

July 23, 2024 – Mike Taylor Opening Statement
“Reckless Disregard: How DHS’s Failure to Collect DNA at the Border Endangers Americans.”

Senator Grassley and Senator Johnson – Thank you for the opportunity to come before this roundtable and answer questions regarding the DNA Fingerprint Act and the retaliation that has been taken against me and my colleagues.

Senator Grassley – I specifically would like to thank you for the work that you and your oversight unit have done on this issue.

My name is Mike Taylor. I am an employee at CBP and was part of the WMD Division with Mark and Fred as Mr. Wynn just noted.

I would like to take the next few minutes to discuss what I have witnessed from 2017 until the present as it relates to CBP’s non-conformity with the DNA Fingerprint Act of 2005. As Mr. Wynn has just mentioned, we were directed to develop a DNA collection program that would ensure CBP’s 100% compliance with the DNA Fingerprint Act.

In 2018, as we were developing and close to implementing the DNA collection pilot program, we began to see that federal bureaucrats in charge of implementing the DNA Fingerprint Act were actively obstructing the law. Although I cannot speak to their motives, it became clear that certain senior officials were hell-bent on slow-rolling any process or pilot program that enabled DNA collection. While CBP ostensibly supported our development of a collection program, we were excoriated when the White House and DOJ were made aware of CBP’s and DHS’s ongoing failures to comply with the law. CBP officials became further enraged with us when The White House and the DOJ were informed of CBP’s and DHS’s intentions to never comply with the DNA Fingerprint Act. CBP has maintained this defiant posture to this day.

CBP and DHS sophistically asserted that a 2010 exemption absolved them of any obligation to collect DNA for nearly a decade. In a letter to President Trump, the Office of Special Counsel refuted CBP’s fabricated assertion, and chastised the agency for its “unacceptable dereliction of the agency’s law enforcement mandate...and...misconduct”.

The Trump Administration published a final rule in March 2020 in the Federal Register that restored the Attorney General's plenary legal authority to authorize and direct all relevant Federal agencies, including the Department of Homeland Security, to collect DNA samples from individuals who are arrested, facing charges, or convicted, and from non-United States persons who are detained under the authority of the United States. Any contrived notion of the existence of a waiver was ended on that day.

Despite DHS and CBP internal directives and correspondence going back to 2020 and ordering compliance with the DNA Fingerprint Act, the FBI reported that CBP had a DNA Collection rate

of 38.7% in FY 2023. That means out of approx. 3.2 million nationwide encounters, almost 2 million individuals did not have their DNA collected. The DNA samples that DHS/CBP did collect in FY 2023 led to 1,037 matches in the FBI's Combined DNA Index System. Since these results are believed to be statistically linear, DHS potentially missed well over 1,600 criminals in FY 2023 alone.

It has been over four years since any perceived or imagined ambiguity has been removed from the federal government's law enforcement DNA collection requirements. Collecting DNA as required by the law is clearly not a priority for the current administration.

Instead of taking the necessary steps to fully comply with the DNA Fingerprint Act, current DHS and CBP management seem more interested in focusing their efforts on continually retaliating against my colleagues and me for disclosing what can now only be described as their chronic malfeasance.

Thank you. I look forward to answering any questions that you may have.