



CHIRLA

Coalition for Humane
Immigrant Rights



February 7, 2023

Chair James Comer
Committee on Oversight and Accountability
Washington, DC 20515

Ranking Member Jamie Raskin
Committee on Oversight and Accountability
Washington, DC 20515

Chair Glenn Grothman
Subcommittee on National Security, the Border, and Foreign Affairs

Re: Hearing “On the Front Lines of the Border Crisis: A Hearing with Chief Patrol Agents”

Tuesday, 7 February 2023, 2154 Rayburn House Office Building

Dear Chairs Comer & Grothman and Ranking Member Raskin:

On behalf of the Coalition for Humane Immigrant Rights (CHIRLA), the largest statewide immigrant rights organization in California, I submit this statement for the record for today’s hearing entitled “***On the Front Lines of the Border Crisis: A Hearing with Chief Patrol Agents.***” As an organization serving the immigrant community for the past 35 years, CHIRLA has worked to gain and maintain both trust and credibility as a reliable source of accurate information of events both in California and south of the U.S. – Mexico border. We strive to ensure that federal policies protect immigrants, promote family unity, and help achieve a just society fully inclusive of immigrants.





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Since 2017, CHIRLA has monitored the implementation of harmful border policies such as, “Remain in Mexico” policy (Migrant Protection Protocols, MPP) and more recently Title 42. CHIRLA, along with multiple border organizations, bears witness of these policies’ impact on immigrants who intend to exercise their legal right to seek asylum, as well to the abuses suffered by them while in Border Patrol custody.

Title 42

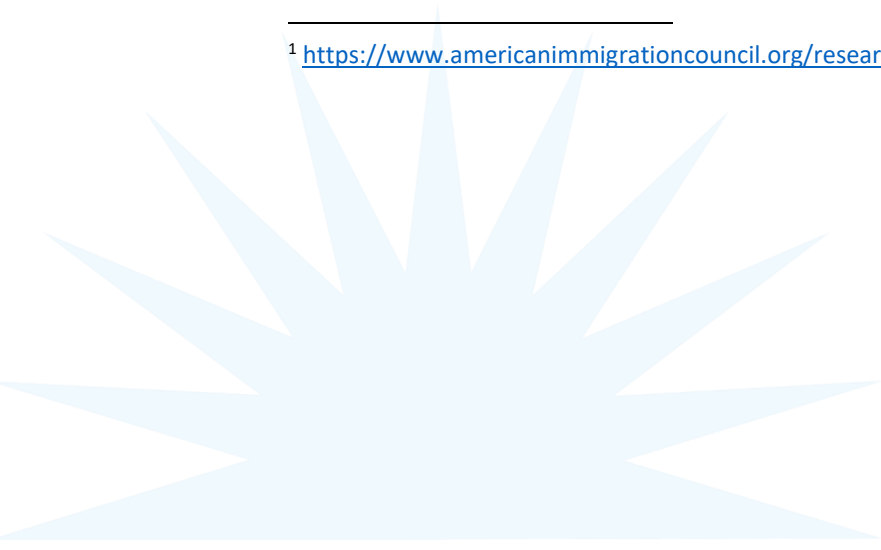
Border expulsions are currently being carried out through section 265 of Title 42 under the pretext of protecting public health. It was invoked by the Trump administration at the outset of the COVID-19 pandemic as one of their many anti-immigrant efforts to hermetically seal the border. The Biden Administration not only continued using this policy – in part due to court order - but it has expanded it. Over 1.8 million expulsions have been carried out since the pandemic began. However, **nearly half of those expulsions were of the same people being apprehended and expelled back to Mexico multiple times**. As reported by American Immigration Council, this is because Title 42 has led to a significant increase in repeat crossings at the border. In fact, 1 in 3 apprehensions since Title 42 expulsions began have been of a person on at least their second attempt to cross the border.¹

Continuing Family Separation

On April 6, 2018, then Attorney General Jeff Sessions announced the “Zero Tolerance” policy, separating thousands of families until enjoined by the ACLU’s class action lawsuit *Ms. L v. ICE*. In all, over 5,000 families were separated, and not all have been located to date. President Biden’s Family Reunification Task Force has reunified a few dozen of the hundreds who remain separated.

DHS’ implementation of MPP and Title 42 policies, described above, have separated countless more families by leaving immediate family members in different detention facilities, different border cities, or even different countries. Thousands of families living in dangerous border camps or other precarious

¹ <https://www.americanimmigrationcouncil.org/research/guide-title-42-expulsions-border>.





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conditions have chosen to send their children across the border alone, as Title 42 restrictions do not apply to unaccompanied children.

Jewish Family Service of San Diego and the American Civil Liberties Union of San Diego & Imperial Counties have documented continuing family separations in the California borderlands, including separations that are distinct from those covered in the *Ms. L v. ICE* lawsuit. In July 2021, the organizations sent a letter to DHS calling on Secretary Mayorkas to stop separating families seeking asylum.²

In August of 2022, a second letter was sent, led by the Center for Immigration Law and Policy and Jewish Family Service, to seek accountability and justice for Lucy and her family:

Lucy was beaten by U.S. Border Patrol and separated from her daughter (10), her son (18), and her stepson (18), the latter of whom was immediately deported back to El Salvador. Lucy, who is 4'9" tall, was charged with assaulting the officer and then forcibly separated from her daughter and sons. The government later asked the court to dismiss the charges against Lucy and her son, which the court did, but did not facilitate reunification of the family even after the criminal cases were dismissed. This family had been separated for five months and it took advocacy ACLU-SDIC, UCLA CILP, from JFS, that Lucy and her son were released from DHS custody in Imperial Valley, finally reunited with each other, served at the SDRRN Migrant Shelter, and then reunited with Lucy's 10-year-old daughter who was staying with a cousin in L.A. JFS is continuing with legal representation for Lucy and her son through the duration of their immigration proceedings.³

² <https://www.aclu-sdic.org/en/press-releases/stop-splitting-families-at-the-border>.

³ https://www.aclu-sdic.org/sites/default/files/field_documents/2022_08_15_lucy_letter_final_redacted.pdf.





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CBP also regularly separates non-parental caregivers, like grandparents, aunts, uncles, and adult siblings, from children at the border, rendering the children “unaccompanied” and often expelling the caregiver to Mexico or removing them to their home country. In April 2021, an estimated 10 - 17% of all unaccompanied children in ORR custody had been separated from non-parental caregivers at the border. Thousands of children have been separated from non-parental caregivers, although the government does very little tracking.

Pregnant people in detention

Al Otro Lado has also documented over a dozen cases of women expelled with newborn U.S. citizen children after giving birth in Border Patrol custody. Border Patrol officials did not give these mothers a chance to obtain U.S. birth certificates for their children before expulsion, rendering their infant children functionally stateless.

The ACLU-SDIC and Jewish Family Service of San Diego have also documented inhumane conditions for women who give birth in CBP custody. Along with them, CHIRLA continues to call on CBP to end its detention of pregnant people beyond the time necessary to process them. In situations when pregnant people are taken directly to an offsite medical provider, CBP should process and release them as soon as possible after medical treatment to avoid detention in a carceral setting.⁴

Border Wall Construction

Additionally, as a result of Title 42 and the lack of access to seek asylum at ports of entry, and related to the 30-foot fence addition, the University of California, San Diego, has documented a tremendously concerning spike in border-related injuries. At UC San Diego Health, there were 67 cases of trauma-related incidents due to falls at the border wall from 2016 to 2019. **The number jumped to 375 between 2019 and 2021. Fatalities also increased, zero before 2019 to 16 since then.** First author Amy Liepert, MD, medical director of acute care surgery at UC San Diego Health said: “This is an unseen public health crisis happening

⁴ <https://www.aclu-sdic.org/en/press-releases/aclu-and-jewish-family-service-respond-to-oig>.





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right now and it has significantly affected major local health care providers in San Diego.”⁵

The Mexican Government recently released a short report on the number of Mexican nationals who are injured or lost their lives at the border, some highlights:

- In 2022, 42 Mexican nationals lost their lives while trying to cross the Tijuana - San Diego border.
- During the last three fiscal years, at least 646 Mexican nationals were hospitalized or died in their attempt to cross this border.
- Only 20 percent of Mexican nationals hospitalized in 2022 after attempting to cross the border suffered injuries unrelated to the wall (dehydration, heat stroke, among others). **The remaining 80% suffered bruises, fractures, lacerations, or even more serious and permanent injuries when falling off the wall.**⁶

CHIRLA's Perspective on Policy Solutions

All these policies, current and past, were first created and implemented by the Trump administration in a cruel and xenophobic effort to keep immigrants from coming to our country. More recently, a global pandemic was weaponized against these immigrants who were scapegoated as disease carriers in accordance with age-old and discredited racist tropes. These policies violated international and domestic laws, and they disproportionately harm Black, Indigenous, and Latinos, particularly from Central America, Africa, and Haiti. Further, they force people to remain in danger by pushing them to seek dangerous alternatives, including via smugglers, instead of being able to safely access the asylum system.

⁵ <https://health.ucsd.edu/news/releases/Pages/2022-04-29-study-unprecedented-increase-in-number-of-border-wall-falls-and-trauma.aspx>.

⁶ <https://consulmex.sre.gob.mx/sandiego/index.php/boletines/856-increasing-number-of-mexican-nationals-injured-or-dead-in-their-attempt-to-cross-the-border>.





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We echo our partners demand that CBP completely desist from detaining people known to be pregnant. This would help resolve the now-documented deficiencies in the agency's tracking of childbirths and detention of U.S. citizen newborns as well as other longstanding abuses and mistreatment suffered by pregnant people in their custody.

We know the border wall and its expansion has not stopped people from coming to the U.S. but has only made the journey even more dangerous and deadly. Those funds could be redirected to increase capacity to process people at the Ports of Entry. Regarding border wall construction in San Diego, Friendship Park is more than a gate and walls. We support maintaining and increasing regular and unrestricted access to Friendship Park, including access to the Binational Friendship Garden of Native Plants, the area immediately surrounding the Monument, and the beach area.

We believe that this Administration has a legal and moral obligation to welcome people with dignity, to stop criminalizing and vilifying immigrants, and to stop further border militarization. To that effect, Congress and DHS need to work together, alongside all levels of government and community-based organizations, to appropriate and allocate the necessary resources to create a robust and humane welcoming system that does not rely on detention, incarceration, and criminalization.

Thank you for considering CHIRLA's statement.

Please contact our General Counsel, Carl Bergquist, cbergquist@chirla.org, and our Southern Region Policy Manager, Esmeralda Flores eflores@chirla.org, should you have any questions.

