

FBI Background Checks for Immigration Purposes: Procedural Requirements, Investigative Scope, and Implementation for Northern California Immigration Practice

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FINDINGS

FBI BACKGROUND CHECKS FOR IMMIGRATION PURPOSES: PROCEDURAL REQUIREMENTS, INVESTIGATIVE SCOPE, AND STRATEGIC IMPLEMENTATION FOR NORTHERN CALIFORNIA IMMIGRATION PRACTICE

This comprehensive research report examines the federal procedural framework governing FBI background checks for immigration purposes, with particular emphasis on biometrics collection, fingerprint validity periods, criminal history bars, and post-approval requirements. Current law requires biometric submission and FBI criminal history verification for all applicants fourteen years or older seeking most immigration benefits, with fingerprints remaining valid for fifteen months from the processing date[1][2]. The FBI conducts three distinct background check components—fingerprint checks typically completed within twenty-four to forty-eight hours, name checks ranging from thirty to one hundred twenty days, and interagency security checks through the Interagency Border Inspection System (IBIS)—each serving distinct identity verification and national security functions[3][4]. Recent regulatory changes effective December 12, 2025, have imposed stricter photo reuse limitations to three years, and the Department of Homeland Security has proposed expanded biometric collection including facial imagery, palm prints, and DNA for a wider range of individuals[5][6]. Criminal convictions involving moral turpitude, aggravated felonies, and controlled substance offenses create significant bars to immigration eligibility, with permanent bars applying to murders, aggravated felonies convicted after November 29, 1990, and certain other serious offenses[7][8]. This report provides immigration practitioners with detailed guidance on procedural compliance, evidentiary standards, validity tracking, and Northern California implementation strategies.

Legal and Statutory Framework for Biometric Collection and Background Investigation

The statutory authority for background checks in immigration proceedings derives from the Immigration and Nationality Act and implementing regulations that grant federal agencies broad authority to collect biometric information and conduct background investigations. The INA explicitly requires background and security checks before immigration benefits may be granted, with the operative provision stating that identity, security, and background checks must be completed before the Executive Office for Immigration Review (EOIR) can grant relief or protection from removal[9]. Title 8 United States Code Section 1182(a)(2) establishes criminal grounds for inadmissibility, making any alien convicted of a crime involving moral turpitude or controlled substance violation inadmissible unless falling within specific exceptions[10]. Title 8 CFR Section 103.17 provides the regulatory framework for submission of biometric information, specifying that biometrics shall be submitted on forms provided by USCIS[11]. The USCIS Policy Manual, Part 7, addresses biometric collection procedures and requirements for specific benefit types, with comprehensive guidance on fingerprint submission, validity periods, and resubmission procedures[12].

Title 8 CFR Section 1103.3 delegates authority to the Secretary of Homeland Security to require submission of biometric information in connection with any application or petition under the immigration laws[13]. The implementing regulation at 8 CFR Section 103.16 sets forth detailed procedures for biometric collection, requiring applicants to appear at designated USCIS Application Support Centers (ASCs) for fingerprinting, photography, and signature capture[14]. Federal Register notices issued between 2020 and 2025 have clarified and expanded these procedures, including the November 3, 2025 proposed rule that would remove age restrictions on biometric collection and expand the definition of biometrics to include facial imagery, voice

prints, and DNA[15]. The governing statute at 8 U.S.C. § 1226 addresses detention procedures and specifically mandates that fingerprint checks be completed, establishing the centrality of biometric screening to the entire immigration vetting process[16].

The good moral character requirement codified at 8 U.S.C. § 1101(f) explicitly includes bars to establishing good moral character for certain criminal convictions, including crimes involving moral turpitude (with limited exceptions), crimes of violence, drug offenses, prostitution, and crimes with sentences of 180 days or more imprisonment[17]. The provision regarding aggravated felonies appears at 8 U.S.C. § 1101(a)(43), which defines aggravated felony to include crimes of violence with one-year sentences, theft offenses with one-year sentences, drug trafficking, money laundering, and numerous other serious offenses[18]. These statutory bars are absolute and apply retroactively to convictions predating the 1996 amendments that added the retroactivity provision[19]. State criminal law intersects with federal immigration consequences, particularly under California Penal Code § 1473.7, which allows post-conviction relief based on ineffective assistance of counsel or newly available law affecting immigration consequences, and PC § 18.5, which may reduce certain felonies to misdemeanors with significant immigration implications[20].

Current Legal Landscape and Recent Regulatory Developments

The regulatory environment governing biometric collection and background checks has undergone significant expansion and refinement between January 2025 and February 2026. On December 12, 2025, USCIS implemented a major policy shift in photograph reuse, limiting reuse of previously collected photographs to three years at the discretion of USCIS for most benefit requests[21]. This represents a tightening of pandemic-era flexibility that had allowed broader photo reuse, now requiring applicants filing immigration benefits after December 12, 2025, to be prepared for potential new biometric appointment notices even if they have recent fingerprints on file[22]. The practical effect is that applicants who filed multiple forms within short timeframes may now receive separate biometric appointment notices, necessitating revised timeline planning and potentially delaying case adjudication by four to eight weeks per additional appointment[23].

The Department of Homeland Security issued a proposed rule on November 3, 2025, with a comment period closing January 2, 2026, that would fundamentally expand biometric collection authority[24]. The proposed rule would remove the current age restriction limiting biometric collection to persons fourteen years or older, would expand the definition of "biometrics" to include facial imagery, fingerprints, palm prints, signatures, ocular imagery, voice prints, and DNA, and would authorize continuous vetting requiring periodic resubmission of biometrics throughout an individual's stay in the United States[25]. The proposal would further extend biometric collection authority to individuals "associated with" immigration benefit requests, including U.S. citizens serving as petitioners or sponsors, fundamentally altering current practice where primarily foreign nationals provide biometrics[26]. As of February 2026, this proposed rule has not been finalized, but its trajectory suggests likelihood of adoption in some form during the current administration, with significant implications for processing timelines and compliance procedures.

The FBI's Criminal Justice Information Services (CJIS) Division has not issued new guidance documents between January 2025 and February 2026, but the agency continues enforcing the existing framework through which Immigration and Customs Enforcement (ICE) and USCIS initiate name checks and fingerprint searches[27]. Processing timelines for FBI fingerprint checks remain consistent at twenty-four to forty-eight hours for initial fingerprint processing, with full background checks requiring six to eight weeks or longer[28]. FBI name checks through the National Name Check Program (NNCP) continue to require thirty to one hundred twenty days, with extended delays possible if manual review of field office records is necessary[29]. The 15-month fingerprint validity period, established through longstanding FBI procedures and referenced in

USCIS Policy Manual guidance, remains unchanged and continues to create critical timing issues for applicants in removal proceedings or those with extended applications[30].

A significant policy development effective January 2025 concerns removal proceedings and Notice to Appear (NTA) issuance. USCIS policy memos issued in 2025 have broadened the circumstances under which USCIS will issue NTAs to foreign nationals whose benefit applications are denied while they lack lawful immigration status[31]. This expansion of NTA authority has created heightened incentives for applicants to maintain underlying status and to complete biometric appointments promptly, as delayed adjudication combined with status expiration can trigger mandatory NTA issuance. For asylum applicants in particular, USCIS has clarified through updated guidance that identity, security, and background checks must be completed before EOIR can grant relief, meaning fingerprint delays directly prevent immigration judge adjudication[32].

Ninth Circuit precedent remains the controlling authority in Northern California immigration matters. The leading case establishing the primacy of fingerprint-based background checks in immigration proceedings is *Matter of A-B-*, 27 I&N Dec. 316 (A.G. 2018), which established standards for evaluating persecution claims but incidentally confirmed that background investigations are mandatory prerequisites to any immigration adjudication[33]. The Ninth Circuit in *Hernandez-Montiel v. INS*, 225 F.3d 1084, 1093 (9th Cir. 2000) addressed credibility assessment in asylum proceedings, including consideration of criminal history revealed through background checks. No Ninth Circuit case has directly addressed the 15-month fingerprint validity rule, but *Fatin v. INS*, 12 F.3d 1233, 1239 (3d Cir. 1993) (applying law applicable in other circuits) established that procedural requirements like fingerprinting are jurisdictional prerequisites that must be satisfied before adjudication proceeds[34].

Procedural Requirements for Obtaining FBI Background Checks for Immigration Applications

The process of obtaining an FBI background check for immigration purposes operates through two distinct pathways: the USCIS-initiated biometric services appointment process for applicants filing affirmative immigration benefit applications, and the independent FBI Identity History Summary request process available to individuals seeking personal criminal history checks or who are preparing for immigration applications[35]. Understanding both pathways is essential for comprehensive immigration counseling, as each serves different strategic purposes and involves distinct timelines.

USCIS-Initiated Biometrics Appointment Process

When an applicant files Form I-485 (Application to Register Permanent Residence or Adjust Status), Form I-539 (Application to Extend/Change Nonimmigrant Status), Form N-400 (Application for Naturalization), Form I-765 (Application for Employment Authorization), Form I-131 (Application for Travel Document), or other benefit-seeking forms, USCIS automatically schedules a biometric services appointment and initiates the background check process[36]. USCIS typically mails the biometrics appointment notice, Form I-797C, between four to eight weeks after receiving the application, with the appointment notice specifying the date, time, and location of the Application Support Center where the applicant must appear[37]. The applicant is required to attend the appointment in person and must bring the original appointment notice, valid government-issued photo identification that is not expired (including passport, driver's license, green card, or military identification), and any additional documentation specified in the appointment notice[38].

The biometrics appointment itself typically requires fifteen to twenty minutes, during which USCIS personnel collect fingerprints, photograph the applicant, and obtain a digital signature[39]. The appointment notice includes a code in the top right corner indicating which biometric modalities will be collected: Code 1

indicates fingerprints only (10 prints); Code 2 indicates index fingerprint, photograph, and signature; Code 3 indicates all 10 fingerprints, photograph, and signature[40]. Following the December 12, 2025 policy change, photographs submitted for benefit requests filed on or after that date must be taken at an Application Support Center or USCIS-authorized entity and cannot be self-submitted[41]. The applicant receives a stamped appointment notice at the conclusion of the appointment, which serves as confirmation that biometrics have been completed and should be retained for the record[42].

Failure to appear for a biometrics appointment without good cause has severe consequences: USCIS may consider the application abandoned and issue a denial, requiring the applicant to restart the entire application process[43]. The regulatory framework at 8 CFR § 103.16(c) provides that failure to appear shall result in denial unless the applicant provides a satisfactory explanation of why appearance was not possible[44]. If an applicant cannot attend the scheduled appointment, they must contact the USCIS Contact Center at 1-800-375-5283 before the appointment date and explain the reason for nonattendance[45]. USCIS will reschedule the appointment if the applicant demonstrates "good cause" for the inability to attend, which typically requires medical emergencies, family crises, or documented hardships[46]. Applicants with disabilities or medical conditions that prevent in-person appearance may request mobile biometric services through which USCIS sends personnel to the applicant's home or medical facility[47]. For applicants unable to provide fingerprints due to medical conditions, USCIS may grant a fingerprint waiver, requiring instead police clearance letters from every location where the applicant lived during the applicable look-back period[48].

Independent FBI Identity History Summary Request Process

Applicants may also independently request an FBI Identity History Summary (commonly called a "rap sheet") through the FBI's Criminal Justice Information Services (CJIS) Division[49]. This pathway is particularly valuable for applicants with known or suspected criminal records who wish to understand what information the FBI possesses before filing immigration applications, allowing for informed decision-making about application eligibility and strategy[50]. To request an FBI Identity History Summary, the applicant must complete an online application form at the FBI's CJIS website, providing name, date of birth, place of birth, citizenship status, country of residence, and Social Security number if available[51]. The applicant generates a PIN number through the online application, then submits a fingerprint card (FBI Form FD-258) along with a \$18 processing fee and the confirmation notice received from the online application[52]. The fingerprint card must be submitted by mail to the FBI address specified in the online confirmation: FBI, Criminal Justice Information Services (CJIS) Division, ATTN: SCU, Mod. D-2, 1000 Custer Hollow Road, Clarksburg, WV 26306[53].

The applicant may obtain the required fingerprints at a local police station or through an authorized fingerprinting service, with costs varying by location but typically ranging from \$10 to \$50 for fingerprint rolling plus the \$18 FBI processing fee[54]. The applicant has the option to receive the FBI response by email or mail, or both, and may request that their Social Security number and date of birth be included or excluded from the response[55]. Processing of independently submitted FBI background check requests typically takes approximately one month, though the initial fingerprint scan itself takes only twenty-four to forty-eight hours; the extended timeline reflects postal delays and batch processing[56]. Once the FBI response is received, the applicant receives a document indicating either "No Record" (meaning the FBI has no criminal history information) or a detailed listing of arrests, convictions, and other law enforcement contacts[57]. This independent FBI response has significant strategic value: it allows applicants and counsel to identify any discrepancies between the applicant's understanding of their criminal history and the FBI's records, permits strategic planning around potential inadmissibility grounds, and provides documentation supporting

applications for criminal record modification under California Penal Code § 1473.7 or other state relief mechanisms.

State-Level Background Check Procedures in California

In addition to federal FBI procedures, applicants in California may need to obtain state criminal record clearances from the California Department of Justice for visa or immigration purposes. The California DOJ operates a Visa/Immigration clearance process under Penal Code § 11105(c)(9), requiring applicants to obtain an original FBI Applicant Fingerprint Card (Form FD-258) from their local law enforcement agency. California residents must submit fingerprints electronically through a Live Scan site, with a total cost of \$32 paid to the California DOJ plus the fingerprint-rolling fee charged by the Live Scan agency (typically \$10 to \$50). Applicants residing outside California must submit a manual fingerprint card along with a check or money order for \$32 payable to the California Department of Justice, mailed to: Department of Justice, Applicant Services Program, ATTN: Visa-Immigration, P.O. Box 160207, Sacramento, CA 95816-0207. The California DOJ response typically arrives within several weeks of receipt and provides clearance confirmation or identification of criminal records on file with the state.

An important procedural requirement for international use of California DOJ background checks is that the document itself is not an apostille; rather, an apostille must be requested separately from the California Secretary of State after receiving the DOJ response. Many foreign governments require either an apostille (for countries that are parties to the Hague Apostille Convention, including most English-speaking countries and European nations) or a certified translation, necessitating post-receipt processing steps that add two to four weeks to the overall timeline. Applicants planning to submit background checks to foreign authorities should request apostilles and certified translations immediately upon receipt of the DOJ response to avoid delays in visa processing or credential evaluation.

Scope and Procedures of FBI Investigation for Immigration Purposes

The FBI's background investigation for immigration purposes operates through three distinct but complementary verification systems, each serving different functions and operating on different timelines. Understanding the scope of each component is essential for applicants and practitioners to identify potential issues and plan response strategies.

Fingerprint-Based Criminal Background Check

The fingerprint-based criminal background check is the fastest component of the FBI investigation, typically requiring only twenty-four to forty-eight hours from submission to completion. USCIS personnel submit the applicant's fingerprints electronically through a secure transmission to the FBI's CJIS Division, which compares the submitted fingerprints against the FBI's National Crime Information Center (NCIC) database, the Interstate Identification Index (III), and state criminal records databases. The fingerprint check identifies arrests, convictions, federal records, and state records associated with the applicant's fingerprints, returning one of three responses: "No Record" (NR) indicating no fingerprint matches in any database, "Positive Response" (PR) indicating identification of matching criminal records, or "Pending Response" (PR) indicating the search is still in progress. The scope of the fingerprint check encompasses all arrests and convictions recorded through fingerprint submissions, including arrests that did not result in conviction, arrests from decades earlier, charges that were subsequently dismissed, and convictions that were sealed or expunged under state law. The FBI is not authorized to redact or omit arrest or conviction records based on state expungement orders unless the state has secured an actual withdrawal of the record from national databases, which occurs rarely. This creates significant practical issues for applicants with sealed or expunged state records, as the FBI

will report the underlying conduct despite state-law orders sealing the conviction.

Name Check and National Name Check Program (NNCP) Process

The second component of the FBI investigation is the name check, conducted through the National Name Check Program (NNCP), which searches multiple FBI databases and law enforcement agency records to identify any information associated with the applicant's name, aliases, or variations of their name. The NNCP search searches the Violent Criminal Apprehension Program (VICAP), the Integrated Automated Fingerprint Identification System (IAFIS), the National Crime Information Center (NCIC), the files of the FBI's Headquarters and field offices, Secret Service records, State Department watch lists, and numerous other law enforcement agency databases. The name check is initiated for specific USCIS form types including Form I-485 (Adjustment of Status), Form I-589 (Asylum and Withholding of Removal), Form I-601 (Waiver of Inadmissibility), Form N-400 (Naturalization), and Form I-687 (Legalization application under former amnesty provisions). The name check query is conducted using the applicant's name and date of birth as listed on the application; variations in spelling and aliases are searched within the FBI's broader databases without requiring separate name check requests.

The NNCP process returns one of several possible responses: "No Record" (NR) indicating the applicant's name appears in no law enforcement database, "Positive Response" (PR) indicating potential matches in one or more databases, "Pending Response" (indicating ongoing search), "Error" (indicating a system error preventing completion), "Duplicate" (indicating a previously completed name check for the same applicant), "Unknown Response" (indicating an unclear or ambiguous database result), or "No Data Found" (indicating the database returned incomplete information). When the NNCP returns a Positive Response, USCIS procedures require forwarding the report to the Headquarters Office of Fraud Detection and National Security (FDNS) for preliminary review before the case may proceed to adjudication. This review process can add significant delays, with FDNS reviewing the underlying law enforcement records identified by the name check, verifying whether the file actually pertains to the applicant, and determining whether any security concerns or immigration violations are documented. The applicant is not automatically informed of the name check result; rather, USCIS officers may contact third agencies identified by the FBI, order further investigation, or request evidence from the applicant addressing the flagged information.

The name check process creates particular difficulties for applicants with common names or who share names with individuals in law enforcement databases. A recent case illustrates the practical consequences: an applicant with a common name may have a positive name check result identifying another individual with the same name who has serious criminal history; FDNS must then conduct manual comparison of biographical information, addresses, and other identifiers to determine whether the flag applies to the applicant. During this manual review period, which can extend from thirty to one hundred twenty days or longer, adjudication of the underlying immigration application is suspended. Applicants may attempt to expedite name check completion by requesting USCIS to contact the FBI with additional identifying information (such as distinctive biographical facts), but there is no statutory right to expedited processing and USCIS discretion to expedite is limited.

Interagency Security Checks and IBIS Review

The third component of the background investigation is the Interagency Border Inspection System (IBIS) check, which is a comprehensive database maintained by the Department of Homeland Security that consolidates information from the Department of State, Customs and Border Protection (CBP), Immigration and Customs Enforcement (ICE), the Treasury Department, and international law enforcement agencies including Interpol. The IBIS check is designed to identify national security concerns, known immigration

violations, fraudulent document use, prior deportations, overstay of visa terms, unauthorized entry, and other matters affecting admissibility or eligibility for relief. The IBIS database includes visa refusals issued by U.S. State Department consulates abroad, criminal deportation records, removal orders issued by immigration judges, and CBP encounter records at ports of entry. Unlike the fingerprint and name checks, which may complete within days or weeks, IBIS checks typically occur concurrently with adjudication and may be updated continuously as new information is received.

IBIS checks are flagged for additional review if they identify any of several categories of concern, including prior removal orders (which would bar re-entry absent statutory relief), prior visa refusals (which require waiver under INA § 212(a)(10)), fraud findings in prior applications, security concerns identified by DHS agencies, and involvement with specified criminal activity or entities designated as terrorist organizations. If IBIS identifies serious security concerns, USCIS policy requires referral to the appropriate DHS office for investigation and determination before adjudication proceeds. For asylum applicants in particular, IBIS checks are mandatory before an immigration judge may grant relief, creating situations where applicants can complete their testimony and present their evidence but cannot be granted asylum until IBIS clearance is obtained.

Criminal History Bars and Eligibility Determinations

Understanding the extensive system of criminal history bars in immigration law is essential for practitioners counseling applicants at any stage of the immigration process. The bars operate at multiple levels—statutory bars that are absolute and non-waivable, regulatory bars that apply unless specific waivers are available, and case-by-case discretionary determinations—creating complex eligibility analyses.

Crimes Involving Moral Turpitude (CIMT)

A crime involving moral turpitude (CIMT) is a technical legal category referring to criminal offenses that involve fraud, dishonesty, depravity, or an inherent disregard for the rights of others. The defining characteristic of a CIMT is not the specific elements of the crime but rather whether the statute defining the crime, as written, includes a morality component as an essential element. CIMT grounds for inadmissibility and deportability appear at 8 U.S.C. § 1182(a)(2)(A)(i) and § 1227(a)(2)(A)(ii), making any alien convicted of a CIMT inadmissible unless falling within the petty offense exception (maximum sentence of one year or less) and within five years of admission. A single conviction of a CIMT with a maximum sentence exceeding one year, if committed within five years of admission, renders the applicant deportable unless they are eligible for specific relief. Multiple CIMTs create a ground of deportability regardless of the sentences imposed, as long as the crimes do not arise from a single scheme of criminal misconduct.

The petty offense exception, established at 8 U.S.C. § 1182(a)(2)(A)(ii), provides that a single conviction of a CIMT is not a ground of inadmissibility if the offense carries a maximum penalty of one year or less imprisonment. However, recent California law changes have complicated this analysis. As of January 1, 2015, California Penal Code § 18.5(a) provides that any felony reduced to a misdemeanor has a maximum penalty of 364 days imprisonment, meaning that felonies successfully reduced under California Proposition 47 or through PC § 1473.7 petitions would qualify for the petty offense exception. This creates an important strategic pathway for applicants with qualifying CIMT convictions: seek criminal record modification under PC § 1473.7 (vacatur based on ineffective assistance of counsel or newly available law), PC § 18.5 (Prop 47 reduction), or other post-conviction relief mechanisms, then use the modified conviction record in immigration proceedings. However, the immigration court and BIA retain authority to examine the underlying facts of the offense to determine whether the crime actually involved moral turpitude, regardless of the

state-law conviction classification.

Common CIMTs include theft crimes (larceny, robbery, burglary), crimes of fraud (forgery, identity theft, wire fraud), crimes involving dishonesty (perjury, false statements under oath), sexual crimes against minors, crimes of violence involving intentional harm, prostitution, and pandering. Notably, simple drug possession is generally not a CIMT under federal definition, but drug trafficking (possession with intent to distribute) is considered a CIMT in some circuits. Crimes that do not involve intentional disregard for others' rights-such as strict liability offenses, crimes of negligence, crimes where the conduct was lawful under applicable law, and crimes where the applicant reasonably believed their conduct was lawful-are not CIMTs. The determination of whether a crime involves moral turpitude is made by examining the statutory definition of the crime, not the facts of the applicant's particular case, which means courts must ask whether the crime as defined by statute necessarily involves moral turpitude.

Aggravated Felony Convictions

An aggravated felony is a term of art in immigration law referring to a category of serious offenses carrying extraordinarily harsh consequences, including mandatory deportation for all non-citizens regardless of lawful permanent resident status, ineligibility for virtually all forms of relief from deportation, and permanent bar to re-admission to the United States. The definition appears at 8 U.S.C. § 1101(a)(43) and includes crimes of violence with a one-year or greater sentence, theft offenses with a one-year or greater sentence, drug trafficking offenses, money laundering offenses, immigration document fraud, falseification of records, sex crimes, crimes against children, human trafficking, sexual abuse of minors, murder, rape, any felony conviction carrying a five-year or greater sentence for trafficking in firearms or ammunition, and numerous other serious offenses.

The single most important feature of aggravated felony convictions is that the definition applies retroactively to convictions predating the statutory definition. This means that an applicant convicted in 1995 of a crime that would not have been labeled an aggravated felony in 1995 (because the offense category did not exist in the statute at that time) can be deported as an aggravated felon if the crime fits the current statutory definition. The retroactive application has repeatedly been upheld by the Supreme Court and all federal courts, and Congress has not modified the retroactivity provision despite numerous bills proposing to do so. Practically, this means that applicants with convictions from the 1990s or earlier should consult with immigration counsel immediately to determine whether their convictions could be subject to retroactive aggravated felony classification.

An aggravated felony conviction creates several mandatory consequences: any non-citizen convicted of an aggravated felony is deportable without regard to whether they have lawful permanent resident status; any non-citizen detained following a criminal conviction of an aggravated felony may be held without bond unless they meet the stringent requirement of demonstrating that their conviction will likely not be found to constitute an aggravated felony; any non-citizen convicted of an aggravated felony is categorically ineligible for asylum, withholding of removal, cancellation of removal, cancellation of removal for permanent residents, suspension of deportation, stays of removal, and most other forms of relief; and any non-citizen convicted of an aggravated felony is permanently barred from re-admission to the United States and may not benefit from waiver authority. Because of these extraordinary consequences, an aggravated felony conviction essentially forecloses most immigration options and leaves removal as the nearly inevitable outcome.

Controlled Substance Offenses

Convictions for violations of controlled substance laws create absolute grounds for inadmissibility under 8

U.S.C. § 1182(a)(2)(A)(i)(II) and deportability under 8 U.S.C. § 1227(a)(2)(B)(i). Unlike the CIMT ground, which includes a petty offense exception and a five-year temporal limit, the controlled substance ground is categorical and absolute-any alien convicted of a violation of any federal or state law relating to controlled substances is inadmissible. The "any" language has been interpreted to include all controlled substance offenses, including minor possession offenses, even for substances legal under state law. An applicant in California who was convicted of simple marijuana possession, even though marijuana is legal under California law for adults, is inadmissible under federal immigration law because marijuana remains a Schedule I controlled substance under the federal Controlled Substances Act. The only exception applies to single offenses of possession of 30 grams or less of marijuana, which do not constitute a ground of inadmissibility if that is the applicant's only drug crime.

The controlled substance ground also appears as a bar to establishing good moral character for naturalization purposes. An applicant who committed any drug offense within the statutory period (five years for most applicants, three years for spouses of U.S. citizens) cannot establish good moral character and is therefore ineligible for naturalization. Additionally, applicants with controlled substance convictions are ineligible for asylum, withholding of removal, cancellation of removal, and most other discretionary relief. The Department of Justice's Office of Legal Counsel has confirmed that this bar applies to all controlled substance convictions without exception, including convictions for conduct that was legal under state law at the time of conviction.

Good Moral Character Bars and Discretionary Denials

In addition to the absolute bars created by CIMT convictions, aggravated felony convictions, and controlled substance convictions, immigration law includes an overlapping system of "bars to establishing good moral character," which are circumstances that prevent an applicant from meeting the moral character requirement necessary for naturalization, cancellation of removal, and other relief. The statutory bars to good moral character appear at 8 U.S.C. § 1101(f) and include crimes involving moral turpitude (with limited exceptions), crimes of violence, controlled substance offenses, prostitution, violations involving marriage fraud, crimes involving commission of crimes of violence as part of a terrorist activity, crimes against children, and crimes with specified prison sentences.

Importantly, even if an applicant does not fall within one of the specific statutory bars to good moral character, USCIS retains discretionary authority to deny applications based on lack of moral character if it determines that the applicant's overall conduct demonstrates absence of the moral qualities necessary for citizenship or relief. Factors that USCIS may consider in exercising this discretionary authority include whether crimes involved dishonesty or depravity, whether weapons or injury to persons was involved, whether victims were vulnerable, whether the applicant cooperated with law enforcement, and whether the applicant has demonstrated rehabilitation. This discretionary authority means that applicants with "minor" criminal records-such as traffic citations, civil violations, or disorderly conduct arrests-may still face denial if USCIS determines the conduct reflects absence of moral character. Applicants who were arrested for crimes but not convicted also face potential good moral character challenges, as the regulation includes arrests and charges in the applicant's obligation to disclose criminal history.

Biometrics Appointment Procedures and Processing Timelines

Understanding the procedural mechanics of the biometrics appointment and the subsequent background check process is essential for effective case management and timeline planning. The process involves multiple discrete steps, each with its own timing issues and potential complications.

Initial Scheduling and Appointment Notice

After USCIS receives and accepts an immigration benefit application, the agency sends the applicant a receipt notice (Form I-797) within two to four weeks confirming receipt of the application and listing the receipt number. Separately, USCIS issues a biometrics appointment notice (Form I-797C) typically four to eight weeks after accepting the application, specifying the exact date, time, and location of the Application Support Center where the applicant must appear. The appointment notice instructs the applicant to bring the original appointment notice, valid government-issued photo identification (such as a passport, driver's license, or state ID), and any additional documents specified on the notice. The appointment notice includes a code indicating the type of biometric collection required: Code 1 (fingerprints only), Code 2 (photo, signature, index finger), or Code 3 (all fingerprints, photo, signature).

Critically, the applicant must appear at the specified ASC on the scheduled date and time unless they contact USCIS before the appointment and provide good cause for inability to attend. The consequence of missing a biometrics appointment without providing advance notice and good cause is that USCIS may consider the underlying immigration application abandoned and issue a denial. To reschedule an appointment, the applicant must call the USCIS Contact Center at 1-800-375-5283 Monday through Friday, 8 a.m. to 8 p.m. Eastern Time, before the originally scheduled appointment date, and explain the reason for the request to reschedule. USCIS will reschedule the appointment if the applicant's reason constitutes "good cause," which is interpreted to require circumstances beyond the applicant's control, such as medical emergencies, family crises, documented hardship, or military duty. Scheduling conflicts, work obligations, or inconvenience do not generally qualify as good cause for rescheduling.

USCIS Application Support Center Operations and Appointment Duration

The USCIS Application Support Center where the applicant appears for biometrics is a dedicated facility separate from USCIS field offices and is staffed by USCIS personnel trained in biometric collection procedures. The applicant typically checks in with the front desk staff, completes a biographic information form, and waits to be called to the biometrics collection station. When called, USCIS personnel enter relevant information into the system, verify the applicant's identity against the appointment notice and government-issued ID, and proceed with biometric collection. The actual collection of fingerprints, photograph, and signature requires approximately five to ten minutes; the entire appointment including waiting time typically lasts fifteen to thirty minutes.

The USCIS officer collects biometrics using a "LiveScan" digital fingerprinting system that captures all ten fingerprints in high resolution, takes a digital photograph of the applicant's face, and records the applicant's digital signature on a tablet or similar device. The applicant is asked to attest to the truth of statements made in the application, affirming that everything submitted is complete and correct. The biometrics collected are stored in USCIS systems and transmitted electronically to the FBI for background check processing. At the conclusion of the appointment, the applicant receives a stamped appointment notice indicating completion of biometrics, which serves as proof of timely appearance and should be retained in the applicant's file.

Processing Timelines for FBI Background Checks

Following the biometrics appointment, USCIS transmits the fingerprints to the FBI, which initiates three parallel background check processes: the fingerprint-based criminal history check, the name check through the National Name Check Program, and the IBIS security check. The fingerprint check typically completes within twenty-four to forty-eight hours of receipt by the FBI, returning either "No Record" (meaning no criminal history), "Positive Response" (meaning identification of matching records), or "Pending Response" (meaning the search is still in progress). However, because other background checks may take significantly longer, the applicant cannot proceed with adjudication until all background checks clear.

The FBI name check through the NNCP typically requires thirty to one hundred twenty days, with extended delays possible if the name check identifies potential matches requiring manual review by FDNS. For applicants with common names, the NNCP may flag multiple individuals with similar names, requiring manual comparison of biographical details to determine whether any flagged records actually pertain to the applicant. During the manual review period, USCIS will not adjudicate the underlying immigration application, and the applicant has limited remedies to expedite the process. USCIS officers may attempt to expedite by providing the FBI with additional identifying information or requesting that specific name check results be prioritized, but there is no statutory entitlement to expedited processing and USCIS discretion is limited.

IBIS checks typically occur concurrently with adjudication and may be updated continuously. However, if IBIS identifies serious security concerns—such as prior removal orders, terrorist organization connections, or significant fraud findings—USCIS will suspend adjudication pending investigation and determination by appropriate DHS offices. For asylum applicants specifically, EOIR procedures require that background checks be completed and "cleared" before an immigration judge may grant relief, even if adjudication otherwise would proceed. This creates situations where an asylum applicant appears before the immigration judge, testifies about their persecution claim, and presents evidence, but cannot be granted asylum until FBI and IBIS clearances are obtained, which may require weeks or months following the hearing.

Fingerprint Validity Period and Re-fingerprinting Requirements

One of the most critical aspects of the background check process that practitioners must understand and manage is the fifteen-month validity period for fingerprints. This temporal limitation, established through FBI procedures and confirmed in USCIS policy guidance, creates significant complications for applicants with extended cases or delayed adjudication.

The Fifteen-Month Validity Window

Fingerprints submitted to the FBI for immigration purposes remain valid for exactly fifteen months from the date of processing by the FBI, not from the date the applicant attended the biometrics appointment. This distinction is important: if the applicant attended the biometrics appointment on January 15, 2025, USCIS transmitted the fingerprints to the FBI that same day, and the FBI processed the fingerprints on January 16, 2025, then the validity period expires on April 16, 2026 (fifteen months later), not April 15, 2026. If the applicant's underlying immigration application or removal proceeding has not been adjudicated before the fifteen-month validity period expires, the applicant must be re-fingerprinted and the background check process must begin again.

For asylum applicants in removal proceedings, the fifteen-month validity window creates acute timing pressures. An applicant who is fingerprinted at the first master calendar hearing must complete their entire asylum case—including master calendar hearing, potentially a merits hearing, and issuance of a final decision by the immigration judge—within fifteen months for the original fingerprints to remain valid. If the case extends beyond fifteen months due to continuances, the applicant must be re-fingerprinted and the background check process must be repeated before the immigration judge may issue a final decision. In practice, this means that immigration judges in the San Francisco Immigration Court frequently encounter situations where re-fingerprinting is required due to case extensions, adding several weeks to the overall timeline and potentially causing additional delays.

Re-fingerprinting Procedures and Triggering Events

USCIS regulations require re-fingerprinting if the original fingerprints expire before adjudication is completed. For applicants with no FBI criminal record ("Non-IDENT" clearance), re-fingerprinting must be initiated approximately 60 to 90 days before the scheduled hearing date (in removal proceedings) or before the adjudication deadline in affirmative applications. To request re-fingerprinting, the applicant must contact USCIS to request a new biometrics appointment, which USCIS will schedule at the nearest available ASC. USCIS policy encourages applicants to initiate re-fingerprinting requests at least 60 days before the validity period would expire to allow adequate time for the new fingerprints to be processed by the FBI. For applicants with prior FBI criminal records ("IDENT" clearance), USCIS typically requests an updated FBI rap sheet (official criminal history record) rather than requiring the applicant to be re-fingerprinted, though in some circumstances re-fingerprinting is also required.

Critically, in removal proceedings before the Executive Office for Immigration Review (EOIR), if fingerprints are not current at the time of the scheduled hearing, the immigration judge may deem the application abandoned or may continue the hearing to allow for re-fingerprinting. ICE procedures explicitly state that fingerprints must be current (within the fifteen-month validity period) to satisfy the background check requirement, and failure to provide current biometrics without good cause may result in the immigration judge deeming the application abandoned. This creates a situation where applicants must track their fifteen-month fingerprint validity period independently and proactively request re-fingerprinting before the deadline, as USCIS does not automatically notify applicants when the validity period is approaching expiration.

The fifteen-month validity window also affects employment authorization documents (EADs). An applicant with a pending I-485 and approved I-765 (work permit) must complete the background check and gain approval before the work permit expires, or they will lose work authorization. Although work permits may be extended or re-issued if the underlying application is pending, the biometrics must be current, which means applicants with extended cases may need to request work permit renewals that coincide with re-fingerprinting.

Post-Approval Requirements: Apostille, Translation, and Document Authentication

Once an applicant has obtained an FBI background check or criminal record clearance, whether through the independent FBI Identity History Summary process or through USCIS biometrics-initiated investigation, they frequently must undertake additional steps to render the document usable for international purposes. These post-approval requirements involve authentication, certification, translation, and retention procedures that vary depending on the country of destination and the specific purpose for which the background check will be used.

Apostille Authentication Requirements

An apostille is a form of official certification issued by a government authority that authenticates the origin of a public document and is recognized as sufficient authentication in countries that are parties to the 1961 Hague Apostille Convention. Many countries, including Canada, the United Kingdom, Australia, New Zealand, most European Union countries, and most Latin American countries, are parties to the Hague Apostille Convention and require background checks submitted for immigration, employment, or other official purposes to include an apostille. The apostille is not a translation and is not itself a substantive document; rather, it is an official seal attached to or printed on the background check document confirming that the issuing authority's signature, seal, or stamp is authentic.

To obtain an apostille for an FBI background check, the applicant must submit the original FBI document (or a certified copy) to the U.S. Department of State Office of Authentications, which is the authority responsible for issuing apostilles for federal documents. The process requires mailing the document with a request form

and payment (typically \$25 to \$40 per apostille) to the State Department, which then issues an apostille page that is attached or affixed to the original document. Processing typically requires two to four weeks. For background checks from the California Department of Justice, the applicant must submit the document to the California Secretary of State for apostille, which similarly requires mailing and typically two to four weeks of processing.

Many applicants and immigration practitioners mistakenly believe that obtaining an apostille is optional or can be deferred. However, failure to obtain an apostille when required by the destination country will result in rejection of the background check by the foreign government, necessitating return of the document, application for apostille, and resubmission-adding six to eight weeks to the overall process. Best practice requires that applicants planning to use background checks for international purposes immediately determine the destination country's requirements (typically by consulting the foreign consulate or official government website) and request apostilles before mailing documents abroad.

Certified Translation Requirements

In addition to apostille authentication, many countries require background checks to be translated into the official language of that country by certified translation services. A certified translation is a translation prepared by a professional translator who has been vetted by a credentialing organization or court system, and the translator attests under penalty of perjury that the translation is accurate and complete. The translator typically charges \$0.10 to \$0.30 per word, making a multi-page background check translation cost \$50 to \$200 or more. Processing time for certified translation typically ranges from three to seven business days depending on the translator's workload.

The requirement for certified translation exists because some foreign governments do not accept English-language documents in official proceedings and must have documents translated before they can be reviewed and authenticated. For example, applicants applying for permanent residence in Canada must provide an FBI criminal record certificate in the original English, but applicants in Mexico or Central America must provide certified Spanish translations. Apostille requirements and translation requirements operate independently-a document may require both an apostille (for authentication) and a certified translation (for language accessibility). The typical procedure is to obtain the apostille first, then have the apostille-authenticated document translated into the required language by a certified translator.

Multiple Copies and Documentation Retention

Background check documents are frequently required to be submitted to multiple agencies or may be lost or damaged in transit, necessitating that applicants maintain multiple certified copies. Immediately upon receiving the FBI Identity History Summary or FBI background check, applicants should make at least three to five legible copies on a photocopier capable of producing high-quality reproductions. One copy should be retained in the applicant's permanent file for record-keeping, one to three copies should be prepared for submission to relevant authorities, and additional copies should be maintained as backup. If apostilles are required, the applicant should request multiple apostille certifications (one for each copy) to ensure that every copy that will be submitted abroad is apostille-certified.

Applicants should also maintain a detailed log documenting when the background check was obtained, the exact date of the FBI processing (which is critical for calculating the fifteen-month validity period and documenting when the check was "as of"), the receipt number or other identifier, which copies have been submitted to which agencies, and the current status of any applications relying on the background check. This documentation becomes critical if background checks must be replaced due to expiration, loss, or additional

requirements emerging during the process.

San Francisco Immigration Court and Asylum Office Specific Considerations

For applicants in Northern California under the jurisdiction of the San Francisco Immigration Court (EOIR) or the San Francisco Asylum Office (USCIS), several location-specific procedural considerations affect how biometrics and background checks are processed.

San Francisco Immigration Court Procedures and Biometrics Requirements

The San Francisco Immigration Court maintains physical locations at 100 Montgomery Street, Suite 800, San Francisco; 630 Sansome Street, 4th Floor, San Francisco; and a Concord hearing location at 1855 Gateway Blvd, Suite 850, Concord. Applicants appearing before the San Francisco Immigration Court in removal proceedings must complete biometrics before their master calendar hearing or, in some circumstances, at the master calendar hearing itself through on-site biometrics services available at certain court locations. The Pre-Order Instructions for Biometric and Biographic Information to USCIS, issued by EOIR, require that applicants in removal proceedings submit applications for asylum or other relief to USCIS no later than 180 days before the scheduled hearing date and must complete biometrics no later than 60 days before the hearing to allow sufficient time for background clearances.

The San Francisco Immigration Court has local procedures specific to biometrics processing. If the applicant has not completed biometrics before the master calendar hearing, the immigration judge may order the applicant to complete biometrics within a specified timeframe (typically 30 to 60 days) and may continue the case to allow for background check completion. At the master calendar stage, the immigration judge will inform applicants that failure to appear for biometrics or failure to provide current biometrics before the merits hearing date may result in the application being deemed abandoned. Some San Francisco Immigration Court judges are known to be more flexible regarding biometrics delays and may grant multiple continuances to accommodate re-fingerprinting needs, while others enforce strict biometrics deadlines; understanding the individual judge's preferences is valuable for strategic planning.

For asylum applicants specifically, the San Francisco Asylum Office operates with a separate biometrics process. Applicants who file Form I-589 (Application for Asylum and Withholding of Removal) directly with USCIS (rather than in removal proceedings before the immigration court) are scheduled for biometrics appointments at the San Francisco ASC typically 4 to 8 weeks after filing. The San Francisco ASC is located at [USCIS service centers locations], and applicants must attend in person. Once biometrics are completed, USCIS initiates the FBI background check, which must be completed and cleared before the applicant can be interviewed at the San Francisco Asylum Office. The San Francisco Asylum Office typically schedules interviews 3 to 6 months after biometrics completion, but delays in FBI name checks or IBIS screening can extend this timeline significantly.

San Francisco Asylum Office Interview Procedures and Background Check Timing

The San Francisco Asylum Office, located in San Francisco, conducts interviews for applicants who have filed I-589 affirmative asylum applications with USCIS. Background checks must be completed and cleared before the asylum officer conducts the interview. If the background check is not completed, the asylum officer will reschedule the interview, which can delay asylum adjudication by several months. The San Francisco Asylum Office processes a significant volume of asylum applications from Central American applicants with histories of involvement with law enforcement (whether through arrest as a crime victim, detention in gang-dominated communities, or criminal conduct), making criminal history issues particularly prevalent in this jurisdiction.

Asylum officers at the San Francisco Asylum Office are trained to evaluate criminal history in the context of persecution claims and to distinguish between crimes that are categorical bars to asylum (such as persecution of others or aggravated felony convictions) and criminal history that affects credibility or good moral character but does not absolutely bar relief.

For applicants with known criminal records seeking asylum, the strategic approach involves determining before the biometrics appointment whether the criminal history will bar asylum eligibility. If the applicant has been convicted of an aggravated felony (which categorically bars asylum), it may be tactically preferable to request administrative closure of the asylum case or pursue alternative relief strategies rather than proceeding with biometrics and having a formal asylum denial entered. Conversely, if the applicant has criminal history that affects credibility or good moral character but does not constitute a categorical bar, proceeding with biometrics and asylum adjudication may be appropriate. These strategic decisions require detailed analysis of the applicant's criminal record and should be made in consultation with an attorney before biometrics are completed.

Strategic Case Management and Timeline Planning

Effective representation of immigration applicants requires strategic planning that accounts for biometrics timelines, background check processing delays, fingerprint validity periods, and the potential need for re-fingerprinting if cases extend beyond fifteen months. Several strategic considerations warrant attention.

Initial Case Assessment and Criminal History Screening

Before filing any immigration benefit application or before the applicant appears for a biometrics appointment, immigration counsel should conduct a thorough criminal history screening. This screening should involve obtaining detailed information from the applicant regarding all arrests, charges, and convictions (whether state or federal, whether resulting in prison time, whether in the United States or abroad), and should include obtaining certified disposition documents from all courts where the applicant was charged. Once disposition documents are obtained, counsel should analyze the criminal history against the bars to immigration eligibility: CIMT bars, controlled substance bars, aggravated felony bars, good moral character bars, and other relevant grounds.

For applicants with criminal history that may be problematic, an independent FBI Identity History Summary request (costing \$18 and requiring approximately one month) can be strategically valuable. This allows counsel to understand what information the FBI currently possesses about the applicant before USCIS initiates a formal background check through biometrics. If the FBI Identity History Summary reveals information not disclosed by the applicant, this signals that the applicant's credibility may be at issue and that further investigation is needed. If the FBI Identity History Summary reveals records that are inaccurate or that reflect convictions that might be subject to post-conviction relief under California law, this triggers consideration of seeking conviction modification before proceeding with the immigration application.

Strategic Sequencing of Applications and Biometrics

For applicants with multiple pending immigration applications (such as concurrent I-485, I-765, and I-131 applications), or applicants who may need to file renewal or supplementary applications (such as I-539 to extend status), strategic sequencing of biometrics appointments can reduce the total number of appointments and accelerate overall processing. Prior to December 12, 2025, USCIS would typically reuse biometrics from previous applications if they were recent and the applicant had not intervening criminal charges; this permitted applicants to file multiple applications and rely on a single set of biometrics. However, the December 12, 2025

policy change narrowing photo reuse to 3 years has increased the likelihood that USCIS will issue separate biometrics appointment notices for multiple applications.

For applicants planning to file multiple applications, the optimal strategy may be to file all applications simultaneously (or within a short window) to attempt to trigger consolidated biometrics scheduling, which some USCIS service centers will accommodate. Counsel should flag on all applications that multiple applications are pending and request consolidated biometrics scheduling to minimize the number of appointments. For applicants in removal proceedings before EOIR, the EOIR Pre-Order Instructions require submission of all relief applications (I-485, I-589, I-601, I-765, I-131, etc.) simultaneously or within a short period to trigger consolidated biometrics scheduling.

Fingerprint Validity Management and Re-fingerprinting Scheduling

For cases that will likely extend beyond the fifteen-month fingerprint validity window, proactive management of re-fingerprinting is essential. In removal proceedings, applicants and counsel should calculate the fingerprint processing date at the time of the initial biometrics appointment and identify the expiration date on the calendar. If the case is likely to exceed fifteen months from that date (for example, if the applicant expects continuances or if other issues suggest extended litigation), counsel should initiate a re-fingerprinting request approximately 90 days before expiration to allow adequate time for USCIS to schedule the appointment and for the FBI to process the new fingerprints. In affirmative USCIS applications, counsel should monitor USCIS processing times for the specific service center handling the case and proactively request re-fingerprinting if it becomes clear that the case will not adjudicate within the fifteen-month window.

For applicants with approved employment authorization documents (EADs), re-fingerprinting becomes more urgent, as the applicant will lose work authorization if the EAD expires while waiting for a re-fingerprinting appointment or background check completion. Strategic options in this situation include requesting EAD renewal or extension while the underlying case is pending, ensuring that work authorization remains continuous even if the underlying case is delayed.

Conclusion

FBI background checks constitute a mandatory prerequisite to virtually all immigration benefit adjudication in the United States, functioning as the government's primary mechanism for verifying criminal history, identifying security concerns, and confirming the applicant's identity against law enforcement and intelligence databases. The procedural system operates through three parallel and complementary verification mechanisms-fingerprint-based criminal history checks, name checks through the National Name Check Program, and interagency security checks through IBIS-each serving distinct functions and operating on different timelines. Fingerprint checks typically complete within twenty-four to forty-eight hours, name checks require thirty to one hundred twenty days and often longer, and IBIS checks occur concurrently with adjudication but may identify security concerns requiring extended investigation.

The critical procedural requirement that practitioners must manage is the fifteen-month fingerprint validity period, which creates acute timing pressures in removal proceedings and extended affirmative applications. This temporal limitation requires that applicants complete their entire immigration case within fifteen months of the fingerprint processing date, or they must undergo re-fingerprinting, restart the background check process, and wait for the FBI to provide new clearances before adjudication can proceed. Failure to manage this validity period results in substantial case delays and, in removal proceedings, may result in immigration judges deeming applications abandoned.

The criminal history bars embedded in immigration law operate as absolute categorical disqualifications for certain serious offenses (including aggravated felonies and controlled substance convictions) and as context-specific grounds of inadmissibility or deportability for other offenses (including crimes involving moral turpitude and certain other criminal conduct). Practitioners must conduct thorough criminal history screening before filing applications or submitting to biometrics appointments, as background checks will reveal criminal history regardless of whether the applicant disclosed it. For applicants with potentially problematic criminal history, strategic options include seeking post-conviction relief under California Penal Code § 1473.7 (vacatur based on ineffective assistance of counsel) or PC § 18.5 (Prop 47 reduction) to modify convictions before the immigration application is filed.

Recent regulatory developments effective December 12, 2025, have narrowed USCIS's authority to reuse photographs from previous biometrics appointments, increasing the likelihood that applicants with multiple pending applications will receive separate biometrics appointment notices. The Department of Homeland Security's proposed rule (with comment period closing January 2, 2026) would expand biometric collection to include facial imagery, palm prints, and DNA, and would extend biometric collection authority to individuals "associated with" immigration benefit requests, potentially including U.S. citizen petitioners and sponsors. These regulatory expansions, if finalized, will substantially increase the number of biometrics appointments required and will complicate processing timelines for family-based and employment-based immigration cases.

For Northern California immigration practice, the San Francisco Immigration Court and San Francisco Asylum Office maintain specific procedural requirements and timing considerations that practitioners must incorporate into case management strategies. The fifteen-month fingerprint validity requirement is particularly acute in the San Francisco Immigration Court due to the volume of asylum cases processed, the likelihood of multiple continuances for evidence gathering, and the judicial preference for thorough case development before merits hearings. Immigration attorneys representing clients in the San Francisco jurisdiction should maintain active management of biometrics timelines, should proactively request re-fingerprinting well in advance of validity period expiration, and should communicate with immigration judges regarding biometrics deadlines to avoid having applications deemed abandoned.

For applicants seeking to use FBI background checks for international purposes (employment, education, family reunification, or immigration in other countries), post-approval requirements for apostille authentication and certified translation must be planned and executed promptly. Failure to obtain required apostilles or translations will result in rejection of documents by foreign authorities and will necessitate extended delays while apostilles and translations are obtained. Best practice requires determining the destination country's specific requirements before the background check is obtained, and requesting apostilles and translations immediately upon receipt of the FBI document.

Legal Framework and Controlling Authority

Statutory Foundation

8 U.S.C. § 1182(a)(2) - Crimes and Moral Character Grounds for Inadmissibility

8 U.S.C. § 1227(a)(2) - Criminal Grounds for Deportability

8 U.S.C. § 1101(a)(43) - Definition of Aggravated Felony

8 U.S.C. § 1101(f) - Bars to Establishing Good Moral Character

Regulatory Framework

8 CFR § 103.16 - Collection and Use of Biometric Information

8 CFR § 1003.24 - Background Checks in Immigration Court Proceedings

Recent Executive Office for Immigration Review (EOIR) Procedures

Pre-Order Instructions for Submitting Certain Applications in Immigration Court and for Providing Biometrics - EOIR guidance on biometrics timing and procedures in removal proceedings (referenced in search results but specific URL requires navigation through EOIR website)

Federal Register Notices

90 FR 78,645 (November 3, 2025) - Proposed Rule on Collection and Use of Biometrics - Proposed expansion of biometrics collection authority, comment period through January 2, 2026

USCIS Policy Guidance

USCIS Policy Manual, Vol. 7, Part A, Ch. 3 - Biometrics Procedures - Comprehensive guidance on biometric collection, storage, and validity periods

Updated Instructions for Submitting Certain Applications in Immigration Court - December 2025 updates to application procedures

California State Law

California Penal Code § 1473.7 - Vacatur of Convictions Based on Immigration Consequences

California Penal Code § 18.5 - Reduction of Felonies to Misdemeanors (Prop 47)

California Penal Code § 11105(c)(9) - DOJ Background Checks for Visa/Immigration Purposes

Assessment of Key Takeaways for Practitioners

Fingerprint Validity Is Jurisdictional: The fifteen-month validity period is not merely an administrative guideline but functions as a procedural requirement that affects the jurisdiction of immigration judges and the adjudication authority of USCIS. Practitioners must track validity dates meticulously and initiate re-fingerprinting well in advance of expiration[1][2].

Criminal History Screening Must Precede Application Filing: Given the comprehensiveness of FBI background checks and the absolute categorical bars for certain convictions, immigration counsel must conduct detailed criminal history analysis before an applicant files any immigration application or attends a biometrics appointment[3][4]. This screening may identify opportunities for post-conviction relief under California law that would substantially improve immigration eligibility[5].

Biometrics Policy Changes Affect Multiple Applications: The December 12, 2025 narrowing of photo reuse authority increases the likelihood of multiple biometrics appointment notices, extending processing timelines and creating additional compliance burdens. Practitioners should anticipate that applicants with multiple pending applications will receive separate appointment notices and should plan accordingly[6].

Name Checks Present Unpredictable Delays: FBI name checks constitute the largest source of delay in

background clearances, with processing times ranging from thirty to one hundred twenty days or longer for cases requiring manual FDNS review. Practitioners should build substantial delays into case timelines and should not assume that background checks will clear quickly[7][8].

Post-Approval Requirements Require Planning: For applicants using background checks for international purposes, apostille and translation requirements must be addressed immediately upon receipt to avoid document rejection by foreign authorities and consequent multi-week delays[9][10].

The comprehensive framework governing FBI background checks for immigration purposes serves critical national security and public safety functions while creating significant procedural complexities for practitioners. Success in representing immigration applicants depends on thorough understanding of the procedural requirements, strategic management of timelines, and proactive engagement with criminal history issues that may affect eligibility.

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Jurisdiction: Northern California Immigration Practice

Applicable Law: 8 U.S.C. §§ 1101-1367; 8 CFR §§ 103.1-103.20, 1003.1-1003.47; State law: CA PC §§ 1473.7, 18.5, 11105

Controlling Circuit: Ninth Circuit Court of Appeals