

# Contents

## Foreword

<b>1.</b>	<b>Introduction to a new call for an old approach</b>	<b>1</b>
<b>2.</b>	<b>The development of a financial criminal policy</b>	<b>7</b>
2.1.	Some US law enforcement financial tools	9
2.2.	European developments	11
2.3.	The field and (provisional) definition of financial investigation	16
<b>3.</b>	<b>The economies of crime and law enforcement</b>	<b>21</b>
3.1.	The criminal economy of scale	23
3.1.1.	The market of fraud and deceit	24
3.1.2.	The drug market	40
3.2.	The concept of organized crime and its political importance	51
3.3.	The social-economic approach of organized crime	59
3.3.1.	Prohibited goods and services	59
3.3.2.	The fraud markets of legitimate commodities	65
3.3.3.	Law enforcement as market shaper	70
<b>4.</b>	<b>Contents and targets of financial investigation</b>	<b>73</b>
4.1.	The components of financial investigation	74
4.2.	Tactical, operational investigation	78
4.3.	Strategical targets: beyond the case by case approach	87
4.4.	Levels of financial investigation	92
4.5.	The penal procedure and sentencing targets	97
<b>5.</b>	<b>Criminal profit expectancy and balanced crime reduction</b>	<b>103</b>
5.1.	Profits, expectations and organizations	104
5.1.1.	Criminal expectations	105
5.1.2.	The organizational perspective	107
5.2.	Risk balancing, financial investigation and accountancy	112
5.2.1.	Financial investigation and criminal expectations	113
5.2.2.	Risk analysis and accountancy	116

<b>6.</b>	<b>Crime-money in the upperworld</b>	121
6.1.	Crime-enterprises and their profits	123
6.2.	The craft of money-laundering	127
6.3.	Money management, information control and lifting the veil	133
<b>7.</b>	<b>Equipment and tools in practice</b>	139
7.1.	The tools for control	139
7.2.	'Clean Waste'	150
<b>8.</b>	<b>Tactical and strategic investigation in practice</b>	155
8.1.	Tactical financial investigation	156
8.2.	Strategic financial investigation	169
<b>9.</b>	<b>The prospects of financial investigation</b>	177
9.1.	Financial investigation: independent or integrated?	177
9.2.	International prospects of financial investigation	179
9.3.	Concluding remarks	181
	<b>Literature</b>	183
	<b>Subject Index</b>	193
	<b>Author Index</b>	197

# Foreword

*Michael Levi*<sup>1</sup>

‘Money laundering’, like ‘Organized Crime’, is one of those terms of both criminological and popular discourse that evokes images of sophisticated multinational financial operations that transform proceeds of drugs trafficking into clean money. During the 1980s the US, UK and the Netherlands began to see financial controls as a key component of measures to control the drugs problems, while the Council of Europe saw it as an approach to deal with the menace of terrorist groups such as the Italian *Brigado Rosso*. National legislation in many parts of the world (as well as international instruments) typically began by criminalizing the laundering of the proceeds of drugs trafficking before, perhaps some years later, broadening the scope to include all or most ‘serious crimes’ (tax evasion being the key area of dispute). This reflects the evolution of thinking about the logic of anti-laundering policies (discussed later) as well as the pragmatic politics of legislating what the political market will bear: getting international consensus is easier for dealing with drugs trafficking than with corruption, environmental crime, tax evasion or – at least prior to the carnage of September 11 2001 - terrorism. It is now only on tax co-operation issues that a significant constituency of bankers or politicians is prepared nowadays to assert publicly that preserving financial privacy is much more important than fighting the menace of serious crimes such as drugs and human trafficking. What was formerly a genteel sovereign right of any nation to assure ‘customer confidentiality’ has become redefined pejoratively as unacceptable ‘bank secrecy’ that facilitates the drugs trade and serious organized crime (Levi, 1991). In this global risk management process, ‘modern’ areas of law enforcement have sought to free themselves from the constraints of due process and similar ‘old fashioned’ ideas of protection against overzealous state intrusions by focusing on disruption and on situational strategic laundering prevention.

In the legalization of any given state money laundering – like ‘fencing’ or handling and reselling stolen property – in law is constituted by concealment of the proceeds of whatever (serious) crimes are made predicates of it in the legislation of any

---

<sup>1</sup> Dr. Michael Levi, Professor of Criminology, Cardiff University, Wales UK.

given state. The control philosophy underlying its criminalization is that if the opportunity to pretend that one's wealth is legitimate can be effectively denied, the motivation for continued crime and the political/social threat from rich individual criminals and crime groups is considerably reduced. In the particular case of illegal drugs, because most sales – certainly at street level - are in cash, the recipient of cash has to find some way of converting these funds into utilizable financial resources that appear to have legitimate origins. In other cases, such as fraud, proceeds may not be in cash, so the crime regulatory system is or should be different.

It is with these different criminal logics that this absorbing book is concerned. Preventative effects can be reinforced (i) by requirements on financial and other 'vulnerable' institutions and professions to report large cash and/or 'suspicious' transactions to specialized police or administrative intelligence units (especially if those transactions emanate from countries whose anti-laundering laws and practical efforts have been condemned as inadequate by the Financial Action Task Force); and (ii) by proceeds of crime confiscation or forfeiture laws that are intended to incapacitate both individuals and criminal organizations from accumulating substantial criminal capital and the socio-economic power that accrues from this. Both of these prevention strategies depend on the identification and forensic attribution of 'crime-money' (and, in the terrorist finance arena, the even more problematic category of 'money intended for terrorist purposes'). In this respect, it is crucial to appreciate that money laundering needs only to be as good as the effort that is put into identifying it close to the act or offender.

This absorbing and timely book – written by one of Europe's leading serious crime scholars and by prestigious Dutch forensic and tax financial analysts - does not deal with the identification of 'suspicious' (or, as I prefer, 'suspected') transactions, but it discusses the financial investigation of crime, defined by the authors (p.18) as "the collecting, controlling, complementing, processing and analyzing of financial and/or related data on behalf of law enforcement". The study accepts the social purposes or objectives, which are to make it easier to track down and present the financial aspects of money-laundering and other crimes. Most books aimed at practitioners remain focussed on a strictly practical and procedural level, not always just for reasons of satisfying the market but also because of the professional, non-intellectual backgrounds of the authors.

This book is different. Its aims are to provide a practical tool-kit for conducting financial investigations, primarily within the context of integrated public sector law enforcement approaches. With the growing involvement of law enforcement and regulatory bodies around the world in 'following the money' as a way of getting

at organised crime, money laundering and terrorist finance (i.e. both proceeds of crime and proceeds of legal activities intended to finance crime) there is certainly a need for and a desire for such texts, and existing ones are inadequate. This book meets those practical needs, though not as a simple teach-yourself-financial-investigation manual like a do-it-yourself carpentry guide.

However, *Financial Investigation of Crime* is far more than a practical guide. It is rooted in a carefully considered, theoretical and evidence-led model of how money-laundering and some financial crimes and the crime-markets work and what are the vulnerabilities to financial investigation of different elements in the criminal infrastructure. It is sceptical in the sense that in common with other academic writings of the first author, Petrus van Duyne, it takes no conventional wisdom at all for granted, especially not figures on the extent of money-laundering and fraud, the familiar Financial Action Task Force three-movement money-laundering symphony of placement-layering-integration or the evil social effects of laundered money. On the latter, for example, the authors note that historically, large sums have been laundered by American corporate Robber Barons and contraband smugglers without the corruption of banks or apparent harm to society. The preference of some public procurement authorities for dealing with firms who employ 'black' labour without full social security payments is discussed critically, though the authors point out that sometimes interested actors in the underworld seek to justify their 'turning a blind eye' on the grounds that the public pay less for the contracts. Some may be attracted by this tone of intellectual ruthlessness in exposing the inconsistencies, hypocrisies and sloppy thinking; others may be appalled by it: but even those who are appalled should applaud the authors' efforts at analytical criminal landscaping. Rather, and consistent with my own preferred model of (in no consistent order) financing crime – getting hold of the people and tools necessary to commit crime, crime commission, disposing of goods or money from crime, and (perhaps, and only for a modest number of savers) laundering the proceeds of crime (Levi, 2002) – the book asks some simple but clear questions such as

- in what form are criminal proceeds generated;
- what do offenders want to do with this money;
- how can they find people willing to transfer funds for them; and
- how (if and when asked) do they justify their possession of funds to a sceptical law enforcement or court audience (and even, occasionally, to legal practitioners

and bankers whom they may have to convince that the money is not proceeds of crime).

In short, it provides a contextual analysis and understanding of how financial transfers and cash movements fit into what one might reasonably term the 'business model' of different forms of crime enterprises, depending on whether they are trading in legal or illegal commodities, providing a service (illegal or not) to willing consumers or acting as financial or violent predators, etcetera. From chapter 7 onwards, more practical information on how to conduct financial investigation and the likely outcomes of such efforts is provided. But the key to the value of this book lies in the integration of conceptual and contextual understandings of crime enterprises with the different techniques that can be put to work at regulating them. There are no silver bullets here (or, I presume, anywhere else) for the elimination of serious and organised crime via following the money trail: the product is a far better awareness of both the strengths and limitations of financial investigation, as well as its primary techniques, so that its logic can be applied anywhere after a scoping of how different forms of criminal market work. To paraphrase Oscar Wilde, "Do not shoot the financial investigation author: he is doing his best."

## References

- M. Levi (1991) Pecunia non olet: cleansing the money launderers from the Temple, *Crime, Law, and Social Change*, 16: 217-302.
- M. Levi (2002) Money laundering and its regulation, *Annals of the American Academy of Political and Social Science*, 582: July: 181-194

# **1. Introduction to a new call for an old approach**

Sometimes policy making appears to be the art of rediscovering the obvious. Nowadays the adage is 'hitting the criminal where it hurts him most', namely in his wallet by following his money. However, this 'new' policy of incapacitating criminals has been common practice in most states of ancient Europe and the US (Fraser, 1992). Forfeiture was imposed in cases of treason or rebellion, particularly by powerful, usually noble, 'criminals', challenging the authority of the crown or church. One of the motives for forfeiture was similar to the present one: preventing the defiant criminal barons (or his relatives) from continuing his rebellious endeavors by impoverishing him (if not beheaded) and his family. Given the greed (and poverty) of most monarchs 'asset-sharing' was not practiced, though the selling of confiscated property to royal clients to retain their loyalty resembles this twentieth century 'innovation'.

In the last decade we witness a resurrection of this ancient criminal policy, though the modern felons are mostly drug barons instead of the noble barons of the past: hitting the criminal finances of crime-entrepreneurs has become an international top priority. Although this approach is neither new nor an expression of supreme wisdom, one may wonder why it has not been reintroduced as a common practice as soon as it became evident that organized criminals frequently developed elaborate financial systems to maintain and consolidate their position. The history of organized crime in the US before the Second World War shows that (corrupt) politicians and law enforcement officers were well aware of this situation (Abadinsky, 1991). The best documented example of a financial investigation to bring an organized criminal to justice concerns Al Capone, who was charged with tax evasion (Schoenberg, 1992). The financial wizard of the American organized crime, Meyer Lansky, was left in peace to organize an international money-laundering and investment system (Messick, 1971). Apart from these famous cases detectives have always been aware of the importance of looking at the financial aspects of crime, albeit not so systematically. For example, in any murder case in which no love, revenge or other emotional motives are discernible the detective will look for monetary motives.

One of the reasons for raising this old approach to an international law enforcement priority is formulated in the Financial Action Task Force-report on money-laundering of 1990 (to be discussed later): the drug criminals had simply become too rich, which created a general fear for their economic power. The turnover in this market was estimated at that time at a staggering amount of \$ 300 billion yearly, though this figure appears to be mainly politically motivated (Van Duynes, 1993): without any solid empirical foundation the volume of crime-money is 'updated' yearly to a higher level, reaching a score of \$ 500 billion at the end of last century. The heads of government of the seven most important industrialized countries (G-7) expressed their concern that this crime-money might be intertwined with the upperworld economy, corrupting and debasing the healthy fabric of society. This is an economic statement with a moral content, based on the silent assumption that all crime-money corrupts.<sup>1</sup> However, given the predominant concern about drug money, policy makers apparently feared that some crime-money corrupts more than other crime-money.

Despite this generally accepted truism, in which economical and moral arguments are perhaps more intertwined than the various colours of money, the impact of crime-money on society is still shrouded in mist. The history of the American 'Robber Barons' of the second half of the last century shows a perfect intertwining of crime-money and the legitimate industry, resulting in the establishment of a multitude of charity funds and famous universities carrying the names of (nowadays) famous and respected families (Abadinsky, 1991). Today they would have been top targets for financial investigation. After the end of the Prohibition in 1933 some organized liquor bootleggers settled their differences with the Inland Revenue Service and became licit entrepreneurs (Abadinsky, 1991; Fox, 1989). However, respectable appearances may be deceptive, as is shown by the rise to respectability of the bootlegger Joseph P. Kennedy, whose son allegedly had no qualms about rigging the 1960 elections, supposedly with the help of the mob (Lyman and Potter, 2000). Did the famous

---

<sup>1</sup> Contrary to this popular notion the corruption cases revealed lately concerned corruption with 'legitimate' assets from licit corporations: the Belgian Dassaut and Augusta scandal; the parliamentary question-for-money cases in Britain; the Olympic Committee corruption scandal to which one may add the string of corruption charges or reasonable suspicions against Italian and Spanish politicians: Craxi, Berlusconi, Dumas, Kohl.



president succeed thanks to the availability of crime-money or was merely 'white money' involved? What makes the difference? How corrupt are the banks of the industrialized world, loaning money to corrupt regimes in Latin and South-America, whose elite pocketed these loans and deposited the loot at the same western banks which subsequently faced a 'debt crisis' (Naylor, 1987)? Are these banks subsequently more corrupt when these loans are repaid from the laundered profits from drug trafficking or are the economies of the receiving countries jeopardized by the colour of the clearance? Approaching the problem of crime-money from a (justified) moral perspective will implicate the morals of our politics and financial institutes in the first place, while mixing it with an economic perspective may yield an unsolvable Gordian (Fraser, 1992).

Though the assumed portentous impact of crime-money in general or the drug-money in particular is less than self-evident, policy makers in various countries expressed their unambiguous viewpoint: crime-money is bad as long as it remains in the hands of the villains who earned it. The seriousness of threat of such crime-money seems to be somehow related to the attitude of the policy makers towards certain kinds of crime and perpetrators. As every country has its own law enforcement problems and priorities one will find national differences.

In the US various agencies look upon different criminal targets as being the evil generators of crime-money. The Drug Enforcement Agency (DEA) and its predecessors were naturally focused on the threat from the drug trade and traffickers. However, the policy to attack the financial side of this market is a relatively recent one compared to the long drawn out 'war against drugs', which slowly developed after the Harrison Act and the Hague Treaty of 1914 (Gerritsen, 1993). It proved to be a fight against the market by means of criminal justice tools and as any capitalist since Adam Smith could predict: one cannot fight the market. The unsuccessful fight against this market for illegal psychotropic substances for which there is a continuous demand led to increasingly draconian penal measures, each of which yielded only short term successes and overcrowded prisons (Rasmusson and Benson, 1994). Finally the 'financial weapon' was placed in position which -with the wisdom of hindsight- one might have expected some decades earlier. Parallel to this drug war (and sometimes related) the US law enforcement faced the traditional organized crime, which was usually associated with La Cosa Nostra or the 'American Mafia'. The war on this 'front' led to harsh legislation, like the RICO-statute in 1970. 'Busting the mob' meant bringing down American-Italian crime

families by breaking their financial and economical grip on a wide range of legitimate economic sectors (Jacobs et al. 1994; Gambino LIT), like the waste disposal industry, the construction and transport branch together with the Labor Unions, as has been investigated by the President's Commission on Organized Crime during 1985/6 (Abadinsky, 1991).

Many industrialized countries followed with some distance the growth of the 'financial awareness' in the US. We will discuss briefly the UK, the Netherlands and Germany.

In Britain three major law enforcement problems haunted the authorities: drugs, terrorism and financial crime. The first two did not need much arguments. The conservative government was hard on (traditional lower class) crime and extra hard on drugs. Though this 'tough on drug' talk may be dismissed as cheap electoral rhetoric, terrorism is a matter of visible public safety, which may victimize every citizen. Cutting the financial lifeline, which enabled the IRA to continue its armed fight against the protestant rule in Northern Ireland, became an important law enforcement target which needed no justification. It goes without saying that this applied evermore to the combination of drugs and terrorism (Clutterbuck, 1995). Somewhat less self-evident was the financial crime issue. While the law and order climate tainted the resocialization approach of 'understanding the criminal' a useless and even suspect lenient attitude, the handling of financial crimes of the better-offs was still full of understanding towards the perpetrators (Clutterbuck, 1995). However, the regularly revealed financial scandals in the City of London and some (in)famous failed prosecutions the early 1980s urged the conservative government to a more active policy, extending its legislation, appointing new Fraud Squad officers (30 % increase) and establishing the Serious Fraude Office in 1988 (Levi, 1995).

On the European continent the 'financial awareness' was strongly stimulated by the growing fear of organized crime, particularly concerning the drug market and the realization that the confiscation of the profits of crime played only a marginal role in the prosecution and sentencing. During the second half of the 1980s the Dutch and German central police information offices (the CRI and the BKA) as well as the researchers from research institutes started to investigate this unknown phenomenon (Van Duyne et al., 1990; Rebscher and Vahlenkamp, 1988; Von Lampe, 2001). Though it cannot be denied that the experienced law enforcement officers have always been aware of the wealth of their opponents, the approach of the Criminal Investigation Departments (CID) remained rather traditional. The problem of the policy makers was not