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A Collaborative Approach to Fighting Serious Organised Crime in Australia

Introduction

The degree of complexity and sophistication shown by the upper echelons of serious organised crime is increasing; it's axiomatic that the sophistication of our responses must accelerate to narrow existing and emergent intelligence gaps and to improve the probability of our interventions succeeding.

'Thinking global - acting local' is as important to criminal intelligence as to business and this added complexity brings the notion of collaboration to the forefront of our thinking.

We know the organised crime environment is constantly shifting and adapting and therefore often uncertain, but there is conventional wisdom on which we can still ground our efforts:

- The lifeblood of serious and organised crime is money. *The implication- identify and attack those criminals who are generating the most illicit wealth.*

- Illicit markets generate huge profits, in particular the illicit drugs market, and literally billions of dollars a year leaves the Australian economy. *The implication - we need to better understand this phenomenon, the harm it creates and how to reduce it.*

- Criminal wealth necessarily re-appears in the legitimate economy and moving wealth creates vulnerabilities for criminals. *The implication – systematically identify and attack the base of serious organised crime through its finances.*

I suggest that criminal intelligence has a critical role to play in improving and measuring our success in dealing with serious organised crime and therefore as a means of reducing harm to our economy, business and the community.

Background Information

So what is it our intelligence is telling us about serious and organised crime?

Organised crime is estimated conservatively to cost Australia at least $15 billion annually. ACC investigations indicate that a significant proportion of this is being sent offshore each year and that illicit drug trafficking represents the primary source of these funds.

Not surprisingly the profit margins at the higher levels of serious organised crime are vast, those involved in the wholesale supply of illegal drugs can easily generate $200 from each $1 invested.

Much profit is therefore derived from the sale of illicit drugs in Australia where both demand and prices are relatively high. Australia is currently a relatively large consumer rather than a producer in terms of the global drug supply chain.

Evolution in serious organised crime's capability and intent is of course shaped by social, economic and technological factors, both global and regional - the same high-level drivers that influence commerce and our community.

Organised criminal entities are entrepreneurial, diverse and resistant to law enforcement intervention. As with business, hierarchical structures and ethno-centricity is giving way to networked forms of organisation and diversity; criminal enterprises may be comprised of established syndicates or networks of independent criminals and are frequently formed on an *ad hoc* basis to meet a specific demand or to exploit a specific crime market. Even the face of some of the more traditionally structured groups such as outlaw motorcycle groups is following these trends.

Most high level criminal groups also have the capacity to expand their operations quickly in order to exploit vulnerabilities or maintain comparative advantage over their rivals. Sometimes this becomes manifest in acts of violence. Organised criminal networks and groups are therefore formidable adversaries in terms of their ubiquitousness, capabilities, adaptability and resilience.

The intermingling of legitimate and criminal enterprise structures is also a common attribute and legitimate business sometimes unwittingly provides facilities and financial instruments that are used for money laundering or fraud.

Business ventures that are backed by serious organised crime can displace legitimate business by creating unfair competition. With access to expert professional advice and sometimes corrupt relationships, organised criminals are able to exploit

vulnerabilities and therefore constitute a real threat to the safety of the community, to legitimate business and the economy.

The pervasiveness of serious and organised crime group involvement across a range of key sectors in Australia is likely to increase and therefore collaboration is a vital tool in forecasting and preventing the effects of this.

If unchecked, serious organised crime can undermine confidence in key government and private sector institutions.

<u>Intelligence Gaps</u>

Some leading academics have for some time been pointing to a potential lack of rigour in the approach adapted to tackling serious and organised crime. Some of these suggest that risk-based economic models are an avenue by which we can reduce uncertainty and make better informed intervention decisions. In combination with economic modelling, statistical science offers us with some exciting possibilities to help us make sense of the volumes of data that are available to us and have as yet unrealised intelligence value.

Intelligence gaps are of course a constant. Some that we face today relate to the ways criminals exploit trans-national and domestic trade, move wealth, leverage our financial systems and expertise, use communication and transportation systems and of course technology. By addressing these gaps holistically we can aim to improve the way we:

- target the highest threat criminals, with the right interventions at the right time;
- identify criminal methodologies and systemic vulnerabilities;
- find those criminals who are flying under the radar, and;

- enable us to better understand the real impact of serious and organised crime in our society.

From a targeting perspective it's very important to know the actual criminals who pose the greatest threat, as well as the networks and groups they associate with, at any given point in time. It's also important to be able to understand which interventions are likely to make the greatest impact at that point in time.

This requires as near to real-time feeds of information and data as is possible and from a whole host of sources, along with effective analytical processes, joined up responses and a means of evaluating the impact of those responses over time.

It's also important to understand the actual harms that are caused by serious and organised crime to our economy, business and community, and the areas of vulnerability.

So for example, apart from the obvious utility of knowing the size of the criminal economy with greater precision, the actual cost of organised crime also represents a gap in our knowledge; what is the size of loss of legitimate business revenue, loss of taxation revenue, expenditure on combined law enforcement responses at the organised crime level and of regulatory efforts? We could also ask ourselves about the costs of managing 'social harms' when criminal activity compromises the health, safety and wellbeing of individuals and communities.

Such knowledge and understanding can only be brought about in a collaborative way. Through truly collaborative approaches and relationships built on mutual respect and trust, the range of information to draw on, effectiveness of our analysis and the interventions available are multiplied several times over, adding significantly to the finite suite traditional law enforcement responses.

Reducing uncertainty, by making more sense of all this chaos to improve the probability of successful intervention; is indeed the role of criminal intelligence.

Collaborative Intelligence

Collaboration between law enforcement agencies is not new and is akin to oil in an engine; one that drives the response to serious and organised crime nationally and internationally. For the ACC and others, increasingly, collaboration includes non-justice related agencies and the private sector. This is due to an increasing maturity in our understanding of the harms and impacts that are created by serious organised crime and the vulnerabilities it exploits.

Collaboration is a continual process of engagement between organisations who work together at the intersection of common goals. For example, a recent intelligence probe conducted by the ACC examined links between organised crime and the private security industry.

In 2006 the ACC led a multi-jurisdiction task force (Gordian) that disabled a criminal enterprise that sent over $93 million to South East Asia in just a few months, all of which was the wholesale profit from drug importations.

Case Study: Task Force Gordian

The ACC Board established the Gordian Task Force in 2006, which adopted a traditional fact-based approach to collect and build evidence for money laundering prosecutions; working downstream from intelligence about some known entities.

The task force took several weeks to plan and required detailed up-front intelligence briefings and negotiation with partner agencies to gain their buy-in for inclusion in the response plan. The partners included the AUSTRAC, Australian Federal Police,

Australian Customs and Border Protection Service, Australian Taxation Office, NSW Police and Victoria Police.

Operational work across numerous States and with the Australian Federal Police focused regionally on the criminal groups who were involved in generating illicit funds through drug trafficking, whilst the ACC aggregated the available evidence about money laundering, acted as the national coordinator and focussed with its other Commonwealth partners on the strategic intelligence picture as well as on the movement of money.

The Task Force exposed vast sums of money being transferred within Australia and overseas. This work laid the foundation for a new way of thinking in terms of attacking such groups; combining strategic data analysis with operational intelligence in a collaborative framework.

Importantly, the cooperative arrangements between the ACC and its national and international law enforcement partners had a multiplier effect in terms of capabilities available to better combat serious organised crime.

Task Force Gordian accounts for almost half of all Commonwealth money laundering prosecutions conducted by the Commonwealth Director of Public Prosecutions (63 in total). Of note, seven principal targets were charged with Commonwealth money laundering charges relating to $93 million.

For the ACC it is important to provide an uncontested and secure space in which partner agencies can collaborate and share information in this way.

An enduring example of this kind of approach is the Financial Intelligence Assessment Team that sits in the ACC's Canberra office and sees analysts from the Australian Crime Commission, Australian Federal Police, Australian Customs and Border Protect Service, Austrac, Australian Taxation Office, Centrelink and Department of Immigration and Citizenship work together – a fusion of information, ideas and skills within a secure and well governed framework. The results from the

FIAT are outstanding and have led to the identification not only of significant organised crime hidden wealth, but also of tens of millions of dollars leaking from the taxation and welfare systems.

For the ACC in its intelligence role it is essential that we understand and are responsive to the needs and wants of our partners to build trust, confidence and consensus; to gain the buy-in for such combined responses and also to ensure our future supplies of information and data.

In the context of a federal model such as ours, getting buy-in for multi-agency responses means finding pareto-optimal solutions (remember – think global act local) and this necessarily impacts the intelligence process at each decision point in the ACC's intelligence product lifecycle and places stakeholder engagement front and centre stage.

The multi faceted face of serious organised crime demands a multi faceted response and therefore collaboration must be a central tenet of any sustainable intelligence strategy for dealing with it.

ACC Sentinel Strategy - Outline

The ACC is developing important new capabilities to detect and monitor criminal money flows and business structures, to capitalise on AUSTRAC and other data, and to transform that effort into more holistic outcomes that deprive criminals of their wealth and dismantle their business structures. This is based on far more accurate and real time intelligence about threat, risk, harm, vulnerability and opportunity.

For the last year the ACC has been developing the Sentinel (Intelligence) Strategy, a new operating model to support that strategy and key capabilities such as our High Risk Funds methodology. Our strategy has been benchmarked here and overseas and validated by independent review.

We have also used over seventy of our highly skilled in-house specialists in an in-house collaboration across the business, with numerous sub-project teams developing key strands of the strategy and underlying processes such as threat risk assessment models, economic analysis and data mining.

Sentinel – Sifting Data

It is not possible to talk usefully about identifying criminal wealth and business structures without mentioning the masses of legitimate data that is collected about day to day business activities relating to the legitimate movement of goods and wealth.

The use of sophisticated data mining and other statistical methods, to tease out the criminal outliers from the clusters of business-as-usual, offers exciting prospects for criminal intelligence. The ACC's Financial Crime Program (under the previous structure) has continued the work that was started by them as part of the Gordian

Task force. They developed their ideas into a conceptual model that we call the High Risk Funds Methodology. This is an important component of Sentinel.

In short, aggregated data sets such as financial transactions can be combined with other contextual data and information to produce significant opportunities for target development and also prevention activities.

Finding economic activity that is of interest, amongst the ocean of wealth that flows, does not occur in a microcosm. It is very important to factor in which criminals are generating the most wealth and what methodologies (or business structures) they are using to hide or shift that wealth. This is where the more traditional ground up intelligence comes in and why a multi-disciplinary approach to intelligence collection, analysis and development is required.

Sentinel - Operational Inputs

We take the view that to produce contemporary and accurate intelligence about serious and organised crime threats we must understand and respond to our partners needs at the organised crime interface. Often this means working with them in the field of operations. Intelligence without field operational/investigative work becomes a desk-top exercise that lacks context, credibility and utility. As well as building crucial relationships and credibility, it is important to be present in the field of operations to support our partners and also in order that we can work smartly in the investigative/forensic space and optimise the rich veins of intelligence that can flow from an investigation.

Sentinel - Analysis

The challenge for the ACC is to superimpose the top down view of the criminal economy we are creating, with the view of which criminals pose the greatest threat and the business structures that they use.

In this way we expect to gain a much better handle on the ebbs and flows in the size and impact of illicit markets, make smarter decisions about which individuals and groups to attack, identify the best angle of attack and the tools that will work the best (not always prosecution based). Measuring performance in this domain is clearly a challenge but not one to be shirked.

By creating effective analytical capabilities, supported by the right technology, skills-base and processes, we will focus our finite operational capabilities and collection tools against the genuinely highest threats whilst simultaneously projecting a more three dimensional view of the criminal environment in our products, in a more real-time sense.

Sentinel - ACC Operating Model 2009

The ACC was established in January 2003 and in the very simplest of terms, it is a criminal intelligence agency with investigative functions and capabilities.

The ACC is not structured along traditional bifurcated lines of criminal intelligence and investigations. In complementing the Sentinel Strategy the agencies structure is shifting to create a critical mass of effort around aligned business priorities and core competencies. So we have a focus on collection and analytics, target development,

intervention, intelligence production and stakeholder relationships. Crucially, stakeholder engagement sits at the heart of our model.

Sentinel – Benefits

There are far more criminals and criminal groups than we actually know about and the terrain is always changing. Moreover, the skills, time and resources needed to fully understand and disentangle criminal economic movements and business structures is not insignificant. Through the Sentinel Strategy we seek to address these challenges and the benefits we expect to realise include:

- Projecting a nearer real-time, risk based, view of the criminal environment which combines economic, business and network factors. (*This approach reflects our commitment to shifting the attack against organised crime, through combining top down methodologies for strategic data collection and analysis with ground up operational strategies*).
- Developing investigative leads that are linked to prioritised high risk criminals and have a high probability of success .
- Producing a broader range of response options for consideration by the ACC Board, and others. (*Including extensive consultation with stakeholders both up and downstream of the collection and analytics process*).
- Development of a broader range of response options that include both prevention and intervention dimensions.
- Improving the opportunity to recover the proceeds of crime and protect government revenue.
- Producing more insightful strategic assessment to support evidence-based policy development, law enforcement priority setting and greater levels of private sector engagement.

So it is our aim to work more smartly, with a broader range of stakeholders across the spectrum of law enforcement, government and the private sector; drawing on that collective wisdom and making sure we fully understand the serious organised crime environment as seen through many lenses.

In doing so, it's important that we help reduce uncertainty for those who make policy decisions as well as those who make decisions in an operational context, by making sense out of what often appears to be a chaotic clutter of fluidly linked entities, groups, illegal commodities, money, violence and infiltration of legitimate markets and systems.

The role of Governance

Good governance is an important feature of effective collaboration and can help create trust and confidence between different organisations and people, which is essential for information sharing and task force responses. Project Wickenby is a live example of such collaboration in action.

Case Study: Wickenby.

Operation Wickenby was initiated as result of a referral by the ATO to the ACC in 2004. The ACC then applied its specialist capabilities to collect and analyse intelligence, with AUSTRAC contributing, and unearthed many highly complex, labyrinthine financial structures that were in place for Australians, some of which appeared fraudulent, that spanned across the globe. The proper sharing of information under the Tax Administration Act and ACC Act was important.

Having collected the intelligence a process of analysis, screening and evaluation was undertaken between the ATO, ACC and involving the CDPP. This identified and compartmentalised cases and determined a consensus view about the likelihood of outcomes; criminal prosecutions, civil action or no action and cases were prioritised along those lines.

An operational response plan was then put into action, with the ACC taking the lead for the criminal matters and ATO taking forward its civil matters. In mid 2005 a large number of simultaneous search warrants were executed in Australia and several other countries, along with ATO Access Without Notice actions in Australia for its civil cases. The was a highly coordinated activity, however -

Specific governance arrangements were in place to keep very separate the criminal matters from the civil, but so as to enable the ATO to retain a stake in the ACC's criminal investigations.

The scale and scope of the schemes unearthed and revenue at risk was of such concern that the government funded a broader response - in 2006 other agencies such as the AFP and ASIC then joined forces with what became known as Project Wickenby.

The ACC's criminal matters alone have required slightly separate but highly coordinated governance arrangements to ensure a separation between its criminal and the ATO's civil caseload, proper management of information and intelligence under ACC Act and the ATO's legislation, coordination of prosecutions and 43 Mutual Assistance Requests to 14 countries requiring coordination with the CDPP and AGD. The litigation faced, whereby defending civil legal action is now part and parcel of the criminal investigative process, has also meant the AGS has been a key partner.

Whilst to date the ACC-led Wickenby investigations have raised $157 million in tax liabilities (collected over $70 million) and prosecutions are ongoing, my key message for today is that through developing an increasingly collaborative approach, under an agile and effective governance framework, together the Wickenby agencies have multiplied the Commonwealth's overall financial intelligence and investigative capability; offering significant prospects for future collaboration. This is important because the methods used to launder money by organised crime and those by tax cheats are often undistinguishable.

The ACC is Commonwealth agency, but unlike many others has its own Board and an Inter Governmental Committee as well as a responsible Minister and Parliamentary Joint Committee. The significance of this rather unique governance model, from a collaboration perspective, should not be under-estimated. The Board, for example, is comprised of all the Territory and State Police Commissioners plus the heads of various Commonwealth agencies such as the Australian Federal Police Commissioner (The Chair), Attorney General's Department, Australian Security Intelligence Organisation, Australian Securities and Investments Commission, Australian Taxation Office and Australian Customs and Border Protection Service.

So in setting the ACC's strategic direction the Board is able to fuse together State, Territory and Commonwealth interests and this framework also provides a significant platform from which the ACC can gain support and collaboration.

<u>Summing Up</u>

The business structures and financial arrangements of organised crime groups are becoming increasingly complex. The national and international scale of organised crime wealth demands a coordinated whole of government and private sector information sharing and targeting effort. Fundamentally this is about increasing our understanding of the nature of the risk and reducing the level of harm caused by organised crime.

An essential component in dealing with serious organised crime lies in creating and managing effective partnerships; allowing intelligence collection and information sharing to flourish including between law enforcement and the private sector.

There are challenges in this approach that relate to legislation, such as privacy, differences in culture and systems compatibility. But these are not reasons to stand still. Examples like Project Wickenby, the FIAT and Gordian Task Force have shown us the way.

It is also important to recognise that law enforcement agencies are actively and effectively responding to organised crime threats through collaborative action, including those authorised by the ACC Board.

'Thinking global - acting local' is important and has brought the notion of collaboration to the forefront of our thinking. Collaborative efforts to reduce the impact of serious organised crime need to account for global drivers and developments whilst accounting for local differences and priorities. This need and the other complexities that serious organised crime creates for criminal intelligence practitioners requires combining a top down and ground up view of the

environment that informs collection, analysis, development and intervention priorities.

By working closely across agencies and sectors it is possible to coordinate effort in terms of the entire intelligence lifecycle and the responses that emerge there from; maximising the impact of activities and bringing tangible benefits.

At the highest level this is about navigating uncertainty, or put another way increasing our probability of success. Reducing uncertainty, by making more sense of all this chaos to improve the probability of successful intervention; this is indeed the role of criminal intelligence.