

# **National Select Agent Workshop: Security Risk Assessments**

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# Federal Partners

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42 CFR 73

HHS/CDC  
SA Program

USDA  
APHIS

7 CFR 331  
9 CFR 121

DOJ/FBI CJIS

Security Risk Assessments



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# What is a Security Risk Assessment?

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- 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



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# Select Agent Program Legislative Mandates

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- 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)



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# USA PATRIOT Act

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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.



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# Security Risk Assessment Prohibited Categories

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- 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.



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# Security Risk Assessment Prohibited Categories (Bioterrorism Response Act)

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- 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).



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# Who needs a Security Risk Assessment?

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- 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



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# Security Risk Assessment Process

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- 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



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# How long is the SRA Valid?

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- For individuals that will have access to select agents and toxins:
  - valid for a period of five years
  - can be terminated sooner by the entity, CDC, or APHIS
- For the Responsible Official, Alternate Responsible Official, and individuals that own or control the entity and the entity itself
  - 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



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# Appeal of Restricted Status

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- An individual may appeal the decision to deny, limit, or revoke access approval under Section 20 of the Select Agent Regulations
- 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.



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# Portability of Security Risk Assessments for Visiting Scientists

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- 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



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# 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 (DACS)
  - 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)



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# Databases Searched

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- **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
- **Interstate Identification Index: State/Local criminal history**
- **Automated Case Support (ACS): FBI case file database**



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# Security Risk Assessment Process

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Extra investigative effort put forth in instances of:

- Significant derogatory information in ACS on the individual



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# Statistics

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Since program inception:

**Total processed: 28,593**

**Unrestricted: 27,282**

**Restricted: 158**

**Cancelled: 1143**

**Appeals: 51**

Sustained 30

Overtured 21



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# Restricted Categories for SRAs from CDC-Regulated Entities

(As of 10/21/2008)

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<u>Restricted Category</u>	<u>Percentage (%)</u>
Convicted of crime:	68
Under indictment:	4
Fugitive from justice:	6
Adjudicated as a mental defective:	4
Illegal alien:	3
Alien from sensitive country:	5
Dishonorable discharge:	3
Unlawful user of controlled substance:	4
Involvement with terrorism organization:	<1



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# Renewals

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## Individuals:

- The completed FD-961 form should be faxed to CJIS at 304-625-5393.
- “Renewal” should be written on top of the form because this alerts CJIS that this individual has already been through the SRA process.
- A new DOJ unique identifier number will not be assigned to individuals for renewal SRA requests as long as the individual stays employed with the current registered entity.
- Fingerprint cards are not required for the renewal process, since they are already on file with CJIS; however, CJIS reserves the right to request additional fingerprint cards in the future if necessary.

## Entity:

- CJIS conducts security risk assessments of all non-governmental entities.
- The CDC or APHIS Select Agent Program will initiate the SRA for the entity.
- No additional paperwork needs to be submitted to CJIS.



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# Terminating Individual's Access to Select Agents and Toxins

- Section 10(j) requires that the Responsible Official immediately notify CDC or APHIS when an entity is terminating an individual's access to select agents or toxins.
  - **Name of the individual who is being removed from the entity's registration**
  - **Reasons for termination of access**
  - **Should be submitted in writing via mail, fax, or email**
- Responsible Official must ensure that the individual no longer has the ability to access select agents or toxins.
  - **Retrieving keys**
  - **Changing locks**
  - **Disabling passwords**
  - **Disabling cardkeys**



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# Avoiding Delays

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- Ensure that the information (e.g., name, date of birth, etc.) for individuals listed on the APHIS/CDC Form 1 is identical to the information provided on the FD-961 Form submitted to CJIS for each individual.
- Ensure that the APHIS or CDC assigned DOJ identifier number is correct and listed for Block 11 on the FD-961 Form.
- Ensure all questions are answered on the FD-961 Form.
- Ensure that the applicant signs the front page and third page. The third page is the consent page.
- Send the signed original SRA application materials (e.g., FD-961 form and/or fingerprint cards) to CJIS by way of a traceable carrier (e.g., FedEx, UPS).



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# Information

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Security Risk Assessment Webpage:

**<http://www.selectagents.gov/sra.htm>**

**This webpage contains general information on the security risk assessment process including frequently asked questions and a link to the FD-961 form**



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