

### ***General considerations***

The proposal expands the definition of biometrics to authorize the collection of personal data for vetting and tracking individuals throughout the ‘immigration life-cycle.’ **The proposed changes pose a high risk of “mission creep,” and such complex and sweeping changes to government policy should be the subject of Congressional action and rigorous, sustained oversight.**

**DHS has provided an insufficient comment period of 30 days for complicated topics** that involve science, law, and ethics, especially during a pandemic and an election cycle. **We join [others](#) who call for an extended comment period.**

The proposed rules outline two separate processes, the expanded definition and uses of biometrics and the systematic implementation of DNA testing for verification of family relationships. **Each of these topics is complicated and final rules should separately address each since legal authority and the parameters for testing and oversight of testing is different from that of the collection and storage of information.**

DHS has not adequately identified the problem that calls for this broad expansion of and emphasis on biometrics, and reduced reliance on documents and other biographical information as the solution necessary to justify a request for increased appropriations, which would be necessary to fully and evenly implement their proposed rule.

The technologies specifically proposed (e.g., facial recognition technology) have already been scientifically shown to be discriminatory (e.g., against women and people of color). **The proposed rules are highly likely to have disparate and discriminatory effects on different populations.**

The proposal includes a dramatic expansion of collection and storage children’s data. There is a long history of data of children being recognized as more sensitive than that of adults (e.g., medical and educational contexts). Additionally, removing the presumption of innocence for children is contrary to the growing trend to protect trafficked persons from punishment for acts taken at the demands of their oppressors (traffickers). Such action would subject children, a vulnerable bioethical population, to unnecessary/unjustified criminal and terroristic screening. **Any proposed change must be pursuant to Congressional action and subject to independent oversight informed by professionals with relevant expertise.**

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### ***Considerations for DNA testing for family verifications***

Increased reliance on DNA for verification of family units, and with a focus primarily on parent-child relationships, will lead to increased separations of children from accompanying caregivers.

The proposed rules aim to detect potential use of DNA testing for detection of child trafficking. Final rules must address two realities: (A) presence of a biological relationship does not eliminate the possibility of a parent trafficking their child; and (B) absence of a parentage relationship does not constitute evidence of trafficking.

The rules propose to retain relationship test results as “partial profiles”. Instead, any genetic data should be destroyed and only the resulting test outcome (i.e., indication of confirmation of relationship) retained for immigration records.

The proposed rules specify reliance on AABB-accredited relationship testing laboratories. AABB-accreditation is insufficient oversight, as it does not address how test limitations are communicated before testing, nor how unusual test results are handled.

Relationship DNA testing for family verification should use the most appropriate technology to measure a range of relationships, not just parentage. Rapid DNA tests at this time can only be applied to parent-child and full sibling relationships.

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### ***Privacy concerns***

Privacy is a fundamental human right identified in the UN Declaration of Human Rights. A proposal with international implications must extensively engage with relevant international laws and guidelines on data privacy.

This proposal marks a major shift toward ongoing [dataveillance](#) of immigrants, and even of U.S. citizens and lawful permanent residents. The proposed rules note DHS made the decision to move “beyond only eligibility and admissibility determinations” in order to enable “identity management” and “enhanced vetting.” These applications mark major departures from agency privacy practices that recognize the critical importance of nuance, context, and discretion under the Privacy Act of 1974.

The proposed rules allow sharing DNA test results and biometric data “with other agencies where there are national security, public safety, fraud, or other investigative needs.” There should be clear guidelines for use or sharing of biometric data, including DNA test results.

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