



COMMITTEE ON HOMELAND SECURITY

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Hearing Statement of Border Security, Facilitation, & Operations Subcommittee Chairwoman Nanette Barragán (D-CA)

Examining the Court-Ordered Reimplementation of the Remain in Mexico Policy

March 2, 2022

Thank you for joining today's hearing to examine the court-ordered reimplementation of the Migrant Protection Protocols (MPP). Donald Trump's Remain in Mexico policy was inhumane. Rather than upholding U.S. asylum laws, he dismantled the asylum process and forced migrants to wait in dangerous conditions in Mexico until their asylum hearing. Under President Trump, there were more than 1,500 documented reports of kidnapping, torture, murder, rape, and assault amongst the 70,000 migrants he enrolled into MPP. This is why the Biden administration is working to terminate this program.

Earlier this year, I was thrilled to welcome some of those MPP enrollees into the United States under President Biden's wind-down. Unfortunately, since that time a Texas district court ordered the Department to restart the Remain in Mexico policy. To date, we've seen about 700 enrolled into MPP in the San Diego, Rio Grande Valley, El Paso, and Laredo Sectors.

I visited some of those migrants last week in San Diego and Tijuana, and I was disappointed with what I saw. When this reimplementation was rolled out, we were told that the program would be improved. We were told that there would be more access to legal counsel, and it would be more humane for migrants.

An important role of Congress and this Committee is to conduct oversight of Executive Agencies. We are here today to examine how the Administration has handled the reimplementation of MPP – and whether they've met the high standards required for working with migrants presenting asylum claims. I argue that more work needs to be done.

While at the Port of Entry in San Diego, I spoke to an elderly father who travelled through Central America to seek asylum with two young adult sons. He was entering the United States for his court hearing.

One of his children was kidnapped on the journey to the United States and is still missing. Upon arriving at the border, he and his remaining son were separated. His 23-year-old son was allowed to stay with family in the United States. This man was elderly, illiterate, and could not speak English – nor could he read or write in Spanish. Despite his vulnerabilities, he was told to wait in Mexico.

Despite the emphasis this Administration places on family unity, and the trauma these men had already suffered, this family was separated. This family separation was not a unique incident. We've heard similar reports from across the border, including of pregnant women being separated from their husbands and partners. This is not in line with our values. I urge this Administration to expand its definition of a family unit, beyond just minor children and their guardians, to keep families together.

Unfortunately, family separation wasn't the only problem I saw at the port of entry. The elderly migrant asked for my help and repeatedly showed me his Notice to Appear. However, I was told I couldn't take a picture of his information. My staff followed him to court, and this man repeatedly asked her for help. She wasn't allowed to speak with him or take a picture of his information.

If this is how a Member of Congress is treated, what does access look like for lawyers and advocates?

I'd also like to mention my concerns with CBP's implementation of the vaccine policy for MPP. Currently, migrants receive the second dose of the vaccine at the port of entry, on their way into court. Those who refuse to receive a U.S.-approved vaccine are denied entry. Yet as most of us know, side effects from the vaccine often start within hours. As we saw on our trip, most of these migrants are representing themselves. The vast majority request another fear screening while at court.

Those of us privileged enough to participate in this hearing today were likely told to take it easy after receiving the vaccine. In comparison, these migrants are expected to conduct potentially life-altering interviews. These migrants remain in federal custody the entire time they are in the United States. I ask that the Administration take another look at how their vaccine program and protocols impact a migrant's ability to present their asylum claims and fear of return to Mexico.

In addition, it was clear there were communication gaps between the various agencies and organizations working on MPP. These gaps had real consequences for migrants. For example, CBP officers explained to me that migrants had to approach the Port of Entry with the International Organization for Migration to be admitted for court. I then walked into Mexico with migrants who were being deported and listened to IOM and the State Department tell us, and these migrants, that they could present themselves to the port of entry at the designated time with their NTA.

For some migrants, this gap in communication means missing court, a possible closed case, and removal in absentia. I also travelled to a migrant shelter in Tijuana where some MPP enrollees stay until their court date. I spoke to MPP enrollees and learned most could not secure a lawyer, despite calling the contact list provided by the Department. Migrants are given 24 hours to secure a lawyer, yet there is no guarantee that a lawyer is even available or will answer the call. And if a lawyer is secured, it can be difficult, if not impossible, for the migrant and lawyer to adequately communicate about a decision that can literally be one of life or death.

We must do better. To start, legal access for enrollees must be meaningful, and not only exist on paper. And the agencies implementing this program must give migrants clear and consistent rules and guidelines. While I appreciate the Administration's work to create meaningful changes to MPP and terminate the program, more needs to be done. I look forward to hearing from our witnesses how the Administration plans to resolve the many issues remaining with the implementation of the Remain in Mexico policy.

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