Occasional Paper

Every Transaction Leaves a Trace
The Role of Financial Investigation in Serious and Organised Crime Policing

Helena Wood
About this Paper

This paper is the first in a series examining the government’s approach to tackling serious and organised crime through financial tools. It focuses on the use of financial investigation as a serious and organised crime policing discipline, and seeks to contribute to the policy debate in advance of the formulation of a new Serious and Organised Crime Strategy.
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The Role of Financial Investigation in Serious and Organised Crime Policing

Helena Wood
185 years of independent thinking on defence and security

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Executive Summary

The international drug trafficker buying a plane ticket to Spain to arrange shipment of his next consignment; the people trafficker leasing a property to use as a safe house to keep his victims; the cyber fraudster purchasing computer equipment with which to commit his crimes. What do all these disparate activities have in common? They leave an indelible financial footprint. And it is this footprint which creates a vulnerability ripe for exploitation by law enforcement, through financial investigation.

Whether as a means of gathering valuable building-block financial intelligence, supporting a strong evidential case for prosecution, or a tool for predicting future activity and movements, this paper makes the case for the wider use of financial investigation techniques in the fight against serious and organised crime. Currently, both the scope and value of these techniques is frequently misunderstood and underestimated by being assigned solely as a tool for tackling ‘financial crimes’ (such as money laundering, fraud and corruption) or as a route to asset recovery, while undervaluing their role in the broader policing response to serious and organised crime more generally.

The government’s Serious and Organised Crime Strategy (SOC Strategy), published in October 2013, aimed at countering a ‘Tier Two’ national security threat, also fell into this trap. Although the strategy should be given credit for committing to ‘[a]ttack criminal finances by making it harder to move, hide and use the proceeds of crime’, it did not explicitly make the intellectual leap to seeing financial investigation as an integral investigative tool in the fight against serious and organised crime. It was, in fact, a retrograde step from its 2011 predecessor, Local to Global: Reducing the Risk from Organised Crime, which had committed to ‘mainstreaming’ financial investigation into organised crime policing. In short, the new strategy was a clear demonstration of the miscomprehension of the role of financial investigation and a missed opportunity to drive the discipline forward.

In light of this lack of a clear policy commitment, this paper seeks to examine the current state of play regarding the use of financial investigation tools in the fight against serious and organised crime at the local and regional policing levels, setting this against wider factors in the policing landscape. This lack of direction is ill-timed, given the intense budgetary pressures

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1. For example, for tackling drug or people trafficking.
within policing at a time when the service is being asked to respond to a growing array of strategic risks.

This wider landscape leaves the future of the discipline at a precipice. While pockets of progress have been made to cement the use of financial investigation as a mainstream tool in some areas of policing, this is largely dependent on the vision of certain key individuals and not part of a systemic plan. In many forces and law enforcement units, the discipline remains culturally marginalised and housed within an Economic Crime Unit rather than badged as a tool for use in the broader policing response. In others, budgetary cuts are reversing previous gains. In sum, the discipline is at risk again, as before, of being seen as ‘nice to do’, rather than part of core policing.

The remedies to this issue are multifaceted. However, this paper makes the case for implementing key measures to ensure that wider budgetary and political factors do not push the discipline into decline. At a local policing level, there is a case for financial investigation being explicitly referenced in The Strategic Policing Requirement (SPR) set by the Home Secretary. It is also crucial that the strategic communications efforts by the Treasury- and Home Office-chaired cross-government Criminal Finances Board (CFB) reach out more effectively to police and crime commissioners.

At a regional policing level, Regional Asset Recovery Teams (RARTs) should be re-branded as a broader financial investigation resource and their capabilities should be more fully exploited by Regional Organised Crime Units (ROCUs). To improve recruitment and retention of financial investigators, the ROCU funding settlement should be put on a multiyear (rather than annual) footing.

The above measures are aimed at mitigating the risk of decline of financial investigation in the existing policing landscape. However, a strategic change is needed, in the form of a refreshed SOC Strategy, to push the discipline forward for the future. Although it would be easy to look at this issue as one of resourcing, this is unrealistic in the current climate. Working within the constraints identified by the research, this paper proposes key reforms along all four strands of the CONTEST model.

PURSUE: A future SOC Strategy should ensure that financial investigation is incorporated as a mainstream tool in the investigation of serious and organised crime. The strategy should make the case for doing so on the grounds of the cost-effectiveness of the tools compared with other investigatory techniques, such as mobile surveillance.

6. CONTEST is a four-strand model (Pursue, Prevent, Protect, Prepare) taken from the counterterrorism strategy and adopted by the Serious and Organised Crime Strategy; see HM Government, CONTEST: The United Kingdom’s Strategy for Countering Terrorism, Cm 8123 (London: The Stationery Office, 2011).
PREVENT: Financial tools should be seen as an integral part of a ‘lifetime offender management’ approach to tackling organised crime, through greater use of financially focused ancillary orders, such as Serious Crime Prevention Orders (SCPOs). Capacity to monitor and manage these orders is currently lacking at force level. Responsibility for long-term monitoring should be handed to a dedicated Lifetime Offender Management Unit within ROCUs resourced with accredited financial investigators to ensure that they have the desired deterrent effect. These units should take a partnership approach with the private sector to help detect breaches.

PROTECT: The current SOC Strategy’s focus on the UK’s physical border neglects the porosity of Britain’s less visible ‘financial border’. A future strategy should remedy this. Taking into account the difficulty of using financial investigation tools to gather evidence across borders, especially in relation to countries where the law enforcement response is weak or corrupt, the UK should expand its sanctions regime, along the lines of the US model, to include transnational organised crime sanctions tools.

PREPARE: It is essential that financial investigation capabilities are considered part of a response to future and growing threats, such as cybercrime. The May 2017 malware attack on the UK and its impact on national infrastructure, including the National Health Service, demonstrate the need to ensure the right tools are in place to respond to a future attack. As part of future planning, the UK government should review the place of financial investigation in the current policing cybercrime response. It should also debrief the events of May 2017 to consider whether exploitation of financial investigation was at an optimum level.

In sum, the need for financial investigation to undergo the same cultural transformation as forensics – a tool once misunderstood which has, over time, become a standard policing tool – is a compelling analogy. While it is a well-accepted adage in policing that ‘every touch leaves a trace’, this concept is less accepted when it comes to financial footprints. It is crucial that a refreshed SOC Strategy makes this case.

Ten Recommendations for Policymakers

1. Include a specific reference to proactive financial investigation capability in The Strategic Policing Requirement.
2. Consider greater use of strategic policing alliances and regional collaborations to ‘pool’ specialist financial investigation capacity and capability.
3. Reinvigorate the CFB strategic communications effort and place particular emphasis on highlighting the successes of financial investigation within serious and organised crime policing to police and crime commissioners.
4. Rebrand RARTs as a regional criminal finances capability, which encompasses financial investigation capability alongside its original role in asset confiscation.
5. Ensure that clarity is given on the duration of ROCUs’ ‘top-up’ funding to improve recruitment and retention of financial investigators in those RART facilities funded via this settlement.
6. Include financial investigation as a core mainstream principle to refresh the SOC Strategy as a cost-effective means of achieving results.

7. Promote wider use of financially focused SCPOs and create a standalone lifetime offender management unit within ROCUs, staffed with financial investigators, charged with monitoring and overseeing compliance. These units should consider how to make best use of public–private partnerships to help identify breaches.

8. The UK should expand its sanctions regime to include powers to sanction transnational money launderers and organised criminal groups.

9. Review the current exploitation of financial investigation as a means of responding to financially motivated cybercrime at the local and regional tiers of policing.

10. Debrief the May 2017 ransomware attack on the UK's infrastructure to ensure that financial investigation tools were exploited to their full potential and were agile enough to respond to the threat.
Introduction

Under the auspices of the 2010 Strategic Defence and Security Review (SDSR) the UK conducted its first-ever National Security Risk Assessment and noted that there were estimated to be 38,000 individuals involved in serious and organised crime that affected the UK’s interests, at an estimated cost to the economy of between £20 billion and £40 billion per annum. The ensuing SDSR 2010 noted, therefore, that the risk of a significant rise in organised crime threatening the UK, a threat the risk assessment deemed as ‘likely’, should be considered a ‘Tier Two’ national security threat.

The 2010 SDSR stated that in order to deal with the threat posed by the most harmful organised crime groups affecting the UK, ‘we will need to change our overarching approach to tackling organised crime. There will be a particular need to ensure that the resource allocated to tackling organised crime is used as efficiently and effectively as possible’. The 2015 National Security Strategy and Strategic Defence and Security Review also noted a need to ‘[s]trengthen our capabilities to disrupt serious and organised crime and to prosecute criminals’.

It is within this national security context that this paper explores the current and potential future role of financial investigation in serious and organised crime (SOC) policing. This discipline, explored in more detail in Chapter I, is founded on the principle that it is difficult for the organised criminal to operate without leaving some form of financial footprint. Turning this inevitable footprint against the criminal and using it to the advantage of law enforcement can be an efficient and effective way of investigating and prosecuting organised criminals. However, in making the case for greater use of financial investigation, Chapter I explores the extent to which this seemingly obvious tactic has been frequently misunderstood and marginalised as a policing response to serious and organised crime.

2. The number of individuals estimated to be involved in organised crime has since been reassessed by the National Crime Agency’s 2016 National Strategic Assessment of Serious and Organised Crime to be around 50,000.
4. Ibid., p. 52.
5. Ibid.
7. Although digital currencies (such as Bitcoin) offer greater potential financial anonymity, the criminal use of these currencies was estimated as low in 2015 by HM Treasury and Home Office; see HM Treasury and Home Office, UK National Risk Assessment of Money Laundering and Terrorist Financing (London: The Stationery Office, 2015), p. 82.
Aligned to this, Chapter I explores the extent to which the government’s subsequent response to the risks identified in the 2010 SDSR, in the form of the cross-government *Serious and Organised Crime Strategy* (hereafter, the ‘SOC Strategy’),8 published in October 2013, recognised the potential of financial investigation as a means of achieving the SDSR’s aim of changing ‘our overarching response to organised crime’.9 The bold aim of the strategy ‘to substantially reduce the level of serious and organised crime affecting the UK and its interests’ promised to herald a new approach to tackling the pernicious threat of organised crime in the UK,10 using the full range of tools available to law enforcement, including seeking outcomes beyond the usual policing targets of arrest and prosecution.

Following the CONTEST ‘four Ps’ model (Pursue, Prevent, Protect, Prepare) trialled and adopted in the counterterrorism strategy,11 the 2013 SOC Strategy sought to ‘reflect significant changes in organised crime [and] … lessons … learned from work to date’.12 This included greater recognition that most serious and organised crime aims to produce profit, which then needs to be laundered to disguise its origins. Chapter I seeks to explore the extent to which the strategy recognised the vulnerability created by this fact and the extent to which this could be used against the criminal, via financial investigation and financial intelligence gathering.

Chapter II examines the strategic framework put in place by the 2013 SOC Strategy against wider economic and political factors to assess the extent to which financial investigation has subsequently been deployed as a tactic at the regional and local levels of policing.13 Taking these factors into consideration, changes to the current operating environment are advocated to ensure that financial investigation is used to its full potential.

Chapter III discusses how adaptations to the current operating environment, while desirable, will merely maintain a certain fragile status quo rather than bring about fundamental change. As the 2013 SOC Strategy comes to the end of its natural government shelf life, and as policymakers start to consider what a refreshed SOC Strategy might look like, Chapter III explores, under CONTEST’s four Ps model, specific ways in which the revised strategy should be used as a means of driving forward the discipline and securing its place in serious and organised crime policing.

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13. The author recognises that financial investigation tools are used by wider law enforcement outside policing, but chose policing as the focus of the study due to the police service’s front line role in serious and organised crime investigation.
Research Scope, Methodology and Structure

This paper aims to both inform the general reader on the current and potential future role of financial investigation in the UK’s response to serious and organised crime and to make specific recommendations for consideration by policymakers. In order to achieve these aims, the research focused on answering three core questions:

1. To what extent has the SOC Strategy, as currently framed, driven forward the use of financial investigation tools as a mainstream part of the approach to tackling organised crime and its financing?
2. To what extent have wider government policy agendas had an impact on a) the aspirations set out in the 2013 SOC Strategy, and b) the wider integration of powers at local and regional levels of organised crime policing?
3. Taking the above into consideration, what should a future iteration of the SOC Strategy look like, in order to achieve the aim of ensuring that the tools are more widely used in the future?

The initial research took the form of a desk-based review of the relevant government strategies, policing inspection reports and media content. This was followed by approximately 20 semi-structured interviews with individuals from the policymaking and operational fields at national, regional and local levels. To maintain focus, the research concentrated on, but was not confined to, the regional and metropolitan areas identified by the 2013 SOC Strategy as the UK’s ‘hotspots’ for organised crime.

This research project recognised the difficulties of defining ‘serious and organised crime’, given the lack of legal definition of the term. It therefore takes the definition highlighted in the 2013 SOC Strategy as its starting point – ‘ organised crime is serious crime planned, coordinated and conducted by people working together on a continuing basis’ and includes ‘drug trafficking, human trafficking and organised illegal immigration, high value fraud and other financial crimes, counterfeiting, organised acquisitive crime and cyber crime’.

14. As identified in the 2013 SOC Strategy, the five main metropolitan forces that are most impacted by organised crime are: London’s Metropolitan Police Service; West Midlands Police; Greater Manchester Police; Merseyside Police; and West Yorkshire Police.
16. Ibid., p. 7.
I. Examining the Role of Financial Investigation

This chapter seeks to introduce financial investigation as a concept, including exploring the ways in which the term is often misunderstood. Having set out the parameters of financial investigation as a concept, the case is made for the use of financial investigation tools in the policing response to serious and organised crime and the academic literature that supports this view is examined.

The chapter also examines the extent to which the 2013 SOC Strategy grasped the potential of the discipline and took steps to move it forward as a mainstream tool in serious and organised crime policing.

What is Financial Investigation?

Drug trafficking, people trafficking, cybercrime, fraud, corruption. While the modus operandi of these organised crimes differ, they are united by the fact that, try as they might to avoid it, both the perpetration of the crimes and the enjoyment of their proceeds leave a financial footprint. This footprint can be traced and exploited by law enforcement through financial investigation.

It is, however, important to further explore what is understood by the term ‘financial investigation’, for it is often a poorly understood or misinterpreted term.

A good starting point for understanding the concept of financial investigation is the definition used by the Financial Action Task Force (FATF),\(^1\) ‘an enquiry into the financial affairs related to a criminal activity, with a view to

- identifying the extent of criminal networks and/or the scale of criminality;
- identifying and tracing the proceeds of crime, terrorist funds or any other assets that are, or may become, subject to confiscation;
- and developing evidence which can be used in criminal proceedings’.\(^2\)

Although this appears to be a simple concept, the term is too often misunderstood outside specialist policymaking and operational circles. For example, ‘financial investigation’ is often confined to discussions relating to ‘financial crime’ and is thus often viewed as a tool merely to be deployed in relation to fraud, money laundering and other specifically ‘financial’ crimes.

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1. FATF is the international standard setter for anti-money laundering and counterterrorist financing.
Furthermore, even in cases where financial investigation as a tool is understood outside this limited scope, it is often treated merely as a tool for locating assets, which law enforcement can seek to restrain as part of their investigations. While ‘follow-the-money’ techniques are useful for this purpose, the following of both criminal and non-criminal money trails can also provide useful lifestyle, travel and personal association evidence to support investigations into the predicate offence.

This lack of comprehension of the term is not an issue confined to the UK. As noted by ECORYS, a European research company, in its 2015 needs assessment of financial investigation tools and their use across the EU:

The study reveals that there is still a widespread misunderstanding of what financial investigation exactly is and when and how it should be applied … [T]he majority of the financial investigations in Europe are still related to asset confiscation and the collection of evidence on financial and economic crime and money laundering.

So if financial investigation has been constrained by a misunderstanding of its definition, what is it and how should it be applied? In this regard, the ECORYS report’s definition is useful:

Financial investigation is first and foremost an investigation method. It refers to the collection, analysis and use of financial information in its broadest sense. Financial investigations may be applied to any proceeds generating crime (including terrorist financing). The ultimate goal of financial investigation is disrupting organised crime. Even in some non-organised crime homicide cases, financial issues can assist in the investigative process.

This broader investigative use of financial investigation tools (see Boxes 1 and 2), beyond simply proving a money-laundering (or other financial crime) offence or identifying assets for confiscation, is also highlighted by the UK’s College of Policing, the UK’s not-for-profit police training organisation, which notes that:

Financial investigation should be used alongside all other investigative methods. It is not just a tool for specialists or concerned only with the Proceeds of Crime Act 2002 (POCA) and asset recovery … Opportunities exist to use financial investigation for purposes much wider than those traditionally considered. By developing a basic understanding of the evidential resources that financial investigation may offer, investigators are able to maximise the potential for building evidence, developing intelligence and enhancing the quality of their case.

5. Ibid., p. 6.
In other words, as noted by FATF, ‘[t]he link between the origins of the money, beneficiaries, when the money is received and where it is stored or deposited can provide information about and proof of criminal activity.’

Box 1: Operation Buoy – Use of Financial Investigation to Identify New Members of an Organised Crime Group

During Operation Buoy, an investigation into a large organised crime group (OCG) involved in drug importation and supply affecting the South East and London, the South East Regional Organised Crime Unit (ROCU) leading the investigation requested the support of a financial investigation specialist from the Regional Asset Recovery Team (RART). While there was a rich intelligence picture concerning the drugs, efforts to gather evidence against the main subjects using traditional surveillance techniques had proven unfruitful to date and little or nothing was known about how the criminal proceeds were laundered.

The financial investigator (FI) discovered that a previously unknown element of the OCG were involved in laundering the drug money using bank accounts opened using Uzbek students as ‘money mules’. The financial investigation discovered that once cash had entered the banking system it was transferred between multiple accounts before being transferred out of the country or used to buy property and high performance vehicles used by the OCG and others involved in criminality in the UK.

As a direct result of the financial investigation, the FI was able to recommend new lines of enquiry to the Senior Investigating Officer (SIO) regarding alternative ways of bringing an expensive and resource-intensive operation to a successful conclusion. This involved using accounts analysis to provide evidence of large amounts of unexplained cash movements in order to gain search warrants under the Proceeds of Crime Act 2002 (POCA).

These search warrants, obtained on the basis of financial investigation, led to significant drugs finds, including 2.5 kg of cocaine, the seizure of £60,000 in cash and financial documentation for 200 accounts in the names of 80 individuals. Although the addresses were in the names of other unknown individuals, financial enquiries undertaken by the FI linked the addresses back to the OCG to provide crucial evidence.

Subject A was charged with offences of possession with intent to supply cocaine and money laundering, and subsequently pleaded guilty to the first offence, receiving seven-and-a-half years in prison.


Every Transaction Leaves a Trace

Box 2: Operation Draggnaade – Use of Financial Investigation to Solve a Murder

Reports to police noted that Deborah Starbuck had not been seen since her marriage in 2010 to Jamie Starbuck. Financial enquiries led to police noting that her account had been dormant and her passport had expired since last leaving the country. The investigation was escalated to a ‘no body’ murder investigation.

Subsequent financial enquiries revealed that Deborah Starbuck had received a substantial inheritance prior to her marriage and following her disappearance this money had been transferred into a joint account with Jamie Starbuck.

Financial data revealed extensive global travel by Jamie Starbuck since Deborah’s disappearance. The ongoing police investigation used financial tools (Account Monitoring Orders) which revealed that Jamie Starbuck was due to travel back to Heathrow. The investigation team was therefore able to arrest Starbuck on his return to the country. After being charged, he admitted to murdering his wife and was subsequently sentenced to 30 years’ imprisonment.

Source: Case study supplied to the author by National Police Chiefs’ Council (NPCC) Financial Crime Portfolio Team.

Financial Investigation in Serious and Organised Crime Investigations

Financial investigation is a tool which is potentially useful in numerous types of criminal investigations, including those lacking a clear profit motive, such as murder investigations, where it can, as a minimum, be used to track and evidence the movement of offenders.

However, the case for its use is perhaps even more compelling in relation to the investigation of serious and organised crime, which, by and large, is financially motivated and often requires the movement of substantial profits across borders. As noted by ECORYS, in the increasingly complex field of serious and organised crime investigation, ‘financial investigation is an essential horizontal investigative instrument which law enforcement should deploy in investigations in the fight against serious and organised crime’ to complement the more traditional forms of intelligence and evidence gathering, such as mobile surveillance and communications.

9. The covert following of individuals by police officers to gain intelligence and evidence about their activities.
interception, both of which could be viewed as resource-intensive and costly ways of gathering intelligence and evidence.

However, specific to the UK serious and organised crime context, Rick Brown and colleagues, in their Home Office-sponsored 2012 research paper *The Contribution of Financial Investigation to Tackling Organised Crime* note that ‘knowledge about, and understanding of, the role that financial investigation can play in tackling organised crime has been identified as a key evidence gap’. Their study highlighted specific uses of financial investigation tools in the fight against organised crime, including:

- **Identifying the extent of an organised crime group**: By tracing cash flows, investigators can identify new suspects, track the geographical reach of the group and assess the scale of the activity.
- **Evidencing offenders’ lifestyles**: Investigators interviewed by Brown and colleagues noted that financial investigation offered a route to demonstrating the lifestyle of offenders to juries.
- **Tracking movements**: Financial investigation can help to track or even anticipate suspects’ movements through their financial footprint.
- **Placing people at particular places at particular times, linking them to criminality**: By using an individual’s financial footprint, investigators are able to link an individual to a place during an act of criminality.
- **Identifying additional offences and offenders**: A financial investigation can be used to identify ancillary or linked criminality, such as specific money-laundering offences.
- **Locating assets**: Often erroneously seen as the sole aim of financial investigation, identifying assets for confiscation is nevertheless a legitimate and impactful use of financial investigation tools.
- **Identifying ownership and use of properties**: As well as the above, the ownership of corporate vehicles and real estate can identify new locations which facilitate criminality, such as safe houses and storage facilities.

Brown and colleagues found that financial investigation not only indirectly supported organised crime investigations, through the provision of building-block financial intelligence, but also directly supported a number of convictions through the provision of financial evidence. The report ultimately found that ‘[t]he contribution that financial investigation makes to tackling organised crime goes beyond simply a mechanism to recover assets’.

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10. More commonly known as phone tapping.
It further found that while financial investigation is a route to confiscating the assets accrued by organised criminals as a result of their crimes, this being one use of financial investigation, it has too often been elevated to an end in itself. This limited use ignores the usefulness of the tool in the wider investigation. Brown and colleagues noted ‘the clear potential for financial investigation to be used at different stages of investigations to achieve a range of benefits when tackling organised crime’.16

The academic research relating to this field is limited to a handful of studies, including those noted above. However, despite this paucity, the existing research makes a strong and compelling case for the use of financial investigation and intelligence as a mainstream tool in serious and organised crime policing. The cost-effective nature of this tool, as noted by the UK’s College of Policing, alone makes the argument. However, this research, supplemented by interviews conducted in spring 2017 with serving police and government officials in support of this study, suggests that it remains, in many areas, a peripheral policing discipline, left to ‘specialists’ rather than as part of the mainstream response.

The 2013 SOC Strategy and Financial Investigation

This paper proposes that financial investigation should be viewed as an integral investigative technique in the fight against all forms of serious and organised crime, not just to combat financial crimes and not solely as a route to asset confiscation. But to what extent did the 2013 SOC Strategy grasp this concept and take the discipline of financial investigation from the periphery to the centre of serious and organised crime investigation?

The 2013 SOC Strategy imported the CONTEST four Ps framework – Pursue, Prevent, Protect, Prepare – from the counterterrorism strategy into the response to organised crime, noting that ‘[o]ur immediate priority is the work set out under Pursue to prosecute and relentlessly disrupt organised criminals and the threat they pose’.18

Specific to the context of this study, one of the overarching aims of the Pursue strand was to ‘[a]ttack criminal finances by making it harder to move, hide and use the proceeds of crime’.19 Although this is a laudable aim, the strategy does not expand on it and neglects to specifically reference the potential of financial investigation as an investigatory tool. Instead, the sole focus within Pursue is on the amendments to the asset confiscation powers available under the Proceeds of Crime Act 2002 (POCA), with criminal finances work merely alluded to in the context of publicising asset-confiscation successes.

15. Recovering the proceeds of crime is a key policy goal of the government, but is only one of a number of outcomes for financial investigation. This will be the subject of a future paper in this series.
17. College of Policing, ‘Investigation: Effective Financial Investigation’. This is a view supported by a number of interviews conducted during this study.
19. Ibid., p. 27.
More generally, the 2013 SOC Strategy makes frequent references to financial crimes, but notably makes no explicit mention of financial investigation – the discipline is only noted, implicitly, as a means of confiscating criminal assets. This concurs with Levi’s view that asset confiscation has often become an end goal for financial investigation rather than one of the possible outcomes for the tool. This stark omission in the SOC Strategy is in sharp contrast to its 2011 predecessor, Local to Global: Reducing the Risk from Organised Crime, which explicitly notes the need to ‘mainstream the use of financial investigation as a cost effective and efficient way of combating organised criminals’.

In conclusion, while going some way towards bringing asset confiscation work to the fore in serious and organised crime investigation, by noting the removal of the vestiges of criminal wealth as a core goal, the 2013 SOC Strategy was in some ways a retrograde step from its predecessor. The author views this as symptomatic of the wider lack of comprehension, outlined in this chapter, of the meaning and scope of financial investigation. The strategy therefore missed the opportunity to explicitly advocate the use of financial investigation as a means of gathering intelligence regarding a criminal’s financial footprint and using this as evidence against them.

The author’s experience, backed by qualitative research, notes that although gaining ground in some camps as a concept within policing, financial investigation remains in many areas a peripheral consideration, and is often excluded from the core policing response. The lack of specific reference in the 2013 SOC Strategy may have therefore left financial investigation vulnerable due to changes in the wider policing landscape, as Chapter II explores.

22. One of the by-products of financial investigation.
II. The Policing Response

Given the leading role of the police service in the fight against serious and organised crime, this chapter examines the extent to which financial investigation has been incorporated into the current serious and organised crime policing response at local and regional levels. It also examines the extent to which the lack of a clear policy commitment in the 2013 SOC Strategy has conspired with wider political and economic factors to undermine progress on the use of this discipline. In considering these factors, this chapter makes recommendations to the HM Treasury and Home Office-chaired cross-government Criminal Finances Board (CFB).

Policing Response at the Local Level

Despite the creation and development of a national network of Regional Organised Crime Units (ROCUs) – explored later – since 2013, the role of the 43 police forces in England and Wales in tackling serious and organised crime remains fundamental. Although ROCUs are taking on an increasing number of higher level cases, the 2013 SOC Strategy recognised that local ‘police forces will continue to conduct most law enforcement work on serious and organised crime’.

The front line role of local police forces in this field is reflected in the fact that it is one of the six national threats included in The Strategic Policing Requirement (SPR). This study therefore seeks to examine the standing of financial investigation as part of the policing response to serious and organised crime, both in relation to the role of specialist police financial investigators and the use of financial investigation tools and techniques by non-financial specialist investigators.

An examination of the UK local policing response since 2010 must be in context. The Spending Review 2010, in effect the start of the government’s austerity programme, reduced the police budget by 20%. According to HM Inspectorate of Constabulary’s (HMIC) 2016 State of Policing: The Annual Assessment of Policing in England and Wales, this led to a reduction of the police

1. The author notes that other law enforcement agencies also operate in this field, such as the National Crime Agency (NCA), the Serious Fraud Office (SFO) and, to an extent, HM Revenue and Customs (HMRC), but UK policing carries out the bulk of serious and organised crime investigation.
2. The CFB includes representatives from across the relevant law enforcement, prosecutorial and government agencies, and aims to set the policy direction on criminal finances work.
4. The SPR is set by the Home Secretary and places a legal obligation on police forces to implement certain national priorities in addition to their regional ones, see HM Government, The Strategic Policing Requirement (London: The Stationery Office, 2015).
5. Financial investigation tools and techniques can be used by all investigators, but all police forces employ a certain cadre of specialist financial investigators to provide focused support.
workforce from 243,900 officers, police community support officers and other staff in 2010 to 200,600 in 2016 – an almost 18% reduction.\textsuperscript{7}

Perhaps even more relevant to this paper is the continuing political push to maintain ‘visible’ officers on the streets (as opposed to maintaining the capacity of less visible, but arguably equally important police functions). If these officers are to be protected during a time of continued budgetary restraint, difficult decisions have to be made about where cuts must fall. While the police service escaped further reductions to its budget in the 2015 Spending Review,\textsuperscript{8} the impact of the reduction in numbers has come at a time when police are being asked to respond to a greater and more complex range of strategic risks, such as child sexual exploitation and cybercrime, which coincides with a national recruitment crisis in the number of detectives.\textsuperscript{9}

Critically, these cuts follow the inception of police and crime commissioners (PCCs) in 2012, who, as electable and often party-political figures,\textsuperscript{10} are perceived by many to be more inclined to react to more ‘visible local’ priorities, such as antisocial behaviour and street-level crime, rather than prioritise ‘less visible’ threats, including serious and organised crime. As noted by Andrew Millie and Karen Bullock, ‘In the context of calls to protect the “front line” (officers who are visible on the street) decisions regarding where the axe will fall are difficult ones for chief officers and a major concern inherited by the Police and Crime Commissioners’.\textsuperscript{11}

Taking these factors into consideration, a protection of the budget means, de facto, a further cut. It is in this context that the financial investigation capability at local force level must be considered. The lack of an indisputable policy commitment in the 2013 SOC Strategy in relation to financial investigation\textsuperscript{12} arguably means that as budgetary constraints tighten, the risk to the specialist financial investigation capability increases.

Making generic points as to the extent this has impacted on the standing of financial investigation in police forces would be misguided, given the paucity of data\textsuperscript{13} and the vastly differing extent to which it is seen as a core discipline in each of the 43 police forces. However, interviews in support of this study\textsuperscript{14} and concerns raised by the Home Affairs Committee in April 2016 in their

\begin{thebibliography}{14}
\bibitem{9} HMIC, The State of Policing, p. 17.
\bibitem{10} As opposed to the Police Authorities, who were the unelected, apolitical overseers of policing before 2012.
\bibitem{12} As opposed to specific commitments to increase other capabilities, such as cybercrime investigation.
\bibitem{13} Relating to the numbers of specialist financial investigators. The extent to which non-specialist investigators have adopted financial investigation tools is a subjective matter.
\bibitem{14} Author interviews with law enforcement representatives, spring 2017.
\end{thebibliography}
Proceeds of Crime inquiry report\textsuperscript{15} suggest that the standing of specialist financial investigators is precarious in many forces\textsuperscript{16} in three distinct ways.\textsuperscript{17}

First, some forces have chosen to ‘civilianise’ specialist financial investigator posts so that these roles are carried out by police \textit{staff} rather than police \textit{officers} (see Box 3). Where this is the case, interviewees in this study suggest vacancies are not being filled due to budgetary pressures, as they have no impact on the front line policing numbers protected by current Home Office policy.\textsuperscript{18} Although civilian financial investigator police staff are cheaper to employ than police officers, making the move to ‘civilianisation’ a financial necessity in some cases, ironically this makes them vulnerable due to the policy of cutting back on police staff roles.\textsuperscript{19}

\begin{quote}
\textbf{Box 3: Accredited Financial Investigators}

Any law enforcement investigator can use financial tools (such as credit reference checks) in support of a wider investigation, but certain specialist tools contained in the POCA can be accessed only by those permitted access by the Act. This includes police and customs officers, but also civilian staff from police and other agencies trained and accredited by the NCA’s Proceeds of Crime Centre. Civilian police staff receive specialist training before acquiring the status of accredited financial investigator (AFI) and are subject to annual continual professional development checks by the NCA to maintain the accreditation needed for them to access the powers.
\end{quote}

Second, in forces where the financial investigator role is performed by police \textit{officers}, although they are carrying out the role in theory (and thus keeping stable the numbers of ‘official’ financial investigators), they are increasingly being called upon to perform outside this specialist role to support local policing priorities perceived to be more immediate.

Third, a lack of understanding of the potential of financial investigation in fighting organised crime among a number of chief constables and PCCs\textsuperscript{20} means that too often the specialist financial investigator capability is housed within an Economic Crime Unit (or equivalent in each police force). This means that their skills are confined to investigating economic and financial crime or supporting post-arrest asset confiscation, rather than being accessed as a resource.

\textsuperscript{16} Although this study notes that a number of police forces are working hard to protect this resource and budgetary constraints are actually leading some forces to use the tools as a cost-saving measure.
\textsuperscript{17} Although this study recognises that financial investigation tools and skills can and should be adopted by non-specialist investigating officers, the role of dedicated financial investigators, who focus solely on this area, remains key to ensuring financial enquiries remain on track and data received is fully understood and used.
\textsuperscript{18} Interview with law enforcement official, spring 2017.
\textsuperscript{19} Although the reverse could also be said to be true, as ‘civilian’ police staff are cheaper than trained police officers, so in some cases civilianising the posts can offer protection from cuts.
\textsuperscript{20} It is difficult to quantify the proportion in this case — interviews by the author with law enforcement officials in spring 2017 suggest the proportion is high, although this view is by its nature subjective.
to support a wider range of crime investigation. As chief constables continue to be put under sustained pressure to respond to an increasing array of threats, branding of the capacity, and the place it is given within the police force structure, will be key to its protection.

Furthermore, as previously noted, although specialist financial investigators have a key role to play in delivering financial investigation capacity, financial investigation tools and financial intelligence should not be the preserve of the specialist financial investigator, but an integral tool in mainstream policing. Despite this, interviews in support of this study, while subjective, deemed the knowledge and use of the tools by non-specialists to be, in the main, poor.\(^\text{21}\) It is clear that certain individuals within certain forces have grasped the potential, but the cultural shift needed to embed these tools into wider policing has not occurred.\(^\text{22}\)

Both in the specialist and non-specialist fields, the author found a capability not being used to its full potential and a failure of the government to implement its commitment in the 2014–15 Criminal Finances Improvement Plan ‘to maximise the use of financial investigation techniques to disrupt serious and organised criminals’.\(^\text{23}\) But for this position to be changed, what needs to be done?

The 2013 SOC Strategy talks of a need for chief constables and PCCs ‘to assure themselves that sufficient capabilities are available at regional and force level to respond to the threat, risk and harm posed by serious and organised crime in their force areas, in accordance with the terms of the Strategic Policing Requirement’ (see Box 4).\(^\text{24}\)

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**Box 4: The Strategic Policing Requirement**

The Home Secretary has a statutory duty under the Police Reform and Social Responsibility Act 2011 to set out what are, in his or her view, the national threats to which the police should respond and the capabilities each police force should ensure they have in place to respond to those threats. This is set out in the SPR, the current version of which was issued in March 2015.\(^1\) The threats set out in the SPR include terrorism, serious and organised crime, critical cyber security incidents, and child sexual exploitation.

Among others, the required capabilities set out in the SPR include the ability to conduct complex investigations, including digital investigations, across force boundaries, the ability to assess and report intelligence, and the ability to provide armed support where necessary.

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22. For example, the recent inclusion of financial investigation awareness training in the police investigation training scheme, Professionalising Investigation Programme (PIP), as a means of beginning the process of cultural change.
This paper proposes recommendations for corrective action at a local and regional level of policing.

**Recommendation 1:** Include a specific reference to proactive financial investigation capability in the SPR.

There should be an amendment to the SPR to include an explicit reference to the need to demonstrate an adequate capability and capacity to provide proactive financial investigation as part of the response to a serious and organised crime threat. Currently, although other capabilities such as digital investigation are referenced specifically in the SPR, financial investigation is not. Achievement of this goal should be measured both in terms of the availability of specialist financial investigators and the extent to which financial investigation tools are accessed by non-specialists.

**Recommendation 2:** Consider greater use of strategic policing alliances and regional collaborations to ‘pool’ specialist financial investigation capacity and capability.

A facile recommendation would be to suggest an increase in funding for specialist financial investigation capability, but this is neither realistic nor achievable in the current climate. Given the context of austerity, police forces need to be smarter about finding ways to protect their resource, including pooling it with other forces. Two ways this could be achieved is by greater use of the statutory powers and responsibilities in the Policing and Crime Acts of 2009 and 2017, which legislate for strategic alliances and regional collaborations between police forces.

These strategic alliances and collaborations are already in place between several forces\(^{25}\) and cover a wide range of policing support services as well as specialist policing capacity, such as undercover capabilities and intelligence analysis (see Box 5, on the next page).

Of particular note is the strategic alliance between Kent and Essex Police, which was initiated in 2010 as a means to enhance the capability and capacity of the two forces to tackle serious and organised crime.\(^{26}\) This has included pooling serious and organised crime specialist financial investigation resources across the two forces. Interviews with the author suggest that this has protected the capacity, to an extent, from wider financial pressures.\(^{27}\) Furthermore, the alliance has also ensured that one senior manager is dedicated to financial investigation and its promotion as a mainstream tool in the taskforce mechanism, rather than this role being split to cover a wider range of threats, as it would have been outside the alliance.

\(^{25}\) See West Mercia Police, ‘Strategic Alliance Agreed by Warwickshire Police and West Mercia Police’, press release, 29 June 2017; *Bedforshire On Sunday*, ‘Strategic Alliance Between Three Police Forces is Signed’, 13 May 2014.


\(^{27}\) Author interviews with law enforcement official, spring 2017.
Box 5: Police Force Cooperation – Policing Collaboration in the Age of Austerity

**Strategic Alliances**

The Policing and Crime Act 2009 expanded previous provisions in the Police Act 1996 to allow for the making of agreements to pool specific resources across more than one force, in the interest of greater efficiency and effectiveness.

Although empirical data is lacking, research suggests that greater use of this enabling provision has increased since the onset of austerity so that specialist functions can continue while managing the ‘financial gap’ in policing.\(^1\)

**Regional Collaborations**

The Policing and Crime Act 2017 places a duty on emergency services, including police forces, to enter into collaboration agreements where it is in the interest of greater ‘efficiency or effectiveness’.\(^2\)

\(1\). Interviews with law enforcement officials, spring 2017, supplemented by online research of police communications pages.


**Recommendation 3**: Reinvigorate the CFB strategic communications effort and place particular emphasis on highlighting the successes of financial investigation within serious organised crime policing to police and crime commissioners.

An issue remains that, although some chief constables understand the value of financial investigation as a more widely applicable tool, this is not uniformly the case. Some continue to view financial investigation through the prism of asset confiscation, while others largely disregard it. This has an impact on the culture around financial investigation in particular forces. For example, the ECORYS study found that ‘[s]pecialist financial investigators often feel themselves “insufficiently understood” in the traditional police organisation; cultures of “traditional” police organisations are insufficiently attuned to what is needed for effective and efficient financial investigations’.\(^28\)

This lack of understanding by a proportion of those at the highest echelons of policing is perhaps generational and can be addressed over the longer term by moves to include financial investigation awareness into the general police detective training package.\(^29\) However, the


\(29\). This study notes the recent inclusion of financial investigation awareness training in the police investigation training scheme, Professionalising Investigation Programme (PIP), as a means of beginning the process of cultural change.
current situation has been compounded by the imposition of PCCs, many of whom have had limited exposure to the potential of financial investigation outside its ability to generate baseline returns for the police force budget through asset confiscation.30

In this regard there is a role for the CFB, which is primarily responsible for developing and overseeing delivery of the cross-government Criminal Finances Improvement Plan (CFiP). However, despite a commitment in the 2014–15 CFiP to implement a communication plan to increase understanding of criminal finances,31 interviews with the author suggest that this plan has yet to have an impact at the highest levels.32 Given the role of PCCs in holding chief constables to account on their delivery, the CFB should refocus its strategic communications effort and place particular emphasis within this on educating PCCs on the potential of financial investigation, by highlighting successes.

Policing Response at Regional Levels

The limitations of a policing response by the 43 police forces in England and Wales in tackling serious and organised crime led to a realisation over a decade ago that a regional response was required to tackle the finances of organised crime. This initial response came in 2004 in the form of five RARTs, which were initially designed to offer specialist asset confiscation support to forces where skills and resources were limited. This eventually matured into a broader financial investigation and money-laundering response when the model was rolled out across the country in 2009.

The regional policing landscape evolved further in 2013 to include ROCUs in England and Wales, a multforce and multi-agency law enforcement capacity providing a wide range of specialist capabilities at a regional level to support the local policing response to serious and organised crime. As noted in the HMIC review of ROCUs in 2015, they are ‘a vital part of the national response to serious and organised crime’.33

The RART facility and budget was integrated into the wider ROCU structure in 2015, with RARTs becoming one of the thirteen specialist capabilities aspired to by each ROCU.34 Given the well-established nature of the RART model, it is perhaps not surprising that the HMIC 2015 review of the ROCUs concluded that ‘[M]ost ROCUs have the ability to investigate financial crime effectively, and routinely explore avenues for disrupting OCGs [organised crime groups] using financial investigation methods’.35

30. Where financial investigation is used as a tool to identify and confiscate assets, through the powers in POCA, forces receive a share of the confiscated proceeds for reinvestment in the force or for community projects.
32. Author interviews with law enforcement official, spring 2017.
34. Including undercover operations and cybercrime investigation capabilities.
35. In contrast to some of the development of other functions, which the HMIC review found to be patchy, see HMIC, Regional Organised Crime Units, p. 44.
**Recommendation 4:** Rebrand RARTs as a regional criminal finances capability, which encompasses financial investigation capability alongside its original role in asset confiscation.

However, interviews with the author noted that the RARTs’ functions are not uniformly exploited to their full potential. While some ROCUs have been quick to capitalise on the specialist financial investigation resource, others continue to see the facility as an ‘after-the-event’ asset-confiscation capacity. This may be symptomatic of wider concerns raised by the HMIC review of ROCUs, which noted that the development of ROCUs has been ‘piecemeal’ and ‘inconsistent’ and that specialist resources are not being used consistently where they can have the greatest effect.

This is compounded by the retention of a name that belies its real capability, which could be remedied, in part, by a rebranding of RARTs as a ‘regional criminal finances capability’, encompassing the financial investigation capability alongside its other asset confiscation functions.

**Recommendation 5:** Ensure that clarity is given on the duration of ROCUs ‘top-up’ funding to improve recruitment and retention of financial investigators in those RART facilities funded via this settlement.

As noted by HMIC, some of the issues relate to systemic and structural problems, which cannot be solved simply by changing a name. HMIC notes that the ROCU funding model presents challenges in relation to the recruitment and retention of specialist staff (such as financial investigators). In the 2015 review, HMIC notes:

> All ROCUs reported to HMIC inspectors that the current ROCU funding model makes it difficult for them to make long-term plans. This is primarily because the Home Office grant for ROCUs is an annual settlement ... ROCU leaders believe that the annual funding settlement creates uncertainty and inhibits essential long-term projects including estate planning, recruitment and retention of staff and IT development.

ROCUs are primarily funded (roughly 80%) by their constituent forces, but they currently receive an annual ‘top-up’ grant from the Home Office (a further 20%) to invest in specific functions of their choice. Many choose to use this annual funding settlement rather than their core budget to pay for their RART capacity. The annual nature of this funding model creates a lack of certainty and causes difficulties when trying to attract specialist financial investigators to join the RART from more ‘secure’ policing jobs.

This issue is particularly pertinent for the recruitment of financial investigators at a time when policing and the public sector are in competition with the UK financial services sector.

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37. **HMIC, Regional Organised Crime Units**, p. 5.
39. Although this is not mandated and can end at any time.
for financial investigation capability, following the rapid expansion of anti-money-laundering compliance functions in the ‘regulated sector’, including the financial services sector. While ROCUs will never be able to compete with the financial sector on salary terms, the funding model should be clarified to make the option appear a stable and sustainable career option.

In conclusion, this chapter sets out a number of contextual factors, such as pressures on police budgets, cultural barriers at the highest ranks of policing and the inconsistent exploitation of the RART facility within the ROCU model. These issues have colluded with the lack of a clear policy commitment in the 2013 SOC Strategy to prevent the discipline of financial investigation being deployed to its full potential.

Taking the steps recommended in this paper may go some way to remedy this. However, a more fundamental shift is needed if financial investigation is to be used to its full potential.

40. Those activities and professions covered by ‘The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (UK)’. 
III. Financial Investigation: A Core Principle in a Future SOC Strategy

The measures set out in Chapter II are a means of preventing a decline in the use of financial investigation in serious and organised crime policing, but more fundamental changes are needed to drive the discipline forward. This chapter proposes a renewed vision: a future iteration of the SOC Strategy that moves financial investigation from the periphery of serious and organised crime policing into the mainstream.

The 2013 SOC Strategy’s four Ps model is adopted to propose measures that may help to achieve this aim. Only by adopting changes along all four Ps will financial investigation and intelligence become a ‘golden thread’ running through a new approach to tackling serious and organised crime.

The proposals are:

- **Pursue**: Secure financial investigation as a mainstream of policing policy as a cost-effective investigative tool.
- **Prevent**: Promote financial tools as part of a ‘lifetime offender management’ approach to tackling organised crime.
- **Protect**: Expand the financial sanctions regime to protect the UK’s ‘financial border’.
- **Prepare**: Review the potential of financial investigation in the response to future and growing threats, including the response to cybercrime.

**Pursue: Mainstream Financial Investigation as a Cost-Effective Investigative Tool**

**Recommendation 6**: Include financial investigation as a core mainstream principle to refresh the SOC Strategy as a cost-effective means of achieving results.

The Pursue strand of the 2013 SOC Strategy focused on the more traditional policing response to serious and organised crime through criminal investigation, disruption and prosecution. Under this strand, the goal to ‘[a]ttack criminal finances by making it harder to move, hide and use the proceeds of crime’ was a key principle. This move to ensure that criminal finances work was noted in the mainstream response was, to an extent, laudable.

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2. *Ibid*, p. 27.
However, as noted earlier, the 2013 SOC Strategy’s 2011 predecessor, *Local to Global: Reducing the Risk from Organised Crime*, could be deemed more forward thinking than its successor for including financial investigation as a core mainstream principle. The criminal finances element of the 2013 SOC Strategy lacked this vision and viewed financial investigation through the prism of asset confiscation, an omission which a future iteration of the strategy must rectify.

The need for financial investigation to undergo the same cultural shift as forensics – a tool which was first under-exploited, but which has since became a standard policing tool in criminal investigation – is clear. While the omission in the 2013 SOC Strategy is not the sole reason for the slow progress in putting financial investigation into the mainstream, there is scope for a new SOC Strategy to become a trigger for cultural change.

This pledge should not, however, be made in the abstract. At a time of intense budgetary pressure on police forces, to win over those in doubt of its utility, the commitment needs to draw on the potential cost–benefit equation of using financial investigation tools compared with other investigatory techniques.

Those working within the discipline point to the fact that evidence can be gathered financially to, for example, prove associations between people, at a much lower cost than other more resource-intensive evidence-gathering techniques, such as mobile surveillance. This was an argument in favour of the wider use of the tools made by Brown and colleagues in 2012, who noted that ‘the same outcomes could be achieved at lower cost’ as well as at EU level by the ECORYS project, which noted ‘[s]uch an approach holds promise to save the cost and time of surveillance in times of austerity such as currently experienced in European MS’.

Empirical research supporting this view is still lacking (and would be difficult to quantify), but it is a point around which a broad consensus has been achieved by supporters of the financial investigation agenda and which merits further exploration as policing budgets continue to come under strain.

**PREVENT: Promote Financial Tools as Part of a ‘Lifetime Offender Management’ Approach**

**Recommendation 7:** Promote wider use of financially focused Serious Crime Prevention Orders (SCPOs) and create a standalone lifetime offender management unit within ROCUs, staffed with financial investigators, charged with monitoring and overseeing compliance. These units should consider how to make best use of public–private partnerships to help to identify breaches.
The Prevent strand of the 2013 SOC Strategy noted that ‘[w]e will not be able to tackle the threats from serious and organised crime only by disruption and prosecution’. It thus introduced the concept of ‘lifetime offender management’ as a key strand. This concept recognises that rarely does the imposition of a prison sentence mark the end point of the career of the organised criminal. Many either continue their business from prison or restart it on exiting custody. As noted by the 2013 SOC Strategy:

Lifetime management is a system for continually assessing the threat from a person who has been engaged in serious and organised crime, both before and after any conviction. Effective lifetime management identifies interventions which are appropriate for specific people and will have the greatest impact in cutting crime and reducing their reoffending.  

As part of this approach, the value of continuing to financially track offenders post-conviction through the use of ancillary orders, such as SCPOs (see Box 6, on the next page), was recognised. However, while the strategy noted that use of lifetime offender management tools was on the increase, it asserted that law enforcement could make more use of them. It thus set down a policy commitment to seek wider use of SCPOs and Financial Reporting Orders.

The potential of these tools as a means of preventing further criminality was recognised most recently in HMIC’s 2016 report on police effectiveness (PEEL), which noted:

Serious crime prevention orders (SCPOs) give forces the ability to impose a wide range of restrictions on criminals convicted of very serious crimes as part of a lifetime-management approach. They are therefore a powerful means of preventing organised criminals from reoffending.

However, while the report found that use of the orders was increasing, with 338 obtained in the year to June 2016, it found that most forces made limited use of SCPOs and twelve forces had made no orders at all (or were unable to provide figures) during the period in question.

A particular focus in a SOC Strategy refresh needs to be the imposition of more SCPOs, which focus on tracking the financial affairs of offenders post-conviction, such as tracking the spending of offenders over certain thresholds and limiting the number of bank accounts held. The imposition of financial restrictions or reporting requirements on offenders, via an SCPO, provides an easily evidenced means of tracking post-conviction activities. Expanding the use

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10. *Ibid.*, p. 112. This study sought up-to-date figures for the use of SCPOs, but these figures were not publicly available in any central format.
11. Such as introducing financial reporting requirements on expenditure over a certain threshold or limiting the number of bank accounts that can be held.
12. Such as limiting the movements of a person and their associations, which can be difficult and expensive to evidence if unlimited.
of SCPOs in this way could complement the wider range of post-conviction financial tools in use, such as powers to secure payment of Confiscation Orders, as part of a suite of measures.\footnote{POCA 2002 legislates for the removal of criminal proceeds post-conviction via Confiscation Orders. To ensure offenders pay this Order, which is akin to a debt, POCA provides a range of post-conviction tools, such as Compliance Orders and Section 22 Revisits, to encourage swift payments.}

**Box 6: Serious Crime Prevention Orders**

Under the Serious Crime Act 2007, a prosecutor can apply for a Serious Crime Prevention Order (SCPO) where an individual has been convicted of or been ‘involved in’ (official term) a serious crime and where the court can be given reasonable grounds to believe that the individual is likely to re-engage in criminality to the extent that this poses a threat to the public.

An SCPO can run for up to five years and can either provide restrictions on a person’s activity or require them to report specific information at set intervals. Non-compliance with an SCPO is a criminal offence and carries a prison sentence of up to five years. Examples of SCPOs aimed at limiting or tracking an individual’s financial footprint include limiting the number of bank accounts allowed to be held by an individual, or requiring individuals to submit bank statements to law enforcement on a regular basis.

**Case Study – Terry Adams**

Terry Adams, the notorious boss of a violent London crime syndicate known as the ‘Adams Family’, was jailed in 2007 for money-laundering offences after decades of investigation by law enforcement. On conviction, the prosecution applied for a Financial Reporting Order (FRO)\footnote{FROs were analogous powers, albeit with a solely financial focus, which have since been rolled up into SCPOs by the Serious Crime Act 2015.} that required Adams to report any expenditure over £500 to authorities on leaving custody. The imposition of the FRO gave the authorities legal grounds for maintaining oversight of Adams’ financial activities, including the setting up of new businesses and any extravagant expenditure. In 2011, Adams was returned to prison for a period of four weeks for failing to report expenditure, through use of his wife as a proxy, in breach of his FRO. In the case the judge noted that ‘you have wilfully and arrogantly sought to frustrate the effects of the financial reporting order’.


Making sure that SCPOs are used as widely as possible is one issue, but the preventative effect is not merely the granting of the SCPO. To have the desired deterrent effect, SCPOs must be monitored diligently and non-compliance enforced robustly. This is frequently not the case.
Currently, responsibility for monitoring SCPOs rests with the law enforcement unit that led the initial investigation.\textsuperscript{14} However, there is a lack of capacity to meaningfully monitor these orders within current investigative capacity, given the pressures on resources.\textsuperscript{15} This is an issue that applies equally to SCPOs with a financial and non-financial focus. Therefore, responsibility for managing SCPOs should be given to a dedicated Lifetime Offender Management Unit in ROCUs, which will ensure that adequate resources are available to track compliance using dedicated staff, including financial investigators. This unit should also consider ways to partner with the private sector to help to identify breaches, including through the systematised sharing of SCPO information with the financial sector.

**PROTECT: Expand the Financial Sanctions Regime to Protect the UK’s ‘Financial Border’**

The aim of the Protect strand of the SOC Strategy is to ‘reduce our vulnerability to serious and organised crime ... Reducing vulnerability means increasing protective security across the public estate. But it also means providing as much advice as we can to the private sector’.\textsuperscript{16}

This strand focuses heavily on the fact that organised crime often relies on commodities or people traversing the UK’s physical border. This is therefore viewed as a key intervention point against organised crime. The strand notes the need to increase effective border security as a means of stemming illicit commodity flows into and out of the UK. What the strategy fails to recognise, however, is the need to consider the less visible financial border through which the finances of organised crime flow, often undetected.

The scope of the research for this paper does not allow for a full analysis of the vulnerabilities created by this less visible border. However, this study noted the extent to which the slow and bureaucratic process for requesting international mutual legal assistance (MLA, the system whereby law enforcement investigators seek to gain evidence from overseas to support their case) creates blockages when looking to use financial investigation tools as a means of gathering cross-border evidence.\textsuperscript{17} As noted by the 2015 ECORYS study, ‘[a]lmost all respondents indicate that preparation time and the elapsed time of international requests are the bottleneck in their work’.\textsuperscript{18} This is particularly relevant when requesting financial evidence about transactions flowing to and from countries with ‘immature law enforcement capabilities and legislation’.\textsuperscript{19} This limits the ability of law enforcement to protect the integrity of the UK’s financial border.

The issues around MLA are complex and cannot be solved in the short (or even medium) term. However, the need to respond to the threat of serious and organised crime to the UK means

\textsuperscript{14} Previously FROs and SCPOs were monitored by a centrally managed unit in the NCA.
\textsuperscript{15} Author interview with various UK officials, spring 2017.
\textsuperscript{17} This blockage is also thought to be relevant to the other forms of evidence gathering, but this wider issue is outside the scope of this paper.
that a future Protect strand needs to consider expeditious ways of overcoming this hurdle. The UK needs to take an intellectual leap away from a state-centric, criminal justice-focused approach towards more flexible and dynamic measures, for example the approach adopted by the US to protect the integrity of their financial system.

The US Sanctions-Based Response to Transnational Organised Crime

**Recommendation 8:** The UK should expand its sanctions regime to include powers to sanction transnational money launderers and organised criminal groups.

America’s Office of Foreign Assets Control (OFAC) enforces economic and trade sanctions for the US. As well as the better-known use of country-based and terrorism sanctions (such as those involving Cuba, North Korea and Iran, and those targeting Al-Qa’ida and the Taliban), the US expanded its sanctions regime in the 1990s to include measures targeting the finances of organised crime. This was initially in response to Colombian drug-trafficking cartels, but has since broadened to include a wider target set of actors seen as threats to US national security.

There are currently three types of organised crime sanctions orders in place in the US:

- 2011: Transnational Criminal Organizations Sanctions Regulations – aimed at other crime types.

These powers allow the US Treasury to take action against non-US citizens and, like terrorism sanctions, use a civil standard of proof (rather than criminal evidence) to freeze (but not confiscate) the US-based assets of designated individuals. Given the international ‘clearing house’ role of the US financial system, they de facto block designated individuals from the majority of the mainstream global financial system.

OFAC has used the 2011 order to list money-laundering organisations located in areas where weak or corrupt law enforcement agencies and poor legislation limit the reach of the traditional criminal justice cooperation system. This includes the Altaf Khanani Money Laundering Organization in Pakistan, which was listed in November 2016. An OFAC press release noted in 2016 that ‘The Khanani Money Laundering Organization exploits its relationships with financial institutions to funnel billions of dollars across the globe on behalf of terrorists, drug traffickers, and criminal organizations. … Today’s action hinders the Khanani Money Laundering Organization from gaining access to the international financial system to launder money for these illicit actors’.  

Interviews with the author\(^{21}\) note that these sanctions are not used as a ‘soft’ alternative to criminal justice measures, but either as a complement to criminal justice outcomes or as a last resort response to tackle those handling criminal finances in foreign jurisdictions in areas where the law enforcement presence is weak, corrupt or both. A useful ancillary effect of the powers has been the information such listings provide to the private sector to allow them to protect their own systems and integrity. This de facto exchange of law enforcement targeting information with the private sector has been a trigger for new flows of intelligence reporting on the financial affairs of sanctioned individuals from the regulated sector,\(^{22}\) thus creating further avenues for investigation.

Given the difficulties of using current financial investigation tools to gather evidence across borders in pursuit of a criminal conviction, the UK should consider expanding its sanctions regime to protect the UK’s financial border from illicit financial flows. This function could be overseen by the UK’s Office of Financial Sanctions Implementation (OFSI – the body housed within HM Treasury charged with administering the UK sanctions regime) and powers of appeal could match those available for the wider terrorism sanctions regime.

**PREPARE: Review the Potential of Financial Investigation, Including in the Response to Cybercrime**

**Recommendation 9:** Review the current exploitation of financial investigation as a means of responding to financially motivated cybercrime at the local and regional tiers of policing.

**Recommendation 10:** Debrief the May 2017 ransomware attack on the UK’s infrastructure to ensure that financial investigation tools were exploited to their full potential and were agile enough to respond to the threat.

The Prepare strand of the SOC Strategy reflects the ‘reality that however improved our response, serious and organised crimes will continue to occur’.\(^{23}\) It therefore notes that ‘[w]e need to ensure that we are prepared in the event of major serious and organised crime incidents which have national implications and, for example, are a threat to national systems and infrastructure’.\(^{24}\) It is in this context that the strategy notes: ‘[w]e place a particular emphasis on preparing effectively for a significant cyber crime-related incident. This means ensuring that our law enforcement agencies have the right capabilities, powers and connections to the private sector to respond effectively, and that effective national mechanisms are in place to respond rapidly to a major incident’.\(^{25}\)

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\(^{21}\) Author interview with former US official, UK, spring 2017.

\(^{22}\) Those entities, such as banks, accountants and lawyers, with a duty under anti-money-laundering legislation to report suspicious activity to the authorities.


\(^{24}\) *Ibid.*


To ensure that the UK is in a position to respond to future threats to the national infrastructure, it is essential that it is in a position to deploy the full range of tools in the law enforcement toolkit in an agile and expeditious manner. This includes consideration of the capacity and capability of financial investigation as part of the response. The financial motive for many cybercrimes remains common with other types of serious and organised crime. Therefore, the ability of financial investigation to gather intelligence and evidence against financially motivated crimes in the cyber realm, such as ransomware attacks, needs to be better understood and harnessed.

It is particularly important to understand how traditional financial investigation tools, including those in POCA, are suited to tracking, monitoring and blocking ransomware payments, particularly where these use the anonymity provided by digital currencies to mask financial trails. This paper recommends a two-fold approach in a future SOC Strategy.

First, the UK should review the local and regional police response to ensure that specialist cybercrime units are using financial investigation capabilities to their full potential. Second, to ensure that tools for tracking money movements through the traditional banking system are suitable to respond to this growing and evolving threat, the SOC Strategy should commit to debriefing the financial investigation response to the May 2017 cyber attack (Box 7). This should consider the extent to which current financial investigation tools were sufficiently agile to deal with ransomware attacks.

### Box 7: UK Ransomware Attack

The growing threat from organised cybercrime was evidenced by the May 2017 ransomware attack on the National Health Service (NHS), among other bodies.¹ This global cyber attack, thought to be the biggest of its kind to date, is thought to have infected up to 300,000 computers in more than 150 countries² and crippled NHS computer systems, leading to the cancellation of operations and general practitioner appointments. The attack clearly demonstrated the significant impact of a sustained serious and organised crime attack on a country’s infrastructure.

Conclusion

The discipline of financial investigation has the potential to complement and support the disruption of serious and organised crime in a range of ways, including through the provision of building-block financial intelligence, the gathering of evidence to support a criminal prosecution and as a means of identifying additional offences. However, it has too often been seen solely as a tool to investigate ‘financial crimes’ or as a means of confiscating assets.

The need for the tools to undergo the same cultural transformation as forensics – a tool once misunderstood which has, over time, become a standard policing tool – is a compelling analogy. While it is a well-accepted adage in policing that ‘every touch leaves a trace’, this concept is less accepted when it comes to financial footprints.

The financial investigation community remains passionate about the discipline and its potential to have a transformative impact on the policing of serious and organised crime. However, despite pockets of progress in some police forces and ROCUs (largely driven by the personal conviction of a handful of financial investigation ‘evangelists’), the tools remain marginalised in many areas.

The lack of a clear policy commitment in the 2013 SOC Strategy further inhibits a mainstream role for financial investigation and has done little to drive the discipline forward.

Chapter II set this lack of strategic direction against wider factors in the local and regional policing landscape and found a discipline not at the forefront of efforts to tackle serious and organised crime, but one at risk of decline. A number of ‘corrective’ measures are needed to halt this at the local and regional tiers of policing, but these go only part of the way to solving the problem. Chapter III strongly advocates the need for more fundamental strategic changes to achieve the desired mainstreaming of this capability, and proposes a refresh of the SOC Strategy and some fundamental changes along all four strands of the CONTEST model.

In relation to the Pursue strand, there is a case for the mainstreaming of financial investigation, if only on cost grounds. As regards the Prevent strand, greater use of financially focused SCPOs could be implemented as part of the broader ‘lifetime offender management’ approach, as long as these changes are underpinned by proper monitoring and bolstered by collaboration with the private sector.

The current definition of border security under the Protect strand fails to recognise the vulnerabilities created by the UK’s less visible ‘financial border’ and this paper proposes an expansion of the current sanctions regime, along US lines, to include transnational organised crime as a response to this.
Finally, there is a need to ensure that financial investigation tools and techniques are included in the planning and preparation for large-scale ransomware cyber attacks. The paper therefore recommends, under the Prepare strand, a review of the exploitation of financial investigation in the policing response to cybercrime and a debrief of the recent malware attack to ensure that financial investigation and financial tools are both agile enough and being used to their full potential.

In sum, the arguments in favour of greater exploitation of financial investigation in serious and organised crime policing are compelling on the grounds of both their impact and cost effectiveness. Despite this, the discipline remains in many areas at best misunderstood and at worst marginalised. The barriers to financial investigation becoming a standard mainstream tool are longstanding, but not insurmountable. Some corrective fixes to the current system and a concerted strategic push through a refreshed SOC Strategy could achieve this. Considering the prevailing climate of policing austerity and the growing array of strategic threats, this is an opportunity the UK can ill afford to miss.
About the Author

Helena Wood is an Associate Fellow at the Centre for Financial Crime and Security Studies (CFCS) at RUSI. Her research focuses on the implementation in practice of various aspects of the UK’s Proceeds of Crime Act 2002 (POCA) and their impact on the UK’s national security objectives. Previous publications for CFCS include studies of the UK’s criminal confiscation regime and analysis of Britain’s position regarding the forthcoming Financial Action Task Force (FATF) evaluation of the UK in 2018.

Now working as an independent consultant, Helena has more than a decade of experience in a variety of government and law enforcement roles in government, including roles within the National Crime Agency, the Treasury, the Foreign Office and the Charity Commission.