

Crisis At The Border: The Collection Of DNA Samples From Migrants



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On October 21st, 2019, the Department of Justice issued a proposal that would permit the collection of DNA samples from migrants detained at the southern U.S. border. The biometric data collected from migrants in federal immigration custody would then be funneled into the FBI criminal justice DNA database, whose extensive data comes from people who have been arrested, charged and or convicted with serious crimes. The rule was published the following day, October 22nd, 2019, in the Federal Register and is currently open for public comments until November 10th, twenty days after it was published. According to an NPR article published by Joel Rose and Bobby Allyn, "Attorney General William Barr issued the rule, which is set to be published in the Federal Register on Tuesday [October 21st], with the expectation that federal authorities will gather DNA information on about 748,000 immigrants annually, including asylum-seekers presenting themselves at legal ports of entries."

"The proposed rule change would help to save lives and bring criminals to justice by restoring the authority of the Attorney General to authorize and direct collections of DNA from non-United States person detained at the border and the interior by DHS, with the ultimate goal of reducing victimization of innocent citizens." This was a statement given by Deputy Attorney General, Jeffrey Rosen, at the announcement of the rule on October 21st, 2019. Following the announcement by the Department of Justice, many prominent groups like the ACLU raised concerns about the violation of privacy and other important matters. Vera Eidelman, a staff attorney at the ACLU's speech, privacy, and technology project, said that the "Forced DNA collection raises serious privacy and civil liberties concerns and lacks justification, especially when DHS is already using less intrusive identification methods like fingerprinting. This kind of mass

collection alters the purpose of DNA collection from one of criminal investigation to population surveillance, which is contrary to our basic notions of freedom and autonomy.” Vera Eidelman wasn’t the only member out of the ACLU to issue a statement on the matter. Naureen Shah, the ACLU’S senior advocacy and policy counsel said in a statement that “This proposed change in policy is extraordinary in its breadth and transparent with its xenophobic goals. It seeks to miscast these individuals, many of whom are seeking a better life or safety, as threats to the country’s security.”

Resources are very limited and the budget is tight when it comes to the crisis happening on the United States-Mexico border. It is neither wise nor efficient to funnel the funds necessary to get this change in policy up and running when the conditions in deportation centers violate basic human decency. There are not enough resources at the southern border to even give the migrants detained at immigration centers basic hygienic products, yet the Department of Justice thinks the optimal solution at the moment is to resort to xenophobic policies. Not only does this raise privacy concerns, it also pushes the Trump administration’s caricature of migrants and immigrants. This reinforces the Trump idea that immigrants are criminals and rapists that are here to terrorize the American population, an idea that the president has been pushing since day one.

Even the way the Deputy Attorney General described the rule by saying that it will save lives and bring criminals to justice pushes the false narrative that migrants who are coming to the United States are criminals, despite studies showing that immigrants are less likely to commit crimes than citizens. This change costs money and it’s not a necessary step that needs to be taken when fingerprinting is an identification process being used right now that doesn’t raise privacy concerns nor has the potential to collect information that can be abused. In fact, this change in policy only seems like a superficial action meant to make it look like the Trump administration is doing anything meaningful. The goal for the Trump administration may be to reduce the victimization of innocent citizens, but it’s at the expense of the victimization of innocent migrants.

The Trump administration has argued that this change is authorized by the DNA Fingerprint Act of 2005, which was meant to amend the DNA Identification Act of 1994 “to repeal provisions prohibiting the DNA profiles from arrestees who have not been charged in an indictment or information with a crime.” Up until now, immigrants detained at immigration centers were exempted from the DNA

Fingerprint Act of 2005. According to the NPR article, “Under the Obama administration, Homeland Security officials said it wasn’t feasible to do that, and the collection hasn’t been required. But officials inside U.S. Customs and Border Protection thought that was wrong, and they stepped forward as whistleblowers to say their agency is violating the DNA Fingerprint Act of 2005.”

It doesn’t seem that this change can be stalled in the courts, yet with just a year remaining in Trump’s term and various factors affecting the probability of re-election, it will be hard to determine whether this will be a permanent and long term change and if so what the future implications are.