



## Under Trump border rules, U.S. has granted refuge to just two people since late March, records show

By **Nick Miroff**

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The Trump administration's emergency coronavirus restrictions have shut the U.S. immigration system so tight that since March 21 just two people seeking humanitarian protection at the southern border have been allowed to stay, according to unpublished U.S. Citizenship and Immigration Services data obtained by The Washington Post.

Citing the threat to public health from the coronavirus, the Trump administration has suspended most due-process rights for migrants, including children and asylum seekers, while "expelling" more than 20,000 unauthorized border-crossers to Mexico under a provision of U.S. code known as Title 42.

Department of Homeland Security officials say the emergency protocols are needed to protect Americans — and migrants — by reducing the number of detainees in U.S. Border Patrol holding cells and immigration jails where infection spreads easily. But the administration has yet to publish statistics showing the impact of the measures on the thousands of migrants who arrive in the United States each year as they flee religious, political or ethnic persecution, gang violence or other urgent threats.

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The statistics show that USCIS conducted just 59 screening interviews between March 21 and Wednesday under the Convention Against Torture, effectively the only category of protection in the United States that is still available to those who express a fear of grave harm if rejected. USCIS rejected 54 applicants and three cases are pending, according to the data, which does not indicate the nationality of those screened or other demographic information.

Lucas Guttentag, an immigration-law scholar who served in the Obama administration and now teaches at Stanford and Yale universities, said the border measures “are designed to pay lip service” to U.S. law and international treaty obligations “without providing any actual protection or screening.”

“The whole purpose of asylum law is to give exhausted, traumatized and uninformed individuals a chance to get to a full hearing in U.S. immigration courts, and this makes that almost impossible,” Guttentag said. “It’s a shameful farce.”

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Among migrants who sought protection to avoid being deported, U.S. immigration courts granted asylum to 13,248 in 2018, according to the most recent DHS statistics.

A USCIS spokesman referred questions to DHS. In an emailed statement, DHS spokesman Harry Fones said the United States continues to uphold its legal obligations to protect migrants.

“Under our lawful authority, the Department of Homeland Security will promptly return aliens home in order to prevent the spread of COVID-19 unless they express a fear of return to their home country,” Fones said. “If the alien expresses a fear of return, that claim will be promptly heard and considered in accordance with all applicable laws, policies and regulations.”

Despite the administration's claims of an external threat, the United States remains the world's worst coronavirus hot spot, by far. The country's 1.37 million confirmed cases is 1.1 million more than the next-highest nation — Russia — and the U.S. death toll of more than 82,000 is almost 2½ times that of the next-highest country.

Some experts and advocates point to the administration's long-running effort to close the U.S. border and build a wall there as the main reason for the new measures, seeing them as an excuse to implement the kind of blanket closures President Trump has sought for years.

Trump administration officials began limiting access to U.S. immigration courts and the asylum system well before the pandemic, in response to an unprecedented influx of Central American families and children in 2018 and 2019 who claimed a fear of harm if sent home.

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The administration returned more than 60,000 asylum seekers across the border last year in coordination with the Mexican government, under a program called the "Migrant Protection Protocols" that requires applicants to wait outside U.S. territory until their claims are adjudicated. MPP hearings in the United States have been suspended during the outbreak.

DHS officials also began shipping asylum seekers from Honduras and El Salvador to Guatemala last year, directing them to apply for protection there, among other measures.

Those controversial programs preserved a limited degree of access to U.S. immigration courts for migrants with the strongest and most serious claims, including victims carrying strong evidence of urgent, deadly threats and evidence of complicity by authorities.

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The emergency measures now in place at the border have essentially cut those pathways off, the statistics show, even as Trump administration officials say asylum applicants continued to be considered on a case-by-case basis.

“The administration has been trying for three years now to close the southern border to asylum seekers,” said Lee Gelernt, an American Civil Liberties Union attorney who has fought the administration’s immigration policies in federal court. Gelernt said his organization is considering legal challenges to the new measures.

“People who are scared and lacking knowledge of U.S. law are going to have no chance,” he said, noting that the way the government has set up the Convention Against Torture screenings “is essentially a scam.”

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Under the new proceedings, outlined in a memo published by ProPublica, U.S. agents do not ask migrants whether they face harm or fear persecution if deported or returned to Mexico. Migrants must volunteer the information.

Agents who hear the migrants' claims must seek approval from supervisors to refer an asylum seeker for an interview with USCIS to determine whether the person faces a "more likely than not" risk of being harmed if sent away. That threshold is much more restrictive than the standard applied under usual asylum rules.

A migrant who manages to clear those hurdles can then be screened by USCIS for eligibility under the Convention Against Torture, a U.N. treaty designed to prevent nations from facilitating torture, cruelty and forms of persecution, of which the United States is a signatory.

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The decision also must be approved by a USCIS supervisor, and applicants do not have the ability to appeal the decisions to U.S. immigration courts.

The most recent CBP enforcement statistics show the agency expelled 14,416 border-crossers last month. Approximately 95 percent of those who arrived were quickly sent back into Mexico. Overall, border detentions fell more than 50 percent from March to April, to 16,789, the second-lowest monthly total of Trump's presidency, according to the latest figures.

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