

THE FACTS ABOUT CONTINUED PRESENCE



FACT Law enforcement is urged to make an expeditious initial determination of CP eligibility and to complete the application as early as practicable upon encountering a victim. A best practice is for law enforcement to bring the paperwork to an interview; if the individual credibly appears to be a victim and law enforcement will take any additional actions, then CP should be requested.

FACT In some cases, victims may be too traumatized to initially cooperate. CP is appropriate if the totality of the circumstances indicate the individual is a trafficking victim and may be a potential witness.

FACT Law enforcement should not be selective but should request CP for every identified victim who lacks immigration status and may be a potential witness to be available, if necessary, for the investigation.

FACT CP should be used for labor trafficking and sex trafficking victims.

FACT There is no requirement for charges of any kind to be filed, a pending indictment, or a current prosecution to request CP.

FACT Deferred action should rarely if ever be used instead of CP for CP-eligible victims, because only with CP do victims receive two-year renewable authorization to remain in the United States, work authorization, and federal benefits and services. This combination is critical support for victims. Deferred action may be appropriate only in certain limited circumstances such as when it is critical to prevent removal of a trafficking victim or when CP is not renewed and the victim has a pending T visa application.

FACT CP can be revoked if the recipient commits a crime, absconds, departs without obtaining advance parole, receives an immigration benefit, or is determined to not be a trafficking victim.

FACT CP recipients are discouraged from leaving the country unless for an emergency, in which case an application for Advance Parole is required before travel.

FAMILY MEMBERS MAY JOIN

Law enforcement may also request that certain family members join the CP recipient in the United States including:

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

T VISA

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. Victims should seek the advice of a qualified immigration attorney regarding the T visa, which allows eligible trafficking victims to remain in the U.S. for up to four years and can lead to lawful permanent residence. CP is not a guarantee of T visa approval.

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

Important Contact Information

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 victimassistance.ice@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.

ICE HSI Human Trafficking Unit

HumanTraffickingUnit@ice.dhs.gov

Supporting HSI's human trafficking investigations worldwide. Contact with any questions.

CP VIDEO

Please watch a three-part video on what is CP, who is eligible, and how to make a request. The video can also be used for training purposes and task force meetings. Go to <https://www.dhs.gov/blue-campaign/awareness-training>, Select Law Enforcement and scroll down to Continued Presence.



U.S. Immigration and Customs Enforcement

CONTINUED PRESENCE

Temporary Immigration Designation for Victims of Human Trafficking





BACKGROUND

U.S. Immigration and Customs Enforcement (ICE) Homeland Security Investigations (HSI) is the DHS law enforcement agency that investigates human trafficking. HSI employs a victim-centered approach, where equal value is placed on the identification, rescue, and stabilization of victims, as well as the investigation and prosecution of traffickers. HSI also processes all law enforcement applications for Continued Presence.



WHAT IS CONTINUED PRESENCE?

Continued Presence (CP) is a temporary immigration designation provided to individuals identified by law enforcement as victims of a "severe form of trafficking in persons" who may be potential witnesses. CP allows trafficking victims to lawfully remain in the U.S. temporarily and work 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 the 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.



IMPORTANCE OF CONTINUED PRESENCE

CP provides victims with a legal means to temporarily live and work in the U.S., providing them stability, a means of support, and protection from removal. It alleviates fears about removal and economic support, which not only stabilizes victims but also improves victims' ability to cooperate with law enforcement. CP is therefore also an important tool for federal, state and local law enforcement in their investigation of human trafficking-related crimes, leading to more successful prosecutions. The routine use of CP for victims also engenders trust with service providers and organizations who may be a source of referrals for law enforcement that victims will be protected if they come forward. Ultimately this increases law enforcement's ability to identify even more victims and traffickers.

HOW IS CONTINUED PRESENCE REQUESTED?

A CP application should be initiated immediately upon identification of a trafficking victim who may be a potential witness.

CP may be requested by any federal, state or local law enforcement agency with authority to investigate or prosecute human trafficking. Submissions by state and local requesting agencies must be sponsored by a federal agency and routed through designated POCs of the federal sponsoring agency to HSI. These federal agencies include, for example, HSI, FBI, DSS, DOL, EEOC and any USAOs. Contact any HSI parole coordinator for the appropriate forms and submission instructions. If required, CP renewals should be submitted 60 days prior to CP's expiration.

WHO AUTHORIZES CONTINUED PRESENCE?

HSI Headquarters processes CP applications. If approved, HSI notifies Health and Human Services (HHS), which then issues a certification letter confirming the victim's eligibility for federal benefits and services.¹ HSI also notifies USCIS, which then produces Form I-94 (Arrival-Departure Record) indicating the victim's immigration designation and an Employment Authorization Document (EAD) so that allows the victim to work lawfully. The law enforcement official that requested CP will provide these documents to the victim.

Victims should keep with them at all times the names and phone numbers of their case agent and victim assistance specialist, in addition to the I-94 and EAD which proves they have CP. This information must be provided to immigration or other law enforcement officers as requested.

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

WHO IS A VICTIM OF A "SEVERE FORM OF TRAFFICKING IN PERSONS"?

The federal definition includes an individual who has been subjected to:

- Sex Trafficking – the recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting of a person for the purpose of a commercial sex act induced by force, fraud or coercion, or in which the person induced to perform such act is under the age of 18 years; 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.

