

# COMBATING ILLICIT DRUG TRAFFICKING BY UNDERCOVER OPERATIONS

*Wasawat Chawalitthamrong\**

## I. INTRODUCTION

Drug crime is a major problem facing every society in the world at present. They are different from the past by having secretly specialized and complicated systems. New technology techniques are used as tools, and drug crime is committed in systematic ways and in networks which involve organized crime and transnational crime, causing severe damage and effects on society, economics, politics and national security. Investigation cannot lead to offenders so efficient special investigation is needed to be used for wiretapping, intercepts, undercover operations, and controlled delivery. Special investigation plays a very important role in suppressing and convicting offenders.

To understand how to handle organized crime and drug dealers, the comprehension of laws, investigation systems and techniques of drug crime investigation are necessary. Moreover, creating networks for information exchange and joint investigation will be the permanent solution and drug crime prevention.

## II. CHAPTER ONE

### A. Investigation Principles and Techniques of Drug Crime Investigation

Drug crime is different from other crimes since it is committed by a group of people engaged in organized crime and by secretly specialized and complicated systems. Normal investigation cannot lead to a drug lord. The drug lord always avoids prosecution and conviction due to the lack of evidence such as drugs and money from drug dealings, except for money from money laundering. Collecting evidence and judicial proceedings with offenders need effective investigative techniques that are different from general crime suppression. To operate systematically and efficiently, undercover operations are the best solution for drug crime and for obtaining justice.

Because undercover operations involve investigation techniques, we need to understand clearly about investigation principles, the scope of universal drug trafficking proceedings and laws, for example, the United Nations Convention against Transnational Organized Crime 2000. State parties must cooperate in order to suppress transnational crime. Also, state parties can impose bold measures to give authority to law enforcement authorities in order to collect related evidence, such as by wiretapping, controlled delivery, sting operations and special laws relating to narcotics control and suppression in each state.

When considering drug crimes committed by a group of people, there are sharing the work, demanding money in return, and breaking laws. Those are considered as crimes that are the meaning of organized crime according to the convention so special investigation is applied for drug-related crime suppression. State parties need to develop progressive laws suited to anti-crime and crime-suppression strategies. However, special investigation must be considered thoroughly to not affect human rights including residence, body, communication and freedom. Drug crime is different from other crimes. Normal investigation cannot prove drug lords' guilt. Typically, only the drug dealers are arrested so to collect evidence and to proceed against the drug lords requires investigation techniques. In case of conspiracy, authorities must collect evidence proving that the offenders conspired. Only having evidence such as drugs and money is insufficient to lead to drug lords or prove that they have conspired. The Measures for Suppressing Narcotic Offenders Act B.E. 2534 (1991) provides that two or more persons conspiring to commit an offense relating to narcotics shall be guilty of conspiracy, and if the offense is subsequently committed, shall all be equally liable for the penalty

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\* Head of Sector, Department of Special Investigation, Ministry of Justice, Thailand.

imposed for such offenses.

To collect evidence and proceed with offenders under drug trafficking, authorities need special investigative techniques such as wiretapping and intercept to prove offenders' guilt. To collect evidence and proceed extensively, there are guidelines for special investigation and rules for operating legitimately. Therefore, undercover agents are very important witnesses in narcotics cases, especially offenses about supporting or conspiracy due to the fact that narcotics cases need undercover agents to interfere with offenders to gather key information to arrest them.

### **B. Features of Narcotics Litigation**

Drug crime and drug offenses are significantly different from other litigation. Drug crime involves two or more persons conspiring to commit an offense and has a network in which drug lords or heads of the organized crime group are just commanders. They are not associated with any process of drug trafficking, so it is hard to find them guilty and subject them to law enforcement due to these separate actions. Only drug traffickers and sub-drugs dealers are arrested.

Drug crime earns large profits. It easily motivates the offenders to commit their offense, risking big money by doing it once or twice. That is why there are always new faces instead of those who are arrested.

Drug crime is a transitional crime. Offenders usually use methods of transacting their property so they are not caught. They know exactly that financial institutions would give the information to state agencies. Assets and property do not pass through the financial system but are spent immediately on goods, for instance, cars, gold and jewels, or even livestock like crocodiles and ostriches.

Drug crime is a crime that needs special measures for judicial proceedings, such as conspiring measures, entrapment, measures to regulate the transfers, wiretapping, witness protection, suspended prosecution and plea bargaining. Also, drug crime is unique in that there is no victim. A drug addict is a drug victim who gets effects from drugs, so the victim becomes an offender. Therefore, both the producers and the drug addicts are offenders. Even authorities who possess drugs are considered illegal, so there is a legal protection measure for them in case of doing undercover operations, sting operations and transferring drugs under their control.

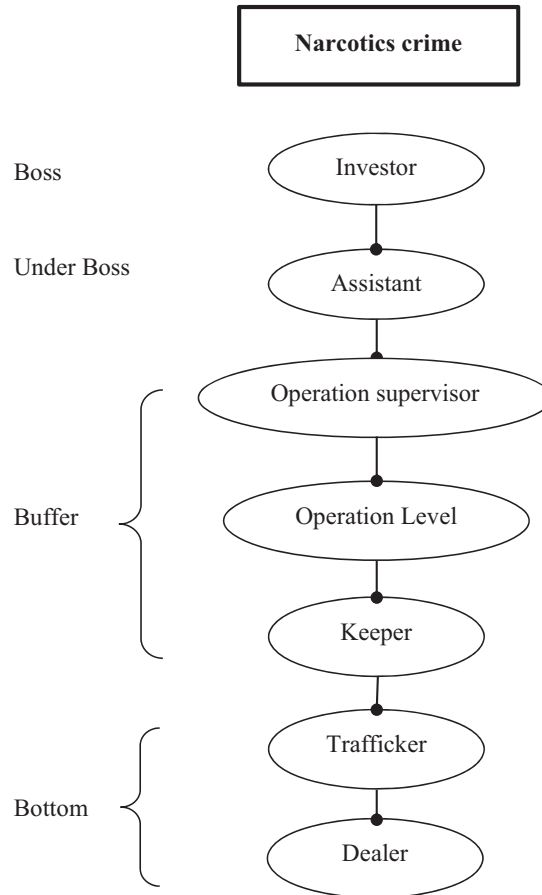
### **C. Features of Narcotics Operations**

Organized crime is an action by a group of people, including planning, illegal offenses or legal action with unlawful conduct. They are an organizational structure, commanding in order to commit illegal acts by low-level members while commanders or other high-ranking persons of the organization become wealthy and do legal work. They might be a group of powerful persons because crime earns large profits. Criminals need money and property from offenses to gain power and manpower to inspect authorities' suppression. The structure of organized crime might be different depending on the network and the organization. There are 4 levels of commanders, as stated below.

- Level 1 Chiefs, or bosses, (an investor or a drug lord which is behind the operation) are manipulators responsible for organizational management. Usually, there is only one person, and this person is not associated directly with the business and property which comes from illegal offenses except for laundering money. This person always does a legal job for concealing the offense.
- Level 2 Assistants, or under-bosses, are responsible for collecting data of process, reporting to a chief and following up on commands or policies from the chief.
- Level 3 Operation Supervisors, or buffers, are middlemen between high-level members and low-level members to protect the high-level positions from investigation.
- Level 4 General Staff, or bottom, are persons who commit offenses following the commands from the higher position, and they are normally caught easier than persons holding any of the other positions.

The process of drug trafficking is performed in a network, or an organized crime group, which covers an entire country or international area. The network is regulated by loyalty and honesty. It is extremely strict

and if anybody does not follow the regulations, there will be brutal punishment which can cause danger to their families, friends and themselves. When one in an organization, usually someone at the bottom such as a trafficker, a recruiter, a dealer and a drug addict, is arrested, he or she typically does not give any information, especially about the high-level positions, to the authorities. Features of the process of drug trafficking can be described in the following diagram.



#### D. Collecting Evidence in Narcotics Operations Using Special Techniques

The United Nations Convention against Transnational Organized Crime (UNTOC) 2000 allows the state parties to use special investigation by adjusting to their domestic laws. Special investigative techniques consist of:

- Controlled delivery
- Undercover operations
- Electronic surveillance

##### 1. Controlled Delivery

Controlled delivery is the technique of allowing illicit or suspect consignments to pass out of, through or into the territory of one or more States, with the knowledge and under the supervision of their competent authorities, with a view to the investigation of an offense and the identification of persons involved in the commission of the offense. However, a delivery method under control is quite inconvenient and complicated due to the consent of the States parties concerned.

A controlled delivery is a law enforcement technique that allows the transport of illegal drugs or other contraband, under law enforcement supervision, to those persons who have arranged for the shipment. It is not considered as a sting operation or an offense conducted by competent authorities.

*(i) Possession of contraband by authorities or persons responsible for controlled delivery*

Authorities or persons are responsible for controlled delivery under law enforcement supervision.

(a) Illegal drugs – the permission under the ministerial regulations which identifies a person with authority, a destination, a return and a report to the minister of the Ministry of Public Health

In this process, the drug delivery needs to be sent by the person who wants to transmit drugs to a country which is the destination of an assigned recipient. An operator entering a residence or a private place of a drug sender is considered as having been done with the sender's permission and a delivery to a recipient by entering a residence or a private place is also concerned as having been done with permission. While evidence taken illegally and unconstitutionally is unacceptable, the above-described practice is allowed by the provisions of the constitution.

(b) Lack of authorization for law enforcement officers to possess contraband for controlled delivery

However, many jurisdictions still lack legislation or constitutional provisions that authorize law enforcement officers to carry or deliver contraband. In these countries, law enforcement officers who do so are considered to have violated the law and may be found guilty of drug crime.

*(ii) Possession of contraband by other persons involved in controlled delivery*

In this case, a spy owns the contraband because of having an association with a network or crime organization. This kind of spying needs to be controlled strictly to prevent losing the contraband during the process. The spy must be the one that is trusted and accepted to be a part of law-enforcement process.

In Thailand, legal proceedings with authorized senders are not addressed in the provisions of any laws. For most cases, the criminal procedure code and constitution permit confinement for up to 24 hours. However, if it is a special case, confinement is allowed for 3 days and the offender must be sent to the court. Hence, if authorities commit an offense, they will not be defended by law enforcement.

The aim of controlled delivery is to ensure that the authorities are able to find, investigate, search and seize evidence. The technique used for the investigation is a special technique to track investors, manipulators and other offenders. This might take time longer than the law provided. If it is drug trafficking to other countries or the network of transitional drug dealing, the investigation might take longer than the law provided and contrary to human rights under the constitution. Nevertheless, to use the measure is necessary and also the path for investigation. Collecting evidence will be an advantage for gaining reliability and validity. In addition, an attorney can acknowledge the facts about the case, which makes the trial fast and equitable. In conclusion, controlled delivery measures are an exception to common legal protections under the constitution.

*(iii) Possession by offenders*

When there is a seizure, making the offender help the authority send the controlled delivery must be approved. If there is no approval, the evidence will be considered unlawful due to forcing.

## 2. Undercover Operations

Undercover operations may be used where it is possible for a law enforcement agent or other persons to infiltrate a criminal organization to gather evidence. Undercover operations should only be carried out by well-managed and properly trained staff. However, this technique is dangerous and is always the last choice of investigation. To do this technique needs to be carried out carefully and with the permission of the court or a person in authority.

Undercover operations avoid detection by the entity the person is observing, especially by disguising that person's identity or using an assumed identity for the purposes of gaining the trust of an individual or organization to learn or confirm confidential information or to gain the trust of targeted individuals in order to gather information or evidence. The person to go undercover probably could be an authority but sometimes another person under the supervision of the authority. The assigned person needs to keep the mission confidential and keep hiding. For example, an undercover agent is an efficient technique and needs to be used to interfere and gather information on organized crime. The agents need to disguise and hide their personal information such as name, address, status and occupation. They might need to gather information that might be helpful from citizens. Even if it is a very effective technique, it is always the last option due to its danger to the agents and probably reveals the agents' status. Moreover, undercover operations probably could have

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been requested by the organized crime group to commit offenses or illegal deeds, such as offenses against property, taking drugs and murders, to prove the new member's loyalty to their organization. So that undercover operation needs be carried out by well-managed and properly trained staff.

Undercover operations involve a technique in which a person disguises his or her identity for the purposes of gaining the trust of a network or an organization to be able to enter its residence in order to gather the information or evidence which is stated below.

*(i) Acknowledgement of information from duty*

An undercover agent assigned to do a task in a crime organization or network has a different duty because the duty is divided clearly. No one can do the duty for someone else. This is the acknowledgement of one's own information from duty.

*(ii) Acknowledgement of information from investigation*

Acknowledgement of information from investigation in an under undercover operation uses special investigation tools to gain concealed information from the crime organization. However, undercover operations affect a suspect's rights, so the legality of the technique has been considered, including how far it can go before it violates the suspect's rights. It is also important to avoid entrapment. Each country has enacted conditions and rules differently. For instance, the United States of America provides that it must be an illegal incident. To avoid entrapment, the undercover operation must not encourage the suspect to engage in a drug crime that he or she was not predisposed to commit. Thus, law enforcement officers must collect sufficient evidence to prove the suspect has committed drug crimes before the undercover operation started. Such evidence includes the suspect's conduct or prior convictions related to drug crimes.

In Japan, there is a condition that undercover operations need permission with legality. The operation rules must relate to benefits, regulations, and ethics. Nevertheless, the crime operation always associates with other states in the same region. To succeed in undercover operation needs international cooperation.

The practice of undercover operation for police officers at the present (Omaracerid Wattanavipul, Document of The Practice of Undercover Operation for Police Officers under Law, Drugs Investigation by Undercover Operation under supervision, B.E.2551) takes place in many ways, as follows:

*(i) Undercover*

Undercover is to disguise one's identity in a crime organization to gather evidence and roles within the organization. Sometimes, there is an authority involved with the offense. For example, an authority has a person do the operation under the authority's supervision. That person must keep it secret and disguise him- or herself as a Co-operating Individual, or CI, but as another person's identity in public. Also, an informant gives information about the crime activity by getting involved or associating with the activity. Reliability and trust are important for getting this person as a witness.

*(ii) Document concealment*

If the target has influence in its area, they might have the policemen or the authorities check ID cards or any documents from the undercover agent. This could probably obstruct the operation or put the agent in danger. Thus, holding a fake ID card can decrease the target's suspicion. The responsible government sector can help in this process.

*(iii) Vehicle concealment*

Mostly, criminals or targets who already committed an offense would be very cautious. The vehicle following after them or nearby their house will be suspected the most. Vehicles used for investigation might be in varied forms, such as a company car, public transport, etc.

*(iv) Place concealment*

An observation post is another special investigative technique. If the target has its location in an impossible area to monitor, there is a need to move into a house or a building for observation. Somehow, it might set up a junk shop to get in touch with the target because this kind of shop is where to buy stolen property. In the case of narcotics, the authority might establish a store for selling pharmaceutical production tools.

*(v) Situation concealment*

Situation concealment is needed when the target is experienced in the landscape or the area is hard to approach. Using too many authorities in the investigation might cause the mission to fail so there is a situation simulation, for instance, setting up a Buddhist fundraising by the agent disguised as a villager in the target's area to gather information.

*(vi) Occupation concealment*

In some situations, undercover or impersonation is not enough to gain information. The occupation concealment can help much more and reduce the target's suspicion. Sometimes, it takes time to collect evidence. For example, a contractor is running his own company but gathering information about collusion in bids at the same time. If there is bid rigging, the agent can probably find the leader.

*(vii) Information concealment*

Some investigations require information concealment. The arrests in the case may cause damage to the offender such as paying a penalty or having their business shut down (illicit CD factories, entertainment places that are open over time or arranging drug parties, or drug factories). These offenders may have strategies to follow the movement of officials such as getting to know some relevant officers and having monthly benefits delivered to the officers. This causes the arrest to fail because the offenders are aware of the arrest in advance, or even set the scene for the officers. So the arrest process needs to be concealed by informing them to go to another location instead. Then, they are suddenly ordered to search and arrest the target.

(a) Using spies as witnesses in drug cases

Spies are divided into two types.

- *Created spies*

This type of spy may be someone who is in the drug industry. In a criminal organization, usually, they are the ones we call 'little men'. These people are responsible for handling small jobs in the criminal organization. This type of spy can give information but requires some benefit in return, such as money or other advantages.

- *Offered spies*

This type of spy offers to give information themselves; mostly they are involved in the criminal group. But this type of spy needs different benefits, such as requiring the police to remove their data from the profile, wanting to quit, betraying the group, or money. There are lots of strategies and techniques in the spy process such as watching and tracking following the information from the information files that are systematically made, or wiretapping using high technology gadgets, or financial flow monitoring, including disguise or infiltrating the criminal organization.

3. Electronic Surveillance

For example, wiretapping, or intercepting communications, can be done in accordance with legal requirements. This is to protect the freedom of the individual and without interference.

Why use spies in drug cases? Because drug crime is different from other crimes. First, the circle of drug offenses is wide. Each step in the process may, or may not, be offensive. For example, there are some important steps in the process of dealing with offenses of exporting drugs.

(i) Negotiating with foreign traders

If there is a law of conspiracy in that country, this action is a conspiracy offense.

(ii) Negotiating between local traders and minority trade networks

This action is a conspiracy offense.

(iii) Preparing and delivering drugs

At this stage, the supplier may be guilty of possession or guilty of possession for sale or even guilty of distribution.

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(iv) Preparing to export

This action may include the offenses of possession for sale and preparation.

(v) Delivering drugs to foreign traders

If the action is done in Thailand, the deliverer may be guilty of possession, possession for sale, and distribution. But if it is done in another country that Thai traders have to deliver to, it is an export offense.

Second, in each drug offense, there are many offenders. The offense network is quite complex.

(i) It has real offenders

(ii) It has a coordinator or trade agent to be a trade negotiator, or to run a business, instead of a capitalist, a coordinator, or a trade representative, depending on the size of the network. If the network is big, there are several levels.

(iii) The agent works like a salesman, surveying for customer groups.

(iv) The deliverers deliver drugs to the meeting points.

(v) The financial manager is in charge of paying, receiving and laundering money. This may be done through regular business or through other illegal business.

Each network is structured in a close structure, which has the following key components:

*Cut out*

They try to limit the relationship of offenders to the greatest extent possible so as to not let evidence of the offense be connected to others, especially, the heads of the criminal organization. No one knows each other. They will contact only the real co-workers, like the major dealers and agents, but the deliverers will not know the agents or the major dealers.

*Need to know*

They limit the information. In each offense action, the offenders only know information on a need-to-know basis. This especially happens at the lower level and close to the offense. For example, the deliverers will know where to drive but they do not know who to go to. These networks may be established in the normal business environment, such as tourism business, trade business, or charitable organization.

*Code*

Offenders use code to contact each other.

Third, drug crime is international because drug sources are available in certain areas. The main area is the Golden Triangle. But the consumers are everywhere, so the drugs are indispensable goods that make an enormous profit for traders. A commercial network is created to connect producers and consumers around the world. Destroying one place cannot stop the problem, because there will be other people, and other places involved to carry on the drug trade.

So it is necessary for officers to study the system of action of the offenders. For example, officers must study the types of drugs, including how drugs are being hidden, sold, and made in the various forms of drugs, such as heroin, powder or granules, and especially, investigate the sources of drugs, and those who are involved with drugs. The study will always be useful to investigate the crime of narcotic drugs. According to the evidence of the narcotics drugs authorities, it appears that the "Golden Triangle" is an important center for drug importation into Thailand or other countries, such as Myanmar, Laos and Thailand. The thread of drug smuggling starts from the northern provinces, then expands to other provinces by cars, buses, and trains. Smuggling by car, they usually hide drugs underneath the footrest, seat, spare tire, door edges, or make a secret box hidden in inside the car, or concealed by mixing with goods and utensils, consumption, medication, or attached to the body. It depends on the type and quantity of the drugs, or depends on the situation. In particular, smuggling abroad is considered major smuggling, often by air, by sea or by mail. This requires special investigation and spies in order to investigate in a systematic way to get the information to link to the major offenders in the process.

**E. Drug Prosecution in Thailand: Seeking Evidence in Drug Cases by Using Spies**

Drug offense cases include several minor offenses, such as drug use and drug possession offenses. These offenses do not really have problems with evidence in prosecution because the arrest happens at the time of

the offense. There is no need to seek other evidence in support. But the offenses related to production, import, export, possession for sale and conspiracy offenses need evidence to support the prosecution of the offenders to follow the elements of the crime. Most drug arrests are only for those who possess or transport drugs. The suppression of drugs is not working as it should because the drug trade is a big system. It is a complex network. They have major dealers or influencers behind them. Moreover, they cut their work into many parts, which makes it even more difficult to take legal action over the major dealers. So evidence must be reasonably and reliably gathered along with details to confirm that the suspects are involved with the offense. Therefore, various types of investigative techniques are used in the search for evidence in drug cases, such as luring by the authorities or undercover agents.

Undercover operations are important investigative approaches to gathering evidence to bring the offender to justice by accessing the criminals. Then, the information obtained during the operation is associated with the offense algorithm and the network of related persons to plan and find a way to suppress the group of people. In Thailand, drug court investigators use the disguise method to find evidence to prosecute, such as drug luring. The officers will ask if they want to buy drugs from the seller or go meet with the seller himself or with spies (Confidential Informants). When the seller agrees to sell and deliver drugs, the officers will arrest the seller. According to the court's judgment, investigative methods can be used in this way to confirm the offense of the accused by the testimony of the officer in court, including other evidence such as photos, money luring and drugs.

Another form of disguise is to be one of the offenders to collect evidence to document the sources and dates of drug trafficking. In such cases, the officers will not reveal themselves. They will collect the information and evidence that has been sent to another officer, to collect evidence, leading to the prosecution of the offender. And after the arrest, the officer may testify in court.

In addition, in the case of disguise by the presence of another person, in the case where the officer is required to have access to the offense but cannot get close to the offenders because there are no spies or cases to investigate in the closed area. In such cases, it is necessary for the official to identify himself as someone else in order to reach the offender or to conduct an investigation. For example, disguise of occupation by showing that a related occupation is required to enter the area, or disguise of the person who has contact with the offenders or the involved person.

In line with international practice, they legislated the laws and regulations, the procedures and the conditions of disguise which are summarized in terms of the rules and conditions of disguise. The following are disguise monitoring procedures:

1. How Disguise Can Be Done by the Official
  - (i) Infiltration or embedding into drug crime organizations continuously and for a long time.
  - (ii) The luring the offenders into selling narcotics or disguise for a while
  - (iii) Luring a drug or disguise, which can complete the task at once.
2. Criteria for Applying for a Disguise Permit
  - (i) The requesting officers are the officers under the law on drug trials.
  - (ii) Authorized commanders are the heads of the national police, or delegates, or the secretary-general of the narcotics control board.
3. Conditions to Allow Disguise
  - (i) Investigations of offenses that may have been committed to disguise are: legal offenses related to narcotics in production, import, export and distribution, distribution of drugs or conspiracy to support or attempt to commit such offense.
  - (ii) There should be reasonable grounds to believe that disguise will obtain the information or evidence of drug offenses and one of the following necessary cases.
    - To investigate the seizure of a major drug offender or related person because of the circumstances of the wrongdoer as appropriate.



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- Investigating and arresting drug offenders in other ways is difficult or there is risk of injury or damage in the performance thereof.
- For extending the results of the offender's drug arrest.

4. The Camouflage Operation without Prior Permission

The camouflage operation without prior permission shall require the competent official to carry out the disguise operation in an urgent and timely manner. But he must report the urgent need to the authorities quickly; not more than three days from the date of the commencement of the operation.

In summary, the disguise, as prescribed in Thai law, with the element is the action to hide status or the purpose of the operation by disguise information. The purpose of the disguise is to disguise the facts about the duties of the official. The basis for the offense that can be investigated by disguise is drug offenses in the production, import, export, distribution, possession to distribute, conspiracy, support, or attempt to commit those offenses. It should be reasonable to believe that such operations will obtain information or evidence of drug offenses.

**F. Person Undercover**

- Have the knowledge and ability to solve problems immediately.
- Have a personal touch in the target area. Sometimes, access to certain areas requires a person who can use the local language.
- Have knowledge and experience in the subject that they will disguise.

To disguise themselves, the officers or staff members have the following methods.

- Creating a story to reach the target group harmoniously.
- To act as if he /she has gone into action or practice;
- Impersonation to enter into a criminal organization.
- Solving the problem of disguise

**G. Control and Monitoring of Disguise Operations**

The disguise operation will be under the control of senior officials in order to be properly implemented along with the law to prevent harm. The planning and implementation guidelines are as follows.

- (i) The actions taken during the specified period must be reported to gather relevant evidence. This may be investigated by other means to confirm the message from the disguise.
- (ii) The disguise must be aware of its own state. Otherwise, the disguise may be involved in the offense with criminal organizations. If an offense is committed, it must be reported to the superiors. This may result in the cancellation of such activity or action.
- (iii) In some disguise operations, there may be other organizations who investigate the same crime groups in other ways. When a member of a crime organization is arrested, there may be an investigation whether another organization is also acting within the crime organization. In this case, the disguise process must be canceled for the safety of the disguise.

**H. The Use of Spies in Entrapment**

The principle of entrapment is set forth by the United States Supreme Court in the case of *Sherman v. United States* (1958). The court maintains that luring is a deceptive act or an inducement of a person who has no idea or consent to commit the offense for the purpose of prosecuting the person.

The method of the lure may be as follows:

- The use of persons who have been in contact with the person, the network or the criminal organization to establish trust. These people may be double agents, *i.e.*, they are paid by both the criminal organization and the officers.
- The use of spies in criminal organizations to lure
- The use of officers by the advice of persons who have been in contact with the criminal organization. In practice, this is called a 'major lure'

The use of special measures may affect the freedom of the people, which is contrary to the due process of law, which may cause problems and obstacles in litigation as per the following considerations.

*(i) Spy as a witness*

Witnesses who are spies in drug cases are very important witnesses during the trial process because they not only are witness to the crime and know the details of the offense in the case, but they also know the network of the offenders. However, in the interrogation of witnesses who are spies in the investigation, investigators may allow the person not to provide personal information such as domicile or occupation for the benefit of witness protection. The investigators record only the testimony of the witness in the inquiry. When the case is brought to court, the court cannot summon the witness to the floor because the witness did not reveal his name and domicile. Therefore, there is a lack of testimony to confirm the guilt of the offender, or supporters who are not in the place of arrest. In practice, most cases with spies as witnesses in the investigation, the witness usually does not come to court. As a result, the court may listen only to the testimony during the inquiry. The defendant has no opportunity to object to the witness. When there is no confirmation by a spy in the court, the court will often consider the matter in favor of the defendant and dismiss the case.

*(ii) The information received from the disguise of the spy*

It can be said that the operation of the spies and disguise of the officials cannot gather all the evidence. Other investigative methods are needed to collect evidence. But what has been given by the spies and disguise is very beneficial to the case because the information obtained is the information that confirms the place of the offense, the offenders, the network, system, the division of duties, and the escort of the criminal organization. It helps other investigations to be done correctly straight to the target. Without such an investigation, investigative information and clues may not be systematically investigated because the offenders will try to hide and find out how the officials know the various things. In some cases, disguise officers carry out investigations in multiple locations to obtain information confirming the offense of a network or criminal organization by using the method of wiretapping and electronic equipment so that data is sent to the operating center.

*(iii) The exhibits from the arrest*

All the exhibits—drugs, money, belongings that are used in the crime—will be impounded as evidence of the defendant’s guilt. But it still cannot point out the other offenders who were not arrested at that time or at previous times.

**I. Listening to Witnesses as Spies in Narcotics Cases in the Court of Thailand**

According to the judgment of the Supreme Court of Thailand, the court will accept the luring method except that it may not create a temptation to persuade someone who does not intend to commit an offense, such as Mr. A never intended to sell heroin before but the police ask for heroin and will pay a good price. Mr. A wants to get money so he goes to find heroin. This act of Mr. A is considered as having been caused by being lured into wrongdoing. Mr. A will not be punished. The judgment of the Supreme Court agrees if the accused or the defendant is intent on committing the offense himself but the officers have no witnesses to prosecute the accused or the defendant. So the lure is needed to arrest the offenders. The evidence that is derived from the lure is acceptable evidence. When applying these guidelines to the issue of disguise, it could be separately considered in two cases. First, if the disguise officer contacted or committed a crime to obtain evidence and the offenders have committed crime regularly—*i.e.*, not committing an offense because of the persuasion of the official—this is a legal practice because the offender was not persuaded by the lure to commit the offense. The evidence obtained from such lure can be accepted as evidence. Second, in a case where the official is responsible for causing another person to commit an offense, it is considered as a lure to commit an offense (entrapment). The evidence obtained cannot be accepted as evidence to punish the offender.

**III. CHAPTER TWO: CASE STUDY**

**A. A Sting Operation to Catch the Big Heroin Dealers within the Last 10 Years in Thailand**

1. Prologue

The Department of Special Investigation (DSI) was requested by the USA Drug Enforcement Administration (DEA) to probe drug (heroin) trafficking from Thailand to the U.S. The Drug Enforcement

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Unit took charge of the case.

2. Operations

*(i) Investigation*

We knew that heroin was being trafficked from Thailand to the U.S., as informed by the Drug Enforcement Administration (DEA).

The Drug Enforcement Unit (DEU DSI) started an investigation to find where the heroin was manufactured. Generally, qualified heroin, Double UOGLOBE brand, was produced in neighboring countries, dominated by minorities. The gangs that had alliances in Thailand could smuggle drugs due to the fact that they were supported by some Thai governors, Black Moozer, with the cooperation of Lt. Preeda Trakoolpreeda, who was a Black Moozer soldier and held Thai nationality. He was the leader of the Thai alliance and had connections both within and without Thailand.

The investigation mainly focused on the group of Lt. Preeda Trakoolpreeda. It reported that a couple, Mr. Wirot and Mrs. Fang, were the heads. Both lived in Fang district, Chaingmai. So the agents were assigned to buy heroin from Mr. Wirot. Two agents, Mr. Henry (DEA) took the role of a Malaysian drug dealer and Mr. Suwat took the role of a Thai drug dealer, convinced them to make a trade and then send drugs to Malaysia and the U.S.

The two agents disguised themselves in the dealer groups for 2 years and made trades until seven drug dealers were arrested with 100 bars of heroin (amount 36 kilograms), with an estimated street value of 300 million baht or 8.3 million US dollars in Thailand and valued at 10 times that, or 83 million US dollars, in the U.S.

*(ii) Trading*

- (a) The undercover agents tried to convince Mr. Wirot and his family to trust them, and Mr. Wirot eventually talked with the agents about drug trafficking.
- (b) The undercover agents agreed to find a middle man to buy drugs by giving him 10 percent of the profits in return.
- (c) The undercover agents made an appointment with Mr. Suwat, a Thai undercover agent.
- (d) Mr. Suwat met Mr. Wirot and his wife more than 5 times to purchase heroin, and Mr. Wirot was fully aware of the transactions.
- (e) Mr. Wirot agreed to send 2 bars (amount 720 grams) of heroin of Double UOGLOBE brand.
- (f) Mr. Suwat checked the drug, estimated the value at 500,000 baht, or 14,000 US dollars.
- (g) After checking the quality, Mr. Suwat found that it was good quality, so he contacted Mr. Wirot to buy 40 more bars of heroin at a cost of 10 million baht. Before the shipment one day, Mr. Wirot and his wife asked Mr. Suwat to declare if he had enough money. The agents had prepared to take a picture to collect as evidence, but Mr. Wirot cancelled the appointment and gave an excuse that it was heavily raining.
- (h) Because of Mr. Wirot's cancellation, Mr. Suwat contacted him again and blamed him for damaging his business. He asked Mr. Wirot to recompense him with 10,000 US otherwise he would stop doing business with him. Mr. Wirot didn't have money to pay so he apologized and asked Mr. Suwat to meet with Lt. Preeda to confirm that everything had already been prepared and the shipment had not arrived on the due date due to the heavy rain. The undercover agents also investigated whether it was raining or not at that time and found that it was true. Mr. Wirot was blamed by Lt. Preeda, which is why Mr. Suwat did not wait for the shipment.
- (i) Mr. Suwat made an appointment with Lt. Preeda a few weeks later. Lt. Preeda said that he also suffered damages, explaining that he had to pay for the shipping because of no purchasers. Then Mr. Suwat gave Lt. Preeda 5,600 US dollars to help cover the damages and make Lt. Preeda trust him.

- (j) Next, Mr. Suwat met Lt. Preeda again and invited Mr. Henry who was a Malaysian undercover agent of DEA. He lied to Lt. Preeda, saying that Mr. Henry was his business partner.
- (k) Later on, there were more than five meetings to make deals. The largest amount was 100 bars (36 kilograms) of heroin.
- (l) Lt. Preeda came to check money by himself in the final meeting before doing payment and shipment and sent four drug smugglers to meet Mr. Suwat.
- (m) On the next day, Lt. Preeda and his gang including seven people were arrested with 100 bars heroin of Double UOGLOBE brand.

*(iii) Successful special investigative measures*

(a) The Special Case Investigation Act B.E. 2547 (2004)

Section 27. If it is necessary and to benefit the compliance with this Act, the Director-General or person designated thereby shall have the power to have anyone prepare a document or evidence or falsify his/her identity in an organization or a group of people for the benefit of the investigation, which however shall be according to the regulations provided by the Director General. When preparing such a document or evidence or when falsifying his/her identity in a particular organization or a group of persons for the purpose of the investigation as stated in paragraph one, this action shall be considered legitimate.

In this case, Mr. Suwat, Mr. Henry and the undercover agents were drug dealers within the scope of section 27.

Section 24. To perform his/her duty hereunder, the Special Case Inquiry Official shall have the following powers:

To enter any dwelling place or premises to search when there is a reasonable ground for suspecting that a person suspected of committing a Special Case offense is hiding there or possessing properties which is considered an offense or acquired by committing an offense, or which has been used or will be used in committing an offense of a Special Case, or which may be used as evidence, while there is also a reasonable ground to believe that by reason of the delay in obtaining a warrant of search, the person shall escape or the property may be relocated, hidden, destroyed or transformed from its original condition.

This case was conducted without a search warrant because the evidence would be destroyed if it took long time.

Section 31. Expenses used for the investigation of a Special Case as well as advancing disbursement shall be according to the regulations of the Ministry of Justice upon the approval of the Ministry of Finance.

This case used expenses according to section 31 until completed. On the contrary, the regular measures would not give the amount of money (5,600 US dollars) to help cover the expenses of the shipping and to make Lt. Preeda trust Mr. Suwat.

## **B. King Cobra Operation**

### 1. Prologue

The Department of Special Investigation (DSI) was requested by the USA Drug Enforcement Administration (DEA) to probe a gang of drug trafficking in the Golden Triangle area from countries neighboring Thailand. Drugs were being sold and delivered through Thailand to a third country. The Enforcement Unit took charge of this case.

### 2. Operations

#### *(i) Investigation*

The investigation was started to arrest the major transitional drug dealers, which are Mr. Arlong Seali, Mr. KriangKrai Seali and Mrs. Pranee Seali, Mr. KriangKrai's wife. The DEA said that Mrs. Pranee is Mr. Arlong's niece.

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The investigation aimed at Mr. Arlong, Mr. KriangKrai and Mrs. Pranee. It was reported that Mr. Arlong is a boss of the gang, and Mr. KriangKrai and Mrs. Pranee are under-bosses. Mr. Arlong was not associated with the drugs and money, but had other business such as import and export company and a stone company to cover up his offense.

The undercover operation, King Cobra, was conducted through cooperation between Thailand and the DEA, which sent two undercover agents to complete the mission for three years. The two suspects were arrested and the warrant of arrest was issued. However, Mr. Arlong was not prosecuted. Since the arrests, Mr. Arlong has stopped drug dealing and trafficking.

*(ii) Trading*

(a) Investigation and personal information of three suspects which are Mr. Arlong, Mr. KriangKrai and Mrs. Pranee.

Mr. Arlong, 65, has two wives. Both Mrs. Yupa, 60, and Mrs. Kingkan, 30, reside in Thailand and neighboring countries.

Mr. KriangKrai, 45, and Mrs. Pranee, 43, are married, having two daughters, 14 and 12, residing in Chiang Saen District, Chiang Rai Province, Thailand.

Mr. Arlong has no property registration, money or assets. Mrs. Yupa, his first wife, runs the import and export company without Mr. KriangKrai and Mrs. Pranee as partners. The company has two offices in Bangkok and Chiang Rai. Based on his passport, Mr. Arlong had traveled between neighboring countries and Hainan many times.

Mr. KriangKrai and Mrs. Pranee are convenience store owners and partners in a stone carving company in Chiang Rai. Mrs. Kingkan, Mr. Arlong's wife, is a partner in the company. Mr. KriangKrai and Mrs. Pranee have two houses, two cars, a motorcycle and 30,000 US dollars in their bank account. Mr. KriangKrai had traveled between neighboring countries and Hainan many times.

(b) Planning to approach the target

From the investigation, it was hard to get a major target like Mr. Arlong, and the import and export company of Mrs. Yupa is far away from the drug manufacturing area. The way to get to Mr. KriangKrai and Mrs. Pranee was the stone carving company.

(c) Two teams of undercover agents were sent to the company to inspect and gather information to prepare for the undercover operation. It was found that the company staff consisted of a manager, Mr. KriangKrai, and a few employees.

(d) Undercover

Mr. Tee, a Thai undercover agent

Undercover information

Age: 40

Status: Single

Domicile: Southern Thailand

Present Address: Bangkok

Occupation: A partner of a delivery express company in southern Thailand, an owner of an Internet Café in Bangkok and a football pool agent. Relatives have an import and export company in Malaysia.

Mr. Tony, a Malaysian undercover agent

Undercover information

Age: 60

Status: Married, 2 wives, Thai and Malaysian

Domicile: Penang, Malaysia

Present Address: Penang, Malaysia

Occupation: An owner of a shipping company, shipping to Europe and China

The investigation team sent both undercover agents to the stone carving company and made up a story about exporting carved stone to Penang in Malaysia. They wanted to see the goods and asked for the price lists and shipping method. They visited the company three times in three months and had dinner with Mr. KriangKrai every time. Finally, they bought a sample of carved stone.

- (e) Two months after the purchase of the sample stone, the undercover agents went back to the company again to consult with Mr. KriangKrai about the stone. They wanted him to make a hole inside the stone to make it lighter for cheaper shipment fees. He made it according to their request, but Mr. Tony was still not satisfied. He wanted the stone to weigh less by making a bigger hole and also wanted to cover up the hole. After finishing their business meetings, they would go to dinner and drink alcohol. The undercover agent sometimes left for two months in connection with him and his wife.
- (f) When Mr. KriangKrai finished the stone, the undercover agents went to pick it up and had dinner as they usually did. This time, he asked if they had any drugs to put into the stone. They both pretended to be startled. He said that he knew everything about the business they were doing. Mr. Tee said that the problem was exactly the quality of heroin, not the price. Mr. KriangKrai told him that he might find a better one at a good price for him.
- (g) Mr. KriangKrai met them several times to negotiate the drug deal at the hometown of Mr. Deang in Chaingmai and in Bangkok. They made a deal at 600,000 Baht per unit (two bars per unit) and picked up the drugs in Bangkok.
- (h) The undercover agents asked Mr. KriangKrai for a sample to test before making a large purchase so he agreed to give a bar of heroin to Mr. Tee in Bangkok.
- (i) Mr. KriangKrai taught how to avoid police tracking by buying a new telephone and a new sim card. Therefore, Mr. KriangKrai used a new telephone and a new sim card to contact Mr. Tee. After receiving the heroin, they had to trash their telephone.
- (j) Mr. KriangKrai also wanted to know about Mr. Tee's career, so he came to receive money and told him to deliver the drugs as soon as possible.
- (k) A week after Mr. KriangKrai had received the money, he called Mr. Tee to explain that there would be a call for the drug delivery.
- (l) On April 10<sup>th</sup> in the evening, Mr. Aoun called Mr. Tee and informed that he would deliver the drugs on April 11<sup>th</sup> at an abandoned amusement park in Bangkok. He did not say the time but told Mr. Tee to wait for his call. Mr. Tee informed his commander and scheduled a meeting with the investigation team. From their experience, they thought that Mr. Aoun would definitely not deliver the drugs at the amusement park but at some other place that would have a large crowd and ways to escape. They guessed it would be a department store nearby the amusement park which had many exits and had no hidden cameras. Thus, they went to the place and divided into 4 groups, 2 groups heading to the department store and others joining with people in the early morning on April 11<sup>th</sup>.
- (m) On April 11<sup>th</sup>, Mr. Aoun called Mr. Tee about the delivery at the amusement park and Mr. Tee told him that his staff would wait there. At 3 P.M., Mr. Aoun called him back and told him to move to the parking lot of the nearby department store which the investigation team had presumed. He was 30 minutes late. He came to where the undercover agent told him and then drove off. The undercover agent tracked him down and tried not to make him aware. They did not want to arrest him that day because they wanted Mr. KriangKrai to trust them and sell them a large amount of heroin.
- (n) After the drugs were tested, the heroin, Double UOGLOBE brand, it was found that the drugs were of good quality and had been produced in the Golden Triangle area. The car used for drug delivery and Mr. Somchai, the car owner, were caught in the next two months with 20 kg of Ice found in his car.
- (o) Mr. Tee told Mr. KriangKrai to make an appointment for the next purchase of 100 units. They had met many times, but they could not make a deal. He wanted money before delivery, but Mr. Tee wanted to

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exchange money for drugs.

- (p) The negotiation happened many times, but they still could not make it. Mr. KriangKrai offered Mr. Tee to move to a casino in the Golden Triangle area while transporting heroin. After he had received money, Mr. Tee was allowed to come back (This actually happens in drug trafficking. The head buyer would be a hostage). The undercover team would not agree with the offer.
- (q) The investigation team tried extremely hard to buy heroin, but they were so cautious and experienced. The investigation team decided to issue arrest warrants which included four suspects, Mr. KriangKrai, Mrs. Pranee, Mr. Aoun and Mr. Somchai.
- (r) They were arrested but there was no evidence implicating Mr. Arlong.
- (s) Since his arrest, Mr. Arlong has stopped drug trafficking.

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