OUTWIT, OUTPLAY, OUTLAST.

An examination of how resilient criminal groups survive law enforcement disruption.

Rohan Trevascus
The University of Melbourne

Seventh Annual Conference of the *International Society for the Study of Drug Policy*
Universidad de los Andes
May 15th- 17th, 2013, Bogotá, Colombia.

"I will never surrender in the War on Drugs but if you are consistently getting slaughter on the battlefield, you've probably misjudged your enemy."

The West Wing

The collateral costs associated with the War on Drugs are difficult to ignore. Many advocates for change call for sensible, intelligent and tough regulatory policies that not only seek to reduce the harms of drug taking but also reduce the iatrogenic harms related to the failed prohibitionist regime. What is often missing from these discussions however is any serious consideration given to how organised criminal groups respond to changes in drug policy and law enforcement targeting. Shifts and changes in illicit markets, laws and regulations are often recognised and exploited by the most resilient criminal networks that are said to adapt quickly to changes in their environment, particularly when they are under threat. However despite a growing body of literature, no research has been able to explain concisely how resilience develops in specific criminal groups that survive law enforcement disruption.

The Australian Crime Commission (2011) recently reported that the most resilient groups are those that;

> have exploited competitive advantages in their particular illicit markets; recognised and taken advantage of opportunities in a number of crime markets (often as a result of identifying changes in demand); gained access to people with particular criminal expertise or knowledge and skill sets that can be exploited for criminal purposes; developed the flexibility to collaborate with other crime groups for particular transactions and exploited knowledge of law enforcement methodologies to insulate themselves against detection and disruption.

Absent from this report however is an explanation that illuminates how dark networks develop these resources and relationships, let alone utilises them when targeted by law enforcement. It is hardly surprising then that within academic and law enforcement circles the tendency to gloss over how criminal groups actually recover and adapt continues to perpetuate. Despite the very best of intentions to improve existing knowledge and empirical accounts on criminal networks most contemporary research tends to suffer the same fate, whereby researchers examine the structure of illicit networks but end up paying very little attention to the study of the group's resilience. These studies inevitably gravitate towards the patterning of network connections without reflecting upon the conditions external to the group or the multifactorial qualities of the individuals within it that have impacted upon the groups chances for survival when attacked. To be sure, network studies have provided the scholarly community with great insight and observation of cell structure and behaviour, capturing the impact of changing dynamics from reconstructions – but there remains many great challenges and opportunities for further advances in the field. A consequence of the recent uptake of social network analyses has been that on occasion, the dangers posed by criminal networks have been overstated. Though the dangers are very real, they are often exaggerated, with the costs groups pay for their resilience regularly overlooked. Even when scholars successfully point to the vulnerabilities within criminal groups they are time and again seen as fatalistic. They need not be. Group vulnerabilities may be just that, vulnerabilities.

It is important to look more closely at the interactions between law enforcement and criminal groups when they occur, to say nothing of the proximate and/or distal causes underlying a groups collapse or their persistence is to risk an incomplete, possibly spurious explanation. Among other considerations, it is hypothesised that the ability of criminal networks to recover from law enforcement disruptions will depend at least internally upon how many motivated offenders they are able to recruit, how capable replacement members are of fulfilling critical roles, the ability of group members to recognise and communicate a response and the time available to implement changes when suffering from diminishing returns. A review of the literature would suggest that some groups will respond intelligently and with great elasticity when attacked, selecting from a considerable list of options to adjust their structure and operational signatures as opportunities and needs surface. From a reading of this body of work, one would be forgiven for imagining there to be many great thinkers engaged in organised crime who build active, flexible, agile and adaptive criminal organisations who not only are cognisant of the challenges they face but willingly embrace them.

The reality is, not all real-world networks are likely to be so sophisticated or indeed capable of implementing protection measures even when they correctly interpret the need for them. What is more, having the time to implement changes to the routine activities of criminal networks is critical and yet few studies have examined how long this takes or how long criminal groups actually last for once targeted. Or better yet, propose an explanation as to why some organisations survive longer than others. At the end of the day a group may not have enough time to recover, if the tension subsides it may be better able to, if not the group must learn to adapt quicker than its adversary if they are to survive. For that reason, it is critical that we be able to recognise and understand all of the prevailing relationships and dynamics before measuring them. The interactions between law enforcement and criminal groups are forever dynamic. Acknowledging our own limitations is the first step to weaning ourselves off of the intellectual high that social network analyses have injected into the study of organised crime. Instead, we must focus our attention on those criminal groups who are getting back-up off the canvas to survive and fight another day after costly law enforcement operations conclude.

The rise and fall of it all

Criminal groups like legitimate organisations naturally rise and fall; we have seen this time and again throughout the annals of history. Even without the disruptive impacts associated with a law enforcement operation not all criminal groups will survive the journey, nor will they all want to. Not every group member will share the same level of commitment to endure the pressure applied by LEAs. It is a reality of their very existence that as a result of competition and opposition they will need to adapt and evolve if they are to continue to exist. Accordingly, the landscape in which organised crime takes place constantly changes as each generation of criminal and crime fighter co-evolves, shaping what the other becomes. It goes without saying that managing organised crime in today's borderless environment is exceedingly difficult. Officers without needing to be asked quip that *managing organised crime is like trying to nail jelly to the wall*; *it's like herding butterflies; it's like squeezing water - it just moves* and so on. But beyond these universal truths we mustn't assume that all crime groups will inevitably persist. Insisting that criminal networks recover and adapt to law enforcement targeting and alterations in laws is quite different to showing how this process actually unfolds, or fails to unfold in real organisations.

Criminal networks may even prove to be less enduring than previously thought, yet without sustained research on how different crime groups respond to different law enforcement initiatives under various conditions then such conclusions are at best speculative. Whatever the case may be, this paper is interested in groups that violently struggle and toil to survive targeted law enforcement attacks. Be this a reflection of a particular *raison d'être* or a confluence of events and personalities, the researcher intends to examine the plasticity of each groups' willingness to endure and the effectiveness of their defensive actions. In that struggle some groups will instinctively adapt and others will pack up, some will demonstrate positive adaptation and others maladaptive behaviours, some may take more risks, others less.

Nevertheless, an exploration of how different crime groups survive disruption by examining their own unique features, the prevailing environmental conditions and the role played by law enforcement will build upon and extend the burgeoning body of work that has emerged in recent years. This article therefore aims to elucidate critical theoretical questions that must be answered if we are to fully understand how it is that groups survive attempts to disrupt, dismantle and destroy them and their activities. We hope that this paper and the presentation that follows it will further enable criminologists to better understand the endurance of criminal organisations and provoke thoughtful discussion amongst researchers, law enforcement and government representatives with regard to the strategic and operational approaches to managing serious and organised crime in ways that reduce the harm they have on communities.

Scholarly contributions

An examination of scholarly contributions made towards research on law enforcement interventions has revealed that criminal networks appear to be able to survive law enforcement targeting by recovering from and/or adapting to disruptions to their organisational structure; group membership and criminal activity. Previous studies (Williams, 2001. Milward & Raab, 2005. Morselli & Petit, 2007. Bouchard, 2007. Kenney, 2007. Sangiovanni & Jones, 2008. Ayling, 2009. Bright, Hughes, & Chalmers, 2012) have drawn attention to the advantages a network structure offers willing participants; with those groups studied exhibiting greater levels of redundancy and adaptability than the traditional hierarchical Mafiosi of yesteryear. Combine this with the capacity to compartmentalise information and personnel and what you end up with is a core group of leaders more effectively protected and the more exploitable peripheral members, the low hanging fruit, left exposed to law enforcement apprehension. But beyond this research, there has been little sustained investigation into how different groups respond to different law enforcement initiatives over time.

That is not to say that this is the first project to ever articulate that criminal groups survive law enforcement targeting, far from it. After all, references to popular metaphors such as the hydra effect have been made for as long as time with scholars and practitioners alike acknowledging the adaptiveness and regenerative powers of criminal groups and their illicit markets. What has been missing from this work however, is an analysis of how resilience within criminal groups develops and evolves. There is a noticeable difference between recognising a phenomenon and explaining it, just as there is a difference between recruiting new criminal members to replace those lost to arrest and developing their skills to ensure that they can actually fulfil the role. Resilience research must therefore move away from an exclusive preoccupation with network analyses and the identification of redundancy and vulnerability towards an exploration of the mechanisms and conditions that underlie their effects. Given the impact serious and organised crime has on the community it is critical that we understand exactly, whether or not damaged networks recover and return to their position in illicit markets or if and when other criminal groups take their place. In addition to these expectations we must hold our law enforcement brethren to account and demand that they too develop and maintain a knowledge bank of effective and ineffective policing strategies, tactics and operations to minimise any repetition of past mistakes. After all, a significant degree of the resistance developed by criminal groups will be attributed to the effects of law enforcement operations.

With this in mind, a more appropriate calculus to determine the impact LEAs have on illicit markets and criminal groups would surely examine; one: - whether the existing group was able to reform post-operation, two: - if a new group was able to take its place and three: - whether other criminal groups were able to learn from and adapt to what worked well against the targeted group under those circumstances. On the impact law enforcement operations have on criminal groups the recently retired former operations manager with the Australian Crime Commission, Michael Purchase stated that LEAs can take most players out of a network but the network will still reform. Purchase insists that law enforcement agencies have done nothing that will stop them reforming and that there is very little that they can do. That is not to say that those in law enforcement should do nothing.

Given the reality however that drug law enforcement has failed to reduce the supply of or demand for illicit drugs we must ask ourselves not *how does it all end* but rather *how does it get better*. Felbab-Brown (2013) has suggested recently that focused deterrence strategies, selective targeting and sequential interdiction efforts may provide the answer.

So what?

Although the study of criminal organisations has not entirely overlooked resilience it has never been the main game in town. This is changing. Whether we're seeing the emergence of more resilient groups that are able to survive law enforcement disruption for longer or as a consequence of the borderless, globalised world we now live in there is greater interest in how criminal and terrorist networks are making it that much harder for enforcement agencies to dismantle them as a consequence of their organisational form. This is of major concern. After all, when law enforcement agencies and counter-terrorism units fail to take out every member of a group, the message they are sending to surviving members is: - here are tactics now go away and become resistant to them. It should be said that while organised crime has always been with us the aptitude, be it intentional or otherwise, for groups to be able to thwart arrest and disruption is worthy of rigorous study. Most notably, data released by the UN last year indicated that despite there being no momentous changes in the global status quo regarding the use, production or health consequences of illicit drugs, shifts and changes in the flows and currents of the worlds illicit drug markets were significant and disconcerting;

> not because of how they currently impact on the data but because they are proof of the resilience and adaptability of illicit drug suppliers and users and because of the potential future repercussions of those shifts and changes in the world's major drug markets.

For this reason alone, policy decision makers should give great consideration to any unintended consequences displacement may have on communities across the sea as a result of legislative reform at home.

The tide has changed and with it our ability to control criminal ecologies. Maybe we never could control them, maybe the best that we can hope for are opportunities to manipulate them in profitable ways, manipulate them by discouraging the most pernicious behaviour. In this new world order, long gone are the days where Police can turn solitary members of criminal groups and bring down entire gangs. Now, group members are purposely isolated and cut off from one another, connected only by a series of brokers and an endless supply of middle men. The game has changed and so too must law enforcement agencies if they are to buck the dominant trends. The reality is bleak, the criminal underworld internationalised faster, but in a game where their survival is on the line, timing can beat speed. If Police agencies are to gain back the advantage they must better anticipate how criminal groups respond to disruption and prepare for uncertain adaptations. This is difficult, particularly when in depth analyses can lead to paralysis, inaction to missed opportunity. Having said that, this article was not written to advocate crystal ball gazing for the sake of making officers more accountable nor was it to benefit the Monday morning quarterbacks who second-guess tactics and strategies from the comfort of an armchair. This is about recognising the play on the ground when it unfolds. Law enforcement officers must devote sufficient time to determining a groups sources for recovery and avenues for adaption to ensure operations can successfully take time and space away from criminal groups so that even the most robust of criminal networks struggle when they are hit repetitively from all angles.

Observations made by Damian Voltz of the Australian Crime Commission (2010) have revealed that analyses of the factors underpinning criminal network resilience has shown that it is possible to improve the effectiveness of law enforcement interventions against highly resilient groups. This notwithstanding the researcher is aware that an emphasis placed on LEAs getting the jump on the snap count doesn't engage deeply with the underlying drivers of crime. However even in future where drug policy is significantly reformed, crime groups will still exist and still need to be targeted whatever the illicit commodity they trade in.

What it means to be resilient

Resilience relates to the capacity of crime groups, (whatever their shape, size or colour) to be able to absorb and thus withstand law enforcement disruption and the capacity to recover from or adapt to changes arising from targeted interventions so that the group can persist. Persist so that they can remain active in an illicit markets, persist so that they can maintain a continuity of members and persist so that they can remain organised with a similar or modified structure. Resilience is persistence. Staying in the game. A group may change its personnel, they may expand or shrink as opportunities arise and threats emerge. They may engage in more crime or less. They may engage in the same criminal behaviour or different criminal activity. What endures at the end of the day may be nothing more than a name on a bikie vest. Even so, if a group is to persist they will undoubtedly need to reduce their exposure or their vulnerability to law enforcement targeting. How a group develops this resilience however is often unstated, uncertain or indeterminate. Groups themselves may not even be aware of how resilient they will need to be or how prepared they actually are until the *cometh moment cometh the man* challenge finally arrives. A group may or may not be better prepared the next time around should they survive the first attack, however Michael Kenney (2007) an authoritative voice on how criminal groups and terrorist organisations learn, professes that learning within these groups is problematic and not automatic. Kenney proposes that:

> experience is often dimly perceived by members of criminal networks. Participants may not understand what happened, why it happened, and whether what happened is beneficial or harmful to the organisation. Even when participants interpret experience correctly, satisfaction with current practices, investments in established technologies, and conflict may prevent the organisation from modifying its practices in response to such feedback.

Despite this, it would be negligible to assume that all criminal groups are inept at responding to signals of imminent danger or that persistence is ascertained effortlessly and without cost.

We must therefore ask ourselves how then do those criminal groups who survive – persevere during times under tension and carry on. Intuitively we think we know their playbook; an effective and reliable policy that has worked well for many a criminal group dealing with law enforcement and government officials is often referred to as *plata o plomo* (silver or lead, money or death). But beyond the obvious violence and intimidation used to corrupt and overcome the most resolute of opponents, what else has the crime group left in their kit bag? Should a group be unable or unwilling to absorb the losses of an intervention, they may be less concerned with poking the proverbial bear and more concerned with getting back to business. For these groups and their members' survival may not only hinge on their ability to avoid further detection and arrest but also their capacity to continue trading.

Dark networks may yet get darker, with operations put on hold and communiqués between network hubs suspended. Some terror organisations have even proven able to function without the use of modern technology, instead returning to techniques from the dark ages to reduce their digital footprint so that they may live to bomb another day. What is more, some criminal groups may willing sacrifice their own members who are excessively violent or out of control to placate law enforcers and impose discipline within a group. Thus, the battle for survival may not only come from threats external to the group but from internecine conflict. In the end the demand placed on some groups and their *members* may be too much to ask of it. For others recovery will be realised with comparatively less anxiety and difficulty. Whatever the scenario, if a group is to survive they must show resilience, if they are to show resilience they therefore must persist.

The theory

Appearing first as a concept adopted in ecological research, resilience was used to determine any differences among species and ecosystems to sustain over time. For ecology theorists definitions often involved the time an ecosystem required to return to equilibrium following external perturbations.

A conceptual difficulty with this definition in its application to the study of criminal networks however, is that criminal groups are dynamic and not static with causes that impact upon their behaviour that are rarely singular or even separable. Change can be introduced in response to both external and internal pressures that are often difficult to discern from each other when you're on the outside looking in. It could be argued then that resilience is a limited construct to the study of criminal networks because the phenomena we apply it to can show considerable ontogenetic instability. That is to say that despite persistence shown by a criminal group at a particular moment in time, the capacity and/or willingness to endure can erode very quickly soon thereafter. The study of a criminal group's resilient properties however does not imply that the group cannot be ephemeral, nor does there need to be some esoteric equilibrium that a group returns to following a disruption. Organised crime and organised criminal groups are flexible, fluid and organic. Implying that they are somehow something else to allow for a more reliable framework to be applied would be futile. Instead, the utility of a resilience framework should be measured against how well it facilitates qualitative analysis' of structural and behavioural changes within a group when attacked; be they the emergence of new vulnerabilities or the progressive development of resistance. Naturally these types of analyses lend themselves to assessments of law enforcement tactics and strategies selected to disrupt, dismantle and/or destroy criminal targets.

Showing resilience

In discussing whether or not a criminal group has 'shown' resilience it is important to state that the capacity to recover or adapt was not indelibly implanted in the group but rather it was shaped by the prevailing dynamics internal and external to it at the time, including but not limited to the actions taken by law enforcement units. Additionally, the study of a group's resilience must also examine its multidimensional nature. Though unrelated to the study of criminal networks, Luthar (2000) found that some high-risk children who experienced significant adversities manifested competence in some domains but exhibited problems in other areas.

Her findings suggest that while some crime groups may recover quickly from a loss of personnel for example, disruption to critical infrastructure may be more challenging to overcome. Practitioners and academics should therefore avoid using resilience as an adjective when describing the characteristics of criminal networks, instead limiting their conclusions to the precise areas in which resilience was shown; be it the continuity of members, the stability of an organisational structure or the permanence of criminal activity. The term itself should not been seen as representing a particular trait or an attribute of a given criminal group. Rather it is a two-dimensional construct that implies exposure to adversity and the manifestation of positive adjustment outcomes. To be able to better understand these outcomes and place them within a wider context it is clear that more empirical research applying a resilience framework is needed. This could explore questions that address:

- How long and in what form criminal groups persist?
- What makes a group more or less exposed, more or less vulnerable to attack?
- How many and which criminal groups recover and return to similar structures and operational behaviours?
- Whether core members unwittingly expose themselves and insulate the periphery during times under tension?
- Whether criminal groups react immediately or if adaptations are implemented over time? And,
- Whether criminal groups find it difficult to replace members lost to arrest and if so how they overcome these challenges?

There are many research questions that can be asked of law enforcers and the criminal fraternity in this regard, questions that focus on the survival of criminal groups and their downfall. From either perspective, insights can be derived from rich case study material and discussions held with law enforcement officers that can help inform more effective strategies to manage serious and organised crime. But before we can arrive at these strategies it is important that we adopt suitable methodologies to answer many of these research questions.

It is appropriate then that the next section of this paper offers a brief outline of the research strategy adopted for this project.

Research Strategy

This research began with a wide-ranging literature review that explored the nature of resilient criminal groups and the effectiveness of drug law enforcement. Derived from this review, a propositional inventory was developed to include many of the key variables that influence and impact upon a groups' fate when targeted by law enforcement. The catalogue will be further complemented and sharpened by the contributions of law enforcement officers who are scheduled to participate in a series of workshops and interviews as this paper goes to print. Out of these sessions a number of past operations will be recommended and selected so that the researcher can test the theories discussed so far. The researcher proposes to select cases on the basis of their potential manifestation or representation of important theoretical constructs as discussed in the literature.

The focus of the research is depth rather than breadth so the researcher proposes the analysis of two to three cases to complete the research study. One limitation with this approach however, is that data will comprise primarily from groups that ultimately failed to outwit, outplay and outlast their law enforcement adversary, an irony given the working title of my thesis. Two qualifications for the selection of case studies must first be met: the organised crime group must have been the focus of a law enforcement operation and the group must have endured any subsequent disruptions that were the result of the investigation. Recent work carried out by Peter Munro (2011) adopted a similar research strategy, seeking to explain the resilience of organised crime groups engaged in people-smuggling in Indonesia as well as recommending a number of options to increase the effectiveness of law enforcement operations aimed at dismantling such groups. Munro however failed to show sufficient familiarity, understanding and critical appraisal of the relevant resilience literature.

In spite of the limitations with Munro's application of a resilience framework, seeking to explain the resilience of organised crime groups should not be seen as a futile exercise should it be undertaken with more intellectual rigor and critical analysis.

Combined with case study material, qualitative interviews with law enforcement officers will be analysed deductively to test and develop a more sophisticated account of how criminal networks survive law enforcement disruption. Key informants from Australian Law Enforcement Agencies have been chosen strategically for their knowledge of operations and for their expertise within their organisations. In a fashion similar to the Boston Gun Project researched by David Kennedy (2001), the researcher will rely on the experiential knowledge and perspectives of personnel from various criminal justice agencies to compensate for a lack of access to those engaged in organised criminal activity. From discussions with law enforcement officers and the examination of case-study material, the researcher intends to analyse data to determine one: - the vulnerability of criminal groups to law enforcement targeting, two: - their recovery from disruptions and three: - the transformation of criminal networks and their activities following interventions.

It is important that the researcher be able to underline any correlations between a group's exposure, their vulnerability, the impact of an intervention and the group's response. These are complex assignments even for law enforcement officers who must contend with frozen analyses and poor visibility. Even when change is unambiguous difficult inferential problems and challenges to validity will remain. This is problematic and undesirable but we mustn't abandon efforts to understand how and why criminal groups survive law enforcement when their activities impose so much harm on communities. It is notwithstanding that there are limitations with a highly law enforcement-centric data set, however interviews with law enforcement officers promises to yield valuable insights into how they explain how and why criminal groups survive law enforcement attack, and what if anything they can do about it.

Conclusion

Ultimately, more research on resilient criminal groups is needed. Law enforcement officers must put themselves in a better position to know how and why criminal groups survive their attacks to ensure they are able to frustrate those efforts in the future. To understand these dynamics it is important that we develop a more sophisticated understanding of the mechanisms and conditions that either facilitate or impede processes of recovery and adaptation within criminal groups when they are targeted by law enforcement. This project proposes to achieve that by speaking with informed informants and building illustrative case studies.

rohant@student.unimelb.edu.au

References

Australian Crime Commission, *Organised Crime in Australia*, 2011. http://www.crimecommission.gov.au/publications/organised-crime-australia/2011-report/introduction

Ayling, J., 'Criminal Organisations and resilience', *International Journal of Law, Crime and Justice*, Vol. 37, 2009, pp. 182-196.

Bouchard, M., 'On the Resilience of Illegal Drug Markets', *Global Crime*, Vol. 8, No. 4, 2007, pp. 325-344.

Braga, A., Kennedy, D., Waring, E., Piehl, A. 'Problem-Oriented Policing, Deterrence, and Youth Violence: An Evaluation of Boston's Operation Ceasefire' Journal of Research in Crime and Delinquency, 2001 38: 195

Bright, D., Hughes, C., & Chalmers, J. (2012) Illuminating Illuminating dark networks: a social network analysis of an Australian drug trafficking syndicate , *Crime, Law & Social Change*. 57, 2, pp. 151-127.

Felbab-Brown, V., 'Focused deterrence, selective targeting, drug trafficking and organised crime: Concepts and practicalities', *Foreign Policy at Brookings*, February 2013.

Kenney, M. 'From Pablo to Osama: Trafficking and Terrorist Networks, Government Bureaucracies, and Competitive Adaptation.' University Park, Pennsylvania: Pennsylvania State University Press, 2007.

Luthar, S. 'The Construct of Resilience: A Critical Evaluation and Guidelines for Future Work, *Child Development*, Vol. 71, No. 3, 2000.

Milward. H.B. & Raab. J., 'Dark Networks as Problems Revisited: Adaption and Transformation of Islamic Terror Organisations since 9/11', 8th Public Management Research Conference, (29 September – 1 October 2005).

Morselli, C. &Petit, K., 'Law-Enforcement Disruption of a Drug Importation Network', *Global Crime*, Vol. 8, No. 2, May 2007, pp. 109-130.

Munro, P. 'People smuggling and the resilience of criminal networks in Indonesia, Journal of Policing, Intelligence and Counter Terrorism, 6:1, 2011.
Purchase, M., 'Overcoming the world', *The Age*, August 31, 2010, <http://www.theage.com.au/national/overcoming-the-underworld-20100830-147dk.html>, (accessed on 5 September 2010).

Sangiovanni.E, M. & and Jones, C., 'Assessing the Dangers of Illicit Networks, Why al-Qaida May Be Less Threatening Than Many Think', *International Security*, Vol. 33, No. 2, 2008, pp. 7-44.

United Nations Office on Drugs and Crime, *World Drug Report 2012*, Vienna.

Voltz, D. Australian Crime Commission, '*A new approach to assessing crime networks*', International Serious and Organised Crime Conference 2010, Melbourne (18 October – 19 October 2010).

Williams, P., *Transnational Criminal Networks*, Santa Monica, RAND, 2001.