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February 22, 2022

The Honorable Christopher Wray  
Director  
Federal Bureau of Investigation  
Washington, D.C. 20530

Dear Director Wray:

I am writing to raise concerns about recent reporting indicating the San Francisco Police Department uploaded a DNA profile obtained from a victim of sexual assault to an offender database, later linking that profile to a crime scene sample. While some details of this reported incident remain unclear, they merit your attention and action, because even the perception that law enforcement agencies are searching DNA profiles collected from sexual assault victims could have a chilling effect on willingness to report sexual assaults.

As you may be aware, in September, the District Attorney's office of San Francisco disclosed that DNA profiles collected from sexual assault victims had been searched against crime scene DNA samples. They disclosed that in at least one instance, a match obtained from a crime scene sample collected in a property crime case may have been the basis for criminal charges brought against one woman. The charges have since been dropped.<sup>[1]</sup>

Though there are still many unanswered questions about the extent of this practice, the fact it may have occurred at all is deeply disturbing. I fear it will have a chilling effect on sexual assault reporting. According to the Department of Justice's Criminal Victimization, 2020 Report, more than 300,000 individuals were raped or sexually assaulted in 2020. However, less than 23 percent of those assaults were reported to police, down from nearly 34 percent from 2019. Any perception among victims that law enforcement views them as a potential offender could further reduce already low rates of reporting of sexual assaults.

As the administrator of the Combined DNA Index System (CODIS), the FBI is uniquely positioned to prevent any federal, state, or local law enforcement agency from improperly uploading DNA profiles obtained from crime victims. Accordingly, I request you provide written answers to the below questions by no later than March 4, 2022:

- Do current federal laws and regulations permit law enforcement agencies to upload DNA profiles obtained from crime victims to the National DNA Index System's offender database?
- If so, what is the extent of this practice, and do you plan to prohibit it and expunge any profiles uploaded?
- Some states and localities maintain DNA databases separate from the NDIS. Does the FBI have the authority to prohibit the use of CODIS to hold samples obtained from crime victims in an offender or arrestee database?

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<sup>[1]</sup> New York Times, February 16, 2022; [Victim's Rape Kit Was Used to Identify Her as a Suspect in Another Case](#)

- Will you seek to communicate to state and local law enforcement agencies why holding a DNA profile from a crime victim in this way, particularly a sexual assault victim, will have a chilling effect on reporting of rapes and sexual assaults?

I appreciate your timely response to these questions and are eager to work with you to ensure that survivors' rights and dignity are upheld by law enforcement around the country. If necessary, I stand ready to draft legislation to ensure that DNA sexual assault kits are not used in this manner.

Thank you for your attention to this critical matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Adam B. Schiff". The signature is fluid and cursive, with the first name "Adam" and last name "Schiff" being clearly legible, and "B." in the middle.

Adam B. Schiff  
Member of Congress