

United States Senate

October 6, 2021

The Honorable Xavier Becerra
Secretary
U.S. Department of Health and Human Services
200 Independence Ave SW
Washington, DC 20201

Secretary Becerra,

I am deeply concerned, and frankly astonished, by the administration's blatant disregard for the health and safety of unaccompanied alien children (UACs). The interagency failure to protect UACs, combined with President Biden's empty rhetoric and Vice President Harris' flippancy toward the humanitarian crisis at the border, has made one fact clear: this administration is more concerned with optics than actual conditions. Since your confirmation, you have repeatedly chosen to sacrifice sound policy at the altar of good press — thereby serving your own interests instead of adhering to processes established by U.S. law and regulation. As the number of total illegal immigrant apprehensions at the southwest border has reached unprecedented levels, U.S. Customs and Border Protection (CBP) processing facilities are overwhelmed with UACs, creating overcrowded conditions that put UACs at severe risk of COVID-19 infection. Instead of focusing on how to appropriately process individuals based on credible fear determinations, take action via expedited removal or Title 42 expulsion where legally appropriate, or even establish a process for COVID-19 testing and mitigation, the administration worked to provide pictures to the media showing empty processing centers in an attempt to prove, albeit unsuccessfully, that the border was under control and children were not "in cages."¹ However, in the process of generating these images to claim a political win for the Biden administration, UACs were used as pawns. The media has published numerous reports of actions the administration has taken to expedite the processing of UACs, even waiving vital steps that ensure the safety of these minors. Under your watch, UACs have been exposed to public health and safety infractions, both in federal custody and once released.

Any claim that this administration's priority is to process illegal immigrants in a fair and humane manner has been proven demonstrably false. It is the responsibility of the Office of Refugee Resettlement (ORR), within the Department of Health and Human Services (HHS), to "take into consideration the unique nature of each child's situation and incorporate child welfare principles when making placement, clinical, case management, and release decisions that are in the best interest of the child."² Yet, in September, it was reported that HHS could not reach a third of all UACs they have released to parents or legal guardians this year, an estimated 39,000

¹ <https://www.foxnews.com/politics/dhs-releases-images-of-empty-border-patrol-facility-migrants-hhs>

² <https://www.acf.hhs.gov/orr/programs/uc>

minors.³⁴ Several other reports confirm that HHS, while maintaining criminal background checks for parents or legal guardians, has temporarily suspended background checks for other adults living in the household to which these minors are being released.⁵ Some UACs were released directly to labor traffickers, forcing minors into agricultural processing facilities across the country.⁶ However, these examples only describe the lack of concern for what happens to UACs after they are released from the care of the U.S. government. HHS has also waived Federal Bureau of Investigation (FBI) background checks for caregivers working at facilities where UACs are held prior to release.⁷ In July, two HHS whistleblowers sent a letter to Congress describing the “gross mismanagement and specific endangerment to health and public safety” occurring at Fort Bliss, one of the locations used to house UACs until they can be placed in a home.⁸ The whistleblowers claim that government contractors with “no relevant skills or experience” are being paid to support facility operations. Additionally, the whistleblowers describe a widespread COVID-19 outbreak among the minors and employees, yet every effort has been made to downplay the infection rate. As if these conditions were not horrific enough, 41 pages of official HHS documents, obtained through the Freedom of Information Act, describe 33 allegations of sexual assault *in one month*, with many occurrences perpetrated by individuals associated with non-profit organizations under contract with HHS.⁹ In the aggregate, these instances support a broader claim of unsafe and unhealthy living conditions managed by the federal government — conditions entirely and utterly unfit for children. These reports are unacceptable and immediate action to rectify the situation must be taken.

In light of these alarming claims, please respond to the following questions so that I may have a greater understanding of how HHS is attempting to correct the serious missteps reported by the media and ensure no more children are harmed by this administration’s failed attempt at humanely processing UACs:

- What is HHS doing to locate UACs who have been released and with whom HHS has failed to successfully engage as required by statute?
- Has HHS resumed conducting background checks for all adults living in the household prior to releasing UACs into their care? If not, why not?
- What process is in place to mitigate harm when HHS releases a UAC into an adult’s care and later determines the adult has criminal convictions or other derogatory information?
 - If HHS has lost contact with the UAC, what steps does HHS take to remove the UAC from the adult?

³ <https://www.axios.com/migrant-children-biden-administration-a597fd98-03a7-415c-9826-9d0b5aaba081.html>

⁴ <https://www.cbp.gov/newsroom/stats/southwest-land-border-encounters>

⁵ https://www.washingtonpost.com/immigration/unaccompanied-children-parents/2021/04/19/9ce407f4-9cbc-11eb-9d05-ae06f4529ece_story.html

⁶ <https://news.bloomberglaw.com/daily-labor-report/u-s-probes-trafficking-of-teen-migrants-for-poultry-plant-work>

⁷ <https://apnews.com/article/joe-biden-health-immigration-child-welfare-coronavirus-pandemic-c4c87f6e76a7fd3ab6e4850ed028c002>

⁸ <https://whistleblower.org/wp-content/uploads/2021/07/070721-Fort-Bliss-Whistleblowers-Disclosure.pdf>

⁹ <https://www.judicialwatch.org/wp-content/uploads/2021/08/JW-v-HHS-UACs-August-2021-01190.pdf>

- What steps has HHS taken to prevent UACs from being released to labor traffickers? Is HHS coordinating with DHS on tracking down and arresting these traffickers? Does releasing UACs to labor traffickers violate the William Wilberforce Trafficking Victims Protection Reauthorization Act (TVPRA)?
- What investigations are underway regarding the 33 allegations of sexual assault reported by Fox News on September 22, 2021?
 - How many of the staff members involved in the allegations have been terminated? How many have been charged for criminal misconduct?
 - How many of the UACs alleged to have perpetrated these occurrences have been charged for criminal misconduct?
- What steps has HHS taken to prevent further instances of sexual assault at the locations where UACs are reporting such occurrences?
- Has HHS terminated any contracts with the non-profit organizations where these allegations of sexual assault occurred? If not, why not?

Responses to these questions are imperative to ensure the wellbeing of these children and determine the appropriate next steps or corrective actions. Thank you for your prompt reply.

Sincerely,

A handwritten signature in blue ink that reads "Tommy Tuberville". The signature is fluid and cursive, with the first name "Tommy" and last name "Tuberville" clearly legible.

Tommy Tuberville

U.S. Senator