



Privacy Impact Assessment

for the

CBP Portal (e3) to EID/IDENT

DHS Reference No. DHS/CBP/PIA-012(b)

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**Homeland
Security**



Abstract

The U.S. Department of Homeland Security (DHS) U.S. Customs and Border Protection (CBP) operates the e3 portal (“e3”), which serves as the CBP portal to collect and transmit data related to law enforcement activities to the U.S. Immigration and Customs Enforcement’s (ICE) Enforcement Integrated Database (EID) and the DHS Automated Biometric Identification System (IDENT). e3 collects and transmits biographic, encounter, and biometric data for identification and verification of individuals encountered at the border and checkpoints for CBP’s law enforcement and immigration mission. CBP is updating this Privacy Impact Assessment (PIA) to notify the public of enhancements to e3 impacting personally identifiable information (PII), including: the new Border Enforcement Secondary Tool (BEST) for conducting secondary inspections at United States Border Patrol (USBP) Checkpoints; Subject Identification Tracking Devices (SID) to help track and log custodial actions of aliens in USBP custody; information technology modernization of the e3 system, known as “e3 NextGen;” and various new forms to ensure the safety and welfare of those in CBP custody.

Overview

USBP agents use e3 to store and transmit biographic information to ICE’s EID¹ and biometric information to IDENT² for processing, identification, and verification of identity of individuals encountered or apprehended at the border. e3 transmits data in real-time from USBP agents to EID and IDENT and retrieves records from those systems for CBP enforcement action purposes. The e3 suite of applications, which communicate with each other over the CBP network and through ICE’s EID, enables USBP agents to: (1) record an apprehended individual’s biographic information and seized property; (2) uniquely identify or verify the identity of encountered or apprehended individuals by capturing and transmitting subject photographs and fingerprints to IDENT in real-time; (3) view and record initial health screening information; (4)

¹ See U.S. DEPARTMENT OF HOMELAND SECURITY, U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, PRIVACY IMPACT ASSESSMENT FOR THE ENFORCEMENT INTEGRATED DATABASE (EID), DHS/ICE/PIA-015 (2010 and subsequent updates), available at <https://www.dhs.gov/privacy-documents-ice>, and DHS/ICE-011 Criminal Arrest Records and Immigration Enforcement Records (CARIER), 81 Fed. Reg. 72080 (October 19, 2016), available at <https://www.dhs.gov/system-records-notice-sorns>.

² See U.S. DEPARTMENT OF HOMELAND SECURITY, OFFICE OF BIOMETRIC IDENTITY MANAGEMENT, PRIVACY IMPACT ASSESSMENT FOR THE AUTOMATED BIOMETRIC IDENTIFICATION SYSTEM (IDENT), DHS/OBIM/PIA-001 (2012), available at <https://www.dhs.gov/privacy-documents-office-biometric-identity-management-obim>. DHS is in the process of replacing IDENT with the Homeland Advanced Recognition Technology System (HART) as the primary DHS system for storage and processing of biometric and associated biographic information. For more information about HART, please see U.S. DEPARTMENT OF HOMELAND SECURITY, OFFICE OF BIOMETRIC IDENTITY MANAGEMENT, PRIVACY IMPACT ASSESSMENT FOR THE HOMELAND ADVANCED RECOGNITION TECHNOLOGY SYSTEM (HART) INCREMENT 1, DHS/OBIM/PIA-004 (2020), available at <https://www.dhs.gov/privacy-documents-office-biometric-identity-management-obim>.



enable screening of unaccompanied children (UAC), including for trafficking concerns; (5) record information pertaining to border violence and alien smugglers; (6) view and record information pertaining to criminal prosecutions, build cases for prosecution, and generate documents electronically based on the requirements of a particular court; (7) print, update, and track the status of cases accepted for prosecution; and (8) create statistical reports.

Reason for the PIA Update

CBP is updating the e3 PIA to document changes since the last updated e3 PIA was published in 2017.³ This updated PIA describes a new e3 module, the modernization of the e3 application, improved integration between modules, and the auto-population of input screens and forms. System enhancements to e3 since the previous PIA include: (1) the new Border Enforcement Secondary Tool (BEST) for enhanced secondary inspection at USBP Checkpoints; (2) Subject Identification Tracking Device (SID) technology to enhance USBP's ability to track subjects in USBP custody at USBP facilities; (3) "e3 NextGen" overall system modernization; and (4) system enhancements to populate various new forms to ensure the safety and welfare of those in CBP custody.

E3 Border Enforcement Secondary Tool (BEST)

USBP agents operate immigration checkpoints⁴ to conduct immigration checks on major highways leading away from the border to detect and apprehend illegal aliens attempting to travel further into the interior of the United States after evading detection at the border. If the USBP agent conducting a primary inspection at a checkpoint determines that there may be an issue requiring further inspection, such as concerns regarding immigration status, agriculture, or customs (baggage), or suspicion of criminal activity, then the traveler or conveyance is referred to another USBP agent for a more in-depth secondary inspection. A USBP agent at secondary may perform simple questioning or a full inspection relating to issues such as immigration status, customs (baggage), agricultural issues, or suspicion of criminal activity, based on the circumstances.

USBP agents will now use the new e3 BEST tool to facilitate secondary inspections, similar to how CBP officers use Consolidated Secondary Inspection Services (CSIS)⁵ at the Ports of Entry.

³ See U.S. DEPARTMENT OF HOMELAND SECURITY, U.S. CUSTOMS AND BORDER PROTECTION, PRIVACY IMPACT ASSESSMENT FOR THE CBP PORTAL (E3) TO ENFORCE, DHS/CBP/PIA-012 (2017 and subsequent updates), available at <https://www.dhs.gov/privacy-documents-us-customs-and-border-protection>.

⁴ Immigration checkpoints are conducted on major highways, leading away from the border to detect and apprehend illegal aliens attempting to travel further into the interior of the United States after evading detection at the border. 8 U.S.C. §§ 1225(d) and 1357(a)(3). See also U.S. BORDER PATROL TRANSPORTATION CHECK OPERATIONS BROCHURE, <https://www.cbp.gov/sites/default/files/assets/documents/2018-May/USBP%20Transportation%20Check%20Brochure.pdf> (last visited August 28, 2020).

⁵ See U.S. DEPARTMENT OF HOMELAND SECURITY, U.S. CUSTOMS AND BORDER PROTECTION, PRIVACY IMPACT



USBP agents conducting secondary inspections at USBP checkpoints use the BEST query function within e3 to research any vehicle and subject alerts identified during primary inspections (for example, subjects on watch-lists, in possession of contraband, or to verify immigration status) as well as to generate any other law enforcement alerts not identified during primary inspection.

BEST works in conjunction with the Border Patrol Client (BPC) application to provide a platform for Agents to research referrals in TECS in a timely fashion. BPC is a desktop application that allows USBP agents conducting a primary inspection to process travelers using the information collected from travel documents through either Radio Frequency Identification (RFID) scans, swipes of the Machine-Readable Zone (MRZ) on the travel document, license plate scans, or manual entry by the USBP agent. BPC then automatically queries various databases including TECS⁶ and the Automated Targeting System (ATS).⁷ BPC displays any hit such as a want or warrant or a license plate of interest to a USBP agent who makes a decision on whether a traveler should be referred for secondary processing. USBP agents stationed in the secondary inspection area use BEST to view and adjudicate the secondary referrals that USBP agents create through BPC.

BEST allows USBP agents conducting a secondary inspection to further investigate vehicle and passenger information, including information on passports and border crossing cards or other travel documents. The passport and border crossing data are derived from BPC during the primary inspection, including information captured from License Plate Readers (LPR),⁸ immigration document MRZs, and RFID devices.⁹

When a USBP agent creates a new secondary referral record, the basic biographic information from BPC will auto-populate into BEST, such as name and date of birth, if available. During the secondary referral and inspection process, the USBP agent may collect additional information and, using BEST, add the new information into TECS. This additional information may include the biographic information on vehicle occupants or additional information about the vehicle. USBP agents are able to perform TECS checks on occupants and vehicles using BEST. BEST also provides a means for the USBP agent to view every prior secondary referral, regardless

ASSESSMENT FOR THE TECS SYSTEM, DHS/CBP/PIA-009 (2010 and subsequent updates), *available at* <https://www.dhs.gov/privacy-documents-us-customs-and-border-protection>.

⁶ *Id.*

⁷ See U.S. DEPARTMENT OF HOMELAND SECURITY, U.S. CUSTOMS AND BORDER PROTECTION, PRIVACY IMPACT ASSESSMENT FOR THE AUTOMATED TARGETING SYSTEM, DHS/CBP/PIA-006 (2007 and subsequent updates), *available at* <https://www.dhs.gov/privacy-documents-us-customs-and-border-protection>.

⁸ See U.S. DEPARTMENT OF HOMELAND SECURITY, U.S. CUSTOMS AND BORDER PROTECTION, PRIVACY IMPACT ASSESSMENT FOR THE CBP LICENSE PLATE READER TECHNOLOGY, DHS/CBP/PIA-049 (2017 and subsequent updates), *available at* <https://www.dhs.gov/privacy-documents-us-customs-and-border-protection>.

⁹ The databases associated with the travel documents presented during a primary inspection (e.g., visa, passport) are the source for the photos displayed in the Consolidated Secondary Inspection Services (CSIS). The sources for the photo databases include the U.S. Department of State's databases for passport and visa photos, U.S. VISIT photographs collected by CBP, and U.S. Citizenship and Immigration Service Lawful Permanent Resident photos.



of disposition, for research and/or reference. Once a determination of inspection is made, the data entered via BEST is passed back to TECS, the system of record, with the disposition of the USBP agent (e.g., Positive/Negative/Did not Inspect).

USBP agents may also use BEST to initiate an e3 “event” for a positive inspection; meaning, an inspection that results in USBP taking an enforcement action such as making an arrest or seizure. Should the USBP agent initiate an enforcement action, BEST will create the event in e3, including the date, time, location, event type, and basic biographic information for any subject within the event. Once the original event has been created, a USBP agent will use e3 to continue processing the subject(s). BEST also provides an archive feature that allows CBP to research and provide metrics on closed referrals.

Subject Identification Tracking Devices (SID)

USBP intends to test the feasibility of using tamper-resistant barcode wristbands for tracking and identifying subjects in USBP custody, referred to as Subject Identification Tracking Devices (SID). If successful, SID will enable USBP agents to record custodial activities in e3 for an individual subject in real-time and eliminate the need to log information retroactively at a workstation. The goal of the SID pilot is to add accountability and traceability to the existing custodial process.

Currently, USBP agents must either retroactively log custodial activity (such as meals or medicine provided) at a workstation after the completion of the activity or have one agent logging such actions at the same time another agent is actually performing them. The current process is labor intensive and may lead to data integrity issues, including inaccurate timestamps for the associated custodian activity.

For the SID pilot, during initial intake, a subject in USBP custody will receive a tamper-resistant barcode wristband linked to his or her e3 record. USBP agents tasked with performing custodial activities (e.g., administration of medicine, feeding, book-out) would scan the alien’s wristband, using a handheld scanner, into the e3 Detention Module running on a CBP handheld mobile device (i.e., tablet), select the appropriate custodial activity, and the information associated with the activity will automatically be populated to the subject’s profile within e3.

The wristband is similar to bands patients receive at hospitals and the assigned wristband will remain on the alien through permanent book-out, at which point the barcode wristband would be disposed. This one-on-one interaction with the subject allows USBP agents to more accurately log actions throughout the custodial process.

e3 NextGen

e3 NextGen is the modernization of the e3 portal to EID and IDENT. The release of e3 NextGen replaces the existing e3 Intake and e3 Processing modules only. Major features of the



new e3 NextGen include: intake print filtering to quickly print forms auto-generated in e3; enhanced forms management and form completion indicators; enhanced form printing functionality; enhanced data entry functions—such as the ability to quickly copy data from a previous encounter record (e.g., address, family info, historical information, work information) to a new encounter record; ability to generate the new Unaccompanied Alien Child Screening Addendum (CBP Form 93); and new health interview questionnaire (CBP Form 2500).

The new e3 NextGen enables USBP agents to process subjects during intake, capture and record the subject's biometrics, associate subjects in the same family unit or family group via the Family Panel, and process subjects to completion. The Family Panel view allows USBP agents to associate different subject records together and note they are part of a family unit or family group, as reported by the subjects. This information helps CBP determine where within the facility to hold a family unit or family group.

CBP is also using e3 NextGen, to integrate several current paper-based forms (i.e., CBP Form 93, CBP Form 2500) into e3 in order to reduce data entry errors and increase productivity. e3 auto-populates biographic information into the forms from information that USBP agents have already submitted into e3 during intake.

Using e3 NextGen, USBP agents will complete a standardized medical questionnaire, *CBP Form 2500 – Alien Initial Health Interview Questionnaire*, for individuals in CBP custody. USBP will complete CBP Form 2500 for all individuals in custody under the age of 18 as well as any person with a reported, identified, or observed medical issue or concern while in CBP custody. The purpose of CBP Form 2500 is to provide initial identification of medical issues that may require immediate CBP referral to 911/EMS/the local hospital or to identify potential medical issues that may require a more detailed assessment by a trained medical professional. All relevant observations of the USBP agent or contract medical staff conducting the health interview will be recorded on CBP Form 2500.

USBP agents conduct interviews using CBP Form 2500 in the alien's primary language, when possible. In the case of juveniles, the USBP agent or contract medical staff must make an effort to include information or observations from any accompanying adult, as well as the observations of the USBP agent or contract medical staff.

USBP agents, using e3 NextGen, will complete the newly automated *CBP Form 93 – CBP Unaccompanied Alien Child (UAC) Screening Addendum* during the intake and processing of UACs. The term "UAC" is defined in section 462(g) of the Homeland Security Act of 2002¹⁰ as a child who:

- Has no lawful immigration status in the United States;

¹⁰ 6 U.S.C. § 279(g)(2).



- Has not attained 18 years of age; and
- With respect to whom:
 - There is no parent or legal guardian in the United States; or
 - No parent or legal guardian in the United States is available to provide care and physical custody.

The purpose of CBP Form 93 is to provide a mechanism for USBP agents to consistently and thoroughly screen UAC in CBP custody. USBP agents use CBP Form 93 to interview UACs, in their native language, in order to identify whether a UAC has a fear of return to his or her country of nationality; identify whether a UAC shows indications of past trafficking or risk of future trafficking; and in the case of UAC from contiguous countries, determine the UAC's ability to make an independent decision about withdrawing his or her application for admission. CBP's use of the form is consistent with the requirements of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA).¹¹ The TVPRA mandates that all UACs whom DHS seeks to remove from the United States, except those from contiguous countries that can properly be permitted to withdraw their application for admission, be placed in removal proceedings under section 240 of the Immigration and Nationality Act (INA).¹²

USBP agents must consider the totality of the circumstances when completing CBP Form 93. USBP agents refer all UACs from non-contiguous countries, as well as those UACs from contiguous countries who are not able to withdraw their application for admission, to the U.S. Department of Health and Human Services (HHS) Office of Refugee Resettlement (ORR), regardless of whether the UAC has a fear of return, shows indications of past trafficking, or is at risk of future trafficking.

ICE, Enforcement and Removal Operations (ICE-ERO) provides transportation and detention for many subjects apprehended by CBP. CBP may share the information collected on CBP Form 93 with ICE via a hard copy placed in the alien's Alien File (A-File). Electronic copies of the form are completed in e3 and retained in EID.¹³ CBP or ICE may share the form with HHS when the UAC is placed in their custody.

CBP Form 0852 – Information for Parents may also be generated using e3 NextGen during the intake process. USBP agents use this form to notify parents/legal guardians if they are being separated from their child(ren). The purpose of CBP Form 0852 is to provide a mechanism for CBP to inform parents/legal guardians of the decision to separate their child(ren) from them, including the reason why, what happens next in the process, and how to contact their child(ren)

¹¹ William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, Pub. L. 110-457, 122 Stat. 5044 (December 23, 2008).

¹² 8 U.S.C. § 1229a.

¹³ See *supra* note 1.



following the separation.

CBP may decide to separate a child(ren) from his/her parents/legal guardians for various reasons, including: the parent/legal guardian has a criminal history; the parent/legal guardian has a communicable (contagious) disease; the parent/legal guardian has been determined to pose a danger to his/her child(ren); the parent/legal guardian has been referred to custody with another law enforcement agency for criminal prosecution; the parent/legal guardian requires immediate hospitalization. The USBP agent must consider the totality of the circumstances when completing CBP Form 0852 and making a determination on separation. In all cases, the USBP agent is to use CBP Form 0852 for all separations annotated in e3.

Once the determination has been made to separate the child(ren) from the parent/legal guardian, the parent/legal guardian will be informed, and the following steps will be explained to the parent/legal guardian:

- Your child(ren) will be transferred to the custody of HHS ORR, where your child will be cared for in a children's shelter temporarily;
- Following the conclusion of any criminal custody or hospitalization, the parent/legal guardian will be transferred to the custody of ICE; and
- DHS and HHS will take steps to determine whether the parent/legal guardian and child(ren) may be reunited.

The form will also provide the parent/legal guardian with information on how to contact their child(ren) while they are in HHS or ICE custody.

A USBP agent, using e3, completes and prints the form and provides it to the parent/legal guardian for them to sign. CBP maintains the original signed copy and provides a copy to the parent/legal guardian. The original is placed in the parent/legal guardian's A-File.

Request for National DNA Database Entry Form, FD-936, is the Department of Justice (DOJ) form USBP agents complete to document the submission of CBP-collected DNA samples to the Federal Bureau of Investigation's (FBI) Combined DNA Index System (CODIS). To reduce the likelihood of errors, increase productivity, and track the DNA sample, CBP will use e3 to auto-populate and generate the DOJ Form FD-936. The DNA collection process is fully explained in a separate PIA.¹⁴

e3 NextGen will auto-populate DOJ Form FD-936 using the information CBP already collects in e3 during intake and processing. A USBP agent scans the unique barcode on the DNA

¹⁴ See U.S. DEPARTMENT OF HOMELAND SECURITY, PRIVACY IMPACT ASSESSMENT FOR THE CBP AND ICE DNA COLLECTION, DHS/ALL/PIA-080 (2020), available at <https://www.dhs.gov/privacy-documents-department-wide-programs>.



collection device, collects the buccal sample, and places the DNA collection device in the provided collection pouch. The only new information CBP collects on the form is the barcode; all other information can be prepopulated from information CBP normally collects during intake. Using e3, the USBP agent will print the completed DOJ Form FD-936 and place the form in the collection pouch containing the DNA collection device and place both in the provided return envelope. The USBP agent will seal the return envelope using the tamper evident tape and mail the DNA kit within 72 hours to the FBI.

Privacy Impact Analysis

Authorities and Other Requirements

The legal authorities for CBP's collection, use, maintenance, and dissemination of information within the e3 Portal have not changed since the original PIA in 2012 and updated PIA in 2017.¹⁵ However, since the publication of the original e3 PIA, CBP has issued a new System of Records Notice (SORN) for records related to enforcement actions occurring between official ports of entry. The Border Patrol Enforcement Records (BPER) SORN¹⁶ covers CBP's collection of information on individuals whom it encounters, apprehends, detains, or removes in relation to border crossings, checkpoint operations, law enforcement actions, and other operations related to the enforcement of the Immigration and Nationality Act. This information may include biographic, biometric, and geolocation data, as well as enforcement-related information. The BPER SORN provides coverage for CBP's maintenance of records in e3. Pursuant to 34 U.S.C. § 40702, *Collection and Use of DNA Identification Information from Certain Federal Offenders*, and to reduce the likelihood of errors and increase productivity, CBP has elected to use e3 to generate the DOJ Form FN-936 when executing the DNA collection at the authorization and direction of the Attorney General. CBP only retains the barcode associated with the DNA sample, DNA profiles are not retained in e3.

Characterization of the Information

CBP uses e3 to collect biographic and biometric data, encounter information, health conditions and medication information, information related to border violence, and prosecution-related data obtained from individuals during DHS enforcement encounters. A complete list of these data elements is available in the 2012 and 2017 e3 PIAs.

The following PII will be collected, generated, or retained in association with the updates documented in this PIA:

¹⁵ See *supra* note 3.

¹⁶ See DHS/CBP-023 Border Patrol Enforcement Records System of Records (BPER), 81 Fed. Reg. 72601 (October 20, 2016), available at <https://www.dhs.gov/system-records-notices-sorns>.



- **SID pilot:** The only new information CBP generates and retains for the SID pilot is the barcode that is printed on the wristband. In order to associate an e3 record with a person, CBP is placing a barcode on a wristband worn by an alien and retaining the barcode number in e3.
- **CBP Form 2500 Alien Initial Health Interview Questionnaire:**
 - Subject Name;
 - A-File Number;
 - Event Number;
 - Date of Birth;
 - Gender;
 - Country of Citizenship or Last Habitual Residence;
 - Name of USBP Agent; and
 - Medical Information based on self-reported medical issues and USBP agent observations such as medical or mental health issues, medications taken, allergies, drug use, pregnancy, injuries, rashes, and diseases.
- **CBP Form 93, CBP Unaccompanied Alien Child (UAC) Screening Addendum:**
 - Alien's Name;
 - Alien Number;
 - Date of Birth;
 - Gender;
 - Country of Citizenship
 - Country of Habitual Residence;
 - USBP Agent Name; and
 - Responses to questions regarding the USBP agent's assessment of UAC ability to make an independent decision; UAC responses to screening questions regarding fear-of-return, intimidation, labor and sex trafficking.
- **DOJ Request for National DNA Database Entry Form, DOJ Form FD-936.** The table below lists all data points required to complete DOJ Form FD-936, specifying which data fields already exist in EID and which CBP needs to collect via e3.



Required Fields	
Existing e3 Fields	New e3 Fields
Agency Name (e.g., CBP)	Master Name (i.e., the original name connected to an FBI Identity History Summary)
Originating Agency Identifier	Next Generation Identification (NGI) ¹⁷
Agency Address (city, state, zip code)	Collection Device Identifier (i.e., barcode)
Agency Phone Number	Collection Date/Time (YYYY/MM/SS/HH:MM:SS)
Subject Last Name	DNA Collection Exemption Reasons
Subject First Name	
Subject Middle Name	
FBI Universal Control Numbers (UCN)	
Subject Date of Birth (YYYYMMDD)	
Gender	
Race/Ethnicity	
Alien Number	
Social Security number	
DHS Fingerprint Identification Number (DHS FIN)	
Passport Number	
Arrest/Conviction Code	
Collector Last Name (CBP Employee)	
Collector First Name (CBP Employee)	
Event # / TECS Subject Record ID#	

Privacy Risk: There is a risk that subjects could switch SID wristbands, which would generate inaccurate custodial information.

Mitigation: This risk is mitigated. Using tamper-resistant wearable bracelets impedes the ability for this to happen. In addition, this risk is mitigated by using e3 to log each custodial activity. When the USBP agent scans the barcode on the tamper-resistant bracelet, the associated

¹⁷ See U.S. DEPARTMENT OF JUSTICE, FEDERAL BUREAU OF INVESTIGATION, PRIVACY IMPACT ASSESSMENTS FOR VARIOUS USES OF FBI’S NEXT GENERATION IDENTIFIER SYSTEM, available at <https://www.fbi.gov/services/information-management/foipa/privacy-impact-assessments>.



subject record for the barcode is displayed. Using the photograph captured during processing, the USBP agent can visually confirm that the individual is wearing the assigned SID bracelet.

Uses of the Information

CBP's uses of the information within e3 remains the same since the original PIA publication. CBP continues to process biographic, biometric, encounter, and border violence data through e3 in order to document CBP actions to ensure border security.

USBP agents use the e3 BEST module during secondary inspections at checkpoints. USBP uses BEST as a platform for referring vehicles and individuals identified during primary inspection at checkpoints as requiring further inspection. USBP agents use BEST to conduct further research on referrals so that they can resolve the referral and either create an e3 event or close the referral out as negative.¹⁸ USBP agents may use BEST to query TECS data for lookout record data and border crossing encounters. The query function within BEST allows a USBP agent conducting secondary inspections at a checkpoint to research both vehicle and subject alerts identified during a primary inspection as well as identify those alerts not identified during the primary inspection.

The SID pilot will enable USBP agents to easily record custodial activities for an individual subject and eliminate the need to log information manually. During the intake process, subjects will be given a barcode wearable/wristband that is linked to their e3 record. USBP agents tasked with performing custodial activities (e.g., custodial, administration of medicine, feeding, book-out) will scan the alien's barcode wearable/wristband using a handheld scanner. Using the e3 Detention Module running on a workstation, the USBP agent will then select the appropriate custodial activity and the information will automatically populate to the subject's profile within e3. This process does not change the use of the collected information, but rather demonstrates a new method for information collection.

CBP will use e3 NextGen to auto-populate and generate the forms discussed within this PIA. Using this functionality will help to reduce data entry errors and reduce manpower hours. CBP uses these forms to document alien health concerns and information about UACs. This ensures that CBP can record how those in custody are cared for, that information is provided to parents or legal guardians, and that all appropriate information about UACs is maintained.

CBP also uses e3 to auto-populate and generate the DOJ Request for National DNA Database Entry Form, FD-936, when collecting and prior to submitting the physical DNA buccal swab to the FBI. CBP will only retain the associated barcode in e3. Once submitted to the FBI, the FBI Federal DNA Database Unit (FDDU) produces a DNA profile for each submission and

¹⁸ Negative refers to any vehicle that was referred to secondary and further inspection resulted in negative results (i.e., no action was taken, and the vehicle and occupants were released).



uploads it to the National DNA Index System (NDIS), which is part of CODIS. e3 will not retain any information related to the DNA profile.

Privacy Risk: There is a risk that the DNA profiles CBP submits to the FBI will be used beyond law enforcement and criminal justice purposes.

Mitigation: This risk is mitigated. The FBI uses DNA for identification and to determine any nexus to existing or future law enforcement cases. DNA will not be used to discriminate in the provision of health benefits or other services. CBP cannot use the DNA sample to reveal any physical traits, race, ethnicity, disease susceptibility, or other sensitive information about an individual. CBP retains the DNS sample for less than 72 hours, thus reducing the chance of loss or misuse.

Privacy Risk: There is a risk that subjects in USBP custody could switch SID bracelets in an attempt to change the subject's identity.

Mitigation: This risk is mitigated by using tamper-resistant bracelets. In addition, this risk is mitigated by using e3 to log each custodial activity. When the USBP agent scans the barcode on the tamper resistant bracelet, the associated subject record for the barcode is displayed. Using the photograph captured during processing, the USBP agent can make a visual confirmation that the subject wearing the bracelet is the subject assigned to the SID bracelet.

Privacy Risk: There is a risk that CBP could use individual health information for a purpose other than determining if additional medical attention is necessary.

Mitigation: This risk is mitigated. CBP will only share health information with entities (i.e., medical contractors, hospital, ERO, and HHS) who need the information in order to provide further care for the individual. Additionally, access to e3 is limited to CBP personnel with an operational need to know and is not available to contract medical staff.

Notice

All persons USBP encounters, including those attempting to enter the United States unlawfully as well as those who are otherwise subject to removal, are subject to data collection requirements and processes that include providing biometric data. Operational and logistical considerations prevent individuals encountered between ports of entry from receiving advanced notice of the data collection. This PIA, as well as the BPER SORN,¹⁹ the IDENT PIA,²⁰ and EID PIAs and SORN,²¹ provides notice to all persons about these CBP collections.

¹⁹ See *supra* note 16.

²⁰ See *supra* note 2.

²¹ See *supra* note 1.



For DNA collection, due to the law enforcement nature of the encounter, the purpose for collecting the information, and the law, which requires a DNA sample for submission into CODIS, CBP does not provide the opportunity for individuals to decline or consent to uses of information.

In October 2019, the DOJ published a Notice of Proposed Rulemaking (NPRM) titled DNA-Sample Collection from Immigration Detainees. DOJ published the NPRM for public review in the Federal Register, and solicited public comment and feedback. The DOJ published the Final Rule in March 2020. The DNA Fingerprint Act of 2005 also provides clear notice to the public about this information collection.

CBP published the DNA Collection PIA in January 2020²² to provide additional notice regarding how CBP intends to implement this specific collection. DOJ also has published a PIA on the NDIS²³ system for reference.

Privacy Risk: There is a risk that individuals in federal custody will not be aware they must provide DNA to law enforcement officers.

Mitigation: This risk is mitigated. The general public, including individuals potentially subject to DNA collection, were issued notice pursuant to the Notice of Proposed Rulemaking, the Final Rule, and the various statutory provisions that require DNA collection from all individuals within federal custody. Additionally, CBP will provide individual verbal notice to individuals subject to DNA collection.²⁴ The DOJ has also published several regulations implementing these statutes, all of which were subject to public notice and comment.

Privacy Risk: There is a risk that individuals are not aware that their health information is being collected.

Mitigation: This risk is mitigated. Unless the subject is unconscious or unable to provide his or her own medical information, subjects provide all health and medical screening responses to USBP directly. USBP agents screen the individual using the questionnaire and document the subject responses at the time of the conducting the initial health screening. The risk is also mitigated by the publication of the PIA update.

Data Retention by the Project

There are no changes to data retention as a result of this update. CBP will retain the data it collects in e3 for 75 years.

²² See *supra* note 14.

²³ See U.S. DEPARTMENT OF JUSTICE, FEDERAL BUREAU OF INVESTIGATION, PRIVACY IMPACT ASSESSMENT FOR THE NATIONAL DNA INDEX SYSTEM (2004), available at <https://www.fbi.gov/services/information-management/foipa/privacy-impact-assessments/ndis>.

²⁴ This notice will be communicated to detainees with limited English proficiency in a manner and language they can understand. See Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, 65 Fed. Reg. 50123 (August 16, 2000).



Privacy Risk: There is a risk that health information is stored for longer than necessary.

Mitigation: This risk is partially mitigated. CBP destroys paper copies of CBP Form 2500 after three years. CBP continues to store the data used to prepopulate the electronic form in e3 (specifically EID) for 75 years. Storing these records for a long period of time is necessary to provide CBP the ability to view previous health information if they encounter the individual again and may assist in providing future care. This retention period aligns with that outlined in the BPER SORN.²⁵

Information Sharing

There are no changes to internal information sharing as a result of this update. Information, including the new health information, will continue to be stored in EID. USBP agents at checkpoints, using BEST to further investigate vehicle and passenger information, can query TECS data for lookout record data and border crossing encounters. BEST provides a record of every secondary referral, regardless of disposition, for research and/or reference. Information CBP enters into the BEST module will be retained in TECS and may be accessed by users of TECS.

CBP collects and sends DNA samples to FBI for entry in CODIS. Health information may be shared with a healthcare provider or HHS, in addition to ICE, in order to ensure continuity of any care provided by CBP. CBP Form 93 will be shared with HHS in order to ensure that information CBP collects is passed on to HHS, which is responsible for UAC care.

Privacy Risk: There is a risk that sensitive information collected from UACs could be improperly shared.

Mitigation: This risk is mitigated by limiting the sharing of CBP Form 93 to ICE-ERO and HHS only. ICE-ERO personnel with an operational need to know may access the electronic form, which is stored in EID. When warranted, HHS is provided a hard copy of the form when UACs are transferred to HHS care.

Privacy Risk: There is a risk that individual health information could be improperly shared outside of DHS.

Mitigation: This risk is mitigated by limiting the sharing of CBP Form 2500 to ICE-ERO and HHS only. ICE-ERO personnel with an operational need to know may access the electronic form, which is stored in EID. While not mandatory, a hard copy of the form may be provided to HHS when the subject is transferred to HHS care.

Redress

There are no changes to redress as a result of this update.

²⁵ See *supra* note 16.



Auditing and Accountability

With this PIA update, USBP agents will use e3 to perform the following: auto-populate various forms; conduct research and document secondary inspections at USBP Checkpoints; and test the feasibility of using SID wristbands for documenting custodial activities.

The e3 application access control procedures adhere strictly to the DHS Sensitive Systems Policy Directive 4300A and CBP Information System Security Policies and Procedures Handbook 1400-05D. Every authorized e3 application user, after completing a favorable background investigation, is issued a unique Hash ID and password to gain access. Only DHS personnel with a verified operational need will be granted access to e3.

Privacy Risk: There is a risk that CBP personnel will use PII for purposes beyond what is described in this PIA.

Mitigation: This risk is mitigated. CBP trains all USBP agents on DNA collection procedures and the appropriate handling of PII (including Sensitive PII). Further, only personnel with a verified need to know are granted access to E3. These systems employ robust audit controls to ensure appropriate usage and access controls. If CBP determines that an individual is using the system for unauthorized purposes, it may revoke that person's access, and/or take additional measures as appropriate.

Responsible Officials

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Approval Signature

Original, signed copy on file with the DHS Privacy Office.

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