

## **Exhibit B**

#	Citation	Website/Link	NOID	RFE	Denials	"On Account Of" Policy	Fee Waivers	Discretion	Outcomes Connected to Identity (Race, Gender, National Origin, Sexual Orientation, Etc.)
1	Office to Monitor & Combat Trafficking in Persons, U.S. Dept't of State, Trafficking in Persons Report (2021).	<a href="https://www.state.gov/wp-content/uploads/2021/09/TIPR-GPA-upload-07222021.pdf">https://www.state.gov/wp-content/uploads/2021/09/TIPR-GPA-upload-07222021.pdf</a>		a	a	a	b		c, d, e, f, g
2	Evangeline M. Chan, <u>Government Immigration Policies are Harming Trafficking Survivors</u> , The Hill (Jan. 20, 2020, 6:00 PM), <a href="https://thehill.com/opinion/immigration/479034-government-immigration-policies-are-harming-trafficking-survivors?r=1">https://thehill.com/opinion/immigration/479034-government-immigration-policies-are-harming-trafficking-survivors?r=1</a> .	<a href="https://thehill.com/opinion/immigration/479034-government-immigration-policies-are-harming-trafficking-survivors?r=1">https://thehill.com/opinion/immigration/479034-government-immigration-policies-are-harming-trafficking-survivors?r=1</a>		h	i				
3	<u>How Trump is 'Destroying Protections' for Victims of Human Trafficking</u> , World Pol. Rev. (Jul. 2, 2019), <a href="https://www.worldpoliticsreview.com/trend-lines/27998/under-trump-human-trafficking-protections-have-weakened">https://www.worldpoliticsreview.com/trend-lines/27998/under-trump-human-trafficking-protections-have-weakened</a> .	<a href="https://www.worldpoliticsreview.com/trend-lines/27998/under-trump-human-trafficking-protections-have-weakened">https://www.worldpoliticsreview.com/trend-lines/27998/under-trump-human-trafficking-protections-have-weakened</a>		j	j				
4	Stef W. Kight, <u>Trump Turning Away Victims of Violence and Trafficking</u> , Axios (Jul. 26, 2019), <a href="https://www.axios.com/trump-turning-away-victims-of-violence-and-trafficking-cc2aacff-541e-4644-b648-967d86459fb8.html">https://www.axios.com/trump-turning-away-victims-of-violence-and-trafficking-cc2aacff-541e-4644-b648-967d86459fb8.html</a> .	<a href="https://www.axios.com/trump-turning-away-victims-of-violence-and-trafficking-cc2aacff-541e-4644-b648-967d86459fb8.html">https://www.axios.com/trump-turning-away-victims-of-violence-and-trafficking-cc2aacff-541e-4644-b648-967d86459fb8.html</a>		k	l				
5	<u>Visa Restrictions Target Victims, Not Human Traffickers</u> , Dallas Morning News (Jun. 17, 2019, 2:00 AM), <a href="https://www.dallasnews.com/opinion/editorials/2019/06/17/visa-restrictions-target-victims-not-human-traffickers/">https://www.dallasnews.com/opinion/editorials/2019/06/17/visa-restrictions-target-victims-not-human-traffickers/</a> .	<a href="https://www.dallasnews.com/opinion/editorials/2019/06/17/visa-restrictions-target-victims-not-human-traffickers/">https://www.dallasnews.com/opinion/editorials/2019/06/17/visa-restrictions-target-victims-not-human-traffickers/</a>				m			
6	Judith Teruya, <u>Human Trafficking Victims are Facing Longer Delays for Visas</u> , Niskanen Ctr. (Aug. 5, 2019), <a href="https://www.niskanencenter.org/human-trafficking-victims-are-facing-longer-delays-for-visas/">https://www.niskanencenter.org/human-trafficking-victims-are-facing-longer-delays-for-visas/</a> .	<a href="https://www.niskanencenter.org/human-trafficking-victims-are-facing-longer-delays-for-visas/">https://www.niskanencenter.org/human-trafficking-victims-are-facing-longer-delays-for-visas/</a>		n			o		
7	Yael Schacher, Refugees Int'l, <u>Abused, Blamed, and Refused: Protection Denied to Women and Children Trafficked Over the U.S. Southern Border (2019)</u> .	<a href="https://reliefweb.int/sites/reliefweb.int/files/resources/Trafficking%2BReport%2B-%2BMay%2B2019%2B-%2BFinal.pdf">https://reliefweb.int/sites/reliefweb.int/files/resources/Trafficking%2BReport%2B-%2BMay%2B2019%2B-%2BFinal.pdf</a>		p	q, r	s, t	u, v	w, x	q, y, z

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8	Martin de Bourmont, <u>New U.S. Policy Raises Risk of Deportation for Immigrant Victims of Trafficking</u> , Foreign Pol'y (Jul. 9, 2018, 3:36 PM), <a href="https://foreignpolicy.com/2018/07/09/new-us-policy-raises-risk-of-deportation-for-immigrant-victims-of-trafficking-immigration-visa/">https://foreignpolicy.com/2018/07/09/new-us-policy-raises-risk-of-deportation-for-immigrant-victims-of-trafficking-immigration-visa/</a> .	<a href="https://foreignpolicy.com/2018/07/09/new-us-policy-raises-risk-of-deportation-for-immigrant-victims-of-trafficking-immigration-visa/">https://foreignpolicy.com/2018/07/09/new-us-policy-raises-risk-of-deportation-for-immigrant-victims-of-trafficking-immigration-visa/</a>		aa		bb			
9	Melissa Gira Grant, <u>It is Now Even Harder for Trafficking Survivors to Get Visas</u> , The Appeal (Aug. 22, 2018), <a href="https://theappeal.org/it-is-now-even-harder-for-trafficking-survivors-to-get-visas/">https://theappeal.org/it-is-now-even-harder-for-trafficking-survivors-to-get-visas/</a> .	<a href="https://theappeal.org/it-is-now-even-harder-for-trafficking-survivors-to-get-visas/">https://theappeal.org/it-is-now-even-harder-for-trafficking-survivors-to-get-visas/</a>		cc	dd				ee
10	Corie O'Rourke, <u>Lingering Trump Policy Changes Continue to Harm Trafficking Survivors</u> , Think Immigr. (May 19, 2021), <a href="https://thinkimmigration.org/blog/2021/05/19/lingering-trump-policy-changes-continue-harming-trafficking-survivors/">https://thinkimmigration.org/blog/2021/05/19/lingering-trump-policy-changes-continue-harming-trafficking-survivors/</a> .	<a href="https://thinkimmigration.org/blog/2021/05/19/lingering-trump-policy-changes-continue-harming-trafficking-survivors/">https://thinkimmigration.org/blog/2021/05/19/lingering-trump-policy-changes-continue-harming-trafficking-survivors/</a>		ff	ff	ff			
11	Corie O'Rourke, Cory Sagduyu, & Katherine Soltis, <u>Present Yet Unprotected: USCIS's Misinterpretation of the T Visa's Physical Presence Requirement and Failure to Protect Trafficking Survivors</u> , 3 AILA L. J. 53 (2021).	On file		gg, hh, ii, jj	gg, kk, ll	gg, hh, ii, ll, mm, nn, oo			
12	<u>Policy Changes and Delays at U.S. Citizenship and Immigration Services: Hearing Before the H. Comm. on Judiciary</u> , 116th Cong. (2019) (statement of Jill Marie Bussey, Dir. of Advoc., Cath. Legal Immigr. Network, Inc.).	<a href="https://docs.house.gov/meetings/JU/JU01/20190716/109787/HHRG-116-JU01-Wstate-BusseyJ-20190716.pdf">https://docs.house.gov/meetings/JU/JU01/20190716/109787/HHRG-116-JU01-Wstate-BusseyJ-20190716.pdf</a>	pp, qq	pp, qq	pp				
13	Evangeline M. Chan & Amy Cheung, <u>It's Time for a #MeToo Reckoning in Immigration</u> , Ms. Magazine (Apr. 26, 2021), <a href="https://msmagazine.com/2021/04/26/metoo-immigration-u-visa-backlog-women-uscis-sexual-assault-domestic-violence/">https://msmagazine.com/2021/04/26/metoo-immigration-u-visa-backlog-women-uscis-sexual-assault-domestic-violence/</a> .	<a href="https://msmagazine.com/2021/04/26/metoo-immigration-u-visa-backlog-women-uscis-sexual-assault-domestic-violence/">https://msmagazine.com/2021/04/26/metoo-immigration-u-visa-backlog-women-uscis-sexual-assault-domestic-violence/</a>							rr, ss
14	Mara Vanderslice Kelly, <u>It Takes a Village to End Human Trafficking</u> , Fla. Courier (Aug. 31, 2021), <a href="https://www.flcourier.com/commentaries/it-takes-a-village-to-end-human-trafficking/article_242d2d2a-072b-11ec-87a4-6b4e0416faa5.html">https://www.flcourier.com/commentaries/it-takes-a-village-to-end-human-trafficking/article_242d2d2a-072b-11ec-87a4-6b4e0416faa5.html</a> .	<a href="https://www.flcourier.com/commentaries/it-takes-a-village-to-end-human-trafficking/article_242d2d2a-072b-11ec-87a4-6b4e0416faa5.html">https://www.flcourier.com/commentaries/it-takes-a-village-to-end-human-trafficking/article_242d2d2a-072b-11ec-87a4-6b4e0416faa5.html</a>							tt

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15	Pam Strickland, <u>US Leads Fight in Human Trafficking- Or Does It?</u> , Good Faith Media (Jul. 29, 2020), <a href="https://goodfaithmedia.org/us-leads-fight-in-human-trafficking-or-does-it/">https://goodfaithmedia.org/us-leads-fight-in-human-trafficking-or-does-it/</a> .	<a href="https://goodfaithmedia.org/us-leads-fight-in-human-trafficking-or-does-it/">https://goodfaithmedia.org/us-leads-fight-in-human-trafficking-or-does-it/</a>			uu, vv				
16	Abigail Abrams, <u>'I Thought I Was Going to Die.' How Donald Trump's Immigration Agenda Set Back the Clock on Fighting Human Trafficking</u> , Time (Oct. 30, 2020, 10:41 AM), <a href="https://time.com/5905437/human-trafficking-trump-administration/">https://time.com/5905437/human-trafficking-trump-administration/</a> .	<a href="https://time.com/5905437/human-trafficking-trump-administration/">https://time.com/5905437/human-trafficking-trump-administration/</a>		ww	xx	ww	ww		yy
17	Jenna Krajeski, <u>The Hypocrisy of Trump's Anti-Trafficking Argument for a Border Wall</u> , New Yorker (Feb. 5, 2019), <a href="https://www.newyorker.com/news/news-desk/the-hypocrisy-of-trumps-anti-trafficking-argument-for-a-border-wall?fbclid=IwAR2sZOUlzdIJ6FQzM9jUOpRZ76Trnsmp3t-X6FKO9Xdr35d0pzNE4ik6nyQ">https://www.newyorker.com/news/news-desk/the-hypocrisy-of-trumps-anti-trafficking-argument-for-a-border-wall?fbclid=IwAR2sZOUlzdIJ6FQzM9jUOpRZ76Trnsmp3t-X6FKO9Xdr35d0pzNE4ik6nyQ</a> .	<a href="https://www.newyorker.com/news/news-desk/the-hypocrisy-of-trumps-anti-trafficking-argument-for-a-border-wall?fbclid=IwAR2sZOUlzdIJ6FQzM9jUOpRZ76Trnsmp3t-X6FKO9Xdr35d0pzNE4ik6nyQ">https://www.newyorker.com/news/news-desk/the-hypocrisy-of-trumps-anti-trafficking-argument-for-a-border-wall?fbclid=IwAR2sZOUlzdIJ6FQzM9jUOpRZ76Trnsmp3t-X6FKO9Xdr35d0pzNE4ik6nyQ</a>		zz, aaa			bbb	ccc	aaa
18	Katherine Soltis & Madeline Taylor Diaz, <u>Ganged Up On: How the US Immigration System Penalises and Fails to Protect Central American Minors Who are Trafficked for Criminal Activity by Gangs</u> , 16 Anti-Trafficking Rev. 104 (2021).	<a href="https://www.antitraffickingreview.org/index.php/atjournal/article/view/541/414">https://www.antitraffickingreview.org/index.php/atjournal/article/view/541/414</a>		ddd					
19	U.S. Citizenship & Immigr. Servs., <u>Number of Form I-914, Application for T Nonimmigrant Status by Fiscal Year, Quarter, and Case Status Fiscal Year 2008-2021 (2021)</u> , <a href="https://www.uscis.gov/sites/default/files/document/reports/1914t_visastatistics_fy2021_qtr1.pdf">https://www.uscis.gov/sites/default/files/document/reports/1914t_visastatistics_fy2021_qtr1.pdf</a>	<a href="https://www.uscis.gov/sites/default/files/document/reports/1914t_visastatistics_fy2021_qtr1.pdf">https://www.uscis.gov/sites/default/files/document/reports/1914t_visastatistics_fy2021_qtr1.pdf</a>			eee				

## FOIA Spreadsheet Addendum

### 1. OFFICE TO MONITOR & COMBAT TRAFFICKING IN PERSONS, U.S. STATE DEP'T, TRAFFICKING IN PERSONS REPORT (2021).

- a. “For instance, advocates again noted a continuing rise in the number of requests for additional evidence by adjudicators, which tends to increase processing times, and reported increased T nonimmigrant status denials that they believed improperly interpreted relevant statutes and regulations, such as denials based on unlawful acts traffickers compelled victims to commit or narrower interpretations of the physical presence requirement.” *Id.* at 589.
- b. “[Advocates] noted inconsistent fee waiver adjudication and increased denials have caused hardships for survivors trying to access trafficking-specific immigration options, particularly during the pandemic, citing that a large number of survivors – some of whom were facing financial insecurity or experiencing homelessness – used resources meant for housing and other living expenses to pay filing fees. Some survivors chose to delay applying for immigration options due to fear they would not have the means to pay for fees if their fee waiver request was denied.” *Id.* at 589.
- c. “We have seen, for instance, how deeply held racial biases and stereotypes inappropriately influence outcomes for those in our criminal justice system as they lead to racially disparate assumptions about who is identified as a trafficker and who is identified as a victim. This is not a new truth, but it is a somber, unacceptable reality.” *Id.* at 3
- d. “In many ways, the United States and other governments face human trafficking challenges and trends today that reflect the living legacy of the systemic racism and colonization globalized during the transatlantic slave trade through chattel slavery and regional practices of indigenous dispossession. U.S. and global data show human traffickers disproportionately target those in positions of socioeconomic or political vulnerability due to discriminatory policies, who are often people of color or part of a racial minority.” *Id.* at 38.
- e. “For instance, advocates, survivors, and other experts have found that ingrained racial biases and stereotypes, which were created as a way to dehumanize certain racial communities to justify their exploitation and exclusion, hinder progress in anti-trafficking efforts because they lead to racially disparate assumptions about who is a trafficker and who should have access to victim protection and services.” *Id.* at 38.
- f. “Another powerful way systemic racism has perpetuated human trafficking and hindered anti-trafficking efforts is through discriminatory government policies and private practices that create disparities in access to economic means or



1. “The denial rate for the human trafficking T visa was 45% for the first two quarters [FY 2019]— an increase from 19% in FY 2016 . . . . There have also been more wrongful denials of asylum and T visas, which Chan said she attributes to overburdened courts and pressure from the administration for judges to meet case quotas. ‘There are a lot of decisions being rushed,’ she said.”
5. *Visa Restrictions Target Victims, Not Human Traffickers*, DALLAS MORNING NEWS (Jun. 17, 2019, 2:00 AM), <https://www.dallasnews.com/opinion/editorials/2019/06/17/visa-restrictions-target-victims-not-human-traffickers/>.
  - m. “Even as applications increase, fewer are now getting accepted overall. Since December 2016, the rate of denial for T visa applicants has increased by 27%.”
6. Judith Teruya, *Human Trafficking Victims are Facing Longer Delays for Visas*, NISKANEN CTR. (Aug. 5, 2019), <https://www.niskanencenter.org/human-trafficking-victims-are-facing-longer-delays-for-visas/>.
  - n. “Requests for evidence are also increasing in frequency for applications that previously would have been approved based on eyewitness testimony alone. Because trafficking cases are most often prosecuted using the testimony of individuals with insider knowledge, eyewitness claims of survivors have historically been sufficient to prove their eligibility for T status.”
  - o. “Changes to filing fees are equally problematic. Each T visa application is accompanied by a \$930 filing fee. Previously, service providers and immigration lawyers could file fee waivers for their clients in order to prevent survivors from delaying their applications over lack of funds. But advocates began to see more and more fee waiver denials in FY 2018, which exacerbated processing delays.”
7. YAEL SCHACHER, REFUGEES INT’L, ABUSED, BLAMED, AND REFUSED: PROTECTION DENIED TO WOMEN AND CHILDREN TRAFFICKED OVER THE U.S. SOUTHERN BORDER (2019).
  - p. “[I]ncreased USCIS issuance of requests to applicants for additional evidence in T visa cases has prolonged the time it takes to adjudicate them. Thus, some people with T visa applications or pending appeals have been deported, especially because the Attorney General put in place policies to limit immigration judges from granting continuances in removal proceedings.” *Id.* at 6.
  - q. “Available data indicate that, in addition to an increase in overall denials, applicants from Mexico, El Salvador, Guatemala, and Honduras have been disproportionately impacted. In 2017, the T visa denial rate for applicants from these countries was 39 percent, whereas for applicants from elsewhere, it was 17 percent. In 2016, comparable figures were 29 percent and 14 percent, respectively.” *Id.* at 5.

- r. “Survivors of trafficking have also been denied relief on many other grounds, particularly through the claim that, having consented to be smuggled, they cannot complain if they are later abused.” *Id.* at 16.
- s. “In language that can only be described as Kafkaesque, the AAO also denied that S-AR-M- met the ‘physical presence requirement’ by claiming that his continued presence in the United States is directly related to his trafficking because he is still suffering from traumatic nightmares and that in the United States he can go to school and church, and get services he needs that are unavailable in El Salvador. Though the AAO accepted that he ‘suffered emotional and physical harm’ as a result of the trafficking that brought him to the United States, S-A-R-M-’s statements indicating that he did not wish to return to El Salvador ‘because of his fear of gangs there’ actually damaged his case. The AAO somehow determined that the applicant’s fear of return, rather than his need for continued trauma-related services, was the real reason for his unwillingness to return—and thus, his presence in the United States was not due to trafficking. AAO officials came to this conclusion even though the applicant had to mention his fear of return to help demonstrate he would face extreme hardship if he were returned to El Salvador (the final requirement for the T visa application).” *Id.* at 17.
- t. “In S-A-R-M-’s case, the AAO also ruled that, though as a minor he was exempt from the LEA requirement to prove he was a victim of trafficking, he needed law enforcement to investigate his case to fulfill the physical presence requirement—an overly harsh interpretation of the regulations.” *Id.* at 19.
- u. “USCIS is also making it more difficult for survivors to obtain fees waivers related to expensive waiver of inadmissibility applications they must file with most trafficking visa applications; this violates Congress’s intent to make relief available to all survivors regardless of income.” *Id.* at 6.
- v. “Based on interviews with attorneys involved in these cases, Refugees International believes that many T visa applicants have found it much more difficult to get steep application fees waived for necessary ancillary applications (such as waivers of inadmissibility), with USCIS requiring a great deal of proof that victims lack financial resources.” *Id.* at 28-29.
- w. “In cases in which trafficked migrants are forced to be drug mules or sex workers, USCIS may grant them waivers of inadmissibility because their drug and sex crimes were incident to their trafficking. However, USCIS can deny a waiver of inadmissibility as a matter of discretion and—because a ground of inadmissibility is not waived—deny the T visa. Finally, there is a substantial application fee for this waiver, so trafficking victims without means to pay must also apply for a fee waiver. The decision to grant a fee waiver is also discretionary.” *Id.* at 10.
- x. “The AAO decisions also reveal that DHS has ignored other agencies’ input in making their determinations. In denying T visas to two sisters from Honduras on

September 27, 2018, USCIS disregarded the letters from the Department of Health and Human Services that they were victims of trafficking. USCIS also denied a T visa to a Mexican boy forced to work by cartels; he was summarily returned to Mexico by CBP officers despite telling them of his fear of return and both the State Department and Mexican consulate claiming he was trafficked.” *Id.* at 20.

- y. “A review of all published appeals of applications for visas for victims of trafficking since 2017 shows that the administration’s decision-making has been particularly dismissive of claims by women and children who have been trafficked over the southwestern border, and has effectively blamed them for their own victimization.” *Id.* at 4.
- z. “At the end of 2018 and the beginning of 2019, the AAO issued decisions denying T visas to women who were raped and threatened with forced prostitution by their smugglers while crossing the border and on the American side.” *Id.* at 7.

8. Martin de Bourmont, *New U.S. Policy Raises Risk of Deportation for Immigrant Victims of Trafficking*, FOREIGN POL’Y (Jul. 9, 2018, 3:36 PM), <https://foreignpolicy.com/2018/07/09/new-us-policy-raises-risk-of-deportation-for-immigrant-victims-of-trafficking-immigration-visa/>.

aa. “‘The office that processes these cases has been denying [more petitions] and requesting more evidence, specifically [for] T visas, requiring more and more documentation that often doesn’t exist,’ said Alicia Kinsman, a Connecticut immigration lawyer who works with victims of human trafficking.”

bb. “[Kinsman] said this was happening with most of her serious cases, particularly ones in which the trafficking happened long ago or intersected with another crime. In one case, she said, her client paid smugglers to enter the United States but was then trafficked. ‘Because she had paid smugglers to come in and they trafficked her, what happened to her was a long and arduous situation and an abusive situation. . . . They are conflating the two issues and saying, ‘You were smuggled’ . . .”

9. Melissa Gira Grant, *It is Now Even Harder for Trafficking Survivors to Get Visas*, THE APPEAL (Aug. 22, 2018), <https://theappeal.org/it-is-now-even-harder-for-trafficking-survivors-to-get-visas/>.

cc. “‘Particularly in drug-related trafficking cases,’ Choi noted, ‘there’s been a trend for USCIS to ask for more evidence to show that there was actually trafficking that happened. With the [2018] memo saying they have the discretion not to issue requests for additional evidence that’s concerning to us.’ If immigration authorities decide to just move on and not seek more evidence, that could lead to [an] applicant’s denial . . . .”

- dd. “The most recent data USCIS made available suggests that even though applications are coming in at a similar pace, fewer trafficking survivors are getting T visas. As of March, the percentage of T visa applicant approvals was declining compared with 2017—from around 33 percent to 16 percent.”
- ee. “Saerom Choi, a project manager for Asian Pacific Islander Legal Outreach, said most of of [sic] its clients are Spanish speakers from Mexico or Central America, along with a large population from the Philippines. They may be trafficked into construction, domestic labor, restaurant work, the drug trade, or the sex trade. ‘For folks caught up in being criminalized, either being forced into the drug industry or having been exploited in the sex industry,’ said Choi, ‘[I]t’s giving those clients and folks some hesitance in moving forward.’”
10. Corie O'Rourke, *Lingering Trump Policy Changes Continue to Harm Trafficking Survivors*, THINK IMMIGR. (MAY 19, 2021), <https://thinkimmigration.org/blog/2021/05/19/lingering-trump-policy-changes-continue-harming-trafficking-survivors/>.
- ff. “However, beginning in 2018, various practitioners across the country – including us – noticed a sharp increase in USCIS issuing Requests for Evidence (RFEs) and denials based on the physical presence requirement. This typically occurred if more than a few years had passed between the applicant’s escape from their traffickers and when they applied for a T visa. This interpretation of the physical presence requirement contradicts the absence of any explicit T visa filing deadline in the TVPA or federal regulations.”
11. Corie O'Rourke, Cory Sagduyu, & Katherine Soltis, *Present Yet Unprotected: USCIS's Misinterpretation of the T Visa's Physical Presence Requirement and Failure to Protect Trafficking Survivors*, 3 AILA L. J. 53 (2021).
- gg. “USCIS previously interpreted the physical presence requirement more broadly. If the trafficking occurred in the United States and the trafficking survivor had not left the United States since the trafficking occurred, USCIS would generally find that the applicant satisfied the physical presence requirement. However, since 2018, USCIS has issued RFEs and denials based on the physical presence requirement in many cases when the trafficking survivor applied for a T visa more than a few years after escaping their trafficker. This interpretation is at odds with both the regulations and the TVPA.” *Id.* at 58.
- hh. “Additionally, in many RFEs and denials, USCIS has inserted *ultra vires* language. For example, RFEs have incorrectly stated that federal regulations require the trafficking survivor to have been ‘recently liberated by an LEA’ to meet the physical presence requirement, although federal regulations only state that the person needs to have been ‘liberated by an LEA,’ without any time limits or qualifiers.” *Id.* at 58.

- ii. “In new regulations that went into effect on January 18, 2017, DHS removed the ‘opportunity to depart’ regulatory requirement, recognizing in doing so that the requirement was ‘unnecessary and may be counterproductive.’ Notwithstanding this change in the federal regulations, which was meant to make it easier to qualify for T status, USCIS shortly thereafter began issuing an increasing number of RFEs on the physical presence requirement. These RFEs seemingly require many T visa applicants—not just those who had escaped their traffickers before an LEA became involved—to show they had not had an opportunity to depart the United States. USCIS has included language in RFEs and denials questioning why T visa applicants lack the resources to leave the United States or are unable to leave, despite the regulatory change four years ago that specifically removed the requirement to provide such evidence.” *Id.* at 59.
  
- jj. “Partially as a result of the increased number of RFEs, estimated processing times for T visa applications rose from less than 12 months in 2016 and 2017 to between 19 and 29 months by January 2021.<sup>60</sup> This delay in adjudication leaves trafficking survivors without status for significantly longer periods of time, which affects their ability to obtain employment authorization, identification documents, and public benefits associated with T visa status. This leaves survivors vulnerable to future abuse and exploitation.” *Id.* at 64-65.
  
- kk. “Of particular concern, the T visa denial rate also began to increase dramatically following the administration change in January 2017. The denial rate of adjudicated cases for survivors of trafficking for FY 2016 was 19 percent. In FY 2017, the denial rate rose to 24.1 percent. The trend has continued, with denial rates of 34.2 percent and 42.2 percent for FY 2018 and 2019, respectively. The denial rate for FY 2020 (the most current data available) is a record high of 42.8 percent (see Figure 1). No explanation for this increase in denials has been provided by USCIS. Further, no published regulations, policies, or programmatic changes explain the increase in denial rates.” *Id.* at 65.
  
- ll. “The combination of increased denials, the harmful changes mentioned above, and an increasingly hostile immigration environment has resulted in fewer reports by trafficking survivors to LEAs and applications for immigration relief. According to research done by the American Civil Liberties Union and the National Immigrant Women’s Advocacy Project, 64 percent of law enforcement officers surveyed said that human trafficking had become more difficult to investigate due to increasing immigration enforcement under the current administration.” *Id.* at 65.
  
- mm. “Additionally, of the 20 AAO decisions that focused on physical presence in calendar year 2020, 15 were dismissed and only 5 were remanded to USCIS. Thus, although some recent AAO opinions have considered the challenges trafficking survivors experience and the need for specialized services, these cases represent only a handful of the hundreds of trafficking cases filed each year.” *Id.* at 67.

- mn. “The agency began denying T visa applications if more than a few years had passed since the applicant had escaped the traffickers before applying for a T visa, despite the absence of any explicit T visa filing deadline in the TVPA or federal regulations.” *Id.* at 54 (highlighting the issue with an anecdote about Anita who escaped trafficking but was not aware that she qualified as a survivor until over 16 years later).
- oo. “However, while Anita’s T visa application was pending, USCIS began narrowing its interpretation of the physical presence requirement and denying relief to applicants who did not come forward for several years after the trafficking occurred. USCIS denied Anita’s application, leaving her undocumented, at risk of being put in removal proceedings, and vulnerable to future abuse and exploitation.” *Id.* at 54.

12. *Policy Changes and Delays at U.S. Citizenship and Immigration Services: Hearing Before the H. Comm. on Judiciary*, 116th Cong. (2019) (statement of Jill Marie Bussey, Dir. of Advoc., Cath. Legal Immigr. Network, Inc.).

- pp. “New rules regarding Requests for Evidence (RFE) and Notices of Intent to Deny (NOID) create needless redundancies and drain resources. Cases with small errors or issues that were previously resolved through customer service and moved along through the system are being denied, forcing applicants to start from the beginning and resulting in USCIS repeat adjudicatory steps. This also places an unfair financial burden on applicants, forcing people to pay filing fees to refile a case. At the extremes, this policy can result in an applicant not being able to access the immigration benefit at all.” *Id.* at 4.
- qq. “USCIS must also rescind its 2018 policy regarding RFEs and NOIDs. This policy allows USCIS to summarily deny a case without issuing an RFE or NOID, which would allow the applicant to correct the mistake and then resume case processing. When cases are denied, applicants lose the filing fee they paid, and must start over. This policy wastes the time and resources of applicants, their legal representatives, and USCIS, which must restart the adjudication process when the applicant re-submits. In some cases, the applicant may be time-barred from refiling, denying them justice.” *Id.* at 6.

13. Evangeline M. Chan & Amy Cheung, *It’s Time for a #MeToo Reckoning in Immigration*, *MS. MAGAZINE* (Apr. 26, 2021), <https://msmagazine.com/2021/04/26/metoo-immigration-u-visa-backlog-women-uscis-sexual-assault-domestic-violence/>.

- rr. “Since the #MeToo movement started over a decade ago, it has become more than about giving a voice to survivors of sexual assault and violence; it has been about change—providing more protections for survivors and taking down the systems that oppress them. And not just for women, but for men and LGBTQ+ individuals as well. What we have learned is that the abuse of power and complicity with that

abuse exists across many industries and institutions and that low-income people of color are particularly vulnerable. This is especially true in the context of immigration.”

ss. “Around 2018, however, we began noticing a shift in practice where USCIS began routinely issuing demands for more evidence and denying applications for any applicant who has had *any* contact with the criminal justice system, no matter how minor that contact was. This has been particularly problematic because many of our clients have had some contact with the criminal justice system. It is not uncommon for abusers to weaponize the criminal justice system and file retaliatory complaints against their victims. . . . What this effectively does . . . is slam the door on the very individuals Congress intended to protect with the U-visa program. But it also does so much more: It exposes the persistent culture of putting survivors ‘on trial,’ of not believing survivors, of abuses of power, of complicity with abusers, of structural racism.”

14. Mara Vanderslice Kelly, *It Takes a Village to End Human Trafficking*, FLA. COURIER (Aug. 31, 2021), [https://www.flcourier.com/commentaries/it-takes-a-village-to-end-human-trafficking/article\\_242d2d2a-072b-11ec-87a4-6b4e0416faa5.html](https://www.flcourier.com/commentaries/it-takes-a-village-to-end-human-trafficking/article_242d2d2a-072b-11ec-87a4-6b4e0416faa5.html).

tt. “Sadly, marginalized communities—including people of color, LGBTQ+ individuals, undocumented immigrants, and survivors of abuse—are more likely to become victims.”

15. Pam Strickland, *US Leads Fight in Human Trafficking- Or Does It?*, GOOD FAITH MEDIA (Jul. 29, 2020), <https://goodfaithmedia.org/us-leads-fight-in-human-trafficking-or-does-it/>.

uu. “The 2020 Trafficking in Persons report states the U.S. Department of Justice ‘prosecuted fewer cases and secured convictions against fewer traffickers for the second year in a row, issued fewer victims trafficking-specific immigration benefits and did not adequately screen vulnerable populations for human trafficking indicators.’”

vv. “According to the State Department’s 2020 Trafficking in Persons report, ‘the number of victims granted T visas decreased by 13% and the government granted 25% fewer certification letters providing access to benefits and services to foreign national adult victims of trafficking.’”

16. Abigail Abrams, *‘I Thought I Was Going to Die.’ How Donald Trump’s Immigration Agenda Set Back the Clock on Fighting Human Trafficking*, TIME (Oct. 30, 2020, 10:41 AM), <https://time.com/5905437/human-trafficking-trump-administration/>.

ww. “Fee waivers on supplemental documents that used to be approved are now routinely denied, and applications are now adjudicated more strictly, multiple anti-trafficking experts and victims’ lawyers say. For example, the U.S. Citizenship and Immigration Services (USCIS) now frequently

requests further evidence that a person was indeed trafficked or that their trafficking history is the reason they are still in the U.S.”

- xx. “The U.S. now has the largest backlog of pending T visa applications and the largest number of denials in the program’s history, as well as the lowest number of approvals in a decade, according to USCIS data.”
- yy. “People of color are disproportionately impacted by labor and sex trafficking, according to Polaris.”

17. Jenna Krajeski, *The Hypocrisy of Trump’s Anti-Trafficking Argument for a Border Wall*, NEW YORKER (Feb. 5, 2019), <https://www.newyorker.com/news/news-desk/the-hypocrisy-of-trumps-anti-trafficking-argument-for-a-border-wall?fbclid=IwAR2sZOU1zdIJ6FQzM9jUOpRZ76Trnsmp3t-X6FKO9Xdr35d0pzNE4ik6nyQ>.

- zz. “[I]mmigration authorities have begun asking that the victims and their lawyers provide further proof that the applicants were trafficked. ‘We would very rarely get requests for more evidence,’ Katherine Soltis, an attorney at an immigrant-services nonprofit in Washington, D.C., called Ayuda, said. ‘Now it’s nearly every case.’”
- aaa. “‘There has been a dramatic shift in T-visa applicants getting requests for further evidence based on arrest history,’ Sabrina Talukder, a lawyer with the Legal Aid Society in New York, told me. A year ago, she met a client who had been trafficked after she ran away from an abusive home life. ‘Her story is very common among L.G.B.T.Q. youth,’ Talukder said.”
- bbb. “‘Under past Administrations, the fee was regularly waived if the victims were unable to pay. ‘Over the summer, these fee waivers were being rejected across the board,’ Lori Cohen, the director of an anti-trafficking initiative at Sanctuary for Families, told me. ‘Trafficking victims were being asked to provide tax receipts to prove income. Guess what, brothels don’t provide tax receipts to trafficking victims. Johns don’t give receipts for services received.’”
- ccc. “‘Decisions are discretionary, leaving lawyers and victims uncertain about why they were denied and what that denial means for future applications.’”

18. Katherine Soltis & Madeline Taylor Diaz, *Ganged Up On: How the US Immigration System Penalises and Fails to Protect Central American Minors Who are Trafficked for Criminal Activity by Gangs*, 16 ANTI-TRAFFICKING REV. 104 (2021).

- ddd. “Although Hector’s T visa was eventually approved, his application was pending for several years due to USCIS’s repeated RFEs. During this time, he lived in fear of being deported and harmed by the gang from which he sought protection, and

he was unable to work legally or receive public benefits to recover from his exploitation.” *Id.* at 114.

19. U.S. CITIZENSHIP & IMMIGR. SERVS., NUMBER OF FORM I-914, APPLICATION FOR T NONIMMIGRANT STATUS BY FISCAL YEAR, QUARTER, AND CASE STATUS FISCAL YEARS 2008-2021 (2021), [https://www.uscis.gov/sites/default/files/document/reports/I914t\\_visastatistics\\_fy2021\\_qtr1.pdf](https://www.uscis.gov/sites/default/files/document/reports/I914t_visastatistics_fy2021_qtr1.pdf).

Number of Form I-914, Application for T Nonimmigrant Status By Fiscal Year, Quarter, and Case Status Fiscal Years 2008-2021												
Period	Applications by Case Status											
	Victims of Trafficking <sup>1</sup>				Family Members <sup>1</sup>				Fiscal Year Total			
	Applications Received <sup>2</sup>	Approved <sup>3</sup>	Denied <sup>4</sup>	Pending <sup>5</sup>	Applications Received <sup>2</sup>	Approved <sup>3</sup>	Denied <sup>4</sup>	Pending <sup>5</sup>	Applications Received <sup>2</sup>	Approved <sup>3</sup>	Denied <sup>4</sup>	Pending <sup>5</sup>
<b>Receipt Fiscal Year - Total</b>												
2008	389	247	56	193	321	176	23	D	710	423	79	H
2009	461	290	63	307	241	259	54	D	702	549	117	H
2010	541	446	102	305	518	361	74	D	1,059	807	176	H
2011	882	556	145	502	909	708	114	D	1,791	.	259	H
2012	790	667	81	565	848	747	94	453	1,638	1,414	175	1,018
2013	804	851	97	421	1,021	984	85	518	1,825	1,835	182	939
2014	908	619	135	590	913	787	95	579	1,821	1,406	230	1,169
2015	1,040	611	239	809	1,113	692	182	854	2,153	1,303	421	1,663
2016	955	748	175	869	890	937	144	713	1,845	1,685	319	1,582
2017	1,177	669	213	1,180	1,142	667	123	1,100	2,319	1,336	336	2,280
2018	1,613	576	300	1,916	1,315	703	251	1,483	2,928	1,279	551	3,399
2019	1,242	500	365	2,358	1,011	491	216	1,860	2,253	991	581	4,218
2020	1,110	1,040	778	1,798	966	1,018	511	1,448	2,076	2,058	1,289	3,246
<b>Receipt Fiscal Year 2021 by Quarter</b>												
Q1. October - December	290	135	101	1,869	234	82	60	1,545	524	217	161	3,414
Q2. January - March												
Q3. April - June												
Q4. July - September												
<b>Total</b>	<b>290</b>	<b>135</b>	<b>101</b>	<b>1,869</b>	<b>234</b>	<b>82</b>	<b>60</b>	<b>1,545</b>	<b>524</b>	<b>217</b>	<b>161</b>	<b>3,414</b>

eee. This table shows that T Visa denials for the survivor almost doubled from 2019 to 2020. They were previously increasing at a steady rate but the biggest spike was last year.