

December 15, 2021

Merrick Garland, U.S. Attorney General  
Lisa Monaco, Deputy Attorney General  
Vanita Gupta, Associate Attorney General  
Kristen Clarke, Assistant Attorney General  
United States Department of Justice  
950 Pennsylvania Ave. NW  
Washington, D.C. 20530

Dear Attorney General Garland, Deputy Attorney General Monaco, Associate Attorney General Gupta, Assistant Attorney General Clarke:

As organizations committed to advancing immigrant rights, civil rights, and racial justice, we urge you to take action in response to today's filing of a Title VI complaint against Texas state agencies<sup>1</sup> for continued implementation of "Operation Lone Star"--an unlawful, racist, and xenophobic system of state immigration enforcement in Texas.<sup>2</sup> **Specifically, we request that the U.S. Department of Justice initiate a formal Title VI investigation and terminate federal funding received by Texas agencies and counties engaged in this discriminatory operation.**

"Operation Lone Star" is a state-created immigration enforcement system disguised as a state criminal system. Supported by roughly a billion dollars in funding,<sup>3</sup> the Operation targets migrants for arrest, jailing, and criminal prosecution for the state misdemeanor offense of criminal trespass based on their perceived race, national origin, and immigration status. Arrested individuals are channeled into an unconstitutional shadow criminal legal system that violates basic due process rights and in many cases the Refugee Convention's prohibition against imposing penalties on asylum seekers. In short, as the Title VI complaint documents, "Operation Lone Star" is rife with egregious civil rights violations.

Statements by various Texas state and local officials make clear the true discriminatory intent of the Operation: to use it as a vehicle to punish migrants and deter future immigration rather than

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<sup>1</sup> Agencies include: Texas Office of the Governor, Texas Department of Public Safety, Texas National Guard, Texas Division of Emergency Management, and Texas Office of Court Administration, as well as Val Verde and Kinney Counties.

<sup>2</sup> "Operation Lone Star" refers to a large Texas law enforcement effort that includes several components, including the trespass arrest program that is the focus of the Title VI complaint filed on December 15, 2021.

<sup>3</sup> James Barragan and Alice Walker, "Texas Senate approves spending nearly \$2 billion on border security," *The Texas Tribune*, <https://epbusinessjournal.com/2021/09/texas-senate-approves-spending-nearly-2-billion-on-border-security/#:~:text=HB%209%20will%20help%20reimburse%20the%20Texas%20Department,to%20hold%20migrants%20arrested%20under%20Operation%20Lone%20Star.essjournal.com>.

to neutrally enforce state criminal law.<sup>4</sup> Texas Governor Greg Abbott intends the Operation to send a message to those that “come across the border in the state of Texas, they’re not going to be caught and released like under the Biden administration, they are going to be spending time behind bars.”<sup>5</sup> It’s “catch and jail,” he says.<sup>6</sup>

Similarly, the Kinney County Sheriff’s Office has boasted on social media, “This is happening! 17 illegals this morning.”<sup>7</sup> Val Verde County Sheriff Joe Frank Martinez testified that people in his jurisdiction have asked him, regarding migrants on their property, “When can I shoot?” and that he believes that migrants “should be arrested versus them getting shot.”<sup>8</sup>

Nearly all of those arrested to date are Latinx or Black. As detailed in the Title VI complaint, analysis of arrest affidavits under the Operation show acute racial disparities and racially biased policing. Officers repeatedly describe potential arrestees as “undocumented migrants,” a label that appears to be based solely on race and on the presumption that Latino men in particular are necessarily undocumented and should be targeted for arrest under the Operation.<sup>9</sup> In other cases, affidavits describe state officials initiating police encounters based on the perception that individuals are “Hispanic.”<sup>10</sup> The affidavits reinforce not only that the arrests target migrants, but also that officers are using race as a proxy to identify “undocumented migrants.”

The discriminatory intent of Texas officials is underscored by the implementation of the program, which has included unlawful arrests and changes to standard charging practices. For example, Texas law enforcement officials have directed individuals near the border to a particular place—giving them the impression they have permission to be on the property—only then to arrest them for trespassing.<sup>11</sup> Texas authorities also constructed new fences near the border in an attempt to make crossing property criminal where it was not before—to enable the arrest of migrants.<sup>12</sup> Additionally, the state prosecutes those arrested for criminal trespass under the Operation as a “Class A” misdemeanor, even though trespass is ordinarily a “Class B”

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<sup>4</sup> See e.g., Greg Abbott (@GregAbbott\_TX), Twitter (July 23, 2021, 6:57 PM), [https://twitter.com/GregAbbott\\_TX/status/1418722056003280896](https://twitter.com/GregAbbott_TX/status/1418722056003280896); Gov. Greg Abbott, television interview, (Sept. 28, 2021), available at [https://twitter.com/GregAbbott\\_TX/status/1442879549692338191](https://twitter.com/GregAbbott_TX/status/1442879549692338191).

<sup>5</sup> Gov. Greg Abbott, Fox News interview, available at [https://twitter.com/GregAbbott\\_TX/status/1419369434414731266](https://twitter.com/GregAbbott_TX/status/1419369434414731266) (July 25, 2021).

<sup>6</sup> *Id.*

<sup>7</sup> Greg Abbott (@GregAbbott\_TX), Twitter (Aug. 6, 2021, 11:35 AM), [https://twitter.com/GregAbbott\\_TX/status/1423684063760719885](https://twitter.com/GregAbbott_TX/status/1423684063760719885).

<sup>8</sup> Texas House Appropriations Committee Hearing, H.B. 9, Relating to making supplemental appropriations relating to border security and giving direction regarding those appropriations, Aug. 24, 2021, 8:00 AM, available at [https://tlchouse.granicus.com/MediaPlayer.php?view\\_id=46&clip\\_id=22334](https://tlchouse.granicus.com/MediaPlayer.php?view_id=46&clip_id=22334) at 1:48:53.

<sup>9</sup> See Title VI complaint, sent to U.S. Department of Justice on December 15, 2021, <https://www.aclutx.org/en/cases/texas-migrant-arrest-program-under-operation-lone-star>.

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

misdemeanor—allowing the state to impose enhanced and harsher penalties specifically for the migrants arrested.<sup>13</sup>

Once Latinx and Black migrants are arrested under the Operation, they are held in “criminal migrant processing facilities” and then transported to one of two state prisons that have been converted to pretrial jails specifically for the Operation.<sup>14</sup> These facilities are notorious for poor conditions including inadequate food, medical care, and treatment.<sup>15</sup> Migrants channeled into this criminal system are routinely denied or delayed access to legal counsel.<sup>16</sup> Many report being held in jail for three months without ever speaking to an attorney. In some instances, individuals have been forced to submit involuntary waivers of counsel at their first court appearance.<sup>17</sup>

“Operation Lone Star’s” targeting of Latinx and Black migrants in this constitutionally deficient system fits within a context of broader white supremacist rhetoric and racial animus that threatens all Black and Brown Texas communities. Kinney County officials have repeatedly linked the humanitarian challenge of migration to Texas’s war of independence from Mexico—invoking violent imagery analogizing migrants to “invaders.”<sup>18</sup> The county is taking additional steps to target migrants by seeking to hire private security to help locate migrants for apprehension, partnering with vigilante groups, and possibly deputizing militia members.<sup>19</sup> In other words, the Operation fans the flames of racist, anti-immigrant animus in Texas and threatens to embolden states around the country to initiate similar discriminatory programs.

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<sup>13</sup> See Tex. Penal Code § 30.05(d)(1); In May 2021 Governor Abbott declared a disaster due to migration across the Texas-Mexico border. Under Texas law, where there is a showing that an offense was committed in an area subject to a federal, state, or local disaster declaration, penalties are enhanced for “the next higher category of offense.”

<sup>14</sup> Operation Lone Star Briefing, Nov. 18, 2021, available at <https://www.valleycentral.com/news/local-news/texas-dps-to-hold-briefing-on-operation-lone-star-focus-on-apprehension-numbers/>.

<sup>15</sup> See Title VI complaint, See Title VI complaint, sent to U.S. Department of Justice on December 15, 2021, <https://www.aclutx.org/en/cases/texas-migrant-arrest-program-under-operation-lone-star>.

<sup>16</sup> Jolie McCullough, “Migrants arrested by Texas in border crackdown are being imprisoned for weeks without legal help or formal charges,” *The Texas Tribune*, <https://www.texastribune.org/2021/09/27/texas-border-migrants-jail/> (Sept. 27, 2021); Jolie McCullough, “Rural Kinney County accounts for most of Texas’ migrant arrests,” *The Texas Tribune*, <https://www.texastribune.org/2021/09/02/texas-immigration-arrests-jail-kinney-county/>.

<sup>17</sup> *Id.*

<sup>18</sup> Declaration of Local State of Disaster, April 21, 2021, <https://cokinneytx.civicweb.net/document/16670/3.e%20Declaration%20of%20Local%20State%20of%20Disaster%20for%20Kin.pdf?handle=B7DFA16D4B5F44CE9DBFA7466939E756>; Brent Smith, *Op-Ed: Texas, as a Sovereign State, Has the Right to Defend Its Own Borders; Here’s What Needs to Happen Now*, San Marcos Corridor News, June 26, 2021, <https://smcorridornews.com/op-ed-texas-as-a-sovereign-state-has-the-right-to-defend-its-own-borders-heres-what-needs-to-happen-now/> (Kinney County attorney stating, “It is no coincidence that we waited to file [the disaster declaration] on San Jacinto Day”).

<sup>19</sup> See e.g., SammySam777, *Kinney County Commissioner’s Court Speech.*, YouTube (Oct. 23, 2021), <https://www.youtube.com/watch?v=q3n42ULJkXo&t=5s>; SammySam777, *November 1, 2021*, YouTube (Nov. 1, 2021), <https://www.youtube.com/watch?v=ZBrkRwO6SIY&t=2s>; Gateway Pundit, *Kinney Co. TX Sheriff TX Takes Historic Action To Fight Back Against Illegal Invasion*, YouTube (Oct. 18, 2021), [https://www.youtube.com/watch?v=jiTvH3jOXzE&list=UUMaLetBcZ8fqsolryB015og&index=4&ab\\_channel=GatewayPundit](https://www.youtube.com/watch?v=jiTvH3jOXzE&list=UUMaLetBcZ8fqsolryB015og&index=4&ab_channel=GatewayPundit).

Title VI of the Civil Rights Act of 1964 bars discrimination on the basis of race, color, or national origin in any program or activity receiving federal financial assistance. Texas agencies that depend on federal dollars are perpetrating “Operation Lone Star.” The U.S. Department of Justice must exercise its authority under Title VI to investigate this unabashedly racist and anti-immigrant operation to ensure that federal dollars are not used to discriminate. We urge you to investigate and act immediately.

Sincerely,

ACLU of Texas  
ACLU National  
Adelante Alabama Worker Center  
Advancement Project, National Office  
Alianza Americas  
Alianza for Youth Justice  
Alianza Sacramento  
All Souls Unitarian Migrant Solidarity Team  
American Friends Service Committee  
Amnesty International USA  
Angry Tias and Abuelas of the RGV  
Arizona Justice For Our Neighbors  
Autistic Self Advocacy Network  
Bend the Arc: Jewish Action  
Benedictine Sisters  
Black Alliance for Just Immigration  
Border Patrol Victims Network  
Catholic Charities of Southern New Mexico  
Catholic Legal Immigration Network, Inc.  
Center for Constitutional Rights  
Chicago Religious Leadership Network on Latin America  
Chicago Religious Leadership Network on Latin America-CRLN  
Church World Service  
Coalition for Humane Immigrant Rights (CHIRLA)  
Columbia Law School Immigrants' Rights Clinic  
Community Asylum Seekers Project  
Community Justice Exchange  
Connecticut Shoreline Indivisible  
Defending Rights & Dissent  
Detention Watch Network  
Doctors for Camp Closure  
Envision Freedom Fund

Every Texan (formerly CPPP)  
Faith in Public Life  
Faithful Friends/Amigos Fieles  
Families for Freedom  
Freedom Network USA  
Grassroots Leadership  
Haitian Bridge Alliance  
Houston Immigration Legal Services Collaborative  
Human Rights First  
Human Rights Initiative of North Texas  
Human Rights Watch  
Illinois Coalition for Immigrant and Refugee Rights  
Immigrant Justice Network  
Immigrant Legal Resource Center  
Immigrant Welcoming Working Group, Plymouth Congregational Church of Minneapolis  
Inter-Faith Committee on Latin America (IFCLA)  
Interfaith Welcome Coalition - San Antonio  
Jewish Activists for Immigration Justice of Western Mass  
Just Futures Law  
Justice Action Center  
LatinoJustice PRLDEF  
Legal Aid Justice Center  
Long Beach Immigrant Rights Coalition  
Mano Amiga  
Mariposa Legal  
Maryland Against ICE Detention  
Migrant Solidarity Team, All Souls Church, Unitarian  
Mijente  
Minnesota Interfaith Coalition on Immigration  
Mississippi Center for Justice  
Muslim Advocates  
National Council of Churches  
National Immigrant Justice Center (NIJC)  
National Immigration Law Center  
National Immigration Project (NIPNLG)  
National Latina Institute for Reproductive Justice  
National Network for Immigrant and Refugee Rights  
NorCal Resist  
Northwest Immigrant Rights Project  
Presente.org

Progressive Leadership Alliance of Nevada  
Public Counsel  
Public Defenders Coalition for Immigrant Justice  
Quixote Center  
RAICES  
Rainbow Beginnings  
Robert F. Kennedy Human Rights  
Sanctuary and Resistance to Injustice  
Secure Justice  
Showing Up for Racial Justice  
SIREN  
South Bay People Power  
Southeast Asia Resource Action Center (SEARAC)  
Southern Border Communities Coalition  
Southern Poverty Law Center  
SPAN Parent Advocacy Network  
T'ruah  
Tahirih Justice Center  
Takoma Park Mobilization -- Equal Justice  
Texas AFL-CIO  
Texas Civil Rights Project  
Texas Fair Defense Project  
The Sidewalk School  
Unitarian Universalist Service Committee  
United Sikhs  
UnLocal  
Voces Unidas RGV  
Witness at the Border  
Woori Juntos  
Young Center for Immigrant Children's Rights