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Outlaw Motorcycle Gangs (OMCGs) and the drug trade

The fallacy of Queensland's anti-bikie laws and the implications both in Australia and overseas of using this model of crime management

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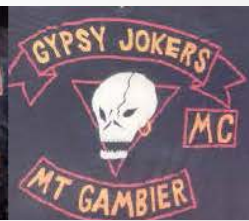
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OMCGs and the drug trade:

The fallacy of Queensland's anti-bikie laws and the implications both in Australia and overseas of using this model of crime management.

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Outline

Our primary focus is the Queensland Criminal anti-association laws

- Initial questions
- Parameters of organised crime
- The scope of the problem
- Have the VLAD laws been successful?
- The international experience



Initial questions

- Bikies or OMCGs do commit crime
- The questions are:
 - **What type of crime are OMCGs involved in?**
 - **What is the extent of such activity?**
 - **What is the most appropriate and effective policing response?**

The background to the Qld Laws

- Increased OMCG public violence, lack of police focus
- Robina shooting April 2012 (Mongol/Bandidos OMCGs)
- Coolangatta rocks brawl June 2013 (Finks/Nomads OMCGs)
- Broadbeach brawl September 2013 (Bandidos/Finks OMCGs)
- Note the nature of the events



The current local SITREP

- In Qld some 15-16 gangs
- Membership state-wide some 900-950 members





The Qld Government reaction

- In 2013 the Queensland government introduced draconian criminal association and mandatory sentencing laws for members of OMCGs.
- Forms of "criminal association" or "anti-bikie" laws have been introduced in a number of Australian jurisdictions,
- Recent High Court decisions upholding their constitutionality will ensure that they remain part of our justice landscape.

What are the VLAD laws?

Table 1: Main aspects of the Queensland anti-gang or VLAD laws.

Title	New offences/powers
Vicious Lawless Association Disestablishment Act 2013	<p>Provides mandatory sentences for participants in an association who commit a declared offence. The mandatory sentence is in addition to any sentence for the primary offence.</p> <ul style="list-style-type: none"> •15 years for any person shown to be a participant. •10 year additionally for any person shown to be a participant and office holder.
Tattoo Parlours Act 2013	<p>Provides for power of entry to parlours. Offence provisions for providing misleading information to obtain a licence. Provides for the Commissioner of Police to refuse a licence base on criminal history or criminal intelligence of the applicant or associate of the applicant.</p>
Criminal Law (Criminal Organisations Disruption) Amendment Bill 2013	<p>New offences include:</p> <ul style="list-style-type: none"> •Three or more members of a criminal gang (including those listed by regulation), being together in a public place •A member of a criminal gang being at a banned location, such as a criminal motorcycle gang clubhouse, or banned event •A member of a criminal gang recruiting, or attempting to recruit, another person to the gang.



Parameters of organised crime

- Major crime defined Under the *Crime and Corruption Act 2001 (Qld) Schedule 2* encompasses:
 - **organised crime** — criminal activity undertaken with the purpose of gaining profit, power or influence, and involving offences punishable by not less than seven years' jail, two or more people, and **planning and organisation or systematic and continuing activity**
- Australian Crime Commission Act 2002 states organised crime means an offence:
 - that involves two or more offenders and **substantial planning and organisation**, and
 - that involves, or is of a kind that ordinarily involves, the use of **sophisticated methods and techniques**,...



How much crime to OMCGs commit?

- 0.17 percent, my data obtained under RTI.
- 0.6 percent, Queensland Police list OMCG activity being responsible for 0.6 percent of all reported crime, 2015.
- 0.52 percent The Qld Organised Crime report, 2015.
- *“On any view of all the statistics, OMCGs account for a very small proportion of the overall reported crime in Queensland – definitively, less than 1%.”* ([Taskforce on Organised Crime Legislation, 2016, p. 15](#))



The type of crimes OMCGs commit?

- Claim often made OMCGs only commit serious offences.

Table 2: Top ten charges by number resulting in a guilty finding against OMCG members in Queensland between April 2008 and April 2014.

Type of Charge	Number
Possessing dangerous drugs	595
Commit public nuisance	285
Breach of bail condition	258
Assault or obstruct police officer	218
Contravene direction or requirement	151
Failure to appear in accordance with undertaking	144
Possess utensils or pipes etc. that had been used	126
Stealing	121
Assaults occasioning bodily harm	110
Wilful Damage	103



The role of OMCGs in organised crime

- Federal Parliamentary Joint Committee 2009 “**The level of OMCG involvement in serious and organised crime is difficult to clearly establish...** OMCGs are a visible and therefore prominent target in both the political and public arenas, and that serious and **organised crime often involves a level of sophistication or capacity above that of many OMCGs.**”
- The ACC notes “**...most OMCG chapters do not engage in organised crime as a collective unit. Rather, their threat arises from small numbers of members conspiring with other criminals for a common purpose.**” ([Australian Crime Commission, 2015c](#)) Political expediency to be seen to be tough on crime



The role of OMCGs in organised crime

Table 3: Organised Crime Activity of Queensland OMCG members April 2008 – April 2014 by count and as a percentage of overall reported crime.

Type of Crime	Number of OMCG offences	of related offences	Total Queensland offences	Percentage
Extortion	0		367	0%
Murder	3		294	1.0%
Fraud	69		106316	.06%
Unlawful possession of weapons/supply	147		23249	0.6%
Robbery	17		10963	0.1%
Prostitution	0		1230	0%



OMCG Involvement in the drug trade

- To what level are “bikie” groups involved in the drug trade?
- The Crime and Corruption Commission (CCC) “**The CCC has advised this Commission that outlaw motorcycle gangs play a major role in illicit drug markets in Queensland**” ([Queensland Organised Crime Commission of Inquiry, 2015, p. 24](#)). Yet getting empirical data to prove such claims is difficult.
- ***“The QPS acknowledges however that OMCG and other crime groups, whilst major players, are not the only suppliers to the illicit drug market, with other groups and individuals also involved.”*** ([Queensland Police Service, 2015c, p. 2](#))



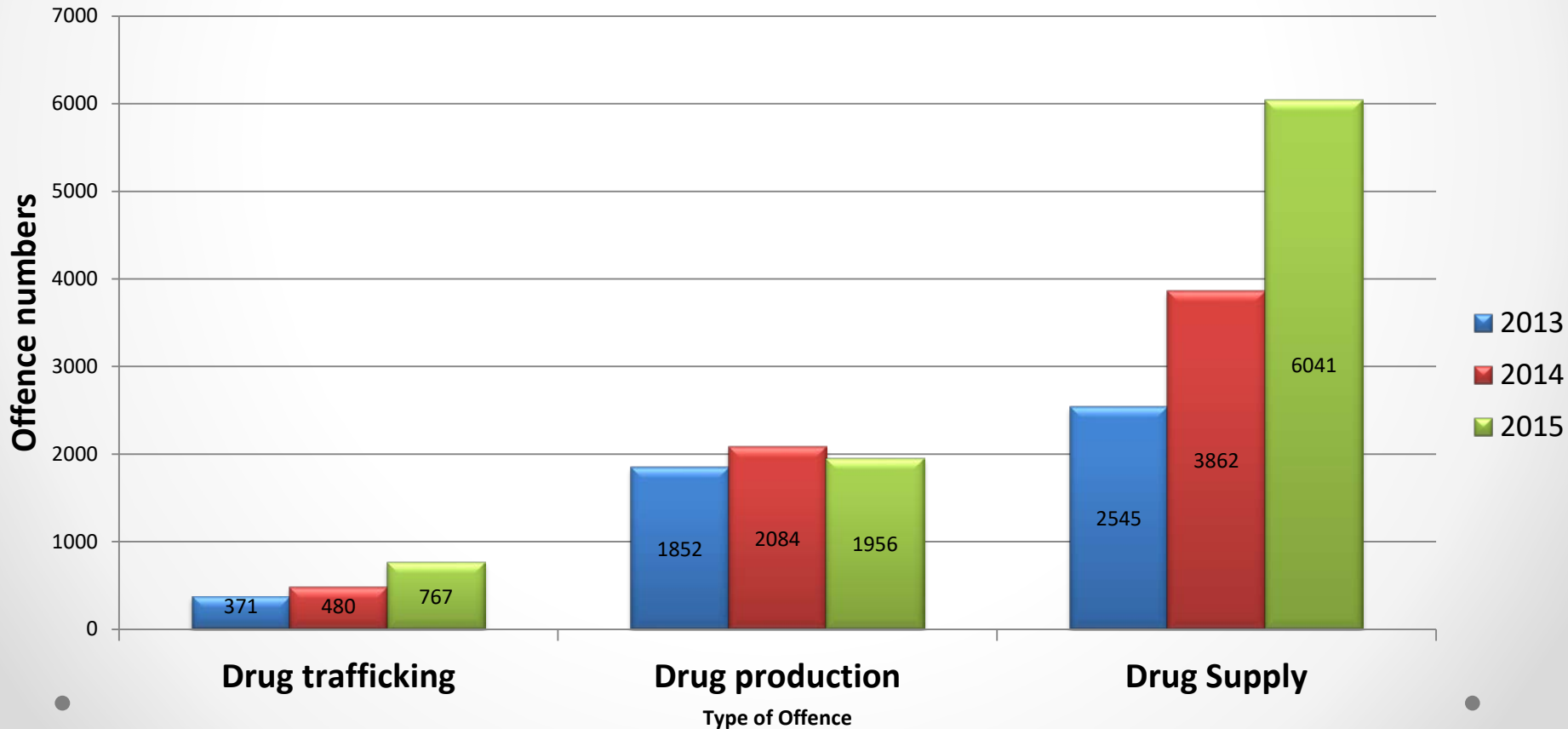
OMCG involvement in the drug trade

Table 3: OMCG involvement in drug offences in Queensland between April 2008 and April 2014.

Type of Crime	Number of OMCG offences	of related offences	Total Queensland offences	OMCG Percentage
Drug Supply	41		15574	0.26%
Drug Trafficking	21		2156	0.97%
Drug Possession	595		135857	0.44%
Production of dangerous drug	40		10085	0.39%

The impact on the drug trade in Qld

Snapshot of reported drug type offences for Queensland from 2013-2015.





Measuring success of the VLAD laws

- Have public displays of violence by OMCGs stopped? **No**
- Has there been a substantial decrease in OMCG membership? **No**
- Have there been successful convictions on the anti-association laws? **No**
- Have the mandatory sentencing provisions resulted in criminal networks informing on themselves? **No**
- Have the VLAD laws impacted general crime rates? **No**
- Have the VLAD laws impacted criminal drug activity? **No**
- Are the OMCGs less visible? **Yes**



The international experience

Experience in Canada, New Zealand, UK:

- No discernible impact on organised criminal enterprise (money laundering, drug involvement)
- Can result in elevated violence including attacks against law enforcement
- Costly in time and money re litigation because of broad reach and poor definitions
- Some successful prosecutions but evidence is difficult to amass, costly and lengthy proceedings
- Disrupt balance between human rights and community protection and control orders can breach procedural fairness



Conclusion

- There is confusion about the role OMCGs play in organised crime as compared to serious crime, the threat is overstated.
- The role of OMCGs in the drug market and the impact of the VLAD laws on the drug market would appear to be minimal.
- Traditional tools are working fine, the answer is more effective policing rather than more draconian laws.
- The push to anti-association laws appears to be a knee jerk reaction to moral panic.



Questions

