



MEMORANDUM

Date: April 20, 2022

To: The Honorable Chair and Members
Pima County Board of Supervisors

From: Jan Leshner 
County Administrator

Re: **Southwest Border Initiative Update**

My Memorandum of [February 25, 2022](#) provided an update on the costs of funding provided for the efforts of Pima County and our key partners – Catholic Community Services and the City of Tucson - to respond to surging release of U.S. southern-border asylum seekers by Department of Homeland Security (DHS) agencies.

Pima County began to provide a local response to this federal problem in 2019, accepting a role for the health and safety of those who are in Pima County for a lifetime or only a matter of days. While we have been successful in receiving reimbursement for all expenses incurred to date, such might not be the case in the future either because the numbers of individuals released in our community far exceeds current capacity or costs are no longer reimbursed. This Memorandum provides an update on how changes in federal policy might affect our community, which might result in the Board of Supervisors being asked to make policy and funding decisions in the near future.

Legal Asylum Seekers

The Southwest Border Initiative, which has been administered by Pima County through the allocation of federal funds, assists individuals who are in the United States legally. As first noted in a Memorandum of [May 20, 2019](#) the increase in asylum seekers released in Pima County has increased the discussion within the community about issues of migration. Legal asylum seekers released in Pima County by a component of DHS are sometimes confused with those who might have crossed the border illegally. Attached is a summary of the asylum seeker process, which is a protection granted to foreign nationals already in the United States or at the border who meet the international law definition of a “refugee.”

Title 42

The elimination of Title 42 and its impact within the Department of Homeland Security and specifically three agencies within, Border Patrol (BP), Customs and Border Protection (CBP), and Immigration and Customs Enforcement (ICE) on May 23, 2022 will have direct impact to Pima County and our humanitarian partner Catholic Community Services at Casas Alitas Welcome Center (CAWC).

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Title 42 of the United States Code deals with, in part, public health. Section 262 of U.S. Code, Title 42 prohibits entry into the United States when the Centers for Disease Control and Prevention (CDC) believes that "there is a serious danger to the introduction of [a communicable] disease into the United States." On March 20, 2020, the United States Department of Health and Human Services issued an emergency regulation to implement this portion of the Code in response to the COVID-19 pandemic. The same day, the Director of the CDC issued an order suspending the "introduction" of individuals from "Coronavirus Impacted Areas" which would include those entering from Canada or Mexico "who would be introduced into a congregate setting" at a port of entry or in a Border Patrol Sector station. This includes individuals who would normally be detained by U.S. Customs and Border Protection (CBP) after arriving at the border, including asylum seekers and unaccompanied children. The issuance of Title 42 meant that Individuals who arrived at the U.S.-Mexico border were not allowed to travel into the United States to seek asylum.

On April 1, 2022, the CDC announced it would stop authorizing Title 42 on May 23, 2022 as the COVID-19 pandemic winds down and becomes endemic ending the need for the public health order. When that occurs, it is estimated that the United States should prepare for up to 18,000 migrants a day to enter the United States.

The elimination of Title 42 and the pending increase in releases will have a ripple effect not only on CAWC but also the services the County has coordinated to support the safe arrival, testing, vaccination, medical care of those exposed to COVID-19, sheltering, feeding, then departure from our community. The numbers of asylum seekers that will now be legally processed will far exceed the daily numbers that CAWC can receive and the federal partners are currently planning how they will manage.

Since 2019, over 56,000 asylum seekers have been processed and released to CAWC. They currently have the ability to serve approximately 250 releases per day depending on availability of rooms. Most of those released in Pima County today are family units who are transported from Yuma County via federal transportation (CBP or ICE) to Pima County. Today the Tucson Sector Border Patrol is reporting approximately 1,000 apprehensions per day of which seventy-five percent are returned in accordance with Title 42. The soon-to-be 650 per day estimate of individuals released in the community is the source of the increased concern and anticipated challenge. CAWC has the potential to expand their operation before May 23 (the day Title 42 is expected to be lifted) and the Pima County Office of Emergency Management is working with federal planners to determine how those processed and exceed CAWC capacity will be managed. The primary focus is on creating a transportation network that will move asylum seekers out of the area without the need for street releases. While federal planning is attempting to divert these releases, there is no guarantee at this time that releases, in Pima County would be averted.

The County has been a partner supporting this effort as fiscal agent for all federal funding and coordination of services through contracts. They include transportation services; testing, vaccination, and medical care related to COVID-19; provision of meals and coordinating non-congregate sheltering locations.

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The County has coordinated testing for all asylum seekers entering the CAWC operation and it has been a well-coordinated and significant undertaking. As of this date, over 25,000 asylum seekers received a COVID-19 test and five percent (over 1,200) tested positive. The April positivity rate is less than two percent. The potential surge will effect testing for both those released at CAWC as well as those who have been released on our streets. The Pima County Health Department is working to learn whether or not our federal partners will assist with the provision of testing. Individuals have also been offered an opportunity to be vaccinated. To date, over 3,800 asylum seekers have been vaccinated. The federal partners are currently establishing a program to ensure individuals who wish to be vaccinated - are.

The County has coordinated locations for non-congregate sheltering outside of CAWC. In total, the capacity of non-congregate shelter rooms is approximately 180 rooms. Most of those rooms are under contract at the Red Roof Inn and Comfort Inn Suites. CAWC has been close to or at capacity for weeks. A decrease in the COVID-19 positivity rate has allowed the Red Roof Inn to shelters both positive and negative asylum seekers with measures in place to eliminate any concern of cross-exposure. While the current availability of rooms has allowed the Comfort Inn Suites to also provide shelter to those facing eviction through a program coordinated by Community Workforce Development, those rooms could be made available to asylum seekers, which would expand CAWC operations and have enough under the current infrastructure. In addition, the County has also coordinated a food contract to ensure meals while guess at these locations.

The Grants Management and Innovation Department (GMI) continues to work with FEMA EFSP for continued funding to support the operation. The February 25, 2022 Memorandum noted that, "[w]ith \$4,303,454.18 now on hand in FEMA EFSP ARPA Humanitarian Relief monies, this revenue will accommodate a monthly rate of costs incurred by the Southwest Border Operation Partnership for January through March 2022 of \$1,434,484." Pima County began to provide a local response to this federal problem in 2019, accepting a role for the health and safety of those who are in Pima County for a lifetime or only a matter of days. While the county has been successful in receiving reimbursement for all expenses incurred to date, such might not be the case in the future either because the numbers of individuals released in our community far exceeds current capacity or costs are no longer reimbursed. Previous updates to the Board of Supervisors reported that Pima County had funds on hand to accommodate a monthly rate of costs incurred through March 2022. We have recently been notified two additional FEMA EFSP awards of \$2,100,000.00 and \$1,600,000.00. The total revenue received since April 2021 is therefore now \$11,659,704.06. Based on actual and forecasted costs, we can accommodate the costs incurred through April 30, 2022 and have a buffer of \$1,259,645.54 as we head into May 2022.

The lift of Title 42 will impact the Department of Homeland Security and the surge they will face will affect Pima County. There will be a large group of asylum seekers that will require proper coordination and management beyond what the local humanitarians can support.

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Conclusion

Previous updates to the Board of Supervisors reported that Pima County had funds on hand to accommodate a monthly rate of costs incurred through March 2022. Additional funding has been provided that will cover all projected costs through April 2022 and may provide initial funding for May 2022.

As it appears Title 42 will be lifted as early as next month, a surge of those seeking to enter the United States is anticipated. This will result in a much larger group of asylum seekers who will require expanded and enhanced coordination and management. Clearly, the history of operations of the humanitarian effort to aid legal asylum seekers since 2019 indicates that the federal government will provide the funds necessary to support this federal program. Very soon we should know if the federal government will provide the additional resources necessary for Pima County and its partners to address the additional surge of asylum seekers caused by the imminent lifting of Title 42.

JKL/dym

Attachment

- c: Francisco García, MD, MPH, Deputy County Administrator & Chief Medical Officer, Health and Community Services
- Mark Napier, Assistant County Administrator
- Shane Clark, Director, Office of Emergency Management and Homeland Security
- Terry Cullen, MD, MS, Public Health Director, Health Department
- Regina Kelly, Director, Grants Management and Innovation Office
- Terri Spencer, Director, Procurement Department
- Teresa Bravo, International Projects Program Manager, Attractions & Tourism

Asylum Seeker Process

What Is Asylum?

Asylum is a protection granted to foreign nationals already in the United States or at the border who meet the international law definition of a “refugee.” The United Nations 1951 Convention and 1967 Protocol define a refugee as a person who is unable or unwilling to return to his or her home country, and cannot obtain protection in that country, due to past persecution or a well-founded fear of being persecuted in the future “on account of race, religion, nationality, membership in a particular social group, or political opinion.”

The Federal Players

There are three federal agencies, all of which are components of the Department of Homeland Security (DHS). When DHS was created in 2002, it replaced the Immigration and Naturalization Service, with three components within the DHS:

- Customs and Border Protections (CBP), which provides inspection functions at all Ports of Entry and the U.S. Border Patrol;
- Immigration and Customs Enforcement (ICE), which is responsible for immigration law enforcement including detention and removal, intelligence and investigations; and
- U.S. Citizen and Immigration Services (USCIS), which reviews and adjudicates citizenship processes.

What Is the Asylum Application Process?

There are two primary ways in which a person may apply for asylum in the United States: the affirmative process and the defensive process. Asylum seekers who arrive at a U.S. port of entry or enter the United States without inspection generally must apply through the defensive asylum process. Both processes require the asylum seeker to be physically present in the United States.

Affirmative Asylum: A person who is not in removal proceedings may affirmatively apply for asylum through USCIS. If the USCIS asylum officer does not grant the asylum application and the applicant does not have a lawful immigration status, he or she is referred to the immigration court for removal proceedings, where he or she may renew the request for asylum through the defensive process and appear before an immigration judge.

Defensive Asylum: A person who is in removal proceedings may apply for asylum defensively by filing the application with an immigration judge at the Executive Office for Immigration Review (EOIR) in the Department of Justice. In other words, asylum is applied for “as a defense against removal from the U.S.” Unlike the criminal court system, EOIR does not provide appointed counsel for individuals in immigration court, even if they are unable to retain an attorney on their own.

With or without counsel, an asylum seeker has the burden of proving that he or she meets the definition of a refugee. Asylum seekers often provide substantial evidence throughout the affirmative and defensive processes demonstrating either past persecution or that they have a “well-founded fear” of future persecution in their home country. However, the individual’s own testimony is usually critical to his or her asylum determination.

Certain factors bar individuals from asylum. With limited exceptions, individuals who fail to apply for asylum within one year of entering the United States will be barred from receiving asylum. Similarly, applicants who are found to pose a danger to the United States are barred from asylum.

What happens when an Asylum Seeker enters the United States?

An individual who indicates a “well-rounded” or credible fear of persecution in their home countries surrenders to a CBP officer, generally at a Point of Entry (POE). The Immigration Reform and Immigrant Responsibility Act requires that all individuals seeking asylum at POEs be detained.

When an asylum seeker surrenders, he or she is initially detained in a holding facility by CBP. An individual expressing fear of return is transferred from CBP custody to ICE. Due to capacity issues that have resulted from the recent surges in asylum seekers, ICE releases individuals in the local community. The asylum seekers who have been released in Tucson have been assessed for potential release on parole and, as part of that assessment process, identification has been verified, and it has been determined that the individual does not pose a flight risk or danger to the community and has an identified sponsor in the United States, which is the final destination of the asylum seeker.

Changes to the Asylum Process due to COVID-19

In March 2020, in response to COVID-19, the Center for Disease Control (CDC) issued an order suspending the “introduction” of persons who have been in “Coronavirus Impacted Areas.” Citing this authority, the Border Patrol began “expelling” individuals who arrive at the U.S. – Mexico border without giving them the opportunity to seek asylum, even if they express a fear of persecution.

On April 1, 2022, CDC Director Rochelle Walensky announced her agency would stop authorizing Title 42 on May 23, saying the expulsions of migrants are no longer necessary to protect public health.

What happens in Pima County?

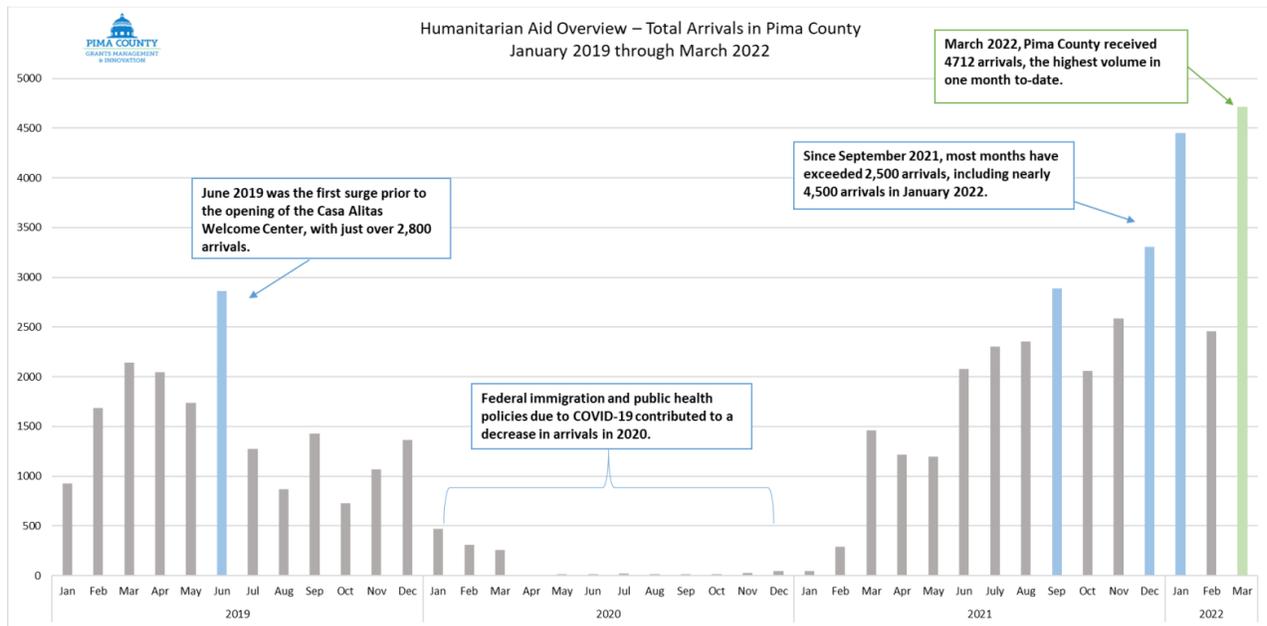
Once asylum seekers are processed, they are released into the Casa Alitas Welcome Center/CCS where staff works to reconnect them with their families and/or friends (also known as “sponsors”). The process for release entails ICE/Border Patrol contacting Catholic Community Services (CCS) to notify of the release (first thing in the morning, daily). CCS works with Pima County to schedule pick-ups from the Border Patrol Tucson Sector Soft Sided facility for families. Tucson ICE and/or Border Patrol will also directly transport singles or exceptions to Casa Alitas. If the asylum seekers are coming from Yuma ICE/BP will transport and drop off at Casa Alitas. Pima County vendors also provide transport for other

rural areas such as Ajo and Nogales, for asylum seekers processed and released directly at those ports of entry.

Once asylum seekers arrive to the Casa Alitas Welcome Center they receive a COVID test, an intake process and sponsors (family/friends) are contacted via phone call to update them of the asylum seeker’s current location and to request travel information. Individuals are also offered an opportunity to be vaccinated. If people test positive for COVID-19, Casa Alitas will provide transport to designated COVID-19 hotel for a 5-day quarantine, or until each individual within the family tests negative.

The Casa Alitas Welcome Center offers food, shower, beds and other basic items as available. Once the travel tickets are purchased by sponsors the shelters will make the necessary transportation arrangements to make sure all asylum seekers are at the Greyhound station or airport with enough time in advance to get in their bus or airplane to their sponsors destination (usually somewhere outside of Arizona).

Total Guest Arrivals at Casa Alitas Welcome Center



What ultimately happens to the individuals seeking asylum?

USCIS is charged with processing immigrant visa petitions, naturalization applications, asylum applications, applications for adjustment of status (green cards), and refugee applications. It also makes adjudicative decisions performed at the service centers, and manages all other immigration benefits functions (i.e., not immigration enforcement) performed by the former INS.

Individuals seeking asylum submit Form I-589, Application for Asylum and for Withholding of Removal, within one year of arriving in the US. The individuals then go through

fingerprinting, background and security checks, and are interviewed. Asylum Officers, Supervisory Asylum Officers and then USCIS personnel determine if asylum should be granted. Individuals are assigned to one of ten Asylum Offices or Sub-Offices throughout the U.S., depending on where they are residing with their sponsor.

How long does the Asylum Process Take?

Overall, the asylum process can take years to conclude.

Sources:

Asylum in the United States (June 11, 2020):

<https://www.americanimmigrationcouncil.org/research/asylum-united-states>

Obtaining Asylum in the United States:

<https://www.uscis.gov/humanitarian/refugees-asylum/asylum/obtaining-asylum-united-states>

What is Title 42, the COVID-19 border policy set to end in late May?

<https://www.cbsnews.com/news/title-42-immigration-border-biden-covid-19-cdc/>