

## ProBAR's MPP Team

provides crucial legal education and assistance for asylum seekers subject to the Migrant Protection Protocols.

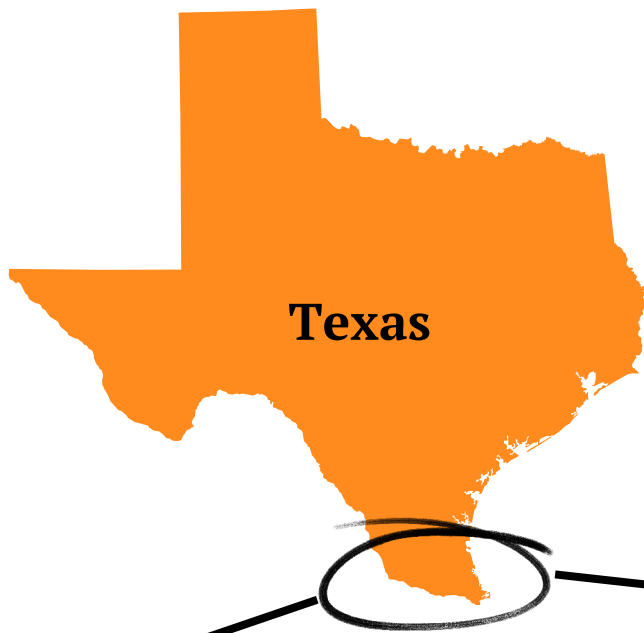
### Channeling Advocacy, Creativity, and Compassion in Response to MPP's Reinstatement



*A partial group of MPP Team members: (left to right) Hector Steele, Reyna Nevarez, Ayra Toro, Cindy DeLeon, Lindsay Schenk, and Luis Homes*

On a warm South Texas morning, members of ProBAR's legal team make their way to the United States Port of Entry in Brownsville, Texas. Still on the U.S. side of the border, they complete a few security checks, pass through a metal detector, and walk with an escort into the room where they will conduct a legal orientation for a group of migrants. During this session, they discuss the legal process, answer questions, and encourage the group to exercise their rights. After about an hour, the legal team leaves while the participants remain for their hearings. The immigration judge and an interpreter log into the session virtually and introduce themselves. At the beginning of the hearing, the immigration judge asks everyone in the room: "Is there anyone here who is afraid to return to Mexico while your case is pending? Please stand and remain standing until I call on you." Almost everyone in the room stands.

Texas' southernmost point, Brownsville, is a border city where every year thousands of migrants from countries around the world arrive to seek immigration relief. Brownsville is located within a region known as the Rio Grande Valley that receives some of the highest numbers of arriving migrants of any region along the border. Since 2019, a cluster of massive white tents have been arranged at the Brownsville Port of Entry, an official border crossing point where officials from the Department of Homeland Security process people arriving in the country.



Underneath the tents are large, steel trailers that serve as immigration courtrooms. Over the past three years, in these structures, immigration judges have adjudicated thousands of hearings for asylum seekers enrolled in the Migrant Protections Protocols (MPP) program, also known as "Remain in Mexico."



As MPP has unfolded in our region, ProBAR has responded by identifying approaches to services to address the needs of asylum seekers in the program. In early 2022, this work took on a new shape when ProBAR implemented an Immigration Court Helpdesk (ICH) at the Brownsville tent court to provide legal services to asylum seekers enrolled in MPP.

## The Evolution of the Migrant Protection Protocols

Over the last three years, two versions of the “Remain in Mexico” program have reshaped the process of seeking asylum at our border. Historically, migrants had a protected right to arrive at a port of entry and request asylum. They might then be detained or released and allowed to enter the United States to present their claims in immigration court. MPP forces asylum seekers to wait in Mexico while their hearings are pending. In 2019, the initial implementation of MPP saw asylum seekers placed in proceedings and returned to Mexico first across California’s border and then from Texas’s Rio Grande Valley as well. In total, approximately 70,000 migrants were involuntarily returned to Mexico along the length of the U.S.-Mexico border to wait for their next court hearing under this first iteration of MPP, sometimes called “MPP 1.0.”

MPP 1.0 came with harsh conditions for asylum seekers. The people returned to the Matamoros, Mexico, region just across the border from Brownsville encountered a severe shortage of shelter, food, water, and other necessities, and organizations have documented the **high**



**incidence of violence** targeting these migrants. Those forced to wait in Mexico also faced significant barriers to accessing counsel, and the **ABA testified before Congress** on the unique challenges faced by asylum seekers

under MPP. During this period, ProBAR mobilized our team, alongside the local bar and Lawyers for Good Government's "Project Corazón" initiative, to support vulnerable MPP asylum seekers and create an "MPP Team" to provide *pro se* assistance and direct representation to asylum seekers forced to remain in Mexico.

In early 2021, the Biden administration began paroling people into the United States to await their hearings and initially announced the termination of the MPP program in June 2021. For a few months, ProBAR's team worked collaboratively with the RGV Welcoming Committee to welcome asylum seekers. However, in August a federal court ruled in the *Texas v. Biden* case challenging the program's termination and ordered the Department of Homeland Security (DHS) to reinstate MPP. In December 2021, DHS began enrolling and sending individuals back to Mexico under a revised version of the program that is sometimes referred to as "MPP 2.0" by advocates. In January 2022, MPP 2.0 was underway in the Rio Grande Valley as well.

MPP 2.0 brought several major changes to the program. Asylum seekers under MPP 2.0 were transported from the border to shelters in the interior of Mexico, no longer facing precarious conditions in tent encampments but still vulnerable to violence targeting migrants. The mechanics of enrollment in the program also changed, adding more exemption criteria than existed under MPP 1.0.



There was also a significant expansion of the process by which someone could seek exemption from the program due to a fear of persecution in Mexico through a *non-refoulement* interview (NRI). While many people expressed fear of returning to Mexico who were not exempted through the NRI process, many more people had access to these interviews and to exemption from the program under MPP 2.0 than its predecessor.

## Rising to the Challenge

Driven by a desire to empower and provide services to the vulnerable asylum seekers subject to the MPP program, ProBAR became a provider in the ICH program in February 2022 after receiving funding as a sub-contractor of the Acacia Institute of Justice. Composed of legal support staff and attorneys, ProBAR's newly formed ICH-MPP team was tasked with providing vital legal education services to equip individuals with information to understand the asylum process and navigate a complex legal system. The ICH program includes services such as group and individual orientations, as well as asylum workshops. ProBAR's MPP Team then built upon these legal education services by providing asylum seekers with assistance with I-589 applications for asylum, gathering evidence to support their testimony, and completing translations of the documents they would file with the immigration court. Attorneys from ProBAR also engaged in a limited amount of direct representation of asylum seekers with their cases, knowing the significant impact of an attorney's representation.



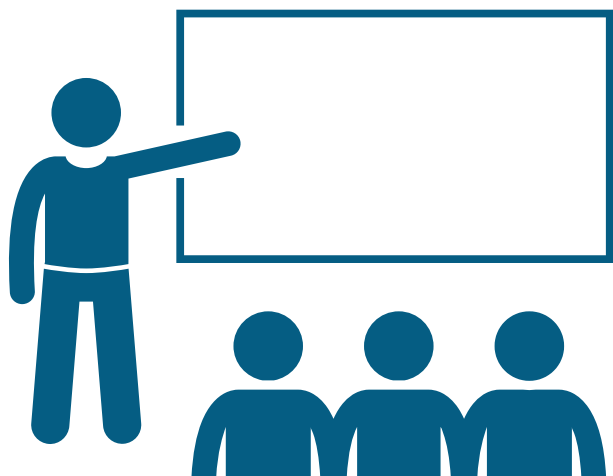
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Paralegal Reyna Nevarez was among the ProBAR staff who leapt into the work of serving MPP asylum seekers. A Brownsville native, Reyna grew up within minutes of the Port of Entry, close to where the tent courts stand today. “When my director asked for help, I didn’t think twice,” Reyna says. In 2022, she transitioned from her work with unaccompanied children to the MPP Team, where she would work with

adult asylum seekers in a moment of high need. “I decided to join the team because I want to help in any way I can, and I’m passionate about my work.”

## Bringing Compassion and Creativity to the Tent Court and Beyond

Paralegals like Reyna play an integral part in the work of the MPP team. Reyna conducts group legal orientation for large groups of migrants at the tent court. She works directly with asylum seekers, educating them on their rights, and listening to the trials and triumphs of their journey. "When we [ProBAR staff] were in the room, their facial expressions changed completely. They felt so relieved." Reyna says, "When we speak in Spanish their defenses go down. I know my time here is making an impact."



Staff Attorney Ayra Toro joined ProBAR's team in 2022 specifically to serve with the ICH team. Of her time at the Brownsville tent court she says, "walking into the tent court was like nothing else." The procedures and infrastructure at the facility made it a unique setting for legal services. Once inside, conducting the presentations is a somewhat delicate process. The ProBAR presenter

must make it clear that they work with a non-profit organization called ProBAR and assures their audience that they are there to help with no costs attached. Ayra recalled that during her legal education presentations she needed to speak loudly and clearly, so her voice was not drowned out by the industrial-sized air conditioners. Presenters only have an hour or so to review all the PowerPoint slides, discuss next steps, and answer any questions the audience may have. Nevertheless, this information provides a crucial starting point for asylum-seekers to understand their rights and how they can advocate for themselves in their upcoming hearings. As of mid-October 2022, more than 2,000 asylum-seekers have received varying legal education services since ICH services began in February.



However, ProBAR's services for asylum-seekers in MPP have not been limited to legal education. Instead, the team has developed creative strategies to assist asylum-seekers to prepare their cases while waiting for their hearings in Mexico. Through a combination of phone calls and WhatsApp communication, the team received requests for case assistance, screened cases, and worked to support individuals in preparing their cases to present pro se, or without an attorney's representation, in court. During the spring and

summer, ProBAR attorneys also began to identify a limited number of individuals for direct representation by our team, successfully securing asylum for some of these clients.

Reyna explained that in the course of her casework she speaks with migrants who have experienced hardship in their home country or on their journey to the border. She hears stories of persecution, political unrest, poverty, and other turbulent experiences that have caused people to uproot their lives and flee their homes.

"Personally, my participation in serving the individuals placed in MPP 2.0 has been a whirlwind of emotions," Reyna says.

"Throughout my experience providing direct services, people have broken down in tears."

Paralegals also play an important role in helping an asylum seeker to confidently represent themselves in front of the immigration judge. An asylum case needs to connect the persecution the asylum seeker fears or has suffered to one of the five protected grounds (race, religion, nationality, political opinion, or membership in a

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particular social group) and reinforce their claims with evidence – all submitted to the court in English – and testimony for the judge to consider granting relief. Reyna and the rest of the ProBAR paralegals explain the requirements for asylum and bridge language gaps to help people prepare their cases. As of October 2022, the MPP Team has assisted over 100 adults with their cases.

ProBAR team members also conduct one-on-one trial preparation sessions for individuals on the day of their merits hearing. At this crucial hearing, the asylum seeker will present arguments and evidence demonstrating their eligibility for legal relief from deportation before an immigration judge, and the judge will make the final decision to either grant or deny asylum. For asylum seekers subject to MPP, these merits hearings are also conducted in the Brownsville tent court, and the vast majority of respondents participate in these hearings *pro se*, advocating for themselves without an attorney's representation.



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Ayra says, "Our goal is to empower people by giving them the vocabulary to express themselves in a way that will resonate with the immigration judge," Ayra says, "People make the journey to come here, which is very dangerous, and they feel vulnerable...it can be very traumatizing." During merits preparation sessions, Ayra would

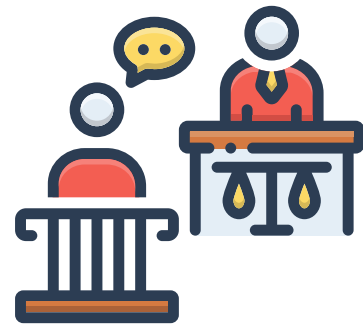
often start off by saying, "I am here from ProBAR, and I want to help you. I am so sorry that you've gone through so much." The time she can spend with each person is brief because there are so many other people waiting for their turn. Ayra says, "We want to help as many people as we can, but it's hard sometimes because they get so discouraged."



The team seeks to provide its services using a trauma-informed framework, understanding the ways that someone's difficult lived experiences may impact how they engage in the immigration process. This work has demanded dedication, creativity, and heart on the part of the team. Both Reyna and Ayra spoke of the comradery between their teammates. "They keep our boat afloat," Ayra says.



Most importantly, ProBAR's services made a concrete impact for individual asylum seekers. When MPP 2.0 had been in effect for approximately 6 months, the Transactional Records Access Clearinghouse (TRAC) project at Syracuse University released an analysis of case outcomes for asylum-seekers enrolled in the program. Reported in June 2022, the [TRAC project noted](#) that only 27 MPP asylum-seekers out of 1,109 completed cases had won relief anywhere along the southern border at that point. ProBAR's MPP Team assisted in 15 out of the 27 successful cases.



## The "Wind-down" of MPP

In June 2022, the [Supreme Court ruled](#) that the Biden administration had the right to fully terminate the MPP Program and remanded the case to a lower court to determine whether the termination process complied with the law. In August, after the U.S. District Court lifted its injunction on MPP's termination, the Department of Homeland Security issued a [statement](#) announcing the following: "DHS is committed to ending the court-ordered implementation of MPP in a quick, and orderly, manner."

As of this writing, asylum seekers are no longer being newly enrolled into MPP, and individuals currently in MPP in Mexico are generally disenrolled from the program when they return for their next scheduled court date - except for those who arrive at court for a scheduled merits hearing and who may be asked to proceed with the hearing before a decision is made about whether they may enter the United States. Individuals disenrolled from MPP will continue their removal proceedings in the United States. Throughout the wind-down period, the ProBAR team has continued to visit the tent court to inform asylum seekers of their rights in this new stage of their program.

## **A Chapter Concludes, but Challenges Remain**

The MPP program has presented numerous challenges for asylum seekers and their access to legal services. Throughout this period, ProBAR's MPP Team has tackled the changing circumstances with a focus on providing compassionate services that empower each person in their immigration journey.

By the end of October 2022, DHS projects it will complete the MPP program's wind-down. Asylum seekers will no longer be returned to Mexico for weeks or months to await hearings in dangerous conditions and with limited access to legal services. However, even after MPP concludes, migrants arriving at Texas' southern border will continue to face the Title 42 policy that has resulted in more than 1.8 million expulsions of migrants seeking to enter the U.S. to seek protection and opportunity.

Regardless of how border policies evolve in the future, ProBAR is proud of the dedicated work of our MPP Team and maintains an unwavering commitment to serving immigrants and asylum seekers with dignity and compassion through teamwork and adaptability.



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