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From the Los Angeles Times

Caught in a bureaucratic black hole

Applicants seeking U.S. citizenship languish for years as the FBI conducts cumbersome records checks. Lawsuits are a result.

By Anna Gorman

Los Angeles Times Staff Writer

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Seeking to become a U.S. citizen, Biljana Petrovic filed her application, completed her interview and passed her civics test.

More than three years later, she is still waiting to be naturalized -- held up by an FBI name-check process that has been criticized as slow, inefficient and a danger to national security.

Petrovic, a stay-at-home mother in Los Altos, Calif., who has no criminal record, has sued the federal government to try to speed up the process. She said it's as if her application has slipped into a "black hole."

"It's complete frustration," said Petrovic, who is originally from the former Yugoslavia and is a naturalized Canadian citizen. "It's not like I am applying to enter the country. I have been here for 19 years."

Nearly 320,000 people were waiting for their name checks to be completed as of Aug. 7, including more than 152,000 who had been waiting for more than six months, according to the U.S. Bureau of Citizenship and Immigration Services. More than 61,000 had been waiting for more than two years.

Applicants for permanent residency or citizenship have lost jobs, missed out on student loans and in-state tuition, and been unable to vote or bring relatives into the country. The delays have prompted scores of lawsuits around the country.

Already this fiscal year, more than 4,100 suits have been filed against the citizenship and immigration agency, compared with 2,650 last year and about 680 in 2005. The mandamus suits ask federal judges to compel immigration officials to adjudicate the cases. The majority of the cases were prompted by delays in checking names, spokesman Chris Bentley said.

"There is nothing in immigration law that says that a citizenship application should take two, three, four years. That's absurd," said Ranjana Natarajan, an ACLU staff attorney who filed a class-action lawsuit in Southern California last year on behalf of applicants waiting for their names to be checked. "People who have not been any sort of threat . . . have been caught up in this dragnet."

In addition to the bureaucratic nightmare that the lengthy delays present, attorneys and government officials say there is a far more serious concern: They could be allowing potential terrorists to stay in the country.

Fallout from 9/11The backlog began after 9/11, when Citizenship and Immigration Services officials reassessed their procedures and learned that the FBI checks were not as thorough as they had believed. So "out of an abundance of caution," the agency resubmitted 2.7 million names in 2002 to be checked further, Bentley said.

Rather than simply determining if the applicants were subjects of FBI investigations, the bureau checked to see if their names showed up in any FBI files, including being listed as witnesses or victims. About 90% of the names did not appear in the agency's records, FBI spokesman Bill Carter said.

But for the 10% who were listed, authorities carefully reviewed the files to look for any "derogatory" information, Carter said. Because many documents aren't electronic and are in the bureau's 265 offices nationwide, that process can take months, if not years.

"It is not a check of your name," said Chuck Roth, director of litigation for the National Immigrant Justice Center in Chicago, which also filed a class-action suit. "It is a . . . review of anywhere your name happens to appear. It has just created a giant bureaucratic mess."

Although many of those stuck in the backlog are from predominantly Muslim countries, there are also people from Russia, China, India and elsewhere. They include government employees and Iraq war veterans. Many have been in the U.S. legally for decades.

In one case decided in Washington, D.C., recently, a federal judge wrote that a Chinese man's four-year wait for permanent residency was unreasonable and ordered the government to decide on the application within three months. Petrovic, who has two U.S.-born teenagers, doesn't know what delayed her application. The only explanation she can think of is that her name is common in her native country.

She and her husband, Ihab Abu-Hakima, also a Canadian citizen, applied for citizenship in April 2003 and had their interviews in February 2004. Her husband was sworn in that summer, while her application continued to languish. She checked the mail daily.

When she still didn't hear anything, Petrovic contacted immigration officials, who told her that the FBI had her file and that it was still active. She also contacted her representative and her senator, whose offices asked Citizenship and Immigration Services to expedite the application. She filed a Freedom of Information Act request for her FBI file, which simply showed that she had never been arrested.

"I have a feeling that the system has broken down," she said.

Joining a different groupIn August, Petrovic joined an American Civil Liberties Union lawsuit filed in Northern California against the federal government. She is waiting to become a U.S. citizen so she can sponsor her elderly parents, who live in Canada and visit often.

"Every time they leave, I feel bad," she said. "This is their life here, more than there."

The problem extends beyond the disruption of personal lives.

In his yearly report to Congress in June, immigration services ombudsman Prakash Khatri wrote that the policy on checking names "may increase the risk to national security by extending the time a potential criminal or terrorist remains in the country." Khatri questioned the overall value of the process, writing that it was the "single biggest obstacle to the timely and efficient delivery of immigration benefits."

The Department of Homeland Security has acknowledged the threat, last month announcing plans to work with the FBI to address the backlog and reduce delays. Citizenship and Immigration Services will reassess the way name checks are done and earmark \$6 million toward streamlining the process, Bentley said.

Though 99% of the agency's name checks are completed within six months, Bentley said, the lengthy delays for some applicants is "unacceptable."

"That requires a lot of patience on the part of an applicant because they have to wait sometimes multiple years," he said.

Nevertheless, he said, no benefit will be approved until that name check comes back clear. Security checks have produced information about sex crimes, drug trafficking and individuals with known links to terrorism, according to the agency.

Carter, the FBI spokesman, said he understands that applicants waiting for answers are anxious, but he said the process is complicated and involves dozens of agencies and databases -- and, in some cases, foreign governments.

"The FBI's No. 1 priority remains to protect the United States from terrorist attack," Carter said. "To that end, we must ensure the proper balance between security and efficiency."

In addition to clearing the backlog and processing the 27,000 new name checks it receives each week from immigration officials, the FBI is trying to accelerate the process by making more documents electronic. It is also adding more staff and moving resources to a new records facility in Virginia, Carter said.

Mark Krikorian, executive director of the conservative Center for Immigration Studies, said the government needs to make sure that it carefully checks every application. And working with foreign governments is inevitably going to slow the process down, he said.

"We correctly have much more stringent standards for immigration," he said. "I am not really sure that there is any way to do this kind of deep background check efficiently."

But attorneys said that because of the inefficiency, the program isn't serving its purpose.

"Let's say this guy is a terrorist or a criminal," Los Angeles immigration attorney Carl Shusterman said. "Why wouldn't the FBI rush the case?"

Mervyn Sam, a South African native who got a green card in 1998, has been waiting more than four years for the FBI to complete his name check. Sam said his career has been affected by the delay. He lives in Anaheim and is a project manager at a software company but cannot work on certain government projects because he is not a U.S. citizen. He has sued the federal government.

"I am not sure what the hiccup is on my end," he said. "It is very, very frustrating."

Shusterman, whose office is representing Sam, said applicants waste their time by contacting the immigration services agency, the FBI or their legislators.

"There is only one thing that works, and that is suing them in federal court," he said.

anna.gorman@latimes.com

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