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Immigration Security Checks

by **Darren Silver**

ALL applicants for an immigration benefit are subject to criminal and national security background checks to make sure they are eligible for that benefit.

Since 2002, the United States Citizenship and Immigration Services (USCIS) has increased the number and scope of relevant background checks, processing millions of security checks. USCIS strives to balance the need for timely service with the need to ensure a high level of integrity. This article, taken from the Fact Sheet issued by USCIS on security checks, will outline the framework of the immigration security check process; explain its necessity; as well as factors that contribute to delays in resolving pending cases.

When does USCIS conduct security checks?

USCIS conducts security checks for all cases involving a petition or application for an immigration benefit. This is done to protect national security and to ensure the integrity of the immigration process. Security checks have yielded information about applicants involved in violent crimes, sex crimes, crimes against children, drug trafficking, and individuals with known links to terrorism. USCIS works closely with the FBI and other government agencies in conducting these security checks. No immigration application or petition will be granted before the checks have been completed.

How do security checks work?

To ensure that immigration benefits are given only to eligible applicants, USCIS adopted procedures that address a wide range of possible risk factors. Different kinds of applications undergo different levels of scrutiny. USCIS normally uses the following three background check mechanisms:

Inter-Agency Border Inspection System (IBIS) Name Check – IBIS is database of lookouts, warrants, arrests, and convictions consolidated from over 20 agencies. USCIS can quickly check information from these multiple government agencies to determine if the information system affects the adjudication of the case. Results of an IBIS are usually available immediately. In some instance, information found during an IBIS check will require further investigation.

FBI Fingerprinting Check – The FBI's Automated Fingerprint Identification System (IAFIS) matches criminal history records from federal, military, and most state apprehensions. It provides information relating to criminal background within the United States. Generally, the FBI forwards responses to USCIS within 24 to 48 hours. If there is a record match, the FBI forwards an electronic copy of the criminal history to USCIS. At that point, a USCIS adjudicator reviews the information to determine what effect it may have on eligibility benefit. About ten percent of the inquiries submitted by USCIS uncover criminal history, including immigration violations.

FBI Name Checks –The FBI name check is totally different from the FBI fingerprint check. USCIS electronically submits the applicant’s name to the FBI National Check Program. The records maintained in the FBI name check process consist of administrative, applicant, criminal, personnel and other files compiled by law enforcement. Initial responses to this check generally take about two weeks. In about 80 percent of the no match is found. Of the remaining 20 percent, most are resolved within six months. Less than one percent of cases remain pending longer than six months.

For petitions and application filed in consulates, there are other security checks involved. These are: (1) Visa Condor checks which arise from information disclosed on a Form DS 157 or because a person is from designated terrorist countries like of Iran, Cuba, Syria, Sudan, North Korea or Libya; (2) Visa Mantis checks relating to an applicant, who because of his actions or background, may be involved in the transfer of sensitive technology; and (3) criminal background checks which arise from a hit in the National Crime Information Center (NCIC) database or from other sources.

After September 11, USCIS has continuously made changes to improve the adequacy of security checks, detect applicants who pose security risks, deter fraud, and ensure that benefits are granted only to eligible applicants. For most applicants, the process outlined above allows USCIS to quickly determine if there are criminal or security related issues in the applicant’s background. Most cases proceed smoothly but some delays on individual applications are not uncommon. To minimize delay, clients should inform their attorneys of prior arrests so they can prepare a complete application which includes certified disposition of records. Even expunged or vacated conviction must be reported for immigration purposes.

The Law Offices of Darren B. Silver & Associates concentrates exclusively to the practice of immigration and naturalization law. Mr. Silver has an extensive knowledge of all aspects of immigration law and procedures. His career in immigration includes a prior position as an Adjudications Officer for INS in Los Angeles, California. Mr. Silver served the INS for a period of three years, from 1992 through 1995. While working for INS, Mr. Silver assisted in recommending policy decisions, interviewing aliens for status changes and reviewed naturalization appeals.

The experience of working inside the INS has allowed Mr. Silver significant insight into maneuvering through the complex maze which makes up the Immigration Service. Mr. Silver formed the Law Offices of Darren B. Silver in 1996 and has maintained one of the most successful immigration practices in the country. Mr. Silver is an active member of the California Bar, the Los Angeles County Bar Association immigration section, American Bar Association and the American Immigration Lawyers Association (AILA).

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Please contact the office for a [free consultation](#)

Tel: (213)84-1900

E-mail: info@darrensilver.com