

IMMIGRATION JUSTICE CAMPAIGN



What Comes Next for People Entering the U.S. from MPP

What is MPP?

The so-called Migrant Protection Protocols (“MPP,” also known as “Remain in Mexico”) is a program the U.S. government instituted in January of 2019 whereby certain people who came to the United States seeking asylum were put into immigration court proceedings in the U.S. but forced to live in Mexico throughout the course of the proceedings and only allowed to enter the United States for a day at a time to attend hearings.

Soon after President Biden took office, the Department of Homeland Security (DHS) announced that it would be ending MPP. First, they stopped forcing asylum seekers to return to Mexico for the duration of their proceedings. Then the administration processed thousands of asylum seekers who had been forced into MPP into the United States to pursue their asylum claims. And finally, in late 2021 the administration re-started the MPP program.

Who was subjected to MPP?

In its initial iteration, the program was limited to citizens of countries in which Spanish is the official language (whether or not the individual him or herself speaks Spanish) and of Brazil (whose official language is Portuguese), who did not have a visa or lawful immigration status in the U.S. and were seeking asylum. The U.S. did not give non-Spanish speakers any additional resources or support, despite forcing them to live in a Spanish-speaking country.

Mexican citizens were exempted from the program, as were unaccompanied children. In theory people with certain physical or mental health issues, “certain vulnerable populations,” and people who were more likely than not to face persecution or torture in Mexico were also exempted. In practice, DHS subjected many vulnerable individuals, like children with Downs Syndrome and trans individuals to MPP. Advocates had to fight for them to be allowed into the U.S. In order to be taken out of MPP due to a fear of persecution or torture in Mexico, individuals had to “pass” a “non-refoulement” interview. DHS forced about 70,000 individuals into MPP from January 2019 until January 2021.

What were the non-refoulement interviews?

Non-refoulement interviews were the mechanism by which DHS determined whether people who could be subjected to MPP should be exempted due to a likelihood of persecution or torture in Mexico on the basis of one of the grounds for asylum. The interviews were conducted by phone at the border patrol stations, without an attorney for the asylum seeker present, and generally without an opportunity to consult with a lawyer beforehand. The non-refoulement standard was extremely high and the vast majority of [people who sought the exemption were](#)

[denied](#), despite copious evidence of the myriad life-threatening dangers many asylum seekers faced in Mexico.

What were conditions like in Mexico?

Conditions in Mexico were bleak at best, life-threatening at worst. A small number of the approximately 70,000 people subjected to MPP between 2019 and 2021 were able to pay for housing or housed in shelters, but the vast majority were forced to live in makeshift encampments in some of the world's most dangerous cities on the southern side of the U.S./Mexico border. According to a [report by Human Rights First](#), more than 1,500 people suffered rape, kidnapping and assault – and those are only the cases that were documented. Roughly 44% of the immigration court proceedings for people in MPP ended with the judge entering an *in absentia* order of removal after the person failed to appear for his or her scheduled hearing. Some of those people failed to appear inadvertently because they simply didn't know when their hearings were scheduled or because they were being held by kidnappers when their hearing was conducted; others were unable to tolerate the squalid and dangerous conditions in Mexico and decided to go home.

For example, a three year-old Honduran boy and his parents were kidnapped after U.S. border officials returned them to the Mexican city of Nuevo Laredo. The boy's parents were separated, and the woman reported hearing the kidnappers beat and electrocute her husband. When she last saw him lying on the ground, beaten and bleeding, he told her, "Love, they're going to kill us." She has not seen him since.

Another Honduran woman was kidnapped by human traffickers as she was leaving a migration office in Mexico after being returned to that country by U.S. border officials. She was raped and forced into sexual slavery for three months, and escaped only when one of her captors helped her in exchange for sex.

The 2021 wind-down

President Biden's new administration stopped new MPP enrollments the day after he took office. On February 11th, 2021 the administration announced its plan to begin a phased wind-down of the program. In Phase I (which began on February 19th), approximately 12,000 individuals with pending immigration court cases were processed into the U.S. On June 22nd, the government began "Expanded Eligibility", in which people in MPP who had *in absentia* orders of removal or court cases which the immigration judge had terminated would be eligible to be processed in.

Locating and connecting with the thousands of people subjected to MPP in order to help process them into the U.S. has been a large logistical challenge. The office of the United Nations High Commissioner for Refugees created an online registration system called [Conecta](#) which people in Mexico (or other countries, as not everyone subjected to MPP stayed in Mexico) could use to apply to be processed into the U.S.

MPP 2.0

The states of Texas and Missouri challenged the government's decision to end MPP in federal court and on August 15, 2021 a federal judge ordered the administration to re-start it. The Supreme Court upheld the lower court's decision, and in early December 2021 the Department of Homeland Security announced that it had reached an agreement with the government of Mexico and, under the terms of that agreement, would be reinstating MPP.

This latest iteration of the MPP program differs slightly from its predecessor. Whereas initially only individuals from Spanish-speaking countries and Brazil were eligible, now any citizen of the Western Hemisphere may be subject. On a positive note, the process by which individuals are examined for potential exemption from the program has been expanded: Customs and Border Protection officials are now required to ask every MPP-subject individual whether they have a fear of persecution or torture in Mexico. And those who express such a fear bear a slightly lower burden in the non-refoulement interview process; to warrant an exemption from MPP they need to establish a "reasonable possibility" of persecution or torture, not that it is more likely than not that they would be subjected to such harm.

What documents are people who are processed into the U.S. given?

Parole: The mechanism by which the government processes people into the United States from MPP is called parole, an immigration status that allows one to remain in the U.S. for a set period of time (generally one year). People are not given proof of their parole on paper; they need to download the document (called an I-94 card) from the Customs and Border Protection (CBP) [website](#).

OSupps: People processed in from MPP are being given a document (Form G-56) which instructs them to present themselves to an Immigration and Customs Enforcement, Enforcement and Removal Operations (ICE/ERO) office within 90 days of their entry into the U.S. This document provides instructions on how to locate the ICE office closest to the city/town where they plan to be living in the interior. The reason for that is to allow ICE to put them on orders of supervision (OSupps). OSupps require noncitizens to check in periodically with an ICE/ERO officer and comply with certain conditions. Those conditions can include being made to wear GPS ankle monitors. As of time of writing ICE does not seem to be requiring ankle monitors for those processed in from MPP.

Hearing notices: People being paroled in from MPP in Phase I all have pending immigration court cases. Some have been scheduled for upcoming court dates, and some may not have court dates yet. As part of Phase I, all hearings are supposed to be automatically transferred to the court with jurisdiction over the location the person indicated as their destination when they entered the U.S. People who move again once they enter the U.S. (which is not uncommon) will need to request a change of venue if they want their hearings moved to their new location.

ICE has not been advising people of when their hearings are scheduled, and many do not know when or where they need to appear in court. The Executive Office for Immigration Review (EOIR) – the federal agency which houses the immigration courts – has an automated phone

system (800-898-7180) and an online [portal](#) through which one can access basic information like upcoming hearing dates, appeals, and decision information.

People in Expanded Eligibility (all of whom have outstanding orders of removal or closed immigration court cases) need to file motions to reopen their removal proceedings. The Executive Office for Immigration Review (EOIR, the federal agency which houses the Immigration Court) has issued [guidance](#) to its immigration judges on adjudicating those motions.

What are the next steps for people paroled into the U.S. from MPP?

Among the important next steps:

Immigration Court

Attending upcoming hearings

People paroled into the U.S. from MPP will have open cases in immigration court, and will need to make sure they are aware of and attend all future hearings, whether Master Calendar or Individual hearings.

Filing asylum application and/or supporting documents

Applicants for asylum are required to file an asylum application ([I-589](#)) within one year of their last entry into the U.S. People who are in removal proceedings must file that application with the immigration court. Some people who were formerly subjected to MPP have already filed asylum applications; some have not. For each asylum seeker, it will be very important to determine if an I-589 was already filed with the court, or if the application must now be filed.

Asylum applicants, especially those with upcoming individual hearings, will generally need to file supporting evidence with the immigration court along with their asylum applications.

Employment Authorization

People paroled into the U.S. from MPP should be eligible for a work permit in the U.S., known as an “EAD” (employment authorization document). They will need to submit an application for a work permit to U.S. Citizenship and Immigration Services (USCIS) in order to obtain an EAD. For detailed guidance on eligibility and filing requirements, see [this Justice Campaign practice advisory](#).

ICE check-ins

As explained above, people entering the U.S. from MPP will be required to check in regularly with ICE.