



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.<sup>1</sup>

In other circumstances, victims of deadly smuggling incidents are held as material witnesses long enough to take depositions and then detained and deported.<sup>2</sup> 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

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<sup>1</sup> 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>.

<sup>2</sup> 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