Forging a New Legacy

Homeland Security Investigations
Crimes: Human Smuggling and Human Trafficking
ICE HSI Special Agent Training
ICE Academy
Terminal Performance Objective

Given a set of case related facts indicating human smuggling or human trafficking, determine investigative and victim-support actions, in accordance with legal requirements, agency policy, and agency resources.
Enabling Performance Objectives

• Explain the elements of human smuggling crimes
  Define human smuggling and related terms and identify indicators to establish violations of human smuggling statutes
  Identify the different methods used by ASOs to bring aliens into the U.S., including by land, sea and air, both through the POEs and by crossing the borders at other than POEs
  Determine investigative approaches and actions to investigate human smuggling cases
  Explain the elements of human trafficking crimes, and define the differences between sex trafficking and labor trafficking/forced labor
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Enabling Performance Objectives (cont’d)

• Define human trafficking and identify indicators to establish violations of human trafficking statutes
• Identify common methods of operation utilized by human trafficking organizations
• Identify investigative approaches and actions to investigate each type of human trafficking case
• Identify various programs within HSI designated to provide assistance to identified victims of human trafficking
• Handle an alien smuggling load from initial encounter to writing the criminal complaint
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Why we must stop it...

- Thousands of people trafficked to the U.S. Coerced into prostitution, domestic servitude, or forced labor. You can save lives!
Review of the Past

- Human smuggling: Surreptitious entry people into the U.S. and deliberately evading immigration laws
- Transportation-based Human trafficking: Sex trafficking (a commercial sex act induced by force, fraud, coercion, or when the person is under age 18)
- Recruiting, harboring, transporting, provisioning, obtaining, advertising, maintaining, patronizing or soliciting of a person for labor or services by force, fraud, coercion, subjection to involuntary servitude, peonage, debt bondage, or slavery
- Exploitation-based
Main Ideas

• Human smuggling – Surreptitious entry of people into the U.S., facilitated by a third party, involving deliberate evasion of immigration laws.

Smuggled aliens:
- Critical as material witnesses
- May be placed in parole status
- After testimony, generally placed in removal proceedings
Main Ideas (cont’d)

• Human trafficking – The recruitment, harboring, transportation, provision, obtaining, advertising, maintaining, patronizing or soliciting of a person, by means of threat or use of force, fraud, or coercion, subjecting victims to involuntary servitude, peonage, debt bondage, or slavery for the purpose of sexual exploitation or forced labor. Victims of trafficking Must be protected and may also be witnesses. Eligible for Continued Presence. May be eligible for a T or U visa.
Crimes Enforced by HSI

**General Crimes**
- Terrorism Crimes
- Controlled Substances
- Money Laundering
- Forfeiture Law
- Child Exploitation

**Customs Crimes**
- Export Crimes
- MDLEA
- Aviation Smuggling
- Financial Crimes
- Commercial Fraud

**Immigration Crimes**
- Human Smuggling
- Human Trafficking
- Identity and Benefit Fraud
- Worksite Enforcement
- Gang Crimes

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Advanced Organizer
Agenda (1 of 2)

- Elements of human smuggling crimes and investigations
  - Definition and indicators of human smuggling violations
  - Methods used for human smuggling and investigative approaches
  - Demonstration and practice with case examples
Agenda (2 of 2)

- Elements of human trafficking crimes and investigations
- Definition and indicators of human trafficking violations
- Methods used for human trafficking and investigative approaches
- Providing assistance to victims
- Handling an alien smuggling load
- Demonstration and practice with case examples
It is a crime to bring or attempt to bring an alien to the United States at an unauthorized location.

See Example in Student Guide

Transporting an alien in furtherance of the alien’s illegal presence in the U.S.

See Example in Student Guide

Concealing, harboring, or shielding illegal aliens.

See Example in Student Guide

Encouraging or inducing an alien to come to, enter, or reside in the U.S. in violation of law.

See Example in Student Guide
Conspiring to commit alien smuggling, aiding or abetting alien smuggling.
8 U.S.C. § 1324(a)(2)

Bringing or attempting to bring an alien to the U.S. knowing or in reckless disregard of the fact that the alien has not received prior official authorization to come to, enter, or reside in the United States.

See Example in Student Guide
8 U.S.C. § 1327

Aiding or assisting inadmissible aliens to enter the U.S., or conniving or conspiring with any person(s) to do so.

See Example in Student Guide
8 U.S.C. § 1328

Import an alien for prostitution or an immoral purpose.

See Example in Student Guide
8 U.S.C. § 1324(a)(3)

Knowingly hiring at least 10 smuggled aliens within a 12-month period.

See Example in Student Guide
Hiring, recruiting, or referring for a fee, an illegal alien for employment.

See Example in Student Guide
Creating a business to evade immigration laws.
8 U.S.C. § 1325(c)

Knowingly entering into marriage for the purpose of evading any provision of the immigration laws.

See Example in Student Guide
8 U.S.C. § 1325

Improper entry by alien
Improper time or place
Avoidance of examination or inspection
Misrepresentation and concealment of facts

See Examples in Student Guide
An alien who was denied admission, excluded, deported, or removed enters or attempts to enter or is found in the U.S.

See Example in Student Guide
Demonstration

(b)(5); (b)(7)(E)
Demonstration, cont’d

(b)(5); (b)(7)(E)
Definition of Human Smuggling

• Surreptitious entry of people into the U.S., facilitated by a third party, involving deliberate evasion of immigration laws. May be motivated by profit, religion, politics, or family interest. Statutes governing offense contained within 8 U.S.C. § 1324
Human Smuggling Terms

- ASOPolloCoyote or polleroGuideDriverPoll o listBajadoresDrop house or stash house
- Pocket trashMaterial witnessesOTMSnakeh eadLoadLoad vehicleSponsorReporti ng party
Human Smuggling Investigatory Leads

(b)(7)(E)
Indicators of Human Smuggling

- Is subject in possession of ID and travel documents? Was subject coached on what to say to law enforcement and immigration officials? Is subject’s salary being garnished to pay smuggling fee? Does subject have freedom of movement? Has subject or family been threatened with harm for refusing to pay smuggling fees? Has subject been threatened with deportation or law enforcement action? Can subject freely contact friends or family?
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Investigation, Prosecutorial Focus, Penalties

- Investigations focused on identifying, disrupting criminal organizations involved in bringing in, transporting, harboring illegal aliens.
  - Sentences: Typical 1 to 5 years. Much heavier sentences for repeat offenders or if crime results in severe injury or death.
Human Smuggling Organizations (1 of 4)
Human Smuggling Organizations (3 of 4)

(b)(7)(E)
Human Smuggling Organizations (4 of 4)

(b)(7)(E)
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Southern Border Smuggling

(b)(7)(E)
Southern Border Smuggling (cont’d)
Hostage-Taking Investigations
Hostage-Taking Investigations (cont’d)

(b)(7)(E)
Northern Border Smuggling
Northern Border Smuggling (cont’d)
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Typical View of U.S. – Canadian Border
Marine Smuggling

(b)(6); (b)(7)(C); (b)(7)(E)
Marine Smuggling (cont’d)
Container Smuggling
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Investigative Approach for Container Smuggling
Investigative Approach: Vehicle Stop
Investigative Approach: Vehicle Stop (cont’d)
Investigative Approach: Material Witnesses
Drop House Investigation
Cell Phones and Other Evidence
Criminal Charges and Evidence

(b)(7)(E)
Controlled Delivery of Undocumented Aliens
Human Trafficking Crimes

- 8 U.S.C. § 1328
- 18 U.S.C. § 1203
- 18 U.S.C. § 1581
- 18 U.S.C. § 1583
- 18 U.S.C. § 1584
- 18 U.S.C. § 1589
- 18 U.S.C. § 1590
- 18 U.S.C. § 1591
- 18 U.S.C. § 1592
- 18 U.S.C. § 1593A
- 18 U.S.C. § 1594
- 18 U.S.C. § 2421
- 18 U.S.C. § 2424
18 U.S.C. § 1583

Force someone into involuntary servitude or slavery.

See Example in Student Guide
18 U.S.C. § 1584

Sell someone into involuntary servitude, and interfere with the enforcement of this section of law.
Force someone into labor or to receive financial benefits from forced labor.
18 U.S.C. § 1581

Force someone into peonage and obstruct enforcement of this section of law.

See Example in Student Guide
Seize or detain, threaten to kill or injure, a person to compel a third person or government to do or abstain from doing a specific act for the hostage to be released; conspire or attempt to take someone hostage.
18 U.S.C. § 1590

Trafficking with respect to peonage, slavery, involuntary servitude, or forced labor.

See Example in Student Guide
Financially benefit from peonage, slavery, and trafficking in persons.
18 U.S.C. § 1591

Sex trafficking of children by force, fraud, or coercion.

See Example in Student Guide
18 U.S.C. § 1592

Destroy, conceal, remove, confiscate, or possess someone’s passport of immigration documents in furtherance of trafficking, peonage, slavery, involuntary servitude, or forced labor.

See Example in Student Guide
Severe Forms of Human Trafficking

Defined in 22 U.S.C. § 7102 (8): Sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age. 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.
18 U.S.C. § 1594

- 18 U.S.C. § 1594(b) – It is a crime to conspire to violate 18 U.S.C. §§ 1581, 1583, 1589, 1590, and 1592.
- 18 U.S.C. § 1594(c) – It is a crime to conspire to violate 18 U.S.C. § 1591.
Demonstration

(b)(5); (b)(7)(E)

Student Guide
Definition of Human Trafficking

The recruitment, harboring, transportation, provision, or obtaining of a person (regardless of citizenship or immigration status), by means of threat or use of force, fraud, or coercion, subjecting victims to involuntary servitude, peonage, debt bondage, or slavery for the purpose of sexual exploitation or forced labor.
Statutes Governing Human Trafficking Offense

Contained within: 18 USC §§ 1581-1594

The associated Mann Act statutes of 18 USC §§ 2421-2424

Title 8 USC § 1328, Importation and Harboring of Aliens for Immoral Purposes

Other: Trafficking Victims Protection Act of 2000 (TVPA) – Public Law 106-386

Trafficking Victims Protection Reauthorization Act of 2003 (TVPRA)

Trafficking Victims Protection Reauthorization Act of 2013 (TVPRA)
Homeland Security Investigations (HSI)

Trafficking Victims Protection Act of 2000 (TVPA)  
Public Law 106-386

• Human trafficking is the fastest growing source of profits for organized criminal enterprises worldwide

TVPA goals:
Prevent human trafficking overseas
Protect victims and help them rebuild their lives in the U.S. with federal and state support
Prosecute traffickers of persons under stiff federal penalties
Victims can bring federal civil suit against trafficker for actual and punitive damages
Adds sex trafficking and forced labor to RICO offenses
18 U.S.C. § 1597: Penalties for trafficker or employer confiscating an individual’s passport or identity documents – actual or purported
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Trafficking Victims Protection Reauthorization Act of 2013 (TVPRA)

TVPRA 2013 provides for the following: In general, 18 USC Chapter 77, Peonage, Slavery, and Trafficking in Persons, is amended by adding at the end § 1597 – Unlawful Conduct with Respect to Immigration Documents

Penalty – Whoever violates subsection (a) shall be fined under this title, imprisoned for not more than 1 year, or both

Obstruction – Whoever obstructs, attempts to obstruct, or in any way interferes with or prevents the enforcement of this section, shall be subject to the penalties described in subsection (b).
Be alert. Be strong. Be free.
Stop Human Trafficking

To reach a non-governmental, confidential help line

CALL TOLL-FREE, 24 HOURS:
1-888-3737-888

170+ languages

Or call 911 in an emergency
Indicators of Human Trafficking Include...

- Who has control of ID and travel docs? Are victim’s wages taken? Was victim recruited for one job, forced to perform another? Was victim forced to perform sexual acts? Does victim have freedom of movement, allowed to socialize, attend religious services, contact friends or family? Has victim or family been threatened with harm, deportation, or law enforcement action? Has victim been harmed or deprived of food, water, sleep, medical care, or other life necessities? Is victim a juvenile engaged in commercial sex?
Indicators of Human Trafficking Include...

• Heavy security at commercial establishments
  Victims live at worksite or quarters by guards
  Victims accompanied (trafficker) when seeking medical care
  Untreated medical problems, malnutrition
  Signs of rape or sexual abuse
  Nervousness (especially if translated)

Brochure in Student Guide
Elements that Constitute a Trafficking Victim

- Must contain an element of force, fraud, or coercion (actual, perceived, or implied), unless under 18 and involved in commercial sex acts.
- Forced labor and/or exploitation.
- Persons trafficked are victims.
- Enslaved, subjected to limited movement or isolation, or had documents confiscated.
- Need not involve the actual movement of victim.
- No requirement to cross international border.
- Person need not be actively involved in labor/services or commercial sex acts – must be “working”.
Trafficking Organization Structure

- **Recruiter** – Uses ads, personal contacts, family sales to obtain victims in source countries.
- **Arranger/Coordinator** – Facilitates acquisition of travel documents, fraudulent or legitimate, arranges transport to U.S. Receiving
- **Co-conspirator** – Receives victims in U.S., arranges staging locations, retrieves travel documents, reveals debt bondage, distributes or resells victims to business owners/managers.
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Trafficking Organization Structure (cont’d)

• Transporter – Transports victims from harboring site to job site, between job sites, or on out-calls for prostitution.

Harboring/security – Maintains victims at harboring site, if not job site, prevents escape and freedom of movement, may double as transporter.

Business owner/manager – May employ victims in prostitution, agricultural, garment, or other industries, or be involved in domestic servitude for selves or others.
Victim-centered Philosophy and Investigative Priorities

- Protection of trafficked aliens is of equal importance with apprehension and prosecution of traffickers. Especially true in cases involving juveniles and sexual exploitation. HSI facilitates procurement of aid and victim services through social service agencies and NGOs. Includes assistance with applications for continued presence and other governmental aid. Engage cooperating NGOs consistent with policy.
Convert Reactive to Proactive Investigations

- Target suspected violators beyond the immediate reactive cases brought to HSI attention. Liaison with other LEAs, HSI attaché offices.
Prepare Case for AUSA
Dealing with Trafficking Victims

- Most victims may not speak or understand English. An interpreter must be fluent in victim’s language and dialect. Victims may be afraid to speak to authorities, believe they will be held responsible. Fear of imprisonment, fear of harm to self or family. Reassure victims that their safety is HSI’s first priority. Use least-confining custody setting, minimize exposure to weapons, badges. Involve social service agencies from the outset.
Victims Encountered in Enforcement Actions

- In advance of enforcement action...Identify interpreters
- Identify NGOs to provide short- and long-term services to victims
- Bring only vetted NGOs on-site for processing
- Identify temporary housing following release
- Arrange transportation to housing, including security
- Avoid using HSI/ERO detention vans
- Request that NGOs not disclose to press that they are assisting the victims
Victims Encountered in Enforcement Actions (cont’d)

- During enforcement action…Have all potential victims gather personal belongings (clothes, papers, medications, money, hygiene items)Tag bags with \[\text{(b)7(E)}\] from which belongings were recovered. If multiple sites, assign/label each potential victim with identification tag \[\text{(b)7(E)}\] etc.) to indicate arrest location and avoid confusion.
Victims Encountered in Enforcement Actions (cont’d)
Homeland Security Investigations (HSI) Assistance for Smuggled Aliens and Victims of Trafficking

Smuggled AliensMaterial witnessesMay be paroled, released into U.S. for short timeAfter testimony, placed in removal proceedings

Trafficking VictimsHSI's victim-centered approach: subject is first a victim to be protected, may also be a witnessEligible by statute for Continued PresenceMay be eligible for T or U visa if cooperating with prosecution
Authorities Requiring Victims' Rights and Services

- Victims’ Rights and Restitution Act (VRRA), 42 U.S.C. § 10607 Includes mandatory services
- Crime Victims’ Rights Act (CVRA), 18 U.S.C. § 3771 Includes court-enforceable rights
- Other statutes and rules of criminal procedure
- Attorney General Guidelines for Victim and Witness Assistance

[(b)(7)(E)]
Authorities Requiring Victims' Rights and Services

- Victims’ Rights and Restitution Act (VRRA), 42 U.S.C. § 10607
- Civil Rights Act (CVRA), 18 U.S.C. § 3771
- Other state laws and regulations of criminal procedure
- ICE Directive 1007.1 in Student Guide

ICE Directive 1007.1 in Student Guide
Definitions of Victim

• VRRA victim – “a person that has suffered direct physical, emotional, or pecuniary harm as a result of the commission of a crime. . . .” CVRA victim – “a person directly and proximately harmed as a result of the commission of a federal offense…”

Direct and proximate harm – Based on analysis of harm allegedly suffered and the crime alleged to have caused the harm. Harm a direct consequence of the crime CVRA: harm must have been reasonably foreseeable result of charged offense.
ICE Victim Assistance Program Definitions

• Victim – “a person directly or proximately harmed as a result of the commission of a federal offense” May be culpable for violations or crimes other than the crime being investigated. Victims definition may include: Victims of trafficking may be considered victims for purposes of prosecution, despite legal culpability for ancillary immigration or prostitution offenses. Criminal suspects subjected to excessive force by law enforcement officers. Inmates who are victims of crime during incarceration.

Directive 1007.1 in Student Guide
ICE VAP Definitions (cont’d)

• Witness – a person who has information, knowledge, or evidence concerning a crime and provides information to an LEAA victim of a crime may become a witness and a witness who is threatened may become a victim. Directive does not cover (b)(7)(E)

(b)(7)(E)
Special Victim Populations

Federal statutory provisions for services for victims of: Domestic violence, stalking, or sexual assault; Child abuse; Identity theft; Human trafficking

Mandatory reporting of any suspected child abuse or exploitation under state and federal law – responsibility of individual SAs, with sanctions for failing to report
Identifying Victims

• VRRA: Responsibilities to victims begin ASAP after detection of a crime (without interfering in investigation) – generally at opening of criminal investigation.

CRVA: Rights attach when criminal proceedings initiated by complaint, information, or indictment.

(b)(7)(E)
Services and Rights of Victims

Responsible official shall provide identified victims with information about available services:

- Referral to receive emergency medical or social services
- Availability of restitution or other relief that victim may be entitled to
- Public and private programs for counseling, treatment, other support
- Reasonable protection – not a service per se but a required consideration
Special Victim Populations

- Victims of domestic violence, stalking, sexual assault
- Immigrant victims may petition for immigration protections, relief, assistance
- Investigating agency can pay for forensic sexual assault exam (with no requirement to cooperate with LEA)
- Victims of child abuse
- Forensic interview by HSI Forensic Interview Specialist
- Age-appropriate support services
- Privacy protection for child victims and witnesses – names, other identifiers not included in court documents, public records
Special Victim Populations (cont’d)

- Victims of identity theft: If victim requests, SAs shall assist in notifying creditors and employers of identity theft.
- Victims of human trafficking.
- Victims of severe form of trafficking in persons, as identified by federal LEA, eligible for benefits, services.
- Employment authorization and parole without regard to immigration status. May be eligible for public benefits like refugee alien.
- Shall not be detained in facilities inappropriate to their status as crime victims.
Coordinating Victim Services

- Case agent or Victim Assistance Specialist (VAS) or Victim Assistance Coordinator (VAC) coordinates victim services as needed. During investigation, the investigating agency responsible for referring the victim to services. When investigation transferred to prosecutorial entity or charges are filed, the prosecutorial entity responsible for service referrals.
Case Agent Responsibilities

With or without victim's request, case agents: Ensure victim's property is maintained in good condition and returned as soon as it is no longer needed as evidence. Provide information regarding prohibition against intimidation. Arrange for reasonable protection from suspected offender. Discuss temporary protective measures.
Focus on Victim

- Investigation is secondary to rescue of victim
  Coordinate with Victim Assistance Specialist (VAS) or Victim Assistance Coordinator (VAC) for forensic interview of victim
  Coordinate with local NGOs and victim service providers
Continued Presence (CP)

- Provided statutorily under Trafficking Victims Protection Act. LEO makes initial determination if individual is victim of a severe form of human trafficking. Federal LEOs authorized to submit CP applications. Submit as soon as victim identified. Coordinate with SAC Victim Assistance Specialist. Approved by HSI Law Enforcement Parole Branch.
Continued Presence (CP) (cont’d)

- Granted for up to two-years, with extension of up to two years. Victim's cooperation with LEA not required for eligibility but other benefits may be available to cooperating witnesses. Cooperation with LEA not required for benefits if victim is minor. Alien with CP issued employment authorization document and I-94

CP Brochure in Student Guide
T Visa and U Visa

T Visa (5,000 annual cap) For victims of severe form of human trafficking and qualifying family Can remain in U.S. up to 4 years Can lead to LPR status Coordinated by VAS Certification of application (Form I-914, Supplement B) by LEA

U Visa (10,000 annual cap) For victims of certain serious crimes and qualifying family Specified crimes, occurring in U.S., listed on I-918 Suffered substantial physical or mental abuse Victim possesses information on the crime LEA certifies victim helpful in investigation or prosecution
Segregation of Detained Aliens

(b)(7)(E)
State / Local LEA Encounter with Smuggling

- State, local LEAs encounter individuals using conveyances to smuggle illegal aliens into and through U.S. Many encounters traffic-related Others in response to domestic-violence calls, noise disturbance calls, etc.
HSI Response to Local / State LEA Traffic Stop of Alien Smuggling Load

(b)(7)(E)
Traffic Stop Procedures (1 of 3)
Transport for EAGLE Processing
Interviewing

(b)(7)(E)
Demonstration Scenario in Student Guide
Summary

• Human smuggling is bringing someone into the U.S., while deliberately evading immigration laws. Human trafficking is also bringing someone into the U.S., but it involves using force, fraud, or coercion.
• Distinctions between human smuggling and human trafficking

ASO structure and operations vary on southern, northern U.S. borders

HSI investigative approaches include:

Rescue of victims is top priority

Procedures for handling alien smuggling load