



CaliBaja Moving Forward Together *CaliBaja Avanzando Juntos*

Takeaways from meeting “After Title 42”

June 21, 2022 / 9:00-10:30 AM PT

Title 42 is considered to be related with an increase in the recidivism rate among unauthorized migrants encountered by the U.S. Border Patrol at the border. That is, a larger share of migrants is trying to cross the border multiple times in a short period because people expelled under Title 42 are not formally processed nor subjected to legal consequences. The recidivism rate was 27% in 2021, a level unseen since 2007 and that reached a minimum of 7% in 2019.

Only certain groups of migrants have been consistently expelled, mainly Mexican individuals and families, and individuals from the Northern Triangle of Central America. Other nationalities with high expulsion rates under Title 42 are Ecuadorian and, to a lesser extent, Haitian. This likely happens because Mexico generally accepts expelled citizens from these countries while the expulsion of people of other nationalities is constrained by higher costs for the U.S. government in terms of identification procedures, health screenings, detention capacity and transportation by air.

The rates of Guatemalan and Honduran family expulsions fluctuated in May 2020-2022. After the D.C. Circuit Court of Appeals announced in March 2022 that migrant families cannot be expelled to countries where they may face persecution, the share of Guatemalan and Honduran families expelled dropped sharply from around 80% to nearly 60%.

Title 42 was intended to end in May 2022, but it will remain in effect in the foreseeable future. A federal judge in Louisiana ruled the continuation of Title 42 expulsions along the border after a petition was made by the states of Arizona, Texas, and 24 non-border republican states. Only Ukrainians and a small number of humanitarian exemptions approved by the U.S. Customs and Border Protection (CBP) can currently access the U.S. asylum system, showing differential treatment based on nationality and race/ethnicity. Less than 100 asylum seekers are being processed daily at the CaliBaja border. In May 2022, only 2,148 people accessed the asylum system through humanitarian exemptions in California.

Shelters and other nonprofit organizations in Tijuana are helping the CBP by screening asylum seekers eligible for Title 42 exemptions. Still, the U.S. government has not provided any funding to support these efforts while Mexican state and municipal governments have. Shelters continue to be overcrowded and underfunded while their staff faces safety concerns due to the large influx of asylum seekers. Disinformation and the lack of clear rules to access asylum increase migrants’ vulnerability as victims of fraud and extortion.



CaliBaja Moving Forward Together *CaliBaja Avanzando Juntos*

Republican states, especially Arizona and Texas, are controlling migration and border policy at the national level through legal cases in the jurisdictions that are favorable to them. The Center for Immigration Law and Policy at the University of California Los Angeles (CILP) considers that the evidence presented to the federal judge in Louisiana does not justify a court order at the national level affecting states that did not participate in the petition, such as California and New Mexico. CILP is thus leading litigation strategies at different levels to fight this decision, but they perceive a lack of support from the federal government and civil society, and a lack of interest in the ways this ruling has affected the lives and safety of asylum seekers.

A study by medical practitioners in the Departments of Surgery, and of Family Medicine and Public Health at the University of California San Diego suggests that the increase in the height of the border wall (ordered in 2017) and Title 42 are related to the significant increase in migrant deaths, trauma center admissions and injury severity. Although the 30-foot height ordered in 2017 was considered “unclimbable”, migrants continued to climb it and San Diego trauma centers immediately noticed a change in their injuries. The most commonly seen injuries are lower extremity fractures, spine fractures and traumatic brain injuries, many of which limit physical activity in the long term.

The Consulate General of Mexico in San Diego identified a 30% increase in the number of Mexicans injured trying to cross the San Diego-Tijuana border between fiscal years 2020 and 2021, as well as a 370% increase in rescues by the Border Patrol, and a 146% increase in Mexican migrant deaths related to border crossings. Border Angels has also received more requests of support from families with loved ones who passed away through maritime crossings. We must make an effort to disseminate these findings among congress members to stop the continuing replacement wall projects.

While there is general agreement that Title 42 will end, there is no certainty on when nor how. Many expect it to be replaced by other policies restricting access to asylum and other legal pathways for migration. Based on previous evidence, the continuation of Title 42 will likely cause an increase in border crossings in the short term as these expulsions do not entail legal consequences for the migrants encountered at the border. Despite the measures taken in the U.S. to dissuade migration and make it more dangerous, migrants will still attempt to cross the border because they are desperate for better opportunities and life conditions.

The U.S. government and everyone involved must immediately change to a more humane rhetoric that stops differentiating between asylum seekers and migrants who cross the border without authorization. There are all kinds of migrants arriving for different reasons (such as climate change and the pandemic) who do not qualify for the limited definition of asylum. Legal pathways for migration must be expanded under the general principle that everyone should be able to move with dignity.

This document was prepared thanks to the support provided by Sempra and Otay-Tijuana Venture, LLC.