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**TILL FRAUD DO US PART: AN ANALYSIS
OF MARRIAGE FRAUD INVESTIGATIONS**

by

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December 2023

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INVESTIGATIONS**

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ABSTRACT

The United States Citizenship and Immigration Services (USCIS) is responsible for adjudicating immigration benefits, with the Fraud Detection and National Security Directorate (FDNS) serving as its investigative arm. However, the pursuit of criminal investigations depends on the discretion of Immigration and Customs Enforcement (ICE). This thesis identifies procedural and structural challenges within immigration investigations, particularly in the context of marriage-based inquiries. Applying the Leavitt's diamond framework, this thesis evaluates FDNS's jurisdiction, functions, personnel, and technology and advances several recommendations, including reprioritizing fraud in the immigration system and establishing a dedicated law enforcement agency within USCIS. This research helps to delineate areas for improved identification and deterrence of immigration fraud within a nuanced and comprehensive framework.

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LIST OF ACRONYMS AND ABBREVIATIONS

A-file	alien file
AI	artificial intelligence
A-number	alien registration number
BIA	Board of Immigration Appeals
CBP	Customs and Border Protection
CCD	Consular Consolidated Database
CFDO	Center Fraud Detection Operation
DBFTF	Document and Benefit Fraud Task Force
DHS	Department of Homeland Security
DOJ	Department of Justice
DOS	Department of State
DS	(Bureau of) Diplomatic Security
EOIR	Executive Office for Immigration Review
ERO	Enforcement Removal Operations
FDNS	Fraud Detection and National Security Directorate
FDNS-DS	FDNS Data System
FOD	Field Operations Directorate
GAO	Government Accountability Office
HQFDNS	headquarters FDNS
HSI	Homeland Security Investigations
IA	immigration analyst
ICE	Immigration and Customs Enforcement
IMFA	Immigration Marriage Fraud Amendment
INA	Immigration and Nationality Act
INS	Immigration and Naturalization Service
IO	immigration officer
IRS	intelligence research specialist

ISO	immigration service officer
LPR	legal permanent resident
MOA	memorandum of agreement
NLDC	National Lead Development Center
NTA	Notice to Appear
OP&S	Office of Policy and Strategy
OPLA	Office of Principal Legal Advisor
OPM	Office of Personnel Management
OPQ	Office of Performance and Quality
RAIO	Refugee, Asylum, & International Operations
SCOPS	Service Center Operations
SGN	system-generated notification
SSA	Social Security Administration
USCIS	United States Citizenship and Immigration Services
VAWA	Violence Against Women Act
VTVPA	Victims of Trafficking and Violence Protection Act

EXECUTIVE SUMMARY

Immigration fraud in the United States refers to deceptive practices and fraudulent schemes employed by individuals or organizations to manipulate the immigration system for personal gain.¹ It encompasses a wide range of fraudulent activities, including document forgery, visa application misrepresentation, sham marriages, fake job offers, and identity theft. Immigration fraud not only undermines the integrity of the immigration system but also poses significant risks to national security, public safety, and economic stability. It exploits vulnerable individuals seeking legal immigration pathways and disrupts the fair and orderly process of immigration. Detecting and addressing immigration fraud are crucial for ensuring the integrity of the immigration system, protecting genuine applicants, and maintaining the security and well-being of the nation as a whole.

Marriage fraud poses a significant threat to the integrity of the immigration system in the United States. When individuals engage in fraudulent marriages to obtain immigration benefits, they manipulate and exploit a process designed to facilitate genuine relationships and family reunification. This crime undermines the trust and credibility of the system, as it allows individuals to bypass the rigorous screening and vetting procedures in place to protect national security and public welfare. Marriage fraud also creates an uneven playing field for legitimate applicants who diligently follow the rules and wait their turn to enter the country lawfully. Moreover, it places an undue burden on immigration authorities and resources, diverting valuable time and attention away from legitimate cases. By eroding the integrity of the immigration system, marriage fraud weakens public confidence, compromises the fairness of the process, and undermines the overarching goals of immigration policy.² Efforts to detect, prevent, and prosecute marriage fraud are crucial

¹ “Frauds and Scams,” Montgomery County Police Department, accessed November 26, 2023, <https://www.montgomerycountymd.gov/pol/fraud/frauds-and-scams.html>. This thesis and its drawn conclusions are based on open-source material. The author alone is responsible for the content of this thesis. This thesis does not reflect official positions by U.S. Citizenship and Immigration Services or any related U.S. government department.

² Immigration and Customs Enforcement, *Marriage Fraud Is a Federal Crime* (Washington, DC: Immigration and Customs Enforcement, June 2016), <https://www.ice.gov/sites/default/files/documents/Document/2016/marriageFraudBrochure.pdf>.

to safeguarding the integrity of the immigration system and ensuring that it serves its intended purpose of promoting lawful immigration and national interests.

The Fraud Detection and National Security Directorate (FDNS) under the United States Citizenship and Immigration Services (USCIS) set out to preserve the nation’s lawful immigration system by “combat [ing] fraud, detect [ing] national security and public safety threats, and maximiz [ing] law enforcement and Intelligence Community partnerships.”³ Detecting and deterring immigration fraud form one of the directorate’s primary mission-critical functions. However, the Government Accountability Office (GAO) has scrutinized FDNS’s ability to manage and assess fraud risks, noting several barriers to immigration fraud investigation and deterrence.⁴ For example, FDNS has found that 41–49 percent of completed benefit fraud cases concerned marriage-based fraud—the most common scheme to defraud the system—according to the GAO.⁵ Marriage-based immigration presents significant fraud, national security, and public safety concerns that must be investigated by FDNS.

Effective investigation and enforcement play a crucial role in upholding the rule of law, maintaining social order, and ensuring justice.⁶ Whether conducted by law enforcement agencies, regulatory bodies, or internal compliance teams, investigations and enforcement activities must rest on solid foundations to achieve their intended outcomes. This analysis explores the essential foundations that underpin effective investigation and enforcement. By examining the various aspects of marriage fraud visas, this thesis aims to

³ “Fraud Detection and National Security Directorate,” U.S. Citizenship and Immigration Services, June 15, 2022, <https://www.uscis.gov/about-us/organization/directorates-and-program-offices/fraud-detection-and-national-security-directorate>; Rebecca S. Gambler, *U.S. Citizenship and Immigration Services: Additional Actions Needed to Manage Fraud Risks*, GAO-22-105328 (Washington, DC: Government Accountability Office, 2022), <https://www.gao.gov/products/gao-22-105328>.

⁴ Rebecca S. Gambler, *Asylum: Additional Actions Needed to Assess and Address Fraud Risks*, GAO-16-50 (Washington, DC: Government Accountability Office, 2015), <https://www.gao.gov/products/gao-16-50>; Rebecca S. Gambler, *U.S. Citizenship and Immigration Services: Actions Needed to Address Pending Caseload, Report to Congressional Requesters*, GAO-21-529 (Washington, DC: Government Accountability Office, 2021), <https://www.hsdl.org/?abstract&did=858888>; Gambler, *USCIS: Additional Actions Needed to Manage Fraud Risks*.

⁵ Gambler, *USCIS: Additional Actions Needed to Manage Fraud Risks*, 67–68.

⁶ “What Is the Rule of Law,” American Bar Association, accessed June 4, 2023, https://www.americanbar.org/advocacy/rule_of_law/what-is-the-rule-of-law/.

contribute to the ongoing discourse surrounding immigration fraud, inform policymakers, and provide insights for strengthening the immigration system's integrity.

Immigration fraud investigations cover a variety of different immigrant classifications, so this thesis analyzes the structure of marriage fraud investigations in the United States by assessing the ability to adjust one's immigration status through fraudulent means. This research relied on open-source information, including government reports, academic literature, and established laws and procedures. However, the lack of robust data sets related to fraud investigations, filings, and convictions posed a significant limitation. Such information, for the most part, is classified as sensitive to law enforcement and thus not accessible to the public. Scholarly literature on immigration and marriage fraud investigations was also scarce, thus limiting the available resources. Consequently, the research design relied on published reports, policies, and historical events as the basis for analysis, and the thesis employed qualitative research through the use of the Leavitt's diamond framework. This comprehensive framework, developed by Harold J. Leavitt, enables managers and researchers to analyze and design organizations effectively, emphasizing the interdependence of four key elements: task, structure, people, and technology.⁷

This thesis highlights both structural and procedural impediments to marriage fraud investigations. It finds that USCIS-related cases are not a priority for Immigration and Customs Enforcement nor lawmakers or voters. Given the objective of this research to strengthen the existing immigration system by better detecting, deterring, and pursuing immigration fraud, this thesis concludes with several recommendations: to reprioritize fraud through policy and enforcement, enhance coordination and information-sharing among government agencies, leverage technology and data analytics, and enhance FDNS's roles and responsibilities. The thesis calls for the creation of a law enforcement department within USCIS to cut through bureaucratic processes while also updating existing policies to account for fraud enforcement.

⁷ Umar Tahir, "What Is Leavitt's Diamond Model?," Change Management Insight, January 10, 2020, <https://changemanagementinsight.com/what-is-leavitts-diamond-model/>.

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I. INTRODUCTION

The formation of the Department of Homeland Security (DHS) in 2003 aimed to centralize efforts related to fraud, public safety, and national security. Although DHS combined many governmental functions, immigration fraud investigations and enforcement remained segmented and subject to structural and procedural impediments. The gap in fraud deterrence investigations is prominent when investigating instances of marriage fraud.¹

Immigration fraud in the United States refers to deceptive practices and fraudulent schemes employed by individuals or organizations to manipulate the immigration system for personal gain. It involves a broad spectrum of deceptive practices, encompassing such activities as forging documents, providing false information in visa applications, engaging in fraudulent marriages, offering fictitious job opportunities, and stealing identities. Immigration fraud not only jeopardizes the integrity of the immigration system but also presents substantial threats to national security, public safety, and economic stability. It takes advantage of individuals in vulnerable situations who are seeking legal immigration avenues, disrupting the equitable and organized immigration process.² Detecting and addressing immigration fraud are crucial for ensuring the integrity of the immigration system, protecting genuine applicants, and maintaining the security and well-being of the nation as a whole.

Fraudulent marriages present a notable challenge to the integrity of the immigration system in the United States.³ When individuals engage in fraudulent marriages to obtain

¹ This thesis and its drawn conclusions are based on open-source material. The author alone is responsible for the content of this thesis. This thesis does not reflect official positions by U.S. Citizenship and Immigration Services or any related U.S. government department.

² “Immigration Attorney Sentenced to More than Six Years in Prison for Fraud Scheme and Identity Theft in Relation to Visa Applications,” Department of Justice, Office of Public Affairs, March 9, 2018, <https://www.justice.gov/opa/pr/immigration-attorney-sentenced-more-six-years-prison-fraud-scheme-and-identity-theft-relation>.

³ Immigration and Customs Enforcement, *Marriage Fraud Is a Federal Crime* (Washington, DC: Immigration and Customs Enforcement, June 2016), <https://www.ice.gov/sites/default/files/documents/Document/2016/marriageFraudBrochure.pdf>.

immigration benefits, they manipulate and exploit a process designed to facilitate genuine relationships and family reunification. This crime undermines the trust and credibility of the system, as it allows individuals to bypass the rigorous screening and vetting procedures in place to protect national security and public welfare. Marriage fraud also creates an uneven playing field for legitimate applicants who diligently follow the rules and wait their turn to enter the country lawfully. Moreover, it places an undue burden on immigration authorities and resources, diverting valuable time and attention away from legitimate cases. By eroding the integrity of the immigration system, marriage fraud weakens public confidence, compromises the fairness of the process, and undermines the overarching goals of immigration policy.⁴ Efforts to detect, prevent, and prosecute marriage fraud are crucial to safeguarding the integrity of the immigration system and ensuring that it serves its intended purpose of promoting lawful immigration and national interests.

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⁴ Immigration and Customs Enforcement.

⁵ “Fraud Detection and National Security Directorate,” U.S. Citizenship and Immigration Services, June 15, 2022, <https://www.uscis.gov/about-us/organization/directorates-and-program-offices/fraud-detection-and-national-security-directorate>; Rebecca S. Gambler, *U.S. Citizenship and Immigration Services: Additional Actions Needed to Manage Fraud Risks*, GAO-22-105328 (Washington, DC: Government Accountability Office, 2022), <https://www.gao.gov/products/gao-22-105328>.

⁶ Rebecca S. Gambler, *Asylum: Additional Actions Needed to Assess and Address Fraud Risks*, GAO-16-50 (Washington, DC: Government Accountability Office, 2015), <https://www.gao.gov/products/gao-16-50>; Rebecca S. Gambler, *U.S. Citizenship and Immigration Services: Actions Needed to Address Pending Caseload, Report to Congressional Requesters*, GAO-21-529 (Washington, DC: Government Accountability Office, 2021), <https://www.hsdl.org/?abstract&did=858888>; Gambler, *USCIS: Additional Actions Needed to Manage Fraud Risks*.

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Effective investigation and enforcement play a crucial role in upholding the rule of law, maintaining social order, and ensuring justice.⁸ Whether conducted by law enforcement agencies, regulatory bodies, or internal compliance teams, investigations and enforcement activities must rest on solid foundations to achieve their intended outcomes. This analysis explores the essential foundations that underpin effective investigation and enforcement. By examining the various aspects of marriage fraud visas, this thesis aims to contribute to the ongoing discourse surrounding immigration fraud, inform policymakers, and provide insights for strengthening the immigration system’s integrity.

A. RESEARCH QUESTION

What are the structural and procedural impediments to marriage fraud investigations?

B. LITERATURE REVIEW

Opponents and proponents of immigration-based marriage laws have contrasting views on fraud, equitable treatment, family unity, humanitarian considerations, protection against persecution, and economic and social contributions.⁹ Striking a balance between addressing fraud and abuse concerns, preserving family unity, and upholding humanitarian principles is essential for shaping comprehensive and inclusive immigration policies in the United States.¹⁰ Recognizing the significance of marriage fraud laws in immigration

⁷ Gambler, *USCIS: Additional Actions Needed to Manage Fraud Risks*, 67–68.

⁸ “What Is the Rule of Law,” American Bar Association, accessed June 4, 2023, https://www.americanbar.org/advocacy/rule_of_law/what-is-the-rule-of-law/.

⁹ Kathleen R. Arnold, *Anti-immigration in the United States: A Historical Encyclopedia*, 2 vols. (Santa Barbara, CA: ABC-CLIO, 2011); J. Baxter Oliphant and Andy Cerda, “Republicans and Democrats Have Different Top Priorities for U.S. Immigration Policy,” Pew Research Center, September 8, 2022, <https://www.pewresearch.org/short-reads/2022/09/08/republicans-and-democrats-have-different-top-priorities-for-u-s-immigration-policy/>.

¹⁰ Albertina Antognini, “Family Unity Revisited: Divorce, Separation, and Death in Immigration Law,” *South Carolina Law Review* 66, no. 1 (2015–2014): 1–60.

enables informed discussions and policymaking and promotes fair and effective reforms. Immigration policy in the United States is contentious, dividing individuals with similar political beliefs.¹¹ Marriage laws play a significant role, offering a pathway for foreign nationals to gain lawful immigration status through marriage to a U.S. citizen or permanent resident.¹² The limited academic literature on immigration-based marriage fraud necessitates exploring broader sources of information. This literature review examines the arguments of opponents and proponents of U.S. immigration policy.

1. Opponents of Existing Immigration Policy

Critics of U.S. immigration policy express widespread apprehension regarding the effects of immigration. A 2017 Gallup poll indicated that 23 percent of Americans consider immigration the country's most significant issue while 35 percent believe that immigration levels must be lower.¹³ Thirty-four percent of Americans perceive immigrants as a burden.¹⁴ Literature covering the opposition to existing immigration policy has consistently cited impacts on cultural cohesion, public safety, and economics.¹⁵ The proceeding subsections feature concerns voiced by opponents about existing immigration policy.

¹¹ Gordon H. Hanson, *Why Does Immigration Divide America?: Public Finance and Political Opposition to Open Borders* (Washington, DC: Institute for International Economics, 2005), Google Books.

¹² Victoria M. Esses, "Prejudice and Discrimination toward Immigrants," *Annual Review of Psychology* 72, no. 1 (2021): 503–31, <https://doi.org/10.1146/annurev-psych-080520-102803>; Christine Reyna, Ovidiu Dobria, and Geoffrey Wetherell, "The Complexity and Ambivalence of Immigration Attitudes: Ambivalent Stereotypes Predict Conflicting Attitudes toward Immigration Policies," *Cultural Diversity and Ethnic Minority Psychology* 19, no. 3 (2013): 342–56, <https://doi.org/10.1037/a0032942>.

¹³ Maria Abascal, Tiffany J. Huang, and Van C. Tran, "Intervening in Anti-immigrant Sentiments: The Causal Effects of Factual Information on Attitudes toward Immigration," *Annals of the American Academy of Political and Social Science* 697, no. 1 (2021): 174–91, <https://doi.org/10.1177/00027162211053987>; Jeffrey M. Jones, "New High in U.S. Say Immigration Most Important Problem," Gallup, June 21, 2019, <https://news.gallup.com/poll/259103/new-high-say-immigration-important-problem.aspx>.

¹⁴ Jones, "New High in U.S. Say Immigration Most Important Problem."

¹⁵ Abascal, Huang, and Tran, "Intervening in Anti-immigrant Sentiments," 174.

a. Cultural Cohesion

Opponents of immigration often voice concerns about its impact on cultural unity. They argue that an influx of immigrants with diverse cultural practices and languages may hinder social integration, potentially leading to fragmented communities.¹⁶ Critics contend that preserving national identity and social cohesion requires carefully considering the assimilation process. During a Center for Immigration Studies panel, critics of immigration expressed concern that current immigration trends would overwhelm individualist norms.¹⁷ According to Esses, two types of national affiliation—nationalism and patriotism—affect attitudes toward immigrants.¹⁸ Research has shown that individuals with a stronger sense of nationalism, a belief in the superiority of their nation, tend to perceive immigrants as competitors and hold more negative attitudes toward them.¹⁹ Conversely, individuals with higher levels of patriotism, characterized by expressing pride and love for their nation, do not harbor such negative attitudes toward immigrants.²⁰ Social integration and cohesion are often cited as a concern by opponents of immigration who fear cultural disunity.

b. Economic Impact

Given the unequal distribution of immigrants among states and localities and the variation in fiscal policies across jurisdictions, any analysis of immigration's budgetary effects at the state and local levels must account for the unique characteristics of each jurisdiction. However, several scholars have assessed the economic impact of immigration in the United States. Objections to immigration and immigrants implicate economic

¹⁶ François Levrau and Patrick Loobuyck, "Introduction: Mapping the Multiculturalism–Interculturalism Debate," *Comparative Migration Studies* 6, no. 1 (2018): 1–13, <https://doi.org/10.1186/s40878-018-0080-8>; Samuel P. Huntington, *Who Are We?: The Challenges to America's National Identity* (New York: Simon and Schuster, 2004).

¹⁷ Steven A. Camarota et al., "Panel: The Cultural Impact of Immigration," Center for Immigration Studies, October 6, 2022, <https://cis.org/Press-Release/Panel-Cultural-Impact-Immigration>.

¹⁸ Esses, "Prejudice and Discrimination toward Immigrants," 505.

¹⁹ Esses, 505–6.

²⁰ Hoi Ok Jeong, "Do National Feelings Influence Public Attitudes towards Immigration?," *Journal of Ethnic and Migration Studies* 39, no. 9 (2013): 1461–77, <https://doi.org/10.1080/1369183X.2013.815428>; Esses, "Prejudice and Discrimination toward Immigrants."

interests. According to a joint survey by the University of California San Diego and the National Bureau of Economic Research, individuals tend to oppose immigration more vigorously under two circumstances: 1) when they experience greater exposure to immigration's labor-market impacts, for example, low-income workers residing in states with sizable immigrant populations; or 2) when they encounter higher exposure to immigration's effects on public finances—as with high-income workers living in states where immigrants significantly use public assistance.²¹ According to surveys by the Henry Jackson Society, 55 percent of Americans believe their government is concealing the actual expenses of immigration from taxpayers and society.²² In these ways, people are most likely to oppose immigration based on perceived damage to economic interests.

Media coverage of immigration often depicts immigrants as an economic burden. A study by the University of California found that media coverage focused primarily on exclusionary policies implemented at the federal level between 2017 and 2019.²³ The study further found that media coverage between 2010 and 2013 depicted immigrants as an economic burden equal to criminals. In contrast, from 2017 to 2019, messages shifted to highlight immigrants' financial contributions and their role as integral members of families.²⁴ Both Perea and Perry note that conservative politicians who oppose immigration have proposed several policies limiting immigrants' rights to “reproduction in tandem with policies designed to discourage dispossessed, minority citizens from having children.”²⁵ In these ways, media narratives shape and interact with immigration policy.

²¹ Hanson, *Why Does Immigration Divide America?*

²² Sophia Gaston and Joseph E. Uscinski, *Out of the Shadows: Conspiracy Thinking on Immigration* (London: Henry Jackson Society, 2018), <https://www.hsdl.org/c/view?docid=819309>.

²³ Maria-Elena De Trinidad Young et al., “Coverage and Framing of Immigration Policy in U.S. Newspapers,” *Milbank Quarterly* 100, no. 1 (2022): 78–101, <https://doi.org/10.1111/1468-0009.12547>.

²⁴ De Trinidad Young et al.

²⁵ Juan F. Perea, *Immigrants Out!: The New Nativism and the Anti-immigrant Impulse in the United States* (New York: New York University Press, 1997), 214; Leah Perry, *The Cultural Politics of U.S. Immigration: Gender, Race, and Media* (New York: New York University Press, 2016), 133.

c. Crime Rates and Public Safety

Immigration has emerged as a powerful political messaging tool among Democrats and Republicans. Republicans have mobilized voters by advocating border closures and characterizing anything other than strict security measures as amnesty.²⁶ On the other hand, Democrats have consistently opposed border security initiatives unless they include provisions for legalizing millions of undocumented immigrants already in the country and expanding future immigration.²⁷ Immigration has become a significant political tool for both Democrats and Republicans. These contrasting positions of the two parties on immigration emphasize the need for a comprehensive look into immigration investigation infrastructure.

The portrayal of immigrants entering the United States is often as unhealthy individuals and likely criminals.²⁸ Conservative politicians have used this portrayal as a basis for their stance on tighter immigration restrictions. In campaigns for the 2024 election, presidential candidates, including Donald Trump, have promised to terminate the citizenship rights of children born to illegal immigrants in the United States.²⁹ In his campaign video, Trump highlights public safety and national security concerns, stating that the tens of thousands of immigrants illegally entering the United States are coming from

²⁶ Karoun Demirjian, “Over Decades, Congress Failed Repeatedly to Address Immigration Dysfunction,” *New York Times*, May 14, 2023, <https://www.nytimes.com/2023/05/14/us/politics/immigration-legislation-congress.html>; Matthew Wright, Morris Levy, and Jack Citrin, “Public Attitudes toward Immigration Policy across the Legal/Illegal Divide: The Role of Categorical and Attribute-Based Decision-Making,” *Political Behavior* 38, no. 1 (2016): 229–53, <https://doi.org/10.1007/s11109-015-9311-y>.

²⁷ Demirjian, “Congress Failed Repeatedly to Address Immigration Dysfunction.”

²⁸ Regina Branton and Johanna Dunaway, “English- and Spanish-Language Media Coverage of Immigration: A Comparative Analysis,” *Social Science Quarterly* 89, no. 4 (December 2008): 1006–22; Guadalupe Madrigal and Stuart Soroka, “Migrants, Caravans, and the Impact of News Photos on Immigration Attitudes,” *International Journal of Press/Politics* 28, no. 1 (2023): 49–69, <https://doi.org/10.1177/19401612211008430>.

²⁹ Trump War Room (@TrumpWarRoom), “#AGENDA47: President Trump’s Plan to Discourage Illegal Immigration by ENDING Automatic Citizenship for the Children of Illegal Aliens,” Twitter, May 30, 2023, <https://twitter.com/TrumpWarRoom/status/1663537082633953282>; Ted Hesson, “Trump Vows to End Birthright Citizenship for Children of Immigrants in U.S. Illegally,” Reuters, May 30, 2023, <https://www.reuters.com/world/us/trump-vows-end-birthright-citizenship-children-immigrants-us-illegally-2023-05-30/>.

jails and mental institutions.³⁰ These depictions have served as a flashpoint for national elections and have become political talking points.

Several sociological theories propose that increased immigration may lead to higher crime rates. Ousey and Kubrin present two ideas demonstrating a link between crime and immigration. According to them, an overall increase in crime results from a greater number of juveniles and young adults vulnerable to criminal involvement.³¹ An alternative viewpoint, grounded in social disorganization theory, posits that immigration serves as a potent catalyst for societal transformation, causing a disturbance in the mechanisms of crime control within communities.³² Specifically, immigration brings about ethnically diverse populations, leading to residential instability and population heterogeneity, both of which impede the formation of social bonds and shared values necessary for effective informal crime control.³³ Crime is a central discussion point among opponents of the immigration system who feel that immigration disrupts established communities.

2. Proponents of Existing Immigration Policy

Proponents of current U.S. immigration policy advocate a more inclusive and compassionate approach, emphasizing the economic, social, and cultural benefits of immigration. Supporters argue that the United States should approach immigration with a humanitarian mindset and be welcoming to incoming immigrants. The USCIS has adopted this sentiment in its new mission statement by referring to the United States as “a nation of welcome.”³⁴ Inclusion and compassion are seen as fundamentals by proponents of immigration.

³⁰ Trump War Room, “#AGENDA47.”

³¹ Graham C. Ousey and Charis E. Kubrin, “Exploring the Connection between Immigration and Violent Crime Rates in U.S. Cities, 1980–2000,” *Social Problems* 56, no. 3 (August 2009): 447–73, <https://doi.org/10.1525/sp.2009.56.3.447>.

³² Charis E. Kubrin and Ronald Weitzer, “New Directions in Social Disorganization Theory,” *Journal of Research in Crime and Delinquency* 40, no. 4 (2003): 374–402, <https://doi.org/10.1177/0022427803256238>.

³³ Ousey and Kubrin, “Exploring the Connection,” 447–73.

³⁴ “USCIS Announces New Agency Mission Statement,” U.S. Citizenship and Immigration Services, February 9, 2022, <https://www.uscis.gov/newsroom/news-releases/uscis-announces-new-agency-mission-statement>.

a. Cultural Cohesion

Proponents emphasize the cultural diversity and enrichment immigrants bring to the United States, as a historical nation of immigrants.³⁵ They argue that immigrants enhance the nation's cultural fabric by sharing their traditions, languages, and perspectives. Furthermore, they believe cultural diversity fosters creativity, promotes understanding, and strengthens community cohesion.³⁶ Graeme Hugo of the National Centre for Social Applications of GIS considers it essential to have an institutional structure that facilitates the immigration and settlement processes.³⁷ Furthermore, studies conducted by Watters, Ward, and Stuart have concluded that multiculturalism is more likely to foster social cohesion.³⁸ Immigration is the foundation of American society, in this school of thought, and is viewed as part of the nation's fabric.

b. Economic Impact

Proponents highlight the role of immigration in meeting labor-market needs and addressing workforce shortages. They argue that such specific sectors as healthcare, technology, and agriculture, rely heavily on immigrant workers to fill critical positions.³⁹ Proponents contend that attracting skilled immigrants helps to maintain U.S. competitiveness in the global economy and promotes innovation and entrepreneurship. Immigration serves as an economic catalyst by enhancing the workforce. Thus, Orrenius notes, "When immigrants enter the labor force, they increase the productive capacity of the

³⁵ Jason Furman and Danielle Gray, "Ten Ways Immigrants Help Build and Strengthen Our Economy," *White House of President Barack Obama* (blog), July 12, 2012, <https://obamawhitehouse.archives.gov/blog/2012/07/12/ten-ways-immigrants-help-build-and-strengthen-our-economy>.

³⁶ Alejandro Portes and Rubén G. Rumbaut, *Immigrant America: A Portrait*, 3rd ed. (Berkeley: University of California Press, 2006), <https://www.jstor.org/stable/10.1525/j.ctt1pq07x>.

³⁷ Graeme Hugo, *Migrants in Society: Diversity and Cohesion* (Geneva: Global Commission on International Migration, 2005), <https://www.iom.int/resources/migrants-society-diversity-and-cohesion-graeme-hugo>.

³⁸ Sara Morgan Watters, Colleen Ward, and Jaimee Stuart, "Does Normative Multiculturalism Foster or Threaten Social Cohesion?," *International Journal of Intercultural Relations* 75 (March 2020): 82–94, <https://doi.org/10.1016/j.ijintrel.2020.02.001>.

³⁹ Arloc Sherman et al., *Immigrants Contribute Greatly to U.S. Economy, Despite Administration's "Public Charge" Rule Rationale* (Washington, DC: Center on Budget and Policy Priorities, 2019), <https://www.cbpp.org/research/poverty-and-inequality/immigrants-contribute-greatly-to-us-economy-despite-administrations>.

economy and raise GDP. Their incomes rise, but so do those of natives. It's a phenomenon dubbed the 'immigration surplus.'"⁴⁰ According to the Bureau of Labor Statistics, foreign-born adults had a higher labor force participation rate of 65.7 percent in 2018 than the native-born rate of 62.3 percent. Additionally, 63.4 percent of all foreign-born adults, equivalent to 27.2 million individuals, were employed, whereas the employment rate for native-born adults stood at 59.8 percent.⁴¹ In analyzing the effects of the era of mass migration (1850–1920), Sequeira, Nunn, and Qian found that counties with a richer history of immigration have experienced higher income levels, lower poverty rates, lower unemployment, higher urbanization, and greater educational achievement in the present day.⁴² As immigration advocates have it, immigrants have positively contributed to the economy through increased labor force participation.

c. Crime Rates and Public Safety

The argument of crime and its basis in immigration is one of the most controversial topics when analyzing immigration. Studies assessing the connection between immigration and crime have been historically disjointed but have recently resurged.⁴³ Advocates of immigration have observed a connection between immigration and crime rates. Contrary to the idea that immigration leads to increased crime rates, most contemporary studies, as noted by Martinez and Lee, demonstrate that immigrants are generally underrepresented in criminal statistics.⁴⁴ A follow-up study in 2009 by Lee and Martinez upheld the same

⁴⁰ Pia Orrenius, "Benefits of Immigration Outweigh the Costs," *Catalyst*, no. 2 (Spring 2016), para. 5, <https://www.bushcenter.org/catalyst/north-american-century/benefits-of-immigration-outweigh-costs/>.

⁴¹ "Economic News Release: Table 1. Employment Status of the Foreign-Born and Native-Born Populations by Selected Characteristics, 2021–2022 Annual Averages," Bureau of Labor Statistics, May 18, 2023, <https://www.bls.gov/news.release/forbrn.t01.htm>; Sherman et al., *Immigrants Contribute Greatly to U.S. Economy*.

⁴² Sandra Sequeira, Nathan Nunn, and Nancy Qian, "Immigrants and the Making of America," *Review of Economic Studies* 87, no. 1 (2020): 382–419, <https://doi.org/10.1093/restud/rdz003>.

⁴³ Matthew T. Lee and Ramiro Martinez, "Immigration Reduces Crime: An Emerging Scholarly Consensus," in *Immigration, Crime and Justice*, ed. William F. McDonald, vol. 13 (Bingley, UK: Emerald Publishing, 2009), 3–16, [https://doi.org/10.1108/S1521-6136\(2009\)0000013004](https://doi.org/10.1108/S1521-6136(2009)0000013004).

⁴⁴ Ramiro Martinez Jr. and Matthew T. Lee, "On Immigration and Crime," in *The Nature of Crime: Continuity and Change*, vol. 1 of *Criminal Justice 2000*, ed. Gary LaFree (Washington, DC: National Institute of Justice, 2000), 485–524, <https://www.ojp.gov/ncjrs/virtual-library/abstracts/immigration-and-crime>.

finding, stating that immigration reduces crime and revitalizes areas.⁴⁵ However, they note that the link is complex and that researchers should account for more variables in immigration trends. A comparison of the monthly convictions of immigrants in March 2023 to those of the previous year shows a significant 47.8 percent increase.⁴⁶ However, data from 2023 represented a 54.4 percent decrease in convictions of this type from the levels reported in 2018.⁴⁷ In sum, data show that the link between crime and immigration is exaggerated.

3. Marriage Law in the U.S. Immigration System

Marriage laws play a significant role in the U.S. immigration system. Marriage to a U.S. citizen or permanent resident offers foreign nationals a route to secure legal immigration status. Tucker notes that existing laws grant special privileges to marital relationships, granting immediate relatives of citizens unrestricted entry and considering spouses of permanent residents “second preference” beneficiaries.⁴⁸ Immigration-based marriage laws in the United States have been the subject of debate, with opponents and proponents expressing differing viewpoints on their implications. The following subsections examine the implications of marriage laws in U.S. immigration policy, highlighting benefits, challenges, and potential areas of improvement.

a. Opponents of Immigration-Based Marriage Laws

Opponents of immigration-based marriage laws argue that such laws are susceptible to fraud and abuse. The Immigration Marriage Fraud Amendment (IMFA) of 1986 intended to promote family reunification and prevent marriage fraud.⁴⁹ Opponents contend that individuals may enter into sham marriages solely for immigration benefits,

⁴⁵ Lee and Martinez, “Immigration Reduces Crime.”

⁴⁶ Transactional Records Access Clearinghouse, “Immigration Convictions for March 2023,” TRAC Immigration, May 1, 2023, <https://trac.syr.edu/tracreports/bulletins/immigration/monthlymar23/gui/>.

⁴⁷ Transactional Records Access Clearinghouse.

⁴⁸ Joe A. Tucker, “Assimilation to the United States: A Study of the Adjustment of Status and the Immigration Marriage Fraud Statutes,” *Yale Law & Policy Review* 7, no. 1 (1989): 23–24.

⁴⁹ James Jones, “The Immigration Marriage Fraud Amendments: Sham Marriages or Sham Legislation?,” *Florida State University Law Review* 24, no. 3 (1997): 681.

undermining the integrity of the immigration system. Critics emphasize the need for rigorous scrutiny, stringent regulations, and effective enforcement to prevent the misuse of the marriage-based immigration pathway.

Some opponents raise concerns about potential inequities in applying immigration-based marriage laws. They argue that the statutes may favor specific individuals based on their marital status, potentially creating disparities among immigration applicants. Through the IMFA, “marriage fraud [is] a legal fiction,” according to Wang, as it “establishe[s] the racial discourse within which immigrant women have become legal subjects and how their legality has shifted existing frameworks used to analyze gender, violence, and race in the law.”⁵⁰ In an assessment of the IMFA, Jones asserts that the issue of marriage fraud is not a legislative problem but rather represents a lack of resources to enforce prior procedures. He concludes, “Although designed to deter marriage fraud, the IMFA has become a weapon for oppressing alien spouses and children.”⁵¹ Critics advocate adopting a more equitable approach, focusing on broader immigration reforms that do not prioritize marriage as the primary pathway for immigration.

b. Proponents of Immigration-Based Marriage Laws

Proponents of immigration-based marriage laws stress the importance of family unity and humanitarian considerations. They argue that these laws provide a legal avenue for spouses to reunite and build a life together, ensuring no undue separations due to immigration restrictions. Proponents advocate recognizing the fundamental right to family life and emphasize the humanitarian benefits of allowing couples to be together. Honahan views reunification as a universal obligation when studying family-based migration.⁵² The idea of immigration-based marriage is one rooted in family unity and is an obligation to which the United States should adhere.

⁵⁰ Lee Ann Wang, “‘Of the Law, but Not Its Spirit’: Immigration Marriage Fraud as Legal Fiction and Violence against Asian Immigrant Women,” *UC Irvine Law Review* 3, no. 4 (December 2013): 1234.

⁵¹ Jones, “The Immigration Marriage Fraud Amendments,” 701.

⁵² Iseult Honohan, “Reconsidering the Claim to Family Reunification in Migration,” *Political Studies* 57, no. 4 (2009): 783, <https://doi.org/10.1111/j.1467-9248.2008.00761.x>.

Supporters of immigration-based marriage laws maintain that they protect individuals facing persecution or discrimination based on their relationship status in their home countries. They argue that granting immigration benefits based on marriage can be a lifeline for those seeking refuge from oppressive regimes or discriminatory societal norms. Proponents highlight the need to provide a haven for individuals in vulnerable situations.

Proponents also argue that immigration-based marriage laws can bring economic and social benefits to the United States. They contend that immigrant spouses often contribute to the local economy by finding employment, paying taxes, and starting businesses. Proponents emphasize that immigrant families can enrich communities through their cultural diversity, skills, and talents, fostering social integration and enhancing the fabric of society.

C. RESEARCH DESIGN

Immigration fraud investigations cover a variety of different immigrant classifications. This thesis aimed to analyze the structure of marriage fraud investigations in the United States by assessing the ability to adjust one's immigration status in the United States through fraudulent means. This thesis relied on open-source information, including government reports, academic literature, and established laws and procedures. However, the lack of robust data sets related to fraud investigations, filings, and convictions posed a significant limitation. Such information, for the most part, is classified as sensitive to law enforcement and thus not accessible to the public. Furthermore, scholarly literature on immigration and marriage fraud investigations was also scarce, limiting the available resources. Consequently, the research design relied primarily on published reports, policies, and historical events as the basis for analysis.

The second chapter of this thesis presents and explains the issues related to investigating marriage fraud, particularly after the dissolution of the Immigration and Naturalization Service (INS). It acquaints the reader with marriage-based immigration classifications and their significance to the immigration system. Then, it provides an overview of the various types of immigration benefit applications, but FDNS's asylum and refugee functions are not covered in depth as they are outside the scope of this thesis. Next,

the chapter introduces the reader to different forms of marriage fraud encountered by USCIS and the current legal framework established to prevent and enforce fraud. Additionally, it provides a comprehensive description of fraud investigations under the INS, which led to the establishment of FDNS.

The third chapter of the thesis analyzes FDNS while identifying impediments to immigration investigations both structurally and procedurally. In organizational theory and design, understanding the complex interplay between various organizational elements is crucial for achieving long-term success and sustainability.⁵³ Leavitt's diamond, developed by Harold J. Leavitt, is a comprehensive framework that enables managers and researchers to analyze and design organizations effectively, emphasizing the interdependence of four key elements: task, structure, people, and technology.⁵⁴ This framework helped to provide a comprehensive understanding of the structure and procedures of marriage fraud investigations by illustrating how changes in one component could impact the others and influence the overall performance and success of the organization (see Figure 1).⁵⁵

⁵³ Lisa Dreier, David Nabarro, and Jane Nelson, *Systems Leadership for Sustainable Development: Strategies for Achieving Systemic Change* (Cambridge, MA: Harvard Kennedy School, 2019), <https://www.hks.harvard.edu/sites/default/files/centers/mrcbg/files/Systems%20Leadership.pdf>.

⁵⁴ Umar Tahir, "What Is Leavitt's Diamond Model?," *Change Management Insight*, January 10, 2020, <https://changemanagementinsight.com/what-is-leavitts-diamond-model/>.

⁵⁵ Catherine Smith, Bob Norton, and Debbie Ellis, "Leavitt's Diamond and the Flatter Library: A Case Study in Organizational Change," *Library Management* 13, no. 5 (1992): 18–19, <https://doi.org/10.1108/01435129210020352>.

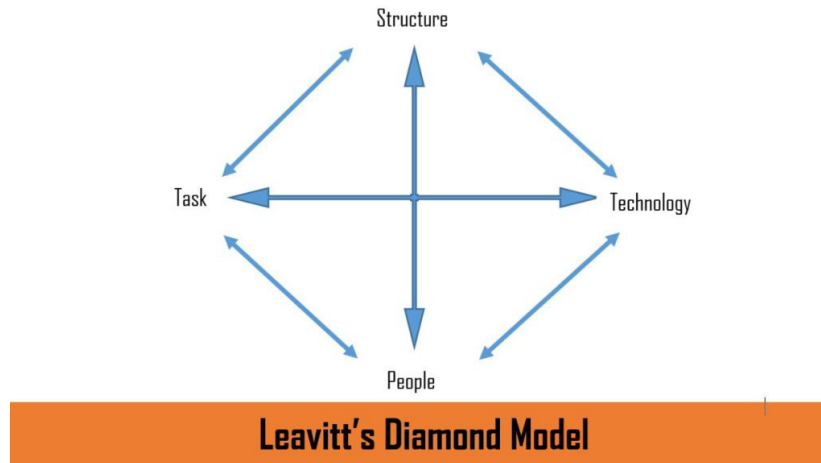


Figure 1. Leavitt's Diamond Framework.⁵⁶

In analyzing FDNS, Leavitt's diamond was applied to assess and enhance the strategies and operations within the directorate. The structure component involved evaluating the organizational design, processes, and procedures in place for fraud detection and national security. For this thesis, structure related to the "jurisdiction" of immigration functions among agencies. Such analysis helped to identify areas for improvement and optimize the structure to achieve more efficient and effective outcomes. The task component, denoted as "function" in the thesis, involved analyzing the specific responsibilities and activities related to fraud detection and national security. By understanding the tasks at hand, FDNS might allocate resources, streamline processes, and implement better strategies to combat fraud and enhance national security measures. The people component focused on the human resources involved in FDNS, including their skills, knowledge, training, and motivation. Enhancing the capabilities and engagement of individuals within FDNS could lead to improved fraud detection, analysis, and response. Last, the technology component involved evaluating the tools, systems, and technologies employed in fraud detection and national security efforts. Upgrading and integrating advanced technologies could significantly enhance the speed, accuracy, and overall effectiveness of fraud detection and response mechanisms, thereby reinforcing national security measures.

⁵⁶ Source: Tahir, "What Is Leavitt's Diamond Model?"

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II. BACKGROUND: A WALK DOWN THE AISLE OF MARRIAGE-BASED IMMIGRATION

The history of marriage-based immigration in the United States has been shaped by various laws and regulations.⁵⁷ Throughout U.S. history, there has been a strong connection between marriage, citizenship, and immigration. In the early eras of the nation's history, there were no specific regulations governing marriage-based immigration, allowing immigrants to bring their spouses without significant barriers. However, as immigration patterns changed and concerns over national security arose, the government began enacting laws to regulate and control immigration. In tracing the trajectory of marriage-based immigration, it is evident the evolution of U.S. regulations has reflected not only the dynamics of immigration patterns but also the intricacy of marriage, citizenship, and the broader immigration landscape.

Legislative acts throughout U.S. history have molded the current immigration system. Initial legislative actions focused on controlling migrant flow while trying to establish immigration processes. The enactment of the Naturalization Act of 1870 introduced mechanisms for overseeing the naturalization process while also establishing penalties for fraudulent practices.⁵⁸ The Page Act of 1875 and the Chinese Exclusion Act focused on limiting Chinese migrants including laborers from entering the United States. The Immigration Act of 1882 “imposed a \$0.50 head tax on each alien passenger to fund immigration enforcement.”⁵⁹ The act was seen as one of the first to implement federal oversight in the realm of immigration by requiring states to identify and deny entry to “any convict, lunatic, idiot, or any person unable to take care of himself or herself without becoming a public charge.”⁶⁰ Prior to 1921, the legislative acts focused primarily on excluding certain immigration populations.

⁵⁷ Nancy F. Cott, “Marriage and Women’s Citizenship in the United States, 1830–1934,” *American Historical Review* 103, no. 5 (December 1998): 1440–74, <https://doi.org/10.1086/ahr/103.5.1440>.

⁵⁸ Andrew M. Baxter and Alex Nowrasteh, “A Brief History of U.S. Immigration Policy from the Colonial Period to the Present Day,” *Policy Analysis*, no. 919 (2021): 7–8.

⁵⁹ Baxter and Nowrasteh, 8.

⁶⁰ Baxter and Nowrasteh, 8.

After 1921, legislative measures were put in place to institute quotas and give precedence to family-based immigrants over those seeking entry for economic reasons.⁶¹ The Emergency Quota Act of 1921 limited the number of immigrants permitted entry into the United States while prioritizing family members of U.S. citizens through exemptions for specific relatives.⁶² The Emergency Quota Act limited the annual admission of immigrants from a given country to 3 percent of U.S. residents from that country according to the 1910 Census.⁶³ One of the key legislative acts that impacted marriage-based immigration was the Immigration Act of 1924.⁶⁴ The act established a consular control system that required immigrants to apply for a visa before arriving in the United States. This act reduced the previous quotas to 2 percent while refining requirements, severely restricting immigration from certain countries. These quotas made it more difficult for individuals from countries with low quotas to bring their spouses to the United States.

U.S. immigration transitioned from a quota system to a preference system for immigrants following the Second World War. The justification for caps and exclusionary measures established by prior acts became less popular.⁶⁵ The Immigration and Nationality Act of 1952 established preference categories, including a 20 percent quota for spouses and children of legal residents.⁶⁶ The Immigration and Nationality (INA) Act of 1965 brought about significant changes to immigration policy, including marriage-based immigration.⁶⁷ It abolished the national origins quota system and introduced a preference system based on family relationships.⁶⁸ This shift allowed for a greater emphasis on family reunification, thus enabling individuals to sponsor their spouses for immigration. To address concerns about marriage fraud, the government enacted the Immigration Marriage

⁶¹ Baxter and Nowrasteh, 10.

⁶² Baxter and Nowrasteh, 10–11.

⁶³ Baxter and Nowrasteh, 11.

⁶⁴ Baxter and Nowrasteh, 10–12.

⁶⁵ Baxter and Nowrasteh, 15.

⁶⁶ Baxter and Nowrasteh, 15.

⁶⁷ Baxter and Nowrasteh, 15–17.

⁶⁸ Baxter and Nowrasteh, 15–16.

Fraud Amendments Act of 1986.⁶⁹ This legislation increased penalties for marriage fraud and implemented a two-year conditional residency period for migrants entering through marriage.⁷⁰ The aim was to ensure the authenticity and legitimacy of marital unions.⁷¹ Following increased immigration trends, Congress passed the Immigration Act of 1990, which raised numerical limits set by the INA of 1965 and increased the number of green cards to 675,000 for employment, diversity, and family-based visas.⁷² Out of the 675,000, family reunification-based visas accounted for 480,000.⁷³ After the nationwide legalization of same-sex marriage in 2015, the federal government extended immigration privileges to same-sex couples, enabling them to sponsor foreign spouses. As a result, these couples were granted equal rights and opportunities, mirroring those afforded to opposite-sex couples.⁷⁴ Laws have shaped the current landscape for marriage-based immigration and classifications.

A. MARRIAGE-BASED CLASSIFICATIONS

Marriage-based visas and classifications play a crucial role in U.S. immigration policies. These provisions prioritize family reunification and streamline the immigration process for spouses wanting to join their partners in their new home country.⁷⁵ Seminara notes, “Marriage to an American citizen remains the most common path to U.S. residency

⁶⁹ Chuck Young, *Immigration Marriage Fraud: Controls in Most Countries Surveyed Stronger than in U.S.*, GGD-86-104BR (Washington, DC: General Accounting Office, 1986), 4–5, <https://www.gao.gov/assets/ggd-86-104br.pdf>.

⁷⁰ Kerry Abrams, “Marriage Fraud,” *California Law Review* 100, no. 1 (2012): 31–32.

⁷¹ Kerry Abrams, “Immigration Law and the Regulation of Marriage,” *Minnesota Law Review* 91 (2007): 1668–69.

⁷² Baxter and Nowrasteh, “A Brief History of U.S. Immigration Policy,” 18.

⁷³ Denise N. Obinna, “Wait-Times, Visa Queues and Uncertainty: The Barriers to American Legal Migration,” *Migration and Development* 9, no. 3 (2020): 3–4, <https://doi.org/10.1080/21632324.2020.1797456>.

⁷⁴ “Same-Sex Marriages,” U.S. Citizenship and Immigration Services, April 3, 2014, <https://www.uscis.gov/family/same-sex-marriages>.

⁷⁵ Honohan, “Reconsidering the Claim to Family Reunification in Migration.”

and/or citizenship for foreign nationals.”⁷⁶ Visas in the United States are categorized into two main groups: nonimmigrant visas, which allow temporary stays and often include tourist and business visas, and immigrant visas, which grant permanent residence.⁷⁷ Visas are the first step in the legal pathway in which immigrants can adjust their status to become legal permanent residents (LPRs), thereby obtaining a green card and eventually becoming U.S. citizens if desired. This section explores the importance of marriage-based visas, the different classifications involved, and their contribution to the immigration filing process.

1. Nonimmigrant K-1 Fiancé(e) Visa

The K-1 visa, commonly known as the fiancé(e) visa, is designed to facilitate the entry of foreign nationals who are engaged to U.S. citizens.⁷⁸ This visa classification allows the fiancé(e) of a U.S. citizen to enter the country for the purpose of getting married within a stipulated timeframe, generally within 90 days of arrival.⁷⁹ Once married, the foreign national can then apply for a green card to achieve lawful permanent residency.⁸⁰ The K-1 visa is not only the first step in entering the United States but also the first step in the adjustment-of-status process (see Figure 2).

⁷⁶ David Seminara, *Hello, I Love You, Won't You Tell Me Your Name: Inside the Green Card Marriage Phenomenon* (Washington, DC: Center for Immigration Studies, 2008), 1, <https://cis.org/sites/cis.org/files/articles/2008/back1408.pdf>.

⁷⁷ Donald Nowell, *Immigration Visas: U.S. Security Policies and Fraud Prevention* (Hauppauge, NY: Nova Science Publishers, 2014).

⁷⁸ Ivan Vasic, *The Immigration Handbook: A Practical Guide to United States Visas, Permanent Residency and Citizenship* (McFarland, 2008), 106–7.

⁷⁹ Ilona Bray, *Fiancé and Marriage Visas: A Couple's Guide to U.S. Immigration*, 11th ed. (Berkeley: Nolo, 2022), 26–28.

⁸⁰ “Summary of Process for the K-1 Fiancé/Fiancée Program,” U.S. Citizenship and Immigration Services, accessed August 27, 2023, https://www.uscis.gov/sites/default/files/document/guides/K1_Process_V11.pdf.

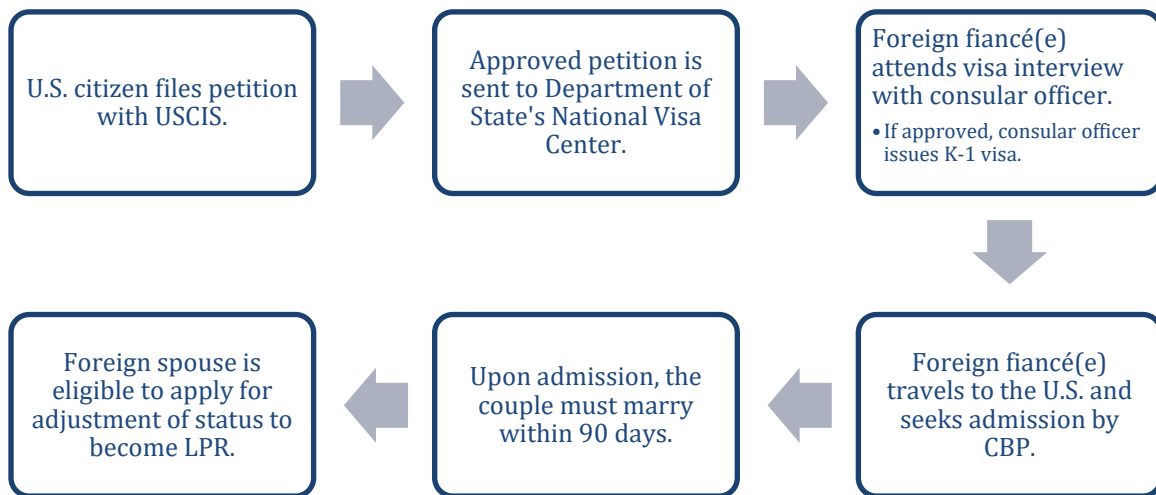


Figure 2. Summary of K-1 Fiancé(e) Program.⁸¹

The multilayered K-1 visa process involves several federal government agencies. Completed while the immigrant is in his or her home country, the K-1 visa process focuses on whether the petitioner has the intent to marry the foreign fiancé(e). The initiation of the K-1 visa procedure involves the U.S. citizen's submitting Form I-129F, the Petition for Alien Fiancé(e), to USCIS on behalf of one's fiancé(e).⁸² The form undergoes several background checks by USCIS. Once approved, the petition is forwarded to the Department of State (DOS)'s National Visa Center.⁸³ Following this step, the DOS informs the petitioner when the foreign fiancé(e) is eligible to seek the K-1 visa. The K-1 fiancé(e) can then apply for the K-1 visa at a U.S. embassy or consulate situated in one's home country.⁸⁴ The DOS then determines whether the future spouse is a bona fide fiancé(e) eligible for the visa through a consular interview, during which the applicant must provide evidence of

⁸¹ Adapted from U.S. Citizenship and Immigration Services.

⁸² U.S. Citizenship and Immigration Services.

⁸³ U.S. Citizenship and Immigration Services.

⁸⁴ U.S. Citizenship and Immigration Services.

the relationship. Consular officers review any provided documentation while questioning the fiancé(e) on the validity of one's intent to marry the petitioner.⁸⁵ If the application is approved, the applicant is granted a K-1 visa valid for a single entry within six months of issuance.⁸⁶

The overseas filing process does not grant the foreign spouse permanent status, nor does it grant entry into the United States. Entry into the United States depends on an inspection by Customs and Border Protection (CBP) upon arrival.⁸⁷ Entry using a K-1 visa hinges on the requirement to marry the corresponding U.S. citizen petitioner within the 90-day timeframe. This duration is non-extendable, and except for a few specific circumstances, a holder of a K-1 visa cannot switch to an alternative nonimmigrant category without departing the United States first to secure the new classification.⁸⁸

The K-1 visa classification has both advantages and considerations. While this visa classification expedites the process for couples to be reunited and wed, notably, it does not immediately grant permanent residency. After the marital union, the foreign spouse must submit an application for an adjustment of status to attain lawful permanent residency upon arrival in the United States. On one hand, it provides a legal pathway for engaged couples to be together in the United States with the intention of marriage, thereby benefiting couples who might not meet the eligibility criteria for other family-based immigration categories. However, the strict timeframe for marriage and the subsequent application for an adjustment of status can pose challenges, especially when unforeseen circumstances arise. The K-1 visa classification serves as a vital option for couples aiming to unite in marriage within the United States. While it streamlines the process for fiancé(e)s to enter the country and eventually apply for permanent residency, the associated time constraints and legal intricacies require planning and consideration.

⁸⁵ "Immigrant Visa Process: Step 11: Applicant Interview," Department of State, Bureau of Consular Affairs, accessed September 7, 2023, <https://travel.state.gov/content/travel/en/us-visas/immigrate/the-immigrant-visa-process/step-10-prepare-for-the-interview/step-11-applicant-interview.html>.

⁸⁶ U.S. Citizenship and Immigration Services, "Summary of Process."

⁸⁷ U.S. Citizenship and Immigration Services.

⁸⁸ U.S. Citizenship and Immigration Services, "Summary of Process"; Seminara, *Inside the Green Card Marriage Phenomenon*.

2. Immigrant Visa

Within the United States, two principal classes of marriage-based immigration visas exist: immediate relative visas and family preference visas. Unlike nonimmigrant K-1 visas, immigrant visas require spouses to be in the United States and are seen as a quicker option than such other immigrant visa categories as tourist visas.⁸⁹ Immigrants who marry U.S. citizens or permanent residents can adjust their status under the “immediate relative” immigrant visa category.⁹⁰ Additional relationships within this category include unmarried children (under 21) of U.S. citizens and parents of adult U.S. citizens.⁹¹ The second category, the family preference visa, was established to address more remote family connections and is bound by numerical constraints.⁹² The category encompasses more distant family relationships, for example the married children and siblings of U.S. citizens, along with spouses and unmarried children of lawful permanent residents.⁹³ However, this category often faces numerical restrictions due to the limited annual allocation of visas. These visas represent a significant proportion of marriage-based immigration. Figure 3 shows the immigration process based on the spouse’s location for both immediate relative and family-based preference categories.

⁸⁹ Bray, *Fiancé and Marriage Visas*, 146–47.

⁹⁰ “Green Card for Immediate Relatives of U.S. Citizen,” U.S. Citizenship and Immigration Services, February 10, 2023, <https://www.uscis.gov/green-card/green-card-eligibility/green-card-for-immediate-relatives-of-us-citizen>.

⁹¹ U.S. Citizenship and Immigration Services.

⁹² “Family Immigration,” Department of State, Bureau of Consular Affairs, accessed August 27, 2023, <https://travel.state.gov/content/travel/en/us-visas/immigrate/family-immigration.html>.

⁹³ Department of State, Bureau of Consular Affairs.

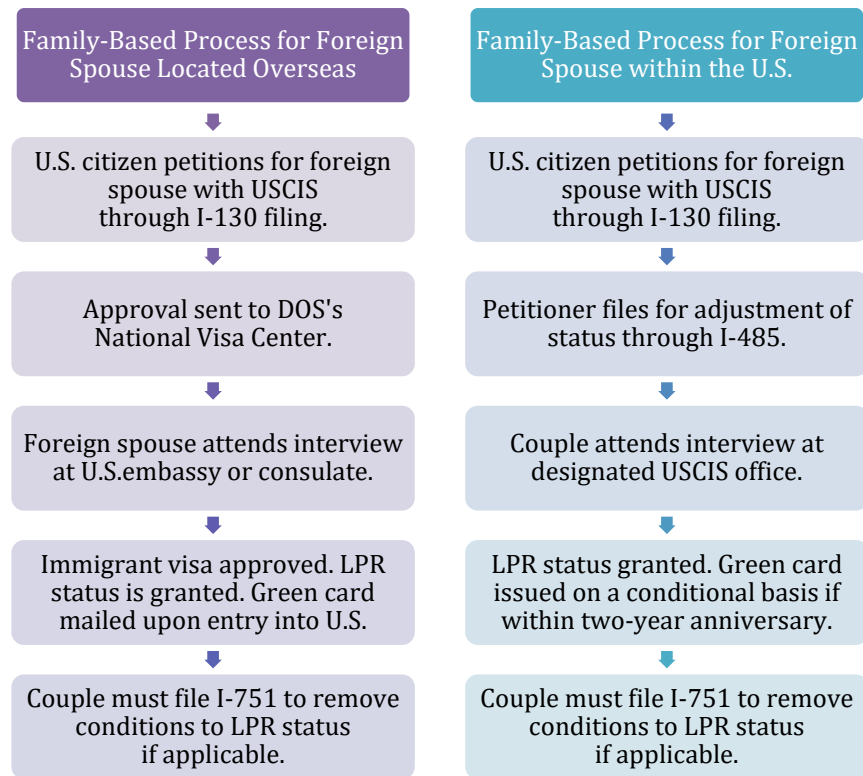


Figure 3. Family-Based Adjustment-of-Status Flowchart.⁹⁴

Immigrant visas apply preference categories as a basis for adjusting one's immigration status. The limited annual quotas for certain family preference categories can lead to lengthy waiting periods while potentially delaying family reunification in the United States. Wait times vary by country but can take upwards of 20 years.⁹⁵ The immediate relative category is seen as more efficient as the waiting period is based on the time it takes the married couple to file paperwork and the U.S. government to process the application.⁹⁶ According to the Office of Homeland Security Statistics, 40 percent of new

⁹⁴ Adapted from U.S. Citizenship and Immigration Services, "Green Card for Immediate Relatives"; "Green Card for Family Preference Immigrants," U.S. Citizenship and Immigration Services, January 10, 2022, <https://www.uscis.gov/green-card/green-card-eligibility/green-card-for-family-preference-immigrants>.

⁹⁵ Obinna, "Wait-Times, Visa Queues and Uncertainty."

⁹⁶ Bray, *Fiancé and Marriage Visas*, 162.

LPRs every year can be attributed to the immediate relative category.⁹⁷ These restrictions highlight the complex balance between family unification and the practical limitations of managing immigration numbers.

B. IMMIGRATION PROCESS

An LPR status based on marriage can be obtained through two methods: an adjustment of status or consular processing.⁹⁸ This process is contingent on the immigrant's visa category and the location of the spouse.⁹⁹ Two steps typically make up the process for obtaining LPR status: the initial immigrant visa classification and the subsequent evaluation for permanent resident status.¹⁰⁰

1. Filing of Immigration Forms

Filing immigration forms based on marriage is a pivotal step for those seeking to secure legal status in the United States through a familial or marital relationship. This process begins with submitting forms to USCIS in accordance with outlined mailing instructions and required filing fees. Each form defines multiple roles both in formal and informal contexts.¹⁰¹ The petitioner of a form serves as the primary role of the form filing. Petitioners are persons who have the desired status and are filing on behalf of the beneficiary. The beneficiary is the individual seeking the benefit or status. With form filing, married couples can choose to have immigration attorneys, preparers, or interpreters assist them with the preparation. However, neither attorneys nor preparers are required for filing. Once forms are either mailed or submitted electronically, if eligible, the filing and its contents are sent to a USCIS lockbox.

⁹⁷ "Immigrant Classes of Admission," Office of Homeland Security Statistics, accessed December 10, 2023, <https://www.dhs.gov/ohss/topics/immigration/lpr/classes-of-admission>.

⁹⁸ Obinna, "Wait-Times, Visa Queues and Uncertainty," 4-5.

⁹⁹ Bray, *Fiancé and Marriage Visas*, 11.

¹⁰⁰ Obinna, "Wait-Times, Visa Queues and Uncertainty," 4.

¹⁰¹ "G-1055, Fee Schedule," U.S. Citizenship and Immigration Services, October 2, 2023, <https://www.uscis.gov/g-1055>.

USCIS lockboxes play an important role in the U.S. immigration application process. These centralized facilities serve as key points of entry for various immigration-related forms and associated fees.¹⁰² When individuals or organizations submit applications or petitions to USCIS, they must send them to the appropriate USCIS lockbox address, depending on the form type and the applicant's location. There are currently four USCIS lockbox locations in the United States.¹⁰³ Through these lockboxes, USCIS is responsible for processing fees, conducting initial data entry, and performing an initial review of submitted forms.¹⁰⁴ The collected fees are deposited into an account managed by the U.S. Treasury.¹⁰⁵ Rejected forms are sent back to the applicant with a notification of why the filing was rejected. During fiscal year 2020, USCIS lockbox facilities handled over 9.5 million applications and declined 11 percent of them. The primary reason for rejection was inadequate submissions of the required fees by applicants and petitioners.¹⁰⁶ If forms are accepted, USCIS will send a receipt notifying the applicants and attorney (if retained) that the forms were accepted. If an applicant does not have an alien registration number, the applicant is assigned one upon filing. The processed forms are then sent to the appropriate USCIS service center or field office for further processing and adjudication. USCIS lockboxes have become an integral component of the immigration application process and are responsible for the initial processing of forms.

The initial data entry in many cases creates an alien registration number for the immigrant. An alien registration number, or "A-number," functions as a unique identifier for noncitizens and serves as the central reference for immigration-related records. These records, associated with applicants, are housed in alien files, commonly known as

¹⁰² "Lockbox Filing Information," U.S. Citizenship and Immigration Services, November 25, 2020, <https://www.uscis.gov/about-us/organization/directorates-and-program-offices/management-directorate/office-of-intake-and-document-production/lockbox-filing-information>.

¹⁰³ U.S. Citizenship and Immigration Services.

¹⁰⁴ U.S. Citizenship and Immigration Services.

¹⁰⁵ U.S. Citizenship and Immigration Services.

¹⁰⁶ U.S. Citizenship and Immigration Services.

“A-files.”¹⁰⁷ The practice of assigning A-numbers began in 1940 as an integral component of the Alien Registration Program launched by the INS. Since April 1, 1944, A-files have become the official depository for all immigration and naturalization records that have been generated or consolidated.¹⁰⁸ These files are used as a permanent record throughout an individual’s immigration filing.

a. Form Types and Use

The use of immigration forms depends on whether the spouse is in the United States or overseas. Couples need to choose whether to pursue an adjustment-of-status application if the immigrant spouse is already in the United States or to seek consular processing if the immigrant is located overseas. By selecting the appropriate path and completing these forms without errors or omissions, couples can avoid delays or denials in the immigration process. This subsection addresses form types and use assuming the immigrant spouse resides in the United States.

The necessary immigration forms depend on the foreign spouse’s legal entry into the United States. The foreign spouse must provide evidence of lawful admission into the country, which involves inspection and approval by an immigration officer.¹⁰⁹ Legal entry methods encompass various visa categories like employment, student, or tourist visas, as well as the Visa Waiver Program for citizens of specific countries. However, in cases where foreign spouses entered the United States without proper authorization—for example, crossing the border without inspection and overstaying for more than six months—the standard procedure is to apply for immigration benefits from overseas.¹¹⁰ Still, exceptions are available for those who have entered unlawfully, with some potentially qualifying under § 245(i) of the INA if they can demonstrate an employer filed a labor certification,

¹⁰⁷ “A-Files Numbered below 8 Million,” U.S. Citizenship and Immigration Services, January 2, 2020, <https://www.uscis.gov/records/genealogy/historical-record-series/a-files-numbered-below-8-million>.

¹⁰⁸ U.S. Citizenship and Immigration Services.

¹⁰⁹ U.S. Citizenship and Immigration Services, *Adjustment of Status*, vol. 7 of *USCIS Policy Manual* (Washington, DC: U.S. Citizenship and Immigration Services, 2023), pt. A, chap. 2, <https://www.uscis.gov/policy-manual>.

¹¹⁰ Bray, *Fiancé and Marriage Visas*, 146–47.

or Form I-130, on their behalf before April 30, 2001.¹¹¹ In essence, eligibility for specific immigration forms is contingent on the foreign spouse's lawful entry, though certain provisions, like § 245(i) of the INA, offer possibilities for those who have entered without authorization under specific conditions.

(1) Form I-130

To establish a relationship before USCIS in the United States, Form I-130, Petition for Alien Relative, confirms the authenticity of the marital relationship.¹¹² The form itself does not confer any benefit or status but is used to establish the relationship before the U.S. government. Its primary purpose is to facilitate the reunification of families by allowing U.S. citizens and lawful permanent residents (green card holders) to petition for certain eligible family members to live in the United States. This form serves as the initial step in the family-sponsored immigration process, wherein the petitioner (the U.S. citizen or green card holder) establishes the authenticity of one's familial relationship with the intending immigrant, typically a spouse, parent, child, or sibling.¹¹³ This form requires providing documentation to prove the validity of the marriage—marriage certificates, joint financial records, and affidavits from friends and family attesting to the legitimacy of the union.¹¹⁴ Ultimately, filing immigration forms based on marriage is a crucial administrative step that facilitates the reunification of families and the attainment of LPR status for the foreign spouse.

Form I-130 plays a pivotal role in demonstrating genuine and qualifying family bonds, which are the cornerstone of U.S. immigration policy. Through this form, petitioners provide substantial evidence, for example, marriage certificates, birth certificates, and other supporting documentation, to prove the legitimacy of the

¹¹¹ “Immigration and Nationality Act,” U.S. Citizenship and Immigration Services, July 10, 2019, <https://www.uscis.gov/laws-and-policy/legislation/immigration-and-nationality-act>; “Green Card through INA 245(i) Adjustment,” U.S. Citizenship and Immigration Services, November 29, 2021, <https://www.uscis.gov/green-card/green-card-eligibility/green-card-through-ina-245i-adjustment>.

¹¹² “I-130, Petition for Alien Relative,” U.S. Citizenship and Immigration Services, May 18, 2023, <https://www.uscis.gov/i-130>.

¹¹³ U.S. Citizenship and Immigration Services.

¹¹⁴ U.S. Citizenship and Immigration Services.

relationship. Once approved by USCIS, the I-130 petition sets the stage for the intending immigrant to proceed with the next steps of the immigration process—applying for an immigrant visa or adjusting a person’s status if already in the United States. Form I-130 serves as the foundation for keeping families united and ensuring they can legally reside together in the United States.

(2) Form I-485

To obtain LPR status, the married couple must fill and file other immigration-related forms in addition to the I-130 if residing in the United States. Form I-485, Application to Register Permanent Residence or Adjust Status, holds significance within the context of marriage-based immigration in the United States. The form allows foreign spouses who are already in the United States to apply for LPR status, commonly known as a green card.¹¹⁵ The purpose of Form I-485 is to transition from a temporary immigrant status—for example, a nonimmigrant visa holder or a beneficiary of an approved immigrant petition—to a permanent resident, thereby enabling foreign spouses to live and work in the United States permanently. The form can be filed concurrently with the I-130 and is often processed at the same time by USCIS. However, the status obtained via marriage is conditional and requires an additional filing. Consequently, Form I-485 stands as a fundamental element in the journey of married couples aiming to establish legal status within the United States.

(3) Form I-864

Form I-864, Affidavit of Support under Section 213A of the INA, is a form used to demonstrate that the couple possesses sufficient financial backing and will not likely rely on the U.S. government for financial support.¹¹⁶ The form is typically submitted by a sponsoring U.S. citizen or LPR who agrees to be financially responsible for the immigrant beneficiary until he or she obtains U.S. citizenship or works for a specified number of

¹¹⁵ “I-485, Application to Register Permanent Residence or Adjust Status,” U.S. Citizenship and Immigration Services, July 31, 2023, <https://www.uscis.gov/i-485>.

¹¹⁶ “I-864, Affidavit of Support under Section 213A of the INA,” U.S. Citizenship and Immigration Services, December 21, 2022, <https://www.uscis.gov/i-864>.

quarters, or the sponsorship obligations end in another qualifying manner.¹¹⁷ Form I-864 acts as a legally binding contract that commits the sponsor to financially supporting the immigrant without relying on public assistance programs.¹¹⁸ This affidavit of support is a critical component in the family-sponsored immigration process, helping to uphold the financial security and self-sufficiency of new immigrants in the United States.

(4) Form I-751

Form I-751, Petition to Remove Conditions on Residence, enables conditional permanent residents, typically spouses of U.S. citizens or LPRs, to request the removal of conditions from their green cards.¹¹⁹ When foreign spouses obtain conditional permanent resident status based on their marriage, their green cards are valid for two years.¹²⁰ Form I-751 becomes essential when these individuals intend to transition from their conditional permanent residency to complete and unconditional permanent residency, which offers enhanced stability and security within the United States. To effectively utilize Form I-751, spouses are required to submit a joint petition within the 90-day timeframe preceding the expiration of their conditional green cards.¹²¹ This petition functions as compelling evidence of the enduring legitimacy of a marital relationship, ensuring that the union was not entered into fraudulently for immigration advantages.

The I-751 can be filed individually during a marriage under specific circumstances. While it is generally preferred to file this form jointly with the spouse through whom conditional permanent resident status was obtained, exceptions exist.¹²² First, if the marriage has terminated due to divorce or annulment, the conditional permanent resident can submit Form I-751 independently, backed by evidence of the genuine nature of the

¹¹⁷ U.S. Citizenship and Immigration Services.

¹¹⁸ U.S. Citizenship and Immigration Services.

¹¹⁹ “I-751, Petition to Remove Conditions on Residence,” U.S. Citizenship and Immigration Services, August 15, 2023, <https://www.uscis.gov/i-751>.

¹²⁰ Maxine Lee, “A Life Preserver for Battered Immigrant Women: The 1990 Amendments to the Immigration Marriage Fraud Amendments,” *Buffalo Law Review* 41, no. 2 (1993): 779.

¹²¹ “When to File Form I-751,” U.S. Citizenship and Immigration Services, September 6, 2022, <https://www.uscis.gov/forms/when-to-file-form-i-751>.

¹²² U.S. Citizenship and Immigration Services, “I-751, Petition to Remove Conditions on Residence.”

marriage and its subsequent dissolution. Second, if the conditional permanent resident has endured abuse or cruelty from one's U.S. citizen or permanent resident spouse, the conditional permanent resident can file Form I-751 individually, utilizing the provisions of the Violence against Women Act (VAWA).¹²³ In such cases, proof of abuse and evidence of eligibility must be provided. Last, if the U.S. citizen spouse passes away, the conditional permanent resident can file Form I-751 as an individual, provided he or she can substantiate the marriage's validity, the spouse's demise, and the good-faith nature of the marriage. These applicants are referred to as "VAWA self-petitioners."¹²⁴ These applications can be filed without the knowledge of the U.S. citizen/LPR abusers' knowledge, consent, or participation.¹²⁵ Foreign spouses can file I-751 in the event their spouses have died, they have divorced, or they have been subject to abuse. Following approval by USCIS, the conditional status is lifted, granting the foreign spouse a 10-year green card, affording the individual identical rights and privileges to any other LPR in the United States. Consequently, Form I-751 assumes a critical role in safeguarding the authenticity of genuine marital relationships and providing a pathway to full permanent residency for married couples.

(5) Form I-360

Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant, plays several roles within the immigration system. Its primary purpose is to provide certain qualifying widows, widowers, and abused spouses of U.S. citizens or LPRs (green card holders) with an avenue to seek special immigrant status in the United States.¹²⁶ This form is instrumental in offering protection and relief to foreign spouses who have faced hardship

¹²³ Emily J. Hanson and Lisa N. Sacco, *The Violence against Women Act (VAWA): Historical Overview, Funding, and Reauthorization*, CRS Report No. R45410 (Washington, DC: Congressional Research Service, 2019), 4–5, <https://crsreports.congress.gov/product/pdf/R/R45410>.

¹²⁴ Rebecca S. Gambler, *Immigration Benefits: Additional Actions Needed to Address Fraud Risks in Program for Foreign National Victims of Domestic Abuse*, GAO-19-676 (Washington, DC: Government Accountability Office, 2019), 6–7, <https://www.gao.gov/products/gao-19-676>.

¹²⁵ Abigail F. Kolker, Emily J. Hanson, and Kristin Finklea, *Immigration Relief for Noncitizen Crime Victims*, CRS Report No. R47404 (Washington, DC: Congressional Research Service, 2023), 10–11.

¹²⁶ "I-360, Petition for Amerasian, Widow(er), or Special Immigrant," U.S. Citizenship and Immigration Services, September 6, 2023, <https://www.uscis.gov/i-360>.

or abuse within their marital relationships. In cases of marriage-related Form I-360 petitions, it is particularly relevant for abused spouses who are looking to escape abusive environments and secure legal immigration status. To be eligible for this form, applicants must demonstrate they are married to a U.S. citizen or lawful permanent resident, have endured abuse or extreme hardship due to the marriage, and meet specific criteria set forth by U.S. immigration laws.¹²⁷ The burden of proof for the application is by a preponderance of the evidence.¹²⁸ Once approved by USCIS, Form I-360 can provide a path to LPR status, granting the abused spouse the ability to live and work in the United States independently, free from the abuse or hardship experienced in the previous marital relationship.

b. Violence against Women Act and Victims of Trafficking and Violence Protection Act of 2000

Enacted in 1994, VAWA was a result of rising crime rates and a focus on women as crime victims, and it has achieved several significant objectives.¹²⁹ First, it has bolstered efforts to investigate and prosecute sex offenses. Second, it has instituted numerous grant programs aimed at tackling violence against women from multiple perspectives, involving law enforcement, public and private organizations, service providers, and victims of crime. Last, it has introduced immigration provisions designed to offer protection and support to abused foreign nationals.¹³⁰ VAWA comprises three key provisions regarding such individuals: self-petitioning for abused foreign national spouses and their children, the specification of evidence required to demonstrate abuse, and the suspension of deportation and cancellation of removal. These initiatives have enabled abused foreign national spouses and their children to seek legal status independently, eliminating the need for dependence on sponsorship by an abusive spouse.¹³¹ VAWA provides clarification on the evidentiary criteria for joint petition waivers and specifies the conditions under which deportation proceedings for abused foreign national spouses and children can be

¹²⁷ U.S. Citizenship and Immigration Services.

¹²⁸ Gambler, *Immigration Benefits: Additional Actions Needed*, 6–7.

¹²⁹ Hanson and Sacco, *VAWA: Historical Overview, Funding, and Reauthorization*.

¹³⁰ Hanson and Sacco, 2.

¹³¹ Hanson and Sacco.

suspended.¹³² While the act specifies women in the title, VAWA is applicable to victims of any gender.¹³³ VAWA provides a legal pathway for immigration for spouses subjected to domestic violence.

The Victims of Trafficking and Violence Protection Act (VTVPA) of 2000 further addresses trafficking and violence. With the VTVPA came novel mechanisms for law enforcement to examine and litigate traffickers, bolster safeguards and services for survivors, and advocate increased awareness and preventive initiatives.¹³⁴ Significantly, the VTVPA introduced two fundamental types of immigration assistance: the T visa designed for trafficking victims and the U visa tailored for victims of specific crimes, encompassing domestic violence and sexual assault.¹³⁵ These visas offer victims a path to lawful status in the United States, allowing them to escape their traffickers and rebuild their lives.

Individuals seeking and receiving immigration relief through VAWA are afforded safeguards concerning their privacy and confidentiality.¹³⁶ The act expressly prohibits the unauthorized disclosure of information relating to petitioners, applicants, and beneficiaries of VAWA-, T-, and U-related benefits, restricting such disclosures only to those officers or employees of DHS, the Department of Justice (DOJ), or the DOS who possess a demonstrable and legitimate need for such information.¹³⁷ The confidentiality provision offers protection to applicants who are approved under VAWA petitions.

¹³² “Questions and Answers: Abused Spouses, Children and Parents under the Violence against Women Act (VAWA),” U.S. Citizenship and Immigration Services, February 10, 2022, <https://www.uscis.gov/humanitarian/abused-spouses-children-and-parents/questions-and-answers-abused-spouses-children-and-parents-under-the-violence-against-women-act-va-wa>.

¹³³ U.S. Citizenship and Immigration Services.

¹³⁴ Bo Cooper, “A New Approach to Protection and Law Enforcement under the Victims of Trafficking and Violence Protection Act,” *Emory Law Journal* 51, no. 3 (Summer 2002): 1041–58.

¹³⁵ “Victims of Criminal Activity: U Nonimmigrant Status,” U.S. Citizenship and Immigration Services, March 20, 2023, <https://www.uscis.gov/humanitarian/victims-of-criminal-activity-u-nonimmigrant-status>; “Victims of Human Trafficking: T Nonimmigrant Status,” U.S. Citizenship and Immigration Services, August 21, 2023, <https://www.uscis.gov/humanitarian/victims-of-human-trafficking-t-nonimmigrant-status>.

¹³⁶ Gambler, *Immigration Benefits: Additional Actions Needed*, 5.

¹³⁷ U.S. Citizenship and Immigration Services, *General Policies and Procedures*, vol. 1 of *USCIS Policy Manual*, pt. A, chap. 7.

VAWA has also played a crucial role in broadening the U visa program to include certain victims of domestic violence. Under this program, survivors of domestic violence can apply for U visas, which provide protection from deportation and offer a path to lawful status and work authorization in the United States. Furthermore, VAWA extended the T visa program to cover victims of human trafficking, including sex trafficking. These provisions acknowledge the intersection of domestic violence and human trafficking, recognizing that many survivors endure both forms of abuse. VAWA addresses areas of abuse and violence within immigration-related marriages.

c. Form Eligibility

Eligibility for various immigration forms is contingent on specific criteria and circumstances. For Form I-130, Petition for Alien Relative, eligibility depends on the petitioner's status as a U.S. citizen or LPR, and the petitioner's relationship with the beneficiary, who must typically be an immediate family member—a spouse, child, or parent.¹³⁸ Form I-485, Application to Register Permanent Residence or Adjust Status, is usually accessible to individuals who are beneficiaries of approved immigrant petitions through familial relationships, employment, asylum, or other eligible categories.¹³⁹ Form I-751, Petition to Remove Conditions on Residence, is designed for conditional permanent residents, typically spouses of U.S. citizens or LPRs who seek to transition to full and unconditional permanent residency. They must provide evidence of a genuine marital relationship and meet specific eligibility criteria.¹⁴⁰ Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant, encompasses various categories of special immigrants, including religious workers, certain international employees, and abuse survivors under VAWA.¹⁴¹ Meeting these eligibility criteria is crucial for a successful immigration process

¹³⁸ U.S. Citizenship and Immigration Services, “I-130, Petition for Alien Relative.”

¹³⁹ U.S. Citizenship and Immigration Services, “I-485, Application to Register Permanent Residence.”

¹⁴⁰ U.S. Citizenship and Immigration Services, “I-751, Petition to Remove Conditions on Residence.”

¹⁴¹ U.S. Citizenship and Immigration Services, “I-360, Petition for Amerasian, Widow(er), or Special Immigrant.”

under each respective form, and consulting the relevant guidelines is advisable to ensure compliance with the specific requirements.

d. Evidence Consideration

Evidence plays a critical role in the adjudication process for immigration filings, as it is used to substantiate the claims and eligibility of applicants. For Form I-130, Petition for Alien Relative, evidence involves proving the familial relationship between the petitioner (the U.S. citizen or permanent resident) and the beneficiary (the family member seeking immigration benefits). Evidence can include birth certificates, marriage certificates, and other documentation establishing the authenticity of the relationship.¹⁴² For marriage-related cases, evidence comprises any joint assets or liabilities, including property and financial records. Form I-485 requires comprehensive evidence related to the applicant's eligibility for adjustment of status. Evidence must include proof of lawful entry, medical examinations, and supporting documentation for any relevant eligibility category, for example employment-based or family-based eligibility.¹⁴³ The couple must also show that they have adequate means of financial support and must file Form I-864.¹⁴⁴ Form I-751 relies on substantiating evidence demonstrating the authenticity of the marriage between the conditional permanent resident and the U.S. citizen or permanent resident, affirming it is not undertaken solely for immigration purposes.¹⁴⁵ Applicants typically provide documents like joint financial records, photographs, and affidavits from friends and family attesting to the validity of the marriage. Evidence consideration for Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant, may vary depending on the special immigrant category. It often includes documentation demonstrating eligibility under the chosen category—religious work contracts or evidence of abuse for VAWA self-petitioners, for instance. The burden of proof for each of these applications rests on the

¹⁴² Bray, *Fiancé and Marriage Visas*; U.S. Citizenship and Immigration Services, “I-130, Petition for Alien Relative”; U.S. Citizenship and Immigration Services, “Green Card for Immediate Relatives.”

¹⁴³ U.S. Citizenship and Immigration Services, “I-485, Application to Register Permanent Residence.”

¹⁴⁴ U.S. Citizenship and Immigration Services, “I-864, Affidavit of Support under Section 213A.”

¹⁴⁵ U.S. Citizenship and Immigration Services, “I-751, Petition to Remove Conditions on Residence.”

petitioner of the application by a preponderance of the evidence.¹⁴⁶ Sufficient evidence can significantly impact the immigration application by facilitating the USCIS's assessment and decision-making process.

2. Eligibility Interviews

Eligibility interviews are a key component in determining whether an applicant is eligible for the benefit sought. Based on the type of application filed and whether the applicant is overseas or in the United States, the couple must interview with either a U.S. consular officer or a USCIS adjudicator.¹⁴⁷ The purpose of the interview is to review the filing as well as the supporting documentation submitted. It also serves as a chance for the officer to collect sworn testimony regarding the marriage and relationship, aiming to assess the genuineness of the marital bond.¹⁴⁸ Credibility is assessed during these interviews. The immigrant applying for the benefit must be present for the eligibility interview regardless of the role within the form.¹⁴⁹ If applying for a green card with USCIS, the couple must appear at the designated USCIS field office.¹⁵⁰ Nonetheless, when seeking a fiancé(e) or marriage visa abroad, the U.S. spouse is not obliged to be present for the interview at the consular office.¹⁵¹ The interviews serve as a major determining factor for the benefit sought.

a. Consular Interviews

The consular interview holds a central role in the U.S. immigration process, especially for individuals seeking immigrant visas while residing outside the United States.¹⁵² In this procedure, applicants are required to appear at a U.S. embassy or

¹⁴⁶ U.S. Citizenship and Immigration Services, *General Policies and Procedures*.

¹⁴⁷ Bray, *Fiancé and Marriage Visas*, 212.

¹⁴⁸ Michael Virga, "Marrying Up: The Unsettled Law of Immigration Marriage Fraud and the Need for Uniform Statutory Guidelines," *St. John's Law Review* 88, no. 4 (Winter 2014): 1145–46.

¹⁴⁹ Bray, *Fiancé and Marriage Visas*, 212.

¹⁵⁰ Bray, 212.

¹⁵¹ Bray, 212.

¹⁵² Department of State, Bureau of Consular Affairs, "Applicant Interview."

consulate situated in their home country. The primary objectives of these interviews encompass assessing the applicants' qualifications for visa application, validating the precision of their provided documentation, and confirming their compliance with the prerequisites of the specific visa category they are pursuing.¹⁵³ During the appointment, digital fingerprints are collected, and the visa application is reviewed. When consular officers proceed with the interview phase, they scrutinize supporting documents, assess the applicants' credibility, and pose questions to foreign spouses concerning the nature of their relationships and the intricacies of their marriages. These interviews may lead to visa approval, further administrative processing, or, in certain instances, visa denial.

b. USCIS Eligibility Interviews

Like consular interviews, USCIS eligibility interviews are conducted with the purpose of reviewing the filing for validity and credibility concerns. The couple must appear at a designated USCIS field office to check in for their appointment. Upon arrival, immigration service officers (ISOs) check the couple's identification, record biometric information, and conduct the interviews.¹⁵⁴ Unlike consulates, USCIS does not provide interpreters at interviews. If the couple brings an interpreter, the individual must be over the age of 18 and be fluent in both English and the applicant's native language.¹⁵⁵ Once ready, the ISO brings the couple and their interpreter (if used) into an interview room and places them under oath upon verifying their identity. The officer first confirms the application with the couple, who are responsible for signing the application before the ISO and verifying any amendments or corrections needed at the time of the eligibility interview.¹⁵⁶ The officer then asks questions regarding the nature of their relationship and how they met. If there are any indicators of fraud, the ISO can conduct a fraud interview.¹⁵⁷

¹⁵³ Bray, *Fiancé and Marriage Visas*, 214–15.

¹⁵⁴ Bray, 217.

¹⁵⁵ Bray, 216.

¹⁵⁶ Bray, 217.

¹⁵⁷ Bray, 217–19.

Eligibility interviews are the first in-person interaction between the government and the couple.

c. Fraud Interviews

In the event the ISO doubts the validity of the marriage, the ISO conducts what is known as a fraud interview.¹⁵⁸ Such interviews can occur on the same day as eligibility interviews. Fraud interviews involve separate questioning of each member of the couple by the ISO, with each individual asked the same set of questions. The interviewing officer aims to determine whether the marriage is bona fide or a sham to gain immigration benefits. Providing truthful and consistent responses, as well as presenting any evidence of a genuine marital relationship, is crucial during fraud interviews. These interviews are designed to prevent immigration fraud and maintain the integrity of the immigration system. Ultimately, if the couple does not consistently answer the questions correctly, the ISO has grounds to deny the application. The ISO can also refer cases to FDNS for further investigation. The fraud interview is a tool used by officers to assess the credibility of immigration filings.

d. Stokes Interviews

A Stokes interview is another form of fraud interview, particularly in cases involving marriage-based immigration benefits. This interview takes place strictly within the New York District.¹⁵⁹ It takes its name from legal precedent set by the U.S. District Court for the Southern District of New York in *Stokes v. Immigration and Naturalization Service*.¹⁶⁰ The interviewing officer first questions the couple during the eligibility interview. If discrepancies are encountered, the ISO refers the case to the “Stokes unit.”¹⁶¹

¹⁵⁸ Bray, 219.

¹⁵⁹ U.S. Citizenship and Immigration Services, “Interviewing,” in *USCIS Adjudicators Field Manual* (Washington, DC: U.S. Citizenship and Immigration Services, 2005), 15–16, <https://www.uscis.gov/sites/default/files/document/policy-manual-afm/afm15-external.pdf>.

¹⁶⁰ *Stokes v. Immigration and Naturalization Service*, 393 F. Supp. 24 (S.D.N.Y. 1975), <https://law.justia.com/cases/federal/district-courts/FSupp/393/24/1452596/>.

¹⁶¹ Nina Bernstein, “Do You Take This Immigrant?,” *New York Times*, June 12, 2010, <https://www.nytimes.com/2010/06/13/nyregion/13fraud.html>.

This unit is a dedicated unit in New York field offices that screens referrals and conducts Stokes interviews. The important distinction between Stokes interviews and fraud interviews is that the couple must be made aware they will be scheduled for such an interview in advance. The interview is then scheduled at a future date. Additionally, they must be given written notice describing their rights.¹⁶² The Stokes interview is like a fraud interview in that the couple are questioned separately. Unlike a fraud interview, a Stokes interview is video-recorded and kept as part of the record.¹⁶³ The aim is to determine whether the marriage is bona fide or fraudulently entered solely for immigration benefits. If discrepancies or inconsistencies arise in the spouses' responses or if they fail to provide convincing evidence of a genuine relationship, it can lead to the denial of the immigration application. As with fraud interviews, the ISO can refer the case for further investigation to FDNS. Stokes interviews and fraud interviews are important considerations when assessing credibility.

C. TYPES OF MARRIAGE FRAUD

Marriage fraud is a significant concern within immigration law.¹⁶⁴ It refers to instances where individuals enter into a marriage solely for the purpose of obtaining immigration benefits or circumventing immigration laws.¹⁶⁵ Fraudulent marriages undermine the integrity of the immigration system and can result in legal consequences for both the individuals involved and those who assist or facilitate such arrangements.¹⁶⁶ Fraud in the marriage context can manifest through various means. Identifying how fraud is committed paints a clearer picture of the obstacles to investigations.

¹⁶² U.S. Citizenship and Immigration Services, "Interviewing," 15.

¹⁶³ Bernstein, "Do You Take This Immigrant?"

¹⁶⁴ George S. Asllani, "Dissecting Marriage Fraud as a True Immigration Crime," *Laws* 5, no. 1 (2016): 1.

¹⁶⁵ U.S. Citizenship and Immigration Services, *Citizenship and Naturalization*, vol. 12 of *USCIS Policy Manual*, pt. G, chap. 2.

¹⁶⁶ Asllani, "Dissecting Marriage Fraud as a True Immigration Crime," 1–3.

1. Visa Fraud

Visa fraud involves deceptive actions taken to obtain or misrepresent one's qualifications when seeking a U.S. visa.¹⁶⁷ Visa fraud can apply to both immigrant and nonimmigrant visa categories. These deceptive actions may encompass the submission of counterfeit documents, the deliberate withholding of crucial information, the alteration or forgery of visas, and the misrepresentation of one's true intentions in applying for a visa. In the case of nonimmigrant visas, applicants must convincingly convey to the consular officer that their aim is temporary visitation to the United States, with no intention of permanent residency.¹⁶⁸ Visa fraud may also extend to misrepresenting one's marital status or employment situation during the visa application process. It is often employed as an initial means of gaining entry into the United States, with applicants subsequently violating their visa terms by overstaying their allotted duration, thereby breaching immigration laws and regulations.

2. “Cash for Vows” and Green Card Marriage Fraud

The concept of green card marriage fraud refers to deceptive marriages primarily undertaken with the aim of acquiring permanent resident status in the United States.¹⁶⁹ It involves foreign nationals who marry U.S. citizens or LPRs with the sole intent of circumventing immigration laws and securing a green card. These sham marriages are characterized by a lack of genuine commitment or shared life, as the parties involved often do not live together or maintain a legitimate marital relationship.¹⁷⁰ The U.S. citizen or LPR may not be fully aware of the fraud scheme. The fraudulent couple acts as a couple when submitting documentation with both of their names and appearing together for the

¹⁶⁷ “Passport and Visa Fraud,” Department of State, accessed September 8, 2023, <https://www.state.gov/passport-and-visa-fraud/>.

¹⁶⁸ Brian D. Heslin, “Overstays: The Lesser-Known Illegal Immigration Issue” (master's thesis, Naval Postgraduate School, 2018), 56–57, <https://www.hsdl.org/?abstract&did=821434>.

¹⁶⁹ Malgorzata Zuber, *Understanding Green Card Marriage Fraud* (Lanham, MD: Lexington Books, 2021), 45.

¹⁷⁰ David North, “More on Fighting Immigration-Related Marriage Fraud,” Center for Immigration Studies, April 1, 2013, <https://cis.org/North/More-Fighting-ImmigrationRelated-Marriage-Fraud>; David North, “Aliens, Social Security, and a Potential for Fraudulent Weddings,” Center for Immigration Studies, February 13, 2023, <https://cis.org/North/Aliens-Social-Security-and-Potential-Fraudulent-Weddings>.

eligibility interview. Like green card marriage, cash-for-vow marriages are marriages entered solely for an immigration benefit involving the U.S. citizen's or LPR's getting paid for the relationship. Both parties knowingly participate in the fraud.¹⁷¹ Green card marriage fraud and cash for vows are often used so that an individual who has committed visa fraud can remain in the United States permanently.

3. VAWA Fraud

VAWA fraud in immigration refers to situations in which individuals fraudulently submit self-petitions claiming abuse and violence from their spouse. GAO reports have noted that the program is susceptible to fraud and abuse.¹⁷² Reports further note that “VAWA fraud can occur in a number of ways such as through document fraud, including submission of falsified affidavits, or making false statements material to the adjudication such as claiming to have been abused by their spouse.”¹⁷³ Reporters have referred to the VAWA program as a legal loophole to “escape the two-year requirement to remain in the marital relationship.”¹⁷⁴ The filing of VAWA allows the applicant to obtain such other benefits as work authorization while the applications are pending. The GAO reported a 57 percent increase in filings from fiscal year 2014 through fiscal year 2018.¹⁷⁵ VAWA fraud is rapidly increasing.

D. COUNTERMEASURES AND LEGAL FRAMEWORK FOR MARRIAGE FRAUD VIOLATIONS

Countermeasures and the legal framework for addressing marriage fraud violations are essential components of immigration enforcement. To combat marriage fraud effectively, immigration authorities have implemented such stringent measures as interviews, background checks, site visits, and document verification during the visa and

¹⁷¹ Zuber, *Understanding Green Card Marriage Fraud*, 45–46.

¹⁷² Gambler, *USCIS: Additional Actions Needed to Manage Fraud Risks*, 37.

¹⁷³ Gambler, *Immigration Benefits: Additional Actions Needed*, 11.

¹⁷⁴ Jodie Fleischer, “Federal Review Finds Immigrants Fraudulently Claim Domestic Abuse to Gain Citizenship,” video, 3:45, NBC 4 Washington, October 1, 2019, <https://www.nbcwashington.com/news/local/federal-review-finds-immigrants-fraudulently-claim-domestic-abuse-to-gain-citizenship/176873/>.

¹⁷⁵ Gambler, *USCIS: Additional Actions Needed to Manage Fraud Risks*, 10–11.

green card application processes.¹⁷⁶ Suspicious marriages are subject to thorough investigation, and individuals found guilty of engaging in marriage fraud can face serious legal consequences, including visa denial, deportation, and criminal charges.¹⁷⁷ Violators can be charged under the INA, which classifies marriage fraud as a federal offense.¹⁷⁸ Additionally, the U.S. government may revoke fraudulently obtained visas or green cards and initiate removal proceedings.¹⁷⁹ These actions are used to uphold the integrity of the immigration system.

1. Immigration and Nationality Act

The INA, originally enacted in 1952 and amended multiple times, forms the cornerstone of immigration law in the United States.¹⁸⁰ The INA establishes the legal structure for overseeing immigration, the naturalization process, and the attainment of U.S. citizenship.¹⁸¹ The INA outlines visa classifications for both immigrant and nonimmigrant arrivals, outlining the conditions for eligibility and application procedures for foreign nationals within the United States. Additionally, it encompasses provisions related to refugee and asylum status, deportation procedures, and the consequences of immigration law violations. The INA is the primary framework for the pursuit of immigration fraud.

a. Section 204(c)

Section 204(c) of the INA is a significant provision, aiming to prevent immigration fraud and protect the integrity of the immigration system. This section prohibits the approval of certain family-based immigrant visa petitions if the beneficiary has previously

¹⁷⁶ Donald Hawkins and Mary Ellen Callahan, *Privacy Impact Assessment for the Immigration Benefits Background Check Systems*, DHS/USCIS/PIA-033 (Washington, DC: Department of Homeland Security, 2010), <https://www.dhs.gov/publication/immigration-benefits-background-check-systems-ibbcs>.

¹⁷⁷ Abrams, “Marriage Fraud”; Immigration and Customs Enforcement, *Marriage Fraud Is a Federal Crime*.

¹⁷⁸ U.S. Citizenship and Immigration Services, “Immigration and Nationality Act.”

¹⁷⁹ U.S. Citizenship and Immigration Services, *Adjustment of Status*.

¹⁸⁰ U.S. Citizenship and Immigration Services, “Immigration and Nationality Act.”

¹⁸¹ U.S. Citizenship and Immigration Services.

engaged in marriage fraud or misrepresentation to obtain an immigration benefit.¹⁸² In essence, it prevents individuals who have a history of fraudulent marriages or misrepresentations from benefiting from subsequent family-sponsored visa petitions.

b. Section 212(a)(6)(C)

Section 212(a)(6)(C) of the INA pertains to fraudulent misrepresentation or willful concealment of material facts by individuals seeking entry into the United States.¹⁸³ This section renders individuals inadmissible to the United States if they have engaged in fraud or willful misrepresentation to gain immigration benefits or other privileges. Such misrepresentation can encompass a range of actions, from false information on visa applications to fraudulent marriages intended solely for immigration purposes.¹⁸⁴ Section 212(a)(6)(C) underscores the importance of honesty in the immigration process and is an essential tool for immigration authorities in deterring fraudulent schemes. Violating this provision can result in visa denial, deportation, and potential bans from reentering the United States, highlighting its significance in maintaining the integrity of the U.S. immigration system.

2. Immigration Marriage Fraud Amendments Act of 1986

The passage of the IMFA of 1986 was a legislative response to increasing apprehension regarding marriage fraud and its potential repercussions for immigration within the United States.¹⁸⁵ Its primary purpose was to fortify legal provisions aimed at preventing and penalizing fraudulent marriages entered solely for immigration benefits. The IMFA introduced significant changes to immigration law, with a particular focus on marriages involving U.S. citizens and foreign nationals.¹⁸⁶ In accordance with this law,

¹⁸² “New BIA Decision Addresses Scope of INA § 204(c),” Catholic Legal Immigration Network, November 19, 2020, <https://www.cliniclegal.org/resources/family-based-immigration-law/new-bia-decision-addresses-scope-ina-ss-204c>.

¹⁸³ U.S. Citizenship and Immigration Services, “Immigration and Nationality Act.”

¹⁸⁴ Mark Mancini, “Fraud under the Immigration and Nationality Act,” *Notre Dame Law Review* 56, no. 4 (1981): 668–76.

¹⁸⁵ Abrams, “Marriage Fraud,” 31–32.

¹⁸⁶ Abrams, “Marriage Fraud.”

individuals who enter into marriage with U.S. citizens or permanent residents are conferred with conditional permanent resident status. This status enables them to petition for the removal of these conditions within a two-year period, in collaboration with their U.S. citizen spouses.¹⁸⁷ Additionally, Congress has incorporated two waiver options if a marriage dissolves within two years: one based on the demonstration of extreme hardship and another for marriages genuinely entered into but subsequently terminated with valid cause.¹⁸⁸ Under the IMFA, both the U.S. citizen petitioner and the foreign national beneficiary must provide substantial evidence of the authenticity of their marital relationship. This evidence may include property documents, financial documents, and affidavits.¹⁸⁹ These provisions are designed to deter and punish individuals engaging in fraudulent marriages solely for immigration advantages, underscoring the vital role of genuine marital unions in immigration proceedings.

3. Immigration Act of 1990

The Immigration Act of 1990 has had significant implications for immigration through marriage. While the act introduced a range of reforms to the U.S. immigration system, it particularly emphasized family reunification as one of its core objectives.¹⁹⁰ Under the act, family-sponsored immigration received renewed attention and prioritization. The legislation aimed to reduce lengthy visa backlogs for family members of U.S. citizens and permanent residents by increasing the annual visa quotas.¹⁹¹ This meant that spouses of U.S. citizens and permanent residents, along with their immediate family members, would have improved opportunities for legal immigration to join their loved ones in the United States. The Immigration Act of 1990, with its focus on family reunification, has played a crucial role in facilitating legal immigration through marriage by addressing delays and bottlenecks in the family-based immigration process.

¹⁸⁷ Lee, “A Life Preserver for Battered Immigrant Women,” 1–2.

¹⁸⁸ Lee, 1–2.

¹⁸⁹ Abrams, “Marriage Fraud,” 32.

¹⁹⁰ Baxter and Nowrasteh, “A Brief History of U.S. Immigration Policy,” 18–19.

¹⁹¹ Obinna, “Wait-Times, Visa Queues and Uncertainty.”

4. Code of Federal Regulations

Title 8, Section 1325(c), of the Code of Federal Regulations is a critical regulation with implications for marriage fraud in the context of immigration. This provision addresses offenses related to illegal entry into the United States, particularly when individuals engage in fraudulent marriages as a means to gain entry. It highlights the legal consequences of such actions, including potential fines and imprisonment. In cases where individuals participate in sham marriages solely for immigration benefits, 8 C.F.R. § 1325(c) can be invoked to penalize both the foreign national and the U.S. citizen or permanent resident involved in the fraudulent union. This regulation underscores the seriousness with which immigration authorities view marriage fraud and aims to deter individuals from using deceitful means to obtain immigration benefits. It aligns with broader efforts to uphold the integrity of the U.S. immigration system by discouraging fraudulent practices related to marriage.

E. MARRIAGE FRAUD INVESTIGATIVE STRUCTURE

Investigations into marriage fraud are crucial when it comes to immigration enforcement. Investigations and vetting are pivotal for safeguarding the integrity of the immigration system and ensuring that individuals do not misuse marriage as a means to gain entry or secure immigration benefits in the United States. By thoroughly examining the authenticity of marital relationships, authorities can discern genuine unions from fraudulent ones, preserving the intent of family-based immigration policies. These investigations not only serve as a deterrent against fraudulent practices but also protect national security interests by identifying individuals who might pose a threat to the country. Ultimately, diligence in investigating marriage fraud helps maintain the fairness and legality of immigration processes, promoting the responsible and legitimate entry of foreign nationals while upholding the rule of law.

1. INS Investigative Structure

Before the formation of DHS in 2003, authority for immigration inspections, investigations, and enforcement rested primarily on the INS.¹⁹² The INS consisted of 31,971 full-time employees by fiscal year 2001, with “every three out of four employees classified as enforcement personnel.”¹⁹³ Within this number, the Border Patrol, tasked with preventing unlawful entry of migrants into the United States, comprised 9,651 personnel.¹⁹⁴ The second-largest occupational group within the INS comprised 4,691 immigration inspectors, stationed mainly at the nation’s ports of entry including airports.¹⁹⁵ Their responsibilities included verifying travel documents and inspecting for illegal items. The agency employed 3,909 detention enforcement officers who managed detention centers for apprehended individuals. The fourth significant group included 1,974 criminal investigators, tasked with building criminal cases against those involved in immigration-related crimes—illegal immigrants, smugglers, and producers of fraudulent documents. The remaining enforcement personnel, totaling 4,008 individuals, encompassed immigration agents, adjudications officers, detention officers, and deportation officers, forming the fifth component of the agency’s enforcement team.¹⁹⁶ The INS was composed of many different functions within the immigration field.

During the last few years of its existence, the INS was primarily enforcement-minded with a focus on criminal convictions and deportations.¹⁹⁷ Policies by President Clinton prioritized immigration enforcement and expedited removals rather than fraud

¹⁹² U.S. Citizenship and Immigration Services, History Office and Library, *Overview of INS History* (Washington, DC: U.S. Citizenship and Immigration Services, 2012), <https://www.uscis.gov/sites/default/files/document/fact-sheets/INSHistory.pdf>.

¹⁹³ Transactional Records Access Clearinghouse, “DHS at Work: The INS and Its Responsibilities,” TRAC DHS, accessed September 8, 2023, <https://trac.syr.edu/tracins/findings/aboutINS/insResponsibilities.html>.

¹⁹⁴ Transactional Records Access Clearinghouse.

¹⁹⁵ Transactional Records Access Clearinghouse.

¹⁹⁶ Transactional Records Access Clearinghouse.

¹⁹⁷ Transactional Records Access Clearinghouse, “DHS at Work: Recent Trends in INS Enforcement,” TRAC DHS, accessed September 8, 2023, <https://trac.syr.edu/tracins/findings/aboutINS/insTrends.html>.

investigations.¹⁹⁸ The 1996 Illegal Immigration and Reform and Immigrant Responsibility Act reframed illegal immigration as a criminal offense and “integrated immigration enforcement with crime control.”¹⁹⁹ The GAO noted that benefit fraud was a low priority for the INS.²⁰⁰ Instead, expulsions of illegal aliens in fiscal year 2001 were four times greater than in 1993. INS conviction rates were among the top among federal agencies. For example, as detailed by the Transactional Records Access Clearinghouse, the INS in 2001 was responsible for 20.5 percent of all federal convictions, compared to the Federal Bureau of Investigation with 19.3 percent; the Drug Enforcement Administration with 17.8 percent; the Customs Service with 9.7 percent; the Bureau of Alcohol, Tobacco, Firearms, and Explosives with 6.2 percent; and the Internal Revenue Service with 1.6 percent.²⁰¹ Data regarding marriage fraud investigations were not available through open-source channels. However, there were no clearly defined functions between adjudications and investigations.²⁰² INS focused much of its efforts within enforcement and accounted for most federal convictions. The INS structure prioritized criminal convictions and accountability—a stark contrast to the current structure in place.

The overarching INS structure served as a precursor for the existing structure of USCIS. The INS system was multilayered and segmented according to job function and area of responsibility. The management structure of the INS was divided into three parts: headquarters, three regions, and 33 districts in the United States, each managed by a district

¹⁹⁸ Robert Nelsen, “Bill Clinton, George W. Bush, and Immigration Policy: How 9/11 Transformed the Debate over Illegal Immigration” (master’s thesis, Chapman University, 2019), <https://doi.org/10.36837/chapman.000059>; “State of the Union: President Bush’s Plan for Comprehensive Immigration Reform,” White House of President George W. Bush, 2007, <https://georgewbush-whitehouse.archives.gov/stateoftheunion/2007/initiatives/immigration.html>.

¹⁹⁹ Patrisia Macías-Rojas, “Immigration and the War on Crime: Law and Order Politics and the Illegal Immigration Reform and Immigrant Responsibility Act of 1996,” *Journal on Migration and Human Security* 6, no. 1 (2018): 2–3, <https://doi.org/10.1177/233150241800600101>.

²⁰⁰ Chuck Young, *Immigration Benefit Fraud: Focused Approach Is Needed to Address Problems*, GAO-02-66 (Washington, DC: General Accounting Office, 2002), 9–10, <https://www.gao.gov/products/gao-02-66>.

²⁰¹ Transactional Records Access Clearinghouse, “Recent Trends in INS Enforcement.”

²⁰² Charles Gordon, “Due Process of Law in Immigration Proceedings,” *American Bar Association Journal* 50, no. 1 (1964): 36–37.

director, a deputy director, and assistant district directors.²⁰³ These districts comprised divisions for investigations, inspections, and adjudications. The examination and adjudication divisions, for example, were further segmented into units based on their respective adjudication types, for example, naturalization or adjustments of status. In larger districts, section chiefs oversaw these units.²⁰⁴ This INS structure was mirrored in the formation of USCIS.

Adjudication and fraud investigations through INS rested primarily on the adjudication department. When fraud was suspected in a case, officers would present their findings to a supervisor or an intelligence or investigative official.²⁰⁵ Adjudicators had the responsibility of requesting additional supporting documents. If benefit fraud was suspected, district offices were responsible for the investigation.²⁰⁶ Investigators would review cases to determine whether fraud was present. Fraud prevention with the INS involved three regional offices, four service centers, and 33 district offices. According to the GAO, in fiscal year 2000, “INS’s district investigative units opened approximately 4,000 cases involving fraud, almost half of which involved marriage fraud.”²⁰⁷ Within, this number, only 483 were prosecuted for fraud, resulting in 259 convictions.²⁰⁸ While fraud was noted as a rampant problem among INS employees, the priority of fraud investigations was low.

The INS investigative structure was cited for its lack of adaptability and innovation. The GAO, for example, criticized the INS for not establishing measures for benefit fraud investigations.²⁰⁹ In fact, the same report also noted the INS’s “limited emphasis on quality

²⁰³ Department of Justice, Office of the Inspector General, *An Investigation of the INS’s Citizenship USA Initiative* (Washington, DC: Department of Justice, 2000), 12, <https://oig.justice.gov/sites/default/files/archive/special/0007/intro.pdf>.

²⁰⁴ Department of Justice, Office of the Inspector General, 12.

²⁰⁵ Young, *Immigration Benefit Fraud*, 28–29.

²⁰⁶ Young, 8.

²⁰⁷ Young, 9.

²⁰⁸ Young, 9.

²⁰⁹ Young, 30–31.

and fraud detection during application processing.”²¹⁰ Moreover, the INS structure made it difficult to balance timely processing of immigration benefits with fraud detection.²¹¹ The GAO further noted that INS lacked a comprehensive plan within its enforcement strategy for identifying how components coordinated their investigations.²¹² Plagued by a lack of information-sharing and case-tracking, the INS would have benefited from a mechanism to measure its endeavors in probing immigration benefit fraud in conjunction with its other priorities.²¹³ Furthermore, while the INS’s Investigations Division was found to have limited involvement in investigations compared to district offices, adjudicating officers had little access to useful information—both examples illustrating a deficient integration of functions.²¹⁴ Many of the GAO’s recommendations served as the basis for FDNS’s investigative structure.

2. FDNS Investigative Structure

As with the INS structure, USCIS is composed of directorates and program offices, including six program offices and seven directorates.²¹⁵ The Office of Fraud Detection and National Security was established in 2004 as a direct response to benefit fraud cases, specifically marriage fraud.²¹⁶ FDNS became a directorate in 2010.²¹⁷ While FDNS is a separate directorate under USCIS, it is embedded within service centers and field offices. FDNS operates under USCIS’s umbrella and collaborates closely with government agencies, including Immigration and Customs Enforcement (ICE), and CBP. FDNS’s mission is safeguarding “the integrity of the nation’s lawful immigration system by leading

²¹⁰ Young, 28–29.

²¹¹ Young, 27.

²¹² Young, 3.

²¹³ Young, 4–5, 10.

²¹⁴ Young, 19, 22–24.

²¹⁵ “Directorates and Program Offices,” U.S. Citizenship and Immigration Services, August 2, 2019, <https://www.uscis.gov/about-us/organization/directorates-and-program-offices>.

²¹⁶ Erin E. Barret, “Who Is Patrolling the Border of Ethical Conduct: The Convergence of Federal Immigration Attorneys, Benefit Fraud, and Model Rule 4.2,” *William & Mary Law Review* 55, no. 6 (June 2014): 2262–63.

²¹⁷ U.S. Citizenship and Immigration Services, “Fraud Detection and National Security Directorate.”

USCIS’ efforts to combat fraud, detect national security and public safety threats, and maximize law enforcement and Intelligence Community partnerships.”²¹⁸ FDNS is the current structure in charge of investigating immigration benefit fraud.

The structure of FDNS places great emphasis on the role of immigration officers (IOs) in administrative investigations.²¹⁹ These officers investigate fraud, national security, and public safety–related cases. They receive work predominantly via referrals initiated by USCIS adjudicators, but their cases can be initiated through automated notifications, biometric screenings, or other law enforcement agencies.²²⁰ If FDNS determines the information or referral is sufficient, it is accepted and worked within the department. As part of their investigations, FDNS’s IOs employ several methods, including research, database searches, file reviews, social media research, interviews, and site visits.²²¹ FDNS documents findings through written work products, which can then be used by adjudicators for consideration. FDNS does not make recommendations regarding the adjudicative decision of the case.²²² If evidence warrants a criminal investigation, IOs refer the case to ICE for consideration. Thus, FDNS’s IOs are limited in the type of investigations they can conduct.

²¹⁸ U.S. Citizenship and Immigration Services.

²¹⁹ Gambler, *USCIS: Additional Actions Needed to Manage Fraud Risks*, 7.

²²⁰ Gambler, 8–9.

²²¹ Gambler, 8.

²²² Gambler, 8.

III. LEFT AT THE ALTAR: IMPEDIMENTS TO FDNS MARRIAGE FRAUD INVESTIGATIONS

The importance of fraud investigations cannot be overstated. In congressional testimony about benefit fraud, ICE has stated, “Identity and benefit fraud pose significant threats to national security and public safety.”²²³ Marriage fraud investigations are significant due to the potential legal, financial, and emotional implications they carry. Marriages are built on trust, honesty, and mutual understanding, making any breach of these foundational principles a serious matter.²²⁴ Fraud investigations in a marriage context aim to uncover such deceptions as hidden assets, undisclosed financial obligations, secret marriages, or misrepresentations of personal history. FDNS-related investigations specifically focus on whether the marriage is bona fide. Identifying fraudulent activities early on can help protect vulnerable individuals from financial exploitation or emotional distress and can ultimately contribute to a fair and equitable resolution during divorce or separation proceedings.²²⁵ Fraud investigations underscore the importance of legal pathways to permanent residence through a genuine marital bond.

When individuals fraudulently file documents or misrepresent themselves before the U.S. government, they completely undercut the integrity of the U.S. immigration system. When both the immigrant and U.S. spouse are aware of the fraud, the couple knowingly participates in criminal activity. Malgorzata adds, “The involvement of U.S. citizens weakens the nation’s security system.”²²⁶ In a 2016 brochure, ICE equates marriage fraud with “trad [ing] America’s security for financial gain.”²²⁷ Those who abuse marriage-based immigration take advantage of benefits and resources for which they are

²²³ “Written Testimony of ICE for a House Committee on the Judiciary, Subcommittee on Immigration Policy and Enforcement Hearing Titled ‘The Aftermath of Fraud by Immigration Attorneys,’” Department of Homeland Security July 24, 2012, <https://www.dhs.gov/news/2012/07/24/written-testimony-ice-house-committee-judiciary-subcommittee-immigration-policy-and>.

²²⁴ John Gottman and Julie Gottman, “The Natural Principles of Love,” *Journal of Family Theory & Review* 9, no. 1 (2017): 7–26, <https://doi.org/10.1111/jftr.12182>.

²²⁵ Seminara, *Inside the Green Card Marriage Phenomenon*, 10–12.

²²⁶ Zuber, *Understanding Green Card Marriage Fraud*, viii.

²²⁷ Immigration and Customs Enforcement, *Marriage Fraud Is a Federal Crime*.

otherwise ineligible, for example, public assistance, work authorization, and travel documentation.²²⁸ When a couple files for adjustment of status, the immigrant is eligible to file Form I-765, Application for Employment Authorization, which enables the immigrant to work while the marital filings are pending legally.²²⁹ Additionally, the immigrant is eligible to file Form I-131, Application for Travel Document, which grants the foreign spouse a reentry permit after departing the United States.²³⁰ The abuse of marriage-based immigration taxes federal and state resources.

Fraud deterrence plays a key role in maintaining the integrity of the immigration system. Cendrowski, Martin, and Petro assert, “Fraud deterrence is based on the premise that fraud is not a random occurrence; fraud occurs where the conditions are right for it to occur.”²³¹ Marriage fraud is difficult to quantify as data are not readily available through open sources. However, when addressing the green card marriage phenomenon, Seminara concludes that the “system is broken and needs significant reform.”²³² This chapter illustrates how the conditions are ripe for fraud. An analysis of existing fraud investigation and deterrence practices is needed to deter marriage-based fraud cases effectively.

A. JURISDICTION

Immigration jurisdiction is compartmentalized and involves several government departments and agencies. While the formation of DHS was intended to consolidate many federal functions, immigration-related cases interact with at least four federal agencies under three separate departments, depending on the filing circumstances. Because of this arrangement, immigration investigations often start independently but require the involvement of several agencies, each with specific roles and jurisdictions.

²²⁸ Michael E. Fix, *Immigrants and Welfare: The Impact of Welfare Reform on America's Newcomers* (Russell Sage Foundation, 2009); “I-765, Application for Employment Authorization,” U.S. Citizenship and Immigration Services, September 1, 2023, <https://www.uscis.gov/i-765>; “I-131, Application for Travel Document,” U.S. Citizenship and Immigration Services, September 18, 2023, <https://www.uscis.gov/i-131>.

²²⁹ U.S. Citizenship and Immigration Services, “I-765, Application for Employment Authorization.”

²³⁰ U.S. Citizenship and Immigration Services, “I-131, Application for Travel Document.”

²³¹ Harry Cendrowski, James P. Martin, and Louis W. Petro, *The Handbook of Fraud Deterrence* (Hoboken, NJ: John Wiley & Sons, 2007), 13.

²³² Seminara, *Inside the Green Card Marriage Phenomenon*, 11–12.

The jurisdiction and structure of USCIS hold great significance in actively safeguarding the integrity and security of the U.S. immigration system.²³³ FDNS's jurisdiction sets the boundaries and scope of its operations, enabling it to actively identify, investigate, and counteract fraudulent activities and potential threats to national security within the immigration landscape.²³⁴ This scope entails such critical responsibilities as fraud detection, background checks, and security assessments.²³⁵ Additionally, FDNS actively collaborates with various law enforcement agencies and government entities, emphasizing the need for a well-defined structure that facilitates efficient coordination and information-sharing.²³⁶ The structure ensures that FDNS operates in a cohesive and organized manner, optimizing its capabilities to respond swiftly and effectively to emerging challenges and evolving threats. A well-structured FDNS aligns its goals with the broader objectives of USCIS and DHS.

FDNS's organizational structure is multilayered and performs a variety of roles outside of marriage fraud investigations. The FDNS directorate under USCIS reports to the deputy director of USCIS, as depicted in Figure 4. While FDNS is a separate directorate, its employees are embedded in most other directorates, including the Field Operations Directorate (FOD), Refugee, Asylum, & International Operations (RAIO), and Service Center Operations (SCOPS).²³⁷ The important distinction in hierarchy and roles is between headquarters FDNS (HQFDNS) and field-level FDNS.

²³³ U.S. Citizenship and Immigration Services, *Fraud Detection Standard Operating Procedures* (Washington, DC: U.S. Citizenship and Immigration Services, 2011), 1, <https://www.aila.org/infonet/uscis-fraud-detection-standard-operating-procedure>.

²³⁴ U.S. Citizenship and Immigration Services, "Fraud Detection and National Security Directorate."

²³⁵ Edward Murphy, *Privacy Impact Assessment for the Fraud Detection and National Security Data System (FDNS-DS)* (Washington, DC: Department of Homeland Security, 2008), 12.

²³⁶ U.S. Citizenship and Immigration Services, "Fraud Detection and National Security Directorate."

²³⁷ Gambler, *USCIS: Additional Actions Needed to Manage Fraud Risks*, 6.

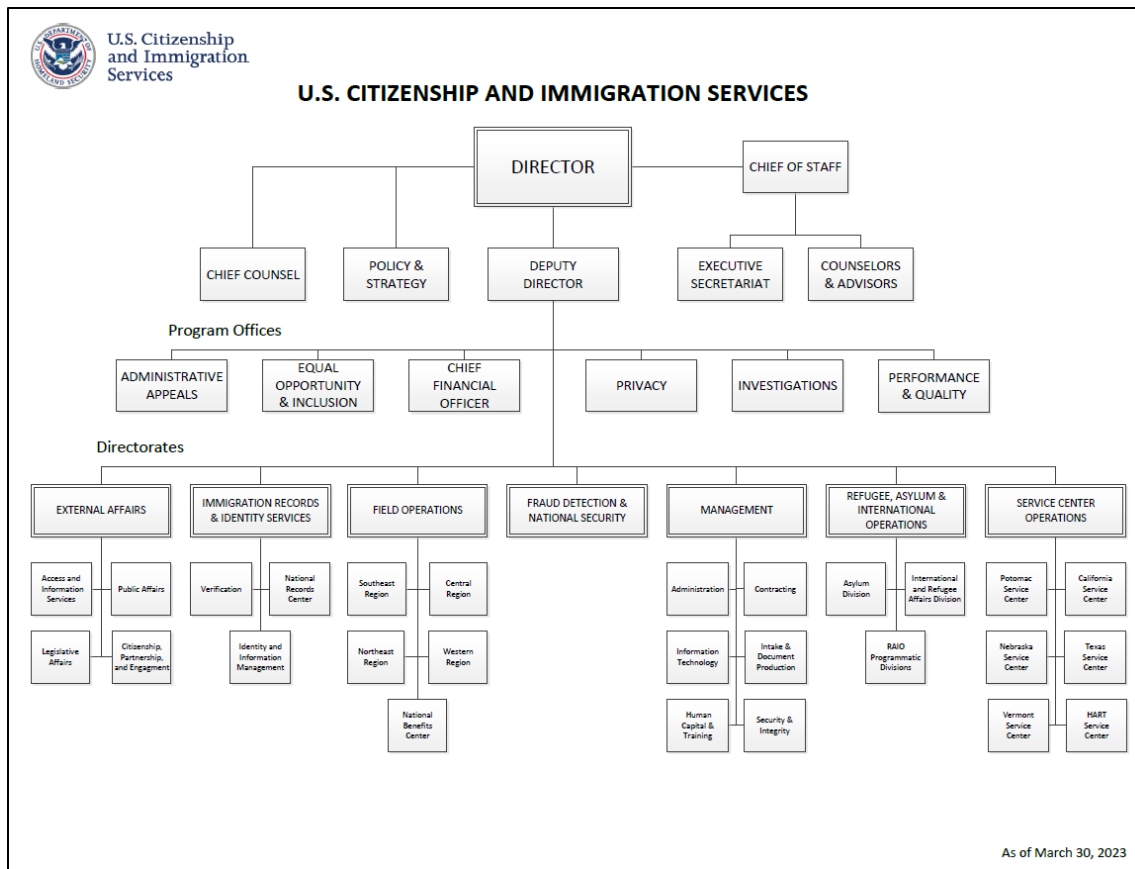


Figure 4. USCIS Organizational Chart as of March 2023.²³⁸

As a result of this structure, the designated role and jurisdiction of field-level FDNS IOs involve actively investigating cases related to fraud, national security, and public safety concerns rather than providing policy oversight.²³⁹ Despite calling its employees “officers,” FDNS is not a law enforcement agency. Furthermore, FDNS’s IOs are unarmed and have no authority to make arrests.²⁴⁰ Field-level officers administratively investigate immigration cases for compliance rather than perform law enforcement functions.

²³⁸ Source: “Organizational Chart,” U.S. Citizenship and Immigration Services, March 30, 2023, <https://www.uscis.gov/sites/default/files/document/charts/USCIS-Org-Chart.pdf>.

²³⁹ U.S. Citizenship and Immigration Services, “Fraud Detection and National Security Directorate.”

²⁴⁰ “FLETC Runs a Successful Pilot of the Fraud Detection and National Security Directorate Officer Training Program,” Federal Law Enforcement Training Centers, March 7, 2019, <https://www.fletc.gov/press-release/2019/03/07/fletc-runs-successful-pilot-fraud-detection-and-national-security>.

The compartmentalized nature of immigration filings and functions both internally and externally at the outset creates obstacles for FDNS fraud investigations. In marriage-based immigration, the DOS holds a pivotal role, actively assessing visa eligibility, conducting interviews, and deciding visa approvals or rejections based on multiple criteria, including the purpose of the visit, ties to the home country, and security considerations.²⁴¹ Under the DOS, the Bureau of Diplomatic Security (DS) oversees the Diplomatic Security Service, responsible for conducting criminal investigations into passport and visa fraud (see Figure 5).²⁴² DS special agents lead “criminal investigations related to the fraudulent application, issuance, procurement, counterfeiting, or forgery of U.S. visas.”²⁴³ FDNS, however, assumes an inactive role in these investigations unless requested by DOS to provide assistance. As visa filings mark the inception of the immigration process, FDNS IOs are often uninformed about potential derogatory information until immigrants submit filings with USCIS. The DOS digitally stores visa-related records in the Consular Consolidated Database (CCD).²⁴⁴ Within the system is a component known as eCAS, used by DOS Fraud Prevention Units to track and manage fraudulent immigrant visa cases.²⁴⁵ Although field-level FDNS IOs have access to the CCD, they do not have access to eCAS. Additionally, the information available is limited due to records retention schedules and confidentiality provisions.²⁴⁶ The DOS’s jurisdiction within the immigration process encompasses visa procurement, thus constraining FDNS’s access to comprehensive information usable for investigations.

²⁴¹ William Gerber, *The Department of State of the United States* (Washington, DC: Government Printing Office, 1942).

²⁴² “Bureau of Diplomatic Security: Investigations,” Department of State, accessed October 9, 2023, <https://2009-2017.state.gov/m/ds/investigat/index.htm>; Department of State, “Passport and Visa Fraud.”

²⁴³ Department of State, “Bureau of Diplomatic Security: Investigations.”

²⁴⁴ “Overview of the Privacy Act: 2020 Edition,” Department of Justice, Office of Privacy and Civil Liberties, October 14, 2020, <https://www.justice.gov/opcl/overview-privacy-act-1974-2020-edition/disclosures-third-parties>.

²⁴⁵ Michael J. Courts, *Border Security: State Could Enhance Visa Fraud Prevention by Strategically Using Resources and Training*, GAO-12-888 (Washington, DC: Government Accountability Office, 2012), 21, <https://www.gao.gov/products/gao-12-888>.

²⁴⁶ Department of Justice, Office of Privacy and Civil Liberties, “Overview of the Privacy Act.”

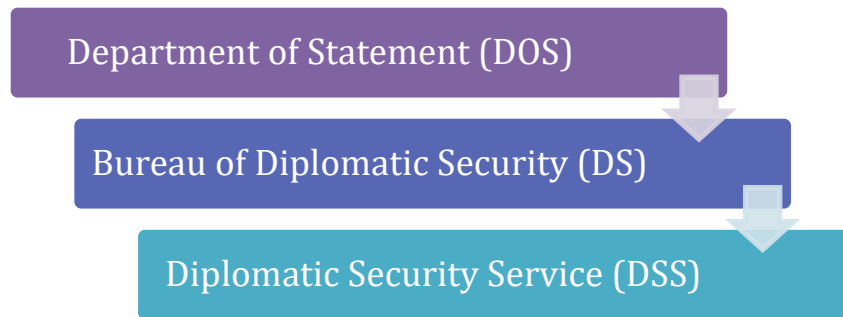


Figure 5. DOS Hierarchy for Visa Investigation

USCIS adjudicators have the authority to issue Form I-862, Notice to Appear (NTA), when they establish that a non-citizen applicant for an immigration or naturalization benefit is ineligible or has breached immigration laws as outlined in the INA, § 212 or § 237.²⁴⁷ An NTA is a legal document that initiates removal proceedings against an individual.²⁴⁸ USCIS issues an NTA when a person is found to be removable from the United States based on violations of immigration laws or other grounds, including visa overstay, criminal convictions, or violations of immigration status.²⁴⁹ If an immigrant is found to have committed fraud or misrepresentation, the immigrant is considered inadmissible and subject to an NTA.²⁵⁰ Immigration-based court cases are judged through the Executive Office of Immigration Review (EOIR) under the DOJ.²⁵¹ FDNS fraud findings are paramount in substantiating allegations of fraud in a court setting. Once issued, the NTA outlines the charges against the individual and informs the individual of the

²⁴⁷ Bryan Baker, *Immigration Enforcement Actions: 2016* (Washington, DC: Department of Homeland Security, Office of Immigration Statistics, 2017), 2, https://www.dhs.gov/sites/default/files/publications/Enforcement_Actions_2016.pdf.

²⁴⁸ “Notice to Appear Policy Memorandum,” U.S. Citizenship and Immigration Services, June 14, 2021, <https://www.uscis.gov/laws-and-policy/other-resources/notice-to-appear-policy-memorandum>.

²⁴⁹ U.S. Citizenship and Immigration Services, “Updated Guidance for the Referral of Cases and Issuance of Notices to Appear (NTAs) in Cases Involving Inadmissible and Deportable Aliens” (official memorandum, Washington, DC: Department of Homeland Security, 2018), <https://www.uscis.gov/sites/default/files/document/memos/2018-06-28-PM-602-0050.1-Guidance-for-Referral-of-Cases-and-Issuance-of-NTA.pdf>.

²⁵⁰ U.S. Citizenship and Immigration Services, *Admissibility*, vol. 8 of *USCIS Policy Manual*.

²⁵¹ “Executive Office for Immigration Review: An Agency Guide,” Department of Justice, Executive Office for Immigration Review, December 2017, https://www.justice.gov/eoir/page/file/eoir_an_agency_guide/download; Baker, *Immigration Enforcement Actions: 2016*.

upcoming hearing before an immigration judge. The NTA is the first step in the removal process.

The FDNS fraud investigation aims to determine the presence of fraud. FDNS can refer cases for criminal investigations if they meet specific criteria. FDNS issues referrals to ICE through a structured process known as a referral to ICE.²⁵² USCIS and ICE established a memorandum of agreement (MOA) in 2008 delineating the roles and responsibilities of both agencies in assessing benefit fraud cases.²⁵³ However, USCIS can refer only large-scale cases rather than single instances of fraud.²⁵⁴ Criminal convictions relating to immigration-based filings are dependent on ICE.

1. Immigration and Customs Enforcement

Since its establishment in 2003, ICE has had several responsibilities including upholding immigration policies, border control, and public safety.²⁵⁵ The agency was created through “the merger of the investigative and interior enforcement elements of the former U.S. Customs Service and the Immigration and Naturalization Service.”²⁵⁶ ICE consists of several operational directorates, including Enforcement and Removal Operations (ERO) and Homeland Security Investigations (HSI).²⁵⁷ The jurisdiction of ICE is extensive, covering such various domains as border security, immigration enforcement, investigations, and the removal of undocumented immigrants.²⁵⁸ This broad jurisdiction allows ICE substantial coverage and capabilities but produces impediments to FDNS’s marriage fraud investigations.

²⁵² U.S. Citizenship and Immigration Services, *Fraud Detection Standard Operating Procedures*, app. B-3.

²⁵³ U.S. Citizenship and Immigration Services, app. E-7.

²⁵⁴ U.S. Citizenship and Immigration Services, “Updated Guidance for the Referral of Cases.”

²⁵⁵ “About Page,” Immigration and Customs Enforcement, accessed October 8, 2023, <https://www.ice.gov/about-ice>.

²⁵⁶ Immigration and Customs Enforcement, *ICE Annual Report: Fiscal Year 2022* (Washington, DC: Immigration and Customs Enforcement, 2022), 1, <https://www.ice.gov/doclib/eoy/iceAnnualReportFY2022.pdf>.

²⁵⁷ Immigration and Customs Enforcement, “About Page.”

²⁵⁸ Immigration and Customs Enforcement.

The functions of ICE directorates lend solely to enforcement-based activities. HSI is a multifaceted division focusing on a range of criminal activities that endanger national security and public safety. HSI's functions encompass such criminal investigations as immigration fraud, human trafficking, and cybercrimes.²⁵⁹ Additionally, it plays a role in countering terrorism, combating intellectual property theft, enforcing customs laws, and addressing human rights violations. On the other hand, ERO primarily enforces immigration laws by identifying and detaining individuals who violate immigration statutes. ERO is responsible for custody management, detention and removal procedures, fugitive operations, and management of criminal alien cases.²⁶⁰ Both HSI and ERO are essential in maintaining the integrity of immigration laws by investigating criminal activities and ensuring immigration compliance and the lawful removal of violators.

ICE investigates benefit fraud cases involving elaborate schemes and multiple collaborators. Investigating these cases demands substantial resources and time for prosecution.²⁶¹ Whenever USCIS suspects fraud during application or petition reviews and specific criteria are met, it refers the case to the National Lead Development Center (NLDC), a role previously performed by ICE Benefit Fraud Units.²⁶² The NLDC then vets and refers suspected instances of fraud to the appropriate HSI field office for further investigation. HSI directs anti-fraud efforts through Document and Benefit Fraud Task Forces (DBFTFs), collaborating with federal, state, and local partners to combat criminal organizations exploiting the U.S. immigration process.²⁶³ These task forces comprehensively investigate fraud organizations and aim to deter future crimes. HSI also assists USCIS in preventing unauthorized individuals from fraudulently obtaining benefits by sharing case findings for appropriate administrative action and removal proceedings.

²⁵⁹ Immigration and Customs Enforcement, *ICE Annual Report*, 25.

²⁶⁰ Immigration and Customs Enforcement, 2.

²⁶¹ Department of Homeland Security, "Written Testimony of ICE."

²⁶² "Statement for the Record of ICE for a Senate Committee on the Judiciary Hearing Titled 'Vows for Visas: Investigating K-1 Fiancé Fraud,'" Department of Homeland Security, accessed October 11, 2023, <https://www.dhs.gov/news/2017/03/15/statement-record-ice-senate-committee-judiciary-hearing-titled-vows-visas>.

²⁶³ "Document and Benefit Fraud Task Forces," Immigration and Customs Enforcement, accessed October 11, 2023, <https://www.ice.gov/partnerships-centers/document-benefit-fraud>.

The relationship between USCIS and ICE is vital during the process of fraud investigations but has clear limitations. USCIS cannot refer individual instances of fraud to ICE unless there are specific circumstances.²⁶⁴ Based on the established MOA, USCIS can refer only “groups of cases with articulated suspicions of fraud.”²⁶⁵ As noted in the Appendix, cases prosecuted by the DOJ in the past three years through the help of USCIS and ICE have consisted primarily of large-scale fraud schemes. The single instances of fraud that were prosecuted involved extraordinary circumstances—national security concerns—or fraudulent actors in such public trust positions as members of the armed services or law enforcement. When USCIS/FDNS refers cases to ICE, USCIS suspends adjudication of the pending filing for 60 days. During that time, ICE may accept or decline cases for further investigation.²⁶⁶ The NTA authority possessed by USCIS is meant to address individual instances administratively.

The USCIS–ICE relationship has both benefits and impediments. Both agencies can exchange information through the DBFTF to investigate large-scale schemes. However, the inability to refer single-scheme or individual cases creates a gap that cannot be easily addressed. Even when cases are referred, their acceptance relies solely on ICE’s priorities.²⁶⁷ According to ICE’s 2022 annual field report, HSI initiated 40,974 total cases covering a wide range of investigations.²⁶⁸ From these investigations, identity and benefit fraud cases amounted to 1,859, or 4 percent.²⁶⁹ The report offers no statistics on USCIS referrals, nor does it delineate the type of benefit fraud. Reviews of 2014 and 2021 DHS

²⁶⁴ “Written Testimony of USCIS for a House Committee on the Judiciary, Subcommittee on Immigration Policy and Enforcement Hearing Titled ‘The Aftermath of Fraud by Immigration Attorneys,’” Department of Homeland Security, July 24, 2012, <https://www.dhs.gov/news/2012/07/24/written-testimony-uscis-house-committee-judiciary-subcommittee-immigration-policy>.

²⁶⁵ U.S. Citizenship and Immigration Services, “Updated Guidance for the Referral of Cases.”

²⁶⁶ U.S. Citizenship and Immigration Services.

²⁶⁷ Gambler, *Asylum*, 65–67.

²⁶⁸ Immigration and Customs Enforcement, *ICE Annual Report*, 44.

²⁶⁹ Immigration and Customs Enforcement, 44.

memos show that ICE heavily favors cases of national security and public safety.²⁷⁰ Neither memo references fraud as an enforcement priority for ICE. Based on the overall statistics presented in these sources, identity and benefit fraud are a low priority compared to such categories as narcotics and financial crimes.

The Office of the Principal Legal Advisor (OPLA) serves as the legal arm of ICE, providing legal guidance and representation in immigration matters.²⁷¹ One of its primary functions is to represent ICE in immigration proceedings, for example, removal proceedings and immigration appeals. ICE's OPLA works on a range of legal matters, including employment law, ethics, and litigation support. OPLA attorneys advocate enforcement of immigration laws and represent the government's interests in court while exercising prosecutorial discretion.²⁷² They also provide legal advice and expertise to ICE officers and agents, ensuring that their actions are in compliance with laws and regulations.²⁷³ ICE's OPLA plays an essential role in upholding immigration laws and ensuring the fair and lawful enforcement of immigration policies within the United States.

2. Department of Justice, Executive Office of Immigration Review

EOIR administers the adjudication of immigration cases.²⁷⁴ The core of EOIR's function lies in its jurisdiction and encompasses several roles. When an NTA is issued by DHS, the jurisdiction of the case is transferred to the DOJ, and in most cases, including those involving marriage, the immigrant is placed in removal proceedings. The Office of

²⁷⁰ Department of Homeland Security, "Policies for the Apprehension, Detention and Removal of Undocumented Immigrants" (official memorandum, Washington, DC: Department of Homeland Security, 2014), <https://www.dhs.gov/publication/policies-apprehension-detention-and-removal-undocumented-immigrants>; "Secretary Mayorkas Announces New Immigration Enforcement Priorities," Department of Homeland Security, September 30, 2021, <https://www.dhs.gov/news/2021/09/30/secretary-mayorkas-announces-new-immigration-enforcement-priorities>.

²⁷¹ "Office of the Principal Legal Advisor," Immigration and Customs Enforcement, accessed October 12, 2023, <https://www.ice.gov/about-ice/opla>.

²⁷² "Prosecutorial Discretion and the ICE Office of the Principal Legal Advisor," Immigration and Customs Enforcement, accessed April 13, 2023, <https://www.ice.gov/about-ice/opla/prosecutorial-discretion>.

²⁷³ Immigration and Customs Enforcement, "Office of the Principal Legal Advisor."

²⁷⁴ "Executive Office for Immigration Review," Department of Justice, April 25, 2023, <https://www.justice.gov/eoir/about-office>.

the Chief Immigration Judge within EOIR comprises nearly 350 immigration judges.²⁷⁵ These judges are tasked with overseeing removal hearings and other administrative court proceedings conducted across 60 immigration courts located nationwide.²⁷⁶ Immigration judges determine whether the immigrant is removable by law or qualifies for relief from removal in accordance with the law.²⁷⁷ EOIR serves as the determining body for removability (see Figure 6).

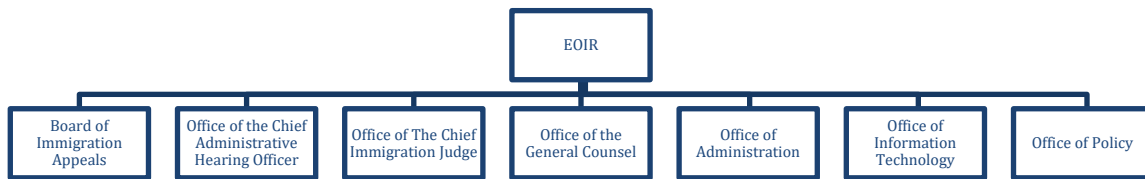


Figure 6. Overview of EOIR’s Components

The appellate component of EOIR is the Board of Immigration Appeals (BIA), responsible for reviewing the immigration judges’ decisions, managing appeals filed by dissatisfied parties, providing legal interpretation and guidance on immigration laws, and contributing to policy development and implementation within the immigration landscape.²⁷⁸ A significant portion of the appeals process pertains to orders for removal and applicants seeking protection or relief from removal.²⁷⁹ The BIA identifies specific orders as precedent decisions, subsequently publishing them for widespread application in immigration cases across the nation.²⁸⁰ The federal circuit courts have the authority to issue precedent decisions on immigration law matters, establishing binding legal standards within their respective circuits. As the highest administrative tribunal, the BIA holds the

²⁷⁵ Department of Justice, Executive Office for Immigration Review, “An Agency Guide,” 1.

²⁷⁶ Department of Justice, Executive Office for Immigration Review.

²⁷⁷ Department of Justice, Executive Office for Immigration Review, 1.

²⁷⁸ Department of Justice, Executive Office for Immigration Review, 2.

²⁷⁹ Department of Justice, Executive Office for Immigration Review, “An Agency Guide”; Department of Justice, “Executive Office for Immigration Review.”

²⁸⁰ Department of Justice, Executive Office for Immigration Review, “An Agency Guide.”

responsibility for interpreting and applying U.S. immigration law.²⁸¹ This jurisdiction is instrumental in preserving the integrity of the immigration process, upholding due process, and maintaining a structured legal framework.

EOIR also features an investigative component within its authority. The Fraud and Abuse Prevention Program by EOIR serves as a centralized platform to report concerns related to fraud and immigration scams.²⁸² The program investigates the unauthorized practice of immigration law often by *notarios*, immigration consultants or travel agents who represent themselves as attorneys but have no legal certification or authority. Additionally, the fraud program collaborates with EOIR's Attorney Disciplinary Counsel, which investigates allegations of misconduct in practicing before immigration courts and the BIA, assessing whether attorneys or accredited representatives have engaged in criminal, unethical, or unprofessional behavior.²⁸³ The DOJ does not have a specific division that handles immigration fraud.²⁸⁴ The Fraud and Abuse Prevention Program has the capability to refer cases to ICE's HSI.²⁸⁵ However, unlike FDNS and ICE, this program focuses on fraudulent preparers and attorneys rather than on fraud related to the benefit itself.

The backlog of immigration cases presents a significant challenge for EOIR and the overarching immigration system. In 2023, EOIR faced a nearly two-million-case backlog.²⁸⁶ Multiple factors including heightened immigration flow, enforcement activities, policy alterations, court closures due to the COVID-19 pandemic, and the

²⁸¹ Department of Justice, Executive Office for Immigration Review.

²⁸² "Fraud and Abuse Prevention Program," Department of Justice, Executive Office for Immigration Review, September 8, 2022, <https://www.justice.gov/eoir/fraud-and-abuse-prevention-program>.

²⁸³ Department of Justice, Executive Office for Immigration Review.

²⁸⁴ Emily Von Werlhof, "Carry a Big Stick: Utilizing Federal Law Enforcement in Asylum Fraud Deterrence" (master's thesis, Naval Postgraduate School, 2023), 27, <https://www.hsdl.org/c/abstract/?docid=878398>.

²⁸⁵ Gambler, *Asylum*, 68.

²⁸⁶ Donald Kerwin and Evin Millet, "The U.S. Immigration Courts, Dumping Ground for the Nation's Systemic Immigration Failures: The Causes, Composition, and Politically Difficult Solutions to the Court Backlog," *Journal on Migration and Human Security* 11, no. 2 (2023): 196, <https://doi.org/10.1177/23315024231175379>.

inherent complexity of immigration cases, have contributed to this accumulation. In fiscal years 2018 and 2019, DHS issued 385,942 and 793,912 NTAs respectively.²⁸⁷ However, due to the COVID-19 pandemic, EOIR experienced a decline in NTAs in fiscal year 2020.²⁸⁸ On the other hand, in fiscal year 2022, EOIR received a total of 706,640 new cases.²⁸⁹ The immigration court system has been overwhelmed by the high volume of cases, resulting in delays in the adjudication process.²⁹⁰ Kerwin and Millet note that the immigration court system is insufficiently resourced, receiving a 2022 fiscal year budget of \$760 million compared to the combined budget of ICE and CBP, which received \$24.6 billion.²⁹¹ The resource disparity has contributed heavily to EOIR backlogs.

B. FUNCTION

USCIS benefit adjudications operate through three main directorates, each actively managing specific aspects of immigration-related processes. The FOD manages applications that require interviews for benefits like permanent residence and naturalization. It oversees these processes through its 88 field offices, with supervision from 16 districts and four regional offices.²⁹² The SCOPS Directorate processes family, employment, and humanitarian petitions that can be handled without in-person processing at five service centers across the nation.²⁹³ Last, the Refugee, Asylum, and International Operations Directorate processes applications from noncitizens seeking asylum, refugee status, or help dealing with urgent humanitarian situations.²⁹⁴ These services include screening applicants and processing applications at asylum offices and suboffices, as well as managing refugee processing overseas for individuals seeking resettlement in the United

²⁸⁷ Kerwin and Millet, 202.

²⁸⁸ Kerwin and Millet, 202.

²⁸⁹ Kerwin and Millet, 202.

²⁹⁰ Kerwin and Millet, 195.

²⁹¹ Kerwin and Millet, 197.

²⁹² Gambler, *USCIS: Additional Actions Needed to Manage Fraud Risks*, 6.

²⁹³ Gambler, 7.

²⁹⁴ Gambler, 7.

States. Adjudication functions operate through three distinct directorates, each with its own localized jurisdiction.

The roles and responsibilities within FDNS differ based on the submitted form and individual circumstances. Internally, the duties of IOs vary depending on the type of immigration filing and whether they work in HQFDNS or engage in field-level operations. However, both positions maintain a shared mission, focusing primarily on deterring and detecting fraud, national security threats, and public safety concerns.

HQFDNS actively formulates, oversees, and upholds policies, procedures, and various initiatives within USCIS's administrative authorities to actively detect, identify, and counter threats to the immigration system.²⁹⁵ HQFDNS also collaborates with such other components of USCIS as the FOD, RAIO, and SCOPS to devise operational policies for fraud detection and to address security threats.²⁹⁶ HQFDNS possesses the jurisdiction to supervise and establish policies. Moreover, FDNS receives guidance on privacy and legal aspects of policies and initiatives from USCIS Privacy and the Office of the Chief Counsel.²⁹⁷ HQFDNS takes on a central role within the organization by actively engaging in operations and policy development.

USCIS and FDNS do not conduct routine fraud risk assessments, contrary to USCIS's claims. USCIS's 2023–2026 *Strategic Plan* boasts that “USCIS conducts fraud risk assessments.”²⁹⁸ However, the GAO has found that anti-fraud strategies are not under the purview of FDNS.²⁹⁹ In 2010, the responsibility of evaluating the types, volume, and indicators of immigration benefit fraud was transferred from FDNS to USCIS's Office of

²⁹⁵ Donald K. Hawkins and Karen L. Neuman, *Privacy Impact Assessment for the Fraud Detection and National Security Directorate*, DHS/USCIS/PIA-013-01 (Washington, DC: Department of Homeland Security, 2014), https://www.dhs.gov/sites/default/files/publications/privacy-pia-uscis-fdns-november-2016_0.pdf; U.S. Citizenship and Immigration Services, *Fraud Detection Standard Operating Procedures*.

²⁹⁶ Hawkins and Neuman, *Assessment for the Fraud Detection and National Security Directorate*, 2–3.

²⁹⁷ Hawkins and Neuman, 12.

²⁹⁸ U.S. Citizenship and Immigration Services, *Strategic Plan, FYs 2023–2026* (Washington, DC: U.S. Citizenship and Immigration Services, 2023), 8, <https://www.uscis.gov/sites/default/files/document/reports/StrategicPlanFY23.pdf>.

²⁹⁹ Gambler, *USCIS: Additional Actions Needed to Manage Fraud Risks*, 42.

Policy and Strategy (OP&S).³⁰⁰ The GAO highlighted that OP&S officials have distinguished between their benefit fraud research and fraud risk assessments, shifting focus from fraud research to fraud rate estimations.³⁰¹ According to the GAO, no USCIS entities have acknowledged the responsibility of spearheading fraud risk assessments to guide the agency's anti-fraud strategy.³⁰² In response to previous GAO reports and recommendations, USCIS has undertaken fraud risk assessments for a limited number of benefit types.³⁰³ However, FDNS's absent fraud strategy shows the directorate's deficiency in combating immigration benefit fraud in the long term.³⁰⁴ FDNS operates in a reactionary rather than proactive form when deterring fraud.

The role of FDNS's IOs is distinct as it relies heavily on USCIS adjudicators. In the context of marriage-based immigration, USCIS adjudicators examine the legitimacy of the marital relationship, conduct eligibility interviews, and adjudicate filings in accordance with established immigration laws and regulations.³⁰⁵ FDNS's IOs are not present during the eligibility interview. When fraud is suspected, the adjudicator can refer the case to FDNS through a formalized internal referral process if the suspicion is clearly articulated.³⁰⁶ FDNS administratively investigates cases that may present fraud, national security, and public safety indicators or concerns, but it does not adjudicate or make a decision on the filing itself.³⁰⁷ During fraud investigations, FDNS records its findings on a document known as the Statement of Findings, which designates whether fraud was found.³⁰⁸ This document, regardless of finding, is used as evidence to assist USCIS adjudicators in their decisions.

³⁰⁰ Gambler, 42.

³⁰¹ Gambler, 42–43.

³⁰² Gambler, 43.

³⁰³ Gambler, 42–43.

³⁰⁴ Gambler, 40–42.

³⁰⁵ U.S. Citizenship and Immigration Services, “Fraud Detection and National Security Directorate.”

³⁰⁶ Gambler, *USCIS: Additional Actions Needed to Manage Fraud Risks*, 18–19.

³⁰⁷ Gambler, 6.

³⁰⁸ Gambler, 48, 68.

FDNS's IOs at the field level operate within service centers, regional offices, field offices, and asylum and refugee offices.³⁰⁹ The Center Fraud Detection Operation (CFDO) represents the FDNS within USCIS service centers.³¹⁰ The centers, consisting of FDNS's IOs, are managed by FDNS supervisory immigration officers who report directly to the assistant center director of the CFDO.³¹¹ FDNS staff within regional offices provide support to field offices in the form of quality assurance, standardizing field operations and acting as a liaison between HQFDNS and the field office.³¹² IOs at FDNS field offices process cases for fraud, national security, and public safety.³¹³ The National Benefits Center serves as a hub for FDNS case vetting in the initial stages of filing, providing assistance in marriage- and employment-based fraud cases.³¹⁴ Figure 7 illustrates the domestic facilities under USCIS as of 2020, illustrating how vast and multilayered FDNS offices are. Offices within USCIS have defined roles and responsibilities and notable internal impediments.

³⁰⁹ Hawkins and Neuman, *Assessment for the Fraud Detection and National Security Directorate*, 4.

³¹⁰ U.S. Citizenship and Immigration Services, *Fraud Detection Standard Operating Procedures*, 4.

³¹¹ U.S. Citizenship and Immigration Services, 4.

³¹² U.S. Citizenship and Immigration Services, 4.

³¹³ U.S. Citizenship and Immigration Services, 5.

³¹⁴ U.S. Citizenship and Immigration Services, 5.

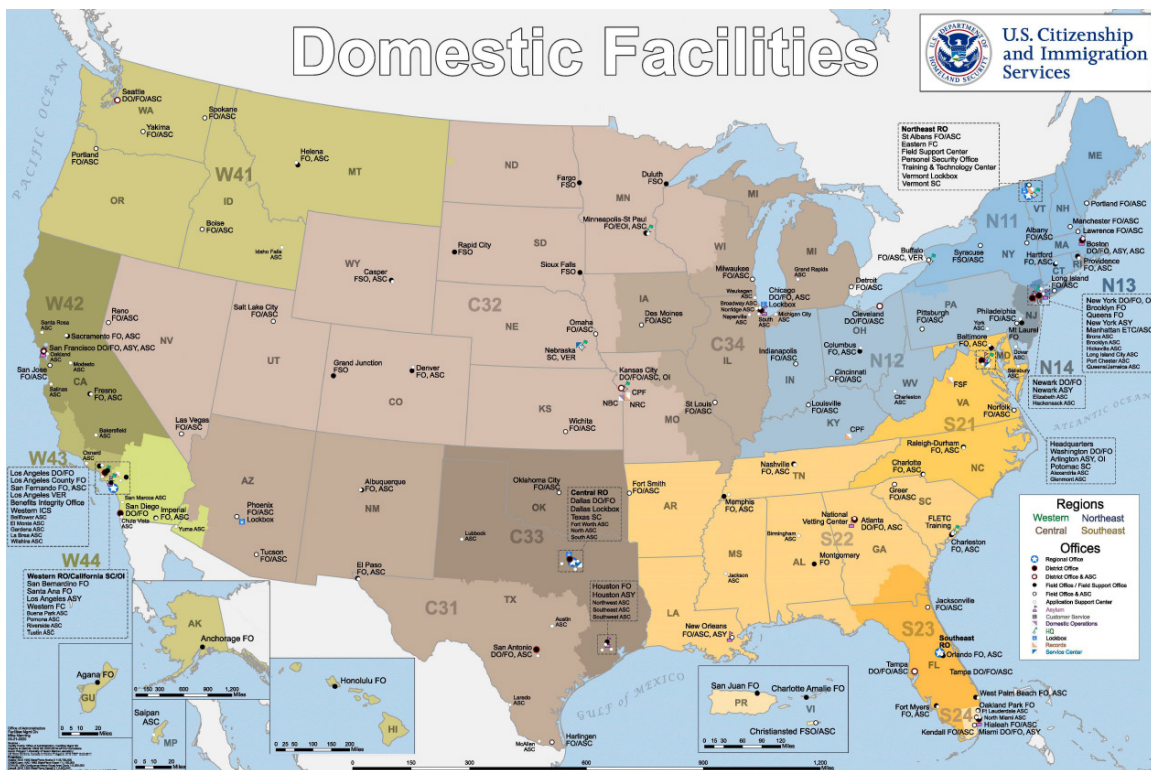


Figure 7. USCIS Domestic Facilities as of May 2020.³¹⁵

FDNS receives its casework from diverse sources, but its benefit fraud cases are referred predominately by USCIS adjudicators. According to Gambler with the GAO, nearly 70 percent of fraud cases were a result of USCIS adjudicator referrals.³¹⁶ When assessing fiscal years 2016–2021, the GAO found that marriage fraud accounted for “41 and 49 percent of completed benefit fraud cases.”³¹⁷ Additional sources of FDNS casework include referrals from such other government agencies as the DOS and USCIS’s Fraud Tipline, which is available to the public to report suspected fraud. The GAO also highlighted the prevalence of marriage fraud in completed benefit fraud cases across fiscal years 2016–2021.

³¹⁵ Source: Mike Manning, “USCIS Domestic Facilities,” U.S. Citizenship and Immigration Services, 2020, <https://www.uscis.gov/sites/default/files/document/data/7%20117%20-%20Domestic%20Map%2001042021%20%28002%29.pdf>.

³¹⁶ Gambler, *USCIS: Additional Actions Needed to Manage Fraud Risks*, 18–19.

³¹⁷ Gambler, 67.

FDNS's IOs employ several methods in their administrative investigations, including site visit programs, overseas verification, system checks of government databases, interviews, and collaboration with other government agencies.³¹⁸ FDNS takes a central role in the investigation process and is responsible for administratively investigating USCIS-based filings in the United States.

Field-level IOs conduct site visits to a variety of locations as part of their investigative role.³¹⁹ During marriage-based immigration filings, married couples claim to live together in a shared home. If fraud is suspected, FDNS can perform unannounced visits to a couple's home or any other property associated with the filing.³²⁰ These visits involve physical inspections of residential addresses associated with immigration benefit applications. The purpose is to verify the accuracy and authenticity of the information provided by individuals during their application processes.³²¹ FDNS's IOs visit the homes or businesses of applicants or beneficiaries to confirm their living conditions, marital status, employment details, and other essential aspects that are pertinent to the immigration benefits sought. These site visits serve as a crucial tool for verification.

Conducting FDNS site visits involves inherent dangers and challenges. When visiting residential addresses to verify information provided in immigration applications, IOs face potential safety risks, including confrontations with individuals who may be uncooperative or hostile. These encounters can escalate quickly, posing a threat to the safety and well-being of the IO. Moreover, unarmed IOs must navigate diverse neighborhoods and unfamiliar territories, facing unpredictable environments and potential hazards. Site visits demand meticulous attention to detail, as overlooking crucial information during the visits may compromise the accuracy of the investigations, thus impacting immigration decisions.

³¹⁸ U.S. Citizenship and Immigration Services, *Fraud Detection Standard Operating Procedures*.

³¹⁹ Federal Law Enforcement Training Centers, "FLETC Runs a Successful Pilot."

³²⁰ Barret, "Who Is Patrolling the Border of Ethical Conduct," 2263.

³²¹ Department of Homeland Security, "Written Testimony of USCIS."

FDNS collaborations and partnerships with other government agencies are limited when investigating marriage fraud. FDNS's mission statement declares that the directorate's efforts "maximize law enforcement and Intelligence Community partnerships."³²² As discussed previously, FDNS works with both the DOS and ICE on an as-needed basis.³²³ They can also refer cases to such other law enforcement agencies as the Federal Bureau of Investigation.³²⁴ For employment-based cases, FDNS has an MOA with the Department of Labor to facilitate information exchange.³²⁵ USCIS and FDNS routinely screen such financial-based documentation as tax returns and social security documentation as part of marriage-based filings to determine whether the marriage is bona fide.³²⁶ However, there is no evidence that FDNS has any partnerships with the Internal Revenue Service or the Social Security Administration (SSA). A partnership with both agencies would assist IOs with the verification of financial-based documentation, which is used to establish eligibility for the benefits sought. While FDNS partnerships and collaborations are available, the existing partnerships are limited in what can be accomplished within benefit fraud investigations.

1. IO Authority within FDNS

The DHS secretary holds extensive authority in the administration and enforcement of the INA and all laws related to the immigration and naturalization of aliens.³²⁷ USCIS was granted the authority to investigate suspected civil and criminal violations of immigration laws, encompassing potential fraud concerning applications or determinations

³²² U.S. Citizenship and Immigration Services, "Fraud Detection and National Security Directorate."

³²³ Gambler, *USCIS: Additional Actions Needed to Manage Fraud Risks*, 10–11.

³²⁴ Gambler, 70.

³²⁵ "U.S. Department of Labor and U.S. Department of Homeland Security Enter into a Memorandum of Agreement," Department of Labor, July 31, 2020, <http://www.dol.gov/newsroom/releases/dol/dol20200731>.

³²⁶ U.S. Citizenship and Immigration Services, *Nonimmigrants*, vol. 2 of *USCIS Policy Manual*.

³²⁷ U.S. Citizenship and Immigration Services, *Fraud Detection Standard Operating Procedures*, 2–3.

within the Bureau of Citizenship and Immigration Services, the precursor to USCIS.³²⁸ One aspect of this authority delegated by the secretary to USCIS involves actively conducting interviews and investigating alleged civil violations of immigration law.³²⁹ When individuals submit petitions and applications to USCIS, they are required to sign under penalty of perjury, providing active authorization to USCIS to verify the information on the form for compliance with relevant laws, regulations, and authorities.³³⁰ USCIS possesses the legal prerogative to actively verify information provided on applications and petitions, both before and after deciding on the application or petition.

The INA serves as the framework for granting USCIS and FDNS authority. The INA, 8 U.S.C. § 1101 et seq., empowers the collection of information crucial for adjudicating and investigating immigration benefits.³³¹ The DHS secretary, through Homeland Security Delegation No. 0150.1, paragraphs (H), (I), (J), (M), and (S), delegated essential authorities to USCIS, including the authority to administer the immigration laws defined in the INA.³³² Moreover, USCIS possesses the authority to fingerprint and register aliens, maintain necessary files and record systems, and undertake evidence gathering and consideration.³³³ The INA grants authority to FDNS's IOs to perform their administrative investigations.

The Office of Personnel Management (OPM) categorizes the IO position under General Inspection Investigation Enforcement and Compliance Series 1801. This series

³²⁸ Hawkins and Neuman, *Assessment for the Fraud Detection and National Security Directorate*, 7–8.

³²⁹ U.S. Citizenship and Immigration Services, *Fraud Detection Standard Operating Procedures*, 2–3.

³³⁰ U.S. Citizenship and Immigration Services, *General Policies and Procedures*.

³³¹ Hawkins and Neuman, *Assessment for the Fraud Detection and National Security Directorate*, 7.

³³² Aliens and Nationality: Definitions, 8 U.S.C. § 1101 (1995), <https://codes.findlaw.com/us/title-8-alien-and-nationality/8-usc-sect-1101/>; Powers and Duties of the Secretary, the Under Secretary, and the Attorney General, 8 U.S.C. § 1103(1) et seq. (1995), <https://www.law.cornell.edu/uscode/text/8/1103#>; Department of Justice and Department of Homeland Security, “Memorandum of Understanding between U.S. Department of Justice Civil Rights Division and the U.S. Department of Homeland Security U.S. Citizenship and Immigration Services Regarding Information Sharing and Case Referrals” (official memorandum, Washington, DC: Department of Justice, 2018), <https://www.justice.gov/opa/press-release/file/1062251/download>.

³³³ Department of Justice and Department of Homeland Security, “Memorandum of Understanding.”

establishes a framework for activities pertaining to enforcement and compliance. It involves supervising, leading, or participating in tasks related to inspection, investigation, enforcement, or compliance.³³⁴ Within the series, roles primarily focus on actively overseeing, managing, coordinating, or conducting inspections, investigations, analyses, or advisory tasks to ensure compliance with federal laws, regulations, or mandatory guidelines.³³⁵ This classification applies when a position's duties align with either of the following scenarios: first, they overlap with two or more administrative occupations within the General Inspection, Investigation, Enforcement, and Compliance Group (1800), without favoring a single occupation; or second, the position aligns with this occupational group but lacks coverage under a specified series within the 1800 group.³³⁶ The series covers a wide range of areas, including law enforcement, regulatory compliance, and internal investigations.

2. Criminal Investigator Authority

Criminal investigators, for example, ICE special agents, are considered 1811 classifications, which are similar to the 1801 series. This series covers positions in which individuals supervise, lead, or directly participate in planning, conducting, or overseeing investigations related to suspected or alleged criminal violations of federal laws. The OPM describes the role as involving three key components: identifying, developing, and presenting evidence to reconstruct events, sequences, timing, relationships, responsibilities, legal liabilities, and conflicts of interest; ensuring investigations are conducted in adherence to legal and procedural requirements; and providing guidance and support to the U.S. Attorney's Office during investigations and legal proceedings, both in

³³⁴ Office of Personnel Management, *Job Family Position Classification Standard for Administrative Work in the Inspection, Investigation, Enforcement, and Compliance Group*, Standard 1800 (Washington, DC: Office of Personnel Management, 2011), 9–10, <https://www.opm.gov/policy-data-oversight/classification-qualifications/classifying-general-schedule-positions/standards/1800/1800A.pdf>.

³³⁵ Jeffery T. Walker et al., "Federal Law Enforcement Careers: Laying the Groundwork," *Journal of Criminal Justice Education* 19, no. 1 (2008): 116, <https://doi.org/10.1080/10511250801893035>.

³³⁶ Office of Personnel Management, *Job Family Position Classification Standard*, 9.

and out of the courtroom.³³⁷ The category is distinct as it focuses on investigations and their application to federal law.

The inability to enforce immigration laws places USCIS at a major disadvantage. USCIS performs key homeland security work with no enforcement capabilities. While FDNS's IOs are given several roles like those of investigative agents, they lack any real enforcement capabilities. Writers have found that FDNS must "plead with ICE to advance cases to the U.S. attorney."³³⁸ FDNS acts as an initial identifier of cases that may present fraud concerns but ultimately must rely on other agencies to fully enforce fraud-related claims.

3. Ongoing Efforts to Combat Marriage Fraud

Combating marriage fraud is a crucial endeavor that necessitates ongoing and vigilant efforts. Sustained efforts to combat this issue are important for upholding the sanctity of genuine relationships and maintaining the integrity of immigration processes. Continuously updating and enforcing laws and regulations, conducting thorough background checks, and promoting awareness about the consequences of marriage fraud are fundamental aspects of ongoing efforts. Additionally, fostering collaboration between governmental agencies, law enforcement, non-profit organizations, and the community is essential for sharing information, coordinating strategies, and educating the public about identifying and reporting suspected marriage fraud. By actively addressing and preventing marriage fraud, societies can ensure that marriages are based on genuine love and commitment, and immigration systems remain fair and just for those seeking legitimate opportunities.

Ongoing efforts to combat marriage fraud are crucial for national security and public safety. Marriage fraud can be exploited by individuals with malicious intentions, for example, those engaging in criminal activities or evading immigration controls. In 2014,

³³⁷ Office of Personnel Management, 12–13.

³³⁸ "USCIS Needs Direct Access to Law Enforcement Power to Curb Rampant Immigration Fraud," Center for Immigration Studies, May 6, 2019, <https://cis.org/CIS/USCIS-Needs-Direct-Access-Law-Enforcement-Power-Curb-Rampant-Immigration-Fraud>.

when ICE prioritized combating marriage fraud, it launched a nationwide campaign to bring awareness to the serious federal crime.³³⁹ Figure 8 illustrates one of the brochures ICE used to deter marriage fraud. As ICE Special Agent Todd Siegel noted, “Marriage fraud is neither a trivial nor victimless crime.”³⁴⁰ Marriage poses a national security threat. U.S. government reports have stated “that some al Qaeda operatives married American women to obtain U.S. visas.”³⁴¹ According to ICE, Khalid Sheikh Mohammed, the mastermind behind 9/11, “believed it was a fantastic mechanism for operatives to acquire valid documents.”³⁴² However, since 2014, very little has been published from ICE with respect to marriage fraud as a priority. As discussed earlier in this chapter, identity and benefit fraud accounted for fewer than 4 percent of ICE’s total initiated cases.³⁴³ Furthermore, it is unclear how many of these cases involved marriage fraud or individually filed cases. While efforts have been taken, they simply are insufficient to deter fraudulent filings.

³³⁹ Immigration and Customs Enforcement, *Marriage Fraud Is a Federal Crime*.

³⁴⁰ “Top Story: ICE Leading Nationwide Campaign to Stop Marriage Fraud,” Immigration and Customs Enforcement, April 30, 2015, <https://www.ice.gov/news/releases/top-story-ice-leading-nationwide-campaign-stop-marriage-fraud>.

³⁴¹ Immigration and Customs Enforcement.

³⁴² Immigration and Customs Enforcement.

³⁴³ Immigration and Customs Enforcement, *ICE Annual Report*, 44–45.

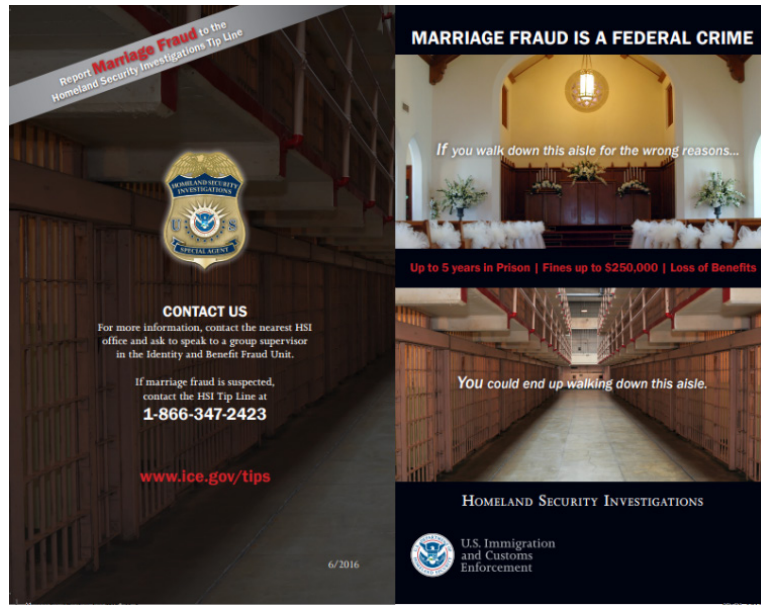


Figure 8. Marriage Fraud Is a Federal Crime.³⁴⁴

Issuing an NTA stands as a vital component in enforcing and deterring fraud within the immigration system. It operates as a legal mechanism to formally charge an immigrant with fraud or misrepresentation on an administrative basis.³⁴⁵ USCIS policy memoranda dating back to 2011 have stipulated that FDNS’s findings of fraud necessitate NTA issuance.³⁴⁶ During the Trump administration, Executive Order 13768 prioritized immigration enforcement, prompting an updated USCIS policy memorandum on June 28, 2018.³⁴⁷ This revised policy emphasized the importance of NTA issuance in fraud cases, particularly in addressing benefit fraud.³⁴⁸ However, President Biden revoked this

³⁴⁴ Source: Immigration and Customs Enforcement, *Marriage Fraud Is a Federal Crime*.

³⁴⁵ U.S. Citizenship and Immigration Services, “Notice to Appear Policy Memorandum.”

³⁴⁶ U.S. Citizenship and Immigration Services, “Revised Guidance for the Referral of Cases and Issuance of Notices to Appear (NTAs) in Cases Involving Inadmissible and Removable Aliens” (official memorandum, Washington, DC: U.S. Citizenship and Immigration Services, 2011), <https://www.uscis.gov/sites/default/files/USCIS/Laws/Memoranda/2011/NTA%20PM%20%28Approved%20as%20final%2011-7-11%29.pdf>.

³⁴⁷ Exec. Order No. 13768, 82 Fed. Reg. 8799 (2017), <https://www.govinfo.gov/content/pkg/FR-2017-01-30/pdf/2017-02102.pdf>.

³⁴⁸ U.S. Citizenship and Immigration Services, “Updated Guidance for the Referral of Cases.”

executive order on January 20, 2021.³⁴⁹ Acting DHS Secretary Pekoske issued a policy memorandum on the same day rescinding both the 2011 and 2018 policy memoranda.³⁵⁰ This policy urged agencies to review their existing enforcement policies and implement a 100-day pause on removals.³⁵¹ As of this writing, the policy rescission remains in effect, spanning nearly two years. The inability to issue NTAs for cases of fraud undermines the nation's immigration system and establishes a hazardous precedent, enabling fraudulent actors to evade accountability.

USCIS has made clear that humanitarian priorities take precedence over fraud concerns, having adopted the following mission statement: "USCIS upholds America's promise as a nation of welcome and possibility with fairness, integrity, and respect for all we serve."³⁵² As highlighted in Von Werlhof's master's thesis, "President Biden removed fraud from categories of law enforcement."³⁵³ The new USCIS mission statement makes no mention of fraud or upholding immigration laws. While humanitarian efforts are commendable, the lack of a clear message on fraud enforcement sends a clear message to the public.

The existing marriage fraud investigation structure has remained relatively unchanged over decades despite the formation of DHS and its agency components. Newspaper articles including several in the *New York Times* give a step-by-step process of some of the components of adjudication and administrative investigation, revealing

³⁴⁹ Exec. Order No. 13993, 86 Fed. Reg. 7051 (2021), <https://www.govinfo.gov/content/pkg/FR-2021-01-25/pdf/2021-01768.pdf>.

³⁵⁰ David Pekoske, "Review of and Interim Revision to Civil Immigration Enforcement and Removal Policies and Priorities" (official memorandum, Washington, DC: Department of Homeland Security, 2021), https://www.dhs.gov/sites/default/files/publications/21_0120_enforcement-memo_signed.pdf.

³⁵¹ Pekoske.

³⁵² U.S. Citizenship and Immigration Services, "New Agency Mission Statement."

³⁵³ Von Werlhof, "Carry a Big Stick," 38.

government information about the process.³⁵⁴ The general public can search the internet for questions and answers about the entirety of the process including the role FDNS plays in investigations. Fraud actors can rehearse and prep a fraudulent story without any real effort. Marriage-based immigration filing has become predictable. By continuously refining and enhancing procedures to detect and deter marriage fraud, authorities can identify potentially fraudulent cases. Ongoing training and education for immigration officials and law enforcement personnel are essential for keeping them informed about evolving tactics used by fraudsters.

Sustained efforts in combating marriage fraud contribute to the equitable distribution of resources and opportunities. Fraudulent marriages can strain social welfare systems and deprive genuine immigrants of the support and benefits they rightfully deserve. By preventing individuals from exploiting marriage for personal gain, resources can be allocated more fairly to those in genuine need. Additionally, ongoing efforts help maintain public trust in immigration processes, ensuring that the system remains fair and just, reinforcing public confidence in the nation's governance and immigration policies.

C. PEOPLE

The marriage immigration process holds importance for both immigrants and the government. From an immigrant's perspective, this process represents an opportunity to embark on a new chapter in a foreign land, often promising improved living conditions, better prospects, and a chance to reunite with loved ones. Marriage serves as a pathway to stability and security, enabling immigrants to contribute to society while pursuing their aspirations. Moreover, it facilitates the formation of strong family bonds, allowing for the preservation of cultural heritage and the nurturing of future generations within the context of a supportive family unit.

³⁵⁴ Erica Pearson, "Proving Love to the Feds: Inside the Unit That Makes Sure Green Card Marriages Are Real," *New York Daily News*, May 27, 2012, <https://www.nydailynews.com/new-york/immigration-fraud-agency-green-card-marriages-real-article-1.1064417>; Nina Bernstein, "Without Guns or Raids, a Tiny Squad of Officers Homes in on Visa Fraud," *New York Times*, July 17, 2007, <https://www.nytimes.com/2007/07/17/nyregion/17fraud.html>; Bernstein, "Do You Take This Immigrant?"; Erica Pearson, "Green Card Marriage Fraud Can Result in Deportation or Jail," *New York Daily News*, May 27, 2012, <https://www.nydailynews.com/new-york/green-card-marriage-fraud-result-deportation-jail-article-1.1064424>.

On the government side, the marriage immigration process is a means of regulating and managing population movements. Governments implement vetting processes to ensure the authenticity of marital relationships, aiming to deter marriage fraud and protect the integrity of the immigration system.³⁵⁵ Additionally, promoting genuine marriages strengthens social cohesion by encouraging familial stability, multiculturalism, and a diverse workforce. Ultimately, a well-managed marriage immigration process is essential for fostering harmonious societies and reaping the economic, social, and cultural benefits that arise from a diverse and integrated population. The following subsections assess FDNS's staffing from an organizational perspective while examining the immigrant's perspective of the overarching filing process.

1. FDNS Staffing

The FDNS staff comprises various roles within the directorate beyond the IO position. As mentioned earlier, IOs conduct administrative investigations, thorough research, and extensive analysis to investigate potential fraud allegations, address national security concerns, and mitigate threats to public safety within the immigration system.³⁵⁶ Gambler with the GAO has noted that IOs “account for the majority of FDNS staff.”³⁵⁷ Between fiscal year 2016 and 2021, FDNS saw a staffing boost from 955 to 1,382, an increase of 45 percent.³⁵⁸ Supervisory immigration officers are managerial roles within local field offices responsible for overseeing and monitoring IO casework.³⁵⁹ Additionally, FDNS includes two other analytical roles: the intelligence research specialist (IRS) and immigration analyst (IA).³⁶⁰ The IA role functions as support staff, validating and analyzing information from USCIS databases to identify instances of immigration fraud.

³⁵⁵ U.S. Citizenship and Immigration Services, “Fraud Detection and National Security Directorate.”

³⁵⁶ U.S. Citizenship and Immigration Services, *Fraud Detection Standard Operating Procedures*, 3–5.

³⁵⁷ Gambler, *USCIS: Additional Actions Needed to Manage Fraud Risks*, 28.

³⁵⁸ Gambler, 28.

³⁵⁹ U.S. Citizenship and Immigration Services, *Fraud Detection Standard Operating Procedures*, 3–4.

³⁶⁰ “Career Opportunities,” U.S. Citizenship and Immigration Services, June 1, 2023, <https://www.uscis.gov/about-us/careers/career-opportunities>.

The IRS role identifies fraudulent activity patterns and trends by analyzing data from immigration benefit applications and petitions. Neither the IA nor the IRS position conducts interviews or site visits.³⁶¹ Field-level FDNS offices are equipped with investigative and intelligence capabilities for immigration-related investigations.

Various factors influence FDNS staffing, causing fluctuations. USCIS leadership allocates staff to directorates and other organizations based on the agency budget, organizational priorities, and staffing models crafted by the Office of Performance and Quality (OPQ). Since USCIS operates on a fee-based model, the budget significantly determines the total staff it can support in a given year. USCIS leadership then evaluates staffing models, estimating the necessary staff to handle the expected workload for each directorate, and considers organizational priorities to decide on staff allocation throughout the agency. After leadership allocates staff, directorates and program offices determine how to distribute the allocated staff within their entities. Subsequently, they may hire staff to fill these allocated positions. However, the actual number of staff onboarded at a given time may not always match the initially allocated positions for various reasons. Gambler further asserts “hiring delays may result in allocated positions not being filled.”³⁶² Several factors including budget and workload directly impact FDNS staffing in a given year.

While the staffing model incorporates such considerations as budget and workload, the model has been found to lack adaptability. Gambler has noted that USCIS staffing models have not incorporated risk factors.³⁶³ Officials interviewed as part of Gambler’s report noted that the model failed to account for such things as delays in obtaining security clearances for new staff and agency funding issues.³⁶⁴ Furthermore, despite the use of the model, FDNS failed to fill its allocated positions consistently between 2016 and 2021, with an average vacancy rate of 12 percent.³⁶⁵ As cited by Gambler, the OPQ has acknowledged that the existing model was not designed for workforce-related risk factors, nor for long-

³⁶¹ U.S. Citizenship and Immigration Services, “Fraud Detection and National Security Directorate.”

³⁶² Gambler, *USCIS: Additional Actions Needed to Manage Fraud Risks*, 27.

³⁶³ Gambler, 33.

³⁶⁴ Gambler, 33.

³⁶⁵ Gambler, 33–34.

term workforce planning.³⁶⁶ The staffing model in place lacks adaptability for sudden agency changes in budget and workload. As a result, FDNS staffing allocations are inconsistent from year to year.

2. Assessment of Marriage-Based Fraud Enforcement and Convictions

Current enforcement and administrative investigations do not effectively deter fraudulent marriages. Perpetrators have turned marriage-based immigration into a standardized process. In an episode of podcast *Other People's Lives*, hosted by Santagato and Dybec, a U.S. citizen openly admits to being paid to marry someone who wanted to obtain a green card.³⁶⁷ During the interview, the caller details the steps involved in marriage fraud, including how he met his fraudulent spouse, falsified documentation, and arranged a \$25,000 payment. He also reveals how he consulted a lawyer in Midtown Manhattan who provided a set of predetermined questions and answers to use during the eligibility interview. Additionally, the caller discloses that his actual live-in girlfriend had participated in a fraudulent marriage to assist a friend with her green card application. Both fraudulent couples obtained green cards through fraud. When asked about his feelings regarding manipulating the system, the caller responds emphatically, “Fuck you!”³⁶⁸ Despite this confession during the interview, there is no documented evidence to suggest that the authorities formally charged the caller for this activity. Fraudulent actors have become blatant in their use of marriage fraud due to the lack of enforcement and accountability.

Academia and the media have varying perspectives on marriage-based enforcement. Seminara observes, “Marriage fraud for the purpose of immigration gets very little notice or debate.”³⁶⁹ He maintains that “tens of thousands of people get married each

³⁶⁶ Gambler, 34, 39.

³⁶⁷ Joe Santagato and Greg Dybec, “I Got Paid to Marry Someone for a Green Card,” October 24, 2019, in *Other People's Lives*, podcast, MP3 audio, 1:01:17, <https://podcasts.apple.com/ag/podcast/i-got-paid-to-marry-someone-for-a-green-card/id1209912119?i=1000454735731>.

³⁶⁸ Santagato and Dybec, 49:37.

³⁶⁹ Seminara, *Inside the Green Card Marriage Phenomenon*, 1.

year solely for the purpose of immigration to the United States.”³⁷⁰ North notes that even when large-scale fraud schemes are identified, judgments and punishments are inconsistent with the nature of the crime, with many ultimately involving pleas to lesser charges.³⁷¹ North calls the prospect of the government’s spending more energy on investigating marriages “out of character.”³⁷² Wang refers to the practice of immigration fraud as “legal fiction.”³⁷³ Chetrit claims marriage-based eligibility interviews force officers to make a “personal value judgement based on which cultural phenomena qualify as abnormal.”³⁷⁴ The intersection of perspectives from academia and the media reveals the nuanced challenges surrounding marriage-based enforcement for immigration purposes, raising questions about the adequacy of current measures and the need for a more comprehensive and consistent approach.

D. TECHNOLOGY

As part of their investigations, FDNS uses technology throughout the process. IOs query numerous government databases to determine whether there is derogatory information regarding the subject of the inquiry. FDNS’s IOs also have the ability to use social media checks as part of their investigation process to determine whether any material information suggests fraud, national security, or public safety violations. Technology within USCIS and FDNS is slow to update and has been the subject of several GAO investigations.

Social media checks serve as an important aspect of FDNS vetting but have been recognized as labor intensive. Within marriage-based immigration, social media checks are used to verify information as part of the marriage claim. The creation of the social media

³⁷⁰ Seminara, 12.

³⁷¹ David North, “How Individual Judges Can Help or Hinder Immigration Law Enforcement,” Center for Immigration Studies, May 2, 2023, <https://cis.org/North/How-Individual-Judges-Can-Help-or-Hinder-Immigration-Law-Enforcement>.

³⁷² North, “How Individual Judges Can Help or Hinder Immigration Law Enforcement.”

³⁷³ Wang, “Of the Law, but Not Its Spirit,” 1224.

³⁷⁴ Samantha L. Chetrit, “Surviving an Immigration Marriage Fraud Investigation: All You Need Is Love, Luck, and Tight Privacy Controls,” *Brooklyn Law Review* 77, no. 2 (2012): 725.

division within FDNS began in fiscal year 2016, with field-level checks starting in 2019.³⁷⁵ These checks are employed to validate or refute a beneficiary's assertions. The social media division within HQFDNS carries out checks on specific populations applying for benefits under the enhanced FDNS review program.³⁷⁶ Adjudicators at the field level can request social media checks to assist in their adjudications.³⁷⁷ Social media checks are conducted only in specific circumstances. According to Gambler with the GAO, 95 percent of social media checks are conducted by the social media division, while the remaining are performed by directorates at the field level.³⁷⁸ Of the checks performed at the field level, 23 percent identified information of interest for fiscal year 2021.³⁷⁹ Such findings are memorialized in reports interfiled in A-files.³⁸⁰ According to the GAO, however, 6 out of 11 field locations found social media checks to be "resource-intensive and inefficient."³⁸¹ FDNS training documentation described the checks' taking approximately 1.5 hours; however, interviews with FDNS officials indicated that the checks could consume four hours or more.³⁸² In September 2021, FDNS conducted a study to assess the effectiveness of social media checks, but as of the GAO's reporting, USCIS had not finalized the study or taken any subsequent action.³⁸³ While the practice of social media checks has been deemed useful in investigations, it requires significant resources.

³⁷⁵ Gambler, *USCIS: Additional Actions Needed to Manage Fraud Risks*, 23.

³⁷⁶ Gambler, 47, 72.

³⁷⁷ Gambler, 47.

³⁷⁸ Gambler, 47.

³⁷⁹ Gambler, 23.

³⁸⁰ Faiza Patel et al., *Social Media Monitoring* (New York: Brennan Center for Justice, 2019), 31, <https://www.brennancenter.org/our-work/research-reports/social-media-monitoring>.

³⁸¹ Gambler, *USCIS: Additional Actions Needed to Manage Fraud Risks*, 52.

³⁸² Gambler, 53.

³⁸³ Gambler, 53–54.

The GAO has also scrutinized FDNS’s internal case management systems and data entry.³⁸⁴ As of this writing, FDNS’s internal records are accessed through a case management system known as FDNS NexGen, which succeeded the criticized the FDNS Data System (FDNS-DS).³⁸⁵ FDNS-DS faced notable criticism for inconsistent data entry practices and a lack of integration with other government systems.³⁸⁶ It was the repository for data and information concerning all FDNS activities.³⁸⁷ During attempts to screen asylum-related data, Gambler observed that the system lacked complete and readily accessible data.³⁸⁸ Moreover, the system was criticized for varying data entry practices across different directorates. As discussed in the previous section of this chapter, the data from this system are instrumental in projecting future staffing allocations. NexGen is expected to enhance the “reliability and integrity of FDNS data” and utilize resolved artificial intelligence and machine learning entities from other applications to support investigations.³⁸⁹ A comprehensive study to assess FDNS NexGen’s impact and potential improvements in data entry practices has not been performed, and there is currently no indication that a study will be conducted. Additionally, there is no evidence that the NexGen system has improved upon interconnectedness among other government databases. Limited information is available regarding the implementation of NexGen and the enhancements it brings, not only to investigations but also to data entry.

³⁸⁴ Gambler, *USCIS: Additional Actions Needed to Manage Fraud Risks*; Gambler, *Asylum*; Rebecca S. Gambler, *Immigration: Actions Needed to Strengthen USCIS’s Oversight and Data Quality of Credible and Reasonable Fear Screenings*, GAO-20-250 (Washington, DC: Government Accountability Office, 2021), <https://www.gao.gov/products/gao-20-250>.

³⁸⁵ “FDNS-DS NexGen,” American Council for Technology and Industry Advisory Council, accessed February 12, 2023, <https://www.actiac.org/et-use-case/fdns-ds-nexgen>.

³⁸⁶ Gambler, *USCIS: Additional Actions Needed to Manage Fraud Risks*; Gambler, *Asylum*.

³⁸⁷ Gambler, *Asylum*, 40.

³⁸⁸ Gambler, *Asylum*.

³⁸⁹ Gambler, *USCIS: Additional Actions Needed to Manage Fraud Risks*, 39; American Council for Technology and Industry Advisory Council, “FDNS-DS NexGen.”

IV. RECONCILIATION: RESEARCH, POLICY, INNOVATION, AND THE PATH FORWARD

USCIS faces myriad complexities in its investigations due to the dynamic nature of immigration laws. Immigration trends and enforcement activities are based on the presidential administration in power and the respective parties in control. For instance, former President Trump, a Republican, focused on such enforcement-based functions as border walls and emphasized expedited removals of illegal aliens.³⁹⁰ In contrast, President Biden, a Democrat, has reversed many Trump-era policies, deprioritized fraud, and taken a humanitarian approach to current immigration trends.³⁹¹ Immigration is multifaceted and is constantly evolving based on current events and presidential administrations.

The dynamics of the U.S. immigration system are intricate, requiring vigilant investigative and enforcement efforts, particularly within USCIS-based immigration investigations. These investigations span various fields of immigration, with marriage fraud constituting a significant portion of the workload.³⁹² However, the scope of immigration investigations extends beyond marriage fraud to encompass such crucial areas as asylum, refugee, employment, and student-based immigration benefits.³⁹³ The challenges encountered in marriage-based investigations are universal across these diverse domains, given that procedures and structures remain consistent irrespective of the benefit type. As the immigration landscape continually evolves, it becomes increasingly vital to address issues comprehensively within each area to ensure the efficacy and fairness of the overall immigration system. Research and adaptability in investigative and enforcement strategies are paramount to successfully navigating the complexities inherent in diverse immigration categories and responding effectively to emerging challenges.

³⁹⁰ “Immigration,” White House of President Donald Trump, accessed November 12, 2023, <https://trumpwhitehouse.archives.gov/issues/immigration/>.

³⁹¹ Hillel R. Smith, *The Biden Administration’s Immigration Enforcement Priorities: Background and Legal Considerations*, CRS Report No. LSB10578 (Washington, DC: Congressional Research Service, 2022), <https://crsreports.congress.gov/product/pdf/LSB/LSB10578>; U.S. Citizenship and Immigration Services, “New Agency Mission Statement.”

³⁹² Gambler, *USCIS: Additional Actions Needed to Manage Fraud Risks*, 67–68.

³⁹³ Gambler, 67.

The establishment of FDNS addressed substantial disparities within the investigative structure of the former INS and, subsequently, USCIS. FDNS created a centralized unit responsible for administrative investigations, leading to the formulation of explicit internal processes and procedures. As of this writing, FDNS's findings play a pivotal role as crucial evidence in adjudicative decisions and administrative proceedings. Nevertheless, the implementation of FDNS has left noteworthy gaps. Despite advancements in immigration law enforcement facilitated by FDNS, certain inadequacies persist, notably in the realm of enforcement actions, including the criminal pursuit of cases. The deficiency in this regard can be attributed to an antiquated agreement between ICE and USCIS. This agreement lacks provisions for addressing isolated instances of fraud, accommodating fluctuations, or aligning with prevailing trends in fraudulent cases. Furthermore, it remains contingent upon ICE's discretionary powers and prioritization protocols.

The existing environment for immigration-based filings has created an open door for fraudulent actors with little consequence. As Cendrowski, Martin, and Petro note, "Modern fraud deterrence involves the use of laws, regulation, and formal internal control systems."³⁹⁴ The inability to prosecute and enforce existing immigration laws when fraud is identified sets a dangerous precedent. Cendrowski, Martin, and Petro recognize three crucial factors for fraud to occur: motive, opportunity, and rationalization.³⁹⁵ Based on the structural and procedural impediments identified, the opportunity exists to engage in fraudulent activities. Fraudulent actors including immigrants, attorneys, interpreters, and preparers are encouraged to conduct fraudulent actions without serious repercussions. Outside of ICE's initial campaign in 2014 that highlighted marriage fraud as a crime, very little has been promoted since. As noted in Chapter III, benefit fraud investigations ranked low among ICE's priorities. The lack of enforcement brings an additional consequence: immigrants previously identified as fraudulent might refile if they have not been issued an NTA or prosecuted federally, even if fraud was identified by FDNS during an

³⁹⁴ Cendrowski, Martin, and Petro, *The Handbook of Fraud Deterrence*, 16.

³⁹⁵ Cendrowski, Martin, and Petro, 48.

administrative investigation. The Transactional Records Access Clearinghouse noted sharp declines in criminal prosecutions from November 2006 through October 2019.³⁹⁶ Immigration fraud–related prosecutions must be prioritized and emphasized to uphold the integrity of the immigration system.

Prioritizing fraud prosecutions is crucial in deterring immigration fraud and upholding the integrity of the U.S. immigration system. Instances of fraudulent activities, like document forgery, misrepresentation, and identity theft, not only affect individual cases but also pose a significant threat to national security and public trust in the immigration process.³⁹⁷ As noted by Von Werlhof, “Fraud needs to be prioritized as an immigration law enforcement priority.”³⁹⁸ Reprioritizing resources for the active investigation and prosecution of immigration fraud sends a powerful deterrent message, dissuading potential wrongdoers and reinforcing the credibility of the immigration system. Cendrowski, Martin, and Petro assert, “Deterrence and investigation are complementary processes, and frequently intertwined.”³⁹⁹ By focusing on fraud detection and prosecution, authorities can safeguard the legitimacy of the immigration process, ensuring that those genuinely seeking entry to the United States are not overshadowed by fraudulent activities. This proactive approach is essential for maintaining public confidence, upholding the rule of law, and protecting the nation’s security interests.

³⁹⁶ Transactional Records Access Clearinghouse, “Decline in Federal Criminal Immigration Prosecutions,” TRAC Immigration, June 12, 2012, <https://trac.syr.edu/immigration/reports/283/>; Transactional Records Access Clearinghouse, “Sharp Decline in Criminal Immigration Prosecutions,” TRAC Reports, February 12, 2020, <https://trac.syr.edu/tracreports/crim/594/>.

³⁹⁷ “Identity and Benefit Fraud,” Immigration and Customs Enforcement, accessed November 12, 2023, <https://www.ice.gov/investigations/identity-benefit-fraud>.

³⁹⁸ Von Werlhof, “Carry a Big Stick,” 61.

³⁹⁹ Cendrowski, Martin, and Petro, *The Handbook of Fraud Deterrence*, 47.

A. RECOMMENDATIONS FOR IMPROVING MARRIAGE FRAUD DETECTION TECHNIQUES

1. Reprioritize Fraud in the Immigration System through Policy and Enforcement

First, this thesis recommends that a comprehensive review and revision of the extant MOA between USCIS and ICE be undertaken, with a specific focus on prioritizing fraud referrals originating from USCIS. The current agreement, instituted on September 25, 2008, formalized the process of referring fraud cases between the two agencies.⁴⁰⁰ While the existing MOA streamlines the referral process, it fails to adequately address the escalating volume of fraud-related investigations. Given the competing priorities inherent in ICE agency functions, as mentioned in Chapter III, a crucial imperative is to update the MOA, distinctly emphasizing USCIS-related cases. The revised agreement should not only underscore the emphasis on USCIS cases but also permit the consideration of isolated instances of fraud, augmenting its scope. Implementation of this recommendation necessitates a paradigm shift within ICE, entailing a reprioritization toward immigration-based violations, coupled with a willingness to adapt its roles and responsibilities accordingly.

Second, this thesis recommends revising the current NTA policies of USCIS to strategically realign priorities and place greater emphasis on cases associated with fraud. NTAs serve as directives compelling individuals to present themselves before an immigration judge, marking the initial step toward removal proceedings.⁴⁰¹ In a policy memorandum issued in 2021, USCIS rescinded NTA policies that had previously formalized the charging of cases wherein fraud was detected.⁴⁰² By repositioning fraud as a central agency priority and actively litigating fraud cases, there exists the potential for a more effective deterrence of immigration fraud. This heightened focus on NTA issuance

⁴⁰⁰ U.S. Citizenship and Immigration Services, *Fraud Detection Standard Operating Procedures*; Department of Homeland Security, “Written Testimony of ICE”; Department of Homeland Security, “Written Testimony of USCIS.”

⁴⁰¹ U.S. Citizenship and Immigration Services, “Notice to Appear Policy Memorandum.”

⁴⁰² U.S. Citizenship and Immigration Services, “Updated Guidance for the Referral of Cases.”

aims to eliminate superfluous filings within USCIS, particularly when instances of fraud have already been identified.

Within the framework of the U.S. immigration system, the imperatives of accountability and enforcement emerge as foundational elements in safeguarding the integrity of established policies. A robust immigration structure hinges on the meticulous application of accountability mechanisms, serving as a deterrent against not only fraudulent activities but also human trafficking and other illicit practices, thereby nurturing public confidence in the credibility of the immigration process. Concurrently, the enforcement of immigration laws assumes a paramount role in upholding national security and public safety standards. By actively addressing violations and unauthorized activities, enforcement measures contribute significantly to fortifying the nation's borders and mitigating potential threats. In essence, the symbiotic principles of accountability and enforcement form the essential underpinnings of a judicious, transparent, and secure U.S. immigration system that aligns seamlessly with the broader objectives and values of the nation.

2. Enhance Coordination and Information-Sharing among Agencies

First, augmenting DBFTFs to include supplementary ICE and USCIS personnel within each unit is fundamental. This thesis recommends that ICE strategically embed personnel within USCIS offices, aiming to enhance the efficacy of the benefit fraud referral process. Designated ICE personnel situated within USCIS would undertake the triaging of USCIS referrals to ICE. The existing agreement calls only for USCIS personnel to be embedded within ICE full-time as part of the DBFTF.⁴⁰³ Integrating ICE personnel into USCIS functions holds the potential to streamline the vetting process for potential fraud cases, concurrently reinforcing collaborative efforts within the broader framework of internal DHS coordination. This strategic initiative aims to optimize the investigative capabilities of HSI's DBFTFs through an elevated level of interdisciplinary collaboration among personnel from distinct agencies.

⁴⁰³ Department of Homeland Security, "Written Testimony of ICE."

The second recommendation involves broadening affiliations and cultivating collaborative initiatives with external agencies beyond the purview of DHS. Within the domain of administrative investigations, FDNS officers meticulously scrutinize documentation issued by various government entities, including the DOS, Department of Labor, the SSA, and the Internal Revenue Service, among others. It is suggested that USCIS foster partnerships with each of these agencies, establishing designated liaison positions to facilitate seamless collaboration and assist with verification needs. Furthermore, USCIS should engage in negotiations to secure system access to the records of each respective agency throughout the course of administrative investigations, thereby enhancing the depth and efficiency of information retrieval processes. This strategic alignment underscores the importance of interagency collaborations.

Effective governance in the modern landscape demands active information-sharing among diverse government agencies. The sharing of information and collaboration of government agencies plays a pivotal role in fortifying national security, facilitating decisive decision-making, and addressing challenges that transcend bureaucratic boundaries. Ensuring the security of a nation, particularly in the face of global terrorism, cyber threats, and transnational crime, hinges on the seamless exchange of information. Information-sharing enables agencies to develop a real-time understanding of potential threats, empowering them to take proactive measures to safeguard the nation. Additionally, it is the cornerstone of effective decision-making, providing policymakers with timely and accurate insights from various specialized agencies. This collaborative approach is instrumental in preventing redundancy and duplicated efforts within the bureaucratic system, maximizing resource utilization, and promoting a streamlined government. Navigating an increasingly complex world demands information-sharing as a fundamental element in building resilient and secure societies, fostering a united front against evolving threats.

3. Leverage Technology and Data Analytics

First, artificial intelligence (AI) should be incorporated into USCIS- and FDNS-based systems to enhance the identification of potential fraud cases. Incorporating AI

technology into immigration investigations brings transformative benefits. While aspects of AI are integrated into existing systems, AI should be incorporated further to assist in immigration-related investigations. AI enhances the analysis of vast and complex data sets with efficiency and accuracy, allowing immigration authorities to rapidly process information and identify patterns that might elude human scrutiny.⁴⁰⁴ Machine learning algorithms within AI systems continuously adapt and improve, enhancing the detection of potential fraud indicators and evolving tactics used by individuals with malicious intent.⁴⁰⁵ Automation of routine tasks also frees human resources to focus on higher-order decision-making, thereby increasing the overall effectiveness of investigations. AI can cross-reference information from various sources, facilitating a more comprehensive and nuanced understanding of an individual's background and enabling more-informed decisions in the immigration process. The active integration of AI technology into immigration investigations holds tremendous potential to streamline processes, enhance accuracy, and fortify the security and integrity of immigration systems.

Second, data metrics are fundamental to tracking immigration investigations and resource allocation. Data metrics and tracking offer a structured and unbiased approach to assessing extensive data sets, enabling immigration authorities to discern patterns, identify trends, and uncover anomalies in the information they gather. Thus, FDNS should establish a consistent data entry practice among all directorates. Utilizing data metrics and analysis enhances the precision and effectiveness of immigration investigations, allowing investigators to pinpoint potential areas of concern, identify irregularities, and reveal concealed connections that might evade traditional scrutiny. This analytical approach not only streamlines the investigative process but also contributes to developing more robust strategies for detecting and preventing fraud. Furthermore, insights derived from data-driven analysis empower agencies like USCIS to allocate resources strategically, focus on high-risk areas, and adapt investigative techniques in response to dynamic challenges.

⁴⁰⁴ Ana Beduschi, "Harnessing the Potential of Artificial Intelligence for Humanitarian Action: Opportunities and Risks," *International Review of the Red Cross* 104, no. 919 (April 2022): 1150, <https://doi.org/10.1017/S1816383122000261>.

⁴⁰⁵ Beduschi, 1151.

Integrating data metrics and analysis is pivotal for optimizing the investigative process and equipping immigration authorities with the informed decision-making capabilities necessary to uphold the integrity of the immigration system.

While FDNS has made significant strides in technology through the implementation of FDNS NexGen, data entry and its monitoring can be improved. Cendrowski, Martin, and Petro state that proven methods in monitoring systems should capture business intelligence from collected data.⁴⁰⁶ The examination of data can aid in identifying irregularities that may suggest the presence of potential fraud. Furthermore, data monitoring programs should be independent, powerful, unifying, and programmable.⁴⁰⁷ FDNS implemented system-generated notifications (SGNs) before fiscal year 2016 to identify “certain types of fraud, national security, and public safety concern for review.”⁴⁰⁸ The GAO highlighted that 80 percent of SGNs were subject to scrutiny for multiple identities, with no subsequent FDNS action required. Moreover, FDNS leaders in the SCOPS Directorate have expressed doubts about the effectiveness of these notifications as an anti-fraud mechanism.⁴⁰⁹ There is no evidence or analysis that SGNs are used for marriage-based fraud identification and subsequent investigations. Thus, this thesis recommends that the system incorporate data metrics and analysis to identify fraud indicators proactively in marriage-based immigration from its initial filing. Data and metrics can be used to better identify fraud trends while proactively identifying fraud cases.

The assessment of technology within USCIS and FDNS was difficult as information and data regarding system specifics were not available for public review or analysis. Such data as FDNS referrals and prosecutions are considered law enforcement sensitive. Furthermore, information regarding the creation, implementation, and analysis of FDNS NexGen is not readily available through open sources. As a result, this thesis was

⁴⁰⁶ Cendrowski, Martin, and Petro, *The Handbook of Fraud Deterrence*, 226.

⁴⁰⁷ Cendrowski, Martin, and Petro, 226–27.

⁴⁰⁸ Gambler, *USCIS: Additional Actions Needed to Manage Fraud Risks*, 50.

⁴⁰⁹ Gambler, 51.

limited in what it could analyze. Its predecessor, FDNS-DS, was used as a data repository to memorialize FDNS-related case management records. The system was cited for inconsistent data entry practices across directorates.⁴¹⁰ A comprehensive analysis and review of what technologies, innovations, and improvements the system brings has not been performed as of this writing. A comprehensive study of the system and its implementation at the field level should be conducted to determine whether data entry is consistent and whether the system is beneficial as an anti-fraud tool.

4. Enhance FDNS Roles and Responsibilities

DHS should establish a dedicated law enforcement division within USCIS, specifically mandated to oversee the enforcement aspects of immigration cases related to fraud, national security, and public safety. As it stands, ICE has challenges in prioritizing and investigating benefit fraud cases; therefore, USCIS should develop an internal law enforcement apparatus. The prevailing investigative landscape reveals constraints within ICE resources, hindering the pursuit of cases originating from USCIS referrals. Establishing a law enforcement department within USCIS aims to mitigate bureaucratic complexities within the investigative framework.

Enhancing the effectiveness of USCIS/FDNS IOs requires prioritizing robust training programs and allocating ample resources. Officers need continuous and adaptive training to stay abreast of the latest changes in immigration laws and develop practical skills through real-world case studies and simulations. The training should emphasize legal expertise and procedural competence, given the complex nature of immigration laws and regulations. Additionally, officers should be trained in utilizing sophisticated tools and systems for document verification, fraud detection, and data analysis in light of technological advancements. Adequate resources, including access to databases and advanced technological tools, along with sufficient staffing levels, are indispensable for officers to efficiently perform their duties. Continuous professional development through workshops and seminars is necessary for officers to stay current with emerging issues and

⁴¹⁰ Gambler, 59.

legal changes. The active investment in the professional development of USCIS's IOs, through comprehensive training programs and ample resources, is crucial for ensuring a fair, efficient, and trustworthy immigration system in the United States.

B. AREAS FOR FURTHER RESEARCH

This thesis focused on the structural and procedural impediments to marriage fraud investigations from the perspective of USCIS and FDNS. Researchers should investigate the impact of marriage fraud investigations on the affected individuals, both petitioners and beneficiaries, considering the potential for false accusations and the broader implications for immigration processes. Ethical considerations surrounding investigative practices, privacy concerns, and the balance between national security interests and individual rights should also be central to academic inquiry in this field. By addressing these facets, scholars can contribute valuable insights to refine FDNS investigations and enhance the integrity of the immigration system with regard to marriage fraud.

Marriage fraud represents merely one facet of the broader spectrum of immigration issues in the United States. Although it stands out prominently in the realm of FDNS immigration investigations, an academic examination extending beyond marriage fraud is called for, encompassing such diverse areas as visa fraud, asylum, immigration-related employment fraud, and refugee fraud. Exploring case studies through comparative analysis offers an additional avenue for comprehensive scrutiny of immigration investigation and enforcement activities. Furthermore, the incorporation of research extending to foreign countries has the potential to yield innovative policy recommendations, enriching the discourse on effective strategies and methodologies within the complex landscape of immigration investigations.

Scholars investigating the complexities of the U.S. immigration system should prioritize specific domains to enrich our comprehension and engage in informed policy dialogues. First, a comprehensive analysis of the socioeconomic repercussions of immigration policies is imperative, examining their influence on labor markets, wage distribution, and overall economic productivity. Additionally, researchers should explore the societal integration of immigrant communities, scrutinizing factors like educational

achievement and civic participation. Assessing the effectiveness and equity of enforcement mechanisms, encompassing border control and detention practices, is crucial to evaluating the existing policies. Furthermore, scholars should delve into the intersectionality of immigration policies, considering the impact of such factors as race, gender, and socioeconomic status on individuals' experiences within the immigration system. Last, thoroughly examining the long-term consequences of immigration policies on demographic trends and cultural dynamics is vital for anticipating societal shifts and fostering inclusive communities. By addressing these multifaceted dimensions, academics can provide valuable insights into shaping a more equitable and efficient U.S. immigration system.

In parallel, scholars delving into U.S. immigration should concentrate on scrutinizing the functions and impact of both ICE and EOIR. Researchers should closely examine the convergence of immigration enforcement and criminal justice, investigating potential biases and consequences for vulnerable populations. Simultaneously, research into EOIR should emphasize the efficiency and fairness of immigration court processes, evaluating the impact of case backlog. A thorough exploration of the training and oversight mechanisms within both ICE and EOIR would prove indispensable in understanding the potential for abuse and ensuring accountability. Furthermore, scholars should explore the ramifications of recent policy changes and their effects on due process, judicial independence, and the overall integrity of the immigration adjudication system. By addressing these nuanced aspects, researchers can contribute valuable insights to inform reforms and enhance the transparency and fairness of immigration enforcement and adjudication in the United States.

The dissolution of the INS and creation of DHS led to the division of immigration functions. Examining the concept of consolidation could clarify the potential streamlining of the immigration system. Research on agency consolidation should cover critical aspects, exploring the efficiency and effectiveness of streamlined processes, service accessibility, and resource allocation. Scholars should scrutinize policy implications, technology integration effects, and considerations for privacy and data security. Human rights, due process, and accountability should be focal points in assessing the impact of consolidation,

emphasizing transparency and oversight mechanisms. Gathering stakeholder perspectives is crucial for understanding how different parties perceive a consolidation's effects. Comparative studies with other countries undergoing similar consolidation can yield insights, contributing to a comprehensive understanding of the impact on the U.S. immigration system.

C. CLOSING REMARKS

The dynamics of the U.S. immigration system underscore a complex interplay of legal, social, and economic factors, necessitating vigilant investigative and enforcement efforts. As a nation historically built on immigration, the United States faces the challenge of balancing legal immigration processes and safeguarding national security. Investigative efforts play a pivotal role in ensuring the integrity of the immigration system, uncovering instances of fraud, misrepresentation, or other violations that could compromise its fairness and effectiveness. Enforcement efforts are equally crucial for upholding the rule of law, protecting borders, and addressing concerns related to public safety. Striking the right balance in these efforts is paramount to fostering an immigration system that is both inclusive and secure, reflecting the nation's commitment to welcoming individuals while safeguarding its interests and citizens. Continuous research and adaptability in investigative and enforcement strategies are essential to navigating the evolving landscape of immigration dynamics and addressing emerging challenges effectively.

The current immigration investigation and enforcement processes have become excessively formulaic, reaching a level of predictability that hampers their effectiveness. There is a compelling need for a more proactive approach in immigration-based investigations to detect and deter instances of fraud, address national security concerns, and ensure public safety. Existing predictive technologies, while established, demonstrate limitations in effectively identifying and preventing fraudulent activities.⁴¹¹ Furthermore, FDNS should not only leverage predictive technology but also be at the forefront of anticipating and addressing emerging fraud trends. The ability to be proactive in

⁴¹¹ Gambler, 50.

investigative and enforcement necessitates the active development and monitoring of programs dedicated to implementing robust anti-fraud measures. Fraudulent actors are continually evolving and growing more sophisticated in their schemes, underscoring the importance of a dynamic and adaptive approach to immigration investigations, thereby effectively safeguarding the integrity of the immigration system.

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APPENDIX: CASES PROSECUTED BY THE DEPARTMENT OF JUSTICE INVOLVING MARRIAGE FRAUD

DOJ Press Release Headline ⁴¹²	Location/Year	Comments
“Grand Jury Indicts 3 Top Administrators of Philippine Church in Scheme to Traffic Workers and Defraud Immigration System.” ⁴¹³	California/2020	Large-scale preparer fraud involving human trafficking, document servitude, visa fraud, and marriage fraud
“Army Sergeant Sentenced to Eight Months for Marriage Fraud Scheme.” ⁴¹⁴	Colorado/2020	Marriage fraud involving U.S. military member
“Former U.S. Army Soldier Indicted on Conspiracy to Commit Marriage Fraud, Marriage Fraud, Harboring an Alien for Financial Gain, Visa Fraud, False Statements under Oath, Theft of Government Property and Criminal Contempt Charges.” ⁴¹⁵	North Carolina/2020	Marriage fraud involving U.S. military member
“Fort Bragg Marriage Fraud Arranger and Ring of 10 Participants Charged with Marriage Fraud, Visa Fraud, Obstruction, Harboring Aliens, Unlawful Disposition of U.S. Property, and Conspiracy.” ⁴¹⁶	North Carolina/2020	Preparer and marriage fraud involving U.S. military members

⁴¹² Note: This appendix is not a comprehensive list of DOJ cases involving marriage fraud but a cursory search of DOJ press releases in the past three years.

⁴¹³ “Grand Jury Indicts 3 Top Administrators of Philippine Church in Scheme to Traffic Workers and Defraud Immigration System,” U.S. Attorney’s Office, Central District of California, February 13, 2020, <https://www.justice.gov/usao-cdca/pr/grand-jury-indicts-3-top-administrators-philippine-church-scheme-traffic-workers-and>.

⁴¹⁴ “Army Sergeant Sentenced to Eight Months for Marriage Fraud Scheme,” U.S. Attorney’s Office, District of Colorado, May 28, 2020, <https://www.justice.gov/usao-co/pr/army-sergeant-sentenced-eight-months-marriage-fraud-scheme>.

⁴¹⁵ “Former U.S. Army Soldier Indicted on Conspiracy to Commit Marriage Fraud, Marriage Fraud, Harboring an Alien for Financial Gain, Visa Fraud, False Statements under Oath, Theft of Government Property and Criminal Contempt Charges,” U.S. Attorney’s Office, Eastern District of North Carolina, July 24, 2020, <https://www.justice.gov/usao-ednc/pr/former-us-army-soldier-indicted-conspiracy-commit-marriage-fraud-marriage-fraud>.

⁴¹⁶ “Fort Bragg Marriage Fraud Arranger and Ring of 10 Participants Charged with Marriage Fraud, Visa Fraud, Obstruction, Harboring Aliens, Unlawful Disposition of U.S. Property, and Conspiracy,” U.S. Attorney’s Office, Eastern District of North Carolina, October 1, 2020, <https://www.justice.gov/usao-ednc/pr/fort-bragg-marriage-fraud-arranger-and-ring-10-participants-charged-marriage-fraud-visa>.

DOJ Press Release Headline ⁴¹²	Location/Year	Comments
“Georgia Man Sentenced for Conspiring to Commit Marriage Fraud.” ⁴¹⁷	North Carolina/ 2021	Single-instance marriage fraud
“Former Springfield Man Pleads Guilty to Charges Related to Sham Marriage.” ⁴¹⁸	Massachusetts/ 2021	Single-instance marriage fraud
“Connecticut Resident Sentenced to Prison for Operating Immigration Marriage Fraud Scheme.” ⁴¹⁹	Connecticut/ 2021	Large-scale marriage fraud scheme
“South Florida Immigration Consultant, Husbands, Wives Charged with Marriage Fraud.” ⁴²⁰	Florida/2021	Large-scale marriage fraud scheme
“Forest Hills Couple Charged in Marriage Fraud Scheme.” ⁴²¹	Pennsylvania/ 2021	Marriage fraud scheme/ unlawful attempts to procure citizenship
“Eleven Charged with Arranging Sham Marriages and Submitting Fraudulent ‘Green Cards’ Applications for over 400 Non-citizens.” ⁴²²	Massachusetts/ 2021	Large-scale marriage fraud scheme
“Former Customs and Border Protection Officer Sentenced for Role in Sham Marriage Immigration Scheme.” ⁴²³	Washington/ 2022	Marriage fraud involving former CBP officer

⁴¹⁷ “Georgia Man Sentenced for Conspiring to Commit Marriage Fraud,” U.S. Attorney’s Office, Eastern District of North Carolina, March 15, 2021, <https://www.justice.gov/usao-ednc/pr/georgia-man-sentenced-conspiring-commit-marriage-fraud>.

⁴¹⁸ “Former Springfield Man Pleads Guilty to Charges Related to Sham Marriage,” U.S. Attorney’s Office, District of Massachusetts, August 5, 2021, <https://www.justice.gov/usao-ma/pr/former-springfield-man-pleads-guilty-charges-related-sham-marriage>.

⁴¹⁹ “Connecticut Resident Sentenced to Prison for Operating Immigration Marriage Fraud Scheme,” U.S. Attorney’s Office, District of Connecticut, August 26, 2021, <https://www.justice.gov/usao-ct/pr/connecticut-resident-sentenced-prison-operating-immigration-marriage-fraud-scheme>.

⁴²⁰ “South Florida Immigration Consultant, Husbands, Wives Charged with Marriage Fraud,” U.S. Attorney’s Office, Southern District of Florida, September 3, 2021, <https://www.justice.gov/usao-sdfl/pr/south-florida-immigration-consultant-husbands-wives-charged-marriage-fraud>.

⁴²¹ “Forest Hills Couple Charged in Marriage Fraud Scheme,” U.S. Attorney’s Office, Western District of Pennsylvania, September 29, 2021, <https://www.justice.gov/usao-wdpa/pr/forest-hills-couple-charged-marriage-fraud-scheme>.

⁴²² “Eleven Charged with Arranging Sham Marriages and Submitting Fraudulent ‘Green Cards’ Applications for over 400 Non-citizens,” U.S. Attorney’s Office, District of Massachusetts, April 7, 2022, <https://www.justice.gov/usao-ma/pr/eleven-charged-arranging-sham-marriages-and-submitting-fraudulent-green-cards>.

⁴²³ “Former Customs and Border Protection Officer Sentenced for Role in Sham Marriage Immigration Scheme,” U.S. Attorney’s Office, Western District of Washington, September 16, 2022, <https://www.justice.gov/usao-wdwa/pr/former-customs-and-border-protection-officer-sentenced-role-sham-marriage-immigration>.

DOJ Press Release Headline ⁴¹²	Location/Year	Comments
“New Jersey Woman Sentenced to Prison for Immigration Marriage Fraud.” ⁴²⁴	Connecticut/ 2022	Large-scale preparer fraud and marriage fraud scheme
“Pastor of NewLife City Church Facing Federal Indictment in Maryland for Arranging Fraudulent Marriages between Foreign Nationals and U.S. Citizens.” ⁴²⁵	Maryland/2021	Large-scale marriage fraud scheme
“New Jersey Man Convicted of Receiving Military-Type Training from Hizballah, Marriage Fraud, and Making False Statements.” ⁴²⁶	New York/ 2022	Single-instance marriage fraud with national security concerns
“Two Defendants Plead Guilty; Four Others Charged in International Marriage Fraud Conspiracy.” ⁴²⁷	New York/ 2022	Large-scale marriage fraud scheme
“Ringleader Sentenced in Immigration Scheme That Offered Fake Marriages.” ⁴²⁸	Alabama/2023	Large-scale fraud scheme

⁴²⁴ “New Jersey Woman Sentenced to Prison for Immigration Marriage Fraud,” U.S. Attorney’s Office, District of Connecticut, November 10, 2022, <https://www.justice.gov/usao-ct/pr/new-jersey-woman-sentenced-prison-immigration-marriage-fraud>.

⁴²⁵ “Pastor of NewLife City Church Facing Federal Indictment in Maryland for Arranging Fraudulent Marriages between Foreign Nationals and U.S. Citizens,” U.S. Attorney’s Office, District of Maryland, October 21, 2021, <https://www.justice.gov/usao-md/pr/pastor-newlife-city-church-facing-federal-indictment-maryland-arranging-fraudulent>.

⁴²⁶ “New Jersey Man Convicted of Receiving Military-Type Training from Hizballah, Marriage Fraud, and Making False Statements,” U.S. Attorney’s Office, Southern District of New York, May 11, 2022, <https://www.justice.gov/usao-sdny/pr/new-jersey-man-convicted-receiving-military-type-training-hizballah-marriage-fraud-and>.

⁴²⁷ “Two Defendants Plead Guilty; Four Others Charged in International Marriage Fraud Conspiracy,” U.S. Attorney’s Office, Western District of New York, October 7, 2022, <https://www.justice.gov/usao-wdny/pr/two-defendants-plead-guilty-four-others-charged-international-marriage-fraud-conspiracy>.

⁴²⁸ “Ringleader Sentenced in Immigration Scheme That Offered Fake Marriages,” U.S. Attorney’s Office, Northern District of Alabama, July 18, 2023, <https://www.justice.gov/usao-ndal/pr/ringleader-sentenced-immigration-scheme-offered-fake-marriages>.

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