

Asylum Under the Biden Administration: June 2021 Policy Update

The Biden administration has committed to not only undoing the harms of the previous administration but also improving the US immigration system, which has long endured systemic issues that prevent immigrants from exercising their rights and being treated with dignity. The following summarizes the Biden administration's efforts thus far to dismantle—or maintain—immigration policies and standards amid a changing US-Mexico border situation.

"Remain in Mexico" has formally ended, but thousands subjected to the unlawful Trump-era policy remain stranded in Mexico

On June 1, 2021, Department of Homeland Security (DHS) Secretary Alejandro Mayorkas formally rescinded the cruel and unlawful "Migrant Protections Protocols" (MPP) policy known as "Remain in Mexico." This Trump-era policy forced tens of thousands of people to languish in dangerous border cities in Mexico awaiting their legally afforded right to seek protection. Even before formally ending it, the Biden administration had brought [more than 11,000 individuals](#) to safety since beginning a wind-down of the policy in February 2021. Together with partners in the [Welcome With Dignity](#) (WWD) campaign, the Women's Refugee Commission (WRC) applauds the formal end of MPP but continues to urgently call on the administration to allow all individuals who were subject to the policy to pursue their claims in the United States.

25 families separated under Trump are reunited; Task Force continues scouring internal records to ensure all affected families have been identified

Since late February 2021, a DHS task force led by Michelle Brané has been making strides toward identifying and reunifying families that were unjustly and cruelly separated at the US-Mexico border by the previous administration. As of June 23, 2021, 25 families have been reunited after being apart for more than two years. Families receive humanitarian parole to re-enter the United States and reunite, allowing them to temporarily remain in the country with the opportunity to apply for work authorization. On June 9, 2021, the Interagency Task Force on the Reunification of Families (the Task Force) released its [first progress report](#), which showed a commitment to identify all affected separated families and to develop a process so that those families can reunite in the United States. Despite this initial progress, much more remains to be done, including increased transparency in the development of the reunification process and additional protections for those reunified. Since government records are incomplete, the Task Force is trying to determine the reunification status of approximately 2,000 affected families. WRC urges the Task Force to redress the harm caused through provision of permanent immigration status and access to medical and mental health services, among other remedies.

Trump Attorney General decisions that gutted access to asylum for survivors are reversed

On June 16, 2021, Attorney General Merrick Garland [vacated multiple Trump-era decisions](#) that decimated the ability of survivors of domestic and gang violence and those persecuted due to their family ties to seek asylum in the United States. Under these previous rulings, countless people were left unprotected and unfairly deported to the grave violence from which they fled. WRC celebrates the

Attorney General's decision, which will save lives and help the US meet its obligations under the Refugee Convention and its own domestic laws. WRC also recommends that other decisions, such as [Matter of A-C-A-A-](#), are promptly vacated to fully allow survivors of gender-based persecution and all others unjustly cut off from protection by the previous administration the fair opportunity to seek asylum.

With the US-Mexico border closed to most people seeking asylum, pressure mounts to end illegal and inhumane use of a CDC public health order

For more than a year, the US has summarily expelled people seeking asylum into Mexico or onto [flights back to the home country they fled from](#). Although the Biden administration has allowed unaccompanied children and announced plans to allow [up to 250 vulnerable individuals a day](#) into the US, these exemptions fail to meet US obligations under law, which guarantees the right to seek asylum anywhere along or within US borders. Instead, [more than 400,000 people](#) have been denied any meaningful chance to seek protection since President Biden took office. For decades, [research](#) has shown that attempts to deter migration are ineffective and that the [causes driving people to flee](#) their homes do not hinge on US policy.

[Epidemiologists and public health](#) experts have continued to state that there is no legitimate public health rationale to abandon thousands of people in squalid, insecure camps in northern Mexico and provided [recommendations](#) for safe processing amidst the pandemic. Regardless, while [testifying in front of Congress](#) last month, Secretary Mayorkas continued to claim that the Biden administration “will not restrict travel one day more than the public health imperative requires.” In a rare statement, the [United Nations High Commissioner for Refugees](#) (UNHCR) recently called for the US to swiftly end Title 42 restrictions and “restore access to asylum for the people whose lives depend on it, in line with international legal and human rights obligations.” Months ago, [more than 60 members of Congress](#) called on Secretary Mayorkas to end this practice. While waiting in Mexico, vulnerable migrants and asylum seekers face pervasive [kidnappings and assaults](#), as documented by Doctors Without Borders and other organizations.

Some of the children arriving at the southern border today have already been forced to leave the United States after attempting to seek protection with their loved ones. Because the border is closed to all adults, families are expelled back into Mexico, where they face high rates of violence and kidnappings and lack access to basic needs. Due to these harrowing conditions, some parents make the tragic decision to wait in Mexico while allowing their children to cross into safety alone. More than [2,100 children](#) have returned to cross the southern border into the US without their family. Now unaccompanied, children are unified with vetted sponsors, frequently relatives, or remain in government custody if no sponsor is available while they go through immigration proceedings alone. Family separations like these are heartbreaking and only add to the [trauma](#) children have already experienced in their home country and in their travel to the US. No US immigration policies should be in place that fail to prioritize the [best interests of the child](#).

Unaccompanied children at the US-Mexico border are welcomed, but face inadequate conditions, long stays in emergency shelter facilities

Consistent with a federal district court order that halted the ability of the US to expel unaccompanied children, the Biden administration continues to [exempt](#) some¹ unaccompanied children from

¹ For years now, WRC and other organizations have documented serious concerns that children from contiguous countries—and particularly children from Mexico—are not properly screened by US border officials and are quickly returned to danger. See Amnesty International, Pushed into Harm's Way: Forced Returns of Unaccompanied Migrant Children to Danger by the USA and Mexico, 11 June 2021, AMR 51/4200/2021, <https://www.amnesty.org/en/documents/amr51/4200/2021/en/>.

expulsion and allow them into the United States. After a [record-breaking increase](#) of unaccompanied children arrived at the US-Mexico border in early 2021, the number of children in Customs and Border Protection (CBP) custody has since decreased by [nearly 90 percent](#). Unaccompanied children are also spending fewer hours in CBP custody before being transferred to the Office of Refugee Resettlement (ORR), with most children transferred to shelters now within 24 hours. By law, unaccompanied children must be transferred out of CBP custody within 72 hours, but had been spending double or triple that time at the border during the early months of the administration.

The [number of unaccompanied children](#) remaining in ORR shelters has also declined, from a high of 22,557 on April 29 to 15,330 as of June 13, 2021. Additionally, according to available official statistics, the amount of time unaccompanied children spend in ORR care before they are placed with relatives or sponsors has dramatically declined. The average length of stay in March 2021 was [35 days](#), which is two to three times lower than previous years.

While progress has been made, members of Congress, asylum advocates, and child welfare experts are [raising concerns](#) about new temporary emergency facilities holding unaccompanied children. Traditionally, when standard facilities operated by ORR reach capacity, influx care facilities or emergency shelters are temporarily used to care for unaccompanied children while they wait to be reunited with their sponsor. "Temporary influx care facilities" are required to have minimum services, including case management, counseling, and access to legal services. However, the significant increase in unaccompanied children arriving at the US-Mexico border, coupled with required COVID-19 spacing protocols, spurred the development of new emergency "decompression" facilities. Through ORR and the Federal Emergency Management Administration (FEMA), more than a dozen new "[emergency intake sites](#)" (EIS) are now holding children in several cities. At military bases, convention centers, and other large structures, these unlicensed facilities allow children to quickly move out of inappropriate CBP custody, but children in several EIS facilities suffer from [poor conditions](#) and a lack of case management personnel to vet and safely reunify children with sponsors. Already, two emergency sites have been abruptly shut down because of the seriously inadequate conditions migrant girls experienced there. Today, [more than half of children](#) in ORR custody are in emergency intake sites. Advocates are calling for ORR to immediately increase licensed, permanent bed capacity in small-scale, community-based settings and to continue safely streamlining the sponsor vetting process so that these EISs can be ramped down and closed, and children can be safely and quickly released.

Two detention facilities will close, but the number of immigrants in detention is increasing

Alongside many immigration advocates, [WRC welcomed](#) Secretary Mayorkas's announcement that Immigration and Customs Enforcement (ICE) will end its contracts with two immigration detention centers, the Irwin County Detention Center in Ocilla, Georgia, and the Bristol County Detention Center in North Dartmouth, Massachusetts. Immigrants locked away in these facilities endured inadequate food, [poor treatment](#), and medical abuse, including allegations of unnecessary and nonconsensual gynecological [procedures](#) at [Irwin](#). Despite the administration's recent announcement and acknowledgment of human rights violations, individuals are still being [transferred](#) to Irwin County Detention Center in June of 2021. In one news article, a man who is currently detained at the facility shared that "[nothing is changing](#)" at Irwin.

The combination of the COVID-19 pandemic and the Trump administration's draconian denial of access to asylum meant that the Biden administration began its term with some of the lowest detention levels in years. Yet despite the opportunity to begin to phase out the use of detention,

and despite committing to preserving the dignity of people seeking asylum and immigrant families, the number of people detained in detention has increased by 50 percent since January. As of June 11, 2021, [25,238 people](#) are locked away in ICE detention facilities, including more than 730 people who have tested positive for COVID-19. Relying on incarceration for immigration is expensive and inhumane. Unfortunately, the Biden administration continues to press for the mass detention of immigrants—the president’s budget request for Fiscal Year 2022 requests enough funding to [detain 30,000 people](#) each day, as well as funding for the short-term detention of 2,500 family members, despite Congress previously proposing that DHS [phase out family detention](#) by the end of 2020.

Another “rocket docket” system will only further endanger families

In May 2021, DHS and the Department of Justice announced a dedicated docket process, returning to fast-paced immigration court processes for families seeking safety at the US-Mexico border. Both the Trump and Obama administrations used so-called “rocket dockets,” which rushed families through the immigration court system without a fair chance to seek protection. Dedicated dockets will enroll up to 80,000 people in electronic surveillance programs, including ankle monitors, while going through this process. An accelerated timeline reduces families’ chances to find legal representation and increases the likelihood that they are unjustly denied protection. Speed and efficiency should not be prioritized over due process and justice.

After four years of intentional cruelty against immigrants under the Trump administration, the Biden administration has the unique opportunity to restore and improve our immigration system. A humane approach that affords children, families, and adults their right to seek protection at our borders aligns with our country’s legal obligations and ethical values. [WRC recommends](#) that the Biden administration welcome people seeking asylum through community-based case services and allow individuals to safely present their case in the United States outside of detention.

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