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October 15, 2019

Acting Secretary
U.S. Department of Homeland Security
Washington, D.C. 20528

Dear Acting Secretary:

On October 2, 2019, the New York Times reported that the Department of Homeland Security (DHS) is drafting new federal regulations to implement a DNA collection program for all detained individuals, including children, regardless of their immigration status. The article states that unlike the Double Helix 2.0 program used to examine familial claims, the new regulations would allow for the collection of more comprehensive DNA profiles. These profiles would be identical to those used by law enforcement for criminals and will be uploaded directly to the FBI's Combined DNA Index System (CODIS) database, thus defining all detainees as criminals.

On April 30, 2019, CNN first reported that DHS would embark on a pilot Rapid DNA testing program at the border dubbed Operation Double Helix. We were interested to see how this pilot program would be used to identify fraudulent familial relationship claims made by individuals entering or attempting to enter the United States. In an interview with Hill.TV you declared the three-day pilot program a success, even though inconsistent rates of success were reported to the public and Congress: and questions still lingered of its accomplishments.

We were perplexed to discover how soon after the pilot program ended, the Homeland Security Investigations office (HSI), in partnership with Enforcement and Removal Operations (ERO), published a solicitation on May 28, 2019 to establish a full-fledged DNA testing program. Operation Double Helix 2.0. This contract was quickly awarded on June 14th of this year, and clearly outlined how DNA collected under this program would be destroyed and not uploaded to any existing databases. We also seek to understand why the solicitation stated that DHS intends to DNA test both "*aliens encountered seeking to enter the United States, either legally or illegally*".

The deployment of Operation Double Helix and the underlying Rapid DNA testing technology at the border have clear advantages for criminal applications, but we seek to understand how the technology is being applied by DHS for non-criminal applications. We also seek to understand how the expanded testing will be executed, and how the solicitation for the additional DNA testing will be made.

As DHS enters the second phase of its DNA testing program and has subsequently proposed the expansion of the testing beyond family units, it is essential for Congress to understand how this technology and deployed programs serve national interests. Congress must know how the technology is administered, how results are applied, whether the program is effective enough to justify its use at the border and if it is truly necessary to collect the DNA of every individual who interacts with DHS.

We respectfully request answers to the following questions as they pertain to both the Operation Double Helix pilot program, the subsequent Operation Double Helix 2.0 program, and the proposed testing at all detention facilities.

Program Administration

1. Under Operation Double Helix 2.0 it is written DNA testing will be performed on both *"aliens encountered seeking to enter the United States, either legally or illegally"*. Please explain what DHS defines as an illegal versus a legal border crosser?
 - a. As the DNA testing program expands, will all detainees be subject to DNA testing?
2. Since the deployment of Rapid DNA testing at the border, how many family units have been processed at the border during the pilot program and since the launch of Operation Double Helix 2.0? (Provide total number of family units and overall number of individuals)

Of these family units:

- a. How many were "legal" versus "illegal" border crossers?
 - b. How many legal and illegal family units have been DNA tested?
 - c. When using DNA testing, what is considered a fraudulent familial claim?
 - d. How many family units were found to be fraudulent using DNA testing?
 - e. How many were found to be related within the limits of the DNA test?
 - f. How many types of familial relationships were identified through the rapid DNA tests?
 - g. How often did DNA testing corroborate the familial claims made?
 - h. Were family units whose familial relationship were verified through DNA testing but were found not to be parent/child separated?
3. Please provide information on what metrics are being used by DHS to evaluate the success of the program and provide up to date evaluations of the program's success.
4. For the family units processed at the border, please provide a breakdown of the types of supporting evidence presented to ICE to support the familial claim made by families tested?
 - a. How often was DNA testing the only available evidence available for determining familial relationship?

5. What actions are taken when a family unit suspected of fraud refuses to undergo rapid DNA testing?
6. For cases where a familial relationship is claimed but DNA testing refutes it, what guidelines are followed by DHS?
 - a. If adoption is claimed, are families still DNA tested and/or are more in-depth investigations by ICE/HSI required before a family separation decision is made?
 - b. For adoptions, does DHS have a procedure to ask for proof from a home country?
 - c. In the absence of such proof, what are DHS's established minimum ID standards to confirm that a familial relationship (though not biological) has been established in the home country?
7. How do processing times differ between families that undergo testing versus those that refuse testing? What is the standard protocol for a family that refuses testing?
8. Of all family units processed at the border since the start of Operation Double Helix 2.0, what percentage have been separated?
 - a. How many DNA tested family units have been separated?
9. For those cases which were identified as possibly fraudulent through DNA testing, how many were found to be correctly identified after further investigation and were all cases referred to the courts?

Operation Double Helix Programs Procurement

1. How many bids were received and what were the conditions to be met for the selection of the successful bidder for each of these programs?
2. Who was/is responsible for conducting the testing - Contractor or federal personnel? How much training and experience is/will be required to ensure reliable testing and analysis occurs?
3. Why are contractor employees of the current program not subject to Full Field Background Investigation under the Federal Investigative Standards given the sensitive nature of the data being generated? Will this be required under the new program?
4. What type of records on individuals are being kept by the contractor and/or DHS?
 - a. How are the privacy rights of immigrants protected when DNA testing is done? (Please provide any and all documentation provided to immigrants explaining how DNA testing works, their rights of refusal, and how their DNA and testing results will be handled and protected)
 - b. Will printed reports be stored or destroyed? If stored, who will be responsible for the protection of these records? How long will printed DNA records be retained? Who

will be responsible for destroying the reports? How can we guarantee the reports will be safely destroyed?

Proposal to expand DNA testing program to all detention facilities

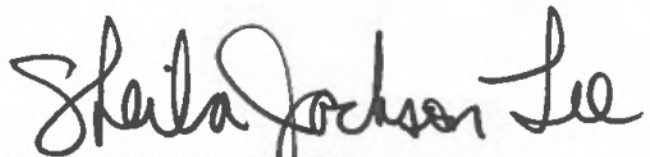
1. Will the new DNA testing differ between the level of DNA markers collected under Operation Double Helix and the new proposed testing program?
2. Will DNA profiles collected under Operation Double Helix 2.0 change and will these be uploaded to CODIS after new rule making from DHS?
3. Will exemptions exist to prevent children DNA profiles from being uploaded to CODIS?
4. As the program expands, will Full Field Background Investigation under the Federal Investigative Standards be required of contractor personnel?
5. Will detainees or other individuals subject to DHS oversight be allowed to opt out of DNA testing? How will they be made aware of their rights to refuse?

As DHS expands its DNA testing operations at the border and across the country, it is important that Congress and the public understand the potential benefits and challenges posed by these novel approaches. We respectfully request that DHS submit responses to the questions in this letter by November 22, 2019.

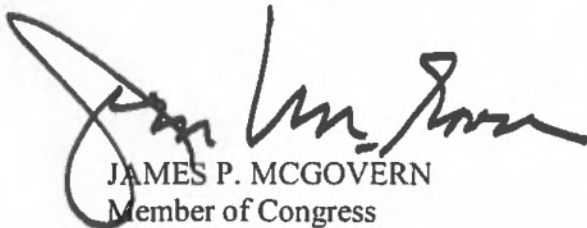
Sincerely,



MARK TAKANO
Member of Congress



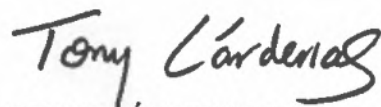
SHEILA JACKSON LEE
Member of Congress



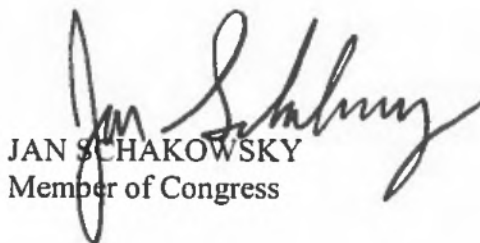
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