

United States Senate
WASHINGTON, DC 20510

February 26, 2024

VIA ELECTRONIC TRANSMISSION

The Honorable Alejandro Mayorkas
Secretary
Department of Homeland Security

Mr. Troy A. Miller
Senior Official Performing the Duties of the Commissioner
Customs and Border Protection

Dear Secretary Mayorkas and Mr. Miller:

On November 1, 2023, I wrote a letter to the Department of Homeland Security (DHS) with respect to the Department's failure to collect DNA as required by the DNA Fingerprint Act of 2005.¹ My oversight letter is enclosed. In that letter, I noted that according to legally protected whistleblower disclosures relating to the U.S. Customs and Border Protection's (CBP) DNA collection practices, CBP is not collecting DNA from all illegal immigrants apprehended at the border.² I also highlighted FBI DNA Database Unit (FDDU) quarterly reports from FY17 through FY19 that show examples of crimes illegal immigrants have been connected to via DNA matches in the Combined DNA Index System (CODIS), including unsolved cases.³ Even with CBP's insufficient DNA collection efforts, the data it did possess helped ensure the protection of American citizens and our communities. The Biden administration's immigration policies have placed our southern border in crisis and our communities at risk.

According to CBP data, in FY23 there were over 3.2 million CBP encounters nationwide.⁴ Further, since October 1, 2023, CBP has encountered over 1.2 million individuals.⁵ In my November 1, 2023, letter, I asked for the number of illegal immigrants that CBP collected DNA samples from in FY23. You've failed to provide that data. I also requested the number of DNA samples that were submitted to the FBI in FY23. You've also failed to provide that data.

¹ Letter from Sen. Charles E. Grassley, Ranking Member, Senate Budget Committee, to the Honorable Alejandro Mayorkas, Secretary, Department of Homeland Security, and Troy A. Miller, Senior Official performing the Duties of Commissioner, Customs and Border Protection (Nov. 1, 2023), https://www.grassley.senate.gov/imo/media/doc/grassley_to_dhs_-_cbp_dna_collection.pdf.

² *Id.*

³ Documents on file with committee staff. FY18 Q1 and FY19 Q4 reports are not included due to lack of availability.

⁴ U.S. CUSTOMS AND BORDER PROTECTION, *Nationwide Encounters*, NEWSROOM, (last modified Feb. 13, 2024) <https://www.cbp.gov/newsroom/stats/nationwide-encounters>.

⁵ *Id.*

Since my November 1, 2023, letter, my office received legally protected whistleblower disclosures related to CBP DNA collection practices. Those disclosures show that in the first three quarters of FY23, FBI received an alarmingly low percentage of DNA samples.⁶

Quarter/ Fiscal Year	Nationwide Encounters ⁷	DNA Samples FBI Received ⁸	% FBI Received
Q1 FY23	865,333	347,231	40.13%
Q2 FY23	682,533	213,011	31.21%
Q3 FY23	762,659	282,786	37.08%

U.S. Immigration and Customs Enforcement's (ICE) FY23 annual report also notes that of the total arrests conducted by ICE in FY23, 43.3% of those arrested had criminal convictions or pending criminal charges—over 10% higher than FY22.⁹ Given the record number of illegal crossings, CBP encounters, and ICE detainees with prior criminal records, CBP and DHS's continued failure to collect DNA on illegal immigrants is deeply concerning. This failure weakens our justice system and empowers criminals to illegally cross our border, jeopardizing American lives.

So that Congress may conduct objective and independent oversight concerning DHS and CBP's lack of DNA collection and submittal to the FBI, immediately provide answers to my November 1, 2023, letter. In addition, provide records and answers to the following no later than March 11, 2024:

1. Was Jose Antonio Ibarra, the suspect charged in the murder of Laken Riley at the University of Georgia, subject to a DNA sample upon illegal entry?
2. Provide the number of illegal immigrants that CBP collected DNA samples from in Q4 in FY23. Of that number, (a) how many were submitted to the FBI, and (b) how many resulted in CODIS hits for potential criminal activity? Provide all records, including a list of potential crimes.
3. Provide the number of illegal immigrants that CBP has collected DNA samples from in FY24. Of that number, (a) how many were submitted to the FBI, and (b) how many resulted in CODIS hits for potential criminal activity? Provide all records, including a list of potential crimes.
4. How does CBP plan to implement the DNA Fingerprint Act of 2005 and corresponding regulations fully and completely? Provide all relevant documents.

⁶ Documents on file with committee staff.

⁷ *Supra* note 4.

⁸ *Supra* note 6.

⁹ U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, *FY2023 ICE Annual Report*, (December 29, 2023), <https://www.ice.gov/doclib/eoy/iceAnnualReportFY2023.pdf>.

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If you have any questions, please contact Tucker Akin on my committee staff at (202) 224-0642.

Sincerely,

A handwritten signature in blue ink that reads "Chuck Grassley". The signature is written in a cursive, flowing style.

Charles E. Grassley
Ranking Member
Committee on the Budget

Enclosures: November 1, 2023, Letter