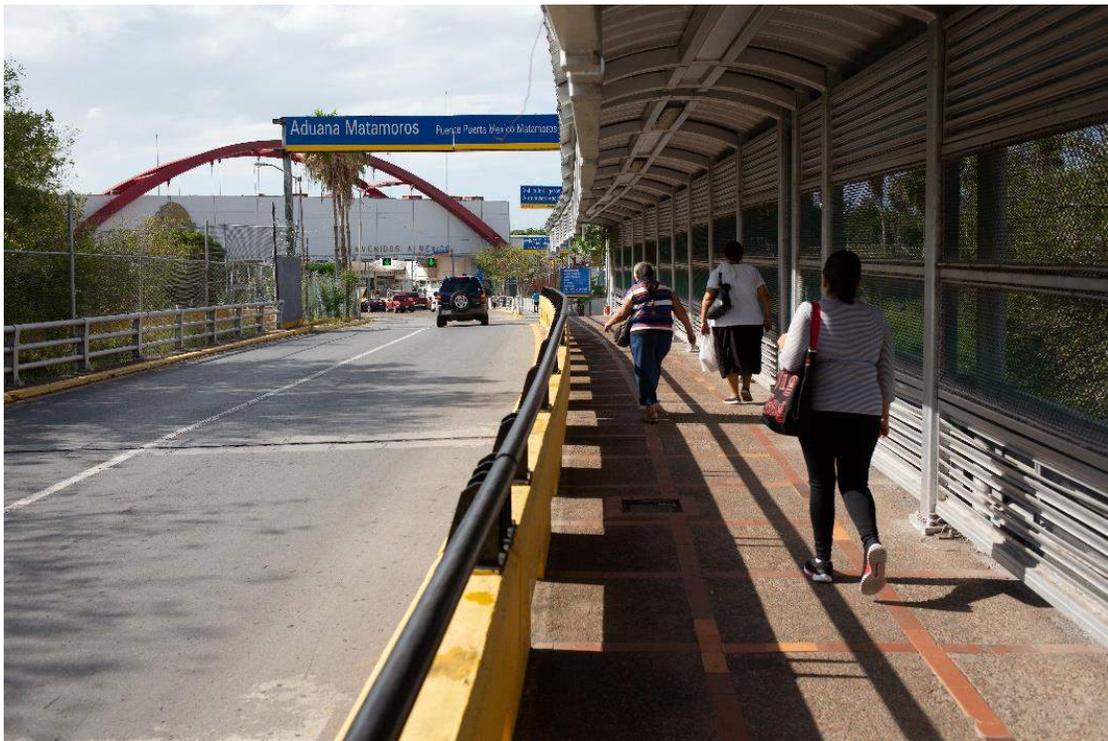


Welcoming Asylum Seekers at U.S. Border Shelters: Best Practices, Plans and Needs to Address Increased Arrivals and COVID-19



***Information and Recommendations for
the Biden Administration from
Border Shelters at the U.S. Southern Border***

December 2020

This document was written by a network of border shelters operating along the U.S. southern border. Our border shelters are non-profit organizations that welcome and support migrants released from federal detention, providing them with food, shelter, social services, and assisting them to make travel arrangements to meet their sponsors across the United States.

Over the last few months, we have come together to plan and prepare for changes that could potentially develop in 2021. We believe these best practices and policies can provide a safe pathway for asylum seekers traveling the U.S. during a pandemic, and will serve as a guide for federal, state, and local authorities, NGOs, and other stakeholders involved in restoring our asylum system.

This project was specifically endorsed by the following border shelters and organizations:

Border Servants Corps (Las Cruces, New Mexico)

Casa Alitas, Catholic Community Services of Southern Arizona (Tucson, Arizona)

The Galilee Center (Mecca, California)

Good Neighbor Settlement House (Brownsville, Texas)

Heart for the World Church (Deming, New Mexico)

Holding Institute Community Center (Laredo, Texas)

The Inn (Tucson, Arizona)

La Posada Providencia (San Benito, Texas)

Las Cruces Hospitality Coalition (Las Cruces, New Mexico)

Safe Harbors Network- Operated by Christ United Methodist Ministry Center of San Diego (California)

San Diego Rapid Response Network Migrant Family Shelter- Operated by Jewish Family Service of San Diego (California)

The Welcome Center- Operated by International Rescue Committee (IRC) (Phoenix, Arizona)

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Section 1: Shelter Capacity and COVID-19: Ensuring Shelters can Accommodate Individuals during a Pandemic

During numerous migration increases over the last several years, Department of Homeland Security (DHS) facilities have become quickly overwhelmed and dangerous, as they were not created for the increased numbers of arrivals of family units and children. There is a need to expedite processing and minimize individuals' time in DHS custody.

Border shelters will provide accommodation for over 95% of the individuals apprehended at the U.S. southern border once they are released from federal custody. Ensuring that there is suitable infrastructure in DHS for processing is as essential as ensuring that there is suitable infrastructure for shelters.

Goal: To ensure that there is suitable infrastructure for border shelters to: (1) safely provide temporary shelter in COVID-19; (2) help ensure stabilization for onward travel including robust legal information dissemination; and (3) help organize travel to final destinations if individuals were unable to do so in DHS custody.

Recommendations:

- 1. Shelter facilities must have designated spaces to accommodate for COVID-19.** Currently, most shelters in the U.S. do not have the infrastructure to house and quarantine large numbers of families or individuals at a time. Some shelters are already in the process of either operating/renting hotels in Mexico for individuals to quarantine, as well as operating hotels or looking to acquire space from a hotel or other large congregate housing on the U.S. side to ensure that they have a place to house both COVID-19 positive and negative individuals upon release from DHS custody. However, this is not the case in all border cities. In order to safely accommodate for COVID-19, the following best practices and policies should be considered:
 - Additional shelter space needs to be identified and converted into safe spaces for quarantining. This can be accomplished using hotels, churches, or other spaces.
 - Shelters need separate space for guests based on COVID-19 exposure, such as individuals who have tested negative, those pending a test result, and those who have tested positive. Individual quarantine space needs to be available.
 - Public health officials should be instructed to support the border shelters with decision-making around the safe separation of arrivals.
 - Shelters need enough space to adequately social distance their guests, staff members, and volunteers.
- 2. Consider transitional housing needs for certain border areas and populations.** Vulnerable populations such as pregnant women and severe COVID-19 cases could have longer-term immediate housing needs, as they may not be able to travel immediately to reunite with family. Additionally, border communities such as San Diego see larger numbers of arrivals that need transitional housing. Since these individuals cannot stay in border shelters due to a likely large volume of new arrivals and the COVID-19 precautions, it is important to think about including funding for housing in particular communities.

3. **COVID-19 testing protocols must be established or strengthened for transmitting information to shelters and individuals.** Currently, it is vital to consider a testing protocol that ensures confidence in the results and is transparent with its cost and in its administration. Migrants should test in DHS custody and receive their test results, which could be shared with shelters who receive them. If DHS does not test for COVID-19, then the county public health department needs to administer COVID-19 tests. In order to ensure the safety of all individuals, the following protocols should be considered:
- Despite immigrants being in DHS custody, testing should be performed by state and local county health officials to ensure public confidence and adherence to results. Many local communities have robust local government testing plans in place that should be implemented across the U.S. These communities have built trust and buy-in from the community and could be funded through renewal of the CARES Act.
 - Public health officials should create a survey of existing testing models along the border to evaluate what is working in local communities and ensure that there is buy-in and understanding on the needs to scale up testing and information-sharing with shelters who are taking DHS releases.
 - Testing information needs to be publicly shared and disseminated (but disaggregated to ensure individuals' privacy) to encourage trust in the testing process and results. A weekly update given by community health leaders to the community would be very helpful.
 - Information about COVID-19 test results should be shared with shelters to ensure appropriate housing options and accuracy for the shelter's long-term housing operational planning efforts. Information should likely be shared by local entities doing testing and not just DHS staff. This will ensure more acceptance of the testing results.
 - Local community shelters and NGOs should have a role in any county disbursement of funds related to COVID-19 and testing.
4. **Recognize shelters' limited staffing capacity during COVID-19.** Border shelters have traditionally operated with a small number of staff and many volunteers. COVID-19 has changed this reality and will likely affect the ability to recruit volunteers from around the country. Many shelters have on-site medical staff, but more medical staff will need to be considered at all shelters taking DHS releases. To maximize efficiency, the following ideas could be considered:
- Consider medical staff such as the Commissioned Corps of the U.S. Public Health Service.
 - Shelters should communicate and collaborate with existing medical volunteer groups.
 - Shelters need to be provided with PPE equipment to safely accommodate people and protect their staff and volunteers.
 - Consider designating an AmeriCorps Program focused on migration at the U.S. border to help fund full-time temporary staff at shelters that can focus on humanitarian work.

Section 2: Federal Government Coordination: Agency Communication and Support for Asylum Seekers

In 2018 and 2019, when border shelters served large numbers of asylum seekers, families would sometimes arrive at shelters without documents or with inaccurate information on the documents. Notably, the addresses on the Notice to Appear (NTA) had addresses for border courts, the shelter, or an incorrect address for the family's final destination. This led to an urgent need to complete a change of venue because the consequences of allowing the documents to remain unchanged could result in an *in absentia* removal order for the asylum seekers. Border shelters are not uniformly and adequately equipped to check the accuracy of all documents. This is principally because the shelters are social and humanitarian service providers and not legal service providers. In the past, shelters have relied on pro bono legal service providers to support with such reviews and correction of legal paperwork. However, due to COVID-19, shelters should not expect a similar level of in-person legal review and support.

Goal: To ensure access to due process and legal information at the shelters, especially as policies and protocols change. Government agencies must ensure that all asylum seekers affected by the "Migrant Protection Protocols" (MPP) and other border enforcement policies have access to due process and legal information about those rights. The government must think of ways to minimize the potential for *in absentia* orders, as well as how to immediately disseminate legal information to arriving asylum seekers at the shelters.

Recommendations:

1. **Ensure accuracy of information on immigration paperwork at shelters.** DHS should implement the following best practices and policies:
 - Provide a primary point of contact for border shelters to communicate with regarding any identified errors on paperwork, regardless of whether the family was processed by CBP Office of Field Operations or Border Patrol.
 - The percentage of inaccuracies with the NTA, parole paperwork, and I-94s needs to be monitored in DHS processing. This information should be publicly available and presented in an annual report that includes future options for fixing these issues.
 - Employ plainclothes staff (or contract with legal services staff from local non-governmental organizations) at the shelters for troubleshooting with NTAs and any immigration paperwork that is inaccurate or could lead to an *in absentia* removal order. Such a staff position should have the ability and the authority to make changes on paperwork immediately and electronically.
 - Issue Humanitarian Parole under 8 U.S.C. § 1182(d)(5) for all pending MPP cases. If NTAs are issued, they should have a default of 8 USC 1229b proceedings.
 - Issue NTAs and other discharging immigration paperwork with individuals' final destination address and that corresponding immigration court which has jurisdiction over the case, rather than the address of the reception site or the site of the immigration detention facility/border court. Failing to put the correct address on immigration paperwork makes it difficult for families

to attempt to comply with their proceedings (in the family detention context, ICE does have the capacity to list the final address of the individual that they release).

- File motions to change of venue when new NTAs are not issued to an individual/family who was formerly in MPP.
- Increase existing detention and processing center discharge guidance to include: (i) a clear explanation of how ICE and the Executive Office for Immigration Review (EOIR) are two separate agencies with distinct sets of procedures for address updates, communications, and hearings; (ii) instructions on how to update an address with ICE and with EOIR, including a blank standardized form for each; (iii) the 800 number for the EOIR immigration court hotline and guidance on how to use the hotline to obtain information about an individual's case; (iv) instructions on requirements and responsibilities of being released on bond, parole, or on their own recognizance, and where applicable (v) a detailed explanation of the alternatives to detention program and the role the ISAP office will place in that process.
- Maintain clear communication with shelters regarding the accessibility of ICE offices for non-detained check-ins, hours of operation, and general functionality due to the constantly changing circumstances with COVID-19 pandemic precautions in place.

2. Improve immediate access to Know Your Rights “KYR”/legal orientation/legal information to all individuals arriving at shelters on the U.S.-Mexico border upon release from DHS custody. Allocate resources for adequate KYR, legal information, Alternatives to Detention case management education and information, and for immediate knowledge acquisition and connections to legal counsel in the U.S. interior where possible.

- DHS/DOJ-OLAP needs to engage in a robust KYR effort that should occur at the shelters and should provide such information to ensure uniform resources at every shelter along the border. They should contract with local pro bono legal service providers and use models from existing programs such as the “Legal Orientation Program” for guidance regarding implementation.
- Work with border shelters to ensure that they have the necessary space and computer equipment to conduct multiple online KYRs sessions (could be given as FEMA EFSP grant or perhaps a CJS appropriation).
- Consider expanding funding for existing Information Court Help Desks and expand the program through CJS Appropriations. Currently the program is only in five courts (Chicago, LA, Miami, New York, and San Antonio). Take the top ten immigration court cities for asylum-seeking families (outside of these five) and expand the program to those cities. Expanding this program will help individuals that are released and do not get legal information and may be able to access some additional information where helpful.
- Reinstate the AmeriCorps Immigration Attorney program to provide remote KYRs and information on legal compliance remotely to all arriving asylum-seekers at the humanitarian shelters. Consider also robustly partnering further with pro bono private networks to conduct KYRs remotely online in group sessions and individual assessments (CJS Appropriations).

3. Provide resources that can maximize efficiency. DHS and DOJ-EOIR should streamline cumbersome processes and provide additional support to asylum seekers that were enrolled in MPP, by considering the following accommodations:

- Streamline the process for non-citizens to change their address and venue for immigration hearings by creating a single change of address form (available in Spanish and other languages) that when submitted physically or electronically to EOIR or any ICE office or contractor, would

automatically trigger an update of a non-citizens address with all relevant immigration agencies and EOIR. This unified form would streamline the process, reducing the burden for not only the non-citizen but also for DHS and DOJ-EOIR.

- Create an information clearing house platform or a mobile phone application with resources that can be downloaded that would be useful to new arrivals such as updates from DOJ EOIR, as well as important content related to anti-trafficking, notario fraud, community resources, and ISAP/ATD appointment information if necessary (consider the existing HHS/ORR Technical Expert support platform for content that could be incorporated <https://www.acf.hhs.gov/orr/resource/orr-network-resources>. This would likely be a CJS or DHS appropriation).
- Reinitiate the Family Case Management Program (FCMP) which would provide critical case management and support to asylum seeking families who were formerly enrolled into the MPP program. Case management could include access to cell phones to receive critical updates from DHS-ICE regarding check-ins for ERO or ISAP, information about upcoming court hearing/court closure information, in addition to connections to other basic and critical resources. The FCMP was initially piloted under the Obama Administration and was very successful in addressing the unique needs of asylum seekers. Notably, this is very different case management in goal and function as what is currently being offered by ISAP for families enrolled in the DHS alternatives to detention program.

Section 3: Funding Considerations

While DHS appropriations have steadily increased during the past three administrations, the flexibility of DHS funding to engage with border shelters and NGO partners on the ground during a surge remains an issue. Specifically, DHS/ICE and DHS/CBP have limited funding instruments to provide grants to organizations for assistance. Progress has been made during the past four years to ensure that shelters and charitable entities working with DHS and providing services can be paid for their work assisting DHS (through utilizing FEMA EFSP), and certain costs for transportation of new arrivals are acceptable uses of DHS/ICE funding.

Goal: To establish appropriate government funding mechanisms to ensure that border shelters can quickly scale up and serve the humanitarian needs of migrants at the U.S. southern border. To establish clarifications for use of funding (in the case of ICE funds for transportation) to ensure adequate transportation of new arrivals to shelters and onward travel to the U.S. interior final destinations.

Recommendations:

- 1. Create funding mechanisms for shelters to improve their infrastructure related to new arrivals and COVID-19.** In FY 2019, new innovations in DHS appropriations enabled border shelters and other organizations who assisted DHS with new arrivals to be paid for their work through applying for FEMA EFSP grants. This funding arrangement succeeded in assisting several large shelters who saw high volumes of arrivals, however the process to apply for funding was challenging for smaller shelters and funding was retrospective. Funding should be prospective and operational rather than retrospective. Funding can be improved by implementing the following:
 - Learn from the first FY 2019 Border Supplemental FEMA EFSP disbursement versus the second disbursement, which reached more people and was less onerous in the paperwork requirements.
 - Ensure funding to border shelters that need to scale up capacity, particularly in bedspace and reception capacity, including smaller shelters that often address unmet needs in smaller border cities.
 - Provide administrative funding to border shelters to ensure staff and infrastructure capacity to serve asylum seekers.
 - Provide funding from Health and Human Services, Office of Refugee Resettlement (ORR) or other federal agencies involved with supporting community shelters, displaced people, economically-disadvantaged populations, and/or COVID-19.
 - Ensure that funding opportunities are accessible to smaller, community-based organizations and not only larger national organizations.
 - Expand the staffing of the FEMA EFSP board to ensure efficient administration of assistance to organizations.
 - Consider CARES funding renewal or future COVID-19 funding.

Section 4: Ending MPP: Upholding Dignity and Ensuring Safety for Asylum Seekers

The Trump administration's MPP program has forced more than 68,000 immigrants and asylum seekers to remain in Mexico while awaiting their court date in the U.S. Because of COVID-19 and Title 42 expulsions, many have had to wait months to receive their first court date. While ending MPP will be essential, other policies must also be implemented to help compensate for lost time, while prioritizing families and individuals whose lives have been uprooted for months and are living in extremely vulnerable conditions.

Goal: To end MPP and other programs designed to deter asylum seekers from seeking protection, while implementing policies that protect asylum seekers.

Recommendations:

- 1. Ensure that asylum seekers can reach ports of entry safely and petition for asylum in a timely manner.** This includes recognizing the limitations of partnering countries, and a commitment to provide resources to help close service gaps. Authorities working with asylum seekers should apply the following best practices and policies:
 - Prioritize same-day processing at the point of entry to reduce the number of people who are staying in dangerous border towns.
 - End programs designed to redirect asylum seekers back to other countries either for their asylum cases or awaiting U.S. processing, including Prompt Asylum Claim Review (PACR), Humanitarian Asylum Review Program (HARP), and Migrant Protection Protocols (MPP).
 - Re-evaluate Safe Third Country Agreements to develop expectations that can be met by other partner countries and end all Safe Third Country Agreements with any country that does not have an established and functional asylum process.
 - Recognize biological family ties, not just parents, as legitimate guardians. Make concerted efforts to keep family generational units together to foster more positive emotional health among newly arriving asylum-seeking families.
- 2. Ensure that asylum seekers can request asylum in a safe environment, without unnecessary obstacles.** This includes recognizing the limitations of partnering countries, and a commitment to provide resources to help close service gaps by considering the following protocols:
 - Increase training of individuals from USCIS to conduct Credible Fear Interviews.
 - Prioritize allowing asylum seekers to complete a credible fear screening and initial processing on the same day as arrival at the port of entry.
 - Refugees may have underlying health conditions, and these should be assessed and addressed at time of crossing with a focus on people-centered and linguistically appropriate accommodations for medical and mental health care.
 - In addition to physical health accommodations, screening processes should ensure privacy and dignity is maintained for all asylum seekers.

- Incorporate ORR child safety services throughout the screening process to ensure health and safety of children, including trauma support.
- If same-day processing at the port of entry is not possible, ensure that there are shelters available in Mexico near ports of entry which are held to the same operational standards as U.S. shelters, and ensure that standards are upheld through the provision of resources, funding, and U.S. oversight.
- Roll back changes made to the credible fear screening initial interview which have made comprehensive screening more difficult and return to the interview process prior to the USCIS Lesson Plan that was implemented in February 2017.
- Prioritize in-person credible fear screening with USCIS when health protocols allow, and review whether telephonic interviews result in significantly different rates of outcomes.

3. Uphold health and safety guidelines and minimize trauma throughout processing.

- Minimize use of detention centers whenever possible in the asylum process and utilize public-private partnerships to connect asylum seekers with U.S. based sponsors immediately after processing.
- Evaluate detention centers across the country and hold them accountable to human rights laws and accords, and fair and decent treatment of detainees.
- Restrict all use of ankle monitors as they have adverse effects on individuals' emotional health.
- Provide additional oversight for the Intensive Supervision of Appearance Program (ISAP) from ICE to ensure that check-in protocols are not more stringent than those ICE has established.
- Implement policies and protocols for third-party contractors that mirror those of ICE.
- Establish an alternative to detention case management program for individuals seeking asylum that do not have sponsors.
- Create federal baseline standards and funding to ensure basic needs are provided to asylum seekers to support their integration into their local communities. These programs should include services that include, but are not limited to, housing, school enrollment, linkages to medical and mental health care, and access to employment authorization to be legally employed.

4. Implement Indigenous language support. Local authorities and shelters need to have Indigenous language resources readily available, especially during an increase in arrivals.

- ICE procedures and actions should be pre-recorded in audio and/or video in Indigenous languages to inform Indigenous language speakers of protocols. DHS/DOJ-OLAP should implement Executive Order 13166 by providing Legal Orientation Programs (LOPs) in videos in Indigenous languages.
- DHS should also create and implement a language assessment identification for any Credible Fear Interviews (CFIs) or Requests for Information (RFIs) by USCIS, as called for in Executive Order 13166 for individuals and families.
- Public health information on Covid-19 testing, prevention, and vaccinations, should be communicated in Indigenous languages.

Section 5: Transportation

Currently, certain shelters are hearing from CBP on an ad hoc basis, and normally DHS transports new releases to shelters. An increased number in arrivals could strain this process. DHS needs to ensure that it will continue to drop-off new arrivals at the shelters. Also, travel from to destination cities is a challenge due to reduced travel options.

Goal: Create a protocol that ensures ICE will transport new releases to border shelters, both quarantine locations and non-quarantine locations. Ensure that asylum seekers can promptly and safely travel from border communities to their final destination with family and sponsors across the United States.

Recommendations:

- 1. Create protocols for ICE or CDC to transport individuals to shelters.** DHS should implement the following best practices and policies:
 - Ensure the issuance of travel documentation and educate all CBP and Transportation Security Administration officers about individuals who may be traveling. If there are questions with a family member's travel documents, DHS officials should ensure that family members have an opportunity to explain their circumstances and also communicate with any resources in their final destination, including NGO advocates and legal counsel who may be able to assist them.
 - Share information with border shelters of new arrivals in a timely manner and ensure transportation during agreed upon schedule and working hours.
 - Expand processing timeframes as outlined in Flores Settlement to ensure the health and safety of all asylum seekers.
- 2. Minimizing transportation obstacles for travel to the U.S. interior.** Considering past obstacles and reduced national bus schedules due to COVID-19, stakeholders should recognize current limitations on transportation. Since 2014, many of the new arrivals have used the private bus system to reunite with sponsors and family in the U.S. interior. It is vital for policymakers to understand the limitations of the private bus system due to COVID-19. Bus lines do not run as regularly and can take less people due to COVID-19 restrictions such as social distancing. Transportation for asylum seekers can be ensured by implementing the following best practices and policies:
 - Contemplate chartering buses in partnership with private entities to transport asylum seekers to transport hubs such as San Antonio, Houston and Los Angeles. Specifically, also request more bus lines originating in Texas from Rio Grande Valley and El Paso--two of the largest areas for new arrivals in the past six years.
 - Request that private bus lines provide specific call-in lines with extra staff for trouble-shooting ticket arrangements that need to be changed due to processing delays. If shelters permit, consider requesting bus representatives physically be present in the shelters to make ticket arrangements if they can comply with COVID-19 CDC guidelines.
 - Ensure that there is enough staff and resources to assist new arrivals with travel arrangements.
 - Utilize national charitable donation operations for individuals who cannot pay for bus tickets. Prior efforts like Miles for Migrants provided quick assistance for new arrivals who cannot pay for their onward transport.
 - Contemplate engaging airlines for flights for new arrivals who can afford air travel.

Section 6: Collaboration with Mexico

The United States-Mexico Border Health Commission was created as a binational health commission in July 2000, with the signing of an agreement by the Secretary of Health and Human Services of the U.S. and the Secretary of Health of Mexico. The mission of the United States-Mexico Border Health Commission (BHC) is to provide international leadership to improve health and quality of life along the U.S.-Mexico border. The BHC has the unique opportunity to bring together the two countries and their border states to address border health challenges by providing the necessary leadership to develop coordinated and binational actions that can improve the health and quality of life of all border residents. This Commission, along with shelters in Mexico, should help inform border communities and organizations about the dire situation across the region in relation to COVID-19, allowing both sides of the border ample time to plan for a humanitarian disaster.

Goal: To coordinate more closely with Mexico on public health issues, allowing border communities, border shelters and NGOs time to plan for a possible increase in arrivals of asylum seekers and COVID-19 cases.

Recommendations:

1. Develop binational communication and coordination with Mexico to address public health issues.

- As the official entity charged with the responsibility of binational communication, collaboration and coordination with Mexico to address public health issues of mutual concern, the United States-Mexico Border Health Commission should convene a series of meetings to engage U.S. and Mexico health authorities to develop and implement a coordinated strategy to ensure the health and safety of immigrants traveling through Mexico to the United States border.
- Shelters also have a unique opportunity to communicate with each other on the number of people arriving at the border. However, recognizing that shelters are busy with arrivals and are doing lifesaving, essential work, NGOs should aid and support when coordinating calls among stakeholders from both sides of the border.