

Seeking Asylum: Part 2

October 29, 2019

Tom K. Wong, PhD
w/assistance from Vanessa Ceceña

Contents

Introduction	3
Main Findings	4-6
Background	7
Fear of Returning to Mexico	7-9
Experiences in Mexico: Violence	9-10
Homelessness	10
Discrimination	10
(In)Ability to Work	10-11
Experiences in Immigration Detention	11-12
Demographics	13

Introduction

From July 2019 to October 2019, the U.S. Immigration Policy Center (USIPC) at UC San Diego partnered with migrant shelters in Tijuana, Mexico and in Mexicali, Mexico to survey asylum seekers who have been returned to Mexico under the Migrant Protection Protocols (MPP), also known as the “Remain in Mexico” policy. A total of 607 asylum seekers^a were interviewed, which makes this the most comprehensive analysis to date of the impact of the Remain in Mexico policy. No person was interviewed unless we could verify their MPP status. Verification of the MPP status of our respondents was done by examining their Department of Homeland Security (DHS) paperwork, focusing on their Notice to Appear (NTA) forms.^b

USIPC Immigrant Rights & Justice Fellow, Vanessa Ceceña, established partnerships with migrant shelters on the Mexico side of the U.S.-Mexico border. We are especially grateful to the staff and volunteers at our migrant shelter partners, including Border Kindness (Mexicali, Mexico), American Friends Service Committee (Tijuana, Mexico and Mexicali, Mexico), and Espacio Migrante (Tijuana, Mexico). We are also indebted to all of the organizations and institutions who opened their doors for our partners to interview asylum seekers who have been returned to Mexico under MPP.

The U.S. Immigration Policy Center at UC San Diego conducts and supports rigorous social science research to advance understanding of the foundations and consequences of U.S. immigration policy. Immigration has played an integral role in American history and is sure to feature prominently in America’s future. But what should the immigration policies of our nation of immigrants be? The USIPC brings together leading academics, policy analysts, immigrant-rights leaders, and policymakers across all levels of government to conceptualize, debate, and design a new U.S. immigration policy agenda that meets the demands of the 21st century. More about the USIPC can be found at usipc.ucsd.edu

^a A respondent was only interviewed if their MPP status could be verified after examining their Department of Homeland Security (DHS) paperwork.

^b We note here that our examination of NTA forms confirms previous reporting that erroneous addresses such as “domicilio conocido” (known address) and Facebook Messenger are being listed by immigration officials. This means that migrants returned to Mexico under MPP are not likely to receive adequate notice of their immigration court dates or other information pertaining to their cases.

Main Findings

Fear of Returning to Mexico

- Nearly 9 out of every 10 of our respondents (89.5%) who were asked by U.S. immigration officials about fear of being returned to Mexico responded by expressing fear of being returned to Mexico
- Of these individuals, 40.4% were given a secondary interview by an asylum officer and 59.6% were not. In other words, U.S. immigration officials further investigated the fears of approximately 4 out of every 10 who expressed fear about being returned to Mexico. However, **approximately 6 out of every 10 were placed into the Remain in Mexico policy without any further investigation into the fears that they expressed about being returned to Mexico**
- Of those who were asked by U.S. immigration officials about fear of being returned to Mexico, responded by expressing fear of being returned to Mexico, and were then given a secondary interview by an asylum officer, **63.9% reported that their persecutor(s) can find and have access to them in Mexico but were returned to Mexico anyway**
- Of those who were not asked by U.S. immigration officials about fear of being returned to Mexico, but nevertheless expressed a fear of being returned to Mexico, just 3.9% were given a secondary interview by an asylum officer to further investigate these fears and 96.1% were not
- Asylum seekers who attempted to enter the U.S. along the California portion of the U.S.-Mexico border were 14.7% less likely to be asked by U.S. immigration officials about fear of being returned to Mexico when compared to asylum seekers who attempted to enter the U.S. along the Arizona portion of the U.S.-Mexico border
- Just 17.1% of our respondents reported that they were given information by U.S. immigration officials about how to access legal services while in Mexico
- Just 19.7% of our respondents reported that they were given information by U.S. immigration officials about how to access social services, such as housing and food, while in Mexico

Experiences in Mexico: Violence

- Approximately 1 out of every 4 of our respondents (23.1%) have been threatened with physical violence while in Mexico as they await their immigration court dates
- Just over 1 out of every 5 of our respondents (21.9%) who are seeking asylum with children under the age of 18 have been threatened with physical violence while in Mexico
- Our respondents who are currently in Tijuana, Mexico are 14.8% more likely to have been threatened with physical violence while in Mexico when compared to our respondents who are currently in Mexicali, Mexico

Main Findings Cont.

Experiences in Mexico: Violence cont.

- Altogether, 56.5% of our respondents who have been threatened with physical violence reported that these threats turned into actual experiences of physical violence, including being beaten, robbed, and extorted
- The length of time spent waiting in Mexico is statistically significantly related to being threatened with physical violence. At 10 days spent waiting in Mexico, the predicted probability of being threatened with physical violence is already 18.7%. At 88.6 days spent waiting in Mexico, which is the average length of time in between being processed by U.S. immigration officials (i.e., being returned to Mexico) and the immigration court dates of our respondents, the predicted probability of being threatened with physical violence jumps to 32.0%. In other words, **approximately 1 out of every 3 of our respondents will likely be threatened with physical violence while in Mexico before they make it to their immigration court dates**

Experiences in Mexico: Homelessness and Discrimination

- Just over 1 out of every 3 of our respondents (34.5%) have experienced homelessness while in Mexico as they await their immigration court dates
- Approximately 1 out of every 3 of our respondents (31.9%) who are seeking asylum with children under the age of 18 have experienced homelessness while in Mexico
- Our respondents who are currently in Tijuana, Mexico are 10.0% more likely to have experienced homelessness while in Mexico when compared to our respondents who are currently in Mexicali, Mexico
- The length of time spent waiting in Mexico is statistically significantly related to experiencing homelessness. At 10 days spent waiting in Mexico, the predicted probability of experiencing homelessness is already 31.3%. At 88.6 days, which to reiterate is the average length of time in between being processed by U.S. immigration officials (i.e., being returned to Mexico) and the immigration court dates of our respondents, the predicted probability of experiencing homelessness jumps to 43.3%. In other words, **over 4 out of every 10 of our respondents will likely experience homelessness while in Mexico before they make it to their immigration court dates**
- Approximately 1 out of every 3 of our respondents (33.4%) reported being discriminated against while in Mexico as they await their immigration court dates. Trends in reporting being discriminated against largely mirror trends in experiencing homelessness

Main Findings Cont.

(In)Ability to Work

- According to the “U.S.-Mexico Joint Declaration,” the Mexican government indicated that it would provide asylum seekers returned to Mexico under MPP with “jobs, healthcare and education.” Despite this, 29.3% of our respondents reported being told by Mexican officials that they are unable to work while in Mexico

Conditions in Immigration Detention

- 85.7% of our respondents reported issues related to food, including not being fed, not being given enough to eat, or being fed spoiled food
- 85.2% reported issues related to water, including not being given water, not being given enough to drink, or having to drink dirty or foul-tasting water
- 85.1% reported issues related to sleep, including not being able to sleep, not getting enough sleep, having to sleep on the floor, or having to sleep with the lights on
- Only 20.3% reported being able to shower, get clean, or brush their teeth
- Less than half (41.9%) reported having access to a clean and sanitary toilet
- Nearly 9 out of every 10 (89.5%) reported that the detention facilities they were held in were overcrowded
- 85.2% reported that it was too cold in “la hielera” (the “icebox”)

Treatment in Immigration Detention

- Just over half of our respondents (51.1%) reported experiencing verbal abuse in immigration detention
- 6.7% reported experiencing physical abuse in immigration detention
- Asylum seekers who attempted to enter the U.S. along the California portion of the U.S.-Mexico border were 4.7% more likely to report experiencing physical abuse in immigration detention when compared to asylum seekers who attempted to enter the U.S. along the Arizona portion of the U.S.-Mexico border
- Approximately 1 out of every 4 (25.1%) reported having their property taken away from them and not returned after they were released from immigration detention. Money being taken was most commonly reported by our respondents
- Just over 1 out of every 3 (36.7%) who had medical issues reported that their medical issues were adequately addressed. However, this means that nearly 2 out of every 3 (63.3%) who had medical issues reported that their medical issues were not adequately addressed

Remain in Mexico Background

On December 20, 2018, the Department of Homeland Security (DHS) announced the Migrant Protection Protocols (MPP), also referred to as the “Remain in Mexico” policy. Under MPP, asylum seekers from Spanish-speaking countries, including entire families, who attempt to enter the U.S. along the southern border are returned to Mexico for the duration of their immigration proceedings. In early 2019, DHS began implementing MPP at the San Ysidro port of entry near San Diego, California. By mid year, MPP was expanded across the entire southern border. At the time of this writing, approximately 50,000 asylum seekers have been returned to Mexico under MPP. Despite legal challenges and rapidly changing asylum policies, MPP remains in effect.

The Remain in Mexico policy has begged important questions about whether the administration has the legal authority to return asylum seekers to Mexico for the duration of their immigration proceedings and whether, once they are returned to Mexico, there are sufficient safeguards in place to ensure that their lives and freedom are not threatened. On these questions, a federal judge concluded, “the answer to both questions is no.” The results below make clear that many of the asylum seekers who have been returned to Mexico under MPP face serious risks. Perhaps more importantly, many of the asylum seekers we interviewed were returned to Mexico despite telling U.S. immigration officials that their persecutor(s) can find and have access to them in Mexico.

For a more detailed discussion of MPP, see the companion policy brief to this report, [Walls to Protection: The Grim Realities of Trump’s “Remain in Mexico” Policy](#).

Fear of Returning to Mexico

As Kshatriya and Kang write, if an asylum seeker expresses an affirmative fear of being returned to Mexico, “These individuals will be referred to a U.S. Citizenship and Immigration Services (USCIS) asylum officer for a fear screening.” If an asylum seeker is found to have a reasonable fear of persecution,³ the asylum seeker is supposed to be exempted from being placed into MPP (i.e., should not be returned to Mexico).

To empirically unpack the process described above, we examined the extent to which U.S. immigration officials asked our respondents if they feared being returned to Mexico. We also asked our respondents whether they expressed any fears of being returned to Mexico to U.S. immigration officials. If yes, we then asked our respondents if they were given a secondary interview by another immigration officer (in such scenarios, Border Patrol agents are supposed to refer individuals to USCIS asylum officers). We also asked our respondents whether their persecutor(s) can find and have access to them in Mexico.

³ Kshatriya and Kang add that under MPP, asylum seekers must meet a heightened standard of fear by “demonstrating a reasonable fear of persecution, defined as ‘more likely than not’ the individual will be persecuted or tortured if returned to Mexico. Thus, an asylum seeker must express an even greater fear of harm in Mexico than in their home country to stay in the U.S. to pursue their asylum claim.” Moreover, DHS may or may not allow an attorney to be present when an individual is screened for fear of persecution in Mexico.

The data show that 63.2% of our respondents were asked by U.S. immigration officials about fear of being returned to Mexico. Nearly 9 out of every 10 of our respondents (89.5%) who were asked by U.S. immigration officials about fear of being returned to Mexico responded by expressing fear of being returned to Mexico. However, only 40.4% were given a secondary interview by an asylum officer while 59.6% were not given a secondary interview. In other words, U.S. immigration officials further investigated the fears that approximately 4 out of every 10 of our respondents expressed about being returned to Mexico. However, this means that approximately 6 out of every 10 of our respondents were placed into the Remain in Mexico policy without any further investigation into the fears that they expressed about being returned to Mexico. This suggests that an important safeguard to protect against refoulement is not being rigorously implemented under MPP.

What is perhaps even more concerning is the fact that nearly 2 out of every 3 of our respondents (63.9%) who expressed fear of being returned to Mexico and were given a secondary interview by an asylum officer reported that their persecutor(s) can find and have access to them in Mexico, but were returned to Mexico anyway. Among those who expressed fear of being returned to Mexico, but did not report being given a secondary interview, a similar percentage, 65.9%, reported that their persecutor(s) can find and have access to them in Mexico.

Moreover, of those who were not asked by U.S. immigration officials about fear of being returned to Mexico, but expressed a fear of being returned to Mexico, just 3.9% were given a secondary interview by an asylum officer and 96.1% were not.

The data also show significant variation in whether our respondents were asked by U.S. immigration officials about fear of being returned to Mexico based on where they attempted to enter the U.S. As the data show, 55.1% of our respondents who attempted to enter the U.S. along the California portion of the U.S.-Mexico border were asked by U.S. immigration officials about fear of being returned to Mexico. In contrast, 69.8% of our respondents who attempted to enter the U.S. along the Arizona portion of the U.S.-Mexico border were asked by U.S. immigration officials about fear of being returned to Mexico. In other words, asylum seekers who attempted to enter the U.S. along the California portion of the U.S.-Mexico border were 14.7% less likely to be asked by immigration officials about fear of being returned to Mexico when compared to asylum seekers who attempted to enter the U.S. along the Arizona portion of the U.S.-Mexico border. This difference is statistically significant ($p < .001$).⁴

We also asked our respondents about the information they were given by U.S. immigration officials. Just 17.1% of our respondents reported that they were given information by U.S. immigration officials about how to access legal services while in Mexico. The data further show that asylum seekers who attempted to enter the U.S. along the California portion of the U.S.-Mexico border were 9.2% more likely to be given information by U.S. immigration officials about how to access legal services while in Mexico when compared to asylum seekers who attempted to enter the U.S. along

⁴ The data further show variation in whether respondents who were asked about and expressed fear of being returned to Mexico reported being given a secondary interview based on where they attempted to enter the U.S. Asylum seekers who attempted to enter the U.S. along the California portion of the U.S.-Mexico border were 11.5% less likely to report being given a secondary interview when compared to asylum seekers who attempted to enter the U.S. along the Arizona portion of the U.S.-Mexico border. However, this difference only borders on statistical significance ($p = .081$).

the Arizona portion of the U.S.-Mexico border.⁵ This difference is statistically significant ($p = .006$). However, most of our respondents who reported “yes” were actually given an Executive Office for Immigration Review (EOIR) list of legal service providers in San Diego, California. This list does not provide information about legal service providers located in Mexico. Last, just 19.7% of our respondents reported that they were given information by U.S. immigration officials about how to access social services, such as housing and food, while in Mexico. There is no significant variation in whether respondents were given information by U.S. immigration officials about how to access social services while in Mexico based on where they attempted to enter the U.S.

Experiences in Mexico: Violence

Journalistic accounts of the experiences of asylum seekers who have been returned to Mexico under MPP have revealed dire humanitarian conditions. Our data suggest that these accounts are not isolated events, but amount to systematic trends. Before proceeding to the data, it is important to note that the findings below likely underestimate the dangers faced by asylum seekers who have been returned to Mexico under MPP. Security conditions in Tijuana, Mexico and in Mexicali, Mexico, where our interviews were conducted, are currently less dangerous than in other parts of the U.S.-Mexico border (e.g., compared to cities like Nuevo Laredo, Mexico and Matamoros, Mexico where the threat of kidnapping, murder, and other violent crime is more acute).

Approximately 1 out of every 4 of our respondents (23.1%) have been threatened with physical violence while in Mexico as they await their immigration court dates. Just over 1 out of every 5 of our respondents (21.9%) who are seeking asylum with children under the age of 18 have been threatened with physical violence while in Mexico as they await their immigration court dates. Moreover, our respondents who are currently in Tijuana, Mexico are 14.8% more likely to have been threatened with physical violence while in Mexico when compared to our respondents who are currently in Mexicali, Mexico.⁶ This difference is statistically significant ($p = .001$). Altogether, 56.5% of our respondents who have been threatened with physical violence reported that these threats turned into actual experiences of physical violence, including being beaten, robbed, and extorted.

The data further show that length of time spent waiting in Mexico is statistically significantly related to being threatened with physical violence. At 10 days spent waiting in Mexico, the predicted probability of being threatened with physical violence is already 18.7%. At 88.6 days spent waiting in Mexico, which is the average length of time in between being processed by U.S. immigration officials (i.e., being returned to Mexico) and the immigration court dates of our respondents, the predicted probability of being threatened with physical violence jumps to 32.0%. In other words, approximately 1 out of every 3 of our respondents will likely be threatened with physical violence before they make it to their immigration court dates. For those who have to wait 6 months before their immigration court dates, over half (51.3%) will likely be threatened with physical violence.

⁵ 12.9% along the Arizona portion of the U.S.-Mexico border compared to 22.2% along the California portion of the U.S.-Mexico border.

⁶ 20.4% for those currently in Mexicali, Mexico compared to 35.2% for those currently in Tijuana, Mexico. I note here that there is insufficient data to conclude whether threats of physical violence are more likely to turn into actual experiences of physical violence in Tijuana, Mexico compared to Mexicali, Mexico. 67.5% of those who were threatened with physical violence in Tijuana, Mexico experienced physical violence. The commensurate percentage for Mexicali, Mexico is 52.1%. However, this difference of 15.4% is not statistically significant ($p = .110$), due mostly to small sample size.

Experiences in Mexico: Homelessness

Just over 1 out of every 3 of our respondents (34.5%) have experienced homelessness while in Mexico as they await their immigration court dates. Moreover, approximately 1 out of every 3 of our respondents (31.9%) who are seeking asylum with children under the age of 18 have experienced homelessness while in Mexico. Our respondents who are currently in Tijuana, Mexico are 10.0% more likely to have experienced homelessness while waiting in Mexico when compared to our respondents who are currently in Mexicali, Mexico.⁷ This difference is statistically significant ($p = .053$).

The data also show that length of time spent waiting in Mexico is statistically significantly related to experiencing homelessness. At 10 days spent waiting in Mexico, the predicted probability of experiencing homelessness is already 31.3%. At 88.6 days, which to reiterate is the average length of time in between being processed by U.S. immigration officials (i.e., being returned to Mexico) and the immigration court dates of our respondents, the predicted probability of experiencing homelessness jumps to 43.3%. In other words, over 4 out of every 10 of our respondents will likely experience homelessness while in Mexico before they make it to their immigration court dates. For those who have to wait 6 months before their immigration court dates, nearly 6 out of every 10 (57.6%) will likely have experienced homelessness.

Experiences in Mexico: Discrimination

Approximately 1 out of every 3 of our respondents (33.4%) reported being discriminated against while in Mexico as they await their immigration court dates. Trends in reporting being discriminated against largely mirror trends in experiencing homelessness.

Experiences in Mexico: (In)Ability to Work

The role of the Mexican government in the implementation of MPP has, at times, been unclear. The Mexican government initially described MPP as a “unilateral” measure taken by the U.S. government.⁸ However, in June 2019, the U.S. Department of State released a media note entitled, “U.S.-Mexico Joint Declaration,” which stated that the Mexican government would “authorize the entrance of [asylum seekers returned to Mexico under MPP] for humanitarian reasons” and would provide them with “jobs, healthcare and education.”⁹

Despite the U.S.-Mexico Joint Declaration, a full 29.3% of our respondents reported being told by Mexican officials that they are unable to work while in Mexico. Given the importance of being able to work in order to earn income and address basic needs, roughly half of our respondents were asked if they were told by Mexican officials that they are unable to work while in Mexico while the other half were asked if they were told by Mexican officials that they are in fact able to work while in

⁷ 32.7% for those currently in Mexicali, Mexico compared to 42.7% for those currently in Tijuana, Mexico.

⁸ “Mexico rebukes, but accepts, ‘unilateral’ U.S. move to return asylum seekers pending hearing,” *Washington Post*, January 25, 2019.

⁹ “U.S.-Mexico Joint Declaration,” U.S. Department of State, June 7, 2019.

Mexico. 57.9% of our respondents reported being told by Mexican officials that they are in fact able to work while in Mexico. Taken together, these two results suggest that approximately 3 out of every 10, but potentially up to 4 out of every 10, are not being accurately informed about their ability to work while in Mexico.

Experiences in Immigration Detention

In our August 2019 report, [Seeking Asylum: Part 1](#), we documented the substandard conditions and mistreatment that approximately 7,300 asylum-seeking families who were admitted into the U.S. experienced while being held in immigration detention. The data reported here shed important new light on conditions and treatment in immigration detention, this time from the perspective of asylum seekers who have been returned to Mexico under MPP.

Regarding conditions in U.S. immigration detention, 85.7% of our respondents reported issues related to food, including not being fed, not being given enough food, or being fed spoiled food. Similarly, 85.2% reported issues related to water, including not being given water, not being given enough water, or having to drink dirty or foul-tasting water. Moreover, 85.1% reported issues related to sleep, including not being able to sleep, not getting enough sleep, having to sleep on the floor, or having to sleep with the lights on. Only 20.3% reported being able to shower, get clean, or brush their teeth. Less than half (41.9%) reported having access to a clean and sanitary toilet. Nearly 9 out of every 10 of our respondents (89.5%) reported that the detention facilities they were held in were overcrowded. Last, 85.2% reported that it was too cold in “la hielera.”

Regarding treatment in U.S. immigration detention, just over half of our respondents (51.1%) reported experiencing verbal abuse while in immigration detention. Asylum seekers who attempted to enter the U.S. along the California portion of the U.S.-Mexico border were 8.0% more likely to report experiencing verbal abuse while in immigration detention when compared to asylum seekers who attempted to enter the U.S. along the Arizona portion of the U.S.-Mexico border.¹⁰ However, this difference only borders on statistical significance ($p = .079$).

6.7% of our respondents reported experiencing physical abuse while in immigration detention. Asylum seekers who attempted to enter the U.S. along the California portion of the U.S.-Mexico border were 4.7% more likely to report experiencing physical abuse while in immigration detention when compared to asylum seekers who attempted to enter the U.S. along the Arizona portion of the U.S.-Mexico border.¹¹ This difference is statistically significant ($p = .041$). I note here that there was also one allegation of sexual abuse.

Last, approximately 1 out of every 4 of our respondents (25.1%) reported having their property taken away from them and not returned after they were released from immigration detention. Money being taken was commonly reported by our respondents. There is no statistically significant difference based on where along the border the respondent attempted to enter the U.S.

¹⁰ 56.3% along the California portion of the U.S.-Mexico border compared to 48.3% along the Arizona portion of the U.S.-Mexico border.

¹¹ 9.8% along the California portion of the U.S.-Mexico border compared to 5.2% along the Arizona portion of the U.S.-Mexico border.

Regarding medical issues, just under 4 out of every 10 of our respondents (39.9%) reported that they had a medical issue that they brought to the attention of an immigration official. Just over 1 out of every 3 of our respondents (36.7%) reported that their medical issues were adequately addressed. This includes an infant with a fever being taken to a local hospital. However, this means that nearly 2 out of every 3 of our respondents (63.3%) reported that their medical issues were not adequately addressed. This includes a man with broken ribs.

Demographics

The average age of our respondents is 32.8 years and the median age is 31.0 years. 58.1% of our respondents are female and 41.9% are male. Nearly all of our respondents are from the Northern Triangle in Central America: 49.6% were born in Guatemala; 37.8% were born in Honduras; and 2.8% were born in El Salvador. The remaining 9.2% were born in Nicaragua (4.8%), Cuba (2.8%), Ecuador (1.5%), Venezuela (0.5%), and Colombia (0.2%).

Moreover:

- 92.3% are seeking asylum with family members
- 96.8% of those seeking asylum with family members are seeking asylum with children under the age of 18
- 91.9% have family or close friends who live in the U.S.
- 87.3% speak Spanish as their primary language and 12.7% speak an indigenous Central American language as their primary language
- 63.2% attempted to enter the U.S. along the Arizona portion of the U.S.-Mexico border
- 33.0% attempted to enter the U.S. along the California portion of the U.S.-Mexico border
- 3.8% attempted to enter the U.S. along the Texas portion of the U.S.-Mexico border
- 81.5% are currently in Mexicali, Mexico
- 19.5% are currently in Tijuana, Mexico
- The average length of time spent in Mexico after being processed by U.S. immigration officials is 32.6 days at the time of our interview and the median length of time spent in Mexico is 15.0 days. The minimum is 0 days and the maximum is 231 days
- The average length of time before their immigration court date after being processed by U.S. immigration officials is 88.6 days and the median length of time is 94.0 days. The minimum is 15 days and the maximum is 245 days



October 29, 2019