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United States Senate

COMMITTEE ON
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
WASHINGTON, DC 20510-6250

KEITH B. ASHDOWN, STAFF DIRECTOR
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December 9, 2015

The Honorable Jeh Johnson
Secretary
U. S. Department of Homeland Security
Nebraska Avenue Complex
3801 Nebraska Avenue, N.W.
Washington, D.C. 20528

Dear Secretary Johnson:

On December 2, 2015, the American public watched in horror as reports filtered out of San Bernardino, California detailing the tragic terrorist attack that left 14 innocent civilians dead and dozens more injured. While we continue to obtain information on this tragedy, federal law enforcement personnel have confirmed that one of the suspects, Tashfeen Malik, entered the United States via a K-1 visa.¹

The K-1 visa program authorizes U.S. citizens to bring their foreign national fiancé or fiancée living abroad to the United States to marry.² To begin the process of obtaining a K-1 visa, the American citizen fills out a form I-129F with the United States Citizenship and Immigration Services (USCIS). USCIS then collects the applicable fees and conducts a background check on the applicant. Once USCIS approves the application, it then transfers the matter to the State Department's National Visa Center and the embassy or consulate closest to the foreign fiancé. At this location, the State Department will conduct a medical examination and an interview of the foreign fiancé. After the interview, the State Department Official can either grant the visa or return the petition to USCIS with a recommendation that the visa be denied.

If the State Department issues the K-1 visa, the U.S. citizen and foreign fiancé must be married within 90 days.³ Once the couple is married, the foreign spouse must apply for permanent residency if he or she wishes to live in the United States, and may remain in the country while USCIS processes their application.⁴ If the couple is not married within 90 days,

¹ Jennifer Medina, et al, *San Bernardino Suspects Left Trail of Clues, but No Clear Motive*, THE NEW YORK TIMES, Dec. 3, 2015, http://www.nytimes.com/2015/12/04/us/san-bernardino-shooting.html?_r=0.

² U.S. Citizenship and Immigration Services, *Fiancé(e) Visas*, <http://www.uscis.gov/family/family-us-citizens/fiancee-visa/fiancee-visas>.

³ *Id.*

⁴ *Id.*

the foreign fiancé must leave the United States, or else be found in violation of U.S. immigration laws.

In order to assist the Committee in evaluating potential vulnerabilities with the K-1 visa program, we respectfully request that you provide the following:

1. Please provide a step-by-step explanation of the process that a K-1 visa applicant goes through when applying for a K-1 visa.
2. Please describe the background check USCIS, or other DHS components conducted on Mr. Farook and Ms. Malik when they applied for a K-1 visa.
3. When conducting the background check into Mr. Farook and Ms. Malik, did DHS components identify any threats to national security? Does DHS plan to review this background investigation in the wake of this tragedy? Please explain.
4. What, if any, follow-up is conducted after the foreign fiancé that entered the U.S. on a K-1 visa applies for a green card after marrying the U.S. citizen? Did DHS conduct any follow-up of Ms. Malik after she entered the United States? Please explain.
5. How many people entered the U.S. on a K-1 visa from FY2005-FY2015 but subsequently failed to marry within 90 days? Of this group, how many people remain in the U.S. without authorization?
6. Of those that entered the U.S. on a K-1 visa from FY2005-FY2015 how many people subsequently applied for a green card? How many were approved?
7. What reforms, if any, is DHS considering to the K-1 visa vetting process in the wake of this recent tragedy?
8. What reforms to the K-1 visa, if any, should Congress consider in the wake of this recent tragedy?
9. Please provide all documents and communications referring or relating to Syed Rizwan Farook and Tashfeen Malik's application and approval of a K-1 visa.

Please produce this material as soon as possible, but by no later than 5:00 p.m. on December 23, 2015. Any classified information provided in response to this letter should be provided under separate cover through the Office of Senate Security. In addition, we request that appropriate DHS staff arrange a briefing with our staffs on this matter. Please arrange this briefing by December 23, 2015.

The Committee on Homeland Security and Governmental Affairs is authorized by Rule XXV of the Standing Rules of the Senate to investigate "the efficiency, economy, and

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effectiveness of all agencies and departments of the Government.”⁵ Additionally, S. Res. 253 (113th Congress) authorizes the Committee to examine “the efficiency and economy of operations of all branches and functions of Government with particular references to (i) the effectiveness of present national security methods, staffing, and processes”⁶ For purposes of this request, please refer to the definitions and instructions in the enclosure.

If you have any questions about this request, please contact us or ask your staff to contact Kyle Brosnan or Brooke Ericson of the majority staff at (202) 224-4751 or Harlan Geer or Rebecca Maddox of the minority staff at (202) 224-2627. Thank you for your attention to this important matter.

With best personal regards, we are

Sincerely yours,


Ron Johnson
Chairman


Tom Carper
Ranking Member

Enclosure

⁵ S. Rule XXV(k); *see also* S. Res. 445, 108th Cong. (2004).

⁶ S. Res. 73 § 12, 114th Cong. (2015).