



# U.S. Citizenship and Immigration Services

## ***DNA POLICY AND PROCEDURE for International Operations***

September 2011

# Topics Covered

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- A Few Basics
- Existing Law, Regulation, and Policy
- Current Procedures
- Applicability of DOS Guidance on DNA Testing
- Draft Overseas Field Guidance
- Interpreting the Results

# Some DNA Basics

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- DNA test results are expressed as a probability that the parent-child relationship exists based on analysis of common genetic traits between the individuals, compared to a much larger reference population to determine the significance of the commonalities in proving the claimed relationship.
- Current technology considered to provide a **CONCLUSIVE** result **ONLY** in parent-child testing.
- No results except 100% or 0% are **absolutely** conclusive.
- The industry standard for treating a parent-child test result as conclusive is **99.5%**.

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# Some DNA Basics

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# **Existing Law, Regulation, and Policy**

# The INA

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- The Immigration and Nationality Act (INA) provides that USCAs and LPRs can bestow immigration benefits upon certain alien relatives.
  - INA 204(a)(1)(A)(i)
  - INA 204(a)(1)(B)(i)(I)
  - INA 201(b)(2)(A)(i)
  - INA 203(a)(1) – (4)
- For children, there's an inherent requirement that it be a ***biological*** relationship (other than for adopted or stepchildren)

# Regulations in 8 CFR

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- 8 CFR 204.2(d)(vi) states, in part:
  - ... In general, blood tests will be required only after other forms of evidence have proven inconclusive.  
...”  
...
  - This regulation is out-dated (over 20 years old)
  - Blood Group Antigen and Human Leucocyte Antigen tests, referred to in the regulation, are no longer done.
- This regulation does not speak to DNA testing and therefore cannot be used to establish a DNA testing requirement.



# Current USCIS Policy

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- When initial and secondary forms of evidence have proven inconclusive, field offices may suggest DNA testing as a means of establishing the relationship, bearing in mind that:
  - DNA testing is absolutely voluntary;
  - The costs of DNA testing and related expenses (such as doctor's fees and the cost of transmitting testing materials and blood samples) must be borne exclusively by the petitioner; and
  - Submitting to DNA testing is in no way a guarantee of the approval of the petition.”

# Current USCIS Policy

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- *Statistical probability:* All tests must produce a 99.5% statistical probability that the claimed relationship exists to establish parentage.
- *Repeat testing:* Laboratories can continue with a battery of tests until a 99.5% conclusion of parentage is established.
- *Preferred test:* The preferred test is the Polymerase Chain Reaction (PCR) test drawn with a buccal swab or a PCR test based on a blood sample.”

# Current Procedures

# Current USCIS Guidance on Procedures

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- The petitioner must select a AABB accredited laboratory, contact the laboratory directly, and make the necessary arrangements for conducting the tests. To assure the integrity of the test results, all stages of parentage testing must be conducted under appropriate safeguards. These safeguards must include strict controls concerning:
  - Protection of the chain of custody of blood or tissue samples;
  - Identification of the parties to be tested, generally by photographing individuals being tested; and
  - Correct presentation of test results.”

# Current USCIS Guidance on Procedures

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- Communication should be directly between the laboratory and the civil surgeon or panel physician or the field office. Under no circumstances should a third party, including the individuals being tested, be permitted to carry or transport blood or tissue samples or test results.
- Since the applicant bears full financial responsibility for testing, the Service has no objection to that person receiving a copy of the test results from the laboratory or panel physician. It is imperative that the same facility test both the alleged child and the alleged parent(s). Where the petitioner is physically present in the U.S., a U.S.-based lab must conduct the tests and relay the results. Instructions usually require the participation of a witness, identification taken from all (adult) parties involved, and photographs taken of all parties.

# Applicability of DOS Guidance to Consular Sections

# DOS Cable – 09 State 097431

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- Outlined new procedures that Consular Sections were required to implement immediately with respect to DNA testing for visa processing.
- **Does not cover USCIS processing at overseas posts**, although USCIS Field Offices may participate in this collection procedure if it does not impeded our ability get the testing done.

# Draft Field Guidance for IO Field Offices



# IO Field Guidance on DNA Testing

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- Draft overseas field guidance nearly ready for “road-testing”
- Focuses on the procedures for collection
- Two scenarios for overseas DNA sampling covered:
  - Overseas Field Office is processing a case and determines that DNA evidence is needed;
  - A domestic USCIS component requests assistance from the overseas Field Office in collecting DNA from an individual located overseas as part of its adjudication of a case.

# IO Field Guidance on DNA Testing

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- When overseas Field Office is processing a case, the draft guidance provides information on:
  - When and when not to recommend DNA testing;
  - How to track the DNA testing in CAMINO within the case being adjudicated;
  - How to oversee collection and maintain chain of custody of the sample;
  - How to interpret the results and apply them in adjudication of the case.

# IO Field Guidance on DNA Testing

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- When overseas Field Office is collecting a sample based on a DNA request from another USCIS component, the draft guidance provides information on:
  - How to track the DNA sampling in CAMINO as an “overseas verification” case;
  - How to oversee collection and maintain chain of custody of the sample.

# Interpreting the Results

# How do you apply the results?

- Under current USCIS policy, the results must show a probability of 99.5% or greater to establish conclusively that a parent-child relationship exists.
- However, below 99.5% does NOT disprove the relationship:

Combined Likelihood Ratio	Probability	Value of Evidence in Support of Hypothesis
<1	<50%	Genetic evidence does not support hypothesis
1	50%	Neutral
>1 to 10	50.1% to 90.90%	Limited Support
>10 to 100	90.91% to 99.00%	Moderate Support
>100 to 1000	99.01% - 99.90%	Strong Support
>1,000	>99.90%	Very Strong Support

# How do you apply the results?

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- Under current USCIS policy, a result of 99.5% probability or better is treated as **CONCLUSIVE EVIDENCE** that the claimed relationship exists.
- A result of 0% probability may be treated as conclusive evidence that the claimed relationship does not exist.
- Any result between 0% and 99.5%, under existing USCIS policy, should not be treated as meaningful evidence in adjudicating the case.



U.S. Citizenship  
and Immigration  
Services

Subject File Number

Addressee's Name

Department of State

Street Address

Washington, DC Zip Code

Dear Addressee:

The purpose of this letter is to provide feedback on the Department of State's (DOS) September 18, 2009 Cable entitled, *Changes to DNA Relationship Testing Procedures* (UNCLAS STATE 097431).

As you are aware, this Cable was published without consultation with US Citizenship and Immigration Services (USCIS). As USCIS is co-located with the DOS at 29 embassies and consulates abroad and have, to a certain extent overlapping mandates, this guidance has an impact on USCIS operations. In an earlier communication you agreed to consider USCIS' comments and suggestions. Please find these outlined below:

- *Adoption Cases:* The guidance does not address DNA testing as it is currently being used in adoption cases for orphan processing. If this guidance is intended to cover processing other than immigrant visa processing, this scenario will need to be covered.
- *Role of USCIS:* The guidance as currently written does not provide authority to USCIS officers to vet lab technicians, carry out DNA testing, store DNA testing kits, or simply manage the process for applicants under USCIS' jurisdiction. If this guidance is intended to cover USCIS operations, the roles and responsibilities of USCIS employees will have to be incorporated.
- *The Absence of Documentary Evidence:* USCIS is concerned with the DOS policy that a confirmed DNA match in the absence of documentary evidence may not be approved by DOS, but may be by USCIS – the reason for this discrepancy is unclear. USCIS views DNA match evidence as more conclusive than documentary evidence, especially in high-fraud posts where mala fide documentation is readily accessible. This issue bears discussion.

- *Standards for Collection:* The guidance requires that samples be taken at the embassy or consulate and not at the panel physician's office or other lab facility -- why are these restrictions necessary? In many venues, posts/USCIS offices have established relationships with labs which are not necessarily panel physicians, but which have personnel better trained and equipped to collect the samples. Why can the cleared American not travel to the laboratory collection location to observe the testing? Chain of custody can be preserved without going to the lengths described in the guidance.

On the topic of chain of custody, USCIS recommends that collection be observed by two embassy/consulate staff, at least one of whom is a cleared American. Two pairs of eyes present during the collection will protect all parties involved from future allegations of misconduct.

- *Procedures Generally:* USCIS recommends several changes to the guidance as currently written for greater clarity -- these changes can be seen in tracked-changes in the attachment.

I appreciate your willingness to consider USCIS' comments and look forward to continued discussions on this issue with a view to developing DNA relationship testing guidance that reflects the needs of both DOS and USCIS.

Sincerely,

Joanna Ruppel  
Chief, International Operations

Attachment: DOS Cable with USCIS edits



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## DNA POLICY AND PROCEDURE WORKING GROUP

**Date/Time of Meeting:** **January 4, 2011, 11** – 12:30 p.m.  
**Place of Meeting:** 20 Mass Avenue, White Oak Conference Room

### I. Attendees:

Name	Title	Organization	Email
Whitney Reitz	Branch Chief	RAIO/IO	<a href="mailto:Whitney.Reitz@dhs.gov">Whitney.Reitz@dhs.gov</a>
Maura Nicholson	Management and Program Analyst	RAIO/IO	<a href="mailto:Maura.Nicholson@dhs.gov">Maura.Nicholson@dhs.gov</a>
Jim Lauver	Adjudications Officer	RAIO/IO	<a href="mailto:James.Lauver@dhs.gov">James.Lauver@dhs.gov</a>
Anthony Moscato	Refugee Officer	RAIO/RAD	<a href="mailto:Anthony.Moscato@dhs.gov">Anthony.Moscato@dhs.gov</a>
Linda Sudmalis	Asylum Officer	RAIO/ASY	<a href="mailto:Linda.Sudmalis@dhs.gov">Linda.Sudmalis@dhs.gov</a>
Marcela Moglia	Acting Chief	RAIO/FDNS	<a href="mailto:Marcela.Moglia@dhs.gov">Marcela.Moglia@dhs.gov</a>
Laura Shaffner	Management and Program Analyst	ESD	<a href="mailto:Laura.Shaffner@dhs.gov">Laura.Shaffner@dhs.gov</a>
Kevin Quinn		FDNS/NSB	<a href="mailto:Kevin.Quinn@dhs.gov">Kevin.Quinn@dhs.gov</a>
Deb Waldmeir	Associate Council	OCC/RALD	<a href="mailto:Deborah.Waldmeir@dhs.gov">Deborah.Waldmeir@dhs.gov</a>
Jennifer Kliska	Chief	OPS/HA	<a href="mailto:Jennifer.Kliska@dhs.gov">Jennifer.Kliska@dhs.gov</a>
Cristina Hamilton	Chief	OPS/NSBI	<a href="mailto:Cristina.Hamilton@dhs.gov">Cristina.Hamilton@dhs.gov</a>
Tina Lauver	Adjudications Officer	SCOPS/ANTZ	<a href="mailto:Tinnina.Lauver@dhs.gov">Tinnina.Lauver@dhs.gov</a>
David Tu	Adjudications Officer	SCOPS/ANTZ	<a href="mailto:David.Tu@dhs.gov">David.Tu@dhs.gov</a>
Heather Evelyn	Adjudications Officer	SCOPS/FAST	<a href="mailto:Heather.Evelyn@dhs.gov">Heather.Evelyn@dhs.gov</a>
Chris Miles		DHS S&T/HFD	<a href="mailto:Christopher.Miles@dhs.gov">Christopher.Miles@dhs.gov</a>
Jisun Lee		DHS S&T/HFD	<a href="mailto:Jisun.Lee@dhs.gov">Jisun.Lee@dhs.gov</a>
Matt Billone		DHS S&T/HFD	<a href="mailto:Matthew.Billone@associates.dhs.gov">Matthew.Billone@associates.dhs.gov</a>
Stephen Cargo		DHS S&T/HFD	<a href="mailto:Stephen.Cargo@associates.dhs.gov">Stephen.Cargo@associates.dhs.gov</a>
David G. Smith		DHS S&T/HFD	<a href="mailto:David.G.Smith@associates.dhs.gov">David.G.Smith@associates.dhs.gov</a>

## II. DHS S&T Presentation on Rapid DNA

- Goal to enable DNA screening for kinship (based on parent/child relationships) to be done in-house, in less than 1 hour, for \$100/sample.
- Delivery of “Accelerated Nuclear DNA Equipment (ANDE)” prototype targeted for end of June, 2011.
- Certain issues yet to be determined – i.e. where DNA and results will be housed (US Visit? Tablet contained in the prototype?), roll-out plan for pilot launch (questions to address through evaluative process).
- USCIS noted importance of looping in key stakeholders such as DHS OGC and USCIS CRCL and OPE early on so that pilot launch goes smoothly.
- No ability yet to use this equipment to conduct DNA tests of people who are not co-located. USCIS raised issue that beneficiaries for many immigration benefits are located overseas, while the petitioners against whom they must be tested are in the US.
- S&T noted that prototype equipment may not provide totally reliable results at the outset although they hope to have accuracy testing completed through NIST before deploying the machines. While they are confident that the confirmed matches will be accurate, they cannot yet predict how accurate the non-match findings will be, since the error rate for the machines remains unknown.
- USCIS noted that using the machines in a pilot effectively will require a high degree of confidence in the results. Otherwise, USCIS would need to continue using the previous testing method and would in effect be validating the accuracy of the machines in a pilot rather than determining its effectiveness as a new tool in the field.
- S&T will attend future meetings of the USCIS DNA WG.

## III. Review of Previous Action Items/Deliverables

- OP&S reported that they briefed Liz Elkiss in the front office on the WG’s current and previous efforts. Director has strong interest in DNA issue, and Liz will be added to the WG distribution to attend future meetings as possible.
- David Tu from SCOPS will now be the administrator of the DNA WG’s ECN site. All meeting notes and agendas will be posted on the site in the future. Access to the DNA WG site can be gained via: <http://mgmt-sp.dhs.gov/uscis/SiteDirectory/scops/HQSCOPS/Adjust/uscisdna>.
- There is a link on the left hand side of the ECN DNA Working Group site (Quick Launch area) called SCOPS Web Based Training. The training page has a link to a commercial site that has some pretty good basic information on Microsoft SharePoint 2007; this is the platform that the ECN uses.
- OCC has begun researching legal precedent on what DNA result – what % finding of probability of parentage – constitutes conclusive evidence in establishing parent-child relationship. Research so far indicates that courts look to the scientific community to see what is accepted. There is no

precedent for what is considered conclusive. A case in the early 90s held that 99.3% was acceptable (but technology has since improved), and in a separate case, a court found that a 99.47% result was admissible as evidence. In another case, a court held that 99.99% was not conclusive – court determined there was still room for rebuttal. OCC will write a summary of their findings to present to the WG.

- S&T noted that the FBI did a briefing on what courts have stated in the past on this issue – will share briefing with WG.

#### **IV. Interpreting DNA Results**

- WG discussed what % USCIS should accept as conclusive and what weight DNA evidence should carry in meeting the preponderance of evidence (51%) standard in adjudications. Using the California Service Center power point presentation, a probability of parentage of more than 50% means that it is likely the two people being tested are related, but not necessarily as a parental relationship.
- At present, USCIS employs the approach that 99.5% probability may be treated as conclusive evidence in support of the claimed relationship and that a lower result simply provides no useful evidence. A result of less than 99.5% does not disprove the claimed relationship.
- The group debated the question of whether probabilities of lower than 99.5% could be considered as useful secondary evidence but was unable to reach a conclusion.
- The group decided to seek more information on the meaning and interpretation of DNA test results. Christopher Miles from DHS/S&T agreed to coordinate with NIST and the FBI to give the group presentations on this subject.

#### **V. New Action Items and Deliverables Assigned**

<b>Action Item</b>	<b>Responsible Party</b>	<b>Due</b>
Add S&T colleagues to ECN	David Tu	1/18/2011
Determine if ECN training ‘cheat sheet’ or PPT is available for team to learn about ECN without taking 1-day course	Tina Lauver	1/18/2011
Research legal precedent in using the 99.5 % industry standard for conclusive DNA test results – OCC to provide summary of findings to group	Alice Smith / Deb Waldmeir	open
Identify FDNS Fraud Detection Unit contact to sit on WG and email Jane with contact	Kevin Quinn	open
Reach out to NIST on their efforts to establish DNA industry standards and discuss possible USCIS role in	Cristina Hamilton	open

their working group/discussions		
Create a matrix with the following fields: USCIS product lines identified by the WG as those that might use DNA testing results and the relationships to test/uses of DNA	International Operations	open
S&T to provide WG with copy of FBI briefing on what courts have stated relative to what % probability of parentage is considered conclusive	Chris Miles	Future meeting
Need to determine who should represent USCIS in participating in NIST meetings on DNA (for discussion as future agenda item)	WG	At 1/18/2011 meeting
Schedule presentations by FBI and NIST to WG	Chris Miles	Future meeting

**VI. Next Meeting: January 18, 2011, 11 a.m. , venue TBD. Call-in number will be provided.**



## DNA POLICY AND PROCEDURE WORKING GROUP

**Date/Time of Meeting:** January 25, 2011, 11 – 12:30 p.m.  
**Place of Meeting:** 20 Mass Avenue, White Oak Conference Room

### I. Attendees:

Name	Title	Organization	Email
Whitney Reitz	Branch Chief	RAIO/IO	<a href="mailto:Whitney.Reitz@dhs.gov">Whitney.Reitz@dhs.gov</a>
Jim Lauver	Adjudications Officer	RAIO/IO	<a href="mailto:James.Lauver@dhs.gov">James.Lauver@dhs.gov</a>
William Tomlyanovich	Refugee Officer	RAIO/RAD	<a href="mailto:Anthony.Moscato@dhs.gov">Anthony.Moscato@dhs.gov</a>
Linda Sudmalis	Asylum Officer	RAIO/ASY	<a href="mailto:Linda.Sudmalis@dhs.gov">Linda.Sudmalis@dhs.gov</a>
Laura Shaffner	Management and Program Analyst	ESD	<a href="mailto:Laura.Shaffner@dhs.gov">Laura.Shaffner@dhs.gov</a>
Kevin Quinn		FDNS/NSB	<a href="mailto:Kevin.Quinn@dhs.gov">Kevin.Quinn@dhs.gov</a>
Danielle Ryan		FDNS/NSB	<a href="mailto:Danielle.ryan@dhs.gov">Danielle.ryan@dhs.gov</a>
Jennifer Kliska	Chief	OPS/HA	<a href="mailto:Jennifer.Kliska@dhs.gov">Jennifer.Kliska@dhs.gov</a>
Cristina Hamilton	Chief	OPS/NSBI	<a href="mailto:Cristina.Hamilton@dhs.gov">Cristina.Hamilton@dhs.gov</a>
Tina Lauver	Adjudications Officer	SCOPS/ANTZ	<a href="mailto:Tinnina.Lauver@dhs.gov">Tinnina.Lauver@dhs.gov</a>
David Tu	Adjudications Officer	SCOPS/ANTZ	<a href="mailto:David.Tu@dhs.gov">David.Tu@dhs.gov</a>
Heather Evelyn	Adjudications Officer	SCOPS/FAST	<a href="mailto:Heather.Evelyn@dhs.gov">Heather.Evelyn@dhs.gov</a>
Liz Elkiss	Office of the Director	USCIS/FO	<a href="mailto:Liz.elkiss@dhs.gov">Liz.elkiss@dhs.gov</a>
Chris Miles		DHS S&T/HFD	<a href="mailto:Christopher.Miles@dhs.gov">Christopher.Miles@dhs.gov</a>
Matt Billone		DHS S&T/HFD	<a href="mailto:Matthew.Billone@associates.dhs.gov">Matthew.Billone@associates.dhs.gov</a>
Stephen Cargo		DHS S&T/HFD	<a href="mailto:Stephen.Cargo@associates.dhs.gov">Stephen.Cargo@associates.dhs.gov</a>
David G. Smith		DHS S&T/HFD	<a href="mailto:David.G.Smith@associates.dhs.gov">David.G.Smith@associates.dhs.gov</a>

### II. NIST Presentation on DNA Test Results and How to Interpret Them

- Dr. Kristin Lewis O'Connor of the National Institute of Standards and Technology presented to the group on how DNA test results are calculated and how they can be interpreted.
- The PowerPoint presentation that Dr. O'Connor used will shortly be available at our ECN site for all working group members to review.
- Discussion during the presentation was very lively and informative and left the group with a much more refined understanding of the testing process and several important concerns and areas for further discussion:
  - Uncertainty about the Likelihood Ratios being used by AABB accredited labs and their applicability to an immigration population, since the largest reference groups, whose characteristics feed into the calculations of the ratios, are American Caucasians and Hispanics.
  - Concern that the rapid DNA prototype machines due for field testing later this year will only test against 13 markers when the industry standard is for 15-25 markers.
  - Need for further discussion about the Prior Probability Ratio (PPR), which for FBI and U.S. Court purposes is always set at .5, meaning that it is equally likely that the claimed relationship is true as false. In the immigration context, if USCIS is requesting DNA testing, USCIS has already determined that the evidence available fails to meet a preponderance of the evidence (51%) standard. The question then arises as to whether the PPR should be set at less than .5 for USCIS purposes, given that the claimed relationship may already be in doubt. If so, should there be a range of PPRs available for use in different circumstances?
  - Need for further discussion about whether the Posterior Probability Ratio (the final results, for our purposes) threshold should be set higher or lower than 99.5% and whether USCIS should consider any results lower than the threshold as meaningful.
- Finally, Dr. O'Connor offered to look for alternative databases of DNA drawn from population groups that may be more applicable in the immigration context and to run simulations against those databases to give us alternate Likelihood Ratios to consider. The group will discuss what populations to ask her to look at during the next meeting.

### **III. Review of Previous Action Items/Deliverables**

The group did not review previous action items at this meeting and will do so for this and the previous meeting at the next meeting on February 1.

**IV. Action Items and Deliverables Assigned**

<b>Action Item</b>	<b>Responsible Party</b>	<b>Due</b>
Identify specific populations for whom we would like NIST to run simulations that would be more information for immigration benefit screening purposes.	Whole Group	12/1/2011
Discuss Posterior Probability and reach consensus on the USCIS-recommended threshold. Current is 99.5%. Do we want to recommend any change?	Whole Group	open
Discuss Prior Probability setting and reach consensus on how USCIS should address this element of the testing result calculation. Fixed number or range? What number or range?	Whole Group	open
Add S&T colleagues to ECN	David Tu	2/1/2011
Determine if ECN training 'cheat sheet' or PPT is available for team to learn about ECN without taking 1-day course	Tina Lauver	2/1/2011
Research legal precedent in using the 99.5 % industry standard for conclusive DNA test results – OCC to provide summary of findings to group	Alice Smith / Deb Waldmeir	open
Identify FDNS Fraud Detection Unit contact to sit on WG and email Jane with contact	Kevin Quinn	open
Reach out to NIST on their efforts to establish DNA industry standards and discuss possible USCIS role in their working group/discussions	Cristina Hamilton	open
Create a matrix with the following fields: USCIS product lines identified by the WG as those that might use DNA testing results and the relationships to test/uses of DNA	International Operations	open
S&T to provide WG with copy of FBI briefing on what courts have stated relative to what % probability of parentage is considered conclusive	Chris Miles	Future meeting
Need to determine who should represent USCIS in participating in NIST meetings on DNA (for discussion as future agenda item)	WG	At 2/1/2011 meeting
Schedule presentations by FBI and NIST to WG	Chris Miles	NIST completed. FBI TBD

**V. Next Meeting: February 1, 2011, 12-1:30 a.m., White Oak Conference Room.  
Call-in number will be provided.**





## DNA POLICY AND PROCEDURE WORKING GROUP

Date/Time of Meeting: **December 14, 2010, 1-2pm**

Place of Meeting: 111 Mass Ave, Room 3004

**I. Attendees:**

a. Attendees

Name	Title	Organization
Whitney Reitz	Branch Chief	RAIO/IO
Maura Nicholson	Management and Program Analyst	RAIO/IO
Jane Sommerville	Adjudications Officer	RAIO/IO
Jennifer Higgins	Deputy Director	RAIO/RAD
Linda Sudmalis	Asylum Officer	RAIO/ASY
Laura Shaffner	Management and Program Analyst	ESD
Chuck Taylor		CFO
Kevin Quinn		FDNS/NS
Alice J. Smith	Associate Council	OCC-RALD, USCIS
Jennifer Kliska	Chief	OPS/HA
Cristina Hamilton	Chief	OPS/NSBI
Jim Lauver	Adjudications Officer	RAIO/IO
Marcela Moglia	Acting Chief	RAIO/FDNS
Bryan Christian	Branch Chief	SCOPS/Antz
Heather Evelyn	Adjudications Officer	SCOPS/FAST

## II. Brainstorm list of DNA testing for immigration benefits

### a. Uses of DNA

WG discussed potential uses of DNA in the immigration context:

1. Verification of a claimed biological relationship
2. Background checks
3. Identity verification

WG agreed to address all three potential uses but to first focus on the verification of biological relationships.

### b. Product lines

WG brainstormed the USCIS product lines where DNA might be used to verify a claimed relationship. The product lines identified included:

**SPELL OUT EACH PRODUCT LINE**

I-130, Petition for Alien Relative

I-730, I-589, I-590, I-129F, I-600, I-800, I-131, I-881, I-914A, I-918A, I-929, I-817, I-485, I-360, I-140, N-400, N-600, N-600K, I-821.

The group discussed the conditions under which USCIS might want to verify a claimed biological relationship for each of these product lines and agreed that it would be useful to develop a matrix of the product lines and the relevant relationships.

### c. Relationships to test

WG discussed how DNA test results are used or could be used -- to prove vs. disprove relationships. Currently, DNA is only used by USCIS to confirm relationships and existing guidance directs officers NOT to request testing in an effort to disprove a claimed relationship. However, WG agreed that the use of DNA to disprove relationships merits further discussion.

The WG discussed the meaning of the test results and whether any can be treated as conclusive. At this time, the only relationship that can be tested by DNA and yield a conclusive result is a parent/child relationship. Although it is possible to test sibling relationships, no industry standard has been established to define a conclusive test result or even guidelines for interpreting the results.

## III. Review compiled list of documents

- a. Spreadsheet of documents collected distributed at meeting
- b. WG members received a number of read-ahead documents about current DNA practices within the USG and within USCIS. Most members had not yet had time to review the documents.

i.

**c. Internet Information**

Linda Sudmalis distributed copies of several articles that she discovered doing research on the general use of DNA in the immigration context, in the U.S. and abroad.

**IV. Other**

**a. Rapid DNA Sub-group:**

Working Group members agreed to the establishment of a “Rapid-DNA” sub-group which would report to the main WG. Potential sub-group members included: Anthony Moscato (heading the group), Linda Sudmalis, Heather Evelyn, Jennifer Kliska, Jim Lauver, Cristina Hamilton, Alice Smith, and Marcela Moglia.

A meeting between Science and Technology (S &T) and the main DNA WG members will be set up (date TBD) to discuss “Rapid-DNA.”

**V. Review of New Action Items and Deliverables Assigned**

<b>Action Item</b>	<b>Responsible Party</b>	<b>Due</b>
Reach out to the Front Office to inform them of the Working Group and discuss their participation	Cristina Hamilton, Jennifer Kliska	01/04/2011
Provide WG invitee list to SCOPS administrator to set up ECN site. All WG members will have read, write access.	Brian Christian	01/04/2011
Locate ECN training (Powerpoint version if possible), and distribute to WG members.	Brian Christian	01/04/2011
Research legal precedent in using the 99.5 % industry standard for conclusive DNA test results	Alice Smith	01/04/2011
Identify FDNS Fraud Detection Unit contact to sit on WG and email Jane with contact	Kevin Quinn	01/04/2011
Reach out to NIST on their efforts to establish DNA industry standards and discuss possible USCIS role in their working group/discussions	Cristina Hamilton	01/04/2011
Create a matrix with the following fields: USCIS product lines identified by the WG as those that might use DNA testing results and the relationships to test/uses of DNA	International Operations	01/04/2011

**VI. Next Meeting: January 4, 2011, 11am.**



## DNA POLICY AND PROCEDURE WORKING GROUP

**Date/Time of Meeting:** December 14, 2010, 1-2pm

**Place of Meeting:** 111 Mass Ave, Room 3004

**I. Attendees:**

a. Attendees

Name	Title	Organization
Whitney Reitz	Branch Chief	RAIO/IO
Maura Nicholson	Management and Program Analyst	RAIO/IO
Jane Sommerville	Adjudications Officer	RAIO/IO
Jennifer Higgins	Deputy Director	RAIO/RAD
Linda Sudmalis	Asylum Officer	RAIO/ASY
Laura Shaffner	Management and Program Analyst	ESD
Chuck Taylor		CFO
Kevin Quinn		FDNS/NS
Alice J. Smith	Associate Council	OCC-RALD, USCIS
Jennifer Kliska	Chief	OPS/HA
Cristina Hamilton	Chief	OPS/NSBI
Jim Lauver	Adjudications Officer	RAIO/IO
Marcela Moglia	Acting Chief	RAIO/FDNS
Bryan Christian	Branch Chief	SCOPS/Antz
Heather Evelyn	Adjudications Officer	SCOPS/FAST

## **II. Brainstorm list of DNA testing for immigration benefits**

### **a. Uses of DNA**

WG discussed potential uses of DNA in the immigration context:

1. Verification of a claimed biological relationship
2. Background checks
3. Identity verification

WG agreed to address all three potential uses but to first focus on the verification of biological relationships.

### **b. Product lines**

WG brainstormed the USCIS product lines where DNA might be used to verify a claimed relationship. The product lines identified included:

- I-130, Petition for Alien Relative
- I-730, Refugee/Asylee Relative Petition
- I-589, Application for Asylum and Withholding of Removal
- I-590, Application for Refugee Status
- I-129F, Petition for Alien Fiancé(e)
- I-600, Petition to Classify Orphan as an Immediate Relative
- I-800, Petition to Classify Convention Adoptee as an Immediate Relative
- I-131, Application for Travel Document
- I-881, Application for Suspension of Deportation or Special Rule Cancellation of Removal
- I-914, Application for T Nonimmigrant Status
- I-918, Petition for U Nonimmigrant Status
- I-929, Petition for Qualifying Family Member of a U-1 Nonimmigrant
- I-817, Application for Family Unity Benefits
- I-485, Application to Register Permanent Residence or Adjust Status
- I-360, Petition for Amerasian, Widow(er), or Special Immigrant
- I-140, Immigrant Petition for Alien Worker
- N-400, Application for Naturalization
- N-600, Application for Certificate of Citizenship
- N-600K, Application for Citizenship and Issuance of Certificate under Section 322
- I-821, Application for Temporary Protected Status

The group discussed the conditions under which USCIS might want to verify a claimed biological relationship for each of these product lines and agreed that it would be useful to develop a matrix of the product lines and the relevant relationships.

**c. Relationships to test**

WG discussed how DNA test results are used or could be used -- to prove vs. disprove relationships. Currently, DNA is only used by USCIS to confirm relationships and existing guidance directs officers NOT to request testing in an effort to disprove a claimed relationship. However, WG agreed that the use of DNA to disprove relationships merits further discussion.

The WG discussed the meaning of the test results and whether any can be treated as conclusive. At this time, the only relationship that can be tested by DNA and yield a conclusive result is a parent/child relationship. Although it is possible to test sibling relationships, no industry standard has been established to define a conclusive test result or even guidelines for interpreting the results.

**III. Review compiled list of documents**

- a. Spreadsheet of documents collected distributed at meeting
- b. WG members received a number of read-ahead documents about current DNA practices within the USG and within USCIS. Most members had not yet had time to review the documents.
- c. Internet Information  
Linda Sudmalis distributed copies of several articles that she discovered doing research on the general use of DNA in the immigration context, in the U.S. and abroad.

**IV. Other**

**a. Rapid DNA Sub-group:**

Working Group members agreed to the establishment of a "Rapid-DNA" sub-group which would report to the main WG. Potential sub-group members included: Anthony Moscato (heading the group), Linda Sudmalis, Heather Evelyn, Jennifer Kliska, Jim Lauver, Cristina Hamilton, Alice Smith, and Marcela Moglia.

A meeting between Science and Technology (S &T) and the main DNA WG members will be set up (date TBD) to discuss "Rapid-DNA."

**V. Review of New Action Items and Deliverables Assigned**

Action Item	Responsible Party	Due
Reach out to the Front Office to inform them of the Working Group and discuss their participation	Cristina Hamilton, Jennifer Kliska	01/04/2011
Provide WG invitee list to SCOPS administrator to set up ECN site. All WG members will have read, write access.	Brian Christian	01/04/2011
Locate ECN training (Powerpoint version if possible), and distribute to WG members.	Brian Christian	01/04/2011

Research legal precedent in using the 99.5 % industry standard for conclusive DNA test results	Alice Smith	01/04/2011
Identify FDNS Fraud Detection Unit contact to sit on WG and email Jane with contact	Kevin Quinn	01/04/2011
Reach out to NIST on their efforts to establish DNA industry standards and discuss possible USCIS role in their working group/discussions	Cristina Hamilton	01/04/2011
Create a matrix with the following fields: USCIS product lines identified by the WG as those that might use DNA testing results and the relationships to test/uses of DNA	International Operations	01/04/2011

**VI. Next Meeting: January 4, 2011, 11am.**



## DNA POLICY AND PROCEDURE WORKING GROUP

**Date/Time of Meeting:** December 14, 2010, 1-2pm

**Place of Meeting:** 111 Mass Ave, Room 3004

**I. Attendees:**

a. Attendees

Name	Title	Organization
Whitney Reitz	Branch Chief	RAIO/IO
Maura Nicholson	Management and Program Analyst	RAIO/IO
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Laura Shaffner		ESD
Chuck Taylor		CFO
Kevin Quinn		FDNS/NS
Alice J. Smith	Associate Council	OCC-RALD, USCIS
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SPELL OUT EACH PRODUCT LINE

I-130, Petition for Alien Relative

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The group discussed the conditions under which USCIS might want to verify a claimed biological relationship for each of these product lines and agreed that it would be useful to develop a matrix of the product lines and the relevant relationships.

### **c. Relationships to test**

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Identify FDNS Fraud Detection Unit contact to sit on WG and email Jane with contact	Kevin Quinn	01/04/2011
Reach out to NIST on their efforts to establish DNA industry standards and discuss possible USCIS role in their working group/discussions	Cristina Hamilton	01/04/2011
Create a matrix with the following fields: USCIS product lines identified by the WG as those that might use DNA testing results and the relationships to test/uses of DNA	International Operations	01/04/2011

**VI. Next Meeting: January 4, 2011, 11am.**



## DNA POLICY AND PROCEDURE WORKING GROUP

**Date/Time of Meeting:** November 30, 2010, 10-11am

**Place of Meeting:** 20 Mass Ave., NW, 2<sup>nd</sup> Floor, Apple Cherry Room

### I. Administrative Procedures:

Since this was the first meeting of the Working Group, participants discussed and agreed upon the following administrative procedures.

#### a. Attendees

Name	Title	Organization	e-mail
Whitney Reitz	Branch Chief	RAIO/IO	Whitney.reitz@dhs.gov
Maura Nicholson	Management and Program Analyst	RAIO/IO	Maura.Nicholson@dhs.gov
Jane Sommerville	Adjudications Officer	RAIO/IO	Jane.Sommerville@dhs.gov
Linda Sudmalis	Asylum Officer	RAIO/ASY	Linda.Sudmalis@dhs.gov
Laura Shaffner		ESD	
Kevin Quinn		FDNS/NS	
Alice J. Smith	Associate Council	OCC-RALD, USCIS	Alice.Smith@dhs.gov
Jennifer Kliska	Chief	OPS/HA	
Cristina Hamilton	Chief	OPS/NSBID	
Trina Swanson	Immigration Services Officer	Bloomington Field Office	
Marcela Moglia	Acting Chief	RAIO/FDNS	Marcela.Moglia@dhs.gov
Anthony Moscato	Domestic Desk Officer	RAIO/RAD	Anthony.moscato@dhs.gov
Bryan Christian	Branch Chief	SCOPS	Bryan.christian@dhs.gov
Heather Evelyn	Adjudications Officer	SCOPS	Heather.Evelyn@dhs.gov

#### b. Membership

- i. Identifying standing members
    - The group agreed that all of the elements of USCIS represented at the meeting plus several other USCIS offices should have a standing membership in the working group and that someone from each element should attend the meetings. The following elements were not present but the group felt that they should have a membership: Office of Field Operations, Regulation Management, Office of Chief Financial Officer (CFO), Front Office
  - ii. Parts of USCIS that will be represented
    - The group agreed that some elements may participate as reader members, meaning that they would be on the distribution for all meeting reports and could attend meetings if interested. Those offices include: Office of Communications (OCOM), Office of Public Engagement (OPE), Office of Legislative Affairs (OLA), Administrative Appeals Office (AAO), Transformation
- c. Scheduling
- i. Protocol for scheduling
    - The Working Group will begin by meeting bi-weekly on Tuesdays at 11 am. The meetings will be scheduled by Outlook invitation.
  - ii. Availability and backups
    - The same offices will be represented at all meetings. However, the individuals representing these offices may change.
  - iii. Use of teleconferences
    - In-person participation is preferred. However, a call-in number will be provided to allow participation for those who are unable to attend in-person.
- d. Record-keeping
- i. Meeting Notes and distribution
    - Notes will be distributed electronically within one business day for comment. Working group members have 2 business days to provide comments and up until Friday noon of the meeting week. Final meeting notes will go out by COB on Friday of the meeting week.
    - Meeting notes will be stored in an electronic file.
  - ii. Standard format
    - International Operations will provide its standard meeting report format for use by the Working Group. Format will

include group's name, meeting date, attendees, agenda items covered, action items, due dates, etc.

- iii. Identifying note-takers
  - Note-taking will be done on a rotation by each member.
- e. Follow-up
  - i. Assign action items
    - Action items will be assigned by the Working Group with specific individuals responsible.
  - ii. Setting due dates
    - Due dates for each action item will be set by the Working Group.
  - iii. Track action items
    - Action items will be tracked through the notes and by inventory. Most action items will be due on the following meeting. Action officer will provide weekly update.
- f. Decision-making
  - i. Consensus
    - The Working Group will make decisions by consensus to the extent possible.
  - ii. Dissent and Conflict Resolution
    - The group agreed to table issues in which it is unable to reach consensus. When possible, the issue may be resolved over email in between meetings or in the following meeting.
    - When dissent cannot be resolved at the working group level, the Working Group agrees to prepare a split memo to go to the Senior Policy Council (SPC) if necessary. (The group recognizes that a 1 month lead time would be allocated to allow time for SPC scheduling and consideration.)
- g. Reporting
  - i. To whom does the group report?
    - Currently, the Working Group members will report to their own chain of command
    - The Working Group will reach out to the Front Office and discuss potential involvement (see action items)

## **II. Goals of Working Group:**

The group reached consensus on the following goals for the Working Group:

- a. To establish a comprehensive USCIS policy on the use of DNA testing for immigration benefits;
- b. To create a procedural framework for DNA collection given current available and developing technology (to include Rapid- DNA);
- c. To work with DHS, the Department of State (DOS), and other federal partners to align their approaches and procedures, when practicable, with those of USCIS for DNA testing;

**III. Objectives of Working Group:**

The group discussed the objectives listed below and reached consensus on them as a general road map.

- i. Review existing USCIS guidance and other materials to identify gaps and conflicts in existing policy and guidance;
- ii. Develop agency-wide consensus on how and when DNA testing should be used by the agency in adjudicating immigration benefits, focusing on the national security and customer service gains that broader use of DNA testing could provide;
- iii. Coordinate current USCIS activities in the various elements to ensure, to the extent possible, an agency-wide approach. Discuss issues as they arise in the WG meetings; use the WG as a clearance forum for field guidance under development.
- iv. Recommend the development and proposal of regulatory changes to facilitate the use of DNA test results in immigration benefit adjudications;
- v. Recommend the development and proposal of standard procedures for DNA collection (with current technology such as Rapid-DNA);
- vi. Align all agency guidance from USCIS on DNA.
- vii. Stand up a working group with DOS in an effort to align both agencies' approaches;
- viii. Determine what materials go out for public comment

**IV. Next Meeting:** Tuesday, December 14<sup>th</sup> at 1pm in the Room 3004, 111 Massachusetts Ave. The following meeting will likely be after the holidays, on Jan. 4 at 11 am.

**V. Action Items:**

Action Item	Responsible Party	Due
Gather existing DNA guidance or other materials/library and email to Jane	All members	12/14/10

Reach out to the Front Office to inform them of the Working Group and discuss their participation	Anthony Moscato	12/14/10
Look into using Sharepoint or other similar technology for use by WG to store documents, facilitate communication	Brian Christian	12/14/10
Look in the "W" Drive to see if DNA information is "tagged" and if so, to email relevant documents to Jane	Jennifer Kliska	12/14/10
Send out request for information on DNA to the IGC	Jane Sommerville	12/14/10
Identify FDNS Fraud Detection Unit contact to sit on WG and email Jane with contact	Kevin Quinn	12/14/2010
Invite new members from offices discussed in item Ib.	Jane Sommerville	12/6/2010
Compile DNA materials/library and bring copies to next meeting	Jane Sommerville	12/14/2010



**U.S. Citizenship  
and Immigration  
Services**

*Refugee, Asylum, & International Operations Directorate*  
20 Massachusetts Ave., NW, Suite 3300  
Washington, DC 20529-2100

**DNA POLICY AND PROCEDURE WORKING GROUP**

**Date/Time of Meeting:** November 30, 2010, 10-11 am  
**Place of Meeting:** 20 Mass Ave., NW, 2<sup>nd</sup> Floor, Apple Cherry Room

**I. Administrative Procedures:**

a. Attendees

Name	Title	Organization	Telephone	e-mail
Whitney Reitz	Branch Chief	International Operations (IO)	202-272-1684	Whitney.reitz@dhs.gov
Maura Nicholson	Management and Program Analyst	International Operations (IO)	202-272-1892	
Jane Sommerville	Adjudications Officer	International Operations (IO)	202-272-1359	Jane.Sommerville@dhs.gov
Linda Sudmalis		Asylum Division	202-272-1669	
Laura Shaffner		Enterprise and Service Directorate		
Kevin Quinn		Fraud Detection and National Security (FDNS), National Security		



		Branch		
Marcela Moglia	Acting Chief	Fraud Detection and National Security (FDNS), RAIO		
Jennifer Kliska		Office of Policy and Strategy		
Cristina Hamilton	Chief	Office of Policy and Strategy, Chief, National Security and Benefits Integrity Division	202-272-1466	
Trina Swanson		Office of Policy and Strategy	952-853-2837	
Anthony Moscato	Refugee Officer	Refugee Affairs	202-272-1630	
Bryan Christian	Branch Chief	Service Center Operations (SCOPS)	202-272-1532	Bryan.christian@dhs.gov
Heather Evelyn		Service Center Operations (SCOPS)		

b. Membership

i. Identifying standing members

- The group agreed that other USCIS offices may need to be standing members including: Office of Field Operations, Regulation Management, Office of Chief Financial Officer (CFO), Front Office

- ii. Parts of USCIS that will be represented
  - The group agreed that some offices may be “readers,” including: Office of Communications (OCOM), Office of Public Engagement (OPE), Office of Legislative Affairs (OLA), Administrative Appeals Office (AAO), Transformation
- c. Scheduling
  - i. Protocol for scheduling
    - The Working Group will begin by meeting bi-monthly on Tuesdays at 11am.
  - ii. Availability and backups
    - The same offices will be represented at all meetings. However, the individuals representing these offices may change.
  - iii. Use of teleconferences
    - In-person participation is preferred. However, a call-in number will be provided to allow participation for those who are unable to attend in-person.
- d. Record-keeping
  - i. Meeting Notes and distribution
    - Notes will be distributed electronically within one business day for comment. Working group members have 2 business days to provide comments. Final meeting notes will go out by COB on Friday of the meeting week.
    - Meeting notes will be stored in an electronic file.
  - ii. Standard format
    - International Operations will provide its standard meeting report format for use by the Working Group. Format will include meeting attendees, agenda items covered, action items, due dates, etc.
  - iii. Identifying note-takers
    - Note-taking will be done on a rotation by each member.
- e. Follow-up
  - i. Assign action items
    - Action items will be assigned by the Working Group with specific individuals responsible.
  - ii. Setting due dates
    - Due dates will be set by the Working Group.
  - iii. Track action items

- Action items will be tracked through the notes and by inventory. Most action items will be due on the following meeting. Action officer will provide weekly update.

f. Decision-making

i. Consensus

- The Working Group will make decisions by consensus to the extent possible.

ii. Dissent and Conflict Resolution

- Table issue allowing each agency to internally discuss the issue. When possible, the issue may be resolved over email in between meetings or in the following meeting.
- When dissent cannot be resolved at the working group level, the Working Group agrees to prepare a split memo to go to the policy council if necessary.

g. Reporting

i. To whom does the group report?

- Currently, the Working Group members will report to their own chain of command
- The Working Group will reach out to the Front Office and discuss potential involvement (see action items)

**II. Goals of Working Group:**

- To establish a comprehensive USCIS policy on the use of DNA testing for immigration benefits;
- To create a procedural framework for DNA collection given current available and developing technology;
- To work with DHS, the Department of State (DOS), and other federal partners to align their approach and procedures with those of USCIS for DNA testing;

**III. Objectives of Working Group:**

- Review existing USCIS guidance and other materials to identify gaps and conflicts in existing policy and guidance;
  - Working group members agreed that for future meetings, it may be a good idea to have an agenda item for an update on what is taking place/issues in our various offices regarding DNA.

- ii. Develop agency-wide consensus on how and when DNA testing should be used by the agency in adjudicating immigration benefits, focusing on the national security and customer service gains that broader use of DNA testing could provide;
- iii. Develop proposed regulatory change to facilitate use of DNA test results in immigration benefit adjudications;
- iv. Develop proposed unified procedures for DNA collection (with current technology);
  - Working Group agreed that IO can proceed with field guidance to overseas offices on DNA collection procedures. Once document is drafted, it will be circulated to the WG.
- v. Align all agency guidance from USCIS on DNA.
- vi. Stand up a working group with DOS in an effort to align the two agency's approaches

**IV. Next Meeting:** Tuesday, December 14<sup>th</sup> at 1pm. Meeting location TBD. The following meeting will be December 28<sup>th</sup> at 11am.

**V. Action Items:**

<b>Action Item</b>	<b>Responsible Party</b>	<b>Due</b>
Review DNA materials/library and email to Jane	All members	12/14/10
Reach out to the Front Office to inform them of the Working Group and discuss their participation	Anthony Moscato	12/14/10
Look into using Sharepoint or other similar technology for use by WG to store documents, facilitate communication	Brian Christian	12/14/10
Look in the "W" Drive to see if DNA information is "tagged" and if so, to email relevant documents to Jane	Jennifer Kliska	12/14/10
Send out request for information on DNA to the IGC	International Operations	12/14/10
Brainstorm product lines where DNA would be appropriate	All members	Will discuss at 12/14 meeting

Identify FDNS Fraud Detection Unit contact to sit on WG and email Jane with contact	Kevin Quinn	12/14/2010
Write up meeting notes, distribute to all members	Jane Sommerville	12/1 and 12/3
Invite new members from offices discussed in item Ib.	Jane Sommerville	12/6/2010
Compile DNA materials/library and bring copies to next meeting	Jane Sommerville	12/14/2010

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## Potential DNA Use for USCIS Adjudications

Form Number	Form Name

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	Relationships that could t		
Form	Petitioner Parent/Beneficiary child	Beneficiary parent/beneficiary child	Petitioner child/Beneficiary parent



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U.S. Department of Justice  
Immigration and Naturalization Service

HQADN 70/11

425 I Street NW  
Washington, DC 20536

July 14, 2000

MEMORANDUM FOR ALL REGIONAL DIRECTORS, ALL DISTRICT DIRECTORS  
(INCLUDING FOREIGN), ALL OFFICERS IN CHARGE  
(INCLUDING FOREIGN), ALL SERVICE CENTER DIRECTORS,  
FLETC, ARTESIA

FROM: Michael D. Cronin /s/  
Acting Executive Associate Commissioner  
Office of Programs

SUBJECT: Guidance on Parentage Testing for Family-Based Immigrant Visa Petitions

The purpose of this memorandum is to provide guidance to Immigration and Naturalization Service (INS) field offices on parentage testing to establish a claimed relationship for benefits under the Immigration and Nationality Act. Such testing may be appropriate to establish a parental relationship in support of a petition for a child, son, or daughter (Form I-130). The procedures discussed in this memorandum may also apply to establishing the biological parent of a foreign-born adopted child to support an orphan petition (Form I-600) or to establishing a parental relationship for citizenship cases (Form N-600). In addition, these procedures may be used to establish a parental relationship for refugee and asylum relative petitions (Form I-730). This memorandum has the concurrence of the Office of Policy and Planning and the Office of the General Counsel.

**Authority to Require Parentage Testing**

A petitioner must establish eligibility for a requested immigration benefit. An application or petition must be filed with any initial evidence required by regulation or by the form instructions. Any evidence submitted is considered part of the relating petition or application and may establish eligibility. 8 CFR 103.2(b)(1).



**Subject: Guidance on Parentage Testing for Family-Based Immigrant Visa Petitions**

In the case of a petition for a child, son, or daughter, the petitioner must provide evidence of the claimed relationship. 8 CFR 204.2(d)(2). The initial evidence for a child, son, or daughter includes a birth certificate. When a birth certificate is unavailable, the petitioner must demonstrate that it is not available and submit secondary evidence, such as a baptismal certificate, or church or school records. If the petitioner demonstrates that both initial and secondary evidence is unavailable, two or more affidavits may be substituted. However, the unavailability of birth certificate creates a presumption of ineligibility for the benefit, and any alternative evidence submitted must be evaluated for its authenticity and credibility. 8 CFR 103.2(b)(2)(i) and 204.2(d)(2)(v).

A director may also require that Blood Group Antigen or Human Leukocyte Antigen (HLA) blood parentage testing be conducted on the child, son, or daughter and putative mother and father to establish eligibility for a benefit. 8 CFR 204.2(d)(2)(vi). Statistical analysis of these tests provides a likelihood of parentage. These test results will often establish or disprove the claimed parental relationship. Since blood parentage testing can be a valuable tool to verify a relationship, it may generally be required when initial and secondary forms of evidence have proven insufficient to prove a claimed relationship. As a result of technological advances, field offices should be aware that Blood Group Antigen and HLA tests are no longer widely available for testing by laboratories, and are not considered to be as reliable as DNA tests.

Although a director may require blood parentage testing, he or she has no statutory or regulatory authority to require DNA testing. However, when initial and secondary forms of evidence have proven inconclusive and blood parentage testing does not clearly establish the claimed parental relationship, field offices may have no alternative to suggesting DNA testing as a means of establishing the relationship. The petitioner has the burden of proof when the evidence submitted has not satisfied his evidentiary threshold and the INS would otherwise deny the petition without more conclusive evidence such as that which DNA testing could provide. In such cases, field offices should inform the petitioner that: 1) DNA testing is absolutely voluntary; 2) the costs of DNA testing and related expenses (such as doctor's fees and the cost of transmitting testing materials and blood samples) must be borne exclusively by the petitioner; and 3) submitting to DNA testing is in no way a guarantee of the approval of the petition.

Field offices should keep in mind that no parentage testing, including DNA testing, is 100 percent conclusive. Therefore, due to the expense, complexity and logistical problems and sensitivity inherent in parentage testing, offices should be extremely cautious when requiring blood testing or suggesting DNA testing as a means of establishing a claimed parental relationship.

**Subject: Guidance on Parentage Testing for Family-Based Immigrant Visa Petitions**

While blood testing is not and should not be a routine part of the adjudications process, it can be an extremely valuable tool in cases when it otherwise would be impossible to verify a relationship. Parentage blood tests involve laboratory procedures performed on blood samples or other genetic material obtained from the child and putative parent or parents. The statistical analysis of the blood test provides a likelihood of parentage if the putative parent is not excluded. The likelihood of parentage is greater with increased information. Increasing the number of genetic testing systems tested provides stronger results, while the absence of information diminishes the strength of results. Officers should be aware that parentage testing is an extremely fact-driven procedure. A laboratory may more accurately determine what tests to run based on specific facts. A more accurate answer will be provided by the laboratory if the Officer provides the laboratory with suspicions of fraud or other pertinent facts.

**Minimum Standards**

*Parties tested:* The most accurate results are received when the alleged mother, father and child available for testing. However, testing of only the mother and child or father and child are also acceptable.

*Statistical probability:* All tests must produce a 99.5% statistical probability for the conclusion of results to establish parentage. Laboratories can continue with a battery of tests until a 99.5% conclusion of parentage is established. After testing the samples from all parties, laboratories will produce a conclusion of parentage which will inform field offices which tests were administered and the conclusion for the results they obtained.

*Preferred test:* The preferred test is the Polymerase Chain Reaction (PCR) test drawn with a buccal swab or a PCR test based on a blood sample.

Please see below for a more detailed explanation of the parentage testing process and procedures.

**Blood Testing**

Blood consists of red and white blood cells, platelets and liquid plasma. Each component of the blood contains several antigens or "markers." The blood group antigens are structures on the surface of the blood cells that help to distinguish individuals within a population. The antigens, inherited from the parents, are controlled by genes on a pair of chromosomes. Each parent contributes one of each chromosome pair carrying the genes that determine the detectable properties of an offspring's blood. The presence of a specific antigen indicates a particular genetic composition or marker. Conclusions in parentage blood testing are based upon the principle that the child inherits genetic markers in his or her blood from each of his or her biological parents.

**Memorandum for: All Regional Directors, All District Directors  
All Officers in Charge, All Service Center Directors, FLETC, Artesia**

**Page 4**

**Subject: Guidance on Parentage Testing for Family-Based Immigrant Visa Petitions**

### **Conventional Blood Tests**

There are four basic tests used in conventional blood testing: 1) basic red cell antigens (ABO, MN, CcDEe); 2) extended red cell antigens; 3) white cell antigens (HLA); 4) and red cell enzymes and serum protein. The laboratory begins by conducting the first test. If parentage cannot be ruled out based on the results of the first test, the laboratory will conduct the second test. The process continues until either the putative parent can be entirely excluded or a good statistical probability is established that the relationship is bone fide.

### **DNA Testing**

DNA (deoxyribonucleic acid) parentage testing provides an alternative to more conventional parentage blood testing methods. DNA testing can be especially useful in countries with limited medical and transportation facilities because, unlike HLA testing, it does not require the use of live human blood cells, which must be tested within just a few days, and are sometimes difficult to obtain. DNA parentage testing can often provide conclusive results even when not all parties are available for testing.

Officers should be aware that parentage testing technology changes rapidly. Whereas HLA blood testing was widely used until 1994, it is now rarely used. Restriction Fragment Length Polymorphism (RFLP) tests which have been widely used since 1994 are now being phased out by laboratories in the U.S. The DNA test which is most recommended for use in parentage testing is the Polymerase Chain Reaction (PCR) test. Although DNA testing has traditionally been accomplished through blood testing, buccal (mouth or cheek cavity) swabs are an alternative to drawing blood for testing. Cells are drawn from the inside cheek using a long cotton swab. As opposed to blood testing, buccal swab testing does not require the assistance of a physician, and is non-invasive. Nevertheless, it is recommended that only a person specially trained to collect tissue sampling perform the procedure in order to ensure the quantity is sufficient for testing.

### **Parentage Testing Procedures**

The American Association of Blood Banks (AABB) accredits parentage-testing laboratories for a 2-year period.<sup>1</sup> The current list of AABB accredited parentage testing laboratories is attached to this memorandum. Offices may accept parentage-testing results only from laboratories on this

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<sup>1</sup> The accreditation standards were developed by the committee on parentage testing of the AABB under a grant from the Federal Office of Child Support Enforcement of the Department of Health and Human Services and with the assistance of special consultants and representatives from the American Bar Association, American Medical Association, American Society of Clinical Pathologists, American Society for Histocompatibility and Immunogenetics and the College of American Pathologists.

**Subject: Guidance on Parentage Testing for Family-Based Immigrant Visa Petitions**

list. The current AABB list does not include any laboratories located overseas, however, the AABB does expect to begin accreditation of laboratories located overseas soon. Therefore, foreign offices should not accept test results from local parentage testing laboratories until the local laboratory has received accreditation from the AABB. The burden of proof is on the petitioner to show that the laboratory chosen is accredited by the AABB.

When a field office requires blood testing or suggests DNA testing, it should provide the petitioner with the list of AABB accredited laboratories. Field offices should be aware that the state designations on the list are for laboratory headquarters. Many laboratories have collection sites in many different states and locations. The petitioner must select a laboratory, contact the laboratory directly, and make the necessary arrangements for conducting the tests. To assure the integrity of the test results, all stages of parentage testing must be conducted under appropriate safeguards. These safeguards must include strict controls concerning: 1) protection of the chain of custody of blood or tissue samples; 2) identification of the parties to be tested, generally by photographing individuals being tested; and 3) correct presentation of test results.

Communication should be directly between the laboratory and the civil surgeon or panel physician or the field office. Under no circumstances should a third party, including the individuals being tested, be permitted to carry or transport blood or tissue samples or test results. Since the applicant bears full financial responsibility for testing, the Service has no objection to that person receiving a copy of the test results from the laboratory or panel physician. It is imperative that the same facility test both the alleged child and the alleged parent(s). Where the petitioner is physically present in the U.S., a U.S.-based lab must conduct the tests and relay the results. Instructions usually require the participation of a witness, identification taken from all (adult) parties involved, and photographs taken of all parties.

**Analysis of Test Results**

In all cases of parentage testing, laboratories should provide the statistical probability for the conclusion for the results they obtain. Offices should use the following interpretations of the plausibility of parentage to analyze test results. In general, AABB standards mandate 99 percent to be the minimum requirement for the proof of parentage. However, this statement does not mean that all test results 99 percent and higher should be accepted as conclusive proof of parentage, or that all test results below 99 percent exclude parentage. The type of parentage test performed, the genetic profile of the local population, and fact specific to the case will all affect the percentage that an office should require to establish a parental relationship. Field offices should provide laboratories with non-genetic evidence which may affect the lab's assumptions in performing the testing, analysis of the results or the number of genetic markers tested.

**Subject: Guidance on Parentage Testing for Family-Based Immigrant Visa Petitions**

Plausibility of Parentage (Percent)	Interpretation
99.80 - 99.90	Practically Proved
99.1 - 99.75	Extremely Likely
95 - 99	Very Likely
90 - 95	Likely
80 - 90	Undecided
Less than 80	Not Useful

Please note that in societies where interfamily marriage is common, close relatives will share many genetic markers and the test results of an aunt, uncle, or grandparent of a beneficiary may appear to establish the claimed parental relationship. The statistics used in paternity testing are designed for evaluating an alleged father as compared to unrelated men. Unlike the random population where persons may share genetic markers by chance, related men will share genetic markers by descent. First degree relatives, such as father, brother or son, will share 50% of their genetic material on average. Therefore, directors should consult with local physicians and parentage testing laboratories, and consider local fraud patterns, to determine the appropriate tests and particular test results to reliably establish the parental relationship in questionable cases. Officers should ask labs to calculate both a father-child and uncle-child or sibling relationship in these cases and should examine reports provided by the laboratory to ensure that sufficient testing was done to distinguish between family members. Officers should feel free to contact the laboratory for clarification if the lab's findings are inconclusive. Labs are able to conduct tests on additional genetic markers if necessary to resolve inconclusive cases.

**Questions**

Questions regarding the appropriate parentage test to use to establish a claimed relationship or analysis of the test results may be directed to the parentage-testing laboratory selected by the petitioner. Questions regarding this policy should be directed to Anne Gyeant, Residence and Status Branch, Adjudications Division at 202-514-4754.

Attachment(s)



U.S. Department of Justice  
Immigration and Naturalization Service

HQADN 70/11

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Office of the Executive Associate Commissioner

425 I Street NW  
Washington, DC 20536

January 15, 2002

MEMORANDUM FOR MICHAEL A. PEARSON  
EXECUTIVE ASSOCIATE COMMISSIONER  
OFFICE OF FIELD OPERATIONS

FROM: Stuart Anderson /s/  
Executive Associate Commissioner  
Office of Policy and Planning

SUBJECT: **Current list of American Association of Blood Banks Accredited Parentage Testing Laboratories**

The purpose of this memorandum is to provide the Immigration and Naturalization Service (INS) field offices with the most current list of parentage testing laboratories that have been accredited by the American Association of Blood Banks (AABB). On July 14, 2000, this office issued a memorandum entitled "Guidance on Parentage Testing for Family-Based Immigrant Visa Petitions" (attached to this memorandum). The policy regarding DNA testing as a means of establishing a claimed parental relationship in immigration proceedings remains as delineated in that July 14, 2000 memorandum.

As was discussed in the July 14, 2000 memorandum, the AABB accredits parentage-testing laboratories for a 2-year period. The AABB has recently updated its list of accredited parentage laboratories. The current list of AABB accredited parentage testing laboratories, dated October 25, 2001, is attached. This list is different from the list attached to the July 14, 2000 memorandum (the list was dated October 7, 1999) and supercedes that list. The October 25, 2001 AABB list should now be provided by INS offices to petitioners whenever DNA testing is required.

Questions regarding the appropriate parentage test to use to establish a claimed relationship or analysis of the test results may be directed to the parentage-testing laboratory selected by the petitioner. Service personnel with questions relating to this memorandum may contact Elizabeth N. Lee via cc:Mail.

Attachments (2)

**aa** AMERICAN  
**BB** ASSOCIATION  
OF BLOOD BANKS

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Accredited Parentage Testing Laboratories October 25, 2001

Terrance G. Owen, PhD

Helix Biotech  
635 Columbia Street  
New Westminster, B.C.  
CANADA V3M 1A7,  
Phone: (604)-523-2945 X:  
Fax: (604)-523-2974

AL Ronald T. Acton, PhD

Immunogen./DNA Diag Lab. U of AL HSC  
223 Professional Arts Building  
1025 18th Street, South  
Birmingham, AL 35294-4400  
Phone: (205)-934-7107 X:  
Fax: (205)-934-4062

AZ Robert Endres, PhD

Blood Systems Laboratories, Inc.  
2424 W. Erie Dr.  
Tempe, AZ 85282  
Phone: (480)-675-5458 X:  
Fax: (480)-675-7025

CA John A. Taddie, PhD

Long Beach Genetics Esoterix  
2384 E. Pacifica Place  
Rancho Dominguez, CA 90220  
Phone: (310)-632-8900 X: 00100  
Fax: (310)-632-9424

CA Lori M. Ottinger, PhD

Genescreen, Inc. (FDL) - Sacramento  
Parentage Testing  
7237 East Southgate Dr. Suite E  
Sacramento, CA 95823  
Phone: (916)-421-4225 X:  
Fax: (916)-428-3322

CA Thomas Gilroy, PhD

Genetic Profiles Corporation  
6122 Nancy Ridge Dr., Ste 205  
San Diego, CA 92121  
Phone: (658)-623-0840 X:  
Fax: (658)-623-0842

CA Vernon L. Kyle, Chief,

Kern County Regional  
Criminalistics Laboratory  
1300 18th Street, 4th Floor  
Bakersfield, CA 93301-4519  
Phone: (661)-868-5676 X:  
Fax: (661)-868-5675

CO Carla M. Wirtz, CRS

The Laboratories at Bonfils  
Parentage Testing Laboratory  
717 Yosemite Circle, 2nd floor  
Denver, CO 80230  
Phone: (303)-365-9000 X:  
Fax: (303)-343-6666

CO David Latorra, PhD

Analytical Genetic Testing Center, Inc.  
7808 Cherry Creek South Drive  
#201  
Denver, CO 80231  
Phone: (303)-750-2023 X:  
Fax: (303)-750-2171

IN Dan A. Waxman, MD

Central Indiana Regional Blood Center  
HLA/DNA Laboratory  
3450 N. Meridian  
Indianapolis, IN 46208  
Phone: (317)-916-5237 X:  
Fax: (317)-920-3284

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8101 Glenbrook Road ♦ Bethesda, MD 20814-2749 ♦ Phone: (301) 907-6977 ♦ Fax: (301) 907-6896  
Web site: [www.aabb.org](http://www.aabb.org) ♦ Email: [aabb@aabb.org](mailto:aabb@aabb.org)

Accredited Parentage Testing Laboratories October 25, 2001

LA Sudhir K. Sinha, PhD  
ReliaGene Technologies, Inc.  
5525 Mounes St., Suite 101  
New Orleans, LA 70123  
Phone: (800)-256-4106 X:  
Fax: (504)-734-9787

MA Alvin E. Davis III, MD  
CBR Laboratories, Inc.  
Parentage Testing  
800 Huntington Ave.  
Boston, MA 02115-6399  
Phone: (617)-731-6470 X: 00370  
Fax: (617)-278-3493

MD Robert E. Wenk, MD  
BRT Laboratories, Inc.  
400 West Franklin Street  
Baltimore, MD 21201  
Phone: (410)-225-9595 X:  
Fax: (410)-383-0938

MD Jennifer Reynolds, PhD  
Cellmark Diagnostics, Inc.  
20271 Goldenrod Lane Suite 120  
Germantown, MD 20876  
Phone: (301)-428-4980 X:  
Fax: (301)-428-4877

MI R. Scott Foster, PhD  
Lifecodes Corp. East Lansing Division  
Parentage Testing  
2947 Eyde Parkway, Suite 110  
East Lansing, MI 48823  
Phone: (517)-349-3890 X:  
Fax: (517)-349-6879

MN Jed B. Gorlin, MD  
Memorial Blood Centers of Minnesota  
Paternity Laboratory  
2304 Park Ave., South  
Minneapolis, MN 55404  
Phone: (612)-871-3300 X:  
Fax: (612)-872-3689

MO Dimitar K. Gavrilov, MD, PHD  
Paternity Testing Corporation  
3501 Berrywood Dr.  
Columbia, MO 65201  
Phone: (573)-442-9948 X:  
Fax: (573)-442-9870

MO Jami K. Harmon,  
Genetic Technologies, Inc.  
PO Box 242  
Glencoe, MO 63038  
Phone: (636)-451-4363 X:  
Fax: (636)-451-5317

MS R.W.(BO) Scales, PhD  
Scales Biological Laboratory, Inc.  
220 Woodgate Drive, South  
Brandon, MS 39042  
Phone: (601)-825-3211 X:  
Fax: (601)-825-1411

MS Wes Burkhardt, Jr., PhD  
Medical Genetic Consultants  
Legal Genetics  
910 Washington Ave.  
Ocean Springs, MS 39564  
Phone: (228)-872-3680 X:  
Fax: (228)-872-1893



Accredited Parentage Testing Laboratories October 25, 2001

NC James Mason, PhD  
Laboratory Corporation of America  
Holdings  
1440 York Court Extension  
Burlington, NC 27215  
Phone: (800)-222-7566 X:  
Fax: (336)-584-4894

NJ Leslie D. Johnson, PhD  
Clinical Testing and Research, Inc.  
20 Wilsey Square  
Ridgewood, NJ 07450  
Phone: (201)-652-2088 X:  
Fax: (201)-652-2775

NV Stephen St. Jeor, PhD  
GenQuest: DNA Analysis Laboratory  
Univ. of Nevada School of Med.  
1664 N. Virginia St., Mailstop 320  
Reno, NV 89557-0046  
Phone: (775)-784-4494 X:  
Fax: (775)-784-1620

OH Elizabeth Panke, MD, PhD  
Genetica DNA Laboratories, Inc.  
8740 Montgomery Road  
Cincinnati, OH 45236  
Phone: (800)-433-6848 X:  
Fax: (513)-985-9983

OH Cheryl Conley, PhD  
GeneScreen, Inc.  
5698 Springboro Pike  
Dayton, OH 45449  
Phone: (937)-294-0973 X:  
Fax: (937)-294-0511

OH Mark A. Micale, Ph.D., F.A.C.M.G.  
Medical College of Ohio Molecular Biology  
DNA Profiling Laboratory  
3355 Glendale Ave.  
Toledo, OH 43614-2489  
Phone: (419)-381-5636 X:  
Fax: (419)-383-7492

OH Dr. Richard F. Lee, PhD  
DNA Diagnostics Center  
205 Corporate Ct.  
Fairfield, OH 45014  
Phone: (800)-362-2368 X:  
Fax: (513)-881-7803

OK Robert W. Allen, PhD  
H.A. Chapman Institute of Medical Genetic  
Schusterman Health Science Ctr  
4502 E. 41st  
Tulsa, OK 74135  
Phone: (918)-660-3838 X:  
Fax: (918)-664-0596

OR Zahra Mehdizadehkashi, Ph.D.  
A.R.C. Blood Serv. Pacific-N.W. Region  
3131 North Vancouver Ave.  
Portland, OR 97227  
Phone: (503)-280-0210 X:  
Fax: (503)-280-1483

RI Carolyn Te Young, MD  
Rhode Island Blood Center  
Parentage Testing Laboratory  
405 Promenade Street  
Providence, RI 02908  
Phone: (401)-453-8390 X:  
Fax: (401)-453-8557

Accredited Parentage Testing Laboratories October 25, 2001

SD Arla L. Bush, Ph.D.  
Identity Genetics, Inc.  
801 32nd Avenue  
Brookings, SD 57006  
Phone: (605)-697-5300 X:  
Fax: (605)-697-5306

TN Roger A. Hubbard, Ph.D.  
Molecular Pathology Laboratory  
424 E. Church Avenue  
Maryville, TN 37804  
Phone: (865)-380-9746 X:  
Fax: (865)-380-9191

TN Deborah Cutter, PhD  
Micro Diagnostics, Inc. (Lifecodes Corp.)  
1400 Donelson Pike, Suite A15  
Nashville, TN 37217  
Phone: (615)-360-5000 X: 00106  
Fax: (615)-360-5003

TX Ronald C. Barwick, PhD  
Genescreen - Dallas  
2600 Stemmons FWY  
Suite 133  
Dallas, TX 75207  
Phone: (800)-752-2774 X:  
Fax: (214)-634-3322

TX Arthur J. Eisenberg, PhD  
Univ. of N. TX Hlth. Sci. Ctr. Ft. Wrth  
DNA Identity Laboratory  
3500 Camp Bowie Blvd.  
Fort Worth, TX 76107  
Phone: (817)-735-5015 X:  
Fax: (817)-735-2424

TX Laura G. Gahn, PhD  
Identigene, Inc.  
7400 Fannin, Suite 1250  
Houston, TX 77054  
Phone: (800)-362-8973 X:  
Fax: (713)-798-9515

TX Joseph E. Warren, PhD  
Bio Synthesis, Inc.  
612 E. Main St.  
Lewisville, TX 75057  
Phone: (800)-227-0627 X:  
Fax: (972)-420-0442

UT Kenneth Ward, MD  
DNA Diagnostic Lab, University of Utah  
CAMT Building  
729 Arapeen Drive Room 150  
Salt Lake City, UT 84108  
Phone: (801)-581-8334 X:  
Fax: (801)-585-3876

VA Daniel B. Demers, PhD  
Fairfax Identity Laboratories  
Genetics and IVF Institute  
3025 Hamaker Court, Suite 203  
Fairfax, VA 22031  
Phone: (703)-698-3919 X:  
Fax: (703)-204-9125

VA Douglas Oliveri, PhD, FACMG  
Commonwealth Biotechnologies, Inc.  
601 Biotech Drive  
Richmond, VA 23235  
Phone: (800)-735-9224 X:  
Fax: (804)-648-2641

Accredited Parentage Testing Laboratories October 25, 2001

WA Dr. Tia Aulinskas, PhD  
Genelex Corporation  
12277 134th Court NE  
Suite 130  
Richmond, WA 98052  
Phone: (425)-825-1870 X:  
Fax: (425)-825-1870

WA Kristen Skogerboe, PhD  
Dynacare Northwest, Inc.  
Molecular Biology Dept.  
1229 Madison, Ste 500  
Seattle, WA 98104  
Phone: (206)-386-2824 X:  
Fax: (206)-386-2695

WI A.J. Hibbard, MD  
American Red Cross Badger-Hawkeye HLA Lab  
4860 Sheboygan Ave.  
PO BOX 5905  
Madison, WI 53705-0905  
Phone: (608)-227-1239 X:  
Fax: (608)-233-1857

Total = 43



U.S. Department of Justice  
Immigration and Naturalization Service

HQADN 70/11

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Office of the Executive Associate Commissioner

425 I Street NW  
Washington, DC 20536

January 17, 2002

MEMORANDUM FOR REGIONAL DIRECTORS,  
DIRECTOR, INTERNATIONAL AFFAIRS,  
DIRECTOR, FEDERAL LAW ENFORCEMENT TRAINING  
CENTER,  
DIRECTOR, ARTESIA

FROM: Michael A. Pearson /s/ by David P. Peter  
Executive Associate Commissioner  
Office of Field Operations

SUBJECT: **Current List of American Association of Blood Banks Accredited Parentage  
Testing Laboratories**

The attached memorandum dated January 15, 2002, is effective immediately.

On July 14, 2000, a memorandum entitled "Guidance on Parentage Testing for Family-Based Immigrant Visa Petitions" was issued by the Office of Programs. Attached to that memorandum was a list of parentage testing laboratories that had been accredited by the American Association of Blood Banks (AABB) that was to be provided by Immigration and Naturalization Service (Service) offices to petitioners who were required to undergo DNA testing to establish a claimed parental relationship. The AABB has recently updated the list of accredited parentage testing laboratories. This updated list (dated October 25, 2001) is attached to this memorandum and should now be used by all Service offices.

Attachments (3)



U.S. Citizenship  
and Immigration  
Services

HQOPRD 70/8

## Interoffice Memorandum

To: Field Operations  
Office of Refugee, Asylum and International Operations  
Regional Directors  
District Directors  
Service Center Directors  
Officers-in-Charge

From: William R. Yates /S/  
Associate Director  
Operations

Date: April 7, 2005

Re: List of American Association of Blood Banks (AABB)  
Accredited Parentage Testing Laboratories

Revisions to *Adjudicator's Field Manual (AFM)* Chapter 21.2  
and Appendix 21-3 (*AFM* Update AD 05-10)

This memorandum advises the above-stated U.S. Citizenship and Immigration Services (USCIS) offices how to obtain a current list of the American Association of Blood Banks (AABB) accredited parentage testing laboratories. The AABB accredited laboratories perform parentage testing, also referred to as blood testing or DNA testing.

The AABB list of accredited parentage testing laboratories was last circulated in January 2002. See Memo, Pearson, Ex. Assoc. Comm. Field Operations, HQADN (Jan. 17, 2002). Since that time, many of the laboratories on the AABB list have changed addresses, phone numbers and names. Therefore, it is necessary to provide a current list of AABB accredited parentage testing labs. The current AABB list can be viewed at: [http://www.aabb.org/About the AABB/Std and Accred/aboutptlabs.htm](http://www.aabb.org/About_the_AABB/Std_and_Accred/aboutptlabs.htm).

Because the AABB frequently updates its list, a paper list of the AABB facilities will no longer be provided. Instead, USCIS offices should provide the above-stated AABB website link via the attached Fact Sheet to petitioners whenever blood testing or DNA testing information is requested. The AABB link stated above has also been added to the USCIS website FAQs section to insure that the public and USCIS offices have ongoing access to the current AABB list.

American Association of Blood Banks (AABB)  
Accredited Parentage Testing Laboratories

Revisions to *Adjudicator's Field Manual (AFM)* Chapter 21.2  
and Appendix 21-3 (*AFM* Update AD 05-10)

Page 2

Please note that the AABB no longer provides phone or address contact information for its accredited laboratories due to the transient nature of this information. Instead, only the headquarters or primary location for each laboratory is provided. Many of the laboratories listed have multi-state and/or multi-site locations despite being listed under only one state. Therefore, it is necessary to go to the website for the selected AABB laboratory to identify all locations and contact information for that particular laboratory.

The policy regarding all DNA testing as a means of establishing a claimed parental relationship remains as delineated in the Memorandum issued by legacy INS entitled "*Guidance on Parentage Testing for Family-Based Immigrant Visa Petitions.*" See Memo, Cronin, Acting Ex. Assoc. Comm., Programs, HQADN (July 14, 2000).

Questions regarding the actual parentage testing procedures or test results should be directed to the parentage testing laboratory selected by the petitioner. Service personnel with questions relating to this memorandum may contact Susan Kopp Keyack through appropriate channels.

Accordingly, the *AFM* is revised as follows:

1. The *AFM* currently contains Chapter 21.2 entitled, "Factors Common to the Adjudication of All Relative Visa Petitions." Section (d)(1)(G) of Chapter 21.2, entitled, "Parentage Testing Procedures" has been revised. A new section (d)(1)(G)(revision date 02/28/2005) is substituted, as follows:

**(G) Parentage Testing Procedures.** The American Association of Blood Banks (AABB) accredits parentage-testing laboratories for a 2-year period. The current list of AABB accredited parentage testing laboratories is contained in Appendix 21-3 of this field manual. Offices may accept parentage testing results only from laboratories on this list.

**Note:** The accreditation standards were developed by the committee on parentage testing of the AABB under a grant from the Federal Office of Child Support Enforcement of the U.S. Department of Health and Human Services and with assistance of special consultants and representatives from the American Bar Association, American Medical Association, American Society of Clinical Pathologists, American Society for Histocompatibility and Immunogenetics and the College of American Pathologists.

The burden of proof is on the petitioner to show that the laboratory chosen is accredited by the AABB.

When a field office requires blood testing or suggests DNA testing, it should provide the petitioner with the list of AABB accredited laboratories. Field offices should be aware that the state designations on the list are for laboratory headquarters. Many laboratories have collection sites in many different states and locations. The petitioner must select a laboratory, contact the laboratory directly, and make the necessary arrangements for

American Association of Blood Banks (AABB)  
Accredited Parentage Testing Laboratories

Revisions to *Adjudicator's Field Manual (AFM)* Chapter 21.2  
and Appendix 21-3 (*AFM* Update AD 05-10)

Page 3

conducting the tests. To ensure the integrity of the test results, all stages of parentage testing must be conducted under appropriate safeguards. These safeguards must include strict controls concerning:

- protection of the chain of custody of blood or tissue samples;
- identification of the parties to be tested, generally by photographing individuals being tested; and
- correct presentation of test results.

Communication should be directly between the laboratory and the civil surgeon or panel physician or the field office. Under no circumstances should a third party, including the individuals being tested, be permitted to carry or transport blood or tissue samples or test results. Since the applicant bears full financial responsibility for testing, USCIS has no objection to that person receiving a copy of the test results from the laboratory or panel physician. It is imperative that the same facility tests both the alleged child and the alleged parent(s). Where the petitioner is physically present in the U.S., a U.S.-based lab must conduct the tests and relay the results. Instructions usually require the participation of a witness, identification taken from all (adult) parties involved, and photographs taken of all parties.

2. The *AFM* currently contains Appendix 21-3, entitled "American Association of Blood Banks." The "Editor's Note" and "Part A" (revision date 02/28/2005) of Appendix 21-3 are revised as follows:

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#### Appendix 21-3 American Association of Blood Banks

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Editor's Note: The following information was obtained from:

American Association of Blood Banks  
8101 Glenbrook Road  
Bethesda, MD 20814-2749  
Phone: (301) 907-6977  
Fax: (301) 907-6895  
Website: [www.aabb.org](http://www.aabb.org)  
Email: [aabb@aabb.org](mailto:aabb@aabb.org)

Part A: Accredited Parentage Testing Laboratories. A current list of the AABB accredited parentage testing laboratories can be viewed at: [http://www.aabb.org/About the AABB/Std and Accred/aboutptlabs.htm](http://www.aabb.org/About%20the%20AABB/Std%20and%20Accred/aboutptlabs.htm). You must access the AABB website set forth above to obtain current laboratory information. The USCIS office is no longer providing a paper list of the AABB facilities due to the transient nature of this information.

American Association of Blood Banks (AABB)  
Accredited Parentage Testing Laboratories

Revisions to *Adjudicator's Field Manual (AFM)* Chapter 21.2  
and Appendix 21-3 (*AFM* Update AD 05-10)

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Please be advised that the AABB website lists only the headquarters or primary location for each AABB laboratory. In fact, many of the laboratories listed have multi-state and/or multi-site locations despite being listed under only one state. Therefore, it is necessary to go to the selected laboratory's website to identify all locations and contact information for that particular laboratory.

3. The *AFM* Transmittal Memoranda button is revised by adding new entries, in numerical order, to read:

AD 10-05	Chapter 21-2, Section	This memorandum replaces Chapter 21-2,
[INSERT	(d)(1)(G);	section (d)(1)(G) of the <i>Adjudicator's Field</i>
SIGNATURE	Appendix 21-3, Editor's	<i>Manual (AFM)</i> and replaces Appendix 21-3
DATE OF THIS	Note and Part A	of the <i>AFM</i> .
MEMO]		

cc: CIS Headquarters Directors  
Bureau of Immigration and Customs Enforcement  
Bureau of Customs and Border Protection





# Fact Sheet

April 2005

## **American Association of Blood Banks (“AABB”) Accredited Parentage Testing Laboratories**

Parentage testing, or what is also referred to as blood testing or DNA testing, must be conducted by an American Association of Blood Banks (“AABB”) accredited laboratory.

A current list of the AABB accredited parentage testing laboratories can be viewed at: [http://www.aabb.org/About\\_the\\_AABB/Std\\_and\\_Accred/aboutptlabs.htm](http://www.aabb.org/About_the_AABB/Std_and_Accred/aboutptlabs.htm). You must access the AABB website set forth above to obtain current laboratory information. The USCIS office is no longer providing a paper list of the AABB facilities due to the transient nature of this information.

Please be advised that the AABB website lists only the headquarters or primary location for each AABB laboratory. In fact, many of the laboratories listed have multi-state and/or multi-site locations despite being listed under only one state. Therefore, it is necessary to go to your selected laboratory’s website to identify all locations and contact information for that particular laboratory.

Any questions regarding the actual parentage testing procedures or test results should be directed to the AABB parentage testing laboratory selected.

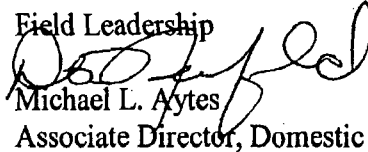


U.S. Citizenship  
and Immigration  
Services

MAR 19 2008

HQORPM AD07-25  
HQORPM 70/8

## Memorandum

TO: Field Leadership  
FROM:   
Michael L. Aytes  
Associate Director, Domestic Operations

SUBJECT: Genetic Relationship Testing; Suggesting DNA Tests  
Revisions to the *Adjudicators Field Manual* (AFM) Chapter 21  
(AFM Update AD07-25)

### 1. Purpose

This guidance replaces the memorandum entitled List of American Association of Blood Banks Accredited Parentage Testing Laboratories, issued April 7, 2005.

This guidance reminds officers that AABB – formally the American Association of Blood Banks - is not a DNA testing laboratory. Rather, AABB is the accrediting body for DNA testing laboratories. When a DNA testing laboratory submits DNA test results to the United States Citizenship and Immigration Service (USCIS) regarding the existence of a biological relationship, USCIS requires that laboratory to have an AABB accreditation.

AABB publishes their list of accredited laboratories online. Officers should not contact AABB directly and they should discourage petitioners from contacting AABB directly.

This guidance also reminds officers that USCIS cannot require DNA testing to establish a claimed biological relationship.<sup>1</sup> However, in situations where credible evidence is insufficient to prove the claimed biological relationship, officers may suggest and consider DNA testing results. In such cases, the petitioner must select an accredited laboratory, contact the laboratory directly, and make the necessary arrangements for conducting the tests.

This guidance instructs officers that when they suggest DNA testing, they must identify explicitly the relationship to be tested for.

## **2. Contact Information**

Questions regarding the guidance contained in this memorandum should be directed to Fred Ongcapin, Regulations and Product Management, Domestic Operations Directorate, through the appropriate supervisory channels.

## **3. Use**

This memorandum is intended solely for the guidance of USCIS personnel in performing their duties relative to adjudications of applications. It is not intended to, does not, and may not be relied upon to create any right or benefit, substantive or procedural, enforceable at law by any individual or other party in removal proceedings, in litigation with the United States, or in any other form or manner.

## **4. AFM Update**

Accordingly, the *AFM* is revised as follows:

☞ 1. The bulleted list following the fourth paragraph in *AFM* 21.2(d)(1)(B) is revised to read as follows:

- DNA testing is absolutely voluntary;
- The costs of DNA testing and related expenses (such as doctor's fees and the cost of transmitting testing materials and blood samples) must be borne exclusively by the petitioner;
- DNA test results be specific to the relationship in question;\* and
- DNA test results do not guarantee the approval of the petition.

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<sup>1</sup> USCIS policy concerning DNA testing was established in a July 2000 memorandum from Michael D. Cronin, then Acting Executive Associate Commissioner of the INS, which allows field offices to "suggest" DNA testing when other forms of evidence have proved inconclusive. The July 2000 memorandum states that while 8 CFR 204.2(d)(2)(vi) allows directors to require Blood Group Antigen or Human Leukocyte Antigen (HLA) blood parentage tests, there is no similar statutory or regulatory authority allowing them to require DNA testing. See Memorandum from Michael D. Cronin, Acting Ex. Assoc. Comm., Programs, HQADN, Guidance on Parentage Testing for Family-Based Immigrant Visa Petitions (July 24, 2000).

Genetic Relationship Testing

Revision to Adjudicator's Field Manual (AFM) Chapter 21.2(d) Appendix 21.3 American Association of Blood Banks (AFM Update AD07-25)

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\*If a relationship is in question, and you have suggested DNA testing for additional evidence, you must identify the specific genetic relationship to be tested. It is not sufficiently specific for you to ask whether two people are "related;" rather, you must indicate how you think they may be related – parent/child, grandparent/grandchild, siblings, etc. For example, asking whether the putative husband and putative wife are actually siblings, rather than unrelated, is a legitimate question that may be answered by the testing laboratory. Furthermore, it is important to note that DNA testing that establishes a parent-child relationship does not negate any requirement for "legitimation" that may apply to certain parent-child relationships, nor would it support approval of a petition or application if the legal parent-child relationship was terminated by adoption.

☞ 2. AFM chapter 21.2(d)(1)(G) is revised in its entirety to read as follows:

(G) Parentage Testing Procedures. AABB accredits parentage-testing laboratories for a two-year period. The current list of AABB accredited parentage testing laboratories is available online at [aabb.org](http://aabb.org). Officers must pay close attention to the '.org' in the online address to be sure they have the correct website and the correct list of accredited laboratories. Officers may accept parentage testing results only from laboratories on this list.

Officers should not contact AABB directly and should discourage petitioners from contacting AABB directly. AABB does not provide DNA testing directly. AABB merely accredits laboratories and publishes the list of accredited laboratories online.

The accreditation standards were developed by the committee on parentage testing of AABB under a grant from the Federal Office of Child Support Enforcement of the U.S. Department of Health and Human Services and with assistance of special consultants and representatives from the American Bar Association, American Medical Association, American Society of Clinical Pathologists, American Society for Histocompatibility and Immunogenetics and the College of American Pathologists.

The burden of proof is on the petitioner to show that the laboratory chosen is accredited by AABB.

When a field office requires blood testing or when it suggests DNA testing, it should provide the petitioner with the list of AABB accredited laboratories and explain to the petitioner that state designations on the list are for laboratory headquarters. Many laboratories have collection sites in many different states and locations. The petitioner must select a laboratory, contact the laboratory directly, and make the necessary arrangements for conducting the tests. To

Genetic Relationship Testing

Revision to Adjudicator's Field Manual (AFM) Chapter 21.2(d) Appendix 21.3 American Association of Blood Banks (AFM Update AD07-25)

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ensure the integrity of the test results, all stages of parentage testing must be conducted under appropriate safeguards. These safeguards must include strict controls concerning:

- protection of the chain of custody of blood or tissue samples;
- identification of the parties to be tested, generally by photographing individuals being tested; and
- correct presentation of test results.

Communication should be directly between the laboratory and the civil surgeon or panel physician or the field office. Under no circumstances should a third party, including the individuals being tested, be permitted to carry or transport blood or tissue samples or test results. Since the applicant bears full financial responsibility for testing, USCIS has no objection to that person receiving a copy of the test results from the laboratory or panel physician. It is imperative that the same facility tests both the alleged child and the alleged parent(s). Where the petitioner is physically present in the U.S., a U.S.-based lab must conduct the tests and relay the results. Instructions usually require the participation of a witness, identification taken from all (adult) parties involved, and photographs taken of all parties.

☞ 3. *AFM* Appendix 21-3, American Association of Blood Banks is revised in its entirety to read as follows:

Appendix 21-3 AABB.

Editor's Note: The following information was obtained from:

AABB  
8101 Glenbrook Road  
Bethesda, MD 20814-2749

Website: [www.aabb.org](http://www.aabb.org)

Part A: Accredited Parentage Testing Laboratories. A current list of AABB accredited parentage testing laboratories can be viewed at: <http://www.aabb.org>. You must access the AABB website set forth above to obtain current laboratory information.

Please be advised that the AABB website lists only the headquarters or primary location for each AABB laboratory. In fact, many of the laboratories listed have multi-state and/or multi-site locations despite being listed under only one state. Therefore, it is necessary to go to the selected laboratory's website to identify all locations and contact information for that particular laboratory.

Genetic Relationship Testing

Revision to Adjudicator's Field Manual (*AFM*) Chapter 21.2(d) Appendix 21.3 American Association of Blood Banks (*AFM* Update AD07-25)

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4. The *AFM* **Transmittal Memoranda** button is revised by adding a new entry, in numerical order to read:

AD05-25 [Insert date]	Chapter 21.2(d): Appendix 21-3	This Memorandum revises Chapter 21.2(d) and Appendix 21-3 of the Adjudicator's field Manual ( <i>AFM</i> ).
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Distribution List: Service Center Directors  
National Benefits Center Director  
Regional Directors  
District Directors  
Field Office Directors

## *NBC Letters*

### *Paragraph Code / Wording*

**RFE Code**

416a FAM\*

INSTRUCTIONS FOR DNA TESTING

**Form Types this paragraph is used for: , I130, ,**

If you want to submit to VOLUNTARY DNA testing to help in establishing the relationship between yourself and XXXNameXXX, please see the instructions below.

#### INSTRUCTIONS FOR DNA TESTING

You may choose to have DNA (deoxyribonucleic acid) parentage testing done to help establish the relationship between yourself and the individual to whom you have claimed a familial relationship. In order to provide the most conclusive results, the recommended DNA test is the Polymerase Chain Reaction (PCR) test. (A simple blood group/type, RH factor comparison is generally not conclusive enough to support the claimed relationship.)

Please note that: 1) DNA testing is absolutely VOLUNTARY; 2) the costs of DNA testing and related expenses (such as doctor's fees and the cost of transmitting testing materials and blood samples) are exclusively your responsibility; and 3) submitting to DNA testing does NOT guarantee approval of the petition.

Please also note that if other evidence is requested in the accompanying letter, it must be submitted. The petition must also be supported by acceptable evidence of the date of birth and nationality of the beneficiary.

The names of the people who should be tested are as follows:

Petitioner: XXXPetNameXXX

Beneficiary: XXXBeneNameXXX

Test results will only be accepted from parentage-testing laboratories accredited by the American Association of Blood Banks (AABB). A current list of the AABB accredited parentage testing laboratories can be viewed at:  
[http://www.aabb.org/Content/Accreditation/Parentage\\_Testing\\_Accreditation\\_Program/AABB\\_Accredited\\_Parentage\\_Testing\\_Laboratories/](http://www.aabb.org/Content/Accreditation/Parentage_Testing_Accreditation_Program/AABB_Accredited_Parentage_Testing_Laboratories/)

You must access the AABB website set forth above to obtain current laboratory information. USCIS offices are no longer providing a paper list of the AABB facilities due to the transient nature of this information. The state designations on this list are for laboratory headquarters and many of these laboratories have collection sites in many different states and locations.

You must select a laboratory, contact the laboratory directly, and make the necessary arrangements for conducting the tests. The same testing laboratory must test both the petitioner and the beneficiary.

If the beneficiary and/or petitioner to be tested is residing overseas, he or she should contact the appropriate U.S. consulate for a list of specialists/ labs serving that area and/or check the

**RFE Code** Form Types this paragraph is used for: , I130, ,

All parties must present proof of identity at the time the samples are taken.

The results of the tests must be submitted directly to this office by the parentage-testing laboratory.

The attached "Results of DNA . . ." coversheet should be given to the testing laboratory to be placed on top of the results. Inclusion of this coversheet will help ensure that the results are connected with the correct file in a timely manner.

One of the enclosed envelopes should be given to the testing laboratory and should be used by the laboratory to return the results to this Service.

**ALL OTHER REQUESTED EVIDENCE MUST BE SUBMITTED** whether you choose to have DNA testing done or not. You do not need to wait for DNA testing to be completed before submitting other evidence. Be sure to indicate in your response if you have chosen to have DNA testing done.



*Friday, July 30, 2010*

*Page 2 of 2*

**ATTENTION**

**Results of DNA  
parentage test attached.**

**Connect with file  
as soon as possible.**

## Officer Instructions for Suggesting DNA Testing

DNA testing can only be suggested as a voluntary means of proving relationships and should never be included in a Request for Evidence or Notice of Intent to Deny in such a way that would lead the applicant to believe that testing is required or will ensure approval.

### Requests for Evidence

1. Choose the DNA standard, 416 FAM, from the list of standards in Letter Express. This should be the last item you include in the RFE letter.
2. Enter the names where indicated of the persons who are to be tested.
3. Choose the "DNA Cover Letter" from the enclosures drop down menu in Letters Express. Clerical will print out this sheet at the same time they print the RFE.
4. Write on the Letters Express instruction sheet to clerical:
  - "Please send two (2) red-edged envelopes with this RFE."
  - "Please place or write the LIN number on the DNA Cover Letter."

### Notice of Intent to Deny

1. Include in your NOID {730 REFINT or 730 ASYINT} an item that says in effect, "If you want to submit to VOLUNTARY DNA testing to help in establishing the relationship between yourself and your claimed child, please see the enclosed instructions."
2. Print the "DNA Parentage Testing" and "DNA Results Coversheet."
  - In Word choose "File," "New" and then the "730" tab.
  - From the "730" tab, choose "DNA Parentage Testing." F11 to the fillins and enter the names of the parent and child who are to be tested. Print two copies of this page, one for each copy of the intent letter.
  - Again from the "730" tab choose "DNA Results Coversheet." F11 to the fillin and wand in the receipt number. Backspace to remove the extra return. **Only one copy** of this sheet needs to be printed and placed with the copy of the intent to be mailed.
3. Include on your instruction sheet {FAX/CABLE sheet} to clerical, "Please send two (2) green-edged envelopes with the NOID."

## Instructions to Clerical for RFE's And NOID's Which Suggest DNA Testing

### **Requests for Evidence.**

1. These cases would be identified by the "DNA Cover Letter" being chosen as one of the enclosures to be included with the request.
2. These cases would also be identifiable by instructions from the officer on the RFE coversheet asking clerical to "Please send two (2) red-edged envelopes with this RFE" and "Please place or write the LIN number on the DNA Cover Letter."
3. After printing out the RFE letter and the DNA Cover Letter the clerk would place a receipt number barcode label on the DNA Cover Letter on the line near the bottom. If no barcodes are available, the clerk would hand write the number on the line.
4. As per the officer's instructions the clerk would also include two red-edged envelopes with the RFE and coversheet. One envelope is to be used by the testing laboratory to return the results and the other is for the applicant to return any additional requested evidence.

### **Notices of Intent to Deny**

1. These would be identified by officer instructions on the Intent to Deny instruction sheet asking clerical to "Please send two (2) green-edged envelopes with the NOID."
2. As per the officer instructions the clerk would only need to include two green-edged envelopes with the notice. The DNA Results Coversheet should already be attached to the notice and the receipt number already included.

## INSTRUCTIONS FOR DNA PARENTAGE TESTING

You may choose to have DNA (deoxyribonucleic acid) parentage testing done to help establish the relationship between yourself and the child for whom you are filing. In order to provide the most conclusive results, the recommended DNA test is the Polymerase Chain Reaction (PCR) test. (A simple blood group/type, RH factor comparison is generally not conclusive enough to support the claimed relationship.)

Please note that: 1) DNA testing is absolutely VOLUNTARY; 2) the costs of DNA testing and related expenses (such as doctor's fees and the cost of transmitting testing materials and blood samples) are exclusively your responsibility; and 3) submitting to DNA testing does NOT guarantee approval of the application.

Please also note that if other evidence is requested in the accompanying letter, it must be submitted. If you have failed to declare this child when you should have in past matters before the Immigration Service, the application must be supported by clear and convincing evidence of the claimed relationship. The application must also be supported by acceptable evidence of the date of birth and nationality of your dependent. Your dependent must be under 21 years of age prior to the filing of the I-589, and be unmarried to qualify for benefits as your dependent child. Applications lacking such evidence may be denied in spite of DNA evidence of parentage.

The names of the people who should be tested are as follows:

Claimed Biological Parent:

Claimed Dependent Child:

Test results will only be accepted from parentage-testing laboratories accredited by the American Association of Blood Banks (AABB). A current list of the AABB accredited parentage testing laboratories can be viewed at: [http://www.aabb.org/About\\_the\\_AABB/StdS\\_and\\_Accred/aboutptlabs.htm](http://www.aabb.org/About_the_AABB/StdS_and_Accred/aboutptlabs.htm).

You must access the AABB website set forth above to obtain current laboratory information. USCIS offices are no longer providing a paper list of the AABB facilities due to the transient nature of this information. The state designations on this list are for laboratory headquarters and many of these laboratories have collection sites in many different states and locations. Be sure to confirm that the laboratory you have chosen is able to test children where the beneficiary currently resides.

- You must select a laboratory, contact the laboratory directly, and make the necessary arrangements for conducting the tests. The same testing laboratory must test both the claimed child and parent(s).
- All parties must present proof of identity at the time the samples are taken.
- The results of the tests must be submitted directly to this office by the parentage-testing laboratory.
- The attached "Results of DNA . . ." coversheet should be given to the testing laboratory to be placed on top of the results. Inclusion of this coversheet will help ensure that the results are connected with the correct file in a timely manner.
- One of the enclosed envelopes should be given to the testing laboratory and should be used by the laboratory to return the results to this Service.
- **ALL OTHER REQUESTED EVIDENCE MUST BE SUBMITTED** whether you choose to have DNA testing done or not. You do not need to wait for DNA testing to be completed before submitting other evidence. Be sure to indicate in your response if you have chosen to have DNA testing done.

Referred to U.S. Department of State

Referred to U.S. Department of State

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## Compiled list of DNA Documents

Document Name	Document Type	Date	Source/owner	Description
Instructions for DNA Parentage Testing	guidance		Nebraska Service Center	Instructions to petitioners re. DNA collection
Officer Instructions for Suggesting DNA Testing	guidance		SCOPS	Guidance for Service Center Adjudicators on suggesting DNA
DNA Testing-DOS version (example for Haiti)	Notice		DOS, Embassy, Port-au-Prince	notice to petitioner to request DNA
I-730 DNA Coversheet	UNK		SCOPS	Routing coversheet
I-730 DNA Instructions CAO	guidance		SCOPS	
Instructions to Clerical for RFE's And NOID's Which Suggest DNA Testing	guidance		SCOPS	I-730 Instructions--clerical
DNA Fact Sheet for RFEs	Fact Sheet	4/1/2005		
DNA Testing in the Immigration Process	Presentation	3/25/2009		Product of DNA Working Group (?)
DNA Testing in the P-3 Refugee Program	Policy Memo	8/20/2008	OCC	
DNA working group 3-26-09 Notes	Meeting Notes			
Notes and Outline-DNA Testing Working Group Meeting- Wednesday, October 1, 2008	Meeting Notes	10/1/2008	SCOPS	

(b)(5)

DNA as Required Primary Evidence For Family Based Petitions	Rule			DNA Rule 9/30-08
Proposed Biometrics Rule-DNA Testing for Immigration Benefits	Rule-proposed	8/25/2009	USCIS Director	Draft Biometrics DNA Briefing Paper
DNA Working Group, March 26, 2009	Word	3/26/2009	SCOPS	Meeting attendees 3-26-09
Please Contact DHS Service Centers about OD and DNA Testing	Email	8/12/2008	SCOPS	Emil from DOS to USCIS re. suspension of monthly DNA sampling
Notes for DNA meeting with USCIS Ombudsman-Friday, September 5, 2008	Meeting Notes	9/5/2008	SCOPS	
Expanding DNA Testing in the Immigration Process	Policy paper		SPC	SPC Options DNA Testing-PRM lead
Instructions for DNA Testing, Wording	guidance		NSC	Document name: 416aFAM (2)
US Department of State Foreign Affairs Manual, Volume 9, 42.41, DNA Testing	Regulations	7/30/2005	DOS	
	Worksheet			
	UNK			

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		UNK		SCOPS	
		Outlook email	1/20/2010		
Guidance of Parentage Testing for Family-Based Immigrant Visa Petitioners	Policy Memo	7/14/2000	DOJ/INS	HQ Memo, Cronin—	
“Current list of American Association of Blood Banks Accredited Parentage Testing Laboratories, “	Policy memo	1/17/2002	INS	Document name: "Attach-OEFmemPlus"	
“Current list of American Association of Blood Banks Accredited Parentage Testing Laboratories, “	Policy Memo	1/15/2002	INS		
“List of American Association of Blood Banks (AABB), Accredited Parentage Testing Laboratories...Revisions to Adjudicator's Field Manual (AFM) Chapter 21.2 and Appendix 21-3 (AFM Updated AD 05-10)	Policy Memo	4/7/2005			
“Genetic Relationship Testing; Suggesting DNA Tests Revisions to the Adjudicators Field Manual (AFM) Chapter 21 (AFM Update AD07-25)	Policy Memo	3/19/2008	DOMO		
Delay and DNA for SCOPS	UNK				
Delay-registered births	Word		SCOPS		
Delay-Registered Births-Issues for Clarification	Email	11/30/2010			

(b)(5)

Comparison DNA Test	UNK		SCOPS/CS C	
Fraud Report, Mar-Aug 2009	cable	9/28/2009	DOS/Embassy in Sana'a	
DNA Requests and Related Issues	Presentation	10/1/2010		Document name: I-130 DNA Nov 2010-2nd draft after vetting
Request for Evidence	Notice			Document name: Need Secondary Evidence—delayed birth-foreign
	Notice		SCOPS/CS C	
	Notice		SCOPS	Straight for DNA, Attachment to I- 797
	UNK	(revised 10/15/2008)		
Profiles of suspect notaries, and Translators	UNK	2/25/2007	DOS/Consular Section/American Embassy Sana'a	
	guidance	2/27/2007	DOS/Sana'a Fraud Prevention Unit Revised	
Front Office Priorities	Talking Points	9/1/2009		

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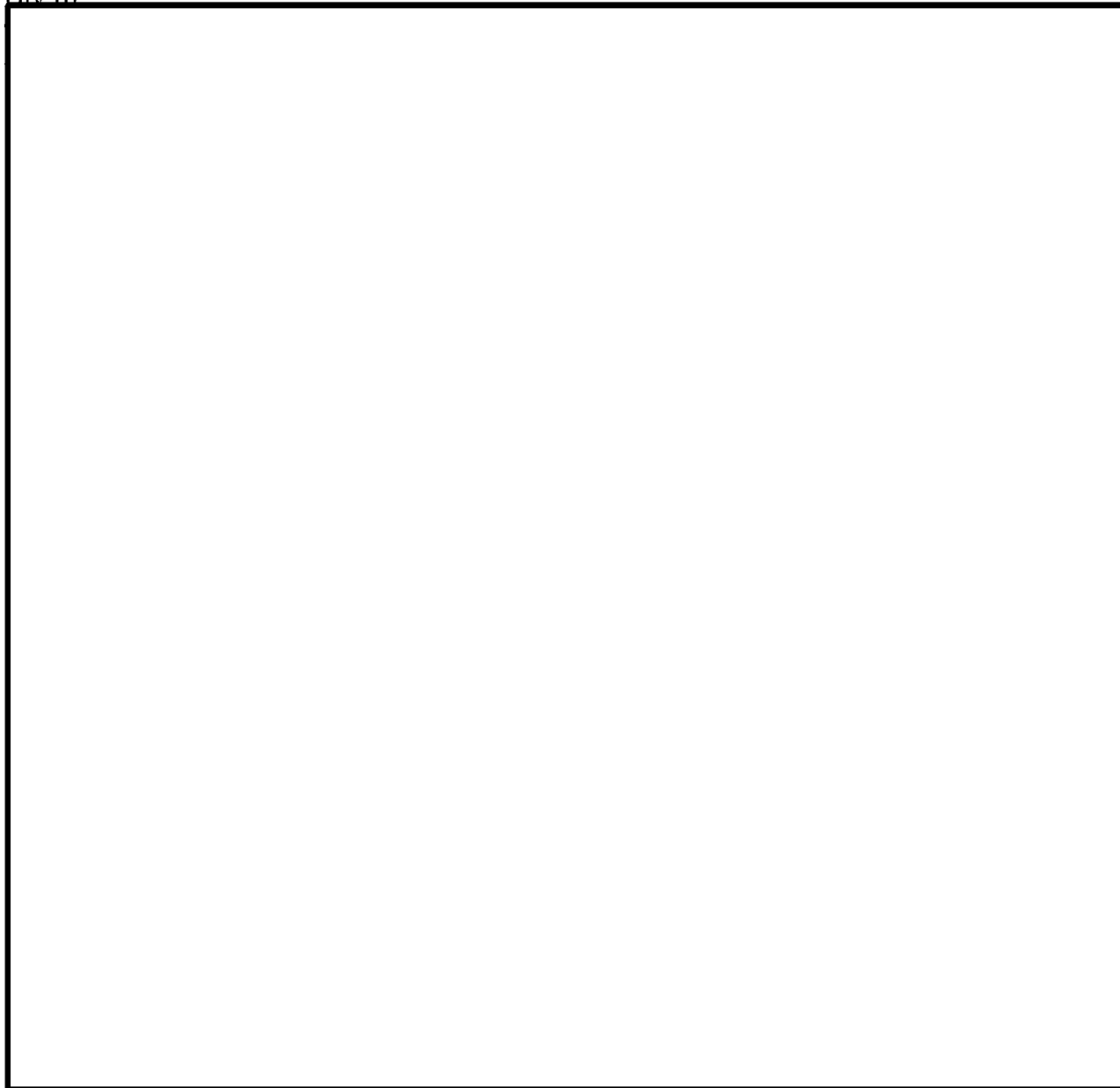
Joint DOS/USCIS Guidance on procedures on adjudicating Immigration Benefits at Overseas posts	guidance	12/11/2009		
Guidance: Relationship Fraud in P-3 Program (revised March 2010)	guidance	3/1/2010		
Re-interview guidance for DNA Pilot Cases (Revised March 2010)	guidance	3/1/2010		
Notice of Ineligibility for Resettlement (misrep)	Notice			
Notice of Ineligibility for Resettlement	Notice			Insufficient evidence to establish claimed relationship
DNA Testing in Refugee Processsing	Word	3/1/2010		
Notice of Ineligibility for Resettlement	Notice			Ineligibility--discretion
Notes from DOS Liason meeting	Email	10/5/2000	SCOPS	
DNA Testing Labs	Email	12/23/2003	SCOPS	
	Email	7/20/2004		
28 CFR 28 DOJ DNA	Regulations	7/1/2010		DNA Sample, Collection, Analysis, and Indexing

(b)(5)

**Delay-registered Births:**

(See also "DNA Testing" below)

11/10/09 – ACD Jennifer Louis, Div V; ACD Rose Prince, Div IV; and ACD Lynn Nguyen Ho, Div III:



**DNA Testing:**

(See also "Delay-registered Births" above)

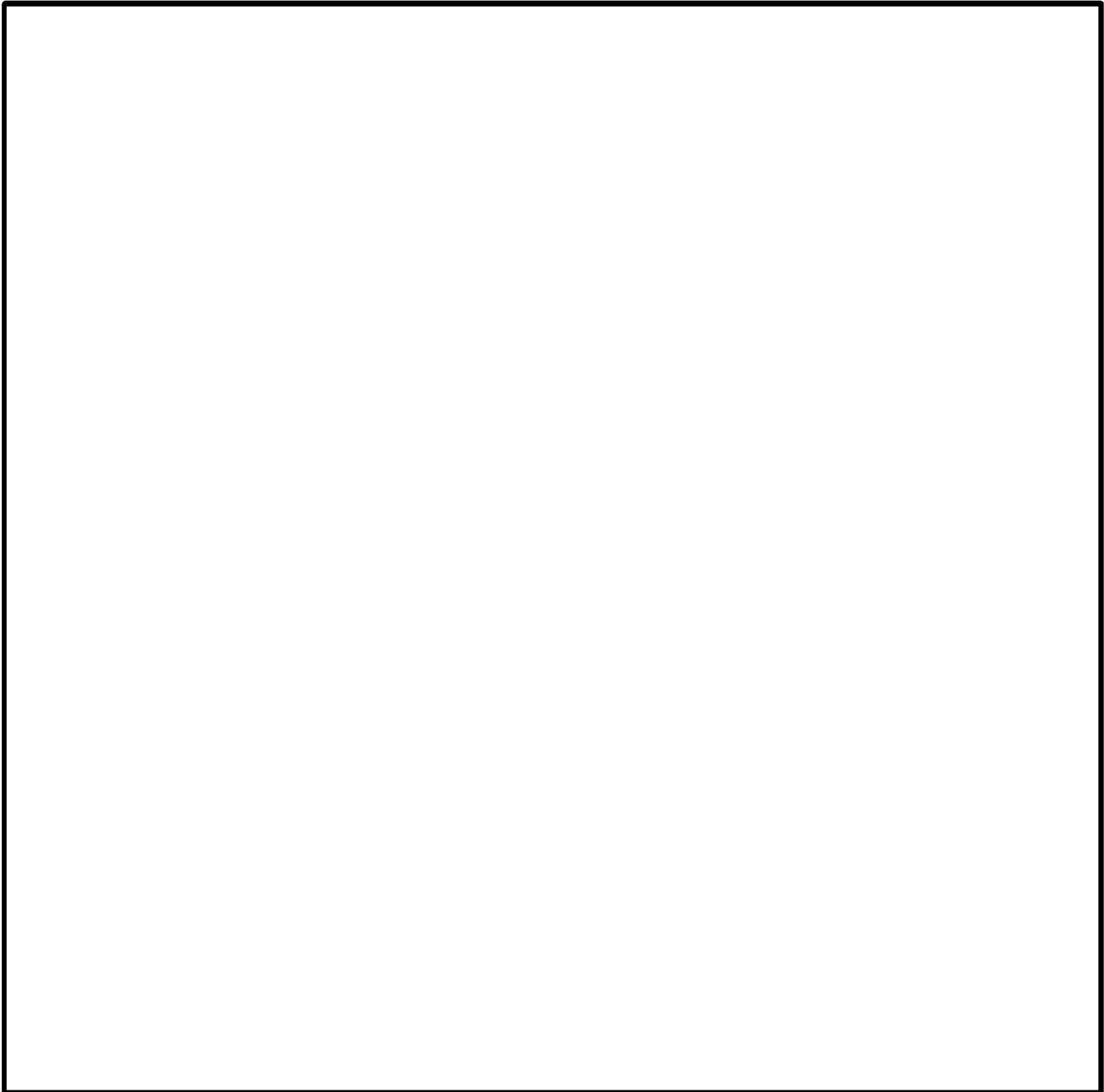
04/02/10 – ACD Division IV, Rose Prince (after meeting with Counsel and obtaining their concurrence)



(b)(5)



**O:\Adjudications\I-130\1-RFE\DNA Testing\**



Section 21.2 of the Adjudicator's Field Manual (AFM) states, in part:



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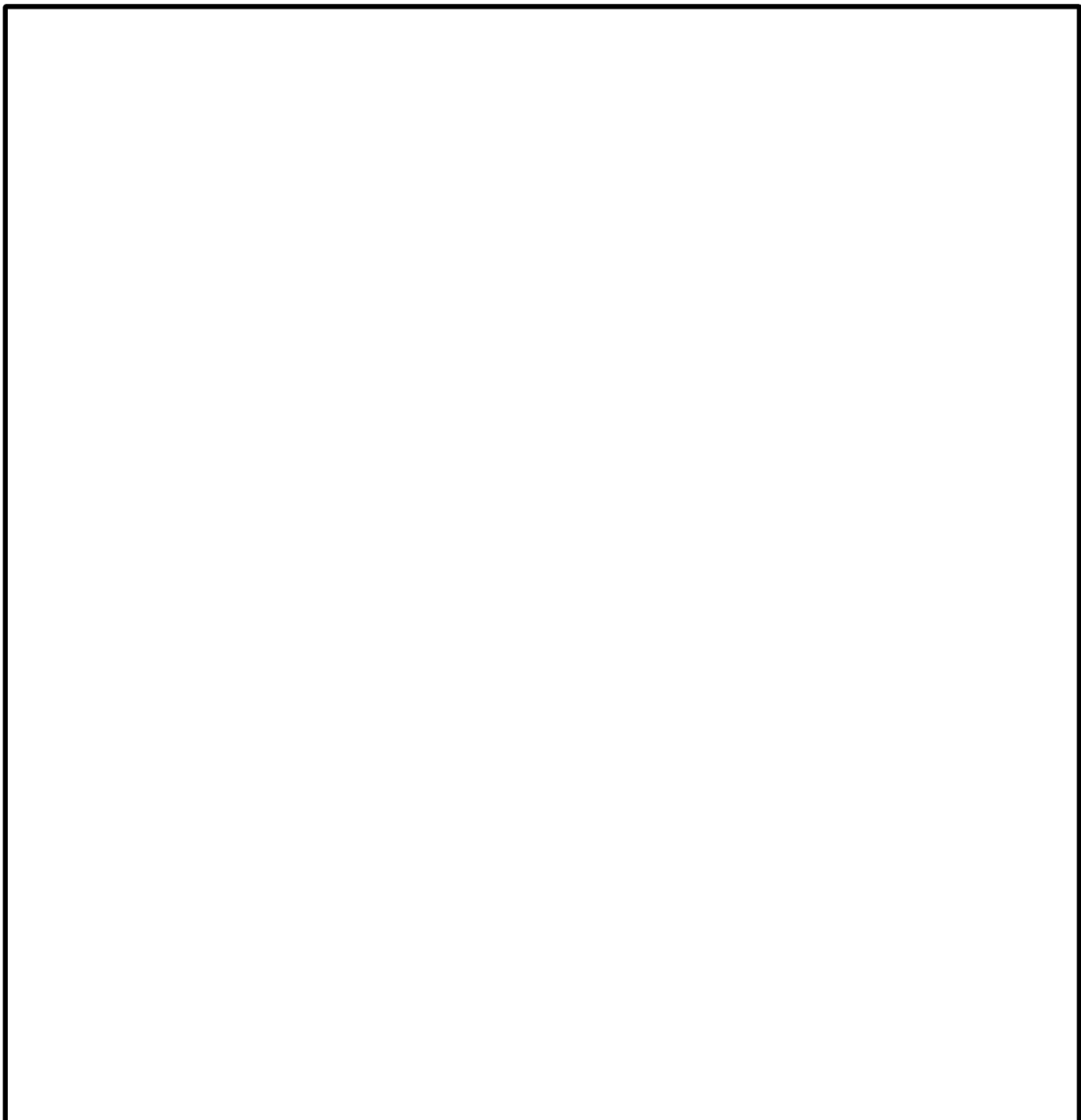
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**Johnson, Amanda K**

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**From:** Fletcher, Gregory L  
**Sent:** Tuesday, November 30, 2010 1:10 PM  
**To:** Robinson, Christopher M  
**Subject:** Delay-registered Births - Issues for Clarification  
**Attachments:** Need secondary evid - delayed birth-foreign.dot; Straight for DNA.DOT; DNA Comparison Test Form.dot; Appeals-BIA matrix-delay-timing of petition.doc; Appeals-BIA matrix-delay-misc.doc

Chris - John and Laura have reviewed this. After your review, can you please forward up the chain to SCOPS?  
Thanks.



9/28/2011



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### REQUEST FOR EVIDENCE

\* Each petition must have its own set of supporting documents in the event that multiple petitions become separated. Also, each response to a USCIS request must be accompanied by its blue I-797.

\* All foreign language documents must be submitted with complete word-for-word English translations. The translator must certify that the translation is complete and accurate, and that he or she is competent to translate. Do not submit the English translation without the foreign language document.

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Upon review of the petition and supporting documentation, it has been determined that additional evidence regarding the birth of [Insert Name] be submitted. The petitioner has submitted a birth certificate that has a delayed registration of approximately [Insert Amount] years. As such, the petitioner is required to submit secondary evidence to establish the claimed biological relationship. Examples of secondary evidence may include, but is not limited to the following:

(Submit as many items as possible)

- Midwife, Doctor's, or hospital certificates
- Church certificates
- Residence: Documentation showing that the parents' and child's primary residence was one in the same during the child's childhood.
- School Records: Report cards, diplomas, and transcripts showing both the child's and her/his parent's name.
- Photographs: Old family group photographs covering an extended period of time taken with the person(s) for whom the petitioner needs to establish the relationship. Each photo must be identified with time, date and place taken.
- Correspondence: Old correspondence and envelopes must bear dates showing both the parent's and child's names.
- Insurance Policies: These documents should indicate the beneficiary(ies) named and relationship to the policyholder.
- Miscellaneous: Government identification papers, passports, deeds, business records, income tax returns, social security records, census records, family Bible entries and records of family events.

The aforementioned items are just examples. Evidence submitted is not limited to these types of documents. Any document or evidence that will help to establish the relationship in question should be submitted for consideration. However, the only persuasive evidence will be documentation that indicates the child's parentage.

In addition, all secondary evidence must be contemporaneous with the event(s) in question. Evidence that originated back when the child was young will be deemed more persuasive than evidence that was created as the result of this Request for Evidence.



If none of the above secondary evidence is available, it must first be established that such evidence is not available by submitting evidence of non-existence. After doing so, tertiary evidence, such as affidavits, may be submitted.

- Affidavits: Affidavits shall be in the form of written statements sworn to or affirmed by at least two (2) persons who were living at the time of the event and have first-hand knowledge of the event. Each affidavit must contain the following information regarding the person making the affidavit: name, address, birth place, relationship to petitioner and/or beneficiary, and full information concerning the event, which includes how this knowledge was obtained.

DNA Test: The petitioner has the option of having a comparison test performed with the alien relative. However, only AABB-accredited labs are authorized by USCIS to perform such tests. Please go to [www.aabb.org](http://www.aabb.org) to locate an authorized lab. Tests performed by non-AABB labs will not be acknowledged.

If the petitioner chooses to have the DNA test done and is unable to comply with the testing procedures within 84 days, (s)he must respond to this notice within the time allotted and: 1) explain why (s)he was unable to comply, 2) submit evidence that shows when the testing was initiated, and 3) submit any correspondence received from the facility.

**[THE FOLLOWING IS OPTIONAL TEXT IF 101(b)(1)(D) IS ALSO AN ISSUE – IF SO, ALSO SEND THE “LEGITIMATION” RFE. IF NOT, DELETE THE FOLLOWING:]**

It shall be noted that even if the comparative test results are conclusive in establishing paternity, the father must also establish the existence of a bona fide father-child relationship before the child marries or reaches the age of 21 years, in accordance with INA 101(b)(1)(D).

In Matter of Vizcaino, 19 I&N Dec. 644 (BIA 1988), the Board held that for a father to file a visa petition in behalf of his illegitimate child in accordance with section 101(b)(1)(D) of the Immigration and Nationality Act, as amended, the father must establish that he is the biological father AND that there is, and has been a bona fide parent-child relationship that has existed up to the time when the child turns twenty-one years of age or marries.

## REQUEST FOR EVIDENCE

**ALL REQUESTS FOR DNA COMPARISON TESTING MUST BE**

**SIGNED-OFF BY A SUPERVISOR.**

To delete box, right click on the little box that appears in the upper left corner and "cut."

**\*\*\* Each petition must have its own set of supporting documents in the event that your petitions become separated. Also, each petition's response to a Service request must be accompanied by its blue I-797.**

Upon review of the petition and supporting documentation, it has been determined that additional evidence must be submitted to establish the claimed relationship. In order to demonstrate the existence of a biological relationship between [Insert Name] and [Insert Name], the petitioner is advised to voluntarily undergo comparative DNA testing. The costs of such testing and related expenses (such as doctor's fees and the cost of transmitting testing materials and DNA samples) must be borne exclusively by the petitioner. Participation in such testing will in no way guarantee the approval of the petition.

It is important that the petitioner carefully reads and fully complies with the following instructions.

- The test must be performed directly through an AABB-accredited facility. Please visit the AABB website ([www.aabb.org](http://www.aabb.org)) to find an accredited lab, which will also coordinate the testing of the claimed relative - if they reside overseas. Please be aware that many non-accredited businesses advertise on the Internet as being AABB-accredited. This emphasizes the importance of visiting the aforementioned website.
- The original test results must be mailed by the AABB lab directly to our office using the address that is indicated on the blue Form I-797, and to the attention of the CSC, WS, and DIV numbers also written on the blue I-797.
- Photocopies of the results will not be accepted, nor will results sent to us directly from the petitioner. The results must include the lab's analysis which discusses the significance of their findings and an explanation (in layman's terms) of what the percentage of excludability actually means. An analysis prepared by a representative or attorney will not be considered.

If the petitioner fails to comply with ALL of the above, the test results will not be given full probative weight.

**IMPORTANT:** If the petitioner is unable to comply with the testing procedures within 84 days, (s)he must respond to this notice within the time allotted and: 1) explain why (s)he was unable to comply, 2) submit evidence that shows when the testing was initiated, and 3) submit any correspondence received from the facility.

The petitioner should inform the AABB lab that it is important for the lab to include a copy of this Attachment and Form I-797 with the collection kit that is sent to the Consulate/Embassy overseas.

[If beneficiary is in India, include the following]

Also, for beneficiaries residing in India, the collection kits should now be sent to:

DHS/USCIS  
American Embassy  
Shantipath, Chanakyapuri,  
New Delhi 110 021  
(Tel: 91-11-2419-8000)

If, however, the petitioner chooses not to participate in comparative DNA testing, (s)he must provide an explanation as to why such testing won't be completed. The petitioner must also submit secondary evidence of the claimed relationship which may include, but is not limited to:

School Records: Report cards, diplomas, and transcripts showing both the child's and her/his parent's name.

Photographs: Old family group photographs covering an extended period of time taken with the person(s) for whom the petitioner needs to establish the relationship. Each photo must be identified with time, date and place taken.

Correspondence: Old correspondence and envelopes must bear dates showing both your name and the name of the person the petitioner is applying for. All items must be accompanied by an English translation, if in a language other than English.

Receipts for remittances: Bank money orders, drafts, etc. should show the item(s) were sent over a period of time.

Insurance Policies: These documents should indicate the beneficiary (ies) named and relationship to the policyholder.

Miscellaneous: Government identification papers, passports, deeds, business records, income tax returns, social security records, census records, and records of family events.

**Note**: These are just examples. Evidence submitted is not limited to these types of documents. Any document or evidence that will help to establish the relationship in question should be submitted for consideration.

**[THE FOLLOWING IS OPTIONAL TEXT IF 101 (b) (1) (D) IS ALSO AN ISSUE – IF SO, ALSO SEND THE “LEGITIMATION” RFE. IF NOT, DELETE THE FOLLOWING:]**

It shall be noted that even if the comparative test results are conclusive in establishing paternity, the father must also establish the existence of a bona fide father-child relationship before the child marries or reaches the age of 21 years, in accordance with INA 101(b)(1)(D).

In Matter of Vizcaino, 19 I&N Dec. 644 (BIA 1988), the Board held that for a father to file a visa petition in behalf of his illegitimate child in accordance with section 101(b)(1)(D) of the Immigration and Nationality Act, as amended, the father must establish that he is the biological father AND that there is, and has been a bona fide parent-child relationship that has existed up to the time when the child turns twenty-one years of age or marries.



**COMPARISON DNA TEST**

Name and address of person to be tested:

Date and file number:

[Name of person to be tested]

[Type date here]

[Address of person tested ]

[Address of person tested]

[Type file # here]

**INSTRUCTIONS FOR PERSON TO BE TESTED:**

You and your claimed relative are required to be tested in order to establish the existence of a [mother-child / father-child / sibling] relationship. Only entities accredited by the American Association of Blood Banks (AABB) are authorized by our agency to conduct such testing. Each person being tested will use his/her own form and do the following before appearing to have the sample taken:

- 1) Obtain a 2" X 2" square photograph with a light background showing the full face.
- 2) Glue the photo to the space provided on the form below making sure the person in the photo is the person whose name appears above.
- 3) Take both forms with you at the time of your appointment and give them to the physician or authorized collector. If your claimed relative is living abroad, the laboratory will send the second form to the appropriate US Embassy overseas.
- 4) In the presence of the physician or authorized collector, sign below so that a portion of your signature is partially on the photograph and the remaining portion is partially on this form.

<p><b>PLACE</b></p>   <p><b>PHOTO</b></p> <p>----- Signature</p> <p><b>HERE</b></p>	<p>_____</p> <p>of person tested</p>
--	--------------------------------------

**INSTRUCTIONS TO THE PHYSICIAN OR AUTHORIZED COLLECTOR PERFORMING THE TEST:**

- 1) Please ensure that the person being tested is the same as the one in the photograph affixed to the form. Have them sign their photo in accordance with item #4 above.
- 2) After the individual's sample is taken, send to the AABB-accredited lab for comparison testing using proper chain-of-custody procedures (unless sample is taken by the AABB-accredited lab).
- 3) Certify the following:

I certify to the best of my ability that the person whose photograph is affixed to this form is the same person from whom I obtained a blood/buccal sample on the date below.

\_\_\_\_\_  
Physician or Authorized Collector's name (print)

\_\_\_\_\_  
License # (if any)

\_\_\_\_\_  
Physician or Authorized Collector's signature

\_\_\_\_\_  
Date

(b)(6)

File #	Class	Date Filed	Date Adj.	Birth Delay in Years *	Filing Delay in Years **	Decision	BIA	BIA's Instructions/Comments
	F11	09/16/08	11/25/08	5	57	Dismiss	Mann	
	F24	06/02/05	07/07/09	14	11	Dismiss	Hess	
	F11	11/23/05	02/25/09	30	10	Dismiss	Adkins	
	F24	01/14/05	11/25/08	11	8	Dismiss	Hess	
	IR2	10/19/04	02/23/06	7	6	Dismiss	Grant	
	F11	02/15/06	02/19/09	32	3	Dismiss	Mann	
	F24	07/17/06	04/13/09	15	3	Dismiss	Hess	
	F11	05/30/07	2009	15	7	Remand	Grant	Allow DNA testing
	F41	2000	2009	26/12 ***	12/27 ***	Remand	Hess	Allow DNA testing; petition pending 9 yrs

\* "Birth Delay" is the time between the birth and the registration of the birth.

\*\* "Filing Delay" is the time between the registration of the birth and the filing of the I-130.

\*\*\* The BIA references two similar petitions from the same petitioner.

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File #	Class	Pending in Years	Country	Decision	BIA	Comments
	IR5	n/a	Bangladesh	Dismiss	Mann	A delay is more than one year.
	IR5	n/a	Cambodia	Dismiss	King	May file a new petition; consider DNA.
	IR5	n/a	Haiti	Remand	Greer	Delayed 14 yrs. - waited 14 yrs. to file petition; B/C used for Natz; DNA.
	IR5	n/a	Nigeria	Dismiss	Mann	Church record not persuasive; may file a new petition; consider DNA.
	F22	2	Haiti	Dismiss	King	Affidavit sworn by 3 persons not persuasive.
	F24	3	Haiti	Dismiss	King	A delay is more than one year; may file new petition.
	F24	5	Haiti	Remand	Adkins	Give another chance; RFEs didn't mention DNA; consider DNA.
	F41	5	Bangladesh	Dismiss	Adkins	May file a new petition; consider DNA.
	F41	7	Bangladesh	Remand	Mann	Give one last chance; consider DNA



**U.S. Citizenship  
and Immigration  
Services**

Date:  
A-file Number(s):  
OPE Case Number(s):  
Name(s):

**NOTICE OF INELIGIBILITY FOR RESETTLEMENT**

Re: NAME

This refers to your Registration for Classification as a Refugee (Form I-590) and your recent interview with an officer of the U.S. Citizenship and Immigration Services (USCIS). Pursuant to § 207 of the Immigration and Nationality Act ("INA") (8 U.S.C § 1157), applicants for classification as a refugee must establish they are a "refugee" under United States law, as defined at § 101 (a)(42) of the INA (8 U.S.C § 1101(a)(42)). Applicants for refugee classification must also establish that they are otherwise admissible to the United States, are of special humanitarian concern to the United States, and are not firmly resettled in a third country.

For the reason or reasons indicated below, we have determined that you are not eligible for resettlement to the United States.

1.  **SPECIAL HUMANITARIAN CONCERN.** You have not established that you qualify for access to the U.S. Refugee Admissions Program (USRAP).
2.  **REFUGEE CLAIM.** You have not established that you meet the definition of refugee under INA Section 101(a)(42). Specifically:
  - PERSECUTION.** You did not establish that you have suffered past persecution or that you have a well-founded fear of future persecution.
  - PROTECTED CHARACTERISTIC.** You did not establish that the persecution or fear of future persecution was on account of race, religion, nationality, membership in a particular social group, or political opinion.
3.  **PERSECUTION OF OTHERS.** You have failed to establish that you have not ordered, incited, assisted, or otherwise participated in the persecution of others on account of race, religion, nationality, membership in a particular social group, or political opinion.
4.  **FIRM RESETTLEMENT.** You failed to establish that you are not firmly resettled in a third country.
5.  **ADMISSIBILITY.** You failed to establish that you are admissible to the United States pursuant to INA § 212(a) (8 USC § 1182(a)). The following are the specific provisions under which you were determined to be inadmissible: Misrepresentation of material fact (s) INA 212(a)(6)(C)

- A waiver of the inadmissibility(ies) cited above may be requested.
- A waiver is not available for the inadmissibility(ies) cited above.
- You may not apply for a waiver of the inadmissibility cited above at this time, because you have been denied on multiple grounds. If you wish to have your decision reconsidered, you must submit a request for review of the decision (see below).

6.  **CREDIBILITY.** After careful consideration of all available information (including evidence and testimony provided at your refugee status interview), your claim for refugee resettlement in the United States was found not credible regarding:

- Your qualification(s) to access the USRAP (Special Humanitarian Concern)
- Your refugee claim (Refugee Claim)
- Your involvement in acts of persecution or your involvement in an entity known to commit acts of persecution (Persecution of Others)
- Your status and/or resettlement in a third country (Firm Resettlement)
- Your admissibility to the United States (Admissibility)
- Other \_\_\_\_\_

During your interview, the USCIS officer informed you of concerns about the credibility of your testimony and provided you an opportunity to explain the following :

- Material inconsistency(ies) within your testimony.
- Material inconsistency(ies) between your testimony and other evidence (i.e. documentation, country conditions, other case member's testimony, etc.).
- Insufficiently detailed answer(s) presented to material questions.
- Material part(s) of your testimony or other evidence was determined to be implausible in light of known country conditions.
- Other: \_\_\_\_\_

Because you were unable to provide a reasonable explanation for these problems, it has been determined that your testimony lacked credibility on those material facts.

7.  **OTHER REASONS):** \_\_\_\_\_

Based on the reason or reasons indicated above, your request for resettlement to the United States is denied. There is no appeal for a denial of an application for refugee status. USCIS may exercise its discretion to review a case upon timely receipt of a request for review from the principal applicant. The request must include one or both of the following: (1) a detailed account explaining how a significant error was made by the adjudicating officer or (2) new information that would merit a change in the determination. Please note that if you provide new information in your request for review, you must provide an explanation about why you did not provide this information at the interview. USCIS will only accept one request that is postmarked or received by USCIS or the OPE within 90 days from the date of this notice. You may wish to include a copy of your Notice of Ineligibility with the request for review.

Refugee Affairs Division  
U.S. Citizenship and Immigration Services





**U.S. Citizenship  
and Immigration  
Services**

Date:  
A-file Number(s):  
OPE Case Number(s):  
Name(s):

**NOTICE OF INELIGIBILITY FOR RESETTLEMENT**

Re: NAME

This refers to your Registration for Classification as a Refugee (Form I-590) and your recent interview with an officer of the U.S. Citizenship and Immigration Services (USCIS). Pursuant to § 207 of the Immigration and Nationality Act ("INA") (8 U.S.C § 1157), applicants for classification as a refugee must establish they are a "refugee" under United States law, as defined at § 101 (a)(42) of the INA (8 U.S.C § 1101(a)(42)). Applicants for refugee classification must also establish that they are otherwise admissible to the United States, are of special humanitarian concern to the United States, and are not firmly resettled in a third country.

For the reason or reasons indicated below, we have determined that you are not eligible for resettlement to the United States.

1.  **SPECIAL HUMANITARIAN CONCERN.** You have not established that you qualify for access to the U.S. Refugee Admissions Program (USRAP).
  2.  **REFUGEE CLAIM.** You have not established that you meet the definition of refugee under INA Section 101(a)(42). Specifically:
    - PERSECUTION.** You did not establish that you have suffered past persecution or that you have a well-founded fear of future persecution.
    - PROTECTED CHARACTERISTIC.** You did not establish that the persecution or fear of future persecution was on account of race, religion, nationality, membership in a particular social group, or political opinion.
  3.  **PERSECUTION OF OTHERS.** You have failed to establish that you have not ordered, incited, assisted, or otherwise participated in the persecution of others on account of race, religion, nationality, membership in a particular social group, or political opinion.
  4.  **FIRM RESETTLEMENT.** You failed to establish that you are not firmly resettled in a third country.
  5.  **ADMISSIBILITY.** You failed to establish that you are admissible to the United States pursuant to INA § 212(a) (8 USC § 1182(a)). The following are the specific provisions under which you were determined to be inadmissible:
-

- 
- A waiver of the inadmissibility(ies) cited above may be requested.
  - A waiver is not available for the inadmissibility(ies) cited above.
  - You may not apply for a waiver of the inadmissibility cited above at this time, because you have been denied on multiple grounds. If you wish to have your decision reconsidered, you must submit a request for review of the decision (see below).

6. **X CREDIBILITY.** After careful consideration of all available information (including evidence and testimony provided at your refugee status interview), your claim for refugee resettlement in the United States was found not credible regarding:

- Your qualification(s) to access the USRAP (Special Humanitarian Concern)
- Your refugee claim (Refugee Claim)
- Your involvement in acts of persecution or your involvement in an entity known to commit acts of persecution (Persecution of Others)
- Your status and/or resettlement in a third country (Firm Resettlement)
- X** Your admissibility to the United States (Admissibility)
- X** Other -- You have provided insufficient evidence to establish your claimed family relationship(s). You may request that USCIS reconsider this finding if you submit additional evidence, such as DNA test results, as outlined in the instructions for a request for review below.

During your interview, the USCIS officer informed you of concerns about the credibility of your testimony and provided you an opportunity to explain the following :

- Material inconsistency(ies) within your testimony.
- Material inconsistency(ies) between your testimony and other evidence (i.e. documentation, country conditions, other case member's testimony, etc.).
- Insufficiently detailed answer(s) presented to material questions.
- Material part(s) of your testimony or other evidence was determined to be implausible in light of known country conditions.
- Other: \_\_\_\_\_

Because you were unable to provide a reasonable explanation for these problems, it has been determined that your testimony lacked credibility on those material facts.

7.  **OTHER REASONS):** \_\_\_\_\_

---

Based on the reason or reasons indicated above, your request for resettlement to the United States is denied. There is no appeal for a denial of an application for refugee status. USCIS may exercise its discretion to review a case upon timely receipt of a request for review from the principal applicant. The request must include one or both of the following: (1) a detailed account explaining how a significant error was made by the adjudicating officer or (2) new information that would merit a change in the determination. Please note that if you provide new information in your request for review, you must provide an explanation about why you did not provide this information at the interview. USCIS will only accept one request that is postmarked or received by USCIS or the OPE within 90 days from the date of this notice. You may wish to include a copy of your Notice of Ineligibility with the request for review.

Refugee Affairs Division  
U.S. Citizenship and Immigration Services



COMPARISON DNA TEST

Name and address of person to be tested:

Date and file number:

[Name of person to be tested]

[Type date here]

[Address of person tested]

[Address of person tested]

[Type file # here]

INSTRUCTIONS FOR PERSON TO BE TESTED:

You and your claimed relative are required to be tested in order to establish the existence of a [mother-child / father-child / sibling] relationship. Only entities accredited by the American Association of Blood Banks (AABB) are authorized by our agency to conduct such testing. Each person being tested will use his/her own form and do the following before appearing to have the sample taken:

- 1) Obtain a 2" X 2" square photograph with a light background showing the full face.
2) Glue the photo to the space provided on the form below making sure the person in the photo is the person whose name appears above.
3) Take both forms with you at the time of your appointment and give them to the physician or authorized collector. If your claimed relative is living abroad, the laboratory will send the second form to the appropriate US Embassy overseas.
4) In the presence of the physician or authorized collector, sign below so that a portion of your signature is partially on the photograph and the remaining portion is partially on this form.

Diagram showing a box labeled 'PLACE PHOTO HERE' with a dashed line for 'Signature' and a line for 'of person tested'.

INSTRUCTIONS TO THE PHYSICIAN OR AUTHORIZED COLLECTOR PERFORMING THE TEST:

- 1) Please ensure that the person being tested is the same as the one in the photograph affixed to the form. Have them sign their photo in accordance with item #4 above.
2) After the individual's sample is taken, send to the AABB-accredited lab for comparison testing using proper chain-of-custody procedures (unless sample is taken by the AABB-accredited lab).
3) Certify the following:

I certify to the best of my ability that the person whose photograph is affixed to this form is the same person from whom I obtained a blood/buccal sample on the date below.

Physician or Authorized Collector's name (print)

License # (if any)

Physician or Authorized Collector's signature

Date

**ATTENTION**

**Results of DNA  
parentage test attached.**

**Connect with file**

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**as soon as possible.**



U.S. Citizenship  
and Immigration  
Services

# Fact Sheet

April 2005

## **American Association of Blood Banks (“AABB”) Accredited Parentage Testing Laboratories**

Parentage testing, or what is also referred to as blood testing or DNA testing, must be conducted by an American Association of Blood Banks (“AABB”) accredited laboratory.

A current list of the AABB accredited parentage testing laboratories can be viewed at: [http://www.aabb.org/About\\_the\\_AABB/StdS\\_and\\_Accred/aboutptlabs.htm](http://www.aabb.org/About_the_AABB/StdS_and_Accred/aboutptlabs.htm). You must access the AABB website set forth above to obtain current laboratory information. The USCIS office is no longer providing a paper list of the AABB facilities due to the transient nature of this information.

Please be advised that the AABB website lists only the headquarters or primary location for each AABB laboratory. In fact, many of the laboratories listed have multi-state and/or multi-site locations despite being listed under only one state. Therefore, it is necessary to go to your selected laboratory’s website to identify all locations and contact information for that particular laboratory.

Any questions regarding the actual parentage testing procedures or test results should be directed to the AABB parentage testing laboratory selected.



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Referred to U.S. Department of State

Referred to U.S. Department of State

Referred to U.S. Department of State

Attachment C

8/5/2009

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**Evelyn, Heather**

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**Subject:** DNA Working Group  
**Location:** 3208

**Start:** Thu 3/26/2009 10:30 AM  
**End:** Thu 3/26/2009 12:00 PM

**Recurrence:** (none)

**Meeting Status:** Accepted

**Required Attendees:** Billinger, Brad JC; Lay, Dorothea B; Evelyn, Heather; Tu, David J; Ongcapin, Alfred H; Hernandez, Efren; Johnson, Bobbie L; Schofield, Trina; Sorges, Rima L; Fagan, David W; Hamilton, Cristina; Torino, Leah L; Deshazor, Renee' E

When: Thursday, March 26, 2009 10:30 AM-12:00 PM (GMT-05:00) Eastern Time (US & Canada).  
Where: 3208

\*~\*~\*~\*~\*~\*~\*~\*~\*~\*

When: Thursday, March 26, 2009 10:30 AM-12:00 PM (GMT-05:00) Eastern Time (US & Canada).  
Where: DOMO Conference Room 3208, 20 Mass

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**From:** Ongcapin, Alfred H  
**Sent:** Wednesday, October 01, 2008 9:53 AM  
**To:** Evelyn, Heather; Schofield, Trina; Fagan, David W; Lay, Dorothea B; Billinger, Brad JC; Nazer, David I; Howard, Phyllis; Tu, David J; Sahli, Evelyn R; Hernandez, Efren; Hamilton, Cristina; Groom, Molly M; Young, Claudia F; Strack, Barbara L; Higgins, Jennifer B; Johnson, Bobbie L  
**Cc:** Ongcapin, Alfred H  
**Subject:** DNA Working Group Meeting Docs (10-1-08)

**Attachments:** DNA-Working-Group (1st Meeting) [10-1-08].doc; DNA-Rule-9-30-08 (2)[ Rule & Handout].doc

Good morning. I'm attaching two docs. One deals with **possible regulation language regarding the DNA issue.** This is to provide to the working group something "tangible" to work with as we progress in our working group meetings towards a comprehensive "fully collaborated" rule. The draft language is only an initial suggestion and is by no means exhaustive. The second doc provides an outline of the working group mission and upcoming concerns to address. Kindly print and bring to the meeting. I'll try to bring some hard copies. Thank you.

Fred

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Fred Ongcapin  
Adjudications Officer (Policy)  
Office of Policy and Regulation Management  
Domestic Operations Directorate  
U.S. Citizenship and Immigration Services  
Department of Homeland Security  
20 Massachusetts Avenue NW, Suite 2304  
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Secretary.

## Notes and Outline – DNA Testing Working Group Meeting – Wednesday, October 1<sup>st</sup>, 2008

### What is the issue?

- Immigration benefit fraud is pervasive in with overseas adjudications and domestic adjudications.
  - DOS Pilot – 2700 people tested.
  - 87% have at least one unsubstantiated member.
  - Kenya – 79% approved P3s refused DNA testing.
  - Black market valued for an immigration benefit slot is between \$5K-10K.

### What does it matter?

- Reinstate the basic integrity of our whole immigration benefit system.<sup>1</sup>
- Current state of regs is not sufficient.
- ICE Forensic Document Lab is helpful but no always thorough nor timely.
- July, 2000 HQ Cronin Memo on Parentage Testing is “Pre 9/11 thinking in a Pre-9/11 World.” This is September 12 thinking and doing.

### What is our mandate?

- 2006 DOS Pilot Study – P3 Petitions in Western Africa
- USCIS Ombudsman Report
- USCIS Director’s Response to that Report
- Director’s recent statements as to progress
- Ombudsman follow up with USCIS in August 2008 and notice of upcoming Ombudsman report.

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<sup>1</sup> For USCIS, DNA testing offers a scientifically conclusive means of verifying family relationships that would increase adjudicators’ confidence in their decisions, deter the filing of fraudulent petitions, and reduce the time and expense of adjudication. For customers, DNA testing offers a simple means to establish family relationships while also diminishing (and possibly eliminating) the burdens of obtaining documents from overseas, responding to requests for further evidence from USCIS and enduring interviews with USCIS and State Department officials. Not only would these benefits justify the additional cost of DNA testing, they may actually result in cost savings equal to or greater than the added expense.

- August 2008 Wall Street Journal on 2006 DOS Pilot Study
- (Biometrics Rule)
- (Adam Walsh)
- (Real ID Act)
- (Hague Convention)
- (FBI DNA Rule)
- Denmark, France, and Canada do DNA relationship testing.

### **How Will We Address This Issue?**

- Rule – DNA Testing as Primary Evidence (It is voluntary on the part of the petitioner/beneficiary/applicant)
- Rule – ASCs Will Collect DNA Evidence

### **What is the purpose of this working group?**

- Establish collaborative information sharing and development of federal rules with designated “SMEs” within the USCIS components
- Determine which issues that fall under policy guidance, SOP development, and outreach
- Determine which issues require senior USCIS management decision/concurrence
- Determine which issues require further research/study
- Determine which issues require inter-agency cooperation

### **What is the timetable?**

- Director wants rules in place ASAP
- Election Year

## How Often Will The Working Group Meet?

- Once every two weeks or as necessary until goal attainment
- Ongoing discussion outside of meetings

## What are the key sub-issues? [SPC Call? Do some of these issues fall outside rulemaking?]

- Chain of Custody – Who collects the sample? [Pros/Cons]
- Evidence Preservation (Retention) [Pros/Cons]
- DNA Storage [Pros/Cons]
- Determine DNA Sample Flow: Sampling→Packing→Shipping→Documented Chain of Custody→Lab Analysis and Results→USCIS Review of Results→Adjudicate Case.
- Logistics of DNA Processing – Packing and Shipping [Pros/Cons]
- **Privacy Rights [Pros/Cons]**
- Deterrence to Child Smuggling [Pros/Cons]
- AABB Lab's Review of ASC DNA Sampling (USCIS Refugee context use DOS Contractors) – Do we model this domestically? [Pros/Cons]
- Work with AABB to obtain bids for DNA testing contracting for ASCs.<sup>2</sup>  
[Pros/Cons]
- ASC staff collection of DNA samples without doctor/nurse present. Level of medical/forensics training. [Pros/Cons]<sup>3</sup>

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<sup>2</sup> In the United Kingdom, the government contracts all immigration DNA testing to one lab, which results in a volume discount and the tracking of inclusion/exclusion rates and other statistics.

<sup>3</sup> Upfront Processing Strategic Plan - as part of upfront processing, a procedure whereby customers provide a DNA sample along with other biometrics at Application Support Centers or USCIS offices. USCIS will contract with one (or more) of the DNA labs to perform DNA testing, thus gaining more control over the testing process and reaping benefits such as statistical analysis and volume price discounts

- Alternatively, would USCIS reach an inter-agency agreement with the FBI Laboratory, Quantico to process DNA samplings? [Pros/Cons]
- What are the current FDNS BFE's on these immigration petitions?
- Interagency coordination between USCIS and DOS in regards to DNA sample analysis. Would there be an electronic comparison? DOS employees would capture DNA samples and download results for comparison with samples captured by ASCs in U.S. (Ex: Bene is overseas and Pet. is domestic.)  
[Pros/Cons]
- Would USCIS share this DNA information with other federal law enforcement? (Ex: FBI's CODIS/NDIS systems) [Pros/Cons]
- What are the legal/constitutional issues? [Pros/Cons]
- Would USCIS have to modify other regs in regards to defining what an immediate family member is? [Pros/Cons]
- Would USCIS have to modify the definition of child in the INA/Regs?  
[Pros/Cons]
- What is this Customer Identity Verification Pilot between Transformation Office and Field Ops?
- Do we want this to go as Direct Final Rule or NPRM? [Pros/Cons]
- Rapid DNA versus Low Cost DNA Options for DNA Testing. Look at emerging DNA testing technologies. (Ex: Diffinity Genomics, Inc. [Pros/Cons]
- Hague Convention on Int'l Adoptions (Recent CIS Memos) [Pros/Cons]



**U.S. Citizenship  
and Immigration  
Services**

MEMORANDUM FOR: David A. Martin  
Principal Deputy General Counsel  
DHS Office of the General Counsel

Esther Olavarria  
Deputy Assistant Secretary  
DHS Office of Policy

FROM: Alejandro Mayorkas  
Director

SUBJECT: Proposed Biometrics Rule – DNA Testing for Immigration  
Benefits

**I. Issue**

USCIS would like to issue a proposed rule which would define “biometrics” data for purposes of immigration benefit eligibility determinations to include DNA. The proposed rule would include an expanded supplementary information section highlighting both the legal and policy implications of DNA testing in the immigration context and would solicit public comment on the use of DNA evidence and options for DNA collection. Given the sensitivities of the government collection of DNA, especially for non-criminal purposes, USCIS seeks DHS approval to pursue this proposed rule and solicitation of comments.

**II. Background**

Currently, USCIS regulations do not authorize USCIS to require DNA testing in support of immigration benefit eligibility determinations.<sup>1</sup> Instead, USCIS relies on documentary evidence and interviews to verify identity and qualifying relationships.

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<sup>1</sup> Although USCIS is not authorized to mandate that an individual provide DNA, such evidence has often been accepted (and has sometimes been recommended, as a voluntary matter) when USCIS has sent a Request for Evidence (RFE) to the individual where there is a question about a claimed biological relationship (e.g., parent I-730 petitioner and child beneficiary).













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**37 NIISO** NSRV Updated: August 27, 2009  
Admin Updated: August 27, 2009

- Background** Expand sharing of information from USCIS A-files
- 
- Status**
- Construction complete. IDS system installed, but not yet tested. USCIS will complete its portion of project in Aug 09. Initial walkthrough and certification of the physical space 95% complete (awaiting testing of IDS system)
  - USCIS has completed our portion of the required buildup. DHS has the lead in furniture and IT installations.
  - Note: The House Appropriations Committee has reduced NIISO funding for FY10.
- 
- Schedule**
- DHS is providing furniture, which is scheduled for Oct 09 install.
  - Facility scheduled to be operational Oct-Nov 2009.

**38 Operation Vigilant Sentry planning** DOMO Updated: August 27, 2009  
RAIO Updated: August 28, 2009

- Background** Prepare for possible Cuban migration emergency
- 
- Status**
- Migrant Hotline IVR, scripts and customer service by phone tested. Working with ICE to add a field to ENFORCE to distinguish migrants who have given their consent to the release of their information.
  - During the weeks of Aug 17 and 24, the Vigilant Sentry team is meeting to plot strategy and logistics for the September exercise
  - At the end of August, Refugee Affairs Division staff conducted a three-day Caribbean Mass Migration Training for approximately 25 Refugee and Asylum Officers who volunteered to assist in the event of a mass migration.
- 
- Schedule**
- OVS exercise planned for September 2009; this exercise has been scaled back to a Table Top exercise and will be partially done remotely with James McCament; after action conference scheduled for October 2009
  - DOD plans an Integrated Advance (IA10) exercise in Feb 2010.

**39 ASC tech refresh** DOMO Updated: August 21, 2009

- Background** Refresh ASC biometric collection equipment w/turnkey solution
- 
- Status**
- Solicitation being developed
  - Approval received for Acquisition Package
  - Procurement package at DHS-CIO in review
  - New equipment delivery on schedule
- 
- Schedule**
- Funding proposal scheduled for SRB review at September SRB ( moved back from 8/21/09 SRB)
  - Release solicitation 9/1/09 (moved up from 9/18/09)
  - Award 12/28/09 (moved up from 1/22/10)
  - Deployment begins 2/15/10 (moved up from 2/28/10)
  - Deployment complete 5/31/10; Current O&M contract also expires 5/31/10
  - RAIO Mobile Units –Per Laura Zuchowski, quotes were received on 8/18/09. Contracting Office is validating the quote information and award should be made within the next three days.
  - The Haitian TPS Procurement of 60 mobile units is in abeyance in Burlington (CO). It is ready to go if/when the President signs the Haitian TPS document; Clarification is needed for sole source procurement of the 60 INDENTIX mobile units; we will need to revisit this item if the Haitian TPS becomes reality after the refresh.

**Level 4 and ad hoc**

**40 Incremental moves beyond SC bi-specialization** DOMO Updated: August 21, 2009

- Background** Improve service delivery and effectiveness by being able to consolidate case processing among centers in ways not constrained by the current adjustment process
- 
- Status**
- The rule to remove filing locations of petitions types from the regulations has been signed. The working group will convene in October to discuss the implementation plan and milestones.
- 
- Schedule**
- Working Group to meet in October 2009 to discuss schedule.

**41 Issue: Implications of DNA test pilot** DOMO Updated: August 27, 2009  
RAIO Updated: August 28, 2009



<b>Background</b>	2008 pilot DNA testing among refugees in Africa indicated extremely high fraud rates.
<b>Status</b>	<ul style="list-style-type: none"> <li>▪ Suspension of P-3 (family reunification processing) continues.</li> <li>▪ New Affidavit of Relationship (AOR) requiring DNA testing as evidence for P-3 access to the refugee program developed but DOS recently requested a meeting to reexamine the options for addressing relationship fraud in the P-3 program in light of several concerns raised by the NGO community and new DOS leadership.</li> <li>▪ Guidance on family relationship/DNA issues in the refugee context completed.</li> <li>▪ DOMO worked with RAIO, NSRV, OP&amp;S and OCC to develop I-730 anti-fraud initiatives to combat fraud in the absence of authority to require DNA testing. Four of the five recommended initiatives have been or will be implemented.</li> <li>▪ <b>DOMO has drafted a biometrics/DNA policy paper for DHS consideration.</b> OCC has provided edits and comments.</li> <li>▪ DOMO forwarded policy paper to EXSO for official concurrence on August 26<sup>th</sup>, 2009</li> </ul>
<b>Schedule</b>	▪ 1 <sup>st</sup> week of September 2009 – USCIS Director to meet with DOS leadership to discuss the pros and cons of continuing, modifying or ending the P-3 program in FY2010.
<b>Outreach</b>	▪

42. **SMART**

CIO: Updated: August 28, 2009

<b>Background</b>	To provide USCIS and its users a centralized, enterprise level Business Intelligence tool to access USCIS data sources and provide both actionable and intelligent reporting.
<b>Status</b>	<ul style="list-style-type: none"> <li>▪ Pilot deployed to NBC &amp; NRC on 3/30/2009 using data from Secure Information Management System (SIMS), National File Tracking System (NFTS), Scan-on-Demand Application (SODA) and C4 (via eCISCOR). Post-implementation review has been completed on 7/31/09. Can now do C4 reporting; working on C3.</li> <li>▪ SRB approved next phase on 5/22/09</li> </ul>
<b>Schedule</b>	<ul style="list-style-type: none"> <li>▪ Procurement is progress and is a Sole Source BPA (DHS BPA for Oracle Volume Licensing &amp; Services Contract).</li> <li>▪ The technical evaluation and report is due to the contracting office by 8/28/09, with an anticipated award date by 9/30/09.</li> <li>▪ Anticipate Phase 2 to start October 1<sup>st</sup>. FY10 planning is underway.</li> </ul>

43. **Improve processing of consular returns**

DOMO: Updated: August 21, 2009

<b>Background</b>	Prior to April 2009, VSC and CSC had a 15 – 24 month backlog in consular returns processing (fraud and non-fraud related)
<b>Status</b>	<ul style="list-style-type: none"> <li>▪ OPD to add a new line to the National Production Report and PAS to track aggregated Consular Return workload for FY10 reporting.</li> <li>▪ Consular Returns to be treated similar to CARRP cases, where the form level activity lines will capture the production (i.e. I-130, I-730, I-129F) and a new line aggregating all Consular Return workload will be added to the Production Report to allow identification of this workload, albeit aggregated</li> <li>▪ OPD and SCOPS are working together to develop procedures for tracking and reporting workload data to support reporting of Consular Return workload beginning with the October 2009 reporting period.</li> <li>▪ VSC is on schedule to eliminate non-fraud consular returns backlog mid-August 2009 and CSC is on target to eliminate its non-fraud backlog by the end of August 2009.</li> <li>▪ VSC anticipates completing its fraud related consular returns backlog by the end of the 2009 calendar year and CSC has eliminated its fraud related backlog. CSC and VSC are on target to meet the goal of eliminating the backlog of fraud related returns by the end of 2009.</li> <li>▪ SCOPS/FAST is leading a Consular Returns Re-engineering Project work group (components include: RAIO, OCC, VSC, CSC, and NSC). OFO's participation in the work group is to be determined. The key goals of the group are the efficient and timely processing of all consular returns.</li> <li>▪ SCOPS drafted a Consular Returns Re-engineering Project Plan which incorporates the concerns of all components and establishes action items milestones to achieve the intended goals.</li> <li>▪ Consular Returns Re-engineering Work Group is designing a checklist and exemplar consular return memo to be presented to DOS for possible use by overseas post during beneficiary interviews or included in Packet 3 sent to petitioners. The intent of the checklist and exemplar is to eliminate multiple returns of the same case to the service center. Each component of the work group will submit their draft (based on form type and visa classification) to SCOPS for distribution and comments. The best elements of each will be incorporated into a final uniform checklist and memo.</li> </ul>

**From:** Evelyn, Heather  
**Sent:** Thursday, September 18, 2008 5:42 PM  
**To:** Kruszka, Robert F  
**Cc:** Young, Claudia F  
**Subject:** FW: DNA Testing Meeting (Members for Working Group)

**Attachments:** Notes-for-DNA Meeting (9-5-08) [1].doc  
Hi Robert,

Attached are the notes from the PRM DNA working group meeting that I mentioned in my last e-mail.

**Heather**

Heather D. Evelyn  
Adjudications Officer  
USCIS-SCOPS/FAST Branch  
20 Massachusetts Ave., NW - 2nd Floor  
Washington, DC 20529  
(202) 272-1010

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**From:** Ongcapin, Alfred H  
**Sent:** Friday, September 05, 2008 3:34 PM  
**To:** Schofield, Trina; Fagan, David W; Tu, David J; Kliska, Jennifer R; Wyrough, James T; Groom, Molly M  
**Cc:** Cox, Sophia; Strack, Barbara L; Sahli, Evelyn R; Chang, Pearl B; Evelyn, Heather; Ongcapin, Alfred H  
**Subject:** DNA Testing Meeting (Members for Working Group)

Good afternoon. Thank you for your attendance and participation with this morning's initial DNA Testing Meeting with the CIS Ombudsman's office. As mentioned during the meeting, your respective offices/divisions will be contacted shortly as to working group participation. If it has already been determined by your office/division as to who will be your working group representative, kindly cemail that information to me at your earliest convenience. The working group's focus will be on drafting an issues paper and a proposed rule. As reference, I'm attaching the handout that was given out this morning.

Thank you again and looking forward to your feedback.

Fred

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Fred Ongcapin  
Adjudications Officer (Policy)  
Office of Policy and Regulation Management  
Domestic Operations Directorate  
U.S. Citizenship and Immigration Services  
Department of Homeland Security  
20 Massachusetts Avenue NW, Suite 2304  
Washington, DC 20529  
Phone: (202) 272-8221  
Email: [alfred.ongcapin@dhs.gov](mailto:alfred.ongcapin@dhs.gov)

**From:** Cox, Sophia  
**Sent:** Tuesday, August 12, 2008 11:50 AM  
**To:** Evelyn, Heather; Dawkins, Laura; Perry, Andrew  
**Cc:** Dickson, Bruce  
**Subject:** FW: Please Contact DHS Service Centers about OD and DNA Testing

**Importance:** High

This below inquiry is from Andrew Hayden at the NVC. He, in turn, received an inquiry from post.

Heather – Could you please contact the CSC and VSC to find out if they know anything about this, and if they do, what exactly are they doing/not doing.

Andrew/Laura: Could you please point us to any policy guidance that may be behind this?

Many thanks to all. --Sophia

---

**From:** Hayden, Andrew P [mailto:HaydenAP@state.gov]  
**Sent:** Wednesday, August 06, 2008 1:03 PM  
**To:** Cox, Sophia  
**Subject:** FW: Please Contact DHS Service Centers about OD and DNA Testing

Hello Sophia,

Could you help me with this request from post (e-mail below)?

Thank you,

*Andrew P. Hayden*

*Assistant Operations Manager - SI International (support contractor)*

*National Visa Center*

*32 Rochester Avenue*

*Portsmouth, NH 03801*

*Tel: (603) 334-0772*

---

**From:** West, Terrence E

**Sent:** Tuesday, July 29, 2008 7:21 AM

**To:** NVC Appointment

**Subject:** Please Contact DHS Service Centers about OD and DNA Testing

I was hoping you could help us out with communication the DHS service centers. We routinely received DNA kits from DHS approving offices requesting DNA sampling before they approve petitions, fifty so far this month. Because of staffing cuts resulting from Ordered Departure we have been forced to suspend our twice monthly DNA sampling at post. We have a waiting list and will start clearing these out like everything else when OD is lifted. However, petitioners have been telling us DHS is putting a time limit on petitioners to submit DNA or they will deny the petitions. Could you contact someone at DHS to confirm they will deny the petitions if DNA is not submitted within a certain time frame and if that is the case, could you inform the Service Centers that because of OD we can't do DNA sampling until OD is lifted and not to deny petitions. Any help you could provide would be greatly appreciated.

Regards,

Terry West

*Consul*

*US Embassy*

*Sanaa, Yemen*

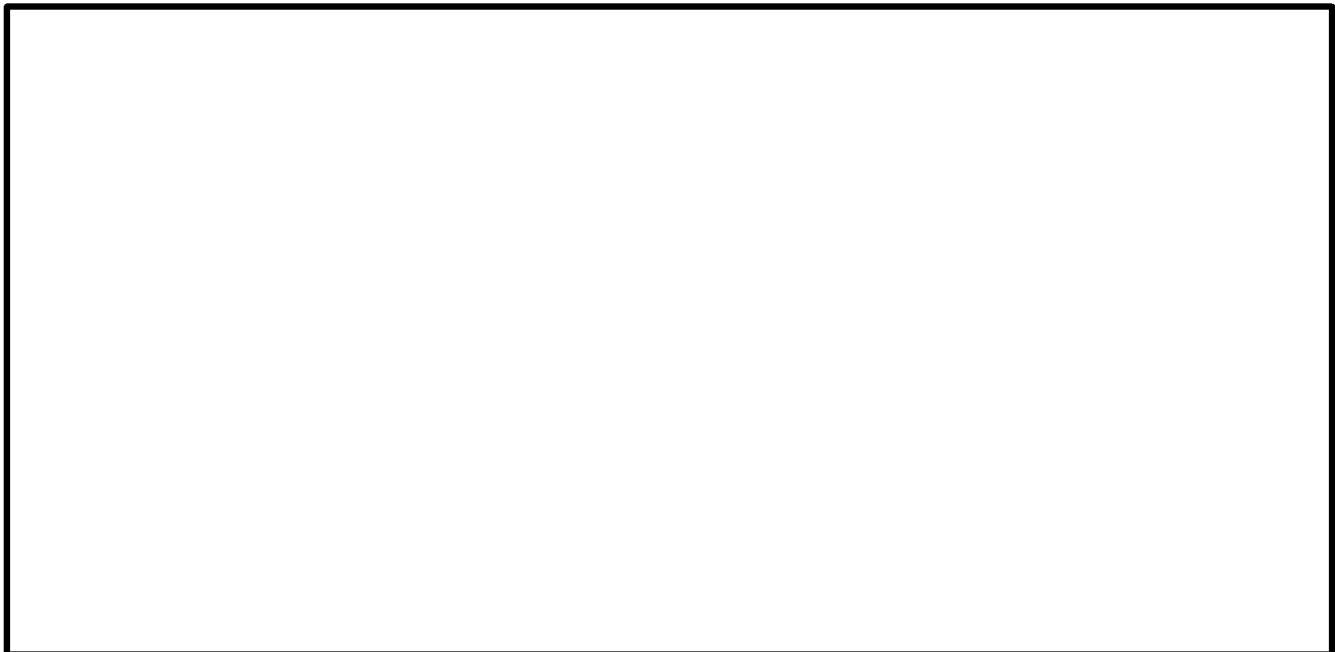
*Workweek is 8-4:30, Sat-Wed*

**Johnson, Amanda K**

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**From:** Duquette, Joseph P  
**Sent:** Wednesday, January 20, 2010 9:26 AM  
**To:** Renaud, Daniel M; Evelyn, Heather  
**Cc:** Laroe, Lisa A; Davison, Robert P; Zeppi, Tracy L; Collins, Lenora C  
**Subject:** FW: [REDACTED] Blood Testing Pilot Results  
**Importance:** High  
**Follow Up Flag:** Follow up  
**Flag Status:** Green  
**Attachments:** [REDACTED]

Dan and Heather,



Please advise if I may provide further clarification of the results.

Thanks, Joe

*Joseph P. Duquette*

Joseph P. Duquette | Supervisory Immigration Services Officer (SISO) | DHS | USCIS | Vermont Service Center (VSC)

| ✉: joseph.duquette@dhs.gov | ☎ 802-288-7802 |

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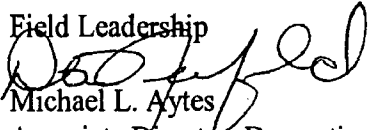


U.S. Citizenship  
and Immigration  
Services

HQORPM AD07-25  
HQORPM 70/8

MAR 19 2008

## Memorandum

TO: Field Leadership  
FROM:   
Michael L. Aytes  
Associate Director, Domestic Operations  
SUBJECT: Genetic Relationship Testing; Suggesting DNA Tests  
Revisions to the *Adjudicators Field Manual* (AFM) Chapter 21  
(AFM Update AD07-25)

### 1. Purpose

This guidance replaces the memorandum entitled List of American Association of Blood Banks Accredited Parentage Testing Laboratories, issued April 7, 2005.

This guidance reminds officers that **AABB – formally the American Association of Blood Banks - is not a DNA testing laboratory.** Rather, AABB is the accrediting body for DNA testing laboratories. When a DNA testing laboratory submits DNA test results to the United States Citizenship and Immigration Service (USCIS) regarding the existence of a biological relationship, USCIS requires that laboratory to have an AABB accreditation.

AABB publishes their list of accredited laboratories online. Officers should not contact AABB directly and they should discourage petitioners from contacting AABB directly.

This guidance also reminds officers that USCIS cannot require DNA testing to establish a claimed biological relationship.<sup>1</sup> However, in situations where credible evidence is insufficient to prove the claimed biological relationship, officers may suggest and consider DNA testing results. In such cases, the petitioner must select an accredited laboratory, contact the laboratory directly, and make the necessary arrangements for conducting the tests.

This guidance instructs officers that when they suggest DNA testing, they must identify explicitly the relationship to be tested for.

## **2. Contact Information**

Questions regarding the guidance contained in this memorandum should be directed to Fred Ongcapin, Regulations and Product Management, Domestic Operations Directorate, through the appropriate supervisory channels.

## **3. Use**

This memorandum is intended solely for the guidance of USCIS personnel in performing their duties relative to adjudications of applications. It is not intended to, does not, and may not be relied upon to create any right or benefit, substantive or procedural, enforceable at law by any individual or other party in removal proceedings, in litigation with the United States, or in any other form or manner.

## **4. AFM Update**

Accordingly, the *AFM* is revised as follows:

☞ 1. The bulleted list following the fourth paragraph in *AFM* 21.2(d)(1)(B) is revised to read as follows:

- DNA testing is absolutely voluntary;
- The costs of DNA testing and related expenses (such as doctor's fees and the cost of transmitting testing materials and blood samples) must be borne exclusively by the petitioner;
- DNA test results be specific to the relationship in question;\* and
- DNA test results do not guarantee the approval of the petition.

---

<sup>1</sup> USCIS policy concerning DNA testing was established in a July 2000 memorandum from Michael D. Cronin, then Acting Executive Associate Commissioner of the INS, which allows field offices to "suggest" DNA testing when other forms of evidence have proved inconclusive. The July 2000 memorandum states that while 8 CFR 204.2(d)(2)(vi) allows directors to require Blood Group Antigen or Human Leukocyte Antigen (HLA) blood parentage tests, there is no similar statutory or regulatory authority allowing them to require DNA testing. See Memorandum from Michael D. Cronin, Acting Ex. Assoc. Comm., Programs, HQADN, Guidance on Parentage Testing for Family-Based Immigrant Visa Petitions (July 24, 2000).

Genetic Relationship Testing

Revision to Adjudicator's Field Manual (AFM) Chapter 21.2(d) Appendix 21.3 American Association of Blood Banks (AFM Update AD07-25)

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\*If a relationship is in question, and you have suggested DNA testing for additional evidence, you must identify the specific genetic relationship to be tested. It is not sufficiently specific for you to ask whether two people are "related;" rather, you must indicate how you think they may be related – parent/child, grandparent/grandchild, siblings, etc. For example, asking whether the putative husband and putative wife are actually siblings, rather than unrelated, is a legitimate question that may be answered by the testing laboratory. Furthermore, it is important to note that DNA testing that establishes a parent-child relationship does not negate any requirement for "legitimation" that may apply to certain parent-child relationships, nor would it support approval of a petition or application if the legal parent-child relationship was terminated by adoption.

☞ 2. AFM chapter 21.2(d)(1)(G) is revised in its entirety to read as follows:

(G) Parentage Testing Procedures. AABB accredits parentage-testing laboratories for a two-year period. The current list of AABB accredited parentage testing laboratories is available online at [aabb.org](http://aabb.org). Officers must pay close attention to the '.org' in the online address to be sure they have the correct website and the correct list of accredited laboratories. Officers may accept parentage testing results only from laboratories on this list.

Officers should not contact AABB directly and should discourage petitioners from contacting AABB directly. AABB does not provide DNA testing directly. AABB merely accredits laboratories and publishes the list of accredited laboratories online.

The accreditation standards were developed by the committee on parentage testing of AABB under a grant from the Federal Office of Child Support Enforcement of the U.S. Department of Health and Human Services and with assistance of special consultants and representatives from the American Bar Association, American Medical Association, American Society of Clinical Pathologists, American Society for Histocompatibility and Immunogenetics and the College of American Pathologists.

The burden of proof is on the petitioner to show that the laboratory chosen is accredited by AABB.

When a field office requires blood testing or when it suggests DNA testing, it should provide the petitioner with the list of AABB accredited laboratories and explain to the petitioner that state designations on the list are for laboratory headquarters. Many laboratories have collection sites in many different states and locations. The petitioner must select a laboratory, contact the laboratory directly, and make the necessary arrangements for conducting the tests. To

Genetic Relationship Testing

Revision to Adjudicator's Field Manual (AFM) Chapter 21.2(d) Appendix 21.3 American Association of Blood Banks (AFM Update AD07-25)

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ensure the integrity of the test results, all stages of parentage testing must be conducted under appropriate safeguards. These safeguards must include strict controls concerning:

- protection of the chain of custody of blood or tissue samples;
- identification of the parties to be tested, generally by photographing individuals being tested; and
- correct presentation of test results.

Communication should be directly between the laboratory and the civil surgeon or panel physician or the field office. Under no circumstances should a third party, including the individuals being tested, be permitted to carry or transport blood or tissue samples or test results. Since the applicant bears full financial responsibility for testing, USCIS has no objection to that person receiving a copy of the test results from the laboratory or panel physician. It is imperative that the same facility tests both the alleged child and the alleged parent(s). Where the petitioner is physically present in the U.S., a U.S.-based lab must conduct the tests and relay the results. Instructions usually require the participation of a witness, identification taken from all (adult) parties involved, and photographs taken of all parties.

☞ 3. *AFM* Appendix 21-3, American Association of Blood Banks is revised in its entirety to read as follows:

Appendix 21-3 AABB.

Editor's Note: The following information was obtained from:

AABB  
8101 Glenbrook Road  
Bethesda, MD 20814-2749

Website: [www.aabb.org](http://www.aabb.org)

Part A: Accredited Parentage Testing Laboratories. A current list of AABB accredited parentage testing laboratories can be viewed at: <http://www.aabb.org>. You must access the AABB website set forth above to obtain current laboratory information.

Please be advised that the AABB website lists only the headquarters or primary location for each AABB laboratory. In fact, many of the laboratories listed have multi-state and/or multi-site locations despite being listed under only one state. Therefore, it is necessary to go to the selected laboratory's website to identify all locations and contact information for that particular laboratory.

Genetic Relationship Testing

Revision to Adjudicator's Field Manual (AFM) Chapter 21.2(d) Appendix 21.3 American Association of Blood Banks (AFM Update AD07-25)

Page 5

☞ 4. The *AFM Transmittal Memoranda* button is revised by adding a new entry, in numerical order to read:

AD05-25 [Insert date]	Chapter 21.2(d): Appendix 21-3	This Memorandum revises Chapter 21.2(d) and Appendix 21-3 of the Adjudicator's field Manual (AFM).
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Distribution List: Service Center Directors  
National Benefits Center Director  
Regional Directors  
District Directors  
Field Office Directors





***DNA Requests  
And Related Issues***

**October 2010**

**\*1**

## Slide 1

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- \*1 On 11/02/10, CSC Counsel reviewed the first draft of this PP and suggested changes.  
On 11/03/10, all suggested changes were made and Counsel was notified (this version reflects the changes).  
On 11/09/10, at the ACD meeting, Counsel indicated that they had further comments/ concerns about the PP, but such have not yet been articulated to the Senior Group.  
As a result, training for the 300 adjudicators who do I-130s at CSC was aborted.  
\*, 12/2/2010

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2. The embassy informs the applicant that Norwegian authorities can offer a DNA analysis if the authorities believe there is doubt as to the correctness of the stated family relationships.
3. The application is forwarded as usual to the Directorate of Immigration for processing.
4. Through the police the Directorate of Immigration obtains an interview of the person with whom the applicant wants family reunification in Norway, hereinafter called the "reference person". The police inform the reference person of the possibility that Norwegian authorities may offer a DNA analysis if there is doubt as to the correctness of the stated family relationships.
5. The Directorate of Immigration assesses the case according to the normal procedure. If the other requirements for obtaining a permit are met, and there is doubt as to the stated family relationships, a DNA test can be offered. It is up to the Directorate of Immigration to decide whether a DNA analysis shall be offered to the applicant and the reference person.

**B. If the Directorate has decided that a DNA analysis shall be offered**

1. The Directorate notifies the embassy where the application was submitted that the applicant shall be summoned and be offered a DNA analysis.
2. The Directorate sends a corresponding notice to the police that the reference person shall be summoned and be offered to participate in a DNA analysis. The reference person is asked to inform the applicant to contact the Foreign Service mission to get an appointment for the collection of samples.
3. Simultaneously, the Directorate informs the laboratory that is to perform the analysis that a DNA analysis has been offered in case no. X, involving a total of N family members. The laboratory registers the persons from whom samples can be expected.

**C. Tasks of the embassy upon notice from the Directorate that a DNA analysis shall be offered**

1. The embassy summons the applicant to appear at the stipulated date. The person concerned should be informed of what he or she is summoned to.
2. When the applicant comes to the appointment, the embassy shall inform him or her about the offer of a DNA analysis, that a sample must be collected from the applicant, the answers that a DNA analysis will provide and that the results of the DNA analysis will be taken into consideration in the ensuing processing of the application. The applicant also receives written information about DNA testing if an information pamphlet has not already been given to the applicant.
3. After the embassy has verified that the applicant understands what it entails to consent to a DNA analysis, the applicant shall sign a declaration of consent.
4. The embassy takes 2 photographs of the applicant (alternatively, the applicant may submit 2 recent passport photographs of him- or herself).
5. A DNA sample is to be collected under the supervision of an embassy representative. A label with the applicant's name, date of birth and electronic registration number is attached to the sample.
6. One of the photographs is attached to the consent form, together with the date on which the sample was collected, the applicant's name, date of birth and electronic registration number, name and date of birth of the reference person residing in Norway, and the signature of the embassy representative.
7. The second photo is archived together with the embassy's copy of the application for the purpose of identification if an emergency passport and visa are later to be issued.
8. The labelled sample, the form with the photograph and the declaration of consent are put in a

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## **UNHCR Note on DNA Testing to Establish Family Relationships in the Refugee Context**

### **I. Introduction**

1. In the recent past, States<sup>1</sup> have been resorting increasingly to DNA testing in order to establish family relationships for the purpose of admission of individuals for family reunification.<sup>2</sup> The use of such tests also extends to a variety of situations in the refugee context. These include situations where refugees residing in the country imposing the test apply for their relatives, who may or may not be refugees, to be admitted to join them from another country. The test may also be applied in situations where individuals, themselves not refugees, in the country imposing the test apply for their refugee family members elsewhere to be admitted to join them. In other cases, family members of refugees may be required by a resettlement country to undergo testing in order to verify the relationships they have claimed under resettlement programs.

2. Apart from the specific consequences in reference to the reasons for which DNA testing is undertaken, it can have serious implications for the right to privacy and family unity. In light of the increase in its use to verify family links in situations affecting refugees, this note seeks to provide guidance on two basic issues relating to DNA testing in the refugee context, namely, (i) the general issue of how DNA testing is to be conducted so as to safeguard dignity and human rights; and (ii) the safeguarding of applicable principles of family unity where DNA testing is conducted to verify family links. The note, first, provides an explanation of what DNA testing is. Next, it sets out applicable human rights considerations when DNA testing is conducted. Third, it elaborates on applicable standards relating to family unity in the context of DNA testing concerning refugees. Finally, it resumes the guidance which will have become evident in the preceding parts of the paper and elaborates others for a comprehensive statement of how DNA testing should be conducted in keeping with a rights and dignity-based approach, and so as to ensure full respect for the principle of family unity.

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<sup>1</sup> Many countries have introduced DNA testing for establishing family relationships, such as Denmark, France, USA amongst others.

<sup>2</sup> Family reunification in this context means the restoration of family unity among separated family members undertaken by the country imposing the DNA test through admitting members of a family into the country to reunite with other members of the same family based on established family relationships.

## II. DNA testing

3. DNA testing is a molecular testing methodology to establish the presence or absence of a particular sequence of deoxyribonucleic acid (DNA), which is the hereditary or genetic material present in nearly every cell in the human body. All cells in a person's body have the same DNA. DNA testing could thus be applied as a scientific method to establish the identity of a person by comparing samples from the same person. It could also be applied to establish relationships among individuals through a comparison of their respective DNA material since all persons with blood relations share a similar sequence of DNA. Cell samples can be drawn from an individual's blood, saliva or, less intrusively, hair samples.

4. The use of DNA to establish family relationships has been available for the past fifteen years. As DNA testing is limited to establishing genetic links, it is performed primarily to confirm parent-child relations, as well as sibling, grandparent-grandchild and uncle and aunt relationships. Given its scientific nature, the results of such tests are usually taken as conclusive over documentary and other forms of proof of the claimed family relationship.

## III. DNA testing and the right to privacy

5. DNA testing potentially has serious implications for the right to privacy in two main ways.<sup>3</sup> First, given that DNA carries the most intimate of information about a person, which goes to the very heart of the person's hereditary make-up and identity, extracting DNA samples to gather data could lead to a violation of the right to privacy if not carefully circumscribed. Second, there are risks of the personal data obtained from DNA samples being disclosed to unauthorized parties if not properly handled, stored, or disposed of. Inadequate data protection safeguards could thus also result in an intrusion that can constitute a breach of the right to privacy of the individual who has undergone the test.<sup>4</sup>

6. While international human rights law guarantees everyone's rights to privacy, honor and reputation from arbitrary or unlawful interference and attacks, the protection is not absolute.<sup>5</sup> "Authorized interferences" may however, as explained by the Human Rights Committee, be undertaken only in accordance with legislative and

<sup>3</sup> See the Human Rights Committee remarks in "Concluding Observations of the Human Rights Committee: Denmark", CCPR/CO/70/DNK, 31 October 2000, <http://www.unhcr.org/refworld/docid/3ae6b0654.html>: "DNA testing may have important implications for the right of privacy under article 17 of the Covenant. Denmark should ensure that such testing is used only when necessary and appropriate to the determination of the family tie on which a residence permit is based (art. 23)."

<sup>4</sup> Apart from its capacity to identify a person and confirm relationships, DNA contains biological information, for instance on the possibility of hereditary illnesses. DNA could also be tested from samples taken without the knowledge of a person.

<sup>5</sup> See Article 12 of the Universal Declaration of Human Rights of 10 December 1948, <http://www.unhcr.org/refworld/docid/3ae6b3712c.html>; Article 17 of the International Covenant on Civil and Political Rights (ICCPR) of 16 December 1966, <http://www.unhcr.org/refworld/docid/3ae6b3aa0.html>; Article 15 of the Convention on the Rights of the Child of 20 November 1989, <http://www.unhcr.org/refworld/docid/3ae6b38f0.html>; Article 8 European Convention on Human Rights and Fundamental Freedoms of 4 November 1950, <http://www.unhcr.org/refworld/docid/3ae6b3b04.html>.

other measures which would specify in detail the precise circumstances in which interferences may be permitted and circumscribe the types of interferences”.<sup>6</sup> Furthermore, any interference must be “a proportionate means to achieve a legitimate aim, which should be in the interest of society, be reasonable, and must comply with the provisions, aims and objectives of the ICCPR”.<sup>7</sup>

7. Article 23 of the ICCPR provides that the “family” is entitled to protection by society and the State.<sup>8</sup> In implementing this fundamental human right in the refugee context, States have a legitimate interest to ensure that there is proper and accurate identification of persons claiming family relationships among members of refugee families. There is also a legitimate interest to combat fraudulent practices so as to preserve the integrity of family reunification processes and effectively implement Article 23 of the ICCPR. Where DNA testing is conducted as a means to preserve family unity and combat fraud, it could be considered as necessary and proportionate to these purposes and therefore legally justified.

8. Nonetheless, in order to safeguard against any form of arbitrary invasion of privacy, DNA testing must be carefully regulated. The circumstances under which it is to be undertaken in the context of proving family relationships, the methods of obtaining a DNA sample, the data to be extracted, as well as data protection measures should be clearly prescribed.

9. Equally important is regulating the management of the data to be obtained from the DNA samples. The confidentiality of the data must be protected at all times and revealed only to those who are authorized to receive it. The disposal of the data and, where applicable, its storage, must also be strictly regulated based on international standards of data protection.

10. Individuals who are required to undergo a DNA test, as any other person whose consent is required, should be provided the opportunity to decide whether they accept to undergo the test or not. Children who are mature and can form their views should be given a choice as well as guardians of unaccompanied or separated children where the children are to undergo the test. In order to exercise an informed choice, details of the test must be provided to the individuals concerned, including the reasons for it, the methodology, potential outcomes and risks, as well as available data protection safeguards. The implications of refusing to undergo DNA testing should also be clarified.

11. In connection with the above, the authority requiring the test should ensure that pre-test counseling is provided to the individuals concerned. The counseling is necessary to ensure that those individuals are fully aware of the nature of the test and its implications and, among others, the possibility of unexpected results in long recognized family relationships. Not only pre-test, but also post-test counseling will

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<sup>6</sup> See generally: Human Rights Committee, *General Comment No. 16: Article 17 (Right to Privacy), The Right to Respect of Privacy, Family, Home and Correspondence, and Protection of Honour and Reputation*, 8 April 1988, <http://www.unhcr.org/refworld/docid/453883f922.html>.

<sup>7</sup> *Ibid.*

<sup>8</sup> See also Article 10 of the International Covenant on Economic, Social and Cultural Rights (ICESCR, <http://www.unhcr.org/refworld/docid/3ae6b36c0.html>), which provides that the family should be accorded the “widest possible protection and assistance.”



be vital to help soften any emotional or psychological trauma in the event of unexpected results and contribute to reducing any potential security or protection risks.

#### IV. DNA testing to establish family relationships in the refugee context

12. The existence of family relationships is a matter of fact to be established by evidence. Evidence may be in the form of documentary proof or by way of oral evidence. In regard to the situation of refugees, it should be recognized that they are often obliged to flee without personal documents. Moreover, in many instances, the relevant civil status documents are simply not issued to begin with. Hence there may be situations in which relationships can be proved only through oral evidence on the part of the refugees concerned. Thus, interviewing family members should normally be undertaken as the primary means of establishing family relationships. Where documents are available, they should be used as corroborative evidence.<sup>9</sup> Care should however be taken to prevent that, because of pressure to produce such documents, refugees are driven to take risky actions. These may include, for instance, desperate measures to sneak back home and/or approach the authorities of the country of origin, which could place them at risk of arrest, detention or other inordinate consequences.

13. In line with the above, UNHCR considers that DNA testing to verify family relationships may be resorted to only where serious doubts remain after all other types of proof have been examined, or, where there are strong indications of fraudulent intent and DNA testing is considered as the only reliable recourse to prove or disprove fraud.

14. Even if the existence of a blood link is not established, this may not necessarily imply an intention to commit fraud. Cultural and social dimensions of ascribing family relationships should be considered. In the refugee context, the nature of ascribing family relationships should be understood based on the refugee's social and cultural background. UNHCR also believes that individuals will be less inclined to misrepresent non-existing blood ties if they are confident that persons whom they have always treated and considered as part of the family and with whom they have developed strong personal bonds, or where there is mutual dependency, will be considered as part of the family for purposes of family reunification.<sup>10</sup>

15. It may be noted that there is no universal singular definition of "family". International law recognizes a variety of forms. The Human Rights Committee commented, in relation to Article 23 of the ICCPR,<sup>11</sup> that the term "family" must be given a "broad" interpretation so as to "include all those comprising the family as understood in the society of the State party concerned."<sup>12</sup> The UNHCR Executive

<sup>9</sup> It should be reminded that under no circumstances should refugees be required to contact their country of origin to obtain documentation.

<sup>10</sup> See UNHCR, *Policy and Procedural Guidelines: Addressing Resettlement Fraud Perpetrated by Refugees*, March 2008, available at: <http://www.unhcr.org/refworld/docid/47d7d732.html>.

<sup>11</sup> Article 23(1) ICCPR: "The family is the natural and fundamental group unit of society and is entitled to protection by society and the State."

<sup>12</sup> See: Human Rights Committee, *General Comment No. 19: Article 23 (The Family) Protection of the Family, the Right to Marriage and Equality of the Spouses*, 27 July 1990, <http://www.unhcr.org/refworld/docid/45139bd74.html> paragraph 2: "The Committee notes that the

Committee, in its Conclusion No. 24 (XXXII) on Family Reunification and No. 88 (L) on the Protection of the Refugee's Family, also advocates for States to apply liberal criteria in identifying those constituting the family for purposes of admission, with a view to "promoting a comprehensive reunification of the family".<sup>13</sup> The definition of "family" is therefore to be understood based on societal practice and recognitions by way of culture, which may dictate how relationships are designated, as well as by way of prolonged emotional dependency and mutual acceptance of the relationships.<sup>14</sup> A liberal recognition of family relationships should be pursued to ensure respect for the principle of family unity.

**V. Summary of key guidance on DNA testing to establish family relationships in the refugee context**

**a) A rights and dignity-based approach to DNA testing in the context of establishing family relationships**

16. **In light of its intrusive nature and risks of infringing an individual's right to privacy, it is reiterated that every step should be taken to ensure that DNA testing to verify claimed family relationships is conducted only as a last resort.** At the same time, where there are strong indications of intent to commit fraud on the part of the individuals claiming the existence of family relationships, and DNA testing is considered the only reliable means to prove or disprove fraud, resort to it would help secure important objectives of securing the integrity of the programmes concerned.

17. **Clear criteria should be established** by States in regard to the circumstances in which DNA testing is considered as necessary for the purpose of establishing family relations, including in the context of admission for family reunification.

18. A rights and dignity-sensitive approach means that **DNA testing to establish family relationships should be strictly regulated to ensure that safeguards guaranteeing non-discrimination and the individuals' right to privacy are provided.**

19. **Explicit and informed consent** is necessary from the persons concerned before the test is administered. In the case of minors who are capable of forming their own views, they should also be able to participate in the decision making process, express their views and give their consent.<sup>15</sup> Parents of minors should give their consent prior

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concept of family may differ in some respects from State to State, and even from region to region within a State, and that it is therefore not possible to give the concept of a standard definition. However, the Committee emphasizes that, when a group of persons is regarded as a family under the legislation and practice of a State, it must be given the protection referred to in Article 23." In its General Comment No. 16 on Article 17 of the ICCPR concerning the right to freedom from arbitrary or unlawful interference with privacy, family, home or correspondence (see above footnote 6), the Committee comments in paragraph 5: "Regarding the term 'family', the objectives of the Covenant require that for purposes of Article 17 this term be given a broad interpretation to include all those comprising the family as understood in the society of the State party concerned."

<sup>13</sup> See also Executive Committee Conclusions No. 9 (XXVIII), No. 84 (XLVIII) and No. 85 (XLIX). All Conclusions are available in Refworld at <http://www.unhcr.org/refworld/type/EXCONC.html>.

<sup>14</sup> See: UNHCR, *Note on Family Reunification*, 18 July 1983, available at: <http://www.unhcr.org/refworld/docid/3bd3f0fa4.html>.

<sup>15</sup> Article 12, CRC.

to the testing of the child, while, in the case of unaccompanied or separated children, the guardian's consent is required. As appropriate, parents who are separated from their children should be assisted to communicate with each other and make the decision jointly. DNA testing on children should only be done based on "best interests considerations".<sup>16</sup>

20. DNA testing should be performed by qualified personnel who should be sensitized to rules of confidentiality.

21. DNA testing to establish family relationships should be preceded by pre-test counseling which should be ensured by the authority requiring the test. Such pre-test counseling should provide all relevant information to the individuals concerned so that an informed choice can be made. The technicalities of the test, the reasons for it as well as implications of refusing to undergo it should be explained. The individuals concerned should also be counseled on the possibility of unexpected results. This would help avert potential protection risks which may arise due to emotional trauma faced when the results are unexpected.<sup>17</sup>

22. As part of the pre-test counseling explained in this note, principal applicants or others concerned should be urged to disclose relationships which, although culturally treated the same way as blood relationships, are, to their knowledge, not so. The option available to such family members to join the principals in the context of family reunification or resettlement in their own right should be explained. They should have a clear understanding that where the claimed relationship is disproved through DNA testing, unless there are strong and clear extenuating circumstances, the application is almost certain to fail.<sup>18</sup>

23. Pre-test counseling should be performed by qualified personnel and should take place on a confidential basis. The individuals concerned should be given time to consider the option.

24. The authority requiring the test should ensure that disclosure of negative results is undertaken with great sensitivity for the emotional and psychological well-being of persons concerned. Consideration should be given to how the information is to be disclosed, to whom, and in what order of priority. The situation of the individuals should be monitored closely and post-test counseling should be provided to avert potential protection risks. In case of a negative result, it should be possible for a second test to be performed so as to ensure utmost reliability of the results. In cases where DNA testing involving persons of concern has been conducted with UNHCR's knowledge, cooperation or support and the results of the tests are relevant to the propriety or integrity of UNHCR operations, protocols should be established for the provision to UNHCR of those results in the appropriate formal manner.

25. Disclosure of the results of DNA testing should strictly respect rules of confidentiality. In regard to the entity or personnel performing the test, it should

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<sup>16</sup> Article 3 of the CRC states that the best interests of the child shall be a primary consideration in all actions affecting children. See also *UNHCR Guidelines on Determining the Best Interests of the Child*, May 2008, available at: <http://www.unhcr.org/refworld/docid/48480c342.html>.

<sup>17</sup> For example, this can occur with children born from rape unbeknownst to the husband.

<sup>18</sup> See above footnote 10.

reveal the outcome of the test only to the authority which has requested it. In regard to disclosure to interested parties, the results should be conveyed by the authority requiring the test only to the persons subjected to the test, or, in case of children, their parents or guardians who have given consent on their behalf. Beyond that, disclosure can only be done with the consent of the subjects of the test, and, in the case of children, their parents or guardians as the case may be.

26. For purposes of data protection, and in the context of verifying family relationships, no data should be collected from the DNA sample except that which is necessary for proving the family relationship. The information should not be used for any other purpose (for instance medical tests or criminal investigations) than the verification of family relationships.

27. All materials associated with the test should normally be destroyed once a decision has been made. If they are to be stored, the subjects of the test should be informed of the reasons, where this will take place, and their consent must be obtained.

**b) Family unity of refugees and DNA testing**

28. DNA testing can be intrusive and potentially have serious negative consequences. On the other hand, it can be the only alternative to meet important operational objectives. Its use to establish family links in the refugee context should be resorted to carefully and judiciously as set out in this note. Documentary proof, registration records, interviews with the individuals concerned and other forms of verification of the claimed family relationship should normally be relied on first. The benefit of the doubt should be given where the evidence is overall corroborative of presumed relationships and there are no serious doubts.

29. Even if DNA tests disprove any blood links, this should not be conclusive of fraudulent intent, as there may be other reasons why the individual concerned claims a particular relationship.

30. UNHCR promotes a liberal and wide definition of "family" to enable refugees to maintain the unity of their families as they are accustomed to in their country of origin. Regard should be given to social and cultural norms of the society from which the refugees originate, as well as emotional dependency and long term acceptance of the claimed relationships when considering family reunification of refugee families.

31. Where DNA testing is undertaken to establish a parent/child relationship, UNHCR recommends that consideration be given to the administration of the test on only one parent, normally the mother. If the mother/child relationship is established, a proven marriage<sup>19</sup> between the mother and her spouse should suffice to establish the father/child relationship without the necessity of the purported father having to undergo a DNA test.

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<sup>19</sup> For the purpose of establishing family relations, this will also relate to couples who are engaged to be married, who have entered into a customary marriage, or who have lived together for a substantial period of time.

c) *Other considerations*

32. DNA testing should not delay the often already lengthy family reunification process. The cost of a DNA test should be borne by the State requiring the test. Costs associated with DNA testing requested by refugees could be waived on humanitarian grounds, or, at least, the relevant government could consider reimbursing the costs.<sup>20</sup>

UNHCR  
June 2008

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<sup>20</sup> Alternatively, one can suggest that costs related to the test will be borne by the relevant authority if the results are positive.

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## INSTRUCTIONS FOR DNA PARENTAGE TESTING

You may choose to have DNA (deoxyribonucleic acid) parentage testing done to help establish the relationship between yourself and the child for whom you are filing. In order to provide the most conclusive results, the recommended DNA test is the Polymerase Chain Reaction (PCR) test. (A simple blood group/type, RH factor comparison is generally not conclusive enough to support the claimed relationship.)

Please note that: 1) DNA testing is absolutely VOLUNTARY; 2) the costs of DNA testing and related expenses (such as doctor's fees and the cost of transmitting testing materials and blood samples) are exclusively your responsibility; and 3) submitting to DNA testing does NOT guarantee approval of the application.

Please also note that if other evidence is requested in the accompanying letter, it must be submitted. If you have failed to declare this child when you should have in past matters before the Immigration Service, the application must be supported by clear and convincing evidence of the claimed relationship. The application must also be supported by acceptable evidence of the date of birth and nationality of your dependent. Your dependent must be under 21 years of age prior to the filing of the I-589, and be unmarried to qualify for benefits as your dependent child. Applications lacking such evidence may be denied in spite of DNA evidence of parentage.

The names of the people who should be tested are as follows:

Claimed Biological Parent:

Claimed Dependent Child:

Test results will only be accepted from parentage-testing laboratories accredited by the American Association of Blood Banks (AABB). A current list of the AABB accredited parentage testing laboratories can be viewed at:

[http://www.aabb.org/Content/Accreditation/Parentage\\_Testing\\_Accreditation\\_Program/AABB\\_Accredited\\_Parentage\\_Testing\\_Laboratories/](http://www.aabb.org/Content/Accreditation/Parentage_Testing_Accreditation_Program/AABB_Accredited_Parentage_Testing_Laboratories/).

You must access the AABB website set forth above to obtain current laboratory information. USCIS offices are no longer providing a paper list of the AABB facilities due to the transient nature of this information. The state designations on this list are for laboratory headquarters and many of these laboratories have collection sites in many different states and locations. Be sure to confirm that the laboratory you have chosen is able to test children where the beneficiary currently resides.

- You must select a laboratory, contact the laboratory directly, and make the necessary arrangements for conducting the tests. The same testing laboratory must test both the claimed child and parent(s).
- All parties must present proof of identity at the time the samples are taken.
- The results of the tests must be submitted directly to this office by the parentage-testing laboratory.
- The attached "Results of DNA . . ." coversheet should be given to the testing laboratory to be placed on top of the results. Inclusion of this coversheet will help ensure that the results are connected with the correct file in a timely manner.
- One of the enclosed envelopes should be given to the testing laboratory and should be used by the laboratory to return the results to this Service.
- ALL OTHER REQUESTED EVIDENCE MUST BE SUBMITTED whether you choose to have DNA testing done or not. You do not need to wait for DNA testing to be completed before submitting other evidence. Be sure to indicate in your response if you have chosen to have DNA testing done.

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List of DNA Related Documents

Instructions for DNA Parentage Testing, Nebraska Service Center

Officer Instructions for Suggesting DNA Testing

DNA Testing-DOS version (example for Haiti)

I-730 DNA Coversheet

I-730 DNA Instructions CAO

I-730 DNA Instructions Clerical

DNA Coversheet

DNA Fact Sheet for RFEs

DNA Presentation

DNA Testing Instructions

DNA Testing RAD Confidential Memo

DNA working group 3-26-09 Notes

DNA Working Group meeting docs

DNA Rule 9-30-08

DNA Working Group, first meeting 10-1-08

Draft Biometrics DNA Briefing Paper

Meeting attendees 3-26-09

Notes for DNA meeting, 9/5/08

SPC Options DNA Testing-PRM lead

US Department of State Foreign Affairs Manual, Volume 9, 42.41, DNA Testing  
100 Percent DNA Testing Pilot Tracking-Blank



HQ Memo, Cronin—Guidance of Parentage Testing 7/14/2000

“Current list of American Association of Blood Banks Accredited Parentage Testing  
Laboratories, “Department of Justice, 1/15/2002

“List of American Association of Blood Banks (AABB), Accredited Parentage Testing  
Laboratories,” USCIS, 4/7/2005

“Genetic Relationship Testing; Suggesting DNA Tests Revisions to the Adjudicators  
Field Manual (AFM) Chapter 21,” USCIS, 3/19/2008

Arabic version of residency questionnaire

Delay and DNA for SCOPS

Delay-registered births—Issues for Clarification

(b)(5)

DNA Comparison Test Form

Fraud Report, Mar-Aug 2009

I-130 DNA Nov 2010-2<sup>nd</sup> draft after vetting

Need Secondary Evidence—delayed birth-foreign

Reloc Memo-Yemen (Transfer of Form I-130 for Field Office adjudication)

Straight for DNA. Attachment to I-797



Front Office Priorities, 2009 09 01

DNA Working Group  
March 26, 2009

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## REQUEST FOR EVIDENCE

**\* Each petition must have its own set of supporting documents in the event that multiple petitions become separated. Also, each response to a USCIS request must be accompanied by its blue I-797.**

**\* All foreign language documents must be submitted with complete word-for-word English translations. The translator must certify that the translation is complete and accurate, and that he or she is competent to translate. Do not submit the English translation without the foreign language document.**

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Upon review of the petition and supporting documentation, it has been determined that additional evidence regarding the birth of [Insert Name] be submitted. The petitioner has submitted a birth certificate that has a delayed registration of approximately [Insert Amount] years. As such, the petitioner is required to submit secondary evidence to establish the claimed biological relationship. Examples of secondary evidence may include, but is not limited to the following:

(Submit as many items as possible)

- Midwife, Doctor's, or hospital certificates
- Church certificates
- Residence: Documentation showing that the parents' and child's primary residence was one in the same during the child's childhood.
- School Records: Report cards, diplomas, and transcripts showing both the child's and her/his parent's name.
- Photographs: Old family group photographs covering an extended period of time taken with the person(s) for whom the petitioner needs to establish the relationship. Each photo must be identified with time, date and place taken.
- Correspondence: Old correspondence and envelopes must bear dates showing both the parent's and child's names.
- Insurance Policies: These documents should indicate the beneficiary(ies) named and relationship to the policyholder.
- Miscellaneous: Government identification papers, passports, deeds, business records, income tax returns, social security records, census records, family Bible entries and records of family events.

The aforementioned items are just examples. Evidence submitted is not limited to these types of documents. Any document or evidence that will help to establish the relationship in question should be submitted for consideration. However, the only persuasive evidence will be documentation that indicates the child's parentage.

In addition, all secondary evidence must be contemporaneous with the event(s) in question. Evidence that originated back when the child was young will be deemed more persuasive than evidence that was created as the result of this Request for Evidence.

If none of the above secondary evidence is available, it must first be established that such evidence is not available by submitting evidence of non-existence. After doing so, tertiary evidence, such as affidavits, may be submitted.

- Affidavits: Affidavits shall be in the form of written statements sworn to or affirmed by at least two (2) persons who were living at the time of the event and have first-hand knowledge of the event. Each affidavit must contain the following information regarding the person making the affidavit: name, address, birth place, relationship to petitioner and/or beneficiary, and full information concerning the event, which includes how this knowledge was obtained.

DNA Test: The petitioner has the option of having a comparison test performed with the alien relative. However, only AABB-accredited labs are authorized by USCIS to perform such tests. Please go to [www.aabb.org](http://www.aabb.org) to locate an authorized lab. Tests performed by non-AABB labs will not be acknowledged.

If the petitioner chooses to have the DNA test done and is unable to comply with the testing procedures within 84 days, (s)he must respond to this notice within the time allotted and: 1) explain why (s)he was unable to comply, 2) submit evidence that shows when the testing was initiated, and 3) submit any correspondence received from the facility.

**[THE FOLLOWING IS OPTIONAL TEXT IF 101 (b) (1) (D) IS ALSO AN ISSUE – IF SO, ALSO SEND THE “LEGITIMATION” RFE. IF NOT, DELETE THE FOLLOWING:]**

It shall be noted that even if the comparative test results are conclusive in establishing paternity, the father must also establish the existence of a bona fide father-child relationship before the child marries or reaches the age of 21 years, in accordance with INA 101(b)(1)(D).

In Matter of Vizcaino, 19 I&N Dec. 644 (BIA 1988), the Board held that for a father to file a visa petition in behalf of his illegitimate child in accordance with section 101(b)(1)(D) of the Immigration and Nationality Act, as amended, the father must establish that he is the biological father AND that there is, and has been a bona fide parent-child relationship that has existed up to the time when the child turns twenty-one years of age or marries.

Referred to U.S. Department of State

## **Notes for DNA Meeting with USCIS Ombudsman – Friday, September 05, 2008<sup>1</sup>**

**I) Item(s) to Address:** Areas of concern based on the results of the DNA Testing Pilot Project by the U.S. Dept. of State, Bureau of Refugee Programs. The pilot was performed to support the U.S. Refugee P-3 (Priority 3 Refugee Category) Family Reunion Program in collaboration with CIS Refugee Affairs. Results of the Pilot showed a high frequency of fraud.

USCIS reliance on documentation for identity and the verification of family relationships is:

- ✓ Imprecise,
- ✓ Labor intensive and
- ✓ Costly.

### **II) Current USCIS Actions:**

- A) Cornerstone Working Group – Headed by USCIS Tom Paar – Addressing the possible usage of emerging technologies in Rapid DNA Testing for overseas processing purposes and possibly domestic operations usage. This group essentially determines the broad policy objectives for USCIS.
- B) I-730 Fraud Working Group – Is in the formation process. It will include SCOPS, RAIO, NSRV and possibly others. The purpose is to discuss a range of fraud prevention and detection issues including, but not limited to, DNA testing.
- C) Domestic Operations' Policy and Regulation Management Division has been working on DNA issues and will update regulations to allow CIS to require DNA testing. The regulations may be broad, to enable CIS to expand the use of DNA as technology allows. PRM will draft an options paper.
- D) Numerous other USCIS offices, including OCC, P&S, RAIO and others have explored DNA issues.

The Policy and Regulation Working Group shall address (Issues Paper is Being Developed):

### **III) Issues:**

1. **DNA testing is not listed as primary or secondary evidence of family relationship in USCIS regulations and forms.**
  - The former INS issued a policy memo to field offices which does in fact state that directors may suggest DNA testing as secondary evidence to establish a claimed family relationship. And although the memo states that a director has no statutory or regulatory authority to require DNA testing, we note that our regulations at 8 CFR 103.2(b)(8) state that where evidence submitted does not fully establish eligibility for the requested benefit or raises questions about underlying eligibility, we may request

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<sup>1</sup> Notes drafted by Fred Ongcapin, Policy and Regulations Management, Domestic Operations, HQ-USCIS.

additional evidence (which may include blood tests), but we are not limited or precluded from accepting other kinds of evidence.

2. USCIS should grant authority to directors to require DNA testing.

- USCIS is, in fact, in the process of drafting regulations to update the regulations at 8 CFR 204.2(d)(vi) to include DNA testing as one of the sources of primary evidence where other types of evidence fail to show conclusive eligibility.

3. As technology expands, USCIS Application Support Centers (ASCs) could provide DNA testing services as part of the biometric collection process. (Upcoming Issues Paper will address this area.)

- ASC staff will be trained to handle DNA collection.
- Confirmation with AABB will be made.
- Purpose is to enhance efficiency and apply our regulatory and policy guidance solutions to the domestic operations context.

**IV) Petitions** - The above solutions should address such concerns with the following petitions and/or applications (this list is not exhaustive):

- I-730 petitions (Refugee)
- I-130 petitions (Family)
- I-600 petitions (Orphan)
- N-600 petitions (Citizenship)

**V) Pros -**

- DNA testing provides scientific certainty in verifying family relationships
- Public confidence in the certainty of USCIS adjudications
- An increase in adjudicators' confidence in their decisions
- Reduction in adjudicative errors, requests for evidence (RFEs), and fraud interviews;
- An allocation of USCIS resources to other activities such as backlog reduction
- Would likely enhance national security by deterring the filing of fraudulent petitions
- Reduce the time and expense of adjudications generally.
- The benefits for petitioners and beneficiaries would include a simple, scientific means to establish family relationships and the prospect of the lessening or elimination of the burdens of obtaining documents from overseas, responding to RFEs and enduring interviews with USCIS and DOS officials
- DNA Buccal Swabs are non-invasive.
- Biometrics Rule

**VI) Cons -**

- Information gathering aspects on the applicant
- Sperm donors
- Disclosure sensitivity concerns
- Identification of DNA Blood vials
- Possible privacy issues
- Other possible civil liberty issues

**From:** Sahli, Evelyn R  
**Sent:** Friday, April 03, 2009 8:05 PM  
**To:** Legall, Eduardo A; Torino, Leah L; Hamilton, Cristina; Chan, Flora; Johnson, Bobbie L; Evelyn, Heather; Lay, Dorothea B; Tomlyanovich, William J  
**Cc:** 'Hernandez, Efren'  
**Subject:** RE: DNA Working Group

**Attachments:** SPC Options DNA Testing.doc

Here is the final that I sent to the SPC. Thanks to all of you for your great additions. I just wanted to point out that Option #2 has changed quite a bit in that we would store the results (but still not share with FBI). It just made more sense after reviewing some of the comments and laying everything out. I hope you all are satisfied with it.  
Evy

*Evelyn Sahli, Chief, Policy and Regulation Management Division  
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Referred to U.S. Department of State

Referred to U.S. Department of State



PAGE WITHHELD PURSUANT TO

(b)(5)



## Senior Policy Council – Options Paper

### *Expanding DNA Testing in the Immigration Process*

**Background:** Deoxyribonucleic Acid (DNA) is hereditary material found in humans and other organisms and is present in nearly every cell of a person's body. Since the ability to create DNA profiles was first realized in 1984, DNA testing has become the gold standard to prove relationships and for forensic identification. It is preferred over older blood testing technologies since it does not require blood samples and it is far more reliable.

USCIS currently does not have the authority to require DNA testing, even when fraud is highly suspected. An April 2006 memo from the CIS Ombudsman to the USCIS Director recommended expansion of DNA testing to prove family relationships. The Ombudsman asked USCIS to revise regulations to allow officers to require DNA testing, saying this would enhance national security, bring scientific certainty to USCIS adjudications, improve customer service, and increase USCIS efficiency. A July 2006 response from USCIS Director Gonzalez indicated that USCIS was drafting updates to Title 8, Code of Federal Regulations (8 CFR) 204.2(d)(vi) to allow USCIS to require DNA when fraud is suspected. The Director indicated that concerns about high costs and limited accessibility were reasons that DNA evidence had not been required in all cases. He said that USCIS would be willing to reconsider the issue when and if DNA testing "becomes more available and affordable worldwide." To date, 8 CFR has not been updated to allow officers to require DNA testing, and the CIS Ombudsman continues to express interest in this issue.

In 2008, in response to reports of relationship fraud among refugees in the Priority Three (P-3) family reunification based refugee access program, the Department of State (DOS) and USCIS initiated a pilot DNA testing program among refugees in Africa. The pilot revealed about an 85% fraud rate, if you combine those with proven fraud and those who refused to be tested. As a result, P-3 processing has been temporarily suspended. Revelation of this high fraud rate in Africa raises serious national security concerns. Up until last year, when USCIS began bringing large numbers of Iraqi refugees to the United States, Somalia represented the largest source country for refugee admissions. Screening from this region is important, as evidenced by the 1998 U.S. embassy bombings in Kenya and Tanzania and the fact that Somalia has long been a haven for Al-Qaeda. Adding urgency to the issue is the recent revelation that a naturalized U.S. citizen blew himself up in a suicide bombing in Somalia. The FBI is investigating, and is concerned that young men of

Somali origin have departed the United States to fight and train overseas, possibly to return on U.S. passports to carry out terrorist acts here.<sup>1</sup>

Leaving open loopholes that allow potential terrorists, or simply fraudulent applicants, to insert themselves in legitimate family groups not only threatens our security, but also creates a large economic burden. A recent refugee-processing circuit ride to West Africa resulted in only a ten percent approval rate, primarily because of relationship fraud. Without the ability to verify family relationships early on, USCIS and DOS will continue to waste vast resources to screen and interview enough refugees in order to meet their annual goal.

The current evidentiary requirements to prove family relationships for immigrant visa petitions are outlined in 8 CFR 204.2(d). All documents in a foreign language must be submitted with a certified English translation. When applicants and petitioners don't possess the necessary documents, USCIS must send written notice of the deficiency and wait for submission of the missing evidence. When primary evidence is not available, secondary evidence may be submitted. This is often a combination of items such as baptismal or school records, sworn affidavits or other documents. This creates a burden not only on the applicants and petitioners but also on USCIS, as relationship fraud screening interviews take an inordinate amount of time, and the entire process makes it difficult to complete adjudications within the target timeframe.

DNA testing could resolve many of these issues, but current regulations curtail USCIS authority to require it. The regulations further confuse the issue by setting out in great detail the circumstances under which blood testing, which is outdated and unreliable, may be requested. Although DNA testing may be suggested and accepted when the existing evidence in a case has been evaluated and determined to be insufficient, the process is not simple. In reality, officers often approve petitions based on documents for which they are unable to verify the authenticity. In the past, DNA has not been a feasible option because of regulatory language, high costs and logistical problems regarding the chain of custody of DNA samples.

Although DNA testing has proven benefits, the integrity of the process is essential, and the current system is broken. When DNA is voluntarily submitted, the procedures using the American Association of Blood Banks (AABB) - accredited labs are rife with problems, especially overseas. Often the integrity of the collection process and chain of custody is compromised, and there are no controlled, streamlined ways to deliver the results to USCIS or DOS. DOS is currently investigating a man who petitioned for 14 children, allegedly providing DNA samples for all. Several labs were used. One lab inadvertently discovered that a DNA sample indicated a male donor instead of a female, even though the sample was for a daughter. When DOS investigated they discovered that a total of only three samples had been presented for the 14 children and one of those was the father's. In order to reap the many benefits of DNA testing USCIS must implement regulations and guidance that will streamline and enhance the integrity of the process. Below are three different options for the SPC to consider. Each advocates expansion of DNA testing,

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<sup>1</sup>Spillius, Alex, *Telegraph.co.uk*, March 13, 2009, "US facing home-grown Islamic terror threat." <http://www.telegraph.co.uk/news/worldnews/africaandindianocean/somalia/4987199/US-facing-home-grown-Islamic-terror-threat.html>

beginning with the most comprehensive expansion to the least comprehensive expansion. The status quo (no change at all) is not recommended.

**Issue:** USCIS must protect the integrity of our immigration system, establish identity early on, and take steps to avoid granting benefits to criminals and terrorists. In light of the proven benefits of DNA technology in establishing family relationships and solving crimes, it would seem prudent for USCIS to expand its use of DNA testing, not only to protect the public but to reduce errors and speed benefit adjudication. Streamlining the process can greatly reduce the costs of DNA testing. Various legal, economic and operational issues must be resolved before DNA technology can be implemented within the immigration process.

**Analysis:** This comprehensive approach would benefit the following areas:

**Combat Fraud and Human Trafficking** – In addition to the usual family relationship fraud to help people come to the United States, at times children are petitioned for by persons who are bringing them here as sex slaves or household slaves. In some countries children are kidnapped from their biological parents and sold for adoption. A recent article highlighted the case of an infant kidnapped from her mother at gunpoint in Guatemala. The mother spotted her child 14 months later, right before she was to be adopted by an American couple. DNA tests proved the relationship.

**Combat Crime** – Most applicants for immigration benefits pay a biometric fee and appear at an Application Support Center (ASC), if in the U.S., to provide their photograph, signature and fingerprints. Fingerprints are processed through FBI databases to detect past criminal behavior. Since DNA is sometimes found at crime scenes when fingerprint evidence is not, DNA testing could enhance this immigrant identification and screening process. Below are three examples of alien criminals who were eventually identified through DNA:

- **Angel Resendez:** Also known as the “railroad killer,” this Mexican national was believed to have killed at least 15 people in multiple states. He had numerous encounters with the law, had raped many of his victims, and his DNA was found at multiple crime scenes. If his DNA had been collected early on, many of the murders may have been prevented.
- **Deniz Aydiner:** This Turkish citizen brutally raped, murdered and tortured a young woman in her college dormitory. With no clear suspects, police took samples from approximately 500 males and finally identified Aydiner. He had married an American and sought permanent residency in the U.S. Since no fingerprints were left at the scene, the routine USCIS fingerprint checks would not have identified him as the perpetrator.
- **Jose Juan Garcia-Perlera:** A citizen of El Salvador, he has recently been charged with multiple home invasion robberies of elderly citizens in the Washington, D.C. area. His DNA was found at three of the crime scenes. His crimes escalated, and he murdered one of his last victims. Had his DNA been on file, he may have been caught prior to committing the murder.

The Federal Bureau of Investigation (FBI) oversees two important systems that manage DNA profiles. The Combined DNA Index System (CODIS) is the computer software program used by

federal, state and local agencies to compare DNA profiles electronically. It compares data collected from unsolved crime scenes to samples taken from criminals, and it compares DNA samples from unidentified victims to DNA data that has been provided as a reference by relatives of missing persons. The National DNA Index System (NDIS) is the database that stores the information that feeds into the CODIS system. NDIS is searched on a weekly basis to reveal any matches. All matches are automatically returned to the lab that submitted the DNA profile. The same version of CODIS software is used by all state, local and federal laboratories. Match information is communicated on a secure intranet site, the FBI's Criminal Justice Information Service-Wide Area Network (CJIS-WAN). The FBI provides CODIS software to all public forensic laboratories at no cost. There are currently nearly seven million DNA profiles in NDIS.

Combat Terrorism - In addition to screening for crimes, it may be possible to screen for terrorism. The U.S. Department of Defense has DNA profiles of 80,000 terrorists in their database, and Interpol has 85,000 DNA profiles in their database.

Support Comprehensive Immigration Reform – It is likely just a matter of time before Congress passes some type of immigration reform. How encompassing that legislation will be is yet to be determined, but it will likely involve some way to legitimize millions of illegal aliens. In 2008, the Department of Justice issued a proposed rule and a final rule that expands the requirements for collection of DNA samples to include “non-United States persons who are detained under the authority of the United States.” It said “the collection of DNA samples may be limited to individuals from whom an agency collects fingerprints.” The samples are to be entered into the FBI's Combined DNA Index System (CODIS). Since all illegal aliens could, in theory, be detained by DHS agents because of their illegal status, there might be arguments for mandating collection of DNA samples in the context of an amnesty as well. Although there would be a host of legal and policy issues to address in such a scenario, it warrants consideration. Downloading DNA profiles into CODIS could enhance the security check processes that are already in place and ensure that we don't grant amnesty to persons who have committed crimes while living illegally in the United States. It could also ensure that only legitimate relatives of program beneficiaries are granted derivative benefits.

Aid Transformation - USCIS recently began a five-year, nearly \$500 million transformation project intended to speed benefits determination, combat identity fraud, and reduce backlogs by moving from paper-based to electronic processing. Requiring DNA testing to provide an initial personal identifier that works even for infants, as well as primary evidence of biological relationships, would enable USCIS to move toward true electronic petition filing for some petition types. On-line filing would automatically prompt biometric appointment notices, which would include DNA testing. DNA comparisons from those appointments would, in many cases, enable adjudication of the petition without the need for submission of birth certificates, marriage certificates or any secondary evidence, such as baptismal records, school records, or sworn affidavits, all of which can be forged.

Enable USCIS to meet goals and objectives outlined in the *USCIS Strategic Plan 2008-2012* - Goal #1 is to “Strengthen the security and integrity of the immigration system.” Objective 1.1 is to enhance the security of the U.S. by granting immigration benefits only to eligible applicants and petitioners. Objective 1.2 is to deter, detect and pursue immigration-related fraud. Part of this objective involves information sharing between USCIS and other law enforcement and intelligence agencies to address national security and public safety concerns involving applicants for U.S.

immigration benefits. Also, this objective calls for a system that “allows for efficient policy and procedural changes when a systemic vulnerability or widespread fraud activity has been detected.” Objective 1.3 is to identify and share immigration-related information with partners, and Objective 1.4 is to integrate security precepts with immigration adjudication processes.

**Option #1:** Draft regulations and develop MOUs to enable USCIS to implement DNA testing to establish identity and protect against fraud, human smuggling, crime and terrorism. Streamline the process by incorporating the costs of DNA testing in the biometric fee, with DNA samples collected at the time of biometric capture.

USCIS would publish a Notice of Proposed Rulemaking (NPRM) in the Federal Register and invite public comment on recommendations to enable diffusion of DNA technology in the immigration context. Once comments are received and evaluated, USCIS would publish a final rule. The rule would propose that DNA evidence be used not only to prove qualifying family relationships but also to help determine admissibility to the United States, removability where appropriate and eligibility for other benefits, such as naturalization. In order for DNA profiles to be downloaded to NDIS we must be able to demonstrate a law enforcement purpose, and agreement must be reached with DOJ on that issue. USCIS would use CODIS to verify claimed family relationships. On-line filing would automatically prompt biometric appointment notices and DNA would be captured at USCIS Application Support Centers (ASCs) or at U.S. consulates abroad. Agreement would also have to be reached with DOS to assist in biometrics capture, or we may want to explore expansion of ASC responsibilities overseas. The estimated costs of less than \$40 per person would be incorporated into the biometric fee or, if USCIS is planning to eliminate the biometric fee, it would be incorporated into the cost of the application or petition. Since DNA would be obtained at the same time as photographs and fingerprints, if a person already has his or her DNA on file with USCIS, additional DNA samples from the petitioner would not be necessary should that person later petition for other family members.

DNA collection may create controversy, and it is important that USCIS procedures conform to privacy laws. Of the nearly 200 Constitutional challenges to DNA collection, none has ultimately been successful so far; the courts have likened DNA collection and storage to fingerprint collection and storage, which has become routine. Already, USCIS collects fingerprints and runs them through nationwide databases to locate criminal records. The current guidance on safeguarding fingerprints and other personal information may suffice in dealing with protection of DNA data, but additional safeguards could be implemented if necessary. The FBI’s method of creating DNA profiles, using 13 core loci, positively identifies the individual without disclosing his or her traits, disorders or dispositions. The design and legal rules of CODIS allow for law enforcement identification but prevent the unauthorized use of DNA profiles. Many issues would need to be worked out with DOS and DOJ prior to implementation. The rule should provide USCIS with the flexibility to allow for gradual implementation. It is imperative that the entire process remain transparent and that the preamble fully explains the reasons for the testing and the proposed uses of the DNA collected.

**Budget Implications:** Initial investments would be required to establish a DNA database to manage the DNA profiles and to contract with a lab to perform the analysis. USCIS would need to hire a geneticist to develop protocols and checklists indicating who must be tested and for what relationships, and to confirm matches. Technicians must be trained, collection kits ordered, and a

system established for overseas testing and transmission of samples. If USCIS collaborates with the FBI, the FBI will provide the CODIS program free of charge, which USCIS can use to match samples and determine relationships. Costs for DNA testing have historically been a significant barrier, with the first family member costing up to \$1,000 and additional family members up to \$500 each. This is a heavy burden for most immigrant families. However, with streamlining, we could bring our costs to within the range that was estimated in 2008 by the DOJ -- \$37.50 per sample collection and analysis. Implementation of DNA testing would save money in the long run, not only for USCIS, but for our customers, because it would reduce the need to mail documents, review evidence, issue RFEs, and conduct lengthy fraud interviews. In refugee processing alone, it could save hundreds of thousands to millions of dollars every year in travel and processing costs by USCIS and DOS. Its fraud deterrent effects could result in a large decrease in the number of fraudulent petitions, some of which (such as the I-730) require no fee, but use USCIS resources.

**Pros:**

- Provide a valuable personal identifier, even for infants
- Establish biological relationships without a doubt
- Reduce the need to submit documents
- Allow for increased electronic filing
- Allow USCIS to maintain more control over the chain of custody
- Enhance security checks
- Deter fraudulent petitions
- Free up resources for legitimate applicants
- Detect crime and terrorism
- Deter future criminal acts
- Enable law enforcement to solve more crimes
- Promote information sharing
- Decrease costs of DNA testing considerably

**Cons:**

- Privacy concerns
- Will not solve all immigration relationship issues
- May be “surprises”
- Increased costs to all applicants, at least initially

Flow chart for Option #1 is attached at the end of this document.

**Option #2:** Draft a regulation amending 8 CFR to allow USCIS to require DNA testing to establish identity and prove biological relationships, but do not share DNA results with the FBI. Streamline the process by incorporating the costs of DNA testing in the biometric or other fees, with DNA samples collected at the time of biometric capture. Develop MOUs with DOS to capture DNA overseas or explore ASC expansion. DNA testing would not be used to screen for terrorism or other crimes.

**Budget Implications:** Same as above, except that USCIS may not be given CODIS for free, so would have to purchase a software system to complete the matches.

**Pros:**

- Provide a valuable personal identifier, even for infants
- Establish biological relationships without a doubt
- Reduce the need to submit documents
- Allow for increased electronic filing
- Allow USCIS to maintain more control over the chain of custody
- Deter fraudulent petitions
- Free up resources for legitimate applicants
- Decrease costs of DNA testing considerably

**Cons:**

- Will not solve all immigration relationship issues
- May be surprises
- Will waste opportunity to enhance security checks
- Will waste opportunity for information sharing
- Increased costs to all applicants, at least initially

**Option #3:** At a minimum, USCIS should draft regulations to revise 8 CFR 204.2(d)(vi) to eliminate the reference to blood tests and instead allow USCIS to require DNA testing. Applicants and petitioners would work directly with an AABB-accredited laboratory to arrange and pay for DNA testing. USCIS would collaborate with DOS to improve the current process, in order to gain more control over the transmittal and storage of results, chain of custody and other issues related to the integrity of the testing.

**Budget Implications:** The heavy cost burden would continue to be on individual applicants and petitioners who often cannot afford the hundreds of dollars required for DNA testing through private labs. No time will be saved at the onset, as petitioners will have to wait for an RFE before proceeding with DNA testing. USCIS will not have to expend funds on test kits or transportation of samples, but may consider creating databases to better manage transmission of results. USCIS would need to hire or contract with a geneticist to establish protocols and checklists.

**Pros:**

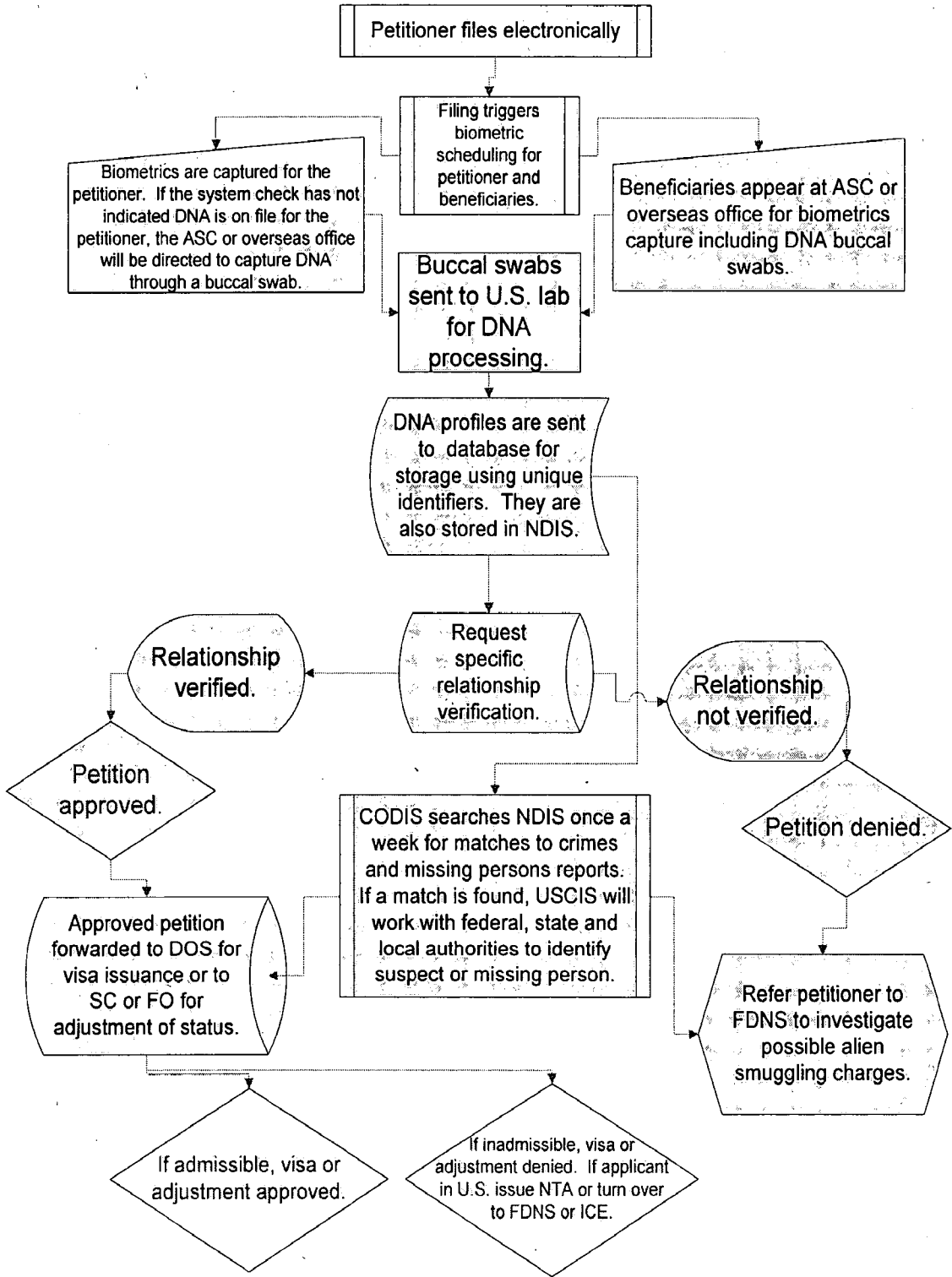
- Establish family relationships with a little more certainty when fraud is suspected or other evidence is inconclusive
- Deter fraudulent petitions

**Cons:**

- May be surprises
- Costs will remain high, resulting in complaints from the public
- Will waste opportunity to create personal identifier
- Will waste opportunity to enhance security checks
- Will waste opportunity for information sharing
- DNA may have to be captured numerous times if numerous petitions are filed and fraud is suspected or other evidence is inconclusive
- Will not allow USCIS to maintain control over the chain of custody or integrity of the testing
- Will not allow streamlining or improved service



**DNA Testing in the Immigration Process**  
to detect and deter fraud, human trafficking, crime and terrorism  
and to provide immigration benefits with more ease and speed



**From:** Ongcapin, Alfred H

**Sent:** Wednesday, October 08, 2008 2:55 PM

**To:** Evelyn, Heather; Schofield, Trina; Lay, Dorothea B; Billinger, Brad JC; Nazer, David I; Hernandez, Efren; Johnson, Bobbie L; Wyrrough, James T; Legall, Eduardo A; Richardson, Gregory A; Deshazor, Renee' E; Sahli, Evelyn R; Hamilton, Cristina

**Cc:** Young, Claudia F; Groom, Molly M; Strack, Barbara L; Higgins, Jennifer B; Ongcapin, Alfred H; Fagan, David W

**Subject:** Status of DNA Testing Meetings

Good afternoon everyone,

I wanted to provide an update. Right now, we are waiting for a decision from the DOMO "Front Office" as to whether the DNA regs will be "folded into" the Biometrics rule or not. (There has been some confirmation regarding the OCC's position on that issue based on Thea's comments from last meeting.)

Until we get a firm decision from the DOMO "Front Office," we will "hold off" on the meetings for now. (unless management decides otherwise) It is important that the working group knows "early on" whether DNA will be folded into Biometrics because it has a direct impact with our deliberations with key DNA issues. By knowing "early on", we will have a more certain "road map" to follow in drafting the rules. Just to mention, I am in the process of contacting DOJ counsel in regards to their recent DNA testing of detained aliens rule for information gathering purposes. I'll relay that information to the working group in the very near future. I'm also trying to establish a working group meeting with an AABB representative who could speak to us regarding DNA testing in regards to its science and public policy implications. That would probably be useful information for the working group as we carry on with this task.

Thank you.

Fred

---

Fred Ongcapin  
Adjudications Officer (Policy)  
Policy and Regulation Management  
Domestic Operations Directorate  
U.S. Citizenship and Immigration Services  
Department of Homeland Security  
20 Massachusetts Avenue NW, Suite 2304  
Washington, DC 20529  
Phone: (202) 272-8221  
Email: [alfred.ongcapin@dhs.gov](mailto:alfred.ongcapin@dhs.gov)

## REQUEST FOR EVIDENCE

**ALL REQUESTS FOR DNA COMPARISON TESTING MUST BE**

**SIGNED-OFF BY A SUPERVISOR.**

To delete box, right click on the little box that appears in the upper left corner and "cut."

**\*\*\* Each petition must have its own set of supporting documents in the event that your petitions become separated. Also, each petition's response to a Service request must be accompanied by its blue I-797.**

Upon review of the petition and supporting documentation, it has been determined that additional evidence must be submitted to establish the claimed relationship. In order to demonstrate the existence of a biological relationship between [Insert Name] and [Insert Name], the petitioner is advised to voluntarily undergo comparative DNA testing. The costs of such testing and related expenses (such as doctor's fees and the cost of transmitting testing materials and DNA samples) must be borne exclusively by the petitioner. Participation in such testing will in no way guarantee the approval of the petition.

It is important that the petitioner carefully reads and fully complies with the following instructions.

- The test must be performed directly through an AABB-accredited facility. Please visit the AABB website ([www.aabb.org](http://www.aabb.org)) to find an accredited lab, which will also coordinate the testing of the claimed relative - if they reside overseas. Please be aware that many non-accredited businesses advertise on the Internet as being AABB-accredited. This emphasizes the importance of visiting the aforementioned website.
- The original test results must be mailed by the AABB lab directly to our office using the address that is indicated on the blue Form I-797, and to the attention of the CSC, WS, and DIV numbers also written on the blue I-797.
- Photocopies of the results will not be accepted, nor will results sent to us directly from the petitioner. The results must include the lab's analysis which discusses the significance of their findings and an explanation (in layman's terms) of what the percentage of excludability actually means. An analysis prepared by a representative or attorney will not be considered.

If the petitioner fails to comply with ALL of the above, the test results will not be given full probative weight.

**IMPORTANT:** If the petitioner is unable to comply with the testing procedures within 84 days, (s)he must respond to this notice within the time allotted and: 1) explain why (s)he was unable to comply, 2) submit evidence that shows when the testing was initiated, and 3) submit any correspondence received from the facility.

The petitioner should inform the AABB lab that it is important for the lab to include a copy of this Attachment and Form I-797 with the collection kit that is sent to the Consulate/Embassy overseas.

[If beneficiary is in India, include the following]

Also, for beneficiaries residing in India, the collection kits should now be sent to:

DHS/USCIS  
American Embassy  
Shantipath, Chanakyapuri,  
New Delhi 110 021  
(Tel: 91-11-2419-8000)

If, however, the petitioner chooses not to participate in comparative DNA testing, (s)he must provide an explanation as to why such testing won't be completed. The petitioner must also submit secondary evidence of the claimed relationship which may include, but is not limited to:

School Records: Report cards, diplomas, and transcripts showing both the child's and her/his parent's name.

Photographs: Old family group photographs covering an extended period of time taken with the person(s) for whom the petitioner needs to establish the relationship. Each photo must be identified with time, date and place taken.

Correspondence: Old correspondence and envelopes must bear dates showing both your name and the name of the person the petitioner is applying for. All items must be accompanied by an English translation, if in a language other than English.

Receipts for remittances: Bank money orders, drafts, etc. should show the item(s) were sent over a period of time.

Insurance Policies: These documents should indicate the beneficiary (ies) named and relationship to the policyholder.

Miscellaneous: Government identification papers, passports, deeds, business records, income tax returns, social security records, census records, and records of family events.

**Note**: These are just examples. Evidence submitted is not limited to these types of documents. Any document or evidence that will help to establish the relationship in question should be submitted for consideration.

**[THE FOLLOWING IS OPTIONAL TEXT IF 101(b)(1)(D) IS ALSO AN ISSUE – IF SO, ALSO SEND THE “LEGITIMATION” RFE. IF NOT, DELETE THE FOLLOWING:]**

It shall be noted that even if the comparative test results are conclusive in establishing paternity, the father must also establish the existence of a bona fide father-child relationship before the child marries or reaches the age of 21 years, in accordance with INA 101(b)(1)(D).

In Matter of Vizcaino, 19 I&N Dec. 644 (BIA 1988), the Board held that for a father to file a visa petition in behalf of his illegitimate child in accordance with section 101(b)(1)(D) of the Immigration and Nationality Act, as amended, the father must establish that he is the biological father AND that there is, and has been a bona fide parent-child relationship that has existed up to the time when the child turns twenty-one years of age or marries.

## DNA Collection Procedures Worksheet

—USCIS Guatemala City—

Printed Names of Birth Mother and Child Tested:	
_____	_____
Birth Mother	Child

Printed Names of USCIS Staff:	
_____	_____
Cleared American Citizen (USC)	Other Staff Member (USC or LES)
On, _____, we witnessed the collection of the DNA of the birth mother and child named above.	
<small>Today's Date</small>	
<u>We certify that we did the following:</u> (Please check accordingly)	
<input type="checkbox"/> Verified the integrity of the DNA kit (i.e. confirmed it was unopened and unused)	
<input type="checkbox"/> Confirmed birth mother's and child's identification and that the individuals named above matched the identification	
<input type="checkbox"/> Took pictures of the birth mother and child and attached them to this worksheet (for our working file)	
<input type="checkbox"/> Cross-referenced the child presented for testing with the photo of the child provided in the initial Form I-600 filing	
<input type="checkbox"/> Maintained direct sight with the DNA samples throughout the collection and packaging process	
<input type="checkbox"/> Sealed the samples in the pre-paid envelope in the presence of all parties present at DNA collection	
<input type="checkbox"/> Transported this same envelope to our office and placed it in the appropriate mail	
<input type="checkbox"/> Filed this worksheet in our working file for this intercountry adoption case	
Signatures of USCIS Staff:	
_____	_____
Cleared American Citizen (USC)	Other Staff Member (USC or LES)

The USCIS Staff must obtain the signature of either the Panel Physician or the Attorney of Record	
Printed Name of Panel Physician or Authorized Staff:  _____  On, _____, I collected the DNA of the birth mother and child named on this worksheet.  <u>I certify that:</u> (Please check accordingly)  <input type="checkbox"/> The DNA samples placed in the now sealed pre-paid envelope by the USCIS Staff are the same ones I collected on this date.  Signature of Panel Physician or Authorized Staff:	Printed Name of Attorney of Record:  _____  On, _____, I witnessed the collection of the DNA of the birth mother and child named on this worksheet.  <u>I certify that:</u> (Please check accordingly)  <input type="checkbox"/> The DNA samples placed in the now sealed pre-paid envelope by the USCIS Staff are the same ones I witnessed being collected on this date.  Signature of Attorney of Record:



U.S. Citizenship  
and Immigration  
Services

## Interoffice Memorandum

To: Joseph Roma, District Director, Mexico City District  
Mari-Carmen Jordan, Deputy District Director, Mexico City District

From: Joanna Ruppel  
Chief, International Operations

Date: June 16, 2009

Re: Revised DNA parentage testing procedures for Intercountry Adoptions in Guatemala

### Purpose

This memo provides guidance to the U.S. Citizenship and Immigration Services (USCIS) Mexico City District Office and the Guatemala City (GC) Field Office on revised DNA parentage testing procedures in Guatemala.

### Background

Since April 1, 2008, when *The Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption* (Hague Adoption Convention) entered into force for the United States, U.S. citizen prospective adoptive parents (PAPs) can no longer initiate new Guatemalan adoptions under the pre-Hague system for orphan cases. The U.S. Department of State (DOS) has also determined that Guatemala is currently unable to meet its obligations under the Hague Adoption Convention. As a result, no new orphan or Hague adoptions between the United States and Guatemala can be completed at this time.

The regulations permit PAPs who were already in the process of adopting a child from Guatemala under the orphan system, and who filed Form I-600A, *Application for Advance Processing of Orphan Petition*, or Form I-600, *Petition to Classify Orphan as an Immediate Relative*, prior to April 1, 2008, to continue with the orphan process. Approximately 671 of these cases are still pending.

Orphan processing for these “grandfathered” cases involves two separate DNA verifications:

- 1) DNA collection overseen by USCIS from the biological mother and child to establish parentage (taken *after* submission of the initial Form I-600 to USCIS); and

- 2) DNA collection overseen by DOS from the child to establish he or she is the same child as tested in the first collection (taken *before* the visa is issued by DOS).

From among the remaining 671 cases still being processed, USCIS GC has not received first collection DNA results for 145 pending relinquishment cases. The below guidance provides revised instructions for the *first* collection of DNA for these cases, which is mandated by USCIS.

### **Revised Procedures for the First DNA Collection in Guatemala**

#### *Effective Date for new procedures:*

USCIS GC will immediately send the attached letter (Attachment A) to every petitioner in each of the 145 cases pending results of the first DNA collection. Effective the date the letter is mailed, any case for which USCIS GC has not received first DNA results will be subject to the newly revised DNA collection procedures outlined below, regardless of whether any collection or testing has already taken place.

#### *New procedures for first DNA collection:*

- USCIS GC will manage and schedule all DNA collection appointments in coordination with PAPs and/or attorneys of record at the selected panel physician clinics.
- The USCIS GC Field Office Director will designate U.S. citizen (USC) staff members and locally employed staff (LES) who will oversee the DNA collection process.
- All DNA collection must take place in the presence of two authorized USCIS staff, one of whom must be a USC.
- At DNA collection, the USCIS authorized representatives must:
  - Verify the integrity of the DNA kit (i.e. confirm the kit is unopened and unused);
  - Confirm the documented identification of the birth mother and child;
  - Take photographs of each individual from whom the panel physicians acquire a DNA sample (these photos should be attached to the processing worksheet – Attachment B);
  - Cross-reference the child at the appointment with the photo of the child provided in the initial Form I-600 documents;
  - Seal the collected samples in the pre-paid envelope provided in the presence of all parties present at the DNA collection;
  - Obtain signature of at least one individual who witnessed the sealing of the samples in the envelope (preferably the attorney of record or panel physician);
  - Be physically present during each step of the collection process and maintain direct line of sight contact with the DNA samples at all times.
- After the DNA samples are collected and sealed in the pre-paid envelope, USCIS authorized representatives should carry the samples directly back to the USCIS GC office *together* and deliver them to the mail-room immediately. If it is not possible to mail the samples the same day, the USCIS representatives should deliver them to the Field Office Director, who should secure them in a secure area and then mail the envelopes personally at the first opportunity.
- USCIS GC will express mail the samples to the U.S. American Association of Blood Banks (AABB) certified lab in the pre-paid return envelope provided by the PAPs. In turn, the lab will forward all DNA analysis results directly to the USCIS GC office.

- UCSIS authorized representatives will complete the attached processing worksheet, documenting all steps of the process, and include the worksheet in the working file.

The costs of DNA testing and related expenses (such as doctor's fees and the cost of transmitting testing materials and samples) must be borne by the petitioner. USCIS will not handle any monetary transaction related to the first DNA collection.

Questions regarding the implementation of this memo may be directed via email to Whitney Reitz ([Whitney.Reitz@dhs.gov](mailto:Whitney.Reitz@dhs.gov)) or Carrie A. Rankin ([Carrie.Rankin@dhs.gov](mailto:Carrie.Rankin@dhs.gov)) of the International Operations Division.

Attachments: Letter Advising PAPs of new DNA procedures (Attachment A)  
DNA Collection Procedures Worksheet (Attachment B)





## DNA POLICY AND PROCEDURE WORKING GROUP

**Date/Time of Meeting:** **December 14, 2010, 1-2pm**

**Place of Meeting:** 111 Mass Ave, Room 3004

### I. Follow-up on Previous Action Items/Deliverables:

Action Item	Responsible Party	Due	Completed
Gather existing DNA guidance or other materials/library and email to Jane	All members	12/14/10	
Reach out to the Front Office to inform them of the Working Group and discuss their participation	Anthony Moscato	12/14/10	
Look into using Sharepoint or other similar technology for use by WG to store documents, facilitate communication	Brian Christian	12/14/10	X
Look in the "W" Drive to see if DNA information is "tagged" and if so, to email relevant documents to Jane	Jennifer Kliska	12/14/10	X
Send out request for information on DNA to the IGC	Jane Sommerville	12/14/10	X
Identify FDNS Fraud Detection Unit contact to sit on WG and email Jane with contact	Kevin Quinn	12/14/2010	X
Invite new members from offices discussed in item Ib.	Jane Sommerville		X
Compile DNA materials/library and bring copies to next meeting	Jane Sommerville	12/14/2010	X

(b)(5)

**II. Brainstorm list of DNA testing for immigration benefits**

- a. Product lines
- b. Relationships to test

**III. Review compiled list of documents**

- a. Spreadsheet (to be distributed at meeting)

- b. Read-ahead materials on current procedures

- i. Instructions for DNA Parentage Testing
- ii. DNA Requests and Related Issues (Oct 2010 powerpoint)
- iii. US Dept of State Foreign Affairs Manual Volume 9 42.41 Exhibit II DNA Testing
- iv. "Genetic Relationship Testing," Aytes memo, March 19, 2008
- v.
- vi. Revised DNA parentage testing procedures for Intercountry Adoptions in Guatemala, June 16, 2009
- vii. DNA Collection Procedures Worksheet, USCIS Guatemala City
- viii. Guidance on Parentage Testing for Family-Based Immigrant Visa Petitions, Cronin memo, July 14, 2000
- ix. Joint DOS/USCIS Guidance on DNA Policy and Procedures in Adjudicating Immigration Benefits at Overseas Posts, December 11, 2009
- x. DOS DNA cable, September 18, 2009

**IV. Review of New Action Items and Deliverables Assigned**

**V. Next Meeting:**

Referred to U.S. Department of State

Referred to U.S. Department of State

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Referred to U.S. Department of State

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Referred to U.S. Department of State

**Johnson, Amanda K**

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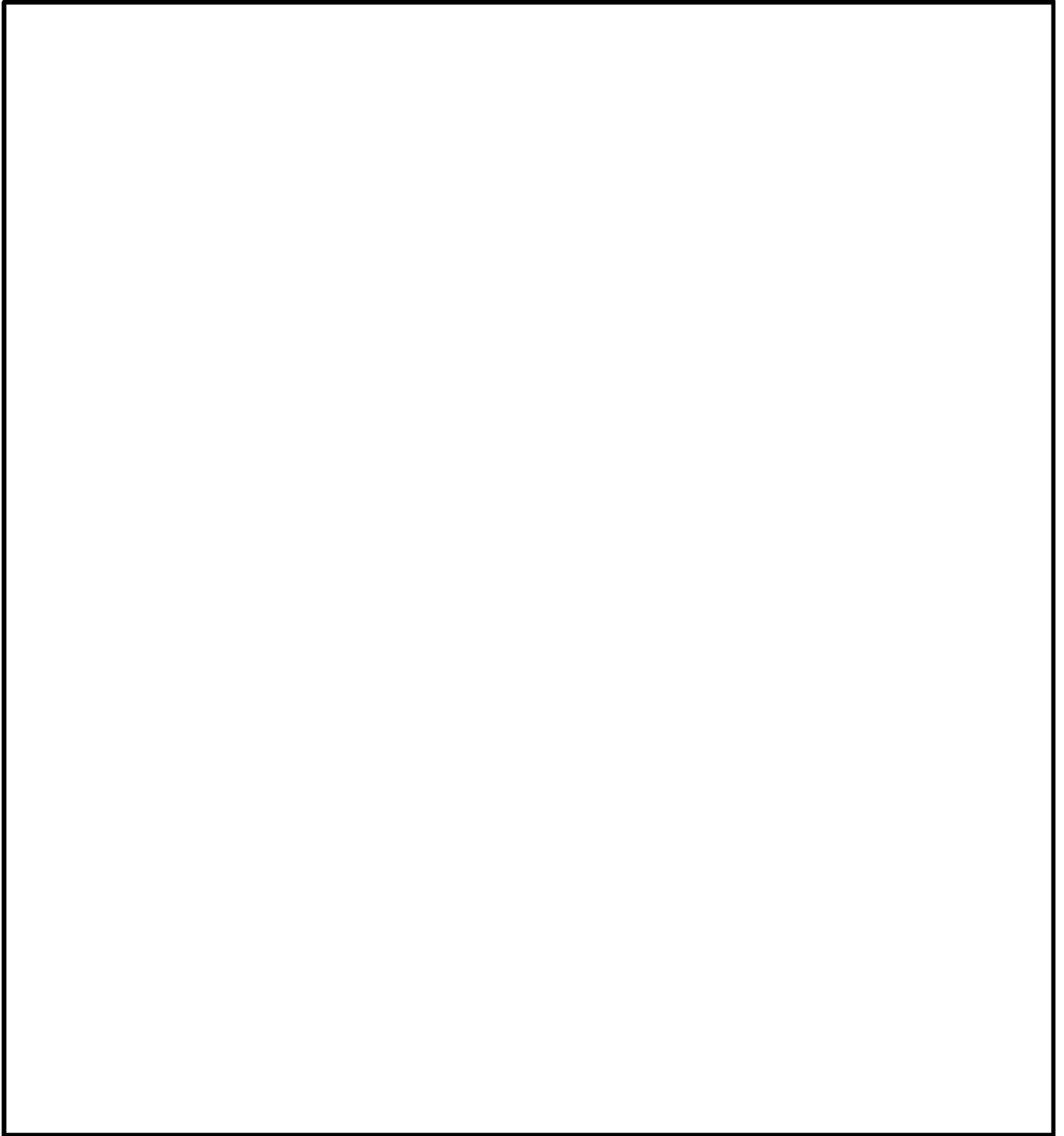
**From:** Christie, Adrienne E  
**Sent:** Wednesday, November 25, 2009 12:17 PM  
**To:** Reitz, Whitney A  
**Subject:** USCIS comments on the DOS Cable - red-lined (17NOV09)  
**Attachments:** USCIS comments on the DOS Cable - red-lined (17NOV09).doc

2nd iteration - I think I captured all your comments. I will bring your version back to you for comparison!

9/28/2011

(b)(5)

USCIS comments on **DOS Cable dated September 18, 2009**

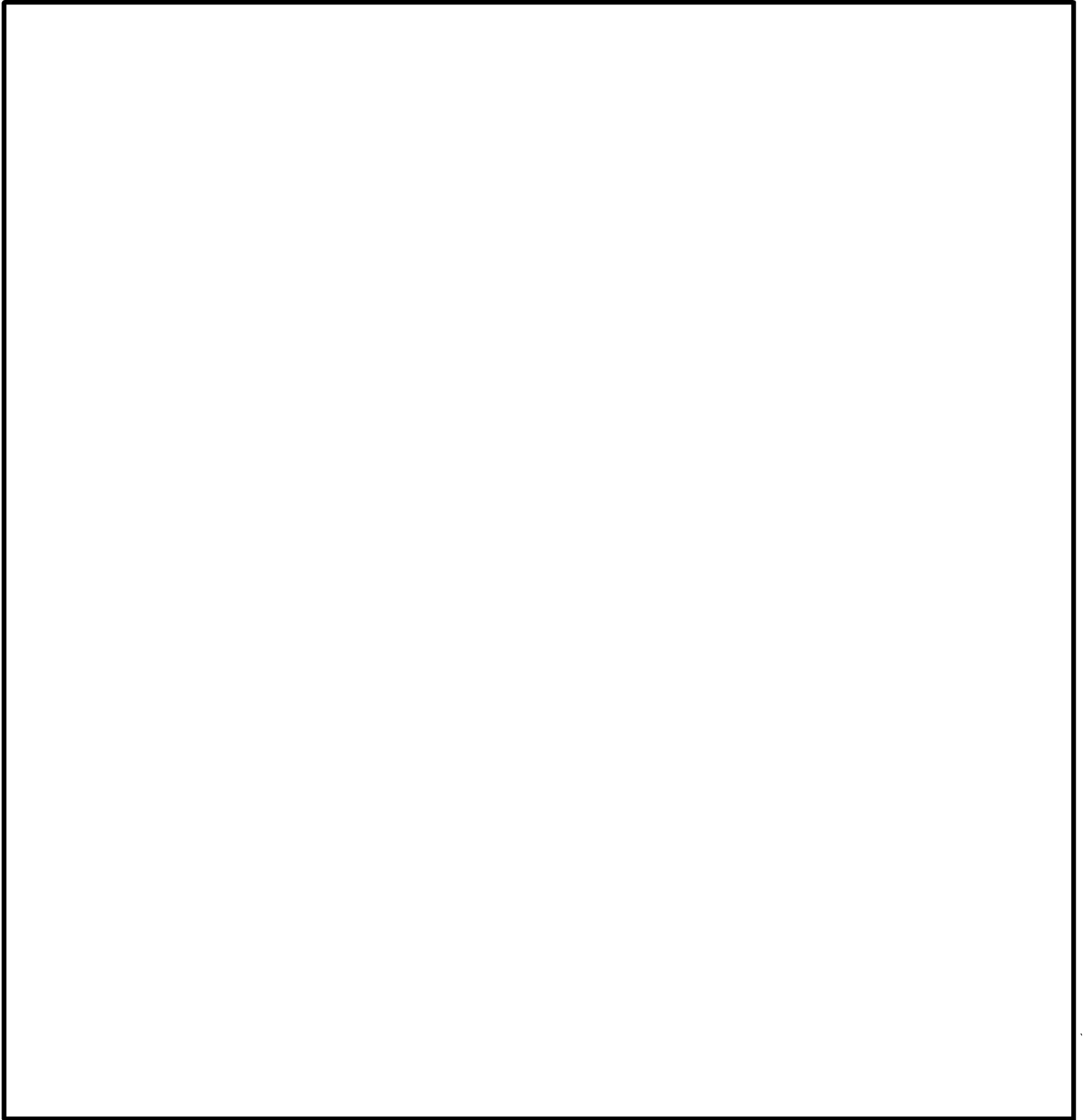


1/8



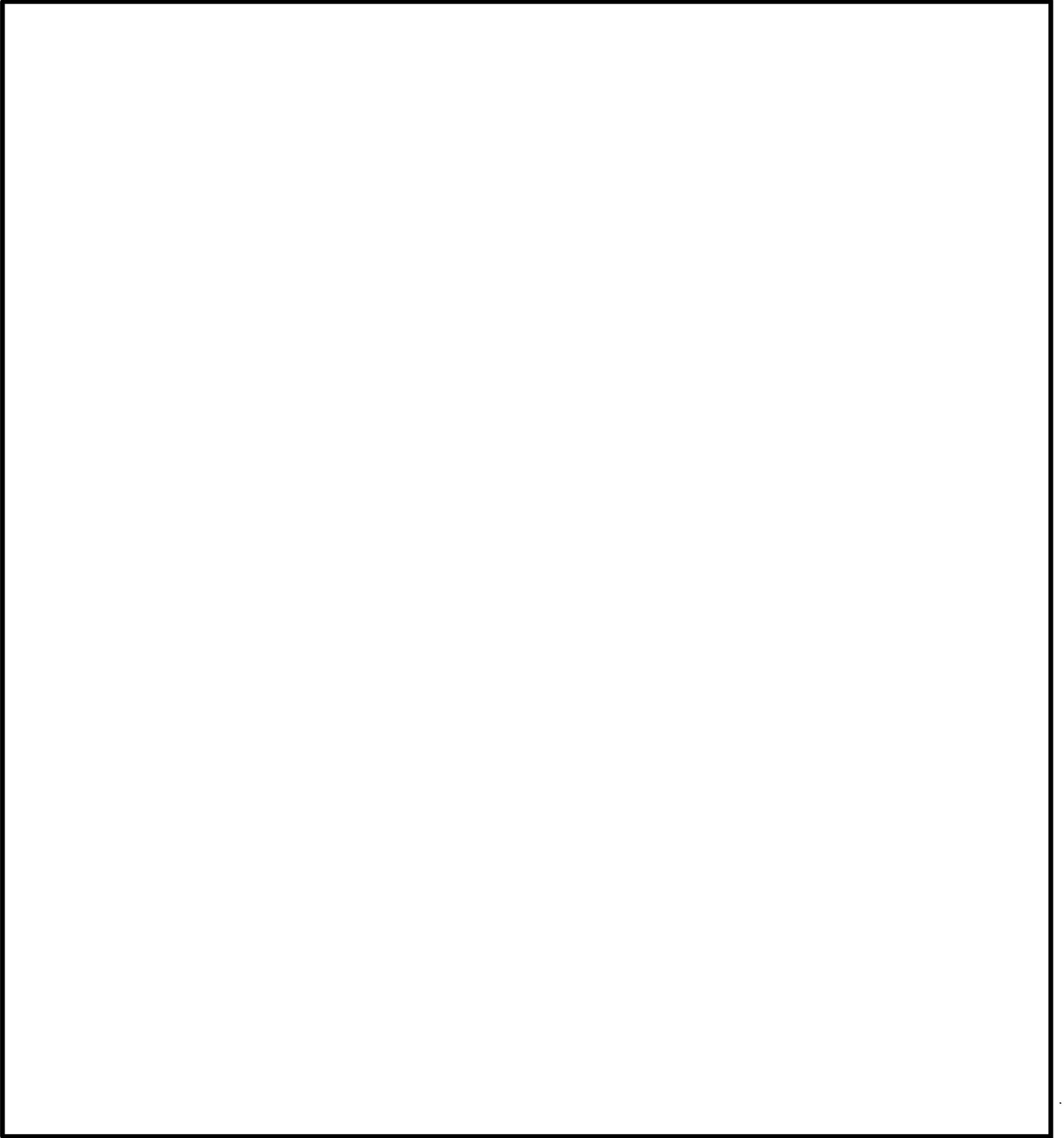
(b)(5)

USCIS comments on DOS Cable dated September 18, 2009



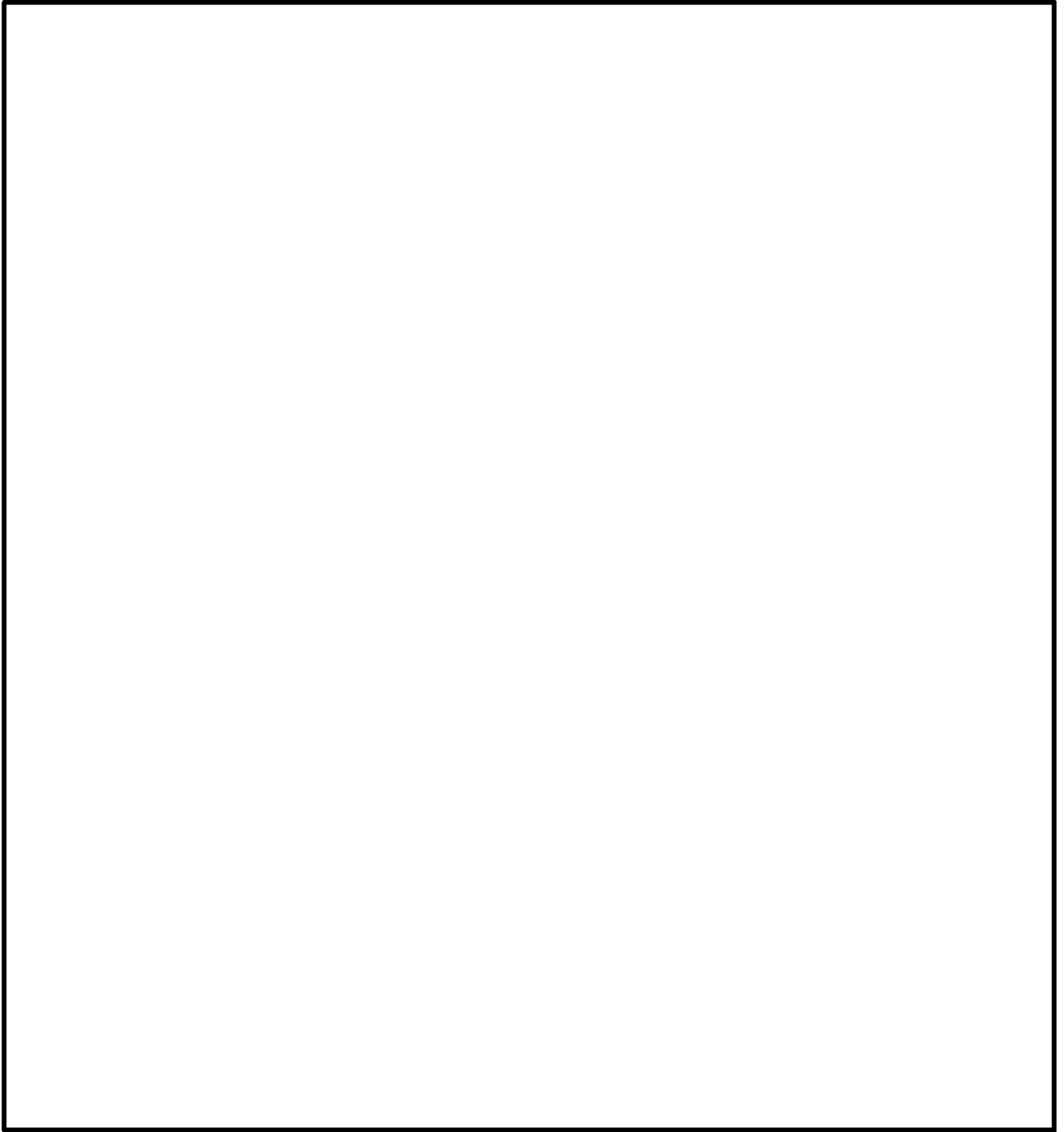
(b)(5)

USCIS comments on DOS Cable dated September 18, 2009



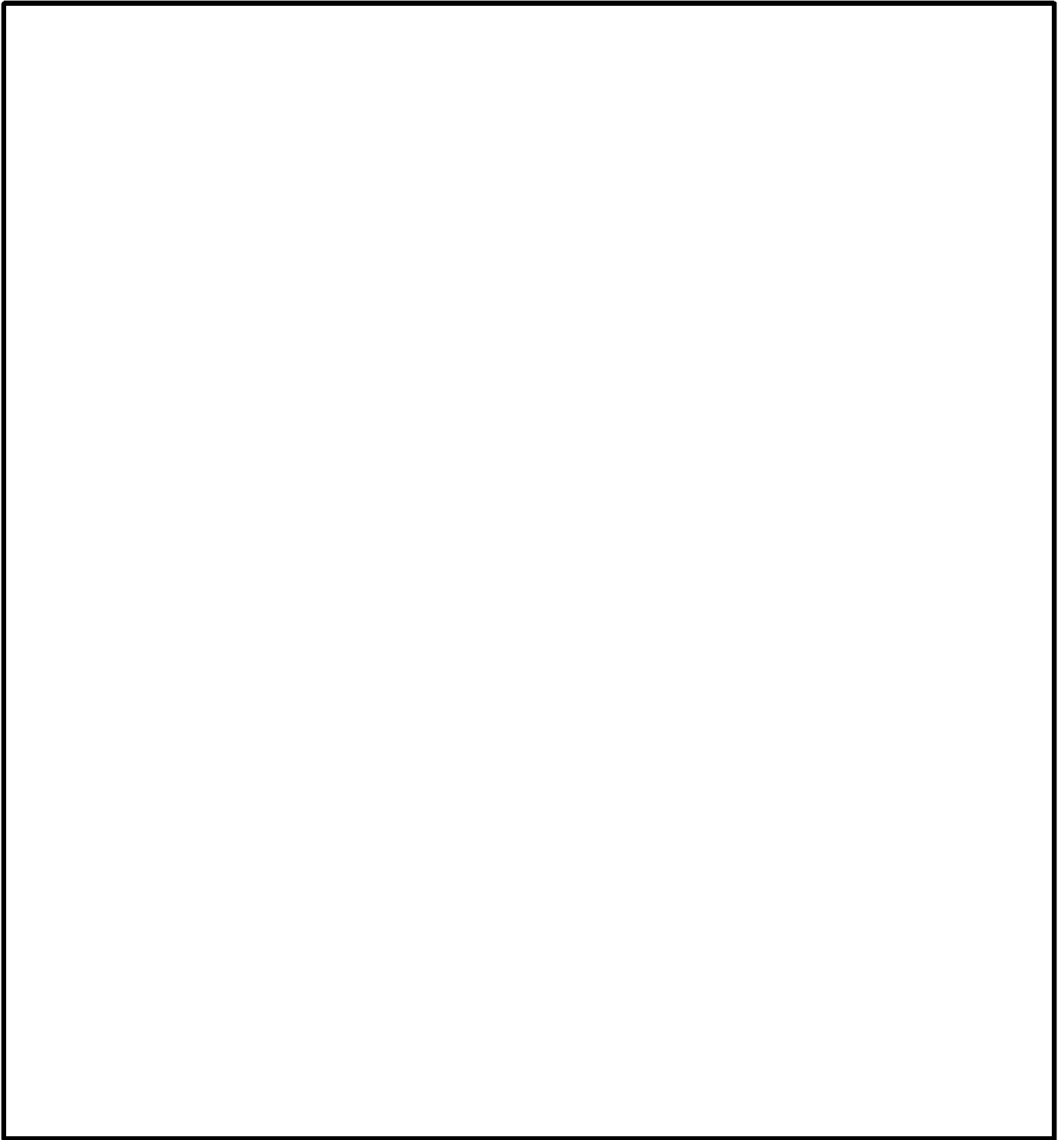
(b)(5)

USCIS comments on DOS Cable dated September 18, 2009



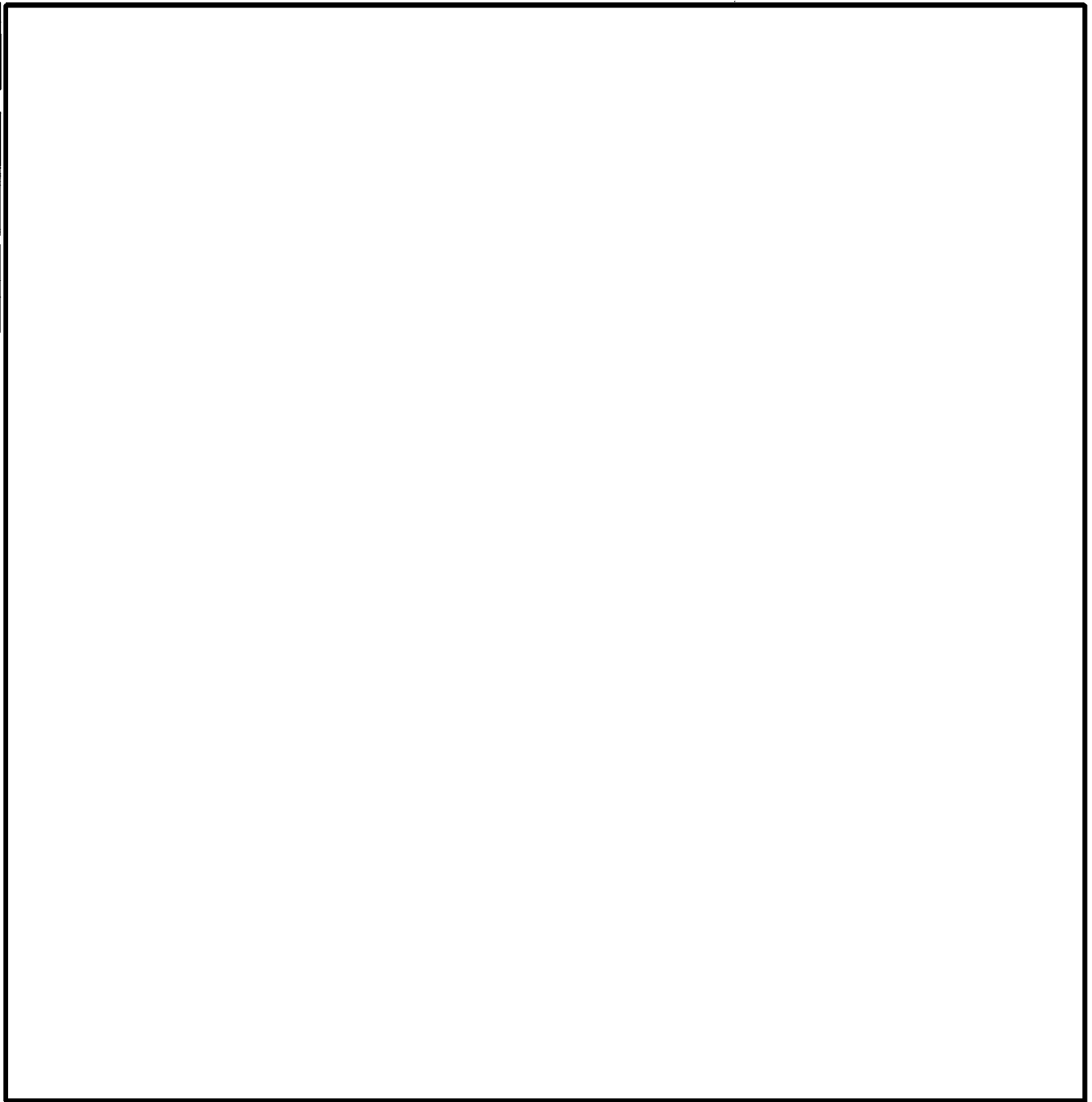
(b)(5)

USCIS comments on DOS Cable dated September 18, 2009



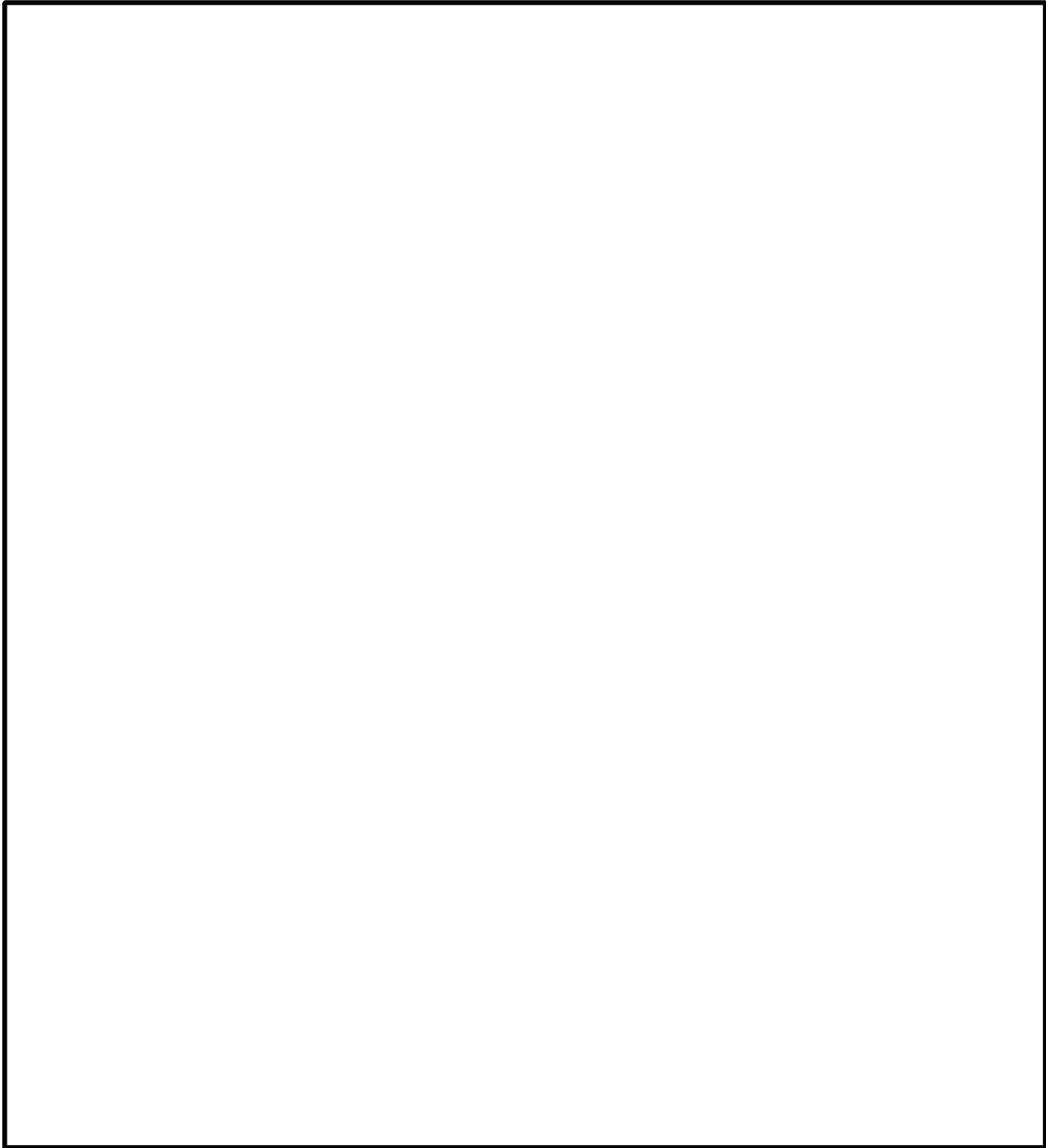
(b)(5)

USCIS comments on DOS Cable dated September 18, 2009



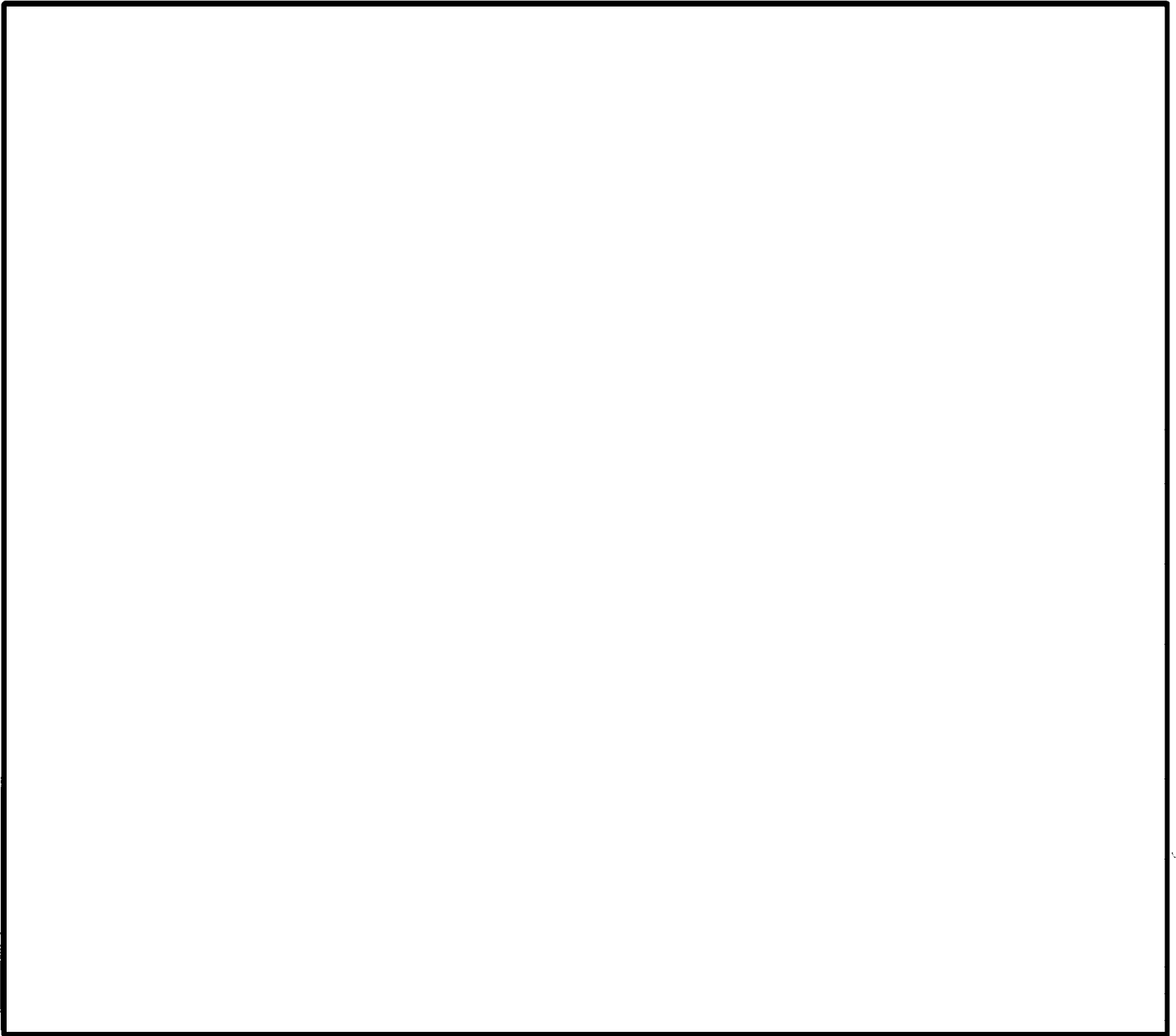
(b)(5)

USCIS comments on DOS Cable dated September 18, 2009



(b)(5)

USCIS comments on DOS Cable dated September 18, 2009



**Johnson, Amanda K**

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**From:** Sommerville, Mary J  
**Sent:** Friday, December 17, 2010 9:23 AM  
**To:** Bertucci, Theresa C; Christian, Bryan P; Clark, Matthew J; Evelyn, Heather; Grissom, John F; Hamilton, Cristina; Henderson, Martazsh; Higgins, Jennifer B; Kliska, Jennifer R; Lauver, James L; Melero, Mariela; Moglia, Marcela C; Moscato, Anthony; Nicholson, Maura J; Quinn, Kevin T; Reitz, Whitney A; Rosenberg, Ron M; Singla, Vinay M; Stone, Mary M; Sudmalis, Linda M; Swanson, Trina M; Taylor, Charles R  
**Subject:** Working Group Minutes from 12/14 meeting  
**Attachments:** DNA Working Group Meeting Minutes 12142010.doc

All,

Please see attached minutes and return to me with any corrections by COB Monday.  
(Sorry for the delay!)

Thanks,

Jane Sommerville  
Adjudications Officer  
International Operations  
Refugee, Asylum, and International Operations  
U.S. Citizenship and Immigration Services  
Department of Homeland Security  
202-272-1359  
[Jane.Sommerville@dhs.gov](mailto:Jane.Sommerville@dhs.gov)

9/28/2011





## DNA POLICY AND PROCEDURE WORKING GROUP

**Date/Time of Meeting:** December 14, 2010, 1-2pm  
**Place of Meeting:** 111 Mass Ave, Room 3004

**I. Attendees:**  
 a. Attendees

Name	Title	Organization
Whitney Reitz	Branch Chief	RAIO/IO
Maura Nicholson	Management and Program Analyst	RAIO/IO
Jane Sommerville	Adjudications Officer	RAIO/IO
Jennifer Higgins	Deputy Director	RAIO/RAD
Linda Sudmalis	Asylum Officer	RAIO/ASY
Laura Shaffner		ESD
Chuck Taylor		CFO
Kevin Quinn		FDNS/NS
Alice J. Smith	Associate Council	OCC-RALD, USCIS
Jennifer Kliska	Chief	OPS/HA
Cristina Hamilton	Chief	OPS/NSBID
Jim Lauver	Adjudications Officer	RAIO/IO
Marcela Moglia	Acting Chief	RAIO/FDNS
Bryan Christian	Branch Chief	SCOPS/Antz
Heather Evelyn	Adjudications Officer	SCOPS/FAST

## **II. Brainstorm list of DNA testing for immigration benefits**

### **a. Uses of DNA**

WG discussed potential uses of DNA in the immigration context:

1. Verification of a claimed biological relationship
2. Background checks
3. Identity verification

WG agreed to address all three potential uses but to first focus on the verification of biological relationships.

### **b. Product lines**

WG brainstormed the USCIS product lines where DNA might be used to verify a claimed relationship. The product lines identified included:

SPELL OUT EACH PRODUCT LINE

I-130, Petition for Alien Relative

I-730, I-589, I-590, I-129F, I-600, I-800, I-131, I-881, I-914A, I-918A, I-929, I-817, I-485, I-360, I-140, N-400, N-600, N-600K, I-821.

The group discussed the conditions under which USCIS might want to verify a claimed biological relationship for each of these product lines and agreed that it would be useful to develop a matrix of the product lines and the relevant relationships.

### **c. Relationships to test**

WG discussed how DNA test results are used or could be used -- to prove vs. disprove relationships. Currently, DNA is only used by USCIS to confirm relationships and existing guidance directs officers NOT to request testing in an effort to disprove a claimed relationship. However, WG agreed that the use of DNA to disprove relationships merits further discussion.

The WG discussed the meaning of the test results and whether any can be treated as conclusive. At this time, the only relationship that can be tested by DNA and yield a conclusive result is a parent/child relationship. Although it is possible to test sibling relationships, no industry standard has been established to define a conclusive test result or even guidelines for interpreting the results.

## **III. Review compiled list of documents**

- a. Spreadsheet of documents collected distributed at meeting
- b. WG members received a number of read-ahead documents about current DNA practices within the USG and within USCIS. Most members had not yet had time to review the documents.

i.

**c. Internet Information**

Linda Sudmalis distributed copies of several articles that she discovered doing research on the general use of DNA in the immigration context, in the U.S. and abroad.

**IV. Other**

**a. Rapid DNA Sub-group:**

Working Group members agreed to the establishment of a "Rapid-DNA" sub-group which would report to the main WG. Potential sub-group members included: Anthony Moscato (heading the group), Linda Sudmalis, Heather Evelyn, Jennifer Kliska, Jim Lauver, Cristina Hamilton, Alice Smith, and Marcela Moglia.

A meeting between Science and Technology (S &T) and the main DNA WG members will be set up (date TBD) to discuss "Rapid-DNA."

**V. Review of New Action Items and Deliverables Assigned**

<b>Action Item</b>	<b>Responsible Party</b>	<b>Due</b>
Reach out to the Front Office to inform them of the Working Group and discuss their participation	Cristina Hamilton, Jennifer Kliska	01/04/2011
Provide WG invitee list to SCOPS administrator to set up ECN site. All WG members will have read, write access.	Brian Christian	01/04/2011
Locate ECN training (Powerpoint version if possible), and distribute to WG members.	Brian Christian	01/04/2011
Research legal precedent in using the 99.5 % industry standard for conclusive DNA test results	Alice Smith	01/04/2011
Identify FDNS Fraud Detection Unit contact to sit on WG and email Jane with contact	Kevin Quinn	01/04/2011
Reach out to NIST on their efforts to establish DNA industry standards and discuss possible USCIS role in their working group/discussions	Cristina Hamilton	01/04/2011
Create a matrix with the following fields: USCIS product lines identified by the WG as those that might use DNA testing results and the relationships to test/uses of DNA	International Operations	01/04/2011

**VI. Next Meeting: January 4, 2011, 11am.**

**Johnson, Amanda K**

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**From:** Sudmalis, Linda M  
**Sent:** Tuesday, January 04, 2011 1:06 PM  
**To:** Michalakis, George E; Christian, Bryan P; Evelyn, Heather; Hamilton, Cristina; Higgins, Jennifer B; Kliska, Jennifer R; Moglia, Marcela C; Moscato, Anthony; Nicholson, Maura J; Quinn, Kevin T; Reitz, Whitney A; Shaffner, Laura; Smith, Alice J; Sommerville, Mary J; Stone, Mary M; Swanson, Trina M  
**Subject:** 11 new DNA docs up... [RE: Link to USCIS DNA Working Group Site]

First, thanks to George for setting this up for the DNA Working Group.

Second, FYI that I just did a batch upload of 11 documents (Nexis literature review of DNA articles related to immigration) w/o having ECN/SharePoint training – it's similar to using Windows Explorer.

I was warned that while ECN is fairly simple, how one titles a document can make a big difference in the long run. Also the choice of "fields," if any, can have an impact, as ECN doesn't allow one to create folders. I modeled my document titles somewhat on how they're done in the AVL / RAIQVL – first date, source abbreviation, and all or part of the actual title.

As documents accrue in ECN, a good descriptive title will undoubtedly be helpful – just imagine doing a search and finding 10-20-50+ documents simply called "DNA info," "DNA.ppt," "DNA article."

I, also, learned that ECN's current set-up does not display a field for publication date - instead it shows when one adds/modifies it (which isn't very helpful).

I understand that fields can added, but they have to be added to the site as a whole.

Here's the format and what I've added:

YYYYMMDD – source abbreviation of the source - actual title (or at least keywords)  
20020302 - Lancet - DNA and Immigration - The Ethical Ramifications  
20031016 - UNESCO - International Declaration on Human Genetic Data  
20051019 - UNESCO - Universal Declaration on Bioethics and Human Rights  
20080408 - Council of Europe - Refugees Must be Able to Reunite with their Family Members  
20080600 - UNHCR - UNHCR Note on DNA Testing to Establish Family Relationships in the Refugee

Context

20080820 - WSJ - Refugee Program Halted as DNA Shows Fraud  
20090203 - USDOS - Fraud in Refugee Family Reunification – Priority Three – Program  
20090915 - UPI - France Stops Controversial DNA Testing Law  
20091009 - UK Register - UK Border Agency Suspends 'Flawed' Asylum DNA Testing  
20091013 - UK Register - UK Border Agency Flip-Flops on Asylum Seeker DNA Testing  
20101211 - Canwest - Turning to the World's Baby Farms

Reminder – if anything is scanned, pls assure it is made to be full-text searchable (OCR'd), otherwise the title alone will show up in any future searches.

---

**From:** Michalakis, George E  
**Sent:** Tuesday, January 04, 2011 12:46 PM  
**To:** Christian, Bryan P; Evelyn, Heather; Hamilton, Cristina; Higgins, Jennifer B; Kliska, Jennifer R; Michalakis, George E; Moglia, Marcela C; Moscato, Anthony; Nicholson, Maura J; Quinn, Kevin T; Reitz, Whitney A; Shaffner, Laura; Smith, Alice J; Sommerville, Mary J; Stone, Mary M; Sudmalis, Linda M; Swanson, Trina M  
**Subject:** Link to USCIS DNA Working Group Site

[Link to USCIS DNA Working Group Site](#)

9/28/2011

<http://mgmt-sp.dhs.gov/uscis/SiteDirectory/scops/HQSCOPS/Adjust/uscisdna/default.aspx>

Link to Web Based ECN training

SCOPS Web Based Training

George

George Michalakis  
Adjudication Officer  
USCIS Headquarters  
Service Center Operations  
Desk (202) 272-1524

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9/28/2011

**Johnson, Amanda K**

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**From:** Hamilton, Cristina  
**Sent:** Wednesday, January 19, 2011 10:58 AM  
**To:** Reitz, Whitney A  
**Cc:** Kliska, Jennifer R; Dawkins, Laura; Torino, Leah L; Swanson, Trina M  
**Subject:** ANSI Biometrics Standards Document  
**Attachments:** ANSI-NIST-ITL\_1\_2011\_First\_Draft.pdf

WHITNEY, (COPYING THE VARIOUS FOLKS HERE AT OP&S DEALING WITH THE DNA ISSUES.) PLEASE FIND FOR POSTING TO THE ECN SITE THE CURRENT DRAFT OF THE **BIOMETRICS STANDARDIZATION PROJECT THAT NIST IS WORKING ON.** THIS IS THE DOCUMENT THAT WILL BE THE SUBJECT OF THE MARCH 1-3 MEETING TO DISCUSS THE STANDARDS/GET INPUT FROM STAKEHOLDERS, INCLUDING USCIS. (IT IS A HUGE FILE, SORRY)

I SPOKE TO BRAD WING FROM NIST THIS MORNING AND HE PROVIDED THIS FOR OUR INFO/USE. (IT'S HIGHLY TECHNICAL, WHICH HAS BEEN THE ISSUE WITH OUR REPRESENTATION ON THE GROUP). HE ALSO GAVE ME SOME POCS THAT MAY BE ABLE TO DISCUSS WITH US THE MEANING OF THE CURRENT PERCENTAGE STANDARD FOR RELATIONSHIP TESTING RESULTS THAT WE HAD BEEN DISCUSSING IN THE RECENT MEETING. I WILL TOUCH BASE WITH CHRIS MILES FROM S&T AS HE ALSO HAD SOME POTENTIAL POCS, AND I WANT TO SEE IF THE POCS BRAD GAVE ME OR THE SAME, OR DIFFERENT. I THINK THE CONSENSUS OF THE GROUP WAS THAT WE NEED TO HAVE A BETTER UNDERSTANDING OF WHAT THE STANDARD MEANS AND WHAT THE EFFECT WOULD BE OF ACCEPTING A LOWER STANDARD FOR US BEFORE BEING ABLE TO MAKE RECOMMENDATIONS ON A MODIFICATION OF EXISTING GUIDANCE.

WAS IT YOUR INTENT TO HAVE SUCH A PRESENTATION AT THE NEXT MEETING AND SHOULD WE BE WORKING TO SET THAT UP, OR DO WE WANT TO HAVE A SUB-GROUP EXPLORE THAT ISSUE OFF LINE WITH THE EXPERTS THEN HAVE ONE OR MORE OF THE EXPERTS ADDRESS THE GROUP?

IN ADDITION, I NEED TO RECONNECT WITH TRANSFORMATION AND IT WHO MISSED OUR LAST MEETING TO SEE IF THEY WANT TO PARTICIPATE AND IF THEY ARE THE RIGHT PEOPLE TO STAFF (AT LEAST AS 1 OR TWO CIS REPS, THE NIST MEETING WORKING ON THE STANDARD.

**CRISTINA HAMILTON**  
**CHIEF, NATIONAL SECURITY AND**  
**BENEFITS INTEGRITY DIVISION**  
**OFFICE OF POLICY AND STRATEGY, USCIS**  
**202-272-1466**

9/28/2011

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