

4. Reviewing Processing Delays Caused by USCIS Security Screening

FBI name checks significantly delay adjudication of immigration benefits for many customers and may not achieve their intended national security objectives. The Ombudsman fully supports robust and thorough screening of foreign nationals. At the same time, the Ombudsman is seeking a review of the current FBI name check process to ensure that it meets U.S. national security goals while not unduly delaying adjudications for legitimate applicants.⁹⁴

5. Improving USCIS Customer Service and Communications

USCIS service and communications with its customers are key concerns of the Ombudsman. Recently, the Ombudsman has seen some improvement in USCIS customer service and communications with customers, though these issues continue to be challenges for USCIS.⁹⁵

VII. CASE PROBLEMS

By statute, the Ombudsman receives and processes case problems to assist individuals and employers who experience problems with USCIS.⁹⁶ The case problem resolution unit helps identify systemic issues that, once corrected, will prevent the reoccurrence of future such case problems.

A. Case Problem Processing

1. How to Submit A Case Problem

The Ombudsman's website, www.dhs.gov/cisombudsman, provides detailed information on how to submit a case problem:

First, please write a letter or use DHS Form 7001, which was accessible on the Ombudsman's website as of June 6, 2007. If writing a letter, please provide the following information in the order below to assist in identifying your case.

- For the person with the case problem, please provide the person's: (1) full name; (2) address; (3) date of birth; (4) country of birth; (5) application/petition receipt number; and (6) "A" number;
- The USCIS office at which the application/petition was filed;
- The filing date of the application/petition; and
- A description of the problem.

⁹⁴ See section III.F.

⁹⁵ See sections III.D and K.

⁹⁶ See 6 U.S.C. § 272(b)(1).

Second, to protect your privacy, we need to verify the identity and the accuracy of the information. Please date and sign your letter and include the following statement:

“I declare (certify, verify, or state) under penalty of perjury under the laws of the United States that the foregoing is true and correct.”

In addition, please include either or both of the following, if applicable:

- If you are not the person whose case about which you are inquiring, you must obtain the person’s (applicant’s or the petitioner’s) consent. The person should include the following statement as part of the consent documentation submitted with the case problem:

“I consent to allow information about my case to be released to [name of requester].”

- If you are an attorney or accredited representative, please include a copy of your USCIS Form G-28 (Notice of Entry of Appearance as Attorney or Representative).

Finally, please mail your case problem, including your dated and signed letter and copies of documents relevant to your case inquiry, to either of the following addresses:

Via regular mail:

Citizenship and Immigration Services Ombudsman
ATTN: Case Problems
U.S. Department of Homeland Security
Mail Stop 1225
Washington, D.C. 20528-1225

Via courier service:

Citizenship and Immigration Services Ombudsman
ATTN: Case Problems
U.S. Department of Homeland Security
245 Murray Lane
Washington, D.C. 20528-1225

2. Processing

When the Ombudsman receives a case problem, the information is reviewed, issues analyzed, and an appropriate course of action determined. If appropriate, the case is electronically forwarded to the USCIS Customer Assistance Office for a response within 45 calendar days. If customers inform the Ombudsman that they did not receive a USCIS response within 45 calendar days, the Ombudsman’s office sends a follow-up letter via email to USCIS.

3. Assistance Available

a. Scope of Assistance

Many people with case problems seek to reverse USCIS decisions. However, the Ombudsman cannot adjudicate immigration applications or petitions, or reverse adverse USCIS decisions. Additionally, the submission of a case problem cannot substitute for the legal options available to correct problems. Finally, the Ombudsman cannot grant immigration benefits or request that USCIS grant exceptions to statutory mandates (such as the grant of a petition despite visa retrogression of the particular visa category.) The statutory authority for these actions rests with USCIS. Although the Ombudsman cannot provide legal advice, the office can give assistance in cases where the individual or employer is challenging a particular result and USCIS has not responded in a timely manner.

The Ombudsman is charged with identifying systemic problems in the immigration benefits process and proposing process changes to USCIS. Thus, individuals and employers should submit comments and suggestions for improving USCIS processes and procedures via the trends email box, cisombudsman.trends@dhs.gov.

b. Jurisdictional Issues

By statute, the Ombudsman only accepts case problems that pertain to applications and petitions for immigration benefits filed with USCIS. The Ombudsman does not have authority to assist customers in cases that are not within USCIS jurisdiction. Problems experienced with ICE, CBP, DOS (including the National Visa Center as well as U.S. embassies and consulates), DOL, Executive Office of Immigration Review, or any other federal, state, or local authority must be resolved directly with those entities.

Nevertheless, the Ombudsman recognizes that divisions of responsibility are not always clear to the public, which often views immigration processes as a single process handled by the government and not by discrete departments. The Ombudsman believes in a holistic approach to immigration. To promote this concept, the office is expanding its relationship with other agencies. The objective is to stimulate the establishment of an interagency understanding that supports complete and timely responses to individuals with immigration problems regardless of the source of the problems.

c. Legal Advice

The Ombudsman cannot provide legal advice to individuals and employers on immigration laws, regulations, policies, or procedures. For individual cases, the Ombudsman is statutorily limited to providing assistance to individuals and employers with pending applications/petitions who are experiencing problems with USCIS.

B. Case Problem Data

The Ombudsman receives letters, emails, and telephone calls from individuals seeking immigration assistance. The office also often receives inquiries via facsimile, but for privacy reasons the Ombudsman currently only accepts case problems received via U.S. mail or a courier

service. Case problems are based on the description of the facts provided to the Ombudsman by individuals seeking assistance.

The Ombudsman recently posted DHS Form 7001 on www.dhs.gov/cisombudsman, which will facilitate the submission of case problems by individuals and employers. It is a fillable form that customers can complete online, print, and mail to the Ombudsman. As described in the Outreach section above, the Ombudsman is coordinating with other DHS components to create a Virtual Ombudsman's Office which will allow individuals and employers to submit case problems through the internet.

During the reporting period, the Ombudsman received approximately 1,859 case problems by U.S. mail or courier service and referred them to the CAO for further action. Many of these case problems involved multiple issues ranging from long processing times to USCIS service errors; over 3,424 issues were identified by the Ombudsman within these case problems. The Ombudsman also received over 500 other written inquiries such as information requests, inquiries outside of the jurisdiction of this office, and inquiries for which the USCIS decision was subsequently issued.

The Ombudsman also received daily emails detailing problems and recommendations for USCIS, as well as providing information to this office. Since the start of the office in July of 2003, the Ombudsman has received 8,284 email inquiries of which 2,929 arrived during the current report period.⁹⁷ If an email inquiry is within the office's jurisdiction and the individual indicates having exhausted all avenues with USCIS, the Ombudsman requests that the individual submit a case problem via U.S. mail or courier service. In addition, the office often provides individuals with links to resources available on USCIS' website, as well as to other federal agencies, to assist them in finding solutions.

The most common types of complaints received through the mail or courier service during the reporting period are lengthy processing times and the perception of a lack of helpful responses from USCIS. Of the 1,859 case problems referred to USCIS for action, 1,593 complaints (over 85 percent of written case problems received) involved processing delays. The highest number of processing delay cases involved lack of helpful responses to USCIS inquiries, which totaled 1,006 complaints (over 54 percent of all written case problems received). Similar to the 2006 reporting period, another large number of processing delay case problems were due to FBI name checks; there were 479 complaints (over 25 percent of all written case problems received) in this category. There were several complaints related to general security check issues, totaling 191 (approximately 10 percent of all written case problems received). The Ombudsman also received many complaints from USCIS customers regarding USCIS errors.

The four USCIS service centers -- Vermont, Texas, Nebraska, and California -- had the highest number of complaints during the reporting period. This is expected as they process the highest number of cases. Identical to last year, the Vermont Service Center had the highest

⁹⁷ For this reporting period, the Ombudsman refined the count for the number of emails received. In the 2006 Annual Report (at p. 80), the Ombudsman reported on all emails contained in the cisombudsman@dhs.gov email box. During this reporting period, the email count only reflects correspondence with individuals and employers and no longer includes DHS, internal Ombudsman, or advertising emails.

number of service center complaints during the reporting period at 30 percent. The California Service Center had the lowest number of service center complaints with just over 20 percent.

The NBC, a field office pre-processing center, received 111 complaints. The New York and Miami field offices followed closely behind the NBC for number of complaints received by the Ombudsman at 100 and 99, respectively. Other field offices with significant complaint totals, from highest to lowest, were Washington D.C., Chicago, Baltimore, Atlanta, Newark, and Garden City, NY. In total, the Ombudsman received complaints regarding over 70 USCIS facilities during the reporting period.

C. Ombudsman's Access to USCIS

1. Limited Access to Selected USCIS Databases for Case Problem Resolution

As reported in previous reports, the Ombudsman has sought access to specific USCIS databases to facilitate understanding of case problems. Some staff have been granted read-only access to certain USCIS data systems. In this reporting period, efforts to give all staff with case problem responsibility access to these systems has not succeeded because of hardware problems and the lack of coordination at both USCIS and DHS. Once access is implemented, the Ombudsman will be able to validate information provided by customers, research more aspects of case problems, and develop better informed recommendations for USCIS remedial action.

2. No Access to USCIS Offices to Resolve Individual Case Problems

Since the inception of the office, the Ombudsman has sought to establish direct contact with USCIS personnel nationwide to facilitate the resolution of problems encountered by individuals and employers. Many of USCIS' senior employees have been helpful in resolving cases that indicate larger problems. However, in most cases, USCIS requires that the Ombudsman go through the CAO after a problem is received by the Ombudsman. Normally, the case is reviewed and then forwarded to the CAO for action. The CAO has 45 days to respond per rules established by USCIS.

The CAO usually refers case problems to the service center or field office for action. Once the field office responds, the CAO will respond by sending a letter or notice directly to the inquirer and the Ombudsman. Direct access by the Ombudsman to USCIS service centers and field offices to address case problems would save both USCIS and the Ombudsman time and effort. In addition, because of the added CAO layer and its standard form letters to respond to inquiries, the Ombudsman often cannot ascertain whether a particular inquiry is truly a case problem and whether the case is worth further review for systemic issues.

During the reporting period, the CAO has been increasingly responsive to the Ombudsman's inquiries. For example, this year the CAO established a liaison responsible for Ombudsman cases. In addition, the CAO and the Ombudsman now have regular meetings to discuss their common goal of assisting customers. Despite this progress, the Ombudsman hopes that USCIS will eliminate the headquarters layer between the Ombudsman and field offices or service centers where case files are located.

Notably, the CAO has other responsibilities. In addition to public inquiries, the CAO serves as a back-up unit for congressional and DHS Executive Secretary inquiries. It appears that the Ombudsman's inquiries receive lower priority to these other inquiries.

Moreover, oftentimes the CAO uses the Service Request Management Tool to contact field offices. Although the field office should get back to the CAO within 30 days, these SRMT requests sometimes go unanswered. By providing the Ombudsman direct access to USCIS offices, response to correspondence would be streamlined and, thereby, enhance the ability of the Ombudsman to meet the statutory mandate to assist individuals and employers.

Finally, in many instances, the CAO's standard form responses do not provide adequate information to customers. As a result, customers often return to the Ombudsman for further assistance. Many customers approach the Ombudsman because they could not obtain satisfactory assistance through USCIS channels, such as the toll free telephone number, appointments at the local field office via INFOPASS and the Case Status Online system, or through USCIS addressed congressional inquiries.

VIII. 2007-2008 REPORTING YEAR OBJECTIVES

In 2007-2008, the Ombudsman will continue to identify areas in which individuals and employers have problems dealing with USCIS and, to the extent possible, propose changes to mitigate identified problems. The Ombudsman will gather information and feedback from USCIS customers and stakeholders by continuing to: (1) conduct frequent site visits to USCIS facilities throughout the country; (2) meet regularly with community, employer, and immigration law organizations; and (3) expand individual and employer access to the Ombudsman.

The Ombudsman will improve the process for resolving problems individuals and employers face in dealing with USCIS by establishing a Virtual Ombudsman's Office to provide for online case problem submission, improved analysis and reporting capabilities, and electronic interface with customers and stakeholders to share concerns and solutions. As discussed in this report, the Ombudsman also looks forward to improving the partnership with USCIS to address both individual case problems and systemic issues.

The Ombudsman will continue to staff its operations with subject matter experts, who have both government and private sector experience, including federal employees and other experts contracted for specific projects. Issues for the next reporting period will include: (1) assessment of NCSC call centers and the USCIS response to public inquiries; (2) evaluation of the cost and efficiency of premium processing relative to regular processing; (3) review of the effectiveness of dividing responsibilities between field and service center operations; (4) assessment of the up-front processing pilots and the 90-day green card programs; (5) review of USCIS' progress in implementing a strategic human capital plan; and (6) assessment of the accuracy and value of the production data USCIS collects.

Additionally, the Ombudsman will continue to initiate and expand activities to promote interagency cooperation and holistic approaches to immigration, as illustrated by the existing monthly meetings with the DOS, DOL, and offices within USCIS focused on employment-based