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June 22, 2018

The Honorable Kirstjen Nielsen  
Secretary  
Department of Homeland Security  
3801 Nebraska Avenue, N.W.  
Washington, DC 20528

The Honorable Alex Azar  
Secretary  
Department of Health and Human Services  
200 Independence Avenue, S.W.  
Washington, DC 20201

Dear Secretary Nielsen and Secretary Azar:

I write to request information concerning the implementation of the administration's "zero tolerance" policy for illegal entry into the United States. As detailed by Attorney General Jeff Sessions in May, this policy refers for federal prosecution all adults who unlawfully cross the Southwest Border — regardless of whether they arrive alone or with their children. This mandatory criminal prosecution has resulted in parents being taken into federal criminal custody, at which point their sons and daughters have been considered unaccompanied alien children (UAC) and separated from them.

The results have been staggering. The Department of Homeland Security reported that over the five week period from May 5 to June 9, 2,342 children were separated from their mothers and fathers. Given that separations continued beyond this timespan, this figure certainly understates the magnitude of the separations that occurred.

In response to an outpouring of anger from the American people over this inhumane policy, President Trump signed an executive order on June 20, 2018 that purports to solve the problem he created. But it does no such thing. The executive order does not rescind the zero tolerance policy. It instead instructs the Department of Defense to provide or construct military facilities for the purposes of detaining immigrant families together — a concerning proposition that harkens back to the internment camps of World War II. The order also is silent on how already separated families will be reunited.

According to media reports, hundreds of migrant children who were forcibly separated from their parents at the border were transferred to facilities — some as far away as New York — for shelter.<sup>1</sup> Unaccompanied minor facilities are operated throughout the United States, though it is unclear to which of these facilities children detained as a result of the "zero tolerance policy"

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<sup>1</sup> E.g., Liz Robbins, *Hundreds of Children Have Quietly Been Sent to New York*, New York Times (June 20, 2018), <https://www.nytimes.com/2018/06/20/nyregion/children-separated-border-new-york.html?action=click&module=Top%20Stories&pgtype=Homepage>.

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have been sent. It is also unclear what processes and standards are in place to keep track of children and the family from which they have been separated, further complicating any future reunification efforts.

The effects of President Trump's recent executive order remain to be seen. It is unclear whether family separations will in fact stop. And if, as the President claims this order requires, families are kept together, children may end up incarcerated with their parents in criminal custody.

As the country grapples to understand the ramifications of the zero tolerance policy and the subsequent executive order, I write to request information about their effects on Massachusetts. I ask that you respond to the following questions by July 6, 2018.

1. Were any children who were separated from their parents under the zero tolerance policy ever held in facilities in Massachusetts? If so, how many? Please identify the facilities and whether they were operated by the Department of Health and Human Services' Office of Refugee Resettlement and compliant with requirements under the 1997 Flores Settlement Agreement. Are any children still being held in facilities in Massachusetts?
2. Were any children who were separated from their parents under the zero tolerance policy released to a sponsor in Massachusetts? If so, how many?
3. Were any parents who were referred for federal prosecution under the zero tolerance policy at any point held in detention facilities in Massachusetts — either administrative or criminal? If so, how many? Please identify these facilities.
4. Are there any facilities in Massachusetts that the Secretary of Defense intends to make available to the Secretary of Homeland Security under the executive order to incarcerate family units? Does the Secretary of Defense intend to construct any such facilities in Massachusetts under the executive order?
5. How does this administration plan to reunite families that were separated under the zero tolerance policy — including those who may be detained or otherwise reside in Massachusetts?

I look forward to receiving your prompt response. If you have any questions, please contact Callan Bruzzone of my staff at 202-224-2742. Thank you for your attention to this matter.

Sincerely,



Edward J. Markey  
United States Senator