

Three Immediate Steps for the Biden Administration to Reform Asylum at the U.S.-Mexico Border



1

ENSURE SAFE RECEPTION OF PEOPLE SEEKING ASYLUM AT THE BORDER



The U.S. should not:

- Force people seeking asylum in the United States to wait in danger in Mexico or expel them to a country where they face persecution or torture
- Hold asylum seekers for prolonged periods in overcrowded and unsafe facilities used for initial border processing
- Tolerate abuse and mistreatment by U.S. immigration officials of people seeking refuge in the United States
- Use fundamentally flawed “expedited removal” or other rapid processes that lack due process and deport asylum seekers without full hearings
- Make critical screening or full asylum decisions while people are held in border or other detention facilities
- Block access to legal information or in-person assistance in U.S. custody
- Separate families or use policies that result in family separation
- Prosecute people—whether in federal or state court—while seeking safety in the U.S.

Important safeguards, including access to counsel, have not mitigated the risks and harms of expedited processes

A better approach would:

- Uphold existing refugee laws by ensuring people seeking safety can request asylum and other protection anywhere along the U.S. border, including ports of entry
- Minimize time in government custody while background and security checks are conducted
- Dedicate sufficient trained border officials for initial humanitarian processing, such as collecting basic information about identity
- Guarantee access to appropriate language interpretation during processing
- Employ state-licensed child welfare workers to protect children in custody at the border
- Ensure family unity
- Facilitate in-person attorney access in any border processing and detention facilities
- Guarantee meaningful external and internal oversight of border facilities and processes

This should take no more than a few hours but never more than 72 hours

2

PROVIDE DIGNIFIED RECEPTION AND LEGAL INFORMATION AT BORDER SHELTER NETWORKS



The U.S. should not:

- Fail to coordinate release of people seeking asylum with local humanitarian and legal service providers
- Allow U.S. officials to abandon people seeking protection, including in remote locations and/or late at night
- Send people seeking refuge to jails and detention centers
- Subject people to prolonged detention exceeding a few days, or any detention that is disproportionate and arbitrary
- Create barriers and interfere with access to legal counsel

A better approach would:

- Coordinate swift, safe release and transportation of people seeking protection from border custody to community-based border shelters or respite centers
- Provide clear instructions to asylum seekers about the requirements of the asylum process in the language they best understand
- Ensure adequate funding for border shelter and reception as well as case support by community-based organizations, as described below
- Fund and coordinate support to community-based nonprofits that receive people seeking safety

Unaccompanied immigrant children should be transferred to the custody of the Office of Refugee Resettlement within no more than 72 hours, as required by law, and provided appropriate services.

3

ESTABLISH ACCESS TO SUPPORTIVE SERVICES AND A FAIR, ORDERLY ASYLUM PROCESS IN DESTINATION COMMUNITIES



The U.S. should not:

- Engage in blanket use of ankle monitors and other electronic surveillance that are enforcement-oriented “alternatives to detention”
- Rush immigration processes, including imposing arbitrary deadlines that lead to mistaken decisions and inefficiency
- Fail to guarantee legal counsel
- Undermine basic due process to rush adjudications

A better approach would:

- Ensure and fund holistic case management by experienced community-based nonprofit service providers
- Fund legal counsel for people who cannot afford it
- Promptly issue work authorization so people seeking asylum can support themselves
- Utilize trauma-informed practices during asylum interviews with trained U.S. Citizenship and Immigration Services (USCIS) asylum officers outside of expedited removal processes
- Guarantee crucial due process protections, including full immigration court review of cases referred by the asylum office