

People Seeking Asylum Confined Outside in Appalling Conditions: Findings and Recommendations from a Monitoring Visit to San Diego

Introduction

Since mid-September 2023, thousands of migrants and people seeking asylum have been forced to wait in what local providers refer to as open-air detention sites (OADS) after entering the United States from Tijuana to the San Diego region. OADS are desolate areas on US soil at or near the US-Mexico border where individuals and families are held outside, exposed to the elements, sitting or lying in the dirt or on cardboard. Some OADS are between border walls, where people cannot get out, or are in the remote desert town of Jacumba. Through the slats of the border walls or in desert terrain, nonprofit organizations and volunteers provide water, meals, snacks, first aid, diapers, clothing, and blankets.

Migrants and people seeking asylum are held in OADS for anywhere from 10 minutes to a week until Customs and Border Protection (CBP) apprehends and transports them to Border Patrol detention facilities or the San Ysidro Port of Entry to determine their immigration processing pathway. CBP controls access to the area, keeps track of migrants' length of stay in OADS, and drops migrants off at OADS. Despite CBP's comprehensive control of the area, CBP fails to provide adequate food, water, shelter, sanitation, and basic necessities for migrants held there, in violation of its own standards for treatment of migrants in custody.

In addition, since September 13, 2023, CBP has dropped off **more than 20,000 individuals** from its custody at San Diego transit stations, where nonprofit organizations and volunteers have set up makeshift operations to help meet basic needs of people seeking asylum and support their onward travel. Since September 20, 2023, Al Otro Lado has documented more than 700 instances where some family members are separated from others, typically occurring either at the OADS or when a family member is hospitalized.

In October 2023, the Women's Refugee Commission (WRC) Migrant Rights and Justice program visited San Diego, California, and Tijuana, Baja California, Mexico, to assess the conditions that people seeking asylum at the US-Mexico border face.¹ We visited a migrant shelter and an encampment located between two border walls where migrants await apprehension, and volunteered to aid migrants and people seeking asylum following their release from immigration custody. We also met with local officials, nonprofit organization partners, and individuals seeking asylum. Based on what we learned, WRC provides the following assessments and recommendations.²

- 1 The WRC Migrant Rights and Justice program regularly conducts monitoring visits to the US-Mexico border to interview people seeking asylum and other stakeholders, including service providers and government officials, to research access to protection and advocate for improvements to US policy and practice. Recent reports include *New Asylum Ban Leaves Migrants Stranded: Recommendations to Increase Access to Protection at the US-Mexico Border* (August 2023), <https://www.womensrefugeecommission.org/research-resources/new-asylum-ban-leaves-migrants-stranded-recommendations-to-increase-access-to-protection-at-the-us-mexico-border/>; *Observations and Recommendations Following April 2023 US-Mexico Border Monitoring Visit to Arizona, Southeast California, and Northern Mexico* (May 2023), <https://www.womensrefugeecommission.org/research-resources/observations-and-recommendations-following-april-2023-us-mexico-border-monitoring-visit-to-arizona-southeast-california-and-northern-mexico/>.
- 2 WRC thanks the people seeking asylum who generously shared their experiences. WRC also thanks the shelter providers, humanitarian aid workers, nonprofit organization partners, and local US and Mexican officials, for their time and willingness to speak with us.

Summary Recommendations

1. Customs and Border Protection (CBP) must process migrants, including people seeking asylum, in a humane and timely manner and eliminate its use of open-air detention sites to detain people prior to their processing in holding facilities.
2. The Department of Homeland Security (DHS) should work with all levels of government to develop a comprehensive, sustainable response that effectively coordinates the processing and release of migrants and people seeking asylum in the San Diego region.
3. Congress must significantly increase investment in local governments and nonprofit organizations providing short-term aid, as well as those that provide medium-term housing and services.
4. The Biden administration should rescind its **Circumvention of Lawful Pathways** rule, also known as the asylum ban, expand asylum processing capacity at ports of entry, and ensure that US and Mexican officials are not limiting access to asylum.

Open-air detention sites are inhumane and violate custody standards. Volunteers and nonprofit organizations provide essential humanitarian aid.



A stray dog, who volunteers named Ocho, walks along the border wall at one of the open-air detention sites. Nonprofit staff and volunteers pass humanitarian aid through the wall to people seeking asylum, who often wait under the blue tarps seen in the photo.

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While many people seeking protection present themselves at US ports of entry using a **CBP One** appointment or attempting to qualify for a limited exception to the Biden administration's asylum ban, including those who are unable to obtain an appointment and/or face insecurity waiting in northern Mexico, cross between ports of entry. Since mid-September, people seeking asylum between ports of entry from Tijuana to San Diego have been forced to wait in what local providers refer to as open-air detention sites (OADS).³ The land where OADS are located is surveilled by CBP cameras with signs hanging on the border wall stating that it is US property for authorized vehicles only. Despite having control of the area, CBP fails to provide adequate water, food, sanitation, and basic necessities to migrants held there, in violation of its own custody standards.

Migrants and people seeking asylum wait for indefinite periods of time until Customs and Border Protection (CBP) apprehends them and determines their immigration processing pathway in Border Patrol detention facilities or

³ San Diego Sector Border Patrol Chief Patricia McGurk-Daniel recently spoke out against the term, and claimed that criminal organizations are putting migrants there instead of the port of entry. She does not mention that Border Patrol also transports migrants to OADS. Ciara Encinas, "San Diego Border Patrol Chief addresses migrants camping out near San Ysidro," ABC 10News (November 8, 2023), <https://www.10news.com/news/local-news/san-diego-border-patrol-chief-addresses-migrants-camping-out-near-san-ysidro>.

at the San Ysidro Port of Entry. OADS were previously used in San Diego in [May 2023](#). A small group of migrants were first reported to be held in open air detention in [October 2022](#).

OADS are desolate areas in the United States at or near the US-Mexico border where migrants wait outside, exposed to the elements, in the dirt or on cardboard. They find themselves in this situation after either crossing the border on foot or being dropped off there by Border Patrol. Some OADS are between border walls, where migrants cannot get out, or are in the remote desert town of Jacumba. Through the slats of the border walls or in dusty, windy desert terrain, nonprofit organizations and volunteers provide water, meals, snacks, first aid, diapers, clothing, and blankets. [American Friends Service Committee \(AFSC\) San Diego](#), [Al Otro Lado](#), [Free Shit Collective](#), [Border Kindness](#), [Universidad Popular](#), and other organizations continue to provide [desperately needed humanitarian support](#).

Nonprofit organizations and volunteers successfully advocated for access to two of the OADS to provide critical aid. However, there are three other OADS where CBP does not allow nonprofit organizations to support the migrants and people seeking asylum held there. Service providers continue to advocate for access to the other OADS.

From interviews with migrants and people seeking asylum and conversations with [local service providers](#), we learned that migrants are held in OADS for as little as 10 minutes to as long as a week. Aid workers noted that migrants' average time held in OADS has reduced since the [death of a 29-year-old Guinean woman](#) in an OAD on October 11, estimating the average time as 24 hours. At the time of WRC's visit to an OAD known as Whiskey 8, the people who had been waiting there were apprehended by Border Patrol and transported out of the OAD earlier on the same day. However, since WRC's visit, service providers have shared with WRC that the number of people waiting at an OAD in the desert, some for days at a time, has risen to the hundreds.

Based on what WRC heard, OADS function as a custodial setting for migrants despite US Border Patrol and Office of Field Operations [stating otherwise](#). In response to a May 2023 [congressional letter](#) raising concerns about OADS, DHS alleged that Border Patrol had not had contact with the migrants in the OADS yet and falsely asserted that the Border Patrol San Diego Sector facilities' capacity issues had been remediated. In reality, according to a service provider WRC spoke with and a May 2023 [complaint](#) filed by Southern Border Communities Coalition, Border Patrol puts [wristbands](#) on individuals to keep track of their arrival date in OADS, demonstrating the length of their detention. Local CBP officials told WRC that they are only present to monitor the people between the walls for medical emergencies until their stations have capacity to receive them for processing.

Nonprofit aid workers estimate that they see Border Patrol drop people off at the OADS from other parts of the border multiple times a week. During previous monitoring visits to the US-Mexico border, Border Patrol has asserted to WRC that time in custody begins at the time of encounter. However, in apparent contradiction to this stance, CBP claims that OADS are not considered custody. A [May 2023 report](#) found that 100 percent of the people seeking asylum in Jacumba felt that they were being detained, and 93 percent believed that Border Patrol would arrest them if they tried to leave the encampment. Eighty-seven percent were afraid that if they tried to leave, they could die in the desert. Some migrants who tried to leave to find food were apprehended and brought back to the OADS, according to a local service provider.

The OADS violate the custody standards provided for in CBP's [National Standards on Transport, Escort, Detention, and Search](#) (TEDS), by failing to provide basic care for migrants and sometimes detaining migrants longer than the maximum time migrants should be held in custody. TEDS defines the agency's

policies regarding safety, security, and care of individuals in its custody. TEDS states that detainees should not be held for more than 72 hours and requires CBP to provide basic hygiene items, regular meals, and clean drinking water. At times Border Patrol has provided water, and after local government officials' and volunteers' advocacy, Border Patrol has contracted a company to have two portable restrooms on site. However, without frequent servicing, the portable restrooms quickly become unusable. CBP does not provide meals to migrants held in OADS. CBP appears to be avoiding TEDS compliance by asserting that people in OADS are not in custody.

Local service providers noted that Border Patrol routinely directs men to walk a mile and a half to wait at a different OAD known as Spooners Mesa, particularly when the group held between the border walls grows large. At this point, but also at other points, including inside CBP holding facilities, families that include adult men, such as fathers, spouses, brothers, or adult children, are separated without plans for reunification. Although families should stay together, sometimes the adult male family member is placed on a different processing pathway than the rest of his family, or spouses are processed separately. Local organizations like [Al Otro Lado](#) and [Immigrant Defenders](#) document these separations and support reunification, often in coordination with migrant shelters.

Street releases strain welcoming reception, demonstrate need for improved coordination and investment.

Since September 13, 2023, CBP has dropped off [more than 20,000 individuals](#) from its custody at San Diego transit stations, where nonprofit organizations and volunteers have set up makeshift operations to help meet migrants' basic needs and support their onward travel. [Immigrant Defenders](#), [Haitian Bridge Alliance](#), [Jewish Family Service of San Diego](#), [Al Otro Lado](#), [Detention Resistance](#), and [SBCS](#) (formerly South Bay Community Services) have partnered together to welcome migrants.⁴

WRC supported Haitian Bridge Alliance at the Iris Transit Station, where a corner of a parking lot was dedicated to migrant assistance. The corner lot was filled with foldout tables and chairs, canopy tents, portable generators, portable restrooms and a washing station, string lights, printers, Wi-Fi networks, cell phone charging stations, and posters with travel instructions. Aid workers provided water, coffee, meals, snacks, and hygiene kits, and spent most of the long days and nights coordinating onward travel



People seeking asylum line up to receive support from nonprofit organizations after being dropped off by Customs and Border Protection at the Iris Transit Station.

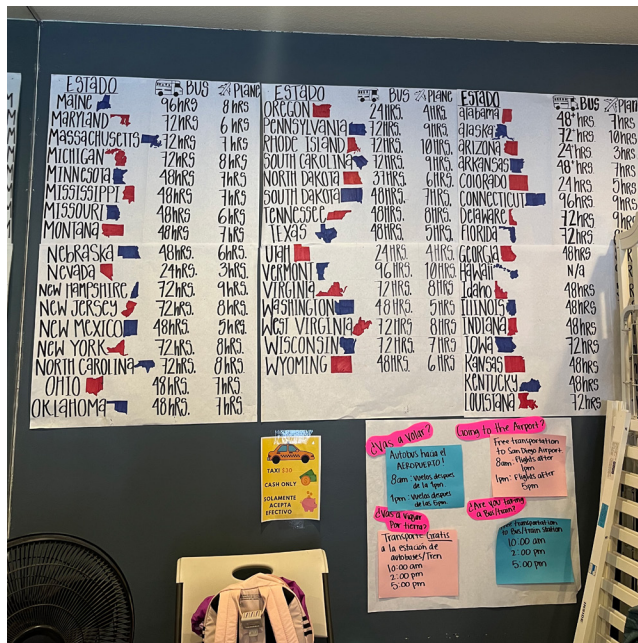
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4 WRC last visited San Diego in early December 2022, when migrants were being transported from CBP custody to local NGO-operated respite shelters. See Women's Refugee Commission and Jewish Family Service of San Diego, *Welcoming People Seeking Safety: A San Diego Blueprint for Humanitarian Reception* (February 21, 2023), <https://www.womensrefugeecommission.org/research-resources/welcoming-people-seeking-safety-a-san-diego-blueprint-for-humanitarian-reception/>.

and reunification with migrants and people seeking asylum and their sponsors. Once their airline ticket was purchased, people left to the airport on frequent nonprofit-chartered buses.

On October 10, the San Diego County Board of Supervisors voted to [allocate \\$3 million](#) to support local nonprofit organizations providing services to migrants and people seeking asylum released from Border Patrol over the next few months. While this is a welcome start, it is a drop in the bucket. The county has contracted with SBCS to manage the funds. During WRC's visit, the county was also on site providing hygiene kits, Wi-Fi, and other resources. On October 27, the street release support efforts largely consolidated to a vacant school site. SBCS is now transporting individuals from CBP custody to this location, which is only secured for this purpose through the end of 2023.

Migrants and people seeking asylum receive support once they arrive for onward transit at the San Diego International Airport from volunteers and organizations, including [We All We Got SD](#), [Detention Resistance](#), and [Immigrant Defenders Law Center](#). We All We Got and Detention Resistance routinely provide meals and other essentials to people waiting overnight for their flights. Immigrant Defenders recently expanded services to help people at the airport if they need assistance printing out their boarding passes, run into any issues with their flights, or have questions. Many people wait in the public area of the airport overnight prior to their flight, and WRC is concerned, including based on conversations with a service provider, that the area can be unsafe. More volunteers are needed to sustain these services.



Posters at the Catholic Charities Diocese of San Diego migrant shelter show the estimated travel time to destinations across the country by bus or air. © WRC/Kimiko Hirota

Around [95 percent](#) of migrants, including people seeking asylum, released in San Diego move to final destinations across the country. For the small percentage who cannot immediately move forward, nonprofits offer short-term shelter when possible.

The [International Rescue Committee](#) (IRC) and [Safe Harbors Network](#) collaborate to provide case management and transitional housing and other support to families and individuals who do not have sponsors and wish to stay in San Diego for the duration of their immigration case. This longer-term reception support is critical to ensuring that migrants seeking asylum can integrate into the community and pursue their immigration cases.

In addition to meeting fundamental humanitarian needs and offering orientation support, local service providers also speak with distressed migrants and people seeking asylum who are searching for their loved ones, from whom they were separated from at the US-Mexico border. People seeking protection and service providers do not know where the loved

one is, if they are being detained for a longer period of time, if they are being transferred to another facility elsewhere in the country, or when, where, or if they will be released. Some individuals do not want to travel to their final destination without reunifying with their family members, and as a result, remain in San Diego for several more days or weeks than anticipated.

According to a legal services organization that helps locate loved ones who spoke to WRC, CBP has failed to respond to filed G-28 forms—which establish an attorney’s or accredited representative’s representation of a client in an immigration matter and should enable them to obtain information about their case—for more than a month. WRC was also told that it can take up to two weeks for the ICE [Online Detainee Locator System](#) to reflect that a family member has been transferred to and detained in its custody.

Hospitalizations can result in lack of immigration processing and family separations.

In conversations with local government officials and service providers, WRC consistently heard about issues and gaps in coordination with CBP failing to process individuals for their immigration claim after they were hospitalized for medical emergencies. Migrants and people seeking asylum experiencing a medical crisis, particularly when waiting in an OAD, are hospitalized without a plan for processing their immigration cases after they are discharged or for reunifying them with their family members. Local [hospitals](#) bear the brunt of extra responsibilities outside of their purview, such as providing transportation, and connecting individuals to social services once they are able to leave the hospital.

After being discharged from the hospital, some migrants and people seeking asylum are sent in taxis to the transit sites, where those with paperwork are arranging onward travel, and some service providers have been able to work with local DHS officials for processing. What is critical, though, is the need for systemic coordination in such cases to ensure that people’s needs with regard to their care, family reunification, and immigration processing are met. Without a clear plan in place, one volunteer who provides humanitarian aid at OADS shared that a Chinese man was hospitalized and managed to return back to the OAD on his own, unsure what else to do, and another individual was sent in a taxi back to the San Ysidro Port of Entry for processing and accidentally crossed back into Mexico.

According to local service providers, migrants and people seeking asylum also struggle with hospitalizations—even when critically needed—because their families are not allowed to join them, so they are separated without a plan for reunification. One volunteer shared that a pregnant mother did not want to go to the hospital because she did not want to be separated from her two sons.

Finally, local officials have also sought to address this issue. WRC heard that local government officials have for weeks requested that DHS provide a point of contact and clearer system to ensure that CBP will process migrants and people seeking asylum after a hospital stay. At the time of this report, our understanding is that this still has not happened. There is a need for improved coordination to ensure that migrants are not stranded after being released from hospitals and can reunite with their loved ones.

Extortion in Mexico remains rampant, and asylum ban fails to deter overall migration.

From conversations with migrants and people seeking asylum dropped off by Border Patrol at the Iris Transit Station, WRC frequently heard that the journey through Mexico was dangerous and extortion was rampant.⁵ This echoes what WRC has [repeatedly heard](#) from [people seeking safety](#) at the border. A local service provider reiterated that no person seeking protection travels through certain parts of Mexico

⁵ WRC spoke with individuals from Guinea, Turkey, India, Colombia, Thailand, Togo, and Ethiopia.

without being extorted by cartels and Mexican authorities. [Research](#) across the US-Mexico border continues to demonstrate that migrants are at risk of kidnapping and assaults when waiting in Mexico.

No people seeking asylum who WRC spoke with understood the [Circumvention of Lawful Pathways](#) rule. WRC refers to this rule as the “asylum ban” because it illegally blocks people from asylum eligibility—other than for narrow exceptions—despite the guaranteed right under US law to seek asylum regardless of manner or place of entry. Unlike in other parts of the border, most migrants WRC spoke with had little to no knowledge of [CBP One](#), the mobile application that people seeking asylum must use to enter the US via a port of entry and avoid the asylum ban being applied to them.⁶ This reinforces yet again that the [asylum ban](#) does not appear to have any [deterrence effect](#) on their decision to seek protection in the United States and instead simply results in chaos and harm.

Recommendations

Based on our observations and interviews with a wide range of stakeholders, WRC strongly urges the US government to immediately implement the following recommendations.

The Biden administration should rescind the asylum ban, expand asylum processing capacity at ports of entry, and ensure that US and Mexican officials are not limiting access to asylum. Individuals must have the ability to exercise their right to seek asylum at ports of entry, including those without CBP One appointments and those who are exempted or have valid exceptions to the asylum ban. Access to asylum should never be contingent on manner of entry. Based on conversations and observations during this monitoring trip and an August [monitoring trip to south Texas](#), WRC remains profoundly concerned that Mexican and US officials are illegally turning back people attempting to seek asylum at ports of entry.

Although an appointment-based system must never be the only means of seeking asylum at a port of entry, DHS should continue to increase daily CBP One appointments and facilitate greater access to those who present at ports of entry without appointments. DHS should also increase its published official information about CBP One and the asylum ban in many languages, as some migrants and people seeking asylum remain unaware of these policies.

CBP must process migrants and people seeking asylum in a TEDS-compliant, humane, and timely manner and eliminate its use of OADS to hold people outdoors prior to their processing in holding facilities. OADS force people to wait for indefinite periods of time unprotected from the elements and reliant on humanitarian aid. It is dangerous to hold people in such conditions and unsustainable to rely on nonprofit organizations and volunteers to ensure their survival. Congress should engage in robust oversight to ensure that CBP ends its use of OADS.

DHS should work with all levels of local government to develop a comprehensive, sustainable response that effectively coordinates the processing and release of migrants and people seeking asylum in the San Diego region. Some [successful existing practices](#) include having a local migrant shelter co-located at the San Ysidro Port of Entry to expedite transfer from custody to care; Border Patrol dropping off vulnerable individuals directly to a migrant shelter; and the county beginning to fund and provide on-the-ground support to local organizations welcoming migrants and people seeking asylum.

⁶ CBP first launched the CBP One migrant-facing appointment scheduling system in January 2023. Since June 30, [1,450 appointments](#) are made available daily across eight US ports of entry.

While the \$3 million allocated by San Diego County to support the humanitarian reception of migrants and people seeking asylum is a positive and welcome step, more coordination and resourcing are needed to ensure the long-term sustainability of this effort. There is an outstanding need for more respite shelter, as the existing migrant shelters are currently only available to vulnerable individuals—pregnant people, family units, the elderly, those with high medical needs, and LGBTQ+ individuals.

Humanitarian organizations have also requested that street releases occur only during daytime hours, so they are there to help and are not working into the night, which often necessitates last-minute sheltering rather than migrants and people seeking asylum reaching their final destinations. CBP also needs to provide clear procedures for how an individual can be processed for their immigration case after hospitalization.

Emergency, short-term fixes are not solutions, especially considering that CBP told several service providers that this is the “new normal.” Significant investment, at all levels of government, is required to maintain the current level of humanitarian aid being provided by nonprofit organizations and volunteers.

Congress must significantly increase investment in local governments and nonprofit organizations providing short-term aid, as well as those who provide medium-term housing and services.

Lawmakers should support increased funding for the Shelter and Services Program (SSP),⁷ which provides funding for short-term respite, as well as provide significant funding for community-based stabilization for people seeking asylum who lack sponsors and for people seeking asylum to integrate into the communities where they will undergo the adjudication of their cases. Longer-term needs include community-based support with transitional housing, case management services, and legal assistance.

WRC is concerned that organizations providing longer-term support will not be able to sustainably operate beyond a few more months due to their inability to access SSP funds. Another nonprofit organization providing case management has more than 200 people on its waitlist to access support in San Diego. Such services are desperately needed both to provide stability to those going through the immigration system and to ensure an understanding of their legal obligations—not only in San Diego but across the country.

In addition to SSP, the [Case Management Pilot Program](#) (CMPP), which provides community-based case management services to support some migrants who were previously enrolled in ICE’s monitoring programs through the duration of their immigration cases, is a promising program that Congress should expand. Congress should also consider the best practices in supporting newly arrived people from the refugee resettlement system in its development of programs and best practices for welcoming people seeking asylum.

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⁷ WRC and partner organizations provided recommendations for the federal [Shelter and Services Program](#), which supports the humanitarian reception of migrants. WRC also joined more than [70 organizations](#) in calling for improved coordination, transparency, and accessibility in future federal funding allocations.

Women's Refugee Commission

The Women's Refugee Commission (WRC) improves the lives and protects the rights of women, children, and youth who have been displaced by conflict and crisis. We research their needs, identify solutions, and advocate for programs and policies to strengthen their resilience and drive change in humanitarian practice. Since our founding in 1989, we have been a leading expert on the needs of refugee women, children, and youth and the policies that can protect and empower them.

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