



Privacy Impact Assessment
for the

Rapid DNA Operational Use

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Abstract

The Department of Homeland Security (DHS) U.S. Immigration and Customs Enforcement (ICE) is deploying Rapid DNA technology as a factor to determine if removable aliens¹ who represent themselves as a family unit (FAMU) when apprehended by DHS do, in fact, have a bona fide parent-child relationship.² Rapid DNA technology performs a relatively quick (90 minutes), low-cost DNA analysis to meet this need. ICE is conducting this Privacy Impact Assessment (PIA) for the following reasons:

- To provide transparency about the limited scope of Rapid DNA use, which simply compares two DNA profiles (of the adult and child) to determine whether a parent-child relationship exists;
- To outline the privacy risks involved in using Rapid DNA technology; and
- To explain how ICE will mitigate any risks pertaining to privacy.

Introduction

In the spring of 2018, ICE became aware of an increase in FAMU fraud encountered at the United States border. This fraud scheme generally involves adult non-U.S. citizens and non-Lawful Permanent Residents (collectively, non-U.S. persons) and unrelated children posing as FAMUs to DHS authorities. Non-U.S. persons claiming to be FAMUs who are encountered by DHS immigration officers and determined to be removable under federal immigration law necessitate special treatment as a matter of law and policy. For instance, DHS is generally limited on how long, and under what conditions, it may detain alien minors, even when those alien minors are accompanied by a parent or legal guardian.³ Equipped with this knowledge, non-U.S. persons seeking to avoid detention, possibly aided by transnational criminal organizations, may attempt to enter the United States as a claimed FAMU. Family unit fraud can lead to, or stem from, other crimes, including immigration violations, identity and benefit fraud, alien smuggling, human trafficking, foreign government corruption, and child exploitation.

To address this vulnerability, the ICE Homeland Security Investigations (HSI) Identity and Benefit Fraud Unit (IBFU) and ICE Enforcement and Removal Operations (ERO) Juvenile and Family Residential Management Unit (JFRMU) are deploying Rapid DNA technology to assist in either confirming or identifying fraudulent parent-child relationships after such a relationship is

¹ A removable alien is someone who is not a citizen or national of the United States who is either inadmissible to, or deportable from, the country under one or more grounds enumerated in the Immigration and Nationality Act (INA).

² For purposes of this PIA, the term “parent-child relationship” or “Family Unit” means that the adult and claimed child have a biological parent-child relationship.

³ For example, under the terms of the 1997 *Flores* Settlement Agreement, as amended and subsequently interpreted by the courts, federal agencies are generally required to remove or release minor children taken into custody as expeditiously as possible. *Flores v. Barr*, No. 85-4544 (C.D. Cal. filed July 11, 1985).



claimed by non-U.S. persons upon the apprehension of a purported FAMU comprised of aliens who are removable from the United States.

To combat FAMU fraud in the immigration system, ICE has contracted with a vendor that will provide personnel and equipment to conduct Rapid DNA analysis. Rapid DNA, or Rapid DNA analysis, is a term used to describe the streamlined process of developing a DNA profile from a reference sample buccal (cheek) swab and permitting a trained human technician to analyze any inconclusive DNA results.⁴ Prior to Rapid DNA, DNA was processed in expensive, clean-room laboratories by highly trained technicians who moved the DNA among five or six separate instruments before manually reviewing the results. Transporting, processing, and producing testing results often took weeks to accomplish.

The entire Rapid DNA testing process takes approximately 90 minutes. It involves an authorized tester⁵ collecting a DNA sample from an individual on a cheek swab. Each buccal swab contains a built-in radio frequency identification (RFID) chip to track the DNA sample through the entire process and ensure that the DNA sample is attributed to the correct person. After a buccal swab is taken, it is inserted into a cartridge integrated within a disposable microfluidic biochip. The biochip contains all the reagents, buffers, and other fluids and materials necessary to run the Rapid DNA analysis. Once the sample is loaded into the biochip, the biochip is then inserted into an automated, integrated desktop unit (hereafter "Rapid DNA system"). The desktop unit contains and provides the power source required to run the reactions and analysis of the Rapid DNA sample. The Rapid DNA technology processes all DNA data and conducts the analysis. Human review is only required if the Rapid DNA system produces an inconclusive result (i.e., cannot conclude whether the two individuals have a parent-child relationship). In that case, a trained technician supplied by the vendor will analyze the DNA profiles from the results of the testing and determine the likelihood of a parent-child relationship.⁶ Analysis by a trained technician present will limit the number of individuals who need to be re-tested.

Each swab has a built-in RFID chip that ensures that the Rapid DNA sample cannot be put in the system incorrectly or incorrectly assigned to another person. The chip tracks the cheek swab sample through the entire system processing, from when it is inserted into the biochip to when the resulting Rapid DNA profiles are produced, and thus ensures that the results are accurate and for the correct person. Furthermore, once the buccal swab sample is inserted into the biochip, the

⁴ This may occur for a variety of reasons, such as insufficient DNA to conduct analysis, especially if a subject is dehydrated.

⁵ An authorized tester is a trained technician, who is either supplied directly by the vendor or is an ICE employee or contractor trained and certified by the vendor. The vendor will have trained technicians on-site for at least 30 days after ICE deploys Rapid DNA technology and can also provide remote support 24 hours per day, seven days per week. Further information about this can be found below.

⁶ The threshold to determine a match is 99.5 percent, which is the threshold set by the American Association of Blood Banks (AABB)-certified laboratories.



sample is locked and cannot be removed. Each individual is assigned a subject or barcode number, and that number is programmed into the RFID chip when it is processed by the Rapid DNA system so that the names and other Personally Identifiable Information (PII) are not linked to the sample. The RFID is linked only to the barcode number.

The Rapid DNA system processes the same 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. Rapid DNA uses a set of STR loci to verify parent-child relationships. A Rapid DNA match is based on a 99.5 percent or better likelihood that the parent-child relationship is valid. This is the threshold currently set by the American Association of Blood Banks (AABB)-certified laboratories that U.S. Citizenship and Immigration Services (USCIS) accepts for DNA testing.

The DNA profile generated by Rapid DNA is unique in that it can only be used to compare two unique DNA profiles to verify whether a parent-child relationship exists.⁷ It does not contain any information concerning an individual's health, body composition, or organic strengths or weaknesses. The Rapid DNA profile is then compared with that of another individual to determine whether the two individuals (e.g., a claimed parent and child) have a positive ("verified") or negative parent-child match ("not verified"). A positive match indicates that the tested individuals are parent and child. A negative match results when the Rapid DNA evidence does not support a claimed parent-child relationship. The collection of Rapid DNA profiles for identification and comparison only extends to evaluating whether a FAMU exists consistent with the definition of "Alien family" in Executive Order 13841, *Affording Congress an Opportunity to Address Family Separation*, June 20, 2018 (i.e., whether a parent-child relationship exists). As such, any Rapid 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 ICE's Rapid DNA testing. In cases in which the data is insufficient to verify a claimed FAMU, a trained technician supplied by the vendor will compare the two samples and determine whether a parent-child relationship exists.

ICE's selection of claimed FAMUs for Rapid DNA testing is performed after DHS immigration officers initially apprehend the aliens and process them according to established procedures (e.g., run searches on the individuals' names and fingerprints for possible matches). From this pool of removable individuals, ICE personnel review documents, observe the individuals, conduct interviews, and select claimed FAMUs for Rapid DNA testing. ICE personnel use their law enforcement expertise to identify suspected fraudulent FAMUs.

⁷ For the purposes of this PIA, ICE uses the terms "positive" and "negative" match to indicate whether a verified parent-child relationship exists between the members of the claimed FAMU.



After ICE HSI personnel select a claimed FAMU for Rapid DNA testing, the adult member of the FAMU will be provided a privacy statement containing the purpose of the Rapid DNA testing, the legal authority under which DNA is collected,⁸ 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 policy, and that submitting to Rapid DNA testing is voluntary, but that failure to submit to Rapid DNA testing may be taken into account as one factor in ICE's assessment of the validity of the claimed parent-child relationship.⁹

In addition, the adult member (parent) of the claimed FAMU will be provided a consent form on which he or she may affirmatively elect to submit to Rapid 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 parent-child relationship) and explains the testing (i.e., that collection is pursuant to a uniform procedure using a buccal swab). It also states that ICE may retain a record of the parent-child validation results, but that ICE will not store any of the DNA information collected pursuant to the testing.

The consent form and the privacy statement will be available in English, Spanish, and Portuguese, and telephonic interpreter services will be provided as needed if ICE encounters other languages. If an individual is unable to read the form and statement, ICE will deliver the form and statement verbally. ICE will record in a SharePoint site (or "SharePoint log") maintained manually by HSI personnel that the consent form and privacy statement were provided to the individual, including the name of the officer providing them to the individual. The executed consent form and privacy statement will be maintained in the individual's Alien File (A-File).

After obtaining consent from the adult member, trained personnel will then swab both the adult and claimed child. The swabs (i.e., samples) are then inserted into the respective cartridges and placed into the system for analysis. Samples will then be processed in the vendor's Rapid DNA system, which generates a report detailing the results of the Rapid DNA test (i.e., indicating a positive or negative parent-child match) and a barcode that corresponds to the DNA sample. None of the information available to the vendor connects the name of the individual being tested with the corresponding DNA sample nor links the Rapid DNA test results to an identifier other than the barcode number.

After receiving the Rapid DNA test results, ICE personnel will record the results of the Rapid DNA test and any related administrative information (i.e., the name of the adult and claimed child, date of birth for the adult and claimed child, Alien Registration Numbers, country of citizenship, date and time of test), result (indicating positive or negative parent-child match), and barcode number that corresponds to the DNA sample related to the testing in the SharePoint log.

⁸ 8 U.S.C. § 1357(b).

⁹ Please see Appendix A for a sample privacy statement.



At no time will the physical DNA profile samples or the DNA profile information be maintained by ICE personnel. The Rapid DNA system is configured to purge any electronic data following the completion of testing. This helps ensure that the vendor will not have access to any PII as a result of the Rapid DNA operation. After the analysis is complete, all used samples will be placed into a secure waste package and sent for physical destruction (either burning or bleaching).

Declining to participate will be documented in the SharePoint log and considered as one of many factors in determining whether to process the adult and child as a FAMU. After electing not to participate, individuals will be processed consistent with current DHS policies and procedures to confirm or refute the claimed parent-child relationship and make appropriate enforcement decisions based on that FAMU determination.

In cases in which, according to their law enforcement expertise, ICE personnel have developed probable cause of FAMU fraud, ICE may obtain a court-issued warrant authorizing the Rapid DNA testing of individuals who previously elected not to consent. After ICE obtains a warrant, the claimed FAMU will be subject to Rapid DNA testing according to the procedures outlined above.

PII about non-U.S. persons collected as part of Rapid DNA testing will be logged in a secure SharePoint site that stores information related to the administration of Rapid DNA testing. The SharePoint log will be maintained by HSI personnel and access is limited to those individuals with a need to know based on their official duties. The PII contained in the log will include the following:

- Name of the adult and claimed child;
- Date of birth for the adult and claimed child;
- Alien Registration Numbers;
- Subject ID;
- FAMU ID;¹⁰
- Country of citizenship;
- Date and time of test;
- Result (positive or negative parent-child match); and
- Barcode number that corresponds to the DNA sample.

¹⁰ Both the Subject ID and the FAMU ID are numerical identifiers generated by U.S. Border Patrol in CBP's E3 system. For more information, see <https://www.dhs.gov/sites/default/files/publications/privacy-pia-cbp-e3.pdf>.



As stated above, the barcode is a unique numerical identifier used to track and compare DNA samples. The barcode cannot, in itself, be used to identify an individual. The SharePoint log will also contain a free-text field for notes. The only notes that ICE will record relate to anomalies in the testing process (e.g., indicating that an individual had to be re-tested). Finally, ICE will use the SharePoint log to track statistical data based on Rapid DNA testing. For example, ICE will record the number of Rapid DNA tests performed, the number of verified family relationships (i.e., positive test results), and the number of criminal prosecutions supported by a negative Rapid DNA test.

In addition, ICE personnel will place the signed consent form, privacy statement, and the report containing the Rapid DNA test results into the individual's Alien File (A-file) and the individual's investigative case file (if an investigation is opened). Also, consistent with current procedures related to identifying family unit fraud, any information gathered by or associated with the collection of Rapid DNA (i.e., the list of PII above) that leads to further investigation or results in criminal prosecution will be stored in ICE's Investigative Case Management (ICM) system.¹¹ The information will be entered into a Report of Investigation (ROI) in ICM memorializing that the adult and claimed child were Rapid DNA-tested. The ROI will contain the location, date, and results of the testing, and will also indicate the name of the ICE agent or officer who provided the individual with the privacy statement and consent form, and whether or not the adult consented to Rapid DNA testing.

Fair Information Practice Principles (FIPPs)

The Privacy Act of 1974 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. The Homeland Security Act of 2002 Section 222(2) states that the Chief Privacy Officer shall ensure that information is handled in full compliance with the fair information practices as set out in the Privacy Act of 1974.

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. 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 208 and the Homeland Security Act of 2002 Section 222. Given that Rapid DNA is an operation rather than a particular information

¹¹ See DHS/ICE/PIA-045 Investigative Case Management System, available at <https://www.dhs.gov/publication/dhs-ice-pia-045-ice-investigative-case-management>.



technology system, this PIA is conducted as it relates to the DHS construct of the Fair Information Principles. This PIA examines the privacy impact of Rapid DNA operations as it relates to the Fair Information 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. There should be no system the existence of which is a secret.

This PIA serves to inform the public generally that ICE is deploying Rapid DNA to assist in its efforts to identify fraudulent parent-child relationships claimed by removable aliens encountered by DHS immigration officers in the course of their enforcement activities. Not every claimed FAMU will be subject to Rapid DNA testing. Rather, claimed FAMUs will be selected for Rapid DNA testing according to law enforcement personnel expertise, based on factors such as key observations, intelligence gathering, documentary evidence, information obtained through law enforcement partners, and any relevant investigative data meant to identify suspected fraudulent FAMUs.

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

Mitigation: This risk is partially mitigated. By publishing this PIA and concurrently updating the corresponding relevant System of Records Notice (SORN), DHS/ICE-009 External Investigations, to account for the DNA collection implemented by Rapid DNA, ICE is providing detailed descriptions of the individuals whose information is collected by the system, and how that information is used and stored.

In addition, prior to testing, ICE supplies each non-U.S. person asked to submit to Rapid DNA testing with a written privacy statement that provides notice of the Rapid DNA testing. Translations of the 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, ICE will deliver the form and statement verbally.

The privacy statement provides notice of the authority under which ICE is authorized to collect DNA information, the purpose for which the Rapid DNA sample is being collected, and that ICE 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 Rapid DNA testing



may be taken into account as one factor in ICE's assessment of the validity of his or her claimed parent-child relationship.

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 FAMU will be subject to Rapid DNA testing. ICE personnel will use their law enforcement expertise to select claimed FAMUs for Rapid DNA testing, based on factors such as key observations, intelligence gathering, documentary evidence, information obtained through law enforcement partners, and any relevant investigative data meant to identify suspected fraudulent FAMUs.

From this pool of individuals, ICE will select claimed FAMUs and provide the adult member of the FAMU with the opportunity to affirmatively consent to Rapid DNA testing on his or her own behalf and on behalf of the claimed child. The consent form states the purpose for the Rapid DNA 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), explains that testing will be performed according to a uniform procedure using a buccal swab, and that the privacy statement has been provided to the individual. It further establishes that, at the time of testing, ICE has not yet determined whether it will process the individuals as a FAMU (e.g., house or release the individuals together) and that providing DNA is no guarantee that ICE will process the individuals as a FAMU.

Declining to participate will be documented in the SharePoint log and used as one of many factors in determining whether a FAMU is detained or released of their own recognizance. After electing not to participate, 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 enforcement decisions based on that FAMU determination.

In cases in which, according to their law enforcement expertise, ICE personnel have developed probable cause of FAMU fraud, ICE may obtain a court-issued warrant authorizing the Rapid DNA testing of individuals that previously elected not to consent to Rapid DNA testing. After obtaining a warrant, the claimed FAMU will be subject to Rapid DNA testing.

Privacy Risk: In cases in which ICE obtains a warrant, individuals will be unable to consent to the collection and use of their DNA sample to confirm whether a parent-child relationship exists.

Mitigation: This risk is not mitigated. When ICE obtains a judicial warrant based on a federal judge's finding of probable cause, the individual will not be granted the opportunity to



consent. Even in cases where Rapid DNA testing is done involuntarily based on a warrant, ICE will provide individuals with a privacy statement to provide notice of the DNA collection.

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.

ICE may collect Rapid DNA samples for the purposes of verifying parent-child relationships under 8 U.S.C. § 1357(b). ICE will use the PII collected from the Rapid DNA operation to verify whether individuals who present themselves as biological parent and child actually have a parent-child relationship. If the Rapid DNA test result does not confirm the claimed parent-child relationship, then ICE may take follow-up action, including criminal prosecution.

Privacy Risk: There is a risk that ICE may use information gathered from the Rapid DNA operation for purposes beyond what is articulated in this PIA.

Mitigation: The privacy statement given to individuals who submit to Rapid DNA testing explicitly states ICE's purpose for using Rapid DNA, which is to investigate fraudulent claimed parent-child relationships. ICE has configured the Rapid DNA system so that its use and the use of the DNA collected as part of the Rapid DNA testing process is limited to the purpose articulated in the privacy statement.

Due to its configuration, the Rapid DNA equipment is only capable of analyzing DNA samples and producing a profile that can then be used to verify a parent-child relationship. The Rapid DNA equipment is not capable of conducting any other analyses about individuals based on the DNA samples provided. Further, the portion of DNA that is analyzed does not reveal any physical traits, race, ethnicity, disease susceptibility, or other sensitive information about an individual, and will not, under any circumstances, be used for decisions based on those criteria. Also, following analysis, the vendor is required to physically destroy all DNA samples, and all electronic data is purged from the system.

These technical controls imposed on the Rapid DNA system limit ICE's use of DNA information to serve as one factor in a larger process to identify immigration benefit fraud, carry out immigration enforcement activities, and combat transnational criminal organizations profiting from FAMU fraud.¹²

¹² Aggregating and analyzing instances of fraudulent FAMUs assists HSI in identifying patterns used by transnational criminal organizations as they attempt to illegally smuggle humans into the United States.



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 Rapid DNA testing, from selection to test results, ICE 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:

- ICE only collects DNA samples from removable aliens when there is suspicion of FAMU fraud;
- The DNA samples collected by ICE will only be used to confirm a claimed parent-child relationship and will not be stored or available for any future testing or other use;
- The information collected in conjunction with each DNA 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 Alien Registration Number) and Rapid DNA testing integrity (e.g., date and time of test); and
- ICE's contract with the vendor requires that all DNA samples are physically destroyed and any electronic data is purged from the Rapid DNA machinery after the analysis is concluded.

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

Mitigation: The risk is partially mitigated. ICE does not engage in the indiscriminate bulk collection of DNA. Rather, ICE judiciously selects claimed FAMUs for Rapid DNA testing according to law enforcement personnel expertise, based on factors such as key observations, intelligence gathering, documentary evidence, information from law enforcement partners, and any relevant investigative data meant to identify suspected fraudulent FAMUs. In addition, to further minimize the amount of data collected, ICE agents and officers will follow pre-established procedures to ensure that only non-U.S. persons are selected for DNA collection.

Also, ICE 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. ICE 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, where applicable, in ICM. Only in cases in which



criminal investigation or prosecution is warranted is any information associated with Rapid DNA (e.g., a negative match) stored in ICM.

Privacy Risk: There is a risk that Rapid DNA testing could impermissibly collect the DNA information of a U.S. person (i.e., United States citizen (USC) or Lawful Permanent Resident (LPR)).

Mitigation: This risk is partially mitigated. Rapid DNA, and the process to identify fraudulent parent-child relationships more generally, are predicated upon a law enforcement encounter with aliens who are potentially removable from the United States, from whom ICE is authorized to “take and consider evidence” under 8 U.S.C. § 1357. While this authority extends to LPRs, ICE does not intend to initially use Rapid DNA technology to verify claimed family relationships between LPRs and other aliens encountered during enforcement activities. LPR status would be ascertained by interviewing the individuals and examining any documents furnished by the individuals. The checks in place ensure that all determinations on alienage and removability are made prior to persons entering the pool of available individuals from which ICE personnel can select for Rapid DNA testing.

That being said, ICE is in the process of updating the DHS/ICE-009 External Investigations SORN to make clear that Rapid DNA testing information may be collected from LPRs in the course of ICE immigration enforcement activities. After the SORN is published, ICE may deploy Rapid DNA beyond suspected fraudulent non-U.S. person FAMUs encountered near the border. At that time, ICE may use Rapid DNA testing to detect FAMU fraud more broadly in the course of its immigration enforcement activities, including in cases in which one or more LPRs may be involved. Until then, LPRs will not be subjected to Rapid DNA testing by ICE for the purpose of verifying or refuting claimed parent-child relationships. ICE will update this PIA prior to using Rapid DNA for a purpose other than FAMU fraud at the border.

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

Mitigation: ICE requires that the only data retained in ICE recordkeeping systems from Rapid DNA testing be the data relevant or useful to showing the positive or negative DNA match and confirming the integrity of the Rapid DNA testing. The ICE personnel who have access to Rapid DNA data will be trained on this requirement. ICE’s retention of DNA information is governed by NARA-approved retention schedules (i.e., according to the Biometrics schedule DAA-0563-2013-0001, item 3.1), which covers the results of the DNA testing. Such records are retained by ICE for 75 years. Records relating to the alien’s consent to Rapid 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.

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

Mitigation: To mitigate this risk, the Rapid DNA system is configured so that ICE can only use the DNA samples to indicate whether a parent-child relationship exists between members of a claimed FAMU. Because the samples are immediately destroyed as part of the testing process, the Rapid DNA samples cannot be stored and used subsequently for verification with an additional individual or for a different purpose. Additionally, ICE supplies the vendor with the minimum amount of information required to fulfill its obligation to provide accurate Rapid DNA testing in a timely manner. The limited amount of information available to the vendor ensures that the Rapid 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 vendor does not retain any PII resulting from ICE's use of Rapid DNA technology.

For purposes of this PIA, ICE will use Rapid DNA technology to detect fraudulent parent-child relationships. Should there be an expansion to the scope of ICE's Rapid DNA use, DHS will evaluate whether it needs to update existing privacy compliance documentation (i.e., PIA and/or SORN). Finally, the Rapid 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.

The Rapid DNA technology ensures that each cheek swab sample taken directly from the individual cannot be put into the system incorrectly or incorrectly assigned to another person. A built in RFID chip in the cheek swab tracks the sample through the entire system processing, from when it is inserted in the biochip to when the resulting DNA profiles are produced, to ensure that the results are accurate and applied to the correct person. Once the cheek swab is placed into the biochip, it is also locked into place and cannot be removed. This security measure prevents tampering with the sample.

A Rapid 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 Rapid DNA system will provide an inaccurate DNA match. If the sample inserted into the Rapid DNA system is inconclusive and the Rapid DNA



machinery cannot verify the existence of a parent-child relationship, ICE may collect and run a new sample through the system. Further, the vendor will have a trained technician on site for at least 30 days after the deployment of Rapid DNA technology and provides remote customer support 24 hours per day, seven days per week in the event that ICE personnel require any assistance.

Privacy Risk: There is a risk that data entered into the SharePoint log could be inaccurate or associated with the wrong FAMU.

Mitigation: After information is entered into the SharePoint log by HSI field personnel, a second ICE agent (or officer) verifies that the information entered is accurate. If HSI discovers that information contained in the log is inaccurate, personnel will make appropriate revisions. Further, the SharePoint log will be used for statistical reporting and will not be used to take enforcement action against an individual. If ICE chooses to investigate or prosecute an individual, that information will be stored in ICM. The ICM PIA (cited above) describes the controls that are implemented to ensure data accuracy.

To address the risk that DNA information would be associated with the wrong FAMU, ICE personnel compare the barcode from the cartridge with the barcode on the printed report to make sure there is a match. ICE personnel then enter the relevant data into SharePoint immediately after it becomes available, and a second ICE agent (or officer) verifies that the information entered is accurate. ICE 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 FAMU.

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.

Strict physical and technical access controls are in place to ensure the security of all Rapid DNA collections. For example, once the buccal swab sample is taken and inserted into the biochip, the sample locks in place and cannot be tampered with or removed. The resulting DNA profile data is encrypted within the system to prevent unauthorized access to the DNA profile and analysis. Also, the Rapid DNA machine will not connect with DHS network infrastructure, does not have Internet connectivity, and cannot transmit information electronically or wirelessly.

Only trained personnel will be authorized to collect DNA samples. In the event that PII associated with DNA collection has been compromised—including misuse of data, unauthorized access to a Rapid DNA machine, and/or inappropriate disclosure of Sensitive PII—it will be reported and handled as a privacy incident. For cases in which misconduct is suspected, the



incident will be reported to the ICE Office of Professional Responsibility for further investigation, and as applicable, the ICE personnel will be removed from the operation. For more information regarding the security and auditing features in the ICM system, please refer to the ICM PIA.

Privacy Risk: DNA information analyzed by a commercial vendor may be inappropriately accessed or disseminated.

Mitigation: ICE's contract with the vendor contains strict privacy and security language prohibiting the vendor from inappropriately accessing or disseminating ICE information. Vendor personnel are required to complete privacy, security, and records training. In addition, the vendor is required to report the suspected loss or compromise of Sensitive PII to ICE and is subject to fines and penalties if government information or records is used beyond the scope of the contract. The vendor may also be liable for breach of contract and agency administrative actions to include suspension and/or debarment. Finally, ICE only provides the vendor with the minimum amount of information necessary to conduct the Rapid DNA analysis and determine whether there is a positive or negative test result between the members of a claimed FAMU. The Rapid DNA system is also configured to delete any DNA information after processing. Vendor personnel do not have access to either ICE's SharePoint log or the ICM system, and access to either of these repositories is limited to ICE 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.

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

Mitigation: To mitigate this risk, ICE will store detailed records of Rapid DNA test results in the SharePoint log maintained by HSI personnel. The log will include the PII elements listed in the "Overview" above and will also include name of the officer providing the privacy statement and consent form. This helps ensure that there is a documented record of each Rapid DNA test if a subject were to contest the results. Furthermore, ICE incorporates access controls to both the SharePoint log and ICM, which limits use of the data to only those with a confirmed need-to-know. Finally, ICE will provide training to its law enforcement personnel to ensure that claimed FAMUs are selected for Rapid DNA testing as outlined in this PIA and that the Rapid DNA system is operated according to uniform, pre-established procedures. All personnel associated with the Rapid 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.



Conclusion

Rapid DNA integrates and automates current laboratory DNA processes to enable rapid and cost-effective DNA testing. ICE uses Rapid DNA sampling 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. In addition, ICE has safeguards in place to ensure that it is only collecting DNA profiles from non-U.S. persons. ICE also uses its law enforcement expertise to collect DNA only in cases where there is a suspicion of family unit fraud.

Responsible Officials

Jordan Holz
Acting Privacy Officer
U.S. Immigration and Customs Enforcement
Department of Homeland Security

Approval Signature Page

[original signed and on file with the DHS Privacy Office]

Jonathan R. Cantor
Acting Chief Privacy Officer
Department of Homeland Security



Appendix A

Sample Privacy Statement

Authority: U.S. Immigration and Customs Enforcement (ICE) is authorized to collect this DNA information by and through the following authority: 8 U.S.C. § 1357(b).

Purpose: The DNA is being collected to confirm or refute a claimed biological parent-child relationship. ICE will use the results to identify family unit fraud at U.S. border processing stations.

Sharing Your Information: Your information and the DNA information we collect from you will be used by and disclosed to ICE and other DHS personnel and contractors for the above-mentioned purpose. Additionally, ICE and other DHS personnel may share your information and the DNA information we collect from you with entities outside of DHS consistent with federal law and policy.

Disclosure: Participation in Rapid DNA testing is voluntary. However, a failure to submit to Rapid DNA testing may be taken into account as one factor in ICE's assessment of the validity of your asserted familial relationship.