



U.S. Citizenship
and Immigration
Services

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Memorandum

TO: All Asylum Office Personnel

FROM: John Lafferty
Chief, Asylum Division 

SUBJECT: Issuance of Revised Procedures Regarding Trafficking Victims for the *Affirmative Asylum Procedures Manual*

The purpose of this memorandum is to announce the issuance of revised procedures regarding trafficking victims to replace the current procedures in the *Affirmative Asylum Procedures Manual* (AAPM). These revised procedures will be located in Section III.B.14 of the AAPM wiki site.

The revised procedures include guidance on detecting possible trafficking victims¹; notifying Asylum Office management of the existence of an asylum applicant who also appears to be a trafficking victim; referring the cases of possible trafficking victims to the appropriate law enforcement and social service authorities; providing specific, authorized informational materials to possible trafficking victims; and tracking the cases of possible trafficking victims.

Suggestions and questions concerning the revised procedures should be addressed to Kimberly Sicard at kimberly.r.sicard@uscis.dhs.gov.

Attachment

¹ Asylum Officers are neither trained nor expected to "identify" trafficking victims for the purpose of determining their eligibility for other forms of immigration relief; however, Asylum Officers must be able to recognize trafficking indicators so that they can detect possible trafficking victims and take the steps outlined in the revised guidance. Trafficking indicators are described in the Refugee, Asylum and International Operations Combined Training (RAIO CT) lesson plan entitled "Detecting Possible Victims of Trafficking" and located on the USCIS Enterprise Collaboration Network (ECN) at [http://ecn.uscis.dhs.gov/team/raio/PerMgt/Training/Lesson%20Plans/Trafficking%20LP%20\(RAIO\).doc](http://ecn.uscis.dhs.gov/team/raio/PerMgt/Training/Lesson%20Plans/Trafficking%20LP%20(RAIO).doc).

III. Expanded Topics

B. Categories of Cases

14. Trafficking Victims

The Trafficking Victims Protection Act (TVPA) guarantees certain rights, services, and protections to victims of severe forms of trafficking.

The TVPA defines a victim of a severe form of trafficking as a person subject to:

- (A) sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age
OR
- (B) 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.

While Asylum Officers are not responsible for making a determination as to an applicant's status as a victim of trafficking, Asylum Officers can play a key role in the protection of victims and in the prosecution of traffickers by detecting indicators of trafficking during an applicant's testimony and bringing cases of possible trafficking victims to the attention of ICE officials.

If the potential victim is a child filing for asylum as a principal applicant, the Asylum Officer should consult Section III.B.1, Children Filing as Principal Asylum Applicants, for additional guidance.

Each Asylum Office Director must designate a Supervisory Asylum Officer (SAO) as the point of contact (POC) for human trafficking matters for their office. This POC will serve as the principal liaison between the asylum field office and the ICE POC during the trafficking referral process outlined below. In the event that the SAO Trafficking POC is unavailable when a trafficking-related situation arises, all SAOs must be trained and prepared to serve as back-up POCs.

The Asylum Officer must differentiate between a suspected current trafficking situation, where the applicant may be in immediate danger because he or she is a possible or self-declared victim of current trafficking, and a possible or self-declared victim of past trafficking.

Asylum Officers encountering possible victims of human trafficking during the course of an asylum adjudication must follow this five step process: 1) detection, 2) notification, 3) referral, 4) information providing, and 5) tracking.

Step 1- Detection:

In the course of an asylum interview, an AO should be aware of the indicators of human trafficking. For a reminder of possible indicators of trafficking, please consult the RAIO

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Combined Training Trafficking Lesson Plan.

Once an Asylum Officer suspects that an applicant has been or is currently being trafficked, he or she should ask follow-up questions to elicit more information without alerting the applicant or any individuals accompanying the applicant of the concern.

Facts related to the suspected trafficking should be documented in the interview notes. The AO should specifically annotate whether he or she thinks the applicant is currently a victim of trafficking who may be in imminent danger and/or has been trafficked in the past and is no longer in imminent danger.

If the applicant is a minor, the AO should consult Section III.B.1, Children Filing as Principal Asylum Applicants, to ensure that his or her inquiry is child sensitive and that it includes questions concerning the minor applicant's care and custody situation, as well as whether the parents are aware of and approve of the asylum application.

Step 2- Notification:

Once the Asylum Officer has identified through line of inquiry indicators that an applicant has been or continues to be a victim of trafficking, the Asylum Officer must alert and discuss the suspicion and indicators of trafficking with the designated SAO POC.

The AO should complete the "Victims of Trafficking Memo to File," located at the end of the RAIO Combined Training Trafficking Lesson Plan, and provide an electronic copy to the SAO POC.

If the potential victim is a minor principal applicant, Asylum Office management must be alerted and the case must be reported to the HQASM QA mailbox. *See* Section III.B.1, Children Filing as Principal Asylum Applicants. As all minor principal applicants' cases must come to HQASM for QA review, HQASM will instruct on whether the Asylum Office should proceed with drafting an assessment and submitting a QA referral packet or whether the Asylum Office should postpone such action while issues related to the minor's care and custody situation are being addressed.

Step 3- Referral:

The Asylum SAO POC will determine the timing and method of a referral to ICE in the case of a possible victim of trafficking based on whether he or she believes the applicant is currently being trafficked and faces any imminent danger.

In instances where the AO and SAO POC believe the applicant is currently a victim of trafficking and is possibly in danger, referral to ICE is immediate.

- 1) The SAO POC makes a referral to ICE by phone while the applicant is still in the Asylum Office.
- 2) The SAO POC relays the indicators of trafficking to the ICE agent and together they form a plan for action.
- 3) The applicant should not be alerted to the fact that an ICE agent is being called, unless the SAO POC can confirm that the applicant is not in danger and is not accompanied by anyone who poses a risk to the applicant. The timing and method of

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the ICE response will vary based on the AO's and SAO POC's perception of the imminent risk faced by the applicant. Further, the overall accessibility of ICE units may vary nationwide.

- 4) The SAO POC must use the following means, in the order listed below, to ensure an immediate verbal referral to an ICE agent in these situations.
 - Call the individual field office's pre-established ICE POC, the Supervisor of an ICE Human Trafficking and Smuggling Unit, located in the proximity of the Asylum Office.
 - If the ICE POC is not responsive, call the ICE National Directory (X- Sector) at 1-800-XSector and ask to speak with the supervisor of the Human Trafficking and Smuggling Unit in that city. If X-Sector does not have that information, the SAO POC should request the duty agent in the closest ICE field office.
 - If the SAO POC is unable to reach an agent through either of these mechanisms, he or she should contact the Trafficking POC at HQASM.

Note: If the potential applicant is a minor, ICE's internal policy dictates that they respond immediately regardless of whether the individual is in a dangerous situation.

In instances where the AO and the SAO POC do not believe that the applicant is currently being trafficked and is not in imminent danger, the referral to ICE will involve the SAO POC sending the local ICE Assistant Special Agent in Charge (ASAC) a copy of the memo to file via email or fax for his or her records.

If the applicant's case has already been investigated by ICE, there would be no need to refer the case, unless the affirmative asylum interview revealed information that raised new or additional concerns.

In addition to notifying ICE, the Trafficking Victims Protection Act (TVPA) requires that federal, state, and local officials notify the Department of Health and Human Services (HHS) within 24 hours of the discovery of a person who is under 18 years of age (whether accompanied or not) who may be a victim of a severe form of trafficking in persons.¹ This is so that HHS can provide interim assistance to any such individual. If Asylum Officers encounter an asylum applicant under 18 years of age whom they discover may be a victim of a severe form of trafficking in persons, they should inform their office's POC for unaccompanied alien children's issues (UAC POC). The UAC POC must send an e-mail to the HHS Office of Refugee Resettlement (ORR) at ChildTrafficking@acf.hhs.gov or call 202-205-4582. An e-mail should contain as much of the following information as possible:

¹ TVPA § 107(b)(1)(G); 22 USC 7705(b)(91)(G).

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Standard subject line: USCIS Notification to HHS of Discovery of a Person Who is under 18 Years of Age Who May Be a Victim of a Severe Form of Trafficking in Persons

Body:

Pursuant to section 107(b)(1)(G) of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA), this e-mail serves as notification to the Department of Health and Human Services that U.S. Citizenship and Immigration Services has discovered the following person who is under 18 years of age who may be a victim of a severe form of trafficking in persons:

1. Alien number:
2. Name:
3. Date of birth:
4. Country of citizenship:
5. Residence address:
6. Location of exploitation:
7. Suspected form of trafficking:
8. Represented by:
9. USCIS contact information:
10. Additional notes:

An ORR Child Protection Specialist will respond to each notification during regular business hours, Monday through Friday, and will follow up with the reporting official as appropriate. Follow-up will involve facilitating interim and long-term eligibility, where applicable, and providing technical assistance as needed.

Step 4- Providing Information to Possible Victims of Trafficking:

Asylum Officers must provide possible victims of trafficking with the following informational pamphlets. These pamphlets outline the trafficking-specific immigration benefits and the contact information of service providers who assist victims of trafficking.

These pamphlets must only be given to an applicant if the AO and the SAO POC are certain that the applicant is no longer at risk of trafficking and/or that the providing of this information to the applicant (who may be accompanied by persons involved in the trafficking) would not put the applicant in danger.

The AO will provide the applicant with the following:

- 1) USCIS "Immigration Remedies for Victims of Violence" brochure;
- 2) DOJ Office of Victims of Crime list of federally funded anti-trafficking non-governmental organizations that operate across the United States;

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- 3) HHS National Human Trafficking Resource Center hotline number (National Directory for all trafficking-related referrals): 1-888-3737-888.

Step 5- Tracking:

The AO completes the "Victims of Trafficking Memo to File," located at the end of the RAIO Combined Training Trafficking Lesson Plan, places a copy on the right-hand side of the A-file, and provides an electronic copy to the SAO POC.

Once this has been done, the AO processes the asylum case as usual.