

# STOP Newsletter

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## Sex Trafficking in the United States

### Prevalence

It is estimated that between 800,000 and 900,000 men, women, and children are trafficked world wide, across international borders each year (U.S. Department of Health & Human Services Administration for Children & Families, 2004). Of those victims, between 45,000 and 50,000 women and children are trafficked into the United States annually for sexual exploitation or labor annually (World Health Organization, 2002, p. 155). Trafficking is a pervasive problem in the United States: “Federal and local law enforcement officers have uncovered human trafficking operations in virtually every state and territory of the United States (Venkatraman, 2003, p. 35). Trafficking carries a heavy sentence and prosecution is on the rise. However, victims of trafficking continue to suffer in an underground and often-inescapable prison of exploitation while their traffickers make a profit and often go unpunished.

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*(Venkatraman, 2003, p. 35)*

### Definition

Sex trafficking is defined in the Trafficking Victims Protection Act of 2000 (TVPA) 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 is induced by force, fraud, or coercion, or in which the person forced to perform such an act is under the age of 18 years” (Office on Violence Against Women, 2004). Equated to modern-day slavery, forms of sex trafficking includes child and adult prostitution, pornography, bride trafficking, military prostitution, and sex tourism.

### Causes

There is both a supply and demand for sex trafficking. Men, women, and children are pushed out of their homes due to physical and/or sexual violence, poverty, lack of employment and educational opportunities, political instability, and discrimination. Some victims volunteer while others are forced into the trade as a means of survival. Global economic crises impact women and children disproportionately, leaving them particularly desperate and vulnerable. Traffickers exploit these inequities to meet a growing demand for pornography, prostitution, and mail-order brides around the globe.

### Victims

While victims of sex trafficking include men and boys, it is widely thought that women and girls are the primary victims of sex traffickers (US Department of Health and Human Services Rescue & Restore, 2004). Traffickers often prey upon women and children living in poverty in Asia, Central and Eastern Europe, republics of the former Soviet Union, Africa, and Latin America. However, trafficking also victimizes Americans; run-away youth are often targeted by traffickers and forced into prostitution and pornography (Venkatraman, 2003). Traffickers target their victims through deceptive enticements and advertisements for positions as nannies, waitresses, domestic servants, and dancers. Appearing legitimate on the surface, these ads promise victims something “better,” in comparison to the bleakness of their current options.

Traffickers bribe victims with gifts, promises, passports, visas, identification documentation, and travel tickets. Once within the borders of the destination state/country however, traffickers take these papers away, stripping victims of their identities, mobility, and access to the outside world. Victims are held against their wills in debt-bondage—forced to “pay off” the costs of their “acquisition” and travels through prostitution, pornography, stripping/dancing at men’s clubs, and forced marriage.

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## Sex Trafficking in the United States

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Victims of sex trafficking endure torture, beatings, rapes, forced exposure to sexually transmitted diseases, threats to themselves and their families, unwanted pregnancies, forced abortions, sexually transmitted diseases including HIV/AIDS, starvation, imprisonment, and extreme isolation at the hands of traffickers, pimps, and “customers.” Victims may experience extreme trauma, physical injuries, and use drug and alcohol to cope and mentally escape.

### Traffickers

The selling and exploitation of women and children earn traffickers an estimated US \$7+ billion annually (Hughes, 2001, p. 9). Sex traffickers may be individual criminals or part of larger organized crime rings. They may be involved in drug- and illegal arms-trafficking, money laundering, and other forms of illegal industry in addition to sex trafficking. Technology is frequently used to facilitate their crimes. Traffickers systematically recruit and enslave their victims using debt-bondage; isolation; confiscation of passports, visas, and identification documents; threatened or actual violence against victims and their families; as well as the shame of public exposure.

### Challenges

The existence of trafficking relies to a large extent on secrecy, making it difficult to identify and prosecute. Escaping the enslavement of sex trafficking may seem impossible to victims for many reasons. Victims may not trust law enforcement or advocates. They may fear that if they come forward, they will be deported, arrested, or imprisoned. Victims may have been so intensely isolated by traffickers and pimps that they are not aware of services, protections, and their rights. They may not have access to a phone, transportation, local maps, etc. Shame may play a role in isolating victims; in some cultures, women are unmarriageable, ostracized, and sometimes killed if they have been raped or sexually active out of wedlock. Victims may be traumatized, not knowing where to turn or how to cope. Services in the languages and cultures of victims may not exist. Flawed systems coupled with the stigma attached to prostitution may result in the punishment of victims. All of these barriers contribute to the extreme isolation victims of sex trafficking may experience.

### Possible Interventions

The TVPA of 2000 declared human trafficking a federal crime. This landmark legislation outlined ways to prevent trafficking, protect victims, and prosecute perpetrators. This law requires that all victims of trafficking be protected while in custody. Under TVPA, 5,000 victims of the most severe forms\* of trafficking will be eligible for temporary U.S. residence (T-visas). Victims may also be eligible for U-visas under the Battered Immigrant Women Protection Act of 2000, S-visas if they are assisting in certain criminal investigations and asylum if they face persecution in their countries of origin. Under TVPA, while in custody, victims are to receive food, shelter, medical care, information about legal rights, translation, and other services regardless of their immigration status. Funding, in the form of grants, was made available via TVPA to develop and implement services to victims of trafficking. State and local government, Indian tribes, and non profit organizations are eligible for this funding.

Despite TVPA provisions and federal and local anti-trafficking efforts, victims are often more severely punished than their traffickers when they do come forward. Although visas are available that allow victims to remain within the United States, the system is not perfect. Not all victims are treated well. Not all victims are deemed eligible for visas and other protections. A victim may be deported despite their desire to remain in the United States. As first responders, it is important for police officers and advocates to continue to strive for victim-centered services and investigations for victims of trafficking. To that end, officers and advocates can become and stay informed of services and benefits available to victims under FVPA; learn and practice empathic interviewing skills; consult with interventions and resources that are available in fighting trafficking (see below); raise awareness about trafficking locally; and collaborate with local, national, and international anti-trafficking efforts. “The challenge for governments today is to punish the growing numbers of sexual exploiters—traffickers, pimps, procurers, and buyers—while not penalizing the women who find themselves in conditions of sex trafficking and prostitution” (Hynes, 2002, p. 221).

\*TVPA defines severe forms of trafficking as follows: “A victim of a severe form of trafficking in persons is anyone who has been subjected either (1) to sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform the commercial sex act is under 18 years of age, or (2) to 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.” ❁

# Battered Immigrants May Seek Residency

*By Sharon R. López, Pennsylvania Commission on Crime and Delinquency*

## What is self-petitioning?

Domestic violence knows no geographic boundary. Immigrants who come to the United States and marry US citizens (USC) or legal permanent residents (LPR) are at a greater risk of harm from a batterer than a US citizen. The USC spouse must “sponsor” the immigrant spouse thereby setting up a dynamic for dependency and continued abuse.

Before the Violence Against Women Act (VAWA) of 1994, battered immigrants had little recourse when a sponsoring spouse assaulted them. VAWA provided legislation to allow the battered spouse to take legal action for protection. Battered immigrants may secure lawful permanent resident status (a green card) without the battering spouse’s knowledge or sponsorship. This is called a VAWA Self-Petition.

## What do you need to prove on the petition?

Self-petitioning requires that you prove six basic elements: 1) Marriage; 2) Marriage to a USC or LPR; 3) Residence in the US for a period of time; 4) Battery or cruelty during the marriage; 5) Good Moral Character of the Petitioner; 6) Good Faith Marriage on the part of the petitioner. There are three classes of persons who may self-petition, spouses of USC, abused children, un-abused parents of abused children.

The first class of persons who may self-petition are persons married to USC or legal permanent residents. Marriage must be proven with a certificate. Common law partners may assert the marriage if the state of residency recognizes common law marriage. The one exception to the marriage requirement is if the abuser is a bigamist. Furthermore, the victim may self-petition if the batterer died or they divorced within the last two years.

The second requirement that the petitioner must prove is that the battering spouse was a USC or lawful permanent resident. If the battering spouse lost residency status by renunciation, or by deportation, the battered spouse may still self-petition; as long as the petition is filed within two years of the loss of status, and the loss of status or renunciation was related to domestic violence.

The third criterion for a self-petitioner is that the parties must have had residence in the USA. There are three exceptions to this rule. The first exception is when the battering spouse is an employee of the US government; the second exception is when the battering spouse is a member of the uniformed services. The last exception that the parties live abroad, but at some time the battering spouse subjected the victim to battery or extreme cruelty on United State’s soil.

The fourth criterion is that the self-petitioner must prove residence with the batterer at some time. Therefore, if a victim married the battering spouse overseas, but they never lived together overseas or in the United States; this requirement will not be met. However, if they resided together for a brief period in any country, the criterion is met. A self-petitioner need not separate from the spouse in order to self-petition.

The fifth criterion is that the self-petition must have good moral character. This can be proven with a criminal history background check from every locality of residence for six months or more during the preceding three years. Fingerprint submission may also be used.

The sixth criterion is that the self-petitioner proves the marriage was in good faith or that, in the case of bigamy, the intent to marry was in good faith.

Finally, the battered immigrant must show the existence of extreme cruelty or battery. This is defined very broadly and may include threats of violence, forcible detention, psychological abuse or sexual exploitation. See 8 C.F.R. § 204.2 (c)(vi). This is much broader than the definition of abuse in the Pennsylvania Protection From Abuse Act. 23 Pa.C.S.A 6102(a). A protection from abuse order will be important documentation for a battered immigrant’s self-petition. Police reports, medical records, affidavits of others, criminal records, photographs of damaged property or injuries may also be used.

## What is the process of self-petitioning?

The self-petitioner must file INS Form I-360. This is described as the Petition for Amerasian, Widow and Special Immigrants. The petition should be filed with the supporting documentation. The affidavit of the self-petitioner is the most important documentation as it tells the battered immigrant’s story of abuse and survival. The filing fee for the self-petition is \$185, however there is no fee for Amerasians. This affidavit must be filed with the Vermont Service Center (VSC). The staff at the VSC is specially trained to evaluate and review these applications. Once approval is secured, the petitioner must file for adjustment of status to obtain lawful permanent residence.



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### **What are the benefits of this remedy?**

There are several benefits to self-petitioning. First, a petitioner may receive employment authorization if “economic necessity” can be demonstrated. Second, the self-petitioner may apply for public benefits. The petitioner can receive these benefits after a prima facie determination by the Bureau of U.S. Citizenship and Immigration Services (formerly the INS).

If the victim is already in deportation proceedings, The Violence Against Women Act supports cancellation of the removal. This area of advocacy is even more complicated than self-petitioning. Please seek assistance before considering referring a victim to either of these processes.

### **Where can you get more help and information?**

VAWA 1994 did much to help battered immigrants spouses and children. Coordinated Community Response teams to Domestic Violence are learning more and more about this important new area of advocacy. There is much to learn and more help is needed. If you have a battered immigrant spouse or someone that you think may qualify for this relief, please contact an immigration advocate or an attorney who practices immigration law. ❁

For more information about the assistance your county may receive under the STOP grant, call PCAR at 800-692-7445 or PCADV at 888-235-3425. With your help we can all work to achieve the goals of the Violence Against Women Act!

