

NSABB Briefing: Security Risk Assessments for Possession, Use, and Transfer of Select Agents

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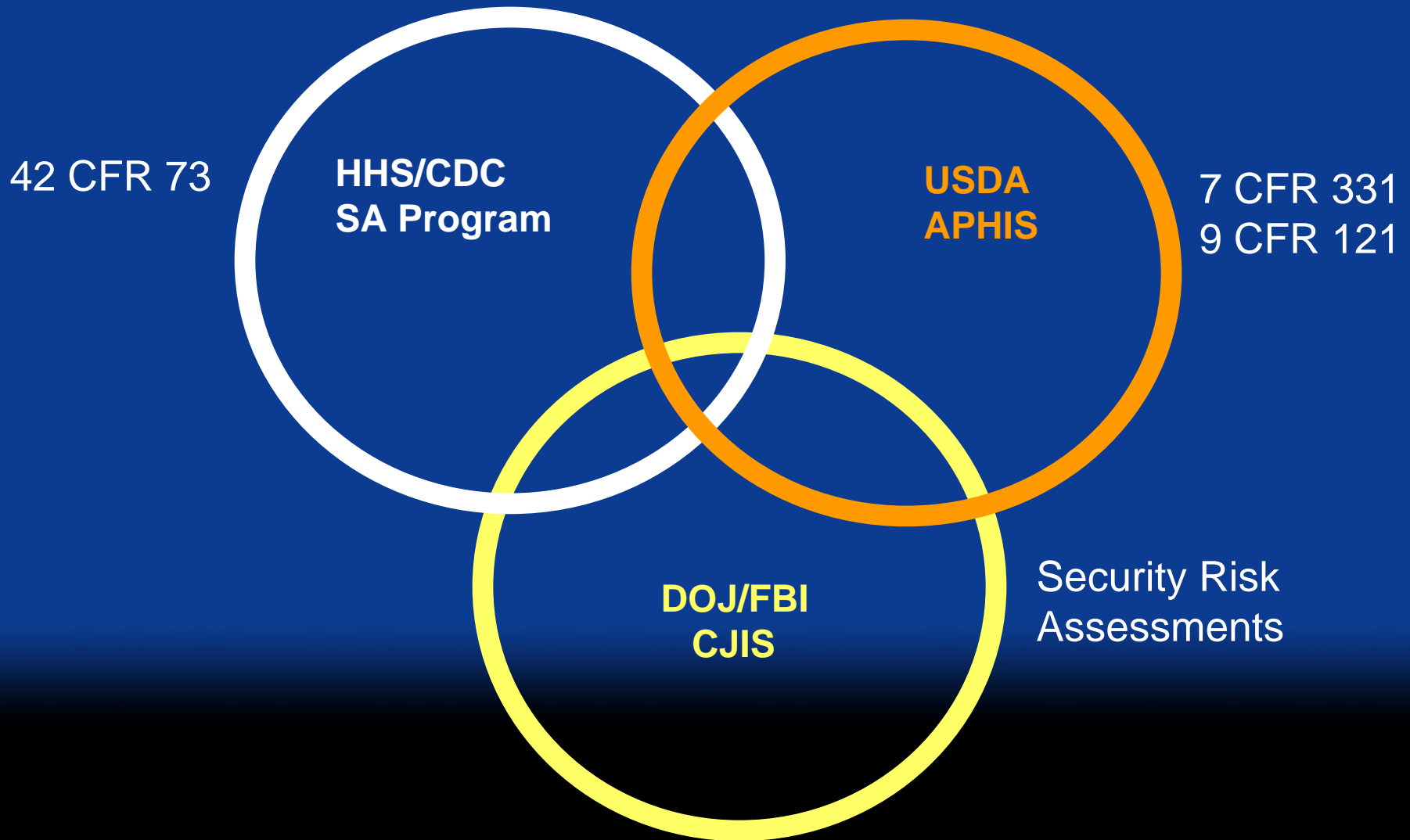
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What is a Security Risk Assessment?

- The Security Risk Assessment (SRA) is the method used to approve an individual for access to select agents in accordance with the USA PATRIOT Act of 2001 and the Public Health Security and Bioterrorism Preparedness and Response Act of 2002
- The FBI Criminal Justice Information Services Division (CJIS) conducts the SRA
 - ◆ Electronic database and fingerprint check

Federal Partners



Select Agent Program Legislative Mandates

- Antiterrorism and Effective Death Penalty Act of 1996 (Signed April 24, 1996)
- USA PATRIOT Act (Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, Signed October 23, 2001)
- Public Health Security and Bioterrorism Preparedness and Response Act 2002, Title II (Signed June 12, 2002)

USA PATRIOT Act

Public Law 107-56 Signed: 10/23/2001

- Sec. 175b. Possession by Restricted Persons
 - ◆ No restricted person shall ship, possess, or receive a Select Agent.

Security Risk Assessment Prohibited Categories

- A restricted person under 18 U.S.C. 175b (USA PATRIOT Act):
 - ★ is under indictment for a crime punishable by imprisonment for a term exceeding 1 year;
 - ★ has been convicted in any court of a crime punishable by imprisonment for a term exceeding 1 year;
 - ★ is a fugitive from justice;
 - ★ is an unlawful user of any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));
 - ★ is an alien illegally or unlawfully in the United States;
 - ★ has been adjudicated as a mental defective or has been committed to any mental institution;
 - ★ is an alien (other than an alien lawfully admitted for permanent residence) who is a national of a country that has repeatedly provided support for acts of international terrorism; or
 - ★ has been discharged from the Armed Services of the United States under dishonorable conditions.

Security Risk Assessment

Prohibited Categories (Bioterrorism Response Act)

- Reasonably suspected by any Federal law enforcement or intelligence agency of:
 - ◆ Committing a crime specified in 18 U.S.C. 2332b(g)(5);
 - ◆ Having a knowing involvement with an organization that engages in domestic or international terrorism (as defined in 18 U.S.C. 2331) or with any other organization that engages in intentional crimes of violence; or
 - ◆ Being an agent of a foreign power (as defined in 50 USC 1801).

Who needs a Security Risk Assessment?

- All entities (except for Federal, State, or local governmental agencies)
- The Responsible Official
- The Alternate Responsible Official
- Any owners of non-governmental entities and
- Individuals requesting access to select agents or toxins must have an approved security risk assessment

Security Risk Assessment Process

- The Responsible Official (RO) requests to update or amend Section 4B table of the APHIS/CDC Form 1 (registration application)
- CDC or APHIS assigns the individual an unique DOJ identifying number
- The individual submits an FD-961 form and fingerprint cards to CJIS
- CJIS conducts the electronic database check
- CDC or APHIS notifies RO of individual's SRA status (approved or restricted)
 - ◆ If restricted, CDC or APHIS notifies the RO and the individual

Information Collected on FBI Form FD-961

- Full Name (including maiden/aliases)
- Date of Birth
- Social Security #
- Residence Address
- Sex
- Date of Birth
- Indicted for crime >1yr (y/n)
- Convicted of crime >1yr (y/n)
- Fugitive from justice (y/n)
- Unlawful user of controlled substance (y/n)
- Adjudicated mental defective/committed to mental institution (y/n)
- Illegal alien (y/n)
- Dishonorable discharge from U.S. military (y/n)

Additional FD-961 Information Collected from Naturalized Citizens/Permanent Residents

- Country of citizenship
- Mother's/Father's full name
- Date/place of entry into the U.S.
- Immigration status at entry
- Current immigration status
- Date status expires
- Alien/Admission number

How long is the SRA Valid?

- For individuals that will have access to select agents and toxins:
 - ◆ valid for a period of five years
 - ◆ unless terminated by the entity, CDC, or APHIS sooner.
- For the Responsible Official, Alternate Responsible Official, and individuals that own or control the entity and the entity
 - ◆ must obtain security risk assessment approval each time the certificate of registration is renewed
 - ◆ a certificate of registration is valid for a maximum of three years

Appeal of Restricted Status

- An individual may appeal HHS's decision to deny, limit, or revoke access approval under § 42 CFR Part 73.20
- The appeal must be in writing and must
 - ◆ state the factual basis for the appeal
 - ◆ Provide supporting documentation and
 - ◆ be submitted to the CDC or APHIS within 30 calendar days of the decision
- Where the denial, limitation, or revocation of an individual's access approval is based upon the SRA conducted by CJIS, CDC or APHIS will forward the request for review to the Attorney General.

Portability of Security Risk Assessments for Visiting Scientists

- An additional SRA is not needed in cases where an individual that has a current SRA will be visiting another registered entity provided the following:
 - ◆ The RO of the home entity must notify the RO of the receiving entity in writing of the visitor's approved status
 - ◆ The receiving entity RO must submit this letter and a request to amend the registration to the lead agency (APHIS or CDC)
 - ◆ CDC or APHIS will approve or deny the amendment
 - ◆ Once the visit is complete, the receiving entity RO should amend the entity's registration to remove the visitor

Databases Searched

- **National Crime Information Center Files**
 - ◆ Foreign Fugitive File
 - ◆ Deported Felon File
 - ◆ Protection Order File
 - ◆ Wanted Person File
 - ◆ US Secret Service Protective File
 - ◆ SENTRY File (Bureau of Prisons)
 - ◆ Convicted Person on Supervised Release File
 - ◆ Convicted Sexual Offender Registry
 - ◆ Violent Gang and Terrorist Organizations File

- **Interstate Identification Index: State/Local criminal history**

- **Foreign Terrorist Tracking Task Force**
 - ◆ Terrorist Screening Center Database (TSDB)
 - ◆ Transportation Security Administration's No Fly and Selectee databases

- **Automated Case Support (ACS): FBI case file database**

Databases Searched

- Bureau of Immigration and Customs Enforcement's Law Enforcement Support Center databases (Foreign-born candidates):
 - ◆ Central Index System (CIS)
 - ◆ Computer Linked Application Information Management System (CLAIMS)
 - ◆ Deportable Alien Control System (DACCS)
 - ◆ National Automated Immigration Lookout System (NAILS II)
 - ◆ Nonimmigrant Information System (NIIS)
 - ◆ Student and Exchange Visitor Information System (SEVIS)
 - ◆ Redesigned Naturalization Application Casework System (RNACS)
 - ◆ Refugee, Asylum, and Parole System (RAPS)
 - ◆ Enforcement Case Tracking System (ENFORCE)
 - ◆ Treasury Enforcement Communications System (TECS)

The Security Risk Assessment Process:

- Extra investigative effort put forth in instances of:
 - ◆ Significant derogatory information in ACS on the individual

Statistics

Since program inception

Total processed: 28,593

Unrestricted: 27,282

Restricted: 158

Cancelled: 1143

Appeals: 51 sustained 30, overturned
21

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