

The Facts about Continued Presence

Fact CP applications should be submitted immediately upon identification of a victim regardless of whether or not the victim has cooperated. In some cases, due to the nature of trafficking crimes, victims are too traumatized to cooperate at the outset of an investigation; however, this should not preclude the submission of a CP application.

Fact CP applications can be approved with an uncorroborated victim statement. A victim's statement alone is sufficient as long as the law enforcement official finds it credible under the circumstances.

Fact CP approval is not dependant on the case being accepted for prosecution. A victim must only be a potential witness to the human trafficking crime.

Fact CP approval is not dependant on human trafficking charges being brought. CP is available to all trafficking victims even if a human trafficking violation is not charged or if charges are never brought.

Fact Deferred action should never be used in place of CP. Deferred action is a form of prosecutorial discretion, such as not placing an individual in removal proceedings, and is done as an act of administrative convenience to the government. It precludes a victim from receiving TVPA benefits and services.

Fact CP does not require that the victim has suffered a violent form of human trafficking. Human traffickers may employ a range of non-violent forms of coercion to hold victims against their will such as threats of deportation, document control and psychological coercion.

Fact CP is initially granted for one year and may be renewed in one-year increments. CP renewals are submitted by the federal law enforcement official and evaluated by their agency on a case-by-case basis.

Fact CP can be revoked. If it is later determined that the individual is not a victim of human trafficking and/or is no longer a potential witness, CP can be revoked.

Fact CP is not a guarantee of a long-term form of immigration status. Receipt of CP does not guarantee that USCIS will favorably adjudicate other long-term immigration status applications.

Fact CP recipients are permitted to travel domestically and may have their family members join them in the U.S. At the discretion of the federal law enforcement official and their agency, a victim may be granted authorization to have their family member enter the U.S. to join them.

Long-Term Immigration Status

Victims may qualify for other forms of immigration benefits depending on their unique circumstances. Law enforcement officials are encouraged to work with the local ICE victim assistance coordinator to obtain referrals to non-governmental victim service providers. These providers may offer a variety of services to assist crime victims such as immigration legal assistance, crisis intervention, counseling, medical care, housing, job skills training and case management.

Trafficking victims are eligible to self-petition to USCIS for T and U nonimmigrant status which permits them to remain in the U.S. for up to four years and can lead to lawful permanent residence. These applications may require a law enforcement certification. Federal, state and local law enforcement should, upon request, provide law enforcement certifications for human trafficking victims. USCIS will complete a comprehensive review of these applications prior to adjudication.

Important Numbers

ICE Law Enforcement Parole Branch:
202-732-8164 (law enforcement only)

ICE Headquarters Victim Assistance:
866-872-4973 or victimassistance.ice@dhs.gov

For human trafficking-related policy issues, please contact the ICE Headquarters Human Smuggling and Trafficking Unit at:
ICEHumanTrafficking.helpdesk@dhs.gov



Report Suspicious Activity:
1-866-DHS-2-ICE (1-866-347-2423)
www.dhs.gov/humantrafficking



Continued Presence

Temporary Immigration Status for Victims of Human Trafficking



U.S. Immigration and Customs Enforcement



Background

U.S. Immigration and Customs Enforcement (ICE) is the lead DHS law enforcement agency that investigates human trafficking crimes. ICE places a priority on human trafficking investigations, recognizes victims of human trafficking as crime victims and secures access for victims to the rights and benefits afforded them under the Trafficking Victims Protection Act (TVPA).

Definition

Continued Presence (CP) is a temporary immigration status provided to individuals identified by law enforcement as victims of human trafficking. This status allows victims of human trafficking to remain in the U.S. temporarily during the ongoing investigation into the human trafficking-related crimes committed against them. CP is initially granted for one year and may be renewed in one-year increments. CP is authorized under provisions of section 107(c)(3) of the TVPA, which has since been reauthorized, and is codified at 22 U.S.C. § 7105(c)(3).

Importance of Continued Presence

CP is an important tool for federal, state and local law enforcement in their investigation of human trafficking-related crimes. Victims of human trafficking often play a central role in building a case against a trafficker. CP affords victims a legal means to temporarily live and work in the U.S., providing them a sense of stability and protection. These conditions improve victim cooperation with law enforcement, which leads to more successful prosecutions and the potential to identify and rescue more victims.

How Is Continued Presence Requested?

Federal law enforcement officials, primarily from ICE and the Federal Bureau of Investigation as well as federal prosecutors from U.S. Attorney's Offices within the Department of Justice, are authorized to submit CP applications. An application for CP should be initiated immediately upon identification of a victim of human trafficking. All CP applications are submitted to the ICE Law Enforcement Parole Branch (LEPB).

Federal officials may submit CP applications on behalf of state or local law enforcement in cases where the victimization meets the federal definition of trafficking as found in the TVPA and at 22 U.S.C. § 7102. When state or local law enforcement officials identify a victim of human trafficking, they should coordinate with their federal law enforcement partners to submit an application for CP.

If required, CP renewals should be submitted by the federal law enforcement official thirty days prior to the one year expiration.

Who Authorizes Continued Presence?

The LEPB has the sole authority to approve or deny CP applications. Those results are sent to the federal submitting official and, in cases of approval, to the Department of Health and Human Services (HHS) and the Vermont Service Center (VSC), a component of U.S. Citizenship and Immigration Services (USCIS).

Once notified, HHS issues a letter authorizing the victim to receive federal and state benefits.¹ Additionally, the VSC produces a Form I-94 (Arrival-Departure Record) and an Employment Authorization Document (EAD) for the federal submitting official to provide to the victim.²

¹ In contrast to adult victims, minor victims are not required to cooperate with law enforcement in order to receive these benefits.

² An EAD is issued in conjunction with all approved CP applications. This includes minor victims where the EAD is often used as an identity document.

Only the federal law enforcement official or assigned agency victim assistance coordinator can provide the victim or their representative updates on the status of pending CP applications. Because of the sensitivity and confidentiality protections afforded trafficking victims, CP applications are subject to several levels of review within the submitting federal agency before the application is received by the LEPB.

Who Qualifies for Continued Presence?

An individual identified as a victim of human trafficking who is a potential witness in the investigation or prosecution of the trafficker. The federal law enforcement official makes the initial determination if the individual meets the definition of a victim of a severe form of trafficking in persons. Cooperation with law enforcement is not required for CP to be granted.



Who Is a Victim of Human Trafficking?

An individual who has been exploited through:

- **Sex Trafficking** — a commercial sex act induced by force, fraud or coercion, or in which the person induced by any means to perform such act has not attained 18 years of age; or
- **Labor Trafficking** — 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.