

June 20, 2020

Chad F. Wolf  
Acting Secretary  
U.S. Department of Homeland Security  
301 7th Street, S.W.  
Washington, D.C. 20528

Mark A. Morgan  
Acting Commissioner  
U.S. Customs and Border Protection  
1300 Pennsylvania Ave., NW  
Washington, D.C. 20229

**Re: CBP Blocking “Migrant Protection Protocols” Fear Screenings**

Dear Acting Secretary Wolf and Acting Commissioner Morgan:

We write to express our urgent concern that Customs and Border Protection (CBP) officers and Border Patrol agents are using a [much-criticized](#) Centers for Disease Control and Prevention (CDC) [order](#) to block individuals facing life-threatening dangers while stranded for months in Mexico under the Migrant Protection Protocols (MPP) from receiving fear screening interviews. Leading public health experts have concluded that the order’s public health rationale is [specious](#) and that the administration can use effective, evidence-based public health measures to safely and humanely process and parole asylum seekers, including those in MPP.

Asylum seekers and migrants returned to Mexico by the Department of Homeland Security (DHS) under MPP are frequently targeted for kidnapping, rape, assault, and extortion. An asylum seeker returned to Tijuana was [murdered](#) there in December 2019. As of May 13, 2020, there were at least [1,114](#) public reports of violent attacks on individuals returned to Mexico under MPP, including [265](#) kidnappings or attempted kidnappings of children. These tallies are a gross understatement of the true toll of violence against asylum seekers and migrants subjected to MPP given the limited number of individuals who are able to speak with reporters and human rights monitors, and even more so in recent months during the pandemic.

However, CBP officers and Border Patrol agents are now refusing to allow fear screenings for individuals newly placed in MPP, including Cuban and Nicaraguan asylum seekers, and blocking individuals already returned to Mexico under MPP from fear interviews at ports of entry. In late April, a CBP spokesperson [reportedly](#) claimed that MPP fear screening interviews are available under the CDC order but on a “case-by-case” basis. To the knowledge of the undersigned organizations, which seek to assist asylum seekers in MPP along the entire U.S.-Mexico border, CBP has permitted only two people in MPP to have fear screenings since the CDC order was issued. On June 16, DHS and the Department of Justice [extended](#) the cancellation of MPP hearings through July 17, meaning that by the time hearings resume people in MPP will have been prevented from even requesting protection for at least four months.

While the MPP screening process is deeply flawed and lacks basic [safeguards](#) Congress created to prevent the deportation of asylum seekers to persecution through the credible fear screening process, these interviews are the only means for people whose safety and lives are at risk in MPP to be removed from the program and permitted to continue their asylum process in safety from within the United States. Conditioning preliminary access to refugee protection on the discretion of an individual border officer violates U.S. refugee and immigration laws and treaty-based obligations. It also contradicts the administration's assertion to the [U.S. Supreme Court](#), in arguing for the legality of MPP, that fear screenings are available "at any time."

Asylum seekers from Cuba, El Salvador, Guatemala, Honduras, Nicaragua, Venezuela and other countries recently blocked from fear screenings by CBP include:

- This past week, CBP at the El Paso port of entry refused a fear screening for a family of Afro-Honduran asylum seekers from the Garifuna ethnic group, who had been threatened and attacked in Mexico because of their race. The officers turned away the family with two young children without any consideration of their fear of remaining in Mexico.
- In mid-June, CBP officers in El Paso blocked a Cuban asylum seeker from receiving a fear screening who, since the cancellation of MPP hearings, had been targeted because of his nationality and assaulted three times in Mexico. CBP officers refused to grant him an interview even though he was carrying copies of police reports he filed following the attacks.
- In mid-June, CBP at the El Paso port of entry refused a fear screening for a Guatemalan asylum seeker who had recently been kidnapped in Mexico and separated from his son who escaped and crossed into the U.S. on his own. CBP officials told the man, "you have to ask the judge for the interview at your next hearing."
- In late May, two Nicaraguan asylum seekers who had been kidnapped in Nuevo Laredo and followed by their kidnappers even after their escape were refused fear screenings by CBP officers at the Nogales port of entry. Despite being accompanied by staff from the Kino Border Initiative, a CBP officer refused to process them.
- In late May, Border Patrol agents placed a Cuban couple in MPP and returned them to Nogales, Sonora without referring them for a fear interview, even though they expressed fear of returning to Mexico and requested access to police reports that they had filed in Mexico that would substantiate that fear.
- In mid-May, CBP officers at the Laredo port of entry told attorneys for a Salvadoran asylum seeker who had been kidnapped with his son in Nuevo Laredo that MPP fear interviews were not taking place because of COVID-19 and refused to interview the man when he appeared at the port of entry to receive a notice for a cancelled MPP hearing.
- In mid-May, Border Patrol agents placed a Cuban woman in MPP and returned her to Nogales, Sonora without a fear interview, ignoring her repeated explanations of her fear of

returning to Mexico where she had been kidnapped, assaulted, and robbed. An agent dismissively told her, “Why do all you Cubans come saying that you have rights and giving orders?”

- In May, a Honduran asylum seeker whose [finger had been cut off by kidnappers](#) in Ciudad Juárez when his family failed to pay ransom was denied an MPP fear screening by CBP officers at the El Paso port of entry. He reported that he had been kidnapped sometime after his MPP hearing in late March was postponed. CBP officers told the man interviews were suspended because of the coronavirus and that he must wait to ask for protection until his MPP hearing, now rescheduled to September 2020.
- In late April, CBP officers turned away a Brazilian lesbian couple with a nine-year-old son when the family attempted to request an MPP fear screening at the El Paso port of entry, telling the family that such interviews were not being offered. CBP officers later confirmed to the family’s attorney from Centro Legal de la Raza that MPP fear interviews are not being conducted due to “Title 42” – the authority invoked in the CDC order.
- CBP officers in Laredo have also repeatedly [refused](#) to refer individuals in MPP for fear screenings including a Venezuelan asylum seeker in MPP who requested protection while a gunfight was taking place nearby in Nuevo Laredo in early April 2020, and an asylum-seeking Venezuelan family also denied a fear screening later in April, according to an attorney with the Proyecto de Ayuda para Solicitantes de Asilo.

In addition, CBP is also refusing to remove individuals from MPP with “known physical/mental health issues” in violation of DHS [policy](#) on MPP, including:

- A Cuban asylum seeker who is 7-months pregnant with a high risk pregnancy and was threatened along with her husband by an organized crime syndicate. In mid May, CBP officers in El Paso briefly transported the woman to a hospital after she experienced symptoms of fetal distress but returned her to Mexico before she could even receive the results of the examination. In early June, CBP officers in Nogales again refused the family’s requests for a fear screening and medical exemption, informing them that such protections are unavailable because of the CDC order.
- A ten-year-old indigenous Guatemalan child with cerebral-palsy returned by DHS to Ciudad Juárez with his asylum-seeking family. The boy is unable to walk, according to attorneys with Las Americas Immigration Advocacy Center.
- CBP twice refused to remove from MPP a Brazilian asylum-seeking family with a one-year-old girl suffering from hydrocephalus, a serious brain condition, and a two-year-old boy with respiratory distress syndrome despite medical records and letters from two experts documenting their conditions. After denying their first parole request in March 2020, CBP returned the family to dangerous Ciudad Juárez at 1 a.m.

- CBP also refused in early March 2020 to remove from MPP a 60-year-old Venezuelan asylum seeker with U.S. citizen children who suffers from COPD and diabetes and is at severe risk of COVID-19. The woman is living in the tent encampment in Matamoros because she feels in less danger there after suffering a sexual assault in a rented accommodation, according to her attorney.

Instead of endangering asylum seekers by forcing them to remain in Mexico indefinitely under MPP, DHS must end the policy and use its existing [legal authority](#) to expeditiously parole those subjected to MPP into the United States, where the [vast majority](#) have ties to families, friends, or faith-based communities to house and support them. Because individuals in MPP have already been through immigration processing at ports of entry, CBP can issue parole documents within a [very short period of time](#) and can safely process them by implementing effective [public health measures](#) recommended by experts, such as social distancing and the use of masks.

Should DHS fail to adopt these prudent and necessary measures to safeguard the health and safety of asylum seekers, the agency should at a minimum:

- immediately issue official, public guidance to CBP officers and Border Patrol agents that individuals in MPP must be referred for fear of Mexico screening interviews upon request or at any other time that the individual or circumstances indicate that the individual would face danger if returned to Mexico, and
- follow existing guidance to remove people with known health issues from MPP.

Even during these challenging times, CBP can and must uphold its obligations under U.S. law and treaty obligations to provide refuge to people fleeing to the United States. On this World Refugee Day, we urge you again to restore the life-saving asylum protections being dismantled by the administration.

Sincerely,

Al Otro Lado  
 Border Kindness  
 Catholic Legal Immigration Network, Inc.  
 Centro Legal de la Raza  
 The Florence Immigrant & Refugee Rights Project  
 HIAS  
 Human Rights First  
 Immigrant Defenders Law Center  
 Innovation Law Lab

Instituto para las Mujeres en la Migración, AC (IMUMI)  
 Kino Border Initiative  
 Las Americas Immigrant Advocacy Center  
 Lawyers for Good Government, Project Corazon  
 Proyecto de Ayuda para Solicitantes de Asilo  
 San Antonio Region Justice For Our Neighbors