




U.S. Citizenship
and Immigration
Services

Interoffice Memorandum

TO: Regional Directors
Service Center Directors
District Directors, Including Overseas
Asylum Office Directors
Fraud Detection Unit Chiefs
National Benefits Center Director

FROM: Michael Aytes 
Acting Associate Director, Domestic Operations

DATE: APR 25 2006

SUBJECT: Background Checks and Naturalization Interview Scheduling

As you know, consistent with our regulations, USCIS has not been scheduling naturalization interviews until we receive the results of the fingerprint checks that we conduct with the FBI, which we normally receive within a few days after the applicant appears for fingerprinting. We do not approve a naturalization application without first resolving all background checks concerning the applicant. For purposes of judicial economy, we will promptly cease even to schedule any naturalization interviews until all background checks have been completed in a particular case. This will mean cases will not be scheduled for interview until we have both the results of the fingerprint check and the results of the separate FBI name check process.

The FBI name check is another background check normally used in naturalization cases. 82% of FBI name checks are resolved within a few weeks. 99% are resolved within six more months. Unfortunately, the FBI name check in the remaining cases can sometimes take months and in rare instances years to resolve.

Naturalization adjudications are subject to a unique law, Section 336(b) of the Immigration and Nationality Act. That law allows an applicant to bring a lawsuit in federal court and allows the court to take over jurisdiction of the case if USCIS has not adjudicated the case within 120 days from when the examination was conducted. Thus, applicants in less than 1% of cases awaiting an FBI name check by that point have sometimes sought to bring such a lawsuit.

Not surprisingly, even when such lawsuits are brought, courts have not been approving the naturalization applications of applicants whose background checks have not been resolved. A few courts facing four-year old cases have given USCIS and FBI a deadline within which to complete the check, but the government has been able to complete the process within the court ordered deadline.

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USCIS is steadily reducing its processing backlog toward a six months average processing time for naturalization cases. As USCIS has, due to your hard work and accomplishments, made progress in backlog reduction, a disparity has grown between USCIS normal processing time and the time it takes the FBI to complete its records check on the less than 1% of cases that require special FBI attention.

The applicants affected by those delays from the FBI name check process have increasingly begun to file lawsuits asking federal courts to decide naturalization cases that are not yet ripe for review because the background checks are not yet completed and resolved. USCIS will vigorously defend those lawsuits and is confident courts will not make decisions that frustrate national security.

Meanwhile, USCIS will begin imposing restraints on its processes to prevent the scheduling of a naturalization interview until all background checks, including the FBI name check, are completed. A priority information technology service request has been submitted to the OCIO's office to impose this block on interview scheduling.

While this will not necessarily eliminate mandamus actions, it will eliminate attempts to shift cases to the court before they are ripe for adjudication. USCIS also continues to work with the FBI to seek shorter times for FBI name checks.

This change in procedures will only affect naturalization interviews. It will take effect when the needed systems change is made, and will be prospective only. As soon as possible you will be notified when that change will take effect. When implemented, this change will clearly result in a temporary decrease in the number of cases available for scheduling, so field managers will need to begin to plan to use the resources not needed for these interviews on continued cases and other work.

Cc: General Counsel
International Operations
National Security and Records Verification