

U Visa Report

U Visa Filing Trends

April 2020

Analysis of Data through FY 2019



U.S. Citizenship and
Immigration Services



Executive Summary

The U visa was established through the passage of the Victims of Trafficking and Violence Protection Act in 2000, as a key tool for law enforcement in the detection, investigation, or prosecution of certain serious criminal activities. The U visa offers protections to victims of qualifying criminal activities (“QCA”) in keeping with the humanitarian interests of the United States. In order to better understand demographic and filing trends for U visa principal petitioners and derivatives, and respond to concerns raised about potential fraud and integrity issues within the U visa program, USCIS systematically collected and analyzed data from both USCIS electronic systems and physical records on U visa principal petitioners and derivatives who filed between Fiscal Years (FY) 2012 and 2018.

Key Findings

- Adjudicative outcomes have remained relatively constant over time: the approval rate is about 84% for principal petitioners (and 83% for derivatives) for petitions submitted in 2014 (the last year for which data are available). For petitions submitted in 2012, the approval rate was 87% for principal petitioners (and 88% for derivatives).
- Roughly 90% of petitioners filed as direct victims of the QCA. Among petitioners filing as direct victims, 1.4% were bystanders to the QCA.
- Petitions were most often denied due to missing evidence and unfavorable discretionary waiver adjudication related to admissibility, including principal petitioners’ or derivatives’ criminal history (if applicable).
- From FY 2012 through 2018, about 5% of principal petitioners were also petitioned for as a derivative by a family member who had filed his or her own U visa petition; this trend appears to be increasing over time and doubled between FY18 and FY19.

Conclusion

This comprehensive research on key demographic and filing trends will support USCIS in developing data-driven regulatory and policy changes in order to improve the integrity of the U visa program, ensure that the program is following congressional intent, and increase efficiency in processing U visa petitions. By considering these findings when developing policy and regulatory changes, USCIS can reduce frivolous filings, rectify program vulnerabilities, and increase benefit integrity – key components of USCIS’ mission.

Introduction

Through the passage of the Victims of Trafficking and Violence Protection Act in 2000, Congress created the U nonimmigrant status (also called the “U visa”). The U visa was established as a key tool for law enforcement in the detection, investigation, or prosecution of certain serious criminal activity, and offers protections to victims of qualifying criminal activities (“QCA”) in keeping with the humanitarian interests of the United States. By statute, the number of individuals issued principal U-1 visas or provided principal U-1 nonimmigrant status in any fiscal year cannot exceed 10,000; certain qualifying family members are eligible for a derivative U visa but do not count against the annual cap.

In response to concerns raised about potential fraud and integrity issues within the U visa program, USCIS undertook a research study to systematically collect data from both USCIS electronic systems and physical records on U visa principal petitioners and derivatives. This report is based on the U visa study that USCIS conducted in 2018 and 2019.¹

Ultimately, this research will inform targeted policy and regulatory changes to improve the integrity of the program by deterring frivolous or fraudulent petitions, as well as strengthening public safety and national security.

U Visa Overview

In order to be eligible for a U visa, a person must meet certain eligibility requirements. To apply for U nonimmigrant status, petitioners (known as “principal petitioners”) submit Form I-918, Petition for U Nonimmigrant Status (“Form I-918”), along with supporting evidence and any petitions for derivative family members, to USCIS. Through the information provided on Form I-918 and within supporting evidence, the petitioner must establish that he or she: (1) is a victim of a QCA;² (2) has suffered substantial physical or mental abuse as a result of having been a victim of the QCA; (3) is able to provide credible and reliable information about the QCA; (4) is being, was, or is likely to be helpful to law enforcement, as reasonably requested, in the detection, investigation or prosecution of the QCA; and (5) is admissible to the United States. For those not admissible, a petitioner may apply for a waiver via Form I-192, Application for Advance Permission to Enter as a Nonimmigrant.

As part of the petition process, the principal petitioner must also file a Form I-918, Supplement B, U Nonimmigrant Status Certification (“Form I-918B”). The Form I-918B (also referred to as the “law enforcement certification”) must be signed by an authorized official of a certifying agency. This official confirms details of the qualifying criminal activity and certifies that the principal petitioner was helpful, is currently being helpful, or will likely be helpful in the detection, investigation, or prosecution of the

¹ This report is part of a series on the U visa program; this series highlights demographic and filing trends, including trends in qualifying criminal activities, law enforcement certification, and arrest histories of petitioners and derivatives. This report and the related Technical Appendix can be located at uscis.gov/data.

² Congress established categories of qualifying criminal activities (QCA); these include: abduction, abusive sexual contact, blackmail, domestic violence, extortion, false imprisonment, felonious assault, female genital mutilation, 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, and unlawful criminal restraint. Outside of fraud in foreign labor contracting, these are categories of crime and not specific crimes or citations to a criminal code; various federal, state, and local statutes could fall into these general categories of crime. In addition, a victim may qualify based on an attempt, conspiracy, or solicitation to commit any of the above or substantially similar crimes.

case. The certifying official may also indicate if the principal petitioner possesses information regarding the QCAs and provide information on any known or documented injury to the victim. Although submission of a certified Form I-918B is required, submission of this form alone does not guarantee that USCIS will find the principal petitioner eligible, as USCIS determines the evidentiary value of all evidence submitted, including the Form I-918B.

Research Methods

USCIS researchers analyzed data housed in the CLAIMS 3 electronic database for all U visa petitioners (including both principals and derivatives) who filed petitions from FY 2012 through 2018. Additionally, USCIS drew a statistically valid and representative sample of U visa principal petitions submitted between FY 2012 and 2018. USCIS conducted a manual file review and collected data from the U visa petition, the law enforcement certification, and the supplemental evidence submitted by the petitioner. Using these data, USCIS was able to estimate the occurrence of specific petition or petitioner characteristics among all U visa petitioners who filed between FY 2012 and 2018. Lastly, USCIS researchers also conducted semi-structured interviews with more than 20 subject matter experts. For more information on the research methodology and the limits of this analysis, please see the Technical Appendix for this series of reports.

Findings

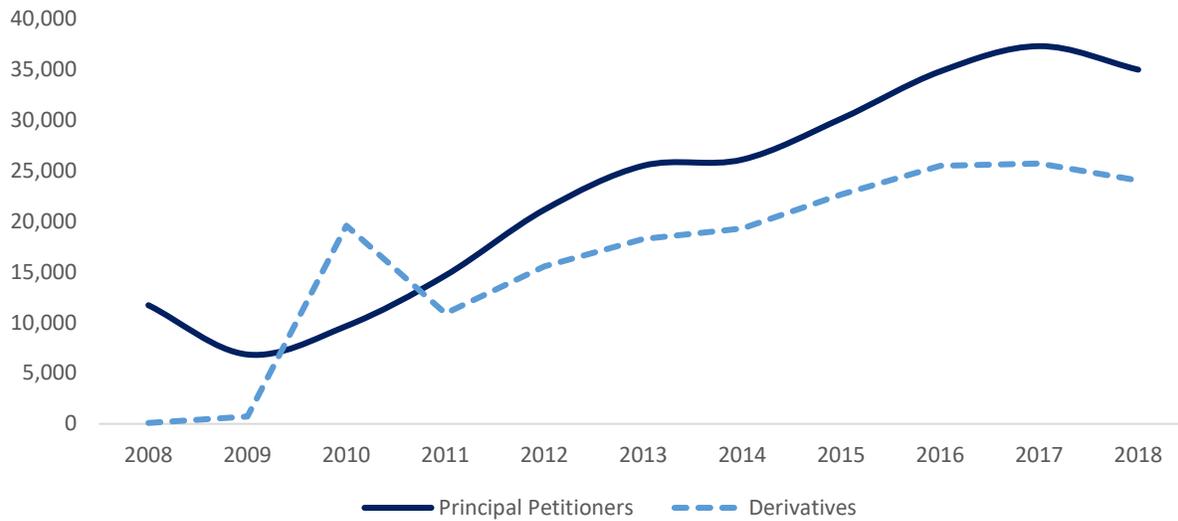
Receipts and Processing Times

In 2013, for the first time, the number of petitions pending adjudication reached into the tens of thousands. At the end of 2019, there were nearly 152,000 pending principal petitions and nearly 104,000 pending petitions for family members.³ Because the number of individuals issued principal U-1 visas or provided principal U-1 nonimmigrant status in any fiscal year cannot exceed 10,000, the wait time for a principal petitioner to receive a final decision (and status, if approved) is currently 5-10 years, depending on the individual's placement in the pending queue. If filing trends continue, the pending queue and associated processing times will continue to grow significantly.

Figure 1, below, depicts the generally upward trends in the numbers of petitions received. Over the last decade, the number of principal U visa petitions that USCIS has received has increased, with a few short-term downward trends. Figure 3 displays the impact that these trends have on the queue of pending petitions.

³ USCIS, "Number of Form I-918, Petition for U Nonimmigrant Status by Fiscal Year, Quarter, and Case Status" Fiscal Year 2019, https://www.uscis.gov/sites/default/files/USCIS/Resources/Reports%20and%20Studies/Immigration%20Forms%20Data/Victims/I918u_visastatistics_fy2019_qtr4.pdf. Accessed February 21, 2019.

Figure 1: Petitions Received in Fiscal Years 2008-April 2018



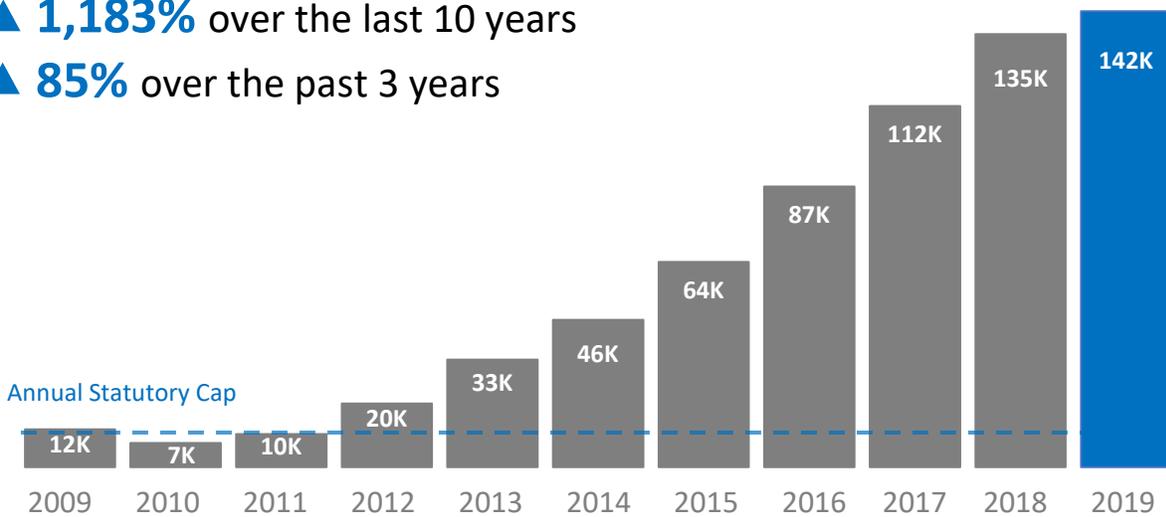
Source: USCIS, CLAIMS 3. Data as of April 5, 2019.

Figure 2: Pending Principal U Visa Petitions, Fiscal Years 2009-2019

The queue of pending principal U visa petitions has grown

▲ **1,183%** over the last 10 years

▲ **85%** over the past 3 years

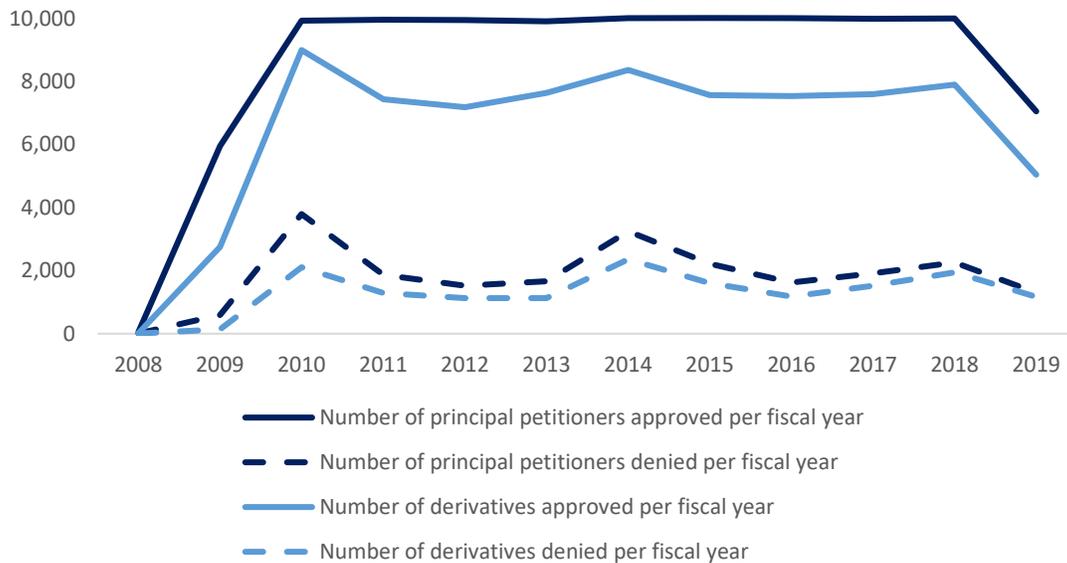


Source: USCIS, Quarterly Reports (Fiscal Year 2019, Quarter 2).

Approved and Denied Petitions over Time

The number of approved petitions and denied petitions remains relatively constant over time (see Figure 3 below). However, because many U visa petitions are adjudicated later than the fiscal year in which USCIS received the petition (i.e., a petition submitted in 2012 receiving final adjudication in 2015), the graph does not provide a reliable approval or denial *rate* – rather, similar to the data on the USCIS website, it provides the number of *adjudicative actions* taken by USCIS on U visa petitions.

Figure 3: Petitions Approved and Denied in Fiscal Years 2008- April 2019

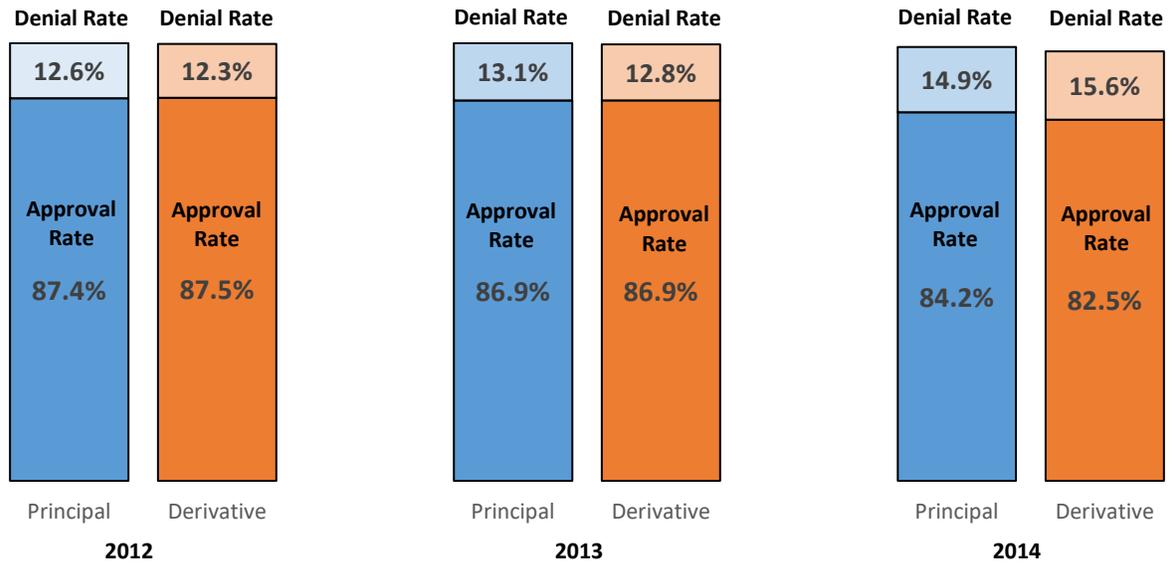


Source: USCIS, CLAIMS 3. Data as of April 5, 2019.

Notes: The number of petitions approved and denied in each fiscal year often do not represent the year in which that petition was received. As such, an approval or denial rate cannot be inferred from these data. Further, Fiscal Year 2019 trends are not depicted here, due to the lack of complete fiscal year data availability at the time USCIS conducted the study.

In contrast to Figure 3, Figure 4 (shown below) provides the rate of approval and denial by fiscal year in which the petition was received by USCIS, regardless of the year in which it was adjudicated, for both principal and derivative petitions for Fiscal Years 2012, 2013, and 2014. In this way, USCIS can show the outcome of the petitions relative to all petitions received in the same fiscal years. As Figure 4 shows, USCIS maintained relatively consistent approval and denial rates between Fiscal Years 2012 and 2014. Approval and denial rates are not shown after 2014 because not all the petitions have been adjudicated, so the rate would not accurately represent the entire cohort of petitions from those years.

Figure 4: Approval and Denial Rates for Principal Petitioners and Derivatives, FY2012-2014



Source: USCIS, CLAIMS 3. Data as of April 2019.

Note: The approval and denial rates are calculated by taking the number of petitions USCIS approved or denied from that fiscal year divided by the total number of receipts received in a fiscal year. As an example, USCIS received 21,141 principal petitions in Fiscal Year 2012; of these 21,141 petitions, USCIS approved 18,474 (or 87.4%), though not all these petitions were approved in the same fiscal year. The approval and denial rates may not sum to 100% because of a few pending petitions (e.g., from Fiscal Year 2014) or due to rounding. Approval and denial rates for fiscal years after 2014 are not available as not all petitions from those years have been adjudicated.

Most Common Reasons for Denial

USCIS electronic case tracking systems do not capture information on why a petition is denied. While USCIS correspondence systems capture information about reasons for denial, these data are not stored in a manner which facilitates macro-level analysis. As such, this study documented reasons for denial and estimated their occurrence among denied petitions. USCIS found several reasons why a petition was denied, however, only a few occurred with such frequency that USCIS could develop an estimate of the occurrence relative to the population of denied petitions. The most common reasons for denial are: missing or insufficient evidence,⁴ inadmissibility, abandonment of the petition, the petitioner did not demonstrate a QCA, and the petitioner did not demonstrate substantial harm (see Figure 5 below).

Note: Petitions can be, and were, denied for more than one reason and were included in multiple categories as appropriate. Petitions denied for missing evidence are distinct from those denied due to abandonment. Petitions denied due to criminality are a subset of the “inadmissibility” category.

⁴ For the purposes of this report, “missing evidence” means the adjudicative conclusion was that the evidence was not provided or that the evidence provided did not meet the applicable standard of proof for one or more of the eligibility requirements.

Figure 5: Most Common Reasons for Denial of a Principal U Visa Petitioner



Source: USCIS, Analysis of Alien Files (manual file review).

Notes: The estimates are for denied petitions only from 2012 through 2014 as not all petitions reviewed have adjudicative outcomes.

Petitioners for U nonimmigrant status must either be admissible or have all grounds of inadmissibility (such as past criminal acts) waived in the exercise of discretion. If an inadmissible petitioner either does not submit a waiver application via Form I-192, or the Form I-192 is denied in the exercise of discretion, USCIS denies the petition. Generally, USCIS issues denials based on admissibility, including criminality, when a petitioner or derivative is determined not to warrant a favorable exercise of discretion due to serious, violent, or dangerous criminal activity, other public safety concerns, and/or immigration violations (e.g., Crimes Involving Moral Turpitude, fraud or willful misrepresentation) and thus a waiver (Form I-192) is not approved. USCIS considers each case individually, based on all credible evidence provided.

Other reasons for denial included:

- The petitioner did not meet certain eligibility requirements, such as demonstrating helpfulness, substantial physical or mental abuse, or meeting the definition of a victim;
- The petitioner obtained another lawful status, abandoned or withdrew their petition, or had a previously approved Form I-918; and
- USCIS determined the petitioner was inadmissible due to fraud and/or determined the petitioner did not provide credible evidence to establish eligibility.

Wait-Listing of Petitions

By statute, USCIS may only approve 10,000 U principal petitions in a fiscal year.⁵ Anticipating that the statutory cap might be exceeded, USCIS created a regulatory waiting list process as part of the 2007 rulemaking, which the agency implemented in 2013, the first year that the number of petitions pending adjudication reached into the tens of thousands. USCIS has reached this annual statutory cap every year since Fiscal Year 2010. If USCIS determines that a principal petitioner is eligible for a U visa but for the statutory cap, USCIS places the petitioner and eligible derivatives on the waiting list.⁶ In 2018,⁷ USCIS placed 7,421 principal petitioners on the waiting list; this is about one-third of the number of principals

⁵ The 10,000 annual statutory cap does not include derivatives.

⁶ While the principal petitioner is on the waitlist, the principal petitioner and eligible derivatives physically present in the United States are granted deferred action and are eligible to apply for work authorization. “Deferred action” is a discretionary determination to defer the removal of an individual as an act of prosecutorial discretion; while a person has deferred action, generally, removal proceedings are not initiated against them.

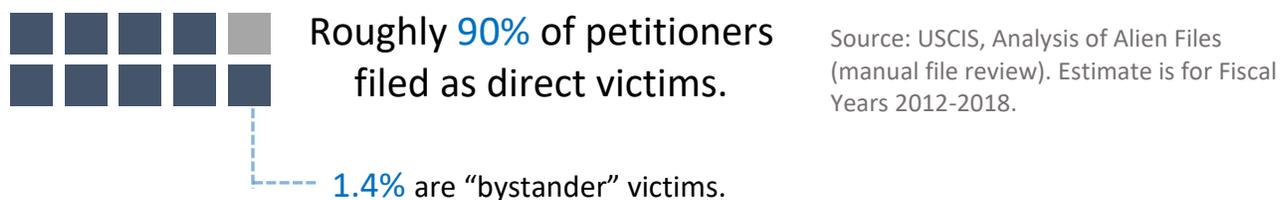
⁷ This was the last year of complete data available to USCIS at the time of analysis.

placed on the waiting list in Fiscal Year 2014. USCIS has placed fewer people on the waiting list due to agency resource constraints.

Principal Petitioner “Victim Type”

Various individuals may request certification as a victim, including direct victims and indirect victims. The *direct victim* is the person against whom the crime was perpetrated and who has suffered direct and proximate harm as a result of the commission of qualifying criminal activity. A *bystander* who suffers an unusually direct injury as a result of QCAs may also qualify as a direct victim. Certain family members of a direct victim, in particular and limited circumstances, may apply as an *indirect victim*.⁸ About 90% of all principal petitioners file as direct victims of QCAs. The remaining 10% filed as indirect victims of criminal activity.

Figure 4: Victim Type



Note: Inclusion of case examples are intended to show the examples of petitions filed. For pending petitions, inclusion as an example does not imply eligibility.

Case Example (Sexual Assault/Direct Victim)

In a petition certified by Immigration and Customs Enforcement (ICE)’s Homeland Security Investigations (HSI) in 2015, a religious official was accused of sexual abuse of minors. During the investigation, HSI identified victims in a foreign country where the official regularly traveled on missions.

One victim submitted to multiple forensic interviews by investigators and provided testimony at the religious official’s criminal trial located in the United States regarding the religious official’s history of abuse. This victim submitted a petition for U nonimmigrant status. On the certified Form I-918B, HSI indicated that the victim’s testimony and supporting evidence formed the basis for the charges brought against the official and helped secure a conviction. The petition was pending at the time of USCIS’ manual file review.

⁸ For a family member to be eligible for a U visa as an indirect victim, he or she must have a qualifying family relationship to the direct victim. Depending on the direct victim’s age at the time the petition is filed, the direct victim’s spouse, unmarried children under age 21, parents, and unmarried siblings under age 18 may qualify.

Case Example (Sexual Assault/Indirect Victim)

A woman submitted a petition as an indirect victim of a crime against her U.S. citizen granddaughter. The adult granddaughter, who has severe cognitive challenges, was sexually assaulted by a neighbor in their apartment building. The grandmother reported the sexual assault to the police on behalf of the adult granddaughter, and assisted investigators with understanding what had occurred, and collecting necessary evidence. At the time of our review, the petition was pending.

Case Example (Murder Victim/Indirect Victim)

In Washington State, a Form I-918B was certified for the mother of a murder victim. The teenage murder victim was kidnapped from his place of work, along with four friends. The victims were murdered and found sometime later in a shallow grave. As the remains were otherwise unidentifiable, the mother of one of the victims provided DNA evidence in order to identify the remains of her son. She was also able to help police investigators confirm the last known location of her son and his social network. The mother submitted a U visa petition and was approved.

Dual Filers: Petitioners Who File Petitions both as a Principal and Derivative

During the file review, USCIS identified petitioners who filed as principals, and were also petitioned for as derivatives.⁹ USCIS also noted families where more than one person filed as a principal for the same crime and petitioned for the other (same) family members as derivatives. In practice, this means that if all principal petitioners are approved, then each one would take a cap number for the year when they each could have been a derivative under one principal, freeing cap numbers for other principal petitioners. Further, this impacts the operational efficiency of officers, as each petition would need to be adjudicated separately on its merits and at least one petition denied per dual filer.

In 2012, USCIS found that 191 principals also appeared to have been filed for as a derivative; this number increased substantially to 477 in 2018 and 960 in 2019. Across all years, about 5% of principal petitioners were also petitioned for as a derivative by a family member who had filed their own U visa petition.

Conclusion

This comprehensive research on key demographic and filing trends will support USCIS in developing data-driven regulatory and policy changes in order to improve the integrity of the U visa program, ensure that the program is following Congressional intent, and increase efficiency in processing U visa petitions. By considering these findings when developing policy and regulatory changes, USCIS can reduce frivolous filings, rectify program vulnerabilities, and increase benefit integrity – key components of USCIS' mission.

⁹ Note: Dual filing may occur so that eligible petitioners can extend benefits to more family members since principal petitioners may submit petitions for spouses or children, for example, whereas a derivative may not petition for other family members. Further, dual filings may be a result of an attorney, preparer, or petitioner filing *pro se* not understanding the filing process.