



**UNODC**

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**European Union**

## **Standard Operating Procedures (SOP)**

SOP Manual for Law Enforcement Personnel  
of the Central Asia countries on the cases related  
to human trafficking and smuggling of migrants

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This manual was developed by the United Nations Office on Drugs and Crime Regional Office for Central Asia in the framework of regional project “Strengthening the capacity of the Central Asian Republics to protect and assist victims of human trafficking and smuggled migrants, especially women and children, in partnership with non-governmental organizations (NGOs) and civil society actors” funded by the European Union and the United States

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## PREFACE

Trafficking in persons is among the most grave forms of organised crime, extending beyond boundaries and jurisdictions. Combatting trafficking in persons requires a holistic approach undertaken by all relevant stakeholders in combination with integrated efforts and collaboration towards more effective strategies with respect to prevention, protection, prosecution and partnerships. Also the smuggling of migrants is a serious global concern, with migrant smugglers becoming more and more organized, establishing professional networks that transcend borders and encompass all regions. Profit-seeking criminals smuggle migrants across borders and between continents. Migrants smuggled by such networks are vulnerable to abuse and exploitation and their safety and even their lives are often put at risk.

In a unified effort between the Governments of the Central Asian Republics and the United Nations Office on Drugs and Crime, these Standard Operating Procedures (SOP) are drafted to assist and guide law enforcement when dealing with cases of trafficking in persons and smuggling of migrants.

Successful conviction of offenders, redress of grievances of victims as well as protection of the rights smuggled migrants and prevention of crimes of trafficking and smuggling are possible when first responders, and particularly law enforcement perform their tasks diligently and from a position of being informed, trained and prepared. In this process, investigation of crimes assumes an important role. The task includes collection of intelligence about crimes, recording crimes efficiently and launching prompt criminal investigations. In return these efforts leverage the potential for successfully prosecuting offenders.

Therefore, appropriate tools, enhanced by developed skills, are essential to empower law enforcement to carry out these tasks in accordance with best practices that have been documented over time. In this context these SOP are a tool for law enforcement agencies to adequately address the crimes of trafficking in persons and smuggling of migrants. These SOP draw on the wealth of information that has been developed and compiled by practitioners and experts with extensive field experience, working with offenders, victims, vulnerable migrants and law enforcement.

These SOP should be used as a basis for decisions and actions made in addressing crimes of trafficking in persons and smuggling of migrants by law enforcement in the Central Asian Republics, in an effort to combat crimes of this nature through unified and collective efforts and towards a safer and just society.

**BACKGROUND & PURPOSE**



## **BACKGROUND & PURPOSE**

This Standard Operating Procedures (SOP) manual has been developed in the framework of the project “Strengthening the capacity of the Central Asian Republics to protect and assist victims of human trafficking and smuggled migrants, especially women and children, in partnership with non-governmental organizations (NGOs) and civil society actors” funded by the European Union and the United States. The project aims at strengthening the capacity of the Central Asian Republics to identify, protect and assist victims of human trafficking and smuggled migrants, especially women and children, in partnership with NGOs and other civil society actors. These aims are to be achieved primarily through (i) supporting legal drafting with a focus on the protection of victims of human trafficking and the rights of smuggled migrants (ii) developing standard operational procedures for law enforcement personnel on victim identification and conducting training on best practices; and (iii) introducing a partnership plan for effective cooperation among governments, NGOs and key stakeholders.

These SOP provide a guideline that the Central Asian republics can utilize to customize their police operations. Eventually, it is anticipated that these SOP will stimulate a process of discussion and development among the Central Asian Republics, NGOs, experts and supporting partners that will lead towards the adoption of uniform minimum police standards and enhanced guidelines. Ultimately, these SOP are intended to provide a standard procedural framework for law enforcement officers who investigate or support the investigation of human trafficking and migrant smuggling cases.



**EXECUTIVE SUMMARY**



## EXECUTIVE SUMMARY

In spite of growing awareness of trafficking in persons and smuggling of migrants, there remains a need for law enforcement approaches and measures to address these highly evolving crimes in order to address them effectively. These SOP rely on appropriate resources, trained personnel and individual contacts within the governmental institutions and non-governmental organisations existent in the Central Asian Republics. An array of services and resources should be identified in order to achieve solid geographic coverage of the support for the victim and prosecution of the offender.

The following are brief summaries of each section of this SOP manual:

### Introduction

- Description of what Standard Operating Procedures are
- Discussion of the role of law enforcement
- Discussion of the nature of trafficking in persons and smuggling of migrants in the Central Asian Republics

### International legislative framework

- Definition and description of human trafficking and migrant smuggling
- Clarification regarding the difference between human trafficking and migrant smuggling

#### DEFINITION OF HUMAN TRAFFICKING

##### *Trafficking in Persons Protocol (Art. 3.a)*

Trafficking in persons is:

- **the action of** recruitment, transportation, transfer, harbouring, or receipt of persons;
- **by means of** the threat or use of force, coercion, abduction, fraud, deception, abuse of power or vulnerability, or giving payments or benefits to a person in control of the victim;
- **for the purposes of** exploitation, which includes exploiting the prostitution of others, sexual exploitation, forced labour, slavery or similar practices, and the removal of organs.

#### DEFINITION OF SMUGGLED MIGRANTS

##### *Smuggling of Migrants Protocol (Art. 3.a)*

Smuggling of migrants is:

- **the procurement of** illegal entry;
- **into a State** of which the person is not a national or a permanent resident;
- **to obtain** direct financial or other material benefit.

	Trafficking in Persons	Smuggling of Migrants (and related conducts)
CONDUCT	recruitment, transportation, transfer, harbouring or receipt of persons <sup>1</sup>	<ul style="list-style-type: none"> <li>- procurement of the illegal entry of a person into a State Party [to the Protocol] of which the person is not a national or a permanent resident;</li> <li>- enabling a persons who is not a national or a permanent resident to remain in the State concerned without complying with the necessary requirements for legally remaining in the State by (i) producing a fraudulent travel or identity document and (ii) procuring, providing or possessing such a document or any other illegal means<sup>2</sup></li> </ul>
(By improper) MEANS (of)	threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person <sup>3</sup>	Not applicable in smuggling of migrants – no use of improper means required
PURPOSE	exploitation: it includes, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude and removal of organs <sup>4</sup>	to obtain, directly or indirectly, a financial or other material benefit <sup>5</sup>

<sup>1</sup> Trafficking in Persons Protocol, art. 3.

<sup>2</sup> Smuggling of Migrants Protocol, art. 3(a) and 6(1)(a) and 6(1)(c); art. 6(1)(b) has been omitted by the analysis as not directly relevant for the purpose of these SOP (see below, remarks of Part 2 and footnote 11).

<sup>3</sup> See footnote 1.

<sup>4</sup> See footnote 1.

<sup>5</sup> Smuggling of Migrants Protocol, art. 3(1) and 6(1).

**INTRODUCTION**



## INTRODUCTION

### *What are Standard Operating Procedures?*

This Standard Operating Procedures (SOP) manual is a focused attempt to bring together in one exhaustive document a recording of relevant available laws, best practices, resources, tools and operational procedures on crimes of trafficking in persons and smuggling of migrants.

These SOP are designed to help the investigator conduct a professional investigation that strives towards:

- Expeditious and effective law enforcement
- Conviction of the offenders
- Initiation of post-conviction steps against the offenders
- Prevention of re- and secondary victimization of victims of trafficking
- Ensuring that appropriate protection/ care/ attention is provided to victims/ witnesses
- Protection of the rights of smuggled migrants
- Appropriate steps for prevention of trafficking, re-trafficking and smuggling.

In short, they aim to empower investigators in responding to and preventing crimes of trafficking in persons.

### *Role of law enforcement in addressing trafficking of persons*

The role of law enforcement in dealing with cases of trafficking of persons and smuggling of migrants must be clear to all stakeholders involved, to ensure that there are no gaps in assumed responsibility and accountability in the process. Therefore, the role of law enforcement is as follows:

#### ***Basic role of law enforcement in addressing trafficking in persons***

- Identify children and adults at risk;
- Inform potential victims of their rights;
- Identify and investigate criminal elements of circumstances and seek to prosecute individuals involved in human trafficking;
- Refer potential victims who are not citizens, to immigration services
- Identify support services and refer victims/potential victims to specialist non-government organisations that may assist with finding safe accommodation, and various needs including medical, psychological, legal assistance, education and work placement
- Conduct interviews, seek intelligence, undertake investigations with immigration officials and any other appropriate parties, and ensure that links are made with other agencies and national/international policing organisations
- Provide protection to victims and staff supporting them
- Work closely with immigration and border services, social services, child welfare authorities and any NGOs to provide protection to victims, including children
- Conduct a continuous risk assessment with respect to the safety and welfare of the victims and their families at every stage of the investigation and judicial process and beyond

- Enforce the laws of the Central Asian Republics

**Source:** Royal Canadian Mounted Police. (2013). Frequently asked questions. Retrieved at <http://www.rcmp-grc.gc.ca/ht-tp/q-a-trafficking-traite-eng.htm#q10>

### ***Basic role of law enforcement in addressing smuggling of migrants***

#### **In reactive investigations:**

- **Safety:** Protect life, safety and health of migrants, provide medical attention, shelter, food and water
- **Identification:** Separate migrants from smugglers
- **Screening interview:** Employ general questions to obtain information about: assistance needs, identity, country of origin and recent events
- **Debrief and interviews:** Proceed to more thorough questioning
- **Arrest:** If threshold for arrest is met, arrest and search smugglers
- **Evidence:** Search and seize all relevant evidence from crime scene and secure intelligence that can be used in future proactive investigations
- **Media:** Balance the need for control or dissemination of information according to domestic law
- **Evaluate:** Evaluate strengths and weaknesses of the operation

#### **In proactive investigations:**

- **Safety:** Protect lives and ensure safety of migrants, smugglers and all persons involved in the investigation. Protect sensitive intelligence sources
- **Identify targets:** Identify principal offenders
- **Collect evidence:** Identify and secure evidence to assist in the prosecution

### ***Human trafficking and migrant smuggling – global phenomena that also take place in the Central Asian Republics***

Human trafficking is a crime that affects every part of the world. It is a crime that occurs nationally as well as across international borders, presenting a host of complexities for law enforcement agencies throughout the world. While combating and preventing human trafficking is associated with some difficult challenges, identifying and convicting human traffickers is an even greater challenge given the degree to which the crime is underreported and hidden. The reason for why human trafficking is largely underreported is due to the fact that victims, for understandable reasons, rarely self-identify as victims of trafficking and when they do, they may not be able to contact law enforcement because they may be incarcerated by their trafficker, they are often traumatized and hence suffer from various health related concerns, or are fearful in assisting law enforcement due to the threats made against themselves and their families by their traffickers. Further, cases of trafficking often go underreported because victims may also fear that they will be mistaken for being complicit in the crimes against them and lastly, trafficking victims may be apprehensive about law enforcement based on previous negative experiences with the police or due to misconceptions.

While human trafficking is perceived primarily as sex trafficking, human trafficking in reality manifests itself in a number of ways. Some of the purposes for trafficking in persons include but are not limited to forced labour, bonded labour, commercial sexual exploitation of children, child sex tourism, involuntary domestic servitude, forced marriage, adult sexual exploitation, debt bondage, forced child labour, child soldiers, organ removal and child camel jockeying.

The task of law enforcement is crucial in pursuing, investigating, identifying, charging traffickers and assisting victims. Naturally, this is not a simple task and efforts can be confounded by the need to pursue investigations across international borders while relying on minimal intelligence. Further, criminal law dispositions do not always support an proactive and effective law enforcement response to the problem and even if laws exist, addressing human trafficking as a crime, the nature of human trafficking which is in fact a bundle of crimes together, rather than a single offence, adds layers of complexity to the criminal event. For these reasons, stopping human trafficking involves a number of complex law enforcement activities and examples can be taken from police agencies around the world who are successfully identifying, investigating and arresting traffickers.

Human trafficking can often be detected by following the traces of the proceeds, given the often lucrative nature of the crime. Other successful approaches have been known to be the result of increased police training at all levels, in order for law enforcement to be able to recognize the signs of human trafficking. Lastly, as it will be discussed in these SOP, the importance of multi-agency cooperation across national and international borders cannot be underscored enough. Given the ease at which traffickers are able to mobilize their efforts and shift the crime to a nearby state with less comprehensive mechanisms in place, it is integral to the efforts of law enforcement to utilize all the agencies that can be of assistance in the process and to leverage their resources to address the trafficking of persons. Some of the agencies that law enforcement can partner with are non-governmental organizations, the media, victim assistance agencies and various service providers.

The reasons for which trafficking offences are difficult to investigate are the same reasons they are difficult to prosecute. Some of the dynamics that add complexity to the prosecution of traffickers is the reliance on properly collected evidence, the availability of a suitable and willing witness, the lack of translation services, and lack of support and training given to prosecutorial services and the judiciary in understanding and successfully convicting traffickers. These challenges can all be addressed through strategies aimed at appropriate training, readily available resources, enhanced collaboration, and on-going support at all levels. These SOP will outline effective measures and strategies that can be sought and implemented by law enforcement in an effort to address human trafficking by the Central Asian Republics, namely Kazakhstan, Kyrgyzstan, Uzbekistan, Tajikistan and Turkmenistan.

Extreme poverty, lack of opportunities for education and work, inadequate access to health care, gender discrimination, natural disasters and conflicts, as well as the environmental degradation that makes areas unliveable, are among the many reasons why people may migrate. As more and more people seek to migrate in search of a better life for themselves and their families – trying to escape this lack of employment opportunities or extreme poverty, natural disaster or persecution - a demand is created for services to help them do so. Not all persons who wish to migrate have legal opportunities to do so. Profitseeking criminals take advantage of this fact by smuggling migrants. One reason why the smuggling of migrants occurs is that borders exist; and generally, the numbers of those motivated to migrate far exceeds the limited possibilities for crossing

borders. Meanwhile, the abilities of States to control immigration are limited and migration policies often fail to achieve their objectives. Virtually every country in the world is affected by the smuggling of migrants, as a country of origin, transit or destination or even as all three.

The smuggling of migrants can be considered within the wider context of irregular migration. Generally the motivations of smuggled persons are no different from those of irregular migrants: they wish to improve their lives and the lives of their family or to escape from a situation of persecution. Relationships that smuggled migrants have with the person or people smuggling them vary significantly; in some situations, the smuggler will act simply as a facilitator by enabling the migrants to reach a destination they themselves have chosen. In other situations, the smuggler controls every aspect of the smuggling process, including the final destination. Often, migrants in this situation will become stranded along the way and consequently unable to reach a particular destination or to return home. In other situations, the migrant and the smuggler will negotiate extensively over matters of travel and destination.

Many migrants intend to migrate independently of smugglers of migrants. However, as circumventing the restrictions on movement becomes more challenging and as environments in the course of the journey become more unfamiliar, migrants may resort to the services of smugglers of migrants. The more a migrant feels displaced (for example, not knowing the local language is a key alienating factor en route), the greater his or her need for assistance and services will be.

It is important to underline the fact that the criminalization of smuggling of migrants and related conduct covers only those who profit from smuggling of migrants through financial or other material gain. The Smuggling of Migrants Protocol highlights the fact that such criminalization is not to cover person and entities, such as family members and non- governmental or religious groups, who facilitate the illegal entry of migrants for non-profit reasons.

Migrant smuggling flows in the Central Asian republics probably come most often from outside the region, including South Asia. There is, however, irregular migration, including smuggling of migrants within the region, which to date has not been well documented.

**INTERNATIONAL LEGISLATIVE FRAMEWORK 4**





## INTERNATIONAL LEGISLATIVE FRAMEWORK

Human trafficking and migrant smuggling are distinct concepts that require unique and tailored responses by law enforcement, in order to best address the crimes associated with each. It should be noted however, that often times, the distinction between the two concepts is less apparent when encountering a case of trafficking and/or smuggling. It is not uncommon for smuggled migrants to end up as victims of trafficking. So while the definitions are unique for each phenomenon, the lines between the two crimes may in fact be blurred. Therefore, the two crimes can be overlapping where smuggling can potentially lead to trafficking for a variety of reasons, the most significant of which is vulnerabilities created as a result of the smuggling experience. This overlap will be discussed briefly in the following sections of these SOP, however below are the definitions of trafficking and smuggling. The definitions are provided in order to ensure that the two concepts are given due attention based on the response that each should elicit by law enforcement.

### *Trafficking in Persons*

Article 3 of the *Protocol to Prevent, Suppress, and Punish Trafficking in Persons, especially Women and Children*<sup>6</sup> (hereafter also referred to as the “Trafficking in Persons Protocol”) defines the crime as follows:

“Trafficking in persons shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs”.

It is important to note that in the case of trafficking of children, the improper means such as the threat or use of force or other forms of coercion, of abduction, fraud, deception, the abuse of power or vulnerability or the giving of payments or benefits are **not required** to establish the crime of trafficking of persons. In other words, all that is required to establish a case of child trafficking, is the recruitment, transportation, transfer, harbouring or receipt of the child for the purpose of exploitation.

### *Smuggling of Migrants*

The *Smuggling of Migrants Protocol* was adopted in order “to prevent and combat the smuggling of migrants as well as promote cooperation among States Parties, while protecting the rights of smuggled migrants”.<sup>7</sup> The protocol defines smuggling as “the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a

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<sup>6</sup> The Trafficking in Persons Protocol was adopted by the UN General Assembly (resolution 55/25) on 15 November 2000. It entered into force on 25 December 2003. The Protocol's ratification status can be consulted at: <http://www.unodc.org/documents/treaties/UNTOC/Publications/TOC%20Convention/TOCebook-e.pdf>

<sup>7</sup> The Smuggling of Migrants Protocol was adopted by the UN General Assembly (resolution 55/25) on 15 November 2000. The Protocol's ratification status can be consulted at: <http://www.unodc.org/documents/treaties/UNTOC/Publications/TOC%20Convention/TOCebook-e.pdf>

State Party of which the person is not a national or a permanent resident” (Article 3 (a)). It contains the following elements:

- the procurement of illegal entry
- into a State of which the person is not a national or a permanent resident
- direct financial or other material benefit.

In addition to smuggling *per se*, the Smuggling of Migrants Protocol also requires States Parties to criminalize additional forms of conduct often associated with smuggling. They are required to criminalize the “producing” and the “procuring, providing or possessing” of a “fraudulent travel or identity document”, as well as enabling a person who is not a national or a permanent resident to remain in the State concerned without complying with the necessary requirements for legally remaining in the State by illegal means.

### *What is the difference between the two?*

It can be often difficult for law enforcement to distinguish a case of trafficking in persons from a case of smuggling of migrants. Especially as some trafficked persons start their journey by agreeing to be smuggled into another country, not knowing that they have been deceived and that the real intention of their facilitators is to exploit them. (Without that deception they may not have agreed to the smuggling in the first place.)

Even though in practice it may often be difficult to say what is a trafficking and what is a smuggling case, law enforcement need to know the three basic differences between smuggling of migrants and trafficking in persons.

#### **1. Exploitation**

The primary source of profit of trafficking in persons is exploitation. In contrast, the smuggler has no intention of exploiting the smuggled migrant after having enabled him or her to illegally enter or stay in a country and the smugglers’ profits are the smuggling fees paid to them. Migrant smugglers are usually paid in advance or upon the arrival of the smuggled migrant, by the smuggled migrant or by intermediaries. The relationship between smuggler and smuggled migrant usually ends after the smuggler has provided the agreed services and illegal entry or illegal residence has been achieved. In cases where smuggled migrants do not have to pay the entire smuggling fee at the outset of the process the pending payment renders them vulnerable to exploitation by the smugglers. Law enforcement officers should then have a closer look as there could be a case of trafficking, with the intention to exploit a person.

As said, in the process of trafficking in persons, the profits are generated mainly through exploitation. The exploitation phase might last for several years. Exploitation could even include “selling” a victim at some point before they begin to be exploited at their final destination.

#### **2. Illegal entry or illegal residence (“transnationality”)**

Smuggling of migrants always has a transnational dimension involving at least two countries. The objective of the smuggling of migrants or related conduct is always to facilitate the illegal entry of a person from one into another country or their stay in that country. Trafficking in persons may also occur across borders but it may also be carried out within a single country. In fact, victims of trafficking are often trafficked within their home country.

### **3. Consent**

Smuggling of migrants is generally based on mutual consent between smuggler and smuggled migrants. Smuggling does not require the victimization of the smuggled migrant. That does not mean, though, that no other crimes can be committed against smuggled migrants during the smuggling process. And in fact very often there is violence or an endangerment of the lives of the smuggled migrants. Smuggled migrants might withdraw their consent during a smuggling operation (for instance, if they deem the conditions of transportation too dangerous) but may subsequently be forced to continue to participate in the smuggling process (for instance, by being forced to enter a leaking boat or a crowded truck). This is why it is key for law enforcement to know and protect the rights of smuggled migrants.

In the case of trafficking in persons there is either no consent of the trafficked person at all – e.g. if they have been abducted or sold - or, an initially given consent has become meaningless, as the traffickers used means such as deception, fraud, abuse of a position of vulnerability, threat of force, etc. to get that consent.



## NATIONAL LEGISLATIVE FRAMEWORK

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## NATIONAL LEGISLATIVE FRAMEWORKS

The development of adequate national legislative frameworks to respond to and prevent trafficking in persons and smuggling of migrants is of equal importance as an international legislative framework. It needs to be ensured that trafficking of persons and the smuggling of migrants are addressed in a comprehensive and holistic manner.

While the legislative frameworks in the Central Asian Republics have developed extensively, there are key areas that can benefit from further development. The following sections outline provisions in national legislation as they correspond to their international legislative counterparts. Undertaking this approach allows for gaps in legislation to be highlighted and addressed by key stakeholders such as law enforcement who are confronted with the practical outcomes of trafficking and smuggling cases and who are often the first responders to suspected cases of trafficking or smuggling.

### *Smuggling of migrants: International and corresponding national legislation*

#### ***Smuggling of Migrants Protocol***

##### *1. Article 3(a)*

“Smuggling of migrants” shall mean the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident.

- With respect to Article 3(a) of the Smuggling of Migrants Protocol, the five Central Asian Republics have not yet taken measures to define the “smuggling of migrants”.

#### ***Smuggling of Migrants Protocol***

##### *2. Article 3(b)*

“Illegal entry” shall mean crossing borders without complying with the necessary requirements for legal entry into the receiving State.

- Article 1 of the Kazakh Law “On Migration”, defines the term “illegal immigrants”, which actually refers to the illegal entry of foreigners or stateless persons. Similarly, Article 16 of Kyrgyz Law “On State Border” provides the definition of persons involved in illegal crossing of the state border, including those crossing or attempting to cross the state border

with violation of established procedures. As well, Article 346 of the Kyrgyz Criminal Code criminalizes such a conduct. In Uzbek legislation, “illegal entry” is defined by Article 223 of the Criminal Code as the “exit from or entry in the Republic of Uzbekistan, or crossing the state border in violation of the duly set procedures”. Further, Article 335 of the Tajik Criminal Code defines illegal crossing of state boundaries as the crossing of the state boundary without necessary documents and permission and lastly, Turkmen legislation does not define the term “illegal entry”.

### ***Smuggling of Migrants Protocol***

#### **3. Article 6 (1)**

Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally and in order to obtain, directly or indirectly, a financial or other material benefit: (a) The smuggling of migrants; (b) When committed for the purpose of enabling the smuggling of migrants: (i) Producing a fraudulent travel or identity document; (ii) Procuring, providing or possessing such a document; (c) Enabling a person who is not a national or a permanent resident to remain in the State concerned without complying with the necessary requirements for legally remaining in the State by the means mentioned in subparagraph (b) of this paragraph or any other illegal means.

- Article 330-2 paragraph (1) of the Kazak Criminal Code criminalizes the organization of illegal migration by way of providing transport vehicles or counterfeit documents, housing, or other premises, as well as rendering of other services to citizens, foreigners and stateless persons for illegal entry into, exit from, movement within the territory of the Republic of Kazakhstan. Similarly, paragraph (2) criminalizes the same acts as committed by an organized group or with the use of service authority. In addition, Article 204-1 of the Kazak Criminal Code, criminalizes the organization of illegal migration by providing means of transportation or forged documents, house or another premises, as well as by providing other services for illegal entry, departure or movement across the territory of Kyrgyz Republic. Similarly, Article 291 of the Kyrgyz Administrative Code, criminalizes as a misdemeanour the provision by Kyrgyz citizens of housing, means of transport or other services to foreign citizens or stateless persons in violation of established rules of stay of foreign citizens and stateless persons as well as transit rules.

Article 224 of Uzbek Criminal Code criminalizes the violation of procedures for admission of foreign nationals or stateless persons by an official and failure to take measures by a national of the Republic of Uzbekistan, who invited foreign nationals or stateless persons on private business, for ensuring temporary residence permission of the said persons and their exit upon expiration of their term of stay, as well as provision of housing, vehicles, or other services to them in the instances when these actions knowingly result in violation of the regulation of stay. As well, according to Article 223, if it becomes known that a migrant was smuggled or other conditions were created for him/her, he/she becomes liable

for illegal entry together with those persons who assisted in smuggling, on cumulative crime basis.

With regards to the Republic of Tajikistan, the organization of illegal entrance of foreign citizens or persons without citizenship to the Republic of Tajikistan, or their illegal transit through its territory is criminalized as per Article 335 (1) and Article 335 (2) which references the organization of illegal migration.

Lastly, parts 3 and 4 of Article 6 of the Turkmen Administrative Offence Code state that the "violation of the Procedure of Entry to and Exit from Turkmenistan of Foreign Citizens and Stateless Persons in Turkmenistan, as well as their Transit through the Territory of Turkmenistan" is the basis of an administrative liability for enabling illegal stay of foreign nationals or permanent residents.

### ***Trafficking in persons: International and corresponding national legislation***

#### ***Trafficking in Persons Protocol***

##### *1. Article 3(a)*

“Trafficking in persons” shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation;

- Article 128 (1) of the Kazakh Criminal Code defines the recruitment, as well as export and transit of persons for exploitation as the recruitment of persons, committed by way of deception, for the purpose of their sexual or other exploitation while the article, in para. (3) also criminalizes the same act committed for the purpose of export of recruited persons outside of the Republic of Kazakhstan, and equally export of people beyond the boundaries of Kazakhstan or carriage through the territory of Kazakhstan of people following from one foreign state to another, purposely for sexual or other exploitation. “Victim” is generally defined by the Code of Criminal Procedure. According to Article 75 of the Code of Criminal Procedure, victim in criminal proceedings is a person with respect to whom there is reason to believe that he suffered immediate moral, physical or property damage as a result of the crime.

Similarly, Article 124 of the Kyrgyz Criminal Code states that trafficking in persons is the recruiting, transport, harbouring, reception, transfer, purchase or sale of a person or another unlawful transaction with or without such person's consent, using force, blackmail, fraud, deception, kidnapping for the purpose of further exploitation or obtaining other benefits. Additionally, Article 1 of the Law of Kyrgyz Republic "On Prevention and Combating Trafficking in Persons" defines a victim of trafficking in persons as a person who has

suffered from that offence, regardless of whether there was the consent of the person for transportation, transfer, sale or other action related to trafficking in persons.

Article 3 of Law of the Republic of Uzbekistan "On Combatting Trafficking in Persons" dated April 17, 2008 N 3PY-154 (the Law) defines "Trafficking in persons" as "the recruitment, transportation, transfer, harbouring or receipt of persons for the purpose of exploitation by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person".

According to Article 130 (1) of the Tajik Criminal Code, "Trafficking in persons" is the recruitment, transportation, transfer, harbouring or receipt of persons, by means of threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation (exploitation of prostitution or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs). The same concept is also provided by the law on combating against trafficking in persons adopted on July 15, 2004.

Article 1 of the Law of Turkmenistan "On Combating Trafficking in Persons" provides for the following definition of trafficking in persons: "range of actions related to recruitment, purchase, sale, transportation within one or more countries, transfer from hand to hand, or holding the person or group of persons by the threat or use of force, engaging in debt bondage or other forms of coercion, of abduction, of deception, fraud, abuse of power or position of vulnerability, adoption for commercial purposes, or through corrupt practices of the giving payments or benefits to achieve consent of a person having control over another person as well as other means containing *corpus delicti* with the purpose of exploitation of trafficked persons."

As well, Article 129-1 of the Criminal Code provides for the following definition of trafficking in persons: buying and selling of a person or their recruitment, transportation, harbouring, or transfer to another person, committed with the purpose of their exploitation. Use of force definition or its application is available, in sub-para. 2 of the same article.

Lastly, Article 1 of the Law of Turkmenistan "On Combating Trafficking in Persons" defines a victim as a person who has suffered from trafficking in persons, regardless of whether there was a consent of the person for transportation, transfer, sale or other action related to it.

### ***Trafficking in Persons Protocol***

#### ***2. Article 3 (a)***

Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs;

- Articles 125, 126, 128 and 133 of the Kazakh Criminal Code define exploitation as the use of forced labour, involvement of another person in prostitution or other services with the aim of material benefit to the guilty person as well as use of power of ownership with respect to a person who may not refuse from works or services due to the causes beyond control of such a person.

Article 124 of Criminal Code recognizes as a purpose of trafficking in persons not only exploitation, but also obtaining other benefits, and defines the term “exploitation” in Paragraph 1 of the Note: involvement of a person in criminal activities, forcing into prostitution or other sexual activities, forced labor or services, slavery, adoption for commercial purposes, or using in armed conflicts.

Article 114 of the Criminal Code criminalizes the conduct of forcing a person to remove organs or tissues for transplantation purposes.

Exploitation of prostitution of other persons and other forms of sexual exploitation are criminalized under Article 260 of the Criminal Code.

Article 125-1 of the Criminal Code criminalizes the use of forced labor (slavery) of a person that cannot be refused by the person due to reasons beyond his/her control due to the actions inherent to the right of ownership taken against such person

Definition of the term “exploitation” is given in Chapter VIII “Legal meaning of terms” of the Uzbek Criminal Code: “Exploitation of persons - exploitation of prostitution of other persons and other forms of sexual exploitation, forced labor or slavery or practices similar to slavery, servitude or removal of organs or tissues.”

The definition "exploitation" is set forth in the Article 1 of the law “On combating against trafficking in persons” as “forced labor and services, slavery and customs, similar to slavery; a dependent conditioning and removal of organs and tissues of a person, exploitation of prostitution of other persons and other forms of exploitation of a person, with the purpose of committing actions of sexual nature”.

Definition of "exploitation" is provided in Article 1 of the law of Turkmenistan "On the Combatting Trafficking in Persons": forced labor or services, slavery or practices similar to slavery, servitude or removal of organs and (or) human tissue, and other forms of exploitation of a person with a purpose of committing actions of sexual character".

### ***Trafficking in Persons Protocol***

#### ***3. Article. 3 (b)***

The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used;

- Kazakh legislation does not have such a provision.

The definition of “trafficking in persons” given by the Kyrgyz Criminal Code establishes criminal liability without taking into account the consent of a victim (adult or child) to exploitation, regardless of any means of influence.

Article 135 of Uzbek Criminal Code establishes criminal liability for trafficking in persons through means set forth in Protocol Article 3 (a) regardless of availability or absence of a victim’s consent to exploitation.

According to par. 3 of Article 5 of the Tajik Law “On combating against trafficking in persons”, the consent of a victim of trafficking in persons in relation to exploitation should be irrelevant, where any of the means of influence have been used towards the victim, directed to trafficking in persons.

The definition of victim of trafficking in person, as per Article 1 of the Law of Turkmenistan "On Combating Trafficking in Persons", defines a victim as a person who has suffered from that crime, regardless of whether or not there was a consent of the person for any of the incriminated conducts.

#### ***Trafficking in Persons Protocol***

##### *4. Art. 3 (c)*

The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered “trafficking in persons” even if this does not involve any of the means set forth in subparagraph (a) of this article

- Article 133 of the Kazakh Criminal Code “Trafficking in Minors” establishes that trafficking in minors is sale-purchase or any other transaction with respect to a minor, as well is their exploitation or recruitment, transportation, transfer, harbouring or any other act with a purpose of exploitation.

The definition of “trafficking in persons” given by the Kyrgyz Criminal Code establishes criminal liability without taking into account the consent of a victim (adult or child) to exploitation, regardless of any means of influence.

Article 135 of the Uzbek Criminal Code establishes criminal liability for trafficking in persons through means set forth in Protocol Article 3 (a) regardless of availability or absence of a victim’s consent.

Tajik legislation does not have such a provision.

According to Article 1 of the Law of Turkmenistan "On Combating Trafficking in Persons", a victim of human trafficking is a person who has suffered from human trafficking, regardless of whether there was consent of the person for transportation, transfer, sale or other actions related to trafficking in persons.

**IDENTIFICATION**

**6**





## IDENTIFICATION OF VICTIMS OF TRAFFICKING AND TRAFFICKERS

This section outlines the importance of accurate identification of victims as well as traffickers. The identification of victims is has highest priority, but in order to secure that their safety is secured and appropriate protective measures are put in place, the identification of traffickers is of significant importance as well, Accurate identification of traffickers allows for further measures to be pursued towards preventing future harm through prosecution. Successful prosecution in return, demonstrates specific deterrence for convicted traffickers and general deterrence for potential traffickers, through effective sentencing and sentencing guidelines which will be discussed briefly in the following sections of these SOP.

### *Identification of victims*

“The early identification of trafficked persons is a prerequisite for their recognition as victims and, consequently, their access to assistance and protection.”<sup>8</sup> The identification of victims is also one of the greatest challenges for law enforcement in crimes of trafficking in persons. This can be attributed partly to the fact that it is a largely hidden crime, however, detection of trafficking and the identification of victims can be addressed with appropriate training regarding potential indicators of a trafficked victim. The first step in a case of trafficking in persons, or a suspected case of trafficking in persons is victim identification.

Trafficking victims may be brought to the attention of law enforcement by a wide variety of stakeholders, including:

- Public authorities, such as health authorities and social services;
- IGO-NGO partners;
- Others, such as embassies, religious organizations, human rights lawyers;
- Individuals such as other victims, relatives or friends of victims;
- Clients of individuals trafficked for purposes of exploitation.<sup>9</sup>

Victims must be assessed as early after identification as possible. This is done in order to ensure the victim is secured and protected from further harm. Additionally, it is important to screen persons referred as trafficking victims to service delivery organisations for assistance to ensure that they are in fact trafficking victims and not smuggled or other irregular migrants, or other individuals in an abusive or vulnerable situation who may be in need of assistance and/or protection.<sup>10</sup> In order to do so, a thorough risk assessment should be conducted to determine the number of victims, whether the victim is a child or adult, whether the victims is still being exploited, whether there are other potential victims that may be on the brink of being trafficked, and in the case of referrals from other victim services providers, whether the victim is currently in care and under appropriate protective services. Upon determining if the victim is a child or an adult, necessary measures should be taken in assisting them accordingly as per legislative standards and best practices. Interviewing techniques and risk assessments will be discussed in subsequent sections of these SOP. The following section provides

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<sup>8</sup> Dandurand et al. *Human trafficking: Reference guide for Canadian Law Enforcement*. (UCFV, RCMP, UNODC, ICCLR, 2005), [http://www.icclr.law.ubc.ca/Publications/Reports/HT\\_Canadian\\_Law\\_Enforcement\\_Guide.pdf](http://www.icclr.law.ubc.ca/Publications/Reports/HT_Canadian_Law_Enforcement_Guide.pdf)

<sup>9</sup> International Organisation for Migration. (2007). *The IOM handbook on direct assistance for victims of trafficking*. Retrieved from [http://www.iom.int/jahia/webdav/site/myjahiasite/shared/shared/mainsite/published\\_docs/books/CT%20handbook.pdf](http://www.iom.int/jahia/webdav/site/myjahiasite/shared/shared/mainsite/published_docs/books/CT%20handbook.pdf)

<sup>10</sup> *Ibid.*

guidelines and indicators for conducting a preliminary assessment of victims in order to proceed with an appropriate referral and investigation.

### **Adult victims**

Trafficked victims may look like many of the people law enforcement attends to everyday. In order to ensure trafficked victims receive the attention they require, a careful assessment of suspected cases of trafficking in persons must be conducted using indicators that have generally been accepted as tell-tale signs of a trafficking case. It is important to note that “the presence or absence of indicators does not mean that human trafficking has been established or discounted, rather, the presence of indicators should lead to further investigation.”<sup>11</sup>

#### ***General Indicators of a victim of trafficking in persons:***

- Evidence that the person(s) is being controlled;
- Evidence of an inability to move or leave their work environment;
- Bruises or other signs of physical abuse;
- Fear or depression;
- Being unfamiliar with the local language;
- Recently brought into the country from another Central Asian Republic, Eastern Europe, Asia, Latin America, USA, Africa or India;
- Lack of a passport, immigration or other identification documentation;
- Living with employer;
- Poor living conditions;
- Multiple people in a cramped space;
- Inability to speak to individual alone;
- Answers appear to be scripted and rehearsed;
- Show fear or anxiety;
- Unpaid or paid very little;
- Be distrustful of authorities;
- Not know their work or home address;
- Having no access to their earnings;
- Have no access to medical care;
- Be under the perception that they are bonded by debt;
- Have limited or no social interaction;
- Have acted on the basis of false promises;
- Have limited contact with their families or with people outside of their immediate environment;
- Work excessively long hours over long periods;
- Not have any days off;
- Being threatened with being handed over to authorities;
- Being afraid of revealing their immigration status.

**Source:** Adapted partly from US Department of State (2013). *Identify and assist a trafficking victim*. Retrieved from <http://www.state.gov/j/tip/id/> and partly from United Nations Office on Drugs and Crime. (2013). *Online Toolkit to Combat Trafficking in Persons*. Retrieved at, [http://www.unodc.org/documents/human-trafficking/Toolkit-files/08-58296\\_tool\\_6-4.pdf](http://www.unodc.org/documents/human-trafficking/Toolkit-files/08-58296_tool_6-4.pdf)

<sup>11</sup> United Nations Office on Drugs and Crime. (2013). *Online Toolkit to Combat Trafficking in Persons*. Retrieved at, [http://www.unodc.org/documents/human-trafficking/Toolkit-files/08-58296\\_tool\\_6-4.pdf](http://www.unodc.org/documents/human-trafficking/Toolkit-files/08-58296_tool_6-4.pdf)

## Child victims

According to Article 6(4) of the Trafficking in Persons Protocol, State Parties, in considering measures to assist and protect victims of trafficking, must take into account the special needs of child victims. “Often, the age of the victim will be uncertain and there will be questions about whether the victim is a child.”<sup>12</sup> In identifying child victims, it may be necessary to coordinate efforts with relevant social work and child welfare authorities in order to meet the special needs of child victims, to repatriate them if conditions are safe, and to “ensure that the process takes place in a dignified manner, and is governed by a concern or what is in the best interests of the child.”<sup>13</sup>

### ***Indicators of a child victim of trafficking:***

- Have no access to their parents or guardians;
- Look intimidated and behave in a way that does not correspond with behaviour typical of children their age;
- Have no friends of their own age outside of work;
- Have no access to education;
- Have no time for playing;
- Live apart from other children and in substandard accommodations;
- Eat apart from other members of the “family”;
- Be given only leftovers to eat;
- Be engaged in work that is not suitable for children;
- Travel unaccompanied by adults;
- Travel in groups with persons who are not relatives;
- The presence of child-sized clothing typically worn for doing manual or sex work;
- The presence of toys, beds and children’s clothing in inappropriate places such as brothels and factories;
- The claim made by an adult that he or she has “found” an unaccompanied child;
- The finding of unaccompanied children carrying telephone numbers for calling taxis;
- The discovery of cases involving illegal adoption.

***Source:*** *Online Toolkit to Combat Trafficking in Persons*. Retrieved at, [http://www.unodc.org/documents/human-trafficking/Toolkit-files/08-58296\\_tool\\_6-4.pdf](http://www.unodc.org/documents/human-trafficking/Toolkit-files/08-58296_tool_6-4.pdf)

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<sup>12</sup> Dandurand et al. *Human trafficking: Reference guide for Canadian Law Enforcement*. (UCFV, RCMP, UNODC, ICCLR, 2005), [http://www.icclr.law.ubc.ca/Publications/Reports/HT\\_Canadian\\_Law\\_Enforcement\\_Guide.pdf](http://www.icclr.law.ubc.ca/Publications/Reports/HT_Canadian_Law_Enforcement_Guide.pdf)

<sup>13</sup> *Ibid.*

## *Indicators of exploitation*

The following indicators can be used to identify whether suspected victims of trafficking are engaged in a particular type of exploitation.

### *Indicators of sexual exploitation:*

- Be under 30 years old, although the age may vary according to the location and the market;
- Move from one brothel to the next or work in various locations;
- Be escorted whenever they go to and return from work, shops etc.;
- Have tattoos or other marks indicating “ownership” by their exploiters;
- Work long hours or have few if any days off;
- Sleep where they work;
- Live or travel in a group, sometimes with other women who do not speak the same language;
- Have very few items of clothing;
- Have clothes that are mostly the kind typically worn for doing sex work;
- Only know how to say sex-related words in the local language or in the language of the client group;
- Have no cash of their own;
- Be unable to show an identity document;
- The following might also indicate that people have been trafficked for sexual exploitation;
- There is evidence that suspected victims have had unprotected and/or violent sex;
- There is evidence that suspected victims cannot refuse unprotected and/or violent sex;
- There is evidence that a person has been bought and sold;
- There is evidence that groups of women are under the control of others;
- Advertisements are placed for brothels or similar places offering the services of women of a particular ethnicity or nationality;
- It is reported that sex workers provide services to a clientele of a particular ethnicity or nationality;
- It is reported by clients that sex workers do not smile or do not cooperate.

**Source:** *Online Toolkit to Combat Trafficking in Persons*. Retrieved at, [http://www.unodc.org/documents/human-trafficking/Toolkit-files/08-58296\\_tool\\_6-4.pdf](http://www.unodc.org/documents/human-trafficking/Toolkit-files/08-58296_tool_6-4.pdf)

***Indicators of labour exploitation:***

- Live in groups in the same place where they work and leave those premises infrequently, if at all;
- Live in degraded, unsuitable places, such as in agricultural or industrial buildings;
- Not be dressed adequately for the work they do: for example, they may lack protective equipment or warm clothing;
- Be given only leftovers to eat;
- Have no access to their earnings;
- Have no labour contract;
- Work excessively long hours;
- Depend on their employer for a number of services, including work, transportation and accommodation;
- Have no choice of accommodation;
- Never leave the work premises without their employer;
- Be unable to move freely;
- Be subject to security measures designed to keep them on the work premises;
- Be disciplined through fines;
- Be subjected to insults, abuse, threats or violence;
- Lack basic training and professional licences;
- Notices have been posted in languages other than the local language, except for key notices on health and safety, for example;
- There are no health and safety notices;
- The employer or manager is unable to show the documents required for employing workers from other countries;
- The employer or manager is unable to show records of wages paid to workers;
- The health and safety equipment is of poor quality or is missing;
- Equipment is designed or has been modified so that it can be operated by children;
- There is evidence that labour laws are being breached;
- There is evidence that workers must pay for tools, food or accommodation or that those costs are being deducted from their wages.

***Source:*** *Online Toolkit to Combat Trafficking in Persons*. Retrieved at, [http://www.unodc.org/documents/human-trafficking/Toolkit-files/08-58296\\_tool\\_6-4.pdf](http://www.unodc.org/documents/human-trafficking/Toolkit-files/08-58296_tool_6-4.pdf)

### ***Indicators of domestic servitude:***

- Live with a family;
- Not eat with the rest of the family;
- Have no private space;
- Sleep in a shared or inappropriate space;
- Be reported missing by their employer even though they are still living in their employer's house;
- Never or rarely leave the house for social reasons;
- Never leave the house without their employer;
- Be given only leftovers to eat;
- Be subjected to insults, abuse, threats or violence.

***Source:*** *Online Toolkit to Combat Trafficking in Persons*. Retrieved at, [http://www.unodc.org/documents/human-trafficking/Toolkit-files/08-58296\\_tool\\_6-4.pdf](http://www.unodc.org/documents/human-trafficking/Toolkit-files/08-58296_tool_6-4.pdf)

### ***Indicators of begging and petty crime:***

- Are children, elderly persons or disabled migrants who tend to beg in public places and on public transport;
- Are children carrying and/or selling illicit drugs;
- Have physical impairments that appear to be the result of mutilation;
- Be children of the same nationality or ethnicity who move in large groups with only a few adults;
- Be unaccompanied minors who have been “found” by an adult of the same nationality or ethnicity;
- Move in groups while travelling on public transport: for example, they may walk up and down the length of trains;
- Participate in the activities of organized criminal gangs;
- Belong to gangs composed of members of the same nationality or ethnicity;
- Be part of large groups of children who have the same adult guardian;
- Be punished if they do not collect or steal enough;
- Live with members of their gang;
- Travel with members of their gang to the country of destination;
- Live, as gang members, with adults who are not their parents;
- Move daily in large groups and over considerable distances;
- New forms of gang-related crime appear;
- There is evidence that the group of suspected victims has moved, over a period of time, through a number of countries;
- There is evidence that suspected victims have been involved in begging or in committing petty crimes in another country.

***Source:*** United Nations Office on Drugs and Crime. (2008). *Online Toolkit to Combat Trafficking in Persons*. Retrieved at, [http://www.unodc.org/documents/human-trafficking/Toolkit-files/08-58296\\_tool\\_6-4.pdf](http://www.unodc.org/documents/human-trafficking/Toolkit-files/08-58296_tool_6-4.pdf)

This section discusses indicators that can be used in the identification of traffickers, focusing specifically on the modus operandi of traffickers followed by a discussion of the identification of victims, drawing a distinction between the identification of adult versus child victims.

## *Identification of traffickers*

### Modus operandi of traffickers, trafficking organisations and the trafficking process

Mapping out the modus operandi of traffickers, trafficking organizations and the trafficking process is a powerful tool, both in identifying traffickers and intercepting criminal efforts, as well as in developing strategies for preventing the possibility of trafficking from occurring in the first place. Thus understanding the modus operandi of offenders assists law enforcement in creating tools that can be used in proactive and reactive policing, both of which are important to the pursuit of addressing the trafficking of persons.

To begin with, it is imperative to recognize the ever-evolving modus operandi of traffickers, which poses a real challenge for law enforcement both in cultural and legal terms. It has been suggested however that consistency in the criminal event can be found in what is described as ‘crime scripts’, which essentially permit the event as a whole to be “broken down into a series of constituent acts regardless of the identity of the particular criminal.”<sup>14</sup> Further, “this is clearly the case in human trafficking, which can be described as a process rather than a single offence<sup>15</sup>, a process<sup>16</sup> involving different stages or nodes<sup>17</sup> through which victims pass and involving different persons at each stage of the process”.<sup>18</sup> Accordingly, “the first stage involves deception, or the abduction, or recruitment of a person followed by the transportation and entry of the individual into another country (in the case of trans-border trafficking, but not in the case of domestic trafficking)”.<sup>19</sup> These two stages are followed by a phase of exploitation. Aronowitz et al. (2010) suggest that two additional stages, one of which is termed “victim disposal” whereby the victim is ‘disposed’ of due to their declining value<sup>20</sup> and a phase “which involves the offender and is common to any large-scale criminal organization: the laundering of criminal proceeds, and even investment in other criminal activities”.<sup>21</sup>

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<sup>14</sup> R. Naylor, ‘Towards a General Theory of Profit-Driven Crimes’, *British Journal of Criminology*, 43 (2003), p. 81: The scripts approach was developed by Derek Cornish as cited in OSCE (2010), accessed at <http://www.osce.org/cthb/69028?download=true>.

<sup>15</sup> Trafficking does not require the transportation or crossing of international borders and the prevalence of internal or domestic trafficking may be greater in some countries than international trafficking as cited in OSCE (2010) accessed at, <http://www.osce.org/cthb/69028?download=true>.

<sup>16</sup> Alexis Aronowitz, *Coalitions Against Trafficking in Human Beings in the Philippines* (Vienna: United Nations Office on Drugs and Crime and the United Nations Interregional Crime and Justice Research Institute, 2003), <[http://www.unodc.org/pdf/crime/human\\_trafficking/coalitions\\_trafficking.pdf](http://www.unodc.org/pdf/crime/human_trafficking/coalitions_trafficking.pdf)>, accessed 31 March 2010, as cited in Aronowitz et al., (2010) accessed at, <http://www.osce.org/cthb/69028?download=true>.

<sup>17</sup> J. Pennington et al., “The Cross-National Market in Human Beings”, *Journal of Macromarketing*, Volume 29 Number 2 (2009), as cited in Aronowitz et al., (2010) accessed at, <http://www.osce.org/cthb/69028?download=true>.

<sup>18</sup> Alexis Aronowitz et al., *Analysing the business model of trafficking in human beings to better prevent the crime*. (OSCE Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings, 2010), [http://www.unodc.org/pdf/crime/human\\_trafficking/coalitions\\_trafficking.pdf](http://www.unodc.org/pdf/crime/human_trafficking/coalitions_trafficking.pdf).

<sup>19</sup> *Ibid.*

<sup>20</sup> J. Pennington et al., “The Cross-National Market in Human Beings”, *Journal of Macromarketing*, Volume 29 Number 2 (2009) as cited in Aronowitz et al., (2010) accessed at, <http://www.osce.org/cthb/69028?download=true>.

<sup>21</sup> Alexis Aronowitz et al., *Analysing the business model of trafficking in human beings to better prevent the crime*. (OSCE Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings, 2010), [http://www.unodc.org/pdf/crime/human\\_trafficking/coalitions\\_trafficking.pdf](http://www.unodc.org/pdf/crime/human_trafficking/coalitions_trafficking.pdf).

In addition, it is important to acknowledge that “numerous crimes are committed when human trafficking occurs [and that t]hese may be instrumental criminal activities which are perpetrated *in direct furtherance of* the trafficking activity or the crimes may be secondary and occur as a result of the trafficking activity”.<sup>22</sup>

***Examples of instrumental criminal activities:***

- Falsification of documents;
- Forced prostitution;
- Other forms of sexual or labour exploitation;
- Violence associated with maintaining control over victims;
- Corruption of government officials.

***Source:*** Alexis Aronowitz et al., *Analysing the business model of trafficking in human beings to better prevent the crime*. (OSCE Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings, 2010), [http://www.unodc.org/pdf/crime/human\\_trafficking/coalitions\\_trafficking.pdf](http://www.unodc.org/pdf/crime/human_trafficking/coalitions_trafficking.pdf)

***Examples of secondary criminal activities:***

- Money laundering;
- Tax evasion.

***Source:*** Alexis Aronowitz et al., *Analysing the business model of trafficking in human beings to better prevent the crime*. (OSCE Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings, 2010), [http://www.unodc.org/pdf/crime/human\\_trafficking/coalitions\\_trafficking.pdf](http://www.unodc.org/pdf/crime/human_trafficking/coalitions_trafficking.pdf)

Important consideration must be given to the point of view of traffickers, whereby the crime of trafficking in persons is seen as a commercial vehicle for gain. Traffickers use a range of tactics and strategies to maximize their profits and avoid detection in the pursuit of exploiting men, women and children for financial gain.<sup>23</sup> From the perspective of traffickers, potential victims are merely viewed “as commercial commodities, to be recruited, transported, and exploited.”<sup>24</sup> From this point of view, situations that are perceived to be high profit and low risk are particularly conducive to crimes of trafficking in persons.

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<sup>22</sup> Europol, *General Situation Report on T.H.B. 1999*, File No. 2565-35 (The Hague, 2000). as cited in Aronowitz et al., (2010) accessed at, <http://www.osce.org/cthb/69028?download=true>

<sup>23</sup> Dandurand et al. *Human trafficking: Reference guide for Canadian Law Enforcement*. (UCFV, RCMP, UNODC, ICCLR, 2005), [http://www.icclr.law.ubc.ca/Publications/Reports/HT\\_Canadian\\_Law\\_Enforcement\\_Guide.pdf](http://www.icclr.law.ubc.ca/Publications/Reports/HT_Canadian_Law_Enforcement_Guide.pdf)

<sup>24</sup> *Ibid.*

***Potential traffickers include:***

- Pimps;
- Intimate partners/family members;
- Gangs and criminal networks;
- Brother and fake massage business owners and managers;
- Growers in agriculture;
- Labour brokers/recruiting agencies;
- Employers of domestic servants;
- Small business owners and managers;
- Large factory owners and corporations.

***Source:*** The Polaris Project. (2013). <http://www.polarisproject.org/human-trafficking/overview/the-traffickers>

Lastly, traffickers use various techniques to keep their victims enslaved. Some traffickers may physically incarcerate their victims however, the more frequent practice is to use less obvious techniques found in the table below.

***Modus operandi of traffickers:***

- **Debt bondage** – financial obligations, honor-bound to satisfy debt;
- **Isolation from the public** – limiting contact with outsiders and making sure that any contact is monitored or superficial in nature;
- **Isolation from family members** - and members of their ethnic and religious community;
- **Confiscation** of passports, visas and/or identification documents;
- **Use or threat of violence** toward victims and/or families of victims;
- **The threat of shaming** victims by exposing their circumstances to family members;
- **Telling victims they will be imprisoned** or deported for immigration violations if they contact authorities:

It is found that where traffickers operate in a group, the likelihood that a single criminal group is responsible for the entire trafficking chain, from recruitment to final exploitation is rare.<sup>25</sup> Rather, the modus operandi of trafficking more recently involves smuggling autonomously or via a network into a country and subsequently being recruited by another criminal group to be exploited upon reaching the destination country.<sup>26</sup> The following table demonstrates some of the roles that may be subsumed by actors involved in a trafficking organization:

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<sup>25</sup> Interview with Maria Grazia Giammarinaro, European Council on Refugees and Exiles (ECRE). Retrieved from <http://www.ungift.org/knowledgehub/en/stories/april2011/interview-with-maria-grazia-giammarinaro.html>

<sup>26</sup> *Ibid.*

### ***Roles taken on within trafficking organisations:***

- ***Investors:*** those who put forward funding for the operation, and oversee the entire operation. These people are unlikely to be known by the everyday employees of the operation, as they are sheltered by an organizational pyramid structure that protects their anonymity; they may be separate from the organization;
- ***Recruiters:*** seek out potential migrants and secure their financial commitment. These people may be members of the culture and the community from which migrants are drawn;
- ***Transporters:*** assist the migrants/potential victims in leaving their country/place of origin, either by land, sea or air;
- ***Corrupt public officials or protectors:*** may occur throughout the trafficking process; officials may assist in obtaining travel documents, or accept bribes to enable migrants to enter/exit illegally, or to cover up any investigation and obstruct any prosecution;
- ***Informers:*** gather information on matters such as border surveillance, immigration and transit procedures, asylum systems, law enforcement activities;  
***Guides and crew members:*** are responsible for moving trafficked persons from one transit point to the other or helping them to enter the destination country;
- ***Enforcers:*** are primarily responsible for policing staff and trafficked persons, and for maintaining order;
- ***Debt collectors:*** are in the destination country to collect fees;
- ***Money launderers:*** launder the proceeds of crime, disguising their origin through a series of transactions or investing them in legitimate businesses;
- ***Supporting personnel and specialists:*** may include local people at transit points who might provide accommodation and other assistance.

***Source:*** Alexis Aronowitz, “Smuggling and trafficking in human beings: the phenomenon, the markets that drive it and the organizations that promote it”, *European Journal on Criminal Policy and Research*, Volume 9 (2001); Alexis Aronowitz, *Human Trafficking, Human Misery: The Global Trade in Human Beings* (Praeger: Westport, 2009); Europol, *Trafficking Human Beings in the European Union: A Europol Perspective* (2007), <[http://s3.amazonaws.com/rcpp/assets/attachments/644\\_665\\_EN\\_original.pdf](http://s3.amazonaws.com/rcpp/assets/attachments/644_665_EN_original.pdf)>, accessed 31 March 2010; A.

Schloenhardt, “Organized Crime and the Business of Migrant Trafficking”, *Crime, Law and Social Change*, 32 (1999) as cited in Alexis Aronowitz et al., *Analysing the business model of trafficking in human beings to better prevent the crime*. (OSCE Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings, 2010), [http://www.unodc.org/pdf/crime/human\\_trafficking/coalitions\\_trafficking.pdf](http://www.unodc.org/pdf/crime/human_trafficking/coalitions_trafficking.pdf)

Further, because in practice the link between the two or more criminal groups cannot be easily proven, the first part of the trafficking chain is usually ignored, and only a minor violation of labour laws is found. As a consequence, the worker is deprived of the assistance to which she or he is entitled as a victim of trafficking, and the only result of the institutional response is her or his deportation. Therefore, the real challenge is to identify the whole criminal network involved in the trafficking process.<sup>27</sup> This can be done by effective strategies aimed at victim identification.

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<sup>27</sup> Ibid.

**NATIONAL REFERRAL MECHANISMS**



## NATIONAL REFERRAL MECHANISMS

The ‘referral mechanism approach’ recognises that all stakeholders, including law enforcement agencies must co-operate and work in synergy to develop a truly effective and comprehensive protection structure for trafficked persons. The objective is to rehabilitate trafficked persons and implement sustainable structures that will provide them with support. The police can play an active role as facilitators in several ways. Referral mechanisms generally fall into three categories: legal counselling, NGO support and counselling and medical care.

- 1) **Referral for legal representation:** Although the state is duty bound to take up the legal representation of the victim, private lawyers are often required to intervene, particularly when the victim knows and has trust in the lawyer. Police officials should promote such legal representation. Legal representation/aid should be consulted for any assistance required. (Smuggled migrants and trafficked persons have the right to apply for asylum and may have related protection needs –they should be able to have access to support and protection structures, which may also require their referral.)
- 2) **Referral to a counsellor:** Victims should be referred to an appropriate NGO or equivalent service provider for holistic counselling, especially for relief and rehabilitation.
- 3) **Referral for health care:** When a victim of trafficking or a smuggled migrant needs immediate medical attention it should be attended to on priority. Suggest a female medical officer/ medical attendant if the victim/smuggled migrant is a female. If the service providers are males, ensure that female representatives of an NGO are present.
- 4) **Referral for psychosocial intervention:** The victim of trafficking in persons is often, but also smuggled migrants can be, extremely traumatised and need to be handled sensitively and in a humane manner. The police must make all efforts to facilitate psychosocial help and intervention through the services of a skilled counsellor to reduce the person’s trauma and distress. Assistance should be taken from the staff of the government or shelter or other (victims) services providers.
- 5) **Referral for rehabilitation:** Though this appears to be a *non-police* job, it is clear that a victim who is not properly rehabilitated can, and more often is, re-trafficked. Preventing re-trafficking is a police mandate; therefore, the police officer should deem it essential to take all steps for proper rehabilitation of the victim. Refer the victim to the government, an NGO or shelter; communicating the case to appropriate rehabilitative agencies, including corporates and other bodies who could provide support.
- 6) **Referral for compensation:** Victims of trafficking in persons who are identified require immediate support for their survival. Law enforcement should contact victim services or other social service providers for incidental expenses such as travel, clothing, medicine and other immediate necessities.<sup>28</sup>

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<sup>28</sup> United Nations Office on Drugs and Crime. (2007). *Standard operating procedures (SOP): On investigating crimes of trafficking for commercial sexual exploitation*. Retrieved from, [http://www.unodc.org/pdf/india/sop\\_investigation\\_131207.pdf](http://www.unodc.org/pdf/india/sop_investigation_131207.pdf)



**INVESTIGATION**



## INVESTIGATION

Investigations are a principal feature of the role of law enforcement in cases of trafficking in persons and smuggling of migrants. The following section discusses investigative approaches, interviewing of adult and child victims of trafficking, as well as of smuggled migrants and interrogation of a suspect or accused where applicable. It is important to note that all measures must be implemented in compliance with the legislative and procedural requirements of the law of the country concerned.

### *Investigative approaches*

Investigation of crimes of trafficking in persons can be undertaken using various approaches by law enforcement, three of which are considered the major investigative approaches by police agencies globally: (1) reactive investigation (2) proactive investigation (3) disruptive investigation.<sup>29</sup> The three approaches are considered to be overlapping and not mutually exclusive. They are outlined briefly below:

- 1) **Reactive investigation** – This approach occurs in response to information received or in response to a particular incident, where an immediate response is required. In trafficking in persons, this kind of investigation is also referred to as “victim led” investigation, as it could be triggered by a victim’s complaint.
- 2) **Proactive investigation** – This approach is also referred to as “intelligence generated, police led” investigation.
- 3) **Disruptive investigation** – This approach is police led and often used when reactive and proactive investigations are not possible.

### Reactive investigation

Reactive investigations are generally not the product of an investigative plan. They usually occur in response to information received or in response to a particular incident. Often a reactive investigation starts as a rapid intervention based on anonymous reporting or as a result of information that comes to light by chance e.g. during a routine patrol. An approach using reactive methods will generally be overt and include the following:

- Obtaining testimony and statements from witnesses (victims)
- Detaining/arresting and interviewing suspects
- Visits or raids on suspected premises or location to recover evidence
- Analysing materials recovered from suspects and premises.

Often, the need for an immediate intervention to protect the lives and health of people, affords little time for proactive investigations to obtain independent evidence. The result is often that the investigators are left with suspects but no viable evidence upon which to prosecute them.<sup>30</sup>

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<sup>29</sup> Dandurand et al. *Human trafficking: Reference guide for Canadian Law Enforcement*. (UCFV, RCMP, UNODC, ICCLR, 2005), [http://www.icclr.law.ubc.ca/Publications/Reports/HT\\_Canadian\\_Law\\_Enforcement\\_Guide.pdf](http://www.icclr.law.ubc.ca/Publications/Reports/HT_Canadian_Law_Enforcement_Guide.pdf)

<sup>30</sup> Dandurand et al. *Human trafficking: Reference guide for Canadian Law Enforcement*. (UCFV, RCMP, UNODC, ICCLR, 2005), [http://www.icclr.law.ubc.ca/Publications/Reports/HT\\_Canadian\\_Law\\_Enforcement\\_Guide.pdf](http://www.icclr.law.ubc.ca/Publications/Reports/HT_Canadian_Law_Enforcement_Guide.pdf)

### ***Trafficking in persons cases:***

Reactive investigation is weaker than proactive investigation for several reasons:

Victims may initially provide information but later refuse to cooperate

Informants may provide information which requires immediate response, enabling those at higher levels of the criminal organization to evade arrest

Reactive measures may mean that evidence is lacking or not able to be collected

There are three responses which must be applied when the situation of a victim creates the need for a reactive response:

1. Immediate intervention
  - to rescue victims,
  - to prevent the procurement of other victims,
  - to secure evidence
2. Use of information
  - to conduct proactive enquiries,
  - to disrupt trafficking practices,
  - to develop arrest strategies
3. Use of intelligence
  - to plan and commence intelligence-gathering operations,
  - to assess premises to gather information about locations, etc.,
  - to reduce risks involved in subsequent arrest operations

In all cases where victims come to the attention of law enforcement agents, a number of responses may be applicable. The first response is immediate intervention against the traffickers in order to rescue other victims and/or to prevent further potential victims from being entrapped and/or to secure evidence that may otherwise be lost. The second response is the utilisation of the intelligence or statement of the victim or third party as the basis for developing and conducting a proactive or disruptive investigation into the traffickers. Lastly, the third response is the utilisation of the intelligence or statements as the basis for an in-depth, intelligence gathering operation concerning the traffickers.<sup>31</sup> It is also important to note that where the assessment of risks for the victims clearly indicates the need for immediate intervention, it is necessary to take prompt action.<sup>32</sup> In such a case, where the level of risk to remaining victims or the need to secure vital evidence demands an immediate intervention, the case must move to the arrest phase, where the following guidelines should be followed:

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<sup>31</sup> United Nations Office on Drugs and Crime. (2013). *Online Toolkit to Combat Trafficking in Persons*. Retrieved at, <http://www.unodc.org/unodc/en/human-trafficking/2008/electronic-toolkit/electronic-toolkit-to-combat-trafficking-in-persons---index.html#5>

<sup>32</sup> *Ibid.*

### ***Guidelines for placing an arrest in reactive investigations:***

1. Every suspect against whom there is sufficient evidence to justify the actions should be arrested, no matter how minor or peripheral his or her role. This will effectively disrupt the entire network rather than remove minor players in chain;
2. There will always be a possibility in this type of case that an arrest will need to be implemented at very short notice therefore it is advisable to have a skeleton arrest plan prepared and ready to be implemented from an early stage of an operation, a plan that can then be refined as the operation progresses;
3. The arrest phase should be times and coordinated as to maximize the opportunity simultaneously to arrest as many of the suspects as possible and to rescue as many victims as possible. In addition, the objective is to execute the plan at a time that will offer the best prospect of securing further evidence as the arrests are made.

**Source:** United Nations Office on Drugs and Crime. (2013). *Online Toolkit to Combat Trafficking in Persons*. Retrieved at, <http://www.unodc.org/unodc/en/human-trafficking/2008/electronic-toolkit/electronic-toolkit-to-combat-trafficking-in-persons---index.html#5>

### ***Smuggling of migrant cases:***

One of the most common types of reactive investigation comes about as the result of a discovery of people in the process of being smuggled. In a reactive investigation, the investigator is likely to be faced with:

- A number of people, which may include children, who might not speak the investigator's language
- A crime scene
- A confusing picture of events

It is the responsibility of the first investigator arriving on the scene to ensure that:

- Any threat to life is addressed
- Basic needs are met
- The human rights of smugglers and migrants are protected
- Order is maintained
- The brief facts are obtained, to detail what has happened
- Potential witnesses are identified
- The crime scene or place of arrest is secured
- Any suspects (smugglers) are detained and isolated from migrants where possible until other investigators or specialists arrive

Once those actions are taken, the investigation can begin to move forward. Once investigations begin, they are often dealt with as an isolated or one-off incident. This should not happen. In reactive investigations, investigators should ask themselves some of the following questions:

- Has this happened before?
- Were there previous tests of the route, carried out by the smugglers, to test the method (often known as dummy runs)?
- How many other trips have been made?
- Where is the money?

- What country do those smuggled come from and is it possible to approach that country and ask for assistance or advice in connection with the investigation?
- Have the migrants used transit countries? If so, can those countries be approached?

When the investigation is sufficiently thorough, reactive investigations *can* bring about excellent results with minimal expenditure and human resources.

The investigator's role, however, does not end with the conclusion of an investigation. An investigator should aim to pass on lessons learned to front-line officers. These people are often the first to arrive on a scene and may be there for some hours before a more experienced officer arrives. Consider providing checklists or help cards to border, police or immigration officers. Rigorous intelligence collection may lead to proactive investigations.

### Proactive investigation

The proactive investigative approach has been found to be a best practice in pursuing cases of trafficking in persons.<sup>33</sup> Given the typical complexities involved in such cases, it has been found that long-term, sustained efforts based on solid intelligence and multiagency collaboration is the most effective approach to addressing and preventing trafficking in persons.<sup>34</sup> In this type of investigation, the investigators have slightly more control over how they will collect evidence and seek to prove their case. The key to a successful proactive investigation is intelligence and its use. The proactive approach entails investigations that do not necessarily rely on the cooperation and testimony of victims.<sup>35</sup> Due to the difficulty of relying on victims of trafficking, who may not be prepared to testify against their traffickers, this approach is considered especially useful in seeking a successful prosecution. Despite the fact that victim testimony will remain the prime source of quality evidence, in place of victim testimony, law enforcement agents may rely on a combination of intelligence, human and technical surveillance, undercover deployments and standard investigative techniques.<sup>36</sup> This approach further allows for law enforcement agents to strategically identify various modus operandi of traffickers, in an effort to prevent such crimes from occurring from the outset.

It is important to ensure close cooperation between investigators and prosecutors and/or investigative judges. To ensure that evidence is admissible in court, consultation should occur at the earliest stage practicable. Once the investigators have a picture of what is going on, they need to look at all potential uses of law enforcement tactics.

### Disruptive investigation

Disruption aims to interrupt criminal activities, often without prosecuting or even arresting the key actors involved in the commission of those crimes. Although used less often than the reactive and proactive approach, the disruptive investigative approach is a useful strategy when neither of the aforementioned approaches are possible and law enforcement have the ability to use tactics available to them to disrupt trafficking and smuggling operations. It is stated that the use of the disruptive approach may be useful in specific circumstances:

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<sup>33</sup> Dandurand et al. *Human trafficking: Reference guide for Canadian Law Enforcement*. (UCFV, RCMP, UNODC, ICCLR, 2005),

[http://www.icclr.law.ubc.ca/Publications/Reports/HT\\_Canadian\\_Law\\_Enforcement\\_Guide.pdf](http://www.icclr.law.ubc.ca/Publications/Reports/HT_Canadian_Law_Enforcement_Guide.pdf).

<sup>34</sup> *Ibid.*

<sup>35</sup> *Ibid.*

<sup>36</sup> *Ibid.*

***Circumstances conducive to disruptive investigations:***

1. Where the level of risk to the victims demands an immediate response that precludes the proactive approach but may require an immediate intervention and disruption thereafter;
2. Where the proactive approach is not viable for operational reasons, such as where geographical and/or topographical features make surveillance on target premises impracticable, or where it is impossible to achieve undercover penetration of the network;
3. Where legislative, procedural or resource implications preclude the use of a proactive approach; and,
4. Where the disruptive approach provides a faster response to specific complaints from local residents or other affected groups.

**Source:** Dandurand et al. *Human trafficking: Reference guide for Canadian Law Enforcement*. (UCFV, RCMP, UNODC, ICCLR, 2005), [http://www.icclr.law.ubc.ca/Publications/Reports/HT\\_Canadian\\_Law\\_Enforcement\\_Guide.pdf](http://www.icclr.law.ubc.ca/Publications/Reports/HT_Canadian_Law_Enforcement_Guide.pdf)

A number of considerations must be made in employing this method of investigation. One of the considerations is that it may temporarily relieve the situation, but usually does not solve

the problem and often only displaces the problem to another location. The other consideration is that the key to success in the systematic use of disruptive interventions is the use of creative and innovative multi-agency tactics to create a large enough number of daily problems for traffickers so as to make it virtually impossible for them to continue to operate with their current methods and networks, and at their current location.

As such this strategy is best undertaken when equally efforts are dispensed by law enforcement in nearby regions so as to avoid crime displacement to regions where traffickers can set up their operations in place of their current location. There are a number of agencies that can be mobilized to contribute to the disruptive activities. They include various law enforcement agencies, immigration services, customs agencies, Ministries of foreign affairs, health, environment, and labour, fire services, municipal authorities, airlines and other carriers.<sup>37</sup>

Further, disruptive activity always creates intelligence opportunities, so it is important to ensure that all available intelligence is captured and properly recorded. It may become the basis of proactive operations at a later date. While on the other hand, disruptive activity may also disrupt existing criminal patterns and quickly render some previously useful information and intelligence obsolete.<sup>38</sup>

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<sup>37</sup> Dandurand et al. *Human trafficking: Reference guide for Canadian Law Enforcement*. (UCFV, RCMP, UNODC, ICCLR, 2005), [http://www.icclr.law.ubc.ca/Publications/Reports/HT\\_Canadian\\_Law\\_Enforcement\\_Guide.pdf](http://www.icclr.law.ubc.ca/Publications/Reports/HT_Canadian_Law_Enforcement_Guide.pdf)

<sup>38</sup> *Ibid.*

## INTELLIGENCE

### Intelligence gathering

Intelligence is described as information that has been collected, evaluated, collated, analysed and disseminated. Intelligence shall provide knowledge and understanding upon which operational decisions can be made.

Intelligence or information gathering and exchange between relevant agencies, often across borders, is crucial to the success of measure to attack transnational criminal networks. Trafficking and smuggling networks often create “paper trails” in one or more of the following areas: advertising, rentals, transportation, communications, or financial transactions. Each of these areas affords intelligence-gathering opportunities for law enforcement officers.<sup>39</sup>

There are two types of intelligence gathering that are most effective. They are strategic intelligence and tactical intelligence.

### Strategic intelligence

The objective of strategic intelligence is to conduct an overall intelligence assessment of the various strategic factors that underpin the existence of trafficking in persons and smuggling of migrants activity in the Central Asian Republics. A large proportion of the data used to generate a strategic overview of the situation is usually derived from intelligence gathered at the operational level. Areas of strategic intelligence may include **socio-economic factors**, such economic situation, lack of opportunities, discrimination against women, etc.; **cultural factors**, such as beliefs and attitudes that are used by offenders to recruit or exploit victims, or that may affect the attitude of the victim towards those who exploit them, their fears, their willingness to collaborate with the authorities, etc.; **international relations**, that is e.g. the historical or cultural connection between countries, languages as well as international labour movement and economic trade relations; and **patterns and profiles**, such as on patterns of associations and collaboration between criminal organizations, on visa requirements, on the strengths and weaknesses of border control and other law enforcement measures in different parts of a region, are all useful predictors that can be used in developing prevention initiatives and in recognizing the profiles of offenders and potential victims/smuggled migrants.

### Tactical intelligence

Tactical intelligence affords immediate and timely support to ongoing investigations by identifying offenders and by providing advance information on their movements. It leads to specific action, including arrests, further investigations and prosecution. There are a number of key areas of intelligence gathering activity at the operational level.

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<sup>39</sup> Dandurand et al. *Human trafficking: Reference guide for Canadian Law Enforcement*. (UCFV, RCMP, UNODC, ICCLR, 2005), [http://www.icclr.law.ubc.ca/Publications/Reports/HT\\_Canadian\\_Law\\_Enforcement\\_Guide.pdf](http://www.icclr.law.ubc.ca/Publications/Reports/HT_Canadian_Law_Enforcement_Guide.pdf)

### ***Areas of tactical intelligence requiring special attention***

- **Recruitment methods** – deception, coercion, abduction – what is the person being recruited for, e.g. promise of legitimate work?; where was the person recruited from – home country or one of the Central Asian Republic states?
- **Advertising media** – ‘word of mouth’, printed media, internet;
- **Forged passport, travel document and identity documentation** – preparation, acquisition, payment methods used and location of agents;
- **Immigration and visa fraud** – preparation and acquisition;
- **Travel routes and means** – routes followed, mode of travel;
- **‘Safe house’ accommodation** – location and provision;
- **Means of communication** – email, mobile phones, fax machines, etc.;
- **Financial transactions in respect of all of the above activities;**
- **Information from visa sections and consular services;**
- **Information from airlines and travel agencies.**

**Source:** Dandurand et al. *Human trafficking: Reference guide for Canadian Law Enforcement*. (UCFV, RCMP, UNODC, ICCLR, 2005),

[http://www.icclr.law.ubc.ca/Publications/Reports/HT\\_Canadian\\_Law\\_Enforcement\\_Guide.pdf](http://www.icclr.law.ubc.ca/Publications/Reports/HT_Canadian_Law_Enforcement_Guide.pdf)

In all of this, it is important to remember that intelligence is only useful if it is transmitted in a timely manner to those who are in a position to use it. Expeditious transfer of intelligence between relevant agencies is often an issue. Intelligence can very quickly become obsolete in the fast moving crime of trafficking in persons. Intelligence must be centrally managed to avoid duplication and ineffective use of resources. Intelligence and information must be reported objectively without any preconceived ideas. Relevant information and intelligence must be readily available to intelligence analysts and users. The fundamental principle of intelligence is to provide advice.<sup>40</sup>

### **Personnel**

The gathering of intelligence and physical evidence is conducted by a range of law enforcement personnel. Some examples are frontline police officers, crime scene forensic experts, non-forensic crime scene experts, crime analysts, etc. Often frontline officers are the first point of contact with victims, witnesses, informants and offenders therefore frontline officers have the potential to collect significant intelligence during their regular duties, provided that they are aware that some situations may be connected with the crime of trafficking in persons. Repeat investigative experience shows that the vital piece of intelligence or evidence that finally ‘breaks a case’ and leads to a successful conclusion can come from a frontline agent, who often underestimates the importance and value of his/her contribution.<sup>41</sup> It is therefore of vital important to recognise that the intelligence gathering activity can start at the frontline level and work upwards towards the specialist investigative task forces.

Law enforcement officers in most cases will be carrying out checks and controls connected with other duties when they identify indicators of trafficking in persons. Being alert that in the presence

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<sup>40</sup> *Ibid.*

<sup>41</sup> International Centre for Migration Policy Development. (2006). *Anti-Trafficking Training for Frontline Law Enforcement Officers*. Retrieved at <http://www.icmpd.org/Anti-Trafficking-Training-for-Frontline-Law-Enforcement-Officers-Training-Guide-and-Background-Rea.1853.0.html>.

of certain elements and circumstances, information gathered in a particular context should be signalled to specialised units is what can make the difference at the operational level and increase substantially, the coordination capacity of different branches of law enforcement agencies in combating the crime.<sup>42</sup>

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<sup>42</sup> *Ibid.*

## *Interviewing victims of trafficking and smuggled migrants*

In general, interviews should follow the PEACE (acronym based on English terminology) model, an interview model used in several countries in interviewing suspects, witnesses, and victims.

**PEACE is an acronym that stands for: Planning and Preparation/Engage and Explain/Account/Closure/Evaluate**

### **Planning and preparation**

- Arrange certified interpreters, lawyers and logistics
- Fully research available facts, identify interview objectives and prepare pertinent questions

### **Engage and explain**

- Establish rapport with the interviewee, for instance, by making them feel more comfortable by talking about more neutral topics first
- Engage with the person being interviewed but use active listening skills; the goal is to obtain information in the words of the interviewee not in the words of the interviewer
- Explain the present situation including the interview process and purpose, that the statement is voluntary, and that the interviewee can speak to counsel
- Explain who you are, your position and depending on the circumstances, your relevant work experience and, if applicable, mention that you have interviewed migrants/smugglers before. Explain the roles of other persons present

### **Account**

- Allow the interviewee to provide an uninterrupted account, sometimes known as “free recall”. After they have given a full account, ask them to repeat their account or ask further questions to fill gaps and clarify inconsistencies

### **Closure**

- Summarize the interview and give the person the opportunity to add additional information.
- Inform him or her about what will happen next

### **Evaluate**

- After the interview has been conducted, it should be evaluated to establish if aims and objectives of the interview have been achieved, whether new information obtained in the interview affects the investigation and how the interview went.

## Interviewing victims of trafficking in persons

Interviewing suspected victim-witnesses in trafficking in persons investigations is an important step in the investigative procedure. The terms ‘victim’ and ‘witness’ may have different meanings in different jurisdictions. In some jurisdictions, a person is declared a ‘victim’ after a judicial or administrative process and in these cases, the official declaration of ‘victim’ status implies a number of privileges and protections.<sup>43</sup> In other jurisdictions, the term victim is understood in a

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<sup>43</sup> United Nations Office on Drugs and Crime & UNGIFT. (2009). *Anti-human trafficking manual for criminal justice practitioners, Module 8: Interviewing victims of trafficking in persons who are potential witnesses*. Retrieved at [www.unodc.org/documents/human-trafficking/TIP\\_module8\\_Ebook.pdf](http://www.unodc.org/documents/human-trafficking/TIP_module8_Ebook.pdf).

broader sense without any legal/administrative requirements.<sup>44</sup> Similarly, in some jurisdictions, the term ‘witness’ is limited to a person who gives testimony in courts, while in others it is used to describe a person who has information about a crime.<sup>45</sup>

Whatever the precise terminology and structure of your legislation, this guidance is primarily intended for those situations involving people who you suspect have been trafficked and who you need to conduct an evidential interview with to get an account of the depth and quality that can be used in court proceedings.<sup>46</sup>

The paragraphs below outline key considerations and challenges when interviewing victims of trafficking. Law enforcement officers may not be used to interviewing victims of crime and sometimes try to challenge the accounts of victims, especially when those seem to be inconsistent. It is therefore important for police to understand why accounts could be inconsistent without the victim being untrustworthy.

It needs to be highlighted in any case, that, as little as law enforcers may be prepared to apply a more empathic interviewing style, especially for victims of trafficking in persons, it is an approach that will produce the best results. Only when victims feel comfortable enough to cooperate with police they will do so. Making the victim feel comfortable does not mean to compromise investigations and being partial. It just means to treat victims in a more sensitive and sympathetic manner which inevitably helps the police to do their job better by ensuring that more information is provided and that the victim is more willing and better able to become involved as a witness within the judicial system.

Ideally, interviews with victims of trafficking in persons should be conducted by specially trained interviewers. Typical operational units containing such trained personnel include sex offence investigators and domestic and child abuse units.<sup>47</sup> It is also important to note that it is rare to find the number and range of support services required in trafficking in persons cases in any other type of investigation. A blend of accommodation, medical support, counselling, translation services, clothing, food and planning for return to the country of origin may be required. These are the range of support services that should be anticipated from the planning stage and implemented from the moment you come in contact with suspected victim for interview. It is not something that can be put off to the end of an interview or series of interviews. Support of this kind is not easy to arrange, and the earlier you start, the better. Cooperation and trust is not likely to occur until you have at least taken some steps towards making these support arrangements and telling the witness/victim what is in place for him/her. Without victim’s cooperation and testimony you are unlikely to have a case. This should not be confused with having victim’s testimony as the only evidence you have in your case. Everything you are told should be corroborated or supplemented by as much other testimony and material evidence as you can gather.<sup>48</sup>

The interviewing of trafficking victims must respect their rights, their choices, and their autonomy. Given the very complex situation in which these victims find themselves, it is often difficult to ensure the protection of these rights. At first, investigators proceeding with an investigation may not even be sure that they are indeed dealing with a victim. That person may understandably be very apprehensive and very reluctant to cooperate with the authorities. Often,

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<sup>44</sup> *Ibid.*

<sup>45</sup> *Ibid.*

<sup>46</sup> *Ibid.*

<sup>47</sup> *Ibid.*

<sup>48</sup> *Ibid.*

this is because what may look like a simple routine inquiry, from the point of view of the investigator, may in fact be life threatening for the victim.

Prior to conducting an interview, plan effectively. Trafficking victim interviews are likely to be complex due to the nature of the trafficking process, the number of people and locations that may be referred to and the effect of victimization on the witness.<sup>49</sup> In the case of child victims, preparing for an interview includes obtaining background information on the child beforehand. Background information on the child may be obtained from the child himself/herself, but in this case, it should be obtained in a prior informal interview dealing only with biographical data and social history. Once obtained, this information will not only help the police officer to situate the child in the criminal investigation, but will also help in building up a rapport with the child during the formal interview. Further, the interview questions should be planned in advance, to ensure that all the elements of the crime under investigation are covered. The officer should also find out what measures will be put in place or are in place to protect the child, and what is planned for the immediate future for the child, so that he/she can answer any questions from the child about future arrangements.<sup>50</sup>

The following are minimum standards that should be adhered to during the interview process:

#### ***Minimum standards in the interview process***

- Inform the presumed trafficked person about the procedures of the police interrogation and its consequences;
- Give clear and accurate information, in the native language of the presumed trafficked person;
- Use experienced interpreters to be present during the interrogation;
- Avoid questions relating to the person's privacy, for instance, regarding intimate relationships and experience in prostitution;
- A trafficked person can only be conclusively identified as such if the distinct elements of the crime of trafficking have been detected;
- Give appropriate time to trafficked victims because of their vulnerable status and the effects of suffering from health concerns, including posttraumatic stress disorder.

**Source:** OSCE (2004). *National Referral Mechanisms – Joining Efforts to Protect the Rights of Trafficked Persons: A Practical Handbook*. Warsaw: OSCE – ODIHR. Retrieved from [http://www.osce.org/documents/odihr/2004/05/2903\\_en.pdf](http://www.osce.org/documents/odihr/2004/05/2903_en.pdf) ).

### **Child victims**

Children who have been trafficked will have suffered serious abuse. The abuse may involve rape, beatings, and deprivations of various kinds. As a result, they will probably suffer from post-traumatic stress disorder, or other stress reactions to trauma. Their behaviour will be affected to the extent that they will not be able to respond as a young person of their age would normally respond. They may de-personalise the abusive experience, and regard it as having happened to

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<sup>49</sup> *Ibid.*

<sup>50</sup> ECPAT. (2006). *Combatting the trafficking of children for sexual purposes: A training guide*. Retrieved at [http://www.ecpat.net/EI/EI\\_publications.asp](http://www.ecpat.net/EI/EI_publications.asp).

another person, not remember where they have been or what happened, appear apathetic and disinterested, or 'numb', suffer 'flashbacks' and become extremely distressed, have an emotional attachment to their abuser and seek to protect him/her, be afraid and scared.<sup>51</sup>

A young victim may deny that he/she has been trafficked or be unable to give coherent information, or be inconsistent or contradictory in the statements made.

Law enforcement should not offer any incentives to young victims in exchange of giving evidence, such as temporary residence that might be offered to adults. The safety of the child may not be jeopardized in order to secure a conviction.<sup>52</sup>

Prior to conducting an interview with a young victim, law enforcement agents should find out whether the trafficked child is a useful potential witness against the traffickers, and capable of giving the necessary evidence. The best interest of the child should always be put first. This may mean that no interview can take place at all, for example if the best interest of the child dictate that the victim be returned to his/her country of origin, or reunited with his/her family immediately.

When an interview can take place, it should only be done by officers who have been trained. Steps should be taken to ensure that the child has a support person during the interview. This could be a relative, but only if there is no suspicion that the relative was involved in the abuse of the child. Otherwise it could be a social worker, or a person who has been involved in the care of the child since the rescue. A legal guardian should be appointed if possible. Further, steps should be taken to ensure that there is a person who can interpret in a sympathetic manner if the child is a foreign victim who does not understand or speak the local language. The gender of the investigator and interpreter may also be important. A child who has been sexually and/or physically abused by men will probably feel safer in the presence of a woman. Sometimes however, children (including girls) prefer talking to a man. Having perceived them as 'protective' figures, it is sometimes easier for children to communicate with men. Therefore, interviews with children should be carried out through a team approach involving both a woman and a man.

A multiplicity of interviews should be avoided and if possible, interviews should be arranged one at a time, taking time to involve all the relevant authorities in its planning. Care should be taken to avoid intimidating the child with too many people present, but it is also important to ensure that the child will not be subjected to several interviews and to re-live the abuse repeatedly. All persons participating in the interview must clearly understand their roles. Lastly, simple language should always be used, taking into consideration the age, apparent maturity, and intellectual development of the child. This can be done by using vocabulary that is understandable to the child at his/her level of development. Under no circumstances should the suspected offender or any person associated with him/her be present. The interview should be recorded on videotape or at least on cassette (or other electronic equipment) if at all possible. If recording the interview in writing, ensure that it is accurate by checking with the child at the end of each answer.<sup>53</sup>

It is a best practice to draft a set of open ended questions that are context-specific and on a case by case basis.

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<sup>51</sup> ECPAT. (2006). *Combatting the trafficking of children for sexual purposes: A training guide*. Retrieved at [http://www.ecpat.net/EI/EI\\_publications.asp](http://www.ecpat.net/EI/EI_publications.asp).

<sup>52</sup> *Ibid.*

<sup>53</sup> *Ibid.*

## Interview setting

Unless the location of the interview is determined by law, interviews with adult victims can take place in a variety of locations, however interviews should not take place at the victim's home or the place where they live. Ensuring a certain degree of privacy is generally a good measure in order to maintain the personal integrity of the victims before their family members and peer groups.<sup>54</sup>

In cases involving young victims, the location of the interview can significantly affect the responsiveness of the child. Ideally it should be comfortable, friendly and inviting for the child and the police officers, attractive to children, with things like dolls, colouring books and pencils for young children, and colourful furnishings for older children. Further, it should be a private and quiet area. If there is no suitable area at the police office, arrangements should be made with a care organisation to conduct the interview at their premises. If the room is equipped with a one-way mirror so that the interview can be observed from outside, and a system for recording the interview on video is possible, it significantly improved the quality of the investigation.<sup>55</sup>

The following questions should be considered in selecting an appropriate interview location:

### ***Considerations for selecting an interview location***

- Where should you hold the interview?
- Should the witness come to a setting familiar to the interviewer but alien to the witness or is it possible for he or she to be interviewed in a setting they are familiar and comfortable with?
- Will the victim/witness be distressed if the interview is held in an unfamiliar location?
- Will there be a negative effect on their account if it is held in a familiar location?
- Can appropriate assistance and support (e.g. interpreters, health care, etc.) be provided at the chosen location? This is especially important in cases involving severely traumatised victims.
- Is the location secure, clean and free from interruptions and distractions where the interviewee cannot be seen or overheard?
- Is required equipment working and are necessary "consumables" such as tapes and interview record forms available?

**Source:** United Nations Office on Drugs and Crime & UNGIFT. (2009). *Anti-human trafficking manual for criminal justice practitioners, Module 8: Interviewing victims of trafficking in persons who are potential witnesses*. Retrieved at [www.unodc.org/documents/human-trafficking/TIP\\_module8\\_Ebook.pdf](http://www.unodc.org/documents/human-trafficking/TIP_module8_Ebook.pdf).

## Suggested skills for interviewing

Below are some additional skills suggested for interviewing victims. When determining which law enforcement agent should be conducting interviews, the following skill set may help the most appropriate personnel:

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<sup>54</sup> International Centre for Migration Policy Development. (2006). *Anti-Trafficking Training for Frontline Law Enforcement Officers*. Retrieved at <http://www.icmpd.org/Anti-Trafficking-Training-for-Frontline-Law-Enforcement-Officers-Training-Guide-and-Background-Rea.1853.0.html>.

<sup>55</sup> ECPAT. (2006). *Combatting the trafficking of children for sexual purposes: A training guide*. Retrieved at [http://www.ecpat.net/EI/EI\\_publications.asp](http://www.ecpat.net/EI/EI_publications.asp).

### ***Additional skills for interviewing victims-witnesses***

- Questioning skills (particularly any evidence of appropriate questioning vulnerable victim-witness versus ‘interrogation’ skills);
- Active listening skills;
- Observation skills: ability to recognize and respond to distress, anxiety, fear, etc.;
- Ability to develop rapport with victim, while remaining professional (e.g., showing empathy, acknowledging harm, being patient, etc.);
- Ability to adopt a non-judgmental, non-blaming attitude (e.g. prejudices against migrants, sex workers, women, men);
- Ability to reassure the victim that he/she has nothing to be ashamed of ;
- Cultural competency: willingness and ability to become culturally prepared/competent to work with persons with different backgrounds;
- Psychological preparedness to deal with highly distressing crimes;
- Ability to strike a balance between maintaining professionalism and compassion in tone and style of questioning;
- Ability to avoid complex and industry-specific jargon that is understood by the victim;
- Ability to avoid physical contact, however well intentioned.

**Source:** United Nations Office on Drugs and Crime & UNGIFT. (2009). *Anti-human trafficking manual for criminal justice practitioners, Module 8: Interviewing victims of trafficking in persons who are potential witnesses*. Retrieved at [www.unodc.org/documents/human-trafficking/TIP\\_module8\\_Ebook.pdf](http://www.unodc.org/documents/human-trafficking/TIP_module8_Ebook.pdf).

### **Interviewing smuggled migrants**

It is difficult to persuade witnesses to come forward in most crimes. That is the same in migrant smuggling cases. Witnesses, including smuggled migrants, may be scared or intimidated for several reasons, including threats to their physical safety or that of their family at home, fear of being prosecuted as a party to the crime or fear of returning to the country from which they came. To engender the trust and confidence required for cooperation, a migrant should be humanely treated and assured of protection by the law enforcement officials of the host country. There are several ways of trying to secure cooperation and the admissibility of evidence.

Police can e.g.:

- Request the immigration authorities for smuggled migrants who are witnesses to be allowed to stay (on a temporary or permanent basis)
- Use video link testimony, if such facilities exist, so that a smuggled migrant who has been removed may still give evidence from his or her home country
- Ensure that legal advice is provided to the smuggled migrants prior to their being interviewed so that they are aware of what they are doing and so as to reassure the judiciary that debriefs and witness interviews are being done properly (a statement made by a person who has given that statement after having received legal advice may be viewed in a different manner from a statement that was obtained in other circumstances)
- Corroborate evidence given by smuggled migrants using other means such as wiretaps or other witnesses

- Audio or video record witness interviews
- Consider, where laws allow, to formally protect the witness's identity, which may also include the provision of witness protection.

## Reporting

The importance of reporting in writing cannot be underestimate for potential trafficking cases. Precise, comprehensive reporting (i.e. describing exploitation sites monitored, conversations with suspected victims, traffickers or informants, such as clients, service providers, etc.) can be of great importance for successive phases of investigation. Different report formats can be used, depending on the extent of the intelligence that is available. The following information should be included in the report:

### ***Information that should be included in the report:***

- The type of trafficking and exploitation concerned – sexual exploitation, labour exploitation, human organs, etc.;
- The countries involved;
- Full detailed physical descriptions, backgrounds, and prior offences of any known suspects and victims;
- Full details of any known addresses;
- Full details of any known vehicles and other forms of transport used;
- Full details of any known means of communications;
- Full details of any known travel or identity documents;
- Full details of any known routes and means of travel;
- Full details of any known financial intelligence;
- Full details of the modus operandi used by the trafficker(s);
- A free text section for other useful information;
- The attending officer's name and unit as well as their full contact details.

**Source:** International Centre for Migration Policy Development. (2006). *Anti-Trafficking Training for Frontline Law Enforcement Officers*. Retrieved at <http://www.icmpd.org/Anti-Trafficking-Training-for-Frontline-Law-Enforcement-Officers-Training-Guide-and-Background-Rea.1853.0.html>

## Interrogation of the suspect/accused

Police needs to plan the interrogation or questioning of suspects of human trafficking or migrant smuggling carefully, so that information is collected in a manner which will assist in the process of prosecution. One of the primary steps in interrogation is to determine whether the offender is a child. If the offender is a child, it is important that they are treated as juvenile offenders.

In the following section, the purpose of a strategic interrogation as well as multiple approaches to interrogation and finally procedures for placing an arrest.

## Purpose of interrogation

Law enforcement agents must ensure that all aspects of the trafficking/smuggling process and activities are captured accurately in order to uncover all the organised linkages of trafficking/smuggling, namely the journey and travel points, to understand the entire process of trafficking/smuggling which took place, to explore contacts, sources and witnesses in as many of the travel points as possible, as well as to locate the means, routes and methods used for transportation of victims/migrants.<sup>56</sup> Further, effective interrogation can serve to uncover the communication methods and patterns used by traffickers/smugglers, to investigate the modus operandi of trafficking/smuggling as well as to ascertain the criminal antecedents of offenders, to identify other victims that may have been trafficked and to locate them in order to assist them, to understand the motives and incentives as they appear to traffickers/smugglers, to gain an understanding of the financial aspects of the trafficking/smuggling occurrence and lastly, to locate illegal assets, if any.<sup>57</sup> In doing so, the details that are important in laying charges and pursuing a prosecution are collected while gaining a greater understanding towards preventative measures for the future.

## Interrogation phases

Approaches to questioning suspects or accused persons of trafficking is a key factor in the amount and quality of information that can be collected during an interrogation. Interrogation of trafficking suspects can be conducted in three phases. The phases are

- (1) evidential administration;
- (2) history and general outline
- (3) specific detailed questioning.<sup>58</sup>

‘Evidential Administration’ phase: law enforcement should examine the offence for which the suspect has been remanded for, examine an overview of the arrest notes and search records, record, where applicable, the accused’s initial plea statement and open any evidence bags containing cash or other forms of payment.<sup>59</sup>

‘History and General Outline’ phase: Following the evidential administration phase, the attending law enforcement agent should go over a history and general outline of the suspect and crime that is being investigated. During this phase, the accused should provide a background of themselves including country of origin (if applicable), their employment, income history (quite important, as eventually property that could be crime assets may have to be explained), movement history and accommodation arrangements as well as their association with the victim(s), including how, when and where they met as well as a detailed description of their relationship, their association with the agency, office, safe house, brothel, etc.<sup>60</sup> The suspect should also be provided an opportunity to address the allegations made against them however they also have the right to remain silent.

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<sup>56</sup> United Nations Office on Drugs and Crime. (2007). *Standard operating procedures (SOP): On investigating crimes of trafficking for commercial sexual exploitation*. Retrieved from, [http://www.unodc.org/pdf/india/sop\\_investigation\\_131207.pdf](http://www.unodc.org/pdf/india/sop_investigation_131207.pdf)

<sup>57</sup> *Ibid.*

<sup>58</sup> United Nations Development Programme. (2003). *Best practices: Law enforcement manual for fighting against trafficking of human beings*. Retrieved at [http://www.undp.ro/governance/Best%20Practice%20Manuals/user\\_manual/manual/section-06/page51.html](http://www.undp.ro/governance/Best%20Practice%20Manuals/user_manual/manual/section-06/page51.html)

<sup>59</sup> *Ibid.*

<sup>60</sup> *Ibid.*

‘Specific Detailed Questioning’ phase: Police can use the specific evidential exhibits to establish the suspect’s involvement in the crime and to corroborate their earlier statements.<sup>61</sup>

Law enforcement agents should allow for time between phase two and three of the interrogation, in order to observe the suspect’s conduct and demeanour, as well to assess the information collected thus far.

Officers should also take this opportunity to adjust their own style of questioning to elicit further information as needed.<sup>62</sup> In the final round of questioning, officers should construct their questions around the specifics of the criminal event, based on evidential exhibits in their possession and fill gaps in the knowledge base, especially in the interest of potentially assisting prosecution in subsequent stages.

Where possible, exhibits should be displayed for the suspect and time should be allotted for allowing them to comment.<sup>63</sup> Specific attention should be given to the style of responses provided, particularly when the suspect appears to be evasive or when they contradict a statement they made earlier in the interrogation. Simultaneously, duplicate questions should be asked throughout the interrogation, using different phrasing each time in order to determine whether the statements provided are in fact accurate and truthful. Finally, it is noted that significant consideration should be given to audio and video recordings in assessing the suspect’s responses throughout the three phases, as this type of evidentiary material provides for substantial proof during trial.<sup>64</sup>

Below are additional considerations that should be given when interrogating suspects:

***Additional considerations during interrogation:***

- Contact other law enforcement agencies for potential linkages and missing gaps in the criminal event;
- Contact border and immigration services where the suspect is a foreign national;
- Contact the labour department where trafficking has occurred for the purpose of forced labour;
- Use of scientific techniques/methods for interrogation (i.e. polygraph tests);
- Use of appropriate translation services to ensure the information gathered is accurately understood;
- Avoid accusatory statements while questioning the suspect;
- Allow the suspect to tell their version of the incident before confronting the declaration with contradictory information;
- Avoid colluding or supporting the suspect’s statements;
- Document all spontaneous statements by the suspect, even if the statements appear on their face to be self-serving.

**Sources:** United Nations Office on Drugs and Crime. (2007). *Standard operating procedures (SOP): On investigating crimes of trafficking for commercial sexual exploitation*. Retrieved from, [http://www.unodc.org/pdf/india/sop\\_investigation\\_131207.pdf](http://www.unodc.org/pdf/india/sop_investigation_131207.pdf); International Centre for Migration Policy Development. (2006). *Anti-Trafficking Training for Frontline Law Enforcement Officers*. Retrieved at <http://www.icmpd.org/Anti-Trafficking-Training-for-Frontline-Law-Enforcement-Officers-Training-Guide-and-Background-Rea.1853.0.html>.

<sup>61</sup> *Ibid.*

<sup>62</sup> *Ibid.*

<sup>63</sup> *Ibid.*

<sup>64</sup> *Ibid.*

## Interrogation setting

Suspects should be interviewed away from familiar surroundings and in a location that has an atmosphere more conducive to co-operativeness and truthfulness.<sup>65</sup> In some cases, the responding officers may be required to engage in violence and anger de-escalation techniques with the suspect - therefore interrogation should be conducted in a setting that is secured and comfortable for the interviewing officer. In relation, law enforcement agents should be alert for suspects who use manipulative tactics to avoid particular questions or who try to minimize the degree of their involvement in the crime.

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<sup>65</sup> International Centre for Migration Policy Development. (2006). *Anti-Trafficking Training for Frontline Law Enforcement Officers*. Retrieved at <http://www.icmpd.org/Anti-Trafficking-Training-for-Frontline-Law-Enforcement-Officers-Training-Guide-and-Background-Rea.1853.0.html>.

**PROTECTION AND ASSISTANCE**



## PROTECTION AND ASSISTANCE – concerning victims of trafficking in persons

The protection of victims is always a priority for law enforcement in the trafficking of persons. Prior to pursuing a criminal investigation, law enforcement agents must ensure that victims are removed from a position of vulnerability and secured under protective custody or under the care of social services (or the equivalent thereof) and non-governmental organizations dedicated to this line of work. The priority should be to ensure victims are not re-victimised. There are a number of key concerns related to the protection of victims which are discussed in this section, including informed consent, adopting a victim-centered approach, needs assessments and the protection of child victims.

### *Informed consent*

All assistance provided to victims of trafficking needs the victim's full and informed consent. From the initial admission of the trafficking victim to the service delivery organization programme up to the victim's full reinsertion into society, law enforcement needs to explain relevant actions, policies and procedures in a way that the victim can understand them - before they seek consent to any proposal or action.

Assuming the victim is literate at some stages in the assistance process, the victim be required to indicate her or his consent in writing. If staff cannot communicate in a language the victim understands, all necessary efforts need to be made to secure the assistance of an interpreter for oral and written communication. In the case of a child victim, their guardian needs to be consulted on all matters and consent to any action taken.<sup>66</sup>

### *Adopting a victim-centered approach*

Trafficked persons must not be subjected to discriminatory treatment. All measures must be applied without discrimination, particularly with respect to gender, ethnicity, social status, immigration status and/or the fact that a trafficked person has been trafficked previously or has participated in the sex industry or illicit activities.<sup>67</sup>

In practice, a victim-centered approach focuses on developing a relationship of trust with (presumed) victims of trafficking, referring them to appropriate services and providing information about their rights. Each identified victim or presumed victim should be provided with full information about their case, rights and possible next steps.<sup>68</sup>

### *Needs assessment*

In order to ensure that victims' needs are being met, a needs assessment should be conducted. This entails three levels of assessment beginning with an assessment for basic needs, followed by a needs assessment for assistance and services, and finally with an assessment for the needs associated with victims' needs to implement their rights. The three levels of needs assessment are as follows:

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<sup>66</sup> International Organisation for Migration. (2007). The IOM handbook on direct assistance for victims of trafficking. Retrieved from [http://www.iom.int/jahia/webdav/site/myjahiasite/shared/shared/mainsite/published\\_docs/books/CT%20handbook.pdf](http://www.iom.int/jahia/webdav/site/myjahiasite/shared/shared/mainsite/published_docs/books/CT%20handbook.pdf)

<sup>67</sup> Cf. European Commission. (2004). *Report of the Experts Group on Trafficking in Human Beings* Brussels.

<sup>68</sup> Organization for Security and Co-operation in Europe (OSCE). (2011). *Trafficking in human beings: Identification of potential and presumed victims: A community policing approach*. Retrieved at [www.osce.org/node/78849](http://www.osce.org/node/78849)

***Assessment for basic needs:***

- Housing (both emergency/temporary and long-term, and possible re-location);
- Transportation (personal automobile or access to and payment for public transportation);
- Food for self and family;
- Clothing;
- Employment and/or job training;
- Education (such as school attendance);
- Assistance with basic issues relevant to their children (i.e., school, child care, medical, etc.);

**Source:** Seymour, A. (2002). Justice solutions. Retrieved at [www.justicesolutions.org/art\\_pub\\_assessing\\_basic\\_needs.pdf](http://www.justicesolutions.org/art_pub_assessing_basic_needs.pdf)

***Assessment for needs associated with assistance and services:***

- Crisis intervention;
- Crisis counselling;
- Emergency financial assistance;
- Services to enhance protection;
- Home safety check with physical reinforcements (such as locks);
- Safety planning;
- Advocacy or intervention with employers;
- Development or enhancement of social support system;
- Physical health and medical issues;
- Mental health counselling (for self and family);
- Support group participation;
- Legal advocacy;
- Referrals for social services;
- Assistance needed with immigration status;
- Possibly alcohol or other drug counselling;
- Information regarding what to do in cases of emergencies;
- Translation or interpreter services;
- Follow-up contact (as needed and/or upon requests).

**Source:** Seymour, A. (2002). Justice solutions. Retrieved at [www.justicesolutions.org/art\\_pub\\_assessing\\_basic\\_needs.pdf](http://www.justicesolutions.org/art_pub_assessing_basic_needs.pdf)

### ***Assessment for needs associated with the implementation of victims' rights:***

- Provision of information about victims' rights;
- Information about and assistance with filing a victim compensation claim;
- Information about protection rights;
- Notification of the status and location of the offender;
- Information about participation in key justice proceedings;
- Accompaniment to court-related and other hearings involved in the case;
- Information about and assistance with completing a pre-sentence investigation interview and/or victim impact statement;
- Information about and assistance with documenting restitution;
- Notification of the outcome criminal or juvenile proceedings;
- Notification of the location of the offender and any movement, including release or escape (for cases involving incarceration or detention).

**Source:** Seymour, A. (2002). Justice solutions. Retrieved at [www.justicesolutions.org/art\\_pub\\_assessing\\_basic\\_needs.pdf](http://www.justicesolutions.org/art_pub_assessing_basic_needs.pdf)

The information gathered from the needs assessment will then inform the necessary steps that should be taken by law enforcement.

### ***Protection of child victims***

The best interests of victims are the primary consideration. Child victims should be treated as one would treat their own child and as a unique individual requiring a special approach.<sup>69</sup> It is important to be 'child friendly' and gender sensitive. Children are different from adults and boys are different from girls therefore they should be treated accordingly, with sensitivity to their unique and individual needs. Law enforcement must actively practice non-discrimination and operate in a collaborative manner with all relevant agencies.<sup>70</sup>

Making the child safe is a matter of priority. This means you will have to remove the child from the presence of suspected abusers to a place of safety and comfort. You will also need to collaborate with NGOs or with state or other agencies providing services to children. Avoid any possibility of re-traumatisation or re-victimisation of the child. This means to avoid treating him/her a criminal, to avoid behaving in a judgmental manner, and to avoid putting pressure on him/her to give information. The child victim should never be treated in a degrading or humiliating way.<sup>71</sup>

Collect any possible evidence that would corroborate the suspicion that the child is a victim of trafficking with the objective of avoiding having to get evidence from the child himself/herself.<sup>72</sup> Law enforcement should avoid multiple interviews with the child and needs to document and file all evidence collected so that it is available for future reference. As well, there may be important evidence that would emerge from a medical examination of the child. If this is the case, use a

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<sup>69</sup> ECPAT. (2006). *Combatting the trafficking of children for sexual purposes: A training guide*. Retrieved at [http://www.ecpat.net/EI/EI\\_publications.asp](http://www.ecpat.net/EI/EI_publications.asp)

<sup>70</sup> *Ibid.*

<sup>71</sup> *Ibid.*

<sup>72</sup> *Ibid.*

qualified medical practitioner to collect the evidence, and make sure that the child has suitable support during the examination to avoid further trauma.<sup>73</sup> Although verification of the age of the child is important, you are entitled to presume that a person is under the age of 18 if they appear to be so.<sup>74</sup> A medical examination may help in making this determination, otherwise, an investigator should take into account the physical appearance of the child, his/her psychological maturity, documentation, and information obtained from national or foreign authorities.<sup>75</sup>

When working with a child victim, allow the child to come to terms with what has happened to him/her. This may be a matter of days, weeks or even months. In the meantime, do not place the child in a law enforcement detention facility, but ensure appropriate residential accommodation.<sup>76</sup>

With the assistance of the appropriate professionals, make a full assessment of whether the child is capable of giving evidence that could convict the perpetrators. This means both a risk assessment of the dangers to the child if he/she becomes a witness, and a psychological assessment of whether the child would be capable of giving meaningful evidence. If after undergoing either assessment, the child is not considered a viable witness, then no further effort should be made to obtain evidence through a statement from the child. If a child welfare system is available, follow their advice to ensure a thorough follow-up of the child's best interest.<sup>77</sup>

The repatriation of children is a joint effort between various relevant agencies. Good cooperation and coordination will contribute to the successful and safe return of child victims of trafficking.

#### ***Priority considerations in repatriation of child victims***

- Ensure safety;
- Carry out a proper investigation in the country of origin;
- Elaborate a plan for social and psychological reintegration;
- Make suitable preparations for departure from country of destination;
- Arrange suitable reception in country of origin;
- Ensure a suitable reintegration process.

**Source:** ECPAT. (2006). *Combatting the trafficking of children for sexual purposes: A training guide*. Retrieved at [http://www.ecpat.net/EI/EI\\_publications.asp](http://www.ecpat.net/EI/EI_publications.asp)

As part of the repatriation or reintegration process, an investigation of the country of origin must be conducted. This includes a social enquiry into the domestic situation and an assessment of the parents' capacity to care for the child. It is important to consider the possibility that the parents themselves were involved in the trafficking process.<sup>78</sup> The process also includes a risk assessment in order to gauge the degree to which the child is still in danger from the traffickers, since the child will represent a form of investment to the exploiters. The child's family may also be in

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<sup>73</sup> *Ibid.*

<sup>74</sup> *Ibid.*

<sup>75</sup> *Ibid.*

<sup>76</sup> *Ibid.*

<sup>77</sup> *Ibid.*

<sup>78</sup> *Ibid.*

danger from the traffickers. Law enforcement agencies and the social services need to work together to ensure the safety of the child and the family.

In addition, community support should be assessed. Many victims of trafficking are stigmatised within their communities when they return. A child should not be sent back into the community without the support of that community.<sup>79</sup> Take the child's views about disclosure of the trafficking abuse into consideration. The child may need psychological support in disclosing his/her abuse, and the family itself may need such support to be able to understand what the child has endured, and help him/her through the reintegration process. A plan should be drafted, not only for the physical reintegration but also for the psychological reintegration of the child.

### ***Psychological reintegration of the child***

- Proposals for safety measures (placement in a shelter for victims of trafficking/placement in a foster home/family reintegration)
- Proposals for education (school reintegration)
- Professional courses (obtaining a qualification for employment)
- Proposals for psychological counselling (both family and child)
- Measure for offering legal support (in proceedings against the traffickers, in getting legal documentation)

**Source:** ECPAT. (2006). *Combatting the trafficking of children for sexual purposes: A training guide*. Retrieved at [http://www.ecpat.net/EI/EI\\_publications.asp](http://www.ecpat.net/EI/EI_publications.asp)

Prior to departure, arrangements must be made for legal documents, including passport, departure and entry papers, travel arrangements, material support, including clothes and food, a reliable travel escort. Additionally, the institutions of the country of origin (e.g. border police, international agencies, NGOs and social services) must be informed about the arrangements and of any special needs of the child.

## **PROTECTION AND ASSISTANCE – concerning smuggled migrants**

Smuggled migrants may have different protection and assistance needs than trafficked persons. However, States Parties to the Smuggling of Migrants Protocol are obliged to protect and assist migrants. They are especially obliged to **protect the rights of migrants**.

Protection means safeguarding people from harm, without discrimination, and ensuring that migrants are treated according to internationally recognized standards.

Protection measures and procedures differ between jurisdictions; police need to be familiar with applicable procedures in their jurisdiction. There may be legal consequences for officials who fail to protect and assist persons, regardless of the status of the person.

In protecting and assisting smuggled migrants, police must take into account the special needs of women and children and other vulnerable persons.

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<sup>79</sup> *Ibid.*

**Smuggled migrants can be refugees and states must observe the principle of non-refoulement.** Consequently, migrants need to have access to the asylum procedure. While it is recognized that in some cases smuggled migrants will be returned to their country of origin, this return must never amount to refoulement, which would be contrary to principles of international law. The principle of non-refoulement is protected by article 33 of the Refugees Convention which determines that no State shall expel or return (“refouler”) a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.

**Smuggled migrants can be victims of crime;** appropriate measures must be taken to protect these victims from retaliation or intimidation by smugglers. Witnesses to migrant smuggling can include migrants, victims of crime, offenders and others.

Many distinct protection and assistance issues arise where smuggled migrants have special needs, where smuggled migrants are victims of and/or witnesses to crime, or where smuggled migrants are refugees seeking asylum.

Such considerations may also be applicable to persons who are not smuggled migrants, but require protection from criminal smugglers nonetheless, such as members of the public or smugglers themselves who have become witnesses in the criminal justice process.

To protect migrants from violence and assist those whose lives or safety are endangered, police need to take a responsible, multi-agency approach. Relevant agencies could include:

- National, regional and local governments
- Border protection officers
- National, regional and local governments
- Prosecutors
- Members of the judiciary
- NGOs
- Others as necessary

As regards assistance, law enforcement officers will need to do a risk assessment, on whether lives and safety are in danger due to threats of violence, medical related issues, or issues of forced labour or sexual exploitation. The types of assistance required may include food, shelter, clothing, and medical assistance.

**CRIME SCENE & PHYSICAL EVIDENCE**

**10**



**POLICE LINE DO NOT CROSS**



## CRIME SCENE & PHYSICAL EVIDENCE

A crime scene is described as any physical scene, anywhere that contains fragile records of past activities. Crime scenes can be locations (indoor or open air), vehicles and persons (victim and suspects). Crime scene examination means an examination of the scene using a technical and scientific approach. Crime scene examination is guided by a fundamental principle of forensic science: **every contact leaves a trace**. Any contact of a person with a person, person with a vehicle or location, vehicle with a location, etc. in general all activities leave traces of them: also included are traces (both physical and electronic) found in and on electronic equipment.<sup>80</sup>

Access to a crime scene related to trafficking in persons and smuggling of migrants is not always a possibility. In cases where a crime scene is available, law enforcement should take every precaution necessary to secure the crime scene appropriately prior to beginning collection and mobile analysis, in order to ensure that potential evidence is not compromised or tampered with. Upon securing the crime scene, the gathering of physical evidence and intelligence can begin by forensic and non-forensic personnel.

Basic guidelines:

- Whenever possible, create a plan before approaching the crime scene and collecting evidence.
- Know what to search for, and the locations to search.
- Safety of persons takes priority over securing a crime scene.
- Search a crime scene thoroughly, in an organized manner, and maintain continuity of all exhibits seized.
- Be careful not to contaminate evidence when seizing it. Ensure that all observations are recorded and all exhibits carefully documented.
- Any arrest or detention of persons found at crime scenes should be carried out in accordance with human rights standards, taking into account the special needs of women, children and other vulnerable persons.
- In migrant smuggling and human trafficking investigations, crime scenes most commonly encountered include persons, premises, vehicles, vessels and airplanes. Searches of persons should be carried out in full respect for their human rights.
- Obtain appropriate authorizations before conducting searches, as required in your jurisdiction.

Every crime scene presents different types of physical evidence that can be collected. Below is a general outline of the types of evidence that may be present at a trafficking in persons or migrant smuggling crime scene:

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<sup>80</sup> United Nations Office on Drugs and Crime & UNGIFT. (2009). *Anti-human trafficking manual for criminal justice practitioners, Module 7: Crime scene and physical evidence examinations in trafficking in persons investigations*. Retrieved at [www.unodc.org/documents/human-trafficking/TIP\\_module7\\_Ebook.pdf](http://www.unodc.org/documents/human-trafficking/TIP_module7_Ebook.pdf).

## TYPES OF PHYSICAL EVIDENCE POTENTIALLY PRESENT AT CRIME SCENES, AND THEIR EVIDENTIAL VALUE

WHAT CAN BE PRESENT AT AND RECOVERED FROM A CRIME SCENE		Evidential value: Information that can be obtained from forensic examinations	Special considerations
<p>VISIBLE OR INVISIBLE BIOLOGICAL MATERIAL:</p> <ul style="list-style-type: none"> <li>⇒ SALIVA</li> <li>⇒ SEMEN</li> <li>⇒ HAIR</li> <li>⇒ SPERM</li> <li>⇒ SKIN CELLS</li> </ul>	Such biological samples may contain sufficient material to perform DNA analysis	<ul style="list-style-type: none"> <li>• Determination of the type of biological material (i.e. blood, saliva, etc.)</li> <li>• Species from which the material originates (e.g. human vs animal)</li> <li>• Identification of the person at the source of a biological material</li> </ul>	<ul style="list-style-type: none"> <li>- Hazards associated with biological material</li> <li>- Easy contamination when handling biological samples</li> <li>- Easy degradation of biological samples (appropriate packaging and storage are critical)</li> </ul>
<ul style="list-style-type: none"> <li>⇒ IDENTITY/TRAVEL DOCUMENTS</li> <li>⇒ BANKNOTES</li> <li>⇒ OTHER OFFICIAL DOCUMENTS</li> <li>⇒ HANDWRITTEN/TYPERITTEN NOTES</li> <li>⇒ SIGNED DOCUMENTS</li> </ul>	Official documents contain security features in the form of copy-proof inks/colours, inclusions, special paper, etc.	<ul style="list-style-type: none"> <li>• Typewriter/printer at the source of the written information</li> <li>• Authenticity of an official document</li> <li>• Author of handwritten texts and signatures</li> </ul>	<ul style="list-style-type: none"> <li>- Many other types of physical evidence are potentially present on documents, such as fingermarks, biological material (e.g. saliva), traces of drugs, shoe marks</li> </ul>
<ul style="list-style-type: none"> <li>⇒ ELECTRONIC DEVICES, SUCH AS COMPUTERS, PERSONAL DIGITAL ASSISTANTS (PDA), MOBILE PHONES, DIGITAL CAMERAS, FAX MACHINES, GLOBAL POSITIONING SYSTEM (GPS) UNITS</li> </ul>		<ul style="list-style-type: none"> <li>• Retrieve data from hard disk or other storage media</li> <li>• Retrieve deleted data</li> <li>• Derive sequence of actions on a computer</li> <li>• Nature of the recovered information (e.g. child pornography)</li> <li>• Location information from GPS data</li> </ul>	<ul style="list-style-type: none"> <li>- Switching on or off an electronic device may diminish the chance of retrieving information</li> <li>- Many other types of physical evidence are potentially present on electronic devices, such as fingermarks, biological material, traces of drugs</li> </ul>

**Source:** United Nations Office on Drugs and Crime. (2009). *Crime scene and physical evidence awareness for non-forensic personnel*. Retrieved at <http://www.unodc.org/unodc/en/scientists/crime-scene-awareness.html>.

**CASE MANAGEMENT**



## CASE MANAGEMENT

Effective case management benefits law enforcement agents and service providers and also has implications for the recovery of victims of crime, in both trafficking in persons and smuggling of migrants cases.

Important elements of a good case management system:

- Cooperation among and between law enforcement agencies and other specialized services, such as victim service providers and case coordination mechanisms;
- Safety measures, to be developed in collaboration with all concerned actors;
- Uniform procedures and policies;
- Specialized calendars:  
Special deadlines and strict timelines should be spelled out among police, prosecutors, defence counsel and other actors involved in criminal proceedings;
- Training of staff:
- Law enforcement staff who may be potentially involved in human trafficking and migrant smuggling cases should receive specialized training
- Gender-sensitivity;
- Consideration for the special needs of children.

Generally speaking, case management comprises specialized processes or structures that ensure the efficient progression of cases through a judicial system and access to justice. Justice should involve an acceptable result in the shortest time possible, with the least expense and with minimum stress on the participants. Participants in trafficking in persons and smuggling of migrants, cases, however, may experience undue delay, case mismanagement, inexperienced criminal justice and law enforcement staff as well as intimidation and stigmatization. Effective case management can help resolve many of these problems.

The present Standard Operating Procedures seek to address exactly these overarching, general issues throughout all its different sections.

Case management, however, can also refer to a system that makes it easier for law enforcement to **receive, input, validate, collate, analyse and manage information in an orderly and systematic fashion** and an investigator **to compile a case that includes all available evidence in a format that is understandable and logical**. This is important, as law enforcement professionals are faced with a multitude of information in differing formats. This can range from their own notes to crime scene reports, records of interviews, crime scene and suspect photographs, fingerprint lifts, suspect and evidentiary documents, emails, communication interception logs, etc.

This is particularly so in complex financial investigations which are usually very document intensive. Specifically, they involve various types of records such as bank account information, real estate files, motor vehicle ownership, sources of funds and expenditures, etc., which point to the movement of money. Any record that pertains to or shows the paper trail of events involving money is important - the major goal in a financial investigation is to identify and document the movement of money. The link between a fund source and its destination can provide proof of criminal activity.

Successful management of the many and varied strands of a complex investigation can best be achieved by utilising a computer-based case management system that provides a comprehensive,

yet flexible, solution to the needs of investigators and prosecutors. UNODC's *goCASE* software provides such a solution: <http://gocase.unodc.org/gocase/en/index.html>. The *goCASE* user-interface and all reference tables have been designed to support all major languages – users will have to register first.

*goCASE* can be used within an organizations' investigation and intelligence operations and can be the primary instrument for initiating and tracking petitions, informant reports, legal cases, intelligence packages and other processes, which Law Enforcement Agency management plans to automate in a centralized information system. The target audience of *goCASE* is essentially management and resources involved in different duties and roles along the life cycle of investigation and intelligence cases in any organization.

The core objectives of *goCASE* are streamlining the investigations case processes as well as increasing efficiency in investigations. Its competitive advantage lies in its integrated workflow engine which not only controls the investigation life cycle but also adapts to different workflow procedures and investigation categories. Central to *goCASE* is also a Data Management module that facilitates the capturing, storing and retrieving of all types of information, individuals, documents, events and exhibits related to a case. *goCASE* provides an electronic storage facility for various types of documents which allows the efficient and controlled distribution of case files according to the defined roles and permissions within *goCASE*.

The *goCASE* application ensures the security and integrity of investigation information by creating multiple advanced security features and also maintaining a detailed audit trail. Its built-in Investigator Actions Checklist supports decision-making and adherence to guidelines. A robust but flexible reporting module enhances its usability further. The graphic representation of data assists analysts/users to further analyze and assess the trends and patterns in investigative processes.

**ANNEXES**



## ANNEX A

### *Interview Checklist*

The following basic checklist provides summary guidance in interview techniques.

#### **Conditions**

- Where possible, ensure that the interview takes place in a closed private space where others cannot overhear or interrupt.
- The only persons allowed to be present should be the victim, the interviewing officer(s), an interpreter (where necessary) and a qualified support person (such as a legal or psychological counsellor) where appropriate.
- If there is any doubt as to the ability of the individual to understand the language of the interview, every possible effort must be made to secure the services of an interpreter.
- Mobile phones should be turned off.
- If a closed space is available, a “do not disturb” or similar sign should be placed on the door to prevent interruptions.
- If no closed and private space is available, the interviewing officer should endeavour to find as private a place as possible where the interview cannot be overheard.
- Avoid adopting a judgmental or interrogative style of interviewing.
- Try to establish a rapport with the individual to make her or him feel respected and that s/he is someone whose views should be believed.

#### **Introduction**

- The interviewing officer should introduce her or himself to the individual and describe her or his role in the agency.
- Ascertain that the individual feels secure and comfortable.
- Ascertain whether or not she or he needs to use the bathroom or requires some refreshments.
- Ascertain if the individual is suffering from any pain or discomfort or whether the individual has any problems that require urgent medical attention.
- If the individual reports that she or he has an urgent medical problem, the interview should not proceed until a medical professional has attended and carried out an examination.
- In the case of minor ailments such as headaches, non-prescription medication can be offered.

#### **Explanation**

- Give a brief explanation of the role of the agency in the provision of the investigation of the crime of trafficking in persons and of the purpose of the interview that is about to begin.
- Explain to the individual that the interview may include questions concerning the history of what has happened to her or him and that some of the topics may be upsetting, painful to recall and may bring back difficult memories.
- Tell the individual that she or he can take time in answering the questions and may take a break at any time if necessary.

- Explain that the more information that can be provided, the better the agency may be able to investigate, place an arrest and prosecute. Explain any limitations to the assistance the agency can provide.

### **Final Points Before Beginning the Interview**

- Inform the individual that all answers will be kept strictly confidential.
- Explain to the individual that she or he can ask questions at any time or seek clarification or repetition of what has been explained or stated at any time.
- Ascertain that the individual has clearly understood all of what has been explained.
- Ask the individual if she or he has any questions at this stage.
- Ask the individual if she or he agrees to participate in the interview.

## **ANNEX B**

### *Additional reading*

- United Nations Convention Against Transnational Organized Crime; 2000.
- United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the United Nations Convention Against Transnational Organized Crime; 2000.
- United Nations Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention Against Transnational Organized Crime; 2000.
- United Nations Convention on the Elimination of all forms of Discrimination against Women; 1979 (CEDAW).
- United Nations High Commissioner for Human Rights, Recommended Principles and Guidelines on Human Rights and Human Trafficking, July 2002.
- United Nations-Convention on the Rights of the Child (1989) and Optional Protocol to the UN-Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography (2000).
- UNHCR. (1994). Refugee Children: Guidelines on Protection and Care.
- UNHCR (2006). Guidelines on international protection NO 7: The application of Article 1A(2) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees to victims of trafficking and persons at risk of being trafficked.
- UNHCR. (1997). Guidelines on Policies and Procedures in dealing with Unaccompanied Children Seeking Asylum.