

UNIVERSITY of WASHINGTON

**CENTER FOR HUMAN RIGHTS**

HENRY M. JACKSON SCHOOL OF INTERNATIONAL STUDIES

# ABUSES IN THE AIR

SPORTS TRAVEL AND THE  
DEPORTATION INDUSTRY



**Abuses in the Air**  
**Sports travel and deportation industry**

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# INTRODUCTION

Every week, thousands of migrants are shackled at the hands and feet and forced onto deportation flights to destinations across the globe.<sup>1</sup> While the flights are contracted by U.S. Immigrations and Customs Enforcement (ICE), most are run by a shadowy network of private charter companies that operate with no effective oversight. In some cases, migrants are beaten or brutalized aboard the plane. In others, the planes transport them to situations where they are likely to experience harms as grave as torture, assault, or even enslavement. These practices violate U.S. law, international law, and written policies of the Department of Homeland Security, yet although abuses have been documented in human rights reports,<sup>2</sup> described by journalists,<sup>3</sup> discussed by legal scholars,<sup>4</sup> aired in federal court,<sup>5</sup> and reported through internal DHS mechanisms,<sup>6</sup> neither DHS, nor the FAA, nor the U.S. Congress has taken any meaningful steps to stop abuses aboard deportation flights. Indeed, this remains a lucrative and largely secret business, in which

contractors have billed U.S. taxpayers for over a million dollars per flight,<sup>7</sup> received Covid-19 bailout funds<sup>8</sup> despite operating in an industry which boomed during the pandemic,<sup>9</sup> and may even receive payment whether they fly or not, under a guaranteed minimum payment scheme similar to that in place at many private detention centers.<sup>10</sup>

Yet while condemnation of for-profit immigration prisons has grown in recent years,<sup>11</sup> far less attention has been paid to the practices of private companies who transport

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1 Deborah M. Weissman, Angelina Godoy, and Havan M. Clark, [“The Final Act: Deportation by ICE Air,”](#) *Hofstra Law Review*, 49:437 (2021), 437-489; Angelika Albaladejo, [“Inside ICE’s pattern of medical neglect as immigrants flown on its planes,”](#) *The Guardian*, September 19, 2020; and Sarah Towle, [“African Asylum Seekers’ Tell-All Tale of ICE Torture by The WRAP,”](#) *The First Solution*, November 11, 2021.

2 See UWCHR’s previous [ICE Air Deportation Flights](#) reports.

3 See, for example, Angelika Albaladejo, [“A Drunk Mechanic, Shackled Immigrants, a Crash Landing: The Dangers of ICE Flights,”](#) *Capital & Main*, November 4, 2021, and Josh Marcus, [“Amazon owns stake in airline accused of abuses during ICE deportation flights,”](#) *The Independent*, February 18, 2022.

4 Deborah M. Weissman, Angelina Godoy, and Havan M. Clark, [“The Final Act: Deportation by ICE Air,”](#) *Hofstra Law Review*, 49:437 (2021), 437-489.

5 See, for example, CAIR-NY, [Madjitov v. ICE](#), December 20, 2021.

6 See, for example, UWCHR, [“DHS Document Reveals Allegations of Abuse on ICE Air Deportation Flights,”](#) August 16, 2019.

7 Justin Rohrlich, [“The sole airline willing to operate ‘high-risk’ deportation flights is price-gouging ICE,”](#) *Quartz*, December 5, 2019.

8 U.S. Securities and Exchange Commission, [Payroll Support Program Agreement between SEC and Omni Air International](#), PSA-2004031165, May 19, 2020.

9 See Dale Buss, [“Private Aviation Benefits From A Pandemic Pickup,”](#) *Chief Executive*, November 22, 2021; Kenzie Bryant, [“People Won’t Be Like, Oh, Okay, I’ll Go Ahead and Fly Commercial”: Why the Private-Jet Travel Boom Might Not Be Going Anywhere,”](#) *Vanity Fair*, August 5, 2021; and Katharine Swindells, [“Private Jet Industry Trends Upwards Due to Covid-19 Pandemic,”](#) *Elite Traveler*, November 19, 2020.

10 From April 2020 to February 2022, ICE’s contract with Classic Air Charter, its main broker for deportation flights, has been modified 27 times with the justification “guaranteed minimum values have been temporarily adjusted to maintain vendor operability during the Covid-19 pandemic.” See GovTribe [delivery order GS33F004DA-70CD18FR0000002](#) and [delivery order GS33F004DA-70CD18FR0000002 modifications section](#). This suggests that the CAC contract, like many of the contracts with detention centers, contains guaranteed minimum clauses that permit the contractor to receive payment whether or not the services are used. If true – UWCHR is still awaiting the disclosure of documents that would permit us to confirm this fact – this previously-unknown detail would be yet another indication, like the many documented in the Office of the Inspector General’s own reports on ICE Air operations, that these flights are operated in ways that privilege private profit over efficiency, as well as over the safety and rights of their passengers.

11 One recent survey, for example, found two-thirds of Americans want the government to stop expanding the use of private immigration detention. See Brian Tashman, [“Two-Thirds of Voters Want to Stop the Expansion of For-Profit Immigrant Detention,”](#) *ACLU*, January 12, 2022.

migrants around the United States and across the globe. This report aims to peel back the secrecy surrounding their operations, in particular, by illustrating how connected they are to everyday entertainment activities which are beloved by so many Americans.

In fact, the same companies that contract with ICE to carry out deportations provide charter flights to dozens of collegiate and professional sports teams, from the National Football League, Major League Soccer, National Hockey League, National Basketball Association, and many collegiate sports organizations. Touring musicians, too, are flown to concerts by the same companies.<sup>12</sup> From musical acts to athletic stars, many of Americans' most-admired figures travel not only with the same companies, but often *on the very same planes* on which migrants experience abuse, which are rapidly reconfigured for luxury travel. As Kathleen Bergin has written, this means that "athletes must accept that they are sitting in a seat

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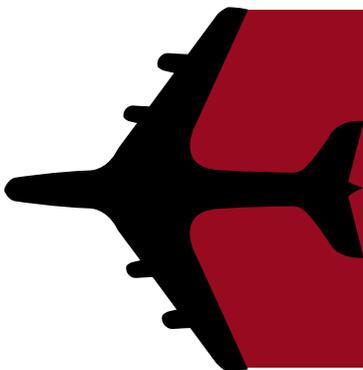
<sup>12</sup> For example, see Justin Hayward, "[What Happened To The Rolling Stones Boeing 737?](#)," *Simply Flying*, June 17, 2021.

perhaps last occupied by a migrant bloodied from abuse, or a parent taken from her child."<sup>13</sup>

In this report, we document links between major sports teams, private companies, and specific planes on which abuses occurred. Our intention is not to excoriate entertainers – we understand that most athletes and musical performers are likely unaware that they have been flying in planes that double as airborne torture chambers – but simply to make these facts transparent. The secrecy that surrounds deportation flights have allowed too many of us to distance ourselves from the abuse funded with our tax dollars; understanding the connections between our government, air charter companies, and some of the most well-known institutions in our midst may help us begin to unravel these knots, untangling our complicity in the practices that draw profit from migrants' pain.

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<sup>13</sup> Kathleen Bergin, "[Tell your favorite celebrities deportation contractors don't deserve their business.](#)" *Fortune*, November 5, 2021.



*“UNDERSTANDING THE CONNECTIONS BETWEEN OUR GOVERNMENT, AIR CHARTER COMPANIES, AND SOME OF THE MOST WELL-KNOWN INSTITUTIONS IN OUR MIDST MAY HELP US BEGIN TO UNRAVEL THESE KNOTS, UNTANGLING OUR COMPLICITY IN THE PRACTICES THAT DRAW PROFIT FROM MIGRANTS’ PAIN.”*

# METHODOLOGY

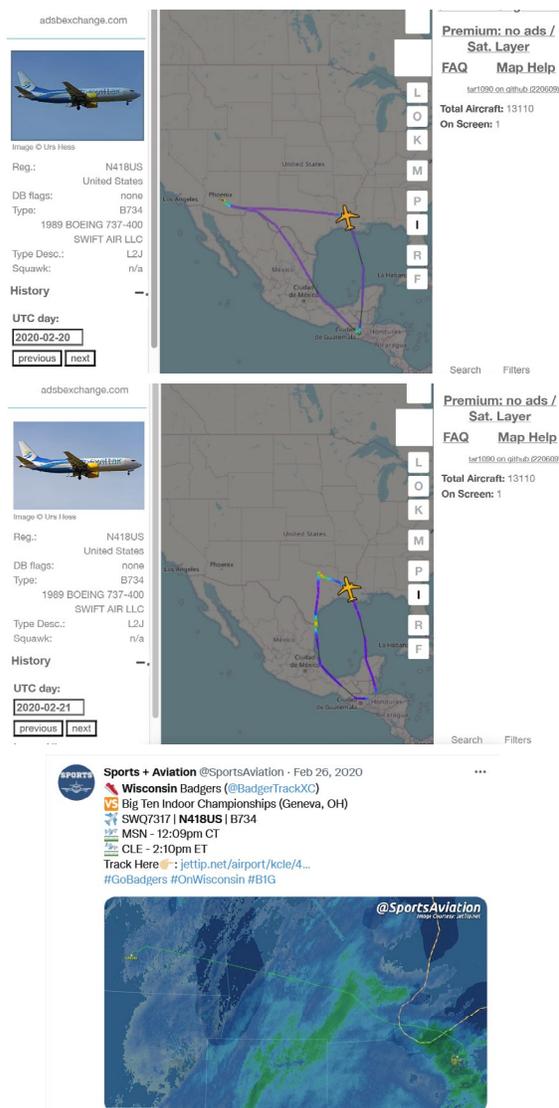
UWCHR has been conducting research on deportation flights for several years, releasing [the first major report on abuses in this industry](#) in 2019. As part of this work, we have used the Freedom of Information Act to obtain copies of multiple versions of ICE's ARTS (Alien Repatriation Tracking Service) databases of flights; invoices submitted by contractors and subcontractors for key flights; records of all flight-related abuses reported to DHS' OIG and CRCL; numerous internal documents from ICE Air Operations, including the Data Management Plan, manifested 216s and End of Mission reports for specific flights, and other documents that shed light on the process of deportation by air. We have also analyzed reports of inflight abuses logged in legal documents; media reports; and research by immigrant rights organizations, noting patterns of repeated abuses.<sup>14</sup>

To connect the abuses documented in these records to individual flights, we used ICE's ARTS Database and data compiled by Witness at the Border from 2019 to 2021 to determine the details of flights on which reported abuses occurred. We then compared these flights to information on Twitter accounts that track chartered aircraft for sports teams to discover if the same planes were being used in sports transportation. We only include cases here where we were able to pinpoint specific flights with a high degree of certainty,<sup>15</sup> although we believe these are illustrative of a much broader trend.

14 This report was authored by Angelina Snodgrass Godoy with research from Guadalupe Alexander González, Trevor Helmy, and Lukas Illa.

15 We only include cases here for which the abuse was well enough documented to identify the specific flight by exact date and where only one flight on that date matched the departure and destination cities known to have been involved.

We have not attempted to research connections between these companies and musical artists, although the companies boast that they exist, because less reliable information is publicly available about artists' travels.



Above: Following the plane tail number N418US operated by Swift, UWCHR researchers found that within one week this plane operated two deportation flights, to Honduras (2/21/2020) and Guatemala (2/20/2020), and then transported the Wisconsin Cross Country team from Madison, WI to Cleveland, OH (2/26/2020). Photos: ADSB Exchange, Sports + Aviation @sportsaviation Twitter.

# THE DEPORTATION INDUSTRY

## THE BUSINESS OF ICE AIR FLIGHTS

Deportation flights are a constant feature in our skies: even during the Covid-19 pandemic, *Witness at the Border* documented a total of 6,987 ICE Air flights from April 2021 to April 2022, with 632 flights in April 2022 alone.<sup>16</sup> Within ICE's Enforcement and Removal Operations, ICE Air Operations (IAO) is the unit in charge of arranging these flights, both within the United States as detained people are transferred between detention centers, and abroad, when they are placed on deportation flights. In most cases, ICE contracts with private charter companies to fly what it terms "ICE Air missions," although some deportations are carried out on mainstream commercial airlines.<sup>17</sup>

But if the flights are ubiquitous, the financial and political relationships that power them are more opaque. The majority of chartered deportation flights are operated under a still-secret contract between ICE and a single broker; at the time of this writing, that broker was Classic Air Charter (CAC),<sup>18</sup> who was awarded the contract, currently valued at up to \$740.2 million,<sup>19</sup> in late 2017.<sup>20</sup> This broker does not own or operate planes, but hires

subcontractors to do so; most of the flights run under this mega-contract are scheduled daily charters to Western-hemisphere destinations, usually operated by Swift/iAero and World Atlantic Airways. A considerably smaller portion are longer-distance flights, referred to in ICE documents as Long Range International Charters and sometimes as Special High-Risk Charters,<sup>21</sup> here, the dominant companies are Omni Air International and ATS.

On top of these flights arranged through the mega-contract, however, ICE also has separate contracts for specific sub-segments of the deportation flight market. For example, in September 2021, a contract valued at \$15 million was signed with GEO Group solely for mass deportations to Haiti;<sup>22</sup> GEO owns no planes and had not previously been involved in air travel, but secured a no-bid contract without apparent competition from other vendors.<sup>23</sup> Zephyr Air reportedly was contracted exclusively to run flights to Cuba.<sup>24</sup> ICE has also held direct contracts with a raft of other air charter companies.<sup>25</sup>

Before the Obama administration's massive expansion of deportation, removal flights

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16 See Thomas Cartwright, "[ICE Air Flights April 2022 and Last 12 Months](#)," *Witness at the Border*, May 2, 2022.

17 The agency has never disclosed what percentage of deportations take place via private charter vs. commercial airline, nor how decisions are made regarding the deportation of a given individual. For more on mainstream commercial airline involvement in deportations, see Chantal Da Silva, "[United, Delta and American Airlines Used for More Than 1,000 Deportation Flights to Central America in 2019](#)," *Newsweek*, January 31, 2020.

18 No stranger to using charter air travel as a means to profit from abuse, CAC reportedly helped arrange rendition flights that took CIA detainees to black sites where they could be tortured. See Max Siegelbaum, "[Former CIA Subcontractor Departs Immigrants for ICE](#)," *Documented*, July 13, 2018.

19 GovTribe, [Federal Contract Award Delivery Order GS33F004DA-70CDCR18FR0000002](#), accessed June 2, 2022.

20 See GovTribe [delivery order GS33F004DA-70CDCR18FR0000002](#) and [delivery order GS33F004DA-70CDCR18FR0000002 modifications section](#), accessed January 31, 2022.

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21 These terms (and/or their abbreviations, LRIC/SHRC) are often used more or less interchangeably by the charter operators. The Project Work Statement for the 2022-2027 contract bids only uses the language of "Special High Risk Charters."

22 "[Haiti Emergency Flight Services](#)," Notice ID JandA210378, sam.gov, September 27, 2021.

23 See Tom Ricker, "[Why is the GEO Group getting paid to fly deportation flights to Haiti?](#)," *Popular Resistance*, October 9, 2021.

24 See Jerry Iannelli, "[ICE Pays Aviation Firm Thousands to Fly Cuban Deportees From Miami to Havana](#)," *Miami New Times*, July 9, 2018.

25 For example, under FOIA ICE released [this list](#) of vendor and contract numbers for all charter flight services contracted by ICE Air Operations (IAO) from October 1, 2010 to September 30, 2018.

were operated by the U.S. Marshals, flying on government planes.<sup>26</sup> The transition to privately operated flights has not only permitted ICE to operate a larger volume of flights on a more flexible schedule,<sup>27</sup> but also to diffuse accountability for abuses by shielding its operations behind layers of private contracts which are not subjected to oversight. Indeed,

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**“BY RAPIDLY RECONFIGURING THE SEATING ARRANGEMENTS, THE SAME DEPORTATION CHARTER COMPANIES SWITCH PLANES BACK AND FORTH BETWEEN THE MASS TRANSPORT OF SHACKLED PRISONERS AND THE PROVISION OF HIGH-END AIR TRAVEL EXPERIENCES.”**

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to date ICE has refused to release ICE Air contracts under FOIA; in legal cases stemming from safety complaints where the text of these contracts have been introduced as exhibits to inform the court, government attorneys have moved to have them placed under seal, claiming they constitute “law enforcement operational policies and systems information [and] financial contracts with third party providers.”<sup>28</sup>

As a result, the terms of these contracts remain secret. Yet their text is of vital importance, for as the Government Accountability Office noted in a March 2020 report to Congress,

“ICE issues agency-wide policies, such as memos and directives, which are to be followed by ICE personnel, but are not applicable to contracted staff unless noted in their contract or agreement.”<sup>29</sup> Absent information about what precautions – if any – contractors are obligated to take to protect the safety of passengers on ICE Air flights, oversight bodies cannot meaningfully exercise their regulatory authority, and the public cannot be expected to confide in the integrity of government operations.

In this climate of assured impunity, it becomes important to know what other structures and institutions support the companies who profit from migrants’ pain. And in this context, a disturbing overlap emerges between deportation flights and luxury transportation for celebrities, executives, and star athletes. By rapidly reconfiguring the seating arrangements,<sup>30</sup> the same deportation charter companies switch planes back and forth between the mass transport of shackled prisoners and the provision of high-end air travel experiences. For example, last year Omni Air rolled out a new premium travel class, “[Omni Class](#),” with lie-flat seating options and an oversized tray table “to accommodate a multi-course gourmet meal,” according to a [company press release](#), as well as “entertainment systems equipped with 15.6-inch HD screens [to] give passengers access to the latest theatrical releases, games and music.” Omni advertises, for example, that its plane [N378AX can be configured with these luxury amenities](#); yet this very [same exact plane carried deportees to Honduras in December 2021](#).<sup>31</sup>

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26 “[Hidden in Plain Sight: ICE Air and the Machinery of Mass Deportation](#),” *UWCHR*, April 23, 2019.

27 ICE, for example, reports that “This arrangement provides IAO with cost effective and highly flexible flight services, allowing for swift adjustment to ever changing operational requirements such as dates, scheduled flight times, routes and operating locations. See [ICE Air Operations Fact Sheet](#), May 6, 2022.

28 See [Thiersaint v. DHS, ICE, et al.](#), Civil Action No. 18-cv-12406-DJC, April 4, 2021.

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29 See United States Government Accountability Office, “[Immigration Detention Care of Pregnant Women in DHS Facilities](#),” March, 2020, p. 23 fn 66; the same point is made on p 55: “ICE-wide policies are directed at ICE staff and officers, and not to contractors or facility staff.”

30 iAero/Swift, for example, boasts that within 24 hours it can alter cabin configurations on a Boeing 737-300 to seat anywhere from 56 to 138 passengers. (See “[Charter](#),” iAero Group, Accessed on June 2, 2022.)

31 This plane has also flown Oakland A’s to play the

iAero/Swift, similarly, announced in February 2022 that it had inaugurated a new high-end service involving “ultra-luxurious” amenities including “VIP-configured” lie-flat seating, entertainment systems, and a bar; its first flight was for the Houston Rockets.<sup>32</sup>

## SPORTS TRAVEL

In the world of professional and collegiate sports, air travel practices vary from league to league and even team to team, but the use of private charters has increased across all major sports in recent decades, at both the professional and collegiate level.<sup>33</sup>

Some professional teams, like the New England Patriots and Los Angeles Lakers,<sup>34</sup> fly on their owners’ private planes. At the collegiate level, ESPN reports that many universities, such as Penn State, the University of Texas, also own their own planes, using them to transport athletes, athletic directors, and top administrators.<sup>35</sup> Other professional and collegiate teams contract with major “legacy” airlines like Delta<sup>36</sup> and United<sup>37</sup> to charter flights on regular commercial planes,<sup>38</sup> although

particularly in football, some significant private contracting also occurs through Sun Country and Allegiant, neither of whom is known to operate deportation flights.<sup>39</sup>

Still a third group of teams arrange travel through travel brokers, who book flights as needed through a variety of private companies, including commercial airlines and charter companies like Swift/iAero and Omni Air International.

In some cases, the flights are arranged by leagues, or associations of universities, rather than teams. For example, the NBA signed a deal with Delta Air Lines in 2015 whereby 27 of the 30 NBA teams would be carried by Delta charters,<sup>40</sup> although some teams, such as the Milwaukee Bucks and Houston Rockets, have retained contracts with Swift/iAero.<sup>41</sup> Similarly, the NCAA contracts with Short’s Travel to arrange championship travel on a mix of commercial and charter flights.<sup>42</sup> And in 2019, LEAD1, a membership association which “represents the athletics directors of the 130-member universities of the NCAA Division I Football Bowl Subdivision (FBS),”<sup>43</sup> launched a partnership with flight broker Private Jet

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Chicago Cubs in August 2019: see Sports + Aviation (@sportsaviation), [“Athletics onboard Omni Air tonight,”](#) Twitter, August 4, 2019; and transported University of Iowa to play in the Holiday Bowl in December 2019: see Doug Kempf (@dougkempf), [“N378AX Boeing 767-33A operating as Omni Air International,”](#) Twitter, December 21, 2019.

32 [“iAero Airways Completes Certification For Boeing 767 Aircraft To Support Its Expanding Charter and Sports Team Businesses,”](#) *iAero Group*, February 8, 2022.

33 See, for example, Nina Mandell, [“Charles Barkley says he had to fly coach in NBA,”](#) *USA Today*, November 28, 2017.

34 [“Top 9 Sports Teams with Private Jets: A Winning Combination,”](#) *Aerocorner*, accessed June 2, 2022.

35 [“Flying coach: Many universities are using private planes,”](#) *ESPN*, August 30, 2019.

36 Ted Reed, [“The grand slam of carrying champions: Atlanta Braves’ World Series win gives Delta a clean sweep,”](#) *The Points Guy*, November 4, 2021.

37 Shannon McMahon, [“Lawsuit claims United favors young, blond attendants to staff NFL, MLB team flights,”](#) *The Washington Post*, September 14, 2020.

38 In the past, however, commercial airlines have reportedly dropped such contracts because regular commercial flights are more profitable, forcing the teams

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to scramble to find transportation on smaller charters like Omni (see Adam Scheffer, [“NFL teams concerned as airlines drop chartered flights,”](#) *ESPN*, September 30, 2017 and Vic Carucci, [“Vic Carucci’s Inside the NFL: How NBA, Delta came to the rescue for Bills’ and other football team charter flights,”](#) *The Buffalo News*, September 30, 2017.)

39 See Bo McCready and Doug Kroll, [“An Examination Of College Football Flight Patterns,”](#) *AthleticDirectorU*, accessed on June 2, 2022; and [comment 18 by user cparrott73](#) on FlightAware discussion board “2021 College Football Charter Flights,” October 20, 2021. See also the [2021 NCAA Football Thread](#) on Airliners forum, accessed June 2, 2022. Sun Country’s parent company has no documented financial relationship with DHS or ICE according to their [2021 SEC 10-K report](#).

40 [“Richest, high profile professional sports teams have own planes and charters,”](#) *Stuff*, May 13, 2018.

41 Rich Rovito, [“Bucks and Brewers stick with private charters,”](#) *Milwaukee Business Journal*, February 29, 2012.

42 Ron Lieber, [“At NCAA Tourney, A Company in Iowa Is Called for Traveling; Short’s Agency Juggles Plans For 129 Basketball Teams; Some Don’t Like the Bus,”](#) *Wall Street Journal*, March 18, 2004.

43 [“Who we are,”](#) Lead1, accessed on June 2, 2022.

Services.<sup>44</sup> In 2020, in turn, Private Jet Services announced its partnership with Swift/iAero.<sup>45</sup>

While Major League Soccer required all teams to fly commercial as recently as 2015,<sup>46</sup> in recent years the use of private charters has expanded at the urging of the MLS players' union.<sup>47</sup> In October 2021, the league signed a 5 year contract with Sun Country Airlines.<sup>48</sup> However, flights on Swift planes continued well into 2022;<sup>49</sup> it is unclear why these flights were not handled by Sun Country.

In hockey, half of all US-based National Hockey League teams had contracts with Swift/iAero for air transportation in 2021, including the Arizona Coyotes, Boston Bruins, Carolina Hurricanes, Chicago Blackhawks, Columbus Blue Jackets, Dallas Stars, Florida Panthers,

Nashville Predators, New Jersey Devils, New York Islanders, Pittsburgh Penguins, and St. Louis Blues.<sup>50</sup>

Indeed, sports travel constituted such a significant part of Swift Air's business that the airline's filing for bankruptcy in 2012 was attributed to losses from the NBA and NHL lockouts in the 2011-12 and 2012-13 seasons;<sup>51</sup> in 2019, the company announced an expansion of its involvement in collegiate sports travel,<sup>52</sup> and this expansion appears to be continuing: in June 2020, Swift/iAero announced a new partnership with Private Jet Services Group to help arrange the logistics and booking of charters for corporate and university clients,<sup>53</sup> and in February 2022 Swift/iAero's CEO described the company's new high-end widebodies as marking its "further expansion into professional sports."<sup>54</sup>

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44 ["Who flies with PJS?"](#) Private Jet Services, accessed on June 2, 2022.

45 ["PJS Group announces partnership with iAero Airways,"](#) PJS Group, June 14, 2020.

46 See Ian McMurty, ["Sports and Airlines: Bringing the Colorful and Unique to Your Local Airport,"](#) *Airline Geeks*, October 13, 2015 and Jonathan Tannewald, ["New MLS collective bargaining agreement brings big boosts to player salaries, charter travel, free agency,"](#) *Philadelphia Inquirer*, February 7, 2020.

47 ["MLS players take off: charter flights, sharing media rights,"](#) *USA Today*, February 6, 2020.

48 ["Sun Country Airlines and Major League Soccer Sign New Five-Year Charter Contract,"](#) Sun Country Airlines, October 27, 2021.

49 See, for example, New York City FC (N806TJ) on 1/29/2022 as per [Sports + Aviation Twitter post](#); and Charlotte FC (N807TJ) on 1/29/2022 as per [Sports + Aviation Twitter post](#).

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50 ["iAero Airways Expands Its Premium Air Charter Service To National Hockey League \(NHL\) Teams,"](#) iAero Group, June 2, 2021.

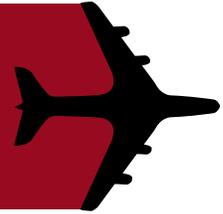
51 ["Swift Air LLC Secures Funding, Prepares to Exit Bankruptcy,"](#) *Aviation Pros*, August 9, 2013.

52 ["Swift Air Expands Commitment of Aircraft to College and University Sports Travel Market,"](#) Swift Air, February 26, 2019.

53 ["Private Jet Services Group Announces Partnership with iAero Airways,"](#) *Cision PRWeb*, June 17, 2020.

54 ["iAero Airways Completes Certification For Boeing 767 Aircraft To Support Its Expanding Charter and Sports Team Businesses,"](#) iAero Group, February 8, 2022.

# THE ABUSES



Categories of abuse on ICE deportation flights

In the below, we share evidence of abuses committed on specific planes which have also been used by sports teams as examples of broader patterns of mistreatment in the deportation process. We describe the patterns of abuse in four broad categories: violations of the principle of non-refoulement; torture; the denial of due process; and double punishment. In each case, we provide specific examples of flights on which such abuses occurred, and sports teams that traveled on the same plane in the same time period.

## 1) NON-REFOULEMENT

As the United Nations High Commissioner for Human Rights explains, “Under international human rights law, the principle of non-refoulement guarantees that no one should be returned to a country where they would face torture, cruel, inhuman or degrading treatment or punishment and other irreparable harm. This principle applies to all migrants at all times.”<sup>55</sup> The prohibition of non-refoulement is enshrined in international agreements to which the U.S. is a signatory, such as the 1951 Convention relating

to the Status of Refugees and its 1967 Protocol, and the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.<sup>56</sup> It is also codified in U.S. domestic law through the Refugee Act of 1980, Section 243(h) of which provides that the U.S. Attorney General “shall not deport or return any alien... to a country if the Attorney General determines such aliens life or freedom would be threatened in such country on account of race, religion, nationality, membership in a particular social group, or political opinion.”<sup>57</sup>

In recent years, the United States government has made numerous attempts to ignore or undo the protections for refugees required under U.S. and international law; many of the resulting legal challenges are still before the courts.<sup>58</sup> While we await rulings on such cases, ICE has accelerated the return of people to countries where they face likelihood of abuses as severe

<sup>55</sup> [“The principle of non-refoulement under international human rights law,”](#) United Nations Human Rights Office of the High Commissioner.

<sup>56</sup> This convention does not prohibit all forms of non-refoulement, only that of those fleeing torture by or with the consent of a government official. See Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment art. 3, June 26, 1987, 1465 U.N.T.S. 85; for ratification status of this and other treaties, see Office of the United Nations High Commissioner for Human Rights, [“Status of Ratification Interactive Dashboard”](#).

<sup>57</sup> Lung-Chu Chen, [“The United States Supreme Court and the Protection of Refugees,”](#) *St. John’s Law Review* 67(3):1993.

<sup>58</sup> See, for example, [“Featured Issue: Border Processing and Asylum,”](#) American Immigration Lawyers Association, AILA Doc. No. 19032731, April 22, 2022.

as enslavement or death. It is particularly noteworthy that in many cases these are Black-majority countries such as Mauritania, Cameroon, and Haiti, to which few migrants were deported prior to 2016. While the Trump administration presided over the acceleration of deportation to these nations – at times using language that suggests it was motivated by racial animus<sup>59</sup> – most asylum-seekers from these countries remain equally vulnerable under the Biden administration.

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**“THE PRINCIPLE OF NON-REFOULEMENT GUARANTEES THAT NO ONE SHOULD BE RETURNED TO A COUNTRY WHERE THEY WOULD FACE TORTURE, CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT AND OTHER IRREPARABLE HARM.”**

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## MAURITANIA

Thousands of Mauritians sought refuge in neighboring countries – and some, in the United States – following the eruption of a longstanding conflict between the country’s lighter-skinned Arab-Berber population and Black communities (Afro-Mauritians and Haratines) in the late 1980s.<sup>60</sup> For decades, even those Mauritians deemed ineligible for asylum were allowed to remain lawfully in the United States as long as they checked in regularly with U.S. government officials. This began to change in 2018, when even as the U.S. launched a task force pledging

to “rescue every last victim”<sup>61</sup> from modern-day slavery, ICE accelerated deportations to Mauritania, where between 2<sup>62</sup> and 20<sup>63</sup> percent of the nation’s population is believed to be enslaved. The Global Slavery Index, one of the more conservative estimates, puts the number of people currently enslaved in Mauritania at 90,000, and deems hundreds of thousands more “vulnerable” to enslavement there.<sup>64</sup>

Most of those being deported from the U.S. are Black Mauritians, the very population that faces enslavement at the hands of the country’s lighter-skinned majority.<sup>65</sup> And even the practice speaking out against such practices is criminalized in Mauritania, as Amnesty International and Human Rights Watch report. Those seen to be critical of the government on any of a range of issues are often imprisoned and tortured.<sup>66</sup> In 2018, a foreign photographer who took pictures to document the ongoing enslavement of Black Mauritians was arrested and jailed, his memory cards seized by the government.<sup>67</sup>

In this context, the deportation of Black asylum seekers to Mauritania raises grave concerns: as members of a population often denied recognition as citizens simply because of the

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59 See Aris Folley, “Federal judge asks whether Trump’s ‘America First’ agenda is being used to camouflage racial animus,” *The Hill*, September 26, 2018.

60 “Mauritania’s Campaign of Terror: State-Sponsored Repression of Black Africans,” *Human Rights Watch/ Africa*, April 1994.

61 Alan Gomez, “Trump increases deportations to Mauritania, where slavery dominates culture,” *USA Today*, October 16, 2018.

62 “Mauritania Events of 2020,” Human Rights Watch

63 John D. Sutter, “Slavery’s last stronghold,” *CNN*, March 2012; see also Gabbay, Shaul. (2020) Hereditary Slavery Shackles Mauritania. *International Journal of Social Science Studies*. 9. 1. 10.11114/ijsss.v9i1.5088.

64 “Africa Global Slavery Index,” Walk Free, 2018.

65 See, for example, Danae King, “Black Mauritians fight deportation from US,” *The Columbus Dispatch*, February 4, 2019.

66 “‘A sword hanging over our heads’ The repression of activists speaking out against discrimination and slavery in Africa,” Amnesty International, 2018; and “Ethnicity, Discrimination, and Other Red Lines Repression of Human Rights Defenders in Mauritania,” Human Rights Watch, February 12, 2018.

67 Marie Solis, “Modern Day Slavery: Seif Kousmate’s Photos of the Haratins in Mauritania Reveal Their misery—and Got Him Jailed,” *Newsweek*, June 14, 2018.

color of their skin, they are vulnerable to a range of abuses.<sup>68</sup> As a result, Amnesty International has demanded an end to the deportation of Black Mauritians, deeming them “a complete violation of international law that flies in the face of decades of U.S. traditions.”<sup>69</sup> The editorial board of the *Washington Post* warned that deportees likely faced a “horrific fate.”<sup>70</sup> Members of Congress from both parties – including such disparate voices as Sen. Kamala Harris (later Biden’s Vice President) and Rep. Mark Meadows (later Trump’s Chief of Staff) – have denounced Mauritania’s ongoing role in slavery,<sup>71</sup> and some Democrats have called for an end to the deportations. Yet although DHS Secretary Mayorkas said last year he was “considering” declaring a Temporary Protected Status (TPS) for Mauritians currently in the U.S., no such action has been taken.<sup>72</sup>

Issa Sao, a husband of a U.S. citizen and father to two U.S. born children, was deported as a result of these practices. Sao had a legal work permit and was employed full-time by a pharmaceutical company in Ohio at the time of his detention by ICE. Like many Black Mauritians in the United States, he had applied for asylum due to concerns about slavery, violence, and denial of basic citizenship rights to Mauritians of his ethnic group. Unfortunately, Sao’s claim was

rejected, like those of many peers, because it was deemed to lack thorough documentation.<sup>73</sup> Sao was deported on October 16, 2018 on ICE Air mission 190001, operated by ATS using a plane with tail number N7176S. Since his return to Mauritania, he was reportedly forced to flee to Senegal; his present circumstances are unknown.<sup>74</sup> Many deportees are reportedly imprisoned upon arrival because of government suspicion that those who fled the country may have revealed details of government abuses in their petitions for asylum.<sup>75</sup>

## CAMEROON

In 2016, civil unrest broke out in Cameroon between the Anglophone separatists and the government headed by Francophone Paul Biya; in the ensuing years, a full-blown civil war has erupted, claiming an untold number of lives and displacing hundreds of thousands.<sup>76</sup> In this context, Human Rights Watch reported in 2020, “Armed groups and government forces committed widespread human rights abuses, including extrajudicial or summary executions and mass killings across Cameroon’s Anglophone regions.”<sup>77</sup> Several thousand of those fleeing this violence have made their way to the United States to request asylum.<sup>78</sup>

68 See Nellie Peyton, “[Mauritians who sought refuge in U.S. face deportation, then jail.](#)” *Reuters*, December 17, 2018; and Mark Curnutte, “[Mauritanian immigrant now free, but ‘lost everything’ during one year in ICE detention.](#)” *The Enquirer*, April 9, 2019.

69 “[Amnesty International USA calls on the Trump administration to halt possible deportation of Mauritanian asylum seekers in the US.](#)” Amnesty International, August 20, 2018.

70 “[ICE is sending Mauritians back to modern day slavery.](#)” *The Washington Post*, August 27, 2018.

71 Lynn Tramonte, “[Federal Workers Struggle Without Pay, While ICE Charters a \\$148,000 Plane to Deport Men to Torture and Abuse in Mauritania.](#)” *Columbus Free Press*, January 12, 2019; and this [letter from Congress](#), October 12, 2018.

72 “[After Months of Silence and Inaction, Sec. Mayorkas says DHS Considering TPS for Haiti, Cameroon, and Mauritania.](#)” *America’s Voice*, May 3, 2021.

73 See Mark Curnutte, “[Deported to slavery? Forest Park man back in Mauritania, where he is a non-citizen.](#)” *Cincinnati Enquirer*, October 17, 2018; and Franklin Foer, “[How Trump Radicalized ICE.](#)” *The Atlantic*, September 2018.

74 Sheena Elzie, “[Deported Cincinnati Man Fights to Get Back to Ohio.](#)” *Spectrum News*, October 15, 2020.

75 Nellie Peyton, “[Mauritians who sought refuge in U.S. face deportation, then jail.](#)” *Reuters*, December 17, 2018; see also Biram Dah Abeid, “[Declaration of Biram Dah Abeid.](#)” August, 2018.

76 Elisa Iannacone, “[Africa’s Forgotten War—Photos and Stories From Cameroon’s Anglophone Crisis.](#)” *Newsweek*, May 3, 2021.

77 Human Rights Watch, “[Cameroon Events of 2020.](#)” accessed June 2, 2022.

78 An estimated 1500 Cameroonians applied for asylum in the U.S. in fiscal year 2020, and some 3000 more had cases pending in the courts. See John Washington, “[Cameroonian Asylum Seekers Say They Face Violent Persecution Upon Deportation.](#)” *The Nation*, November 9, 2020; After the Trump administration’s gutting of U.S. asylum procedures, however,

Yet while their cases remained pending before the courts, ICE accelerated deportations to Cameroon.

Not only is it a violation of U.S. law and agency policy to deport those with pending legal cases,<sup>79</sup> due to the ongoing situation in Cameroon, both Amnesty International<sup>80</sup> and Human Rights Watch<sup>81</sup> have concluded these cases constitute refoulement. Many of the deportees include members of the Anglophone minority, against whom the government is currently waging war,<sup>82</sup> others are reportedly treated as government opponents merely because they sought asylum abroad, an action perceived as smearing the government's reputation.<sup>83</sup> A February 2022 Human Rights Watch investigation of the situation of Cameroonians deported from the United States found that government forces subjected many to imprisonment and torture and other retaliatory acts, including rape, upon their return to Cameroon.<sup>84</sup> One man reported that he was held naked and beaten every day for a month after his deportation by jailers who reportedly taunted him by saying "...You left and thought we wouldn't get you... You will die in this jail."<sup>85</sup> In some cases, this abuse even extended to family members, who endured

violence – in at least one case, lethal violence – by government forces who encountered them while hunting down recent deportees.<sup>86</sup>

The majority of these Cameroonian asylum-seekers were sent back on two flights in October and November 2020, called "death planes" by their attorneys.<sup>87</sup> They include men like Giscard, who had fled Cameroon after being tortured in retaliation for his support of an Anglophone separatist group;<sup>88</sup> ICE refused to allow him to remove paperwork associated with his asylum case from his belongings that accompanied him on the deportation flight, making it easy for the military to identify him a dissident and re-imprison him upon his return.<sup>89</sup> Another asylum-seeker, had reportedly fled after disobeying military orders to kill civilians in the separatist regions.<sup>90</sup> Both of these deportations followed the alleged use of physical violence to compel Cameroonian asylum-seekers to sign their deportation papers, thus surrendering their rights to ongoing legal proceedings which could have provided them the right to remain in the United States; and both involved onboard use of a full-body restraint device known as The WRAP to torture deportees into submission.<sup>91</sup> (For more on the practice of torture in deportation, see p. 18).

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the percentage of Cameroonians qualifying for asylum under revised standards has plummeted. See Human Rights First, ["Cameroonian Asylum Seekers Increasingly Detained, Denied Asylum Under Trump Administration,"](#) November 2020.

79 Sarah Gardiner, ["Mass Deportations to Cameroon Undermine US Foreign Policy and Violate International Law,"](#) *Just Security*, November 25, 2020.

80 Amnesty International, ["The U.S. must not deport people to Cameroon,"](#) October 9, 2020.

81 Human Rights Watch, ["US: Protect Cameroonians From Deportation,"](#) December 18, 2020.

82 Julian Borger, ["US to send asylum seekers home to Cameroon despite 'death plane' warnings,"](#) *The Guardian*, November 9, 2020.

83 Sarah Gardiner, ["Mass Deportations to Cameroon Undermine US Foreign Policy and Violate International Law,"](#) *Just Security*, November 25, 2020; Joe Penney and Christian Locka, ["Deported Cameroonian Asylum Seekers Fear for Their Lives,"](#) *The American Prospect*, November 9, 2020; and John Washington, ["An Experience I Wouldn't Wish My Worst Enemy to Undergo,"](#) *The Nation*, May 18, 2020.

84 Human Rights Watch, ["How Can You Throw Us Back? Asylum Seekers Abused in the US and Deported to Harm in Cameroon,"](#) February 10, 2022.

85 Ibid.

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The "death plane" used to deport these Cameroonians in 2020 was owned by Omni Air International; its tail number was N207AX. After

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86 Ibid.

87 Julian Borger, ["US to send asylum seekers home to Cameroon despite 'death plane' warnings,"](#) *The Guardian*, November 9, 2020.

88 John Washington, ["An Experience I Wouldn't Wish My Worst Enemy to Undergo,"](#) *The Nation*, May 18, 2020.

89 Joe Penney and Christian Locka, ["Deported Cameroonian Asylum Seekers Fear for Their Lives,"](#) *The American Prospect*, November 9, 2020, and John Washington, ["Cameroonian Asylum Seekers Say They Face Violent Persecution Upon Deportation,"](#) *The Nation*, November 9, 2020.

90 Eli Cahan, ["The United States Has Failed Cameroonian Asylum-Seekers,"](#) *Newstex Blogs*, December 13, 2020

91 ["RE: Complaint Regarding ICE's Use of The WRAP as a Restraint Device,"](#) complaint submitted to DHS Office for Civil Rights and Civil Liberties, October 13, 2021.

public outcry against Omni's role in deportations, followed by revelations the company was billing the U.S. government for up to \$1.8 million for a single deportation flight,<sup>92</sup> Omni took steps to conceal its operations from public scrutiny. The company no longer files its flight plans with the FAA, and it has blocked registry of its planes on publicly available flight trackers. As a result, it is difficult to know what sports teams have flown on N207AX in the past three years, though there is ample reason to believe many may have. The plane was used by the Baltimore Ravens on at least two occasions,<sup>93</sup> and sports enthusiasts have photographed Omni planes transporting teams as recently as December 2021, though the specific tail numbers used remain unknown. For example, Omni planes carried the University of California Bears football team to play Texas Christian University in September 2021,<sup>94</sup> and took the University of Iowa Hawkeyes to the Citrus Bowl<sup>95</sup> and the Cincinnati Bearcats to the Cotton Bowl in December 2021.<sup>96</sup>

## HAITI

Since taking office, Joe Biden has reportedly deported more than 20,000 Haitians, most of them since he initiated mass deportations in September 2021.<sup>97</sup> This has led to widespread outrage; in recognition of widespread poverty, food insecurity, and violence,<sup>98</sup> the U.S. had

conducted only limited deportations to Haiti since 2010, and if anything, the situation has deteriorated in recent months.<sup>99</sup> For this reason, in May 2021, Sec. Mayorkas announced a new Temporary Protected Status (TPS) for Haitians already in the United States, citing "serious security concerns, social unrest, an increase in human rights abuses, crippling poverty, and lack of basic resources."<sup>100</sup> For these same reasons, DHS' own civil rights office issued a warning to agency heads that expelling<sup>101</sup> Haitians who had gathered at the U.S.-Mexico border risked violating the prohibition on refoulement.<sup>102</sup> These warnings were echoed and amplified in public by human rights organizations, members of Congress, and even senior Biden administration officials who resigned in protest blasting the Haitian deportations as "illegal and inhumane."<sup>103</sup>

In September 2021, GEO Group, Inc. netted a single-bid \$15 million contract to expel thousands of Haitians by air.<sup>104</sup> GEO owns no planes of its own and had not previously secured aviation contracts, but has used subcontractors, especially but not only Swift/iAero, to provide the planes.

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92 Justin Rohrllich, ["The sole airline willing to operate 'high-risk' deportation flights is price-gouging ICE."](#) *Yahoo! News*, December 5, 2019.

93 Sports + Aviation (@sportsaviation), ["Ravens flew through #Harvey remnants for #BALvsNO BWI MSY."](#) Twitter, August 30, 2017.

94 ["Omni Air International 7996."](#) Flight Aware, accessed June 2, 2022.

95 Doug Kempf (@dougkempf), ["N378AX Boeing 767-33A operating as Omni Air International OY5768 landing KSAN runway 27 on 21 December 2019."](#) Twitter, December 21, 2019, and Iowa Airspace (@Airspacelowa), ["Omni Air."](#) Twitter, December 25, 2012.

96 Cincinnati Football (@GoBearcatsFB), ["Bowl bound."](#) Twitter, December 26, 2021.

97 Vera Bergengruen, ["Haitian-Americans Say Biden Is Turning His Back on a Country He Promised to Help."](#) *Time*, February 1, 2022.

98 ["Joint Letter: The United States Must Stop Deportations and Abuse Against Haitians."](#) Refugees International, December 15, 2021.

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99 See ["Haiti remains in 'acute political and institutional crisis', Security Council hears."](#) United Nations, February 18, 2022.

100 ["Secretary Mayorkas Designates Haiti for Temporary Protected Status for 18 Months."](#) Department of Homeland Security, May 22, 2021.

101 Because most Haitians were removed under Title 42 – a specious invocation of public health concerns to deny migrants the right to even present asylum claims in U.S. courts – these are not technically "deportations," but rather expulsions.

102 Hamed Aleaziz, ["An Internal Document Shows DHS Officials Advised Against Haitian Deportations, Fearing They Could Violate Human Rights Obligations."](#) *Buzzfeed*, December 6, 2021.

103 ["US envoy to Haiti quits over 'inhumane' deportations of Haitians."](#) *Al Jazeera*, September 23, 2021; and Harold Hongju Koh, ["Internal memo regarding Title 42,"](#) October 2, 2021.

104 ["Haiti Emergency Flight Services."](#) Notice ID JandA210378, sam.gov, September 27, 2021.

At least 11 Major League Soccer teams including (DC United,<sup>105</sup> Sporting KC,<sup>106</sup> Columbus Crew,<sup>107</sup> FC Cincinnati,<sup>108</sup> Nashville SC,<sup>109</sup> Atlanta United FC,<sup>110</sup> Inter Miami CF,<sup>111</sup> New England Revolution,<sup>112</sup> New York Red Bulls,<sup>113</sup> Toronto FC,<sup>114</sup> Chicago Fire FC<sup>115</sup>) and 3 National Hockey League teams used the very same planes involved in these unlawful expulsions of Haitian asylum-seekers. So too did a raft of college basketball teams including UCLA,<sup>116</sup> Syracuse,<sup>117</sup> Notre Dame,<sup>118</sup> Florida State,<sup>119</sup> the University of Connecticut,<sup>120</sup> University of Texas,<sup>121</sup> and USC;<sup>122</sup> college football teams including Missouri State,<sup>123</sup> the University of Iowa<sup>124</sup> and

Iowa State;<sup>125</sup> and other collegiate sports teams in sports including baseball, volleyball, and hockey.

## HONDURAS AND EL SALVADOR

Like the Haitians expelled in 2021 and 2022, many Central American migrants have been illegally denied the opportunity to seek asylum in the United States, and may face life-threatening conditions upon return. Levels of violence are extremely high in Guatemala, El Salvador, and Honduras, where transnational gangs operate in collusion with governments and routinely exercise lethal violence and sexual torture against victims; some populations, such as LGBTQ+ migrants, are particularly vulnerable to abuse. In this context, mass deportations to these countries may constitute refoulement; when carried out before they can even pursue a possible asylum case, it even more clearly contravenes the law. In 2020, for example, Human Rights Watch conducted one of the first follow-up studies of Salvadoran deportees, identifying at least 138 who had been killed following their deportation from the United States and many others who were subjected to sexual violence and torture; the organization concluded that “as asylum and immigration policies tighten in the United States and dire security problems continue in El Salvador, the US is repeatedly violating its obligations to protect Salvadorans from return to serious risk of harm.”<sup>126</sup>

Sadly if unsurprisingly, there are many cases of Central Americans being deported to their deaths on the same planes used by professional sports teams. For example, Santos Chirino knew he was risking his life by testifying in a U.S. courtroom against the MS-13 gang members who assaulted him in Northern Virginia in

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105 Sports + Aviation (@sportsaviation), [“DC United,”](#) Twitter, July 30, 2021; and Sports + Aviation (@sportsaviation), [“DC United,”](#) Twitter, August 1, 2021.

106 Sports + Aviation (@sportsaviation), [“Sporting KC,”](#) Twitter, April 3, 2021.

107 Sports + Aviation (@sportsaviation), [“Columbus Crew SC,”](#) Twitter, July 23, 2021; and Sports + Aviation (@sportsaviation), [“Columbus Crew SC,”](#) Twitter, June 28, 2021; and Sports + Aviation (@sportsaviation), [“Columbus Crew SC,”](#) Twitter, June 26, 2021.

108 Sports + Aviation (@sportsaviation), [“FC Cincinnati,”](#) Twitter, July 22, 2021.

109 Sports + Aviation (@sportsaviation), [“Nashville SC,”](#) Twitter, August 3, 2021; and Sports + Aviation (@sportsaviation), [“Nashville SC,”](#) Twitter, July 31, 2021.

110 Sports + Aviation (@sportsaviation), [“Atlanta United FC,”](#) Twitter, July 29, 2021.

111 Sports + Aviation (@sportsaviation), [“Inter Miami CF,”](#) Twitter, August 27, 2021.

112 Sports + Aviation (@sportsaviation), [“New England Revolution,”](#) Twitter, July 3, 2021.

113 Sports + Aviation (@sportsaviation), [“New York Red Bulls,”](#) Twitter, June 23, 2021.

114 Sports + Aviation (@sportsaviation), [“Toronto FC,”](#) Twitter, July 6, 2021.

115 Sports + Aviation (@sportsaviation), [“Chicago Fire FC,”](#) Twitter, June 18, 2021; and Sports + Aviation (@sportsaviation), [“Chicago Fire FC,”](#) Twitter, July 18, 2021.

116 Sports + Aviation (@sportsaviation), [“UCLA Basketball,”](#) Twitter, April 4, 2021.

117 Sports + Aviation (@sportsaviation), [“Syracuse Basketball,”](#) Twitter, February 11, 2022.

118 Sports + Aviation (@sportsaviation), [“Notre Dame Basketball,”](#) March 17, 2022.

119 Sports + Aviation (@sportsaviation), [“Florida State Basketball,”](#) March 9, 2022.

120 Sports + Aviation (@sportsaviation), [“UConn Basketball,”](#) January 22, 2020.

121 Sports + Aviation (@sportsaviation), [“University of Texas Basketball,”](#) March 16, 2022.

122 Sports + Aviation (@sportsaviation), [“USC Basketball,”](#) March 31, 2021.

123 Sports + Aviation (@sportsaviation), [“Missouri State Football,”](#) October 9, 2021.

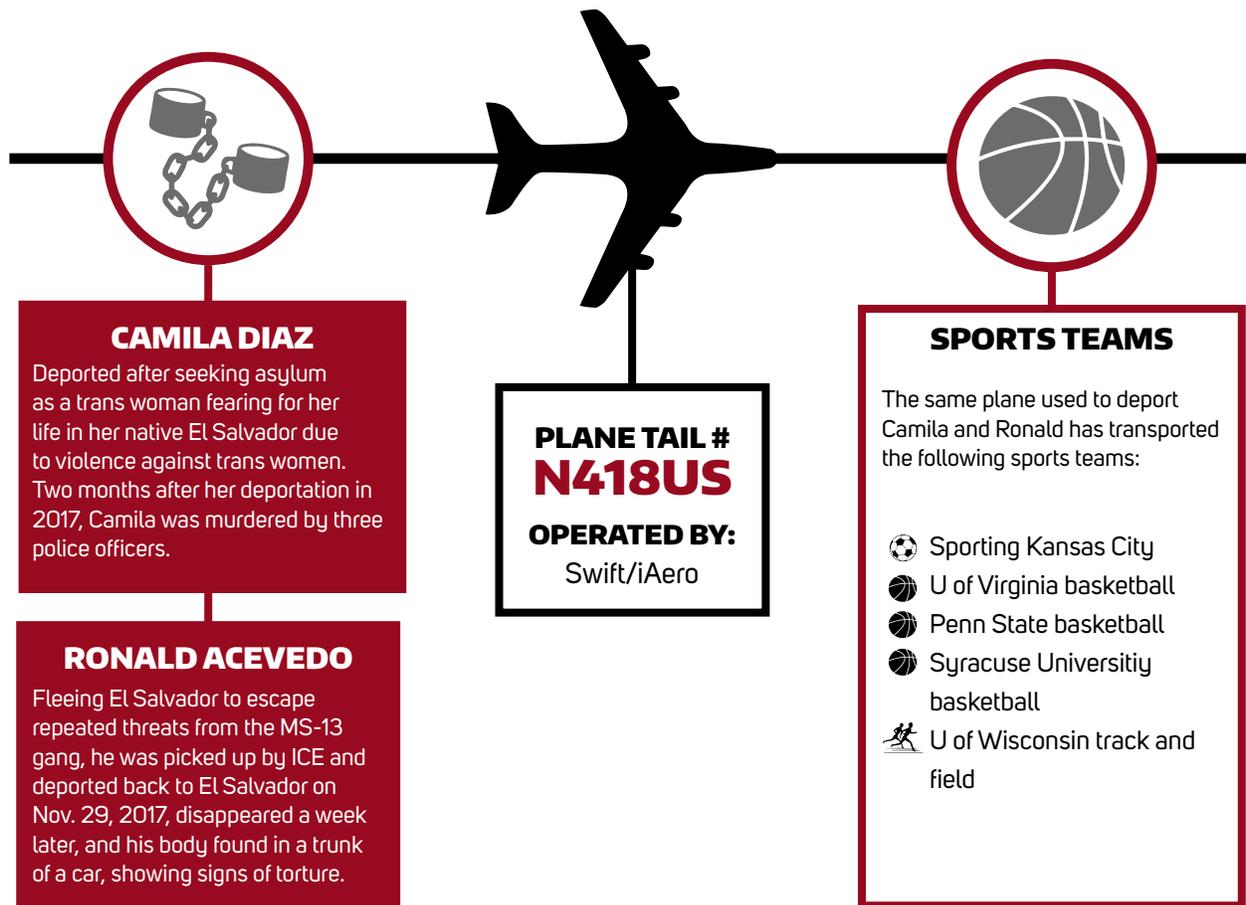
124 Sports + Aviation (@sportsaviation), [“University of Iowa](#)

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[Football,”](#) December 26, 2021.

125 Sports + Aviation (@sportsaviation), [“Iowa State Football,”](#) December 30, 2021.

126 [“Deported to Danger,”](#) *Human Rights Watch*, February 5, 2020.



2002. His testimony helped send them to jail, but Chirino began to receive threats saying the gang was “waiting for him in Honduras.” When he sought asylum in the United States on the basis of these threats, an immigration judge rejected his case. Chirino was deported on August 26, 2016, leaving two children behind. Months later, he and his brother were brutally murdered.<sup>127</sup> The flight that led him to his death was ICE Air Mission # 171559, a McDonnell Douglas MD-83 operated by World Atlantic Airways with tail number N805WA, also used by Florida International University’s football team, and basketball teams from the University of Miami and University of Tulsa.<sup>128</sup>

Another example is that of Camila Diaz, a trans woman who made a desperate bid to

secure safety in the United States in 2017, after multiple experiences of violence in her native El Salvador.<sup>129</sup> That same year, after local LGBTQ+ organizations reported the murders of 17 trans women in the first four months of the year, the U.N. High Commissioner for Human Rights called for an investigation into violence against trans women in the country.<sup>130</sup> Despite telling an immigration judge she feared for her life in El Salvador, Diaz was deported on a November 22, 2017 Swift/iAero flight with tail number N418US, which expelled 140 people from Phoenix to San Salvador, according to ICE records. Less than two months later, Diaz was picked up on the side of the road by three police officers who beat her and threw her body from a moving vehicle, causing her death.<sup>131</sup> As

127 Maria Sacchetti, “Death is waiting for him: A Honduran asylum seeker was deported and murdered. Now his children await their future in America.” *The Washington Post*, December 7, 2018.

128 Sports + Aviation (@sportsaviation), “N805WA.” Twitter, accessed June 2, 2022

129 Morgan Gstalter, “Advocacy group says trans woman was killed after US deported her back to El Salvador.” *The Hill*, February 21, 2019.

130 “U.N. Calls for Probe Into Violence Against Transgender Women in El Salvador.” *NBC News*, May 15, 2017.

131 Tim Fitzsimons, “El Salvador police officers convicted of killing trans woman who had been deported from U.S.”

Human Rights Watch wrote, “Responsibility for her death lies first and foremost with the Salvadoran police officers who killed her, but additional responsibility is borne by the U.S. Immigration and Customs Enforcement (ICE) for its failure to give Camila a chance to make her asylum claim, resulting in her deportation to a place where she feared for her life.”<sup>132</sup>

On the very same Swift/iAero plane, Salvadoran Ronald Acevedo was deported just one week after Diaz. He had fled El Salvador in 2017 in a desperate bid to save his life after repeated threats from the MS-13. Picked up by immigration authorities, placed in ICE detention and told he had no chance of receiving asylum, he was reportedly deported to El Salvador on Nov. 29, 2017, and disappeared a week later; his body, showing signs of torture, was later found in the trunk of a car.<sup>133</sup>

The plane that carried Camila and Ronald to their deaths has transported the Major League soccer team Sporting KC to matches; it has carried basketball teams from the University of Virginia, Penn State, and Syracuse Universities to games and tournaments; and it took the University of Wisconsin’s track and field team to at least one meet. (Furthermore, it was also used in at least one of the 2021 Haitian deportations discussed above.)<sup>134</sup>

## 2) TORTURE ABOARD PLANES

Many deportees are not only at risk of torture upon their return to their countries of origin, but actually experience it at the hands of U.S. officials and private contractors aboard the planes. The U.S. Torture Act defines torture as “an act committed by a person acting under the color of law specifically intended to inflict severe physical or mental pain or suffering (other than pain or suffering incidental to lawful sanctions) upon another person within his custody or physical control.”<sup>135</sup> Unfortunately, there are clear and well-documented examples of torture occurring on deportation flights, in violation of U.S.<sup>136</sup> and international<sup>137</sup> law as well as ICE’s own policies on the use of force.<sup>138</sup>

In some cases, in-flight torture takes the form of physical violence and dehumanization. One notorious example is a 2017 removal flight to Somalia which was rerouted to Senegal, where it remained on the tarmac for hours before eventually returning to the United States. The passengers reported that during their 40-hour odyssey aboard the plane, they suffered beatings, threats, forced straitjacketing, and the denial of access to working bathrooms, forcing

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*NBC News*, August 3, 2020.

132 [“Every Day I Live in Fear.”](#) Human Rights Watch, October 7, 2020.

133 Kevin Sieff; Carolyn Van Houten, [“When death awaits deported asylum seekers.”](#) *The Washington Post*, December 26, 2018.

134 See Sports + Aviation (@sportsaviation), [“Sporting KC.”](#) Twitter, April 3, 2021; and Sports + Aviation (@sportsaviation), [“Penn State Nittany Lions.”](#) Twitter, January 15, 2022; and Sports + Aviation (@sportsaviation), [“Syracuse Orange.”](#) Twitter, January 26, 2022; and Sports + Aviation (@sportsaviation), [“N418US Wisconsin.”](#) Twitter; and [ADSB Screenshots for all N418US flights](#)

135 The [Torture Act 2340-2340A, 18 USC](#) (1994).

136 In addition to the Torture Act noted above, for example, the Eighth Amendment to the U.S. Constitution prohibits cruel and unusual punishment; the Fifth Amendment prohibits all use of punishment of civil detainees (including immigration detainees) thus requiring a civil detainee only to show that any use of force against him was objectively unreasonable under the circumstances.

137 Under the U.N. Convention Against Torture, torture is defined as “[A]ny act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or her or a third person information or a confession, punishing him or her for an act he or she or a third person has committed or is suspected of having committed, or intimidating or coercing him or her or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.” 8 C.F.R. § 1208.18(a)(1)

138 ICE use of force policies are outlined in ICE 2019 [National Detention Standards for Non-Dedicated Facilities](#) and in [ICE 2011 Performance-Based National Detention Standards \(Revised 2016\)](#).

some to soil themselves in their seats.<sup>139</sup> Only two planes have flown this route for ICE, both of them operated by Omni Airlines: N207AX and N225AX. As noted above, N207AX has been used repeatedly by the Baltimore Ravens, but because of Omni's deliberate masking of its tail numbers post-2018, it is difficult to know which other teams have used this exact aircraft.

In some cases, specific devices are used as part of the torture. In recent years, ICE has begun using a full-body restraint device known as "The WRAP," marketed by its manufacturer as an alternative to the practice of "hog-tying" people who, in a momentary crisis, present a risk to themselves or others. Thus far, this is primarily known to have occurred on flights to Africa operated by Omni Air, although The WRAP was reportedly also used on a domestic ICE Air flight from Alexandria, LA, to Dallas, TX, in October 2020.<sup>140</sup> According to its manufacturers, The WRAP is intended for momentary use in de-escalating a crisis by restraining a person's legs in an extended position, while cuffing their hands at their back. Yet according to migrants and rights advocates, ICE uses The WRAP in ways that defy manufacturer recommendations, hauling WRAP-bound deportees onto buses, across airport tarmacs, and depositing them restrained on deportation flights in what sometimes amounts to hours in full-body restraints. Furthermore, where The WRAP is intended to maintain the body at a 90 degree angle, deportees report it being used to hold people at 30 or 40 degree angles, severely constraining their ability to breathe. Lastly, because deportees are already wearing five-point shackles when The WRAP is applied, The WRAP augments the constrictions caused by existing shackles, possibly causing nerve damage.

Several survivors of The WRAP report its use to terrorize deportees by making an example of one or two leaders. One person described being left on the tarmac, completely immobilized in The WRAP, with other empty WRAPs laid out nearby while the flight was boarded as an apparent signal to others that if they protested their deportation they might meet a similar fate.<sup>141</sup>

One man who reports having been restrained in The WRAP for around nine hours described his experience as follows:

"It was like being rolled into a bag. They tied my feet together, then they tightened The WRAP around my legs with three straps. They put something over my neck and around my torso and arms. They cuffed my hands in front of me and attached them to a chain around my waist. They snapped a rope or strap or cord from my neck to my feet. Then they leaned on my back and pushed my face toward my knees, and pulled the strap tight. My body was at a 40-degree angle. I was left completely immobile.

I was forced into The WRAP while we were still at Prairieland Detention Center. I was left in The WRAP from around 10:30 a.m. on November 11, 2020, until we were somewhere over the Atlantic ocean that night. They carried me all the way—four to six guys—from the detention center onto the bus, then onto the plane. While we were at the airport, I pleaded several times that I wanted to use the restroom but no one came to help me. It was so painful. The position was very stressful on my body, my muscles were shot with pain the entire bus ride and flight back to Cameroon.

They eventually took The WRAP off, but ... when I arrived in my country, I was arrested

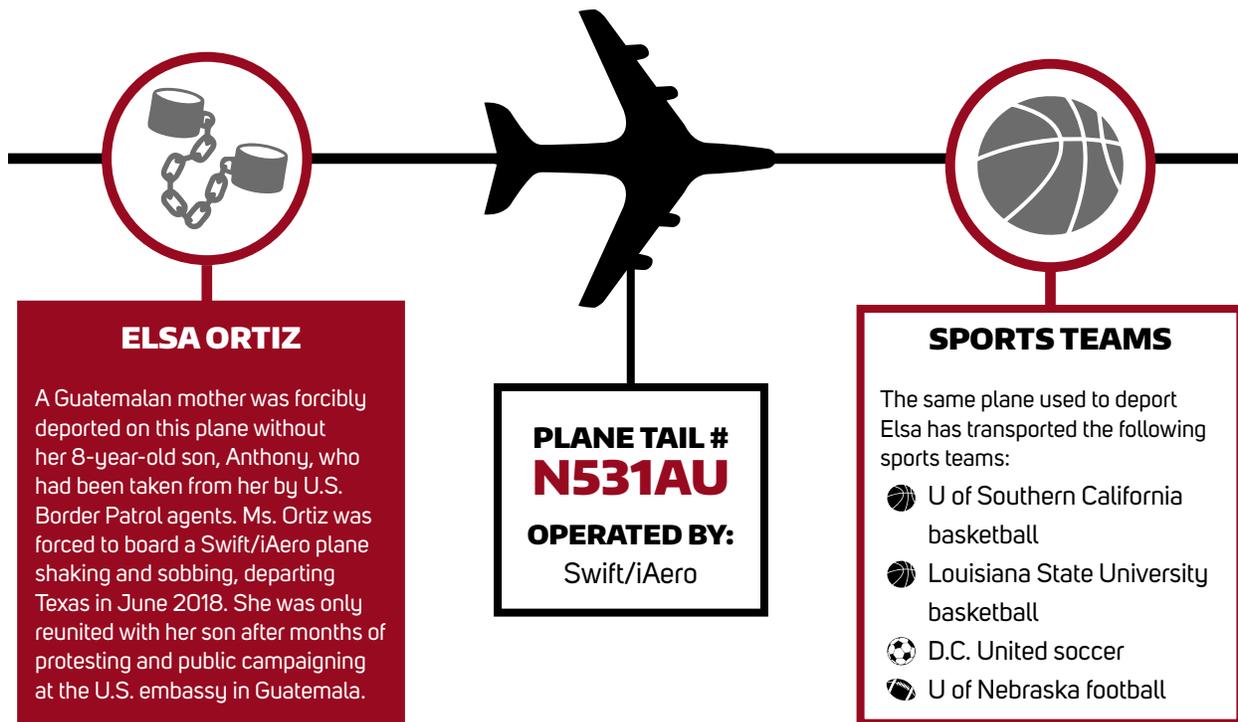
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139 See the class action lawsuit, [Ibrahim v. ICE](#), December 18, 2017.

140 See "[RE: Complaint Regarding ICE's Use of The WRAP as a Restraint Device](#)," complaint submitted to DHS Office for Civil Rights and Civil Liberties, October 13, 2021.

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141 Ibid.



at the airport and taken to police detention for further investigation. I was detained for 12 days. There were open sores my wrists where the ICE cuffs had cut into my skin. In detention I had no water or soap to keep them clean. They got infected. I was in a cell with many men. There was no toilet. My family finally managed to get me out and now I am in hiding in a third country. I cannot remember what is it like to feel safe.”<sup>142</sup>

As in the flight to Somalia described above, the October and November 2020 flights on which The WRAP was documented were conducted by Omni Air.

In other cases, onflight torture has resulted from the deliberate separation of families as part of Attorney General Jeff Sessions’ “zero tolerance” policy, an attempt to deter migration through deliberate cruelty.<sup>143</sup> In many cases, deportation

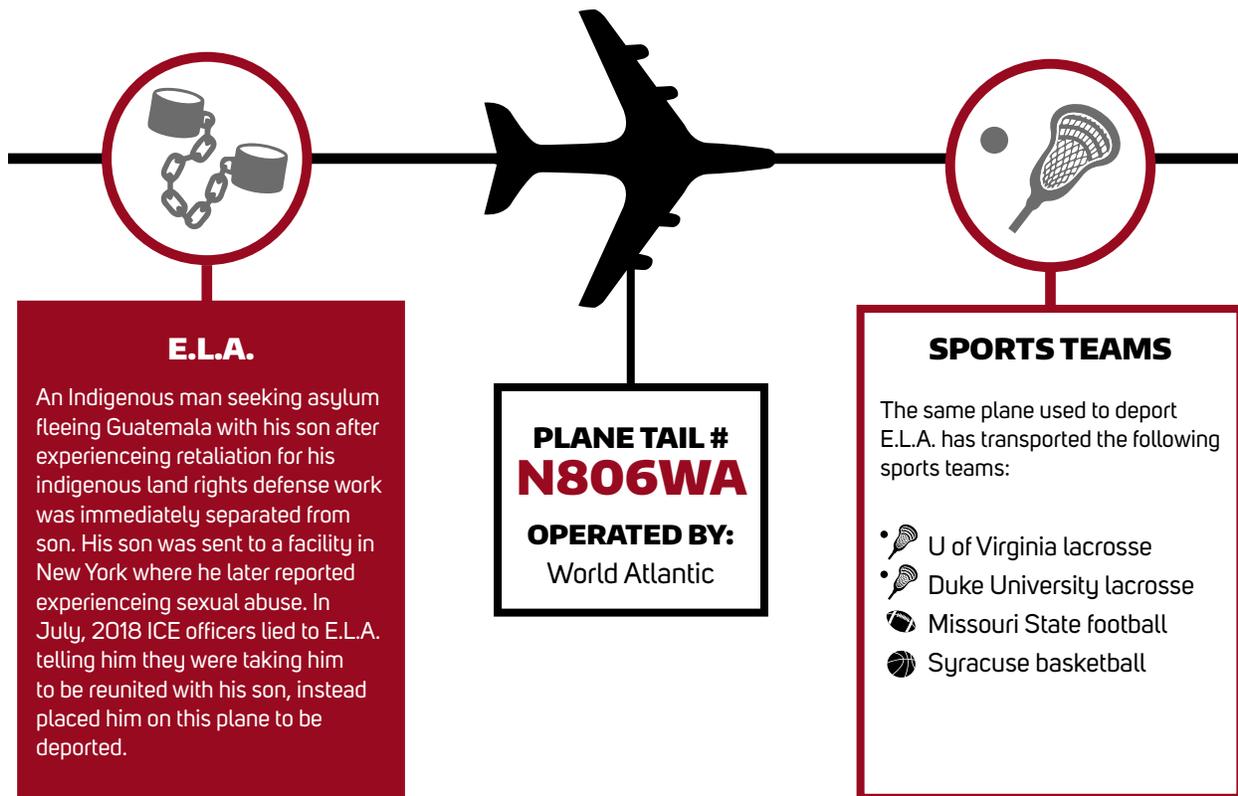
flights were used to return parents to their country of origin after they had been separated from their minor children, who remained in the United States. One example is Elsa Ortiz, a Guatemalan mother who was forcibly deported without her 8-year-old son, Anthony, who had been taken from her by Border Patrol agents. Shaking, sobbing, and noting that even ICE officials were in tears, Ms. Ortiz was forced to board a Swift/iAero plane departing Texas in June 2018; she reportedly cried the entire way to Guatemala, and was so upset that she was tranquilized upon arrival.<sup>144</sup> The same plane, with tail number N531AU, was subsequently

142 Ibid.

143 A wide array of legal and medical experts have concluded that family separation as it was practiced in 2018 constitutes torture; see for example, Hajar Habbach et al., “You Will Never See Your Child Again: The Persistent Psychological Effects of Family Separation,” Physicians for Human Rights, February 2020; and Jenny-Brooke

Condon, “When Cruelty Is the Point: Family Separation as Unconstitutional Torture,” *Harvard Civil Rights-Civil Liberties Law Review* 56 (2021): 38-76; and “Pediatricians Group Deems Trump’s Border Policy of Family Separation ‘Torture,’” *The Imprint*, January 10, 2021; and Amnesty International, “USA: Policy of separating children from parents is nothing short of torture,” June 18, 2018; and “The Young Center Submits Report to UN Condemning Parent-Child Separations under the Trump Administration’s ‘Zero Tolerance’ Policy as Torture,” Young Center for Immigrant Children’s Rights, September 14, 2021.

144 Miriam Jordan, “I Can’t Go Without My Son,’ a Mother Pleaded as She Was Deported to Guatemala,” *The New York Times*, June 17, 2018.



used by USC basketball,<sup>145</sup> LSU basketball,<sup>146</sup> and professional soccer team DC United,<sup>147</sup> among others.

Also in June 2018, an indigenous man identified in legal documents as E.L.A. fled Guatemala with his son after experiencing retaliation for his work in defense of indigenous land rights;<sup>148</sup> they aimed to seek asylum in the United States. As the Environmental

Defender Law Center writes, “Throughout Guatemala, land conflicts pit indigenous peoples against ranchers, palm oil companies, mining

companies, and developers. These conflicts all too often result in violence, forced evictions, destruction of crops, pollution, harms to human health, and other violations of indigenous

peoples’ human rights.”<sup>149</sup> In this sense, E.L.A.’s circumstances were not unusual, and could reasonably form the basis for a petition for asylum. Upon presenting themselves to the authorities, however, legal documents show that E.L.A. was placed

in a detention facility in Port Isabel, TX, and his son was sent to a youth facility in New York, where he later reported experiencing sexual abuse.<sup>150</sup> On July 23, 2018, ICE officers told E.L.A. they were taking him to be reunited with his son, but instead placed him on a deportation

**“ALTHOUGH THE NOTORIOUS ‘ZERO TOLERANCE’ POLICIES WERE LATER RESCINDED BY DONALD TRUMP, THE PRACTICE OF USING DEPORTATION FLIGHTS TO SEPARATE FAMILIES HAS NOT STOPPED.”**

145 Sports + Aviation (@sportsaviation), “[USC Trojans](#),” Twitter, March 31, 2021.

146 Sports + Aviation (@sportsaviation), “[Happy flight just landed back home full of @LSUBasketball](#),” Twitter, March 23, 2019.

147 Sports + Aviation (@sportsaviation), “[DC United](#),” Twitter, August 1, 2021.

148 [E.L.A. and O.L.C. v. United States of America](#), Case No. 2:20-cv-1524, October 15, 2020.

149 Environmental Defender Law Center, “[Resolving Land Conflicts in Guatemala](#),” accessed June 2, 2022.

150 [E.L.A. and O.L.C. v. United States of America](#), Case No. 2:20-cv-1524, October 15, 2020.

flight to Guatemala. This flight, apparently ICE Air mission # 181469, was operated by World Atlantic Airways using a McDonnell Douglas MD-83 with tail number N806WA, according to ICE records. The same plane has also been used by UVA's and Duke's lacrosse teams, Missouri State's football team, and Syracuse basketball.<sup>151</sup>

Although the notorious “zero tolerance” policies were later rescinded by Donald Trump, the practice of using deportation flights to separate families has not stopped. To some degree, virtually all deportations separate families, and grueling examples of children torn from guardians' arms continue to take place with tragic regularity. For example, in early 2019 a Guatemalan woman referred to as “Alexa”<sup>152</sup> arrived in the United States with her six year old niece, for whom she was the sole remaining guardian after gang members had slaughtered all other members of the family. Even the authorities to whom she reported the crime advised her to leave the country for her own safety. When Alexa and her niece arrived in the United States seeking asylum, the Border Patrol separated them, sending Alexa to Arizona and placing the girl in foster care in New York. For a year, Alexa fought to regain custody of the child; they were only reunited when Alexa agreed to drop her petition for asylum in order to be reunited with her niece. They were deported on March 11, 2020,<sup>153</sup> on a Swift Airlines flight with tail number N624XA. The plane was subsequently used by many teams, including basketball teams from Syracuse, Villanova, and UC Santa Barbara, and the professional soccer team DC United.<sup>154</sup>

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151 Sports + Aviation (@sportsaviation), “[N806WA](#),” Twitter.

152 This is a pseudonym.

153 Valeria Fernández and Jude Joffe-Block, “[The Trump administration is still separating children from their family members at the border. Inside a hidden crisis.](#),” *The Guardian*, October 25, 2019.

154 Sports + Aviation (@sportsaviation), “[N624XA](#),” Twitter.

### 3) DEPORTATION IN DEFIANCE OF DUE PROCESS

When challenged about the agency's deportation practices, ICE spokespeople typically insist that they are merely upholding the law. Yet in fact, deportation flights often interrupt, inhibit, or even defy ongoing legal proceedings.

For example, deportations often remove people who have pending legal processes before the U.S. courts, violating their rights to have their cases heard. For example, at least one of the Cameroonian asylum-seekers who was deported on October 13, 2020 still had an asylum petition under appeal; upon arrival in Cameroon, he was detained and beaten by government agents for being a critic of the government.<sup>155</sup> This Cameroonian deportation took place on a Boeing 767 owned by Omni Air International. Far from being an isolated incident, however, UWCHR's analysis of ICE

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**“DEPORTATIONS OFTEN REMOVE PEOPLE WHO HAVE PENDING LEGAL PROCESSES BEFORE THE U.S. COURTS, VIOLATING THEIR RIGHTS TO HAVE THEIR CASES HEARD.”**

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datasets from October 1, 2010 to May 8, 2020, reveals that 10,923 people were deported on ICE Air flights despite having pending appeals before the courts. (Perhaps most remarkable about this number is that it is derived from ICE's own records, showing the agency *knowingly* deported upwards of ten thousand people with pending legal cases; there may be many more about which the agency was unaware.)

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155 Joe Penney and Christian Locka, “[Deported Cameroonian Asylum Seekers Fear for Their Lives.](#),” *The American Prospect*, November 9, 2020

In other cases, plaintiffs involved in cases against the U.S. immigration authorities have been summarily removed in ways that suggest deliberate retaliation against whistleblowers who reported abuse in ICE facilities. One example is that of Bakhodir Madjitov, whom ICE agents attempted to deport from JFK airport in June 2019; when he refused to board the plane, insisting (correctly) that the Third Circuit Court of Appeals had issued a stay of removal in his case, the agents beat and tasered him, resulting in injuries for which he was then taken to the hospital.<sup>156</sup> Madjitov then sued the U.S. government for assault – and four days later, ICE deported him to Uzbekistan on a private charter flight.<sup>157</sup>

Relatedly, on August 7, 2018, a Salvadoran mother and daughter filed suit in a landmark case contesting then-Attorney General Sessions' reinterpretation of asylum to exclude Central American survivors of gender-based violence.<sup>158</sup> Two days later, they were deported. In this case, upon learning of the plaintiffs' deportation, the judge took the unusual step of ordering the plaintiffs returned to the United States, threatening to hold Attorney General Sessions in contempt of court if he failed to comply.<sup>159</sup> However, it is far more common in such cases for plaintiffs to be simply unable to continue pursuing justice post-deportation. At least six of the women who filed suit for being forcibly sterilized while held at the Irwin Detention Center in Georgia were deported,<sup>160</sup> for

example. Two of these women were aboard the aforementioned October 13, 2020 deportation flight to Cameroon.<sup>161</sup> It is unclear whether they have been able to continue pursuing justice.

In yet a third category of cases, migrants were removed without having had access to the courts at all. The ARTS database reveals that from October 1, 2010 to May 8, 2020, 778,528 people were removed through expedited removal,<sup>162</sup> administrative removal,<sup>163</sup> or reinstatement of removal<sup>164</sup> – three forms of summary deportation in which individuals are denied access to U.S. courts, raising serious due process concerns.<sup>165</sup> [According to legal scholar Daniel Kanstroom](#), “In most cases, a person subject to expedited removal is detained, has no right to counsel, often has no time to communicate with her family members or to

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156 Rowaida Abdelaziz, “ICE Depports Immigrant Father Who Sued Agents For Assault,” *Huff Post*, September 22, 2020; and Matt Katz, “ICE Swiftly Depports Uzbek Man After He Alleges Being Beaten In Custody,” *The Gothamist*, September 22, 2020.

157 Matt Katz, “ICE Swiftly Depports Uzbek Man After He Alleges Being Beaten In Custody,” *The Gothamist*, September 22, 2020; see also CAIR-NY, [Madjitov v. ICE](#), December 20, 2021.

158 [Grace v. Sessions complaint](#), case no. 1:18-cv-01853, August 7, 2018.

159 [Grace v. Sessions order](#), case no. 1:18-cv-01853, August 9, 2018.

160 Molly O’Toole, “ICE is deporting women at Irwin amid criminal investigation into Georgia doctor,” *LA Times*, November 18, 2020.

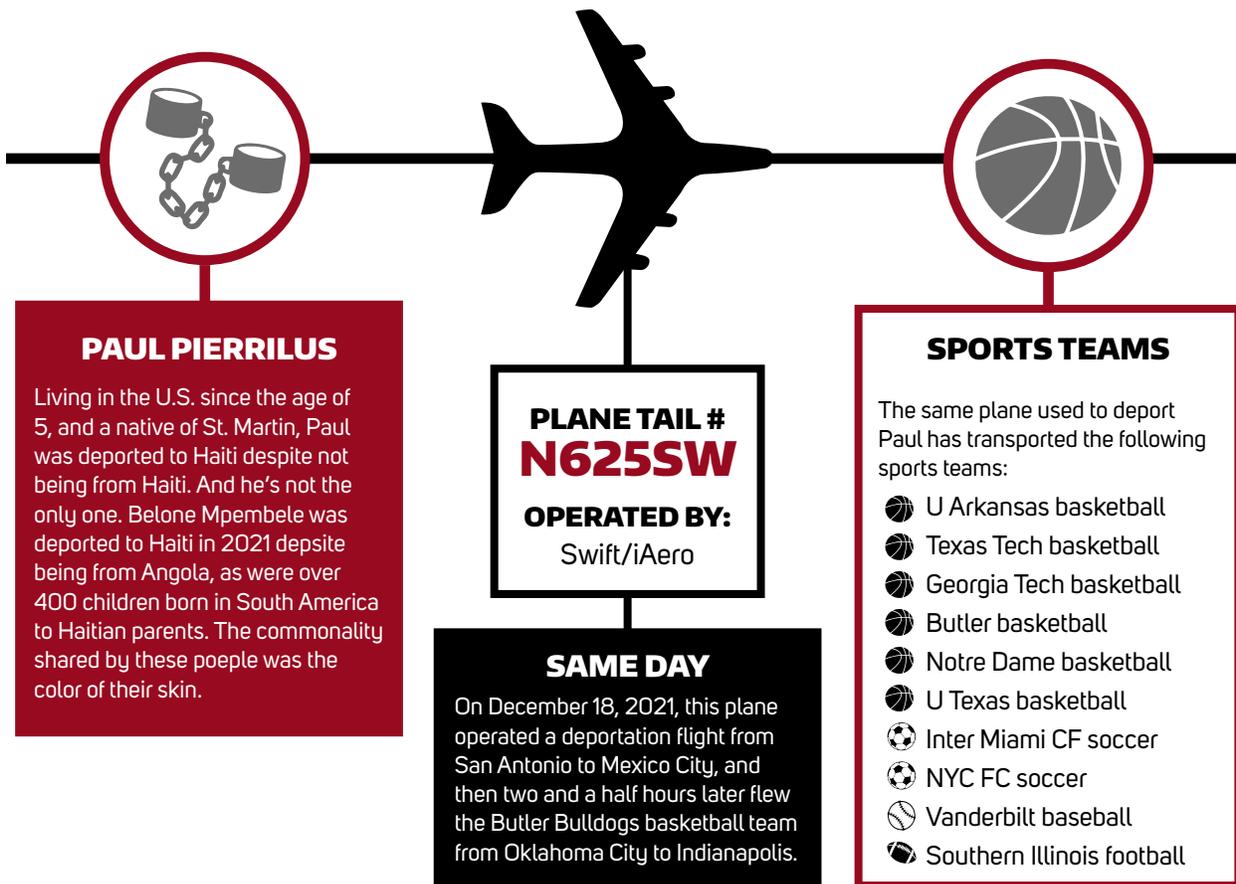
161 Joe Penney and Christian Locka, “[Deported Cameroonian Asylum Seekers Fear for Their Lives](#),” *The American Prospect*, November 9, 2020

162 Expedited removal is a process whereby the Department of Homeland Security removes an individual without granting them access to a hearing before an immigration judge or access to an appeal before the Bureau of Immigration Appeals. Expedited removals are marked with status codes “8F”, “8G”, “8H”, or “8I” in the ARTS dataset.

163 Administrative removal is the process whereby the Department of Homeland Security removes noncitizens who are also not permanent residents who have been convicted of an aggravated felony under 8 USC. § 1228(b), INA § 238(b); the process occurs without a hearing before an immigration judge.

164 Reinstatement of removal orders are applied to cases of individuals who were previously removed and re-entered without authorization; under the IIRIRA, they can be summarily deported without an opportunity to present their case before a court.

165 Created by the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996, these three processes fast-track deportations for certain categories of individuals; their use has been steadily expanded in recent years. As a result, ICE’s own data shows that in FY 2018, nearly 71% of removals on ICE Air were of people whose cases were deemed ineligible for judicial review. UWCHR researchers arrived at this number using ARTS removal records marked with status codes “8F” (“Expedited Removal”); “8G” (“Expedited Removal – Credible Fear Referral”); “8H” (“Expedited Removal – Status Claim Referral”); “8I” (“Inadmissible – ICE Fugitive – Expedited Removal”); “11” (“Administrative Deportation/Removal”); or “16” (“Reinstated Final Order”). Status code descriptions from Daniel Kerwin, Daniela Alulema, and Siqi Tu, [“Piecing Together the US Immigrant Detention Puzzle One Night at a Time: An Analysis of All Persons in DHS-ICE Custody on September 22, 2012”](#), *Journal on Migration and Human Society*, August 8, 2018.



seek legal counsel and has no right to appeal.”<sup>166</sup>

Lastly, ICE requires that travel documents be obtained from a person's home country prior to their deportation;<sup>167</sup> without documents, a person risks becoming stateless, and is likely unable to access services upon arrival. Yet ICE's own records show that from October 1, 2010 to May 8, 2020, the agency deported 70 migrants without travel documents. In some cases, they were sent to countries that were not their own.<sup>168</sup>

Similarly, hundreds of Black asylum-seekers were included on recent mass deportations to Haiti despite not being Haitian themselves. For example, Paul Pierrilus, a native of St. Martin,

had lived in the United States since age 5 but was deported without travel documents to Haiti on February 2, 2021, despite Congressional interventions on his behalf. The flight took place on a Swift/iAero plane with tail number N625SW, which has also been used by MLS teams Miami CF and New York City CF, collegiate basketball teams from Vanderbilt, UNC, and FSU, and many other sports teams<sup>169</sup> And his was far from the only such case: another man, Belone Mpembele, was reportedly deported to Haiti in late 2021 despite being from Angola,<sup>170</sup> as were over 400 children born in South America to Haitian parents.<sup>171</sup> The commonality shared by these people was the color of their skin.

166 Daniel Kanstroom, [“Expedited Removal and Due Process: ‘A Testing Crucible of Basic Principle’ in the Time of Trump.”](#) *Washington and Lee University School of Law* 75, 1323 (2018).

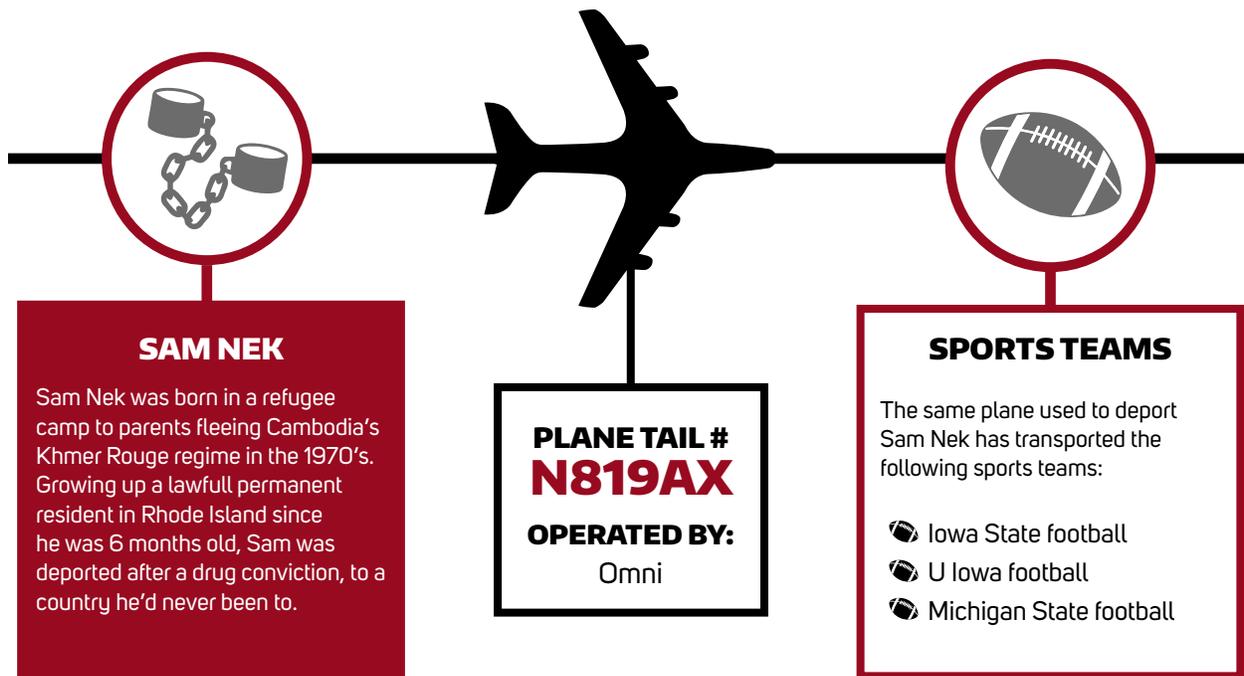
167 See ICE's [Detention and Deportation Officer's Field Manual Update](#), March 27, 2006, p. 77-84.

168 See, for example, Scott Bixby, [“Deported to the Wrong Country—For a Crime He May Not Have Committed.”](#) *The Daily Beast*, April 25, 2019.

169 See Sports + Aviation (@sportsaviation), [“N625SW.”](#) Twitter.

170 Joe Parkin Daniels, [“They treated us like animals’: Haitians angry and in despair at being deported from US.”](#) *The Guardian*, September 26, 2021.

171 [“They’ve been sent to hell’: the hundreds of Latin American children the U.S. deported to Haiti \(even though they weren’t born there\).”](#) *CE Noticias Financieras*, November 16, 2021.



#### 4) DOUBLE PUNISHMENT

In recent years, the United States has also accelerated deportations of former refugees who arrived decades earlier from countries such as Cambodia and Somalia. In most cases, those deported arrived to the United States as children fleeing violence in their homeland – violence often partly caused or exacerbated by U.S. involvement – and were granted permanent residency upon arrival. Yet subsequent criminal convictions made them vulnerable to the revocation of residency status. Immigrant rights advocates decry this practice as “double punishment,” since unlike U.S. citizens, immigrants are punished twice for a single crime – once by the criminal justice system, and once by ICE. In many Southeast Asian cases, for example, these are people who arrived as refugees fleeing U.S.-sponsored wars, experienced a run-in with the law while young, served their time, and were surprised when decades later, immigration authorities picked them up and deported them to a country they had never known.

For example, Sam Nak was deported to Cambodia despite never having set foot in the country.<sup>172</sup> Born in a refugee camp in Thailand to parents who fled the genocide, he'd grown up a lawful permanent resident in Providence, Rhode Island, never imagining that a drug conviction would land him in ICE detention, and then on a deportation flight to Cambodia. On August 20, 2018, ICE records show that mission # 181654 carried 149 passengers on a 53-hour deportation flight that departed El Paso and stopped in Honolulu, Delhi, and Phnom Penh, before culminating in Yangon, Myanmar; passengers were locked in handcuffs and leg irons throughout. The plane, a Boeing 777 with tail number N819AX, is owned and operated by Omni Air International, and has also been used by football teams from Iowa State, the University of Iowa, and Michigan State.<sup>173</sup>

<sup>172</sup> See Thomas Cartwright, “ICE Air Flights April 2022 and Last 12 Months,” *Witness at the Border*, May 2, 2022.

<sup>173</sup> Sports + Aviation (@sportsaviation), “N819AX,” Twitter.

# TOWARDS ACCOUNTABILITY

ICE is the entity that operates this system of torture in the skies; the agency clearly bears the lion's share of responsibility for stopping it. Yet there is no effective oversight of ICE Air operations; indeed, every part of the U.S. government that should be investigating abuses, punishing those responsible, and preventing the repetition of these mistakes, has failed:

The Department of Homeland Security has taken no action to ensure safety, respect, and compliance with the law in ICE Air's operations. Despite awareness of abuses reported on ICE Air flights as far back as 2007,<sup>174</sup> including through internal reports filed by ICE's own employees,<sup>175</sup> the agency has apparently failed to conduct any investigation of the incidents brought to its attention.<sup>176</sup> Nor has the agency made public any changes to policy or practice that would prevent the repetition of abuses. Indeed, while ICE has mechanisms at its disposal to punish private charter operators for late departures or mechanical failures, it has created none to hold them accountable for the safety of the people they transport (or, indeed, to protect their own personnel, who are occasionally injured when violence occurs on flights). In 2019, a DHS employee in charge of ICE Air contracts told UW researchers that the only mechanisms available holding contractors accountable to the terms

of their contracts were monetary fines;<sup>177</sup> a subsequent UWCHR review of ICE ARTS records shows that of 19,079 missions flown between October 1, 2010 and May 8, 2020, ICE fined contractors 42 times – never once in response to violence or abuse.<sup>178</sup>

- The courts have taken no action to hold ICE accountable for abuses or safety lapses on deportation flights, in part because ICE has arranged the flights through a structure that deflects responsibility. In the very few cases that have been brought to court, ICE has claimed that any abuses were the exclusive responsibility of the contractor operating the flight: in one such case, for example, the agency's lawyers argued "The United States cannot be held liable for the negligence of its independent contractors whose daily operations are not closely supervised by U.S. government officials."<sup>179</sup> (This, despite the fact that ICE elsewhere asserts that "There are a variety of ERO personnel on board who ensure the health and safety of the aliens and officers during removal flights."<sup>180</sup> and, in its own ICE Air Operations handbook, stipulating that the Flight Officer in Charge is "responsible for overseeing the rear cabin

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174 Agency records released to UWCHR include complaints about on-flight misconduct that date back to 2007. See UWCHR report, "[DHS Document Reveals Allegations of Abuse on ICE Air Deportation Flights](#)," August 26, 2019.

175 ICE personnel filed Significant Incident Reports – internal documents used to report developments up the chain of command – about violence onboard deportation flights as far back as 2015 (see [ICE Significant Incident Report](#), February 24, 2015, for an example).

176 DHS' Office of the Inspector General and Office of Civil Rights and Civil Liberties have responded to repeated FOIA requests since 2018 by insisting they have no records of any investigations.

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177 See UWCHR's previous report, "[Hidden in Plain Sight: ICE Air and the Machinery of Mass Deportation](#)," April 23, 2019.

178 Of the 42 times fines were levied between 2018 and 2020; 26 were listed as occurring for mechanical reasons, 4 for "aircraft/crew issues," and 1 for "delays." In 11 cases no reason was listed. None of these flights in which fines were levied were long range international charters operated by Omni or ATS.

179 [Thiersaint v. DHS](#), civil action no. 18-12406-PBS, April 1, 2019.

180 "[ICE Air Operations prioritizes safety and security for its passengers](#)," ICE, November 15, 2021, accessed February 16, 2022; screenshot saved at <https://drive.google.com/file/d/10mBjk9C-MsQixl8pmh10SR5iBlSWXtNr/view?usp=sharing>

crew and detainees... [and] coordinating aircraft security measures."<sup>181</sup>)

- Furthermore, federal government agencies in charge of ensuring safety and legality of air travel have taken no known action to investigate abuses on ICE Air flights. The private charter companies who fly for ICE are certified by the FAA as "Part 121 carriers," and ostensibly regulated by the agency under rules established in 14 CFR Part 91. Upon review of FAA's quarterly enforcement reports since the 2005 establishment of a branch to oversee charter companies, UWCHR researchers found multiple sanctions of ICE Air companies, but never for mistreatment of passengers aboard flights.<sup>182</sup> Similarly, the safety implications of keeping all those being deported in full restraints throughout the flight is not mentioned anywhere in the FAA's regulations, despite the fact that being shackled at the hands and feet obviously impedes deportees' ability to exit the plane quickly in an emergency.<sup>183</sup> These regulations and their enforcement seem rooted in the assumption that "aviation safety" requires protection for the plane's machinery and crew, not its passengers.

- Lastly, Congressional oversight has failed to produce any appreciable result. As regards aviation safety, the responsible committees in both the House and Senate have declined to take up this work. The Senate Committee on Commerce, Science, and Transportation, and its subcommittee on Aviation Safety, Operations, and Innovations have evidently not conducted any work on this. The House of Representatives' Subcommittee on Aviation, similarly, has not exercised any discernible oversight on this issue.

As regards oversight of the Department of Homeland Security, the prospect of a meaningful response is bleaker still: over 90 committees and subcommittees claim some oversight over the agency,<sup>184</sup> and yet none of them has effectively reined in its abuses, even in areas where they have generated great public outcry.

In brief, our government has failed, at every level, to ensure the safety and legality of deportation flights. The responsibility thus falls to us, as members of communities that value human rights, to not only demand better of our elected officials, but also of each other. Sports teams who fly on the same planes used for torture are sustaining a system that not only perpetuates brutal abuses, especially against people of color, but reaps a profit from human suffering.

This must stop.

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181 See ["ICE Air Operations Handbook,"](#) Edition 1.0:2015, p.8.

182 Over the past five years, for example, the FAA fined ICE Air operators 8 times for drug testing violations and maintenance violations. While such problems undoubtedly impact safety of operations, the failure to look into multiple published accounts of onflight beatings and torture is troubling.

183 Legal scholars and rights advocates have called attention to the harmful effects of the use of restraints during proceedings in immigration court focusing on their impact on judicial decision making, detainee participation, and overall dehumanization (see, for example, Fatma Marouf, ["The Unconstitutional Use of Restraints in Removal Proceedings,"](#) *Scholarly Works*, 2015, p. 931; and Lily Hartmann, Jonathan Demme, and Lisa Lehner, Esq., ["They Left Us with Marks: The Routine Handcuffing and Shackling of Immigrants in ICE Detention,"](#) *Americans for Immigrant Justice*, April 2018), no similar inquiries have been conducted into their indiscriminate use, sometimes for days at a time, while aboard aircraft.

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184 Scott Welder, Christine Kwon, and Jennifer Dresden, ["There's just one Department of Homeland Security. So why does it have so many bosses in Congress?,"](#) *The Washington Post*, October 21, 2021.



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