



Privacy Impact Assessment

for the

Operational Use of Familial DNA

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**Homeland
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Abstract

The U.S. Department of Homeland Security (DHS) U.S. Customs and Border Protection (CBP) is implementing Familial deoxyribonucleic acid (DNA) testing as a factor to determine if an adult claiming to be the biological parent of a child is, in fact, the biological parent. Such testing will help to identify individuals who are fraudulently representing themselves as a family unit when apprehended by DHS. Additionally, such Familial DNA testing is being implemented for purposes of complying with a court order in *Ms. L v. U.S. Immigration and Customs Enforcement (ICE)*, 3:18-cv-00428 (S.D. Cal), which requires DNA testing prior to any separation of an adult and child based on concerns of parentage. CBP is conducting this Privacy Impact Assessment (PIA) to provide transparency about the limited scope of DNA collection for the purpose of Familial DNA testing, which compares two DNA profiles (adult and child) to determine whether a biological parent-child relationship exists, and to outline and explain how CBP will mitigate privacy risks associated with Familial DNA.

Introduction

In the spring of 2018, DHS became aware of an increase in the number of adult non-U.S. citizens and non-Lawful Permanent Residents (collectively, noncitizens) fraudulently claiming a biological parent-child relationship to an unrelated child at the time of encounter. DHS is generally limited on how long, and under what conditions, it may detain minors, even when those minors are accompanied by a parent or legal guardian. Equipped with this knowledge, noncitizens seeking to avoid detention, possibly aided by transnational criminal organizations, may attempt to enter the United States as a fraudulent family unit. Family unit fraud can lead to, or stem from, other crimes, including immigration violations, identity and benefit fraud, human smuggling, human trafficking, foreign government corruption, and child exploitation.

In May 2019, ICE Homeland Security Investigations (HSI) began a pilot program, Operation Double Helix, to use Familial DNA testing to determine parentage in possible fraudulent family units.¹ In January 2020, the court in *Ms. L v. ICE*, 3:18-cv-00428 (S.D. Cal), required DNA testing be conducted prior to any separation of an adult and child based on parentage concerns. The current ICE-Homeland Security Investigations operation will end on September 12, 2021. Therefore, CBP is assuming responsibility for Familial DNA testing to protect the interests of

¹ See U.S. DEPARTMENT OF HOMELAND SECURITY, U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, PRIVACY IMPACT ASSESSMENT FOR THE RAPID DNA OPERATIONAL USE, DHS/ICE/PIA-050 (2019), available at <https://www.dhs.gov/privacy-documents-ice>.



vulnerable children who may be exploited by adults claiming to be their parents and to continue operations in compliance with the court order.

CBP (both U.S. Border Patrol (USBP) and the Office of Field Operations (OFO))² will collect DNA samples pursuant to its immigration inspection authorities in Title 8 (8 U.S.C. 1225(d)(3); 8 U.S.C. 1357(b)) and with the consent of the adult claiming biological parentage. Title 8 grants CBP the authority “to take and consider evidence of or from any person concerning the privilege of any alien or person he believes or suspects to be an alien to enter, reenter, pass through, or reside in the United States, or concerning any matter which is material or relevant to the enforcement of this Act and the administration of the Service.” The collection of DNA samples to determine biological parental relationships does not require a warrant, and DNA samples will be collected with the consent of the adult claiming biological parentage.

Familial DNA Collection Process

A USBP Agent or CBP Officer will determine whether to conduct DNA collection for the purpose of Familial DNA testing because of a potentially fraudulent claim of parentage based on law enforcement personnel expertise, interviews with the individual, and a totality of circumstances during the inspection. For both USBP and OFO, a supervisor must approve the collection of DNA for the purpose of performing a familial test. Some examples of relevant factors include:

- USBP Agents or CBP Officers have observed or gathered information that indicates potential human trafficking;
- Through interviews or other enforcement actions, USBP Agents or OFO Officers may come to suspect adults are fraudulently claiming to be the biological parent of a child. These suspicions may arise from observed behaviors of a purported family unit that are inconsistent with the behavior of an actual family or other factors, including instances where USBP Agents or CBP Officers reasonably believe that they observed the same child(ren) on multiple occasions with different adults claiming a parent-child relationship.

DNA testing is not conducted on all families presenting at the border with children. When a USBP Agent or CBP Officer determines that DNA collection for the purpose of Familial DNA testing is required, the Agent or Officer will seek supervisory approval for the collection, and then inform the adult about the purpose of the DNA testing. Agents and Officers will provide a consent form on which the adult must affirmatively elect to participate in the DNA testing. The consent form establishes the scope of the consent (i.e., that the individual’s consent only extends to a DNA sample validating a biological parental relationship) and explains the testing (i.e., that collection is pursuant to a uniform procedure utilizing a buccal (cheek) swab). It also states that CBP may

² USBP apprehends individuals who enter the country outside of established Ports of Entry (POE). OFO is responsible for processing individuals who present themselves at the Ports of Entry.



retain a record of the parental validation results and that CBP will not store the DNA sample collected pursuant to the consent. A Point of Contact (POC) will be designated within each CBP Sector and Field Office who will maintain the log of Familial DNA collection records as discussed below.³

In addition to the consent form, the adult will also be provided a Privacy Act Statement explaining the purpose of the DNA testing, the authority under which DNA is collected, that information related to the collection of DNA (e.g., the existence of a positive or negative match) may be shared according to federal law and CBP policy, and that disclosure of DNA is voluntary. The consent form and the privacy statement will be available in English, Spanish, and Portuguese, and interpreter services will be provided, as needed.

DNA testing will only be conducted if the adult consents to the test. If the adult consents, the USBP Agent or CBP Officer will instruct and observe the adult subject conduct a buccal (cheek) swab on themselves and the child, or the child can collect the sample themselves. The CBP personnel will package the DNA samples and send them to a contracted laboratory, which provides personnel and equipment to conduct Familial DNA analysis. Familial DNA, or Familial DNA analysis, is a term used to describe the streamlined process of developing a DNA profile from a reference sample buccal (cheek) swab and comparing it against another reference sample buccal (cheek) swab. Furthermore, the analysis permits a trained human technician to analyze any inconclusive results.⁴ The DNA profile generated for Familial DNA analysis is unique in that it is not usable for any other purpose other than to indicate a positive or negative parental relationship with another DNA profile. It does not contain any information concerning an individual's health, body composition, or organic strengths or weaknesses. Additionally, DNA samples used for Familial analysis disintegrate as part of the testing and none of the physical sample is retained.

DNA profiles identify with a high level of accuracy the genetic characteristics of one individual and can be compared to those of another individual to determine whether the individuals have a positive or negative parent-child match.⁵ A positive match indicates that the tested individuals have a confirmed biological parent-child relationship. A negative match results when there is no biological parent-child relationship. The contracted forensic service provider will provide a report back to the CBP requestor that contains the percentage of how related the individuals are. As such, any Familial DNA profile match that is less than a parent-child match (i.e., less than a 99.5 percent DNA profile match) will be considered a negative match under

³ CBP collects and retains the minimum amount of administrative data viable to ensure the accuracy of recording a positive or negative match in the SharePoint log and in the Unified Secondary system, described in full below.

⁴ This may occur for a variety of reasons, such as insufficient DNA to conduct analysis, especially if a subject is dehydrated. If inconclusive, the technician may run the second sample to try the match again (see footnote 6).

⁵ CBP is only conducting Familial DNA testing to verify claims of parent-child relationships. DNA testing will not be used to validate other familial relationships.



CBP's Familial DNA testing. An inconclusive match will be treated the same as a positive match in that the child(ren) will not be separated from the adult(s) based on the results of the DNA tests; only confirmed negative results may be used as the basis to separate an adult and child based on concerns about parentage.⁶ Inconclusive data could be due to the lack of DNA found on the buccal (cheek) swab, due to human error, or the collection was otherwise insufficient so as to yield conclusive data.

CBP has contracted with a vendor to support CBP with its need for DNA collection for the purpose of Familial DNA testing conducted by an outside forensic service provider. The contractors must undergo DHS Privacy and Security training and sign Non-Disclosure Agreements (NDA) prior to gaining access to CBP collected information. Access to CBP information is limited based on a need-to-know.

USBP Agents or CBP Officers create a "case" after recommending individuals to their Supervisors for Familial DNA testing. A "case" is created by manually completing a case submission form to pass along a hard copy to the contractor.⁷ An email notification will also be sent that the test is en route with an electronic copy of the request. The case submission form is necessary to establish the field POC so that results can be sent to the requesting USBP Agent or CBP Officer once the analysis is complete. In this form, the following fields are required:

- Submitting agency and office;
- Billing information and method of payment (the contract order number is used);
- CBP report mailing POC and address;
- Authorized CBP POC, address, and email address;
- Familial DNA test;
- Event number;⁸
- Barcode for parent sample collection kit;
- Barcode for child sample collection kit; and

⁶ Each DNA collection kit contains two swabs to collect an individual's sample. CBP will submit two swabs to the forensic service provider as part of each DNA collection. If the first swab does not produce a conclusive result, then the second swab is tested. If the second swab does not produce a conclusive result, then the result is considered inconclusive and is treated the same as a positive match.

⁷ OFO intends to convert the fillable PDF to be entered in electronically within the Unified Secondary system, then printed and emailed to the forensic service provider.

⁸ OFO will include a Unified Secondary event number on the completed Familial DNA submission form provided to the contracted vendor and attached to the report provided back by the contacted vendor when results are received by the CBP Officer. USBP intends to provide the e3 event number. Event numbers are generated by the respective systems and are not derived from any PII.



- Date collection completed.

For the POC fields, depending on the submitting office within CBP, the USBP Agent or CBP Officer's contact information (name, email address, and phone number) is listed. These fields are required so the vendor can contact the submitting agent or officer at the conclusion of the DNA analysis and provide the DNA testing report. The report provided to the POC by the forensic service provider will contain the following information about individuals whose DNA is tested for familial relationships:

- Time and Date sample was collected;
- Sample ID (unique barcode);
- Cartridge and chemistry;⁹
- Location at which the sample was collected;
- Serial number of machine used for testing;
- Number of matches;
- Claimed Relationship (parent and child);
- Person A DNA swab barcode (e.g., AB10224);
- Person B DNA swab barcode (e.g., AB10225);
- Likelihood ratio;
- Probability Related (e.g., 99.9%);
- Overall result: positive or negative; and
- If applicable, Conflicting Loci.¹⁰

Familial DNA samples will be processed by the contracted vendor. The swabs disintegrate or are used up during the process of testing. Any remaining material that contains DNA will be destroyed at the completion of analysis. At no time will the physical DNA profile samples or the DNA profile information be maintained by CBP personnel. After testing is complete, the physical DNA samples will no longer be retained by the forensic service provider.

⁹ The cartridge is the container that holds the necessary reagents and consumables needed to complete the DNA test until the analysis is performed. Chemistry refers to the reagents and consumables. The cartridge allows for a user to generate a forensic DNA profile from a buccal swab. The information on the cartridge is used by the vendor to track the cartridge lot number.

¹⁰ The CBP forensic service provider will use short tandem repeat (STR) locations (loci) that are used by the Federal Bureau of Investigation (FBI), INTERPOL, and other accredited DNA laboratories. The loci are chosen specifically because they do not reveal any physical traits, race, ethnicity, disease susceptibility, or other sensitive information about an individual. The DNA test uses a set of STR loci to verify parent-child relationships.



Both USBP Agents and CBP Officers will indicate in a stand-alone log (i.e., Excel spreadsheet or Unified Secondary (USEC)¹¹), established for the POC and maintained manually by CBP personnel, that a privacy statement was provided to the individual, including the name of the officer providing the privacy statement, and noting that the individual consented to the testing.

Eventually, USBP intends to use the e3 system to store records related to processing for the purpose of Familial DNA testing.¹² In the interim, PII about noncitizens collected as part of DNA collection for the purpose of Familial DNA testing will be logged by USBP Agents in a secure SharePoint site that stores information related to the administration of Familial DNA testing. The SharePoint log will also be used to evaluate the merits of DNA collection for the purpose of Familial DNA testing based on time from referral to result, total number of negative or inconclusive tests, and an after-action report. The SharePoint log will be maintained by USBP Agents, and access is limited to those Agents who have submitted a test, with a need-to-know based on their official duties as designated by the Supervisor. The interim SharePoint solution will consist of a fillable document, and all entries and users will be recorded. PII contained in the SharePoint log will include the following:

- Name of the adult and claimed child;
- Date of birth for the adult and claimed child;
- A-numbers;
- Consent received (Yes);
- Country of citizenship;
- Date, time, and location of test;
- Result (positive or negative parent-child match);
- Barcode number that corresponds to the DNA sample;
- Articulate basis for requiring the DNA collection; and
- Prosecution results, if any.

OFO will use Unified Secondary for Familial DNA processing, and in addition to the data elements above, will also assign a Unified Secondary event number. Unified Secondary is a

¹¹ See U.S. DEPARTMENT OF HOMELAND SECURITY, U.S. CUSTOMS AND BORDER PROTECTION, PRIVACY IMPACT ASSESSMENT FOR THE CBP UNIFIED SECONDARY, DHS/CBP/PIA-067 (2020), available at <https://www.dhs.gov/privacy-documents-us-customs-and-border-protection>.

¹² See U.S. DEPARTMENT OF HOMELAND SECURITY, U.S. CUSTOMS AND BORDER PROTECTION, PRIVACY IMPACT ASSESSMENT FOR THE CBP PORTAL (E3) to ENFORCE/IDENT, DHS/CBP/PIA-012 (2017), available at <https://www.dhs.gov/privacy-documents-us-customs-and-border-protection>.



consolidated inspection and immigration events processing tool that lists all travelers referred for secondary inspection at a specific port. CBP Officers will select the event created within Unified Secondary for the relevant adult and child and add all associated attachments, which will include the consent form. The attachment identifying a Familial DNA test will contain the barcode number that corresponds to the DNA sample from the sample collection kit. Similar to a Unified Secondary event number, the barcode cannot, itself, be used to identify an individual. Form I-213, *Record of Deportable Alien*, may also be attached. As the process matures, Unified Secondary will contain a dropdown selector identifying a DNA collection for the purpose of Familial DNA testing. CBP Officers will be able to query total number of collections from the Unified Secondary event number to evaluate the merits of DNA collection for the purpose of Familial DNA testing, such as number of tests and locations of tests.

After testing is complete, results will be provided to the CBP POC who submitted the samples. USBP personnel will record the reason for testing and the positive, negative, or inconclusive familial match in the narrative section of the Form I-213, which is uploaded into ICE's Enforcement Integrated Database (EID) via e3, a CBP portal that collects and transmits data to the Enforcement Integrated Database for storage.¹³ An annotation in the e3 Detention Module will also record DNA collection for the purpose of Familial DNA testing as well as the result. CBP uses e3 to generate the Form I-213 and track individuals currently in USBP custody. Data entered into the Form I-213 is eventually shared with ICE and U.S. Citizenship and Immigration Services (USCIS) as part of the individual's A-File.

OFO will continue to use Unified Secondary to record the positive, negative, or inconclusive familial match. CBP Officers will also record results in Form I-213, which also documents the articulable basis for requiring the DNA collection, and upload it into Unified Secondary. The Unified Secondary event number will be written on the completed Familial DNA submission form provided to the contracted vendor and attached to the report provided back by the contacted vendor when results are received by the CBP Officer.

If the test confirms a parent-child relationship, the subjects will be processed as a family unit, absent an independent reason to separate the parent and child. Individuals may elect not to consent to testing. Declining to provide consent will be noted in the Form I-213. After electing not to participate, individuals will be processed in accordance with current DHS policies. At no time will USBP Agents or CBP Officers force individuals to provide a DNA sample.

If Familial DNA analysis confirms that an adult is not the biological parent of the child after the adult has falsely claimed biological parentage, the adult may be separated from the child,

¹³ See U.S. DEPARTMENT OF HOMELAND SECURITY, U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, PRIVACY IMPACT ASSESSMENT FOR THE ENFORCEMENT INTEGRATED DATABASE, DHS/ICE/PIA-015150 (2010 and subsequent updates), available at <https://www.dhs.gov/privacy-documents-ice>.



and may be referred to ICE for criminal prosecution. In that case, the adult subject will also be booked and receive a Federal Bureau of Investigation (FBI) number, if not already provided. This individual will also be subject to a separate DNA collection¹⁴ for the FBI Combined DNA Index System (CODIS), where a CODIS DNA sample will be collected at the time of booking and submitted to the FBI Federal DNA Database Unit (FDDU) for upload to CODIS.

Fair Information Practice Principles (FIPPs)

The Privacy Act of 1974¹⁵ articulates concepts of how the federal government should treat individuals and their information and imposes duties upon federal agencies regarding the collection, use, dissemination, and maintenance of personally identifiable information. Section 222(2) of the Homeland Security Act of 2002 states that the Chief Privacy Officer shall assure that information is handled in full compliance with the fair information practices as set out in the Privacy Act of 1974.¹⁶

In response to this obligation, the DHS Privacy Office developed a set of Fair Information Practice Principles (FIPPs) from the underlying concepts of the Privacy Act to encompass the full breadth and diversity of the information and interactions of DHS.¹⁷ The FIPPs account for the nature and purpose of the information being collected in relation to DHS's mission to preserve, protect, and secure.

DHS conducts Privacy Impact Assessments on both programs and information technology systems, pursuant to the E-Government Act of 2002, Section 208¹⁸ and the Homeland Security Act of 2002, Section 222.¹⁹ Given that Familial DNA is an operation, rather than a particular information technology system, this PIA is conducted as it relates to the DHS construct of the Fair Information Practice Principles. This PIA examines the privacy impact of Familial DNA for operational use as it relates to the Fair Information Practice Principles.

1. Principle of Transparency

Principle: DHS should be transparent and provide notice to the individual regarding its collection, use, dissemination, and maintenance of PII. Technologies or systems using PII must be described in a SORN and PIA, as appropriate.

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>.

¹⁵ 5 U.S.C. § 552a.

¹⁶ 6 U.S.C. § 142(a)(2).

¹⁷ U.S. DEPARTMENT OF HOMELAND SECURITY, PRIVACY POLICY GUIDANCE MEMORANDUM 2008-01/PRIVACY POLICY DIRECTIVE 140-06, THE FAIR INFORMATION PRACTICE PRINCIPLES: FRAMEWORK FOR PRIVACY POLICY AT THE DEPARTMENT OF HOMELAND SECURITY (2008), available at <https://www.dhs.gov/privacy-policy-guidance>.

¹⁸ 44 U.S.C. § 3501 note.

¹⁹ 6 U.S.C. § 142.



This PIA serves to inform the public generally that CBP is replacing ICE as the DHS component responsible for Familial DNA testing at the border. In addition, adults claiming a potentially fraudulent parent-child relationship who are referred for testing will be provided notice and a consent form prior to collection of buccal swab DNA.

Privacy Risk: There is a risk that individuals selected for Familial DNA testing may not have adequate or meaningful notice that their DNA information will be collected.

Mitigation: This risk is mitigated. Prior to collection, CBP supplies each adult selected to submit to Familial DNA testing with a written consent form on which the adult is notified that they must affirmatively consent to Familial DNA testing. Translations of the consent form and privacy statement in commonly encountered languages (i.e., Spanish and Portuguese) and telephonic interpreter services for any other language encountered are available, as needed. If an individual is unable to read the form and statement, CBP will read the form and statement to the individual in a language the individual comprehends, and if necessary, will contact translation services to assist.

The privacy statement provides notice of the authority under which CBP is authorized to collect DNA information, the purpose for which the Familial DNA sample is being collected, and that CBP may share the individual's information and information about the DNA sample provided according to federal law and policy. Lastly, the privacy statement explains that the disclosure of DNA information is voluntary, but that the individual's failure to submit to Familial DNA testing could result in additional investigation, and may be taken into account as one factor in how the individual will be processed by DHS.

CBP is publishing this PIA to provide detailed descriptions of the individuals whose information is collected for Familial DNA testing, and how that information is used and stored. In addition to this PIA, CBP has multiple system of records notices (SORN) that provide general notice of the types of records CBP may collect as part of its law enforcement and border security mission(s). The Border Patrol Enforcement Records (BPER) SORN²⁰ and the TECS SORN²¹ provide notice regarding CBP records used to identify potential terrorist and criminal activity, immigration violations, and threats to homeland security; to uphold and enforce the law; and to ensure public safety. Lastly, notice is provided via DHS Contractors and Consultants SORN,²² for the retrieval of contact information shared with and used by the forensic service provider.

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

²¹ See DHS/CBP-011 U.S. Customs and Border Protection TECS, 73 Fed. Reg. 77778 (December 19, 2008), available at <https://www.dhs.gov/system-records-notices-sorns>.

²² See DHS/ALL-021 Department of Homeland Security Contractors and Consultants, 73 Fed. Reg. 63179 (October 23, 2008), available at <https://www.dhs.gov/system-records-notices-sorns>.



2. Principle of Individual Participation

Principle: DHS should involve the individual in the process of using PII. DHS should, to the extent practical, seek individual consent for the collection, use, dissemination, and maintenance of PII and should provide mechanisms for appropriate access, correction, and redress regarding DHS's use of PII.

Not every claimed parent-child relationship will be subject to Familial DNA testing. Individuals who claim to be the biological parent of a child, but whom CBP personnel determine, based on observations of the individuals by trained CBP law enforcement officers and interviews during the inspection process, may be fraudulently claiming such a relationship will be asked to consent to DNA collection for the purpose of Familial DNA testing. In practice, such observation can include, for example, the results of an interview with the claimed family unit, presentation of fraudulent or suspected fraudulent documents, or behavior observed between the adult and child that is inconsistent with expected behavior between a parent and child.

Adults whom CBP believes are potentially claiming a fraudulent parent-child relationship are provided the opportunity to affirmatively consent to DNA collection for the purpose of Familial DNA testing on his or her own behalf and on behalf of the claimed child. They will be provided with the relevant privacy statement and consent form. The consent form outlines the purpose for the Familial DNA collection and testing (i.e., to validate the claimed parent-child relationship between the adult and the claimed child), the scope of the testing (which is solely to validate a parent-child relationship), that testing will be performed according to a uniform procedure using a buccal (cheek) swab, and that the privacy statement has been provided to the individual. It further establishes that, at the time of testing, CBP has not yet determined whether it will process the individuals as a family unit (e.g., house or release the individuals together) and that providing DNA is no guarantee that CBP will process the individuals as a family unit.

If an adult does not consent, that declination will be documented in the SharePoint log or Unified Secondary. If the adult does not consent to the testing, the individuals will be processed consistent with current DHS policies and procedures to develop additional information to confirm or refute the claimed parent-child relationship and make appropriate decisions based on that family unit determination.

3. Principle of Purpose Specification

Principle: DHS should specifically articulate the authority which permits the collection of PII and specifically articulate the purpose or purposes for which the PII is intended to be used.

CBP may collect DNA for the purpose of Familial DNA testing pursuant to its immigration inspection authorities in Title 8 (8 U.S.C. 1225(d)(3); 8 U.S.C. 1357(b)). Title 8 grants CBP the authority "to take and consider evidence of or from any person concerning the privilege of any alien or person he believes or suspects to be an alien to enter, reenter, pass through, or reside in



the United States, or concerning any matter which is material or relevant to the enforcement of this Act and the administration of the Service.” The collection of DNA samples to determine familial relationships does not require a warrant, and DNA samples will be collected with the consent of the adult claiming the parent-child relationship.

4. Principle of Data Minimization

Principle: DHS should only collect PII that is directly relevant and necessary to accomplish the specified purpose(s) and only retain PII for as long as is necessary to fulfill the specified purpose(s). PII should be disposed of in accordance with DHS records disposition schedules as approved by the National Archives and Records Administration (NARA).

At each phase of Familial DNA testing, from selection to test results, CBP has minimized the PII collected to that which is directly relevant and necessary to identifying family unit fraud. Specifically, this includes implementing the following measures:

- The DNA samples submitted by CBP for analysis will only be used to confirm a claimed biological parent-child relationship and will not be stored or be made available for any future testing or other use;
- The information collected in conjunction with each CBP sample is limited to that information which ensures that the DNA sample is attributed to the correct individual who provided the sample (e.g., name and A-Number) and Familial DNA testing integrity (e.g., date and time of test); and
- CBP’s contract with the forensic service provider requires that all DNA samples are physically destroyed after the analysis is concluded.

Privacy Risk: There is a risk that CBP’s collection of DNA samples and associated administrative information may constitute an over-collection of sensitive information.

Mitigation: The risk is mitigated. CBP will only conduct Familial DNA testing when CBP believes that a claimed biological parent-child relationship is fraudulent. USBP Agents and CBP Officers will use a totality of circumstances during the inspection process, including interview responses, observations of interactions between the individuals, and law enforcement skills and training, to determine whether to refer an adult and child for Familial DNA testing.

Also, CBP collects only enough DNA to create a unique DNA profile capable of being compared with another DNA profile to verify a claimed parent-child relationship. The DNA sample (i.e., swab) is destroyed immediately after it is analyzed. CBP collects and retains the minimum amount of administrative data necessary to ensure the accuracy of recording a positive or negative match in the SharePoint log, eventually e3, and in Unified Secondary.

Privacy Risk: There is a risk that CBP may retain data longer than is necessary for operational purposes.



Mitigation: This risk is mitigated. All data retained in CBP recordkeeping systems for Familial DNA testing must be relevant or useful to showing the positive or negative DNA match and confirming the integrity of the Familial DNA testing. CBP's retention of DNA information is governed by National Archives and Records Administration (NARA)-approved retention schedules (i.e., according to the Management of Samples schedule DAA-0568-2015-0001), which covers the results of the DNA testing. Such records are retained by CBP for 20 years. Vendor and bidder information is governed by National Archives and Records Administration-approved retention schedules (i.e., DAA-GRS-2016-001-005) and is destroyed three years after removal from approved status but is authorized for longer retention if required for business use. Standard Operating Procedures are governed by N1-563-08-03-11 and must be destroyed or deleted three years after cutoff or when no longer needed for business purposes, whichever is later.

Records relating to consent to DNA collection for the purpose of Familial DNA testing and the privacy notice provided to individuals are maintained in the individual's A-File, which is covered under retention schedule N1-566-08-01. Information in the A-File is maintained permanently.

5. Principle of Use Limitation

Principle: DHS should use PII solely for the purpose(s) specified in the notice. Sharing PII outside the Department should be for a purpose compatible with the purpose for which the PII was collected.

The Familial DNA sampling is used solely to compare two unique DNA profiles and determine whether a positive or negative biological parent-child relationship exists between the two. The portion of DNA that is analyzed by the system or human analyst does not reveal any physical traits, race, ethnicity, disease susceptibility, or other sensitive information about an individual, and will not be used for purposes other than verifying claimed parent-child relationships.

Privacy Risk: There is a risk that CBP will use information collected from the Familial DNA operation for a purpose other than that for which it originally collected the information.

Mitigation: This privacy risk is mitigated. CBP only uses the DNA samples to indicate whether a biological parent-child relationship exists between members of a claimed family unit. Because the samples are immediately destroyed as part of the testing process, the DNA samples cannot be stored and used subsequently for verification with an additional individual or for a different purpose. Additionally, CBP supplies the forensic service provider with the minimum amount of information required to fulfill its obligation to provide accurate Familial DNA testing in a timely manner. The limited amount of information available to the forensic service provider ensures that the Familial DNA testing to verify a parent-child relationship conforms to well-established uniform procedures and cannot be used or tested for any other purpose. The forensic



service provider does not retain any PII resulting from CBP's use of Familial DNA testing.²³ Finally, the DNA samples cannot be used to discriminate in the provision of benefits, nor can they be analyzed to reveal any physical traits, race, ethnicity, disease susceptibility, or other sensitive information about an individual.

6. Principle of Data Quality and Integrity

Principle: DHS should, to the extent practical, ensure that PII is accurate, relevant, timely, and complete, within the context of each use of the PII.

A Familial DNA match is based on a 99.5 percent or better likelihood that the parent-child relationship is verified. It is highly unlikely that the Familial DNA test will provide an inaccurate DNA match. If the sample is non-conclusive, CBP will treat an inconclusive result in the same manner as a positive result, in that the individuals will not be immediately separated as a result of the DNA tests. Further, all CBP employees requesting DNA samples are trained on the proper swabbing procedures and how to properly convey such procedures to the adult consenting to collection.

Privacy Risk: There is a risk that data entered into the SharePoint log or Unified Secondary system could be inaccurate or associated with the wrong family unit.

Mitigation: This risk is mitigated. After information is entered into the SharePoint log by USBP Agents, or into Unified Secondary by CBP Officers, a second CBP employee verifies that the information entered is accurate. If CBP discovers that information contained in the log is inaccurate, personnel will make appropriate revisions.

To address the risk that DNA information would be associated with the wrong family unit, CBP personnel compare the barcode from the cartridge with the barcode on the printed report to make sure there is a match. CBP personnel then enter the relevant data into SharePoint or Unified Secondary immediately after it becomes available, and a second CBP employee verifies that the information entered is accurate. CBP uses these barcodes to ensure that both subjects and samples are properly documented and paired together. This enhances the data quality review if information is incorrectly associated with the wrong family unit.

7. Principle of Security

Principle: DHS should protect PII (in all forms) through appropriate security safeguards against risks such as loss, unauthorized access or use, destruction, modification, or unintended or inappropriate disclosure.

²³ All submitted swabs/samples not consumed as part of the analysis shall be destroyed after completion of the analysis.



Strict physical and technical access controls are in place to ensure the security of all Familial DNA collections. Only trained personnel will be authorized to collect DNA samples. If PII associated with DNA collection is compromised—including misuse of data, unauthorized access to Familial DNA, and/or inappropriate disclosure of Sensitive PII—it must be reported and handled as a privacy incident. For cases in which misconduct is suspected, the incident will be reported to the CBP Office of Professional Responsibility for further investigation, and as appropriate, the CBP personnel will be removed from the operation.

Privacy Risk: There is a risk DNA information analyzed by a forensic service provider may be inappropriately accessed or disseminated.

Mitigation: This risk is mitigated. CBP's contract with the forensic service provider contains strict privacy and security language prohibiting the vendor from inappropriately accessing or disseminating CBP information. Forensic service provider personnel are required to complete privacy, security, and records training. In addition, the forensic service provider is required to report the suspected loss or compromise of Sensitive PII to CBP and is subject to fines and penalties if government information or records are used beyond the scope of the contract. The forensic service provider may also be liable for breach of contract and agency administrative actions to include suspension and/or debarment. Finally, CBP only provides the forensic service provider with the minimum amount of information necessary to conduct the Familial DNA analysis and determine whether there is a positive or negative test result between the members of a claimed family unit. Vendor personnel do not have access to either CBP's SharePoint log, e3, or the Unified Secondary system, and access to these repositories is limited to CBP personnel with a verified need-to-know.

8. Principle of Accountability and Auditing

Principle: DHS should be accountable for complying with these principles, providing training to all employees and contractors who use PII, and should audit the actual use of PII to demonstrate compliance with these principles and all applicable privacy protection requirements.

Access to the logs (Sharepoint, e3, or Unified Secondary) are limited to internal CBP users. System access is not provided to non-CBP personnel. Access is limited to those personnel with a job-related requirement to access the information and all CBP system users must sign a rules of behavior statement acknowledging that they have been trained and understand the security aspects of their systems.

Specific to Familial DNA test results, CBP is working with the forensic service provider to develop adequate training for agents and officers on collection and submission of samples.

Privacy Risk: There is a risk that Familial DNA test results are not audited or accounted for in a manner required under internal policy.



Mitigation: This risk is mitigated. CBP will store detailed records of Familial DNA test results in the SharePoint log maintained by USBP Agents and Unified Secondary maintained by CBP Officers. The log will include the PII elements listed in the “Overview” above, as well as the name of the officer or agent who provided the privacy statement and consent form. This helps ensure that there is a documented record of each Familial DNA test if a subject were to contest the results. Furthermore, CBP incorporates access controls to the SharePoint log, e3, and Unified Secondary, which limit the use of the data to only those with a confirmed need-to-know. Additionally, CBP will review the logs to ensure that the basis for conducting the DNA analysis was articulated sufficiently. Finally, CBP will provide training to its law enforcement personnel to ensure that claimed family units are selected for Familial DNA testing as outlined in this PIA. All personnel associated with the Familial DNA operation (both federal employees and vendor personnel) must complete privacy, security, and records training to ensure the appropriate collection, use, dissemination, and disposal of information.

The forensic service provider is contractually obligated to maintain a certain level of quality assurance with the CBP Laboratories and Scientific Services Directorate (LSSD or Directorate). As with all forensic service providers and laboratories, CBP conducts audits to ensure the contractor conducts quality assurance and security requirements reviews. Additionally, LSSD has a policy for internal and external quality system audits and its SOPs go into detail on how it conducts these audits. Due to current COVID-19 restrictions, in-person/on-site visits/audits have been curtailed. Once travel restrictions and mandatory telework requirements are lifted, the Directorate will begin to schedule on-site/in-person visits to conduct audits on the contractor’s activities.

Conclusion

CBP is replacing ICE as the DHS component responsible for Familial DNA testing at the border. CBP is conducting Familial DNA analysis, via a contracted forensic service provider, on adults and children in cases in which there is a potentially fraudulent claimed biological parent-child relationship. The Familial DNA sampling is used solely to compare two unique DNA profiles and determine whether a positive or negative parent-child relationship exists between the two. The portion of DNA that is analyzed by the system does not reveal any physical traits, race, ethnicity, disease susceptibility, or other sensitive information about an individual, and will not be used for purposes other than verifying claimed parent-child relationships.

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