“Going Dutch”? Comparing Approaches to Preventing Organised Crime in Australia and the Netherlands

Original Article

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Organised Crime in Australia and the Netherlands

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Abstract: Although law enforcement remains the dominant response of states to organised crime, there has long been a heated debate surrounding the choice of the best approach. Prevention has increasingly become a focus. Australia and the Netherlands have encountered similar risks from organised crime but have adopted very different approaches to the problem. Australia’s “tough on crime” approach seeks to reduce the planning and conduct of criminal activities by exerting firm state control over the associations between members of criminal organisations. Its response has been widely criticised as regressive and unfair. In contrast, the Netherlands has adopted a situational crime prevention model aimed at preventing organised crime through a coordinated whole-of-government system. This administrative approach has been hailed by many as both unique and successful. Drawing on the academic literature and consultations with experts in the Netherlands and Australia, the article argues that the administrative approach has significant potential to combat the propensity of organised crime to exploit legal opportunities and penetrate legitimate businesses, unlike the anti-associations approach adopted in Australia. It contends that by “going Dutch”, i.e. adopting an administrative approach that embeds regulatory law and policy into the state’s response, the Australian authorities could develop better preventive tools to fight organised crime.

Keywords: Organised Crime Prevention; Anti-associations Approach; Administrative Approach; Comparative Criminology; Australia; The Netherlands *Julie Ayling is a Research Fellow in the Regulatory Institutions Network at the Australian National University. email: julie.ayling@anu.edu.au

Introduction

Despite significant global investment in a variety of approaches to countering organised crime, the problem is far from solved. The United Nations Office on Drugs and Crime (UNODC) estimated in

2011 that transnational organised crime (TOC) had a turnover of USD 870 billion, comparable to 1.5 percent of global GDP (UNODC, 2012), a figure which did not even encompass the profits made by organised crime groups (OCGs) that operate locally. This indicates the enormous costs to global and national economies attributed to organised criminal activity, including outlays on detection, investigation, prosecution, and punishment.

In 2004 Levi and Maguire (2004: 397) confidently stated that “law enforcement rather than prevention has continued to dominate the thinking and the practical responses of the police and other relevant agencies”. For organised crime, while this remains true, the attention of states is gradually swinging towards prevention. There have been a number of state-sponsored studies that have spawned reports, academic articles, and books (see, for example, Schneider et al., 2001; van de Bunt and van der Schoot, 2003; Levi and Maguire, 2004) as well as stand-alone publications addressing this issue, primarily in the European context (such as Bullock et al., 2010; von Lampe, 2011). In addition, specific types of organised crime are increasingly being approached from the perspective of prevention, such as environmental crime (see for example, Graycar and Felson, 2010; Wellsmith, 2010; Schneider, 2012).

This article contributes to the growing literature on organised crime prevention by comparing the dominant approaches of two countries, Australia and the Netherlands. Both countries are liberal parliamentary democracies. Both rank high on the United Nations Development Programme’s Human Development Index 2012 (Australia second and the Netherlands fourth) and Transparency International’s 2012 Corruption Perceptions Index (Australia seventh and the Netherlands ninth, both “very clean”). Both are multi-cultural countries that have arguably integrated immigrants with a relatively high degree of success. They have many organised crime problems in common, but their responses to those problems have been distinct and have resulted in quite different reactions. The Dutch administrative model has been hailed at high levels as both unique and successful (Council of Europe, 2003). Critics of the Dutch approach have largely focused on possible unintended consequences and paradoxical impacts, rather than on the need for or effectiveness of the approach (see, for example, Huisman and Koemans, 2008). The Australian anti-associations approach, although enjoying popularity with some police organisations and many politicians for its “tough on crime” image, has been widely criticised by, for example, lawyers, academics and civil liberties groups as unnecessary, ineffective, and inconsistent with the principles of justice and human rights (see, for example, Schloenhardt, 2008; Cowdery, 2009; Gray, 2009; Loughnan, 2009; Bronitt and McSherry, 2010; Ayling, 2011b; Fitzgerald, 2013; Wilson, 2014). It has also been argued that the making of the anti-associations laws in Australia has often been crisis-driven and ill-considered (see for example Loughnan, 2009; Ayling, 2013).

The article seeks to illuminate the main features of these two approaches towards countering organised crime, examine some of their advantages and disadvantages and apply a critical lens to the question of whether a more planned and institutionalised approach along the lines of the Dutch administrative approach could be appropriate in the Australian context.

The article begins by examining where, in the range of possible responses of states to organised crime, the two countries' preventive approaches fit (section "Australian and Dutch approaches in context"). The section "Australia, the Netherlands, and organised crime" provides a brief description of the two countries and their organised crime situations. Their differing approaches, together with some of their problems, are then described in detail in the sections "Australian responses to organised crime" and "The Netherlands' responses to organised crime". In the Discussion section, important features of the two approaches are contrasted and discussed. The section "Lessons in design, implementation, and impacts" outlines lessons that the Australian government might consider were it to contemplate "going Dutch", that is, moving towards sharing the costs and responsibilities for dealing with organised crime between criminal justice and administrative agencies (as one might "go Dutch" by sharing meal costs with fellow diners). These include lessons in the design, implementation and consequences of such prevention strategies. The final section concludes with some thoughts about the applicability of the Dutch model to the Australian context, as well as noting the importance for Australia's future strategies of examining approaches towards preventing organised crime in other countries.

The author's position has been informed both by relevant literature and by consultations with experts in the Netherlands and Australia. In particular, the Dutch experts consulted in 2012 had all been personally involved in the creation, implementation or evaluation of the administrative approach. Information gleaned in those discussions is noted in the article as personal communication to the author. These communications reflect the views of the particular expert but where possible they have been supported by citations from relevant literature.

Australian and Dutch approaches in context

To place the two approaches in context, let us consider where they fit among the various legislative paths a jurisdiction can take to deal with organised crime. Based in part on Ayling's typology of legislative approaches (Ayling, 2011a), states follow one or more of the following strategies:

- Hold individuals responsible by way of offences relating to their behaviour or to their participation in criminal organisations.
- Attribute responsibility for organised crime to criminal groups in one of three ways:
    - by prohibiting them;
    - by targeting patterns of criminal activities in which such groups engage; - by targeting the structure of criminal groups.
- Deal with the economic, physical and psychological impacts of crime through provisions relating to, for example, asset forfeiture (economic), sentence enhancement for group violence (physical), and witness protection (psychological).

- Target the facilitating circumstances for crime, and the people involved in them (situational crime prevention).

While both countries have repressive measures against organised crime that encompass many of these strategies, the focus of this article is on the key preventive approach in each country. The dominant approach in Australia is one of seeking to disrupt the structure of criminal groups through anti-associations provisions, supplemented by an ad hoc recourse to addressing facilitating circumstances. The main target of this approach has been outlaw motorcycle gangs. The Dutch administrative approach to prevention, on the other hand, focuses on the Netherlands' variation of situational crime prevention in which regulatory and criminal justice measures complement each other, and it has targeted organised criminal activities more generally.

Australia, the Netherlands, and organised crime

The geography, demography, and political characteristics of a country influence the shape of its organised crime scene. Australia is a large country (7,617,930 km^2), which for its size has a small population of approximately 23.4 mln. Its people are highly urbanised and concentrated in the south-east and south-west, and along the eastern seaboard, while many long stretches of coastline and large areas of the interior are sparsely populated. Due to its huge maritime jurisdiction and its small workforce, policing of Australia's boundaries is challenging. Moreover, the multi-cultural composition of Australia's inhabitants means that transnational connections often exist for, or are easily acquired by, criminal groups[1].

In contrast, the Netherlands, with an area of 41,543 km^2 and a population of approximately 16.8 mln, is much more densely packed, particularly in the larger cities in the west (Amsterdam, Rotterdam, and Den Haag). The Netherlands occupies a central position in Europe, sharing borders with Belgium and Germany. This centrality, together with its estuarine geography, has led to the development of important transport hubs, such as the Port of Rotterdam and Amsterdam's Schiphol Airport. Low rates of taxation attract foreign investment into the Netherlands, particularly into real estate. As in Australia, organised crime has been facilitated by migration: "[b]ecause migration has created strong social ties between the Netherlands and the countries of origin, this constitutes a fertile breeding ground for international drug trafficking" (Kleemans, 2007: 174). This also holds for other crimes such as people smuggling and human trafficking (Kleemans, 2004; 2007).

The political arrangement in Australia, a federation consisting of nine jurisdictions (six states, two territories, and the national jurisdiction or Commonwealth), complicates both the institutional arrangements for dealing with organised crime and its policing. For constitutional reasons, each jurisdiction has its own crime policies, criminal laws and police agencies. In contrast, since the reorganisation of policing on 1 January 2013, the Netherlands has only one national police force headed by a national police commissioner. The aim of integrating the previous 25 regional forces was to facilitate cooperation between police units, enhance operational uniformity and reduce bureaucratic costs and burdens, freeing up resources for front line policing (Government of the Netherlands, 2013).

In each country under consideration, the strong socio-economic position of the nation, good quality of life and highly urbanised population ensure that there exists a strong demand for illicit goods and services. In the Netherlands, this is amplified by its role as a European “logistical node” (Kleemans, 2004). Unlike countries with a history of hierarchical criminal organisations (Italy, the United States), protection has not been the main activity for criminal groups. Wholesale control of parts of the economy and political corruption or manipulation by criminal groups is rare (Kleemans, 2004). Instead, criminal activities have centred around international smuggling activities, often described as “transit crime” (Kleemans, 2004; Van de Bunt, 2004; Kleemans, 2007), some of which feeds into domestic markets. All the “usual suspects” can be found— trafficking in drugs, women, arms, stolen vehicles and so on, the smuggling of illegal immigrants, facilitative crimes (forgery, counterfeiting, money laundering etc.) and other illicit activities (fraud, tax evasion, cybercrime etc.). The Netherlands is both a producer and a consumer country of illicit drugs (cannabis and ecstasy in particular) as well as a transit point for illegal commodities, such as black market cigarettes and illegal immigrants[2]. The growth of domestic criminal activity has been paralleled and perhaps fed by a history of state tolerance (gedogen[3]) towards drug use and prostitution, embodied in public policies relating to coffee shops and brothels. Mild sentencing practices and adherence to the expediency principle, whereby the police and prosecution service may refrain from prosecuting if of the view that no public interest would be served, may also have been significant in the growth of organised crime (personal communications, 5 and 6 March 2012)[4].

Australia differs from the Netherlands in not being as viable a transit point for illegal goods. Smuggling of illicit commodities is mediated by Australia’s status as an island and its isolation. What comes in generally stays in, and the range of illegal commodities exported is limited (including, for example, native flora and fauna, rebirthed vehicles, and money for laundering). Drugs constitute the main illicitly traded good and almost all drug production is for domestic use. Street prices for illicit drugs are high compared to North America and Europe, reflecting the small market and the limited number of traffickers. As always, with drug crime come other crimes, such as crimes of violence, deception and money laundering. As well, a host of other crimes (for example, people smuggling, human trafficking, environmental crime and cybercrime) are also significant[5].

Much of Dutch organised criminal activity is the product of “dark networks” (Raab and Milward, 2003) with international connections built on kinship and friendship relations (Kleemans, 2004). Few are pyramidal organisations (Kleemans, 2004). Instead, “criminal collectives” emerge from the “criminal macro network” to take advantage of criminal opportunities (Spapens, 2010). In Australia, the significance of different groups varies between jurisdictions, but as in the Netherlands there has been a general shift in recent years away from strongly hierarchical crime groups based on ethnicity, place, or activity toward more flexible, entrepreneurial, and multi-ethnic groups. Sometimes, these networks are temporary partnerships between individuals or groups for the specific purpose of taking advantage of criminal opportunities as they arise (Parliamentary Joint Committee on the Australian Crime Commission, 2009).

For the Australian public, incidents of public violence are the most forceful reminders that organised crime exists. Many can be attributed to groups that are not dark networks themselves but rather are located on the “margins of darkness”—legal collectives such as outlaw motorcycle gangs (OMCGs) and their ilk that purport to be merely social clubs or associations but that support the illegal activities of their members[6]. Thirty-nine OMCGs are believed to operate in Australia, having up to 4,000 patched members as well as associates (Australian Crime Commission, 2011). Longstanding tensions exist between different OMCGs, as illustrated in one of the most notorious instances of public violence, the 1984 Milperra Massacre in Sydney’s western suburbs, which resulted in the deaths of six gang members and a teenage bystander. Continuing public violent confrontations between OMCGs have since led to a radical reconfiguration of Australia’s approach to organised crime (discussed below), despite difficulties in gauging the percentage of crime for which OMCGs are responsible (Australian Crime Commission, 2011).

In contrast, OMCGs have not historically figured large among Dutch organised crime groups. There are around 20 OMCG chapters throughout the Netherlands. The two largest clubs, the Hells Angels and Satudarah, have caused most concern[7]. Members have engaged in some public violence (brawls, shootings), have been hired to provide “strong arms” to other criminal groups such as cannabis cultivators (Spapens, 2012) and in recent years have been providing protection, without security licences, to night life establishments in Amsterdam’s Red Light district (Spapens, 2012; Huisman and Jansen, 2012).

Australian responses to organised crime

In Australia, the criminal law has taken precedence in responses to organised crime. Regulatory constraints on organised crime are less common, although a discourse about creating a hostile regulatory climate for organised crime has entered the law enforcement lexicon in recent years[8]. The Australian approach to preventing organised crime is characterised here as criminal law plus, with the plus representing supplementary administrative or regulatory measures.

Criminal justice responses

There have long been laws in Australia against the preparation for and facilitation of criminal activities that may constitute organised crime as well as offences that deal with organised crime’s modi operandi. Most of these target individual behaviour rather than attempt to deal with criminal organisations. Every Australian jurisdiction has asset forfeiture laws, and over the last decade many have also introduced unexplained wealth provisions (Bartels, 2010). Australia also has a well-developed system for dealing with money laundering, including a dedicated anti-money laundering and counter-terrorism financing regulator and financial intelligence unit, the Australian Transaction Reports and Analysis Centre (AUSTRAC), and mandatory reporting of suspicious transactions by financial institutions (Ayling and Broadhurst, 2013). Law enforcement agencies also have a wide array of powers to assist them in investigating organised crime, and a number of state-based and inter-jurisdictional taskforces have been set up to target specific illicit markets and criminal

groups[9].

Offences criminalising participation or membership in criminal organisations, as required under the United Nations Convention against Transnational Organized Crime (UNTOC) to which Australia is a party, are rare. Three Australian jurisdictions have such offences—NSW, the Australian Capital Territory (ACT) and the Commonwealth[10].

The state of Queensland has also recently introduced legislation that enables the executive declaration of entities as criminal organisations, and criminalises certain actions of participants in those organisations[11]. These participation provisions have so far had little use.

In recent years, organised crime prevention has become a focus, with almost all Australian jurisdictions adopting a new anti-associations legislative model. In March 2009, a murder at Sydney Airport during a brawl between warring OMCGs was the catalyst for a cascade of lawmaking by Australian states, ostensibly to deal with the phenomenon of organised crime broadly, although in fact designed primarily to target OMCGs[12]. The main thrust was to empower state authorities to impose controls over interactions between and with members of criminal organisations through a two-tier model of intervention that involved court-imposed civil instruments—declarations against groups and control orders on individuals. Criminal penalties applied in the event of non-compliance with those instruments. The hybrid civil/criminal model for this anti-associations legislation, first introduced by South Australia in its 2008 Serious and Organised Crime (Control) Act, was based on the Commonwealth's counterterrorism laws. It primarily relied on membership of a declared organisation (rather than criminal convictions or proven involvement in crime) to provide the pretext for state action against seemingly dangerous individuals (Ayling, 2011b). This model was seen as preventive because it aimed to disrupt the planning and conduct of criminal activities.

Despite elements of the model being found unconstitutional by the High Court in two cases[13], states have persisted with it (with modifications to overcome the constitutional problems) in their most recent iterations of the organised crime legislation[14][15]. With a further challenge to the anti-associations model (in the form of the Queensland laws) having recently resulted in the High Court holding the laws constitutionally valid[16], it can be expected that the model is now here to stay.

The Sydney Airport murder has also brought to the fore a discussion, still current, of the need for a nationally coordinated approach to organised crime, again largely focused around OMCGS. In November 2009, the Commonwealth introduced the Commonwealth Organised Crime Strategic Framework, which emphasised that a whole-of-government response was essential for addressing the problem of organised crime. In early 2010, Commonwealth legislation was passed. It established new criminal organisation offences, enhanced others and put in place criminal assets, proceeds of crime and unexplained wealth confiscation procedures[17]. All Australian jurisdictions also worked together to agree a National Organised Crime Response Plan 2010-2013. Despite these measures, some states argue that the Commonwealth should be doing more about OMCGs. In the meantime, State and Territory Attorneys-General agreed in August 2012 to introduce mutual

recognition provisions to enable enforcement of each other's declarations and control orders without Commonwealth involvement (see Ferguson, 2012; ABC, 2012).

The major weapon against organised crime has always been regarded as the criminal law and the powers it provides to criminal justice agencies at state and federal levels. The clean lines of this approach have been somewhat muddied by the hybridity of the anti-associations model, involving civil instruments with a preventive intent. But the processes required under these laws are very much still part of the criminal justice system. Only the police can institute applications for declarations and control orders. Criminal intelligence gathered by the police is the key element in making a case in relation to those against whom applications are instituted. Only the police can monitor compliance with any control orders made and take action in the event of noncompliance. Successful action results in criminal penalties.

The plus: Regulatory elements

Administrative measures constitute the plus of the criminal justice plus approach. They are implemented through a combination of legislative and policy instruments. Within Australian states and territories, the issue or transfer of various licences or permits, such as liquor licences, firearms permits, and security agents' and crowd controllers' licences, often requires the relevant regulatory body to find that the proposed licensee is a fit and proper person to hold a licence. Implicitly the person's involvement or suspected involvement in criminal activity is at issue. Mechanisms for gathering evidence relating to fitness frequently include a duty or a right (or both) on the part of the Commissioner of Police to provide pertinent information to decision-makers. Such provisions are generally not specific to organised crime. However, following a spate of drive-by shootings involving tattoo parlours, laws relating to the licensing of both the parlours and tattooists have recently been enacted in NSW and Queensland, aimed at breaking the connection between OMCGs and tattoo parlours[18]. Similarly, in recent NSW antiassociations laws aimed at OMCGs, a person subject to a control order is automatically excluded from applying for or holding a licence or permit to undertake certain prescribed activities (such as selling liquor or possessing firearms) or occupations (including tow truck operator, pawn broker, casino operator, motor dealer or repairer and so on) while the order is in force[19].

Laws constraining the ability to build or maintain fortifications, such as fortified OMCG clubhouses, are fairly common in Australian states. Some of these enable the Police Commissioner to apply to the court directly for a fortification removal order[20]. Others give the Police Commissioner a role in assessing planning and development applications[21].

Specific legislation is not always necessary. For instance, through the use of liquor licensing conditions OMCG members have been banned from wearing their colours or other indications of membership whilst in certain licensed premises in Sydney's King's Cross. In NSW, OMCG fortified clubhouses have been inspected for compliance with fire safety regulations (Gardiner, 2011), with non-compliance requiring a suspension of use. In Queensland, OMCG members'

activities have been curtailed by strictly enforcing traffic laws in the state police service's Operation Grin. Results include the suspension of their motorcycle licences.

This brief survey illustrates that administrative measures to prevent organised criminal activities have so far been quite limited and narrowly targeted. OMCG members, who are overt about their desire to live unconventional "outlaw" lifestyles but perhaps commit only a small proportion of organised crime in Australia (Veno and van den Eynde, 2008), have borne the brunt of state efforts to be seen to be tackling organised crime. Most preventive measures are either integrated into the criminal justice system through the anti-associations legislation or involve police focusing on particular target groups using more broad-ranging regulatory laws.

Problems

Assessing the effectiveness of the anti-associations legislation has so far been impossible as the constitutionality challenges by OMCG members to the South Australian and NSW laws successfully halted their implementation. Both states then redrafted their laws, but as yet no action has been taken under them. In Queensland, a challenge to the laws following a 2012 application by the state government for a declaration that the Finks MC is a criminal organisation saw the law's validity upheld. The Finks declaration application is now proceeding.

OMCGs have proved resilient to this onslaught of legislation. They have banded together in new well-resourced bodies called United Motorcycle Councils in various states, in order to provide legal, financial and moral support to clubs and members against whom declarations and control orders are sought. Public opinion is also divided on the fairness of the laws, and there has been sustained criticism from lawyers and other commentators who see an anti-associations model as inconsistent with principles of justice and human rights (for example, Cowdery, 2009; Gray, 2009; Loughnan, 2009; Bronitt and McSherry, 2010; Ayling, 2011b; Fitzgerald, 2013; Wilson, 2014).

A further problem with effective implementation of the anti-associations laws is that members of OMCGs rarely act on behalf of the organisation in their criminal pursuits and only sometimes in concert (Morselli, 2009; Ayling, 2011b), although they do use the reputation of the club tactically (Huisman and Jansen, 2012). Yet these laws target the organisations. Reports indicate that one strategy some clubs are adopting to try to evade the laws' application is to "patch over" to other clubs (Shand, 2013).

Until the laws are enforced it is difficult to be sure whether they can have the desired impact on the organised crime activities of OMCG members. Furthermore, the political emphasis on OMCGs claims a great deal of attention and resources from law enforcement agencies, which could potentially afford other more covert OCGs some undeserved "breathing space".

The Netherlands' responses to organised crime

The Netherlands provides a striking contrast to Australia. While the Netherlands shares with Australia many repressive criminal justice strategies, the prevention of organised crime is regarded as a matter of shared responsibility between government agencies. The administrative approach is described as “dual track”, meaning that criminal justice responses and administrative responses are regarded as equally important.

Criminal justice responses As a member of the EU, the Netherlands complies with the EU’s requirements in the Framework Decision on the Fight Against Organised Crime (2008/841/JHA) Article 2) by criminalising participation in a criminal organisation, that is, a group whose purpose is to engage in crime (Article 140 of Criminal Code) (Calderoni, 2010). Over the last two decades, Article 140 has had a great deal of use, mostly against persons participating in organised criminal groups involved in drug and human trafficking and like crimes. The official Dutch jurisprudence website, Rechtspraak.nl, lists over 160 judicial decisions since 1999, some of them against multiple suspects in the same cases[22]. Police also have a wide range of tightly regulated investigative powers, both general (such as searches, interrogations and wiretapping) and “special” (including covert investigations or infiltration, pseudo-purchase/services and undercover work not involving infiltration)[23]. Conviction-based powers to confiscate proceeds of crime and criminal assets also exist. Money laundering has also had particular attention in the Netherlands, as in Australia, with both countries being members of the Financial Action Task Force (FATF).

The discovery that OMCGs have been involved in protection activities in Amsterdam’s Red Light district has recently spurred the Dutch government to produce a Plan of approach for combating 1% motorcycle clubs (Ministry of Security and Justice, 2012). As a result there was a 50% increase in investigations into outlaw motorcycle gangs (a rise from 40 to 60 in the eight months January to August 2012), and there are many prosecutions ongoing. Administrative measures (discussed below) are also being employed in this intensive campaign against OMCGs (personal communication, 8 March 2012).

The administrative approach

Standing alongside repressive measures is the administrative approach to organised crime. There is a rich literature in both Dutch and English about this approach (see, for examples in English, Fijnaut, 2002; Van de Bunt, 2004; van der Schoot, 2006; Huisman and Nelen, 2007; Kleemans, 2007; Nelen and Huisman, 2008; Nelen, 2010; Olsthoorn and van Hees, 2011). This approach is conspicuously innovative among organised crime responses around the world, and has been hailed as the most extensive of preventive approaches amongst Council of Europe member states (Council of Europe, 2003)[24]. The Council of Europe (2003) enthusiastically summed it up as follows:

The approach of the Netherlands has become the most extensive one in Council of Europe member States to prevent organised crime. Detailed research has fed into specific action plans, which have been applied first in part of Amsterdam and then in the country as a whole. So rather

than ad hoc measures of prevention, this has become embedded in a systematic, considered analytical framework, whose preconditions are administrative integrity, good data protection, and the willingness of parties to include information in databases and act co-operatively.

While it is impossible to range across the relevant literature comprehensively, some main points concerning what makes the approach distinctive will be canvassed.

The Dutch approach is an example of a situational crime prevention approach, in that it is “not primarily aimed at the perpetrators of organised crime, but rather at the various circumstances that facilitate organised crime” (Van de Bunt, 2004: 695). The key premise of the approach is that, in the course of engaging in illegal activities or investing illicitly acquired assets, criminal groups will need to use public services and facilities. The approach targets these supporting activities for organised crime rather than its core business since “[t]he fact that the opportunity structure can facilitate organised crime also means that the way the opportunity structure is approached can hinder or frustrate organised crime” (Olsthoorn and van Hees, 2011: 2). In accordance with established situational techniques (POP Center, 2010), the emphasis is on increasing the efforts, increasing the risks and reducing the rewards of organised crime (Nelen, 2010). Two basic ideological assumptions underlie this approach (Huisman and Nelen, 2007). The first is that public administration should not facilitate organised crime. The second is that responsibility for combating and preventing organised crime lies not just with criminal justice agencies but also with administrative authorities.

The administrative approach began in Amsterdam. Officials attending the 1990 Dutch-American Conference on Organised Crime in The Hague learned of the Giuliani administration’s successful interventions against the mafia in New York using the Racketeer Influenced and Corrupt Organizations Act (RICO) (Title 18, United States Code, Sections 1961–1968) (Fijnaut and Jacobs, 1991; Jacobs, 1999; Huisman and Koemans, 2008). A 1996 commissioned report to a parliamentary committee by a group of criminologists, the Fijnaut research group (Fijnaut et al., 1996, 1998), revealing that extensive organised crime networks existed in the Netherlands and particularly in Amsterdam, spurred the Amsterdam council to act. Since those beginnings a decade and a half ago, the administrative approach has evolved significantly.

The approach grew out of three Amsterdam-based projects, each having its own developmental trajectories. The first aimed at ensuring that civil servants exhibited integrity in their dealings with the public and resulted in the establishment of an Integrity Bureau in 2001 designed to develop corruption prevention policies and investigate suspected cases of corruption and fraud. The second related to preventing organised crime from gaining control of large infrastructure projects, and involved the creation in 2000 of the Bureau for Screening and Auditing (SBA) to screen and monitor tender processes for projects such as Amsterdam’s North-South subway.

The third was the Van Traa project, begun in the Red Light district as the Wallen project in 1997, and given its current name in 2000 when it was extended from the Red Light district to the whole

city (Kleemans, 2007). Van de Bunt (2004: 698) describes this as “a project set up to keep organised crime away from certain regional areas and economic branches of the city.” The underlying idea was that the “underworld” cannot flourish when deprived of oxygen by the “upperworld”. Systems were developed for collecting and analysing information from agencies (including classified information held by police, judicial and tax authorities) in order to found various administrative actions, such as refusal or withdrawal of licences and the purchase of real property owned by criminal entrepreneurs. For instance, in 2007 Kleemans (2007) reported that, since 1997, fifty-six properties had been bought and sold by the local government, four illegal casinos had been closed, and various bars and restaurants had had their licences refused or suspended. Without going into its complex history, it can be said that the Van Traa project’s legacy was a multi-agency system of intelligence gathering, information sharing and action, focused on certain sectors of the economy such as the sex, hospitality, gambling and real estate industries.

Although it began with local initiatives, the administrative approach is now a Netherlands-wide approach, underpinned by national legislation. In 2003, the Public

Administration Probity Screening Act, known as the BIBOB Act, came into force. This Act applies where there is a serious risk that a licence, permit, contract or subsidy for which a person has applied (hereinafter called “administrative privileges” for brevity) will be used to commit criminal acts or to make use of a financial benefit gained through criminal activities (for instance, money laundering). Its application was initially limited to certain industry sectors that were perceived as criminogenic, that choice reflecting the US experience of organised crime activity in the construction, hospitality, sex, waste processing, and transport industries. The BIBOB Act’s application has more recently been expanded to better reflect the Dutch context and now also covers operating licences for smartshops and growshops[25], amusement and gaming machines, and licences for the sale of real estate by housing associations (Olsthoorn and van Hees, 2011).

Administrative authorities responsible for decisions to grant, refuse or withdraw administrative privileges relating to these sectors collect open source information, including information from other agencies (for example, city departments) to assist their decision-making. If the company’s or person’s application (in which they are required to provide comprehensive details about their financial affairs and personal records) and the information collected sparks concern, the BIBOB Act provides administrative authorities with recourse to the BIBOB Bureau, which is part of the Ministry of Justice. It accesses and collates confidential information not generally available to administrative authorities, which may include, for example, police intelligence and judicial and financial information. According to one expert, applicants know that they face a stiff screening and this has a deterrent effect (personal communication, 6 March 2012; see also Nelen and Huisman, 2008)[26]. The Bureau then provides a written assessment to the requesting authority as to the integrity of the applicant and the risks involved in granting the application. The Bureau’s assessment is not binding on the authority, and the responsibility for the ultimate decision, and for defending that decision upon appeal, remains with the authority (Kleemans, 2007). The advantage of this process is that the level of evidence required for an administrative authority to wield their power against a

risky applicant is less than in the criminal process; in fact, no finding of illegality may be required. In addition, BIBOB can provide the foundation to penetrate any false front or “straw man” designed to hide an illegitimate operator and effectively prevent that operator gaining economic power through the acquisition of an administrative privilege[27].

There are some differences between BIBOB and the Van Traa approach (which continues to be used in Amsterdam) relating to the range of measures that can be taken and the basis for action (Huisman and Koemans, 2008). However, both have the same objective, to equip public authorities to fight organised crime through the use of their own powers[28].

Responses in action

The groundwork laid in the Van Traa project has been continued in other projects such as Project 1012 and Emergo. Project 1012 was established by Amsterdam’s municipal council following a September 2007 parliamentary report produced by the Van Traa team entitled Limits to Law Enforcement; New Ambitions for the Wallen that outlined the need to address the criminal infrastructure of the Red Light district. Project 1012 aims to ensure a better balance between the different types of businesses that operate in the 1012 postal area, resulting in “an appealing cocktail of style and excitement, so partly “red-light district”, but at the same time an inviting neighbourhood for everyone who wants to explore the shops, galleries, museums, restaurants, trendy eateries and old-style “brown cafés” (Gemeente Amsterdam, 2011: 4). This is to be achieved through a program of “repurposing” of properties, involving licence withdrawal and the refusal of new licences to force the closure of coffee shops, prostitution windows and casinos, the purchase of real estate to prevent its further use by criminal groups and to prevent acquisition by them, and measures to reverse degradation of infrastructure. It is expected to take at least 10 years to achieve its goals (Gemeente Amsterdam, 2011).

An example of repurposing is the case of a well-known Red Light district entrepreneur Charles Geerts, known as Fat Charles. Licences held by Fat Charles for prostitution windows in the district were withdrawn under the BIBOB Act, a decision he appealed. To resolve the ongoing matter expeditiously local authorities paid him EUR 25mln for the 18 properties involved (Nelen, 2010) under condition that he no longer operate a business within three kilometres of the city centre. The Hells Angels, too, have fallen foul of the municipality’s desire to “repurpose” property. Land on which their headquarters had been for forty years was expropriated for redevelopment under planning laws, and a sum of EUR 400,000 was paid to the Angels by the municipality in compensation (Radio Netherlands Worldwide, 2012). Amsterdam authorities have also prevented the private sale of real estate (see for example, the case of the Yab Yum brothel which had its licence revoked as a result of a BIBOB process that revealed Hells Angels’ involvement in the business: Radio Netherlands Worldwide 2010).

The government’s desire to reshape the city centre so as to reflect its vision of Amsterdam as a key gateway to Europe and a major hub for investment has been contentious. It has been argued

that gentrification of the Red Light district will destroy its attractiveness to tourists, ruin the neighbourhood for residents and cause prostitutes to take to the (much less safe) streets to ply their trade (Dogterom, 2008).

Following the Limits to Law Enforcement report, the Dutch government decided that additional investment in countering organised crime in the Amsterdam city centre was warranted. Emergo was created as a partnership of city and national agencies, including the Amsterdam municipality, police, public prosecution service and Tax and Customs Administration. The project represents a further integration between criminal and administrative approaches (Projectgroep Emergo, 2011). There were two goals: first, a better understanding of the concentration of criminal power and the underlying criminal opportunity structures in the 1012 postal area, and second, the use of this information to deal with those concentrations and structures through enforcement action (Projectgroep Emergo, 2011). Commencing in 2007, whole streets, industries and individuals were thoroughly vetted and databases of the various partners linked to give a clearer picture of organised crime in the district. As well as administrative and fiscal enforcement action, several criminal investigations were instigated (for example, into human trafficking and money laundering) and older investigations reviewed. Problems arose in relation to data sharing between agencies and the case-by-case approach of authorities, and these were addressed with an integrated plan involving experts working cooperatively, new agreements on continuous data exchange and the introduction of more automated systems for information collection and sharing (Projectgroep Emergo, 2011). Verhoeven et al. (2011: 165) note, in relation to the human trafficking investigations carried out as part of Emergo, a “tight attuning and exchange of information … between the borough administration and the police” that worked well to facilitate both the criminal investigations and the administrative decision-making associated with the retraction or refusal of permits.

The administrative approach has spread beyond Amsterdam through the establishment of regional taskforces, for example in South Limburg (2004) (Olsthoorn and van Hees, 2011) and Noord-Brabant (2010) (Ministry of Security and Justice, 2011). Moreover, ten Regional Centres for Information and Expertise (RIECs) around the Netherlands now assist and support local authorities in implementing the administrative approach with the broad objective of countering crime displacement (Olsthoorn and van Hees, 2011). The RIEC for Nord-Holland is seen by the Emergo team as playing an important role in furthering the execution of Emergo sub-projects over the next few years (Projectgroep Emergo, 2011).

Problems

As with any new bureaucratic system, there have been teething problems. Difficulties were encountered in properly integrating administrative and criminal justice processes and in the way that police and prosecutors collected and stored information. This resulted in the creation of “administrative files” for use when administrative agencies enquire about applicants (Huisman and Koemans, 2008). Furthermore, it has not been easy to grow sufficient inter-agency trust to ensure

the willing and efficient sharing of information (Projectgroep Emergo, 2011; personal communication, 8 March 2012). Kleemans (2007) notes that initially there was great reluctance on the part of the police and the tax authorities to share information. Part of the remit of the Emergo project was to catalyse this exchange process (Projectgroep Emergo, 2011; Verhoeven et al., 2011; personal communication, 6 March 2012). In practice, administrative authorities are heavily dependent on intelligence produced during criminal and tax investigations in order to wield their powers under the administrative approach (Kleemans, 2007; Huisman and Koemans, 2008).

Effectiveness too remains an issue. Despite some limited evaluations (Eiff et al., 2003; Huisman et al., 2005)[29], it has proven difficult to measure. Nelen (2010: 108) notes that "…little is known empirically about patterns of displacement, diffusion of benefits, and adaptation" that have resulted from the measures. There is some evidence of geographic displacement of organised crime activity within Amsterdam (a kind of geographic "water bed" effect: Nelen and Huisman, 2008: 216), and to other Dutch regions such as Zandvoort, one of the major beach resorts of the Netherlands (personal communication, 8 March 2012), and perhaps even to adjacent countries (Germany, Belgium). Critics decry the stigmatising effect on the already degraded neighbourhoods that have been targeted, and on certain industries and the legitimate business people involved in them (Nelen and Huisman, 2008; Huisman and Koemans, 2008). In addition, the deterrent effect of BIBOB appears to have been stronger for smaller, marginal criminal businesses than for larger, more powerful businesses, leading to takeovers, so that an organised crime scene composed of a smaller numbers of bigger players has emerged (Nelen and Huisman, 2008). Despite these and other difficulties, the Netherlands has persisted with and continues to expand the administrative approach, based on a perception of effectiveness (Huisman and Nelen, 2007).

Discussion

Table 1 sets out side by side a number of important features of each approach as discussed in the preceding sections.

Table 1. Anti-associations and administrative approaches compared

The following discussion focuses on three aspects where the two approaches clearly contrast: information exchange, planning and research, and application.

For simplicity's sake the table largely ignores the regulatory side of the Australian response and concentrates on the anti-associations approach. However, processes to ensure that criminals do not gain economic power through licences and other administrative privileges do exist in Australia, as discussed previously. But there is no national consistency on this matter; each jurisdiction has its own legislation for different licence types. Furthermore, systems to access the information of multiple government agencies for the purpose of risk assessment are rare. Police intelligence is usually the sole source of additional information (other than information gathered by the regulatory agency itself) on which the agency can rely to base its decisions, and the extent to which there is any sharing of that information by the police with the agency depends on the governing legislation[30]. In Australia, information exchange between criminal justice and other agencies is usually highly constrained by legislation[31]. Special arrangements may be made for the purpose of whole-of-government initiatives such as task forces, but overall information sharing is not of the same order as the institutionalised form of information exchange that is part of the Dutch administrative approach.

The degree of planning for the administrative approach as compared to the antiassociations approach is another point of contrast. Research conducted in the mid-90s into the Dutch organised crime situation provided the basis for the first version of the administrative approach. This has since been supplemented and expanded; fine-grained research down to the local (even street) level was, for example, an integral part of the Emergo project. Knowledge of the organised crime situation in the Netherlands is also continuously deepened by academic experts who have much greater access to data (including police files) and work in much closer collaboration with the government and its agencies than occurs in Australia[32]. While Australian research into organised crime by bodies such as the Australian Crime Commission does provide the basis for threat assessments and criminal investigations, the existence of multiple jurisdictions makes research more complex and coordination for a national approach to organised crime a fraught proposition. Furthermore, hastily crafted populist solutions to perceived crises (such as spates of public violence) that ratchet up punitiveness are common in almost all Australian jurisdictions (Loughnan, 2009; Ayling, 2013). The anti-associations model was one such solution. This policy making "on the run" has militated against the adoption of evidence-based, well-planned and nationally consistent approaches to organised crime.

Finally, there is a difference between the approaches in terms of their application.

Laws criminalising associations target a sector of society, and arguably penalise identity rather than behaviour (Ayling, 2011b), inviting their characterization as status offences (Loughnan, 2009). The administrative approach, in contrast, applies to all applicants for administrative privileges. As noted above, such a broad application is not without its own problems, in that it raises the possibility of stigmatization, and is likely to be expensive and bureaucratically complex.

Lessons in design, implementation, and impacts

Were Australia to consider moving to a more integrated, better planned and nationally consistent system to prevent organised crime embedded in regulatory law and institutions, what are some of the lessons it might take from an examination of the Dutch administrative approach? These could encompass lessons relating to the design, implementation and consequences of such a system. Those lessons, of course, can be just as much about what not to do as about what to do.

For example, in relation to design, the Dutch experience in setting goals and benchmarks for its system is instructive. As already noted, the implementation of the administrative approach was preceded by research into the extent and nature of organised crime in Amsterdam (Fijnaut et al., 1998), but the clarity and reliability of these studies as threat assessments and their usefulness as benchmarks for evaluation has been questioned (Nelen and Huisman, 2008). Australia has the opportunity to conduct research at a measured pace into its own organised crime scene without preconceptions, and to set goals and benchmarks appropriate to its particular problems, giving any new system the best possible chance of efficacy. Although some flexibility is clearly necessary to cope with the evolving nature of both organised crime and our understandings of it, it may be prudent to place limits on the reach of a new approach so as to avoid the kind of net-widening effects experienced in the Netherlands involving expansion into industry sectors in which the influence of organised crime cannot be directly observed (Huisman and Koemans, 2008).

Of course, an administrative approach will not “solve” the problem of organised crime. Not all organised crime needs the facilitation of public agencies on which the administrative approach focuses. Furthermore, establishing whether the system has merely prevented facilitation or has actually had an impact on organised crime’s power and activities is difficult. So far, in the Netherlands, any impacts on organised crime can be considered only plausible, rather than proven (Nelen and Huisman, 2008). Expectations may therefore need to be pared back, at least in the short term.

As far as implementation is concerned, Nelen and Huisman (2008: 210) note that at the time of evaluation of the Van Traa project, information sharing had become a “bottleneck” and the various partners were predominantly paying lip service to the administrative approach without integrating it into their working processes. It might therefore be necessary, initially at least, to mandate information exchange, rather than rely on information collection with an expectation of sharing. Real trust between agencies needs time to develop, being based largely on informal connections. Trust might only grow once positive results have accrued.

Enthusiasm for a regulatory approach also needs to be tempered by pragmatism. The narratives about compensating Fat Charles for his prostitution windows and the Hells Angels for their clubhouse land suggest that cleaning out organised crime using administrative measures could pose ethical dilemmas. In the Australian context where there is currently a climate of “moral panic” about OMCGs (Morgan et al., 2010), there is likely to be reluctance on the part of the state to transfer taxpayer funds into the pockets of OMCG members in the course of re-purposing property, despite a history of legal recognition and official tolerance of OMCG existence. Furthermore, a new

approach would inevitably involve costs and bureaucratic complexities, as has been observed in the Netherlands (Huisman and Nelen, 2007). There is a clear tension between increasing “red tape” for businesses in order to combat organised crime and adherence to a “better regulation” agenda.

As well as being realistic about the likelihood of positive results and problems from any new framework, it would be essential to consider potential undesirable consequences, including criminogenic effects. For instance, Nelen and Huisman (2008) and Nelen (2010) claim that parts of the sex industry moved underground as entrepreneurs decided that compliance with Van Traa/Emergo requirements was too difficult, and that the tightening of banking controls has resulted in entrepreneurs turning to informal lending systems (operated by people like Fat Charles), thus increasing opportunities for money laundering.

Moreover, an administrative approach will not necessarily quell the debates about privacy, procedural fairness and punitiveness that have accompanied the introduction of anti-associations laws in Australia. These issues have also arisen in the Netherlands (Council of Europe, 2003). As Huisman and Koemans (2008: 142) comment, “The consequences of these administrative measures can also be more far reaching than those of criminal sanctions, while the safeguards of due process are considerably less so”. Australia would need to carefully consider all of these issues in planning for any administrative approach.

Conclusions

Rethinking Australia’s approach to organised crime makes sense. There has been little progress on implementing the current anti-associations legislation. Preventive elements of that legislation are fraught with controversy and their potential effectiveness is questionable. The reactive nature of the approach, typical of common law systems, has driven adversarialism in the form of legal challenges to the anti-associations laws. In order to seriously contend with organised crime, Australian authorities might consider designing a more systematic preventive approach, one that goes beyond criminal law and taps into the crime-reducing potential of other societal actors. An administrative approach is promising for its potential to combat organised crime’s propensity to take advantage of legal opportunities and penetrate legitimate businesses. To its advantage, Australia already has a high level of integrity among public sector employees (as evidenced by its ranking on the TI Corruption Perceptions Index) which would facilitate the introduction of an administrative approach of some type.

This article does not suggest an unedited uptake of the Dutch model in Australia. The wholesale adoption of policy from another jurisdiction is rarely appropriate, given diversity in legal systems, political proclivities and constitutional arrangements, as well as social and cultural differences. But the article does advocate examining the policy practices of other jurisdictions for preventing organised crime, and it outlines some of the lessons that might be learnt from such an examination of the administrative approach. The Dutch approach is still a work-in-progress and is far from

perfect. It does, however, provide an example of a whole-of-government scheme that integrates criminal justice and regulatory approaches in a way that institutionalises organised crime risk awareness across the entire bureaucracy. Its more equitable application—both to legitimate and not so legitimate business—means that there is a lower level of legal challenge than has been seen in Australia.

The Dutch approach could at the very least provide Australia with inspiration, information and an empirical example. Australian authorities could experiment with an administrative model, without committing to it, in a small city area such as Kings Cross in Sydney, much as was originally done in the Red Light District of Amsterdam. As a first step, fine-grained research into the ownership of businesses and the financial arrangements and criminal associations of entrepreneurs operating in that area or within an economic sector in that area (such as the hospitality sector) could be undertaken. This should employ a multi-agency approach (municipal, state and national authorities), as was done in Amsterdam's 1012 postal area in the Emergo project. Such research would provide the basis for a better understanding of the nature and extent of organised crime in the area and would also highlight potential problems with multiagency cooperation, before further steps towards a more integrated and action-oriented system are contemplated.

"Going Dutch", in the sense of sharing around government agencies the responsibilities and costs of dealing with organised crime, may well prove a difficult task in an Australian context, given the multi-jurisdictional political arrangements, the current allegiance to an anti-associations model and the requirement for cooperative relationships and efficient information exchange. However, were it to be successful, it could provide a more systematic and equitable, and potentially less controversial and challengeable, approach to organised crime prevention than the current approach.

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[1] Around 47 percent of Australia's population were born overseas or have at least one parent born overseas Australian Bureau of Statistics, 2012).

[2] For greater detail on organised crime in the Netherlands, see Fijnaut et al., 1998; Kleemans, 2004, 2007.

[3] This term describes a situation or activity that is technically illegal, but that is actively tolerated by the authorities as a matter of policy.

[4] Fijnaut et al. (1998: 85) suggest that some of the growth in the cannabis trade may be linked to what they term "the absence of a moral threshold" in the regulation of cannabis use.

[5] See Australian Crime Commission 2011, 2013; Broadhurst, Lauchs and Lohrisch, 2013. For a review of Australian measures (institutional, strategic, and legislative) to control organised crime, see Ayling and Broadhurst, 2013.

[6] Law enforcement agencies in Australia have identified some criminal groups who self-nominate as "bikies" (bikers) as "Nike bikies", due to their interest in fashionable clothing and footwear and their indifference to motorcycles (Ralston and Howden, 2011).

[7] Satudarah is reportedly linked to the Bandidos in Germany. The Bandidos and the Hells Angels have a history of feuding and violent interactions.

[8] See for example the Victoria Police Organised Crime Strategy 2005-2009, available at www.police.vic.gov.au/retrievemedia.asp?Media_ID=2544.

[9] These include, for example, the Purana Task Force set up in 2003 to investigate gangland killings in Melbourne, and Strike Force Raptor, set up in 2009, targeting OMCGs in New South Wales (Ayling and Broadhurst, 2013). In addition, the National Anti-Gang Task Force and Australian Gang Intelligence Centre commenced operation on 1 July 2013. This task force brings together members of the Australian Federal Police, state and territory police forces, with the Australian Customs and Border Protection, the Department of Immigration and Citizenship, the Australian Taxation Office and Centrelink (Australia's social security program).

[10] Part 3A, Division 5, Crimes Act 1900 (NSW); Chapter 6A, Criminal Code 2002 (ACT); and, in relation to offenses having a federal aspect, Part 9.9, Criminal Code Act 1995 (Cth).

[11] See Part 4, Criminal Law (Criminal Organisations Disruption) Amendment Act 2013, amending Queensland's Criminal Code.

[12] See Crimes (Criminal Organisations Control) Act 2009 (NSW); Serious Crime Control Act 2009 (Northern Territory); Criminal Organisation Act 2009 (Queensland).

[13] See South Australia v Totani [2010] HCA 39 and Wainohu v New South Wales [2011] HCA 24.

[14] See Crimes (Criminal Organisations Control) Act 2012 (NSW); Serious and Organised Crime (Control)

(Miscellaneous) Amendment Act 2012 (South Australia); Serious Crime Control Amendment Act

[15] (Northern Territory). Certain states took this opportunity to further strengthen their laws relating to serious and organised crime, introducing new police powers, consorting laws and laws relating to firearms possession and use. See for example Crimes Amendment (Consorting and Organised Crime) Act 2012 (NSW); Summary Offences (Weapons) Amendment Act 2012 (South Australia). Legislation based on the same anti-associations model has recently been passed in the states of Western Australia (Criminal Organisation Control Act 2012) and Victoria (Criminal Organisations Control Act 2012).

[16] Assistant Commissioner Michael James Condon v Pompano Pty Ltd [2013] HCA 7 (14 March).

[17] See Crimes Legislation Amendment (Serious and Organised Crime) Act (No. 2) 2010. The Commonwealth does not have a specific legislative mandate over crime. Its legislative power with

respect to organised crime derives from its other constitutional powers, primarily those with respect to trade and commerce between the states, defense, international affairs, taxation, customs and the environment.

[18] See Tattoo Parlours Act 2012 (NSW); Tattoo Parlours Act 2013 (Queensland).

[19] See Crimes (Criminal Organisations Control) Act 2012 (NSW), s.27.

[20] See for example, Criminal Organisation Act 2009 (Queensland), Part 5.

[21] See for example, Statutes Amendment (Anti-Fortification) Act 2003 (South Australia).

[22] The author thanks Peter Klerks, Advisor to the Board of Procurators-General, in the Netherlands, for information (provided 3 September 2012) about Article 140. The author is, of course, responsible for any mistakes in that information.

[23] Several years of inquiries and discussions about the acceptability and standardisation of these special methods following a scandal known as the IRT affair in the early 1990s resulted in the Special Powers of Investigation Act (BOB Act), enacted in 2000. For more on the IRT affair, which concerned badly handled controlled deliveries, see Van de Bunt (2004). For a review of undercover policing in the Netherlands, see Kruisbergen et al. (2011).

[24] Italy, too, imposes administrative constraints on organised crime through its anti-mafia legislation, and its system predates that of the Netherlands (personal communication, 2 April 2012). Its measures differ from those of the Netherlands, reflecting the different constitution of the problem.

[25] A smartshop is a retail outlet that sells psychoactive substances, or “smart drugs” that affect cognitive functioning (for example, psychedelics). Growshops sell equipment and supplies for growing cannabis indoors (for example, hydroponic equipment).

[26] Nelen and Huisman (2008) report that an internal evaluation of the BIBOB Act’s implementation showed that several applicants had been deterred from continuing with their applications because of the possibility they would be screened.

[27] I am grateful to an anonymous reviewer for pointing out these advantages of the BIBOB process.

[28] Huisman and Koemans (2008) argue that both approaches have a net-widening effect in that they can apply to a broader range of criminal activities than just organised crime. This article focuses solely on their application to organised crime.

[29] The Van Traa approach has been evaluated but not the other two Amsterdam-based projects (Nelen, 2010).

[30] Sometimes the agency is required to accept the police risk assessment on its face. See for example, the Tattoo Parlours Act 2013 (Queensland).

[31] See for example the confidentiality and secrecy provisions of the Australian Crime Commission Act 2002 (Cth).

[32] For an explanation of the Dutch research scene, see van de Bunt, 2004.