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DEPARTMENT OF STATE

WRITTEN TESTIMONY

OF

DAVID T. DONAHUE

ACTING ASSISTANT SECRETARY OF STATE

BUREAU OF CONSULAR AFFAIRS

DEPARTMENT OF STATE

BEFORE THE

UNITED STATES SENATE

COMMITTEE ON THE JUDICIARY

ON

MARRIAGE FRAUD

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Good morning Chairman Grassley, Ranking Member Feinstein, and distinguished members of the Committee, thank you for the opportunity to testify at today's hearing. The Department of State (the "Department") is fully dedicated to protecting our nation's borders and has no higher priority than the safety of our fellow citizens at home and abroad. We are the first line of defense in border security because the Department is often the first U.S. government agency to have contact with foreign nationals wishing to travel to the United States. We fully share your commitment to preventing individuals who intend to do our nation harm from exploiting the K-1 fiancé or any other visa category as a means of entering our country, and I am pleased to share with you the robust fraud-prevention measures we have in place to prevent such an occurrence. These fraud prevention measures complement the multi-faceted security screening process we and our partner agencies have built to screen all visa applicants, including K-1 fiancés, well before any potential threat reaches our borders.

An Overview of the Marriage-Based Visa Process

The Department of State's role in the marriage-based visa process begins when our National Visa Center (NVC) receives an approved I-129F petition for a K-1 fiancé, or an I-130 petition for a spouse, directly from U.S. Citizenship and Immigration Services (USCIS). USCIS includes any relevant information from their petition approval process with the petition. NVC conducts a review of each petition received and prepares the visa case for adjudication by a consular official at a U.S. embassy or consulate. For every K-1 petition, NVC's Fraud Prevention Unit (FPU) conducts a review of potential fraud indicators. Should fraud indicators be found, the FPU will conduct a further, in-depth review using Department of State

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records, commercial database checks, and internet checks of publically-available information. NVC's FPU summarizes the results of this review in a memo to the consular officer overseas who will ultimately determine whether or not the applicant qualifies for a visa. NVC also conducts additional, similar fraud reviews on targeted spousal visa petitions.

Once the visa case is documentarily complete at NVC, the applicant is scheduled for an interview with a consular officer overseas. Consular officers are trained in the language, culture, social and economic conditions, as well as security and fraud trends in their host country, and are provided with guidance in the Foreign Affairs Manual to apply U.S. immigration law appropriately. Understanding the cultural context surrounding engagement and marriage customs provides consular officers with key knowledge that can assist in making eligibility determinations. If required, the consular officer may request additional documentation or evidence of a relationship to assess the qualifications of the applicant for the visa category sought.

Most U.S. embassies and consulates have a Fraud Prevention Unit, headed by a Fraud Prevention Manager. If fraud is suspected, the visa application is sent to the FPU at post for further investigation. FPUs employ a number of technology tools and other methods to conduct fraud assessments, including referring cases for criminal investigation if necessary. More than 100 consular sections also integrate a Diplomatic Security special agent, a sworn federal law enforcement officer, detailed to the consular section, whose primary task is to conduct criminal investigations related to passport and visa fraud. These special agents coordinate criminal investigations and liaise with other U.S. and local law-enforcement agencies for any

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consular-related issues, such as facilitating the arrest of visa vendors, assisting with law enforcement hits, and coordinating extraditions.

If a consular officer determines that the relationship claimed as the basis for the immigrant or fiancé visa petition is fraudulent, and exists solely to confer an immigration benefit to the visa applicant, the consular officer will return the petition to USCIS for reconsideration and possible revocation, as USCIS has the authority to make determinations regarding visa petitions. If USCIS reaffirms the petition, the consular officer will review the case and all new information and evidence contained in the file. Barring other ineligibilities or newly identified facts, the consular officer will generally issue the visa.

Consular Officer Training to Detect Fraud in Visa Applications

The Department of State trains all consular officers to recognize fraud indicators they may encounter while adjudicating visas. In addition to a mandatory six-week Basic Consular Course for all incoming consular officers, the Bureau of Consular Affairs and individual consular sections at U.S. embassies and consulates overseas provide ongoing training on regional visa fraud trends. The Office of Fraud Prevention Programs in Washington also offers multiple week-long in-person trainings on visa fraud prevention, and coordinates additional ongoing webinars for overseas Fraud Prevention Units, frequently conducted jointly with USCIS.

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The Broader Security Screening Process

In coordination with interagency partners, the Department has developed, implemented, and refined an intensive visa application and screening process that is applied to all visa categories. Underpinning the process is a sophisticated global information technology network that shares data among the Department and federal law enforcement and intelligence agencies. Security is our primary mission. Every visa decision is a national security decision. The rigorous security screening regimen I describe below applies to all visa categories, including K-1s.

All visa applicants submit online applications – K-1 applicants submit the DS-160 visa application form as they are considered nonimmigrants, and spouses of U.S. citizens and Lawful Permanent Residents submit the DS-260 immigrant visa application form. Online forms enable consular and fraud prevention officers, and our intelligence and law enforcement partners, to analyze data in advance of the visa interview, including the detection of potential non-biographic links to derogatory information. The online forms offer foreign language support, but applicants must respond in English, to facilitate information sharing among the Department and other government agencies.

Consular officers use a multitude of tools to screen visa applications. No visa can be issued unless all relevant concerns are fully resolved. During the interview, consular officers pursue case-relevant issues pertaining to the applicant's identity, qualifications for the particular visa category in question, prior visa applications or travel to the United States, and any information pertaining to possible ineligibilities, including ineligibilities related to criminal history, and/or links to terrorism or security threats.

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As a matter of standard procedure, all visa applicant data is reviewed through the Department's Consular Lookout and Support System (CLASS), an online database containing approximately 36 million records of persons found ineligible for visas and persons who are the subjects of potentially derogatory information, drawn from records and sources throughout the U.S. government. CLASS employs sophisticated name-searching algorithms to identify accurate matches between visa applicants and any derogatory information contained in CLASS. We also run all visa applicants' names against the Consular Consolidated Database (CCD), our automated visa application record system, to detect and respond to any derogatory information regarding visa applicants and visa holders and to check for prior visa applications, refusals, or issuances. The CCD contains more than 181 million immigrant and nonimmigrant visa records going back to 1998. This robust searching capability, which takes into account variations in spelling, is central to our procedures.

We collect 10-print fingerprint scans from nearly all immigrant visa applicants, except , for those immigrant visa applicants under the age of 14. Those fingerprints are screened against two key databases: first, the Department of Homeland Security's (DHS) IDENT database, which contains a watchlist of available fingerprints of known and suspected terrorists, wanted persons, and immigration law violators; and second, the Federal Bureau of Investigation's (FBI) Next Generation Identification (NGI) system, which contains more than 75.5 million criminal history records.

All visa photos are screened against a gallery of photos of known or suspected terrorists obtained from the FBI's Terrorist Screening Center (TSC), and against visa applicant photos contained in the Department's CCD.

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In 2013, in coordination with multiple interagency partners, the Department launched the “Kingfisher Expansion” (KFE) counterterrorism visa vetting system. While the precise details of KFE vetting cannot be detailed in this open setting, KFE supports a sophisticated comparison of multiple fields of information drawn from visa applications against intelligence community and law enforcement agency databases in order to identify terrorism concerns. If a “red-light” hit is communicated to the relevant consular post, the consular officer denies the visa application and submits it for a Washington-based interagency Security Advisory Opinion (SAO) review by federal law enforcement and intelligence agencies. In addition to this KFE “red-light” scenario, consular officers are required to submit SAO requests in any case with applicable CLASS name check results, and under a variety of interagency-approved policies developed to vet travelers that raise security concerns, including certain categories of travelers with a particular nationality or place of birth. In any case in which reasonable grounds exist to question visa eligibility on security related grounds, regardless of name check results, a consular officer may suspend visa processing and request an SAO. Consular officers receive extensive training on the SAO process, which requires them to deny the visa application under the Immigration and Nationality Act (INA) section 221(g), reflecting the consular officer does not have sufficient information to resolve potential ineligibilities, then submit the case for interagency review for any possible security-related ineligibilities. The applicant is informed of the denial and that the case is in administrative processing. An applicant subject to this review may be found eligible for a visa only if the SAO process resolves all concerns.

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DHS's Pre-adjudicated Threat Recognition and Intelligence Operations Team (PATRIOT) and Visa Security Program (VSP) provide additional law enforcement review of visa applications at designated overseas posts. PATRIOT is a pre-adjudication visa screening and vetting initiative that employs resources from DHS/Immigration and Customs Enforcement (ICE), DHS/Customs and Border Protection (CBP), and the Department of State. It was established to identify national security, public safety, and other eligibility concerns prior to visa issuance. A team of agents, officers, and analysts from ICE and CBP perform manual vetting of possible derogatory matches.

PATRIOT works in concert with the Visa Security Units (VSU) located in high-threat posts of concern for DHS and is being deployed to more visa issuing posts as rapidly as available resources will support. ICE special agents assigned to VSUs provide on-site vetting of visa applications. When warranted, DHS officers assigned to VSUs conduct targeted, in-depth reviews of individual visa applications and applicants prior to issuance, and make recommendations to the consular officer regarding refusal of an application or revocation of an issued visa. This collaboration highlights how the Department of State works closely with DHS to ensure that no known or suspected terrorist inadvertently receives a visa or is admitted into our country. The Department of State has not and will not issue a visa for which the VSU recommends refusal.

K Visa Data Analysis

In 2016, the Department of State partnered with USCIS to conduct a review of five years of data on K-1 visa recipients to determine if the visa holders complied with the terms of their visas and properly adjusted to lawful permanent resident status or

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departed the United States at the end of the initial period of admission. Results showed the vast majority of K-1 recipients – approximately 98 percent – used their visas appropriately by adjusting status as a result of marriage, departing following entry (indicating they did not pursue the marriage), or adjusting through other lawful means.

Conclusion

Mr. Chairman, Ranking Member Feinstein, and distinguished Members of the Committee, the Department of State has no higher priority than the safety of our fellow citizens at home and overseas, and the security of the traveling public. We approach every visa adjudication with the interest of safety and security and work diligently to ensure that those attempting to commit visa fraud are caught at the time of the visa interview and future fraudulent applicants are deterred. We appreciate the support of Congress as we work to strengthen our defenses and continue our efforts to ensure that those applicants entitled to visas under U.S. laws are granted while those not entitled are stopped prior to attempting to enter the United States.

I look forward to your questions.

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