

**Criminals and Cops Transformed:
An Examination into the Nature and Significance
of the Changing Dynamics of Transnational Organized Crime**

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PROLOGUE

In the last fifteen years, the world has witnessed a dramatic rise in the number of incidents of transnational organized crime, as well as an increase in the scope of these incidents. The world has been quick to recognize this change, but has been slow to recognize its implications. At every stage of history, when criminals embark on a new enterprise, there is a lag in law enforcement response. In this case, law enforcement agencies around the world have been lagging behind for fifteen years and have shown little progress. This is because few understand how the change in transnational organized crime has come about, and only now are the many law enforcement agencies around the world realizing the shortcomings they now face. This paper will detail the evolution of organized crime from small, regional, familial groups to colossal, multinational, professional enterprises whose revenues can rival some Fortune 500 companies. By examining this evolution and its consequences for law enforcement, perhaps a better understanding of this new world and how governments and law enforcement agencies should respond can be reached.

AN INTRODUCTION TO ORGANIZED CRIME BEFORE THE TRANSFORMATION

While there can be no completely accurate model of the typical criminal organization or the typical *mafiosi*, for the purposes of this paper I will use the Italian models. I have made this choice simply because the Italian models of organized crime have existed just as long, if not longer, than most other models

of organized crime, and in many cases, other organized crime groups purposely model themselves on the Italians. Pino Arlacchi writes:

Until a few decades ago, most of the population of the Reggio Calabria province used the Greek word *'ndrangheta* to indicate a high degree of heroism and virtue. This was embodied in a superior elite, the *'ndranghetisti*. *'Ndranghetista* means 'member of the honored society,' but more generally it referred—as in classical Greece—to any brave man who was proud of his valor, scorned danger, knew no scruples, and was ready for anything.¹

This is the image of a typical “man of honor” in Italy of the early twentieth century. Not only were the *'ndranghetisti* of a certain temperament, they also lived by certain codes, the chief of which was the code of *omerta*.

To keep the rules of *omerta* was to follow a *double moral system*, with one set of norms applying among the members of a given group, and another, opposing set governing relations with those outside. In relations with fellow *'ndranghetisti*, 'tact and fine manners' were required, together with 'education, courtesy, kindness, and persuasion by argument and without compulsion.' But dealings with the common people and with one's enemies obeyed the opposite principle of *false omerta*: 'false kindness, false condescension, false courtesy, which are snares concealing death to unsuspecting trouble-makers...and to the wicked and contemptible.'"²

Arlacchi describes a group of men who lived their lives outside the normal rules and prohibitions of society. However, simply to live outside the rules of society was not enough; the *'ndranghetisti* had to brazenly flaunt the rules of society, for “[breaking] the law of the State was honorable, because it showed contempt and defiance of powerful persons and institutions.”³ However, this contempt for society would not be tolerated for long.

¹ Arlacchi, Pino. *Mafia Business: The Mafia Ethic and the Spirit of Capitalism*. Trans. Martin Ryle. London: Verso Press, 1986. 4. Pino Arlacchi quoted L. Asprea, from his work, *Il Previtocciolo*, Milan, 1971. 174.

² *Ibid.*, 5. Pino Arlacchi again quotes L. Asprea, from his work, *Il Previtocciolo*, Milan, 1971. 174.

³ *Ibid.*, 19.

After World War II, the government began to crack down on any groups presumed to be subversive in nature, the mafia being one of those groups. Removed from the powerful places in society the *'ndranghetisti* once held, they had to reconsider their goals and desires.

As the power of the *mafiosi* lost its legitimization during the fifties and sixties, the man of honor's position became in many ways like that of the common criminal. This merging of the roles of *mafiosi* and of deviant is the necessary starting-point for any understanding of the changes which the mafia phenomenon was undergoing, for the *mafiosi* now found themselves, for the first time in their history, impelled to act and think outside the bounds of traditional culture.⁴

No longer could power and respect be obtained by having contempt for danger, death, and the law. From this point forward, power and respect were obtained through the accumulation of wealth. Around the world, during the fifties, sixties, and seventies, as consumerism increased, "wealth became the basis of reputation, and to possess wealth became imperative for anyone who wanted to gain any kind of position of respect.... Wealth, in a word, became intrinsically honorable, and conferred honor upon its possessors."⁵ With the change in goals, the *mafiosi* also experienced a change in appearance:

The traditional *mafioso* had no love of ostentation. His power, like his consumption, was characteristically discreet and reserved. To say little, to keep a low profile, to disparage the extent of one's influence—these were the rules the mafia followed in its appearance in public life. The *mafioso* felt his superior and exceptional position to be sufficiently established by the fact that he led a life of leisure: even when he was not rich, the traditional *mafioso* lived like a gentleman in that he did no work and depended on nobody. In a society where the great majority of the population [had] to work hard every day, this freedom to use one's own time in one's own way is the clearest symbol of honor and power.⁶

⁴ Ibid., 84.

⁵ Ibid., 59-60.

⁶ Ibid., 117.

Once *mafiosi* desired wealth above all else, displays of wealth became the norm: fine clothes, luxury automobiles, and real estate became status symbols for the *mafiosi*, much like other wealthy individuals. In fact, in Russia, the following joke became common:

Two Russian gangsters meet and see that they are wearing matching ties. The first asks the second, ‘how much did you pay for it?’ The second proudly replies ‘One hundred dollars.’ The first responds, ‘You fool, I bought mine for two hundred dollars.’⁷

Also like other wealthy individuals, *mafiosi* became local celebrities, further abandoning the low profile. The quiet, modest *mafiosi* became a thing of the past.

However, because the *mafiosi* were still unable to enter normal society, they were forced to attain wealth through illegal means. Furthermore, as governmental pressure decreased and as competition among *mafiosi* for illegal resources increased, the mafia began “resurrecting the whole repertory of overbearing and violent behavior that had been the stock-in-trade of the man of honor thirty years ago.”⁸ “In entering on a massive scale into industrial competition, the *mafiosi* were doing something radically new, but this innovation was at the same time marked by a resurgence of many of their most archaic traits.”⁹ It was this combination of old tools and new goals that brought about the creation of the “mafia-entrepreneur.”¹⁰

With the changing nature of the mafia, came a change in the *mafiosi*. The focus on wealth accumulation resulted in an entirely different group of people

⁷ As told by Professor Thane Gustafson, Georgetown University.

⁸ Arlacchi, 87.

⁹ Ibid., 87.

entering organized crime. “No longer drawn almost exclusively from the lower social classes, [the modern *mafioso*] was increasingly likely to belong to one or another stratum or group of professional and white-collar workers, or indeed to the world of commerce and industry itself.”¹¹ Professionals such as marketers, bankers, and businessmen entered organized crime, and as a result, organized crime became more professional and businesslike, yet organized crime never lost its capacity for violence. Arlacchi describes the new *mafioso*, saying he was “open to new conceptions of success and economic prestige, quick to adopt new patterns of consumption, he nonetheless reveals an incredible degree of reaction and bloodthirstiness in many crucial aspects of his life.”¹² This new form of *mafioso* helped create a mafia that was dramatically and horribly successful.

At the heart of this success was narcotics trafficking. Trade in narcotics contained all the elements the new mafia-entrepreneur was searching for: the business was illegal, the profits were immense, and success was dependent on the mafia-entrepreneur’s ingenuity.

When a new channel of illegal dealing is opened, operations are at first undisturbed, and big profits can be made in this initial period. This is because the resources of the investigative authorities are committed...elsewhere—concentrated on recently discovered people, markets, and geographical areas which are therefore under the spotlights of official political concern and public opinion.¹³

This pattern of playing cat and mouse through the creation of new methods of operation is one that will be repeated throughout this paper: the mafia-entrepreneur survives on his creativity. Through the use of creative methods, the

¹⁰ Ibid., 120.

¹¹ Ibid., 121.

¹² Ibid., 120-1.

criminal organizations circumvent traditional business routes, avoid legal and governmental interference, and keep risks low.

However, as each organized crime group increased its success, “continual conflict thus [became] inevitable, and mafia accumulation [clashed] with the territorial bases of mafia power itself.”¹⁴ Within Italy, the resources were scarce—after all, there were only so many towns, so many ports, and so much wealth that can be earned. Therefore, “even the smallest increment of power took on a higher value. Where numerous more or less equally-matched rivals are in contention, to gain any kind of advantage may have far-reaching consequences.”¹⁵ When two organized criminal groups confronted one another, they could choose from two options: violence or alliance. As violence decreases the size of the organization as well as brings unwanted public and governmental attention, an alliance is clearly the superior choice. After all, if criminal organizations are successful, they are able to operate without notice. However, should violence suddenly erupt and body counts escalate, the criminal organization would face not only legal and governmental pressure, but also a decrease in public support. This would result in a decrease in profit, and perhaps even completely disrupt business.

However, among criminal organizations, who have no legal recourse should agreements or alliances be betrayed, trust must be established. Arlacchi writes:

¹³ Ibid., 197.

¹⁴ Ibid., 155.

¹⁵ Ibid., 164.

When [the illegal entrepreneur] draws up contracts or makes investments in the illegal sector, the security of his transactions is guaranteed by no laws or formal institutions. For this reason, mutual trust is far more necessary among criminals than among businessmen. If they are to avoid the costs of continual recourse to violence or the threat of violence, criminals must establish, within their own world, their own conventions, codes of behavior, traditions and relations of mutual confidence. In the criminal world, the social contract is never given *a priori*. In a sense, it must be created anew each day. The social and anthropological make-up of the criminal world is heavily influenced by the need of secrecy and impossibility of turning to State laws for the regulation of market relations.¹⁶

As will be detailed in the next section, trust was given because an alliance member had a history of criminal expertise that easily lent itself towards trustworthiness. Only the biggest names could establish an alliance relationship. Their history of past accomplishments, current power status, and access to resources were their credentials and collateral. Additionally, these alliances were made only tangentially. Only a handful of “ambassadors” would meet to discuss and formulate the details of an alliance. Therefore, should the relationship be discovered, only a few people would have any specific knowledge. These two factors greatly increased the levels of trust between criminal organizations, and made alliances far easier to establish.

Within Italy, with the growth of criminal organizations led to competition. In order to resolve the issues of competition without resorting to violence, alliances were formed. Criminal organizations agreed to work together, sharing resources and talents to as to increase profit and decrease the chances of discovery by law enforcement agencies. However, this pattern was not unique to Italy. It was repeated throughout the world as criminal organizations of various

¹⁶ Ibid., 198.

nationalities grew. As these organizations began to operate beyond their borders, international competition arose. However, having witnessed the power and profit of domestic alliances, criminal organizations began to form alliances on an international level.

THE FIRST STEPS TOWARD THE TRANSFORMATION OF ORGANIZED CRIME

The concept of transnational organized crime is not new. Examples of it can be found as early as the 1950s. However, before the transformation of organized crime, alliances were rudimentary and were formed between two parties. They are very limited, one-on-one relations that involve only two ethnic groups. This is the distinguishing feature that separates the theoretical division of pre-transformation from post-transformation. As will be shown, after the transformation, criminal alliances take on a multinational basis and involve any number of players, but only after trust issues, logistics, and the like were created and established on smaller levels.

One of the first incidences of criminal alliances was between Meyer Lansky and the Italian-American *La Cosa Nostra* (LCN) working with Sicilian *mafiosi* to develop Havana, Cuba into a “mob paradise in the early 1950s.”¹⁷ A second example took place in October 1957, at a summit meeting in Palermo’s Grand Hotel Des Palmes. American LCN made a deal with Sicilians that “allowed the Americans to divest themselves of the risks in dealing heroin while collecting a share of the profits. The Sicilians took exclusive charge of import

¹⁷ Lupsha, Peter A. “Transnational Organized Crime versus the Nation-State,” Transnational Organized Crime, Vol. 2, No. 1 (Spring, 1996), 25.

and wholesale distribution. The Americans received a rake off per kilo and announced that they were out of the drug business.”¹⁸ This pattern of paying a percentage of profits for the privilege of working in another’s territory became quite common in criminal alliances. In 1966, the American LCN leader, Santos Trafficante, traveled to Bangkok, Hong Kong, and Saigon, “in the midst of the Vietnam War, seeking Chinese Triad society heroin connections.”¹⁹ The Japanese Yakuza have had an alliance with the LCN since the 1960s “when they first turned up...in Hawaii... The two have always traded in guns and dope. American guns sell for ten or fifteen times their cost in Japan, where they are banned. ‘Ice’ or crystal methamphetamine, the Yakuza’s specialty, comes back in exchange by way of Honolulu.”²⁰ Fifth, a Russian criminal organization negotiated a fuel tax scam with the LCN:

The deal had been negotiated on Long Island in 1982 with a captain in the Columbo Family, Michael ‘Sonny’ Franzese, and his associate, Larry Iorizzo. ‘The Italians thought the Russians were good guys, not too greedy, reliable, innocent. So they made the agreement. The Russians gave the Italians a rake off, and the Italians gave them security plus custody of corrupted cops,’ explains Alex Grant [a FBI organized crime expert]. Specifically, the Russians were paying a ‘family tax’ to New York’s Gambino, Lucchese, Columbo, and Genovese Families—two cents of the twenty-eight cents a gallon in Federal and State gas taxes they were pocketing in exchange for which they received Cosa Nostra’s tolerance and protection.²¹

This deal is unique in that it also provides an example of the second key feature of criminal alliances. Not only does the “visitor” have to pay a percentage of profits for the privilege of working, but the “host” organization will also provide

¹⁸ Sterling, Claire. *Thieves’ World*, New York: Simon and Schuster, 1994, 146-7.

¹⁹ Lupsha, 25.

²⁰ Sterling, 156.

²¹ *Ibid.*, 162.

the “visitor” with local resources and expertise. Such a sharing only improves the odds in the criminals’ favor. By providing other criminals with access to proven means, criminal organizations can increase the odds of operational success. It should be apparent that this combining of criminal specialties and assets is incredibly dangerous, as it leads to an increase in criminal proficiency.

The last, and probably the most productive and profitable alliance, was a cocaine-for-heroin exchange established in October, 1987 on the island of Aruba between the Sicilian mafia and the Medellin cartel of Columbia.

[Cocaine] was selling wholesale [in America] for \$11,000 a kilo. On the other hand, the rage for cocaine was just beginning to devour Europe. From virtually nothing in 1985, the quantity reaching the Continent was approaching forty tons in 1987 and selling for nearly five times the going price in America: \$50,000 a kilo. Meanwhile, heroin was still the drug of preference in America, selling for around \$200,000 a kilo. In Europe, where it was easier to procure and transport, the price was \$50,000 a kilo. The Sicilians therefore proposed to swap heroin from Europe for cocaine from Columbia. That would give the Medellin cartel a chance to branch out into America’s lucrative heroin market. In exchange, the Mafia wanted an exclusive franchise for the wholesale cocaine market in Europe. If not,...any Colombians trying to deliver in Europe would be killed... The forty tons [of cocaine] reaching the Continent in 1987 would quintuple to two hundred tons annually in the next five years, worth ten billion dollars on the street.²²

While the figures for this arrangement are staggering, the world was still divided on many levels; therefore, criminals were not allowed to operate on a truly global scale. First, crossing Europe meant crossing a number of borders, at which guards would have to be bribed or coerced—this is time-consuming, expensive, and difficult work which can only slow down criminal enterprises. Second, the Soviet Union was virtually sealed off from the rest of the world. Only Russian criminals, already in place, could operate in that territory. Non-

Russian criminals had an extremely difficult time penetrating the Soviet Union due to the efforts of the well-financed and well-trained KGB and other law enforcement agencies. However, with the creation of the European Union and the collapse of the Soviet Union, the world was transformed, and with it, so too was organized crime.

THE TRANSFORMATION OF ORGANIZED CRIME BEGINS IN EARNEST

With the creation of the European Union and the collapse of the Soviet Union, the world saw a dramatic revolution of the market; however, a corresponding revolution in law enforcement did not occur. Rensselaer Lee III writes, “recent transformations in the global economy and in international political alignments have been a boon to the criminal world. Capitalizing on increased cross-border flows of goods, money, and people, criminal organizations have expanded their territorial reach and augmented their power and wealth.”²³ The increase in legal trade and finance very often provides an effective cover for illegal trade and finance. Accordingly, criminals have very quickly begun working in areas that were formerly difficult to operate in or once completely forbidden. Organized crime has truly gone global, and with the increase in scope comes an increase in criminal alliances.

Like multinational corporations, criminal organizations increasingly seek partners abroad to maximize market opportunities, improve logistics, and reduce business exposure. Often this means relying on a foreign partner’s

²² Ibid., 24-5, 29.

²³ Lee III, Rensselaer. “Transnational Organized Crime: An Overview,” Transnational Crime in the Americas: An Inter-American Dialogue Book, Ed., Tom Farer, New York: Routledge, 1999, 1.

smuggling or money laundering networks and superior knowledge of local conditions (including corrupt connections to law enforcement).²⁴

By examining the transformation of Western Europe due to the creation of the European Union, as well as the transformation of Eastern Europe and Russia due to the collapse of the Soviet Union, one can more easily understand how incredibly ripe these regions were for the criminal picking.

Western Europe under the European Union presented a terrific opportunity for criminals because they were now free to transport goods within the region without having to be concerned with the numerous border crossings. “Once [the EU’s] inner borders went down, a third of a billion people would be free to circulate without passport or custom controls, carry baggage and ship goods without police inspection, live where they pleased, and bank or go into business anywhere.”²⁵ Whereas criminal organizations were once limited to such regions as southern Italy and Amsterdam, once the contraband entered Western Europe, it was free to travel anywhere within Western Europe. Moreover, within the European Union, the various law enforcement agencies were drastically disunited. Each of the EU member states “had its own laws on extradition, rights of asylum, hot pursuit, exchange of police and intelligence information, undercover agents, controlled drug deliveries, jail terms for drug traffickers, money laundering, phone taps and listening devices, and protection of privacy in data banks.”²⁶ Creative criminals took advantage of these disparate laws and easily outwitted law enforcement agencies.

²⁴ Ibid., 15.

²⁵ Sterling, 40.

²⁶ Ibid., 40-1

The former Soviet Union also presented a terrific opportunity for both Russian and non-Russian criminal organizations. The Russian criminal organizations were desperate to sell their good and skills on a world market, just as non-Russian criminal organizations were desperate to set up shop in this virtually untapped marketplace.

Russia had a runaway black market, a huge potential for production and moving drugs, an enormous military arsenal, the world's largest richest natural resources, and an insatiable hunger for dollars of whatever provenance. Furthermore, it had a rampant mafia of its own, in need of Western partners to make the most of these prospects.²⁷

Secondly, with the collapse of the Soviet Union, the agencies of that vast police state could no longer be funded.

Law enforcement broke down all across Soviet territory and in Poland, Czechoslovakia, Hungary, Romania, Bulgaria, and Albania. Border controls practically ceased to exist throughout Eastern Europe... A resourceful traveler with or without papers could travel more or less unhindered from Siberian Irkutsk to Paris or Brussels, and vice versa.²⁸

In desperate need of cash, the former Soviet Union went up for sale. Unfortunately, much of it was purchased by criminal organizations. Every year the percentage of the former Soviet Union's infrastructure believed to be controlled by Russian criminal organizations (sometimes with the help for foreign partners) increased.

Insatiable and seemingly invulnerable, [the Russian mafia] is swallowing up factories, cops, privatized enterprises, real estate, raw materials, currency, gold—a quarter of Russia's economy in 1991, between a third and a half by 1992, according to Russian authorities, 40,000 privatized firms by 1993, according to Russia's Interior Ministry. By the end of 1992, 'nearly two-thirds of Russia's commercial structure had ties to the

²⁷ Ibid., 14.

²⁸ Ibid., 42.

growing criminal world’—this according to President Boris Yeltsin himself.²⁹

Having already established themselves domestically in their respective Western and Eastern European/Russian homes, the various criminal organizations began rushing to meet in the middle. Miroslav Opravil, Czechoslovakia’s police chief once said, “A wave of crime is advancing on us. They’re all here: the Sicilians, the Camorra, the Colombians, the Yakuza, the Yugoslavs, the Russian mafia, the Ukrainian mafia, the Uzbeks, the Turkmenis, the Afghanis, and the Chechen.”³⁰ A claim has been made that the first instance of transformed organized crime took place in a 1990 meeting in Vienna attended by twenty men who represented the “Sicilian *mafiosi*, members of the Camorra from Naples, members of the ‘Ndrangheta from Calabria,...Russians,...Poles,...and Colombians.”³¹ Deals were struck between and among groups.

As in Italy, with the mingling of these organizations in one area, resources rapidly became scarce and alliances became necessary. While law enforcement agencies were aware of the increase in organized crime, few were able to immediately understand just how interconnected the organizations were.

THE FIRST SIGNS OF TRANSFORMED ORGANIZED CRIME

Eastern Europe and Germany were the first locales to really experience the transformed transnational organized crime. The evidence was there, albeit sometimes the lack of evidence was more telling. For example, Giuseppe Ayala,

²⁹ Ibid., 94.

³⁰ As quoted by Sterling, 137.

one of Sicily's leading judicial authorities said, "If there was competition among them, we would be turning up a lot of dead bodies. But the evidence so far is that they are looking for ways to work together."³² Criminal organizations entered this region because, as history had taught them, they "seem to flourish best in de-regulated market economies, [seeking] to penetrate political institutions, and [taking] cynical advantage of liberal-democratic legal systems."³³

The key to Eastern Europe's colonization by criminal organizations was the "rapid opening-up of the new economies of Eastern and Central Europe [without an accompanying] concomitant level of financial control and scrutiny."³⁴ The former Soviet Union essentially went up for sale, and no one was capable of overseeing that process. "The demise of Communism and the dilution of state power in these countries...diminished resources available to law enforcement and security agencies; also, democratization...placed new constraints on their agencies' operations."³⁵ The result was a quick and effective overwhelming of what law enforcement and security agencies remained in the Soviet Union's wake. Andrzej Kowezsko, once head of Interpol in Poland said:

This is their contact country, where they meet to discuss their business—Italians, Colombians, Turks, and Russians. They don't hurt Poles, so it's almost impossible to get them into court... The Sicilian Mafia doesn't come to commit crimes. It's only interested in laundering money... The Colombians see a whole new situation here—they can use Polish camels to move cocaine instead of going the old Balkan route. It's not against

³¹ Robinson, Jeffrey. *The Merger: The Conglomeration of International Crime*. New York: The Overlook Press, 2000, 11.

³² As quoted by Sterling, 36.

³³ Wright, Alan. "Organized Crime in Hungary: The Transition from State to Civil Society," *Transnational Organized Crime*, Vol. 3, No. 1 (Spring, 1997), 68.

³⁴ *Ibid.*, 71.

³⁵ Lee, 14.

Polish law to *possess* any amount of cocaine, so how do you catch the camels? But the Colombians do money, too... We have no laws, we have no surveillance in hotels. We don't have the mentality. The public doesn't *expect* us to deal with such things. When we get around to looking, they'll be far, far ahead of us.³⁶

The frustration expressed by Kowezsko is similar to the growing sentiments of law enforcement representatives around the world. Those who work for law enforcement and security agencies are employees of the State, and as such, are defenders of the *status quo*. They simply do not possess the resources or the traditions of ingenuity that the criminal organizations do. The problem lies in the difference in law enforcement and criminal mentalities. Law enforcement agents study clues and evidence—signs of the past. Criminals work in the moment, creating new tools and methods daily. Accordingly, law enforcement agents do not think like criminals, and can only react to the criminals. This pattern was evidenced in Germany.

Germany was an ideal site for the mingling of criminal organizations. Not only was Germany's location on the frontier of Western and Eastern Europe ideal, but ever since World War II, the powers of Germany's law enforcement agencies were also considerably weakened. Accordingly, Germany presented a combination of a Western European locale with a reduced law enforcement presence similar to that of the former Soviet Union. Sterling writes:

Apart from its wealth and power, Germany had strict bank secrecy, no currency controls, unbending rules protecting privacy, a severely hobbled police force, unwary politicians, Europe's most hospitable laws of asylum, and a commanding geographical position astride the Continent. Its borders were already down by mutual agreement with most of Western Europe; and after annexing ex-communist East Germany, its new border with Poland became a freeway to and from all Eastern Europe. Thus,

³⁶ As quoted by Sterling, 136-7.

before any other county in the West—and more intensely, continuously, and disastrously—Germany felt the full shockwaves of organized crime from the East.³⁷

Very quickly Germany realized it was being colonized by criminal organizations from around the world. For example, “in a single two-ton shipment of cocaine, German traffickers were entangled with those of eight other nationalities: Yugoslavia, Dutch, Austrian, Chinese, French, Venezuelan, Uruguayan, and Sicilian.”³⁸ It was not long before German law enforcement agencies saw that strange combination of evidence that proved the existence of alliances between transnational criminal organizations: crime rates were rising, without a rise in cross-organizational or cross-ethnic murders. Sterling quotes Jurgen Maurer, of the German BKA saying:

Mixed teams of various nationalities with a hundred members or more were emerging across [Germany]. They did heroin and cocaine, burglary, theft, prostitution, and so on, and they didn’t fight. ‘The killings are always within each of the big groups, not across lines. Italians kill Italians, Russians kill Russians, but they don’t kill each other.’³⁹

Nevertheless, the more telling evidence of criminal alliances was the incredibly dramatic rise of levels of crime in Germany:

[After the Berlin Wall fell] the crime rate doubled in Berlin in barely six months. Car thefts shot up to forty-six thousand over the next year and eighty-seven thousand the year after, nearly one in every five stolen all over Western Europe... Fraud, forgery, arson, smuggling, prostitution, gambling, and daytime burglary spread like a monstrous inkblot. A million stolen car radios were shipped out of the country in containers, bound for Poland, Russia, Hungary, and Czechoslovakia. One hundred and twenty-five thousand credit cards were filched.⁴⁰

³⁷ Sterling, 51-2.

³⁸ Ibid., 61-2.

³⁹ Ibid., 124.

⁴⁰ Ibid., 61.

In fact, although the Russians and criminals of seventy-eight other nationalities only represented only a fraction of Germany's five million resident foreigners, "they were now committing half the nation's crimes" as of 1993.⁴¹ This was the pattern that was beginning to be repeated over and over again around the globe, and this is why the transformation of criminal organizations is so dangerous: a few criminals enter a country, taking advantage of the legal particulars, and tremendously affect the crime rates for the worse. Narcotics trafficking earns tremendous profits for criminal organizations, which in turn can be used to purchase communications equipment, bribe officials, and fund criminal enterprises. The profits were so great and the criminals so proficient that in just a short time, transformed transnational criminal organizations are able to bring about a rise in crime that is disproportionate to the size of their organization.

THE GREASE BEHIND THE TRANSFORMATION OF ORGANIZED CRIME

While the transformation of organized crime was perhaps inevitable, it was greatly accelerated by the Russian mafia. The Russian mafia is unlike many other criminal organizations—it is smarter, more violent, more proficient, and in just a short time became truly global. In fact, in 1993, President Yeltsin estimated that "of the five thousand organized crime gangs emerging [in Russia] and in the rest of the ex-Soviet Union, one thousand were working with some foreign criminal."⁴² It appears the Russian mafia is particularly effective because not only did the years of harsh repression under the Soviet regime result

⁴¹ Ibid., 123.

⁴² Ibid., 34.

in better camouflaging of the criminal operations, but the abundance of Russia's natural resources and privatized industries provided the Russian mafia with an excellent resource base from which to operate.

To begin with, the structure of Russian criminal organizations was very unique. The traditional Italian model of a family-based hierarchy does not apply to the Russian mafiya. Relationships were formed through associations in the communist structure, in the military, or in prison. The structure is closer to that of a network than that of a hierarchy: a head or a few heads will oversee specialized groups, rather than passing instructions down a chain of command. Sterling explains the significance of this:

Unlike the Mafia in Sicily, [Russian organized crime] has no home seat or central command, no hierarchical structure, ancestral memories, common bloodlines, or sworn members. Yet its proliferating clans are invading every sphere of life, usurping political power, taking over state enterprises, fleecing the nation of its natural resources, engaging in extortion, theft, forgery, armed assault, contract killing, swindling, drug-running, arms smuggling, prostitution, gambling, loan-sharking, embezzling, money laundering, and black marketeering—all this on a monumental and increasingly international scale.⁴³

First, the lack of traditional structure allows the Russians to be more fluid in their operations. Second, the lack of a central command allows the Russians to create and execute plans more rapidly than other organizations. Third, the lack of a true history prevents the Russians from performing only certain actions—there are no *a priori* rules that limit new members.

Not only were the Russians structured in such a way so as to greatly increase their flexibility and ingenuity, members of Russian criminal organizations are often smarter, more violent, and more proficient than members

of other ethnic organizations. Sterling quotes a US Federal prosecutor, who said that members of Russian criminal organizations stand out because they are particularly “clever, ferocious, and pitiless.”⁴⁴ Jim Moody, the FBI’s organized crime chief, quipped, “John Gotti doesn’t have college-educated people and trained military officers like the Russian mafia does.”⁴⁵

Furthermore, Russia has witnessed higher murder rates of policemen than Sicily or Colombia ever saw: “186 in 1989, 193 the next year, 300 the year after, and as many again the year after that. Another 719 were attacked by gunmen in St. Petersburg alone in 1991.”⁴⁶ Few other organizations are as well armed as the Russian mafia, who took advantage of the collapsing Red Army and its willingness to sell anything not bolted down. “In the sixty-nine raids on their various arms caches during the last four months of 1992, police found 377 machine guns, 291 pistols, 195 bombs and rocket launchers, a ground-to-air missile, all made in Russia or elsewhere in Eastern Europe, alone with over a ton of explosives and a half mile of fuse.”⁴⁷

The Russian mafia has also gone global, working in many regions, and aligned with many organizations. “In 1993, the Russian mafia turned up in Sweden, Belgium, Holland, Luxembourg, Britain, and several North American cities. The American mafia appeared in Russia. The Sicilian mafia was also in Russia, working with both the Russians and the Americans.”⁴⁸

⁴³ Ibid., 91.

⁴⁴ Ibid., 43

⁴⁵ Ibid., 162.

⁴⁶ Ibid., 95.

⁴⁷ Ibid., 88-9.

⁴⁸ Ibid., 117.

Therefore, it should be no surprise that with this combination of brain and brawn, the Russian mafia is committing criminal acts on an unprecedented scale. Sterling quotes an FBI special agent in New York, who said, “The Russians add a zero to anything that anyone else thinks of. Their [five] billion dollar scam in California was the largest health insurance fraud in US history.”⁴⁹ What is most frightening about the Russian mafia, however, is that, as models of the transformed transnational organized criminals, “they are talented enough and frightening enough to have achieved in two or three years what the others achieved in twenty or a hundred.”⁵⁰

TRANSFORMED TRANSNATIONAL ORGANIZED CRIME IN AMERICA

The previously mentioned fuel tax fraud organized between the Russians and the LCN (see pp. 8-9) serves fairly well as an example of how transformed transnational organized criminals operate in America. The LCN, as the first criminal organization to establish itself across America is recognized by others as the superior partner to align with in America. A typical example of how such an alliance would be formed would be as follows. First, a powerful group and an even more powerful leader will arrive in America, usually camouflaging themselves in émigré communities. That group will then build connections between America and the home country. Such a man was Vyacheslav “Yaponchik” Ivankov. He arrived in America, and

much as Lucky Luciano did with the American mafia sixty-odd years ago, Yaponchik [turned] an assortment of unruly and loosely articulated

⁴⁹ Ibid., 164.

⁵⁰ Ibid., 16.

Russian gangs on American soil into a modern, nationwide, crime corporation. Doubtless as Luciano would also have done in these changing times, he [slowly built] a chain from Moscow to the United States and back.⁵¹

Such groups will then pay tribute to the local LCN families for the privilege to work in that area. In return, the LCN guarantees access to resources and protection. Such alliances with the LCN have become common in America.

‘Most [American gangs] hire out to Cosa Nostra or pay it tribute. Hell’s Angels are its working partners,’ the FBI declares. Cosa Nostra’s Chicago Family employs Mexicans, Puerto Ricans, and Colombians. New York’s Families collect a tax from Cubans handling the numbers game in Harlem and Russian crooks in Brighton Beach. The Philadelphia Family collects a street tax from any criminal band trying to work there.⁵²

Such an alliance with the LCN makes sense for the criminal organizations, as no other group in America has a nationwide infrastructure that includes communications, intelligence, and corrupt cops and legal officials. The FBI says:

In exchange [for paying tribute, criminal organizations] ‘utilize Cosa Nostra connections to penetrate the country’s law enforcement and judicial communities through long-established Cosa Nostra contacts.’ The fact that Cosa Nostra gives them access to its private collection of corrupt judges and cops suggests extraordinary levels of complicity.⁵³

Like Adam Smith described, the criminal world (arguably capitalism at its purest) has been divided according to specialization of labor. Alliances form where proven resources or skills can be tapped to increase a market or increase profit. By working together, all the groups involved make more money, and do so in such a manner that the lack of violence between groups prevents law enforcement agencies from immediately discovering the alliances. Examples of

⁵¹ Sterling, 16, again quoting Jim Moody of the FBI.

⁵² Ibid., 150.

this are popping up around the world. First, “the Chinese illegals in Naples produced counterfeit French perfume in bottles made in Spain, with faux Chanel perfume made in Mexico, and covered in gold wrappings and labels printed in Belgium.”⁵⁴ Second,

In February 1998, the Colombian magazine *Semana* described the widespread links of the Russian mafias with the Cali Cartel. *Semana*, quoting Russian sources, spoke of over 4,000 Russian groups... The Russians could offer the Colombians several things: sophisticated weapons, contacts in New York, Miami, Puerto Rico, and several Caribbean offshore banking centers (Antigua, Aruba, St. Vincent), as well as a cocaine-for-heroin exchange agreement in Europe.⁵⁵

When the European Union was created and the Soviet Union collapsed, the world believed globalization of the capitalist markets would emerge and thrive. It has emerged, and it is thriving; however, a large part of it is being driven by criminal enterprises.

The goal of the transformed transnational criminal organizations is the same as that of the Italian “mafia-entrepreneur”: the accumulation of wealth. However, due to the tremendous amounts of wealth being generated by the transformed transnational criminal organizations, money laundering is quickly becoming one of the world’s largest businesses. It is perhaps in this arena that organized criminals need to have the greatest ingenuity, because while laws surrounding law enforcement are slow to change, banking laws change with some frequency. Nevertheless, because criminals are sharing information, proven methods of money laundering are still being used, the most common of which is

⁵³ As quoted by Sterling, 151.

⁵⁴ *Ibid.*, 164.

investment in legitimate businesses and natural resources. Perhaps because most of Russia is not only still up for sale but the Russian State is also looking to sell its natural resources so as to generate funds, criminals do much of their investing in Russia.

In particular, the [Russian] mafia, the Yakuza, the Colombians, and the Turks were investing in government bonds, real estate, building societies, hotels and casinos, finance and leasing companies, and banks and insurance companies. They were buying up airlines and trucking concerns to handle their own distribution, acquiring shares in newspapers and radio and TV stations, and donating to political parties.⁵⁶

Tatjana Korjagina, the Russian Interior Ministry's top social economist and leader of the first Parliamentary Anti-Mafia Commission in Soviet or Russian history, proffered a startling fact:

The Yeltsin government [was] selling state enterprises amounting to ninety-two billion rubles [in 1993]. Organized crime is putting fifty-two billion rubles through the banking system. So the mafia can buy up more than half.⁵⁷

But this form of money laundering is just the beginning. Legitimate businesses can only make so much profit. The transformed transnational criminal organization is always looking for a better return on his investment. It is only a matter of time until a transformed transnational criminal organization purchases not just a state enterprise, but a state itself. After all, as a Russian State prosecutor said, "buying a national economy is not a criminal offense."⁵⁸ To create a "kleptocracy" would be the ultimate goal of any transformed criminal

⁵⁵ Maingot, Anthony P. "The Decentralization Imperative and Caribbean Criminal Enterprises," *Transnational Crime in the Americas: An Inter-American Dialogue Book*, Ed. Tom Farer, New York: Routledge, 1999, 145.

⁵⁶ Sterling, 62.

⁵⁷ As quoted by Sterling, 99.

⁵⁸ As quoted by Sterling, 37.

organization, as a state would present the biggest and best opportunity to amass a tremendous amount of wealth.

In perfecting their skills as “mafia-entrepreneurs,” criminal organizations have, on the whole, greatly professionalized their outfits in recent years. In some very important ways, transformed transnational criminal organizations resemble transnational corporations. Robinson writes:

transnational criminal organizations approach logistics, personnel, and accounting professionally. They research and develop new products. They hire experts to guide them through the complex and ever-changing maze of legal issues, marketing techniques, and all things financial. They understand cost flow, reinvestment, franchising, time management, and risk management. They have learned to construct and maintain networks of front companies, to negotiate prices, to decide delivery methods, to set schedules of payment and to build into all of this a philosophy that takes into account future market developments.⁵⁹

It appears as if the shadow economy is modeling itself on the real economy. This intersection of crime and business is not a new idea. W.J. Chambliss first compared crime and business in 1978, when he said “one of the reasons we fail to understand crime is because we put crime into a category that is separate from normal business. Much crime does not fit into a separate category. It is primarily a business activity.”⁶⁰ As will be discussed later, one way of attacking transformed transnational criminal organizations is by treating it as a business and attacking its funds and assets.

Furthermore, not only are criminal organizations becoming more professional, but they are also becoming more proficient legally and technically. For example, when Russian groups come to America, they “hire ex-intelligence

⁵⁹ Robinson, 20.

⁶⁰ As quoted by Wright, 77. W.J. Chambliss, On the Take, Bloomington: Indiana University Press, 1978.

officers who are familiar with the ways of Western law enforcement. They hire lawyers and bankers who are conversant in international law and finance.”⁶¹ In order to keep track of chapters spread across the globe, the Hell’s Angels “are linked with a communications network that is technically superior to anything found in all but the richest police forces. Each chapter also has a designated intelligence officer...Membership is strictly controlled...and dues are paid.”⁶² Criminal organizations are heavily recruiting so as to make themselves more efficient and effective. Again, as predicted by Adam Smith, these organizations are seeking to improve division and specialization of labor so as to improve and expand their organizations. Robinson believes that when organizations become more professional, it can indirectly lead to alliances. Just as the world is seeing mergers and joint-venture projects among transnational companies, transnational criminal organizations are performing mergers for the same reasons. However, these are “joint-ventures” of a very specific kind. They are of a one-time, disposable nature.

Working together “minimize[s] their risk, eliminate[s] competition, and maximize[s] profit.”⁶³ And as far as greed is concerned, as long as the job produces enough profit, organizations are unlikely to turn it down. Furthermore, what makes these alliances so difficult to study or prevent is that they exist for only a short time. Robinson quotes Michael Sika, director general of the Austrian Interior Ministry, who says, “they cooperate for only one or two crimes, then go on their own way...When the crime is over, they disappear. They form

⁶¹ Ibid., 95.

⁶² Ibid., 319.

another alliance for the next crime.”⁶⁴ In fact, issues of trust seem almost irrelevant because it appears as if criminal organizations “will cooperate with any other group to make money. It doesn’t matter to them whether they’re Vietnamese, Laotian, Fukienese, Taiwanese, Hell’s Angels, or even the [La Cosa Nostra]...it’s the deal that matters, not the dealer.”⁶⁵

THE RESPONSE OF LAW ENFORCEMENT TO THE TRANSFORMATION

While working to counter the effects of the transformation of transnational organized crime, the largest problem law enforcement agencies around the world are facing is that of outdated conceptions and goals. Robinson writes:

As long as we live in a world where a seventeenth-century philosophy of sovereignty is reinforced with an eighteenth-century judicial model, defended by a nineteenth-century concept of law enforcement that is still trying to come to terms with twentieth-century technology, the twenty-first century will belong to the transnational criminals.⁶⁶

Because criminal organizations, by definition, work outside of the state, they are in search of what is new: new weaknesses of the state, new means to operate within the state, and new ways to exploit the state. Law enforcement agencies, on the other hand, are tools of the state, and must therefore work within bureaucracies, which slows down not only methods of law enforcement, but also its evolution. Sterling writes:

While the big crime syndicates simply go where the money is, sovereign states cannot do anything simply. If they go down in dismal defeat in the

⁶³ Ibid., 171.

⁶⁴ Ibid., 173.

⁶⁵ Ibid., 306.

⁶⁶ Ibid., 19.

war against crime, it will be largely because they are hampered by all the baggage of statehood—patriotism, politics, accountable governments, human rights, legal structures, international conventions, bureaucracy, and diplomacy—whereas the big criminal syndicates have no national allegiances, no laws but their own, and no frontiers.⁶⁷

While it will not be necessary to do away with all of those things to ensure a victory in the war on crime, Sterling does recognize many of the hindrances law enforcement agencies face. However, overcoming those hindrances and evolving in a manner similar to the transnational criminal organizations will be required if law enforcement agencies wish to defeat the criminals.

The first hindrance law enforcement must overcome is that of an unwillingness to work together or create common legal frameworks. This unwillingness stems from two sources. First law enforcement agencies have historically been overly protective of their jurisdictions, duties, and missions (making international cooperation that much more difficult). Sterling writes:

Most police agencies dislike sharing information on principle, in or out of their own countries. Few have a compelling interest in crimes beyond their jurisdiction. Even within their jurisdiction, what generally matters most is not so much the nature of the crime as the score: numbers of arrests, convictions, citations, commendations, and promotions. Sharing information across borders is often restricted by national policy. Some [EU] states require disclosure in an ongoing investigation; others will not pass on information that might be disclosed to a suspect. Some permit relatively free exchange through authorized channels; others forbid it.⁶⁸

Second, a fear of decreasing national sovereignty makes states reluctant to change the operating procedures of domestic agencies so as to meet international norms. A law enforcement agency's mission, its jurisdiction, and its limitations are all products of historical needs and actions. Because of a desire to hold onto

⁶⁷ Sterling, 244.

⁶⁸ *Ibid.*, 247.

that historical identity, law enforcement agencies are radically different. For example, German law enforcement agents

Could not use any instrument of surveillance, even binoculars, unless its use was specified by law; anything else was an invasion of privacy. They could not hire non-German agents to deal with crooks who spoke no German. They could not bug a hotel room under any circumstances or even make practical use of an undercover agent. Undercovers were still forbidden to commit any criminal act such as trespassing or playing a hand of poker with the mob.⁶⁹

Second, Japan has “total bank secrecy, and identifying Yakuza gangsters is scarcely easier. Since they have been known to sue the Japanese National Police for releasing information to US officials, not much help comes from those quarters.”⁷⁰ Lastly,

Foreigners and citizens alike had a sacrosanct right to privacy [in Brussels]: no phone taps, no bugs in the wall, no electronic devices tracking a suspect’s van, and not many bank controls either. Therefore, the Sicilian Mafia and the Cali cartel were using Brussels as headquarters for a huge cocaine ring.⁷¹

After all, all of Europe will face drastic consequences, as long as

No two [EU] countries have matching laws on the sale, possession, or use of drugs, or on distinctions between soft and hard varieties, or surveillance of suspected traffickers, exchange of police information, controlled deliveries, permissible courtroom evidence, and prison terms. They cannot even agree on harmonizing police radio frequencies, still less on a common policy of extradition among themselves.⁷²

Much like the transformed transnational criminal organizations’ specialization of labor, they seek a “specialization of law”: transformed criminal organizations will only commit certain crimes in certain countries, where risk is substantially lower. Law enforcement agencies will repeatedly find themselves the prisoners

⁶⁹ Ibid., 126.

⁷⁰ Ibid., 155.

⁷¹ Ibid., 139.

of their own rules and jurisdictions, unless they can overcome rivalries and outdated habits of international competition rather than cooperation.

In his book, *The New War: The Web of Crime That Threatens America's Security*, US Senator John Kerry, having come to many of the same conclusions as this paper, suggests several tactics to overcome these rivalries and international differences of various law enforcement agencies. His overall strategy is to create international norms that, at a minimum, nations can agree to, so as to increase their ability to investigate, charge, and disrupt transnational criminals. He writes, "We simply must realize that the world's patchwork quilt of legal systems is as much an anachronism as carbon paper. A working system of laws to combat transnational crime must be hammered out among nations of good will."⁷³ However, before he begins describing his system of sticks and carrots that would prod the international community into action, Kerry details the complexity of the legal issues that must be grappled with:

How do you make a case against a person who plans a crime in New York against British nationals living in Guatemala, when the crime is committed by Panamanians? Who is going to prosecute that crime? The British can't do it because nothing has happened in Britain. The United States can't do it because no one was hurt here. The Guatemalans don't have the capacity, and the Panamanians have no interest in it.⁷⁴

As complicated and overwhelming as that scenario sounds, it is not impossible to overcome, for it is not without precedent. Much like the world is facing now with the spread of transnational criminal organizations, so too did the US once

⁷² Ibid., 246.

⁷³ Kerry, John. *The New War: The Web of Crime That Threatens America's Security*. New York: Simon & Schuster, 1997, 171.

⁷⁴ Ibid., 172.

face a similar disunited system of law enforcement. Kerry quotes Jack A. Blum, a lawyer who specializes in international criminal law, who said:

The movie *Bonnie and Clyde* has a scene in which the pair wave goodbye to the Oklahoma state police as they cross the line into Texas. As a result of the experience of the 1930s, when interstate movement of criminals increased, the United States began to develop criminal laws at the federal level. For the first time, the federal government began to run national law enforcement agencies that could follow the criminals wherever they went. The agencies could also cooperate with and coordinate, the activities of state and local jurisdictions. Today the world law enforcement system is where the United States was in the 1920s.⁷⁵

However, Kerry understands that nations are unwilling to subjugate their law enforcement agents to international cops. Instead of subjugation, Kerry stresses the need or coordination and cooperation.

Rethinking sovereignty should not mean less local control or less local responsibility for law enforcement. It means finding ways to bridge national borders through the creation of minimum standards, which all nations much achieve. Nations must agree both on a consistent system of laws and a consistent system of punishment.⁷⁶

Kerry describes three areas in which nations must come to some agreement: the seizure and possible sharing of criminal assets, the transfer of legal standards across borders, and treating certain states as “sponsors of crime.”

Kerry’s first tactic in combating transnational criminal organizations is to attack their assets and sources of funding. “Reengineering international law requires us to recognize that not only must criminals small and large be apprehended, but also their systems must be attacked at the vital choke points. And that means going after what motivates all criminal activity in the first

⁷⁵ As quoted by Kerry, 172.

⁷⁶ Ibid., 187.

place—the money.”⁷⁷ As has been discussed previously, it is useful to think of transnational criminal organizations as business enterprises. And, as such, one would disrupt them much like businesses are disrupted—by freezing and seizing assets. By seizing these assets, not only can the world can disrupt criminal organizations, but by also sharing the seized assets, countries can be rewarded for helping disrupt those organizations. Because many countries that are victims of transnational crime could make great use of the millions of dollars in seized assets, this tactic could be used as a powerful incentive in garnering international support for the war on crime.

However, sharing seized assets is not without drawbacks. For example:

Between 1989 and December 1995 the international asset-sharing program resulted in the forfeiture in the United States of a little less than \$125 million (\$124,679,340.22, to be exact to the penny). Over \$40 million was shared with foreign governments that had cooperated in the investigations.... [However,] so far, asset sharing has been pretty much a one-way street, with only Switzerland, the Isle of Jersey, and the United Kingdom having shared forfeited assets with the United States.⁷⁸

Second, criminals who possess large assets should not be able to “buy” a reduced sentence with them.

In *The New York Times* of March 19, 1996, which, in an article entitled ‘When Drug Kingpins Fall, Illicit Assets Buy a Cushion,’ identified the problem: ‘... defendants are often able to negotiate lighter sentences by offering to lead prosecutors to property hidden around the world, or by promising not to put up lengthy court challenges to the forfeitures... Defendants who have succeeded at crime can essentially buy down their sentences, while those who have never made it big have no bargaining chips.’⁷⁹

⁷⁷ Ibid., 176.

⁷⁸ Ibid., 177.

⁷⁹ As quoted by Kerry, 177.

Forfeiture must be automatic and without bias if it is to be effective. Lastly, while asset sharing may be effecting in obtaining the help of many nations, it will not sway every nation. “It is not going to appeal to what we have termed ‘Criminal states’ or ‘sovereignties for sale.’ Such states will perceive no interest in seizing criminal assets. On the contrary, their very existence is predicated on the protection of such assets.”⁸⁰ However, as will be discussed later, Kerry will suggest tactics to deal with these states.

On the whole, asset seizure and sharing is, at best, only a first step. Those states in need of additional assets will aid in the war on crime. However, these assets are limited, and states may have to wait for some time until they see any of the assets. Additionally, this tactic may be seen by the international community as an attempt by the US to buy the support of other nations. Nevertheless, should many nations wish to join the asset-sharing plan, it could prove quite effective.

Kerry’s second suggestion is to transferring legal standards across borders. That is to say, for example, if a criminal of Russian citizenship commits a crime in America, the legal process would be greatly simplified if a court could try the individual in America, but under Russian law. Kerry writes:

When a foreign national is arrested here, we must consider importing the criminal law of that person’s country and applying it in the United States, so that we can prosecute to the fullest in one location.... We do this today in civil cases under choice-of-law rules, and rather than witness international jurisdictional gridlock, which results in a crime going unpunished, we should strive for reasonable practicality.... We need to consider experimenting with our closet partners in a system that sets up special courts to try cases at home involving victims abroad. In such cases, which would be accepted only by agreement between both nations,

⁸⁰ Ibid., 179.

trials could take place wherever the evidence and witnesses are located, applying the laws of the country where the crime took place.⁸¹

Kerry believes that this gap in jurisdiction have long since stopped making sense because people no longer have to stay in their home country most of the time, because the costs and time of travel are no longer prohibitive—it is quite common to find people living and working internationally.⁸² However, in this international age of globalization, nations cannot afford not to begin acting on an international level. “A world moving towards a seamless web of commerce cannot protect itself without enforceable law and standards that are almost equally as seamless.”⁸³

Such courts may be effective in accelerating the punishment of transnational criminals, yet they will be extraordinarily difficult to create, particularly in the United States, where any impingement upon sovereignty is regarded with great suspicion. While perhaps effective in theory, such courts are likely to be severely limited in practice. In order to overcome the suspicion and limitations, these courts would have to prosecute a series of large-scale cases so that the public, and the world for that matter, can readily see how important and effective they can be. While an asset-sharing plan is easy to create and implement, these courts are unlikely to be seen in the near future.

⁸¹ Ibid., 173, 182.

⁸² Ibid., 189.

⁸³ Ibid., 172.

Kerry's third and final suggestion is to create a definition of a "state sponsor of criminality," that includes a list of sanctions that can be applied to those that fit the definition.⁸⁴

We have to recognize in the area of crime, just as we have in terrorism, that there are such things as 'state sponsors of criminality'—some by intention, others by neglect. In the same way we have, as policy required, worked to isolate state sponsors of terrorism, we must be prepared to isolate state sponsors of criminality.⁸⁵

This tactic is related to Kerry's earlier suggestion of seizing criminals' assets, as most of the means suggested to isolate these countries are economic.

We prohibit American companies from doing any business with known foreign-based criminal enterprises or their fronts. We refuse anyone associated with those organizations the right to travel to the United States, do business here, or use any of our institutions, banks, etc. Moreover, we must go after the dirty money, closing down the offshore financial centers that shelter and launder criminal profits... We could refuse to allow pirate financiers to repatriate US currency, or impose customs limitations on their trade and search all their cargoes, or forbid Americans to do business in these countries, much as they are not forbidden to trade in the outlaw states of Cuba, Iraq, and North Korea.⁸⁶

While these sanctions are impressive and would be at least somewhat effective in deterring states from harboring criminals, such sanctions have been historically easy to violate. Criminals are exceedingly proficient at hiding their connections with businesses. Money launderers are using increasingly complex methods to disguise the sources of fortunes, as well as increasingly large numbers of safehavens. Furthermore, US Customs and Immigration agencies are not foolproof, as America learned on September eleventh. To assume that these

⁸⁴ Ibid., 173.

⁸⁵ Ibid., 173.

⁸⁶ Ibid., 179.

agencies would be able to completely prevent the influx of transnational criminals is naïve at best and dangerous at worst.

While the above suggestions might prove fruitful in the future, actions are needed now that are practical and effective, such as joint operations between law enforcement agencies from around the world. Originally, Interpol was created to provide just such a means of interaction and cooperation; however, it has proven ineffective. The world has rejected an international police force.

Interpol does nothing more than exchange information—it does not house a single ‘globo-cop’ with the power to investigate. Every investigation that takes place of any crime anywhere in the world is still done by the police of one country or another. We face two stark alternatives in responding to this problem: either we create a new kind of global supercop with the ability to investigate across borders, or we accept much broader notions of what is known in international law as extraterritoriality. The risks of creating a team of global supercops are obvious: Who would guard the guardians? How could such a team be simultaneously responsible for living within the laws and rules of individual countries? Wouldn’t this truly be giving up our national sovereignties in a way that our people would be bound to find offensive and unacceptable? The European Union has already faced this question over the past for years [1993-1997], during which it has tried, and failed, to create a Europol with jurisdiction to investigate crimes throughout Europe... Indeed, in some cases, European cooperation against crime has actually taken a step backward because of the anxieties raised by making crime fighting a European mission rather than a national one.⁸⁷

Rather than creating a single supranational law enforcement agency, the United States has begun to send representatives of its domestic agencies abroad. This tactic has proven extremely prolific and effective. Furthermore, by fostering beneficial relationships between the law enforcement agencies of the United States, and those of other nations, the world may well be on its way to establishing the means to implement Kerry’s aforementioned tactics.

⁸⁷ Ibid., 188.

In fact, the United States has taken the lead in international law enforcement cooperation. Ethan Nadelmann writes:

[Other than the United States,] no other government maintains law enforcement representatives in so many foreign countries. No other government possesses such a multitude of law enforcement agencies, each with its own reasons for operating and locating abroad. And no other government has exercised such a powerful influence during this century on criminal laws, procedures, and investigatory tactics of other countries.⁸⁸

This program has become quite prolific:

In addition to the FBI, we have agents based around the world representing US Customs, our immigration service, our Drug Enforcement Administration, our Secret Service, our coast guard, and even our Internal Revenue Service. [As of 1997,] altogether, some two thousand US law enforcement agents are now based outside the United States at our missions around the world, acting as liaisons between local law-enforcement agencies and US federal law enforcement.⁸⁹

It is important to focus on the relationship US agents have with those of foreign agents. The relationship is one of partnership and cooperation, not of superior and inferior. The US is working with agents of foreign countries to improve their techniques and knowledge, as well as forming personal relationships with the foreign law enforcement agencies. As will be discussed later, these relationships will be crucial to the formation and implementation of Kerry's tactics, or those like them.

The US law enforcement liaison program has proven to be quite effective.

Though recent in inception and still limited in scope, the [FBI's] legat program has already scored some impressive successes. The Italian government's attack on the mafia, spearheaded by Judge Giovanni Falcone, received considerable aid from Legat Rome, which secured

⁸⁸ Nadelmann, Ethan. "The Americanization of Global Law Enforcement: The Diffusion of American Tactics and Personnel," Crime and Law Enforcement in the Global Village. Ed. William McDonald. New York: Anderson, 1997, 124.

⁸⁹ Kerry, 186.

testimony and evidence from witnesses in the United States. In turn, the federal prosecution of the major mafia crime families in the northeastern United States could not have succeeded to the extent it did without the extensive cooperation of the Italian police and investigating magistrates, with Judge Falcone again playing a leading role. Legat Moscow, officially opened on July 4, 1994, has worked closely with the Russian Ministry of Internal Affairs (MVD). That cooperation was instrumental in the arrest of Vyacheslav Ivankov, known as Yaponchik, considered the most important Russian organized crime figure in the United States. Legat Moscow played a pivotal role in the March 1995 arrest in the United Kingdom of a St. Petersburg gang that had penetrated the computers of a major bank in New York, and transferred \$10 million to dummy accounts. In November 1994, Legat Moscow, working with the Russian authorities, uncovered an illicit shipment of \$250 million in diamonds en route to San Francisco.⁹⁰

The *quid pro quo* nature of the liaison relationship between US and foreign law enforcement agencies is important, in that it will provide a solid grounding for any future international relationships. The more successes the relationships yield, the more likely the relationship is to continue, and herein lies the ironic twist. For the most part, law enforcement agencies have changed and modernized using methods similar to that of the criminals. However, while the criminal alliances come together only for single operations, the alliances formed by law enforcement agencies are far more permanent in nature.

Multilateral strategy means building a web of human relationships—cop to cop, judge to judge, diplomat to diplomat, intelligence analyst to intelligence analyst—that is united by a set of common concerns. Those relationships must transcend individual cases and go on for years. To build these relationships will require nothing less than a full and deliberate commitment by every legitimate government to making the rule of civilized law the dominant force on the planet.⁹¹

Recall that criminal organizations began to trust each other as a matter of survival—removed from general society, if the criminals were going to maintain

⁹⁰ Ibid., 185.

⁹¹ Ibid., 181.

their lifestyle, trust would have to be built between organizations. And, eventually, a great deal of trust was built, and with surprising results. Perhaps as criminals increase in power, it will be the survival of democracies and law enforcement as we know them that will come into question. Perhaps then, law enforcement agencies will begin to trust each other, and new power alliances will be created, this time for the benefit of the world, and not for its plundering.

CONCLUSIONS

With the creation of the European Union and the collapse of the Soviet Union, the world believed that globalization and capitalist markets would prosper. However, it appears that a darker, anti-globalization of criminal capitalism seems to be prospering most of all. The world has been transformed; however, in this brave new world the robbers are far outpacing the cops: transformed transnational criminal organizations are increasing in number, ability, and scope, and with them comes the rise of narco-business, narco-states, and kleptocracies. Criminals have always used creativity to their advantage. It appears as if their latest creative move is to unite globally, by decreasing cross-organization violence and by pooling resources. The result is twofold: a dramatic rise in crime disproportionate to the number of criminals, and the ability to not only escape detection of law enforcement agencies, but also the ability to prevent persecution by using the agencies' laws against them.

However, just as criminal organizations are combining in surprising ways so as to maximize efficiency and effectiveness, so to are law enforcement

agencies. Just as only the most well known representatives of criminal organizations could forge alliances, so too has it taken the well known representatives of the FBI and DEA to create the alliances among law enforcement agencies. And just as alliances that are now global once began as personal relationships between two parties, so too will law enforcement agencies soon have networks and partnerships that will be truly global and operate seamlessly.

The short-term outlook does appear grim, and transnational crime is likely to increase in the next decade. And perhaps the world does represent the United States of the 1920s. But the long-term outlook appears quite hopeful, because it is only a matter of time until we the Elliot Nesses and Giovanni Falcones of the world becoming more common and more united so as to bring down the Al Capones and the Vyacheslav Ivankovs of the world.

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