Irish Security Series Snapshots

Serious Organised Crime (SOC) in the UK & Ireland

Exploring the relationships & dynamics between OC across these islands (P2) –

By SAR Consultancy

The purpose of this brief is to provide a snapshot of the exchange of information and opinion between panellists at our recent Irish Security Series event, which was co-hosted by ourselves, SAR Consultancy, and the British Embassy in Dublin, on the topic of Serious and Organised Crime in the UK and Ireland. The second of two virtual events on this subject took place on the 24th of March 2021 and explored the relationships and dynamics between Organised Crime across the islands of Ireland and Great Britain from the perspective of what is working well, what can be improved in respect of tackling SOC on the islands of Ireland and Great Britain. This Snapshot gives an overview of the panellist's inputs in response to these areas. It starts by recapping on a number of key challenges and highlights a few means to address them. It then presents how a crime reduction approach can help move away from measuring success based on seizures, arrests and convictions, to one that considers the impact of our activities. The document then discusses two areas where responses are working well, one operational response in the area of assets seizure, exemplified by the Criminal Assets Bureau and the second, a legislative provision, the European Arrest Warrant. The document then presents some food for thought by presenting an alternative way of looking at SOC, as a problem to be solved.

Overcoming the challenges to policing Serious Organised Crime

As noted in more detail in our last SNAPSHOT (Link to Document) SOC presents a number of challenges for law enforcement. For example, criminals' operations often evolve at a far greater speed than law enforcement responses, taking maximum advantage of fresh opportunities very quickly. This has been noticeable in how some SOC groups have used opportunities created by the pandemic to adapt their activities. One thing this has highlighted is that SO criminals do not shy away from targeting vulnerable populations. In fact, crime does not exclusively, but it does quite frequently rely on the exploitation of the vulnerable. Moreover, the digitalisation of criminality means police are now not only dealing with a criminal, but are also often dealing with their avatar, which brings with it fresh challenges. Other challenges include, developing trust between cooperating partners, understanding language and culture in regard to cross-border criminality, keeping pace with the changing dynamic landscape of SOC, monitoring potential external influences, shifting focus from actions to impacts; and away from siloed approaches, to highlight a few. Some means of overcoming these challenges include:

• Identify potential vulnerable populations and consider means of engaging with them.

• Build trust through mutually beneficial relationships and shared organisational priorities.

• Maintain vigilance as to the changing dynamics of SOC by monitoring and updating knowledge to stay with, and preferably ahead of that curve.

• Be cognisant of the need to monitor external issues that often may impact SOC.

• Try to link the knowledge base pertaining to different crime types, as this can result in increased insights.

• Promote information sharing and the exchange of best practice.

Five key snippets from the discussion

1.   Very little is known about what really works in response to SOC.

2.   The dynamic landscape of SOC is ever changing and responses need to keep pace.

3.   This requires a different way of looking at SOC – and seeing it as a problem to be solved (similar to how an engineer views a problem) might hold the key to reducing it.

4.   Implementing a problem-solving approach not only requires proper implementation but also requires an acceptance of risk.

5.   Five key techniques known to reduce criminality – increase the effort, increase the risk, reduce the rewards, reduce provocations, and remove excuses.

Having an impact – through the application of a crime reduction model

Success in the fight against SOC is often explained by outputs such as the number of arrests, prosecutions, seizures, etc. Police Officers are busy, cases are constantly before the courts, but SOC continues. The way that the law enforcement agencies are often measured in regard to success can result in a high focus on these outputs, which although important, don't often accurately measure impacts. Considering the impact of specific actions may be more effective in devising responses to SOC. A good question to ask is what was the impact on activities, rather than what were the outputs? A tangible way of doing this is through the application of a crime reduction model. The benefits of such an approach are that it can work at all levels, national, regional and international. Four key activities make up the model: identification and targeting of high value criminals, hotspot identification, linking investigations, and identifying preventative measures.

1. Identification and targeting of high value criminals, which can be conducted through organised crime group mapping.

2. Hot Spotting – identifying key areas of activities, not only in respect to the activities where crimes occur, but also routes, resources, etc.

3. Link Investigations where intelligence or evidence indicates connections. This helps build up a profile of certain aspects of criminality.

Something often missing in relation to conducting these three stages effectively is the lack of a strategic intelligence requirement. Information should not be solely viewed in the context of building a case, but rather as a means to build up a picture of the threat. Once the process begins, it should lead to further questions that generate additional intelligence requirements, thus becoming an ongoing living process.

4. Preventive Measures - can and should include a whole host of options, viewed over the short, medium, and long term. They should not be viewed from one single perspective i.e., solely through a criminal justice lens, but more through a multi-disciplinary, multi-agency one. This requires a high degree of cooperation, which involves trust, relationship building and collaboration. Approaches of this nature brings challenges relating to balancing differing priorities, availability of resources, differences in understanding of what the problem is and the need to coordinate activity.

From what is known about crime reduction and what works, four areas stand out: impacts and harms, tackling criminal markets, tackling conducive environments and crime sensitivity. The literature suggests:

- Raising awareness and behavioural change works well to reduce impacts and harms associated with crime, but it is a long-term process. Community engagement has also been found to work well. Additionally, robust evidence suggests that improving services alongside other interventions is effective in reducing engagement in crime. Similarly, there is robust evidence to suggest that violence prevention interventions can reduce violence and involvement in gangs, particularly via things such as cognitive behavioural therapy, multi-dimensional therapy, drugs courts, drug treatments, focused deterrence, etc. The area of drug demand reduction is also an area where the evidence shows promise, but more data is needed.

- Tackling criminal markets and strengthening law enforcement, alongside improved criminal justice measures have a multiplier effect with different activities reinforcing each other.

- Creating conducive environments to avoid crime through activities such as alternative pathways is effective. There is some robust evidence that suggests that supplementing lower incomes can reduce economically motivated crime. Some of these areas are outside the remit of law enforcement agencies or the CJS, hence more multi-agency approaches are required.

- Having crime sensitivity awareness is beneficial. This requires us to consider the consequences of the actions we take (policies and practices) in respect of crime, examining whether they inadvertently support or promote organised crime. There is a potential for policies to have a counterproductive impact on crime, hence the need for such an approach.

Criminal Assets Bureau – an example of what works well

The Criminal Assets Bureau (CAB) is a separate legal entity from An Garda Síochána. It was founded in 1996, established in the wake of the murder of Garda Gerry McCabe and Veronica Guerin (journalist), and the actions of prominent Irish criminals, such as Martin Cahill, at the time. The establishment of CAB marked a new and innovative approach to policing in Ireland. Unlike traditional criminal investigations which target individuals, CAB was introduced to focus on assets; assets acquired from crimes may come in the form of cash, cryptocurrency, money in accounts, high value watches, jewellery, designer bags, cars, mobile homes, horseboxes, houses, land, overseas properties, and high value Department store cards. CAB's core function being to deny and deprive criminals of assets that they've acquired through their criminality. Its objectives are:

A. *the identification of the* <u>assets</u>*, wherever situated of persons which derive or are suspected to derive, directly or indirectly, from* <u>criminal conduct</u>*,*

B. *the taking of appropriate action under the law to* <u>deprive</u> *or to* <u>deny</u> *those persons of the assets or the benefit of such assets, in whole or in part, as may be appropriate, and*

C. *the pursuit of any investigation or the doing of any other preparatory work in relation to any proceedings arising from the objectives mentioned in paragraphs (a) and (b).*

The innovation does not stop at its function, CAB is structured differently than traditional policing bodies, in that it draws personnel from four departments or organisations; An Garda Síochána, the Department of Justice and Equality, the Revenue Commissioners (which consists of both Customs and Taxes), and the Department of Social Protection. This structure allows for a multi-disciplinary response, one that maximises the different but complimentary skills, capacities, and powers, of the respective organisations and departments that make up CAB. This multi-disciplinary approach also works and is successful because it overcomes many of the challenges highlighted above, for example, siloed thinking. This approach removes the islands of intelligence and information that the state has available but are often contained within specific departments or units.

This combination of skills and competencies is further enhanced by the co-location of members of CAB, working together with each other in the same offices, in the same teams, on the same cases; co-location has also been a key component of CAB's success. It has allowed for trust and respect to develop within the teams, who have shared aims, goals and can enjoy shared successes. Co-location is a valuable approach which has been successful not just for CAB but in other areas of criminal investigations. An example in the UK, is the Cyber Defence Alliance, where law enforcement and the banks work together. At an EU level, the European Cybercrime centre is another case in point, which although is mainly made up of a combination of different police forces, they also work in close partnership with industry and academia.

CAB also draws support from Divisional Asset Profilers. These are members of An Garda Síochána who are stationed throughout the country, who are trained by CAB to identify possible individuals with unexplained wealth and to submit profiles to CAB. This enhances the resources available to CAB, and its reach. CAB also has an international dimension to what they do. They work in cooperation with organisations and bodies such as the Camden Asset Recovery Interagency Network, the Asset Recovery Office in the UK, the National Crime Agency, PSNI, HMRC, West Midlands Police, and the Essex Constabulary, to name a few. These relationships don't only come to the fore in investigations, they also help in cross learning opportunities, exchanging knowledge and expertise with other law enforcement agencies. This sharing is seen as beneficial as it helps to circulate approaches and potential pitfalls, whilst also creating positive relationships and mutual trust.

Another powerful aspect of CAB's work is their public relations activities. CAB uses social media and An Garda Síochána's Press Office to communicate its work and success to the public, to demonstrate that those involved in crime run the risk of having their assets seized. It is not just the high-profile criminals that they target. They also target lower and mid-tier criminals to ensure people see that if you engage in criminality and enjoy the assets obtained from such, there is the potential you will be targeted by CAB; thus, reducing the perceived rewards of criminality.

In summary, the key strengths of CAB are the multidisciplinary office & team, co-location, external reach & cooperation (nationally and internationally), and the somewhat non-traditional approach, that actively tries to balance the secrecy and confidentiality of CAB's work, with transparency and public engagement. This combination of factors has resulted in much success for CAB, whose work has contributed to the dismantling of organised crime groups and to the displacement of others.

European Arrest Warrant – An effective response to SOC

The criminal justice system (CJS) in Ireland has been dealing with cross-border issues for decades, one of which is SOC. Legislation and related responses have evolved as a result, for example, the introduction of the Offences Against the State Act 1939, and the establishment of the Special Criminal Court to highlight but two. Initially both were introduced to deal with paramilitary type crimes, but over time have been expanded to deal with SOC groups, both domestic and international. The international aspect is important given an increasing cross border dimension to SOC in Ireland. Such cases are often complex, especially given this cross-border component. While this has caused difficulties, they are not insurmountable and the CJS has evolved to deal with emerging issues as and when required. For example, evidence acquired by a foreign police service is often required at trial in the Irish courts, which the law now facilitates. This is a significant advantage as it is not uncommon for successful prosecutions and convictions to rely on evidence acquired abroad and presented in Irish courts. Other significant legislation that has come into effect because of the changing landscape, include the Criminal Justice Act of 2006, the Criminal Justice, Money Laundering and Terrorist Financing Act of 2010 and the European Arrest Warrant Act of 2003, as has been amended, all of which have and are used to prosecute SOC.

The European Arrest Warrant (EAW) mechanism, amongst others has played a significant positive role in the cross-border policing relationships between Ireland and the UK. In the context of responding to SOC between Ireland and the United Kingdom, the EAW has been one key tool of note, with the UK one of Ireland's largest trading partners as regards EAW. The EAW was highly regarded in the UK, with Alison Saunders (former director of the Public Prosecutions in the U.K) reportedly noting that the EAW is three times faster and four times less expensive than what had previously been in place (1957 Convention). Since its establishment in Ireland in 2003, there has been a huge number of cases in which the EAW system has been used to facilitate extradition between Ireland and the UK. For example, it was used last year (2020) for the surrender of individuals over the Essex Lorry deaths, of 39 Vietnamese nationals.

The EAW works well for a number of reasons. Firstly, it replaced the traditional extradition procedures, which were not as efficient. Secondly, it provided a streamlined system for EAWs to work across the European Union, which was very important given the growing cross border dimension to SOC. The EAW enables an EU member state to apply for an EAW to request the return of someone for trial or to enforce a prison sentence against an individual located in another EU member state. The primary requirements are that:

- the warrant relates to the person in court.

- the offence set out in the warrant corresponds to an offence in national law or is a tick box offence.

- the requirements of minimum gravity must be met.

- the warrant must be clear and unambiguous in its description of the offences.

- there can be no suggestion of a breach of fundamental rights as outlined in the European Convention on Human Rights.

There are certain optional elements, for example a non-surrender clause member states can choose to incorporate into law. For instance, Section 21a of the European Arrest Warrant Act 2003 provides that Ireland will not surrender a person for prosecution where a decision has not been made to try and charge that person. The EAW streamlined the system into a very efficient process for dealing with extradition. A number of features stand. For example, the use of a standardised form for the warrant rather than different states using different formats. The Tick box system, which means that the surrender will be ordered once the warrant falls within a particular category, and the provision of time limits as set out within the framework decision (the final decision would generally be made within about 60 days). Another significant feature of the system is that any member state can refer a case to the Court of Justice of the European Union (CJEU) for a preliminary ruling on anything to do with the interpretation of the framework decision. These decisions then apply to all member states ensuring a uniform application of extradition law across the European Union. Overall, the system was designed to simplify extradition procedures, and it succeeded in doing that.

Prior to the establishment of the EAW, extradition tied up more government resources and left suspects at large or waiting in pre-trial detention, which left victims of crime without justice for longer periods of time. The new system

imposed strict time limits and a more streamlined approach. The EAW drastically reduced the time for extradition, with average surrender times reduced from around nine months to 16 days with consent or forty-five days, give or take, without consent. In the fight against SOC, the EAW system has often played a pivotal role and has become a vital tool for the CJS in Ireland and across the EU. Its success can also be attributed to the significant degree of trust and goodwill that has developed over the past number of years with the UK and other member states. This level of mutual trust has resulted in many cases where the superior courts in Ireland rejected allegations that a surrender would be a breach of the respondent's constitutional rights or their rights under the European Convention.

One key strength of the EAW resonates with those attributed to the CAB, and that is the role of trust between parties in the process. In the context of the EAW, trust seems to be the foundation on which a streamlined process was established but also continues to be used and supported. Other key components of its success include, the simplicity of the process, the agreed timelines, and from an operational level, the timely access in relation to those to which an EAW applies, which has resulted not only in a more streamlined process, but as importantly, a quicker and cheaper alternative. The former (swiftness of punishment) being an important element in relation to the application of the law and deterrence.

Understanding the changing landscape

Post Brexit, the landscape in this area has changed, and the EAW no longer works in the same way between the United Kingdom and Europe, however, an alternative warrant-based system is in effect. Considerable efforts have been made to provide some continuity to what was generally perceived as an effective system. The Trade and Cooperation Agreement (TCA) set aside the UK's future extradition arrangements within the European Union. It is too early to say with any certainty how beneficial or not these changes are; however, similarities persist from the previous system, ensuring some degree of continuity. For example, the current system is still a warrant-based system, adheres to similar timelines, and provides certain rights to the requested individual. As time and the number of cases progress through the new system, we will learn how effective the new approach will be. Until then, the future of extradition between Ireland and the UK is unclear, evidenced already by the number of challenges in the High Court in Ireland to the interim solution. It is likely that this will be the subject of many challenges and tests for some time to come.

While the Brexit implications as they pertain to the EAW may sound pessimistic, it is important to note that other legislation in Ireland remains unchanged by the UK's departure from the EU, and which continues to prove imperative in dealing with SOC. For example, the Criminal Justice Act of 2006, creates a number of offences which relate to organised crime, some of which have a provision for offences committed outside the state. The number of convictions in the Special Criminal Court has been in part due to the increased use and more recent use of this legislation. This act, amongst others, has helped significantly in kerbing the growth of criminal organisations both in this jurisdiction and abroad. In short, between Ireland the UK, there remains a fairly robust legal system which is constantly evolving to meet an ever changing and always challenging legal landscape.

For additional information, please see: Link for additional reading

Changing our approach to crime - seeing it as a problem to be solved

Crime is changing dramatically and as a result, policing needs to change to ensure it is capable of responding to it. We cannot continue to do what we have done for the last 200 years and expect it to be a suitable response for crimes of tomorrow. For example, as new technologies emerge, we need to ensure we have the ability to respond to the potential crime implications that may emerge with them. This requires a tectonic shift in how we see crime. We need to be looking further ahead and be asking better questions about how certain changes and developments may impact crime in the future. One way of doing this is to see crime as a problem to be solved. An answer to how we do this lies in problem solving. Problem solving approaches require police and policy makers to think differently, to think more about science and technology, and about engineering and design. Why? Because engineers solve problems and viewing crime as a problem that needs to be solved is more effective than viewing it as something that requires a solution, detection or disruption which has to be delivered. Approaching crime from an engineering perspective immediately changes how we respond to it, because engineers don't just arrive at a solution. They conduct experiments. They see if things work and if they don't, they change their approach and tweak, until they find what works. Engineers start with the problem they want to address and think about how they can solve it. They don't just ask a simple question as to whether something works or not, rather they are concerned not just with what works, but how it works, where it works and at what cost. They consider how a response will be implemented, which is often underestimated. It is never as simple as telling someone to do something and it is done. A benefit of this approach is that it does not seek a similar one size fits all solution, rather it opens up a wide range of policy and practice response options. Problem solving is a process, scanning, analysis, response, and assessment.

- You see what the problem is
- You analyse it
- You think about possible responses
- You implement one
- You assess if it works
- You continue to test the hypotheses, all the way through.

By going through this process, you establish knowledge about what works, which unfortunately is currently limited in regard to what works in relation to crime, especially in respect of SOC. That which is available rarely evaluates what works and what does not. As a result, there isn't a knowledge base on how effective the police's current responses to SOC actually are. Implementing this type of approach is not without its challenges. Similar to requiring the police to see crime differently, they also have to manage responses differently. Experiments, although valuable for scientific discovery, are risky in that they can fail, however, this is an opportunity to learn about what does and doesn't work. Taking this approach to policing, however, would require the police and policy makers to make a considerable shift in mindset, one in which risk taking is encouraged without fear of punishment for mistakes.

Possible Actions to Consider

- Think like engineers.

- Treat individual organised crimes as problems, not organised crime as a whole.

- Treat such crimes as problems to be solved, not solely as offences to be detected or disrupted.

- Examine case files even where successful prosecutions were achieved and identify the structures that were in place, which maintained and supported that chain of events/series of criminality and try to identify where an interaction may prevent somebody else from filling the gaps.

- Develop crime scripts that are associated with different kinds of organised crime and see what you can do about disrupting them, interrupting them, reducing the opportunities and so on.

- Really importantly, build up a knowledge base of what works, how it works, where it works, how you implemented it, and what it might have cost.

What is known about what works?

Although there is limited knowledge about what works, why, where, when and how in respect to SOC, we can look to what is known in relation to regular crime and ask what carries over. From applying crime science to routine crime, we know that one has to be very specific in defining the problem. For example, the problem specificity should not be robbery, rather a robbery at ATMs on a Friday night. Similarly, with SOC crime, you need to break it down into its constituent parts, people smuggling, extortion, blackmail and so on, and then drill down again further into the specific problem you want to identify. One way to do this is to think about crime as a script, like a story. For example, a crime script for stealing a car may be something like; an offender gets a screwdriver from a garage, goes outside, finds a car, breaks into it with the screwdriver, drives off and sells it.

A crime script for organised crime, however, is far, far more complex. The primary act of carrying out the crime has all sorts of consequences and can involve a long chain of events, involving a range of actors and can have many ancillary crimes associated. This is not in itself a bad thing, in fact in crime science it can be good because it offers a number of points where intervention opportunities can, if introduced, help prevent or disrupt activities. These interventions have the aim to alter the offender's decisions to offend by using different mechanisms throughout that crime process.

What are these mechanisms?

If we consider research on regular crime, it is known that offenders decide whether or not to commit an offence, by thinking about things like the effort, the role, the risks, the rewards, the provocations and the excuses that they can make. These are the mechanisms. Interventions that lever these mechanisms can reduce crime. Known successful techniques include increasing the effort, increasing the risk, reducing the rewards, reducing provocations, and removing excuses. For example, by reducing the rewards of crime, offending is reduced. Examples, like CAB are effective based on this logic. In going for the money and assets, crime becomes less attractive. Another example is by increasing risks, the EAW works this way because it increases the risk of being caught outside the jurisdiction where the offence was committed. Knowing and understanding these mechanisms, allows one to apply a systematic process of working through them to provide alternatives for how you deal with crime and in particular, to deal with SOC.

A number of key things to remember, learned in the context of routine crime, but applicable in SOC include:
• Nothing works everywhere. For example, street lighting can sometimes reduce crime, but it can make it worse. Target hardening works really well, but we don't want to live behind gates and bars, police patrols work really well, but we will never have enough police officers.
• Nothing happens just because someone said it should. Proper implementation is really important.
• Some initiatives are expensive, but alternatives might work, some of which may be free.

Where can we look to for good practice in this area?

The work of the Jill Dando Institute and Dawes Centre for Future Crime, both at University College London (UCL), are first class examples of the innovation that is required to view crime as a problem to be solved. One key reason they are so effective in this regard is that they are made up of multidisciplinary departments, which bring together computer scientists, psychologists, geographers, former police officers and many other specialists to view crime and potential solutions from different perspectives.

The College of Policing has a Crime Reduction Toolkit that includes problem-oriented policing approaches (What works Toolkit).

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