

Remain in Mexico Restart Threatens Safety of Attorneys and Humanitarian Workers

The Biden administration is taking steps to restart the Trump administration “Remain in Mexico” policy, officially dubbed the “Migrant Protection Protocols (MPP),” an illegal and deadly program that threatens the lives and safety of asylum seekers and migrants forced to remain in Mexico as well as the attorneys and humanitarian workers who assist them. After the Department of Homeland Security (DHS) [terminated](#) the unlawful program in June 2021, it [announced](#) that it would restart MPP after a federal court [held](#) that the termination of MPP violated the Administrative Procedure Act. Months later, on October 29, 2021, DHS issued a second [memorandum](#) providing a fuller explanation for the decision to terminate MPP, which discussed the horrific harms suffered by asylum seekers and migrants in MPP and acknowledged the dangers faced by attorneys as a result of representing people returned to Mexico under MPP. The administration subsequently filed a motion in the Fifth Circuit Court of Appeals to vacate the district court judgment. Nonetheless, DHS continues to take steps to re-implement MPP, including rebuilding the [tent courts](#) used for MPP hearings on the border.

Any restart of MPP would threaten the safety and lives of attorneys and humanitarian workers, as non-governmental organizations have repeatedly [warned](#) the administration. During the two years that the Trump administration operated MPP, U.S. based attorneys were [threatened](#) with kidnapping and violence in connection with their representation of people in MPP. Legal and humanitarian organizations assisting asylum seekers expelled under the illegal Title 42 policy have similarly [reported](#) serious risks to their staff. Human Rights First has [repeatedly documented](#) the [brutal violence](#) and [dangers](#) suffered by asylum seekers and migrants who were returned to Mexico under MPP and the [Title 42 policy](#) and deliberately targeted by cartels and corrupt Mexican government agents and officials. This violence also endangers lawyers and humanitarian workers assisting asylum seekers to request protection in the United States. Indeed, [cartels](#) that target asylum seekers see this legal and humanitarian work as undermining cartels’ ability to exploit migrants at the border.

In October 2021, over 60 border-region advocates and legal service providers [walked out](#) of a virtual briefing with Biden administration officials in protest of its decision to restart MPP. The statement they read during the walk out decried the inhumanity and illegality of MPP and explained that reinstating MPP would “send[] people to their death.” Days later, legal service providers, law school clinics, and law firms [wrote](#) to the Biden administration condemning its decision to restart MPP and stating that it is not “just for this administration to continue to force U.S. lawyers and humanitarian staff to risk their safety due to the failure of this administration to take swift action to uphold U.S. refugee laws and treaties.”

MPP Forces U.S. Attorneys and Humanitarian Workers to Travel to Regions in Mexico that the U.S. Government Warns its Citizens to Avoid

Under MPP, the Trump administration returned asylum seekers and migrants to Mexican border states at the same time that the U.S. Department of State advised U.S. citizens to avoid traveling to these regions due to a high risk of kidnapping and violence. The State Department has [designated](#) the border state of Tamaulipas – where tens of thousands of individuals were delivered to danger under MPP – as a “Do Not Travel” region, the same threat level assigned to warzones like Afghanistan, Iraq, and Syria. It also [warns](#) that citizens should “reconsider travel” to the border states of Chihuahua and Baja California, where tens of thousands of individuals were also returned under MPP, due to kidnapping and crime.

As legal service providers noted in their letter to the administration, security conditions in Mexican border regions [continue](#) to deteriorate. Brutal attacks and [murders](#) of U.S. citizens residing in these and other border regions confirm the dangers that attorneys and humanitarian workers traveling to and within Mexico would

continue to face while helping asylum seekers under MPP. Kidnappings are also a major concern: at least 324 U.S. citizens are currently [missing](#) in Mexico. Cartels also [threaten](#) and [extort](#) U.S. travelers entering northern Mexico from the United States. Recent attacks and kidnappings of U.S. citizens and people working for the U.S. government in Mexico include:

- In February 2020, a 24-year-old college student was [murdered](#) in Tijuana. His family received text messages from the man saying that he was surrounded by corrupt, masked police officers who wanted to kill him.
- In October 2020, the [body](#) of a missing U.S. consulate employee was found in Tijuana.
- As many as 50 people have recently gone [missing](#) while traveling between Monterrey and Nuevo Laredo - half a dozen of the missing are believed to be [U.S. citizens](#) or residents, including young children. Frequently called the “highway of death,” this route was traveled by many asylum seekers returned to Mexico under MPP to attend MPP hearings.
- In June 2021, following cartel [shootings](#) in Reynosa that left 15 bystanders dead on a single day, Mexican police subsequently [found](#) multiple U.S. citizens who had been kidnapped and forcibly held in houses, including an American woman and her three-year-old daughter who had been abducted while searching in Mexico for the woman’s missing husband.
- Disappearances near the border are common in many areas. In May 2021, an American man [disappeared](#) after crossing into Nogales, Mexico. In March 2021, three American [women](#) disappeared while entering Nuevo Laredo to visit a doctor. A 75-year-old woman from California was reported [missing](#) in August 2020 after driving to Tijuana. An American firefighter went [missing](#) in August 2020 while visiting Baja California.

Given extensive territorial [control](#) by cartels and [complicity](#) by Mexican government agents in [violent attacks and kidnappings](#), no version of MPP could ensure the safety of attorneys and humanitarian workers.

U.S.-Based Organizations and Attorneys Suffered Serious Threats and Dangers While Assisting People Returned Under MPP or Expelled Under Title 42 Policy

During the two years that MPP was in effect, U.S. attorneys and humanitarian workers reported threats, risks to their lives, and severe trauma arising from their assistance to asylum seekers and migrants under the program, including:

- Shelter staff and other humanitarian workers suffered grave harm in Mexico, including pastor Aarón Méndez and his coworker who were [abducted](#) by a cartel in May 2019 after the pastor blocked the cartel from kidnapping Cuban asylum seekers in the shelter he ran in Nuevo Laredo. Both men remain missing.
- While representing individuals in MPP, an attorney [witnessed](#) a family with a toddler being kidnapped in Ciudad Juárez while the kidnappers threatened her and forced her to step aside. Despite fearing retaliation, the lawyer attempted to help a pregnant woman who had been raped by Mexican police and kidnapped along with her family. The lawyer had been warned by the cartel’s lookouts that the cartel and police knew who she was. After representing individuals returned under MPP for two years, she was diagnosed with Post-Traumatic Stress Disorder. “[MPP] is an incredibly depressing program and we immigration lawyers are beaten down and broken in a lot of ways,” she [told](#) *Texas Monthly*.
- A U.S.-based attorney working with pro bono law firm volunteer attorneys [reported](#) that after she visited a shelter in Nuevo Laredo in 2019 to investigate providing services to asylum seekers placed in MPP, cartel members threatened that the project she works for should not return to the shelter. Neither she nor other members of her team subsequently returned to the shelter.

- In early 2020, cartel members and the Mexican military exchanged automatic gunfire just outside an office in Matamoros near the port of entry where non-profit attorneys were meeting with asylum seekers who had been returned to Mexico by DHS under MPP.
- In the midst of escalating violence in Nuevo Laredo, an immigration attorney decided that neither he nor his staff should [risk their lives](#) to visit Nuevo Laredo to obtain crucial evidence for a Cuban asylum seeker in MPP whose merits hearing was only two weeks away.
- In Tijuana, Matamoros and other cities in Mexico, cartel and other organized criminal groups entered or attempted to enter the offices of attorneys to locate asylum seekers in MPP that the attorneys were assisting. In at least one case, an asylum seeker in MPP who was sought by an organized criminal group disappeared after she was located at her attorney's office in Mexico.
- An [immigration attorney](#) based in Las Cruces, New Mexico told *CBS News* that she no longer felt safe meeting with clients in Ciudad Juárez because migrants and anybody affiliated with migrants, including attorneys, were targeted.
- An immigration attorney working in Ciudad Juárez was regularly followed and harassed by men affiliated with cartels, had to hire a private driver to transport her to migrant shelters to visit clients in MPP because taxi and ride service drivers refused to go to those areas of the city, and was required by her organization to obtain kidnapping insurance.

The Biden administration's unlawful Title 42 policy – and inadequate processes for requesting exemptions to the policy that ended in August 2021 – have also [subjected](#) attorneys and humanitarian staff to similar dangers and fueled fraud, extortion, and kidnapping of vulnerable asylum seekers by criminal groups posing as legal service providers. Some attorneys reported that criminal organizations cloned their telephone numbers to contact asylum seekers, offered in-person legal services while falsely claiming to be from U.S. organizations, or otherwise claimed to be involved in exemption requests. For instance, a [Mexican woman](#) told the Kino Border Initiative that people pretending to be her attorneys arranged a meeting to discuss the asylum process, but when she and her son arrived at the arranged location, a group of men attempted to kidnap her son.

Remote Representation Is Not a Sufficient Substitute for In-Person Client Communications

During the two years that MPP was in effect, the few asylum seekers who were able to secure legal representation often faced enormous [barriers](#) in remotely [communicating](#) with attorneys and preparing their asylum cases, including a lack of access to phones with reliable service, private spaces for confidential conversations, and financial resources necessary to facilitate remote communication. The pervasive security risks and violence faced by individuals returned under MPP further exacerbate the difficulties of remote representation, particularly as criminal groups have previously cloned attorneys' phone numbers to defraud and kidnap asylum seekers. Given these inherent defects in MPP, it is virtually impossible for attorneys to effectively [represent](#) asylum seekers remotely, which includes collecting information about their asylum claim, informing and advising them, ensuring they understand upcoming proceedings, discussing and gathering supporting evidence, confirming the accuracy and completeness of filings, and obtaining signatures on legal documents.

In addition to the often insurmountable logistical [barriers](#) posed by remote representation of individuals in MPP, it is extremely difficult for attorneys to [build trust](#) with clients without face-to-face communication. Establishing trust is critical to the representation of asylum seekers, as the asylum process often requires the applicant to disclose sensitive personal information and recount traumatic experiences. Linguistic and cultural [barriers](#) further complicate these efforts, while the ongoing trauma that clients face while trapped in Mexico under U.S. government policies makes it all the more difficult to build this trust and elicit crucial information without in-person communication.