

**CBP Officials Implemented
Rapid DNA Testing to
Verify Claimed Parent-Child
Relationships**





OFFICE OF INSPECTOR GENERAL
Department of Homeland Security

Washington, DC 20528 / www.oig.dhs.gov

February 8, 2022

MEMORANDUM FOR: The Honorable Alejandro Mayorkas
Secretary
Department of Homeland Security

FROM: Joseph V. Cuffari, Ph.D.
Inspector General

**JOSEPH V
CUFFARI** Digitally signed by
JOSEPH V CUFFARI
Date: 2022.02.07
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SUBJECT: *CBP Officials Implemented Rapid DNA Testing to
Verify Claimed Parent-Child Relationships*

For your information is our final report, *CBP Officials Implemented Rapid DNA Testing to Verify Claimed Parent-Child Relationships*. The report identifies the extent to which DHS is implementing Rapid DNA technology. Your office chose not to submit management comments to the draft report. The report contains no recommendations.

Consistent with our responsibility under the *Inspector General Act*, we will distribute copies of our report to congressional committees with oversight and appropriation responsibility over the Department of Homeland Security. We will post the report on our website for public dissemination.

Please call me with questions, or your staff may contact Bruce Miller, Deputy Inspector General for Audits at (202) 981-6000.

Attachment



DHS OIG HIGHLIGHTS

CBP Officials Implemented Rapid DNA Testing to Verify Claimed Parent-Child Relationships

February 8, 2022

Why We Did This Audit

From 2012 to 2015, the Department of Homeland Security, Science and Technology directorate funded a Rapid DNA program. Two contractors developed technology to perform rapid, low-cost, DNA-based family relationship verification. The program intended to improve immigration efficiency for legal kinship applicants, reduce kinship fraud, identify mass casualty victims, and reunify families. Since 2015, contractors further developed Rapid DNA technology into portable machines capable of determining parent-child relationships in about 90 minutes. We audited DHS to determine the extent to which it is implementing Rapid DNA technology.

What We Recommend

We offer no recommendations at this time.

For Further Information:

Contact our Office of Public Affairs at (202) 981-6000, or email us at DHS-OIG.OfficePublicAffairs@oig.dhs.gov

What We Found

Beginning in May 2019, U.S. Immigration and Customs Enforcement (ICE), Homeland Security Investigations (HSI) piloted Rapid DNA technology to verify claimed parent-child relationships. ICE HSI implemented Rapid DNA testing at 11 locations across the southwest border. On January 13, 2020, the United States District Court, Southern District of California issued an order requiring DHS to test DNA before separating an adult and child based on concerns about the validity of a claimed parental relationship.

On September 12, 2021, U.S. Customs and Border Protection (CBP) officials implemented Rapid DNA testing in situations in which CBP suspected a fraudulent claim of biological parent-child relationship. CBP's Rapid DNA testing program replaced ICE HSI's pilot program, which ended the same day and was the only Rapid DNA testing program in DHS.

During our audit, CBP officials coordinated with ICE HSI officials to implement a Rapid DNA testing program. In September 2021, CBP contracted for Rapid DNA testing services at 18 U.S. Border Patrol and Office of Field Operations locations. The contractor must send results to CBP within 24 hours after receiving DNA samples. Because CBP started its Rapid DNA testing in September 2021, we offer no recommendations at this time.

DHS Response

DHS chose not to submit management comments to the draft report.



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Background

From 2012 to 2015, the Department of Homeland Security, Science and Technology Directorate funded a Rapid DNA program. Two contractors developed technology to perform rapid, low-cost, DNA-based family relationship verification. The program intended to improve immigration efficiency for legal kinship applicants, reduce kinship fraud, identify mass casualty victims, and reunify families. In 2014, the Science and Technology Directorate requested that U.S. Customs and Border Protection (CBP), Laboratories and Scientific Services Directorate validate Rapid DNA instruments from the two contractors. Laboratories and Scientific Services Directorate officials tested accuracy, assessed possible field deployment, and gauged DHS officials' use. Since 2015, contractors further developed Rapid DNA technology into portable machines capable of determining parent-child relationships in about 90 minutes.

DHS officials or contractors collect DNA samples with cheek swabs to test parent-child relationships with Rapid DNA technology. DHS officials or contractors apply barcodes to DNA samples for tracking purposes rather than names or personally identifying information. Rapid DNA machines compare DNA samples and give a positive or negative result for a parent-child match. After analysis, DHS officials destroy DNA samples and purge electronic data. Rapid DNA collected to verify parent-child relationships differs from DNA collected for the *DNA Fingerprint Act of 2005* because DHS officials do not send Rapid DNA data to the Federal Bureau of Investigation to store in the Combined DNA Index System. See our report, *DHS Law Enforcement Components Did Not Consistently Collect DNA from Arrestees*, OIG-21-35, May 17, 2021, for additional information regarding DHS DNA collection under the *DNA Fingerprint Act of 2005*.

U.S. Immigration and Customs Enforcement (ICE) and CBP officials enforce and administer Federal laws at the border, including those that govern customs and immigration. Under 8 United States Code (U.S.C.) § 1357(b), ICE and CBP officials have the power and authority to “take and consider evidence concerning the privilege of any person to enter, reenter, pass through, or reside in the United States.” In general, CBP officials refer concerns about suspected fraudulent claims of parentage to ICE, Homeland Security Investigations (HSI) to investigate further.

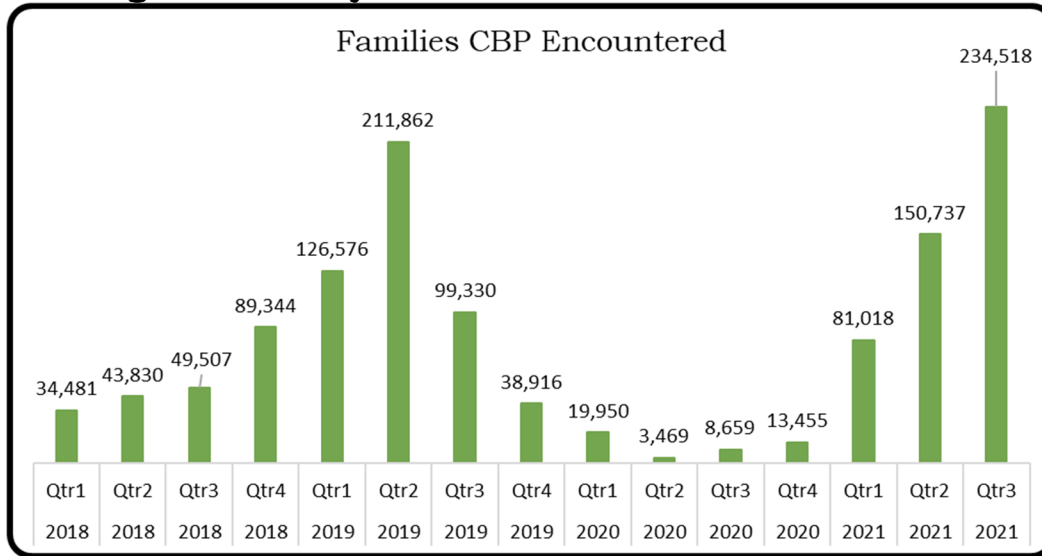
From 2018 to 2019, CBP officials encountered a surge of families crossing the southwest border. According to ICE, human smugglers and cartels capitalized on this surge and DHS' inability to detain families long enough to complete their investigations. DHS can only detain minors in family units for limited periods of time due, in part, to a legal settlement known as the *Flores*



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settlement agreement (FSA).¹ Figure 1 shows the number of families encountered from 2018 to 2021 at the southwest land border, which includes Arizona, California, New Mexico, and Texas.

Figure 1. Family Units CBP Encountered 2018–2021



Source: DHS Office of Inspector General created based on CBP data

In May 2019, ICE HSI piloted Rapid DNA technology to investigate fraud schemes related to parentage.² ICE HSI implemented Rapid DNA testing at 11 locations across the southwest border. During the pilot program, CBP officials referred parent-child relationship concerns to ICE HSI when they could not verify parentage with documents or interviews. ICE HSI investigated CBP parentage concerns using Rapid DNA testing as an option. Figure 2 shows a Rapid DNA testing machine during an ICE HSI demonstration.

¹ *Flores, et al. v. Garland*, No. 85-4544 (C.D. Cal. filed July 11, 1985). Under the FSA and post-FSA litigation and regulatory amendments, ICE limits detention of minors in family units to about 20 days.

² Privacy Impact Assessment for the Rapid DNA Operational Use DHS/ICE/PIA-050, June 25, 2019, available at https://www.dhs.gov/sites/default/files/publications/privacy-pia-ice-rapiddna-june2019_3.pdf.



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Figure 2. Rapid DNA Machine

Source: DHS OIG screen print during August 2021 ICE HSI Rapid DNA virtual demonstration

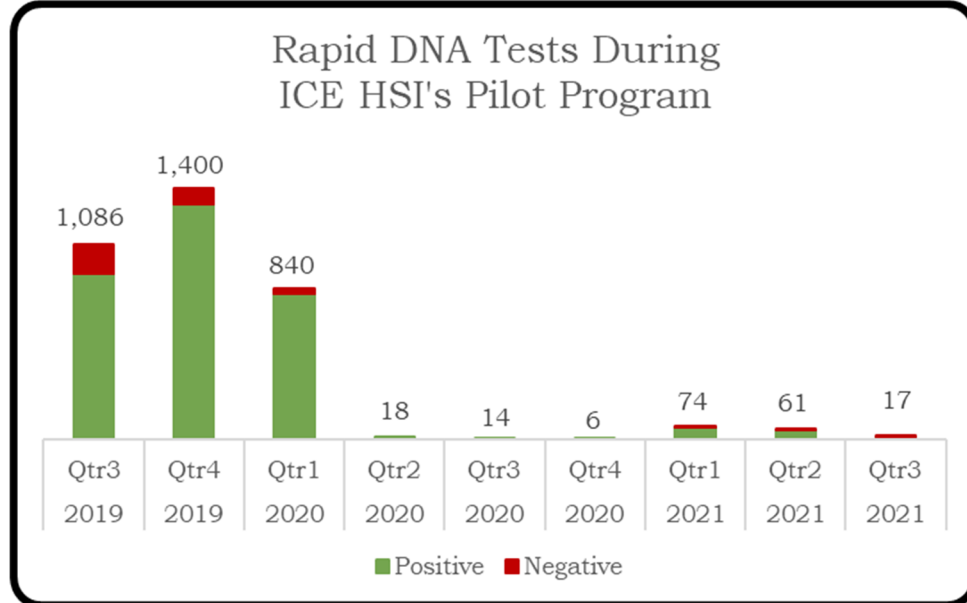
ICE HSI and CBP officials said testing with Rapid DNA helped deter and investigate false claims about parent-child relationships. According to ICE HSI statistics, from June 2019 to September 2021, investigators completed 3,516 Rapid DNA tests with 300 (8.5 percent) testing negative for claimed parent-child relationships and 3,216 (91.5 percent) testing positive. In March 2020 and thereafter, Rapid DNA testing significantly reduced due to Coronavirus Disease 2019 pandemic-related travel restrictions. Additionally, the U.S. Department of Health and Human Services used its authority under 42 U.S.C. § 265 to issue an order temporarily suspending the introduction of noncitizens into the United States from Coronavirus Disease 2019-affected areas.³ Under U.S. Department of Health and Human Services' 42 U.S.C. § 265 Order, DHS may expel noncitizens subject to the order to their country of last transit or country of origin. Figure 3 shows the total number of Rapid DNA tests during ICE HSI's pilot program.

³ *Public Health Reassessment and Order Suspending the Right to Introduce Certain Persons From Countries Where a Quarantinable Communicable Disease Exists*, U.S. Department of Health and Human Services, Centers for Disease Control and Prevention (CDC), Order Under Sections 362 & 365 of the Public Health Service Act (42 U.S.C § 265, 268) (August 2, 2021) (replacing previous orders of March 20, 2020, April 20, 2020, and May 19, 2020, and October 13, 2020). www.oig.dhs.gov



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Figure 3. Rapid DNA Tests during ICE HSI’s Pilot Program



Source: DHS OIG created based on ICE HSI calendar year data and reports

Since 2019, ICE HSI was the only DHS component implementing Rapid DNA testing. In May 2021, ICE HSI decided to end its pilot program due to decreased testing, among other considerations.

We initiated this audit to determine the extent to which DHS is implementing Rapid DNA technology.

Results of Audit

CBP Officials Implemented Rapid DNA Testing to Verify Claimed Parent-Child Relationships

On September 12, 2021, CBP officials implemented Rapid DNA testing to verify claimed parent-child relationships.⁴ CBP’s Rapid DNA testing program replaced ICE HSI’s pilot program, which ended the same day and was the only Rapid DNA testing program in DHS. DHS must test DNA before separating an adult from a child based on concerns about the validity of a claimed parent-child relationship. Specifically, on January 13, 2020, the United States District Court, Southern District of California, issued an order in its role overseeing the *Ms. L v. ICE* preliminary injunction.⁵ The order required DHS to

⁴ Privacy Impact Assessment for the Operational Use of Familial DNA DHS Reference No. DHS/CBP/PIA-071 September 10, 2021, available at <https://www.dhs.gov/publication/dhscbppia-071-operational-use-familial-dna>.

⁵ *Ms. L et al., v. U.S. Immigration and Customs Enforcement (“ICE”) et al.*, No. 18cv0428 DMS (MDD), (S.D. Cal. Jan 13, 2020), Order Granting in Part and Denying in Part Plaintiffs’ Motion to Enforce Preliminary Injunction (Jan. 13, 2020) (“*Ms. L* 2020 Order”).



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test DNA before separating an adult and child based on concerns about the validity of a claimed parental relationship. After the 2018 order, plaintiffs in the case identified two instances in which DHS separated parents from their children based on parentage concerns. However, DHS reunified the parents and children after a DNA test confirmed biological parentage. In the 2020 enforcement order, the judge wrote:

DHS has implemented a pilot program using Rapid DNA technology, which can determine parentage in approximately ninety *minutes*.... Given the right at issue here, the harm that parents and children suffer when they are separated, and the undisputed speed, accuracy and availability of DNA testing, the Court finds Defendants must conduct DNA testing before separating an adult from a child based on parentage concerns. Such testing, in service to the fundamental right at issue, is clearly warranted. It is also an efficient and definitive way to resolve any concerns about fraudulent documentation.⁶

Since May 6, 2019, CBP officials referred suspected parentage-related fraud concerns to ICE HSI to investigate for criminal prosecution. Following referral, during its criminal investigation, HSI could request a consensually administered Rapid DNA test. On May 13, 2021, ICE HSI decided its pilot program along the southwest border to test DNA based on CBP parentage concerns would end on September 12, 2021. Because CBP did not have a similar DNA testing capability, ICE HSI's decision to end Rapid DNA testing in 4 months created a potential lapse in DNA testing required for DHS to separate children from unrelated adults.

During our audit, CBP officials coordinated with ICE HSI officials to implement a Rapid DNA testing program. From April to June 2021, ICE HSI officials advised CBP officials and shared its cost and contract documents, shutdown plan, concept of operations, and points of contact. In June and July 2021, CBP gathered Rapid DNA testing information from ICE HSI and considered options for its Rapid DNA testing program to verify claimed parent-child relationships. In August and September 2021, CBP officials determined a way forward and signed a contract on September 10, 2021, for Rapid DNA testing to begin September 12, 2021. CBP contracted for Rapid DNA testing services in support of U.S. Border Patrol and Office of Field Operations locations.⁷ According to the contract, CBP officials mail the contractor DNA samples they collect in contractor-supplied kits. The contractor must test the DNA from each swab in each kit received and send CBP officials the test results within

⁶ *Ms. L* 2020 Order (emphasis in original).

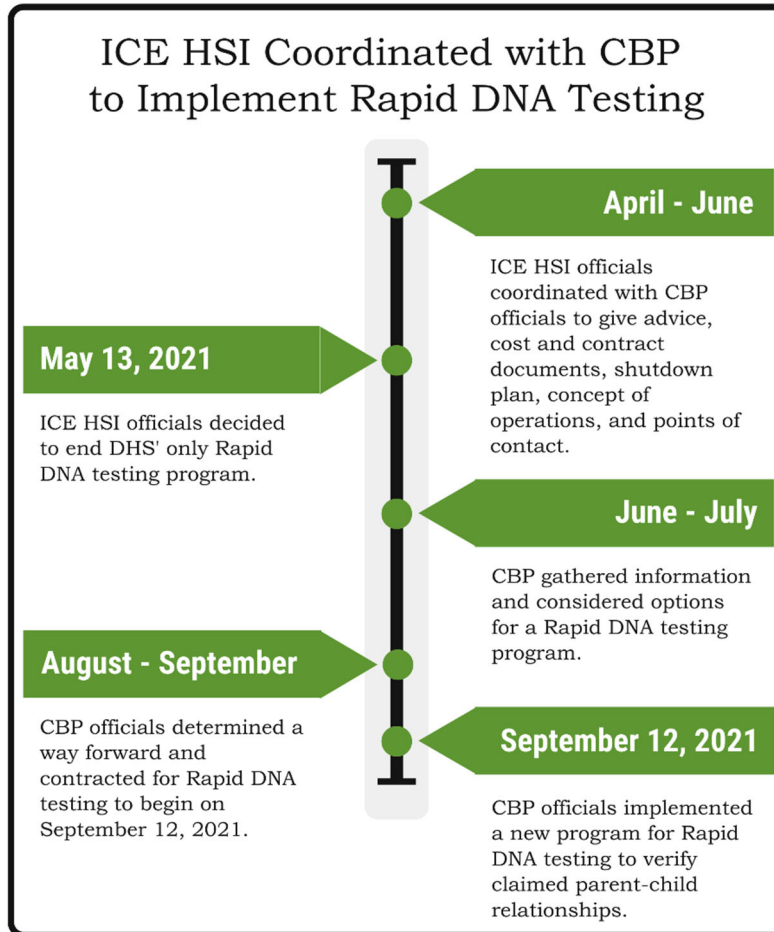
⁷ According to the contract, the contractor supplies Rapid DNA test kits to 18 U.S. Border Patrol and Office of Field Operations locations in Texas, Arizona, California, Washington, New York, Montana, Minnesota, and Michigan.



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24 hours. Figure 4 shows ICE HSI coordination with CBP to implement Rapid DNA testing.

Figure 4. ICE and CBP Coordination from April to September 2021



Source: DHS OIG created based on ICE and CBP communications

We offer no recommendations at this time because ICE ended its Rapid DNA pilot project and CBP started its DNA testing in September 2021. We may later revisit DHS Rapid DNA collection after CBP can fully implement its program.

Management Comments and OIG Analysis

DHS chose not to submit management comments to the draft report. However, DHS submitted technical comments to the draft report that we incorporated as appropriate.



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Objective, Scope, and Methodology

The *Homeland Security Act of 2002* (Public Law 107–296), by amendment to the *Inspector General Act of 1978*, established the Department of Homeland Security, Office of Inspector General.

Our objective was to determine the extent to which DHS is implementing Rapid DNA technology. We limited our scope to determine Rapid DNA activities during our audit, April to September 2021. To answer our objective, we:

- interviewed officials from: DHS Office of Strategy, Policy, and Plans; DHS Science and Technology Directorate; DHS Office of Biometric Identity Management; ICE Enforcement and Removal Operations; ICE HSI; CBP Border Patrol; CBP Office of Field Operations; CBP Laboratories and Scientific Services Directorate; U.S. Secret Service; and U.S. Citizenship and Immigration Services to obtain information about Rapid DNA technology;
- researched Federal laws, regulations, internal policies, internal reports and legal requirements to identify applicable criteria governing Rapid DNA collection;
- reviewed DHS budget documents to identify funds allocated for DNA collection;
- consulted Rapid DNA contract documents for relevant factual information;
- analyzed ICE HSI Rapid DNA collection data from 2019 to 2021;
- reviewed five reports of investigation from ICE HSI; and
- virtually visited two ICE HSI Rapid DNA locations in El Paso and Donna, Texas, to interview officials and observe their Rapid DNA collection process.

We assessed data reliability. We interviewed component officials knowledgeable about the data and tested the data to identify anomalies such as incomplete or missing data. We determined the data sufficiently reliable for our audit purposes.

We assessed internal controls. On September 12, 2021, ICE-HSI ended their Rapid DNA program. On September 12, 2021, CBP began its Rapid DNA program, which CBP did not completely implement during our audit scope. Due to timing of this evolution, we deemed internal controls insignificant to our audit objective.



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We conducted this performance audit between April and September 2021 pursuant to the *Inspector General Act of 1978*, as amended, and according to generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based upon our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based upon our audit objective.



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Appendix A
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