



Burden of Proof for July 23, 2019 ER Designation

How may an alien establish 2 years of continuous physical presence?

- Evidence that may demonstrate an alien's continuous physical presence in the United States includes, but is not limited to: bankbooks, leases, deeds, licenses, bills, receipts, letters, birth records, church records, school records, employment records, evidence of prior law enforcement encounters or tax payments, and/or the alien's oral statements.
- An alien should be provided a brief but reasonable opportunity – generally no more than 72 hours – to obtain such documents, or communicate with a third party to obtain them, if he or she claims to have access to such evidence and so requests.

Consistent with applicable [detention standards](#) or [family residential standards](#), detainees being processed for ER pursuant to the July 23, 2019 ER Designation should be allowed access to phones to obtain corroborating evidence.

To the extent practicable, ERO should facilitate requests by the alien to receive documents by facsimile, e-mail, or other means. ERO should document such requests and efforts to facilitate them.

