



# Organized Crime in the United States: Trends and Issues for Congress

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## Summary

Organized crime threatens multiple facets of the United States, including the economy and national security. In fact, the Organized Crime Council was recently reconvened for the first time in 15 years to address this continued threat. Organized crime has taken on an increasingly transnational nature, and with more open borders and the expansion of the Internet, criminals endanger the United States not only from within the borders, but beyond. Threats come from a variety of criminal organizations, including Russian, Asian, Italian, Balkan, Middle Eastern, and African syndicates. Policymakers may question whether the tools they have provided the federal government to combat organized crime are still effective for countering today's evolving risks.

In the wake of the economic downturn, organized crime could further weaken the economy with illegal activities (such as cigarette trafficking and tax evasion scams) that result in a loss of tax revenue for state and federal governments. Fraudulent activities in domains such as strategic commodities, credit, insurance, stocks, securities and investments could further weaken the already-troubled financial market.

On the national security front, experts and policymakers have expressed concern over a possible nexus between organized crime and terrorism. Despite the difference in motivation for organized crime (profit) and terrorism (ideology), the linking element for the two is money. Terrorists may potentially obtain funding for their operations from partnering directly with organized crime groups or modeling their profitable criminal acts. Even if organized crime groups and terrorist organizations do not form long-term alliances, the possibility of short-term business alliances may be of concern to policymakers.

In light of these developments, several possible issues for Congress arise. One issue centers on whether the evolving nature of organized crime requires new enforcement tools. Some policymakers have suggested that current laws may not be effective at countering present threats from organized crime. As organized criminals threaten American society from both within and outside U.S. borders, should Congress expand law enforcement's extraterritorial jurisdiction to investigate and prosecute these criminals, and to what extent should Congress encourage multilateral—both domestic and international—crime fighting efforts? Legislation has been introduced in the 111<sup>th</sup> Congress (H.R. 1793, S. 49, S. 378, and S. 386, for example) that would expand the list of predicate offenses under the Racketeer Influenced and Corrupt Organizations Act (RICO), clarify the definition of money laundering, and expand the international money laundering statute.

Another possible issue for Congress concerns whether the resources that the federal government allocates to organized crime matters are adequate and appropriately allocated to counter the threats it poses. Following the terrorist attacks of September 11, 2001, national priorities and federal resources shifted away from more traditional crime fighting—including that of organized crime—toward counterterrorism and counterintelligence. For instance, the number of federal agents actually working on organized crime matters and the number of organized crime cases opened in FY2004 decreased relative to levels before September 11, 2001. This report will be updated as needed.

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## Introduction

Organized crime threatens the economy, national security, and other interests of the United States.<sup>1</sup> Particularly in the past several decades, organized crime has been evolving and taking on an increasingly transnational nature. With more open borders and the expansion of the Internet, organized criminals threaten the United States not only from within the borders, but beyond. Organized crime stretches far beyond the Italian mafia, encompassing Russian, Asian, Balkan, Middle Eastern, and African syndicates. Even though organized crime has not received as much recent media or congressional attention as have other national concerns, such as the threat of terrorism, these criminals have not ceased their illicit activities.

Illustrating that the threats from organized crime remain, former Attorney General Michael Mukasey reconvened the Organized Crime Council (OCC) in April 2008 to address the evolving threats from organized crime.<sup>2</sup> Beyond the individual illegal activities committed by organized crime groups (e.g., gambling, prostitution, labor racketeering, smuggling/trafficking, extortion, theft, murder, and money laundering), the OCC has indicated that these organizations may

- penetrate the energy and other strategic sectors of the economy;
- provide logistical and other support to terrorists, foreign intelligence services, and governments;
- smuggle/traffic people and contraband goods into the United States;
- exploit the United States and international financial system to move illicit funds;
- use cyberspace to target U.S. victims and infrastructure;
- manipulate securities exchanges and perpetrate sophisticated frauds;
- corrupt or seek to corrupt public officials in the United States and abroad; and
- use violence or the threat of violence as a basis for power.

The domestic impact from the activities of organized crime groups thus extends beyond what many may consider to be traditional organized crime activities. Congress may wish to consider the impact of organized crime on domestic issues of immediate concern, such as the economy and national security. Do these evolving threats from organized crime require new tools to combat it?

Another issue that the 111<sup>th</sup> Congress may wish to consider is the adequacy of the resources the federal government allocates to organized crime. Following the terrorist attacks of September 11, 2001, national priorities and federal resources shifted away from more traditional crime fighting—including that of organized crime—toward counterterrorism and counterintelligence. Subsequently, there has been a decrease in the federal law enforcement resources dedicated to organized crime matters and a decrease in the number of federal organized crime cases opened.<sup>3</sup>

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<sup>1</sup> U.S. Department of Justice, “Remarks prepared for delivery by Attorney General Michael B. Mukasey on International Organized Crime at the Center for Strategic and International Studies,” press release, April 23, 2008, <http://www.usdoj.gov/ag/speeches/2008/ag-speech-080425.html>.

<sup>2</sup> Ibid. The Organized Crime Council began meeting in 1970 and continued through 1993. When former Attorney General Michael Mukasey reconvened the Council in 2008, this was the first time it had met in 15 years.

<sup>3</sup> Department of Justice, Office of the Inspector General, Audit Division, *The External Effects of the Federal Bureau of Investigation's Reprioritization Efforts*, Audit Report 05-37, September 2005, p. 73. This statement is based on (continued...)

Consequently, the policy question facing Congress is, Are the resources that the federal government allocates to organized crime matters sufficient to counter the threats that organized crime pose?

This report provides a background on organized crime in the United States as well as the tools that Congress has afforded for the federal government to combat it. It outlines the trends in federal efforts to investigate and prosecute organized crime. The report then discusses the evolving nature of organized crime, including the domestic impact of organized crime, prominent organized crime groups, and their illegal activities affecting the United States. It concludes with a discussion of issues that the 111<sup>th</sup> Congress may wish to consider, including the attention the federal government allocates to organized crime matters, the multilateral efforts to combat organized crime, and issues surrounding a potential nexus between organized crime and terrorism.

## Definitions of Organized Crime

A clear definition of organized crime is important for both legal and policy purposes. Some experts suggest that although organized crime is difficult to define, the various attributes of criminal organizations are central to the definition. This report uses the attributes of a criminal organization, in combination with the definitions of organized crime, enterprise, and racketeering as outlined in the current law, as a framework for discussing the trends in organized crime and policy issues for Congress to consider.

Specifically, attributes of organized crime may involve

- structure,
- restricted membership,
- continuity,
- violence or the threat of violence,
- illegal enterprises,
- legitimate business penetration,
- corruption, and
- lack of ideology.<sup>4</sup>

The structure of modern organized crime groups often does not exhibit the rigid hierarchy of more traditional organized crime groups such as the Italian Mafia.<sup>5</sup> Moreover, organized crime

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statistics from the FBI alone, not including other federal law enforcement agencies. The FBI is the federal law enforcement agency most involved in investigating organized crime matters.

<sup>4</sup> James O. Finckenauer, "Problems of Definition: What is Organized Crime?" *Trends in Organized Crime*, vol. 8, no. 3 (Spring 2005), pp. 63-82.

<sup>5</sup> According to the FBI, there are four main Italian organized crime groups operating in the United States: the Sicilian Mafia (from which the LCN was formed), the Camorra or Neapolitan Mafia, the 'Ndrangheta or Calabrian Mafia, and the Sacra Corona Unita or United Sacred Crown. The term "Mafia" tends to be an encapsulating term (continued...)

groups restrict membership based on a number of factors, including race, ethnicity, kinship, and criminal background. These criminal organizations continue, even if leadership or membership changes over time. Further, violence and/or the threat of violence are integral aspects of organized crime. Organized crime groups profit from illegal enterprises as well as from infiltrating legitimate businesses. They may attempt to corrupt public officials in order to escape investigation, prosecution, or punishment. Notably, the primary goal of organized crime groups is to make money; these groups are profit-driven rather than ideology-driven (a key distinction between organized crime and terrorist groups).<sup>6</sup>

## Statutory Definition

The statutory definition of organized crime stems from the Omnibus Crime Control and Safe Streets Act of 1968, as amended (P.L. 90-351). Current law defines 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 describes organized crime in terms of the illegal activities rather than in terms of what constitutes a criminal organization. In the Organized Crime Control Act of 1970 (P.L. 91-452), and more specifically within Title IX—the Racketeer Influenced and Corrupt Organizations Act (RICO)<sup>7</sup>—organized crime is defined in terms of an “enterprise” and a “pattern of racketeering activity.”<sup>8</sup> The predicate offenses for racketeering include a host of state and federal crimes listed in 18 U.S.C. § 1961. Although RICO provides a definition for an “enterprise,” it does not describe the attributes of a criminal enterprise that distinguish it from a legal enterprise. In addition, this definition describes organized crime more in terms of the illegal activities than in terms of the criminal organization.

## Background

Organized crime in the United States has a long-standing history. Although this history has its origins prior to the 20<sup>th</sup> century, organized crime flourished around the time of Prohibition<sup>9</sup> and grabbed the attention of policymakers. Through most of the 20<sup>th</sup> century, U. S. law enforcement

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referencing all of these groups.

<sup>6</sup> Federal law enforcement tends to refer to organized crime groups as distinct from drug trafficking organizations (DTOs) or gangs. Therefore, this report does not include specific discussions of DTOs or gangs. For more information on DTOs (Mexican DTOs, in particular), see the archived CRS Report RL34215, *Mexico's Drug Cartels*, by Colleen W. Cook. For more information on gangs, see CRS Report RL34112, *Gangs in Central America*, by Clare Ribando Seelke; CRS Report RL34233, *The MS-13 and 18th Street Gangs: Emerging Transnational Gang Threats?* by Celinda Franco; and archived CRS Report RL33400, *Youth Gangs: Background, Legislation, and Issues*, by Celinda Franco.

<sup>7</sup> RICO is codified at 18 U.S.C. § 1961-1968.

<sup>8</sup> 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.

<sup>9</sup> Frank Browning and John Gerassi, *The American Way of Crime* (New York: G.P. Putnam & Sons, 1980), p. 53.

combated what most consider “traditional” organized crime networks operating inside the United States, including the Italian Mafia, Russian Mafia, Japanese Yakuza, and Chinese Tongs. These criminal organizations were involved in a variety of illegal activities, and in the 1950s and 1960s, the most profitable of these activities was gambling, followed by loan sharking, narcotics trafficking, extortion, prostitution, bootlegging, and fraud.<sup>10</sup> Other prominent activities of organized crime groups were racketeering, theft, murder, and money laundering.

The national focus on organized crime led to several efforts aimed at investigating and controlling it. These initial efforts included the Senate Special Committee to Investigate Organized Crime in Interstate Commerce in 1950 and 1951 led by Senator Kefauver, Senate hearings on organized crime in 1958 and 1963 led by Senator McClellan,<sup>11</sup> a series of conferences on organized crime at Oyster Bay in 1965 and 1966, and the creation of the 1967 Task Force on Organized Crime. This 1967 Task Force reported that law enforcement measures to curb organized crime had not been successful<sup>12</sup> and, further, that organized crime in America was on the rise.<sup>13</sup> Statistics showed that from 1961 to 1966, the number of individuals indicted by the Organized Crime and Racketeering Section (OCRS) of the Department of Justice (DOJ) rose from 121 to 1,198. Further, the number of those indicted individuals actually convicted rose from 73 to 477.<sup>14</sup> Although the raw number of indictments and convictions rose between 1961 and 1966, CRS analysis revealed that the proportion of individuals from organized crime groups who were convicted during this period actually declined, from 60.3% to 39.8%.<sup>15</sup>

Combating organized crime had been a responsibility primarily of state and local law enforcement.<sup>16</sup> As the scope of organized crime was continuing to increase, Congress recognized the need for better crime fighting tools and the need to further the federal government’s role in fighting and prosecuting organized crime.<sup>17</sup>

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<sup>10</sup> U.S. Congress, House Government Operations, Legal and Monetary Affairs, *Federal Effort Against Organized Crime: Report of Agency Operations*, committee print, 90<sup>th</sup> Cong., 2<sup>nd</sup> sess., June 1968.

<sup>11</sup> Congressional testimony in 1963 by Joseph Valachi—a prominent member of the LCN Genovese crime family—shed light on the true extent of the LCN network. Joseph Valachi was the first Mafia member to publicly affirm the existence of a criminal organization such as the LCN. In 1963, he testified before the Permanent Subcommittee on Investigations of the Senate Committee on Government Operations. For text of his complete testimony, please see U.S. Congress, Senate Committee on Government Operations, Permanent Subcommittee on Investigations, *Organized Crime and Illicit Traffic in Narcotics*, 88<sup>th</sup> Cong., 1<sup>st</sup> sess., September 25, 1963.

<sup>12</sup> Task Force on Organized Crime, *Task Force Report: Organized Crime: Annotations and Consultants’ Papers*, The President’s Commission on Law Enforcement and Administration of Justice, Washington, 1967, p. 14.

<sup>13</sup> From remarks by Rep. Dante B. Fascell, Chairman, in U.S. Congress, House Committee on Government Operations, Subcommittee on Legal and Monetary Affairs, *The Federal Effort Against Organized Crime. Part 1*, 90<sup>th</sup> Cong., 1<sup>st</sup> sess., April 5, 1967.

<sup>14</sup> From remarks by Fred M. Vinson, Jr., Assistant Attorney General, Criminal Division, Department of Justice, in U.S. Congress, House Committee on Government Operations, Subcommittee on Legal and Monetary Affairs, *The Federal Effort Against Organized Crime. Part 1*, 90<sup>th</sup> Cong., 1<sup>st</sup> sess., April 5, 1967.

<sup>15</sup> For this analysis, CRS used the data referenced in the U.S. Congress, House Committee on Government Operations, Subcommittee on Legal and Monetary Affairs, *The Federal Effort Against Organized Crime. Part 1*, 90<sup>th</sup> Cong., 1<sup>st</sup> sess., April 5, 1967. Convictions carry a greater burden of proof than indictments, and thus are more difficult for prosecutors to obtain. While the raw numbers of both indictments and convictions were on the rise, the *proportion* of indicted individuals who were later convicted decreased; this may suggest that organized crime was perhaps growing at a rate faster than the criminal justice system was able to handle.

<sup>16</sup> Task Force on Organized Crime, *Organized Crime: Report of the Task Force on Organized Crime*, National Advisory Committee on Criminal Justice Standards and Goals, Washington, 1976.

<sup>17</sup> U.S. Congress, Senate Committee on the Judiciary, *Organized Crime Control Act of 1969*, report to accompany S. 30, 91<sup>st</sup> Cong., 1<sup>st</sup> sess., December 16, 1969, S.Rept. 91-617.

## Omnibus Crime Control and Safe Streets Act

One of the first steps taken by Congress to increase the federal government's role in combating organized crime included a series of congressional hearings in 1967 and 1968 and the enactment of the Omnibus Crime Control and Safe Streets Act of 1968 (P.L. 90-351). The Omnibus Crime Control and Safe Streets Act of 1968 was one of the first major pieces of legislation to directly address organized crime. Specifically, it provided grant money via the Law Enforcement Assistance Administration (LEAA)<sup>18</sup> to state law enforcement agencies to combat organized crime. Included in the Act was the congressional finding that

organized criminals make extensive use of wire and oral communications in their criminal activities. The interception of such communications to obtain evidence of the commission of crimes or to prevent their commission is an indispensable aid to law enforcement and the administration of justice.

Title III of this Act permitted federal law enforcement agencies to wiretap conversations of suspected criminals, including suspects of organized crime.<sup>19</sup> Electronic wiretapping authority granted in the Omnibus Crime Control and Safe Streets Act of 1968 immediately provided American law enforcement and policymakers with an indication of organized criminals' activity, specifically their involvement in illegally importing and distributing narcotics.<sup>20</sup> Despite these tools to combat criminals, the federal government still lacked the tools to combat criminal organizations.<sup>21</sup>

## The Organized Crime Control Act and RICO

The Organized Crime Control Act of 1970 (P.L. 91-452) strengthened the ability of the federal government to combat and prosecute criminal organizations. It provided for Special Grand Juries to investigate multi-jurisdictional organized crime; these grand juries are able to produce reports outlining public corruption and organized crime conditions in their respective districts. The Act also allowed for witnesses of organized crime to be granted immunity from prosecution in exchange for testimony. Further, it authorized security for government witnesses or potential witnesses in organized crime cases. This measure laid the groundwork for the Witness Security Program (WITSEC).<sup>22</sup> The WITSEC program allows for the protection and relocation of

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<sup>18</sup> The LEAA administered federal funding for state and local law enforcement agencies, educational programs, research, and crime initiatives. It is no longer in existence and has since been succeeded by the Office of Justice Programs (OJP).

<sup>19</sup> The Omnibus Crime Control and Safe Streets Act was later amended by the Violent Crime Control and Law Enforcement Act of 1994. This amended Act addressed organized crime in that it expressed the sense of the Senate that "the United States should encourage the development of a United Nations Convention on Organized Crime." Five years later in 1999, the United Nations began developing a Convention against Transnational Organized Crime. The Omnibus Crime Control and Safe Streets Act was also amended by the Electronic Communications Privacy Act (ECPA) of 1986 (P.L. 99-508), which substantially revised Title III and related provisions. For more information on the ECPA, see CRS Report 98-326, *Privacy: An Overview of Federal Statutes Governing Wiretapping and Electronic Eavesdropping*, by Gina Stevens and Charles Doyle.

<sup>20</sup> Remarks from Sen. John L. McClellan, U.S. Congress, House Judiciary, No. 5, *Organized Crime Control*, 91<sup>st</sup> Cong., 2<sup>nd</sup> sess., May 20, 1970.

<sup>21</sup> Remarks from John N. Mitchell, Attorney General of the United States, U.S. Congress, House Judiciary, No. 5, *Organized Crime Control*, 91<sup>st</sup> Cong., 2<sup>nd</sup> sess., May 21, 1970.

<sup>22</sup> 18 U.S.C. § 3521. Although the foundation for the Witness Security Program was authorized by the Organized Crime Control Act of 1970, the program was established under Part F of Chapter XII of P.L. 98-473.

witnesses and their families, whose lives may be in danger as a result of their testimony in organized and other major crime cases.

Title IX of the Organized Crime Control Act of 1970 created the Racketeer Influenced and Corrupt Organizations Act (RICO).<sup>23</sup> Many view RICO as the single most important piece of organized crime legislation enacted.<sup>24</sup> RICO allows for the prosecution of anyone who participates or conspires to participate in a criminal enterprise/organization through two acts of “racketeering activity” within a 10-year period of time. The predicate offenses for racketeering include various state and federal crimes listed in the U.S. Code.<sup>25</sup> Since its enactment, RICO has been one of the dominant tools used in organized crime prosecutions.

## **Asset Forfeiture and Money Laundering Statutes**

Since the passage of RICO, Congress has enacted legislation regarding asset forfeiture and money laundering, both of which have increased the federal government’s ability to combat organized crime.<sup>26</sup> The asset forfeiture and money laundering statutes have provided a means for the federal government to further attack the financial structure and assets of organized crime groups.<sup>27</sup> Although RICO included provisions for asset forfeiture, the Comprehensive Crime Control Act of 1984 (P.L. 98-473) expanded upon these provisions. Specifically, Title II of Chapter III—the Comprehensive Forfeiture Act of 1984—amended RICO by specifying that proceeds (both tangible and intangible) obtained directly or indirectly from racketeering activity were subject to forfeiture. This Act also established the Department of Justice’s Asset Forfeiture Fund in the Department of the Treasury. The rules for civil forfeiture proceedings were later revised in the Civil Asset Forfeiture Reform Act of 2000 (P.L. 106-185), improving the federal government’s ability to prosecute organized crime cases. Money laundering, the primary method of concealing the illicit proceeds from organized crime activities or placing them back into further illegal activity, was established as a federal criminal offense in the Money Laundering Control Act of 1986 (P.L. 99-570).<sup>28</sup> This Act also established criminal and civil penalties for money laundering,

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<sup>23</sup> RICO is codified at 18 U.S.C. § 1961-1968. For more information on RICO, please see CRS Report 96-950, *RICO: A Brief Sketch*, by Charles Doyle.

<sup>24</sup> See Howard Abadinsky, *Organized Crime*, 7<sup>th</sup> ed. (Belmont, CA: Wadsworth, 2003).

<sup>25</sup> See 18 U.S.C. § 1961 for a comprehensive list of the predicate offenses for racketeering. Offenses include—but are not limited to—crimes such as murder, kidnapping, gambling, arson, robbery, bribery, extortion, dealing in obscene matter, dealing in a controlled substance or listed chemical, counterfeiting, theft from interstate shipment, embezzlement from pension and welfare funds, embezzlement from union funds, fraud and related activity in connection with identification documents or access devices, mail fraud, wire fraud, financial institution fraud, procurement of citizenship or nationalization unlawfully, obstruction of justice or criminal investigations, tampering with or retaliating against a witness, false statements or forgery in application and use of a passport or other documents, peonage, slavery, trafficking in persons, interference with commerce, and laundering of monetary instruments.

<sup>26</sup> Federal Bureau of Investigation, “Move Over, Mafia: The New Face of Organized Crime,” press release, February 13, 2009, [http://www.fbi.gov/page2/feb09/organizedcrime\\_021309.html](http://www.fbi.gov/page2/feb09/organizedcrime_021309.html).

<sup>27</sup> For more information on forfeiture, see CRS Report 97-139, *Crime and Forfeiture*, by Charles Doyle. Forfeiture comes in two forms: civil and criminal. Both result in the confiscation of property derived from or used in criminal activities. Criminal forfeiture is confiscation accomplished as part of the prosecution of the property owner. Civil forfeiture is accomplished through a civil proceeding ordinarily brought against the property involved in the illicit activity.

<sup>28</sup> Money laundering is codified at 18 U.S.C. § 1956. The Money Laundering Control Act is Subtitle H of Title I of the Anti-Drug Abuse Act of 1986. For more information on the federal money laundering statutes, see CRS Report RL33315, *Money Laundering: An Overview of 18 U.S.C. 1956 and Related Federal Criminal Law*, by Charles Doyle and Todd Garvey.

as well as procedures for forfeiting the illicit funds. It appears that these laws have all provided effective tools, as the Department of Justice and Federal Bureau of Investigation have indicated that the three most prominent tools relied upon when investigating and prosecuting organized crime are RICO, money laundering, and asset forfeiture statutes.

## **More Recent Federal Attention to Organized Crime<sup>29</sup>**

Following the terrorist attacks of September 11, 2001, congressional and national law enforcement priorities shifted away from traditional crime fighting toward counterterrorism. More recently, however, there appears to be an increase in national attention to the need for fighting more traditional crime, including organized crime.<sup>30</sup> In fact, after a 15-year hiatus, the Organized Crime Council met in April 2008 for the first time since 1993.<sup>31</sup> The renewed attention to traditional crime fighting—and specifically for purposes of this discussion, organized crime—has increasingly shifted toward the transnational nature of organized crime. Though organized crime has arguably always been transnational, it was not until the 1990s, following the Cold War and the spread of globalization, that the transnational nature of organized crime surged and criminals expanded their operations across increasingly open borders.

## **Federal Law Enforcement Efforts to Combat Organized Crime**

In general, domestic crime control tends to fall on the shoulders of state and local law enforcement agencies. As mentioned above, however, the federal government began to play a larger role in combating organized crime following the enactment of the Omnibus Crime Control and Safe Streets Act of 1968, and even more after RICO and the Organized Crime Control Act of 1970. Various federal agencies are currently involved in controlling the activities of organized crime groups. In addition to domestic efforts to combat organized crime, the federal government is also involved in international efforts.

### **Domestic Efforts**

Combating organized crime is not a task handled by one federal agency or even one department. Many agencies have a hand in tackling the threats posed by organized crime. The Department of Justice, specifically the U.S. Attorney General's Organized Crime Council, is responsible for

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<sup>29</sup> In addition to the legislative efforts to control organized crime, there have been other national efforts aimed at assessing the activities of organized crime in the United States and providing recommendations for curbing its impact on society. Examples of advisory groups tasked with assessing the status of organized crime include the National Advisory Committee on Criminal Justice Standards and Goals (Organized Crime Task Force of 1976), the President's Commission on Organized Crime that met from 1983 through 1986, and the Organized Crime Council that met from 1970 to 1993. These groups have consistently concluded that organized crime remains a significant threat.

<sup>30</sup> Carrie Johnson, "Obama Team Faces Major Task in Justice Dept. Overhaul; Goal is to Restore Confidence in Law Enforcement Actions," *The Washington Post*, November 13, 2008, p. A02, Suburban Edition.

<sup>31</sup> U.S. Department of Justice, "Remarks prepared for delivery by Attorney General Michael B. Mukasey on International Organized Crime at the Center for Strategic and International Studies," press release, April 23, 2008, <http://www.usdoj.gov/ag/speeches/2008/ag-speech-080425.html>.

creating domestic organized crime policy.<sup>32</sup> The Council is chaired by the Deputy Attorney General and has representatives from the Federal Bureau of Investigation (FBI); the U.S. Drug Enforcement Agency (DEA); the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF); the U.S. Immigration and Customs Enforcement (ICE); the U.S. Secret Service; the Internal Revenue Service (IRS); the U.S. Postal Inspection Service; Diplomatic Security; and the U.S. Department of Labor, Office of the Inspector General.

Although many federal and state departments and agencies are involved in fighting organized crime, the primary agency responsible for combating organized crime is the FBI.<sup>33</sup> The Transnational Criminal Enterprise Section in the Criminal Enterprise Branch of the Criminal Investigative Division is responsible for investigating organized crime. This Organized Crime Section is divided into three principal units investigating (1) La Cosa Nostra, Italian organized crime, and racketeering; (2) Eurasian/Middle Eastern organized crime; and (3) Asian and African criminal enterprises.<sup>34</sup>

As its key analytical tool, the FBI uses the Enterprise Theory of Investigation (ETI) to investigate organized crime. ETI involves two steps: (1) identifying a criminal organization and the criminal activities of this organization and (2) identifying the financial assets of the criminal organization for possible forfeiture.<sup>35</sup> This investigative technique seems to complement the RICO statutes in that both ETI and RICO are aimed at dismantling criminal organizations. Further, ETI identifies financial assets that may be subject to forfeiture under civil RICO statutes. This aspect of ETI is directed at combating money laundering and thus the financial lifeline of organized crime.

### **Domestic Working Groups and Task Forces<sup>36</sup>**

Many of the FBI field offices have organized crime task forces. In those regions, the FBI works with state and local partners as well as with other federal agencies to combat organized crime. These task forces may be broader task forces covering a range of criminal syndicates, or they may be more specific covering a particular organized crime group. One example of a broad organized crime task force exists at the Minneapolis field division of the FBI; this division leads an Organized Crime Task Force that combines the efforts of other federal agencies as well as local law enforcement to target a number of criminal organizations involved in various crimes.<sup>37</sup> On the other hand, examples of more specific organized crime task forces exist at the FBI's New York division; in New York, there have been designated La Cosa Nostra (LCN) task forces, some

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<sup>32</sup> See the Department of Justice, Organized Crime and Racketeering Section website at <http://www.usdoj.gov/criminal/links/oocrs.html>.

<sup>33</sup> Because the FBI is the federal law enforcement agency leading the fight against organized crime, much of the discussion on federal crime control efforts in this report refers to the FBI. The examples used in this report, therefore, do not provide a comprehensive view of the federal efforts against organized crime.

<sup>34</sup> The FBI identifies organized crime threats on its website at <http://www.fbi.gov/hq/cid/orgcrime/aboutocs.htm>.

<sup>35</sup> From remarks by Chris Swecker, Acting Executive Assistant Director Law Enforcement Services, Federal Bureau of Investigation in U.S. Congress, House Committee on Homeland Security, Subcommittee on Management, Integration, and Oversight, *9/11 Reform Act: Examining the Implementation of the Human Smuggling and Trafficking Center*, 109<sup>th</sup> Cong., 2<sup>nd</sup> sess., March 8, 2006.

<sup>36</sup> While task forces tend to focus on investigating crimes, working groups tend to focus on discussing various threats and developing strategies to counter the threats.

<sup>37</sup> See the Federal Bureau of Investigation, Minneapolis Division Field Office website at [http://minneapolis.fbi.gov/taskforces.htm#organized\\_crime](http://minneapolis.fbi.gov/taskforces.htm#organized_crime).

dedicated to specific LCN families.<sup>38</sup> Even if standing task forces are not formed, domestic agencies work jointly and rely on the resources of one another to combat organized crime. For example, when investigating labor racketeering, the FBI may work with the Department of Labor, the Department of Transportation, and the Internal Revenue Service, as well as state and local authorities.

With respect to prosecuting organized crime cases, the Department of Justice Organized Crime and Racketeering Section has Strike Force Units dedicated to organized crime. These units currently exist in U.S. Attorneys' Offices in 21 of the 93 federal districts with a large organized crime presence. The Strike Force Units operate in these particular 21 offices for historical reasons; those are the 21 offices where the LCN has had the largest presence, and the Strike Force Units continue to operate out of those offices. These units comprise a group of prosecutors with particular expertise in large, multi-defendant RICO cases.<sup>39</sup> Ultimately, the U.S. Attorney General is the chief law enforcement officer responsible for criminal investigations and prosecutions, including those of organized crime.

## **International Efforts**

The United Nations Convention Against Transnational Organized Crime<sup>40</sup> is the main international tool for combating organized crime. In 2005, the United States ratified the Convention as well as the companion Protocols on trafficking in persons and smuggling of migrants. Among other provisions, the Convention provides for greater law enforcement cooperation and mutual legal assistance across nations where there were no previous agreements for such assistance. With the evolving transnational nature of organized crime, this coordination with international organizations is essential. Further, with increasingly open borders and the expansion of the Internet, organized criminals threaten American society not only from within the borders, but beyond.

One outcome of increasing transnational crime is that domestic federal law enforcement agencies work with international organizations to combat organized crime threats to the United States. As one example of this cooperation, the U.S. government and federal agencies support the United Nations (UN) Office of Drugs and Crime (UNODC) efforts to combat international organized crime. UNODC helps UN member countries implement provisions of the Convention Against Transnational Organized Crime to counter organized crime problems. Within the Department of Justice, the U.S. National Central Bureau (USNCB) of the International Criminal Police Organization (INTERPOL)<sup>41</sup> is the point of contact for INTERPOL matters in the United States. The USNCB can access INTERPOL's databases, and it coordinates requests for international

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<sup>38</sup> An example of one such task force is referenced in: Federal Bureau of Investigation, "Pedro D. Ruiz Named SAC of New York Field Office's Intelligence Division," press release, September 19, 2007, <http://www.fbi.gov/pressrel/pressrel07/ruiz091707.htm>.

<sup>39</sup> See the Department of Justice, Organized Crime and Racketeering Section website at <http://www.usdoj.gov/criminal/links/ocrs.html>.

<sup>40</sup> United Nations Office of Drugs and Crime, *United Nations Convention Against Transnational Organized Crime and the Protocols Thereto*, United Nations, New York, 2004.

<sup>41</sup> INTERPOL is the largest international police organization, composed of 187 member countries. It facilitates international law enforcement cooperation, primarily through maintaining secure global police communication systems, operating data services and databases for police, providing operational police support, and promoting police training and development. For more information on INTERPOL, see <http://www.interpol.int/>.

investigations between U.S. law enforcement and their international partners.<sup>42</sup> Specifically, the USNCB Terrorism and Violent Crimes Division coordinates requests on organized crime cases. Also, the FBI participates in several international working groups and task forces to formulate best practices in combating organized crime.

### **International Working Groups and Task Forces**

Federal law enforcement agencies in the United States and in Italy participate in the Italian American Working Group, which first met in 1984. This working group addresses problems common to both countries, including organized crime, drug trafficking, money laundering, cyber crime, and extradition issues. The Pantheon Project furthers the law enforcement relationship between the United States and Italy. The Project provides for two FBI agents that work at the Italian National Police headquarters and for two Italian officers that work at the FBI.

With respect to Russian organized crime, the FBI is involved in international *working groups*, including the Eurasian Organized Crime Working Group, the Central European Working Group, and the Southern European Cooperative Initiative. In addition, the FBI set up a joint FBI/Hungarian National Police task force in Budapest, Hungary, to combat Russian organized crime.<sup>43</sup> This task force was established in 2000 to counter the increasing threat of Russian organized crime and is the only international *task force* in which the FBI is currently involved. The FBI has requested additional funding for this task force in its 2011-2015 budget. The FBI, in conjunction with other law enforcement agencies around the world, has also provided INTERPOL with information on individuals involved in Eurasian organized crime; this information is the basis for *Project Millennium*, a multinational effort, led by INTERPOL, to combat Eurasian organized crime.

## **Federal Investigations and Prosecutions of Organized Crime**

According to the Department of Justice and the FBI, the threats posed by organized crime have become more broad and complex than ever before. Federal resources dedicated to organized crime matters, however, do not appear to have expanded along with the threats, and have actually decreased since 2001. After the September 11, 2001, terrorist attacks, national priorities, including those of federal law enforcement, shifted further toward counterterrorism-related activities and further away from traditional crime fighting activities. Within the law enforcement domain, this shift can be objectively seen in the field agents assigned to organized crime casework, the cases investigated, and the cases handled by the U.S. Attorneys' Offices.

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<sup>42</sup> The USNCB transmits, responds to, and executes requests for international law enforcement cooperation in which the United States is involved. For more information on the USNCB, see <http://www.usdoj.gov/usncb/>.

<sup>43</sup> From remarks by Grant D. Ashley, Assistant Director, Criminal Investigative Division, Federal Bureau of Investigation, in U.S. Congress, Senate Committee on Foreign Relations, *Combating Transnational Crime and Corruption in Europe*, 108<sup>th</sup> Cong., 1<sup>st</sup> sess., October 30, 2003.

## Agent Utilization

Following the September 11, 2001, terrorist attacks, the FBI reorganized, prioritizing counterterrorism and counterintelligence over traditional crime matters. The FBI did not, however, significantly change its field agent allocation for organized crime matters between FY2001 and FY2004. Agent allocation remained nearly constant at 700, 697, 698, and 720 agents, respectively, for FY2001-FY2004.<sup>44</sup> On the other hand, the FBI *utilization* of field agents in organized crime matters during this time period did not mirror that of the agent *allocation*.

**Figure 1** illustrates that the allocation of agents remained relatively constant, while the actual utilization decreased. The Department of Justice, Office of the Inspector General (OIG), found that in FY2004 the FBI utilized 35% fewer agents on organized crime matters than it did in FY2000.<sup>45</sup> While the FBI utilized 682 agents on organized crime matters in FY2000, this number dropped to 446 in FY2004. The questions remain, however, whether field agents continue to be *allocated* to organized crime matters at similar rates to those before the terrorist attacks of September 11, 2001, and subsequent FBI reorganization, and whether these agents continue to be *utilized* at lower rates than which they are allocated.<sup>46</sup>

This disparity between FBI field agent allocation and field agent utilization may suggest several things. For one, it may suggest that organized crime posed less of a threat to the United States in 2004 than it did in 2000. However, recent actions and testimony by former Attorney General Michael Mukasey suggest the opposite may be true. Former Attorney General Mukasey reconvened the Organized Crime Council in April 2008, for the first time in 15 years.<sup>47</sup> He stated that he did so because organized crime—both domestic and international—remains a significant threat. The sustained threat does not explain the decrease in field agent utilization in these matters. A second possible reason for the disparity in field agent allocation and utilization is that although the FBI did not intend to decrease its agent utilization on organized crime matters, agents may have been diverted to higher-priority issues such as counterterrorism. In fact, the Department of Justice, OIG, reported that the FBI confirmed underutilizing organized crime resources because the field divisions committed to prioritizing counterterrorism first and foremost. The FBI diverted agents from traditional crime squads—such as organized crime—and moved them to counterterrorism squads.<sup>48</sup> A third potential explanation is that the FBI lacks the man-power and monetary resources to address all significant threats that the country faces. This lack of resources may act in conjunction with the FBI's prioritization of counterterrorism. FBI Director Robert Muller has stated that indeed resources have shifted away from traditional crime fighting, and that there is a need to restore the criminal programs to “appropriate resource levels.”<sup>49</sup>

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<sup>44</sup> Department of Justice, Office of the Inspector General, Audit Division, *The External Effects of the Federal Bureau of Investigation's Reprioritization Efforts*, Audit Report 05-37, September 2005, p. 73.

<sup>45</sup> *Ibid.*, p. 14.

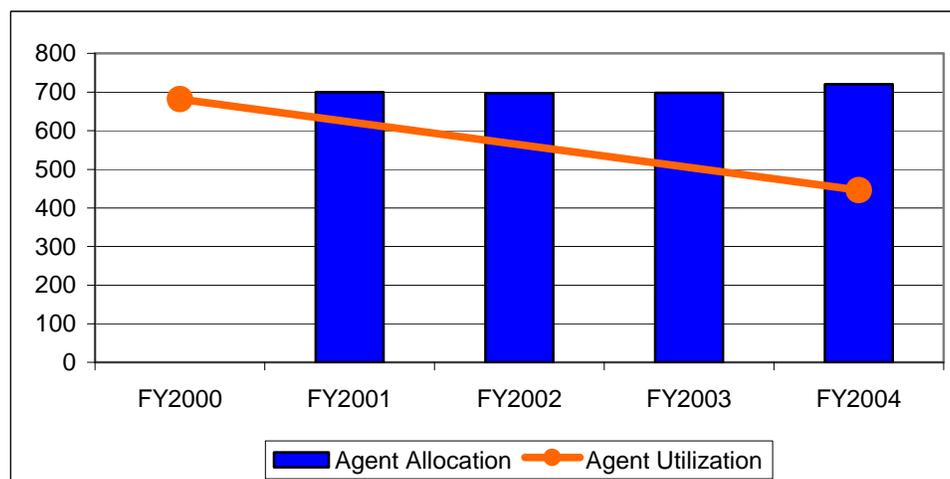
<sup>46</sup> The specific number of agents allocated to and actually utilized on organized crime cases is not publically available after FY2004. For this reason, CRS is unable to determine the current relationship between agents allocated to and agents utilized on organized crime matters.

<sup>47</sup> U.S. Department of Justice, “Remarks prepared for delivery by Attorney General Michael B. Mukasey on International Organized Crime at the Center for Strategic and International Studies,” press release, April 23, 2008, <http://www.usdoj.gov/ag/speeches/2008/ag-speech-080425.html>.

<sup>48</sup> Department of Justice, Office of the Inspector General, Audit Division, *The External Effects of the Federal Bureau of Investigation's Reprioritization Efforts*, Audit Report 05-37, September 2005, pp. 74-75.

<sup>49</sup> From remarks by Robert S. Mueller III, Director, Federal Bureau of Investigation, in U.S. Congress, Senate (continued...)

**Figure 1. FBI Allocation and Utilization of Agents on Organized Crime Matters, FY2000-FY2004**



**Source:** U.S. Department of Justice, Office of the Inspector General, Audit Division, *The External Effects of the Federal Bureau of Investigation's Reprioritization Efforts*, Audit Report 05-37, September 2005, pp. 73-75, <http://www.usdoj.gov/oig/reports/FBI/a0537/final.pdf>.

**Notes:** The data on organized crime agent allocation come from the OIG analysis of FBI Resource Management and Allocation (RMA) Office data. The data on organized crime agent utilization come from the OIG analysis of FBI Time Utilization Recordkeeping (TURK) data. The FBI utilized 35% fewer agents on organized crime matters in FY2004 than it did in FY2000. FBI organized crime agent allocation data were not available to the OIG for FY2000 because prior to FY2001, the FBI allocated organized crime and drug resources together.

## Case Openings

In FY2000, the FBI had 682 field agents investigating organized crime, and they initiated (opened) 433 organized crime investigations (cases) in that year, as shown in **Table 1**. Thus, the number of cases per agent was about 0.6. In FY2004, the FBI had 433 field agents investigating organized crime, and they initiated 263 organized crime investigations. Therefore, the number of cases per agent was also about 0.6.<sup>50</sup> Taken alone, a decrease in the number of organized crime cases could suggest that the threat from organized crime is actually decreasing. However, the number of agents investigating organized crime decreased proportionally to the number of organized crime cases opened. Therefore, using data from the number of organized crime case openings does not alone provide a reliable indication of the organized crime threat. There are several possible explanations for the simultaneous decrease in agents investigating organized crime matters and the number of organized crime case openings. One possibility is that a reduction in organized crime activity—and thus a reduction in the number of organized crime cases opened—could lead to fewer agents needed to investigate organized crime matters. On the

(...continued)

Committee on Appropriations, *Commerce, Justice, Science, and Related Appropriations for FY2008*, 110<sup>th</sup> Cong., 1<sup>st</sup> sess., April 26, 2007, p. 305.

<sup>50</sup> U.S. Department of Justice, Office of the Inspector General, Audit Division, *The External Effects of the Federal Bureau of Investigation's Reprioritization Efforts*, Audit Report 05-37, September 2005, pp. 73-75, <http://www.usdoj.gov/oig/reports/FBI/a0537/final.pdf>. CRS calculated the number of cases per agent based on the number of agents reported to be working on organized crime matters and the number of organized crime cases reportedly opened for FY2000 and FY2004.

other hand, a reduction in agents working on organized crime cases could lead to a reduction in the overall number of these cases opened and may not actually reflect a decrease in organized crime activity. One possible side effect of a decrease in the number of federal agents investigating organized crime may be an increased workload for each agent working on these cases; if the organized crime threat is sustained—as has been suggested by DOJ officials—it is possible that the caseloads of organized crime agents could increase if the number of agents actually investigating organized crime is sustained or further decreased.<sup>51</sup>

**Table 1. FBI Organized Crime Cases Worked Per Agent, FY2000 and FY2004**

Fiscal Year	Organized Crime Agent Utilization	Number of Organized Crime Cases Opened	Organized Crime Cases/Agent
2000	682	433	0.63
2004	446	263	0.59

**Source:** U.S. Department of Justice, Office of the Inspector General, Audit Division, *The External Effects of the Federal Bureau of Investigation's Reprioritization Efforts*, Audit Report 05-37, September 2005, pp. 73-75, <http://www.usdoj.gov/oig/reports/FBI/a0537/final.pdf>.

**Notes:** Data on organized crime agent utilization and case openings include data across the FBI's three organized crime subprograms: (1) La Cosa Nostra and Italian, (2) Asian, and (3) Russian and Eurasian. The data on organized crime agent utilization come from the OIG analysis of FBI Time Utilization Recordkeeping (TURK) data. The data on organized crime case openings come from the OIG analysis of FBI Automated Case Support (ACS) data. There was about a 35% decrease in the number of FBI agents utilized on organized crime matters and about a 39% decrease in the number of organized crime cases opened between FY2000 and FY2004.

## Prosecutions

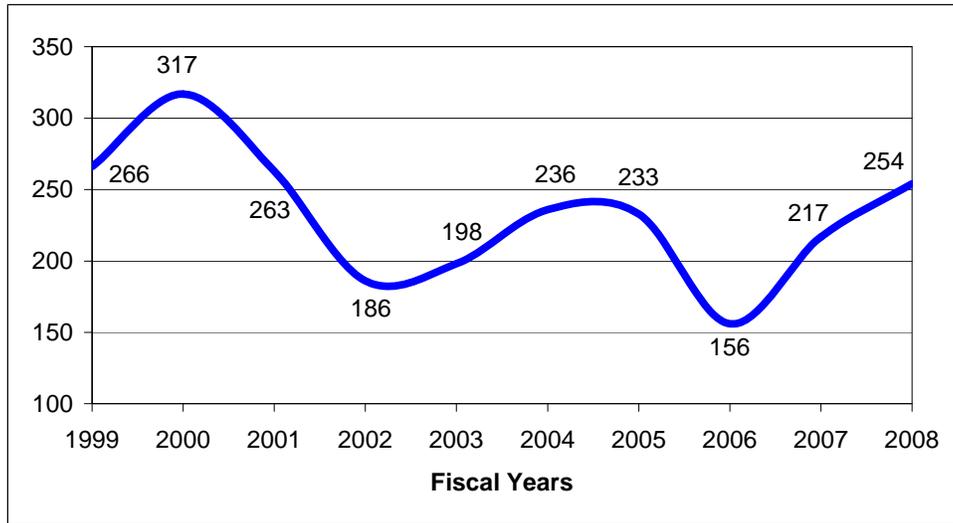
The Department of Justice, Organized Crime and Racketeering Section (OCRS), oversees federal organized crime prosecutions. As noted earlier, OCRS has organized crime Strike Force Units in 21 of the 94 U.S. Attorneys' Offices (USAOs) where there exists a large organized crime presence in that district. **Figure 2** graphs the number of organized crime cases referred to the USAOs for prosecution from FY1999 through FY2008. As evidenced in the figure, there has not been a consistent increase or decrease in the number of organized crime cases filed with the USAOs across these years.

Many factors could influence the number of organized crime cases referred to the USAOs for prosecution. While this number could reflect the actual activities of organized crime groups, several factors suggest that the trends in prosecutions may not mirror the trends in organized criminal activity—either in type or in number. Firstly, prosecutions may be driven in part by Administration priorities, which may not emphasize all federal crimes equally. Secondly, organized crime cases that are actually prosecuted are only a small subset (and not necessarily a proportionate subset) of those crimes committed.<sup>52</sup> Therefore, the number of organized crime prosecutions alone provides little evidence as to the true trends in organized criminal activity.

<sup>51</sup> The specific number of agents working on organized crime cases is not publically available after FY2004. For this reason, CRS is unable to determine whether the workload of agents working organized crime cases has fluctuated from the FY2004 level.

<sup>52</sup> See the Bureau of Justice Statistics flowchart illustrating case flow through the criminal justice system at <http://www.ojp.usdoj.gov/bjs/largechart.htm>.

**Figure 2. Organized Crime Cases Filed with the U.S. Attorneys' Offices, FY1999-FY2008**



**Source:** Data provided to CRS by the USAO.

**Notes:** These data include organized crime cases filed with the USAOs from all federal agencies.

One question that remains is whether the resources and tools for investigating and prosecuting organized crime in the United States—as previously provided by Congress—are the most effective tools for combating today's threats from organized crime.

## Current Organized Crime Trends

As mentioned, organized crime in the United States has taken on an increasingly transnational nature. This shift has been facilitated by factors such as economic globalization and improved communications technology.<sup>53</sup> The section below provides a detailed discussion of the organized crime groups that operate in the United States, the activities of these groups, and the domestic industries that have been and may continue to be threatened by organized crime.

One way of analyzing the organized crime threat is by examining the most prominent organized crime groups operating in the United States. The FBI, for instance, provides information on the various organized crime groups in order to present a picture of organized crime in the United States. A second method is by examining those areas of society threatened most by the activities of organized crime (such as the economy or national security), regardless of which group is committing the crime. The Organized Crime and Racketeering Section (OCRS) at DOJ, for example, presents the organized crime threats to the United States in terms of the principal threat areas, rather than the individual groups committing crimes. Subsequent discussion uses both approaches to analyze organized crime.

<sup>53</sup> Committee on Law and Justice, National Research Council, *Transnational Organized Crime: Summary of a Workshop*, ed. Peter Reuter and Carol Petrie (Washington: National Academy Press, 1999), pp. 1-2.

## Organized Crime Groups Operating in the United States<sup>54</sup>

Although organized crime is popularly associated with the Italian Mafia, the breadth of organized crime in the United States includes many other criminal organizations. The FBI investigates organized crime groups that fall into three major categories: (1) La Cosa Nostra, Italian organized crime, and racketeering; (2) Eurasian/Middle Eastern organized crime; and (3) Asian and African criminal enterprises.<sup>55</sup> **Figure 3** outlines the top organized crime threats to the United States, as identified by the FBI. Threats to the United States posed by selected large-scale criminal organizations are discussed below.

**Figure 3. Organized Crime Threats in the United States**

According to the FBI



**Source:** The FBI identifies and provides an overview of these various organized crime groups on its website at <http://www.fbi.gov/hq/cid/orgcrime/ocshome.htm>.

<sup>54</sup> As mentioned, drug trafficking organizations (DTOs) are considered by DOJ and the FBI as separate from organized crime groups. Although many organized crime groups are involved in drug smuggling, trafficking, and distribution—among various other crimes—DTOs’ *primary* involvement is drugs. For more information on the U.S. policy and efforts to combat drug trafficking, see CRS Report RL32352, *War on Drugs: Reauthorization and Oversight of the Office of National Drug Control Policy*, by Mark Eddy.

<sup>55</sup> The FBI identifies organized crime threats on its website at <http://www.fbi.gov/hq/cid/orgcrime/aboutocs.htm>.

## Eurasian/Russian

The discussion of Russian organized crime tends to reference not only Russian crime syndicates, but a variety of Eurasian crime groups as well.<sup>56</sup> These groups began emerging in the United States in the late 1970s and became even more prevalent following the collapse of the Soviet Union in 1991. They are now considered by the FBI to be the top organized crime threat to the United States.<sup>57</sup> The Russian organized crime groups that operate in the United States exhibit less of a traditional hierarchical structure than the Italian Cosa Nostra, and they form their networks based more on the skills needed for particular crimes.<sup>58</sup> In the United States, Russian organized criminals are involved in long-established organized crime activities such as extortion, abduction, human smuggling, prostitution, drug trafficking, and theft, as well as white-collar criminal activities including money laundering and fraud of various types. In fact, the FBI has indicated that roughly 60% of FBI cases targeting Russian organized crime involve fraud.<sup>59</sup> The types of fraud and scams that Russian criminals participate in cross industries from health care and strategic commodities (e.g., precious metals) fraud to credit card, insurance, securities, and investment fraud. They are also involved in scams in domains such as tax evasion and energy price rigging. Many Russian organized crime groups operate in New York, New Jersey, Boston, Philadelphia, Chicago, Los Angeles, San Francisco, and Miami, among other cities.<sup>60</sup>

U.S. law enforcement has relied heavily on RICO, money laundering, and asset forfeiture statutes to prosecute Russian crime syndicates. They consider these pieces of legislation as significant for combating organized crime activities as well as the structure of the criminal organizations.<sup>61</sup> Principal efforts to control Russian organized crime groups include the establishment of both domestic and international task forces and working groups aimed at dismantling these crime syndicates. Domestically, the FBI has set up *task forces* in cities such as New York, New Jersey, Philadelphia, Chicago, San Francisco, Los Angeles, and Miami. Also, local police departments in major cities, including New York and Los Angeles, have set up Russian organized crime task forces.<sup>62</sup> In addition, the FBI is involved in international *working groups* concerned with Russian

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<sup>56</sup> For purposes of this discussion, the term *Russian organized crime* refers to both Russian and Eurasian crime groups operating in the United States. The FBI and other experts also reference the combination of Russian and Eurasian crime groups under an umbrella term. See, for example, James O. Finckenauer and Jay Albanese, "Organized Crime in North America," in *Handbook of Transnational Crime and Justice*, ed. Philip Reichel (Thousand Oaks, CA: Sage, 2005), pp. 439-456.

<sup>57</sup> U.S. Congress, House Committee on International Relations, *Threat from International Organized Crime and Global Terrorism*, 105<sup>th</sup> Cong., 1<sup>st</sup> sess., October 1, 1997.

<sup>58</sup> Russian crime groups in Russia have a more hierarchical structure than those groups operating in the United States. These groups, such as the Vory V Zakone, or "thieves-in-law," exhibit a structure more similar to the Italian Cosa Nostra. See Alexander Sukhareenko, "The Use of Corruption by 'Russian' Organized Crime in the United States," *Trends in Organized Crime*, vol. 8, no. 2 (Winter 2004), pp. 118-129. Also see James O. Finckenauer and Jay Albanese, "Organized Crime in North America," in *Handbook of Transnational Crime and Justice*, ed. Philip Reichel (Thousand Oaks, CA: Sage, 2005), pp. 439-456.

<sup>59</sup> From remarks by Grant D. Ashley, Assistant Director, Criminal Investigative Division, Federal Bureau of Investigation, in U.S. Congress, Senate Committee on Foreign Relations, *Combating Transnational Crime and Corruption in Europe*, 108<sup>th</sup> Cong., 1<sup>st</sup> sess., October 30, 2003.

<sup>60</sup> These are the cities in which the FBI has set up special investigative units dedicated to investigating Russian organized crime.

<sup>61</sup> Federal Bureau of Investigation, "Inside the FBI: Organized Crime," press release, February 13, 2009, <http://www.fbi.gov/inside/archive/inside021309.htm>.

<sup>62</sup> James O. Finckenauer and Jay Albanese, "Organized Crime in North America," in *Handbook of Transnational Crime and Justice*, ed. Philip Reichel (Thousand Oaks, CA: Sage, 2005), pp. 439-456.

organized crime, including the Eurasian Organized Crime Working Group; the Central European Working Group at the International Law Enforcement Academy in Budapest, Hungary; and the Southern European Cooperative Initiative in Bucharest, Romania. The FBI is also involved in an international organized crime *task force* in Budapest, Hungary, aimed at combating Russian organized crime; currently, this is the only international task force aimed at combating organized crime in which the FBI is involved. The FBI has indicated that this international effort has been invaluable in developing international partnerships and intelligence, as well as expanding its international capabilities.<sup>63</sup>

## **Asian**

Asian organized crime groups have had a presence in the United States since at least the early 1900s. However, there has been an increase in Asian organized crime since the 1990s.<sup>64</sup> Research indicates that there is not one unified Asian organized crime group; rather, there exist numerous crime syndicates, some more traditionally organized than others.<sup>65</sup> According to the FBI, traditional groups include Chinese triads from Hong Kong, Taiwan, and Macau, and the Japanese Yakuza. Less traditional groups include tongs, triads, and Asian street gangs such as the Big Circle and the Fuk Ching. Similar to a trend seen among Russian organized crime groups, an emerging trend seen among Asian crime syndicates is a willingness to cooperate across ethnic and racial lines if it is profitable for the enterprise. Asian organized crime groups derive most of their profits from trafficking in drugs—such as heroin—and people, but are also actively involved in other criminal activities, from money laundering, counterfeiting, and fraud to kidnapping and the theft of autos, software, and clothing. The FBI indicates that Boston, Chicago, Honolulu, Las Vegas, Los Angeles, New Orleans, New York, Newark, Philadelphia, Portland, San Francisco, Seattle, and Washington, D.C., are examples of areas with a high prevalence of Asian organized crime.

U.S. law enforcement has relied heavily on RICO, money laundering, and asset forfeiture statutes to prosecute Asian crime syndicates. Similar to efforts aimed at combating Russian organized crime groups, U.S. law enforcement participates in domestic and international working groups aimed at combating Asian organized crime. Domestically, the Interagency Working Group on Alien Smuggling examines policy and investigative issues surrounding the smuggling of aliens and trafficking of women and children, including involvement of Asian organized crime groups in these activities. The FBI is also involved in international working groups concerned with Asian organized crime, including the FBI/National Police Agency of Japan Working Group, Interpol's Project Bridge, the International Asian Organized Crime Conference, the Canadian/United States Cross-Border Crime Forum, and the International Law Enforcement Academy in Bangkok, Thailand.<sup>66</sup>

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<sup>63</sup> Federal Bureau of Investigation, "Testimony of Grant D. Ashley, Assistant Director, Criminal Investigative Division, FBI Before the Subcommittee on European Affairs, Committee on Foreign Relations, United States Senate," press release, October 30, 2003, <http://www.fbi.gov/congress/congress03/ashley103003.htm>.

<sup>64</sup> Glenn E. Curtis, Seth L. Elan, and Rexford A. Hudson, et al., "Transnational Activities of Chinese Crime Organizations: A Report Prepared under an Interagency Agreement by the Federal Research Division, Library of Congress," *Trends in Organized Crime*, vol. 7, no. 3 (Spring 2002), pp. 19-57.

<sup>65</sup> Ko-Lin Chin, *Chinatown Gangs: Extortion, Enterprise, Ethnicity* (New York: Oxford University Press, 2000).

<sup>66</sup> Federal Bureau of Investigation, *Organized Crime: Asian Criminal Enterprises*, <http://www.fbi.gov/hq/cid/orgcrime/asiancrim.htm>.

## Italian

The La Cosa Nostra (LCN), is the most prominent Italian organized crime group operating in the United States.<sup>67</sup> Within the LCN, there are five principal crime *families*.<sup>68</sup> The LCN is involved in an array of illegal activities, from gambling and loan sharking to drug trafficking and money laundering, that threaten American society.<sup>69</sup> Most members of the LCN operate in the New York metropolitan area, but there are also criminal operations in Boston, Chicago, Newark, Detroit, Philadelphia, and Miami.<sup>70</sup> La Cosa Nostra has been operating in the United States since the 1920s and still poses a threat today.

Early congressional and law enforcement efforts to control organized crime were aimed directly at controlling the illegal activities of the Mafia (LCN). As discussed earlier, these early congressional efforts involved enacting the 1968 Omnibus Crime Control and Safe Streets Act (P.L. 90-351) and the 1970 Organized Crime Control Act and RICO (P.L. 91-452), as well as the asset forfeiture and money laundering statutes. Civil RICO lawsuits have been particularly effective in purging the LCN from legitimate industries and unions, such as the Las Vegas gaming industry, the New York moving and storage industries, and the union representing truckers servicing JFK airport in New York.<sup>71</sup> In addition to federal RICO statutes, many states have also adopted RICO statutes. Many believe that RICO has been the most powerful tool in combating La Cosa Nostra.<sup>72</sup> Despite these effective tools, the LCN remains a major organized crime threat to American society.

## Balkan

The FBI identifies Balkan organized crime, and Albanian groups in particular, as among the most formidable organized crime groups today, as evidenced, in part, by an increase in Albanian-born individuals arrested in the United States.<sup>73</sup> Albanian organized crime groups emerged in the United States in the late 1980s and have evolved from being close knit families to allowing in outsiders with particular areas of criminal expertise. These groups are active in areas such as New York, Los Angeles, Las Vegas, Dallas, and Houston, to name a few. Balkan crime groups have been involved in various illegal activities such as gambling, extortion, robbery, counterfeit

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<sup>67</sup> According to the FBI, there are four main Italian organized crime groups operating in the United States: the Sicilian Mafia (from which the LCN was formed), the Camorra or Neapolitan Mafia, the 'Ndrangheta or Calabrian Mafia, and the Sacra Corona Unita or United Sacred Crown. The term "Mafia" tends to be an encapsulating term referencing all of these groups.

<sup>68</sup> The five principal crime families that make up the LCN are the Bonanno, the Colombo, the Genovese, the Gambino, and the Luchese families.

<sup>69</sup> Other principal threats that the LCN poses to American society are labor racketeering, political corruption, extortion, theft, bribery, kidnapping, fraud, counterfeiting, infiltration of legitimate businesses, murders, and bombings.

<sup>70</sup> James O. Finckenauer, *La Cosa Nostra in the United States*, International Center, National Institute of Justice, 2007, <http://www.docstoc.com/docs/416307/La-Cosa-Nostra-in-the-Unites-States---2000>.

<sup>71</sup> Frank J. Marine, Organized Crime and Racketeering Section, United States Department of Justice, Washington, District of Columbia, USA, "The effects of organized crime on legitimate business," *Journal of Financial Crime*, vol. 13, no. 2 (2006), pp. 214-234.

<sup>72</sup> James B. Jacobs, Christopher Panarella, and Jay Worthington, *Busting the Mob: United States v. Cosa Nostra* (New York: New York University Press, 1994).

<sup>73</sup> John DiStasio, "International Organized Crime Center," *United States Attorneys' Bulletin*, vol. 51, no. 5 (September 2003), pp. 2-6.

currency, drug trafficking, human smuggling, real estate fraud, money laundering, witness intimidation, and murder.

One emerging trend seen among Balkan organized crime groups is an increased cooperation with other organized crime groups—further evidence that Balkan organized crime is not just increasing, but expanding.<sup>74</sup> For example, the FBI has indicated that the LCN has partnered with Albanian organized crime in New York. There, the LCN is relying on the Albanians as their enforcers, and the Albanians have increasingly taken over some turf there that was previously dominated by the LCN.

## Other Organized Crime Groups

The federal government recognizes threats from other organized crime groups that may not have the same notoriety as larger groups such as the LCN. For example, Middle Eastern Criminal Enterprises are primarily involved in organized theft, financial fraud, money laundering, and cigarette smuggling. Also, African crime syndicates—and particularly Nigerian groups—are involved in heroin trafficking, money laundering, and fraud (including insurance, bank, auto, healthcare, identity, and document fraud).

Of note, a trend among organized crime groups is that they begin by victimizing members of their own neighborhoods and ethnic communities, and then expand their illegal activities beyond these community lines. For example, in the 1920s Prohibition era, the Italian-American mafia began victimizing other Italians in the Five Points neighborhood of Little Italy in New York, before extending their activities to other neighborhoods of New York and the surrounding metropolitan area.<sup>75</sup> If this is indeed a common pattern across organized crime groups, then it is likely that emerging crime groups may expand their activities rather than restrict them to the areas in which they currently operate.

## Domestic Impact of Organized Crime

The U.S. Department of Justice Organized Crime Council,<sup>76</sup> chaired by the Deputy U.S. Attorney General, has identified eight strategic threats to the United States posed by international organized crime.<sup>77</sup> Of note, the term “international organized crime” includes not only those

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<sup>74</sup> Clint Williamson, “Balkan Organized Crime: The Emerging Threat,” *United States Attorneys' Bulletin*, vol. 51, no. 5 (September 2003), pp. 42-48.

<sup>75</sup> *World Encyclopedia of Organized Crime*, ed. Jay Robert Nash (Dallas: Zane Publishing, 1995).

<sup>76</sup> The Organized Crime Council includes leaders from nine federal law enforcement agencies: the Federal Bureau of Investigation; the U.S. Drug Enforcement Agency; the Bureau of Alcohol, Tobacco, Firearms and Explosives; the U.S. Immigration and Customs Enforcement; the U.S. Secret Service; the Internal Revenue Service; the U.S. Postal Inspection Service; Diplomatic Security; and the U.S. Department of Labor, Office of the Inspector General.

<sup>77</sup> Organized Crime Council, *Overview of the Law Enforcement Strategy to Combat International Organized Crime*, U.S. Department of Justice, April 2008. In this Strategy, the Organized Crime Council uses the broad term *international organized crime* to include organized crime in the United States. Former U.S. Attorney General Michael Mukasey has underscored the inclusion of domestic organized crime under the umbrella term of international organized crime, citing the globalization of crime and of groups with member around the world (including the United States). See U.S. Department of Justice, “Remarks Prepared for Delivery by Attorney General Michael B. Mukasey on International Organized Crime at the Center for Strategic and International Studies,” April 23, 2008, [http://www.usdoj.gov/ag/speeches/2008/ag\\_speech\\_080423.html](http://www.usdoj.gov/ag/speeches/2008/ag_speech_080423.html).

organized crime groups operating outside the borders of the United States, but within the U.S. borders as well. As mentioned earlier, the Council noted that international organized criminals have and may penetrate the energy and other strategic sectors of the economy; provide logistical and other support to terrorists, foreign intelligence services, and governments; smuggle/traffic people and contraband goods into the United States; exploit the United States and international financial system to move illicit funds; use cyberspace to target U.S. victims and infrastructure; manipulate securities exchanges and perpetrate sophisticated frauds; corrupt or seek to corrupt public officials in the United States and abroad; and use violence or the threat of violence as a basis for power.

Former U.S. Attorney General Michael Mukasey outlined strategic goals in combating these threats. These goals continue to include

- targeting the largest organized crime threats,
- dismantling criminal organizations and removing their leadership,
- marshalling information from all available resources, and
- relying on all possible domestic and international tools and law enforcement partnerships.<sup>78</sup>

One specific goal of the Organized Crime Council that may be of particular interest to Congress is to “provide law enforcement with updated legislation and operational procedures needed to combat international organized crime.”<sup>79</sup> Specifically, the Organized Crime Council indicated that laws and regulations should be expanded, updated, or modified to afford the government the abilities to investigate and prosecute organized criminals that affect American society from outside U.S. borders. This suggests that federal law enforcement currently may not have the extraterritorial jurisdiction or the most effective tools to combat the evolving organized crime threats to the United States. The section below provides a detailed discussion of some potential impacts of organized crime, followed by possible issues that the 111<sup>th</sup> Congress may consider.

## **Impact of Organized Crime on the Economy**

Considering the current economic downturn, some analysts may question the effect that organized crime may have on American society. Organized crime could further weaken the economy with illegal activities (such as cigarette trafficking and tax evasion scams) that result in a loss of tax revenue for state and federal governments. Their fraudulent activities in the domains of strategic commodities, credit, insurance, stocks, securities, and investments could further weaken the already-troubled financial and housing markets.

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<sup>78</sup> U.S. Department of Justice, “Remarks Prepared for Delivery by Attorney General Michael B. Mukasey on International Organized Crime at the Center for Strategic and International Studies,” April 23, 2008, [http://www.usdoj.gov/ag/speeches/2008/ag\\_speech\\_080423.html](http://www.usdoj.gov/ag/speeches/2008/ag_speech_080423.html).

<sup>79</sup> Organized Crime Council, *Overview of the Law Enforcement Strategy to Combat International Organized Crime*, U.S. Department of Justice, April 2008, pp. 14-15.

## Money Laundering

Money laundering involves concealing the nature, location, source, ownership, or control of proceeds from an illegal activity or placing them back into further illegal activity.<sup>80</sup> The ill-gotten proceeds are laundered through a variety of methods to become “clean money.” With the expansion of the Internet and increased globalization, the methods of money laundering continue to become increasingly complex and difficult to detect. The Financial Crimes Enforcement Network (FinCEN), under the Department of the Treasury, indicates that the routes for money laundering include banks, check cashers, money transmitters, businesses, and casinos. Money launderers use methods such as complex wire transfers, shell companies, and currency smuggling to hide their dirty money.<sup>81</sup>

Money laundering became a federal crime in the Money Laundering Control Act of 1986 (P.L. 99-570). It came to Congress’s attention that organized criminals were camouflaging their proceeds, and Congress strengthened the federal criminal statutes to better combat criminal organizations.<sup>82</sup> Recently, the scope of the money laundering statute has come under examination. The statute prohibits financial transactions of proceeds from illicit activities, but it does not currently define what constitutes “proceeds.” The Supreme Court ruled in *United States v. Santos* that in the money laundering statute, the term “proceeds” refers to profits rather than gross receipts.<sup>83</sup>

Legislation has since been introduced in the 111<sup>th</sup> Congress to amend the money laundering statute. The Money Laundering Correction Act of 2009 (H.R. 1793) and the Money Laundering Control Enhancement Act of 2009 (S. 378) would clarify the statute so that the term “proceeds” includes gross receipts of an illegal activity. The Fraud Enforcement and Recovery Act of 2009 (S. 386) would clarify both the money laundering and international money laundering statutes. Namely, it would indicate that “proceeds” includes gross receipts of illegal activities. Also, it would extend the international money laundering statute to apply to tax evasion in addition to the crimes already included. Some experts have argued that expanding the predicate offenses for international money laundering could broaden the tools the federal government is able to rely upon when investigating and prosecuting organized crime that is increasingly crossing international lines.

## Cigarette Trafficking

Law enforcement agencies have also noted that criminal syndicates’ participation in the trafficking of contraband cigarettes poses a significant threat to American society. A number of different organized crime groups are involved in cigarette trafficking. This illicit activity indirectly threatens the American economy and American communities. Cigarette smuggling leads to lost tax revenue. Businesses, in turn, compensate by raising taxes for the consumer, ultimately placing the increased economic burden on the consumer.<sup>84</sup> Excessive economic

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<sup>80</sup> Money laundering is codified as a federal crime at 18 U.S.C. § 1956.

<sup>81</sup> See the Overview of Law Enforcement on the FinCEN website at [http://www.fincen.gov/law\\_enforcement/](http://www.fincen.gov/law_enforcement/).

<sup>82</sup> For more information on the money laundering discussions in Congress preceding the Money Laundering Control Act of 1986, see U.S. Congress, Senate Committee on the Judiciary, *Money Laundering Legislation*, Hearing on S. 572, S. 1335, and S. 1385, 99<sup>th</sup> Cong., 1<sup>st</sup> sess., October 29, 1985, S.Hrg. 99-540.

<sup>83</sup> “Supreme Court Narrows Scope of Money-Laundering Statute,” *Criminal Justice Newsletter*, July 2008, pp. 1-3.

<sup>84</sup> U.S. Congressman Bobby Scott, “Prevent All Cigarette Trafficking Act of 2008,” press release, September 9, 2008, (continued...)

burdens on the consumer are of particular concern now because of the current economic recession. Consequently, revenues that would assist in funding government programs are being illegally redistributed because of organized crime activities.

## **Piracy and Counterfeiting**

There is evidence that organized criminals are becoming increasingly involved in the production and distribution of counterfeit and pirated goods.<sup>85</sup> In Los Angeles County alone, Russian, Asian, Eurasian, and Lebanese organized crime groups are among those that have been involved in intellectual property rights crimes.<sup>86</sup> Industries targeted are broad, including the music and motion picture industries, clothing companies, luxury goods manufacturers, and the tobacco industry. The federal government has taken several steps so far in fighting these crimes. In fact, in March 2004, the Department of Justice created an Intellectual Property Task Force to combat the increase in intellectual property piracy and counterfeiting by organized crime groups. Also, the Office of the United States Trade Representative (USTR) has indicated that an Anti-Counterfeiting Trade Agreement (ACTA) is being formulated with other countries, including Australia, Canada, EU, Japan, Jordan, Korea, Mexico, Morocco, New Zealand, Singapore, Switzerland, and the United Arab Emirates. According to the USTR, one benefit of the ACTA is that it will help combat the piracy and counterfeiting that is an “easy source of revenue for organized crime.”<sup>87</sup>

Counterfeit currency is another example of a domain in which many organized crime groups are involved. Asian organized crime groups in Los Angeles and New Jersey have been linked to the production of “supernotes,” or fake \$50 and \$100 bills. This can not only lead to a loss in actual money (for those paid in the counterfeit currency), but it can damage the value of the U.S. dollar.<sup>88</sup> Some experts and policy analysts have suggested that one possible legislative option to help counter the involvement of organized crime in piracy and counterfeiting may be to expand the organized crime and money laundering statutes to include large-scale piracy and counterfeiting tied to other criminal activities.<sup>89</sup>

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(...continued)

[http://www.bobbyscott.house.gov/index.php?option=com\\_content&task=view&id=346&Itemid=89](http://www.bobbyscott.house.gov/index.php?option=com_content&task=view&id=346&Itemid=89).

<sup>85</sup> U.S. Government Accountability Office, *Intellectual Property: U.S. Efforts have Contributed to Strengthened Laws, but Significant Enforcement Challenges Remain*, GAO-05-788T, June 14, 2005,

<http://www.gao.gov/new.items/d05788t.pdf>. Counterfeit and pirated goods are those that are either fake copies or copies that have been reproduced without authorization.

<sup>86</sup> From remarks by John C. Stedman, Lieutenant, Sheriff's Department, County of Los Angeles, before the U.S. Congress, Senate Committee on Homeland Security and Government Affairs, *Counterfeit Goods: Easy Cash for Criminals and Terrorists*, 109<sup>th</sup> Cong., 1<sup>st</sup> sess., May 25, 2005, p. 8. Intellectual property rights (IPR) include copyrights, trademarks, trade secrets, and patents.

<sup>87</sup> Office of the United States Trade Representative, *Anti-Counterfeiting Trade Agreement (ACTA)*, August 4, 2008, [http://www.ustr.gov/assets/Document\\_Library/Fact\\_Sheets/2008/asset\\_upload\\_file760\\_15084.pdf?ht=](http://www.ustr.gov/assets/Document_Library/Fact_Sheets/2008/asset_upload_file760_15084.pdf?ht=).

<sup>88</sup> Todd Bullock, “Narcotics, Counterfeiting Help Fund North Korea, U.S. Says: Senate hearing discusses Pyongyang's criminal operations,” *America.gov*, April 26, 2006, <http://www.america.gov/st/washfile-english/2006/April/20060426135925tjkcollub0.8716699.html>.

<sup>89</sup> Gregory F. Treverton, Carl Matthies, and Karla J. Cunningham, et al., *Film Piracy, Organized Crime, and Terrorism*, RAND Corporation, Safety and Justice Program and the Global Risk and Security Center, 2009, [http://www.rand.org/pubs/monographs/2009/RAND\\_MG742.pdf](http://www.rand.org/pubs/monographs/2009/RAND_MG742.pdf).

## Organized Crime and Terrorists

In addition to concern surrounding the many industries in which organized criminals operate, both analysts and policymakers have expressed concern about the potential nexus between organized crime and terrorism. The principal distinction authorities make between organized crime groups and terrorist groups is motivation. Money motivates organized crime, and ideology motivates terrorism. Because of this fundamental difference, the National Intelligence Council expects that between now and 2020:

[T]he relationship between terrorists and organized criminals will remain primarily a matter of business, i.e., that terrorists will turn to criminals who can provide forged documents, smuggled weapons, or clandestine travel assistance when the terrorists cannot procure these goods and services on their own. Organized criminal groups, however, are unlikely to form long-term strategic alliances with terrorists. Organized crime is motivated by the desire to make money and tends to regard any activity beyond that required to effect profit as bad for business. For their part, terrorist leaders are concerned that ties to non-ideological partners will increase the chance of successful police penetration or that profits will seduce the faithful.<sup>90</sup>

Despite the difference in motivation for organized crime and terrorism, the linking element for the two is money. Terrorist organizations may obtain funding from criminal acts, similar to organized crime groups. Also, terrorist organizations may launder these funds, similar to criminal organizations.<sup>91</sup> One example of a domain in which both organized criminals and terrorists may both benefit monetarily is piracy. Although there is currently less evidence of terrorist involvement in piracy, this business is a high-profit, low-risk activity, attractive to both criminals and terrorists.<sup>92</sup>

Even if organized crime groups and terrorist organizations do not form long-term alliances, the possibility of short-term business alliances may be of concern to citizens and policymakers alike. The FBI indicates that although it has not yet had a case of organized crime groups working directly with terrorists, the possibility exists, and it continues to be watchful for this nexus. Because organized criminals are monetarily motivated, the FBI believes that these criminals would be inclined to work with terrorists if offered sufficient funds.<sup>93</sup>

Although there are few reported instances of organized crime groups *actually* aiding terrorists, there are reported instances of international organized criminals *conspiring* to provide support to terrorist organizations. One such instance is Viktor Bout, an international arms trafficker who has been charged with conspiring to sell weapons to the Revolutionary Armed Forces of Columbia

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<sup>90</sup> *Mapping the Global Structure*, National Intelligence Council, Report of the National Intelligence Council's 2020 Project, Based on consultations with nongovernmental experts around the world, Washington, D.C., December 2004, p. 96.

<sup>91</sup> Angela Veng Mei Leong, "Criminal Finance: Money Laundering and Terrorist Financing," in *The Disruption of International Organized Crime: An Analysis of Legal and Non-Legal Strategies* (Burlington, VT: Ashgate Publishing Company, 2007), pp. 29-67.

<sup>92</sup> Gregory F. Treverton, Carl Matthies, and Karla J. Cunningham, et al., *Film Piracy, Organized Crime, and Terrorism*, RAND Corporation, Safety and Justice Program and the Global Risk and Security Center, 2009, [http://www.rand.org/pubs/monographs/2009/RAND\\_MG742.pdf](http://www.rand.org/pubs/monographs/2009/RAND_MG742.pdf).

<sup>93</sup> Pat Milton, "FBI Worries About an Osama-Sopranos Link," *Associated Press*, October 1, 2006, [http://www.redorbit.com/news/general/676652/fbi\\_worries\\_about\\_an\\_osamasopranos\\_link/index.html](http://www.redorbit.com/news/general/676652/fbi_worries_about_an_osamasopranos_link/index.html).

(FARC).<sup>94</sup> As mentioned earlier in this report, federal law enforcement distinguishes between organized crime groups and drug trafficking organizations. Although there are no reported instances of organized crime groups directly working with terrorists, there are reported instances of “narco-terrorism,” or terrorism funded through the proceeds of drug trafficking; the Liberation Tigers of Tamil Eelam, members of Hizbollah, and the Al-Qaida network are all examples of terrorist groups with close ties to drug trafficking.<sup>95</sup> GAO reports that U.S. officials are concerned with the threat in Eurasia of the links between terrorist organizations and organized crime, and trafficking in persons and drugs.<sup>96</sup> With the prevalence of drug trafficking in the United States (via drug trafficking organizations as well as via organized crime groups that also have a hand in drug trafficking), policymakers may question (1) to what extent there is a nexus between domestic organized crime and terrorism and (2) what measures will most effectively combat both terrorism and organized crime.

## Potential Issues for Congress

The evolving nature of organized crime, as discussed, presents several issues that Congress may wish to consider. One issue is whether the tools that Congress has provided the federal government with to investigate and prosecute domestic organized crime—namely RICO, money laundering, and asset forfeiture statutes—are still effective tools to combat today’s threats from organized crime. As evidenced by proposed legislation, Congress is considering clarifying and expanding these statutes so as to better equip the federal government to fight organized crime.

## Federal Organized Crime Resources

Policies exist that allow federal law enforcement to investigate and prosecute organized crime groups. What may not fully exist, however, are the monetary and personnel resources to effectively combat organized crime—evidenced by a decrease in FBI agents used to investigate organized crime matters and in FBI organized crime case openings.

As previously discussed, in FY2004, the FBI utilized about 35% fewer agents on organized crime matters than it did in FY2000. The FBI has recognized that prioritizing counterterrorism and counterintelligence cases affects resources available to criminal investigations and that targeting the most significant threats will allow criminal investigative resources to be used most effectively. FBI Director Robert Muller testified to the need for restoring resources to the FBI’s criminal programs, which include organized crime.<sup>97</sup> Efforts—both administrative and congressional—can be made to this effect in several ways. One congressional option may be to increase overall funding available to the FBI and other federal law enforcement agencies that may be experiencing a decrease in resources dedicated to more traditional crime fighting matters, including organized crime. If these resources are then administratively allocated to criminal programs, organized

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<sup>94</sup> Organized Crime Council, *Overview of the Law Enforcement Strategy to Combat International Organized Crime*, U.S. Department of Justice, April 2008, p. 3.

<sup>95</sup> Ibid.

<sup>96</sup> U.S. General Accounting Office, *Combating Terrorism: Interagency Framework and Agency Programs to Address the Overseas Threat*, GAO-03-165, May 2003, <http://www.gao.gov/new.items/d03165.pdf>.

<sup>97</sup> From remarks by Robert S. Mueller III, Director, Federal Bureau of Investigation, in U.S. Congress, Senate Committee on Appropriations, *Commerce, Justice, Science, and Related Appropriations for FY2008*, 110<sup>th</sup> Cong., 1<sup>st</sup> sess., April 26, 2007, p. 305.

crime agent utilization could potentially be more closely aligned with agent allocation without taking resources away from higher priority areas. Another congressional option may be to provide directed funding for organized crime matters. This option could ensure that any increase in funding intended to be directed toward criminal programs or organized crime matters would be utilized in those domains.

Yet another policy option may be to decide that the existing resources dedicated to organized crime are sufficient, given the limited financial resources available under the federal budget and given the national priority of combating the threats from terrorism. If, on the other hand, more funding were available or if the link between organized crime and terrorism were more direct, the case for reevaluating the funding directed toward organized crime might be stronger. However, considering the current budget constraints and priorities, some may consider existing organized crime funding as adequate.

## **Multilateral Crime Fighting**

The federal government is already involved in several multilateral efforts—with state and local agencies as well as with international allies—to combat organized crime. With respect to working with domestic state and local law enforcement agencies, federal law enforcement agencies have formed joint task forces, some that target a variety of organized crime groups and some that target specific criminal organizations. Several of these task forces were outlined in previous sections of this report. Some analysts have suggested that despite the benefits of multilateral crime fighting, potential jurisdictional issues may arise. As organized crime groups have expanded their activities beyond state and even national lines, so has the responsibility for combating organized crime expanded. There exists a clear line between state and federal jurisdiction for prosecuting crimes. However, jurisdiction over agency responsibility for investigating cases may at times be unclear. This may be due in part to overlapping agency responsibilities and may also arise from the complexity of the cases investigated. For instance, an organized crime case with a drug component may fall under the jurisdiction of both the FBI and the DEA, potentially causing confusion on which agency would take the lead on such cases.

An issue that may become more visible than the issue of domestic law enforcement coordination is that of international law enforcement coordination. By ratifying the United Nations Convention Against Transnational Organized Crime in 2005, Congress took a step in working with foreign governments and law enforcement agencies to combat organized crime. Specifically, this Convention provided the framework for international cooperation by requiring mutual legal assistance between countries in fighting organized crime, as well as by requiring extradition for those organized criminal offenses outlined in the Convention. These provisions enhance the United States' ability to combat international organized crime and work with countries where there was no previous mutual assistance arrangement already in place.<sup>98</sup>

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<sup>98</sup> From remarks by Bruce Swartz, Deputy Assistant Attorney General, Criminal Division, U.S. Department of Justice, at U.S. Congress, Senate Committee on Foreign Relations, *Hearing on Law Enforcement Treaties: Treaty Doc. 107-18, Inter-American Convention Against Terrorism; Treaty Doc. 108-6, Protocol of Amendment to the International Convention on the Simplification and Harmonization of Customs Procedures; Treaty Doc. 108-11, Council of Europe Convention on Cybercrime; Treaty Doc. 108-16, U.N. Convention Against Transnational Organized Crime and Protocols on Trafficking in Persons and Smuggling of Migrants*, 108<sup>th</sup> Cong., 2<sup>nd</sup> sess., June 17, 2004, pp. 29-37.

As organized crime becomes increasingly transnational, so may the need for international organized crime working groups, task forces, and law enforcement cooperation. The benefits of international cooperation and partnerships are twofold. U.S. law enforcement can extend its expertise and capabilities to assist overseas law enforcement combat organized crime. Partnering with international law enforcement will develop the intelligence needed to support domestic investigations of organized crime.<sup>99</sup> However, one of the challenges, as expressed by federal law enforcement, is the increased time required to conduct international investigations.<sup>100</sup> Among the various effects that this may have on investigations, organized crime groups may be inadvertently afforded a longer time to conduct their illegal activities, potentially affecting a greater number of victims or increasing the magnitude of damage to the victims. A second challenge relating to international investigations may arise from the domestic practice that federal prosecutors are involved at all stages of organized crime cases. When investigations are conducted abroad, the involvement of prosecutors may not be as consistent.

In addition to law enforcement collaboration with foreign nations, Congress has given the federal government extraterritorial jurisdiction to investigate and prosecute individuals who criminally violate U.S. interests abroad (P.L. 99-399).<sup>101</sup> This legislation was directed at combating terrorist acts against the United States, and thus the extraterritorial jurisdiction does not necessarily cover all crimes committed by organized crime groups. The increasingly transnational nature of organized crime as well as the potential for a nexus between organized crime and terrorism—as suggested by some analysts—may lead policymakers to question whether and/or how to extend this extraterritorial jurisdiction beyond the crimes currently covered with the practical and diplomatic challenges that such an approach may entail.

## **Potential Organized Crime Nexus with Terrorism**

Some experts have indicated that the lines between organized crime groups and terrorist organizations may become increasingly blurry.<sup>102</sup> Even if organized crime groups and terrorist organizations do not form “long-term strategic alliances,” as suggested by the National Security Council,<sup>103</sup> the links between organized crime and terrorism may still be significant. The Council suggests (as does the FBI), however, that organized criminals and terrorists may ally for business purposes. Both criminal and terrorist organizations depend on money; organized criminals are profit-driven, and terrorists—though ideology-driven—need money and goods to finance their operations. It has been suggested that organized crime groups may cooperate with terrorists if the business alliance is profitable.

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<sup>99</sup> Examples of international law enforcement partnerships can be found on the FBI’s website at <http://www.fbi.gov/hq/cid/orgcrime/lcindex.htm#pantheon>, <http://www.fbi.gov/hq/cid/orgcrime/asiancrim.htm>, and [http://www.fbi.gov/page2/feb09/organizedcrime\\_021309.html](http://www.fbi.gov/page2/feb09/organizedcrime_021309.html).

<sup>100</sup> U.S. Department of Justice, *The Electronic Frontier: The Challenge of Unlawful Conduct Involving the Use of the Internet*, A Report of the President’s Working Group on Unlawful Conduct on the Internet, March 2000, p. Appendix B, <http://www.usdoj.gov/criminal/cybercrime/append.htm#B>.

<sup>101</sup> 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 are included in this jurisdiction, see CRS Report 94-166, *Extraterritorial Application of American Criminal Law*, by Charles Doyle.

<sup>102</sup> Thomas M. Sanderson, “Transnational Terror and Organized Crime: Blurring the Lines,” *SAIS Review*, vol. XXIV, no. 1 (Winter-Spring 2004), pp. 49-61.

<sup>103</sup> *Mapping the Global Structure*, National Intelligence Council, Report of the National Intelligence Council’s 2020 Project, Based on consultations with nongovernmental experts around the world, Washington, D.C., December 2004, p. 96.

Some experts have cited potential additional areas of overlap between organized crime groups and terrorist organizations. For example, the language school that provided some visas for the 9/11 hijackers is also reported to have provided visas for prostitutes of a human trafficking ring.<sup>104</sup> There have also been instances of terrorist organizations drawing on the structure and activities of organized crime groups as models for structuring their organizations and financing their operations. Drug trafficking, for instance, has been one of the most profitable activities for both organized crime groups and terrorist organizations. Other illegal activities include human trafficking, weapons trafficking, endangered species trafficking, art and antique theft, counterfeiting, and credit card fraud.<sup>105</sup>

Because there may be overlap between organized crime groups and terrorist organizations in terms of their criminal activities and funding sources, some analysts have argued that combating organized crime is central to combating terrorism.<sup>106</sup> Congress therefore may consider the potential nexus between organized crime and terrorism when addressing the nation's security and determining the appropriate allocation and utilization of resources, as well as effective information sharing and interagency cooperation, as discussed above.

## Legislation in the 111<sup>th</sup> Congress

The Public Corruption Prosecution Improvements Act (S. 49), as introduced in the Senate, would among other things, expand the RICO statute by expanding the list of predicate offenses for racketeering. In particular, provisions of this Act would include “embezzlement or theft of public money, property, or records” as well as “theft or bribery concerning programs receiving Federal funds” in the list of RICO predicate offenses. Further, this Act would authorize evidence of these two crimes as a legal basis for the FBI or other investigative agency with jurisdiction to institute a wiretap. Although this bill is intended to combat public corruption in general, it would also expand the federal government's ability to investigate and prosecute organized crime and would extend to instances where public officials may be corrupted by organized crime.

Several bills in the 111<sup>th</sup> Congress are directly aimed at combating money laundering. As mentioned before, in *United States v. Santos*, the U.S. Supreme Court ruled that in the money laundering statute, the term “proceeds” refers to profits rather than gross receipts.<sup>107</sup> Two bills in the 111<sup>th</sup> Congress would amend this statute. The Money Laundering Correction Act of 2009 (H.R. 1793), as introduced in the House; the Money Laundering Control Enhancement Act of 2009 (S. 378), as introduced in the Senate; and the Fraud Enforcement and Recovery Act of 2009 (S. 386), as favorably reported by the Senate Committee on the Judiciary, would all amend the money laundering statute so that the term “proceeds” includes gross receipts of an illegal activity. S. 386 would also extend the international money laundering statute to apply to tax evasion (via moving money outside of the United States) in addition to the crimes already included.

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<sup>104</sup> Louise Shelley, “The Globalization of Crime and Terrorism,” *Global Issues*, February 2006, pp. 42-45.

<sup>105</sup> *Ibid.*

<sup>106</sup> *Ibid.*

<sup>107</sup> “Supreme Court Narrows Scope of Money-Laundering Statute,” *Criminal Justice Newsletter*, July 2008, pp. 1-3.

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