

# BEST PRACTICES FOR PROSECUTION-LED TRAFFICKING IN PERSONS INVESTIGATIONS IN UGANDA

*The* HUMAN TRAFFICKING  
INSTITUTE

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# BEST PRACTICES FOR PROSECUTION-LED TRAFFICKING IN PERSONS INVESTIGATIONS IN UGANDA

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# INTRODUCTION:

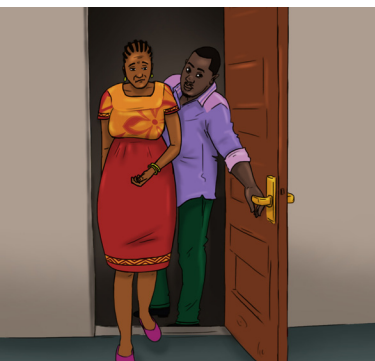
## FUNDAMENTALS OF PROSECUTION-LED TRAFFICKING IN PERSONS INVESTIGATIONS



This section of the manual will answer a few fundamental questions for understanding prosecution-led trafficking in persons investigations.

### WHAT IS TRAFFICKING IN PERSONS?

Trafficking in persons (“trafficking”), also known as “human trafficking” is the crime of using **force**, **fraud** or **coercion** for the purpose of causing a person to perform **labour** or **sex** or be **exploited in other ways**. Trafficking occurs domestically and internationally and impacts both Ugandan and foreign national victims.



Human trafficking is illegal in Uganda under Section 3(1)(a) and (b) of the **Prevention of Trafficking in Persons Act of 2009** (“PTIP Act”). The law also provides increased penalties for aggravated forms of trafficking and trafficking in children under Sections 4 and 5, respectively.

## WHY ARE ENFORCEMENT EFFORTS CRITICAL TO REDUCING TRAFFICKING?

Investigating and prosecuting traffickers affects not only individual cases, but also initiates a ripple effect on trafficking in Uganda. When a trafficker goes to prison:

- the trafficker is prevented from exploiting future victims;
- would-be traffickers are deterred; and
- additional victims are encouraged to report to police.

It is therefore important for the Office of the Director of Public Prosecutions (ODPP) to prosecute traffickers for *trafficking*, rather than lesser offences that carry lighter sentences. Successful prosecutions require law enforcement officers and prosecutors to work together to:

- identify populations and industries vulnerable to trafficking;
- recognize and respond to signs and reports of trafficking in individual cases; and
- conduct victim-centred investigations that build strong cases to ensure convictions.



## WHAT IS A PROSECUTION-LED TRAFFICKING INVESTIGATION?

A prosecution-led trafficking investigation is guided by the prosecutor, but ultimate success requires a collaborative effort from law enforcement and victim advocates.

The goal is successful prosecution of the trafficker while respecting the needs and dignity of the trafficking survivor. This approach recognizes that each professional and/or agency plays a distinct but equally important role in ensuring that a victim-centred investigation leads to a trafficking conviction, rather than merely an arrest or temporary shutdown of a trafficking operation.

Engaging in a prosecution-led investigation **does not** negate law enforcement's authority as the investigative agency against criminal activity. Moreover, it does not negate their important role in creating, implementing, and executing the investigative strategy of the case.

Engaging in a prosecutor-led investigation **does** mean involving the prosecutor as soon as an investigation begins to allow the prosecutor an opportunity to provide legal guidance for the investigation, collaborate on short and long-term strategic decisions, and be present during important victim and witness interviews whenever possible to build rapport, consistency, and continuity. Such an approach further allows for the prosecutor to anticipate challenges and potential defences in the case very early in the process. Additionally, it prevents duplication of efforts by prosecutors and investigators, allowing for greater efficiency and effectiveness in fact gathering and corroboration of case evidence.

## WHAT IS THE PROSECUTOR'S ROLE?

The prosecutor's role in a prosecution-led investigation includes:

- assisting law enforcement operations from beginning to end;
- being present to advise and assist on law enforcement operations;
- participating in victim and witness interviews;
- reviewing evidence as soon as possible to determine appropriate charging decisions; and
- notifying officers when more evidence (including additional witness and victim interviews) is necessary to prove the offence.

Prosecutors should plan to assist officers in preparing for victim and witness interviews to obtain accurate statements that contain the evidence necessary to build a strong case.





## WHY ARE PROSECUTION-LED INVESTIGATIONS BENEFICIAL FOR TRAFFICKING CASES?

Prosecution-led investigations are especially beneficial in trafficking cases because:

Prosecutors are the LEGAL experts in an investigation and prosecution. Due to the complex nature of trafficking crimes and the variety of charging options available under the PTIP Act, a prosecutor's legal expertise on the law is necessary to achieve a successful prosecution that proves each ingredient of the correct PTIP offence. Law enforcement investigators are also responsible for knowing the statute and the types of evidence needed for successful prosecution of a trafficking investigation. Working as a team from the outset will ensure all of the legal requirements are met in such investigations.

Trafficking, as a result of its often "hidden in plain sight" nature, can be more complex to investigate and prove than other crimes. Unlike many other offences, trafficking may present challenges in victim and offender identification, may resemble or intersect with other similar offences, and may require continuous re-evaluation of the evidence to determine the appropriate charges. As a result, a coordinated, collaborative plan for investigation and prosecution is crucial.

**Trafficking prosecutions tend to rest heavily on victim statements.** Accordingly, it is particularly important that prosecutors and officers work together to ensure they ask relevant questions in victim interviews to procure the most complete statements possible. Furthermore, because trafficking victims may need to be interviewed more than once, and because trafficking investigations can continue for an extended time period, it is a best practice for both prosecutor and officer to be present during interviews to demonstrate consistency and support as well as to minimize the number of times a victim will need to be interviewed.

**Victims of trafficking have often experienced trauma;** therefore, it is essential for both investigators and prosecutors to build rapport and encourage trust with the victim while also assessing first-hand their credibility. The prosecutor's presence during victim interviews is important both for the wellbeing of the victim and to encourage victim cooperation and participation throughout the case, including at trial.

## PRO TIP >

Prosecution-led investigations are supported by Article 120 of the Constitution of the Republic of Uganda which mandates the ODPP “to direct the police to investigate any information of a criminal nature and to report to them expeditiously.”

# INGREDIENTS

## OF THE CRIME OF TRAFFICKING IN PERSONS

It is vital to prosecution-led trafficking investigations that both prosecutors and investigators know and understand the ingredients of the crime of trafficking in persons. Under [Sections 3\(1\)\(a\) and \(b\)](#) of the PTIP Act, there are three ingredients: 1) the [act](#) ingredient, 2) the [means](#) ingredient, and 3) the [purpose](#) ingredient. This section will cover each in more detail.

### ACT INGREDIENT

A person or entity who does any of the below-listed acts to a person, satisfies the “act” ingredient of the crime of trafficking in persons:

- Recruits
- Transports
- Transfers
- Harbours
- Receives
- Hires
- Maintains
- Confines

## MEANS INGREDIENT

A person who does any of the acts listed on page seven by any of the below-listed means satisfies the “means” ingredient of the crime of trafficking in persons:

- Threat
- Force
- Other forms of coercion (Not further defined under the statute)
- Abduction
- Fraud
- Deception
- Abuse of power
- Abuse of a position of vulnerability
- Abuse of the giving or receiving of payments to achieve the consent of a person
- Abuse of the giving or receiving of benefits to achieve the consent of a person

## PURPOSE INGREDIENT

In most cases,<sup>1</sup> a person who does any of the above listed acts by any of the above listed means for the purpose of **exploitation** satisfies the “purpose” ingredient of the crime of trafficking in persons.

Under Sections 2(d) and (o)<sup>2</sup> of the PTIP Act, exploitation includes, but is not limited to:

- Prostitution
- Sex tourism
- Pornography or the production of pornography
- Use of a person for sexual intercourse or other lascivious conduct
- Forced marriage
- Child marriage
- Forced labour
- Harmful child labour
- Use of a child in armed conflict
- Use of a person in illegal activities
- Debt bondage
- Slavery or practices similar to slavery or servitude
- Human sacrifice
- The removal of organs or body parts for sale or purposes of witchcraft
- Harmful rituals or practices

<sup>1</sup> In cases where the “act” ingredient of the crime is hiring, maintaining, or confining, the “means” and “purpose” ingredients are limited to those in subsection (b), which can be construed nearly as broadly as subsection (a).

<sup>2</sup> Defining “sexual exploitation.”

## OTHER TRAFFICKING OFFENCES UNDER THE PTIP ACT

There are a number of other offences under the PTIP Act, the key ones being:

- Section 4: Aggravated Trafficking in Persons
- Section 5: Trafficking in Children (a capital offence)
- Section 6: Engaging the Labour or Service of a Victim of Trafficking in Persons
- Section 7: Promoting Trafficking in Persons
- Section 8(a): Attempt
- Section 8(b): Conspiracy

### PRO TIP >

Pursuant to Section 19, the Ugandan government cannot try someone under the PTIP Act if another country has already tried that person for the same offence. So, for example, if the accused is on trial before a Kenyan court for trafficking a victim to Kenya, a Ugandan court cannot try the accused for that same instance of trafficking, even if the accused and/or the victim was Ugandan.

# SECTION 1:

## BEST PRACTICES FOR REGULAR COORDINATION BETWEEN LAW ENFORCEMENT OFFICERS AND PROSECUTORS HANDLING TRAFFICKING CASES

Regular coordination and communication between officers and prosecutors are vital for successful prosecution-led trafficking investigations. This section of the manual covers best practices for general coordination between law enforcement officers and the ODPP when handling trafficking cases.

### **BEST PRACTICE 1.1: STAKEHOLDERS SHOULD HOLD A BIWEEKLY MULTI-DISCIPLINARY TEAM MEETING**

A **Multi-Disciplinary Team (MDT)** is a group of trained professionals who will work together on trafficking cases to ensure that investigations and prosecutions are victim-centred and trauma-informed. The MDT should include at least one member from the prosecution team, law enforcement agency, any government victim/witness coordinators working trafficking cases, and victim services organization assisting victims of trafficking. The MDT meetings should be calendared well in advance to allow for good attendance by stakeholders who should discuss the following topics:

- New and ongoing trafficking cases;
- Potential trafficking cases (“targets”) that have been identified or referred;
- Pro-active investigations and any plans for enforcement operations;



- Any key personnel changes (e.g., transfers of officers and Resident State Attorneys with specialized trafficking training and or experience);
- Status and condition of identified or newly referred victims; and
- Any new challenges or best practices that arise in the course of their trafficking-related duties.

All members of the MDT should sign confidentiality agreements wherein they agree not to discuss any cases or investigations outside of the MDT or their own agencies.

The MDT meetings should commence with acknowledgement of an agenda set by the agreed-upon leader. Prior to the meetings, it is a best practice for the leader of the meetings to create the agenda by reaching out to attendees to see what cases, concerns, etc. should be included.

All members of the MDT should receive training on the impact of trauma and agree to an approach to investigations and prosecutions that prioritizes the physical, emotional, and psychological safety of victims throughout the case. Victims cannot become reliable, effective witnesses unless they feel safe, understand the criminal justice process and their own role, and have established trust with the investigative team.



## **BEST PRACTICE 1.2: WHEN A SPECIALIZED TRAFFICKING INVESTIGATOR OR PROSECUTOR IS TRANSFERRED, REPLACE THEM WITH ANOTHER SPECIALIZED TRAFFICKING INVESTIGATOR OR PROSECUTOR**

Once the MDT meetings have been initiated, any personnel changes to the team should be addressed swiftly to ensure continuity of investigations and services to victims.

Changes in personnel should be discussed as soon as they are known so that appropriate replacements can be selected. Additionally, if the trafficking professional is new to trafficking cases, training should be scheduled as soon as reasonable. A best practice would be for the outgoing professional to assist in training and updating the incoming replacement whenever possible.

## **BEST PRACTICE 1.3: STAKEHOLDERS SHOULD ESTABLISH AN AGREED-UPON REFERRAL PROTOCOL FOR TRAFFICKING CASES**

One of the most effective ways to ensure that trafficking cases are handled in an efficient, victim-centred, and prosecutor-led manner is for stakeholders of the MDT to establish a written, clearly defined referral protocol for all members to follow at the initiation of each trafficking case.

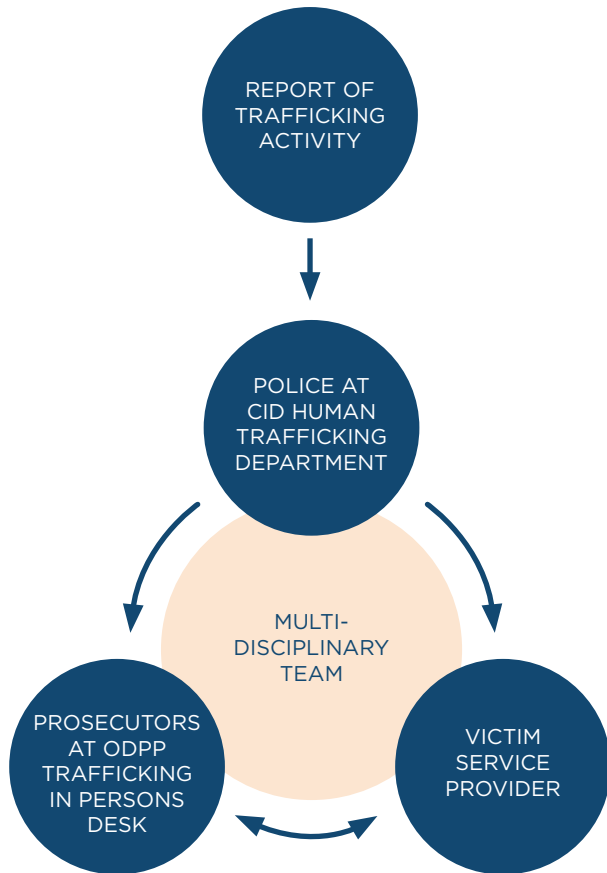
This protocol should be consistent with the [National Referral Guidelines](#) and updated quarterly to reflect the latest information on the following:

- Contact information for individual **Points of Contact (PoC)** from each agency who will be involved in a trafficking investigation, including law enforcement, ODP, and service providers. The protocol should include ways to communicate with members during off-hours in the case of emergencies and victim needs.
- The specific types of assistance each victim service organization can provide, including but not limited to: types of housing services and bed capacity, medical services, legal services, case management, immigration relief, counseling services, education and job skills training, and community reintegration and reunification. Members should discuss which agencies will be contacted based on the victim's needs, age, and gender.
- The clients each victim service organization can serve, including: age, gender, languages spoken, and whether children of victims can be served. Members should discuss which civil society organizations will be contacted based on the individual victims' needs.
- The party responsible for ensuring a stakeholder from each component has been made aware of a trafficking referral or case initiation within 24 hours.

## PRO TIP >

Once the referral protocol is in place, members can decide on the phone number(s) for the PoC to share with community members for calling in new referrals and initiating the protocol's chain of contact. Flow charts are a good way to make the chain of contact easy to understand at a glance.

## SAMPLE CHAIN OF CONTACT FLOW CHART



# SECTION 2:

## BEST PRACTICES DURING PROSECUTION-LED TRAFFICKING INVESTIGATIONS

Victim-centred trafficking investigations require law enforcement to communicate and work closely with prosecutors early and often to establish strategic investigative steps that will ensure appropriate charges are made to achieve the ultimate goal: conviction of traffickers and restoration of victims.

### **BEST PRACTICE 2.1: LAW ENFORCEMENT OFFICERS SHOULD NOTIFY THE TRAFFICKING DESK AT THE ODPP AS SOON AS THEY START A TRAFFICKING INVESTIGATION AND SCHEDULE AN INITIAL CASE CONSULTATION**

Both the ODPP and the Criminal Investigation Directorate (CID) of the Uganda Police Force each contain specialized trafficking desks. Following the initiation of a trafficking case, officers should immediately contact the trafficking desk at the ODPP and schedule an initial case consultation to share all initial information gathered and determine together the next best investigative steps.

Trafficking prosecutors can:

- provide helpful assistance regarding next steps after a victim has been identified;
- explain the types of evidence that would support a trafficking charge;
- help law enforcement identify resources for the victim; and
- provide ongoing technical assistance for the investigation, including attending crucial victim interviews and assessing evidence.

## **BEST PRACTICE 2.2: INITIAL CASE MEETINGS SHOULD OCCUR SWIFTLY TO ENSURE BEST PRACTICES IN EVIDENCE COLLECTION AND PRESERVATION**

Although it may not always be possible to schedule a face-to-face meeting between law enforcement and the ODPP trafficking prosecutor, an initial consultation should (at minimum) occur over the phone to share information and any concerns about evidence that may dissipate or disappear with delay.

## **BEST PRACTICE 2.3: PROSECUTORS SHOULD BE PRESENT IN THE INITIAL VICTIM INTERVIEW**

Prosecutors play a key role during victim interviews. As legal experts, they know the types of questions a victim should expect at trial, as well as the challenges a victim will face upon cross examination. Having a prosecutor present at the victim interview is also more efficient because prosecutors will not have to wait for the file to be able to:

- assess witness credibility;
- create a timeline of the crime; and
- guide next investigative steps.



## PRO TIP >

Trafficking prosecutors participating in victim interviews must communicate well with the trafficking investigators, who remain the lead during the interviews. Prosecutors should guide the investigators as to the focus and strategic goals prior to the commencement of the interview. Additionally, prosecutors should confer with the investigators and provide further guidance during the interview and prior to its conclusion.

# SECTION 3:

## BEST PRACTICES DURING PROSECUTIONS FOLLOWING PROSECUTION-LED TRAFFICKING INVESTIGATIONS

As important as it is for prosecutors to become involved in trafficking investigations from the beginning, it is equally important that investigators remain engaged throughout the entirety of the legal process; including pre-trial, trial, and sentencing phases. As the case progresses past the initial investigation phases to arrest, indictment, and trial, investigators continue to play a vital role in a victim-centred prosecution.

### **BEST PRACTICE 3.1: INVESTIGATORS SHOULD REMAIN ENGAGED AT THE PRE-TRIAL STAGE**

Because investigators who initiated the case have built rapport with victims and cooperating witnesses, and have institutional and substantive knowledge of the case, it is imperative that they be available during trial preparation to ensure continuity of the anticipated testimony and alert the prosecutor to any inconsistencies that develop.

Pre-trial interviews frequently result in the discovery of new or additional evidence (or witnesses) that a prosecutor may need an investigator to pursue and produce prior to the court date.





### **BEST PRACTICE 3.2: INVESTIGATORS SHOULD REMAIN ENGAGED AT THE TRIAL STAGE**

Whether an investigating officer will be a testifying witness or not, it is important that the officer be present during the trial to support the process, the prosecutor, and the victims/witnesses. There is always the possibility during trial that an officer may need to help locate a missing witness or find an outstanding piece of evidence, including evidence to refute a challenge made during the defence's case presentation.

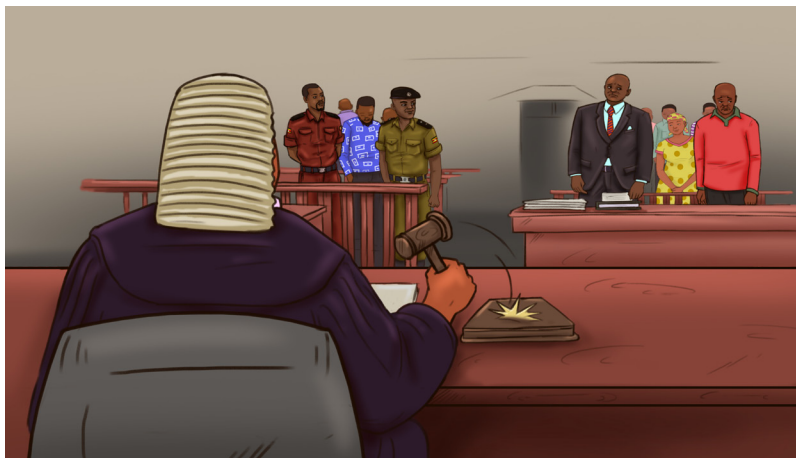
### **BEST PRACTICE 3.3: INVESTIGATORS SHOULD REMAIN ENGAGED AT THE SENTENCING STAGE**

When the judge is assessing and addressing sentencing of a convicted trafficker, the presence of invested parties encourages the judiciary to realize that the case – and an appropriate sentence – is of importance to the law enforcement community.

The law enforcement officer's presence throughout all phases of the case is incredibly vital to the most successful outcome of the case, and illustrates the seriousness with which trafficking cases are investigated and prosecuted.



Finally, law enforcement's continued presence at the sentencing phase indicates an officer's continued commitment to the victim-centered approach. An officer who remains engaged during the trafficker's sentencing signals an ongoing investment in the trafficking survivor's wellbeing, even at the case's conclusion.

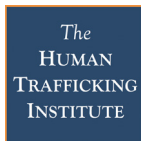


## PRO TIP >

It is the probation officer's role to put together victim impact assessment reports for the prosecutor to submit at sentencing, so it is also important for probation officers to remain engaged throughout the investigation and prosecution.

## ABOUT THE HUMAN TRAFFICKING INSTITUTE

The Human Trafficking Institute exists to decimate human trafficking at its source by empowering police and prosecutors to stop traffickers. Working inside criminal justice systems, the Institute provides the embedded experts, world-class training, investigative resources, and evidence-based research necessary to free victims.



[www.TraffickingInstitute.org](http://www.TraffickingInstitute.org)