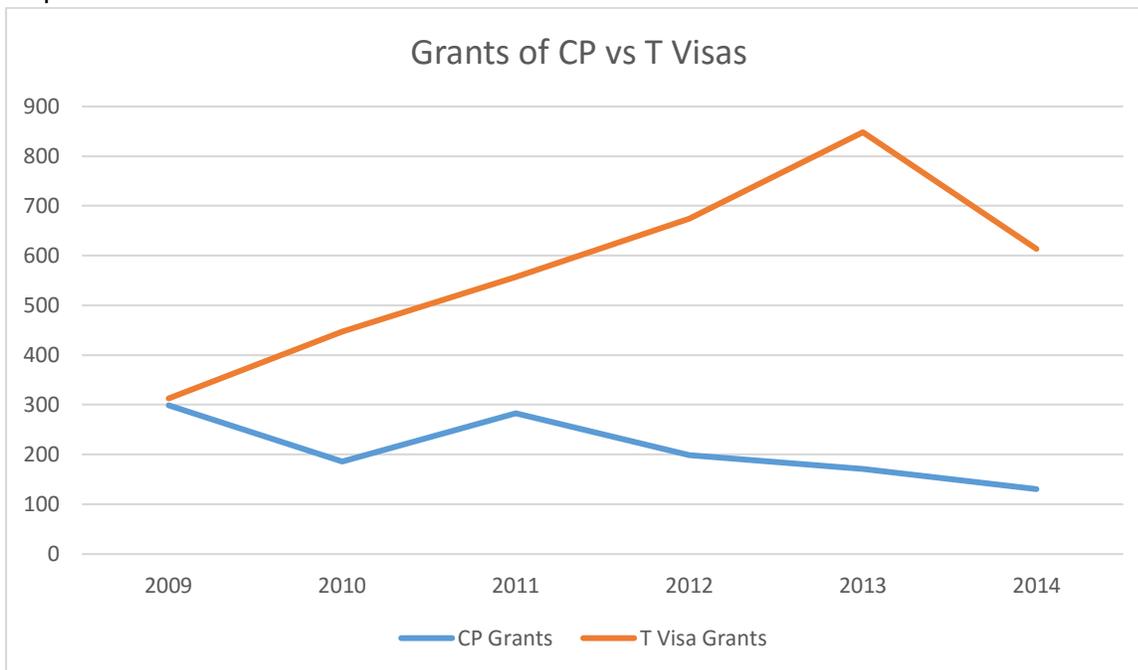


Continued Presence Implementation Challenges and Recommendations

The Freedom Network USA, established in 2001, is a coalition 38 non-governmental organizations and individuals that provide services to, and advocate for the rights of, trafficking survivors in the United States. As the largest network of providers working directly with trafficking survivors in the US, we are uniquely situated to evaluate the impact of US government efforts, such as the implementation of Continued Presence.

Continued Presence is an important, temporary, immigration remedy that ensures victims of human trafficking are able to access emergency services and support while working to apply for long-term immigration status. Unfortunately, while the number of T Visa grants is generally increasing (proving an increasing number of trafficking victims identified annually) the grants of Continued Presence have been decreasing, as reported in the annual TIP Report and AG's Report:



Members of the Freedom Network USA report challenges in accessing Continued Presence for their clients across the country that must be addressed to reverse this trend.

1. Law enforcement agencies set requirements, such as an “open investigation,” without clearly describing what qualifies.

Case Example:

2015- Agents from multiple federal agencies in the Midwest (HSI, FBI, DOS) tell advocates that they cannot request CP unless there is an open investigation, even while these agents are scheduling multiple interviews with the trafficking victim, but claim this does not rise to the level of an ‘open investigation.’

Note: This scenario has been reported by multiple Freedom Network USA members across the US.

2. Law enforcement agencies claim that they are limited in the number of CP requests they can file.

Case Example:

2015- An HSI agent in the Midwest refused to apply for CP, telling the advocate that the office would ‘get in trouble’ if it submitted too many CP requests.

3. Law enforcement officials seem uncertain about the requirements or process for CP, thus are unwilling to apply for Continued Presence, but instead grant Deferred Action or provide only a T Visa Supplement B.

Case Examples:

2015- HSI agents in the Northeast told an advocate that the CP Application required approval by ‘someone at DOJ’ so issued Deferred Action instead of CP.

2014- HSI agents in the Northeast signed a Supplement B but refused to apply for CP for a client that was identified by a service provider.

4. Law enforcement officials are dismissive of labor trafficking cases, suggesting that they are ‘merely’ labor exploitation and are thus unwilling to apply for CP.

Case Examples:

2015-2016- In the Southeast, federal agents have refused to apply for CP for labor trafficking cases so consistently (at least 6 times in one year) that the advocate no longer bothers to even ask the agents to request CP.

2016- In the West, an HSI agent refused to apply for CP for a domestic worker after multiple interviews (over 8 hours over the course of 3 days). The agent claimed that they could not apply for CP because the agent could not corroborate the victim’s statements, and that the case did not rise to the level of trafficking because the victim had been in the US for only 2 weeks.

The Freedom Network USA recommends that DHS implement the following recommendations to address these persistent challenges with Continued Presence:

1. Proactively identify problem districts using available data.
DHS is currently gathering data on the number of T Visa and CP grants, in order to make annual reports to Congress and the public. We highly recommend that DHS begin to analyze the difference in the number of T Visa and CP grants by region or ICE Field Office. Those with the greatest disparity should be provided with immediate and intensive training and technical assistance.
2. Provide detailed instructions and definitions to law enforcement agents.
Agents have identified concerns and challenges regarding the 'acceptable' number of CP applications, the distinction between labor exploitation and labor trafficking, and the threshold of an 'open case.' We highly recommend providing additional clarification and technical support on these issues.
3. Provide ongoing training and education to federal agents.
Federal agents often change positions, agencies, and workloads. Ongoing training and technical assistance is a persistent need in law enforcement generally, and this is clearly no exception. Partnerships with other federal agencies working to improve the response to human trafficking (such as DOJ's EOUSA, OVC and BJA; HHS' OTIP; and the FBI) will assist to ensure that the training is consistent and increase the impact.
4. Reward federal offices that appropriately file for Continued Presence for victims through public recognition or internal recognition.
Federal agents continue to show reluctance to apply for CP if they are not certain that the victimization rises to the level of human trafficking. Agents need to be encouraged to understand that CP is a temporary form of relief that is designed for exactly this purpose: to give the law enforcement agency and victim support while investigating the case further. Federal agents that properly use CP for cases that are still being investigated should be held up as role models to encourage other agents to do the same.

Freedom Network USA is committed to working with DHS, as well as other federal, state and local agencies, to address these challenges and improve access to services for trafficking victims throughout the US.