



Tool 5.10 Joint investigation teams

Overview

This tool describes the main aspects of joint proactive operations and explains the main steps involved in establishing a joint investigation team.

In certain complex cases of human trafficking, successful investigations are usually the result of the work of joint investigation teams. Article 19 of the Organized Crime Convention encourages States parties to create such teams as a tool to combat organized crime. This tool describes the main aspects of joint proactive operations, refers the reader to an example of a joint investigation team and explains the main steps involved in establishing such a team.

Article 19 of the Organized Crime Convention

Joint investigations

Article 19 of the Organized Crime Convention states that:

States Parties shall consider concluding bilateral or multilateral agreements or arrangements whereby, in relation to matters that are the subject of investigations, prosecutions or judicial proceedings in one or more States, the competent authorities concerned may establish joint investigative bodies. In the absence of such agreements or arrangements, joint investigations may be undertaken by agreement on a case-by-case basis. The States Parties involved shall ensure that the sovereignty of the State Party in whose territory such investigation is to take place is fully respected.

Article 19 encourages, but does not require, States parties to enter into agreements or arrangements to conduct joint investigations, prosecutions and proceedings in more than one State, where a number of States parties may have jurisdiction over the offences involved.

The article provides for the granting of legal authority to conduct joint investigations, prosecutions and proceedings on a case-by-case basis, in the absence of a specific agreement or arrangement. The domestic laws of most States already permit such joint activities and for those few States whose laws do not so permit, this provision will be a sufficient source of legal authority for case-by-case cooperation of this sort.

Promising Practice

Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union (2000)

Within the European Union, steps have been taken for the creation by two or more member States of joint teams to deal with criminal organizations operating across borders.

The Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union provides for the setting-up of joint investigative teams. Europol, the law enforcement agency that supports the member States of the European Union, is expected to play a central role in supporting such teams by giving advice and assisting with the centralized coordination of operations. The concept of introducing joint investigations is a positive development but a difficult process in practice, presenting a number of legal, administrative, economic and practical problems.



The European Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union is available at:
http://ec.europa.eu/justice_home/doc_centre/criminal/acquis/doc_criminal_acquis_en.htm



For more information about joint investigation teams in the European Union, visit:
<http://europa.eu/scadplus/leg/en/lvb/l33172.htm>

National legislation

Please see the examples of national legislation referred to below:



Mutual Assistance in Criminal Matters Act 1987 (Australia)
www.austlii.edu.au/au/legis/cth/consol_act/maicma1987384



Criminal Code (RS, 1985, C-46) (Canada)
<http://laws.justice.gc.ca/en/c-46/text.html>



Code of Criminal Procedure (France)
www.legifrance.gouv.fr



Regulation of Investigatory Procedures Act 2000 (United Kingdom)
www.hmso.gov.uk/acts/acts2000/00023--d.htm



Criminal Justice (Joint Investigation Teams) Act 2004 (Ireland)
www.oireachtas.ie/viewpda.asp?DocID=3124&CatID=87&StartDate=01%20January%202004&OrderAscending=0



For more examples, see:
www.legislationline.org

For other promising practice, see Tool 4.10.

Joint proactive operations

As with any form of international organized crime, the successful investigation of trafficking in persons depends on the ability of law enforcement officers to investigate it while they identify and gather evidence from other jurisdictions. The best practice points that are set out below address the subject of pre-agreed, proactive operations conducted simultaneously by two or more States. Experience has shown that proactive operations can be an effective counter-trafficking option for law enforcement. Moreover, experience indicates that joint proactive operations can be the most effective and productive option that is currently available to investigators working on cases involving human trafficking.

There are a number of reasons for this:

- Traffickers often commit the crime in more than one jurisdiction and joint investigations reflect that situation.
- Joint operations allow for the collection of evidence in each of the jurisdictions involved in the crime.
- Although traffickers are more vulnerable while present in the State of destination, they also tend to be surveillance-conscious and more cautious in their activities when in the destination State. They are often less concerned to conceal and protect themselves from investigation in the States of origin or transit because they feel safer. Joint operations mean that investigators in the origin or transit States can exploit these evidential opportunities and gather valuable corroborative evidence of the recruitment and transportation phases of the crime.

- Joint proactive operations increase the ability of law enforcement agencies to combat human trafficking because joint operations allow the investigators to agree in advance on the overall strategy best suited to convicting the suspects.
- This includes not only agreement as to where the main investigative effort is to be focused but also decisions as to the method of coordination, the tactics to be employed to collect the evidence, the offences being targeted and the best location for the prosecution that will arise from the investigation.

The question for law enforcement agencies often becomes one of determining which offence and which location offer the best prospect of securing sufficient quality evidence upon which to base a human trafficking prosecution. In many cases, the State of destination is the State concerned in this context. However, it does not necessarily follow that the prosecution must take place within the jurisdiction of that State. Subject to extradition laws and the circumstances of the case, investigators from the States of origin, transit and destination can implement a pre-agreed, proactive joint operation whereby the evidence is collected simultaneously in each State with the objective of mounting the prosecution of the traffickers in one of the States.

A number of important points need to be considered before carrying out a joint investigation:

- The law enforcement agency seeking to establish a joint operation must first identify an investigative counterpart in the other State. The counterpart must not pose a security risk to the operation or to the victims involved and must have the capacity and ability to conduct the type of investigation that is being proposed.
- At the legal level, extradition provisions must exist in the national laws of the “partnering” agencies that allow for the extradition, for the offences under investigation, of the suspects targeted by the operation to the State that has been identified as the optimal location for the prosecution.
- Mutual legal assistance arrangements that allow for the collection and transfer of supporting evidence from one State to the other must also exist.
- Additionally, before the operation is launched, the operational strategy and tactics that will be used should be clearly defined and agreed upon by all the parties involved, as well as the coordination and communication channels and mechanisms.
- Furthermore, a mechanism should be defined for the review and redirection of operational objectives, as required. The key to success of joint investigations is close coordination of activities from the outset.

There are other issues that will need to be considered in this situation. Procedures regulating joint operations vary from State to State. In some States, the decision to conduct a joint operation is taken by the police officer in charge of the squad concerned. In others, the decision rests with the prosecutor or examining magistrate. In some States, a formal letter of request may be required before a joint operation can commence.

The essential factor is for the investigators to establish effective and early liaison across jurisdictions prior to taking action. It may be that the investigation under consideration is bilateral only and can be efficiently coordinated between units working to combat human trafficking in both States. It may be that the proposal is multilateral, involving a number of States in a particular network. Whatever the situation, the “golden rule” is to establish early contact with the liaison officer network that is the most effective in the State concerned.

Exchange of personnel

Virtually all investigations involving human trafficking must establish links with agencies in other States. Investigators from other States can be invited to join the investigation or be part of it as observers. This has proven to be an efficient way of establishing contacts and building trust between law enforcement agencies in different States. It is also a way of providing information that can generate new investigations in the State that is being invited to participate in an investigation. For example, in one case of trafficking for the purpose of sexual exploitation in Denmark, a police officer from Latvia was invited to attend when the Latvian victims were interviewed in Denmark. The Latvian officer was able to provide local and language knowledge to facilitate the investigation and, at the same time, gained information about the victims that might be used in investigating their recruiters and traffickers in Latvia.

Promising practice

Terra Promessa

In 2006, Polish and Italian police dismantled a network trafficking men for the purpose of forced labour from Poland to Italy. Around 600 men are believed to have been recruited by means of newspaper and Internet advertisements and forced into “debts” through transportation and accommodation costs. The men were kept in barracks and watched by armed guards, and forced to work up to 15 hours a day for approximately 1 euro per hour, despite having been offered between 5 and 6 euros per hour.

A parallel investigation was conducted by the Italian and the Polish police, with the assistance of INTERPOL and Europol. The operation was coordinated by a special Italian gendarmerie unit located in Rome and by the Central Unit for the Fight against Trade of Human Beings, located at the National Police Headquarters in Warsaw. INTERPOL and Europol assisted in the exchange of information.

The operation, entitled “Terra Promessa” was carried out at the place of destination in Italy and in the regions of origin in Poland. Arrests of people involved in the trafficking network (for trade of human beings, deprivation of freedom, use of physical force and threats) were made in both Italy and Poland. The police of both countries also worked in cooperation in gathering information and evidence in the lead-up to the ultimate arrest of traffickers and the liberation of trafficking victims.