

Irish Security Soundings

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Has hiding in plain sight out lived its protection or has a new opportunity presented for the Kinahan Organised Crime Group?

In a novel move by international law enforcement to place sanctions and freeze the assets of the Kinahan organised Crime group (KCG), many have asked what's next? It is easy to assume the KCG demise is near. We know, however, that organised crime groups are adaptive, flexible, agile, and over time learn to circumvent restrictions law enforcement agencies and governments implement. For example, the increased creation of designer chemicals manufactured to bypass the control of precursor chemicals is a case in point. In fact, similar to business more generally, mergers and acquisitions are commonplace in the drugs trade, given that police responses against one group are often an opportunity for another. In the potential outcomes offered to explain the KCG's possible next move, few have suggested, at least publicly, the simple possibility for an equally unprecedented move on their part, with many suggesting a potential move to a new location, where they may go underground or continue to hide in plain sight. The potential for an exceptional response on their part, should not be ruled out, however. In this regard, it is important to consider possible options not only in the context of the KCG, but also in relation to other OCGs, who even if not directly impacted by this are likely to be closely monitoring developments. To do this, one might consider these questions; - how will OCGs ensure they protect their markets from degradation, and/or diversify to ensure they maintain their businesses despite a significant escalation in law enforcement response? Could this move by international authorities provide some OCGs with an opportunity for growth?

The Kinahan organised Crime Group

The Kinahan Organised Crime Group started out as an inner-city street gang in south Dublin in the 1990's under the leadership of Christy Kinahan (Senior), expanding their activities internationally, facilitating shipments of hard drugs from South America into Ireland and the UK. As the enterprise grew, Christy senior took a step back, and was replaced by his two sons, Daniel (44) and Christy Jnr (40). The group gained extensive public notoriety after what is commonly called the Regency shooting, which took place in 2016 in a hotel at a boxing tournament weigh-in. The target of the shooting was reportedly Daniel Kinahan, but he escaped whilst an alleged gang member, David Byrne, was killed. This event publicly marked the start of a deadly feud between the Kinahan and Hutch groups. At least 20 murders have been attributed to this feud and to the groups themselves.

The Regency shooting not only marked a pivotal point for the gangs, but it was also the impetus of a sea change in how An Garda Síochána responded to these groups. Since 2016, €20 million in drugs and €7.5 million in cash has been seized and 79 people connected have been charged with various crimes, all of which are alleged to be connected to the feuding groups. To achieve this, An Garda Síochána not only developed a strategic response here in Ireland, but also increasingly worked with other police forces globally, demonstrating the need for a greater and shared prioritisation of the group and their activities. This is thought to have influenced the move by the three Kinahan men to the United Arab Emirates. It did not, however, appear to stifle their resolve, and their enterprise continued to expand and diversify. As the middle ranking members were

increasingly arrested, or killed, the higher echelons appeared somewhat immune, especially from their base in the UAE. Increased prominence and positioning in the public eye, despite a significant law enforcement response post the Regency Shooting in 2016, the members at the apex grew in confidence. During these times, the KCG made relatively successful attempts to legitimise the wealth acquired from the sale and supply of illegitimate commodities transferring it into legal business transactions, such as property investment, company formation, and sport. More recently, it was even suggested that Christy senior was openly involved in the aviation industry. Socially, they also underwent huge change, for example, Daniel moved from being a recognised face in relation to his alleged role in Organised Crime, to being front and centre of the boxing elite.

A novel international, multi-agency response

While the group, especially Daniel, appeared to grow in public notoriety, with direct support from some of the elite in the boxing world, and indirectly, by companies willing to work with him or people and companies linked to him, it may have appeared that he had legitimised himself to such an extent he was untouchable. But the truth was much more nuanced. Small indications emerged on and off, that something was happening behind the scenes to hasten their demise (such as, increased seizures, arrests and convictions, trips to the UAE to request assistance, the US naming them on their travel ban list, the recent prosecution of Thomas (Bomber) Kavanagh, but few admit to foreseeing the unprecedented response by the US and UAE on foot of international law enforcement cooperation. On 12th April 2022, the United States announced they were offering a reward of up to \$5,000,000 for information that would lead to the arrest or conviction of members of the Kinahan gang, and that they would be placing sanctions on their US-based assets. This essentially cuts the gang out from accessing the US dollar for any business or personal reasons – severely restricting the Kinahan’s ability to carry out their global operations. The UAE government delivered a further blow days later, when they announced they were freezing the group’s UAE based bank accounts and assets in line with the US objectives. This move targets both professional and personal accounts in both locations.

This collective international effort is unparalleled in Irish and global terms and is hugely significant in regard to an international criminal justice response. The extent of the agencies working together on this case demonstrates a shared priority (which was not always the case); a shared recognition of the scale of the gang’s activities, and an acknowledgement that seizure of assets alone was not enough. Reducing the rewards and increasing the risks associated with doing business with these groups (directly or indirectly) had previously not been fully achieved, at least to the extent that impacted not only the activities of a group, but also the beneficiaries – whether that be direct or indirect. An evolution in response as seen here is similar in impact scale to the sanctions recently applied to those directly or indirectly doing business with Russia and Putin, demonstrating a concerted effort to reduce both the benefits and the number who benefit from such relationships. That said, it is clear from these latter examples, that while many feel the impact of these sanctions, others quickly learn to mitigate their affect by moving assets to other jurisdictions, for example.

Potential OCG Response

In light of those who do learn to circumvent these sanctions, it may be naive to assume the KCG face imminent demise, given they have actively displayed high levels of innovation, adaption, and resilience in the past. The scale of the group’s activities, assets, network, and strategic foresight at their disposal should not be overlooked, given the KCG (like other OCGs who may fall victim to similar action in the future) are likely to be exploring new mechanisms to challenge or thwart this action. Had the sanctions been applied in the EU, the KCG may have considered challenging them in courts. OCGs are not beyond using the justice system to their advantage when required. The move by the US to take this action, however, makes it considerably more difficult to do this. The Office of Foreign Assets Control (OFAC) is the organisation that applies these sanctions and places the individuals on an SDN (Specially Designated Nationals) List. The listed individual(s) can request to be removed from the list but must prove how it was an error or how their operations have changed in

accordance with OFAC guidelines. If OFAC then denies the request, the matter can be brought before a US judge. There have been examples of individuals and corporations who have tried this, but few have been successful. This process is likely to be more difficult for the KCG because the US authorities have to authorise legal representation under a specific licensing agreement for those under sanction. Such licensing requires intense reporting of the transactional relationship between sanctioned individual(s) and their representation. As a result, it may be unlikely for legal teams to be lining up to represent the group, should they explore this option. Nonetheless, and as strange as it may seem, it is not beyond the possibility that a group as large as the KCG, or those associated, explore this or other legal avenues of redress, whether that be individually or collectively. Given the expansion of the US travel ban to a further 600 individuals associated with the KCG, some of these may also reach for the protection of the law as a means of disassociating with the group. No doubt, the Kinahan and other large scale OCGs are conferring with their trusted advisors on what to do next.

OCGs at the pinnacle of their industry, are usually very experienced in legitimising their ill-gotten gains, with highly placed networks in the white, grey, and black economies, constantly looking for a new opportunity to diversify assets through geography, commodities, and practices - all common circumvention techniques. Thus, even if those at the apex of the group are removed, some entrepreneurial associates or rivals are likely to be waiting in the wings. Other OCGs are likely to be actively stress testing their own ability to mitigate the threat of such a move against them, whilst also exploring how they might take advantage of the opportunity this action creates. As Windle and Farrell (2012) note, efforts to intercept trafficking can lead to better trafficking. Thus, this response while impactful, may influence the evolution of OC further; thus, it is important that the authorities recognise the threat of further evolving skillsets by some OCGs as a response. While the KCG are dominating the headlines and public law enforcement efforts at the moment, it is crucial that the movements of other similar groups within Ireland, the EU, or with international ties do not fall to the wayside. Thus, it is important that the evolution of OCGs in response to recent actions is closely monitored to ensure they don't benefit at the expense of the KCGs prioritisation.

Conclusion

While those at the apex of the KCG may fall victim to law enforcement responses on this occasion, their associates or rivals are likely to be waiting in the wings to step up, now also prepared to play their hand. While the actions of the authorities may have demonstrated that first mover advantage has been impactful on this occasion, some within the KCG and other OCGs are likely to be invigorated and emboldened by what they see as an opportunity. It might be fair to say, that the shock alone of this unprecedented move may be enough to mitigate the risk of an equally unprecedented response by the KCG, in the short term, but as time goes on, opportunities are likely to emerge. Exactly what this might look like, remains to be seen, because as some associates give the group and their activities a wide berth, others may conduct a cost benefit analysis, asking themselves whether the scale of the Kinahan's activities is such that others see an opportunity to acquire it, or part thereof. Thus, while the net may be closing in on those at the apex of the KCG, the final nail in the coffin has not been hammered home, yet. Ignoring opportunity in an environment such as this, might be short-sighted for both law enforcement and OCGs.

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