
U Visas: A Source for Reporting on Human Trafficking

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Introduction

One of the challenges of reporting on human trafficking is that reliable data that track trafficked persons are lacking. The U Visa is a federally run program that may offer insights into trafficking, slave trade and sexual exploitation.

Immigration and trafficking are overlapping issues. Many trafficked people are moved across international borders into the United States. Immigrants already within the country may also be especially vulnerable to trafficking and violence. A good reporter covering either immigration issues or trafficking should be alert to the relationship between the two.

The Situation

The U.S. government provides the opportunity for U nonimmigrant status, also known as a U visa, as an immigration benefit that can be sought by victims of certain crimes who assist or may be helpful in assisting law enforcement in a criminal investigation or prosecution of a crime.

Basics

The U Visa program is administered by the U.S. Citizenship and Immigration Services (USCIS) under the Department of Homeland Security.

The Victims of Trafficking and Violence Prevention Act of 2000 established the U Visa as a means for certain victimized immigrants to apply for nonimmigrant status.

The U Visa has two underlying purposes:

- In part it is a humanitarian effort to provide relief to victims who have survived substantial abuse from criminal activity, with recognition that immigrants are particularly vulnerable to violent abuse.
- The program also seeks to improve the overall relationship between law enforcement and immigrant communities and lessen barriers for victims who might otherwise report a crime if not for the fear of deportation or other consequences related to their immigrant status.

Applications require the submission of multiple forms, some that must be certified by a law enforcement official. Due to the complexity of the application process, many petitioners receive assistance from a lawyer or victims' advocate while preparing an application.

USCIS grants a maximum of 10,000 U Visas per fiscal year.

An applicant must be a victim of one of the qualifying crimes:

Abduction Abusive Sexual Contact Blackmail Domestic Violence Extortion False Imprisonment Female Genital Mutilation Felonious Assault Fraud in Foreign Labor Contracting Hostage	Incest Involuntary Servitude Kidnapping Manslaughter Murder Obstruction of Justice Peonage Perjury Prostitution Rape Sexual Assault Sexual Exploitation	Slave Trade Stalking Torture Trafficking Witness Tampering Unlawful Criminal Restraint Other Related Crimes*† *Includes any similar activity where the elements of the crime are substantially similar. †Also includes attempt, conspiracy, or solicitation to commit any of the above and other related crimes.
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Then the applicant must also demonstrate:

- He or she has suffered substantial physical or mental abuse as a result of having been a victim of criminal activity.
- He or she has information about the criminal activity.
- He or she has been helpful, or is likely to be helpful to law enforcement in the investigation or prosecution of the crime.
- He or she is admissible to the United States.
- The crime occurred in the United States or violated U.S. laws.

Exceptions:

If an applicant is under the age of 16 or unable to provide information to law enforcement due to a disability, a parent, guardian, or next friend may aid law enforcement on the applicant's behalf.

If an applicant is not admissible, he or she may apply for a waiver on a [Form I-192, Application for Advance Permission to Enter as a Nonimmigrant](#).

Where are the data?

Relevant documents:

- [Form I-918, Petition for U Nonimmigrant Status](#)
- [Form I-918, Supplement B, U Nonimmigrant Status Certification](#): must be signed by an [authorized official of the certifying law enforcement agency](#) and the official must confirm that the applicant was helpful or will likely be helpful in the investigation or prosecution of the case. This form is crucial for the application to go forward, leaving success rates of U Visa applications partially to the discretion of local law enforcement.
- [Form I-192, Application for Advance Permission to Enter as Nonimmigrant](#), to request a waiver for inadmissibility

Resources:

USCIS Victims of Criminal Activity: U Nonimmigrant Status

<https://www.uscis.gov/humanitarian/victims-human-trafficking-other-crimes/victims-criminal-activity-u-nonimmigrant-status/victims-criminal-activity-u-nonimmigrant-status - U Nonimmigrant Eligibility>

U Visa Law Enforcement Certification Resource Guide for Federal, State, Local, Tribal and Territorial Law Enforcement

https://www.dhs.gov/xlibrary/assets/dhs_u visa certification guide.pdf

The Political Geography of the U Visa: Eligibility as a Matter of Locale

<http://www.law.unc.edu/documents/clinicalprograms/uvisa/fullreport.pdf>

DHS Blue Campaign

Includes links to help locate local service providers with experience with immigrant victims of crime. <https://www.dhs.gov/topic/human-trafficking>

Asista

Provides assistance for advocates and attorneys facing complex legal problems in advocating for immigrant survivors of domestic violence and sexual assault.

<http://www.asistahelp.org/>

USCIS Media Contact

uscis.media@uscis.dhs.gov ph. 802-660-5029

Relevant Laws:

8 USC §§ 1501-1513, 114 Stat. at 1518-37 (also relevant sections of 8 U.S.C., 18 U.S.C., 20 U.S.C., 22 U.S.C., 27 U.S.C., 28 U.S.C., 42 U.S.C., and 44 U.S.C.).

Victims of Trafficking and Violence Protection Act § 1513(a)(2)(A).

8 U.S.C. § 1101(a)(15)(U)(i); Alien Victims of Certain Qualifying Criminal Activity, 8 C.F.R. § 214.14(b). Only certain crimes enumerated in the statute qualify. 8 U.S.C. § 1101(a)(15)(U)(iii).

Definitions

The U.S. Immigration and Customs Enforcement defines **Trafficking in Persons** as:

- Sex trafficking in which a commercial sex act is induced by force, fraud or coercion, or in which the person induced to perform such act has not attained 18 years of age;
- The recruitment, harboring, transportation, provision or obtaining of a person for labor or services, through the use of force, fraud or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage or slavery.

The Victims of Trafficking and Violence Prevention Act defines **Certifying Law Enforcement** as:

A federal, state, local law enforcement agency, prosecutor, judge, or other authority that has the responsibility for the investigation or prosecution of a qualifying crime or criminal activity is eligible to sign Form I-918B. This includes agencies with criminal investigative jurisdiction, such as child and adult protective services, the Equal Employment Opportunity Commission, and Federal and State Departments of Labor.

Inadmissible: Immigrants with histories of criminal or terrorist activities, drug abuse, infectious medical problems, or certain other characteristics may be named inadmissible and will not be permitted a visa, green card, or U.S. entry, until special permission is granted through a waiver.