

TRANSNATIONAL SMUGGLING OF ALIENS AND STOLEN VEHICLES

*Lau Yuk-kuen**

I. INTRODUCTION

Transnational smuggling is generally regarded as the moving of unmanifested goods across and beyond internationally recognized boundaries defining the sovereignty of countries. The intention is to evade the control on prohibited items or legitimate taxation. Since the end of the so-called Cold War, the liberalization of trade restrictions has increased the potential of both trade between nations and trade across the globe. The result has been a growth in organized transnational smuggling activities involving not only goods, but also aliens.

This paper, which will cover transnational smuggling of aliens and stolen vehicles, is based mainly on the knowledge and experience gained by the Hong Kong Police in the investigation of these types of crimes. Other law enforcement agencies are likely to have encountered similar criminal groups in their own jurisdictions and identified the methods of operation of such groups, as well as the extent to which they have globalised.

II. SMUGGLING OF ALIENS

The term "alien smuggling" was first coined in the United States of America to describe the organized passage of non-indigenous citizens into the country across its land border. "Aliens" are broadly categorized by the authorities into two groups according to their personal

circumstances. Those seeking better lives away from impoverished homelands, increased employment and financial opportunities are classified as "economic aliens", while those fleeing persecution because of their different political, religious, cultural views or because of war are classified as "political aliens". It is the smuggling of the former category, i.e., economic aliens, that has become a concern for an increasing number of police forces in different parts of the world, and will be focused in this paper.

The smuggling of aliens is different to traditional smuggling in two respects. Firstly special attention is required to ensure the safe carriage of living people. Secondly illegal aliens represent a dual benefit for the criminal syndicates organizing the clandestine operation. While goods may earn a profit, aliens not only pay to be transported but they can also be used as indentured workers in slave-like conditions in destination countries. Thus the profits for the syndicate can be far greater and longer lasting.

The transport needs for trafficking in aliens varies between the use of air, sea and land routes. Related needs include the acquisition of visas, passports and other travel documents from corrupt officials or forgery syndicates, the provision of staging houses en route to destinations to accommodate the migrants, and the purchase and modification of vessels for the carriage of 'human' cargoes, plus the related registration, manifests and import/export documentation. It is, in short, a resource intensive operation.

* Director of Crime and Security, Hong Kong Police Force Headquarters, Hong Kong.

108TH INTERNATIONAL SEMINAR
VISITING EXPERTS' PAPERS

Investigations in Hong Kong and overseas uncovered criminal syndicates utilizing increasingly sophisticated means to transfer aliens out of their home countries. In 1992, fishing vessels specially modified for carrying Chinese illegal migrants were intercepted in Honolulu and Los Angeles. These dilapidated vessels were manned by a crew of criminals and enforcers and packed full of paying illegal migrants. The enforcers maintained discipline and abused the illegal aliens until they landed at their destination. The migrants were then disembarked and transferred into the criminal economy of the Chinese underworld. This was identified as the most common and cost-effective method used by smuggling syndicates at the time.

Before long, smuggling syndicates upgraded their means of transport to ocean-going vessels. However, the degree of human suffering inflicted on the human cargoes did not diminish with the change to more powerful conveyance. The grave tragedy was particularly highlighted in 1993 when the ship "Golden Venture" ran aground off New York, U.S.A. carrying 300 Chinese illegal immigrants, and ten of them died whilst attempting to swim ashore.

The use of open-top containers to smuggle aliens has been evident more recently in Hong Kong and interestingly enough several cases have revealed Japanese connections. One example which may illustrate this connection was that in January 1997 at the port of Kobe. Police intercepted and arrested 30 Chinese illegal immigrants who had been concealed in an open-top container onboard a vessel which had departed from Hong Kong and was operated by a Hong Kong-based shipping company. Intelligence was exchanged between the Japanese and Hong Kong Police which resulted in the successful

prosecution of two persons in Hong Kong in connection with the incident.

A second example relates to information received which indicated that an unknown number of illegal immigrants were being transported to Japan in an open-top container, again in 1997. Close liaison between the Hong Kong and Japanese Police resulted in the container being searched on its arrival in Japan. Unfortunately no illegal immigrants were found. However the container contained the remnants of food, bottles of water and faeces, indicating that illegal immigrants had been loaded and later unloaded elsewhere.

Whilst smuggling by sea provides an effective means to transport a large number of aliens in one single run, the past few years have also seen the use of long, erratic and circuitous routes over land and by air for those aliens who are willing or able to pay a higher fee, involving the use of forged travel documents or passports substituted with false particulars. The land/air route from southeast Asia meanders through the former Soviet Union, Europe and South America to the U.S.A. There are two reasons for this: the dispensation with border controls within the European Union countries and the collapse of a centralized authority in Russia, and the Newly Independent States.

Whatever the mode of transport the smuggling syndicates use, one common feature that characterizes their operations is their reliance on clan relationships to develop local infrastructures to facilitate the recruitment of illegal migrants from their home countries, and to organize their subsequent illegal employment in the destinations. Although, when compared to drug trafficking and goods smuggling, alien smuggling is a relative new comer to transnational crime problems, its potential

for generating substantial criminal income for the syndicates involved is apparent.

It has been reported that the price for moving an alien from southern China to Japan is US\$20,000 and to the U.S.A, US\$33,000. To fund these fees, illegal migrants borrow money from relatives or friends but more usually from the smuggling syndicates at exorbitant rates set by them. As a result, both the immigrants and their family members may become indentured workers or forced to turn to crime to repay the debts.

An American estimate was that, in 1994, over 100,000 Chinese illegal immigrants had arrived in the United States by land, sea or air. A simple calculation indicates revenues in excess of US\$3 billion is generated each year from passages alone but, when indentured work is taken into account the revenues derived by the syndicates will be much higher.

Intercepting transnational smuggling has never been an easy task, aliens smuggling is particularly so. Because of their illegal status, aliens do not normally perceive law enforcement officers as a potential source of assistance, but rather as a threat to their precarious stay. Such an attitude is shared by their fellow clansmen and employers, albeit for different reasons, and has resulted in additional obstacles to law enforcement agencies in their intelligence gathering. This, coupled with the fact that smuggling syndicates are difficult to infiltrate due to language and cultural barriers and that the true victims of this type of crime are less obvious, has naturally meant that the problem of alien smuggling has not received its deserved attention until recently.

III. SMUGGLING OF STOLEN VEHICLES

In contrast with the laborious requirements for the smuggling of aliens, the moving of vehicles involves comparatively simple procedures. There are three principal stages, beginning with acquisition.

- (1) First acquiring vehicles, which may be conducted by stealing by professional car thieves, or purchase through bogus trading and transportation companies using fraudulent means.
- (2) Concealing the vehicles for transportation may involve the construction of secret compartments within the conveying vessel. On the other hand, vehicles can be dismantled and shipped as parts from the source and reassembled at the destination.
- (3) Delivery can simply be by way of a driver taking it across a border, or may require a team such as the crew when a vessel is used.

In recent years smuggling syndicates have turned to use containers, which offer a more flexible alternative with far lower risks. The use of containers allows the smuggler to choose a land or sea route from source to destination, enables movement throughout the day and night, shields the contents from view and, of critical importance, allows the use of innocent parties to handle transportation.

Containers are an internationally accepted method for transporting goods by land, sea and air from source to destination and are thus a better vehicle for transnational syndicates as they expand their scope of their operations.

What is more significant is the low level

108TH INTERNATIONAL SEMINAR
VISITING EXPERTS' PAPERS

of risk faced by smugglers using containers through legally designated terminals and customs checkpoints. Take Hong Kong as an example. In a normal year, between 13 and 14 million containers are processed through Hong Kong's container terminals. Over 8 million cargoes carrying trains and goods vehicles arrive and depart each year, while about 300,000 sea borne cargoes are processed. The sheer volume of traffic renders comprehensive inspection of shipments impossible.

Actual inspection rates range between 1 to 3 percent. This low rate of inspection makes chance detection less likely, especially when combined with the concealment that comes with a carefully chosen mode of transport. Between 1991 to 1993, in the detected cases in Hong Kong only 2 percent of stolen vehicles were carried in containers. From 1994 to 1997, this had grown to a massive 71 percent.

Vehicle smuggling syndicates operate with a high degree of organization in which participants can be divided into a number of possibly overlapping roles, such as car thieves, jockeys, car yard workers, cross-border lorry drivers and the staff of bogus companies established locally or overseas. Other participants acting in a support role will provide concealment and storage of the contraband, and will arrange for the necessary manifests, licenses and other paper work.

Two cases of syndicated transnational vehicle smuggling will clearly illustrate the methods of operation used. In the first, in 1997, new left hand drive luxury vehicles were obtained by syndicate members in the United States by making the minimum down payments to genuine car suppliers. On receipt of the vehicles, the syndicate would organize its shipment to Hong Kong as perfectly legal goods. Once arrival had been confirmed by the receivers in Hong

Kong, the syndicate would report the vehicles stolen in the U.S.A.

The remainder of the vehicle cost would be covered by insurance payments while the vehicles were exported to China from Hong Kong within a few days of arrival. It was intended that, by the time U.S. investigators had traced the route taken from the U.S.A. the vehicles would have long crossed the border into China.

The second case is equally illustrative but may be of more interest to vehicle owners in Japan. In January 1997, 14 containers in four shipments, originating from Japan were found on arrival to contain a total of 56 suspected stolen vehicles. The prompt assistance of liaison officers in the Consulate General of Japan in Hong Kong led to the early confirmation that all of these vehicles had already been reported stolen in Japan.

When the first nine containers arrived and before the forged papers could be presented for their release, the consignee named on the shipping documents was approached for payment of charges. Confirmation that he had not ordered the consignment triggered a joint Police, Customs and Excise Department investigation.

By tracing the syndicate back through the tractor driver who turned up to collect the cargo, three arrests were made. One of the arrested persons was known to the police for his involvement in vehicle crimes, and a web of false addresses, bogus companies and sham consignees was established.

Investigation by officers of the Tokyo Metropolitan Police Department confirmed not only the places from which the recovered vehicles had been stolen, namely, Chiba, Kanagawa, and Tokyo, but also

details of the shipping company and agent responsible for sending the containers to Hong Kong. Investigation also indicated that the syndicate comprises of probably five to six Chinese criminals who had sent a further six containers, containing 19 stolen vehicles, in three shipments to Hong Kong. These vehicles were subsequently recovered. This, however, is the only known case of transnational smuggling of stolen vehicles involving a Hong Kong Chinese syndicate.

The above examples have shown that international co-operation is vital in the detection of vehicle smuggling. Many law enforcement officers are already aware of the availability of the International Stolen Vehicle Database, which is maintained by the Interpol General Secretariat in Lyon, France. This facility enables countries to input and retrieve details of stolen vehicles which is an invaluable tool for international cooperation in the investigation and neutralization of vehicle smuggling syndicates.

IV. TACTICS IN TACKLING THE PROBLEM

Having detailed the scope and nature of the problem, it is worthwhile to describe some of the measures that have been taken to counter smuggling activities, unilaterally, bilaterally or multi-laterally by law enforcement agencies.

Firstly, the primary tool in all police investigations and operations is the timely and effective use of criminal intelligence to the benefit of prosecuting those involved. Anti-transnational smuggling is no exception. In the earlier part of this presentation, the difficulties in cultivating information on the activities of those syndicates involved have been explained. They include cultural and language barriers, the code of silence shared by those

people who know what is going on, and the utilization of clan relationships by the closely knitted syndicates. Despite all these difficulties, given the large volume of trade and passenger traffic that goes through each major port every day, an operation that is not supported by good intelligence can not stand any realistic chance of success. To give the problems the priorities they deserve and to assign an appropriate level of resources will be the first important step towards developing a more effective intelligence system against these activities.

Secondly, and what many law enforcers consider to be of most importance, is the identification of the "money trails" and the seizing of the syndicates' assets. Money, in the quantities now involved cannot, despite the best efforts of criminals, move easily or without leaving a trace. Furthermore such trails often provide a clue to the size and the sophistication of the syndicates and their operations. As a result of making it an offence to assist criminals in laundering their crime proceeds and by empowering the court to confiscate such proceeds, enforcement actions have succeeded in bringing members of smuggling syndicates to justice and in tracing and seizing the assets that they have derived from their illicit activities.

Used intelligently, monetary investigation can be a great aid to tackling transnational organized criminal syndicates. Early detection of unusual monetary movements may provide a timely indication of how and where criminal groups move their funds. In this regard the Hong Kong Police is keen to continue with the development of efficient monitoring programmes in liaison with countries to which the flow of criminal assets is directed.

Thirdly, co-operation from those innocent parties that have been

108TH INTERNATIONAL SEMINAR
VISITING EXPERTS' PAPERS

unwittingly involved in the process is to be secured. In this regard, the Hong Kong Police has attempted to establish wider communication channels with its locally based shipping companies who can provide invaluable information concerning the booking of open-top containers or other circumstances which meet known smuggling profiles.

Fourthly, liaison with overseas authorities in the affected destinations is also maintained for the speedy exchange of intelligence and information on smuggling activities so that action can be taken to intercept and arrest syndicate operatives. Past investigations show that time is always a critical factor which can influence the outcome of anti-transnational smuggling operations. Hong Kong is in a fortunate position to have a number of Legal Liaison Officers from countries in the Pacific Rim posted to the Territory which enables the speedy passage of information to take place.

Last, but by no means least, weaving the disparate strands of information together to form a usable picture is now far easier. Technology has played a major role and the Hong Kong Police has been fortunate enough to be able to develop analytical programmes which can link scraps of information on people, places and things together in an orderly structure which can be interactively appraised by intelligence analysts.

These tactics are by no means exhaustive. To be able to keep an upper hand in the fight against the criminal syndicates who are a blight on society, continued effort in looking for new techniques is a must.

V. CONCLUSION

As long as smuggling is a profitable

activity there will be criminals who will weigh the relative risks and rewards of their actions and decide to take the chance. Unchecked at an early stage, such activities will globalise, and become a major law enforcement problem.

To counter this trend, a way has to be found to increase their risk and to reduce their reward. If their chance to make profit is reduced, or the opportunity to keep it once made can be taken away, the incentive for them to become criminally involved in smuggling may be reduced; although it can never be completely removed.

Whilst increased efforts in identifying suspect vessels used in sea-borne smuggling operations, and increased penalties for those found to be modifying or adapting these for use in transporting illegal immigrants can reduce the means of transportation available to smuggling syndicates, an enhanced intelligence system can provide the much needed base from where enforcement actions can be guided with greater accuracy.

On the international level, co-operation between not only the countries directly affected, but those who will be affected by changes in routes or the influx of criminal funds, are needed to thwart the massive networks and resources that smuggling organizations possess.

Given the economic and political differences that exist amongst countries today, one does not require a crystal ball to predict that smuggling activities will continue to thrive. It has already been widely accepted among social scientists that "*social problems will rarely be solved but only be alleviated*". As far as smuggling of aliens and stolen vehicles is concerned, this statement only represents half of the truth. For police officers who have been involved in the fight against such activities,

RESOURCE MATERIAL SERIES No. 54

they all know that even alleviation will not come easily, and not without a concerted international enforcement effort.