

Question#:	1
Topic:	K-1 Visa Application Review
Hearing:	Vows for Visas: Investigating K-1 Fiancé Fraud
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: K-1 Visa Application Review and Fraud Investigations:

USCIS's Vermont Service Center is responsible for adjudicating K-1 visa applications. This process includes reviewing the Form I-129F and supporting documents to demonstrate that parties intend to enter into a bona fide marriage within 90 days of the fiancé's admission as a K-1 nonimmigrant, and have met within two years. USCIS does not routinely interview the parties, but can exercise discretion if necessary.

From fiscal year 2011-2016, how many Form I-129F petitioners and beneficiaries were interviewed as part of the initial application process? At what point in the process do these interviews occur?

Response: Service Center adjudication involves performing background and security checks and reviewing the petition and all supporting evidence submitted with the petition to determine whether the petitioner has met his or her burden of proof for demonstrating the claimed fiancé(e) relationship.

Once the petition is approved, the beneficiary applies for a visa based on the Form I-129F approval. The Department of State (DOS) interviews all beneficiaries when applying for the K-1 nonimmigrant visa at consular offices overseas in order to determine eligibility and admissibility. After DOS issues a K-1 visa, the applicant is subsequently inspected by U.S. Customs and Border Protection (CBP) when the beneficiary travels to the United States. The foreign fiancé(e) is admitted for 90 days, during which time they are required to marry the petitioner in order to apply for lawful permanent residence. USCIS currently interviews *all* K-1 adjustment of status applicants whose applications are filed on or after April 17, 2017.

Question: From FY 2011-2016, how many petitioners and beneficiaries were interviewed during the adjustment of status phase?

Response: USCIS does not maintain complete data on the number of interviews conducted during the adjustment of status phase for Form I-129F beneficiaries and cannot ascertain such data without manually reviewing A-files. However, for applications filed on or after April 17, 2017, we will begin interviewing all such beneficiaries at the adjustment of status phase.

Question: Could additional interviews help improve USCIS and FDNS's process for

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identifying and preventing fraud? If yes, please explain the additional resources and time that would be needed for this effort? If no, please explain why not?

Response: Yes, and for this reason USCIS began interviewing all K-1 adjustment of status applicants who filed on or after April 17, 2017.

Because K-1 adjustment applicants are spread out across the country and are not concentrated in any particular jurisdiction, resource impacts are expected to be limited, at least initially. USCIS is in the process of assessing the mid- and long-term impacts of this additional workload.

Question: At the hearing, Mr. Emrich stated that 45 percent of the hours spent investigating benefit fraud were spent on marriage fraud cases. Please provide additional information on the types of marriage fraud cases and results of these investigations for fiscal years 2011-2016. What percentage of these cases involved K-1 visa fraud?

Response: Of the suspected marriage fraud cases and leads closed between FY11 and FY16, approximately 60 percent of investigations resulted in a finding of fraud. Additionally, approximately 15 percent of the cases and leads opened in this time frame had a K-1 visa associated with the investigation.

Question: What's driving the higher volume of Form I-129F applications over the last several years? Is marriage fraud becoming more common or is USCIS more actively pursuing this type of fraud? Please explain.

Response: Our statistics show a downward trend for Form I-129F petition filings in recent years. The table below shows the number of Form I-129F petitions received annually from FY 2005 through FY 2016. While there has been a slight increase since FY11, these figures are within the realm of normal year-to-year variance.

Fiscal Year	I-129F Petitions
2005	63,257
2006	66,177
2007	62,442
2008	54,368
2009	50,218
2010	47,892

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2011	46,936
2012	45,471
2013	45,360
2014	48,394
2015	49,066
2016	53,116
Total	632,697

Question: Does USCIS forward all single-scheme fraud cases to ICE? Please explain.

Response: USCIS uses a multi-pronged approach to ensure that petitioners and beneficiaries found to be engaging in fraud are held accountable. When USCIS renders a finding of fraud, the case may be referred to ICE for possible referral for criminal prosecution, the case may be referred to another law enforcement entity or to the appropriate AUSA, or USCIS may issue a Notice to Appear (NTA) to place the beneficiary into proceedings.

Question#:	2
Topic:	Adjustment of Status and Overstays
Hearing:	Vows for Visas: Investigating K-1 Fiancé Fraud
Primary:	The Honorable Charles E. Grassley
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Question: K-1 Visa Adjustment of Status and Overstays:

Mr. Renaud testified that USCIS has limited information on the number of K-1 beneficiaries who adjust status. As of now, USCIS does not track the status of K-1 beneficiaries after the 90 day visa expires and does not collect data on how many people overstay their K-1 visa. DHS last reported on visa overstays in 2015, but did not separately aggregate the number of overstays linked to K-1 visas.

Between fiscal years 2011 and 2016, how many K-1 visa beneficiaries filed the I-485 to adjust status? Of those, how many were approved and denied? Of those denied, what were the basis of the denials?

Response: Due to limitations in USCIS' system data, the agency is not able to determine how many individuals who entered as a K-1 did not apply for adjustment of status. Enforcement of violations of nonimmigrant status or overstays would be under the jurisdiction of ICE and CBP.

Question: How many K-1 visa beneficiaries failed to file the I-485? Of those that failed to file, did these beneficiaries apply to adjust status using a different visa category? If so, please provide details on the other categories used, including the number of beneficiaries in each category.

Response: Please see the response to the preceding question.

Question: Between fiscal years 2011 and 2016, how many overstays were K-1 beneficiaries?

Response: Between FY11 and FY16, U.S. Customs and Border Protection identified 15,309 K-1 beneficiaries as suspected in-country overstays. However, accurate identification of this population is difficult due to the high number who change their last name as a result of marriage.

Question#:	3
Topic:	Determining the Marital Status
Hearing:	Vows for Visas: Investigating K-1 Fiancé Fraud
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: Determining the Marital Status of K-1 Petitioners and Beneficiaries:

USCIS is responsible for determining whether the petitioner and the beneficiary are entering into a marriage for the purpose of evading the immigration laws when filing a form I-129F to start the K-1 process. Essentially, USCIS is tasked with determining whether the couple really intends to marry for valid reasons, or solely for the extensive immigration benefits attached to the union. There have been several cases in the news involving U.S. citizens and businesses who filed multiple K-1 petitions to defraud our government by obtaining green cards for foreign nationals, and citizens who have married multiple partners in exchange for thousands of dollars. For example, according to a recent news article, Liana Barrientos, a resident of the Bronx, New York, married approximately 10 men over an 11 year period as part of a green-card scam.

At the hearing, Mr. Neufeld stated that the process for determining if the petitioner and beneficiary are free to marry is primarily paper based, and that access to other databases to check marital status is not currently available. This process also limits USCIS's ability to identify petitioners who file multiple K-1 petitions. A 2014 GAO report found that USCIS lacks sufficient data to determine if a petitioner has filed multiple K-1 visas. Recent cases have given rise to concerns about the effectiveness of USCIS's vetting process.

What is the process by which USCIS determines the marital status of both parties to ensure they are both free to marry? Does USCIS collaborate with interagency partners to determine marital status? Please explain.

Response: USCIS considers a number of factors when seeking to determine whether a petitioner and beneficiary are free to marry. As part of each case review, USCIS will review the information disclosed by the petitioner and beneficiary on the Form I-129F, Petition for Alien Fiancé(e), and supporting documentation regarding the parties' current marital status, number of marriages, and the date and place of each marriage. USCIS will also review all other record information available.

USCIS officers employ background checks and system checks to confirm identity and status information. USCIS may also review the Department of State's (DOS) Consolidated Consular Database (CCD) for notes and information relating to a beneficiary's visa application and consular interview, as well as any flags which may indicate derogatory information.

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USCIS reviews and assesses the probative value of documentary evidence provided by the parties to establish their freedom to marry, including any prior marriage certificates, annulments, divorce decrees, death certificates, or other documents establishing the termination of a prior marriage. As part of this review, USCIS may review the law of the jurisdiction that issued the document to determine whether the document meets the requirements of the jurisdiction and whether it was issued by a competent authority.

USCIS also may take steps to independently verify documents and information, both at the petition stage and the adjustment application stage, if the reviewing officer suspects fraud or has reason to believe there may be additional prior marriages. If the documents were issued in the United States, the reviewing officer may conduct search online for publicly available records, although availability varies based on a number of factors. Most USCIS officers outside of FDNS do not have access to commercial databases.

If documents are issued by an overseas authority, USCIS may refer to known exemplars of records from a specific country or region or engage with USCIS or DOS offices overseas to verify a record. However, the ability to verify documents issued overseas often depends on U.S. personnel conducting physical searches of local records. The availability, type, and condition of overseas records can vary greatly. Unsafe country conditions or lack of available personnel can significantly limit or prevent document verification.

If fraud is suspected in an application, petition, or request, a reviewing adjudications officer (Immigration Services Officer, Asylum Officer, etc.) may refer the case to an FDNS Immigration Officer (IO) for administrative investigation.

In addition to referrals from adjudicators or other agencies, USCIS also evaluates tips which call into question the status of a current or previous marriage. USCIS evaluates these items on an individual basis and further investigates items which are actionable and verifiable.

Question: What steps could USCIS take to improve the process for determining the party's marital status and identifying multiple filers?

Response: USCIS has identified and is implementing several processes that seek to improve its ability to determine a party's marital status and identify multiple filers and to improve the integrity of the process.

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Question: What additional resources are needed to make these necessary improvements to the K-1 review process?

Response: USCIS is currently exploring the best options to improve the K-1 process and will evaluate the resources needed to implement these changes. As USCIS is a fee funded agency, it will look to fee collection authority to cover costs.

Question#:	4
Topic:	human traffickers
Hearing:	Vows for Visas: Investigating K-1 Fiancé Fraud
Primary:	The Honorable Charles E. Grassley
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Question: Human Trafficker Use of K-1 Visas:

According to a 2016 Department of Homeland Security Office of Inspector General report, data from 2005 to 2014 indicate that work and fiancé visas were the predominant means by which more than half of the human traffickers known to federal law enforcement legally smuggled victims into the United States.[1] The IG determined that 274 subjects of ICE human trafficking investigations successfully petitioned USCIS to bring 425 family members and fiancés to the U.S. The report also explained that fiancé visas were used to lure human trafficking victims to the U.S. as part of marriage fraud schemes.

What steps has USCIS and FNDS taken to investigate and take action against human traffickers who used the K-1 visa to bring fiancés and family members into the U.S.?

Response: USCIS refers suspicious activity related to potential human trafficking and fraud to ICE Homeland Security Investigations (HSI), including fraud detected during the K-1 visa process. ICE routinely receives referrals from USCIS regarding potential human trafficking and fraud and that it works closely with USCIS to investigate any leads generated by suspicious activity during the K-1 visa process. In addition to conducting administrative investigations, FDNS assists adjudicators in tracking fraud trends and provides fraud detection training to officers.

Question: How many of the 274 known traffickers sought to bring fiancés into the country using the visa?

Response: Available data indicate that only a small fraction of victims of human trafficking enter the United States as K-1 visa holders. Available data could not confirm whether these investigations actually involved human trafficking. As stated in the OIG report, 18 of the 274 individuals were arrested for trafficking-related crimes.

Question: Since the report, what actions has USCIS taken to improve its processes and procedures for identifying and preventing human traffickers from using the K-1 visa program?

Response: USCIS is working closely with ICE's Human Smuggling and Trafficking Center (HSTC) to counter human traffickers and identify the victims of human trafficking, regardless of the victim's method of entry into the United States.

Question#:	5
Topic:	Fraud and National Security Threats
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Question: Identifying, Detecting, and Preventing Fraud and National Security Threats Involving K-1 Visas:

As discussed at the hearing, the national-security implications of marriage fraud are great. The 9/11 Commission reported that several top Al Qaeda operatives viewed marriage fraud as a "fantastic mechanism for operatives to acquire valid documents." In fact, a K-1 visa was acquired by one of the shooters in the San Bernardino terrorist attacks who used a fake address on her application. According to Mr. Renaud and Mr. Emrich, USCIS does not have a robust system for verifying overseas addresses. Apparently, these verifications are done by request on a case-by-case basis.

Please explain how USCIS verified overseas addresses. Will USCIS request on-site verification of an address or any other information listed on the I-129F and K-1 visa application? Please explain.

Response: When an adjudicating officer has specific cause for suspicion, the officer may request a visit to an overseas address through the Overseas Verification Program. The goal may be simply to verify the existence of the address and the identity of the residents. In K-1 cases where fraud is suspected, USCIS can use the program to request verification of information on the I-129F petition and supporting documentation.

In some countries, USCIS enjoys a high level of cooperation from local officials. However, in other locations, there is very limited cooperation from local government and very limited local staff available to pursue a field investigation. FDNS has four positions at posts in Germany, Mexico, India, and China. In all other countries, USCIS relies on the Department of State (DOS) to help.

The overseas verification process involves a USCIS employee requesting overseas verification of an address, a document, or a relationship. The USCIS employee or, where one is not available, a State Department employee undertakes this verification by conducting a site visit, checking with local authorities responsible for the document in question, or conducting an interview of the subject(s) in question.

Question: What changes have been made to improve the verification of information submitted on the applications, including addresses, date of birth, employment history, and other critical information about the foreign national?

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Response: USCIS defers to DOS as they conduct most of the screening and verification related to K-1 visa applications.

Question: What additional resources are needed to expand USCIS's capacity to verify foreign addresses?

Response: Since DOS currently conducts most of this work, USCIS would need to consult with State regarding potential additional resources.

Question: Mr. Emrich also reported that USCIS along with Intelligence Community partners conducted two different reviews of the K-1 visa screen processing following the San Bernardino attacks. What actions are being taken to address the report findings? Please provide a copy of the San Bernardino investigation report.

Response: Following the December 2015 San Bernardino attack, USCIS, in coordination with Intelligence Community partners, conducted a retrospective review of K-1 visa applicants as they moved through the immigration lifecycle. This review was based on information provided by the National Counterterrorism Center (NCTC). USCIS also conducted a prospective study with NCTC of adjustment of status applicants, including certain K-1 visa holders. USCIS continues to work with its interagency partners to develop and implement improved screening processes, and would welcome the opportunity to discuss the findings of both reports in a classified setting.

Question: What steps does USCIS and FDNS take to authenticate evidentiary documents? Specifically, what steps are taken to prevent fake pictures, and identity documents from being used?

Response: When an adjudicator questions the authenticity of a document submitted to USCIS, the officer may submit the original to the Homeland Security Investigations Forensic Laboratory (HSI-FL). HSI-FL can perform a full forensic document examination and provide a written evaluation of authenticity. Forensic document examiners are also available to testify in a criminal proceeding.

Question: Does USCIS and/or FDNS maintain a database of documents from which they can authenticate evidentiary documents against for repeat petitioners or fraud?

Response: Yes. HSI-FL maintains a library of exemplars and fraudulent documents to facilitate comparisons and fraud investigations.