December 4, 2023

The Honorable Merrick B. Garland
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue NW
Washington, D.C. 20530

Dear Attorney General Garland:

We write to express concern over the Department of Justice’s (DOJ) lack of federal public reporting and delayed action in investigating civil rights violations and to urge DOJ to take greater action prosecuting violations of federal law committed by Texas state authorities under Governor Greg Abbott’s Operation Lone Star (OLS). Based on the information contained herein, we request that DOJ submit responses to the questions set forth at the end of this letter.

To be clear, if the United States is to be a civilized, democratic nation, then all persons—including law enforcement—must adhere to the rule of law. And while officers and agents have a duty to enforce the law, this does not mean public officers are above the law when they break it.

Concerns regarding the legality of OLS are not new. Since OLS launched in 2021, members of the National Guard, Texas state leaders, and members of Congress have repeatedly raised concerns about violations of state law, constitutional due process rights, and federal control of immigration under the Supremacy Clause of the Constitution. As early as December 2021, advocates filed a Title VI discrimination complaint with supplemental materials documenting extensive cases of state actions violating federal rights, including an instance where “law enforcement agents direct[ed] individuals [near the border] to a private property–giving them the impression they have permission to be on the property—and then arrested them or

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2 U.S. Const. art. VI, cl. 2.
trespassing.” One month later, Texas state legislators wrote DOJ about OLS violating various civil and due process rights of immigrant detainees while carrying out the state’s immigration policy. Then, in July 2022, reports indicated that DOJ filed document requests with Texas state agencies as part of its examination into OLS.

Operation Lone Star’s troubling practices have unfortunately persisted despite DOJ inquiries, such as state law enforcement directing hundreds of migrants to certain locations where immigration officers would “receive” them only to be arrested. Litigation was subsequently filed on behalf of four migrants prosecuted for misdemeanor trespass under OLS alleging state and local authorities detained them for between 13 to 42 days after their charges were dropped or their sentences were fully served. Furthermore, just this past summer, a Texas Department of Public Safety trooper reported that OLS “had stepped over a line into the inhumane” after he was ordered to push migrants back into the Rio Grande and deny them water.

Despite the egregious and recurring abuses spanning almost two years, we are concerned over the lack of remedial and preventive actions taking place at the federal level. We recognize DOJ’s efforts to challenge and remove the illegal buoys installed in the Rio Grande River as part of OLS—barriers that pose significant safety concerns and that likely violate multiple bilateral treaties between the United States and Mexico, including the Boundary Treaty of 1970 and the Mexican Water Treaty of 1944. However, the recent movement of H.B. 4 in the Texas Legislature—which would criminalize entering the state illegally from Mexico and allow police officers to detain, transport, and order migrants and asylum-seekers to return to Mexico—continues to illustrate the consequences of states violating federal law.

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6 Perla Trevizo, Justice Department is Investigating Texas’ Operation Lone Star for Alleged Civil Rights Violations, Texas Trib. (July 6, 2022), www.texastribune.org/2022/07/06/operation-lone-star-doj-investigation-abbott/.


Indeed, while Governor Abbott ramps up his escalated actions under OLS, we continue to see civil rights violations and illegal actions, whether it is the continuing “trespassing” arrests of immigrants, razor-wire installations, or physical interposition by DPS and Texas Guard personnel preventing migrants from accessing safety and medical care, as illustrated from a video last month showing a Texas National Guard soldier accosting a migrant stuck in barbed wire. The recent lawsuit by Texas against DHS and CBP for cutting barbed wire along the border presents an opportunity for DOJ to make clear its federal authority. In the face of ongoing escalation, it is critical that DOJ assert its rightful field preemption and send a strong message regarding OLS abuses.

We are also seeking clarity regarding the Administration’s position as to the legal interference of federal immigration law by Texas officials and law enforcement acting under OLS. For example, this past May, DHS Secretary Mayorkas held a press conference marking the end of Title 42 expulsions, where a reporter noted the “images from Texas showing Texas National Guard and DPS blocking migrants from climbing up the river banks and accessing U.S. soil.” The reporter then asked Secretary Mayorkas if “D[HS] believe[s] that that is a legal enforcement posture by the State of Texas?” Secretary Mayorkas answered: “I’m going to leave it to the Department of Justice to [address] the lawfulness or lack thereof of those actions.” Over six months have passed and DOJ has yet to provide an answer on its position regarding these actions taken under OLS direction by state officials and law enforcement.

We do not downplay the severe challenges our nation is facing at the Southern border and the need for new solutions. Undoubtedly, Congress must put aside partisan differences and come together to address the broken immigration system. We also acknowledge that collaboration and cooperation between local, state, and federal law enforcement is necessary to achieve progress and address the humanitarian needs at the Southern Border. However, we must ensure that actions taken at the Southern Border are legal and that we continue to protect and uphold the rights of all persons, regardless of their nationality. The reported harms to migrants and due process violations on U.S. soil must not be simply left to advocates and reporters to observe, document, and address.

Accordingly, we ask DOJ to clarify its position regarding legal interference of federal immigration law by Texas officials and state or local law enforcement acting under OLS. Multiple agencies have indicated DOJ is the principal agency tasked with responding to this egregious oversight. As a result, we request that DOJ respond as follows:

12 Id.
13 Id.
1. Provide a briefing to the undersigned Members of Congress with an update on findings from ongoing investigations.

Additionally, for all the reasons mentioned above, we further request that DOJ provide answers and any relevant materials for the following questions by no later than December 31, 2023:

2. Has DOJ conducted any analysis of the legality of Operation Lone Star under *Arizona v. United States*?
   a. If so, please provide a copy.
   b. If no, why not?

3. Has DOJ conducted any investigation or fact finding regarding the allegations by Texas state troopers who claim, *inter alia*, they were ordered to “push the people back into the water to go [back] to Mexico?”

4. Has DOJ analyzed the lawfulness of actions by Texas state officials, Texas National Guard, and Texas Department of Public Safety in blocking migrants from climbing up the riverbanks and accessing U.S. soil?
   a. If so, please provide the findings of the analysis.
   b. If no, why not?

5. Has DOJ begun investigating illegal actions related to immigration enforcement (including potential civil rights violations, infringements of federal immigration enforcement authority, and human rights violations, such as violence against migrants) by state officials and law enforcement?
   a. If no, please explain the justification for DOJ’s refusal to do so?

6. Has DOJ been monitoring legislative developments of state bills that violate federal authority, such as H.B. 4?
   a. If no, why not?

7. Does DOJ commit to deploying federal civil rights observers and legal monitors to Texas to examine whether state officials and state or local law enforcement are upholding federal law and U.S. constitutional rights, as well as document and take necessary actions regarding any such violations?
   a. If yes, when will this deployment take place?
   b. If no, please explain the justification for DOJ’s refusal to do so?

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8. Will DOJ commit to providing Members of Congress and their staff a briefing regarding DOJ’s oversight responsibility among its component offices such as the Civil Rights Division, the Federal Bureau of Investigation, and the U.S. Attorney’s Office?
   
a. If no, why not?

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Thank you for your prompt attention to this serious matter. We look forward to receiving your response.

Sincerely,

Jasmine Crockett  
Member of Congress

Greg Casar  
Member of Congress

Colin Z. Allred  
Member of Congress

Joaquin Castro  
Member of Congress

Lloyd Doggett  
Member of Congress

Veronica Escobar  
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Lizzie Fletcher
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Sylvia R. Garcia
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Al Green
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Sheila Jackson Lee
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Marc A. Veasey
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