U Visa Report

Arrest Histories of U Visa Petitioners

April 2020

Analysis of Data through FY 2018

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

• For persons who filed a U visa petition between FY 2012 through 2018, over one-third (34.7%) of principal petitioners and 17.5% of derivatives had a previous arrest or apprehension for a criminal offense or an immigration-related civil offense.

• For both principal petitioners and derivatives, the most common arrests were for immigration-related offenses and non-DWI/DUI driving-related offenses.

• Over 12% of principal petitioners and 11% of derivatives had arrest records listing charges for DUI/DWI, assault/battery, and theft/larceny.

• From FY 2012 to 2018, 2% of principal petitioners with an arrest had a clear connection between the arrest and the QCA.

• Some U visa principal petitioners have assisted in the prosecution and conviction of gang members. However, USCIS estimates that 1.5% of all principal and derivative petitioners were involved in suspected or confirmed gang activity.

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 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 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 the 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. Petitioners who are not admissible and are not exempt from the requirement 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,

---

[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.

is currently being helpful, or will likely be helpful in the detection, investigation, or prosecution of the case (in some cases, a petitioner may be exempt from this requirement). 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.

Analysis of U Visa Petitioners' and Derivatives' Arrests and Apprehensions

The purpose of this analysis is to provide a better understanding of U visa petitioners' and derivatives' arrest and apprehension backgrounds by statistically and systematically analyzing rap sheets. This analysis should not be considered comprehensive or a complete determination of all arrests and apprehensions for all U visa principal petitioners or derivatives across time, nor an analysis of convictions. This data presented includes U visa principal petitioners and derivatives who submitted a petition between FY 2012 through June 2018.

The following tables and figures provide information on U visa petitioners and derivatives who received an IDENT response. An IDENT response indicates that an individual, in this case a U visa principal petitioner or derivative, was arrested or apprehended for a criminal offense or an immigration-related civil offense. In addition to identifying if a principal petitioner or derivative received an IDENT response, this report also includes the types of charges or offenses for which he or she was arrested or apprehended. The tables and figures related to charge type are generally categorized using the Federal Bureau of Investigations crime categories. Further, the tables depict the number of times a particular charge type appeared in the rap sheets for all petitioners and derivatives with an IDENT response.

Because a person could be arrested or apprehended multiple times and/or charged with multiple offenses, the tables will not sum to the number of IDENT petitioners. Rather, the tables show the number of principal petitioners or derivatives charged with a specific offense and the percent that these specific charge types comprise of all principal petitioners or derivatives. These tables only analyze arrests and apprehensions. Individuals may not have been formally charged with a crime resulting from the arrest, may have had their charges reduced or dismissed entirely, or may have been acquitted of any

charges.[3] Arrest records are relevant to the adjudication of U visa petitions in several ways. First, they may provide evidence as to the applicability of particular grounds of inadmissibility. Additionally, when determining whether to exercise discretion favorably to grant a waiver of inadmissibility, USCIS conducts an individualized, case-specific analysis, weighing any adverse factors, such as arrests, against positive and mitigating equities to determine whether a favorable exercise of discretion is warranted.
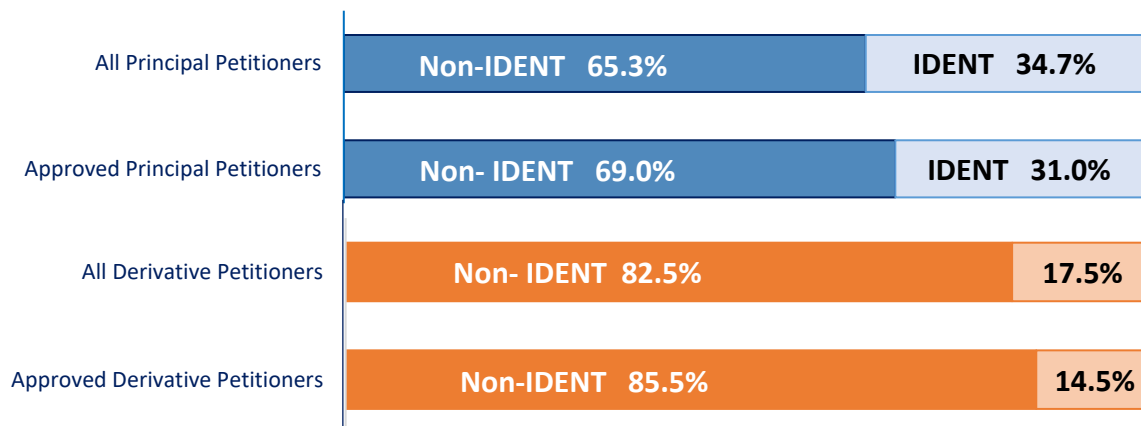
Findings

Percent of IDENT Petitioners Among All Principal Petitioners and Derivatives

Of the 171,970 U visa principal petitioners in the timeframe we studied, about two-thirds were non-IDENT (65.3%). The remaining 34.7% (or 58,598 principal petitioners) had an IDENT response which means they were arrested or apprehended at least once. Of the roughly 65,000 principal petitioners approved for a U visa within the timeframe USCIS studied, 31% had at least one arrest or apprehension prior to approval. Of those principal petitioners with an IDENT response that were approved, roughly half (49%) had only one arrest or apprehension.

Of the 125,117 U visa derivatives in the timeframe studied, about 17.5% (or 21,894) had an IDENT response; the remaining 82.5% of derivatives were non-IDENT. Of the roughly 49,000 approved derivatives in the timeframe studied, about 14.5% (7,118) were IDENT prior to the petition approval. The majority of derivatives with an IDENT response (55%) were arrested or apprehended only once prior to their U visa approval.

Figure 1: Percent of Principal Petitioners and Derivatives with an IDENT Response

All Principal Petitioners	Non-IDENT 65.3% — IDENT 34.7%
Approved Principal Petitioners	Non- IDENT 69.0% — IDENT 31.0%
All Derivative Petitioners	Non- IDENT 82.5% — 17.5%
Approved Derivative Petitioners	Non-IDENT 85.5% — 14.5%

Source: USCIS, CLAIMS 3 and CPMS. Data are from October 2012 through June 2018.

Notes: "Arrests" includes apprehensions. The number of individual principal petitioners and derivatives is the number of unique Alien Numbers and does not represent the number of receipts, current approvals, or the number of current U visa recipients, as some recipients may have adjusted their status to lawful permanent

---

[3] In accordance with USCIS guidelines, a petitioner may request approval of a waiver of grounds of inadmissibility for convictions of civil or criminal offenses constituting a ground of inadmissibility by filing Form I-192, Application for Advance Permission to Enter as a Nonimmigrant ("Form I-192"). Not all convictions or arrests will necessarily result in a denial of the Form I-192 unless, as a matter of its discretion, USCIS determines that the inadmissibility waiver should not be granted due to public safety, national security, or other discretionary factors on a case-by-case basis. The Form I-192 is discretionary and adjudicated on a case by case basis.
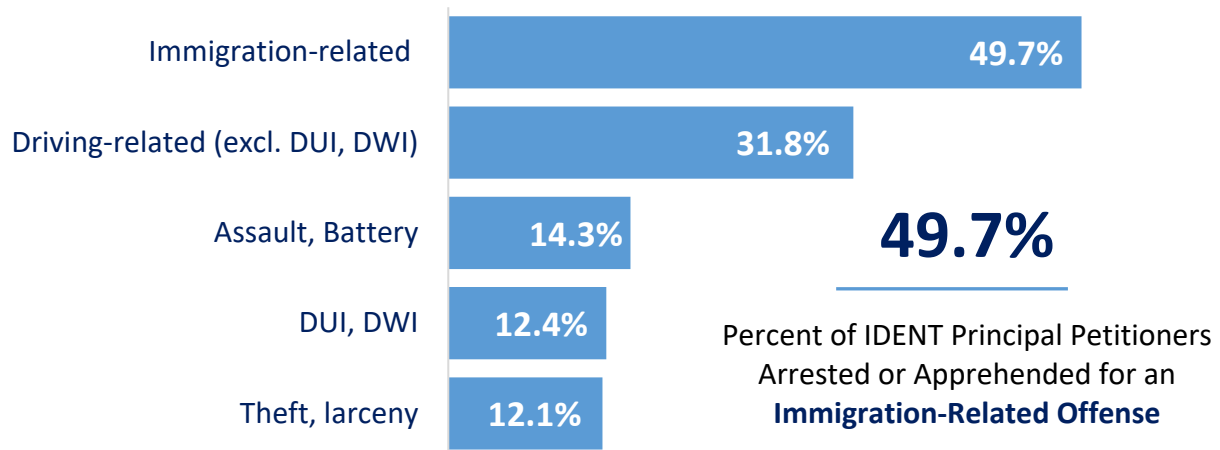
residence (LPR) or otherwise changed their immigration status. Approved U visa principal petitioners and derivatives include those whose most recent case action, as of the date the systems were queried, was an approval which will include individuals whose U visa period of validity may have expired. Errors may result from the mining of complex text files.

Principal Petitioners with an Arrest or Apprehension by Type of Offense

Of the 34.7% of principal petitioners with an IDENT response, about half (49.7%) were arrested or apprehended for an immigration related offense(s). About 25% of principal petitioners with an IDENT response were only arrested once for an immigration-related offense.

About one-third (31.8%) were arrested or apprehended for a driving related offense such as speeding. More than 14% were arrested for an assault or battery offense, 12% for a DUI or DWI, and 12% for theft or larceny. Percentages will not sum to 100 because some petitioners may have been arrested or apprehended for more than one type of offense.

Figure 2: Percent of IDENT U Visa Principal Petitioners by Most Common Types of Offenses

Immigration-related: **49.7%**
Driving-related (excl. DUI, DWI): **31.8%**
Assault, Battery: **14.3%**
DUI, DWI: **12.4%**
Theft, larceny: **12.1%**

49.7%

Percent of IDENT Principal Petitioners Arrested or Apprehended for an **Immigration-Related Offense**

Source: USCIS, CLAIMS 3 and CPMS. Data are from October 2012 through June 2018.

Notes: The number of individual principal petitioners and derivatives is the number of unique Alien Numbers and does not represent the number of receipts, current approvals, or the number of current U visa recipients. Errors may result from the mining of complex text files.

Among the least common types of offenses among all IDENT principal petitioners (59,598 petitioners) were:

Statutory Rape, Sexual Abuse: 282 principal petitioners

Rape: 125 principal petitioners

Murder: 79 principal petitioners

Gang[4]: 46 principal petitioners

Smuggling: 24 principal petitioners

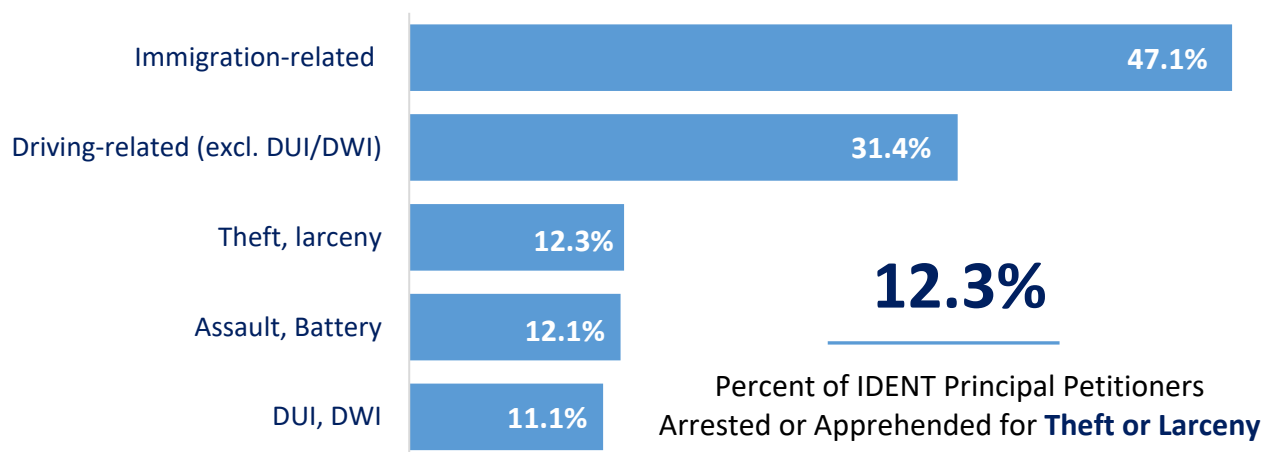Manslaughter, negligent/reckless homicide: 24 principal petitioners

---

[4] Gang-related offenses include those for which involvement in, or activity related to, a criminal street gang is an element of the offense or a sentencing enhancement.

Approved Principal Petitioners with a Prior Arrest or Apprehension by Type of Offense

USCIS also analyzed the petition outcome in relation to the types of offenses for IDENT petitioners. For approved U visa principal petitioners within the timeframe studied, 31% received an IDENT response prior to their approval. Like the population of all principal petitioners, about half (47.1%) were arrested or apprehended for an immigration related offense. About 24% of approved principal petitioners with a prior IDENT response were only arrested once for an immigration-related offense.

About one-third (31.4%) were arrested or apprehended for a driving related offense such as speeding. More than 12% were arrested for an assault or battery offense, 12% for theft or larceny, and 11% for DUI or DWI. Percentages will not sum to 100 because some petitioners may have been arrested or apprehended for more than one type of offense.

Figure 3: Percent of <u>Approved</u> U Visa Principal Petitioners with a Prior IDENT Response by Most Common Types of Offenses

Immigration-related — **47.1%**
Driving-related (excl. DUI/DWI) — **31.4%**
Theft, larceny — **12.3%**
Assault, Battery — **12.1%**
DUI, DWI — **11.1%**

12.3%

Percent of IDENT Principal Petitioners Arrested or Apprehended for **Theft or Larceny**

Source: USCIS, CLAIMS 3 and CPMS. Data are from October 2012 through June 2018.

Notes: The number of individual principal petitioners and derivatives is the number of unique Alien Numbers and does not represent the number of receipts, current approvals, or the number of current U visa recipients. Errors may result from the mining of complex text files.

The least common types of offenses among all approved IDENT principal petitioners with a prior arrest (20,057 petitioners) were:

Statutory Rape, Sexual Abuse: 48 principal petitioners

Rape: 13 principal petitioners

Murder: 10 principal petitioners

Gang: 4 principal petitioners

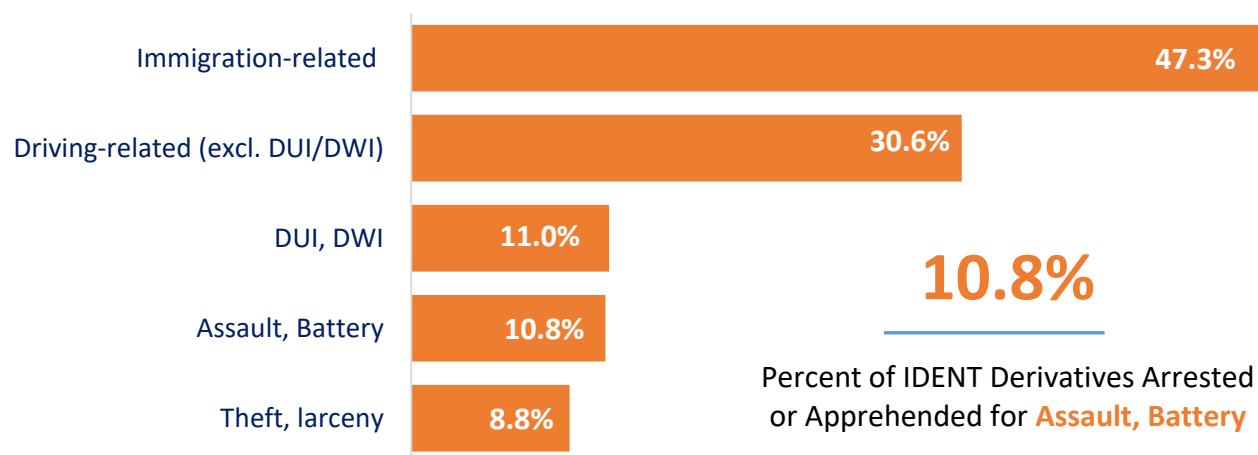Manslaughter, negligent/reckless homicide: 9 principal petitioners

Smuggling: 6 principal petitioners

Derivatives with an Arrest or Apprehension by Type of Offense by Offense Type

Of the 17.5% of derivatives with an IDENT response, about half (47.3%) were arrested or apprehended for an immigration related offense(s). About 29% of those derivatives were only arrested once for an immigration-related offense.

About one-third (30.6%) of IDENT derivatives were arrested or apprehended for a driving related offense such as speeding. 11% were for arrested or apprehended for a DUI or DWI, 10.8% for assault or battery, and 8.8% for theft or larceny. Percentages will not sum to 100 because some petitioners may have been arrested or apprehended for more than one type of offense.

Figure 4: Percent of IDENT Derivatives by Most Common Types of Offenses

Source: USCIS, CLAIMS 3 and CPMS. Data are from October 2012 through June 2018.

Notes: The number of individual principal petitioners and derivatives is the number of unique Alien Numbers and does not represent the number of receipts or number of current U visa recipients. Errors may result from the mining of complex text files.

The least common types of offenses among all IDENT derivative petitioners (21,894 petitioners) were:

Rape: 46 petitioners

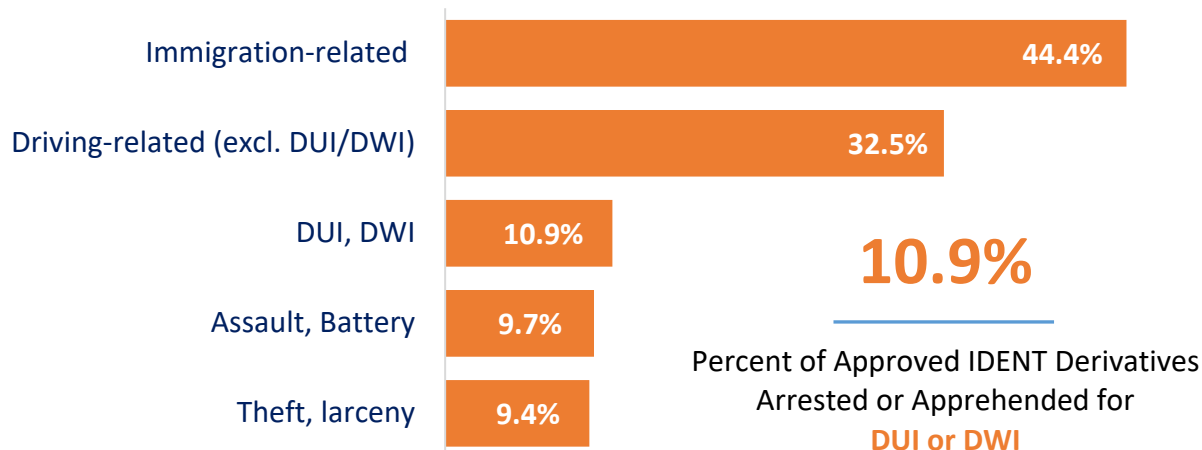Murder: 17 petitioners

Gang: 33 petitioners

Manslaughter, negligent/reckless homicide: 4 petitioners

Approved Derivatives with an Arrest or Apprehension by Type of Offense

For the approved U visa derivatives within the timeframe studied, 14.5% received an IDENT response prior to their approval. Like the population of all derivatives, about half (44.4%) were arrested or apprehended for an immigration related offense(s). Twenty percent of approved derivatives with a prior IDENT response were only arrested once for an immigration-related offense.

About one-third (32.5%) were arrested or apprehended for a driving related offense such as speeding. 11% were arrested for a DUI or DWI, 10% for an assault or battery offense, and 9% for theft or larceny. Percentages will not sum to 100 because some petitioners may have been arrested or apprehended for more than one type of offense.

Figure 5: Percent of <u>Approved</u> Derivatives with a Prior IDENT Response by Most Common Types of Offenses

Offense	Percent
Immigration-related	44.4%
Driving-related (excl. DUI/DWI)	32.5%
DUI, DWI	10.9%
Assault, Battery	9.7%
Theft, larceny	9.4%

10.9%

Percent of Approved IDENT Derivatives Arrested or Apprehended for **DUI or DWI**

Source: USCIS, CLAIMS 3 and CPMS. Data are from October 2012 through June 2018.

Notes: The number of individual petitioners is the number of unique Alien Numbers and does not represent the number of receipts or the number of current U visa recipients. Errors may result from the mining of complex text files.

The least common types of offenses among all approved IDENT derivatives petitioners with a prior arrest (7,118) included:

Rape: 10 derivatives

Sexual abuse, statutory rape: 29 derivatives

Murder: 5 derivatives

Gang: 3 derivatives

In total, less than 1% of principal petitioners and derivatives had arrest records listing charges for sexual assault, rape, murder, manslaughter, confirmed or suspected membership in a gang, or human smuggling. USCIS approved some of these cases after considering the individual facts presented within the filings.

Filings with Gang-Related Information

Based on the manual review of files, which provides supplemental information to the IDENT data referenced above, USCIS estimates that about 1.5% of all principal petitioners and derivatives, had either suspected or confirmed membership.

Gang affiliation and membership are considered adverse discretionary factors when adjudicating waivers of inadmissibility. Some U visa petitioners with gang associations have assisted law enforcement in the investigation, prosecution, and/or conviction of gang members. For example, a number of petitioners have testified against gang members (not necessarily as informants), organized

crime, and major cover-up operations. In one case, the petitioner's testimony assisted the prosecution and conviction of 42 gang members.

One U visa petitioner's testimony helped secure **42 convictions** against MS-13 gang members.

USCIS identified one example of a petitioner assisting in the prosecution of gang members within the random sample as well. A Form I-918B was certified for the mother of a murder victim. The mother's young daughter was reported missing and later found murdered. Police tied the murder to a known gang member based upon information provided by the principal petitioner (the mother of the victim).

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.