**Presentation – The role of the liaison prosecutor**

Firstly, thank you for giving me the opportunity to present to you today. My name is Shenaz Muzaffer, and I’m currently a Deputy Chief Crown Prosecutor and Head of the International Division of the Crown Prosecution Service of England and Wales.

The CPS International Division has a network of specialist prosecutors – either criminal justice advisors or liaison prosecutors – based overseas in Europe, Asia, and north and south America. All of our postings are either in countries of strategic importance to CPS casework, and / or of importance to wider Government strategies to counter the threat from serious organised crime.

We currently have a network of over 20 specialist prosecutors in countries including Pakistan, the USA, France, Italy, Spain, Turkey, Jamaica, and Greece. Included in that number are two roving liaison prosecutors, who are based in the UK but who cover a portfolio of countries, thus extending the number of countries in which we are able to operate even further. Our prosecutors are experts in international engagement and cooperation and, depending on the country in which they are based, are also involved in justice reform and assistance to improve the detection and effective prosecution of criminality that impacts the UK.

Until last month, I was posted as the UK liaison prosecutor to the USA, spending three years based in Washington DC advising UK prosecutors on mutual legal assistance and extradition issues between the UK and the US in relation to the investigation and prosecution of transnational and serious organised crime. Prior to that, I spent eighteen months as the CPS asset recovery advisor and liaison prosecutor in the United Arab Emirates, promoting cooperation between UK and UAE prosecutorial agencies, and working to facilitate the progress of mutual legal assistance requests and extradition requests between the UK and the UAE. I also spent two years seconded as state counsel to the Attorney-General’s Office in Seychelles as part of the UK’s counter-piracy mission – all three being roles that I’ve undertaken through the CPS’ International Division – and so I’m delighted to have the chance to share some insights into the role of the liaison prosecutor, and the tangible benefits that can be derived from it.

As we all know, serious and organised crime is a transnational threat. It knows no borders.

But the international element of criminal activity is no longer restricted to organised gangs who move drugs and firearms between countries, or to money launderers who utilise complex banking arrangements across multiple jurisdictions. The increasing use of the internet to commit criminal activity means that evidence, witnesses, victims, or assets are often located in a country other than the one where the offender actually commits the criminal act. One area where I’ve seen a noticeable increase is in child sexual abuse cases, where an offender in the UK grooms a child via a social media platform or forces them to engage in sexual activity online, but where the evidence itself is stored elsewhere, often in the US as that’s where the major tech companies are located. All of this means that international cooperation is becoming increasingly important as a tool to progress investigations and prosecutions more efficiently and effectively.

Whilst legal structures and processes may need to be reformed in some areas, the speed at which criminals adapt and evolve is such that a focus solely on improving legal mechanisms will leave us trailing behind. To succeed, we must build strong cross-border prosecutions and investigations domestically and abroad through the quality of our casework and through active cooperation with prosecutors overseas.

That’s why the importance of the role of liaison prosecutors in working with national and international partners to effectively combat serious organised and transnational crime is increasing. The key to effective cooperation is effective communication between prosecutors, not only through forums like the IAP, but through developing personal constructive relationships where individual cases can be progressed and blockages overcome quickly at a working level.

So what are the main functions of a liaison prosecutor, and how can they contribute to investigation and casework progression?

The key role of a liaison prosecutor is to advise on matters concerning mutual legal assistance between the domestic and the host country. This advice falls into two main categories:

Firstly, advising on what type of assistance can be obtained from the host country, and how it can be obtained. It’s a waste of time and resources to seek to obtain information that either cannot be accessed, such as content of encrypted messages, or that the host country is precluded in law from providing – an example may be prospective real-time collection of content of communications. A liaison prosecutor can provide advice to investigators and prosecutors at a very early stage of an investigation, to ensure that requests that are subsequently made are legally and practically capable of being executed.

The in-depth country knowledge that a liaison prosecutor develops is also critical in advising on how information can be obtained. The formal MLA process can be cumbersome and time-consuming, and one of the ways in which the liaison prosecutor can add real value is by identifying which enquiries can be dealt with outside of that formal process. For example, in the US role I receive a large number of queries from UK prosecutors who either want to obtain a witness statement from a witness who is located in the US, or to facilitate a witness giving evidence in UK court proceedings via a video link – both of which, for willing witnesses, can be dealt with through police to police liaison, rather than having to submit a Letter of Request. Having specialist knowledge means that the liaison prosecutor can not only advise on what can be done via informal channels, but can also advise on the practical steps that need to be taken to facilitate the request.

Secondly, if a formal Letter of Request is required, a key function of the liaison prosecutor is to advise on the format and content of those Letters of Request to ensure that they satisfy all of the procedural and legal requirements of the requested country. A large portion of UK Letters of Request to the US seek content data, for which the US legal standard of probable cause has to be met. This standard doesn’t have a direct comparable under UK law, and so being able to explain to UK prosecutors what the key elements are that they have to meet, and where their request may be deficient, is invaluable. As liaison prosecutor in the US, I would review a huge number of draft Letters of Request on behalf of a range of UK prosecutorial agencies, and I would estimate that, on an initial review, at least 50% of those would not meet the legal or evidential requirements that were needed. By conducting a review of every Letter of Request before transmission, a liaison prosecutor is able to identify where additional information is needed to bolster a request and advise accordingly, and also to identify those cases where a request has no basis to proceed, even if further information were to be available. The benefits are obvious and threefold – time and resources are not spent on requests that are without merit, more time can be devoted to the execution of valid requests, and requests are executed quicker as all of the required information is contained within them from the outset.

Another benefit of the liaison prosecutor role stems from the personal relationships that you develop with your counterparts in the host country. The US legal attache and I are in regular email contact, and I’m in email contact multiple times a day with the US Department of Justice cyber attorneys who work to execute our requests. The advantages of having those constructive working relationships can’t be underestimated. Often, one of the hardest things about progressing an enquiry is knowing who to speak to, or where to go for information. Being in regular contact with subject-matter experts in the host country means that I always know who to turn to for advice on novel or complex issues. It means that I can follow up directly with them for progress updates on requests. It means that they can liaise directly with me if they have any questions about our requests, or if any information is missing. It means that I can liaise with them on how to formulate requests in a manner most likely to be successful. It means that we can discuss best practice and any legal developments. Rather than a Letter of Request being submitted and then simply waiting for a response, it means that I can liaise closely and pro-actively with the requested country to ensure that it’s progressed in the most expeditious and efficient manner. As mentioned, having those personal contacts with counterparts is the single most important benefit that the liaison prosecutor can bring to advancing casework domestically.

Those personal contacts don’t just extend to colleagues in the host country’s government, but also extend to other liaison prosecutors in-country. In the US, a number of liaison prosecutors have set up an informal network, which we use as a forum to discuss issues that are of interest to us all, such as access to communications data, as well as to exchange articles, update one another on key developments in our domestic law that might affect others, and identify and seek to resolve any common challenges.

Another key responsibility of a liaison prosecutor is to assist in the training of practitioners in the host country on domestic policies and procedures, and to do the same in the home country. The US Department of Justice legal attache and I have run joint training sessions for UK prosecutors, to broaden knowledge of US requirements and processes. There may be fundamental differences in the way in which our legal systems work – for example, some legal systems being inquisitorial, some being adversarial - but by upskilling prosecutors and increasing mutual understanding of each other’s practices and procedures, liaison prosecutors act as an invaluable resource to enhance international co-operation.

Liaison prosecutors also work closely with representatives from other government agencies from their home country who are based overseas. In the US, I was co-located in an office with representatives from our National Crime Agency, and our Revenue and Customs Agency. Again, the benefits are obvious – we can engage closely on significant investigations and prosecutions, provide operational support, and assist each other to advance criminal justice enquiries – for example, I can advise UK law enforcement on investigative matters such as preserving communications data, and the NCA can assist me by direct liaison with US law enforcement to progress police to police enquiries.

There’s also the opportunity to contribute to wider domestic government criminal justice policy through working with other agencies, such as the Home Office and Foreign Office at post, acting as a subject matter expert and identifying good practice and lessons learned from other jurisdictions.

The functions of a liaison prosecutor are not just limited to casework and operational support, but also extend to engagement on domestic policies, process, and legislation. Liaison prosecutors can identify and report back to their home country on changes that may be needed in domestic law or process to improve performance in relation to outgoing requests, and also capitalise on learning best practices from our overseas partners. Liaison prosecutors also have an important role to play in collaborating with authorities in the host country to share experiences that may assist in the development of legislation. By way of example, in Seychelles I worked very closely with the Attorney General to develop and draft legislation to enable evidence to be given in Seychellois courts via video link, thus negating the need for witnesses to travel long distances and often at great expense to testify. Although my role in Seychelles was more that of a criminal justice advisor than a liaison prosecutor, the underlying principles are the same – working in collaboration with international partners to improve the way in which we can all investigate and prosecute transnational crime.

Finally, a word on practicalities. Two of the key questions are how to decide where to deploy a liaison prosecutor, and where they should be physically located. In a time of finite resources, we can’t deploy to every country that we would like to and so, to assist with deciding where to deploy, the CPS have devised a deployment matrix that we complete following a scoping exercise. As well as quantifying the impact that a posting will have on evidence gathering, extradition case progression, and proceeds of crime cases, we also quantify the potential benefits to our operational partners, and to wider UK government policy, to ensure that we’re deploying to countries where the impact of the liaison prosecutor in advancing investigations and prosecutions will be greatest. Secondly where should the liaison prosecutor be physically based? In the US, I was based at the British Embassy in Washington DC. In Seychelles, I was accommodated in the Attorney General’s office. The UK liaison magistrate in Spain is located in the International Cooperation Directorate of the Ministry of Justice in Madrid, alongside the Spanish Central Authority. Where your liaison prosecutor may be based will obviously depend on the particular focus of their work, but in each case the critical point is that they are based in the host country, with close, regular, sustained access to criminal justice counterparts, and the opportunity to develop and maintain excellent working relationships with all parties involved in progressing casework in the host criminal justice system.

To conclude, as crime is taking on an ever-increasing international dimension, so we must develop and improve on ways to work more closely, efficiently, and effectively with our international partners. Communication, knowledge and expertise-sharing, and close sustained engagement are at the core of the liaison prosecutor role. Having performed the role in three countries, against the backdrop of the CPS having employed liaison prosecutors and criminal justice advisors across the world for a number of years, I’ve seen the tangible advantages that having a person in-country, engaging daily with the host country, and developing expertise in the laws and procedure of that country can bring – some of which I hope that I’ve been able to outline to you here today.

Thank you.

Shenaz Muzaffer

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