



The Honorable Alejandro Mayorkas
Secretary
Department of Homeland Security
2707 Martin Luther King Jr Ave SE
Washington, DC 20528

Dear Secretary Mayorkas,

On Monday, the nation witnessed a tragedy as at least 53 individuals were found dead in a tractor-trailer in San Antonio, with reportedly 16 more individuals sent to local hospitals. As we mourn the dead and work to ensure that a tragedy like this does not occur again, we write to draw attention to the fate of the survivors, many of whom remain in the hospital today. We believe the surviving victims are at imminent risk of deportation or expulsion under Title 42 and want to ensure that your office is aware of this risk and takes action to prevent it from occurring.

The threat that surviving victims of this unspeakable tragedy could be traumatized again by a rapid deportation is not an idle one. In previous mass casualty incidents, victims and witnesses have ended up detained and deported within hours after being released from the hospital. For example, in August 2021, a survivor of a deadly car crash which killed 10 people in Encino, Texas, was deported just three days after the crash, while still wearing clothes streaked with blood.¹

In other circumstances, victims of deadly smuggling incidents are held as material witnesses long enough to take depositions and then detained and deported.² As a broader matter, we believe that it does not serve any principles of justice to force victims to testify, only to remove them once they have served that purpose. And in this case, doing so would cause enormous harm to the people who have already been through an unimaginable horror.

With Title 42 still in effect, we are concerned that local CBP or ICE officials may believe that the surviving victims of Monday's tragedy may still be subject to expulsion or deportation, despite DHS's existing victim protection memo. Expelling or deporting any survivor under those circumstances would simply compound the horrors that they had experienced in that overcrowded trailer.

That is why we are calling on the Department to ensure that survivors are paroled into the United States and provided with assistance in applying for a U or T visa or asylum, and exercise prosecutorial discretion to defer removal until those applications have been decided. With the perpetrators already arrested by ICE Homeland Security Investigations and likely to stand trial for their crimes, the victims will presumably

¹ Damià Bonmatí, *Deported wounded with 'blood on my clothes,' says migrant van crash survivor*, NBC News, Aug. 16, 2021, <https://www.nbcnews.com/news/latino/deported-wounded-blood-clothes-says-migrant-van-crash-survivor-rcna1682>.

² Jason Buch, *Along the Border, Witnesses of Smuggling Crimes Are Being Held in Detention, Despite Coronavirus Concerns*, Texas Observer, April 21, 2020, <https://www.texasobserver.org/material-witnesses-immigrant-detention-coronavirus/>.

be willing to provide information about what happened to them in a way which is likely to be helpful to the investigation or prosecution of the crime. Any Indigenous migrants should also be provided with Indigenous language interpretation services to assist with this process. But this cannot happen if they are rapidly expelled or deported.

Given the gravity of the situation, we hope that you will take swift action to prevent a miscarriage of justice. We look forward to hearing from your office soon.

Sincerely,

American Immigration Council
ADL (Anti-Defamation League)
Advokato
Al Otro Lado
Albergue Tochan - Nuestra Casa
American Civil Liberties Union
American Immigration Lawyers Association
Americassinmuros.org
Amigos Center
Amnesty International USA
Annunciation House, Inc.
Asylum Access
Asylum Access Mexico (AAMX)
Asylum Seeker Advocacy Project (ASAP)
Border Kindness
Border Organizing Project
California Collaborative for Immigrant Justice
Caravan For The Children
CARECEN DC
Carnalismo Brown Berets
Catholic Legal Immigration Network, Inc. (CLINIC)
Center for Gender & Refugee Studies
Central American Resource Center of Northern CA - CARECEN SF
Church World Service
Colectivo Magdas Migran - RJ
Comunidad Maya Pixan Ixim
Cuerpo Académico Procesos Transnacionales y Migración
Departamento de Investigaciones Educativa - CINVESTAV
Doctors for Camp Closure
Esperanza Immigrant Rights Project
Evangelical Lutheran Church in America
Families Belong Together
First Focus on Children
Florence Immigrant & Refugee Rights Project

GAMyS (Grupo Asesor en Migración y Salud)
Global Exchange
Haitian Bridge Alliance
Hispanic Connection of Southern Indiana
Hope Border Institute
Human Rights First
Immigrant Defenders Law Center
Immigrant Law Center of Minnesota
Immigrant Legal Advocacy Project
Immigration Hub
Iniciativa Ciudadana Región Puebla
Institute for Women in Migration (IMUMI)
International Mayan League
International Refugee Assistance Project (IRAP)
International Rescue Committee
Iowa Migrant Movement for Justice
JAMAAT (Jews and Muslims and Allies Acting Together)
Jesuit Refugee Service/USA (JRS/USA)
Jewish Activists for Immigration Justice of Western MA
Jewish Family Service of San Diego
Justice for Our Neighbors El Paso
Kids in Need of Defense
La Casa de Amistad
La Raza Community Resource Center
Las Americas Immigrant Advocacy Center
Latin America Working Group (LAWG)
Latinx Racial Equity Project
Long Island Immigration Clinic
Migrantologos
Miles4Migrants
MomsRising/MamásConPoder
National Domestic Workers Alliance
National Immigrant Justice Center
National Immigration Law Center
National Network for Immigrant and Refugee Rights
National Partnership for New Americans
Observatorio de Migraciones de Fundación Eléutera
ODA, Otros Dreams en Acción
Oxfam America
ParentsTogether
Presbyterian Church U.S.A.
Public Counsel
Quixote Center

Refugees International
Removal Defense Clinic, Southwestern Law School
Revista de la Universidad de México
Santa Fe Dreamers Project
Save the Children
Sin Fronteras IAP, México
Sisters of Mercy of the Americas Justice Team
Student Clinic for Immigrant Justice
Tahirih Justice Center
Taylor Levy Law
The Advocates for Human Rights
The Episcopal Diocese of West Texas
The Sidewalk School
T'ruah: The Rabbinic Call for Human Rights
UACM
UNAM
Unitarian Universalist Service Committee
Universidad Autónoma de la Ciudad de México
Universidad de Sevilla
Universidad Iberoamericana
Universidad Iberoamericana Puebla
Ustedes Somos Nosotros
Washington Office on Latin America (WOLA)
Witness at the Border
Women's Refugee Commission
Young Center for Immigrant Children's Rights