



# Center for Countering Human Trafficking

## Continued Presence Resource Guide

for submitting law enforcement agencies and civil attorneys

September 2023

## A Message from the Deputy Director and Senior Official Performing the Duties of the Director

Dear Reader:

U.S. Immigration and Customs Enforcement (ICE) Homeland Security Investigations (HSI) has a long history of processing Continued Presence requests for law enforcement nationwide. As of February 26, 2021, the HSI led Department of Homeland Security (DHS) Center for Countering Human Trafficking (CCHT) assumed responsibility for processing Continued Presence requests, and has been working diligently to ensure that law enforcement officers are aware this important tool is available to assist human trafficking victims. This *Continued Presence Resource Guide* is one of those efforts.



These changes are an example of the important work that DHS and ICE have done to combat human trafficking. Last year was significant for countering human trafficking efforts in that it was the 20<sup>th</sup> anniversary of the passage of the Trafficking Victims Protection Act, the establishment of the CCHT and the release of the first *DHS Strategy to Combat Human Trafficking, Imported Goods Produced with Forced Labor, and Child Sexual Exploitation*.

In line with DHS's and ICE's victim-centered approach to law enforcement operations, I encourage you to protect human trafficking victims and to request Continued Presence for victims assisting in criminal investigations, prosecutions, and federal civil actions. Thank you for your dedicated efforts.

Sincerely,

Patrick J. Lechleitner  
Deputy Director and Senior Official  
Performing the Duties of the Director  
U.S. Immigration and Customs Enforcement

## A Message from the Executive Associate Director

Dear Reader:

I am pleased to issue this *Continued Presence Resource Guide* to help law enforcement agencies, civil attorneys, service providers, human trafficking victims and survivors, and others better understand this important tool used as part of a victim-centered approach to combat human trafficking.

Continued Presence offers a combination of protections that help to stabilize victims, restore self-sufficiency, and improve victims' ability to seek justice by assisting law enforcement in a criminal investigation and participating in a federal civil action against their trafficker.

Thank you for your partnership in counter-trafficking efforts.



Sincerely,

A handwritten signature in black ink that reads "Katrina W. Berger".

Katrina W. Berger  
Executive Associate Director for  
Homeland Security Investigations (HSI)

## A Message from the Director

Dear Reader:

The DHS Center for Countering Human Trafficking (CCHT) is committed to disrupting and dismantling human trafficking organizations as well as to providing support and protection to victims. Founded in October 2020, the CCHT is a DHS-wide effort with 16 participating offices and components contributing subject matter experts across criminal investigations, civil enforcement investigations, intelligence, victim assistance, identifying and reporting human trafficking, public awareness and other external outreach, and training. DHS has long had a counter-trafficking commitment and now, through the CCHT, we can achieve better results through closer collaboration and cooperation. Our efforts to streamline and strengthen the use of Continued Presence are an important component of that commitment.



The CCHT takes great pride in its role supporting victims and law enforcement nationwide who work to hold traffickers accountable. We are committed to ensuring Continued Presence serves as the effective victim protection and law enforcement investigative tool it was intended to be. The CCHT will continually make improvements wherever possible, including reducing Continued Presence processing times, providing trainings and informative materials, and being responsive to stakeholders like you.

In support,

A stylized, handwritten signature in blue ink, consisting of a series of loops and a long horizontal stroke.

Cardell T. Morant  
Director of the Center for  
Countering Human Trafficking



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*The information provided in this Resource Guide is intended for general educational purposes only. It is not intended to provide legal advice. This Resource Guide was informed by federal, state, tribal, territorial, and local law enforcement, victim service providers, and survivors of human trafficking.*

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# Continued Presence Resource Guide

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## What is Continued Presence

Continued Presence (CP) is a temporary immigration designation provided to noncitizens identified by law enforcement as victims of a “severe form of trafficking in persons” who may be potential witnesses. CP allows noncitizen human trafficking victims to lawfully remain and work in the United States temporarily during the investigation into the human trafficking-related crimes committed against them and during any civil action under 18 U.S.C. § 1595 filed by noncitizen victims against their traffickers. CP is initially granted for two years and may be renewed in up to two-year increments. CP recipients also receive federal benefits and services.

CP provides victims with a legal means to temporarily live and work in the United States, thus providing victims stability, a means of support, and protection from removal. It alleviates fears of removal and allows for economic support, which not only stabilizes victims, but also improves victims’ ability to seek justice against their trafficker either by cooperating with law enforcement, filing a civil action, or both.

CP is an important tool for federal, state, tribal, territorial, and local law enforcement in their investigation and prosecution of human trafficking-related crimes, leading to more successful prosecutions. The routine use of CP for victims fosters trust with service providers and organizations who may be a greater source of referrals for law enforcement when they know that victims will be protected if they come forward. Ultimately this increases law enforcement’s ability to identify victims and traffickers.

## Continued Presence as Part of a Victim-Centered Approach

Decades of successful human trafficking investigations and prosecutions all point to using a victim-centered approach as a reason for their success. A victim-centered approach places equal value on the investigation and prosecution of human traffickers and on the identification and stabilization of victims of human trafficking. It means considering the victim’s rights, safety, and interests throughout the investigation and prosecution. The goal of this approach is to focus the investigation and prosecution around the victim while minimizing stress, harm, and trauma. Requesting CP for noncitizen trafficking victims in an investigation, prosecution, or federal civil action as described in this Resource Guide is a critical element of victim-centered law enforcement.

When working with human trafficking victims, it is also critical to be aware of the impact of trauma, which is closely related to victim-centered efforts. A trauma-informed approach means recognizing that a victim’s trauma history affects their response to the criminal justice process and seeking to avoid victim re-traumatization, increasing the safety of all, and the effectiveness of interactions with victims. This includes victim-centered practices that prioritize the survivor’s feelings of safety, choice, and control.

## Requesting Continued Presence as Early and Expeditiously as Possible

Human traffickers often instill in noncitizen victims a fear of law enforcement and deportation. The traffickers may leave victims destitute, distrusting, and uncertain of their future. When a victim is first recovered from human trafficking, these fears and uncertainties remain. CP can alleviate some of these fears and uncertainties by providing authorization to remain in the United States with the ability to work legally and receive federal benefits available to refugees. CP offers safety, stability, a means to become self-sufficient and, thereby, a more reliable and effective witness. Therefore, the CCHT encourages law enforcement to apply for CP as early and expeditiously as practicable.



# How Federal, State, Tribal, Territorial, and Local Law Enforcement Prepare Applications

## Overview

### Identify

- Federal, state, tribal, territorial, or local law enforcement identifies a victim of a severe form of human trafficking who may be a potential witness OR who has filed a civil action under 18 U.S.C. § 1595
- Law enforcement prepares the CP application as soon as possible after identification

### Apply

- State, tribal, territorial, and local law enforcement work through their local Homeland Security Investigations (HSI) office or another federal law enforcement agency partner
- Civil attorneys work through HSI Victim Assistance Specialists
- Federal law enforcement submits the CP application to their respective headquarters point of contact (HQ POC)
- Federal law enforcement HQ POC submits the CP application to the DHS Center for Countering Human Trafficking (CCHT)

### Process

- CCHT reviews application, confirms eligibility, approves or denies
- If approved, CCHT notifies the submitting law enforcement agency and instructs to send documents to U.S. Citizenship and Immigration Services (USCIS); CCHT notifies the U.S. Department of Health and Human Services (HHS) for certification/eligibility letter
- If denied, the CCHT emails the submitting law enforcement officer (LEO) with the reason for the denial

## Identifying a Victim of a “Severe Form of Trafficking in Persons”

To be eligible for CP, law enforcement must identify an individual as a victim of a severe form of trafficking in persons who may be a potential witness in a human trafficking investigation/prosecution or who has filed a civil action under 18 U.S.C. § 1595.

### **Victim of a severe form of trafficking in persons**

Law enforcement must use the definition of a victim of a severe form of trafficking from the Trafficking Victims Protection Act of 2000, Pub. L. No. 106-386, § 103(8-9), as amended in 22 U.S.C. § 7102(11-12), which is a person subjected to:

- (a) sex trafficking, which is the recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting of a person for a commercial sex act either induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or
- (b) forced labor, which is 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.

In the CP application, the CCHT is primarily looking for a concise statement regarding the indicators of force, fraud, and coercion **OR** that the individual is a minor engaged in a commercial sex act. In CP applications related to sex trafficking, the CCHT will also look for indicators that the sex act was commercial, that is, in exchange for something of value.

### **Who may be a potential witness**

The second eligibility requirement is that the victim “may be a potential witness.”<sup>1</sup> This means that law enforcement has some indication that this individual has information that could be helpful to the investigation or prosecution of the trafficker. It does not require certainty that the victim will be a testifying witness at a prosecution nor that there be an indictment or prosecution.

<sup>1</sup>22 U.S.C. § 7105(C)(3)(A)(i).

**Note:**

- Law enforcement is encouraged to expeditiously determine initial CP eligibility and complete the application as early as practicable upon encountering a victim. CP is intended to be used as early as possible in an investigation. Accordingly, if law enforcement meets with a noncitizen victim once, finds them to be credible, and determines to take any additional actions to look into the trafficking, CP should be requested.
- When CP is requested as soon as possible, the victim is more apt and willing to assist law enforcement in their investigation.
- The CCHT does not require charges of any kind to be filed, a pending indictment, or a current prosecution to request CP. A prosecutor does not need to be involved or consulted in order to make a CP request.
- CP is available for forced labor and sex trafficking victims and should be used for all identified noncitizen victims in an investigation.
- A CP request should never be withheld and used coercively to elicit cooperation. Doing so undermines the intent of this immigration designation and can jeopardize prosecutions.
- There is no limit to the number of CP requests made annually, per case, or per agency. For example, CP has been requested for more than 100 victims stemming from a single case.
- Some victims may be too traumatized to assist immediately. CP is appropriate for these victims as well. After receiving CP and becoming more stable, victims may be in a better place physically and mentally to assist law enforcement.

Best practice: Law enforcement should bring the CP paperwork to the initial interview; if the individual credibly appears to be a victim and law enforcement will take any additional actions, then CP should be requested.

## Preparing an Application in Support of Investigations/Prosecutions

Whether the request is based on a federal, state, tribal, territorial, or local investigation or prosecution, law enforcement must include the following forms and attachments in every CP application to the CCHT:

- ICE Form 73-031, Request for Continued Presence
  - Include results of all law enforcement queries, including negative results, conducted to identify any threats to public safety and/or national security.
  - This form is obtained from a local HSI office or another federal law enforcement agency partner.
- Attachment A, Certification for Continued Presence by Requesting Law Enforcement Agency
  - Completed by *federal* law enforcement only.
- [USCIS Form I-102, Application for Replacement/Initial Nonimmigrant Arrival-Departure Document](#)
- [USCIS Form I-765, Application for Employment Authorization](#)
  - Two passport style photos with victim's A# written on the back<sup>2</sup>

A human trafficking victim can receive CP regardless of which agency is investigating. Federal agencies facilitate CP for state, tribal, territorial, and local law enforcement agencies, building relationships as they do so. This also facilitates CP for victims who have filed a federal civil action.

If state, tribal, territorial, or local law enforcement request CP, those officials work with their local HSI office or another federal law enforcement agency partner to submit a completed application.

Federal law enforcement agencies include HSI; Federal Bureau of Investigations (FBI); U.S. Department of State Diplomatic Security Service (DSS); U.S. Attorneys' Offices; U.S. Department of Justice (DOJ), Civil Rights Division, Criminal Section; U.S. Marshals Service; U.S. Department of Labor (DOL); and the Equal Employment Opportunity Commission (EEOC).

<sup>2</sup>A#/A-Number/Alien Registration Number/Alien Number/USCIS Number is a unique seven-, eight- or nine-digit number assigned to a noncitizen by DHS. An HSI Parole Coordinator will assist with obtaining an A# if a noncitizen has not already been issued one.



Only law enforcement officers (LEOs) may request Continued Presence. Victim assistance personnel may provide support throughout the process; however, the LEO is ultimately responsible for submitting the request and receiving the CP recipient's I-94 and work permit. Nongovernmental organizations are not authorized to prepare or assist with CP forms nor to receive the I-94 and work permit.

## Preparing an Application in Support of Civil Actions

Not every human trafficker can be criminally investigated and prosecuted; civil actions are another way to hold human traffickers accountable and can successfully assist victims in recovering damages and taking away the proceeds and related assets from traffickers. In recognition of this important avenue to justice, CP is authorized for victims who have filed civil actions under 18 U.S.C. § 1595. Law enforcement's role in processing these applications is to confirm there are no national security or public safety risks associated with such an individual receiving CP.

To streamline this process, CP requests based on a civil action must come through HSI only. Civil attorneys and/or victims should contact the nearest HSI Victim Assistance Specialist with:

- ✓ A copy of the filed complaint
- ✓ A one-page description of the litigation
- ✓ An explanation of how the individual meets the definition of a victim of a "severe form of trafficking in persons," focusing on elements of force, fraud, and coercion as applicable.

A criminal investigation does not need to be initiated or underway when Continued Presence is being requested in support of civil actions.

The HSI Victim Assistance Specialist will then work with the HSI Group Supervisor assigned to the human trafficking group to complete the paperwork and obtain necessary approvals from that HSI field office before submitting to the CCHT as they would for any other CP request.

If the CCHT determines, in consultation with the U.S. Attorney's Office, that the CP recipient failed to exercise due diligence in pursuing the civil action, the CCHT may revoke CP. See 22 U.S.C. § 7105(c)(3)(iii). If certain inadmissibility grounds apply, the CP recipient may be removed before the conclusion of administrative and legal proceedings under 18 U.S.C. § 1595. See 22 U.S.C. § 7105(c)(3)(iv).

## Preparing an Application for Extension

To prepare an application for a CP extension, all law enforcement will follow the same procedure for an initial application except substitute ICE Form 73-032, Request for Extension of Continued Presence for ICE Form 73-031 as the primary request document. Extensions ensure that victims maintain authorization to remain in the United States and work without interruption. Based on review times, the CCHT strongly encourages law enforcement to submit extension requests 60 days prior to expiration so that the victim's CP, benefits, and work authorization do not lapse.

## How Federal, State, Tribal, Territorial, and Local Law Enforcement Submit Applications

All CP applications for investigations and prosecutions as well as civil actions are submitted to [ContinuedPresence@ccht.dhs.gov](mailto:ContinuedPresence@ccht.dhs.gov) by federal law enforcement agencies only.

HSI sends applications (on behalf of HSI, state, tribal, territorial and local, and civil actions) directly to the CCHT via [ContinuedPresence@ccht.dhs.gov](mailto:ContinuedPresence@ccht.dhs.gov).

All other federal law enforcement agencies route CP applications through a designated central headquarters agency point of contact. For example, all FBI agents send their applications (for FBI as well as state, tribal, territorial, and local agencies) to [ContinuedPresence@fbi.gov](mailto:ContinuedPresence@fbi.gov) and all U.S. Department of State Diplomatic Security Service (DSS) agents send their applications (for DSS as well as state, tribal, territorial and local agencies) to [VRAP@state.gov](mailto:VRAP@state.gov).

These federal headquarters points of contact then submit applications to the CCHT via [ContinuedPresence@ccht.dhs.gov](mailto:ContinuedPresence@ccht.dhs.gov).

### Continued Presence Request Submission Process

#### HSI LEO

*Submits to CCHT*



[ContinuedPresence@ccht.dhs.gov](mailto:ContinuedPresence@ccht.dhs.gov)

#### Other Federal LEO

*Submits to HQ POC*



#### HQ POC

*Submits to CCHT*



[ContinuedPresence@ccht.dhs.gov](mailto:ContinuedPresence@ccht.dhs.gov)

#### State, Tribal, Territorial, and Local LEO

*Submits to HSI or another  
federal law enforcement  
agency*



#### HSI LEO

*Submits to CCHT*



[ContinuedPresence@ccht.dhs.gov](mailto:ContinuedPresence@ccht.dhs.gov)

*or*

#### Other Federal LEO

*Submits to HQ POC*



#### HQ POC

*Submits to CCHT*



[ContinuedPresence@ccht.dhs.gov](mailto:ContinuedPresence@ccht.dhs.gov)

#### Civil Attorney or Victim

*Works with HSI Victim  
Assistance Specialist*



#### HSI Victim Assistance Specialist

*Works with HSI Human  
Trafficking Group Supervisor*



#### HSI LEO

*Submits to CCHT*



[ContinuedPresence@ccht.dhs.gov](mailto:ContinuedPresence@ccht.dhs.gov)

The CCHT continuously monitors the [ContinuedPresence@ccht.dhs.gov](mailto:ContinuedPresence@ccht.dhs.gov) mailbox during regular business hours. This inbox is used for all law enforcement communication regarding CP requests, extensions, and approvals.

The CCHT reviews the application for accuracy and completeness. If there is missing or incorrect information in the request, the CCHT will inform the requesting LEO.

## Approvals

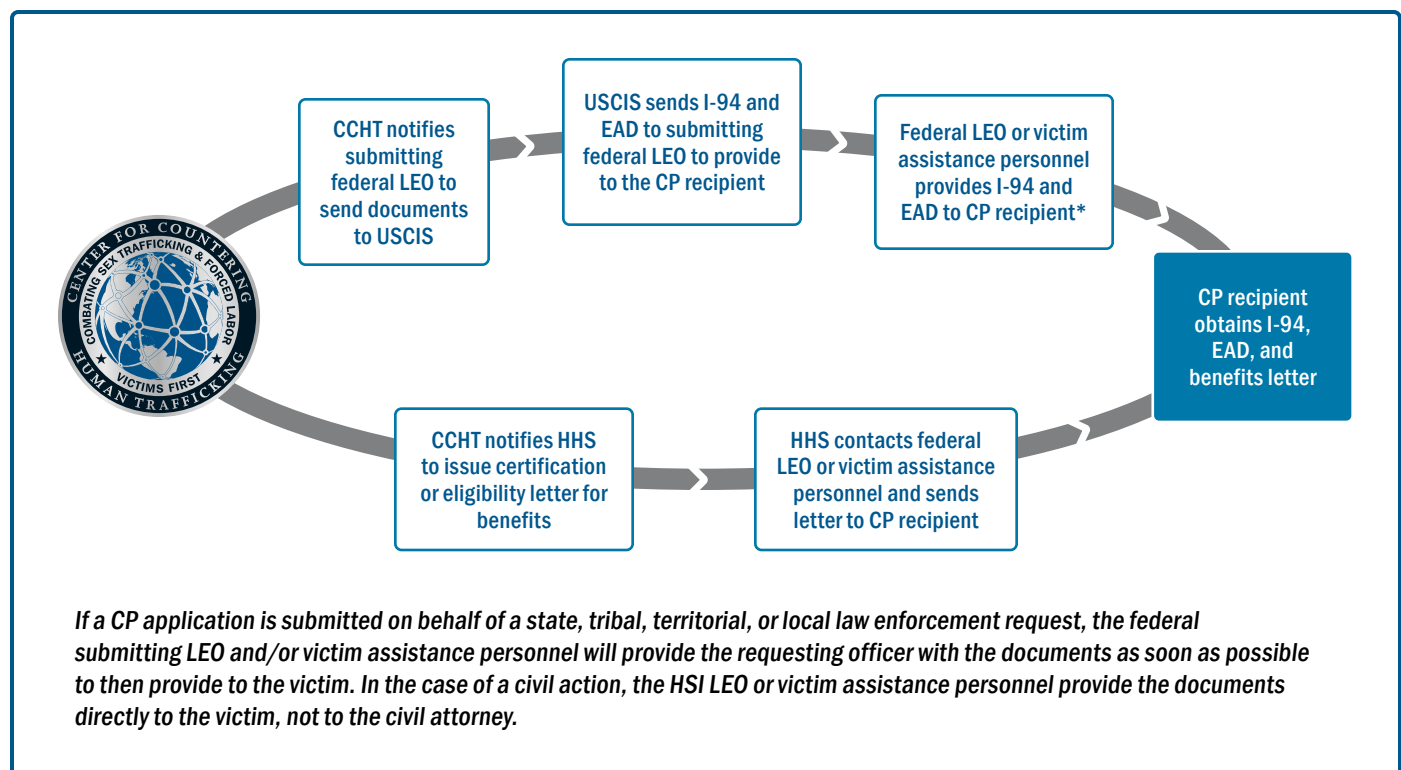
After conducting appropriate checks to rule out national security and public safety threats, the CCHT will approve the Continued Presence application if the submitted forms are complete and accurate and indicate that the individual is a “victim of a severe form of trafficking” who may be a potential witness or who has filed a federal civil action.

### Duration of Continued Presence

The CCHT approves initial requests for two years and extension requests in increments of up to two years as needed. A T Nonimmigrant status or “T visa” should be applied for as soon as possible to ensure no gap exist between CP and the granting of the T visa. Additionally, continuous protection facilitates future investigations because other victims will learn and trust that law enforcement will maintain CP throughout the process.

### Actions Upon Approval

The CCHT works in close coordination with the submitting federal LEO, U.S. Citizenship and Immigration Services (USCIS), and the U.S. Department of Health and Human Services (HHS) Office on Trafficking in Persons (OTIP) to ensure the CP recipient receives their I-94, Employment Authorization Document (EAD), and certification letter or eligibility letter as quickly as possible.



#### Note:

- USCIS requires 2-4 weeks to process and send the I-94 or EAD. Direct any inquiries specific to USCIS (e.g., delays in receiving the documents) to the Vermont Service Center's T/U-Visa Unit general email at [LawEnforcement\\_UTVAWA.VSC@uscis.dhs.gov](mailto:LawEnforcement_UTVAWA.VSC@uscis.dhs.gov). USCIS generally responds within 24 hours.
- A certification letter for adult victims or an eligibility letter for minor victims provides the victim access to benefits and services, such as medical and nutrition assistance. HHS/OTIP will contact the listed LEO or victim assistance personnel to determine where to send the letter.

# Law Enforcement and Civil Attorney Responsibilities Upon Approval

## Law Enforcement

### The submitting federal LEO is responsible for:

- Providing the victim with the USCIS-issued I-94 and Employment Authorization Document as soon as possible.
- If the CP request was on behalf of state, tribal, territorial, or local law enforcement, the federal submitting LEO is responsible for providing the requesting officer with the USCIS-issued I-94 and Employment Authorization Document as soon as possible. The law enforcement officer then provides the documents to the victim.
- Advising the victim to keep the names and phone numbers of their case's LEO or civil attorney and victim assistance personnel with them at all times in addition to the I-94 and EAD which proves they have Continued Presence; this information must be provided to immigration or other law enforcement officers upon request. When the CCHT approves CP, relevant law enforcement databases are updated so that if the CP recipient is encountered, law enforcement should be able to verify that the individual is authorized to be in the United States under Continued Presence. Additional information regarding contacting the LEO POC before any enforcement action occurs is included.
- Monitoring CP recipient by taking reasonable measures to identify the CP recipient's general location (residence and work), maintain regular and reoccurring contact, and be able to contact them to assist with the investigation. It is helpful if the submitting federal LEO and CP recipient are in contact monthly via text message or phone call.
  - State, tribal, territorial, and local law enforcement are responsible for monitoring their requested CP recipients.
  - If the victim and investigation are in different areas of responsibility (AOR), the requesting federal agency must secure a LEO who can provide monitoring assistance in the victim's AOR.
- Reapplying to USCIS for a lost or damaged I-94 or EAD.
- Contacting the Center for Countering Human Trafficking immediately via [ContinuedPresence@ccht.dhs.gov](mailto:ContinuedPresence@ccht.dhs.gov) if the victim is granted a longer-term immigration benefit such as a T visa. Notification is also necessary if a victim departs the country without advance parole, absconds, or commits a crime.
  - In the case of a civil action, the submitting federal LEO is responsible for contacting the CCHT if the civil suit has concluded or if the victim has failed to exercise due diligence in pursuing such action.
- Submitting any federal, state, tribal, territorial, or local law enforcement requests for extension preferably at least 60 days prior to CP expiration.
- If the request is based on a civil action, advising the civil attorney to submit to [ContinuedPresence@ccht.dhs.gov](mailto:ContinuedPresence@ccht.dhs.gov) quarterly any additional court filings and progress on the civil suit and to provide notification if the victim is granted a longer-term immigration benefit such as a T visa. Notification is also necessary if a victim departs the country without advance parole, absconds, or has failed to exercise due diligence in pursuing the civil action.
- Taking reasonable efforts to protect the safety of trafficking victims and their family members from intimidation, threats of reprisal, and reprisals from traffickers and their associates. See 22 U.S.C. § 7105(c)(3)(A)(ii).

Advise the victim that while CP allows them to legally remain in the United States and the accompanying EAD allows them to work, they must follow all laws. If they commit a crime, they will jeopardize their CP and may be arrested, prosecuted, and/or placed in removal proceedings. Victims must notify the case agent of any arrests or convictions.

It is consistent with a victim-centered approach for federal, state, tribal, territorial, and local law enforcement to sign a T visa declaration form when requested by a victim who is assisting or assisted in the investigation or prosecution of a trafficker. Doing so as soon as possible and not waiting for a prosecution to conclude ensures there is no lapse in status between Continued Presence and a T visa.

### **The requesting state, tribal, territorial, or local LEO is responsible for:**

- Receiving from federal law enforcement the USCIS-issued I-94 and EAD and providing those documents to the victim as soon as possible.
- Advising the victim to keep the names and phone numbers of their case LEO or civil attorney and victim assistance personnel with them at all times in addition to the I-94 and EAD which proves they have Continued Presence. This information must be provided to immigration or other law enforcement officers as requested. When the CCHT approves CP, relevant law enforcement databases are updated so that if the CP recipient is encountered, law enforcement can confirm the individual is authorized to remain in the United States under Continued Presence and that the LEO should be notified before any enforcement action is taken.
- Monitoring the CP recipient by taking reasonable measures to identify the CP recipient's general location (residence and work), maintain regularly and reoccurring contact, and be able to contact the victim to assist the investigation. It is helpful if the state, tribal, territorial, or local law enforcement officer and CP recipient are in contact monthly via text message or phone call.
- Advising the victim that while CP allows them to legally remain in the United States and the accompanying EAD allows them to work, they must adhere to all laws. If victims are convicted of a crime, they may be arrested, prosecuted and/or placed in removal proceedings. Victims must notify the case agent of any crimes committed.
- Notifying the submitting federal law enforcement partner to reapply with USCIS for any lost or damaged I-94 or EAD.
- Contacting the submitting federal law enforcement partner, if the victim is granted a longer-term immigration benefit such as a T visa, departs the country without advance parole, absconds, or commits a crime. In the case of a civil action, contact the CCHT if the civil suit has concluded or if the victim failed to exercise due diligence in pursuing such action.
- Submitting any requests for extension to the submitting federal law enforcement partner 90 days prior to CP expiration.

Victim service providers can assist a CP recipient by ensuring that the victim:

- remains in contact with their case agent,
- keeps their CP documents and case agent contact information on their person at all times,
- is working with an immigration attorney,
- requests and obtains advance parole before departing the country, and
- notifies the case agent if they committed a crime or received a longer-term immigration benefit.

### **Civil Attorneys**

The civil attorney must submit quarterly updates to [ContinuedPresence@ccht.dhs.gov](mailto:ContinuedPresence@ccht.dhs.gov) regarding any additional court filings and progress on the civil suit and to provide notification if the victim is granted a longer-term immigration benefit such as a T visa, leaves the country without advance parole, absconds, or fails to exercise due diligence in pursuing the civil action.

## **Denials**

If the CP request is denied, the CCHT notifies the submitting LEO with the reason for the denial. Before denying the request, the CCHT will take appropriate steps to seek clarifications on missing information.

## **Revocations**

The submitting law enforcement agency may revoke their CP request or the CCHT may revoke the approval when a CP recipient:

- departs the United States without Advance Parole<sup>3</sup>
- commits a crime or engages in unlawful activity

<sup>3</sup> See Traveling Outside the United States - Advance Parole section.

- absconds
- is no longer identified as a trafficking victim
- receives an immigration benefit or otherwise adjusts status, or
- if granted based on a civil action, fails to exercise due diligence in pursuing the civil action or becomes inadmissible under one of the enumerated grounds of inadmissibility, has reached the conclusion of the civil proceedings, and/or the civil case has been dismissed. 22 U.S.C. § 7105(c)(3)(A)(iii)-(iv).

If the CP recipient applied for a T visa, CP should not be revoked at the conclusion of an investigation or prosecution since this action could destabilize the victim.

## Longer Term Immigration Benefits that Law Enforcement Can Support

Trafficking victims may qualify to apply to USCIS for T Nonimmigrant Status, a longer-term immigration benefit issued by USCIS commonly referred to as a T visa, or for other immigration relief. Victims should seek the advice of a qualified immigration attorney regarding the T visa, which allows eligible trafficking victims to remain in the United States for up to four years and can lead to lawful permanent residence, or for other immigration relief. CP does not guarantee T visa approval.

It is consistent with a victim-centered approach for federal, state, tribal, territorial, and local law enforcement to sign the T visa declaration form when requested by a victim who is assisting or has assisted in the investigation or prosecution of a trafficker.

## Confidentiality Protections/Information Disclosure Prohibitions

The U.S. Department of Homeland Security, U.S. Department of State and U.S. Department of Justice are prohibited under 8 U.S.C. § 1367 from disclosing any information to anyone about individuals with CP. This includes, but is not limited to, disclosing an application or record about Continued Presence exists or that someone is a victim unless an exception under the statute is met. One such exception most commonly used is disclosing information to law enforcement officials solely for a legitimate law enforcement purpose in a manner that protects the confidentiality of such information.

## Family Members – Significant Public Benefit Parole

Law enforcement may also request significant public benefit parole (SPBP) for certain family members to join the CP recipient in the United States, including:

- the spouse, child, parent, or unmarried sibling (under 18 years of age) of a CP recipient under 21 years of age;
- the spouse or child of a CP recipient 21 years of age or older; and
- parent(s) or sibling(s) in present danger due to the CP recipient's escape from trafficking or cooperation with law enforcement (irrespective of the CP recipient's age).<sup>4</sup>

A relative may not be granted SPBP if there is reason to believe that the relative was knowingly complicit in the trafficking of the victim or if the relative is a noncitizen described in INA §§ 212(a)(2) or (3), or 237(a)(2) or (4), 8 U.S.C. §§ 1182(a)(2) or (3) or 1227(a)(2) or (4).

General procedures in place for requesting SPBP on behalf of an individual should be followed for the victim's family members. Please contact an HSI parole coordinator for assistance with that application.

See 8 U.S.C. §§ 1182(d)(5) and 1229b(b).

<sup>4</sup> The age requirement is based upon the age at the time of the CP application.



## Traveling Outside the United States – Advance Parole

Generally, ICE discourages trafficking victims with CP from departing the United States. Any victim considering leaving the United States should seek the advice of an immigration attorney regarding the impact the departure may have on any applications for immigration benefits.

However, there may be emergency situations requiring departure and advance parole is required to reenter the United States. If a CP recipient must depart the United States for exigent reasons, the requesting law enforcement agency must request advance parole by submitting an parole application and a [USCIS Form I-131, Application for Travel Document](#), along with a statement describing the reason for travel. Prior to the victim's departure, the federal law enforcement case agent must collect the CP-related documents originally provided to the victim - Form I-94 Arrival/Departure Record and the Employment Authorization Document. Upon the victim's return to the United States, these documents are returned to the victim and CP resumes.

Without advance parole, a victim's departure triggers the revocation of CP. If law enforcement wants to facilitate a victim's return to the United States and CP, it needs to apply first to HSI for SPBP for the victim to enter the country (follow the general procedures in place for requesting SPBP; please contact an HSI parole coordinator for assistance). Once complete, law enforcement may then apply to the CCHT with a new request for CP upon the victim's return. Again, this resource-intensive process and untimely delays can be avoided by requesting advance parole *before* the CP recipient travels outside of the United States.

## Acronyms

73-031	Request for Continued Presence
73-032	Request for Extension of Continued Presence
CCHT	DHS Center for Countering Human Trafficking
CP	Continued Presence
DHS	U.S. Department of Homeland Security
EAD	Employment Authorization Document
HHS	U.S. Department of Health and Human Services
HSI	Homeland Security Investigations
I-94	Nonimmigrant Arrival-Departure Document
I-102	Application for Replacement/Initial Nonimmigrant Arrival/Departure Document
I-765	Request for Employment Authorization Document
ICE	U.S. Immigration and Customs Enforcement
LEA	Law Enforcement Agency (federal, state, tribal, territorial, or local)
LEO	Law Enforcement Officer (federal, state, tribal, territorial, or local)
OTIP	Office on Trafficking in Persons
PLEPU	HSI Parole and Law Enforcement Programs Unit
USCIS	U.S. Citizenship and Immigration Services
VSC	Vermont Service Center, USCIS

## Authorities, Resources and Contact Information

Statute: 22 U.S.C. § 7105(c)(3)

Regulations: 28 C.F.R. § 1100.35

Brochure: [Continued Presence: Temporary Immigration Designation for Victims of Human Trafficking](#)

Training video: [12-minute video](#)

Forms: ICE Form 73-031, Request for Continued Presence

ICE Form 73-032, Request for Extension of Continued Presence

Attachment A, Certification for Continued Presence by Requesting Law Enforcement

[USCIS Form I-102, Application for Replacement/Initial Nonimmigrant Arrival-Departure Document](#)

[USCIS Form I-765, Application for Employment Authorization](#)

Pro Bono

Attorney List: [Executive Office of Immigration Review's list of pro bono attorneys](#)

T Visa: [USCIS webpage regarding T Nonimmigrant Status](#)

### Contact Information:

#### **Center for Countering Human Trafficking (CCHT)**

[ContinuedPresence@ccht.dhs.gov](mailto:ContinuedPresence@ccht.dhs.gov)

Related to Continued Presence, the CCHT processes all requests for Continued Presence, provides training to law enforcement, and promotes its use.

#### **Local HSI Field Office**

<https://www.ice.gov/contact/hsi>

Ask for the duty agent or the human trafficking group to report the crime of human trafficking. State and local law enforcement who would like to request CP should ask for the parole coordinator who can provide the required forms and directions.

#### **ICE HSI Victim Assistance Program**

866-872-4973 or [VictimAssistanceProgram@hsi.dhs.gov](mailto:VictimAssistanceProgram@hsi.dhs.gov)

Supporting federal victim assistance personnel nationwide who answer victims' questions about their rights as crime victims, provide information about the criminal justice system and provide victims with referrals for services.

