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Engagement visas in spotlight

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Several years ago, a Bucks County woman wanted to bring her Afghan fiancé to America so they could wed. He had worked as a translator for U.S. troops; she was a soldier when they met in Kabul.

The U.S. government "did background checks on him ad infinitum," said Djung Tran, the Philadelphia immigration lawyer who represented the couple in their bid for a K-1 fiancé visa.

Month after month, there was no movement on the matter, Tran said. Whenever she inquired, she was told cryptically that it was in "administrative processing," which the lawyer came to conclude was code for "security issues."

In the end, his application was denied.

Since the ISIS-inspired murders in San Bernardino, Calif., three weeks ago, the K-1 program, which brought Tashfeen Malik to the United States, is under intense scrutiny. Congress pressed for details in a hearing last week, while the Departments of State and Homeland Security are under White House orders to make improvements, and critics are saying the program is deeply flawed.

"They say the vetting process has got all these fail-safes, but apparently there aren't enough," Rep. Matt Salmon (R., Ariz.) said after a recent briefing on Capitol Hill.

Sen. Lindsey Graham (R., S.C.) also has expressed concern about terrorists arranging marriages with Americans to gain entry to the United States.

Malik, 29, was born in Pakistan and lived in Saudi Arabia. Her husband, Syed Rizwan Farook, 28, was born in Chicago and lived in California. On Dec. 2, the heavily armed couple, having pledged allegiance to the terror group Islamic State in Syria, killed 14 people and wounded 21 before dying in a shootout with police.

The K-1 is among several types of visas that enable foreigners to enter America for family purposes. If granted, the foreign-born person can come to the U.S. for 90 days.

But the person must marry in that period or return home. Once married, the foreign-born person can apply for permanent residency and, eventually, citizenship.

Authorities say Malik and Farook found each other through an online dating site and met in person when he traveled to Saudi Arabia in 2013 on a pilgrimage to Mecca. She entered the U.S. the following summer. Their now-orphaned daughter is 6 months old.

The United States grants about 30,000 K-1s annually. The San Bernardino massacre is believed to be the first terrorist attack by a person who entered on a K-1.

Tran, who has been practicing immigration law for a decade, says targeting the program is a red herring.

"If you believe in family-based immigration, if you believe that is a value, that it's what we want to promote, then the K-1 is a piece of that puzzle," she said.

In addition to the case of the Afghan man, she has successfully processed fiancé visas for clients from Vietnam and the Philippines. She says the scrutiny is extensive.

"I've had K-1s where the amount of evidence demanded by [U.S. Citizenship and Immigration Services] to prove the relationship is bona fide is more than I usually do for a marriage case. . . . They want a chronological timeline of all the times the two people had contact" and many other details.

To get a K-1, the citizen marrying a foreign national usually must provide travel, phone, and hotel records, details about the engagement proposal and wedding, and multiple witness affidavits to prove the relationship is genuine.

If the application clears those hurdles, it is forwarded to the State Department for law enforcement, national security, intelligence community, and international terror-watch screenings. A U.S. embassy or consulate conducts a medical exam and interviews the foreign applicant.

According to the State Department, the background check makes use of fingerprints, facial-recognition software, and other technology.

The Cato Institute, a libertarian think tank, recently analyzed eight years of K-1 data - 262,162 visas for 2005 through 2013. Although much of the recent scrutiny falls on the Middle East, no country from that region is in the top 10 for sending fiancés to America.

The Philippines leads, with 17.34 percent of the total. Next is China, at 6.45 percent. Vietnam is third with 5.56 percent. Then, in descending order: Mexico, Colombia, Russia, Dominican Republic, United Kingdom, Thailand, and Canada.

The State Department last year denied 618 of the more than 36,500 fiancé visas sought. But it has declined to say how many denials were for security concerns.

The Department of Homeland Security has been criticized over reports that it did not routinely consult social media during the vetting of Malik, where it might have found evidence of her

radicalization. DHS Secretary Jeh Johnson has denied reports that there was a policy in place in 2014 that would have prevented agents from looking at her social media postings.

Citing reports that some of Malik's postings were under an alias, Tran said it is not clear if a more rigorous process would have unmasked her intentions, since her criminal record appeared to be clean.

She said any changes to the K-1 program might come down to weighing the value of a marital relationship.

"We made a decision historically to place a high value on that, to allow family unity, so you can live here with your significant other from a foreign nation," she said. "Right now, according to our laws, we value that a lot. Are we going to say terrorism concerns outweigh this value?"

"That's a debate we have to have."