

SC ATTORNEY GENERAL'S OFFICE



HUMAN TRAFFICKING AND IMMIGRATION ENFORCEMENT IN SOUTH CAROLINA: THE LAW, ENFORCEMENT, & THE VICTIMS

**June 21, 2013
Room 112, Blatt Building**

**3.25 Continuing Legal Education Hours
Course #133643**

**3.25 Continuing Education Hours for Law Enforcement
CJA Lesson Plan #4561**

**HUMAN TRAFFICKING AND IMMIGRATION ENFORCEMENT IN SOUTH CAROLINA:
THE LAW, ENFORCEMENT, & THE VICTIMS**

**June 21, 2013
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8:30-8:55am	Registration
8:55-9:00am	Welcome
9:00-9:30am	<i>Human Trafficking in SC – An Overview</i> Kelly W. Hall, Assistant Attorney General SC Attorney General’s Office
9:30-10:00am	<i>SC Illegal Immigration Reform Act</i> April N. Vance, Assistant Attorney General SC Attorney General’s Office
10:00-10:15am	BREAK
10:15-10:45am	<i>Law enforcement issues with human trafficking in SC from a DHS/ICE perspective</i> Kenneth Burkhardt, Assistant Special Agent in Charge Dept. of Homeland Security / Immigration & Customs Enforcement
10:45 -11:30am	<i>Law enforcement issues in the field with enforcement of the SC Illegal Immigration Reform Act</i> Lt. E.C. Johnson, Unit Commander Immigration Enforcement Unit SC Department of Public Safety
11:30-11:45am	BREAK
11:45am-12:45pm	<i>Victim Issues with Human Trafficking and Immigration</i> Patricia S. Ravenhorst, Esquire SC Victim Assistance Network



HUMAN TRAFFICKING IN SOUTH CAROLINA

Kelly W. Hall
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True or False?

- U.S. Citizens cannot be trafficked
- It isn't considered trafficking if the trafficker and the victim are related or married
- There are other forms of trafficking besides sex trafficking
- Smuggling and trafficking are the same thing
- Force, Fraud or coercion do not have to be proven if the victim is under the age of 18.
- Victims of human trafficking are easily identifiable

Human Trafficking in SC

- A multi-billion dollar business
- 1.2 million children are trafficked world-wide; an estimated 300,000 in the US
- The US is one of the highest countries of destination for sex trafficking victims
http://news.bbc.co.uk/2/hi/in_depth/6497799.stm
- A form of modern day slavery?
 - 2nd **largest** criminal industry in the world, behind drugs/arms trafficking
 - **Fastest** growing criminal industry in the world
 - May include sex, labor, or both

It's happening...

- How much are YOU worth? New York human prostitution ring gets busted.
<http://usnews.nbcnews.com/news/2013/04/30/17989736-13-arrested-in-alleged-sex-trafficking-ring?lite>
- Alleged victims say their pimp treated them well
<http://www.foxnews.com/us/2013/06/06/prostitutes-in-nyc-sex-trafficking-case-say-pa-father-and-son-on-trial-treated/>
- Trafficker tattooed 13 year old victim's eyelids in Miami.
<http://usnews.nbcnews.com/news/2013/03/29/17522133-police-man-forced-13-year-old-into-prostitution-tattooed-her-eyelids?lite>

Cheerleader accused of prostituting younger student



<http://usnews.nbcnews.com/news/2013/06/05/18775939-cheerleader-accused-of-prostituting-younger-student?lite>

- In Minneapolis, On June 5, 2013 18 year old Montia Parker faces felony charges of sex trafficking and promoting prostitution
- Parker is accused of prostituting a younger student by creating an ad online and taking her to see potential customers
- Allegedly Parker was pocketing the money that the younger student was given.
- The younger student's mother noticed a change in her behavior, and after checking her phone and reading the messages sent between her daughter and Parker she immediately called police.

Human Trafficking in SC

OLD LAW: SC-16-3-930 - Trafficking in Persons:
"A person who knowingly subjects another person to forced labor or services, or recruits, entices, harbors, transports, provides, or obtains by any means another person knowing that the person will be subjected to forced labor or services, and, upon conviction, must be imprisoned for not more than 15 years."

Human Trafficking in SC

- Ratified: 6/12/12, Approved: 6/18/12
- S.C. Code Ann. §§ 16-3-2010-2090



Human Trafficking in SC

- Definitions (§ 16-3-2010)
 - **Business:** corporation, partnership, firm, self-employed individual
 - **Charitable organization:** defined as tax exempt, established for any social welfare purpose
 - **Debt bondage:** person who pledged personal services or those of someone under his control as a security for debt
 - **Forced labor:** labor or services performed by someone coerced by another



Human Trafficking in SC

- Definitions cont.
 - **Involuntary servitude:** created through coercion
 - **Person:** individual, corporation, charitable organization
 - **Sex trafficking:** recruitment, harboring, transporting, inducing a person through force, OR someone under 18, to perform what would be defined as the following crimes:
 - Criminal sexual conduct – 1st, 2nd, 3rd degree, or with a minor
 - Engaging a child for sexual performance
 - Directing or promoting sexual performance by a child
 - Sexual battery



Human Trafficking in SC

- Definitions cont.
 - **Services:** acts committed under the supervision of or for the benefit of another person
 - **Trafficking in persons:** a Victim subjected to sex trafficking or forced labor by:
 - Threat of or actual use of physical restraint, financial harm
 - Destroying or hiding a passport, immigration, or government identification
 - Controlling victim's access to a controlled substance
 - Coercion
 - **Victim:** person subjected to crime of trafficking in persons

Human Trafficking in SC

Frequently Used Terms in the field of HT:

- **Force** (rape, beatings, confinement)
- **Fraud** (False offers of employment, promises of marriage, promise of a better life, etc.)
- **Coercion** (threats, debt-bondage, psychological abuse, etc.)



Human Trafficking in SC

THE CRIME...§16-3-2020

(A) A person who recruits, entices, solicits, isolates, harbors, transports, provides, or obtains, or so attempts, a victim

- knowing that the victim will be subjected to sex trafficking, forced labor or services, involuntary servitude, or debt bondage through any means,

OR

- who benefits, financially or by receiving anything of value, from participation in a venture which has engaged in an act described in this subsection, is guilty of trafficking in persons.

(B) A person who recruits, entices, solicits, isolates, harbors, transports, provides, or obtains, or so attempts, a victim for the purposes of sex trafficking, forced labor or services, involuntary servitude or debt bondage through any means OR who benefits...is also guilty

Human Trafficking in SC

- Penalties
 - First offense: felony, imprisonment up to 15 years
 - Second offense: felony, imprisonment up to 30 years
 - Third or subsequent offense: felony, imprisonment up to 45 years
 - If victim under 18: additional 15-year consecutive term added
 - A person who conspires or helps: punished as principal



Human Trafficking in SC

- Other
 - If a person is prosecuted as a victim it is an affirmative defense that they were under duress or coerced IF the offenses were committed as a result of trafficking
 - Prosecution of this section may be made by the SGJ (14-7-1600) when the victim is trafficked in more than one county or a trafficker commits the offense in more than one county
 - Evidence of the following is not a defense to trafficking:
 - Victim's sexual history
 - Victim's connection by blood or marriage to a defendant
 - Implied or express consent of a victim
 - Mistake as to victim's age

Human Trafficking in SC

- Legal Entities (§ 16-3-2030)
 - Principal owners of a business or other legal entity that knowingly aids or participates in human trafficking may be fined, lose their business license, or both
 - If the principal owners are convicted, the Court or Secretary of State may:
 - 1) Order entity's dissolution
 - 2) Order suspension or revocation of any license or permit
 - 3) Order surrender of charter or certificate to conduct business



Human Trafficking in SC



Restitution (§ 16-3-2040):

- A convicted offender must pay mandatory restitution to the victim
- If the victim dies, a surviving spouse, children, or estate are eligible
- If an offender is unable to pay, the restitution is a lien against the offender
- Restitution includes payment for all injuries, specific losses, and expenses
- Restitution must be paid to the victim promptly after conviction

Human Trafficking in SC

- **Task Force (§ 16-3-2050)**...*the Attorney General shall establish an interagency task force to develop and implement a State Plan for the Prevention of Trafficking in Persons*

- The task force shall meet at least quarterly
- The TF should include all aspects of trafficking in persons
- The Attorney General shall publish relevant data on their website



Human Trafficking

- **The HT Task Force includes the following:**
 - The Office of the Attorney General, who must be chair
 - The South Carolina Labor, Licensing and Regulation
 - The South Carolina Police Chiefs Association
 - The South Carolina Sheriffs' Association
 - The State Law Enforcement Division
 - The Department of Health and Environmental Control Board
 - The United States Department of Labor
 - The State Office of Victim Assistance
 - The South Carolina Commission on Prosecution Coordination
 - The Department of Social Services
 - A representative from the Office of the Governor
 - A representative from the Department of Employment and Workforce
 - Two persons from nongovernmental organizations (appointed by AG)

Human Trafficking

- HT Task Force cont.
 - The Attorney General shall invite representatives of the United States Attorneys' offices and federal law enforcement agencies
 - The task force shall carry out the following activities:
 - Develop the state plan within 18 months
 - Coordinate the implementation of the state plan
 - Starting one year after its formation, submit an annual report



Human Trafficking

- The task force should consider the following activities:
 - Coordinate the collection and sharing of trafficking data
 - Coordinate the sharing of information between agencies
 - Explore the establishment of state policies for time limits for Law Enforcement Agency endorsements
 - Establish policies to enable state government to work with nongovernmental organizations
 - Review existing services and facilities to meet trafficking victims' needs and recommend a system to coordinate services
 - Evaluate approaches used by governments to increase public awareness of human trafficking

Human Trafficking

- Activities for TF, continued
 - Mandatory training for law enforcement agencies, prosecutors, and other relevant officials
 - Collect and periodically publish statistical data on trafficking on the AG's website
 - Prepare programs to educate potential victims of trafficking that must include:
 - Information about the risks of becoming a victim
 - Information about the risks of engaging in commercial sex and possible punishment
 - Information about victims' rights in the State
 - Methods for reporting suspected recruitment activities
 - Information on hotlines and available victims' service

Human Trafficking

- Activities for TF, continued
 - Prepare and disseminate materials to educate the public on human trafficking:
 - May include information on the impact of trafficking on individual victims, impact worldwide, and criminal consequences
 - May include pamphlets, posters, and advertisements
 - Information must preserve the privacy of the victim and the victim's family
 - All public awareness programs must be evaluated periodically

Human Trafficking



- Civil Action (§ 16-3-2060)
 - A victim of trafficking may bring a civil action
 - The court may award damages, attorney's fees, and treble damages
 - The SOL does not expire until three years after the offender completes his sentence
 - The SOL does not begin to run until a minor victim has reached the age of majority (18)
 - Running of the SOL may be suspended

Human Trafficking

- Other important sections...
 - Victims under this section are considered victims for the purposes of the Victim's Bill of Rights (§ 16-3-2070)
 - 16-3-2080 covers shelter prohibitions
 - 16-3-2090 covers forfeiture of assets



Mindset of Victims

- Distrust outsiders-especially law enforcement
- Do not self identify as victims- blame themselves
- Stockhome Syndrome

Immigrant Specific Mindset:

- May be unaware/misinformed of rights in this country
- Fear for safety of families back home
- Language barriers, unfamiliar with culture

Identifying Victims of HT

- Is the person accompanied by another person who seems controlling?
- Can you detect any physical or psychological abuse?
- Does the person seem submissive or fearful?
- Does the person have difficulty communicating because of language or cultural barriers?
- Does the person have any identification?

Sample Questions to ask...



- Can you leave your job or situation if you want to?
- Can you come and go as you please?
- Have you been threatened if you try to leave?
- Has anyone threatened your family?
- What are your working or living conditions like?
- Where do you sleep and eat?
- Do you have to ask permission to eat, sleep, or use the restroom?
- Is there a lock on your door so that you cannot get out?
- Can you go to social gatherings or religious services as you please?

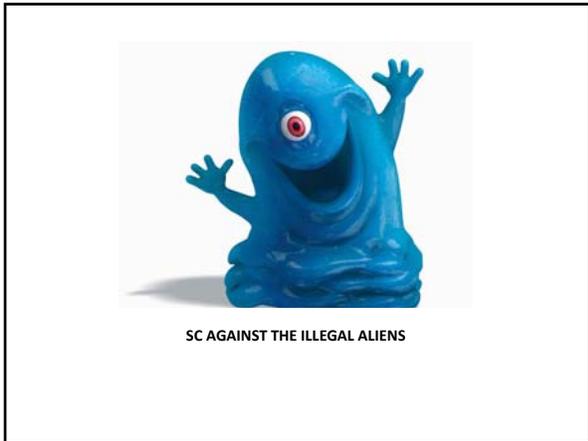
SC Illegal Immigration Reform Act
SC against the illegal alien?
SC against people who look like aliens?
A look at Act 69

- What does the law say?
- What does it prohibit?
- How has the law changed? History anyone?
- Is it worth squat?
- Where is it headed?



Who is an immigrant?

- Just someone who leaves their own home country to settle in another.



Who's an unauthorized alien?

- An alien who has entered the United States without our permission or entered with permission and then overstayed their visa.



So what are the legal ways to come to the United States?



© Universal Pictures

Criminal Aliens Removed by Crime Category: Fiscal Years 2009 to 2011

• Crime category	2011		2010		2009	
	Number	Percent	Number	Percent	Number	Percent
• Total	188,382	100.0	169,656	100.0	131,837	100.0
• Dangerous Drugs*	43,262	23.0	42,890	25.3	38,940	29.5
• Traffic Offenses**	43,022	22.8	31,062	18.3	20,877	15.8
• Immigration†	37,458	19.9	31,828	18.8	20,491	15.5
• Assault	12,755	6.8	12,175	7.2	9,675	7.3
• Larceny	5,705	3.0	5,459	3.2	4,331	3.3
• Fraud	4,218	2.2	3,889	2.3	2,997	2.3
• Burglary	3,795	2.0	4,213	2.5	3,893	3.0
• Robbery	3,745	2.0	3,646	2.1	3,359	2.5
• Sexual Assault	3,572	1.9	3,268	1.9	2,886	2.2
• Family Offenses‡	2,961	1.6	3,330	2.0	2,685	2.0
• All other	27,889	14.8	27,896	16.4	21,703	16.5



Aliens Returned by Country of Nationality: Fiscal Years 2009 to 2011
(Countries ranked by 2011 aliens returned) Country of nationality

•	2011		2010		2009	
	Number	Percent	Number	Percent	Number	Percent
• Total	323,542	100.0	475,613	100.0	584,436	100.0
• Mexico	205,811	63.6	354,507	74.5	469,610	80.4
• Canada	28,285	8.7	29,148	6.1	25,378	4.3
• Philippines	23,180	7.2	21,432	4.5	18,837	3.2
• China, People's Republic	16,259	5.0	16,460	3.5	15,159	2.6
• India	4,227	1.3	4,738	1.0	4,250	0.7
• Ukraine	4,114	1.3	4,420	0.9	4,669	0.8
• Russia	3,524	1.1	3,195	0.7	3,526	0.6
• Guatemala	3,001	0.9	2,317	0.5	1,866	0.3
• Burma	2,582	0.8	3,951	0.8	3,784	0.6
• Turkey	1,881	0.6	1,815	0.4	1,550	0.3
• All other countries, unknown	30,678	9.5	33,630	7.1	35,807	6.1

What's South Carolina's problem?

- We're not a border state with Mexico?
 - Our immigration numbers - legal and illegal don't look too bad.
 - Senator Graham wants to start the change in our own backyard – a comprehensive immigration bill for the United States that started in SC?
 - Senator Graham and Governor Haley – are they on the same team?
 - We're farm country.
 - We have an immigration bill?
- Is this our problem?

Jeff Jones
Pittsfield, Ma.

- I picked peaches in Georgia once, for money and quit after I made 75 cents. The sweat and peach fuzz convinced me. That was forty years ago and it took a lot of peaches to make 75 cents. No American wants these jobs, but I still like peaches. Somebody has to pick them. Somebody is. I still see them in the supermarket. They look good.

Is this SC's problem?

Taco Cid T-shirt



What do the statistics look like for South Carolina? SC permanent residence status by year

- 2003 - 1,942
- 2004 - 2,672
- 2005 - 5,028
- 2006 - 5,291
- 2007 - 4,788
- 2008 - 4,241
- 2009 - 4,747
- 2010 - 4,401
- 2011 - 4,216
- 2012 - 3,924

Comparing SC's immigration to other states.

- SC is closest in size to West Virginia and Maine and closest in population to Louisiana, Alabama and Kentucky.

Comparing SC's legal immigration to states with similar size and population.

PERSONS OBTAINING LEGAL PERMANENT RESIDENT STATUS BY STATE OR TERRITORY OF RESIDENCE: FISCAL YEARS 2003 TO 2012

	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
Alabama	1,689	2,247	4,200	4,277	3,393	3,877	3,891	3,740	4,063	3,873
Kentucky	3,038	3,820	5,265	5,504	4,340	5,315	5,260	4,930	5,403	5,243
Louisiana	2,214	3,095	3,776	2,693	3,475	4,011	4,299	4,397	4,226	4,454
Maine	992	1,322	1,907	1,717	1,488	1,617	1,675	1,349	1,467	1,497
South Carolina	1,942	2,672	5,028	5,291	4,788	4,241	4,747	4,401	4,216	3,924

SC Illegal Immigration Reform Act - History

- Introduced in the SC Legislature as Senate Bill 20 and later passed as Act 69 – SC along with a number of other states tried to introduce into law – legislation that would in effect hopefully help solve an illegal immigration problem in the state.

SC Illegal Immigration Reform

- Act 69 contained 20 different sections related to illegal immigration in SC and proposed to help eradicate SC's illegal immigration problem.
- SC was frustrated with illegal immigration within its borders and inaction by the federal government?
- So what sections of the law did SC hope to change:

Amendment of Section 6-1-170

- Allowing a civil action to be brought under certain circumstances when a political subdivision limits or prohibits a local official from seeking to enforce a federal or state law with regard to immigration or the unlawful immigration status of a person.

SECTION 6-1-170. Preemption of local ordinance relating to immigration; civil actions.

(A) For purposes of this section, "political subdivision" includes, but is not limited to, a municipality, county, school district, special purpose district, or public service district.

(B) A political subdivision of this State may not enact any ordinance or policy that limits or prohibits a law enforcement officer, local official, or local government employee from seeking to enforce a state law with regard to immigration.

(C) A political subdivision of this State may not enact any ordinance or policy that limits or prohibits a law enforcement officer, local official, or local government employee from communicating to appropriate federal or state officials with regard to the immigration status of any person within this State.

(D) A city, county, municipality, or other local government or political subdivision may not enact any ordinance, policy, regulation, or other legislation pertaining to the employment, licensing, permitting, or otherwise doing business with a person based upon that person's authorization to work in the United States that exceeds or otherwise conflicts with federal law or that is in conflict with state law. An enactment found to be in conflict with federal or state law is void.

(E)(1) Notwithstanding any other provision of law, a resident of a political subdivision in this State may bring a civil action in the circuit court in which the resident and political subdivision are located to enjoin:

(a) an enactment by the political subdivision of any ordinance or policy that intentionally limits or prohibits a law enforcement officer, local official, or local government employee from seeking to enforce a state law with regard to immigration;

(b) an enactment by the political subdivision of any ordinance or policy that intentionally limits or prohibits a law enforcement officer, local official, or local government employee from communicating to appropriate federal or state officials regarding the immigration status of a person within this State; or

(c) an enactment by the political subdivision of any ordinance, policy, regulation, or other legislation pertaining to the employment, licensing, permitting, or otherwise doing business with a person based upon that person's authorization to work in the United States, which intentionally exceeds or conflicts with federal law or that intentionally conflicts with state law.

(2) A person who is not a resident of the political subdivision may not bring an action against the political subdivision pursuant to this subsection. The action must be brought against the political subdivision and not against an employee of the political subdivision acting in the employee's individual capacity.

(3) If the court finds that the political subdivision has intentionally violated this section, the court shall enjoin the enactment, action, policy, or practice, and may enter a judgment against the political subdivision of not less than one thousand dollars nor more than five thousand dollars for each day that the enactment, action, policy, or practice remains or remained in effect. The proceeds from any such judgment must be used to reimburse the resident's reasonable attorney's fees. Any remaining proceeds must be used to cover the administrative costs of implementing, investigating, and enforcing the provisions of Chapter 6, Title 41.

Amendment of Section 8-14-10

- This section related to definitions for the purpose of unauthorized aliens and public employment, so as to expand the definition of private employers.
- (9) "Private employer" means any:
 - (a) person or entity that transacts business in this State, is required to have a license issued by an agency, department, board, commission, or political subdivision of this State that issues licenses for the purposes of operating a business in this State, and employs one or more employees in this State, as defined in Section 12-8-10;
 - (b) person or entity carrying on any employment and the legal representative of a deceased person or the receiver or trustee of any person; or
 - (c) person or entity for whom an individual performs a service or sells a good, of whatever nature, as an employee, as defined in Section 12-8-10.

Amendment of Section 8-14-20

- Relates to public employer participation in the federal work authorization program and service contractors.
- Deletes provisions regarding certain types of identifications previously allowed for verification. Basically mandates e-verify and requires the same from contractors. Provides:
 - A) Every public employer shall register and participate in the federal work authorization program to verify the employment authorization of all new employees.
 - (B) A public employer may not enter into a services contract with a contractor for the physical performance of services within this State unless the contractor agrees to register and participate in the federal work authorization program to verify the employment authorization of all new employees and require agreement from its subcontractors, and through the subcontractors, the sub-subcontractors, to register and participate in the federal work authorization program to verify the employment authorization of all new employees.

Amendment of Section 16-9-460

- Relating to aiding illegal entry or harboring an unlawful alien, so as to include in the statute the person who entered the country, remained or sheltered themselves from detection illegally.
- Do not come as an illegal alien, do not knowingly or recklessly harbor an illegal alien or transport an illegal alien.
- Felony.
- Cannot get a state issued license.
- Provides protection for shelters, hospitals.

SECTION 16-9-460. Unlawful entry into the United States; furthering illegal entry by or avoidance of detection of undocumented alien; penalties; exceptions.

(A) It is a felony for a person who has come to, entered, or remained in the United States in violation of law to allow themselves to be transported, moved, or attempted to be transported within the State or to solicit or conspire to be transported or moved within the State with intent to further the person's unlawful entry into the United States or avoiding apprehension or detection of the person's unlawful immigration status by state or federal authorities.
(B) It is a felony for a person knowingly or in reckless disregard of the fact that another person has come to, entered, or remained in the United States in violation of law to transport, move, or attempt to transport that person within the State or to solicit or conspire to transport or move that person within the State with intent to further that person's unlawful entry into the United States or avoiding apprehension or detection of that person's unlawful immigration status by state or federal authorities.
(C) It is a felony for a person who has come to, entered, or remained in the United States in violation of law to conceal, harbor, or shelter themselves from detection or to solicit or conspire to conceal, harbor, or shelter themselves from detection in any place, including a building or means of transportation, with intent to further that person's unlawful entry into the United States or avoiding apprehension or detection of the person's unlawful immigration status by state or federal authorities.
(D) It is a felony for a person knowingly or in reckless disregard of the fact that another person has come to, entered, or remained in the United States in violation of law to conceal, harbor, or shelter from detection or to solicit or conspire to conceal, harbor, or shelter from detection that person in any place, including a building or means of transportation, with intent to further that person's unlawful entry into the United States or avoiding apprehension or detection of that person's unlawful immigration status by state or federal authorities.
(E) A person who violates the provisions of this section is guilty of a felony and, upon conviction, must be punished by a fine not to exceed five thousand dollars or by imprisonment for a term not to exceed five years, or both.
(F) A person who is convicted of, pleads guilty to, or enters into a plea of nolo contendere to a violation of this section must not be permitted to seek or obtain any professional license offered by the State or any agency or political subdivision of the State.
(G) This section does not apply to programs, services, or assistance including soup kitchens, crisis counseling, and intervention; churches or other religious institutions that are recognized as 501(c)(3) organizations by the Internal Revenue Service; or short-term shelters specified by the United States Attorney General, in the United States Attorney General's sole discretion after consultation with appropriate federal agencies and departments, which:
(i) deliver in-kind services at the community level, including through public or private nonprofit agencies;
(ii) do not condition the provision of assistance, the amount of assistance provided, or the cost of assistance provided on the individual recipient's income or resources; and
(iii) are necessary for the protection of life or safety.
Shelter provided for strictly humanitarian purposes or provided under the Violence Against Women Act is not a violation of this section, so long as the shelter is not provided in furtherance of or in an attempt to conceal a person's illegal presence in the United States.
(H) Providing health care treatment or services to a natural person who is in the United States unlawfully is not a violation of this section.

Adds Section 16-17-750

- **SECTION 16-17-750. Failure to carry certificate of alien registration or alien registration receipt card; penalty.**

(A) It is unlawful for a person eighteen years of age or older to fail to carry in the person's personal possession any certificate of alien registration or alien registration receipt card issued to the person pursuant to 8 U.S.C. Section 1304 while the person is in this State.

(B) A person who violates this section is guilty of a misdemeanor and, upon conviction, must be fined not more than one hundred dollars or imprisoned for not more than thirty days, or both.

- Struck down under *United States v. South Carolina*, 840 F. Supp. 2d at 917-18. Injunction against this action by the state kept in place.

Findings of the Supreme Court

- Infringes upon a comprehensive federal statutory scheme and would interfere with the federal government's supremacy in the realm of immigration.
- Further, the South Carolina statutory provisions would allow state officials to exercise discretion regarding the prosecution of persons allegedly harboring or sheltering persons unlawfully present in the United States, creating a conflict with federal law since that discretion has previously been the exclusive province of the federal government.
- Preliminary injunction was issued and is still in place.
- SC not allowed to criminalize what federal law has deemed a civil violation. Supreme Court in *Arizona* held that, "[a]s a general rule, it is not a crime for a removable alien to remain present in the United States.

Section 17-13-170 – the “reasonable suspicion” requirement and all heck breaks loose.
“Section 6”

- Law Enforcement under certain circumstances and with “reasonable suspicion” may determine whether a person is lawfully present in the United States.
- Requires that the person give some form of acceptable id to law enforcement.

Reasonable suspicion 17-13-170

- (A) If a law enforcement officer of this State or a political subdivision of this State lawfully stops, detains, investigates, or arrests a person for a criminal offense, and during the commission of the stop, detention, investigation, or arrest the officer has reasonable suspicion to believe that the person is unlawfully present in the United States, the officer shall make a reasonable effort, when practicable, to determine whether the person is lawfully present in the United States, unless the determination would hinder or obstruct an investigation.
- (B)(1) If the person provides the officer with a valid form of any of the following picture identifications, the person is presumed to be lawfully present in the United States:
 - (a) a driver’s license or picture identification issued by the South Carolina Department of Motor Vehicles;
 - (b) a driver’s license or picture identification issued by another state;
 - (c) a picture identification issued by the United States, including a passport or military identification; or
 - (d) a tribal picture identification.
- Creates a presumption of lawful presence if the person can display any of the above. The presumption is still good law.

Do not give false identification to the officer -

- (2) It is unlawful for a person to display, cause or permit to be displayed, or have in the person’s possession a false, fictitious, fraudulent, or counterfeit picture identification for the purpose of offering proof of the person’s lawful presence in the United States. A person who violates the provisions of this item:
 - (a) for a first offense, is guilty of a misdemeanor, and, upon conviction, must be fined not more than one hundred dollars or imprisoned not more than thirty days; and
 - (b) for a second offense or subsequent offenses, is guilty of a felony, and, upon conviction, must be fined not more than five hundred dollars or imprisoned not more than five years.
- (3) If the person cannot provide the law enforcement officer with any of the forms of picture identification listed in this subsection, the person may still be presumed to be lawfully present in the United States, if the officer is able to otherwise verify that the person has been issued any of those forms of picture identification.
- (4) If the person is operating a motor vehicle on a public highway of this State without a driver’s license in violation of Section 56-1-20, the person may be arrested pursuant to Section 56-1-440.
- (5) If the person meets the presumption established pursuant to this subsection, the officer may not further stop, detain, investigate, or arrest the person based solely on the person’s lawful presence in the United States.
- (6) This section does not apply to a law enforcement officer who is acting as a school resource officer for any elementary or secondary school.

If the presumption of lawful presence is not met then...

- (C)(1) If the person does not meet the presumption established pursuant to subsection (B), the officer shall make a reasonable effort, when practicable, to verify the person's lawful presence in the United States by at least one of the following methods:
 - (a) contacting the Illegal Immigration Enforcement Unit within the South Carolina Department of Public Safety;
 - (b) submitting an Immigration Alien Query through the International Justice and Public Safety Network;
 - (c) contacting the United States Immigration and Customs Enforcement's Law Enforcement Support Center; or
 - (d) contacting the United States Immigration and Customs Enforcement's local field office.
- (2) The officer shall stop, detain, or investigate the person only for a reasonable amount of time as allowed by law. If, after making a reasonable effort, the officer is unable to verify the person's lawful presence in the United States by one of the methods described in item (1), the officer may not further stop, detain, investigate, or arrest the person based solely on the person's lawful presence in the United States.
- (3) If the officer verifies that the person is lawfully present in the United States, the officer may not further stop, detain, investigate, or arrest the person based solely on the person's lawful presence in the United States.

If the person is unlawfully in the United States then...

- (4) If the officer determines that the person is unlawfully present in the United States, the officer shall determine in cooperation with the Illegal Immigration Enforcement Unit within the South Carolina Department of Public Safety or the United States Immigration and Customs Enforcement, as applicable, whether the officer shall retain custody of the person for the underlying criminal offense for which the person was stopped, detained, investigated, or arrested, or whether the Illegal Immigration Enforcement Unit within the South Carolina Department of Public Safety or the United States Immigration and Customs Enforcement, as applicable, shall assume custody of the person. The officer is not required by this section to retain custody of the person based solely on the person's lawful presence in the United States. The officer may securely transport the person to a federal facility in this State or to any other point of transfer into federal custody that is outside of the officer's jurisdiction. The officer shall obtain judicial authorization before securely transporting a person to a point of transfer that is outside of this State.

Other important provisions

- Law does not require a person to be stopped because of suspicion of illegality.
- Can still verify eligibility for public services.
- No denial of bond, though pursuant to federal law can still consider immigration status.
- No SC agency can limit enforcement of the law.
- Not an establishment of the 2005 REAL ID law

Maintain a database of stopped individuals where no citation issued.

- (l) Any time a motor vehicle is stopped by a state or local law enforcement officer without a citation being issued or an arrest being made, and the officer contacts the Illegal Immigration Enforcement Unit within the Department of Public Safety pursuant to this section, the officer who initiated the stop must complete a data collection form designed by the Department of Public Safety, which must include information regarding the age, gender, and race or ethnicity of the driver of the vehicle. This information may be gathered and transmitted electronically under the supervision of the Department of Public Safety, which shall develop and maintain a database storing the information collected. The Department of Public Safety must promulgate regulations with regard to the collection and submission of the information gathered. In addition, the Department of Public Safety shall prepare a report to be posted on the Department of Public Safety's website regarding motor vehicle stops using the collected information. The General Assembly shall have the authority to withhold any state funds or federal pass-through funds from any state or local law enforcement agency that fails to comply with the requirements of this subsection.

Challenge to SC Law

- Federal government argued that the SC law should be declared invalid as preempted by federal law and therefore violating the Supremacy Clause of the United States Constitution.
- Argument is that the federal government has preeminent authority to regulate immigration matters and to conduct foreign relations and as such SC should not be allowed to establish its own immigration laws in a manner that interferes with federal immigration laws.
- Four of the twenty sections of Act 69 were challenged.
- Anyone begging to disagree here?

Challenged Sections of Act 69 and result. Challenge to sections 4, 5, 6 and 15 allowed.

1. Sections 4 (B) and (D) - Criminal sanctions for the harboring and transporting of unlawfully present persons – struck down as preempted because SC is “improperly imposing its own substantive regulation over the movement of aliens in the United States”. Federal law already unlawful to “transport or move” an unlawful alien. No room in this area for states to supplement the federal law.
2. Section 5 - Criminal sanctions for failure to carry alien registration materials – let’s talk about this one.
 1. Federal government rarely prosecutes because lawfully present persons may not have materials and system is seriously outdated. Would affect alien victims of criminal activity under CAT and human trafficking victims who may not have readily been issued papers prior to even state prosecution.
 2. No place for state regulation in this area.

Challenges continued

3. Section 6(B)(2) and 15 - Sanctions for creation of fraudulent alien registration documents – already illegal under federal law.
4. Sections 4(A) and (C) – criminal offense for an unlawfully present person to allow himself to be “transported or “moved”... Is this unlawful presence? Court finds that there is no on point comparable federal statute but... still field and conflict preempted. Congress already chose to treat this as a civil offense and to remove persons found unlawfully present in the United States.
5. Section 6 challenge – what’s our problem with Section 6? Determining lawful presence, reasonable suspicion etc. What’s the problem period?

Problems with the SC law according to the federal government:

1. Conflicts with and undermines the federal government’s careful balance of immigration enforcement priorities and objectives.
2. Diverts resources and places significant and counterproductive burdens on the federal government.
3. We’re after the really bad guys, the gang members and repeat offenders – not low level criminals. This causes detention and harassment of authorized visitors, immigrants and citizens who do not have or carry identification documents.
4. Conflicts with federal government requirements for registration and movement of aliens.
5. Undermines federal law and invades federal authority by imposing punitive sanctions for conduct that falls outside the state’s police power.
6. Interferes with federal government control over relations with foreign governments aka may create problems with our allies and neighbors.
7. The constitution forbids the action that SC is trying to take. Congress has already exercised its authority to make laws governing immigration and the status of aliens within the United States.
8. We can’t afford it. Reasonable we can deport about 400,000 persons per year. Can you imagine if every state got to do this?

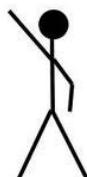


Problems with SC law continued

- 9. DHS and DOJ are allowed to decline exercising certain immigration sanctions against a removable alien. SC's law would interfere with this.
- 10. Congress has already created a comprehensive alien registration system for monitoring the entry and movement of aliens within the United States via registration with the Department of State amongst other requirements.
- 11. Some aliens whose presence the government is aware of may not have a registration card for any number of reasons.
- 12. Congress already criminalized some of the actions SC is trying to criminalize, including the smuggling of aliens and penalties for harboring an illegal alien.
- 13. Congress chose not to penalize an alien's mere movement within the country and SC may not.
- 14. DHS already works with the various states to accomplish its immigration objectives.

What did the court find wrong with SC's law?

- Well, almost everything.



Oops.
That was not the correct answer. Click your browser's back button to try again.

Number 15



So what are we left with? Well, some of Section 6 actually...

- "Papers please" – where an officer has made a lawful stop and has "reasonable suspicion" to believe that the person is here illegally, they may check the person's status. However they may not detain you longer than the regular traffic stop would take in order to determine your "lawful presence" status. This "reasonable suspicion" cannot be based upon race or national origin so the officer needs to be able to articulate their reasoning.
- The Officer can contact ICE as a routine matter; their inquiries should not measurably extend the duration of the stop.
- Transport of any person for alleged unlawful presence needs express federal supervision and authorization.
- SC will implement Section 6 in a manner consistent with federal law.
- Presenting the before mentioned IDs still considered as presumption of lawful presence.
- The Chief of SLED can still negotiate a 287(g) agreement with the federal government.
- The SC Illegal Immigration Enforcement Unit has been formed. Lt. E.C. Johnson as commander of The Immigration Enforcement Unit will be talking about the applicability of the SC law on the streets today.
- E-verify is mandatory for most employers in SC.
- Certain traffic stops are still reportable to SCDCPS Immigration Enforcement Unit:
 - Motor vehicle stopped by a law enforcement officer.
 - No citation is issued or arrest made and
 - The officer contacts IEU in conjunction with the stop.

It's not a crime to...

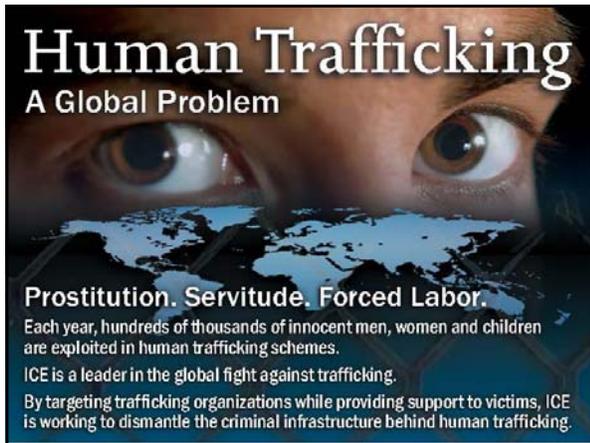
- Not have your immigration identification documents with you.

It's not a new crime to...

- Counterfeit or forge an identification document in SC but federal law already criminalizes possessing or attempting to use a fraudulent I.D. for the purpose of establishing lawful presence in the United States and leaves no room for state regulation in this area.
- Operate a vehicle without a license.

Human Trafficking

A Global Problem



Prostitution. Servitude. Forced Labor.

Each year, hundreds of thousands of innocent men, women and children are exploited in human trafficking schemes.

ICE is a leader in the global fight against trafficking.

By targeting trafficking organizations while providing support to victims, ICE is working to dismantle the criminal infrastructure behind human trafficking.

Homeland Security Investigations

Human Smuggling



- Human smuggling is **transportation** based
- 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 U.S.
- 5 years minimum mandatory for smuggling at least 3 persons for financial gain

U.S. Immigration and Customs Enforcement Law Enforcement Sensitive **Human Trafficking**

Homeland Security Investigations

Human Trafficking



- Human Trafficking is **exploitation** based
- 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 yrs of age; or
- The recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of **force or coercion** for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery
- Immigration status or citizenship is not an element of human trafficking

U.S. Immigration and Customs Enforcement Law Enforcement Sensitive **Human Trafficking**

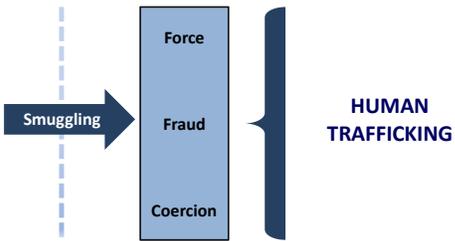
Homeland Security Investigations

Distinguishing the Crimes

Smuggling	Trafficking
Crime against a border	Crime against a person
Transportation based	Exploitation based
Requires border crossing	No border crossing required
Voluntary	Involuntary

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Smuggling may turn into Trafficking



The diagram shows a blue arrow labeled "Smuggling" pointing to a vertical blue box containing the words "Force", "Fraud", and "Coercion". To the right of this box is a large blue bracket that encompasses the box and the text "HUMAN TRAFFICKING".

 U.S. Immigration and Customs Enforcement Law Enforcement Sensitive Human Trafficking

Investigating Human Trafficking

Human Trafficking Investigations:

1. Are extremely challenging	2. Are resource demanding	3. Require a non-traditional approach	4. Require specialized procedures and skills
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 U.S. Immigration and Customs Enforcement Law Enforcement Sensitive Human Trafficking

Investigating Human Trafficking

Investigating Human Trafficking

Lead
Origination

Conducting
Investigations

The Victim

Prosecutorial
Preparation

 U.S. Immigration and Customs Enforcement Law Enforcement Sensitive Human Trafficking

Lead
Origination

Conducting
Investigations

The Victim

Prosecutorial
Preparation

The most difficult element of human trafficking is finding the victim

Using this premise as a starting point, you will need a Human Trafficking outreach campaign

The objective is a relationship between our outreach efforts and the receipt of viable and actionable leads

 U.S. Immigration and Customs Enforcement Law Enforcement Sensitive Human Trafficking

Lead
Origination

Conducting
Investigations

The Victim

Prosecutorial
Preparation

Where do human trafficking leads originate?

- Partnerships
- NGOs
- Federal, State, Local law enforcement
- Private Sector
- Hotline Centers

 U.S. Immigration and Customs Enforcement Law Enforcement Sensitive Human Trafficking

Lead Origination Conducting Investigations The Victim Prosecutorial Preparation

Lead Origination: Hotline report, other law enforcement, concerned citizen, etc.

The first analysis conducted by HSI is a "Danger Assessment"

If the victim is believed to be a minor (<18) OR the victim of any age is in danger – HSI policy is to respond immediately

If there is not a prevailing immediate danger, HSI can proceed with a "traditional" investigative scheme

Interesting Fact:

NGOs have proven to be an invaluable source of lead information!

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Lead Analysis and Evaluation

Victim is in Imminent Danger

No Imminent Danger

Plan & Execute Enforcement Action

Conduct Traditional Investigation

Conduct Investigation

Plan Enforcement Action

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Preliminary Case Development	
• SUBJECT data: identifiers	• Assets / Financial / Bank Accounts
• Subscriber Information	• Business Information
• Address/Employment Information	• Wire Transfers
• Associates	• Suspicious Activity Reports
• Immigration/Foreign Travel History	• Open Source Information
• Telephone Tolls	

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Lead Origination → Conducting Investigations → The Victim → Prosecutorial Preparation

Conventional Techniques	Sophisticated Techniques
Surveillance Ops / Static & Mobile	Interceptions
Human Intelligence Control	Covert Audio/Video Surveillance
Financial Investigations	Electronic Tracking / Vehicle & Vessel
Search Warrants	Electronic Tracking / Mobile Phone

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Surveillance Operations

Static	Mobile	Electronic
Photographs	GPS Tracking	Telephones Pen Register/Intercept
Video	Vehicles, Aircraft, Vessels	Faxes Pen Register/Intercept
Real Time or Time Lapse	Mobile Telephones Pen/Intercept/Tracking	Text Messages Intercept
	Text Messaging Intercept/Tracking	Internet/E-mails Intercept

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The Financial Investigation

Bank Accounts / Fund Transfers	Currency Exchange
Tax Violations	Money Transmitters
Tracking of Illegal Proceeds	Forfeiture Preparation
Asset Identification / Properties	Asset Identification / Vehicles
Asset Identification / Businesses	Calculate Restitution

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HSI operates with one golden rule:
The Victim/Witness is your case.

- The goal is to “stabilize” the victim
- At the most basic level; to meet the needs of the victim requires law enforcement be aware of their culture and be able to communicate in their language

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Victim Identification

- This will be challenging to do based on only one interview
- Consider totality of the circumstances
- If you have encountered the victim based on imminent danger, it may be harder for you to decide because you don't have a good totality of circumstances to reference
- Once you begin interviewing try to build parallel evidence
- Parallel evidence: if the potential victim provides dates, location, times try to use that information to corroborate (or not) their story
- **BE PATIENT**

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Lead Origination Conducting Investigations **The Victim** Prosecutorial Preparation

Interviewing Potential Victims

- Linear Interviews – what does that mean
- Don't cover the same topics on every interview (no recap)
- Keep initial interview short
- Consider detention issues if individual is illegal and not sharing any facts that help you identify them as a victim
- Translation
- Documenting
- Comfort – location, clothing (both)
- Least amount of cops in room as possible

 U.S. Immigration and Customs Enforcement Law Enforcement Sensitive Human Trafficking

Lead Origination → Conducting Investigations → **The Victim** → Prosecutorial Preparation

Victims are the key to successfully investigating and prosecuting HT	Victims need to be stable and safe to be effective witnesses
Stable and Safe Victim	
Victims often require social services to stabilize their existence	Law enforcement must ensure that victims receive these services

U.S. Immigration and Customs Enforcement Law Enforcement Sensitive Human Trafficking

Lead Origination → Conducting Investigations → The Victim → **Prosecutorial Preparation**

Establish a professional relationship and a rapport with your prosecutor WELL before your first Human Trafficking investigation/prosecution materializes!	Should I audio/video record interviews?
	What "elements" must I meet for a successful prosecution?
	What case precedence exists that I should know of?
	What hurdles have you observed prosecuting HT cases?
	How to collect and preserve evidence?

U.S. Immigration and Customs Enforcement Law Enforcement Sensitive Human Trafficking

Lead Origination → Conducting Investigations → The Victim → **Prosecutorial Preparation**

Evidence Collection	
Memorialize with good Report Writing <ul style="list-style-type: none"> • Overt Acts • Transactions • Statements • Evidence Recovery • Associations 	Collection and Preservation <ul style="list-style-type: none"> • Photographs • Historical Information • Link Analysis • Audio/Video Evidence • Physical Evidence

U.S. Immigration and Customs Enforcement Law Enforcement Sensitive Human Trafficking

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Challenges

U.S. Immigration and Customs Enforcement Law Enforcement Sensitive Human Trafficking

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Surveillance Challenges

- Heavy Security / Barred Windows
- Isolated Locations
- Victim Never Seen Leaving
- Co-mingled with Legitimate Business

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Lead Origination Conducting Investigations The Victim Prosecutorial Preparation



Victim Identification Challenges

- Victim often resides at same premises as worksite or driven by a guard
- May be accompanied by trafficker of taken to hospital/doctor
- Does not possess identity or travel documents
- Earnings controlled by another person
- Victim may feel a sense of loyalty towards the trafficker "Stockholm Syndrome"

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**Victim Stabilization:
Creating a Valued Witness**

Challenges When Stabilizing the Victim

- The investigation/prosecution and repeated re-interviewing will be re-traumatizing to the victim
- In the majority of cases, the victim has been methodically isolated from friends and family
- Law enforcement will often have to deal with numerous cultural/social and language barriers
- Victims often require immediate medical and mental health care

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Victim Maintenance and the Collection of Evidence

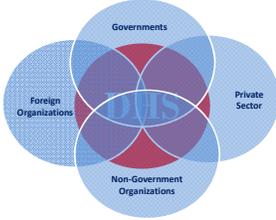
Gaining the Victims Trust

- The process will inevitably require multiple interviews; in fact, the first interview may be measured in minutes
- If a foreign national the victim will be overly concerned with his/her immigration status
- The victims testimony, as he/she becomes more and more stabilized, will inevitably change
- The victim will not likely know the criminal just process make sure to inform them of what is going on in the case and what to expect – be honest about timelines
- Do not make promises that may be hard to keep

U.S. Immigration and Customs Enforcement Law Enforcement Sensitive Human Trafficking

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Partnership



U.S. Immigration and Customs Enforcement Law Enforcement Sensitive Human Trafficking

ICE

LAGUNA TRAFFICKING
Columbia, South Carolina
Case Study

On February 26, 2007, the ICE Attache in Mexico City, Mexico received information from the Mexican federal police agency known as the Procuraduria General de la Republica (PGR). The PGR provided ICE agents credible information indicating that a 14 year old Mexican National (A.R.) had been smuggled into the U.S. to be sexually exploited.

Investigation developed information that indicated A.R., a Mexican juvenile female was being held against her will in the Columbia, South Carolina area.

 U.S. Immigration and Customs Enforcement

ICE

LAGUNA TRAFFICKING
Columbia, South Carolina
The Rescue

- On February 28, 2007, RAC/Columbia agents conducted a knock and talk at 708 Sharpe Road, Lot 2 in Columbia, South Carolina. Two Hispanic females and a Hispanic male answered the door. From a photo provided by the ICE Attache in Mexico City, it was quickly determined that one of the females was A.R.
- ICE agents, along with deputies from the Richland CSO, rescued A.R. along with one other adult female being held against her will. Both females were taken into protective custody.

 U.S. Immigration and Customs Enforcement



Federal agents say the mobile home at left was used as a house of prostitution. The mobile home is in Columbia about a mile north of I-20 off North Main Street.

ERIK CAMPOS/
 ECAMPOS@THESTATE.COM

 Homeland Security Investigations

Law Enforcement Sensitive

ICE **LAGUNA TRAFFICKING**
Columbia, South Carolina

"Mama Martina"
Columbia, South Carolina

- A.R. told agents a woman known to her as "Mama Martina" was holding her at a trailer park in Columbia, South Carolina.
- A.R. identified Guadalupe RIVERA as "Mama Martina" and stated that she had currency being held by RIVERA.

U.S. Immigration and Customs Enforcement

ICE **LAGUNA TRAFFICKING**
Columbia, South Carolina

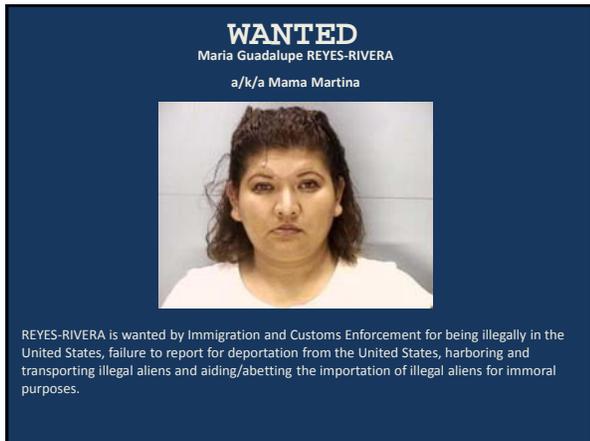
OTHER LOCATIONS IDENTIFIED
Charlotte, North Carolina

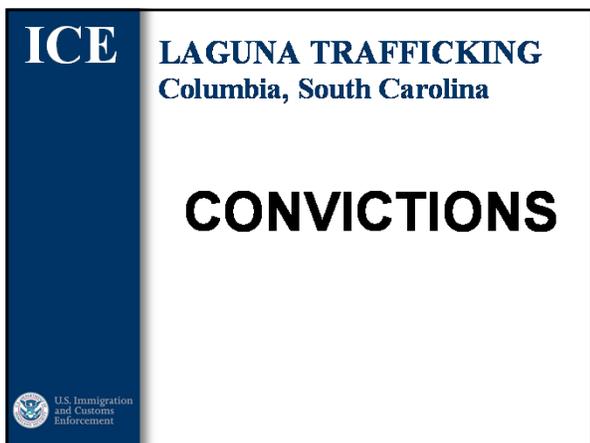
- On March 2, 2007, ICE agents escorted A.R. around the Charlotte, North Carolina area to identify additional locations where she was held.
- As agents conducted a drive by of a location identified by A.R. where she was held, A.R. observes LAGUNA-PEREZ and alerts agents. LAGUNA-PEREZ is stopped and arrested.
- 7 Administrative arrests made.

U.S. Immigration and Customs Enforcement









ICE



Jesus PEREZ-Laguna (Main Target) A098 234 673
DOB: 02/27/1971
09/20/2007 Plead guilty to:
18 USC 1591, Sex trafficking of children.
18 USC 2423, Transportation of minors with intent to engage in criminal sexual activity.
18 USC 371, Conspiracy
8 USC 1328, Imparting aliens for immoral purposes
Sentence: On 7/17/2008, sentenced to 170 months (14 years, 2 months) BOP



U.S. Immigration and Customs Enforcement

ICE



Ciro BUSTOS-Rosales A098 637 644
DOB: 01/31/1972
From Escatopac, Mexico
Entered 12/20/2005 through Arizona 03.07.2007

Ran prostitution house in Columbia, SC
09/05/2007 Plead guilty to:
18 USC 2423, Transportation of minors with intent to engage in criminal sexual activity.
8 USC 1328, Harboring illegal alien for prostitution.
Sentence: On 4/25/2008 sentenced to 70 Months BOP and ordered to pay restitution of \$52,500.00



U.S. Immigration and Customs Enforcement

ICE



Juan ESTRADA-Zamudio A098 234 676
Arrested in NC with main target
Plead guilty to:
8 USC 1325, Improper entry by alien in WDNC. Sentenced on July 16, 2007, to time served.
Transferred to SC on a Material Witness Warrant – Cooperating w/investigation.
Ordered Deported: 4/2/2007 ENFORCE # XCR0703000014

Sentence: On July 21, 2008, subject sentenced to 18 months BOP for violations of 18 USC 4, Misprision of felony.



U.S. Immigration and Customs Enforcement

ICE



Rafael HERNANDEZ-Gonzalez A098 637 652
 Located at house with victims
 Plead guilty to:
 8 USC 1325, Improper entry by alien
 Sentence: 09/20/2007 Time Served
 Charged as a Material Witness. TOT ICE on 03/28/2008 - Cooperating
 w/investigation
 Ordered Departed: 4/7/2008
 Departed On: 4/29/2008 from El Paso, TX



ICE



Eduardo PEREZ-Martinez A098 234 678
 Main target's son, smuggled into US with victim
 Plead guilty to:
 8 USC 1325, Improper entry by alien
 Charged as a Material Witness. TOT ICE on or about 03/28/2008 -
 Cooperating w/investigation
 Sentence: Time Served
 Ordered Departed: 4/16/2008
 Departed On: 4/24/2008 from Laredo, TX



ICE



Rosa PEREZ-Bautista A098 234 674
 Arrested in NC with main target
 Plead guilty to:
 8 USC 1325, Improper entry by alien
 Charged as a Material Witness, time served. TOT ICE on 02/14/2008 - Not
 cooperating w/investigation
 Sentence: Time Served
 Ordered Departed: 3/6/2008
 Departed On: 3/14/2008 from Atlanta, GA



ICE



Jose Maria CONTRERAS-Morato A098 233 680
Guadalupe's ex-husband
Oct 18, 2007 arrested at his residence.
Charged with 8 USC 1325, Improper entry by alien (felony)
Sentence: On 6/5/2008 sentenced to time served.
On 6/9/2008, CONTRERAS-Morato was processed and served at the RAC/Columbia and transported to Mecklenburg County Jail pending removal proceedings.
Bond Set at \$15,000



ICE

LAGUNA TRAFFICKING
Columbia, South Carolina

Significant Public Benefit Parole

RAC/Columbia applied for SPBP for A.R.'s mother, father and sister so the family could be reunited.

On June 8, 2007, A.R.'s family arrived in the U.S. to be reunited with their daughter.





Homeland Security Investigations



**Homeland Security
Blue Campaign**



Human Trafficking:
Sexual Exploitation.
Forced to Work
Against My Will.

Hidden in Plain Sight
Report It: 1-866-DHS-2-ICE

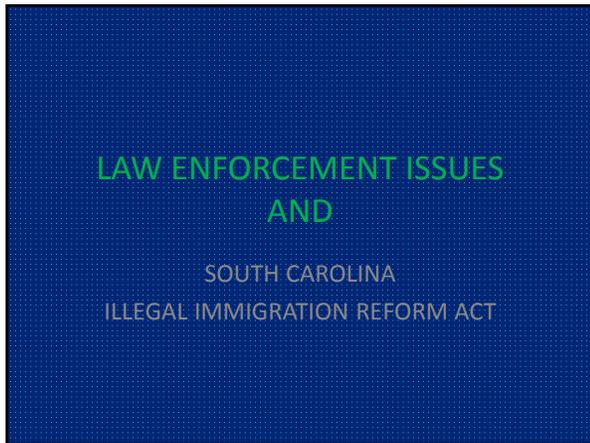


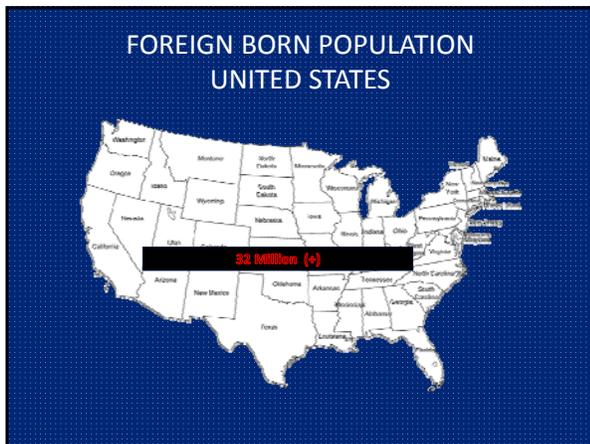
U.S. Immigration
and Customs
Enforcement



U.S. Immigration
and Customs
Enforcement
www.ice.gov

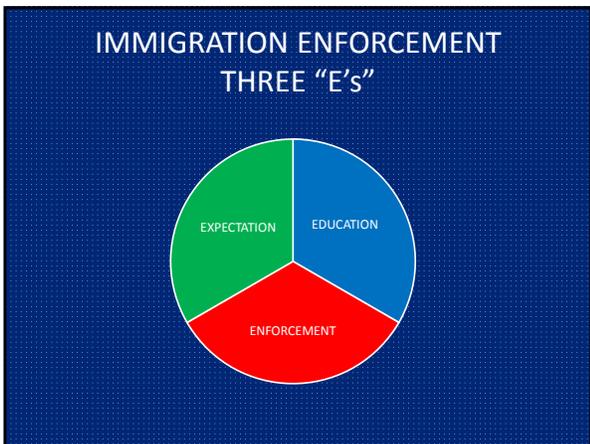








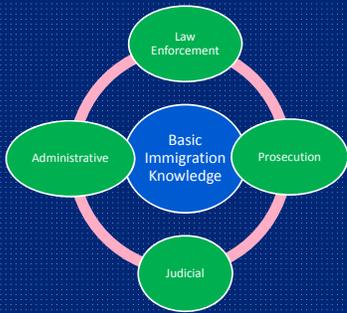




EXPECTATION

Federal Training & 287g Certification

EXPECTATION



EXPECTATION



IMMIGRATION ENFORCEMENT
EDUCATION

➤ Knowledge

- South Carolina Immigration Laws
- Applicable Federal Immigration Rulings, Procedures & Laws

IMMIGRATION ENFORCEMENT
EDUCATION

➤ WHAT CONSTITUTES A U.S. CITIZEN UNDER U.S. LAW?

IMMIGRATION ENFORCEMENT
EDUCATION

➤ WHAT CONSTITUTES A U.S. CITIZEN UNDER U.S. LAW?

- In accordance with the 14th Amendment to the U.S. Constitution, any person born in and subject to the jurisdiction of the U.S. is a citizen of the U.S. at birth. U.S. citizenship may also be acquired through derivation from a U.S. citizen parent when children are born abroad or naturalized after meeting the necessary requirements.

IMMIGRATION ENFORCEMENT
EDUCATION

➤ ALIEN - Any person not a citizen or national of the U.S.

IMMIGRATION ENFORCEMENT
EDUCATION

➤ Legal Alien may be

1. Permanent Resident (Immigrant) who is here in the U.S. legally
2. Non-Immigrant Alien

IMMIGRATION ENFORCEMENT
EDUCATION

➤ Illegal Alien

1. Undocumented Aliens

IMMIGRATION ENFORCEMENT
EDUCATION

➤ All Persons not citizens or nationals of the U.S. are aliens, who are generally classified as PERMANENT RESIDENTS, NON-IMMIGRANT OR ILLEGAL ALIENS

IMMIGRATION ENFORCEMENT
EDUCATION

PERMANENT RESIDENT IMMIGRANT

➤ Aliens who have been admitted to the U.S. for permanent residence.
Permanent residents enjoy almost all of the same rights as U.S. citizens like working in the U.S. indefinitely. They do not have to become U.S. citizens. However, they may be removed from the U.S. if they are convicted of certain crimes or fail to maintain their residence status. Permanent resident status may be granted for life. These immigrants must carry evidence of their status.

IMMIGRATION ENFORCEMENT
EDUCATION

NON-IMMIGRANT ALIENS

➤ Aliens admitted to the U.S. for a specific time and for a specific purpose, like academics, business, or pleasure.
Most often they are admitted as tourists. Non-Immigrants are required to present evidence of their lawful status in the U.S.

IMMIGRATION ENFORCEMENT
EDUCATION
UNDOCUMENTED/ILLEGAL ALIENS

1. Non-Citizens who may have crossed the border illegally and/or been smuggled into the interior of the U.S.
2. Non-Immigrants who have violated their non-immigrant status by accepting unauthorized employment.
3. Non-Immigrants who have remained longer than permitted, or committed some other violation of the rules governing their stay in the U.S.

IMMIGRATION ENFORCEMENT
EDUCATION
IMMIGRATION DOCUMENTS

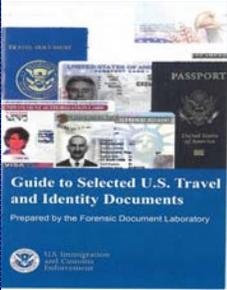
- Determine which documents a non-immigrant should possess for identification and for employment
- Determine which documents an immigrant should possess
- Determine if a document has been altered (document fraud)

IMMIGRATION ENFORCEMENT
EDUCATION

U.S. Immigration and Customs
Enforcement

Form M-396

IMMIGRATION ENFORCEMENT
EDUCATION
Form M-396



U.S. Immigration and Customs Enforcement

IMMIGRATION ENFORCEMENT
EDUCATION
DOCUMENT FRAUD

➤ **KEY POINTS TO CONSIDER**

- Photo – part of card or pasted on
- Date of birth – altered?
- Date of expiration – matches other documents?
- Residency date (Form I-551 only) matches other documents
- Fingerprint – matches the suspect?
- Micro-printing if applicable
- Light reflective surface if applicable
- Placement of each feature – is it the same as valid documents of same type?

IMMIGRATION ENFORCEMENT
EDUCATION



```
graph TD; DT[Identity Theft] --- DF((Document Fraud)); F[Fraud] --- DF; FG[Forgery] --- DF; WV[Weapons Violations] --- DF; GA[Gang Activity] --- DF; DV[Drug Violations] --- DF;
```

IMMIGRATION ENFORCEMENT
EDUCATION

Consular Notification

- Identify laws governing consular notification
- Identify the importance of notification
- Recognize consular notification situations
- Identify procedures for consular notification
- Recognize benefits from consular notification
- Find additional resources on consular notification

IMMIGRATION ENFORCEMENT
EDUCATION

Consular Notification is Based on International Law

- Vienna Convention on Consular Relations (VCCR)
- Bilateral agreements between the U.S. and some other countries
- Protect the rights of foreign nationals
 - Detained or arrested
 - In need of certain kinds of assistance

IMMIGRATION ENFORCEMENT
EDUCATION

Consular Notification Basics

- Foreign nationals have rights to access embassy or consular assistance
- Some countries require consular notification
- Some do not require consular notification
- Embassy/Consulate notification triggers:
 - Arrest or detention of foreign nationals
 - Death of foreign nationals
 - Guardianship appointment for foreign national minors and legally incompetent adults
- Foreign commercial carrier accidents, such as shipwrecks, plane crashes, etc.

IMMIGRATION ENFORCEMENT
EDUCATION
Consular Notification and Access
URL:
<http://travel.state.gov/law/consular/consular2003.html>
Phone: (202)-647-4415
Mail:
Coordination
CA/P, Room 4800
Bureau of Consular Affairs
U.S. Department of State
Washington, DC 20520

United States Department of State
Consular Notification and Access
Third Edition | September 2010

IMMIGRATION ENFORCEMENT
EDUCATION
Failure to Follow Consular Notification Guidelines

- Violate the rights of foreign nationals, regardless of legal status
- Viewed as a treaty violation by foreign governments
- May affect how U.S. citizens are treated abroad

IMMIGRATION ENFORCEMENT
EDUCATION
MISTAKES

- Sanchez-Llamas v. Oregon
- Bustillo v. Johnson
- US v. Female Juvenile

IMMIGRATION ENFORCEMENT
EDUCATION
DIPLOMATIC IMMUNITY

- Diplomatic immunity is a principle of international law by which certain foreign government officials are not subject to the jurisdiction of local courts and other authorities for both their official and, to a large extent, their personal activities.

IMMIGRATION ENFORCEMENT
EDUCATION
WHY

- Diplomatic immunity is reciprocal
- Serves the U.S. national interest
- Avoids embarrassment to our city, county, state, and country

IMMIGRATION ENFORCEMENT EDUCATION

- Three (3) levels of diplomatic immunity
 - Diplomatic Immunity
 - Consular Immunity
 - Official Immunity

IMMIGRATION ENFORCEMENT EDUCATION

DIPLOMATIC IMMUNITY

- The highest level of immunity-its holders conduct diplomatic business directly with U.S. officials
- Business that is important to international relations



IMMIGRATION ENFORCEMENT EDUCATION

Consular Immunity

- Holders work with their own countrymen
- Not critical to international relations



IMMIGRATION ENFORCEMENT EDUCATION

OFFICIAL IMMUNITY

- Low level holders are embassy staff/employees and their families
- Not critical to international relations

* UNITED STATES DEPARTMENT OF STATE *

OFFICIAL IDENTIFICATION CARD

#009-1702-02 Expires 03/21/2012

CUSTODIAN
EMBASSY

DEPARTMENT
ADDRESS
Room 01/01/2002
Type
ADMINISTRATIVE STAFF

Location
WASHINGTON, DC

USA

This person has been duly notified to the Department of State and under some national law enjoys immunity from criminal jurisdiction. The bearer shall not be held to any form of arrest or detention, but may be given a notice of violation.

The bearer shall be treated with due respect and all appropriate steps shall be taken to prevent any attack on the bearer's person, freedom, or dignity.

LAW ENFORCEMENT OFFICERS IF FOUND, MAIL TO: SPECIAL DELIVERY TO: U.S. Department of State, Office of the Chief of Protocol, 600 14th Street, N.W., Room 5205, Washington, D.C. 20520-5205 Return postage guaranteed.

0000000995 H18F0A28BF

IMMIGRATION ENFORCEMENT EDUCATION

LEVELS OF IMMUNITY SUMMARY

DIPLOMATIC AND CONSULAR PRIVILEGES & IMMUNITIES FROM CRIMINAL JURISDICTION							
LAW ENFORCEMENT ASPECTS SUMMARY							
Category	Arrested or Detained?	Enter Residence without Consent or Permission?	Search of Person or Residence?	Immune from Arrest?	Prosecution?	Recognized Family Members?	
Diplomatic	International Organizations Staff	No	No	No	Official immunity, but not other immunities	No immunity or immunity (not covered by this table)	No immunity or immunity (not covered by this table)
	Diplomatic List and Staff of Mission to International Organizations	No	No	No	Official immunity, but not other immunities	Same as general (not covered by this table)	Same as general (not covered by this table)
	Support Staff of Mission to International Organizations	No	No	No	Official immunity, but not other immunities	Immunity is ineligibility	Immunity is ineligibility
	Diplomatic Agent	No	No	No	No	Same as general (not covered by this table)	Same as general (not covered by this table)
Consular	Member of Administration and Technical Staff	No	No	No	Official immunity, but not other immunities	Same as general (not covered by this table)	Same as general (not covered by this table)
	Service Staff	No	No	No	Official immunity, but not other immunities	Immunity is ineligibility	Immunity is ineligibility
	Consular Officer	No, except in the case of a felony or payment to a witness	No	No	Immunity may not be forfeited in any case	Official immunity, but not other immunities	Immunity is ineligibility
	Minority Consular Officers	No	No	No	Official immunity, but not other immunities	Immunity is ineligibility	Immunity is ineligibility
Consular Employees	No	No	No	No	Official immunity, but not other immunities	Immunity is ineligibility	Immunity is ineligibility

1. Immunity from arrest, detention, and the application of criminal law is not absolute. Immunity may be waived by the person or by a treaty or other agreement.

2. The bearer is not immune from the application of criminal law in cases of a flagrant crime of violence and terrorism or the receipt of a bribe or other illegal payment.

3. A court order of arrest or detention may be issued by a national authority in exceptional circumstances.

Send questions or requests to the Diplomatic Security Command Center
 Call Toll Free at 1-888-217-3889
 Available 24 hours daily

CONSULAR NOTIFICATION

Assistance with consular notification procedures following the arrest or detention of foreign nationals

Business Hours: 800-647-4411

After Hours: 301-647-1373

Toll Free Number: 800-647-1722

IMMUNITIES ISSUES

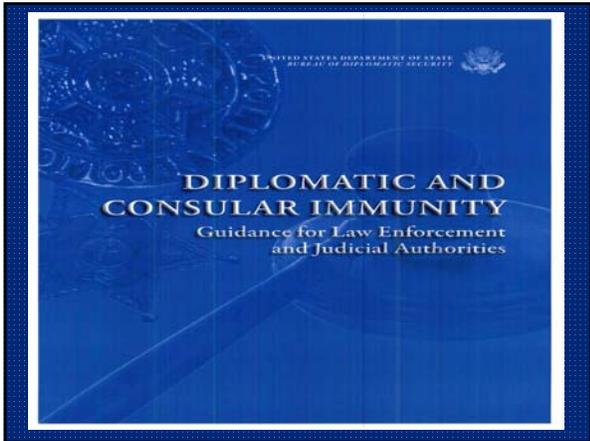
Contact the Office of Protocol, Diplomatic Affairs

302-647-1722

IMMIGRATION ENFORCEMENT
EDUCATION

General Procedures

- Verify the individual's status with the U.S. Department of State.
- With or without Department of State ID, call the appropriate hotline to verify the information with DOS.
- If you would normally arrest or detain, inform the person of the detention until identity can be confirmed.
- Once status is verified, prepare your report.
- Fax or mail a copy of the incident report to the DOS in Washington, D.C. or, in cases involving the U.N. Community, the U.S. Mission to the U.N. in New York.





IMMIGRATION ENFORCEMENT
EDUCATION

LAW ENFORCEMENT SUPPORT CENTER (LESC)

- National point of contact for aliens who have previously been involved in criminal activity or who have been involved in some way with illegal immigration contact with ICE.
- Law enforcement has contact/access with LESC through NCIC's INS Alien Query (IAQ) Format.
- The IAQ will identify aliens with criminal activity who are wanted by ICE.

IMMIGRATION ENFORCEMENT
EDUCATION

IAQ RESPONSE

- Identifies alien immigration status
- Locates any criminal records the suspect may have
- Is sent to you and ICE Immigration Office
- If the individual is wanted by ICE
 - ICE will contact you
 - ICE will provide you with instructions regarding the subject

IMMIGRATION ENFORCEMENT
EDUCATION

LESC & the IAQ Required Fields
(9 required fields)

1. Purpose Code (PUR) – Must enter a C
2. Attention (ATN) – Your name
3. Phone (PHN) – Your phone number, area code first
4. Name (NAM) – Name of subject (last, first, middle)
5. Date of Birth (DOB) – Subject DOB (4 digit year, 2 digit month, 2 digit day, YYYYMMDD)
6. SEX – Subject's sex, M male, F Female
7. Place of Birth (POB) – Use NCIC code or YY if unknown
8. Custody Flag – Y if in custody, N if not in custody
9. Offense Code (OFF) – Most serious charge (NCIC Code)-for immigration search enter 0399

IMMIGRATION ENFORCEMENT
EDUCATION
LESC & the IAQ Fields

The remaining fields are not required but can aid with your query.

IMMIGRATION ENFORCEMENT
EDUCATION
LESC QUERY
Response Times

- Response could take up to 20 minutes. The more information provided about the alien, the faster the response.
- If the alien is wanted by ICE, you should be contacted with instructions.

IMMIGRATION ENFORCEMENT
EDUCATION
Common Naming Conventions

- The most common types of foreign names you will encounter are:
 - Arabic
 - Asian
 - Hispanic

Information gleaned from foreign names can help you refine your IAQ search.

IMMIGRATION ENFORCEMENT
EDUCATION

Arabic Foreign Naming Conventions

- Arabic names can give you additional information about the alien that will allow you to refine your LESC search and get you a faster response.
- Arabic names often contain several parts in addition to the personal name and surname, such as the alien's :
 - Mother or father's name
 - Child's name
 - Nickname
 - Region of origin

IMMIGRATION ENFORCEMENT
EDUCATION

Hispanic Naming Conventions

- Are a combination of both parents surnames
- List the father's name before the mother's name
- Join the two surnames with "Y," which means "and"
- Sometimes use a hyphen instead of "Y"

Example – Juan Romero Y Conde
Juan Romero-Conde

Romero is the father's surname
Conde is the mother's surname

IMMIGRATION ENFORCEMENT
EDUCATION

Chinese Family Names

- Most Chinese names consist of two parts: the family name and the personal name.
- A Chinese father bestows upon his children his family name, which the children will carry with them their entire life. Chinese family names are usually one syllable and their personal name may consist of one or two words.
- Unlike Americans, the Chinese list their family names before their personal names. In the example "Wang Leping", the family name is Wang.

IMMIGRATION ENFORCEMENT
EDUCATION

**Using Naming Conventions to
Narrow Searches**

- Determine the individual's entire name through questioning.
- Input the parents' last names to modify the search and get a faster response.

ENFORCEMENT

IMMIGRATION ENFORCEMENT RELEVANT SC LAWS

16-9-10
PERJURY AND SUBORNATION OF PERJURY

ENFORCEMENT

IMMIGRATION ENFORCEMENT RELEVANT SC LAWS

16-13-10
FORGERY

ENFORCEMENT

IMMIGRATION ENFORCEMENT RELEVANT SC LAWS

16-13-450

UNLAWFUL ISSUANCE, SALE, OR OFFER TO SELL IDENTIFICATION
CARD OR DOCUMENT PURPORTING TO CONTAIN AGE OR
DATE OF BIRTH

ENFORCEMENT

IMMIGRATION ENFORCEMENT RELEVANT SC LAWS

16-13-451

UNLAWFUL SUBMISSION OF DOCUMENTATION REQUIRED
UNDER SECTION 16-13-450

ENFORCEMENT

IMMIGRATION ENFORCEMENT RELEVANT SC LAWS

16-13-480

PROVIDING FALSE IDENTIFICATIONS FOR USE BY UNLAWFUL ;
PENALTY

ENFORCEMENT

IMMIGRATION ENFORCEMENT RELEVANT SC LAWS

16-13-510
"FINANCIAL IDENTITY FRAUD" AND "IDENTIFYING INFORMATION" DEFINED; PENALTY AND RESTITUTION

ENFORCEMENT

IMMIGRATION ENFORCEMENT RELEVANT SC LAWS

16-13-525
FINANCIAL IDENTITY FRAUD ENABLING UNLAWFULLY PRESENT ALIEN TO LIVE OR WORK IN UNITED STATES; PENALTIES

ENFORCEMENT

IMMIGRATION ENFORCEMENT RELEVANT SC LAWS

16-23-530
FIREARMS; POSSESSION BY OR SALE TO UNLAWFUL ALIEN; PENALTIES

ENFORCEMENT

IMMIGRATION ENFORCEMENT RELEVANT SC LAWS

16-17-722

FILING OF FALSE POLICE REPORTS; KNOWLEDGE; OFFENSE;
PENALTIES

ENFORCEMENT

IMMIGRATION ENFORCEMENT RELEVANT SC LAWS

16-17-725

MAKING FALSE COMPLAINT TO LAW ENFORCEMENT OFFICER;
GIVING FALSE INFORMATION TO RESCUE SQUAD OR FIRE
DEPARTMENT; MISREPRESENTING IDENTITY TO LAW
ENFORCEMENT OFFICER DURING TRAFFIC STOP OR TO AVOID
ARREST OR CRIMINAL CHARGE

ENFORCEMENT

IMMIGRATION ENFORCEMENT RELEVANT SC LAWS

56-1-510

UNLAWFUL USE OF LICENSE; FRAUDULENT APPLICATION

ENFORCEMENT

IMMIGRATION ENFORCEMENT RELEVANT SC LAWS

56-1-515

UNLAWFUL ALTERATION OF LICENSE; SALE OR ISSUANCE OF FICTITIOUS LICENSE; USE OF ANOTHER'S LICENSE OR OTHER FALSE DOCUMENTATION TO DEFRAUD OR VIOLATE LAW; VIOLATION AND PENALTIES

ENFORCEMENT

IMMIGRATION ENFORCEMENT RELEVANT SC LAWS

56-19-240

APPLICATION FOR CERTIFICATE; FORM AND CONTENTS

SUMMARY

QUESTIONS

Human Trafficking



BJA Bureau of
Justice Assistance



Victims and Victim Service Providers

Human Trafficking



BJA Bureau of
Justice Assistance

Topics

- Importance to Law Enforcement
- Types of Victim Service Providers
- Nongovernmental Organizations (NGOs)
- Governmental Organizations
- Victim Service Requirements
 - Interpreters
 - Housing
 - Medical and Dental Assistance
 - Mental Health
 - Legal Services
 - Training, Education, and Employment
- “Victims’ Bill of Rights”
- Immigrant Victims
- Conclusion





Importance to Law Enforcement

- Victims are the key to successfully investigating and prosecuting human trafficking cases
- Victims need to be stabilized and safe before they can be effective witnesses
- Victims may not understand how to access services



Types of Victim Service Providers

- Nongovernmental organizations
 - Privately funded
 - Federal grant-funded
 - Immigrant advocacy groups
 - Human rights groups
 - Crime victim advocacy groups
 - Faith-based community organizations
- Governmental organizations
 - Victim/witness assistance coordinator
 - Local law enforcement or prosecutor's office
 - FBI
 - ICE
 - USAO



Nongovernmental Organizations (NGOs)

- How can NGOs help you win your case?
 - Help restore dignity to the victim
 - Help collaborate with law enforcement on victim safety
 - Assist in witness preparation
 - Serve as intermediaries
 - Facilitate victim's access to services
 - Help the victim gain new employment





Governmental Organizations

- National hotlines to call when a trafficking victim has been identified
 - Law enforcement
 - U.S. Department of Justice (1-888-428-7581)
 - U.S. Department of Homeland Security (1-866-347-2423)
- General Public
 - National Human Trafficking Resource Center (NHTRC)
 - Operated by The Polaris Project a private NGO (1-888-373-7888)





Victim Service Requirements

- Victims of human trafficking often suffer from serious physical and/or psychological trauma
- Meeting their needs requires law enforcement and service providers to be
 - Aware of their culture
 - Able to communicate in their language, if they do not speak English
 - Versed in trauma and its impact on victims



Victim Service Requirements *(continued)*

- Specific requirements may include the need for
 - Housing
 - Medical and dental assistance
 - Mental health assessment, crisis intervention, long-term counseling
 - Legal services
 - Training/education/employment



Victim Service Requirements—Housing

- Resources
 - Safe houses
 - Domestic violence centers
 - Rape crisis centers
- Shelter requirements
 - Safe and secure
 - Confidential location
 - Appropriate for the victim
 - Linguistically and culturally appropriate





Victim Service Requirements— Medical and Dental

- Provide basic immediate care
- Provide for follow-up care, as needed
- Should be culturally appropriate





Victim Service Requirements— Mental Health

- Provide for a mental health assessment
- Provide for follow-up care, as needed
- Should be culturally appropriate





Victim Service Requirements— Legal Services

- Immigration assistance
- Criminal justice system advocacy
- Civil remedies and family law
- ESL and literacy in victim's own language





Victim Service Requirements— Training, Education, and Employment

- Provide life skills training, as needed
- Provide educational and training opportunities
- Assist with employment placement
- ESL classes



Human Trafficking



BJA Bureau of
Justice Assistance

SC Code §16-3-2070. Compensation for victims of trafficking; identity of victim and victim's family confidential.

(A) Victims of trafficking in persons pursuant to this article are considered victims for purposes of the Victims' Bill of Rights and are entitled to all appropriate forms of compensation available pursuant to the State Crime Victim's Compensation Fund in accordance with the provisions of Article 13, Chapter 3, Title 16. Victims of trafficking in persons pursuant to this article also are entitled to the rights provided in Article 15, Chapter 3, Title 16.

(B) In addition to the provisions of subsection (A), in a prosecution for violations of the criminal provisions of this article, the identity of the victim and the victim's family must be kept confidential by ensuring that names and identifying information of the victim and victim's family are not released to the public, **including by the defendant.**



SC Code §16-3-2040. Restitution for victims of trafficking.

- (A) An offender convicted of a violation of this article must be ordered to pay **mandatory restitution** to the victim as provided in this section. ...
- (D) Restitution for this section, pursuant to Section 16-3-1270, **means payment for all injuries, specific losses, and expenses sustained by a crime victim resulting from an offender's criminal conduct pursuant to Section 16-3-1110(12)(a).** ...
- (F) **Restitution must be paid to the victim promptly upon the conviction of the defendant. The return of the victim to his home country or other absence of the victim from the jurisdiction does not prevent the victim from receiving restitution**

Financial Resources for Victim Support

- SC Victim Assistance Network
 - VIP Program (within 1st 90 days)
 - SC Human Trafficking Victim's Fund (for needs not covered by VIP)
- SOVA – Victim's Compensation Fund
- Immigrant Victims
 - Tapestri Human Trafficking Subgrant Program (requires a NGO subgrantee)
 - Refugee Match Grant Program for Certified Victims
- Private HT Advocacy Groups

“Victims’ Bill of Rights”

- Trafficking victims have the right to
 - Access information about their rights and translation services
 - Be rescued and removed to an appropriate shelter
 - Social assistance and economic self-sufficiency, including job counseling, training, and education
 - Medical care (including physical and psychological treatment)



“Victims’ Bill of Rights” (continued)

- Trafficking victims have the right to (continued)
 - Legal representation in cases prosecuted under the TVPA
 - Mandatory restitution under the TVPA
 - Privacy and safety
 - Seek residency under the T Visa program
 - Return to their country of origin and not be detained in facilities inappropriate to their status as victims





Accounting for Differences When Working with Immigrant Victims

- Language
- Culture
- Limited access to public benefits or victim compensation funds
- Lack of protection for family in home country
- Immigration-related fears





Vulnerability of Immigrant Workers

- Temporary work visas only valid for employer listed on visa application
- Rarely able to change employers
- Lack of knowledge about rights & remedies
- Language barriers
- Fear of government
- Fear of deportation, loss of status or loss of documents
- Lack of work authorization
- Economic coercion



Overcoming Language Barriers

- Locate qualified and trusted interpreters in advance of the raid/interview
 - Do not rely on unknown “helpful” individuals or victims
 - Be aware that bilingual individuals in the local community from this language group may know the alleged trafficker or be involved
- Locate qualified and trusted attorneys and service providers with the necessary language capability in advance
 - Ensure that interpreters or other bilingual professionals working with attorneys and service providers are aware of above issues





Sensitivity to Cultural Differences

- Educate responding officers and victim/witness coordinators regarding cultural background of victims in advance
- Anticipate any fear of law enforcement arising from either the relationship between the community and law enforcement or the effectiveness of the criminal justice system in the victim's home country





Locating Social Service Programs Available to Noncitizens

- Generally, a non-US citizen is not eligible for public benefits in the US until they have been a lawful permanent resident for 5 years.
- If the person is in some legal status, determine eligibility for any federal, state or local benefits.
- You must identify unrestricted funds or services from victim service providers or private programs.
- Locate human trafficking service providers funded by HHS via a Per Capita Services grant (Current Southeastern grantee is Tapestri in Atlanta).
- Obtain certification or eligibility letter from HHS/ORR – makes individual eligible for same public benefits as refugees.





Role of Immigration Attorneys

- Help determine immigration status of victims
- Evaluate victim's eligibility for immigration benefits
- Advise victim regarding risks and benefits of applying for immigration benefits
- Represent victim in immigration court proceedings
- Gather information and documents from victim, victim's family, law enforcement and other NGOs to support immigration applications
- Prepare and file immigration applications
- Pursue other available legal remedies available or necessary, i.e. family court actions, civil monetary remedies against "traffickers"



Human Trafficking



BJA Bureau of
Justice Assistance

Available Immigration Benefits for Trafficking Victims

- Continued Presence for victims of human trafficking
- T Nonimmigrant Status for victims of human trafficking
- U Nonimmigrant Status for victims of crime, including trafficking & fraud in foreign labor recruitment
- Special Immigrant Juvenile Status for abused, neglected, & abandoned children
- VAWA Self-Petition for battered spouses, parents and children of US citizens and LPRs
- Others

Continued Presence

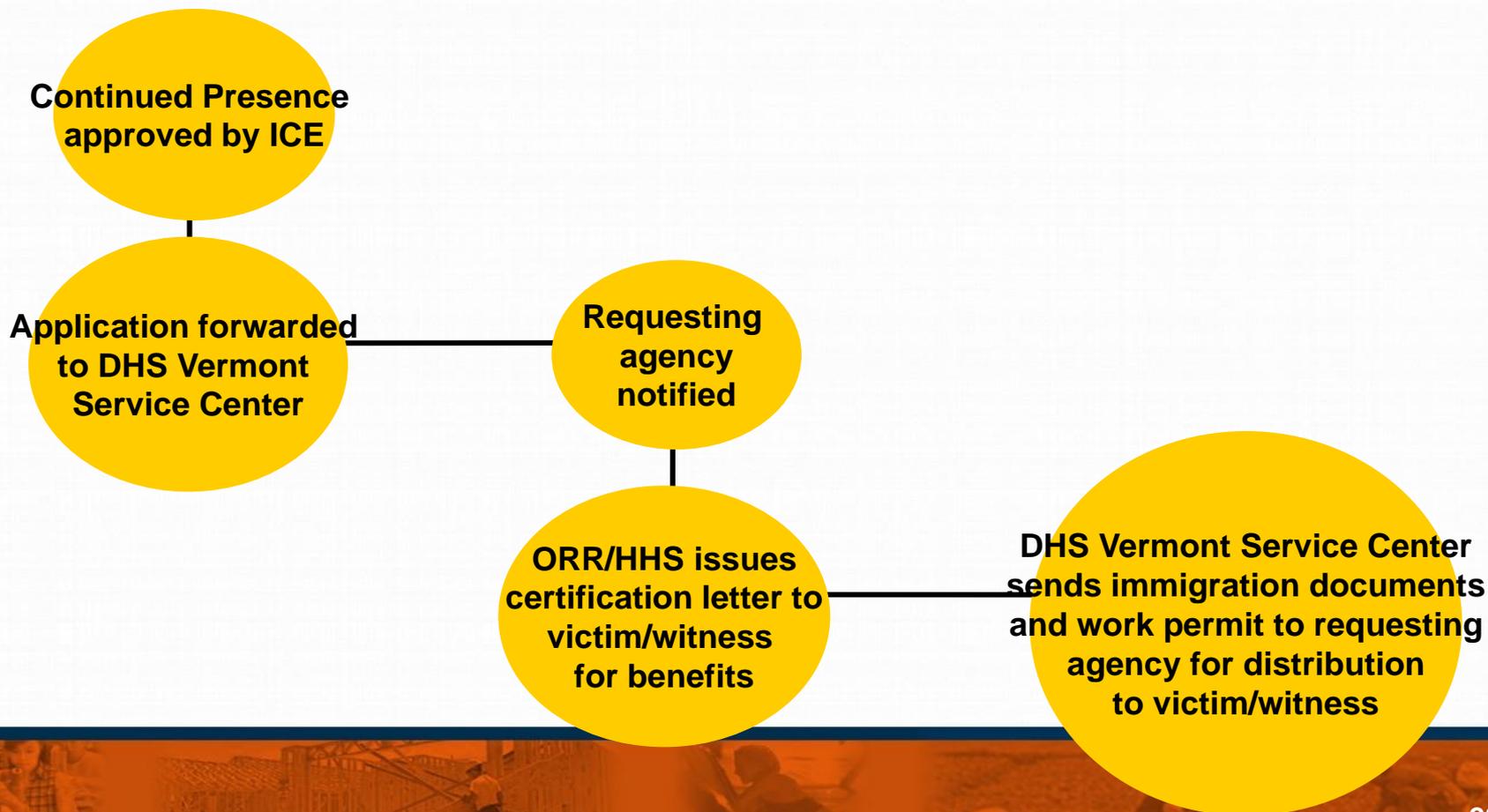
Federal law enforcement tool that provides temporary victim/witness relief while a case is investigated and prosecuted.

- Provides lawful immigration status for 1 year; may be renewed
- Provides eligibility for work authorization
- Federal law enforcement initiates the application (FBI/ICE)
- Must be signed off by SA, SSA, Victim Specialist and monitoring agent (if applicable)
- Approved by DHS/ICE
- Special allowances for minors
- Law enforcement officer remains responsible for victim for duration of continued presence

Continued Presence: HHS Certification for Public Benefits

- Pre - HHS Certification: Before Continued Presence (CP) is approved or T status, a victim is not certified and is not eligible for most public benefits.
- Post- HHS Certification: After the victim has been granted Continued Presence (or T Status), he/she may request a Certification letter from HHS, which allows access to public benefits & assistance.
- Not to be confused with Form I-914B& Form I-918B for “Law Enforcement Certification” for the U & T
 - Necessary step to obtain U status
 - Recommended step to obtain T status

Process for Continued Presence



Human Trafficking



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T and U Programs





T Program

- T Visa is granted to victims of Trafficking in Person based on the federal definition
- The victim must be physically present in the United States *because of trafficking* in order to apply
- The victim must comply with reasonable requests from law enforcement for assistance in the investigation and prosecution
- The victim must demonstrate that removal from the U.S. would cause an extreme hardship (medical issues, family issues, etc)
- T Visa is applied for on Form I-914
- The T Visa allows:
 - Temporary Status for up to 4 years
 - Temporary Status for Certain Family Members
 - Provides Employment Authorization (aka: work permit)
- After 3 years the victim may apply for a “green card”
- Annual cap of 5,000 T Visas (has never been met)
- Form I-914, Supp. B - Law enforcement certification is preferred, but not required

U Program

- U Nonimmigrant Status is granted to victims of *qualifying crimes*
- The victim must possess information about the crime and be helpful in the investigation
- The victim must comply with reasonable requests from law enforcement for assistance in the investigation and prosecution
- The victim must have suffered substantial physical or mental abuse from the crime
- U status is applied for on Form I-918
- The U Status allows:
 - Temporary Status for up to 4 years
 - Temporary Status for Certain Family Members
 - Provides Employment Authorization (aka: work permit)
- After 3 years the victim may apply for a “green card”
- Annual cap of 10,000 U Nonimmigrant Petitions (has been met for several years)
- Law enforcement certification is required using Form I-918 Supplement B

Human Trafficking



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U Qualifying Crimes

- Abduction
- Abusive Sexual Contact
- Blackmail
- Domestic Violence
- Extortion
- False Imprisonment
- Felonious Assault
- Attempts to commit any of the named crimes
- Female Genital Mutilation
- Hostage
- Incest
- Involuntary Servitude
- Kidnapping
- Murder
- Conspiracy to commit any of the named crimes
- Obstruction of Justice
- Peonage
- Perjury
- Prostitution
- Rape
- Sexual Assault
- Sexual Exploitation
- Solicitation to commit any of the named crimes
- Slave Trade
- Torture
- Trafficking
- Unlawful Criminal Restraint
- Witness Tampering
- Related Crimes
- Other
- ** ADDED BY VAWA IN MARCH 2013
 - Stalking
 - Fraud in foreign labor recruitment



New U Crime: Fraud in Foreign Labor Recruitment

Under 18 U.S.C. Sec. 1351, “fraud in foreign labor contracting” requires:

- a showing that a contractor “knowingly” and “with intent to defraud” recruited, solicited, or hired a person **outside** the United States under “materially false or fraudulent” terms.
- This may include hiring for purposes in the United States, employment on a U.S. government contract outside the United States, or on U.S. military installations.



Conclusion

- Victims are the key to successfully prosecuting trafficking cases
- Victims have to be stable and safe to be effective witnesses
- Victims often require a number of social services to stabilize their existence and provide them with a safe environment
- Law enforcement needs to
 - Be aware of the services available to victims
 - Ensure victims are put in contact with service providers



Human Trafficking



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Human Trafficking



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South Carolina Victim Assistance Network Immigrant Victim Network

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CERTIFICATION FOR ADULT VICTIMS OF TRAFFICKING FACT SHEET



Certification allows adult victims of trafficking who are not United States (U.S.) citizens or Lawful Permanent Residents (LPRs) to be eligible to receive benefits and services under any Federal or state program or activity to the same extent as a refugee. Victims of trafficking who are U.S. citizens or LPRs do not need certification to receive benefits because they may already be eligible for many benefits.

To receive certification, a person who is 18 years of age or older must:

- Be a victim of a severe form of trafficking as defined by the TVPA¹;
- Be willing to assist in every reasonable way in the investigation and prosecution of severe forms of trafficking or be unable to cooperate due to physical or psychological trauma; and
- Have made a bona fide application for a T visa that has not been denied; or
- Have received Continued Presence (CP) from the Department of Homeland Security (DHS) in order to contribute to the prosecution of traffickers in persons.

Once a person has met the requirements listed above, he or she can receive a Certification Letter from the U.S. Department of Health and Human Services (HHS) Office of Refugee Resettlement (ORR). The certification process typically takes only a few days after ORR is notified by DHS that a person has made a bona fide application for a T visa or has been granted CP. Certification Letters do not expire but many benefits are time-limited.

Foreign child victims of trafficking (under the age of 18) *do not* need to be certified to receive benefits and services. ORR will instead issue a letter stating that a child is a victim of a severe form of trafficking and is eligible for benefits and services. (See *Rescue & Restore* Fact Sheet on Child Victims and ORR State Letter #10-05 for more information.)

T Visa

The Trafficking Victims Protection Act (TVPA) recognizes that returning victims to their country of origin is often not in their best interest, and that victims need the opportunity to rebuild their lives without fear of deportation. The T visa is a nonimmigrant status that allows a foreign victim of trafficking to remain in the United States for up to four years and to obtain an Employment Authorization Document (EAD) allowing the victim to work legally in the U.S. The victim must apply directly to DHS/U.S. Citizenship and Immigration Services (USCIS) for T nonimmigrant status. A recipient of T nonimmigrant status is eligible to apply for LPR status after a period of continuous physical presence in the United States.

Continued Presence

The DHS Immigration and Customs Enforcement (ICE) grants CP, which a Federal law enforcement official requests for a victim of a severe form of trafficking who is a potential witness. Continued Presence allows the victim to remain in the United States for one year during the course of an investigation or prosecution and to obtain an EAD.

Contacting ORR

To notify ORR of a victim of trafficking who has received CP or a T visa, or for whom DHS/USCIS has made an initial determination of a bona fide application for T nonimmigrant status, e-mail Trafficking@acf.hhs.gov or call (866) 401-5510.

¹ The Trafficking Victims Protection Act of 2000, or TVPA, defines "severe forms of trafficking in persons" as the recruitment, harboring, transportation, provision or obtaining of a person for the purpose of a commercial sex act, in which a commercial sex act induced by force, fraud or coercion, or in which the person is induced to perform such act is under the age of 18 years (Sex Trafficking); 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 (Labor Trafficking).

DEPARTMENT OF HOMELAND SECURITY
U.S. Immigration and Customs Enforcement

REQUEST FOR CONTINUED PRESENCE

Part A: Information on the Victim

1. Name:

_____ (Last) _____ (First) _____ (Middle)

2. Date of Birth (mo., day, yr.)

3. Country of Birth

4. Country of Citizenship

5. Alias(es)

6. Gender (check one)

Male Female

7. Alien Number (A#)

A _____

8. Passport Number

9. Country of Issuance

10. Expiration Date (mo., day, yr.)

11. Social Security Number

Part B: Requesting Agency Information

**Note: This information must be completed in order to receive consideration.*

1. Lead Case Agent:

(First, Last)

2. Daytime telephone number

(include area code)

_____ Ext. _____

3. Fax number

2. Case Agent where the Victim resides (if the Victim resides in a jurisdiction other than that of the Lead Case Agent):

(First, Last)

2. Daytime telephone number

(include area code)

_____ Ext. _____

3. Fax number

Supplemental Information:

Requesting Agency: _____

Group Supervisor's name (First, Last) _____

Daytime telephone number (including area code) _____ **ext.** _____

Fax number _____

Victim-Witness Specialist's/Coordinator's name (First, Last) _____

Daytime telephone number (including area code) _____ **ext.** _____

Fax number _____

**Request for Continued Presence
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Part C: Case Information

**Note: Please complete all information below.*

1. Is the Victim currently in the United States? Yes No

2. The Victim's current immigration status: _____

3. Is the Victim requesting Continued Presence based upon a pending civil action under 18 U.S.C. § 1595?
 Yes No

If yes, provide details of where and when the civil action was filed, and the status of the civil action.

4. Has the Victim ever been deported/presently under deportation proceedings? Yes No

(if yes, where and when) City, State: _____

5. When did the Victim enter the United States? _____

6. Through which Port of Entry did the Victim enter the United States? _____

7. How did the Victim enter the United States? _____

Part D: Specific Information Pertaining to the Victim

** Please answer each question as completely as possible (Attach additional sheet(s), if necessary.)*

- 1. Significance and value of the Victim to this case:** (Please provide a brief explanation of how the Victim meets the definition of "severe form of trafficking" under section 103(8), Victims of Trafficking and Violence Protection Act of 2000, Pub. L. No. 106-386.)
- 2. The Victim's criminal involvement in this or any other case:** (Please attach or describe criminal and/or arrest record listing ALL criminal convictions.)
- 3. Risk the Victim presents to public safety and/or to national security** (i.e., has the alien ever engaged in a terrorist act, supported terrorist activities, or is a member of a known terrorist group? If so, explain.) **List and explain proposed security precautions if necessary:** (Attach copy of risk assessment report.)
- 4. Financial responsibility for the Victim:** (Please explain manner in which the Victim's living expenses will be met.)
- 5. Acquaintance/Relatives in the United States:** (Please include name(s), relationship, and current location, i.e., city and state; attach additional sheet(s), if necessary.)

Request for Continued Presence
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6. Is employment authorization requested? Yes No

(If yes, please attach completed U.S. Citizenship and Immigration Services Forms I-765, Application for Employment Authorization, and I-102, Application for Replacement/Initial Nonimmigrant Arrival/Departure Document.)

Note: Information contained in question # 7 is not required for a victim to receive Continued Presence; however, this information is required for a victim to be certified to receive benefits from the Department of Health and Human Services (HHS), Office of Refugee Resettlement (ORR). A response to this question will assist HHS in ensuring the fast and efficient delivery of services to the Victim. Victims who have not attained 18 years of age do not need to be certified to receive benefits from HHS.

7. Is the Victim willing to assist in every reasonable way in the investigation and prosecution of a severe form of trafficking in persons? The term "investigation and prosecution" includes the: 1) identification of a person or persons who have committed severe forms of trafficking in persons; 2) location and apprehension of such persons; and 3) testimony at proceedings against such persons. Yes No

Part E: Location where the Victim will reside (City and state are required at a minimum.)

Street Address _____

City _____ State _____

**Initial requests are approved for a period of time determined on a case-by-case basis. ALL extensions for Continued Presence must be submitted to the ICE HSI Headquarters Law Enforcement Parole Unit (LEPU). Any change in status is to be reported to the requesting agency headquarters, which in turn will notify LEPU. The requesting agency will also notify LEPU immediately if the alien departs the United States.*

Part F: Certification of Reporting Requirements

As the requesting agency representative, I understand that, should this Continued Presence be granted, it is MY responsibility to follow all of the policies and procedures established by LEPU, including quarterly reporting, reporting changes in the Victim's status (i.e., departure or change in status), and requesting applicable extensions 30 days prior to the expiration of approved Continued Presence.

(Lead Group Supervisor's Signature)

(Date)

(Print Name and Title)

(Lead Case Agent's Signature)

(Date)

(Print Name and Title)

If the Victim resides outside the geographic area of the lead Case Agent, a monitoring agent must be designated in the appropriate jurisdiction.

(Monitoring Group Supervisor's Signature)

(Date)

(Print Name and Title)

(Monitoring Case Agent's Signature)

(Date)

(Print Name and Title)

**Request for Continued Presence
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Privacy Act Statement

Authority: 22 U.S.C. §§ 7102(8) and 7105(c)(3) authorize ICE to collect the information requested on this form.

Purpose(s): The information collected on this form will be used by ICE to: 1) clearly identify the individual for whom Continued Presence is being requested; 2) review and determine the eligibility of the individual to receive Continued Presence and remain in the United States; 3) grant or deny the request for Continued Presence; 4) identify and hold accountable the requesting law enforcement officer/agent and their agency to comply with ICE's policies and procedures for administering the Continued Presence; 5) coordinate the administration of benefits available to the individual (if eligible); and 6) properly maintain a record of all requests for Continued Presence as well as provide oversight, tracking and reporting on Continued Presence activity throughout the duration of the authorized Continued Presence.

Routine Use(s): The information collected on this form may be shared with a criminal, civil, or regulatory law enforcement authority (whether Federal, State, local, territorial, tribal, international or foreign) where the information is necessary for collaboration, coordination and de-confliction of investigative matters. The information may also be disclosed as generally permitted under 5 U.S.C. § 552a(b) pursuant to the routine uses published in the Department of Homeland Security system of records notice, DHS/ICE-011 Immigration and Enforcement Operational Records.

Disclosure: The disclosure of the information on this form is voluntary; however, failure to provide the information may result in the delay or ultimate denial of the request for Continued Presence.

**Request for Continued Presence
FOR OFFICIAL USE ONLY / LAW ENFORCEMENT SENSITIVE**

U.S. Department of Homeland Security
500 12th Street, S.W.
Washington, DC 20024



U.S. Immigration and Customs Enforcement

MANDATORY TRACKING REQUIREMENTS

Date: 01/24/2012

(Case #: IAO 38749 / MNM)

To: [Redacted]

Fax: 864-242-0403

From: Gina Holland
Unit Chief, LEPU 

Please be advised that Continued Presence has been authorized until **January 23, 2013** for the following individual(s):

[Redacted]; 3/10/[Redacted]; GUATEMALA; A [Redacted]

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 in the CP Protocol. Please fax information to HQ Parole Branch (fax: 202-732-8201 or 732-8204) and to your HQ POC (if applicable). If you have any questions, please call 202-732-8164:

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

(State the reason for update. Example: Victim adjusted to T status; absconded or departed without advance parole.)

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 (NTA) will be requested from the local ICE field office.
3. Your VICTIM-WITNESS COORDINATOR is [Redacted] AT 404-346-2879.
4. If the Control Officer changes, you **must** fax this form to this office with the new Control Officer's name, e-mail address, 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 form back to this office. The alien departed the U.S. on _____ via _____
(Date) (Departure point/flight #)

Control Officer's Signature _____

Date _____

HHS Tracking Number
XXXXXXXXXXXXXXXX
DOB: XX/XX/XXXX

VICTIM NAME
C/O CASE MANAGER
NGO
ADDRESS
CITY, STATE ZIP

CERTIFICATION LETTER

Dear VICTIM:

This letter confirms that you have been certified by the U.S. Department of Health and Human Services (HHS) under section 107(b) of the Trafficking Victims Protection Act of 2000. With this certification, you are eligible for benefits and services under any Federal or State program or activity funded or administered by any Federal agency to the same extent as an individual who is admitted to the United States as a refugee under section 207 of the Immigration and Nationality Act, provided you meet other eligibility criteria. Certification does not confer immigration status.

Your certification date is **CERTIFICATION DATE**. The benefits outlined in the previous paragraph may offer assistance for only limited time periods that start from the date of this certification. Therefore, if you wish to seek assistance, it is important that you do so as soon as possible after receipt of this letter.

You should present this letter when you apply for benefits or services. Benefit-issuing agencies must call the toll-free trafficking verification line at 1 (866) 401-5510 in the Office of Refugee Resettlement (ORR) to verify the validity of this document and to inform HHS of the benefits for which you have applied.

The Department of Labor offers employment and training services for which you may be eligible. Call 1-877-US2-JOBS or visit www.servicelocator.org to find out about the nearest One-Stop Career Center.

You must notify this office of your current mailing address. Please send a dated and signed letter with any changes of address to: Trafficking Program Specialist, Office of Refugee Resettlement, 8th Floor West, 370 L'Enfant Promenade, SW, Washington, DC 20447. We will send all notices to that address, and any notice mailed to that address constitutes adequate service. You may also need to share this same information with state and local benefit-issuing agencies.

Sincerely,

Eskinder Negash
Director
Office of Refugee Resettlement

Instructions for I-918, Supplement B, U Nonimmigrant Status Certification

Department of Homeland Security
U.S. Citizenship and Immigration Services

Instructions

Please read these instructions carefully to properly complete this form. If you need more space to complete an answer, use a separate sheet(s) of paper. Write your name and Alien Registration Number (A #), if any, at the top of each sheet of paper and indicate the part and number of the item to which the answer refers.

What Is the Purpose of This Form?

You should use Form I-918, Supplement B, to certify that an individual submitting a Form I-918, Petition for U Nonimmigrant Status, is a victim of certain qualifying criminal activity and is, has been, or is likely to be helpful in the investigation or prosecution of that activity.

When Should I Use Form I-918, Supplement B?

If you, the certifying official, determine that this individual (better known as the petitioner) is, has been, or is likely to be helpful in your investigation or prosecution, you may complete this supplement form. The **petitioner** must then submit the supplement to USCIS with his or her petition for U nonimmigrant status.

NOTE: An agency's decision to provide a certification is entirely discretionary; the agency is under no legal obligation to complete a Form I-918, Supplement B, for any particular alien. However, without a completed Form I-918, Supplement B, the alien will be ineligible for U nonimmigrant status.

To be eligible for U nonimmigrant status, the alien must be a victim of qualifying criminal activity. The term "victim" generally means an alien who has suffered direct and proximate harm as a result of the commission of qualifying criminal activity.

The alien spouse, unmarried children under 21 years of age and, if the victim is under 21 years of age, parents and unmarried siblings under 18 years of age, will be considered victims of qualifying criminal activity where:

1. The direct victim is deceased due to murder or manslaughter, or
2. Where a violent qualifying criminal activity has caused the direct victim physical harm of a kind and degree that makes the direct victim incompetent or incapacitated, and, therefore, unable to provide information concerning the criminal activity or to be helpful in the investigation or prosecution of the criminal activity.

An alien may be considered a victim of witness tampering, obstruction of justice, or perjury, including any attempt, conspiracy, or solicitation to commit one or more of those offenses if:

1. The victim has been directly and proximately harmed by the perpetrator of the witness tampering, obstruction of justice, or perjury; **and**
2. There are reasonable grounds to conclude that the perpetrator committed the witness tampering, obstruction of justice, or perjury offense, at least in principal part, as a means:
 - A. To avoid or frustrate efforts to investigate, arrest, prosecute, or otherwise bring to justice the perpetrator for other criminal activity; or
 - B. To further the perpetrator's abuse or exploitation of or undue control over the petitioner through manipulation of the legal system.

A person who is culpable for the qualifying criminal activity being investigated or prosecuted is excluded from being recognized as a victim.

A victim of qualifying criminal activity must provide evidence that he or she (or in the case of an alien under the age of 16 years or who is incapacitated or incompetent, the parent, guardian, or next friend of the alien) has been, is being, or is likely to be helpful to a certifying official in the investigation or prosecution of the qualifying criminal activity as listed in **Part 3** of this form. Being "helpful" means assisting law enforcement authorities in the investigation or prosecution of the qualifying criminal activity of which he or she is a victim.

General Instructions.

Fill Out the Form I-918, Supplement B

1. Type or print legibly in black ink.
2. If extra space is needed to complete any item, attach a continuation sheet, indicate the item number, and date and sign each sheet.

3. Answer all questions fully and accurately. State that an item is not applicable with "N/A." If the answer is none, write "none."

This form is divided into **Parts 1** through **7**. The following information should help you fill out the form.

Part 1 - Victim information.

- A. **Family Name** (Last Name) - Give victim's legal name.
- B. **Given Name** (First name) - Give victim's full first name, do not use "nicknames." (Example: If victim's name is Albert, do not use Al.)
- C. **Other Names Used** - Provide all the names the victim has used that you are aware of, including maiden name if applicable, married names, nicknames, etc.
- D. **Date of Birth** - Use eight numbers to show his or her date of birth (example: May 1, 1979, should be written 05/01/1979).
- E. **Gender** - Check the appropriate box.

Part 2 - Agency information.

- A. **Name of certifying agency** - The certifying agency must be a Federal, State, or local law enforcement agency, prosecutor, or authority, or Federal or State judge, that has responsibility for the investigation or prosecution, conviction or sentencing of the qualifying criminal activity of which the petitioner was a victim.

This includes traditional law enforcement branches within the criminal justice system, and other agencies that have criminal investigative jurisdiction in their respective areas of expertise, such as the child protective services, Equal Employment Opportunity Commission, and Department of Labor.

- B. **Name of certifying official** - A certifying official is:
 - 1. The head of the certifying agency or any person in a supervisory role, who has been specifically designated by the head of the certifying agency to issue a U Nonimmigrant Status Certification on behalf of that agency; **or**
 - 2. A Federal, state or local judge.If the certification is not signed by the head of the certifying agency, please attach evidence of the agency head's written designation of the certifying official for this specific purpose.

C. **Agency address** - Give the agency's mailing address.

Part 3 - Criminal acts.

- A. **Check all of the crimes of which the petitioner is a victim that your agency is investigating, prosecuting, or sentencing** - If the crime(s) of which the petitioner is a victim is not listed, please list the crime(s) and provide a written explanation regarding how it is similar to one of the listed crimes. Similar activity refers to criminal offenses in which the nature and elements of the offenses are substantially similar to the list of criminal activity found on the certification form itself.
- B. **Indicate whether the qualifying criminal activity violated the laws of the United States or occurred within the United States (including in Indian country and military installations) or the territories and possessions of the United States** - Qualifying criminal activity of which the applicant is a victim had to violate U.S. law or occur within the United States.

Please indicate whether the qualifying criminal activity occurred within the United States (including in Indian country and military installations) or the territories and possessions of the United States.

- 1. **United States** means the continental United States, Alaska, Hawaii, Puerto Rico, Guam, and the U.S. Virgin Islands.
- 2. **Indian country** refers to all land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and including rights-of-way running through the reservation; all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a state; and all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through such allotments.
- 3. **Military installation** means any facility, base, camp, post, encampment, station, yard, center, port, aircraft, vehicle, or vessel under the jurisdiction of the Department of Defense, including any leased facility, or any other location under military control.

4. Territories and possessions of the United States

means American Samoa, Bajo Nuevo (the Petrel Islands), Baker Island, Howland Island, Jarvis Island, Johnston Atoll, Kingman Reef, Midway Atoll, Navassa Island, Northern Mariana Islands, Palmyra Atoll, Serranilla Bank, and Wake Atoll.

If the qualifying criminal activity did not occur within the United States as discussed above, but was in violation of U.S. law, it must violate a Federal extraterritorial jurisdiction statute. There is no requirement that a prosecution actually occur. Please provide the statutory citation for the extraterritorial jurisdiction.

Part 4 - Helpfulness of the victim.

A. Indicate whether the victim possesses information about the crime(s). A petitioner must be in possession of information about the qualifying criminal activity of which he or she is a victim. A petitioner is considered to possess information concerning qualifying criminal activity of which he or she is a victim if he or she has knowledge of details concerning that criminal activity that would assist in the investigation or prosecution of the criminal activity. Victims with information about a crime of which they are not the victim will not be considered to possess information concerning qualifying criminal activities.

When the victim is under 16 years of age, incapacitated or incompetent, he or she is not required to personally possess information regarding the qualifying criminal activity. The parent, guardian, or "next friend" of the minor petitioner may provide that information. "Next friend" is a person who appears in a lawsuit to act for the benefit of an alien victim. The "next friend" is not a party to the legal proceeding and is not appointed as a guardian.

B. Provide an explanation of the victim's helpfulness to the investigation or prosecution of the criminal activity. A victim must provide evidence to USCIS that he or she (or, in the case of an alien child under the age of 16 or who is incapacitated or incompetent, the parent, guardian, or next friend of the alien) has been, is being, or is likely to be helpful to a certifying law enforcement official in the investigation or prosecution of the qualifying criminal activity.

Being "helpful" means assisting law enforcement authorities in the investigation or prosecution of the qualifying criminal activity of which he or she is a victim. Alien victims who, after initiating cooperation, refuse to provide continuing assistance when needed will not meet the helpfulness requirement. There is an ongoing responsibility on the part of the victim to be helpful, assuming there is an ongoing need for the victim's assistance.

You, the certifying official, will make the initial determination as to the helpfulness of the petitioner. USCIS will give a properly executed Supplement B, U Nonimmigrant Status Certification significant weight, but it will not be considered conclusory evidence that the victim has met the eligibility requirements. USCIS will look at the totality of the circumstances surrounding the alien's involvement with your agency and all other information known to USCIS in determining whether the alien meets the elements of eligibility.

Part 5 - Family members implicated in criminal activity.

List whether any of the victim's family members are believed to have been involved in the criminal activity of which he or she is a victim. An alien victim is prohibited from petitioning for derivative U nonimmigrant status on behalf of a qualifying family member who committed battery or extreme cruelty or trafficking against the alien victim which established his or her eligibility for U nonimmigrant status. Therefore, USCIS will not grant an immigration benefit to a qualifying family member who committed qualifying criminal activities in a family violence of trafficking context.

Part 6 - Certification.

Please read the certification block carefully. **NOTE:** If the victim unreasonably refuses to assist in the investigation or prosecution of the qualifying criminal activity of which he or she is a victim, even after this form is submitted to USCIS, you **must** notify USCIS by sending a written statement to: USCIS - Vermont Service Center, 75 Lower Welden Street, St. Albans, VT 05479-0001. Please include the victim's name, date of birth, and A-number (if available) on all correspondence.

Part 3. Criminal acts. (Continued.)

2. Provide the date(s) on which the criminal activity occurred.

Date (mm/dd/yyyy)

Date (mm/dd/yyyy)

Date (mm/dd/yyyy)

Date (mm/dd/yyyy)

3. List the statutory citation(s) for the criminal activity being investigated or prosecuted, or that was investigated or prosecuted.

4. Did the criminal activity occur in the United States, including Indian country and military installations, or the territories or possessions of the United States?

Yes No

a. Did the criminal activity violate a Federal extraterritorial jurisdiction statute?

Yes No

b. If "Yes," provide the statutory citation providing the authority for extraterritorial jurisdiction.

c. Where did the criminal activity occur?

5. Briefly describe the criminal activity being investigated and/or prosecuted and the involvement of the individual named in **Part 1**. Attach copies of all relevant reports and findings.

6. Provide a description of any known or documented injury to the victim. Attach copies of all relevant reports and findings.

Part 4. Helpfulness of the victim.

The victim (or parent, guardian or next friend, if the victim is under the age of 16, incompetent or incapacitated.):

1. Possesses information concerning the criminal activity listed in **Part 3**.

Yes No

2. Has been, is being or is likely to be helpful in the investigation and/or prosecution of the criminal activity detailed above. (Attach an explanation briefly detailing the assistance the victim has provided.)

Yes No

3. Has not been requested to provide further assistance in the investigation and/or prosecution. (Example: prosecution is barred by the statute of limitation.) (Attach an explanation.)

Yes No

4. Has unreasonably refused to provide assistance in a criminal investigation and/or prosecution of the crime detailed above. (Attach an explanation.)

Yes No

Part 4. Helpfulness of the victim. (Continued.)

5. Other, please specify.

Part 5. Family members implicated in criminal activity.

1. Are any of the victim's family members believed to have been involved in the criminal activity of which he or she is a victim? Yes No

2. If "Yes," list relative(s) and criminal involvement. (Attach extra reports or extra sheet(s) of paper if necessary.)

Full Name	Relationship	Involvement

Part 6. Certification.

I am the head of the agency listed in **Part 2** or I am the person in the agency who has been specifically designated by the head of the agency to issue U nonimmigrant status certification on behalf of the agency. Based upon investigation of the facts, I certify, under penalty of perjury, that the individual noted in **Part 1** is or has been a victim of one or more of the crimes listed in **Part 3**. I certify that the above information is true and correct to the best of my knowledge, and that I have made, and will make no promises regarding the above victim's ability to obtain a visa from the U.S. Citizenship and Immigration Services, based upon this certification. I further certify that if the victim unreasonably refuses to assist in the investigation or prosecution of the qualifying criminal activity of which he/she is a victim, I will notify USCIS.

Signature of Certifying Official Identified in Part 2.

Date (mm/dd/yyyy)