



Crimes Legislation Amendment (Serious and Organised Crime)

House of Representatives

27 October 2009

Sharon Grierson MP

Ms Grierson: (Newcastle) (7:50 PM) —I rise to support the Crimes Legislation Amendment (Serious and Organised Crime) Bill 2009. It has been estimated that, on average, organised crime costs the Australian economy \$15 billion a year. That is a massive amount and it does not take much imagination to think of all the places this money could be better spent across our country. Organised crime is adaptable and sophisticated, and the associated risk carries significant consequences for businesses and for the Australian community. Only by putting in place strong laws to combat organised crime can we target the profits of criminal activity and remove the incentive for criminals to engage in organised criminal activity. I have already mentioned that a conservative estimate of the cost of organised crime to the Australian economy is \$15 billion a year. This calculation was made as an extrapolation of current international estimates of the cost of organised crime applied to the Australian environment and, in part, on intelligence developed by the Australian Crime Commission. This is a cost that presents in many different ways: loss of legitimate business revenue, loss of taxation revenue, expenditure on law enforcement and regulatory efforts, and managing social harms when criminal activity compromises the health, safety and wellbeing of individuals and communities.

I make particular mention of the fact that the taxation commissioner and the Australian Taxation Office have been involved in the formation of this legislation and I want to praise the Rudd government for its pursuit of crime, particularly corporate crime and crimes such as this bill targets. I think there is now very healthy cooperation amongst regulators, agencies and departments and a much more strategic approach to data sharing and data matching. I do praise the work of the Taxation Commissioner and I was also relieved last Friday to hear him say in a public hearing in relation to taxation that some of the problems experienced in the ATO with staff members suspected of being involved with or inveigled by criminals is under control and being pursued rigorously.

That \$15 billion that organised crime costs the economy is money that could have been spent on our health system, schools, nation-building infrastructure and the creation of jobs. Instead, it is money wasted, lining the pockets of a small number of very greedy individuals. The groups who are costing our country so much are well-

planned enterprises that are systematically focused on one thing: making money. Much like a conventional business, you could say, until you take into account the illegal methods by which they go about accumulating their revenue. Their capabilities are formidable, as are their resources and of course their persistence and resilience. As reported in the 2009 Australian Crime Commission report *Organised Crime in Australia*:

Organised crime groups continue to show a willingness to plan carefully, to adapt swiftly to changing law enforcement or regulatory responses and to be inventive in their search for new opportunities for profit. Some of the more enduring networks effectively adopt risk mitigation strategies to protect their illicit profits, where necessary behaving patiently to ensure the security of their logistics chains and to test law enforcement responses.

The willingness and capability to engage a broad geographic and demographic scope is a strong characteristic of these groups. We are talking about all levels of Australian society here, from illicit drug-runners to high-end corporate crime. For instance, money laundering and specialist financial advice is incredibly critical for organised criminal groups to succeed. Organised crime operates within and alongside legitimate business, making industry and the public potential sources, we hope, of information about organised crime, but also often unintended or innocent victims. Quoting again from the ACC report:

Financially skilled facilitators who knowingly or unwittingly help criminals retain and legitimise proceeds of crime, avoid taxation and other obligations relating to legally obtained income, will continue to be critical to successful criminal operations. Regulatory regimes managing the financial sector will become an increasingly important component in the prevention of organised crime.

I am pleased to say this bill is one of a suite of bills. It sits alongside the strengthening of many of our agencies and regulatory bodies—a consequence, too, of the global financial crisis that we can only see as a positive one.

Organised crime groups will engage with anybody and everybody, no matter their backgrounds, to maximise their power and their profit. For instance, the ACC found that outlaw motorcycle groups are using standover tactics to intimidate business rivals as they expand from drug trading to legitimate businesses and industries around Australia. Their involvement in outwardly legitimate business enterprises is potentially impacting adversely on a number of key market sectors in Australia, including the finance sector, transport, private security, entertainment, natural resources and construction. Police investigations have also discovered that outlaw motorcycle gangs have attacked businesses that have cooperated with police; forced a man to flee the country after he was involved in a confrontation with a bikie; invested heavily in natural resources, including Australian mining and Indonesian oil rigs; intimidated potential rival bidders at property auctions; and become major players in gun-running, tax fraud and money-laundering schemes. They have also planned to use frontmen to buy a legal brothel in Melbourne, infiltrated government departments to access confidential computer records and hidden a triple killer from

police in Melbourne for 18 months. Put plainly, organised crime, like the example just listed, is the main contributor to our nation's serious crime.

The organised crime groups that pose the most significant risk to Australia are transnational; have proven capabilities and involvement in serious crime; operate generally in two or more regions or states; operate in multiple crime markets; are engaged in the illicit drugs market, fraud and money laundering; intermingle legitimate and criminal enterprises; are fluid and adaptable; are able to employ a range of strategies to further their activities, including violence and corruption; withstand disruption; use new technologies; and use specialist advice and professional facilitators. I think that gives you some idea of just how difficult it is to combat and pursue organised crime. This bill, pursuing the proceeds of organised crime, we would hope will be a very effective deterrent.

After the outbreak of violence witnessed in the earlier part of this year focused around outlaw biker gangs, public sentiment and outrage demanded that greater action be taken in stemming the reach, influence and pervasiveness of these elements in our society. Seeing individuals act with no regard for law or decency, individuals who have become for all rights a law unto themselves, is not acceptable. That is why in April 2009 the Standing Committee of Attorneys-General, from across this country, agreed to a set of resolutions for a national response to organised crime. First and foremost, this was a shining example of the effectiveness of COAG in coming together to produce effective nationwide legislation in the interests of Australians—except, of course, the criminals. It is also a way to strengthen the arm of the agencies that are constantly engaged in detecting, deterring or stopping criminal activity. We would hope that this legislation does strengthen agencies such as the Federal Police and others.

In response to the shared threat posed by organised crime to all states and territories of Australia, this bill will implement the Commonwealth's commitment as part of a national response to enhance its legislation to combat organised crime. It will strengthen criminal asset confiscation and target unexplained wealth. It will enhance police powers to investigate organised crime implementing model laws for controlled operations, assumed identities and witness identity protection. It will address the joint commission of criminal offences and facilitate greater access to telecommunications interception for criminal organisation offences.

According to the Joint Committee on Australian Crime Commission report, the previous difficulties in defining organised crime groups made the anti-association laws very complex and therefore very hard to enforce. The committee also said the laws carried the risk of only netting relatively small-time players rather than senior figures. The committee was strongly of the view that in order to prevent serious and organised crime it was critical to remove or reduce the motivation for it—and, of course, that is money.

The committee made seven recommendations, including enhancing data collection. That was based closely on the Al Capone type measures taken in Britain that target individual criminals for tax evasion as well as forcing suspected criminals with

extravagant lifestyles to explain how they came by their wealth, instead of prosecutors having to link their wealth to criminal acts. I again put on the record my support and encouragement of the ATO and the work they are doing with detecting high-wealth individuals who are evading tax. Any investigations certainly do need to look at whether criminal activity is involved.

This bill will also see assets confiscated from those suspected by the courts of obtaining an income through federal offences. The seizure of criminal proceeds is an incredibly effective way of disrupting the activities of these organised crime groups and hitting them where it actually hurts most. It could be said there is a concern that these new measures attempting to limit criminal activity may impinge on personal privacy and curtail civil rights. Of course, as is the norm for our Attorney-General, the bill does contain important safeguards. The proposed laws will be checked by the regulation of the Commonwealth Ombudsman. Any undercover operations will need special authority granted every three months. No operation will last more than 14 months without having to go through the whole process again. Police will not be allowed to engage in conduct that could cause serious injury, sexual offence or death.

It must be said that this bill is not about targeting and discriminating against particular groups and social circles in Australian society. It is about attacking the systemic foundations of organised crime, and the individuals who profit from it, and it is about protecting ordinary Australians—working families, the average taxpayer, aged pensioners, single parents, youth—from the rogue elements of our society. As Australia's new top cop, Australian Federal Police Commissioner Tony Negus, said upon being sworn in:

This is an enormous problem that we must fight together for our nation's sake and for our children's sake ... attacking and recovering the proceeds of crime will play a key role in our future strategy.

For those reasons, I commend this bill to the House and praise the work of the Attorney-General in his pursuit of organised crime, reflected in this bill, and that of his staff and the advisers in his department.