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Federal Law Enforcement Efforts to Counter Human Smuggling and Human Trafficking

Human smuggling and human trafficking crimes continue to be of interest to local, state, and federal policymakers, law enforcement, and others. The federal government responds to both types of crimes in various ways, including using the resources of federal law enforcement agencies. This In Focus discusses the distinction between human smuggling and human trafficking and provides an overview of federal law enforcement efforts to counter human smuggling *into* and human trafficking *within* the United States.

Distinguishing Between Human Smuggling and Human Trafficking

The term *human smuggling* is often mistakenly used interchangeably with *human trafficking*; however, they are distinct concepts. As the Department of Homeland Security (DHS) noted in its 2020 *Department of Homeland Security Strategy to Combat Human Trafficking, the Importation of Goods Produced with Forced Labor, and Child Sexual Exploitation*, “human trafficking does not require crossing a border. Human trafficking victims have been exploited by their trafficker for commercial sex acts or labor. By contrast, human smugglers engage in the crime of bringing people into the United States, or unlawfully transporting and harboring people already in the United States, in deliberate evasion of immigration law. In some situations, human smuggling may result in human trafficking.”

Some observers have also noted that human smuggling is a crime against *the state* whereas human trafficking is crime against *an individual*. And while it can sometimes be challenging to distinguish between the two, particularly in situations where smuggled migrants have later been trafficked, the United Nations Office on Drugs and Crime (UNODC) has highlighted key factors of differentiation:

- **Consent.** Smuggling involves moving individuals who have consented to being smuggled; trafficking involves exploiting individuals who never consented, or if they initially consented, became victimized with the addition of force, fraud, or abuse.
- **Exploitation.** Smuggling ends with the arrival of an individual at their destination; trafficking involves the ongoing exploitation of a victim for profit.
- **Transnationality.** Smuggling involves crossing international borders; trafficking does not need to involve the movement of persons.

Federal Law Enforcement Response to Human Smuggling

Transnational Organized Crime (TOC) networks generate substantial proceeds (estimates have ranged from the hundreds of millions to billions of dollars) from smuggling migrants into the United States, primarily through smuggling routes along the U.S.-Mexico border. The Biden Administration launched the *Counter Human Smuggling* campaign—led by DHS—in 2022 to target criminal networks involved in smuggling operations.

U.S. Immigration and Customs Enforcement, Homeland Security Investigations (ICE/HSI), the principal investigative component of DHS, leads federal law enforcement efforts to enforce immigration laws, including human smuggling (also referred to as *alien smuggling* in statute; 8 U.S.C. §1324) and related offenses. ICE initiated over 2,200 human smuggling investigations in FY2022. Specifically, ICE’s Human Smuggling Unit (HSU) works to identify, disrupt, and dismantle criminal travel networks and human smuggling; HSU’s Extraterritorial Criminal Travel (ECT) program focuses resources on targeting criminal travel networks that pose threats to national security and public safety. U.S. Customs and Border Protection (CBP), also within DHS, is involved in detecting smuggling activity at and between ports of entry.

DHS, the Department of Justice (DOJ), and the Department of State collaborate on Operation Sentinel, which seeks to counter smuggling networks in Mexico. DHS and DOJ further coordinate on Joint Task Force Alpha (JTFA), a joint partnership announced in June 2021 to investigate and prosecute criminal smuggling networks operating in Mexico and the Northern Triangle countries of El Salvador, Guatemala, and Honduras. DOJ notes that as of the end of FY2022, JTFA had resulted in 120 domestic and 38 international arrests as well as 54 convictions.

DOJ’s Criminal Division, largely through the Human Rights and Special Prosecutions Section, prosecutes federal criminal cases of human smuggling. Data from the U.S. Sentencing Commission indicate that the number of individuals convicted of alien smuggling in federal court generally increased from FY2018 to FY2022. Alien smuggling was the primary charge for 4,056 sentenced offenders in FY2022 compared to 2,843 offenders in FY2018. Of the offenders sentenced in FY2022, 73.8% were U.S. citizens; over half of the cases (52.3%) involved smuggling, transporting, or harboring fewer than six people; and 10.9% of alien smuggling offenses involved an unaccompanied minor.

Federal Law Enforcement Response to Human Trafficking

Human traffickers exploit vulnerable individuals for commercial sex and forced labor in a variety of legal and illegal industries, both across the United States and around the world. The federal approach to countering human trafficking employs interagency partnerships to prevent trafficking, protect victims, and prosecute perpetrators. With respect to this third element, federal law enforcement agencies largely focus efforts on dismantling human trafficking networks and holding traffickers accountable.

In the United States, federal human trafficking investigations are primarily the responsibility of ICE and the Federal Bureau of Investigation (FBI). Federal law enforcement generally takes a victim-centered approach to human trafficking. This approach places equal value on identifying and stabilizing victims as well as deterring, investigating, and prosecuting traffickers. Part of this approach involves federal law enforcement relying on victim assistance specialists who can help support forensic interviews (that help law enforcement understand what happened and determine if a crime occurred) and connect victims with immediate assistance and long-term support. In addition to taking a victim-centered approach to trafficking investigations, federal law enforcement also uses trauma-informed, culturally sensitive approaches intended to avoid retraumatizing victims.

Federal law enforcement uses a variety of collaborative efforts to counter trafficking. For instance:

- Both the FBI and ICE lead and participate in human trafficking groups and task forces.
- In 2011, DHS, DOJ, and the Department of Labor established the Anti-Trafficking Coordination Team (ACTeam) Initiative to bring together federal investigators and prosecutors in select areas of the country to streamline enforcement efforts.
- ICE leads the DHS Center for Countering Human Trafficking, an intra-department effort to counter human trafficking and the importation of goods produced with forced labor.
- Some collaborative efforts are focused on certain populations; for example, DOJ supports the Internet Crimes Against Children (ICAC) task force program, which brings together federal, state, and local law enforcement to investigate, prosecute, and develop responses to internet crimes against children, including those related to trafficking.

DOJ prosecutes human traffickers violating federal law related to peonage, slavery, forced labor and sex trafficking (18 U.S.C. §§1581-1595); sexual exploitation of children (18 U.S.C. §§2251-2251A); and transportation for illegal sexual activity (18 U.S.C. §§2422-2423) and related crimes.

1,672 individuals were prosecuted for federal human trafficking violations in 2021, up from 729 in 2011.

Policy Considerations

ICE specifically pursues cases against transnational criminal organizations with a financial nexus. These cases include financial fraud, including cyber-enabled financial fraud, money laundering, and international corruption. ICE developed an Illicit Pathways Attack Strategy (IPAS) that focuses on, among other things, enhancing intelligence and information sharing, investigations and interdictions, targeting the finances of criminal networks, and bolstering work with transnational criminal investigative units (TCIUs)—law enforcement in source and transit countries working with ICE to facilitate investigations. Initially, the IPAS focused on human smuggling and trafficking investigations, but has since expanded to target a broad range of illicit activity facilitated by criminal networks. ICE has cited its Mexico TCIU as integral in facilitating U.S.-Mexico cooperation on cases against human smuggling networks. Policymakers may continue to examine the effectiveness of TCIUs in helping to identify and counter criminal networks, including whether recent changes have strengthened these units. For instance, the James M. Inhofe National Defense Authorization Act for FY2023 (P.L. 117-263) provided ICE with the authority to pay stipends to TCIU vetted members, a change ICE identified as a way of promoting success by improving recruitment and retention, and Congress may examine effects of this change. Policymakers may also study whether the advanced safety training sessions that ICE reportedly launched have been effective in keeping TCIU agents safe in partner nations.

With respect to human trafficking, the White House's 2021 *National Action Plan to Combat Human Trafficking* (2021 plan) sets goals intended to prevent trafficking, protect victims, and prosecute traffickers. Specifically, it aims to increase human trafficking investigations and prosecutions by improving law enforcement coordination; enhancing law enforcement capacity to investigate and prosecute trafficking; enhancing non-criminal tools such as civil enforcement; and increasing efforts to counter forced labor violations. Policymakers may examine not only whether federal investigators and prosecutors have the proper resources—including authorities, funding, and staffing—but how they may be employing those resources to achieve the goals of the 2021 plan. For instance, some observers have recommended that law enforcement enhance investigations and prosecutions of labor trafficking cases because, historically, there have been more resources allocated to countering sex trafficking than labor trafficking violations. Policymakers may also examine whether there should be specific metrics attached to the goals laid out in the national action plan and related strategies—such as DOJ's 2022 *National Strategy to Combat Human Trafficking*—in order to achieve their goals.

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