

Vetting, Security and Fraud Screening in Asylum Process

In the aftermath of World War II, the United States was a leader in building an international system for the protection of refugees, to ensure that the nations of the world would never again turn away people fleeing persecution. The United States passed the Refugee Act of 1980, which codified our country's obligations under the 1951 Refugee Convention and its 1967 Protocol into domestic law and created a mechanism for refugees at risk of persecution to seek asylum in the United States. The U.S. asylum system is rigorous, requiring detailed interviews with DHS-USCIS officers or immigration court hearings, as well as extensive security and intelligence vetting. As detailed below, biometric and biographical vetting is conducted with the FBI, the Department of Defense, the National Counterterrorism Center, and other databases that include intelligence agency and terrorist watchlist information. No individual may be granted asylum until this interagency security process is complete.

DHS Interviews and Immigration Court Hearings

Before an individual can be granted asylum in the United States, the asylum seeker must submit a detailed application to U.S. authorities, along with available documentation and supporting information. Individuals who file an "affirmative" application for asylum are interviewed by a highly trained DHS-USCIS asylum officer; if their applications are not granted, they are referred into immigration court removal proceedings where an immigration judge will rule on their asylum application after a hearing, which includes cross-examination by a DHS-ICE attorney. Other individuals who are referred into immigration court removal proceedings also have their asylum applications assessed through the immigration court process. The DHS officer or the immigration judge will assess the asylum seeker's credibility, determine whether the standards for asylum eligibility are met, and assess whether U.S. laws bar the individual from asylum. Various categories of individuals are barred from asylum including individuals who pose a threat to the security of the United States.

Individuals Posing Security Threats are Barred from Receiving Asylum

The Refugee Convention's requirements of protection are subject to exceptions that exclude from protection any persons who have committed heinous acts or grave crimes that make them undeserving of international refugee protection. The United States has codified extensive **bars to asylum and withholding of removal** into its immigration laws. U.S. immigration laws **prohibit granting asylum to:**

- People who engaged in or assisted in or incited the persecution of others;
- People who have been convicted of a particularly serious crime in the United States;
- People who have committed a serious non-political crime abroad;
- People who have engaged in terrorist activity;
- People who are representatives of foreign terrorist organizations; or
- People who otherwise pose a threat to the security of the United States.

In addition, non-citizens, including those lawfully admitted to the United States or previously granted asylum, can be deported from the United States for a broad range of violations of law both civil and criminal. The full lists of grounds that can make a non-citizen deportable from, or inadmissible to, the United States are found at sections 237 and 212 of the Immigration and Nationality Act (INA). They are extensive, ranging from failing to register a change of address to a very broad range of criminal offenses, including an extremely broad array of terrorism-related activities, including:

- Any unlawful use of a weapon or other dangerous device with intent to injure, directly or indirectly, the safety or one or more people or to cause substantial damage to property, for any purpose other than mere personal monetary gain;
- Any incitement, preparation, planning, or gathering of information for such purposes;
- Any material support to any terrorist organization (defined extremely broadly to include any group of two or more people, foreign or domestic, that engages in the use of a weapon or other dangerous device as just described);
- Membership in a terrorist organization; or
- Any solicitation of funds or persons for purposes of terrorist activity or membership in a terrorist organization.

Mandatory Biographical Vetting by Federal Law Enforcement and Intelligence Agencies:

- **DHS-USCIS Central Index System:** USCIS checks biographical data of asylum applicants against its Central Index System to determine if they have previously been encountered by immigration authorities and issued an “alien” number.
- **National Security, Terrorist and Intelligence Vetting via TECS Database:** DHS-USCIS screens the applicant’s biographical data against TECS, Custom and Border Protection’s law enforcement and national security database, which contains enforcement, inspection, and intelligence records. TECS contains various types of information from a variety of federal, state, local, and foreign sources, and records pertaining to known or suspected terrorists, wanted persons, and persons of interest for law enforcement and counterterrorism purposes.
- **EARM – ENFORCE Alien Removal Module:** ICE personnel check the applicant’s biographical data against this ICE database that contains records of aliens in detention, exclusion, and removal processes.
- **FBI name check:** The FBI searches for the applicant’s name(s), including multiple combinations of that name, and date of birth in their records, searching its Central Records System, which includes records of FBI Headquarters, field offices, and legal attaché offices, as well as all investigative files.
- **Consular Consolidated Database (CCD):** The Department of State’s web-based CCD is searched to obtain information about the identity, previous travel history, method of entry into the U.S. and background of an asylum applicant.

Mandatory Biometric Vetting by Federal Law Enforcement and Intelligence Agencies:

- **FBI Fingerprint Checks:** A complete set of fingerprints and biometrics (signature, photograph and index print) is taken from asylum applicants between the ages of 12 years 9 months and 79 years. The FBI electronically searches the fingerprints within the Integrated Automated Fingerprint Identification System, the largest criminal fingerprint database in the world and includes some 73,000 known and suspected terrorists processed by the U.S. and international law enforcement agencies.
- **DHS Biometric Checks (IDENT) – including identity confirmation and terrorist watchlist:** The Office of Biometric Identity Management (OBIM), part of the National Protection and Programs Directorate of the U.S. Department of Homeland Security (DHS), provides biometric identity assessment for each asylum applicant through the Automated Biometric Identification System (IDENT). This system is used to confirm identity, determine previous interactions with government officials and detect imposters. OBIM checks each person’s biometric information against a watchlist of known terrorists, criminals and immigration violators, it checks the same information against its entire database of fingerprints to determine if the person has used an alias or is using fraudulent identification. OBIM also checks fingerprints against those associated with the identification document provided by the asylum applicant to ensure the document belongs to the individual. It also contains visa application information owned by the Department of State. The 10 fingerprints – referenced above in connection with the FBI fingerprint check - are also electronically submitted to the IDENT database, where they are stored and matched to existing fingerprint records.
 - **Department of Defense Biometric and Watchlist System:** A biometric check against the Department of Defense (DOD) Automated Biometric Identification System (ABIS) is conducted for all cases. ABIS is DOD’s biometric system

for matching, storing, and sharing biometrics with the FBI, the National Ground Intelligence Center, DHS, and other U.S. government agencies to identify biometric matches in support of U.S. criminal cases, border control, and intelligence watch lists. The DOD's Biometric Enabled Watchlist, located within ABIS, includes known or suspected terrorists, national security threats, and current and former DOD detainees. ABIS also shares biometric data with DHS's IDENT system.

- **National Counterterrorism Center:** The biographic information of asylum applicants is also screened against the National Counterterrorism Center's terrorism holdings, a "super-database" of terrorism related intelligence that draws on more than 30 intelligence, military, law enforcement and homeland security networks.

Fraud Detection and National Security Teams:

The measures outlined above, including the intensive biographic and biometric security and identity vetting, are employed to identify national security threats and potential fraud and imposters. In addition, DHS has an office of Fraud Detection and National Security (FDNS) that works to identify fraudulent asylum claims by training asylum officers and providing technical support. Asylum officers may refer particular applications to FDNS and/or ICE for criminal investigation and prosecution. The FDNS officers conduct in-depth vetting on cases with national security concerns. This includes liaising with local Joint Terrorism Task Forces regarding cases. FDNS officers are located in every USCIS Center, District, Field, and Asylum office. These officers engage in fraud assessments, compliance reviews, and conduct targeted site visits.

With respect to cases pending before the immigration courts, upon the filing of any application before the court, the individual must submit a copy of that application to DHS so that the various vetting processes outlined above can be conducted. ICE attorneys monitor the background check results and report the results to the immigration court. ICE is also permitted to conduct any identity, background, and security checks it deems necessary to ensure the applicant is not a threat to national security. ICE also has specialized investigative staff charged with identifying fraud and national security risks, and can refer cases for criminal prosecution. No immigration benefit may be granted until ICE informs the court that all background and security checks have been completed.

With respect to addressing risks of fraud, a December 2015 GAO report recommended that, in addition to existing measures in place, DHS-USCIS and DOJ-EOIR conduct regular fraud risk assessments across asylum claims. The GAO concluded that while both agencies "have mechanisms to investigate fraud in individual applications, neither agency has assessed fraud risks across the asylum process, in accordance with leading practices of managing fraud risks." The report also recommended that USCIS take additional steps, including to develop and implement additional trainings, mechanisms to collect reliable data on FDNS's efforts to combat fraud, asylum-specific guidance for FDNS officers, methods to collect data on asylum officer attrition, prescreening of all asylum applications for indicators of fraud if cost-effective and feasible, and mechanisms to incorporate training feedback.

CBP Security Examinations:

As detailed above, security and background vetting measures must be completed before an individual can be granted asylum. For asylum seekers who enter the process after presenting themselves to CBP at a port of entry, or after apprehension by the Border Patrol, they will initially undergo vetting by CBP – which includes national security, terrorist and intelligence vetting via the TECS database (as outlined above). In addition, DHS-USCIS Asylum Officers conduct a mandatory check of both TECS and the DHS IDENT databases (both described above). These databases contain extensive intelligence and terrorist related data. In addition, asylum officers – at the credible fear stage - also ensure that the Federal Bureau of Investigation (FBI) name check and fingerprint checks have been initiated. All of this information is, as a result, available to ICE, so any derogatory information from this vetting will be available to ICE in connection with release assessments, and release criteria prohibit the release of individuals who present a danger to the community. ■