



Organized Crime: An Evolving Challenge for U.S. Law Enforcement

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Summary

In the last two decades, organized crime has grown more complex, posing evolving challenges for U.S. federal law enforcement. These criminals have transformed their operations in ways that broaden their reach and make it harder for law enforcement to combat them. They have adopted more-networked structural models, internationalized their operations, and grown more tech savvy. They are a significant challenge to U.S. law enforcement.

Modern organized criminals often prefer cellular or networked structural models for their flexibility and avoid the hierarchies that previously governed more traditional organized crime groups such as the Cosa Nostra. Fluid network structures make it harder for law enforcement to infiltrate, disrupt, and dismantle conspiracies. Many 21st century organized crime groups opportunistically form around specific, short-term schemes and may outsource portions of their operations rather than keeping it all “in-house.”

Globalization has revolutionized both licit and illicit commerce. Commercial and technological innovations have reduced national trade barriers, widened transportation infrastructure, and bolstered volumes of international business. The Internet and extensive cellular telephone networks have fostered rapid communication. Integrated financial systems, which allow for easy global movement of money, are exploited by criminals to launder their illicit proceeds. Estimates suggest that money laundering annually accounts for between 2% and 5% of world GDP. Simultaneously, borders are opportunities for criminals and impediments to law enforcement.

Organized criminals have expanded their technological “toolkits,” incorporating technology-driven fraud into their capabilities. Their operations can harm U.S. citizens without ever having a physical presence in the country. These illicit activities include cyber intrusions into corporate databases, theft of individual consumer credit card information, fencing of stolen merchandise online, and leveraging technology to aid in narcotics smuggling. Further, criminal organizations—which have historically burrowed into and exploited local ethnic communities—can now rely on Internet connectivity and extensive, international transportation linkages to target localities around the globe.

Since the terrorist attacks of September 11, 2001, there has been a shift in law enforcement attention and resources toward counterterrorism-related activities and away from traditional crime fighting activities including the investigation of organized crime. Although the effects of organized crime may not be seen in a consolidated attack resulting in the physical loss of life, they are far-reaching—impacting economic stability, public health and safety, as well as national security. One challenge facing law enforcement is that the federal investigation of organized crime matters has not historically been a centralized effort, and there is no single agency charged with investigating organized crime in the way the Federal Bureau of Investigation (FBI) has been designated the lead investigative agency for terrorism. Further, resources to tackle this issue are divided among federal agencies and little consensus exists regarding the scope of the problem, the measurable harm caused by these groups, or how to tackle them. As such, Congress may exert oversight regarding the federal coordination of organized crime investigations. Policymakers may also debate the efficacy of current resources appropriated to combat organized crime.

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Introduction

In the last two decades, organized crime has grown more complex, posing evolving challenges for U.S. federal law enforcement. This is largely because these criminals have transformed their operations in ways that broaden their reach and make it harder for law enforcement to define and combat the threat they pose. Globalization and technological innovation have not only impacted legitimate commerce, but they have simultaneously revolutionized crime. In response to these forces, organized criminals have adopted more-networked structural models, internationalized their operations, and grown more tech savvy. Criminals have become more elusive as the illicit world rapidly evolves in response to these changes. Meanwhile, law enforcement “plays by yesterday’s rules and increasingly risks dealing only with the weakest criminals and the easiest problems,” according to the Strategic Alliance Group, a partnership of seven law enforcement agencies from five nations.¹ Organized criminals see international borders as opportunities while law enforcement views them as obstacles. Criminals have expanded their range of tools and targets as well.

Potentially compounding matters, there is no clear definition at the federal level of what constitutes organized crime, which can make it difficult to measure the scope of this problem and devise a cohesive federal response. There also appears to be a fragmentation of efforts among federal agencies charged with combating organized crime itself or issues related to it, such as drug trafficking, copyright violation, cybercrime, human trafficking, and health care fraud. Further complicating all of this, since the terrorist attacks of September 11, 2001 (9/11), there has been a shift in law enforcement attention and resources more toward counterterrorism-related activities and away from traditional crime fighting activities—including the investigation of organized crime.

Motivated by money, organized crime fills needs not met by licit market structures and/or exploits businesses, consumers, and nations for profit. Organized criminals have capitalized on commercial and technological advances that have bolstered communication and international business. They use innovative methods of moving illegal proceeds around the world. Some nations have also witnessed the creation of ties between powerful business figures, politicians, and criminals.

Modern organized criminals may prefer cellular or networked structural models for their flexibility and avoid the hierarchies governed by elaborate initiation rituals that were favored by their predecessors. Fluid network structures make it harder for law enforcement to infiltrate, disrupt, and dismantle conspiracies. Many 21st century organized crime groups opportunistically form around specific, short-term schemes. Further, these groups may outsource portions of their operations rather than keeping all of their expertise “in-house.”

¹ These law enforcement agencies include the U.S. Federal Bureau of Investigation (FBI); Drug Enforcement Administration (DEA); Immigration and Customs Enforcement (ICE); the United Kingdom’s Serious Organised Crime Agency (SOCA); the Australian Crime Commission and Australian Federal Police; the New Zealand Police; and the Royal Canadian Mounted Police. See SOCA, “SOCA Working in Partnership Worldwide,” <http://www.soca.gov.uk/about-soca/working-in-partnership/international-partnerships>. Intelligence Committee Futures Working Group, *Crime and Policing Futures*, Strategic Alliance Group, March 2008, p. 2. (Hereafter, Intelligence Committee Futures Working Group, *Futures*.)

This report provides an analysis of how organized crime has capitalized on globalization by using borders as opportunities, relying on fast-paced technological change, and adapting its organizational structures. It illustrates how these transformations can impact U.S. persons, businesses, and interests. The report includes a discussion of how U.S. law enforcement conceptualizes organized crime in the 21st century and concludes by examining potential issues for Congress, including the extent to which organized crime is a national security threat (partly to be tackled by U.S. law enforcement agencies), congressional oversight regarding the federal coordination of organized crime investigations, and the utility of current resources appropriated to combat organized crime.

Conceptualizing Organized Crime

One of the primary challenges in conceptualizing organized crime is that it is usually not thought of as a specific crime, but rather as a large number of illicit activities committed by groups of individuals who are often so loosely connected that the members themselves do not know who their criminal associates may be. This inherently leads to a lack of consistency in the way different groups—scholars, policymakers, various federal law enforcement agencies, and nation states—view what constitutes organized crime and think about how to combat it. The inconsistent conceptualization of organized crime also makes it difficult to measure its impact. Without a clear indication of what constitutes organized crime, analysts face methodological and conceptual problems in estimating the harm it causes.²

Agency Definitions

In April 2008, the Department of Justice (DOJ) released its *Overview of the Law Enforcement Strategy to Combat International Organized Crime (Overview)*. The document included an expansive definition of international organized crime as

self-perpetuating associations of individuals who operate internationally for the purpose of obtaining power, influence, monetary and/or commercial gains, wholly or in part by illegal means, while protecting their activities through a pattern of corruption and/or violence. There is no single structure under which international organized criminals operate; they vary from hierarchies to clans, networks and cells, and may evolve to other structures. The crimes they commit also vary. International organized criminals act conspiratorially in their criminal activities and possess certain characteristics which may include, but are not limited to:

- A. In at least part of their activities they commit violence or other acts which are likely to intimidate, or make actual or implicit threats to do so;
- B. They exploit differences between countries to further their objectives, enriching their organization, expanding its power, and/or avoiding detection and apprehension;
- C. They attempt to gain influence in government, politics and commerce through corrupt as well as legitimate means;

² This report focuses on U.S. agency and federal statutory definitions of organized crime. For a discussion of scholarly definitions, see CRS Report R40525, *Organized Crime in the United States: Trends and Issues for Congress*, by Kristin M. Finklea.

D. They have economic gain as their primary goal, not only from patently illegal activities but also from investment in legitimate business; and

E. They attempt to insulate both their leadership and membership from detection, sanction, and/or prosecution through their organizational structure.³

The definition was formulated for the purposes of the strategy and clearly focuses on international criminal organizations, but it suggests key principles undergirding DOJ's understanding of organized crime, which shares self-perpetuating structure, illegal profit as a motive, violence/intimidation, and corruption as key techniques. DOJ states in its *Overview* that the definition can encompass drug trafficking organizations and street gangs, even though the groups are not the focus of the strategy.⁴ Further, the definition of international organized crime in the document was not necessarily created for purposes outside this strategy.

The Federal Bureau of Investigation (FBI) has a similar, if shorter, definition of organized crime. Unlike DOJ's *Overview*, the FBI's definition is not limited to international groups:

The FBI defines organized crime as any group having some manner of a formalized structure and whose primary objective is to obtain money through illegal activities. Such groups maintain their position through the use of actual or threatened violence, corrupt public officials, graft, or extortion, and generally have a significant impact on the people in their locales, region, or the country as a whole.⁵

This definition's breadth is tempered by the ethnic or geographic focus applied to the FBI's organized crime programs. It appears that the FBI's conceptualization of organized crime emphasizes a criminal group's ethnicity or geographic origins. The agency divides its Organized Crime Section based at headquarters into three Units, and the FBI prioritizes its organized crime cases based on these ethno-geographic groupings:⁶ (1) the Cosa Nostra,⁷ Italian organized crime, and racketeering; (2) Eurasian/Middle Eastern organized crime; and (3) Asian and African criminal enterprises.⁸

Hazy Boundaries

These agency definitions hold little sway over what is practically investigated as "organized crime" by federal agencies. For example, FBI and the Drug Enforcement Administration (DEA)—both DOJ components—investigate activities and groups that can be viewed as "organized crime" but are not conventionally conceived as such—rendering the concept of organized crime rather hazy. Although its definition of organized crime potentially encompasses

³ Department of Justice, *Overview of the Law Enforcement Strategy to Combat International Organized Crime*, April 2008, p. 2, <http://www.justice.gov/ag/speeches/2008/ioc-strategy-public-overview.pdf>.

⁴ *Ibid.*

⁵ FBI, "Organized Crime Glossary," <http://www.fbi.gov/hq/cid/orgcrime/glossary.htm>.

⁶ Department of Justice, Office of the Inspector General, Audit Division, *Follow-up Audit of Federal Bureau of Investigation Personnel Resource Management and Casework*, Audit Report 10-24, April 2010, p. 51, <http://www.justice.gov/oig/reports/FBI/a1024.pdf>.

⁷ The five most powerful Cosa Nostra groups are the historically New York-based Bonanno, Colombo, Gambino, Genovese, and Lucchese crime families. See Selwyn Raab, *Five Families: The Rise, Decline, and Resurgence of America's Most Powerful Mafia Empires*, (New York: Thomas Dunne Books, St. Martin's Press, 2005).

⁸ FBI, "How We're Organized to Combat Organized Crime," <http://www.fbi.gov/hq/cid/orgcrime/aboutocs.htm>.

all crimes committed by structured groups for profit, the FBI does not investigate or view drug trafficking organizations (DTOs) as “organized crime,” even though many DTOs exhibit a high degree of internal structure and not only traffic in illegal drugs but are involved in human and weapons smuggling, money laundering, extortion, kidnappings for ransom, and murder, among other crimes. Even the geographic or ethnic focus of Mexican or Colombian DTOs does not qualify them as organized crime for the FBI. The agency also distinguishes gangs from organized crime.

Similarly, the DEA investigates DTOs but not organized crime in general. Yet, DEA and Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) representatives have referred to Mexican DTOs as the “greatest organized crime threat to the United States.”⁹ Also, the DEA spearheads the Organized Crime Drug Enforcement Task Force (OCDETF) Program, which targets—with the intent to disrupt and dismantle—major drug trafficking and money laundering organizations.¹⁰ DTOs are the primary focus of OCDETF operations while other major organized crime groups that focus on a range of crimes other than drug trafficking, and are engaged in significant money laundering activities, are not leading targets of OCDETF investigations.

Structured groups engaged in activities such as health care fraud, cyber intrusions, identity theft, mass marketing fraud, copyright violations, human trafficking, and alien smuggling are not necessarily viewed as organized criminals by U.S. federal agencies. In fact, investigative programs within the federal government have been developed to combat each of these individual criminal activities without specifically characterizing them as “organized crime.” However, groups committing such illicit deeds can easily fit under most definitions of organized crime, especially if they engage in violence, threats of violence, or corruption alongside their other illegal activities.

Not only is there a disconnect between the definition and investigation of organized crime among federal agencies, but this disconnect exists with respect to the prosecution of organized crime cases as well. Organized crime, DTOs, and gangs are prosecuted separately, through the Organized Crime and Racketeering Section (OCRS), the Narcotic and Dangerous Drug Section (NDDS), and the Gang Unit, respectively. DOJ has indicated, however, that although drug trafficking organizations and gangs are not considered part of international organized crime for program purposes, they are indeed organized crime threats.¹¹ Also, citing similarities in the prosecution of organized crime and gang cases, DOJ has announced consolidation of OCRS; the Criminal Division’s Gang Unit; and the National Gang Targeting, Enforcement, and Coordination Center (GangTECC) into a single Organized Crime and Gang Section.¹² However, this

⁹ Statement of William McMahon, Deputy Assistant Director for Field Operations, Bureau of Alcohol, Tobacco, Firearms and Explosives and Anthony P. Placido, Assistant Administrator for Intelligence, Drug Enforcement Administration, before the U.S. Congress, House Committee on Homeland Security, Subcommittee on Border, Maritime, and Global Counterterrorism, *Combating Border Violence: The Role of Interagency Coordination in Investigations*, 111th Cong., 1st sess., July 16, 2009, in reference to the U.S. Department of Justice’s National Drug Intelligence Center (NDIC), *2009 National Drug Threat Assessment*, December 2008.

¹⁰ Other federal agencies that participate in the OCDETF Program include the FBI, Immigration and Customs Enforcement (ICE), the Bureau of Alcohol, Tobacco and Firearms (ATF), U.S. Marshals, Internal Revenue Service (IRS), U.S. Coast Guard (USCG), the 94 U.S. Attorneys Offices, DOJ’s Criminal and Tax Divisions, and state and local law enforcement agencies. For more information on OCDETF, see <http://www.justice.gov/dea/programs/ocdetf.htm>.

¹¹ Remarks by DOJ officials at the NIJ Conference 2010, panel on International Organized Crime: Recent Developments in Policy and Research, June 14, 2010.

¹² Jerry Markon, “Gangs, Organized Crime, Will be Focus of New Justice Department Unit, Crackdown,” *Washington* (continued...)

consolidation will not include the prosecution of DTOs. DOJ may continue, at some point in the future, to harmonize its policies regarding organized crime groups, DTOs, and gangs in order to place DOJ more in line with its international partners. This alignment may further aid in multilateral investigations and prosecutions of transnational criminal organizations. For instance, some nations, such as Mexico, have defined organized crime as including drug trafficking organizations.¹³ Further, the United Nations (UN), through the United Nations Convention Against Transnational Organized Crime, has defined a transnational organized criminal group as

a structured group of three or more persons, existing for a period of time and acting in concert with the aim of committing one or more serious crimes or offenses established in accordance with this Convention [the United Nations Convention Against Transnational Organized Crime], in order to obtain, directly or indirectly, a financial or other material benefit.¹⁴

Of note, the UN definition of organized crime presents a view of organized crime as having an adaptable structure rather than the rigid hierarchical structure that previously governed more-traditional organized crime groups such as the Cosa Nostra.

As illustrated in **Figure 1**, a federal, policy-driving definition of organized crime may be helpful in clarifying the roles of U.S. law enforcement agencies in combating this threat. Such a definition could help clarify the (1) harm imposed by organized crime, (2) federal resources dedicated to combating it, (3) federal agencies responsible for fighting it, and (4) extent to which organized crime poses both public and national security threats to the United States. Currently, the federal government does not appear to have a clear definition of organized crime. Therefore, it may be more difficult for policymakers to exercise both legislative and oversight responsibilities in order to bolster the federal government's abilities to counter organized crime.

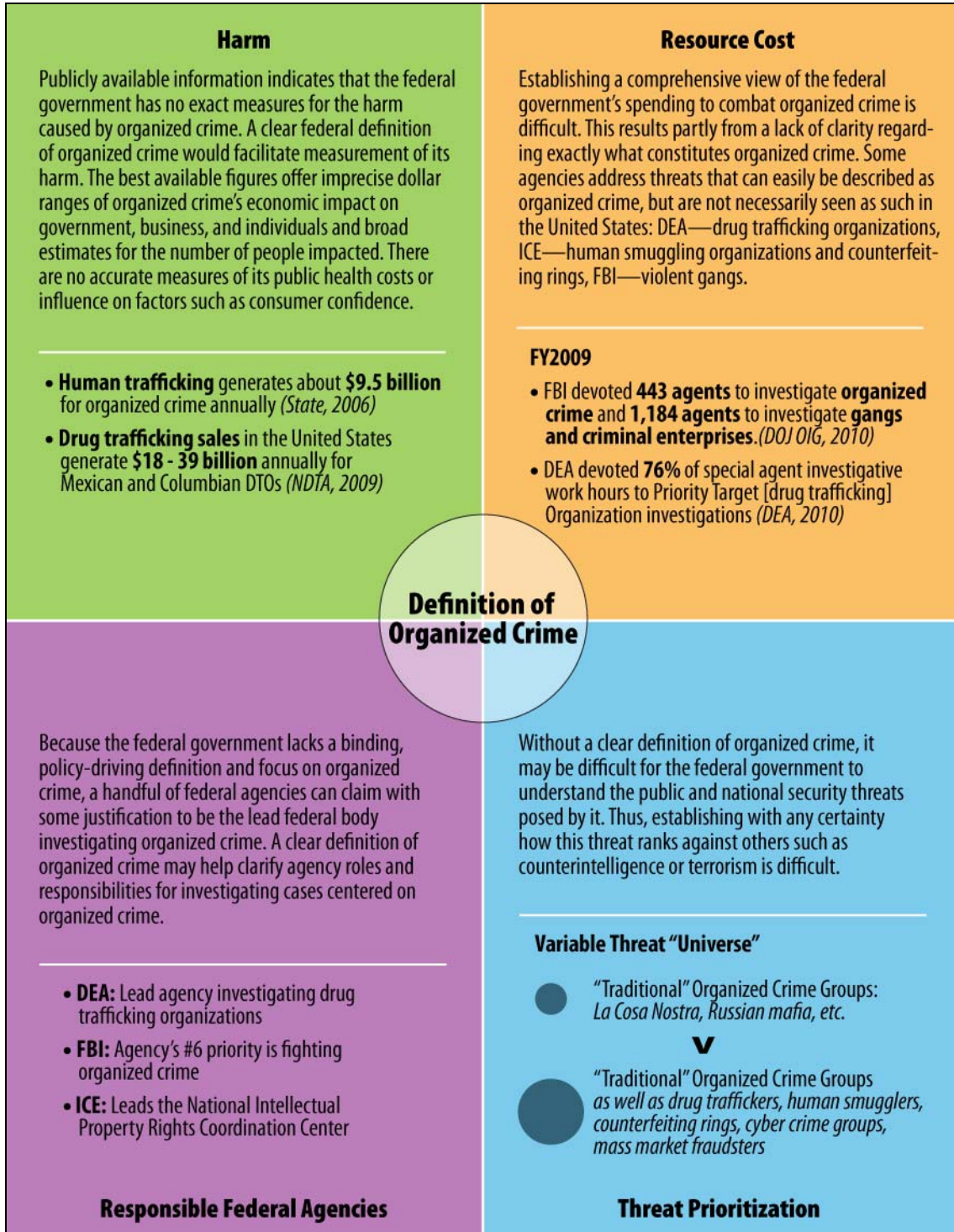
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Post, July 12, 2010.

¹³ Mexican Embassy to the United States, May 25, 2010, <http://portal.sre.gob.mx/usa/index.php?option=news&task=viewarticle&sid=297>.

¹⁴ United Nations Office of Drugs and Crime, *UN Convention Against Transnational Organized Crime*, United Nations, New York, 2004. In this definition, a "structured group" is "a group that is not randomly formed for the immediate commission of an offence and that does not need to have formally defined roles for its members, continuity of its membership or a developed structure." Serious crimes include "conduct constituting an offence punishable by a maximum deprivation of liberty of at least four years or a more serious penalty."

Figure 1. Definition of Organized Crime: An Issue for Federal Policy



Source: U.S. Department of State, *Trafficking In Persons Report 2006*, June 2006, p. 13, <http://www.state.gov/documents/organization/66086.pdf>; U.S. Department of Justice, National Drug Intelligence Center, *National Drug Threat Assessment 2009*, Product No. 2008-Q0317-005, December 2008, p. 9, <http://www.usdoj.gov/ndic/pubs31/31379/31379p.pdf>; U.S. Department of Justice, Office of the Inspector General, *Follow-up Audit of Federal Bureau of Investigation Personnel Resource Management and Casework*, Audit Report 10-24, April 2010, p. 52, <http://www.justice.gov/oig/reports/FBI/a1024.pdf>; U.S. Department of Justice, Drug Enforcement Administration,

FY2011 Performance Budget, Congressional Budget Submission, pp. 50, 52, <http://www.justice.gov/jmd/2011justification/pdf/fy11-dea-justification.pdf>. Graphic created by CRS Graphics.

Statutory Definition

There is no current statutory definition of organized crime. The Omnibus Crime Control and Safe Streets Act of 1968, as amended (P.L. 90-351),¹⁵ had at one point defined organized crime as “the unlawful activities of the members of a highly organized, disciplined association engaged in supplying illegal goods and services, including but not limited to gambling, prostitution, loan sharking, narcotics, labor racketeering, and other unlawful activities of members of such organizations.” This definition—repealed in the Justice System Improvement Act of 1979 (P.L. 96-157)—appears to be even broader than DOJ’s or the FBI’s conceptualizations. Similarly, in the Racketeer Influenced and Corrupt Organizations (RICO)¹⁶ provisions, organized crime is described in terms of an “enterprise” and a “pattern of racketeering activity.”¹⁷ The predicate offenses for racketeering include a host of state and federal crimes listed in 18 U.S.C. § 1961.

Although RICO does not define organized crime, it provides a definition for an “enterprise.” It does not, however, describe those attributes of a *criminal* enterprise that distinguish it from a legal enterprise. In addition, this provision describes organized crime more in terms of the illegal activities committed by conspirators rather than in terms of the criminal organization. As such, these statutory provisions could encompass the activities of not only organized crime groups but of terrorist groups and corrupt businesses as well. Largely describing organized crime as a list of crimes may help in the effective prosecution of these groups, but it provides little aid in developing an understanding of the groups themselves.¹⁸ Moreover, the statutory provisions offer limited guidance regarding criminal organizations and the nature of their operational structure.

This report applies much of the UN definition of organized crime in its narrative discussion of criminal activity. In other words, the analysis includes groups engaged in sustained criminal enterprises, such as—but not limited to—drug traffickers, mafia families, smugglers, violent gangs, and fraudsters. These operations may or may not have an international dimension to them (which is a requirement under the guidelines of DOJ’s “Overview of the Law Enforcement Strategy to Combat International Organized Crime”), but they directly impact U.S. persons, businesses, and/or interests. While this conceptualization is broader than the definitions of organized crime used by U.S. law enforcement agencies, it incorporates a range of criminality that may inform Congress in future legislation impacting organized crime. The cases and examples discussed in this report are not intended to set definitional boundaries for organized crime.

¹⁵ Omnibus Crime Control and Safe Streets Act of 1968, as amended (P.L. 90-351)

¹⁶ 18 U.S.C. § 1961-1968. It was enacted as Title IX of the Organized Crime Control Act of 1970 (P.L. 91-452).

¹⁷ As defined in 18 U.S.C. § 1961, an “‘enterprise’ includes any individual, partnership, corporation, association, or other legal entity, and any union or group of individuals associated ... although not [necessarily] a legal entity,” and a “‘pattern of racketeering activity’ requires at least two acts of racketeering activity” to occur within 10 years of one another for a criminal organization to be prosecuted for racketeering. Racketeering is defined as any number of violations, including an act or threat involving murder, kidnapping, gambling, arson, robbery, bribery, extortion, or dealing in a controlled substance. See 18 U.S.C. § 1961 for a comprehensive list of the predicate offenses for racketeering.

¹⁸ Frank E. Hagan, “‘Organized Crime’ and ‘organized crime’ Indeterminate Problems of Definition,” *Trends in Organized Crime*, vol. 9, no. 4 (Summer 2006), p. 127. See also James O. Finkenauer, “Problems of Definition: What Is Organized Crime?” *Trends in Organized Crime*, vol. 8, no. 3 (Spring 2005), pp. 63-83.

Organized Crime Adapting to Globalization

Organized crime targeting the United States has internationalized and its structures have flattened. The popular image of mobsters employing elaborate initiation rituals and strict codes of conduct to control crews that assail their own communities is outmoded. Today, nimble, adaptive, loosely structured small groups with global reach harm consumers, businesses, and government interests on a daily basis. Commercial and technological innovations are behind this transformation. They have helped to reduce national trade barriers, widen transportation infrastructure, and bolster volumes of international business. Smugglers have taken advantage of growing international commerce to hide illicit trade. The Internet and extensive cellular telephone networks have fostered rapid communication, simultaneously revolutionizing licit and illicit commerce. For example, integrated financial systems allow for easy global movement of money. Estimates suggest that money laundering annually accounts for between 2% and 5% of world GDP.¹⁹ Criminal organizations targeting the United States operate in many of the world's nations. Areas wracked by social disorder, inadequate policing, and poor governance offer opportunities for organized crime to take root.²⁰ These groups exploit diaspora communities in the United States as cover for their operations, situating elements of their global operations among immigrant enclaves.

Organized crime groups are becoming more entrepreneurial or market focused, reacting to changes in both illicit and licit economies.²¹ Of course, they are still heavily involved in activities such as narcotics trafficking and money laundering (which have been greatly impacted by globalization), but organized criminals are increasingly involved in less "traditional" high-tech operations encompassing identity theft, counterfeiting of goods, and various types of fraud.

Borders as Opportunity

Modern organized criminals prey upon weaknesses in international transportation and customs security regimens.²² And border policing efforts struggle to keep pace with the expansion of international commerce. Specialized criminal networks smuggle items such as narcotics, counterfeit goods, stolen goods, and bulk cash, as well as humans, around the world and into the United States. They hide their contraband within the growing volume of legitimate global trade. Prior to the global recession, between 1995 and 2008 the volume of global containerized traffic tripled.²³ Drug traffickers move large loads of cocaine, eventually destined for U.S. markets, from South America to Mexico via containerized shipping. International counterfeiters use containers

¹⁹ Moisés Naím, *Illicit: How Smugglers, Traffickers, and Copycats are Hijacking the Global Economy* (New York: Anchor Books, 2006) p. 16. (Hereafter: Naím, *Illicit*.)

²⁰ Intelligence Committee Futures Working Group, *Futures*, p. 5. See also United Nations Office on Drugs and Crime (UNODC), *The Globalization of Crime: A Transnational Organized Crime Threat Assessment*, (Vienna: UNODC, 2010), p. 221.

²¹ Jharna Chatterjee, *The Changing Structure of Organized Crime Groups*, Royal Canadian Mounted Police, 2005, pp. 2, 7-8, <http://dsp-psd.pwgsc.gc.ca/Collection/PS64-9-2005E.pdf>. (Hereafter: Chatterjee, *The Changing Structure*.)

²² For more on this, see Naím, *Illicit*; Melvyn Levitsky, "Transnational Criminal Networks and International Security," *Syracuse Journal of International Law and Commerce*, vol. 30, no. 2 (Summer 2003), pp. 227-240.

²³ Research and Innovative Technology Administration, Bureau of Transportation Statistics, *America's Container Ports: Freight Hubs That Connect Our Nation to Global Markets*, Department of Transportation, June 2009, pp. 7-8, http://www.bts.gov/publications/americas_container_ports/2009/pdf/entire.pdf.

to smuggle their fake goods into the United States. As Moisés Naím has succinctly put it, most illicit trade involves copycats, smugglers, and traffickers.²⁴ While individuals can and do engage in these activities, a good deal can be attributed to organized crime.

Copycats and Smugglers

Criminal groups engage in counterfeiting and smuggling across and within the borders of the United States. This activity includes a wide range of products and influences the lives of everyday Americans, U.S. businesses, and government.

Counterfeiting and Piracy

Counterfeiting highlights the nexus between globalization and the modernization of organized crime. Although it is difficult, if not impossible, to determine how deeply immersed organized criminals are in this activity, at least one study has suggested serious involvement.²⁵ Further, in a recent speech before the International Intellectual Property Summit, Attorney General Holder reinforced the need for the international law enforcement community to combat “the international networks of organized criminals now seeking to profit from IP [intellectual property] crimes.”²⁶ In areas such as film piracy, counterfeiting does not necessarily involve high entry costs or large legal penalties when compared to more conventional criminal activity such as drug trafficking.²⁷ It is also potentially very lucrative. With little infrastructure—a high-speed Internet connection, scanner, and copier and off-the-shelf software—criminals around the globe can easily imitate the branding and packaging that accompanies products, let alone copy the products themselves.²⁸ Counterfeiting and pirating goods²⁹ involves the violation of intellectual property rights (IPR),³⁰

²⁴ Naím, *Illicit*, pp. 1-8.

²⁵ See, for example, Gregory F. Treverton et al., *Film Piracy, Organized Crime, and Terrorism*, RAND Corporation, Santa Monica, CA, 2009, p. 27, http://www.rand.org/pubs/monographs/2009/RAND_MG742.pdf. (Hereafter, Treverton et al., *Film Piracy*.)

²⁶ U.S. Department of Justice, “Attorney General Eric Holder Speaks at the International Intellectual Property Summit,” press release, October 18, 2010, <http://www.justice.gov/iso/opa/ag/speeches/2010/ag-speech-101018.html>.

²⁷ Treverton et al., *Film Piracy*.

²⁸ Treverton et al., *Film Piracy*, p. 3; Deputy Assistant Attorney General Criminal Division U.S. Department of Justice Jason M. Weinstein, *Statement Before the United States House of Representatives Committee on Oversight and Government Reform Subcommittee on Government Management, Organization, and Procurement*, U.S. Department of Justice, Prepared Testimony “Protecting Intellectual Property Rights in a Global Economy: Current Trends and Future Challenges,” December 9, 2009, p. 2, http://oversight.house.gov/images/stories/Hearings/Government_Management/Intellectual_Property_Rights/Draft_DAAG_Weinstein_testimony_OMB_CLEARED_with_new_date.pdf.

²⁹ U.S. Government Accountability Office (GAO), *Intellectual Property*, p. 5 offers the following definition: “‘Pirated copyright goods’ refer to any goods that are copies made without the consent of the right holder or person duly authorized by the right holder. ‘Counterfeit goods’ refer to any goods, including packaging or bearing without authorization, a trademark that is identical to a trademark validly registered for those goods, or that cannot be distinguished in its essential aspects from such a trademark, and that, thereby, infringes the rights of the owner of the trademark in question. According to the U.S. Food and Drug Administration (FDA), ‘counterfeit drugs’ are defined under U.S. law as those sold under a product name without proper authorization, where the identity of the source drug is knowingly and intentionally mislabeled in a way that suggests that it is the authentic and approved product.”

³⁰ U.S. Government Accountability Office (GAO), *Intellectual Property: Observations on Efforts to Quantify the Economic Effects of Counterfeit and Pirated Goods*, GAO-1-423, April 2010, p. 5, <http://www.gao.gov/new.items/d10423.pdf> defines intellectual property (IP) as “any innovation, commercial or artistic, or any unique name, symbol, logo, or design used commercially. IP rights protect the economic interests of the creators of these works by giving them property rights over their creations.” The report describes copyright as “[a] set of exclusive rights subsisting in original works of authorship fixed in any tangible medium of expression now known or later developed, for a fixed (continued...)”

essential to creative and high-tech industries particularly reliant on copyrights, trademarks, and patents to protect innovation. Counterfeiting and piracy potentially harm legitimate businesses and consumers, sapping profits and brand value and flooding markets with inferior and even dangerous products masquerading as legitimate goods. Aside from enforcement outlays, the activity also costs governments tax revenue and may slow economic growth by driving down incentives to innovate.³¹

Between FY2005 and FY2008, the yearly domestic value³² of IPR-related law enforcement seizures of contraband in the United States leaped from \$93 million to \$273 million. In FY2009, the domestic value of seizures dropped 4%.³³ This is likely due to the global recession. Products originating in China—both Mainland China and Hong Kong—accounted for over 85% of these IPR seizures in FY2008 and FY2009.³⁴ Two 2010 operations in the United States together netted \$240 million in counterfeit materials. The hauls included fake Rolex watches, Coach handbags, pirated DVDs, and fake pharmaceutical products. Much of the material came from China.³⁵

Auto Theft Rings

Another example of organized criminals viewing borders as opportunity involves auto theft. Although international automobile theft has existed almost as long as cars have been around,³⁶ the integration of worldwide markets and expansion of international shipping have greatly impacted it by facilitating international transport of stolen automobiles. Assessing the level of such activity

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period of time. For example, works may be literary, musical, or artistic.” The report defines trademark as “[a]ny sign or any combination of signs capable of distinguishing the source of goods or services is capable of constituting a trademark. Such signs—in particular, words (including personal names), letters, numerals, figurative elements, and combinations of colors, as well as any combination of such signs—are eligible for registration as trademarks.” Patents are “[e]xclusive rights granted to inventions for a fixed period of time, whether products or processes, in all fields of technology, provided they are new, not obvious (involve an inventive step), and have utility (are capable of industrial application).”

³¹ U.S. Government Accountability Office (GAO), *Intellectual Property*; U.S. Chamber of Commerce, “Protecting Intellectual Property,” pp. 9-15, <http://www.uschamber.com/IP.htm>. IPR infringement may also have some positive effects for consumers who may derive benefit from the lower costs of pirated goods. Industry may also eventually generate more sales as consumers possibly develop interest in purchasing legitimate versions of cheaper counterfeit products they have sampled.

³² According to U.S. Customs and Border Protection, “domestic value” is the “cost of seized goods, plus the cost of shipping and importing the goods into the U.S. and an amount for profit.”

³³ U.S. Customs and Border Protection, “Yearly Comparisons: Seizure Statistics for Intellectual Property Rights (FY 2005-FY2009),” January 2010, http://www.cbp.gov/xp/cgov/trade/priority_trade/ipr/seizure/seizure_stats.xml; U.S. Customs and Border Protection, U.S. Immigration and Customs Enforcement, “Intellectual Property Rights Seizure Statistics: FY 2009,” October 2009, p. 2, http://www.cbp.gov/linkhandler/cgov/trade/priority_trade/ipr/seizure/fy09_stats.ctt/fy09_stats.pdf; U.S. Customs and Border Protection, U.S. Immigration and Customs Enforcement, “Intellectual Property Rights Seizure Statistics: FY 2008,” January 2009, p. 2, http://www.cbp.gov/linkhandler/cgov/trade/priority_trade/ipr/seizure/fy08_final_stat.ctt/fy08_final_stat.pdf.

³⁴ U.S. Customs and Border Protection, U.S. Immigration and Customs Enforcement, “Intellectual Property Rights Seizure Statistics: FY2009,” October 2009, p. 12, http://www.cbp.gov/linkhandler/cgov/trade/priority_trade/ipr/pubs/seizure/fy09_stats.ctt/fy09_stats.pdf; U.S. Customs and Border Protection, U.S. Immigration and Customs Enforcement, “Intellectual Property Rights Seizure Statistics: FY2008,” January 2009, p. 13, http://www.cbp.gov/linkhandler/cgov/trade/priority_trade/ipr/pubs/seizure/fy08_final_stat.ctt/fy08_final_stat.pdf.

³⁵ Keith Johnson, “U.S. Seizes Big Batches of Fake Goods,” *Wall Street Journal*, April 26, 2010.

³⁶ See “Stolen American Autos Clog the Mexican Market,” *New York Times*, February 5, 1922, <http://query.nytimes.com/mem/archive-free/pdf?res=9D0DE5D71130EE3ABC4D53DFB4668389639EDE>.

is very difficult since few metrics for it exist. Regardless, today's international automobile theft rings benefit from the high levels of cargo container traffic ushered in by globalization. These groups profit by stealing vehicles in the United States and shipping them abroad, where they are sold. Such illicit operations react to global demand for luxury vehicles, and in some instances are extremely responsive to market forces. They trawl large U.S. metropolitan areas that have assortments of vehicles and rely on rail or port facilities to move stolen vehicles abroad.³⁷

In June 2010, law enforcement officials announced indictments of 17 participants in an alleged scheme that pilfered 450 cars annually in New York, New Jersey, and Connecticut. According to law enforcement officials, the group, described as a "steal to order" outfit by New York State Attorney General Andrew Cuomo, filled specific requests from U.S. customers and others in Senegal and netted up to \$25,000 per car. The group supposedly relied on specialists who could reprogram car keys to match a vehicle's specific code, exporters, and two car dealership employees, among others. The ring allegedly stored vehicles in four Bronx, NY, garages and loaded those destined for Senegal into shipping containers, concealing the cars behind furniture.³⁸

Human Smuggling and Trafficking

Criminal organizations are taking advantage of an unprecedented era of international migration, including illegal migration to the United States.³⁹ However, since 2007 illegal immigration to the United States has declined.⁴⁰ This may be attributable, in part, to dwindling job opportunities resulting from the global recession and increased immigration enforcement activity along the U.S. Southwest border.⁴¹ Nonetheless, criminal organizations continue to capitalize on the desire of unauthorized immigrants to enter the United States. Networks of human smugglers and others—including Mexican drug trafficking organizations (DTOs) that have broadened their money-generating activities to include human and weapon smuggling, counterfeiting, kidnapping for ransom, and extortion—bring unauthorized immigrants across the border and into the United States.⁴² In one well-known case, Cheng Chui Ping—also known as "Sister Ping"—sentenced in March 2006, had led an international human smuggling ring that was responsible for smuggling Chinese villagers to the United States between the early 1980s and April 2000. In a 2006 press release, DOJ described her as "one of the first, and ultimately most successful, alien smugglers of all time."⁴³ At the start, Ping's smuggling ring brought small numbers of villagers to the United

³⁷ Eva Dou, "New-York Based Theft Ring Shipped Hot Cars to Senegal," *Associated Press*, June 30, 2010.

³⁸ Ibid; Rob Sgobbo, Joe Jackson, and Brendan Brosh, "U.S. to Senegal Car Theft Ring Busted, Attorney General Andrew Cuomo Says," *New York Daily News*, June 30, 2010.

³⁹ Naím, *Illicit* p. 89; Jackie Turner and Liz Kelly, "Intersections Between Diasporas and Crime Groups in the Constitution of the Human Trafficking Chain," *British Journal of Criminology*, vol. 49, no. 2 (March 2009), p. 184.

⁴⁰ Jeffrey S. Passel and D'Vera Cohn, *U.S. Unauthorized Immigration Flows Are Down Sharply Since Mid-Decade*, Pew Hispanic Center, Report, Washington, DC, September 1, 2010, p. i, <http://pewhispanic.org/files/reports/126.pdf>.

⁴¹ Miriam Jordan, "Illegal Immigration to U.S. Slows Sharply," *Wall Street Journal*, September 1, 2010, http://online.wsj.com/article/SB10001424052748703882304575465742670985642.html?mod=googlenews_wsj.

⁴² Also, while some drug trafficking organizations may not be directly involved in human smuggling, they may tax the smugglers who wish to use the established drug trafficking routes. For details on Mexican cartels and human smuggling, see David Luhnnow and Jose De Cordoba, "Mexican Military Finds 72 Bodies Near Border," *Wall Street Journal*, August 26, 2010, <http://online.wsj.com/article/SB10001424052748703632304575450761550490920.html#articleTabs%3Darticle>; Josh Meyer, "Drug Cartels Raise the Stakes on Human Smuggling," *Los Angeles Times*, March 23, 2009, <http://articles.latimes.com/2009/mar/23/nation/na-human-smuggling23>.

⁴³ Department of Justice, "Sister Ping Sentenced to 35 Years in Prison for Alien Smuggling, Hostage Taking, Money (continued...)"

States via aircraft, using fake immigration documents. She turned from exclusive reliance on air transit to include the use of maritime shipping as her operation matured. This way, Ping likely exploited increasing volumes of international seaborne cargo engendered by globalization to mask her illegal movement of human beings. She eventually developed the capability to smuggle hundreds of victims at a time via cargo ships, where the villagers could be stashed below the deck until they reached their U.S. destination and eventually paid her exorbitant smuggling fees.⁴⁴ Criminals who smuggle individuals into the United States may also turn the smuggling into a trafficking situation by increasing the immigrants' debts owed once they have been smuggled to the United States. The smugglers/traffickers may then require their victims to work for a period of time to pay off the debts.⁴⁵

Organized crime exploits individuals through both labor and sex trafficking. In 2006, the FBI reported that human trafficking generates about \$9.5 billion for organized crime annually.⁴⁶ However, as the Government Accountability Office (GAO) has noted, estimates regarding the global scale of human trafficking are questionable;⁴⁷ as such, any estimates regarding the proceeds generated through these crimes may not be representative of their true scope. These criminal organizations target both U.S. citizens and foreign nationals who are drawn to visions of better lives in the United States.

International borders often play a central role in the dynamics involved in forced labor and sex trafficking. In many instances, victims likely perceive borders and border security regimens as insurmountable barriers via legitimate means, requiring them to turn to illicit methods of transit offered by traffickers. Organized criminals prey on victims' powerful desires to live or work in other countries. While the following two cases may not have been prosecuted by DOJ as traditional "organized crime," the networks involved highlight some of the dynamics involved in labor and sex trafficking. In August 2010, federal law enforcement announced an indictment of six individuals for participation in an alleged conspiracy to exploit Thai nationals through forced labor in the United States. The defendants allegedly enticed workers to the United States by offering opportunities for lucrative jobs. Once in the United States, the approximately 400 Thai workers had their passports confiscated, were threatened with economic harm and deportation, and were forced to work on farms in Washington and Hawaii.⁴⁸ In another case, four individuals from the United States, Mexico, and Guatemala were sentenced in April 2010 for involvement in a sex trafficking organization that targeted young Mexican women. They lured these women to the United States on the promise of better lives or legitimate employment. Once the women were brought to the United States, they were instead physically threatened, beaten, intimidated, and forced to engage in commercial sex.⁴⁹ DOJ has also reported an uptick in Asian organized crime

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Laundrying, and Ransom Proceeds Conspiracy," press release, March 16, 2006, <http://www.justice.gov/usao/nys/pressreleases/March06/sisterpingsentencingpr.pdf>.

⁴⁴ Ibid.

⁴⁵ Department of Justice, "Hudson County Bar Owner Pleads Guilty to Role in International Human Smuggling Ring," press release, September 12, 2006, <http://www.justice.gov/usao/nj/press/files/pdf/medr0912rel.pdf>.

⁴⁶ Department of State, *Trafficking In Persons Report 2006*, June 2006, p. 13, <http://www.state.gov/documents/organization/66086.pdf>.

⁴⁷ Government Accountability Office (GAO), *Human Trafficking: Better Data, Strategy, and Reporting Needed to Enhance U.S. Antitrafficking Efforts Abroad*, GAO-06-825, July 2006, <http://www.gao.gov/new.items/d06825.pdf>.

⁴⁸ Department of Justice, "Six People Charged in Human Trafficking Conspiracy for Exploiting 400 Thai Farm Workers," press release, September 2, 2010, <http://www.justice.gov/opa/pr/2010/September/10-crt-999.html>.

⁴⁹ Department of Justice, "Four Defendants Sentenced to Prison in Human Trafficking Ring," press release, April 28, (continued...)

groups becoming involved as pimps or brokers in domestic human sex trafficking. Although the increase is noted for Asian organized crime groups, involvement in sex trafficking is certainly not limited by ethnic or geographic origin; these criminals collaborate with other, non-Asian groups to further their sex trafficking enterprises.⁵⁰

Drug Trafficking

In the last decade, cocaine has become a truly global commodity dependent on illicit market fluctuations. Traffickers now can leverage wide, international distribution networks to ride out pressures or changes that may make their traditional illicit markets less hospitable. According to media reports, some Colombian and Mexican cocaine suppliers have shifted sizeable amounts of product using containerized shipping—hiding their illicit material within the daily globalized flow of legitimate seaborne international commerce.⁵¹ And some of the Mexican Gulf Cartel's smuggling activity involving European markets has used the United States as a transshipment point.⁵²

When it comes to the internationalization of cocaine markets, not all the news involves the growth of supply, however. Global demand for cocaine has partly impacted U.S. bound supplies of the drug. Cocaine availability levels in the United States have decreased since 2006. Diversion of cocaine to European and Latin American markets by Colombian and Mexican drug cartels has fueled this downturn in availability, as have coca eradication efforts, large seizures, law enforcement pressure on Mexican cartels, and violent inter-cartel rivalries.⁵³

While the story of globalized drug smuggling impacting the United States often revolves around Colombian and Mexican cartels specializing in drugs such as cocaine, marijuana, heroin, and methamphetamine, criminal groups trafficking narcotics come in all sizes and handle a variety of drugs. Because of the ease of international communications, travel, and transportation networks inherent in globalization, drug trafficking groups need not be directly tied to the large cartels to have significant worldwide reach. Even relatively small groups can forge far-flung supply and transportation links.

The FBI's operation Black Eagle tracked a small Albanian network of alleged criminals based in northern New Jersey who were indicted in March 2009.⁵⁴ The network purportedly had domestic ties to Chicago, Detroit, and Texas, as well as international links to Macedonia and Albania. At one point, the group of opportunists supposedly conspired to smuggle 100 kilograms of heroin from Albania to the United States. According to the FBI, the group planned to use a Balkan front company to conceal the heroin in containerized shipments of furniture bound for the United

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2010, <http://www.justice.gov/usao/gan/press/2010/04-28-10.pdf>.

⁵⁰ Comments by DOJ officials at the 2010 National Conference on Human Trafficking, May 3–5, Arlington, VA.

⁵¹ Mark Townsend, "How Liverpool Docks Became a Hub of Europe's Deadly Cocaine Trade," *The Guardian*, May 16, 2010.

⁵² Michele M. Leonhart, DEA Acting Administrator, "Prepared Remarks: Project Reckoning Press Conference," September 17, 2008, <http://www.justice.gov/dea/speeches/s091808.html>.

⁵³ National Drug Intelligence Center, *National Drug Threat Assessment*, February 2010, p. 29, <http://www.justice.gov/ndic/pubs38/38661/38661p.pdf>.

⁵⁴ Federal Bureau of Investigation, Newark Division, "Federal Agents Shut Down International Smorgasbord of Crime," press release, March 18, 2009, <http://newark.fbi.gov/pressrel/pressrel09/nk031809.htm>.

States. The heroin was purportedly to come from Afghanistan, likely via Turkey and into Albania. There was no clear cut leadership in the loosely knit group. The heroin deal was going to be one last score before some of the criminals “retired,” according to the FBI. They were also likely involved with stealing and selling pharmaceuticals, illegal gambling, dealing ecstasy, and theft of retail goods.⁵⁵

In another case involving a relatively small group, Phuong Thi Tran pleaded guilty in February 2010 for her involvement in what has been described in press reports as an Asian drug trafficking ring that smuggled ecstasy pills and other drugs into the United States from Canada, where they were manufactured. Tran, who lived in Canada, is originally from Vietnam and served as the group’s ringleader. She oversaw an operation that smuggled millions of ecstasy pills into the United States between 2002 and 2008, when she was arrested.⁵⁶

Money Laundering

Making ill-gotten gains appear legitimate is critical to the success of organized criminals. For many criminals, the movement of money—either as bulk cash or digital transactions—across international borders plays an integral role in this process. They use many techniques to launder money, often exploiting legitimate financial structures to mask the illegal origins of their profits. Money laundering includes three fundamental steps: (1) placement, the introduction of illicit funds into licit financial systems; (2) layering, the movement (often international) of illicit funds through a variety of business structures to obscure its origins; and (3) integration, the use of illicit funds that at this stage appear legitimate in lawful business transactions.⁵⁷ It is impossible to determine with any accuracy how much money is laundered by organized criminals whose operations impact the United States. However, U.S. government estimates suggest that Mexican and Columbian drug trafficking organizations earn between \$18 billion and \$39 billion annually from sales in the United States.⁵⁸ Annually, perhaps between \$20 billion and \$25 billion in bank notes is smuggled across the Southwest border into Mexico.⁵⁹ How much of this is profit and then laundered is unclear.⁶⁰ While bulk cash smuggling is an important means by which criminals move illegal profits from the United States into Mexico, they have increasingly turned to stored-

⁵⁵ Federal Bureau of Investigation, “Inside the FBI: Albanian Organized Crime,” November 27, 2009, <http://www.fbi.gov/inside/archive/inside112709.htm>.

⁵⁶ Department of Justice, “Ringleader of International Drug Trafficking Ring Pleads Guilty for Role in Drug Smuggling Case,” press release, February 24, 2010, http://www.justice.gov/usao/pae/News/Pr/2010/feb/tran_guilty_plea_release.pdf; Troy Graham, “Woman at Center of Asian Drug-Trafficking Ring Gets Nearly Six Year Term,” *Philadelphia Inquirer*, August 25, 2010, http://www.philly.com/inquirer/local/20100825_Woman_at_center_of_Asian_drug-trafficking_ring_gets_nearly_six-year_term.html.

⁵⁷ Brian Seymour, “Global Money Laundering,” *Journal of Applied Security Research*, vol. 3, no. 3-4 (2008), pp. 374-375. (Hereafter, Seymour, “Global Money.”)

⁵⁸ Dennis C. Blair, Director of National Intelligence, “Annual Threat Assessment of the US Intelligence Community for the Senate Select Committee on Intelligence,” Office of the Director of National Intelligence, February 2, 2010, p. 31. (Hereafter, Blair, “Annual Threat Assessment.”)

⁵⁹ William Booth and Nick Miroff, “Stepped-Up Efforts by U.S., Mexico Fail to Stem Flow of Drug Money South,” *Washington Post*, August 25, 2010, <http://www.washingtonpost.com/wp-dyn/content/article/2010/08/25/AR2010082506161.html>.

⁶⁰ For a discussion of estimates, see Douglas Farah, *Money Laundering and Bulk Cash Smuggling: Challenges for the Mérida Initiative*, Woodrow Wilson International Center For Scholars, Mexico Institute and University of San Diego Trans-Border Institute, Working Paper Series on U.S.-Mexico Security Cooperation, Washington, DC, May 2010, p. 6, <http://wilsoncenter.org/topics/pubs/Money%20Laundering%20and%20Bulk%20Cash%20Smuggling.%20Farah.pdf>. (Hereafter, Farah, *Money Laundering*.)

value cards⁶¹ to move money. With these cards, criminals are able to avoid the reporting requirement under which they would have to declare any amount over \$10,000 in cash moving across the border.⁶² Aside from bulk cash smuggling and stored-value cards, Mexican traffickers move and launder money by using digital currency accounts, e-businesses that facilitate money transfers via the Internet, online role-playing games or virtual worlds that enable the exchange of game-based currencies for real currency, and “mobile payments through cell phones that provide traffickers with remote access to existing payment mechanisms such as bank and credit card accounts and prepaid cards.”⁶³

Organized criminals also use the globalized international financial system in the layering stage of money laundering. The United States is impacted by this from at least two directions. Criminals operating abroad can exploit U.S. structures to launder money while those operating domestically can wash their illicit profits abroad in an attempt to avoid U.S. law enforcement. Large financial markets such as New York, where criminal activity is potentially hidden within voluminous legitimate business, are used by criminals. Criminals use banks and businesses to launder money in offshore locations with strict privacy laws such as Panama, the Cayman Islands, or the Isle of Man. In these locales, law enforcement struggles to determine the true ownership of assets.⁶⁴

International or domestic shell companies can be used for money laundering. They are legal entities that have no independent operations or assets of their own and largely exist only on paper. Shell companies have legitimate purposes, for example, “they may be formed to obtain financing prior to starting operations.”⁶⁵ Regardless, DOJ has identified U.S.-based shell companies as especially difficult to investigate because “lax company formation laws [allow] criminals [to] form [them] quickly and cheaply and obtain virtual anonymity.”⁶⁶

Organized criminals likely rely on the veneer of legitimacy conferred by U.S.-based shell companies, which in many instances allow criminals to conceal their ownership.⁶⁷ Most U.S. states do not require owner information when companies are formed or even on annual or biennial reports.⁶⁸ Individuals can distance themselves from the actual formation of specific shell companies by using company formation agents (registered agents) to establish them. Shell companies enable criminals to move money around the globe through legitimate bank accounts without attracting law enforcement scrutiny. With relative ease, a criminal organization can open

⁶¹ A stored value card looks like a debit or credit card, but stores value directly on the card using magnetic strip technology.

⁶² Legislation has been introduced in the 111th Congress (H.R. 5127) that would, among other things, classify stored value cards as monetary instruments in order to require individuals to declare to Customs over \$10,000 that they are carrying on a stored value card.

⁶³ Farah, *Money Laundering*, 23.

⁶⁴ Seymour, “Global Money,” pp. 375-376.

⁶⁵ U.S. Government Accountability Office (GAO), *Company Formations: Minimal Ownership Information Is Collected and Available*, GAO-06-376, April 2006, p. 1, <http://www.gao.gov/new.items/d06376.pdf>. Hereafter GAO, *Company Formations*.

⁶⁶ Jennifer Shasky Calvery, Senior Counsel to the Deputy Attorney General, United States Department of Justice, Statement Before the United States Senate Committee on Homeland Security and Governmental Affairs, Hearing, “Examining State Business Incorporation Practices: A Discussion of the Incorporation Transparency and Law Enforcement Assistance Act,” June 18, 2009, pp 1-2, <http://www.justice.gov/ola/testimony/111-1/2009-06-18-dag-shasky-incorporation.pdf>. (Hereafter, Shasky, “Examining State Business.”)

⁶⁷ GAO, *Company Formations*, p. 1.

⁶⁸ GAO, *Company Formations*, p. 13.

multiple shell companies worldwide and systematically distance ill-gotten gains from their criminal origins, leaving behind a hard-to-untangle web of accounts, legitimate corporations, and transactions.⁶⁹ Both Mexico's Sinaloa Cartel and alleged Eurasian organized crime figure Semion Mogilevich have likely used U.S. shell companies to launder money.⁷⁰

Organized Crime and Technological Change

Organized criminals have expanded their technological “toolkits.” They have adapted to incorporate technology-driven fraud into their capabilities.⁷¹ Their operations can harm U.S. citizens without ever having a physical presence in the country. Organized crime groups engage in a wide variety of tech savvy mass marketing frauds. Even traditional arenas of criminal activity such as illegal gambling have been transformed by the Internet. For example, illegal gambling has been a staple in the Cosa Nostra's criminal diet for decades. In recent years, they have branched out into Internet gambling,⁷² which debuted in the mid 1990s.⁷³ Operation Heat, an investigation by the New Jersey Division of Criminal Justice, led to the arrest of Brian Cohen, who allegedly facilitated the Lucchese family's offshore gambling activities. According to law enforcement officials, the family earned billions of dollars via offshore Internet activity that included a website and a Costa Rican wire room that handled transactions, both managed by Cohen.⁷⁴

Mass Marketing Fraud

The International Mass-Marketing Fraud Working Group defines mass marketing fraud as

Fraud schemes that use mass-communications media—including telephones, the Internet, mass mailings, television, radio, and even personal contact—to contact, solicit, and obtain money, funds, or other items of value from multiple victims in one or more jurisdictions.⁷⁵

⁶⁹ Shasky, “Examining State Business,” pp. 4-5; Seymour, “Global Money,” p. 375.

⁷⁰ Jennifer Shasky, Senior Counsel to the Deputy Attorney General, United States Department of Justice, Statement Before the United States Senate Committee on Homeland Security and Governmental Affairs, Hearing, “Business Formation and Financial Crime: Finding a Legislative Solution,” November 5, 2009, p. 1, http://hsgac.senate.gov/public/index.cfm?FuseAction=Hearings.Hearing&Hearing_ID=88d1a5fb-7312-4e9e-92b2-8558ccd44f22. Legislation has been introduced in the 111th Congress (S. 569, H.R. 6098) that would establish uniform requirements for states regarding beneficial ownership of public corporations and limited liability companies.

⁷¹ Criminal Intelligence Service Canada (CISC), *2010 Report on Organized Crime*, May 2010, p. 12, http://www.cisc.gc.ca/annual_reports/annual_report_2010/document/report_oc_2010_e.pdf. (Hereafter, CISC, *2010 Report*.)

⁷² For information on unlawful Internet gambling, see CRS Report RS22749, *Unlawful Internet Gambling Enforcement Act (UIGEA) and Its Implementing Regulations*, by Brian T. Yeh and Charles Doyle.

⁷³ On the advent of Internet gambling, see David G. Schwartz, *Roll the Bones: The History of Gambling*, (New York: Gotham Books, Penguin Group (USA), 2006) pp. 488-494.

⁷⁴ George Anastasia, “Officials Charge Man Who Allegedly Ran Mob Gambling Website,” *Philadelphia Inquirer*, May 29, 2010, http://www.philly.com/inquirer/local/nj/20100529_Officials_charge_man_who_allegedly_ran_mob_gambling_website.html.

⁷⁵ International Mass-Marketing Fraud Working Group (IMMFWG), *Mass-Marketing Fraud: A Threat Assessment*, June 2010, p. 3. (Hereafter, IMMFWG, *Mass Marketing Fraud*.) The IMMFWG includes law enforcement, regulatory, and consumer protection agencies from Australia, Belgium, Canada, the Netherlands, Nigeria, the United Kingdom, and the United States. Europol is also involved.

Mass marketing fraud involves a wide range of criminal activity that has been transformed by globalization and technological change. It can be perpetrated by individuals, small groups, or sophisticated criminal enterprises. Parsing out exactly how much of this activity can be attributed to organized criminals is tricky, but experts suggest that “fraudulent mass marketing operations are increasingly transnational, interconnected, and fluid.”⁷⁶ “Boiler room” scams, one iteration of the fraud with a long history, entail groups of fraudsters making high-pressure deceptive merchandise pitches and misleading service offers to unwitting customers around the world. Recently, criminals have innovated based on tried-and-true boiler room schemes by outsourcing some activity to specialists, internationalizing their operations, and adopting sophisticated concealment strategies for their communications capabilities and locations.

The Cosa Nostra and other organized criminals use boiler rooms.⁷⁷ In June 2010, the FBI raided an alleged boiler room operation involving Anthony Guarino, a purported Bonnano family soldier. According to law enforcement officials, the boiler room hoodwinked elderly investors into buying shares of companies, and 40% of the money taken in was handed over to the boiler room operators as commissions.⁷⁸

Technology Transforms Advance Fee Fraud (AFF)

Since the 1970s, technological advancements have revolutionized advance fee fraud (AFF) operations—a form of mass marketing fraud used by criminal organizations and individual fraudsters. Today, these schemes often involve criminals appealing for money via unsolicited (spam) emails. These emails typically request an initial cash payment from recipients. The initial cash payment supposedly facilitates the disbursement of a much larger sum of money to the email recipients.⁷⁹ The later sum never arrives. A recent AFF email scam attempting to dupe people into believing they had been contacted by the FBI’s Detroit Field Office asked email recipients to forward \$14,300 in return for the release of over \$18 million to their accounts. In one of the emails associated with this scheme, the fraudsters suggest that “the International clamp down on Terrorist [sic]” has frozen the larger pot of money.⁸⁰

Also known as “419 scams” after a section in the Nigerian criminal code, the broad outlines of the modern version of AFF originated in Nigeria during the 1970s and early 1980s, and perhaps even earlier. AFF’s original incarnation may stretch back to the 1500s in the “Spanish Prisoner” scheme. Wealthy English business owners were asked to help pay for a rescue mission to save someone held captive in Spain. In return, they would supposedly receive part of the vast alleged reward payment. Of course, it never came.⁸¹ In the late 1970s and early 1980s, Nigerian fraudsters became known for mailing unsolicited letters requesting monetary assistance in transferring frozen or hidden funds out of West African countries. When fax machines became

⁷⁶ IMMFWG, *Mass Marketing Fraud*, p. 14.

⁷⁷ *Ibid.*

⁷⁸ Chad Bray, “FBI Raids Alleged Boiler Room,” *Wall Street Journal*, June 10, 2010, <http://online.wsj.com/article/SB10001424052748703890904575297220025441524.html>.

⁷⁹ Federal Bureau of Investigation, “Common Fraud Schemes,” <http://www.fbi.gov/majcases/fraud/fraudschemes.htm>.

⁸⁰ Federal Bureau of Investigation, Detroit Division, “Scam E-Mail/Letter Claiming To Be Associated with FBI Detroit SAC Arena,” press release, May 25, 2010, <http://detroit.fbi.gov/pressrel/pressrel10/de052510.htm>.

⁸¹ Harvey Glickman, “The Nigerian ‘419’ Advance Fee Scams: Prank or Peril?,” *Canadian Journal of African Studies*, vol. 39, no. 3 (2005), pp. 463-476.

commonplace, perpetrators quickly reached many more victims with less effort. The Internet and email further revolutionized AFF operations.

Today, these schemes are global, emanating from many other countries.⁸² The spamming networks involved often have short lives focusing on specific schemes.⁸³ Recent estimates suggest that AFF networks may have swindled over \$2 billion from U.S. companies and citizens in 2009.⁸⁴ In February 2006, three men were arrested in Amsterdam for running an AFF scam that enticed U.S. victims into believing they were helping charities distribute money. The fraud netted more than \$1.2 million. The three pleaded guilty to conspiracy and wire fraud.⁸⁵ Estimates indicate that today's AFF networks only need to dupe 1% of the people or businesses they reach to turn a profit.⁸⁶

Cyberspace, Electronic Information, and Organized Crime

As the history of AFF may indicate, organized criminals have adapted to the digital age by becoming expert at stealing information stored and shared electronically. Many are adept at manipulating and defrauding victims in the virtual world. All of this covers a range of activity including cyber intrusions into corporate databases, the theft of individual consumer credit card information, and a wide variety of fraudulent online activity. The criminal groups operating in cyberspace can be broken into two categories: (1) part-timers—those who leverage digital information to enhance other activities, and (2) full-timers—those who solely commit and specialize in online or digital crimes.⁸⁷ While this is a helpful distinction to draw for discussion purposes, it is difficult to attribute specific volumes of criminal activity to each category of actors. General statistics suggest that organized criminals from both categories play a large role in online data theft. For instance, in selected data breaches investigated by Verizon and the U.S. Secret Service (USSS) involving businesses around the globe during 2009, 85% of compromised computer records were attributed to organized crime. As 94% of all compromised records in this study were in the financial services sector, many of those records targeted by organized criminals were likely from financial organizations as well.⁸⁸

⁸² Edward Fokuoh Ampratwum, "Advance Fee Fraud, '419,' and Investor Confidence in the Economies of Sub-Saharan Africa (SSA)," *Journal of Financial Crime*, vol. 16, no. 1 (2009), pp. 68-69.

⁸³ Matthew Zook, "Your Urgent Assistance Is Required: The Intersection of 419 Spam and New Networks of Imagination," *Ethics, Place, and Environment*, vol. 10, no. 1 (March 2007), pp. 66-70.

⁸⁴ Jeremy Kirk, "Advance Fee Fraud Scams Rise Dramatically in 2009," *Compuworld*, January 28, 2010, http://www.computerworld.com/s/article/9149890/Advance_fee_fraud_scams_rise_dramatically_in_2009.

⁸⁵ Jeremy Kirk, "Three Spammers Sentenced in U.S. for Advance Fee Fraud," *Network World*, April 3, 2009, <http://www.networkworld.com/news/2009/040309-three-spammers-sentenced-in-us.html>.

⁸⁶ Blaise J. Bergiel, Erich B. Bergiel, and Phillip W. Balsmeir, "Internet Cross Border Crime: A Growing Problem," *Journal of Website Promotion*, vol. 3, no. 3/4 (2008), p. 135.

⁸⁷ This parallels the first two elements in Kim-Kwang Raymond Choo's three-part typology of criminal activity in cyberspace. The typology includes "(1) traditional organized crime groups which make use of ICT [information and communications technologies] to enhance their terrestrial criminal activities; (2) organized cybercrime groups which operate exclusively online; and (3) organized groups of ideologically and politically motivated individuals who make use of ICT to facilitate their criminal conduct." See Kim-Kwang Raymond Choo, "Organized Crime Groups in Cyberspace: A Typology," *Trends in Organized Crime*, vol. 11, no. 3 (September 2008), pp. 271.

⁸⁸ Wade Baker et al., *2010 Data Breach Investigations Report: A Study Conducted by the Verizon RISK Team in Cooperation with the United States Secret Service*, Verizon, July 2010, pp. 2-15, http://www.verizonbusiness.com/resources/reports/rp_2010-data-breach-report_en_xg.pdf.

Online Identity Theft and Sophisticated Credit Card Fraud

Organized criminals are involved in stealing the identities of online consumers and have engaged in technologically advanced credit card fraud. These illicit ventures pilfer from the bank accounts of ordinary citizens and often cast a wide net to maximize the number of victims.

Some organized crime groups have stolen money from victims on internet auction sites such as eBay. For example, on March 13, 2010, Georgi Boychev Georgiev, a Bulgarian national pleaded guilty in U.S. federal court to laundering money for a transnational criminal network involved in eBay fraud. The scam did not physically exist in the United States, but it accrued more than \$1.4 million from U.S. victims in 2005 and 2006. The network posted fraudulent advertisements on eBay and used a ruse dubbed “eBay Secure Traders” to bilk people out of cash that was wired directly into Eastern European bank accounts.⁸⁹ In another case from April 2010, Romanian law enforcement, the FBI, and USSS cooperated in the dismantling an alleged eBay fraud ring that purportedly involved 70 individuals from what have been described in media sources as three different organized cybercrime groups. According to news reports, the scheme included hijacking the eBay accounts of legitimate consumers and then using the hijacked accounts to stage fake sales of non-existent merchandise on eBay. Fraudsters purportedly scammed bidders from Spain, Italy, France, New Zealand, Denmark, Sweden, Germany, Austria, Canada, Switzerland, and the United States, generating \$1 million in profits since 2006.⁹⁰

Eurasian criminals in California are engaging in identity theft in which they leverage technological savvy, old-school organized crime strategies, and Internet connectivity to reap thousands of dollars in profits. In 2009 in the city of Redondo Beach in Southern California, Armenian or Russian criminals allegedly targeted a gas station with an Armenian owner (exploiting their own ethnic group). They placed one of their crew members as an employee at the station, where he implanted high-tech skimming devices at gas pumps to steal customer credit card information, victimizing more than 1,000 individuals, including Redondo Beach police officers. The employee quit work and the group made off with more than \$300,000 from people’s accounts.⁹¹ Another case, this time in the Las Vegas area in 2008, involved an alleged Armenian criminal group that reportedly skimmed more than 1,000 credit and debit cards using insiders at restaurants, bars, and smoke shops. In some instances, the crew manufactured its own cards using stolen information.⁹² Losses approached \$1.5 million.⁹³ In 2009, Las Vegas authorities also uncovered a skimming scheme complete with a credit card manufacturing lab.⁹⁴ This crew used skimmers that captured information from magnetic strips on credit cards as well as pin numbers using a camera.⁹⁵

⁸⁹ Department of Justice, “Foreign National Pleads Guilty for Role in International Money Laundering Scheme Involving More than \$1.4 Million in Losses to Victims,” press release, May 13, 2010, <http://www.justice.gov/opa/pr/2010/May/10-crm-568.html>.

⁹⁰ Angela Moscaritolo, “Romanian Police, FBI Break Up 70-Strong eBay Fraud Ring,” *SC Magazine*, April 7, 2010, <http://www.scmagazineus.com/romanian-police-fbi-break-up-70-strong-ebay-fraud-ring/article/167554/>.

⁹¹ Paul Teetor, “Russian or Armenian Mob Used ‘Model Employee’ Con at PCH Arco,” *LA Weekly*, June 18, 2009.

⁹² Lawrence Mower, “ID Theft Operation Outlined,” *Las Vegas Review-Journal*, December 8, 2008.

⁹³ “Eurasian Organized Crime Task Force Members Arrest 12 Individuals Following Federal Credit Card Fraud and Identity Theft Charges,” *States News Service*, December 9, 2008.

⁹⁴ “Three Arrested in Credit Card Forgery Ring,” KTNV ABC, March 26, 2009, <http://www.ktnv.com/Global/story.asp?S=10065205>.

⁹⁵ “18 Month Credit Card Fraud Ring Leads to Three Arrests,” KTNV ABC, March 25, 2009, <http://www.ktnv.com/> (continued...)

In March 2010, Albert Gonzalez, the leader of the largest identity theft and retail hacking ring prosecuted by the United States, was sentenced to 20 years in prison.⁹⁶ Through “wardriving”—a technique in which individuals drive around in a car with a laptop computer and search for unsecured wireless networks—the ring hacked into credit card payment systems at retailers including TJX Companies, BJ’s Wholesale Club, OfficeMax, Boston Market, Barnes & Noble and Sports Authority, and stole more than 40 million credit and debit card numbers. Gonzalez also provided malware to hackers to aid them in evading anti-virus programs and firewalls in order to access companies’ networks and payment systems. The conspirators, located in the United States, Ukraine, and Estonia, laundered their illicit proceeds through banks in Eastern Europe.

Organized Retail Crime and Online Fencing

While not necessarily viewed as “organized crime” by U.S. law enforcement agencies, as its name implies organized retail crime (ORC), or organized retail theft, bears some of the hallmarks of organized criminal activity. ORC typically refers to large-scale retail theft and fraud by organized groups of professional shoplifters, or “boosters.”⁹⁷ ORC involves a host of retail crimes ranging from retail, manufacturing, distribution, and cargo theft to gift card fraud, receipt fraud, and ticket switching.⁹⁸ The organized crime rings resell illegally acquired merchandise in a variety of fencing operations such as flea markets, swap meets, pawn shops, and, more recently, online marketplaces. Most stolen merchandise is sold to a low-level fence, commonly called a “street fence.” Street fences will either sell these goods directly to the public or will sell the merchandise to mid-level fences who run “cleaning operations” that remove security tags and store labels as well as repackage stolen goods so they appear as though they came directly from the manufacturer. This “cleaning” may even involve changing the expiration date on perishable goods such as over-the-counter medication and infant formula.

Globalization and technological innovation have allowed more and more transactions to take place online rather than face-to-face. This holds true for retail crime, where thieves have turned to “e-fencing”—using the Internet and online marketplaces as means to fence ill-gotten goods.⁹⁹ This has increased criminals’ anonymity, global reach, and profitability. Online markets allow criminals to easily distribute stolen goods across the nation and around the globe. E-fencing has also proven to be more profitable to criminals than has fencing at physical locations. While criminals may profit about 30 cents on the dollar (30% of the retail price) by selling goods at physical fencing locations, they can make about 70 cents on the dollar via e-fencing.¹⁰⁰

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Global/story.asp?S=10072664.

⁹⁶ U.S. Department of Justice, “Leader of Hacking Ring Sentenced for Massive Identity Thefts from Payment Processor and U.S. Retail Networks,” press release, March 26, 2010, <http://www.justice.gov/opa/pr/2010/March/10-crm-329.html>.

⁹⁷ A “booster” is someone who steals merchandise and then sells it to a fence for a profit. A “fence” is someone who knowingly buys illegally obtained goods from a booster and then sells the goods for a profit. For more information on ORC, see CRS Report R41118, *Organized Retail Crime*, by Kristin M. Finklea.

⁹⁸ Ticket switching involves means by which criminals alter the UPC bar codes on merchandise so that the items ring up differently—significantly below the original price—at check-out.

⁹⁹ King Rogers, “Organized Retail Theft,” in *Retail Crime, Security, and Loss Prevention: An Encyclopedic Reference*, ed. Charles A. Sennewald and John H. Christman (Elsevier Inc., 2008).

¹⁰⁰ National Retail Federation, *2009 Organized Retail Crime Survey*, 2009, p. 8.

A criminal network based in Baltimore serves as an example of an operation that integrated traditional as well as more technologically advanced fencing techniques. As of September 2010, at least 10 defendants, including the owners of pawn shops implicated in the scheme, had pleaded guilty to roles in this organized retail crime ring.¹⁰¹ In this conspiracy, boosters stole products, including over-the-counter medications, health and beauty aids, gift cards, DVDs, and tools, from retailers such as Target, Safeway, Wal-Mart, and Kohl's. Several pawn shops bought these stolen goods from boosters, cleaned them, and then transported them to other locations for resale. Some co-conspirators used online marketplaces such as eBay and Amazon.com to fence the stolen goods. In all, the case involved about \$20 million in stolen goods.

Bulk Narcotics Smuggling and Technology

Technological advances have transformed cocaine and other narcotics trafficking. In the early 1990s, Colombian traffickers—moving narcotics to the United States and elsewhere around the globe—began experimenting with semisubmersible maritime smuggling vessels, which at first were likely too impractical, costly, and risky to operate. Hybrids of traditional submarines and boats, these craft have small above-water profiles—about 18 inches. Increased law enforcement seizures of cocaine shipments carried by more traditional surface vessels encouraged traffickers to adopt semisubmersible technology.¹⁰² Colombian traffickers likely co-opted experts from the legitimate world to develop this technology. Most often, semisubmersibles are used to move product from coastal areas to boats waiting on the open seas. While their current use likely responds in part to interdiction pressures, it also reflects the global availability of expertise, designs, and materials. Vast illicit global cocaine markets have also made such endeavors possible, producing huge profits for traffickers that are then tilled into technology to circumvent law enforcement. But semisubmersibles, which account for 27% of the maritime movement of cocaine toward the United States, themselves are not immune to capture.¹⁰³ Since 2006, law enforcement has regularly seized semisubmersible cocaine smuggling vessels from Colombian drug traffickers on the high seas or in clandestine shipyards hidden in coastal mangrove swamps. The Drug Trafficking Vessel Interdiction Act of 2008 (P.L. 110-407) enhanced the federal government's ability to prosecute traffickers operating submersible and semisubmersible vessels by making it a federal crime to operate, embark on, or conspire to operate these vessels in international waters with the intent to avoid detection.

In early July 2010, police in Ecuador seized a fiberglass submarine designed to operate *fully submerged* at a depth of 65 feet. The diesel-powered, twin-screw sub, a marked step forward in technology, was likely intended to transport cocaine on the high seas and could carry 10 tons of

¹⁰¹ Department of Justice, "Pawn Shop Owner Pleads Guilty in Scheme to Launder \$20 Million in Proceeds of Stolen Merchandise: Admitted Laundering Millions of Dollars in Proceeds of Stolen Over-the-Counter Medicines, Health and Beauty Aid Products, Gift Cards, DVDs, Tools, and Other Items," press release, September 3, 2010, <http://baltimore.fbi.gov/dojpressrel/pressrel10/ba090310a.htm>.

¹⁰² Steven S. Dudley, *Drug Trafficking Organizations in Central America: Transportistas, Mexican Cartels, and Maras*, Woodrow Wilson International Center For Scholars, Mexico Institute and University of San Diego Trans-Border Institute, Working Paper Series on U.S.-Mexico Security Cooperation, Washington, DC, May 2010, p. 17, <http://wilsoncenter.org/topics/pubs/Drug%20Trafficking%20Organizations%20in%20Central%20America.%20Dudley.pdf>.

¹⁰³ Rear Admiral Vincent Atkins, U.S. Coast Guard, Testimony before the House Subcommittee on Homeland Security, on Department of Homeland Security Air and Marine Operations and Investments, April 19, 2010, http://www.dhs.gov/news/testimony/testimony_1271690315007.shtm.

cocaine on a 10-day voyage. This vessel represented a large improvement over the semisubmersibles that have been regularly seized from traffickers since 2006.¹⁰⁴

Mexican drug traffickers have increasingly relied upon ultralight aircraft¹⁰⁵ to smuggle drugs across the Southwest border into the United States. These small planes can fly as low as tree level and are less easily detected than the larger aircrafts that were used by the traffickers prior to 2007.¹⁰⁶ While some traffickers may land the ultralights on the U.S. side of the border to pass off drug loads to distributors, others attach drop baskets that can carry over 300 pounds of marijuana or other drugs. These drop baskets release packages of drugs that will fall to the ground when a lever in the aircraft is activated, and then local gangs or traffickers can pick up and distribute the drugs. In May 2009, a low-flying ultralight aircraft carrying about 275 pounds of marijuana, estimated to be worth \$220,480, crashed in Yuma, AZ. The pilot escaped, but two suspected co-conspirators were arrested.¹⁰⁷

Cross-Border Tunnels

Mexican drug traffickers rely on the use of underground, cross-border tunnels to smuggle drugs from Mexico into the United States. Tunneling, while not in and of itself a new tool—having been used for hundreds of years during conflicts and for escapes—has increased not only in prevalence but in sophistication.¹⁰⁸ Early tunnels were rudimentary, “gopher hole” tunnels dug on the Mexican side of the border, traveling just below the surface, and popping out on the U.S. side as close as 100 feet from the border. Slightly more advanced tunnels began to rely on existing infrastructure, which may be shared by neighboring border cities such as the tunnel shared by Nogales, AZ, in the United States and Nogales, Sonora, in Mexico. These interconnecting tunnels may tap into storm drains or sewage systems in order to move drugs even further than smugglers could move them by digging tunnels alone. The most sophisticated tunnels can have rail, ventilation, and electrical systems. The most extensive of such tunnels discovered to date was found in January 2006 in Otay Mesa, CA. This tunnel, stretching nearly three-quarters of a mile in length and traveling over 85 feet below the surface of the earth, resulted in the seizure of more than two tons of marijuana.¹⁰⁹ It had lighting, ventilation, and groundwater drainage systems.

¹⁰⁴ Drug Enforcement Administration, “DEA Intel Aids in Seizure of Fully-Operational Narco Submarine in Ecuador,” press release, July 3, 2010; Chirs Kraul, “Ecuador Police Seize 100-foot Narco-Submarine Being Built Secretly,” *Los Angeles Times*, July 6, 2010, <http://www.latimes.com/news/nationworld/world/la-fg-ecuador-narco-sub-20100706,0,162212.story>; Douglas A. Kash and Eli White, “A New Law Counters the Semisubmersible Smuggling Threat,” Federal Bureau of Investigation, March 2010, http://www.fbi.gov/publications/leb/2010/march2010/smuggling_feature.htm; U.S. Southern Command, “The Self-Propelled Semi-Submersibles Threat,” February 20, 2009, <http://www.southcom.mil/appssc/factFiles.php?id=83>.

¹⁰⁵ The Federal Aviation Administration (FAA) does not classify ultralights as “aircraft.” For the FAA definition of an ultralight, see the Code of Federal Regulations (CFR) Title 14, Section 103, <http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&sid=77f64066b8e425c01339f918e6e9f291&rgn=div5&view=text&node=14:2.0.1.3.16&idno=14>. Legislation has been introduced in the 111th Congress (H.R. 5307) that would include ultralights in the definition of an aircraft in order to increase law enforcement’s abilities to prosecute drug smuggling cases.

¹⁰⁶ Agence France-Presse, “Mexican Drug Traffickers Using Tiny Planes for US Market,” *MSN News*, September 2, 2010, <http://news.ph.msn.com/business/article.aspx?cp-documentid=4311772>.

¹⁰⁷ U.S. Customs and Border Protection, “Ultralight Plane Crashes in Arizona, Smugglers Apprehended,” press release, May 30, 2009, http://www.cbp.gov/xp/cgov/newsroom/news_releases/archives/2009_news_releases/may_2009/05302009.xml.

¹⁰⁸ Ken Stier, “Underground Threat: Tunnels Pose Trouble from Mexico to Middle East,” *Time*, May 2, 2009.

¹⁰⁹ U.S. Drug Enforcement Administration, “DEA/ICE Uncover ‘Massive’ Cross-Border Drug Tunnel, Cement lined passage thought to link warehouses in Tijuana and Otay Mesa,” press release, January 26, 2006, (continued...)

More recently, in November 2010, the San Diego Tunnel Task Force—created in 2003 as a partnership between the U.S. Immigration and Customs Enforcement (ICE), DEA, and the U.S. Border Patrol working along with state law enforcement and Mexican counterparts—uncovered a 600-yard tunnel stretching from Tijuana to Otay Mesa. About 30 tons of marijuana, with an estimated street value of about \$20 million, were seized in the United States and Mexico.¹¹⁰

U.S. law enforcement uses various tactics and simultaneously faces numerous challenges in detecting these cross-border tunnels. About 125 tunnels have been discovered since the 1990s—primarily in Arizona and California—and more than 75 of these have been found since 2006.¹¹¹ One such method of tunnel detection is the use of ground penetrating radar (GPR).¹¹² However, this technology is limited by factors including soil conditions, tunnel diameter, and tunnel depth. Law enforcement may also use sonic equipment to detect the sounds of digging and tunnel construction and seismic technologies to detect blasts that may be linked to tunnel excavation. U.S. officials have acknowledged that law enforcement currently does not have technology that is reliably able to detect sophisticated tunnels.¹¹³ Rather, tunnels are more effectively discovered as a result of human intelligence and tips rather than technology.

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<http://www.justice.gov/dea/pubs/pressrel/pr012606.html>.

¹¹⁰ U.S. Drug Enforcement Administration, “Tunnel Task Force Discovers Cross Border Tunnel, 30 tons of Marijuana Seized in Investigation,” press release, November 3, 2010, <http://www.justice.gov/dea/pubs/states/newsrel/2010/sd110310.html>.

¹¹¹ Michael Thurston, “Record drugs haul seized from US-Mexico border tunnel,” *AFP*, November 4, 2010, <http://www.google.com/hostednews/afp/article/ALeqM5jQ20K1Iy7AaXLBGtqiAxnfkCMTGQ?docId=CNG.a14f67109bad6c916ff3ce51f338a2d8.3b1>.

¹¹² For more information, see <http://www.geophysical.com/militarysecurity.htm>.

¹¹³ Ken Stier, “Underground Threat: Tunnels Pose Trouble from Mexico to Middle East,” *Time*, May 2, 2009.

Exploitation of Ethnic Diaspora Communities

Criminal organizations structured along ethnic lines sometimes base their operations in immigrant communities. They use these enclaves to provide cover for their dealings and occasionally also exploit their ethnic compatriots. Historically, criminal groups have burrowed into local ethnic communities, but now this is enhanced by the fact that they can leverage Internet connectivity and extensive, international transportation linkages from localities around the globe. A number of recent cases highlight these issues.

In October 2010, a total of 73 individuals were indicted in the largest single Medicare fraud ever charged.¹¹⁸ As described by DOJ, the Mirzoyan-Terdjanian organization, an Armenian criminal group, ran fake clinics in 25 states, but had its leadership based in Los Angeles and New York City,¹¹⁹ two areas with large immigrant populations from the former Soviet Union, (e.g., Glendale, in the Los Angeles region, is home to 200,000 Armenian Americans). According to the president of the Los Angeles chapter of the Armenian-American Chamber of Commerce, this community is exploited by a handful of criminals who were “raised under communist rule in the former Soviet republic of Armenia, where exploiting a corrupt government was seen as fair game.”¹²⁰

Members of the Mirzoyan-Terdjanian group allegedly billed Medicare for more than \$163 million in fraudulent medical services. They

Organized Crime and Health Care Fraud

Acting Deputy Attorney General Gary G. Grinder recently stated that “the emergence of international organized crime in domestic health care fraud schemes signals a dangerous expansion that poses a serious threat to consumers”¹¹⁴ The health care system as well as both public and private assistance programs have been targets of individual scammers and organized criminals alike. Criminals steal the identities—or create fake identities—of medical providers, clinics and businesses, and patients. According to the most recent data, in FY2009 U.S. Attorneys opened 1,014 health care fraud investigations, encompassing 1,786 defendants.¹¹⁵ Aside from the Mirzoyan-Terdjanian organization recently indicted by DOJ, other criminal networks—Eurasian and Nigerian groups—involved in large-scale health care fraud in Los Angeles have recently been caught by U.S. law enforcement. According to news reports, organized crime has turned to targeting Medicare and Medicaid for profit.¹¹⁶ It is very likely that the groups in Los Angeles favored stealing doctor and patient identities for fraudulent billing over more violent and less lucrative criminal activity. One expert has suggested, “[Health care fraud is] lucrative and it’s safe for them [organized criminals]. Why rob a bank and risk getting shot when you can click a mouse and bill Medicare or Medicaid, basically lie on some forms and make millions of dollars doing so.”¹¹⁷

¹¹⁴ Department of Justice, “Seventy-Three Members and Associates of Organized Crime Enterprise, Others Indicted for Health Care Fraud Crimes Involving More Than \$163 Million,” press release, October 13, 2010, http://www.fbi.gov/news/pressrel/press-releases/organizedcrime_101310. (Hereafter, DOJ press release, “Seventy-Three Members.”)

¹¹⁵ It is unknown, however, how much of this is attributable to organized crime. For data, see Department of Health and Human Services and Department of Justice, *Health Care Fraud and Abuse Control Program, Annual Report for Fiscal Year 2009*, May 2010, p. 1, <http://www.justice.gov/dag/pubdoc/hcfacreport2009.pdf>.

¹¹⁶ Allan Chernoff, Sheila Steffen, “Organized crime’s new target: Medicare,” CNN, October 24, 2009, <http://www.cnn.com/2009/CRIME/10/22/medicare.organized.crime/index.html>.

¹¹⁷ NPR, “Organized Crime Muscles In On Health Care,” January 16, 2010, <http://www.npr.org/templates/story/story.php?storyId=122645717>.

¹¹⁸ Department of Justice, “Manhattan U.S. Attorney Charges 44 members and Associates of an Armenian-American Organized Crime Enterprise with \$100 Million Medicare Fraud,” press release, October 13, 2010, <http://newyork.fbi.gov/dojpressrel/pressrel10/nyfo101310.htm>. (Hereafter, DOJ press release, “Manhattan U.S. Attorney”; DOJ press release, “Seventy-Three Members.”)

¹¹⁹ DOJ press release, “Seventy-Three Members.”

¹²⁰ Thomas Watkins, “Armenian Organized Crime Grows More Complex,” *Associated Press*, October 16, 2010, http://news.yahoo.com/s/ap/20101016/ap_on_re_us/us_armenian_crime_2.

reaped about \$35 million in profits. The case involves the stolen identities of both doctors and Medicare beneficiaries and the creation of at least 118 spurious medical clinics across at least 25 states, all part of a largely “virtual” operation. FBI Assistant Director in Charge Janice K. Fedarcy described the organization as

completely notional. There were no real medical clinics behind the fraudulent billings, just stolen doctors’ identities. There were no colluding patients signing in at the clinics for unneeded treatments, just stolen patient identities. The whole doctor-patient interaction was a mirage. But the money was real, while it lasted.¹²¹

The indictment in the case also linked Armen Kazarian to the scheme. Arrested in Los Angeles, Kazarian, an Armenian residing in the United States, had substantial influence in the criminal underworld as a *vor v zakone*, a Russian term meaning “thief-in-law.”¹²² Kazarian had reputedly lied to federal authorities to obtain asylum after emigrating to the United States in 1996.¹²³ In the course of the scheme, Kazarian mediated disputes for the Mirzoyan-Terdjanian group and allegedly threatened to assault and kill an associate. The indictment suggests that members of the organization, many of them Armenian nationals or immigrants, sent criminal proceeds to Armenia, purchasing real estate and operating businesses with the funds.¹²⁴

In June 2010, DOJ charged five Ukrainian brothers with extortion and conspiring to engage in a pattern of racketeering activity. This far-flung operation based out of Philadelphia and Ukraine had allegedly trafficked about 30 Ukrainians into the United States via Mexico, exploiting them in cleaning crews operating in stores, private residences, and office buildings in Pennsylvania, New York, New Jersey, Maryland, and Washington, DC. According to DOJ, the brothers failed to pay their victims, threatened them with violence, physically abused them, and housed them in overcrowded quarters. One of the brothers is accused of raping a trafficked woman on several occasions.¹²⁵ The victims of this scheme likely trusted the brothers as immigrants who had ties to the United States and were willing to help others start new lives in the country.

In another case, at least five Chinese citizens involved in operating Asian massage parlors in Kansas were sentenced between April and October of 2009 for their roles in exploiting Chinese women in the United States.¹²⁶ The defendants recruited women from China to work in the United

¹²¹ DOJ press release, “Manhattan U.S. Attorney.”

¹²² The indictment describes a thief-in-law as “a member of a select group of high-level criminal figures from Russia and the Former Soviet Union who receives tribute from other criminals, offers protection, and uses his recognized position of authority to resolve disputes among criminals, including through threats and instances of violence.” See *United States vs. Armen Kazarian, Davit Mirzoyan, Robert Terdjanian, et al.*, Indictment in the U.S. District Court for the Southern District of New York, filed October 13, 2010, http://www.scribd.com/full/39274052?access_key=key-7m8lpi9tq05hn86c111. (Hereafter, *United States vs. Armen Kazarian*.)

¹²³ Michael Wilson, William K. Rashbaum, “Real Patients, Real Doctors, Fake Everything Else,” *New York Times*, October 13, 2010, http://www.nytimes.com/2010/10/14/nyregion/14fraud.html?_r=1&scp=1&sq=Real%20Patients,%20Real%20Doctors,%20Fake%20Everything%20Else&st=cse; *United States vs. Armen Kazarian*.

¹²⁴ *United States vs. Armen Kazarian*.

¹²⁵ Department of Justice, “Five Brothers Charged in Human Trafficking Scheme that Smuggled Young Ukrainian Migrants,” press release, June 30, 2010, <http://www.justice.gov/opa/pr/2010/June/10-crt-765.html>; Nathan Gorenstein, “5 Brothers Charged with Human Trafficking,” *Philadelphia Inquirer*, June 30, 2010, <http://www.philly.com/philly/news/breaking/97508149.html?cmpid=15585797>; *United States v. Omelyan Botsvynyuk, et al*, Indictment in the U.S. District Court for the Eastern District of Pennsylvania, n.d. http://www.justice.gov/usao/pae/News/Pr/2010/Jun/botsvynyuk_indictment.pdf.

¹²⁶ Federal Bureau of Investigation, “Leader of Asian Massage Parlor Scheme Sentenced for Coercing Prostitution, Money Laundering, Identity Theft,” press release, October 14, 2009, <http://kansascity.fbi.gov/dojpressrel/pressrel09/> (continued...)

States as masseuses. They then confiscated the women's identification documents and used these documents to fraudulently wire proceeds from illegal activities back to China. They forced the women to work for 14 hours every day, locked them inside the massage parlors to sleep at night, and forced them to perform sexual services for the male patrons of the massage parlors.

West African criminal networks specializing in AFF operate in many nations including the United States, where members have assimilated into local ethnic communities. Many West African fraudsters based outside of their home countries direct proceeds back to organizations in their homelands. More recently, it appears that some of these diaspora-based criminals are operating independently and retaining their ill-gotten gains.¹²⁷

Changing Structures

The traditional image of organized crime involves elaborate hierarchies, behavioral codes, and initiation rituals. Some criminal organizations like the Cosa Nostra retain a strong element of hierarchy. However, in the last 20 years the criminal underworld has likely moved away from rigid hierarchical organizational structures and toward decentralized and more flexible "network" models. One scholar has argued that the public, and presumably policymakers, are still wedded to hierarchical archetypes particularly when conceptualizing how smugglers operate:

Still infused with images of cartels and syndicates—rigid, top-down organizations—we are not accustomed to thinking of flexible, even unchartable networks of intermediaries that operate across many borders and provide different services. Some are permanently linked and others vary in their composition, activities, and geographical scope depending on markets and circumstances. Thus, brokers and agents with access to multiple suppliers, conveyors, and buyers are more significant in the drug trade than are old-fashioned "kingpins." For all these brokers, expanding into new product lines, legal or illegal is just a logical business step.¹²⁸

As discussed elsewhere, criminals (much like legitimate businesses) have internationalized their operations, particularly in the last two decades. The fast movement of people, goods, and information stimulated by globalization and technological change has encouraged decentralization and outsourcing. Networks are especially suited for this type of environment.¹²⁹ Global businesses and criminal organizations now give critical roles to individuals or groups outside of an organization's core that are often physically separated by thousands of miles. In some cases, such as Colombian drug trafficking organizations, law enforcement successes against criminal hierarchies may have encouraged the adaptation of networks.¹³⁰ Criminals conduct more

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¹²⁷ IMMFWG, *Mass Marketing Fraud*, p. 15.

¹²⁸ Naím, *Illicit*, pp. 219-220. For a similar discussion that also cites Naím, see Juan Carlos Garzón, *Mafia & Co. The Criminal Networks in Mexico, Brazil, and Colombia*, (Washington, DC: Woodrow Wilson International Center for Scholars, Latin American Program, English translation of 2008 Spanish ed., 2010) pp. 33-34. (Hereafter, Garzón, *Mafia & Co.*)

¹²⁹ Phil Williams, "Transnational Criminal Networks," in *Networks and Netwars*, ed. John Arquilla, David Ronfeldt (Santa Monica, CA: National Defense Research Institute, RAND, 2002), pp. 77-78. (Hereafter: Williams, "Transnational Criminal Networks.")

¹³⁰ Scott H. Decker and Margaret Townsend Chapman, *Drug Smugglers on Drug Smuggling: Lessons from the Inside* (Philadelphia: Temple University Press, 2008), pp. 34-36.

business offshore because of the efficiencies offered by the Internet and advances in the world's transportation and communication infrastructures.¹³¹ In the underground economy, these changes have encouraged the abandonment of exclusivity implied by the elaborate codes of behavior, ethnic bonds, and rigid hierarchy that once typified organized crime.¹³²

Networked structures shield organized criminals from law enforcement efforts.¹³³ Beyond its immediate duties, one element or node in a network can have little understanding of the entire network's criminal activity. It is possible for a network to operate without a single constituent part knowing the entire scheme. In larger networks with clear cut leaders, layers of peripheral nodes likely do not know who directs them. Disruption of peripheral network elements by law enforcement may alert core players to shut down the enterprise.¹³⁴

Network Models

Illicit networks broadly follow two models. "Hub and spoke" networks involve peripheral nodes tied to a leadership core. Core players initiate schemes, settle conflicts, and provide guidance to others. In this model, activity moves from core to peripheral players while the peripheral entities do not interact with one another. "Chain" networks involve the flow of information or movement of criminal goods from node to node in linear fashion without a discernable center of gravity or central command.¹³⁵ They often lack obvious individual focal points for policing efforts.

Networks can quickly adapt to changing market conditions or the elimination of nodes by law enforcement by quickly recruiting replacement specialists. Unlike hierarchies such as the Cosa Nostra, networks have few membership requirements, initiation rituals, or loyalty tests. These organizations can also shift allegiances easily, opportunistically drawing in participants for specific tasks.¹³⁶

Blurring of Forms

Some powerful criminal groups that still favor traditional hierarchical structures featuring distinct lines of authority simultaneously exhibit networked characteristics as well, especially a flattening of leadership arrangements and outsourcing of some activities to criminals outside their immediate command and control structures. For example, in the United States hierarchical Mexican drug cartels rely on networks to handle aspects of trafficking. Violent U.S. gangs transport wholesale quantities of narcotics into the United States and procure weapons for some cartels.¹³⁷ Prison gangs, for instance, are highly structured, and both national- and regional-level

¹³¹ Stephen Aguilar-Millan et al., "The Globalization of Crime," *The Futurist*, November/December 2008, p. 42.

¹³² Chatterjee, *The Changing Structure*. pp, 2, 7-8.

¹³³ Carlo Morselli, *Inside Criminal Networks* (New York: Springer, 2009), p. 71.

¹³⁴ Williams, "Transnational Criminal Networks," pp. 64-75.

¹³⁵ Mette Eilstrup-Sangiovanni and Calvert Jones, "Assessing the Dangers of Illicit Networks: Why al-Qaida May Be Less Threatening Than Many Think," *International Security*, Fall 2008, pp. 12-13.

¹³⁶ For networked structures among Colombian drug traffickers, see Michael Kenney, "The Architecture of Drug Trafficking," in *From Pablo to Osama: Trafficking and Terrorist Networks, Government Bureaucracies, and Competitive Adaptation* (University Park, PA: Pennsylvania State University Press, 2007), pp. 25-47. (Hereafter, Kenney, *From Pablo to Osama*.)

¹³⁷ National Gang Intelligence Center and National Drug Intelligence Center, *National Gang Threat Assessment, 2009*, January 2009, pp. 11-12, <http://www.fbi.gov/publications/ngta2009.pdf>.

prison gangs have formed alliances with Mexican DTOs. For example, the Barrio Azteca prison gang—operating primarily in southwestern Texas and southeastern New Mexico—has partnered with the Juárez cartel and generates much of its money from smuggling marijuana, heroin, and cocaine across the Southwest border.¹³⁸ Similarly, one author of a broad study of criminal organizations in Mexico, Brazil, and Colombia has noted that these groups embody characteristics of what he dubs the “Godfather Model”—rigid hierarchy—and the “Facebook Model”—dynamic network.¹³⁹

Advantage: Networks Challenge Law Enforcement

The shift to networked structures may suggest that criminals are more elusive than ever as the illicit world evolves rapidly, while law enforcement “plays by yesterday’s rules and increasingly risks dealing only with the weakest criminals and the easiest problems.”¹⁴⁰ According to one study, when combating agile drug cartels, a number of impediments hobble law enforcement officials. Most broadly, the hierarchical authority embodied in bureaucratic structures complicates the decision-making process.¹⁴¹ Additionally, law enforcement potentially faces

interagency coordination problems that further complicate, and decelerate, decision making, comprehensive legal and bureaucratic constraints to action, and ambiguous incentive structures that undermine some agents’ willingness to share information—and others’ commitment to winning the war on drugs.¹⁴²

Yet another challenge for law enforcement investigating more-networked organized criminal groups may arise from constraints in extraterritorial jurisdiction. While some criminal actors in a network may conduct business offshore or overseas and federal law enforcement does have extraterritorial jurisdiction to investigate and prosecute individuals who criminally violate U.S. interests abroad, this jurisdiction does not necessarily cover all crimes committed by organized crime groups.¹⁴³ Further, jurisdictional issues can present substantial diplomatic and practical challenges for law enforcement.

Disadvantage: Networks Have Exploitable Weaknesses

Some of the strengths suggested by network structure can also be interpreted as weaknesses. Their inherent compartmentalization potentially impedes efficient information sharing, as key players keep peripheral actors in the dark about important aspects of complex schemes. This suggests that highly networked organizations more effectively engage in simpler criminal

¹³⁸ *Ibid.*, p. 28. Barrio Azteca members are also involved in other crimes, such as extortion, kidnapping, and alien smuggling. For more information, see Tom Diaz, “Barrio Azteca—Border Boys Linked to Mexican Drug Trafficking Organizations—Part Three,” April 17, 2009, <http://tomdiaz.wordpress.com/2009/04/17/barrio-azteca%E2%80%93border-bad-boys-linked-to-mexican-drug-trafficking-organizations-%E2%80%94part-three/>. See also the U.S. Department of Justice website at <http://www.usdoj.gov/criminal/gangunit/gangs/prison.html>.

¹³⁹ Garzón, *Mafia & Co.* pp. 23-24.

¹⁴⁰ Intelligence Committee Futures Working Group, *Futures*, p. 2.

¹⁴¹ Kenney, *From Pablo to Osama*, p. 132-133.

¹⁴² *Ibid.*

¹⁴³ See the Omnibus Diplomatic Security and Antiterrorism Act of 1968, Title XII of P.L. 99-399. For more detailed information regarding the United States extraterritorial jurisdiction as well as the specific crimes included in this jurisdiction, see CRS Report 94-166, *Extraterritorial Application of American Criminal Law*, by Charles Doyle.

conspiracies. Decentralization can undermine the development of strategy and slow down decision making. It may also encourage excessive risk taking by peripheral actors who are not controlled by hierarchical roles rooted in rules enforced by the organization. Decentralization possibly also nurtures challengers who compete with core leaders and foster organizational instability.¹⁴⁴

Corruption

Some criminal networks co-opt or attract participants from the licit realm to use their specialized skills. These skills are especially valuable in a globalized, high tech era in which technology is critical in overcoming geographical barriers that once slowed international trade. Corrupt individuals maintain their status in above-board business or governmental jobs, providing criminals with clean assets, closely guarded information, specialized access, sensitive information, or resources. Corrupt licit-realm actors also potentially lend criminal enterprises a sense of legitimacy.¹⁴⁵ Because of globalization, it is likely harder to disprove a criminal's claims that he is a legitimate businessman, especially if the proof lies overseas or in multiple jurisdictions. The efforts of organized criminals to draw into their organizations legitimate persons can be described from three broad perspectives: grass-roots, private sector criminal infiltration of businesses; co-optation of powerful business leaders; and public corruption.

“Ground-Level” Exploitation of Private Businesses

Non-executive employees or self-employed individuals can provide criminal organizations with highly specialized capabilities in our highly networked age. The possibilities for co-opted private sector specialists are plentiful. The three examples below suggest this.

- Viktor Krus operated a network that illegally brought foreign workers into the United States. He relied on legitimate facilitators such as Beth Ann Broyles, an Illinois immigration attorney who prepared fraudulent immigration petitions for the organization. Broyles claimed that she initially did not know that she was involved in criminal activity. When she eventually discerned that she was, Broyles rationalized her participation by believing that she was actually somehow assisting immigrants. She was among two dozen co-defendants who worked in Krus's network. Additionally, Krus likely relied on bribing hotel employees to inflate the number of workers they needed to hire. Between 2003 and 2008, he used at least 10 shell companies and evaded millions of dollars in taxes while bringing in 3,800 immigrants, many illegally, to work in the service sector and industrial jobs in the Norfolk, VA, region and elsewhere around the United States. He grossed \$34 million, forced people to live 12-15 to an apartment, garnered fees from their wages, and charged legitimate businesses \$10

¹⁴⁴ Mette Eilstrup-Sangiovanni and Calvert Jones, “Assessing the Dangers of Illicit Networks: Why al-Qaida May Be Less Threatening Than Many Think,” *International Security*, Fall 2008, pp. 16-33.

¹⁴⁵ CISC, *2010 Report*, p. 15, http://www.cisc.gc.ca/annual_reports/annual_report_2010/document/report_oc_2010_e.pdf. See also Carlo Morselli and Cynthia Giguere, “Legitimate Strengths in Criminal Networks,” *Crime, Law, and Social Change*, 2006, pp. 185-200.

per hour for their labor. Krus received a seven-year prison sentence for conspiracy, tax fraud, visa fraud, and money laundering.¹⁴⁶

- According to DOJ, the Tran organization, a criminal group that cheated approximately 27 casinos in the United States and Canada out of more than \$7 million, bribed card dealers and supervisors at casinos to advance its scheme. In what has been dubbed “the largest cheating ring of all time,”¹⁴⁷ corrupt dealers rigged their shuffles during mini-baccarat and blackjack games. The group also used technologically advanced tools such as hidden transmitters and custom software to predict the order in which cards would reappear during games.¹⁴⁸ The organization began its operations in 2002, and the initial indictment was returned against the group in May 2007.¹⁴⁹
- DOJ’s Organized Crime and Racketeering Section is helping prosecute Victor Kaganov in connection with an illegal money transmitting business he allegedly ran in Oregon. DOJ has not publicly linked Kaganov, who was indicted in March 2010, to any organized crime figures. However, Kaganov purportedly opened multiple shell corporations in Oregon on behalf of Russian clients. He used the shells to shuttle more than \$172 million via more than 4,200 wire transactions “in and out of the United States to more than 50 countries,” according to DOJ.¹⁵⁰ His supposed criminal activity highlights services that organized criminals could potentially use to launder money.

Big Business and Organized Criminals

In his Annual Threat Assessment for 2010, then-Director of National Intelligence Dennis Blair noted that government, organized crime, intelligence services, and big business figures are growing increasingly close in their interactions. He stated,

an increasing risk from Russian organized crime is that criminals and criminally linked oligarchs [powerful Eurasian businessmen who rose to power in the immediate post-Soviet

¹⁴⁶ Tim McGlone, “Lawyer Sentenced for Part in Immigration Fraud Ring,” *The Virginian-Pilot*, January 26, 2010; McGlone, “Belarus Man Gets 7 Years for Illegal Workers,” *The Virginian-Pilot*, July 18, 2009, <http://hamptonroads.com/2009/07/belarus-man-gets-7-years-illegal-workers>; McGlone, “Prosecutors Tie Illegal Workers to International Crime Syndicate,” *The Virginian-Pilot*, January 17, 2009; McGlone, “Illegal-Immigrant Network Supplied Region and Beyond,” *The Virginian-Pilot*, January 14, 2009; Bureau of Immigration and Customs Enforcement, “22 Charged with Massive International Visa Scheme,” press release, January 13, 2009. For similar examples involving Eurasian organized criminals, see Alexander Sukharenko, “The Use of Corruption by ‘Russian’ Organized Crime in the United States,” *Trends in Organized Crime*, vol. 8, no. 2 (Winter 2004).

¹⁴⁷ Liz Benston, “As Baccarat Grows in Popularity, So Does Cheating,” *Las Vegas Sun*, August 30, 2010, <http://www.lasvegassun.com/news/2010/aug/30/baccarat-grows-popularity-so-does-cheating/>.

¹⁴⁸ Department of Justice, “Former Mohegan Sun Card Dealer Sentenced to Prison for Involvement in Cheating Conspiracy,” press release, April 7, 2010, <http://newhaven.fbi.gov/dojpressrel/pressrel10/nh040710.htm>; Department of Justice, “Leader of Casino-Cheating Criminal Enterprise Sentenced to 70 Months in Prison for Targeting Casinos Across the United States,” press release, March 15, 2010, <http://www.justice.gov/opa/pr/2010/March/10-crm-265.html>.

¹⁴⁹ Department of Justice, “Eight More Individuals Charged in Casino-Cheating Conspiracy,” press release, September 18, 2009, <http://www.justice.gov/opa/pr/2009/September/09-crm-999.html>.

¹⁵⁰ Department of Justice, “Tigard Man Indicted in Connection with Illegal Money Transmitting Business Shell Corporations Created by Defendant to Move Millions of Dollars in and out of United States,” press release, March 3, 2010, <http://portland.fbi.gov/dojpressrel/pressrel10/pd030310.htm>.

period] will enhance the ability of state or state-allied actors to undermine competition in gas, oil, aluminum, and precious metals markets.¹⁵¹

However, based on open source information, it is often difficult to determine with any degree of certainty whether oligarchs or other powerful international entrepreneurs with interests in U.S. markets or investors have criminal connections.

Russian billionaire Oleg Deripaska exemplifies this difficulty. According to unnamed U.S. federal officials cited in news reports, Deripaska has struggled to maintain a U.S. visa because of his alleged ties to organized crime.¹⁵² Prior to the global financial crisis, he possessed a \$28 billion fortune and was the ninth-wealthiest person in the world.¹⁵³ He obtained a U.S. visa in 2005, but it was revoked soon thereafter.¹⁵⁴ According to press reporting, in 2009 the FBI set up two U.S. visits by Deripaska for undisclosed reasons on a limited entry permit from DHS.¹⁵⁵ Claims of criminal connections have publicly dogged him for years. But Deripaska has never been convicted of a crime and has strongly denied all accusations.¹⁵⁶ His difficulty getting a U.S. visa may have kept some U.S. bankers from participation in an initial public offering (IPO) involving his aluminum company, UC Rusal.¹⁵⁷ The IPO occurred in January 2010 on the Hong Kong stock exchange.¹⁵⁸

Like Deripaska, Stanley Ho, a billionaire casino magnate from Macau, has routinely denied accusations of ties to organized crime. According to media reports, U.S. officials have long suspected Ho had links to Chinese criminal groups known as triads.¹⁵⁹ These suspicions recently resurfaced and involved his daughter, Pansy, and a casino venture in Macau. Pansy and Nevada-based MGM Resorts International (MGM)¹⁶⁰ jointly operate the MGM Macau, which opened in December 2007.¹⁶¹

Pansy Ho's co-ownership of MGM Macau emerged as an issue for New Jersey gaming regulators because MGM also possessed a 50% share in Atlantic City's Borgata Hotel Casino and Spa.

¹⁵¹ Blair, "Annual Threat Assessment," p. 44.

¹⁵² Gregory L. White and Diana Cimilluca, "Some Bankers Cool on Hot Rusal IPO," *Wall Street Journal*, November 9, 2009, http://online.wsj.com/article/NA_WSJ_PUB:SB125755269536534861.html. (Hereafter, White and Cimilluca, "Some Bankers.") Evan Perez, Gregory L. White, "FBI Lets Barred Tycoon Visit U.S.," October 30, 2009, http://online.wsj.com/article/NA_WSJ_PUB:SB125685578903317087.html. (Hereafter, Perez and White, "FBI Lets Barred Tycoon.")

¹⁵³ "The World's Billionaires: #9 Oleg Deripaska," *Forbes.com*, March 5, 2008, http://www.forbes.com/lists/2008/10/billionaires08_Oleg-Deripaska_UCP9.html.

¹⁵⁴ Perez and White, "FBI Lets Barred Tycoon."

¹⁵⁵ White and Cimilluca, "Some Bankers"; Perez and White, "FBI Lets Barred Tycoon."

¹⁵⁶ John Helmer, "Deripaska in 'Russian Mafia' Probe," *BusinessDay*, May 14, 2010, <http://www.businessday.co.za/articles/Content.aspx?id=108965>; Misha Glenny, Robert Booth, and Tom Parfitt, "US Refused Oligarch Visa Over Alleged Criminal Associations," *The Guardian*, October 31, 2008, <http://www.guardian.co.uk/world/2008/oct/31/oleg-deripaska-us-visa-rusal>.

¹⁵⁷ White and Cimilluca, "Some Bankers."

¹⁵⁸ "Aluminum giant RusAl raises \$2.24 bln with Hong Kong IPO," *RIA Novosti*, January 22, 2010, <http://en.rian.ru/business/20100122/157651607.html>.

¹⁵⁹ Neil Gough, "Triads Thrive in Ho's Casinos, US Report Says," *South China Morning Post*, March 19, 2010. Alexandra Berzon and A.D. Pruitt, "MGM Mirage Knew Ally Was Unfit," *Wall Street Journal*, March 17, 2010, <http://online.wsj.com/article/SB10001424052748704743404575127673757750744.html>.

¹⁶⁰ Formerly MGM Mirage.

¹⁶¹ Tom Mitchell, "Spotlight on MGM Mirage's 'Wild Card,'" *Financial Times*, March 19, 2010.

According to New Jersey law, MGM had to prove “by clear and convincing evidence, its ‘good character, honesty and integrity’ on a continuing basis” to maintain its 50% share in the Borgata.¹⁶² In essence, the company and its partners had to be found suitable to operate in New Jersey.

It appears that MGM’s direct ties to the Ho family were troubling to New Jersey regulators. In May 2009, the New Jersey Division of Gaming Enforcement (DGE) published a report based on its own investigation of MGM’s partnership with Pansy Ho in Macau. The DGE report recommended that both Pansy and Stanley Ho be found “unsuitable persons” by the New Jersey Casino Control Commission.¹⁶³ The DGE noted the elder Ho’s “continued business ties to persons associated with organized crime” and his daughter’s “direct, substantial, and continuing business and financial ties to her father.”¹⁶⁴ In March 2010, MGM decided to sell its interest in the Borgata rather than sever ties with Pansy Ho.¹⁶⁵

Corruption of Public Officials

Organized criminals corrupt public employees, especially individuals who have sensitive jobs. In many cases, criminals seek people who have skills, particular access to information, or job responsibilities that lend themselves to specific schemes. For example, some criminals whose operations depend on personal identification documents seek to inveigle employees with unique access to such information, and smugglers lure people charged with protecting borders into their operations.

In August 2010, Vitaly Fedorchuk was sentenced to 46 months in prison for leading a criminal organization in the Cleveland, OH, area that fraudulently procured Ohio driver’s licenses and identification cards for foreign nationals. To do so, Fedorchuk’s group relied on Sonya Hilaszek, a corrupt employee at the Deputy Registrar’s Office in Parma, OH. She also pleaded guilty in the case and received a prison sentence of 33 months. DOJ accused Hilaszek of producing documents for between 300 and 500 individuals. The criminal group charged foreign nationals—many were from Ukraine or Uzbekistan and in the United States illegally—between \$1,500 and \$3,000 for the documents. Fedorchuk’s group also allegedly cooperated with criminals in Ukraine to fraudulently obtain non-immigrant visas from the U.S. Embassy in Kyiv. They purportedly relied on corrupt Ukrainian nationals employed by the Embassy and charged \$12,000 per visa.¹⁶⁶

Mexican drug traffickers corrupt employees of federal agencies charged with protecting the Southwest border. The number of cases involving corruption at Customs and Border Protection (CBP) reported by the DHS Office of Inspector General have risen from 245 in FY2006 to more

¹⁶² State of New Jersey Department of Law and Public Safety, *Special Report of the Division of Gaming Enforcement to the Casino Control Commission on Its Investigation of MGM Mirage’s Joint Venture with Pansy Ho in Macau, Special Administrative Region, People’s Republic of China*, Redacted, May 18, 2009, p. 1, http://www.state.nj.us/casinos/home/info/docs/MGM/dge_%20report_redacted.pdf. (Hereafter, DGE, “Report.”)

¹⁶³ DGE, “Report,” pp. 70-71.

¹⁶⁴ DGE, “Report,” p. 71.

¹⁶⁵ Wayne Parry, “NJ: Asian Casino Boss Has Mob Ties in China,” *Associated Press*, March 17, 2010.

¹⁶⁶ Department of Justice, “Three More Sentenced as Part of Bureau of Motor Vehicle Fraud Ring,” press release, August, 19, 2010, <http://cleveland.fbi.gov/dojpressrel/pressrel10/cl081910a.htm>; Patrick O’Donnell, “Parma Clerk Issued Illegal Licenses, FBI Charges,” *Cleveland Plain Dealer*, October 30, 2009.

than 770 (projected) for FY2010.¹⁶⁷ In FY2009 alone, the DHS Inspector General opened 839 investigations of potential corruption regarding DHS employees. Of the 839 investigations, 576 worked for CBP, 164 for ICE, 64 for U.S. Citizen and Immigration Services (CIS), and 35 for the Transportation Security Administration (TSA).¹⁶⁸ While none of these figures establish exactly how many of these corruption cases are attributable to organized crime, they do suggest a growing challenge for federal law enforcement focused on combating smuggling and trafficking groups along the border. In an attempt to prevent corruption, federal investigation and law enforcement agencies may vet potential employees. For instance, in 2009 available resources allowed CBP to polygraph 10%–15% of applicants applying for border patrol positions, and of those who were polygraphed, about 60% were found *unsuitable* for service.¹⁶⁹

Two cases highlight the potential for corruption by organized crime along the Southwest border. In May 2010, Martha Garnica, a former CBP technician and officer, pleaded guilty to corruption and drug and alien smuggling charges.¹⁷⁰ She played a significant role in smuggling operations for the Ciudad Juarez-based La Linea criminal organization.¹⁷¹ In another case, Jose Raul Montano, Jr. was sentenced to 140 months in prison for bribery, cocaine trafficking, and alien smuggling while assigned as a CBP officer at the Brownsville Gateway Port of Entry (POE) in Brownsville, TX. He allowed Mexican drug traffickers and alien smugglers to illegally transport drugs and people into the United States. At the POE, Montano permitted vehicles containing illicit shipments to pass—without inspection—through the lane he worked. In return, Mexican criminals bribed him. By the time of his arrest in April 2009, he received between \$8,000 and \$10,000 per vehicle.¹⁷²

Organized Crime, a “National Security” and “Public Security” Concern

Clearly, organized crime can be seen as a *public security* concern, largely endangering people, businesses, and property. In fact, in 1995 the National Intelligence Council (NIC) produced a National Intelligence Estimate (NIE) on international organized crime that emphasized just this. However, the U.S. intelligence community’s view of international organized crime has shifted critically in the intervening years. In early 2010, the NIC issued a second NIE on the topic. While, according to DOJ officials, most of the salient issues in the 2010 NIE are consistent with

¹⁶⁷ Ceci Connolly, “The Inside Woman,” *Washington Post*, September 12, 2010, <http://www.washingtonpost.com/wp-dyn/content/article/2010/09/11/AR2010091105087.html>. (Hereafter, Connolly, “The Inside Woman.”)

¹⁶⁸ See testimony by Thomas M. Frost, Assistant Inspector General for Investigations, U.S. Department of Homeland Security before the U.S. Congress, Senate Committee on Homeland Security and Governmental Affairs, Ad Hoc Subcommittee on State, Local, and Private Sector Preparedness and Integration, *New Border War: Corruption of U.S. Officials by Drug Cartels*, 111th Cong., 1st sess., March 11, 2010.

¹⁶⁹ See testimony by James F. Tomscheck, Assistant Commissioner, Office of Internal Affairs, Customs and Border Protection before the U.S. Congress, Senate Committee on Homeland Security and Governmental Affairs, Ad Hoc Subcommittee on State, Local, and Private Sector Preparedness and Integration, *New Border War: Corruption of U.S. Officials by Drug Cartels*, 111th Cong., 1st sess., March 11, 2010.

¹⁷⁰ Immigration and Customs Enforcement, “Ex-CBP Employee Receives 20 Years in Drug, Alien Smuggling, Corruption Case,” press release, August 26, 2010, <http://www.ice.gov/pi/nr/1008/100826elpaso.htm>.

¹⁷¹ Connolly, “The Inside Woman.”

¹⁷² Department of Justice, “Former CBP Officer Sentenced to Prison for Bribery, Cocaine Trafficking, and Alien Smuggling,” press release, March 31, 2010, <http://sanantonio.fbi.gov/dojpressrel/pressrel10/sa033110.htm>.

those discussed in the 1995 NIE, a key difference emerged. The 2010 NIE argues that international organized crime has evolved into a *national security* concern as well.¹⁷³ DOJ officials have described these national security threats in five broad categories: (1) penetrating or influencing state institutions—particularly in those states with weak governance; (2) threatening the global economy by infiltrating financial and commercial markets, driving out legitimate businesses, and using a variety of illegal business practices; (3) engaging in cybercrimes across a range of fraudulent activities impacting individuals, businesses, and global trust systems; (4) partnering with terrorist organizations and insurgent groups such as the Revolutionary Armed Forces of Colombia (FARC), Taliban, and Hezbollah; and (5) expanding the reach of drug trafficking such that DTOs ally with other criminal organizations—regardless of ethnic background—and with local drug distributors.

Alleged Eurasian mob boss Semion Mogilevich embodies both the public and national security dimensions of organized crime. In October 2009, the FBI placed Mogilevich on its Ten Most Wanted Fugitives list.¹⁷⁴ He is wanted for leading a financial scheme that defrauded investors of \$150 million between 1993 and 1998. The company that he allegedly controlled at the heart of the operation, YBM Magnex, was based in Newtown, PA, and was incorporated in Canada.¹⁷⁵ Mogilevich was also likely involved in laundering money through YBM Magnex and a network of offshore companies.¹⁷⁶ By purportedly swindling investors, Mogilevich ran an operation that harmed members of the public. More broadly—and involving national security interests—the FBI and DOJ have suggested that the reputed mob boss also has his hands in Eastern European natural gas markets and that he uses his ill-gotten gains to influence “governments and their economies.”¹⁷⁷ Russian law enforcement arrested Mogilevich in January 2008 on tax evasion charges but released him in July 2009 on an oath not to flee.¹⁷⁸

Although analysts have assessed organized crime as being a threat to both public security as well as a national security, the scope of these threats cannot be fully evaluated without a clearer understanding of the scope of organized crime.

¹⁷³ Remarks by DOJ officials at the National Institute of Justice Conference 2010, panel on International Organized Crime: Recent Developments in Policy and Research, June 14, 2010. For this report, “public security threat” means threats to people, businesses, or property, and “national security threat” means threats to government, sovereignty, and economic stability. This differentiation is based on John Bailey, *Combating Organized Crime and Drug Trafficking in Mexico: What Are Mexican and U.S. Strategies? Are they Working?* Woodrow Wilson International Center For Scholars, Mexico Institute and University of San Diego Trans-Border Institute, Working Paper Series on U.S.-Mexico Security Cooperation, Washington, DC, May 2010, p. 3, fn. 2, <http://wilsoncenter.org/topics/pubs/Combating%20Organized%20Crime.%20Bailey.pdf>.

¹⁷⁴ FBI, “Top Ten Fugitives: Global Con Artist and Ruthless Criminal,” October 21, 2009, http://www.fbi.gov/page2/oct09/mogilevich_102109.html. (Hereafter: FBI, “Global Con Artist.”)

¹⁷⁵ FBI, “Philadelphia Fugitive Placed on the FBI’s ‘Ten Most Wanted Fugitives’ List,” press release, October 21, 2009, <http://philadelphia.fbi.gov/pressrel/pressrel09/ph102109a.htm>. Jeanne Meserve, “FBI: Mobster More Powerful than Gotti,” *CNN*, October 24, 2009, http://articles.cnn.com/2009-10-21/justice/mogilevich.fbi.most.wanted_1_fbi-wire-fraud-semion-mogilevich?_s=PM:CRIME.

¹⁷⁶ Williams, “Transnational Criminal Networks,” p. 70.

¹⁷⁷ FBI, “Global Con Artist;” Attorney General Michael B. Mukasey, “Attorney General Michael B. Mukasey Delivers Remarks at the CSIS Forum on Combating International Organized Crime,” April 23, 2008, *Political/Congressional Transcript Wire*.

¹⁷⁸ “Russian Court Releases Reputed Crime Boss,” *The Associated Press*, July 27, 2009.

Issues

Revisiting the Organized Crime Definition

Currently, there is no statutory definition of organized crime. RICO¹⁷⁹ provisions describe organized crime in terms of an “enterprise” and a “pattern of racketeering activity.”¹⁸⁰ The U.S. Code does not, however, provide guidance and information surrounding the nature of criminal organizations and their operational structure. There also appears to be a divergence between the RICO provisions and what federal law enforcement—namely the FBI—considers to be organized crime. For instance, patterns of racketeering activity specified under RICO indicate that criminal organizations may be engaged in a host of crimes including, but not limited to, an act or threat involving murder, kidnapping, gambling, arson, robbery, bribery, extortion, dealing in a controlled substance, and other illegal activities. Although drug trafficking is included in RICO’s predicate offenses, law enforcement does not necessarily consider drug trafficking or DTOs to be within the purview of organized crime investigations. One reason for this may be that federal law enforcement tends to segment investigations more on the basis of the criminal violation than on the basis of the criminal actor. While legislating a federal definition of organized crime may not necessarily solve this disconnect with law enforcement, it might lead to changes in the way law enforcement views and investigates organized crime.

A second statutory issue that Congress may consider is that of organized crime in the U.S. Criminal Code. For instance, while there is a Chapter (113B) in Title 18 that deals specifically with terrorism and related crimes, there is no centralized section that speaks specifically to organized crime.¹⁸¹ Yet organized crime has been described as a leading threat to U.S. security. Though the lack of centralization of organized crime-related statutes may not impact law enforcement’s abilities to investigate and prosecute organized crime, it is indicative of the approach by which the federal government views it. And, as mentioned, the harm caused by organized crime may not be clearly estimated without a common understanding of what defines organized crime. Building on this, accurately gauging the public and national security threat posed by organized crime may be complicated without a solid notion of the harm it routinely causes.

Congressional Commission

Beginning in the 1950s, congressional concern about organized crime has resulted not only in legislative efforts to combat it, but in commissions and in various series of hearings aimed at gathering information on the scope of organized crime. One of the first such efforts was the

¹⁷⁹ 18 U.S.C. § 1961-1968. It was enacted as Title IX of the Organized Crime Control Act of 1970 (P.L. 91-452).

¹⁸⁰ As defined in 18 U.S.C. § 1961, an “‘enterprise’ includes any individual, partnership, corporation, association, or other legal entity, and any union or group of individuals associated ... although not [necessarily] a legal entity,” and a “‘pattern of racketeering activity’ requires at least two acts of racketeering activity” to occur within 10 years of one another for a criminal organization to be prosecuted for racketeering. Racketeering is defined as any number of violations, including an act or threat involving murder, kidnapping, gambling, arson, robbery, bribery, extortion, or dealing in a controlled substance. See 18 U.S.C. § 1961 for a comprehensive list of the predicate offenses for racketeering.

¹⁸¹ Some may consider 18 U.S.C. § 1951-1968 (Chapters 95 and 96, Racketeering and RICO, respectively) to be a primary portion of the Code addressing organized crime.

Senate Special Committee to Investigate Organized Crime in Interstate Commerce in 1950 and 1951 led by Senator Kefauver. Another example of such congressional attention is the series of Senate hearings on organized crime in 1958 and 1963 led by Senator McClellan. There was also the 1967 Commission on Crime in the United States led by Attorney General Katzenbach. More recently, and particularly since the terrorist attacks of September 11, 2001, congressional attention has shifted away from traditional crime fighting—including organized crime—toward counterterrorism.

Of the more recent hearings involving organized crime topics, focus has primarily been on threats posed by the DTOs in Mexico. While this is one of the most visible organized crime threats—not only are some of the actors exceedingly violent, but this violence is seen directly along the U.S. Southwest border—it is likely not the sole serious organized crime threat to the United States. As discussed, numerous other organized crime groups, though perhaps not as violent, commit crimes that impact the economic stability, public safety, and domestic security of the United States. As such, one option that Congress may ultimately consider is the convening of a congressional commission to evaluate the scope of organized crime. Such an evaluation might help policymakers determine whether they have provided law enforcement with the appropriate tools to combat today's threats posed by organized crime. It may also result in a clarification of how the federal government defines organized crime and consequently how investigative efforts at the federal level are organized.

Incentives for Investigating Organized Crime

While the effects of certain, high-profile crimes—such as terrorism—are readily seen, the aftermath of organized crime is not always as striking, nor does it produce the same negative visceral reactions. Some argue that this may be one reason for the shift in law enforcement attention and resources more toward counterterrorism-related activities and further away from traditional crime fighting activities since the terrorist attacks of September 11, 2001. However, although the effects of organized crime may not be seen in a consolidated attack resulting in the physical loss of life, the effects are far-reaching. As mentioned, organized crime impacts economic stability, public health and safety, and national security. Consequently, some experts argue that there should be some form of incentive (as well as disincentive) to entice law enforcement to target more monetary and manpower resources toward investigating organized crime.¹⁸²

One such form of incentive that Congress may consider is federal grants to state and local law enforcement for training and technical assistance to investigate and prosecute organized crime. There are several grant programs—such as the Community Oriented Policing Services (COPS) grant program¹⁸³ and the Edward Byrne Memorial Justice Assistance Grant (JAG) program¹⁸⁴—through which state and local law enforcement assistance is available for a variety of purpose

¹⁸² International Peace Institute, *Transnational Organized Crime: Task Forces on Multilateral Security Capacity*, IPI Blue Papers No. 2, 2009, http://www.ipinst.org/media/pdf/publications/toc_final.pdf. (Hereafter, IPI, *Transnational Organized Crime*.)

¹⁸³ For more information on COPS, see CRS Report RL33308, *Community Oriented Policing Services (COPS): Background, Legislation, and Funding*, by Nathan James; as well as CRS Report R40709, *Community Oriented Policing Services (COPS): Current Legislative Issues*, by Nathan James.

¹⁸⁴ For more information on JAG, see CRS Report RS22416, *Edward Byrne Memorial Justice Assistance Grant Program: Legislative and Funding History*, by Nathan James.

areas. However, these purposes do not directly specify as a purpose area the use of funds for combating organized crime. Therefore, policymakers may consider a specific grant program providing not only funding, but technical training and assistance.

Other suggestions that experts have put forward involve the use of negative peer reviews to incentivize law enforcement around the world to focus resources toward combating organized crime.¹⁸⁵ As discussed, various state and federal law enforcement agencies investigate organized crime in the United States. As such, one option Congress may consider could be to direct the formation of a domestic peer review system¹⁸⁶ for law enforcement agencies charged with investigating organized crime. Participation in some form of peer review system could be tied to law enforcement assistance and grant funding eligibility.

Coordination of Domestic Efforts

As mentioned, the federal investigation of organized crime matters has not historically been a centralized effort, and there is no single agency charged with investigating organized crime.¹⁸⁷ As a byproduct, there also has not been a uniform definition of organized crime to guide investigators and prosecutors. Each agency has jurisdiction over an organized crime case based on the criminal violations. For instance, organized crime cases built around drug trafficking offenses are generally investigated by the DEA, whereas those cases built around human trafficking cases are typically investigated by the FBI or ICE. However, many organized crime cases may involve offenses that fall under the jurisdiction of multiple investigative agencies. For example, organized crime groups involved in crimes ranging from counterfeiting and financial institution fraud to identity crimes, computer crimes, and money laundering may be investigated by the U.S. Secret Service (USSS), FBI, ICE, and any number of other federal, state, and local law enforcement agencies. As a result of structuring organized crime investigations around the alleged crimes, it is not always clear which agency will take the lead on a particular case. This can lead to inter-agency conflicts, and if case information is not effectively communicated between agencies, each agency involved may not have a comprehensive view of the case. There are, however, several law enforcement fusion centers, such as the Organized Crime Drug Enforcement Task Force (OCDETF) Fusion Center (OFC), the International Organized Crime Intelligence and Operations Center (IOC-2), and the El Paso Intelligence Center (EPIC), that are charged with consolidating and disseminating intelligence on various organized crime matters. Additionally, different agencies across federal, state, and local levels participate in these centers.

For instance, the OFC assimilates information for the OCDETF Program, which targets major drug trafficking and money laundering organizations. Federal agencies that participate in the OCDETF Program include the DEA; FBI; ICE; Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF); U.S. Marshals; Internal Revenue Service (IRS); U.S. Coast Guard (USCG); 94

¹⁸⁵ IPI, *Transnational Organized Crime*.

¹⁸⁶ Peer review systems are used in a variety of academic, professional, and government settings to evaluate an individual or organization's work or policies. The work or policies are open to examination by other experts and equivalent entities. For instance, the Office of Management and Budget (OMB) has promulgated guidelines for federal regulatory agencies to follow peer review requirements prior to disseminating influential scientific and statistical information. See Office of Management and Budget, "Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by Federal Agencies; Republication," Vol. 67, No. 36, *Federal Register*, February 22, 2002.

¹⁸⁷ For a discussion of federal law enforcement efforts to combat organized crime, see CRS Report R40525, *Organized Crime in the United States: Trends and Issues for Congress*, by Kristin M. Finklea.

U.S. Attorneys Offices; and DOJ's Criminal and Tax Divisions. These federal agencies also collaborate with state and local law enforcement.

In May 2009, DOJ announced the creation of the IOC-2—housed at the OFC—which brings together the FBI; ICE; DEA; IRS; ATF; U.S. Secret Service; U.S. Postal Inspection Service (USPIS); U.S. Department of State, Bureau of Diplomatic Security; U.S. Department of Labor, Office of the Inspector General; and DOJ's Criminal Division in partnership with the 94 U.S. Attorneys' Offices and the U.S. Department of the Treasury, Office of Terrorism and Financial Intelligence. Unlike the OFC, the IOC-2 has yet to be funded.¹⁸⁸ It is charged with analyzing and resolving conflicts in information on a host of organized crime cases, not solely those that center on drug trafficking.

EPIC was originally established as an intelligence center to collect and disseminate information relating to drug, alien, and weapon smuggling in support of field enforcement entities throughout the Southwest border region. Following 9/11, counterterrorism also became part of its mission. Though these crimes are not exclusively committed by organized crime groups, they may be, and thus EPIC is involved in combating organized crime. EPIC is jointly operated by the DEA and U.S. Customs and Border Protection (CBP), and other participating agencies include the ICE, USCG, U.S. Secret Service, Department of Defense (DOD), Department of the Interior, FBI, ATF, U.S. Marshals Service, Federal Aviation Administration, National Drug Intelligence Center (NDIC), IRS, National Geospatial-Intelligence Agency, Joint Task Force-North, Joint Interagency Task Force-South, Texas Department of Public Safety, Texas Air National Guard, and El Paso County Sheriff's Office.

In evaluating the most effective means to share organized crime intelligence, Congress may consider several options. One option may include increasing support for intelligence fusion centers such as the OFC, IOC-2, and EPIC. Another option could involve the creation of an interagency organization similar to the National Counterterrorism Center (NCTC), but centered around organized crime. Such an organization would be responsible for “analyzing the [organized crime] threat, sharing that information with ... partners, and integrating all instruments of national power to ensure unity of effort”¹⁸⁹ against organized crime. On the prosecution end, DOJ has already announced a proposed consolidation of the Organized Crime and Racketeering Section (OCRS), the Criminal Division's gang unit, and the National Gang Targeting, Enforcement, and Coordination Center (GangTECC) into a single Organized Crime and Gang Section.¹⁹⁰ This harmonizes the prosecution of organized crime and gang cases, which DOJ has cited as being similar.

One non-legislative option that Congress may consider regarding the coordination of federal law enforcement efforts to combat organized crime is enforcing its oversight over existing fusion centers. In June 2010, the DOJ Office of the Inspector General (OIG) issued a review of EPIC.¹⁹¹ The OIG found that EPIC's users value its products, but that EPIC could benefit from

¹⁸⁸ In the FY2011 Budget Request, the Administration requests an additional \$15.0 million for the Department of Justice to combat organized crime. \$7.6 million of this is requested for funding DOJ staffing of the IOC-2. There were no specific funds requested for the other agencies contributing to the IOC-2.

¹⁸⁹ NCTC mission statement, available at http://www.nctc.gov/about_us/about_nctc.html.

¹⁹⁰ Ryan J. Reilly, “Gang Unit, Organized Crime Section to Merge,” *Main Justice*, July 12, 2010.

¹⁹¹ U.S. Department of Justice, Office of the Inspector General, *Review of the Drug Enforcement Administration's El Paso Intelligence Center*, I-2010-005, June 2010, pp. ii - iii, <http://www.justice.gov/oig/reports/DEA/a1005.pdf>.

improvement in fully developing the National Seizure System and coordinating the High Intensity Drug Trafficking Area (HIDTA) program, consistently coordinating with intelligence organizations across the country, maintaining and analyzing current information from all available sources, and creating objective performance measures by which to evaluate its programs, among other things. Similarly, in November 2009 the OIG reviewed DOJ's anti-gang intelligence and coordination centers.¹⁹² As a result of the review, the OIG determined that the National Gang Intelligence Center had not created a gang information database, as had been directed by Congress.

National Strategy to Combat Organized Crime

One component of federal coordination to combat organized crime may be a national strategy to outline not only what the federal government considers to be the major organized crime threats, but how best to combat them. DOJ officials have indicated that the National Security Council is working to create such a strategy, possibly modeled after the National Security Strategy released on May 27, 2010.¹⁹³ The strategy may include recommendations on protecting Americans from organized criminals, protecting financial markets, preventing corruption, increasing public outreach, and partnering with the private sector.¹⁹⁴ There have been reports that this strategy may be rolled out by the end of 2010. Subsequently, Congress may evaluate the legislative options and its oversight role to best assist the federal government in partnering with the private sector, educating the public, and helping law enforcement combat organized crime.

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¹⁹² U.S. Department of Justice, Office of the Inspector General, *A Review of the Department's Anti-Gang Intelligence and Coordination Centers*, I-2010-001, November 2009, <http://www.justice.gov/oig/reports/FBI/i2010001.pdf>.

¹⁹³ The White House, *National Security Strategy*, May 27, 2010, http://www.whitehouse.gov/sites/default/files/rss_viewer/national_security_strategy.pdf.

¹⁹⁴ Remarks by DOJ officials at the NIJ Conference 2010, panel on International Organized Crime: Recent Developments in Policy and Research, June 14, 2010.