

MINISTRY OF NATIONAL SECURITY



TRINIDAD AND TOBAGO IMMIGRATION DIVISION

Smuggling and Trafficking in Persons Investigation Manual

Guidelines on procedures for Immigration Officers

2008 Edition



Trinidad and Tobago Immigration Division

Investigation Manual

Ministry of National Security



IOM International Organization for Migration
OIM Organisation Internationale pour les Migrations
IOM Internationale Organisatie voor Migratie

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INTRODUCTION

In line with the rest of the Caribbean, mobility into and out of Trinidad and Tobago is fluid. Whilst the population of Trinidad and Tobago is small, the annual flow of people in and out of the country is high as compared to the resident population. Given the size of flows into the country, the difficulties encountered policing borders effectively and the strength of the tourist industry, migration movements are frequently informal and undocumented.

Immigration border management at the international ports is steadily developing. Document fraud crimes are now regularly detected using “state of the art” technical equipment, whilst stringent primary and secondary screening procedures are more rigorously applied.

However the demand for irregular migration into the country is still strong and a downside to a more efficient port control is the diversion of border criminal activities to other sources and routes. This is born out by the increasing number of immigration offences that have been investigated over the past three years, resulting in a dramatic 300% increase of cases during the first quarter of 2008.

It is acknowledged that Trinidad and Tobago has a porous sea border that is particularly vulnerable to the many migrant people who are unable to enter using legal means but still anxious to gain entry to the country. This encourages clandestine movement, the methods and routes of which are controlled by transnational organised criminal elements. Many of these criminal groups are highly-organised; charge large sums of money to smuggle migrants; and have varied interests such as trafficking in people for sexual and labour exploitation, as well as smuggling of drugs and weapons and less innocuous commodities such as liquor, cigarettes, etc.

There is an urgent need to tackle the problems of cross-border crime which is a real threat to Trinidad and Tobago’s national security. This can be achieved by effective border management and this manual has been designed with the assistance of local experts to enhance the capabilities of all Immigration Officers to successfully investigate and detect, in particular, crimes of smuggling and trafficking of persons.

The manual is based on training delivered by consultant Peter Bryant in April 2008 in Port of Spain and Scarborough, in close cooperation with the office of the International Organisation for Migration (IOM) in Trinidad and Tobago. Input from the Immigration Officers that participated in that course - and subsequent observations, assistance and material from these and other Immigration Officers - have been duly reflected in this product. The constructive support IOM has received from the Ministry of National Security throughout has been crucial to the implementation of capacity building activities for the Trinidad and Tobago Immigration Division and the production of this manual.

IOM welcomes comments on the manual and looks forward to updating it to incorporate both changes in legislation and policies, and also, to reflect progressing insights into how law enforcement can contribute most effectively to combating the trafficking and smuggling of persons in Trinidad and Tobago.

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CHAPTER I

Trafficking and Smuggling of Persons

Introduction

The terms and key concepts “irregular migration”, “smuggling of migrants”, “trafficking in persons”, and “organised crime” are frequently used in the normal course of border law enforcement.

In the media, we also find the terms used in a variety of contexts. However, the words often have different meanings, depending on the perspective of the person using them. For this reason, it is important to define very clearly the subjects of our study, following the definitions provided by international legal conventions.

This chapter presents, in detail, the legal framework of trafficking and smuggling in persons; the process and phases of trafficking; the coercion and control mechanisms used; the relevance of international legal instruments; and the key elements of **organised crime**.

1.1 The General Concept of Irregular Migration

Paradoxically, irregular migration as a general concept has no universally agreed definition in international law.

The International Organization for Migration (IOM), in its *Glossary on Migration* offers the following brief definitions that cover the most common forms of irregular migration (notably *illegal entry*, *overstaying* and *unauthorised work*). When discussing cases of smuggling of migrants and trafficking in persons, the term “illegal migration” is most frequently used:

Irregular Migration

“Movement that takes place outside the regulatory norms of the sending, transit and receiving countries.”

There is no clear or universally accepted definition of irregular migration. From the perspective of destination countries it is illegal entry, stay, or work in a country, meaning that the migrant does not have the necessary authorisation or documents required under immigration regulations to enter, reside or work in a given country.

From the perspective of the sending country, the irregularity is seen, for example, in cases where a person crosses an international boundary without a valid passport or travel document or does not fulfil the administrative requirements for leaving the country. There is however, a tendency to restrict the use of the term “illegal migration” to cases of smuggling

of migrants and trafficking in persons.

Irregular Migrant

“Someone who, owing to illegal entry or the expiry of his or her visa, lacks legal status in a transit or host country.”

The term applies to migrants who infringe a country’s admission rules and any other person not authorised to remain in the host country (also called clandestine/illegal/undocumented migrant or migrant in an irregular situation).

The term illegal migrant is often used, with the meaning of “irregular migrant”. The definitions above, illustrate that **illegal migration** is an acceptable concept, while a human being can never be illegal. **“Irregular migrant”** is therefore the recommended term indicating that someone has an illegal status. Attributes such as “undocumented”, “clandestine” or “unauthorised” can also be linked to a person.

1.2 Distinguishing between Smuggling and Trafficking in Persons and the Interconnections

The UN Definition of Human Smuggling and Trafficking

The expressions “smuggling” and “trafficking” are often used synonymously, although a clear distinction should be drawn as they are substantially different. This distinction is also useful from a law enforcement perspective.

Clarification of the terminology and definitions has been included in the United Nations Convention against Transnational Organised Crime, and its two accompanying protocols on smuggling and trafficking, which were adopted by resolution [A/RES/55/25](#) in Palermo, in December 2001.

The Government of Trinidad and Tobago ratified the International Convention against Transnational Organised Crime and its three Protocols, including the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially women and children, in November 2007. Accordingly, the Government will enact legislation to implement the provisions of that Protocol.

The definitions make it clear that **smuggling of migrants** is the act of assisting with an illegal border crossing and illegal entry. Smuggling, therefore, always has a transnational element, and is primarily directed against the interests of a state, and not against an individual, i.e. the smuggled person.

Smuggler - The person who facilitates the illegal crossing of a smuggled person (who is the customer).

Trafficker - The person who is involved in the recruitment, transportation or exploitation of the person (who is referred to as the victim).

In respect of **trafficking in persons**, the key element is the exploitative purpose. Trafficking involves the intent to exploit a person, in principle irrespective of how the victim comes to the location where the exploitation takes place. Trafficking can involve, in cases where borders are crossed, legal as well as illegal entry into the country of destination and, respectively, can occur without any border-crossing at all.

This international consensus on the definitions of smuggling of migrants and trafficking in persons is of significant importance. By incorporating a common understanding of these concepts into their national laws, States should be able to cooperate more effectively and to overcome difficulties regarding data collection and analysis.

Article 3 of the Protocol Against the Smuggling of Migrants defines several key concepts that are relevant for border control:

- (a) “Smuggling of migrants” shall mean procurement in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State of which the person is not a national or permanent resident;
- (b) “Illegal entry” shall mean crossing borders without complying with the necessary requirements for legal entry into the receiving State;
- (c) “Fraudulent travel or identity document” shall mean any travel or identity document:
 - (i) That has been falsely made or altered in some material way by anyone other than a person or agency lawfully authorised to make or issue the travel or identity document on behalf of a State;
 - (ii) That has been improperly issued or obtained through misinterpretation, corruption or duress or in any other unlawful manner;
 - (iii) That is being used by a person other than the rightful holder;
- (d) “Vessel” shall mean any type of watercraft, including non-displacement craft and seaplanes, used or capable of being used as a means of transportation on water; except a warship, naval auxiliary or other vessel owned or operated by a Government and used, for the time being, only on Government non-commercial service.

In contrast, *Article 3 of the Protocol Against Trafficking in Persons* provides the following definition:

- 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, abduction, fraud, deception, or 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.

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.

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;

Special Provision for Minors

The Protocol further states that 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 (threats, use of force, fraud deception, etc) set forth above.

Trafficking in Persons

1) The recruitment and movement of a person:

Recruitment, transportation, transfer, harbouring, or receipt of persons.

2) The techniques and means used for this movement to happen:

Coercion, abduction, fraud, deception, abuse of power, abuse of a position of vulnerability, or the “buying” of a person.

3) The objectives of the above-mentioned elements:

All forms of exploitation, including sexual exploitation, forced labour, servitude, slavery, removal of organs, etc.

The primary goal of the trafficking process is the subsequent exploitation of the trafficked person, which constitutes a severe human rights violation.

The term “smuggling of persons”, on the other hand, implies the facilitation of illegal entry of migrants in a country. In contrast to a case of trafficking, smuggled migrants have usually consented to being smuggled. Moreover, the act of smuggling usually ends with the migrant arriving at the destination, while trafficking involves the continued exploitation of the person in some form to generate illicit profits for the traffickers.

Hence, while “trafficking in persons” is considered a crime against human rights, smuggling of persons is considered a crime against the state, by violating immigration laws.

The three main elements contained in the definition of “smuggling of migrants” are the “movement”, “techniques and means” and “objective”. As follows:

Smuggling of Persons

1) The movement of a person:

The crossing of borders, usually following the migrant’s consent.

2) The techniques and means used for this to happen:

Clandestine transportation by land, sea and/or air, usually under inhuman or dangerous conditions.

3) The objective:

The crossing of borders to facilitate illegal entry (often through transit states) into the intended country of destination.

However, many smuggled persons themselves become victims of human rights violations. Many researchers agree that in practice, the differences between trafficking and smuggling are not always obvious and the two concepts often overlap.

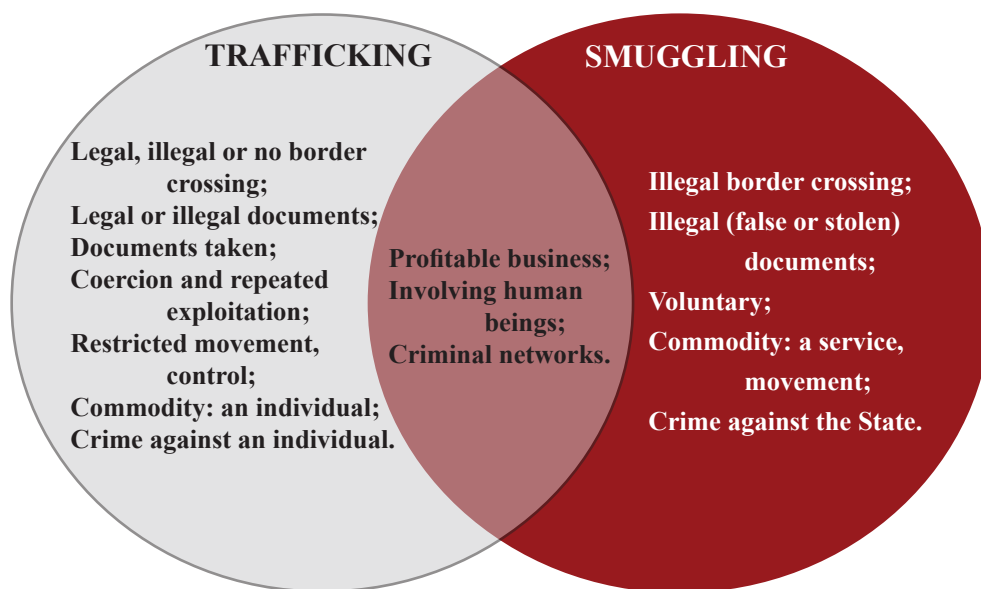
For example, a person might ask for a smuggler’s help to reach a certain destination illegally and fall into an exploitative situation at the end of the journey, i.e. by working in conditions of slavery in order to financially remunerate the smuggler. In other situations, migrant people might be aware that they will be working in prostitution but not realise the awaiting conditions they will be working under, including violence, exploitation and debt bondage.

In these cases, the crime is then clearly considered as a crime of “trafficking in persons” (see Article 3 (b) of the Protocol against Trafficking in Persons).

The determination of such cases as either human smuggling or trafficking are significant for the persons involved, as recent legal changes tend to confer **stronger protection rights** to trafficked victims than to smuggled migrants. This is why smuggled persons are not necessarily seen as “victims” of crime. Likewise, the punishments for trafficking can be much more severe than the sanctions for smuggling over borders, due to the human rights violations involved.

Smuggling of persons is primarily a crime against the State, that normally involves the prior consent of the migrant to be smuggled.

TRAFFICKING AND SMUGGLING: SIMILARITIES AND DIFFERENCES



1.3 The Three Stages of Trafficking Explained

Trafficking can be explained by separating it into three distinct but interrelated stages. These are:

- RECRUITMENT
- TRANSPORTATION
- EXPLOITATION

The stages of trafficking explained:

- ***Recruitment***
 - The victim is recruited by the use of false promises, by offering incentives, or by the use of force and/or coercive methods to attain the victim's consent or to gain control over that person.
- ***Transportation***
 - The movement of a person by any transportation means and across borders, legally or illegally, or within a country.
- ***Exploitation***

- The use or sale of the victim to financially benefit the trafficker. This includes all forms of exploitation, including sexual exploitation, forced labour, servitude, slavery, removal of organs, etc.

When is it Trafficking?

- Each of the three stages (recruitment, transportation, and exploitation) must be present;
- The three stages must be linked to each other;
- The activity must be achieved by one of the means, and both must be linked to achieve the exploitative purpose.

1.4 The Coercion and Control Mechanisms within Trafficking

The four key coercion and control mechanisms are:

- 1) Debt bondage;
- 2) Isolation;
- 3) Use of violence and fear;
- 4) Use of threat of reprisal against victim's family.

1) What is Debt Bondage?

Many of the trafficked victims do not have the money to purchase their tickets and travel documents to travel to their destination country. The travel is paid for them, or they agree to an advanced loan that they are expected to repay with money to be earned in the destination country/location, and a “debt bond” is created. Traffickers exploit the fact and use this as a coercive measure to ensure that victims engage in the planned activity.

2) What is Meant by Isolation?

- Removal and retention of passport, identity card or return flight ticket;
- Language or social segregation;
- Restriction of movement;
- Repression of communication with the outside world (no letters, no phone calls, no visits, etc).

3) Use of Violence and Fear

- The victim often fears their trafficker, who can use violence and threats of violence toward the victim or family or friends;

- Victims may be beaten, raped, confined, deprived of food and water, drugged, etc, to ensure obedience and compliance.

4) Use of Threat of Reprisals

- The recruiters will know details about the victim’s family – addresses, places of employment, etc;
- They may threaten to harm the victim or family members and loved ones to attain compliance.



CHAPTER II

Organised Migration Crime

Introduction

The population division of the United Nations has calculated that, in 2000, there were about 175 million people around the world living, legally or illegally, in countries other than where they were born.

This represented no more than 2.9 per cent of the total world population in 2000. If the trend continued as in the decade before 2000 there would close to 185 million migrants as of 2005. Most of these are legally resident but millions are undocumented, in an irregular situation.

Why do people break laws and regulations to migrate, often risking their lives in overloaded boats or containers, or in the desert heat? **Irregular migration** is inseparably linked to the **general dynamics of international migration**, especially the movements that take place from developing and transition countries to the industrialised ones.

Growing gaps between countries in demographic developments, economic prosperity, and political stability, generate migration pressures. Factors that drive many to try their luck, even in the absence of legal channels to do so, include: cheaper travel and the worldwide image of the Western consumption model (in the age of globalisation).

By gaining a better understanding of the migration process it will assist the law enforcement agencies to carry out their duties in a more humane and efficient manner.

2.1 The Key Elements of Organised Crime

The UN Convention against Transnational Organised Crime gives a broad definition for organised crime and organised criminal groups, comprising the broad spectrum of different smuggling and trafficking operators and their networks.

All forms of trafficking and smuggling of people are generally acknowledged as being controlled by organised criminal groups. It is important that law enforcement officers acknowledge and understand this is the case during the investigation process, in order that the correct intelligence and processes take place to detect all criminal participation in the crimes of trafficking and smuggling of people.

Definitions of Organised Crime

Article 2 (a) of the UN Convention defines transnational organised criminal groups as:

“A structured group of three or more persons, existing for a period of time and acting in concert, with the aim of committing one or more serious crimes or offences established in accordance with this convention, in order to obtain, directly or indirectly, a financial or other material benefit.”

Organised crime includes both criminal organisations and the criminal activities they carry out and is thus a slightly broader concept than that of “organised criminal groups”, covered by the Conventions.

There are **four mandatory criteria for organised crime**:

- Collaboration of three or more people;
- Active for a prolonged or indefinite period of time;
- Suspected or convicted of committing serious criminal offences;
- With the objective of pursuing profit and/or power.

In addition, there are **seven optional criteria**, two of which need to be fulfilled in order for the organisation and its activities to be categorised as organised crime:

- Having a specific task or role for each participant;
- Using some form of internal discipline and control;
- Using violence or other means of intimidation;
- Exerting influence on politics, the media, public administration, law enforcement, the administration of justice or the economy by corruption or other means;
- Using commercial or business-like structures;
- Being engaged in money laundering activities;
- Operating on an international level.

2.2 The Key Criteria of Organised Criminal Groups

A recent United Nations Office on Drugs and Crime (UNODC) study identified **five different types of structures** of organised crime groups:

Standard hierarchy:

Single hierarchical group with strong internal systems of discipline

Regional hierarchy:

Hierarchically-structured groups, with strong internal lines of control and discipline, but with relative autonomy for regional components

Clustered hierarchy:

A set of criminal groups which have established a system of coordination/control, ranging from weak to strong, over all their various activities

Core group:

A relatively tightly-organised but unstructured group, surrounded in some cases by a network of individuals engaged in criminal activities

Criminal networks:

A loose and fluid network of individuals, often drawing on individuals with particular skills, who constitute themselves around an ongoing series of criminal projects

The fluid and changing nature of the criminal groups and chained organisations makes it difficult to track down the criminals. Very often, criminal groups involved in illegal migration and smuggling or trafficking in persons are also involved in other related criminal activities such as extortion, racketeering, money laundering, bribery of public officials, drug trafficking, document forgery and gambling.

According to UNODC (2002) the majority of criminal groups are involved in one main criminal activity and, although other activities are also carried out, these are undertaken in order to make the main activity possible.

Similar to trafficking in persons, smuggling and illegal migration in general do not occur in one particular part of the world, nor do they victimise one particular homogenous group, and nor is one particular criminal group responsible for this crime. Criminal groups dealing with smuggling and illegal migration vary in level of organisation, size and composition.

Level of Organisation

The paradox related to the smuggling of migrants is that the more measures which are taken by States to prevent illegal entry, the more the arrangements for illegal entry become organised or an easier target is acquired.

Under current circumstances, with tightened border control measures and tightened sanctions on illegal residence, not many ways remain for migrants (interested in residence or labour) to enter without the involvement of “professional” smuggling organisations that can provide a wide variety of services.

Research and the experience of law enforcement agencies has shown that not all smugglers are well organised. This is then a problem for the response of law enforcement agencies, because organisations that are loosely-formed are not easy to track down and make the gathering of information, both reactive and proactive, very difficult.

Some of the research indicates that the smuggling of migrants, especially in Europe, does not necessarily involve highly-organised, large criminal groups. Instead, it seems that the smugglers can only consist of semi-professional but loosely-grouped individuals. This is indeed the case in Trinidad and Tobago.

In addition to the high-profile, well-established organised criminal operations of people smuggling/trafficking, there are numerous lesser-known criminal groups operating

throughout the Caribbean region. These groups may decide to cooperate with each other, when it is opportune for them to do so. For example, so called “amateur” smugglers using their own small boats which take on board a dozen or so people (e.g. the small fishing-type boats operating between the coast of Venezuela and T&T).

These are occasional smugglers who earn a few dollars supplying national and international transportation. They are usually the owners of taxis, small fishing boats and trucks that can transport small groups of people, departing from secluded coastal areas, effecting short sea passages and crossing insufficiently guarded frontiers. This activity is not their main source of income and can be categorised as spontaneous, illegal, non-organised and unsophisticated smuggling.

Then, there are **small groups of well-organised criminals**, that specialise in leading citizens from one specific country to another using well-known routes. These criminal groups have a higher level of specialisation than the occasional smugglers.

There are also the **sophisticated criminal organisations**. These criminal syndicates succeed in satisfying the most complex needs of potential migrants. They can provide counterfeited or real documents (passports and visa, which are stolen altered/forged) as well as housing and support in many countries of the world. But their main characteristic is flexibility in the face of unforeseen situations.

This is made possible because the members of the organisation are spread all over the world, the routes are often well tested by smuggling other illegal goods, and because the smugglers avail themselves of sophisticated means of communication, enabling the members to keep in constant contact.

The smuggling of migrants for these organisations is often a secondary profitable line next to its other existing activities. This, within a criminal context, has all the characteristics of a real enterprise.

Organised criminal groups involved in human smuggling and trafficking are increasingly decentralised and flexible in their organisation. This flexible structure allows for the prompt reorganisation of illicit activities according to demand, the number of competitors and threats from law enforcement.

This flexibility is improved by the incorporation of small sub-units of criminal specialists, who provide particular services and expertise that might otherwise be outside of the scope of the criminal organisation. Indeed, there are a number of specialist roles that are potentially involved in the smuggling or trafficking process.

The more criminal organisations become transnational, the more they develop connections and networks. They establish these links or alliances to improve their operational capabilities and to resist governmental control efforts. In conclusion, we could say that the criminal networks have the following general characteristics:

- They have safe houses/hideouts to accommodate their clients during the transportation phase;
- They have access to persons that possess, or can create, counterfeit documents;
- They have great flexibility and in case of increasing controls can easily switch routes;
- They have reliable bases, contacts and lodgings in transit countries;
- They have adequate funds and can, therefore, pay attractive sums to corrupt officials;
- Often they are pursuing other criminal activities at the same time (e.g. drugs or arms smuggling).

2.3 Categories of Criminal Actors Involved in Illegal Migration/ Smuggling of Persons

Division of Labour

Research indicates that individuals and organisations involved in smuggling and trafficking have varying levels of organisational structure, and commitment to those processes. According to Schloenhardt,¹ individuals and criminal groups involved in smuggling and trafficking of people may also limit their activities to one or more of the following roles:

- **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 organisational pyramid structure that protects their anonymity;
- **Recruiters** - who 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** - who assist the migrants in leaving their country of origin, either by sea, land or air;
- **Corrupt public officials or protectors** - who may assist in obtaining travel documents, or accept bribes to enable migrants to enter/exit illegally;
- **Informers** - who gather information on matters such as border surveillance, immigration and transit procedures, asylum systems, law enforcement activities;
- **Guides and crew members** - who are responsible for moving irregular migrants from one transit point to the other, or helping the migrants to enter the destination country;
- **Enforcers** - who are primarily responsible for policing staff and migrants, and for maintaining orders;
- **Supporting personnel and specialists** - which may include local people in transit points who might provide accommodation and other assistance;
- **Debt-collectors** - who are in the destination country to collect fees;

1 Dr Andreas Schloenhardt senior lecturer at The University of Queensland TC Beirne School of Law

- **Money-movers** - who launder the proceeds of crime, disguising their origin through a series of transactions or investing them in legitimate businesses.

A report from German law enforcement officials states, that most of the attempts to enter Germany illegally used to be carried out by individuals without systematic support. However, there is a trend nowadays that the smuggled persons come with professional help. More and more smugglers are organised under division-of-labour principles, procuring documents and accompanying transports, or describing the way for seemingly unaccompanied persons to cross the border, and providing accommodation for stopovers during the journey.

The cross-border transport is carried out by locals (who form the lowest level within the organisational hierarchy) on both sides of the border. In the middle and upper organisational levels, ethnically homogenous groups dominate. In addition to greater mobility, this division of labour in smuggling efforts has a “**sealing off**” effect. Smugglers, who have been recruited for their knowledge of local conditions, can be replaced quickly and without any risk after their arrest as they hardly know anything about the organisational structure of the smuggling group.

This “professionalisation” is apparent in other forms of fraud, such as document fraud, which have increased significantly recently. The provision of false passports and visas is included in the services offered by smugglers.

2.4 The Inter-Dependency of Criminal Activities

Current intelligence, reported in the UK Home Office Organised Crime Notification Scheme, suggests links between international networks, which traffic drugs, money, and human beings. It is less clear whether (and if so, how) the smaller-scale operations connect to more organised groups. For example, do successful enterprising individuals expand their operations and move into the organised crime frame, are they absorbed into existing networks, or are they perceived as threats by these established groups?

The “**inter-dependency**” of criminal activities reflects the motivation of sophisticated organised crime groups to maximize their profits, either by diversifying into new criminal markets, and/or by minimising the risk to the organisation. People smuggling or trafficking is one of the most profitable and lowest risk criminal activities.

It is known that criminal groups adapt their business to that market where the intended profit can be made and where the threat is low. If there is more profit to be made in another type of business, less danger of getting caught (and penalties are not high if arrested) it makes logical sense to switch to another form of illegal business.

One of the significant challenges for law enforcement agencies is that criminal groups do what is called “**commodity hopping**”. That means, looking at it from the Police angle, that the Police are facing a group that is changing commodity, changing operation, and do not recognise national borders; while Police, because of the way they are structured, are faced

with the consequences of this change and are also facing all the difficulties and obstacles that come with cross-border Police cooperation.

In the first place, and not the least, there is the cumbersome process of merely setting up international police cooperation between countries for a particular type of investigation. This collaborative organisational period slows down the whole process.

2.5 The Irregular Migration Process

The process of irregular migration can take many forms and combinations of legal and illegal stages, including individuals who have arrived legally but overstay.

Trafficking, seen as a process starting from recruitment to transport and coercive exploitation, can consist of a wide number of criminal offences, as listed in the definition provided by the Protocol against Trafficking: deception in recruitment; illegal border crossing; restriction in freedom of movement; violence and sexual or other types of exploitation; and putting the victims to work in exploitative and dangerous conditions. These can occur in varying combinations.

If the journey to the intended country of destination is long (for example, in the case of Chinese migrants who move towards Europe and/or America) again the criminal organisers may stage a continuum of legal and illegal moves. These moves may involve legal passages, as members of tourist or student groups, or as asylum seekers who later disappear from their hotels or reception centres to continue their journey.

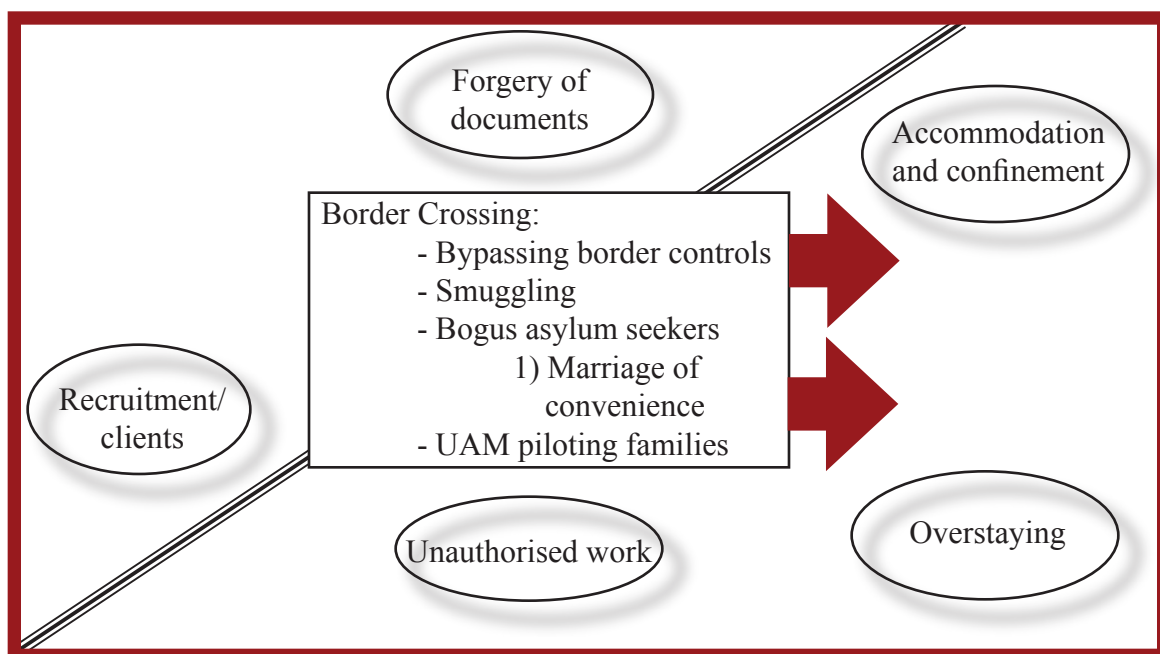
In trafficking cases, and also in cases of smuggling, a heavy-handed and coercive **accommodation** stage, with limitations to freedom, may occur. Normally however, confinement and a concomitant forcing into exploitative work are characteristic of trafficking. As previously indicated, trafficking and smuggling are not always separate or mutually exclusive: assisted illegal border crossing is often a stage within the trafficking process.

Forgery of documents is one of the main methods used for illegal border crossing and/or residence abroad. Irregular border crossing can be facilitated by a large variety of document fraud; including posing as the persons for whom the document (e.g. an untouched passport) had been issued, changing photographs, and falsifying visas or other elements in the travel documents.

Border crossing and illegal entry can take many other forms. In addition to unauthorised border crossing, by entering (and not registering) elsewhere than official border control points, by sea or travelling thorough the controls as a stowaway, migrants can falsely present themselves as asylum seekers. Convenience marriages are also used, as well as posing as unaccompanied minors whose families later try and follow their offspring in the hope of utilising family reunification rights.

Overstaying is one of the most typical forms of irregular migration. Frequently, immigrants remain in the country after their tourist visas or residence permits expire. Unauthorised employment is said to be on the increase in the informal economies of European countries and North America, and in Trinidad and Tobago it is likely to be the same. In its most extreme form, such practices can amount to slavery-like exploitation and trafficking.

This process can be demonstrated in a graph, as follows:



CHAPTER III

The Public Health Impact of Irregular Migration

Introduction

One of the biggest challenges resulting from globalisation is the management of irregular migration, including the management of individuals' health and of global public health. Present immigration legislation rules and regulations, which have been designed for orderly, regulated, and accepted migratory movement, are less effective in addressing the challenges of new and emerging patterns of movement.

While the demands for health services for irregular migrants (such as trafficked populations and asylum seekers) are growing, the irregular nature of the migration process severely restricts access to health services, thus preventing a healthy environment.

This lesson is designed to provide an insight into the health risks faced by migrant people, as well as the impact and hazards faced by law enforcement agents, and various ways to minimise these risks.

3.1 Common Health Conditions found in Irregular Migrant Populations

Irregular migrants who have crossed the border illegally, on their own account or as part of an organised smuggling/trafficking operation, have very likely been subjected or exposed to a number of health hazards, such as:

1. Poor living conditions prior to departure;
2. Exposure to a wide range of diseases either in the home country, or during the journey;
3. Physical violence, possible sexual exploitation;
4. Psychological trauma.

Being “undocumented” means that migrants with irregular status - such as trafficked persons, smuggled persons, economic migrants and certain sub-groups of migrant workers, labour migrants, and asylum seekers - are more exposed to various and significant health risks, which can include:

1. Infectious and non-infectious diseases (tuberculosis (TB), hepatitis, malaria);
2. Sexually-transmitted infections (STIs);
3. Non-infectious conditions (cardiovascular, gastrointestinal, oral/dental);
4. Unwanted pregnancy;
5. Mental and psychosocial illnesses;
6. Injuries due to violence (broken limbs and other physical injuries);
7. Drug/substance abuse;

8. Occupational illnesses.

Current migration health-related legislation and public health measures differ from country to country and are not harmonised throughout the world.

Moreover, according to present practices, health assessments of irregular migrants in the border area are most often performed by Immigration officials who are not specially or specifically trained for this sensitive and hazardous task.

Smuggling operations in particular often imply dangerous and hazardous means of transportation, frequently endangering the lives of the migrants and/or resulting in long-lasting physical or mental health problems. The illegal boat crossings from Venezuela to the shores of Trinidad are particularly dangerous; the migrants risk rough seas, very poor travelling conditions and unscrupulous sea captains and crew.

Additionally, health concerns do not merely appear in the context of spreading “common” infectious diseases, such as the re-emerging problems of TB, HIV/AIDS and of hepatitis B and C, or even sexually-transmitted infections (STIs). As a possible consequence of the underdeveloped or non-existing public health systems of many countries of origin, vaccine-preventable diseases might spread to transit and destination countries where most physicians have not been confronted with these pathologies.

For example, TB has re-emerged in the industrialised world and this is largely associated with the increased arrival of people coming from geographical areas of high TB-prevalence. There is mounting evidence that public health control and surveillance systems for TB, worldwide, are not effective.

Most have failed to appreciate the scope and patterns of population mobility. One third of the world’s population is infected with the TB microbe. Ninety five percent of cases occur in the developing world. Untreated, one person with active TB will infect between 10 and 15 other people every year. In the case of this one disease, the cost of not paying attention to public health in managing migration is high.

In this regard, it is important to note that providing appropriate healthcare for irregular migrants is *not only a humanitarian obligation, but also a public health concern* for countries of transit and destination alike.

Providing appropriate and adequate care in the first line of service - **the border area** - is the best security measure against the risk of spreading disease. The importance of the first health contact from all points of view, on an individual and public health level, **cannot be emphasised strongly enough.**

3.2 The Important Points Concerning Vulnerable Irregular/Trafficked Migrants

- 1) Trafficked or smuggled persons who have been subjected to sexual exploitation or rape face **significant health risks** to their reproductive system and mental health.

These risks may also include unwanted and unsafe pregnancy and motherhood, and sexually transmitted infections including HIV/AIDS. The rate of contracting sexually-transmitted illnesses is six to sixteen times higher for those involved in prostitution.

These persons may also be under an increased risk of substance abuse and of contracting highly-infectious diseases such as hepatitis and TB.

- 2) **Children and adolescents**, as compared to adults, are more susceptible to die or suffer serious consequences from the violence associated with sexual exploitation or rape. These children are also at a higher risk of contracting the HIV virus.

Ignorance about HIV transmission, and the mistaken belief that having sex with a child is less risky because the child is “clean”, less prone to transmit diseases and less likely to be infected with HIV, fuel the demand for very young boys and girls.

- 3) From a **public health perspective**, it is necessary to look at trafficked/smuggled adolescents and children differently from trafficked adults. Roughly 70 per cent of premature deaths among adults are due to behaviours initiated in adolescence (WHO 1998).

Suicide and sexual and reproductive ill health are among the major causes of morbidity and mortality in young people. Adolescence is seen as the “gateway to health” because behavioural patterns acquired during this period tend to last throughout adult life.

- 4) The **stress faced by irregular migrants and trafficked persons** living in an abusive environment significantly affects mental health. These migrants usually live in detention-like conditions of violence, threats, and lack of self-control.

They have often been deprived of food, sleep, space and security, and lack access to health and social care and support. The psychological reactions to this are complex, harmful, and often long-term.

- 5) Irregular migrants employed in illegal and hidden operations often find themselves in **appalling and exploitative working environments**. They will often be engaged in low-skilled, low paid, temporary employment where they may lack supervision, training and benefits including health and safety regulations.

In most instances, they will not know how to use modern machinery safely, and may be afraid to ask questions or to complain about unsafe working conditions.

3.3 The Consequences of the Public Health Impact of Irregular Migrants

The consequences of the public health impact of irregular migrants, hazards faced by law enforcement and Immigration officials, and actions to be taken by Immigration Officers when faced with migrants showing symptoms of ill health, include:

1. The timely and adequate provision of healthcare services to irregular migrants is an important humanitarian obligation, which should be complied with immediately on detection and during possible detention of the irregular migrant. Article 9 and 16 (1) Smuggling Protocol obliges state authorities and medical services, as well as specialised NGO's, to work closely together in ensuring timely and proper care and protection of the health and well-being of migrants.
2. Given the considerable current flow of irregular migrants seeking prosperity and better living conditions, the possible impact on the health situation in the destination country should be taken into careful consideration. On the individual level, this can also imply serious occupational health hazards for control officers and border personnel. For these reasons, the immunisation status of the law enforcement staff must be controlled and regularly updated.

Immigration Officers must pay special attention to hygiene, including personal hygiene, and to the conditions of the border-guard detention facilities. Staff must also be trained in the use, where necessary, of simple protective devices, such as latex gloves, masks, germicides, etc.

Immigration officials may also come into contact with migrants who are in need of urgent medical assistance. In order to provide adequate and prompt help to the sick or injured person, and to minimise the risk for the law enforcement officer him-/herself, all Immigration officials and Police personnel should be trained in baseline interview techniques, as well as basic First Aid provision, and should refresh these skills on a regular basis.

In particular, they should demonstrate competency in the following fields: bandaging; techniques for reducing risk of infectious disease; cardio and pulmonary resuscitation (CPR); controlling bleeding; treating shock; and recognising symptoms of possible mental disorders. Most importantly, easy and fast access to adequately-trained health personnel should be ensured.



CHAPTER IV

A Summary of the Criminal Justice System

Introduction

No specific trafficking law exists in Trinidad and Tobago, however T&T is a signatory to, and ratified, a variety of UN counter-trafficking conventions and are in the process of drafting legislation. This chapter explains, briefly, the most relevant laws that can be applied when investigating and prosecuting cases of trafficking and smuggling of people.

4.1 Sexual Exploitation

Prostitution is illegal in Trinidad and Tobago, and the Sexual Offences Act of 1986 states who can be prosecuted. While soliciting for immoral purposes itself is prohibited, those involved in the management of prostitution may be prosecuted through a number of channels. For example, those living off the earnings of prostitution are liable (Section 23), as are those who manage brothels or knowingly permit premises under their control to be used as a brothel (Section 22). The broadest offence is that of “aiding in prostitution” (Section 24), which states:

“A person who for the purposes of gain, exercises control, direction or influence over the movements of a prostitute in a way which shows that the person is aiding, abetting or compelling the prostitution is guilty of an offence and is liable on conviction to imprisonment for five years.”

Prosecuting the Traffickers

This would allow authorities to prosecute all those connected with the trafficking process. Most significantly, it refers to control, direction and influence on the movements of a prostitute, which suggests that those involved in the recruitment process could be addressed under this section. As we shall see later, the Immigration Act supports these penalties against prostitution, and those aiding and abetting the cross-border movement of persons for sexual exploitation. All the penalties relating to prostitution carry the same penalty of five years imprisonment.

Procurement in Trinidad and Tobago is also illegal and carries more severe penalties, 15 years, rather than five, (Section 17). Procurement of a minor for sex (here defined as someone under 16 years of age), carries the same penalty as the procurement of an adult for prostitution, or as an inmate of a prison or reformatory. However, the provision states procurement for prostitution can occur “either in Trinidad and Tobago or elsewhere”. This suggests that traffickers could be prosecuted for procuring non-national women to come to Trinidad to work, as well as for procuring nationals for sex work abroad.

Forced Prostitution

Forced abduction and detention for sexual purposes is also clearly addressed with respect to forced “defilement”.

Any person who procures another for sex through threats, intimidation, and deception, or the use of drugs, faces a penalty of up to 15 years (Section 18). Forced detention of a person for sexual purposes meanwhile carries a penalty of 10 years, including in a brothel (Section 19). Finally, abduction of a woman for sexual purposes carries a similar penalty (Section 20).

Broader rules cover the defilement of minors (those under 16). It is sufficient to show that a householder – whether an owner, manager or occupier of a premises – knowingly permitted sexual intercourse with a minor on his premises. His role in the defilement or procurement of the minor is irrelevant and he could face up to ten years imprisonment. This could be used to prosecute any person who sexually abuses a victim of trafficking under their control, whether that victim has been trafficked for the purposes of prostitution or not.

As a final note, the prostitution of minors is also covered under the Children’s Act, Chapter 46.01. Anyone in custody or in charge of a minor who allows them to reside in, or frequent, a brothel (Section 7), or “causes or encourages the seduction or prostitution or unlawful carnal knowledge of” a girl under 16 (Section 8) is liable to two years imprisonment.

Consent is irrelevant for those under the age of 16, so the offence is deemed to be forced prostitution in that sense. It should be noted that Section 8 only pertains to females and is thus biased against young men, who may also be drawn into prostitution.

4.2 Sexual Offences

In 2000, The Sexual Offences Act was tightened, and penalties increased. A person can be liable for rape where consent is extorted through threats, impersonation, fraud, or unlawful detention, all of which may be relevant where a person is in the hands of a trafficker (Section 4, Sexual Offences Amendment Act, 2000). In cases where the crime is particularly serious, is committed by more than one person, or by someone previously convicted of rape, the accused can face the rest of his natural life in prison.

In terms of sexual assault, the law is less comprehensive and before 2000 it seems that no crime of grievous sexual assault existed (Section 4A). However, the parameters of the offence, and penalties imposed, are now the same as for rape and the most severe in the region. The lesser offence of indecent assault (Section 15, Sexual Offences Act 1986), though it is unclear what that covers, offers a maximum penalty of five years.

Sexual Offences against Minors

Trinidad and Tobago divides the offence of sex with a minor into two categories, and makes a distinction between the sexes. First, sex with a minor male under 16 committed by a female, carries a five year penalty (Section 8). Second, sex with a minor female is

divided into those under 14 (Section 6), which carries a penalty of life, and those aged between 14 and 16 (Section 7), which carries a penalty of five years. All three offences can be committed regardless of whether the minor consented to the intercourse.

4.3 Kidnapping and Abduction

Trinidad and Tobago is fairly unique in having created a dedicated piece of legislation to prohibit kidnapping in 2003. The main provision states that:

“A person who, for ransom, reward, or for any similar consideration, unlawfully leads, takes, entices away, abducts, seizes or detains any person without his consent or with his consent obtained by fraud or duress and without lawful excuse such that the person... is held, confined, restricted, imprisoned, or prevented from returning to his normal place of abode or sent or taken out of Trinidad or Tobago, commits an offence and is liable to imprisonment for not less than twenty-five years.”

As the above shows, it is a broad definition of kidnap which includes those enticed away through fraud, and can thus be used to cover a wide range of trafficking scenarios. Of all the legislation detailed above, this most resembles the definition of trafficking as agreed in the Optional Protocol to Prevent, Suppress and Punish Trafficking in Persons in 2000. It is actually broader in the sense that the personal gain of the trafficker does not have to be proved, or that forced labour was involved.

It is difficult to tell whether this just covers nationals, or also covers those kidnapped and brought to Trinidad and Tobago, but it is to be hoped that both populations can be protected through this legislation. The penalty, 25 years, is the most severe in the region, though it's uncertain whether the maximum penalty has ever been imposed.

4.4 Labour

Work and Residence Permits

All non-nationals coming to work in Trinidad and Tobago need to have a Work Permit (Section 10, Immigration Act, and Chapter 18.01). The employer applies for the permit and there are a number of documents which need to be submitted, including a covering letter from the employer (outlining why a national cannot be hired), character references for the prospective employee (including from a previous employer), a Police Certificate of Character, and proof of advertisement of the position.

While these conditions have been put in place for the benefit of the government, it means there are also some safeguards for the migrant in the legitimacy of the process.

General Employment Provisions

Employment provisions seem to be generally sound for legal workers. Minimum Wages

are fixed by the Minister for Employment, and monitored by the Minimum Wages Board (Chapter 88.04).

The Act also provides for inspectors to ensure that minimum wages are paid and that records are kept. Employers offering misleading or false information regarding wages are liable to a fine of TT\$1,500 and two years imprisonment, while those found to be paying less than the minimum wage are liable to a TT\$2,000 fine and two years imprisonment as well as compensating that worker for lost wages.

It is uncertain as to how these rules apply if the employee is an undocumented migrant, though those in possession of a Work Permit should be able to enforce their employment rights.

Child Labour

The age of majority in Trinidad and Tobago is 18 (Children’s (Amendment) Act 2000). Despite this, the employment age for children in the country is 12 years of age, except in industrial undertakings, where the age limit is 14 (Sections 91 and 94, Children’s Act, Chapter 46.01).

It is hoped that some reform of these laws will occur following Trinidad and Tobago’s ratification of the Convention Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour.

Other relevant provisions make it an offence to have sex with a minor employee (Section 11, Sexual Offences Act 1986), and prevent the economic exploitation of children by prohibiting them from being “in any street, premises or place for the purpose of begging or receiving alms, or inducing the giving of alms” (Section 5, Children’s Act Chapter 46.01).

Fundamental Rights: Forced Labour and Slavery

Though the Trinidad and Tobago Constitution (1976, with amendments through to 2000) does not offer protection against forced labour and slavery in the form of a specific article of law, as do a number of other Commonwealth Caribbean States, the preamble to the Constitution states: “Labour should not be exploited or forced by economic necessity to operate in inhumane conditions by that there should be an opportunity for advancement on the basis of recognition of merit, ability and integrity.”¹

No other Acts prohibit slavery, since the Emancipation Acts of 1838 abolished slavery in British-owned territories of the Caribbean and are no longer on the Statute books.

4.5 Entry Procedures

1 Constitution of the Republic of Trinidad and Tobago, <http://www.georgetown.edu/pdba/Constitutions/Trinidad/trinidad76.html>

The Immigration Act, Chapter 18:01, is the relevant piece of legislation whereby persons must present themselves for inspection at an official port of entry, with appropriate identification (Section 40). Immigration Officers may deny entry to persons on a number of grounds, including convicted criminals, prostitutes, and those suspected of procuring prostitutes (Section 8).

In addition to listing prohibited persons, the Immigration legislation lists a number of situations in which the minister can make a Deportation Order against previously permitted entrants. Relevant categories include those assisting in the practice of prostitution, those entering with false documentation, or those admitted as a result of misleading or false information provided (Section 9).

Thus, anyone found involved in sex work or working illegally in the country can be deported. This could imply that traffickers will be deported without a criminal investigation of their activities having taken place. However, Section 16 of the Immigration Act permits detention for those “in respect of whom an inquiry is to be held”, which suggests that, if officers suspect trafficking, they have the power to detain before deportation.

Conversely, once a Deportation Order has been issued, that person “shall have *no* right of appeal and shall be deported as soon as possible.” This suggests that potential victims of trafficking not facing an inquiry might be deported before they have the opportunity to explain their situation.

It is recommended in such situations that: Immigration and law enforcement investigate the possibility of exploitation as far as possible before issuing a Deportation Order; refrain from using detention facilities for doing so; and make use of any services and shelters available in the country.

4.6 Smuggling of Persons

The Immigration Act makes it an offence to assist someone in their attempt to enter the country illegally (Section 40). More relevant, any person who, “makes a false promise of employment or any false representation by reason of which a person is induced to seek admission to Trinidad or Tobago”, also commits an offence.

Such a person is liable to a fine of TT\$50,000 and three years imprisonment, and a fine of TT\$100,000 and five years imprisonment for subsequent offences. Thus legislation not only covers those receiving fees for assisting entry, but also those inducing others to enter the country through fraudulent offers of work. The latter category is relevant for the prosecution of traffickers.



CHAPTER V

Standard Operating Procedures of Screening, Profiling and Victim Assistance

Introduction

Integrated border management is a key component of the security of the country. A significant element of border management is having an efficient body of screening measures, within standard operating procedures, with which to control the large and varied flow of migrant people wishing to enter the islands of Trinidad and Tobago.

The majority of persons seeking entry are of course genuine guests who should be, and indeed are, made welcome with the minimum of inconvenience. But amongst this mixed flow are a small but significant number of people that require careful, methodical and detailed screening.

Effective screening will assist in the early identification of victims who are trafficked into the country for exploitative reasons (sexual exploitation, labour exploitation and servitude) including minors, smuggled migrants, traffickers and smugglers.

This chapter explains the ports “Standard Operating Procedures” that are adopted by the Immigration Department to control the diverse stream of persons entering the Republic of Trinidad and Tobago, and the practical points assisting the screening procedures.

5.1 Standard Operating Screening Procedures

The mixed flow of migrants crossing the air and sea borders of the Republic of Trinidad and Tobago consists of:

Migrant visitor - bona fide traveller; trafficked person; smuggled person; asylum seeker; trafficker; smuggler; couriers; persons with false documents; unaccompanied minors; and stateless persons.

The travellers must present themselves at the port of arrival and the process of Immigration-screening commences:

Primary Screening

Conducted by the Immigration Officer on immediate entry into the country. The primary screening is a key factor to the overall success of efficient border management.

This consists of: checking the travel document, travel tickets or evidence of onward travel arrangements, and visa where necessary, for authenticity; conducting a brief, but well planned and relevant, primary interview to ascertain certain facts concerning reasons and legitimacy of the visit (including funds for maintenance); recording the data and, after

stamping the travel document, allowing the visitor to proceed into Trinidad and Tobago. The visitors that are not permitted entry at the primary screening are persons who are prohibited by reason of Article 8 of the Immigration Act and, in addition, any:

- Suspected trafficked/smuggled persons;
- A trafficker/smuggler, couriers or facilitators involved in this process;
- Persons suspected of entering with false travel documents;
- Unaccompanied minors (when not with their parent or lawful guardian);
- Persons who fail to comply with conditions of entry.

These categories of travellers are immediately referred for secondary screening.

Secondary Screening

Conducted by a Senior Immigration Officer. Following the briefing from the primary screener the Senior Immigration Officer will conduct a more detailed investigation away from the line of people and often taking the visitor to a private office for interview. This secondary screening will involve:

- Detailed questioning as to the circumstances of the visit;
- Verification of the facts provided;
- Liaison with the carrier;
- Detailed document checking and verification;
- Checking and verification with the person meeting the visitor;
- Checking available records and data for flagged persons; and

Finally consultation with the senior shift supervisor when a decision is made as to:

- Refused entry;
- Detention of suspected criminal activity (e.g. trafficking/smuggling);
- Referral of victims for assistance.

(In addition it is advisable that all persons who are “secondary screened” should be photographed and their data recorded, including the details of the persons meeting or sponsoring the visitor.)

5.2 Protection and Assistance to Migrant People

Trinidad and Tobago, on 2 November 2000, signed the 1951 Refugee Convention and the 1961 Protocol. Accession to the Convention will assist the Government in determining refugee status and will help ensure that refugees in need of protection are treated according to international standards.

Protection and Assistance - Amongst the visitors referred for secondary screening will be persons requiring protection and assistance such as unaccompanied minors (children under the age of 18 years and not accompanied by a parent or lawful guardian); victims of

trafficking; and persons seeking state protection (asylum seekers). The prompt identification of these categories of travellers is dependant upon the diligence of the officers engaged on primary and secondary screening.

It is often very difficult to determine, when assessing a possible victim, if the case is of trafficking or smuggling of people and it may be some time before the actual exploitation is determined. Therefore the same criteria of identification screening applies.

There is a responsibility to ensure that individuals who have been trafficked and who fear being subjected to persecution upon return to their country of origin, or individuals who express a fear of being trafficked in the future, are given an opportunity to have their protection needs assessed by the Government asylum system.

This would necessitate access to fair and efficient asylum procedures, including proper legal counseling to support the submission and correct analysis of trafficking related claims. The assistance of the appropriate international agency (UNHCR) should be sought in such cases. The UNHCR is represented by “Living Water”. Telephone (868) 623-4677.

Within the meaning of the *United Nations Convention Relating to the Status of Refugees*, refugees are persons who are outside the country of their nationality and have a well-founded fear of being persecuted for reasons of:

- Race, religion, nationality, political opinion; or
- Membership of a particular social group.

Not all victims or potential victims of trafficking fall within the scope of the refugee definition. To be recognised as a **refugee** all elements of the **refugee definition** have to be satisfied. However, protection may also be extended to persons who are outside of their country of nationality or habitual residence and unable to return there owing to serious and indiscriminate threats to life, physical integrity or freedom, resulting from generalised violence or events seriously disturbing public order.

5.3 Refoulement

Being a signatory to the Convention precludes any act of refoulement, of whatever form, including non-admittance at the frontier that would have the effect of exposing a refugee or asylum seeker to:

- (i) A threat of persecution;
- (ii) A real risk of torture or cruel, inhuman or degrading treatment or punishment; or
- (iii) A threat to life, physical integrity, or liberty.

The Convention prohibits refoulement to **any** territory where the refugee or asylum seeker would be at risk. This includes any territory where the refugee or asylum seeker may not be at risk directly, but from which they would be in danger of being subsequently removed

to a territory where they would be at risk.

5.4 Victim of Trafficking Assistance and Protection

There are some internationally-accepted best practice principles with regard to victim assistance; these principles are based on the humanitarian approach and are as follows:

- Genuine trafficked victims should be treated as victims of serious crime and must not be re-victimised nor should their case be criminalised.

International humanitarian standards are quite specific that genuine trafficked victims should not be re-victimised and criminalised by the criminal justice process and this must be avoided wherever possible.

- The safety of the victims and their families and loved ones shall be the paramount consideration at all times for all personnel of law enforcement agencies.

The only effective response to trafficking victims is a multi-agency one and this involves sharing information and seeking assistance of governmental departments, law enforcement NGO's and international agencies who specialise in victim assistance.

- The conduct of a continuous process of risk assessment in respect of the safety and welfare of the victims and their families at every stage of the *assistance*, investigative and judicial process, is an essential component of ensuring the safety of trafficked victims.

5.5 Interviewing to Determine Facts of Bona Fide Intentions

Immigration Officers are most often the first contact that travellers have when entering a country. It is therefore important that they are treated professionally which means correctly carrying out official duties with courtesy and friendliness, yet, at the same time, being firm and upholding the law.

If the Immigration Officer is not satisfied with the person's responses, and needs more information, more questions can be asked, or information already obtained cross-checked. The types of question asked, and the depth of questioning, will depend on the responses and the impressions given by the traveller.

Length of Stay and Proposed Activities

- Is the intended period of stay consistent with the purpose of the visit?
- Is the stated purpose of the visit consistent with the type of visa the person has?
- Does the person look like what they claim to be? (e.g. business person, backpacker, etc)
- If a luggage check is conducted, are the personal effects consistent with the claimed status, occupation and intended activities?

- Is the quantity of personal effects reasonable in view of the intended length of stay?

Persons on Holiday

- What places are they planning to visit and where will they stay?
- Does the traveller have an itinerary and does it look reasonable in the time available?
- What are the transport arrangements, have they been made in advance and can this be substantiated?

Transit Passengers

- What is the final destination and are they travelling alone?
- If travelling with others what is the relationship?
- Are they using the most direct route or does it involve detours and lengthy stopovers?
- Why this particular route?

Business Travellers

- Is the person's itinerary consistent with a business trip?
- Does the traveller have documents to substantiate their claim, such as business cards, letters of introduction to local business, etc?
- Does the person have a good knowledge of their business, trade or profession?
- Are the proposed activities consistent with the claimed trade or profession?

Accommodation

- Is the address on the arrival card reasonable for a person wanting to conduct the kinds of activities stated on the card?
- If staying privately, what is the name of the person the traveller will be staying with, and what is their relationship?

Persons Travelling with Others

These questions are particularly relevant if there is a suspicion of people smuggling or trafficking:

- Is the person travelling with anyone and, if so, how and where did they meet?
- What is the relationship between the two?
- Are their stories consistent with each other?
- Is one person dominant within the group, answering most of the questions and apparently the leader?
- Are the travel histories from both parties consistent with the stories given?
- Is one of the travellers a citizen or permanent resident, are they related or partners? What are their plans?

Ticketing and Previous Visits

- Are firm return dates shown on the ticket or is it an open ticket?
- Is the time of purchase consistent with the reason of travel? (Someone travelling on urgent family business may have bought their ticket at the last moment, whilst someone on a long holiday will have planned ahead.)
- Is this person's previous travel, as shown in the passport, consistent with their purpose of stay?

Personal Data

- What is the person's marital status and are there children?
- Is the passenger travelling with their spouse and children and if not why not?
- And does this appear reasonable (e.g. a person on holiday would be expected to be travelling with their spouse, whereas it would be quite normal for a business person to be travelling alone.)

Evidence of Funds

- Is the person carrying enough money (cash and travellers cheques) to last for the duration of their trip?
- Does the person have access to other funds (e.g. credit and debit cards)?
- Is the intended place of stay (e.g. standard of hotel) consistent with the available money?

5.6 Profiling Indicators to Note of Behaviour and Physical Appearance

- ❑ Interviewee, or those accompanying the individual, display unusual nervousness or fear;
- ❑ Interviewee seems withdrawn or exudes a vacant expression;
- ❑ Interviewee is unable to speak coherently;
- ❑ Interviewee refuses to cooperate with interviewer;
- ❑ Interviewee maintains covert ties (i.e. secret contact, surreptitious use of cell phone, etc.) with others during process;
- ❑ Interviewee rushes interviewer to complete the procedure;
- ❑ Interviewee displays exceptional interest in procedure;
- ❑ Interviewee responds to interview questions in a contradictory, evasive, deceptive, inaccurate, or uncooperative manner;
- ❑ Amount of baggage unusual for ticketed itinerary;
- ❑ Appearance and behaviour not consistent with price of ticket;
- ❑ Interviewee in possession of illegal and/or dangerous materials (used as a drug mule);
- ❑ Interviewee has visible marks and bruises to the body consistent with having possibly abused or self-inflicted injuries resulting from trauma.

It is important that the person is not discriminated against and no conclusions must be drawn based on hunches or stereotypes. Particularly vulnerable to discriminatory profiling are sometimes women when travelling alone.

Indicators are just what the word means, namely a sign that indicates something to you, that raises your suspicion without making any prejudgements based on race, religion, culture, gender, etc.

If any of the indicators above are displayed then it will give rise to some degree of suspicion and further, more in-depth, questions may be asked to clarify points.

5.7 Profiling

Criminal profiling is now an integral part of modern day law enforcement practices. By narrowing down the list of criminal suspects it significantly helps to combat and prevent border crimes more efficiently.

Profiling therefore is an important tool for those who work at border crossing points. When carried out correctly, profiling allows for the systematic examination and classification of unusual or anomalous behaviour that might be demonstrated by people withholding information or their true motives, particularly when being questioned.

However, profiling is not a technique used only by law enforcement. In fact, in our everyday life, we all scrutinise each other's reactions and body language.

On entering a restaurant, bus, or any other public place, most of us select who we are prepared to sit next to, or in the vicinity of, based on non-verbal communication and first impressions. It is this tacit classification of others that is the core of profiling. Thus, knowledge and understanding of situations, and the ability to interpret human behaviour, are therefore more important than technical equipment in creating a profile.

What is Profiling?

Profiling within law enforcement is a method with an objective to assist investigations in order to reduce, or narrow down, the number of potential suspects, and in some cases, to estimate the value of focusing on a specific suspect.

A profile is used as an instrument in the investigation; **the profile is not used as evidence.** It is used in order to create a more scientific picture of the perpetrator(s).

However, profiling is not one hundred per cent accurate. It provides us with an indication that can be used in border management work, but final judgements should never be solely based on a profile.

5.8 Creating a Suspect's Profile

Profiling is based on examining the behaviour, travelling routes, known forged documents,

nationality, age, gender, etc, of risk groups.

A useful profile of individuals at risk can be created by the following techniques: by compiling and analysing previous experience, statistics and information; from the seizure of illegally-used and forged documents; through interviews with migrants and suspects; by way of exchanging information between law enforcement agencies (e.g. Police, Immigration and Custom services) nationally and internationally; and by applying knowledge about geographic, demographic, political and economic conditions.

Suspect profiling is a behavioural and investigative tool that helps investigators to profile an unknown subject or offender(s).

When travellers are examined and documents inspected, there are two main areas that have to be analysed to create a profile in the context of human trafficking/smuggling:

1. The general information concerning the situation and information on the person;
2. The general profile of a would be trafficker/smuggler.

1. Analysing the General Information

This approach allows the creation of a comprehensive profile in determining whether there are indicators for illegal migration and smuggling of persons.

In essence, the following should be taken into consideration when creating profiles in the context of detecting illegal migration and smuggling of persons:

- The *modus operandi* (way of working) of smugglers;
- Origin, transit and destination of smuggled migrants;
- Statistics on the smuggling of persons;
- Information from interviews, documentation of travel routes, bookings, ticket, etc;
- Knowledge about demography, politics, economics, geography, etc.

2. The General Profile of the Trafficker or Smuggler

Described below are some indicators to assist Immigration Officers and Police to identify possible traffickers and smugglers:

- Adults with minors (under 18years) when they are not the parent or lawful guardian;
- An adult entering the country on several occasions with a different child;
- A frequent visitor, each time entering with different people;
- A group travelling together and from different countries of origin;
- One person appears to be a group leader and is holding everyone's passport;
- When one person appears to be in control and the others are unable to give a reasonable explanation of where they are going;
- When one person seems to be in control of another who has a new passport;

- False or fraudulent documents are detected.

Additional Points to Note

Age - The older the person, the less likely it is that they have been trafficked or smuggled. There is a worldwide growth in trafficking of minors and young adults. Minors are in high demand within the sex industry, they are more profitable, easier to influence, control and ultimately to exploit. However it is important to note that older people and invalid people are exploited in begging and domestic servitude.

Nationality and routes – Immigration Officers should be familiar with regional and international trafficking and smuggling trends and routes. Migration intelligence will indicate where most victims and migrants originate, the transit countries, routes of travel, etc. However new trends should not be excluded.

Documents – In some regions, victims of trafficking may not possess travel documents but may instead be clandestinely transported across porous land and sea borders. Use of documents is more prevalent in cases of transnational trafficking and smuggling, where airports require proof of identification. Seizure and retention of documents is a common control mechanism used by traffickers and is a strong indicator of trafficking. However many asylum seekers and smuggled persons may not have travel documents.

Action in Cases of Suspected Trafficking and Smuggling

If the primary screening officer suspects that an arriving or departing person is involved in trafficking or smuggling, either as a victim or perpetrator, the person should be immediately referred to a senior officer at the post for further inspection and secondary screening.

If the supervisor has any reason to suspect the persons of involvement in trafficking, the case is immediately referred to the Police Investigation Unit for further investigation and immediate action.

5.9 Pre-Interview Action for Suspected Victims of Trafficking

The supervisor should be fully aware and sensitive to the issues of trafficking and the following pre-guidelines must be adhered to when dealing with a victim of trafficking:

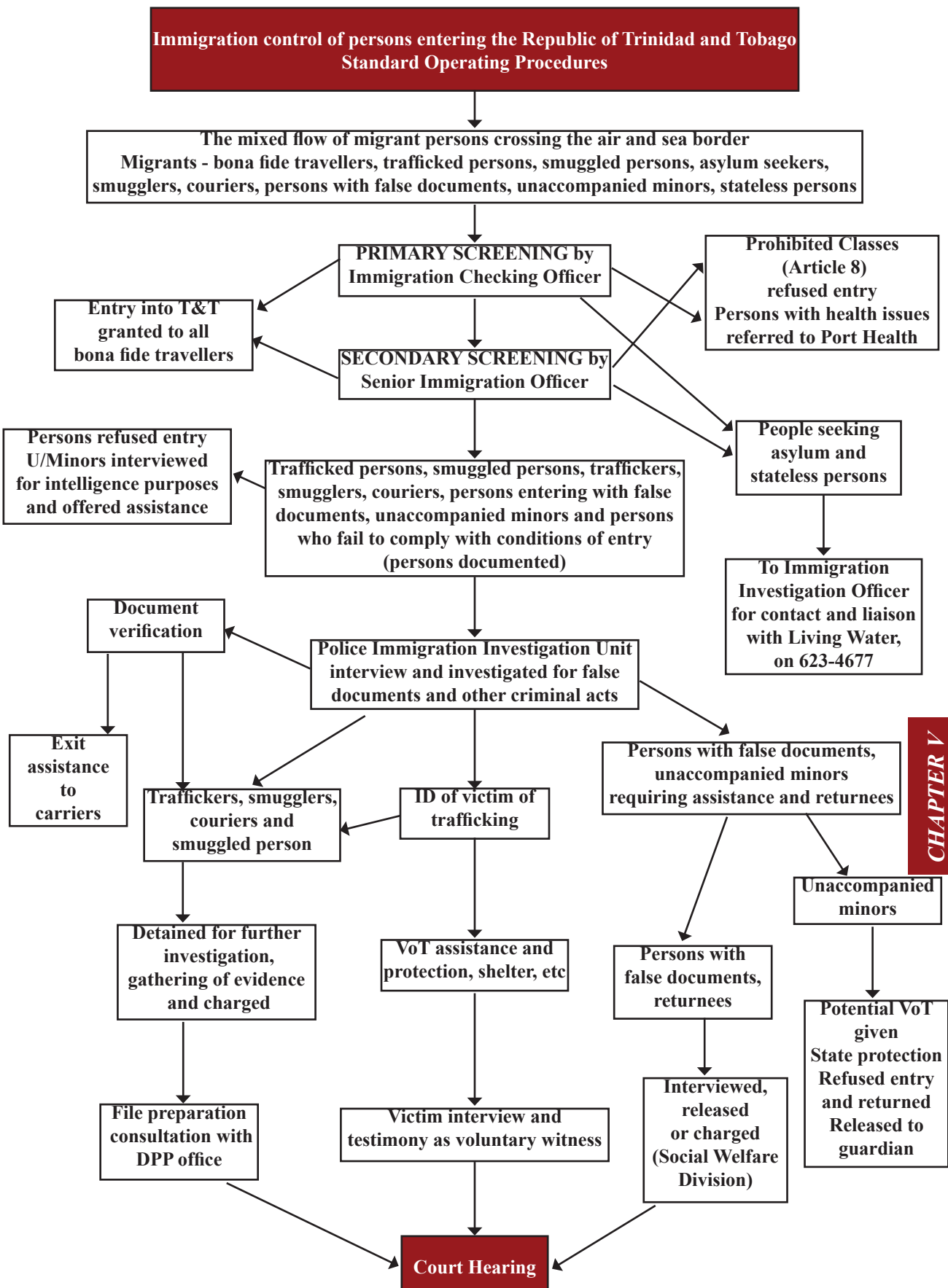
- Separate suspected victim from the suspected trafficker;
- The victim may well be traumatised and frightened and allowances must be made for this;
- There should always be a female officer present when interviewing a female victim;
- Do not interview the victim in the arrival hall, take the victim to a private room set aside for this purpose;
- Separate suspected victims from other suspected victims and only interview one at a time (some victims may, in fact, be traffickers themselves);

- Do not order the deportation, or deny entry, to suspected victims;
- Victims of trafficking are not to be regarded as law breakers and are not to be investigated or charged with any immigration offence;
- Provide basic needs of food and warmth and medical attention if needed;
- Provide physical protection and also protect their identity;
- Ensure that the person does not make any unauthorised telephone calls to warn anyone (this can be done unwittingly by a victim) and retain the cell phone as this will hold important information.

5.10 Interview Questions for Identifying Possible Victims

Questions should be asked about the present situation, and the answers given will assist in the assessment of the status of the person as a possible victim of trafficking. These questions include:

- Is there anything you would like me to help you with?
- What type of labour/services do you do?
- How long have you been working there?
- What are your hours of work?
- Have you been paid?
 - What have you been paid?
- Do you owe your boss money?
 - For what?
- Does your boss take money out of your pay?
 - For what?
- Describe your working conditions?
- Does your boss hold any of your documents such as passport or identity card?
- Are you allowed to come and go freely?
- Are there any living restrictions?
 - Do you have to live in?
- Are you afraid to leave?
- Where do you sleep?
- Have you, or anyone you work with, been abused in any way at your work (e.g. slapped, hit, sexually assaulted, violated)?
- Have you or anyone you work with been threatened at your work?
 - What were the threats?
 - Who made the threats?
 - Are you frightened of your boss?
- Has any harm or threat been made towards your family or acquaintances?



Case Study 1

Two young girls from Guyana arrive at Piarco international airport from Bridgetown, they each have a Guyanese passport and say they are coming on holiday and visiting a sister who lives in San Juan. They have a return ticket dated in one month's time.

You suspect that a Guyanese man is with them. You notice in their passports that one is aged 16 years, whilst the other is 17 years old. Both seem nervous and unsure of themselves.

Considering only your **“primary screening”** functions what is your course of action, including:

- a) The questions you will ask?
- b) What will you look for?
- c) What will you do?

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Case Study 1 (continued)

You are the supervisor on duty in the arrivals hall at Piarco international airport when an Immigration Officer, on primary screening duties, calls you to the Immigration control, as he is concerned about two young Guyanese girls and a Guyanese man.

The primary screening officer tell you the girls are aged 16 and 17 years, and that the man with them says he is the 16-year-old's uncle and is taking care of them whilst they are on holiday in Trinidad.

He says he is dealing in juice and will do some business whilst in Trinidad. The girls are on holiday to visit and stay with a sister who lives in San Juan. The passports appear correct. The man has visited Trinidad several times in the past two years, for the girls it is their first visit.

As a **“secondary screener”** explain, in full, your course of action?

1. What will you consider first?
2. How will you conduct the interviews?
3. What questions will you ask?
4. What will be your course of action based on the interviews?

Case Study 2

Following a “tip-off” you are asked to assist in an Immigration/Police control of a hotel in Chaguanas, where it is suspected that there are people staying who have illegally entered the country.

You arrive at the hotel at 5.30am and you find four Columbian women, three are aged 19-25 years whilst the fourth is aged 15 years. All are sharing the same room. The hotel is known to be a place where prostitution takes place.

You are assisting a Police Investigations Officer in the interviews.

What will be your course of action? The Police Officer in charge knows you have attended an IOM course on human trafficking and turns to you for advice.

- 1. Please explain your considerations and your priorities?
- 2. If it’s a trafficking case what will need to be proved?
- 3. What questions should be asked?

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Case Study 3

You are assigned to assist the Immigration Investigation Division and, whilst attached to the San Fernando office, you receive a request to attend the Police Station and take charge of a group of “illegal migrants”. The migrants were found wandering in a village and detained by a Police patrol, having been alerted by a local resident.

When you attend the Police Station you find five young Guyanese men all in a pretty

desperate state, they look dishevelled and are hungry. They have just a few belongings and no money and are unable to produce any identity. They say they have been working in construction and the boss has kept their identity cards.

They arrived in the country by fishing boat, two months ago, and were met by a man who took them to the construction site.

Now they have left their work and want to go back home, because they weren't being paid. They had only received their board and lodgings in return for work. They thought they could find other employment and earn money which is the reason they came to Trinidad.

1. What is the status of the Guyanese men?
2. What further questions would you ask?
3. Who else would you wish to see, and for what reason?
4. What factors would suggest these men are either smuggled or trafficked victims?

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CHAPTER VI

Investigative Interviewing

Introduction

The interview - or, as it is sometimes called, the “informative conversation”- with the traveller is the third cornerstone of passport control, connecting the profiling with the verification of travel documents (e.g. passport and ticket). On many occasions however, it is an underestimated element.

A professional interview is often the most effective tool available to an Immigration Officer as it is almost impossible for the subject to prepare for all possible questions.

The professional interview is a vital aspect of modern migration law enforcement and the role of the interviewer is a complicated and demanding one that requires extensive training and practice. Not only does an efficiently-planned and implemented interview achieve better results for the law enforcement officer, but it is also becoming increasingly necessary as migration services strive for greater professionalism.

More and more focus is being placed upon the behaviour and methods used by law enforcement in their dealings with the public. Professional behaviour and conduct are also necessary to ensure that decisions reached by officers are defensible and able to withstand appeals and complaints.

Depending on the particular roles of the officer and the cases they have responsibility for, interviews can be very brief and conducted as part of normal routine, or there can be lengthier, investigative ones.

6.1 The Principles of Best Interviewing Practice

The guidelines for a migration-focussed interviews are the same regardless of whether the interview is brief (at the stage of the passenger’s first entry) or a more extensive, investigative interview. The main goal is to obtain the information needed in order to base an accurate decision on the applicant/passenger.

The time and resources available to officers will naturally affect how they do their job; however, at all times, the best standards should be aimed for.

Principles of Best Practice:

- 1. The interviewer must be confident that the information gathered is as truthful and reliable as possible.** Simply gathering information is not enough; the interviewer must, as far as possible, test the information to ensure its veracity. If the interviewer has suspicions, either based on fact or a lack of credibility by the interviewee, the

interviewer should attempt to establish the real situation through continued questioning. The interviewer should continue an interview until satisfied that this goal has been achieved as far as is possible.

2. **The interviewer should be free to pursue any lines of questioning deemed necessary to obtain the truth.** Each interview will vary and so it is vital that the interviewer be able to remain flexible in his interview structure. It is ineffective to issue a set list of questions for each and every type of interview that could occur.

The interviewer must be able to vary the lines of questioning to suit the particular interviewee on a case-by-case basis. The interview approach will differ depending, for example, on the interviewer's previous experience with law enforcement, but also on other factors influencing his particular approach.

The interview should, however, follow a logical and methodical structure avoiding needlessly confusing the interviewee by switching between lines of questioning. The competence of the interviewees to adequately answer the interviewer and understand the relevance of their statements should be continually assessed and reacted to throughout the interview.

3. **The interviewer must begin and remain open-minded during the interview.** Any information gathered prior to the interview, including profiling, intelligence and the interviewer's personal beliefs, should not be considered to have decided the case before the passenger has been spoken to.
4. **The interviewer has an obligation to act fairly and impartially regardless of the passenger's nationality, gender or ethnic origin.**
5. **The interviewer is obliged to maintain a *duty of care* towards the passenger, ensuring that their well-being is maintained throughout the investigation.** Whilst being interviewed, the interviewee's well-being is the direct responsibility of the interviewer. Particular care must be exercised for any possibly vulnerable passengers including (though not restricted to) children, those with mental disorders, those with physical disorders and victims of intimidation or abuse.

Where possible, officers who have received specialist training in interviewing such special categories of people should carry out the interview in these cases, since the methods (and quite often the legislative procedures) will differ for them.

6. **The interview should be conducted in a professional manner.** It should be remembered that the majority of applicants interviewed during routine migration enquiries are genuine and do not pose a problem for the country.

Over-familiarity, intimidation, lying and physical contact (apart from that necessary for security reasons) should routinely be avoided. It should be remembered that it is

the interviewer who is the “ethical presence” in the interview situation and he/she must maintain a professional approach throughout.

6.2 The Interview Structure

In order to ensure a fully professional and defensible interview, the interviewing official should adopt a methodical structure reflecting the particular situation and goals of the investigation. There are several interviewing structures, however for the purposes of this manual, the use of the P.E.A.C.E. model is strongly recommended:

P.E.A.C.E. stands for:

P	Planning and Preparation
E	Engage and Explain
A	Account, clarification and challenge
C	Closure
E	Evaluation

P - Planning and Preparation

Proper planning and preparation is vital for an efficient interview. This applies to both preparations for an individual interview/investigation as well as to situations where several interviews may need to be conducted, with several interviewees, and as part of a wider investigation.

(i) Timing

The first aspect to consider will be the timing of the interview: should the interview be conducted at that particular time? Often, this will be the subject of existing procedures and part of a set on-entry/exit technique and therefore need not be unduly considered. However, sometimes, and particularly when dealing with more complex, larger and longer running investigations, it will be up to the interviewer to decide when the interview should take place, depending on what information has already been obtained and what enquiries remain.

The timing of interviews during investigations outside of static control posts needs particular consideration. The behaviour and demeanour of the interviewees needs to be considered, as this will also dictate whether it is wise or efficient to interview them at a particular stage.

(ii) Information and Intelligence

The interviewer must consider what information has already been obtained and what remains to be gathered. The quality of all information must be assessed – particularly as to

reliability, accuracy, whether discrepancies are apparent, and how it affects the applicant's case. Such information can be obtained from a variety of sources, all of which should be considered. These include:

1. **Profiling** – does the applicant conform to the expected profile?
2. **Travel document/s**;
3. **Ticketing**;
4. **Previous statements from the applicant** – including both verbal statements as well as written ones (previous interviews, landing cards or visa application forms);
5. **Information/intelligence provided about the applicant** (the source of any intelligence should always be considered with regards to reliability and possible motives).

The interviewer should make as much effort as possible to be familiar with all the relevant information. It is good practice to have necessary documents available; however caution should be exercised when referring to these during the interview.

Having to search through papers or documents whilst interviewing, will undermine the professionalism and therefore effectiveness. Such documents should also be shielded from the subjects to stop them seeing/reading them and disrupting the planned structure of the interview. Any legal requirements governing the use of such evidence should be complied with.

(iii) The Location of the Interview

The locations where migration interviews will take place can generally be divided into three types:

1. **“Static” points at entry and exit points such as “green and blue border posts.”** As these locations will process large groups of passengers, the priority is to be able to allow the officers to freely observe their behaviour and interaction with other passengers/people, whilst allowing the subject and the interviewer an acceptable level of privacy.

Accordingly, the working place should be arranged so that it is possible to observe all those who are being controlled and others who are waiting. It is necessary for the officers to clearly see and communicate with the interviewees. At such border posts this is usually done by use of a waiting zone and marks on the floor behind which waiting passengers are required to stay. This is only crossed on the direction of an officer.

Cabins at such locations should be positioned so that officers can observe both the arriving passengers and their colleagues. Additional, purpose-built interview rooms will also ideally be available so that further interviews/investigations can be conducted away from the general passenger area.

2. **Offices and specifically allocated interview locations within the country.** Often these will be at headquarters or main offices of law enforcement agencies responsible for deciding migration cases. Similar to many Police Stations, specific interview rooms should be available and used.
3. **Locations used when performing a control on the streets, at private homes or work places, within the country.** These locations are often the least suitable and pose the greatest risk.

Prior to a visit to such locations they should ideally be assessed as to their likely risk. For example: entries/exits; number of people expected to be present; possible involvement of the public; inherent dangers (knives in kitchens, tools at worksites and so on). Officers carrying out the visit should be fully briefed on the purpose of the visit, layout of the site, targets, rally points, individual responsibilities and what to do in emergencies.

The risk should be continually assessed throughout the visit. Risk assessments are a necessary aspect of such visits and the above are simply guidelines. In general, the duration of such visits should be kept to the minimum necessary. If it is deemed necessary to conduct further enquiries, subjects should be removed from the private address and interviewed at purpose-built locations.

Regardless of where each interview takes place, some **basic safety** considerations should be made:

- If in a private room with the interviewee, the interviewer should place themselves nearest to the exit;
- There should ideally be a barrier between the interviewer and the interviewee – this can simply be a table. This is to reduce the chance of a subject being able to reach and attack the interviewer;
- If the interview is conducted away from other officers, the interviewer should ensure that someone knows where they are and they can be easily reached;
- If the interview is conducted in a private room, the interviewee should be searched before the interview is conducted;
- In the possible case of violence or need for assistance, the interviewer should have a speedy way to call for it;
- For both safety and professional reasons, for interviews conducted away from other people, men should interview men and women, women. This should not routinely be necessary for interviews conducted in public areas.

(iv) The Aim of the Interview

One of the main differences between a professional interview and a general conversation is the fact that an interview is focussed, dealing only with the areas necessary to make a decision. This aim will generally be determined by existing legislation and procedures.

Interviewers should ensure that they are routinely aware of any such guidelines relating to their powers and work. For fuller interviews, it is recommended to use a written interview plan.

(v) Roles of those Present

One officer conducts most migration interviews; however, it may be that more officers are present. In such cases, it should be determined beforehand what their roles will be. It is usually a good idea to nominate one officer as the lead interviewer, with the second, third, etc, covering areas as decided. The point in the interview at which the second officer will ask questions should also be agreed before the interview commences.

Who else will be present during the interview also needs to be considered? For the majority of Immigration cases, especially at on-entry/exit locations for routine passengers, subjects will be interviewed individually. Sometimes however, this is not possible for practical reasons. The most common reason for this is because of communication problems with a passenger.

In the absence of an official interpreter, the interviewer may have to request assistance from other passengers. How these passengers should then act needs to be decided beforehand, for example: are they simply expected to act as interpreters, or are their opinions and answers also needed/expected?

If the interviewer uses an official interpreter, his role should be made clear prior to the commencement of the interview.

If legal representatives or other representatives of the subject are present, their roles should also be clarified before commencement. This can be covered during the “Engage and Explain” segment if necessary.

(vi) Equipment

All necessary equipment should be ready before the interview begins. This equipment will vary depending on the local procedures and facilities. If the interview is to be recorded, the necessary means of doing so are obviously essential. This may be as simple as a pen and paper but could include necessary forms, notebooks, sound or visual recording equipment. If any technical equipment is used, it should be tested prior to the start of the interview.

E - Engage and Explain

This phase of the PEACE model is the first stage of the interview when the relationship between interviewer and interviewee is clarified and conversation begun.

“Engage” is when communication actually commences and the relationship is built. “Explain” is when the format, procedure and purpose of the interview are explained to the

interviewee (and others present as necessary).

(i) Engage

Engaging correctly is vitally important to an efficiently-run interview and a professional interviewer. It is during this phase that the correct atmosphere to facilitate an exchange of information is created. The main purpose of the interview is to gather information from the subject and, to do this, the person must feel able to do so.

Often, the most obvious barrier to this communication will be the fact that the subject will be talking to a law enforcement officer. This is naturally an unnatural situation for many people and can cause confusion and anxiety. In order to overcome this barrier, the interviewer should consider several areas:

1. Maintaining a professional and courteous attitude. A simple “hello” or “good day” can sometimes be enough to facilitate this. It is important that the traveller be treated as an individual in the same way that we would all expect to be treated. Many of those interviewed will not be guilty of any crime and so should not be treated as if they are.

The interviewed person should understand that the interviewer’s interest is only in areas concerning migration issues. The interviewers should not become too friendly with the interviewee however, as they must remain the authority figure.

2. In cases of extended interviews, introduce yourself and any others present not known to the interviewee. Announce how you wish to be referred to and check how the interviewee would like to be known. In cases of doubt, refer to the subject by their family name.

It is good practice in such circumstances to also explain your role and those of others present. In cases of brief on-entry/exit interviews, in contrast, it is not necessary to introduce yourself to each and every passenger.

3. Check that the person’s immediate needs are catered for and that concerns are addressed. This will often mean clarifying whether they are feeling well, whether they understand you and finally, whether there are reasons you are not aware of as to why the interview should not take place or should be carried out differently.
4. Consider your body language. People respond to how a person acts and the messages that they are subconsciously sending. The body language and behaviour shown by the interviewer can affect how comfortable the interviewee feels to give information and subsequently how effective the interview will be.

People generally react more positively to a slightly relaxed style during interviews. Remember that how we behave when we first meet someone will decide how we will be considered throughout our dealings with him or her.

(ii) Explain

During this phase, the interviewer will ensure that the format and reasons for the interview as well as the roles of those involved are made clear to the interviewee.

There is a common misassumption that passengers understand what the role of migration staff is and why they may be interviewed. In actuality many members of the public are unclear about this. Just because the officer is familiar with the procedures and requirements doesn't mean that the travelling public will be. In the interests of natural justice and to promote the smooth running of the interview, the interviewer should make sure that the interviewee does understand.

Such explanations are generally brief, however on occasion you may have to expand on the detail to be satisfied that the interviewee is aware.

The ideal interview will start with an explanation of the roles of all people present. Following this, the purpose of the interview should be addressed (why are they being interviewed?) and how the interview will be conducted.

The latter will cover if and how the interview will be recorded and the format that will be used. If legislation requires a caution or warning to be given to the interviewee, this is when it should take place.

A - Account, Clarification and Challenge

This is when the main body of the interview takes place. The interviewees provide their statements regarding their migration status and the interviewer endeavours to ensure that the full truth has been obtained.

If the above two stages of the PEACE model have been followed, this phase will be easier. The correct environment has been set, the interviewer is fully prepared and the interviewee has been "engaged".

(i) Account

This phase covers the actual statements. As much of the final decision will be based on what is gathered during this element, the account phase should be conducted to the highest of standards.

The ease with which the account will be obtained will obviously depend on how willing the interviewee is to co-operate. Often, this cannot be assessed until the interview has commenced. Once it has been, the interviewer can alter the style to fit.

The interviewer will have to take the lead in obtaining the account by asking initial key

questions. Though the interviewer begins the interview, the aim is to get the subject to speak as much as possible, using their own words to explain without being unnecessarily guided by the officer.

The way this is achieved is by using particular questioning styles.

Open Questions

These are the questions that require an expanded answer from the interviewee without applying pressure as to what the expected answer should be; allowing the subjects to answer as they wish and therefore reducing the chance of suggestion.

These questions will be ones that begin: Why? What? Where? When? Who? How? Explain?

Examples: “Why are you coming here? What are your plans whilst your here? Where will you stay? When will you return to your own country? Who do you know here? How long have you been in the country? Explain the reasons for coming here?” These are all just examples and the actual questions asked will depend on the case being dealt with.

If the interviewee is to answer such questions they cannot do so by just answering “yes” or “no” and have to provide additional information, therefore providing an account.

It is important to try and avoid the use of “closed”, “leading”, and “multiple” questions when obtaining the account.

Closed Questions

These are questions where it is possible to simply answer “yes” or “no”. Example: “Have you come here on holiday?” instead of “Why have you come here?”. These questions are of very little use when obtaining an account, as the interviewee is not being required to give you information in their own words.

Such questions are however useful during the **clarification** phase of P.E.A.C.E. It should be noted that many “closed” questions are also “leading” ones.

Leading Questions

These are questions which suggest an answer to the interviewee, “leading” them to give a certain answer, or that assume facts that have not been covered or confirmed during the investigation.

Example: “How long have you been working illegally?”, if it has not been ascertained that the person is working illegally. **These types of questions are extremely unprofessional and should be avoided at all costs during the account phase.**

Multiple Questions

These are when many different questions are asked of the subject at the same time. This is another inefficient method of interviewing, as it may not only confuse the interviewee but also the interviewer, since particular questions can go unanswered. It also restricts the interviewee's ability to answer fully. If faced with a list of questions, people will generally just provide summary answers to each.

An example of a multiple question is: "What are your plans whilst you're here, will you be travelling around, how are you planning to get around?"

Multiple questions often occur because of time limitations or because the interviewer becomes too excited and wants to get to other areas of the interview quickly.

The account phase is the most important aspect of the interview; this is where the greatest time will be spent and the greatest need for professional behaviour is required. Allowing the subject to speak in his own words and to answer fully not only ensures a defensible interview but is also a functional tool for the interviewer.

It is a simple fact that the more someone talks about something; the easier it is to spot if they are lying/hiding something. If time makes it possible, allow the interviewee to speak for as long as they want. It is important though that the interviewer manages and controls the interview.

If it becomes apparent that the information is not relevant to the investigation, or that the subject is repeating themselves constantly (with no discrepancies), control must be regained and the interview guided towards the areas decided upon by the interviewer. The interviewer should never lose control and therefore allow the interviewee to decide on what subjects are covered and which style is used.

Throughout the interview, the interviewer should ensure that "active listening" is also maintained:

Active listening

Active listening means actively concentrating on what the subject is telling you and promoting continued conversation. It will assist the interviewer in identifying areas that should be covered, identifying discrepancies and key statements as well as communicating your interest to the interviewee.

Concentrating on what they are saying, ensuring you actually understand what is said, summarising what has been said and using positive body language, are all necessary components of active listening.

(ii) Clarification

Any verbal interview is prone to possible misunderstandings, either on the part of the interviewer or interviewee. It is obviously essential that such misunderstandings be kept to a minimum, as we must be sure that the information gathered is correct.

The reasons for misunderstandings can be the result of poor phrasing of questions, assumptions or ambiguous statements. It is highly recommended to clarify points as they occur.

Example:

Interviewer: "How long will you be here?"

Interviewee: "I will be staying near the airport for one week but then going somewhere else for the two weeks after that."

This is a vague statement as it is unclear exactly how long the subject will be in the country. Clarification can be achieved in several ways:

- **A closed question:** "Are you saying that you are in this country for three weeks in total?"
- **Asking the question again but paraphrasing the original one:** "Exactly how long, in total, will you be in Trinidad and Tobago?"
- **Asking a follow-up question:** "Where exactly will you be for the additional two weeks?"

Simply repeating the original question in its same form is often a waste of time.

The interviewers should ensure that at all times they are aware of exactly what statements the interviewee is making.

Exactly when the clarification takes place will be up to the interviewer to decide, however it is a general rule that clarifications should be made as the particular statement is made. Occasionally an immediate clarification will be avoided so that the flow of communication is not disrupted. If this option is used, the interviewer must ensure that clarification takes place as soon as possible.

(iii) Challenge

As mentioned previously, the role of the migration interviewer is not to simply gather information from the interviewee, thereby automatically accepting their version to be the truth.

Once the subject has provided information in his own words, and the true meaning has been clarified, the interviewer must assess whether anything should be challenged or if they

are satisfied that all of the information is genuine. Challenging will happen on occasions when the information given by the subject is inconsistent with information gathered from other sources, or when the officer believes it lacks “credibility”. Challenging and therefore allowing the interviewee the opportunity to answer areas of concern is important for professional standards.

Attention should always be paid to how such challenges are made:

Timing

Challenges can be made as areas come up or they can be left until the subject has completed their account covering all necessary areas. There is no definite rule as to which is the correct method. Both have benefits and disadvantages.

As they Occur

Advantages: The officer ensures that complete understanding of the situation is maintained; the interviewee is aware that he should give a truthful account and any attempt to deviate will be noticed and reacted to; the authority of the interviewer is made clear.

Disadvantages: It can disrupt the subject’s flow of communication, making it harder for the interviewer to keep to the previously arranged structure; it can allow the subject to gauge how successful they are in convincing the interviewer and therefore alert them to the need to be careful about how much and what information they give; the dynamic of the interview can be altered leading to a more confrontational atmosphere developing.

At the End

Advantages: The interviewee has been allowed to put their complete version of events with the minimum of interruptions; they have not been alerted to how successful they are in convincing the officer; control of the interview structure is simpler.

Disadvantages: There is a chance that the interviewer will forget to make challenges, especially if the interview is not being recorded. Deciding when challenges will be made will be up to the interviewer’s personal judgement and style, though the majority of interviewers will keep challenges for the latter stages of the interview.

Tone/Style

How challenges are made will also affect the efficiency of the interview, especially if additional information/communication is expected afterwards. Overly authoritarian and confrontational challenges will generally mean that the interviewee will be unwilling to offer additional information and the interview may prematurely draw to a close.

Discrepancies or lack of credibility may not always be the result of the interviewee

deliberately attempting to misrepresent the truth; it could be the result of misunderstandings or confusion. This possibility should be kept in mind by the interviewer. Because of this, it is advisable to first ensure that the interviewer has clarified the point in question and allowed the interviewee to volunteer any additional information that may clear the situation up.

Once this is done, the discrepancy or lack of credibility should be put to the subjects and they be asked to explain it. This should be done in an approachable and open style, keeping confrontation to a minimum.

C - Closure

Prior to entering the closure phase, it may be necessary to re-enter the account, clarification and challenge phase several times, as new areas of information and lines of questioning occur.

Once the necessary information has been obtained, clarified and challenged, the interview is over. Proper closure is as important as the proper method of beginning the interview:

- The interviewer should announce that they have completed their questions and give the subject (and others present as necessary) an opportunity to add anything else they feel is relevant, or to ask questions;
- The interviewee's well-being should be checked on and appropriate actions taken if necessary;
- It is important that the interviewee has understood the procedure and the relevance should be explained/clarified;
- What happens next should be explained clearly, including realistic timeframes.

E - Evaluation

There is no such thing as a perfect interview or interviewer, however all professionals will constantly try to improve.

Interviews should be evaluated with regard to two areas:

1. The quality of information that was obtained and how that affects the assessment of the subject and the overall investigation.

Were the aims of the interview fulfilled? Were all necessary areas covered fully? Have you enough information, of the necessary standard, to assess the subject? Has any new information/intelligence been gathered that may affect current or future investigations/operations? What investigations or actions are necessary to complete the assessment of the subject (for example, checks on things mentioned during the interview)?

2. The interviewer's personal performance.

How did the officer's own performance contribute to the interview? What areas worked well and why? What could be improved upon and how?

It is important to understand that improvements in performance can only be seen if the interviewer obtains practice and is willing to improve. It is often a good idea to get other opinions on how the officers have performed and the areas they could improve in.

It will depend on the particular country and location the interviewer is in, however, possibilities of such additional opinions are fellow officers, managers, or staff responsible for training in this area. The fact that specific interview style will vary between interviewers should be allowed for.

6.3 The Relevant Lines of Questioning

The lines of questioning adopted will be guided in the main by the requirements of local legislation and operating procedures. Sometimes, however, it may be unclear exactly what the interviewer should be assessing. Clarification should always be sought in these cases.

In addition to whatever specific checklists exist for subject assessments (for example, possessing a genuine travel document and a minimum amount of money) every migration officer has a responsibility to consider the traveller in more general terms. This means evaluating the general acceptability of the interviewee and likely benefits or damage to the state if they are allowed to remain.

Because of this wide range of responsibilities it is impossible to provide a definitive list of questions that interviewers should follow. In general terms however the lines of questioning will be focussed on identifying the subject's true: nationality; identity; migration status; origin and destination; purpose and intentions; access to funds; and contacts.

On-entry interviews for example will most often commence with the two questions, "How long?" and "What for?" These pursue the two main pieces of information the officer needs and also act as a base upon which further questions can be built.

Questions should be chosen to fit the interviewee's case and not vice versa.

When questioning on cases of suspected forgery, the migration officer dealing with a document presented by an individual should not restrict themselves to simply examining the document itself. When conducting a document examination it is normal practice to ask questions purely on the validity of the document.

Though the holder of a national passport for the country he is entering/exiting/residing in is not subject to the powers of migration staff, it is necessary for the officer to satisfy himself that he is genuinely such a national.

6.4 Suggested Lines of Questioning to Verify Information

1. Details contained in the document:
 - a. Names – get the holder to spell them;
 - b. Other personal details contained in the document;
 - c. Travel history.

Care should be taken when questioning on these areas. The focus is to ensure that the holder is who, and are entitled to what, the document says they are. Getting the holder to simply repeat basic information can be easily countered by an irregular migrant who has memorised the details. Instead the officer should consider different approaches to these pieces of information – for example, asking for their zodiac sign as well as, or rather than, their date of birth.

2. Secondary lines of questioning. These are questions focussed on information that the true holder of the document should know but is not recorded within the actual document:

Country of Residence: landmarks - buildings - main streets, etc.

- a. **Geography** - highways - major cities - airports -national flag
- b. **Politics:** - head of state - parties - leaders
- c. **Culture:** - history - sports - television – food – currency

In all cases of doubt, the officer should ensure that the passenger is asked to provide supporting documents. These are any documents which support the passenger's statements though are not necessarily acceptable travel documents in their own right.

Examples of supporting documents:

Letters of invitation;
 Letters of guarantee;
 Education documents;
 Banking/financial documents;
 Accommodation documents;
 Other personal identification documents.

6.5 The Components of an Interview Plan

As part of the preparation phase, consideration should be given to the use of an interview plan. This will not be possible or necessary for certain migration interviews (such as the brief assessments conducted at entry points) however, for more detailed interviews they should be used.

Such a plan acts as a brief reference guide, which helps to ensure that the interview follows a planned structure as far as possible.

The interview plan should be as general as possible to allow for the necessary flexibility of interviewing. The plan should include the general areas that should be covered, but should also have a summary of information gathered from other sources and blank spaces for additions.

The interview plan should be updated as the interview progresses. Areas successfully covered can be marked off and new areas, significant statements made by the interviewee, and any discrepancies/lack of credibility identified, added.

A written plan, if used properly, should assist to:

- Keep track of the areas that have been, and still need to be, dealt with;
- Cut down on repetition;
- Identify where a subject's statements are at odds with other accounts or information;
- Keep the interview relevant to the case in hand;
- Decide when the interview is at an end.

Though models for interview plans exist, it is entirely acceptable for interviewers to make their own using a blank piece of paper.

6.6 The Concept of Credibility

The concept of “credibility” is key for Immigration Officers to understand and to be able to implement. At its core it simply means, **deciding if the interviewee's statements are believable, plausible, convincing, reasonable or probable.**

It is a simple fact of life, and human nature, that people do not always tell the truth. This is especially the case when they have something important to gain by doing so, such as entry into a country or evasion of arrest and possible removal.

It is vitally important that the Immigration Officers accept this and factor it into their jobs. It can be very easy to obtain a travel document and cash, for example, to satisfy the basic requirements of most migration legislation, especially if the person has not come to the attention of migration authorities before. What is important though is that they are **genuinely** who they say they are and are **genuinely** doing what they say they are doing. If they are not, then they will automatically be in breach of the relevant legislation.

Because of this, credibility must be considered as a main criterion for a subject's entry/stay in a country.

Considering credibility is not a difficult task, actually it is something that most people find

very easy - for example, in our private lives we can generally spot when someone is not being honest with us.

Credibility is not restricted to straightforward false statements being given. It can also include not mentioning an important fact; understating the importance of something (such as the discovery of an address in their luggage, for example); or overstating something (the amount that they earn, for example).

Assessing Credibility

Once the interviewee has provided their version of events in the “account” phase, we consider if it seems reasonable to us. Information gathered about the subject’s background and origin, as well as testing their knowledge on what they are doing/intend to do/have been doing, is useful. This will allow the interviewer to consider the situation from the interviewee’s perspective (empathy).

An example of this could be a peasant farmer from a poor country who says he is going sightseeing for a month.

It is important not to ignore hunches; if something seems suspicious to you, it is normally because it is suspicious.

Of course, migration offenders understand the concept of credibility too and so will manufacture stories to satisfy the officer. Any information provided by the interviewee should be tested as far as possible and not just accepted at face value.

These are just some suggested areas that could be explored to test the credibility of the passenger. The information provided should then be considered and if necessary further questions put to the passenger.

Example

An apparent businessman is visiting a foreign company:

Can he give details about his company, including staffing, location, policies, products, etc? Which company is he visiting and why? Why him precisely? What are the benefits of the visit? How long has he been with the company? What other business visits has he conducted? Where will he be staying? Is he being met? Who is responsible for the costs of the visit?

These are just some suggested areas that could be explored to test the credibility of the passenger. The information provided should then be considered and if necessary further questions asked.

It is essential to consider what someone (who is doing what they say they are doing) should know, do, and normally act, etc; and then ask questions related to those areas. Assessing credibility is a skill that becomes easier the more it is practiced and the more experienced the officer is.

6.7 Body Language and Human Behaviour

All human beings are constantly sending both verbal and non-verbal signals and they are receiving signals in the same way from people around them. The vast majority of these are subconscious and therefore very difficult to control.

Awareness of body language and behaviour is important for the professional interviewer, as it will assist them to interpret these “hidden” signals from the interviewee and also to control the messages that they themselves are sending.

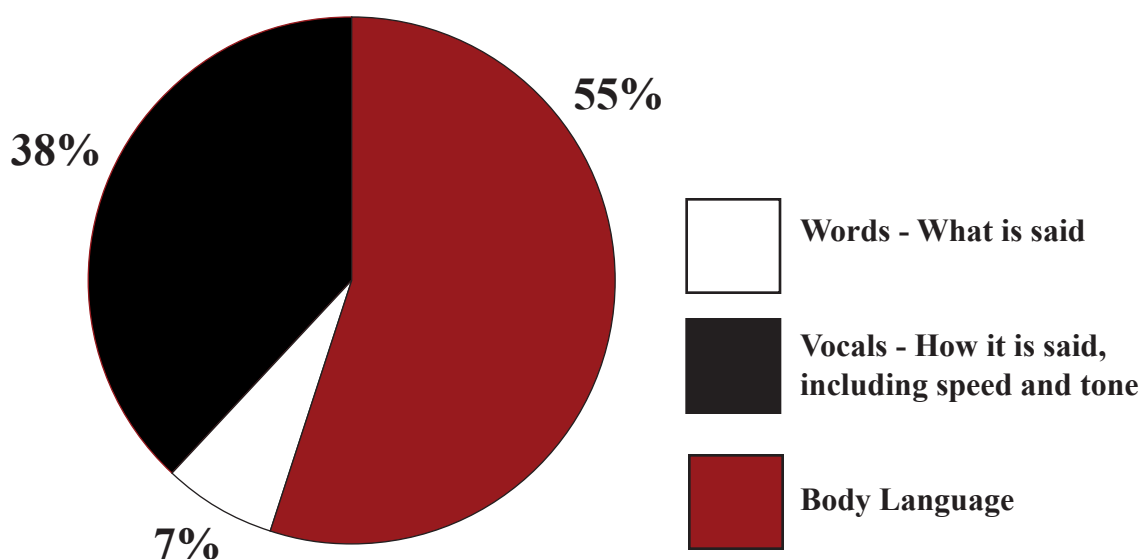
Why is Body Language so Important?

It is useful for the interviewer to first understand how an individual processes external information.

The human being is a visually-led creature - around 87% of information is gathered through the eyes and only around 9% through the ears.

In cases of direct communication between people, **what is actually said** is not as important as **how it is said**, which in turn is not as important as the **body language** being demonstrated as shown in the chart below.

COMPONENTS OF COMMUNICATION



The analysis of body language, or “verbal” and “non-verbal indicators” as they are also known, is not a precise science. The type and meaning of signals will vary according to culture, gender and background.

Contrary to popular belief, analysis of body language will not necessarily indicate if someone is lying. It can however give an indication if the subject is under particular stress and therefore possibly lying. This could also be part of the subject’s “normal” behaviour, or brought on by the natural stress of an official interview, or as a reaction to the body language/behaviour demonstrated by the interviewer.

Another factor that makes it difficult to detect lies is that the fear of being disbelieved looks the same as the fear of being caught lying. Because of this, it is important to be able to observe the subject’s “baseline demeanour” and behaviour during known truthful responses.

This is the behaviour demonstrated by the subject when not under stress, his “natural” use of body language. To try and factor in the addition of the obvious stress of being interviewed, the body language should be further assessed during the “engage” phase of the interview.

It will be the subsequent changes in this behaviour, as the interview progresses, which will be most useful to note and most likely to indicate deception. Identifying stress signals is additionally useful for the law enforcement interviewer, as it will also give an indication of the chance of violence occurring.

6.8 Spotting Signs/Indicators of Stress

The body reacts to stress in a variety of ways, depending on the level of stress encountered and the particular individuals perception and ability to cope with stress.

In general terms, as stress increases, the body prepares itself to act, the “fight-or-flight” (“sympathetico-adrenal” or “acute stress”) response, even if there is no practical chance of either. The body undergoes physical changes, for example:

- The heart beats faster, pumping more blood into the system and blood pressure increases. This may initially cause a darkening of the face. This will change to whitening when stress increases further as blood is removed from “non-essential” areas to feed the muscles – a danger sign that violence may closely follow;
- Breathing rate increases as the body seeks to oxygenate the increased blood flow;
- Production of sweat occurs as the body attempts to cool itself down.

Observing any of these can mean that the subject is undergoing stress. The above signals are what polygraph tests (lie detectors) monitor in order to determine if a lie is being told. It has however been shown that polygraphs are not as accurate as they were previously believed to be and can be fooled.

Further signs, which could be seen, include:

- Muscles tighten as they prepare for possible action;
- Eyes dilate;
- The rate of blinking (opening and closing of the eyes) increases;
- Self-touching increases – the subject subconsciously touches themselves to release stress and to seek comfort. The areas touched will vary but may include lips or cheek, arm, wrist and stomach. The method of self-touching will vary as well from simply holding to rubbing, scratching and pinching;
- Changes in tone and speed of speaking;
- Eye contact – maintaining prolonged eye contact increases emotions (this is why eye contact is not normally held for longer than around three seconds in usual situations). Breaking eye contact reduces this additional stress. Someone breaking eye contact, looking away from the interviewer, may therefore indicate that they are stressed. (Care should be taken when using this indicator because eye contact is particularly prone to cultural differences. Moreover, maintaining eye contact artificially is a common way for someone to demonstrate that they are not intimidated by the other person - even if they are);
- Fist clenching – the body is preparing its weapons. This particular indicator is a danger sign showing that violence is being seriously considered. The precise indicators demonstrated by each individual will vary and so a definitive list cannot be created. The most important element is to consider how the subject behaves when answering simple questions, which you know to be truthful, and then any subsequent changes as the interview progresses.

The Interviewer

The interviewer must also be aware of their own body language and the effect that that may have on the efficiency of the interview.

The interviewer should concentrate on maintaining a professional, non-threatening attitude:

- ***Tone, speed and choice of words*** – the interviewer’s stress levels, interest in a particular line of questioning and opinion of the interviewee can all be subconsciously revealed by the interviewer. The officer should attempt to maintain a moderate and calm tone and speed when speaking;
- ***“Proxemics”*** need to be considered. This means the amount of physical distance between people. Proxemics divides distances into three zones: **Intimate space**, the zone in which people will only normally allow those with whom they are emotionally connected to enter; **personal space**, the zone within which normal conversation between small groups takes place; and **public space**, the distance in which all other contact takes place. The actual distances of these will depend on culture (northern Europeans generally require greater personal space than southern

Europeans, for example) gender and actual positioning (people generally prefer those standing behind them to be further away than in front). **An interviewer who breaches the intimate space will likely cause fear, nervousness or anger in the interviewee.**

- **Touching** - this is also subject to cultural differences, however the general rule for any law enforcement officer is that no physical contact should occur during the interview apart from that needed for security. It can be tempting to calm an upset interviewee by putting an arm around them or something similar, however this should be avoided. The interviewers must not only ensure that they do not intimidate the interviewee, but also that they do not leave themselves open to possible accusations or give the interviewee an incorrect impression.

Throughout the interview the interviewer should maintain a **“professional detachment”** whilst still allowing them to **“engage”** with the subject.

6.9 Managing Difficult Interviews

The vast majority of people will pose no great problems for the interviewer; however the occasional difficult interview will happen.

Possible types of difficult interviews are:

- “No comment” interviews;
- Interviews with an aggressive/violent/abusive interviewee;
- When the interviewee is emotionally upset;
- When the interviewer loses control of the interview;
- When the interviewer cannot obtain logical answers.

Any interview when the aim cannot be achieved because of any factor is considered a difficult interview.

In such a situation the interviewer should incorporate the following guidelines:

- **Recognise that a “conflict” exists between the officer and the interviewee** – this means to accept there is a problem and try to solve it.
- **Consider why they are acting this way** – possible reasons apart from lying might include: physical illness; mental illness; drink; drugs; confusion; concern about an unrelated issue; previous bad experiences with law enforcement; a simple bad mood/poor interpersonal skills; embarrassment in front of other travellers. It may also be in reaction specifically to the interviewer and of course may be a deliberate attempt to avoid questioning;
- **Consider the officer’s own behaviour** – is there anything in his behaviour or

body language that may be causing the conflict? Is the interviewee reacting to or “mirroring” that?

- **Consider how the interviewee sees the officer** – the interviewer may be seen as a threat either physically or to their future plans and liberty. They may have unrealistic expectations (for example, not realising that the officer is working to set legislation and procedures and believe they are being singled out) or believe that the interviewer is not helping them to do what they want because he simply doesn’t want to;
- **Tell the interviewee of the officer’s observations** – this will ensure that both parties are aware that the issue has been noticed and should be discussed, as the interview will not continue under the same circumstances;
- **Ask them to explain the situation as they see it** – and asking them to explain the reasons for their behaviour;
- **Respond to their concerns** – where this does not overly affect the interview, the interviewer should attempt to address their concerns. Often this will involve re-explaining what the aim of the interview is and what the respective roles are (“**re-engaging**”) and what the possible results of disruptive actions will be. If the interviewer is at fault, then he should accept this, apologise if necessary, and resume. In some cases it will also be necessary to change the dynamic of the environment.

This can be done in several ways:

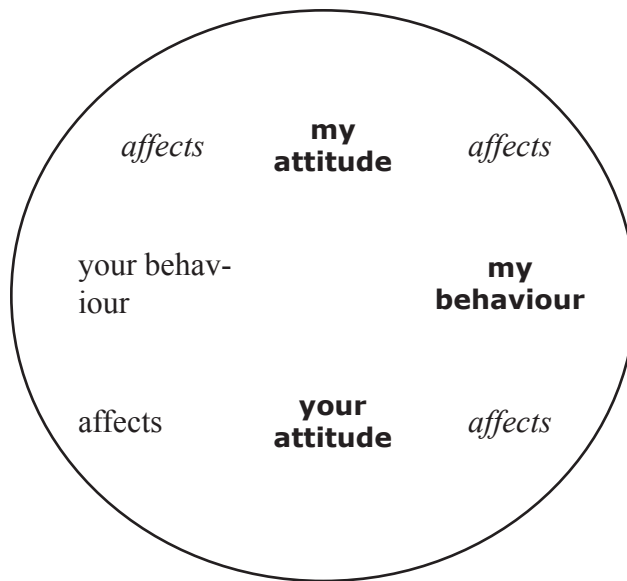
- Switching to other neutral/non-threatening lines of questioning until the interviewee has calmed down enough to revisit the previous area;
- Taking a break;
- Changing interviewer.

If the interviewee is deliberately attempting to disrupt the interview, breaks and disruptions should be kept to a minimum, as they will realise that their attempts are being successful.

Interviewers should be able to demonstrate that they have approached a difficult interview with as professional an attitude as possible. If it is decided to take administrative action against someone who refuses to answer questions, for example, it should be shown that the officer gave them every opportunity to do so and in an appropriate atmosphere.

In many difficult interviews where the officer is being professional, it is important not to take the situation personally.

The “Betaris Box” is a simple circular diagram that shows how attitude and behaviour are linked.



Our attitude about anything comes out in our external behavioural displays. This may appear in the signals we send to other people (for example, in smiles, voice tone and use of particular words). It also appears in how we act and, in particular, regarding other people.

The reverse is also true of course and the attitude of others also affects their behaviour.

6.10 Interview Restrictions and Limitations

Restrictions that the interviewer is likely to encounter will include:

Time – often this will be the greatest restriction that an Immigration Officer will face in attempting to conduct a full interview. The time allowed for the interview will vary depending on where the interview is conducted and the type it is.

However, the most limited time is usually at the set on-entry/exit points of the border. As the officer has to ensure, not only that irregular migrants are intercepted, but also that the genuine traveller is not inconvenienced, consequently time pressures are frequently evident. A properly focussed and conducted interview can generally be held at all locations however, and, as the officer's interviewing experience grows, time needed will grow shorter.

Solutions to this problem vary. Two possible options are:

- After a brief assessment, the officer decides whether further questions are needed. If so, the traveller is required to wait until the officer can be freed up to deal with them;
- As above, the officer conducts a brief assessment, but instead of requiring the subject to wait, the case is passed to another officer who is able to deal with it.

Facilities – As has been mentioned, the ideal environment for an interview is in a specific interview room. Where this is not possible, the officer should attempt to make best use of what facilities are available. (Note: the personal safety of the officer should never be jeopardised in order to provide privacy.)

Despite any such limitations, the interviewer should always try to ensure that interviews are conducted according to the best standards.

6.11 The Role of an Interpreter and Representatives

Formal interview and statement taken from a foreigner (Rule 5 of the Judges Rules). In the case of a foreigner making a statement in their native language:

- a) The interpreter should take down the statement in the language in which it is made;
- b) An official English translation should be made in due course and be provided as an exhibit with the original statement;
- c) The foreigner should sign the statement as at a).

The vast majority of official interpreters will cause no problems for the interviewer and they understand their roles well, if properly briefed.

A good interpreter can greatly improve the work of the interviewer. Occasionally, especially for new interpreters however, **it is necessary to clarify what is expected from them**. It is good practice to clarify these expectations when dealing with an interpreter for the first time.

Official interpreters should restrict themselves to interpreting precisely what both the interviewer and interviewee say. Paraphrasing is generally to be avoided and on no occasion should the interpreter be allowed to start asking his own questions.

It is good practice to monitor how the interpreter is fulfilling his role. Obviously, an assessment of the accuracy of their language is not expected, however, it is possible to assess whether it is believable that what is being said is actually being translated fully. For example, the comparative time it takes for the interviewer/interviewee to say something and then for the interpreter to translate can give an indication of how precise the translation is.

Obviously allowances must sometimes be made for differences in the languages. The use of proper nouns can also give an indication to the interviewer if the full message is being explained. Additionally the interpreter's interaction with the interviewee should be considered. It should be remembered that, for the interviewee and other observers, the interpreter is seen as an official of the Government and so his level of professionalism and behaviour should match that of the true official.

The best practice demonstrated by the interviewee can be undermined and damaged by unprofessional behaviour of an interpreter.

Interview of Minors

(Rule 4 of the Judges Rules applies)

As far as practicable children, whether suspected of committing an offence or not, should only be interviewed in the presence of a parent or guardian or, in their absence, some person who is not a Police Officer and is of the same sex as the child.

The Role of Representatives

Legislation may dictate that a subject has a right to have a legal representative present at certain stages of the interview. Even if this is not the case, occasionally it is considered wise to allow a representative to attend as well. This does not always mean a legal representative; it could be a friend, medical staff, internal/external monitors, or another responsible person able to represent the subject.

Such people should not be seen as a problem. They are there to ensure the subject is treated fairly and according to the law. If the interviewer is following best practice, this should not interfere with the investigation. It can actually aid an interview, as subjects are generally much more at ease when they have representatives present, which will obviously aid communication.

It is important that any representatives present have their roles and the rules explained to them and that their compliance with them is ensured.

The skilful immigration interview is a specific skill that requires concentration, practice and commitment to improvement. Interviewing is often the tool migration officers use least of all; however, it is an essential element of modern passport control.

The components of a professional and efficient interview are set out within the six principles of best practice:

- Following structured PEACE interview plan;
- Focused lines of questioning;
- “Credibility”;
- Awareness and good use of body language;
- The ability to recognise and react to “difficult interviews”;
- The correct use of interpreters and control of any other persons present.



CHAPTER VII

Evidence Gathering and Procedures for Arrest, Detention and Deportation

Introduction

The previous chapters have concentrated on how to use the instruments in detecting whether there is an indicator of the offence of smuggling or trafficking of persons. This chapter goes further and illustrates the final steps in the investigation of trafficking/smuggling of persons; namely the scene preservation, the search for and gathering of evidence, and the procedures for arrest, detention and deportation of irregular migrants who are not victims of trafficking.

7.1 Identifying and Preserving the Trafficking/Smuggling Crime Scene

Law enforcement investigations of smuggling and trafficking of persons should start with scene preservation, search and gathering of evidence and end with the accumulation of intelligence. Thereby, criminal investigations lead to a successful instrument in the court proceedings, that enable the prosecution of traffickers and smugglers.

While most law enforcement investigations of serious crimes start at the scene of a crime that is easily distinguishable (e.g. murder or a burglary); the crime scene of illegal migration or smuggling of persons could even be the first line of control at a border post, or a parking lot on a highway, for example.

The scene must always be secured and searched to preserve evidence so that the criminal investigation can proceed. The trafficking/smuggling crime scene is unique, because it is not always evident and distinguishable. This is mainly due to the fact that the crime scene moves from place to place, and very often starts in another country. The current scene is often only part of a bigger picture.

Note: All places the trafficked/smuggled person has been, and is currently located, should be considered as crime scenes and should be searched for evidence.

This is due to the fact that the trafficker/smuggler will often continually move the person from place to place during the smuggling phases. Therefore, whenever or wherever a victim is located, be at the border whilst attempting to exit or enter, or if found in a hotel during a control; the search for vital evidence **MUST** always be conducted quickly and thoroughly.

7.2 Evidence Gathering

Once an area has been secured to obtain further information in the potential case of illegal migration, the following has to be taken into consideration for the gathering of evidence in an investigation:

- Check for receipts or tickets from carriers, trains, hotels, pieces of paper with times and places, diary entries, petrol receipts, etc (this can prove expenditure, movement, dates and times, etc);
- Check mobile phones to view calls made and received by the individuals;
- Analyse mobile phone SIM cards;
- Identify photographs found at the crime scene or photos provided by the smuggled person;
- Check all travel documents such as passport, visa and identity card.

This procedure should form the basis of the day-to-day activities of the Intelligence Unit operations. As such, trends can be identified, as well as persons who profit from this illegal activity.

Law enforcement officers should search and secure evidence from the scene of crime using their lawful powers. At borders, officers can work closely together with other law enforcement services so that the searching and securing of evidence will be greatly enhanced. This is a fundamental element of Integrated Border Management.

At all times, the basic human rights of dignity and privacy of potentially smuggled persons and suspects must be preserved. The searching should be done in private; intimate searching should be carried out by a person of the same sex and always be witnessed by another officer and properly authorised.

The controller should be aware of hidden or concealed travel documents. A person with no documents may well have them hidden on their body/clothes or in their belongings. Smugglers/irregular migrants will often deliberately destroy documents (false or genuine) to avoid detection and identification. Moreover, the smugglers often take possession of the documents including return flight tickets. Such facts should always be noted for evidential purposes.

7.3 Notes on Procedures

The following is a list of procedures that should be adopted when preparing a file following the arrest and detention of an irregular migrant person:

1. Identity of person to be established, fingerprinted and photographed;
2. Recording of the “flat” statement;
3. Full completion of the information sheet;
4. Full reason of the arrest served, with copy on file;
5. Property record completed, with copy on file;
6. If detained – copy of detention order placed on file;
7. If released – copy of release order on file;
8. Inform the foreign embassy/consulate of the detention of its citizen and note the name of the person advised and the date and time;
9. If released on authority of Immigration Officer Grade IV or by Chief, Deputy, or

- Assistant Immigration Officer, ensure order of supervision is correctly completed, deleting all unnecessary sections. Release on order of supervision is not granted unless identity is established;
10. Notes on file as to how the person came to the Immigration attention should include date and time when the matter was referred to the department, if Police/Customs had detained in the first instance;
 11. Applications for “cease to be” and “order to hold” enquiry must be in the form of a minute to the CIO and all facts must be stated in the minute;
 12. “Order to show cause” must be served on the person concerned. The charge is to be clearly written and as close as possible to the actual wording in the regulations;
 13. For enquiry only, the “cease to be” and “order to hold” inquiry and a copy of the “order to show cause” must be given to the special enquiry officer, whose job it is to inquire into the allegations only and reach a conclusion;
 14. After deportation – all costs to Government incurred must be tabulated and a note to the effect placed on the minute sheet;
 15. Observe the right to appeal procedures;
 16. Statement to the Minister by SIO on appeal – Regulation 26(4);
 17. Verification of departure to be noted on file;
 18. Data to be included on the “Watch Listing”.

7.4 Investigation Tips for all Detained Persons

1. Detained person – an order of detention to the Commissioner of Police (or Prisons) to be done in duplicate (make a temporary file);
2. Make copies of passport, ID and other relevant documents;
3. Take a statement, which must include if the person has claims to T&T citizenship or residence;
4. Complete P & I 26 (in duplicate) – “order to show cause”, NB Section 9 (4) (Prohibited Class) used when permitted entrants are detained;
5. Complete an information sheet;
6. Complete the reason for arrest and detention form (two copies);
7. Try to obtain the return ticket at once;
8. Complete the “order to hold” enquiry (to CIO);
9. Complete the order for the “cease to be” but not in the case of section 22 (1) (i) since they were not permitted entrants in the first instance – only form that is used is the “hold” enquiry;
10. Complete a memo to the CIO on the minute sheet and pass to ACIO for approval;
11. Place on file if an interpreter was used and that the consulate was informed;
12. File is then sent to CIO for approval;
13. Call the SIO to arrange a date/time for the inquiry and call interpreter if needed;
14. Arrange for same day departure (according to flight schedule) – release order is done in duplicate;
15. On departure, close file and send to O/C T1;
16. If a person is a permitted entrant and is convicted of a criminal offence, the Minister will deem the person “ceased to be” as of the date of offence. The officer will then

- advise the Minister to issue a Deportation Order against the person;
17. If a person is detained, call the relevant consulate/embassy in Trinidad that represents the individual. If a person needs ID they can assist in this process;
 18. Call the prison at least one day before to arrange release of detainees. Be prompt to pick up persons. If a person has a departure flight, it is wise to wait until the flight leaves and prudent to have a spare detention prison order in case the flight is cancelled;
 19. Dealing with undeclared passports (citizens only) – if it is an expired/old type this is not an issue, if it is a valid passport then the Chief Immigration Officer makes a decision based on the recommendation of the Immigration Officer IV (Investigations) before forwarding the file to the SDO in charge of the Police Station;
 20. Record the cost of upkeep of detained persons.



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Material and information gathered from the participants of the IOM immigration training seminars held in Port of Spain and Scarborough during April 2008



IOM International Organization for Migration
OIM Organisation Internationale pour les Migrations
OIM Organización Internacional para las Migraciones