Conference of the Parties to the UN Convention against Transnational Organized Crime
Working Group on Trafficking in Persons

Best Practices in Joint Investigations and Specialized Prosecutions

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Good morning/afternoon, my name is William Nolan, and I am a federal prosecutor in the Human Trafficking Prosecution Unit, a specialized unit of the U.S. Department of Justice. It is my privilege today to address the Parties to the UN Convention against Transnational Organized Crime even if circumstances require that I do so remotely. To be sure, I wish I were in Vienna with you in-person to participate more fully in this, the tenth session of the Working Group on Trafficking in Persons. The United States and its Department of Justice are firmly committed to the fight against human trafficking, and to developing the most effective investigation and prosecution practices in this fight. Today, I will address the advantages of specialized prosecution units and joint investigations, based on our experience in the United States.

To begin, we wish to acknowledge the insightful Background paper prepared by the Secretariat on this topic. We recognized in the Background paper our goal of preserving the collected knowledge of best practices to hold traffickers accountable for their crimes. We are inspired by the successful examples cited, and we hope that our experiences may contribute to this important discussion.

Specialized Prosecutions: The Human Trafficking Prosecution Unit

In 2000, the United States passed the Trafficking Victims Protection Act (or the TVPA), and this monumental law provided us the criminal statutes, victim protections, and partnerships necessary to combat modern slavery in the United States. As awareness of human trafficking rose dramatically in the years following passage of the TVPA, our Department of Justice became aware of the many complexities involved in investigating and prosecuting these cases. The cases required the testimony of victims who were often traumatized and distrustful of authorities, and required expertise in victim-centered, trauma-informed approaches. The cases involved wide-ranging criminal schemes that spanned international borders and required inter-agency or inter-ministerial coordination. In short, the more we learned, the more we realized there was
much more to learn, and the more important it became to establish an infrastructure to capture this institutional memory of best practices.

Our learning curve was especially steep when it came to proving coercion, the essential element of human trafficking crimes (other than sex trafficking of children). Coercion is a difficult concept to understand, let alone to prove beyond a reasonable doubt through admissible evidence in a court of law. As a Department, we knew that for the TVPA to reach its full potential, we would need to focus on how best to explain and prove coercion to a jury, and to instruct local prosecutors on best practices.

Accordingly, the Department of Justice created the Human Trafficking Prosecution Unit in 2007, to consolidate our specialized anti-trafficking expertise, and to serve as a central repository for the Department’s best practices and training resources. Today, the attorneys in my Unit partner with prosecutors around the country to investigate and prosecute individual cases; provide strategic guidance and specialized trainings; lead interagency enforcement initiatives; and engage in policy advocacy to advance anti-trafficking priorities.

This consolidation of expertise proved highly effective, contributing to a tripling of trafficking prosecutions nationwide over the course of the Unit’s first decade. It has been particularly impactful in recognizing novel theories of coercion. For example, in 2013, my Unit worked with our federal and state partners in Tampa, Florida, to convict a trafficker who manipulated victims’ fears of opioid withdrawal sickness to compel them to engage in commercial sex. A first of its kind prosecution. After securing this conviction and an appellate court opinion recognizing that fear of opiate withdrawal constituted fear of serious harm under our anti-trafficking statute, we then worked with prosecutors around the country to indict a series of similar cases.

But, a centralized and specialized Unit will always have some challenges. We are a large and diverse country. Investigators and prosecutors can be hesitant to work with new partners from outside of their judicial district, and it can be challenging for a centralized unit to keep current with all the cases across the country occurring in state and federal courts.

As a way to address this challenge, we established centers of expertise across the country through our creation of Anti-Trafficking Coordination Teams or “ACTeams.” Our Unit designed ACTeams to bring together teams of federal agents, prosecutors, and victim specialists in select jurisdictions to develop high-
impact cases in close coordination with our Unit. The ACTeam Initiative increases trafficking prosecutions by providing an intensive infusion of expertise and training. The ACTeam initiative has proven effective at increasing trafficking prosecutions, as ACTeams significantly outperformed other judicial districts in terms of trafficking cases initiated, defendants charged, and defendants convicted.

**Joint Investigations – The Example of U.S.-Mexico Bilateral Human Trafficking Enforcement Initiative.**

Another important role of our specialized Unit is to work with our international partners to conduct joint investigations. I would like to highlight a successful example of that work today. In 2009, the United States and Mexico launched a bilateral human trafficking enforcement initiative in response to challenges investigating and prosecuting transnational sex trafficking networks emanating from the state of Tlaxcala, Mexico. For years, American law enforcement officials had arrested and prosecuted Tlaxcala traffickers in multiple cases across the United States. But, despite these prosecutions, the trafficking networks continued operating – luring more victims, breaking their will with violence, and smuggling them into the United States.

Working these cases over the years in both Mexico and the United States, law enforcement in both countries learned that the Tlaxcala networks involve dozens of criminal associates operating seamlessly across both sides of the border. Therefore, if we were going to be effective in combating them, we would have to do the same.

We often explain this bilateral initiative in terms of a puzzle. Because the trafficking enterprises operate seamlessly across the border, the pieces of the puzzle – that is to the say, the relevant victims, witnesses, evidence, and criminal associates – are inevitably located on both sides of border. If one country is attempting to investigate and prosecute alone, it will be missing critical pieces of the puzzle. When that happens, the cases have limited impact, because the other criminal associates can continue to operate, destroying evidence, intimidating and hiding witnesses, concealing criminal proceeds, and alerting co-conspirators to flee.

The bilateral initiative brings the puzzle pieces together. It does so by establishing channels of direct operational coordination between U.S. and Mexican law enforcement. We still utilize the formal Mutual Legal Assistance Treaty process for obtaining warrants, extraditions, and judicial evidence to present in
court. But our governments did not design and draft our formal treaty to provide for the immediate exchange of intelligence – the treaty did not allow for the sharing of the puzzle pieces. Our bilateral enforcement initiative supplements the formal treaty process to match the puzzle pieces, and enables both governments to apprehend more traffickers, recover more victims, and bring justice in both U.S. and Mexican courts.

The success of such bilateral efforts depends on both countries’ commitment to dismantling transnational trafficking enterprises. It requires meeting regularly to exchange leads, evidence, intelligence; to formulate prosecution strategies; and to coordinate victim protection and stabilization.

Most of all, it requires trust.

If done correctly, it can begin to dismantle transnational trafficking networks by producing simultaneous enforcement actions on both sides of the border; multi-defendant prosecutions in both countries; and restoring the freedom and dignity of trafficking victims. In the U.S., this bilateral initiative has produced over 50 U.S. federal prosecutions, with 273 defendants charged, and over 200 victims recovered.

Finally, colleagues, we would like to suggest that the Working Group submit recommendations on the topics of specialized prosecution units and joint investigations for consideration by the Conference. We would offer two proposals for State Parties’ action.

First, State Parties should: *Strengthen their justice system response to human trafficking by creating dedicated prosecution units to consolidate and disseminate specialized anti-trafficking subject matter expertise by partnering with local prosecutors, and providing specialized training for judges, prosecutors, and law enforcement.*

Second, State Parties should: *Strengthen their collaboration with other State partners to more effectively combat trans-border human trafficking by going beyond the formal mutual legal assistance treaties to develop coordinated trans-border investigations and prosecutions.*

Thank you for the opportunity to speak to you today about these important topics.