

Congress of the United States
Washington, DC 20515

June 23, 2021

Secretary Alejandro Mayorkas
Office of the Executive Secretary
MS 0525
Department of Homeland Security
2707 Martin Luther King Jr Ave SE
Washington, DC 20528-0525

Secretary Mayorkas:

We are writing to inquire about the Department of Homeland Security's (DHS) plans with respect to the Title 42 Public Health authority it has relied on to expel migrants encountered along the Southwest border since March 2020. In light of significant progress in containing the transmission of COVID-19 within the U.S., we hope to gain more clarity about how DHS intends to facilitate a smooth and orderly transition to relying only on traditional statutory authorities.

Since March 2020, and especially over the past several months, DHS has relied upon Title 42 authority to expel many migrants who would otherwise have been held in congregate settings by U.S. Customs and Border Patrol (CBP) and Immigration and Customs Enforcement (ICE). Last month alone, CBP expelled 112,302 migrants under Title 42, and processed 67,732 individuals under Title 8. The April figures are comparable, showing only a slight trend upward.¹ While Title 42 expulsion totals reflect repeat attempts, a sharp end to Title 42 expulsions is expected to significantly increase the number of migrants apprehended under Title 8 and will particularly impact certain Border Patrol Sectors. Ending Title 42 requires preplanning, clear communications with communities and stakeholders, and resources to timely process, care for, and transport the additional migrants who will be admitted into the United States.

In October 2020, some of us submitted a letter to then Acting Secretary Chad Wolf, asking whether DHS had developed plans for the expiration of the Title 42 authority when the public health risks are ameliorated. We also inquired whether DHS had been coordinating with the Centers for Disease Control and Prevention (CDC) in order to facilitate a smooth transition. We are still awaiting a response to that letter, and with the number of new COVID-19 cases significantly dropping in the U.S., this group would like to renew that request about the status of Title 42 and DHS's plans for its expiration. Such a plan should be in place and executed before Title 42 authorities at the border are lifted. The plan should also be developed with the safety of border communities in mind and in consultation with local government leaders and community organizations, including those providing services to migrants. A rapid and significant increase in the migrant population will have a direct impact on border communities, and the government

¹ CBP Enforcement Statistics, "Nationwide Enforcement Encounters: Title 8 Enforcement Actions and Title 42 Expulsions", <https://www.cbp.gov/newsroom/stats/cbp-enforcement-statistics/title-8-and-title-42-statistics>, accessed June 14, 2021.

agencies and non-governmental organizations that know the border region and the migrant population are best-positioned to advise DHS on a transition plan.

As Senators and Congressmen from Southwest Border States, we are committed to collaborating with you to ensure fair and humane treatment of migrants apprehended along the Southwest border, while also ensuring the safety of our communities. Thank you for your attention to this matter, and we look forward to your response by July 2, 2021.

Sincerely,



Kyrsten Sinema
United States Senate



John Cornyn
United States Senate



Mark Kelly
United States Senate



Henry Cuellar
Member of Congress



Tony Gonzales
Member of Congress