

Serious Organised Crime under New Labour

Ben Bowling and Cian Murphy assess the progress of SOCA in the context of this government's extensive reorganisation of criminal justice.

Though only part of the mainstream British political discourse since the early 1990s, serious organised crime has frequently dominated public attention, mythologised by the entertainment industry and sensationalised by the mass media. The concept of serious organised crime is a vague one – with definitions generally attempting to cast the net wide enough to catch those it's aimed at, without also including those whose activities are not seen as a significant threat to society (Levi 2002:882). Unlike some other contested phrases (e.g. terrorism), there has been some international consensus – in for example, the *UN Convention Against Transnational Organized Crime*. In the UK, the accepted definition was formulated by the (now dissolved) National Crime Intelligence Service: “those involved, normally working with others, in continuing serious criminal activities for substantial profit, whether based in the UK or elsewhere” (Home Office 2004).

While useful in that it highlights the often transnational nature of such activity, the definition begs the question, *what is serious organised criminal activity?* One might be tempted to take Justice Stewart's approach, and claim that we “know it when we see it”, but this is analytically unsatisfactory. While issues of definition will not be pursued here, it is important to view any discussion in light of the broad and contested nature of the subject. Serious organised crime is commonly understood as including drug trafficking, people trafficking, extortion, kidnapping, illegal waste dumping, smuggling, credit card fraud, media piracy and smuggling (Levi 2002: 880).

The money associated with this crime is staggering. It is estimated that 2% of the UK's GDP, or approximately £18bn, consists of ‘dirty assets’. Globally, the socio-economic costs are estimated to be in the region of £20-£40bn per year (Home Office 2004). The Home Office estimates that in the UK alone, the social costs from Class-A drug use is in excess of £30m per year. Unsurprisingly, these figures have prompted a strong response from the government. The Blair government's determination to be ‘tough on crime’ has given birth to an unprecedented volume of legislation. On average, in the 60 years prior to 1985, parliament produced one criminal justice act per decade. Between 1985-1995, the rate was one every 18 months. Under Blair, it's been in excess of two a year. The foremost development in the past decade (and perhaps in the

history of British policing) has been the establishment of the Serious Organised Crime Agency.

SOCA: Serious Organised Crime Agency

The Serious Organised Crime and Police Act 2005 received Royal Assent in April 2005, and the Agency was launched almost a year later, on 3 April 2006. SOCA's innovations include facilitating informants for Queen's evidence, financial reporting orders and disclosure notices, as well as enabling officers with the combined powers of intelligence gathering, police, and customs officials. The establishment of SOCA was described as “a paradigm shift” in British policing, prompting commentators to wonder if we should “be afraid” (Harfield 2006; Corker 2006, Bowling and Ross 2006).

Effectiveness

A recent Channel 4 News special report exposed SOCA as an agency paralysed by excessive bureaucracy, under-experienced staff and ‘top-centered’ management. The report went on to highlight poor morale and low job satisfaction, as well as a number of staff leaving after less than a year in their posts. This image of inexperienced, demoralised staff is contrary to what was expected prior to SOCA's launch. One former National Crime Squad detective noted that SOCA “needs to be elite”. If SOCA is indeed failing to retain highly qualified, expert staff, then this is likely to hinder effective operational effectiveness. Perhaps these problems can be put down to the teething problems of a new agency.

One area in which the agency has been somewhat successful is the Child Exploitation and Online Protection Centre (CEOP). Established as part of SOCA, it enjoyed its first successful prosecution in June 2006. However, CEOP is largely autonomous within SOCA and other operative matters appear less successful. The case of drug crime prevention is illustrative. According to the SOCA officer interviewed by Channel 4 News, of “around 300 cases” referred from HMRC (HM Revenue & Customs) to SOCA since the latter's inception, only “a handful ... in the region of about 10 cases” have been taken up by SOCA. Whether this has led to a gap in crime prevention, or whether it is simply a new strategy being pursued to solve an old problem remains to be seen. Nevertheless the question arises as to how SOCA's effectiveness is monitored.

Accountability

SOCA's accountability came to the fore in the debate around its establishing Act, with fears of Home Office control. Certainly, the most direct means of accountability is to the Secretary of State (Bowling and Ross 2006). HMIC must inspect the agency "from time to time", or at the request of the Home Secretary. Individual complaints can be investigated by the Independent Police Complaints Commission (IPCC), though that agency has yet to show itself capable of standing up to powerful police chiefs. While initial worries were of centralised control of a national police, a year into the operation of SOCA the concern is more about the lack of *any* accountability. The government's present position is that SOCA's annual reports are sufficient oversight, and the agency's first such report is eagerly anticipated.

SOCA's unaccountable and secretive nature is evidenced by the lack of publicly available information about its work. Exempt from freedom of information requirements, its executive refuses press interviews and exerts strong control over media interaction. Its website lists only three 'updates' since its launch in April 2006, one of which pertains to the launch itself. By this superficial measure, it's more clandestine than MI5. While SOCA claims to "celebrates successes internally", it would seem prudent – if only out of self-interest – for such a young agency to demonstrate its usefulness to the public.

The agency's budget – £416m in resource funding and £41m in capital provision (SOCA 2006) – represents an investment of a half-billion pounds in crime prevention that at present has produced no visible results. Thus, worries about infringements of civil liberties have been replaced by more basic issues of public accountability and value for money. These questions require urgent attention if SOCA's gleaming green *Thundercats* icon is not to turn into a pink panther.

More legislation, less crime prevention?

Despite the problems with SOCA, the government's legislative loquaciousness continues unabated. The *Serious Crime Bill* presently before the House of Lords purports to combat "encouraging or assisting crime" and increase powers to seize the proceeds of crime. It also introduces 'Super-ASBOs' (Serious Crime Prevention Orders) to "make criminals' lives miserable". This has been described as the approach of "we think they're criminals but can't prove it" (Liberty 2006).

It is rare that a government is criticised for being prolific, but when the produce is criminal law, concerns do arise. Aside from the difficulties experienced by a system that is constantly metamorphosing, uncertain and constantly changing law is contrary to the principle of legal certainty underpinning the rule of law. The volume of government legislation, and its remarkable breadth, makes effective scrutiny difficult, further eroding what little rights protection parliament

can offer. Continuing reliance on preventative orders (ASBOs for youths, Control Orders for suspected 'terrorists', and SCPOs for 'serious criminals') is potentially a serious erosion of the principle that one is *innocent until proven guilty*.

The combination of these trends – increasing criminalization of individuals, and ineffective policing of actual crime (e.g. by SOCA regarding drugs trafficking) – is more likely to lead to under rather than over-protection. In the absence of proper public accountability, scrutiny – whether this is through research, parliamentary committee or through openness to public debate – becomes even more important. The mooted restructuring of the Home Office may contribute to ensuring that law enforcement is 'fit for purpose'. The repositioning of SOCA within a 'security ministry' may focus attention on the centralisation of powers in the last decade. However, reeling in the wake of 'legislative overdrive' that is shaking up all corners of the criminal justice system (as well as filling the jails to bursting), it is difficult to see the Home Office's problems abating in the immediate future. We may be under as much threat from seriously disorganised government as we are from serious organised crime.

The Bill currently before parliament should itself provide a chastening lesson to the government. *Section 66* abolishes the Assets Recovery Agency (ARA), a body established in 2002 to recover criminal assets. The ARA cost £60m to set up (under the *Proceeds of Crime Act 2002*), and recovered but a fraction of that figure in seized assets. As Blair's government transfers the ARA's powers to SOCA, it might well ponder the dangers of white elephants...and pink panthers.

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