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RAIO Directorate – Officer Training / *RAIO Combined Training Course***NATIONAL SECURITY
TRAINING MODULE****MODULE DESCRIPTION:**

This module provides guidance on the proper adjudication and processing of cases for status-conferring immigration benefits on matters related to national security through legal analysis, including terrorism-related inadmissibility grounds (TRIG), and through the agency's Controlled Application Review and Resolution Program (CARRP). The module provides the context, definitions, explanations of available exemptions, and other tools that will guide in the proper analysis of cases involving national security issues.

TERMINAL PERFORMANCE OBJECTIVE(S)

When interviewing, you (the Officer) will conduct appropriate pre-interview preparation to identify national security (NS) indicators and elicit all relevant information from an applicant with regard to national security issues. You will recognize when an applicant's activities or associations render him or her an NS concern, including when NS indicators may establish an articulable link to a TRIG or other security-related inadmissibility grounds or bars. You will be able to properly adjudicate and process the case by identifying the specific TRIG, any exceptions, and available exemptions. You will also recognize non-TRIG NS indicators that may establish an articulable link to an NS concern that requires CARRP vetting. As part of the CARRP process, you will be able to recognize the four stages of CARRP and when deconfliction is necessary and appropriate.

ENABLING PERFORMANCE OBJECTIVE(S)

1. Analyze the general elements of INA § 212(a)(3)(B) TRIG inadmissibilities and bars
2. Explain the appropriate INA ground under which the alien is inadmissible/barred from the immigration benefit being sought
3. Analyze whether a group could be identified as an undesignated terrorist organization ("Tier III")

4. Explain statutory exceptions to TRIG
5. Explain the exemptions available for TRIG inadmissibilities in the RAIO context
6. Analyze in a written assessment, notes, and/or a § 212(a)(3)(B) Exemption Worksheet, a proper assessment when making a discretionary determination for an exemption on a case involving TRIG
7. Apply the appropriate exemption to the case, if eligibility for an exemption has been established
8. Explain when a TRIG case needs to be placed on hold, recorded, and/or submitted to Headquarters
9. Explain the purpose of the CARRP process
10. Explain the steps involved in processing national security cases
11. Analyze fact patterns to determine if a national security concern exists

INSTRUCTIONAL METHODS

- Interactive presentation
- Discussion
- Practical exercises

METHOD(S) OF EVALUATION

- Multiple-choice exam
- Observed practical exercises

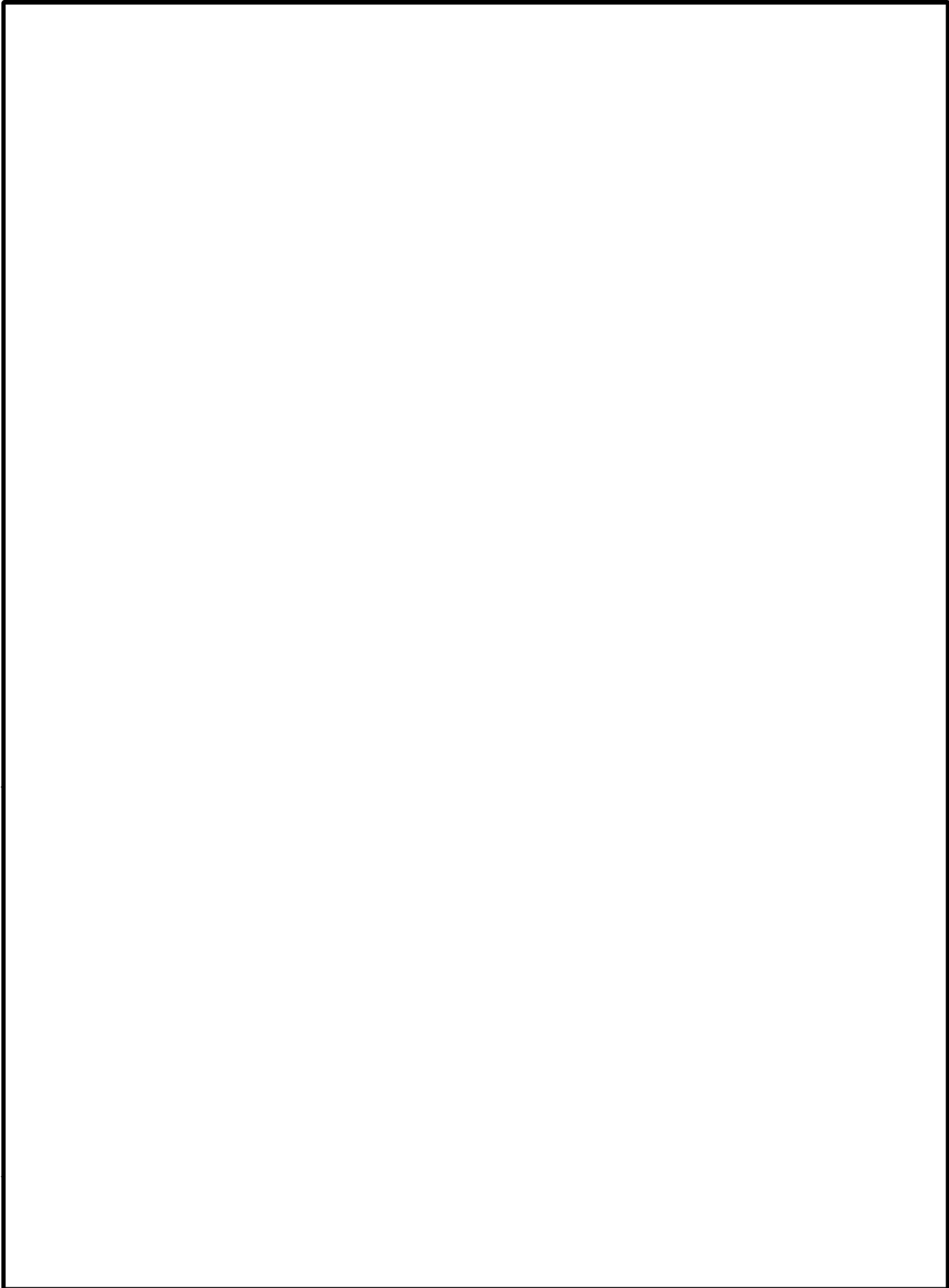
REQUIRED READING

1. INA 212(a)(3)(B).
2. Policy for Vetting and Adjudicating Cases with National Security Concerns” Memo, Jonathan R. Scharfen, Deputy Director (April 11, 2008) and accompanying Attachment A - Guidance for Identifying National Security Concerns”.

Division-Specific Required Reading - Refugee Division

Division-Specific Required Reading - Asylum Division**Division-Specific Required Reading - International Operations Division****ADDITIONAL RESOURCES**

1. See ECN TRIG site under "Guidance" for memos, legal guidance, legislation and other national security-related resources.
2. See TRIG ECN Home Page for TRIG Exemption Worksheet.
3. "Handling Potential National Security Concerns with No Identifiable Records" Memo, Steve Bucher, Associate Director of Refugee, Asylum and International Operations (August 29, 2012).
4. "Updated Instructions for Handling TECS B10 Records" Memo, Office of the Director (May 23, 2012).
5. "Revised Guidance on the Adjudication of Cases Involving Terrorism-Related Inadmissibility Grounds (TRIG) and Further Amendment to the Hold Policy for Such Cases" Memo, Office of the Director (November 20, 2011).
6. "Revision of Responsibilities for CARRP Cases Involving Known or Suspected Terrorists" Memo, Office of the Director (July 26, 2011).
7. Revised Guidance on the Adjudication of Cases involving Terrorist-Related Inadmissibility Grounds and Amendment to the Hold Policy for such Cases" Memo, Michael Aytes, Acting Deputy Director (February 13, 2009).
8. "Additional Guidance on Issues Concerning the Vetting and Adjudication of Cases Involving National Security Concerns" Memo, Michael Aytes, Acting Deputy Director (February 6, 2009).
9. "Implementation of Section 691 of Division J of the Consolidated Appropriations Act, 2008, and Updated Processing Requirements for Discretionary Exemptions to Terrorist Activity Inadmissibility Grounds" Memo, Michael L. Aytes, Acting Deputy Director (July 28, 2008).
10. "Operational Guidance for Vetting and Adjudicating Cases with National Security Concerns" Memo, Donald Neufeld, Acting Associate Director of Domestic Operations (April 24, 2008) and accompanying Operational Guidance.
11. "Withholding Adjudication and Review of Prior Denials of Certain Categories of Cases Involving Association with, or Provision of Material Support to, Certain Terrorist Organizations or Other Groups" Memo, Jonathan Scharfen, Deputy Director (March 26, 2008).



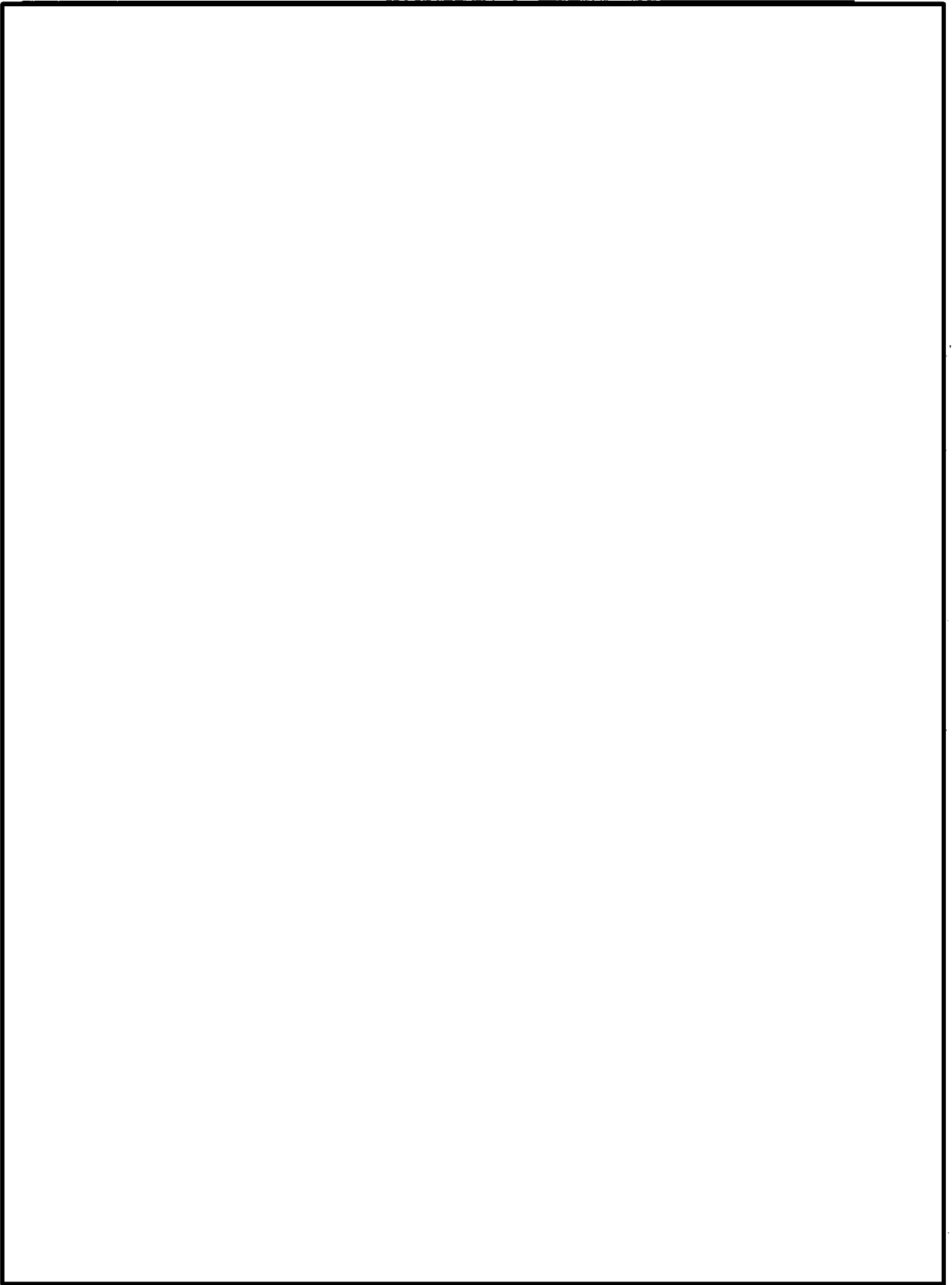


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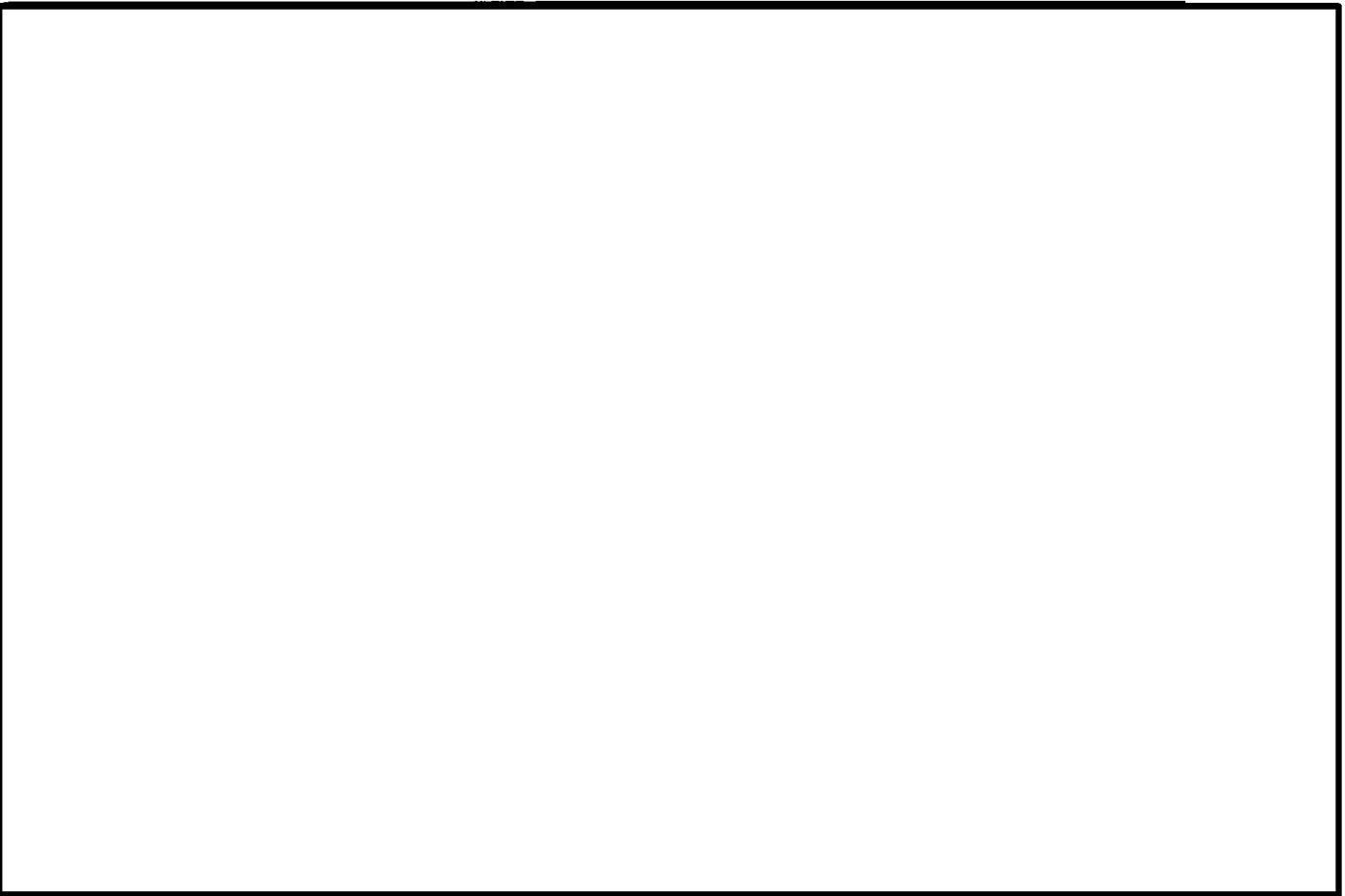
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12 LEGAL ANALYSIS

12.1 Burden and Standard of Proof

You must evaluate the evidence indicating a security-related bar or inadmissibility by the relevant standard of proof as appropriate for your division's adjudications, as explained in the relevant supplements (see RAD Supplement – 1).

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12.2 Documentation Relating to NS Concerns

You must properly document¹⁰⁷ your NS concerns, in line with your division's policy and guidance (see RAD Supplement – 2).



¹⁰⁷ In certain circumstances, NS concerns will be documented in FDNS-DS, a system that is owned by USCIS/FDNS and used by FDNS-IOs. The FDNS-DS SOP can be found on the ECN.

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12.3 Dependents/Derivatives

Inadmissibilities and bars related to national security also apply independently to any relative who is included in an applicant's request for an immigration benefit. In some instances, a principal applicant may be granted and his or her dependent/derivative denied or referred because the dependent/derivative is inadmissible or barred for a national security-related reason.¹⁰⁸

13 PROCEDURE FOR PROCESSING CASES WITH NATIONAL SECURITY CONCERNS (THE CONTROLLED APPLICATION REVIEW AND RESOLUTION PROGRAM (CARRP))

13.1 The CARRP Process

CARRP is the agency-wide four-step process that provides a disciplined approach to identify, record, vet, and adjudicate applications and petitions with NS concerns. Some procedures are different for the divisions (see RAD Supplement – 2; IO Supplement -1), but the general CARRP workflow is as follows:

Step 1: Identification of a National Security Concern

Step 2: Internal Vetting & Eligibility Assessment

Step 3: External Vetting

Step 4: Final Adjudication

At any stage of the adjudicative process, deconfliction may be necessary before taking action on a KST or non-KST NS concern. Deconfliction is a term used to describe coordination between USCIS and another government agency owner of NS information (the record owner) to ensure that planned adjudicative activities (e.g., interview, request for evidence, site visit, decision to grant or deny a benefit, and timing of the decision) do not compromise or impede an ongoing investigation or other record owner interest.¹⁰⁹ Under RAIO guidance, when there is no record owner CARRP officers must take steps to determine whether there is a pending law enforcement investigation or intelligence interest associated with the applicant.¹¹⁰ If so, the Officer must deconflict with that agency prior to taking any adjudicative action. If the Officer is unable to identify any pending investigation or intelligence interest, the Officer must perform all required actions pursuant to the four stages of the CARRP process prior to releasing the case for adjudication on the merits, however, deconfliction is not required.

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¹⁰⁸ 8 C.F.R. §208.21(a); INA §207(c)(2)(A).

¹⁰⁹ "Policy for Vetting and Adjudicating Cases with National Security Concerns" Memo, Deputy Director Jonathan R. Scharfen (April 11, 2008).

¹¹⁰ "Handling Potential National Security Concerns with No Identifiable Records" Steve Bucher, Associate Director of Refugee, Asylum and International Operations (August 29, 2012).

You will play a major role in step 1 (identification) and step 2 (internal vetting & eligibility assessment). In the asylum context, step 3 (external vetting) will be handled primarily by FDNS-IOs; at RAD Step 3 is handled by RAD's Security Vetting and Program Integrity (SVPI) staff. Step 4 (final adjudication) is completed by the appropriate RAIO adjudicator.

13.1.1 Step 1: Identification of a National Security Concern

As discussed in detail earlier, an NS indicator is any activity, characteristic, or association that may lead to a finding that a national security concern exists.¹¹¹ These indicators may be identified at any stage of the adjudication process and through a variety of means including, but not limited to, security and systems checks, file review, in-person interviews, and law enforcement referrals.¹¹²

Possible Procedural & Decisional Outcomes for Step 1:

A. If NS Concern Resolved → Routine Adjudication

B. If NS Concern Remains

- → Notify Designated Officers and conduct Internal Vetting & Eligibility Assessment as appropriate (Step 2)

13.1.2 Step 2: Internal Vetting & Eligibility Assessment

Internal vetting and eligibility assessment is a thorough review of the record associated with the application or petition to determine if the individual is eligible for the benefit sought, to obtain any relevant information to support the adjudication, and in some cases, to further examine the nature of the NS concern.¹¹³

This step may consist of, but is not limited to: systems checks/security checks; open source information (internet, professional journals, other media, etc.); file review; interview/ re-interview; and/or country conditions research. NS information may also be of a restricted or classified nature.¹¹⁴ When necessary, Designated Officers must also deconflict during this step with all relevant record holders

¹¹¹ "Refugee Adjudication Standard Operating Procedure: Cases Involving National Security Concerns," (May 14, 2008). See also "Attachment A - Guidance for Identifying National Security Concerns," (April 11, 2008).

¹¹² "Refugee Adjudication Standard Operating Procedure: Cases Involving National Security Concerns" (May 14, 2008).

¹¹³ Ibid.

¹¹⁴ When an NS concern exists, the NS information may be of a restricted or classified nature. These NS or law enforcement operations-based restrictions are often directly linked to protecting sensitive sources, methods, operations, or other elements critical to national security. Access to this information is therefore limited to those with a direct need to know and, when applicable, appropriate security clearance. "Refugee Adjudication Standard Operating Procedure: Cases Involving National Security Concerns," (May 14, 2008.). Internal vetting and eligibility assessment are not always required prior to review of sensitive or classified information. For details on the use of classified information in your adjudications, see your Division's national security case processing procedures.

Your division may have specific categories of cases that require review by HQ as part of the internal vetting process. (See RAD Supplement – 3). Utilizing all of these tools may lead to resolution of the NS concern, or it may lead to the discovery of additional information regarding eligibility. The purpose of internal vetting is to ensure that valuable time and resources are not unnecessarily expended on external vetting when a case is found to be ineligible for the benefit sought. When this is the case, the application or petition may be denied on any legally sufficient grounds.¹¹⁵ However, when the ineligibility is TRIG-based and there is an exemption available and no other NS concerns are identified, the granting of the exemption resolves the NS concern.¹¹⁶

Possible Procedural & Decisional Outcomes for Step 2:

A. If NS Concern Resolved → Routine Adjudication

B. If NS Concern Remains:

- Possible Outcome 1: Case Otherwise Ineligible for Benefit → Deny/Refer
- Possible Outcome 2: Case Otherwise Eligible → Refer to Designated Officers for External Vetting (Step 3)

13.1.3 Step 3: External Vetting¹¹⁷

External vetting is primarily conducted by FDNS-IOs located in the field, or at HQ if none are present, for example, in a TDY field location. This may be supported by HQFDNS in certain circumstances.¹¹⁸

External vetting is conducted when the NS concern remains after internal vetting/eligibility assessment and the application is otherwise approvable. It requires close coordination with law enforcement agencies, the Intelligence Community, and/or other record owners.

¹¹⁵ Refugee Adjudication Standard Operating Procedure: Cases Involving National Security Concerns,” (May 14, 2008).

¹¹⁶ Ibid. at 6; Asylum Division *Identity and Security Checks Procedures Manual* (ISCPM) (August 2010).at 73;

¹¹⁷ Throughout external vetting and deconfliction, officers must adhere to the Third Agency Rule. Under the Third Agency Rule, USCIS may not disclose information provided by the record owner to a third agency without the record owner’s prior written authorization. All DHS components are considered part of one “agency” for information sharing purposes. “Refugee Adjudication Standard Operating Procedure: Cases Involving National Security Concerns,” (May 14, 2008).). The Third Agency Rule generally no longer applies to dissemination of classified information unless the originating agency (record owner) has determined that prior authorization is required for such dissemination and has marked or indicated such requirement on the medium containing the classified information. See Executive Order 13526, Classified National Security Information, section 4.1(i) (December 29, 2009). Throughout CARRP, Officers must also keep in mind that guidelines on confidentiality found at 8 CFR 208.6 apply, per regulation (for asylum) and per policy (for refugee adjudications).

¹¹⁸ USCIS, Office of the Director, Policy Memorandum, “Revision of Responsibilities for CARRP Cases Involving Known or Suspected Terrorists” (July 26, 2011).

The Designated Officer must initiate the external vetting process before the case may proceed to final adjudication if the following three conditions are met:

- The application or petition appears to be otherwise approvable and internal vetting is complete;
- There is an identified record owner in possession of NS information¹¹⁹; and
- The NS concern remains.¹²⁰

If the external vetting process results in a finding that the NS concern no longer exists and if the individual is otherwise eligible for the benefit sought, the application or petition may be approved.¹²¹

Possible Procedural & Decisional Outcomes for Step 3:

A. If NS Concern Resolved → Routine Adjudication

B. If NS Concern Remains → Consider the results of the external vetting as it pertains to the adjudication and proceed to Step 4 – Final Adjudication.

13.1.4 Step 4: Final Adjudication

This is the final decision on the case. This determination is made only after all vetting by both the division and HQFDNS, in certain limited circumstances, is complete.

Upon completion of all required vetting, if the NS concern remains, you must:

- Evaluate the results of the vetting as it pertains to the final adjudication;
- Obtain any additional relevant information (e.g., via a request for evidence, an interview, a re-interview, etc.); and
- Determine the individual's eligibility for the benefit sought.¹²²

The totality of the information obtained during the CARRP process is evaluated to determine if the NS concern has been resolved or confirmed, whether the application/petition should be approved or denied/referred, and when appropriate, whether to proceed with removal, rescission, termination, or revocation of an immigration benefit.

¹¹⁹ In the Asylum Division, even if there is no record owner, the FDNS-IO may conduct additional systems checks at this point.

¹²⁰ "Handling Potential National Security Concerns with No Identifiable Records" Steve Bucher, Associate Director of Refugee, Asylum and International Operations (August 29, 2012).

¹²¹ "Refugee Adjudication Standard Operating Procedure: Cases Involving National Security Concerns," (May 14, 2008).

¹²² Ibid.

If the individual is ineligible for the benefit sought, the application or petition must be denied. If the vetting process results in a finding that the NS concern no longer exists, and if the individual is otherwise eligible for the benefit sought, the application or petition may be approved.

Though procedures differ between divisions, in general, cases with unresolved NS concerns cannot be approved without their respective HQ's concurrence, and for KSTs, concurrence of USCIS senior leadership.

Possible Procedural & Decisional Outcomes for Step 4:

- A. If NS Concern Resolved → Routine Adjudication
- B. If NS Concern Remains and External Vetting Reveals Ineligibility → Deny/Refer
- C. If NS Concern Remains, but More Information is Needed → Re-interview or take other steps to gather additional necessary information
- D. If NS Concern Remains & Case is Otherwise Approvable¹²³:
 - Likely will remain on hold
 - KSTs → Submit to Division's HQ for review. Can only be approved with USCIS Deputy Director concurrence.
 - Non-KSTs → Can only be approved with concurrence of a senior official (this could be in the field or in your division HQ depending on division-specific procedures).

National Security Vetting Terms¹²⁴

National Counterterrorism Center (NCTC): Established in August 2004 by the President to serve as the primary organization in the United States Government for integrating and analyzing all intelligence pertaining to terrorism and counterterrorism and to conduct strategic operational planning by integrating all instruments of national power. NCTC is a multi-agency organization.

Terrorist Screening Center (TSC): Created in September 2003 to consolidate terrorist watch lists and to provide 24/7 operational support for thousands of federal

¹²³ Note: RAD has the ability to deny such cases as a matter of discretion at HQ. Asylum also has the ability to deny cases as a matter of discretion. See Asylum Supplement.

¹²⁴ FDNS-NSB CARRP Overview for RAIO PowerPoint Presentation, 14 July 2011 (on file with RAIO Training).

screeners across the country and around the world. TSC is administered by the FBI.¹²⁵

Terrorist Identities Datamart Environment (TIDE): A database that contains highly classified information provided by members of the Intelligence Community such as the CIA, DIA, FBI, and NSA as well as Law Enforcement Agencies. From this classified database, an unclassified extract is provided to the TSC. This information is then used to compile various watch lists such as the No-Fly list, the State Department's Visa & Passport Database, and the FBI's National Crime Information Center (NCIC) for state and local law enforcement.

National Targeting Center (NTC): Administered by CBP and performs risk analyses and tactical support for the field in identifying individuals who may pose national security threats at ports of entry and other CBP border checkpoints. The NTC coordinates with many other federal agencies in coordinating anti-terrorism efforts.¹²⁶

Terrorist Screening Database (TSDB): An unclassified database that includes many subset watch lists, such as the No-Fly List and Selectee List.¹²⁷

No-Fly List: Individuals who are prohibited from boarding an aircraft.

Selectee List: Individuals who must undergo additional security screening before being permitted to board an aircraft.

FDNS-DS CARRP Terms

Fraud Detection and National Security Data System (FDNS-DS): FDNS-DS is a central repository that permits specially-trained employees to record, track, and manage the background check and adjudicative processes related to immigration applications and petitions with suspected or confirmed fraud, criminal activity, egregious public safety, and/or national security concerns.¹²⁸

Background Check and Adjudicative Assessment (BCAA): Worksheet generated from FDNS-DS to document the actions taken by the Designated Officer conducting the eligibility assessment, internal vetting, external vetting, and deconfliction. The BCAA is used to document national security concerns and track actions taken on applications or petitions where such concerns exist.¹²⁹

¹²⁵ "Operational Guidance for Vetting and Adjudicating Cases with National Security Concerns" Operational Guidance, Donald Neufeld, Acting Associate Director Of Domestic Operations (April 24, 2008).

¹²⁶ Ibid.

¹²⁷ Ibid.

¹²⁸ Ibid.

¹²⁹ Ibid.

Request for Assistance (RFA): Formal request for assistance from the field to HQFDNS in vetting cases with NS concerns. These are tracked in FDNS-DS.

Statement of Findings (SOF): Upon completion of external vetting, the HQFDNS Officer responds to the RFA from the field by entering an SOF in FDNS-DS which details the results of the external vetting¹³⁰

14 CONCLUSION

As the United States continues to face national security threats, RAIO plays a critical role in defending the homeland by maintaining the integrity of our immigration benefits programs. In this regard, it is critical for you to properly assess each case in consideration of possible national security concerns and to follow your division's procedures for processing these cases through CARRP.

15 SUMMARY

U.S. immigration laws contain provisions to prevent individuals who may be threats to national security from receiving immigration benefits. As an adjudicator, you will identify potential NS indicators and concerns and process those cases in accordance with these laws.

15.1 National Security Concerns

There are two kinds of NS concerns: Known or Suspected Terrorists (KSTs) and Non-Known or Suspected Terrorists (non-KSTs). KSTs are identified by specific systems check results. Non-KSTs are NS concerns identified by any other means, including, but not limited to, applicant testimony, file review or country conditions research.

NS indicators may lead to finding an NS concern. NS indicators can be statutory or non-statutory

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An NS concern exists if there is an articulable link between the applicant and the activities, associations described in to prior, current, or planned involvement in, or association with, an activity, individual, or organization described in INA §§ 212(a)(3)(A), (B), or (F), or 237(a)(4)(A) or (B) (commonly referred to as TRIG).

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¹³⁰Ibid.

15.4 CARRP

The Controlled Application Resolution and Review Program (CARRP) is the 4-step process through which USCIS vets and adjudicates national security cases.

15.4.1 The steps of CARRP are: (1) Identify NS Concerns (2) Internal Vetting and Eligibility Assessment (3) External Vetting (4) Final Adjudication.

15.4.2 Deconfliction is a term used to describe coordination between USCIS and another government agency owner of NS information (the record owner) to ensure that planned adjudicative activities (e.g., interview, request for evidence, site visit, decision to grant or deny a benefit, and timing of the decision) do not compromise or impede an ongoing investigation or other record owner interest.

15.4.3 FDNS-IOs play a role in processing and vetting NS concerns; this role varies depending on your division.

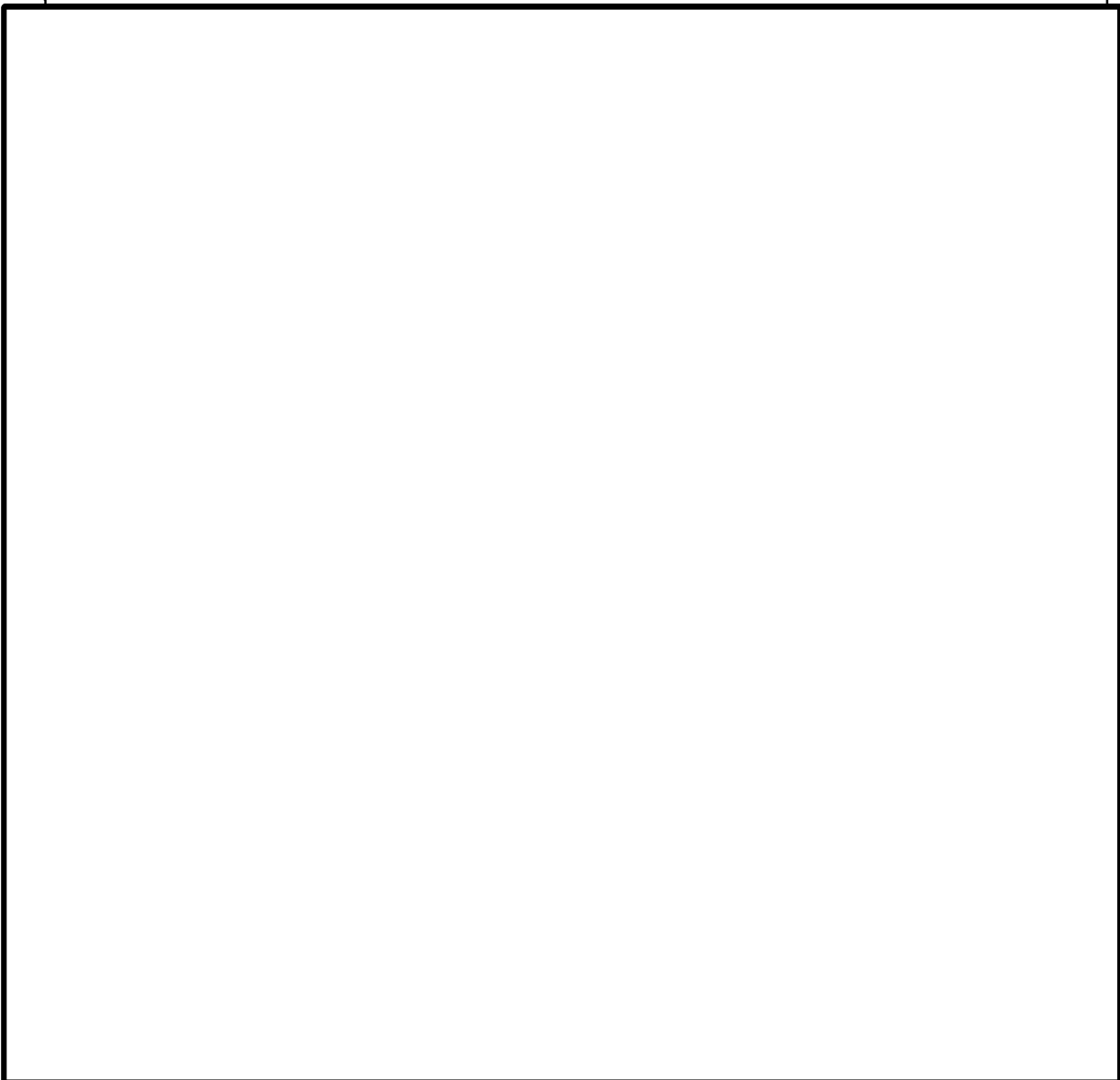


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RAD Supplement – 2

**12.2 Documenting Cases Involving National Security Indicators and Concerns
(CARRP Procedures) ¹⁴³**

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¹⁴³ See Refugee Adjudication Standard Operating Procedures; Cases Involving National Security Concerns, (May 14, 2008) for a full discussion of national security policy and procedures.

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