



Protecting Victims and Witnesses of Crime

May 6, 2022

Fiscal Year 2021 Report to Congress



**Homeland
Security**

U.S. Immigration and Customs Enforcement

Message from the Acting Director

May 6, 2022

I am pleased to present the following report, "Protecting Victims and Witnesses of Crime," which has been prepared by U.S. Immigration and Customs Enforcement (ICE).

This report was compiled pursuant to a requirement in the Joint Explanatory Statement, which accompanies the Fiscal Year (FY) 2021 Department of Homeland Security (DHS) Appropriations Act (P. L. 116-260).

Pursuant to congressional guidelines, this report is being provided to the following Members of Congress:

The Honorable Lucille Roybal-Allard
Chairwoman, House Appropriations Subcommittee on Homeland Security

The Honorable Chuck Fleischmann
Ranking Member, House Appropriations Subcommittee on Homeland Security

The Honorable Chris Murphy
Chair, Senate Appropriations Subcommittee on Homeland Security

The Honorable Shelley Moore Capito
Ranking Member, Senate Appropriations Subcommittee on Homeland Security

Inquiries related to this report may be directed to the ICE Office of Congressional Relations at (202) 732-4200.



Sincerely,

A handwritten signature in blue ink, appearing to read "Tae D. Johnson". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Tae D. Johnson
Acting Director
U.S. Immigration and Customs Enforcement

Executive Summary

The Joint Explanatory Statement accompanying the FY 2021 DHS Appropriations Act (P.L. 116-260), requests that ICE provide a report on “the steps taken to minimize the effect of immigration enforcement activity on crime victims and witnesses.” This report to Congress, “Protecting Victims and Witnesses of Crime,” presents information on programs in the ICE Office of Partnership and Engagement, ICE Homeland Security Investigations, ICE Office of the Principal Legal Advisor, and ICE Enforcement and Removal Operations, which work to protect victims and witnesses of crime.



Protecting Victims and Witnesses of Crime

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I. Legislative Language

This report responds to direction set forth in the Joint Explanatory Statement accompanying the Fiscal Year (FY) 2021 Department of Homeland Security (DHS) Appropriations Act (P.L. 116-260).

The Joint Explanatory Statement states:

Protecting Victims and Witnesses of Crime.— By not later than 180 days after the date of enactment of this Act, ICE shall report on steps taken to minimize the effect of immigration enforcement activity on crime victims and witnesses.

II. Background

U.S. Immigration and Customs Enforcement (ICE) programs play a distinct and integral role in protecting victims and witnesses of crime to include: outreach and public stakeholder engagements through the Office of Partnership and Engagement (OPE); ongoing investigative operations and support of victims by Homeland Security Investigations (HSI); enduring efforts by Enforcement and Removal Operations (ERO) to identify victims of human trafficking through expanded screening and improved officer awareness training; and implementation of additional training and guidance for Office of the Principal Legal Advisor (OPLA) field attorneys representing the U.S. Government in immigration removal proceedings.

A. ICE Office of Partnership and Engagement

ICE OPE coordinates outreach efforts with the public, key stakeholders, and leadership from ICE HSI, ERO, and OPLA to increase local and national awareness of ICE's mission, while building relationships and fostering trust in our communities. OPE provides professional, timely, and accurate responses to all public and governmental correspondence addressed to the agency.

OPE oversees a cadre of 25 community relations officers (CRO) in field offices across the United States who serve as liaisons to the public, key stakeholders, and ICE leadership. CROs are co-located throughout the United States at ERO, HSI, and OPLA offices.

ICE CROs have handled more than 25,582 engagements and inquiries from various groups and individuals. In FY 2021, most inquiries and engagements handled by OPE were on behalf of ERO, with a total of 11,541; HSI at 5,785; OPLA at 2,549; and general area at 5,707. Most of the inquiries or requests for engagement from stakeholders involved ERO policies and practices. OPE collaboration with these stakeholders ensure a unified approach to external engagement.

OPE also oversees ICE's Victims Engagement and Services Line, which serves as a comprehensive and inclusive support system for all victims, regardless of immigration status or the immigration status of the perpetrator. This includes information on U visa and T visa resources and information about the DHS Blue Campaign's human trafficking public awareness efforts.

B. ICE Homeland Security Investigations

As the largest and principal criminal investigative agency in DHS and the second largest in the U.S. Government, ICE HSI is a critical U.S. law enforcement entity that is responsible for disrupting and dismantling transnational criminal organizations engaged in crossborder criminal activities that seek to exploit America's legitimate trade, travel, financial, and immigration systems for illicit purposes.

HSI has statutory authority and investigative responsibilities for many federal crimes involving victims, including human trafficking, child exploitation, child sex tourism, white collar and other

financial offenses, human rights abuses, and other federal crimes within the United States and abroad. HSI special agents investigate potential violations of more than 400 federal statutes; many of these investigations have the potential to identify a diverse range of victims.

- **DHS Center for Countering Human Trafficking (CCHT)**

The CCHT opened on October 20, 2020, as the first unified, cross-Department coordination center for holistically countering human trafficking and the importation of goods produced with forced labor. The CCHT leverages DHS resources and authorities to identify, disrupt, and dismantle complex domestic and crossborder human trafficking organizations and to minimize the risk that they pose to national security and public safety. By employing a victim-centered approach to enforcement, the CCHT places equal value on the identification and stabilization of victims, and the deterrence, investigation, and prosecution of traffickers. Additionally, the CCHT works with law enforcement partners to prevent importation into the United States of goods produced by forced labor and to facilitate prosecution of those criminally benefitting from forced labor.

Administered by HSI, the CCHT integrates efforts of 16 DHS agencies and offices and establishes an organizational mechanism to leverage, centralize, and coordinate capabilities and resources to combat human trafficking and the importation of goods produced with forced labor. The CCHT's approach to combating human trafficking is rooted in prevention, protection, prosecution, and partnership. Two units comprise the CCHT:

- The CCHT Operations Unit has three sections: Human Trafficking Investigations, Intelligence, and Supply Chain Forced Labor Investigations. The Operations Unit supports worldwide criminal investigations of human trafficking, including sex trafficking and forced labor, by: developing, tracking, and coordinating leads; providing subject matter expertise; and augmenting the enforcement of the prohibition on importation of goods produced with forced labor through civil and criminal authorities.

The CCHT coordinates a DHS-wide effort to conduct procurement audits and enforcement actions, such as suspension and debarment, to mitigate the risk of human trafficking throughout DHS acquisitions and contracts, and supports all CCHT enforcement efforts with intelligence by conducting lead development, lead validation, case support, strategic analysis, and data analytics.

- The CCHT Programs Unit has two sections: Victim Protection and Training & Outreach. Through incorporation of a victim-centered approach in DHS policies, training, and practices, the CCHT Victim Protection section is working to: improve screening, identification, and support of victims; integrate survivor voices; and expand law enforcement's use of Continued Presence, a temporary immigration designation for victims of human trafficking, and support for T visas and U visas. Continued Presence is a discretionary law enforcement tool to be utilized on a case-by-case basis as warranted and appropriate and is both a renewable and revocable temporary immigration designation.

The Victim Protection section processes Continued Presence requests, publishes educational materials, conducts any training required to implement 22 U.S.C. § 7105(c)(3), and is implementing a digital submission process to improve responsiveness, monitoring, and data collection related to the program.

The CCHT Training & Outreach section develops, conducts, reviews, and assists with DHS human trafficking training, targeting federal, state, local, and international law enforcement and other stakeholders. In FY 2021, the CCHT hosted 31 external training events (both virtual and in person) to more than 2,080 law enforcement and public participants, with lectures and case studies on topics including human trafficking awareness and indicators, trafficker methods, prosecuting federal investigations, task force models, best practices in investigative operations, forensic interviewing, and victim assistance. The CCHT coordinates closely with the DHS Blue Campaign's ongoing efforts to promote nationwide public awareness to encourage victim identification and reporting to law enforcement, and the prevention of human trafficking.

- **ICE HSI Child Exploitation Investigations Unit (CEIU)**

HSI is recognized as a global leader in this investigative discipline and is committed to utilizing its vast authorities, international footprint, and strong government and nongovernment partnerships to identify and rescue child victims, to identify and apprehend offenders, to aid in the prevention of transnational child sexual abuse, and to help make the internet a safer place for children. The HSI CEIU identified and/or rescued 1,177 child victims in child exploitation investigations in FY 2021.

The HSI Cyber Crimes Center, CEIU, investigates producers and distributors of child sexual abuse material, as well as individuals who travel abroad for the purpose of engaging in sex with minors, also known as transnational child sexual offenders. The CEIU employs the latest technology to collect evidence and to track the activities of individuals and organized groups who sexually exploit children using the dark web, chat rooms, peer-to-peer trading, and other internet-based platforms. The CEIU aids HSI field offices; coordinates major investigations; conducts operations throughout the world to identify and rescue child victims and to identify and apprehend offenders; delivers training to HSI personnel as well as to state, local, federal, and international law enforcement partners; and participates in various domestic and international technical working groups with a focus on rescuing children from child sexual exploitation and abuse.

- **ICE HSI Angel Watch Center (AWC)**

Initially created in 2007 as "Operation Angel Watch" and formally established in 2016 through International Megan's Law, the AWC is managed by CEIU as a joint effort with U.S. Customs and Border Protection (CBP) and the U.S. Marshals Service. AWC plays a crucial role in the global fight against transnational child sexual abuse by targeting individuals who previously were convicted of sexual crimes against a child and who may pose a potential new threat—traveling overseas for the purpose of sexually abusing or exploiting minors. Using flight data, along with the National Sex Offender Registry and

publicly available state sex offender websites, CEIU and CBP, through HSI Attaché offices or CBP joint partnerships, identify and alert foreign law enforcement of offenders pending arrival to their country. Since the formal establishment of the AWC in 2016, more than 16,000 notifications of international travel have been sent to foreign countries regarding convicted child sex offenders. Of the more than 16,000 notifications, 6,100 denials of entry were made by the foreign countries. Also since 2018, the AWC has provided notice to the U.S. Department of State of more than 5,600 U.S. passports that require the International Megan's Law child sex offender endorsement. In FY 2021 alone, the AWC provided 2,160 notifications of travel and referred 1,125 passports to the U.S. Department of State. Of the 2,160 referrals, foreign nations denied entry to 609 registered child sex offenders.

- **ICE HSI Victim Assistance Program (VAP)**

The VAP was established in 2008. VAP personnel are responsible for: assessing victims' needs and working with HSI agents to integrate victim assistance from the beginning and throughout the investigation; ensuring that victims are transferred to safe locations and are provided with referrals for medical, mental health, and other assistance, including long-term immigration relief, case management, and other services deemed necessary; crisis response; intervention; and arranging emergency housing, food, and basic needs.

Fundamental to HSI VAP's mission is building partnerships with nongovernmental organizations (NGO), which play a critical role in identifying victims, providing victim services, restoring victims' well-being, and stabilizing victims, all of which also contribute to a victim's ability to become an effective witness. Many case referrals come from working in local task forces and from NGOs providing community and victim services. VAP maintains and provides overall guidance and training to all HSI personnel regarding policies and practices pertaining to victim-related matters. VAP ensures that victims are advised of their rights and that they receive the assistance needed in compliance with federal statutes, the U.S. Attorney General Guidelines for Victim and Witness Assistance, and ICE and HSI policies.

VAP personnel provide victim-centered and trauma-informed approaches when interacting with victims. Victim Assistance Specialists (VAS) and Forensic Interview Specialists support U.S. citizens and foreign national victims of all crimes investigated by HSI agents, to include child exploitation; sex trafficking; labor trafficking; female genital mutilation; and financial, gang, and other crimes; and treat all victims with respect and dignity. This includes victims who are U.S. citizens and noncitizens.

The objective of a victim-centered approach is to focus on the needs and concerns of a victim to ensure the compassionate and sensitive delivery of services in a nonjudgmental manner. A trauma-informed approach recognizes how trauma affects victims' response to the criminal justice process and seeks to avoid victim re-traumatization, increasing the safety of all and the effectiveness and efficiency of interactions with victims. This includes victim-centered practices that place priority on the survivor's feelings of safety, choice, and control.

VAP has 34 VAS positions located throughout the United States. There is at least one VAS position in each HSI Special Agent-in-Charge (SAC) office, and two VAS positions in four HSI SAC offices—New York, Chicago, Kansas City, and Los Angeles—to aid identified crime victims in HSI investigations. Assistance includes supporting special agents with the immediate application to the DHS CCHT for Continued Presence for identified victims of a severe form of trafficking who may be potential witnesses in the investigation and/or prosecution of those responsible for such trafficking. Additionally, VASs may work with the CCHT to provide training and guidance to state, local, and tribal law enforcement agencies on Continued Presence.

VASs refer victims to immigration legal services in order to assess eligibility for Violence Against Women Act (VAWA) benefits and relief for victims of domestic violence, T visas for identified victims of human trafficking, and U visas for victims of other specified crimes who are willing to assist law enforcement. VASs also coordinate HSI support for T visas and U visas where the person was a victim in an HSI investigation or prosecution of the criminal activity.

In FY 2021, VAP funded the creation of 15 soft rooms. Evidence-based practices call for a trauma-informed approach when interviewing victims of crimes, and these rooms create a space that is comfortable and that allow the participant to feel physically and emotionally safe. The rooms are utilized by agents, VASs, and Forensic Interview Specialists to meet with victims and their families and to conduct victim interviews. The use of soft rooms can have a significant impact on the interview process and can minimize “re-traumatization” of victims.

In FY 2021, VAP assisted 2,380 victims worldwide, including 1,076 victims of child exploitation, 728 human trafficking victims, 353 financial crime victims, and 223 others.

C. ICE Office of the Principal Legal Advisor

In Fall 2020, OPLA established points of contact (POC) in each OPLA office nationwide for T visas (for human trafficking victims), U visas (for qualifying crime victims), and VAWA benefits and relief (for domestic violence victims). These T visa/U visa/VAWA POCs receive specialized training and then assist the full cadre of OPLA attorneys in their offices on how to handle removal proceedings involving noncitizen crime victims who have applied for victim-based immigration benefits. OPLA also provides instruction to all new OPLA attorneys on noncitizen crime victims and victim-based immigration benefits, and provides ad hoc trainings on related, substantive topics.

D. ICE Enforcement and Removal Operations

ERO is another critical U.S. law enforcement entity upholding U.S. immigration laws. ERO’s work is critical to the enforcement of immigration law against those who present a danger to our national security, are a threat to public safety, or who otherwise undermine the integrity of our immigration system. ERO conducts civil enforcement actions targeting noncitizens posing the

greatest risk to the safety and security of the United States and those who compromise the integrity of our borders.

ERO is also engaged in numerous initiatives related to identification of human trafficking, such as: 1) improving screening processes to identify potential traffickers and victims better; 2) improving officer and contractor awareness of human trafficking through training; 3) developing consistent reporting processes; and 4) increasing awareness of human trafficking among noncitizens who are in ERO custody or who are interacting with ERO through the nondetained docket.

ERO detains priority noncitizens across the United States in a network of facilities. This population, because of their migration goals and/or legal status, may be victims of human trafficking and other crimes when ERO encounters them or are more vulnerable to becoming victims if/when they are released from the detention setting.

In August 2020, ERO requested that field offices display DHS Blue Campaign posters within nondetained reception areas wherever practical, including reporting offices and suboffices, and make Blue Campaign key-tags available to those noncitizens reporting to these offices. ERO facilitated the ordering and delivery of posters and key-tags. In response to the request, nearly 800 posters and thousands of key-tags were sent to field offices around the country for posting and distribution. Additionally, in April 2021, staff from CCHT provided training to Custody Resource Coordinators, contract personnel who assist with vulnerable noncitizens in custody in certain locations.

In May 2021, ERO instituted an initiative to raise awareness of human trafficking in the detention setting. In coordination with the Blue Campaign, ERO designed human trafficking awareness posters to be displayed in all over-72-hour facilities. The posters are available in eight languages (English, Spanish, French, Portuguese, Haitian Creole, Russian, Chinese, and Punjabi) and describe what human trafficking is as well as indicators of victimization. The posters also remind noncitizens in detention that they can report human trafficking to the Detention Reporting Information Line.

When noncitizens are released from detention, they are provided with a one-page handout in the same eight languages that again describes what human trafficking is along with indicators of victimization, and provides the HSI Tip Line phone number, as well as the National Human Trafficking hotline number.

Per the August 10, 2021, ICE Directive 11005.3, *Using a Victim-Centered Approach with Noncitizen Crime Victims*, ICE ERO is directed to provide its officers with guidance and annual training for engaging with victims and witnesses of crime, including victims of domestic violence, and to strengthen policy guidance on enforcement actions in or near sensitive locations, including courthouses, to minimize any effect that immigration enforcement may have on the willingness and ability of victims and witnesses to pursue justice.

ERO is directed to continue its program to enable certain noncitizens on the nondetained docket to report via self-service kiosks. The Compliance Assistance Reporting Terminal agreement

provides not less than \$3,000,000 for this program. ICE has implemented the use of kiosks in select locations and continues to look to expand use. By using this technology option, it allows ICE to be able to provide limited automated oversight for those noncitizens who have been determined to be at low risk of criminal activity or noncompliance with release conditions through automated check-ins, limited record checks, updates to the government, and biometric identification.

III. ICE Policy Efforts

ICE remains committed to maintaining transparency and accountability for crime victims and witnesses of crime. The ICE-issued Directive, *Using a Victim-Centered Approach with Noncitizen Crime Victims*, sets forth policy regarding noncitizens who apply for and are beneficiaries of victim-based immigration benefit requests.

This ICE Directive sets civil immigration enforcement policy for various victim-based immigration beneficiaries, including applicants for and beneficiaries of T visas; U visas; VAWA relief for qualifying domestic violence victims; and Special Immigrant Juvenile classification for qualifying children who have been abused, neglected, or abandoned by one or both parents. Specifically, the policy states that when a noncitizen has a pending or approved application or petition for a victim-based immigration benefit, absent exceptional circumstances, ICE will exercise discretion to defer decisions on civil immigration enforcement actions, including placing a detainer, assuming custody, detaining, or working to effectuate removal, against the applicant (primary and derivative applicants) until U.S. Citizenship and Immigration Services (USCIS) makes a final determination on the pending victim-based immigration benefit application(s) or petition(s), or until USCIS concludes that a U visa petition is not bona fide.

HSI Directive 21-05, issued October 19, 2021, *Federal Victim Assistance Mandates and Responsibilities*, provides HSI personnel with policies and procedures required to comply with federal crime victims' rights for victims identified in HSI investigations.

IV. Conclusion

All ICE personnel who encounter crime victims are required to do so through a victim-centered approach, which is adopted broadly by federal law enforcement agencies whereby equal value is placed on the identification and stabilization of victims and the deterrence, investigation, and prosecution of perpetrators. This approach should be applied to policymaking and civil immigration enforcement actions to the greatest extent possible, consistent with law. The goal of this victim-centered approach is to minimize any undue stress, harm, and trauma to the victim throughout the course of the investigation and prosecution of the offender regardless of the victim's age, gender, sexual orientation, or immigration status.

ICE will adopt measures to identify and assist victims proactively, such as alerting the OPLA attorneys to the victim status of a noncitizen in removal proceedings so that appropriate prosecutorial discretion may be considered, providing information about victim-based immigration benefits, and referring identified victims to appropriate law enforcement authorities.

Appendix: Abbreviations

Abbreviation	Definition
AWC	Angel Watch Center
CCHT	Center for Countering Human Trafficking
CEIU	Child Exploitation Investigations Unit
CRO	Community Relations Officer
CBP	U.S. Customs and Border Protection
DHS	Department of Homeland Security
ERO	Enforcement and Removal Operations
FY	Fiscal Year
HSI	Homeland Security Investigations
ICE	U.S. Immigration and Customs Enforcement
NGO	Nongovernmental Organization
OPLA	Office of the Principal Legal Advisor
OPE	Office of Partnership and Engagement
POC	Point of Contact
SAC	Special Agent-in-Charge
USCIS	U.S. Citizenship and Immigration Services
VAP	Victim Assistance Program
VAS	Victim Assistance Specialist
VAWA	Violence Against Women Act