

Explainer: The Migrant Protection Protocols

What are the Migrant Protection Protocols (MPP)?

In December 2018, the Trump administration announced the creation of the [Migrant Protection Protocols](#) (MPP), unofficially known as the “Remain in Mexico” policy. Under MPP, certain migrants seeking asylum at the U.S.-Mexico border were returned to Mexico after making an asylum claim in the U.S. and expected to wait near the border for the duration of their immigration proceedings. Asylum seekers under MPP were sent back with instructions to return to a specific port of entry at a specific date and time to receive a notice to appear in court. MPP court hearings were held in makeshift tent courts near the border. In March 2020, all pending MPP hearings were [suspended](#) temporarily – later indefinitely – due to COVID-19. In January and February 2021, the Biden administration stopped new returns under MPP and began processing those with active cases back into the U.S.

Which asylum seekers were returned to Mexico under MPP?

Placing an individual in MPP was a discretionary process, but [DHS guiding principles](#) for the policy exempted the following categories: unaccompanied children, citizens or nationals of Mexico, individuals from most non-Spanish speaking countries, individuals in “special circumstances,” individuals in [expedited removal](#), and those facing persecution or torture in Mexico. In January 2020, MPP was [expanded](#) to arriving Brazilian asylum seekers.

How many asylum seekers were returned to Mexico under MPP?

From January 2019 to December 2020, more than 70,000 migrants were returned to Mexico to await court hearings. Of the total number returned as of February 2021, approximately 42,000 completed their cases or had to terminate their case for some reason. Of the completed cases, [32,638](#) received an order of removal, [650](#) were granted asylum, and [9,206](#) had their cases terminated for other reasons. Approximately 29,000 asylum seekers who were returned to Mexico under MPP continue to have active cases.

Most MPP enrollments occurred in 2019. Beginning in March 2020, the majority of all arriving asylum seekers who otherwise would have been eligible for MPP were summarily expelled without an opportunity to pursue their claims for protection under a pandemic-era border policy called Title 42. From October 2020 through January 2021, just 3,327 out of 306,324 migrants encountered at the U.S.-Mexico border were enrolled in MPP (1.1%).

What conditions were faced by migrants returned under MPP?

Asylum seekers returned to northern Mexico under MPP were subject to extremely dangerous conditions while awaiting their cases to be heard in U.S. immigration court – a process which was faster than other can take years.

A regularly updated [Human Rights First report](#) has documented over 1,500 of publicly reported murder, rape, kidnapping, and other violent assaults experienced by those forced to wait in MPP. A Medecins Sans Frontieres (MSF) [report](#) found that 75% of migrants returned to Mexico under MPP had been a victim of an attempted kidnapping, and nearly 80% of migrants enrolled in MPP that were treated by an MSF mental health clinic at the border had been the victim of violence. The lack of counsel provided to migrants, combined with the rampant danger and violence migrants experienced in Mexican border towns, led to this program facing harsh criticism.

In addition, asylum seekers enrolled in MPP lacked adequate access to counsel or effective due process. According to available data, just [7.5%](#) of asylum seekers in MPP were able to hire a lawyer, and less than [2%](#) of all applicants ultimately received some form of protection in the U.S., far below the average success of asylum claims made from within the U.S.

It was also very difficult for many of those sent back to Mexico under MPP to return to the U.S. for their court dates. In [some cases](#), the Mexican government sent those waiting in MPP to southern Mexico with no easy way to return to appear in court. Data shows that of the 42,000 completed cases, in [at least 30,000](#) the applicant was unable to appear in at least one of their court dates, which often resulted in *in absentia* orders of removal.

How has the Biden administration begun rolling back MPP

On January 20, the day President Biden took office, he ordered Customs and Border Protection (CBP) to stop placing people into MPP. On February 18, the Department of Homeland Security (DHS) [announced](#) a plan to process and admit into the United States over time eligible individuals waiting in Mexico under MPP. The policy came at a time when nearly a thousand asylum seekers enrolled in MPP and in need of shelter faced [below-freezing temperatures](#) along the U.S.-Mexico border.

Eligibility

The estimated 25,000 individuals enrolled in MPP with active immigration court cases are [eligible](#) to be processed under the new policy. An “active case” is one still pending in the Executive Office for Immigration Review (EOIR). It does not include cases with final orders of removal or those that have already been terminated. It is unclear if pending appeals qualify as an active case.

Process

Eligible asylum seekers [are given](#) an appointment to cross, tested for COVID-19, and admitted to the U.S. Unless the migrant presents a national security or public safety concern, the migrant will be enrolled in an alternative to detention program, released, and provided instructions for contacting U.S. Immigration and Customs Enforcement (ICE) at their destination.

Once released into the U.S., migrants are placed on [alternatives to detention](#) (ATDs) which are more humane and [less costly](#) than immigration detention, while helping ensure that migrants show up to their immigration proceedings.

Nongovernmental organizations such as the International Organization for Migration are helping to [coordinate](#) the process on the Mexican side of the border, including by assisting with registration, transportation, and COVID-19 testing.

Numbers

On February 19, the U.S. began slowly [processing](#) the 25,000 migrants enrolled in MPP who were eligible to pursue their cases from within the United States.

Those whom the Biden administration has deemed “most vulnerable,” including those who had been the victims of crime while stranded in Mexico under MPP, receive priority to enter the U.S. for processing.

Initially, approximately 25 asylum seekers per day were tested for COVID-19 and admitted into the U.S. at each of just three ports of entry near San Diego, California, El Paso, Texas, and Brownsville, Texas. The U.S. has plans to increase to 300 people per day at each port of entry once the program is fully operational, however as of March 27, only about [50 asylum seekers per day](#) are being processed in at each of the three ports of entry. DHS has [stated](#) that concerns associated with the COVID-19 pandemic is limiting the number of asylum seekers who can enter at one time.

What happens to those without active immigration court cases?

The more than 44,000 individuals who were sent back to Mexico under MPP but no longer have active immigration court cases are not eligible for the new process implemented by the Biden administration. Secretary Mayorkas [advised](#) that these individuals “wait for further instructions and not travel to the [U.S.-Mexico] border.” However, many of these individuals have already [returned](#) to their countries of origin.

Did MPP deter migrants from attempting to cross without authorization between ports of entry ?

Based on Customs and Border Protection [data](#), the implementation of MPP does not appear to be correlated with a decline in arrivals of unauthorized migrants or asylum seekers at the U.S.-Mexico border, undermining the argument that the program had a significant deterrent effect. MPP was implemented in early 2019, preceding a [major increase](#) in arrivals of asylum seekers from Central America.

MPP and Apprehensions at the Southwest Border

Arrivals of asylum seekers and unauthorized entrants did [fall dramatically](#) — and temporarily — in early 2020 after the onset of the COVID-19 pandemic, but that coincided with the Trump administration curtailing its reliance on MPP after March 2020.

MPP and Apprehensions at the Southwest Border

