



October 28, 2021

The Honorable Alejandro N. Mayorkas
Secretary of Homeland Security
2707 Martin Luther King, Jr. Ave SE
Washington, D.C. 20528-0525

Re: Workplace Raids

Dear Secretary Mayorkas,

As Mississippi lawyers who have spent more than two years advocating on behalf of the 680 immigrants rounded up in our state on August 7, 2019 in the largest workplace raid in American history, we applaud Policy Statement 065-06 issued on October 12th. Your recognition of the need to focus enforcement efforts on exploitative employers and end mass worksite operations is an important step toward a comprehensive immigration policy that honestly addresses the realities of who comes to our country, why they undertake great personal risk to leave their homes and families in search of opportunity, and the questionable conduct of those employers who enrich themselves by taking advantage of immigrants' desperation and vulnerability.

Of the nearly 700 people detained in the 2019 Mississippi raids, we estimate that more than 300 await disposition of their immigration proceedings. Due to the backlog of cases in our immigration courts, some will remain in "legal limbo" until their hearings are held in late 2024. We estimate that an additional 300 people already have suffered removal or voluntary departure and now face lengthy--and in some cases, permanent--legal separation from their families, homes, and communities in the United States. According to the National Immigration Law Center, more than 1,000 additional immigrants were detained in mass worksite raids in other states across the country from 2017 through 2020, and many of those people also await hearings in Immigration Court. Unless action consistent with the objectives set forth in Policy Statement 065-06 is taken on behalf of all those hard-working mothers and fathers caught in the net of recent mass raids, many of whom were exploited by their U.S. employers, the vast majority will be separated from their families and sent back to countries they fled years ago.

We respectfully submit that the Department of Homeland Security (DHS) should provide

all persons detained in workplace raids from January 2017 through January 2021 the benefit of the policies you recently announced. In order to protect these individuals from the harsh consequences of outdated enforcement practices and afford them the same protections now available to the millions of immigrants currently working across the United States who will not be detained in workplace raids thanks to Policy Statement 065-06, DHS should adopt immediately the following remedies:

- **Offer deferred action--with a work permit--for everyone arrested in workplace enforcement raids between January 2017 and January 2021 who remains in the U.S. and has either been ordered removed or has a pending removal case.** Many individuals placed in removal proceedings as the result of a workplace raid still have pending cases, and in some instances have not yet seen an immigration judge for an initial hearing. A person otherwise eligible for cancellation of removal may not be permitted to file for a work permit due to far-off hearings, some scheduled as late as 2024. Deferred action is an option available to persons in removal proceedings as an effective pause on their case and the ability to work while enforcement remains deferred.
- **Conduct a thorough investigation into known and suspected labor abuses at plants impacted by workplace enforcement raids between January 2017 and January 2021 and offer protections for victims via U, T, or S visas (or other relevant, meaningful forms of immigration relief) where applicable.** By offering meaningful immigration protections to raids victims who suffered or witnessed labor abuses, this action would not only help bring justice for exploited workers, but also provide the government with more information necessary to hold exploitative employers accountable. It would further demonstrate to future whistleblowers that they have a safe-haven for reporting abuses, thereby advancing the Department's desire to "[i]ncrease the willingness of workers to report violations of law by exploitative employers and cooperate in employment and labor standards investigations."
- **Cancel Notices to Appear and all ICE check-ins for individuals arrested in workplace enforcement raids between January 2017 and January 2021 and whose cases DHS has not yet filed with the relevant immigration courts.** ICE possesses discretion whether to prosecute removal proceedings against an individual. Many persons apprehended in workplace enforcement raids never received a court date and their cases remain "unfiled" with Immigration Court and thus are ineligible for OPLA case discretion. You have made clear that DHS should exercise discretion with respect to long term, contributing members of our community - "[W]e are guided by the fact that the majority of undocumented noncitizens who could be subject to removal have been *contributing members of our communities for years*. They include individuals who work on the frontlines in the battle against COVID, lead our congregations of faith, teach our children, do *back-breaking farm work to help deliver food to our table*, and contribute in many other meaningful ways."
- **Offer humanitarian parole to those arrested in workplace enforcement raids between January 2017 and January 2021 who subsequently departed the United States due to removal or voluntary departure as a result.** As stated above, approximately 300 victims of the Mississippi ICE have already departed the United States as a result of the raids—either through forcible removal or voluntary departure. As a result, most of them now face lengthy—and in some cases permanent—immigration "bars" separating them from their families, friends, homes, and communities. Offering parole to eligible raids victims who have departed will reunify communities and families unjustly separated.

Implementing these measures would change dramatically the lives of more than a thousand people subjected to the trauma of workplace raids and will have miniscule impact on the

overall enforcement efforts of DHS. There currently are more than 1.3 million pending immigration cases. Our modest proposal impacts less than one-tenth of one percent of the current immigration docket. Stated simply, DHS can do the right thing in this small handful of cases without concern for opening Pandora's box.

Again, thank you for your leadership and for adopting the reforms articulated in Policy Statement 065-06. Your consideration of our request is greatly appreciated.

Sincerely,



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University of Mississippi School of Law



Amelia McGowan, Director of Immigration Law
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