

## CHAPTER 4

### United Kingdom approaches to organised crime

4.1 The Delegation travelled to the United Kingdom to hold discussions with the Serious Organised Crime Agency (SOCA), whose function is similar to that of the Australian Crime Commission over which the Parliamentary Joint Committee on the Australian Crime Commission has an oversight role.

4.2 The Delegation also held meetings in London with a range of key law enforcement and border control agencies, and with a number of industry-funded bodies responsible for the detection of financial fraud.



Delegation Members outside the Metropolitan Police Service Headquarters, New Scotland Yard, London.

4.3 This chapter provides an overview of the agencies with which the Delegation met. It briefly describes the nature of organised crime in the United Kingdom and sets out the key legislative framework to tackle serious and organised crime. Finally, this chapter discusses the key issues and findings arising out of the Delegation's discussions in London.

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## UK agencies which the Delegation met

### *Serious and Organised Crime Agency*<sup>1</sup>

4.4 The Serious and Organised Crime Agency (SOCA) was created in 2006 to lead the UK's efforts to combat serious and organised crime. 'SOCA is an intelligence-led agency with law enforcement powers and harm reduction responsibilities.'<sup>2</sup> The Assets Recovery Agency merged with SOCA in April 2008, 'meaning that SOCA now has both civil and criminal powers to reduce the impact of organised crime.'<sup>3</sup> SOCA has the power to:

- Seize the profits of criminal activities and redirect a portion of them back into law enforcement
- Compel co-operation with investigators, so that the suspects and their associates have to surrender relevant documents to investigators when requested
- Intercept user logs and emails of suspected criminals
- Impose conditions on convicted organised criminals post-release, such as tighter restrictions on where they travel and who they associate with, and
- Use incentives such as sentence reductions to encourage criminals to inform on their associates.

4.5 SOCA is led by a board with 11 members. The non-executive Chair, who is appointed by the Home Secretary, is responsible for the overall approach of SOCA. The current Chair is Sir Stephen Lander, a former head of MI5. Day-to-day leadership is provided by the Director General, Bill Hughes, who is able to designate SOCA officers as having the powers of a police constable, a customs officer or an immigration officer.

4.6 SOCA is organised into four directorates:

- intervention (finding ways to obstruct organised criminals);
- intelligence (building up a detailed picture of organised crime gangs);
- enforcement (investigating organised crime gangs);
- corporate services (the administrative back-up to the operational side).

4.7 The Home Secretary sets SOCA's strategic priorities and judges the success of its efforts. Within that framework, SOCA plans its priorities, including determining how it will exercise its statutory functions and what performance measures it will adopt.

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1 Serious and Organised Crime Agency, <http://www.soca.gov.uk/>. (accessed 11 June 2009).

2 Serious and Organised Crime Agency, *About Us*, <http://www.soca.gov.uk/aboutUs/index.html> (accessed 17 June 2009).

3 Commonwealth Attorney-General's Department, *Submission 16*, p. 12.

4.8 The Chair of the SOCA board, is responsible for SOCA's overall approach, its relationship with ministers and government generally, SOCA's strategy and, with the non-executive directors, for oversight of its operational performance.

4.9 The Director General is also appointed by the Home Secretary, and is responsible for everything SOCA does operationally and administratively. The Director General is responsible for the day-to-day leadership of SOCA's management team and for the appointment, accreditation and direction of its other staff. As Accounting Officer, the Director General is responsible for SOCA's expenditure and accounting arrangements.

4.10 The SOCA board has determined five general priorities to guide SOCA:

- to build knowledge and understanding of serious organised crime, the harm it causes and the effectiveness of different responses;
- to increase the amount of criminal assets recovered and the proportion of cases in which proceeds of crime are pursued;
- to increase the risk to serious organised criminals operating in the UK through proven investigation capabilities and in new ways;
- to collaborate with partners in the UK and internationally to maximise efforts to reduce harm; and
- to provide agreed levels of high-quality support to SOCA's operational partners and, as appropriate, seek their support in return.

4.11 The SOCA board has decided that around 40 per cent of SOCA's effort should be devoted to combating drug trafficking, 25 per cent to tackling organised immigration crime, 10 per cent to individual and private sector fraud, 15 per cent on other organised crime and the remaining 10 per cent on supporting other law enforcement agencies.

4.12 SOCA operates from at least 40 offices across the UK. SOCA officers are empowered to perform a number of surveillance roles traditionally associated with British intelligence services, such as MI5, however, unlike MI5 officers, some designated SOCA officers enjoy powers of arrest. Unlike traditional police officers, SOCA officers are not required to swear an oath to uphold the law but are civil servants answerable only to the government. SOCA officers have powers of arrest equivalent to those of sworn police officers and SOCA is exempt from the provisions of the *Freedom of Information Act 2000*.

4.13 SOCA officers are drawn from a range of agencies. The Delegation was told that approximately 25 per cent are former police officers, 25 per cent joined from Customs and the remaining 50 per cent are drawn from the wider community and public service. The Act does allow the secondment of police officers but SOCA has not adopted this approach.

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### *The Metropolitan Police Service<sup>4</sup>*

4.14 The Metropolitan Police Service is the largest of the police services that operate in greater London. The other police services operating in London include the City of London Police and the British Transport Police.

4.15 The Metropolitan Police Service employs 31 000 officers, 14 000 police staff, 414 traffic wardens and 4 000 Police Community Support Officers (PCSOs), as well as being supported by over 2 500 volunteer police officers in the Metropolitan Special Constabulary (MSC) and its Employer Supported Policing (ESP) programme. The Metropolitan Police Service covers an area of 620 square miles and a population of 7.2 million.

#### *Specialist Crime Directorate*

4.16 The Specialist Crime Directorate's (SCD) 5 500 staff are involved in London's most high profile and serious cases. SCD has refocused its work in 2006-07 on the corporate objective of disrupting criminal networks, seizing their assets and reducing the harm they cause. This new approach aims to understand and tackle criminal networks at all levels, from street gangs in neighbourhoods to sophisticated groups also operating nationally and internationally, in order to reduce the harm and fear they cause in communities.

4.17 A focus of this strategy is neighbourhoods and communities. Therefore intelligence from community engagement, Safer Neighbourhood Teams and boroughs, is essential in both identifying those networks causing the greatest harm, and successfully disrupting them.

4.18 Led by Assistant Commissioner John Yates, the Directorate's objectives are:

- disrupting criminal networks, seizing their assets and reducing the harm they cause
- delivering the highest standards for homicide investigation and preventing homicide and other serious crimes by using disruption tactics
- safeguarding children and young persons from physical, sexual and emotional abuse
- developing capability of SCD to combat serious crime and criminal networks
- coordinating covert assets
- increasing the number of offenders brought to justice as a result of forensic intervention
- being a well managed, effective, efficient and professional directorate.

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4 The Metropolitan Police Service, <http://www.met.police.uk/>, (accessed 11 June 2009).

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### *United Kingdom Home Office*<sup>5</sup>

4.19 The Home Office is the lead government department for immigration and passports, drugs policy, counter-terrorism and police. Departmental objectives are to:

- help people feel secure in their homes and communities
- cut crime, especially violent, drug and alcohol related crime
- lead visible, responsive and accountable policing
- protect the public from terrorism
- secure borders and control migration for the benefit of the country
- safeguard people's identity and the privileges of citizenship
- support the efficient and effective delivery of justice

4.20 The Home Office is headed by the Home Secretary. Home Office headquarters contain:

- the Office for Security and Counter-Terrorism, which works with other departments and agencies to ensure an effective and coordinated response to the threat of terrorism
- the Crime and Policing Group, which works through the police service and other partners
- a small strategic centre, which advises the Home Office board on strategy and direction, as well as the allocation of resources
- professional services, including legal advice and communications support, and programme and project management support

4.21 Three agencies provide directly managed frontline services from within the Home Office:

- The UK Border Agency:
  - strengthens borders
  - makes fast-track asylum decisions
  - ensures and enforces compliance with immigration laws
  - boosts Britain's economy by bringing in the right skills from around the world
  - ensures Britain is easy to visit legally
- The Identity and Passport Service:
  - issues passports to British nationals living in the UK

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5 UK Home Office, <http://www.homeoffice.gov.uk/about-us/>, (accessed 13 June 2009).

- develops the national identity programme to provide a secure and straightforward way to safeguard personal identities from misuse
- The Criminal Records Bureau:
  - helps organisations in the public, private and voluntary sectors verify whether job applicants are suitable to work with children or other vulnerable people by checking their criminal backgrounds

4.22 The Home Office is also responsible for the Police Service in England and Wales.

### ***UK Border Agency<sup>6</sup>***

4.23 The UK Border Agency is an agency of the Home Office which was formed in April 2008 to improve the United Kingdom's security through stronger border protection while welcoming legitimate travellers and trade.

4.24 The Agency brings together the work previously carried out by the Border and Immigration Agency, customs detection work at the border from Her Majesty's Revenue and Customs (HMRC), and UK Visa Services from the Foreign & Commonwealth Office (FCO).

4.25 The agency operates globally with 25 000 staff - including more than 9 000 warranted officers - operating in local communities, at UK borders and across 135 countries worldwide. UK Border Agency has an annual budget of £2 billion (AU\$4.1 billion).

4.26 UK Border Agency Board is divided into five unified operations areas:

- borders
- international
- immigration
- intelligence
- criminality and detention.

4.27 Each operational area is led by a director. In March 2008 the agency appointed a senior police officer to the board as a non-executive director. This appointment was recommended in the Cabinet Officer report *Security in a Global Hub* to encourage closer collaboration between the Border Agency, the police and other law enforcement agencies.

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6 UK Border Agency, <http://www.bia.homeoffice.gov.uk/>, (accessed 11 June 2009).

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*Her Majesty's Revenue & Customs*<sup>7</sup>

4.28 Her Majesty's Revenue & Customs (HMRC) ensure that money is available to fund the UK's public services. HMRC was formed on the 18 April 2005, following the merger of Inland Revenue and HM Customs and Excise Departments.

4.29 HMRC collect and administer:

- Direct taxes:
  - Capital Gains Tax.
  - Corporation Tax.
  - Income Tax.
  - Inheritance Tax.
  - National Insurance Contributions.
- Indirect taxes:
  - Excise duties.
  - Insurance Premium Tax.
  - Petroleum Revenue Tax.
  - Stamp Duty.
  - Stamp Duty Land Tax.
  - Stamp Duty Reserve Tax.
  - VAT.
- HMRC pays and administers:
  - Child Benefit
  - Child Trust Fund
  - Tax Credits.
- HMRC enforces:
  - Border and frontier protection
  - Environmental taxes
  - National Minimum Wage enforcement
  - Recovery of student loans.

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7 Her Majesty's Revenue and Customs, <http://www.hmrc.gov.uk/menus/aboutmenu.htm>, (accessed 13 June 2009).

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### *Association of Chief Police Officers<sup>8</sup>*

4.30 The Association of Chief Police Officers (ACPO) is an independent, professionally led strategic body. In partnership with government and the Association of Police Authorities, ACPO leads and coordinates the direction and development of the police service in England, Wales and Northern Ireland. In times of national need ACPO – on behalf of all chief officers – coordinates the strategic policing response.

4.31 ACPO's members are police officers who hold the rank of Chief Constable, Deputy Chief Constable or Assistant Chief Constable, or their equivalents, in the forty four forces of England, Wales and Northern Ireland, national police agencies and certain other forces in the UK, the Isle of Man and the Channel Islands, and certain senior non-police staff. There are presently 280 members of ACPO.

4.32 However, the ACPO is not a staff association. ACPO's work is on behalf of the service, rather than its own members.

4.33 The Association has the status of a private company limited by guarantee. As such, it conforms to the requirements of company law and its affairs are governed by a Board of Directors. It is funded by a combination of a Home Office grants, contributions from each of the 44 police authorities, membership subscriptions and by the proceeds of its annual exhibition.

### *CIFAS – UK Fraud Prevention Service<sup>9</sup>*

4.34 CIFAS is the UK's Fraud Prevention Service with 260 members spread across the banking, credit card, asset finance, retail credit, mail order, insurance, savings and investments, telecommunications, factoring, and share dealing sectors.

4.35 Members share information about identified frauds in the fight to prevent further fraud. CIFAS is unique and is the world's first not for profit fraud prevention data sharing scheme.

4.36 The CIFAS fraud avoidance systems allow members to exchange details of applications for products, services or employment which are considered to be fraudulent because the information provided by the applicant fails verification checks. Members can also exchange information about accounts and services which are being fraudulently misused and fraudulent insurance and other claims.

4.37 CIFAS Members also exchange information about the victims of fraud to protect them from further fraud. CIFAS information is not used to assess an

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8 Association of Chief Police Officers, <http://www.acpo.police.uk/default.asp>, (accessed 13 June 2009).

9 CIFAS- UK Fraud Prevention Service, [http://www.cifas.org.uk/default.asp?edit\\_id=252-28](http://www.cifas.org.uk/default.asp?edit_id=252-28), (accessed 13 June 2009).



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individual's ability to obtain an account, product, facility, insurance policy or employment. It is only used to prevent fraud.

4.38 Members of CIFAS are required to operate effective in-house procedures to enable fraud or attempted fraud to be identified and classified. Basic information on each case is filed on the CIFAS database.

#### ***Dedicated Cheque and Plastic Crime Unit<sup>10</sup>***

4.39 The Dedicated Cheque and Plastic Crime Unit (DCPCU) is a special police unit fully sponsored by the banking industry, through APACS, with an ongoing brief to help eliminate organised card and cheque fraud across the UK. It is a unique body that comprises officers from the Metropolitan and City of London police forces who work alongside banking industry fraud investigators. These officers are supported by bank investigators and case support staff.

4.40 The DCPCU was set up in 2002 to tackle the organised criminal networks that commit cheque and plastic card fraud. The Unit responds to investigations on a nationwide basis including those involving:

- Cash machine fraud
- Plastic card counterfeiting
- Mail non-receipt fraud
- Identity fraud
- Card-not-present fraud (fraud on telephone, Internet, fax and mail order transactions)
- Cheque fraud

4.41 As well as generating its own cases, the Unit receives referrals from banks, card companies and other UK police forces. The main objectives of the Unit include:

to investigate, target and, where appropriate, arrest and seek the successful prosecution of offenders identified as responsible for organised cheque and payment card crimes.

#### ***APACS –the UK Payment Association<sup>11</sup>***

4.42 APACS is the UK trade association for payments and for those institutions that deliver payment services to customers. It provides a forum for its members to come together on non-competitive issues relating to the payments industry. APACS works to develop and promote world-class standards for use in payments systems in the UK. At the heart of APACS' role is the need to ensure that the UK payments

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10 Dedicated Cheque and Plastic Crime Unit, <http://www.dcpcu.org.uk/HTML/complete.html>, (accessed 11 June 2009).

11 APACS, <http://www.apacs.org.uk/index.html>, (accessed 11 June 2009).

industry operates to the highest international standards and that payments are safe, reliable and resilient.

4.43 One of APACS' key responsibilities is coordinating a whole range of activities to tackle payment-related fraud. One of the most visible recent initiatives has been the introduction of chip and PIN, which has been achieved in partnership with the retail industry.

4.44 APACS forecasts payment trends, conducts market research, carries out lobbying activities, collates industry statistics and assists in developing industry standards and best practices.

4.45 The APACS website record the following information on plastic cards in the UK and how they were used in 2007:

- There were 165.4 million payment cards in issue – 67.3 million credit cards, 5.7 million charge cards and 71.6 million debit cards, 20.2 million ATM-only cards and 0.5 million cheque guarantee cards.
- There are 41.7 million personal debit card holders, representing 84% of the adult population
- The number of personal credit and charge cardholders fell to 30.8million, representing 62% of the adult population.
- The average number of cards per person was 2.4 credit cards and 1.6 debit cards.
- Spending on plastic cards in the UK amounted to £354.2 billion in 2006 (AU\$731 billion), which comprised £221 billion (AU\$456 billion) on debit cards, and £133.2 billion (AU\$275 billion) on credit and charge cards.
- Internet card payments have risen nearly four-fold over the last five years, to £34 billion (AU\$70 billion).
- There were 4.9 billion debit card purchases in 2007, an increase of 9% on 2006, with an average transaction value of £45 (AU\$93).
- There were 1.9 billion purchases made on credit and charge cards in the UK, giving an average transaction value of £63.22 (AU\$131).

#### ***United Kingdom Home Affairs Committee<sup>12</sup>***

4.46 The Home Affairs Committee, established on 13 July 2005, consists of fourteen Members of Parliament, drawn from the three largest political parties. The Chairman of the committee is The Rt. Hon. Keith Vaz MP.

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12 UK Home Affairs Committee, [http://www.parliament.uk/parliamentary\\_committees/home\\_affairs\\_committee.cfm](http://www.parliament.uk/parliamentary_committees/home_affairs_committee.cfm), (accessed 13 June 2009).



Delegation members meeting with the Rt. Hon. Keith Vaz MP, Chair of the House of Commons Home Affairs Committee, Parliament House, London.

4.47 The House of Commons appointed the Committee to examine the expenditure, administration, and policy of the Home Office and its associated public bodies. During 2008-09 the Committee undertook inquiries into the following topics: Knife Crime; The Trade in Human Beings: Human Trafficking in the UK; Borders, Citizenship and Immigration Bill; Policing Process of Home Office Leaks Inquiry; Police and the Media and Monitoring of the UK Border Agency.

### ***British Transport Police<sup>13</sup>***

4.48 British Transport Police (BTP) is the national police force for the railways providing a policing service to rail operators, their staff and passengers throughout England, Scotland and Wales. BTP police the London Underground system, Docklands Light Railway, the Midland Metro tram system, Croydon Tramlink and the Glasgow Subway.

4.49 British Transport Police has 2 835 police officers and 1 455 support staff. Every day, BTP police monitor the journeys of over six million passengers and 400 000 tonnes of freight over 10 000 miles of track.

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13 British Transport Police, <http://www.btp.police.uk/default.aspx>, (accessed 15 June 2009).

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## **The nature of organised crime in the UK<sup>14</sup>**

4.50 The overall threat to the UK from serious organised crime is high. Broad estimates value the economic and social costs of serious organised crime, including the costs of combating it, at upwards of £20 billion (AU\$41.3 billion) a year.

4.51 Mr Tony Walker from UK Border Agency told the Delegation that the agency sees the illegal movement of goods such as heroin, cocaine, cigarettes, firearms and counterfeit goods and also the illegal movement of people, either children, or adults for the purposes of prostitution. Mr Walker also noted that billions of pounds are repatriated out of the UK each year and then brought back into the country. It is thought that approximately 70 per cent of this currency is the proceeds of crime.

### ***Serious organised criminals, their businesses and logistics***

4.52 Many of those known to be involved in serious organised criminal activity in, and directly affecting, the UK are British nationals, including from ethnic minority communities. However, a significant number of foreign nationals are also involved, both in the UK and abroad, reflecting the fact that the trade in illicit goods predominantly originates outside Europe and transits through the EU and neighbouring countries en route to the UK.

4.53 With few exceptions, serious organised criminal activity is directly or indirectly concerned with making money. Most serious organised criminals, especially the more established and successful ones, are involved in more than one area of criminal activity.

4.54 In terms of the scale of serious organised criminal involvement, drug trafficking, especially Class A drugs (Ecstasy, LSD, heroin, cocaine, crack, magic mushrooms, amphetamines), poses the single greatest threat to the UK. The profits made from drugs are a critical factor in the success and spread of serious organised crime, enabling more drugs to be bought, funding other forms of crime, and supporting criminal lifestyles.

4.55 Profitability alone cannot explain the choices that serious organised criminals make. They also look to manage risk by: threatening and using violence; transferring 'hands-on' risks to lower-level criminals or 'dupes'; corrupting law enforcement officers and others involved in the criminal justice process; and using solicitors and accountants to handle their affairs, especially to launder their criminal proceeds.

4.56 Most serious organised criminal activities require some measure of criminal collaboration and infrastructure, and this lies behind the formation of organised crime groups and networks. A wide range of structures exist. Some serious organised criminals belong to established groups with clear hierarchies and defined roles, but

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14 The sections is sourced from Serious and Organised Crime Agency, *The United Kingdom Threat Assessment of serious Organised Crime 2008-09*.

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many are part of looser criminal networks and collaborate as necessary to carry out particular criminal ventures. Such contacts are reinforced by links of kinship, ethnicity, or long association.

4.57 Serious organised criminals make use of ‘specialists’ who provide a service, often to a range of criminal groups. Services include transportation, money laundering and the provision of false documentation (identity fraud underpins a wide variety of serious organised criminal activities).

4.58 Criminal cash is often moved out of the UK to foreign jurisdictions for placement in the legitimate financial system, investment in property, or used to pay costs. This can be done using couriers or via money transmission services. However, many serious organised criminals make use of financial and legal professionals to handle their financial affairs. This often involves using property purchases and legitimate or quasi-legitimate businesses, typically those with a high cash turnover, to launder criminal proceeds as well as to provide cover for the purchase, delivery and sale of illicit goods.

4.59 Violence, or the threat of violence, is often implicit in the activities of serious organised criminals, and some are willing to commit or sponsor kidnapping, serious attacks, and murder to protect their interests, including recovering debts. Violence also stems from personal disagreements and gang-based rivalries. In some instances, violence or intimidation is used to coerce innocent victims into facilitating crime.

4.60 Corruption has a damaging and corrosive effect upon confidence in the criminal justice system, and on the public and private sector institutions that it affects. Serious organised criminals use corruption to secure assistance from those with information or influence in order to protect or enhance their criminal activities.

4.61 Further findings from SOCA's unrestricted UK Threat Assessment are:

- Firearms – the vast majority of recorded firearms offences in England and Wales are linked to street-gangs. Since 2006 seizures of live firing weapons being brought into the UK have been in larger quantities, in batches of up to 30. Previously there were relatively small numbers seized, often less than five at a time. There has been an increased trend of Baikal gas pistols converted to fire 9mm ammunition entering the UK from Lithuania.
- Cocaine – most cocaine destined for Europe is concealed in large vessels crossing the Atlantic. Possibly in response to successful law enforcement action against these transatlantic shipments, there is increasing evidence of shipments by air to West Africa from where the cocaine is transported to Europe. There is evidence of a two-tier market for cocaine in the UK both at wholesale and street level. Dealers are selling cheaper, more heavily adulterated cocaine to some customers while selling higher purity cocaine to more affluent buyers.
- Heroin – At least 90% of the UK's heroin supply is manufactured from opiates originating in Afghanistan. Poppy cultivation in Afghanistan

continues to rise. There are indications that some opiates are being stockpiled, although it is not known whether this is to regulate the price worldwide or because of overproduction.

- Organised Immigration Crime – the scale of people smuggling far exceeds that of human trafficking. Eastern European traffickers, who trade mainly in Eastern European victims, routinely purchase victims from criminal associates who have trafficked them from source countries, either directly or through agents. The groups are relatively small in size, unsophisticated and rarely engage in end-to-end trafficking, unlike some South East Asian groups who may control the movement of their victims at all stages. Many victims of trafficking work in the sex industry (mainly ‘off-street’) across the UK and not just in metropolitan areas. Based on those identified and recovered, most come from Eastern Europe, the Balkans, China, South East Asia and Africa and this largely reflects the nationality of traffickers involved.
- Non Fiscal Fraud – fraud against large companies may appear to be a ‘victimless crime’, however in practice, everyone is affected, since the income lost to fraud and the costs of measures to combat it are reflected in higher prices. Serious organised criminals are actively involved in many forms of fraud, especially those calling for an effective criminal infrastructure, such as payment card crime, ‘boiler room’ fraud (telesales centres that persuade investors into purchasing worthless or over-priced stock in companies with little or no value) and mortgage fraud. Frauds that offer high profits at lower risk than other forms of criminality are obviously attractive. Some of the profits made from these frauds are used to fund other serious criminal activity.<sup>15</sup>

## **Key United Kingdom legislation targeting organised crime**

### ***Criminal law***

Research suggests there are no known organised criminal groups in the United Kingdom like the mafia groups associated with the United States. Instead serious crimes are committed by "career criminals who network with each other", which are often small groups, based locally, operating independently with fluid roles and no identifiable structure. The Home Affairs Committee on Organised Crime could not formulate an adequate definition to encapsulate organised crime as experienced in the United Kingdom. Therefore a different approach to that adopted in other international jurisdictions needed to be adopted to address the issues in the United Kingdom.<sup>16</sup>

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15 Serious and Organised Crime Agency, Press Notice, *The United Kingdom Threat Assessment of Serious Organised Crime 2008-09*, <http://www.soca.gov.uk/assessPublications/UKTA0809.html>, (accessed 13 June 2009).

16 Parliamentary Joint Committee on the Australian Crime Commission, *Inquiry into legislative arrangements to outlaw serious and organised crime groups*, Submission 16, p. 13.

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*Serious Organised Crime and Police Act 2005*

4.62 The *Serious Organised Crime and Police Act 2005* provides police with additional powers for the investigation of serious and organised crime, such as greater arrest powers and the ability to compel information pursuant to a disclosure notice.<sup>17</sup>

4.63 Disclosure notices are similar to the ACC's coercive powers. They are issued by the investigating authority – the DPP, Director of Revenue and Customs Prosecutions or the Lord Advocate (chief legal officer for the Scottish Government) – a police officer or a designated SOCA officer, if there are reasonable grounds on which to believe that a specified crime has been committed. The specified crimes relate to serious and organised crime activity and include terrorist offences, serious money laundering and tax evasion offences, and serious crimes. A notice can require a person to produce documents or make a statement, except if the documents or information is subject to legal professional privilege.<sup>18</sup> The information obtained under a notice cannot be used in criminal proceedings against the person unless the criminal proceeding relate to the provision of false information in that statement, or refusal to provide information, or if the person makes an inconsistent statement in criminal proceedings.<sup>19</sup>

*Serious Crimes Act 2007*

Unlike other jurisdictions, the United Kingdom model has not attempted to construct offences around organised crime....the final legislation instead focuses on increasing police powers and strategies to combat crime.<sup>20</sup>

4.64 In 2007, the Serious Crimes Act was enacted, enabling courts to impose control orders on people suspected of organised crime. The Act, which applies in England, Wales and Northern Ireland, creates a new scheme of 'Serious Crime Prevention Orders' (SCPOs), creates a statutory crime of encouraging or assisting crime and merged the Assets Recovery Agency into SOCA (formerly a separate agency dealing with proceeds of crime matters), creating a new proceeds of crime regime.

4.65 The provisions of the Act governing SCPOs came into force on 6 April 2008. Section 1 enables the High Courts of England and Wales and Northern Ireland to make SCPOs containing whatever prohibitions, restrictions, requirements and other terms that the court thinks necessary, if:

- it is satisfied that the person has been involved in serious crime, and

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17 Parliamentary Joint Committee on the Australian Crime Commission, *Inquiry into legislative arrangements to outlaw serious and organised crime groups*, Submission 16, p. 14.

18 *Serious and Organised Crime and Police Act 2005*, section 64.

19 *Serious and Organised Crime and Police Act 2005*, section 65.

20 Parliamentary Joint Committee on the Australian Crime Commission, *Inquiry into legislative arrangements to outlaw serious and organised crime groups*, Submission 16, p. 13.

- it has reasonable grounds to believe that the order would protect the public by preventing, restricting or disrupting involvement by the person in serious crime.

4.66 An SCPO may be made on an application by the Director of Public Prosecutions, the Director of the Revenue and Customs Prosecutions Office, the Director of the Serious Fraud Office and the Director of Public Prosecutions for Northern Ireland, to the High Court, or by application to a Crown Court before whom a person appears having been convicted of a serious offence.

4.67 The burden of proof for the court to apply an SCPO is the balance of probabilities.<sup>21</sup>

4.68 SCPOs may only be placed on persons over the age of 18,<sup>22</sup> and must be of specified duration, not exceeding five years.<sup>23</sup> The five year limit does not prevent the making of a subsequent order, or provision, in the same or different terms, provided the requirements of section 1 are still met.<sup>24</sup>

4.69 The breach of an SCPO is a crime, punishable by up to five years imprisonment and/or an unlimited fine. The courts also have the power to order the confiscation of any assets or property involved in the offence.<sup>25</sup>

4.70 Under section 2, a person has been involved in a serious crime if they have:

- committed a serious offence (drug offences, people trafficking offences, arms trafficking, prostitution, armed robbery, money laundering, corruption, bribery etc)
- facilitated the commission by another person of a serious offence, or
- conducted himself in a way that was likely to facilitate the commission of a serious offence, by him/herself or by another person, whether or not the offence was committed.

4.71 SCPOs can include restrictions to a person's:

- financial, property or business dealings
- working arrangements
- associations/communications with others

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21 *Serious Crimes Act 2007*, sections 35-6.

22 *Serious Crimes Act 2007*, section 6.

23 *Serious Crimes Act 2007*, section 14.

24 The Crown Prosecution Service, *Serious Crime Prevention Orders, Serious Crime Act 2007 - Sections 1 - 41 and Schedules 1 and 2*, [http://www.cps.gov.uk/legal/s\\_to\\_u/serious\\_crime\\_prevention\\_orders\\_\(scpo\)\\_guidance/#A01](http://www.cps.gov.uk/legal/s_to_u/serious_crime_prevention_orders_(scpo)_guidance/#A01), (accessed 15 June 2009).

25 *Serious Crimes Act 2007*, section 26.



- access to and use of premises
- travel
- anything else deemed necessary by the court.<sup>26</sup>

4.72 SPCOs can also be imposed on businesses and unincorporated associations and can restrict an organisation's:

- financial, property or business dealings
- contracting and agreements
- provision of goods and services
- access to and use of premises
- employment of staff, and
- anything else deemed necessary by the court.<sup>27</sup>

4.73 An order can also require a person to answer questions or provide information or documents specified in the order. The order can specify how, when and where the question must be answered or the information or documents provided to a law enforcement officer.

### ***Proceeds of crime laws***

4.74 The *Proceeds of Crime Act 2002* provides for the confiscation and restraint of proceeds of crime. In order for a person's assets to be confiscated, they must have been convicted. However, in order for a person's assets to simply be restrained, it is only necessary that they are being investigated and that there is reasonable cause to believe that they have committed an offence. The crown must also prove that the accused has benefited from a criminal lifestyle.

4.75 Chapter 3 of the *Serious Organised Crime and Police Act* gives SOCA the power to apply for 'financial reporting orders', which are a civil mechanism of restraining the use of assets by alleged organised criminals. Financial reporting orders may be made against convicted persons and require those persons to provide financial statements and details to authorities periodically.<sup>28</sup> Failure to do so is an offence.<sup>29</sup>

## **Key issues and findings**

### ***Confiscation of the proceeds of crime***

4.76 The Director General of SOCA, Mr Bill Hughes, in his introduction to *The United Kingdom Threat Assessment of Serious and Organised Crime 2008/09* notes:

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26 *Serious Crimes Act 2007*, subsection 5(3).

27 *Serious Crimes Act 2007*, subsection 5(4).

28 *Serious and Organised Crime and Police Act 2005*, section 79.

29 *Serious and Organised Crime and Police Act 2005*, subsection 79(10).

The vast majority of serious organised criminal activity is directly or indirectly concerned with making money. Criminals may spend their criminally-acquired money on lavish lifestyles, they may invest in valuable assets, or they may use it to fund further criminal activities, in order to increase their wealth, enhance their status, and spread their influence. Recovering the money, whether the cash that is generated or the assets that have been acquired, is therefore a key priority for the UK Serious Organised Crime Control Strategy.<sup>30</sup>

4.77 Detective Inspector John Folan, Head of the DCPCU, told the Delegation that historically the culture of policing was about 'identifying suspects and getting prosecutions', however this approach, he noted, had failed. Detective Inspector Folan argued that law enforcement needs to focus on targeting the motivation of criminals, which is financial gain, and that this is effective in dismantling criminal groups.

4.78 Mr Ian Cruxton, Proceeds of Crime Office within SOCA, told the Delegation about the effectiveness of the 'criminal lifestyle' provisions under the Proceeds of Crime Act. The provisions aim to recover assets from those who have led 'criminal lifestyles', and require judges to consider this in determining the amount of assets that may be confiscated. If a judge determines that a person has led a criminal lifestyle, then a sum representing the total profit from that lifestyle can be ordered to be paid to the court.

4.79 As part of the process, defendants are required to make a 'statement of means' listing all of their assets. Police will then issue a list of assumptions regarding the statement, which must be disproved by the defendant in order for assets not to be confiscated – e.g. the police might issue a statement assuming that a car was bought with the profits of drug crimes. In this way, the onus of proof is reversed.

4.80 Mr Andy Lewis, Head of Civil Tax Recovery, SOCA, noted that reverse onus of proof legislation has been heavily tested in the UK, but that these challenges have not been upheld in European Union Courts. Mr Lewis provided the Delegation with case judgements regarding the reverse burden of proof in confiscation. Summaries of these are provided at Appendix E.

4.81 Mr Lewis noted that assets confiscated by SOCA have risen steadily each year in line with performance targets:

- 2004-05 £82 million (AU\$169 million)
- 2005-06 £98 million (AU\$202 million)
- 2006-07 £125 million (AU\$258 million)
- 2007-08 £135 million (AU\$279 million)<sup>31</sup>

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30 William Hughes, Director General, Serious and Organised Crime Agency, *The United Kingdom Threat Assessment of Serious Organised Crime 2008-09*, p.4.

31 Figures are for confiscation across all agencies.

4.82 The Delegation was told that law enforcement agencies are able to apply for and retain 50 per cent of money confiscated.

4.83 Assistant Commissioner Jon Murphy, National Coordinator Serious and Organised Crime, Association of Chief Police Officers, and officers from SOCA both noted the strength of UK legislation around civil seizure of assets; however, it was acknowledged that the civil recovery process was extremely lengthy, at times taking two to three years to get to trial.

4.84 The Delegation heard from SOCA officers that *The Serious Crime Act 2007* extended the civil recovery and taxation powers of the Assets Recovery Agency to SOCA and, also, the civil recovery powers to the major prosecuting bodies. The Act also provided for the merger of ARA and SOCA, with the effect that SOCA now undertakes civil recovery and tax investigations in England and Wales and Northern Ireland.<sup>32</sup>

4.85 Mr Andy Lewis, Head of Civil Tax recovery, SOCA, told the Delegation that SOCA have launched hybrid cases - which are both tax recovery and asset confiscation cases - and this ability to target both aspects of criminal gain has been successful. Additionally, taxation investigation allows the agency to examine records for the 20 years previous.

4.86 However, officers from HMRC highlighted the increasing complexity of criminal tax prosecutions. Mr Euan Stewart, Director of Criminal Operations, HMRC, noted that major VAT prosecutions under the *Criminal Procedures Investigations Act 1996* (Scotland) can take anywhere between five and eight years. The Delegation heard of a case which commenced in 2003 and will not get to court until 2012, and on which 2000 work-days were spent in just one month. Clearly, the increasing complexity of the financial arrangements of those involved in serious organised crime presents major challenges for law enforcement in regard to both the work-hours required to undertake the investigation and prosecution, and the associated cost.

4.87 Mr Paul Golightly, Assistant Director, Criminal Operations, HMRC, also raised the need for stronger powers and 'mutual legal assistance treaties' to recover money which has been remitted internationally. This area is particularly important because, as the Delegation consistently heard, law enforcement often sees the movement of money before the crime, and seizing the money or proceeds of crime harms criminals the most.

### ***Lifetime management of serious organised criminals***

4.88 Mr David Bolt, Executive Director Intelligence at SOCA, told the Delegation that the UK, like other jurisdictions, already has a range of approaches to offender management, for example sex offender management programs. Under these

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32 Serious Organised Crime Agency, *Civil Recovery*, <http://www.soca.gov.uk/financialinte/assetsRecovery.html>, (accessed 15 June 2009).

approaches, certain individuals have lost the right to 'uncontested space' in society. The UK has extended this approach to develop an offender management approach for serious organised criminals.

4.89 Serious Crime Prevention Orders (SCPOs), which are outlined above, can be made against persons convicted of a serious offence. An order may contain prohibitions, restrictions or requirements; and other terms as the court considers appropriate for the purpose of protecting the public by preventing, restricting or disrupting involvement by the person involved in serious crime.

4.90 Ms Jane Attwood, Deputy Director Prevention and Alerts in SOCA, told the Delegation that SOCA successfully applied, in the first years of the legislation, for 12 SCPOs, and that the Courts supported the addition of restrictions and prohibitions.

4.91 As these orders come into effect once an individual is released from prison, at present there are not large numbers of SCPOs in operation. However, Mr Stephen Webb and Mr Richard Rhodes from the UK Home Office noted that SCPO will 'bite in ten years when a relatively large number of individuals leave prison'. The Delegation was told of the importance of ensuring that SCPOs are effectively monitored, which will be resource intensive. To address the issue of cost the court can appoint an overseer or monitor of the SCPO. The Delegation was told that the cost of this monitor can be covered at the expense of the convicted person.

4.92 Mr Stephen Webb and Mr Richard Rhodes from the UK Home Office noted that SCPOs had raised a number of concerns regarding human rights conventions. However, SOCA officers noted that challenges to the orders and the legislation under which they are made, under Article 8 of the *European Convention on Human Rights Act 1998*, have been unsuccessful.

4.93 Ms Attwood from SOCA also informed the Delegation that the agency was working with the UK prison service to better manage and influence SCPOs and release orders of individuals within the prison population. *The United Kingdom Threat Assessment of Serious Organised Crime 2008/09* notes that:

Serious organised criminals with significant influence can continue to direct their criminal activities from prison. Their main constraint in prison is the ability to meet associates freely or to supervise criminal activity directly. Imprisonment forces them to change their methods of communication and to delegate day-to-day running of their business to associates on the outside. The ability to communicate clandestinely with the outside criminal organisation is crucial. The illicit use of mobile phones in prison is widespread and most inmates have some level of access to them. In some cases SIM cards are smuggled in to prisons and inmates 'rent' the use of mobile telephones from other prisoners to facilitate their use...

Imprisonment provides networking opportunities for serious organised criminals, due to the concentration and ready availability of 'experts' in all areas of organised criminality.

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There is clear evidence of serious organised criminals developing their knowledge and expertise while in prison, as well as expanding their networks of criminal associates. Importers and distributors of Class A drugs forge new relationships with overseas supplier networks, and fraudsters identify and develop new methods and contacts that can help facilitate their crimes. These new contacts are often exploited upon release.<sup>33</sup>

4.94 The Delegation also heard of a range of lower level administrative or behaviour orders being used at the community level to address criminal activity. Assistant Commissioner Jon Murphy, National Coordinator Serious and Organised Crime, Association of Chief Police Officers noted that Anti-Social Behaviour Orders and local government legislation have been successfully used to manage the movement and behaviour of lower level criminal gang members. In Birmingham, police are using gang injunction orders to arrest, and detain gang members. This approach provides communities with a reprieve from gang activity and also allows a gang member to be removed from the gang and placed into diversion programs.

### ***Information and intelligence development and sharing***

4.95 The United Kingdom has 57 separate police forces. These forces vary significantly in size, focus and law enforcement capability and capacity. In several meetings the Delegation was told that historically, there has not been a culture of information sharing between law enforcement agencies. These issues are recognized in the UK, with various attempts in the past few years to both reduce the number of police forces and to increase information and intelligence sharing between them in order to produce a national approach to crime. The establishment of SOCA is intended to provide national coordination and focus in regard to organised crime.

4.96 Mr Martin Peach, Director of Intelligence, UK Border, noted that the inability to pool law enforcement knowledge and intelligence has been a challenge to the development of a national picture of organised crime. Similarly, Mr Paul Golightly, Assistant Director, Criminal Operations, HMRC, noted the lack of a national understanding of 'what organised crime looks like' and therefore the inability for agencies to develop a coordinated national response.

4.97 The Delegation heard of two major national initiatives to develop a national picture of organised crime: the National Threat Assessment; and the national mapping of organised crime groups.

### ***The National Threat Assessment***

4.98 The National Threat Assessment is a strategic document which describes and assesses the threats posed to the UK by serious organised criminals and considers how these threats may develop. A restricted version of the document contains information

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33 Serious and Organised Crime Agency, *The United Kingdom Threat Assessment of Serious Organised Crime 2008-09*, p. 15.

about law enforcement priorities and relevant initiatives. A public version of the document is produced to improve community awareness of the effects and harms of serious organised crime.<sup>34</sup>

4.99 Mr David Bolt, Executive Director Intelligence, SOCA, told the Delegation that unless the problems caused by, and threat of, serious organised crime are understood, law enforcement cannot effectively tackle the issue or develop appropriate responses.

4.100 The Delegation heard that the assessment is produced through the amalgamation of information and intelligence from several relevant agencies. Each agency produces a strategic assessment on the risk of organised crime in its sector. These assessments are brought together, under the direction of the Home Secretary, into a single high-level national threat assessment.

#### *Mapping organised crime*

4.101 The second major initiative involves mapping organised crime groups, and individuals within these groups, nationally. The mapping exercise also identifies the links between groups, firearms, vehicles, and assets. Assistant Commissioner Jon Murphy, National Coordinator Serious and Organised Crime, Association of Chief Police Officers, is responsible for this project, which aims to identify and map organised crime groups in the UK in order to bring a structured law enforcement approach to tackling these groups.

4.102 Over the past 18 months 43 police forces in the UK have mapped their own jurisdiction's organised crime groups. This data has been aggregated to form regional and national lists, and these lists have been given priority rankings. UK Border agency, HMRC and SOCA have also provided data to the mapping exercise. Nine regional intelligence units, which are multi-agency taskforces, have also been established.

4.103 Assistant Commissioner Murphy told the Delegation that significant numbers of crime groups have been identified. It was noted that while this approach has high-level Ministerial support, there are no specific resources targeted to a law enforcement response. Consequently a tier response, similar to that used in counter-terrorism is being developed, with disruption plans being developed for identified high-risk groups.

4.104 The National Intelligence Model was discussed in the meeting between the Delegation and senior officers of Her Majesty's Revenue and Customs (HMRC). Mr Euan Stewart, Director of Criminal Intelligence, HMRC, noted that the model has three levels: (1) community crime; (2) serious organised crime; and (3) terrorism. Mr Stewart stated that levels 1 (community crime) and 3 (terrorism), are well addressed at

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34 Serious Organised Crime Agency, *The United Kingdom Threat Assessment of Serious Organised Crime 2008/09*, p. 3.

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the local and national levels respectively. However, he noted that there is a gap in the model with regard to level 2 (serious organised crime).

4.105 The National Threat Assessment and the mapping of organised crime seek to respond to this gap in law enforcement and resources in the 'middle ground' between international crime/terrorism and local/community crime.

#### *Multi-agency approach*

4.106 Mr Bill Hughes, the Director General of SOCA noted that the UK's policing model was developed in the 18<sup>th</sup> century with a strong focus on local or community policing. The Delegation was told that this traditional approach is unable to react to, or adequately detect, organised crime, which is now international and multi-jurisdictional.

4.107 The E-Borders program was discussed with the Delegation as a successful example of the use of technology, information and intelligence sharing, and of a multi-agency approach. Approximately 40 million people travel to the UK annually and the agency is collecting biometric data of all individuals arriving in the UK. The E-Border program has a national targeting centre made up of 22 people from multi-agencies.

4.108 The Delegation heard that as a result of data collected under this program, information has been provided to police which has led to 2500 arrests, including the arrests of several individuals wanted for murder.

4.109 Mr Gordon Miller, Head of Criminal Intelligence Group, HMRC, noted that the HMRC has a Fiscal Crime Liaison Officer Network, which operates in partnership with SOCA. In several meetings the Delegation heard of the importance of 'going after the business model and the money' of organised crime. In light of this, multi-agency approaches to law enforcement are becoming increasingly necessary, with forensic accountants and financial experts forming an important part of the law enforcement teams.

#### *Private/Public partnerships*

4.110 The Delegation held meetings with APACS and CIFAS, both of which are industry funded bodies in the financial sector who work with, and partly fund DCPCU, a law enforcement unit, dedicated to policing fraud in that sector.

4.111 APACS began as a pilot program in 2002 as a result of the large amounts of money that banks were losing due to retail fraud. The service offered by APACS is fully funded by industry, with the estimated annual saving to industry in the order of £61 million (AU\$126 million).

4.112 The DCPCU was established in 2002 as part of the pilot program to address the fact that only one UK police force had fraud as a key performance indicator. The City of London Police has become the lead agency for DCPCU. The Unit has 42 staff

made up of approximately one-third from the Metropolitan Police, one-third from the City of London Police and one-third from the banking industry. Police Officers at DCPCU are employed by their home force but are seconded to the unit.

4.113 The Delegation was told of the Payments Industry and Police Joint Intelligence Unit (PIPJIU). The unit was established by merging the banking industry's own Fraud Intelligence Bureau with the DCPCU to form an enhanced joint industry and police intelligence unit with increased funding and a wider remit.

4.114 In parallel, the banking industry has developed a Fraud Intelligence Sharing System (FISS). FISS is a centralised intelligence data sharing system which identifies linkages across all types of banking fraud. Intelligence data held on FISS is managed by the PIPJIU and shared with DCPCU and other police forces.

4.115 The need for a national approach to financial fraud was noted in a number of discussions. Detective Inspector John Folan, Head of the DCPCU, told the Delegation that legislation was not required to develop the unit and that in the UK there is public support for private/public partnerships and sponsorships. Therefore, the partnership between law enforcement and the banking sector, including the provision and sharing of information, is widely accepted. Detective Inspector Folan noted that change is often driven by the private sector, as government is very slow to develop legislative and program responses.

4.116 The Delegation heard that potentially there is a range of issues surrounding the legality of information sharing between the private sector and law enforcement, however, these appear to have presented no barriers in the UK.

#### *International partnerships*

4.117 Mr John Coles, Head of International Delivery, SOCA, highlighted the significant expansion and globalisation of serious and organised crime. Consequently, the UK, like other jurisdictions, has developed a range of mechanisms to work with international partners.

4.118 SOCA has a network of international Liaison Officers (SLOs) located in some 59 locations. These officers work with host countries to share information, intelligence and, where approved, engage in joint taskforces and operations.

4.119 The Delegation heard about 'Intelligence Fusion Centres' (IFC) in a range of international locations, which provide a forum for international sharing of intelligence and resources, and provide technical training and assistance:

- Spain is the lead nation for the Marine Operations Analysis Centre which brings together seven nations to share intelligence on Class A drug shipments.
- France is the lead nation for an IFC in the Mediterranean with a focus on human smuggling.
- UK is the lead nation for an IFC in West Africa.



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- USA has an IFC in Miami with a focus on drug trafficking.

4.120 The Delegation was told that currently no IFC is located in the Oceania region. It was suggested that there is a case for one to be established in this region and that Australia is well placed to progress this issue.

### ***Harm reduction***

4.121 Mr Bill Hughes, the Director General of SOCA told the Delegation that SOCA has developed a focus on harm reduction. This focus was established for several reasons.

4.122 Firstly, it is difficult to measure the effectiveness of law enforcement against serious and organised crime, and there are few meaningful performance indicators. A focus on harm and harm reduction is seen as a method which allows the performance of law enforcement to be measured.

4.123 Secondly, the law enforcement response to organised crime is shared over a number of agencies. The different focus and activities of these agencies have not readily allowed a coordinated response to serious organised crime. A harm reduction focus has allowed the various agencies to develop specific agency approaches to a shared target. Mr David Bolt, Executive Director Intelligence at SOCA, told the Delegation that agencies often tend to focus on areas which are known. A focus on harm reduction allows agencies to look outside these known areas of expertise and provides a common focus for multiple agencies.

4.124 Thirdly, a focus on harm reduction allows law enforcement to actively target serious and organised crime and to intervene before a crime is committed.

### ***Financial fraud***

4.125 The delegation heard that there has been significant growth in financial and the annual cost of fraud to the financial and retail industries. Mr Euan Stewart, Director Criminal Operations, HMRC, noted that many law enforcement approaches to fraud are 19<sup>th</sup> Century responses to 21<sup>st</sup> Century problems.

4.126 In 2007, total card fraud losses increased by 25% to £535 million (AU\$1.1 billion) and counterfeit card fraud increased by 46% to £144.3 million (AU\$298 million).<sup>35</sup> Phone, internet and mail order (card-not-present or CNP) fraud is also a significant issue in the UK and is estimated to have cost £290.5 million in 2007 (AU\$600 million), an increase of 37% on the previous year. An APACS report noted:

This crime most commonly involves the theft of genuine card details in the real world that are then used to make a purchase over the internet, by phone, or by mail order. The genuine cardholder may not be aware of this

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35 Information source APACS website, <http://www.apacs.org.uk/index.html>, (accessed 11 June 2009).

fraud until they check their statement. It is the largest type of card fraud in the UK.

However, these losses should be seen in the context of huge increases in both the amount of people shopping online and over the phone, and the number of retailers offering telephone or online shopping. Since the year 2000, phone, internet and mail order fraud losses have risen by 298 per cent. Over the same time period, the total value of online shopping transactions alone increased by 871 per cent (up from £3.5 billion in 2000 to £34 billion in 2007). More than 30 million UK adults shop online.

The difficulty in countering this type of fraud lies in the fact that neither the card nor the cardholder is present when the transaction happens. This means that:

- Businesses accepting these transactions are unable to check the card's physical security features to determine whether it is genuine.
- Without a signature or a PIN there is less certainty that the customer is the genuine cardholder.<sup>36</sup>

4.127 While there was a decline in the instance of domestic card fraud, there was a significant escalation in the number of international frauds, in particular from the USA, due to the increase in internet and card not present sales and the lower verification checking systems used in the US.

4.128 Ms Worobes from APACS told the Delegation that the magnetic strip technology, traditionally used on credit cards, is easy to corrupt. It no longer offers adequate protection and has been superseded.

4.129 UK banks and retailers have introduced a 'chip and PIN' system, which has significantly reduced the incidences of retail fraud. The government has facilitated this change, but it has been driven primarily by the banking sector. The Delegation was told that if a retailer adopts the 'chip and PIN' system then the bank will cover the value of fraud. However, if the retailer remains with the magnetic strip technology, the cost of the fraud is not covered by the bank. In this way the liability has been moved from the bank to the retailer. Ms Worobec noted that this shift in liability has educated retailers about the extent and cost of retail fraud.

4.130 The success of chip & PIN has meant that over the past three years 'losses on transactions on the UK high street' have reduced by 67% from £218.8 million (AU\$450 million) in 2004 to £73 million (AU\$151 million) in 2007.<sup>37</sup>

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36 APACS, *Fraud the Facts 2008*, [http://www.cardwatch.org.uk/images/uploads/publications/Fraud%20the%20Facts%202008\\_links.pdf](http://www.cardwatch.org.uk/images/uploads/publications/Fraud%20the%20Facts%202008_links.pdf), p. 9. (accessed 11 June 2009).

37 APACS, <http://www.apacs.org.uk/index.html>, (accessed 11 June 2009).

## *Charter of Rights*

4.131 In a number of meetings the Delegation heard that the UK's criminal legislative framework is incredibly complex and has, as a result of the *European Convention on Human Rights Act 1998*, become overtly bureaucratic. Detective Inspector John Folan, Head of the DCPCU, noted that it took thirteen hours to complete the paperwork required under the *Regulation of Investigation Powers Act 2000*, to request authority to undertake a surveillance investigation. While law enforcement acknowledged the need for appropriate civil protections, the current arrangements and human rights obligations are seen to impede their ability to undertake their role in an efficient and effective manner.

### *Serious organised crime and terrorism: the balance point*

4.132 SOCA has estimated that serious and organised crime costs the UK approximately £21 billion (AU\$43 billion) annually. This figure equates to between seven and thirteen per cent of GDP. Yet public awareness of the cost and effect of serious organised crime is minimal in comparison to public knowledge of terrorism.



Members of the Delegation inspecting the Bomb Data Centre, Metropolitan Police, London.

4.133 The Delegation was told that £557 million (AU\$1.15 billion) has been invested in counter-terrorism and that in that area, national law enforcement connectivity was achieved very quickly.

4.134 Assistant Commissioner Jon Murphy, National Coordinator Serious and Organised Crime, Association of Chief Police Officers, told the Delegation that the

establishment of a law enforcement terrorist capability was a result of top-down, high level political drivers. In comparison, national responses to organised crime are driven from the bottom-up and there is not necessarily an appreciation of the scale and significance of the problem or the provision of resources to tackle it. Assistant Commissioner Murphy noted that serious and organised crime has been the 'Cinderella' of policing with police performance being measured against the high profile areas of community policing and terrorism.

4.135 The link, although tenuous, between serious crime and terrorism was made in a few meetings. The Delegation heard that while terrorism has a different motivation than serious organised crime, terrorist groups commit serious crime in order to fund terrorist activities. Mr Euan Stewart, Director of Criminal Intelligence, HMRC, told the Delegation that HMRC has seen the flow of money out of the UK to countries such as Pakistan. The Delegation also heard from a number of sources that UK petrol stations have become the targets of the Tamil Tigers, to illegally obtain funds which are then used to fund the terrorist activities of the Tamil Tigers in Sri Lanka.

4.136 Mr Stephen Webb and Mr Richard Rhodes from the UK Home Office identified that organised crime, over the last few years, has lost political and public ground to terrorism. Further, it was noted that the UK has no Minister or parliamentary committee specifically responsible for serious and organised crime.

4.137 Mr John Coles, Head of International Delivery, SOCA, told the Delegation that terrorism is about commanding public and political attention through one-off spectacular events. In contrast, serious and organised crime is about remaining undetected. However, the cost of criminal activities is significant. Mr Cole highlighted a financial scam in Canada which produced CAN\$35 million (AU\$39 million) in twelve months and noted that this was one of many financial scams being operated at the time.

## **Conclusions**

4.138 The Delegation's discussions with UK agencies and individuals regarding legislative and administrative approaches to tackle serious organised crime were extremely useful.

4.139 A number of key issues and findings arising from the Delegation's discussions in the UK have relevance for Australia's consideration of arrangements to combat serious and organised crime. These include:

- (a) The important role that a national lead agency with responsibility for serious and organised crime, such as SOCA, plays in unifying the fight against serious and organised crime
- (b) The need for high-level political support to address serious and organised crime, and a reassessment of the threat of serious organised crime in relation to terrorism

- (c) The importance of developing a clear picture of the threat and extent of organised crime, such as:
  - the United Kingdom Threat Assessment of Serious Organised Crime, and
  - the mapping of organised crime
- (d) The need for strong proceeds of crime confiscation laws, with civil burdens of proof, removing the motive for criminal activity and preventing criminal assets from being used to commit further crimes
- (e) The need to support and resources multi-agency taskforces to tackle serious and organised crime
- (f) The need for national, regional and international intelligence sharing and coordination amongst law enforcement agencies, with appropriate mutual legal assistance arrangements to accommodate this

4.140 The Delegation appreciates the frank and informative discussions it had with UK agencies and law enforcement officers and officials.

