

## **Presentation to the ICAC Symposium Thursday 10<sup>th</sup> May 2012.**

Organised crime continues to thrive, to the point where it forms a parallel universe to legitimate global and multi-national businesses. It is linked and spans the world and defies simple resolution by individual nation states. Serious and organised crime is already close to, and will in future become, the most serious impact upon democracies, and upon government's ability to control their own states. One of the most significant reasons for organised crime's well being and increasing prosperity is that it succeeds by the fact that it corrupts and suborns law enforcement, governments and legitimate business.

Corruption is in itself, organised crime. It is a crime that extends from the simple corruption or bribery of a public official all the way through to corrupt politicians and Presidents who retain power through patronage and corruption, whilst at the same time stealing the resources of their country from their citizens.

Part of the role of a panel speaker is to encourage participation in the following debates by highlighting particular issues. On that basis, I have some thoughts, which I would like to bring you.

The first is that organised crime feeds corruption and corruption feeds organised crime. For example, money laundering and transnational trafficking of drugs, people, or illegal arms, all rely on the corruption of officials, police and judiciary to avoid investigation. Where illegal transactions and shipments can be legalised with paperwork, corruption is the means to achieve it.

Where law enforcement intervenes, criminals know that in order to avoid conviction, they need to intimidate or corrupt witnesses and/or the jury, which happens on a regular basis in the UK. Placing the equivalent of 10 years salary, in cash, in front of an admin officer for the prosecution service, simply to provide a printout of the witness's names and addresses was one of the cases we saw. Many in the legal system reacted in horror; many were simply surprised that it had taken so long for law enforcement to catch the perpetrators who did it as a regular service for their criminal associates.

As an ex-cop and therefore a public servant for many years, I am now about to commit heresy. In my view, governments and public servants spend too much time seeking to define criminal behaviour, corrupt practice and even seek a definition for organised crime. Even NGO's fall into the same trap. If you consider the definition of corruption used by Transparency International – "the abuse of entrusted power for private gain" – it defines corrupt behaviour for those in public service but not if the 'private gain' is an organised crime multi-national enterprise.

This speech was delivered at the ICAC Symposium on 10 May 2012. It may not be copied without permission of the author. 1

These narrow definitions are forced upon us by the demands of the various criminal justice systems, which require law enforcement and police to seek to resolve crime issues through investigation, preparing files for prosecutions. Evidence is collected through complex procedures, and to prevent those methods being rendered useless by exposure the law enforcers create for themselves a culture of secrecy and low profile. Law enforcement agencies countering organised crime tend to be focused on the use of covert information, with almost no public profile.

On the other hand, anti-corruption agencies have much more public engagement, but with little or no access to powerful tools like investigative powers and intelligence. What is needed to be successful is a fusion of both of these cultures, and unlike many structural changes that take place when politicians get involved, we need to keep the useful parts and dispense with the rest.

But here we run into a more fundamental conceptual problem. To most governments, tackling organised crime is the responsibility of law enforcement agencies alone. It is not, and we will fail if this is how we continue. It is like saying that fighting terrorists is the responsibility of the security agencies alone: on the contrary, the only way these agencies will have success is by mobilising across various national and international organisations and with the public in many countries. I look with some envy at the success achieved by the counter-terrorism community in building a wide consensus across society and the international community that terrorism is a scourge to be tackled together. A similar public momentum against organised crime and especially corruption needs to be built between the agencies tackling organised crime, the anti-corruption community, and the wider public.

We have to move from a position where corruption is dealt with through long, complex investigations and court cases, into a position where reports of corruption to an independent body can be reviewed and investigated quickly. The report should then be available for scrutiny and assessment, and action taken to prevent its impact, to discipline those involved and the circumstances and method of operation made public knowledge, the better for the public to protect themselves.

This is not a poor substitute for legal process; that must continue, but we have to deal with the high-volume aspect of this criminality. Where it can be dealt with quickly and publicly, it should be done so, and methods put in place to prevent reoccurrence.

It is clear that national governments have an important role to play: organised crime and corruption will not be tackled seriously until it is high on their list of national threats and becomes an integral part of their national security strategies. It must also be the case that nations work together in a common international security strategy to support countering corruption and organised crime in other states.

For example, already we see parts of Africa that have been effectively taken over by serious organised crime from South America and Asia. They are often countries where the national infrastructure is weak or corrupt. The attraction for organised crime is that what those countries do have is a long established position in the chain of trade routes that grew under imperial colonisation and have remained to the present day. These countries have been infiltrated by serious organised crime to allow them to move their commodities covertly or to obtain control over high value raw material as its availability becomes constrained in the future. Criminals see these countries as their staging posts and operating centres for the future, especially as others become better at preventing their criminal activities closer to home. During the next couple of years for example, the entire continent of Africa will have a Broadband Internet service capability that will rival or beat the service in many of the so-called developed countries. Whilst this is to be applauded as a vital tool for the development of the continent, the opportunities it offers for crime and large-scale corruption are massive. What is not being seen is any joined up approach by the international community to help and defeat organised crime in those countries that have become infected.

Returning to national strategies. I believe that it is vital that national security strategies include serious organised crime and corruption. This will require the law enforcement of the 21<sup>st</sup> Century to take a different approach to dealing with crime. The current focus of most law enforcement is tactical and/or technical: focused on investigation, leading to arrest and seizure, followed by prosecution and conviction. What it does not do is tackle the enabling conditions of organized crime, and it does not address the concerns of ordinary people regarding corruption. The current approach leaves the public uninvolved regarding the importance of fighting organized crime and corruption. They see corruption as part and parcel of their lives and they feel powerless to defeat it.

In an article in the Asia-Pacific Review in 2010, Bertrand de Speville, a former head of the ICAC, set out the historical background of the ICAC and its operating model. He argues strongly that governments which have introduced anti-corruption approaches, have not adopted the same concept of operations as the ICAC did when it started, thus their anti-corruption models have not been successful. Invariably the governments have set out the targets to be addressed, and have ignored the wishes of the people, or have decided, as many governments say they will do, to focus upon the most serious manifestations of corruption. In reality, this fails on at least two counts; firstly, targets should be determined on the basis of the information supplied by the people themselves, so they can see that their concerns are addressed. Secondly, setting targets from government level reinforces the belief that certain people will be allowed to carry on their corrupt activity whilst making a show of addressing political opponents or those with no government connection.

This speech was delivered at the ICAC Symposium on 10 May 2012. It may not be copied without permission of the author. 3

© William Hughes 2012

Anti-corruption starts from the bottom, and must be reinforced by the international community. The UN has a Convention against Corruption, and it has to be endorsed and monitored by all members of the UN in their dealings with each other. This does not happen or if it does, it is unconvincing. Compared to the Transparency International Corruption Index, governments around the world lack any apparent conviction to intrude into other countries corrupt practices.

One may say that it is about national sovereignty and that other countries should not intrude. That does not seem to stop military expeditionary activity when it suits. As a further problem, military intervention alone compounds the felony by introducing weapons and financial support for favoured politicians into the picture. Military action can be justified to stabilise conflict zones, but there has been scant evidence of governments understanding the need to reinforce Rule of Law infrastructure into these post-conflict situations. The almost inevitable result is that “war lords” control militia, armed and funded by siphoned-off resources, with no governance structure capable of dealing with the corruption and organised crime that follows.

A proper national security strategy, on the other hand, should be seen by the population to be addressing the support structure for organised crime as well as its visible manifestation. Regional and international monitoring has to take place with UN and other international bodies’ endorsement and support. This support cannot simply be words and resolutions, but must be enforced vis-a-vis errant countries. The consequence of not taking a rigorous approach is the creation of “safe havens” for organised crime around the world, especially in areas where they can infiltrate the legitimate trade and financial world markets. Investigative competency and the rule of law are essential for the future, but they have to be augmented with a much more strategic and comprehensive approach if we are to successfully combat serious organised crime.

My second thought takes the military and defence issue further. There is a real and special danger if organised crime penetrates the defence and security forces of a country. Perversely, security and defence organizations are particularly susceptible to organized criminal activity. After all, the military, police, and intelligence bodies and forces possess not only a monopoly on the means of violence, as protectors of national security, guardians of state sovereignty and enforcers of order, but also have first-hand access to classified information, arms stocks, natural, and financial resources, high-placed contacts, and, of course, to the pillars of power in the country. This is also exacerbated by the historically privileged position of the military in a country – for example as a result of an independence struggle or a totalitarian government. The former head of Peru’s National Intelligence Service under Fujimori’s authoritarian regime, Vladimir Montesinos, is a case in point. He ran a multi-million criminal network of drugs and arms trafficking, embezzlement, bribery, and blackmail, to say nothing of his human rights abuses. Once organized crime

This speech was delivered at the ICAC Symposium on 10 May 2012. It may not be copied without permission of the author. 4

becomes embedded in the law enforcement, security, and military bodies it can perpetuate itself with impunity.

This is an area where peer pressure from other countries and international pressure groups is required. There is often little appetite and/or political will within the country itself. The defence and security forces have the weapons and the state “legitimacy” that makes opposition by individuals or groups so difficult and dangerous. Internal dissent can so quickly be interpreted as “subversion” or “insurgency”; and where there are energy or resource interests of the developed world concerned, either a blind eye is turned to the ensuing repression or the activities of state forces are judged as less damaging to western interests than state collapse with a consequent descent into lack of infrastructure and absence of “rule of law”. Better the devil you know...

Taking a broad approach to tackling corruption and organised crime in defence and security may be a first area for the new approach I am advocating

My third point concerns countries embroiled in conflict or emerging from armed conflict. Organized crime often becomes embedded in such circumstances. In an environment where basic state functions are eroded, law enforcement is crippled, and judicial process is powerless, organized crime easily takes root and becomes pervasive. A culture of impunity develops and organized crime groups merge easily with ideological or terrorist groups. The demobilized ex-combatants and decommissioned soldiers often become the perpetrators of crime in these environments, due to lack of economic opportunity, poor rehabilitation and reintegration programmes, rapid “release” into a lawless society, and lack of social support. My point is not that this happens – we all know it does – but that countering organised crime is not addressed in stabilisation operations or in peace settlements. Rather, priority is given to accommodating the interests and influences of the former warring parties, with little attention paid to the sustainability of the “peace” which results.

Adding to the problem are two other factors relevant to both corruption and organised crime in conflict environments. First are the activities of international intervening forces, which often have narrow pictures of the environment in which they operate and are insufficiently aware of the damaging impact of their contracting practices. This is now being addressed in Afghanistan by the international community, but even here it is still being resisted by many. Second, the amount of financial post-conflict aid flooding into the current “hotspots” is also massive and unprecedented. Again, Afghanistan in particular comes to mind. Combined with the detrimental impact of Western intervention described above, the pressure to dispense funds very quickly, and the general level of disorder, the “money flood” becomes a key enabler of organized crime.

This speech was delivered at the ICAC Symposium on 10 May 2012. It may not be copied without permission of the author. 5

© William Hughes 2012

In Afghanistan, the lesson of the ICAC formation has been heeded to an extent in relation to the separation from the corrupting influences in the police, courts and prisons. Those who engage in serious organised crime and use corruption to protect themselves are increasingly the targets of highly trained and capable Afghan investigators. When arrested by Afghan police and military forces, supported by UK and other countries law enforcement agencies, they do not go into police custody, but are detained in special detention centres. They appear before courts where they cannot buy their way out, and serve their full sentences in prisons that they cannot overcome by corruption.

This was particularly useful when dealing with corrupt Governors and police chiefs, who saw little risk for them in reselling the drugs their officers had seized, or of stealing their own officers pay and pensions for the families of officers killed on duty. The anti-corruption model was a shock for them.

It has also become general knowledge that much of the money obtained in Afghanistan as proceeds of crime and diversion of international funds, has been shipped out of the country to other states where it is held to provide for the day which many believe may be drawing near, when the owner of the cash would have to flee Afghanistan.

I believe that the need is imperative to consider corruption and organised crime together, and to tackle the twin problems together. For the last few years many have talked of the communications linkages and the global enterprises that will drive phenomenal business change in the world. Like all exponential changes, such change starts slowly but then accelerates. That acceleration curve is where the world is now, and business is changing so rapidly it is hard for governments to oversee this change. Serious organised criminal enterprises are responding just as fast. If left unchecked at a national and international level, serious organised crime has more power to defeat good government, good business and millions of people's lives, than many realise. It has moved beyond law enforcement alone having the capability and capacity to combat it, and that painful but inevitable fact has to be appreciated. We need a new form of coalition to tackle this threat, between organised crime law enforcement agencies, anti-corruption bodies and civil society; and we need it now.

Anti-corruption bodies can only be implemented in a democratically governed state by the government in place at that time. They have to be supported and nurtured. The government has to accept that lip service cannot be paid to the fact that there is such an agency in place. Monitoring of the efficacy of the agency must be carried out and supported by international benchmarks.

In post-conflict areas, this problem is the more acute and if the international community does not work in unison with the country, then its future prospects are not

This speech was delivered at the ICAC Symposium on 10 May 2012. It may not be copied without permission of the author. 6

© William Hughes 2012

conducive to becoming a model of democracy and good governance within the UN family.

Even in nations that pride themselves upon their maturity and democracy, and I include my own nation, the UK in this, there is massive complacency about corruption. New legislation around Bribery is not the answer. Many believe that bribery is the beginning and end of what is meant by corruption. It goes much deeper than that and corrodes good governance and democracy. It corrodes public morality and destroys trust.

Lawyers often appear to believe that the answer to societies issues is to create more legislation? Top down anti-corruption never works. If the people do not believe that it is really part of the governance structure of the country and that anti-corruption models are effective, they fall into the worse position of accepting this as the status quo, and that if you cannot beat them, you may as well join them. We are seeing such a cultural change in western society, where the populations see that their governments keep the same cronies and well-heeled supporters in positions of power, and they despair.

What makes all this of more concern is that in my view all law enforcement agencies around the world, are falling behind in the arms race against organised crime and corruption. There are more criminals operating than can ever be dealt with through orthodox means given the amount of investigations that can practically be carried out, even if law enforcement resources were increased hugely. It is also increasingly the case, that criminals operate across a global environment and are not therefore able to be investigated, arrested and prosecuted by single jurisdictions alone. European and international arrest warrants and joint operations between countries notwithstanding, new ways have to be found to deal with greater number of criminals engaged in serious organised crime.

Those new ways by which we must deal with organised crime, and the corruption used as a weapon by criminals, include disabling their ability to operate, disrupting their enterprises and dismantling their organisations. This has to be recognized as a “high volume” approach and to support this rethink, we need to find faster ways to “clear the decks” of the low-level volume crime and corruption so that we can concentrate upon the serious and dangerous.

Until recently, corruption in the minds of most people was seen as a matter that involved public officials, politicians and business and was therefore susceptible to accountability procedures and was best dealt with in an open way. As the old saying goes, “the best disinfectant is sunlight”. Unfortunately what we are seeing now is “hard” law enforcement focused upon corruption used by organised criminals, whilst

other corrupt activity is not being discovered and is not being investigated in a way that will properly reduce or remove it.

In terms of organised criminals the relationship between organised crime and corruption is a simple one – criminal networks make extensive use of corruption, in its various forms, to carry out criminal activity, avoid investigation and escape prosecution. Criminal factions who abuse international borders in order to conduct their business put pressure on public services, local communities and legitimate businesses- and an easy way to achieve this is through corruption. In order to deal with these criminal enterprises therefore, law enforcement agencies recognise that investigating the corruption and following that activity often leads to the criminal enterprise. Once arrested, all of the information gleaned all gets dealt with in the ensuing prosecution.

However, it does not follow that there is always a count on the indictment in relation to a specific criminal offence of corruption, as prosecutors look for those counts that are treated as the most serious by the courts. Often the corruption activity is referred to in the prosecution case as reinforcing the seriousness of the other specific offences, and sometimes falls off the indictment, not because it is unimportant, but to make the indictment more manageable and not look as if the prosecution are seeking “two bites of the cherry”.

If we are to go for this new high volume model approach that I referred to earlier, there is great value in bringing the anti-organised crime and anti-corruption factions together. The complementarity between “hard,” decisive instruments of law enforcement and the norm setting and influencing ability of the anti-corruption apparatus is a valuable resource which is currently under-utilised. Therefore, robust, strategic cooperation between anti-corruption and the counter-organised crime world will go a long way towards addressing both problems and such a coalition-while respecting each other’s distinct missions-may go a long way to dismantling the elaborate market infrastructure of today’s organised crime.

Corruption is a subject that is less well understood by the public than many would believe. When professionals talk about corruption, they talk in terms of legal definitions that are only useful in courts of law. It is similar to surveys that ask the public about their fear of crime. Most of the “crimes” that the public refer to, are not criminal offences on the statute book in the legal sense, but are anti-social activities that cause fear. For that reason, statistics recording these anti-social activities are not kept in the same way as recorded crime.

For operational police commanders, the consequence of being subjected to performance targets over the years has been to bring about a cultural change turning

This speech was delivered at the ICAC Symposium on 10 May 2012. It may not be copied without permission of the author. 8



the concept of the police into a “crime-fighting” agency, which successive governments have reinforced. The result is that community policing is caught between being seen as “soft” and not “crime-fighting” by the police and government, with a commensurate low level of priority, whereas local people and local politicians want a police service with the skills to deal with anti-social behaviour as well as criminal offences.

For example, dealing with corrupt and unethical behaviour. During my career as a police officer, I have dealt with criminal offences of corruption in the public sector amongst local government employees and councillors. There are statutory offences for dealing with these matters. I have also led operations to arrest and prosecute corrupt police officers. Although their substantive crime was to deal in drugs, or seek bribes or other criminal activities which made them a disgrace to the uniform and the oath that they undertook, and a professional liability and smear on the character of all honest and professional law enforcement, they committed criminal offences of misfeasance or malfeasance, which have a legal definition, and that criminality can be understood and dealt with professionally by law enforcement. It is also the case that such criminality carries a very high priority in law enforcement and with prosecutors.

But what the man or woman in the street defines as “corruption” is often not activity as narrowly defined in the criminal codes, but is in reality, unethical behaviour. How else would you define the activities of UK MP’s in the parliamentary allowances debacle? The criminality is more difficult to prove (but not impossible), but the unethical behaviour shrieks out.

When people see bankers and chief executives and others in the private and public sectors richly rewarding themselves in dubious ways, whilst many are losing their jobs or their savings, or both, they see unethical behaviour, which they call corruption. It is not necessarily criminal in the legal sense of that word, and will rarely face legal sanction in itself, but it creates very strong emotions within society that threaten unity and good behaviour.

In my view, corruption as crime should be dealt with by law enforcement within the whole arena of criminal justice. The new UK Bribery Act will require law enforcement to have a better “radar” for such offences, which I will come to in a moment but it should enable better use of specific legislation to counter corruption per se than hitherto.

In my view we do need to strengthen the response of society to unethical behaviour. In the UK, the Nolan Commission Report and Recommendations of 1995 makes useful reading today 16 years later, as the points which caused the Commission real concern do not appear to have altered very much, and I am saddened to say that is true especially in the case of the behaviour of some politicians.

This speech was delivered at the ICAC Symposium on 10 May 2012. It may not be copied without permission of the author.

© William Hughes 2012

There are many who believe that society's mores have changed and that we are more free and easy than in the past. Well that may be true, but I think that it relates more to diversity, our personal relationships, marriage and sexuality. For most people in the UK, and elsewhere in the world, whatever their age, there is still an innate sense of fairness that runs deep.

Many of those engaged in the riots in the UK in 2011 did so because they considered that if others were being rewarded in society for acting unethically, why shouldn't they? Despite commentators arguing over whether it was gangs involved or not, (which it certainly was), there were significant numbers of people that many of us in this room would describe as "normal, respectable, decent" people who did not resist the opportunity to take something. The majority did not of course and dissented publicly and in many cases, at great personal risk to themselves. They acted because in their view such behaviour was not right. Not that it was criminal per se, but that it was not right. It was not lawful and it was not fair.

In the past there have been various Commissions on the state of the nation in different areas of public life but in my view, successive governments have failed to respond effectively and to deliver some means by which a regime of sanctions could be imposed upon those who breached the standards. More importantly, governments have failed to establish an open and accessible reporting mechanism.

I believe that in all countries there is a need for a public body that has the power to investigate allegations and to call people before it to give evidence and to make pronouncements regarding ethical behaviour as the start of a process to reduce unethical bordering upon criminally corrupt behaviour that many will then see as enabling a fairer society. This fairer society if it sees that unethical behaviour is not acceptable and there are sanctions against every level, might then also see the value in working to prevent organised crime ruining their communities. This body might also consider the impact of the corruption caused by organised crime upon public officials and others, with a view to making the risks more open and transparent.

In the TI survey on corruption in the UK, the judiciary, education and the military came out as being those institutions most trusted by the public. On any assessment, the role of the judiciary appears to fit closely to that which is required for this public "Ethics" body. They are regarded as "fair" in their approach. They can gather and weigh evidence in an impartial manner, and present their findings in a way that is not in any shape or form like the "grandstanding" you get from Select Committees, or the "sound-bite mentality" which has crept into almost every public and private sector announcement.

This speech was delivered at the ICAC Symposium on 10 May 2012. It may not be copied without permission of the author.

© William Hughes 2012

They would need to form opinion and present it back to the public, on what is considered to be ethical and that which is considered to be unethical. Whilst it is a standing joke that judges are out of touch with the real world, whom else would you want to do that? Politicians? The Media? Heaven help us. Religious and social leaders could have a place in this body. There could even be elections or referenda on the composition.

Of course, the difficulty that some may point out with this approach is that the judiciary interpret the law in the UK, they do not make it. It is for the executive to make the law, but of course we are not necessarily talking about the legislative law in this instance. There are also insufficient members of the current judiciary to divert large numbers off to this new body, and of course, the fundamental problem will remain whether the judiciary are considered able to determine the values of society.

So who should determine society's values? It has been said that all cultures have different standards and values, so how would this apply in a multi-cultural society like the UK? Taking that role away from politicians and the danger of populist reaction has to be the best way. Other countries do this through public hearings and enquiries.

For example, in Australia recently, I was struck by the power of the Examinations that are conducted by the Australian Crime Commission which are chaired by a judicial officer and have the power to compel those called before them to answer questions. These Examinations deal with corrupt behaviour as well as straightforward criminal conduct in their processes, and they are widely reported and commented upon.

It is also the case that most of the States in Australia have some form of oversight and accountability mechanism, in the shape of Integrity Commissions, to ensure the highest standards in public life, and Australians are not shy of calling their political masters and public officials to account for their actions in open and transparent hearings. From what I saw, many of these hearings should be conducted with sawdust on the floor, the better to absorb the blood!

In the UK, much has been written of the new Bribery Act, with some in business stating that this will put the UK in a competitive disadvantage with other countries. An interesting comment to make, but I have not yet seen any evidence to support it. Presumably we would need to hear from any business that has made secret payments to win contracts, and fears that it will not win others if it cannot continue to bribe. Such a company might not however deem it wise to cite examples as evidence to support their case? So it gets hinted at, on the basis that "everybody else in the world does it, so British industry will be at a disadvantage when dealing with these corrupt foreigners".

This speech was delivered at the ICAC Symposium on 10 May 2012. It may not be copied without permission of the author. 11

© William Hughes 2012

Interestingly, in India, a country where “baksheesh” and corruption are cited as being endemic, there is now a strong anti-corruption approach being put in place. They are starting with the police and the judiciary and they seem to mean business. They have realised that India cannot become one of the major world economic powers based upon corruption and lack of trust.

I have recently visited the UK branch of a huge US company. In an aside to the business, the point was made very forcibly that if the company believes that bribery or corrupt practice is involved in a potential contract, they will simply walk away from it, and not even bother further. I suppose that a multi-billion dollar annual turnover may give you some leeway in turning down some business, but it speaks volumes about the ethics of the company.

My fourth point concerns how such an approach might work in practice, because with all preventative processes there is the danger that the process becomes unwieldy and vastly more complex than it needs, because it focuses upon finding out through process rather than encouraging personal reporting.

This is where my point concerning people comes in. Their innate sense of “fairness” will result in those who suspect corrupt or unethical behaviour wanting to take some action to prevent it. Of course, one of the reasons that there may be a low level of recorded public sector corruption in the UK is because reporting unethical or corrupt practice is difficult, and to whom do you report it? That is where a new body that can receive and process reports of unethical behaviour and corruption may well be required. In the case of unethical behaviour it could take action itself. In the case of corruption crime, the matter would be referred to the relevant law enforcement agency. This would improve that “radar” requirement for law enforcement to pick up on criminal corruption.

In my view the cost to the taxpayer of these bureaucratic and complex anti-corruption processes could be reduced if a more sensible way of reporting corrupt and unethical behaviour was implemented. This would also allow for faster decision-making and thus reduce lead-in times and backlogs. But it must be coupled with one very important new aspect.

The sanction for corrupt and unethical behaviour within society and within business has to be made severe. It must remove all benefit accrued from such behaviour. In the case of politicians, it must exclude them from ever holding public office again. In the case of business, corrupt behaviour which is designed in or encouraged from the top of the organisation should lead to the involuntary winding-up of the business. There should be only one defence to this, that action was taken by the company to rid itself of those responsible for its improper behaviour immediately, and a public

examination through auditors to ensure that it has not simply used junior employees as the “fall guys”.

Whilst we are in this contemplative mode, what is the role of the media? Many in the media complained that individuals like Robert Maxwell used the libel laws in the UK to prevent investigative journalists getting into print the allegations regarding corrupt and improper practice against them and their business methods.

In the internet era, with Twitter, Facebook and Wikileaks, that might not be the case with similar individuals now. One needs only to look at the so-called “Arab Spring” to see that others in the world have the same innate sense of fairness, but have lacked the mechanisms, until now, to express collective revulsion at the political systems that control and repress their lives.

Interestingly, that is not the media bringing about change. It is ordinary people, communicating and sharing that sense of unfairness, and more importantly collectively taking action.

If we are to have this new public body approach, we have to reconstruct the protections around “Whistle-blowers”. They have not received the protection that they were promised by the new legislation some years ago. It is still the case that there are few reporting mechanisms put in place in either the public or private sector, and whistle-blowers are routinely ill-treated within the business or agency where they work.

In the UK recently there were disturbing reports concerning the situation in the NHS. It has been alleged that doctors and Chief Executives are being forced to sign confidentiality clauses, thus preventing them from blowing the whistle on improper practices and procedures within hospitals and trusts. If this is correct, it is a sign of the contempt for the whistleblowing legislation. It has to be against the law to prevent allegations of corrupt and improper practice, yet here it is being apparently circumvented without any reaction.

In dealing with serious organised crime, we have already found that properly used and supported informants are vital for the gathering of information and intelligence about criminal organisations. We have moved on a long way from the complete farrago of the police use of “supergrasses” in the 70’s and 80’s. It may explain some of the reaction to whistle-blowers that they are perceived as “grasses”. It has never ceased to amaze me that within society there seems to be an inherent disgust at those who inform on criminals within their society, and the use of the term “grass” is used as a term of denigration. But Crimestoppers and BBC’s CrimeWatch have shown that the public are more repulsed by criminals and want them dealt with.

This speech was delivered at the ICAC Symposium on 10 May 2012. It may not be copied without permission of the author.

© William Hughes 2012

Organised criminals use violence against those who inform because they recognise that it is such a powerful tool for law enforcement to use against them. Many people fear that violence or persecution if they are seen to inform, precisely because of that fear, but also because their friends will stupidly label them as “grasses”.

That is one of the reasons why in law enforcement we have pointed out the major need for a witness protection programme within the UK to deal with those at risk from criminals and there may also be a case to be made for including whistle-blowers and those who report on unethical behaviour and corruption.

It would not require much imagination to consider what other forms of defence could be exhibited by those who stand to lose major financial rewards, and this is certainly the case within serious organised crime where extreme violence is often administered in a casual manner.

Finally, when you think you have understood the issues fully, someone will point out to you that you have not been properly briefed. Serious organised crime continually looks for new markets and some of those include emission and pollution-trading frauds, illegal waste disposal and dumping, interference with biometric systems and databases, the theft and trafficking of finite resources, fuel, minerals, precious metals, food and water. All of these operate globally and will require extensive corruption of public officials and agencies if the criminals are to be successful.

In the event of catastrophic events, short-term criminal market opportunities will arise such as post-disaster migration, insurance fraud or contracts for reconstruction. Law enforcement will be increasingly pressurised to deal with these issues, at the same time as government agencies and the emergency services are dealing with the catastrophe itself and the security demands from those who feel more and more under threat. The scale of the markets and the fact that serious organised crime will need to organise on grander scales than they have to date, brings the fear of rogue states, or of rogue states within states, where huge resources can be channeled into crime. Remember what I said before about post-conflict states and the emergence of organised crime within Africa.

For all criminals, their illicit revenue buys power and status. They do not invest in hospitals and schools. They fund other criminal activity and they become powerful role models for others in society.

One can start to see that dealing with organised crime and dealing with corruption is linked intrinsically in the search for a more just and fairer society. So now we come to the really difficult issues around unethical behaviour. Some would say that it is endemic in our society, as much as anywhere else, and that we just disguise it better

This speech was delivered at the ICAC Symposium on 10 May 2012. It may not be copied without permission of the author. 14

© William Hughes 2012

or we ignore it better. It is still there however, and how do we deal with it, provided that we all agree that it is not acceptable?

The more that we provide a mechanism to allow for the better transparency of unethical and corrupt behaviour, the more we reduce the cost of anti-corruption measures, and the more we clear the decks of the removable “dross” so that we can all concentrate upon the serious and dangerous. We must have a better and more widely understood reporting mechanism, and investigative machinery that can allow unethical behaviour to be dealt with and that places before professional law enforcement those identified as committing criminal corruption.

We have come back to my argument about the innate “fairness” chip within the majority of the population, and the need to set standards. We must sanction those who break those standards, and ensure that we do not simply look to narrowly define corruption in terms of carefully worded criminal statutes, but that we deal with unethical behaviour that can create huge public disquiet.

Role models for corruption and unethical behaviour must not be seen to profit from that behaviour or we encourage reciprocal and increasingly serious negative behaviour from the public generally. The same is true of serious organised crime.

We need mechanisms that will allow for standards in public life to be not only set but also regulated and monitored. All must be seen to be subject to those standards, and sanctions for breach must be harsh and punitive.

That is the model for future states and governments to follow, and if they can get their own houses in order, they can look more positively at the international collaboration that will be required to counter serious organised crime and its facilitator, corruption, as we proceed further into the 21<sup>st</sup> century.