

April 14, 2020

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

Matthew T. Albence
Acting Director
U.S. Immigration and Customs Enforcement
500 12th Street, S.W.
Washington, D.C. 20536

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

James McHenry
Director
Executive Office of Immigration Review
5107 Leesburg Pike
Falls Church, VA 22041

Re: COVID-19 and the Remain in Mexico / “Migrant Protection Protocols” Policy

Dear Acting Secretary Wolf, Acting Commissioner Morgan, Acting Director Albence and Director McHenry:

In light of the unfolding COVID-19 pandemic, our 27 legal, faith-based, humanitarian, and community organizations who have struggled to assist a small portion of the many asylum seekers and migrants subjected to the so-called “Migrant Protection Protocols” (“MPP”) urge the Department of Homeland Security (“DHS”) to immediately end MPP and parole these individuals into the United States where they can securely shelter and continue their pending proceedings when immigration courts can safely reopen. As Customs and Border Protection (“CBP”) has already processed them, DHS can issue parole documents swiftly. Should the agency fail to take this prudent action, it should at a minimum immediately issue public guidelines that ensure individuals in MPP who lack updated hearing notices will not be turned away at ports of entry for rescheduled hearings so that asylum seekers and migrants are not forced to repeatedly travel back and forth to ports through dangerous border areas during the COVID-19 outbreak.

MPP imperils the safety of the men, women, and children turned back by DHS officers to some of the most dangerous areas of Mexico to “wait” for many months for U.S. immigration court hearings, as many of our groups have previously [cautioned](#). Despite the increasing dangers presented by COVID-19 and U.S. State Department [warnings](#) of widespread homicides, kidnappings, and other violence, DHS continues to return people fleeing persecution to areas essentially controlled by deadly cartels, ridden with corruption, plagued by kidnappings and high levels of violence. In Nuevo Laredo, returned asylum seekers face [gunfights and blockades](#) throughout the city, as the U.S. consulate warned of in early April 2020. Day in and day out we learn of horrifying accounts of kidnappings, assaults, trafficking and other attacks on asylum seekers waiting in Mexico. Over 1,000 such attacks have been [tracked](#) so far by Human Rights First and others, but the actual number is much larger as the vast majority of returnees have not been interviewed by researchers.

In addition, many individuals and families returned by DHS to Mexico are without safe and secure housing - some are left homeless while others are forced to sleep in cramped shelters or unsanitary migrant [encampments](#) where social distancing is not possible. Few have access to adequate medical care.

On March 23, 2020, DHS and the Department of Justice, Executive Office for Immigration Review (“EOIR”) [postponed](#) MPP hearings through April 22, 2020 due to COVID-19, and one week later extended the [cancellation](#) through May 1, 2020. As a result, individuals in MPP are being forced to wait in danger in Mexico for months longer. Some asylum individual hearings have been delayed by four months, and at least one Venezuelan asylum-seeking family was rescheduled for a master calendar hearing in May 2021.

DHS and EOIR are [instructing](#) those in MPP to go to the port of entry designated on their notice to appear to pick up notices of rescheduled hearings - forcing asylum seekers to risk travel through already dangerous border regions during a public health emergency. Asylum seekers who have fled kidnappings, rapes and assault in the Mexican border towns where they must return for MPP court as well as individuals with serious underlying medical conditions are forced to put their lives in danger just to receive a paper hearing notice. Asylum seekers turned back by DHS at the Nogales and Eagle Pass ports of entry must travel for hours on notoriously dangerous routes to Ciudad Juárez and Nuevo Laredo, respectively, to reach MPP courts. In Laredo, CBP officers at the middle of the international bridge now call out names of individuals with postponed MPP hearings clearly marking them as asylum seekers to the scouts for the cartels that frequently kidnap asylum seekers sent by DHS to Mexico. In addition, because most Mexican shelters no longer accept new arrivals due to COVID-19, individuals in MPP who must travel to a border city to retrieve an updated hearing notice cannot find shelter accommodation in those cities and may lose their places in the shelters they have temporarily left.

CBP officers have told some asylum seekers who attempt to pick up hearing notices for other family members, who did not travel in order to limit potential exposure to COVID-19, that those who did not travel to the port of entry will be ordered deported unless they appear to receive their new notice in person, despite the health risks of such travel. Moreover, some MPP hearings originally rescheduled to late April due to the COVID-19 postponement have been further delayed, meaning asylum seekers are repeatedly forced to pick up notices for hearings that may be cancelled multiple times as the MPP hearing suspension continues. At the same time, CBP has restricted access for pedestrians at some ports of entry but failed to publicly announce where individuals in MPP should retrieve new hearing notices.

Instead of endangering asylum seekers and migrants by prolonging their MPP proceedings, CBP can and should expeditiously parole them into the United States, where the vast majority have ties to families, friends, or faith-based communities to house and support them. An October 2019 study of 607 asylum-seekers subject to MPP found that [nearly 92 percent](#) had family or close friends in the United States. Community organizations, like Annunciation House in El Paso, are ready and prepared to assist released asylum seekers to coordinate transportation to their destinations and address immediate housing or medical needs. Because individuals in MPP have already been through immigration processing at ports of entry, CBP should be able to issue their release documents within a very short period and with minimal physical interaction in order to limit the likelihood of transmission.

Forcing asylum seekers and migrants in MPP to repeatedly travel back and forth to ports of entry ignores the recommendations of public health experts and contradicts federal, state and local public health orders in Mexico to limit travel. Scientific and medical research indicates that [social distancing and home isolation](#) are the measures most effective in limiting the spread of the outbreak. Already Mexican police have stopped some asylum seekers and threatened them with arrest for being in public areas of cities

under these restrictions. DHS's MPP policy forces these individuals to risk their health and unwillingly violate local public health measures to reduce the transmission of COVID-19.

Asylum seekers and migrants who are unable to travel to ports of entry to receive notices of hearings rescheduled by EOIR or who are turned away by CBP officials may be at risk of detention and deportation by Mexican officials, as most will not be able to renew their temporary Mexican migration documents without a new hearing notice. Mexico has begun to [deport](#) migrants summarily expelled from the United States, likely including asylum seekers, to their home countries.

Given the urgent public health crisis posed by COVID-19 to the lives of asylum seekers that DHS has returned to Mexico on top of the already horrendous violence and inhumane conditions they face, we urge you to immediately halt this program and parole asylum seekers into the United States. Many of our groups have issued [recommendations](#) for effectively and safely managing asylum seekers at the border during the COVID-19 pandemic in ways that uphold U.S. law and treaties.

Should DHS fail to adopt this prudent and necessary step to safeguard the health and safety of asylum seekers, the agency should at a minimum issue official guidance that:

- individuals in MPP may, but are not required to, present at ports of entry to obtain rescheduled hearing notices;
- permits individuals to attend future MPP hearings even if they do not have an updated hearing notice - for instance, by allowing them to present a prior hearing notice, other U.S. immigration documents, a current or expired Mexican migration permit, or by confirming their identity through another ID document or fingerprints alone;
- instructs CBP to issue MPP rescheduling documents at any port of entry, not exclusively the port of entry at which a person's hearing is scheduled, so that individuals are not required to undertake unnecessary and dangerous travel within Mexico; and
- directs DHS trial attorneys to consent to motions to change venue for any individuals forced to relocate due to security, shelter, health or other exigent circumstances.

Even in these difficult times as we confront the COVID-19 pandemic, our faith-based, humanitarian and legal organizations remain ready to provide orientation, shelter, legal and other services to asylum seekers in the U.S. to effectively and safely assist those in need as part of a true humanitarian management effort.

Sincerely,

Acción de Gracia Immigration Assistance
Al Otro Lado
Angry Tias and Abuelas
Border Kindness
Catholic Charities of Southern New Mexico
Catholic Legal Immigration Network, Inc. (CLINIC)
Centro Legal de la Raza
Diocesan Migrant & Refugee Services, Inc.
Esperanza Immigrant Rights Project
Every Last One

Familia: Trans Queer Liberation Movement
The Florence Immigrant & Refugee Rights Project
HIAS
HOPE Border Institute
Human Rights First
Immigrant Defenders Law Center
Immigrant Legal Defense
Innovation Law Lab
Instituto para las Mujeres en la Migración, AC (IMUMI)
Jewish Family Service of San Diego
Kino Border Initiative
Las Americas Immigrant Advocacy Center
National Immigrant Justice Center
Physicians for Human Rights
Santa Fe Dreamers Project
Sisters of Mercy, Laredo, Texas
Sueños Sin Fronteras de Tejas