

Development of Intelligence-Led Data to Support Investigations in Trafficking in Persons Cases

A WARNATH GROUP PRACTICE GUIDE



The WARNATH GROUP

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PRACTICE GUIDE
by The Warnath Group

“Pro-active investigations that develop intelligence-led data that can support strong prosecutions provide the best opportunities to disrupt and dismantle criminal enterprises engaged in human trafficking. This Practice Guide helps investigators focus on the importance of identifying, collecting, analyzing and sharing intelligence-led data that will increase recognition of victims and enable identification of evidence to build stronger cases.”

-Stephen Warnath, CEO & President, the Warnath Group

AT A GLANCE

Intended audience:

- Investigators carrying out TIP investigations
- Government officials responsible for reforms aimed at increasing investigative efficiency

Takeaway: Intelligence-Led Policing “ILP” can contribute to successful development of cases and outcomes in cases of trafficking in persons (hereinafter “TIP” which is also commonly known and interchangeably referred to as “human trafficking” or “modern slavery”). ILP accesses a body of institutional knowledge and experience so that a new investigation does not start from zero. ILP requires having in place a deliberate and structured system that utilizes intelligence to more effectively and efficiently conduct investigations against organized crime (“OC”) activity.

In this Practice Guide:

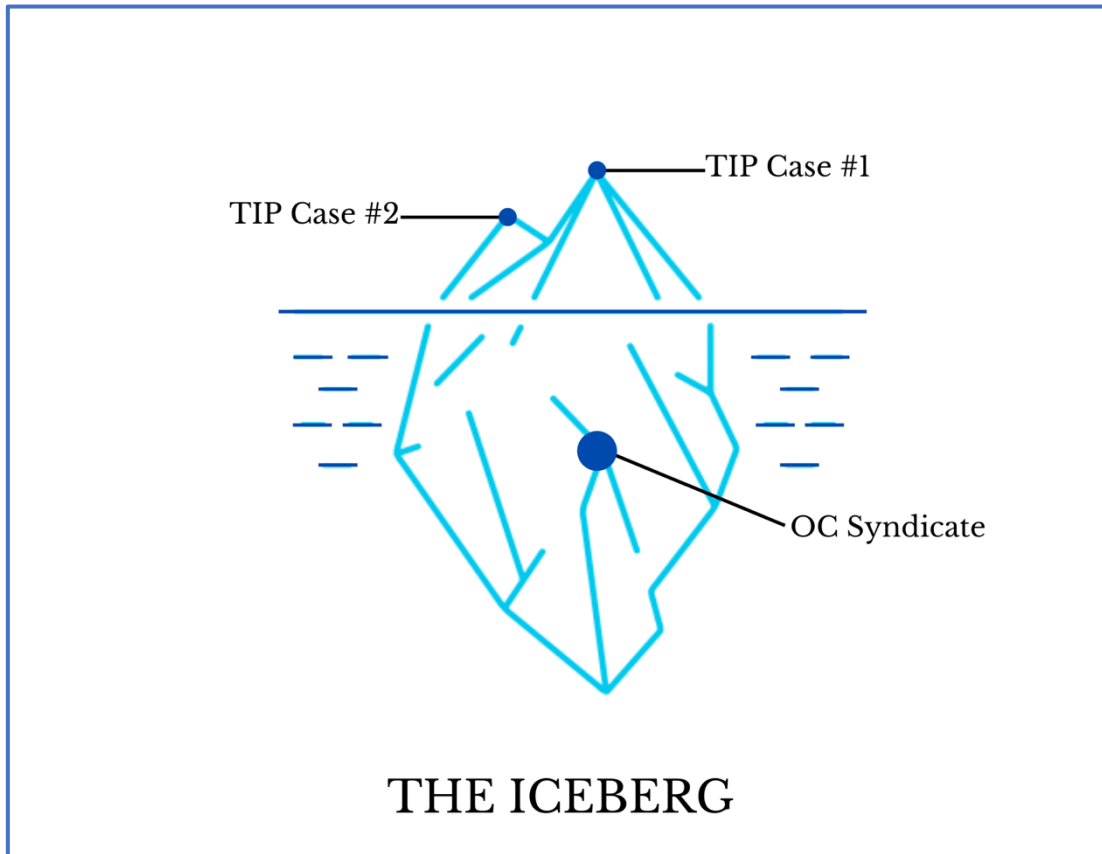
- The particular challenges facing TIP investigations, focusing on transnational cases involving organized criminal enterprises
- The ‘Intelligence-Led Policing’ paradigm
- Deconstructing TIP to facilitate the investigation
- Information challenges
- TIP indicators and available data



WHY CONDUCT INTELLIGENCE-LED POLICING?

There is a tendency for individual TIP incidents to be investigated separately, as they come to light, with a reliance on the specific information that is generated within the case itself, particularly from the victim(s). This is a **reactive** approach which sees the TIP victim as the unfortunate subject of an individual crime. The reality is that TIP is often an ongoing business with multiple persons falling victim to the same criminal group’s ongoing activity and each victim is one of many.

Each individual TIP investigation can appear as merely the tip of a small separate iceberg, while in fact, these separate investigations can all be parts of a much bigger criminal phenomenon, with the true mass of the giant iceberg remaining hidden below the waves. Viewed separately, each smaller individual case investigation fails to generate the concern and attention that it deserves, to the peril of society.



This reactive approach to one or more individual TIP investigations poses a number of problems:

- If TIP is only investigated reactively (on a case-by-case basis as new abuses come to light) and prosecuted narrowly (indicting only the immediately involved perpetrators), then just the symptoms of the TIP crime phenomena will be addressed, without tackling the broader cause, which is the organized crime groups that run multi-pronged TIP enterprises.
- If every TIP case is investigated 'from scratch' without context, investigators will waste time in constantly reinventing the wheel. New investigations will not benefit from previous knowledge, nor will investigators themselves accumulate relevant experience. Trends and developments which can inform future threat assessments will also be missed.

- Individual investigations fail to reveal the totality of the TIP problem. As a result, the danger that TIP poses to a community can be underestimated and opportunities to introduce new legislation, new specialized and targeted authorities, and new policies to reduce TIP can be missed.
- Academia, international organizations and others have faced difficulties in mapping and describing the TIP landscape in ways that can meaningfully guide law enforcement.¹ Law enforcement needs to develop a higher level of self-sufficiency in understanding the contours and details of their fight against TIP.

¹ "Kelly, L. (2005) "'You Can Find Anything You Want': A Critical Reflection on Research on Trafficking in Persons within and into Europe", *International Migration*, 43(1-2), pp. 235-265. Available at: <https://bit.ly/3nhetao>



INTELLIGENCE LED-POLICING



What is ILP?

ILP refers to developing and deploying an organization-wide system that deliberately gathers, shares, analyzes, and acts upon relevant information in a **pro-active** way, learning and adapting as it goes along.

Although it is often presented as an innovative technique, Intelligence-Led Policing² is not entirely new. Law enforcement officers have historically used awareness of the local criminal environment to deter or detect crime more efficiently. In the past, a village constable or town sheriff got to know who the “bad actors” were over time, what sort of criminal activity they specialized in, and how each of them went about their business. When a crime did occur, the constable/sheriff, relying on personal knowledge and experience, could come up with a list of likely suspects and efficiently respond by investigating some of the most likely perpetrators. In addition, law enforcement’s knowledge of the criminals’ *modi operandi* meant that they could more easily spot indicators of a crime in preparation and therefore deter or disrupt it, sometimes before the crime was committed.

² This is perhaps more appropriately referred to as Intelligence-Led Law Enforcement, as it inevitably requires the involvement of law enforcement agencies beyond just the police. In particular, in the case of TIP, immigration services, border guards, local labor inspectorates, etc. must be involved if a holistic and effective approach is to be developed.

Two developments in society have reduced the effectiveness of this old 'instinctive' ILP and created the need for it to be 'reinvented' as an explicit and deliberate organizational approach:

- **Larger and/or High-Density Population Environments** – The trend of town merging with suburbs of one or more cities has led to human beings living in ever-bigger continuous urban areas. This has 'anonymized' society, and severed or reduced the link between the local law enforcement officer and the local criminal environment within a community.
- **Organized Crime** – Individual criminal acts can be observed on the street and therefore policed, but underlying organized crime structures that run the street business may be less visible and therefore go untouched.

The pro-active methods and strategies of the modern ILP paradigm address the need for development of information that will allow for better policing and ultimately development of leads and acquiring evidence under these circumstances. The following introduces some of the key considerations involved in creating such an organization-wide system that deliberately gathers, shares, analyzes, and acts upon relevant intel, data and information in a **pro-active** way. The methods, strategies and tactics of the modern ILP paradigm can lead to more successful identification, investigation and prosecution of human trafficking cases.



Operationalizing ILP

Operationalizing ILP requires the creation and interaction of many complementary mechanisms and processes. Operationalizing ILP requires, at minimum, the following:

- Creating an 'intelligence model' which links together all law enforcement, related agencies, and partners so that information can be entered and shared horizontally and vertically among them all, ensuring the accumulation of the 'critical mass' of knowledge required for successful anti-TIP action.
- Proactively and creatively gathering information from 'all-sources', including those which may have no immediately apparent connection with crime, rather than relying solely on information which is generated by a specific case or is already held within general law enforcement databases.
- Building up, maintaining, and continuously updating a picture of the general criminal environment potentially relevant to TIP, to provide the knowledge foundation upon

which new cases can be constructed, and which can also facilitate threat and risk assessments;³

- Taking timely, directed action based upon the analytical picture, including filling in specific knowledge gaps.
- Creating a ‘feedback loop’ through which the new information that is gathered is used to update the overall picture, to validate the intelligence flow, and to amend and improve the working methodology.
- Ensuring that the work product of the ILP process informs and is acted upon by operational units to lead to identification of more cases, criminal investigations, development of evidence, and prosecutions.
- Developing multi-jurisdictional relationships with law enforcement colleagues, as appropriate, including pursuing mutual legal assistance cooperation, to most effectively address transnational TIP cases.



ILP TIP Knowledge Overview

ILP creates and relies upon having an overall knowledge of the crime phenomena in question. At the *strategic* level this means understanding the broad theory of how the overall criminal business of TIP operates⁴. At the *operational* level this means applying and augmenting that knowledge such that it is relevant to the local TIP situation. At the *tactical* level, this means being guided by that knowledge in identifying the individual actors and understanding the practical interplays between the perpetrators performing their respective roles in a trafficking scheme and their victims.

The ‘feedback loop’ mentioned above ensures that indicators of TIP which are developed according to our understanding of the crime can be used to direct investigations, while information gained during those investigations can be used to update that understanding and further improve our indicators. This can be elaborated in a number of different knowledge products, all of which can be used as tools for proactive investigation of TIP crimes:

³ See generally, Europol (2017) *Serious and Organised Crime Threat Assessment (SOCTA)*. The Hague: European Union Agency for Law Enforcement Cooperation. Available at: <https://bit.ly/2KIAEh5>

⁴ For example, UNODC (2006) *Trafficking in Persons: Global Patterns*. Vienna: United Nations Office on Drugs and Crime. Available at: <https://bit.ly/37ZtYNL>

i. A Criminal (TIP) Business Model

This subsection introduces how the TIP business is conducted - the modus operandi – for illustrative purposes (as there is no single uniform manifestation of the crime). Developing the Criminal Business Model of TIP for a locale and for various manifestations of trafficking includes, at a minimum, a deep dive into both the range of TIP actors involved and a profile of the “market” for the activity where the TIP actors perpetrate the crime or place victims of the crime.

ii. The TIP Actors

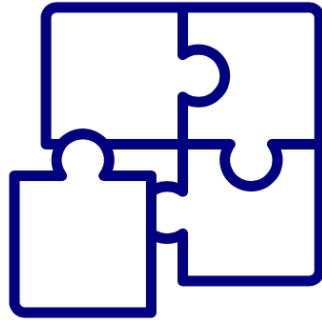
Conducting a criminal enterprise according to the business model described above requires having in place individuals with specific skills to perform particular roles during the TIP crime. The business model, therefore, allows investigators to understand the organizational structure that is required to run the TIP business, which in turn will enable investigators to identify and situate individual criminal actors into a cohesive framework in order to pinpoint investigative opportunities.

iii. A Criminal (TIP) Market Profile

This focuses on the exploitation phase as the end-purpose of TIP which is the place where the majority of TIP investigations are typically initiated. TIP often occurs in a market context or with market dynamics in a specific area for the labor or services or other activities that are being exploited. It is therefore possible, as part of an investigation, to construct a market profile describing the nature of the demand for trafficked victims per different market sector⁵, the volume in those markets, the geographical locations where each market operates, and an idea of the revenue that can be generated.

Given that there can be considerable overlap of information related to these three areas: business model, TIP actors, and market profile, you may decide to consolidate information about all three into one overall guide for investigative purposes tracking the TIP phenomena specific to your area.

⁵ Examples of market sectors include commercial sex, agriculture, construction, manufacturing.



DECONSTRUCTING TIP TO FACILITATE INVESTIGATION

The legal elements required to prove TIP (as contained the Palermo Protocol⁶) are the act, the means, and the purpose. Clearly, to lead to a successful prosecution, the investigation must produce evidence sufficient to prove each of these elements (or the elements of TIP crime in your jurisdiction). However, when planning and conducting the TIP investigation, it is perhaps easier to visualize the TIP crime by breaking it down into practical criminal conduct often seen in TIP cases. These are addressed here individually but it is important to remain cognizant of the overall synergy between them, and with a focus on the overarching exploitative purpose and activities of the criminals that are at the core of the trafficking crime.



The Activity Phases

In simple terms TIP, like other “commodity-based” organized crime activities, can be viewed as a supply-chain that supplies a commodity (in these cases human beings being used by criminals as a commodity) for a market where there is demand, with a parallel money-flow that moves the proceeds of the crime back in the opposite direction. Some of the money pays for facilitating services and the work of enforcers and lieutenants along the way, while the rest finances the lifestyle of the criminal leadership at the top.

⁶ United Nations (2000) *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime*, UN Doc A/45/49.

Hence, as a starting point for investigative purposes for many TIP cases, it can be helpful to visualize three sequential phases that may occur in human trafficking cases: recruitment, deployment⁷ and exploitation. Often, different specialized, actors conduct each phase, and their involvement may be limited to just that one phase such that they have no particular involvement in, or therefore knowledge of, preceding or subsequent phases. Similar to a terrorist group's 'cell structure,' sophisticated organized crime groups may even deliberately insulate these phases to prevent the exposure of one leading to the whole operation/organization being compromised.

It is important to note here that the breakdown of activity phases tries to convey the idea of practical physical steps involved as they present themselves in many trafficking operations, rather than the legal elements that classify it as TIP. Hence, the investigator should use this as a guide for structuring an investigation, but not as a strict list of the elements that must be proven with evidence in order to successfully prosecute a TIP case.

Each of these phases create traces of its own, and these can be used to develop indicators and become points of investigation and potential sources of evidence, as further described below.



The Transition or 'Hand-Over' Activities

For smooth functioning, there must be an effective liaison or 'hand-over' between the actors in adjacent phases. This 'hand-over' at the transition between two phases can tend to create double visibility, where the actors and elements of both phases can be observed together and at the same time. This may be particularly significant where a 'third party' such as a recruitment agency is involved.

Additionally, each transition may spread over an extended period of time. For example, the traffickers may wait for a certain number of victims to accumulate in one place before transporting them collectively to another deployment point or the exploitation location. At the final hand-over point the victims may have to await delivery to, or collection by the person, group of people, business or organization who will exploit them. The longer each

⁷ This simply means getting the victim from their place of recruitment to the place where the exploitation will occur. Practically speaking, in most TIP cases this means that a physical movement occurs from one place to another, although this need not always be the case. Depending on the distances involved in that movement, there may be a need to harbor or house victims along the route. Importantly though, Investigators must understand that in TIP there is no legal requirement that there be an actual physical movement from one location to another, nor that an international border is crossed.

transition period lasts, the more opportunity it offers for exposure. These present a particular opportunity for law enforcement action.

The Enabling Activities

Three separate, specialized ‘enabling’ functions complement the work that is done in each activity phase, providing cohesion to the TIP organization.

- **Management:** this function oversees the overall smooth running of the business. The senior manager, or boss of the organized crime (hereinafter “OC”) group, will likely have provided the capital to fund the enterprise and will be the primary recipient of the end profits. Identifying this top person is key to dismantling the overall TIP enterprise. Bear in mind though that the OC boss is unlikely to be ‘hands-on’ or visible in the day-to-day business, and will instead rely on trusted lieutenants to manage activity at the local level.
- **Security:** Physical security needs to be maintained across all phases of the business. This relates to both the security of the person (perceived by the traffickers as a “human commodity”) and of the financial proceeds that the crime generates. Law enforcement / other authorities, and rival trafficking organizations or gangs are the threat that the security function must mitigate, along with the threat of the victim escaping or raising the alarm. Maintaining control over victims often involves the use of force, fraud, or coercion (physical or psychological) which legally speaking can constitute “the means” element of the TIP crime.
- **Financing:** TIP generates massive profits; this is the reason why organized crime groups engage in TIP. Variations in the nature of the exploitation create corresponding variety in how payment may be made, or profit realized.⁸ The means must exist to collect payment, to account for revenue and expenditure, and to do this in a manner that is secure and covert. Further complexity is added by the fact that across the trafficking continuum, ready means must be available to pay for the services of the facilitators in each of the activity phases.

Each of these enabling functions creates traces of its own, which can be used to develop indicators and evidence, as further described below.

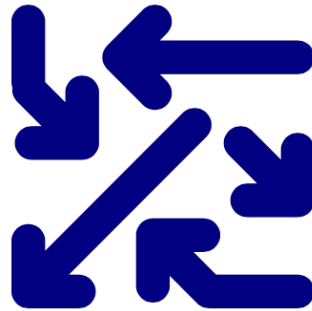
⁸ Those who exploit victims on an individual/personal/one-off basis, i.e. within the sex industry, are likely to pay in cash at the point of exploitation. Conversely, those who exploit victims over the longer-term as an ongoing part of their business, and on a more ‘industrial’ scale, i.e., within construction or agriculture, might be making periodic payments to the intermediary using methods that are not cash-based. Alternatively, in the latter scenario, the exploiter might realize their profit by withholding a part of the victims’ salary to create a reduction in the overall labor cost.



The Inter-related Dynamics of TIP Activities

It is important to note that TIP is an ongoing business, so activity is likely to be occurring in all three activity phases and both transition areas at the same time, and involving multiple, and changeable, criminal actors. This is just like the supply chain in any other large, commodity-based business where manufacturing, distribution, and retail are separate, but linked, activities each dependent on each other. Following this same analogy, we must recognize that different OC groups can be involved in each TIP activity area; that individual OC groups may not operate across the whole TIP continuum, but may, for example, specialize in deployment only; and they may deal with multiple other OC groups at other times and in other places. Accordingly, a group of TIP victims who are located together in one place of exploitation may all have had entirely different experiences in arriving there.

Hence, it should be recognized that information coming to light in any stage of the process can act as a lead for further investigation up-stream and down-stream. Furthermore, that information can be the basis for law enforcement action to disrupt the activities of the TIP group. Importantly, because the phases are interrelated an investigation should ultimately encompass the overall criminal enterprise in its totality. Thus, information from the exploitation market can be used to disrupt upstream recruitment. Information from the transportation phase can be used to locate and rescue victims in the exploitation stage, and so on. In this way, the information gained can result in the immediate identification of victims and long-term identification and punishment of perpetrators. Again, having a good working knowledge of the TIP “business” model is vital to responding quickly to such opportunities as they present themselves.



INFORMATION CHALLENGES

When starting to think about the information which a proactive TIP investigation relies on, there are a number of potential challenges that need to be kept in mind particularly as relates to identifying, organizing and using data for proactive investigation and prosecution of TIP cases.

Not Based Solely on Victim(s)

Good practice in TIP prosecution is not to rely upon the victim to serve as the only witness and/or produce most or all of the evidence in the case through victim testimony.⁹ The TIP victim is particularly vulnerable and he or she can be intimidated both before or during the trial. The victim may not be a good witness due to impacts of trauma, communication style, demeanor, or for many other reasons. A common Defense tactic is to try to undermine the credibility of the victim as a witness, for example claiming that this is nothing more than an employer-employee relationship gone wrong.¹⁰ Investigators should keep that in mind and seek to actively identify supporting witness testimony and corroborating evidence. Just as a murder can be successfully prosecuted without access to the victim's testimony, so can a TIP case. And prosecutions are always stronger and

⁹ The Council of Europe *Convention on Action against Trafficking in Human Beings*, at Chapter V (Investigation, prosecution and procedural law) states "Each Party shall ensure that investigations into or prosecution of offences established in accordance with this Convention shall not be dependent upon the report or accusation made by a victim, at least when the offence was committed in whole or in part on its territory". Council of Europe (2005) *Convention on Action Against Trafficking in Human Beings*, No. 197. Available at: <https://bit.ly/37gQW3G>

¹⁰ See Warnath Group (2019) *Practice Guide: Prosecutor Trial Preparation - Countering Common Defenses*. Washington, D.C.: Warnath Group. Available at: <https://bit.ly/2K5SW67>

more likely to succeed when investigators develop corroborating evidence to support victim testimony.

Multiple Jurisdictions

Although trafficking does not require that a victim is physically moved from one geographical location to another, this frequently is the case. Accordingly, OC rings may move victims across borders or rely on a network of criminals collaborating across borders, implicating several different jurisdictions nationally or internationally. Different jurisdictions can exhibit significant variation in the legislation and procedures that are applicable, and this creates its own data challenge. Some types of data valuable to an investigation may be legally easier to obtain in one jurisdiction than in another, while some investigative methods might be more difficult. The investigator must make himself or herself aware of what these differences are, and which jurisdiction might be the best place to pursue certain kinds of information.¹¹

Armed with this knowledge, the investigator can then plan to exploit opportunities, while avoiding difficulties. Clearly, this is more difficult at the outset of an investigation when the full geography of the crime may not be apparent, and investigators must be prepared to act ‘on the fly’ as the picture emerges.

Cross-Border Operations

If your TIP case is indeed ‘cross-border’ then this raises the need for international or interagency cooperation. This will require some form of official agreement to be in place (for example, a mutual legal assistance request, or perhaps a ‘memorandum of understanding’ if longer-term cooperation is envisaged). These agreements can take time to establish, and even once in place their operation can impose time-delays on information flows, and therefore upon your investigation. There are many practical reasons for this:

- Different languages may be in use either side of the border, hence the need for translation and interpretation.

¹¹ A good starting point is the Warnath Group’s Global Collection of Human Trafficking Laws, available at: <https://www.warnathgroup.com/laws/>. A resource also worth reviewing is the UNODC Human Trafficking Portal which has a Case Law Database, a Database of Legislation and a Bibliographic Database through which to retrieve published articles on TIP. All three databases are arranged country-by-country alphabetically and can be found at <https://sherloc.unodc.org/cld/v3/htms/>

- Different time-zones can mean that the two cooperation partners do not have common working hours, which can raise the need for 'out of hours' work by one or both partners.
- Different levels of development can mean there is no compatibility between the communications and IT systems being used by each cooperation partner.
- 'Structural' issues within one State which make it difficult to obtain investigative assistance relating to official corruption for example.

Always check to see if there is an MOU or an informal agreement in place that can be used to further your investigation. If there is not, help yourself and future investigators by sharing with your leadership information about how your case is stymied and request that action be taken to about how such an agreement would help facilitate the administration of justice in your specific case, and for others in the future.

Finding Good Indicators

TIP is a largely covert crime. One of the most challenging aspects of combatting TIP is identifying cases from indicators and evidence that only suggests or hints at the underlying exploitation of individuals.

The core groupings of common activities -- recruitment-related and deployment-related -- do take place mostly "in broad daylight." Accordingly, they are visible, although they may not be easy to recognize as part of a TIP case. Hence, some additional insight is needed to recognize these precursor activities for what they are. This highlights the importance of finding and utilizing good indicators.¹²

A TIP indicator can in many ways be similar in nature to a footprint. A footprint is readily accessible and visible. It shows that a person has passed by; its size gives an idea of the physical nature of the person; its tread-pattern may reveal what quality of shoe they can afford, and thus their wealth; its pace may tell you something of their urgency, and its direction may tell you something of the person's destination. A picture of that person starts to emerge. To complete the picture, other indicators are needed. Ideally, all TIP indicators would all be as simple as the footprint. All human activity leaves footprints or other traces - these are the kinds of indicators we must look for when investigating TIP. While the actual

¹² See Laczko, F. and M.A. Gramegna (2003) 'Developing Better Indicators of Human Trafficking', Brown Journal of World Affairs, X(1), pp. 179-194. Available at: <https://bit.ly/3glwUCm>

exploitation may be hidden, much activity around the exploitation may be accessible and visible.

Based on our knowledge of the TIP business model and the local TIP market we can develop indicators that will collectively show the threat of, the presence of, or changes in, TIP in our jurisdiction. Like the footprint, indicators must be observable, relatively easy to access, and not require too much additional time or cost to generate. An ideal indicator is one that is already publicly available for law enforcement discovery and use, even though it has not been expressly created for this purpose.

The skill lies in identifying what you will use as your indicators. Guidance is available from the plethora of lists of indicators that are already available from multiple sources online but do not allow yourself to be limited to these obvious ones.¹³ Your TIP situation will always be in some way unique, so some creativity is required to identify the best indicators to suit the specifics of your situation.

Law enforcement must still think creatively to identify the data sources and data types that will provide the indicators. Remember that indicators work best when they are both multiple and independent of one another. Individual indicators can often be explained away by other causes, whereas the occurrence of multiple indicators should reveal a 'true hit.' Indicators must be observed and evaluated as part of the larger picture, not as stand-alone markers.

Indicators can be direct or indirect:

- **Direct indicators:** these come from the victim, witnesses, or from the place of their exploitation and show that TIP is already actually in progress at the moment of observation.
- **Indirect indicators:** these come from other sources which are somewhat abstract in that they do not directly related to TIP but can reveal elements of the TIP continuum and thus give the idea that TIP is being prepared or conducted. This could include transportation information, financial information, an uptick in business or vehicular and foot traffic in a specific location.

¹³ UNODC (2016) *Human Trafficking Indicators*. Vienna: United Nations Office on Drugs and Crime. Available at: <https://bit.ly/3gN5QSc>

To be clear, the aim here is not so much to look for general (direct) indicators of whether a particular individual is a victim of TIP, much guidance exists on this already.¹⁴ Rather, the purpose here is to develop indicators that are additionally germane to the context within your community to identifying TIP victims and TIP cases. Seeing the bigger picture can reveal a clearer picture of the range of specific criminal TIP activity within your community and beyond its borders. This knowledge can serve as a strong starting point for further investigations by identifying physical locations and commercial enterprises where traffickers and victims are most likely to be in in your community.

Ideally, the indicators will also rely on data which is already available, in that it is being collected for some other purposes, even by other actors. In this way, we do not impose additional collection work upon already stretched law enforcement resources. Although if data is not already being collected, trafficking, as a severe crime and human rights violation being fought worldwide, warrants sufficient assignment of resources by officials to combat effectively.

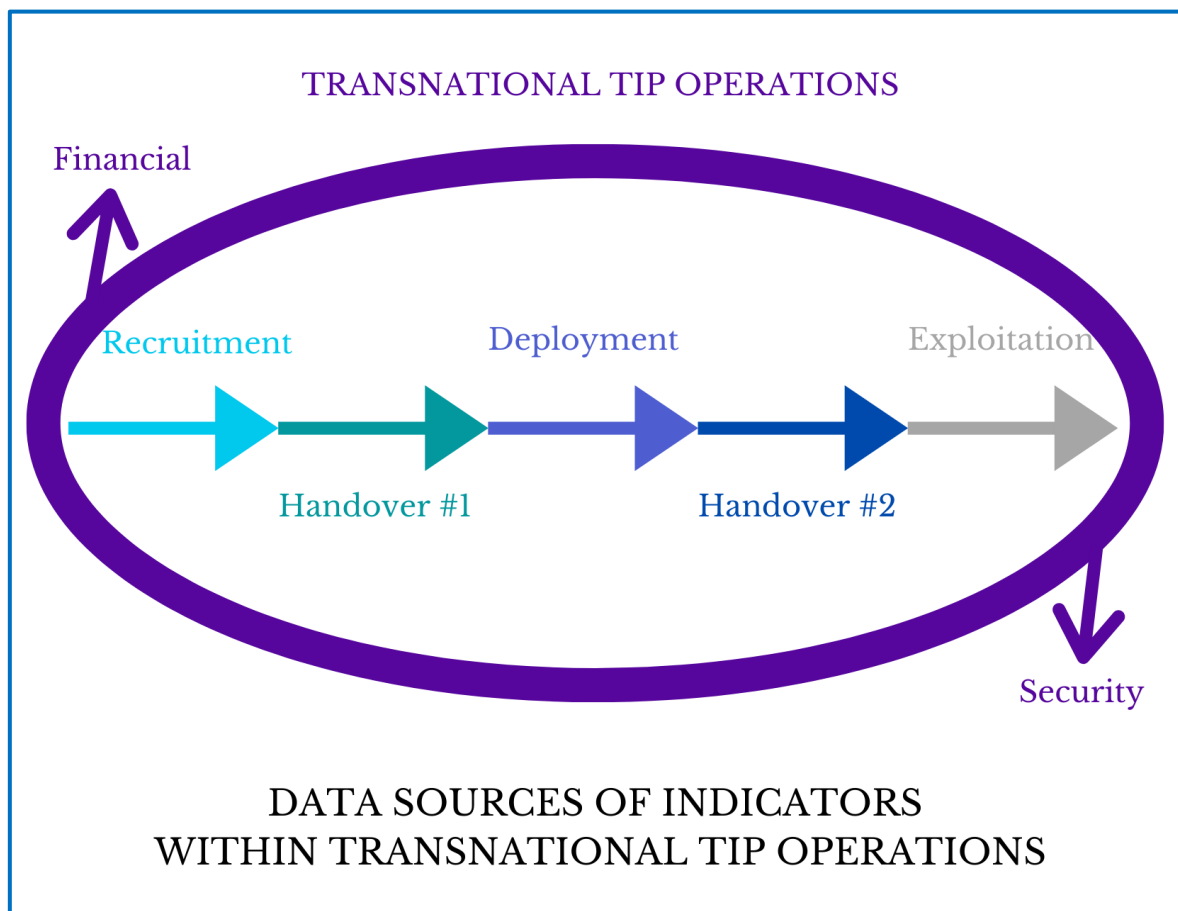
Developing indirect indicators is the more challenging of the two, but again they make the investigative effort less reliant on the victim. As a result, they can have a broader application and facilitate a deeper understanding of the TIP phenomena, provided they are done well.

¹⁴ ILO (2009) *Operational indicators of trafficking in human beings*. Geneva: International Labour Office. Available at: <https://bit.ly/3a97goZ>



TIP INDICATORS AND DATA SOURCES

The following introduces some considerations about TIP indicators and data sources in transnational cases where crossing borders is involved. Many TIP cases are wholly domestic and do not involve transnational activities and, for those cases, other TIP indicators and data sources need to be developed and tailored to the way TIP manifests as domestic cases to be effective.





Recruitment Phase Indicators

As the starting point for developing indicators of TIP recruitment, the investigator should focus on *“if TIP recruitment is taking place, what outward signs or physical traces would recruitment efforts exhibit, or leave behind, that I can observe?”*

Good indicators can reveal an intent to traffic or to participate in a trafficking scheme, which can assist with crime-prevention / education programs, as well as provide evidence to prosecute traffickers who are exposed ‘mid-stream’ before eventual exploitation has occurred.

Unless the applicable legislation permits prosecution for conspiracy or attempt to commit trafficking, no crime may have actually occurred before the exploitation of the victim begins.¹⁵ The recruitment and deployment phases, may or may not involve outwardly criminal actions, and the victim-to-be may be blissfully unaware of the fate that awaits them. Nevertheless, if the investigation can expose the requisite criminal intent, a TIP prosecution can succeed.¹⁶ Such intent may be found in the misleading information given during recruitment, and the means of control that are used during deployment.¹⁷

To focus attention and resources into the right areas of investigation, the investigator should think critically about what is required for a successful TIP recruitment effort. In part, a successful trafficking recruitment effort would:

- Identify areas where there is the potential for recruitment;
- Attract the attention of persons who are the ‘target group’ for trafficking;
- Induce them to sign up to the proposed ‘employment’ offer (or marriage or education opportunity or other TIP-related scenario);

¹⁵ National laws may also criminalize various acts that take place before the actual exploitation, these could include confiscation or retention of identification or travel documents, fraud in recruiting, and some financial crimes. It should be noted that international law calls for countries to criminalize conspiracy crimes and attempt related to the crime of trafficking in persons.

¹⁶ For example, a young woman recruited as a waitress is actually taken to a brothel instead of to a restaurant as she expected and is told that she’ll have to engage in prostitution in the brothel. If a police raid occurs before she engages in a commercial sex act the exploitation has not yet taken place (although other crimes like document confiscation, false imprisonment, threats of bodily harm, may have been perpetrated against her), but there is clear evidence of “intent” to exploit even if the exploitation does not take place. She can be treated as a victim for criminal law purposes, along with any other individuals at the brothel who were lured there by fraudulent promises or threatened if they attempted to leave.

¹⁷ For example, the ‘confiscation’ of passports or other legal documents in circumstances where such ‘safe keeping’ is not otherwise justified; false representations as to the type of work, location of work or hours of work or rate; charges for room and board that exceed the market norms for what is provided; or failure to pay the victim the full amounts originally promised and/or in a timely fashion.

- Overcome any fears or doubts that they may have about participation;
- Facilitate a secure and efficient handover or transition to the deployment phase (Handover #1).

With this in mind, the investigator can start thinking of the specific indicators that will point to the above activities, and identify the data sources that can be used.

RECRUITMENT PHASE INDICATORS

- * Focus the search for indicators in areas suffering from conflict, discrimination, the effects of natural disaster, high unemployment, endemic poverty, mass workplace closures and other publicly visible forms of hardship;
- * Identify large-budget, short-deadline construction/infrastructure projects in areas where local labor is not readily available.
- * The return of previously trafficked persons to an area, who could potentially act as recruiters;
- * Reports from the management of refugee & internally displaced persons (IDP) camps and asylum-seeker accommodation of frequent visits by persons with no apparent connection/business to the location;
- * Similar reports of visits to orphanages or children's homes;
- * Increases in numbers of missing young women or children (can also come from school attendance figures, drop in sports club participation, etc.) or, for example, of men in communities where recruitment for fishing vessels or for harvesting of agriculture products occur;
- * An increase in physical injuries treated at local hospitals or rapid clinics that may stem from forced labor at dangerous worksites not following safety regulations.
- * Creation of new/improved transportation connections from vulnerable areas to major hubs;
- * Increased use of such means of transportation by young men or women, unaccompanied children, etc.
- * Physical advertisements making offers that are "too good to be true" but which give too little other information to assess the legitimacy of the offer;
- * The use of social media to promote 'the good life' in TIP destinations;

- * Information from the debrief of victims in rehabilitation programs that reveal how they were enticed;
- * Sudden increases in applications for visas to known TIP destination countries, or to countries not generally visited by tourists.



Handover #1 (Recruitment to Deployment) Indicators

Operationally, transnational TIP cases will involve travel and some domestic TIP cases may involve travel in the deployment phase. Details of travel, and identification of travel-related indicators, may be part of a comprehensive investigative inquiry, especially in translational cases. However, for the purposes of recognizing a potential human trafficking case and organizing an investigation, it is important to note that movement across a border or even movement within a county may be operational activities of a human trafficking case but are not, or should not be, legal elements of proving human trafficking (if the national law is in compliance with international law, although a few national laws retain the legal requirement of crossing a border as part of a human trafficking case and so the applicable national law needs to be checked).¹⁸

When travel is involved, the movement may be overseen or organized by the individuals who were involved in recruiting the targeted victim(s) or another individual or group of people may provide or facilitate the transportation or accompany the victim(s).

To begin developing indicators of the handover from recruitment to any transportation involved, in cases where that occurs, the investigator should ask himself or herself: *“when the victim reaches the deployment phase, what traces of this activity can I observe?”*

To focus attention into the right areas of investigative inquiry, the investigator should think critically about what a successful handover must achieve. In part, a successful handover may:

- Move the victim to a journey start point without raising any alarm, including reassuring those left behind;

¹⁸ Human smuggling and human trafficking are distinct criminal acts. The crime of human smuggling involves helping someone illegally cross an international border, usually for profit. This crime of human trafficking involves the intent to exploit a person, and while exploitation may often involve transportation of some sort, it is not a required element of the crime.

- Possibly accumulate several victims together, and house them during this harboring;
- Ensure all travel documentation, including tickets and permits, are prepared;
- Successfully embark the targeted victim(s) (i.e. the “TIP cargo”) on his or her journey;
- Maintain security around the whole transaction.

HANDOVER #1 INDICATORS

- * Residential property with a regular turnover of inhabitants fitting a TIP victim profile (Safehouses);
- * Group transportation leaving from that property on a regular basis;
- * A common address that is used repeatedly for visa applications;
- * Groups of travelers being marshaled in the parking-lot of transportation centers;
- * Handover of travel documents or cash-payments between the group ‘marshalls’.



Deployment Phase Indicators

To begin developing indicators of TIP transportation, in cases where that occurs, the investigator should ask himself *“if TIP victims are being transported, what signs will there be of this activity? How will I identify the routes and means of transport that are being used? How will I identify which people traveling along those routes by those means are persons who are being trafficked (i.e.intended, ultimately, for exploitation)? And how do I expose as traffickers the criminals who are handling their transportation?”*

To focus attention into the right investigative areas, the investigator should think critically about what a successful transportation system would look like. In part, a successful transportation system would:

- Move the victim to the final place of exploitation as efficiently as possible;
- Conceal the trafficking intent from both the victim and the authorities;

- Maintain continued control over the victim (not necessarily by physical force);
- Utilize a minimum amount of expenditure so as not to damage his profits;
- Facilitate a secure and efficient handover to the exploitation phase (Handover #2).

Remember that during this phase a crime may not yet have been committed and the victim(s) may be unaware that they are en route to exploitation. Hence, their potential lack of personal awareness of their situation reinforces the need to find indicators that show they are being trafficked even though they might not know it themselves.

DEPLOYMENT PHASE INDICATORS

- * Non-family groups moving within large, relatively un-managed influxes of refugees or IDPs;
- * Homogenous traveler groups (same age, sex, appearance) without an apparent collective purpose like a school trip or a sports team. (However, some smart traffickers will provide false cover stories to the authorities and/or victims. For example, teenagers and young men in Africa were recruited for soccer “training camps” in Europe. In that case the members of the team were unaware they were about to be exploited.)
- * Assertive / authoritative individuals making repeated journeys with different groups of travelers (Control and security function);
- * Sudden increases on routes or connections otherwise unpopular with regular travelers;
- * Frequent observations of unaccompanied minors on long-distance routes;
- * Safe houses en route; see indicators for Handover #1 above;
- * Bus company observations regarding increases in persons fitting the potential victim profile;
- * Groups being discouraged from interaction with other travelers or tourists.

Note: Direct indicators of TIP transportation are often already being used by immigration/border agencies within the national transportation infrastructure to help potential victims to escape the clutches of traffickers. Indirect indicators that are developed by law enforcement can be shared with, and used by, these agencies and with transportation companies towards the same end goal.



Handover #2 (Deployment to Exploitation) Indicators

The handover from transportation and deployment to exploitation is likely to be a more immediate transaction in that, the investigator should ask herself or himself: *“when the transporter delivers the victim into the exploitation phase, what will this activity look like and how can I recognize it?”*

To focus attention into the right areas, the investigator should think critically about what a successful handover must achieve. In part, a successful handover would:

- Deliver the victim to the customer/exploitation place without raising suspicion, including on the part of the victim;
- Be prepared for an adverse reaction from the victim when they realize what is happening;
- Transfer of the victim’s passport, travel documents or other important papers from the person overseeing deployment to the person intending to oversee exploitation;
- Collecting payment for the delivered victim (assuming a sale rather than lease arrangement).

HANDOVER #2 INDICATORS

- * Homogenous traveler groups waiting for transport in areas not associated with commercial transportation services;
- * Known exploiters paying regular visits to airports, bus-terminals, etc.;
- * Private (unmarked) vehicles making visits to business premises at out-of-hours times.



Exploitation Phase Indicators

It is easier to recognize the crime of trafficking during the exploitation phase, and it is unlikely that the victim is still unaware of their predicament once the exploitation begins.¹⁹ In some respects, the need for abstract indicators of TIP is now somewhat reduced as direct evidence of TIP becomes available. This focus contributes to qualifying and improving the indicators we have already developed for the recruitment and transportation phases.

It remains a fact though that not all exploitation takes place in public sight²⁰, so the effort to identify exploitation locations can still benefit from the use of indicators.

To develop indicators of TIP exploitation, the investigator should ask himself or herself: “*if TIP exploitation is taking place, what are the outward signs, or physical traces that I could see?*” And of course, these can be subtle signs, as well as the glaringly obvious ones.

To focus attention into the right investigative areas, the investigator should think critically about the nature of a business that can successfully exploit TIP victims in the range of forms of human trafficking that may exist in the relevant jurisdiction. Indicators of a business that could most easily and successfully exploit TIP victims would be one that:

- Requires a high-volume of low-skilled labor;
- Is run mainly as a cash-business;
- Is unregulated, or lightly regulated, or can be conducted out of sight of the regulator;
- Allows for labor to be accommodated at the place of work;
- Allows for labor to be accommodated in a highly controlled environment;
- Requires minimal contact between exploited workers and the general public.
- Can be set up to have strict oversight of contact between the exploited workers and the public.

¹⁹ The investigator should have in mind that while almost every victim knows that they are in ‘a predicament’ of some sort, they may not self-identify it as a victim of trafficking. They may simply think they’ve made a bad deal, gotten themselves into debt, or otherwise blame themselves for the situation as opposed to seeing themselves as a victim of a crime. They are conscious that they do not like what has happened to them but may be unable or unwilling to do anything about it.

²⁰ For example, while sex-trafficking victims who are forced to work at the street level are openly visible to the public eye, the domestic servant, factory laborer or agricultural farm-hand can remain quite hidden.

EXPLOITATION PHASE INDICATORS

- * Workers remaining entirely within the limits of the workplace;
- * No (or extremely limited) engagement of workers with the local community, even for shopping etc.;
- * Higher than average health and safety incidents, or clear health and safety shortcomings on inspection;
- * Complaints from locally-based women or men in prostitution about an influx of “competing” newcomers, perhaps accompanied by an increase in associated violence among those in control of the competing operations;
- * Hospital data related to with foreign victims;
- * Complaints from labor-intensive businesses who are being undercut by low-cost competitors;
- * Travel forums (e.g., TripAdvisor) where reviews often criticize bars/hotels for having a large number of women and/or men in prostitution on the premises.
- * Complaints from businesses regarding beggars on the street outside their premises;
- * Deliveries of food and other domestic consumables in such volumes that seem strange given the apparent occupation of a commercial premises.

However, do not take an absence of the above conditions (or indicators) to mean there cannot be TIP. A business could exploit skilled workers, use complex tracking systems for hours worked, send laborers out as subcontractors, use exploited workers in customer service positions, etc.



Security System Indicators

As mentioned above, security is required throughout the commission of a TIP crime. To develop indicators of security relating to TIP, the investigator should ask himself or herself: *“when security measures are being applied to safeguard a TIP enterprise, what outward signs or physical traces would it exhibit, or leave behind, that I can observe?”*

As guidance, the investigator should think critically about why TIP needs a security system, namely to:

- Keep the victim under control, either through continued false promises about future payment or opportunities (resulting in an extended period of time before the victim realizes they are being exploited) or coercion;
- Ensure the arrival of the victim at the place of exploitation and ensure his or her continued availability to work;
- Ensure that the enterprise is not revealed to the authorities;
- Ensure that customers pay for the service rendered;
- Prevent any unwanted and damaging interference by other organized crime groups, gangs or others.

SECURITY SYSTEM INDICATORS

- * One person who seems to be different from yet in charge of an otherwise homogenous group;
- * A person handling all administrative arrangements for the traveling group, particularly if they are holding everyone's documents or are the only person with information about travel arrangements;
- * A person interacting with authority figures on behalf of the group;
- * The group is kept separate and away from other travelers;
- * Groups of a similar nature repeatedly arriving at the last minute for scheduled transport.



Financial System Indicators

Financial activity occurs across the whole TIP spectrum. It mirrors the human commodity flow, albeit working in the reverse direction. Hence, armed with the indicators already developed above, the investigator is well positioned to begin uncovering the financial system. To develop useful indicators of TIP financing, the investigator should ask:

“knowing what I do of the overall TIP system, where are the points that money must changes hands, and what are the signs, that will show me that this is happening?”

To focus attention into the right areas, the investigator should think critically about what the elements of a successful TIP financial system are. In part, a successful TIP financial system would:

- Collect payment from 'end-users';²¹
- Pay-off all workers, suppliers, and facilitators along the trafficking route;
- Remit profits back to the boss;
- Launder and invest the proceeds of crime;
- Do all of these in a quick and secure fashion such that it does not compromise the business.

FINANCIAL SYSTEM INDICATORS

- * Regular visits to business premises by known organized crime couriers, under security protection;
- * Significant activity in money-service agents near to areas of exploitation;²²
- * Cash-couriers following the same routes used to traffic victims;
- * Large/regular cash payments received by transportation companies, on a route;
- * Large/regular cash payments received by accommodation places on a route;
- * Lavish new constructions & luxury vehicles in the source locations.

²¹ This could be the outright 'sale' of a victim which will result in a one-off payment, or a kind of 'lease' where the trafficker receives smaller regular payments in line with the work/earnings of the victim.

²² Western Union, Moneygram, etc.



SUMMARY

Individual cases of TIP, however and wherever they come to light, should be investigated and prosecuted. Law enforcement efforts against TIP will always be more efficient, and hopefully successful, if they can build upon existing knowledge and be guided by past experience. This supports the argument for full-time and specialized TIP units and a commitment to pro-active investigations.

But even if TIP investigation remains the responsibility of general detective units, their work will be enhanced if it is conducted within the framework of the Intelligence-Led Policing paradigm. A broader knowledge of current local and global trends in TIP will inform the creation of indicators which can collectively reveal where, how and by whom TIP is being committed. This, in turn, will validate and improve upon the existing knowledge base; the 'feedback-loop' providing a virtual circle of knowledge to guide investigative planning and operations.

Although indicators themselves should be simple and observable, drafting a list of what to look for requires careful thought and creativity. Once the investigator understands the criminal business he is faced with, he can deconstruct it into its essential elements and reflect upon what observable traces each of these would inevitably leave when they are being carried out. The more indicators are present at any one time/place, the more confident the investigator can be that TIP is occurring. This is the essence of good indicators and the whole purpose of Intelligence-Led Policing.



USEFUL REFERENCES

PUBLICATIONS:

Europol (2018) *Criminal Networks Involved in the Trafficking and Exploitation of Underage Victims in the EU*. The Hague: European Union Agency for Law Enforcement Cooperation. Available at: <https://bit.ly/3mdTUKF>

This report provides an up-to-date picture of the most perpetrated forms of child trafficking affecting the European Union.

UNODC (2017) *Human Trafficking Toolkit for Journalists*. Qatar: United Nations Office on Drugs and Crime Office for the GCC Region. Available at: <https://bit.ly/2KsxDeA>

This toolkit aims to provide basic tools for journalists to report on human trafficking with integrity and comprehensiveness (focused on human trafficking in the Arab region).

UNODC (2017) *Evidential Issues in Trafficking in Persons Cases: Case Digest*. Vienna: United Nations Office on Drugs and Crime. Available at: <https://bit.ly/2Wd89of>

This case digest aims to assist criminal justice practitioners worldwide in addressing the evidential issues typical to trafficking cases.

ASCIA (2016) *Human Trafficking Information and Investigations Strategy Toolkit*. Decatur: Association of State Criminal Investigative Agencies. Available at: <https://bit.ly/3nix8Cp>

This toolkit is designed to help law enforcement agencies form a specialized strategy appropriate for their jurisdiction for combatting human trafficking.

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This comprehensive strategy sets out the nature of UNODC's work in preventing and combating trafficking in persons and smuggling of migrants and defines priorities for future action and engagement.

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This toolkit is to assist countries to implement the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime.

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This paper presents four lists of operational indicators of trafficking (respectively for adults and children in labor and sexual exploitation) which can be used to assess the situation of a potential victim of trafficking.

WEBSITES:

United Nations Global Initiative to Fight Human Trafficking: <http://www.ungift.org/>

Interpol – Human Trafficking: <https://www.interpol.int/Crimes/Human-trafficking>

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-Stephen Warnath, CEO & President, the Warnath Group

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