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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 police 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. They can harm U.S. citizens without ever having a physical presence in the country via crimes such as cyber intrusions into corporate databases, theft of individual consumer credit card information, fencing of stolen merchandise online, and money laundering. 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 large-scale attack, they are far-reaching—impacting economic stability, public health and safety, and national security.

In July 2011, the Obama Administration issued its *Strategy to Combat Transnational Organized Crime*. It addresses the fact that federal investigation of organized crime matters has not historically been a centralized effort. Regardless, there still 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 many federal agencies. As such, Congress may exert its oversight authority regarding the federal coordination of organized crime investigations via the 2011 strategy. 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. They see international borders as opportunities while law enforcement views them as obstacles. Criminals have expanded their range of tools and targets as well. 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

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.”

In July 2011, to address these and other issues, the Obama Administration issued its *Strategy to Combat Transnational Organized Crime (2011 Strategy)*. It described transnational organized crime (TOC) as a strategic threat to national security, laid out a definition of TOC, and set forth five policy objectives and six categories of priority actions in an attempt to devise a cohesive federal response to transnational organized crime.² 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.

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

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. (Hereinafter, Intelligence Committee Futures Working Group, *Futures*.)

² For details see *Strategy to Combat Transnational Organized Crime*, July 2011, http://www.whitehouse.gov/sites/default/files/Strategy_to_Combat_Transnational_Organized_Crime_July_2011.pdf. (Hereinafter, *Strategy to Combat Transnational Organized Crime*.)

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.

This report employs a broad conceptualization 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 a transnational dimension to them (which is a requirement under the guidelines of the 2011 Strategy), but they directly impact U.S. persons, businesses, and/or interests. While this conceptualization may be broader than the definition laid out in the 2011 Strategy, 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.

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 equals between 2% and 5% of world GDP.³ 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.⁴ 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.⁵ 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.

³ Moisés Naím, *Illicit: How Smugglers, Traffickers, and Copycats are Hijacking the Global Economy* (New York: Anchor Books, 2006) p. 16. (Hereinafter, Naím, *Illicit*.)

⁴ 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.

⁵ 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>. (Hereinafter, Chatterjee, *The Changing Structure*.)

Borders and Organized Crime

Modern organized criminals prey upon weaknesses in international transportation and customs security regimens.⁶ Border policing efforts have attempted to keep pace with the expansion of international commerce. Organized criminals attempting to smuggle goods, people, or information across borders also face enhanced border security regimens resulting from the terrorist attacks of 9/11. Regardless, 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 have hidden 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.⁷ 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 to smuggle their fake goods into the United States. As Moisés Naím has succinctly put it, most illicit trade involves copycats, smugglers, and traffickers.⁸ 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.⁹ 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.”¹⁰ 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.¹¹ 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.¹²

⁶ 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.

⁷ 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.

⁸ Naím, *Illicit*, pp. 1-8.

⁹ 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. (Hereinafter, Treverton et al., *Film Piracy*.)

¹⁰ 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>.

¹¹ Treverton et al., *Film Piracy*.

¹² Treverton et al., *Film Piracy*, p. 3; Deputy Assistant Attorney General Criminal Division, 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*, Department of

Counterfeiting and pirating goods¹³ involves the violation of intellectual property rights (IPR),¹⁴ 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.¹⁵

In FY2011, the domestic value¹⁶ of IPR-related law enforcement seizures of contraband in the United States was \$178.9 million, a 5% drop from the previous year.¹⁷ Federal officials attributed the decline to “a shift toward using international mail, express courier and consolidated shipping services to import counterfeit and pirated goods.”¹⁸ Products originating in China—both Mainland China and Hong Kong—accounted for 80% of these IPR seizures.¹⁹

Justice, Prepared Testimony “Protecting Intellectual Property Rights in a Global Economy: Current Trends and Future Challenges,” December 9, 2009, p. 2.

¹³ Government Accountability Office, *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>. (Hereinafter, Government Accountability Office, *Intellectual Property*.) The Government Accountability Office 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.”

¹⁴ Government Accountability Office, *Intellectual Property*, p. 5. The Government Accountability Office 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 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).”

¹⁵ Government Accountability Office, *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.

¹⁶According to Customs and Border Protection, “domestic value” is the “cost of the infringing merchandise when it was last purchased, including all duties, fees, broker’s charges, profit, unloading charges, and U.S. freight charges to bring the property to the importer’s premises.” See U.S. Customs and Border Protection, *Intellectual Property Rights: Fiscal Year 2011 Seizure Statistics*, p. 6, http://www.cbp.gov/linkhandler/cgov/trade/priority_trade/ipr/ipr_communications/seizure/ipr_seizures_fy2011.ctt/ipr_seizure_fy2011.pdf. (Hereinafter, Customs and Border Protection, *Intellectual Property Rights, 2011*.)

¹⁷ Ibid.

¹⁸ In FY2011, the number of seizures increased by 24% from FY2010—see Ibid. For quotation see http://www.cbp.gov/xp/cgov/trade/priority_trade/ipr/ipr_communications/seizure/.

¹⁹ Customs and Border Protection, *Intellectual Property Rights, 2011*, Table 6.

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,²⁰ 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 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.²¹

- In 2011, the Department of Justice (DOJ) brought a civil suit against a money laundering network with ties to Mexican drug traffickers and the terrorist group Hezbollah. The scheme reportedly involved used auto sales in the United States. The December 2011 suit targeted the Lebanese Canadian Bank (LCB) and two Lebanese exchange houses—the Hassan Ayash Exchange Co. and Ellissa Holding—regarding more than \$300 million that was allegedly part of a money laundering operation.²² DOJ also asserts that the money laundering network's U.S. operations included about 30 U.S. automobile buyers and a shipping firm.²³ In essence, the network reportedly commingled criminal proceeds held by LCB and the two exchange houses with other monies and transferred these funds to U.S. automobile buyers. The cash transfers supposedly paid for used car purchases in the United States. According to DOJ, the cars were then shipped to and sold in West Africa, and some of the profits returned to Hezbollah via LCB accounts and the exchange houses.²⁴

Human Smuggling and Trafficking

Criminal organizations are taking advantage of an unprecedented era of international migration, including illegal migration to the United States.²⁵ However, since 2007 illegal immigration to the United States has declined.²⁶ This may be attributable, in part, to dwindling job opportunities

²⁰ See "Stolen American Autos Clog the Mexican Market," *New York Times*, February 5, 1922, <http://query.nytimes.com/mem/archive-free/pdf?res=9D0DE5D71130EE3ABC4D53DFB4668389639EDE>.

²¹ Eva Dou, "New-York Based Theft Ring Shipped Hot Cars to Senegal," *Associated Press*, June 30, 2010.

²² Drug Enforcement Administration "Civil Suit Exposes Lebanese Money Laundering Scheme for Hizballah," press release, December 15, 2011, <http://www.justice.gov/dea/pubs/pressrel/pr121511.html>. (Hereinafter, Drug Enforcement Administration, "Civil Suit.") In February 2011, the Department of the Treasury identified LCB as a "Primary Money Laundering Concern" under Section 311 of the USA PATRIOT Act for its ties to reputed Lebanese drug trafficker Ayman Joumaa and to Hezbollah. Treasury also stated that "U.S. government information" indicated Hezbollah received support from Joumaa's criminal activities. See Department of the Treasury, "Treasury Acts to Protect the U.S. Financial System from Bank with Ties to a Global Narcotics Trafficking and Money Laundering Network and Hizballah," press release, February 10, 2011, <http://www.treasury.gov/press-center/press-releases/pages/tg1057.aspx>.

²³ Drug Enforcement Administration, "Civil Suit."

²⁴ Ibid; Jo Becker, "Beirut Bank Seen as a Hub of Hezbollah's Financing," *New York Times*, December 13, 2011, <http://www.nytimes.com/2011/12/14/world/middleeast/beirut-bank-seen-as-a-hub-of-hezbollahs-financing.html?pagewanted=all>.

²⁵ 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.

²⁶ Jeffrey S. Passel and D'Vera Cohn, *U.S. Unauthorized Immigration Flows Are Down Sharply Since Mid-Decade*,

resulting from the global recession and increased immigration enforcement activity along the U.S. Southwest border.²⁷ 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.²⁸ 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.”²⁹ At the start, Ping’s smuggling ring brought small numbers of villagers to the United 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.³⁰ 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.³¹

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.³² However, as the Government Accountability Office (GAO) has noted, estimates regarding the global scale of human trafficking are questionable;³³ 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.

Pew Hispanic Center, Report, Washington, DC, September 1, 2010, p. i, <http://pewhispanic.org/files/reports/126.pdf>.

²⁷ 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.

²⁸ 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>.

²⁹ Department of Justice, “Sister Ping Sentenced to 35 Years in Prison for Alien Smuggling, Hostage Taking, Money Laundering, and Ransom Proceeds Conspiracy,” press release, March 16, 2006, <http://www.justice.gov/usao/nys/pressreleases/March06/sisterpingsentencingpr.pdf>.

³⁰ *Ibid.*

³¹ Department of Justice, “Hudson County Bar Owner Pleads Guilty to Role in International Human Smuggling Ring,” press release, September 12, 2006.

³² Department of State, *Trafficking In Persons Report 2006*, June 2006, p. 13.

³³ Government Accountability Office, *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>.

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.³⁴ 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.³⁵ DOJ has also reported an uptick in Asian organized crime 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.³⁶ In September 2012, the Obama Administration expanded its anti-trafficking efforts, including training and guidance to federal prosecutors, judges, and law enforcement.³⁷

Drug Trafficking

In the last decade, cocaine has become a truly global commodity reacting to 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.³⁸ And some of the Mexican Gulf Cartel's smuggling activity involving European markets has used the United States as a transshipment point.³⁹

³⁴ 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>. For another case involving forced labor, see Department of Justice, "Uzbek Man Sentenced for Role in Multi-National Racketeering and Forced Labor Enterprise," press release, May 9, 2011, <http://www.justice.gov/opa/pr/2011/May/11-crt-589.html>.

³⁵ Department of Justice, "Four Defendants Sentenced to Prison in Human Trafficking Ring," press release, April 28, 2010, <http://www.justice.gov/usao/gan/press/2010/04-28-10.pdf>.

³⁶ Comments by DOJ officials at the 2010 National Conference on Human Trafficking, May 3–5, Arlington, VA.

³⁷ See <http://www.whitehouse.gov/the-press-office/2012/09/25/fact-sheet-obama-administration-announces-efforts-combat-human-trafficki>.

³⁸ Mark Townsend, "How Liverpool Docks Became a Hub of Europe's Deadly Cocaine Trade," *The Guardian*, May 16, 2010.

³⁹ Michele M. Leonhart, DEA Acting Administrator, "Prepared Remarks: Project Reckoning Press Conference," September 17, 2008.

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.⁴⁰

While the story of globalized drug smuggling impacting the United States often revolves around big 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. Also, partly because international communications, travel, and transportation networks are readily exploitable, large-scale Latin American drug trafficking organizations are not the only ones to have significant worldwide reach.

- In November 2012, U.S. Immigration and Customs Enforcement (ICE) announced the extradition of a reputed criminal syndicate leader from Albania to the United States. According to ICE, Arif Kurti led an organization with hundreds of members that allegedly imported tens of thousands of kilograms of hydroponic marijuana into the United States from Canada and Mexico. The group also supposedly smuggled the drug ecstasy (MDMA, 3,4-methylenedioxy-N-methylamphetamine) into the United States from the Netherlands and Canada as well as cocaine from Mexico, Colombia, Venezuela, and Peru. Additionally, ICE asserts that Arif's network diverted prescription pills, such as oxycodone. The group is said to have distributed the narcotics throughout the United States, Canada, and Europe.⁴¹
- In another case, Phuong Thi Tran pled 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.⁴²

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

⁴⁰ Office of National Drug Control Policy, "Survey Shows Significant Drop in Cocaine Production in Colombia," press release, July 30, 2012, <http://www.whitehouse.gov/ondcp/news-releases-remarks/survey-shows-significant-drop-in-cocaine-production-in-colombia>; Office of National Drug Control Policy, "Update: New Data Show Cocaine Market Remains Under Significant Stress," press release, June 16, 2011, http://www.whitehouse.gov/sites/default/files/ondcp/press-releases/20110617_new_data_show_cocaine_market_remains_under_significant_stress.pdf; National Drug Intelligence Center, *National Drug Threat Assessment*, February 2010, p. 29.

⁴¹ Immigration and Customs Enforcement, "Alleged Leader of Ethnic Albanian Organized Crime Syndicate Extradited to the US to Face Drug and Money Laundering Charges," press release, November 20, 2012, <http://www.ice.gov/news/releases/1211/121120newyork.htm>.

⁴² 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.

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.⁴³

- In June 2012, DOJ announced an indictment charging 14 defendants, including Miguel Angel Treviño Morales (Treviño), for laundering millions of dollars in drug trafficking proceeds in the United States. The scheme purportedly involved the racing of quarter horses.⁴⁴ According to DOJ, since 2008, Treviño—a leader within Los Zetas, a Mexican drug trafficking organization—oversaw the operation, which funneled money to his brother, José, in the United States. The indictment filed in the case asserts that José laundered drug proceeds by pretending to be a legitimate quarter horse breeder. He purchased, trained, and raced horses, relying on front companies to conceal the origin of the money used to fuel these efforts.⁴⁵

It is impossible to determine with any accuracy the amount of money that 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.⁴⁶ Annually, perhaps between \$20 billion and \$25 billion in bank notes is smuggled across the Southwest border into Mexico.⁴⁷ How much of this is profit and then laundered is unclear.⁴⁸

Bulk cash smuggling is an important means by which criminals move illegal profits from the United States into Mexico, but drug traffickers have also turned to stored-value cards⁴⁹ to secretly transport their illegal earnings. 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 crossing the border.⁵⁰ Aside from bulk cash smuggling and stored-value cards, Mexican traffickers move

⁴³ Brian Seymour, “Global Money Laundering,” *Journal of Applied Security Research*, vol. 3, no. 3-4 (2008), pp. 374-375. (Hereinafter, Seymour, “Global Money.”)

⁴⁴ American Quarter Horses are often raced over short distances and used at timed events at rodeos. See <http://aqha.com/About/Content-Pages/The-American-Quarter-Horse/Breed-Characteristics.aspx>.

⁴⁵ *United States vs. Miguel Angel Trevino Morales, et al.*, Indictment in the U.S. District Court for the Western District of Texas, filed May 30, 2012; Department of Justice, “Federal Grand Jury in Texas Indicts Los Zetas Leader in Money Laundering Scheme,” press release, June 12, 2012, <http://www.fbi.gov/sanantonio/press-releases/2012/federal-grand-jury-in-texas-indicts-los-zetas-leader-in-money-laundering-scheme>.

⁴⁶ 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. (Hereinafter, Blair, “Annual Threat Assessment.”)

⁴⁷ 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>.

⁴⁸ 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. (Hereinafter, Farah, *Money Laundering*.)

⁴⁹ A stored value card looks like a debit or credit card, but stores value directly on the card using magnetic strip technology.

⁵⁰ Current federal regulations regarding international transportation only apply to monetary instruments as defined under the Bank Secrecy Act. A stored value card is not, however, considered a monetary instrument under current law,

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.”⁵¹

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.⁵²

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.”⁵³ 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.”⁵⁴ One study has suggested that establishing a shell company is “easier in the U.S. than in the rest of the world.”⁵⁵

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.⁵⁶ Most U.S. states do not require owner information when companies are formed or even on annual or biennial reports.⁵⁷ 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 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

and thus is not subject to these international transportation regulations. The Financial Crimes Enforcement Network (FinCEN) has proposed to amend the definition of a monetary instrument to include stored value/prepaid access devices. See Department of the Treasury, Financial Crimes Enforcement Network, “31,” 76 *Federal Register* 64049, October 17, 2011.

⁵¹ Farah, *Money Laundering*, 23.

⁵² Seymour, “Global Money,” pp. 375-376.

⁵³ Government Accountability Office, *Company Formations: Minimal Ownership Information Is Collected and Available*, GAO-06-376, April 2006, p. 1, <http://www.gao.gov/new.items/d06376.pdf>. (Hereinafter GAO, *Company Formations*.)

⁵⁴ Jennifer Shasky Calvery, then-Senior Counsel to the Deputy Attorney General, 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. (Hereinafter, Shasky, “Examining State Business.”)

⁵⁵ Michael Findley, Daniel Nielson, Jason Sharman, *Global Shell Games: Testing Money Launderers’ and Terrorist Financiers’ Access to Shell Companies*, Centre for Governance and Public Policy, Griffith University, n.d., p. 17, http://www.anzso.edu.au/magma/media/upload/ckeditor/files/Global_Shell_Games_CGPP.pdf.

⁵⁶ GAO, *Company Formations*, p. 1.

⁵⁷ GAO, *Company Formations*, p. 13.

transactions.⁵⁸ Both Mexico's Sinaloa Cartel and alleged Eurasian organized crime figure Semion Mogilevich have likely used U.S. shell companies to launder money.⁵⁹

Organized Crime and Technological Change

Organized criminals have expanded their technological “toolkits.” They have adapted to incorporate technology-driven fraud into their capabilities.⁶⁰ 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,⁶¹ which debuted in the mid-1990s.⁶² 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.⁶³

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.⁶⁴

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.”⁶⁵

⁵⁸ Shasky, “Examining State Business,” pp. 4-5; Seymour, “Global Money,” p. 375.

⁵⁹ Jennifer Shasky, Senior Counsel to the Deputy Attorney General, 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. Legislation was introduced in the 111th and 112th Congresses (111th—S. 569, H.R. 6098; 112th—S. 1483, H.R. 3416) that would have established uniform requirements for states regarding beneficial ownership of public corporations and limited liability companies.

⁶⁰ 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. (Hereinafter, CISC, *2010 Report*.)

⁶¹ 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.

⁶² 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.

⁶³ George Anastasia, “Officials Charge Man Who Allegedly Ran Mob Gambling Website,” *Philadelphia Inquirer*, May 29, 2010.

⁶⁴ International Mass-Marketing Fraud Working Group (IMMFWG), *Mass-Marketing Fraud: A Threat Assessment*, June 2010, p. 3. (Hereinafter, 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.

⁶⁵ IMMFWG, *Mass Marketing Fraud*, p. 14.

- In December 2012, DOJ announced arrests in Romania, the Czech Republic, the United Kingdom, and Canada related to what the department described as an “international organized crime cyber fraud ring” that bilked victims of more than \$3 million.⁶⁶ DOJ asserts that the criminal network tricked U.S. consumers into sending it money by creating false advertisements for non-existent merchandise that the network’s operatives posted on websites such as eBay.com and Cars.com. Some of the individual instances of fraud allegedly perpetrated by the group entailed sham sellers with elaborate back stories—phony auto dealerships, fake websites, fraudulent documents (such as certificates of title), and authentic looking invoices from online payment services such as PayPal, for example.⁶⁷

“Boiler room” scams, one type of mass marketing 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.⁶⁸ 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.⁶⁹

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.⁷⁰ 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.⁷¹

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

⁶⁶ Department of Justice, “International Organized Crime Cyber Fraud Ring Responsible for Millions of Dollars in Fraud Dismantled,” press release, December 5, 2012, http://www.fbi.gov/newyork/press-releases/2012/international-organized-crime-cyber-fraud-ring-responsible-for-millions-of-dollars-in-fraud-dismantled?utm_campaign=email-Immediate&utm_medium=email&utm_source=new-york-press-releases&utm_content=159203.

⁶⁷ Ibid.

⁶⁸ IMMFWG, *Mass Marketing Fraud*, p. 14.

⁶⁹ Chad Bray, “FBI Raids Alleged Boiler Room,” *Wall Street Journal*, June 10, 2010.

⁷⁰ Federal Bureau of Investigation, “Common Fraud Schemes,” <http://www.fbi.gov/majcases/fraud/fraudschemes.htm>.

⁷¹ 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>.

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.⁷² 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 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.⁷³ The spamming networks involved often have short lives focusing on specific schemes.⁷⁴ Recent estimates suggest that AFF networks may have swindled over \$2 billion from U.S. companies and citizens in 2009.⁷⁵

- In July 2011, six defendants were sentenced for running an AFF scam that tricked U.S. sweepstakes participants into believing that they had won substantial cash prizes. This money would have purportedly been sent to the victims once they paid the required taxes and fees. Ultimately, there was no lottery prize, and the fraud netted about \$2 million.⁷⁶

Estimates indicate that today's AFF networks only need to dupe 1% of the people or businesses they reach to turn a profit.⁷⁷

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.⁷⁸ While this is a helpful distinction to draw for discussion

⁷² Harvey Glickman, "The Nigerian '419' Advance Fee Scams: Prank or Peril?," *Canadian Journal of African Studies*, vol. 39, no. 3 (2005), pp. 463-476.

⁷³ 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.

⁷⁴ 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.

⁷⁵ 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.

⁷⁶ Federal Bureau of Investigation, "Six Defendants Sentenced in Manhattan Federal Court for Their Involvement in a Multi-Million-Dollar Lottery Telemarketing Fraud Scheme," press release, July 1, 2011, <http://www.fbi.gov/newyork/press-releases/2011/six-defendants-sentenced-in-manhattan-federal-court-for-their-involvement-in-a-multi-million-dollar-lottery-telemarketing-fraud-scheme>.

⁷⁷ 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.

⁷⁸ 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

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, a study of 855 data breaches involving businesses around the globe in 2011 noted that “Organized criminals were up to their typical misdeeds and were behind the majority of [cases].”⁷⁹ They accounted for 83% of all breaches committed by actors outside of the targeted business or organization.⁸⁰

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.

Eurasian criminals in California have engaged in identity theft in which they leveraged 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.⁸¹ 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.⁸² Losses approached \$1.5 million.⁸³ In 2009, Las Vegas authorities also uncovered a skimming scheme complete with a credit card manufacturing lab.⁸⁴ This crew used skimmers that captured information from magnetic strips on credit cards as well as pin numbers using a camera.⁸⁵

Cyberspace: A Typology,” *Trends in Organized Crime*, vol. 11, no. 3 (September 2008), pp. 271.

⁷⁹ Verizon RISK (Researching, Investigating, Solutions, Knowledge) Team, *2012 Data Breach Investigations Report*, 2012, p. 3, http://www.verizonbusiness.com/resources/reports/rp_data-breach-investigations-report-2012_en_xg.pdf. The Australian Federal Police, Dutch National High Tech Crime Unit, Irish Reporting and Information Security Service, the United Kingdom’s Police Central e-Crime Unit, and United States Secret Service were involved in the study as well.

⁸⁰ *Ibid.*, p. 20.

⁸¹ Paul Teetor, “Russian or Armenian Mob Used ‘Model Employee’ Con at PCH Arco,” *LA Weekly*, June 18, 2009.

⁸² Lawrence Mower, “ID Theft Operation Outlined,” *Las Vegas Review-Journal*, December 8, 2008.

⁸³ “Eurasian Organized Crime Task Force Members Arrest 12 Individuals Following Federal Credit Card Fraud and Identity Theft Charges,” *States News Service*, December 9, 2008. See also: Department of Justice, “Men Sentenced for Credit Card Fraud Conspiracy,” press release, June 10, 2011.

⁸⁴ “Three Arrested in Credit Card Forgery Ring,” KTNV ABC, March 26, 2009.

⁸⁵ “18 Month Credit Card Fraud Ring Leads to Three Arrests,” KTNV ABC, March 25, 2009. Additionally, in February 2011, DOJ announced an indictment charging 29 defendants tied to an organized crime group called “Armenian Power” or “AP.” DOJ noted “Among the conspiracies charged in the racketeering indictment is a bank fraud and counterfeit credit card scheme that victimized hundreds of customers of 99 Cents Only Stores throughout Southern California. AP members allegedly caused more than \$2 million in losses when they secretly installed sophisticated ‘skimming’ devices to steal customer account information at cash registers and then used the skimmed information to create counterfeit debit and credit cards.” See Department of Justice, “Armenian Power Organized Crime Group Targeted in Federal Indictments That Allege Racketeering Offenses, Including Bank Fraud Schemes, Kidnappings, and Drug Trafficking,” press release, February 16, 2011, <http://www.fbi.gov/losangeles/press-releases/2011/la021611.htm>. For another case involving skimming, see Department of Justice, “Rancho Cordova Man Arrested for Identity Theft

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.⁸⁶ 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.”⁸⁷ ORC involves a host of retail crimes ranging from retail, manufacturing, distribution, and cargo theft to gift card fraud, receipt fraud, and ticket switching.⁸⁸ 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.⁸⁹ 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.⁹⁰

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 April 2011, at least

and Trafficking in Counterfeit Credit Card Information,” press release, April 21, 2011, <http://www.justice.gov/usao/cae/news/docs/2011/04-21-11AvagyanIndictment.html>.

⁸⁶ 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>.

⁸⁷ 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.

⁸⁸ 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.

⁸⁹ 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).

⁹⁰ National Retail Federation, *2009 Organized Retail Crime Survey*, 2009, p. 8.

13 defendants, including the owners of pawn shops implicated in the scheme, had pled guilty to roles in this organized retail crime ring.⁹¹ 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.⁹² Colombian traffickers likely co-opted experts from the legitimate world to develop this technology. Semisubmersibles can have their cargo “unloaded in shallow waters or transported to shore by small boats.”⁹³ They have been interdicted in both the Eastern Pacific and the Caribbean.⁹⁴ 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 according to figures provided by the U.S. Coast Guard in 2010, accounted for 27% of the maritime movement of cocaine toward the United States, themselves are not immune to capture.⁹⁵ 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

⁹¹ Department of Justice, “Pawn Shop Owner Sentenced to Prison in Scheme to Launder \$20 Million in Proceeds of Stolen Merchandise,” press release, April 12, 2011, <http://www.fbi.gov/baltimore/press-releases/2011/pawn-shop-owner-sentenced-to-prison-in-scheme-to-launder-20-million-in-proceeds-in-stolen-merchandise>; 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>.

⁹² “Colombia Captures Drug Trafficker Who Pioneered Use of Submarines,” *Fox News Latino*, March 18, 2012, <http://latino.foxnews.com/latino/news/2012/03/18/colombia-captures-drug-trafficker-who-pioneered-use-submarines/>; 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.

⁹³ Michael S. Schmidt and Thom Shanker, “To Smuggle More Drugs, Traffickers Go Under the Sea,” *New York Times*, September 9, 2012, <http://www.nytimes.com/2012/09/10/world/americas/drug-smugglers-pose-underwater-challenge-in-caribbean.html?pagewanted=all>.

⁹⁴ Rear Admiral Charles Michel, Director Joint Interagency Task Force South, Testimony before the House Subcommittee on Border and Maritime Security, House Committee on Homeland Security, June 19, 2012, <http://www.hsdl.org/?view&did=713514>.

⁹⁵ 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.

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 cocaine on a 10-day voyage. This vessel represented a large improvement over the semisubmersibles that have been regularly seized from traffickers since 2006.⁹⁶

Mexican drug traffickers have increasingly relied upon ultralight aircraft⁹⁷ 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 2007.⁹⁸ 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.⁹⁹

Cross-Border Tunnels

Mexican drug traffickers use underground, cross-border tunnels to smuggle drugs from Mexico into the United States. Tunneling, while not in and of itself a new phenomenon (having been used for hundreds of years during conflicts and for escapes), has increased not only in prevalence but in sophistication.¹⁰⁰ Early drug 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. Some of these interconnecting tunnels 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. In January 2006 in Otay Mesa, CA, a tunnel, stretching nearly three-quarters of a mile in length and traveling over 85 feet below the surface of the earth,

⁹⁶ Jim Popkin, “Authorities in Awe of Drug Runners’ Jungle-Built, Kevlar-Coated Supersubs,” *Wired Magazine*, March 29, 2011, http://www.wired.com/magazine/2011/03/ff_drugsub/all/1; “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; U.S. Southern Command, “The Self-Propelled Semi-Submersibles Threat.”

⁹⁷ To enhance law enforcement’s ability to investigate and prosecute cases involving drug smuggling via ultralights, the Ultralight Aircraft Smuggling Prevention Act of 2012 (P.L. 112-93), among other things, amended the Tariff Act of 1930, defining aircraft as including ultralight vehicles. For the Federal Aviation Administration 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>.

⁹⁸ Agence France-Presse, “Mexican Drug Traffickers Using Tiny Planes for US Market,” *MSN News*, September 2, 2010.

⁹⁹ U.S. Customs and Border Protection, “Ultralight Plane Crashes in Arizona, Smugglers Apprehended,” press release, May 30, 2009.

¹⁰⁰ Ken Stier, “Underground Threat: Tunnels Pose Trouble from Mexico to Middle East,” *Time*, May 2, 2009.

was discovered, where more than two tons of marijuana was seized.¹⁰¹ The tunnel had lighting, ventilation, and groundwater drainage systems. In November 2010, the San Diego Tunnel Task Force—created in 2003 as a partnership between ICE, DEA, and the U.S. Border Patrol working along with state law enforcement and Mexican counterparts—uncovered a 600-yard passageway 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.¹⁰² About a year later, the task force unearthed two other tunnels in Otay Mesa within a two-week period. One of them stretched 612 yards and had electric rail cars, lighting, reinforced walls, and wooden floors.¹⁰³ In July 2012, three drug smuggling tunnels were uncovered along the Southwest border in less than a week.¹⁰⁴

U.S. law enforcement uses various tactics and simultaneously faces numerous challenges in detecting these cross-border tunnels. More than 150 tunnels have been discovered since the 1990s¹⁰⁵—primarily in Arizona and California—and more than 75 of these have been found since 2006.¹⁰⁶ One such method of tunnel detection is the use of ground penetrating radar (GPR).¹⁰⁷ 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.¹⁰⁸ Tunnels are more effectively discovered as a result of human intelligence and tips rather than technology.

Exploitation of Ethnic Diaspora Communities

Criminal organizations structured along ethnic lines sometimes base their operations in immigrant communities.¹⁰⁹ They use these enclaves to provide cover for their dealings and occasionally also exploit their ethnic compatriots. Historically, criminal groups have burrowed into their immediate surroundings, 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.

¹⁰¹ 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, <http://www.justice.gov/dea/pubs/pressrel/pr012606.html>.

¹⁰² U.S. Drug Enforcement Administration, “Tunnel Task Force Discovers Cross Border Tunnel, 30 tons of Marijuana Seized in Investigation,” press release, November 3, 2010.

¹⁰³ Immigration and Customs Enforcement, “Highly Sophisticated Cross-Border Drug Tunnel Discovered Near San Diego,” press release, November 15, 2011, <http://www.ice.gov/news/releases/1111/111130sandiego.htm>.

¹⁰⁴ Elliot Spagat and Jacques Billeaud, “Drug Tunnels Discovered Between U.S.-Mexico Border Contained Railcar System, Tons Of Pot,” *Huffington Post*, July 13, 2012.

¹⁰⁵ Statement of James A. Dinkins, Executive Associate Director, Homeland Security Investigations, U.S. Immigration and Customs Enforcement, before the U.S. Congress, Senate United States Senate Caucus on

Organized Crime and Health Care Fraud

In 2010, then-Acting Deputy Attorney General Gary G. Grindler stated that “the emergence of international organized crime in domestic health care fraud schemes signal[ed] a dangerous expansion that poses a serious threat to consumers.”¹¹⁰ 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. In FY2011, federal prosecutors “filed criminal charges in 489 cases involving 1,430 defendants.”¹¹¹

News reports suggest that organized crime has turned to targeting Medicare and Medicaid for profit.¹¹² It is very likely that some groups favor stealing doctor and patient identities for fraudulent billing over more

In October 2010, a total of 73 individuals were indicted in the largest single Medicare fraud ever charged.¹¹⁴ 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,¹¹⁵ 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.”¹¹⁶

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?”¹¹³

Members of the Mirzoyan-Terdjanian group allegedly billed Medicare for more than \$163 million in fraudulent medical services. They reaped about \$35 million in profits.¹¹⁷ 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

International Narcotics Control, *Illegal Tunnels on the Southwest Border*, 112th Cong., 1st sess., June 15, 2011.

¹⁰⁶ 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>.

¹⁰⁷ For more information, see <http://www.geophysical.com/militarysecurity.htm>.

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

¹⁰⁹ Klaus von Lampe, “Re-Conceptualizing Transnational Organized Crime: Offenders as Problem Solvers,” *International Journal of Security and Terrorism*, vol. 2, no. 1 (2011), p. 9. (Hereinafter, von Lampe, “Re-Conceptualizing.”)

¹¹⁰ 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.justice.gov/opa/pr/2010/October/10-dag-1140.html>. (Hereinafter, DOJ press release, “Seventy-Three Members.”)

¹¹¹ 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 2011*, February 2012, p. 1, <https://oig.hhs.gov/publications/docs/hcfac/hcfareport2011.pdf>.

¹¹² 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/>.

¹¹³ “Organized Crime Muscles in on Health Care,” *NPR*, January 16, 2010, <http://www.npr.org/templates/story/story.php?storyId=122645717>.

¹¹⁴ 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>. (Hereinafter, DOJ press release, “Manhattan U.S. Attorney”); DOJ press release, “Seventy-Three Members.”

¹¹⁵ DOJ press release, “Seventy-Three Members.”

¹¹⁶ Thomas Watkins, “Armenian Organized Crime Grows More Complex,” *Associated Press*, October 16, 2010.

¹¹⁷ In December 2011, one of the group’s leaders, Robert Terdjanian, pled guilty to charges related to the case. See Bruce Golding, “Swan Song for Gangster,” *New York Post*, December 20, 2011, http://www.nypost.com/p/news/local/manhattan/swan_song_for_gangster_T3KqaxeuQkAVNhHjioXmaJ.

unnecessary treatments, just stolen patient identities. The whole doctor-patient interaction was a mirage. But the money was real, while it lasted.¹¹⁸

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.”¹¹⁹ Kazarian had reputedly lied to federal authorities to obtain asylum after emigrating to the United States in 1996.¹²⁰ In the course of the scheme, Kazarian mediated disputes for the Mirzoyan-Terdjanian group and allegedly threatened to assault and kill an associate. In July 2011, Kazarian pled guilty to racketeering in the case.¹²¹ 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.¹²²

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.¹²³ The victims of this scheme likely trusted the brothers as fellow immigrants who had ties to the United States and were willing to help others start new lives in the country.

¹¹⁸ DOJ press release, “Manhattan U.S. Attorney.”

¹¹⁹ 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. (Hereinafter, *United States vs. Armen Kazarian.*)

¹²⁰ 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.*

¹²¹ Department of Justice, “Leader of Armenian Organized Crime Ring Pleads Guilty in Manhattan Federal Court to Racketeering,” press release, July 8, 2011, <http://www.justice.gov/usao/nys/pressreleases/July11/kazarianarmenpleapr.pdf>.

¹²² *United States vs. Armen Kazarian.*

¹²³ 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 Botsvynnyuk, 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/botsvynnyuk_indictment.pdf. In October 2011, two of the brothers, Omelyan and Stepan Botsvynnyuk, were convicted “of conspiracy to violate the Racketeer Influenced and Corrupt Organizations (RICO) Act in connection with a human trafficking scheme.” At the time of the duo’s trial, two other brothers were in Canada awaiting extradition and the remaining sibling was a fugitive. See Department of Justice, “Brothers Convicted in Human Trafficking Scheme,” press release, October 12, 2011, <http://www.fbi.gov/philadelphia/press-releases/2011/brothers-convicted-in-human-trafficking-scheme>; Michael Matza, “Trial Set to Begin for Botsvynnyuk Brothers in Human-Trafficking Case,” *Philadelphia Inquirer*, September 13, 2011, http://articles.philly.com/2011-09-13/news/30149728_1_t-visa-program-human-trafficking-immigrant-rights-groups. For more information see Department of Justice, “Second Ukrainian Brother Sentenced to the Maximum for Human Trafficking Operation,” press release, July 17, 2012, <http://www.fbi.gov/philadelphia/press-releases/2012/second-ukrainian-brother-sentenced-to-the-maximum-for-human-trafficking-operation>.

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.¹²⁴ The defendants recruited women from China to work in the United 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.¹²⁵

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 is 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.¹²⁶

As discussed elsewhere in this report, 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.¹²⁷ 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

¹²⁴ 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/kc101409.htm>.

¹²⁵ IMMFWG, *Mass Marketing Fraud*, p. 15.

¹²⁶ 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. (Hereinafter, Garzón, *Mafia & Co.*)

¹²⁷ 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. (Hereinafter, Williams, “Transnational Criminal Networks.”)

networks.¹²⁸ Criminals conduct more business offshore because of the efficiencies offered by the Internet and advances in the world's transportation and communication infrastructures.¹²⁹ 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.¹³⁰

Networked structures shield organized criminals from law enforcement efforts.¹³¹ 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.¹³²

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.¹³³ 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.¹³⁴

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.¹³⁵ Prison gangs, for instance, are highly structured, and both national- and regional-level

¹²⁸ Scott H. Decker and Margaret Townsend Chapman, *Drug Smugglers on Drug Smuggling: Lessons from the Inside* (Philadelphia: Temple University Press, 2008), pp. 34-36.

¹²⁹ Stephen Aguilar-Millan et al., "The Globalization of Crime," *The Futurist*, November/December 2008, p. 42.

¹³⁰ Chatterjee, *The Changing Structure*. pp, 2, 7-8.

¹³¹ Carlo Morselli, *Inside Criminal Networks* (New York: Springer, 2009), p. 71.

¹³² Williams, "Transnational Criminal Networks," pp. 64-75.

¹³³ 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.

¹³⁴ 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. (Hereinafter, Kenney, *From Pablo to Osama*.)

¹³⁵ National Gang Intelligence Center, *National Gang Threat Assessment: Emerging Trends, 2011*, (n.d.) pp. 26-28,

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.¹³⁶ 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.¹³⁷

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.”¹³⁸ 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.¹³⁹ 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.¹⁴⁰

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.¹⁴¹ 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 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

<http://www.fbi.gov/stats-services/publications/2011-national-gang-threat-assessment/2011-national-gang-threat-assessment-emerging-trends>; 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>.

¹³⁶ *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.

¹³⁷ Garzón, *Mafia & Co.* pp. 23-24.

¹³⁸ Intelligence Committee Futures Working Group, *Futures*, p. 2.

¹³⁹ Kenney, *From Pablo to Osama*, p. 132-133.

¹⁴⁰ *Ibid.*

¹⁴¹ 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.

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.¹⁴² Maintaining networks also likely requires “time-consuming” effort geared toward “building and fostering relationships.”¹⁴³

Corruption

Some criminal networks co-opt or attract participants from the licit realm, using their specialized skills to provide “logistical advantages.”¹⁴⁴ 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: ground-level, 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

¹⁴² 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.

¹⁴³ von Lampe, “Re-Conceptualizing,” p. 9.

¹⁴⁴ *Ibid.*

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 helped prosecute Victor Kaganov in connection with an illegal money transmitting business he allegedly ran in Oregon. In March 2011, Kaganov pled guilty to operating an illegal money transmitting business.¹⁵⁰ 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.¹⁵¹ 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 Sukhareno, “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 Pleads Guilty to Operating Illegal Money Transmitting Business,” press release, March 1, 2011.

¹⁵¹ 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.¹⁵²

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.¹⁵³ Prior to the global financial crisis, he possessed a \$28 billion fortune and was the ninth-wealthiest person in the world.¹⁵⁴ He obtained a U.S. visa in 2005, but it was revoked soon thereafter.¹⁵⁵ 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 the Department of Homeland Security (DHS).¹⁵⁶ 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.¹⁵⁷ 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.¹⁵⁸ The IPO occurred in January 2010 on the Hong Kong stock exchange.¹⁵⁹

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.¹⁶⁰ These suspicions resurfaced in 2009 and 2010 involving his daughter, Pansy, and a casino venture in Macau. At the time, Pansy and Nevada-based MGM Resorts International (MGM)¹⁶¹ each controlled half of the MGM Macau, which opened in December 2007.¹⁶²

¹⁵² Blair, "Annual Threat Assessment," p. 44.

¹⁵³ Gregory L. White and Diana Cimilluca, "Some Bankers Cool on Hot Rusal IPO," *Wall Street Journal*, November 9, 2009. (Hereinafter, White and Cimilluca, "Some Bankers.") Evan Perez, Gregory L. White, "FBI Lets Barred Tycoon Visit U.S.," October 30, 2009. (Hereinafter, Perez and White, "FBI Lets Barred Tycoon.")

¹⁵⁴ "The World's Billionaires: #9 Oleg Deripaska," *Forbes.com*, March 5, 2008, http://www.forbes.com/lists/2008/10/billionaires08_Oleg-Deripaska_UCP9.html.

¹⁵⁵ Perez and White, "FBI Lets Barred Tycoon."

¹⁵⁶ White and Cimilluca, "Some Bankers"; Perez and White, "FBI Lets Barred Tycoon."

¹⁵⁷ 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>.

¹⁵⁸ White and Cimilluca, "Some Bankers."

¹⁵⁹ "Aluminum giant RusAl raises \$2.24 bln with Hong Kong IPO," *RIA Novosti*, January 22, 2010, <http://en.rian.ru/business/20100122/157651607.html>.

¹⁶⁰ 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.

¹⁶¹ Formerly MGM Mirage.

¹⁶² In July 2012, it was reported that MGM held 51%, and Pansy Ho held nearly 27% of the venture's stock, which was publicly offered on Hong Kong's stock exchange in 2011. Howard Stutz, "Ties to Pansy Ho Could Damage MGM Resorts Plans for Maryland Casino," *Las Vegas Review-Journal*, July 23, 2012, http://www.lvrj.com/blogs/stutz/Ties_to_Pansy_Ho_could_damage_MGM_Resorts_plans_for_800_million_Maryland_casino.html; Fox Hu, "Pansy Ho Raises \$1.5 Billion in MGM China IPO at Top of Range," *Bloomberg*, May 26, 2011, <http://www.bloomberg.com/news/2011-05-27/mgm-china-prices-h-k-ipo-shares-at-hk-15-34.html>; Tom Mitchell, "Spotlight on MGM Mirage's 'Wild Card,'" *Financial Times*, March 19, 2010.

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. 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.¹⁶³ 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.¹⁶⁴ 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."¹⁶⁵ In March 2010, MGM decided to sell its interest in the Borgata rather than sever ties with Pansy Ho.¹⁶⁶

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 pled 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.¹⁶⁷

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 rose from 245 in FY2006 to 731 in FY2011.¹⁶⁸ While the figures do not establish exactly how many of these corruption cases are

¹⁶³ 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. (Hereinafter, DGE, "Report.")

¹⁶⁴ DGE, "Report," pp. 70-71.

¹⁶⁵ DGE, "Report," p. 71.

¹⁶⁶ Wayne Parry, "NJ: Asian Casino Boss Has Mob Ties in China," *Associated Press*, March 17, 2010.

¹⁶⁷ 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.

¹⁶⁸ Testimony by Charles K. Edwards, Acting Inspector General, U.S. Department of Homeland Security, before the

attributable to organized criminals suborning CBP employees, 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. Typically, “CBP finds 60 percent of applicants subjected to a polygraph exam ineligible for employment because of prior drug use or criminal histories.”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, pled 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 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

U.S. Congress, House Committee on Oversight and Government Reform, Subcommittee on Government Organization, Efficiency, and Management, 112th Cong., 2nd sess., August 1, 2012, http://www.oig.dhs.gov/assets/TM/OIGtm_CKE_080112.pdf. (Hereinafter, Edwards, Testimony.) See also Ceci Connolly, “The Inside Woman,” *Washington Post*, September 12, 2010, <http://www.washingtonpost.com/wp-dyn/content/article/2010/09/11/AR2010091105087.html>. (Hereinafter, Connolly, “The Inside Woman.”)

¹⁶⁹ Edwards, Testimony. See also testimony by James F. Tomsheck, 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.

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>.

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.

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, these threats cannot be fully evaluated without a clearer understanding of the scope of 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 has historically led 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 has also made it difficult to measure its impact.¹⁷⁹

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

¹⁷⁹ 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.

The *2011 Strategy* laid out the federal government’s first broad conceptualization of “transnational organized crime,” focusing on it as a national security concern.¹⁸⁰ To what extent this definition will drive Administration policy is unclear. In evaluating the *2011 Strategy*, policymakers may exercise their oversight authority regarding both the adequacy of the Administration’s definition of transnational organized crime as well as its utilization in driving counter-crime policies.

Transnational Organized Crime Defined

The *2011 Strategy* offers the following definition of organized crime:

Transnational organized crime refers to those self-perpetuating associations of individuals who operate transnationally 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, or while protecting their illegal activities through a transnational organizational structure and the exploitation of transnational commerce or communication mechanisms. There is no single structure under which transnational organized criminals operate; they vary from hierarchies to clans, networks, and cells, and may evolve to other structures. The crimes they commit also vary. Transnational organized criminals act conspiratorially in their criminal activities and possess certain characteristics which may include, but are not limited to:

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;

They exploit differences between countries to further their objectives, enriching their organization, expanding its power, and/or avoiding detection/apprehension;

They attempt to gain influence in government, politics, and commerce through corrupt as well as legitimate means;

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

They attempt to insulate both their leadership and membership from detection, sanction, and/or prosecution through their organizational structure.¹⁸¹

As the term “transnational organized crime” (TOC) may suggest, any definition of it should detail three elements: (1) “transnationality,” (2) organization, and (3) crime. While the above TOC definition, and more generally the *2011 Strategy*’s text, hit on all three elements, key gaps in understanding the Administration’s framing of TOC remain.

Transnationality

The strategy’s definition addresses the concept of “transnationality” in the broadest terms, suggesting that TOC is transnational because it operates transnationally. At least three factors—none of which are discussed in the definition—may determine how transnational a group is: residence, product provenance, and supply chain complexity.¹⁸²

¹⁸⁰ *Strategy to Combat Transnational Organized Crime*, p. 5.

¹⁸¹ *Strategy to Combat Transnational Organized Crime*, p. ii. This definition originally appeared in 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>.

¹⁸² von Lampe, “Re-Conceptualizing,” pp. 4-5, discusses the “nature of what crosses the border.” This is subsumed by product provenance in this report. von Lampe also describes “directionality,” which is part of supply chain complexity in this report.

Regarding residence, a transnational criminal group's members can reside in multiple countries, clearly making it a transnational network. However, if all members reside in a single country, but a seemingly minor aspect of the group's activities is situated outside this home country, is the criminal network still considered transnational?

- Does controlling a bank account in one country while committing crimes in another make a network transnational?
- Can a group be considered transnational simply if its communications concerning criminal activity are routed outside of its home country via international communications networks?

In terms of product provenance, it seems clear that illicit trade (whether it involves people, goods, services, or information) from one country to another is a transnational activity. However, can a domestically based group be considered transnational if the illicit product it handles in the United States had a foreign origin but the group played no role in getting it across international borders?

- A street-level cocaine dealer may have never directly colluded with foreign criminals, but the cocaine he retails originated abroad. Does this automatically make him part of a transnational criminal network?¹⁸³

Supply chain complexity is also likely a prominent feature of TOC. This involves managing the routes that illicit products take.

- Does the complexity of a group's supply chain factor into measurement of how transnational the group is? This complexity can include elements such as the number of borders a product crosses as well as the resources a group expends to move a product. These resources can include money used for things such as bribing public officials, protecting illicit routes from other criminals, the acquisition and retention of technical expertise, and the development of tools and infrastructure to maintain the route (e.g., shell companies, front companies, drug smuggling semi-submersibles, cross-border smuggling tunnels).

These factors suggest a broader question: does the level of transnationality inherent in a network impact how the U.S. government views it as a threat? In other words, if one network is more transnational than another, is it a greater concern? Would an organized crime group with transnational ties necessarily be a larger threat than a criminal network based solely in the United States?

Organization

The TOC definition includes almost any form of organization. This is reflected in the strategy's emphasis on the organizational fluidity of TOC.¹⁸⁴ As this may suggest, the definition lacks precise baselines for the concept of "organization." Two baselines seem central here. The first involves routine. In essence, to qualify as "organized" does a network have to routinely cooperate? If so, what constitutes routine cooperation? The second baseline is size. How small is "organized"—can it be as basic as two individuals collaborating? Low thresholds for these two baselines—allowing TOC to include groups as small as two individuals who do not routinely interact—may render the concept of "organization" meaningless. *In other words, with low*

¹⁸³ The product that a transnational criminal group moves across borders should also likely factor in the threat it poses to national security. A group trafficking firearms may pose a higher threat to national security than an alien smuggling organization or vice versa. How the strategy ranks these threats is unclear.

¹⁸⁴ *Strategy to Combat Transnational Organized Crime*, p. 3.

thresholds, almost any criminal activity that does not involve a sole operator could be defined as “organized.” In an attempt to clarify matters, the definition suggests that transnational criminal groups are “self-perpetuating,” but the definition does not explain what this concept entails. Seemingly, any group not construed and controlled by some external authority or environmental condition is “self-perpetuating.”

Crime

The TOC definition in the *2011 Strategy* broadly describes some of the activities transnational groups can engage in to turn profits and protect themselves—violence, exploiting the “differences between countries,” and gaining influence in legitimate sectors. Going beyond the definition, the strategy’s text lays out 10 areas of illicit activity in which TOC poses “a growing threat to national and international security.”¹⁸⁵ These 10 areas encompass a wide swath of federal law enforcement activity.

1. Penetration of State Institutions, Corruption, and Threats to Governance
2. Threats to the Economy, U.S. Competitiveness, and Strategic Markets
3. Crime-Terror-Insurgency Nexus
4. Expansion of Drug Trafficking
5. Human Smuggling
6. Trafficking in Persons
7. Weapons Trafficking
8. Intellectual Property Theft
9. Cybercrime
10. The Critical Role of Facilitators.¹⁸⁶

It is unclear what sway the *2011 Strategy*’s definition will hold over what is practically investigated as “transnational organized crime” by federal agencies. This is because these 10 areas touch on a range of U.S. law enforcement activity that involves many federal agencies, including numerous components of both DOJ and DHS. The 10 areas clearly enumerate crimes such as drug and weapons trafficking. However, the areas can subsume other illegal activity. For example, many crimes related to financial fraud and identity theft potentially fall under “Cybercrime,” “Intellectual Property Theft,” or “Threats to the Economy, U.S. Competitiveness, and Strategic Markets.” In the past, numerous investigative programs within the federal government have been developed to combat crimes subsumed by the 10 areas without specifically characterizing them as “organized crime.”

Complicating things, neither the definition nor the *2011 Strategy* lays out a methodology for somehow differentiating among transnational criminal actors in terms of the potential impact of their crimes—namely, the threat they pose to U.S. national security or public interests. Without a methodology establishing thresholds based on severity, vastly different criminals potentially fall under the strategy’s purview. A 15-year-old gang member and his friends who illegally download Hollywood movies from a foreign website is arguably a much different target for law enforcement than a powerful international mobster with vast economic resources and an army of

¹⁸⁵ *Strategy to Combat Transnational Organized Crime*, pp. 5-8.

¹⁸⁶ *Ibid.* “Facilitators” are “semi-legitimate players such as accountants, attorneys, notaries, bankers, and real estate brokers, who cross both the licit and illicit worlds and provide services to legitimate customers, criminals, and terrorists alike.” See *Ibid.*, p. 8.

foot soldiers. However, the strategy potentially targets both. A threat assessment rubric could guide federal efforts, thus narrowing the number of groups or individuals targeted by the strategy.

While the *2011 Strategy* does not articulate a threat assessment methodology, two items suggest that Administration efforts supporting the strategy involve some calculation of threat. First, an interagency “Threat Mitigation Working Group” has been given the responsibility of identifying transnational networks “present[ing] a sufficiently high national security risk.”¹⁸⁷ Whether or not the networks identified by this working group will be the *only* ones targeted by efforts embraced under the strategy is unclear. Second, transnational criminal groups were listed in an annex to a new executive order issued in conjunction with the *2011 Strategy*.¹⁸⁸ The order established a sanctions program “to block the property of and prohibit transactions with significant transnational criminal networks that threaten national security, foreign policy, or economic interests.”¹⁸⁹ While it is unclear exactly how or why these groups were chosen, presumably some calculation of threat was involved.¹⁹⁰

The Definition, 2011 Strategy, and Key Questions

Because the strategy’s TOC definition is broad, it may be difficult to ascertain answers to a number of questions critical to policymaking (see **Figure 1**). First, how much harm is imposed by transnational organized crime? Second, how many federal resources are directly and indirectly dedicated to combating TOC? Third, which federal agencies are primarily responsible for fighting TOC? Fourth, how are threats prioritized by the new strategy? Are national security concerns weighed against other concerns such as public security when targeting specific transnational groups? Without clear answers to these questions, it may be difficult for Congress to exercise both legislative and oversight responsibilities in order to bolster the federal government’s abilities to counter organized crime.

¹⁸⁷ *Ibid.*, p. 1.

¹⁸⁸ Executive Order 13581, “Blocking Property of Transnational Criminal Organizations,” 76 *Federal Register* 44757-44759, July 24, 2011.

¹⁸⁹ *Strategy to Combat Transnational Organized Crime*, p. 1.

¹⁹⁰ The original transnational criminal groups listed were the Brothers’ Circle, Camorra, Yakuza, and Los Zetas. In October 2012, Mara Salvatrucha (MS-13), a violent gang, was added.

Figure I. Transnational Organized Crime Strategy
Key Issues for Policymakers



Source: CRS

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),¹⁹¹ 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)¹⁹² provisions, organized crime is described in terms of an “enterprise” and a “pattern of racketeering activity.”¹⁹³ The predicate offenses for racketeering include a host of state and federal crimes listed in 18 U.S.C. §1961.

¹⁹¹ Omnibus Crime Control and Safe Streets Act of 1968, as amended (P.L. 90-351).

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

¹⁹³ 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

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.¹⁹⁴ Moreover, the statutory provisions offer limited guidance regarding criminal organizations and the nature of their operational structure.

Issues

Defining Organized Crime in Statute

Currently, there is no statutory definition of organized crime. RICO¹⁹⁵ provisions describe organized crime in terms of an “enterprise” and a “pattern of racketeering activity.”¹⁹⁶ 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

“‘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.

¹⁹⁴ 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.

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

¹⁹⁶ 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.

organized crime.¹⁹⁷ 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 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. The Administration has also proposed a legislative package related to the *2011 Strategy*.¹⁹⁸ In light of this, Congress may consider exploring the issue of transnational organized crime more extensively.

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,

¹⁹⁷ 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.

¹⁹⁸ U.S. Department of Justice, "Statement of Assistant Attorney General Lanny A. Breuer before the Senate Judiciary Subcommittee on Crime and Terrorism," press release, November 1, 2011, <http://www.justice.gov/criminal/pr/testimony/2011/crm-testimony-111101.html>.

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.¹⁹⁹

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 program²⁰⁰ and the Edward Byrne Memorial Justice Assistance Grant (JAG) program²⁰¹—through which state and local law enforcement assistance is available for a variety of purpose 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.²⁰² 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 system²⁰³ 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.

Implementing the National Strategy to Combat TOC

Congress may wish to consider oversight of the national strategy's implementation by federal law enforcement agencies. In part, the strategy involves many law enforcement agencies, their investigative resources, and their intelligence collection efforts. A critical issue may be the coordination of these activities.

Coordination of Domestic Efforts

As mentioned, the federal investigation of organized crime matters has not historically been a centralized effort, and even with the *2011 Strategy*, there is no single lead agency charged with

¹⁹⁹ 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. (Hereinafter, IPI, *Transnational Organized Crime*.)

²⁰⁰ For more information on COPS, see CRS Report RL33308, *Community Oriented Policing Services (COPS): Background and Funding*, by Nathan James as well as CRS Report R40709, *Community Oriented Policing Services (COPS): Current Legislative Issues*, by Nathan James.

²⁰¹ For more information on JAG, see CRS Report RS22416, *Edward Byrne Memorial Justice Assistance Grant (JAG) Program*, by Nathan James.

²⁰² IPI, *Transnational Organized Crime*.

²⁰³ 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.

investigating organized crime.²⁰⁴ Specific agencies have had jurisdiction over an organized crime case based on the criminal violations involved. For instance, organized crime cases built around drug trafficking offenses have generally been investigated by the DEA, whereas those cases built around human trafficking cases are typically investigated by 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 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. 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 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

²⁰⁴ 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.

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”²⁰⁵ against organized crime. On the prosecution end, DOJ has already consolidated 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.²⁰⁶ 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.²⁰⁷ The OIG found that EPIC’s users value its products, but that EPIC could benefit from 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.²⁰⁸ 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.

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²⁰⁵ NCTC mission statement, available at http://www.nctc.gov/about_us/about_nctc.html.

²⁰⁶ Ryan J. Reilly, “Gang Unit, Organized Crime Section to Merge,” *Main Justice*, July 12, 2010.

²⁰⁷ 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>.

²⁰⁸ 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>.

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