



April 26, 2022

Dear Representative,

On behalf of The Leadership Conference on Civil and Human Rights, a coalition of more than 230 national organizations committed to promoting and protecting civil and human rights, and the undersigned 205 civil and human rights organizations, we write to encourage your support of the Biden administration's plans to end Title 42 on May 23, 2022.¹ We urge you to reject any and all legislative efforts to extend Title 42 beyond May 23, 2022, including the Public Health and Border Security Act of 2022 (S.4036) and potential amendments to the COVID-19 relief bill. Ending Title 42 is an urgent racial justice, human rights, and civil rights issue, and we encourage you to work in tandem with the Biden administration to change course now.

Keeping Title 42 in place affects not only immigrant communities, but the country at large. For more than two years, Title 42 has rendered our Southern border and ports of entry virtually closed to asylum seekers and refugees. The prolonged use of Title 42 has betrayed our country's commitment to the international human rights principle of *non-refoulement*,² to our domestic laws governing the right to seek asylum, and to our professed role as a beacon and leader in advancing civil and human rights worldwide. Title 42 represents both a purposeful abandonment of our shared legal and moral principles and a myopic unwillingness to right the wrongs of the last administration. Immigrants continue to make up 1 in 5 essential workers, 1 in 5 health care workers, and 1 in 4 long-term care workers, serving in all of the industries deemed "essential" during the ongoing COVID-19 pandemic.³ Title 42's prolonged use over the past two years is an odious stain on the Biden administration's still-unfolding legacy. Should Title 42 continue indefinitely, it will spell the virtual end of U.S. asylum and should serve as a dire harbinger of continued civil and human rights rollbacks to come. Such purposeful regression, if met with little to no resistance, will harm not only immigrant communities but all those concerned with the fate of our country.

Use of Title 42 to prevent people fleeing persecution from applying for asylum is a perverse misuse of a public health law. It is not surprising that Title 42 has failed to protect public health or stem the tide of COVID-19 in the U.S., and has not reduced the surges emerging variants have caused. There is no

¹ Centers for Disease Control and Prevention, *Public Health Determination and Termination of Title 42 Order* (April 1, 2022), <https://www.cdc.gov/media/releases/2022/s0401-title-42.html>.

² United Nations Office of the High Commissioner for Refugees, *The principle of non-refoulement under international human rights law*, <https://www.ohchr.org/sites/default/files/Documents/Issues/Migration/GlobalCompactMigration/ThePrincipleNon-RefoulementUnderInternationalHumanRightsLaw.pdf>.

³ Migration Policy Institute, *Immigrant Workers: Vital to the U.S. COVID-19 Response, Disproportionately Vulnerable* (April 2020) https://www.migrationpolicy.org/sites/default/files/publications/COVID-19-EssentialWorkers-FS_Final.pdf; U.S. Department of Homeland Security, *Advisory Memorandum on Ensuring Essential Critical Infrastructure Workers' Ability to Work During the COVID-19 Response* (August 10, 2021) https://www.cisa.gov/sites/default/files/publications/essential_critical_infrastructure_workforce-guidance_v4.1_508.pdf.

evidence that Title 42 will protect the country from future variants and surges. Epidemiologists,⁴ former CDC officials,⁵ and public health experts⁶ have denounced the junk science⁷ underlying the use of Title 42 since its authorization in 2020. The CDC itself now formally agrees that Title 42 does not provide a public health benefit. Furthermore, Title 42 has reinforced ugly, racialized stereotypes about immigrants and the propensity for disease. Recent characterizations of Title 42 as a border management tool belie any reasoning based on science or public health and confirm that it has been used as an immigration policy, not a public health policy. Indeed, the March 11, 2022 memo⁸ to Customs and Border Protection officers authorizing an exemption from expulsion under Title 42 solely for Ukrainian nationals demonstrates the flimsiness of any purported public health justification. Such exemptions, narrowly applied, appear inequitable on their face and seem to support allegations that U.S. compassion for asylum seekers and refugees is heavily influenced by race, ethnicity, and nationality. In the end, misuse of a public health law in this way to circumvent due process at the border further undermines the credibility of public health institutions that are already under attack by movements with an anti-science agenda.

Efforts to tie the use of Title 42 to the COVID-related Public Health Emergency will harm both immigrants and the most vulnerable U.S. citizens. The key to ending the pandemic is increasing access to vaccines and preventative measures, not continuing anti-immigrant policies like Title 42. Some in Congress are seeking to reduce or block entirely funding to fight COVID-19, while others proposed tying the continuation of Title 42 to the Surgeon General's authority to declare or end a Public Health Emergency (PHE). Proposals that would prevent the administration from ending the use of Title 42 unless the PHE is also ended are misguided and dangerous, and put undue pressure on officials to lift the PHE prematurely to restore access to asylum. Ending the recently-renewed PHE is expected to result in over 12 million Medicaid beneficiaries losing coverage, along with countless consequences for COVID-19 related programs that serve all Americans. PHEs have a particular purpose: to create flexibility and certainty so the health care system can meet our country's health needs. Especially given that doctors, hospitals, community health centers, and other providers face a sudden lapse of resources to fight the pandemic, it is not time to further tie the hands of the Department of Health and Human Services.

Title 42 has exposed asylum seekers to chaos and violence, and has exposed Black asylum seekers to disproportionate, anti-Black harms. Title 42 has not deterred asylum seekers and refugees from

⁴ Columbia University Program on Forced Migration and Health, *Epidemiologists and Public Health Experts Reiterate Urgent Call to End Title 42* (January 14, 2022), <https://www.publichealth.columbia.edu/research/program-forced-migration-and-health/epidemiologists-and-public-health-experts-reiterate-urgent-call-end-title-42>.

⁵ CBS News, *Top CDC official told Congress migrant expulsion policy was not needed to contain COVID* (November 12, 2021), <https://www.cbsnews.com/news/cdc-official-told-congress-migrant-expulsion-policy-not-needed-to-contain-covid/>.

⁶ Physicians for Human Rights, *Neither Safety nor Health: How Title 42 Expulsions Harm Health and Violate Rights* (July 28, 2021), <https://phr.org/our-work/resources/neither-safety-nor-health/>.

⁷ Physicians for Human Rights, *1,300+ Medical Professionals from 49 U.S. States and Territories Call on CDC to End "Junk Science" Border Expulsion Policy* (October 28, 2021), <https://phr.org/our-work/resources/u-s-medical-professionals-demand-cdc-end-title-42/>.

⁸ U.S. Customs and Border Protection, *Title 42 Exceptions for Ukrainian Nationals* (March 11, 2022), <https://drive.google.com/file/d/1glEe8MnsNWR15BsfQtiaSR75yKBrCuqe/view>.

traveling to the Southern border — it has, instead, increased⁹ the number of desperate people fleeing danger who quickly attempt re-entry, because access to safety has been blocked and asylum claims are not being heard. Neither Title 42, nor any other dubious policy of its kind, can deter people who seek protection from persecution. Title 42 has exposed asylum seekers to violence after expulsion — with almost 10,000 reports¹⁰ of kidnapping, rape, assault, torture, and more. Furthermore, Title 42 has had an outsized negative impact on hyper-visible Black asylum seekers from Africa and the Caribbean¹¹ in particular, including (but not limited to) mass deportations and gruesome violence against Haitian migrants by Customs and Border Protection officials. The Leadership Conference and allied organizations decried¹² this anti-Black violence against Haitian and other Black asylum seekers in Del Rio, Texas last September, and we do so again today. To emphasize the scale of the harm Title 42 has wrought, consider this statistic: the U.S. government has conducted nearly 2 million expulsions in the past two years.¹³ With every day that Title 42 remains in place, an ever-growing number of asylum seekers are experiencing heinous harms that alter their lives forever. Seeking to extend this policy sanctions such harms both theoretically and in reality.

Our nation is fully capable of addressing the potential increase in migrants at the Southern border, but it must adopt a welcoming approach that treats all migrants with the dignity they deserve.

Ending Title 42 will not automatically lead to chaos at the border. Indeed, the removal of Title 42 is a return to regular order: Asylum claims will once again be processed and heard as authorized by U.S. law. The Biden administration has announced a comprehensive, whole-of-government plan¹⁴ to address potential increases in asylum seekers and refugees at the border, including surging personnel to the area, providing COVID-19 vaccines to those in custody, and reducing crowding in holding facilities. The expected short-term increase in arrivals is smaller than other increases in migration in our country's history, and far smaller than the numbers of migrants that other nations have been able to welcome and process. Chaotic conditions at the border are not a result of "surges", but rather of misguided approaches to enforcement. The transition to an orderly system at the border depends on the adoption of more humane and welcoming policies, and will only be made more difficult if Congress or the Biden

⁹ American Immigration Council, *Rising Border Encounters in 2021: An Overview and Analysis* (March 4, 2022), <https://www.americanimmigrationcouncil.org/rising-border-encounters-in-2021>.

¹⁰ Human Rights First, *Two Years of Suffering: Biden Administration Continues Use of Discredited Title 42 Order to Flout Refugee Law* (March 17, 2022), <https://www.humanrightsfirst.org/resource/two-years-suffering-biden-administration-continues-use-discredited-title-42-order-flout>.

¹¹ Robert F. Kennedy Human Rights and Haitian Bridge Alliance, *Beyond the Bridge: Documented Human Rights Abuses and Civil Rights Violations Against Haitian Migrants in the Del Rio, Texas Encampment* (2022), <https://rfkhr.imgix.net/asset/Del-Rio-Report.pdf>. The Quixote Center and Haitian Bridge Alliance, *The Invisible Wall: Title 42 and its Impact on Haitian Migrants* (2021) <https://www.quixote.org/wp-content/uploads/2021/03/The-Invisible-Wall.pdf>.

¹² The Leadership Conference on Civil and Human Rights, *Biden Must Pause Deportation of Haitians, Respect Due Process* (September 24, 2021), <https://civilrights.org/2021/09/24/biden-must-pause-deportation-of-haitians-respect-due-process/>.

¹³ U.S. Customs and Border Protection, *Nationwide Enforcement Encounters: Title 8 Enforcement Actions and Title 42 Expulsions 2022* (last modified April 8, 2022) <https://www.cbp.gov/newsroom/stats/cbp-enforcement-statistics/title-8-and-title-42-statistics>.

¹⁴ U.S. Department of Homeland Security, *FACT SHEET: DHS Preparations for a Potential Increase in Migration* (March 30, 2022), <https://www.dhs.gov/news/2022/03/30/fact-sheet-dhs-preparations-potential-increase-migration>.

administration adopts a punitive, enforcement-only approach. In the post-Title 42 world, the U.S. must welcome asylum seekers with dignity. We urge Members of Congress, instead of pursuing avenues to extend Title 42, to work with the Biden administration to enhance and improve these plans in meaningful ways, and to encourage the Biden administration to reject an enforcement-only approach to managing the Southern border, which would have disastrous, disorderly results.

Conclusion. The misuse of Title 42 is one of the most urgent civil and human rights issues of our day, and we urge you to stand with immigrants and welcome all with dignity. All Members of Congress should reject legislative efforts to extend Title 42 or continue tying this wholesale policy failure to the essential public health funding needed to end the pandemic. Congress must take a step in the right direction to establish a humane asylum system.

If you have any questions or concerns, please contact Breanne Palmer, Immigration Policy Counsel, at palmer@civilrights.org.

Sincerely,

The Leadership Conference on Civil and Human Rights
32BJ SEIU
Advocating Opportunity
AFL-CIO
African American Ministers In Action
African Communities Together
Al Otro Lado
Alianza Americas
America's Voice
American Civil Liberties Union
American Friends Service Committee (AFSC)
American Gateways
American Humanist Association
American Immigration Lawyers Association
American-Arab Anti-Discrimination Committee (ADC)
Americans for Democratic Action (ADA)
Andrew Goodman Foundation
Anti-Defamation League
Arizona Justice For Our Neighbors
Asian & Pacific Islander American Health Forum (APIAHF)
Asian American Legal Defense and Education Fund (AALDEF)
Asian Americans Advancing Justice | AAJC
Asian Americans Advancing Justice | Chicago
Asian Americans Advancing Justice | Los Angeles
ASISTA
Association of Asian Pacific Community Health Organizations (AAPCHO)

Asylum Seeker Advocacy Project (ASAP)
AsylumConnect
AsylumWorks
Austin Border Relief
Autistic Self Advocacy Network
Beacon Presbyterian Fellowship
Bend the Arc: Jewish Action
Bridges Faith Initiative
Bridges Faith Initiative
Brooklyn Defender Services
Buen Vecino
California Collaborative for Immigrant Justice
Cameroon Advocacy Network
Catholic Charities of SW Kansas
Center for Disability Rights
Center for Gender & Refugee Studies
Center for Law and Social Policy (CLASP)
Center for Popular Democracy (CPD)
Center for Victims of Torture
Central American Resource Center
Central American Resource Center of Northern California - CARECEN SF
Centro Legal de la Raza
Chinese Mutual Aid Association
Christian Reformed Church Office of Social Justice
Church World Service
Clearinghouse on Women's Issues
Cleveland Jobs with Justice
Coalition for Humane Immigrant Rights (CHIRLA)
Coalition on Human Needs
Columbia Law School Immigrants' Rights Clinic
Community Change Action
Comunidad Maya Pixan Ixim
Cooperative Baptist Fellowship
Disability Rights Education and Defense Fund (DREDF)
Disciples Immigration Legal Counsel
Disciples Refugee & Immigration Ministries
Doctors for Camp Closure
Envision Freedom Fund
Equality California
Esperanza Immigrant Rights Project
Esperanza United (Formerly Casa de Esperanza National Latin@ Network)
Fair Immigration Reform Movement (FIRM)
Faith-Immanuel Lutheran Church

Faith in Public Life
Families for Freedom
Farmworker Justice
Fellowship Southwest
Feminist Majority Foundation
Florence Immigrant & Refugee Rights Project
Florida Immigrant Coalition
Forging Opportunities for Refugees in America
Free Migration Project
Freedom Network USA
Garcia & Anderson, LLP
Government Accountability Project
Growing Together
Haitian Bridge Alliance
Her Justice, Inc.
HIAS Pennsylvania
Hispanic Economic Development Corporation
Hispanic Federation
Hope Border Institute
Human Impact Partners
Human Rights Campaign
Human Rights First
Human Rights Initiative of North Texas
Human Rights Observation/Honduras
Illinois Coalition for Immigrant and Refugee Rights
Immaculate Heart Community Commission on Justice for Immigrants and Refugees
Immigrant Defenders Law Center
Immigrant Legal Resource Center
Immigration Center for Women and Children
Immigration Equality Action Fund
Immigration Hub
Impact Fund
Indivisible
Institute for Justice & Democracy in Haiti
Instituto de Educacion Popular del Sur de California
Inter-Faith Committee on Latin America
International Refugee Assistance Project (IRAP)
InterReligious Task Force on Central America
Japanese American Citizens League
Jewish Activists for Immigration Justice Western MA
Jewish Voice for Peace, Atlanta Chapter
Justice Action Center
Justice for Our Neighbors El Paso

Justice in Motion
Kids in Need of Defense
Labor Council for Latin American Advancement (LCLAA)
Lambda Legal
Latin Advocacy Network (LATINAN)
Latin America Working Group (LAWG)
Latino Outreach Committee for the Maricopa County Democratic Party
Lawyers for Good Government (L4GG)
Lawyers' Committee for Civil Rights Under Law
League of United Latin American Citizens (LULAC)
League of Women Voters of the United States
Legal Aid at Work
Long Beach Immigrant Rights Coalition
Louisiana Advocates for Immigrants in Detention
Maryland Against ICE Detention
Michigan Immigrant Rights Center
Mississippi Center for Justice
MomsRising
Muslim Advocates
NAACP Legal Defense and Educational Fund, Inc. (LDF)
NARAL Pro-Choice America
National Action Network (NAN)
National Association for Latino Community Asset Builders (NALCAB)
National Center for Parent Leadership, Advocacy, & Community Empowerment (National PLACE)
National Center for Transgender Equality
National Council of Churches
National Council of Jewish Women
National Council on Independent Living
National Education Association
National Employment Law Project
National Immigrant Justice Center
National Immigration Law Center
National Immigration Project (NIPNLG)
National Partnership for New Americans
National Urban League
NETWORK Lobby for Catholic Social Justice
New Mexico Immigrant Law Center
New York Immigration Coalition
Next100
Northwest Immigrant Rights Project
Orlando Center for Justice
Oxfam America
Partnership for the Advancement of New Americans (PANA)

PFLAG National
Physicians for Human Rights
Presente.org
Project Lifeline
Project On Government Oversight
Public Counsel
Public Law Center
Puentes de Cristo, a Presbyterian Border Ministry
Quixote Center
Rabbinical Assembly
RAICES
Rainbow Bridge Asylum Seekers
Refugee Congress
Refugees International
Reproaction
Respond Crisis Translation
Revolutionary Love Project
Robert F. Kennedy Human Rights
Rocky Mountain Immigrant Advocacy Network
Save the Children
Service Employees International Union (SEIU)
Silver State Equality
Sisters and Brothers of Immigrants
Sisters of Mercy of the Americas Justice Team
Sisters of St. Dominic of Blauvelt, New York
Sanctuary DMV
Sojourners
Southern Border Communities Coalition
Southern Poverty Law Center
Student Clinic for Immigrant Justice
T'ruah: The Rabbinic Call for Human Rights
Tahirih Justice Center
The Advocates for Human Rights
The Workers Circle
The Young Center for Immigrant Children's Rights
U.S. Committee for Refugees and Immigrants (USCRI)
UCSF Health and Human Rights Initiative
UndocuBlack Network
Union for Reform Judaism
Unitarian Universalist Service Committee
United Stateless
UNWLA National
Vecindarios 901



Voice for Refuge Action Fund
Wallingford Indivisible
Washington Office on Latin America (WOLA)
Wayne Action for Racial Equality
Wilco Justice Alliance (Williamson County, TX)
Win Without War
Witness at the Border
Women's Refugee Commission

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