Indies, or Mexico, or any part of South America, or from Europe, or from any sister State situated to the North of the Potomac river, or the city of Washington. Neither shall it be lawful for any person to bring into this State, as a servant, any slave who has been carried out of the same, if, at any time during the absence of such slave from this State, he or she hath been in ports or places situated in Europe, in the West Indies, or Mexico, or any part of South America, or in any State north of the Potomac, or city of Washington; and any person who shall bring into this State any slave, contrary to the meaning of this Act, shall forfeit and pay the sum of one thousand dollars for each such slave, to be recovered in an action of debt, in any court having jurisdiction; and each and every such slave shall be forfeited as is hereinafter provided by this Act: *Provided*, that nothing herein contained shall prevent any owner from bringing into the State any runaway slave who may have been re-taken.

VII. *And be it further enacted* by the authority aforesaid, That it shall and may be lawful for any white person, on the arrival of any slave into this State from any other State or foreign port, to arrest and carry him or her before some magistrate of the district or parish where he or she may be taken; and it shall be the duty of the sheriff or any constable of the district or parish into which such slave shall be brought, as aforesaid, on information given, to arrest any slave arriving, brought or introduced into

Acts relating to Slaves.

A. D. 1835.

this State from any other State or foreign port, and carry him or her before some magistrate, as aforesaid, who shall forthwith commit such slave or slaves to prison, and there keep him or her until the owner or person introducing such slave or slaves into this State shall make oath, that at no time during the absence of such slave or slaves from this State, he, she or they have been in any port or place prohibited by this Act. And should such owner or person introducing such slave or slaves, neglect or refuse to make such oath, for the space of ten days after he or she shall have received notice of the arrest of such slave or slaves, and of the cause thereof, it shall be the duty of the magistrate aforesaid, to form a court of two magistrates and five freeholders, and on proof, to the satisfaction of such court, that such slave or slaves have been beyond the limits of this State, and that such owner or person who shall have introduced them into this State, as aforesaid, after having been duly served with the notice of such slave or slaves having been arrested, as aforesaid, and of the cause of such arrest, has neglected or refused to make oath, as aforesaid, it shall then be lawful for said court to order the said slave or slaves to be sold at public sale, and the proceeds of such sale shall go and be appropriated, one half to the State, and the other half to the use of the informer.

The power to arrest.

Method of forming court.

VIII. *And be it further enacted* by the authority aforesaid, That all free negroes and persons of color, and all other persons, shall be exempted from the operation of this Act, where such free negroes or persons of color, and slaves, have arrived within the limits of this State by shipwreck, stress of weather, or other unavoidable accident. But such free negroes or persons of color, and slaves, shall be, nevertheless, liable to arrest and imprisonment, as is provided by the second section of this Act for all free negroes or person of color migrating or introduced into this State contrary to law; and each free negro or person of color, and slaves, and all other persons, shall be subject to all the other penalties of this Act, if the requisitions of the same be not complied with within thirty days after such shipwreck, stress of weather, or other unavoidable accident.

Cases of exception.

IX. *And be it further enacted* by the authority aforesaid, That this Act shall not extend to free negroes or persons of color who shall arrive in any port or harbor of this State, as cooks, stewards, mariners, or as otherwise employed in any vessel of war of the United States navy, or on board of any national vessel of the navies of any of the European or other powers in amity with the United States, unless said free negroes or persons of color shall be found on shore after being warned by the sheriff or his deputy to keep on board their vessels. Nor shall this Act extend to free American Indians, free Moors or Lascars, or other colored subjects of countries beyond the cape of Good Hope, who may arrive in this State in any merchant vessel.

Cases of exception.

X. *And be it further enacted* by the authority aforesaid, That in case any master or mate of any vessel, on his arrival, shall make any false return to the sheriff, or his deputy, of the number of persons he may have on board, whose entrance may be prohibited by this Act, he shall forfeit and pay the sum of one thousand dollars, to be recovered by an action of debt, in any court having jurisdiction. And any master of a vessel, or other person, opposing the sheriff or his deputy, or any constable or marshal, in the execution of his duty under this Act, and all persons aiding and abetting him therein, shall be liable to be indicted, and, on conviction, fined not exceeding one thousand dollars, and be imprisoned not exceeding six months.

Penalty for false returns.

A. D. 1835.

Acts relating to Slaves.

Penalty on
masters of ves-
sels for false
returns.

XI. *And be it further enacted* by the authority aforesaid, That any sheriff, constable or marshal, who shall wilfully neglect or refuse to perform the duties required by this Act, shall forfeit and pay five hundred dollars, one half to the informer, and the other half to the use of the State, to be recovered by action of debt, in any court having jurisdiction.

XII. *And be it further enacted* by the authority aforesaid, That all prosecutions under this Act may be maintained without limitation of time. *Provided, however,* that no prosecution shall be permitted against the masters of vessels, or any other white persons from any part of the United States, in less than three months, or against captains of vessels from foreign ports in less than six months, after the passing of this Act.

Repeal of re-
pugnant Acts.

XIII. *And be it further enacted* by the authority aforesaid, That so much of an Act passed on the twentieth day of December, one thousand eight hundred and twenty, entitled "An Act to restrain the emancipation of slaves, and to prevent free persons of color from entering into this State; and for other purposes;" and also so much of another Act, passed on the twenty-first day of December, one thousand eight hundred and twenty-two, entitled "An Act for the better regulation and government of free negroes and persons of color, and for other purposes," as are repugnant to this Act, and so much thereof as makes it the duty of the harbor-master to report to the sheriff the arrival of all free negroes in the harbor of Charleston; and also an Act passed on the twentieth day of December, one thousand eight hundred and twenty-three, entitled "An Act the more effectually to prohibit free negroes and persons of color from entering into this State, and for other purposes," be, and the same are hereby, repealed.

Not permitted
to carry fire-
arms.

XIV. *And be it further enacted* by the authority aforesaid, That no free negro or other free person of color shall carry any fire-arms, or other military or dangerous weapons abroad, except with a written ticket from his or their guardian, under pain of forfeiting the same, and being fined or whipped, at the discretion of any magistrate and three freeholders before whom he or they may be convicted thereof. Nor shall any free person of color be hereafter employed as a pioneer, though he may be subjected to military fatigue duty when called on.

In the Senate House, the nineteenth day of December, in the year of our Lord one thousand eight hundred and thirty-five, and in the sixtieth year of the Sovereignty and Independence of the United States of America.

H. DEAS, *President of the Senate.*

PATRICK NOBLE, *Speaker of the House of Representatives.*

Exhibit B

Ch. 37. *Master and Servant, Slaves, &c.*

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ART. 15. *Amendment of Article Two—Feb. 16, 1839.*

§ 1, 2, 3. *Penalties for Harboring Slave.* Any free white person who shall be convicted of secretly harboring a slave or slaves without the consent of his, her, or their owner, employer or overseer, shall be fined, for each such slave or slaves so harbored, in a sum not more than five hundred dollars, nor less than two hundred dollars, to be recovered before any court having competent jurisdiction; one moiety of which shall be paid into the county treasury of such county in which said offence shall have been committed, and the other moiety to the owner or employer of such slave or slaves for the time being; and further, be imprisoned not less than one nor more than six months, at the discretion of the court.

Any Indian, free negro, or mulatto, who shall be guilty of so secretly harboring any slave or slaves as aforesaid, upon conviction thereof before any court having competent jurisdiction, shall, for each and every such offence, forfeit and pay to the owner or employer of such slave or slaves for the time being, the sum of fifty dollars, together with all costs; and, further, be imprisoned not less than three nor more than six months, at the discretion of the court.

Any slave or slaves who shall be convicted of a like offence, before any justice of the peace, he, she, or they shall receive such corporeal chastisement, not exceeding thirty-nine lashes, as shall be directed by the justice of the peace of before whom such slave may be brought.

ART. 16. *An Act defining the Duties of Sheriffs in Relation to Runaway Slaves—Feb. 16, 1839.*

It shall hereafter be the duty of the sheriffs of the different counties of this state, that, when any slave or slaves shall be taken up as runaways and committed to jail, within ten days thereafter to forward to the public printer of this state an advertisement, giving a particular description of such slave or slaves; and it shall be the duty of the public printer to give to said advertisement two insertions in the said paper; and it is hereby made the duty of the sheriff, when said slave or slaves be proven or sold, as the case may be, to retain the amount of the said printer's fees, subject to his order. See a. 22.

ART. 17. *An Act to amend the several Acts of this State in Relation to free Negroes and Mulattoes—Feb. 26, 1842.*

§ 1. *Proceedings against those unlawfully here.* It shall be the duty of any justice of the peace, and he is hereby authorized, at the request of any freeholder of his county, to cause any free negro or mulatto, unlawfully within this state, to be brought before him, and give good and sufficient security in the sum of one hundred dollars, that he or she will be of good behavior while in this state, and if any such free negro or mulatto shall refuse or fail for the space of two days to give such security, it shall be the duty of such justice to commit such free negro or mulatto to jail, and the sheriff of such county shall advertise and sell the same in the manner provided by law.

2. *Of emancipated Negroes.* In all cases when any person hath sent or taken any slave from this state, and hath emancipated such slave, or caused such slave to be emancipated without this state, or shall hereafter do so, and such slave shall, after such emancipation, be found within this state, such person shall forfeit, and are hereby declared to have forfeited, all right or title to protect such emancipated slave from incurring all the penalties of this Act, or

from being proceeded against as a free negro or mulatto unlawfully within this state : *Provided*, Such emancipation takes place after the passage of this Act.

3. *Free Negroes may not emigrate to this State.* From and after the passage of this Act, it shall not be lawful for any free negro or mulatto to emigrate into this state or be brought or introduced into its limits under any pretence whatsoever, by land or by water ; and in case any free negro or mulatto shall emigrate into, or be introduced into this state contrary to this Act, it shall and may be lawful for any white citizen of this state to seize and convey him or her before some justice of the peace in the county in which such free negro or mulatto may be found ; and it shall be the duty of the sheriff or any constable of such county, upon information of the emigration or introduction of any such free negro or mulatto, to arrest him or her, and bring him or her before some justice of the peace of their county, which justice of the peace is hereby authorized and empowered, on the conviction of such free negro or mulatto of having so emigrated into this state, to order such free negro or mulatto to receive any number of lashes not exceeding thirty-nine, and to leave this state within twenty days ; and it shall be the duty of the sheriff of such county or any constable to whom an order may be delivered by such justice, to inflict such corporeal punishment on such free negro or mulatto ; and if such free negro or mulatto shall not remove from this state within the time aforesaid, or having so removed, shall again return to this state, such free negro or mulatto shall be taken and committed to jail, and sold in the same manner as is directed by law.

4. *Penalty against Captains, &c., of Water Craft for introducing them.* It shall not be lawful for any captain, master, or owner of any vessel, steamboat, flatboat, or other water craft, or for any other person, to introduce or bring into the limits of this state, any free negro or mulatto, as a passenger, or as a cook, mariner, steward, or in any other capacity ; and if any captain, master, or owner of such vessel, steamboat, flat or other water craft, or any other person, shall bring or introduce into this state any free negro or mulatto, every such person shall, for the first offence, be indicted therefor, and on conviction, be fined in a sum not exceeding five hundred dollars, and for the second offence, shall be fined in the sum of one thousand dollars, and be imprisoned for any term of time not exceeding six months.

5. *Duty of Sheriffs, &c., in such case.* It shall be the duty of any sheriff or constable within this state, who may be informed, or believes that any negro or mulatto, landing or coming into his county, is a free negro or mulatto, unlawfully within this state, to seize such negro or mulatto and carry the same before some justice of the peace of his county, to be dealt with according to the provisions of this Act, or the several laws now in force against free negroes and mulattoes ; unless the owner or master of such negro or mulatto, or the person having the custody, care, or control of such negro or mulatto shall make oath before some justice of the peace, or before such sheriff or constable, which oath such sheriff or constable is hereby authorized, and upon the request of such master, owner, or other person, required to administer, that such negro or mulatto is a slave ; and if any person making such oath shall swear falsely, he shall be deemed and held guilty of perjury, and, upon conviction thereof, shall be imprisoned in the penitentiary of this state for a term of not less than five nor more than ten years.

6. *Allowance to Sheriff, &c., under this Act—Penalty for his Neglect.* Sheriffs, jailors, and constables, and other officers, shall receive for the services required of them by this Act, to be paid out of the county treasury, upon the order of the board of police of their county, such fees as the said police may

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order or allow; and any sheriff, jailor, or constable, or other officer, who shall fail or refuse to discharge any of the duties required of him by this Act, shall, for every such failure and refusal, forfeit and pay to the state the sum of one hundred dollars, to be recovered by action of debt in the name of the state, or by motion for the use of the state, in any court having cognizance thereof. See a. 19.

7. *Not over Six to be quartered beyond a Mile from Owner's Residence.* From and after the first day of May next, it shall not be lawful for any person, being the owner or employer of any such slaves, to keep or suffer any such slaves, exceeding six in number, to be quartered or to reside at any distance greater than one mile from the residence of such person, unless such person shall keep and employ with such slaves, as an overseer, a white male person capable of performing patrol duty.

8. *How quartered in a Town.* It shall not be lawful for any person, being the owner or employer, or having the care or control of any slave or slaves, after the first day of May next, to permit or suffer any such slave or slaves to reside or be quartered in any lot or in any house in any incorporated town or city in this state, unless such lot is immediately connected with the lot upon which is the usual dwelling house and residence of such person, or unless the house upon which such slaves reside, or are quartered, is upon such lot.

9. *Penalty for Violation of 7th and 8th Sections.* Any person who shall offend against either of the two last preceding sections of this Act, shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined in a sum not less than five hundred dollars, nor exceeding one thousand dollars.

10. *Act given in charge to Grand Jury.* The judges of the Circuit Courts shall give the three last preceding sections of this Act in charge to the grand jury at each term of the Circuit Courts by them holden.

11. *Not Lawful to Emancipate by last Will—In Cases heretofore with Provisos.* Hereafter it shall not be lawful for any person, by last will or testament, to make any devise or bequest of any slave or slaves for the purpose of emancipation, or to direct that any slave or slaves shall be removed from this state for the purpose of emancipation elsewhere; and in all cases of will heretofore made and admitted to Probate within this state, whereby any slaves have been directed to be removed from this state for the purposes of emancipation elsewhere, or whereby any slave or slaves have been devised or bequeathed in secret trust for such purpose, unless such slaves shall be removed from this state within one year after the passage of this Act, it shall not be lawful for the executor or executors of such last will or testament, or the person or persons having possession of such slave or slaves, under the provisions of such will, so to remove such slave or slaves; but the same shall descend to, and be distributed amongst, the heirs at law of the testator, or be otherwise disposed of according to law, in the same manner as if such testator had died intestate: *Provided, however,* That if such executor or other person having such possession, shall be prevented or restrained within the said time of one year from such removal by injunction or other legal process, or otherwise, the time during which such restraint shall continue or exist, shall not be taken or computed as any part of the said time of one year: *And provided, further,* That it shall be competent for any person or persons, being the owner of any slave or slaves, by last will and testament, to direct his, her, or their executor or executors, to emancipate any such slave or slaves, for meritorious services rendered to his, her, or their owner or owners, upon such conditions as shall be prescribed by the legislature of the state, to which such last

will and testament shall be referred for approval before any such devise, bequest, or direction shall be carried into effect.

ART. 18. *Act of July 25, 1843 . . 109.*

The first and second sections gave to the Board of Police of Warren and Adams, the power to license certain free persons of color to reside in Vicksburgh and Natchez on proof of good character, and that a majority of the citizens desired it—reserving to the Board the power of expulsion—then followed,

§ 3. *Like Power to Boards generally.* The Board of Police of any of the counties in this state shall have the same powers and privileges in relation to free persons of color residing within their respective counties, as are conferred by this Act on the police courts of the counties of Warren and Adams: *Provided*, That said Boards of Police shall not have the power to grant license to any free negroes or mulattoes that are not residents of the state at this time.

ART. 19. *An Act to Amend the Sixth Section of an Act entitled an Act to Amend the several Acts of the State Relating to Free Negroes and Mulattoes—Feb. 23, 1844.*

Allowances to Sheriff, Jailor, or Constable. The sixth section of an Act entitled an Act to amend the several Acts of this state in relation to free negroes and mulattoes, approved February the 28th, 1842, be so enlarged and construed as to authorize the Boards of Police of the several counties in this state to make the same allowance to sheriffs, jailors, and constables, of fees for services rendered under the several Acts to which said Act is an amendment, as they are authorized to allow for services rendered by such officers under said amended Act by said sixth section.

ART. 20. *An Act to Secure to the Owners of Slaves executed by Sentence of Law, Compensation for the same—Feb. 18, 1846.*

§ 1. *Half Value of Condemned Slave paid to Owner by State.* One half of the value of any slave or slaves hereafter condemned to die, by the sentence of any court of competent jurisdiction within this state, and who shall suffer death accordingly, shall be paid to the owner out of the State Treasury.

Repealed, as to non-resident owners, by a. 24.

2. *Value of such Slave, how found.* Before any judge of this state shall pass sentence of death upon any slave found guilty of capital crime, by the verdict of a jury, such judge shall cause the sheriff of the county in which such slave was found guilty, to summons five slave-holders to appear in court at the time specified in said summons, which said slave-holders, or any three of them, shall then and there find the value of such slave, so condemned and to be sentenced, and shall certify the same under their hands and seals to said court.

3. *Copy of Valuation, &c., to be presented to Auditor.* A copy of the certificate of the value so fixed by said slave-holders, as aforesaid, certified by the clerk of the court to which it was returned, together with an endorsement thereon of the sheriff of the county, that the slave mentioned therein has been duly executed according to the judgment and sentence of the court, on presentation to the Auditor of Public Accounts, shall authorize him to issue his warrant on the Treasurer in favor of the person or persons entitled to the same, for one half the value so found of said slave, to be paid out of any money in the Treasury, not otherwise appropriated.

DECLARATION OF LINDA RIVAS

I, Linda Rivas, pursuant to 28 U.S.C. § 1746, declare as follows:

Summary

1. Through my work as an immigration attorney and Executive Director of a non-profit I have seen the grave harm caused to families and individuals expelled under Title 42. Families experience extortion, kidnapping, rape, and other violence after being expelled. Despite those harms, the government has failed to utilize the El Paso shelter system, complete with COVID-19 protocols, and instead continues to expel families directly into harms way. Asylum seekers should be processed into the United States, and we have the capacity to receive them, consistent with public health protocols.

Qualifications

2. I am the Executive Director of the Las Americas Immigrant Advocacy Center (“Las Americas”) in El Paso, Texas.
3. Las Americas is a 501(c)(3) nonprofit organization based in El Paso, Texas providing free and low-cost legal services to immigrants and refugees in West Texas and New Mexico. We have served over 40,000 people from over 77 countries since 1987. We provide legal representation through attorneys and Department of Justice accredited representatives.
4. This year alone, Las Americas has assisted over 1,000 people, including families, seeking asylum that have been impacted by Title 42 processing.
5. I make this declaration based on my personal experience at Las Americas working with noncitizen children and families subject to the Title 42 process since the process began in March 2020.
6. I have been the Executive Director of Las Americas since 2016. I began working at Las Americas as a managing attorney in 2014. I continue, as Executive Director, to directly represent many of our clients. Prior to joining Las Americas, I was the West Texas Violence Against Women’s Act supervisor at the Texas Civil Rights Project for almost two years. I graduated law school 2011 from Loyola College of Law and have been a member of the Texas bar since 2013.

Harm from Title 42

7. When the Title 42 process first began in March 2020, we started receiving desperate phone calls from families and individual impacted by the expulsions. At the time, given the complete denial of access to the asylum system, we did not have any viable option to assist those families or individuals given the absolute denial of access to asylum under the Title 42 process. Despite no meaningful avenue to advocate for those impacted, we

continued to put together robust humanitarian parole packets for people forced to remain in Mexico in an attempt to get particularly vulnerable families and individuals processed into the United States. Only one was granted after the New York Times reported on the case. The rest were denied.

8. Beginning in February 2021, the Las Americas staff and I started going into Ciudad Juarez to interview people expelled under the Title 42 process. What I heard and saw was shocking. I have witnessed many expulsions occur on the international bridges. I have seen families with very small children, people in wheelchairs, and people on crutches being expelled across the bridges back into Mexico. For many, their vulnerabilities are visible even at a distance.
9. Also, around February 2021, shelters in Ciudad Juarez, Mexico began asking us to come to provide guidance to desperate families and individual stuck in Mexico. We were asked to visit and explain to those asylum seekers why they were not allowed to access the asylum system in the U.S., despite the change in administration.
10. Through these interviews and presentations, I was horrified to hear stories of people expelled without being told by CBP that they were being expelled. Families flown laterally by DHS from one part of the border region to another before being expelled were falsely told by Border Patrol agents that they were being taken to see a judge. Others were told by Border Patrol that they were heading to shelters in the U.S. where they would be able to talk to a lawyer. But these families were misled, and ultimately expelled under Title 42, not knowing they were being forced to Mexico.
11. One case I recall vividly was that of a former police officer from El Salvador, who traveled with his wife and three children. Several of my clients that were former police officers from El Salvador have been granted asylum. I believed this man presented a strong case for asylum. When he crossed the border, he had expressed fear of return to El Salvador and pleaded with the Border Patrol agents that apprehended him to listen to his story. One agent initially said he would listen, but other agents told him to shut up. He was not allowed to express his fear and was expelled to Ciudad Juarez with his family.
12. On Monday, March 29, 2021, at 4:00 PM, I joined a meeting that included CBP Commissioner Miller, where the group in attendance was informed by local CBP leadership that, as part of the Title 42 process, officers were supposed to screen for claims under the Convention against Torture ("CAT"). Under the Title 42 process, CAT screenings, which carry a higher standard than regular asylum assessments, are supposed to occur but rarely do in practice.
13. After that, I made sure to ask expelled families and individuals in Ciudad Juarez if they had any chance to raise their fear claims. Dozens of families and individuals consistently reported to me that they were not allowed to speak while in Border Patrol custody and that there was no opportunity to raise their fear claims.

14. In February 2021, I also conducted interviews and presented to groups of Haitians expelled back to Mexico under the Title 42 process. CBP dumped whole families on the street in Mexico, with children expelled without their shoes. All of the families I spoke with claimed political persecution based on the situation in Haiti. They were all shocked that there was no ability to access asylum in the United States.
15. Asylum seekers subjected to the lateral flights prior to expulsion also reported having to urinate on themselves during the long process. They reported asking to use the restroom, for basic food and milk for children, and those requests being denied by Border Patrol agents and other officials. One man reported only receiving one small carton of milk during the long processes and flight, despite his pleas for more food for his small child. Families reported the process taking some 16 hours.
16. In one case received by our organization, a mother and her 5-year-old daughter were expelled to Mexico from the United States after fleeing sexual assault and domestic violence in Guatemala. After being expelled to Ciudad Juarez this mother was raped. The family also faced ongoing extortion and death threats from smugglers in Mexico following their expulsion.

Processing at El Paso, Texas

17. In April 2021, Las Americas started referring clients for exemption to Title 42, first under the *Huisha* referrals process, and later as a primary referrer to the NGO consortium exemption process. We have provided over 900 referrals to the NGO consortium process. For those families and individuals, we conduct an initial consultation with fill out the required questions for submission to Customs and Border Protection.
18. The El Paso community has always stepped up and put together extensive capacity to provide shelter in the El Paso and southern New Mexico area. Shelter capacity in the region has never been fully taken advantage of by the government.
19. The El Paso shelter system is currently receiving only around 50 people a day through the NGO consortium exemption process and around another 10 per week processed out from the Migrant Protection Protocols. Meanwhile, the local shelter system has hundreds of beds available each day. There are ample, under-utilized local resources and willingness from the local community to receive released asylum seekers in line with public health measures.
20. Despite our readiness and willingness, which we clearly communicate to the government, the government had continuously failed to fully utilize those resources.
21. The government is capable of managing its own processing at ports of entry and there is ample capacity in the El Paso and southern New Mexico region to receive asylum seekers.

22. In my opinion, the Title 42 process should be ended immediately. Asylum seekers should be processed into the United States and we have the capacity to receive them, consistent with public health protocols.

I declare under penalty of perjury under the laws of the United States and Texas that the foregoing is true and correct.

Executed on: August 10, 2021, in El Paso, Texas, United States.

Signature:

A handwritten signature in black ink, appearing to read 'Linda Rivas', written over a horizontal line.

Linda Rivas

DECLARATION OF MARISA LIMÓN GARZA

I, Marisa Limón Garza, pursuant to 28 U.S.C. § 1746, declare as follows:

Summary

1. This declaration describes the efforts that my organization and our partners have undertaken to build infrastructure and capacity to receive migrants, including migrant families, into the United States. We have worked in conjunction with state and local public health authorities to ensure that our systems include COVID-19 testing and quarantine protocols. Despite our efforts, which we undertook at the encouragement of the federal government, much of our capacity remains unused, while the government expels families back to Mexico. Our efforts could also be scaled up even further if the federal government would devote serious funding and support to our efforts.

Qualifications

2. I am the Deputy Director of the Hope Border Institute, a faith-based independent Catholic social justice organization focused on borderland-based research, policy and advocacy, and humanitarian response measures. I have served as Deputy Director for the past three years.
3. As Deputy Director, I oversee day to day operations of the organization and play a central role in a variety of work on immigration policy and strategy, as well as play a central role in humanitarian response efforts on both the U.S. and Mexico sides of the border in the El Paso / Ciudad Juárez area. In addition to overseeing our organization's direct work, I collaborate closely with other shelter providers, nonprofits, state and local institutions, and others in the region who work on building capacity to receive migrants who have come to the United States. I make this declaration based on my personal and professional experience at the Hope Border Institute working with noncitizen children and families subject to the Title 42 Process since it began in March 2020.

In partnership with local authorities, COVID-19 protocols are in place ensure against spread in our local shelter systems and community.

4. In July 2019, the Hope Border Institute, in partnership along with the Diocese of El Paso established a border refugee assistance philanthropic fund focused on the needs of asylum seekers to establish capacity to welcome asylum seekers into the United States. When Title 42 went into effect in March 2020, we expanded this capacity development work to include migrants allowed into the country under exemptions to Title 42. We also developed infrastructure to ensure that asylum seekers could be welcomed in a way that reduces risk of COVID-19 spread.

5. Monies raised through this fund have supported healthcare programs, psycho-social support efforts, shelter infrastructure, a medical burse, COVID testing, vaccinations for childhood illnesses, food and accompaniment.
6. After engagement with the Biden administration transition team, and due to their focus on the need to partner with U.S. organizations to better manage border processing, we ramped up efforts to increase capacity on the U.S. side of the border. Working with El Paso County, the Frontera Welcome Coalition, and other humanitarian groups, we developed plans in support of and in coordination with the Annunciation House shelter – El Paso’s largest shelter provider.
7. In collaboration with the city and county Office of Emergency Management (our liaison to the public health department) and health care professionals, we developed a plan for safely and efficiently processing and housing released migrants into local shelters and onward to their home destinations.
8. Local health authorities and partners visited and consulted with Annunciation House shelters and other prospective shelter space to ensure compliance with all COVID-19 regulations and protections. The shelters thus developed clear protocols for testing and quarantining procedures for positive cases.
9. The City of El Paso and El Paso County made available hotels for COVID-19 quarantine for any migrants or anyone else who did not have the resources to follow quarantine protocols after testing positive. Any person in the community, including migrants released by CBP or ICE, that did not have a place to quarantine could do so safely in one of the provided hotels. Therefore, our system is designed to ensure everyone is medically cleared prior to onward travel or admittance to a shelter.
10. We also invested in personal protective equipment, cleaning supplies and other necessities for keeping our shelter system protected against COVID-19 spread.
11. As Title 42 remained in effect we also expanded our efforts to work with shelters in Ciudad Juárez, Mexico, so that the same protective measures were in place at shelters on the Mexican side of the border for those subjected to expulsions. As part of this pilot project in Ciudad Juárez we worked with one shelter with a capacity to house approximately 40 families and individuals. Our efforts did not expand in Ciudad Juárez given other organizations’ commitment to duplicating the same efforts at other shelters in Mexico.
12. These efforts, principally focused on the U.S. side of the border, began in December 2020 and continue to date. By late February 2021 or early March 2021, we were fully prepared to receive migrants in our shelter system with these measures in place, well before vaccines were widely available. Since COVID vaccines are now widely available in the U.S., all shelter operators and volunteers are fully vaccinated. Each shelter is also equipped to provide its own rapid testing and vaccines are offered to arriving migrants.

The administration has not fully utilized the capacity available in our COVID-19 safe local shelter systems

13. I estimate that 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. That number could be greatly increased by using hotels, should the need arise. Yet, as of July 2021, less than 10 percent of that capacity was currently in use.
14. 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 can host 300 people per day.
15. Migrants currently being processed through the ports of entry must test negative before they cross. Those released to local shelters directly from ICE detention centers are regularly tested prior to release so that their COVID status is known. CBP does occasionally release migrants through Border Patrol directly to Annunciation House with a "COVID unknown" status that have entered without inspection in-between a port of entry, but those migrants are COVID tested at Annunciation House once they arrive. If any migrant coming through these various avenues of release tests positive at any point, they are quarantined and subject to protocols. After quarantine and a negative COVID-19 test, those migrants are welcomed back into local shelters for assistance with onward travel to their final destination. All local reception efforts were designed in partnership with the Office of Emergency Management, our liaison to the public health department.
16. To date, there have not been any COVID-19 outbreaks in local shelters.
17. In addition to our shelter capacity, Endeavors, a private non-profit contracted by ICE, opened two hotel facilities that provide several hundred additional beds available for local release. Those facilities also include COVID-19 testing and required quarantine when necessary.
18. Unfortunately, the capacity and COVID-19 safe systems we set up have never been fully utilized by the administration. We have had regular meetings with Department of Homeland Security and White House officials where, at every meeting, we stress that we are prepared to and have resources and safe systems in place to welcome families and individuals.
19. Despite our capacity and COVID-19 protocols, the administration is only admitting a total of approximately 50-70 people per day at the ports of entry. We also receive a relatively small number of releases from ICE and Border Patrol, who in most cases people who crossed between ports of entry.

20. In total, our shelter system is capable of housing over 1,000 persons each night, but is only receiving less than 300 per week – a minuscule flow compared to capacity available to receive them.

We have ample capacity to transport migrants released to local shelters

21. Hope Border Institute partners with El Paso County to work with Project Amistad, a local non-profit, to provide transportation shuttles from 7:00am to 4:00pm every day between shelters, the airport, the bus station, and ports of entry. We also have a private shuttle company to coordinate transportation for anyone released after 4:00pm, provided directly through Annunciation House. All migrants over the age of six, drivers, and any volunteers are fully masked. All migrants being transported are COVID negative.
22. Hope Border Institute, along with partners, are able to leverage resources from local transportations networks to provide needed transportation for released migrants. Resources are available to add additional transportation if needed and, with additional support, any required transportation could be readily available through partnership with the local and county authorities.

“Lateral flights” have impeded COVID protocols in Ciudad Juárez and severely traumatized families.

23. During 2021, the U.S. government has sometimes transported migrants apprehended in other border regions, mainly the Rio Grande Valley, and flown them to El Paso for expulsion under Title 42 to Ciudad Juárez, Mexico. My understanding is that as many as 100 hundred noncitizens can be put on a single flight. My understanding also is that none of these noncitizens are tested before being put on a flight, or after they are designated for expulsion. We have worked diligently with our Mexican partners to receive families expelled to Ciudad Juárez. Because these families are “COVID-19 status unknown,” they need to be tested and potentially quarantined.
24. Local Mexican authorities, in collaboration with the International Organization for Migration (IOM), established a hotel for quarantining migrants in Ciudad Juárez with either COVID-19 symptoms or who tested positive. Anyone testing positive at either a local shelter or upon expulsion from the United States can quarantine for 14 days and later be placed in a shelter with capacity. This system is designed to try and keep shelters in Ciudad Juárez COVID-19 free.
25. At several points in recent months, the expulsion of additional families via “lateral flights” have overwhelmed systems in place in Ciudad Juárez, leaving many families on the street, without proper shelter or in the hands of smugglers.
26. For example, I am currently seeking quarantine space for 5 people who tested positive, out of 100, after being expelled following a “lateral flight” last week. The IOM hotel in Ciudad Juárez is currently at capacity. Had these families been released in the United

States, they would have immediately been taken to hotel quarantine and afterwards provided shelter and assistance in onward travel to their final destination. Instead, they find themselves on the streets of Ciudad Juárez.

27. “Lateral flights” also exacerbate trauma, as U.S. authorities frequently lie to families about where they are heading, telling them they are going to shelters in the United States and not being kicked back into Mexico.
28. Families subjected to “lateral flights” also report a lack of food, children with dirty diapers, and mistreatment by CBP agents.
29. Based on our experience, “lateral flights” only exacerbate the situation by facilitating COVID-19 transmission. They subject families to ongoing suffering, lack appropriate COVID-19 protocols, and needlessly expel noncitizens to Mexico when U.S.-based shelter networks stand ready to receive them here.

The administration has failed to take its own steps to establish COVID-19 safe protocols for releasing migrants in the United States.

30. The administration, through meetings with local stakeholders, pushed organizations like ours and our partners to increase capacity for shelters on the United States side of the border. And we did exactly that, in partnership with local city and county agencies, and in ways that our consistent with maximizing public health. And yet, as stated above, we have shelter beds standing unused while the U.S. government expels noncitizens to Mexico.
31. I also firmly believe that the systems we have developed are scalable, if the U.S. government were to invest additional serious resources and funding. Yet, the administration has never shared with us their actual capacity or any plans for increasing their ability to process more people to our systems.

I declare under penalty of perjury under the laws of the United States and Texas that the foregoing is true and correct.

Executed on: August 9, 2021, in El Paso, Texas, United States.

Marisa Limón Garza

Signature: _____

Marisa Limón Garza

Signature Certificate

Document Ref.: WBNQT-67DMG-YRFO8-KROYN

Document signed by:

	Marisa Limón Garza	 
E-mail: info@hopeborder.org Signed via link	IP: 99.47.136.14 Date: 09 Aug 2021 22:35:41 UTC	

Document completed by all parties on:
09 Aug 2021 22:35:41 UTC

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DECLARATION OF ASTRID DOMINGUEZ

I, Marie Astrid Dominguez, pursuant to 28 U.S.C. § 1746, declare as follows:

1. I make this declaration based on my personal experience working with noncitizen children and families subject to the Title 42 Process. This declaration addresses processing capacity at the Brownsville and Hidalgo Ports of Entry. In my opinion, both ports have the capacity to process more migrants and asylum seekers than they are currently using. In addition, nongovernmental organizations on the U.S. side of the border in the Brownsville and Hidalgo areas have built up capacity to test migrants for COVID-19 and quarantine them.
2. The migrants I work with have also been subjected to great harm due to their expulsions. For example, I am aware of one case involving a father with a 9-year-old daughter with a spine injury; the father carried his visibly disabled daughter across the border but were nevertheless expelled. Numerous women have reported they were violated and assaulted after U.S. border agents expelled them back to Mexico.
3. From late 2020, I have been working closely with the Rio Grande Valley (RGV) Welcoming Committee/Comité de Bienvenida and now facilitate their meetings as a consultant. We are several dozen lawyers and advocates dedicated to welcoming migrants with dignity and assisting government entities with reopening the U.S.–Mexico border to regular asylum and other processing of noncitizens seeking protection, safety, and family reunification.
4. I have been a border advocate since 2012, when I began work with the ACLU of Texas that lasted until May 2021. I have personally been involved in submitting Title 42 exemption requests for more than one hundred individuals and families. I interview migrants and assemble the required information to be submitted to the U.S. government. I have also participated in frequent meetings with a variety of U.S. government officials responsible for both border operations and border policy, including at the Brownsville and Hidalgo ports of entry.

Processing Capacity at the Brownsville and Hidalgo Ports of Entry

5. My work focuses primarily on noncitizens coming through two ports of entry, which are respectively located in Brownsville and Hidalgo, Texas, opposite the Mexican cities of Matamoros and Reynosa, Tamaulipas. I am very familiar with operations and capacity in those ports via my work in helping asylum seekers obtain exemptions under Title 42, as well as working with local NGOs and advocates.
6. Until recently, there were two main processes for obtaining Title 42 exemptions. The first process is managed by a consortium of nongovernmental organizations. The second process involved cases submitted directly by lawyers and advocates to the ACLU, which then submitted them to the U.S. government.
7. Noncitizens seeking to come through the Brownsville port of entry as Title 42 exemptions are tested for COVID-19 at the Resource Center Matamoros, a nonprofit

collaborative providing various support services. This testing typically occurs 72 hours in advance of when the noncitizen is scheduled to cross. The U.S. government requires the noncitizen to test negative in order cross via the port. If the test is positive, they are not permitted to cross until a negative result.

8. Migrants crossing through the Hidalgo, TX port of entry as Title 42 exemptions are tested for COVID-19 at Senda de Vida, a nongovernmental overnight shelter. Again, the testing occurs 72 hours in advance of when the noncitizen is expected to present at the port, and the U.S. government does not permit them to cross unless they show a negative result.
9. In my opinion, neither the Brownsville nor the Hidalgo port is operating at capacity. This conclusion is partly because the ports are designed to process large numbers of people coming to the United States for other reasons, e.g. tourism or leisure, but such noncitizens cannot currently enter the United States because of so-called “essential travel” bans.
10. The federal government could also explore ways to minimize time spent at ports by people who have not provided advance information before coming to the port. For example, not all immigration-processing functions may need to take place at a port of entry. After verifying the noncitizen’s identity and checking that the person presents no criminal, safety, or security concerns, the noncitizen could quickly be sent to a secondary processing center where, for example, they could be issued any necessary paperwork related to their immigration cases.

Processing Capacity on the U.S. Side

11. Noncitizens who cross between ports of entry near Brownsville and Hidalgo and encounter Border Patrol agents are processed by CBP and, if they are permitted to remain instead of being expelled or detained, are released to local nongovernmental organizations that provide universal testing for COVID-19 and social services.
12. For example, noncitizens who enter near the Hidalgo area are typically sent to McAllen, Texas, where Catholic Charities of the Rio Grande Valley runs the Humanitarian Respite Center (HRC). The HRC receives them and conducts universal COVID-19 testing with DHS support. In Brownsville, CBP transports noncitizens to a receiving area at the Brownsville bus station, where the City of Brownsville provides support and DHS has been involved in ensuring testing for COVID-19.
13. Nonprofits, in conjunction with local governments, have developed infrastructure to receive, test, and quarantine migrants. For example, the City of McAllen has raised an emergency shelter that can house approximately 650 noncitizens who have tested positive for COVID-19. Other organizations, including Catholic religious organizations, have contracted with 10 hotels “in a 40-mile radius from the South Texas towns of Weslaco to La Joya and Edinburg and Mission” for quarantine rooms that can accommodate at least 1,000 people. In Brownsville, the City offers noncitizens who test positive an accommodation for a person’s quarantine period with financial support available. There is also quarantine capacity at a local overnight shelter called the Ozanam Center.

14. I am aware that Catholic Charities of the Rio Grande Valley has reported near-universal compliance with quarantine requirements by migrants who test positive at the HRC. Positive tests at the Brownsville bus station have also been followed by quarantine. My understanding is that noncitizens released in both Brownsville and Hidalgo are offered COVID-19 vaccines.

Noncitizens Subjected to Title 42 Face Grave Danger

15. My work with the Title 42 exemption process has exposed me to the trauma of hundreds of migrants denied an opportunity to present asylum claims to protection in the United States. The migrants I work with report that they have been expelled to unsafe conditions in Mexico that include homelessness, violence from organized crime, and medical jeopardy. Many have detailed stories and documentary evidence of harm in their home countries. Others are so traumatized that eliciting their hardship is challenging and psychologically delicate.
16. I am aware of many cases where women in advanced pregnancy have been expelled, as well as noncitizens with significant mental and physical disabilities, such as children with special needs and noncitizens with visual disabilities. Our Welcoming Committee was involved in the case of D., a 9-year-old girl with a spine injury whose father carried her to the U.S –Mexico border from Honduras. Yet they were expelled by Border Patrol despite pleading for consideration of D.'s medical condition.
17. Expulsions are taking place to Reynosa and other Mexican cities that are known, and reported by the State Department, to be centers of violent crime against migrants. In particular, sexual violence against female migrants is widespread, even when they are kidnapped with their children. U.S. government expulsions are sending women and children into the hands of rapists. I have talked with many women who were violated repeatedly and brutally by kidnappers after U.S. government officers refused to assess their protection claims. Sometimes these kidnappings happen within hours of expulsion.
18. Despite rampant kidnapping, which often includes deprivation of food and torture, families with young children continue to be expelled to Reynosa. There are no state-provided services for them and the population living unhoused in city plazas now exceeds 4,000 people who are often targeted by organized crime. Family separations also occur when parts of a family are allowed to stay in the U.S. but others are expelled. I have come across parental separations where one parent and a very young child were allowed to stay by Border Patrol while the second parent with an older child was expelled.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct. Executed on: August 11, 2021, in Toronto, Ontario, Canada.



Signature:

Marie Astrid Dominguez

DECLARATION OF CHELSEA SACHAU

I, Chelsea Jordan Sachau, declare under penalty of perjury, that the following is true and correct to the best of my knowledge:

1. I make this declaration based on my personal knowledge except where I have indicated otherwise. If called as a witness, I could and would testify competently and truthfully to these matters.

Summary

2. Based on my experience with Title 42 along the Arizona-Mexico border, the number of migrants who test positive on the Mexican side before entering is exceedingly low, as outlined below.
3. Title 42 has resulted in grave harm to our clients. They face kidnapping, rape, extortion, and other violence on a regular basis.

Expertise

4. My name is Chelsea Sachau and I am an Equal Justice Works Fellow at the Florence Immigrant and Refugee Rights Project in Arizona ("Florence Project") where I have been employed for 11 months. Founded in 1989, the Florence Project is a 501(c)(3) nonprofit legal service organization providing free legal and social services to adults and unaccompanied children facing removal proceedings in Arizona.
5. At the Florence Project, I work on the Border Action Team. Since 2017, the Florence Project has worked in partnership with the Kino Border Initiative (KBI) by creating the Border Action Team to provide legal services to migrants at KBI's Aid Center for Migrants located in Nogales, Sonora, Mexico. The Border Action Team also works in close collaboration with other local legal services, humanitarian, and community organizations to support migrants in Sonora, Mexico or detained in the state of Arizona. In this capacity, I have provided Know Your Rights orientations, intakes, referrals, asylum application assistance, support with humanitarian parole, and direct representation, among other services, to individuals and families subject to various border policies, including the "Order Suspending Introduction of Certain Persons from Countries Where a Communicable Disease Exists" issued by the Centers for Disease Control and Prevention (CDC), commonly referred to as "Title 42."¹

Background

6. The Title 42 expulsion policy has closed the US border to nearly all asylum seekers since March 20, 2021, with the exception of unaccompanied minors. Recently, while Title 42 has been in effect, two possible exception systems emerged: the

¹ <https://www.cdc.gov/coronavirus/downloads/10.13.2020-CDC-Order-Prohibiting-Introduction-of-Persons-FINAL-ALL-CLEAR-encrypted.pdf>

exemption process in this litigation (“the exemption process”) and the Consortium process. While there are some distinctions between the two processes, they both largely functioned by having legal service providers and other non-profit organizations refer particularly vulnerable families and/or individuals to the government to be considered as an exception to Title 42. Once approved, the families and individuals were scheduled for dates and times to present at designated ports of entry along the border, and were processed into the U.S. by immigration authorities and placed in Title 8 removal proceedings. Depending on the details of the particular case, many were paroled directly from the port of entry, but others were referred to Immigration and Customs Enforcement (ICE), which then determined whether to place the individual in detention or in an alternatives to detention program, such as the use of GPS monitoring devices.

7. The Florence Project made at least 719 referrals for families and individuals to be excepted from Title 42 through both processes. In total, FIRRP referred at least 2,107 persons through these processes. As of August 9, 2021, 127 referrals (about 374 persons) remain pending – meaning these individuals await a call from the local Consortium partner, COVID testing, and a scheduled date to enter into the U.S.

COVID-19 positivity rates for migrant families crossing into Arizona are extremely low

8. Initially, particularly vulnerable families and individuals referred through the exemption process in this litigation were not required to receive COVID-19 testing in Mexico prior to presenting at the Nogales POE. However, all persons who were referred through the exemption process and presented at the Nogales POE prior to June 7, 2021 were released from the port and then transported to shelters in Tucson, AZ, where they were tested promptly upon arrival. There was quarantine space available for those who tested positive.
9. In early June 2021 the U.S. government abruptly changed the COVID policy for the exemption process: all individuals ages six years or older who were referred through the exemption process were required to be COVID tested in Mexico prior to presenting at the designated ports of entry, and should anyone test positive, the entire family would be required to quarantine in Mexico.
- 10. Of the 137 persons referred through the exemption process who were required to undergo testing for COVID-19 in Nogales, Sonora, Mexico, only one individual tested positive for COVID-19. This is a 0.72% COVID-19 positivity rate amongst the exemption clients for whom we were forced to coordinate testing and received access to their COVID test results.**
11. The Nogales U.S. Port of Entry does not provide COVID-19 testing, vaccines, or quarantine space to any non-citizens who are referred for exceptions to Title 42. The local humanitarian partners in Mexico, with support from partners in Arizona, were forced to assume those costs and responsibilities through the exemption and Consortium processes.

CBP has additional processing capacity in the Tucson Sector

12. The Tucson Sector of Customs and Border Patrol (CBP) covers most of the state of Arizona, from the New Mexico State line to the Yuma County line, an area covering a total of 262 border miles.² There are nine (9) ports of entry – organized into eight (8) CBP stations – in the Tucson region. The ports of entry are (from west to east): San Luis, Yuma, Lukeville, Sasabe, Nogales (there are three within Nogales – Mariposa, DeConcini, and Morely Gate), Naco, and Douglas. However, CBP only processes asylum seekers excepted from Title 42 at the DeConcini POE.
13. From the end of March 2021 until the last day of May 2021, the Nogales POE refused to process any more than ten (10) persons per day. The stated reason was that the Nogales POE did not have the staff capacity to process any more persons per day. This is despite reports that the government had instructed ports to increase capacity to process 50 persons per day if necessary. Moreover, the alleged lack of staff capacity was also contrary to what the Florence Project staff witnessed on a regular basis in April and May 2021. The Florence Project staff crossed the border at least once per day for months during Title 42, and we frequently saw one or more CBP officers sitting idly at desks at either the DeConcini Port of Entry or the Mariposa Land Port of Entry in Nogales.
14. From May 31, 2021 through early July 2021, the Nogales POE was processing 30 persons per day in total, Monday through Friday, with a few exceptionally urgent cases being processed on Saturdays. Beginning July 12, 2021, Nogales POE again increased its capacity and began to allow for 40 persons per day to present for processing. Beginning in early August, the Nogales POE agreed to expand processing capacity even further to 50 persons per day.
15. The Florence Project and other legal and humanitarian service providers have repeatedly requested that the other ports of entry process asylum seekers through the exemption or Consortium processes, as there are hundreds of displaced persons in more remote parts of the border, in particular Lukeville and San Luis ports of entry, as hundreds of our remote clients are displaced in Sonoyta, Sonora and San Luis Rio Colorado, Sonora. Repeatedly, CBP has refused to do so.
16. The government's refusal to process particularly vulnerable families at remote ports of entry has dire consequences for displaced migrants. In late July 2021, cartel violence began to escalate even more in Sonora. Many of the highways that migrants displaced in other parts of Sonora would need to take in order to travel to Nogales, Sonora for processing would place the families we represent directly in the path of the cartel fighting.

Dangers for expelled families

17. Migrant families expelled under Title 42 to Sonora face extreme danger and live in precarity. Few have access to safe housing, medical care, or work to support themselves. They face kidnapping, rape, extortion, and other violence on a regular basis.

² <https://www.cbp.gov/border-security/along-us-borders/border-patrol-sectors/tucson-sector-arizona>

18. For example, in the spring of 2021, the Florence Project represented a young woman who was kidnapped in Mexico, held hostage for weeks, repeatedly raped, and then abandoned in the United States near Phoenix. Though Border Patrol did take her to the hospital on account of her obvious injuries and trauma, she nonetheless was expelled to Mexico under Title 42, where she was at risk of being re-trafficked.
19. In mid-February 2021, the Florence Project provided a remote consultation to a single-mother in Sasabe, Sonora, Mexico. On or about March 31, 2021, the mother attempted suicide in Sasabe, Mexico due to the extreme stress and desperate circumstances without access to security. Fortunately, the Florence Project was able to work with local volunteers in Sasabe to get to the mother before she died, and the local volunteers stayed with her for her own protection and that of her daughter. However, she and her daughter continued to suffer, given that the single mother could not access any mental health treatment in Mexico, and did not have any of her medications. The mother's mental health began to deteriorate even further when the organized crime groups that control Sasabe discovered the mother and her daughter had reentered the city without paying the bribes or extortion fee that many displaced migrants are subjected to. Someone told the mother that the organized crime boss "was coming back soon, and would be by to see her," indicating a threat to the mother and her daughter's physical safety.
20. The Title 42 expulsion process also pushes asylum seekers, including those facing imminent danger, to attempt risky border crossings, resulting in deaths and serious injuries, and makes expelled people more vulnerable to attack.
21. I represented a gay man from El Salvador who U.S. immigration officials separated from his partner under Title 42. This young man fled El Salvador in late January 2020 due to persecution by gangs on the basis of his sexual orientation and family ties. My client met his partner, who was fleeing persecution in Cuba, in Tapachula in February 2020. My client and his partner were regularly taunted for being gay. Around August or September 2020, neighbors broke into the home my client and his partner shared and robbed them. After moving to Nogales in October 2020, my client and his partner were constantly taunted for being gay by a group of men who regularly hung out outside a convenience store located near their home. In February 2021, the same group of men donned ski masks and chased after my client, who narrowly escaped into a nearby taxi. The taxi driver told my client that those men were involved with a cartel and very dangerous. On or about February 14, 2021, in desperation after all they had endured, my client and his partner crossed the U.S.-Mexico border in order to present themselves to Border Patrol agents and request asylum. To their horror, my client and his partner were separated when they tried to present their asylum claim at the border. They were told by CBP that only my client's partner, a Cuban migrant, would be processed into the U.S. and detained, and that my client, a Salvadoran man, would be expelled back across the border under Title 42. After being separated from his partner, my client lived alone in Nogales and took steps to protect himself by minimizing in every way how much time he spent in public view. My client's neighbor, a retired woman, helped run his errands so that he need not be out in public more than necessary, and she also accompanied him if he needed to attend a meeting or tend to an errand in person.

22. Florence Project staff also represented a young woman in her third trimester of pregnancy who fled Guatemala primarily as a result of gender-based violence. Her partner would beat her, and during her pregnancy it worsened. In one instance, he attempted to abort her pregnancy by beating her. He told her he would hurt her if she went to the police and she was afraid he would follow her and threaten her wherever she might hide. She fled Guatemala to seek asylum in the United States. Unfortunately, she was also persecuted in Mexico. On around April 15, 2021 she was kidnapped and held captive by a group of armed traffickers. She was held for ten days, and during her captivity she did not receive adequate food and was threatened, even though she was pregnant. On around April 25, 2021 she escaped with other kidnapped migrants. The traffickers chased them in vans, but they were able to escape into the United States. When she was located in the desert, Border Patrol took her to the Banner Hospital in Tucson, AZ. She was 38 weeks pregnant and was put on an IV. At the time, she had a contraction, but the doctors told her it was due to the stress. She was put on an IV and her vitals stabilized. She was also told she had a urinary and a vaginal infection. However, she was returned to Mexico under Title 42, despite her late-term pregnancy and medical issues, and attempted intervention by Florence Project legal advocates who had already filed G-28s in her case to inform Border Patrol and other DHS officials that they represented the young woman. She was forced to attend a fear-based screening alone, even though she had counsel. She failed the USCIS screening despite detailing her kidnapping at the border and despite providing the names of some of her kidnappers that she had overheard while restrained. Without informing counsel, CBP expelled the young woman to Nogales, Sonora via the DeConcini Port of Entry in Nogales, Arizona on April 28, 2021, with no resources and no place to stay. She indicated that Border Patrol confiscated her medical release documents before removing her to Mexico. Pregnant, medically vulnerable, and alone, this young woman was only able to reconnect with the Florence Project after a random benefactor took pity and took her in for the night. She was then driven to the KBI Migrant Aid Center, where she received humanitarian services and had a legal intake with the Border Action Team. The young woman gave birth days after being expelled. On May 8, 2021, she and her infant were processed into the U.S., however the infant immediately had to seek medical attention within days of entering the U.S. and nearly died, due to the circumstances of his birth.

23. The U.S. government's failure to timely process migrants, to process migrants at all ports of entry, or to timely end Title 42 continues to expose thousands of migrants to extreme danger at the hands of cartels or other persecutors in Mexico.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on August 10, 2021 at Tucson, Arizona.


Chelsea Sachau

DECLARATION OF SUSANA VILLÉN IGLESIAS

**MEDICAL COORDINATOR FOR MÉDECINS SAN FRONTIÈRES /
DOCTORS WITHOUT BORDERS IN MEXICO**

August 11, 2021

I, Susana Villén Iglesias, declare pursuant to 28 U.S.C. § 1746 that the following is true and correct:

1. Based on Médecins Sans Frontières/Doctors Without Borders' expertise and experience working with migrants in Mexico, I am submitting this declaration to explain why there is no adequate public health rationale to continue expelling immigrant families at the southern border. The U.S. government can safely process immigrant families, especially given the widespread availability of COVID-19 vaccines and other mitigation protocols like rapid testing, outdoor processing, masking and social distancing. These measures are not only effective against COVID-19 transmission, but they are also well within the U.S. government's capacity and resources, especially in light of the extreme hardship, violence, and trauma that Title 42 has inflicted on migrants.

Background and Experience

2. I am a medical doctor with a post-doctoral degree in tropical medicine and a master's degree in Public Health. I have been working with different non-governmental organizations in medical-humanitarian projects since 1998 in different counties in Africa, Asia, and Latin America. Currently, I am the medical coordinator in Mexico of Médecins Sans Frontières (MSF)/Doctors Without Borders. As medical coordinator, I am responsible for planning and coordinating all medical activities and medical resources for the mission. In Mexico, we are working with local communities as well as people on the move. We are providing basic health care in areas with poor access to services as well as care to survivors of violence and torture.
3. Médecins Sans Frontières (MSF)/Doctors Without Borders is an independent international medical humanitarian organization that delivers neutral and impartial emergency aid to people affected by armed conflict, epidemics, natural and man-made disasters, and exclusion from health care in more than 70 countries. We were awarded the Nobel Peace Prize in 1999. The decision to offer assistance in any country or crisis is based solely on our independent assessment of populations' needs. We work to ensure that we have the power to freely evaluate medical needs, to access populations without restriction, and to directly control the aid we provide. Our financial independence allows us to provide aid free from any governmental influence that could be used to further political or military goals. MSF currently operates in the world's largest humanitarian crises, including Syria, Ethiopia, Yemen, and South Sudan.

4. I have reviewed the latest Title 42 order issued by the Centers for Disease Control and Prevention (CDC).¹ In this declaration, I explain how immigrant families can be processed into the United States in a manner consistent with public health best practices, taking into account concerns about the Delta variant and other recent COVID-19 developments. To help explain, I will first describe MSF's work in Mexico, our observations on COVID-19 protocols related to the processing of asylum seekers out of the so-called Migrant Protection Protocols ("MPP"), the harm that Title 42 is causing, and then discuss how Title 42 can be phased out for immigrant families in a manner consistent with public health guidance.

MSF's Work in Mexico

5. MSF has been working in Mexico since 1985. Since 2012, MSF has been actively addressing the health needs of people on the move – including immigrant families – across the country through the provision of comprehensive primary healthcare, mental health, social services, and health promotion activities.
6. During the COVID-19 pandemic, MSF adapted and expanded its activities to include infection prevention and control in health facilities, shelters, and other spaces this population frequents along the migration route in Mexico. MSF set up diverse specialized services such as tailored mental health care, which includes psychological first aid, individual follow-up, and group sessions. MSF assisted in the identification and referral of suspected COVID-19 cases to the Ministry of Health (MoH), which would send teams directly to the camp and test them. MSF would in the meantime provide hygiene isolation kits to suspect cases, which included PPE, paracetamol, rehydration solution, and a guide for best practices during isolation. MSF worked to minimize the risk of COVID-19 transmission among asylum seekers through the distribution of hygiene kits that included personal protective equipment (PPE) and alcohol gel. MSF has supported health facilities, including community centers and hospitals, to strengthen access to adequate services, particularly with screening, mental health support, health promotion to reduce stigma, and referral to the MoH. In migrant shelters, MSF also helped in identifying the best locations and practices for isolation of suspected cases.
7. MSF has also offered tailored support to shelters housing migrants, focusing on: 1) providing education on COVID-19 protocols and countering misinformation, 2) setting up infection prevention and control measures such as triage, isolation, washing & disinfection procedures, social distancing, and proper use of PPE; and 3) setting up referral systems for severe COVID-19 cases.

¹ See CDC, *Order Suspending the Right to Introduce Certain Persons from Countries Where a Quarantinable Communicable Disease Exists* (Aug. 2, 2021), https://www.cdc.gov/coronavirus/2019-ncov/downloads/CDC-Order-Suspending-Right-to-Introduce-_Final_8-2-21.pdf.

8. In the north of Mexico, MSF has concentrated its activities in Matamoros, Reynosa, Nuevo Laredo, Piedras Negras, Ciudad Acuña, Monterrey and Ciudad Juárez. In the northern border locations, spanning from Texas to California, MSF has been witnessing for several years the detrimental effects of U.S. migration policies on asylum seekers' physical and mental health, including policies that forced them to live in dangerous conditions. For instance, from 2019 through 2021, MSF witnessed and provided care to asylum seekers forced to wait in Mexico under the MPP program. Since 2020, MSF has witnessed similar, if not worse, harm to asylum seekers who are expelled from the United States under Title 42.

MSF's Experience with COVID-19 Protocols around MPP

9. One of the critical services that MSF has recently provided in Mexico has been providing physical and mental health services to asylum seekers returned to Mexico under the former U.S. government program, MPP. Through its presence and work with this population of asylum seekers, MSF has direct experience with the safety precautions taken around COVID-19 in Mexico.
10. The Matamoros camp was the direct consequence of the U.S. Government's implementation of MPP. While individuals were sent back to Matamoros and forced to wait for their asylum proceedings, a border camp arose that housed up to 2500 migrants. In response to critical medical needs, MSF has offered health services in the camp from the moment it was first established until the last day the camp was standing in March 2021. When COVID-19 appeared in Mexico, MSF adapted its premises and protocols to include a triage of suspected cases, led the health promotion / COVID-19 prevention activities at the camp, and stepped up mental health assistance. These protocols were maintained until March 2021.
11. When the decision to begin unwinding MPP was taken, the United Nations High Commissioner for Refugees (UNHCR) coordinated with all actors present in the camp in Matamoros and with other key actors such as the International Organization for Migration (IOM), United Nations International Children's Emergency Fund (UNICEF), International Committee of the Red Cross (ICRC), and Hebrew Immigrant Aid Society (HIAS) to facilitate the phase out. Among its responsibilities, MSF worked with shelters to apply sound infection prevention and control measures and ensure that people waiting to be processed and arriving from other Mexican cities faced a lower risk of transmission.
12. MSF relied on a mixture of health education, preventive measures, and clear, simple and efficient control measures based on symptomology which permit isolation of suspected and confirmed cases of COVID-19. One of the more important aspects of the model is consistent implementation of preventive measures (social distancing, masking, hand washing) at all times, and encouraging the self-declaration of symptoms as soon as they

appear. This approach includes a system of symptomatic screening, testing, and medically supervised isolation for those who test positive for COVID-19.

13. Given the nature of COVID-19 transmission and close quarters of the camp, MSF was especially vigilant about any potential outbreaks. During the period when MSF ran the mild COVID-19 stabilization center at the Autonomous University of Tamaulipas, suspected cases were taken there for isolation and medical supervision.
14. As the camp's population was processed into the U.S., MSF wound down our medical activities at that specific location. MSF continues to offer health services in key shelters around the city of Matamoros, as well as the cities of Reynosa, Nuevo Laredo, Monterrey, Ciudad Acuña and Piedras Negras, where there are still asylum seekers in need.

Harm to Immigrant Families Subject to Title 42

15. For years now, MSF teams have been witnessing firsthand the devastating toll of harsh US migration policies spanning several administrations on the lives and health of people forced to flee violence and extreme poverty in Central America, Mexico, and other countries.
16. MSF has documented the toll expulsion under Title 42 takes on asylum seekers.² These individuals and families being rapidly turned around to extremely dangerous cities along the border are exposed to gang violence and are forced to fend for themselves without protection from local authorities. But accessing the most basic needs is always difficult given to the lack of protection, the lack of shelter, and the lack of health care.
17. Some who have been expelled, including Haitian asylum seekers, do not speak Spanish. Others include people who are injured or ill, people traveling with children, teenagers, pregnant women, and lesbian, gay, bisexual, and transgender people. All these people are at increased risk of violence and extortion in Mexico due to their particular vulnerabilities.
18. MSF mental health teams working with migrants in psychological support groups in Reynosa have observed signs of complex trauma and depression in these patients. They report acute reaction to stress, psychosomatic symptoms such as headache and back pain, hypervigilance due to the insecure location, difficulty sleeping, and fear and anxiety related to their expulsion or living in violent and unpredictable conditions.

² MSF, Title 42 Deportations Cause Dire Humanitarian Consequences on Mexico's Northern Border (Apr. 29, 2021), <https://www.doctorswithoutborders.org/what-we-do/news-stories/news/title-42-deportations-cause-dire-humanitarian-consequences-mexicos>.

Unwinding Title 42 and Processing Immigrant Families

19. I have reviewed Defendants' declaration from David Shahoulian dated August 2, 2021, filed at ECF No. 113-1, as well as the recent August 2, 2021 CDC order regarding Title 42. MSF does not believe that there is adequate public health rationale to justify continuing to ban immigrant families.
20. Based on MSF's decades of experience in infection prevention and control and in responding to public health emergencies across the world, we firmly believe it is well within the U.S. government's ability to restore access to asylum at the border while safeguarding the health of its citizens and those living on its territory. There is no reason to presume that asylum seekers are more of a threat to public health than any other person crossing the border from Mexico.
21. The measures the U.S. government can take to safely open the border, specifically to those in need of protection, include:
 - A. *Border Processing:* Processing asylum seekers on either side of the border should be done as rapidly as possible and in a way that limits people from being held in congregate settings so as to reduce the risk of COVID-19 transmission. Processing should take place in spaces that are well-ventilated and suitable for expansion of reception should the number of arrivals increase. MSF routinely uses low-cost temporary items such as snow/safety barrier fencing and shade netting to facilitate outdoor activities requiring crowd control measures around the world.
 - B. *Testing:* Compared to the general U.S. public, asylum seekers do not pose a heightened public health risk,³ therefore they should not be subjected to measures that are not applied to other groups of people crossing the border. However, if the U.S. Government insists on additional measures, ramped up COVID-19 testing at the border can be the cornerstone of any system to efficiently process asylum seekers. We found very low numbers of COVID-infections in border shelters where MSF has relied on a system of symptomatic screening, testing, and referral for medically supervised isolation for those who test positive for COVID-19. In the case of those crossing the border, FDA-approved antigen tests are cost-effective, produce rapid results, and are well-suited to identifying individuals who pose an immediate risk of transmission. If testing is implemented, those who test positive can be isolated and treated. Those who test negative should be paroled

³ Data reflects that number of cases per 100,000 residents is far lower in Mexico compared to the United States. *Compare* N.Y. Times, *Coronavirus in the U.S.: Latest Map and Case Count* (updated Aug. 10, 2021), <https://www.nytimes.com/interactive/2021/us/covid-cases.html>, with N.Y. Times, *Tracking Coronavirus in Mexico: Latest Map and Case Count* (updated Aug. 10, 2021), <https://www.nytimes.com/interactive/2021/world/mexico-covid-cases.html>.

into the U.S. and told to self-quarantine for the officially designated period, which is in line with the current procedure recommended by the CDC for any international travelers to the U.S. Measures can be taken to ensure safety during internal transportation, including through the distribution of face masks and the use of high-capacity, well-ventilated vehicles.

C. Isolation/Quarantine: An isolation/quarantine system that is flexible and sensitive to fluctuations in arrivals can be established. Safety measures including mask use, ventilation, and reduced density of persons should be applied in those spaces.

D. Vaccination: Any eligible unvaccinated person including asylum seekers should be offered a vaccine when they enter the U.S. The U.S. currently has more capacity to vaccinate Americans, both in terms of vaccine doses and mobilized health personnel, than are currently being used by people in the U.S. MSF has been tracking COVID-19 vaccine supply and, to our horror and disappointment, millions of doses have and may continue to go to waste in the U.S.⁴ These excess doses can and should be re-routed for use in other countries, including for those who are eligible for vaccines at the border. Implementing routine vaccination of asylum seekers entering from Mexico is well within the scope of current services offered at some international airports in the U.S.⁵

22. The Delta variant is already dominant in the U.S. and epidemiological data shows similar historical rates of COVID-19 infections in the U.S. and Mexico. The CDC places both countries at the same risk level,⁶ but, importantly, the number of new cases is disproportionately higher in the U.S. compared to Mexico.⁷ The CDC is currently recommending the same preventive and protective protocols for Delta as were recommended previously.⁸ In addition to vaccination, masking, ventilation, physical

⁴ Dan Levin, *The U.S. Is Wasting Vaccine Doses, Even as Cases Rise and Other Countries Suffer Shortages*, N.Y. Times (Aug. 1, 2021), <https://www.nytimes.com/2021/08/01/us/covid-us-vaccine-wasted.html>.

⁵ See, e.g., San Francisco International Airport, Vaccinations at SFO (last accessed Aug. 10, 2021), <https://www.flysfo.com/travel-well/vaccination-site-sfo>; NBC News, *Miami Airport Offering Free Covid Vaccines to Travelers* (May 27, 2021), <https://www.nbcnews.com/now/video/miami-airport-offering-free-covid-vaccines-to-travelers-113663045707>.

⁶ CDC, Travel Health Notices (updated Aug. 2, 2021), <https://www.cdc.gov/coronavirus/2019-ncov/travelers/map-and-travel-notices.html>.

⁷ See *supra* n.1 (showing that daily average of cases has increased nearly 120% in last 14 days in United States compared to 30% in Mexico, and that case rate per 100,000 people in the United States is nearly triple the rate in Mexico).

⁸ CDC, Interim Public Health Recommendations for Fully Vaccinated People (updated July 28, 2021), <https://www.cdc.gov/coronavirus/2019-ncov/vaccines/fully-vaccinated-guidance.html>


distancing, and hand hygiene are still recommended and can be implemented when processing asylum seekers.⁹

23. Should the necessary resources be allocated, many of the elements that proved effective in unwinding MPP can be scaled to apply to a phase out of Title 42 and a return to a normal asylum processing system at the U.S. southern border. These are resources that are readily available, including medical and public health human resources. FDA-approved antigen tests and COVID-19 vaccines for those who are eligible.

Conclusion

24. While the technical solutions highlighted above should be implemented in coordination with Mexican authorities and organizations responding to the needs of asylum seekers in northern Mexico, the U.S. should uphold its obligations to admit people seeking asylum, which includes accepting responsibility for carrying out basic infection prevention and control measures. Regardless of the capacity of the Mexican government to help on this front, the fact remains that northern Mexico is not safe for asylum seekers forced to remain there by virtue of U.S. policy. The U.S. government has the capacity, infrastructure, and knowledge required to safely process those seeking protection at the southern border and must immediately take the necessary steps to do so.

Executed on the 11th of August, 2021 in Ciudad de Mexico, Mexico.



Susana Villén Iglesias
Medical Coordinator in Mexico
Médecins Sans Frontières/Doctors Without Borders

⁹ CDC, Guidance for Implementing COVID-19 Prevention Strategies in the Context of Varying Community Transmission Levels and Vaccination Coverage, Morbidity and Mortality Weekly Report (July 30, 2021), <https://www.cdc.gov/mmwr/volumes/70/wr/mm7030e2.htm>.

DECLARATION OF TERESA CAVENDISH

I, Teresa Cavendish, pursuant to 28 U.S.C. § 1746, declare as follows:

1. I am Director of Operations at Catholic Community Services of Southern Arizona. I oversee operations for Casa Alitas in Tucson, Arizona. Casa Alitas is a program that serves migrant families and adults who are released from Customs and Border Protection (“CBP”) custody so that they can seek immigration relief in the United States. I make this declaration based on my personal experience at Casa Alitas working with noncitizen children and families subject to the Title 42 Process since the process came into effect in March 2020.
2. This declaration describes the efforts of Casa Alitas and other shelter providers along the Arizona-Mexico border to develop infrastructure for processing migrants safely after they come to the United States. Our organization and our partners have invested significant time and resources in building systems designed to receive migrants, test them for COVID-19 and quarantine them when necessary, and help them move on to their next destination. In my opinion, if these programs received more grant funding and resources, they could be scaled up to receive even more migrants than they already do.
3. I have been with Casa Alitas for 7 years, since I helped establish the program. In addition, I have held different roles in the nonprofit and social services sector, including Director of Operations for Catholic Community Services of Southern Arizona (CCS); Casa Alitas is a program of CCS. I have been with CCS for 35 years. At Casa Alitas, I supervise 13 staff and coordinate over 100 volunteers.
4. Casa Alitas receives migrants directly from immigration custody. They often come directly from Customs and Border Protection (“CBP”) after being swiftly processed near the border immediately after the migrants’ entry. Others come from the custody of Immigration and Customs Enforcement (“ICE”), after being held in immigration detention for days or weeks. We have longstanding relationships with both CBP and ICE, who know that we are available as a resource for migrants leaving immigration custody. The migrants we serve are a mix of families with young children and single adults.
5. Casa Alitas runs a variety of different programs for migrants who have recently come to the United States. We run a hospitality center in Tucson, which serves as an initial reception point for migrants who have just been released from detention. Volunteers at the hospitality center greet the migrants and help them contact family members or friends in the United States. If the migrant is able to join their family members immediately, our volunteers help them arrange travel via bus or plane, and provide them basic services (e.g. food, clothing, hygiene items) before they travel. Such migrants typically spend only 24 hours or so at our reception centers.


6. Those migrants who cannot travel right away typically spend one to three days in one of our shelters, which are similarly run by volunteers and Catholic Community Services staff members. There, the migrants receive food, shelter, and social services assistance until they can depart for their ultimate destination.
7. The numbers of migrants we receive varies greatly from day to day. These numbers depend on seasonal migration patterns, as well as the availability of other shelter space for migrants being released from DHS custody. On a typical day during June, July, and August of this year, Casa Alitas has received from 30 to 200 individuals per day.
8. Casa Alitas, and other shelter providers operating along the Arizona-Mexico border, have spent the last year or more developing infrastructure and systems to maximize the health and safety of migrants and our staff members/volunteers during the COVID-19 pandemic. Thanks to both private funding and partnerships with public health agencies, Casa Alitas tests every migrant we receive at our reception centers from DHS for COVID-19. We use a rapid test, which typically returns a result in a few minutes. If the migrant tests negative and is able to leave our reception center immediately to travel to relatives or friends, we then make travel arrangements to get him or her to their next destination.
9. If the migrant tests positive, we sent them to quarantine. We have bed space at a local hotel where the migrant can quarantine for 10 days, consistent with CDC guidelines. These hotel beds can currently house approximately 24 migrants/families in quarantine. We are currently working on obtaining additional quarantine space up to 114 rooms. Some migrants can travel quickly from our reception centers or shelters to family or friends in the Tucson area, and those migrants typically choose to quarantine with those local family or friends rather than quarantining in our hotel spaces.
10. While the migrant is in quarantine in one of our hotel beds, and toward the end of the 10-day period, we conduct a second test. If the test comes back negative, we then help arrange travel so that the migrant can go to their next destination.
11. In conjunction with public health agencies, we also offer Pfizer, Moderna, and Johnson & Johnson single-shot vaccines to all migrants at our reception centers and shelters. For migrants receiving Pfizer or Moderna vaccines, we provide second dose information available in their destination regions.
12. Since early summer 2021, the number of families we receive from CBP or ICE has reduced substantially. My understanding is that DHS has entered into a multi-million dollar contract with a national agency known as Endeavors. Endeavors operates a network of contracted hotels along the U.S.-Mexico border that serves as both shelter

and quarantine space for migrants. Endeavors operates extensively in Arizona, and since that contract began, DHS has largely referred migrant families to Endeavors, rather than our reception centers and shelters. My understanding is that Endeavors has substantial capacity to house families in the Arizona area.

13. In my opinion, the federal government has not exhausted the capacity of local nonprofits to receive additional migrants in Arizona. As described above, Casa Alitas and other shelter providers along the Arizona-Mexico border have developed a range of systems to ensure that migrants can be processed both safely and efficiently as they move on to their next destination in the United States. These programs could also be scaled up to receive even more grants if the federal government were to devote additional resources to nonprofits like ours.

I declare under penalty of perjury under the laws of the United States and Arizona that the foregoing is true and correct.

Executed on: August 9, 2021, in Tucson, Arizona, United States.

Signature: 
Teresa Cavendish

DECLARATION OF KATE CLARK, ESQ.

I, Kate Clark, pursuant to 28 U.S.C. § 1746, declare as follows:

1. I make this declaration based on my personal experience at JFS working with noncitizen children and families subject to the Title 42 Process since the process came into effect in March 2020. JFS and other nonprofits and advocacy organizations, in conjunction with San Diego County and State of California health authorities, have worked hard to develop effective systems to receive migrant asylum seekers.
2. We have now built infrastructure to test, quarantine, and provide other necessary services to migrants shortly after they enter the United States. **In my opinion, these operations are scalable if the federal government were to invest serious resources, similar to what the government did to build capacity to house increased numbers of unaccompanied children during 2021.**

QUALIFICATIONS

3. I am Senior Director of Immigration Services and Lead Immigration Attorney at Jewish Family Service of San Diego (“JFS”). Among my responsibilities is coordinating our organization’s services for migrant refugees who are released from Customs and Border Protection (“CBP”) custody so that they can seek immigration relief in the United States.
4. I have been with Jewish Family Service for 11 years. Previously, I have held different roles in the nonprofit and social services sector, including Director of Immigration Services, Senior Attorney, and Immigration Attorney within the Immigration Services division at JFS. At Jewish Family Service, I supervise a staff of approximately 100 staff between the legal services and humanitarian shelter operations.
5. JFS receives migrants directly from immigration custody. They often come directly from Customs and Border Protection (“CBP”) after being swiftly processed for release into the United States near the border, immediately after the migrants’ entry. The migrants we serve are a mix of families with young children and single adults.
6. JFS operates one of two major “hubs” in the San Diego area that receive migrants. Our hub receives migrants who are coming through the San Ysidro port of entry, which is located near San Diego, California. The migrants coming through the port of entry fall into a number of categories, including noncitizens processed via exemptions from Title 42, noncitizens who were formerly forced to wait in Mexico for their removal proceedings under the Migration Protection Protocols, and other noncitizens

who DHS has paroled into the United States for various reasons. We also receive some migrants who have sought to cross unlawfully through the port.


7. Catholic Charities operates the other major receiving hub. Their hub focuses on noncitizens who cross the California-Mexico border between ports of entry, and are apprehended by U.S. Border Patrol. Between our two hubs, I estimate that we have the capacity to receive approximately 250-300 migrants per day and currently receive that amount per day.
8. JFS's hub is located in a hotel. We have chartered a set of buses that moves back and forth all day from the San Ysidro port, which transport migrants from the port to our hotel hub. One set of buses is for those migrants who have not been tested prior to coming to the port; the other bus runs are for those who have already tested negative before coming to the United States. Once a migrant arrives at the hub, and if they have not already been tested before crossing, we test them for COVID-19. We also test those noncitizens who have been tested, but are currently showing symptoms for COVID-19. We use a PCR test, which typically returns a result within twelve hours.
9. If the migrant tests negative, or has already been tested and is not showing symptoms, they stay in a room at our hub while we help them travel to their ultimate destination in the United States. While they are staying at our hub, we provide food, shelter, hygiene, medical, case management, and legal services. We also help make travel arrangements. Such migrants typically stay at our hub for about two to three days, before they leave for their next destination.
10. If the migrant tests positive for COVID-19, the County of San Diego requires those noncitizens to quarantine for approximately 10 days. The County provides special hotel spaces for quarantine. I estimate that the County has reserved several hundred hotel beds for migrants to quarantine, and is working on developing more capacity.
11. After the migrant leaves quarantine, they return to our hub, where we provide them the services described above, and help them move onto their next U.S. destination.
12. We also offer the vaccine to all migrants who come through our hub. We offer both the Johnson & Johnson one-shot vaccine, as well as the Pfizer two-shot vaccine.
13. Both JFS's hub and Catholic Charities' hub also receive migrants who are transferred to the San Diego area via so-called "lateral flights." These flights are comprised of migrants who are apprehended in other locations along the U.S.-Mexico border, typically in the Rio Grande Valley region of Texas. Based on my observations, and reports from the migrants themselves, CBP packs migrants onto these flights without any testing or safety regimens. Some number of migrants on each flight are then expelled back to Mexico via the San Ysidro port, and the remainder are allowed into the United States and then eventually reach our hubs. Thus, by packing untested

migrants into flights and later into short-term BP detention facilities in the United States, CBP puts them at risk.

14. As described above, JFS and other organizations in the San Diego area have developed a range of systems to ensure that migrants can be processed both safely and efficiently as they move on to their next destination in the United States. We have developed these systems in conjunction with the State and County's public health authorities, and ensure that our systems are consistent with public health guidance. We have built up these systems via a mix of FEMA Emergency Food and Shelter Program funding, private funding, and public-private partnerships with local agencies. For example, we receive tests and vaccines from the State of California.
15. Unfortunately, we have developed these systems without the meaningful assistance of the federal government, aside from the emergency relief funding which has been provided through FEMA. The federal government could do much more to plan or develop major infrastructure by investing in community-based support services along the entire border to provide respite or transitional shelter to individuals and families upon arrival to the U.S. and facilitate and fund transportation to their destinations within the U.S., all in a manner that complies with federal, state, and local public health guidelines and prioritizes the humane and dignified reception of newly arrived individuals.
16. In my opinion, the federal government could scale up operations like ours by channeling money and resources to local agencies with proven track records, or even building up their own physical and other infrastructure to receive migrants. We have recently seen the federal government conduct such operations to help unaccompanied migrant children who are now exempt from Title 42. In response to increased numbers, the federal government moved swiftly to stand up additional shelters and facilities in California, and instituted testing and quarantine regimes for all unaccompanied children in federal custody. This example shows that the government can conduct such operations when it is willing to devote the resources to doing so.

I declare under penalty of perjury under the laws of the United States and California that the foregoing is true and correct.

Executed on: August 10, 2021, in San Diego, California, United States.

Signature: 
Kate Clark

DECLARATION OF AARON REICHLIN-MELNICK

I, Aaron Reichlin-Melnick, make the following declaration based on my personal knowledge and declare under the penalty of perjury pursuant to 28 U.S.C. § 1746 that the following is true and correct.

Summary

1. I submit this declaration to make two principal points in response to the government's argument that an injunction of Title 42 expulsions for family unit members would strain CBP's ability to safely process asylum seeking families at the border. First, while the government points to a high number of overall "encounters" with undocumented noncitizens at the border, that figure is misleading. Title 42 has perversely led to a high level of "recidivism"—individuals attempting to cross the border (and seek safety in the United States) more than once, and often many times. Thus Title 42, far from reducing border "encounters," has in fact increased the number of border encounters, and thus the number of times CBP officials must interact with families and other noncitizens.

2. Second, it is important to place the number of individuals potentially impacted by an injunction in this case in context. The number of people entering the United States lawfully at land ports of entry, such as U.S. citizens and permanent residents traveling for pleasure, truck drivers, students, and people attending business meetings, is vastly larger than the number of family unit members apprehended and currently subject to Title 42. Indeed, family unit members who are subjected to Title 42 in June 2021 represented roughly 0.1% of the number of individuals who entered the United States from Mexico through a land port of entry. Yet while that vastly larger set of individuals is subject to no testing or other COVID screening, the

government claims the relatively tiny set of families must be expelled in the name of public health.

Qualifications

3. I am a Policy Counsel at the American Immigration Council (“Immigration Council”), a nonprofit and non-partisan organization whose mission includes the use of facts to educate the public on the important and enduring contributions that immigrants make to America. At the Immigration Council, I track and analyze immigration-related statistics produced by the Department of Homeland Security (“DHS”), data on border crossings produced by the Department of Transportation (“DOT”), and any other available data on border processing produced by reputable sources.

4. I have previously submitted declarations analyzing government-produced immigration statistics in *East Bay Sanctuary Covenant v. Barr*, 4:19-cv-04073-JST (N.D. Cal. filed July 16, 2019), *Innovation Law Lab v. McAleenan*, 3:19-cv-00807-RS (N.D. Cal. filed Feb. 14, 2019), and *Padilla v. ICE*, No. 2:18-cv-00928-MJP (W.D. Wash. filed June 25, 2018).

5. In my role as policy counsel, I have extensively studied the impact of the novel coronavirus SARS-CoV-2 (“COVID-19”) on the United States’ immigration system. I have also extensively studied the current humanitarian processing challenges occurring at the U.S.-Mexico border.

6. On April 27, 2021, I testified as an expert on border trends in front of the House Homeland Security Subcommittee on Border Security, Facilitation, and Operations at a hearing entitled *Unaccompanied Children at the Border: Stakeholder Perspectives on the Way Forward*.

7. In preparation for this declaration I reviewed Defendants’ declarations, the Centers for Disease Control and Prevention (“CDC”) Title 42 Orders, public statistics on entries into the United States that are published by U.S. Customs and Border Protection (“CBP”) and DOT, as

well as public information from the CDC on COVID-19 screening and quarantine protocols for individuals who enter the United States through a port of entry or who enter irregularly between ports of entry. I have also reviewed all available data on Title 42 and its effect on individuals entering between ports of entry, as well as extensive public news reporting on the current status of testing and quarantine protocols in use by nongovernmental organizations which are assisting families released by CBP.

Title 42 Artificially Inflates The Total Number Of Border “Encounters”

8. In opposing an injunction in this case, DHS repeatedly points to the number of “border encounters.” Decl. of David Shahoulian ¶ 19. DHS argues that because of these high encounter rates, the Court should not enjoin Title 42 as applied to families.

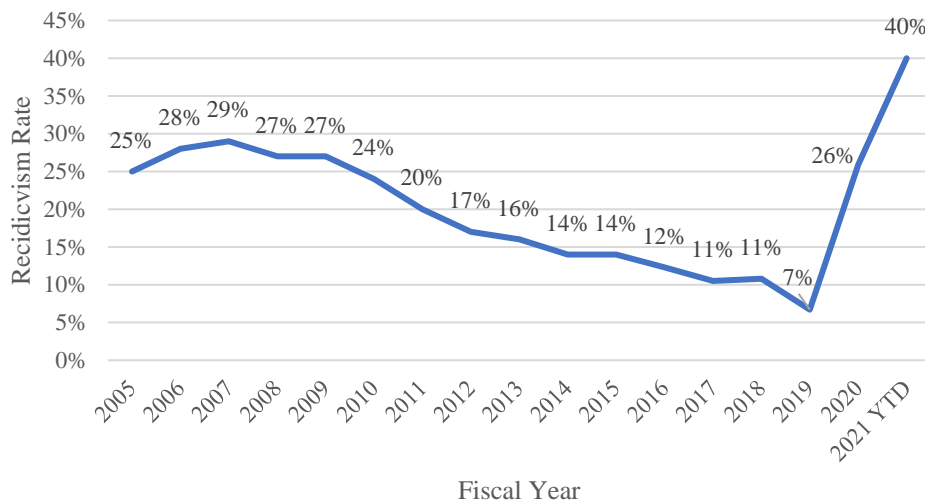
9. The statistics on which DHS is relying—rates of “encounters”—are misleading, however, because Title 42 itself has artificially inflated the number of “encounters” as compared to the actual number of *people* seeking to cross the border and find protection in the United States. That is because when a person attempts to cross multiple times—sometimes 3, 5, 10, or more—each time they are apprehended is counted as a new “encounter.” And Title 42 has dramatically increased how often people try to cross the border multiple times—as CBP officials have themselves admitted.

10. For over a decade, CBP has tracked the “recidivism rate” of individuals encountered at the southwest border, meaning the percent of those individuals apprehended at the border who have previously been apprehended. The agency calculates this rate by dividing the number of “unique individuals” who have been apprehended more than once at the border during a 12-month period by the total number of “unique individuals” apprehended over that same period. *See* Carla N. Argueta, *Border Security Metrics Between Ports of Entry*, Congressional Research Service, Feb.

16, 2016, at 7. The statistics refer to “unique individuals” because a single “unique individual” may be encountered multiple times. For example, if 100 unique individuals were encountered, and two of them had been encountered more than once in the past 12 months, the recidivism rate would be 2 percent.

11. From 2007 through 2019, recidivism rates fell steadily. But under Title 42, the recidivism rate rose from 6.7 percent in Fiscal Year 2019¹ to 24.9% in Fiscal Year 2020. *See* Customs and Border Protection, *U.S. Customs and Border Protection Budget Overview: Fiscal Year 2022 Congressional Justification* (2021), at CBP – 2. The recidivism rate has risen even further since, increasing to 40% for Fiscal Year 2021 through May 2021 (see Figure 1).

Figure 1: Border Recidivism Rate, Fiscal Year 2005 to FY 2021 (through May)²



12. That increase makes sense: After Title 42 went into effect, the overwhelming majority of undocumented Guatemalans, Hondurans, Salvadorans, and Mexicans who crossed the border were expelled under Title 42 were sent back to Mexico without a deportation order or an

¹ The federal government’s fiscal year runs from October 1 through September 30, so Fiscal Year 2021 began on October 1, 2020.

² *See* U.S. Customs and Border Protection, Congressional Budget Justifications, FY 2008-2022; data for Fiscal Year 2021 through May on file with author.

opportunity to access to the asylum process. As a result, the rate at which people crossed the border multiple times began to increase, as desperate individuals sought to cross repeatedly.

13. High recidivism rates since Title 42 went into place have led to a significant inflation of the overall count of encounters compared to previous years. For example, during the first nine months of Fiscal Year 2019, CBP recorded 780,479 encounters, of which 721,328 were unique encounters of people who had not been encountered in the previous 12 months. During the first nine months of Fiscal Year 2021, CBP recorded 1,119,204 encounters, of which 690,718 were unique encounters—30,610 *fewer* unique encounters than in Fiscal Year 2019 despite 338,725 *more* overall encounters.

14. The increased recidivism rate is new for family units, who have in previous years shown very low rates of recidivism. For example, through the first nine months of Fiscal Year 2019 the recidivism rate for members of family units was just 1.5% (6,354 out of 421,428 unique individuals encountered). By comparison, through the first nine months of Fiscal Year 2021, the recidivism rate for family units has grown to 16.8% (35,231 out of 209,862 unique individuals encountered). Reports by advocates along the border indicate that the true rate may be even higher. After a first failed attempt as a family, some families are breaking up to try to reenter as single adults and unaccompanied children, in the hope that the children at least will be exempted from Title 42 and the adults can take a shot at crossing on their own.

15. CBP has formally acknowledged the link between Title 42 and an increased recidivism rate. *See* Customs and Border Protection, *U.S. Customs and Border Protection Budget Overview: Fiscal Year 2022 Congressional Justification* (2021), at CBP – 2. As the agency explained: “[I]ncluding persons encountered by Border Patrol and expelled under Title 42 authority has substantially increased the number of persons counted by this [recidivism rate] measure.” *Id.*

16. DHS’s reliance on levels of encounters thus overstates the true level of migration, a fact which CBP has also acknowledged. “The large number of expulsions during the pandemic has contributed to a larger-than-usual number of noncitizens making multiple border crossing attempts, and means total encounters somewhat overstate the number of unique individuals arriving at the border.” Customs and Border Protection, *CBP Announces May 2021 Operational Update*, June 9, 2021, <https://www.cbp.gov/newsroom/national-media-release/cbp-announces-may-2021-operational-update>. In other words, Title 42 has led to an exaggerated measure of the total number of *individuals* coming to the United States by prompting a larger number of *encounters* of the same people attempting to enter over and over.

17. DHS’s declarant suggests that encounters are currently at a “historic” level. Shahoulian Decl. ¶ 20. But as explained, that encounter data is elevated because of Title 42, so the comparison to past years in which that program was not encouraging increased recidivism is comparing apples to oranges. Furthermore, even apart from the government’s failure to properly take into account the high recidivism rate, the declarant himself acknowledges that total encounters have been higher in the past, namely in Fiscal Year 2000.

18. DHS’s declarant also makes comparisons to the very early days of the COVID-19 pandemic, including arguing that family encounters have increased “100-fold” since April 2020. Shahoulian Decl. ¶ 23. But that is misleading as well, as movement around the world cratered during those months and Mexico went into a 70-day lockdown. Thus, using April 2020 as a baseline is fundamentally misleading when other more relevant baselines exist. For example, there were 88,587 encounters of family unit members in May 2019, which is 120 times higher than the April 2020 figure the declarant uses as his baseline—and is notably higher than the July 2021 figures that he cites.

19. In sum, the evidence indicates that Title 42 has increased the number of encounters at the southern border. And yet DHS is paradoxically using that inflated level of encounters to justify keeping Title 42 in place for families. Indeed, by encouraging repeat crossings, Title 42 may well be exacerbating the public health situation it is supposed to address: Each successive Title 42 “encounter” means an additional time that CBP must interact with a family, rather than just being processed once under ordinary immigration procedures.

Permitted Entries At Ports Vastly Outnumber Families Subjected To Title 42

20. Despite some restrictions DHS has imposed on non-essential travel at land ports of entry between the United States and Mexico, millions of individuals are permitted to enter the United States from Mexico every month. Permitted entries include not only all U.S. citizens and lawful permanent residents (traveling for any purpose including tourism), but also any individual travelling to attend school or work in the United States, all individuals “engaged in lawful cross-border trade” such as truck drivers, and any individual travelling for medical treatment in the United States. *See, e.g.,* U.S. Department of Homeland Security, *Notification of Temporary Travel Restrictions Applicable to Land Ports of Entry and Ferries Service Between the United States and Mexico*, 85 Fed. Reg. 22,353 (April 22, 2020).

21. Since March 2021, more than 10 million people a month have entered the United States from Mexico through a land port of entry. By June 2021, an average of 361,976 people per day were entering the country through land ports of entry along the southwest border. Notably, these restrictions do not include a requirement to present a negative test for COVID-19 nor do they require CBP officials to screen individuals for symptoms of COVID-19.

22. By contrast, approximately 2,583 individuals in family units are apprehended along the border every day. Shahoulian Decl. ¶ 19. Of those, according to recent government statistics,

currently approximately 86% are being processed into the country and not expelled. The remaining 14% who are expelled represent roughly 362 individuals expelled per day, or the equivalent of 0.1% of the average 361,976 individuals who entered from Mexico at land ports every day in June 2021. Thus, families subject to Title 42 make up a very small number of entries into the United States from Mexico. And unlike those entering the United States through ports of entry, in nearly all cases, families released by CBP and permitted to travel further into the United States are not only tested for COVID-19 but also given quarantine space if necessary—albeit generally by nonprofit organizations or local government agencies rather than the federal government.

EXECUTED this 10th day of August, 2021.

/s/ Aaron Reichlin-Melnick

AARON REICHLIN-MELNICK

DECLARATION OF ALAN E. VALDEZ JUÁREZ

I, Alan E. Valdez Juárez, declare that the following is true and correct:

1. I am the Executive Director of AVS Laboratorios (“AVS”), a medical analysis and testing laboratory service located in Piedras Negras, Coahuila, Mexico.
2. Earlier this year, AVS began conducting COVID-19 testing for asylum seekers in Piedras Negras who had received pre-approval for exemptions from the Title 42 Order and had been scheduled for appointments to present for processing into the United States at the Eagle Pass, Texas Port of Entry. The majority of the asylum seekers tested by AVS have been members of families who are scheduled to present at the Port of Entry as family units. As required by the United States government, all such testing has been performed within 72 hours of the asylum seekers’ scheduled appointments at the Port of Entry.
3. As of August 6, 2021, AVS has administered 404 COVID-19 tests for asylum seekers scheduled for appointments to enter the United States as part of this Title 42 exemption process. Of those 404 tests, 8 came back with positive results reflecting that the individuals tested were infected with COVID-19. This constitutes a test positivity rate of 1.98 percent.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on this 6th of August 2021 in Piedras Negras, Coahuila, Mexico.

s/ Alan E. Valdez Juárez

Alan E. Valdez Juárez

DECLARATION OF EDGAR RAMÍREZ LÓPEZ

I, Edgar Ramírez López, declare that the following is true and correct:

1. I am the owner and manager of Laboratorio Noralba ("Lab Noralba"), a medical testing laboratory located in Ciudad Acuña, Coahuila, Mexico.
2. Earlier this year, my lab began conducting COVID-19 testing for asylum seekers in Ciudad Acuña who had received pre-approval for exemptions from the Title 42 Order and been scheduled for appointments to present for processing into the United States at the Port of Entry in Del Rio, Texas. The majority of the asylum seekers tested by Lab Noralba have been members of families who are scheduled to present at the Port of Entry as family units. In accordance with requirements of the United States government, all such testing has been performed within 72 hours of the asylum seekers' scheduled appointments at the Port of Entry.
3. As of August 6, 2021, Lab Noralba has administered 186 COVID-19 tests for asylum seekers scheduled for appointments to enter the United States as part of this Title 42 exemption process. Of those 186 tests to date, none has yet yielded a positive result indicating that the individual tested was infected with COVID-19.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on this 6th of August, 2021, in Ciudad Acuña, Coahuila, Mexico.

s/ Edgar Ramírez López

Edgar Ramírez López

CERTIFICATE OF TRANSLATION

I, Morgan Russell, hereby certify and swear under penalty of perjury that I am competent to translate between English and Spanish, that I translated the content of the foregoing declaration to Edgar Ramírez López in Spanish on August 6, 2021, and that he confirmed that its content is true and correct.

Executed on this 6th of August 2021 in Oakland, California.

s/ Morgan Russell

Morgan Russell

DECLARATION OF SAMUEL THOMAS BISHOP

I, Samuel Thomas Bishop, declare as follows:

1. I am the Mexico Country Director for Global Response Management (“GRM”), a veteran-led international medical non-governmental organization that provides emergency medical services to vulnerable populations displaced by conflict, war, or disaster.
2. As part of its operations in Matamoros, Tamaulipas, Mexico, GRM conducts SARS-CoV-2 rapid antigen testing for asylum seekers and others in need of free COVID-19 testing services. The overwhelming majority of people who have received COVID-19 antigen testing at our clinic in Matamoros are asylum seekers who have received pre-approval for exemptions from the Title 42 Order and been scheduled for appointments to present for processing at the Brownsville Port of Entry. As required by the United States government, all such testing for exemption appointments is performed within 72 hours of the asylum seekers’ scheduled appointments at the Port of Entry.
3. During the month of July 2021, GRM administered 1,111 SARS CoV-2 antigen tests in Matamoros. Of those tests, 9 came back positive for SARS-CoV-2 antigens. That constitutes an antigen positivity rate of 0.81%. It is important to understand that this is not a community prevalence rate. Rather it is the antigen positivity rate of individuals who were tested in our clinic. It is also important to note that rapid antigen tests, like all tests, are not 100% accurate.

I declare under penalty of perjury that the foregoing is true and correct. Executed on this 10th of August 2021 in Austin, Texas.

X 
Samuel Thomas Bishop

DECLARATION OF LUIS ALBERTO LIZARRAGA TOLENTINO

I, Luis Alberto Lizarraga Tolentino, declare that the following is true and correct:

1. I am an Administrative Assistant at Clinica Medica International (“CMI”), a medical examination and testing company specializing in immigration-related medical exams and testing. CMI has testing facilities in Ciudad Juárez and Tijuana, Mexico.
2. Over the last several months, CMI has conducted COVID-19 testing for asylum seekers in Tijuana who had received pre-approval for exemptions from the Title 42 Order and scheduled for appointments to present for processing into the United States at the San Ysidro Port of Entry in California. The majority of the asylum seekers tested by CMI in Tijuana have been members of families who are scheduled to present at the Port of Entry as family units. In accordance with requirements from the United States government, all such testing has been performed within 72 hours of the asylum seekers’ scheduled appointments at the Port of Entry.
3. Through August 7, 2021, CMI administered 2,644 COVID-19 tests for asylum seekers scheduled for appointments to enter the United States at the San Ysidro Port of Entry as part of this Title 42 exemption process. Of those 2,644 tests, only 21 yielded a positive result indicating that the individual tested was infected with COVID-19. This constitutes a test positivity rate of 0.79 percent.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct. Executed on this 11th of August 2021 in Tijuana, Baja California, Mexico.

s/ Luis Alberto Lizarraga Tolentino

Luis Alberto Lizarraga Tolentino

DECLARATION OF CECILIA MENJIVAR, Ph.D.

I, Cecilia Menjivar, declare as follows:

I make this declaration based on my own personal knowledge and if called to testify I could and would do so competently as follows.

I. Summary

1. The government's assertion that an injunction in this case would be a "pull factor" triggering an increase in the arrival of asylum-seeking families requesting entry to the United States is unfounded. I have studied the causes of migration for decades and they are not a function of U.S. court decisions or changes in policy, but conditions in migrants' countries of origin. For refugees, threats to life or freedom in their countries of origin are a strong push factor that will likely overcome any disincentive created by harsher enforcement policies at the southern border.

II. Qualifications

2. I received my Ph.D. in Sociology from the University of California, Davis in 1992. My doctoral dissertation was titled "Salvadoran Migration to the U.S.: The Dynamics of Social Networks in International Migration."

3. Currently, I am a professor of Sociology at University of California, Los Angeles, where I hold the Dorothy L. Meier Chair in Social Equities. Previously, I was Foundation Distinguished Professor of Sociology at the University of Kansas. And prior to my position at KU, I was on the faculty at Arizona State University for 19 years, where I was Cowden Distinguished Professor with my appointment as full professor.

4. At UCLA, I am affiliated faculty in the Latin American Institute and the Center for the Study of International Migration, and Faculty Fellow of the California Center for

Population Research. At KU, I served on the executive board of the Center for Latin American Studies and co-founded and co-directed the Center for Migration Research. I was a Senior Fellow at the American Immigration Council's Immigration Policy Center in 2012-2013. There, I wrote a report on immigrant women as they go through the legalization process. I was one of 18 members of the National Academy of Sciences panel on immigrant integration and wrote a report summarizing the state-of-the-art research on immigrant integration. I assisted the United Nations High Commissioner for Refugees (UNHCR) in its 2015 report, *Women on the Run*, which documented the factors that drive female asylum seekers to flee Guatemala, El Salvador, and Honduras in search of protection in the United States. In addition, I am in charge of summarizing the sociological research about and from Central America for the Library of Congress' Handbook on Latin American Studies, published biannually. For the past 25 years I have taught courses on research methods, immigration, refugees, and gender violence.

5. I am the author or editor of six books addressing violence, gender, and immigration, primarily focusing on the context of Central American states. My first published book, *Fragmented Ties: Salvadoran Immigrant Networks in America*, was named one of the twelve most influential books on the family since 2000 in a review published in the journal *Contemporary Sociology*. My second book, *Enduring Violence: Ladina Women's Lives in Guatemala*, was published by the University of California Press in 2011 and received several awards; the Spanish translation was published in Guatemala in 2014. My third book, *Immigrant Families*, was published in 2016. In addition, I have edited fourteen volumes of essays and articles related to immigration and the lives of Central American and immigrant women and children. I am co-editor *The Oxford Handbook of Migration Crises*, published by the Oxford

University Press in 2019, and of the volume *Undocumented and Unaccompanied: Children of Migration in the European Union and the United States*, to be published by Routledge in 2021.

6. Since 1993, I have published more than 150 peer-reviewed scholarly articles, book chapters, and contributions to encyclopedias, many of which present the results of original quantitative and qualitative research about migration to the United States from Central America. A complete list of my publications is included in my C.V. A true and correct copy of my C.V. is attached as Exhibit A. I currently sit on the Editorial Board of eleven journals dedicated to the fields of sociology, migration, and Latin American and Latino Studies.

7. In August 2020, I was awarded the Distinguished Career Award by the American Sociological Association's Section on International Migration. I currently serve as President of the American Sociological Association.

8. I have previously provided affidavits or testimony as an expert witness in more than four dozen cases in federal court, in immigration court, or in asylum proceedings.

9. My opinions derive from the three decades of study that I have carried out specific to the topic of migration; my hundreds of interviews with migrants and potential migrants from Central America and their families; review of the relevant research on the topic in my field of general migration, and more specifically of migration and violence in Central America; and my understanding of prevailing norms of social science research methods as developed through my training, scholarship, and teaching.

III. Findings and Opinions

10. I write to address the assertions made by government declarants in this case that an injunction prohibiting application of the Title 42 exemption process may result in an increase in the number of asylum-seeking families arriving at the southwest border.¹

11. These claims that an injunction prohibiting the government from enforcing the Title 42 order against asylum-seeking families would serve as a migration “pull factor” are unfounded.

12. As background, it is helpful to understand that immigration across the southwest border has fluctuated in recent years but has declined significantly overall in the past two decades.² The number of migrants apprehended by U.S. Border Patrol officials at the U.S.-Mexico border in fiscal year (“FY”) 2018 was 396,579.³ In FY 2019, notwithstanding the Trump administration’s introduction of controversial policies such as the Migration Protection Protocols (MPP)⁴—which forced asylum seekers to remain in dangerous conditions in northern Mexico while awaiting U.S. immigration court hearings—the number of apprehensions rose to 851,508.⁵ The number of apprehensions in FY 2020 returned to 400,651, slightly higher than the FY 2018

¹ See Declaration of Troy A. Miller ¶ 7, ECF No. 82-2 (Feb. 17, 2021); Declaration of Russell Hott ¶ 31, ECF No. 76-3 (Feb. 17, 2021).

² National Public Radio, *3 Charts That Show What’s Actually Happening Along The Southern Border* (June 22, 2018), <https://www.npr.org/2018/06/22/622246815/unauthorized-immigration-in-three-graphs>; Stuart Anderson, *There Is No Crisis At The Border—And DHS Stats Prove It*, *Forbes*, June 25, 2018, <https://www.forbes.com/sites/stuartanderson/2018/06/25/there-is-no-crisis-at-the-border-and-dhs-stats-prove-it/#2ef5fded112a> (“Donald Trump talked about ‘the illegal immigration crisis on the southern border.’ But data coming from his own administration show there is no such crisis.”)

³ U.S. Customs and Border Protection, Southwest Border Migration FY2018, <https://www.cbp.gov/newsroom/stats/sw-border-migration/fy-2018>.

⁴ Migration Protection Protocols, Department of Homeland Security (Jan. 24, 2019).

⁵ U.S. Customs and Border Protection, Southwest Border Migration FY2019, <https://www.cbp.gov/newsroom/stats/sw-border-migration/fy-2019>.

figure.⁶ In comparison, southwest border apprehensions were much higher in previous years. For example, FY 2000 saw a record high of 1,643,679 apprehensions.⁷ Each of the previous three decades saw multiple years in a row where border apprehensions exceeded one million, e.g., FY 1983 through 1987, FY 1990 through 1994, FY 1995 through 2001, and FY 2004 through 2006.⁸

13. Turning to the Title 42 expulsion process at issue in this case, the evidence does not indicate that enforcement of the CDC Title 42 Orders has served as a deterrent to decrease migration at the southwest border. The government's declarant, Mr. Miller, acknowledges in his declaration that both the number of total so-called CBP "encounters" along the southwest border *increased* every month from April 2020 to January 2021—and that the number of "encounters" involving families increased in all but one of those months—notwithstanding enforcement of the Title 42 process against single adult asylum seekers, families, and unaccompanied children throughout that period.⁹

14. The evidence therefore does not indicate that enforcement of the Title 42 process to summarily expel asylum seekers and unaccompanied children since late March 2020 suppressed or deterred the migration of those groups to the southwest border. This lack of deterrent effect of the Title 42 process was predictable, as it is well recognized that such harsh immigration enforcement policies are ineffective at deterring migrants fleeing violence, as is the case for most asylum-seeking families who arrive at the southern border. Because large-scale

⁶ U.S. Customs and Border Protection, Southwest Border Migration FY2020, <https://www.cbp.gov/newsroom/stats/sw-border-migration-fy2020>.

⁷ U.S. Border Patrol, Southwest Border Sectors, Total Illegal Alien Apprehensions By Fiscal Year, <https://www.cbp.gov/sites/default/files/assets/documents/2019-Mar/bp-southwest-bordersector-apps-fy1960-fy2018.pdf>. This document is attached as Exhibit B to this declaration.

⁸ *Id.*

⁹ Declaration of Troy A. Miller ¶¶ 5, 12, ECF No. 82-2 (Feb. 17 2021).

application of the Title 42 process did not reduce the number of such asylum seekers arriving at the border, there is no evidence or any reason to believe that a preliminary injunction enjoining application of the Title 42 process to asylum-seeking families will increase the number of such families arriving at the border.

15. Mr. Miller’s sole example of a previous court order that purportedly “served as a pull factor” for asylum seekers fleeing to the United States is unpersuasive. Mr. Miller reports that in the ten-week period from the Court’s entry of its preliminary injunction in *P.J.E.S. v. Wolf* on November 18, 2020 and the end of January 2021, CBP encounters of unaccompanied children increased by 16.4 percent compared to the ten-week period preceding entry of the injunction.¹⁰ However, between April and November 2020, the number of reported “encounters” of unaccompanied children had already been steadily increasing each month compared to the month before: by 36 percent in May 2020; by 68 in June 2020; by 48 percent in July 2020; by 24 percent in August 2020; by 25 percent in September 2020; and again by 24 percent in October 2020.¹¹ Therefore, while it is true that “encounters” of unaccompanied children increased by 9 percent in December 2020 as compared to November 2020, and by 17 percent in January 2021 as compared to December 2020, these post-injunction monthly percentage increases were actually smaller than the corresponding increases that preceded the injunction, during months when unaccompanied children were being expelled pursuant to Title 42.¹² Similarly, such encounters of unaccompanied children decreased by 21 percent from April to May 2021—well after

¹⁰ Declaration of Troy A. Miller ¶ 7, ECF No. 76-2 (Feb. 17, 2021).

¹¹ U.S. Customs & Border Protection, Southwest Land Border Encounters, <https://www.cbp.gov/newsroom/stats/southwest-land-border-encounters> (last visited Aug. 5, 2021).

¹² *Id.*

unaccompanied children had been exempted from Title 42—before increasing again modestly in June 2021.¹³ When placed in the appropriate context of these larger fluctuations, including the months-long upward trend in unaccompanied child encounters that preceded the date of the *P.J.E.S.* injunction, there is no basis for Mr. Miller’s assumptions that a 16 percent increase in encounters of unaccompanied children in the weeks following the entry of the injunction is either significant or remotely attributable to the injunction itself.

16. Additionally, it is critical to keep in mind that CBP’s southwest border enforcement “encounter” numbers are inflated. This is because the immediate expulsion of families and others across the border into Mexico under Title 42 leads to repeat encounters involving the same previously-expelled individuals as they attempt to cross again and again. In an Operational Update published on July 16, 2021, CBP acknowledged: “The large number of expulsions during the pandemic has contributed to a larger-than-usual number of migrants making multiple border crossing attempts, which means that total encounters somewhat overstate the number of unique individuals arriving at the border.”¹⁴ Thus, “between March 20, 2020 [when the first CDC Title 42 Order was issued] and February 4, 2021, 38 percent of all [southwest border] encounters involved recidivism, or individuals who have been apprehended

¹³ *Id.*

¹⁴ U.S. Customs & Border Protection, *CBP Announces June 2021 Operational Update*, July 16, 2021, <https://www.cbp.gov/newsroom/national-media-release/cbp-announces-june-2021-operational-update>.

more than once.”¹⁵ In June 2021, the repeat-encounter rate was 34 percent.¹⁶ By comparison, the equivalent “re-encounter rate” averaged just 14 percent from FY 2014 through FY 2019.¹⁷ Thus, while CBP reported that it had “encountered 188,829 persons attempting entry along the Southwest Border” in June 2021, “[t]he number of unique new encounters in June 2021 was 123,838.”¹⁸ More broadly, “[t]he number of unique individuals encountered” during FY 2021 through June 2021 was “454,944 compared to 489,760 during the same time period in 2019.”¹⁹

17. The current numbers of apprehensions at the southwest border are partly due to the presence of a large population of asylum seekers stranded in Mexico who have not been able to seek protection in the United States. Several factors explain the presence of this population of vulnerable people in Mexico who repeatedly seek to cross into the United States. First, as explained in greater detail below, the high rates of violence in northern Central America continued and increased in some respects during the COVID-19 pandemic. Second, “historic lockdowns” and “strict restrictions on movement” in northern Central America and in Mexico during the first months of the pandemic delayed the ability of many asylum seekers to migrate in

¹⁵ U.S. Customs & Border Protection, *CBP Announces January 2021 Operation Update*, Feb. 10, 2021, <https://www.cbp.gov/newsroom/national-media-release/cbp-announces-january-2021-operational-update>; see also, e.g., Julián Aguilar, *Border Apprehensions Down Sharply in 2020 but Spiked in September*, Texas Tribune (Oct. 14, 2020) (reporting that the Title 42 policy “has led to an increase in repeat attempts by individual crossers and quoting U.S. Border Patrol Chief Rodney Scott as acknowledging that “recidivism has gone up dramatically,” and is “in excess of 50%” in some areas of the border).

¹⁶ *Id.*

¹⁷ U.S. Customs & Border Protection, *CBP Announces June 2021 Operational Update*, July 16, 2021, <https://www.cbp.gov/newsroom/national-media-release/cbp-announces-june-2021-operational-update>.

¹⁸ *Id.*

¹⁹ *Id.*

search of safety.²⁰ The Trump administration’s suspension of the normal processing of asylum seekers into the United States (including the MPP program and ultimately Title 42) could not and did not dissuade or prevent migrants from fleeing the violence they fear in their countries of origin. However, those measures—and the continued use of Title 42 by the current administration—have prevented asylum seekers from being processed into the United States. This has created a large backlog of refugees stranded in especially dangerous areas of northern Mexico—a country which is in general one of the most dangerous migrant corridors in the world, and has become increasingly so. These families and individuals understandably try repeatedly to cross into the United States to seek safety from kidnapping, rape, and other dangers.²¹

18. Even considering the inflated nature of the “encounter” figures that CBP has used since the imposition of the Title 42 process in March 2020, it is clear that keeping Title 42 in place through the remainder of last year did not deter outward migration by asylum seekers. As Mr. Miller acknowledged in his declaration, the increase in total southwest border encounters from 17,106 in April 2020 to 78,323 in January 2021 “represent[ed] an increase of 357

²⁰ See, e.g., Laura Gottesdiener, Lizbeth Diaz & Sarah Kinoshian, *Central Americans Edge North as Pandemic Spurs Economic Collapse*, Reuters (Oct. 15, 2020) (reporting that in the early months of the pandemic, “U.S.-bound migration plummeted as Central American . . . countries imposed strict restrictions on movement in response to the growing coronavirus pandemic”; and that these “controls on movement across the region, shrinking resources available to many potential migrants, and lingering fears of the pandemic still raging in Mexico and the United States” largely “kept a lid on migration” into Fall 2020), <https://www.reuters.com/article/us-usa-immigration-centralamerica/central-americans-edge-north-as-pandemic-spurs-economic-collapse-idUSKBN2701GL>; Sofia Menchu & Nelson Renteria, *El Salvador, Guatemala Ramp Up Coronavirus Fight, Impose Curfews*, Reuters (Mar. 21, 2020), <https://www.reuters.com/article/us-health-coronavirus-el-salvador/el-salvador-guatemala-ramp-up-coronavirus-fight-impose-curfews-idUSKBN21904R>.

²¹ See, e.g., Al Jazeera News, *“I Don’t Feel Safe”: Migrants Face Attacks, Threats in Mexico—New Report Finds 492 Attacks Against Migrants stuck at US-Mexico Border or Expelled from US to Mexico Since January 21* (Apr. 21, 2021), <https://www.aljazeera.com/news/2021/4/21/i-dont-feel-safe-migrants-face-attacks-threats-mexico>.

percent”;²² and the increase in family unit encounters from 738 in April 2020 to 7,490 in January 2021 “represent[ed] a 915 percent increase.”²³ Accordingly, it is clear that aggressive enforcement of the Title 42 process by the Trump administration between April 2020 and January 2021 did not deter migration to the southwest border either overall or with respect to families specifically.

19. The Title 42 program’s lack of deterrent effect on migration is not at all surprising, even for such an extreme departure from the United States’ obligations to receive asylum seekers. Studies of the effects of immigration enforcement policies have shown that the imposition of harsher measures on asylum seekers has no deterrent effect on migration. The International Detention Coalition has explained that “asylum seekers’ destinations are determined largely by historical, economic, and reputational factors that cannot be influenced by immigration policy makers.”²⁴ DHS’s own Advisory Committee on Family Residential Centers concluded that “[d]espite efforts to deter immigration from [Central American] countries, unaccompanied children and families (mainly mothers and children) continue to brave the treacherous journey to a safer location” “rather than face violence in their home countries.”²⁵ This point has been thoroughly documented, including in UNHCR’s 2015 *Women on the Run* report and in my own work. In interviews I personally conducted with women in Guatemala and with my research team with deportees in Honduras, interview subjects repeatedly stated that they

²² Declaration of Troy A. Miller ¶ 12 (Feb. 17, 2021).

²³ *Id.* ¶ 5.

²⁴ Int’l Detention Coalition, *Does Detention Deter?* at 4 (Apr. 2015), available at https://idcoalition.org/wp-content/uploads/2015/04/Briefing-Paper_Does-Detention-Deter_April-2015-A4_web.pdf (comparing migration policies in twenty industrialized countries against the number of asylum seekers over a fourteen-year period).

²⁵ DHS Advisory Committee, *Report on Family Residential Centers* at 109 (Sept. 30, 2016), <https://www.ice.gov/sites/default/files/documents/Report/2016/ACFRC-sc-16093.pdf>.

knew the journey to the United States would be perilous but that the dangers they faced in Guatemala and Honduras left them no alternative but to leave. The Honduran deportees had previously endured harrowing journeys through Mexico but were already planning to leave again because living in Honduras was impossible.

20. Moreover, in a memorandum prepared in early 2019, former Acting Secretary of Homeland Security Chad Wolf acknowledged that the then-“recent[ly] implement[ed]” MPP program “w[ould] not ultimately affect the flow of migrants heading north” from Mexico and Central America.²⁶ Mr. Wolf reached this conclusion based in part on the lack of other safe destinations for asylum seekers in the region.²⁷ Indeed, as noted above, despite DHS’s large-scale implementation of MPP and other similarly unprecedented and extreme measures to prevent asylum seekers from gaining protection in the United States throughout 2019, southwest border apprehensions increased significantly in FY 2019 from FY 2018.

21. These same conclusions regarding the failure of prior harsh enforcement efforts to deter asylum seekers apply equally to the Title 42 process. The nature of the migrant flows of asylum-seeking families undercuts any theorized deterrent effect of harsher immigration policies. While the overall number of migrants has decreased dramatically in recent years compared to two decades ago, the number of migrants from the smaller countries in northern Central America has continued to grow in recent years,²⁸ and includes a higher percentage of women, children,

²⁶ Chad F. Wolf, Senior Official Performing the Duties of the Under Secretary, DHS Office of Strategy, Policy, and Plans, Department of Homeland Security, Memorandum for the Secretary re: Migrant Protection Protocols as only One Piece of a Comprehensive Approach to Regional Migration Management at 1, *available at* <http://www.dmrp-ep.org/wp-content/uploads/2020/11/2019-ICLI-00062.pdf>.

²⁷ *Id.* at 1-2.

²⁸ D’vera Cohn et al., *Rise in U.S. Immigrants From El Salvador, Guatemala and Honduras Outpaces Growth From Elsewhere*, Pew Research Ctr.: Hispanic Trends (Dec. 7, 2017)

and families because they are being driven from their homes due to horrific violence in those countries.²⁹ “By the end of 2019, nearly 800,000 people from El Salvador, Guatemala and Honduras had sought protection either within their countries or had crossed international borders to escape escalating levels of gang violence and persecution, among other push factors. In this context, children and adolescents are particularly vulnerable.”³⁰ “Defying the gangs is extremely dangerous, particularly as retaliation not only affects the youth who refuse to join them, but also their family members who become targets of attacks. . . . This targeted violence and a lack of overall safety within their communities and countries has driven many families to leave their homes.”³¹

22. In northern Central America, law enforcement organizations, including especially the police, are frequently bribed by gangs or otherwise complicit with gangs’ activities. Even law enforcement officers who are not on gangs’ payrolls quite commonly acquiesce in gang activities and demands due to their own fears of violent retaliation from the gang if they fail to cooperate. Officers know, for example, that if they fail to notify a gang that someone has filed a complaint about the gang, the officers and their families may be targeted next. Therefore, meaningful law enforcement protection is practically non-existent and people—especially women—often give up on reporting threats and other crimes to authorities.

[hereinafter Pew Research, Outpaces Growth], <http://www.pewhispanic.org/2017/12/07/rise-in-u-s-immigrants-from-el-salvador-guatemala-and-honduras-outpaces-growth-from-elsewhere/>

²⁹ See Rocio C. Labrador & Danielle Renwick, *Central America’s Violent Northern Triangle*, Council on Foreign Relations (Jan. 19, 2016), <http://www.cfr.org/transnational-crime/centralamericas-violentnortherntriangle/p37286>; Dennis Stinchcomb & Eric Hershberg, Ctr. for Latin Am. & Latino Studies, *Unaccompanied Migrant Children from Central America* 13 (Nov. 2014), <http://ssrn.com/abstract=2524001>.

³⁰ UNHCR & UNICEF, *Families on the Run: Why Families Flee from Northern Central America* (Dec. 2020), available at <https://familiesontherun.org/#>.

³¹ *Id.*

23. Because families coming to the United States from Mexico and the northern part of Central America are driven primarily by violence, a policy of summary removal is unlikely to deter them from taking the journey to the United States' southern border. For a refugee, threats to life or freedom in his or her country of origin are a strong push factor that will likely overcome any disincentive created by harsher enforcement policies at the southern border.³²

24. The overwhelming majority of families crossing the United States' southern border in recent years have been fleeing violence both inside and outside the home in Mexico and northern Central America—"one of the most dangerous places on earth."³³ According to the most recent U.N. Office on Drugs and Crime Global Study on Homicide, which includes data through 2018, the intentional homicide rate in El Salvador that year was 52 per 100,000 people, the rate in Honduras was 38.9 per 100,000, and that in Guatemala was 22.5 per 100,000.³⁴ By comparison, the homicide rate in the United States was 5 per 100,000, and the global average was 5.8 per 100,000.³⁵

25. Women and children are particularly vulnerable to violence in northern Central America. In recent years, women in the region have been subject to "rampant violence—murders, disappearances, femicide, and acts of torture."³⁶ The current violence in northern

³² See, e.g., UNHCR, *Back to Basics* at iii (Apr. 2011); see also Jeremy Slack et al., *In Harm's Way: Family Separation, Immigration Enforcement Programs and Security on the US-Mexico Border*, 3 J. on Migration & Human Security, No. 2, 2015, at 114-16 ("[D]eterrence by arrest, incarceration and removal is largely ineffective. The majority of respondents expressed that they intend to return to the United States sometime in the future.").

³³ Muzaffar Chishti & Faye Hipsman, *The Child and Family Migration Surge of Summer 2014: A Short Lived Crisis with a Lasting Impact*, 68 J. Int'l Aff. 95, 95-96 (2015).

³⁴ U.N. Office on Drugs & Crime, *Victims of Intentional Homicide, 1990-2018*, <https://dataunodc.un.org/content/data/homicide/homicide-rate>.

³⁵ *Id.*

³⁶ Carolina Campos & Andrew Stefan, *The Salvadoran Dream Is Now Survival—Even If It Means Illegal Migration to the U.S.*, Reader Supported News, Jan. 10, 2016, available at

Central America flows from “a decades-old crisis that has reached unimaginable and intolerable levels.”³⁷ UNHCR has found that women in particular “have been forced to flee their homelands” in northern Central America due to a “surging tide of violence,” including rape, assault, extortion, disappearances, exposure to gun fights, and death threats by armed criminal groups.³⁸ Such violence and victimization have for years been the most consistent factors cited by Central American women and children for their migration to the United States.³⁹

26. A December 2020 joint report from UNHCR and UNICEF confirms that “the many forms of violence and persecution that have driven forced displacement in [northern Central America] for years on end[] have continued and, in some instances, worsened during” the COVID-19 pandemic, including “an increase in reports of domestic violence since the beginning of the pandemic, while child protection services have been cut back”; and a rise in “sexual and gender-based violence.”⁴⁰ The U.N. report indicates that gang and gender violence and similar “push factors” remain dominant forces driving migrants—and particularly families—to flee northern Central America. “Forty-four percent of the[] families [surveyed in 2020 in El Salvador, Guatemala, and Honduras] reported not feeling safe in their places of residence and living under threats of violence during the six months prior to the study,” and “23 percent

<https://readersupportednews.org/opinion2/277-75/34535-focus-the-salvadoran-dream-is-nowsurvival-even-if-it-means-illegal-migration-to-the-us>.

³⁷ *Id.*

³⁸ UNHCR, *Women on the Run: Run: First-hand Accounts of Refugees Fleeing El Salvador, Guatemala, Honduras, and Mexico*, at i, 2, 4 (Oct. 2015), available at <https://www.unhcr.org/en-us/publications/operations/5630f24c6/women-run.html>.

³⁹ *Id.* at 4; UNHCR, *Children on the Run: Unaccompanied Children Leaving Central America and Mexico and the Need for International Protection*, at 31 (Mar. 2014), available at <https://www.unhcr.org/56fc266f4.html>.

⁴⁰ UNHCR & UNICEF, *Families on the Run: Why Families Flee from Northern Central America* (Dec. 2020), <https://familiesontherun.org/#>.

indicated they had suffered violence and intimidation by gangs.”⁴¹ Similarly, among Central American asylum seekers in surveyed by the U.N. study in Mexico, 49 percent “identified violence as their main motivation to flee from northern Central America,” with 30 percent reporting that they had fled in response to death threats.⁴²

27. Reported “disappearances”—especially of women—have increased considerably in northern Central America. Such “disappearances” are not registered in official homicide statistics, which therefore likely significantly undercount the number of people—and particularly the number of women—being murdered in these countries. This past month, the leader of a women’s rights organization in El Salvador recently informed me that her group has estimated that for every woman officially recorded as murdered in El Salvador, three women are reported “disappeared.” The ratio for men is roughly one to one.

28. It was this ongoing and increasing societal violence—and not any potential policy change in the United States—that formed the basis for the U.N.’s prediction in December 2020 that the numbers of asylum seekers migrating in the region would increase. The U.N. report explained “that as [regional pandemic-related] movement restrictions ease, more people will flee—internally or across international borders—to escape extortion and violence by criminal groups, domestic violence, as well as other human rights abuses, amongst other push factors.”⁴³ The head of UNICEF reiterated in an April 2021 briefing that Guatemala, El Salvador, and Honduras have “[a]mong the highest homicide and femicide rates in the world” and that asylum seekers from the region “are fleeing a tangle of dangers” including “[v]iolence and death threats”

⁴¹ *Id.*

⁴² *Id.*

⁴³ *Id.*

and “[w]eak or non-existence safety nets and infrastructure,” exacerbated in part by “relentless natural disasters like last November’s back-to-back hurricanes.”⁴⁴

29. Notably, the August 2, 2021 CDC Title 42 Order itself notes that, “[a]ccording to data from DHS, encounters at the southern border have been rising since April 2020 due to several factors, including ongoing violence, insecurity, and famine in the Northern Triangle countries of Central America (El Salvador, Honduras, Guatemala).”⁴⁵ The government’s most recent declaration likewise acknowledges that potential further increases in numbers of encounters at the southwest border will be “[d]ue to the impacts of the current pandemic, and the deteriorating economic conditions and increasing instability in the region from which the migrants originate.”⁴⁶

30. This is because, for families fleeing crime and violence in the northern countries of Central America in particular, “no amount of danger or chance of deportation [will be] sufficient to dissuade [them] from leaving.”⁴⁷ A 2014 Vanderbilt University survey of prospective migrants still living in the northern region of Central America, for example, indicated that U.S. immigration policy had no significant impact on such individuals’ decisions

⁴⁴ UNICEF, *Remarks of UNICEF Executive Director Henrietta Fore*, Apr. 20, 2016, available at <https://www.unicef.org/press-releases/unicef-executive-director-henrietta-fores-remarks-virtual%E2%80%AFbriefing-humanitarian>.

⁴⁵ Centers for Disease Control & Prevention, Public Health Reassessment & Order Suspending the Right to Introduce Certain Persons from Countries where a Quarantinable Communicable Disease Exists, ECF No. 114, Ex. A, at 13 n.70 (Aug. 2, 2021).

⁴⁶ Declaration of David Shahoulian ¶ 23, ECF No. 113-1 (Aug. 2, 2021). However, as explained above, there is no basis for Mr. Shahoulian’s unexplained further assertion that “these numbers will climb even higher if the CDC Order is enjoined.” *See id.*

⁴⁷ Jonathan T. Hiskey et al., *Understanding the Central American Refugee Crisis: Why They Are Fleeing and How U.S. Policies Are Failing to Deter Them*, Am. Immigr. Council (Feb. 1, 2016), <https://www.americanimmigrationcouncil.org/research/understanding-central-american-refugee-crisis>.

to leave the region: “[K]nowledge of the risks of migration—deportation, border conditions, and treatment in the United States—played no significant role in who had plans to migrate and who did not have such plans.”⁴⁸ Indeed, “all else being equal, individuals who thought deportations had increased in 2014 were just as likely to report intentions to migrate as those individuals who thought deportations had decreased since 2013.”⁴⁹ These findings are consistent with my own research in Guatemala and Honduras, as well as the research of other experts in the field.

31. Another study used survey data from El Salvador, Guatemala, and Honduras to assess whether enhanced deterrence efforts by the United States mitigate Central American immigration caused by crime and violence in the country of origin.⁵⁰ The study revealed that “individuals in El Salvador and Honduras who have experienced crime first hand multiple times are particularly likely to express intentions to migrate” and “persist in their migration plans even if they are fully aware of the dangers they are likely to encounter along the way and the high probability of deportation if they make it to the United States.”⁵¹ There is, in fact, an “utter lack of statistical significance” when it comes to U.S. immigration policy on migration from northern Central America, which “raise[s] questions about the effectiveness of current US efforts to deter future emigration from countries with high levels of crime and violence.”⁵² This means that “views of the dangers of migration to the United States, or the likelihood of deportation, do not seem to influence emigration plans in any meaningful way.”⁵³

⁴⁸ *Id.*

⁴⁹ *Id.*

⁵⁰ Jonathan T. Hiskey et al., *Leaving the Devil You Know: Crime Victimization, US Deterrence Policy, and the Emigration Decision in Central America*, 53 *Latin Am. Res. Rev.* 429, 430 (2018).

⁵¹ *Id.*

⁵² *Id.* at 442.

⁵³ *Id.* at 441.

32. Again, all of this evidence is entirely consistent with the admission in Mr. Miller's declaration that even with the enforcement of the Title 42 process effecting a nearly complete abandonment of U.S. obligations to accept asylum seekers between April 2020 and January 2021, migration was not deterred and CBP border encounters instead increased each month both overall and (in each month but one) specifically as to families.⁵⁴

IV. Conclusion

33. Title 42 process itself predictably did not deter migration by asylum-seeking families, and there is no reason to expect that a preliminary injunction enjoining the application of the Title 42 process against such families will serve as a "pull factor" prompting additional migration by families beyond what would otherwise occur. Rather, in the coming months—as in recent months and in previous years, and in line with UNHCR and UNICEF's prediction in December 2020⁵⁵—we should expect the number of families arriving at the southern border to be driven by the violence and harm such families are fleeing in their countries of origin.

I declare under penalty of perjury that the foregoing is true and correct. Executed August 9, 2021 in Los Angeles, California.


DR. CECILIA MENJIVAR

⁵⁴ Declaration of Troy A. Miller ¶ 7, ECF No. 76-2 (Feb. 17, 2021).

⁵⁵ UNHCR & UNICEF, *Families on the Run: Why Families Flee from Northern Central America* (Dec. 2020), available at <https://familiesontherun.org/#>.

Exhibit A

Cecilia Menjivar

Professor and Dorothy L. Meier Social Equities Chair
(August 2021)

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Positions Held

2018-present Professor and Dorothy L. Meier Social Equities Chair, Department of Sociology, UCLA
2015-2018 Co-Director, Center for Migration Research, University of Kansas
2015-2018 Foundation Distinguished Professor, Department of Sociology, University of Kansas
2012- 2015 Associate Director, Sanford School of Social and Family Dynamics, Arizona State University
2008- 2015 Cowden Distinguished Professor, School of Social and Family Dynamics
2005-2007 Associate Professor, Program in Sociology, School of Social and Family Dynamics, ASU.
2001-2005 Associate Professor, School of Justice and Social Inquiry, Arizona State University.
1996-2001 Assistant Professor, School of Justice and Social Inquiry, Arizona State University.
9/94-12/95 Post-doctoral Fellow, RAND Corporation.
8/92-8/94 Chancellor's Postdoctoral Fellow, University of California, Berkeley.

Affiliations, Appointments, and Visiting Positions

2021- Faculty Fellow (Affiliate since 2018), California Center for Population Research, UCLA
2019 Department of Sociology/HOMing Project, University of Trento, Italy (Summer)
2019- Founding member, National Science Foundation College of Reviewers (GCR, NSF-wide program)
2019- Immigrant Youth Task Force, UCLA
2014-2015 Member, National Academy of Sciences, Engineering and Medicine Committee on the
Integration of Immigrants into American Society (see Waters & Pineau, 2015 volume below).
2014 Visiting Scholar (one week), Center for Gender & Leadership, Yerevan State University, Armenia
2012-2013 Immigration Policy Center, Washington DC, Senior Fellow (area: Immigrant Women)
2006-2008 Research Affiliate, Center on Race, Religion, and Urban Life (CORRUL), Rice University
2006 Fellow (not in residence), Mexican American and U.S. Latino Research Center, Texas A & M
2006-2012 Member, Working Group on Childhood and Migration (Drexel University)
2005 Visiting Professor, Yerevan State University, Yerevan, Armenia (Fall)
2003 Visiting Scholar, Maison des Sciences de l'Homme, Paris, France (Spring)
2000- External Research Associate, Center for Comparative Immigration Studies, UC San Diego

Education

1992 Ph.D., Sociology. University of California, Davis.
1986 Master of Arts, Sociology. University of California, Davis.
1983 Master of Science, International Education. University of Southern California. Areas: Policy,
Planning, and International Development.
1981 Bachelor of Arts, Psychology and Sociology, University of Southern California.

Workshops and Additional Training

1996 Southwest Institute for Research on Women Summer Institute, University of Arizona.
1989 University of Texas, Austin. IUPLR (training in qualitative methods). Summer.
1986, 1988 University of Michigan, Ann Arbor, Summer ICPSR (training in quantitative methods).
1985-86 Graduate Group in Demography, UC Berkeley. Demographic Theory and methods.
1984 University of Texas, El Paso (LULAC). Training in counseling immigrant teenagers.
1983 University of California, Los Angeles. Non-formal Education and Development Seminars.
1982 Université de Genève, Faculté de Lettres, Langue et Civilisation. Intermediate-advance French language.

Awards and Honors

2020-2023 President-elect, President, Past-President, American Sociological Association
 2013-2016 Vice-President elect, Vice-President, Past Vice-President, American Sociological Association

Research and Scholarship

2020 Distinguished Career Award, International Migration Section, American Sociological Association
 2018 2017 *Feminist Criminology* Best Article Award for ““Humane” Immigration Enforcement”
 2017 Elected member, Sociological Research Association
 2017 Andrew Carnegie Fellow
 2017 Honorable Mention, Louis Wirth Best Article Award International Migration Section, American Sociological Association, 2017, for “Transformative Effects of Immigration Law.”
 2014 John Simon Guggenheim Fellow
 2014 The Victoria Foundation Eugene Garcia Research Award
 2014 Best Article Award, Latino/a Section, American Sociological Association, for *Legal Violence*
 2013 *Fragmented Ties* among 12 most influential books on family since 2000, *Contemporary Sociology*
 2013 Best Article Award, Latino Studies Section, Latin American Studies Association, for *Legal Violence*
 2012 Distinguished Scholarship Award, Pacific Sociological Association, for *Enduring Violence*.
 2012 Mirra Komarovsky Book Award, Eastern Sociological Society, for *Enduring Violence*.
 2011 Hubert Herring Best Book Award, Pacific Coast Council on Latin American Studies, *Enduring Violence*.
 2010 Julian Samora Distinguished Career Award, Latinos/as Section, American Sociological Association.
 2009 Alpha Kappa Delta Distinguished Lecture, ASA meetings
 2007 Distinguished Contribution to Research Award, Latinos/as Section, American Sociological Association.
 2007 Alumni Association Faculty Achievement Award in Research, Arizona State University.
 2002 Choice Outstanding Academic Titles in Social and Behavioral Sciences for *Fragmented Ties*.
 2001 William J. Goode Outstanding Book Award, American Sociological Association Family Section, for *Fragmented Ties*
 2001 Honorable mention, Thomas and Znaniecki Book Award, American Sociological Association International Migration Section for *Fragmented Ties*.
 2001 Faculty Achievement Award, School of Justice Studies, Arizona State University.
 1990-91 University of California Regents Dissertation Fellowship.
 1989-90 American Sociological Association Minority Fellowship (1 year MFP Fellow).
 1990 American Sociological Association Pre-doctoral Research Fellowship.

Teaching and Mentoring

2011 Outstanding Doctoral Mentor Award, Arizona State University (university-wide award)
 2002 Outstanding Mentor Award, Graduate Women’s Association, Arizona State University.
 2002 Nominee, Outstanding Doctoral Mentor Award, Graduate College, Arizona State University.
 2001 Student Affairs Honors (for enhancing the quality of life for ASU students), Student Affairs, ASU

Other

2015 Public Sociology Award, International Migration Section, American Sociological Association
 2007 School of Justice & Social Inquiry, Affiliated Faculty Recognition Award.
 2006 College Marshall (College of Liberal Arts & Sciences), Fall 2006 Commencement, ASU.
 2002 Outstanding Achievement and Contribution Toward Advancing The Status of Women, Commission on the Status of Women, Arizona State University.
 1983 Cum Laude, School of Education, University of Southern California.
 1979-81 Member of Honor Societies in Psychology, Sociology, and Foreign Languages.

Publications

Books

- 2016 Cecilia Menjívar, Leisy Abrego and Leah Schmalzbauer. *Immigrant Families*. Cambridge, UK: Polity.
- 2014 Cecilia Menjívar. *Eterna Violencia: Vidas de las mujeres ladinas en Guatemala*. Guatemala: Ediciones del Pensativo & FLACSO-Guatemala. (Adapted & translated from *Enduring Violence: Ladina Women's Lives in Guatemala*.)
- Author meets critics & book presentation, FLACSO-Guatemala, Guatemala City, Nov. 18th 2014
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- 2017 Cecilia Menjívar. Temporary Protected Status in the United States: The Experiences of Hondurans and Salvadorans http://ipsr.ku.edu/migration/pdf/TPS_Report.pdf
- 2015 Cecilia Menjívar. “Country Conditions: Mexico, Guatemala, Honduras and El Salvador.” Prepared for Women on the Run report. Washington DC: UNHCR
- 2013 Cecilia Menjívar and William P. Simmons. “Insecure Communities in Maricopa County: Latino Perceptions of Police Involvement in Immigration Enforcement.” Report prepared for the National Day Labor Organizing Network/Puente, presented at the Insecure Communities and Community Mistrust forum, Phoenix, AZ, December 11th.
- 2013 Cecilia Menjívar and Olivia Salcido. “Gendered Paths to Legal Status: The Case of Latin American Immigrants in Phoenix, Arizona.” (Special Report) Washington, DC: Immigration Policy Center, American Immigration Council. <http://www.immigrationpolicy.org/special-reports/gendered-paths-legalstatus-case-latin-american-immigrants-phoenix-arizona>
- 2012 Cecilia Menjívar and Leisy Abrego. “Legal Violence in the Lives of Immigrants: How Immigration Enforcement Affects Families, Schools, and Workplaces.” Washington, DC: Center for American Progress. <http://www.americanprogress.org/issues/immigration/report/2012/12/11/47533/legal-violencein-the-lives-of-immigrants/>
- 2008 Cecilia Menjívar. “Unaccompanied Migrant Children: A First Step at Mapping What We Know.” Report prepared for FUNDEMEX, ASU’s Office of the President, and the Office of the First Lady of Mexico. April 27th. (CePoD Working Paper #2008-108)
- 2005 Cecilia Menjívar. “Migraciones y Transformaciones en la Familia.” (Chapter 7). Informe sobre Desarrollo Humano (Human Development Report), United Nations Development Program, San Salvador, El Salvador. <http://www.desarrollohumano.org.sv/migraciones>
- 2000 Cecilia Menjívar. “Networks and Religious Communities Among Salvadoran Immigrants in San Francisco, Washington D.C., and Phoenix.” Center for Comparative Immigration Studies, University of California, San Diego, Working Paper No. 25.
- 1999 Cecilia Menjívar et al. “Contemporary Latino Migration to the Phoenix Metropolitan Area.” Report presented to the Center for Urban Inquiry, Arizona State University.
- 1995 Cecilia Menjívar. “Social Networks Among Salvadorans in California.” Pp. 47-51 in *Central Americans in California: Transnational Communities, Economies and Cultures*, edited by Nora Hamilton and Norma Chinchilla. The Center for Multiethnic and Transnational Studies, University of Southern California, Occasional Papers Series, Monograph No.1.
- 1994 Cecilia Menjívar. “Social Networks Dynamics: Implications for Salvadoreans in San Francisco.” *University of California, Berkeley Chicano/Latino Policy Project* Working Paper, Vol 2, No.1.

Non-peer Reviewed Professional Publications & Public Engagement

- 2021 Interview with Cecilia Menjívar, “About Legal Liminality and Different Forms of Violence.” IMISCOE, conducted by Milena Belloni, August 5th <https://www.imiscoe.org/news-and-blog/podcast/1354-about-legal-liminality-and-different-forms-of-violence>
- 2021 Cecilia Menjívar and William P. Simmons. “Latina Immigrants’ Social Isolation.” *Public Health Post* <https://www.publichealthpost.org/research/latina-immigrants/>
- 2021 Cecilia Menjívar. “The Real Crisis at the US Border.” Oxford University Press’s Academic Insights for the Thinking World <https://blog.oup.com/2021/05/the-real-crisis-at-the-us-border/>
- 2021 Cecilia Menjívar. “What We Should Talk About When We Talk About Root Causes of Migration.” Interview with *Mother Jones* April 9th <https://www.motherjones.com/politics/2021/04/what-we-should-talk-about-when-we-talk-about-root-causes-of-migration/>
- 2020 Interview with ASA President-elect, Cecilia Menjívar, conducted by Dr. Joanna Perez. ASA Latina/o Sociology Section, *NOTAS* Fall issue, 3-4. (Long version: <https://www.youtube.com/watch?v=UMmUqj8-f88>)
- 2020 Interview with Cecilia Menjívar, “Trump, Covid-19 and the fragility of migrant lives.” Institute for Research into Superdiversity (IRIS), University of Birmingham, conducted by Nando Sigona, September 29th <https://superdiversity.net/2020/09/29/1778/>
- 2020 Cecilia Menjívar. “TPS Recipients Are Helping to Save the US Economy: It’s Time to Protect Them.” Opinion, *Latino Rebels*, <https://www.latinorebels.com/2020/10/06/tpsrecipients/>
- 2020 Cecilia Menjívar and Leisy Abrego. “La Brutalidad del sistema migratorio se ensaña contra las mujeres.” Opinión, *El Faro* <https://elfaro.net/es/202009/columnas/24832/La-brutalidad-del-sistema-migratorio-se-ensa%C3%B1a-contra-las-mujeres.htm>
- 2020 Cecilia Menjívar, Jacob G. Foster, and Jennie E. Brand. “Don’t Call it Social Distancing.” CNN Opinion <https://www.cnn.com/2020/03/21/opinions/physical-distancing-menjivar-foster-brand/index.html>
- A version appears in the Symposium “Inequalities in Challenging Times,” in the newsletter of the Inequality, Poverty, and Mobility Section, ASA, May 2020 issue.
- 2020 Content consultant for, *Your Passport to El Salvador* by Sarah Corts (Capstone Publishing), book for 3rd grade readers
- 2020 Cecilia Menjívar. “Reflection on the Trump Administration.” ASA Section on Human Rights, Winter 2020 newsletter, pp. 3-4. <https://asahumanrights.files.wordpress.com/2020/01/hr-newsletter-winter-2020.pdf>
- 2019 Interview with Cecilia Menjívar, conducted by Milena Belloni and Ilka Vari-Lavoisier, HOMing Project, University of Trento, Trento, Italy, September <https://homing.soc.unitn.it/2019/12/03/homing-interview-34-cecilia-menjivar/>
- 2019 Cecilia Menjívar and M. Gabriela Torres. “Trump may wish Guatemala were a safe place for asylum applicants to wait, but it’s not.” *Los Angeles Times*, July 25th <https://www.latimes.com/opinion/story/2019-07-24/trump-guatemala-asylum-safety>

- 2019 Content consultant for, *Central American Immigrants: In Their Shoes* (Momentum Publishers/ The Child's World, 2019), book for 3rd to 6th grade readers.
- 2018 Cecilia Menjívar. "The Central American "Caravan" as a Political Act." *Mobilizing Ideas*, The Center for the Study of Social Movements, University of Notre Dame
<https://mobilizingideas.wordpress.com/2018/12/03/the-central-american-caravan-as-a-political-act/>
- 2018 Cecilia Menjívar and Shannon Drysdale Walsh. "Gender Violence: One Driver of the Central American "Caravan." The Gender Policy Report, University of Minnesota <https://genderpolicyreport.umn.edu/gender-violence-one-driver-of-the-central-american-caravan/>
 - Reprinted in WUNRN (Women's UN Report Network): <https://wunrn.com/2018/11/gender-violence-a-major-driver-of-the-central-american-caravan/>
- 2018 Cecilia Menjívar and Shannon Drysdale Walsh. "Gender-based Violence in Central America and Women Asylum Seekers in the U.S." *Translational Criminology*, 16x: 12-14.
 - Reprinted in the ASA Sex & Gender Section newsletter, November 2019 (pp. 4-5).
https://asasexandgender.files.wordpress.com/2019/11/sexandgender_newsletter_nov2019.pdf
- 2018 Rogelio Sáenz and Cecilia Menjívar. "U.S. should own up to its role in the plight of Salvadorans." *The Houston Chronicle*, January 13th http://www.houstonchronicle.com/opinion/outlook/article/Saenz-U-S-should-own-up-to-its-role-in-the-12496957.php?utm_campaign=email-premium&utm_source=CMS%20Sharing%20Button&utm_medium=social
 - Reprinted in *La Voz de Esperanza*, San Antonio, TX, Vol. 3 (1): 10-11 (February)
- 2017 Cecilia Menjívar. "Immigrant Rights Under Siege." Featured article, ASA Section on Human Rights Newsletter, Fall issue, pp. 4-6
- 2017 Cecilia Menjívar and Shannon Drysdale Walsh. "The Architecture of Femicide." <http://www.panoramas.pitt.edu/larr/architecture-femicide-state-inequalities-and-everyday-gender-violence-honduras> *Latin American Research Review* blog
- 2014 Cecilia Menjívar. "Reflecting on Enduring Violence." *Society*, 51 (4): 401-403.
- 2014 "Enduring Violence." *Gender & Society* blog:
<http://gendersociety.wordpress.com/2014/03/26/enduringviolence/>
- 2010 "Letter from Immigrant Mothers in Phoenix." MomsRising.org, May 29,
<https://www.momsrising.org/blog/letter-from-immigrant-mothers-in-phoenix>
- 2009 "Immigration Reform: A Country Divided, Or a Richer Society?" *Religion Dispatches*, November 20. <http://www.religiondispatches.org/>
 - Reprinted in *Faith in Public Life*:
http://faithinpubliclife.org/content/news/2009/11/immigration_reform_a_country_d.html
- 2008 Cecilia Menjívar. "Los inmigrantes salvadoreños en "limbo legal" en Estados Unidos." *El Faro Académico*, *El Faro* (El Salvador's on line newspaper) November 26th.
<http://www.elfaro.net/secciones/academico/20081124/academico1.asp>

2001 Cecilia Menjívar. "'Papers' offer opportunity, justice for undocumented." *The Arizona Republic*, Sunday, August 5, 2001, V3.

- Reprinted in Crime and Juvenile Delinquency Division Newsletter, SSSP, Fall 2001.

2001 Cecilia Menjívar. "Latino Immigrants and Views of Crime and Police Authorities in the Phoenix Metropolitan Area." *World on the Move*, Newsletter of the International Migration Section, American Sociological Association, Volume 7, Number 2. (Spring)

Funded Research

External

2020-2021 NSF Dissertation Improvement Grant to Leydy Diossa-Jimenez, Sociology, UCLA "Emigrant Political Rights in Latin America, Dual citizenship, Voting and Representation: the cases of Argentina and Colombia (1970-2018)" (\$25,087)

2019-2021 Social Science and Humanities Council of Canada. Role: Co-recipient (Alison Mountz, PD). "Negotiating Asylum and Protection Along the Canada-US Border." (\$191,657)

2019-2020 NSF Dissertation Improvement Grant to Chiara Galli, Sociology, UCLA, for "The Effects of the Law on Central American Unaccompanied Minors' Lives in the United States." (\$15,800),

2017-2018 NSF Dissertation Improvement Grant to Andrea Gómez Cervantes, Sociology, University of Kansas for "Mixed-Status Families: Power, Identity, and Community." (\$12,000)

2015-2020 NIH/NICHD Program Grant # P01HD080659. Role: Co-Investigator, with others (Program Director: Jennifer Glick). "Family Migration Context and Early Life Outcomes." (\$4,867,581)

2014 American Sociological Association/National Science Foundation Travel Grant to ISA, (\$1,500)

2014-2016 NICHD 1R21HD078201-01 Role: Co-Investigator (Victor Agadjanian, PI) "Behavioral and Institutional Barriers to HIV Prevention Among Migrant Women." (\$423,800)

2013-2016 W.T. Grant Foundation. Role: Co-PI (Sandra Simpkins, PI) "Distal Factors and Proximal Settings as Predictors of Latino Adolescents' Activities: Insights from Mixed Methods." (\$386,352)

2010-2015 NIMH 1K01MH086687-01A1 Role: Qualitative Methods Consultant/Expert (Armando Piña, PI) "School-based Prevention for Childhood Anxiety." (\$894,495)

2008-2013 NIH/NICHD R01 HD058365. Role: Co-PI (Victor Agadjanian, PI) "Childbearing Dynamics in a Setting of High HIV Prevalence and Massive ART Rollout." (\$1,672,931)

2008-09 NSF Dissertation Improvement Grant to Jennifer Arney, Sociology, ASU for "Direct to Consumer Advertising of Psychotropic Medications: Effects for Consumers, Physicians and Society at Large." (\$4,625)

2007– 2012 NIH/National Center on Minority Health and Health Disparities, P20 MD002316-01 Role: Co-investigator, with others (Flavio Marsiglia, director) "Health Disparities Research at SIRC: Cultural Processes in Risk and Resiliency. (\$7,178,038)

2006-2010 NIH/NICHD, R01HD05175. Role: Co-PI (Victor Agadjanian, PI) "Religious Institutions and HIV/AIDS Prevention and Care" (\$1,043,493)

2006-2008 NIH/NICHD 1R21HD048257-01A1 Role: Co-PI (Victor Agadjanian, PI) "Men's Migration and Women's HIV/AIDS Risks." (\$305,128)

2004-2005 NIH/NICHD Supplement to Grant R03 HD043675 Role: Co-PI (Victor Agadjanian, PI) "Organized Religion and HIV/AIDS in Mozambique." (\$114,138)

1995-1997 NIH/NICHD Minority Investigator Research Supplement to Grant R01 HD27361-06S1 (P.I. of parent project: Anne R. Pebley) "Health Care Choices During Pregnancy and Illness." (\$48,798)

1990-1991 American Sociological Association Dissertation Research Grant (\$5,000)

Internal

2020 "Pro Bono Expert Witness Database Project" (Leisy Abrego and Cecilia Menjívar). Luskin Institute on Inequality and Democracy, UCLA (\$9,393)

2013 Institute for Humanities Research, ASU. "Austere Borderlands: Recession, Migration, and Contested Means of Belonging in the E.U." Role: PI (Co-PIs: Megan Carney and Laia Soto-Bermant). (\$12,000)

2013 Comparative Border Studies Initiative, ASU (\$4,500)

- 2012 College of Liberal Arts and Sciences, ASU. Co-PI with Cynthia Tompkins et al. "Mapping Affect to Understand and Impede the Reproduction of Violence in Latin America." (\$20,000)
- 2005-2007 Mexican American and U.S. Latino Research Center, Texas A&M (Immigration from El Salvador), CoPI (Nadia Flores, PI) (\$19,500)
- 2006 Elizabeth Guillot Award, Sociology Program, ASU (\$3,000).
- 2003-2004 Vice President for Research Office, ASU. Co-PI with Laura Peck, Elizabeth Segal and Myla Vicente Carpio "Examining Poverty in the U.S. Southwest." (\$45,859)
- 2002 Women's Studies Summer Research Grant, ASU. "The Social Worlds of Women: Class, Context, and Culture in Rural Guatemala." (\$2,000)
- 2000-2001 ASU (university-wide) cluster grant for the study of immigration, coordinated by Brian Gratton. "People in Motion Seminar." (\$2500)
- 2000 Dean's Incentive Grant, College of Public Programs, ASU. "The Phoenix Metropolitan Area: A New Latino Immigration Gateway." (\$4,800)
- 1999 Center for Latin American Studies, ASU. "Class, Context and Culture and in Rural Guatemalan Women's Networks." (\$1,100) (Summer)
- 1999 Dean's Incentive Grant, College of Public Programs, ASU. "New Settlement Patterns of Latino Immigrants in the Phoenix Metropolitan Area." (\$5,000)
- 1999-2000 Center for Urban Inquiry, ASU. Graduate Scholars Special Grant to Cindy Bejarano, Eugene Arene and Emily Skop. Role: Faculty Sponsor/Advisor/Coordinator. "Latino Immigration to the Phoenix Metropolitan Area." (\$6,993)
- 1998-1999 Center for Urban Inquiry, ASU, Special Grants. "Contemporary Latino Migration to the Phoenix Metropolitan Area." Role: PI (\$9,003).
- 1998-1999 Dean's Incentive Grant. College of Public Programs, ASU. "Family and Gender in New Settlement Patterns of Latino Immigrants to the Phoenix Metropolitan Area." (\$5,000).
- 1997-1998 Faculty Grant in Aid (university-wide), ASU. "Guatemalan Immigrant Women' Networks." (\$5,350).
- 1997 Dean's Incentive Grant, College of Public Programs, ASU. "Economic and Political Justice: Refugee Migrations in the late 20th Century." (\$5,000).
- 1996 Dean's Incentive Grant, College of Public Programs, ASU. "Class, Context, and Culture: Guatemalan Women's Networks." (\$4,952).
- 1996 Women's Studies Summer Research Grant, ASU. "Salvadoran Women's Networks." (\$2,300).
- 1989-1990 University of California Regents, Graduate Student Research Grant. (\$5000).
- 1989-1990 California Policy Seminar, Technical Research Grant. (\$2,500)

Keynote and Distinguished Lectures & Panel Presentations (2006 to present)

- 2021 "Centroamérica a la Luz del Bicentenario y la Pandemia." Conferencia inaugural, XVII Congreso Centroamericano de Sociología, San Salvador, El Salvador, June 14th; Panel de cierre del Congreso, June 18th
- 2021 "Gender, Race, and the Criminalization of Asylum Seekers in the United States." Charles Moskos Lecture, Department of Sociology, Northwestern University, May 20th
- 2020 "Latino Immigrants in the Rural Midwest: Integration, Accommodation, or Exclusion?" Allen D. and Polly S. Grimshaw Lecture, Department of Sociology, Indiana University, November 13th
- 2020 "Los desafíos institucionales de la sociología y las ciencias sociales en el mundo de hoy." Conversatorio ALAS con el mundo. Presidential panel, Asociación Latinoamericana de Sociología, Lima, Perú, September 7th (virtual).
- 2020 "Immigrant Families, Law, and Enforcement: Central American Parents and Children Living in Legal Limbo." Council on Contemporary Families 20th Biennial Conference, Austin TX, February 7th.
- 2019 "Crimmigration: Reflections, Critiques, and Future Steps." Presidential Panel, American Society of Criminology meetings, San Francisco, November 12-14.
- 2019 "The Health Consequences of Immigration Policies: Experiences of Central American Women Migrants, Plenary Session, Interdisciplinary Association for Population Health, Seattle, WA October 1-4,

- 2019 "A Continuum of Structural and Institutional Violence in the Lives of Central American Immigrant Women." Keynote Address, 17th Annual Workshop, Racial Democracy, Crime, and Justice Network, Center for Law and Justice, Rutgers University, Newark, July 12th
- 2019 "Immigrant Families and Youth: Justice and Democracy." Presidential Panel, Latin American Studies Association, Boston May 24-27
- 2019 "Relations Between Latino Immigrants and Non-Immigrant Residents in the Heartland." Robin Williams Lecture, Department of Sociology and Jack W. Peltason Center for the Study of Democracy, UC Irvine, April 26th
- 2018 "Migrant Illegality Across Uneven Spaces: Advancing the Sociology of Immigration." Keynote lecture, Migrant Illegality Across Uneven Spaces Conference, Brown University, October 28th
- 2018 "Law, the Media and the Criminalization of Immigrants: Constructions and Consequences." Henry M. Jackson Endowed Lecture in International Relations, Whitman College, February 28th
- 2017 "Gender-based Violence across the Global South: Learning *about* it and *from* it." "Gendered Violence in the Global South" Conference, University of South Wales, Sidney, Australia, December 6th
- 2017 "Immigration Law, Hostile Contexts, and the Membership of Latino Immigrants." Keynote lecture, Latin American and Latino Studies, University of Arkansas, April 4th
- 2017 "Immigration Law in the Lives of Immigrants: Membership, Citizenship, and Exclusion?" Keynote lecture, Center for Latina/o Studies in the Americas, University of San Francisco, February 27th.
- 2016 "Country Conditions for the Migration of Central American Women," Plenary Session, CLINIC (Catholic Legal Immigration Network, Inc.) Convening, Sheraton Hotel, Kansas City, MO. May 24th.
- 2015 "Central American Immigrants Navigate the US Ethnoracial Landscape." Keynote lecture, Rethinking Race: USC's Centennial Celebration Conference, University of Southern California, October 28-19
- 2015 "U.S. Immigration Law and the Reconfiguration of Immigrant Families." The 2015 Albert Morris Lecture, Department of Sociology, Boston University, April 29th
- 2014 "The Reconfiguration of Immigrant Latino Families." Bold Aspirations Lecture, Office of the Provost, University of Kansas, October 21st.
- 2014 "The Reconfiguration of Immigrant Latino Families in Light of the Current Immigration Regime." Latin American & Latino Studies Distinguished Lecture, University of California, Santa Cruz, May 14th
- 2013 "Multi-layered Legislation, Enforcement Practices, and Piecemeal Immigration Policies: What Can We Learn From and About Today's Approaches?" Keynote Address, Latino Communities in Old and New Destinations: Multi-disciplinary Perspectives to Assessing the Impact of Legal Reforms Conference, University of South Florida, November 8th
- 2013 "Immigrants' Lives, Immigration Laws and Reflections for Reform." The Bastian Foundation Diversity Lecture Series, Westminster College, Salt Lake City, September 27th
- 2013 "A Reflection on Immigration, Violence and Vulnerability." The Cole Lecture, 31st Annual Sociology and Anthropology Symposium, Wheaton College, Norton, MA January 30-31
- 2012 "Immigration and Religious Communities: Challenges to Public Life." Plenary Session, Society for the Scientific Study of Religion and Religious Research Association, Phoenix, AZ, November 9-11
- 2012 "Borders, Migration, Community: Arizona and Beyond" Preconference Lecture, International Communication Association, Phoenix, Arizona, May 24th
- 2012 "The Power of the Law: Central Americans' Legality in Everyday Life." Featured speaker, Central Americans and the Latino/a Landscape: New Configurations of Latina/o America Conference, LLILAS/CMAS, University of Texas, Austin, February 24th.
- 2011 "Everyday Violence in the Lives of Ladina Guatemalans." ADVANCE Distinguished Lecture, Kansas State University, Oct 21st
- 2011 "Migración Femenina Centroamericana en Estados Unidos." Conferencia magistral, II Encuentro Mesoamericano de Estudios de Género y Feminismos, Avances y retos de una década: 2001-2011. FLACSO, Guatemala City, Guatemala, May 6th
- 2011 "Latino Immigrant Lives: Reflections for Reform." The 20th Anniversary Daniel S. Sanders Peace and Social Justice Lecture, University of Illinois, Urbana-Champaign, May 2nd
- 2010 "Living in Legal Limbo: Latino Immigration in Arizona." Keynote Address, Changing Face of America Conference: Immigration and Social Policy, San Jose State University, Oct 23rd.

- 2010 “Citizenship, Exclusion, and the Contemporary Immigration Regime. Opening Keynote Lecture, 10th conference on Globalization and Social Responsibility, St Olaf College, February 26th, and “Gender and Families Left Behind in the Context of Migration,” February 27th.
- 2009 “Immigration, Citizenship, and Exclusion: Latin-American Immigrants and the Contemporary Immigration Regime.” Alpha Kappa Delta Distinguished Lecture, American Sociological Association Meetings, San Francisco, August 8th.
- 2008 “Violence Against Immigrants: The Border and Beyond.” Keynote speaker, Lives on the Edge: Immigration and Politics Along the U.S.-Mexico Border Workshop, University of Arizona May 2nd.
- 2008 “Domestic Violence and Immigrant Families.” Plenary panel: “The Role of Families in Integration.” Tenth Metropolis Conference, Halifax, NS, Canada, April 3-6
- 2007 “Immigration Policy and Family Reorganization: Experiences of Salvadoran and Guatemalan Immigrants.” Keynote speaker for the year’s colloquium series, Department of Sociology, University of North Carolina, Greensboro, March 23rd
- 2006 Closing Remarks, Latina/o Migration: Local and National Challenges, University of Illinois, Urbana Champaign, October 11th.

Public & Policy Engagement Presentations

- 2021 “Immigration Reform for the 21st Century: Exploring Pathways to Safer and More Prosperous Communities.” Latino Policy & Politics Initiative, UCLA, May 4th
- 2020 “Central American Women and Contexts of Violence.” Panel on Feminist Approaches to Justice: Addressing Partner Violence Against Colonized Women, American Society of Criminology, DWC, CSW63 Committee, NGO Forum, United Nations, New York (cancelled day before)
- 2019 “The Making of Immigrants into Criminals: Law, Enforcement, and the Media.” Spotlight Sociology, Public Lecture, Social Science Division, UCLA, January 24th.
- 2018 “Asylum Protection for Immigrant Women Fleeing Violence.” Congressional Briefing, Rayburn House of Representatives, October 11th (Division of Women & Crime, American Society of Criminology).
- 2017 “Temporary Protected Status in the United States: The Experiences of Hondurans and Salvadorans.”
 - Legislative briefing, Cannon Building 122 (House), Washington DC, June 23rd
 - Presentation to the National TPS Alliance, All Souls Church, Washington DC, June 24th
- 2015-2016 The Integration of Immigrants into American Society Report, National Academy of Sciences, Engineering, and Medicine. Panelist/Contributing author.
 - Congressional Briefing, Rayburn House of Representatives, DC, March 11th, 2016
 - National Immigrant Integration Conference, December 14th, 2015
 - National Academy of Sciences, Engineering, and Medicine, Washington DC September 28th, 2015
- 2015 “Central America: Migration Trends” brief. Bureau of Western Hemisphere Affairs, Department of State, Washington DC, January 7th
- 2012 “Legal Violence in the Lives of Immigrants: How Immigration Enforcement Affects Families, Schools, and Workplaces.” (with Leisy Abrego). Capstone event, Documenting the Undocumented Series, Center for American Progress, Washington, DC, December 11th.
- 2011 “Family Separation and Immigrant Women.” “Organizations Working with Latina Immigrants: Resources and Strategies for Change,” Institute for Women’s Policy Research/Woodrow Wilson International Center, Washington DC, March 25th

Invited Presentations/Lectures (2006 to present)

- 2021 “Central American Women in the Asylum System and Beyond.” Migration Working Group, University of North Carolina, Chapel Hill, March 10th.
- 2021 “Central Americans Latinos/as.” (Sociology of Latinx Identity and Mobilization, Cristina Lacomba) Harvard University, February 24th.
- 2021 “Gender-based Violence in Central America.” Humanizing Asylum for All Symposium, University of Pennsylvania Carey Law School, February 19th
- 2021 “Immigration in a Changing Policy Context.” District of Columbia Sociological Society ASA President-elect Address, February 18th

- 2021 "Interviewing Immigrants in Different Contexts." California Center for Population Research, UCLA, January 13th.
- 2020 "Seeking Refuge in the Carceral State: Central American Women in the U.S. Asylum System." Department of Sociology, University of Wisconsin-Madison, December 16th
- 2020 "Desafíos actuales y futuros de las migraciones Latinoamericanas." Sección Migraciones Internacionales-Latin American Studies Association, December 9th
- 2020 "Observaciones sobre la Nueva Narrativa de Centroamérica." FLACSO-El Salvador/Naciones Unidas-El Salvador, December 4th
- 2020 "Reflexiones sobre migración y esperanza." Primer conversatorio, Semana por la Esperanza, Centro de Investigaciones y Estudios Sociológicos/Centre of Latin American Studies, University of Cambridge, UK, December 1st
- 2020 "A Conversation on Asylum, Violence and Latin American Immigrants in an Age of Enforcement." Latin American Studies (LAS 250, Dana Leibsohn), Smith College, November 5
- 2020 "A Continuum of Punishment: Post-Detention Lives of Central American Women Asylum Seekers." The Tri-Campus Colloquium Speaker Series, Department of Sociology, University of Toronto, October 8th
- 2020 "Gender and Multisided Violence in Central America and Beyond." Danish Institute for International Studies, Copenhagen, June 4th
- 2020 "Comments" to AKD (Sociology International Honor Society) Inductees, Department of Sociology, Loyola University Maryland, April 28th
- 2019 "Criminalization of Immigrants through Law and the Media in the U.S." Public lecture (HOMinG Seminar), University of Trento, Italy, September 11th
- 2019 "Latino Immigrants and Non-Immigrants in the U.S. Heartland: Ethnographic Lessons." International Summer School in Ethnography, University of Trento, September 10th.
- 2019 "Reflections on Conducting Research in Immigrant Communities Today." American Voices Project (Peter Cookson, Kathryn Edin, David Grusky, PIs), Johns Hopkins University, June 25th
- 2019 "Contradictions of Temporary Protected Status: Earnings, Education, Civic Engagement." University of Massachusetts, Lowell, March 27th
- 2019 "Transparency in Ethnographic Research: Ethics and Professional Responsibility." (Graduate Student Workshop) Urban Ethnography Lab, University of Texas, February 28th
- 2019 "Relations between Central American Immigrants and Non-Immigrants in Rural Kansas." Department of Sociology, University of Texas, Austin, February 28th
- 2019 "Relations between Latino Immigrants and Non-Immigrants in the Heartland." Migration and Immigrant Incorporation Workshop, Department of Sociology, Harvard University, February 19th
- 2018 "Transformative Effects of Immigration Law and Its Enforcement on Perceptions of the Self." Center for the Study of Law & Society, UC Berkeley, November 19th
- 2018 "Ethics & human subjects today: legal rights & limits for researchers," "Collecting data on Undocumented: Fieldwork Techniques." Summer Institute in Migration Research Methods, BIMl, UC Berkeley, June 18th
- 2018 "The Legal Violence of the 2017 Executive Orders: Effects on Latino Immigrants and White Residents in Rural America." LALACS, Dartmouth College, May 23th
- 2017 "Temporary Legal Statuses and Transformations of the Immigrant Self." Center for Comparative Migration Studies, UC San Diego, May 25th
- 2015 "Immigration Law and Immigrant Families." Department of Sociology, Yerevan State University, Yerevan, Armenia, May 13th
- 2015 "The Reconfiguration of Immigrant Families through Law." The Kercher Symposium Series, Department of Sociology, Western Michigan University, April 8th
- 2014 "Immigration Laws and Immigrant Families." OLLAS Lecture Series, Office of Latino/Latin American Studies, University of Nebraska, Omaha, November 11th.
- 2014 "The Transformative Effects of Immigration Law." CLASS Workshop, Gould School of Law, University of Southern California, September 29th.
- 2014 "Transformative Effects of Immigration Law on Families." Department of Sociology, UCLA, April 6th

- 2013 "Enduring Violence: Ladina Women's Lives in Guatemala." Department of Sociology, University of Pennsylvania, November 20th.
- 2013 "Transformative Effects of Immigration Law." Center for Migration and Development, Princeton University, May 9th.
- 2013 "Legal Violence: Short- and Long-Term Effects on Immigrants." Population Studies & Training Center, Brown University, May 2nd.
- 2012 "Criminalization of Immigrants: Effects on the ground." Krost Symposium, Texas Lutheran University, October 4th.
- 2012 "Enduring Violence in Guatemala's Women's Lives." Department of Sociology, Northern Arizona University, September 25th.
- 2012 "Hyper Awareness of the Law in Central American Immigrants' Everyday Life." Center for Race, Ethnicity and Politics, UCLA, April 18th.
- 2012 "Enduring Violence: Ladina Women's Lives in Guatemala." UCLA "Untold Histories: Transnational Voices of Central Americans" series, and California State University, Los Angeles Chicano Studies and Latin American Studies, February 2nd.
- 2011 "Living in Legal Limbo: Latino Immigrants in Arizona's Immigration Regime." University of California, Merced, March 14th
- 2010 "A Framework of Vulnerability and Violence." What Katrina Can Tell Us About Race, Class, and Gender in These United States Meeting, Social Science Research Council, New York, November 12th-13th.
- 2010 "Central Americans' Legality and Everyday Life in Phoenix, Arizona." Center for Multicultural Studies, University of California, Santa Barbara, May 3rd
- 2010 "El impacto de las leyes migratorias en la vida de centroamericanos en Estados Unidos: el caso de Phoenix, Arizona." Seminario Permanente de Migración, Colegio de La Frontera Norte, Tijuana, BC, Mexico, April 9th.
- 2010 "Family, Border Justice, and Policy." 7th Border Justice Series Conference, Social Justice and Human Rights Program, Arizona State University West, March 25th
- 2009 "Legal Violence: Contemporary U.S. Immigration Law and Central American Lives." Marcos & Conceptos: A Critical Latin/a American Studies Symposium." American Studies and Ethnicity Program, University of Southern California, April 17th.
- 2009 "Immigration and Legality." Global Initiative Speaker Series, Northern Arizona University, March 4th.
- 2008 "Legal Violence?: Immigration Law in the Lives of Central Americans in the United States." Department of Sociology, Department of Chicano/Latino Studies, and Center for Research on Latinos in a Global Society, University of California, Irvine, May 9th.
- 2008 "Men's Migration and the Women who Stay." Department of Sociology's Workshop on Economic Sociology and Center for Migration Studies, Princeton University, April 28th.
- 2008 "International Perspectives on Migration and the Family: Research from the United States." Family Migration Pre-Conference Day, St. Mary's University, Halifax, NS, Canada April 3rd.
- 2008 "Central American Immigrant Families and Contemporary Immigration Law: Redefinition, Reorganization or Breakdown?" Latino and Hispanic Caribbean Studies, Rutgers University Latin American Studies, and Center for Latino Arts & Culture, Rutgers University March 26th.
- 2007 "Legal Violence and the Family Lives of Central American Immigrants." Institute for the Study of Social Change, University of California, Berkeley, November 8th.
- 2007 "Immigration Policy and Family Reorganization: Experiences of Salvadoran and Guatemalan Immigrants." Mason Migration Project/Department Sociology, George Mason University, March 22nd.
- 2006 Primer encuentro de latinidades: Una mirada crítica a los movimientos y realidades de los emigrantes hispanoamericanos en los Estados Unidos, especialista participante. Convenio Andrés Bello, Bogotá, Colombia, Dec 15-16.
- 2006 "Law Against the Family: Salvadoran and Guatemalan Immigrant Families and Immigration Law." Department of Sociology, UCLA December 7th.
- 2006 "Religion and the Contexts of Exit and Reception in Immigrants' Lives: Observations from Phoenix." CORRUL/Department of Sociology, Rice University, November 10th
- 2006 "Las nuevas familias centroamericanas en tiempos de migración." Taller Centroamericano de la Red Internacional de Migración y Desarrollo (RIMD), Programa de Naciones Unidas para El

Desarrollo (PNUD) El Salvador, y Universidad Centroamericana José Simeón Cañas, (UCA) San Salvador, El Salvador, June 28th & 29th.

Conference/paper Presentations (*denotes invited) (2006 to present)

- 2020 “Legal Conditions for Law In/Effectiveness: The Anti-Abortion and Violence Against Women (VAW) Laws in El Salvador.” Law & Society Association meetings, May 28-31, Denver, (online)
- 2020 “The Central American Exodus: Its Roots, Present Course, and Prospects.” (Panelist & organizer.) Invited Thematic Panel, Eastern Sociological Society, Philadelphia, February 27-March 1*
- 2020 “Central American Women in the Immigration System: From Asylum Seeking to Detention.” American Association for the Advancement of Science, Seattle, February 13-16* (Panel selected for press briefing.)
- 2019 “The State and Bureaucracies of Displacement.” Special Session on “State Policies: Evasion, Implementation and Impact on the Livelihood and Welfare of Refugees and Recent Migrants.” American Sociological Association, New York, August 9-13*
- 2019 “State Response to Violence Against Women: Transforming Police Practice.” Roundtable discussion, Shannon Drysdale Walsh organizer/discussant. Latin American Studies Association meetings, Boston, MA, May 24-27*
- 2019 “Illegal Encounters: The Effect of Detention and Deportation on Young People.” Chapter presentation. Latin American Studies Association meetings, Boston, MA, May 24-27*
- 2019 “Género en la migración centroamericana contemporánea a Estados Unidos.” Advanced Research Institute on International Migration, El Colegio de México, Mexico City, May 16th*
- 2019 “Transformative Effects of Immigration Law in Hostile Contexts.” Law, Inequality and the Politics of Moral Worth Conference, Weatherhead Research Cluster on Comparative Inequality and Inclusion, Harvard University, May 3rd *
- 2019 “Media Frames and Effects on Immigrants and Non-Immigrants in Arizona and Kansas.” Immigration: The Politics of Inclusion and the Politics of Threat Workshop, Social Science Research Council, New York, March 29th*
- 2018 “The Media’s Role in Anti-Immigrant Policies: The Arizona Republic and SB 1070” (with Daniel Alvord). Social Science History Association meetings, Phoenix AZ Nov 8-11*
- 2018 “Las Contradicciones del TPS: Educación, Ingresos y Participación Cívica.” 2nd Annual Metropolis North America Migration Policy Forum, Mexican Secretariat of Foreign Affairs, Mexico City, September 27-28*
- 2018 “Legal Structures, Institutions, Racialization Practices and the Immigrant Self.” Invited Session, “Theorizing Emotions and the Self in Migration Research American Sociological Association Meetings, Philadelphia, August 11-14*
- 2017 “The Contradictions of Liminal Legality: Economic Attainment and Civic Engagement of Immigrants on TPS.” (with Byeongdon Oh, Daniel Alvord, and Victor Agadjanian) American Sociological Association, Montreal, Canada, August 12-16
- 2017 “Document Overseers, Enhanced Enforcement, Racialized Local Contexts, and Liminality Legal Latino Immigrants.” Paper-Trails: Migrants and Documents in an Era of Legal Insecurity, University of Colorado, Denver, August 7-9.*
- 2017 “Country Conditions, Gender-based Violence, and the Migration of Central American Women to the U.S.” Reconsidering Gender-based Violence in the Context of Displacement and Migration, Göttingen Center for Gender Studies Summer Symposium, Göttingen, Germany July 6-7*
- 2017 “The Temporariness of Legality: Waiting, Uncertainty, and Transformations of the Self.” Citizenship in Unsettling Times Workshop, University of Leicester, Leicester, UK, June 8-9.*
- 2017 “Gender-based Violence.” Country Conditions in Central America and Asylum Decision-Making, Center for Latin American & Latino Studies, American University, January 12-13, Washington, DC*
- 2016 “Legal Experiences and Attitudes of Immigrants.” Law & Society Association, June 2-5, New Orleans*
- 2016 The Transformative Effects of Multi-layered Precarity: Experiences of Liminality Legal Central American Immigrant Workers, Latin American Studies Association, May 27-30, New York.*

- 2016 “Geopolitics, Securitization, and the Definitional Question in Asylum Admissions: The Case of Central Americans Then and Now.” Shifting Landscapes of Asylum in North America, Canada Program, Weatherhead Center for International Affairs, Harvard University, May 2-3.*
- 2016 “Theoretical, Methodological, and Ethical Issues in Conducting Research with Undocumented, Unaccompanied, and Citizen Children,” Undocumented, Unaccompanied, and Citizen: Charting Research Directions for Children of Immigration, School of Social Work, UT Austin, Feb 25-26.*
- 2016 “Is There a Role for Academics in the Support of Central American Refugees?” Plenary opening panel, Derechos en Crisis: Refugees, Migrant Detention, and Authoritarian Neoliberalism, LLILAS, UT, Austin, February 24-26.*
- 2015 Panel “The Politics of Citizenship,” Transforming Migrations: Beyond the 1965 Act Conference, University of California, Irvine, October 8-9.*
- 2015 Panel “Intersections of Violence in Latin America and Human Rights Across Time and Space.” Intersections of Violence in Latin America Symposium, Latin American, Caribbean and Latino Studies Program, University of Kentucky, September 30th
- 2015 “Exploring Strategies from Scholarly Research to Expert Testimony.” Central American Refugees in Detention: Rethinking U.S. Immigration Conference, Chicano Research Center, UCLA, September 17th
- 2015 “Everyday Aggression: Inequality and Femicide in Honduras and Latin America.” Featured Session—Enduring and/or New Forms of Inequality in a Globalizing World, Panel 1. Latin American Studies Association meetings, San Juan Puerto Rico, May 27-30.*
- 2015 “Legal Status as an Identity among Immigrants.” Migration and Identity: Perspectives from Asia, Europe and North America, Chinese University of Hong Kong, Hong Kong, March 6-7.*
- 2015 “Contributions to Policy: Legal Status.” Frontiers of Immigration Research and Policy Conference, Temporary Migration Cluster, University of California, Davis, January 22-23.*
- 2014 “Social Networks Among Older Asian and Latino Immigrants in Phoenix.” (Cecilia Menjívar and Haruna Fukui) Thematic Session on Networks of Need in the Age of Economic and Social Precarity, American Sociological Association, San Francisco, CA, August 16-19.*
- 2014 “Multisided Violence and the State in the Lives of Guatemalan and Salvadoran Women.” XVIII ISA World Congress of Sociology, Yokohama, Japan, July 13-19.
- 2013 “Broken by Law?: How Immigration Policies Split Families.” (Maria Enchautegui and Cecilia Menjívar), Association for Public Policy Analysis and Management, Washington DC, November 7-9.
- 2013 “Contexts of Exit and Women’s Emigration.” Law, Asylum, and Sending Countries panel, Crossing Borders: Immigration and Gender in the Americas, Radcliffe Institute, Harvard University, April 25-26.*
- 2013 “Violence Against Immigrants: A Focus on Structures.” Undocumentation Symposium, Center for Race & Gender, University of California, Berkeley, February 15.
- 2012 “The Plurality of the Legal Context of Reception: The Case of Central Asian Immigrant Women in Russia.” (Cecilia Menjívar, Natalia Zotova, and Victor Agadjanian), American Sociological Association meetings, Denver, CO, August
- 2012 “Twenty Years of Continued Migration,” El Salvador: Twenty Years of Peace panel, Latin American Studies Association meetings, San Francisco, CA, May 23-26.*
- 2012 “Legality without Borders: US Immigration Law and Transnational Links.” [Im]Migration and Movement: People, Ideas, and Social Worlds: A Fellows Symposium, Institute for Humanities Research, Arizona State University, April 23rd.*
- 2012 “The Socio-emotional Effects of SB 1070 on Youth in Arizona.” (Carlos Santos and Cecilia Menjívar) Equity and Opportunity Research Symposium: Immigration Policy Shifts affecting Latino Children/Families, Arizona State University, February 23-24.*
- 2011 “Everyday Violence in the Lives of Ladina Guatemalans.” Thematic Session on Conflict, Citizenship, and Development in Latin America, American Sociological Association meetings, Las Vegas, NV, August 20-23.*
- 2011 “War and Peace: Enduring Social Effects of Protracted Conflicts in Southern Africa and Central America.” (Cecilia Menjívar and Victor Agadjanian) Thematic Session on Learning from Intractable Social Conflict, American Sociological Association meetings, Las Vegas, NV, August 20-23.*
- 2011 “Immigrant Latina Mothers as Targets of Legal Violence.” (Leisy Abrego and Cecilia Menjívar) Invited section on Treacherous Geographies of Borders, Gender, and Immigrant Communities in the Americas, American Sociological Association meetings, Las Vegas, NV, August 20-23.*

- 2011 Presentation/Discussion of *Enduring Violence: Ladina Women's Lives in Guatemala*. Encuentro Mesoamericano de Estudios de Género y Feminismos, Avances y retos de una década: 2001-2011. FLACSO, Guatemala City, Guatemala, May 5th *
- 2011 "Labor Force Participation Among Aging Immigrants in the United States." (Haruna Fukui and Cecilia Menjívar) Poster, Population Association of America meetings, Washington, DC, April 1st
- 2010 "Central Americans' Lives in the United States: What Can We Learn *About* Them and *From* Them." Surveying Social Marginality Conference, University of Washington, Seattle, October 8th.*
- 2010 "Liminal Legality and the Experiences of Transnational Children and their Families." Thematic Session on Children's Citizenship Status and Experiences in a Globalizing World, American Sociological Association meetings, Atlanta, GA, August 14-17.*
- 2010 "Enduring Violence: Ladina Women's Lives in The Guatemalan Oriente." Republics of Fear: Understanding Endemic Violence in Latin America Today Conference, Lozano Long Center, University of Texas, Austin, March 4-5.*
- 2009 "Controlling Immigration or Legal Violence?: An Assessment from Phoenix, AZ." Migration during an Era of Restriction Conference, University of Texas, Austin, November 4-6.*
- 2009 "Economic Uncertainties, Social Strains, and HIV Risks: Exploring the Effects of Male Labor Migration on Rural Women in Mozambique." (Victor Agadjanian, Cecilia Menjívar and Boaventura Cau) How Immigrants Impact their Homelands Conference, Boston University, September 25th.*
- 2009 "Living on the Edge of the Law: The 1.5 Undocumented Mexican Generation and the Transformation of Citizenship." (Belinda Herrera and Cecilia Menjívar) Social Science Research on Immigration: The Role of Transnational Migration, Communities and Policy, Arizona State University, September 10-11th.*
- 2009 "Defending Borders and the Brutalization of the US American Public." (Sang Kil, Cecilia Menjívar, and Roxanne Doty) American Sociological Association, San Francisco, CA, August 8-11.
- 2009 "Securing Borders: Patriotism, Vigilantism, and the Brutalization of the U.S. American Public." (Sang Kil, Cecilia Menjívar, and Roxanne Doty) Pacific Sociological Association, San Diego, CA, April 8-11*
- 2009 "Combining Computer Simulation and Ethnography in Studying Network Dynamics, Network Formation, and Disintegration of Salvadoran Immigrants' Networks." (Bruce Rogers and Cecilia Menjívar) Mixing Methods in Social Network Research International Conference, European Academy, Berlin, Germany, January 30-31*
- 2008 "Family Separation and Immigration Law: Central American cases in Phoenix, Arizona." Transnational Parenthood and Children-Left-Behind Conference, International Peace Research Institute (PRIO), Oslo, Norway, November 20-21.
- 2008 "Parents and Children across Borders: Legal Instability and Intergenerational Relations in Guatemalan and Salvadoran Families." (Cecilia Menjívar and Leisy Abrego) American Sociological Association Meetings, Boston, August 1-4*
- 2008 "In Solidarity: Assistance to Central American Transmigrants during their Journeys North. (Lilian Chavez and Cecilia Menjívar) International Migration Section Roundtables, American Sociological Association Meetings, Boston, August 1-4.
- 2008 "Residents' Views toward Immigration and Social Transformation in the U.S. Southwest." (Haruna Fukui and Cecilia Menjívar) International Migration Section Roundtables, American Sociological Association Meetings, Boston, August 1-4.
- 2008 "Educational Aspirations and Documented Dreams: Guatemalan and Salvadoran Immigrants and their Prospects in the U.S. Educational System." The Americas Plural: Regional and Comparative Perspectives Conference, Institute for the Study of the Americas, University of London, June 19-20*
- 2007 "Rights of Racial and Ethnic Minorities and Migrants: Between Rhetoric and Reality" (Cecilia Menjívar and Rubén Rumbaut). To be presented at the "Migration and Human Rights in the North American Corridor" conference, Human Rights Program, University of Chicago, Oct 12-13*
- 2007 "Women's Lives and Violence in Eastern Guatemala." Latin American Studies Association Meetings, Montreal, Canada, September*
- 2007 "Reshaping the Post-Soviet Periphery: The Impact of Men's Labor Migration on Women's Lives and Aspirations in Rural Armenia" (Victor Agadjanian, Arousyak Sevoyan, and Cecilia Menjívar). Population Association of America, New York, March.
- 2007 "Escaping Stereotypes: Older Women's Perceptions of Old Age and Aging." Leah Rohlfson and Cecilia Menjívar. Pacific Sociological Association Meetings, Oakland, CA, March.

- 2006 “Enduring Violence: Women's Lives in Eastern Guatemala.” American Anthropological Association Meetings, San Jose, CA, November*
- 2006 “Fighting to Exist in Non-Existence: The Citizenship Process of Central American and Mexican Women” (Olivia Salcido and Cecilia Menjivar). International Migration Section Roundtables, American Sociological Association Meetings, Montreal, Canada, August.
- 2006 “Guatemalan women’s work and gender relations in Guatemala.” Research Committee 06, Family Research, Session 10: Families in developing countries. ISA World Congress of Sociology, Durban, South Africa, July.
- 2006 “Guatemalan and Salvadoran Immigrant Families and US Immigration Policy.” Research Committee 06, Family Research, Session 06: Various family forms. ISA World Congress of Sociology, Durban, South Africa, July.
- 2006 “New Family Formations and US Immigration Law.” Latin American Studies Section, Western Social Science Association, Phoenix, AZ, April.

Conference/invited panel discussant (2006 to present)

- 2021 30th Anniversary of the Latina/o Section of the American Sociological Association, Panel on Future Directions of Latina/Latino Sociology, July 21st
- 2019 Migration Panel II. Critical Perspectives on Race and Human Rights: Transnational Reimaginings Conference, The Promise Institute for Human Rights, UCLA School of Law, March 8th
- 2017 Thematic Session: The Cultural Terrain of Migrant Inclusion and Exclusion: Perspectives from Africa and Asia (presider & discussant), American Sociological Association, Montreal, Aug. 12-16
- 2015 “Immigration and Politics.” Regular session, American Sociological Association meetings, Aug 22-25, Chicago, IL. (Discussant)
- 2015 “Migrations, Precarities and Illegalizations in the Americas” (Panel I). Latin American Studies Association, San Juan Puerto Rico, May 27-30 (Panel Discussant)
- 2015 “Gender Issues in Contemporary Armenia: From Research to Policy.” Yerevan State University Center for Gender and Leadership Studies, Armenia, May 11-12 (Conference Rapporteur)
- 2015 “Fleeing Violence, Finding Prison: The Treatment of Migrant Women in Flight from Domestic Violence in the U.S. Immigration System.” Haury Program in Environmental and Social Justice, James E. Rogers College of Law, University of Arizona, Tucson, AZ, April 23-24
- 2014 “Somos Familia: The Transnational Politics of Representation about Latino Families.” Latina/o Studies International Conference, Chicago, IL, July 17-19
- 2014 “The Disappeared, Displaced and Technologies of Memory: Long-term Consequences of Armed Conflicts in Central America.” Latin American Studies Association meetings, Chicago, May 21-24
- 2014 Central American Immigration: Honoring Pioneers & Charting New Paths, Center for the Study of Immigrant Integration, University of Southern California, February 26.
- 2013 Trabajadoras migrantes en la frontera sur: seminario/taller. El Colegio de México, June 21-22.
- 2012 Thematic session, Gender and Immigration, Pacific Sociological Association Meetings, San Diego, CA, 22-25 March
- 2010 Thematic session, Spiritual and Religious Challenges to State Citizenship in the Age of Migration, American Sociological Association meetings, Atlanta, GA, August 14-17.
- 2010 Taller “Familias y Movilidades: Enfoques teóricos y perspectivas metodológicas”, Colegio de México, DF, México, June 11th
- 2009 Unaccompanied Migrant Children Workshop/Discussion, Radcliffe Institute, Harvard University, June 17-20.
- 2008 “Religion at the Edge: Expanding the Boundaries of the Sociology of Religion.” Center for the Study of Religion, Princeton University, October 3-4.
- 2007 Panel “The Border is Everywhere: “New” Spaces and Actors in Transnational Migration between Latin America and the United States - Part 1, Latin American Studies Association, Montreal.
- 2007 “A Conversation with Alejandro Portes.” Eastern Sociological Society, Philadelphia, March.
- 2006 Session “Beyond Low Wage Labor Migration: Entrepreneurs, Professionals, & Managers.” American Sociological Association Meetings, Montreal, Canada, August
- 2006 Qualitative methods session and session on ethics of research. “Taller Centroamericano de la Red

Internacional de Migración y Desarrollo (RIMD), Programa de Naciones Unidas para El Desarrollo (PNUD) El Salvador, y La Universidad Centroamericana José Simeón Cañas, (UCA) San Salvador, El Salvador, June 28th & 29th.

- 2006 Panel "Transnational Families." Fourth Annual Summer Institute on International Migration, Center for Comparative Immigration Studies, University of California, San Diego, June 19-23.
- 2006 Migration and the Arts in the United States Workshop, Princeton University, June 1-2.
- 2006 Panel "Voces Inocentes: Discusión sobre el largometraje." Latin American Studies Association Meetings, San Juan, Puerto Rico, March.

Critic on Book Panels

- 2021 Panel for "In Someone Else's Country: Anti-Haitian Racism and Citizenship in the Dominican Republic," by Trenita Brookshire Childers. Society for the Study of Social Problems, August 5th.
- 2020 "Toward Social Justice: New Books by Latinx Scholars." School of Social Ecology, UC Irvine, October 15th
- 2019 Panel for "Kids at Work: Latinx Families Selling Food on the Streets of Los Angeles," by Emir Estrada. School of Human Evolution and Social Change, ASU, November 7, 2019.
- 2018 Panel for "Gone Home: Race and Roots through Appalachia," by Karida Brown. UCLA Center for the Study of International Migration, October 5th.
- 2015 Panel for "Crime, Punishment and Migration," by Dario Melossi. American Society of Criminology, November 18-21, Washington, DC.
- 2009 Panel for "Survival of the Knitted: Immigrant Social Networks in a Stratified World," by Vilna Bashi. American Sociological Association, San Francisco, CA, August 9th.
- 2009 Panel for "God's Heart has no Borders," by Pierrette Hondagneu-Sotelo, Pacific Sociological Association, San Diego, CA, April 10th.
- 2006 Panel for "La Virgen of el Barrio: Marian Apparitions, Catholic Evangelizing, and Mexican American Activism, by Kristy Nabhan-Warren. Association for the Sociology of Religion, Montreal, Canada, August 9-12.

Presentations At UCLA

- 2021 "Effects of Immigration Law on Physical and Mental Health of Immigrants." Neuropsychology Brown Bag (Instructor Mirella Diaz Santos), Department of Psychiatry and Biobehavioral Sciences, Simmel Institute, February 11th
- 2021 "Law In(effectiveness) in Women's Lives: Family-first Ideologies vs. Abortion and Violence Against Women Laws in El Salvador." (with Leydy Diossa-Jimenez), Gender and Sexuality Working Group, Department of Sociology, February 10th

Presentations at the University of Kansas

- 2015 "Central American Women: Immigrants or Refugees?" XXIV Waggoner Research Colloquium, Center for Latin American Studies, University of Kansas, November 13th

Presentations at Arizona State University

- 2012 "Immigration and Arizona" Faculty Cross-talks, Office of Diversity, November 14.
- 2012 "Enduring Violence: Ladina Women's Lives in Guatemala" Latin American Studies cluster, Institute for Humanities Research, September 21st.
- 2010 "Living in Legal Limbo in Phoenix, AZ." School of Geographical Sciences and Urban Planning, ASU, September 24th.
- 2009 "Methodological Issues in Qualitative Research: Lessons from Research on Central American Immigrants in the United States," Southwest Interdisciplinary Research Center (SIRC), March 25th.
- 2007 "The Impact of Immigration Law on Immigrant Families: Reconfiguration or Breakdown?" Sociological Sciences Speaker Series, School of Social and Family Dynamics, ASU, March 1st.

- 2006 “Legal Status and the Lives of Central American Immigrants.” Voces Convergentes: Literatura, lingüística y cultura. 11th Spanish Graduate Student Symposium, Arizona State University, April 13th—15th.
- 2006 “Social Networks, Migration, and Immigrant Incorporation.” Mathematics and Cognition Seminar, Arizona State University, March 7th.
- 1999 “Central American Immigrants in the United States.” First Conference on Central American Literatures and Culture, Arizona State University, April 8-10.
- 1999 “The Social Networks of Salvadoran Women and Men in San Francisco.” Women Studies Program colloquium, Arizona State University, January 29th.

Courses Taught

UCLA:

- Sociology 236B Immigrant Incorporation/Assimilation (graduate)
- Sociology 152 Immigrant Incorporation/Assimilation (undergraduate)
- Sociology 191V Immigration and Media (undergraduate seminar)

University of Kansas:

- Sociology of Immigration (undergraduate and graduate)

Arizona State University:

- Sociology/School of Social and Family Dynamics:
- Graduate: Seminar in qualitative methods; immigration
- Undergraduate: research methods; immigration.
- Graduate/undergraduate course: Gender Violence

School of Justice and Social Inquiry:

- Graduate: Research Methods; Immigration and Justice; Migration, Immigration and Justice; Refugee Migrations and Justice.
- Undergraduate: Research Methods; Gender and International Development; Immigration and Justice.

Department of Sociology, University of California, Davis: 1989-1990 Instructor; 1/87-6/89 Teaching Assistant. Department of Sociology, University of Southern California: 9/81-5/82 Teaching Assistant.

Mentoring and Student Committees

Book workshops

- 2021 Blair Sackett and Annette Lareau, University of Pennsylvania, June 2021
- 2021 Asad Asad, Humanities Center, Stanford University, May 2021
- 2020 katrina quisumbing king, Provost’s Postdoctoral Scholar, USC, January 2020
- 2019 Paige Sweet, Inequality in America Initiative, Harvard University, October 25th
- 2019 Leisy Abrego, Center for the Study of Women, UCLA, May 17th
- 2018 Ming Chen, University of Colorado, Boulder Law School, December 6
- 2017 Angela Garcia, School of Social Service Administration, University of Chicago, Sept 28-29
- 2017 Maria Rendón, UC Irvine (held at UC Berkeley), June 21
- 2016 Jennifer Jones, Institute for Latino Studies, University of Notre Dame, Sept. 7-8.
- 2013 Leisy Abrego, Penny Kanner Next Generation Fellowship, Center for the Study of Women, UCLA, April 5

Post-doctoral

Amada Armenta, Department of Sociology, University of Pennsylvania. Post-doctoral Fellowship, Ford Foundation Diversity Fellowship (declined); The Woodrow Wilson National Fellowship, 2016-2017 (Mentor)

Leisy J. Abrego, Chicano Studies Department, UCLA. Ford Foundation Diversity Post-doctoral Fellowship, 2012-2013 (Mentor)

Silvia Dominguez, Sociology, Northeastern University. Ford Foundation Diversity Post-doctoral Fellowship, 2009-2010 (Mentor)

Carolina Valdivia Ordorica, School of Education, Harvard University, UC President's Post-doctoral Fellowship, 2020-2021 (Mentor)

Sandra D. Simpkins, School of Social and Family Dynamics, Arizona State University. W.T. Grant Foundation Fellowship, 2007-2012 (Mentor/qualitative methods advisor)

PhDs in Progress (Committee Chair/Co-Chair)

Estefanía Castañeda Pérez, (Co-Chair) Department of Political Science, UCLA
Catherine Crooke, Department of Sociology, UCLA

PhDs in Progress (Committee Member)

Adrian Bacong, Fielding School of Public Health, UCLA
Caitlyn Carr, Department of Anthropology, University of South Florida
Oscar Rubén Cornejo Casares, Department of Sociology, Northwestern University
Rose Ann Gutierrez, School of Education, UCLA
Leydy Diossa-Jimenez, Department of Sociology, UCLA
Harleen Kaur, Department of Sociology, UCLA
Lucia León, Department of Chicana/o Studies, UCLA
Claire Niehaus, Clinical Psychology Doctoral Program, George Mason University
Karime Parodi Ambel, Department of Anthropology, UCLA
Anthony James Williams, Department of Sociology, UCLA
Yue Yang, Department of Sociology, UCLA

PhDs Completed (Chair)

Jennifer Arney Sociology, School of Social and Family Dynamics (Spring 2010), ASU
Dissertation: "Prescription Drug Advertising and the Biomedical Construction of Affective Disorder: Effects for Consumers, Physicians, and Society."
*Associate Professor, University of Houston, Clear Lake

Lilian Chavez Sociology, School of Social and Family Dynamics (Spring 2016), ASU
Dissertation: "The Migration Process for Unaccompanied Immigrant Minors: Children and Adolescents Migrating from Mexico and Central America to the United States."
*Assistant Professor, Mesa Community College

Luis Fernandez School of Justice and Social Inquiry (Spring 2005), ASU
Dissertation: "Policing Protest Spaces: Social Control in the Anti-Globalization Movement."
*Professor, Northern Arizona University (formerly, Grinnell College)

Haruna Fukui Sociology, School of Social and Family Dynamics (Fall 2014), ASU
"Social Networks of Older Immigrants in Phoenix, Arizona."
*Assistant Professor, Okayama University, Japan

Andrea Gómez Cervantes Sociology, University of Kansas (Spring 2019)
"Inflexible Illegality: Immigration and Integration Processes of Indigenous and Non-Indigenous Latina/o Immigrants in the Midwest."
*UC President's Post-doctoral fellow & Assistant Professor, Department of Sociology, Wake Forest University

Belinda Herrera School of Justice and Social Inquiry (Spring 2009) (co-chair), ASU

Dissertation: "Living on the Edge of the Law: Undocumented 1.5 Mexican Immigrants and their Expressions of Citizenship."

Sang Kil School of Justice and Social Inquiry (Fall 2006), ASU
Dissertation: "Covering the Border: How the News Media Create Race, Crime Nation, & the USA-Mexico Divide."
*Associate Professor, San Jose State University

Zeynep Kilic Sociology, School of Social and Family Dynamics (Fall 2006), ASU
Dissertation: "Reluctant Citizens: Belonging and Immigrant Identification in the Era of Transnationalism."
*Associate Professor, University of Alaska

Carole McKenna School of Justice and Social Inquiry (Fall 2008), ASU
Dissertation: "Militarism: Micro-Macro Power Arrangements between Wives, Soldiers, and the Military-Industrial-Service-Complex."
*Instructor, Ferris State University

Dulce Medina School of Social Transformation, Program in Justice Studies (Spring 2016) ASU
Dissertation: "Immigrant Incorporation in the U.S. and Mexico: Well-being, Community Reception, and National Identity in Contexts of Reception and Return."
*Research Analyst, California Pension System

Carlos Posadas School of Justice and Social Inquiry (Spring 2007), ASU
Dissertation: "Women's Translocal Networks and How they Organize Resettlement by Looking at Specific Spheres of their Lives."
*Associate Professor (and former Chair), New Mexico State University

Olivia Salcido School of Justice and Social Inquiry (Spring 2011), ASU
Dissertation: "Wolves" or "Blessing": Victims'/Survivors' Perspectives on the Criminal Justice System.
*Tempe Preparatory Academy faculty

Tyler Wall School of Justice and Social Inquiry (Spring 2009) (co-chair), ASU
Dissertation: "War-Nation: Military and Moral Geographies of the Hoosier Homefront."
*Associate Professor, University of Tennessee (formerly, Eastern Kentucky University)

PhDs Completed (Committee Member)

Melinda Alexander School of Geographical Sciences, (Fall 2014), ASU
Dissertation: "Belonging With the Lost Boys: The Mobilization of Audiences and Volunteers at a Refugee Community Center in Phoenix, Arizona."

Randall Amster School of Justice Studies (Spring 2002), ASU
Dissertation: "Patterns of Exclusion, Forces of Resistance: Urban Sidewalks, National Forests, and the Contested Realms of Public Space."

Cynthia Bejarano School of Justice Studies (Summer 2001), ASU
Dissertation: "A Mosaic of Latino Cultures: Young Lives at the Crossroads of Sameness and Difference."

Naomi Bellot School of Justice and Social Inquiry (Spring 2009), ASU
Dissertation: "Gender Vulnerabilities in the Caribbean: A Focus upon Indigenous Kalinago (Carib) Women in Bataka, Dominica."

Diya Bose Department of Sociology (Summer 2020), UCLA
(3 articles dissertation)

- Neslihan Cevik Sociology, School of Social and Family Dynamics (Summer 2010), ASU
Dissertation: "Religious Revival in Modern Turkey: Muslim, New Muslim Entrepreneurs, and Sites of Hybridity."
- Chantal Figueroa Organizational Leadership, Policy, & Development (Summer 2014) U. of Minnesota
"State of Terror, States of Mind: Gender, Mental Health and Systems of Care in Guatemala City."
- Chiara Galli Department of Sociology (Spring 2020), UCLA
"Refugee Children or Immigrant Teenagers?: The Precarious Rights and Belonging of Central American Unaccompanied Minors in the United States."
- Everardo Garduño Dept. of Anthropology (Fall 2005), ASU
"From Invented to Imagined and Invisible Communities: Mobility, Social Networks and Ethnicity among the Yumans of Baja California."
- Gail Gibbons School of Social Work (Fall 2006), ASU
Dissertation: "Twenty-five Years Later: A Comparative Study of the Socioeconomic Integration of Vietnamese Refugees in Arizona."
- Anneliese M Harper School of Human Communication (Spring 1996), ASU
Dissertation: "The Impact of Immigration on Rural Guatemalan Women Ways of Speaking (Gossip)"
- Khaleel Hussaini Sociology, School of Social and Family Dynamics (Spring 2008), ASU
"Immigrant Adaptation Among Mexican Students in the Southwest: Understanding Differences Among Fifth Graders' Consumption Norms of Alcohol, Cigarettes, and Marijuana."
- Atsuko Kawakami Sociology, School of Social and Family Dynamics (Spring 2012), ASU
"Aging and Identity Among Japanese Immigrant Women."
- Heather Kuhn School of Public Health (Spring 2005) (External Reader) Harvard University
Dissertation: "Health Profile of Farm workers and Interface of Workers with Healthcare in Imperial County, California: A Qualitative Analysis."
- Mirian Martinez-Aranda, Department of Sociology (Summer 2021), UCLA
(3 paper dissertation)
- Brenda Ohta Sociology, School of Social and Family Dynamics (Spring 2008), ASU
Dissertation: "Determinants of Care for Medicare Recipients at the End of Life: Utilization and Decision Making in the Acute Care Hospital."
- John Rosinbum Department of History, ASU (Spring 2014), ASU
"A Crisis Transformed: Refugees, Activists and Government Officials in the United States and Canada during the Central American Refugee Crisis."
- Florencia Rojo, Department of Sociology and Behavioral Sciences, UCSF (Spring 2019)
"“You wanted norte:” Central American Families and the Ongoing Trauma of Migration, Separation, and Deportation."
- Aundrea Janaé Snitker Women & Gender Studies (Spring 2016) ASU
Dissertation: "Constructing Masculinities and the Role of Stay-at-Home Fathers: Discussions of Isolation, Resistance and the Division of Household Labor."
- Emily Skop Department of Geography (Spring 2002), ASU
Dissertation: "The Saffron Suburbs: Asian Indian Immigrants Community Formation in Metropolitan Phoenix."

Meredith Van Natta, Department of Sociology & Behavioral Sciences, UCSF (Spring, 2019)
 “Balancing Risks: Health, Citizenship, and Biopolitical Exclusion in the U.S.”

Andrea Vest Family and Human Development, Sanford School (Fall 2014), ASU
 Dissertation: “Latino Adolescents’ Organized Activities: Understanding the Role of Ethnicity and Culture in Shaping Participation.”

Paloma Elizabeth Villegas Dept. of Sociology and Equity Studies (Summer 2012) University of Toronto
 Dissertation: “Assembling and (re)marking migrant illegalization: Mexican migrants with precarious status in Canada.”

Arely Zimmerman Department of Political Science, (Spring 2010) UCLA
 Dissertation: “Contesting Citizenship: Identity, Rights, and Participation across Borders, Central Americans in Los Angeles.”

Doctoral Qualifying Examinations/Defenses only (All at ASU, unless otherwise indicated)

Eugenio Arene Educational Policy Analysis, School of Education
 Jennifer Chappell Eckert, School of Social Welfare, University of Kansas (qualifying exam committee)
 Neel Bhattacharjee Dept. of Geography
 Terna Gbasha School of Justice and Social Inquiry
 Estye Fenton Department of Sociology and Anthropology (Northeastern University)
 Mei Lei School of Public Affairs
 Chara Price Family and Human Development, Sanford School, ASU
 Elizabeth (Lisa) Reber School of Social Transformation, ASU

M.A. Theses in Progress:

M.A. Theses & Capstone Papers Completed (Chair)

Cameron Brandt Latin American Studies Program, UCLA (Spring 2020)
 Capstone: “Media Framing and SB1070: Racialization, Illegalization and Impact on Health Outcomes”

Nathan Cheong Latin American Studies Program, UCLA (Spring 2020)
 Capstone: “Blood, Sweat and Tears: The U-Visa Application Process and Acquisition and its Effects on Immigrant Wellbeing and Citizenship in the United States.”

Catherine Crooke Department of Sociology, UCLA (Spring 2021) (Co-chair)
 “U.S. Asylum Lawyering and Temporal Violence.”

Aurelia de La Rosa Aceves Sociology, School of Social and Family Dynamics (Spring 2011), ASU
 “Phoenix’s Place for the Homeless: Stories from the Maricopa County Human Services Campus.”

Cherie Espinoza School of Justice Studies ASU (Fall 2000)
 Thesis: “Education for Extinction: Protecting Our Roots from Arizona English-Only Initiative.”

Luiza Kinzerska-Martinez Latin American Studies Program, UCLA (Spring 2020)
 Thesis: “#Ni Una Menos: Central American Policy Approaches to Gender-Based Violence in the Twenty-First Century.”

Paola Lopez Latin American Studies Program, UCLA (Spring 2020)
 Capstone: “U.S. Asylum Procedure: Asylum Seekers Trapped in Violence Generated by the State.”

Dulce Medina Sociology, School of Social and Family Dynamics ASU (Summer 2011)
 Thesis: “Return Migration: Modes of Incorporation for Mixed Nativity Households in Mexico”

Rigoberto Quintana Latin American Studies Program, UCLA (Spring 2020)
Thesis: "Points of Contact: Agents of Aid and Social Reproduction at a Migrant Shelter in Tijuana."

Emily Sawyer Sociology, School of Social and Family Dynamics, ASU (Spring 2009)
Thesis: "The Adoption of Biomedicine into *Quechua* Cosmology of Health and Illness: Treatment-Seeking Behavior in an Indigenous Ecuadorian Community." (Co-Chair)

Cecilia Martinez-Vasquez School of Justice Studies ASU (Summer 2005)
Thesis: "Identity Formation Among Salvadoran Youth of the 1.5 and Second Generation."

M.A. Theses/Papers & Capstone Competed (Committee Member)

John Abiel Benítez Department of Geography (Summer 2002), ASU
Thesis: "The Hispanic Protestant Landscape in Mesa, AZ."

Melissa Carpenter Dept. of English/ Comparative Literature (Spring 2001), ASU
Thesis: "También somos madres: Militancy and Maternity in Latin American Testimonios."

Mario Escobar Department of Spanish (Fall 2011), ASU
"Globalización, violencia y solidaridad: prácticas discursivas eurocentroamericanas y chicanas."

Miriam Hilin Department of Sociology (Spring 2005), ASU
"Immigration Law and the Family Stability of Mexican Undocumented Immigrants."

Summer Lopez Colorado Department of Sociology, UCLA (Fall 2020)
"Spinning the Revolving Door: Advancing a Legal Violence Framework to Investigate Predatory Policing Practices in the Sex Trade."

Juan Esteban Mejía Aguilar Estudios de Población, Colegio de la Frontera Norte, México (Summer 2014)
"Migrantes Desaparecidos: Una Búsqueda Interminable."

Robert Miller School of Architecture (Spring 1998), ASU
Final Project: "Redesigning the INS Building to Accommodate the Social and Cultural Diversity of Immigrants."

Paul Ara Nersessian Department of Religious Studies (Summer 2002), ASU
Thesis: "Borderlands Scholarship."

Reena Patel Global Technology and Development (ASU East) (Summer 2003), ASU
Thesis: "The Re-Enforcement of Traditional Gender Roles in the Technology Sector: A Case Study of Female Engineers in India."

Chara Price Family and Human Development, Social and Family Dynamics (Fall 2012), ASU
"Sibling Behaviors and Mexican Origin Adolescents' After-School Activity Participation."

Emily Skop Dept. of Geography (Summer 1997), ASU
Thesis: "Segmented Paths: The Geographic and Social Mobility of Mariel Cuban Exiles."

Kathleen Tonnies Curriculum & Instruction, School of Education, (Fall 2016) University of Kansas
"From Passion to Practice: Developing a Culturally Relevant Training Program for Volunteers of Adult Refugee English Language Learners."

Honors Theses in Progress (Chair)

Federico Trudu, Department of Sociology/Minor in Migration Studies, (Spring 2021) UCLA

Honors Theses Completed (Chair)

Michelle Brady School of Justice Studies (Fall 2000), ASU
Thesis: "The Stalker: A Creative Project."

Chrisanne Gultz School of Politics and Global Studies (Spring 2014), ASU
"The Media Construction of Undocumented Immigration as a National Crisis"

Sean McKenzie Departments of Political Science & Spanish (Spring 2008), ASU
"Formation of Perceptions of Migration Among Wives and Mothers Left Behind in Rural Honduras."

Daniella Rodriguez, Migration Studies minor, (Winter 2020), UCLA
"Social Imaginaries of Migration: How Images of Life Course Inform Adult Undocumented Latino Immigrants' Desires to Stay or Return."

Edna Sandoval Avila Latin American Studies, UCLA (McNair Scholar) (Spring 2020)
"Guatemala Mujeres en Resistencia: Racialized Struggle in the Aftermath of War."

Magdalena Valenzuela School of Justice Studies (Spring 2000), ASU
"A System Flawed: The Death Penalty in the United States."

Honors Theses Completed (Committee Member)

Anna Fairbanks Bethancourt Department of English (Spring 2011), ASU
"Consolidating Migrant Identity in Arizona: Newcomers and a State's Need for Social Empathy."

Loredana Cuatro Nochez School of Languages and Linguistics, *Griffith University, Australia (Summer 2007)
Thesis: "Salvadorian migrant: A case study to investigate their schooling experience, cultural identity and their language maintenance in (Queensland) Australia."

Falynn Glickstein School of Justice Studies (Spring 2004), ASU
Honor's thesis: "Killings of the Women in Juarez."

Brenna Gromley Department of History (Spring 2008), ASU
"Battling Neighbors: The United States Response to Honduran-El Salvador "Soccer War."

Lauren Kerchenko Department of History (Fall 2000), ASU
Thesis: "From the Ukraine to the US: Immigrant Women and Assimilation."

Haley McInnis Sociology (Spring 2013), ASU
"The Role of Religious Organizations in Progressive Social Movements: Local Churches and Their Response to Senate Bill 1070."

Michelle Speck Dept. of Anthropology (Spring 2001), ASU
Thesis: "Mexican Immigrant Women."

Other Undergraduate Mentoring

At UCLA

Dalesy Casasola Pre-Doctoral Scholars Summer Program, California State University, Los Angeles, 2019
Isabel García Department of Sociology, UCLA

At the University of Kansas

Giselle Almodovar Emerging Scholars Faculty Mentor, Center for Undergraduate Research, 2016-2018
Faculty Mentor Program, College of Liberal Arts and Science, Fall 2016

At Arizona State University

Lea Fordyce	B.A.	Obama Scholar Mentorship Program, 2013-2014
William McDonald	B.S.	Research Apprenticeship, School of Politics & Global Studies, 2013
Mauro Whiteman	B.S.	Research Fellow, Center for the Study of Religion and Conflict, Fall 2012
Christy Garcia	B.S.	Research Apprenticeship, School of Social and Family Dynamics, Fall 2007
Vanessa Tucker	B.S.	Research Apprenticeship, School of Social and Family Dynamics, Fall 2007
Joshua Whistler	B.S.	Research Fellow, Center for the Study of Religion and Conflict, 2004-05
Olivia Reyes	B.S.	Research Fellow, Center for the Study of Religion and Conflict, 2004-05
Sonia Anaya	B.S.	Research Apprenticeship, School of Justice Studies, Fall 2003
Malea Chavez	B.S.	Research Apprenticeship, School of Justice Studies, Fall 1998

Panels, Boards, Consulting, and Related

--Advisory Board Member, Consortium on Gender-Based Violence, University of Arizona, 2018-

--Advisory Board, Migrant Children & Youth Project, Deborah Boehm and Susan Terrio (leads), 2017

--Advisory planning board, "Developing a 21st Century US Immigration Agenda," CMS, New York, 2016

--Advisory council member, Immigrant Integration: Assessing and Improving the Collective Response of the Catholic Church in the United States Panel, Center for Migration Studies, New York, 2014-

--Institute for Women's Policy Research, Washington, D.C. "Women Immigrants in the New Destinations: Religion's Role in Facilitating Incorporation and Improving Well-Being," 1/2009-2011.

--United Nations Development Program (UNDP). San Salvador, El Salvador. Contributor to Report, 12/04-04/05.

--Annie E. Casey Foundation. Participant, Consultative Session on Transnational Families, September 23rd, 2002

--Center for the Common Good, Vesper Society, Oakland, CA. Research Consultant, Immigration Project, 4/932/94

--University Eduardo Mondlane, Maputo, Mozambique, Faculdade de Letras, Advisor/Consultant, 1993 (Summer)

--Joint Committee on International Migration, Refugee Resettlement, and International Cooperative Development, Sacramento, CA. Research Coordinator, 9/89-1/91

--Evaluation, Training and Management Co., Sacramento, CA. Consultant, Project: Rehabilitation programs in low-income communities, 1/90-12/90.

--Casa de la Cultura, Ministry of Culture, Managua, Nicaragua Assistant Coordinator, 5/85-9/85.

--LULAC, Los Angeles, Program Development Assistant, 9/83-9/84.

Professional Service (*denotes elected)American Sociological Association

2020-2021 President-elect; * 2021-2022 President; 2022-2023 Past-President

2017-2018 Chair Elect; * 2018-2019 Chair, 2019-2020 Past Chair, International Migration Section

2016-2017; 2018-2020 Member, Committee on the Status of Women

2016-2017 Member, Committee on Nominations, Family Section

2016-2017 Chair, Founders' Award Committee, Latino/a Section

2015-2016 Chair, Public Sociology Award Committee, International Migration Section

2014-2015 Member, William J. Goode Book Award Committee, Family Section

2013-2014 Member, Lewis A. Coser Award Committee, Theory Section

2013-2014 Founders Award Selection Committee, Latino/a Section

2013-2014 Vice-President elect*; 2014-2015 Vice-President; 2015-2016 Past Vice-President;

Program Committee 2015 Meetings

2012-2013 Chair, Article Award Committee, International Migration Section

2010-2013 Member-at-large; * ASA Council.

Fund for the Advancement of the Discipline sub-committee

Minority Fellowship Program Advisory Board (Council Liaison)

2010-2011 Chair, Awards Committees and Chair, Career Award Committee, Latino/a Section

2010 Member, NSF/ASA Postdoctoral Fellowship Review Committee (also in 2012)

2009-2010 Member, Committee on Nominations, Family Section

2007-2008 Member, Awards Committee, Latino/a Section
2007-2009 Member,* ASA Committee on Nominations
2006-2008 Member, Program committee for the Annual Meetings (& author-meets-critics books selection).
2004-2005 Chair-elect; * 2005-2006 Chair; 2006-2007 past Chair, Latina/o Section.
2003-2004, 2004-2005 Member, Thomas and Znaniecki Award Committee, International Migration Section.
2003-2006 Council Member,* International Migration Section.
2002-2004 Member, Program committee for the Annual Meetings.

Latin American Studies Association

2017 International Migration Section Article Award Committee member
2009-2010 Diskin Distinguished Lecture and Diskin Dissertation Award Selection Committee member.
2009-2010 Co-chair, Migration and Latin American Diasporas Track, for 2010 meetings, Toronto, Canada
2007-2009 Co-chair, Cross-border Studies and Migration Track, for 2009 meetings, Rio de Janeiro, Brazil.
2004-2006 Council member,* Section on Gender.
2002-2003 Co-chair,* Central American Section.
2000-2002 Council member,* Central American Section.

Pacific Sociological Association

2012-2013 Member, Distinguished Scholarship Award committee
2004-2007 Member,* Committee on Committees, Southern Region.

Society for the Study of Social Problems

2004-2005 Chair, Committee on Committees (one year replacement).
2004 Member, Program Committee for the Annual Meeting.
2002-2005 Member,* Committee on Committees.
2001-2002 Chair, Minority Fellowship Selection Committee.
2001 Site visit for Social Problems Editorial Office, Summer.
2000-2001 Chair-elect and Member. Minority Fellowship Selection Committee.
1998-1999 Member, Lee Founders Award Committee.

Sociologists for Women in Society

Member, Mainstream Team (media contact) 2009-

Editorial/Advisory Boards (Journals)

American Behavioral Scientist, 9/2009-
American Journal of Sociology, Consulting editor, 9/2011-8/2013
American Sociological Review, 1/2009-12/2011; 1/2003-12/2005
Contexts, 1/2017-12/2019
Aztlán: A Journal of Chicano Studies, 1/2018-12/2020
Gender & Society, 1/2013-1/2015; 1/2003-1/2005
International Migration Review, 2021-2023; 2018-2021
Journal of Developing Societies, Associate editor, 2002- 2005
Journal of Developing Societies, Book Review Editor, 1995-2000
Journal of Latin American Studies, International advisory board member, 1/2014-
Journal of Marriage and Family, 2021
Latino Studies, 1/2001-
Law & Social Inquiry, 2021-2023
Migraciones Internacionales, 2001-2010
Perspectives on Global Development and Technology, 2001-2003
Population Research and Policy Review, 9/2015-
RSF: The Russell Sage Foundation Journal of the Social Sciences, 3/2019-2/2022
Sociological Science (Consulting editor), 6/2017-
The Sociological Quarterly, 2008-2014
Sociology of Race and Ethnicity, 1/2017-12/2019

Studies in Social Justice, 1/2006-

TRACE (Travaux et Recherches dans les Amériques du Centre), CEMCA 9/2012-

Editorial Boards (Encyclopedias, Series, and Volumes)

Women on the Move: Past and Present Perspectives Series, *Manchester University Press*, 2021-

Social Mechanisms Series, *Oxford University Press*, 2021-

Global Migration and Social Change Series, *Policy Press* (University of Bristol), 2016-

Latina/o Sociology Series, *New York University Press*, 2013-

Latinos in the United States: Studies in Diversity and Change Series, *Lynne Rienner Publishers*, 2004-

School of Advanced Research Press (Santa Fe, NM), 2007-2010

Immigration and Crime: Ethnicity, Race, and Violence, edited by Ramiro Martinez, Jr., and Abel Valenzuela. New York University Press (2005).

Latinas in the United States: An Historical Encyclopedia. Vicki L. Ruiz and Virginia Sánchez-Korrol, editors. Indiana University Press (2005).

Other professional service (selected)

2017 Organizing committee member, “Country Conditions in Central America and Asylum Decision-Making” Workshop, College of Law & Center for Latin American & Latino Studies, American University, Washington DC January 12

2006-2012 Expert/member, Working Group on Global Childhood and Migration

2006 Faculty participant, Fourth Annual Summer Institute on International Migration, Center for Comparative Immigration Studies, University of California, San Diego, June 19-23.

2002 “Hispanic Gendering of the Americas: Beyond Cultural and Geographical Boundaries.” National Endowment for the Arts Summer Institute for College and University Teachers, Arizona State University, June 17-July 19. (Institute faculty member.)

1998 Co-Chair. Immigration and Human Rights Working Group, Inter-University Program for Latino Research. (IUPLR, based at the University of Texas, Austin.)

1997 Mentor. Southwest Institute for Research on Women. Summer Institute on Global Processes, Local Lives: Comparative Approaches to Women’s and Area Studies. University of Arizona. 6/8-15.

Grant Reviews: Center for Engaged Scholarship (2017), European Research Council (2020), NSF Law and Society Program (2005, 2007, 2008, 2013); NSF Social and Behavioral Sciences Program (1996, 2005, 2006, 2007, 2018); NSF Sociology Program (2012, 2013, 2016, 2017, 2018, 2 in 2019), Social Sciences and Humanities Research Council of Canada (2002, 2004, 2007, 2016); Foundation for Child Development, New York (1997); Louisiana Board of Regents’ Research Competitiveness Subprogram (2006); Israel Science Foundation (2007, 2010, 2016); Austrian Science Fund (2010, 2012), National Humanities Center (2011), Russell Sage Foundation (2013, 2016, 2019), Sam Houston State University Office of Sponsored Projects (2013).

Manuscript referee for book publishers: The University of Arizona Press, The University of California Press, Cambridge University Press, Columbia University Press, The University Press of Florida, The Johns Hopkins University Press, School of American Research Press, New York University Press, University of North Carolina Press, University of Notre Dame Latino Studies Institute, Oxford University Press, University of Pittsburgh Press, Polity Press, Routledge, Rutgers University Press, Springer, Stanford University Press, Temple University Press, University of Texas Press, Wadsworth Publishing

Tenure and promotion reviews: University of Alaska, Arizona State University, University of Arkansas, SUNY Albany, SUNY Stony Brook, Amherst College, University of British Columbia, University of Birmingham, Brigham Young University, Brown University, Columbia University, Bucknell University, UC Berkeley, UC Irvine, UCLA, UC Santa Cruz, UC Davis, UC San Diego, Clemson University, Columbia University, Cornell University, CUNY, Dartmouth College, Drexel University, Florida International University, Fordham University, Grinnell College, Harvard University, University of Illinois Urbana-Champaign, University of Illinois-Chicago, Indiana University, Iowa State University, Kansas State University, University of Massachusetts at Lowell, University, University of Massachusetts-Boston, University of Massachusetts-Lowell, Michigan State University,

North Carolina State University, Northeastern University, University of Oregon, Oregon State University, University of Pennsylvania, Pitzer College, Pomona College, Princeton University, Providence College, Rice University, St. Mary's University (MD), Texas A&M, University of Texas at Austin, University of Toronto, Tufts, University of San Francisco, University of South Florida, University of Southern California, University of Utah, Wheaton College (MA), Virginia Tech, Whitman College, Wellesley College.

Program review: Global and Sociocultural Studies, Florida International University (Graduate Program), (Spring 2013); Department of Sociology, Brown University (Spring 2018)

Service at UCLA

2021-2022, 2020-21, 2019-2020, Elected member, Executive Committee, Department of Sociology
 2020- Chair, Advisory Board, Center for the Study of International Migration
 2020 Search Committee for Director Center for the Study of Women
 2020 Fellowship Reviewer, Graduate Division
 2019-2021 Faculty Advisory Board Member, Chicano Studies Research Center
 2019-2020 Faculty Advisory Board Member, Latin American Institute
 2019- Faculty co-coordinator, Gender and Sexuality Working Group, Department of Sociology
 2018-2019 Member, Undergraduate Committee, Department of Sociology

Service at the University of Kansas

2016-2017 Member, Personnel Committee, Department of Sociology
 2016- Member, Search Committee for CLAS Associate Dean for Diversity, Equity & Inclusion
 2016-Member, Advisory Board, Women, Gender, and Sexuality Studies
 2015- Member, Executive Committee, Center for Latin American & Caribbean Studies

Service at Arizona State University

University

2014 Southwest Borderlands Initiative Selection Committee (member)
 2013-2016 Member, University Graduate Council
 2012-2014 Co-convener, working group on Immigration Theory, Institute for Humanities Research
 2012-2014 Co-organizer, Working group on Latin American Studies, Institute for Humanities Research
 2012-2014 Member, Executive Board, Faculty Women's Association
 2012-2014 Outstanding Doctoral Mentor Committee, Graduate College
 2012-2013 Member, Executive Board, Comparative Border Studies Center, School of Transborder Studies
 2011-2012 President, Chicano and Latino Faculty and Staff Association
 2009 Member, Personnel Committee, Dept. of Transborder, Chicano/a, & Latino/a Studies (Fall)
 2007-2010 Member, Campus Environment Team
 2006-2008 Faculty Liaison, Chicano & Latino Faculty and Staff Association/Faculty Women's Association.
 2006 Member, Advisory Board, Center for Latin American Research (Fall)
 2006 Faculty panel participant, Social Science Graduate Student Association, April 21st.
 2006 Panel judge, Graduate Students in Life, Earth, and Social Sciences Association, Feb 17th.
 2006 Member, Personnel Committee, Asian Pacific American Studies Program.
 2003-2004 Mentor, Faculty Development Program
 2004-2005 Member, Search Committee (for director) Center for Latin American Studies,
 2003-2004 Member, Steering Committee, School of Global Studies
 2003 Keynote speaker, Sociology Club kickoff celebration. Department of Sociology, Nov. 18th.
 2003 Sabbatical Review, Social and Behavioral Sciences, Arizona State University West.
 2003-2004 Member, Personnel Committee, Asian Pacific American Studies Program.
 2001-2002 Member, Committee on the Status of Women.
 2000- Member. Race and Ethnic Relations Doctoral Examination Committee, Department of Sociology.
 1998-2001 Member, Executive Board, Committee on Law and the Social Sciences.
 2000-2001 Member, Child and Family Services Advisory Board.
 2000-2001 Member, Recruitment Committee. Asian Pacific American Studies Program. 2000, 2001, and 2002
 Graduate College Representative in Dissertation Defenses: May 2002, September 2001, July 2000.

1999 Participant (and fund raising), First Conference on Central American Literature and Culture, April.
1999 Participant, "A Campus Climate for Diversity Summit." (Part of "Preparing for the University of the Next Century.") March 27th
1998-1999 Member, Search Committee, Department of Chicana/Chicano Studies.
1998-1999 Member, Search Committee, Department of Religious Studies.
1997-1999 Coordinator. Women in Latin America Working Group. Center for Latin American Studies.
1996-1997 Advisory Council, Center for Latin American Studies.

College of Letters, Arts and Sciences

2013-2014 Member, Committee on Committees (elected)
2012 (Spring semester) Search Committee member (for Social Science Dean)
2010-2011 Member, Dean's Advisory Council

College of Public Programs

2001-2002 College of Public Programs Internal Grants Committee.

School of Social and Family Dynamics (2005-present)

2012- Associate Director
2007-2009; 2010-2012 Director, Graduate Studies (Sociology)
2006-2007 Graduate Committee (member).

School of Justice Studies (1996-2005)

Chair: Personnel Committee; Computer and Colloquium Committee
Member (multiple years): Policy Work Group, Graduate Committee, Personnel Committee, John P. Frank Lecture Committee, Graduate Committee, Computer Committee, Recruitment Committee

Community Engagement and Public Presentations

2014 "Conversación sobre migración." Centro Laboral, South Omaha, November 10th.
2014 Panel "Global Violence and Social Justice: A Conversation", Tucson Festival of Books, March 15th.
2012 "The Effects of Migration on Those Who Stay in the Countries of Origin." Foundation for Inter-Cultural Dialogue, Tempe, AZ, December 5.
2008, 2009 Committee member, II Feria de la Pupusa, Unidos en Arizona/Comité Salvadoreño, Nov.
2007 Presentation to Wilson Elementary School students, Faculty Ambassadors Program, Nov 16th.
2006 Academic participant, Religious Convening, Interfaith Worker Justice, Phoenix Dioceses, 3/26-3/27.
2002 Presentation, ASU Escribe, ASU Public History Program, Arizona Book Festival, April 6th.
2001 Lecture on immigration. Phoenix Civitan Club, Phoenix Arizona. June 7th.
2000 Organizer and Chair. Feria Informativa de Servicios Sociales (Social Services Informational Fair for Latino immigrants in the area), ASU Downtown Center. July 15th.
2000 Immigrants and Laborers. Presentation to the City of Mesa, Arizona Neighborhood Committee. May 25th.
8/90-12/93 Northern California Legal Services, Sacramento, CA. Legal Assistance and Refugee Project, Assistant/Translator (Volunteer)
5/91- 8/92 Dixon Family Planning Services, Dixon, CA (Research Consultant)
--Country conditions expert witness (all pro bono) in asylum cases of Central American immigrant immigrants throughout the country, with a focus on detention cases in Artesia, Dilly, and Karnes, Texas.
--Multiple local, regional, national and international media interviews (in English and Spanish).

Memberships

American Sociological Association
Latin American Studies Association
Sociologists for Women in Society
Eastern Sociological Society
Pacific Sociological Association
Citizenship and Immigration Network, Law and Society Association
Red Internacional de Migración y Desarrollo

Association for the Sociology of Religion

Languages

Fluent in Spanish and Portuguese.

Fair knowledge of French and Italian.

Exhibit B



United States Border Patrol

Southwest Border Sectors

Total Illegal Alien Apprehensions By Fiscal Year (Oct. 1st through Sept. 30th)

Fiscal Year	Big Bend (formerly Marfa)	Del Rio	El Centro	El Paso	Laredo	Rio Grande Valley (formerly McAllen)	San Diego	Tucson	Yuma	Southwest Border Total
2018	8,045	15,833	29,230	31,561	32,641	162,262	38,591	52,172	26,244	396,579
2017	6,002	13,476	18,633	25,193	25,460	137,562	26,086	38,657	12,847	303,916
2016	6,366	23,078	19,448	25,634	36,562	186,830	31,891	64,891	14,170	408,870
2015	5,031	19,013	12,820	14,495	35,888	147,257	26,290	63,397	7,142	331,333
2014	4,096	24,255	14,511	12,339	44,049	256,393	29,911	87,915	5,902	479,371
2013	3,684	23,510	16,306	11,154	50,749	154,453	27,496	120,939	6,106	414,397
2012	3,964	21,720	23,916	9,678	44,872	97,762	28,461	120,000	6,500	356,873
2011	4,036	16,144	30,191	10,345	36,053	59,243	42,447	123,285	5,833	327,577
2010	5,288	14,694	32,562	12,251	35,287	59,766	68,565	212,202	7,116	447,731
2009	6,360	17,082	33,521	14,999	40,569	60,989	118,721	241,673	6,951	540,865
2008	5,391	20,761	40,961	30,312	43,658	75,473	162,390	317,696	8,363	705,005
2007	5,536	22,920	55,883	75,464	56,714	73,430	152,460	378,239	37,992	858,638
2006	7,520	42,636	61,465	122,256	74,840	110,528	142,104	392,074	118,549	1,071,972
2005	10,536	68,506	55,722	122,679	75,346	134,186	126,904	439,079	138,438	1,171,396
2004	10,530	53,794	74,467	104,399	74,706	92,947	138,608	491,771	98,060	1,139,282
2003	10,319	50,145	92,099	88,816	70,521	77,749	111,515	347,263	56,638	905,065
2002	11,392	66,985	108,273	94,154	82,095	89,927	100,681	333,648	42,654	929,809
2001	12,087	104,875	172,852	112,857	87,068	107,844	110,075	449,675	78,385	1,235,718
2000	13,689	157,178	238,126	115,696	108,973	133,243	151,681	616,346	108,747	1,643,679
1999	14,952	156,653	225,279	110,857	114,004	169,151	182,267	470,449	93,388	1,537,000
1998	14,509	131,058	226,695	125,035	103,433	204,257	248,092	387,406	76,195	1,516,680
1997	12,692	113,280	146,210	124,376	141,893	243,793	283,889	272,397	30,177	1,368,707
1996	13,214	121,137	66,873	145,929	131,841	210,553	483,815	305,348	28,310	1,507,020
1995	11,552	76,490	37,317	110,971	93,305	169,101	524,231	227,529	20,894	1,271,390
1994	13,494	50,036	27,654	79,688	73,142	124,251	450,152	139,473	21,211	979,101
1993	15,486	42,289	30,058	285,781	82,348	109,048	531,689	92,639	23,548	1,212,886
1992	13,819	33,414	29,852	248,642	72,449	85,889	565,581	71,036	24,892	1,145,574
1991	8,764	38,554	30,450	211,775	72,293	87,319	540,347	59,728	28,646	1,077,876
1990	7,180	41,373	28,708	223,219	89,052	97,018	473,323	53,061	36,387	1,049,321
1989	5,560	46,786	27,524	168,105	75,292	79,650	366,757	51,445	31,387	852,506
1988	6,209	59,403	41,179	182,566	69,912	60,294	431,592	48,683	42,723	942,561
1987	9,586	64,934	55,291	231,994	74,139	71,038	500,327	47,481	67,277	1,122,067
1986	23,796	123,952	95,186	312,892	143,685	121,783	629,656	71,675	93,219	1,615,844
1985	23,667	99,280	71,519	240,350	114,931	82,826	427,772	55,269	67,737	1,183,351
1984	22,196	87,058	68,563	212,652	87,059	66,860	407,828	46,283	59,777	1,058,276
1983	20,829	83,733	71,897	205,944	65,279	57,706	429,121	35,870	63,595	1,033,974
1982	20,268	48,753	55,440	152,882	40,385	32,533	314,979	32,344	48,236	745,820
1981	17,584	50,455	59,774	146,872	36,910	32,809	326,836	33,085	45,483	749,808
1980	15,602	50,762	57,009	127,488	39,167	35,012	285,984	33,668	45,862	690,554
1979	20,116	50,262	55,532	149,722	50,666	41,915	337,930	37,075	52,580	795,798
1978	23,501	54,098	42,118	174,010	36,627	45,201	325,557	34,991	53,338	789,441
1977	22,239	42,322	38,421	145,059	27,289	38,704	337,195	33,295	48,669	733,193
1976	19,846	32,988	32,327	114,886	24,665	38,839	266,709	34,641	42,598	607,499
1975	20,472	32,008	27,217	99,000	26,199	31,300	185,499	39,941	50,628	512,264
1974	23,291	44,098	26,143	112,432	30,061	38,668	196,981	50,108	49,824	571,606
1973	22,378	42,232	23,125	82,386	23,854	37,092	128,889	44,824	36,286	441,066
1972	20,269	31,110	15,327	78,168	21,781	29,338	73,115	32,272	19,946	321,326
1971	22,026	25,780	14,292	57,796	17,665	28,281	59,375	23,548	15,228	263,991
1970	16,770	18,711	12,028	43,640	11,569	20,708	50,663	14,222	13,469	201,780
1969	11,973	12,991	9,195	31,159	8,129	14,076	33,311	8,301	8,833	137,968
1968	8,834	9,576	8,358	19,408	5,715	10,093	24,116	4,537	6,004	96,641
1967	7,049	7,906	6,974	13,656	4,178	9,029	17,844	3,068	4,269	73,973
1966	6,592	6,845	6,916	10,119	3,658	8,706	13,362	2,392	4,050	62,640
1965	3,973	4,292	5,344	6,355	2,310	8,057	6,558	1,480	1,651	40,020
1964	3,146	4,489	2,640	4,486	2,168	9,173	4,521	1,200	696	32,519
1963	2,026	4,417	1,690	3,813	1,753	9,992	3,768	1,466	719	29,644
1962	1,431	3,250	1,426	3,304	1,274	5,569	3,091	1,247	511	21,103
1961	954	3,458	1,878	3,540	1,172	6,713	2,279	1,178	573	21,745
1960	732	3,023	1,839	3,630	1,024	5,515	3,371	1,255	633	21,022