

# US Immigration and Customs Enforcement OFFICE OF TRAINING AND TACTICAL PROGRAMS

## ICE Academy



## HUMAN SMUGGLING / HUMAN TRAFFICKING INVESTIGATIONS

11800

### Student Guide

### HSI Special Agent Training

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## Human Smuggling and Human Trafficking

### Motivation

Human trafficking is a form of modern day slavery. HSI places a priority on human trafficking investigations and recognizes victims of human trafficking as crime victims.

In human smuggling cases individuals participate voluntarily by entering into a contract with alien smuggling organizations in attempting to enter the U.S. illegally.

But often there are areas where these two distinctly different crimes overlap. A person willingly brought to the U.S. as a smuggled alien, only to become subjected to some unwanted obligation, such as the use of force or coercion to collect smuggling fees or when promised employment turns into forced labor or commercial sex.

HSI agents conduct criminal investigations into each type of offense; and understanding the differences, and similarities, is essential.

### Objectives

#### Terminal Performance Objective (TPO)

**Conditions:** Given a set of case-related facts indicating human smuggling or human trafficking,  
**Behavior:** determine investigative and victim-support actions  
**Criterion:** in accordance with legal requirements, agency policy, and agency resources.

#### Enabling Performance Objectives (EPOs)

- EPO #1:** Explain the elements of human smuggling crimes.
- EPO #2:** Define human smuggling and related terms and identify indicators to establish violations of human smuggling statutes.
- EPO #3:** Identify the different methods used by Alien Smuggling Organizations (ASOs) to bring aliens into the U.S., including by land, sea and air, both through the Ports of Entry (POEs) and by crossing the borders at other than POEs.
- EPO #4:** Determine investigative approaches and actions to investigate human smuggling cases.
- EPO #5:** Explain the elements of human trafficking crimes; and define the differences between sex trafficking and labor trafficking/forced labor.
- EPO #6:** Define human trafficking and identify indicators to establish violations of human trafficking statutes.
- EPO #7:** Identify common methods of operation utilized by human trafficking organizations.
- EPO #8:** Identify investigative approaches and actions to investigate each type of human trafficking case.
- EPO #9:** Identify various programs within HSI designated to provide assistance to



**EPO #10:** identified victims of human trafficking.  
Handle an alien smuggling load from initial encounter to writing the criminal complaint.

## Review of the Past

In the discussion of investigations of human smuggling and human trafficking cases, recall and apply the techniques of investigation, evidence collection, search constraints, and requirements for probable cause covered in previous lessons. The one main distinction between Human Smuggling and Human Trafficking crimes compared to other investigations in HSI is that the primary evidence is a human being.

**Human smuggling** – The surreptitious entry of people into the U.S., facilitated by a third party, involving individuals willingly traveling to the U.S. in deliberate evasion of immigration laws. Smuggled aliens are critical to an investigation as material witnesses, possibly requiring testimony in court. They may be placed in parole status and released into the U.S. for a short time. After testimony, witnesses are generally placed in removal proceedings.

**Human trafficking** – The recruitment, harboring, transportation, provision, obtaining, advertising, maintaining, patronizing or soliciting 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. Victims of trafficking must be protected and may also be witnesses. Trafficking crimes can be transnational or domestic, involving U.S. citizens or foreign national victims. Foreign nationals are eligible for certain types of immigration relief, such as Continued Presence or a T or U visa if they cooperate with the investigation and prosecution.

As you have seen from previous case scenarios and examples, ICE HSI works jointly with many other agencies to ensure our national security and to investigate violations related to federal, state and local crimes. Human smuggling and trafficking is no exception, as our partnerships and work on multi-jurisdictional task forces identify both the perpetrators and victims of these crimes.

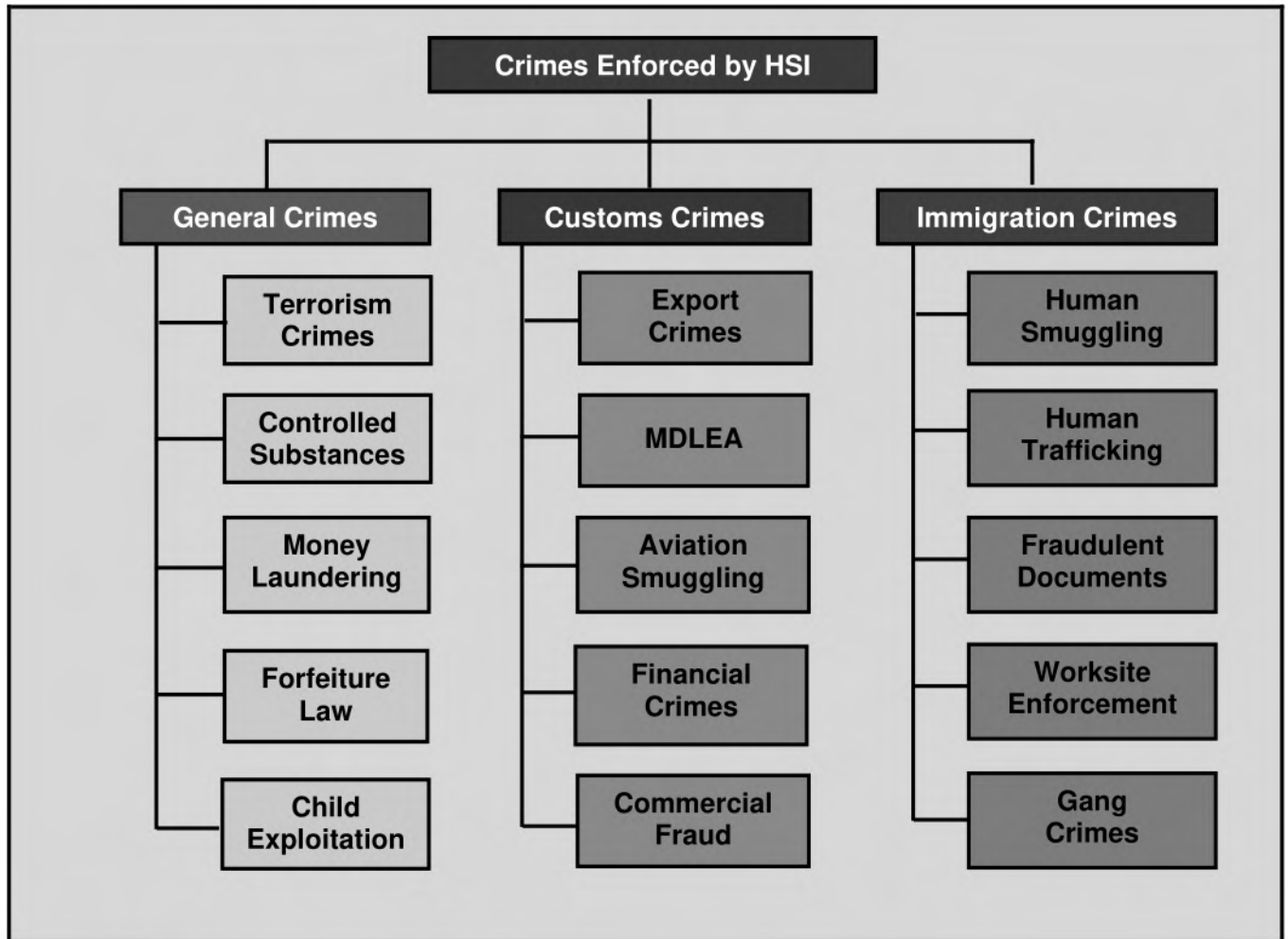
Although this lesson is called Human Smuggling and Human Trafficking, it is important to remember that smuggling and trafficking are different offenses.

- Human smuggling is the importation of people willingly traveling into the United States involving deliberate evasion of immigration laws. Human trafficking is:
- Human trafficking is:
  - 1) Sex trafficking , involving the recruitment, harboring, transportation, provision or obtaining of a person to use for a commercial sex act is induced by force, fraud or coercion, or in which the person induced to perform such act has not attained the age of 18; or;
  - 2) Labor trafficking and forced labor involving 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 general terms, smuggling is transportation-based, a crime against the U.S., while trafficking is exploitation-based, a crime against the person.

## Advance Organizer of Main Ideas



## Agenda

The first part of the lesson covers specific topics pertaining to human smuggling:

- Elements of human smuggling crimes and human smuggling investigations
- Definition of human smuggling and indicators of human smuggling violations
- Methods used for human smuggling and investigative approaches
- Demonstrations and examples

The second part of the lesson talks about human trafficking:

- Elements of human trafficking crimes and human trafficking investigations

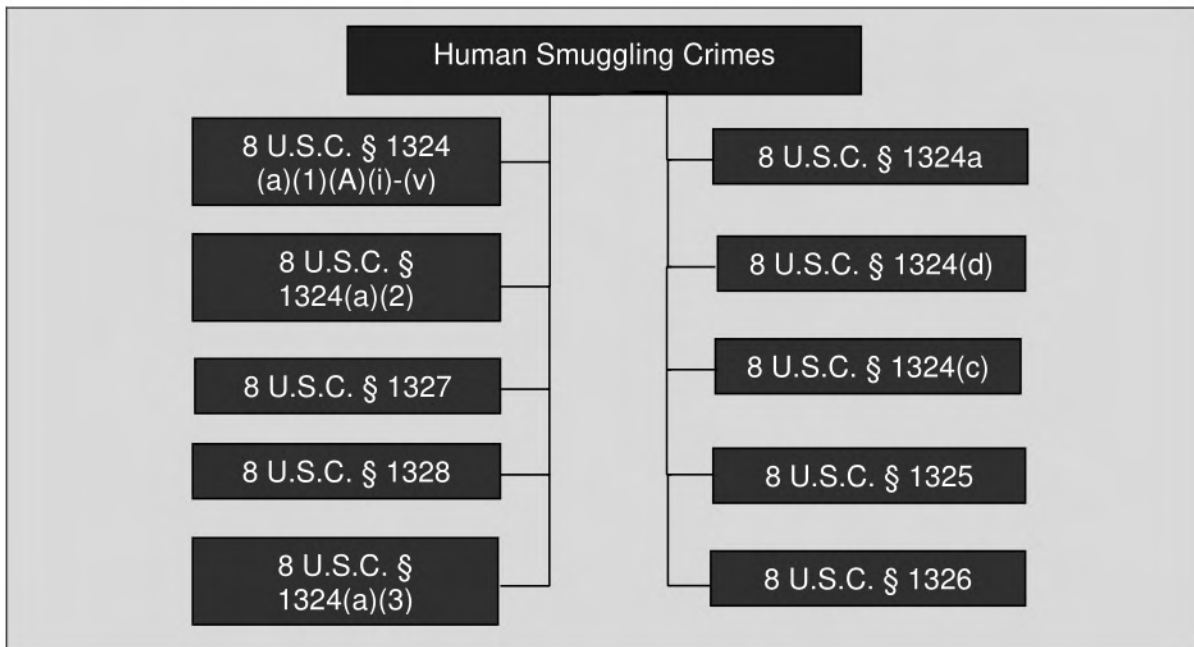


- Definition of human trafficking and indicators of human trafficking violations
  - Methods used for human trafficking and investigative approaches
  - Ways SAs can provide appropriate assistance to identified victims
  - Handling an alien smuggling load
  - Demonstrations and examples
- After in-depth discussion of human smuggling and human trafficking crimes and investigations, the instructor will lead a guided demonstration. At the end, you will respond to a set of questions in the Student Practice and Practice Scenarios.

## INSTRUCTION

### Explanation

- A. EPO #1: Explain the elements of human smuggling crimes.**  
 See *Student Share Drive (SDR) HS/HT-3 Definitions of Human Smuggling and Human Trafficking, December 13, 2004.*



The statutes pertaining to human smuggling crimes include:

- 8 U.S.C. § 1324 (a)(1)(A)(i) thru (a)(1)(A)(v) – Bringing in an alien at an undesignated location, transporting illegal aliens within the United States, concealing/harboring illegal aliens within the United States, and encouraging/inducing aliens to come to, enter, or reside in the United States illegally.
- 8 U.S.C. § 1324 (a)(2) – Bringing an unauthorized alien to the United States at a designated location or port of entry (POE).



- 8 U.S.C. § 1327 – Aiding or assisting certain aliens to enter.
- 8 U.S.C. § 1328 – Importation of alien for immoral purpose.
- 8 U.S.C. § 1324 (a)(3) – Knowingly hiring aliens who were smuggled into the United States and lack employment authorization.
- 8 U.S.C. § 1324a – Unlawful employment of aliens.
- 8 U.S.C. § 1325 (d) – Immigration-related entrepreneurship fraud.
- 8 U.S.C. § 1325 (c) – Marriage Fraud.
- 8 U.S.C. § 1325 – Improper entry by alien.
- 8 U.S.C. § 1326 – Reentry of removed alien.

Refer to full text of statutes for detail regarding elements of the crime.

There are multiple crimes found within 8 U.S.C. § 1324. This lesson addresses seven of those crimes.

1. **8 U.S.C. § 1324(a)(1)(A)(i)** – Bringing in alien at improper time or place.
  - a. Elements:
    - 1) Knowing that a person is an alien
    - 2) Brings or attempts to bring such person to the United States
    - 3) At a place other than that designated by the United States (e.g., “through the hills” at a desolate spot along the border where no POE exists).
  - b. Comments:
    - 1) The immigration status of the alien who is brought to the United States in violation of 8 U.S.C. § 1324(a)(1)(A)(i) is not an element of proof. However, the alien’s immigration status becomes relevant, as discussed below, with other violations of 8 U.S.C. § 1324 (a)(1)(A).

**Note:** The term “immigration status” refers to whether the alien has received prior authorization to enter or reside in the United States. Even a lawful permanent resident (LPR) alien of the United States might be smuggled into this country “through the hills.” Likewise, an alien with prior official authorization to come to the United States (e.g., a valid/unexpired nonimmigrant visa) could also be smuggled into this country “through the hills.” Neither instance gives rise to a defense to the crime of alien smuggling.
    - 2) In order to prosecute the individual who brought the alien to the U.S. at an unauthorized location, the Government need not prove that an adverse action (i.e., Removal) was taken against the alien who was brought to the U.S., nor would such alien’s receipt of relief from removal prevent criminal prosecution of the smuggler.



- c. Example: An alien smuggler guides a group of 10 aliens across a wooded and desolate section of the northern border of the U.S.

d. **Penalty** imposed for each alien in respect to whom such a violation occurs is:

- 1) <10 years and/or fine under title 18, USC; or
- 2) <20 years and/or fine under title 18, USC, if during and in relation to such violation the person causes serious bodily injury [as defined in 18 U.S.C. § 1365] or places in jeopardy the life of any person; or
- 3) If the act results in the death of any person, then death, or imprisonment for any term of years or for life, fined under 18, USC or both.

**Notes:**

2. **8 U.S.C. § 1324(a)(1)(A)(ii)** – Transporting an alien in furtherance of the alien’s illegal presence in the United States.

a. Elements:

- 1) Knowingly or in reckless disregard of the fact that an alien has come to, entered, or remains in the United States in violation of law
- 2) Transports, moves or attempts to transport or move such alien within the United States
- 3) By means of transportation or otherwise
- 4) *In furtherance of* such violation of the law.

b. Comments:

- 1) The immigration status of the alien who is transported is a critical fact. As an element of the offense, the Government must prove that the defendant knew the alien came to, entered, or remained in the U.S. *in violation of law*, or the defendant acted in reckless disregard of that fact.
- 2) The transportation must be “in furtherance” of the alien’s coming to, entry, or remaining in the United States in violation of law.



c. Example: (b)(7)(E)

(b)(7)(E)

d. **Penalty** imposed for each alien in respect to whom such a violation occurs is:

- 1) <5 years and/or fine under title 18, United States Code; or
- 2) <10 years and/or fine under title 18, United States Code if done for commercial advantage or private financial gain; or
- 3) <20 years and/or fine under title 18, United States Code, if during and in relation to such violation the person causes serious bodily injury [ as defined in 18 U.S.C. § 1365] or places in jeopardy the life of any person; or
- 4) If the act results in the death of any person, then death, or imprisonment for any term of years or for life, fined under 18, USC or both.

**Notes:**

3. **8 U.S.C. § 1324(a)(1)(A)(iii)** – Concealing, Harboring, or Shielding illegal aliens.

- a. Elements:
- 1) Knowingly or in reckless disregard of the fact that an alien has come to, entered, or remains in the United States in violation of law
  - 2) Conceals, harbors, or shields from detection or attempts to conceal, harbor, or shield from detection such alien
  - 3) In any place, including any building or any means of transportation.





b. Comments:

- 1) (b)(7)(E) [redacted]  
(b)(7)(E) [redacted] As an element of the offense, the Government must prove that the defendant knew the alien came to, entered, or remained in the U.S. in violation of law, or the defendant acted in reckless disregard of that fact.
- 2) Most jurisdictions have determined that “harboring” is defined as providing (or offering) a known illegal alien a secure haven, a refuge, a place to stay in which authorities are unlikely to be seeking him. Preventing detection need not be the defendant’s sole purpose, but should be an integral part of the overall scheme. *See, United States v. Campbell, 770 F. 3d 556 (7<sup>th</sup> Cir October 21, 2014).*
- 3) The term “any place” is very broad in scope.

c. Example: (b)(7)(E) [redacted]

(b)(7)(E) [redacted]

d. **Penalty** imposed for each alien in respect to whom such a violation occurs is:

- 1) <5 years and/or fine under title 18, United States Code; or
- 2) <10 years and/or fine under title 18, United States Code if done for commercial advantage or private financial gain; or
- 3) <20 years and/or fine under title 18, United States Code, if during and in relation to such violation the person causes serious bodily injury [ as defined in 18 U.S.C. § 1365] or places in jeopardy the life of any person; or
- 4) If the act results in the death of any person, then death, or imprisonment for any term of years or for life, fined under 18 USC or both.



Notes:

- 4. **8 U.S.C. § 1324(a)(1)(A)(iv)** – Encouraging or inducing an alien to come to, enter, or reside in the United States in violation of law:
  - a. Elements:
    - 1) Encourage or induce an alien to come to, enter, or reside in the United States
    - 2) Knowing, or in reckless disregard of the fact that such coming to, entry, or residence is or will be in violation of law.
  - b. Comments: (b)(7)(E)
 

(b)(7)(E) As an element of the offense, the Government must prove that the defendant knew or acted in reckless disregard of the fact that the alien’s coming to, entry, or residence is or would be in violation of law.
  - c. Example: (b)(7)(E)
 

(b)(7)(E)
  - d. Penalty: imposed for each alien in respect to whom such a violation occurs is:
    - 1) <5 years and/or fine under title 18, United States Code; or
    - 2) <10 years and/or fine under title 18, United States Code if done for commercial advantage or private financial gain; or
    - 3) <20 years and/or fine under title 18, United States Code, if during and in relation to such violation the person causes serious bodily injury [ as defined in 18 U.S.C. § 1365] or places in jeopardy the life of any person; or
    - 4) If the act results in the death of any person, then death, or imprisonment for any term of years or for life, fined under 18 USC or both.



**Notes:**

5. **8 U.S.C. § 1324(a)(1)(A)(v)(I) and § 1324(a)(1)(A)(v)(II)** – Conspiracy to commit alien smuggling, aiding or abetting alien smuggling.
- a. Any person who engages in any conspiracy to commit a violation of 8 U.S.C. §1324(a) (1)(A)(i) thru (iv), or
  - b. Any person who aids or abets the commission of 8 U.S.C. §1324(a)(1)(A)(i) thru (iv).

- c. **Penalty** imposed for each alien in respect to whom such a violation occurs is:
- 1) **Aids or Abets** – <5 years and/or fine under title 18, United States Code; or
  - 2) **Conspiracy** – <10 years and/or fine under title 18, United States Code. [Note that this is double the penalty for the general Federal crime of conspiracy, 18 U.S.C. § 371, so the alien smuggling conspiracy charge should be used when applicable.]; or
  - 3) **Conspiracy and Aids or Abets** – <20 years and/or fine under title 18, United States Code, if during and in relation to such violation the person causes serious bodily injury [ as defined in 18 U.S.C. § 1365] or places in jeopardy the life of any person; or
  - 4) **Conspiracy and Aids or Abets** – If the act results in the death of any person, then death, or imprisonment for any term of years or for life, fined under title 18, United States Code, or both.

**Notes:**



**6. 8 U.S.C. § 1324 (a)(2)** – Bringing or attempting to bring an alien to the United States 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.

a. Elements:

- 1) Knowing or in reckless disregard of the fact that an alien has not received prior official authorization to come to, enter, or reside in the United States
- 2) Brings, or attempts to bring such alien to the United States in any manner whatsoever.

b. Comments: As with 8 U.S.C. § 1324 (a)(1)(A)(i), in order to prosecute the individual who brought or attempted to bring the alien to the U.S., the Government need not prove that an adverse action (i.e., Removal) was taken against the alien, nor would such alien's receipt of relief from removal prevent criminal prosecution of the smuggler.

c. Example (b)(7)(E)

(b)(7)(E)

d. **Penalty** imposed for each alien in respect to whom such a violation occurs is:

- 1) <1 years and/or fine under title 18, United States Code; or
- 2) Where the offense is committed with the intent or reason to believe the alien will commit an offense against the U.S. or any state punishable by imprisonment of greater than 1 year, the result will be: fined under title 18, United States Code, and imprisonment (1st or 2nd violation = 3 to 10 years; 3rd or more violation = 5 to 15 years) or both; or
- 3) Where the offense is done for the purpose of commercial advantage or private financial gain, the result will be: fined under title 18, United States Code, and imprisonment (1st or 2nd violation = 3 to 10 years; 3rd or more violation = 5 to 15 years) or both; or
- 4) An offense in which the alien is not upon arrival immediately brought and presented to an appropriate immigration officer at a designated POE, the result will be: fined under title 18, United States Code, and imprisonment (1st or 2nd violation = <10 years; 3rd or more violation = 5 to 15 years) or both.



**Notes:**

7. **8 U.S.C. § 1327 – Aiding or assisting certain aliens to enter the United States.**

a. Elements:

- 1) Knowingly aids or assists any alien inadmissible under
  - a) INA § 212(a)(2) convicted of an *aggravated felony* **or**
  - b) INA § 212(a)(3) *security and related grounds*, other than subparagraph (E) thereof
- 2) To enter the United States **or**
- 3) Connives or conspires with any person or persons to allow, procure or permit any such alien to enter the United States.

b. Penalty: <10 years and/or fine.

- c. Example: Mr. Flores–Garcia has admitted aiding and assisting an undocumented alien named Gabriel Hernandez to enter the United States. Flores–Garcia also admits that, as an undocumented alien, he knew Gabriel Hernandez was inadmissible to the United States. Flores–Garcia asserts, however, a complete lack of knowledge concerning the Flores–Garcia's criminal record and the government concedes that it cannot prove otherwise.

Hernandez had in fact been previously been convicted of possession of a narcotic substance for sale, an aggravated felony [See, INA § 101(a)(43)(B)], making him “inadmissible” to the United States. INA § 212(a)(2) states in relevant part: “any alien convicted of . a violation of (or a conspiracy or attempt to violate) any law or regulation of a State, the United States, or a foreign country relating to a controlled substance (as defined in section 802 of Title 21), is inadmissible.”

The government assumes the burden to prove that: 1) Flores–Garcia knowingly aided or assisted an alien to enter the United States; 2) Flores–Garcia knew that the alien was inadmissible to the United States; and 3) the alien was inadmissible under INA § 212(a)(2) insofar as being an alien inadmissible under such section has been convicted of an aggravated felony. Proof that the defendant knew of alien's prior



conviction or inadmissibility under INA § 212(a)(2) is not required. **U.S. v. Flores-Garcia, 198 F.3d 1119 C.A.9 (Cal.) 2000.**

**Notes:**

8. **8 U.S.C. § 1328** – Importation of alien for immoral purpose.

a. Elements

1) Whoever directly or indirectly,

- a) Imports or attempts to import into the United States
- b) Holds or attempts to hold any alien for any such purpose in pursuance of such illegal importation **or**
- c) Keeps, maintains, controls, supports, employs, or harbors in any house or other place

2) Any alien

3) For the purpose of prostitution or for any other immoral purpose

b. Comments: The phrase “immoral purpose” has not been defined, but is generally accepted by courts to mean prostitution or a role as a concubine (sexually subservient mistress). The trial and punishment of offenses under this section may be in any district to or into which such alien is brought in pursuance of importation by the person or persons accused, or in any district in which a violation of any of the provisions of this section occurs. In all prosecutions under this section, the testimony of a husband or wife shall be admissible and competent evidence against each other.

c. Penalty: <10 years and/or fine

d. Example: James Clark, a Lubbock, Texas minister, metCarolyn Njau in August 2005 while on a trip to Kenya. Clark approached Njau, who was a prostitute at the time, in a hotel coffee shop. Clark falsely claimed to be a Texas Tech University professor and a minister. After chatting with Njau, Clark invited her to his hotel room on the pretense of continuing their conversation. There, he touched her, and he had her pose while he took a picture of her genitals.

In November 2005, Clark returned to Texas, promising Njau that his church might sponsor her education in the United States. When Njau informed Clark that she would be unable to afford her airfare, he agreed



to pay it but suggested that she could pay him back by “serv[ing]” his friends, which she “took . . . to imply sexual services in return for money.”

Upon her arrival in the United States in January 2006, Clark controlled, threatened, and sexually assaulted Njau. Ultimately, Njau confided in a school administrator, who contacted authorities. Clark was prosecuted and convicted for importation of an alien for prostitution or other immoral purposes. **U.S. v. Clark, 582 F.3d 607 (C.A.5 Tex. 2009).**

9. **8 U.S.C. § 1324 (a)(3)** – Knowing employment of smuggled aliens

a. Elements:

- 1) During any 12-month period
- 2) Knowingly hires for employment
- 3) At least 10 individuals
- 4) With actual knowledge that the individuals are **both**

- a) Unauthorized aliens [as defined in INA § 274A(h)(3)] **and**
- b) Were also brought into the United States in violation of 8 U.S.C. § 1324(a).

b. Penalty is <5 years and/or fine.

c. Example: N(b)(7)(E)

(b)(7)(E)

**Notes:**



10. **8 U.S.C. § 1324a** – Unlawful employment of aliens

a. Elements:

- 1) It is unlawful for a person or other entity to hire, or to recruit, or refer for a fee, for employment in the United States any alien.
- 2) Knowing the alien is an unauthorized alien (as defined in 8 U.S.C. § 1324a(h)(3)) with respect to such employment.

b. Comments: The term “unauthorized alien” means, with respect to the employment of an alien at a particular time, that the alien is not at that time either an alien lawfully admitted for permanent residence (LPR), or an alien authorized to be so employed by law or the Secretary of Homeland Security (previously the Attorney General).

c. Example: (b)(7)(E)

(b)(7)(E)

d. **Penalty** imposed for each alien in respect to whom such a violation occurs is:

- 1) Criminal Penalty – For engaging in a pattern or practice of violations a person shall be fined not more than \$3,000 for each unauthorized alien with respect to whom such a violation occurs, imprisoned <6 months for the entire pattern or practice, or both, notwithstanding the provisions of any other Federal law relating to fine levels.
- 2) The statute also provides for civil fines for such violations as well as for other violations involving hiring persons without performing background checks.

e. 8 U.S.C. § 1324(a)(3) – Knowing employment of **smuggled aliens** distinguished from 8 U.S.C. § 1324a – Unlawful employment of **aliens**.

- 1) A non-immigrant pleasure visa holder cannot be convicted of 1324(a)(3), but can be convicted of 1324a because, although lawfully present, such an alien is not allowed to work while in the United States on such a visa.





**Notes:**

11. **8 U.S.C. § 1325 (d)** – Immigration-related entrepreneurship fraud

a. Elements:

- 1) Knowingly establishes a commercial enterprise
- 2) For the purpose of evading any provision of the immigration laws.

b. **Penalty <5 years and/or fine.**

- c. Example: Mr. Matsumaru is a licensed attorney who practices law in Hawaii. Matsumaru helps Japanese clients obtain visas from the United States government. He brags that he has almost a 100% success rate in securing visas for his clients. Matsumaru's success rate is a function of an elaborate, multi-faceted strategy devised to defraud the United States government, and at the same time, to swindle his unwitting foreign clients. First, Matsumaru advertises in a Japanese language publication as a bilingual immigration attorney capable of helping Japanese citizens obtain visas from the United States Department of State ("State Department"). Japanese citizens desirous of living in the United States who see Matsumaru's advertisement contact him. Matsumaru explains that in order to qualify for a particular visa [E-2 – Treaty Investor], a Japanese citizen must invest a substantial sum of money in a United States company.

To effectuate the investment, Matsumaru instructs the Japanese citizens to wire money from their Japanese bank accounts to newly formed corporate bank accounts in Hawaii. Instead of using these funds to invest in United States companies, however, Matsumaru, without authorization, diverts most of the money to his own personal uses. Then, after creating the paper trail supposedly demonstrating his clients' investments in viable United States companies, Matsumaru endeavors to secure visas for his clients. He prepares application materials for his clients to submit to the United States consulate in Japan. In these materials, Matsumaru makes several false representations to the United States government about the history of his clients' investments and about the formation of their United States enterprises. Relying on these false representations, the government has granted visas to Matsumaru's clients. **U.S. v. Matsumaru, 244 F.3d 1092 C.A.9 (Hw) 2001.**



12. **8 U.S.C. § 1325(c)** – Marriage fraud.

a. Elements:

- 1) Knowingly enters into a marriage
- 2) For the purpose of evading any provision of the immigration laws.

b. **Penalty** <5 years and/or <\$250,000 fine.

13. **8 U.S.C. § 1325** – Improper entry by alien.

a. Elements

- 1) Any alien who
  - a) enters or attempts to enter the United States **at any time or place** other than as designated by immigration officers, **or**
  - b) **eludes examination or inspection** by immigration officers, **or**
  - c) attempts to enter or obtains entry to the United States by a **willfully false or misleading representation** or the willful concealment of a material fact.

b. Examples:

- 1) **Improper time or place:** (b)(7)(E)  
(b)(7)(E)
- 2) **Eludes inspection:** (b)(7)(E)  
(b)(7)(E)
- 3) **Willfully false or misleading:** (b)(7)(E)  
(b)(7)(E)



(b)(7)(E)

- c. Criminal penalty imposed for such a violation is:
- 1) 1st Conviction – <6 months and/or fine under title 18, United States Code
  - 2) Subsequent Convictions – <2 years and/or fine under title 18, United States Code
  - 3) Civil Penalties exist under [8 U.S.C. § 1325(b)] and are in addition to and not in lieu of any criminal or other civil penalties that may be imposed. Civil Penalties under [8 U.S.C. § 1325(b)] include:
    - a) \$50 to \$250 for each entry if not previously subject to a civil penalty under 8 U.S.C. § 1325(b)
    - b) \$100 to \$500 for each entry where the alien has been previously subject to a civil penalty under 8 U.S.C. § 1325(b)

**Notes:**

14. **8 U.S.C. § 1326** – Reentry of removed alien.

- a. Any alien who (1) has been denied admission, excluded, deported, or removed, or has departed the United States while an order of exclusion, deportation, or removal is outstanding, and thereafter; (2) enters, attempts to enter, or is at any time found in, the United States unless:
  - 1) Prior to embarkation outside of U.S. or application for admission from a foreign contiguous territory, the Attorney General expressly consent to alien's reapplying for admission; or
  - 2) With respect to an alien previously denied admission and removed, such alien establishes he was not required to obtain advanced consent under the law.
- b. Example: Mr. Pina-Jaime was born in Mexico and is not a United States citizen. He was deported from the United States 4 times, but the Immigration and Naturalization Service ("INS") gave him special permission to enter for one day so that he could attend a child custody hearing for his daughter. The INS explicitly "[w]arned" Pina-Jaime, in



writing, that he was “authorized to stay in the U.S. only” for the day of September 17, 1997, and that “[t]o remain past this date, without permission from immigration authorities, is a violation of the law.” In spite of this, Pina-Jaime voluntarily chose to remain in the United States, and did not return to Mexico. His parole automatically terminated.

On February 15, 2000, the INS learned that Pina-Jaime was still in this country. He was charged with being a deported alien found in the United States. He contended that he did not violate 8 U.S.C. § 1326(a)(2) because he had the Attorney General's consent to enter the United States on September 17, 1997, and he did not enter the country illegally.

The court concluded that the government satisfied its burden in this case by proving that Pina-Jaime knowingly and willfully committed the act of staying in the United States without permission of the Attorney General following his one-day parole into this country. **U.S. v. Pina-Jaime, 332 F.3d 609 C.A.9 (Cal.) 2003.**

- c. Penalties: There are numerous different possibilities:
- 1) The statute calls for imprisonment of various terms and fines which are in most instances imposed under title 18, United States Code.
  - 2) In most cases the statute calls for imprisonment and/or fine, while in one case the statute mandates fine and imprisonment.
  - 3) Generally speaking, the punishment is dependent upon the alien's criminal record prior to such removal or upon the underlying basis for the removal action.



**Demonstration/Examples:**

(b)(7)(E)

**B. EPO #2: Define human smuggling and related terms and identify indicators to establish violations of human smuggling statutes.**

1. Definition of human smuggling
  - a. The surreptitious entry of people into the U.S., facilitated by a third party, involving individuals willingly traveling to the U.S., in deliberate evasion of immigration laws.



- b. Smuggling may be motivated by profit, religion, politics, or family interest.
- c. Statutes governing this offense are contained within 8 USC § 1324.
- d. Human smuggling related terms:
  - 1) **ASO:** Acronym for alien smuggling organization, a criminal group that works together for the purpose of smuggling or trafficking aliens into the U.S. from abroad.
  - 2) **Pollo:** Spanish for “chicken,” a slang term for a smuggled alien.
  - 3) **Coyote or pollero:** Southwest border slang for an alien smuggler.
  - 4) **Guide:** Person who guides aliens across the border and shows them the way to the pickup or “load” vehicle or stash house.
  - 5) **Driver:** Also known as the “load driver” – Driver of load vehicle who takes aliens to stash house from the vicinity of the border or from stash house further into interior of the U.S.
  - 6) **Pollo list:** A ledger of the smuggled aliens in a load or who owe the smugglers money on their smuggling fee
  - 7) **Bajadores:** Southwest border slang term for bandits or “rip off crews” who steal aliens from other smugglers
  - 8) **Drop house or stash house:** The location where alien smugglers harbor aliens while awaiting receipt of smuggling fees or onward transportation of the aliens to their next or final destination.
  - 9) **Pocket trash:** Pieces of paper containing writing, receipts or other evidence of travel, contact numbers and addresses containing information or intelligence value found in the wallets of smugglers or smuggled aliens
  - 10) **Material witnesses:** Aliens or other subjects that become witnesses and are willing to provide information or testimony against alien smuggling organizations and/ or their members
  - 11) **OTM:** Abbreviation for “Other Than Mexican,” and therefore cannot be voluntarily returned to Mexico
  - 12) **Snakehead:** A member of a Chinese alien smuggling organization
  - 13) **Load:** Group of smuggled aliens when they are in the process of being transported into or through the U.S.
  - 14) **Load vehicle:** Vehicle used to transport aliens from a pickup site inside U.S. borders on to a stash house or to their further destination in the U.S.
  - 15) **Sponsor:** Relative or friend of smuggled alien responsible for paying the smuggled alien's transportation/smuggling fees
  - 16) **Reporting party:** Family member or friend of a smuggled alien who contacts law enforcement, usually to report that a relative is being held hostage by smugglers

2. Investigatory leads may come from:

(b)(7)(E)



(b)(7)(E)

3. Indicators of human smuggling

(b)(7)(E)

4. Investigation, prosecutorial focus, and penalties

- a. Investigations focused on identifying and disrupting criminal organizations involved in bringing in, transporting, and harboring illegal aliens.
- b. Sentencing range can vary greatly, based upon numerous factors, such as the number of aliens being smuggled, whether the smugglers are repeat offenders or if crime results in severe injury or death to a smuggled alien.

Notes:



**C. EPO #3 Identify the different methods used by Alien Smuggling Organizations (ASOs) to bring aliens into the U.S., including by land, sea and air, both through the Ports of Entry (POEs) and by crossing the borders at other than POEs.**

1. Methods of Operation.

(b)(7)(E)



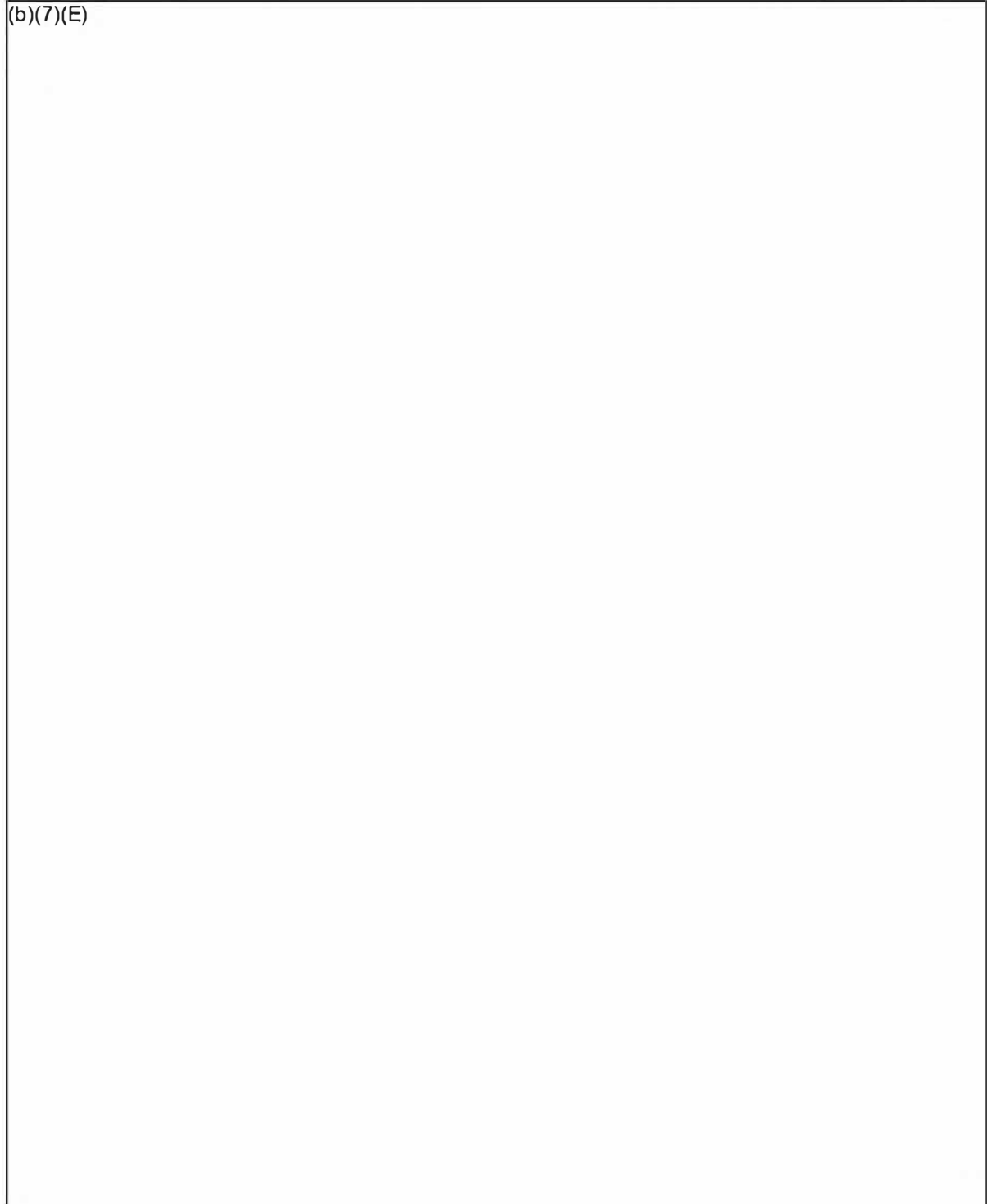


(b)(7)(E)

Notes:



(b)(7)(E)





(b)(7)(E)

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(b)(7)(E)



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(b)(7)(E)

**Notes:**

- D. EPO #4: Determine investigative approaches and actions to investigate human smuggling cases.**

(b)(7)(E)



(b)(7)(E)





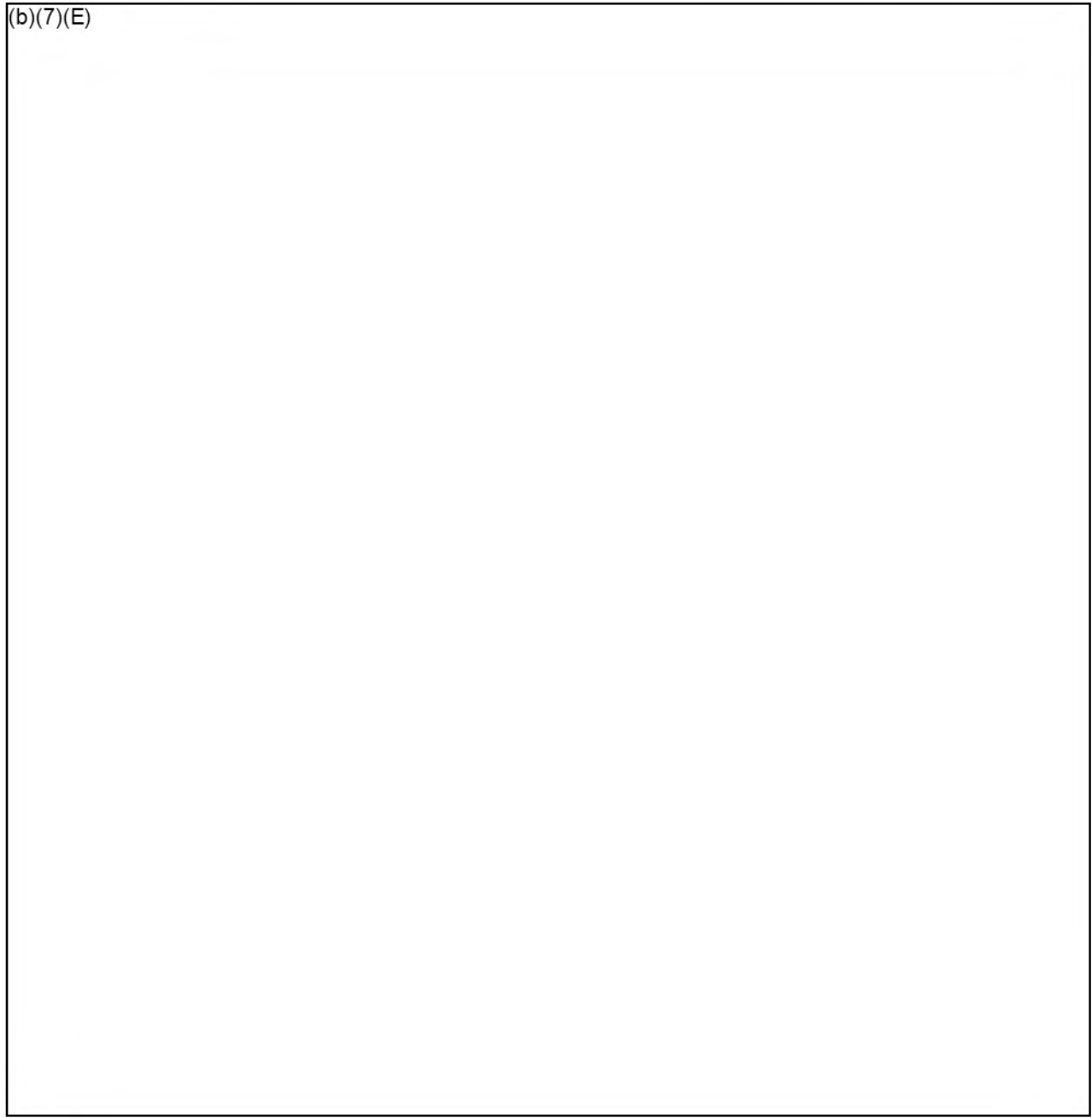
(b)(7)(E)

**Notes:**

(b)(7)(E)



(b)(7)(E)



**Notes:**





**E. EPO #5: Explain the elements of human trafficking crimes; and define the differences between sex trafficking and labor trafficking/forced labor**

See SDR HS/HT-4 Guidance for the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, March 10, 2010.

The statutes pertaining to human trafficking crimes include:

- **18 U.S.C. § 1583** – Enticement into slavery = defendant *makes another person available to become a slave or subject to involuntary servitude.*
- **18 U.S.C. § 1584** – Sale into involuntary servitude = defendant *makes another a slave or sells another person into involuntary servitude.*
- **18 U.S.C. § 1589** – Forced labor = provides or obtains labor or services of another person by force, threats, etc. or gains financial benefit from doing so.
- **18 U.S.C. § 1581** – Peonage; obstructing enforcement = hold or return a person to peonage.
- **18 U.S.C. § 1203** – Hostage Taking
- **18 U.S.C. § 1590** – Trafficking with respect to peonage, slavery, involuntary servitude, or forced labor = recruit, harbor, transport, provide, or obtain by any means, any person for labor or services violating 18 U.S.C. §§ 1581-1596.
- **18 U.S.C. § 1591** – Sex trafficking of Children or by Force, Fraud, or Coercion = recruit, entice, harbor, transport, provide, obtain, or maintain a person by any means or a minor for commercial sex act or benefit financially from doing so.
- **18 U.S.C. § 1592** – Unlawful conduct with respect to documents in furtherance of trafficking, peonage, slavery, involuntary servitude, or forced labor = destroys, conceals, removes, confiscates, or possesses passport/immigration documents of person while violating 18 U.S.C. §§ 1581-1596.
- **18 U.S.C. § 1593A** – Benefit financially from acts of peonage (1581) or travel document violations (1592).
- **18 U.S.C. § 1594** – Attempt and Conspiracy for committing 18 U.S.C. §§ 1581-1596.

1. Definitions

- a. **U.S. Constitution** – 13th Amendment: *Neither slavery nor involuntary servitude...shall exist in the U.S.*
- b. **Slavery** – a person held in servitude as the chattel of another/person who is completely subservient to a dominating influence. A “slave” is a person who is wholly subject to the will of another, one who has no freedom of action and whose services were wholly under control of another, and who is in a state of enforced compulsory service to another.
- c. **Servitude** – a condition in which one lacks liberty especially to determine one's course of action or way of life
- d. **Involuntary Servitude** – “involuntary servitude” means action by master causing servant to have, or to believe he has, no way to avoid continued



service or confinement, but not a situation where servant knows he has a choice between continued service and freedom, even if master has led him to believe that choice may entail consequences that are exceedingly bad.

- e. **Peonage** – form of involuntary servitude in which the status or condition of compulsory service is based upon the indebtedness of the peon to the master
  - 1) Involuntary servitude is different from peonage in that peonage requires a debt to be owed from the peon to the master and the peon is working off that debt.
  - 2) Involuntary servitude, on the other hand, is the involuntary service by a person with no debt owed.

Summary		
Slave – owned by and under complete control of another person	Involuntary Servitude – under complete control of another person	Peonage – servitude by one person who owes a debt to another person

**Notes:**

- 2. **18 U.S.C. § 1583** – Enticement into slavery.
  - a. Three ways to commit crime:
    - 1) **Kidnap or carry away** any other person **with the intent that such other person be sold into** involuntary servitude or **held** as a slave
    - 2) **Entices, persuades, or induces** any other person to go on board any vessel or to any other place **with the intent that he or she may be made or held as a slave**, or sent out of the country to be so **made or held or**
    - 3) **Obstructs**, or attempts to obstruct, or in any way interferes with or prevents the **enforcement of this section**.

b. Example: (b)(7)(E)

c. Example: (b)(7)(E)



(b)(7)(E)

- d. Penalties:
  - 1) <20 years and/or fine.
  - 2) Any term of years up to life and/or fine if death results from the violation, or if the violation includes kidnapping or an attempt to kidnap, aggravated sexual abuse or the attempt to commit aggravated sexual abuse, or an attempt to kill.

3. **18 U.S.C. § 1584** – Sale into involuntary servitude.

- a. Three ways to commit crime
  - 1) Knowingly and willfully **holds to** involuntary servitude **or**
  - 2) **Sells into** any condition of involuntary servitude, any other person for any term, or brings within the United States any person so held **or**
  - 3) **Obstructs**, attempts to obstruct, or in any way interferes with or prevents the **enforcement of this section**.
- b. A victim having opportunities to escape does not preclude a conviction for holding a person in involuntary servitude, where the victim is placed in such fear of physical harm that he is afraid to leave. **U.S. v. Warren, 772 F.2d 827 C.A. 11 (Fla.) 1985.**

c. Example: (b)(7)(E)

d. Example: Ms. Veerapol, a native of Thailand and the common-law wife of a Thai ambassador, operated a Thai restaurant in Los Angeles. While in Thailand in the summer of 1989, Veerapol approached Nobi Saeieo, a non-English-speaking Thai villager, and offered her transportation to and two years of employment in the United States at a substantially higher wage than Saeieo could earn in Thailand.

Saeieo and two other Thai workers at Veerapol's Los Angeles home and restaurant were required to work long hours performing various chores. Veerapol also used her Thai workers' identities to open bank and credit card accounts, which she then used for her own benefit. She also isolated her workers and maintained control over them through verbal abuse, threats of legal action, physical force, and threat of death.

Veerapol was indicted on charges of harboring aliens, involuntary servitude, and mail fraud. She was convicted and ordered to pay restitution to Saeieo. **U.S. v. Veerapol, 312 F.3d 1128 (9th Cir 2002).**

- e. Penalties:
  - 1) <20 years and/or fine.
  - 2) Any term of years or life imprisonment and/or fine under title 18,



United States Code if death results from the violation, or if the violation includes kidnapping or an attempt to kidnap, aggravated sexual abuse or the attempt to commit aggravated sexual abuse, or an attempt to kill.

4. **18 U.S.C. § 1589** – Forced labor.
- a. Two ways to commit crime
- 1) Knowingly provides or obtains the labor or services of a person by any one of, or by any combination of, the following means:
- a) By means of force, threats of force, physical restraint, or threats of physical restraint to that person or another person;
- b) By means of serious harm or threats of serious harm to that person or another person;
- c) By means of the abuse or threatened abuse of law or legal process; or
- d) By means of any scheme, plan, or pattern intended to cause the person to believe that, if that person did not perform such labor or services, that person or another person would suffer serious harm or physical restraint.
- OR**
- 2) Benefits financially or by receiving anything of value
- a) From participation in a venture which has engaged in the providing or obtaining of labor or services
- b) By any of the means described above,
- c) Knowing or in reckless disregard of the fact that the venture has engaged in the providing or obtaining of labor or services by any of such means.
- b. Comments: For the purposes of this statute, the term “abuse or threatened abuse of law or legal process” means the use or threatened use of a law or legal process, whether administrative, civil, or criminal, in any manner or for any purpose for which the law was not designed, in order to exert pressure on another person to cause that person to take some action or refrain from taking some action.
- c. The term “serious harm” means any harm, whether physical or nonphysical, including psychological, financial, or reputational harm, that is sufficiently serious, under all the surrounding circumstances, to compel a reasonable person of the same background and in the same circumstances to perform or to continue performing labor or services in order to avoid incurring that harm.
- d. Example: Maria Garcia made arrangements whereby men and boys from Mexico were transported to New York State and housed in isolated, overcrowded and unsanitary conditions and were required to work in the fields of local growers.



- 1) Further, Maria refused to permit these workers to leave their housing units for any reason other than work and failed or refused to pay them their wages. She also threatened them with physical violence and with being caught and deported by the Immigration and Naturalization Service if they attempted to leave. The workers were repeatedly told that they owed large sums of money to her and could not leave without paying off their debts and on occasion, Maria Garcia refused to provide the workers ... with any food. Maria also told the workers that, if they tried to escape, they would be hunted down and returned to her. **U.S. v. Garcia, 2003 WL 22956917 W.D.N.Y. 2003.**

- e. Example: On May 13, 2007 employees of a Long Island donut shop called 911 to request assistance for a seemingly homeless woman. The woman, who was dressed only in pants and a towel, had used hand gestures and halting words to convey to shop employees that she had been struck repeatedly in the face by her "master." With the aid of an interpreter, federal and local authorities learned from the woman that her name was Samirah and she was a native of Indonesia who, since February 5, 2002, had worked as a domestic servant for Varsha Sabhnani, a native of Indonesia, and her husband, Mahender Sabhnani, a native of India, who both became LPR's and then American citizens.

Samirah explained that the Sabhnanis sent \$100 a month to her daughter in Indonesia. She also stated she was forced into servitude and that she experienced routine physical abuse at the hands of Varsha Sabhnani and with the knowledge of Mahender Sabhnani. Samirah advised the officers that another Indonesian woman named was also working at the house under similar forced conditions.

In the course of a joint investigation HSI agents executed search warrants at the Sabhnanis' home, where they found a second Indonesian woman hiding in a small closet, and seized various items that appeared to corroborate Samirah's account of physical abuse. The Sabhnanis admitted knowing that the two Indonesian women entered as B-2 visitors, overstayed, and were illegally present in the United States. The Sabhnanis were arrested and convicted of two counts of forced labor. **U.S. v. Sabhnani, 599 F.3d 215 (2d Cir 2010).**

- f. Penalties:
  - 1) <20 years and/or fine.
  - 2) Any term of years or life imprisonment and/or fine under title 18, United States Code if death results from the violation, or if the violation includes kidnapping or an attempt to kidnap, aggravated sexual abuse or the attempt to commit aggravated sexual abuse, or an attempt to kill.



5. **18 U.S.C. § 1581** – Peonage; obstructing enforcement.

a. Two ways to commit crime

- 1) Holds or returns any person to a condition of peonage, or arrests any person with the intent of placing him in or returning him to a condition of peonage **or**
- 2) obstructs or attempts to obstruct, or in any way interferes with or prevents the enforcement of this section.

b. It is sufficient to constitute peonage that a person is held against his/her will and made to work to pay a debt; the amount of which and the means of coercion is immaterial.

c. Example: (b)(7)(E)

(b)(7)(E)

d. Penalties:

- 1) <20 years and/or fine.
- 2) Any term of years or life imprisonment and/or fine under title 18, United States Code if death results from the violation, or if the violation includes kidnapping or an attempt to kidnap, aggravated sexual abuse or the attempt to commit aggravated sexual abuse, or an attempt to kill.

**Notes:**

6. **18 U.S.C. § 1203** – Hostage Taking.

a. Elements

- 1) Whether inside or outside the United States,
- 2) Seizes or detains and threatens to kill, to injure, or to continue to detain another person
- 3) In order to compel a third person or a governmental organization to do or abstain from doing any act as an explicit or implicit condition for the release of the person detained or
- 4) Attempts or conspires to do so.





- b. It is not an offense under this section if the conduct required for the offense occurred outside the United States unless:
- 1) The offender or the person seized or detained is a national of the United States;
  - 2) The offender is found in the United States; or
  - 3) The governmental organization sought to be compelled is the Government of the United States.
- c. Comments: It is not an offense under this section if the prohibited conduct occurred in the United States, each alleged offender and each person seized or detained are nationals of the U.S., and each alleged offender is found in the U.S., unless the government organization sought to be compelled is the United States.
- d. Penalties:
- 1) Any term of years or life imprisonment
  - 2) Death or life imprisonment if death of any person results.
- e. Example: In the weeks leading up to the day of the actual kidnapping, Felix Corporán-Cuevas and Félix Beras planned, prepared for, and agreed to effect the kidnapping of Carlos de la Rosa Berbera and hold him for ransom. On April 18, 1996, in the District of Puerto Rico, Felix Corporan-Cuevas's co-conspirator Félix Beras and an unidentified individual abducted thirteen-year old Carlos de la Rosa Berbera who was traveling in a car with his grandmother, Carmen Villar-Cordero. At gunpoint, the two kidnapers ordered Mrs. Villar-Cordero out of the car and drove off with her grandson. Two hours later, Mrs. Villar-Cordero received a ransom call, ordering that she produce the child's parents or money in exchange for her grandson's freedom. By then, it appeared that, in addition to Félix Beras, defendant Corporán and two other men were holding young Carlos. The FBI succeeded in rescuing the child four days later in Rio Piedras. Both Corporán and Beras were on the scene and were arrested. Corporán freely admitted that he was a national of the Dominican Republic. **U.S. v. Corporan-Cuevas, 244 F.3d 199 C.A.1 (Puerto Rico) 2001.**

**Notes:**



- 7. **18 U.S.C. § 1590** – Trafficking with respect to peonage, slavery, involuntary servitude, or forced labor.
  - a. Two ways to commit crime
    - 1) Recruit, harbor, transport, provide, or obtain by any means, any person for labor or services in violation of 18 U.S.C. §§ 1581-1596
    - or**
    - 2) Obstructs, attempts to obstruct, or in any way interferes with or prevents the enforcement of this section.

b. Example: (b)(7)(E)

(b)(7)(E)

c. Example: (b)(7)(E)

(b)(7)(E)

d. Penalties:

- 1) <20 years and/or fine.
- 2) Any term of years or life imprisonment and/or fine under title 18, United States Code if death results from the violation, or if the violation includes kidnapping or an attempt to kidnap, aggravated sexual abuse or the attempt to commit aggravated sexual abuse, or an attempt to kill.

- 8. **18 U.S.C. § 1593A** – Benefiting financially from peonage, slavery, and trafficking in persons.

- a. Elements
  - 1) Benefits, financially or by receiving anything of value,
  - 2) From participation in a venture which has engaged in any act in violation of:
    - a) 1581(a) – Holds or returns any person to a condition of peonage, or arrests any person with the intent of placing him in or returning him to a condition of peonage
    - b) 1592 – Unlawful conduct with respect to documents in furtherance of trafficking, peonage, slavery, involuntary servitude, or forced labor
    - c) 1595(a) – Civil remedy



- 3) Knowing or in reckless disregard of the fact that the venture has engaged in such violation

b. Example: (b)(7)(E)  
(b)(7)(E)

9. **18 U.S.C. § 1591** – Sex trafficking of Children or by Force, Fraud, or Coercion.

a. Four ways to commit crime

- 1) Recruit, entice, harbor, transport, provide, obtain, or maintain a person by any means
  - a) Knowing, or in reckless disregard of the fact, that means of force, threats of force, fraud, coercion, or any combination of such means will be used to cause
  - b) The person to engage in a commercial sex act **or**
- 2) Benefit, financially or by receiving anything of value, from participation in a venture which has engaged in recruitment, enticement, harboring, transporting, providing, obtaining, or maintaining a person by any means
  - a) Knowing, or in reckless disregard of the fact, that means of force, threats of force, fraud, coercion, or any combination of such means will be used to cause
  - b) The person to engage in a commercial sex act **or**
- 3) That the person has not attained the age of 18 years and will be caused to engage in a commercial sex act **or**
- 4) Obstructs, attempts to obstruct, or in any way interferes with or prevents the enforcement of this section.

**Note:** Must be in or affecting interstate or foreign commerce, or within the special maritime and territorial jurisdiction of the United States.

b. The statutory language found in 18 U.S.C. § 1591 (c) [effective only for prosecution of crimes committed on/after December 23, 2008], states that in a prosecution under 18 U.S.C. § 1591 (a)(1) where a defendant had a reasonable opportunity to observe the person recruited, enticed, harbored, transported, provided, obtained, or maintained, the government



need not prove that the defendant actually knew the person had not attained the age of 18 years. So for crimes committed on December 23, 2008 or later, the law imposes strict liability with regards to a criminal defendant's awareness of the victim's age, thus relieving the government's usual burden to prove knowledge or reckless disregard of the victim's underage status under 18 U.S.C. § 1591 (a)(1). A good example of this strict liability in action is found at *United States v. Robinson*, 702 F.3d 22 (2nd Cir. 2012).

c. Important statutory terms:

- 1) The term *abuse or threatened abuse of law or legal process* means the use or threatened use of a law or legal process, whether administrative, civil, or criminal, in any manner or for any purpose for which the law was not designed, in order to exert pressure on another person to cause that person to take some action or refrain from taking some action.
- 2) The term *coercion* means (a) threats of serious harm to or physical restraint against any person; (b) any scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in serious harm to or physical restraint against any person; or (c) the abuse or threatened abuse of law or the legal process.
- 3) The term *commercial sex act* means any sex act, on account of which anything of value is given to or received by any person.
- 4) The term *serious harm* means any harm, whether physical or nonphysical, including psychological, financial, or reputational harm, that is sufficiently serious, under all the surrounding circumstances, to compel a reasonable person of the same background and in the same circumstances to perform or to continue performing commercial sexual activity in order to avoid incurring that harm.
- 5) The term "venture" means any group of two or more individuals associated in fact, whether or not a legal entity.

d. Example: In January 2005, 18 year old high school student Kelsey Kirschman began dating 26 year old Jerome E. Todd. In May 2006, Todd suggested they get a place together, and told Kirschman they could get rich together if she worked as a prostitute. She agreed, and he ran advertisements of her, offering "full service" for \$200, in addition to directing her to walk the track, which was an area frequented by prostitutes and potential customers. Todd forced Kirschman to give him all her money, and Todd maintained his rules psychologically by emotionally and physically abusing her.

Between 2006 and 2007, Todd added three more women to his "stable." The court concluded that Todd knew he would follow the same pattern with Whitney T. and then with Whitney E. and Jemelle L. Jerome Todd



knew that he would use coercion to cause his sex workers to make money for him. **U.S. v. Todd, 627 F.3d 329 (9th Cir 2010).**

- e. Penalties:
- 1) 15 years minimum imprisonment or for life and a fine under title 18, United States Code if the offense was effected by means of force, threats of force, fraud, or coercion [as defined in the statute] or by any combination of such means.
  - 2) 15 years minimum imprisonment or for life and a fine under title 18, United States Code, if the victim recruited, enticed, harbored, transported, provided, or obtained had not attained the age of 14 at the time of such offense,
  - 3) 10 years minimum imprisonment or for life and a fine under title 18, United States Code if the offense was not effected by means of force, threats of force, fraud, or coercion [as defined in the statute] or by any combination of such means, and the person recruited, enticed, harbored, transported, provided, or obtained had attained the age of 14 years but had not attained the age of 18 at the time of such offense,
  - 4) <20 years and/or fine under title 18, United States Code for whoever obstructs, attempts to obstruct, or in any way interferes with enforcement of this section.

10. **18 U.S.C. § 1592** – Unlawful conduct with respect to documents in furtherance of trafficking, peonage, slavery, involuntary servitude, or forced labor.

a. Three ways to commit crime:

1) Destroys, conceals, removes, confiscates, or possesses any actual or purported passport or other immigration document, or any other actual or purported government identification document of another person in the course of a violation of section:

- a) 1581 – peonage
- b) 1583 – enticement into slavery
- c) 1584 – sale into involuntary servitude
- d) 1589 – forced labor
- e) 1590 – trafficking with respect to peonage, slavery, involuntary servitude, or forced labor
- f) 1591 – sex trafficking
- g) 1594(a) – attempt to do any of the above

with intent to violate section 1581, 1583, 1584, 1589, 1590, 1591;

**OR**

2) To prevent or restrict or to attempt to prevent or restrict, without lawful authority, the person's liberty to move or travel, in order to maintain the labor or services of that person, when the person is



or has been a victim of a severe form of trafficking in persons as defined in section 103 of the Trafficking Victims Protection Act of 2000 (1591 – sex trafficking) [22 U.S.C. § 7102 and 18 U.S.C. § 1591(e)]

OR

3) Obstructs, attempts to obstruct, or in any way interferes with or prevents the enforcement of this section.

b. Comment: Section a. above, does not apply to the conduct of a person who is or has been a victim of a severe form of trafficking in persons, as defined in section 103 of the Trafficking Victims Protection Act of 2000 [22 U.S.C. § 7102] if that conduct is caused by or incident to, that trafficking.

c. Penalty: <5 years and/or fine.

d. Example: (b)(7)(E)

(b)(7)(E)

**Notes:**

11. **18 U.S.C. § 1594** – General provisions [Attempt and Conspiracy]

- a. 18 U.S.C. § 1594(a) – Whoever **attempts** to violate section 1581, 1583, 1584, 1589, 1590, 1591 of Title 18 U.S. Code shall be punishable in the same manner as a completed violation of such section.
- b. 18 U.S.C. § 1594(b) – Whoever **conspires** with another to violate section 1581, 1583, 1589, 1590, or 1592 of Title 18 U.S. Code shall be punishable in the same manner as a completed violation of such section.
- c. 18 U.S.C. § 1594(c) – Whoever **conspires** with another to violate section 1591 shall be fined under title 18, United States Code, imprisoned for any term of years or for life, or both.
- d. Example: Frank and Joe conspired to commit a violation of 18 U.S.C. § 1589 (forced labor). They will be sentenced for the forced labor and the conspiracy to commit forced labor per 18 U.S.C. § 1594(b), which will carry an additional penalty equal to the forced labor violation.



- e. Penalties:
- 1) Same as underlying offense for an attempt to commit a violation of 1581, 1583, 1584, 1589, 1590, or 1512.
  - 2) Same as underlying offense for any conspiracy to commit a violation of 1581, 1583, 1589, 1590, or 1592.
  - 3) For conspiracy to violate 1591, fined under title 18, United States Code, imprisoned for any term of years or for life, or both.
  - 4) Forfeiture of any property used in the commission of the offense or derived from proceeds from the commission of the offense.

**Demonstration/Example:**

(b)(7)(E)



(b)(7)(E)

**F. EPO #6: Define human trafficking and identify indicators to establish violations of human trafficking statutes.**

1. Definition of human trafficking:
  - a. 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.
  - b. The statutes governing this offense are contained within 18 USC §§ 1581-1594 and the associated Mann Act statutes of 18 USC §§ 2421-2424, and Title 8 USC §1328, Importation and Harboring of Aliens for Immoral Purposes.
  - c. Trafficking Victims Protection Act of 2000 (TVPA) – Public Law 106-386
    - 1) Enacted in October 2000.
    - 2) Prior to that, no comprehensive federal law existed to protect victims of trafficking or to prosecute their traffickers.





- 3) Human trafficking is increasingly committed by organized, sophisticated criminal groups, and is the fastest growing source of profits for organized criminal enterprises worldwide.
  - 4) Profits from trafficking industry contribute to the expansion of organized crime in the U.S. and worldwide.
  - 5) TVPA goals:
    - a) Combat and prevent human trafficking overseas
    - b) Protect victims and help them rebuild their lives in the U.S. with federal and state support
    - c) Prosecute traffickers of persons under stiff federal penalties
- d. Trafficking Victims Protection Reauthorization Act of 2003 (TVPRA)
- 1) In 2003, the Bush Administration authorized more than \$200 million to combat human trafficking through (TVPRA)
  - 2) Renews U.S. government's commitment to identify and assist victims exploited through labor and sex trafficking in the U.S.
  - 3) Provides resources and initiatives to assist the 18,000-20,000 victims of human trafficking who are trafficked into the U.S. every year.
    - a) Augments the legal tools that can be used against traffickers by empowering victims to bring federal civil suits against traffickers for actual and punitive damages, and by including sex trafficking and forced labor as offenses under the Racketeering Influenced and Corrupt Organization statute.
  - 4) Also encourages the nation's 21,000 state and local law enforcement agencies to participate in detection and investigation of human trafficking cases.
  - 5) U.S. Department of Health and Human Services has a significant role in implementing the law's victim-centered, compassionate approach to finding and aiding the victims of this modern-day slave trade.
- e. Trafficking Victims Protection Reauthorization Act of 2013



(TVPRA)

- 1) In addition to 2003, the Act has been reauthorized in 2005, 2008, 2011, and 2013.
- 2) TVPRA 2013 provides for the following:
  - a) 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.
    - "(a) Destruction, concealment, removal, confiscation, or possession of immigration documents – It shall be unlawful for any person to knowingly destroy, or, for a period of more than 48 hours, conceal, remove, confiscate, or possess, an actual or purported passport, other immigration, or personal identification document of another individual –
      - (1) In the course of a violation of section 1351 of this title or section 274 of the Immigration and Nationality Act (8 U.S.C. 1324);
      - (2) With intent to violate section 1351 of this title or section 274 of the Immigration and Nationality Act (8 U.S.C. 1324); or
      - (3) In order to, without lawful authority, maintain, prevent, or restrict the labor of services of the individual.
    - (b) Penalty – Whoever violates subsection (a) shall be fined under this title, imprisoned for not more than 1 year, or both.
    - (c) 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)."



2. Investigatory leads may come from:

(b)(7)(E)

**Notes:**

3. Indicators of human trafficking

(b)(7)(E)



(b)(7)(E)

4. Elements that constitute a trafficking victim
  - a. Must contain an element of force, fraud, or coercion (actual, perceived or implied), unless under 18 years of age and involved in commercial sex acts.
  - b. Forced labor and/or exploitation; requires an element of Force, Fraud or Coercion regardless of the age of the victim.
  - c. Persons trafficked are victims
  - d. Enslaved, subjected to limited movement or isolation, or had documents confiscated.
  - e. Need not involve the actual movement of the victim.
  - f. No requirement to cross an international border.
  - g. The person need not be actively involved in forced labor or commercial sexual services. Can be identified as a victim based upon historical circumstances, provided HSI agents make substantial corroboration of the facts.
  
5. Sex Trafficking vs. Labor Trafficking and Forced Labor
  - a. In Sex Trafficking, the overt act itself (commercial sex, sexual servitude) is most often a violation of law in its own right, and is always illegal with respect to minors.
  - b. In Labor Trafficking and Forced Labor, the overt acts are usually some type of legitimate business (services, agriculture or domestic work) being



utilized to employ slave labor. The fact that minors can be legally employed in a number of these areas makes discovering and investigating these cases much more complex.

**Notes:**

**G. EPO #7: Identify common methods of operation utilized by human trafficking organizations.**

1. Trafficking organization structure
  - a. **Recruiter** – Uses multi-media advertisements, personal contact networks, or family sales to obtain victims in source countries.
  - b. **Arranger/Coordinator** – Facilitates acquisition of travel documents, either fraudulent or legitimate, and arranges transport to the U.S.
  - c. **Receiving Co-conspirator** – Receives victims upon arrival in the U.S. and arranges temporary staging locations and retrieves travel documents, reveals debt bondage, and distributes or resells victims to business owners/managers.
  - d. **Transporter** – Transport victims from harboring location to job site, or between different job sites, or on out-calls for escort services and out-call prostitution (house calls). Can operate locally or across state lines.
  - e. **Harboring/security** – Maintains victims at harboring site or job site, prevents escape and freedom of movement, and may double as transporter.
  - f. **Business owner/manager** – May employ victims in prostitution, agricultural, garment, or other industries, or be involved in domestic servitude for themselves or others.
    - 1) Business owner may be independent of the traffickers operation and thus be unaware of the victim's true situation (unwitting participant).
  - g. All these roles may be held by more than one person, and one person may play multiple roles at one or varying times in the human trafficking organization.



**Notes:**

**H. EPO #8: Identify investigative approaches and actions to investigate cases of human trafficking.**

1. Trafficking victim identification and assessment

(b)(7)(E)

2. Investigative approach

(b)(7)(E)



(b)(7)(E)

**Notes:**

4. Considerations in dealing with trafficking victims

(b)(7)(E)



(b)(7)(E)

**Notes:**

5. Considerations for handling trafficking victims encountered as a result of enforcement actions.

(b)(7)(E)





(b)(7)(E)

b. Considerations during enforcement actions

(b)(7)(E)

c. Considerations following enforcement actions

(b)(7)(E)



**Notes:**

**I. EPO #9: Identify various programs within HSI designated to provide assistance to identified victims of human trafficking.**

1. Smuggled aliens and victims of trafficking
  - a. Smuggled aliens
    - 1) Critical to investigation as material witnesses – a need to tell the story
    - 2) May be detained temporarily, or granted parole status and released into U.S. pending the outcome of the investigation and prosecution
    - 3) Once their cooperation is completed, most subjects are placed in removal proceedings.
  - b. Victims of trafficking
    - 1) Consistent with HSI's victim-centered approach, subject is first and foremost a victim who must be protected, and may also be a witness
    - 2) Foreign nationals are eligible for Continued Presence (CP) in U.S., as well as the ability to apply for T or U visa.
    - 3) Both foreign and domestic victims of trafficking are eligible to receive protections and benefits under U.S. law.
2. Authorities requiring victims' rights and services:
  - a. Victims' Rights and Restitution Act (VRRRA), 42 USC § 10607 (2006)
    - 1) Includes mandatory services
  - b. Crime Victims' Rights Act (CVRA), 18 USC § 3771 (2006 & Supp. III 2009)
    - 1) Includes court-enforceable rights
  - c. Additional rights and requirements exist in other statutes and rules of criminal procedure.



3. Victim definition, per HSI Directive 1007.1, HSI Victim Assistance Program, August 25, 2011, includes:
  - a. A person directly or proximately harmed as a result of the commission of a federal offense; may be located outside the US.
  - b. A person culpable for or accused of the crime being investigated or prosecuted shall not be considered a victim for purposes of rights and services.
  - c. A person who may be culpable for violations or crimes other than the crime being investigated or prosecuted may be considered a victim under this directive; for example:
    - 1) Victims of involuntary servitude or trafficking may be considered victims for purposes of prosecution of those crimes, despite any legal culpability they may have for ancillary immigration or prostitution offenses.
    - 2) Criminal suspects who are subjected to excessive force by law enforcement officers.
    - 3) Inmates who are victims of crime during their incarceration may be considered victims.
  - d. Witness – a person who has information, knowledge, or evidence concerning a crime and provides information to an LEA.
    - 1) A victim of a crime may become a witness and a witness who is threatened may become a victim.
    - 2) This Directive does not cover confidential informants or undocumented sources of information.
4. Special victim populations – federal statutory provisions for services for victims of:
  - a. Domestic violence, stalking, or sexual assault
  - b. Child abuse
    - 1) Mandatory reporting of any suspected child abuse or exploitation under state and federal law – responsibility of individual SAs, with sanctions for failing to report.
  - c. Identity theft
  - d. Human trafficking

**Notes:**



5. Procedures when identifying victims:

- a. Identify cases with identified crime victims in (b)(7)(E)
- b. (b)(7)(E)

6. Services and rights of victims:

- a. At the earliest opportunity after detection of a crime responsible official shall provide identified victims with information about services available to them.
- b. Services include:
  - 1) Referral to place to receive emergency medical or social services
  - 2) Availability of restitution or other relief victim may be entitled to
  - 3) Public and private programs for counseling, treatment, other support
  - 4) Reasonable protection – not a service per se but a required consideration
- c. Services for victims of domestic violence, stalking or sexual assault
  - 1) Immigrant victims of domestic violence should be informed that they may petition for immigration protections and relief and assistance available under federally-funded programs
  - 2) Victims can have investigating agency pay for forensic sexual assault exam (with no requirement to cooperate with LEA)
- d. Services for victims of child abuse
  - 1) Requires forensic interview by HSI Forensic Interview Specialist
    - a) Fact-finding investigative interview that assists in determining whether or not a crime has been committed using non-leading, developmentally appropriate, and victim-sensitive approach
  - 2) Age-appropriate support services to victims and referrals for community-based services to parents and guardians as indicated.
  - 3) Privacy protection for child victims and witnesses
    - a) Child's name or other identifying information (other than initials or an alias) should not be reflected in court documents or other public records unless otherwise required by law.



- e. Services for victims of human trafficking
  - 1) Foreign national victims of severe form of trafficking, as identified by federal LEA, are eligible for certain benefits and services such as employment authorization and parole without regard to their immigration status.
  - 2) May be eligible for public benefits
  - 3) Shall not be detained in facilities inappropriate to their status as crime victims

**Notes:**

- 7. The HSI SAC Victim Assistance Specialist (VAS) or Victim Assistance Coordinator (VAC) should be the primary point of contact for case agents to coordinate victim services as needed.
  - a. During investigation the investigating agency is responsible for referring victim to services
  - b. Once an investigation has transferred to the prosecutorial entity or charges are filed, responsible officials from the prosecutorial entity are responsible for ensuring referrals for services are made.
- 8. Case agent's focus in all human trafficking cases must be on victim and victim's safety.
  - a. Investigation is secondary to recovery and well-being of victim.
  - b. When necessary, coordinate with VAS or VAC for forensic interview of victim.
  - c. Ensure coordination by VAS or VAC with local NGOs and victim service providers.

**Notes:**



9. Process victims for Continued Presence (CP) – temporary immigration designation for victims of human trafficking – Renewable and Revocable.  
**(HSI Directive 10075.2 dated 10/06/2016- Continued Presence)**
  - a. Provided statutorily under Trafficking Victims Protection Act
    - 1) LEO makes initial determination if individual is victim of a severe form of human trafficking:
      - a) Sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, **or**
      - b) If person is under 18 and induced to perform a commercial sex act  
**or**
      - c) 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
    - 2) Determination is made as early and as expeditiously as possible, in accordance with HSI's Victim-centered approach.
  - b. Federal LEOs are authorized to submit CP applications
    - 1) Should be submitted as soon as victim identified
    - 2) Coordinate with SAC Victim Assistance Specialist
    - 3) Approved by HSI Law Enforcement Parole Branch
  - c. CP granted initially for up to two years, with extensions of up to two years.
  - d. Victim's cooperation with LEA not required for eligibility but other assistance may be available to cooperating witnesses
    - 1) Benefits may include housing, educational assistance, food stamps
    - 2) Award of benefits to minor victims does not require cooperation with LEA to receive benefits
  - e. Employment authorization document (EAD), which can be used as identity document, issued to alien with CP
    - 1) Alien without legal status/lawful entry also issued I-94.
10. Victims of human trafficking may apply for T visa
  - a. Available to victims and qualifying family members  
Capped at 5,000 available annually



- 1) Permits visa-holder to remain in U.S. for up to four years and can lead to adjustment of status to LPR.
  - 2) Coordinated by Victim Assistance Specialist
  - 3) Certification of application (Form I-914, Supplement B) by LEA is primary evidence that applicant is victim of severe form of trafficking and has complied with reasonable request for assistance in investigation or prosecution.
11. U visa available to victims of certain serious crimes and qualifying family members  
Capped at 10,000 available annually
- a. Specified crimes include rape, domestic violence, extortion, witness tampering, and conspiracy or solicitation to commit such crimes (see Form I-918)
  - b. Victim must have suffered substantial physical or mental abuse as result of qualifying crime
  - c. Crime occurred in U.S.
  - d. Victim possesses information concerning the crime
  - e. LEA certifies that victim has been or is likely to be helpful in investigation or prosecution of the crime utilizing Form I-918, supplement B
12. Segregation of detained aliens
- a. During all transport, interviews and processing, alien suspects must be separated from witnesses and victims
    - 1) Coordinate with HSI field office and/or LEA to ensure facilities will be available that will allow separation
  - b. Transport suspects and witnesses in accordance with HSI policy

(b)(7)(E)



(b)(7)(E)

- J. EPO #10: Handle an alien smuggling load from initial encounter to writing the criminal complaint.**

(b)(7)(E)





(b)(7)(E)



(b)(7)(E)

**DEMONSTRATION**

(b)(7)(E)



(b)(7)(E)

### Student Practice

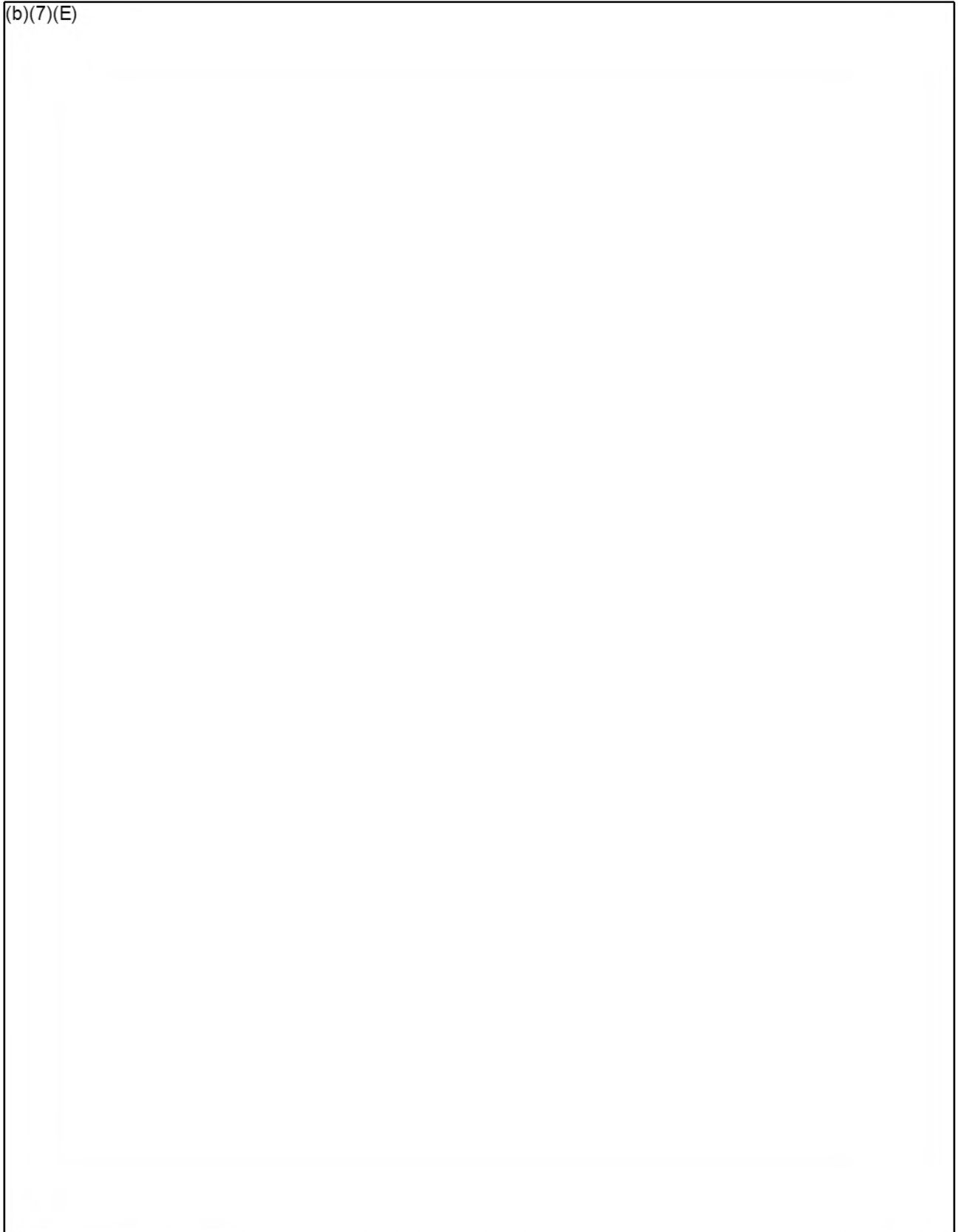
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(b)(7)(E)



## CONCLUSION

### Summary of Main Ideas

There are important distinctions in the definitions of human smuggling and human trafficking investigations.

ASOs employ a variety of smuggling methods and their organization and operation differs between the southern and northern U.S. borders.

HSI has various tools and investigative methods to pursue these cases, including (b)(7)(E)

(b)(7)(E)

(b)(7)(E)

The victims of human trafficking are a top priority, and their rescue and support after the fact are not only HSI policy but can also aid in prosecutorial efforts.

As a Special Agent, not only do you help secure the country, but you also assist those who are victims of crimes, both citizens and aliens. Enforcing violations of human smuggling and trafficking not only reduces the amount of illegal aliens in our country, but also helps innocent victims return to their home countries.

### Integration

The investigation of human trafficking and human smuggling cases draws on the various techniques and procedures used in other types of investigations.

### Objectives

This lesson concentrated on human smuggling and human trafficking. You should now be able to:

- 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 Alien Smuggling Organizations (ASOs) to bring aliens into the U.S., including by land, sea and air, both through the Ports of Entry (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.
- 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.

## Motivation

Human trafficking is a form of modern day slavery. HSI places a priority on human trafficking investigations and recognizes victims of human trafficking as crime victims.

In human smuggling cases individuals participate voluntarily by entering into a contract with alien smuggling organizations in attempting to enter the U.S. illegally.

But often there are areas where these two distinctly different crimes overlap, as when a smuggler uses force or coercion to collect smuggling fees or when promised employment turns into forced labor or commercial sex.

HSI agents conduct criminal investigations into each type of offense, and understanding the differences, and similarities, is essential.

## Test or Final Activity

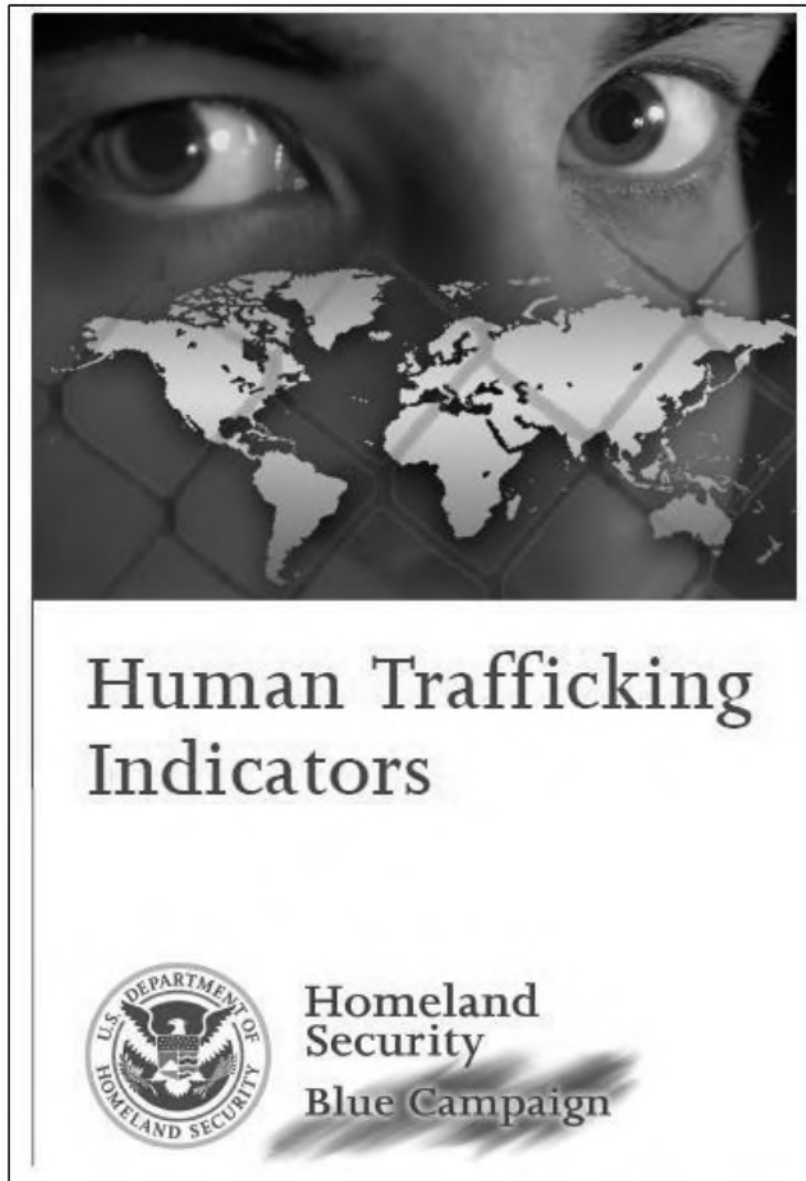
This knowledge will be tested in practical exercise #3 (b)(7)(E) In the scenario, students will be asked to:

- Determine if a human smuggling or human trafficking situation exists.
- Determine who in the vehicle may be a principal in the operation.
- Plan and take investigative steps to develop information required for an affidavit.
- Prepare information for presentation to the AUSA.





## Attachments





## Global Impact

Men, women and children are trafficked across international borders each year. Victims are trafficked into the international sex trade and into forced labor situations throughout the world. Many of these victims are lured from their homes with false promises of well-paying jobs; instead, they are forced or coerced into prostitution, domestic servitude, farm or factory labor or other types of forced labor.

## Understanding Means of Coercion

Victims often find themselves in a foreign country and cannot speak the language. Traffickers often take away the victims' travel and identity documents and tell victims that if they attempt to escape, the victims or their families back home will be harmed or that the victims' families will assume the debt. We recognize that men, women and children that are encountered in brothels, sweat shops, massage parlors, agricultural fields and other labor markets may be forced or coerced into those situations and potentially are trafficking victims.

### Trafficking Indicators

- Is the victim in possession of identification and travel documents; if not, who has control of the documents?
- Was the victim coached on what to say to law enforcement and immigration officials?
- Was the victim recruited for one purpose and forced to engage in some other job?
- Is the victim's salary being garnished to pay off a smuggling fee? (Paying off a smuggling fee alone is not considered trafficking.)
- Was the victim forced to perform sexual acts?
- Does the victim have freedom of movement?
- Has the victim or family been threatened with harm if the victim attempts to escape?
- Has the victim been threatened with deportation or law enforcement action?
- Has the victim been harmed or deprived of food, water, sleep, medical care or other life necessities?
- Can the victim freely contact friends or family?
- Is the victim a juvenile engaged in commercial sex?
- Is the victim allowed to socialize or attend religious services?



### Trafficking vs. Smuggling

Human Trafficking is defined as:

- 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; or
- 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.

Human Smuggling is defined as:

- the importation of people into the U.S. involving deliberate evasion of immigration laws. This offense includes bringing illegal aliens into the U.S., as well as the unlawful transportation and harboring of aliens already in the United States.

**These are not interchangeable terms**

- Smuggling is transportation-based
- Trafficking is exploitation-based

## Role of ICE

U.S. Immigration and Customs Enforcement (ICE), a component of the Department of Homeland Security, works with its law enforcement partners to dismantle the global criminal infrastructure engaged in human trafficking. ICE accomplishes this mission by making full use of authorities and expertise, stripping away assets and profit incentive, collaborating with U.S. and foreign partners to attack networks worldwide and working in partnership with nongovernmental organizations (NGOs) to identify, rescue and provide assistance to trafficking victims.

## Victim-Centered Approach

ICE recognizes that in order to successfully investigate and prosecute traffickers, victims must be stable and free from fear and intimidation to be effective witnesses. Equal value is placed on the identification and rescue of victims and the prosecution of traffickers. ICE has more than 300 collateral duty victim/witness coordinators who work with NGOs to assist in the provision of victim services. Short-term immigration relief is provided to certified victims of trafficking in the form of Continued Presence (CP).



### Anti-Trafficking Successes

#### NGO Tip Leads to Rescue of 85 Trafficking Victims

In New York, Peruvian migrants were subjected to forced labor and debt bondage. A husband and wife were sentenced to 11 and 15 years, respectively, for Conspiracy to Commit Forced Labor and Document Servitude, Conspiracy to Bring In and Harbor Aliens and Engaging in Extortionate Credit Transactions.

#### Trafficker Arrested in Cameroon

In Baltimore, a 10-year-old girl from Cameroon was brought to the U.S. for the purpose of domestic servitude and subjected to physical abuse and isolation. The trafficker fled the U.S. and was later arrested in Cameroon. The trafficker was brought back to the U.S. to serve a 17-year sentence for Involuntary Servitude and Harboring for Financial Gain. The trafficker was ordered to pay \$100,000 restitution to the victim.

#### Trafficker Sentenced to 23 Years

In Texas, four Mexican women were rescued from traffickers who raped them and forced the victims to cook and clean for them. Eight defendants were convicted of human smuggling/trafficking violations. The lead defendant was sentenced to 23 years for Involuntary Servitude.

#### Six Traffickers Sentenced to 40 years

In Los Angeles, 15 women and girls were forced by a family-run human trafficking organization into prostitution. As a result of the investigation, seven Guatemalan and two Mexican nationals were found guilty of conspiracy, sex trafficking of children by force, and importation and harboring of illegal aliens for purposes of prostitution and sentenced to terms of imprisonment ranging from two to 40 years depending on their level of involvement.

#### Traffickers Arrested in Hair Braiding Salon

In Newark, 20 young women and girls from Togo and Ghana were brought to the United States through a visa scheme, forced to work in hair braiding salons under appalling conditions, and subject to physical abuse and threats. Six traffickers from Togo entered guilty pleas or were convicted by a jury for offenses involving forced labor, conspiracy, document servitude, visa fraud, transportation of a minor across state lines to engage in criminal sexual activity, and alien smuggling.

#### Cooperation with Mexican Law Enforcement Rescues 24 Victims

In New York, an ICE-led investigation, in collaboration with the Government of Mexico, targeted a trafficking organization that smuggled Mexican women into the United States and then subjected them to commercial sexual exploitation. Twenty-four women were forced into prostitution at brothels on the East Coast through threats of violence against them and their children. The principal traffickers were sentenced to terms of imprisonment from 25 to 50 years each. The mother of the main defendants was arrested in Mexico and later extradited to the United States where she was sentenced to 10 years in prison for her involvement in the scheme.

#### Russian, Ukrainian and Czech Labor Trafficking Victims Rescued in Detroit

In Detroit, a concerned citizen reported women being forced to work against their will as exotic dancers. Ten women were brought to the United States through a visa fraud scheme where they were forced to work as dancers through threats of violence, sexual abuse, and threats of jail and deportation. The investigation resulted in the arrest and indictment of nine defendants. All of the defendants pleaded guilty and their sentences ranged from probation to 14 years imprisonment.

#### Domestic Servitude Victim Rescued on Long Island

On Long Island, ICE agents arrested a husband and wife as a result of a domestic servitude investigation. The couple was alleged to have held two Indonesian females in their residence where they were forced to perform domestic services. They were found guilty by a jury of forced labor, peonage, document servitude, harboring aliens and conspiracy. The wife was sentenced to 11 years imprisonment and her husband was sentenced to three years. The jury ordered that their residence, valued at \$1.5 million, be criminally forfeited in order to assist with victim restitution.



Homeland  
Security  
Blue Campaign

Report Suspicious Activity:  
1-866-DHS-2-ICE  
1-866-347-2423

[www.dhs.gov/humantrafficking](http://www.dhs.gov/humantrafficking)

01/2018



### 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 pleading an individual in removal proceedings, and is done as an act of administrative convenience to the government. It precludes a victim from receiving TPA 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:  
866-372-4973 or [victimassistance/ice@dhs.gov](mailto:victimassistance/ice@dhs.gov)

For human trafficking-related policy issues, please contact the ICE Headquarters Human Smuggling and Trafficking Unit at: [ICEHumanTraffickinghelpdesk@dhs.gov](mailto:ICEHumanTraffickinghelpdesk@dhs.gov)



Homeland Security  
Blue Campaign

Report Suspicious Activity:  
1-866-DHS-2-ICE (1-866-347-2433)  
[www.dhs.gov/humantrafficking](http://www.dhs.gov/humantrafficking)

09/2018

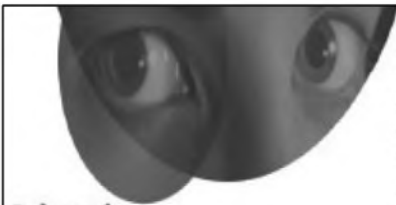


# Continued Presence

## 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.<sup>1</sup> 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.<sup>2</sup>

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

<sup>2</sup> 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.



How You Can Help

All businesses that are involved in any aspect of high-technology research, development or production are potential targets and can be exploited. ICE solicits your assistance in providing information relating to any suspicious circumstances surrounding export transactions of high-technology items or services.

There are four major areas in which U.S. businesses can assist the government in stemming the illegal flow of equipment, technology and munitions to unauthorized destinations:

- Identifying inquiries and orders for production parts or technology that are likely to be shipped outside the United States, and ensuring that these transactions are reviewed by export specialists;
- Ensuring that your export specialists understand export controls and follow appropriate screening and licensing procedures;
- Making certain that employees—whether they live, travel or transmit information abroad, or merely come into contact with foreigners visiting the United States—fully understand that the U.S. government restricts the flow of certain technical data or know-how, whether in written, oral or visual form; and
- Ensuring that suspicious contacts are reported to ICE as quickly as possible (see back panel: Indications of Potential Illegal Exports).

Indications of Potential Illegal Exports

- Customer pays in cash.
- Customer makes payments in excess of item's market value.
- Purchaser is reluctant to provide information about item's end-use.
- Item is incompatible with stated end-use.
- Item does not correspond with customer's line of business.
- Final consignee has no apparent connection to the purchaser.
- Item is inappropriately or unprofessionally packaged.
- Packaging is inconsistent with shipping mode, destination or product description.
- Order is placed by firm or individuals from foreign countries other than the country of the stated end-use.
- Shipping route is abnormal for the product and destination.
- A freight forwarding firm is listed as final destination.
- Customer declines routine installation, training or maintenance services.
- Customer has little or no business background or is unfamiliar with item.
- Transaction just does not make sense.



Shield America  
A Partnership to  
Protect America



U.S. Immigration and Customs Enforcement

Report Suspicious Activity:  
1-866-DHS-2-ICE  
1-866-DHS-2-423  
www.ice.gov



U.S. Immigration and Customs Enforcement

01/2009



### Shield America

Shield America is an industry outreach and enforcement initiative developed by U.S. Immigration and Customs Enforcement (ICE) to prevent the illegal export of sensitive U.S. munitions and strategic technology to terrorists, criminal organizations and foreign adversaries.

Led by ICE's Counter-Proliferation Investigations (CPI) unit, Shield America is an integral part of the ICE strategy to combat the trafficking in Weapons of Mass Destruction (WMD) and their components, as well as the trafficking in conventional weapons and controlled technology. Working in partnership with U.S. Customs and Border Protection (CBP) and U.S. companies that manufacture, sell or export strategic technology and munitions, Shield America is the first line of defense against those who compromise U.S. security or interests by violating export laws, sanctions or embargoes.

### Why It's Needed

Since World War II, foreign adversaries of the United States have acquired large quantities of U.S. and western technology by various means, both legal and illegal. Such acquisitions have provided these countries with the fruits of U.S. research and strategic technology largely without cost, while compromising U.S. security and military superiority. In some instances, U.S. weapons and technology have been used against American soldiers, citizens and allies. In today's globalized world, enhanced communications technology and transportation mean that rogue states, criminal organizations and terrorist groups have greater potential to acquire and trade nuclear, chemical and biological weapons than ever before.

### Illegal Exports: The Scope of the Problem

As with any illegal trade, the exact volume of illegal exports in strategic technology and munitions is difficult to measure or even to estimate. ICE criminal investigations and seizures indicate that such trade can be valued in the tens of millions of dollars annually. But the monetary value of these illegal exports is secondary to the potential strategic and military value of these products.

Some of the strategic technology most urgently desired by proscribed countries includes:

- modern manufacturing technology for the production of microelectronics, computers, digital electronic components and signal processing systems;
- technology for developing aircraft, missile and other tactical weapon delivery systems;
- all types of advanced signal and weapons detection, tracking and weapons monitoring systems;
- night vision technology;
- technology and equipment used in the construction of nuclear weapons and materials; and
- biological and chemical warfare agents and their precursors.

### How Shield America Works

Shield America is a four-pronged program for export enforcement and industry outreach.

- **Inspection and Interdiction.** Specially-trained CBP officers inspect outbound shipments for violations of U.S. export laws and report violations to ICE for investigation.
- **Investigations.** ICE special agents investigate export violations, seize illegal shipments of controlled technology and munitions and pursue the arrest, prosecution and conviction of violators.
- **Industry Outreach.** ICE agents conduct outreach visits with industry officials to educate them about U.S. export laws and to solicit their assistance in preventing illegal foreign acquisition of their products.
- **International Cooperation.** ICE attachés in foreign countries enlist the support of their host governments to initiate investigative leads and to develop information in support of ongoing domestic investigations. ICE also supports the Proliferation Security Initiative (PSI), which was formed to increase international cooperation in interdicting illegal shipments of weapons of mass destruction (WMD), their delivery systems, and related materials.

The efforts are all supported by the Exodus Command Center located in Washington, D.C. The center maintains contacts with the U.S. departments of Commerce, State, Defense and other agencies concerned with the export of strategic materials, technologies and services.

## Shield America: A Partnership to Protect America





(b)(7)(E)





U.S. Immigration and Customs Enforcement  
Homeland Security Investigations

500 12th Street, SW  
Washington, D.C. 20536



Homeland Security

MANDATORY TRACKING REQUIREMENTS

Date: 00/00/0000 (Case #: \_\_\_\_\_)

To: Control Officer Fax:

Fax:

From: \_\_\_\_\_  
Unit Chief, Law Enforcement Parole Unit

Please be advised that Continued Presence (CP) has been authorized until \_\_\_\_\_ for the following individual(s):

SUBJECT'S NAME: DOB: COB: \_\_\_\_\_ A.#:

The victim is willing to assist in every reasonable way in the investigation and prosecution of a severe form of trafficking in persons.

As the control officer, you are required to take the following steps and return this notice as directed by the U.S. Immigration and Customs Enforcement (ICE) Homeland Security Investigations (HSI) Law Enforcement Parole Unit (LEPU). Please fax information to (b)(7)(E) and to your Headquarters point of contact (POC) (if applicable). If you have any questions, please call (b)(7)(E)

- 1. Update and return this document as soon as the victim adjusts to an immigration status (for example, "T nonimmigrant status"), absconds, or departs no later than the expiration date of parole.

(State the reason for the update. Example: (b)(7)(E))

(b)(7)(E)

- 2. If the alien's presence is still required beyond the initial parole period, you must request an extension 30 days prior to the expiration date. The extension request requires the submission of a new CP Packet to this office through your HQ POC (if applicable). For victims whose authorized CP has expired more than 30 days, a Notice to Appear (DHS Form I-862) will be requested from the local ICE HSI field office.

- 3. Your Victim-Witness Coordinator is \_\_\_\_\_.

- 4. If the Control Officer changes, you must fax this document to this office with the new Control Officer's name, e-mail address, and phone and fax numbers.

Name: \_\_\_\_\_ Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

E-mail: \_\_\_\_\_

- 5. When the alien departs the U.S., you must fill in the date of departure and fax this document back to this office. The alien departed the U.S. on \_\_\_\_\_ via \_\_\_\_\_  
(Date) (Departure point/flight#)

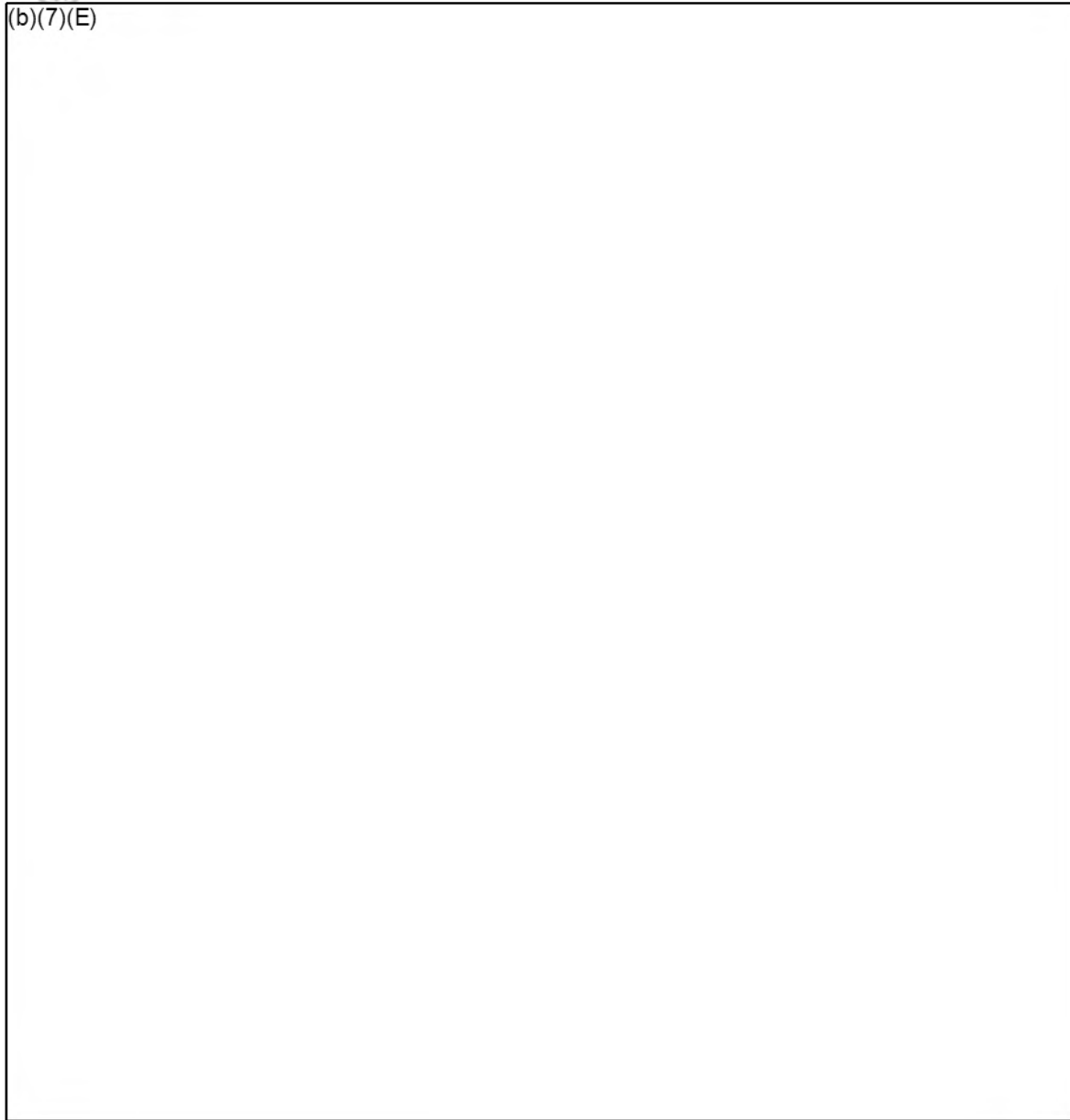
Control Officer's Signature

Date

Mandatory Tracking Requirements  
FOR OFFICIAL USE ONLY / LAW ENFORCEMENT SENSITIVE



(b)(7)(E)





## Traffic Stop Checklist

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