



Towards a framework for integrated cross-border law enforcement initiatives

*Based on the Consultation Paper circulated to CACOLE in
July 2008 by Public Safety Canada*

Introduction:

- Transnational crime is an increasingly serious problem requiring cooperation and coordination of law enforcement activities.
- Cross-boundary investigations are hindered by police officers losing that status when they leave their own jurisdiction.
- Canada and the United States have been seeking ways to formalize law enforcement and border security practices.

Introduction:

- Canada is committed to protecting its sovereignty, the Charter rights of its citizens as well as core Canadian values and beliefs.
- New and innovative cross-border law enforcement models are being explored.

Traditional approach to border law enforcement:

- Foreign officers have no status or powers in Canada.
- Foreign officers must comply with Canada's laws on the possession and carriage of firearms and other weapons.
- Since 9/11 partnerships such as Integrated Border Enforcement Teams (IBETs) have been formed:
 - cooperate and collaborate at the border
 - each agency responsible for enforcement in its own jurisdiction.

New models of cross-border law enforcement:

- Intention is to provide models that would provide seamless operations at and across the border.
- Necessary to respond to the evolving nature of transnational crime groups.
- Features:
 - specially designated officers
 - authorized to enforce the law in both countries
 - operational control in hands of host country
 - subject to laws and policies of host country

Pilot projects:

- Two pilot projects named "Shiprider".
 - September, 2005, a two week project, Great Lakes and St Lawrence Seaway;
 - August and September, 2007, St. Lawrence Seaway and BC lower Mainland
- Purpose: to assess the viability of a permanent joint law enforcement program.
- US Coast Guard officers granted peace officer status in Canada.

Pilot Projects:

- RCMP officers given equivalent status under US law.
- Operational lead and command authority depended on the jurisdiction in which they were operating.
- Judged a success.

Related Initiatives:

- 2006 - Integrated Marine Security Operation for Detroit Super Bowl.
- Canadian interprovincial cross-boundary investigations.
- Model *Cross-Border Policing Act* developed; four provinces have enacted legislation based on this model.

Moving forward:

- Canadian Government considering a policy and legal framework for future cross-border law enforcement activities.
- Objectives:
 - to safeguard Canadian security, sovereignty and values;
 - to ensure compliance with Canadian law;
 - to ensure that the rights of Canadians affected are respected.

Moving forward:

- Values and principles guiding policy and law:
 - respect for Canadian sovereignty;
 - respect for the rule of law;
 - respect for Charter rights and freedoms;
 - reciprocity of powers and protections;
 - joint threat and risk assessments.

Moving forward:

- Criteria for granting status to US officers:
 - granted to individual officers, not classes of officers;
 - clear definition of status and authorities conferred;
 - US officers subject to Canadian laws respecting conduct;
 - In Canada, US officers will work under the direction and control of an accompanying Canadian officer;
 - US officers to be trained in Canadian laws.
- Review and control procedures must be in place.

Conferring Canadian enforcement authority:

- Existing legislation is not designed to confer law enforcement authority to foreign officers.
- Preferable to enact a specific legislative regime.

Legislative options:

- (1) Existing legislation could be amended (e.g., *Criminal Code*), or
 - (2) New stand-alone legislation addressing all issues.
- Would set out:
 - process for conferring peace officer status;
 - range of powers granted, where to be exercised, and for how long.

Questions (Quoting from consultation paper)

- This paper provides an outline of the proposed criteria to develop a framework for effective cross-border law enforcement operations. Needless to say, many details will still need to be resolved before an agreement acceptable to both countries is finalized.
- The following questions may be helpful for you to consider in preparing your response:
- What benefits and concerns, if any, might result from the deployment of integrated Canada-U.S. cross-border law enforcement operations?

Questions

- What benefits and concerns might result from granting U.S. law enforcement officers “peace officer” status as part of integrated cross-border law enforcement operations?
- Are there other national interests, values or principles that should also be taken into consideration?
- What preconditions should U.S. law enforcement officers have to meet (such as training requirements) prior to being granted “peace officer” status?

- **Where U.S. law enforcement officers are involved in joint cross-border operations in Canada:**
- **What level of Canadian oversight would be appropriate?**
- **What might be an appropriate oversight mechanism?**
- **Should issues of discipline of U.S. officers be a matter for U.S. authorities to deal with?**

- Should U.S. law enforcement officers be allowed to engage in cross-border law enforcement operations in Canadian jurisdiction only under the direction and control of a Canadian law enforcement officer?
- Should such joint operations be limited to the federal law enforcement agencies of both countries or should provincial/state and/or municipal police forces also be able to participate in integrated cross-border law enforcement operations?

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