



Where Do K-1 'Fiance' Visa Holders Come From?

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Before murdering 14 people and wounding 21 others, San Bernardino shooter Tashfeen Malik entered the United States on a K-1 (fiancé) visa in July 2014 to marry native-born American Syed Farook. The murderous couple exchanged emails about radical Islam and lied about one of her former addresses. Government officials did not discover their deceit, issued the visa, and Malik entered the United States.

[Editor's note: Homeland Security Today first reported earlier this month US counterterrorism and FBI officials had raised a host of questions about whether any "red flags" were raised by State Department officials in the processing of the K-1 visa Farook and Malik, his Pakistani wife, had to go through in order for Malik to be allowed into the United States pursuant to the K-1 Visa application and processing process]

The K-1 visa was created in 1970 to help returning American servicemen bring back their Vietnamese fiancés. The previous bureaucratic hurdles, both imposed by the governments of South Vietnam and the United States, delayed the process. The freedom of Americans to marry whomever they wanted, even if they were foreigners, was so important Congress passed a law to expedite the process.

The K-1 visa is not the most commonly used way for foreign-born spouses to enter the United States. About 35,000 were issued in 2014, but many more green cards for the spouses of Americans were issued to fiancés. The K-1 is only used by couples in particular circumstances.

K-1 visas are the only nonimmigrant visas where applicants face the same security, biometric, rounds of interviews and background checks as applicants for green cards. Terrorists with any kind of paper trail or police record will not use this visa to enter the United States because of the extensive check. Thus, the K-1 deters almost all terrorist from trying to enter, explaining its 99.7 percent approval rate in 2014.

Every victim of a terrorist attack is a tragedy, but when learning from past failures we must first ask how likely K-1 visa users are to become terrorists. Depending on whether Malik's deception on the K-1 is common or uncommon, the government's responses should be very different.

According to David North at the Center for Immigration Studies, Malik is the first terrorist to have entered on a K-1 visa. From 1989 to 2014, the government issued 512,164 K-1 visas for spouses. That's one terrorist for 512,164 K-1 visas admitted, or a risk of 0.00019 percent that the next visa will be issued to a terrorist.

The K-1 visa is not widely used by immigrants from more dangerous countries. Senator Rand Paul's (R-Ky.) SECURE Act identified 34 countries as particularly prone to exporting terror. 32,363 K-1 visas, 12.34 percent of the total, were issued to citizens from those countries from 2005 to 2013. Malik was Pakistani. 3,177 K-1 visas were issued to Pakistanis, or 1.21 percent of all K-1s, from 2005 to 2013.

The top ten countries for sending fiancés are the Philippines (17.34 percent), China, Vietnam, Mexico, Colombia, Russia, Dominican Republic, United Kingdom, Thailand and Canada. These top 10 countries are responsible for 53 percent of all K-1 visas issued. Russia is the only country in the top 10 that Paul considers a risk, and none of them are majority Muslim. You have to go all the way down to number 21, Iran, to find a majority Muslim country. Pakistan is 23rd.

According to the New America Foundation, jihadist terrorists have murdered 45 people on American soil since 9/11. Although that's 45 too many, that's about three people per year murdered by jihadists, which means Americans in the United States had about a one in 94 million chance of being murdered by them in each year.

Jihadist terrorism is a real threat, but it is one that's mercifully small. In an ideal world, there would be no violence committed in such a way, but since we don't live in that world, we need to judge the risks honestly and respond to them in a way that minimizes harm. The freedom of Americans to marry whom they want is so important we should only consider rules that will likely infringe on that right if there is a grave threat, and provided those rules could reduce it enough to be worth the pain and suffering foisted on legitimate marriages that will be impacted.

K-1 visa fees to check on security run at about \$755 per applicant. The San Bernardino massacre cost around \$250 million (\$15 million per murder, rounded up). If the security checks already in place weed out 90 percent of terror threats on the K-1 visa, then it cuts the terrorist risk from 0.00038 percent per K-1 to 0.00019 percent. That means the government already spent enough on security for these visas.

However, one simple reform could increase security without increasing costs. Department of State (DOS) and Department of Homeland Security (DHS) officials should stop wasting their time trying to determine whether the romance between a K-1 applicant and his or her American

spouse is “real.” They currently spend an inordinate amount of time sifting through love letters and other evidence to gauge whether the romance is fraudulent or not.

They can stop their snooping if the number and type of visas are expanded enough to disincentivize marriage fraud. Marriage visa fraud happens because there are no other visas available. By expanding the numbers and types of immigrants who can come to the United States without having to fake marriages, DOS and DHS officials can instead spend all of their time and resources focusing on vetting the immigrant for security reasons.

Marriage fraud is not a matter of national security. Expending resources on stopping it decreases those that can be allocated to additional vetting of immigrants. There is very little harm from sham marriages that cannot be better averted through more thorough security vetting. Such an expansion of legal immigration opportunities will allow DHS and DOS personnel to refocus exclusively on security.

On a long enough timeline, terrorists will get through no matter the security in place – even if zero legal immigrants were allowed. The government should spend time and money, mainly collected from fees paid by the immigrants themselves, to run security checks on immigrants.

However, we should not burden already overregulated visas and impose large additional costs on our economy and Americans to decrease a 0.00019 percent risk further.

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