



# **Removals of Noncitizens with Denied, Revoked, or Pending U Visa Petitions**

*April 4, 2022*

Fiscal Year 2021 Report to Congress



**Homeland  
Security**

*U.S. Immigration and Customs Enforcement*

# Message from the Acting Director

April 4, 2022

I am pleased to present the following report, “Removals of Noncitizens with Denied, Revoked, or Pending U Visa Petitions,” which has been prepared by U.S. Immigration and Customs Enforcement.

This report was compiled pursuant to direction in House Report 116-458, which accompanies the Fiscal Year 2021 Department of Homeland Security Appropriations Act (P.L. 116-260).

Pursuant to congressional guidelines, this report is being provided to the following Members of Congress:

The Honorable Lucille Roybal-Allard  
Chairwoman, House Appropriations Subcommittee on Homeland Security

The Honorable Chuck Fleischmann  
Ranking Member, House Appropriations Subcommittee on Homeland Security

The Honorable Chris Murphy  
Chair, Senate Appropriations Subcommittee on Homeland Security

The Honorable Shelley Moore Capito  
Ranking Member, Senate Appropriations Subcommittee on Homeland Security

Inquiries related to this report may be directed to me at (202) 732-3000.

Sincerely,



Tae D. Johnson  
Acting Director  
U.S. Immigration and Customs Enforcement





# Removals of Noncitizens with Denied, Revoked, or Pending U Visa Petitions

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# I. Legislative Language

This report was compiled pursuant to direction in House Report 116-458, which accompanies the Fiscal Year (FY) 2021 Department of Homeland Security (DHS) Appropriations Act (P.L. 116-260).

House Report 116-458 states:

U Visas.— The Committee recognizes the value of the U visa program in protecting victims of violent crime and promoting public safety by enabling criminal investigations. The Committee reminds ICE of the report on U Visas required by House Report 116–180 and looks forward to receiving this overdue report as soon as possible. Further, ICE is directed to provide an updated report on this subject within 90 days of the date of enactment of this Act.

House Report 116-458 also states:

Section 221. The Committee includes a provision that prohibits ICE from removing individuals with a pending Violence Against Women Act (VAWA), U-visa, or T-visa application or a pending appeal of a denial related to such visas.

House Report 116-180 states:

U Visas.—The Committee recognizes the value of the U visa program in protecting victims of violent crime and promoting public safety by enabling criminal investigations. The Committee directs ICE to provide a report within 90 days of the date of enactment of this Act on the number of individuals deported with a pending U visa application or when a U visa application had been denied.

## II. Background

U.S. Immigration and Customs Enforcement (ICE) shares responsibility for administering and enforcing the Nation's immigration laws with other DHS Component agencies, including U.S. Customs and Border Protection and U.S. Citizenship and Immigration Services (USCIS). ICE Enforcement and Removal Operations is responsible for the identification, arrest, and removal of noncitizens who present a danger to national security or a threat to public safety, or who otherwise undermine border control and the integrity of the U.S. immigration system. An ICE removal is the compulsory and confirmed movement of an inadmissible or deportable noncitizen out of the United States who has received a final order of removal or deportation.<sup>1</sup> These final orders of removal or deportation typically are issued by an immigration judge with the U.S. Department of Justice Executive Office for Immigration Review.

As the primary agency responsible for adjudicating immigration benefits, USCIS oversees the U nonimmigrant status (U visa) process and grants or denies petitions for this benefit, an independent process that does not involve ICE. Congress created the U visa in October 2000 with the passage of the Victims of Trafficking and Violence Protection Act (including the Battered Immigrant Women's Protection Act). The U visa strengthens the ability of law enforcement agencies to detect, investigate, and prosecute serious crimes, such as domestic violence, sexual assault, and human trafficking; encourages victims to report crimes committed against them and to participate in the investigation and prosecution of those crimes; and offers protections to victims of qualifying crimes in keeping with the humanitarian interests of the United States.<sup>2</sup>

U nonimmigrant status provides an immigration benefit to certain victims of qualifying crimes who assist law enforcement in the investigation or prosecution of that crime. Victims of a qualifying crime may apply to USCIS for U nonimmigrant status, which is available to a noncitizen who: (1) has suffered substantial physical or mental abuse as a result of having been a victim of a qualifying criminal activity; (2) possesses information concerning the criminal activity; (3) has been helpful, is being helpful, or is likely to be helpful to law enforcement or other officials in the investigation or prosecution of the qualifying crime; and (4) has suffered a violation of a domestic criminal law inside the United States, or the violation of a U.S. federal law that provides for extraterritorial jurisdiction to prosecute the offense in a U.S. federal court when the qualifying crime occurred outside the United States (including Indian country, military installations, possessions, and territories). Derivative U nonimmigrant status is available to certain eligible family members of principal U nonimmigrants. By statute, no more than 10,000 principal U visas may be granted in any fiscal year. Derivative family members are not subject to the annual cap. Noncitizens whose petitions are deemed to be bona fide may be granted

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<sup>1</sup> ICE removals include removals and returns in which noncitizens were turned over to ICE for removal efforts. This includes noncitizens who have received a final order of removal or deportation, as well as those who have been processed for expedited removal or voluntary return and who are turned over to ICE for detention.

<sup>2</sup> [https://www.uscis.gov/sites/default/files/document/guides/U\\_Visa\\_Law\\_Enforcement\\_Resource\\_Guide.pdf](https://www.uscis.gov/sites/default/files/document/guides/U_Visa_Law_Enforcement_Resource_Guide.pdf)

deferred action, or if approvable but for the annual statutory cap, placed on a waiting list until a visa becomes available, at which point they are reviewed and adjudicated. While on the waiting list, petitioners living in the United States receive deferred action by USCIS and are eligible for work authorization.

ICE officers exercise all appropriate discretion on a case-by-case basis when making enforcement decisions, and officers must consider the unique circumstances of each case when conducting any enforcement action. With respect to certain crime victims, ICE enforcement actions are informed further by ICE Policy 10036.1, “Interim Guidance Relating to Officer Procedure Following Enactment of VAWA 2005” (January 22, 2007), which requires ICE officers to follow specific procedures before conducting enforcement actions against noncitizens who are eligible to petition for VAWA benefits or for T or U nonimmigrant status. ICE is not prohibited from arresting such noncitizens, and no class or category of noncitizens is exempt from potential enforcement actions. Noncitizens who have applied for a U visa but have not received a favorable adjudication may be subject to removal, depending on the unique circumstances of each individual case, consistent with ICE Directive 11005.3, “Stay of Removal Requests and Removal Proceedings Involving U Nonimmigrant Status (U Visa) Petitioners,” which directs ICE officers and attorneys to review the totality of the circumstances when determining whether a stay of removal or termination of removal proceedings is appropriate for noncitizens petitioning for a U visa.

### III. Data Report

#### Removals of U Visa Petitioners in FY 2020<sup>3</sup>

**ICE Removals of U Visa Petitioners**

<b>Status of Petition</b>	<b>Removals</b>
<b>Total</b>	<b>1,102</b>
Denied	390
Pending	709
Revoked	3

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<sup>3</sup> FY 2020 ICE removals data are updated through April 10, 2021. Data are filtered from October 1, 2019, through September 30, 2020. USCIS provided data on U visa petitions received between February 20, 1967, and March 25, 2021.

## IV. Conclusion

ICE fully appreciates its obligations to enforce the Nation's immigration laws and to uphold public safety, and the enforcement actions that ICE employs are intended to accomplish this fairly and safely. ICE also is committed to carrying out its functions in a victim-centered manner that ensures that noncitizen victims are willing and able to contact law enforcement, to participate in investigations and prosecutions, to pursue justice, and to seek available benefits. ICE will continue to work with USCIS on strengthening the U visa process.



## Appendix: Abbreviations

<b>Abbreviation</b>	<b>Definition</b>
DHS	Department of Homeland Security
FY	Fiscal Year
ICE	U.S. Immigration and Customs Enforcement
USCIS	U.S. Citizenship and Immigration Services
U Visa	U Nonimmigrant Status
VAWA	Violence Against Women Act