United States Senate

WASHINGTON, DC 20510

June 22, 2020

Christi Grimm
Acting Inspector General
Office of Inspector General
Department of Health and Human Services
330 Independence Avenue
Washington, D.C. 20201

Dear Acting Inspector General Grimm:

We write today to request that the Office of the Inspector General (OIG) at the Department of Health and Human Services (HHS) conduct a review of all funding streams, programs, and other congressional mandates related to coronavirus disease 2019 (COVID-19) diagnostic testing to determine whether any programs have been "slowed down" at the request of President Trump.

At the time of writing, over 2.3 million Americans have contracted COVID-19, and over 120,000 Americans have died.[1] Cases are rising in at least 23 states, including Florida, Texas, Arizona, and Oklahoma.[2] COVID-19 diagnostic testing is a critical tool to help public health officials and local leaders identify new COVID-19 cases and track the spread of the virus. According to the White House, the U.S. is conducting around 500,000 COVID-19 tests per day.[3] While this is an improvement over the nation's low testing rates at the onset of the pandemic,[4] it is far below the testing numbers that some experts have suggested will be necessary to truly contain the coronavirus pandemic. One estimate, for example, suggests that the U.S. should conduct between five and twenty million tests per day.[5]

Congress has worked in a bipartisan manner to expand COVID-19 testing across the country. The *Paycheck Protection Program and Health Care Enhancement Act* (Public Law No: 116-139), for example, included a $25 billion fund to "expand capacity for COVID-19 tests to effectively monitor and suppress COVID-19."[6] The bill—which became law on April 24th—

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[1] New York Times, "Coronavirus in the U.S.: Latest Map and Case Counts," updated June 21, 2020, https://www.nytimes.com/interactive/2020/us/coronavirus-us-cases.html?action=click&module=Top%20Stories&pgtype=Homepage.

[2] Id.

[3] The White House, "There Isn't a Coronavirus 'Second Wave'," Vice President Mike Pence, June 16, 2020, https://www.whitehouse.gov/articles/vice-president-mike-pence-op-ed-isnt-coronavirus-second-wave/.

[4] Modern Healthcare, "COVID-19 testing problems started early on, US still playing from behind," Kelsy Ketchum and Lee O'Connor, May 11, 2020, https://www.modernhealthcare.com/technology/covid-19-testing-problems-started-early-us-still-playing-behind.

[5] Edmund J. Safra Center for Ethics, "Why We Must Test Millions a Day," Divya Siddarth and E. Glen Weyl, April 8, 2020, https://ethics.harvard.edu/test-millions.

[6] Public Law No. 116-130, https://www.congress.gov/bill/116th-congress/house-bill/266/text.

included provisions requiring states, localities, territories, and tribal nations to develop COVID-19 diagnostic testing plans; establishing a grant program to boost testing in rural health clinics; and funding biomedical research to improve COVID-19 testing technology.[7] Acknowledging the deep-seated racial disparities in the spread and treatment of COVID-19 nationwide, Congress also required HHS to submit a report to Congress on the demographic characteristics of individuals receiving COVID-19 tests.[8]

It appears, however, that President Trump does not support federal efforts to expand access to COVID-19 tests and has undermined efforts to increase testing. On Saturday, the President publicly described testing as a "double-edged sword." According to the President, "When you do testing to that extent, you're gonna find more people, you're gonna find more cases." So, "I said to my people, slow the testing down, please."[9] These comments echoed statements that the President made in early March, when he indicated that he did not want to remove passengers from the infected Grand Princess cruise ship because "I don't need to have the numbers double."[10] They also echo his comments from May, when he said testing was "overrated" because "When you test, you find something is wrong with people. If we didn't do any testing, we would have very few cases."[11]

This statement—in which the President implies that he cares more about superficially minimizing the threat of COVID-19 than about stopping a virus that has killed nearly 120,000 of our nation's people, and that he has sought to undermine efforts to increase testing that are necessary to identify and slow viral outbreaks—is abhorrent. It also suggests that political actors in the Administration may have listened to the President and taken steps to "slow" federal initiatives designed to expand COVID-19 diagnostic testing.

Indeed, on June 1, 2020, the Administration announced that Assistant Secretary of Health Brett Giroir would be "demobilized" from his role overseeing the nation's coronavirus testing program and there would be no efforts to appoint a new head of operations.[12] Assistant Secretary Giroir was scheduled to leave his role by mid-June, despite the numerous challenges remaining to ramp up testing across the country.[13] And at the end of May, the Trump Administration released a congressionally-mandated "national testing strategy" that frustratingly shirked executive responsibility, instead placing the burden of testing onto each individual state.[14]

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[7] Id.

[8] Id.

[9] Reuters, "Trump urges slowdown in COVID-19 testing, calling it a 'double-edge sword,'" Andrea Shalal, June 20, 2020, https://www.reuters.com/article/us-health-coronavirus-trump-testing/trump-urges-slowdown-in-covid-19-testing-calling-it-a-double-edge-sword-idUSKBN23S0B4.

[10] New York Times, "Trump Says 'People Have to Remain Calm' Amid Coronavirus Outbreak," Peter Baker, March 6, 2020, https://www.nytimes.com/2020/03/06/us/politics/trump-coronavirus-cdc.html.

[11] Politico, "Trump: Coronavirus testing may be 'overrated' and reason for high U.S. case count," Myah Ward, May 14, 2020, https://www.politico.com/news/2020/05/14/trump-coronavirus-testing-high-case-numbers-259524.

[12] NPR, "White House Coronavirus Testing Czar to Stand Down," Selena Simmons-Duffin, June 1, 2020, https://www.npr.org/sections/coronavirus-live-updates/2020/06/01/867431135/white-house-coronavirus-testing-czar-to-stand-down.

[13] *Id.*

[14] New York Times, "'This is Not the Hunger Games': National Testing Strategy Draws Concerns," Apoorva Mandavilli and Catie Edomndson, May 25, 2020, https://www.nytimes.com/2020/05/25/health/coronavirus-testing-trump.html

To help us better understand the veracity and implications of the President's statement, and to assess the integrity of the bipartisan programs established during the COVID-19 pandemic to increase COVID-19 testing rates, we ask that the HHS OIG conduct a review of all funding streams, programs, and other congressional mandates related to COVID-19 diagnostic testing to determine whether any program was unduly slowed based on requests from the President or other political employees in the Department.

Sincerely,

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Elizabeth Warren   Charles E. Schumer
United States Senator   United States Senator

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Edward J. Markey   Richard Blumenthal
United States Senator   United States Senator