

Operation Blare

Host – introduction

The Australian Federal Police – or AFP – is Australia’s national policing agency. Its role is to outsmart serious crime with intelligent action. The AFP is opening their case vault to give us detailed insight into their investigations, tactics, and most importantly, perseverance through this Crime Interrupted podcast. As the national law enforcement agency with international reach, the AFP investigates and disrupts crime, aiming to minimise the damage inflicted on victims while maximising the damage to the criminal environment. Some of these cases may surprise you with the extent criminals are prepared to go to, and that these crimes do in fact occur – or are planned – in our own backyard. Once you get a glimpse into the AFP and what it does to protect our way of life, you will be glad the AFP has your back.

Just a reminder that the operation that follows is true crime and listener discretion is advised.

Host

For the AFP, financial crimes like foreign bribery are often historic in nature. Usually, the AFP gets the allegation after the event occurs and then investigators have to piece the case together. It can take years. But when Operation Blare came onto the AFP’s radar in 2014, it was different. It wasn’t a historical investigation; it was live. Happening right then.

Martin Fryer

When you get a live investigation, it’s happening right then and there. Most foreign bribery happens behind closed doors. With the live investigation, we were not only through that door, we actually had people in that room listening to the conversations live. It was a very good pickup by our intelligence teams.

Host

For Financial Investigations Manager, Martin Fryer, the pick-up was a stroke of luck. A surveillance team working on an organised crime investigation in Sydney, got wind of something outside their area of expertise.

Martin Fryer

A group of people were trying to piece together a deal to bribe an Iraqi official to supply sugar to the Iraqi government. That was our initial information that we got, and that investigation was focused around Sydney. It came to our team because we had the capacity to undertake that at the time.

Host

Another member of Martin’s team, was Mathew Smith, a Detective Acting Sergeant in the Australian Federal Police.

Mat Smith

I'd been working in an office on the Gold Coast at Rubina on this international drug matter. Its focus was more Brisbane and Melbourne were the other areas of focus, and Sydney. At the completion of that job, I was moved to Brisbane and allocated to the fraud and anti-corruption team where Marty was working.

Host

The Brisbane office was alerted when the AFP investigation in Sydney began hearing about the Iraqi sugar deal being organised by a woman named Jen. The Sydney investigation kept their focus on outlaw motorcycle gangs and drug deals, while the Brisbane team specialised in foreign bribery, and had the capacity to investigate the sugar deal.

Mat Smith

It is an interesting story and there is an element of chance there, like some famous footballers have said in the past: *you make your own luck*. And the fact that we were in the game, in the intelligence space, focused on various outlaw motorcycle gangs, intercepting communications around suspected drug activity, monitoring those lines, and normally they're focused on the crime type that they're looking at, but they did a fantastic job in identifying that some of the conversations, particularly around one of the subjects named Jen, actually had a foreign bribery flavour. So that's how we came to get that investigation. It was passed to us because we had some expertise; we had some capacity, and it was relevant to what we do. So that's how that came to us.

Host

When the woman called Jen began talking about foreign bribery, she became the focus for Mat, Martin and the team.

Mat Smith

She had good international connections, but she was also connected in that other space that outlaw motorcycle gang space, maybe not directly involved in their criminal conduct. She was an entrepreneur and looking for business opportunities and what she was focused on then was a particular sugar deal from Brazil. And they were looking for a buyer, someone in Iraq that might be able to take delivery of this really quite large shipment of sugar. Nothing clandestine about any of that, but the discussions soon turn to how they might facilitate that export and import into Iraq through paying public officials. And that's what piqued our interest and drew our attention to her.

Host

When the people involved began talking about sourcing sugar from Brazil to sell in Iraq, initially, they were talking a hundred thousand tonnes of sugar. As Martin explains, the potential profits of the corrupt deal were substantial.

Martin Fryer

The actual volume changed considerably from when we were investigating it, but it was around a hundred thousand tonnes that they were starting to source. That was our initial focus. For the group sourcing of refined sugar from Brazil. It was about a real cost price of about \$460 per tonne, which will then be supplied to the Iraqi government at \$490 per tonne. So, the parties to

this conversation, they were looking to gain a profit about \$30 per ton minus expenses. It's pretty good money based upon a hundred thousand tonnes. During those discussions, the Iraqi government agent basically requested that the group draft a contract up for \$638 per tonne. Based upon that volume that was discussed, we estimated that it raised an extra 15 million dollars, which we suspected would be paid to the foreign public officials in Iraq. For the Australian people sourcing the sugar would not change; it would still be \$490 per tonne, but they would then sell it to the Iraqi government officials at that higher price. So, the end result was that the Iraqi consumer would be paying that higher price to cover bribes that would then go to foreign public officials. So that was the main focus of our investigation for a few months in the very beginning of this matter.

Host

This is the heart of the problem of foreign bribery. The cost is always passed on to the people. Aside from the 15-million-dollar bribe to Iraqi government officials, a mark-up from \$460 to \$638 per tonne would mean an almost 40% increase in sugar prices, passed on to Iraqi citizens.

The AFP investigators kept a careful watch on those brokering the deal.

Martin Fryer

You could see that the group were making inroads into how they would source the sugar, how they'd ship it. And how the different aspects would work. We were listening to these conversations, and we could see it progressing.

Host

But then something happened in Iraq to change everything.

Martin Fryer

At this time, ISIS was making deep raids within Iraq and capturing large parts of the country. And the political situation in Iraq was very uncertain. So, they weren't sure about who was gonna be in control, who they had to bribe, and whether the deal was gonna go ahead. So everything just quietened down in relation to the sugar deal. And there wasn't much discussion at all in relation to any bribery or any aspect of that deal.

Host

With talk of the sugar deal dying away, the investigators at Operation Blare were disappointed. Foreign bribery cases are always on the international radar and there was pressure on law enforcement around the world to eradicate this destructive practice. Australia was a member of the Organisation for Economic Cooperation and Development – or OECD. The OECD is an international forum where the governments of 37 countries develop standards to promote fair economic growth. Back in 2014, the OECD set its sights on foreign bribery of corrupt government officials. Foreign bribery has a flow-on effect that can be catastrophic for some countries. When bribe money is paid to corrupt government officials, that money is diverted away from being used for the wellbeing of their people. Mat Smith explains.

Mat Smith

Foreign bribery can result in the diversion of resources from where they ought to be, to parties that aren't necessarily the most deserving. So that adds to the cost of particular projects. If, for example, a company bribes to win say a construction project in a foreign country, the cost of that construction project is passed onto the taxpayers of that country. So the company's not gonna wear the cost of the bribe. They include that into their financial proposal and basically, effectively what the foreign official is diverting their own taxpayer dollars into their own pockets. The other part of it is, a substandard product might be delivered. It could be a bridge, it could be a building, and if these things aren't built to standard because it's corruption at play, people are diverting money into their own pockets, then they can have dire consequences for everybody.

Host

In countries where foreign bribery of public officials is common, the effect for citizens is in the cost of living, and in the overall standard of services their government supplies. But not only that, Mat had also seen how foreign bribery could have a direct effect on the Australian taxpayer.

Mat Smith

There's different industries that are vulnerable to foreign bribery – construction, but also the natural resources and extraction industries are quite vulnerable as well. We have great interest in supporting our neighbours and making sure that their economies and societies are stable because there's flow on effects to us if they're not. What I've seen as a result of my own investigations is that a lot of bribery involved not only just getting access to the natural resources, but avoiding customs duties and income tax in those countries. And when you look at it and you think, well, that's a lot of money being diverted to the public officials' bank accounts that ordinarily would be going into the tax coffers and supporting that country in the administration of its own systems, its own justice systems, its own social welfare systems. That money's not making it there; it's making it into individuals' pockets. And the Australian tax dollar is indirectly supporting that because we have to compensate the difference in those countries for those monies that are diverted. We spend taxpayers' dollars trying to help other countries when that money's actually available, freely available in those countries, except it's being diverted and siphoned off to individuals.

Host

Needless to say, the team running Operation Blare was very committed to stopping the potential foreign bribery when it came to the sugar deal or any other deals that might take its place. There was one problem though. All the discussions intercepted by the AFP had to be translated. This meant that even though the investigation was live, there was a time lapse between getting the information and understanding it.

Mat Smith

We were intercepting telecommunications and the individuals that we were intercepting, more often than not, spoke in foreign language, particularly when they were discussing the clandestine elements of their business. And so sometimes we will be a day or two behind in getting these conversations translated. And if they're talking about doing things in real time,

that means that we're not able to deploy resources to perhaps get other evidence which corroborates what they're talking about.

Host

Even with the time gap with translations, Mat saw a big difference in the conversations that the AFP were listening in on. He'd just come from the world of investigating drug deals where conversations were always cagey.

Mat Smith

That's something in the difference of investigating drug criminals and then white-collar criminals is the drug criminals are quite streetwise. They will try, try and use codes that disguise what they're talking about. Even though to many of us, it's quite apparent what they are talking about. But for white collar criminals, those conversations are pretty straightforward. You know exactly what they're talking about cause they use the most appropriate words to describe exactly what they're doing.

Host

When talk of the sugar deal went quiet, talk of another kind of deal quickly replaced it.

Martin Fryer

So when we were listening to the sugar deal, one of the most important people that we were focusing on at the time was Jen. She had the key conduits to Iraq. She had the agents in Iraq that had access to the Iraqi public officials. And so the sugar deal went quiet, but she was still talking to various people in relation to how to get business done in Iraq. So she was still trying to find ways, even though the sugar deal was quiet, she was looking at other deals. And then our intercepts picked up her talking to a person called John who had some other projects that he was looking at trying to further into Iraq, different projects related to construction of oil wells, construction of waste facilities. So the conversation shifted from sugar towards these other different construction type projects.

Host

Once talk moved from sugar to construction, Jen introduced John to two brothers who owned a construction company.

Mat Smith

Jen was initially involved in conversations with the brothers and then introduced John, then Jen took another path, and John was left to continue to make the introductions and to discuss the opportunities.

Host

The two brothers had a construction company that had completed some fairly substantial contracts in the past. But things had gone quiet, and the brothers were ready to build up their business again.

Mat Smith

In the case of the two brothers that we're talking about the evidence that we collected suggested that this was an opportunity that was brought to them; they didn't seek out the individuals who facilitated this. The facilitators sought them out, but then their response to that was pretty straightforward. They were, quite keen when that opportunity was presented. There were some pressures on the brothers in relation to their business. It was a reasonably successful business, but I think they were in a situation, at a crossroads, where they were looking to secure some good contracts that would secure their financial position. And I think there was some difficulties in achieving that. So, when the proposition came to them, I think they found it very attractive.

Host

Because the initial sugar-deal discussions were around bribing corrupt officials, the AFP needed to monitor these new construction discussions for a mention of bribery.

Martin Fryer

So we were still investigating the foreign bribery aspect of it. So we were just waiting to listen to see what kind of deals were gonna be done, and at that stage, with the sugar deal off, we didn't know whether there was gonna be further bribery or anything like that cause there was no discussion about bribing public officials. All we heard about was these different projects that were being discussed. So we weren't sure that a bribe was gonna be paid in any of those projects. But as it came through, like they were talking about different projects such as oil wells, pipelines and these construction projects. So they went into a fair bit of detail with those projects. So we started having to research those projects, and then we started having to work out, how do you get business done in Iraq and, some of the companies that they were mentioning. then we had to research on those companies to determine if they had the capability to actually undertake these projects. So there was plenty of work to be done. It wasn't just waiting for things to happen.

Host

With the AFP investigators taking a crash course in pipelines and oil wells, they needed to understand how the business around the construction of these worked.

Martin Fryer

With foreign bribery, one of the hardest things to do is, you have to understand the business that you are looking into because you need to understand where the bribes can be paid. You need to understand what normal or right looks like. And to do that, you need to understand how the business gets done, how payments are made. How normal business is done in this environment. It's very difficult. And we are police officers, we are not in that business, so we have to try to catch up very quickly.

Host

As well as learning about the construction process, the members of Operation Blare also had to investigate John, the newest man on the scene.

Martin Fryer

Initially we didn't know much about John and when he came into our focus, we started to do some profiling on who he was connected to. He had the contact with the construction company; Jen did not. And so, we needed to understand, John's connection to this company and we didn't know how Jen and John actually initially met. So we were still trying to work those things out and piece together how they knew each other and how they interacted with each other. But yes, we started getting the conversation with Jen and John about this construction company, and then we started identifying, profiling the construction company, which led us to the two brothers that were the directors of that company.

Host

Once the investigators learnt more about pipelines, they quickly ruled it out. Pipelines are billion-dollar projects, and the construction company John was talking to, just didn't have that kind of capability.

Martin Fryer

We found out pretty quickly that those type of contracts involve significant companies around the world. The companies that John was talking to were not on the same scale and they didn't have the capability to actually undertake that type of work coz it was a significant pipeline.

Host

Investigators continued to monitor John's activities in case any of his proposed construction projects would involve bribing Iraqi officials. But then something happened that had all the members of Operation Blare on high alert. John and one of the brothers from the construction company flew to Iraq.

Martin Fryer

When that happened, John and the younger brother travelled to Iraq, it was very good. They were discussing meetings with Iraqi public officials and the possibility of gaining contracts. So it was a very big part of our investigation; it's a big milestone for us because we could see some real effort being made, and then them going over cemented that, that they were actually starting to progress this idea of these contracts. We still had no idea what projects they're after cause there's a number of different projects that were discussing on the lines, but we could see real effort being made.

Host

The AFP gets intel from other agencies, and within these partnerships, they can ask for a helping hand. When John flew back from his trip to Iraq, the Australian Border Force was waiting for him.

Martin Fryer

When John arrived back in Australia, his bags were searched and he was interviewed by Border Force. He was found to be in possession of documents relating to the company and other Iraqi government business cards linked in with Iraqi officials that we knew they had met with. So it was very good information to corroborate. Now we also had this information which John had brought back to say that he had these meetings with Iraqi officials. When he was interviewed by Border Force officials, he said he was working as a middleman for the company, and his

job was to secure the contracts for them in Iraq. And that while he is in Iraq, he attended a number of different meetings with high profile Iraqi ministers. And that he also told the Border Force officers that the payment of money was required in order for him to meet with those officials and to win those contracts in Iraq. But, at that stage, we didn't know what contract there were after what bids that they were looking for. So it was a very good piece of evidence and information, but we needed more, and we needed to corroborate everything that was being said so we needed to find those investigation avenues.

Host

The great thing about a seemingly random stop by Border Force was that John didn't suspect it was anything other than what it appeared to be.

Martin Fryer

He spoke to the younger brother about it, but he didn't think anything untoward of it.

Host

With the meeting between John and the younger brother with Iraqi officials, a deal looked closer. And a deal had to be made in order for investigators to prove the offence of foreign bribery.

Mat Smith

In a bribery offence, particularly if you're looking at a conspiracy, and we often do look at conspiracy to prosecute these types of matters, you've got to have a meeting of the minds, you've gotta have an agreement. So at this stage, we'd had discussions around what might happen, but now this meeting was taking a step closer to having that agreement take place. And that's an important element to be able to prove. So yeah, we thought we were getting closer to a case.

Host

But despite this, there were still gaps in the knowledge.

Martin Fryer

We could see all these little bits and pieces. What we didn't have was how much the bribe was, who it was going to, and what project it was for.

Host

Finally, the conversations became a little cagey when the brothers and John began to talk in code.

Martin Fryer

After John and the younger brother returned from Iraq, there was an increase in discussions between all the different parties about the prospect of doing work in Iraq. So one of the focus was: *we need to get money to Iraq*. There's discussion about sending three different lots. One amount was for the bank, one amount was for the house, and the other one was for the people. So we were trying to break that down into what all those things meant. The bank was to set up a bank account and operate in Iraq. The house was for an office in Iraq, and the money for the

people we took has being the bribe. So that's what we were concentrating on. We could see that the brothers had taken that next step to identifying that to do this, they needed to make those payments. So that's when we started to look at those conversations and we started to identify further calls in relation to money movements. The brothers were reluctant to send money over initially before they'd received any details on any of the project work. So they were very cautious in the way that were trying to get things done.

Host

So just how much was the amount the brothers had to send? Talk soon turned to an exact amount. The bribe would be a million dollars.

Mat Smith

The conversations around a million dollars being necessary to facilitate the entry into the scheme that was being proposed. So that conversation between John and the brothers. And then between the brothers themselves about the amount of money, how they would get it into Iraq. They're all good conversations to capture.

Host

What would the brothers expect to get for their million dollars?

Mat Smith

The arrangement was in exchange for the million dollars, they would be brought into the ministry as an approved contractor. And that would mean that they wouldn't have to bid for contracts in Iraq. They would be allocated contracts by the ministry. But what came with that was a further agreement that when they submitted their financial proposals for these contracts, they would be heavily inflated. And the difference of the actual value of the contract to the inflated price of the contract would come back to the government ministers. That's what they were paying a million dollars for, was to get into that scheme.

Host

So, in other words, a million dollars got them a seat at the table, but that was only the tip of the iceberg of what the corrupt Iraqi officials stood to make. This type of foreign bribery meant Iraqi officials then used taxpayer dollars to pay companies who would then divert a proportion of those taxpayer dollars back into the pockets of the officials.

Mat Smith

And at that time, I think we were contributing significantly to the security situation in Iraq. That's an expense on the Australian taxpayer, so that's quite disheartening to see that.

Host

While it seemed the brothers weren't keen to pay the million-dollar bribe, they were swayed by the potential return in profits that would make their bribe worthwhile.

Mat Smith

I'm sure that they weren't keen on having to pay a million dollars. I think that caused a number of problems for them. One is getting a million dollars cash for a start, and what they were more

concerned with was the value or the return that that million dollars would bring. And I think they saw, based on the types of contracts that they would be offered, and the structure of the scheme that they were buying into, that that would be worth the million dollars. They'd make that million dollars back pretty quickly.

Host

One by one, the pieces of evidence the AFP needed to get a conviction in a case of foreign bribery, were falling into place.

Martin Fryer

So from that point on we knew that everybody involved in this discussion knew that they had to pay a bribe to get those contracts. So that was a very key part of our investigation. They'd agreed to the money and now they were trying to progress the money flow to Iraq to get the contracts signed.

Host

Aside from the wider ramifications, the immediate problem facing John and the brothers was how to get a million dollars to the Iraqi officials they were bribing.

Martin Fryer

They discussed many different ways to send it. One of those ways was sending it to China or Hong Kong and then the Iraqi officials then travelling to Hong Kong and China to pick that money up in cash. But that fell to the side because it would require the Iraqi officials to get visas, which wasn't an easy thing to be done. So in the end, the younger brother basically put the problem back onto John and said, 'We will give you the million dollars. It's up to you to get the money to the Iraqi public officials.'

Mat Smith

Well, it got quite simple in the end. They had a contact over in another Asian country. Initially they were talking about transferring it to him on a invented business basis, that they would transfer the money on the basis of a false invoice to pay for something that they were never gonna receive, and then that person would transfer it into Iraq. That didn't eventuate. And what they actually ended up doing was getting together a million dollars' worth of cash and they gave it to John at a car park outside a restaurant. And then John proceeded to go to a Hawala money dealer, which is, it's legitimate. There's nothing wrong with doing that. And he made two cash deposits of \$500,000 each. I dunno what he thought that was going to achieve. That was quite silly in the end, and requested that that cash dealer transfer the money to the other intermediary in Iraq. And that's how they did it, through the Hawala system.

Host

What John might not have realised was that the money dealer had to report such a large transaction.

Mat Smith

The money dealer did the right thing. He has obligations under Australian legislation to record significant amounts of cash, anything over \$10,000. So he submitted a report shortly after John

came to see him, saying that this fellow had turned up with \$500,000 on two occasions and I transferred it to Iraq. He fulfilled his obligations under law committed no offence. John's behaviour there, knowing that he was committing offence was quite perplexing. There are other things he could have done and should have done if he was intent on getting away with it. But he obviously wasn't particularly skilled.

Host

Because the AFP has access to a broad range of data, the transactions were easy to identify.

Mat Smith

The Australian Federal Police has access to the AUSTRAC database, and AUSTRAC is the agency in Australia that keeps records of international funds transfers, and that's the agency to which the dealer would've had to make those reports. We knew what we were looking for. So it was a matter of us interrogating the AUSTRAC system to identify the transactions.

Host

These two transactions were concrete evidence in building the case for foreign bribery. It was a good moment for the team at Operation Blare. And if there was ever any doubt whether John and the brothers knew what they were doing was illegal, that was put to rest when surveillance captured audio of John talking about it.

Mat Smith

He was quite concerned. He identified that what he was going to do, what he was about to do, which was launder money, was gonna carry a penalty of 20 years imprisonment. And he was quite concerned with that. And I thought, well, not only have we got the conversations of him talking about doing what he's gonna do, but we've basically got a confession that he knows it's a criminal offence and he knows what the penalty is. He's basically given us evidence that we'd otherwise would've had to infer from the phone calls. When you are able to capture good evidence that you know will strengthen your brief and lead to a prosecution it's a good moment. You feel good.

Host

To prove foreign bribery of a public official, you need two components: the first is the agreement to the conspiracy.

Mat Smith

The other big thing that you need beyond the agreement is an overt act. And that's what that was. The movement of that money was that act, and that was the final thing we needed to wrap up the case.

Host

Now that they had the components to charge John and the brothers, the investigators from Operation Blare had to prepare for the arrest phase.

Mat Smith

Well, given that we wanted to execute a number of search warrants in different locations interstate, we had to line up resources in New South Wales. So, we were operating out of Brisbane. We had to identify who from Brisbane, we would take with us to conduct those actions. We had to identify and seek permission from Sydney to use resources there. We had to then travel there. So, there's a lot of logistical planning around that, but the most important thing is getting the paperwork for the warrants right. Making sure there's no mistakes and there's no errors in that paperwork, and also in making sure that you've got appropriate risk assessment around how we're going to execute the warrants in the first place. So, they're your primary considerations, and all at the same time, continuing to monitor the lines and the border to make sure that the persons of interest don't leave the country in the meantime while you're preparing.

Host

The investigators of Operation Blare also had to continue to monitor interactions between the brothers, John, and the Iraqis to see if a contract was offered to their construction company.

Mat Smith

Having evidence of a contract then makes a better argument when you're trying to say what the benefit is. So we proved that there was an agreement. We proved there was an overt act. They paid the money, but then there's always the potential to argue in court that, well, that was for a legitimate purpose. So if we are able to then present evidence that, well, what they said the money was for is now eventuated; here's the contract, then that just made the case stronger.

Host

For the investigators of Operation Blare, it was a matter of watching and waiting.

Martin Fryer

At that stage, we still weren't certain about which government ministry was going to receive it. All we know that a bribe had been paid. We were uncertain about what project it was for. So as a significant step, it was really good. We just still needed to fill those gaps in. We understood that there was gonna be further evidence that was flowing from that point on.

Host

Using all the resources available, Operation Blare traced the money as far as they could, then monitored communications.

Martin Fryer

The money was sent over on one day and received the next. Then a couple days later, we started intercepting phone calls between John and the Iraqi government agent that the money had been paid and that John was then discussing with the brothers about construction projects. So it was only a matter of days, not weeks. We identified that the bribe had been sent, it had been received, and it had been paid. So then from that point on, the brothers started to receive information from Iraq about certain projects that were coming through.

Host

The million-dollar bribe was just the beginning. It got the brothers' construction company a seat at the table, but more money would be paid once government contracts were awarded. The further bribes would be paid with every progress payment.

Martin Fryer

So once you get a project, the way it is done, and we learnt this through the investigation, is that if you get that project, you would be allocated some money up front, like 25% of the contract value. And from that you had to pay between 4 and 5% back to the foreign public officials from that startup money that you're given to actually undertake the project. And at various milestones during that project, you'd be given further funds and you'd be required to then pay another 4 or 5% each time to keep going. During the project, there's about three or four different milestones in which you're required to make those payments to Iraqi public officials.

Host

The AFP received intel that an Iraqi agent was travelling to Australia to check out the capability of the brother's company to handle Iraqi contracts.

Martin Fryer

We were aware of the Iraqi government agent travelling to Australia. We wanted to capture that information and that evidence, so we were waiting for that to occur too. When he came to Australia, we were able to get surveillance to be able to follow that person around, and look at the projects that he was looking at which provided us with very good evidence about his associations and connections to Australia.

Host

The AFP carefully monitored the visit.

Martin Fryer

He was discussing with the brothers about various projects and how they'll get done. The brothers took him to various construction sites, which they'd worked upon in Sydney, to show that they had the capability. They also took him for tours around Sydney. So we captured all that.

Host

With the evidence mounting, it was time to move into the overt – or arrest – phase. But for all the careful planning, sometimes life has other plans. Just as Mat was preparing to travel to Sydney for the arrest phase, he had an unfortunate accident.

Mat Smith

I had been assigned to deal with John, so to be involved in the search of his place, to potentially arrest him and then interview him afterwards. And I think about four days before we went down, I locked myself out of my two-storey townhouse, and in the process of trying to climb up to the upper storey, slipped. And to save myself from smacking my head open, but dislocated my shoulder. So I was not fit to actually go out in the field to perform that duty and had to get

a doctor's certificate just to say that I could travel interstate and participate in a more administrative role in the incident room.

Host

It was the wording on the doctor's certificate that caused much amusement to the team.

Mat Smith

To everyone's amusement, the doctor revealed I had a superpower. Apparently I can fly. And that's what the doctor's certificate essentially said is that, Mat can fly.

Host

Even though he wouldn't be the one knocking on John's door, Mat would still be involved, just at a distance.

Mat Smith

Yeah, it is disappointing. It's one of the more rewarding parts of the job is to be able to confront and engage the alleged defender to elicit confessions, to strengthen the brief and to bring about a good outcome to your investigation.

Host

For Mat, it was a matter of offering his expertise in a different way.

Mat Smith

Cause it's a team effort and just being the one that makes the arrest or conducts the interview, that's actually a small part of the bigger picture. And that doesn't mean anything unless the whole team's working properly and is engaged in the task they need to be engaged in. And so that's a reward in itself too, when you're able to participate in that sort of activity and make sure that everyone is doing their role and bringing the whole thing together.

Host

The team of Operation Blare and their interstate colleagues moved in for the arrests. If you're a white-collar criminal, it can be surprising when the AFP shows up at your door.

Martin Fryer

They didn't expect us to be there, but again, I don't think they could understand why we were that interested in what they were doing, coz that's part of how you do business in Iraq. So when we turned up and we did our warrants, everybody sat down and spoke to us, but we didn't gain too much evidence from those conversations. During those interviews, we played recorded conversations that we had intercepted. After that happened, the interviews pretty much stopped coz they knew that we knew most of the story and we were just trying to corroborate the evidence with them. So, there wasn't too much conversation at all between everybody.

Host

People who use foreign bribery of public officials as a way to do business, often don't think of their behaviour as criminal – that is, they *know* it is, but they don't let that stop them. The arrival of the AFP is a reckoning of sorts.

Mat Smith

Yeah. There is a shock and it's quite a defensive reaction actually. I think the element is that they feel that they're above the scrutiny of police, that there's no reason why they would be subject to an investigation, because of how they conduct their business. But when they are confronted is very daunting because it's a different world, and the consequences to them of police involvement in their lives is quite dire. It means potentially an extreme change of circumstance, whereas drug criminals may have been processed before, may have been arrested before, may have done time before. So even though it's still not a pleasant situation, they're familiar with it and they almost expect it, but it's most unexpected in white collar crime.

Host

As well as the shock of the AFP at the door, people who commit foreign bribery offences have got a lot to lose.

Mat Smith

Then there is both custodial and financial penalties available to individuals. So, they not only stand to lose their freedom, but they stand to lose a significant amount of money as well if they are fined on top of their custodial sentence.

Host

With the wealth of evidence against them, when the two brothers and John fronted court, the outcome was inevitable.

Martin Fryer

John and the two brothers pled guilty to the offence of foreign bribery at the earliest opportunity. They were all sentenced to non-parole period of two years, and they got a head sentence of four years. Later, brothers appealed that sentence, and they were reduced by four months, I believe. And in addition to the custodial sentence, the two brothers were fined each \$250,000. That was a very good sentence for us.

Host

But that wasn't the only punishment.

Mat Smith

It didn't just stop with the custodial sentence and the fine. There are other consequences as well. And on addition to those two penalties, I believe the ASIC made restrictions on their abilities to be involved in companies for a period of time.

Host

And what happened to the million dollars the two brothers sent to Iraq?

Mat Smith

We know it went from the intermediary. We had some information about where it was intended to go, and I think the intermediary confirmed that the money did make it to where it was

intended to go. But we obviously have no physical evidence of the movement of that cash from that individual to anyone else. That's just beyond our reach.

Host

Investigating cases of foreign bribery, and getting the kind of results Operation Blare achieved, sends a strong message out into the business community.

Mat Smith

I think people become more wary. Definitely. That's the hope, that's the aspiration that the actions we take and the consequences dealt out by the court will bring these things to the minds of the people that are involved in this culture of bribery and corruption; they'll think twice. Anecdotally I can say that companies in Australia, now that they're seeing these actions taken, are getting legal advice, are tightening up some of their systems and their policies to make sure that they are compliant and that they can avoid the sort of outcomes that we're talking about in this case.

Host

Foreign bribery and the attempt to irradicate it, has a long history that can be traced back to the Watergate scandal in the United States.

Martin Fryer

When the Watergate scandal happened, there's an investigation into the allegations of illegal political contribution payments. When they started that investigation, they identified a number of different offences. One of those was that the falsification of corporate financial records that they were used to conceal questionable or legal payments to foreign businesses or officials to obtain business. The majority of that work led to another inquiry, which they identified that a number of major American businesses, were also major US government contractors. So there was a element of: what are they getting this business for and how are they getting in this business? So that led to the Foreign Corrupt Practices Act coming into force in 1977.

Host

This landmark piece of legislation in the United States prohibited companies from engaging in the bribery of a foreign public official to obtain business. The US was the only country in the world that had this kind of legislation at the time. However, it put American businesses at a disadvantage when bidding for overseas contracts. It would take another 22 years for countries such as Australia to follow suit and level the playing field. Before that, Australian businesses could bribe foreign officials.

Martin Fryer

Australia wasn't party to that back then. Up until 1999, our businesses could in fact bribe a foreign public official to obtain business.

Host

But in 1999, everything changed. Australia enacted foreign bribery legislation in accordance with the OECD convention.

Martin Fryer

The convention did have the effect of leveling that playing field. Australia and other OECD countries were then empowered to create that legislation and play by the same rules that the Americans had put in place in 1977. From that point on, it was illegal for Australian companies to bribe foreign public officials to obtain business.

Host

With foreign bribery of corrupt officials the focus of law enforcement agencies around the world, companies need to tread very carefully in this space.

Mat Smith

It's not just the OECD and it's just not the Australian Federal Police. It's every member of the OECD has a body similar to the Australian Federal Police and they're all involved in pursuing this sort of crime. And we work together. We don't work in isolation. We have excellent partnerships and relationships with other law enforcement agencies. We have the International Foreign Bribery Taskforce, for example, which involves Canada, USA, United Kingdom in Australia and New Zealand now as well. We share information on how we each do our business. We share information on the trends that we are seeing in the space of foreign bribery. We share information on particulars on evidence that we have that may affect foreign jurisdiction. I've benefited from direct information from one of our partner agencies, and I've also been on the other side of that where I've referred information to a partner agency where companies are now under investigation as a result of that exchange of information. There's a great body of people and institutions at play in this that seek to diminish the prevalence of foreign bribery around the world.

Host

Martin says a lot of companies who engage in foreign bribery don't consider the repercussions on their company.

Martin Fryer

Another factor is that the reputation, like it's a huge reputation impact if you are a company's been investigated by a foreign bribery. Not many companies realise that it's part of doing business while the reputation side is part of doing business too. So if your company's been investigated for foreign bribery can have huge impacts on your company. The immediate effects could be change in your share price, through to long lasting effects where you're not able to bid for company contracts or government contracts because of the allegation of foreign bribery up until where the company's actually charged and they can no longer operate. They can't hold licenses and the directors are charged with other ancillary offences. So those things have huge reputational value too.

Host

And of course, unless it is stopped, corrupt officials will continue to seek out companies that will engage in bribery.

Martin Fryer

It reduces the standards. It engages corrupt foreign public officials to actually go out and seek these bribes to get their business going. So it has a huge flow-on effect and not a lot of people realise the actual impact that it has a huge impact on or everyday populations in those regions, coz often they're the ones that can least afford it. And the public officials are then diverting those funds away from very important public work projects.

Host

It is for these reasons the AFP will do everything in its power to put a stop to foreign bribery of a public official. Australia has strong laws to prevent corrupt activity involving Australians overseas. These offences carry penalties of up to 10 years imprisonment and fines of up to \$2.1 million for individuals and \$21 million for corporations.

If you are interested in learning more about how the AFP works to stop international bribery, including how Martin and Mat investigated this case, visit a-f-p-dot-gov-dot-a-u

Host (AFP outro)

The AFP is all about protecting Australians and Australia's way of life.

Stay tuned for our next instalment of Crime Interrupted as we take you behind the scenes of Operation Boscobel, an investigation that started with looking at vulnerabilities on the wharves and ended up with a large-scale fraud that robbed workers of their entitlements.