



## **U.S. Failure to Return Personal Belongings of Migrant Deportees**

In fiscal year 2014, U.S. authorities deported approximately 316,000 individuals, of which 96.1 percent were returned to Mexico, Honduras, Guatemala, and El Salvador. Once deported, migrants are highly vulnerable to violence and abuse, which is greatly exacerbated by the routine failure of U.S. authorities to return key belongings to migrants, including cash, prescription medications, cell phones, or identification documents.

This border-wide concern has been reflected in numerous reports, including in documentation gathered by the University of Arizona and released in March of 2013 as preliminary findings to their report, *In the Shadow of the Wall: Family Separation, Immigration Enforcement and Security*. In more than 1,000 interviews conducted from 2010 to 2012 in shelters at Mexico's northern border from Tijuana to Nuevo Laredo and in Mexico City, researchers found that 39 percent of individuals reported "having belongings taken and never returned" upon deportation.

For more than a decade, U.S. border policy has focused on deterrence-based strategies, which have created an increasingly complicated process through which migrants are processed from the point of apprehension until their subsequent deportation. This process is embodied by what U.S. Customs and Border Protection (CBP) calls a "consequence delivery system," which includes the Alien Transfer Exit Program (also known as lateral repatriations) and criminal prosecution and imprisonment for illegal entry and re-entry, including those channeled through Operation Streamline. The increased use of Federal District Courts to prosecute migrants criminally for illegal entry and re-entry has resulted in multiple transfers of migrant custody between federal law enforcement agencies, a factor that has been shown to increase the likelihood that migrants' belongings will fail to follow them until the point of their repatriation.

For example, an individual may be apprehended by CBP and spend a few hours in short-term custody, then be transferred to U.S. Marshals custody for pre-trial detention in a county jail, and then sent after conviction to a Bureau of Prisons facility to serve out a sentence, at which time they end up released to U.S. Immigration and Customs Enforcement (ICE) custody to effectuate their removal.

Each of these agencies (CBP and ICE under the Department of Homeland Security and U.S. Marshals and Bureau of Prisons under the Department of Justice) maintains distinct protocols for handling belongings. The U.S. Marshals policy permits them to accept limited, specific items (for example, a wedding ring, prescription glasses, no more than \$50 in cash, and so on). CBP's overarching policy is to hold all non-perishable personal belongings for up to 30 days, at which time they will be destroyed per a written agreement signed by the migrants prior to leaving CBP custody—often without their knowledge of how long they will be in the custody of U.S. authorities. Individuals may authorize a third party to retrieve these belongings on their behalf. However, this 30-day window is often unrealistically short given the challenges detainees may face in identifying and contacting someone able to collect their belongings, as well as the bureaucratic hurdles faced by a detainee who receives a sentence longer than 30 days.

Although CBP has a general belongings policy, different practices are followed in some sectors. For example, in the CBP El Paso and Tucson Sectors, staff members of the Office of Protection of Migrants of the Mexican Consulates in Tucson and El Paso retrieve and store the belongings of individuals referred from CBP to Operation Streamline proceedings. Consulate staff members then mail belongings to Mexico City (in consular pouches), which are then sent to the regional offices for Mexico's Secretariat of Foreign Relations (*Secretaría de Relaciones Exteriores*, or SRE) for the property owners to retrieve. Although these individuals may ultimately receive some or all of their belongings, this

process may take several months and does not always prevent the vulnerability migrants experience when first deported to Mexico, typically in the border region, without their belongings. Furthermore, long distances and travel costs may be an additional barrier for some retrieving their belongings at SRE offices. In addition, the Mexican Consulates can only help those individuals who have provided an exact, current address in Mexico. This practice also does not address the need to return belongings to individuals who are from other Latin American or Central American countries. A better policy solution would ensure that belongings follow migrants throughout the custody transfers from one U.S. agency to another and that belongings are returned to them prior to repatriation.

### ***Consequences of Failing to Return Migrants' Belongings Prior to Repatriation***

Individuals often find themselves in unfamiliar cities upon deportation. Those deported without their cell phones, IDs, or currency to towns where they lack any contacts face significant hurdles to access resources or integrate into Mexican society. Some wind up homeless and unable to get a job because they can't prove to prospective employers who they are. Others try to return to the original towns in Mexico they left years ago, but to get there they have to acquire enough money for transportation and then they face a slew of checkpoints put up by federal, military, and municipal police that are difficult to pass through without a proper form of ID. In addition, they are unable to cash checks or even be reunited with their children because they cannot verify their identity without an ID.

Several media and human rights reports suggest that the practice of not returning belongings makes migrants, who are already targets of crime and violence, even more vulnerable to abuse upon repatriation. This is an even greater problem when migrants are returned to areas with exceptionally high indices of homicide, kidnapping, and other forms of violence. Mexico's National Human Rights Commission identified over 200 cases of migrant kidnappings, impacting over 11,000 victims during a six-month timeframe in 2010. This vulnerability is compounded when migrants are deported without their belongings. A 2012 CNN investigative piece identified the failure to return belongings as a practice that puts migrants at increased risk of violence.

While the U.S. UPR submission states that the "United States has an unwavering commitment to respect the human rights of all migrants, regardless of their immigration status," the report fails to recognize the hardships and real risks associated with failure to return migrants' belongings and the need to establish and enforce an inter-agency agreement ensuring the return of migrants' personal belongings.

### **Suggested Recommendations**

1. The U.S. government should develop and implement an inter-agency agreement among Customs and Border Protection, U.S. Marshals, Bureau of Prisons, and Immigration and Customs Enforcement that will ensure the return of personal belongings, including cell phones, IDs, currency, and other key belongings, to migrants at the moment of release or repatriation.
2. The agreement should also instruct these agencies that belongings are not to be destroyed or disposed of while an individual is still in custody, except those specific items whose nature or condition requires their immediate destruction (such as food that is perishable).
3. All detainee funds should be returned in cash in the currency of the destination country, or in U.S. currency, whichever is preferred by the migrant.

**For more information, contact the Human Rights Program of the ACLU: [humanrights@aclu.org](mailto:humanrights@aclu.org)**

## Supporting Organizations:

1. Andhes: Abogados y abogadas del Noroeste Argentino en Derechos Humanos y Estudios Sociales, Argentina
2. Asamblea Popular de Familias Migrantes, Mexico
3. ACLU: American Civil Liberties Union, United States
4. CAREF: Comisión de Apoyo a Refugiados y Migrantes, Argentina
5. Centro de Derechos Humanos y Ciudadanía del Inmigrante - CDHIC
6. CEDAL: Centro de Derechos y Desarrollo, Peru
7. Centro de Apoyo al Migrante Retornado, Honduras
8. Centro de Estudios Legales y Sociales, Argentina
9. Centro de Justicia y Derechos Humanos de la Universidad Nacional de Lanús, Argentina
10. CIDEHUM: Centro Internacional para los Derechos Humanos de los Migrantes, Costa Rica
11. Clínica Jurídica de Niñez Migrante Andhes-UCSE (Universidad Católica de Santiago del Estero), Argentina
12. Coalición Indígena de Migrantes de Chiapas, Mexico
13. CSMM: Centro de Documentación en Derechos Humanos “Segundo Montes Mozo S.J.”, Ecuador
14. Dream in Mexico, Mexico
15. Foro Migraciones, Mexico
16. Foro Nacional para las Migraciones en Honduras, Honduras
17. Fundación para la Justicia y el Estado Democrático de Derecho, Mexico
18. Fundar Centro de Análisis e Investigación, México
19. Grupo de Monitoreo Independiente del Salvador, El Salvador
20. Imumi: Instituto para las Mujeres en la Migración, AC, Mexico
21. Instituto de Investigación y Práctica Social y Cultural, A.C., Mexico
22. Instituto Salvadoreño del Migrante, El Salvador
23. Kino Border Initiative, United States and Mexico
24. La Red Coiproducen: La red de instituciones para los derechos de la niñez, Honduras
25. Latin America Working Group, United States
26. Mesa Transfronteriza Migraciones y Género, Mexico
27. No More Deaths, United States
28. PDIB: Programa de Defensa e Incidencia Binacional, Mexico
29. PIDHDD: La Plataforma Interamericana de Derechos Humanos, Democracia y Desarrollo, Ecuador
30. ProDESC: Proyecto de Derechos Económicos, Sociales y Culturales, A.C, Mexico
31. Rodolfo Cordova, President, Citizen Board of the National Migration Institute, Mexico
32. RROCM: Red Regional de Organizaciones Civiles para las Migraciones, Honduras
33. San Toribio Romo Migrante, Mexico
34. Sin Fronteras IAP, Mexico
35. Universidad Iberoamericana Torreón, Mexico
36. Voces Mesoamericanas, Acción con Pueblos Migrantes, Mexico