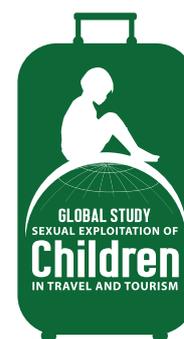


EXPERT PAPER



INCREASED ATTENTION TO TRANSNATIONAL CHILD SEX OFFENCES

NATIONAL POLICE OF THE NETHERLANDS

INTRODUCTION



Halfway through 2013, the Dutch Minister of Security and Justice pledged to develop a annual plan for the fight against Transnational Child Sex Offences (TCSO).¹ This was caused by increased media and political attention due to a few cases of Dutch child sex offenders. The National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children¹ as well as NGO Terre des Hommes² called for the strengthening of the fight against TCSO.

The Dutch government, including the National Police of the Netherlands and the Public Prosecutors Office, recognises the importance of strong international collaboration between governments, NGOs and private companies in the fight against TCSO. The Dutch membership in the Virtual Global Taskforce illustrates this principle.

The National Police of the Netherlands deploys different strategies addressing the issue of Dutch TCSOs travelling to other countries.

DEPLOYMENT OF THEMATIC POLICE LIAISON OFFICERS

Further to the decision taken by the Dutch Minister of Security and Justice to fully dedicate three police liaison officers to the theme of tackling transnational child sex offences, the Netherlands has chosen not only to further trace the problem of child abuse by Dutch nationals abroad, but above all to strengthen the criminal prosecution of this serious crime. Additionally, the use of the liaison officers provide a unique opportunity to include alternative methods of addressing the issue, both preventive and reactive, in the repertoire of the National Police of the Netherlands.

Cooperation with ngo's and the role of the dutch child exploitation expertise centre (ceec)

In the fight against transnational child sex offences, non-governmental organisations (NGOs) play an important role. They are important not only with regard to safeguarding child victims, but also when it comes to their local and regional knowledge, access to local information and reporting alleged child sexual abuse to authorities.

Although NGOs can be of great value in the process of a criminal investigation abroad, they are not law enforcement agencies. In 2013, a project group was formed consisting of Police, Public Prosecutor's Service, three NGOs (Terre des Hommes, Plan Netherlands and ECPAT Netherlands), Ministry of Security and Justice and the Military and Border Police (Royal Marechaussee) to further explore the framework for cooperation with NGOs (abroad) in the fight against TCSOs. This has led to a legal framework for sharing information and a continuous platform for sharing best practices.

Projects like these are often initiated by the Child Exploitation Expertise Centre (CEEC) – a joint working group of Police and Public Prosecutor's Service. The CEEC deals with all sorts of non-operational matters like trends and developments derived from investigations on child sexual exploitation (CSE) and/or TCSO, technological innovations, alternative strategies for detection and prosecution. As such, the CEEC forms a knowledge and information source for operations. The CEEC recently launched a TCSO manual for police officers. The manual holds information on TCSO operating procedures during the investigative process including mutual legal assistance, judicial framework and case descriptions.

Sexual exploitation of children in travel and tourism (sectt) via webcam

The phenomenon of "Live Streaming" or "Sexual Exploitation of Children in Travel and Tourism" (SECTT) via webcam is relatively new in the Netherlands. In 2013, Europol announced that this is an upcoming concern in the investigation of Sexual Exploitation of Children in Travel and Tourism (SECTT). The increasing usage of the Internet worldwide has facilitated the live exploitation of children via new technologies. Predators from across the world (mainly living in rich Western countries) pay and gain access to live streaming video footage of children, typically in other (poorer) countries, being subjected to various forms of sexual abuse.³

The Philippines is named as a particular country where the pull factors for SECTT via webcam are high because of the poor economic wealth of the country, the dramatic increase of internet usage and the poor investigation of cases of child (sexual) abuse.⁴ As these economically vulnerable populations are gaining access

to the Internet, they are exposed to the vast demand for child sexual abuse material (CSAM). Capitalising on the opportunity to increase their income, a growing number of children worldwide will be involved in webcam sex shows for financial gain, and a growing number of adults will exploit children by forcing them into performing in front of the webcam.⁵

Worldwide, the phenomenon of SECTT via webcam is acknowledged more and more as a problem needing urgent investigation. However, like SECTT, it is a crime with major challenges to investigate because of the difficulty to detect it due to its illegal and hidden nature. Moreover, the abuse is live and often not recorded which makes proof of the criminal act difficult. Finally, the investigations are often long and expensive, and child sexual abuse investigations are often not the number one priority in the countries where the abuse takes place.

In 2014, the Financial Investigation Unit of the National Police of the Netherlands conducted research into live streaming. This research illustrates two main reasons for an overlap between countries linked to SECTT and countries linked to SECTT via webcam:

- Online predators have more association with the well known SECTT countries and will therefore consciously approach adults or children living in these countries to abuse online;
- In these countries children exploited in prostitution and child abuse are more tolerated in society compared to other countries.⁶

Experts from the National Police of the Netherlands have pointed towards the fact that SECTT via webcam is pre-eminently a risky form of child sexual exploitation because it is believed to encourage the

cross-over between Internet (so-called “hands-off”) and actual contact child sexual abuse. Although the numbers vary greatly, research has shown that not all online sex offenders (people possessing and distributing child sexual abuse material) have ever committed or will at some point in their lives commit a contact offense.⁷ SECTT via webcam, however, goes one step further than the simple viewing of child sexual abuse material, as the abuse is current or acute, and often the viewer is in a position where he can determine or “customise” the form of the abuse. This makes SECTT via webcam much more realistic and tangible, and it is believed to increase the risk of current as well as future actual contact abuse. Therefore, experts from the National Police of the Netherlands believe that this form of child sexual exploitation, together with SECTT should be prioritised and emphasised by law enforcement.

Barrier model for Sexual Exploitation of Children in Travel and Tourism

In order to successfully stop and prevent some of the more elaborate criminal processes, it is important to work integrally and to cooperate with (international) partners, both public and private. An important component of this particular strategy is the barrier model, currently being developed for sexual exploitation in travel and tourism by the National Police of the Netherlands.

In order to fulfil one's hideous intentions, a travelling child sex offender has to take several steps. That's why the barrier model first depicts the numerous stages the offender has to pass through in order to attain one's objective. Secondly, the model indicates the public or private entities in each stage, which (un)intentionally facilitate the crime. For example, an offender from Europe who intends to travel to Asia to

abuse children will need to buy a flight, board the plane and clear customs and border protection before being able to achieve one's goal. In this case, an airline is an example of an unconscious facilitator.

The unconscious facilitators can be requested to become partners in preventing the sexual exploitation of children. Every step the offender needs to take offers a chance of raising a barrier and preventing the crime from happening, either to discourage a possible offender by showing him or her that he or she is on close watch, by reporting suspicions or by physically stopping the offender.

The National Police of the Netherlands wants to encourage (international) partners to adopt a similar way of working in order to maximise the chances to prevent this crime from happening. By cooperating in the way the model illustrates, everyone's role and responsibility in preventing this crime is clear. As a consequence, we are more likely to achieve better results together, since it is not possible for law enforcement to fight this crime on its own.

Transnational Child Sex Offences internet search tool

Together with a private company called WebIQ, the National Police of the Netherlands is developing a TCSO web crawler to gain a deeper understanding of the phenomenon of TCSO. It is particularly important for law enforcement to tap into up-to-date information about TCSO hotspot areas. The aim of the project is to realise standards for the exchange of digital TCSO information between countries. The intention is to expand the project group to other countries as well.

Awareness raising campaign

Efforts are currently underway to enhance information gathering from third parties, such as NGOs and members of the public, regarding alleged transnational child sex offenders and improve the way this information is used. This information can be

collected by collaborating with other private and public parties, as laid out in the line of action 'cooperation'. This information also surfaces in the context of the public awareness campaigns. Systematic attention will be paid to improving the quality of reports of TCSOs. The combating of TCSO includes the involvement of society in efforts to eliminate this practice. The Dutch Ministry of Security and Justice has conducted several campaigns in this regard in consultation with partners such as the Dutch Border Police, the National Police, the travel industry and NGOs.

In addition, ways were sought to link up with the European campaign against transnational child sex offences in 2014 with the slogan 'Don't look away'. The countries currently taking part are Austria, France, Germany, Poland, Luxembourg, Switzerland and the Netherlands. In March 2015 the Netherlands linked up with this campaign and launched a new nationwide campaign. To take uniform, recognisable and transnational actions, the Netherlands will take part in joint campaign activities with the participating countries in the coming years.

TCSO seminar in Latin America

Latin America is a region – just like other regions in the world - known for the prevalence of the sexual exploitation of children. ECPAT International highlighted Latin America as a region where these crimes occur and stated that they are not adequately addressed ('XXI Pan-American Congress of the Organisation of American States' in December 2014).

Since the nature and extent of transnational child sex offences committed by Dutch nationals in this region is not clear, the National Police of the Netherlands looked for ways to get more insight into this problem. The police community of the Americas, Ameripol, seemed to be the right platform for building a network with law enforcement agencies in this region and to shed some light on the occurrence of transnational child sex offending in this part of the world.

Together with Ameripol, and in cooperation with various member states, the National Police of the Netherlands is organising a seminar on transnational child sex offences. The seminar will focus on operations, therefore heads of operational police units and prosecutors combating these kinds of crimes from all Ameripol members are invited. Apart from strengthening the network, the goal is to share knowledge and determine how child sex offences can be better prevented and combated in the future, assigning a role to Ameripol.

TCSO projects with INTERPOL

The Dutch government decided to provide INTERPOL's Crimes against Children team with a grant for 2 million Euros. This enables the Crimes against Children team to conduct – amongst other activities - the following TCSO projects:

1. Developing INTERPOL International Certificate of Character: Child sex offenders (who have been convicted of child sexual abuse) are often working with children in vulnerable countries. The main objective of this project is to ensure that no one with a criminal conviction can work with children without the knowledge of the employer so that they can mitigate risk. The role of the NGO is of the utmost importance when it comes to the use of certificates of character. Ideally, every NGO in a vulnerable sector or region would use the certificate as an instrument to reduce the possibility of offenders gaining employment and access to children. Additionally, through peer persuasion, NGOs could encourage other NGOs, schools, etc. to make use of the certificates when hiring people.

2. Development of a campaign including guidelines and practical support to increase the use of green notices for child sex offenders: INTERPOL statistics show that most member countries do not yet (fully) use Interpol's green notices (which are alerts via INTERPOL's secure communications system) for child sex offenders. There is a need to improve international sharing of information on movements of child sex offenders, with a risk of recidivism, as part of the broader management of child

sex offenders. This campaign will raise awareness within policing on the use of green notices and will help INTERPOL member countries to better understand their usefulness.

3. TCSO training for police liaison officers: Police liaison officers play an important role in tackling transnational child sex offenders in target countries. They often work in high-risk countries and regions and are expected to cover many other types of crime such as terrorism and drugs. This means that they do not have a lot of time to spend on the topic of TCSO. On top of this, there is often a lack of awareness and a lack of investigative activities in the field of TCSO. An improved understanding of TCSO by all police liaisons before they deploy could have a huge impact. This was recognised by various member states, including the Netherlands.

Training will help police liaison officers be aware of the issues surrounding transnational sex offenders in their country or region. It will also help them actively support transnational sex offender investigations. It will make them aware of all the tools and networks available when dealing with child sex offenders and with the intelligence flows between the source and the destination country that will allow disruption and prevention before offending takes place. Lastly, training will teach them how they could encourage cooperation between law enforcement agencies, NGOs and other relevant stakeholders.

Depending on the existence and availability of TCSO training in member states, INTERPOL will either develop a complete training curriculum or build upon existing training.

Obstacles in responding to TCSO cases – findings so far

The problems encountered by the National Police of the Netherlands and the Public Prosecutors' Office in the investigation and prosecution of TCSO cases involving Dutch offenders committing their crimes in source countries are numerous and vary in each case. The main issues are:

1. No investigative authority abroad: The investigation and prosecution by the National Police of the Netherlands and judicial authorities of offenses committed abroad are sometimes challenging. The Dutch police may not conduct investigative acts abroad and are therefore fully dependent on police cooperation in criminal investigations where the evidence is outside the Dutch national borders. Besides this limitation, the National Police of the Netherlands has adopted the principle that investigations in TCSO cases should take place in the country where the crime has been committed and where the victims are located. However, where possible and appropriate, the National Police of the Netherlands can offer its assistance in cases. In such cases, the investigating country has specifically agreed with the assistance and operations are within the limits and conditions imposed by the local authorities.

When the Dutch authorities decide to investigate crimes committed abroad, they are entirely dependent on the willingness of the country to cooperate with the investigation. This applies for all investigative acts, i.e. the hearing of victims and witnesses. Especially when no treaties have been concluded with the country, cooperation is based on "goodwill".

All evidence collected by or on behalf of local authorities requires formal transfer to the Dutch authorities before it can be used in the Netherlands for prosecution purposes. This can be challenging (see under 4).

Aside from the legal restrictions, cultural differences, differences in laws and language barriers play a role as well. Corruption can also threaten successful collaboration or transfer of evidence.

2. Double Jeopardy: The principle of double jeopardy protects an accused from being tried for the same or similar charges following a legitimate court decision.⁸ This also applies to an international context. If a decision has been made to prosecute in the Netherlands, the Netherlands will in principle recognise the judgment of the foreign court, which may preclude prosecution in the Netherlands.

The point at which prosecution is no longer possible - and "double jeopardy" is applicable - is when a final, substantive decision to prosecute has been taken against the suspect. Or in legal terms, the case has been adjudicated by a competent court and may not be pursued further, and the entire sentence is executed (in case of a conviction). Until that moment, prosecution in the Netherlands is in principle possible.⁹ In determining whether a case has been adjudicated properly abroad, an examination takes place on the basis of Section 68 of the Criminal Code. The legal examination can imply that cases that appear to have been adjudicated abroad, might not be considered as such in the Netherlands as the decision is not irrevocable.

Another issue is in cases in which Dutch residents are acquitted of charges of sexual abuse, where corruption is suspected or where the victims may be bribed or threatened. Unfortunately, the Dutch legislation does not provide the opportunity - in case of compelling evidence of corruption - to bring the case in front of the Netherlands court.

3. Statements and interviews of victims and witnesses that do not meet the Dutch standards: In most sexual abuse cases it is the statement of the victim about the events which provides key evidence in a case. Dutch investigation and prosecution practise imposes strict requirements on how victims, especially child victims, are heard. The risk of inadvertent misrepresentation is great, especially with children, when suggestive or leading questions are given. Children are more likely to say what (they think) is required of them. The question may considerably influence the statement in these cases and it does not benefit the truth finding process.

Interviewers are therefore expected to adhere to strict protocols in which steering and suggestive questions are to be avoided. Audio-visual recordings are required. Parents/guardians (and others) are generally not present during the interview, so that they do not affect the statements of the child.

Dutch investigation practices have other requirements, but the above points are seen as the most important conditions to obtain useful and accurate statements from children.

While studying SECTT cases we encountered the following recurring problems related to the victim's interview:

- Interviewers of the local police asking suggestive and leading questions to the victim.
- Caregivers or "interest groups" (i.e. a social worker) are present at the hearing and may influence the outcome of the interview.
- The victim not only has contact with investigators about what happened but also, for example, with NGOs, social workers, journalists and other parties. If the victim - prior to the

police interrogation - has talked about the events, the statement may (unwittingly) be affected.

- In case Dutch investigators need an interpreter, the interpreter might in his/her translations direct victims and encourage them to tell more. This issue usually only becomes apparent when the interview recording is transcribed by a second translator.

The result is that the statements of a victim in these cases are less useful because they are perceived as less reliable by the court. In severe cases, the court may even decide to disregard the statement in its entirety.

4. The process of formalisation of documents and information from abroad is difficult or completely stalled: Formal documents from abroad, such as complaints/reports to the police, information from police investigations and information about the suspect may only be used in Dutch criminal proceedings if permission has been obtained from abroad. Usually, documents and information are shared before official permission is granted because the whole process of formal exchange takes time. However, for use in court, formal permission is required. This can sometimes take years.

5. Reticence to cooperate in a criminal trial with countries without cooperation agreements where the death penalty is applied: If there is no cooperation treaty with a country where a TCSO is allegedly committed, cooperation can only take place on the principle of reciprocity. This means that a country will in principle only cooperate if the Dutch government will cooperate when requested by the country in another case. However, several countries in the world exercise the death penalty and the Dutch government is not willing to provide cooperation to these countries.

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ENDNOTES

1. Report Barriers against child sex tourism, 2013, www.dutchrapporteur.nl
2. Sweetie campaign
3. B. Allen, "Webcam child sexual exploitation" (Ecpat, Den Haag, 2014)
4. Terre des Hommes, "Fullscreen on view" (Den Haag, 2013)
5. Terre des Hommes, "Webcam Child Sex Tourism. Becoming Sweetie: a novel approach to stopping the global rise of webcam child sex tourism" (Den Haag, 2013)
6. L. van den Akker, "Rapportage Livestreaming van kinderpornografie. Red flags in Financiële Transacties" (FIU, Zoetermeer, 2014)
7. M. Seto, K. Hanson, K. Babchishin, "Contact Sexual Offending by Men with Online Sexual Offenses" (Sexual Abuse: A Journal of Research and Treatment, 2011)
8. A legitimate court decision can be an "acquittal", a "conviction" but also a "court pardon" and other forms of judgments that occur abroad, i.e.. "deferrals of sentence" or "probation" are eligible.
9. Someone who has been sentenced abroad, but has escaped before serving the full sentence cannot use the defence of double jeopardy.