

Immigration Relief for Noncitizen Crime Victims

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Noncitizens (referred to as *aliens* in immigration law), like citizens, may be victims of crime in the United States. Noncitizen crime victims can be temporary *nonimmigrants* (e.g., tourists, students, temporary workers), permanent immigrants (e.g., employment and family-based immigrants), or unauthorized noncitizens who do not have a lawful immigration status. Under federal law, specific protections from removal (deportation) are sometimes available to certain noncitizen crime victims; these protections serve both to encourage reporting to law enforcement and to aid victims who may need immigration relief (e.g., domestic violence victims whose immigration status is tied to their abuser, those with expiring temporary nonimmigrant status, or unauthorized noncitizens).

Among the statuses noncitizen victims may receive, the *U nonimmigrant status* is available to certain noncitizen victims of a relatively broad range of crimes. These individuals may be eligible if they have suffered physical or mental abuse as a result of *qualifying crimes* that violate certain federal, state, or local laws; these qualifying crimes range from rape, torture, and trafficking to extortion and blackmail. Among other requirements, victims must also have been or are likely to be helpful in the investigation, prosecution, conviction, or sentencing of the alleged or convicted offender. Individuals with U nonimmigrant status can remain in the United States legally, are authorized to work, and can apply for lawful permanent resident (LPR) status after three years. In addition, their children and spouses, and in some cases their parents and/or siblings, can apply for derivative U status that confers the same benefits.

The number of U status recipients is limited to 10,000 principal petitioners per fiscal year. Once reached, additional petitioners who may qualify can be granted conditional approval. There is currently a backlog of 170,805 principal petitioners and 114,450 accompanying family member petitioners (e.g., children, spouses). The extent of the backlog means that, as of the cover date of this report, new applicants are likely to wait up to approximately five years before the Department of Homeland Security (DHS) adjudicates their U nonimmigrant status application. Additionally, those whose applications have been recently adjudicated and have been conditionally approved to receive U status may wait up to an additional 17 years to receive the status due to the 10,000 annual cap.

There are additional options for immigration relief for victims of specific types of crime, such as human trafficking or domestic violence. This includes (1) the *T nonimmigrant status* for trafficking victims, (2) an additional form of immigration relief for trafficking victims referred to as *continued presence*, and (3) the *Violence Against Women Act (VAWA) self-petitioning* for LPR status for victims of domestic violence. The T nonimmigrant status has an annual limit of 5,000. That limit was not reached in any fiscal year from FY2012 to FY2021 (the most recent years for which data are available). There is no limit on the number of individuals who can apply for *continued presence* or who may be VAWA self-petitioners.

There are limited data on the rate of criminal victimizations of noncitizens. There are several federal programs that collect and publish crime or crime-related data; not all of these programs include information that would allow researchers to better understand the rate at which crime affects noncitizens and immigrant communities. Some recent data indicate the violent victimization rate of noncitizens is, on average, lower than the rate for U.S. citizens, and that it has been declining since 2019.

Policymakers may consider whether the forms of immigration relief currently available for noncitizen crime victims are addressing the intended or desired scope of criminal activity and number of victims. They may also consider the substantial U status backlog and what some observers see as an underutilization of the T status if they

debate existing limits on these various forms of immigration relief. Finally, policymakers may consider whether current data collection on noncitizen criminal victimization is sufficient to assess the adequacy of existing immigration relief options for noncitizen crime victims.

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In the United States, both U.S. citizens and noncitizens¹ (referred to as *aliens* in immigration law) may be victims of crime. Crime victims may be hesitant to report victimization for a variety of reasons, including, but not limited to, fear of reprisal, a belief that police would not or could not do anything to help, and a belief that the crime is a personal matter or too trivial to report.² Additionally, some noncitizens may be reluctant to report criminal victimization to the police for reasons related to their immigration status. For example, a noncitizen may be hesitant to report incidences of domestic violence when the noncitizen victim's immigration status is tied to their abuser. Some noncitizen crime victims may be unauthorized immigrants who do not have a lawful immigration status, and as a result may be hesitant to seek out law enforcement for fear of removal (deportation).³ To encourage noncitizen victims to reach out to police and to help provide relief to these victims, federal law provides for specific protections from removal that may be available to them.

In legislating and conducting oversight on programs offering immigration relief for crime victims, policymakers may seek available data on noncitizen crime victimization as well as information on how existing forms of relief are utilized. This report outlines the immigration statuses for which noncitizen victims may be eligible, their eligibility requirements, issuance data, and benefits provided by such statuses. It also highlights specific forms of immigration relief available to noncitizen victims of particular types of crime. The report then provides an overview of existing data on noncitizen crime victims and concludes by presenting relevant issues policymakers may consider regarding immigration protections available to noncitizen victims.

Immigration Relief: U Nonimmigrant Status

Through the Violence Against Women Act (VAWA) of 2000,⁴ P.L. 106-386, Congress created the U nonimmigrant status, often called the U-visa,⁵ for noncitizen victims who have suffered physical or mental abuse as a result of a qualifying crime and who are cooperating with U.S. officials.⁶ According to the bill's conference report, the purpose of creating the U status was to:

strengthen the ability of law enforcement agencies to detect, investigate, and prosecute cases of domestic violence, sexual assault, trafficking of aliens, and other crimes... committed against aliens, while offering protection to victims of such offenses in keeping with the humanitarian interests of the United States. This visa will encourage law enforcement officials to better serve immigrant crime victims and to prosecute crimes committed against aliens.... Creating a new nonimmigrant visa classification will facilitate the reporting of crimes to law enforcement officials by trafficked, exploited, victimized,

¹ As used in this report, the term *noncitizens* refers to individuals who are not citizens of the United States—either U.S.-born or naturalized. This includes lawful permanent residents, refugees, those with nonimmigrant status (e.g., tourists, foreign students), and unauthorized individuals.

² Alexandra Thompson and Susannah N. Tapp, *Criminal Victimization, 2021*, Bureau of Justice Statistics, Washington, DC, September 2022, p. 5, <https://bjs.ojp.gov/content/pub/pdf/cv21.pdf>.

³ For more information about the unauthorized population in the United States, see CRS Report R47218, *Unauthorized Immigrants: Frequently Asked Questions*.

⁴ Division B of the Victims of Trafficking and Violence Protection Act of 2000 (TVPA; P.L. 106-386, as amended).

⁵ Although U nonimmigrant status is often referred to as the U-visa, it is not technically a visa if it is given to noncitizens present in the United States, because status is conferred by the Department of Homeland Security (DHS), which does not have the authority to issue visas. Only the U.S. State Department, through consular offices, may issue visas. Thus, only noncitizens present outside of the United States can receive U-visas while noncitizens present in the United States receive U status.

⁶ 8 U.S.C. §1101(a)(15)(U).

and abused aliens who are not in lawful immigration status. It also gives law enforcement officials a means to regularize the status of cooperating individuals during investigations or prosecutions. Providing temporary legal status to aliens who have been severely victimized by criminal activity also comports with the humanitarian interests of the United States.⁷

To give further context, according to DHS guidance:

Congress, in the [TVPA], created the U nonimmigrant status program out of recognition that victims without legal status may otherwise be reluctant to help in the investigation or prosecution of criminal activity. Immigrants, especially women and children, can be particularly vulnerable to criminal activity like human trafficking, domestic violence, sexual assault, stalking, and other crimes due to a variety of factors, including but not limited to: language barriers, separation from family and friends, lack of understanding of U.S. laws, fear of deportation, and cultural differences. Accordingly, under this law, Congress sought not only to prosecute perpetrators of crimes committed against immigrants, but to also strengthen relations between law enforcement and immigrant communities.⁸

U Status Eligibility

To qualify for U status, a noncitizen must file a petition and establish that

- they suffered substantial physical or mental abuse as a result of having been a victim of qualifying criminal activities (see the “Qualifying Crimes” section);
- as certified by a law enforcement or immigration official,⁹ they (or if the noncitizen is a child under age 16, the child’s parent, guardian, or friend) possess information about the criminal activity involved;
- they have been, are being, or are likely to be helpful in the investigation, prosecution, conviction, or sentencing of the criminal activity by federal, state, or local law enforcement authorities; and
- the criminal activity violated the laws of the United States or occurred in the United States.¹⁰

In addition, the victim must be *admissible* to the United States based on a review of his/her criminal history, immigration violations, and other factors.¹¹ Individuals can apply for waivers of inadmissibility if eligible.¹²

⁷ U.S. Congress, Conference Committee, *Victims of Trafficking and Violence Protection Act of 2000*, conference report to accompany H.R. 3244, 106th Cong., 2nd sess., Report 106–939, October 5, 2000, p. 72, at <https://www.congress.gov/106/crpt/hrpt939/CRPT-106hrpt939.pdf>.

⁸ DHS, “U and T Visa Law Enforcement Resource Guide,” p. 4, at https://www.dhs.gov/sites/default/files/publications/U-and-T-Visa-Law-Enforcement-Resource%20Guide_1.4.16.pdf.

⁹ This certification can be provided by a federal, state, local, tribal, and territorial law enforcement official, prosecutor, judge, or other government official. DHS, “U and T Visa Law Enforcement Resource Guide,” p. 5, at https://www.dhs.gov/sites/default/files/publications/U-and-T-Visa-Law-Enforcement-Resource%20Guide_1.4.16.pdf.

¹⁰ 8 U.S.C. § 1101(a)(15)(U).

¹¹ The grounds for inadmissibility include health-related grounds, criminal history, security and terrorist concerns, *public charge* (e.g., indigence), seeking to work without proper labor certification, illegal entry and immigration law violations, ineligibility for citizenship, and previous removal (8 U.S.C. § 1182).

¹² For more information, see CRS Legal Sidebar LSB10603, *Discretionary Waivers of Criminal Grounds of Inadmissibility Under INA § 212(h)*.

Derivative Status for Family Members

Derivative U status is available to the following family members of U status recipients:

- children,
- spouses,
- parents (if the principal applicant is under age 21), and
- unmarried siblings under age 18 (if the principal applicant is under age 21).¹³

Derivative U status allows an individual to live and work in the United States (for more information, see the “U Status Benefits” section).

Qualifying Crimes

Qualifying criminal activity refers to one or more of the following or any similar activity in violation of federal or state criminal law:

- rape;
- torture;
- trafficking;
- incest;
- domestic violence;
- sexual assault;
- abusive sexual contact;
- prostitution;
- sexual exploitation;
- stalking;
- female genital mutilation;
- being held hostage;
- peonage;
- involuntary servitude;
- slave trade;
- kidnapping;
- abduction;
- unlawful criminal restraint;
- false imprisonment;
- blackmail;
- extortion;
- manslaughter;
- murder;
- felonious assault;
- witness tampering;

¹³ 8 U.S.C. §1101(a)(15)(U)(ii).

- obstruction of justice;
- perjury;
- fraud in foreign labor contracting (as defined in 18 U.S.C. §1351); or
- attempt, conspiracy, or solicitation to commit any of the above mentioned crimes.¹⁴

These categories of criminal activity are not specific citations in the criminal code; they are general categories of crime that could fall under various federal, state, or local statutes.

USCIS Review of U Status Petitions

United States Citizenship and Immigration Services (USCIS), an agency within DHS, adjudicates applications for immigration benefits. USCIS determines who is eligible for U status and law enforcement agencies assist by providing a certification attesting that the individual is or will be helpful in the investigation, prosecution, conviction, or sentencing of the criminal activity.

USCIS reviews U status applications, which consist of

- Form I-918 (the petition);
- Form I-918B (certification by law enforcement);
- victim's affidavit;
- supporting evidence, such as
 - police reports;
 - medical records;
 - court documents;
 - witness affidavits; and
 - photographs;
- a waiver of inadmissibility (if applicable).

USCIS also reviews the petitions of any derivative U status applicants. USCIS performs background checks and determines if the individual is admissible. If any derogatory information is found, USCIS can deny derivative U status petitions while still approving the principal U status petitioner.

The 10,000 Cap for U Status

The U status category is statutorily limited to 10,000 principal noncitizens per fiscal year.¹⁵ As shown in **Table 1**, the statutory cap of 10,000 principal noncitizens per fiscal year has been reached each fiscal year since FY2012. Even if the statutory cap is reached before the end of the fiscal year, USCIS continues to accept and process new petitions for U status and issues *conditional approval* and work authorization to petitioners who are eligible for but unable to receive U status because the cap has been reached.¹⁶ Unauthorized noncitizens, including those

¹⁴ 8 U.S.C. §1101(a)(15)(U)(iii).

¹⁵ INA §214(o)(2). Although the interim final regulations on U status were released in September 2007, prior to that noncitizens who met the criteria for U status were given immigration benefits similar to U status. In 2005, for example, 287 noncitizens were given "quasi-U" status (CRS analysis of unpublished data from DHS).

¹⁶ DHS, *U and T Visa Law Enforcement Resource Guide*, p. 5, at <https://www.dhs.gov/sites/default/files/publications/>

whose status might expire while on the waiting list for U status, typically receive a discretionary reprieve from removal—deferred action or parole.¹⁷ However, as of the cover date of this report, it takes approximately five years for DHS to adjudicate new U status applications. If approved, they are placed on the waiting list and granted deferred action or parole.¹⁸ After receiving conditional approval, for those who recently entered the backlog, it can take up to approximately 17 additional years (as of the end of FY2021) to receive U status due to the length of the backlog of those conditionally approved and the cap.¹⁹

Table 1. Issuance of U Status

FY2012-FY2021

FY	Principal Victims				Derivative Family Members			
	Applied	Approved	Denied	Pending	Applied	Approved	Denied	Pending
2012	21,141	10,031	1,684	19,824	15,126	7,421	1,465	15,592
2013	25,486	10,022	1,840	33,409	18,266	7,724	1,234	24,480
2014	26,089	10,077	3,662	45,814	19,297	8,457	2,655	32,948
2015	30,129	10,060	2,440	63,779	22,636	7,649	1,754	46,507
2016	34,797	10,019	1,761	87,290	25,469	7,624	1,257	63,616
2017	37,287	10,011	2,042	112,272	25,703	7,628	1,612	79,971
2018	34,967	10,009	2,317	134,714	24,024	7,906	1,991	94,050
2019	28,364	10,010	2,733	151,758	18,861	7,846	2,397	103,737
2020	22,358	10,013	2,693	161,708	14,090	7,212	2,472	108,366
2021	21,874	10,003	3,594	170,805	15,290	6,728	3,085	114,450

Source: Department of Homeland Security, U.S. Citizenship and Immigration Services, https://www.uscis.gov/sites/default/files/document/data/I918u_visastatistics_fy2022_qtr3.pdf.

Notes: Some approvals and denials may have been received in prior fiscal year(s) filings. *Pending* applicants are awaiting a decision. The pending number is likely growing due to USCIS delays, which is addressed in USCIS, *Fiscal Year 2022 Progress Report*, December 2022, at https://www.uscis.gov/sites/default/files/document/reports/OPA_ProgressReport.pdf. In addition, it is not clear why USCIS data indicate that USCIS exceeded the annual cap of 10,000 principal applicant approvals. USCIS communicated with CRS that they do not exceed the cap but they have not provided an explanation for why their computer system indicates values exceeding the cap.

U-and-T-Visa-Law-Enforcement-Resource%20Guide_1.4.16.pdf.

¹⁷ 8 C.F.R. §214.14(d)(2). *Deferred action* is a temporary reprieve from removal granted by DHS. For more information, see CRS Report R45158, *An Overview of Discretionary Reprieves from Removal: Deferred Action, DACA, TPS, and Others*. *Parole* is a term in immigration law that means the noncitizen has been granted temporary permission to be in the United States. Parole does not constitute formal admission to the United States and parolees are required to leave when the parole expires, or to be admitted in a lawful status if eligible. For more information, see CRS Report R46570, *Immigration Parole*.

¹⁸ This is an increase from FY2016, when it took an average of less than two years to process cases. See USCIS, “Historical National Average Processing Time (in Months) for All USCIS Offices for Select Forms By Fiscal Year: Fiscal Year 2016 to 2020 (up to June 30, 2020),” <https://egov.uscis.gov/processing-times/historic-pt>. In addition, updated USCIS information on case processing times is available at <https://egov.uscis.gov/processing-times/>.

¹⁹ Based on CRS analysis of DHS, USCIS data, available at https://www.uscis.gov/sites/default/files/document/data/I918u_visastatistics_fy2022_qtr3.pdf.

U Status Benefits

U status is generally valid for four years. It can only be extended beyond four years if “the alien’s presence in the United States continues to be necessary to assist in the investigation or prosecution of the qualifying criminal activity.”²⁰ Individuals with U status can remain in the United States lawfully.

Principal and derivative recipients of U status are authorized to work by virtue of their status.²¹ They can work anywhere in the United States for any employer.

Individuals with U status are not eligible for most federal public benefits. However, those who receive U status may be eligible for crime victim assistance and/or compensation through programs funded by the Department of Justice (DOJ) (see text box below).²²

Immigrant Eligibility For Victim Services and Compensation Authorized by the Victims of Crime Act (VOCA)²³

VOCA (P.L. 98-473) authorizes several grant programs, including the Victim Assistance Formula Grant and the Victim Compensation Formula Grant, which fund local organizations and state agencies that directly assist and compensate crime victims. Immigrant and nonimmigrant crime victims are eligible to receive direct assistance and compensation from these programs.²⁴ To receive Victim Compensation Formula Grant funds, a state crime victim compensation program must promote victim cooperation with requests of law enforcement authorities, among other eligibility requirements.²⁵ States maintain the authority and discretion to establish their own standards for victim cooperation with the reasonable requests of law enforcement agencies. State agencies may use Victim Assistance Formula Grant funds to support direct services regardless of a victim’s participation in the criminal justice process, and victim eligibility for direct services is not dependent on the victim’s immigration status.²⁶ Some victim advocates believe that promoting victim cooperation with law enforcement agencies can create barriers for underserved communities, such as immigrants, to access victim services.²⁷

Adjustment to Lawful Permanent Resident (LPR) Status

After three years, those with U status may apply for lawful permanent resident (LPR) status (i.e., a green card).²⁸ To adjust from U to LPR status, a noncitizen must have

²⁰ 8 C.F.R. 214.14(g)(2)(ii).

²¹ 8 C.F.R. §274a.12(a)(19) and (20).

²² For information on victim assistance and compensation supported by DOJ, see CRS Report R42672, *The Crime Victims Fund: Federal Support for Victims of Crime*; and CRS Report R45410, *The Violence Against Women Act (VAWA): Historical Overview, Funding, and Reauthorization*.

²³ This textbox was written by Lisa Sacco, CRS Analyst in Illicit Drugs and Crime Policy.

²⁴ For more information on VOCA programs, see CRS Report R42672, *The Crime Victims Fund: Federal Support for Victims of Crime*.

²⁵ 34 U.S.C. §20101(b).

²⁶ U.S. Department of Justice, Office of Justice Programs, Office for Victims of Crime, *Side-by-Side Comparison of the VOCA Victim Assistance Guidelines and Rule*, <https://ovc.ojp.gov/sites/g/files/xyckuh226/files/media/document/comparison-VOCA-victim-assistance-guidelines-and-final-rule.pdf>.

²⁷ Danielle Sered and Bridgette Butler, *Expanding the Reach of Victim Services: Maximizing the Potential of VOCA Funding for Underserved Survivor*, Vera Institute of Justice, August 2016, <https://www.vera.org/downloads/publications/expanding-the-reach-of-victim-services-voca-updated.pdf>.

²⁸ The regulations concerning adjustment to LPR status from U status were released on December 12, 2008, and became effective on January 12, 2009. DHS, “Adjustment of Status to Lawful Permanent Resident for Aliens in T or U Nonimmigrant Status,” 73 *Federal Register* 75540-75564, December 12, 2008.

- been physically present in the United States for a continuous period of at least three years since the date of admission under U status;
- not participated in “Nazi persecution, genocide, or the commission of any act of torture or extrajudicial killing”²⁹;
- “not unreasonably refused to provide assistance to an official or law enforcement agency that had responsibility in an investigation or prosecution of persons in connection with the qualifying criminal activity after the alien was granted U nonimmigrant status”³⁰; and
- “establish[ed] to the satisfaction of the Secretary [of Homeland Security] that the alien’s presence in the United States is justified on humanitarian grounds, to ensure family unity, or is in the public interest.”³¹

While the number of individuals who can receive U status is limited to 10,000 principal petitioners each fiscal year, there is no limit on the number of individuals with U status (whether principal or derivative petitioners) who can subsequently adjust to LPR status in a given fiscal year.

Other Immigration Relief for Victims of Specific Crimes

U status provides one form of immigration relief for a relatively broad range of noncitizen crime victims. For some noncitizen victims of specific types of crime such as human trafficking or domestic violence, there are other forms of immigration relief for which they may be eligible. If policymakers consider immigration relief for specific categories of crime victims, they may look not only to the broader U status but also to specific paths of immigration relief already afforded to victims of specific crimes.

Trafficking Victims³²

In the United States, trafficking victims—both U.S. citizens and noncitizens—are exploited for commercial sex and forced labor. Some noncitizen victims may not have a lawful immigration status which may deter them from seeking help or reaching out to law enforcement. This may be due, in part, to fear of removal. Other noncitizens who have been victims of trafficking may have fallen out of lawful status during their victimization. In addition to the U status, federal law provides additional protections from removal that may be available to noncitizen victims of trafficking.

T Status

The Victims of Trafficking and Violence Protection Act of 2000 (TVPA; P.L. 106-386, as amended) created a new nonimmigrant category, known as T status or T-visa,³³ for noncitizens

²⁹ 8 C.F.R. §245.24(b)(4); 8 U.S.C. §1182(a)(3)(E).

³⁰ 8 C.F.R. §245.24(b)(5).

³¹ 8 C.F.R. §245.24(b)(6).

³² For additional information on immigration relief for trafficking victims, see CRS Report R46584, *Immigration Relief for Victims of Trafficking*.

³³ Although T nonimmigrant status is often referred to as the T-visa, it is not technically a visa if it is given to

who are victims of *severe forms of trafficking in persons*.³⁴ To qualify for the T category, a noncitizen must

- demonstrate that they are a victim of a severe form of trafficking in persons³⁵;
- be physically present in the United States, American Samoa, or the Commonwealth of the Northern Mariana Islands, or at a U.S. port of entry because of such trafficking, or be admitted to the United States to participate in investigative or judicial processes associated with such trafficking³⁶;
- have complied with any reasonable request for assistance from a law enforcement agency³⁷ in the investigation or prosecution of acts of trafficking unless unable to do so due to physical or psychological trauma, or being under age 18³⁸; and
- be likely to suffer extreme hardship involving unusual and severe harm upon removal from the United States.

To receive T status, the noncitizen must also be admissible to the United States or obtain a waiver of inadmissibility. A waiver of inadmissibility is available in a number of circumstances, including for health-related grounds, public charge (indigence) grounds,³⁹ or criminal grounds⁴⁰ if the activities rendering the noncitizen inadmissible were caused by or incident to their victimization.⁴¹ This waiver may be particularly relevant for those involved in sex trafficking

noncitizens present in the United States, because status is conferred DHS, which does not have the authority to issue visas. Only the State Department, through consular offices, may issue visas. Thus, only noncitizens present outside of the United States can receive T-visas while noncitizens present in the United States receive T status.

³⁴ “T” refers to the letter denoting the subsection of the Immigration and Nationality Act (INA) that provides the authority for the noncitizen’s admission into the United States (i.e., INA §101(a)(15)(T), codified at 8 U.S.C. §1101(a)(15)(T)). The TVPA defines *severe forms of trafficking in persons* to mean (1) 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; or (2) 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 (22 U.S.C. §7102).

³⁵ It is the applicant’s responsibility to demonstrate the elements of a severe form of trafficking in persons. For example, the applicant must include a personal statement explaining in their own words the facts of their victimization (8 C.F.R. §214.11(d)(2)).

³⁶ Prior to the TVPA reauthorization in 2008 (P.L. 110-457), this was interpreted in the regulations to apply to those noncitizens who (1) are present because they are being held in some sort of severe form of trafficking situation, (2) were recently liberated from a severe form of trafficking, or (3) were subject to a severe form of trafficking in the past and remain present in the United States for reasons directly related to the original trafficking. P.L. 110-457 expanded the definition of physical presence to include trafficking victims admitted to the United States for trafficking investigations and legal proceedings.

³⁷ To be eligible for T status, most noncitizens must submit evidence that they have complied with reasonable requests for assistance from a law enforcement agency. A signed declaration from a law enforcement agency can support a T status application, but it is not required. It is not necessary for the noncitizen to be *certified* by a law enforcement agency, as is required by those applying for U nonimmigrant status for noncitizen crime victims. For more information, see USCIS, *Information for Law Enforcement Agencies and Judges*.

³⁸ Children under age 18 at the time that the application for T status is filed are exempt from the requirement to comply with law enforcement requests for assistance. In the original TVPA, the age of mandatory compliance was under 15, but the TVPA reauthorization in 2003 (P.L. 108-193) increased the age of mandatory compliance to under 18.

³⁹ For more information, see CRS Insight IN11217, *Immigration: Public Charge 2022 Final Rule*.

⁴⁰ For more information, see CRS Report R45151, *Immigration Consequences of Criminal Activity*.

⁴¹ 8 U.S.C. §1182(d)(13). The waiver is not automatically granted, and there is no appeal if it is denied.

because prostitution is one of the grounds of inadmissibility specified in the INA.⁴² Additionally, noncitizen victims of trafficking who are present without being admitted or paroled into the United States are inadmissible and would need to obtain a waiver to be eligible for T status. For example, a noncitizen who paid a smuggler to enter the country illegally and then was held in servitude would need to get an inadmissibility waiver to be eligible for T status. Individuals with T status can remain in the United States lawfully, and after three years may petition for LPR status.⁴³

The number of T status recipients is capped at 5,000 principal noncitizens each fiscal year. Additionally, the spouse, children, parents (if the principal applicant is under the age of 21), or siblings under the age of 18 (if the principal applicants is under age 21) may be given derivative T status in order to avoid extreme hardship; derivatives are not counted against the numerical limit.⁴⁴ For the last 10 fiscal years, the 5,000 cap has not been reached.⁴⁵ **Table 2** includes data on the number of victim and derivative family applications for T status for the 10-year period from FY2012 to FY2021. In FY2021, 1,702 trafficking victims submitted applications, and USCIS approved 829. In that same fiscal year, 1,078 derivative family members of victims submitted applications, and USCIS approved 622.⁴⁶

Table 2. USCIS Applications for T Nonimmigrant Status

FY2012–FY2021

Fiscal Year	Principal Victims				Derivative Family Members			
	Submitted	Approved	Denied	Pending	Submitted	Approved	Denied	Pending
2012	790	667	81	565	848	747	94	453
2013	804	851	97	421	1,021	984	85	518
2014	908	619	135	590	913	787	95	579
2015	1,014	611	239	809	1,113	692	182	854
2016	955	748	175	869	890	937	144	713
2017	1,177	669	213	1,180	1,142	667	123	1,100
2018	1,613	576	300	1,916	1,315	703	251	1,483
2019	1,242	500	365	2,358	1,011	491	216	1,860
2020	1,110	1,040	778	1,798	966	1,018	511	1,448
2021	1,702	829	524	2,299	1,078	622	346	1,748

⁴² 8 U.S.C. §1182(a)(2)(D).

⁴³ The regulations concerning adjustment to LPR status from T status were released on December 12, 2008, and became effective on January 12, 2009. DHS, “Adjustment of Status to Lawful Permanent Resident for Aliens in T or U Nonimmigrant Status,” 73 *Federal Register* 75540-75564, December 12, 2008.

⁴⁴ In some cases, immediate family members of a trafficking victim may receive a T-visa to join the victim in the United States. This may be necessary if the traffickers are threatening the victim’s family.

⁴⁵ USCIS, *Number of Form I-914, Application for T Nonimmigrant Status by Fiscal Year, Quarter, and Case Status: Fiscal Years 2008 – 2021*, https://www.uscis.gov/sites/default/files/document/data/I914_visastatistics_fy2021_qtr4.pdf.

⁴⁶ *Ibid.*

Source: USCIS, *Number of Form I-914, Application for T Nonimmigrant Status by Fiscal Year, Quarter, and Case Status: Fiscal Years 2008 – 2021*, https://www.uscis.gov/sites/default/files/document/data/1914t_visastatistics_fy2021_qtr4.pdf.

Notes: Some approvals and denials may have been received in prior fiscal year(s) filings. Pending applicants are awaiting a decision. The pending number is likely growing due to USCIS delays, which is addressed in USCIS, *Fiscal Year 2022 Progress Report*, December 2022, at https://www.uscis.gov/sites/default/files/document/reports/OPA_ProgressReport.pdf

Continued Presence

In addition to the U status and T status, the TVPA gives the Secretary of DHS the authority to grant *continued presence* for certain victims of a severe form of trafficking of persons in order to facilitate the investigation and prosecution of the individuals responsible for such trafficking.⁴⁷ Continued presence is not an immigration status, but it offers temporary protection from removal. Federal law enforcement officials who encounter victims of severe forms of trafficking in persons who are potential witnesses to that trafficking may request that DHS grant continued presence to the noncitizen victim in the United States.⁴⁸ As shown in **Table 3**, during the most recent 10-year period for which data are publicly available, fewer than 300 people were granted continued presence in any single year. In FY2020, 117 individuals were granted continued presence.

Table 3. Continued Presence Granted to Trafficking Victims

FY2011-FY2020									
FY2011	FY2012	FY2013	FY2014	FY2015	FY2016	FY2017	FY2018	FY2019	FY2020
283	199	171	122	175	129	160	121	215	117

Source: Department of Justice, *Attorney General's Annual Report to Congress on U.S. Government Activities to Combat Trafficking in Persons*, multiple years.

Note: FY2020 is the most recent year with available data.

Domestic Violence Victims

U status provides immigration options for victims of VAWA-related offenses such as domestic violence, dating violence, and sexual assault. However, noncitizen victims of domestic violence may face a precarious situation if their legal immigration status depends on the sponsorship of a citizen or LPR who is their abuser and who often use such circumstances to continue the abuse. VAWA sought to address this situation by creating an avenue for victims to self-petition for LPR status in the United States for themselves and their children (younger than 21) independent of their citizen/LPR abusive sponsor.⁴⁹ These applicants are typically referred to as *VAWA self-petitioners*.

Under VAWA, noncitizen victims of *battery or extreme cruelty* at the hands of a U.S. citizen spouse or former spouse, parent, child, or an LPR spouse or former spouse or parent may be eligible for an adjustment of immigration status.⁵⁰ Self-petitions can be filed without the

⁴⁷ 22 U.S.C. §7105(c)(3). Historically, the Attorney General has had discretionary authority to use a variety of statutory and administrative mechanisms to allow the noncitizen's continued presence. See 28 C.F.R. Part 1000.35.

⁴⁸ Requests for continued presence are handled by the Law Enforcement Parole Branch of DHS's Immigration and Customs Enforcement (ICE).

⁴⁹ USCIS, "Green Card for VAWA Self-Petitioner," <https://www.uscis.gov/green-card/green-card-eligibility/green-card-for-va-wa-self-petitioner> (hereinafter *Green Card for VAWA Self-Petitioner*.)

⁵⁰ *Green Card for VAWA Self-Petitioner*.

citizen/LPR abuser's knowledge, consent, or participation.⁵¹ If the applicant is outside of the United States, the self-petitioner application is completed via consular processing.⁵²

VAWA self-petitioners can be of any gender, and in some cases do not need to be married to the abuser at the time of their application.⁵³ An applicant may still be eligible if the marriage ended as a result of bigamy or death, was terminated within two years of applying and in connection to abuse,⁵⁴ or if the abuser lost or renounced their citizenship or LPR status due to the abuse. Once a self-petitioner has filed for a change in status, a subsequent termination of the marriage typically does not bear on the application. Children of the self-petitioner who are unmarried and under age 21 may also be eligible for an adjustment of immigration status as a derivative family member.⁵⁵

There is no annual cap on the number of VAWA self-petitioners that can be approved. As shown in **Table 4**, in FY2021, the most recent year that data are available, USCIS received 23,391 applications from VAWA self-petitioners⁵⁶: 18,172 were from spouses of abusive citizens or LPRs; 544 were from children of abusive citizens or LPRs; and 4,675 were from parents of an abusive U.S. citizen son or daughter.⁵⁷ In FY2021, a total of 6,766 petitions were approved and 3,755 were denied; 42,562 are pending.⁵⁸

⁵¹ USCIS, "Abused Spouses, Children, and Parents," <https://www.uscis.gov/humanitarian/abused-spouses-children-and-parents> (hereinafter *Abused Spouses, Children, and Parents*).

⁵² *Abused Spouses, Children, and Parents*.

⁵³ USCIS, "Questions and Answers: Abused Spouses, Children and Parents Under the Violence Against Women Act (VAWA)," <https://www.uscis.gov/humanitarian/abused-spouses-children-and-parents/questions-and-answers-abused-spouses-children-and-parents-under-the-violence-against-women-act-vawa> (hereinafter *USCIS VAWA Q&A*).

⁵⁴ According to USCIS, "The actual grounds for the termination of the marriage do not need to explicitly cite battery or extreme cruelty." *USCIS VAWA Q&A*.

⁵⁵ The child is not eligible to apply as a derivative family member "if the principal applicant is a self-petitioning parent of an abusive U.S. citizen son or daughter." *Green Card for VAWA Self-Petitioner*.

⁵⁶ There is no cap on VAWA self-petition approvals.

⁵⁷ USCIS, "Number of Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant, With a Classification of VAWA Self-Petitioner," at https://www.uscis.gov/sites/default/files/document/data/I360_VAWA_performancedata_fy2022_qtr3.pdf.

⁵⁸ *Ibid*. Some approved, denied, or pending petitions may have been received in previous fiscal years.

Table 4. VAWA Self- Petitions

FY2012-2021

FY	Self-Petitioning Spouse of Abusive U.S. Citizen or LPR				Self-Petitioning Child of Abusive U.S. Citizen or LPR				Self-Petitioning Parent of Abusive U.S. Citizen Son or Daughter			
	Received	Approved	Denied	Pending	Received	Approved	Denied	Pending	Received	Approved	Denied	Pending
2012	9,006	3,093	1,410	12,847	455	129	122	679	N/A	N/A	N/A	N/A
2013	6,815	9,583	2,585	7,182	265	348	221	350	N/A	N/A	N/A	N/A
2014	7,130	7,207	3,322	3,776	229	239	208	137	N/A	N/A	N/A	N/A
2015	7,865	4,890	2,021	4,756	300	124	125	201	N/A	N/A	N/A	N/A
2016	8,906	5,065	2,063	6,680	483	129	262	292	D	N/A	N/A	D
2017	10,485	3,506	1,589	12,150	462	77	240	439	498	D	131	356
2018	11,216	4,622	1,419	17,215	581	82	158	765	1,007	49	133	1,168
2019	11,838	6,476	1,849	21,358	525	161	245	920	1,581	94	293	2,180
2020	12,344	7,962	2,135	24,883	412	202	275	896	2,121	213	393	3,40
2021	18,172	6,431	2,910	34,543	544	147	213	1,105	4,675	188	632	6,914

Source: USCIS, “Number of Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant, With a Classification of VAWA Self-Petitioner,” https://www.uscis.gov/sites/default/files/document/data/I360_VAWA_performancedata_fy2022_qtr3.pdf.

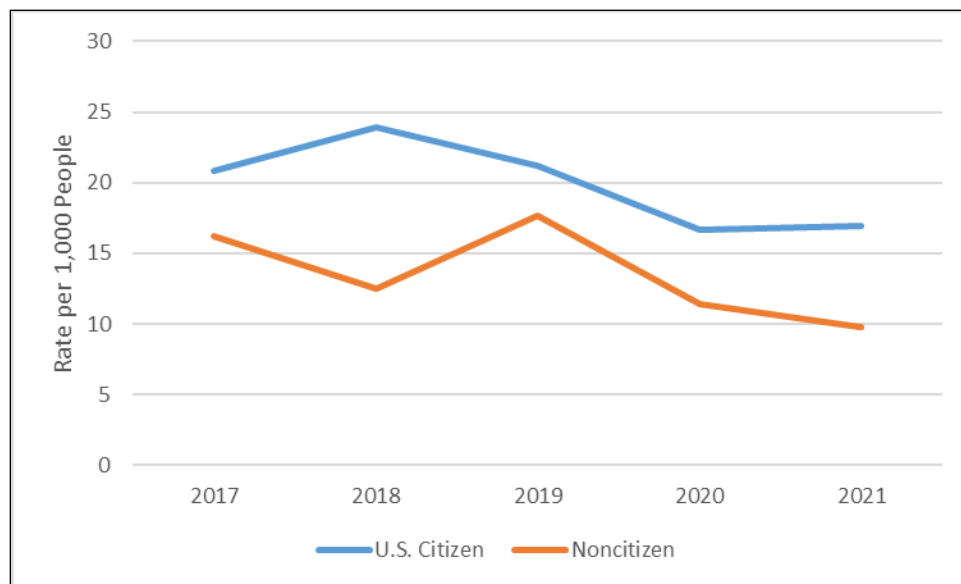
Notes: N/A is used when a number cannot be accurately provided, since that category was not a selection on the I-360 form until FY2016. D = data disclosure standards were not met, according to USCIS. Some approved, denied, or pending petitions may have been received in prior fiscal year(s) filings. *Pending* applicants are awaiting a decision. The pending number is likely growing due to USCIS delays, which is addressed in USCIS, Fiscal Year 2022 Progress Report, December 2022, at https://www.uscis.gov/sites/default/files/document/reports/OPA_ProgressReport.pdf

Data on Noncitizen Victims of Crime

To develop and implement immigration policies that adequately address the needs of noncitizen victims of crime, it is necessary to have data that accurately reflect their experiences. Major national surveys like the American Community Survey (ACS) and the Current Population Survey (CPS) include questions about citizenship status but not about criminal victimizations. However, there are limited sources for data on noncitizens victims of crime.

The National Crime Victimization Survey (NCVS), a large federal crime data collection program administered by the Bureau of Justice Statistics (BJS), does ask about participants' citizenship status.⁵⁹ The NCVS is an annual survey that asks a representative sample of U.S. households (all members of the sampled household who are 12 and older may respond to the survey) about the nature of any criminal victimizations (i.e., frequency, characteristics, and consequences) they experienced.⁶⁰ The 2017 survey was the first instance that the NCVS included a question about respondents' citizenship status.⁶¹ As illustrated in **Figure 1**, the violent victimization rate reported by noncitizen participants was lower than the rate for U.S. citizens, and both generally declined from 2019 to 2021 (**Table 5**).

Figure 1. Violent Victimization Rate for U.S. Citizens and Noncitizens, 2017-2021



Source: Bureau of Justice Statistics (BJS), *Criminal Victimization, 2018*, <https://bjs.ojp.gov/library/publications/criminal-victimization-2018>; BJS, *Criminal Victimization, 2019*, <https://bjs.ojp.gov/library/publications/criminal-victimization-2019>.

⁵⁹ In the 2022 Basic Screen Questionnaire, participants were asked “Are you a citizen of the United States? That is, were you born in the United States, born in a U.S. territory, born of U.S. citizen parent(s), or become a citizen of the U.S. through naturalization?” The response options were as follows: “1) Yes, born in the United States, 2) Yes, born in Puerto Rico, Guam, the U.S. Virgin Islands, or North Marianas, 3) Yes, born abroad of U.S. citizen parent or parents, 4) Yes, U.S. citizen by naturalization, or 5) No, not a U.S. Citizen.” See https://bjs.ojp.gov/content/pub/pdf/ncvs22_bsqa.pdf.

⁶⁰ For more information, see CRS Report R46668, *The National Incident-Based Reporting System (NIBRS): Benefits and Issues*.

⁶¹ Min Xie and Eric P. Baumer, “Immigrant Status, Citizenship, and Victimization Risk in the United States: New Findings from the National Crime Victimization Survey (NCVS),” *Criminology*, vol. 59, no. 4 (July 2021).

publications/criminal-victimization-2019; and BJS, *Criminal Victimization, 2021*, <https://bjs.ojp.gov/library/publications/criminal-victimization-2021>.

Notes: Violent victimization includes rape or sexual assault, robbery, aggravated assault, and simple assault. It excludes homicide because the NCVS is based on interviews with surviving victims. Rate is per 1,000 persons age 12 or older.

Table 5 presents the number and rate of violent victimizations captured by the NCVS for U.S.-born citizens, naturalized citizens, and noncitizens from 2017 to 2021. During those years, the violent victimization rate per 1,000 people was higher for U.S.-born citizens than noncitizens, but lower for naturalized U.S. citizens than noncitizens. The victimization rate for noncitizens was at its highest (for the years in which these data were available) in 2019 and then declined in succeeding years. During 2020 and 2021, the violent victimization rate remained relatively stable for U.S. citizens (with a slight increase for naturalized citizens), whereas the violent victimization rate for noncitizens declined.

Table 5. Violent Victimization by Citizenship Status, 2017-2021

	2017		2018		2019		2020		2021	
	Number	Rate per 1,000 ^a	Number	Rate per 1,000 ^a	Number	Rate per 1,000 ^a	Number	Rate per 1,000 ^a	Number	Rate per 1,000 ^a
U.S. citizens	5,304,470	20.8	6,163,570	23.9	5,499,420	21.2	4,373,730	16.7	4,438,670	16.9
U.S.-born citizens ^b	5,106,650	21.9	5,900,190	25.1	5,296,270	22.4	4,188,720	17.6	4,174,680	17.5
Naturalized U.S. citizens	197,820	9.1	263,380	11.6	203,150	8.8	185,010	7.8	263,990	11.1
Noncitizens	260,320	16.2	196,350	12.5	267,700	17.7	160,370	11.4	144,670	9.8

Source: Bureau of Justice Statistics (BJS), *Criminal Victimization, 2018*, <https://bjs.ojp.gov/library/publications/criminal-victimization-2018>; BJS, *Criminal Victimization, 2019*, <https://bjs.ojp.gov/library/publications/criminal-victimization-2019>; and BJS, *Criminal Victimization, 2021*, <https://bjs.ojp.gov/library/publications/criminal-victimization-2021>.

Notes: Violent victimization includes rape or sexual assault, robbery, aggravated assault, and simple assault. It excludes homicide because the NCVS is based on interviews with surviving victims.

a. Rate is per 1,000 persons age 12 or older.

b. Includes persons born in the United States, in a U.S. territory, or abroad to U.S. parents.

Another federal data collection program that provides some information on noncitizen crime victims is the National Violent Death Reporting System (NVDRS) administered by the Centers for Disease Control and Prevention (CDC). NVDRS collects data about “all types of violent deaths—including homicides and suicides—in all settings and for all age groups” from death certificates, coroners/medical examiners, and law enforcement agencies.⁶² The NVDRS also includes information on respondent nativity. A 2022 analysis of 2017 NVDRS⁶³ data indicated

⁶² CDC, *National Violent Death Reporting System (NVDRS)*, <https://www.cdc.gov/violenceprevention/datasources/nvdrs/index.html>.

⁶³ Kayla R. Freemon, Melissa A. Gutierrez, and Jessica Huff et al., “Violent victimization among immigrants: Using the National Violent Death,” *Preventative Medicine Reports*, vol. 26 (April 2022) (hereinafter, *Violent victimization among immigrants*). In 2017, 35 states, Washington, DC, and Puerto Rico participated in NVDRS. The authors excluded Puerto Rico, Illinois, Pennsylvania, and Washington because “those states only collected data on a portion of violent deaths, and we were unable to link their sample with the state total population to calculate rates.”

that among 9,428 homicides⁶⁴ examined across 32 states and Washington, DC, 8% involved a foreign-born⁶⁵ decedent. This was a “substantially lower” rate than the number observed among U.S.-born persons. The analysis also indicated that foreign-born persons from Honduras, El Salvador, and Jamaica “experienced higher homicide rates than those born in the U.S.”⁶⁶

Although these data suggest that noncitizens may be less likely to be crime victims than U.S. citizens, there are still a large number of noncitizens who experience criminal victimization. These snapshots of data provide some insight into criminal victimizations of noncitizens; more detailed data may serve to strengthen federal immigration policies.

Issues for Congressional Consideration

Forms of Immigration Relief for Noncitizen Crime Victims

As noted, U status is a form of immigration relief that is available to certain noncitizen victims of a broad range of crimes. Congress has taken steps to provide additional forms of immigration relief to victims of specific types of crimes such as human trafficking and domestic violence. If Congress considers immigration relief as a broad form of assistance for noncitizen victims of crime, it may consider related issues. For instance, policymakers may examine whether the range of qualifying crimes for U status eligibility is still appropriate. Of note, the U status qualifying crimes are general crime categories rather than specific criminal violations; as such, policymakers may conduct oversight over U status issuance to examine the specific types of criminal violations that have been considered as falling into one of the broad categories of crime outlined in the eligibility requirements.⁶⁷ This can help determine whether the existing categories of crime should be modified to encompass the criminal violations for which policymakers wish to provide victim assistance in the form of U status.

Policymakers may also wish to consider whether to provide additional forms of immigration relief for victims of specific crimes, as has already been done for victims of human trafficking, for instance. Additional pathways for relief could help alleviate the U status backlog (discussed below) by diverting potential U status recipients to other forms of relief. Additional paths for immigration relief could be established through additional immigration statuses (as was done with the T status) or through granting the executive branch the authority to provide temporary protections from removal for specified victims (as was done with allowing DHS to grant continued presence for trafficking victims). To help inform these considerations, Congress may conduct oversight of existing data collection efforts on the types of criminal violations for which noncitizens may be most at risk.

⁶⁴ The NVDRS defines *homicide* as “a death resulting from the intentional use of force or power, threatened or actual, against another person, group, or community. A preponderance of evidence must indicate that the use of force was intentional. Such deaths resulting from legal intervention are included in a separate category.” National Violent Death Reporting System Web Coding Manual, Version 5.4.1., p. 9.

⁶⁵ *Foreign-born* was defined as follows: “Victims born in the U.S. or in a territory where the U.S. grants citizenship at birth, including Guam, Puerto Rico, Northern Mariana, and the U.S. Virgin Islands (U.S. Census Bureau, 2019), were coded as U.S.-born (=0). Victims not born in the U.S. or U.S. territories were coded as foreign-born (=1).” *Violent victimization among immigrants*, p. 2.

⁶⁶ *Violent victimization among immigrants*.

⁶⁷ USCIS, *Trends in U Visa Law Enforcement Certifications, Qualifying Crimes, and Evidence of Helpfulness*, July 2020.

Immigration Status Utilization

U Status Backlog

U status is in high demand. The 10,000 principal noncitizen annual cap has resulted in a backlog of applicants with conditional approval but without the U status due to the annual cap. Policymakers may consider specifically how this backlog could affect these victims of crime. Previous legislative proposals to eliminate the cap have failed to pass.⁶⁸

In addition to delays resulting from the post-adjudication backlog, as of the cover date of this report, it takes DHS approximately five years to adjudicate new U status applications. Human rights organizations have highlighted that while the “U visa has been an essential tool in strengthening relationships with immigrant communities and ensuring public safety,” the wait time before adjudication leaves applicants without decisions, which can increase their vulnerability to further abuse.⁶⁹

Other observers have expressed concern about the backlog for different reasons; as applicants on the waitlist are granted deferred action or parole, critics see the program as conferring de facto residency for thousands of noncitizens who have not yet received approval.⁷⁰

T Status Underutilization

Congress may examine the extent to which T status is utilized as well as whether the 5,000 principal noncitizen annual cap is still the appropriate level. The cap has not been met in any of the most recent 10 fiscal years for which data are available (see **Table 2**), which may indicate that the cap is set too high. Alternatively, policymakers may look at factors that potentially contribute to what some observers consider to be underutilization of the T status, such as awareness of the status or the stringency of eligibility criteria.⁷¹

Crime Victimization Data

To fit immigration policy and visa quotas more closely to the populations of interest, Congress may consider collecting more-detailed data on criminal victimizations of noncitizens. Congress could mandate that federal crime data programs add a variable capturing victim’s citizenship status. For example, the most prominent crime data collection effort at the Federal Bureau of Investigation (FBI), the Uniform Crime Reporting (UCR) program, does not include citizenship

⁶⁸ For example, in the 115th and 116th Congresses, the Immigrant Witness and Victim Protection Act of 2018 (H.R. 5058) and the Immigrant Witness and Victim Protection Act of 2019 (H.R. 4319) were introduced in the House. While these bills were not identical, both would have eliminated the annual numerical limit on the U nonimmigrant status (i.e., the 10,000 cap) as well as provided work authorization to T and U applicants either upon approval or 180 days after submitting their application (whichever came first).

⁶⁹ Human Rights Watch, “Immigrant Crime Fighters: How the U Visa Program Makes US Communities Safer,” July 3, 2018, <https://www.hrw.org/report/2018/07/03/immigrant-crime-fighters/how-u-visa-program-makes-us-communities-safer>.

⁷⁰ Jessica Vaughan, “Visas for Victims: A Look at the U Visa Program,” *Center for Immigration Studies*, March 30, 2020, at <https://cis.org/Report/Visas-Victims-Look-U-Visa-Program>.

⁷¹ See, for example, University of Nebraska Omaha, Office of Latino/Latin American Studies, *Human Trafficking and the T Visa Process: Insights from Legal Representatives Working with Victims from Latin America*, May 2021.

data about victims or offenders in the National Incident-Based Reporting System (NIBRS).⁷² Congress could require the FBI to add citizenship questions to NIBRS.

Alternatively, Congress may opt to leave citizenship questions out of crime data collections in light of concerns that these types of questions may discourage noncitizens from reporting criminal victimizations to law enforcement agencies. (For more information see CRS In Focus, *Improving Crime Victimization Data for Noncitizen Populations*). In the absence of these data, Congress may consider requiring the National Institute of Justice (NIJ) to conduct a study about violent victimization of noncitizens to gain a better understanding of the nature and scope of these experiences.

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⁷² NIBRS does include a question about "resident status" but this refers to whether the offender or victim is a resident of the reporting police agency's jurisdiction rather than immigration status.