

RON WYDEN
OREGON

CHAIRMAN OF COMMITTEE ON
FINANCE

221 DIRKSEN SENATE OFFICE BUILDING
WASHINGTON, DC 20510
(202) 224-5244

United States Senate
WASHINGTON, DC 20510-3703

COMMITTEES:

COMMITTEE ON FINANCE
COMMITTEE ON THE BUDGET
COMMITTEE ON ENERGY AND NATURAL RESOURCES
SELECT COMMITTEE ON INTELLIGENCE
JOINT COMMITTEE ON TAXATION

July 14, 2025

The Honorable Kristi Noem
Secretary of Homeland Security
U.S. Department of Homeland Security
3801 Nebraska Avenue NW
Washington, DC 20528

The Honorable Pam Bondi
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue NW
Washington, D.C. 20530

Dear Secretary Noem and Attorney General Bondi,

I write to you about my serious concerns with the U.S. Government's chilling expansion of DNA collection from noncitizens and how the actions of your Departments may undermine the constitutional rights of adults and children in the United States. I worry that such broad DNA surveillance led by your Departments may result in the over-policing of immigrant communities and deter them from seeking out essential services.

During the final days of the first Trump administration, the Department of Justice (DOJ) implemented a rule that required the Department of Homeland Security (DHS) to build out an expensive and labor-intensive DNA collection program.¹ Under this program, DHS agents, authorized by the Attorney General, collect DNA samples and send them to the Federal Bureau of Investigation (FBI) for testing and inclusion in the Combined DNA Index System (CODIS).² CODIS was originally built and authorized by Congress for the purpose of retaining forensic evidence and identifying convicted sex offenders and violent criminals. The DNA profiles established in the CODIS remain permanently searchable by law enforcement nationwide, and the genetic information collected also remains permanently in the federal government's custody.

In the first two decades of the CODIS's existence, the federal government maintained 25,000 DNA profiles of noncitizens in the database.³ Most of these DNA profiles in the CODIS were

¹ DNA-Sample Collection from Immigration Detainees, 85 Fed. Reg. 13,483, 13,486-87 (March 9, 2020).

² U.S. Dep't of Homeland Sec., DHS/ALL/PIA-080, Privacy Impact Assessment for CBP and ICE DNA Collection (Jul.23, 2020), <https://www.dhs.gov/publication/dhsallpia-080-cbp-and-ice-dna-collection>.

³ Raiding the Genome: How the United States government is abusing its immigration powers to amass DNA for future policing. (2024, May 21). Georgetown Law Center on Privacy and Technology. Retrieved June 17, 2025, from https://drive.google.com/file/d/1wJNsidfNVTAlgsOC2qr-Q-Yyt1xHz-c/_view

911 NE 11TH AVENUE
SUITE 630
PORTLAND, OR 97232
(503) 326-7525

405 EAST 8TH AVE
SUITE 2020
EUGENE, OR 97401
(541) 431-0229

SAC ANNEX BUILDING
105 FIR ST
SUITE 201
LA GRANDE, OR 97850
(541) 962-7691

U.S. COURTHOUSE
310 WEST 6TH ST
ROOM 118
MEDFORD, OR 97501
(541) 858-5122

THE JAMISON BUILDING
131 NW HAWTHORNE AVE
SUITE 107
BEND, OR 97701
(541) 330-9142

707 13TH ST, SE
SUITE 285
SALEM, OR 97301
(503) 589-4555

[HTTPS://WYDEN.SENATE.GOV](https://wyden.senate.gov)

PRINTED ON RECYCLED PAPER

added by state and local law enforcement, whose ability to collect DNA was limited by resources and statutes.⁴ In 2020, DOJ estimated that its new rule would result in the addition of over 748,000 DNA profiles annually, which is a significant expansion of DNA collection by the federal government.⁵

The Trump administration expanded DNA collection by exploiting its immigration powers. Immigration and Customs Enforcement (ICE) and Customs and Border Protection (CBP) officials are not required by law to seek judicial authorization to detain noncitizens, and it seems noncitizens can be detained for the sole purpose of collecting their DNA. ICE and CBP officials have broad discretion for detention, and since the Trump administration intentionally expanded its detention efforts, DHS dramatically expanded the federal government's collection of DNA by 5,000%.⁶ Whereas prior administrations sought to limit DNA collection from noncitizens, DHS added over 1.5 million DNA profiles of noncitizens to CODIS after 2020.⁷ Reporting suggests that the Trump administration has added another quarter million people's DNA to CODIS within four months this year and that the vast majority of this DNA come from immigration encounters with Mexican, Venezuelan, Cuban, and Haitian citizens.⁸ The Trump administration appears to be broadly detaining individuals and collecting their DNA for permanent storage in CODIS. Reporting also suggests that 97% of noncitizens whose DNA was collected were detained under CBP's civil authority, and not on any criminal charges.⁹

Under this expanded DNA surveillance effort, the Trump administration also began collecting DNA of migrant children and teenagers in 2020. Records released by CBP show that the federal government has collected samples from more than 133,000 minors.¹⁰ DHS policy states that individuals under the age of 14 are generally exempt from DNA collection, but DHS officials appear to have discretion to collect DNA in certain circumstances.¹¹ The Executive Branch has not provided any justification for the permanent collection of the children's DNA samples, or for the storage of children's genetic information in a system originally designed to ensure public safety from violent criminals. It is unreasonable for your Departments to treat these 133,000 children as suspects in a serious crime or as part of any ongoing criminal investigation in order to obtain and permanently hold their DNA. By including these children's DNA in CODIS, their profiles will be queried every time a search is done of the database. These children will be treated by law enforcement as suspects for every investigation of every future crime, indefinitely.

4 Raiding the Genome: How the United States government is abusing its immigration powers to amass DNA for future policing. (2024, May 21). Georgetown Law Center on Privacy and Technology. Retrieved June 17, 2025, from https://drive.google.com/file/d/1wJNsidfNVTAlgsOC2qr-Q-Yyt1xHz-c_/view

5 DNA-Sample Collection from Immigration Detainees, 85 Fed. Reg. at 13,488.

6 Raiding the Genome: How the United States government is abusing its immigration powers to amass DNA for future policing. (2024, May 21). Georgetown Law Center on Privacy and Technology. Retrieved June 17, 2025, from https://drive.google.com/file/d/1wJNsidfNVTAlgsOC2qr-Q-Yyt1xHz-c_/view.

7 Ibid.

8 Raiding the Genome: How the United States government is abusing its immigration powers to amass DNA for future policing-- July 2025 Update. (2025, July 8). Georgetown Law Center on Privacy and Technology. Retrieved July 8, 2025.

9 Ibid.

10 U.S. Customs and Border Patrol Data, (February 6, 2025). CBP. Retrieved June 17, 2025, from <https://www.cbp.gov/document/foia-record/cbp-office-field-operations-statistics>.

11 U.S. Dep't of Homeland Sec., DHS/ALL/PIA-080, Privacy Impact Assessment for CBP and ICE DNA Collection (Jul.23, 2020), <https://www.dhs.gov/publication/dhsallpia-080-cbp-and-ice-dna-collection>.

It appears the only basis for this DNA surveillance is to further the Trump administration's animus toward immigrants.

Legal experts have raised serious concerns about the U.S. Government's DNA collection program violating the Fourth Amendment rights of adults and children. When Congress authorized the laws surrounding DNA collection by the federal government over two decades ago, lawmakers sought to address violent crime—it was not intended as a means for the federal government to collect and permanently retain the DNA of all noncitizens in the United States. While the law seems to limit DNA collection to only those who are arrested and detained, “detention” in the immigration context is extremely broad and vague. In practice, it seems no immigrant, not even law-abiding individuals, are categorically excluded from DNA data collection by the requirement that they first be detained. While previous administrations may have exercised restraint with these authorities, the Trump administration has done the opposite with its harsh policies toward immigrants, asylum seekers, and refugees. These policies embolden DHS officials to unilaterally assert probable cause, broadly detain noncitizens, and proceed with DNA data collection. Absent any judicial review or adequate oversight, it is unclear if these individuals' Fourth Amendments rights are being upheld.

I am also concerned by the reporting that suggests DHS agents sought to threaten noncitizens with criminal prosecution under 34 U.S.C. § 40702 if individuals tried to object to their DNA collection.¹² While the law allows agents to use reasonable measures to collect DNA and treats a refusal to comply with DNA collection as a crime, I worry that federal agents may prefer to unnecessarily threaten and bully noncitizens into giving their DNA, which is deeply disturbing. Governments exercising such broad discretion to involuntarily collect and retain DNA are repressive authoritarian regimes also engaging in gross human rights violations, such as genocide, ethnic cleansing, torture, and more. In fact, the U.S. Government has condemned the involuntary collection of DNA by the People's Republic of China and has sanctioned entities engaged in this practice, yet this practice appears to be ongoing on our own soil.¹³

I also have concerns that the Trump administration has failed to follow its own stated policies with respect to DNA data collection. DHS policies require ICE and CBP officials to inform people before collecting their DNA.¹⁴ Yet, public reporting suggests that individuals were not aware of their DNA being collected by federal officials—many individuals thought their cheeks were swabbed by federal agents for the purposes of a COVID-19 test.¹⁵ It is imperative that the federal agents are clear with noncitizens about what they are doing, so that noncitizens know how their genetic information will be used and what their rights are in this process.

12 Raiding the Genome: How the United States government is abusing its immigration powers to amass DNA for future policing. (2024, May 21). Georgetown Law Center on Privacy and Technology. Retrieved June 17, 2025, from https://drive.google.com/file/d/1wJNsidfNVTAlgsOC2qr-Q-Yyt1xHz-c/_view.

13 US adds units of China's BGI, Inspur to trade blacklist. (2023, March 16). Reuters. Retrieved June 17, 2025, from <https://www.reuters.com/markets/us/us-adds-chinese-genetics-company-units-trade-blacklist-2023-03-02/>.

14 U.S. Dep't of Homeland Sec., DHS/ALL/PIA-080, Privacy Impact Assessment for CBP and ICE DNA Collection (Jul.23, 2020), <https://www.dhs.gov/publication/dhsallpia-080-cbp-and-ice-dna-collection>.

15 Raiding the Genome: How the United States government is abusing its immigration powers to amass DNA for future policing. (2024, May 21). Georgetown Law Center on Privacy and Technology. Retrieved June 17, 2025, from https://drive.google.com/file/d/1wJNsidfNVTAlgsOC2qr-Q-Yyt1xHz-c/_view.

The permanence of profiles in CODIS also raises due process concerns. It circumvents the due process systems established for DNA collection and use for law enforcement activities, which generally provide that DNA can be expunged in the absence of a valid criminal conviction. DHS and DOJ have not made clear what circumstances allow or require the expungement of DNA, how adults and children may go about expunging their DNA records, or how DNA profiles in CODIS are removed when there is an appropriate reason to do so.

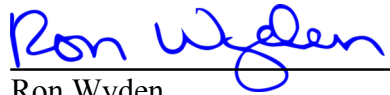
There are many unknowns and unanswered questions about the Trump administration's rule expanding DNA data collection. In order for Congress and the American public to better understand the U.S. Government's practices with respect to the collection of noncitizens' DNA, please provide answers to the following questions by August 1, 2025.

1. What is the United States Government's interest in collecting and retaining DNA from noncitizens in the course of immigration detention and enforcement?
 - a. Please explain in detail how the collection and permanent retention of noncitizens' DNA in CODIS supports immigration enforcement activities by DHS.
 - b. Please also explain in detail how the collection and permanent retention of DNA from minors (18 years old and younger) in CODIS supports immigration enforcement activities by DHS.
2. Which agencies, including DHS subcomponent agencies, has the Attorney General authorized to participate in the collection of DNA from noncitizens?
3. Please describe in detail how DHS is able to access and utilize DNA samples and related information collected in the course of immigration detention and enforcement once the samples and information are retained in CODIS and any other databases.
 - a. Please produce any policies, procedures, practices, or laws that limit DHS's access to and use of DNA collected in the course of immigration detention and enforcement.
4. Please describe in detail how DOJ is able to access and utilize DNA samples and related information collected in the course of immigration detention and enforcement once the samples and information are retained in CODIS and any other databases.
 - a. Please produce any policies, procedures, practices, or laws that limit DOJ's access to and use of DNA collected in the course of immigration detention and enforcement.
5. When DHS or subcomponent agencies collect DNA material from individuals in immigration detention and enforcement, where are DNA samples stored following collection?
 - a. Is the DNA sample itself transferred to CODIS or FBI custody?
 - b. Is the DNA sample retained in DHS custody following transfer to CODIS?
 - c. Is DNA-related information retained and stored in any databases outside CODIS following collection by DHS?
 - d. What measures have DHS and DOJ implemented to maintain security of the DNA samples and profiles?
6. To date, how many adult noncitizens have DHS officials collected DNA from during immigration detention and enforcement activities? Further, how many DNA samples from adult noncitizens have been collected by DHS since January 2025?

7. To date, how many minors (18 years old and younger) have DHS officials collected DNA from during immigration detention and enforcement activities in the last five years? Further, how many DNA samples from minors have been collected by DHS since January 2025?
8. What Department-wide guidance and/or agency-specific guidance is provided to DHS officials regarding the collection of DNA from noncitizens?
 - a. What policies are provided to DHS specifically about the collection of DNA from minors (18 years old and younger)?
 - b. Please detail any training that is provided to DHS subcomponent agencies regarding DNA collection activities, along with details on how DNA collection activities by federal agents are supervised.
 - c. Please include a copy of all relevant policies and procedures.
9. How do DHS officials determine when DNA data collection is necessary, and in making that determination, how do DHS officials confirm if a person they have detained is a noncitizen?
10. How often is DNA collected by DHS, without judicial authorization, being used in criminal investigations and prosecutions?
11. Does DHS policy prohibit intimidation, coercion, or the threat of criminal prosecution to compel a noncitizen to provide a DNA sample?
 - a. If DHS officials use any of these tactics to obtain DNA, how does the Department address this inappropriate behavior?
 - b. How does DHS respond or proceed if someone refuses to provide their DNA?
12. Does DHS or any subcomponent currently have a process in place to expunge DNA and related information stored in CODIS that were collected in the course of a noncitizen's detention?
 - a. If so, what conditions allow for or require expungement of DNA and related information from the CODIS?
 - b. Is expungement of information pursuant to any existing process done proactively by the Government or by petition of the individual?
 - c. Does DHS have a process in place for expungement of DNA samples and information collected from minors?
 - d. How many requests for expungement of DNA samples and related information from CODIS have DHS and DOJ or any subcomponent agency received to date from individuals whose DNA was collected in immigration detention?
13. Does DHS by practice or policy notify individuals whose DNA and related information have been collected during immigration detention;
 - a. When such samples and information are transferred to CODIS;
 - b. When such samples and information are accessed by law enforcement; or
 - c. When such samples and information are expunged or otherwise altered?
14. What information are DOJ and DHS, respectively, able to extract from the DNA they retain? Is DNA accessed to determine any ethnographic or racial information about the individual?

Thank you for your attention to this matter. I look forward to receiving a timely and thorough response to my questions.

Sincerely,

A handwritten signature in blue ink that reads "Ron Wyden". The signature is fluid and cursive, with the first name "Ron" and last name "Wyden" clearly distinguishable. It is positioned above a horizontal line.

Ron Wyden
United States Senator