Commission of Inquiry into the CFMEU and Misconduct in the Construction Industry

Report References

Witness Bundle – Professor Paolo Campana

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WITNESS BUNDLE – REFERENCES OF REPORT

Andrew Meagher SC and Jack Donnelly

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No.	**Title**	**Date**	**Page**
A. Journal Articles			
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27.	7News Mackay Facebook Post: *An inquiry into the troubled CFMEU, has heard claims construction workers at a major Brisbane project felt unsafe after finding trackers on their cars*	2 December 2025	1747
28.	The Nightly: *Australian Workers' Union leader Stacey Schinnerl warned she wasn't safe at building site after CFMEU threats*	2 December 2025	1750
29.	ABC News: *CFMEU inquiry hears rival union boss Stacey Schinnerl held 'significant concerns' for her safety after perceived threat*	3 December 2025	1751
30.	ABC News: *Queensland CFMEU member allegedly harassed rival union boss in front of teenage son, inquiry hears*	4 December 2025	1756
31.	ABC News 7:30: *CFMEU inquiry hears allegations of intimidation and death threats*	4 December 2025	1763
32.	ABC News: *CFMEU inquiry hears Labor leaders ignored 'repeated' industry warnings*	10 February 2026	1765
33.	ABC News: *The identities linked to corruption at the CFMEU, according to Queensland's Commission of Inquiry*	12 February 2026	1772
34.	ABC News: *CFMEU inquiry hears Workplace Health and Safety Queensland 'captured' and 'weaponised' by union*	10 March 2026	1777
35.	AAP: *Safety inspectors 'bullied and abused' by CFMEU*	10 March 2026	1786
36.	ABC News: *Former construction commissioner tells inquiry CFMEU breached Queensland industrial laws 25 times in 14 years*	14 April 2026	1792

37.	ABC News: *Inquiry into Queensland CFMEU branch hears of union's impact on construction of Brisbane's Cross River Rail*	2 May 2026	1799

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Article

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Eavesdropping on the Mob: the functional diversification of Mafia activities across territories

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Abstract
How do Mafias operate across territories? The paper is an in-depth study of the operations of a Neapolitan Camorra group. It relies on a unique data set of contacts manually extracted from the transcripts of phone conversations wiretapped by the police. The data show that the clan is indeed involved in the production and supply of extra-legal protection, but only in its territory of origin. The expansion abroad followed the lines of a functional diversification: branches were created to carry out specific activities but no large-scale international alliances were forged. The strategies underpinning the group's operations differ greatly across territories. Overall, the clan is still highly dependent on the territory of origin. Finally, the paper argues against the concept of 'transnational organized crime' and proposes a new taxonomy that better accounts for the ways in which Mafia groups choose to operate outside their territories of origin.

Keywords
activities, globalization, Mafias, organized crime, structure

Introduction

'The world is yours, select your country, Tony,' says a character in the Hollywood film *Scarface* (1983), which tells the story of Tony, a fictional Cuban refugee, and his criminal career in the 1980s' cocaine trade in Miami. Apart from novelists and Hollywood producers, the idea that organized crime groups are increasingly taking advantage of the opportunities arising from the globalization process has sparked substantial interest among international and domestic law enforcement agencies as well as scholars, particularly from the end of the Cold War onwards (Woodiwiss, 2003; Woodiwiss and Hobbs,

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2009). This paper focuses on a distinctive subset of organized crime groups, namely the 'Mafias', defined as illegal economic enterprises involved in the production, promotion and sale of private protection (Gambetta, 1993: 1). Several studies have established that a small number of criminal organizations active around the world share this specific feature of providing forms of illegal governance: the Sicilian Mafia, the American Cosa Nostra, the Calabrian 'Ndrangheta, the Japanese Yakuza, the Hong Kong Triads and the Russian Mafia (Chu, 2000; Gambetta, 1993; Hill, 2003; Reuter, 1987; Reuter and Gambetta, 1995; Varese, 2001 and 2011). Based on the empirical evidence that I shall discuss later, I argue that the Neapolitan Camorra should be included in this number.

The movement of Mafia groups: Two competing views

Traditionally, there are two views on the movement of Mafia-like organizations and the extent to which they take advantage of globalization.[1]

The first perspective claims that organized crime groups, among them the Mafias, can easily relocate and expand their business, and have thus become increasingly globalized. According to Raine and Cilluffo (1994: ix), criminal groups worldwide have established alliances in every criminal field, posing a threat to Western democracies. Sterling (1994: 2) talks of 'international organized crime', suggesting the existence of a 'planet-wide criminal consortium' composed of the world's biggest crime syndicates, which are 'pooling services and personnel'. This is a view shared by Castells, who maintains that a new phenomenon has emerged, namely 'global crime', described as 'the networking of powerful criminal organizations, and their associates, in shared activities throughout the planet' (2000: 166). Among the criminal organizations in close contact and creating a 'global, diversified network' (2000: 167), Castells includes the Sicilian and American Cosa Nostra, the Camorra, the Yakuza, the Triads and the Russian Mafia.

Other authors go further and maintain that organized crime groups are able not only to forge worldwide alliances but also to easily migrate. Williams (2001: 71) suggests interpreting criminal organizations, including the Mafias, in terms of networks that can easily relocate in new areas, for instance following increased attention from law enforcement agencies. Shelley (2006: 42) claims that criminal groups have dispersed and globalized their activities across continents, seeking attractive labour or raw material markets, or for 'production, marketing, and distribution needs'. In short, the general idea is that organized crime groups, and among them the Mafias, have become a sort of fluid and flexible organization that can easily migrate, relocate their business and seize opportunities across the world.

The competing view argues that Mafia and organized crime groups tend to be highly localized and entrenched in their territory of origin. In his work on the American 'illegal enterprises', terms that also encompass Mafia-type organizations, Reuter (1985: 21) maintains that those enterprises tend to be 'local in scope', a view shared by Gambetta (1993), who argues that the business of Mafia groups is particularly difficult to relocate into new territories ('not unlike mining, it is heavily dependent on the local environment . . . since basic resources are expensive to produce in a void'; 1993: 251). Speaking of the Hong Kong Triads, Chu (2000: 130) notes that they are localized and different from international illegal entrepreneurs that easily migrate to Western countries. Both Reuter (1985) and Gambetta (1993) have identified reasons that may account for the Mafia's

0007

difficulty in relocating or expanding its business, namely the high monitoring cost (the more remote the agent, the higher the cost of monitoring) and the difficulties in building an effective reputation and in collecting reliable information in the new locale.

Yet there is no shortage of newspaper articles claiming that the tentacles of the Mafia octopus have reached this or that region in the world. For instance, the presence of 'Ndrangheta associates in Germany attracted headlines when six Italian nationals linked with the Mafia were shot dead in a pizzeria in Duisburg in 2007,[2] and – more recently – a major crackdown on the Russian Mafia in Western Europe resulted in 69 arrests, mainly in Spain (Tremlett, 2010).

Purpose of the paper

The aim of this paper is to assess analytically how Mafia-like organizations operate in a globalized environment. Relying on a unique data set of phone conversations wiretapped by the Italian police, the paper will empirically reconstruct the activities of a Neapolitan Camorra group that has been described as truly transnational (Saviano, 2007: 262–8). Furthermore, the paper will address the question of whether the clan diversifies its activities across territories or rather expands them all into the new areas; and whether its modus operandi changes across territories. More generally, the paper offers an empirically based critique of the concept of transnational organized crime, and provides a set of new analytical distinctions that can better capture the way Mafia groups choose to operate outside their territories of origin.

The present paper continues as follows. I first discuss the data and the methods used, and then provide some brief background information about the La Torre clan. After empirically reconstructing the activities of the group, I discuss the functional diversification of such activities across territories. Whether the mechanisms underpinning the clan's operations change across territories, and how, will be the focus of the fifth section. The final section contains some conclusions.

Data and methods

The paper relies on a unique data set of 1824 contacts between 202 actors during a seven-month period (from October 1998 to April 1999). I manually extracted each contact from two files that were prepared by the Italian Carabinieri for the Prosecution Office to be used as evidence in the trial against the group. The files contain the transcripts of phone conversations wiretapped by the police. Eight actors were under round-the-clock surveillance, including the head of the group. In order to extract each contact, I applied a two-level systematic content analysis. The first coding level concerns the phone conversations directly wiretapped by the police ($N = 1029$). For each conversation, I coded the actors involved, the date and the place, together with the topic discussed and whether violence or threats were mentioned. Since each phone conversation contains a great deal of additional information about other types of contacts mentioned by the actors but not directly recorded by the police (e.g. face-to-face conversations; letters from/to jail; non-wiretapped phone conversations), I decided to include this information as a second-level coding ($N = 795$).[3] The variables remained the same as for the first level.

0008

The primary unit of the content analysis was the topic or theme (Holsti, 1969: 138; on content analysis more generally see also Berelson, 1952, and Krippendorff, 2004). The overall number of topics extracted amounted to 38. When more than one topic was discussed, I assigned to each contact a main topic, based on the number of words the actors spent discussing it. The topics were then merged into five broader tasks,[4] according to the coding scheme proposed by Varese (2011): protection activities; other illegal business; legal business; resource acquisition; and group management.[5] I supplemented and double-checked the information extracted from the conversations with other court files (arrest warrants and other investigative materials). I also carried out interviews with prosecutors, entrepreneurs, policemen and journalists. A second data matrix containing information about the members of the clan was also built: the variables included were gender, nationality, age, place of birth, place of residence, criminal record and degree of kinship with the boss (if any).

Natarajan (2000, 2006) pioneered the use of wiretapped phone conversations as a quantitative source of information for the study of criminal groups. Despite its many advantages, this approach has not received much attention so far (with a few exceptions, e.g. Morselli, 2009). The database of contacts and topics that I was able to construct merges relational data with information about the content of the relations. It is the first data set of its kind to encompass the entire spectrum of activities carried out by a Mafia-like organization across all the territories of operation; furthermore, it comprises the key members of the group, including the boss (a quite rare instance for Mafia organizations), and it covers a fairly long period of time (seven months).

Moreover, the wiretapped phone conversations constitute a rich source of data that do not expose the researcher to risk and yet unveil the day-to-day business of a criminal organization. Limitations and drawbacks do exist, as I have discussed elsewhere (Campana and Varese, under review). In this specific case, the level of self-censorship is strikingly low: the actors talked openly on the phone or used a fairly easy-to-decrypt code that the police were eventually able to crack; and the speakers also mentioned crimes that, if discovered, could result in long sentences (e.g. murders). Finally, the overall number of contacts extracted (1824) provides an adequate level of robustness, given the type of statistical analyses that I carried out.

The La Torre clan

The La Torre clan is a Camorra group based in Mondragone, a town of around 27,000 inhabitants located about 50 kilometres from Naples. The clan, named after the founder, has been active since the 1970s (Interview 1, see Appendix A). Over the years, some of its members left Mondragone and moved abroad. According to the Italian police (RCC, 1999, 2000[6]), in the early 1980s the son of the founder moved to Aberdeen (Scotland); he was then followed by his cousin, together with his cousin's wife. Another cousin moved first to Milan and then to Amsterdam. Occasionally, fugitives from Mondragone were hosted in both Amsterdam and Aberdeen, sometimes for significant periods of time.[7] Abroad, the La Torre group even managed to recruit a UK citizen (without any Italian descent: RCC, 2000: 175; see also Saviano, 2007: 266–7). In 1996, the two brothers Augusto and Antonio La Torre were arrested at Amsterdam's Schiphol Airport.

0009

Augusto, at that time the boss of the group, was handed a 22-year sentence, but Antonio was released shortly afterwards on condition that he resides outside the Naples region. He then decided to temporarily leave Aberdeen and resettle in Terni, a quiet town not far from Rome, and assume the reins of the group (according to the authorities: RCC, 1999, 2000; TrNa, 2002[8]). Because of the ban on travelling to Campania, he carried out most of his activities on the phone, mistakenly thinking that a simple encrypted code and a fast turnover of the mobile telephone cards used were sufficient precautions to ensure the secrecy of his conversations. For the police it was a fortunate circumstance that resulted in a rather unique set of wiretapped conversations.

The network of contacts

The network of contacts extracted from the set of wiretapped conversations comprised 202 actors, mostly men (90 percent) and Italian nationals (93 percent).[9] It encompassed both members and non-members: among the latter are individuals who willingly or unwillingly purchased some goods or services from the clan (customers), and also individuals from whom the clan purchased goods or services. Occasionally, members may become customers of their own group; however, they are different in nature from the other actors, and they should be classified accordingly. When it comes to illegal organizations, operationalizing the membership is not an easy task.

Unlike the Sicilian Mafia and the Calabrian 'Ndrangheta (Gambetta, 1993; Paoli, 2003), initiation rituals are no longer performed among the Camorra clans (Interview 1); in addition, Camorra groups seem to adopt more relaxed rules about the recruitment and withdrawal of members than, for instance, the Sicilian Cosa Nostra (Interview 2). The La Torre clan is no exception in this sense, since no specific admission rules or rituals are in place (Interview 1). How, then, do we distinguish between members and non-members? One (pragmatic) method involves looking at the criminal record of each actor, and classifying as members only those individuals who have been charged with a Mafia-associated criminal offence[10] in this or in previous trials related to the La Torre clan.[11]

When classified in this way, the members of the clan number 51. The overwhelming majority are men (90 percent) and Italian nationals (98 percent). Moreover, the recruitment appears to be highly regionalized: 96 percent of the associates were born in Campania.[12] At the time of the investigation, the median age of the members was 40. As regards their place of residence, six members were living and conducting business outside Italy (in the UK and the Netherlands). The clan may therefore be labelled as 'transnational', but some questions still remain. How did this international expansion take place, and why? To answer these questions, we must first take a closer look at the activities of the clan.

The activities of the group

A systematic content analysis of the wiretapped conversations offers a way to reconstruct empirically the activities of informal organizations such as criminal groups. Given the quantitative nature of the data collection strategy, it is also possible to assess

0010

Table 1. Activities of a Camorra clan (contacts by task)

Task	*N*	Percent
M (management)	683	37.6
PA (protection activities)	559	30.7
E (business in the legal and illegal economy)	325	17.9
RA (resource acquisition)	251	13.8
Total valid	1818	100.0
Unknown	16	
Total	1834	

the relevance of each activity (task), based on the assumption that the greater the number of contacts devoted to a specific task, the more relevant the task is for the group. There is no unique way of assessing such relevance; for instance, it can be argued that the more profit a task generates, the more relevant it is to the organization. Making profits is certainly the main goal of the clan, but there are a number of activities that do not directly generate any profit but that are nevertheless crucial for the survival of the group. Examples of this kind are dispute settlement among the associates; the monitoring of members' behaviour (in order to avoid cheating); and the acquisition of instrumental goods (e.g. fake passports or 'clean' bank accounts). A coding based on the content of wiretapped conversations can capture all these aspects, thus offering a far more detailed and comprehensive picture about how a Mafia organization works. Table 1 shows the tasks undertaken by the La Torre clan and their relative frequency.

The economic activities *stricto sensu*, that is to say, the ones that directly generate profits (Task PA – protection activities – and Task E – other legal and illegal businesses), account for almost half of the contacts. It is perhaps more surprising that almost 52 percent of the contacts do not fall in this category: the relevance of tasks such as group management (almost 38 percent of the contacts) and to a lesser extent the acquisition of resources (around 14 percent) is hardly recognized in the literature. The effort and the time that the clan spends in specific activities subsumed in the management task, such as settling conflicts and disputes among the members, monitoring their behaviour and dealing with the effects of law enforcement pressure (arrests, members on the run, potential evidence provided by witnesses and turncoats), are often underestimated, ultimately leaving a reader with the impression that Mafia groups are a sort of monolithic organization. The evidence shows quite the opposite.[13]

Among the 'strictly economic' activities, the protection racket remains the most prominent one, accounting for more than 6 out of 10 'economic' contacts. The clan provides several kinds of illegal protection, including protection against competitors and against thieves, protection of the labour market (e.g. hiring and firing employees on behalf of legitimate firms), protection of economic exchanges (violent brokerage), dispute settlement and debt recovery (RCC, 2000). Ultimately, producing and selling extralegal protection is the chief characteristic of Mafia organizations, and the La Torre clan can therefore be included in this distinctive subset of organized crime groups.

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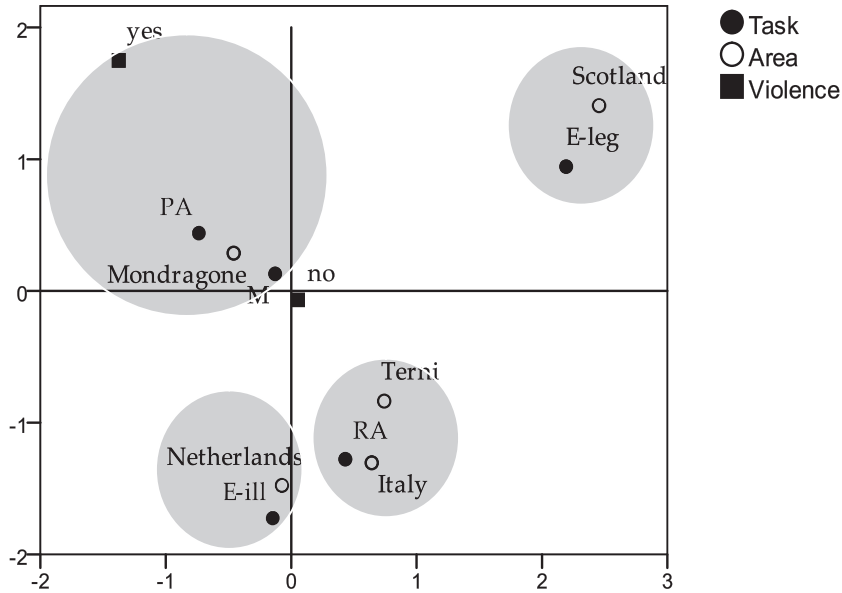


Figure 1. Functional specialization across locales
Notes: M: management tasks; PA: protection activities; RA: resource acquisition; E-leg: legal business; E-ill: illegal business (other than protection).

Functional diversification across territories

The La Torre clan can certainly be classified as 'transnational': it has outposts in Scotland and the Netherlands, and some of its members have been living and operating abroad for a fairly long period of time. How did the expansion towards new territories take place and why?

Figure 1 shows the results of a multiple correspondence analysis of tasks and areas.[14] Correspondence analysis is a family of techniques that allows two or more categorical variables to be represented in the same geometrical space and detects patterns of association between them (Greenacre, 1984). The procedure adopted for this analysis is Homals (Homogeneity analysis: Gifi, 1990), which allows comparisons both within categories of the same variable and between categories of different variables.[15]

Four distinctive clusters emerge from Figure 1. Mondragone, namely the territory of origin of the clan, is the place where the protection racket – the core business of the group – is run. There is no evidence of protection activities carried out in any of the other areas.[16] Aberdeen and Amsterdam, on the other hand, may be seen as branches, opened by the clan for the purpose of carrying out business other than protection. Terni and other Italian cities outside Campania are the places to which the clan turns when looking for resources such as 'clean' bank accounts, cheques and credit cards.[17] (The use of violence is discussed in the next section.)

In Scotland, the clan has set up legal companies in the food and catering sector, in the construction industry and in real estate. Members of the group own two restaurants in the

0012

most prestigious area of the city and various other companies. According to the *Sunday Herald*, Antonio and his cousin have been at the head of seven different legal companies for 10 years, many of them short-term ventures (McDougall and Willian, 2006). Several examples of economic activities carried out in Aberdeen emerge from the content of the conversations that have been wiretapped: La Torre and his cousin were about to start building new flats in various locations across Aberdeen (RCC, 2000: 98, 778); they were trying to buy some land from the city council to redevelop as a parking lot (RCC, 2000: 756); and they were negotiating the acquisition of 54 percent of shares in a Scottish real estate company (RCC, 2000: 745). The clan took also part in a public auction for a building that they intended to convert into new flats (RCC, 2000: 785); however, they never managed to raise the £128,000 needed for the purchase, and were unsuccessful at the auction (a local bank had previously turned down a request for a loan). At the same time, talks were under way with a legitimate entrepreneur, the owner of three shoe stores, for a possible partnership in the Scottish market (RCC, 2000: 777). According to the conversations, the payments to the legal suppliers in Italy would have been made in cash: an easy way to make the source of the money less traceable (RCC, 2000: 790).

Aberdeen, with a vibrant economy driven by the oil and gas industry operating offshore, was the place where the clan laundered part of its money and made some profit. In addition, the city was also a safe place for a Mafia member to live: the lack of anti-Mafia legislation, and therefore the powerlessness of the Italian authorities to extradite any suspect charged with a Mafia-association criminal offence, made Scotland a perfect place to conduct such legal business.[18]

Amsterdam emerges as the hub of the illegal economy. A cousin of Antonio and Augusto was living in Amsterdam at the time of the investigation and was in charge of the negotiations with drug dealers in various countries, including the Netherlands, Belgium, Spain and Venezuela (RCC, 2000: 838, 871, 872). The drugs bought by the clan were then sold to other drug dealers both in Italy and abroad (RCC, 2000: 855, 842–6). Another cousin, a prominent clan member, was also hiding in Amsterdam, on the run from Mondragone.

The clan's members tend not to be personally involved in street-level dealing, an activity that is considered to be both dangerous and damaging to the group's image. The revenues from the activities related to narcotics were carefully registered in internal documents without using words such as 'drugs', 'cocaine' and the like at the request of Augusto La Torre (Interview 1). In Amsterdam, the clan was also planning to sell counterfeit money: the forged banknotes should have been bought from counterfeiters active in Campania and then smuggled into the Netherlands for sale to other local criminal groups (RCC, 2000: 879).

Although the protection racket is run exclusively in Mondragone, and there is no evidence of any protection activity in the other locales, the same does not apply to the other legal and illegal businesses. The fact that Aberdeen is devoted to investments in the legal sector does not imply that all legal investments are carried out there. For instance, when Antonio La Torre was forced to resettle in Terni, he tried to take advantage of the expertise acquired in Aberdeen by setting up a mozzarella trade from Mondragone (RCC, 2000: 588). He also opened a pub, but the venture lasted for less than a year, making a loss on the initial investment (RCC, 2000: 500). Yet the analysis shows that each branch, and by

0013

extension each locale, has a clear function, and it is devoted to a set of specific activities. Instead of expanding all its activities everywhere, the clan operates along the lines of *functional diversification*. The La Torres did not expand or move their core business outside their territory of origin, but rather looked abroad for new investment opportunities, both in the legal and in the illegal markets. Moreover, despite its 'transnational' character, the clan is still highly dependent on Mondragone: not only is it the place where the core business is carried out, but it is also the place where 82 percent of the members live and operate, compared with 8 percent for the UK and 4 percent each for the Netherlands and Terni.[19]

Mode of operation, territories and internal structure

Mondragone and the branches differ with regard to not only the type of task performed but also the mechanisms underpinning the group's operations. In this section, I address three specific aspects: the use of violence, the relationship with other competitors, and the remuneration of the workforce.

Violence

In 1862, Monnier characterized the Camorra as a 'violent industry' (*industria violenta*: Monnier, [1862] 1998: 53), a definition very close to the one that Leopoldo Franchetti would offer 15 years later for the Sicilian Mafia (*industria della violenza*: Franchetti, [1876] 1974: 90). Violence is a constitutive element of Mafia organizations, and the ability to resort to it ensures their survival. An effective reputation for being violent may decrease the need for the actual use of violence (Gambetta, 1993: 43–6; Reuter, 1983: 137–8) but does not eliminate it altogether. This is the case for the La Torres: the group resorts to actual violence and threats, although in a rather small number of instances (only 4.1 percent of all the contacts). The recourse to violence changes according to the task and area. Figure 1 shows that force tends to be used in relation to two specific tasks: management of the group and the protection racket (violence lies in the upper left-hand quadrant of the figure, meaning that it is associated only with protection and management). Violence appears to be a costly resource and, according to the wiretapped conversations, it seems to be possible for the clan to modulate punishments. It is no accident that violence and threats occur in Mondragone, the area where the clan's legal counterpart (the state) is weaker and the group is stronger. It can be argued that the expected costs of a violent action in Mondragone are lower than in Aberdeen or Amsterdam, and the returns higher, since Mondragone is the area where the clan cannot tolerate any competition (see below). It is significant that, when the clan lost the auction for the building in Aberdeen, they did not manipulate the auction in any way or make any threats to the bank (RCC, 2000: 785). Had the auction taken place in Mondragone, the story would probably have been rather different.

Territorial monopoly

According to Thomas Schelling (1971: 73), organized crime groups share a distinctive feature: they constantly seek to monopolize the markets in which they operate. As a

0014

subset of organized crime groups, Mafias aspire to be the sole supplier of protection in a given area (Varese, 2010: 17). This is the case for the La Torre clan. They hold strict control over their territory of origin, where they acted as the sole supplier of extra-legal protection (the only other competitor being the state): in Mondragone, they brook no competition from the neighbouring Camorra groups (Interviews 1, 2, 3 and 4). A strict division of the territories is in place within the Naples region. As regards the La Torre clan, 18 percent of the members operate outside Mondragone but not in other areas of the region (occasional activities may be carried out with the permission of the Camorra group that controls the area). According to a former member now turned state witness, in one case the clan acted as a broker in the sale of a garbage dump in Castelvolturno, a town that borders Mondragone. Despite the fact that one of the entrepreneurs involved was from Mondragone and protected by the group, the La Torres had to give the whole protection fee to the local clan ('reluctantly, we had to accept that situation', TrNa, 2009: 104).

It is only in Mondragone that the clan controls and governs markets; the same does not apply to Aberdeen or Amsterdam. When it operates through its branches abroad, the group acts just like every other actor, whether legal or illegal. Organized crime groups, and among them the Mafias, do aspire to monopolize their core business market but they may nevertheless expand outside their territory of origin without reproducing the same model in the locales.

Remuneration of the 'workforce'

Members of the clan receive a monthly salary. At the time of the investigation it ranged from 10 million Italian *lire* for the boss (around €5100) to 500,000 *lire* for the bottom level (about €250: TrNa, 2002: 42–67, Interview 1). Monthly salaries are paid for services rendered in the protection racket only. The member entrusted with managing the collection of the protection payments is also the person in charge of paying the salaries (RCC, 2000). A completely different set of rules applies to economic activities other than protection. Participation in these other ventures appears to be on a voluntary basis. If this is true, we should expect that not all members will be involved in the legal or illegal ventures carried out by the clan. The data confirm this prediction: only 15 members (29 percent) are involved in legal business, and 12 of them participate in illegal ventures other than protection (24 percent). The same actors unwittingly confirmed on the telephone that different mechanisms underlie the protection racket compared with all the other business. In one call, Antonio La Torre is trying to sell a consignment of whisky that the police suspect is illegal. When asked by his interlocutor about the ownership of the consignment, La Torre categorically says 'that's mine!', adding that none of the other associates was involved in that specific trade (RCC, 2000: 837).

The events related to the purchase of a major drug shipment provide an even clearer picture of the mechanism underpinning the economic activities other than protection. When a Venezuelan drug dealer active in both the Netherlands and northern Italy suggested a new business opportunity to the clan, some of its members initiated a whirlwind of phone calls to raise the amount needed (250 million Italian *lire*). Among the individuals who were asked to invest their money in the shipment were the aunt of the boss's sister-in-law and other family members of the associates, with little or no success. They

0015

then turned to other Camorra clans, offering them the opportunity to set up a joint venture for the purchase; the clans eventually declined the offer, noting cashflow problems (RCC, 2000: 862). Besides the anecdotal evidence, a longitudinal analysis of the topics confirms that the topic 'payment of salaries' is statistically correlated only with the 'collection of protection fees' ($r = .957$, $p = .003$).[20] Conversely, there is no statistical relationship between the segments of conversations about salaries and those related to the activities carried out in the other illegal or legal markets.

Unlike the protection racket, which is remunerated centrally and whose proceeds go into the common funds, the other economic activities follow different rules and they may thus be interpreted as 'investments'. When carried out in the illegal market, they tend to be short-term investments, unlike investments in legal markets, which may have a longer time horizon. Since members can decide on a voluntary basis whether or not to participate in a given venture, the profits of such ventures are not deposited in the common fund but held by the investors.

Governing vs. trading

When involved in investment activities, members have more freedom of action than in the protection racket. In the latter case, activities are centrally monitored and coordinated. These organizational arrangements have an impact on the internal structure of the group. The index of network centralization (Hanneman and Riddle, 2005) drastically decreases when moving from the protection racket to investments in both the legal and the illegal economy. When calculated based on the degree centrality (Scott, 2000: 85), the index drops from 6.18 percent (protection activities) to 3.77 percent (investment in the legal economy) and 3.38 percent (investment in the illegal economy). The trend becomes even more marked when measured by the betweenness centrality (a measure of brokerage; see Scott, 2000: 86–7): the index falls from 19.59 percent (protection) to 5.43 percent (legal economy) and 3.27 percent (illegal economy).[21]

The type of market and the way in which the group operates in such a market seem to have an impact on the internal structure of the group. The protection racket, carried out in a monopolistic way, requires a high level of centralization. The same group may relax its structure when it comes to trading other commodities: trading in a given market as opposed to governing a market requires a much less hierarchical structure.

Conclusions

The paper has empirically reconstructed the activities of a Camorra group based on the content analysis of phone conversations wiretapped by the police. It has shown that Camorra groups are involved in the production and sale of illegal protection, and may well be included in that specific subset of organized crime groups named Mafias (Gambetta, 1993; Varese, 2010). They act as monopolist in the territory of origin, where they brook no competition in the protection racket (except for the state, the legitimate provider) – a finding consistent with the definition of organized crime groups given by Schelling (1971).

The paper has shown that the protection racket is still a difficult business to move or expand, a finding that is consistent with the predictions of Reuter (1983, 1985) and

0016

Gambetta (1993). The La Torre clan not only did not expand its core business but is still highly dependent on its territory of origin, where around 82 percent of the members live. Yet the group did expand abroad, mainly to seek new investment opportunities. The idea that criminal groups may globalize because of attractive labour or raw material markets (Shelley, 2006) is not confirmed; conversely, the recruitment of members is still highly regionalized (96 percent of the associates were born in the Naples region). Contrary to what Sterling (1994) and Castells (2000) maintain, there was no evidence of international alliances with other criminal groups, but rather a few one-off agreements on specific ventures. Instead of forging alliances, the clan opened up branches abroad devoted to a specific set of activities. We may call this expansion strategy *functional diversification*.

Mafia groups may change their modus operandi across territories. The La Torre clan brooks no competition in its territory of origin, whereas it acts just like every other actor in Aberdeen or Amsterdam. It seeks to control and govern markets exclusively in the territory of origin, where it enters into direct competition with the state as a supplier of protection. This is therefore the area where Mafia groups pose the greatest threat to the state, because it is here that they aim to govern markets (as opposed to simply trade on them). It is also the place where violence and threats are most likely to be employed.

Activities related to the protection market are centrally managed, monitored and remunerated, in contrast to participation in other economic ventures, which takes place on a personal and voluntary basis. The different organizational arrangements have an impact on the internal structure of the group, which appears to be much more centralized and hierarchical when the clan deals with the protection racket than with other business. In more general terms, trading in a given market as opposed to governing a market requires a much less hierarchical structure.

Recognizing the functional diversification of Mafia activities across territories has relevant policy implications. For instance, reinvestments of criminal revenues may take place in areas far away from where the crimes had happened, and – most importantly – criminal groups may act like any other legitimate actor when operating these seemingly 'fully legal' outposts. The Scottish authorities took more than a decade to realize that the Aberdeen hub was actually part of a bigger criminal conspiracy and eventually to agree to extradite some clan members back to Italy. Furthermore, since Mafia groups may diversify their activities across territories, law enforcement agencies and policymakers should also elaborate a diversified response to employ alongside 'traditional' police intervention. Implementing a tight discipline against money laundering – e.g. closely tracking the flow of money – may have an impact in tackling the investments in the legal economy of a given group. Yet this measure will have little impact on the same group where it aims to govern markets, e.g. where it effectively reduces competition among legal economic actors. In the latter case, a swift intervention by anti-trust authorities will be much more effective. More generally, cracking down on the outposts devoted to investments in both the legal and the illegal economy can cause losses, but it is unlikely that it will threaten the survival of a Mafia group. Conversely, it is the core business that guarantees an (almost) uninterrupted stream of criminal revenues, which in turn supports the skeleton of the organization: illegal protection and the associated extra-legal governance still remain the essential traits of Mafia-like organizations.

0017

These findings also speak to a broader theoretical question, namely the analytical power of the concept of transnational organized crime in explaining the way in which Mafia groups operate in a globalized world. The La Torre clan deals with truly transnational criminal activities (including international money laundering, drug trafficking and trafficking of counterfeit money), but these activities are not the core business of the group. In addition, the clan has never expanded its protection activities outside its territory of origin. This is not always the case: as Varese (2011) has shown, Mafia groups may indeed manage to move their core business abroad in specific circumstances.[22] The failure to determine whether the clan managed to move the protection racket abroad or not is a major drawback that may lead to misleading interpretations. Instead of the broad category of transnational organized crime, the following taxonomy better expresses the real nature of the movement: (i) 'transplantation', when a Mafia group manages to move or expand the core business into the new locale (Varese, 2011); (ii) 'diversification', when a Mafia group expands its activities outside its territory of origin but does not move its core business and the common fund. Whether and under which specific conditions a locale may shift from diversification to a fully fledged transplantation is an issue that deserves further research.

Appendix A

Interviews quoted in the text

1. Prosecutor in charge of the case, Anti-Mafia Prosecutor Office, Naples.
2. Police officer, Naples.
3. Police officer, Naples.
4. Journalist, Naples.

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0018

Notes

1 The theoretical framework presented in this paper follows on from Varese (2011: Ch. 2).
2 Six Italians shot dead in Germany, *BBC News*, 15 August 2007.
3 The number of phone conversations mentioned by the actors and not wiretapped by the police may be interpreted as an indicator of the value of the wiretapping activity. In the La Torre case, the number of non-wiretapped phone conversations amounts to 6.3 percent of the overall contacts.
4 Moving from detailed categories to more general ones also improves the reliability of a coding procedure, as pointed out by Berelson (1952: 173).
5 In the Varese's coding scheme (2011: 75–6), resource acquisition refers to 'the acquisition of specific input resources to run the group, such as information, equipment or labour'; protection activities refers to 'efforts to control markets and offer criminal protection'; group management refers to the day-to-day management of the group, including the remuneration of the workforce and 'the activities of monitoring, intimidation, and punishment' of the group's members. In the original version developed by Varese, no distinction is made between business carried out in the legal and the illegal economy, both coming under the label 'investment in the economy'.
6 RCC refers to Regione Carabinieri Campania court files listed in Appendix A.
7 Before the European Arrest Warrant came into force (from 2004 onwards), membership of a Mafia-type organization was not considered to be a criminal offence under Scottish criminal law and therefore defendants could not be extradited to Italy.
8 TrNa refers to Tribunale di Napoli court files listed in Appendix A.
9 Among the non-Italian nationals there are seven British, two Dutch and an unspecified African national.
10 Article 416-bis of the Italian Penal Code.
11 Membership may also be operationalized according to whether an actor receives a salary from the clan / acts as a franchisee; unfortunately, I do not have complete and reliable evidence on this.
12 I included in the count the case of an individual born in Germany to Italian migrants who moved back to Campania during his childhood.
13 The same goes for the acquisition of resources. The clan shows a constant need for resources such as bank accounts, credit cards and cheques registered using the credentials of some straw men. Other valuable resources for the clan are forged passports and identity cards, fake medical certificates, mobile phone cards and firearms.
14 Eigenvalues: 0.491 and 0.425. Contacts that occurred in Terni simply as a consequence of the 'special' status of Antonio La Torre are not included in the analysis.
15 Given the procedure adopted, the distance between two points in Figure 1 is expressed through a scalar product.
16 With one exception: an offer made by Antonio La Torre to one of his associates to help him recover a debt from an entrepreneur located in the Terni region. The offer was declined by the associate and apparently no further action was undertaken.
17 At the time of the investigation, Terni was not a hub for the group, at least not to the extent that Aberdeen and Amsterdam were. Yet, as a 'potential' hub, it might have developed into something more crucial for the clan had the authorities not intervened.
18 See note 7.
19 Another member lives in a spa town located around 100 km north of Mondragone.
20 $N = 6$. The month of April has been excluded from the analysis because of the small number of contacts recorded.
21 Measures calculated on equi-dimensional matrices.
22 On this, see also Sciarrone, 1998.

0019

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0020

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0021

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ORGANIZED CRIME IN THE UNITED KINGDOM: ILLEGAL GOVERNANCE OF MARKETS AND COMMUNITIES

Paolo Campana* and Federico Varese

This article focuses on governance-type organized crime (OC). First, it explores two cases of illegal governance in Salford (Greater Manchester) and Derbyshire by relying on a wide range of qualitative data. Next, it presents a novel instrument measuring the strength of governance-type OC, the 'Illegal Governance (i-Gov) Index'. This instrument is then included in a survey we conducted with Derbyshire Constabulary. This is the first systematic attempt to measure such crime in the United Kingdom. The article shows that the governance dimension of OC is present in the United Kingdom, although with varying degrees of sophistication and development. While comparatively rare, this form of OC is pernicious and highly destructive of communities. This article therefore calls for a systematic evaluation of such phenomenon across the United Kingdom, based on the i-Gov Index.

Key Words: illegal governance, communities, organized crime, Salford, Derbyshire

Introduction

Over the years, the concept of organized crime (OC) has been increasingly broadened to the extent that it now covers any criminal conspiracy that is active for an unspecified period of time.[1] The UN defines OC as:

> A group of three or more persons, existing for a period of time, acting in concert with the aim of committing at least one crime punishable by at least four years' incarceration in order to obtain, directly or indirectly, a financial or other material benefit (UN 2004: art. 2).

The definition used by the British National Crime Agency is equally broad: 'OC can be defined as serious crime planned, coordinated and conducted by people working together on a continuing basis. Their motivation is often, but not always, financial gain'.[2]

On the basis of these definitions, one would understand OC as 'crime that is planned', yet we would be none the wiser on the kinds of activities undertaken or how long the organization should last. Consequently, some authors have concluded that it is not possible to define OC cogently, and have opted for other concepts (van Duyne 1996: 53; Levi 1998: 335; von Lampe 2001: 113). While the broadening of the concept has the operational merit of allowing law enforcement to choose its targets freely, scholars and analysts intent on salvaging the concept need to develop some analytical sub-categories to differentiate between different forms of OC. Such forms in turn will require different sets of policies and strategies to fight different phenomena.

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[1]On the chequered history of the concept of OC, see Levi (1998); von Lampe (2001; 2016: 15–35); Paoli (2002); Varese (2010); Kleemans (2014).

[2]See http://www.nationalcrimeagency.gov.uk/crime-threats/organised-crime-groups (accessed on 8 June 2017).

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0023

A view that gained traction in the 1960s in the United States was that the essence of OC is to provide illegal goods and services. For instance, the report of the Task Force on Organized Crime of the 1967 President's Commission asserted on its first page that, 'the core of organized crime activity is the supplying of illegal goods and services—gambling, loan sharking, narcotics, and other forms of vice—to countless numbers of citizen customers' (Task Force Report 1967: 1). Even a critic of the Task Force such as D. C. Smith (1975) concurred that OC should refer to 'illicit enterprises'. While it might be controversial to exclude 'organized theft' and 'organized fraud' from the definition of OC, this perspective allows us to think of OC as a productive activity of sorts, involving the manufacture and trade of goods and services. Such a perspective remains fruitful today. Columns 1 and 2 of Table 1 list a number of activities traditionally associated with OC that can be considered forms of production and trade of illicit goods.

The production of illegal commodities includes coca production and transformation in Latin America (Zaitch 2002; Thoumi 2003) and heroin production in Afghanistan and Burma (Paoli *et al.* 2009; Chin and Zhang 2015). Such activities do not occur only in developing economies; the United Kingdom, for instance, has seen the emergence of a local production of cannabis, which now accounts for between 50 and 65 per cent of domestic consumption (Silverstone and Savage 2010; Decorte *et al.* 2011; Kirby and Peal 2015: 3).

Besides production, OC groups are involved in a separate set of activities related to the exchange of illegal commodities. Illegal trades include human trafficking (Campana 2016; Campana and Varese 2016), human smuggling (Zhang and Chin 2002; Soudijn and Kleemans 2009; Campana forthcoming 2018), drug trafficking (Ruggiero and Khan 2006; Paoli and Reuter 2008; Chin and Zhang 2015), trafficking in animal parts (Wong 2015) and stolen data (Lusthaus 2012). Commodities are traded in marketplaces that can be either physical or virtual. As licit Internet-based transactions are gaining increasing prominence in our everyday lives, illicit virtual trade has also appeared. A virtual marketplace populated by illegal traders was the now defunct Silk Road, a website on which sellers and buyers could meet remotely and trade a host of illegal commodities, including drugs (Barratt 2012). Specialized forums on which offenders can trade information have also been established; a commodity that is often traded on these forums is stolen credit card details (Lusthaus 2012).

Some scholars have focused their attention on a third aspect of OC, namely governance (see Column 3 of Table 1). The concept of 'governance' has been used widely in business studies, economics, politics, sociology and criminology since the 1980s. As

Table 1 *Production, trade and governance: some illustrative examples*

Production	Trade	Governance
Cocaine	Drug trafficking	Dispute settlement
Cannabis	Human trafficking	Restriction of competition
Methamphetamine	Human smuggling	Protection against thieves
Counterfeit goods	Cigarette smuggling	Labour racketeering
	Trafficking in stolen antiquities	Intimidation of lawful right-holders
	Animal parts trafficking	Debt recovery
	Buying and selling on cybercrime forums	Enforcement of cartel agreements

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with any other concept, it has been deployed to refer to a variety of objects. One analytical way to understand governance is to refer to the rules and norms that regulate production and exchange (Williamson 2005: 1; see also Dixit 2008). Ordering of exchange may be achieved in a number of ways: it can emerge spontaneously, through market-based repeated interactions, or it can be supplied by a variety of sources such as informal institutions, formal private organizations or the state (Varese 2010; Skarbek 2011). Scholars have noted a change in how legal governance has been supplied since the 1970s, with the increasing prominence of private actors and civil society (van Waarden 2012). The emergence of pluri-centric forms of governance, for example in the shape of multi-organizational partnerships, has also been observed—particularly in the Anglo-Saxon world (see, e.g., Goodwin and Painter 1995; Jessop 1995; Lowndes and Skelcher 1998). However, there is no consensus on the extent to which the centrality of the state has been eroded (cf. Majone 1997 and Rhodes 2012).

Criminologists have mostly been interested in how governance is provided in relation to crime control (Crawford 1997; 2006). However, as with other social arrangements, there is a dark side to governance. Property rights can be protected for some at the expense of others, and resources can be mobilized to secure benefits for a select few, even at the expense of overall long-term economic efficiency. Thus, the study of governance should also include less-than-good arrangements. Furthermore, governance can be supplied not only by actors from the state, market and civil society (van Waarden 2012: 355) but also by actors operating outside the scope of the law. The latter are of particular relevance to criminologists, and the study of the governance supplied by these illegal actors is the focus of this article.

A focus on governance allows scholars to retain the crucial distinction between producers of goods and services on the one hand, and suppliers of forms of regulation on the other. In this view, OC attempts to regulate and control the production and distribution of a given commodity or service unlawfully. In other words, it seeks to *govern* the underworld (Schelling 1971). Such an aspiration requires investments in a special set of resources, which are not necessarily available to illegal producers and traders. The most crucial resource is violence. A governance-type OC group is bound to clash with others who also wish to regulate the sale and distribution of a given illegal commodity (or of a legal commodity illegally). Thus, such a group must be stronger than the individuals who operate in its area of influence. Only those who possess force can guarantee that their decisions will be respected and their punishments executed. In turn, a reputation for violence will enable the group to economize on the actual use of threats (Gambetta 1993; Campana and Varese 2013). In practice, authority is exercised through the threat of violence, rather than its actual use. Indeed, a reputation for the ability to deliver credible threats and a variety of other forms of coercion—economic and symbolic—are part of a mafia group's armour. Information is also a crucial resource, as the group needs to know who deals in what in a given market, to prevent them from doing so. The above characterization does not imply any particular organizational structure or duration. However, for governance-type OC to be effective, one would expect the presence of a rudimentary structure, a system for issuing orders, and someone who benefits from such governance—all features that have been mentioned over the past century as being part of OC. In addition, one would expect that such groups are not ephemeral, yet their length of existence would differ. Empirically, we can take gang wars and truces, and market sharing arrangements, to suggest the presence of a governance-form of OC.

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0025

In this article, we focus on illegal governance in the United Kingdom. The first goal of the article is to explore the existence of governance-type OC in the United Kingdom. To this end, we have investigated two cases of illegal governance in Salford, Greater Manchester, and Derbyshire. After having established the existence of the forms of governance-type OC in the United Kingdom, we conducted a survey in Derbyshire to identify which groups exhibit these characteristics. On the basis of the survey, we developed an instrument that aims to identify and capture the strength of governance-type OC: the i-Gov Index (the Illegal Governance Index). While police officers and analysts might be aware that such forms of OC exist in their jurisdiction, they still lack the tools to incorporate this knowledge in their operational definition of OC. This article offers a solution to this problem.

The article proceeds as follows: Section 1 outlines the basic forms of governance-type OC; Section 2 discusses the methods of data collection; Sections 3 and 4 present two UK case studies, while Section 5 introduces the Illegal Governance Index and discusses the results of the survey. Section 6 offers a conclusion.

Illegal Governance of Markets and Communities

The illegal governance of communities is a phenomenon traditionally associated with regions of the world with a high density of Mafia presence, such as Western Sicily. For instance, at the turn of the nineteenth century, a small village named Villalba saw the rise of an alternative source of protection—amid distrust towards a central authority regarded as ineffective and lacking legitimacy (Sabetti 1984: ch. 6). At the centre of this newly established (illegal) protective agency was Calogero Vizzini, who would go on to become one of the most powerful bosses in the Sicilian Mafia. According to Sabetti (1984: 103), Vizzini started his group to provide protection against banditry to peasants by taking their wheat to a mill in a nearby village. At first, he had only two armed guards. Soon, the venture proved to be so successful that 'villagers began to go to [Vizzini] with other problems' (Sabetti 1984: 104). The mafia in Villalba was originally 'an expression of local self-government' based on some degree of consent among the population (Sabetti 1984: 104).

Illegal governance includes protection against competition, enforcement of cartel agreements, settlement of disputes, labour racketeering, intimidation of workers and trade unionists for the benefit of employers, intimidation of lawful right-holders, protection against theft and police harassment, protection in relation to informally obtained credit and debt recovery, and protection against extortionists (for a review, see Varese 2014). Illegal governance has been extensively documented in relation to the traditional Mafia organizations, such as the Sicilian Mafia (Sabetti 1984; Gambetta 1993; Santino 1994; Paoli 2003); the Italian-American Mafia (Reuter 1983); the Russian Mafia (Varese 2001); the Hong Kong Triads (Chu 2000); the Japanese Yakuza (Hill 2003); the Calabrian 'Ndrangheta (Paoli 2003; Varese 2011) and the Neapolitan Camorra (Campana 2011). More recently, several studies have been devoted to documenting this form of OC in Latin America (Brophy 2008; Locks 2014).

Yet the governance dimension of OC is not just a feature of mafias and Latin American 'cartels'; it is also undertaken by criminal groups in territories outside the conventional settings. Skinnari *et al.* (2012), for example, detail the workings of protection rackets

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in areas of Stockholm, Sweden. Instances of governance-related activities have also been identified among some of the gangs operating in London. Levi's (1981) landmark study of long firm fraud documents how the Kray and the Richardson gangs in London aspired to 'gain a monopoly on extortion and on criminal activities generally' (Levi 2008: 62). According to Densley (2013: 265), some of these groups 'protect community residents from violence and exploitation, provide them with financial sustenance, organize recreational activities and otherwise "serve" the community, much like certain larger US gangs'. In his work on Chinese OC in the United Kingdom, Dees (2012) cites evidence from the Metropolitan Police Chinese Unit indicating the presence of protection rackets among the Fujianese communities in Britain (for the case of Northern Ireland, see Clarke 1989; Maguire 1993; Hamill 2010; Cfr Fraser and Hobbs 2017: 600). This article aims to add to this small body of literature and to offer a way to map governance-type OC in the United Kingdom. Before exploring in depth two cases of criminal governance in the United Kingdom, we shall briefly describe our methods of data collection.

Data and Methods

For the study of illegal governance in Salford, Greater Manchester, and Derbyshire, we collected a wide range of qualitative data. In relation to Salford, we conducted semi-structured, in-depth interviews with individuals who have extensive knowledge of the case, as well as a systematic search in the online archives of local and national newspapers (*The Guardian*, *Manchester Evening News*) using as keywords the names of the key individuals involved. For the second case study, we were granted full access to the police files prepared for the case against the Lowther brothers. Although we read and analysed a variety of different documents produced during the investigation, we have only included in this article the evidence presented in court. In addition, we conducted interviews with police officers with considerable knowledge of the case and OC in the area, as well as having searched the online archives of the local newspapers (*Derby Telegraph*, *Nottingham Post*) using as keywords the names of the key individuals involved. We also travelled to Salford and Derbyshire to conduct interviews and become familiar with the local situation (details of the interviews are presented in the References).

To assess the extent of illegal governance in UK communities, we have devised a new survey instrument. A discussion of the survey items is included in Section 5. Thanks to the crucial assistance of Derbyshire Constabulary, we were able to circulate the survey among all the police officers tasked with monitoring and coordinating operations against all OC groups active in the area. All officers replied to the survey ($N = 13$; 100% response rate). Before circulating it among the respondents, the questionnaire was validated by police analysts with knowledge of OC. The choice of Derbyshire Constabulary for this study was driven by the opportunity to gain access to documents and police officers that the Force granted to us. Derbyshire Constabulary is one of the 43 territorial police forces operating in England and Wales with jurisdiction over a population of just above a million.[3] The main city in the area is Derby, with a population of 248,700 (2011 census). As for the OC presence, Derbyshire Constabulary ranks

[3]Data from the Office of National Statistics: https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/datasets/policeforceareadatatables.

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ninth (of 43 forces) when measured on the number of OC groups identified per million people (as of July 2016; HMIC 2017: 98). According to this metric, the presence of OC (broadly conceived) is just above the overall average for England and Wales. Derbyshire Constabulary was ranked as 'outstanding' by Her Majesty's Inspectorate of Constabulary in its latest assessment of the Force's effectiveness in measuring and tackling OC (HMIC 2017: 127).

Illegal Governance in Practice: The Case of Salford

In 2016, in the town of Salford, Greater Manchester, a man was attacked with a machete, and another had a grenade thrown at his house. Furthermore, a nine-year-old boy was shot as he opened the front door of his house: the killer was looking for his father. In this town, which has a population of 234,000, the police have recorded 25 OC groups, and the number of shootings in 2015 was 19. 'Police don't control the street', a gang member told the BBC in 2016 (BBC Panorama 2016).

Salford is not only the site of serious violence; it also offers a prime example of the illegal governance function of OC. The town, which is adjacent to the city of Manchester, is home to the Salford 'Firm'. Predominantly white, it is composed of different kin-based crime Families, occasionally in conflict with each other. In the 1970s and early 1980s, these Families were involved in armed robberies (Int-1 and Int-2), a crime that requires the use of effective violence and courage; thus, these Families grew in criminal reputation. When the banks improved their security and reduced the amount of cash held in local branches, the number of armed robberies declined (Int-1 and Int-2). At that very time, the consumption of drugs exploded, and the Salford Families started to establish the market for heroin, cocaine and ecstasy. As most drugs were sold in dance clubs, gangs found a way to control the doors, often through legitimate security companies (Int-1 and Int-2; for a general study of the night economy, see Hobbs *et al.* 2003). The Haçienda, arguably the most important club in Europe in the 1980s, hired one Salford Family, the Noonans, to guard the doors in 1991 (Hook 2010: 214–5). Damien Noonan was in charge of the bouncers. One of his brothers had been charged and acquitted of murder, while another had more than 40 convictions for armed robbery and assaulting the police. The Noonans were so menacing that, when they were pulled over, the police would let them go, no matter what they had done (Hook 2010: 214–5). Damien introduced a degree of order at the Haçienda. Gangs were allowed in, but each sat in its own corner to avoid bloody fights. They received their drinks at cost, so they would not steal them outright and harass the staff along the way. Peter Hook, a founding member of Joy Division and co-owner of the Haçienda, recalls that hiring gangsters offered additional benefits: some of the staff took interest-free loans rather than going through banks. Moreover, an association with a strong gang carried prestige: 'Our bouncers were so powerful and so bloody violent that anywhere we went we had the cachet of being associated with them' (Hook 2010: 257).

Another prominent Salford gangster, initially involved in armed robbery and then drugs distribution, was Paul 'Mr Big' Massey.[4] In the 1980s, he started to exercise

[4]Massey was named as 'Salford's Mr Big' by councillor Joe Burrows during a 1992 council meeting discussing the Salford Riots (Williams 2015).

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his influence in the legal economy, creating a company officially named Personal Management Security, PMS for short, while another notorious local family also involved in armed robberies, the Pollard Family, created Marpol (Int-2). Over time, the Salford gangsters began to impose their services of protection upon construction sites, shops and malls and even obtained a contract (later rescinded) to provide security to Metrolink (Int-1 and Int-2). As one of our interviewees stated, 'these security firms are in effect protection rackets' (Int-1). Reputation played a key role. According to one interviewee, 'everybody knew that PMS stood for Paul Massey Security. That name, PMS, was a form of deterrence; people knew who was behind the company and would not rob sites protected by them' (Int-2). According to a second interviewee, the company had people listed as employees on its books who were serving jail sentences. Allegedly, this was a way for the group to pay associates who were in prison (Int-1).[5] In an exposé of the Mancunian underworld, journalist Peter Walsh noted that shopkeepers and tenants in the area were asked to pay protection money to avoid being robbed or burgled (Walsh 2006: 132).

The 'Salford Firm' ran a parallel justice system. In their ethnographic study of Ordsall—a ward of some 6,500 inhabitants within Salford—Walklate and Evans (1999: 95) found evidence of 'a locally well-known criminal gang' influencing community life and acting as 'a quasi-political network'. A local police officer they interviewed maintained that the neighbourhood 'has always been a self-policing community' (Walklate and Evans 1999: 86; also Evans *et al.* 1996). In one instance, the gang even set the amount of monetary damages that a joy-rider had to pay to a 13-year-old girl who had been knocked down during a public display of handbrake turns (Walklate and Evans 1999: 86).

Reporting crime to the legitimate authorities was punished. Members of this crime group would 'put themselves forward as alternative authority figures, meting out their own summary justice to transgressors and spraying the names of alleged "grasses" on the estate in prominent positions' (Walsh 2006: 130). Direct intimidation or a public 'naming and shaming' in the main shopping area of the estate was also reported by Walklate and Evans (1999: 90–2), who further observed that 'whilst people living in this area were intimidated by the presence of the criminal gang and its activities, they also believed that the same presence afforded them a level of protection from criminal victimization not provided by official agencies' (Walklate and Evans 1999: 95. Indeed, the Salford Riots of 1992 were a week-long attack on the police and the fire services: see Newburn 2015). This code of silence is still in existence. In 2012, a man was shot in front of 30 people in a local pub. After the murder, the killer pointed his gun at the witnesses and warned them not to talk. As in other similar incidents, the CCTV footage went missing. No one was prepared to give evidence. The former Chief Crown Prosecutor for Greater Manchester concluded in 2016 that, 'the impression will be that people are

[5]The creation of security companies as a way to facilitate the collection of protection money has been also identified in Belfast, Northern Ireland where, according to Clarke (1989: 33–35), building sites and taxi companies have been subject to protection rackets. Maguire (1993: 280) maintains that all the extra-legal organizations in both Loyalist and Republican communities 'collected protection money on their own estates', particularly from shopkeepers. These groups set up security companies as a way to facilitate collection. Companies run by racketeers could save on the actual provision of the service as they 'did not have to provide patrols to ensure that their customers were not harmed. They simply had to make their desires known in the community as to what the punishment would be for any freelance criminal' (Maguire 1993: 283).

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above the law…some individuals will feel that they can get away with murder'. He further admitted that 'there is a trust deficit in the police' (BBC Panorama 2016).

The next step is when the gangster himself becomes a community leader. In 2015, Paul Massey brokered a truce between four Manchester gangs that were waging a deadly war. *The Guardian* reported that Massey had been asked by police to intervene as mediator following violent incidents in the town, including a grenade and machete attack (Pidd 2015). He also acted as a mediator in several gang conflicts across the United Kingdom (Walsh 2006: 172–5; Pidd 2015; BBC Panorama 2016).

As in other contexts, entrenched OC is able to intimidate politicians. In May 1990, the Liberal Democrats decided not to contest the local ward due to safety concerns, and the Conservatives were unable to find anyone willing to run for that seat (Walsh 2006: 131). In 2010, Paul 'Mr Big' Massey unsuccessfully ran for mayor of Salford. Yet he managed to collect 1,995 votes (4.5 per cent of the total votes), just below the Liberal Democrats (2,148) and more than the Greens (1,273).[6]

In July 2015, Paul Massey was shot dead by a masked gunman. Apparently, he did not quite manage to convince a faction of a new, up-and-coming gang known as the A-Team to dispose of their weapons (Int-1; Int-2; Britton 2016). His funeral was a grand affair, and a mass was held in the Church of St Paul the Apostle. Hundreds turned up to pay their respects on the day of his funeral (Allison *et al.* 2015; Pidd 2015). Unsurprisingly, armed police were on standby to ensure that no further violence took place on such a solemn occasion. As we visited the Church in 2016, we struck up a conversation with a church volunteer. She told us that the church takes in no fewer than 19 homeless people every night and, as we spoke to her, a jumble sale was being organized: 'We have our problems, but people are very nice, they help me if I need something'. The area is also undergoing significant gentrification. She was, however, scathing about the effects of such developments: 'They are pushing local people out, towards the dead-end part of the town. They are building new flats, but not social housing' (Int-3). Quickly, the conversation turned to crime: 'There is crime in this area. During the day it is fine, but I would be careful of walking here during the night' (Int-3). She continued:

> We also have our own mafia. They murdered one of our own. There are two sides to each person. He [Paul Massey] has done some bad things, but also some good things for the community. He had helped people (Int-3).

Myth-making is not far off. Racketeers are portrayed as benevolent figures and their actions are romanticized. A story from the 1990s was related to us in Salford. The story goes that an old lady from the community had her house broken into, and her pension money stolen. Paul Massey managed to track down the person responsible for the burglary and made sure that the money was returned to the lady (Int-2). Massey, according to our interviewees, also claimed that he was responsible for stopping the introduction of heroin in Salford (Int-1 and Int-2).

The case of Salford shows that protection rackets and illegal governance can emerge in countries that possess an overall high level of trust and legitimacy in the police and other institutions of authority. A high level of trust and legitimacy at the macro level may not be evenly reflected among all communities. Indeed, British police forces and

[6]Data on the 2010 local elections are at https://www.salford.gov.uk/elections-2012.htm.

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other institutions of authority show a relatively high level of trust and legitimacy at the macro level (Jackson *et al.* 2012). However, in 2014, the Chief Inspector of Constabulary, Tom Winsor, maintained that some communities in Britain rarely, if ever, call the police to report a serious crime and stated that residents 'administer their own form of justice…It could be anything from low-level crime right up to murder…' (Sylvester and Thomson 2014; Guardian 2014). When certain communities have a low level of trust in the police and the institutions of authority, they may turn to local stakeholders to settle disputes, including minor conflicts. This equilibrium is conducive to the rise of figures that might have less-than-civic intentions.

Illegal Governance in Practice: The Case of Derby

Forms of illegal governance are not only a long-standing feature of some large urban centres, such as Greater Manchester. Under certain circumstances, they may emerge even in rural areas, yet effective early police intervention can stop the phenomenon from reaching the proportion of that in Salford. This is the case of the three Lowther brothers, based in the rural Amber Valley of Derbyshire, who teamed up with at least eight people to harass and extort legitimate business in the area, mainly operating in the transport and recycle sectors. Over time, they were able to offer some genuine services of protection to their business associates, by recovering debts and reducing competition for the benefit of some operators. Both activities are typical of mafias, as outlined above. The group operated between 2009 and 2017; the Derbyshire police investigation eventually led to successful convictions in 2017 for conspiracy to blackmail, to conceal criminal cash and to pervert justice as well as the intimidation of witnesses (EMSOU 2016).

David Lowther, who received a nine-year prison term, appears to have played the leading role in the gang. Formally employed as a car washer and a ground worker, living in a caravan and uneducated, he and his brothers are reported to have been involved in the production of marijuana. Over time, they began to engage in the petty extortion of local business people, stealing their trucks and then offering to return them for a fee. In some cases, they would continue to harass the victim, even if he had paid. Their demands ranged between £1,500 and £20,000. When asked by police if he had paid the ransom to get his truck back, one victim replied: 'I have, yeah. I've got no choice' (EMSOU 2016: 11; see also Malcolm 2017; Slater 2017). Their early foray into illegal governance was rudimentary and predatory.

Yet over time, they proved to be able, in some key instances, to offer a genuine service of protection. In one case, a businessperson turned to David and John Lowther asking them to recover a debt of £5,000 from a customer who had not paid for his cranes. It took one day for David Lowther to deliver the money in cash, although he kept £2,700 for payment (EMSOU 2016: 19). Finally, the Lowthers teamed up with the owner of a substantial transport and recycling business. They helped him to intimidate his competitors, a 'service' typical of the mafias in places such as Sicily, Russia and the United States. The Court heard how one of the victims had been harassed since early 2015. The victim worked for a grab lorry business in the Amber Valley area. The threats were made in the form of demands 'to stop working in the area where the Lowthers had money invested in a local company and competitor' (EMSOU 2016: 27). The victim

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recalls that, on 1 January 2015, he received a phone call from Luke Lowther. He was told: 'Listen here, you're not trading around here, I am going to burn your fucking lorry' (EMSOU 2016: 28). As the conversation continues, another brother makes clear that the businessman should not trade in the local area and should move to Yorkshire. Eventually, the victims agreed not to trade in the 'patch' in which the business protected by the gang operated (EMSOU 2016: 27–9 and 33–6. See also Slater 2017).

Quite early on in the history of the gang, the Lowther brothers developed a reputation for serious violence. When the owner of a lorry reported a theft of his vehicle to the police, he called back saying that he had retrieved it thanks to the gang, and he added: 'I can't say too much, cos of the circles they move in, you know what I mean' (EMSOU 2016: 11). The same victim later elaborated: 'the reason why I am so afraid of all the Lowthers is due to their *reputation for violence* and also their apparent disregard for the law' (EMSOU 2016: 18; emphasis added). Other victims were scared: 'they go around terrorizing everybody', said a businessperson forced to stop trading in the Lowther's 'patch' (EMSOU 2016: 29). The brothers got into fights at local pubs for futile motives. While it might have appeared as irrational behaviour, it actually served to strengthen their reputation. Although banned from the pub, they kept coming back, asserting their power of intimidation in a public place, where everybody could see for themselves what these people were capable of. Such displays helped them to be more credible when they asked for protection money or intimidated others.

The Derbyshire police took the decision to prioritize this particular group and assigned to it a dedicated team of officers. While the brothers accumulated considerable sums of money and a property portfolio (EMSOU 2016: 59–61), the police understood that the harm caused by this gang was only partially quantifiable in financial profits. Ultimately, the Lowthers were trying to set themselves up as figures of authority, controlling parts of the local economy through terror and violence. Some businesspeople understood the power of intimidation of the gang and decided either to yield to their demands or to team up with them to increase market shares. It is a testament of the police judgement that they decided to intervene early enough to prevent such control from escalating and becoming rooted in the community. Yet it is appropriate for police forces to develop standardized instruments to identify this form of OC and to prioritize it across the country.

Assessing the Scale of Illegal Governance: The i-Gov Index

The two case studies discussed above have shown that instances of illegal governance of markets and communities are present in Britain and are comparable with what has been documented in territories traditionally associated with mafia activities. But how prominent is illegal governance in the United Kingdom? The data collection strategy currently adopted by British law enforcement makes it extremely difficult to tease out instances of governance from the broader OC activities (remember that OC is defined by the British National Crime Agency in broad terms 'as serious crime planned, coordinated and conducted by people working together on a continuing basis').[7] Rather than

[7]See http://www.nationalcrimeagency.gov.uk/crime-threats/organised-crime-groups (accessed on 8 June 2017).

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relying on the official definition, in this section we pursue a different strategy based on using a survey to elicit information from officials with thorough knowledge of the workings of specific OC groups.

British police forces normally compile a list of OC groups that are active in their jurisdiction. Individual forces may adopt a slightly different definition of what constitutes an OC group, but ultimately this would be in line with the definition set by the National Crime Agency.[8] These criminal activities normally fall within the definition of 'serious crime', namely 'crime that involves the use of violence, results in substantial financial gain or is conducted by a large number of persons in pursuit of a common purpose, or crime for which a person aged 21 or over on first conviction could reasonably expect to be imprisoned for three or more years' (OCGM Manual 2010: 15). Crime types currently classified by the National Crime Agency as serious and organized crime include the production of counterfeit goods, trafficking in drugs, trafficking in human beings and modern slavery, fraud, identity crime, intellectual property crime, kidnapping, organized theft and child sexual exploitation (NCA 2014). This serves our purpose well as it provides a rather broad starting point for our attempt to quantify the extent of illegal governance.

In light of the evidence discussed above, we decided to operationalize illegal governance based on three (indirect) measures: (1) the ability of an OC group to generate fear in a community; (2) its ability to coerce legal businesses; and (3) its ability to influence official figures. Next, we asked the police officers in charge of coordinating the investigations into OC in Derbyshire Constabulary to place each of the groups they have been monitoring on a scale from zero to four—with zero indicating 'no fear/coercion/influence' and four indicating 'very strong fear/coercion/influence' (see Appendix for the full questionnaire). We have modelled our scales on those included in the British Crime Survey and subsequently the England and Wales Crime Survey to assess fear of crime (see Gray *et al.* 2008). We have decided to adopt a five-level scale to increase granularity in our measurement. The use of scales allows us to identify the presence of OC groups engaging in each of the three dimensions of illegal governance while at the same time assessing the strength of their (governance) activities. As illegal governance requires a different—more specialized—set of skills (see above), our expectation was that the number of groups that engage in such activities would be a fraction of the overall number of OC groups broadly identified. Figure 1 shows the number of groups engaging in each of the three dimensions of illegal governance, and the strength of their governance activities.

As expected, the number of OC groups involved in illegal governance is a fraction of the overall number of groups. Nonetheless, this fraction is far from negligible. Of the 55 OC groups identified by Derbyshire Constabulary, 22 groups generate some level of fear in the community with three groups generating a level of fear deemed 'strong' or 'very strong'. Thirteen groups have coerced legal businesses, with two groups able to exert 'strong' coercion on those businesses. Finally, 22 groups have exerted some influence on official figures, but none has been reported to exert 'strong' or 'very strong' influence (the level of influence is mostly 'very limited' or 'moderate').

[8]'Organised criminals working together for a particular criminal activity or activities are called an organised crime group': see http://www.nationalcrimeagency.gov.uk/crime-threats/organised-crime-groups (accessed on 8 June 2017).

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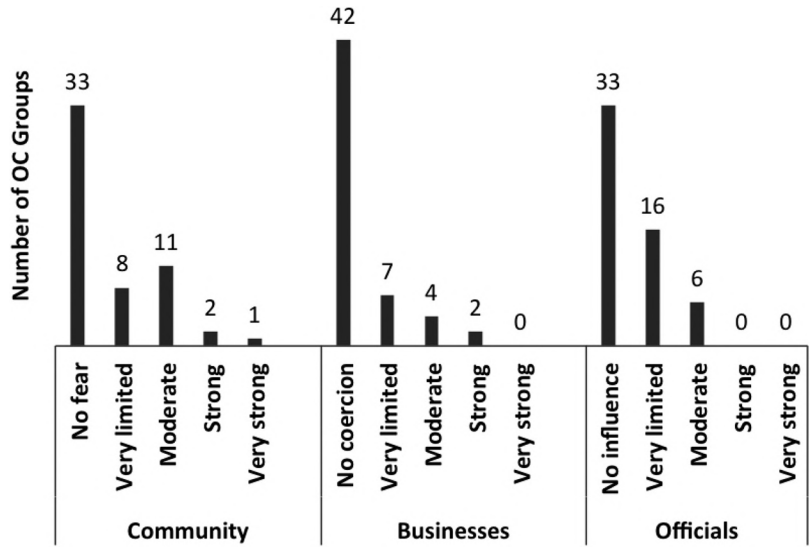


FIG. 1 Organized crime and its impact on communities, businesses and officials (Derbyshire Constabulary, $N = 55$).

Next, we combined the three dimensions of communities, businesses and officials to generate an index of illegal governance ('i-Gov Index').[9] By definition, the Index ranges from 0 to 12 (a group with a score of zero has not engaged in any of the three dimensions of illegal governance; a group with a score of twelve has a 'very strong' engagement in all three dimensions). Figure 2 shows the distribution of the i-Gov Index for Derbyshire Constabulary.

The evidence shows that gaining a multi-faceted governance of community and markets is a difficult task for OC groups; currently, there are no groups in Derbyshire that occupy the 'high' level in the i-Gov Index (i.e. a score between 9 and 12). Nevertheless, three groups have managed to reach the 'medium' level (one of them is the case study discussed above, Section 4). This constitutes roughly five per cent of the OC groups active in the area. Finally, 32 groups are currently in the 'low' bracket of the Index.[10]

The Index we developed captures a feature of OC that is currently underexplored in the United Kingdom, and it offers several advantages. The Index taps into the extensive knowledge of police officers tasked to investigate a particular group. The use of expert opinion is a standard method in the social sciences (see, e.g., Dorussen *et al.* 2005). A common validation technique is the use of the Delphi Method, which involves sending a questionnaire to a panel of experts several times. The responses are then aggregated

[9]We have explored more sophisticated ways to combine the three dimensions, including a principal component analysis (PCA). As the correlation between the additive index and the first component of the PCA was 0.973 ($p < 0.001$), we opted for the additive index (superior in terms of readability).

[10]The i-Gov positively correlates with two measures of risk assessment currently adopted by law enforcement in Derbyshire: Tier ($r = 0.426$, $p < 0.001$) and Score ($r = 0.368$, $p = 0.006$). This is an indication of the validity of our strategy; at the same time, our Index adds to the current measures of risk assessment (note that the correlations are both below 0.5). 'Score' is a measure calculated on the type of activities carried out by an OC group as well as the level of capabilities/resources possessed (OCGM Manual 2010: 27–31). 'Tier' is a measure reflecting the nature and complexity of the response required as assessed by the police (OCGM Manual 2010: 39–40).

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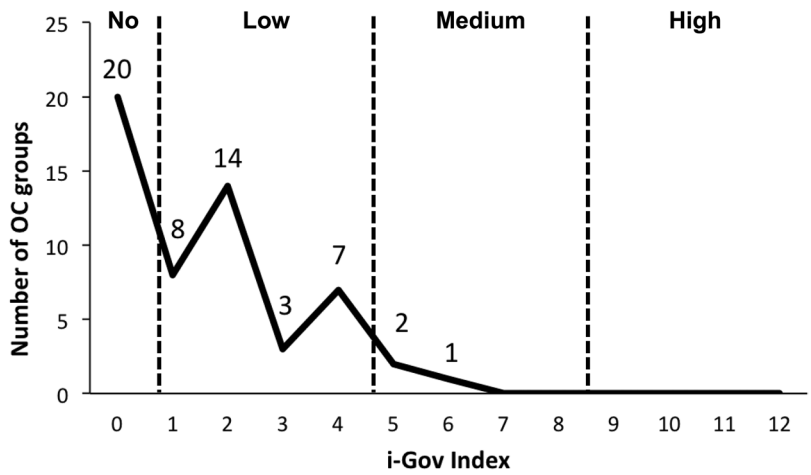


FIG. 2 i-Gov Index (Derbyshire Constabulary).

and shared with the group. Experts can adjust their answers until a 'correct' response is reached through consensus (Clayton 1997). At this stage, we opted against such a strategy, as there is a single expert on each group, and the involvement of superior officers (who are not experts on the group) might bias the overall results. The Index is based on extremely easy-to-collect information: it takes only a few minutes for an officer to answer the questions. In the context of limited resources and time constraints, it is unrealistic to expect that hundreds of analysts would spend hours compiling a long survey. The likelihood of low-response rates would therefore be high. The survey is easy to roll out to several forces and would produce a map of governance-type OC in the United Kingdom within a reasonably short time. The results from Derbyshire are encouraging; variation by place and case supports the conclusion that officers were not expressing some folk wisdom or common self-serving mythology.[11]

Yet issues related to the validity of the officers' assessments remain. As noted above, Derbyshire Constabulary has been ranked as 'outstanding' in the assessment of the Force's effectiveness in tackling OC (HMIC 2017: 127); hence, we can have a high degree of confidence in the analysts' opinions. Nonetheless, greater care must be taken when the Index is applied to areas in which the local Force is less effective. It should also be noted that this is a preliminary stage of mapping. On the basis of interviews with police analysts (Int-5 and Int-6), we have identified several recorded offences that should form the basis of an additional quantitative component. Such offences include 'Arson with Intent to Endanger Life', 'Arson Threat', 'Possessing Anything with Intent to Destroy or Damage Property', 'Perverting the Course Of Justice' and 'Intimidation of Witnesses'.[12] Scholars should then team up with local forces to further validate the Index with additional, qualitative studies of specific communities, using the kind of data employed in the first part of this article (field interviews and trips, systematic analysis of local newspapers, and police and court data).

[11]We are grateful to a Referee for pointing this out.
[12]For a description of these offences, see http://www.cps.gov.uk/legal/index.html.

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Conclusions

This article has focused on one particular aspect of OC, namely its ability to govern territories and communities. It has shown that the governance dimension of OC is present even in England, although with varying degrees of sophistication and development. In Salford, local gangs fight over shares of the drugs market, striking transient agreements and occasionally resorting to turf wars. Bosses such as Noonan, Pollard and Massey have also been able to enter the legal economy and impose their protection on legitimate businesses. A parallel justice system and what appears to be a degree of community consensus has emerged. Massey even stood for mayoral election and cultivated the image of a local leader, protecting people against petty theft and hard drugs. His funeral—which bore a striking resemblance to mafia funerals in Italy[13]—was held in the local church and attended by hundreds of mourners. The case of Salford displays a more advanced and entrenched governance-type of OC than that of the Amber Valley in Derbyshire. Yet even in this rural part of the country, the police were able to prove that the Lowther brothers terrorized the local community, extorted businesses, and were even able to engage in debt recovery and intimidation of competition for the benefit of their business associates. All these activities are typical of traditional mafias, such as Cosa Nostra in Sicily.

A key challenge for scholars and analysts alike is to map the extent of this type of OC in the United Kingdom. Thanks to the collaboration with Derbyshire Constabulary, we have begun this process. We asked officers in Derbyshire whether OC groups have the ability to generate fear in the community, coerce businesses and influence public officials. The results show that the majority of OC groups are not generating fear in the community (33 out of 55), coercing legal businesses (42) or influencing official figures (33). This highlights the importance of adopting a tool to re-classify the broader set of OC groups. Yet, instances of illegal governance do take place. Of the 55 groups being monitored by the police, 40 per cent of them are generating some level of fear in the community, 40 per cent exert some level of influence on official figures and 24 per cent are able to coerce illegal businesses. While the strength of these activities is 'very limited' or 'moderate' for the vast majority of the groups engaged in these three dimensions of illegal governance, three groups were nonetheless deemed to generate 'strong' or 'very strong' fear in the community and two groups exert a 'strong' level of coercion on legal businesses (influence of public figures was 'moderate' at the maximum).

On the basis of the survey results, we have created an index of governance, the i-Gov Index, by adding up the score that each group obtained in each dimension (community; businesses; officials). This procedure, which could easily be adopted by other police forces in the United Kingdom (and elsewhere), shows that there are no groups in Derbyshire that occupy the top level in the i-Gov Index ('high'). However, three groups have managed to reach the 'medium' level (one of them is the case study discussed in Section 4). This constitutes roughly five per cent of the OC groups active in the area. We believe that while governance-type OC is comparatively rare, it is pernicious and highly destructive of communities, and its existence cannot be measured solely

[13]Compare the video of the Casamonica boss's funeral in Rome (Tuscolano neighbourhood) (https://www.youtube.com/watch?v=L-Dzw4CJvH8) with Paul Massey's funeral in Salford (http://www.manchestereveningnews.co.uk/news/greater-manchester-news/police-raid-home-murdered-salford-12493435).

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0036

through an analysis of crime profits. This article calls for a systematic evaluation of this form of OC across the United Kingdom.

This study has shown that there is a high degree of variation in the forms of OC and that the governance-type form is likely to be less widespread than the other two (production and trade). Within Derbyshire, we found that most OC activities are conducted in the absence of governance-type OC. How does the absence of this type of criminality shape illegal markets? Most generally, governance is less likely to emerge when it is harder to control the territory in which transactions take place: if there is only one spot in which the purchasing of a 'good', for example, can take place (such as at a port, or in a covered market), this type of control will emerge more easily. If, on the other hand, trading and production can move easily, customers can find suppliers through the internet and mobile phones, and the 'good' can be consumed in a variety of places. We would therefore expect governance to be more likely to emerge.

Illegal governance may well be limited, but it exists in the United Kingdom and it is likely to be clustered in less affluent, deprived areas and neighbourhoods with recent large migration. This phenomenon therefore goes well beyond simple crime; it is the result of social issues affecting a community, e.g. the lack of trust in legitimate institutions (as noted by Walklate and Evans 1999: 97 in relation to Salford). This calls for a response that goes beyond simple police intervention, requiring multi-organizational policy networks designed to bring together state and non-state actors, including the civil society (van Waarden 2012; see Crawford 1997: Chapters 2 and 4 and Walklate and Evans 1999: 112–3 for a discussion of community policing and inter-agency partnerships). Placing illegal governance within the broader governance framework helps devise more effective strategies aimed at eradicating it from communities. Where decisions are taken is indeed crucial, and striking the right balance between the local (community) level and the national level may not always be straightforward (Crawford 1997; Walklate and Evans 1999). For instance, as more decisions are devolved to a local level, the risk of corruptive practices increases, and the potential for inadequate oversight is higher. This is a vulnerability that should be considered—and addressed—when setting up mechanisms to devolve powers from central to local authorities.[14] We believe that recognizing the risks posed by illegal governance is a first step in the right direction. This article proposes a method to identify and measure the strength of this phenomenon and calls for a significant reorientation of thinking about OC in the United Kingdom. Future lines of enquiry include the study of the determinants of variation in governance-type OC across communities in the United Kingdom.

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[14]Transparency International issued a report warning of the 'mounting risks' of corruption in local government in the United Kingdom (Transparency International UK 2013).

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0037

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Int-2 (March 2015), Interview carried out under condition of complete anonymity.
Int-3 (April 2015), Community Member. Salford.
Int-5 (March 2017), Police Officer, Derbyshire Constabulary. Derby.
Int-6 (March 2017), Senior Police Officer, Derbyshire Constabulary. Derby.

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Appendix. Illegal Governance Index Questionnaire

In your opinion, how much fear does this OCG generate in the community?
(0) No fear
(1) Very limited fear
(2) Moderate fear
(3) Strong fear
(4) Very strong fear

To what extent has this OCG coerced legitimate businesses?
(0) No coercion
(1) Very limited coercion
(2) Moderate coercion
(3) Strong coercion
(4) Very strong coercion

To what extent has this OCG influenced official figures?
(0) No influence
(1) Very limited influence
(2) Moderate influence
(3) Strong influence
(4) Very strong influence

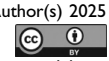
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Criminal governance in a large European city: The case of gangs in London

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Abstract

This study explores criminal governance among urban gangs operating in a large European city. It does so by introducing the Crim-Gov questionnaire, a novel survey tool purposely designed to systematically capture key governance-related dimensions of criminal groups' activities, and applying it to the case of London. It identifies instances of criminal governance among gangs operating in the city and shows that governance activities are only carried out by a subset of groups, thus suggesting that a more complex set of skills is required to provide criminal governance, particularly beyond illegal markets. Governance-type gangs are spatially clustered and impact 4.7% of all London communities. Next, the paper explores the neighbourhood structural conditions associated with governance and non-governance gang presence. It shows that, while socioeconomic disadvantage increases *all* types of gang presence, barriers to local services, including affordable housing, only increase the probability of governance-type gangs. Criminal governance is more likely to emerge when services provided by local and central authorities are of lesser quality. Results also indicate a negative association between residential mobility and criminal governance, suggesting that a certain degree of residential stability is needed for criminal governance to emerge. These findings point to the importance of separating different types of gang activities, lending support for a broader theory that situates (some) urban gangs within the spectrum of organised crime governance. It is also crucial for law enforcement and local stakeholders to

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identify governance-type gangs and treat them separately from non-governance ones. When developing interventions to tackle the emergence and persistence of governance-type gangs, particular emphasis should be placed on improving access to and quality of public services.

Keywords
Access to services, communities, gangs, governance, residential stability, socioeconomic disadvantage

Introduction

Criminal groups operating in illegal markets are often lumped together under broad labels such as 'organised crime' or 'gang'. And yet such groups engage in a variety of activities. Some *produce* illegal goods and services, such as cocaine in Colombia or cyber fraud online. Others specialise in *trading* goods from one place to another, such as drug traffickers. It is now well accepted that a third type of group goes beyond production and trade and attempts to *govern* communities by playing a role in their life, as well as extort/protect legal businesses and influence the decisions of politicians and public officials (Campana and Varese, 2018).

Criminal governance should be thought of as a continuum. Some groups have taken over state functions, such as imposing restrictions on people's behaviour, enforcing agreements, solving disputes, and enforcing a rough kind of justice. Others have made only limited inroads into these areas of social life, yet display signs that their activities go beyond ordinary crime (Varese, 2010). Starting with the pioneering work of Landesco (1929), notable studies have documented how traditional mafias, Latin American 'cartels' and insurgencies take over key state functions (Gambetta, 1993; Varese, 2001; Chu, 2000; Hill, 2003; Uribe et al., 2022; Arjona et al., 2015). At the other end of the governance spectrum, scholars have shown that gangs are able to influence communities in settings such as Medellin (Gordon, 2020), London and Nottingham (Densley, 2013: 61–62; Fellstrom, 2008), while they have not become an alternative government. Despite variations in degree, criminal groups across a wide geographical spectrum can go beyond illegal production and trade and involve themselves in imposing a degree of order on the communities where they nest.

The aim of this paper is twofold: first, to explore the extent to which urban gangs in a large European city are involved in more than just selling illegal products such as drugs; and second, to investigate the neighbourhood structural conditions associated with such gang presence. To do so, we first need to establish whether gangs engage in racketeering, influence business decisions, have a degree of control over local officials, and are involved in community activities. If the answer to such question is positive, we define such gangs as 'governance-type', while acknowledging that their behaviour is not quite on a par with traditional mafias. To identify such gangs, we introduce a novel instrument, the Crim-Gov questionnaire. We submit the instrument to police officers tasked with policing gangs in London.

We then leverage the data collected through the expert survey to explore the following questions: What are the structural conditions under which governance (and non-governance)

0044

gangs are present in communities? And are there differences between governance and non-governance gangs?

Theoretically, this paper builds on two separate strands of research. First, it expands on authors who have examined the governance dimension of urban gangs in the United States and the Global South, especially in Latin America and the Caribbean. Such studies are rare in Europe, and they tend to be qualitative. While qualitative studies are most insightful in offering deep accounts of local dynamics, our approach in this paper is best suited to explain why governance-type gangs are present in some neighbourhoods and not in others. In short, this paper contends that it is imperative to distinguish governance from other gangs' activities. Second, it connects the study of governance-type gangs with the broader gang literature exploring the *structural* conditions that might lead to the emergence and persistence of gangs in local communities (see Decker et al., 2022: 36–66 for a review and a most useful taxonomy of theories; due to the nature of our data, in this work we leave aside any consideration on 'culture' and focus exclusively on elements of 'structure'). We expand on US-based works by offering novel insights from a large urban city in Europe. In addition, by integrating such insights with our criminal governance perspective, we will explore whether we can identify any difference in structural characteristics that lead to the presence of the two distinct types of gangs: governance and non-governance.

The text continues as follows. The second section discusses criminal governance, while the third section offers a theoretically informed discussion of the neighbourhood-level structural factors potentially conducive to the presence of (governance and non-governance) gangs in a local area. The fourth section then introduces the data and methods we use. The fifth section presents the results of our expert survey on the presence/absence of criminal governance in London based on the purposely developed Crim-Gov questionnaire. The sixth section tests the factors conducive to the presence of gangs in London neighbourhoods, separating those involved in criminal governance from non-criminal governance ones. The seventh section concludes.

Criminal governance

Criminal governance can impact both legal and illegal markets, as well as communities more broadly. In illegal markets, criminal governance often involves protection against competition, enforcement of cartel agreements, dispute resolution, labour racketeering, intimidation of lawful right-holders, protection against theft and police harassment, informal credit and debt recovery, and defence against extortionists (see Varese, 2014 for a review; Schelling, 1971 more generally on criminal governance). This form of governance has been documented in various traditional Mafia organisations, such as the Sicilian Mafia (Sabetti, 1984; Gambetta, 1993), the Italian-American Mafia (Reuter, 1983), the Russian Mafia (Varese, 2001), the Hong Kong Triads (Chu, 2000), the Japanese Yakuza (Hill, 2003), the Calabrian `Ndrangheta (Paoli, 2003; Varese, 2011), and the Neapolitan Camorra (Campana, 2011). Additionally, this phenomenon is increasingly observed in Latin America (Brophy, 2008; Locks, 2014; Lessing, 2021). Criminal governance of markets has also been identified in urban areas like Stockholm, Sweden (Skinnari et al., 2012), London, England (Levi, 1981), and Salford, England (Campana

0045

and Varese, 2018). Levi (2008: 62) notes that the Kray and Richardson gangs in London sought to monopolise extortion and other criminal activities.

Criminal governance can go beyond the control over markets and extend to broader community governance. An example is a small Sicilian village studied by Sabetti (1984), where distrust of ineffective central authority led to the rise of a criminal group headed by Calogero Vizzini. Vizzini provided protection to peasants against banditry and soon became one of the most powerful bosses of the Sicilian Mafia in the twentieth century. His success led villagers to approach him with other issues, transforming the mafia into a form of local self-government based on some degree of consent (Sabetti, 1984: 104). This type of community involvement is not restricted to traditional mafia territories. Lessing (2022: 11) observes that in urban peripheries worldwide, local criminal organisations often govern as much as, if not more than, the state. When asked, 'Who is in charge here?' the answer often points to a local gang, mara, militia, faction, collective, or cartel. Residents, police, politicians, and researchers recognise this reality (Lessing, 2022: 11). The 2020 Latino barometer survey found that in Latin America, 14% of respondents reported governance by a criminal or armed group in their neighbourhood, affecting between 77 and 101 million citizens (Uribe et al., 2022). This phenomenon is also relevant in prisons (Skarbek, 2014) and in urban peripheries in the Global North.

In conclusion, mafias and gangs can control illegal markets such as drugs and sexual services, but their influence can also extend into legal markets and community life. This phenomenon should be viewed as a continuum: in some settings, mafias take over state functions while, in others, their control over the legal economy and community is limited. Studying both ends of this spectrum is important, as one can evolve into the other. The first goal of this paper is to identify elements of criminal governance among urban gangs operating in London using a novel instrument, and separate such gangs from the non-governance ones.

Explaining gang presence

The second goal of this paper is to explore which local area characteristics make a neighbourhood more vulnerable to governance (and non-governance) gang presence. The importance of structural conditions in understanding the emergence and persistence of gangs has a long history that can be traced back to the early works of Thrasher (1927) and Shaw and McKay (1942). Works in this tradition of gang studies have highlighted the role of a number of socio-economic factors that are associated with higher levels of gang presence: socio-economic disadvantage, immigrant concentration and residential mobility (Katz and Schnebly, 2011: 379; Pyrooz et al., 2010). While operationalisations vary across authors, this school of thought stemming from the Chicago School has interpreted such factors as indicators of social disorganisation within a community, with the idea that 'these forms of structural disadvantage erode the foundations of normative authority and hinder the development of social cohesion and mutual trust' (Katz and Schnebly, 2011: 379; see also Sampson and Groves, 1989; Bursik and Grasmick, 1993; Decker et al., 2022: 46–50 for a broader discussion). A competing theoretical explanation based on the idea of strain/anomie (Merton, 1938; Cloward and Ohlin,

0046

1960; see Pyrooz et al., 2010: 869–871 and Decker et al., 2022: 55–58 for a broader discussion) also emphasises the key role of economic disadvantage in explaining gang presence at the neighbourhood level. The hypothesised mechanism, however, differs from social disorganisation and rests on the idea that people in 'economically deprived areas experience more strains than those with high economic status' (Pyrooz et al., 2010: 870). In line with Pyrooz et al. (2010: 874), our goal in this paper is not to test which competing theoretical approach best explains the case of gangs in London, but to offer a theoretically informed examination of gang presence in London neighbourhoods. We thus retain from both approaches the emphasis on neighbourhood-level socio-economic disadvantage, which we operationalise in our work using four different measures: income deprivation, household income, educational disadvantage and health deprivation. Poverty, income deprivation, low or no educational qualification and health deprivation are all part of what Sampson and Bean (2006) called 'hard facts of life'. Empirical studies have indeed found a positive association between a community's socioeconomic disadvantage and gang presence (e.g., Curry and Spergel, 1988, focusing on gang homicides; Tita et al., 2005; Papachristos and Kirk, 2006; Katz and Schnebly, 2011; see also Decker et al., 2022: Ch. 2 for a broader discussion). Yet, none of these studies considered the differential impact that socioeconomic disadvantage might have on the *type* of gangs that are active in a community.

Social disorganisation theorists have also highlighted the role of migrants' concentration on gang formation, as high levels of migrants' concentration are considered to weaken social ties and hinder patterns of communication (Papachristos and Kirk, 2006; Sampson et al., 1997; Sampson and Groves, 1989; Shaw and McKay, 1942; see also Curry and Spergel, 1988). Additionally, migrant populations might feel marginalised and lack trust in official institutions, such as the police. In our work, we operationalise migrants' concentration based on the proportion of residents not born in the United Kingdom.

Social disorganisation theorists have also suggested that (high) residential mobility can weaken social ties and mechanisms of control, thus leading to greater gang presence (Thrasher, 1927; see also Sampson et al., 1997; Sampson and Groves, 1989; Shaw and McKay, 1942). The evidence on this point, however, is far from conclusive. Studies from the United States have found a negative relationship between residential mobility and gangs (Wells and Weisheit, 2001; Katz and Schnebly, 2011; cf. Curry and Spergel, 1988, showing that high levels of gang *violence* are associated with unstable communities). Katz and Schnebly (2011: 377) found that gang membership (and not activity) 'is less likely in social contexts characterized by either a residentially unstable population or rapidly changing structural conditions' (it should be noted that they link gang members to neighbourhoods based on the residential address of members and not the area in which the gang operates; the two might not perfectly overlap). A certain degree of neighbourhood stability may thus be required for gangs to successfully operate, for example, by allowing them to gather information on the community (on the importance of information, see Reuter, 1983; Gambetta, 1993). The transmission of gang culture might also be hindered in neighbourhoods characterised by a rapidly changing residential composition (Katz and Schnebly, 2011). Studies so far have looked at the impact of residential mobility on gang presence, regardless of whether

0047

they were involved in criminal governance. For instance, residential instability might facilitate the presence of purely predatory gangs due to weakened social ties, but governance-type gangs might require some degree of community stability to exert their criminal rule. In this work, we consider a measure capturing the 5-year residential mobility in London neighbourhoods.

Additional factors explored in the gang literature relate to population density and population age structure. A higher population density is postulated to be associated with increased anonymity among community members, therefore conducive to lower informal social control (Katz and Schnebly, 2011: 380). A larger proportion of youth residents is associated with higher gang presence through various mechanisms. Social control theorists argue that a higher proportion of young people means a lower proportion of the adult population capable of exerting effective social control (Tita et al., 2005: 277; Katz and Schnebly, 2011). At the same time, age-crime curve analyses show that young people are more prone to crime in general (Farrington, 1986), and they can also constitute a larger reservoir for recruitment (Decker et al., 2022). We include both factors – population density and population age structure – in our analysis.

A separate strand of the literature has looked at the factors that might account for the emergence of criminal governance. Generally speaking, criminal governance is thought to emerge in a setting characterised by a weak state presence (Sabetti, 1984; Gambetta, 1993; Varese, 2001). Varese (2011) has documented how the emergence of new, unregulated markets generates incentives among entrepreneurs to create cartels, even with the use of criminal groups. Looking at neighbourhoods in Medellín, Colombia, Blattman et al. (2021) show that gangs fill the vacuum of state order yet do not completely crowd out state presence. In his ethnographic work on a housing estate in a large American city, Venkatesh (1997) illustrates how a local street gang started to provide services to the community, filling in the gap left by formal institutions, including the housing authority. In sum, a key factor highlighted in the criminal governance literature is the role played by the efficiency and effectiveness of the state (and other local authorities) *beyond* law enforcement activity (Campana and Varese, 2018). Such efficiency and effectiveness can be conceptualised in multiple ways. At the local (neighbourhood) level in a large city in the Global North, we proxy the efficiency and effectiveness of states (and local institutions) based on the accessibility to local services in a given area.

In conclusion, an influential stream of literature stemming from the early works of sociologists from the Chicago School has emphasised the importance of neighbourhoods – and their structural characteristics – in understanding gang presence. Scholars have highlighted the role of socio-economic disadvantage, migrants' concentration and residential mobility. Yet, studies so far have mostly looked at the US context and they haven't separated different types of gangs based on their activities. A separate stream of literature has emphasised the importance of criminal governance and the need to consider criminal groups, including gangs, involved in governance activities separately from the others. Such literature has also suggested that an ineffective state presence might be linked to the emergence of criminal governance. This paper brings together these two strands by first identifying whether criminal governance-type gangs exist in the case of London, and then testing whether the factors highlighted in both gang and criminal

0048

governance literature play a role in explaining the presence of both governance and non-governance gangs in London.

Data and methods

The Crim-Gov questionnaire

To identify instances of criminal governance at the group level, we employ a novel survey instrument purposely developed for this study: the Crim-Gov questionnaire (see Appendix 1 for the full questionnaire). It captures five dimensions of group activities: the ability (i) to generate fear in a community; (ii) to coerce legal businesses; (iii) to influence public officials; (iv) to control illegal market(s), but also (v) the group's involvement in community activities. The questionnaire has been widely discussed with practitioners across the United Kingdom and trialled in one police area before being rolled out in the entire jurisdiction of the London Metropolitan Police.

Each dimension of group activities is measured on a five-point scale, where 0 indicates that a group does not engage in that activity, and 4 indicates that a group is strongly involved in the activity.[1] Examples are given for each dimension to provide police officers and analysts with an operational definition of the activities and place them in the London context. The level of fear generated by a group is assessed by considering how much 'the group engages in disrespectful behaviour, threatens members of the public, resorts to violence, generates a "no grass" culture in the community' (quote from the questionnaire). The coercion of legal businesses is exemplified as the ability to 'threaten business owners, engage in extortion, influence business decisions'. The ability to influence public officials considers, for example, the extent to which 'the group influences probation officers and other officials involved in its case file, influences local officials' decisions, influences local councillors and politicians'. Illegal market(s)' control is exemplified as the extent to which 'the members sell illegal products, they decide who is allowed to sell illegal products, they successfully keep rival groups away from their territory'. Finally, a group's involvement in community activities considers to what extent the group 'offers assistance to neighbourhood residents' and 'settles disputes between community members'.

As this paper focuses on the criminal governance dimension of gangs operating in London, we have decided to ask police officers/analysts assigned to a local gang unit to fill out the Crim-Gov questionnaire (this is akin to the strategy that Miller devised for the first National Youth Gang Survey using police as experts: Miller, 1992 [1982]: 10–16). Officers were asked to score the gang(s) for which they have close knowledge. We have not supplied officers with any pre-set definition of gang, but left it to their professional knowledge to identify the list of relevant groups based on intelligence and other police records.[2]

In the case of London, we adopted a multistage approach leveraging the institutional architecture of the London Metropolitan Police. Greater London is divided into 12 basic command units, which represent our first stage. The questionnaire was then trickled down to 32 specialist gang officers, one for each London Borough. These specialist gang officers were then tasked with filling in a questionnaire for each gang operating in their area

0049

in consultation with local specialist officers/analysts as well as available intelligence. Questionnaires were then gathered in an electronic format by our point of contact who cross-checked (unlikely) duplicate records, sanitised the data and then forwarded them in a fully anonymised form; neither gangs' names nor any other information besides the responses to our questionnaire was shared with us. The identity of respondents was also kept confidential. The survey was administered between April and November 2019.

While it is possible to collect information directly from gang members, we opted for an alternative method based on a specific type of expert survey. This method allows us to systematically build a comprehensive picture of the presence and *absence* of gangs across a very large urban area, that is, Greater London, in a cost-effective and limited time-consuming manner. It comes, however, with its own limitations. Police officers might not be the best placed to provide the most accurate picture when it comes to communities' attitudes, for example the level of fear generated by a gang; they might underestimate the impact of threats and coercion of legal business and community members, as these might be underreported due to the fear of reprisals; and they might be reluctant to report on the influence on public officials (some of whom might be fellow police officers; the fact that we only ask for a score and not further evidence might limit the impact of this bias but not eliminate it completely). Furthermore, there is always the possibility that a gang has not been identified by the police at the time of the survey. Additionally, our method is not able to elicit any evidence of cultural meanings associated with life in a gang or internal mechanisms. We acknowledge that specialised police officers are only one potential source of information on gangs (and criminal groups more generally) and that our instrument would provide a more comprehensive picture if the set of respondents is expanded in future works by adding other (non-police) officials and local stakeholders. In Table A1 in Appendix 2, we offer an external validity control of our survey instrument leveraging data from the Public Attitude Survey conducted by the Mayor of London, Office for Policing and Crime; survey data corroborate our instrument's ability to identify gang presence and also show that our instrument is not significantly correlated with residents' general fear of crime or their view of general crime and violence.

To explore the mechanisms underpinning the emergence of criminal governance in a large urban setting, we move the analysis from the gang level to the community level. For the purposes of this work, we define a community using the Middle layer Super Output Areas (MSOAs) created by the UK Office for National Statistics (ONS). Greater London can be subdivided into 982 MSOAs, and each of these census units includes an average of 8316 individuals. MSOAs have two desirable properties: (a) they have a geographical component, that is, they are designed taking into account geographical barriers, for example, a river, rail tracks or main roads; hence, they can approximate spatialised community-level social interactions; and (b) they show stability over time (contrary to, e.g., electoral wards). We asked the questionnaire respondents to place each gang within a spatially defined area based on the postcode of the 'centre of gravity' of a gang's activity and then linked each postcode to the corresponding MSOA (UK postcodes are perfectly nested within MSOAs). In this work, we use the terms community, neighbourhood and MSOA interchangeably.

We now turn to discuss the dependent variable and the set of independent and control variables included in our analysis.

0050

Dependent variable

Our *dependent variable* is a categorical variable capturing the type of gang presence in a community (MSOA). Based on the responses to the Crim-Gov questionnaire, we identified three types of communities: (a) those with no gang presence; (b) those with gang presence but no criminal governance; and (c) those with criminal governance.[3]

As mentioned above, gangs can control illegal markets only, such as drugs, or be involved in legal markets and community activities too. In this paper, we are most interested in identifying gangs that are able to make their presence felt in legal markets and in the community at large. Such criminal groups pose the greatest threat to the legitimacy of authorities, hence deserve special attention. For this reason, we adopt a strict definition of criminal governance, including only those gangs able to exert some degree of governance beyond just illegal markets, that is, impacting legal businesses, public officials and broader community activities. Thus, we define gangs as involved in criminal governance activities if they engage in at least one of the following activities: coercion of legitimate businesses; influence of public officials; involvement in community activities. While such questions do not imply that gangs have total control over such spheres of life, they do indicate the gangs' ability to reach there. The next decision we took relates to scoring. Although the questionnaire includes five values (from 0 to 4) and thus allows us to capture the intensity of an activity, we decided to dichotomise the data for the models developed below due to statistical reasons; however, future studies might wish to go beyond such a limitation. The distribution of scores for each dimension is presented in Figure 1. In conclusion, we consider as 'governance-type' those gangs that have received a score of 1 or higher in at least one among questions 2 (coercion of legitimate businesses), 3 (influence of public officials) and 5 (involvement in community activities) of the Crim-Gov questionnaire.

Independent variables

To explore the emergence of governance, we consider several *independent variables*, measuring the social, demographic, and economic characteristics of 982 communities (MSOAs) across Greater London. The variables are drawn from a variety of ONS sources (see Table A2 in Appendix 3) and measured at the MSOA level. We consider values for the year closer to the Crim-Gov survey (2019). While most variables were measured in 2019 or the years shortly before (see Table A2 in Appendix 3), variables based on the UK census are the exception: as results from the 2021 census were not yet available at the time of data collection and analysis, we had to rely on data from the 2011 census. However, we believe that this has a limited impact on the analysis as such variables tend to refer to structural features of a community that are normally slow-changing, such as educational levels or age structure.

The independent variables included in our econometric model are socioeconomic disadvantage, accessibility to local services, residential mobility, and migrant concentration (Table 1 reports summary statistics for such variables). To measure *socioeconomic disadvantage* of a community, we consider four alternative measures: (1) an index of income deprivation based on the proportion of population in a given community

0051

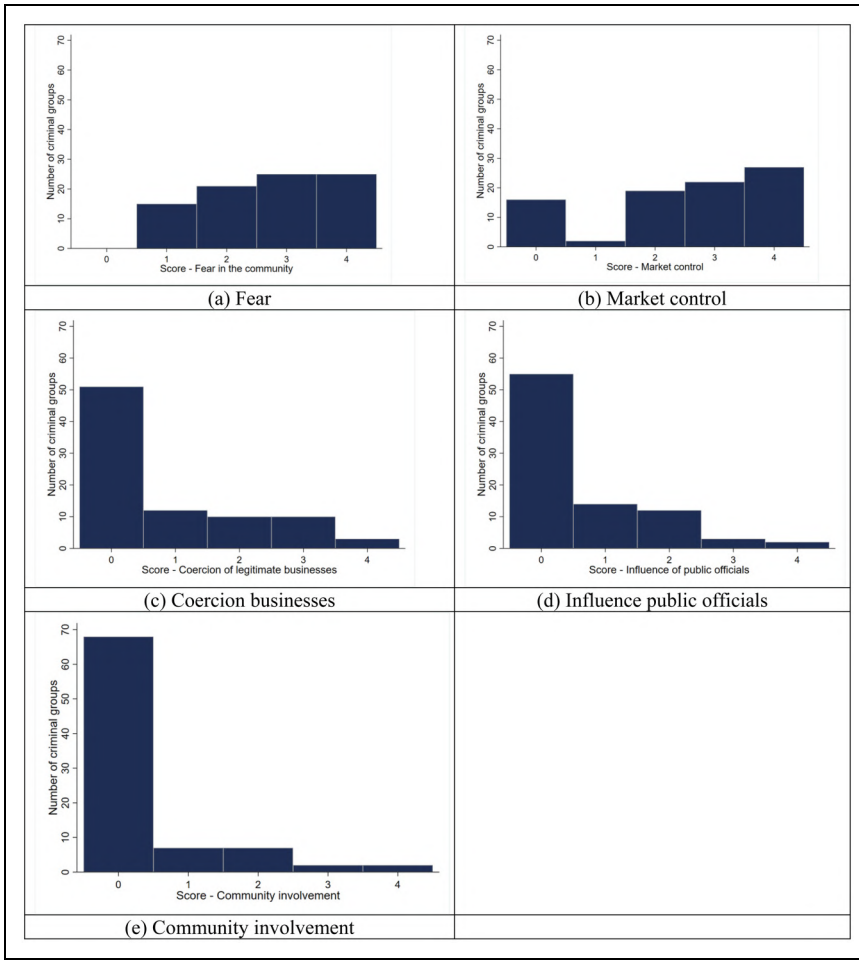


Figure 1. Crim-Gov questionnaire: distribution of gangs' scores by activity ($N = 86$).

experiencing deprivation due to low income as the result of either unemployment or low earnings; (2) household income, measuring the average annual income of households in a given community; (3) a variable measuring the proportion of residents aged 16 and over with no educational qualifications to account for disadvantage in the educational domain; (4) an index of health deprivation, which measures the risk of premature death and impairment to the quality of life due to poor physical and mental health. We consider these multiple measures of socioeconomic disadvantage in separate model specifications to avoid issues of multicollinearity.[4]

As a measure of *accessibility to local services*, we consider an index developed by the ONS and included in the 'Barriers to housing and services' domain of the Index of Multiple Deprivation. This index measures the physical and financial accessibility of

0052

Table 1. Summary statistics of independent variables included in the MSOA econometric model.

Variable	Mean	Std. Dev.	Min	Max	N
Population density	83.48	47.99	2.90	247.20	982
Population aged 15–24 (%)	13.44	3.39	6.10	41.60	982
Income deprivation (%)	13.62	6.20	0.94	33.49	982
Household income (£; scaled/1000)	53.53	8.57	36.00	85.20	982
Lack of education qualifications (%)	17.79	6.36	3.60	37.70	982
Health deprivation (score)	26.62	5.99	0.00	40.04	982
Barriers to housing/services (score)	31.74	8.63	9.52	59.92	982
5-year residential mobility (%)	17.18	5.30	5.55	45.26	982
% born outside the United Kingdom	36.21	13.84	4.39	69.23	982

Note: MSOA: Middle layer Super Output Area; Std. Dev.: standard deviation; Min: minimum; Max: maximum.

local services and housing. It is computed by combining (with equal weights) indicators pertaining to two sub-domains: the 'geographical barriers' sub-domain, which relate to the physical proximity of local services, and the 'wider barriers' sub-domain, which includes issues relating to access to housing, including social housing (McLennan et al., 2019). The geographical barriers sub-domain includes indicators measuring the average geographical proximity of a range of local services (e.g., post office, primary school, general practitioner (GP) surgery). The indicators included in the wider barriers sub-domain measure household overcrowding, the homelessness rate, and housing affordability. We consider the barriers to services and housing as a proxy for the level (and to some extent effectiveness) of services provided by local and central authorities.

Residential mobility is calculated as the proportion of resident households that have changed within a specific time period (5 years in our analysis). *Migrants' concentration* is measured by the proportion of community residents not born in the United Kingdom. Finally, all model specifications include the *population density* and the *proportion of population aged 15–24*. The latter captures the (relative) size of the more crime-prone segment of the population.

Analytic strategy

We first present results on the distribution of gangs and criminal governance across London communities. We then rely on a multinomial logistic regression model to examine the factors underpinning the emergence of gang-related governance in a given community. This modelling approach is particularly suitable when predicting more than two outcomes given a set of independent variables and with unordered outcome categories (Britt and Weisburd, 2010; Tabachnick and Fidell, 2013). This model is an extension of a binary logistic regression model that simultaneously accounts for changes in the odds of multiple outcomes following changes in the value of the independent variables (Britt and Weisburd, 2010). The model estimated in this paper is defined as follows:

$$\log\left(\frac{\pi_m(\boldsymbol{x})}{\pi_M(\boldsymbol{x})}\right) = \alpha_m + \boldsymbol{\beta}'_m\boldsymbol{x}, \qquad m = 1, \ldots, M-1$$

0053

where $\boldsymbol{x}$ is the set of independent variables included in the analysis and $\pi_m(\boldsymbol{x}) = P(Y = m|\boldsymbol{x})$. In our case, $M = 3$ since the dependent variable has three outcome categories: 'no gang presence', 'gang presence with no criminal governance', and 'gang presence with criminal governance'. We consider the absence of gangs as the reference category: the set of coefficients predicting each outcome can thus be interpreted as the log of the odds (odds ratio) comparing the likelihood of that specific outcome (e.g., gang presence with no criminal governance) relative to observing no gang presence in the community.

We run a set of models with different specifications aiming to understand how different measures of deprivation, accessibility to local services, migrants' concentration, 5-year residential mobility, population density and the share of the population aged 15–24 impact the presence of gangs, separating those involved in criminal governance from those not inolvolved in criminal governance.

When presenting and discussing our results, we are careful to avoid the use of causal language. In other words, we cannot completely exclude reverse causality for a number of variables we input as independent in the multinomial logistic regression (see Table 3). Yet it is hard to imagine that the presence of a gang would have a causal effect, for example, on barriers to housing and services or the percentage of individuals born outside the United Kingdom. Interestingly, Booth's (1889) London maps from 1889 contain information on income indicators: London areas' income strongly correlates with current data, although Booth's maps only cover Inner London (analysis available on request). However, as our econometric setup does not allow us to exclude that some of the variables we analyse are affected by a gang's presence, our results should be interpreted as showing the existence (or absence) of a relation between relevant factors and gangs.

Criminal governance in London communities

The Crim-Gov survey has identified 86 gangs operating across London. Their level of involvement in criminal governance-related activities varies, as shown in Figure 1(a–e).

Two findings are of particular interest. Firstly, while all gangs generate fear in the communities in which they operate – and 58% of them generate strong fear, that is, a score of 3 or 4 – not all are involved in the three key dimensions of governance: coercion of legal businesses, influence of public officials and involvement in community activities. In fact, only 51 gangs (60%) are involved in at least one of these three activities; this number goes down to 16 (19%) if we consider gangs that have a strong involvement in at least one of these activities. This suggests that moving from just being a fear-generating gang to a more complex organisation involved in criminal governance is not an easy task – and is a step that only a fraction of gangs is able to make.

Secondly, 81% of gangs are able to exert some degree of control over the criminal market in which they operate – most likely a drug market, although we have no first-hand evidence – and 57% are able to exert strong control. These are a much larger proportion than the gangs able to provide governance impacting legitimate businesses, public officials and the broader community. This suggests that providing criminal governance

0054

beyond illegal markets requires a more complex set of resources and skills that fewer gangs actually possess.

When placing gangs within spatially defined communities, we observe gang presence in 79 communities (out of 982; i.e., 8.75% of all MSOAs): 33 communities are affected by non-governance gangs, while 46 experience some degree of criminal governance (4.7% of all MSOAs; Table 2). In 20 communities (around 25% of those with gang presence), gangs engage in minor to moderate attempts of coercion of illegal businesses (e.g., threats and extortion directed to business owners), while in 13 communities (roughly 16%) coercion is reported to be either strong or very strong. In 28 communities across London, gangs are able to exert some degree of influence on public officials, and in five communities, gangs' influence has been qualified by police officers as strong. Involvement of criminal groups in community activities – ranging from the offer of assistance to residents to dispute settlement – has been reported in 17 areas, and in four it is considered either strong or very strong.

There are four communities across London in which gangs are reported to engage in all three key criminal governance dimensions of coercion of legitimate businesses, influence of public officials, and involvement in community activities. In roughly half of communities with criminal governance (24 out of 46), gangs present two of these three sets of activities; in 18 communities, they are reported to engage in one set only.

Gangs providing forms of criminal governance in their community generate on average a higher level of fear in the same community and have a higher level of control of the markets they are involved in (both differences in means are statistically significant at .01 level; see Table 2). Overall, average scores for governance activities are smaller than those for fear and market control, thus pointing to a more complex criminal endeavour.

Figure 2 presents the geographic distribution of the three sets of communities identified in this analysis. Gang presence is recorded across the whole city, and in most boroughs, there is at least one gang operating. Criminal governance appears to be relatively more clustered, affecting particularly the North Eastern and North Western communities. The boroughs of Brent, Islington, Newham, and Waltham Forest are particularly impacted, with more than 10% of their MSOAs recording the presence of a

Table 2. Gang presence and criminal governance in London communities: mean component scores.

	No gang presence	Gang presence	Gang presence and criminal governance
Fear in the community	0	2.27 (1.10)	3.09 (0.86)
Market control	0	1.61 (1.46)	3.20 (0.93)
Coercion of legitimate businesses	0	0	1.54 (1.29)
Influence of public officials	0	0	1.09 (1.13)
Community involvement	0	0	0.72 (1.13)
N	903	33	46

Note: Standard deviations are reported in parenthesis.

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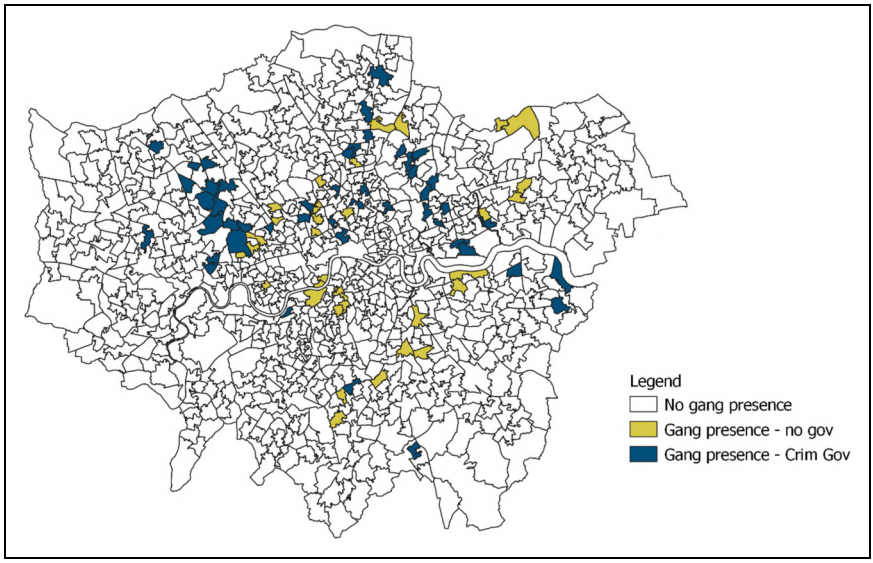


Figure 2. Spatial distribution of gangs and criminal governance.

gang providing some form of governance. Brent emerges as the borough most affected, with almost 30% of communities (10 out of 24 MSOAs) registering the presence of gang-related governance.

In sum, criminal governance appears to be highly concentrated in a few areas – and not all areas with a gang presence also experience criminal governance. What makes a community more vulnerable to criminal governance, then? We now turn to this question.

The emergence of criminal governance

To explore the factors underpinning criminal governance in communities, we test several multinomial logistic regression models. As a reminder, in this work we define a community as affected by criminal governance if the gang(s) operating in the area engage in at least one of the following three activities: coercion of legitimate businesses, influence of public officials or involvement in community activities. We separate these communities from those in which gangs are present but do not engage in criminal governance and from communities where no gang presence has been identified through our survey.

Table 3 presents the results of the first set of models exploring the impact of different measures of deprivation on the probability of criminal governance. In all models, an increase in the level of deprivation is related to an increase in the odds of gang presence; all other variables held constant – a result also found in other studies (e.g., Kirchmaier, Machin, Villa-Llera, 2020: 9–10). This finding is robust to different deprivation measures: income deprivation index, total household income, education deprivation, and health deprivation index. For example, an increase of one percentage point in the proportion of residents experiencing low-income deprivation is associated with an increase by a

0056

Table 3. Community characteristics and criminal governance: multinomial logistic regressions (relative-risk ratios).

	Reference category: MSOAs with no gang presence							
	(1) Gang No gov	(1) Gang Crim-Gov	(2) Gang No gov	(2) Gang Crim-Gov	(3) Gang No gov	(3) Gang Crim-Gov	(4) Gang No gov	(4) Gang Crim-Gov
Population density	1.004	1.010*	1.008	1.012**	1.011*	1.014***	1.006	1.011**
	(0.005)	(0.004)	(0.005)	(0.004)	(0.005)	(0.004)	(0.005)	(0.004)
Population aged 15–24 (%)	0.961	0.999	0.912	0.950	0.973	0.989	0.940	0.968
	(0.065)	(0.060)	(0.061)	(0.059)	(0.066)	(0.066)	(0.064)	(0.062)
Income deprivation	1.217***	1.152***						
	(0.045)	(0.036)						
Household income			0.849***	0.884***				
			(0.032)	(0.031)				
Lack of education qualifications					1.116**	1.110**		
					(0.040)	(0.038)		
Health deprivation							1.309***	1.257***
							(0.075)	(0.064)
Barriers to housing/services	0.954	1.065*	0.947	1.056*	0.979	1.071**	0.961	1.068**
	(0.029)	(0.026)	(0.029)	(0.027)	(0.029)	(0.027)	(0.029)	(0.026)
5-year residential mobility	0.968	0.861**	1.036	0.892*	1.010	0.891*	0.877*	0.786***
	(0.048)	(0.041)	(0.054)	(0.043)	(0.049)	(0.042)	(0.049)	(0.043)
% born outside the United Kingdom	1.013	1.041*	1.011	1.034*	1.020	1.042*	1.049*	1.071***
	(0.021)	(0.019)	(0.020)	(0.018)	(0.021)	(0.019)	(0.024)	(0.022)
Constant	0.009***	0.001***	492.4*	4.423	0.001***	0.000***	0.000***	0.000***
	(0.011)	(0.001)	(1334.732)	(11.086)	(0.002)	(0.000)	(0.000)	(0.000)
Observations	982	982	982	982	982	982	982	982

Note: Standard errors are reported in parenthesis. Household income variable was scaled by dividing it by 1000 to ease interpretability. MSOAs: Middle layer Super Output Areas.
The symbols ***, **, and * indicate statistical significance at the .001, .01, and .05 levels, respectively.

factor of 1.22 in the relative risk of a community recording a non-governance gang compared to an increase of 1.15 for a governance gang. Similarly, an increase of £1000 in the average annual income of households residing in the community decreases the relative risk of non-governance gang by a factor of 0.85 and of 0.88 for a criminal governance gang. While the coefficients for deprivation are higher for non-governance gangs compared to criminal governance ones across all models, the difference in magnitude is not statistically significant in any of the models (results from a Wald test for the equality of coefficients).

The level of existing barriers to services and housing is positively associated with the odds of criminal governance (compared to no gang presence), while it is unrelated to the odds of gang presence with no governance. This is a key result which indicates that, controlling for all the other variables, communities where residents face greater difficulties in access to services see a higher probability of criminal governance in their territory. This variable can be interpreted as a proxy for the level (and to some extent the effectiveness) of services provided by local and central authorities; our result thus suggests that criminal governance is more likely to emerge where legal governance is of lesser quality. Crucially, this does not extend to gang presence in general, suggesting a profound difference in the nature of criminal governance vis-à-vis other gang activities.

Furthermore, an increase in the proportion of community residents born outside the United Kingdom is related to increased odds of criminal governance in the community (compared to no gang presence). Holding all the other variables constant, results show an increase by a factor of 1.03–1.07 in the relative risk of criminal governance for a one percentage point increase in the proportion of residents born outside the United Kingdom. This result is robust to the inclusion of different deprivation measures in the models. Conversely, the concentration of migrants tends not to be significantly associated with the odds of gang presence with no criminal governance (with the exception of model specification 4). The proportion of the population aged 15–24 is unrelated to both gang presence and criminal governance.

Finally, as for the residential mobility of an area, we find that the 5-year residential mobility is negatively associated with criminal governance. Holding the other variables constant, more stable communities, that is, those with a lower turnover of resident households over a 5-year time, face higher odds of gang-related criminal governance. Therefore, it is not the areas with the highest turnover of residents, and perhaps the weakest social fabric, that experience the most serious type of gang presence.

Discussion and conclusions

This study makes three significant contributions. The first is methodological in nature. We introduce a novel survey instrument – the Crim-Gov questionnaire – that allows us to identify key defining dimensions of a criminal group: its ability to generate fear in the community, coerce legitimate businesses, influence public officials, control markets and be involved in community activities. The questionnaire does not require a long time to complete; hence, it can be administered to busy officials and experts in a highly cost-effective manner. Rather than relying on non-systematic newspaper reports

0058

and web stories (cf. Kirchmaier et al., 2020), we have used a systematic method of data collection.

The second contribution is descriptive. We have been able to identify instances of governance-related activities among the gangs operating in London. We show that providing criminal governance, particularly beyond illegal markets, is a complex task requiring a set of resources and skills that fewer gangs possess. When looking at communities, criminal governance appears to be highly concentrated in a few areas – and not all areas with a gang presence also experience criminal governance. We document that 46 communities (out of 79 with gang presence) experience some degree of criminal governance; in 17 communities, gangs are involved in community activities, while in four communities gangs engage in all three dimensions of governance (coercion of legitimate businesses/influence of public officials/community involvement).

Third, we test several models that explore the relationship between socioeconomic disadvantage, accessibility to local services, residential mobility, migrant concentration, and gangs. In line with results from large US cities (Curry and Spergel, 1988; Papachristos and Kirk, 2006; Pyrooz et al., 2010; Katz and Schnebly, 2011; see also Decker et al., 2022: Ch. 2), also in the case of London we find that the level of deprivation is related to an increase in the odds of gang presence. Furthermore, we find that this effect holds across *all* types of gang presence, governance and non-governance ones. On the other hand, we find a differential impact of access to services on governance and non-governance gangs. Crucially, greater difficulties in accessing local services and housing are *only* related to a higher probability of criminal governance (the same does not hold for non-governance gangs). We conclude that such a phenomenon is more likely to emerge where the legal provision of services is of lesser quality. We have pointed out above that criminal governance should be thought of as a continuum: in some settings, criminal groups can substitute key state functions, as documented in traditional mafia areas (see e.g., Sabetti, 1984; Gambetta, 1993; Varese, 2011). Our work shows that explanations invoked for such cases also apply to instances where criminal governance is less pervasive. These findings suggest the need for a unified theory of criminal governance that encompasses mafias and 'cartels' at one end and urban gangs at the other.

We further find that the 5-year residential mobility is negatively associated with criminal governance, suggesting that it is not the areas with the weakest social fabric that experience the most serious type of gang presence, but those with a more stable residential population. A certain degree of stability is needed for criminal governance to emerge, for example to allow gangs to collect and circulate information more efficiently within the community. These results contribute to previous findings on the negative association between residential mobility and gang presence (Wells and Weisheit, 2001; Katz and Schnebly, 2011) by pinpointing how this association might be driven by governance activities. Finally, an increase in the proportion of residents born outside the United Kingdom is consistently associated with higher odds of criminal governance in the community across all models (while the relationship with non-governance gangs is more ambiguous).

Quantitative work on gangs and organised crime is difficult and subject to limitations; our study is no exception. While we are reassured by the level of external validity shown by our survey instrument (see Appendix 2), limitations stemming from the nature of

0059

police evidence remain, and future works might wish to apply our instrument to non-police officials and local stakeholders to get a more comprehensive view of the phenomenon. In addition, our work is based on one snapshot of the London gang landscape; however, such landscape is likely to change over time, and future works might benefit from including a longitudinal design.

Finally, our work suggests two main policy implications. Firstly, it is crucial for law enforcement – and local stakeholders – to not only collect data on gangs but also on the type of activity such groups are involved in. We strongly recommend that particular attention is devoted to identifying instances of criminal governance and to treating such gangs separately from the non-governance ones. While more concentrated in space and less prevalent in scale, criminal governance generates *systemic* harm to cities and countries, creating lasting damages to the institutional and social environments of places and communities alike. It is arguably more difficult to eradicate if left unchecked. Secondly, our work has shown that interventions targeting socio-economic factors might not be sufficient either. When tackling the emergence and presence of governance-type gangs, policy-makers should also improve access to and quality of public services. This is a mechanism that does not always receive the attention it deserves.

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Notes

1. The questionnaire expands on the three-item Crim-Gov questionnaire first presented in Campana and Varese (2018). This novel iteration of the instrument adds the two dimensions

of market control (question 4) and community involvement (question 5) besides a relabelling of the scales. Such changes enable us to capture dimensions suggested by Lessing (2021) who unpacks the phenomenon into five different categories: (1) policing, (2) judicial, (3) fiscal, (4) regulatory, and (5) political. The practices captured by Lessing (2021) include surveillance, enforcement of property rights, dispute resolution, the fulfilment of contractual agreements, tax collection, the provision of credits and involvement in community or electoral politics.

2. As a reference, the Metropolitan Police defines a gang as a 'relatively durable, predominantly street-based group of young people who (1) see themselves (and are seen by others) as a discernible group and (2) engage in a range of criminal activity and violence. They might also have any or all of the following features: identify with or lay claim over territory; have some form of identifying structure feature; are in conflict with other, similar gangs' (see: https://www.met.police.uk/police-forces/metropolitan-police/areas/about-us/about-the-met/gangs-violence-matrix/).
3. In most communities with gang presence, there is only one active gang. Only six MSOAs register more than one gang; in these cases, we assigned to the MSOA the highest score recorded among the gangs active in the area.
4. As expected, these measures show a relatively high level of correlation: minimum pairwise correlation $|r|=.52$, maximum $|r|=.81$.
5. This source of data has already been utilised by criminologists to explore crime and police-related attitudes. See Bradford et al. (2009).

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0061

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0062

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Appendix 1. Crim-Gov questionnaire

Q1: On a scale from 0 to 4, how much fear does this group generate in the community? (e.g., the group engages in disrespectful behaviour, threatens members of the public, resorts to violence, and generates a 'no grass' culture in the community)

○	○	○	○	○
0	1	2	3	4
No Fear				Very strong fear

Q2: On a scale from 0 to 4, to what extent does this group coerce legitimate businesses? (e.g., the group threatens business owners, engages in extortion, and influences business decisions)

○	○	○	○	○
0	1	2	3	4
No Coercion				Very strong coercion

0063

Q3: On a scale from 0 to 4, to what extent does this group influence public officials? (e.g., the group influences probation officers and other officials involved in its case file, influences local officials' decisions, influences local councillors and politicians)

○	○	○	○	○
0	1	2	3	4
No Influence				Very strong influence

Q4: On a scale from 0 to 4, to what extent does this group control the market(s) it is involved in? (e.g., the members sell illegal products, they decide who is allowed to sell illegal products, they successfully keep rival groups away from their territory)

○	○	○	○	○
0	1	2	3	4
No Control				Very strong control

Q5: On a scale from 0 to 4, to what extent is the group involved in community activities? (e.g., the group offers assistance to neighbourhood residents and settles disputes between community members)

○	○	○	○	○
0	1	2	3	4
No Involvement				Very strong involvement

Q6: Please provide a full postcode for the best-estimated centre of the group's territory.

Appendix 2. External validity of Crim-Gov questionnaire

To assess the external validity of our survey instrument (Crim-Gov questionnaire), we leverage data from the 2016–17 MOPAC (Mayor of London – Office for Policing and Crime) Public Attitudes Survey (ORS, 2017). The survey was conducted between October 2016 and September 2017 on a total of 12,800 respondents and is based on a random sample stratified by BCU with a target of 400 individuals per borough (further information is included in ORS, 2017). Due to limited sample size and unavailability of personal information on the MSOA of respondents, the analysis could only be conducted at the electoral ward level, which is a slightly larger spatial unit than the MSOA (average population of 13,171 in Greater London).[5]

In Table A1, we compare residents' answers on gang presence ('gangs are a problem') with our results on the strength of gang presence (measured as the sum of the scores of all five survey dimensions) at the ward level. The two variables are positively and significantly correlated, thus corroborating our instrument's ability to identify gang presence. Crim-Gov then goes a step further in sorting gangs based on their ability to provide criminal governance. Moreover, our instrument is not significantly correlated with residents' general fear of crime or their view of general crime and violence as major issues in the community. This further points to the ability of our survey instrument to identify gang presence and not general crime.

0064

Table A1. Attitudes to local crime problems and Crim-Gov survey variables: correlation table.

	1	2	3	4	5
1. Worried about crime	1				
2. General crime is a problem	0.60*	1			
3. Violence is a problem	0.44*	0.56*	1		
4. Gangs are a problem	0.45*	0.30*	0.45*	1	
5. Gang presence (total gang score from Crim-Gov survey)	0.04	−0.03	0.07	0.19*	1

Note: The symbol * indicates that the correlation is statistically significant (at 0.05 level).

0065

Appendix 3

Table A2. Independent variables included in the econometric analysis.

Variable label	Description	Source (year)
Population density	Number of resident population per hectare.	Census for England and Wales (2011)
Population aged 15–24 (%)	Proportion of the total population aged between 15 and 24.	Census for England and Wales (2011)
Income deprivation	Score of the 'Income deprivation' domain of the Index of Multiple Deprivation (higher score corresponds to higher deprivation); measures the proportion of the population experiencing deprivation related to low income.	Index of Multiple Deprivation, ONS (2019)
Household income (scaled /1000)	Average annual household income (£), financial year ending 2018. In the models, it has been scaled by dividing it by 1,000 to ease coefficient comparability.	ONS (2018)
Lack of education qualifications	Proportion of residents aged 16 and over with no education qualifications.	Census for England and Wales (2011)
Health deprivation	Score of the 'Health deprivation' domain of the Index of Multiple Deprivation (higher score corresponds to higher deprivation); measures the risk of premature death and the impairment of quality of life through poor physical or mental health.	Index of Multiple Deprivation, ONS (2019)
Barriers to housing/services	Score of the 'Barriers to housing and services' domain of the Index of Multiple Deprivation (higher score corresponds to higher deprivation); measures the physical and financial accessibility of housing and local services (physical proximity of local services and issues relating to access to housing such as affordability and homelessness).	Index of Multiple Deprivation, ONS (2019)
5-year residential mobility	Estimate of the 'churn' of the residential population: the proportion of households that have changed between the end of 2020 and five years prior.	CDRC Residential Mobility Index (2020)
% born outside the UK	Proportion of the resident population not born in the UK.	Census for England and Wales (2011)

Note: Variables collected from the 2019 Index of Multiple Deprivation were produced at the LSOA level and were aggregated to the MSOA level by summing the population-weighted scores of the corresponding LSOAs.

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James B. Jacobs and Ellen Peters

Labor Racketeering: The Mafia and the Unions

ABSTRACT

The labor movement and its members have long suffered from extortion, thievery, and fraud. Corrupt labor officials have used union power to extort money from businesses. Labor racketeering has been a major source of the Cosa Nostra crime families' power and wealth since the 1930s. Nonetheless, combating labor racketeering did not become a federal law enforcement priority until Jimmy Hoffa's assassination in 1975. The U.S. Department of Justice, beginning in the early 1980s, brought or threatened civil racketeering lawsuits against numerous mobbed-up locals and four international unions. These lawsuits led to an unprecedented effort by court-appointed monitors and trustees to purge the corrupted unions of racketeers and racketeering and to reform the unions.

When John L. Lewis, former president of the United Mine Workers (1920–60), observed that "Labor, like Israel, has many sorrows" (*United States v. Local 560, IBT*, 581 F. Supp. 279 [1984], p. 279), he was referring to the long history (even then) of corruption and racketeering that has plagued the American labor movement. Likewise, the labor leader David Dubinsky called labor racketeering "a cancer that almost destroyed the American labor movement" (Dubinsky and Raskin 1977, p. 145). Robert F. Kennedy, who served as general counsel (1957–60) to the Senate Select Committee on Improper Activities in the Labor Management Field (McClellan Committee), warned that labor racketeering was a threat to society generally, and he made labor

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0068

racketeering (especially Jimmy Hoffa) a top Justice Department priority when he became attorney general in 1961 (Kennedy 1960). No other country has a history of union-related criminality approaching what has been exposed in a century-long litany of scandals, articles by investigative journalists, governmental hearings, prosecutions, and lawsuits.[1]

"Labor corruption" refers to the misuse of union office and authority for unlawful personal gain. The immediate victim may be an employer or the union itself, but the ultimate victim is always the union rank and file. "Labor racketeering" refers to labor corruption committed by, in alliance with, or under the auspices of organized crime groups.[2] Labor racketeers include members or associates of organized crime groups, some of whom hold union offices, as well as union officials who work on behalf of organized crime. Common criminal offenses subsumed by the term "labor racketeering" include extortion of employers by threatening unlawful strikes, work stoppages, picketing, and workplace sabotage; soliciting and receiving bribes from employers in exchange for allowing the employer to ignore the terms of the collective bargaining agreement ("sweetheart deal") or for a guarantee just to be left alone ("labor peace"); thefts and embezzlements from the union and its pension and welfare funds; violence against rank-and-file "dissidents"; and the maintenance of illegal employer cartels by threatening to strike or sabotage businesses that are not cartel members (New York State Organized Crime Task Force 1990, pp. 131–43).

There has been sporadic recognition of labor racketeering as a crime problem and a social problem since the beginning of the twentieth century. Congressional hearings gave the matter unprecedented publicity in the late 1950s, but there was no concerted political or law enforcement commitment to attacking the problem until the late 1970s and well into the 1980s. By then, the Federal Bureau of Investigation (FBI) and the U.S. Department of Justice (DOJ) had come to see the

[1] It need hardly be added that focusing on labor racketeering as a crime problem is no more an indictment of the vast majority of union officials and members than focusing on corporate crime is an indictment of the vast majority of businessmen.

[2] In his classic *Organized Crime in Chicago* (1968), first published in 1929 (by the Illinois Association for Criminal Justice), John Landesco provided a great deal of information and commentary on labor racketeering. One of the earliest studies of labor racketeering is Harold Seidman's (1938) *Labor Czars: A History of Labor Racketeering*. Probably the most famous early study was Daniel Bell's classic, "The Racket-Ridden Longshoremen," originally published in *Fortune Magazine* (1951) and then reprinted in *The End of Ideology: On the Exhaustion of Political Ideas in the Fifties* (1962). See also Taft 1970; Hutchinson 1970.

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eradication of labor racketeering as the centerpiece of a comprehensive organized crime control strategy. The FBI devoted massive resources to investigating Cosa Nostra's control over a score of local unions and a number of major national/international unions.[3] The federal organized crime strike forces and the U.S. attorneys began bringing civil racketeering lawsuits against labor racketeers with the goal of having federal courts issue injunctions requiring wide-ranging union reforms, including the purge of racketeers and the restoration of union democracy (Goldberg 1989).

The most successful of these civil Racketeer Influenced and Corrupt Organizations Act (RICO) lawsuits have demonstrated the capacity of federal courts, when supported by courageous and creative former prosecutors serving as court-appointed trustees, to effectuate impressive institutional reform in thoroughly racketeer-dominated unions. Hundreds of criminals have been purged from union positions, fair election procedures have been instituted, and fundamental changes in union governance and operations have been adopted. But the path to reform has not been easy, and it has not been unidirectional. Many civil racketeering suits have failed to root out racketeering and to achieve fundamental union reform. Each lawsuit, and especially each trusteeship, has approached its challenge afresh. There has yet to emerge any systematic body of knowledge about what works and what does not work for trustees and monitors, operating under court auspices, charged with the task of rehabilitating unions that have been corrupted and devastated by decades of mob dominance. Thus, there is a crying need to document and analyze the efforts that have so far taken place in order to refine and improve anti-labor-racketeering and union reform strategies for the future.

This article has three goals. First, it seeks to make a case for taking labor racketeering seriously, indeed as an important form of systematic criminality that festers in one of society's key sociopolitical institutions. Second, this article begins to document and analyze the federal government's remedial efforts to purge organized crime from the four most corrupted international unions. Third, it attempts to find a theoretical place for labor racketeering in academic criminology.

[3] An international union has affiliated locals in Canada as well as the United States. National and international unions differ with respect to how centralized they are. Some unions permit their local affiliates wide-ranging independence while others seek to monitor and manage their locals. Most national and international unions are members of the AFL-CIO, a labor federation that lobbies on behalf of the labor movement.

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Section I of this essay sketches the history of labor racketeering up until the early 1980s, when the President's Commission on Organized Crime (PCOC) took stock of the problem. Sections II–V present PCOC's assessment of labor racketeering in the International Brotherhood of Teamsters (IBT), International Longshoremen's Association (ILA), Hotel Employees and Restaurant Employees International Union (HEREIU), and Laborers International Union of North America (LIUNA) as of the early 1980s and then, in each case, document the extraordinary steps taken by the U.S. Department of Justice's Organized Crime and Racketeering Section (OCRS) and the U.S. attorneys to purge those unions and their locals of organized crime racketeering. Section VI begins to sketch out a criminology of labor racketeering.

I. History of Labor Racketeering

In the labor wars from the 1860s through the 1930s, both employers and unions reached out to gangsters to counteract the violence directed at them (Landesco 1968, pp. 132–47). Gangsters also served as a counterweight to communists and leftist elements in the labor movement (Kimeldorf 1988); the gangsters were simply less threatening than communists to some government officials, businessmen, and union leaders. In some cases, once the gangsters gained a foothold, they consolidated their power through intimidation and patronage.[4] Control over a union was immensely valuable to the organized crime bosses, who could steal from the union coffers and extort money from employers. In addition, they could barter union support to politicians in exchange for immunity from investigation and prosecution. Some labor racketeers wielded influence with local political party machines. With ties to the underworld and influence in legitimate society, the labor racketeers became major power brokers at the local level and even at the state and national levels.

In the 1920s and 1930s Arnold Rothstein, Louis Buchalter (aka Louis Lepke), and Jacob "Gurrah" Shapiro were the most powerful labor racketeers in New York City, where they dominated crucial union locals in the garment industry. Through his control of the Tailors and Cutters Union, Lepke extracted millions of dollars from the garment industry. Thomas Dewey, New York City's special prosecutor

[4] The best study of how organized crime achieved a foothold in a union is Howard Kimeldorf's (1988) *Reds or Rackets? The Making of Radical and Conservative Unions on the Waterfront.* See also Philip S. Foner's (1950) *The Fur and Leather Workers Union.*

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for racketeering (and later Manhattan district attorney, New York governor, and twice Republican Party presidential candidate) referred to Lepke as "the foremost labor czar in the U.S." (Sifakis 1987, p. 186). Dewey concentrated a great deal of his prosecutorial attention on labor racketeering, especially in the restaurant sector where an organized-crime dominated union systematically extorted the restaurateurs (Hughes 1940; Dewey 1974; Stolberg 1995, chap. 8). A similar situation existed in Chicago, where Al Capone was the leading labor racketeer of the 1930s (Vaira and Roller 1978).

The repeal of national alcohol prohibition (1933) ended organized crime's monopoly over alcohol and thus made the labor unions more important as a source of revenue for organized crime groups. As early as 1933, the U.S. Senate (Copeland Committee) held hearings on "racketeering," including the role of mobsters within international and local labor organizations (United States Congress 1933). The committee heard testimony about workers who were forced to pay kickbacks to corrupt union officials. The attorney for the American Federation of Labor (AFL) Building Trade Unions Anti-Racketeering Committee explained that the committee had been formed two years earlier by union members concerned "that most of the unions in New York were saturated with rackets" (United States Congress 1933, p. 798). Employers recounted extortion by labor racketeers.

In January 1940, journalist Westbrook Pegler exposed the connection of organized crime figures, especially Dutch Schultz, to George Scalise, president of the Building Services Employees International Union (Witwer 2001). According to historian David Witwer, Scalise

> used his connections with Arthur Flegenheimer, better known as Dutch Schultz, to gain a charter for a Brooklyn branch of Teamsters Local 272, a union of parking garage workers. Unions of parking garage employees attracted gangsters, because organization could most quickly be achieved through selective acts of violence. Damage to cars parked in non-union garages—ice pick punctures to the tires or slashed upholstery—could quickly force an employer to sign his employees into the union. And union organization in turn provided a cover for corralling the businessmen into an employers' organization, whose dues could be tapped by organized crime. In spite of the use of force against employers in such an organizing campaign, this was not a case of out and out extortion; employers enjoyed real benefits. This kind of collusive arrangement between a union and an employers'

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> organization offered owners a way to manage competition. Employers' associations could set uniform rates and limit the entrance of new competitors. (Witwer 2001, p. 1)

Daniel Bell's article, "The Racket-Ridden Longshoremen" (first published in *Fortune Magazine* in 1951 and later as a chapter in *The End of Ideology*, 1962) provided a detailed picture and penetrating explanation of racketeering in the International Longshoremen's Association (ILA), where union bosses forced longshoremen to make payoffs in order to work, and shippers had to pay to have their cargo unloaded. This was brilliantly dramatized in Elia Kazan's classic 1954 film *On the Waterfront* (starring Marlon Brando, Eva Marie Saint, Karl Malden, Lee J. Cobb, and Rod Steiger), based on Budd Schulberg's screenplay and on Malcolm Johnson's 1949 Pulitzer Prize–winning *New York Sun* series, "Crime on the Labor Front" (Johnson 1950). In 1953, the AFL expelled the east coast ILA, citing organized crime domination, and formed a competing union, the International Brotherhood of Longshoremen. The effort failed. The AFL and the Congress of Industrial Organizations (CIO), which combined in 1955, admitted the ILA to membership in 1959. Also in 1953, Congress enacted an interstate compact that permitted New York and New Jersey to establish the Waterfront Commission of New York Harbor, which was authorized to regulate waterfront business activity and labor relations.[5] The Waterfront Commission replaced the infamous "shape up" (whereby the union bosses picked out who would work that day from the men assembled on the pier) with a hiring system that licensed longshoremen, assigned them to jobs, and guaranteed them an annual wage. It also ended the "public loading" racket, by which the ILA required truckers to make payoffs in order to have cargo loaded or unloaded from their vehicles at the piers, even if the service was not needed (Jensen 1974).

Since the 1940s, Italian-American Cosa Nostra organized crime families have dominated in labor racketeering and organized crime generally (Sifakis 1987; Fox 1989; Abadinsky 1990). Some Cosa Nostra labor racketeers achieved enormous local, regional, and even national prominence, including economic power and political clout—for example, Joseph "Socks" Lanza, Albert Anastasia, Anthony "Tony Pro"

[5] The Supreme Court upheld the constitutionality of the legislation creating the Waterfront Commission in De Veau v. Braisted, 363 U.S. 144 (1960).

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Provenzano, Johnny (Dio) Dioguardi, Al Pilotto, Anthony Scotto, Ralph Scopo, and Vincent DiNapoli. The close links between some of the nation's most powerful labor leaders and the organized crime families are by now well documented through the prosecutions of labor officials like IBT's Bernard Adelstein, Frank Fitzsimmons, Roy Williams, and Jackie Presser; by prosecutions of mob figures who also held positions in labor unions like Vincent DiNapoli (United Brotherhood of Carpenters and Joiners), Ralph Scopo (LIUNA), and Thomas "Teddy" Gleason (ILA); and by prosecutions of organized crime bosses like Tony Salerno, Mathew Ianniello, and Carmine Romano of New York; Tony Accardo, Joseph Lombardo, Joseph Aiuppa, and Paul Ricca in Chicago; Nick Civella in Kansas City; Raymond Patriarcha in Boston; and Nicodemo Scarfo in Philadelphia.

Labor racketeering received national political attention in the U.S. Senate's 1950–51 Kefauver hearings. These nationally televised hearings introduced the citizenry to Frank Costello, Albert Anastasia, and other top mafia bosses (Kefauver 1951). Senator John McClellan, chairman of the Senate Select Committee on Improper Activities in the Labor or Management Field, held comprehensive hearings from 1957 to 1959 (Kennedy 1960; United States Congress 1960; McClellan 1962). (The creation of the committee was at least partly a result of the journalist Victor Reisel having been blinded with acid after publishing articles exposing labor racketeering; authorities believed Johnny Dio was behind the attack.) While the committee was frustrated by inadequate resources and the refusal of many witnesses to answer questions on Fifth Amendment grounds, its hearings illuminated and dramatized extensive labor corruption and racketeering and led directly to passage of the Labor Management Reporting and Disclosure (Landrum-Griffin) Act in 1959.

Landrum-Griffin sought to protect unions from organized crime penetration by banning persons with criminal records from union office, making embezzlement from a union a federal crime, prohibiting unions from issuing loans to their officers or paying their fines, strengthening the democratic rights of rank-and-file members (including fair elections), imposing reporting and disclosure requirements on unions and criminal penalties for false reporting, and providing union members access to federal courts to enforce their rights (29 USCA sec. 401, et seq.; Summers, Raub, and Benson 1986). Unfortunately, the law failed to achieve its aims because of weaknesses in the enforcement mechanisms, the hostility of the mainstream labor movement, and the

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U.S. Department of Labor's (DOL) inability or unwillingness to enforce the law vigorously (Rauh 1971; Nelson 2000).

During the presidency of George Meany (1955–79), the AFL-CIO attempted to oppose racketeering in some of its affiliated unions. For example, the first AFL-CIO convention (1956) established a Committee for Ethical Practices to assist the executive council in keeping the federation free of corruption (Taft 1964, p. 696). The committee ultimately drafted six codes of ethical practices. The AFL-CIO was given the authority to investigate its affiliates' internal activities and to expel a union for failing to abide by the codes. In 1957, the federation expelled the Teamsters, and during the late 1950s it demanded reforms in several other unions, temporarily suspending their memberships until blatant corruption was addressed.[6] After the early 1960s, the ethical practices committee never met, and the AFL-CIO ceased playing any significant role in opposing corruption and racketeering in its affiliated unions.

When Robert F. Kennedy became U.S. attorney general in 1961, he made the prosecution of IBT president Jimmy Hoffa his number one priority (Kennedy 1960; Navasky 1971). He expanded the Department of Justice's Organized Crime and Racketeering Section and turned a spotlight on labor racketeering (Goldfarb 1995).

Hoffa was convicted of union pension fund fraud and jury tampering (1964) and was sent to prison in 1967, but he managed to obtain a pardon from President Richard Nixon in December 1971 (Brill 1978; Moldea 1978; Crowe 1993). Although the pardon banned him from union politics for fifteen years, Hoffa immediately began litigating and campaigning to reclaim the Teamsters' general presidency from his former protégé, Frank Fitzsimmons, whom Hoffa had selected as a caretaker. Cosa Nostra had become comfortable with Fitzsimmons and distrusted Hoffa, who now denounced Fitzsimmons as a mob puppet. On July 30, 1975, Hoffa disappeared. A mob "hit" was immediately presumed (and is now believed to have been orchestrated by Anthony Giacalone, a leader of the Detroit Cosa Nostra family, and Tony Provenzano, boss of the IBT Local 560 and a member of the Genovese crime family in New Jersey).

Hoffa's assassination mobilized government action against both organized crime and labor racketeering. Within three years, labor racke-

[6] The AFL-CIO took action against the Distillery Workers, United Textile Workers, Bakery and Confectionery Workers, the International Jewelry Workers, and the Laundry Workers International.

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teering became the centerpiece of the FBI's organized crime control strategy (Jacobs, Panarella, and Worthington 1994). The most significant FBI investigations were "PENDORF," which focused on Cosa Nostra control over the IBT Central States Pension Fund and resulted in the conviction of IBT president Roy Williams (who succeeded Fitzsimmons), Joe Lombardo (member of the Chicago Outfit), and Allen Dorfman (the financial associate of the Chicago Outfit) for attempting to bribe U.S. Senator Howard Canon to vote against trucking deregulation; "STRAWMAN," which focused on a conspiracy by four Cosa Nostra families to use the IBT's Central States Pension Fund to secure interests in Las Vegas casinos and to skim profits from those businesses—and resulted in convictions of Joey Aiuppa and Jackie Cerone (boss and underboss of the Chicago Outfit), Angelo La Pietra and Joe Lombardo (Outfit capos), Frank Balistrieri (boss of the Milwaukee family), and Thomas and Milton Rockman (associates of the Cleveland family); "LILREX," which targeted racketeering in New York City's construction industry; and "LIUNA," which focused on Cosa Nostra racketeering in the Laborers International Union of North America. These FBI investigations led to a steady stream of prosecutions of labor racketeers, both organized crime figures and labor officials (Lynch 1987*a*, 1987*b*). Nevertheless, at a Senate hearing in 1978, Assistant U.S. Attorney General Benjamin Civiletti testified that more than 300 union locals remained controlled or heavily influenced by organized crime (United States Congress 1978, p. 77).

The Teamsters' Central States Pension Fund had been the target of allegations of mismanagement and organized crime influence since its establishment in 1955. In 1956 Senator Paul Douglas issued "The Douglas Report," which disclosed the results of congressional investigations that found numerous conflict-of-interest situations in which "insiders" had charged exorbitant fees and profited at the expense of benefit plans and their beneficiaries. Payments from individual union members were routinely skimmed off by plan administrators, and union employees secured positions as employees of the benefit plans while doing little work for high fees. Union officials also received kickbacks from persons or institutions to whom high-risk loans had been granted. In 1958 Congress passed the Welfare and Pension Plan Disclosure Act (WPPDA) in response to the abuses it uncovered. The WPPDA attempted to curb abuses of benefit plans by requiring publication of financial information by benefit plans. Congress believed that disclosure of benefit plan financial information would curb abuses and

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that plan beneficiaries could police the plans themselves. But later investigations found that widespread abuses continued unabated. In 1962 Congress strengthened the WPPDA by adding criminal provisions to address kickbacks and conflicts of interest, and gave the Department of Labor investigatory powers (Coleman 1989).

The 1964 prosecution of Jimmy Hoffa partly involved his receipt of kickbacks in exchange for making benefit fund loans. Organized crime associate Allen Dorfman (an employee of and later a service provider to the fund) was convicted in 1972 of conspiring to receive a kickback for influencing a fund loan. In his 1972 book, *The Fall and Rise of Jimmy Hoffa*, former Kennedy assistant Walter Sheridan charged that "there has been no meaningful monitoring of the Pension Fund by the federal government since Hoffa's conviction in Chicago. . . . Neither the Department of Justice nor the Labor Department followed up in an effective way to determine whether the plundering of the Fund continued" (p. 110).

Organized crime's plundering of union benefit funds was one of the factors leading Congress to pass ERISA (Employee Retirement Income Security Act) in 1974; ERISA gave the Department of Labor authority to investigate pension and welfare funds. A joint Labor and Justice Department investigation of the IBT Central States Fund began in the fall of 1975. The fund, more than 70 percent invested in (mostly Las Vegas) real estate and casinos, was notorious for lending money to organized crime figures and their associates. The IRS sought to revoke the fund's tax-exempt status, leading to a settlement in which twelve of the fund's sixteen trustees resigned, and the fund agreed to hire an independent fiduciary (Equitable Life Insurance Society) to handle investments (United States Congress 1977). While this was an improvement, the corruption and racketeering did not end.

In 1978 Congress established a system of independent inspectors general in all major federal agencies. The inspector general's mission was to combat fraud, waste, and abuse. The Office of Inspector General in the Department of Labor was charged with investigating labor racketeering; this office would play a key role in many of the most important investigations in the next two decades.

In 1980, the Senate Permanent Subcommittee on Investigations, now under the leadership of Senator Sam Nunn, held hearings on the Teamsters (IBT), Longshoremen (ILA), Laborers (LIUNA), and the Hotel and Restaurant Workers (HEREIU) (Nunn 1986). These hearings revealed widespread looting of pension and welfare funds by

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labor racketeers connected to organized crime. The subcommittee criticized the Department of Labor for having failed to investigate vigorously and prosecute this wrongdoing. It also proposed "The Labor-Management Racketeering Act," which required that pension and welfare plan officials be removed immediately from office on conviction of certain felonies rather than remaining in office until the exhaustion of appeals; the bill, which finally passed in 1984, authorized DOL to investigate and refer evidence of criminal activity to DOJ.

Although investment decisions had been taken out of the hands of the trustees of the IBT Central States Pension Fund by the 1975 settlement agreement, the trustees were still permitted to purchase goods and services for the fund, to administer pension benefits, and to handle money from the time it was paid into the fund each month to the time (approximately thirty days later) it was deposited with the institutional fiduciary. In 1982, DOL filed a lawsuit against all current and former trustees of the IBT Central States Pension Fund, alleging violations of fiduciary obligations imposed by ERISA. This lawsuit resulted in a consent decree that provided for a court-appointed fiduciary to manage the IBT's Central States Pension Fund and the IBT's Health and Welfare Fund (*Donovan v. Fitzsimmons*, consent decree, 90 F.R.D. 583 [N.D. Ill. 1981]). The funds were prohibited from employing or doing business with any person who had been convicted of a felony or misdemeanor involving a breach of fiduciary responsibility. The consent decree also required the appointment of independent special counsel to monitor the fund's operations. The agreement provided that this oversight would sunset in ten years, but it was later amended, so that the oversight extended until September 22, 2002. Today (mid 2002), virtually every Teamster-related pension and welfare fund is managed by professional money managers.

The famous Racketeer Influenced and Corrupt Organizations Act (RICO) (18 U.S.C. sec. 1961 et seq.) was enacted in 1970 as part of the Organized Crime Control Act. Not only did RICO make it a serious federal offense to participate in the affairs of an enterprise (e.g., a labor union) through a pattern of racketeering activity (defined as at least two of a long list of federal and state criminal offenses), it also gave the Department of Justice authority to sue civilly to enjoin a person's or organization's future RICO violations. By the early 1980s, some federal prosecutors realized that they could use such civil suits to purge the racketeering influence from mobbed-up unions.

The groundbreaking case, *United States v. Local 560, IBT*, filed in

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March 1982, charged that the largest Teamsters local in New Jersey had been run by Tony Provenzano, a captain in the Gambino crime family, and his henchmen for more than a quarter century (Jacobs, Panarella, and Worthington 1994). Even while serving time for murder, "Tony Pro" ran the union through his brothers and other members of his clique for the benefit of organized crime. The government's suit asked for the removal of all union officers and the appointment of a trustee to run the union and purge it of organized crime influence so that it could be returned to the control of its rank and file. After a long trial, Judge Harold Ackerman granted the requested relief. The trusteeship would last for thirteen years (Goldberg 1989; Summers 1991; Jacobs and Santore 2001). Ackerman observed:

> This is not a pretty story. Beneath the relatively sterile language of a dry legal opinion is a harrowing tale of how evil men, sponsored by and part of organized criminal elements, infiltrated and ultimately captured Local 560 of the International Brotherhood of Teamsters, one of the largest local unions in the largest union in this country.
>
> This group of gangsters, aided and abetted by their relatives and sycophants, engaged in a multifaceted orgy of criminal activity. For those that enthusiastically followed these arrogant mobsters in their morally debased activity there were material rewards. For those who accepted the side benefits of this perverted interpretation of business unionism, there was presumably the rationalization of "I've got mine, why shouldn't he get his." For those who attempted to fight, the message was clear. Murder and other forms of intimidation would be utilized to insure silence. To get along, one had to go along, or else. (*United States v. Local 560, IBT*, p. 279)

In March 1983, Donald Wheeler, a Department of Labor investigator, told the Senate Permanent Subcommittee on Investigations that "it is estimated that within the jurisdiction of the Chicago Strike Force there are approximately eighty-five labor organizations affiliated with twenty separate international, national, or independent parent unions that are suspected of being associated with, influenced or controlled by organized crime and racketeering elements" (United States Congress 1983, p. 212). In July 1983, President Ronald Reagan (by Executive Orders 12435 and 12507) appointed a President's Commission on Or-

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ganized Crime (PCOC) and charged it with making "a full and complete national and region-by-region analysis of organized crime as well as emerging organized crime groups . . . and mak[ing] recommendations concerning appropriate administrative and legislative improvement and improvements in the administration of justice" (E.O. 12435, 1983). The commission produced a number of reports, including *The Edge: Organized Crime, Business and Labor Unions* (President's Commission on Organized Crime 1986), which reviewed a half century of labor racketeering, highlighted governmental failures and missed opportunities, and recommended more effective countermeasures. *The Edge* provides a point of departure for assessing change in the state of labor racketeering since the early 1980s.

Sections II–V use the PCOC findings as a basis for assessing the state of labor racketeering circa the early 1980s in the four most notoriously racketeer-influenced international unions. The commission's focus on the IBT, LIUNA, ILA, and HEREIU is not surprising. For decades, these unions have been the subject of congressional hearings, public scandals, and occasional prosecutions. The PCOC volume, *The Edge* (1986), brought together information and allegations that had been in the public domain for many years. Each of the next four sections summarizes the findings for each of these unions and then analyzes the government's subsequent remedial efforts.

II. The Teamsters

The PCOC charged that "corruption and the Teamsters [are] synonymous," and that since the 1950s the Teamsters had been "firmly under the influence of organized crime" (PCOC 1986, pp. 89–90). John "Johnny Dio" Dioguardi, a capo in the Lucchese crime family, and a power broker with influence in many unions, was one of Jimmy Hoffa's key supporters in his quest for the IBT presidency. Dioguardi gave Hoffa several New York City IBT "paper locals" (i.e., a local without rank-and-file members), which allowed Hoffa to control the important New York area IBT Joint Council and thereby secure the presidency of the international union.[7] According to the PCOC, "organized crime has continued to maintain a firm grip on the IBT long after Hoffa's reign" (PCOC 1986, p. 92). Organized crime used threats

[7] The McClellan Committee focused on Johnny Dio, especially on his role in establishing the IBT local that had jurisdiction over trucking cargo into and out of JFK airport.

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and occasional acts of violence "to quell all forms of dissent, criticism, and opposition" (PCOC 1986, p. 114).

According to the PCOC, the organized crime families converted their influence in the IBT into wealth, status, and power. Control over the IBT provided organized crime leverage over tens of thousands of businesses dependent upon truck deliveries; this leverage could be exercised through extortion, solicitation of bribes, and demands for no-show jobs (PCOC 1986, pp. 91–92). The mobsters enriched themselves by siphoning money directly from union coffers and by taking kickbacks for sweetheart service contracts and "loans" from IBT pension and benefit funds.

The PCOC traced organized crime's control over the Teamsters' international union to its control over key IBT locals. The commission found a documented relationship between Cosa Nostra families and thirty-six IBT locals, one joint council, and a conference (a regional association of joint councils) (PCOC 1986, p. 123).

According to the PCOC, general IBT presidents "[Jimmy] Hoffa and [Roy] Williams were indisputably direct instruments of organized crime," and [Frank] Fitzsimmons held his office by "establish[ing] a measure of détente whereby he was allowed to head the union, while organized crime stole the workers' benefit funds and used the union for numerous criminal ventures" (PCOC 1986, pp. 90–91). At the time of the commission's work, Williams was a federal cooperating witness, having been convicted of attempting to bribe Senator Howard Cannon. He testified that "every big [Teamster] local union . . . had some connection with organized crime" (PCOC 1986, p. 89). Williams admitted that he himself had been controlled by Kansas City Cosa Nostra boss Nick Civella who had quarterbacked Williams's campaign for the IBT presidency by obtaining necessary support from organized crime bosses around the country. The PCOC asserted that Jackie Presser (whose father, "Big Bill" Presser, was a major Cleveland organized crime figure and, until forced to resign in 1976, an IBT Central States Pension Fund Trustee), general president at the time of the PCOC report, depended upon organized crime support for his election to the IBT presidency (PCOC 1986, p. 90). This charge was later confirmed by government prosecutors (Neff 1989).

Mob-controlled locals elected mob-controlled officers, who chose mob-controlled convention delegates, who ratified the choice of mob-controlled international presidents, vice presidents, and general executive board (GEB) members. Because the rank and file did not vote di-

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rectly for international officers, PCOC judged it "unlikely . . . that a reform-minded Teamster president can be elected in the near future" (PCOC 1986, p. 104).

The PCOC reviewed organized crime's longtime influence over the Teamsters' huge Central States Pension Fund. Organized crime associates like Allen Dorfman and Bill Presser managed the fund's investments, loans, and operations. While a typical pension fund invested 5–10 percent of its assets in real estate, the Central States Pension Fund invested more than 70 percent in real estate, much of it mob-sponsored ventures (mostly casinos) in Las Vegas. Despite the 1976 agreement that put control over fund investments in the hands of an institutional fiduciary, organized crime continued to "plunder the Central States Pension Fund" (PCOC 1986, p. 99). Moreover, Dorfman continued to draw substantial fees for handling the fund's insurance business (PCOC 1986, p. 100). (Dorfman was murdered in 1983 while awaiting trial on charges arising out of the STRAWMAN investigation.)

The PCOC report concluded pessimistically that "no single remedy is likely to restore even a measure of true union democracy and independent leadership to the IBT" (PCOC 1986, p. 138). It urged the Department of Justice to make a commitment to purge corruption and racketeering from the IBT through criminal prosecutions, civil actions, administrative proceedings, and trusteeships. Even then, PCOC foresaw only a "modest hope of success" in wresting the IBT from the grip of organized crime (PCOC 1986, p. 120).

A. DOJ's Civil RICO Suit and the IBT Trusteeship

Almost immediately following the release of *The Edge* (PCOC 1986), rumors began to circulate that Rudy Giuliani, U.S. attorney for the Southern District of New York, was preparing a civil RICO complaint against the IBT general executive board. As a preemptive measure, IBT general president Jackie Presser launched an extensive lobbying and public relations campaign. More than two hundred senators and representatives were persuaded to petition the Justice Department not to file such a suit (Jacobs, Panarella, and Worthington 1994). Such an unprecedented intervention on behalf of a potential racketeering defendant illustrates the enormous political power of the nation's largest union, which provides politicians with endorsements, financial support, and even campaign manpower. Members of the U.S. House of Representatives have to face reelection every two years; few of them can af-

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ford to be indifferent to the support or opposition of a large Teamsters local in their district. Senatorial candidates, who seek to represent whole states, are less vulnerable to a particular union's opposition than House candidates. (It is not surprising that most congressional investigations into labor racketeering occurred in the Senate and that the chairmen of these investigating committees came from southern states where unions are not strong.)

On June 28, 1988, Giuliani filed a civil RICO complaint against the International Brotherhood of Teamsters, the Cosa Nostra "commission," twenty-six Cosa Nostra members and associates, the IBT's general executive board, and eighteen present and former members of IBT's general executive board (including president Jackie Presser and general secretary-treasurer Weldon Mathis) (*United States v. International Brotherhood of Teamsters*, complaint, 88 Civ. 4486 [S.D.N.Y. 1988]). The complaint charged that the organized crime defendants, aided and abetted by the union defendants, acquired and maintained control of the Teamsters through a pattern of racketeering activity; the defendants violated the members' rights to control over and information concerning the governance of their own union by creating a climate of intimidation and fear and by creating or tolerating pervasive corruption. Giuliani asked the court to remove the IBT general executive board members and to appoint a trustee to oversee the union's affairs and a monitor to supervise a fair election for international union officers (*United States v. International Brotherhood of Teamsters*, complaint, pp. 104–15).

On March 14, 1989, the IBT and the government settled the case with a consent decree (*United States v. International Brotherhood of Teamsters*, consent decree, 808 F. Supp. 279 [S.D.N.Y. 1988]). The union acknowledged "that there have been allegations, sworn testimony and judicial findings of past problems with La Cosa Nostra corruption of various elements of the IBT" and agreed that the IBT should be free of any criminal element and governed democratically "for the sole benefit of its membership without unlawful outside influence" (*United States v. International Brotherhood of Teamsters*, consent decree, p. 2; Lacey 1992, p. 1).

The consent decree provided for a permanent injunction barring the union defendants from any future involvement with the IBT, various changes to the IBT constitution, democratic elections for international officers, and, most important, the selection of three court-appointed officers—independent administrator, investigations officer,

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and elections officer—to oversee the union's reform. The independent administrator was given authority to remove or discipline any member or officer of the union and to impose trusteeships on locals. The consent decree empowered the independent administrator to veto any IBT decision that would further the interests of organized crime or labor racketeers.[8] The investigations officer was charged with investigating corruption at all levels of the Teamsters hierarchy and recommending disciplinary action to the independent administrator against individuals found to have violated the IBT constitution. The elections officer's role was to promote democracy in union locals and internationals, and to oversee direct rank-and-file secret-ballot elections for the union's top officers in 1991 and 1996. United States District Court (S.D.N.Y.) Judge David Edelstein appointed former federal judge Frederick Lacey as independent administrator, former Assistant United States Attorney Charles Carberry as investigations officer, and labor lawyer Michael Holland as elections officer.[9]

Initially, the consent decree was greeted by a great deal of IBT resistance. William McCarthy, who became general president following Jackie Presser's death in July 1988, encouraged IBT locals around the country to file lawsuits in order to paralyze the court-appointed officers (Lacey 1992, pp. 5–6). Judge Edelstein thwarted this strategy by combining all IBT/consent decree litigation in his court (*United States v. International Brotherhood of Teamsters*, 728 F. Supp. 1032, aff'd 907 F.2d 277 [2d Cir. 1990]).

The IBT refused, in violation of the consent decree, to reimburse many of the court-appointed officers' expenses. At its 1991 convention, the IBT refused to enact constitutional amendments to which it had committed itself by signing the consent decree. The IBT also resisted the court-appointed officers' efforts to inform the rank and file of the independent administrator's findings and sanctions against corrupt IBT officials. Ultimately, Judge Edelstein obtained compliance in all these matters.

Independent Administrator Lacey served as the trier of fact and sentencing authority on charges brought by the investigations officer

[8] Although the independent administrator had substantial authority over union management and discipline, he did not have the authority to make collective bargaining agreements—that power remained in the hands of the IBT general president and the general executive board.

[9] Over the following ten years, Judge Edelstein issued approximately 200 decisions and orders related to the remedial phase of the case.

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against Teamsters members and officials. Typical charges included association with and membership in Cosa Nostra (*Investigations Officer v. Senese, et al.*, Decision of the Independent Administrator [July 12, 1990], aff'd *United States v. IBT*, 745 F. Supp. 908 [S.D.N.Y. 1990], aff'd 941 F.2d 1292 [2d Cir. 1991], cert. denied, *Senese v. United States*, 112 S.Ct. 1161 [1992]), failure to investigate corruption and refusal to testify at a disciplinary hearing (*Investigations Officer v. Calagna, Sr., et al.*, Decision of the Independent Administrator [June 14, 1991], aff'd *United States v. IBT*, 1991 WL 161084 [S.D.N.Y. 1991]), embezzlement (*Investigations Officer v. Salvatore*, Decision of the Independent Administrator [October 2, 1990], aff'd *United States v. IBT*, 754 F. Supp. 333 [S.D.N.Y. 1990]), and assault (*Investigations Officer v. Wilson, et al.*, Decision of the Independent Administrator [December 23, 1991], aff'd *United States v. IBT*, 787 F. Supp. 345 [S.D.N.Y. 1992], aff'd in part, vacated in part, 978 F.2d 68 [2d Cir. 1992]). Sentences ranged from reprimand to expulsion from the union. Judge Edelstein consistently upheld Independent Administrator Lacey's decisions.

Investigations Officer Carberry exercised broad authority to investigate corruption and racketeering by union members and officers. Carberry and his staff audited locals and interviewed their officers and members. He reviewed old criminal cases against IBT members and officials for leads on current corruption and racketeering (*United States v. International Brotherhood of Teamsters*, 803 F. Supp. 767 [S.D.N.Y. 1992], aff'd in part, rev'd in part, 998 F.2d 1101 [2d Cir. 1993]). The FBI provided a constant flow of information. Carberry set up a toll-free telephone number for IBT members to report wrongdoing in their locals. When he found sufficient evidence, he filed disciplinary charges.

Elections Officer Holland created a three-step process for the election of the IBT general president, general secretary, and general executive board. First, the IBT locals would hold secret-ballot elections for delegates to the IBT convention. Second, the delegates would nominate candidates for office. Third, the rank and file would vote in a secret-ballot election supervised by independent monitors. The IBT opposed these election reforms, arguing that the consent decree gave Holland authority only to monitor the electoral process for fraud and not to create new election rules. Ultimately, the court supported Holland's interpretation (*United States v. International Brotherhood of Teamsters*, 803 F. Supp. 267 [1992], p. 770).

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The first direct election of international IBT officers took place in 1991. The election by mail-in ballots resulted in victory for Ron Carey who, as a candidate independent of the clique that had dominated the IBT for decades, enjoyed the support of the reformist group Teamsters for a Democratic Union (see La Botz 1990; Crowe 1993). Carey promised to eradicate all remnants of mob influence in the Teamsters. Upon assuming office, he eliminated many multiple salaries, trimmed the IBT budget, sold some of the union's more extravagant possessions, created an Ethical Practices Committee, and imposed trusteeships on a number of mob-controlled locals.

Pursuant to the 1989 consent decree, following the 1991 election, the independent administrator and investigations officer were replaced by a three-member Independent Review Board (IRB) that was responsible for continuing to investigate and purge corrupt influences. The U.S. attorney general appointed Lacey to the IRB, and the IBT appointed E. Harold Burke. When Lacey and Burke were unable to agree on the third member, the court appointed former FBI director William Webster. Between 1992 and 1998, the IRB recommended charges against 229 individuals. As of fall 2001, more than 120 individuals had been expelled from the union; a large number of others were suspended or retired. The IRB placed twenty-one corrupt locals and one joint council under trusteeship.

The 1996 election was vigorously contested. Carey, though benefited by his incumbency, was hampered by the rank and file's perception that the Teamsters' bargaining power was declining. Carey's opponent was James P. Hoffa, son of the hugely popular Jimmy R. Hoffa who was IBT president from 1957 to 1971. (Despite having been sent to prison in 1967 [pardoned in 1971] for jury tampering and corruption, the senior Hoffa's reputation only grew larger over the years, perhaps in part because of his spectacular disappearance in 1975.)

James P. Hoffa, a lawyer, had to contend with his own set of troubles. Lacey had ruled him ineligible to run for general president in 1991 because he was not a Teamster. To qualify for the 1996 election, Hoffa signed on as an assistant to an IBT local president.

The 1996 election was even closer than the 1991 election. Carey won a slim majority of votes, but the elections officer refused to certify the election because of campaign finance violations. Carey's campaign was found to have illegally funneled $885,000 to political action groups, which in turn arranged donations to the Carey campaign from wealthy individuals (*United States v. International Brotherhood of Team-*

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sters, 988 F. Supp. 759 [S.D.N.Y. 1997]). In November 1997, the IRB barred Carey from the rerun election; it later expelled him from the union. Carey was then prosecuted for corruption but acquitted (October 12, 2001). Without a significant challenger, Hoffa won the 1998 rerun election by a wide margin, and, in 2001, he and the Hoffa Unity slate of candidates for the general executive board overwhelmingly won a five-year term. Also in 2001, former U.S. attorney Joseph Di Genova replaced Harold Burke as the IBT's representative on the IRB, and former U.S. Attorney General Benjamin Civiletti replaced Judge Lacey as the government's representative; William Webster continued to serve.

B. Project RISE

Immediately following the election, Hoffa announced the formation of a new unit to cleanse the IBT of any remaining taint of corruption and to persuade the court that it was time to terminate the IRB. To head the initiative, named Project RISE (Respect, Integrity, Strength, Ethics), Hoffa appointed Ed Stier, the ex-prosecutor who served for thirteen years as the court-appointed trustee in the IBT Local 560 case (Goldberg 1989; Summers 1991; Jacobs and Santore 2001).[10]

Stier appointed a former justice of the New Mexico Supreme Court to lead an effort to draft an Ethical Practices Code. The code-drafting committee consisted of a diverse group of rank-and-file members and local officers from around the United States and Canada. The group met over a period of eighteen months and produced an impressive product that, if carried out, would be a model for the labor movement. The code includes rules and procedures, and establishes several new enforcement roles. It was endorsed at the 2001 IBT convention in Phoenix, Arizona, but its implementation depends upon the termination or at least modification of the IRB.

The second Project RISE component was an investigation of organized crime influence in the IBT. For this job, Stier chose Jim Kossler, the former organized crime coordinator in the New York City FBI office. Kossler, in turn, hired as consultants a number of former FBI colleagues from around the country. The Kossler team produced a comprehensive report on the current state of every IBT local that had ever been proved or alleged to have been organized crime infiltrated or in-

[10] Stier also appointed an advisory board to monitor Project RISE's progress and to make suggestions where appropriate. One of the authors of this article, Jacobs, served as a member of that board.

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fluenced. It found no indication of organized crime influence in the vast majority of these previously tainted locals. In several locals, where questionable influences still existed, investigations and disciplinary proceedings were already under way.

Project RISE also carried out a comprehensive history of corruption in the IBT. The principal writer was Howard Anderson, one of Ed Stier's law partners and a former congressional staffer. This history, released in October 2002, provides the most comprehensive study to date of labor racketeering in the IBT.[11] Since this document is an authorized self-study it may well force many Teamsters who never encountered racketeers to confront the truth of the government's allegations about the mob's role in the union's affairs.

C. Conclusions

For decades, the IBT, the nation's largest and most powerful union, was controlled by organized crime. Indeed, from the 1950s on, Cosa Nostra bosses chose the union's general president. Organized crime used its influence to loot the pension and welfare funds, extort employers, and place its own members and associates in high-paying jobs. Through their influence in the IBT, the organized crime families were able to exert political and economic influence at the local, state, and national levels. Whereas businessmen and politicians cannot justify meeting, working with, and befriending organized crime bosses, they can easily justify, indeed hardly refuse, meeting with the heads of international and local unions, even leaders reputedly connected to organized crime families. Likewise, positions as labor officials provide organized crime bosses with a legitimate public identity and a reason to function as political and economic power brokers.

In 1986, PCOC considered the situation nearly hopeless. But that prediction proved unduly pessimistic. The federal civil RICO suit against the IBT international and the court-imposed trusteeship that it produced, along with the government's relentless campaign against Cosa Nostra, has led to a major transformation of the IBT. None of the 1989 defendants are in positions of authority. The trusteeship and Independent Review Board have purged over 120 organized crime figures and associates from the union and produced three fair and com-

[11] See Stier, Anderson, and Malone (2002). Additional histories of Teamster corruption include Witwer (1994) and Crowe (1993).

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petitive elections at the international level.[12] Separate court-appointed trusteeships in some of the most mobbed-up locals have also led to impressive results. The James P. Hoffa administration seems committed to routing out any vestiges of organized crime in order to persuade the government and the court to dissolve the trusteeship and return the union to its officials and members. Where they were once vilified, former FBI agents and federal prosecutors now have easy access to IBT headquarters, president Hoffa, and his top staff.

III. Hotel Employees and Restaurant Employees International Union

At least since Prohibition (1920–33), according to the PCOC, the Hotel Employees and Restaurant Employees International Union had been plagued by criminal infiltration and exploitation. The murder of a union member at HEREIU's 1936 national convention precipitated an investigation by Thomas Dewey's Special Commission on Crime. The commission found "a flourishing restaurant racketeering business in New York City"; subsequent prosecutions resulted in the criminal conviction of three union officials, the suspension of a local union, and the expulsion of several union members on account of their ties to organized crime (PCOC 1986, p. 72). The McClellan Committee's hearings (1957–59) revealed pervasive organized crime influence in Chicago's restaurant industry through control of three HEREIU locals. The PCOC charged that HEREIU has "a documented relationship with the Chicago 'Outfit' of La Cosa Nostra at the international level and [is] subject to the influence of the Gambino, Colombo, and Philadelphia La Cosa Nostra families at the local level" (PCOC 1986, p. 71).

Shortly before PCOC's investigation, the Senate Permanent Subcommittee on Investigations held hearings (1981–84) on HEREIU. Its final report concluded that "many of the officers of HEREIU have consistently accorded a higher priority to their own personal and financial interests than to the interests of the rank and file membership" (United States Congress 1984*a*, p. 9).

The PCOC described HEREIU as corrupt to the core. It charged that Tony "Joe Batters" Accardo, boss of the Chicago Outfit, handpicked Edward Hanley as HEREIU's international president (PCOC

[12] There are some critics of the independent review board's continuing role (see Dean 2000).

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1986, p. 73). Control over Hanley assured Cosa Nostra control over union affairs because HEREIU's centralized governance empowered the international officers to dictate policy and personnel decisions to the locals. Under Hanley's regime, mob figures obtained union loans and jobs, and otherwise feasted on the union's assets. In short, "the union's assets have been used to enrich the top officers of HEREIU's hierarchy" through high salaries, expense accounts, allowances, and lifetime employment contracts (PCOC 1986, pp. 74–75). When asked by the Senate's Permanent Subcommittee on Investigations about HEREIU's ties to organized crime, Hanley asserted his Fifth Amendment right not to incriminate himself (PCOC 1986, p. 75).

The PCOC identified several HEREIU locals controlled or heavily influenced by the Chicago Outfit and other organized crime families. For example, since 1978, Local 54 (Atlantic City, New Jersey) had been dominated by different factions of Philadelphia's Bruno/Scarfo crime family.[13] Several of Local 54's officers had criminal records for murder, arson, extortion, drugs, bribes, kickbacks, and racketeering. The local's dental and welfare funds were controlled by organized crime (PCOC 1986, pp. 78–79). The local's corrupt influence infected both business and government in Atlantic City.[14] In 1982, the New Jersey Casino Control Commission prohibited Local 54 from collecting dues from casino employees because the influence of organized crime made the local unfit to represent the casino workers' interests (PCOC 1986, p. 80). Ultimately, this decision was upheld by the U.S. Supreme Court (*Brown v. HEREIU Local 54*, 468 U.S. 491 [1984]).

The PCOC found that HEREIU Locals 6 and 100 (New York City) had been chartered and governed in furtherance of the interests of the Colombo and Gambino families. What appeared to be a jurisdictional split between these two HEREIU locals in fact represented the division of New York's restaurant workers between the Colombo and Gambino crime families (PCOC 1986, p. 84). In an intercepted conversation, Paul Castellano, boss of the Gambino crime family, explained that the Chicago Outfit "own[ed] the international" and that

[13] The struggle for control of Local 54 led to a murder in 1980, when a leader of a rival union sought to take the bartenders away from Local 54 (PCOC 1986, pp. 76–77).

[14] The PCOC reported that Atlantic City mayor Michael Matthews solicited illegal campaign contributions from Local 54 officials. Matthews admitted that he approached Local 54 leaders in order to obtain money from Philadelphia's Bruno/Scarfo crime family. In return for the donation, Matthews agreed to assist the Scarfo family in its effort to obtain a piece of land owned by the city on which the Scarfo family wanted to build a casino.

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the Colombo crime family controlled the other local (PCOC 1986, p. 83). The PCOC reported that "legitimate trade unionists are aware of the mob ties to HEREIU and await government action to oust the mob from the union" (PCOC 1986, p. 85).

A. Civil RICO Suit against Local 54

In December 1990, the United States filed a civil RICO suit against HEREIU Local 54 (Atlantic City) alleging a twenty-year pattern of racketeering orchestrated by the Philadelphia (Scarfo) organized crime family (*United States v. Hanley*, complaint, Civ. No. 90-5017 [D.N.J. 1990]). The complaint charged that Ralph Natale and other members of the Philadelphia Cosa Nostra crime family had prevented democratic elections within Local 54 by threatening to kill union members who challenged mob-backed candidates. In April 1991, Local 54 agreed to a consent decree in which eight officers and employees of the local were removed from office because of ties to organized crime (*United States v. Hanley*, 1992 U.S. Dist. LEXIS 22192 [D.N.J. 1992]). The U.S. District Court for the District of New Jersey in Trenton appointed James F. Flanagan (former deputy director of the New Jersey Division of Gaming Enforcement) to monitor the affairs of the local, and postponed Local 54's election until Flanagan could establish democratic procedures for the nomination and election of non-organized-crime-influenced candidates (*United States v. Hanley*). Under Flanagan's monitorship, Local 54 began holding quarterly membership meetings, providing education and training to union members, and revitalizing its handling of members' grievances (Seal 1997).

Local 54's 1993 election demonstrated increasing democracy and a decreasing organized crime influence; eight candidates were disqualified on account of their organized crime ties. In the 1996 election, 33 percent of Local 54's membership voted. None of the ninety candidates investigated by the monitor was found to be associated with organized crime. The election produced wholly new leadership. In February 1997, the monitorship was dissolved (Seal 1997).

B. Civil RICO Suit against HEREIU International

On September 5, 1995, the Department of Justice filed a civil RICO complaint against the HEREIU international union, alleging that members of its executive board had conspired with organized crime figures since the 1970s to accept illegal payments from employers, embezzle union assets, and control the union membership through intim-

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idation. Along with the complaint, HEREIU and DOJ filed a consensual settlement decree (*United States v. HEREIU*, Civ. No. 95-4569 [D.N.J. 1995]) whose object was to make "HEREIU and all its locals be free from the direct or indirect influence of organized crime, now and in the future" (Muellenberg 1998, p. 2). Toward that end, the defendants agreed to be enjoined from committing any crimes listed in Title 18 U.S.C. 1961 (1) (RICO), associating with organized crime members and associates, permitting a barred person from exercising any control or influence in HEREIU affairs, and obstructing efforts to implement the consent decree.

Judge Garrett E. Brown appointed Kurt Muellenberg (former head of DOJ's Organized Crime and Racketeering Section) as monitor over HEREIU for a term of at least eighteen months. The monitorship was later extended until March 5, 1998. The consent decree gave Muellenberg authority to remove union officials at all levels for violating any provision of the settlement, committing any crime involving running a union or overseeing an employee benefit plan, or furthering the influence of any organized crime group. Muellenberg's authority also extended to disapproving collective bargaining agreements and to appointing or discharging union employees and candidates for union office. Additionally, the court ordered that at its 1996 convention HEREIU adopt an Ethical Practices Code that would define and prohibit conflicts of interest by union officers. Muellenberg appointed Daniel F. Sullivan as chief investigator and former New York City Police Department commissioner Howard E. O'Leary as investigations officer. Rank-and-file HEREIU members were encouraged to use a toll-free telephone number to report corruption and racketeering in the union (Muellenberg 1998, pp. 2–5).

Muellenberg found that many HEREIU locals with a history of organized crime infiltration did not obey their own bylaws; gave inadequate notice of membership meetings; failed to document expenses, bonuses, and raises to the membership for approval; failed to train officers, business agents, and organizers; and failed to promulgate or maintain standards for personnel, pay scales, job descriptions, and performance (Muellenberg 1998, pp. 5–6). According to Muellenberg, the international union "suffered from a management deficit and did not subscribe to generally accepted business practices" (Muellenberg 1998, p. 14). He described HEREIU's international union as an agglomeration of employees and officers without any clear rules or procedures. "There is no budget, no organizational chart, no job descriptions for

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employees, and no manual" (Muellenberg 1998, p. 15). General President Hanley hired friends and family members to union positions and consultancies, remunerated them generously, and ran the union as his personal fiefdom. There was a pattern of highly questionable union donations to charitable organizations and events.[15] Officials' business expenses were reimbursed without submission of receipts and explanations and without prior approval.[16]

Muellenberg lifted trusteeships that had been imposed on eleven locals for no good reason or, worse, to provide jobs to organized crime friends and relatives. He placed five locals under trusteeship because federal prosecutors had charged those locals' leaders with organized crime associations, embezzlement, and filing false reports to the Department of Labor.[17]

During the course of his monitorship, Muellenberg permanently barred twenty-three individuals from participating in union affairs because of organized crime associations or failure to cooperate with the monitor, barred two individuals from participation in union affairs for thirteen years, and barred two individuals from holding a position of trust in the union for three years.[18]

Muellenberg devoted much time to investigating Edward T. Hanley, who served as general president from 1973 to 1998. Muellenberg charged Hanley with using HEREIU automobiles and an airplane for personal purposes, receiving unearned salary and pension contributions, associating with organized crime members, and setting up a paper local near his Wisconsin vacation home so that the local's presi-

[15] The HEREIU donated $94,000 to the Catholic Church, $25,000 to the All-American Collegiate Golf Foundation, and $450,000 to the Irish American Sports Foundation. Each of these organizations, while having little if anything to do with the hotel and restaurant business, was valued by HEREIU's general president Edward Hanley (Muellenberg 1998, p. 31).

[16] In one particularly egregious example, a union official left an $80 tip for a meal costing $5.80. The same official commonly left tips in amounts substantially greater than the cost of the meal (Muellenberg 1998, p. 18).

[17] The five locals placed in trusteeship by Muellenberg were Local 122 in Milwaukee, Wisconsin; Local 69 in Secaucus, New Jersey; Local 4 in Buffalo, New York; Local 57 in Pittsburgh, Pennsylvania; and AFL-CIO Nursing Home Council in Buffalo, New York. Two (Local 122 and Local 69) held elections and were removed from trusteeship by the end of Muellenberg's term as monitor (Muellenberg 1998, pp. 52–53). These actions in tabular form can be found at http://www.ipsn.org/HEREIU_Table.htm.

[18] Daniel Rostenkowski, a consultant, and Robert L. Hickman, Sr., a consultant and business agent for Chicago Local 1, were barred for thirteen years. Nancy Ross (secretary-treasurer of Local 57 and international vice-president) and Vince Fera (executive board member) were prohibited from holding positions of trust for three years beginning April 23, 1998 (Muellenberg 1998, p. 58).

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dent could do favors for Hanley and his friends. On February 19, 1998, the Office of the Monitor and Hanley entered into an agreement. Hanley agreed to retire, pay HEREIU $13,944 relating to his purchase of HEREIU-leased automobiles, and assume payment of life insurance premiums on a policy purchased for him by the union (Muellenberg 1998, p. 59). In return, Muellenberg agreed to terminate his investigation of Hanley's actions during his tenure as HEREIU's general president; Hanley was permitted to retain a $350,000 a year salary for life (Hanley's son, Thomas W., agreed to resign for one year and to reimburse HEREIU $25,000 in order to end an investigation into his abuse of expense accounts) (Muellenberg 1998, p. 60).

Muellenberg released his final report on August 25, 1998. On September 1, 1998, HEREIU's general executive board voted to implement all of his many recommendations on structure, governance, and operations of the international and locals (United States Congress 1999).

When the monitorship expired, it was replaced by a public review board (PRB) responsible for overseeing implementation of the Ethical Practices Code. In addition, the PRB has authority to review member complaints and to conduct hearings to insure ethical standards in the union's operations. The PRB has power to suspend or expel members found to have violated the code. Muellenberg, Archbishop James P. Keleher of Kansas City, and former Illinois governor James R. Thompson were appointed to this board. Hanley was replaced as general president by John W. Wilhelm, a longtime union official (who graduated from and then represented workers at Yale University and who has never been alleged to be associated with or influenced by organized crime).

C. Conclusions

General President Edward Hanley ran HEREIU in dictatorial fashion and in cooperation with organized crime, especially the Chicago Outfit. Many union locals were also controlled by organized crime. The 1995 civil RICO suit and settlement established a monitorship that expelled some of the most notorious members from the union and finally managed to secure Hanley's resignation. While the deal with Ed Hanley might seem to some like letting a labor racketeer off too easily, it is well to remember that it is one thing to allege organizational criminality and another thing to prove it. Corruption by high-level officials is almost always difficult to prove because powerful officials have the

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resources and capacity to cover their tracks and give colorable legitimacy to their exploitative conduct. Furthermore, it might take the government years to prosecute successfully a corrupt labor official. Thus, on balance, prosecutors and court-appointed trustees have sometimes concluded that a settlement that allows union reform to proceed expeditiously justifies forgoing a possible prosecution. A further obstacle to punishing wrongdoing is posed by ERISA, which prevents pension forfeiture, even against an official who has stolen money from his union (see Jacobs, Friel, and O'Callaghan 1997).

The monitor's recommendations for improving the union's management were adopted by the new administration, untainted by the long history of organized crime influence in the union. The union adopted a progressive Ethical Practices Code to its constitution and a public review board to enforce it. Hanley's successor has not been tied to organized crime, but neither has he been a sharp Hanley critic. The extent and depth of HEREIU's commitment to reform remains to be seen.

Reform of an international union is a necessary, but not necessarily sufficient, condition for reform of its racketeer-influenced locals. The HEREIU monitor, whose office lasted only two-and-a-half years, expressed concern about locals operating without accountability. Some of these locals have had a long history of organized crime domination. In April 2002, for example, the New Jersey U.S. attorney's office brought a civil RICO suit against HEREIU Local 69 charging that associates of the Genovese crime family had used fear and extortion to control Local 69 for the previous fifteen years. The federal prosecutors alleged that the local, among other things, had made $524,000 in "severance payments" to a former official who had been removed on account of organized crime ties. The district court appointed Kurt Muellenberg to serve as monitor over the local.

IV. Laborer's International Union of North America

The PCOC found that "organized crime has a documented relationship with at least twenty-six Laborer's International Union of North America (LIUNA) locals, three district councils, as well as the International Union" (PCOC 1986, p. 146). The mob profited from this relationship by defrauding the union's benefits funds, extracting no-show jobs from LIUNA employers, drawing reimbursement for fictitious and padded business expenses, manipulating the construction industry, and obtaining access to powerful government officials (PCOC 1986,

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p. 153). The commission complained that the federal government had not seriously addressed this situation (PCOC 1986, p. 160).

According to the PCOC, "organized crime exerts its influence [in LIUNA] principally through top officers who are associates of organized crime" (PCOC 1986, p. 146). General President Angelo Fosco (whose father, Peter Fosco, was LIUNA general president from 1968 to 1975 and an associate of Al Capone) was closely associated with members of the Chicago Outfit. The PCOC charged that Fosco owed his presidency to his willingness to award jobs to organized crime members and associates, and to authorize whatever expenditures his organized crime associates requested (PCOC 1986, pp. 146–47). In 1982, he and Tony Accardo, boss of the Outfit, were tried (and acquitted) of labor racketeering charges.

The PCOC asserted that Vice President John Serpico was also controlled by organized crime. "Serpico admitted that he is a friend or personal acquaintance of virtually every important organized crime leader in Chicago" (PCOC 1986, p. 147). According to the PCOC, the Outfit used LIUNA's international officers to gain access to important political figures like Chicago Mayors Daley and Byrne and Illinois Governors Walker and Thompson (PCOC 1986, pp. 148–49). For example, Vice President John Serpico received successive gubernatorial appointments to serve as chairman of the Illinois International Port District.

Questioned about John Fecarotta's duties as a LIUNA business agent and organizer, Vice President Serpico could not specify a single contribution by Fecarotta to Local 8. For his part, Fecarotta could not remember having done anything for the union at any time, did not know any of the terms of the union's collective bargaining agreements or of its pension plans, did not know what information was on union membership cards he supposedly distributed, and did not know the names of management employees or union officers with whom he supposedly worked. The PCOC branded Fecarotta a ghost employee who used his union position as a legitimate cover for his criminal career (PCOC 1986, p. 148).

The PCOC charged that organized crime thoroughly controlled LIUNA's Chicago Locals 1, 5, and 8. Local 1's president, Vincent Solano, territorial boss for the Outfit's north side clique, used union headquarters as a "contact point for his criminal organization" (PCOC 1986, p. 150). Local 5's president was also an Outfit boss (PCOC 1986, p. 151). The PCOC called Local 8, Vice President John Serpico's

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home local, "ground zero for an organized crime-led LIUNA benefit plan scam" (PCOC 1986, pp. 153–55). Organized crime members and their associates siphoned money from LIUNA's Central States Joint Board Health and Welfare Trust Fund. The dental plan was egregiously corrupt; 68 percent of its budget went to "administrative costs" rather than to services (PCOC 1986, pp. 153–55).[19] The LIUNA's treasury paid lawyers' fees on behalf of officials charged with looting the union as well as fees to private investigators for monitoring the federal government's investigation of LIUNA (PCOC 1986, pp. 156–57).

According to the PCOC, LIUNA's organization and procedures reinforced its relationship with organized crime. It was nearly impossible for an opposition candidate to be elected to a union office because LIUNA's executive board members were elected as a unified at-large slate (PCOC 1986, p. 157). The executive board filled union vacancies (PCOC 1986, p. 158).

The PCOC found that organized crime used violence and intimidation to keep union members from running for office in opposition to the ruling clique. It charged General President Angelo Fosco with personally threatening to kill a potential challenger for his office (PCOC 1986, p. 158). In an intercepted conversation, LIUNA's International Secretary-Treasurer Arthur E. Coia told a colleague that LIUNA was controlled by the "Italians" (i.e., organized crime families) who would never relinquish their power (PCOC 1986, pp. 158–59). At the 1981 LIUNA convention, when a candidate opposing the incumbent regime tried to speak, he was beaten up on the spot (PCOC 1986, pp. 159–60). The PCOC pessimistically concluded that there was "little chance that the LIUNA membership will be able to eliminate organized crime's influence, or control over their union, if the current leadership or governance structure remains intact. The commission believes that federal law enforcement agencies should give high priority to investigations of LIUNA and its locals" (PCOC 1986, pp. 162–63).

The decade after the PCOC report provided little reason to be optimistic about reform in LIUNA. For example, in 1989, Arthur A. Coia, son of longtime mob-affiliated LIUNA General Secretary-Treasurer Arthur E. Coia (who retired in 1987), reportedly made pilgrimages to

[19] These grossly inflated service fees were shocking even to the Teamsters Central States Pension Fund officials, who were embarrassed to admit that their administrative costs had in the past gone as high as 8 percent. George Lehr, executive director of the Teamsters Central States Pension Fund, described the 68 percent rate as "outrageous" and "a ripoff on its face" (United States Congress 1985, p. 600).

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Chicago to request permission from the Chicago Outfit to run for LIUNA general secretary-treasurer (Mulligan and Starkman 1996). Having obtained the mob's approval, he served as secretary-treasurer until 1993, when Angelo Fosco died. With mob approval, Coia was elected general president. During this period, LIUNA made substantial political contributions to the Democratic Party and to President Clinton with whom Coia enjoyed a personal relationship. Critics charged that, on account of these political ties, the Clinton administration backed off in its investigation and reform efforts (Mulligan and Starkman 1996; United States Congress 1997; Isaac 1998; Mencimer 1998; Methvin 1998).

A. DOJ Takes Action against LIUNA

In late 1994, the DOJ presented LIUNA officials with a draft civil RICO complaint, alleging that organized crime dominated the international union and many locals.[20] The complaint named as defendants twenty-five individuals plus the individual members of the LIUNA general executive board, General President Arthur A. Coia, General Secretary-Treasurer Rollin P. "Bud" Vinall, all ten of the union's vice presidents, and the union's general counsel. The complaint alleged that the defendants violated the rights of union members through intimidation, violence, and economic coercion, and violated their fiduciary duty to the membership by corrupting the union and by refusing and failing to prevent or remedy the corruption.[21]

As a remedy, the government sought the expulsion of Coia and other union leaders. It requested the appointment of one or more court liaison officers to carry out the duties of the general president and general executive board and to prevent any GEB action that would violate union members' rights or perpetuate criminal influence. The draft complaint also demanded that the union's constitution be amended to reform discriminatory hiring-hall procedures and to pro-

[20] The draft complaint, although never filed, is available on-line at http://www.laborers.org/complaint.html.

[21] The 1990 New York State (NYS) Organized Crime Task Force's final report, "Corruption and Racketeering in the NYC Construction Industry," identified ten New York City LIUNA locals that were controlled or heavily influenced by organized crime. For example, the report charged that "Housewreckers Union Local 95 is controlled by Vincent 'Chin' Gigante, boss of the Genovese Crime Family" (New York State Organized Crime Task Force 1990, p. 81), and that Cement and Concrete Workers Local 6A "had for years been controlled by Ralph Scopo, a soldier in the Colombo Crime Family" (New York State Organized Crime Task Force 1990, p. 79).

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vide for direct rank-and-file election of officers. The court was also asked to appoint an elections officer.

After three months of negotiations, LIUNA and the DOJ announced a unique settlement. The DOJ agreed to forgo filing the civil RICO complaint if LIUNA established its own internal anticorruption program and signed a consent decree stipulating to the requested relief. The settlement provided that the consent decree could be filed at DOJ's option until February 1, 1998, if the DOJ found that LIUNA failed to clean up the union. The agreement was later extended to 2001 and then, with certain election reforms added, to 2006.

B. The LIUNA's Internal Reform Program

The LIUNA instituted radical changes in its governing structure and constitution and adopted an Ethical Practices Code. To enforce the provisions of the Ethical Practices Code, LIUNA adopted a set of Ethics and Disciplinary Procedures and established four new positions: GEB attorney, filled by Robert Luskin, formerly a member of DOJ's Organized Crime and Racketeering Section, to investigate and prosecute violations of the Ethical Practices Code; inspector general, filled by Douglas Gow, retired FBI agent, to investigate violations of the Ethical Practices Code; independent hearing officer, Peter Vaira, former chief of the Chicago Organized Crime Strike Force and former U.S. attorney in Philadelphia, to serve as judge and arbitrator in all disciplinary actions; and appellate officer, Neil Eggleston, former federal prosecutor, to hear appeals of disciplinary cases.

These newly appointed officers initiated an aggressive program of corruption control. They established a confidential toll-free telephone number and a confidential post office box to solicit complaints from the LIUNA membership. By mid-1996, the reform officers had begun over 345 investigations, removed twenty-five union officers and members for violations of the Ethical Practices Code, removed all of Buffalo Local 210's officers on account of corruption, placed Chicago Local 8 under emergency trusteeship, actively assisted the United States government with its efforts to clean up the New York City Mason Tenders by hiring the former chief of the organized crime unit in the Southern District of New York to investigate the Mason Tenders, and announced an investigation of Arthur A. Coia (United States Congress 1996).

The LIUNA's election procedures were also reformed. Direct rank-and-file secret-ballot election of general president and general secretary-treasurer was added to the constitution. Additionally, LIUNA expanded its general executive board from ten to thirteen members and

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required that nine of the thirteen be elected by nine regions, making the GEB less accountable to the general president and more accountable to the membership. The LIUNA modified its procedures for the selection of delegates to union conventions and merged several locals that appeared to exist only to provide convention votes to organized crime. The LIUNA also hired an independent elections officer and two deputy election officers—jointly selected by the government and union—to monitor union elections. The union adopted a uniform set of job referral rules to prevent discriminatory hiring-hall practices. An independent accounting firm was hired to audit LIUNA's finances (United States Congress 1996).

In November 1997, GEB attorney Robert Luskin filed disciplinary charges against Arthur A. Coia, alleging that Coia associated with organized crime, permitted organized crime to influence union affairs from 1986 to 1993, and accepted illegal payoffs from a LIUNA service provider. The hearing, which lasted from April 14, 1998, until June 23, 1998, included over 500 exhibits and testimony that filled thousands of transcript pages. Independent Hearing Officer Vaira found that GEB attorney Luskin failed to prove the allegations of organized crime association and influence but did prove that Coia had violated the Ethical Practices Code by accepting illegal benefits from a LIUNA service provider. Vaira fined Coia $100,000 but permitted him to retain his office (Office of the Independent Hearing Officer 1999).

In December 1999, Coia retired as general president, acceding to the position of general president emeritus for life at an annual salary of $335,516 (Mulligan 1999). The GEB appointed Terrence O'Sullivan, Coia's chief of staff, to succeed Coia. The union agreed to continue to support the internal reform program and, until the completion of its 2006 general election, not to make any material changes to its governing structure without the government's prior approval. The DOJ officially ended its oversight. In January 2000, Arthur A. Coia pled guilty to defrauding the State of Rhode Island and the Town of Barrington, Rhode Island, of approximately $100,000 in taxes. In addition to restitution and a $10,000 fine, he agreed to be barred from any future role in LIUNA or its subordinate entities.

C. Conclusions

Historically, LIUNA, at the international and local levels, especially in Chicago and New York City, has been closely tied to Cosa Nostra crime families. Tony Accardo, one of the leading organized crime figures of this half century, exercised a great deal of influence in the union

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for many years. Accardo, his henchmen, and their successors controlled LIUNA's general president and the officers of many locals.

In 1994 the DOJ prepared the first major attack on LIUNA labor racketeering at the national level. The looming RICO suit led to a creative settlement between the government and the union. The monitors whom LIUNA hired to enforce its new code of ethics, all former federal law enforcement figures, appear to have made headway in cleaning up the international union. Nevertheless, the extent of the international union's commitment to reform remains to be seen. Clearly, a great deal of labor racketeering remains in the locals. Indeed, a number of the most notorious locals have themselves been put under court-ordered trusteeship (United States Department of Justice 2000).

The international union suspended John Serpico, labor racketeer and political power broker, from his union positions in 1995. Serpico then became a consultant for another union, a local of the International Union of Allied Novelty and Production Workers. He also served as president emeritus of the Central States Joint Board, which provides administrative services to Chicago-area locals. In the summer of 2001, Serpico and two associates were convicted of fraud and taking kickbacks in connection with steering union business to certain companies.

V. The International Longshoremen's Association

Drawing on labor leaders' statements, FBI investigations, prosecutions, and legislative hearings, PCOC called the International Longshoremen's Association "virtually a synonym for organized crime in the labor movement" (PCOC 1986, p. 33).[22] Ships entering harbors, day or night, need to be unloaded and reloaded quickly. Delay is expensive, even ruinous. This gave the longshoremen enormous leverage over shippers who were extorted for labor peace payoffs. (Admittedly, the containerization of seaborne cargo since the late 1950s undermined this leverage.) Labor racketeers also corrupted port employees to facilitate cargo theft, solicited illegal labor payoffs, and extorted stevedores (companies that load and unload seaborne cargo) (PCOC 1986, p. 35). "Throughout its history, the international has done little, if anything, to disturb *La Cosa Nostra* influence in its locals" (PCOC 1986, p. 37).

According to the PCOC, Cosa Nostra became the primary power

[22] David Dubinsky, president of the International Ladies Garment Workers Union, and a well-respected labor leader and reformer, proclaimed that the ILA was "a nest for waterfront pirates—a racket, not a union" (Dubinsky and Raskin 1977, p. 164).

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on the New York Harbor waterfront in 1937, when Anthony "Tough Tony" Anastasio (aka Anastasia) took control of the six New York harbor locals. (His brother Albert Anastasia was head of the infamous Murder Incorporated and boss of the crime group that later came to be known as the Gambino crime family.) "Under Anastasio, organized pilferage, strike insurance, kickbacks, and loansharking on the piers reached unprecedented levels" (PCOC 1986, p. 36). Anastasio delegated control of these locals to various organized crime members.

In 1953, the New York State Crime Commission issued a blistering report on labor racketeering in New York harbor. By the 1960s, organized crime exerted power and influence in ports all along the eastern and gulf coasts (PCOC 1986, pp. 39–40). The PCOC charged that Cosa Nostra completely controlled Thomas (Teddy) Gleason, who had succeeded the infamous Joseph Ryan as ILA international president (PCOC 1986, p. 39). The Gambino crime family controlled the ILA international union.[23] The Gambinos mostly controlled the New York side and the Genovese the New Jersey side of the New York/New Jersey harbor. After Anastasio died in 1963, control of ILA Local 1814 passed to Anthony Scotto, a son-in-law, who (from 1963 to 1979) flourished in the union, in organized crime as a capo in the Gambino crime family, and in New York City political circles.

In 1972, a Florida investigator told the Senate Permanent Subcommittee on Government Operations that "our information established that virtually every commodity affecting the transportation industry on the Dodge Island Seaport was under the control and domination of a small group of highly sophisticated and organized criminals" (United States Congress 1984*b*). In 1975, the FBI launched UNIRAC, an investigation of ILA racketeering in the ports of New York City, Miami, Wilmington, Charleston, and Mobile. Using undercover agents, electronic intercepts, and consensual recordings, UNIRAC uncovered systematic criminality and labor racketeering in every port. Ultimately, UNIRAC led to the conviction of over 100 persons, including twenty ILA leaders, among them Michael Clemente and Anthony Scotto, who held positions in both the ILA and Cosa Nostra. In 1979, Scotto was convicted of taking more than $200,000 in cash payoffs from employers (*United States v. Clemente et al.*, 494 F. Supp. 1310 [1980 U.S. Dist.]). New York's governor Hugh Carey, and two former New York

[23] The PCOC report found that the Genovese crime family controlled the Manhattan locals and the union's international. This is likely a typographical error. The Gambino family was known to control these locals and the international.

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City mayors, John Lindsay and Robert Wagner, testified in his behalf at the sentencing hearing. (Scotto, a prominent Democratic Party fund-raiser, raised $1 million for Governor Hugh Carey's 1974 campaign and $50,000 for Mario Cuomo.)

The PCOC complained that, while UNIRAC was "a very successful operation demonstrating law enforcement skill and tenacity," there had been only sporadic subsequent investigations and prosecutions, leaving organized crime's influence intact all along the eastern seaboard (PCOC 1986, p. 43). In February 1981, the Senate Permanent Subcommittee on Investigations held hearings on waterfront corruption. The subcommittee's report summarized its findings:

> Witnesses testified that payoffs were a part of virtually every aspect of the commercial life of a port. Payoffs insured the award of work contracts and continued contracts already awarded. Payoffs were made to insure labor peace and allow management to avoid future strikes. Payoffs were made to control a racket in workmen's compensation claims. Payoffs were made to expand business activity into new ports and to enable companies to circumvent ILA work requirements.
>
> Organized crime was found to have great influence in the operation of the ILA and many shipping companies. Some shipping firms, because of fear or a willingness to participate in highly profitable schemes, have learned how to prosper in the corrupt waterfront environment. They treat payoffs as a cost of doing business.
>
> The free enterprise system has been thrown off balance. Contracts were not awarded on the basis of merit. The low bid did not beat the competition. Profitability was not based on efficiency and hard work but rather on bribery, extortion and questionable connections. The combination of these corrupt practices was a recipe for inflationary costs and economic decline.
>
> Much of the corruption on the waterfront stemmed from the control organized crime exercises over the ILA, a condition that has existed for at least 30 years. (United States Congress 1984*b*)

Quoting the 1984 Senate Permanent Subcommittee on Investigations' findings, PCOC concluded that, despite its successes, UNIRAC had not purged organized crime from the ports. "Corrupt practices . . . already have begun to return to the Atlantic and Gulf Coast docks. What is needed, then, is continued scrutiny of the maritime industry by government agencies" (PCOC 1986, p. 65). In 1987, Teddy Glea-

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son retired as general president of the international union and was succeeded by his vice president, John Bowers, who has held the presidency ever since (Gleason died in 1992).

A. Civil RICO Suit against Six ILA Locals

On February 14, 1990, the U.S. Department of Justice filed a civil RICO suit (*United States v. Local 1804-1 et al., International Longshoremen's Association,* complaint, No. 90 Civ. 0963 [LBS] [S.D.N.Y. 1990]) against six New York harbor ILA locals, their executive boards and officers, the Genovese and Gambino crime families, the Westies, an Irish organized crime group allied with the Gambino family, and five waterfront employers.[24] The 125-page complaint charged that the waterfront had "been the setting for corruption, violence, and abuse of waterfront labor and business by New York La Cosa Nostra Families" for more than fifty years (*United States v. Local 1804-1 et al.*, complaint, p. 4). It further alleged that Cosa Nostra controlled the waterfront labor unions, that is, that the Genovese and Gambino crime families had exploited the locals, the shipping industry, and the longshoremen (*United States v. Local 1804-1 et al.*, complaint, p. 38). According to the government, despite the UNIRAC investigation and convictions, the Genovese and Gambino crime families, by means of their control of the ILA, continued to dominate many ports (*United States v. Local 1804-1 et al.*, complaint, p. 44). The complaint quoted the Senate Permanent Subcommittee on Investigations' 1988 report: "Organized crime continues to exercise control over the International and New York-New Jersey ILA locals" (*United States v. Local 1804-1 et al.*, complaint, p. 45). The civil RICO complaint compiled allegations of embezzlement, solicitation of bribes, benefit fund fraud, extortion of employers, and violation of the rank and file's rights through force and violence.

The U.S. Department of Justice asked the court to enjoin the organized crime defendants from participating in ILA affairs, from having any dealings with union officers and employees (*United States v. Local 1804-1 et al.*, complaint, p. 118), and from committing any acts of racketeering; DOJ sought to enjoin the defendant labor officials from associating with Cosa Nostra members or associates (pp. 118–19). The complaint sought a court-appointed liaison officer for each of the ILA

[24] The complaint did not include the ILA's international organization. However, International President John Bowers was named individually, as president of three of the six locals.

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locals to "discharge those duties of the Executive Board[s]" and to "review the proposed actions of the Executive Board[s]" (*United States v. Local 1804-1 et al.*, complaint, p. 119), general elections to be run by a court-appointed trustee (*United States v. Local 1804-1 et al.*, complaint, p. 122), appointment of administrators to oversee the clean-up of the unions (*United States v. Local 1804-1 et al.*, complaint, p. 123), and the defendants' disgorgement of the proceeds of their labor racketeering (*United States v. Local 1804-1 et al.*, complaint, pp. 123–24). Rather than go to trial, the defendants entered into consent agreements.

B. Local 1804-1 (Bergen, N.J.)

On March 25, 1991, ILA Local 1804-1, and its executive board and officers entered into a consent judgment with the DOJ. Local 1804-1's current and future executive board and officers agreed to be enjoined from committing any acts of racketeering activity and from knowingly associating with members or associates of organized crime (*United States v. Local 1804-1 et al.*, consent judgment for Local 1804-1, p. 3). The consent judgment provided for the appointment of a monitor to oversee the local's operations until the 1997 election. The monitor would have blanket access to all union documents or information, authority to discipline union officers, agents, employees, and members, power to investigate corruption or abuse of union funds, and supervisory authority over the union's 1994 and 1997 elections (*United States v. Local 1804-1 et al.*, consent judgment for Local 1804-1, pp. 4–5). In addition, the monitor would have authority to review and veto union expenditures, union contracts, personnel decisions, and changes to the union's constitution and bylaws (*United States v. Local 1804-1 et al.*, consent judgment for Local 1804-1, pp. 5–6).

Local 1804-1 agreed to pay the monitor's salary and operating expenses, and not to oppose or interfere with the monitor's duties in any way (*United States v. Local 1804-1 et al.*, consent judgment for Local 1804-1, pp. 3–6). The consent judgment also provided for amendments of Local 1804-1's constitution, including salary limits for union officers, election of shop stewards, and discontinuation of union loans to union officers and members (*United States v. Local 1804-1 et al.*, consent judgment for Local 1804-1, pp. 7–8). The consent judgment permitted Local 1804-1's executive board to remain in office but required several board members to pay $100,000 to Local 1804-1's treasury (*United States v. Local 1804-1 et al.*, consent judgment for Local 1804-1, p. 11).

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James Gill was appointed as 1804-1's monitor. The union's strategy was to strike a deal: if it expelled certain people, the union would be permitted to reform itself. This appears to have been exactly what happened; ten years after the settlement, very little appears to have changed.

C. Local 824, Local 1809, and Local 1909 (West Side Locals)

On March 26, 1991, Locals 824, 1809, and 1909 (collectively known as the West Side Locals), and their executive boards and officers entered into a consent judgment. The defendant union officials, without admitting wrongdoing or violation of law, agreed that persons holding office in the West Side Locals would be enjoined from knowingly associating with any member or associate of organized crime (*United States v. Local 1804-1 et al.*, consent judgment for the West Side Locals, p. 8). The consent judgment provided for the resignation of executive board members John Potter and Thomas Ryan, and enjoined both men from holding ILA office in the future (*United States v. Local 1804-1 et al.*, consent judgment for the West Side Locals, p. 2). ILA international president John Bowers (also president of the three West Side Locals) and executive board member Robert Gleason agreed to resign their memberships in an employer association, the NYSA (New York Shipping Association)–ILA Contract Board (*United States v. Local 1804-1 et al.*, consent judgment for the West Side Locals, p. 4). The consent judgment stipulated Department of Labor supervision over the 1991 and 1994 elections in the three locals and gave the DOL full access to union records and information necessary to carry this out (*United States v. Local 1804-1 et al.*, consent judgment for the West Side Locals, pp. 3–4).

Local 1909 agreed to a court-appointed employment practices officer to develop and implement rules and procedures to assure fair hiring, to discontinue no-show jobs, and to discipline those who violate hiring or employment procedures (*United States v. Local 1804-1 et al.*, consent judgment for the West Side Locals, pp. 4–6). The employment practices officer was granted full access to union records necessary to fulfill his duties, was to report at least every six months to the court, was to be paid by the union, and was to continue in office until the certification of the 1994 union election (*United States v. Local 1804-1 et al.*, consent judgment for the West Side Locals, pp. 6–7). The West Side Locals agreed not to obstruct, oppose, or otherwise interfere with the work of the DOL or the employment practices offi-

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cer (*United States v. Local 1804-1 et al.*, consent judgment for the West Side Locals, p. 9). John Bowers and the ILA proclaimed the consent judgment a complete victory, saying it was just short of the judge throwing the case out, and claiming that nothing exceptional had been granted to the government in exchange for the settlement.

D. The Civil RICO Suit's Individual Defendants

The remaining defendants went to trial in spring 1991, but only four defendants persisted to judgment; the rest settled. On June 1, 1991, Anthony Scotto, one of the most powerful labor racketeers in U.S. history because of his high rank in both the Cosa Nostra and the union, settled with the government attorneys, agreeing to pay $50,000 and to be permanently banned from union office or any activity that would associate him with the union or any of the union's employers. On account of ERISA's antiforfeiture provision, Scotto would still receive his pension.

E. Local 1814 Consent Decree

On December 17, 1991, ILA Local 1814, its executive board and officers entered into a consent decree with the DOJ. The individual defendants and officers, without admitting wrongdoing, acknowledged past allegations, testimony, public findings, and criminal prosecutions. They agreed to be enjoined from knowingly associating with any member of organized crime (*United States v. Local 1804-1 et al.*, consent decree for Local 1814, pp. 2–3).

The consent decree provided for a court-appointed monitor with full access to the union's books, records, and other information, disciplinary authority, and supervisory authority over the 1993 and 1996 elections (*United States v. Local 1804-1 et al.*, consent decree for Local 1814, pp. 3–7). The monitor, who would be paid by the union, was authorized to review and veto union expenditures, contracts, appointments, and proposed amendments to the constitution and bylaws (*United States v. Local 1804-1 et al.*, consent decree for Local 1814, pp. 8–9). The monitor had authority to hire legal counsel, accountants, consultants, investigators, and any other personnel necessary to assist in his duties (*United States v. Local 1804-1 et al.*, consent decree for Local 1814, p. 10).

The consent decree included amendments to Local 1814's constitution providing for secret-ballot rank-and-file elections of shop stewards, and limitations on officers' compensation (*United States v. Local*

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1804-1 et al., consent decree for Local 1814, p. 14). Moreover, executive board members Anthony Pimpinella and Joseph Colozza had to resign from their Local 1814 positions and agree never to hold ILA employment again (*United States v. Local 1804-1 et al.*, consent decree for Local 1814, p. 16). Anthony Ciccone had to resign but was permitted to remain a union member and continued to receive union benefits (*United States v. Local 1804-1 et al.*, consent decree for Local 1814, p. 16). The other members of the executive board were permitted to keep their positions. Local 1814 is no longer the influential local it once was because there are few functioning docks left in Brooklyn, but the Gambino crime family's influence remains strong.

F. Local 1588 (Bayonne, N.J.)

On January 3, 1992, the last of the six locals named in the 1990 civil RICO suit, Local 1588 and its executive board, entered into a consent agreement with the government.[25] The consent agreement created the office of ombudsman, which would exist until the 1993 election, and extend beyond at the option of the union's executive board or membership (*United States v. Local 1804-1 et al.*, consent order for Local 1588, p. 7). This ombudsman's office was to be staffed by two individuals, one appointed by the court and one by the union (*United States v. Local 1804-1 et al.*, consent order for Local 1588, pp. 3–4). The ombudsman was charged with enforcing the union's constitution and bylaws (*United States v. Local 1804-1 et al.*, consent order for Local 1588, p. 3). The ombudsman's office had power to file disciplinary charges, but only after consulting with the union's executive board (*United States v. Local 1804-1 et al.*, consent order for Local 1588, p. 4). Rank-and-file union members were encouraged to file confidential complaints with the ombudsman's office.

The consent agreement provided for election of stewards and constitutional changes to disciplinary procedures (*United States v. Local 1804-1 et al.*, consent order for Local 1588, pp. 10–11), Department of Labor supervision of the local's 1993 election (p. 8), and an injunction

[25] Local 1588's secretary-treasurer, Donald Carson, was convicted in 1988 of RICO conspiracy and extortion involving Local 1588 (United States v. DiGilio, 86 Cr. 340 [D.N.J.][DRD], aff'd mem., 870 F.2d 652 [3d Cir. 1989], vacated and remanded, 110 S. Ct. 2162 [1990]). Following his conviction and incarceration, Local 1588's president and secretary-treasurer declined to run for office in 1990. The consent order acknowledged that "the new executive board already has taken steps to return Local 1588 to fiscal soundness and to remove the taint of organized crime corruption" (United States v. Local 1804-1 et al., consent order for Local 1588, p. 2).

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preventing George Weingartner and Robert Lake from serving as shop stewards or in any other ILA office or position (pp. 9–10). Robert Gaffey was appointed as Local 1588's ombudsman. (He had formerly served as an assistant U.S. attorney and as chief counsel to the investigations officer in the IBT International case.) During his time in office, Gaffey's main contribution to the cleanup of Local 1588 was to assist in the creation of a slate of reform candidates to oppose Donald Carson's Genovese-controlled slate. The leader of the "reform" slate was convicted of stealing union funds and was removed from office. Allegedly, the Genovese crime family continues to exercise substantial influence in Local 1588.

G. Conclusions

Recent legal developments demonstrate that the government's efforts to reform the ILA since the PCOC report have not fundamentally changed the structure and personnel of the ILA international union. In January 2002, the U.S. attorney's office (Brooklyn) announced an indictment against eight leaders and members of the Genovese crime family, alleging extortion from waterfront employers and businesses in the New York metropolitan area, northern New Jersey, and Miami (*United States v. Liborio "Barney" Bellomo et al.*, Cr. No. 01-416 (S-8) ILG [2002]). The indictment accuses the mob defendants of violating ILA members' Landrum-Griffin rights and of defrauding the ILA's pension and welfare fund.

In May 2002, a major investigation by the New York–New Jersey Waterfront Commission resulted in the indictment of eight persons connected to the Genovese crime family or ILA Local 1588, including the local's president, John Timpanaro. The indictment charges that through extortion and the withholding of premium job assignments, the defendants demanded kickbacks and cash payments from dozens of Local 1588 members. Some defendants were also charged with participating in a scheme to bill the marine terminal for truck chassis parts that were never delivered. On June 3, 2002, the U.S. attorney (E.D.N.Y.), the New York state attorney general, and the FBI announced the arrests and indictments of seventeen members and associates of the Gambino crime family or officials of ILA Local 1814 and Local 1 involved with waterfront racketeering. The defendants, including Local 1814 president and ILA vice president, Frank Scollo, are charged with extortion, wire fraud, loan sharking, operating illegal gambling businesses, money laundering, witness tampering, and other

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related crimes. Among other things, the indictment charges the defendants with placing mob members and associates in top union jobs, carrying out day-to-day extortion, loan sharking, and a scheme to defraud the ILA health fund. In late June 2002, the *New York Times* reported that the government is considering a RICO suit against the ILA international union.

VI. Perspectives on Labor Racketeering

Labor racketeering has been a major form of crime throughout the twentieth century. It has involved tens of thousands of individual crimes, some of which have been perpetrated by some of the nation's most powerful criminals and crime families. It has victimized tens of thousands of workers who have had their rights trampled on, their contracts sold out, and their pension funds looted. It has undermined the labor movement, one of the most powerful and important sociopolitical institutions in American society. While the problem has attracted enormous law enforcement, political, and media attention, especially in the last two decades, it has attracted practically no criminological attention.[26]

A. Criminology and Labor Racketeering

Labor racketeering could be studied as a form of organizational crime; from this perspective a comparative analysis of corporate crime and union crime would be especially fruitful. What kinds of criminal opportunities do both types of organizations generate? What potential and limits do corporate stakeholders and rank-and-file union members, respectively, have for preventing and remediating racketeering? Do other stakeholders in either type of organization play a role in preventing or facilitating corruption?

Labor racketeering could also be approached from the standpoint of the criminal offenses that it spawns: extortion, embezzlement, fraud, violence, hijacking, restraint of trade (enforcing cartels), and denial of intangible rights of union members to a democratically run union. Yet another option is to approach labor racketeering from the standpoint of the offender, either as a subcategory of white-collar crime or as a subcategory of organized crime. This essay approaches the topic from the latter perspective. Our thesis is that the twentieth-century history

[26] Likewise, it has attracted practically no interest among labor law scholars. But see Goldberg 1989; Summers 1991.

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of American organized (some say "syndicate") crime could not be properly written without paying a great deal of attention to the influence, power, and wealth that the Cosa Nostra crime families derived from their association with international and local unions.

The Italian-American organized crime families obtained their foothold in the unions in the 1920s and 1930s when management and labor both called on gangsters for protection and as a counterforce to communist and socialist elements. During this period, the crime groups were able to take advantage of an immigrant culture of which they were a part. With the repeal of national alcohol prohibition in 1933, labor racketeering became an even more important source of revenue and power for organized crime. After a brief effort in the mid-1950s to oppose organized crime infiltration, the AFL-CIO apparently concluded that the labor movement would suffer more from opposing organized crime than from accommodating it (Hutchinson 1970).[27]

Unions have proved highly vulnerable to corruption and racketeering. Once the dues checkoff privilege was recognized, unions became the recipients of a steady stream of money deducted from workers' paychecks. Corrupt union officers easily diverted funds into their own pockets, sometimes by theft but sometimes via extravagant salaries and perks. The emergence of huge union pension and welfare funds in the 1950s made unions even more attractive to organized crime. As Lipset, Trow, and Coleman (1956) recognized nearly a half century ago, most union members are apathetic. They have certainly not been able to successfully oppose organized crime groups.

The sociopolitical status and economic strength of the Cosa Nostra organized crime families throughout the twentieth century have been significantly augmented by their influence in local and international

[27] An excellent example of the AFL-CIO attitude toward corruption and racketeering in unions is David Elbaor and Larry Gold's (1985) monograph, *The Criminalization of Labor Activity: Federal Criminal Enforcement against Unions, Union Officials and Employees.* This short monograph (by the chief counsel of the AFL-CIO) denies the existence of any significant organized crime problem in the labor movement and attributes investigations and prosecutions to a sinister plan by big business and big government to undermine the labor movement. The following excerpt provides a flavor: "The government continues to seek a substantial increase in money and personnel to carry out its prosecutorial campaign against organized labor, peddling sensational recitations of union crime and preying on public willingness to equate labor with corruption. Ironically, the motley assortment of prosecutions in recent years suggests not that the government's substantial investigatory resources have produced great results, or proven organized crime's permeation of the labor movement, but that most union crime is isolated, unconnected with larger criminal networks, involves relatively small sums of money, and is of a technical nature" (p. 66).

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unions. Unions have provided organized crime with jobs, patronage, money, and power. Businesses and government agencies have to deal with organized crime figures who hold union office. Corrupt businessmen have allied themselves with corrupt union bosses, bribing them for sweetheart contracts and for ignoring or circumventing terms of collective bargaining agreements. The status that the labor racketeers derived from their positions or associations with unions translated into political power, especially in the heyday of the urban political machines. Unions provided endorsements, workers, and campaign contributions to political candidates. In return, the politicians looked the other way when the union bosses lined their own pockets.

There are many reasons why the American labor movement has declined over the twentieth century, but one factor worth considering is the negative impact of racketeering. To an extent, perhaps, some unions at some time, under some leaders, benefited from being allied with organized criminals; such alliances may have increased their leverage at the bargaining table. But labor racketeers are out for themselves and their organized crime cronies, not for the rank and file. They promote themselves and their cronies to leadership positions within the unions, draw excessive salaries, sell out the members' contractual rights, and loot the pension and welfare funds. They show no interest in organizing and no interest, of course, in union democracy. Labor idealists who wish to democratize and strengthen their unions cannot succeed in unions penetrated by organized crime. Indeed, the taint of organized crime may partly explain the failure of the labor movement in the second half of the twentieth century to attract the energy and idealism of the younger generations.

B. Criminal Justice and Labor Racketeering

As late as the 1980s members of Congress, labor officials, businessmen, politicians, and scholars considered the Italian-American Cosa Nostra crime families invincible. The 1986 President's Commission on Organized Crime was highly pessimistic about the prospects for purging the labor movement of Cosa Nostra racketeers.

Less than two decades later, the prospects for change look much brighter. The Cosa Nostra crime families, under constant legal attack for almost two decades, have been significantly weakened, in some cities practically eliminated (Jacobs and Gouldin 1999). The boss of every Cosa Nostra crime family has been imprisoned; in many cases their successors and their successors' successors have followed them to

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jail. Dozens of high-level Cosa Nostra members have become cooperating witnesses, assisting in the investigation and prosecution of their former colleagues, their rackets, and corrupted unions and businesses. This unprecedented attack on "traditional organized crime" has had repercussions for labor racketeering. For one thing, the organized crime families are much weaker than they were a generation ago; they have fewer and weaker resources to bring to bear in support of labor racketeering activities. For another thing, the federal government has attacked Cosa Nostra by powerfully attacking its base in labor unions.

Civil RICO has been the great engine of the government's onslaught. Beginning with the 1982 suit against IBT Local 560, government lawyers have brought one major labor racketeering case after another against local unions and international unions, including the IBT, HEREIU, ILA, and LIUNA (complaint prepared but not filed). Civil RICO allows the government to address an entire crime problem, like a mobbed-up union. There have been approximately twenty trusteeships resulting from DOJ civil RICO suits brought against unions (see app. table A1); unfortunately, there has never been a comprehensive accounting.

The civil RICO suits have been advantageous for the government because they have led to court-appointed trustees, almost always former prosecutors with major experience investigating and prosecuting organized crime cases. There is no uniform role or set of powers for these court-appointed trustees. Each judge or each consent agreement provides the trustee or trustees with case-specific authority. Moreover, each court or consent decree provides for how the trusteeship will be funded and for how long; funding has varied from generous to inadequate.

The continued interest and support of the presiding judge is critical to the court-appointed trustee's success. If the judge makes it clear that reform of the union is a nonnegotiable goal that the court will see through until victory, rank-and-file members will be more willing to step forward to work with the trustee and to challenge the racketeers for union office. But as long as a feeling persists in the union that the judge will lose interest, the trusteeship run out of funds, and the trustee become distracted with other work, the rank and file will remain intimidated, demoralized, and disorganized, anticipating the return of mob dominance.

The FBI, DOL, OCRS, and the U.S. attorney's office also play key roles in determining the success of the trusteeship. If they stay involved, they can help the trustee identify union members who continue

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to associate with organized crime, and they can assist in putting together disciplinary cases seeking a corrupt member's expulsion from the union. Continued investigations can also lead to a new round of criminal charges and civil RICOs. The FBI, DOL, and U.S. attorney can also keep the pressure on the trustee to be aggressive and creative in his reform efforts. The trustee's success depends upon his authority and resources, whether he can appoint paid assistants, and whether the union members are persuaded that he will be on the job until the racketeers are purged and union democracy restored. Perhaps even more important are the skills, creativity, determination, and competency of the trustee. Most of the trustees are former prosecutors. This facilitates coordination with the Department of Justice and equips the trustee to investigate racketeering and other wrongdoing. But it does not facilitate the fostering of union democracy and the energizing of a plundered and demoralized union. Those tasks can best be carried out by knowledgeable, skilled, and charismatic trade unionists. Some trusteeships have been fortunate to have had both types of trustees, but many have not.

A court-appointed trusteeship is not a panacea. Many trustees have not been successful. While there has never been a study of the successes and failures of RICO suits against mobbed-up international and local unions, our impression is that less than half could be called successful and only a few, at least to this point, could be called completely successful. If the court-appointed trusteeships are to fulfill their potential as an organized crime control strategy, much research needs to be done on how to achieve success. To date, only the IBT Local 560 trusteeship has attracted scholarly attention (Goldberg 1989; Summers 1991; Jacobs and Santore 2001).

The dozens of trustees who have been appointed to clean up corrupt unions have never been brought together for a conference.[28] Their numerous reports to their respective judges have not been assembled and therefore are not available to new trustees. After almost twenty years of such initiatives, there are neither "how to" manuals nor any materials whatsoever on how a trustee can maximize the chances of success. Here there are surely roles for the National Institute of Justice, private foundations, and university-based criminologists, among others.

It is hard for someone interested in labor racketeering to understand

[28] In 1989, some of the court-appointed trustees testified regarding the successes and failures of their trusteeship (see United States Congress 1989).

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why the National Institute of Justice has shown no interest in sponsoring research on labor racketeering or its remediation; such research would undoubtedly be valuable to scholars and law enforcement officials in other countries that face serious organized crime problems. Perhaps the "blame" lies with the academic research community that, for one reason or another, has not focused much attention on organized crime, much less on labor racketeering. The subject, of course, is somewhat politically sensitive. But if political sensitivity has not prevented DOJ's prosecutorial wing from exposing and attacking labor racketeering, it makes no sense for DOJ's research wing to avoid studying the subject in aid of the department's future remedial efforts.

This is not the place to present a full-scale research agenda on the subject of labor racketeering. Suffice it to say that we need case studies on each of the major initiatives against labor racketeering. We need to carefully document and analyze the strategies used to purge corrupt elements from the unions and to rebuild the unions' democratic structures and processes. Such case studies, carefully coordinated and analyzed, and supplemented by joint meetings with the individuals who carried out these remedial efforts, would yield policy recommendations of great assistance to future initiatives in the United States and in other countries facing similar or analogous organized crime problems.

A final note. While organized crime controlled labor racketeering may be fading, that does not mean that labor corruption will die out as well. Dishonest officials, unconnected to organized crime, will always be in a position to embezzle money, defraud their unions, and extract excessive fees and reimbursements. The government cannot (and should not) try to monitor and regulate all the union locals and internationals in the country. In the final analysis, only an energized and watchful rank and file can assure that dishonest union officials will be swiftly exposed and deposed.

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APPENDIX

TABLE A1

Civil RICO Suits against "Mobbed-Up" Unions

Case Name	Date Filed	Published Opinions Discussing Various Aspects of the Case
1. U.S. v. IBT Local 560, No. Civ. 82-689	March 9, 1982, D.N.J.	*U.S. v. Local 560*, 581 F. Supp. 279 (D.N.J. 1984), *aff'd* 780 F.2d 267 (3d Cir. 1985)
2. U.S. v. Local 6A, Cement and Concrete Workers, LIUNA, No. 86 Civ. 4819	June 19, 1986, S.D.N.Y.	*U.S. v. Local 6A*, 663 F. Supp. 192 (S.D.N.Y. 1986)
3. U.S. v. The Bonanno Organized Crime Family of La Cosa Nostra, Philip Rastelli, et al., No. Civ. 87-2974 (IBT Local 814)	August 25, 1987, E.D.N.Y.	*U.S. v. Bonnano*, 683 F. Supp. 1411 (E.D.N.Y. 1988); 695 F. Supp. 1426 (E.D.N.Y. 1988); 879 F.2d 20 (2d Cir. 1989)
4. U.S. v. Local 30, United Slate Tile and Composition Roofers, et al., Civil Action No. 87-7718	December 2, 1987, E.D. Pa.	*U.S. v. Local 30*, 686 F. Supp. 1139 (E.D. Pa. 1988), *aff'd*, 871 F.2d 401 (3d Cir. 1989)
5. U.S. v. John F. Long, John S. Mahoney, et al., No. 88 Civ. 3289 (IBT Locals 804 and 808)	May 1988, S.D.N.Y.	*U.S. v. Long*, 697 F. Supp. 651 (S.D.N.Y. 1988); 917 F.2d 691 (2d Cir. 1990)
6. U.S. v. International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, et al., No. 88 Civ. 4486 ("IBT International Case")	June 28, 1988, S.D.N.Y.	*U.S. v. IBT*, 708 F. Supp. 1388 (S.D.N.Y. 1989); 723 F. Supp. 203 (S.D.N.Y. 1989); 725 F. Supp. 162 (S.D.N.Y. 1989); 728 F. Supp. 1032 (S.D.N.Y. 1990); 899 F.2d 143 (2d Cir. 1990); 905 F.2d 610 (2d Cir. 1990); 907 F.2d 277 (2d Cir. 1990); 931 F.2d 117 (2d Cir. 1991); 941 F.2d 1292 (2d Cir. 1991); 964 F.2d 180 (2d Cir. 1992)
7. U.S. v. Locals 1804-1, 824, 1809, 1909, 1588, and 1814, International Longshoremen's Ass'n, et al., No. 90 Civ. 0963*	February 14, 1990, S.D.N.Y.	*U.S. v. Local 1804-1*, 745 F. Supp. 184 (S.D.N.Y. 1990); 812 F. Supp. 1303 (S.D.N.Y. 1993); 44 F.3d 1091 (2d Cir. 1995); *U.S. v. Carson*, 52 F.3d 1173 (2d Cir. 1995)
8. U.S. v. IBT Local 295, No. Civ. 90-0970	March 20, 1990, E.D.N.Y.	*U.S. v. Local 295*, 1991 WL 35497 (E.D.N.Y. 1991); 1991 WL 340575 (E.D.N.Y. 1991); 784 F. Supp. 15 (E.D.N.Y. 1992)

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TABLE A1 (*Continued*)

Case Name	Date Filed	Published Opinions Discussing Various Aspects of the Case
9. U.S. v. District Council of NYC and Vicinity of the United Brotherhood of Carpenters and Joiners of America, et al., No. 90 Civ. 5722	September 6, 1990, S.D.N.Y.	*U.S. v. District Council*, 778 F. Supp. 738 (S.D.N.Y. 1991); 941 F. Supp. 349 (S.D.N.Y. 1996)
10. U.S. v. Edward T. Hanley, et al., Civil Action No. 90-5017 (HEREIU Local 54)	December 19, 1990, D.N.J.	*U.S. v. Hanley*, 1992 WL 684356 (D.N.J. 1992)
11. U.S. v. Anthony R. Amodeo, Sr., et al., No. 92 Civ. 7744 (HEREIU Local 100)	October 23, 1992, S.D.N.Y.	*U.S. v. Amodeo*, 44 F.3d 141 (2d Cir. 1995)
12. U.S. v. IBT Local 282, No. Civ. 94-2919	June 21, 1994, E.D.N.Y.	*U.S. v. Local 282*, 13 F. Supp.2d 401 (E.D.N.Y. 1998)
13. U.S. v. Mason Tenders District Council of New York and Vicinity of LIUNA, No. 94 Civ. 6487	September 7, 1994, S.D.N.Y.	*U.S. v. Mason Tenders*, 1994 WL 742637 (S.D.N.Y. 1995); 909 F. Supp. 882 and 891 (S.D.N.Y. 1995)
14. U.S. v. LIUNA (International Union "voluntarily" instituted reforms in exchange for government not filing complaint)	Never filed	*Serpico v. LIUNA*, 97 F.3d 995 (7th Cir. 1996)
15. U.S. v. Edward T. Hanley, HEREIU, and HEREIU's General Executive Board, Civ. No. 95-4596	September 5, 1995, D.N.J.	*U.S. v. HEREIU*, 974 F. Supp. 411 (D.N.J. 1997); Agathos v. Muellenberg, 932 F. Supp. 636 (D.N.J. 1996)
16. U.S. and LIUNA v. Construction and General Laborers' District Council of Chicago and Vicinity, Civil No. 99C 5229	August 8, 1999, N.D. Ill.	*LIUNA v. Caruso*, 1999 WL 14496 (N.D.Ill. 1999), *aff'd*, 197 F.3d 1195 (7th Cir. 1999)
17. U.S. v. LIUNA Local 210, Civil No. 99 CV-0915A	November 18, 1999, W.D.N.Y.	*Panczykowski v. LIUNA*, 2000 WL 387602 (W.D.N.Y. 2000); *Caci v. LIUNA*, 2000 WL 387599 (W.D.N.Y. 2000)
18. U.S. v. HEREIU Local 69	April 17, 2002	

* The civil RICO suit in this case resulted in four separate trusteeships.

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Conceptualizing Criminal Governance

Benjamin Lessing

In informal urban areas throughout the developing world, and even in some US and UK neighborhoods, tens if not hundreds of millions of people live under some form of criminal governance. For them, states' claims of a monopoly on the use of force ring hollow; for many issues, a local criminal organization is the relevant authority. Yet the state is far from absent: residents may pay taxes, vote, and even inform on gangs as punishment for abusive behavior. Criminal governance flourishes in pockets of low state presence, but ones that states can generally enter at will, if not always without violence. It thus differs from state, corporate, and rebel governance because it is embedded within larger domains of state power. I develop a conceptual framework centered around the who, what, and how of criminal governance, organizing extant research and proposing a novel dimension: charismatic versus rational-bureaucratic forms of criminal authority. I then delineate the logics that may drive criminal organizations to provide governance for non-members, establishing building blocks for future theory-building and -testing. Finally, I explore how criminal governance intersects with the state, refining the concept of crime–state "symbiosis" and distinguishing it from neighboring concepts in organized-crime and drug-violence scholarship.

Lurking behind a well-known fact—rapid urbanization has left huge populations living in informal areas—lies a startling truth: tens if not hundreds of millions of people live under some form of criminal governance. Who, what, and how criminal organizations govern all vary enormously. In the favelas of Rio de Janeiro, Brazil, heavily armed drug syndicates provide everyday order, while police enter almost exclusively in lethal raids that send residents scrambling for cover (Arias and Barnes 2017). In São Paulo's periphery, a hegemonic prison gang bans unauthorized homicides and resolves disputes via juries of imprisoned members, but maintains a light territorial presence; police enter at will but do not challenge the gang's authority, and a peaceful, low-homicide "symbiosis" (Denyer Willis 2009) obtains. In Medellín, Colombia, hundreds of neighborhood gangs enforce property rights, tax local businesses, provide high-interest loans, and even produce and sell food staples; in nearby Cali, gangs take little interest in governing civilians (Arias 2017; Blattman et al. 2020). Even in the United States and the UK, criminal governance at the local level can be intense, if largely off the radar (Campana and Varese 2018; Jankowski 1991).

What unites these cases is that, for those governed, states' claims of a monopoly on the legitimate use of force ring hollow; for many quotidian issues, a local criminal organization is the relevant authority. Yet the state is far from absent: residents may pay taxes, vote, and call the police for problems beyond gangs' purview—or even to

A list of permanent links to Supplemental Materials provided by the authors precedes the References section.

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0122

inform on gangs as punishment for abusive behavior (e.g., Barnes 2018). States may actively contest criminal authority, but just as often they ignore, deny, or even collaborate with it. The results are distinctly non-Weberian: states and the criminal groups they are purportedly trying to eliminate form a "duopoly of violence" (Skaperdas and Syropoulos 1997, 61), one that can be competitive or collusive (Arias 2017; Barnes 2017), turbulent or stable.

This duopoly of violence distinguishes criminal governance from both state governance and common forms of non-state governance. In our workplaces, civic organizations, and even families we are subject to the rules, impositions, and decisions of those vested with authority. But in all these cases, as Weber (1946) pointed out, the state is the final enforcer and enabler of such authority. No such backstop underlies governance by non-state armed groups: their authority rests on their own coercive capacity, in at least nominal opposition to the state's. In this, criminal governance resembles rebel governance. Yet rebels' opposition is starker, and rebel governance—generally understood as part of a larger "competitive state-building" strategy (Kalyvas 2006)—typically occurs in "liberated zones" of near-exclusive control (e.g., Arjona 2016; Weinstein 2006). Criminal groups' opposition is subtler; they rarely establish strong territorial control, confront state forces, or seek to supplant state governance entirely. Consequently, criminal governance often hides in plain sight. It can thrive in backwaters and bustling metropoles alike, persisting through economic booms and busts, its relationship to shifting rates of crime or violence largely unexplored.

Indeed, what most distinguishes criminal governance from both state and rebel governance is its *embeddedness.* It flourishes in pockets of state weakness that are nonetheless surrounded and intermittently penetrated by strong state power, like prisons and low-income neighborhoods. To lump criminal governance in with other forms of non-state governance elides its most intriguing characteristics: simultaneously born of, shaped by, in opposition to—but in subtle ways complementing—state power. "Born of" because legislating, and hence outlawing, is a primordial state function (Koivu 2018); states may fight crime, but they create "the criminal." "Shaped by" because virtually all state actions, from policing to zoning, from infrastructure provision to welfare policy, have substantial effects on criminal groups' incentives and capacity to provide governance. "In opposition but complementary to" because criminal governance, while it seeks to keep some parts of the state out, may allow others in. For example, after the Okaida prison gang conquered and pacified a violent favela neighborhood in João Pessoa, Brazil, it specifically prohibited crimes against state social-service providers so that they would feel safe enough to resume their visits, to residents' great relief.[1]

As this example suggests, the embeddedness of criminal governance can produce unexpected and paradoxical crime–state dynamics (e.g., Arias and Barnes 2017). State repression itself—especially mass incarceration and drug prohibition—can inadvertently furnish the human and financial resources criminal groups use to govern (Cruz 2011; Dias 2009; Lessing 2017; Skarbek 2011). Conversely, criminal governance can lead to reduced state repression, in part by being *useful* to states. Recent scholarship has identified cooperative crime–state arrangements based on corruption, alliance against other armed threats, or outright crime–state integration (Barnes 2017; Koivu 2018; Snyder and Durán-Martínez 2009). Criminal governance points to distinct, "symbiotic" relationships (Adorno and Dias 2016; Denyer Willis 2009). Criminal organizations can bring order to spaces—especially urban peripheries and prison systems—that states perennially find difficult to govern. As these spaces expand, criminal governance may become increasingly important to social stability, and contribute, however perversely, to state-building itself.

Historically, state formation often depended crucially on collaboration with, and absorption of, criminal groups (e.g., Andreas 2013; Barkey 1994; Koivu 2018). In the modern era, and particularly in the context of a global war on drugs, the criminal domain has been cordoned off in important ways from the state. The same governments that openly seek out and strike peace deals with armed rebels systematically rule out negotiation with criminal groups—or even alternative policies that might reduce violence—as morally corrupt and politically toxic (e.g., Cruz and Durán-Martínez 2016). Yet criminal governance persists. Given its prevalence in developing countries, and its presence even in wealthy ones, it is likely the most common form of oppositional non-state governance, affecting millions of citizens across political, social, and economic contexts.

Political science has yet to adequately grapple with this reality. Empirically, the extent and range of variation of criminal governance remain largely unmeasured. Analytically, cognate literatures on state formation and non-state governance offer some traction but also obscure key aspects of how and why gangs actually govern. To be sure, scholars have provided rich ethnographies of criminal governance (e.g., Blok 1974; Feltran 2010; Jankowski 1991; Zaluar); warned of its potentially disastrous effects on democratization, citizenship, and the rule of law (e.g., Arias 2006; Córdova 2019; Leeds 1996; O'Donnell 1993); explored its causes (e.g,. Barnes 2018; Duncan 2015; Ley, Mattiace, and Trejo 2019; Yashar 2018); and developed typologies (e.g., Arias 2017; Barnes 2017). Building on these contributions, this article develops a generalizable conceptual framework that delimits criminal governance, its key dimensions of variation, and its underlying logics.

I make four contributions. First, I define criminal governance and situate it with respect to corporate, state, and rebel governance. I argue for a broad definition that encompasses not only governance over non-criminal "civilians"[2] but also over both members and non-member

0123

criminal actors and markets. Second, I develop a set of dimensions centered around straightforward questions—the who, what, and how of criminal governance—drawing on extant research to illustrate ranges of variation. Most novel is a Weberian dimension, contrasting charismatic and rational-bureaucratic forms of criminal authority. Third, I discuss the "why?" of governance, distinguishing several logics or motives that may lead criminal organizations to provide (or not) governance for non-members. Finally, I explore how criminal governance intersects with the state, refining the concept of crime–state "symbiosis" (Lupsha 1996) and distinguishing it from neighboring concepts. I conclude with a key implication: just as criminal governance cannot be understood in isolation from the state, state governance can no longer be fully understood apart from criminal governance (e.g., Arias 2006; Barnes 2017; Varese 2010).

What Is Criminal Governance?

Definitions, Scope Conditions, and Sources

I propose a simple, broad definition of criminal governance: the imposition of rules or restriction on behavior by a criminal organization. This includes governance over members, non-member criminal actors, and non-criminal civilians. Throughout, I use "criminal organization" (CO) as an atheoretical, inclusive descriptor to refer to any group engaged in criminal activity. I thus avoid the perennially contested question of what is, and is not, "organized crime" (e.g., Schelling 1971; Varese 2010). While governance is rightly seen as a key characteristic of organized crime (e.g., Campana and Varese 2018), it is practiced by a wide variety of groups, including local street gangs and diffuse prison-based organizations. Whether the type, size, or sophistication of COs correlate with their governance practices are empirical questions about which a conceptual framework should remain agnostic.

These definitions hinge on the word "criminal", which is contentious not only analytically but politically. A simple legal definition—say, "in violation of one or more laws"—is both overly inclusive, because rebels also violate laws, and naive to the ways that states sometimes criminalize broader populations and spaces (e.g., Simon 2007; Soss and Weaver 2017). Moreover, states are generally far more willing to negotiate with "political" than "criminal" armed groups, based on the perceived moral superiority of ideological motives over purely economic ones. This makes criminal status itself a field of real-world contention, with states undisposed to negotiation labeling insurgencies as "narco-terrorists" on the one hand and drug-cartel PR campaigns avowing political objectives on the other.[3] Scholars too, of course, find distinguishing between "greed and grievance" theoretically and empirically difficult. Focusing on armed groups' stated objectives offers some traction—since COs rarely seek formal state power—but nonetheless produces borderline cases, such as "lapsed" insurgent groups primarily engaged in illicit economic activities.

Scholars of criminal governance need not settle these thorny questions; they should, however, remain attuned to the politics surrounding "criminal status" in their cases. Many COs do not contest, and may even embrace, their status: Brazil's PCC, for example, calls itself the "Party of Crime." Murkier are armed groups like vigilantes, *autodefensas*, and paramilitaries that position themselves, and may be seen by segments of the population, as "lesser evils". Whether groups that blur the line govern differently than clear-cut COs, and how the politics of "criminal status" plays into such differences, are important avenues for research.

Another important scope condition concerns "governance." Provision of public order and enforcement of property rights undoubtedly constitute governance, but other common CO activities, on their own, may not. Can a criminal group that extorts residents without providing *any* services or imposing any rules be said to govern? Or a drug gang that occupies a street corner but otherwise imposes no rules on other traffickers or residents? One reason to exclude such cases is that stretching the concept to include them dilutes the puzzles of governance. It is not surprising that gangs predate, control the physical space where they conduct illegal transactions, or regulate those transactions. What *is* puzzling is that they also provide public goods and impose rules on additional actors.

As such, I adopt the following criterion: governance occurs when the lives, routines, and activities of those governed are impinged on by rules or codes imposed by a CO. Pure extortion, where the only rule is "pay," does not count. Conversely, and less plausibly, providing public goods while imposing no rules at all is closer to philanthropy than governance. These are theoretical limit cases; few COs, I suspect, engage in either pure extortion or philanthropy. Still, scholars may end up revising these scope conditions if real-world cases need to be accommodated.

To illustrate the concepts developed here, I draw empirical examples from multiple sources, including extant scholarship, journalistic accounts, and my own research in Latin America. The latter spans multiple projects—some collaborative—including hundreds of interviews, fieldwork in dozens of informal urban communities, and visits to more than twenty prisons in Brazil, Colombia, and El Salvador.[4] From these combined sources, I chose examples that illustrate the empirical range of governance activities, institutions, styles, and functions; in general, I make no claims of examples' novelty or representativeness.

Situating Criminal Governance

Criminal governance resembles, but differs critically from, other forms of governance. COs' elaborate bookkeeping, recruitment, and internal management practices draw

0124

parallels to corporate governance. When gangs provide public security and dispute resolution, while imposing rules on and sometimes taxing residents, it is tempting to treat them as "mini-states" (e.g. Skaperdas and Syropoulos 1997). Alternatively, we might note the lack of legal property rights and trust in illicit markets (Gambetta 1993), and conceive of criminal groups as spontaneous, non-state sources of governance (e.g., Skarbek 2011). Finally, state violence against COs, who in turn often frame their governance over marginalized civilians as a "struggle" against oppression (e.g., Lima 1991), suggests criminal governance as a diminished subtype of rebel governance. These approaches each yield some insight, but are misleading or incomplete in important respects.

First, criminal governance is more than corporate governance. Of course, COs generally seek to earn illicit profits, and states often invoke COs' allegedly "economic" interests to distinguish them from "political" or ideological armed groups. The most sophisticated COs have complex internal structures, management praxes, recruitment strategies, and "corporate cultures" that resemble those of licit firms. Moreover, the relationship among COs can be analogized to licit firms competing for market share: we can usefully distinguish criminal monopoly from oligopolies both competitive (violent) and collusive (pacted or peaceful). Yet unlike most licit firms, COs' governance extends beyond employees to wider criminal networks and often large civilian populations.[5] It cannot be assumed that such governance is undertaken purely as a means of maximizing profits, at least not in any immediate sense.

Organized crime is not exactly state making either. Scholars have long compared formal state governance with organized criminal activity (e.g., Blok 1974; Hobsbawm 1969; Tilly 1985), illuminating key aspects of state formation. Yet these now-familiar metaphors can impede a clear understanding of criminal governance by tempting scholars to simply reverse their direction. If states are essentially protection rackets, one might argue, then protection rackets must essentially be states. If the logic of stationary banditry drives autocrats' approach to taxation (Olson 1993), then autocratic extraction must be the goal of bandit rule (Skarbek 2011). If gangs are "primitive states" (Skaperdas and Syropoulos 1997) then we might expect warfare among them to produce "gang-building" and evolution toward more legitimate, less coercive forms of rule.

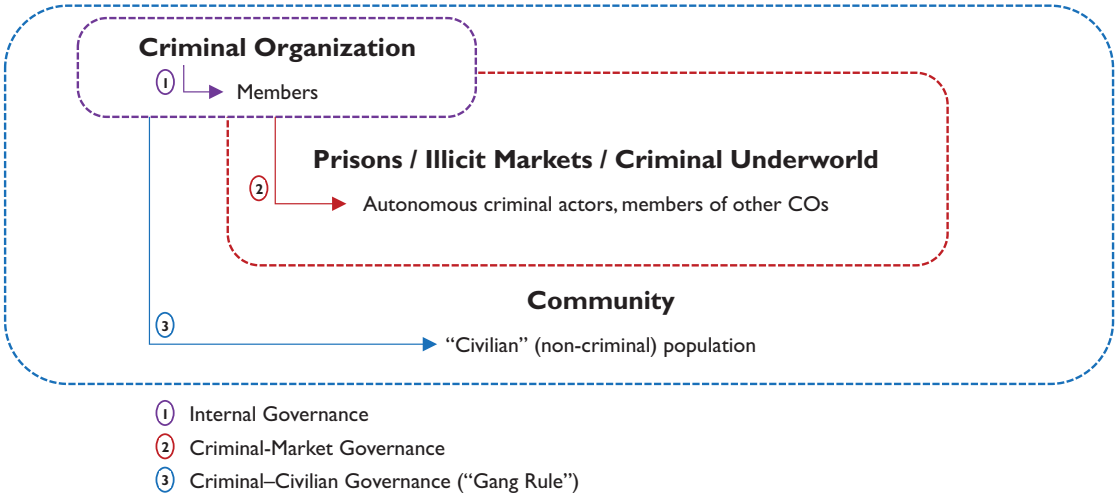
Such assertions may be accurate in specific cases, but they overlook a central fact: criminal governance occurs in settings where states—often quite powerful states—already exist. Indeed, states determine what is criminal, a precondition for the rise of COs (Koivu 2018). By definition, COs face *some* degree of state repression, repression which often structures the very spaces they govern: illicit markets and prisons are prime examples. Above all, and unlike Tilly's proto-states, criminal groups rarely challenge existing state authority wholesale. Rather, they govern in the interstices of state power (Yashar 2018), pockets of low state penetration typically surrounded by areas of firmer state presence, and which state forces can enter at will, though not always without violence. Thus, the view of COs as "mini-states" within their area of influence is often overblown, concealing as much as it reveals (Gambetta 1993).[6] Criminal governance cannot be understood apart from the state, its policies, its coercive apparatus, and its relation to citizens.

Criminal organizations' opposition to the state parallels that of insurgencies, and rebel governance is perhaps the closest cognate phenomenon to criminal governance. Kasfir's characterization of the study of rebel governance is equally true of criminal governance: "[It] analyzes the behavior of governments formed and operating under armed threat without benefit of sovereignty" (2015, 24). For both insurgent and criminal groups, Manichean antagonism with the state is just one endpoint along spectra of "wartime political orders" (Staniland 2012) and "crime–state relations" (Barnes 2017) that include mutual toleration and even active collaboration. Indeed, for both fields of study, paramilitaries and pro-government militias lie in a grey zone precisely because the state seems to outsource its core governance function to them (Kalyvas and Arjona 2005). Another key similarity is negative cases: some rebel and criminal groups *could* govern civilians, but do not. This makes the question "Why govern?" more relevant for rebel and criminal governance than for corporate or state governance.

Yet criminal and rebel governance differ in key respects. First, COs generally lack rebels' overarching goal of "competitive state-building," which renders insurgency "fundamentally distinct from . . . banditry, mafias, or social movements" (Kalyvas 2006, 218). Rebels, even when they govern in order to extract rents, "differ from criminal gangs engaged in similar activities because rebels hold territory with the political intention of taking over the state, seceding, or reforming it" (Kasfir 2015, 23). Indeed, these "political intentions" critically influence how states categorize and treat armed groups. Murky limit cases aside, countless COs govern civilians without hope or intention of obtaining formal state power. Relatedly, rebel governance occurs amidst civil war, typically—and for many scholars, necessarily—in "liberated zones" of strong territorial control (e.g., Kalyvas 2006; Kas r 2015; Weinstein 2006). Criminal groups rarely establish exclusive control. Their authority usually overlaps, often quietly, with the state's; COs may even welcome state governance in domains like health and education. Such complementarity, I will argue, permits "symbiotic" relationships between criminal and state governance; these seem quite unlikely for rebel governance. Finally, scholarship on rebel governance emphatically limits its scope to rule over civilians (Arjona 2016; Kasfir 2015), while that on criminal governance has—rightly, I argue—included governance over

0125

Figure 1
Who is governed? Subtypes of criminal governance



COs' own members and over non-member criminal actors and markets.

These are differences of degree. Not all insurgents truly hope to win state power, while some COs, perhaps, do (Pablo Escobar was famously elected to Colombia's congress in 1982). "Rebel governance," Huang's (2016, 52) systematic review shows, "can emerge very rapidly with only tenuous territorial control," while some COs do achieve strong territorial control, such as urban "no-go zones" that state forces can only enter via militarized offensives. Finally, for both rebel groups and COs, distinguishing between true members, affiliates and sympathizers, and uninvolved "civilians" can be theoretically and empirically difficult. At the limits, rebel governance might well approximate criminal governance in key respects.

Nonetheless, the modal cases of rebel and criminal governance look quite different. Precisely because criminals so often govern without state-building aims, overtly political ideologies, or strong territorial control, its study may yield new perspectives on the more established field of rebel governance. For example, Weinstein (2006) argued that insurgent groups that formed with "economic" rather than "social endowments" (and hence whose early joiners were more "opportunistic" than "activist") ultimately use more violence against civilians. By this argument, COs, whose endowments are presumably primarily economic, should be systematically violent toward civilians. This does not seem to be the case.

Dimensions of Criminal Governance

Who Is Governed?

Scholarship on "criminal governance" has adopted a wide purview, including COs' surprisingly sophisticated internal governance over members (e.g., Leeson and Skarbek 2010), as well as over a wider populations of non-member criminal actors, often within a specific illicit market, ethnic group, or territory (e.g., Feltran 2010; Skarbek 2011). Still, studies of "criminal governance" usually focus on CO rule over civilians (e.g., Arias 2006; Leeds 1996; Ley, Mattiace, and Trejo 2019). Since this phenomenon so tightly parallels the concept of "rebel governance," and is of such normative and substantive importance, it is tempting to restrict the scope of "criminal governance" to governance over civilians. This would be a mistake.

Instead, I distinguish three levels of criminal governance based on who is governed: CO members, non-member criminal actors, or non-criminal civilians (figure 1). There are two reasons for this capacious definition. First, the boundaries between levels in figure 1 are empirically and conceptually porous. Second, the mechanisms of governance at one level often spill over or are deliberately extended to other levels. Jointly studying governance at all three levels, while remaining sensitive to their differences, can illuminate key dynamics. In particular, COs that govern at only some levels constitute important negative cases of governance at other levels.

For *internal governance* by COs over their own members, the interesting question is not "why govern?" but "how?" COs face organizational challenges due to their illegality and have developed a rich variety of internal-governance mechanisms in response. Moreover, when COs come to govern non-members and civilians, it is often by extending or adapting their internal governance mechanisms. Even scholars primarily interested in CO governance over civilians can gain insight by studying how COs are internally organized, and why some do *not* govern civilians.

COs may also govern non-member criminal actors; these may be autonomous actors in a specific illicit market (say, retail drug dealers), non-member inmates housed in a gang-controlled prison, local street gangs subjected to the

0126

rules and taxation of a prison-gang, or even the criminal underworld writ large. I refer to this as *criminal-market governance*, although the object of governance need not be a market in the strict sense. Here both the why and the how of governance are puzzling: COs must have both motives and means for governing autonomous actors and groups that are, by definition, not law-abiding. Such governance is central to influential definitions of organized crime, flowing from Schelling's seminal insight that "organized crime is usually monopolized crime" (1971, 74). Campana and Varese, following Schelling, argue that a defining characteristic of organized crime is the attempt "to *govern* the underworld" (2018, 1383).

Finally, *criminal–civilian governance* denotes CO rule over people not directly involved in criminal activity. I propose "gang rule" as a handy (albeit imprecise) label, useful given its prominence. Millions of citizens live under some form of gang rule, with untold implications for state formation, democratic consolidation, economic development, and more. Were criminal governance limited to internal or criminal-market levels, it would still matter, but it would not be of first-order political and ethical importance. Moreover, gang rule is fundamentally puzzling: why do supposedly profit-driven COs with no claims on formal state power get into the business of governing civilians?

In practice, distinguishing CO members from other criminal actors and civilians can be difficult, Gang induction, for example, often involves intermediate phases of "hanging out" and provisional status, and informal neighborhoods almost by definition involve residents in economies and living arrangements of ambiguous legality. Family members—particularly spouses—of CO members often fall between levels, subject to more rules than average civilians, but less than members or criminal affiliates (e.g., Godoi 2015). CO governance at one level can thus easily spill over into others. For example, the PCC's prohibition of *talaricagem* (sleeping with a member's partner) necessarily extends beyond members to broader communities.

More importantly, governance mechanisms and institutions developed at one level can be deliberately adapted and extended to others, as the PCC's tradition of *debates* (tribunals) illustrates. *Debates* began as part of the PCC's internal governance within prison; they fostered collective decision-making through argumentation rather than rank-pulling. The practice extended beyond baptized members to the larger inmate population, as a means not only of resolving specific conflicts, but of embodying and inculcating collective norms (e.g., Biondi 2016; Marques 2010). When the PCC began prohibiting unauthorized violence in the urban periphery, *debates* became a critical governance institution, requiring consensus among a jury of imprisoned PCC leaders to decide which executions would be allowed (Feltran 2010, 65). But residents may also ask street-level PCC *disciplinas* (disciplinarians) to convoke *debates* over more quotidian disputes. Indeed, a police detective complained that "cases of neighborhood squabbles and even domestic disputes . . . are clogging up our wiretaps, which are capturing fewer conversations about major PCC actions" (*Redação Terra* 2008).[7] Studying institutions like *debates* at all levels of governance can thus illuminate their origins and effects.

What Is Governed?

Unlike insurgents engaged in competitive state-building, COs need not contest *all* aspects of state governance. Instead, CO rule over civilians is often narrow and discontinuous, regulating (say) property crime and contact with police but leaving other domains like interpersonal violence or electoral politics untouched. Similarly, criminal-market governance often covers some illicit activities but not others. In short, COs can govern a lot or a little, along a host of dimensions.

Figure 2 groups some widely observed dimensions by broad governance function—policing, judicial, etc.—and suggests empirical ranges of variation for each, from low to high levels of governance. I summarize these here, and provide further details based on extant research in the online appendix. While some dimensions seem logically related—for example, effectively prohibiting interpersonal violence likely entails providing dispute resolution—whether and how they are correlated remain empirical questions. Similarly, observing low levels of governance does not imply that COs lack the capacity to govern more vigorously; they may simply choose not to.

Future research should add to and reorganize this list as appropriate. Building and refining a collective compendium of criminal-governance activities is critical to the evolution of this research agenda, because it helps researchers know what to ask about. For example, interviews in Medellín revealed the ubiquity of loansharking by local gangs (Blattman et al. 2020), leading me to ask about, and learn of, similar though rarer moneylending in Brazil. Even when we find no evidence of an item from the list, it is good to have asked. A confirmed zero is different than missing data, and researchers, by identifying what their cases are negative cases *of*, can better situate them in the broader universe of criminal governance. "Asking anyway" is particularly important where gang rule appears weak and constrained: verifying that gangs are *not* engaged in certain forms of governance is an empirical finding in itself.

Policing and enforcement functions. COs prohibit and, to differing degrees, punish and prevent a series of behaviors. Prohibiting theft and robbery within and sometimes near the communities that COs operate in is quite common, reflecting the Lockean centrality of securing property to governance in general. Perhaps more unique to criminal governance, many gangs assume responsibility for preventing and punishing rape and sexual abuse, especially of children. Indeed, residents seem to demand that local

0127

Figure 2
What is governed? Dimensions of criminal governance, by function.

Function / Dimension	Degree of Governance: Low	Medium	High
Policing and Enforcement			
Prohibit theft / enforce property rights	Posted prohibition but weak enforcement	Effective prohibition; sense that property is secure	Ban theft in vicinity, storage of stolen goods in community; provide security for local firms
Prohibit sexual, domestic violence	Ban rape and pedophilia but weak enforcement	Effective ban on rape and pedophilia, perpetrators punished	Bans on domestic violence, sexual harassment, catcalling
Regulate homicide, interpersonal violence	Require notification	Require permission	Ban all unauthorized homicide
Law of silence (*omertá*)	Weakly enforced ban on going to police	Residents rarely go to police; general fear of being seen with police	Residents expected to actively protect gang members during police incursions
Control entrance, exit, and movement	Passive monitoring	Require identification on entry. Impose curfews.	Control outside movement; expel untrustworthy residents
Arms control	Only internal control	Civilian "registration" of arms	Regulate who may possess; requisition in times of war
Other public behavior	Regulate externality-producing behavior	Regulate clothes, colors, music referencing rivals	Regulate religious practice, sexual behavior, etc.
Judicial			
Dispute resolution	Only major or gang-related disputes; arbitrary process	Community disputes; two-person juries or institutionalized process	Multi-juror trials, "legal" precedents, public norms, appeals.
Trial & punishment; restorative justice	Only when directly gang-related	Limited involvement with civilians	Active investigation, recordkeeping
Debt collection and contract enforcement	Only gang-related	Enforce 3rd party debts and contracts	Elaborate record-keeping; "credit scores"
Fiscal			
Tax collection / extortion	Arbitrary, unpredictable	Regular payment schedule; fee-for-service	Receipts; mutual sense of what is being provided in exchange
Public goods and welfare provision	"Free": Coordination problems	"Cheap" services: e.g. clean streets, prune trees	"Expensive" goods: infrastructure, welfare, etc.
Micro-credit	Members	Non-member criminals	Civilians
Regulatory			
Illicit markets	Regulate drug consumption	Ban certain drugs or other activities	Tax criminal activity in area
Licit markets	Sell some legal goods	Tax some legal goods	Produce and monopolize legal goods; tax informal transport
Political:			
Electoral politics	Passively endorse candidates	Sell access to candidates; keep others out	Coerce voters, long-term relationship with candidates
Community politics	Participate	Try to coopt/penetrate	Actively destroy or dominate

Note: Examples of governance activities are cumulative, e.g., High levels include activities at Low and Medium levels.

0128

governing groups deliver swift and often brutal punishment for sex crimes (Gutiérrez-Sanín 2015), giving COs an inherent advantage over states (Caramante 2008). COs may also regulate domestic violence to varying degrees, and some enforce broader rules around sexual behavior and harassment. A trafficker in Recife, Brazil, for example, reported that among the "laws" his gang posted in his community was "Don't look at someone else's woman, even if she's not a gang member's, just a resident's."[8] Female residents in Natal, Brazil reported that after a prison gang had subsumed local street gangs under its banner, rules against catcalling were imposed, making it much easier to transit freely.[9]

COs also commonly regulate interpersonal violence, particularly homicide; ban contact with authorities (sometimes known as the "law of silence" or *omertá*); and restrict movement in, out, and beyond a community, including curfews, checkpoints, and bans on visiting rivals' territory. COs may also regulate firearm possession and use, especially among their own members. COs frequently impose rules around externality-producing behaviors such as loud music, motorcycle use, trash dumping, and other bugbears of community life: in one CO-controlled favela in Fortaleza, Brazil, a hand-painted warning read "each group of gossipers = 10 beatings."[10] Some COs ban colors, hairstyles, music, slang, and hand signs that reference rivals, including on social media. Many COs ban homosexuality among members, and some may regulate civilian sexual behavior. Though rare, COs have been known to regulate religious practices. In Rio, for example, the Terceiro Comando Puro CO prohibited Afro-Brazilian religions like Ubanda and Candomblé, with violent attacks on priests and houses of worship filmed and circulated online as warnings (*O Dia* 2017).

Judicial functions. Resolving disputes is a basic attribute of authority (Paluck and Green 2009), and a common dimension of criminal governance. COs' judicial mechanisms vary widely in sophistication and institutionalization. At one extreme, a single local boss (or designated subordinate) may hand down arbitrary decisions. At the other, exemplified by the PCC, institutionalized jury trials apply standardized norms, graded punishments, and even "legal" precedents (e.g., Telles and Hirata 2009, 54), with past infractions and punishments meticulously recorded in detailed personnel files and duly taken into account (Lessing and Denyer Willis 2019). COs may also offer contract enforcement and debt collection services to third parties.

Because they often begin as part of internal CO governance, judicial institutions represent a key domain for studying all three levels of governance conjointly. How far COs extend these functions to non-member criminal actors and civilians varies considerably, even among those with significant capacity. For example, in a favela stronghold of the powerful Família do Norte (FDN) prison gang in Manaus, Brazil, residents told me that the FDN only gets involved in "very serious fights, or if it involves somebody from the drug trade," and that in general, "People resolve things on their own, or go to the police. The [FDN] doesn't care."[11] Even the PCC has sought to restrict its sophisticated dispute-resolution services to "those who identify as being from the world of crime", provoking—incredibly—controversy among residents (Feltran 2018, 175).

In some cases, sentences have a "restorative" quality: recovering stolen items, forcing infractors to pay damages or "make things right" with the community. For example, one Medellín resident reported that "you see people , , , picking up trash and sweeping the streets, it's because they screwed up . . . when [gang members] don't give them a beating, they make them do community service."[12] Some COs allow or compel victims to carry out physical punishments against their aggressors; the PCC, for example, authorizes vengeance killings by successful plaintiffs (Feltran 2010, 67-8). How commonly COs—who are often deeply embedded in tight-knit communities—implement restorative forms of justice is a fascinating question for future research.

Fiscal functions. Taxation is so central to state-formation (e.g., Levi 1989; Olson 1993) that many scholars treat it as a proxy, "the next best thing" to a "perfect barometer of state power" (Slater 2010, 35). Among COs, taxation varies more widely. Protection rackets charge for "protection", hence their similarity to states (Tilly 1985); but many governing COs are not protection rackets. In general, the more COs earn from illicit market transactions (especially drug trafficking), the less they rely on taxation.[13] Taxation further varies in who must pay—more commonly local businesses than residents—and whether COs charge flat fees or attempt to price-discriminate based on income or profits.

On the flip side of taxation, many COs provide public goods beyond basic social order and property rights. COs can—essentially for "free"—solve coordination problems like deciding where to locate a trash dump or a moto-taxi stand. At higher levels of governance, they may provide "cheap" goods that mostly require labor, like street-cleaning and tree-cutting,[14] or more resource-intensive goods, like recreational facilities, drainage, and public illumination. Many COs also provide welfare benefits for the needy, often in the form of food staples and medication.

COs may also provide financial services at all three levels of figure 1. In Brazil, the PCC's drug business operates on consignment: thousands of members and non-member affiliates obtain merchandise on credit, with strict repayment schedules. However, the PCC appears not to charge interest, and loansharking to civilians (known as *agiotagem*) is widely frowned upon as usury by Brazilian COs. In Medellín, by contrast, loansharking (known as *gota a gota* or *paga-diario*) is very common among local gangs (Blattman et al. 2020).

Regulatory functions. COs governance over non-member criminal actors often involves regulating illicit markets, especially drugs: determining who can work where,

0129

sometimes setting prices, and—spilling over into civilian governance—deciding which drugs can be consumed where. COs may also regulate criminal activities beyond those they engage in. For example, Rio's drug syndicates often prohibit bringing stolen vehicles into their territory for disassembly. Legal markets may also fall under CO regulation, taxation, or even direct provision, especially for "universal" goods like food staples and utilities. In Medellín, COs are increasingly involved in the distribution and sale of *arepas* (tortillas), eggs, dairy products, and even livestock: in 2018 police seized an *arepa* factory built by the sophisticated Los Triana CO. In Rio, police-linked *milícias* frequently operate forced monopolies on cooking gas and cable TV, and tax informal transportation (Freixo 2008).

Political functions. Even among COs capable of coercing voters or candidates, involvement in electoral politics and community governance institutions varies widely (e.g. Arias 2006, 2017; Córdova 2019; Leeds 1996). Some simply ignore elections, or endorse a candidate; others act as brokers, selling physical access to voters in areas they control; and some actively coerce voters and even run their own members as candidates. Arias (2017) documents immense variation across multiple settings, finding that CO proximity to officials predicts more direct political involvement, consistent with studies of voter coercion by pro-state militias and paramilitaries (e.g., Acemoglu, Robinson, and Santos 2013).

Emergency Response. While this article was in press, the COVID-19 pandemic hit. States everywhere took unprecedented governance actions like imposing lockdowns and regulating economic activity. Though COs' responses have varied, some with strong governing authority relative to the state appear to be "stepping into the breach". In Rio, for example, COs have prohibited visits by high-risk foreigners, policed price gouging by supermarkets and pharmacies, provided hygiene supplies to residents, closed businesses (while reducing protection fees where charged), and enforced lockdowns and curfews. These measures constitute sharp increases along some of the dimensions presented here: regulation of licit markets, control over movement, public-goods provision, and so on. Whether they ultimately complement or undermine official emergency-response efforts, and whether emergencies ultimately entrench or erode COs' governing authority, are both critical avenues for research.

Who Governs, and How? Styles and Structures of Criminal Governance

Different types of organizations are likely to be interested in or capable of different sorts of governance, at different levels. While typologies of COs abound, researchers need not settle thorny questions like whether street gangs are organized crime in order to think about how governance differs systematically across COs. Rather, they should seek to link attributes of the COs they study to the criminal governance patterns they observe (e.g., Arias 2017; Skarbek 2011).

A few examples bear mentioning. Drug cartels appear to exercise governance in the areas where they exert territorial control, often along trafficking routes and cultivation zones (Duncan 2015; Ley, Mattiace, and Trejo 2019). Traditional mafias also tend to govern their "home" towns and neighborhoods (Blok 1974; Gambetta 1993) and have had difficulty penetrating areas dominated by other ethnic and racial groups (Reuter 1995). Street gangs are inherently local, their governance activities often tied, and limited, to a specific community (e.g., Hagedorn 1994; Jankowski 1991). Prison gangs, in contrast, have learned to govern at a distance; they organize retail drug markets at city- and even state-wide scales, through criminal-market governance over street gangs (Skarbek 2011) or by subsuming them into larger "corporate" structures (e.g., Cruz 2011; Hirata 2018). Relatedly, state repression may affect the governance capacities of different COs differently; for example, policies that favor mass incarceration may strengthen or weaken COs depending on whether their locus of power lies within prison or on the street (Lessing 2017). Racial and ethnic composition of COs also matters: US prison gangs are organized along racial and ethnic lines, limiting their street-level governance to co-ethnic neighborhoods, while Brazil's prison gangs are multiracial, permitting city-wide hegemony. COs' sources of income are also likely to affect governance.

Styles and quality of governance—of any kind—can be analyzed along many dimensions: how effective, how democratic, and so on. Here, I propose two dimensions as particularly relevant for criminal governance, both flowing from a Weberian perspective: the structure and basis of authority, and its legitimation.

Structure and basis of authority: Personalistic versus rational-bureaucratic. CO internal governance varies in how authority is structured and exercised, with potentially critical downstream effects on governance over non-member criminals and civilians. COs vary widely in their organizational structures, but as with all organizations, these can be arrayed along a Weberian spectrum from personalistic-charismatic to rational-bureaucratic.

Brazil's two largest COs, Rio's Comando Vermelho (CV) and São Paulo's PCC, approximate these ideal types. In the CV, power is concentrated in and flows from individual bosses (*donos*, literally "owners"), well-known charismatic leaders with strong, hierarchical control over the favela communities they are from or associated with. Each sits atop, and is a residual claimant on the profits from, a vertically integrated "firm" (*firma*) that holds a local monopoly on drug retailing. Most *donos* are incarcerated at any given time, and they appoint trusted lieutenants to run day-

0130

to-day operations and remit profits. They ensure loyalty "in the old style of Brazilian patronage, making employees and neighbors dependent on the gifts and benefits they distribute according to their whims and interests" (Zaluar 2004, 400).

There is no strict hierarchy among *donos*; rather, they form a deliberative council and "horizontal mutual-protection network" (Misse 2003). This confraternity wields a certain moral authority, laying down codes of behavior, resolving disputes, and ratifying *donos*' "right" to control and profit from illegal activities in their respective territories (Grillo 2013, 78). Yet the CV collective can make only limited claims on *donos*; it can suggest, but not demand, contributions of financial and military resources to collective causes, for example. Such confraternities of charismatic authority figures may be the modal form of organized crime: Mexico's "cartels" and the Sicilian Mafia's *Comissione* function similarly (Grillo 2011; Paoli 2002).

The PCC is both more and less hierarchical. A deliberative body, the *sintonia geral e final*, has ultimate authority over a cascade of lower-level *sintonias* (committees) replicated at each level of management (e.g., neighborhood, municipality, state). The PCC maintains centralized personnel and financial records for its more than 30,000 members, most of whom are located outside its home state of São Paulo (Paes Manso and Dias 2018). In these ways, the PCC resembles a large corporation with branch offices spread across state and even national lines. But the PCC deliberately flattens its hierarchy and depersonalizes authority within it. Each decision-making node has at least two leadership positions, guaranteeing that individuals cannot make "isolated decisions" that might adversely affect the "collective" (Biondi 2016, 83). Most decisions are made by consensus: *debates* usually involving PCC leaders and those governed, are guided by norms of not "exercising power over others" but rather making one's case on the merits (Biondi 2016, 82-5).

This contrast in structure and style of authority manifests in markedly different approaches to key institutions like drug-firm ownership and job posts (known in both COs as *responsas*) (Hirata and Grillo 2017). CV *donos* cannot sell or easily transfer ownership of their firms and the territory they are tied to; as with medieval land tenure, *donos*' property rights are not alienable, since they inhere in the personal, charismatic qualities of the *donos* themselves (Grillo 2013, 70-80). In the PCC, firm ownership does not confer authority over surrounding territory; as such, firms may be owned by non-members (as long as they follow PCC rules), and can be bought and sold freely. In the CV, *responsas* are managerial or operational jobs within a drug firm's hierarchy, bestowed by *donos* on the personalistic basis of *consideração* (esteem or gratitude). The "gift" of a *responsa* ties its occupant to the *dono* and confers a responsibility to protect and expand the *dono*'s patrimony (Grillo 2013, 72). In the PCC, *responsas* are essentially political postings, conferring responsibility for ensuring that PCC rules and norms are observed in specific domains; they are assigned by committees, based on individuals' perceived ability to act effectively in the collective interest (Biondi 2016). Members rotate rapidly through *responsas*, often taking up postings in neighborhoods, municipalities, and even states that they are not from. Besides guaranteeing continuity amidst frequent imprisonment, transfer, release, and death of members, this system was deliberately designed to depersonalize authority, as revealed by both ethnographic evidence (Biondi 2016) and the sworn Congressional testimony of Marcola, the PCC leader who instituted it (Marques 2010).

Adapting Weber's (1946) classic distinction, I characterize the CV's model as "charismatic-personalistic" and the PCC's as "rational-bureaucratic." Figure 3 illustrates the distinction and summarizes key characteristics of each type. As with most concepts, real-world cases only approximate ideal types. The PCC certainly has its charismatic leaders—including Marcola, his own self-effacing discourse notwithstanding (Marques 2010)—many with their own *quadrilhas* ("crews") whose internal structure may resemble CV clans.[15] More broadly, PCC behavior may fall short of its ideals, especially outside of its core territory; as one affiliate in a state the PCC dominates only partially put it, "lots of theory, little practice."[16] Conversely, the CV may be selectively emulating PCC centralization: its central council is reported to have begun demanding—not just eliciting—contributions.[17]

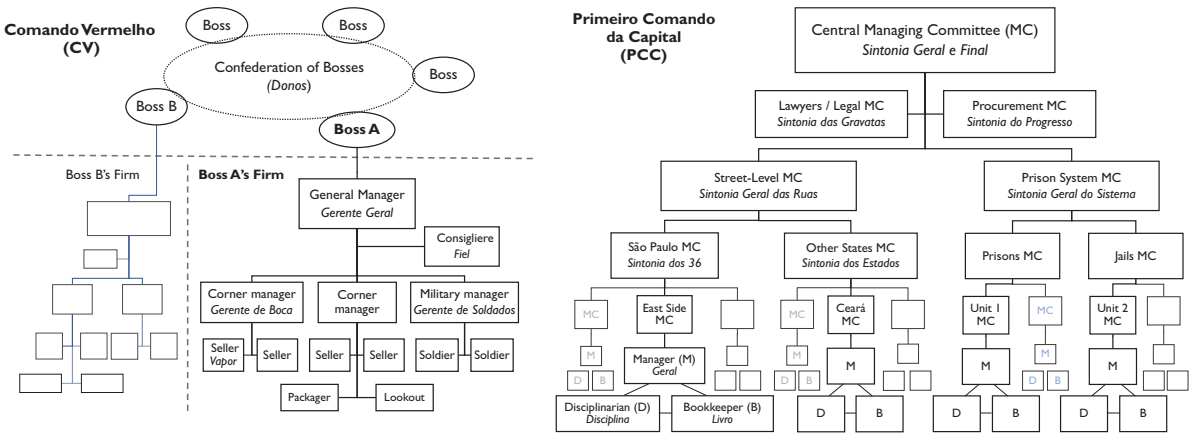
While the PCC may be a rational-bureaucratic outlier, careful observation of multiple COs within specific contexts can reveal important, if compressed, variation. Medellín's shifting panorama of flexible governance hierarchies among armed groups—including neighborhood-level *combo* gangs, larger mafia organizations known as *bandas* or *razones*, insurgent militias, and full-blown paramilitary armies—provides many examples (e.g., Arias 2017; Giraldo, Alonso, and Sierra 2007). To take one, Blattman et al. (2020) report variation in the structure and style of *bandas'* governance over *combos*. Typically, *combos* are led by a "coordinator" (*coordenador*), a charismatic leader who, like Rio's *donos*, is tied to his neighborhood and a residual claimant on his *combo*'s rents. Under many *bandas*, *combos* retain their local identity and proper names; *bandas* may appoint or fire specific coordinators, but replacements are usually drawn from within each community. However, the Los Triana *banda* subsumes its *combos* into a vertically integrated structure. *Combos*' names, local identity, and autonomy are effaced, and coordinators are rotated among neighborhoods by Triana leadership as needed. Thus, although Los Triana may be less rational-bureaucratic than the PCC (as suggested by the fact that "Triana" is a family name), it is probably more rational-bureaucratic than the average *banda* in Medellín. Identifying such within-

0131

Figure 3
Structure and basis of criminal authority: Charismatic-personalistic versus rational-bureaucratic

Charismatic-Personalistic:
- Confederal structure among bosses
- Clan-like substructures under bosses
- Non-alienable property rights
- Arbitrary punishments
- Rhetorical emphasis on identity, loyalty
- Leaders' personalities are prominent

Rational-Bureaucratic:
- Unified, hierarchical structure
- Standardized, replicated, rotating job posts
- Alienable property rights
- Graded, institutionalized punishments
- Rhetorical emphasis on universal norms
- Few well-known leaders or figures



Note: Charts adapted from Misse 2003 and Dowdney 2003 [CV]; and Godoy 2013 [PCC].

context variation among COs may be more fruitful than seeking universal criteria for comparison across contexts. Moreover, by holding multiple factors constant, subnational and submunicipal research designs can help identify CO-level factors that might explain such variation.

Legitimacy. If "legitimacy"—with its heavy normative connotations—is a perennially contested concept with respect to states, then "legitimacy in criminal governance" may seem downright oxymoronic. Nonetheless, how COs' authority is viewed, and by whom, are critically important questions. I distinguish two dimensions of legitimacy—"bottom-up" and "top-down"—along which CO governance may vary. The former understands legitimacy as flowing from the consent of the governed, the latter as "officially sanctioned" by other power-holders, such as states in the international system. Top-down views that discount the agency of the governed can be deeply, and to some tastes, "agreeably cynical" (Tilly 1985, 171), but these two approaches need not be mutually exclusive. For example, states' decisions to confer legitimacy on one another might depend on whether each has the consent of those it governs.

Both forms of legitimacy matter to criminal governance. COs are, by definition, de-legitimated by states, who outlaw and presumably combat them. This dearth of top-down legitimacy—even more severe than that faced by insurgencies—generally forecloses not only open negotiation with states but virtually all direct engagement in politics. Instead, COs may rely on more (top-down) legitimate social actors like community leaders or NGOs for mediation (Arias 2006), or simply turn to corruption and anti-state violence to keep law-enforcement at bay. Yet important variation in top-down legitimacy of COs within settings may be detected. Arias (2017), for example, finds that the relative legitimacy enjoyed by groups like Rio's police-linked *milícias* (who portray themselves as a "lesser evil" than drug traffickers) leads them to engage more actively in electoral politics, striking long-term agreements with allied candidates.

Weber characterized bottom-up legitimacy as "voluntary submission" (1947, 324) in hopes of making it empirically observable, but oppressed people may hide their true feelings. Trying to assess whether civilians meaningfully consent to their armed domination by criminal organizations may seem particularly perverse. If, as Wedeen argues, "conflation of legitimacy with acceptance, acquiescence, consent, and/or obedience is problematic for *any* political regime" (2015, *xiv*), then it is surely more so for a *criminal* authority.

Still, the pragmatic question of how willingly subjects comply with the rules and restrictions imposed is of even greater importance to COs than states. Like states, COs reap standard benefits from "voluntary submission", including less need for costly punishment of transgressors

0132

(Skaperdas and Syropoulos 1997). But unlike states, COs face an immediate threat *from* states if disgruntled subjects inform on them to police. True, residents risk severe punishment for openly violating *omertá*, and accountability may be weaker the greater COs' coercive and territorial control. Nevertheless, residents may possess important "weapons of the weak": they can often call anonymous tip lines, refuse to hide CO members during police raids, or make normative appeals, particularly via community elders or religious figures. Even in favelas dominated by Rio's most powerful drug syndicate, residents regularly use tip-line denouncements to sanction poor gang governance (Barnes 2018). This suggests that virtually all governing COs have strong incentives to keep their subjects minimally satisfied, and that failure to do so may manifest in observable ways.

While establishing absolute measures of legitimacy is daunting, detecting variation among COs from the same setting, or within COs over time, is often feasible. In Rio, for example, Dowdney (2003) reports residents' complaints of increasingly cruel and coercive governance, as rival prison-gang invasions left non-locals as governing authorities. Conversely, favela residents in Natal, Brazil, told me that the takeover of their community by a single prison gang, subsuming myriad incumbent street gangs, led to significant improvement in the quality of governance: "Now there is peace and respect; our only problem is the police".[18] While subject to severe selection biases, since the most disgruntled may be the most terrified to speak, anecdotal data can still stake out a range of variation. For example, enumerators for a business-extortion census in Medellín told me that respondents in the community we visited were far more positively disposed to paying the *vacuna* (protection fee, literally "vaccine") than in the previously visited community, where business owners "vented" deep frustration at high fees and inadequate protection.[19]

All things equal, bottom-up legitimacy is likely reduced by any taxes (i.e., protection fees) charged to residents and businesses, and by COs' use of violence to resolve disputes and achieve their desired outcomes (Arias 2006; Barnes 2018), though residents may tolerate or even support high levels of both if overall CO governance meets shared expectations of behavior and performance (e.g., Gordon 2019). For example, a Natal resident expressed opprobrium at the local prison gang's lethal punishments of infractors, but recognized this as a "necessarily evil" to produce the security, orderliness, and respect for women that the gang's takeover had brought.[20]

For Weber, these shared expectations—the basis on which authority is accepted as appropriate by the dominated—vary with the structure of authority: charismatic rulers are legitimated by virtue of their unique, personal characteristics; bureaucrats by virtue of adherence to universal rules and norms and efficacy in carrying out assigned duties. An intriguing question is whether those subject to criminal governance judge governing COs on different bases depending on their structure of authority. Recent work on the PCC suggests that people under rational-bureaucratic governance indeed judge local leaders against universal normative standards (Biondi 2016; Feltran 2018).

Why Govern?

COs' reasons for internal governance are similar to any organization's: to efficiently organize activities, avoid schisms, create operational capacity, and so on. CO governance of criminal markets and underworlds is more puzzling, since many COs never make the attempt. More puzzling still, why do COs govern civilians, to differing degrees, along differing dimensions? Given the impact of gang rule on civilians' lives, these are preeminent questions for the criminal-governance research agenda. As raw material for theory-building and -testing, this section distinguishes some plausible logics motivating criminal governance, of both non-member criminal actors and civilians. Real-world cases are likely to involve multiple logics, possibly ones not anticipated here.

Why Govern Other Criminals?

The conventional wisdom in organized crime scholarship is that COs govern non-member criminal actors in order to tax them. While compelling, this explanation is not exhaustive. Some prison gangs, for example, do not tax the prison masses, suggesting alternative motives like self-protection. Beyond this, many COs claim to govern the criminal underworld (or parts of it) for ethical, political, or ideological reasons. Of course, such motives may ultimately serve COs' interests, and so could be lumped into an all-encompassing conception of "rent-seeking." Instead, I disaggregate these logics, since the conditions under which they come into play are likely to vary.

Rent extraction/extortion. Schelling famously identified organized crime with the extraction of tribute from other, presumably *un*organized, criminal actors: "*Organized crime* does have a victim . . . the man who sells illicit services to the public. And the crime of which he is the victim is the crime of extortion" (1971, 76). Schelling focused on protection from police as the source of COs' extortionary power, but the same logic applies when COs govern, pacify, and streamline illicit markets like the retail drug trade, creating a taxable economic surplus (e.g., Skarbek 2011). This logic predicts that variation in criminal governance tracks the tradeoff between COs' costs of provision and their potential gains from taxation.

Self-protection. Many prison gangs arise as self-protection pacts, to ward off predation by other inmates and abuse by officials. Even if establishing social order among the prison masses yields additional benefits for gang members, they enjoy physical security as much as the larger inmate

0133

population. This motive helps explain governance in the absence of taxation or extortion. For example, whereas California prison gangs reportedly tax all inmates in the wings they control (Skarbek 2011), Brazilian prison gangs generally do not. The PCC, known for charging a monthly membership fee, exempts unbaptized "affiliates" and other inmates (Paes Manso and Dias 2018). Similarly, mafia neighborhoods are notoriously safe, since bosses prohibit robbery and violent crime where they live; since this leaves no criminal rents to tax, the primary motive is likely protection of members and their families.

Political leverage. COs may govern criminal populations in part to win loyalty and build political constituencies, ultimately amassing leverage against the state. This logic is pronounced among prison gangs. For example, Brazil's CV, after establishing hegemony within its home prison, quickly mobilized the inmate population in hunger strikes against guard abuse—a strategy gleaned from the leftist militants with whom its founders were imprisoned (Lima 1991). American prison gangs have also effectively organized hunger strikes to protest overcrowding and solitary confinement (Reiter 2014). A more aggressive tactic is instigating strategic prison rebellions, often involving hostage-taking, to force official concessions. While not all rebellions are planned, some clearly are: the PCC's 2006 "mega-rebellions" occurred simultaneously in ninety-six different prisons scattered across multiple states, coordinated by cell phone.

COs with street-level governance capacity may also orchestrate public protests, violence-reducing truces, or chaos-causing attacks by criminal actors as part of "violent lobbying" strategies. The state of Ceará, Brazil offers examples of all three. In 2016, prison gangs announced a "Union of Gangs," consolidating power over myriad street gangs, and ordered previously warring members to join in a peaceful "Crime March" (Alessi 2016). The truce was short-lived, but Ceará's prison gangs came together again in 2019, launching a months-long wave of bombings and bus-burnings—mostly carried out by non-member youths—to protest the government's plan to end segregation of prisons by gang.

Normative reasons. COs often espouse ethical or even ideological reasons for governance. Prison-gang prohibition of rape, for example, is generally presented as a moral victory over an execrable practice. Virtually all Brazilian prison gangs have adopted a version of the CV's motto "Peace, Justice, and Liberty", and regularly frame their actions as part of a "struggle" (*luta*) against official injustice and depraved rivals. Gang leaders in Medellín, with long-standing ties to the country's anti-communist paramilitaries, often present their governance activities as high-minded efforts to rid poor neighborhoods of "subversion."[21]

Whether normative concerns truly motivate costly governance activities or are post-hoc justifications is often unclear, in part because governance may also yield economic, political, and strategic advantages. For example, some scholars argue that the PCC's ban on killing was a normatively motivated response to a vicious cycle of homicides among young men (e.g., Feltran 2018); the resulting collapse in violence nonetheless gives the PCC critical bargaining leverage. Indeed, this intermingling of normative and strategic concerns informs its slogan "Peace among thieves; war on the state." Despite such ambiguity, empirical variation in the sorts of normative appeals COs make may offer clues to the extent of their sincerity.

Why Govern Civilians?

Taxation/extortion. If states provide order, security, and governance with the ultimate aim of maximizing revenue-extraction from subjects (e.g., Levi 1989; Olson 1993; Tilly 1985), perhaps COs do as well. Many COs indeed function as protection rackets, whose customers often include civilians (Gambetta 1993). However, COs with other income sources—especially drug trafficking—often abstain from taxing civilians, suggesting additional motives.

Reduce exposure to policing and repression. Another common explanation of gang rule is that it minimizes police incursions and patrolling in CO territory. This logic obviously underlies *omertá* (the "law of silence"), as well as prohibitions on crimes that draw police attention, such as homicide, sexual violence, and brawls. COs may also regulate activities that could lead residents to call the police, such as theft, domestic violence, and public drug consumption. Supplying dispute resolution, restorative justice, and enforcing community norms offers residents convenient alternatives to state authorities for quotidian problems. COs broader "hearts-and-minds" efforts to foster loyalty, sympathy, or even partisanship among residents may also flow partially from this logic, if loyal residents are more willing to hide CO members and merchandise, or facilitate their flight, during police raids.

Political leverage. Instilling loyalty may also help COs mobilize residents to engage in protest activities, such as when Rio traffickers order residents to "go down the hill" en masse to protest police killings, or when Mexico's Família Michoacana drug cartel organized highway blockades to protest the deployment of army troops to the state (*Reforma* 2009). Such civilian-backed protest activities, even if partially coerced, can help COs extract policy concessions from leaders, and complement more violent lobbying.

Increase profits. For COs engaging in illicit economic activity, especially retail drug trafficking, governance is likely good for business. Beyond preventing loss to police repression, COs have incentives to make customers feel

0134

safe enough from property and violent crime to approach points of sale. Some public-goods provision requires outlays but may nonetheless increase CO profits: in Rio, drug syndicates commonly throw weekly *bailes*, dance parties with DJs or live bands—an important source of entertainment in neighborhoods bereft of cultural options—at which they socialize and sell drugs (Grillo 2013).

Crowd out or deter potential competitors. This logic may help explain situations where COs govern but do not seem to earn large rents in return. Just as community support for the local CO may reduce that CO's exposure to police, it may, by the same token, make it harder for a rival CO to invade or infiltrate. Similarly, CO leaders might fear that disgruntled civilians could abet an internal coup.

Other non-material benefits. COs may also be motivated by status concerns, especially access to women. While generally understudied, anecdotal evidence indicates that sex plays an important role in gang recruitment and CO activity. A key empirical question, though, is whether status accrues only or more to COs and members when they govern. If simply being a flush drug trafficker wins one status, then this logic cannot explain why COs govern.

Some COs also express a sense of duty to the community, especially if members are locals. Failing to prevent or punish certain crimes—especially rape and pedophilia—may bring a sense of shame or impotence to local COs, though these may overlap with strategic factors: Gutiérrez-Sanín (2015), for example, argues that Medellín gangs' failure to punish sexual violence in the 1980s led to widespread civilian disaffection, facilitating their replacement by disciplined guerrilla cadres.

Complementary to internal governance. Governing civilians may facilitate CO internal governance by providing leaders with opportunities to train and evaluate mid-level managers. For example, a high-ranking Medellín *banda* leader portrayed governance as a useful barometer of neighborhood *combo* leaders' skill, because "you can always see if the neighborhood is organized or not."[22] Governing civilians well might also signal COs' broader capacity to non-members, whether potential recruits or rivals.

Criminal Governance and the State

Criminal governance inescapably undermines the state's monopoly on the use of force, but is not necessarily diametrically opposed to states' interests. True, a key motive for criminal governance is keeping the state at bay, sometimes through debilitating anti-state protest and violence. States, in turn, may find criminal governance sufficiently embarrassing and problematic to combat it through muscular interventions that, often enough, fail or backfire. Yet criminal governance can also be inoffensive or even useful to states, whose relationship to COs may blend violence and repression at one level with detente or even cooperation at another. Criminal governance thus enriches the broader study of crime–state relations by illuminating both novel mechanisms of counterproductive state repression and undertheorized, "symbiotic" forms of crime–state cooperation, distinct from the cooperative arrangements most widely discussed in the literature.

Among prominent conceptual frameworks of crime–state relations (e.g., Arias 2017; Barnes 2017; Koivu 2018; Lupsha 1996; Magaloni, Franco-Vivanco and Melo 2020) Snyder and Durán-Martínez 2009), we can discern three broad types of cooperative arrangements. In the first, what Barnes (2017) calls "Integration," COs so penetrate the state that they can use its resources for their own criminal ends. In the other two types, the state remains autonomous from COs, but tolerates their illicit activity in exchange for key benefits (Koivu 2018). In the first, vividly characterized by Snyder and Durán-Martínez (2009) as "State-Sponsored Protection," the key benefit is illicit rents, often from drug trafficking.[23] In the second, what Barnes (2017) calls "Alliance," states rely on COs' coercive force to neutralize third-party threats; this too has obvious state-building benefits (Koivu 2018). These forms can blend together, as when leftist rebels are "bought off" by allowing them to participate in drug trafficking (e.g., Snyder and Durán-Martínez 2009, 270).

Criminal governance does not fit easily into these forms of state-crime cooperation. Governing COs are often highly marginalized or even demonized; this lack of top-down legitimacy makes Integration basically unthinkable. Criminal governance also seems unlikely to sustain State-Sponsored Protection, since many governance activities, such as public-goods provision and dispute-resolution, neither generate rents nor constitute crimes, while others such as extortion are difficult for police to observe, and hence to target for bribe-collection. Finally, criminal governance differs from Alliance in that COs' coercive capacity—though it may help keep order—does not counter an organized threat to the state.

A more apt concept is crime–state "Symbiosis." First, however, the term must be clarified. Lupsha (1996) introduced it to describe the "evolution" of organized crime's relation to the state, from predatory to parasitic to symbiotic, emphasizing mutual benefits and dependence. Unfortunately, it has since become a catch-all for virtually any "linkage between [COs] and the state apparatus" (Mingardi 2007, 57); indeed, Integration, Alliance, and State-Sponsored Protection all fit within this overstretched definition.[24] Recently, though, scholars of São Paulo have used the term more precisely, to capture a self-reinforcing cycle of mass incarceration and PCC expansion, and the mutually beneficial "pacification" of prisons and periphery that followed (e.g., Adorno and Dias 2016; Denyer Willis 2009).

0135

Building on these ideas, I propose a narrower definition of Symbiosis. First, it implies coexistence of separate entities, and so differs fundamentally from Integration. Second, mutual benefits constitute a necessary but not sufficient condition for Symbiosis, since they also play a key role in Alliance and State-Sponsored Protection. Symbiosis differs in that it need not involve strategic, deliberate, or even conscious cooperation. Rather, it evokes distinct organisms each of whose life functions and survival strategies produce things—possibly useless or even harmful to the producer—that are useful or "nutritive" to the other. In blunt biological terms, one creature's waste may be another's food. As such, Symbiosis does not require affinity, aligned preferences, or a division of mutually desired resources; it does, however, imply entanglement, a growing together, and mutual dependence that may deepen over time—traits Lupsha (1996) emphasized.

Symbiosis thus defined encompasses state actions and policies that inadvertently strengthen COs and fuel criminal governance in particular. Of course, state repression directly generates some of the incentives for criminal governance, as discussed earlier. In addition, anti-crime and mass-incarceration measures can provide resources for CO governance, including recruitment and networking opportunities, incentives for collective action, and even coercive power over those governed (Skarbek 2011). Cruz (2011), for example, argues that Central American *mano dura* policies helped prison-based *mara* gangs extend governance over street-based cliques and, ultimately, civilians; one reason is that mass arrests and harsher sentences increase street-level actors' incentives for obeying imprisoned gang leaders (Lessing 2017). Even policies designed to weaken prison gangs can be counterproductive: transferring leaders to far-flung prisons can facilitate gang propagation, while harsh solitary-confinement regimes can become badges of honor for leaders (Salla 2006, 298) and push COs to develop rational-bureaucratic structures like rotating leadership posts (Dias 2009, 138). In all these cases, state policy "worked" in an immediate sense, but *in so doing* inadvertently fostered criminal governance.

Conversely, criminal governance may, from COs' perspective, inadvertently facilitate undesirable state actions, policies, or neglect. Most vividly, CO governance over sprawling, overcrowded, and ever-expanding prison systems helps keep mass incarceration itself viable. Such governance clearly benefits imprisoned gang leaders and governed inmates by constraining prison violence. But *in so doing*, it allows states to maintain large inmate populations while skimping on infrastructure, guards, food and medical services, and so on. In urban peripheries, providing public order and stable property rights may help keep police out—likely one of COs' prime motives—but it also reduces the costs to states of broader, ongoing neglect of marginalized areas and populations. What are, for COs, unintended consequences of criminal governance can be very valuable to developing states. "Symbiosis" captures this sense of inadvertently—or even unconsciously—mutual benefits.

Conclusion

Despite key contributions across disciplines (e.g., Arias 2017; Blok 1974; Feltran 2010; Hobsbawm1969), criminal governance remains understudied in political science. More common yet less salient than rebel governance, it structures the lives of tens of millions of people in Latin America alone (Lessing, Block, and Stecher 2019), without triggering domestic states of exception, international interventions, or even significant media attention. Its ubiquity, variation in intensity and style, and paradoxical relationship to state governance all merit increased engagement. To paraphrase a similar realization of how much disciplinary blinders can hide from view, criminal governance "is no mere outlying peninsula but rather an entire intellectual continent on the map" of governance activity (Hirshleifer 1994).

Mapping this "hidden continent" requires a solid conceptual foundation attuned to criminal governance's defining characteristic: its embeddedness in a larger domain of state power. I suggested capacious scope conditions for criminal governance, to illuminate common mechanisms of CO-governance over members, non-member criminal actors, and non-criminal civilians alike. I then proposed a series of dimensions based on the who, what, and how of criminal governance, and described their ranges of variation. I proposed hypothetical logics that may help future scholars explain why criminal organizations go to the trouble and expense of providing governance, and to such differing degrees. Finally, I refined the concept of "Symbiosis" to capture a form of crime–state cooperation uniquely relevant to criminal governance.

The embedded quality of criminal governance has two central implications for future research. First, we cannot understand either the causes or consequences of criminal governance in isolation from the state. In some cases—like prison populations and illicit drug markets—muscular state action *creates* the objects of criminal governance. In other cases, like informal neighborhoods, the state may be sufficiently weak or negligent to allow criminal groups to establish local authority over civilians, yet present enough—just a tip-line call away—to serve as a useful check on criminal authority. The consequences of criminal governance are also bound up with its embeddedness, not only because COs may hobble (Córdova 2019) or distort (Arias 2006) civilians' political participation, but because of the deeper, politically schizophrenic experience of living under a duopoly of violence. Slum residents and inmates alike must navigate a treacherous and shifting landscape of overlapping yet antagonistic authorities (e.g., Arias 2017; Biondi 2016; Hirata 2018). Knowing which quotidian problems are the gang's to solve and which are the state's can be a matter of

0136

life or death. This is a novel form of "low-intensity citizenship" (O'Donnell 1993) whose effects on democracy, development, and the rule of law deserve focused study.

The second implication is more controversial: we can no longer truly understand *state* governance in isolation from criminal governance (Arias 2006; Koivu 2018; Leeds 1996). State policies like drug prohibition, mass incarceration, non-incorporation of informal settlements into the formal city, and "criminalization" of immigration and welfare policy (Hinton 2016) have vastly expanded the criminal domain; yet effectively governing spaces within this domain is perennially challenging for states. That the resulting social orders—however unjust—are stable at all is partially due to capacity of criminal organizations to govern themselves, criminal markets, and marginalized civilian populations. Precisely because criminal governance does not constitute a direct, existential threat to state authority, states can tolerate and benefit from it.

São Paulo provides a stark example. The PCC's homicide ban almost certainly contributed to the city's radical transformation from one of Brazil's most violent state capitals into its safest (Biderman et al. 2019; Feltran 2010).[25] To be sure, São Paulo is high-capacity relative to other Brazilian states, and it directs this capacity at fighting crime in general and the PCC in particular—building nearly 200 prisons, with maximum-security units designed to neutralize PCC leaders. Yet whatever direct effect on crime these efforts had, they also seem to have strengthened the PCC, which swelled to over 7,000 members in São Paulo and spread throughout Brazil and in neighboring countries (Paes Manso and Dias 2018). To treat the PCC as a mere "moderator" of the causal impact of state policy on violence (Freire 2018) seems deeply misguided, obscuring a central fact: if São Paulo is well-governed, it is *because of*, not despite, the PCC. But is it well governed? The normative and substantive implications of COs' contribution to overall governance remain to be thoroughly investigated.

This view complements US scholars' claims that mass-incarceration policies have not only built up a physical and administrative "carceral state" (e.g., Gottschalk 2008; Lerman and Weaver 2016), but fostered an entire penal mode of politics that spills into areas like immigration, education, and social policy. If in the US "the prison has been a privileged location for framing a larger [official] political order" (Simon 2007, 473), in much of Latin America, it has become a physical and ideological locus for promulgating *criminal* political orders. Critically, these criminal orders can stand in ambiguous relationships to state order, simultaneously undermining and undergirding it. The typical biological metaphors applied to criminal groups—viruses, parasites, or cancers on the official body politic—are not only normatively suspect, often invoked to justify a politics of quarantine and extermination; they may be fundamentally misleading. Symbiotic relationships are possible, and perhaps more common than we realize.

If true, the consequences for political science are difficult to overstate. In the modern era, states' leeway to negotiate with and even incorporate criminal groups has shrunk dramatically, while increasingly militarized policing and mass incarceration have failed to curb crime—especially the drug trade. The result is "hurting stalemates" that never produce "ripeness" for negotiation (Zartman 2001); in the worst cases, violent criminal conflicts grind on for decades, transforming urban peripheries and drug routes into active war zones. Explaining criminal resilience to and violence against state repression are worthy goals for research. But the Symbiosis metaphor suggests a deeper, epistemological issue. To the extent that states rely on criminal governance, we cannot understand why state repression has not eliminated crime any more than we can "understand" why humans' immune systems have not eliminated the microorganisms we need to survive.

Supplemental Materials

Appendix: What Is Governed? Dimensions of Criminal Governance

To view supplementary material for this article, please visit http://dx.doi.org/10.1017/S1537592720001243.

Notes

1 Interview, president of Resident's Association, August 1, 2019. "Okaida" is a Brazilianization of "Al-Qaeda," though the two groups have no affinity or connection. Shortly after Okaida's founding, a rival gang arose called "Estados Unidos" (United States).

2 Strictly speaking, criminal actors remain civilians; for convenience, I use "civilians" as shorthand for "people not involved in criminal activity".

3 Colombia's 2017 peace accord illustrates both dynamics. Responding to popular opposition to amnesty for insurgents' drug trafficking, the final agrement empowered a judge to decide whether specific criminal acts were part of a political struggle or simply for profit. Meanwhile, Colombian COs sought similar demobilization deals by emphasizing their political nature. For example, the Clan del Golfo, a group of drug-trafficking ex-paramilitaries, refers to itself as the more political-sounding "Autodefensas Gaitanistas de Colombia," while the Oficina de Envigado, a confederacy of Medellín mafias, signs its communiqués to the government as "Collegiate Directory Board of Extra-legal Urban Armed Groups." An example can be found at https://www.insightcrime.org/images/2016/March_2016/oficina_envigado_carta.pdf.

0137

4 Cited interviews were conducted by me or members of collaborative research teams (e.g., Blattman et al. 2020); observations from field visits are my own.
5 Among licit firms, only colonial companies like the East India Company governed broad civilian populations and were often forced to do so by their home governments.
6 Gambetta argues "that the parallel between the mafia and the state has clear limits" (1993, 7), but advocates thinking of the mafia as a business; this too, I suggest, has clear limits.
7 All translations of foreign sources are my own.
8 Interview, June 18, 2005.
9 Focus group, August 29, 2018.
10 Visit, August 23, 2018.
11 Visit and interviews, August 13, 2017.
12 Interview, August 11, 2018; Blattman et al. 2020.
13 As an anonymous reviewer points out, the same is true of states with respect to natural-resource rents.
14 Visit to gang-dominated neighborhood, Medellín, October 21, 2017.
15 PCC members are encouraged to carry out autonomous criminal activity, including drug deals, bank robberies, and heists; Feltran 2018. The size of one's crew depends on what activity it is involved in; Paes Manso and Dias 2018.
16 Interview, Curitiba, July 25, 2017.
17 Interviews, Ministério Público officials, September 12, 2017
18 Visit and focus group, August 28, 2018.
19 Field visit and focus group, November 11, 2018; Blattman et al. 2020.
20 Visit and focus group, August 28, 2018.
21 E.g., prison visit and interviews, March 16, 2017; Blattman et al. 2020.
22 Prison visit and interview, March 14, 2018; Blattman et al. 2020.
23 Barnes appears to include State-Sponsored Protection and other systematic bribery within his concept of Integration; Barnes 2017, 976-7.
24 Magaloni, Franco-Vivanco and Melo 2020 use "Symbiotic" differently, to typify OC–civilian relations that are non-"Predatory".
25 From a high of 66 per 100,000 in 1999, São Paulo's homicide rate fell to 16.2 by 2008 and averaged just 13.9 between 2011 and 2016; were it an American city, it would rank eighteenth for this period, just below Tulsa and well behind Chicago.

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0141

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WHAT IS THE BUSINESS OF ORGANIZED CRIME?

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IT IS BECOMING WIDELY ACCEPTED THAT THE BUSINESS OF ORGANIZED CRIME is to provide the public with illicit goods and services like bets, narcotics, sex out of wedlock, and unregulated loans. As Messrs. Lynch and Phillips indicate at the opening of their paper, federal law even *defines* organized crime as those unlawful activities in which a highly organized, disciplined association supplies illegal goods and services. The appendix on organized crime in the Staff Report to the Commission on Violence states, "It is well known that organized crime exists and thrives because it provides services the public demands," and "Organized crime depends not on victims, but on customers."[1] The Task Force on Organized Crime of the 1967 President's Commission opened its report with the assertion, "The core of organized crime activity is the supplying of illegal goods and services—gambling, loansharking, narcotics, and other forms of vice—to countless numbers of citizen customers."[2]

And indeed this conception of organized crime corresponds to part of the image, though only a part, of the gangs that thrived when liquor was nationally prohibited in the 1920's and early 1930's. (Supplying liquor was the quieter part; suppressing rival supply was the part that made Chicago famous.)

At first glance, this is in some contrast to a quite different line of business that, at different times and particularly in the later 1930's, appeared to characterize the organized racketeers. This business was extortion, based on the threat of damage, together with occasional efforts to monopolize "legitimate" lines of business by physically destroying or intimidating competition.

The Task Force Report in 1967 gave lesser emphasis—nevertheless some emphasis—to the use by organized crime of "illegitimate methods" in connection with legitimate business and labor unions. These illegitimate methods were identified as "monopolization, terrorism, extortion, tax evasion."[3] The contrast seems to be that in the "core" activities the

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[1]M. FURSTENBERG, *Violence and Organized Crime*, in 13 CRIMES OF VIOLENCE: A STAFF REPORT TO THE NATIONAL COMMISSION ON THE CAUSES AND PREVENTION OF VIOLENCE 916, 925 (1969).

[2]THE PRESIDENT'S COMMISSION ON LAW ENFORCEMENT AND ADMINISTRATION OF JUSTICE, TASK FORCE REPORT: ORGANIZED CRIME 1 (1967).

[3]*Id.* at 1.

racketeers are busy providing illicit goods and services whereas, when they turn to legitimate business, they terrorize, blackmail, and monopolize.

In his appendix to that Task Force Report, Donald Cressey, one of the outstanding academic investigators of this subject, draws a "basic distinction" between ordinary criminals and "organized criminals," the former being wholly predatory while the latter "offers a return to the respectable members of society." Hardly anybody will miss the burglars if they suddenly disappear, "But if the confederation of men employed in illicit businesses were suddenly abolished, it would be sorely missed because it performs services for which there is a great public demand."[4]

And all are agreed that, as the Task Force stated, "To carry on its many activities secure from governmental interference, organized crime corrupts public officials."[5] Indeed some, like the Kefauver committee, found that corruption procured not only immunity from the law but employment of the police as enforcers of the mob's authority.[6]

The purpose of my paper is to dissent from this widespread interpretation of what it is that *organized crime* is engaged in. Mine will not be a disagreement with the facts, fragmentary as they are, from which most of the authors and commissions and lawmakers and law enforcers start. The difference will be one of analysis, of interpretation of what it is that is going on. But before dissenting let me try to state in a purely descriptive, not analytical, way, what it is we all seem to be talking about when we speak of *organized crime*.

Evidently we do not merely mean "crime that is organized." The term, *organized crime*, is not composed merely of two words in the English language that keep their ordinary meanings when joined. Donald Cressey does not mean, I am sure, that burglars are never organized. If it should suit their purpose to work in small gangs; to share the take as a partnership; to vote new members into the club; to insure each other against accident or arrest and to maintain a common retirement fund; to have exclusive contracts with merchants who dispose of their goods, and to regularize their relations with the police; to have a research staff, a retained lawyer, and a technological consultant; and to divide the labor among scouts, lookouts, breakers and enterers, and disposers of merchandise, they indeed deserve to be called "organized" in the ordinary English-language sense of the word.

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[4] *Id.* Appendix A, at 29.

[5] TASK FORCE REPORT: ORGANIZED CRIME, *supra* note 2, at 1.

[6] KEFAUVER COMM., 3D INTERIM REP., S. REP. No. 307, 82d Cong. 1st Sess. 182, 184 (1951).

0145

But they are a different kind of "organized crime" from what this symposium is discussing, which is *organized crime*.

But exactly what is the difference? Messrs. Lynch and Phillips describe it not only in the definitional language of the law, as being highly organized and disciplined—there may be highly organized and well-disciplined groups of burglars, or counterfeiters, or bank robbers, or embezzlers, or charlatans, or agitators—but as "a society that seeks to operate outside the control of the American people and their governments." Burglars may be *in* the underworld, but they apparently do not seek to govern it; they are not captains of underworld industry; they are not robber barons or monopolists; and they are not associated with ideas of power, control, and underworld "society."

Still, while it may be easy to say what we do not mean by *organized crime*, it is not easy to tell from the professional literature exactly what we should mean. There is no problem, of course, if we can simply point to a unique organization. There is no problem in defining what we mean by a "religious organization" if there is only one church, or by a "political party" if there is only one party. If there is a single "Mafia" that either governs and operates everywhere or has no counterpart in those places where it has no operations, we can give *organized crime* a proper name and call it "Mafia" with a capital M, "La Cosa Nostra" with capital letters, or "The Organization," just as some people refer to "The Establishment" in relation to overworld society, and need not define the species because it has but a single member. But if we take that route we are committed to a particular hypothesis, one that is limited to a particular time and place, and one that precludes comparative analysis because the definition precludes comparison.

There is, I believe, a characteristic of *organized crime* that is consistent with all of these definitions and characterizations (even the one that treats *organized crime* as a proper noun), and that is consistent with most of the prevailing images of racketeers, whether based on stories of Chicago in the 1920's, New York in the 1930's, Miami in the 1940's, or any of these places in the 1960's. This key characteristic is suggested by the term, "society," that Messrs. Lynch and Phillips use. But "society" is too broad and too loose for my purpose. "Government" would come closer to what I have in mind. The characteristic is *exclusivity*, or, to use a more focused term, *monopoly*. From all accounts, organized crime does not merely extend itself broadly, but brooks no competition. It seeks not merely influence, but exclusive influence. In the overworld its counterpart would be not just organized business, but monopoly. And we can apply to it some of the adjectives that are often associated with monopoly—ruthless, unscrupulous, greedy, exploitative, unprincipled.

0146

Now, it is clear that governments have to have an element of monopoly. We cannot all be obeying two conflicting sets of laws, two competing sets of traffic lights, or two contradictory building codes, and paying taxes to maintain duplicate street systems or armies. If there are several governments they must work out jurisdictional or territorial arrangements, the way towns and counties and states and port authorities and the federal government do. So if an organization seeks governing authority in the underworld we should expect it to seek exclusive authority, or at least to seek stable jurisdictional sharing with other authorities and, all together, to constitute a hierarchy without competition. That is what we should expect them to seek. We should not be surprised when civil war breaks out.

We now have a hint of what to look for when we ask about the business that organized crime is in. Part of my argument will be that organized crime is usually monopolized crime. What distinguishes the burglars from the loan sharks or the gamblers is not only that one steals what we have and the other sells what we want. It is also that burglars are never reported to be fighting each other in gangs for exclusive control over their hunting grounds. Burglars are busy about their burglary, not staking claims and fighting off other burglars. It is when a gang of burglars begins to police their territory against the invasion of other gangs of burglars, and makes interloping burglars join up and share their loot or get out of town, and collectively negotiates with the police not only for their own security but to enlist the police in the war against rival burglar gangs or nonjoining mavericks, that we should, I believe, begin to identify the burglary gang as *organized crime*. Until then we should use a different term, like "organized burglary."

We can ask, at this point, the question why burglars are not *organized* in the more ambitious way I just described. More generally, why are some kinds of crime apparently *organized* in exclusivist monopoly fashion, and characterized by occasional gang wars and truces and market-sharing arrangements, while other kinds of crime are more like competitive business, the individual criminal or the criminal organization going about its business without a major effort to destroy or intimidate competition and obtain exclusive control?

There is probably no simple answer. The same question can be asked about business enterprise in the overworld. And there we find that some businesses lend themselves more than others to monopolization. And if we examine the businesses that seem rarely to be monopolized, or rarely to stay monopolized, and those that show a universal tendency to become monopolized, we may discover characteristics of the technology, the market, the consumer demand, the personnel requirements, or the financial and legal requirements that determine whether a business is ineluctably monopolized,

sometimes monopolized, or hardly susceptible to monopolization. We can then turn to the underworld and see whether some corresponding principles apply.

In a purely descriptive sense this tendency toward monopolization surely seems to characterize *organized crime*. We have to keep in mind that rival claimants to monopoly position sometimes find it cheaper to merge than to make war, or cheaper to stabilize their boundaries than to fight over them, and that even war may lead to surrender and empire rather than to total destruction or massive retaliation. Where there is no governmental authority that can exert itself, or where a government is sympathetic or subservient to business, broad cartel arrangements may provide a framework for comparatively nonviolent resolution of competitive conflict.

It is worthwhile remembering that the Chicago gangster deaths of the 1920's, like the alleged Boston gangster deaths of the 1960's, were usually characterized, if not identified, as arising out of gang rivalry. Pickpockets, burglars, car thieves, embezzlers, people who cheat on their income taxes, shoplifters, muggers and bank robbers usually don't go around killing each other. There's nothing in it for them. Two bank robbers who pick the same day for the same bank may have to fight for the privilege if they arrive at the same time, and two purse snatchers who grab the same purse may fight for possession; but these are rare instances, and the man who embezzles the bank he works for has neither the knowledge nor the interest that would motivate him to make war on other embezzlers at other banks. But evidently the people in what the Crime Commission Task Force called "the core of organized crime"—the people in illegal gambling and loansharking—like the people who delivered illegal beer and gin in the days of the Untouchables, fought like the devil for the market, and patched up truces, and imposed hierarchical empires that were continually susceptible to breakdown, defection, and challenge.

One could of course give a particularist explanation of this. The big gangs have power and are greedy for more; the urge to exclusivity is natural, and when they get around to taking over burglary as they may have taken over the protection rackets and loansharking, we'll find burglary displaying these monopolistic tendencies. But I think that would be wrong. An alternative hypothesis is that we find *organized crime* in the lines of business that lend themselves to monopoly. The reason they are not in burglary may be that burglary is hard to monopolize.

It may be useful to remind ourselves of how many illegal goods and services are provided competitively, rather than by monopoly organizations of the underworld. An ideal example for my purpose is the sale of cigarettes

0148

below the legal age. Why is this market not monopolized? If it could be, there might be a few hundred million dollars in it of monopoly profits. But obviously it can't be. Nobody can keep a nineteen-year-old from buying a pack of cigarettes for a seventeen-year-old; the competition is everywhere. There is just no room for a black market differential, because the law itself is virtually impossible to enforce. If you can't control the market and police it against competition, excluding competitors or making them pay for the franchise, you cannot do any more than sell cigarettes to minors, and that's not an occupation in which a criminal, organized or not, could make a living.

Monopolize shoplifting? Try it: if you succeed, department stores may hire you as security guards, because you can presumably spot your competition better than the store detectives, and you may have a competitive advantage on the side of law and order.

At this point it might appear that we've reached the question, why does illegal gambling so readily lend itself to monopolization? Why is it that it not only occurs, as burglary and shoplifing occur, but is the object of monopolistic enterprise as those other criminal trades are not? But I'm going to ask a different question instead, a question that may help to answer the first question. What is the relation of organized crime to illegal gambling, at least as it shows up in such investigations as those of Senator Kefauver's committee?

The interpretation that I want to suggest is that *organized crime* does indeed have a victim. The victim is the bookmaker—the man who sells illicit services to the public. And the crime of which he is the victim is the crime of extortion. He pays to stay in business. Nominally he may seem to procure a "wire service" or occasionally to borrow money or to use the clearing-house facilities of the extortionate monopoly organization. But basically he is in a very simple business, one that needs no such organization; and he could do without The Organization. He might find organization useful, as many small businessmen find trade associations and lobbies and even public relations offices useful. But he does not need The Organization. It needs him. It lives off him. It lives off him the way it lives off anyone else, who, either in the underworld or the overworld, buys "protection."

And it is easier to see why extortion has to be monopolized than why gambling itself would have to be monopolized. Large-scale systematic extortion cannot really stand competition any more than a local taxing authority; I cannot take half the bookie's earnings if you took it before I got there. We can divide the bookies between us, territorially or otherwise, but if nine other mobs are demanding half his earnings, all ten are in trouble. "Protection" is primarily against the one who offers it, but it has to include protection against rival taxing authorities.

0149

And if the nominal basis for the extortion is the sale of a wire service or something of the sort, then evidently there will be an apparent monopoly of wire service in the underworld, but as a by-product of the monopolization of the protection racket.

We come now to the central question in this whole line of investigation. If the business of organized crime is extortion, in the underworld as well as in the overworld, why is the "core" of organized crime activity in the underworld itself? That is, why is the biggest victim of organized crime an illegal business rather than some legal business? (It may not be, but the traditional estimates as published, say, by the President's Commission in 1967, use figures between 5 and 10 billion dollars as the gross earnings of the illegal gambling business, and impute the larger part of it to the profits of "organized crime.")[7]

It is worthwhile to pause a moment and notice a certain anomaly. Making book is indeed a "crime without a victim," to use the name that Edwin Schur gave these activities,[8] but is itself victimized by organized crime. The victims of most crimes are not in the underworld. A department store may violate some laws and regulations, cheat its customers or the taxing authorities, or otherwise commit occasional crimes, but basically a department store is a "legitimate activity," and is the target of shoplifters. Shoplifters and pickpockets and burglars and embezzlers do not typically pick their victims in the underworld. Even if their victims are not altogether pure, they nevertheless do not usually have underworld careers. But what is generally referred to as the primary target of organized crime is itself an underworld activity. It is criminals who are victimized, if we accept my interpretation of the business of organized crime as that of extortion.

Should we be surprised? Can we identify characteristics of illegal bookmaking that make it a prime target for organized extortion? Can we possibly then look at other activities, legitimate activities and underworld activities, and infer which among them may be easy targets for organized extortion?

My first candidate, as a criterion for target selection by organized extortionists, is that the victims should be poor at protecting themselves. In particular, one would like victims who have no ready access to the law. Criminals would therefore usually be ideal victims. The attractiveness of underworld victims is even greater if the police can actually be used as an instrument; if harassment can take the form of vigorous law enforcement by

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[7] TASK FORCE REPORT: ORGANIZED CRIME, *supra* note 2, at 3.

[8] Schur used the term in relation to the consumer as well as to the purveyor, and did not limit it to market place activities but let it include private deviance, like homosexuality as well. *See* E. SCHUR, CRIMES WITHOUT VICTIMS (1965).

0150

the police, the extortionists may not even need to engage in illegal violence to keep their victims in line.

Second, the extortionist wants a victim who cannot hide from him. Burglary is a very private affair, and the burglar has no need to advertise himself and his business and his location. A bookmaker or prostitute who were as hard to locate and to identify as a burglar might well escape the racketeer, but he would lose his customers. If a customer can find a bookie when he wants to place a bet, the racketeer can find him. Those who sell illicit services to the public are therefore more visible, more easily located and identified, than embezzlers, pickpockets, shoplifters, car thieves, and people who cheat on their income tax. All criminals may be susceptible to blackmail, but those who cannot hide without losing their business are especially vulnerable.

Third, it is probably important to be able to monitor the victim's activity and his earnings. Those who operate in the open, dealing with a standard commodity, one that has a face value in money and few complicated costs, are probably those with whom an extortionist can reach an enforceable contract. Even if one can find and recognize an embezzler or jewel thief, one would have a hard time going shares with him, because the embezzler can fool the extortionist if he can fool the firm he embezzles from, and the jewel thief needn't put his best prizes on display. A bookmaker may get away with some business on the side, and avoid taxation by the extortionist organization, but his business is basically simpler and more public than most criminal activities.

Fourth, it helps if the victim has a regular business that he cannot carry away in an attempt to escape extortion. A bookmaker or prostitute or loan shark has to have a place of business; much of his business assets consists of goodwill, personal acquaintance, knowledge of the customers and their credit ratings, trust, access to a grapevine communication system, and perhaps personal relations with the police. A bookmaker or prostitute can probably always escape, but not and still do business within the jurisdiction of The Organization.

Fifth, all of this may work best if it works smoothly and regularly. The victim has to be treated "fairly." He has to know that he is treated like other victims. The business has to be depersonalized. Rules of the game are needed so that the victim knows where he stands. He has to compare his situation with that of others in the same business. There probably has to be a set of simple and fairly uniform arrangements. The bookmaker has the choice of paying or not paying; it might burden the system too much if each had to negotiate his own unique arrangement with The Organization, and renegotiate it month by month.

Consider for example the sharing arrangement that Senator Kefauver's committee turned up in Miami. The "syndicate" took 50 per cent of the bookmaker's proceeds. This was a standardized percentage. Furthermore, it was not 40 per cent or 55 per cent or 29 per cent or 83 per cent. It was a nice round number, the nicest and roundest there is, an even 50-50. Oil-producing countries in the Middle East tend to converge on standard royalty arrangements with the Western companies they deal with. A king or a shah or a sultan or a sheik cannot explain to himself or to his constituents a lesser percentage share than the country next door receives, and he cannot persuasively hold out for a much more favorable share. So it may be that the very standardized nature and visibility of bookmaking lends itself to standardized, visible, and institutionalized arrangements, known to all and applied without much discrimination. Bookmakers probably can compare notes and tell whether they are receiving equal treatment far more readily than my neighbor and I can compare assessed valuations on our houses.

Perhaps another characteristic is that bookmaking, like prostitution, is a fairly petty activity, especially when it is illegal. That is, it can be a one-man or one-person job, or at least the retail organizations can be pretty small and decentralized. The bookmaker is probably his own bookkeeper, and he cannot readily plead inability when asked to pay. An officer of a bank would have to be a first-rate embezzler to pay large and regular amounts of blackmail out of the bank's resources without its becoming known to anybody else in the bank. In large organizations, too many people have to sign the checks, initial the vouchers, audit the books, scrutinize budgets, take inventory, and otherwise tangle things up in red tape. The small independent entrepreneur, whether in the underworld or the overworld, may be more able to meet the demands than a complex organization would be.

These are only suggestions. There may be other characteristics of illegal bookmaking that I have missed, that are even more important in determining why it is such an attractive target for extortion. If we knew more about these activities in cities of different sizes, on the insides of large organizations as well as on the streets, and in different parts of the country, and particularly if we compared them with comparable activities in other countries, we could learn more. My conjectures may at least help to alert investigators to what they should be looking for; unless one raises the right questions, no amount of hearings and inquiries and investigations will turn up the pertinent answers.

It may be equally useful to look at the many black markets that are immune to organized crime. There have been elaborate black markets in foreign currency and gold, but while those engaged may occasionally have been subject to blackmail, there is no sign that it has been at the hands of

0152

large extortionate organizations. There is apparently an enormous black market in drugs, if one is willing to construe all the abuses of prescriptioning procedures as part of the black market, and apparently Organized Crime gets its hands on at most a small portion of it. If firearms should ever be banned in the United States, there will probably be an extensive black market, but the chances are overwhelmingly against its ever being monopolized by a criminal organization. (I leave it to the reader to make his own list of the reasons why.)

When we turn to the overworld we can similarly ask, what characteristics of a business would tend to make it an attractive target for organized extortion? An equally interesting and important question may be, what forms should we expect the tribute to take? It is of some interest that even in dealing with the petty bookmaker, The Organization sometimes goes through the motion of providing a wire service, or otherwise pretending that it offers something more than sheer brutal "protection." That may explain why *organized crime* is so widely alleged to have been engaged in businesses like the provision of laundry service. The reason for selecting laundry may not lie so much with the laundry business as with the nature of the customer. Restaurants may be comparatively easy targets for racketeers. They are so easily harrassed, because their business is really rather fragile. Noises and bad odors and startling events can spoil the clientele, and even physical damage cannot be guarded against. Furthermore, restaurants do a great deal of business in cash, are often small proprietorships or partnerships, and are therefore financially capable of meeting the demands for tribute. But why not demand cash, then, rather than take it as a monopoly profit on a high-priced laundry service?

Or, to take another familiar example, why is it so often alleged that vending machines as well as pinball machines and slot machines are often "organized" by *organized crime*? Maybe *organized crime* likes gambling, and pinball machines are a little like slot machines, and then once you're in the machine business you may as well deal in cigarettes, too. Or maybe the machines are attractive for some other reason.

My conjecture is that the machines, like the laundry service, meet certain criteria that make them attractive means both of exacting tribute and of paying it. Again, if we were attempting organized extortion against restaurateurs in a city, planning to hit them all and to protect them all from rival extortionists, in what medium would we want them to pay us?

One criterion is that it should be tax deductible. There is no sense imposing a cost that is greater than what we get, when we could find a form in which we get everything that the victim loses. The high-priced laundry service is a

deductible expense; profits from the cigarette machine are excludable income, as long as the concessionaire receives them, not the restaurateur.

Second, the victim wants to be able to keep books without showing that he pays tribute. He does not want creditors, revenue agents, or grand juries to be able to identify the tribute he pays, especially if it is illegal.

Third, the victim may want a manner of payment that minimizes embarrassment and the loss of self-respect. He may prefer to feel himself the victim of a monopoly linen service, and to complain to his wife and his employees about how the linen industry has been victimized and he is indirectly suffering, rather than to remind himself periodically that he is simply paying cash for protection. He may even be able to feel that the vending machines are monopolized, not that he is providing rent-free space for somebody else's vending machine in return for "protection."

Indeed, from most accounts, gambling machines were used for this purpose in the 1930's and perhaps were still so used in the 1960's. A gambling machine in a neighborhood store may represent two kinds of criminal activity. One is illicit gambling, the other is extortion. It tends to get listed under the heading of gambling; but the more brutal crime is that some poor store owner is being shaken down by a protection racketeer. And his tribute takes the form of having machines put in his store. He may despise the machines and make nothing off them; but that's the price he pays. If the laws against gambling were properly enforced, the "crime without a victim" might disappear, but the extortion might continue with payment taking another guise. It may hurt the extortionist somewhat to be denied his favorite medium of tribute; but we miss the point if we suppose that the only crime we're dealing with is gambling.

The machines and the laundry services and the other ostensible businesses that are used by the racketeers may also meet another need. That's the need for as institutionalized practices, uniform arrangements, nondiscrimination, etc. If each victim privately pays cash he has no way of knowing how his treatment compares with that of other victims; but if they all get their linen or beer or meat from the same monopolistic provider, or all provide their vestibules for similar kinds of machinery concessions, they know they're getting standard treatment.

Incidentally, if news vendors, neighborhood store owners, or barbershops became universal victims of organized extortion, perhaps sharing their earnings and nominally receiving some service in return, perhaps paying extortionate prices for supplies or rent on the building, we would probably not describe haircuts and magazines and chewing gum as the businesses that organized crime were engaged in. We'd describe them as the victimized

trades. We would distinguish the barbers and the news vendors from the personnel of *organized crime*. Even if The Organization helped to enforce union membership, uniform prices and uniform closing days; lobbied for legislation favorable to barbers; occasionally intervened on their behalf with their landlords, lent them money, and occasionally got them barbershop space in new hotels, we still wouldn't consider the barber a criminal nor consider organized crime to be in the business of providing haircuts. We would not be afraid that a successful crackdown on organized crime would close up the barbershops and leave us no place to get our hair trimmed. We'd expect instead that prices might fall, just as if a heavy tax on haircuts had just been repealed.

This thought may put illegal gambling back into better perspective. It is undoubtedly true that, as Donald Cressey said in the passage quoted earlier, "if the confederation of men employed in illicit businesses were suddenly abolished, it would be sorely missed because it performs services for which there is a great public demand." But it is only true if we take the "confederation" to include the bookmakers as well as the racketeers who prey on them. Even then it is true only if we permit no newcomers to enter the business in replacement of the abolished "confederation." Even if the customer wants his bookie, he has no use for the organization that restricts competition in the betting industry.

I must at this point offer two qualifications, one substantive and the other a matter of point of view. The substantive one is this. Maybe bookmakers, prostitutes, loan sharks, and drug peddlers would, if left alone by the racketeers, be unable to come to proper terms with the police and unable to engage in their business. Maybe corruption is best handled collectively, and an illicit trade consisting only of individualist competitors could not buy off the public officials. Perhaps they would be unable to form their own organization: nobody likes to pay dues, people may drift in and out of the business, some may have satisfactory arrangements and no need for the union. In that case it might be worth a fairly high price to have discipline and organization imposed from outside. The Organization may levy a high tax once it imposes its own governance on the gambling business; but a high tax may be better than no governance at all.

Conceivably, then, bookmakers gain by being victims of a predatory organization; without it they would have no organization. Furthermore, much of the tax, perhaps most of it, may be passed along to the customer. Gasoline stations do not suffer enormously when gasoline taxes go up a nickel; they suffer only to the extent that motorists reduce their driving because of the higher price of gasoline, and on the whole the tax gets passed along to the buyer. Thus the direct victim of extortion is the bookmaker, or

the prostitute, or the barber, or the restaurateur; but if the tax is uniformly levied on all bookmakers or restaurateurs, and if it is a tax on transactions and not on residual profits, it probably is passed along so that the one who "pays" the tribute is the customer, not the nominal taxpayer. Just as the tenants in apartment houses "pay" the property tax, though the landlord forwards the check to the tax collector, the person who places the bet receives less favorable odds than if bookmaking were a purely competitive and "untaxed" consumer service.

The second qualification is that any organization can be viewed in different ways. It is possible to say with some truth that General Motors does not produce automobiles; the Chevrolet and Pontiac divisions do. Many businesses, small and large, are decentralized; General Motors may deliberately allow the Chevrolet division a good deal of autonomy, just as Chevrolet grants its sales agents so much autonomy that they are considered to be "authorized dealers," dealing in their own names, rather than branches of Chevrolet. Many firms let their salesmen work on commission; farm owners often prefer going shares with a tenant rather than hiring him for a wage. Many hotel and restaurant chains lay down architectural and other standards, but do not directly manage the individual establishments that bear their name.

By analogy, one could say that *organized crime* is indeed in the gambling business but finds it expedient to run that business by licensing individual bookmakers rather than hiring them as employees. It may even do it on an "open shop" basis, according to which anybody can get into the business as long as he pays the franchise tax. A specific test might be whether The Organization could move into a locale where there was no off-track betting and establish a bookmaking business, and if so whether it would own and operate the business or instead set it up in the familiar pattern, inviting independent operators to operate under the "protection" of the racketeering organization, which would protect them from molestation either by police or by rival organizations. If it did the latter, we'd have to admit that though the arrangement has all the characteristics of extortion, and may often arise directly out of extortion, it can be construed as well as a monopolized business in which independent operators are allowed on condition that they pay standardized tribute to the licensing organization.

All of this has some bearing on the question, if gambling were made legal would it continue to attract racketeers? It is often alleged that organized crime is so skilled and experienced in the gambling business that it would have an edge over "legitimate" entrepreneurs, and would not only entrench itself in legitimized gambling but would enjoy the greater profits that would go with enlarged business. One suggestion of this paper is that The

0156

Organization is not really skilled and experienced in the provision of gambling services. It is skilled and experienced in the *suppression* of rival gambling services, especially in suppressing rival *illegal* gambling by collusion with the police. Its success, with or without the police, is appreciably due to the inability of the bookmaker to seek the protection of the law. It is also due to the inability of the bookmaker to protect himself through corporate organization, trade association, and all the other ways that modern business protects itself from crude and petty interlopers, chiselers, and even racketeers.

Thus the important question is not whether the *bookmakers* would show up as the sellers of legal bets if off-track betting were made legal. The question is whether The Organization could get a monopolized extortionist grip on the industry. That may not be an easy question to answer, but it is at least clear that some of the characteristics of off-track betting that presently make it an ideal target for monopolized extortion would not be present if it were made as legal to bet in front of a television screen as it is to bet in the presence of the horses themselves. The history of prohibition and its aftermath in the liquor business strongly suggests that *organized crime* may not thrive or survive in the face of legal competition.

In any event, those among us who are so hypocritical as to want off-track betting illegal, prostitution abolished, and the credit laws enforced, but still want to place their bets, visit the bawdy houses, and borrow on the side to preserve their credit ratings, needn't be afraid of a crackdown on organized crime. They may suffer, as Donald Cressey suggests they will, from a crackdown on gambling, prostitution and loansharking; they can benefit, though, from a crackdown on *organized crime*, just as the consumer always hopes to benefit from trustbusting.

The purpose of monopoly has always been to suppress, not to enlarge supply. People who like monopoly prices and punitive taxes on the naughty activities may be pleased that the long arm of organized crime reaches out and levies a tax on the retailer that is passed along to the consumer. The consumers will prefer to see the activities become more freely competitive, whether by being released from illegality, or released from the grip of *organized crime*; so will those who dislike corruption, especially when it is centralized and regularized by large monopoly organizations that can build corruption directly into our institutions, rather than leave it to gnaw away at the edges.

0157



Introduction to Special Issue Production, Trade and Governance: A New Definition of Organized Crime

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0158

FEDERICO VARESE

Introduction to Special Issue Production, Trade and Governance: A New Definition of Organized Crime

Abstract

This introduction presents a novel framework that distinguishes three activities of organized crime (OC): production (creating goods and services), trade (moving products and people), and governance (regulating markets and controlling communities). These activities require different skills and give rise to three different types of OC groups. To illustrate some of the points, I make references to the papers published in this Special Issue, on erotic fiction in China by Wang and Evelyn; on falsified medicines production and trade between Asia and Europe by Hamill; on drugs retail and gang control of a neighbourhood in Marseilles by Rodgers and Jensen; and the cocaine international distribution chain by Feltran.

Keywords: Organized Crime; Definition; Production; Trade; Governance.

THIS SPECIAL ISSUE presents four original papers, which examine illegal erotic fiction in China (Wang and Evelyn); the production of counterfeit medicines and their distribution from China to Europe (Hamill); the emergence of criminal governance in a neighbourhood of Marseille (Rodgers and Jensen); and the complex drug distribution system that conveys the product from Latin America to Europe (Feltran). While the topics are diverse, the papers share a common analytical approach: they examine the activities associated with organized crime and recognize the differences among these activities. In this introduction, I seek to explore these differences. I do this by presenting the key propositions of a novel

Note: In this paper, I draw upon the work to ideas I published in Varese [(2010) 2017]; Shortland and Varese [2016]; Campana and Varese [2013; 2018]; Breuer and Varese [2023]; Varese and Zeng [2024]; Campana et al. [2025]; and the B1 and B2 forms compiled for a ERC project, grant no. 101020598-CRIMGOV, PI Federico Varese. Over the years, I have often discussed the issues raised in this paper with Paolo Campana.

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0159

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definition of organized crime (OC). Rather than focusing on the ethnicity of the perpetrators, or the supposedly elaborate structure and longevity of the group, I consider the activities OC offenders engage in. I further argue that different kinds of activities require different skills and resources, and thus distinguish between the production of goods and services, the trade of such goods across (physical and virtual) territories, and the governance of territories and markets. Each activity has a counterpart in the legal world: firms, traders, and governments. This approach to the study of OC will establish firm foundations for the field and allow scholars to test a variety of theories. For illustration, I refer to the evidence presented in the papers for this special issue. This introduction proceeds as follows: Section 1 outlines the logical elements of a definition of OC and briefly covers the history of the concept, and Sections 2–4 introduce the three building blocks of the approach I propose. Section 5 concludes.

Towards a Concept of Organized Crime

Ambiguity, confusion, and disputes about the status of concepts are rife in the social sciences. Giovanni Sartori's taxonomical model, proposed in the 1970s, suggests that concepts should be organized using a hierarchy of categories defined by their extension (the set of entities they apply to) and intension (the attributes defining them). Moving down the hierarchy, categories become more specific; moving up, they become more general.[1] Following Sartori's precepts, at its most general the concept of "crime" is usually defined as "an intentional act in violation of the criminal law, committed without defence or excuse, and penalized by the state" [Tappan 1947: 100]. As we move down the generality ladder, we inevitably construct classifications. Corruption, fraud, and theft come to mind as more specific types of crime. OC is another such example. As will become clear below, I define OC as a set of three activities that actors engage in: namely, illegal production, trade and/or governance.

In developing this concept, I will be guided by three principles. First, OC should not be just an attribute of other concepts but rather stand alongside equally general constructs, such as theft. Second, the concept

[1] Giovanni Sartori emphasizes that expanding a concept's extension without reducing its intension leads to conceptual stretching [Sartori 1970].

0160

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should be used to test competing theories, rather than being tied to a single one. In other words, and contrary to the view of Carl G. Hempel [1965: 113], concept formation is distinct from theory formation. However, this exercise involves the creation of classifications that are inevitably an interpretation of the world, so it is not entirely neutral or a-theoretical. Third, concepts should be relatively easy to operationalize effectively, and a broad consensus should be reached on this process. One solution would be to incorporate elements into the concept that are well established and have already been operationalized in other fields of study. Keeping these questions in mind, the first decision we need to take when trying to develop a definition of OC is whether we consider it as an attribute of an ethnic group, as an organization, or as particular activities defined as illegal by the state. All three perspectives exist in the literature [for a discussion, see Paoli 2002]. The "alien conspiracy theory" appeared after World War II and was prevalent in US debates from the 1940s to the 1960s. Originating within the Federal Bureau of Narcotics, it alleged that the majority of narcotics dealers in the USA were "Italian speaking people" [cit. in Smith 2016: 63]. Endorsed by the FBI after the so-called Apalachin meeting of Italian mobsters in November 1957, it quickly developed into a widely accepted position. The theory was predicated on the assumption that OC was a foreign import from Italy that threatened American values, and it equated it with La Cosa Nostra [Smith 2016: 63; Kleemans 2014: 33–34; Potter 1994]. Clearly, this position had xenophobic connotations, which underlines the point that definitions are not neutral. This view ignored the role of local conditions and structural factors in the emergence of OC in the USA.[2] Although deeply flawed, this approach has never entirely disappeared from American public discourse. At the same time, the target group has changed, shifting from Italian to Turkish, Chinese, or Russian immigrant communities [Kleemans 2014: 34]. Latin American cartels seem to be today's equivalent on the basis of recent US policy decisions. Ultimately, the "alien conspiracy theory" considers OC an attribute of the ethnicity of the offender: thus a foreign-born person committing a given crime would qualify as engaging in organized crime, while a "native" committing the same act would not.

A second position found in the literature is that OC is an attribute of an organization. The view that this particular type of offence is structured as

[2] Earlier scholars, such as Fredrick Thrasher [1927] and John Landesco [(1929) 1968], emphasized local structural conditions, as opposed to ethnic origins, as the cause for the emergence of OC in the USA.

0161

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a hierarchical set of relations with an internal division of labour dates back at least to the early twentieth century, yet it was the US Committees investigation of La Cosa Nostra in the 1950s and 1960s that cemented the interpretation of OC as a highly organized conspiracy.[3] In 1963, Joe Valachi, a "soldier" in the Genovese Mafia "family," gave a televised testimony to the Permanent Subcommittee on Investigations of the US Senate Committee on Government Operations. The authorities used charts of Mafia "families" to present Joe Valachi's evidence. In this rendering, the Mafia had a hierarchical structure, with clearly defined roles and a boss at the top. Rather than specific crimes, OC was about a set of top-down interactions. A consultant on the 1967 US President's Commission on Organized Crime, distinguished criminologist Donald Cressey, built on Valachi's evidence and methods, namely the organizational charts. He described OC as relating to an organization that is "rationally designed to maximise profits by performing illegal services and providing goods that [are] demanded by society" [cit. in Varese (2010) 2017: 31]. Again, OC was interpreted not as a type of offence, but as an attribute of the organization committing the offence.

Almost immediately, this view came under criticism from scholars who argued that Cosa Nostra families had a degree of informality that did not quite fit the strict hierarchy model; they had no fixed roles, and no overarching coordinating body such as the Commission.[4] Rather than a rationally designed organization resembling the Bell Telephone Company, the Mafia was a traditional social system, the product of culture rather than design [Ianni 1973: 133–134]. Over the years, this position was enriched by novel concepts emphasizing that OC is "socially embedded" [Kleemans and van de Bunt 1999] and "networked" [Morselli 2005]. According to this view, family ties and geographical position are what help explain patterns in international crime, rather than the presence of a top-down structure. More generally, these scholars do not assume the existence of a predefined structure but derive it from empirical observation. This perspective is a significant improvement on previous models and opens up the possibility that the structure is a function of other variables, such as family ties, geographical position, money and, more generally, the overall context. Still, the

[3] The "Alien Conspiracy Theory" and the "OC-as-a-bureaucracy" approach both adopted the same view of the organizational model of mafias, as noted by Potter 1994.

[4] Among the critics, see Albini 1971; Ianni and Reuss-Ianni 1972; Smith 1975. It turned out that Valachi's testimony was quite accurate, and the American Cosa Nostra did conform to this top-down structure with a coordinating Commission. For a critique of the critique, see Critchley 2009; Varese [2010] 2017, and Varese 2021.

0162

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focus remains on the structure (however this is defined) as the essential feature of OC.

Should OC be seen through the lens of its structure? Organizations are normally described as instruments used to achieve goals that would be difficult or impossible to obtain by individuals acting on their own [Handel 2003: 2]. Classic definitions of OC, such as Cressey's, are predicated on Weber's rational-bureaucratic model of organization. Weber defines this model as an "established impersonal order," founded on the idea of "domination" *[Herrschaft]* [Weber (1924) 1978: 215 and 212]. This type of domination establishes a hierarchy enforced by formal legality and which is responsible for the efficient delivery of the product to be supplied. Legal-rational authority is a form of domination that is superior to other kinds, namely traditional and charismatic domination. Charismatic authority is unique and non-replicable and therefore cannot be structured. Traditional authority evokes habit and convention and is considered to be less efficient than a more rational mode of organization. For instance, it does not adapt when circumstances change.[5] When adopting the rational organization model, offenders' crimes are more harmful and/or extensive than when a less structured model is used. The relaxation of the principles of stringent division of labour, hierarchy, and clearly defined roles within OC overstretches the concept. It ends up covering almost any form of co-offending, from one-time partnerships to membership of a secret cabal. Most crucially, such relaxation does away with the Weberian assumption that an intentional decision has been made to create an organization in order to efficiently achieve clearly defined goals. Although this was not openly stated, Donald Cressey's definition was predicated on the existence of a form of domination that was not only rational and superior to any other, but also considered legitimate by the actors involved (hence the original emphasis on their being both Italian and alienated from mainstream society). If OC can take any form, its structure cannot be its defining feature.

An alternative way to think about OC is to focus on activities. In 1977, US Attorney General Griffin Bell remarked that OC investigations by the Justice Department "would in the future concentrate on *activities* in a particular industry or enterprise and would move away from the practice of picking syndicate families or individuals as targets" [cit. in Smith 1980: 360] [emphasis added]. In his book *The Mafia Mystique*, D. C. Smith

[5] Max Weber was deeply conflicted over the rise of the modern bureaucracy and explored the unintended consequences of rationalization. Moreover, he did not subscribe to the view that progress was simple and linear [WEBER (1924) 1978].

0163

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elaborated the view that OC is a business activity operating in conditions of illegality. This "enterprise model" suggests that OC groups are illicit firms producing goods and services, such as gambling, loan sharking, narcotics, and sexual services [Smith 1975]. First, this perspective does away with the focus on the organization, which is now a function of the activity. Second, it excludes criminal behaviours that do not involve the creation of a product or provision of a service. Domestic violence, theft, and the purchase of stolen goods do not add production value to the objects (or persons) concerned. Finally, OC is not an attribute of other crimes, of an ethnic group, or of a particular organizational structure.

The "enterprise model" is a marked improvement on previous views of OC. And yet, the concept it introduces covers activities that are extremely diverse. It fails to distinguish actors engaged in production activities—such as processing coca leaves, illegal gambling, and running brothels— from those tasked with transporting the product from one location to another, i.e. the trafficker. Human trafficking, human smuggling, drug trafficking, and trafficking in animal parts or stolen data are best understood as forms of trading and can occur in physical or virtual marketplaces. The skills required —and hence the profiles of offenders—are very different from those of the actors involved in production. For instance, *Financial Times* journalist Mads Nissen travelled to the village of Pueblo Nuevo in Antioquia, Colombia, to meet Ariel Albeiro Muñoz, 19, who picked coca leaves as a day labourer: "Muñoz said he didn't use cocaine or care much about politics; he just wanted to earn enough money to buy a motorbike."[6] Workers like Muñoz begin work at 5 a.m., each one collecting about 70 kg of coca leaves, for which they are paid about $10. However, Muñoz has hardly anything in common with those who receive the drugs and ship them across the world.

There is a third activity that needs special attention: the illegal governance of the production and trade of goods and services [Varese (2010) 2017: 41]. In essence, individuals involved in governance OC perform a function that is normally reserved to the state in legal markets. In order to govern, they need to invest in a special set of resources which are not necessarily available to the illegal producers and traders, such as violence. Here lies the main challenge to the state as the only legitimate user of force [Bates 2008].

Obviously, any discussion of OC is predicated on the fact that the state defines what is legal and what is illegal. For instance, paying for organs is legal in Iran and outlawed everywhere else in the world [Steiner 2010]. As pointed out by Beckert and Dewey [2017], the illegality may comprise every

[6] Mads Nissen, 2022 (December 12). "Colombia, cocaine and the lost war," *Financial Times* [https://www.ft.com/content/71343aa2-f7e7-44f3-b053-2c5379302640].

0164

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element of the chain—from production to exchange to consumption—or only certain aspects of it. What is legal or illegal, and what counts as OC, is deeply contextual and a function of state decisions [Beckert and Dewey 2017: 6]. In addition, police enforcement differs greatly depending on the product and the country. For instance, under US federal law, the production and sale of marijuana are prosecuted less severely than the production and sale of cocaine. The level of enforcement might also be related to the social acceptance of the illegal act in question [Mayntz 2017: 39–40]. And yet the fact that a given product is defined as illegal has an effect regardless of the level of enforcement: it allows state actors to apply the law selectively.[7]

Keeping these background points in mind, in the following sections I discuss each of the activities mentioned above, namely production, trade, and governance, with specific references to the papers submitted for this special issue.

Production OC

A viable definition of OC might be based on its three distinct parts: production, trade, and governance. Each requires dedicated attention. By production, I mean *transforming raw materials into finished illegal products and/or performing illegal services, and offering these on a market*. While, in principle, actors engaged in production could work alone, in most cases of interest they are employed in a *criminal firm*, which in turn is based on a set of agency relationships of authority: superiors order employees to perform a certain task. Some goods and services will be bought on the market while others internally produced. In any case, "wage employment" and "self-employment" are both covered by this definition. Even a lone producer must, at some point, put the product in an arena where goods and services are exchanged, namely a market. While "trade" and "governance" can also be thought of as products and services, the skills and the resources required for these activities are very different from those needed for the production of, say, drugs, counterfeit medicines, or malware, and this gives rise to different kinds of OC groups.

An example of criminal production at its most basic is erotic fiction writing in China, studied here by Wang and Evelyn. The producers, in

[7] This is most obvious in the case of corruption. While Russia and China are very corrupt, anti-corruption drives tend to target officials or politicians that have fallen out of favour [Varese 2000; Zaloznaya and Reisinger 2025]. Racism also leads to selective enforcement. *Ceteris paribus*, Black and Hispanic individuals are more likely to be targeted than White individuals by police in the USA [e.g., Fryer 2019].

0165

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this case, are authors of books that are illegal to sell under Chinese law. One crucial element emerges from the work of Wang and Evelyn: the producer may act as the seller of their own product. Thus, in effect, the author has two roles, although the main one is that of writing erotic fiction. Since trading erotic fiction online is relatively simple, it makes sense to internalize this function. And yet even in such a simple case of criminal production, many authors engage agents and promoters to sell online. Division of labour sets in quickly.

Hamill studies a production facility in Tianjin, China, that was used by a small group of producers of counterfeit medicines, which they claimed could treat cancer, psychosis, and heart disease. Some 200,000 boxes of counterfeit medicines were manufactured in five days, claims Kevin Xu, a manager at the firm [Hamill]. Through qualitative social network analysis, Hamill finds that the producers have a clear chain of command and that their network is hierarchical, displaying a high degree of homophily. Given the needs of production in a firm, its organizational structure is, unsurprisingly, a by-product of the activity.

The counterfeit products studied by Hamill entered the same market in which the authentic medicines were being sold, and were falsely advertised as genuine. Between 5 and 7% of the global pharmaceutical market is made up of such medicines, with some countries, such as Ghana, having rates as high as 37% [Beckert and Dewey 2017; Hamill:8]. Illegality poses a problem for producers, who find it hard to build a reputation for quality. Producers must avoid attracting too much attention while at the same time striving to promote their product. Other things being equal, this constraint leads operations to be smaller in size and scope [Reuter 1983]. In order to increase product visibility, some producers try to get around the difficulties of advertising, for example by branding their products, as in the case of cocaine producers who stamp a symbol on the drug package or "brick" [Curcio 2003]. Authors of erotic fiction use online nicknames to maintain their professional reputation [Wang and Evelyn]. Sometimes, however, people engaging in illegal activities online are forced to change their nickname to avoid being identified by the authorities, and therefore risks losing the reputational capital accumulated by their brand name. One cybercriminal was so upset at the prospect of changing his moniker that he wrote in a forum: "Here my name is solv3nt, but in other forums I am known by the name of dentrino" [Lusthaus 2012: 81]. He was trying to preserve the credibility he had accumulated in the past. In the case studied by Wang and Evelyn, buyers and sellers try to send credible (hard-to-fake) signals that help the market to function, albeit not perfectly.

0166

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By focusing on production as a separate activity, scholars can explore the roles of two key variables: namely, level of enforcement and technology. It is likely that both affect prices, location decisions, distribution chain (long/short), share of total revenues, the labour force (who is hired), the size of capital markets, the financial arrangements, size of inventories, specialization (a single product vs more products) and, as mentioned above, advertisement. Most crucially, *ceteris paribus* the size of the firm depends on the level of enforcement. In addition, the interplay of production and governance (see below) varies depending on local circumstances. In conclusion, the standard tools used by economic and political sociologists to study the context of legal production can be fruitfully applied in this field too.

Trade OC

The second building block of a viable definition of OC is trade. When I refer to trade OC, I mean *moving goods or people from one location to another illegally*. As mentioned above, it is most likely that these individuals will be part of a group. Trade OC covers, for instance, drug trafficking, smuggling and trafficking of people and/or endangered species, smuggling of arms or stolen vehicles, money laundering, and a great deal of the illegal buying and selling that takes place online. Groups involved in such activities do not aim to control economic sectors or territories. For instance, different gangs involved in human smuggling share the same routes [Campana 2020]. They operate the equivalent of flexible supply chains [Zhang and Chin 2003].

Since the actors involved in trade OC do not try to exclude others from a particular market, we would expect the potential for competition to be great, although high levels of investment and some structural advantages might be necessary to enter the market. For instance, the trader must be able to forge contacts with both producers and buyers: having the necessary background helps. Moreover, the use of violence will be minimal, as there should be no conflict over territory [for a recent study that supports this view, see Baradel and Breuer 2024]. In another recent paper, Baker and Duncan [2025: 2] state that transnational drug-trafficking organizations—such as those that have been operating in Medellín, Colombia since the 1970s—"are not inherently political actors", as their aim is to move drugs, yet in order to carry out their operations they seek either state or criminal protection. To the extent that they seek the former, they influence electoral politics through massive cash payments which in turn

0167

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can influence electoral outcomes; if they seek the latter, they strengthen criminal governance [Baker and Duncan 2025].

Thus, the organizational structure of trade OC is expected to differ from that of the groups involved in production or governance (see below). While production OC has a tendency to display a high degree of hierarchy, with a top-down chain of command and homophily ties, trade OC exhibits low levels of demographic homophily, namely a tendency for nodes with different characteristics to form ties with one another and for the network to be quite centralized around key players who connect the others [Breuer and Varese 2023: 870]. The central actors are nodes connecting parts of the network that would otherwise be separate, allowing for the flow of information and resources. As noted by several criminologists [e.g., Morselli 2005; Kleemans 2007], these actors operate as a bridge between "structural holes" [Burt 1992]. In a study of OC in the city of Liverpool, the authors argue that drug trafficking (the activity) drives the patterns of interactions *among* groups as well as outside them [Campana and Giovannetti 2025].

Indeed, Hamill finds that in Operation Singapore, "medicines are passed along in a sequence of exchanges" [20] and the network is constituted by "temporary alliances crafted to accomplish certain objectives" [21]. The trade network is "adaptable, temporary, and transactional" [21]. This dense, clustered network structure allows for more effective, short-term coordination; the paths between nodes are short in order to make information transmission easier. Rapid and effective communication between the main players is essential: thus we expect a high volume of electronic communication across significant distances, where in-person meetings are not possible.

Arguably, there is a lot of money in trade—more than there is in production. During his trial in France, the main organizer of the distribution network of counterfeit medicines studied by Hamill, a man called Arnaud Bellavoine, declared in court: "I was hungry for money. I had big financial problems… I had the idea of Plavix and Zyprexa. They were very fashionable things and large volumes were prescribed in Europe" [Hamill: 18]. The medicines smuggled into the UK from November 2006 to May 2007 netted the criminals some £7 million. Such high profits (and margins) for trade are to be found in other illegal markets too. For instance, the wholesale price for cocaine in the Netherlands is ten times that in Colombia [Kleemans 2007: 177].[8] Similarly, high profits

[8] According to 2019 data cited in Baker and Duncan [2025: 4], a kilo of cocaine costs $1,500 in Colombia and $69,000 in the USA.

0168

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can be made by those who smuggle either arms, animals, and people, or synthetic drugs. As noted by Peter Reuter, the entire cocaine supply chain resembles an hourglass: a few intermediaries make the most money, while the many who produce and retail the product make relatively little [Reuter 2003; see also Feltran: 4].

Promises are normally not enforced by third parties. Thus, references to the binding power of one's word and invocations of mutual respect are a regular feature of the conversations wiretapped by the police, as in Xu's chats with Bellavoine, a manager of offshore companies and a pivotal actor in his trade network [Hamill: 22]. Since mafia-style third-party enforcement is hard to implement when transactions are complex and take place across different continents, referring to moral obligations is a crucial mechanism [Hamill *et al*. 2019]. Words are not always cheap.

The mechanisms that eventually cause the functions of production and trade to separate are growth in an organization's size, complexity, and profits. The more complex the production process, the more specialized the skill set needed; the more complex the distribution chain, the harder it is for producers to oversee the shipment of goods from one part of the world to another. Hamill shows that the distribution network for counterfeit medicines in Operation Singapore is clearly separate from its production network. Trading across continents, from China to the UK, requires skills that individuals working in a plant in Northern China do not have. As expected, those involved in distribution are middle-aged British and French businesspeople who have vast competence in international trade and travel, with connections to Singapore, Mauritius, Tunisia, France, and Luxembourg, and who are proficient in more than one language. Conversely, the producers are all from the same location and speak the same language [Hamill: 18]. Some countries, such as the Netherlands, appear to have become hubs for trade OC; in the case of the Netherlands, this may possibly be due to its geographical location, population diversity, and good infrastructures. As Kleemans points out: "Criminal groups [in the Netherlands] are primarily involved in international illegal trade, using the same opportunity structure that facilitates legal economic activities" [Kleemans 2007: 176]; the Netherlands' legitimate economy is also specialized in transportation.

A focus on trade OC opens up new areas for research. Scholars might study how long-distance as opposed to short-distance trade affects the opportunity to govern. While in the former case it is almost impossible to envisage a third-party enforcer operating between, e.g., Colombia and Calabria, within a region where there is a strong governance OC, trade might be managed by a traditional mafia. In this case, the activity affects

0169

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not only the internal organization but the interrelations among groups. In addition, trade OC appears to be the area in which the interplay between the legal and illegal spheres is greatest.

Governance OC

The third building block of a viable definition of OC is governance. Here, governance OC means *the unlawful regulation and control of the production and trade of goods and services*. This type of OC seeks to control who is allowed to produce or trade. The entities can take at least two forms. Some might limit themselves to governing the production and sale of a particular commodity, like drugs or sexual services. Others aspire to protect several markets. Thus, governance can be limited or extensive.[9]

Governance OC covers activities such as dispute settlement, protection against competition, protection against thieves, labour racketeering, intimidation of lawful right holders, debt recovery, enforcement of cartel agreements, and governance of prisoners. With the development of cybercrime, some of these functions have been taken up by the administrators of electronic platforms on which buyers and sellers interact, the punishment normally being exclusion from future transactions [Odabaş *et al*. 2017; Lin and Wang 2024]. A group may engage in a combination of such activities. When it engages in most of them in a certain territory, it aspires to enforce a mafia order, and thus acquires a political dimension too. When the ability of the state to govern vanishes or is absent, criminal governance becomes a form of rebel rule and eventually takes the place of the state [for a relevant example, see Winn 2024; for academic studies, see Arjona et al. 2015]. Thus, the two phenomena—of OC and of rebel activities leading to civil war—are related, but should not be conflated [Kalyvas 2015].

Governance-based OC structures are likely to exhibit decentralized networks with low clustering, long path lengths, and high homophily based on demographic attributes. We expect this type of OC to take time to emerge and stabilize; thus it operates with a longer time horizon, as its participants are likely to wait patiently for the right moment to act rather than to require immediate rewards [Breuer and Varese 2023].

[9] See, e.g. Lessing's definition of criminal governance as "the imposition of rules or restrictions on behaviour by a criminal organisation" [Lessing 2021].

0170

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There is a tendency to confuse governance OC with corruption. It should be made clear that governance OC is autonomous from the state. When state agents ensure market stability illegally, they engage in corruption, breaching their contract with their official employer [Varese 2000]. Similarly, the phenomenon observed in China of thugs hired by businesspeople colluding with state officials to remove peasants from profitable land is not a form of governance OC [Varese and Wong 2018]. Unlike cases of corrupt officials or paid thugs, the youths known as "les petits" who operate in the Félix-Pyat neighbourhood of Marseille are an example of a rudimentary form of governance OC. They first attempted to regulate only drug distribution, and then evolved into a group imposing social order on the neighbourhood at large; a compelling mosaic of their relations emerges in Rodgers and Jensen's account.

The drug market in Félix-Pyat has been dominated by Comorians since the mid-2010s. At first it was controlled by a group known as "les grands" (the big ones). When key members of this group were sent to prison, the youngsters took over [Rodgers and Jensen: 11]. In order to build up their reputation, they initially engaged in behaviour which caused them to come across as "unpredictable and dangerous", as an informant told Rodgers and Jensen [*Ibid*.: 11]. This strategy is used by many in governance OC, in stark contrast to the practice in trade OC [for the deployment of "sadism as an instrument of cartel warfare" by Los Zetas in Mexico, see Grayson 2014]. In 2019, when a runaway youth from Northern France tried to sell drugs as a freelancer in Félix-Pyat, he was kidnapped and tortured by "les petits": they burned his genitals with a blowtorch, almost killing him [*Ibid*.: 12]. Their actions were intended to send a clear message to anyone who might think of challenging the group's prerogative over who could sell drugs in Félix-Pyat. The episode shocked the neighbourhood and led to a high-profile trial. Arguably, this was the intended outcome.

Criminal governance was not always present in Félix-Pyat. It appeared only at the very beginning of the twenty-first century. In the mid-l 990s, independent dealers were still able to trade: for example, the man known as Disco, who had arrived in Félix-Pyat as a young man in the early 1980s. Disco sold drugs from his first-floor apartment, having bought his supplies from corrupt policemen. Somebody informed on him to honest police officers, and he was jailed in 1999. This example also suggests a lack of order and predictability in the market: anybody can rat on their competitors. The appearance of a rudimentary form of governance

0171

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makes the market more predictable, ensuring that no one informs the authorities about the activities of protected dealers.

Rodgers and Jensen returned to Félix-Pyat in 2023, some eleven months after their first trip, and noticed that a transformation had taken place. "Les petits" were more friendly, they displayed sartorial uniformity, and most significantly, they had written a letter to the people of Félix-Pyat. In the text, they apologized for past misunderstandings, pleaded with the residents not to go to the police, threatened those who did, and promised to take care of the neighbourhood and help the community [Rodgers and Jensen: 12]. Many saw the letter in a positive light. Shortly afterwards, youths dressed in the gang's outfits were seen cleaning the streets. The group even intervened to settle a brawl between two families, calming everybody down. This parallels the case Zeng and I documented recently of a neighbourhood gang in the city of Nottingham [Varese and Zeng 2024]; as in Félix-Pyat, here too the young gang members had initially only been involved in one market (drugs), but over time they had taken on the role of community governance (for similar dynamics in the case of London, see Campana *et al*. 2025]. "Les petits" were connected to larger groups and became the target of citywide conflicts. While criminal governance can bring a degree of order, this may also be accompanied by more violence.

Governance should be thought of as a continuum of complexity. It can be *ad hoc*, informal, precarious, and small-scale, nesting in deprived neighbourhoods within relatively well-functioning states where policing is generally effective. At the other end of the spectrum are the complex and far-reaching forms seen in parts of Latin America [Lessing 2021; Feltran 2020], the Caribbean, and in traditional mafia territories [Gambetta 1993; Varese 2001]. These groups might be able to provide infrastructural services, jobs, loans, and even healthcare [Rodgers and Jensen: 14]. Yet they all belong to the same category; the differences are in degree and not in kind. This is why the classification of OC into three types of functions suggested here is valuable.

Feltran's study focuses on an extraordinary governance system that ensures more efficient delivery of drugs across the world. The Brazilian Primeiro Comando da Capital (PCC) has developed a system—known as the Agência—that connects independent producers in Colombia, Bolivia, and Peru, cocaine traffickers in Latin America, and buyers in various parts of the world [Feltran: 5]. Entry into the system is voluntary, and the driving motives for all those involved are higher profits and greater certainty. The PCC's rise to prominence generated a conflict with a competing criminal governance structure—the Comando Vermelho

0172

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(Red Command) [Feltran: 20]. While many criminologists have endorsed Reuter's [1983] finding that criminal firms remain small and eventually fragment, they failed to take into account that this result was predicated on a high degree of state repression. When the state proves unable or unwilling to control significant sectors of society (including its prisons), governance OC grows in complexity and sophistication, as was the case with the PCC or, further afield, the Japanese mafia [Baradel 2025]. The effects of the PCC's system are that the market for cocaine runs more smoothly, prices are low, and supply is high, as noted by several recent official reports cited in Feltran [*Ibid*.: 1]. In a nutshell, the PCC ensures stability and governance in the cocaine market, from production to distribution (trade), ultimately backed by the ability to use violence.

As a result of his extraordinary level of access to participants, Feltran can confirm that the "myriad of individual or collective entrepreneurs" (known as *companheiros*) remain autonomous. The PCC would not be able to take over them all. Instead, its system provides them with infrastructure, access to ports, secure routes, and reliable payment methods. The PCC is able to make this system work because it retains a degree of territorial power, for instance on the Bolivian border (Caceres), at the Port of Santos, and at "many other Brazilian, Argentinian, and Uruguayan ports" [Feltran: 6]. Its logistical hubs extend to French Guiana and the port of Le Havre. The key innovation of the system is that participants keep their profits and do not pay a fee to join. Instead, they agree to produce or deliver drugs that are "owned" by the PCC. Thus, institutional revenues are clearly distinct from individual ventures. In return, independent traders get a better deal on their own drugs. Everybody wins, if they stick to the plan. If disputes arise, adjudication is carried out by the PCC's internal justice system [Feltran: 11].

The modern study of governance OC has a long tradition in the social sciences, starting with the insightful essays by Frederic C. Lane [1958], Thomas C. Schelling [1967; 1971], Robert Nozick [1974], Mansur Olson [1993], and the empirical research agenda on protection inaugurated by Diego Gambetta [1993], which built on studies by Landesco [(1929) 1968] and Reuter [1983]. Researchers in empirical economics have refined the theory and conducted extensive empirical tests, creating a rich body of work [see Porreca and Thompson forthcoming]. For instance, the claim that governance OC tends to emerge during periods of sudden market expansion in the absence effective state regulation is supported by a wide range of cases, including nineteenth-century Sicily, Russia in the 1990s, and the northern Italy in the 1970s [Gambetta 1993;

0173

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Bandiera 2003; Buonanno *et al*. 2015; Dimico *et al*. 2017; Varese 2011]. And yet there are still two crucial areas in which scholars could make additional and original contributions.

First, most studies tend to focus on Latin America and traditional mafia territories. The assumption, either explicit or implicit, is that such groups operate in a context where the state is "infrastructurally weak" [Centeno 2002: 10; see also Feldmann and Luna 2022]. However, a few recent investigations have shown that governance OC can nest within strong states and affects immigrant communities that cannot turn to legitimate institutions [e.g. Densley 2013]. Is it possible that factors other than recent immigration—such as barriers to accessing local services, affordable housing, public facilities, or social clubs and venues for recreation, in a setting where drug profits and unemployment are high—might give rise to this form of OC [Campana *et al*. 2025; Varese and Zeng 2024]? Additional research on governance OC in non-immigrant communities in strong states in the Global North is likely to be extremely fruitful.

Opposition to existing oppressive power structures and adherence to principles of equality are part of the ideology of the PCC, which points to the fact that governance OC can be a political actor. Indeed, states are also in the business of governing markets and territories. Once a criminal group has dominated a market (e.g. for drug trafficking), it often succeeds in expanding its control to neighbouring markets. If this logic is extended, OC groups can evolve into fully developed mafias and, if unchecked, into states. In other words, governance OC—including mafias—and states belong to the same category, the key difference being that the latter are not illegal.

The two studies on governance OC by Rodgers and Jensen and by Feltran capture the phenomenon at almost opposite ends of the spectrum. While in Félix-Pyat the governance of the neighbourhood by "les petits" is rudimentary and fragile, the PCC has developed what might be the most complex and efficient system for the regulation of drug production and trade in existence today. Yet, some key commonalities confirm that governance OC differs from trade-based OC in terms of its structure, skill requirements, and activities. Unlike trade-based groups, which seek quick financial returns, governance-oriented groups operate with long-term goals in mind, investing heavily in violence. Although that violence is rarely used, the credible threat it poses helps to establish control and minimize challenges. These groups also gather extensive intelligence on their territories (not just on a specific product or market), enhancing their ability to govern effectively. The presence of

0174

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governance OC improves the functioning of the market, offering a degree of protection to dealers. However, we cannot subscribe to a simplistic demand-and-supply model. Governance might not emerge even if there is a demand for it, or, when it does, it might be imposed on traders (as state governance is often imposed on communities), or it might benefit only a minority. In the case narrated by Feltran, the Agência's platform structure enables "the extreme exploitation of low-level independent operators, who are often from impoverished and marginalised communities" [23].

The framework proposed here also calls for further research on a second area of interest: the intersection of the three factors we have examined, production, trade, and governance. For instance, the `Ndrangheta appears to be involved in both trade of drugs and local governance of territories and markets in the region of Calabria. And yet its ability to dominate the trade of cocaine into Southern Europe is predicated on its control (governance) of the port of Gioia Tauro. The framework I propose allows us to ask questions such as the following: what are the conditions that enable a mafia to govern trade? Can a trade OC group evolve into governance OC, as appears to have been the case with some Mexican "cartels" and the Medellín organization led by Pablo Escobar [for the case of Colombia, see Baker and Duncan 2025]? Does the nature of the product traded—including humans—affect the chain's governability? How does cybercrime production intersect with online trade and governance? Answers to such questions could shed more light on the ongoing transformation of OC.

Conclusions

The concept of organized crime (OC) can be placed on Sartori's hierarchy of generality at a level comparable to corruption, fraud, and theft, below the broader notion of "crime". In this paper, I have defined OC as a set of three activities that actors (most often organized into groups) engage in: namely, illegal production, trade, and/or governance.

These activities differ in terms of the skills required to carry them out, and give rise to different organizational structures. For example, production OC is often structured around firms with clear hierarchies, as seen in the counterfeit medicine operation studied by Hamill. Trade OC, as illustrated by the distribution networks in Operation Singapore, tends to be decentralized and dynamic, emphasizing connectivity over control.

0175

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TABLE 1
Conceptualizing Organized Crime Activities

Activities	Action	Definition	Structure	Skills
Production	creating goods and services[(a)]	*transforming raw materials into finished illegal products and/or performing illegal services, and offering them on a market* [(i)]	Hierarchical	Collecting raw material and transforming them
Trade	moving products and people[(b)]	*moving goods or people from one location to another* [(ii)]	Decentralized	Moving and hiding
Governance	Regulating markets and controlling communities[(c)]	*the regulation and control of the production and trade of goods and services*[(iii)]	Hierarchical	Violence and extraction

[(a)] Examples of actors: Peasants, victims of modern slavery, cybercriminals, sex workers.
[(b)] Examples of actors: Traffickers and smugglers.
[(c)] Examples of actors: Gangs, mafia, insurgencies.
[(i)] Examples of production: production of cocaine, cannabis, methamphetamine, counterfeit goods, sex services, cyber services.
[(ii)] Examples of trade: Human smuggling, drug trafficking, money laundering, lots of cybercrime, informal banking
[(iii)] Examples of governance: Dispute settlement, protection against competition, protection against thieves, labour racketeering, intimidation of lawful right-holders, debt recovery, enforcement of cartel agreements, governance of prisoners.

Governance OC, exemplified by "les petits" in Félix-Pyat or the PCC system in Latin America, introduces mechanisms of authority, conflict resolution, and territorial control, taking over functions that are typically carried out by the state (see Table 1).

This framework allows a variety of competing theories to be tested, and it is relatively easy to operationalize. Most crucially, it envisions OC as a concept that is independent of other constructs rather than as an attribution of ethnicity or organization. In developing this framework, I build on an existing tradition within the literature on OC, emphasizing that "organized crime" is not simply "crime that is organized" [Schelling 1971]. The organization is a by-product of the activity rather than a prime mover. In addition, this approach helps us to ask new questions. For instance, can OC groups engage in multiple activities, as with the "Ndrangheta"s involvement in both international drug trafficking and local governance? Under which conditions does the governance of a market extend to the governance of several markets and even of non-criminal actors and communities? Do we ever observe vertical integration of the three activities? How analytically different is legal from illegal governance, and which instruments can be used to reduce illegal governance in complex modern cities [see Le Galès 2011]? In sum, this

0176

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framework builds on an existing tradition in the literature, namely the "enterprise model"; yet it also unpacks the diverse activities OC groups engage in. Ultimately, this approach highlights how the underworld mirrors the overworld of legal production, trade, and governance.

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0180

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The relationship between social order and crime in Nottingham, England

Federico Varese, Fanqi Zeng

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0181

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The relationship between social order and crime in Nottingham, England

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Studies of organized crime in cities have traditionally concentrated on the global south or ethnic enclaves and traditional mafia territories within the global north. Here this study turns its attention to governance-type organized crime in the English city of Nottingham, where the main protagonists are white and British born. It investigates whether such a gang can govern communities by reducing ordinary crimes. We conduct in-depth interviews with local officials and analyze a novel dataset of the public's phone calls to the Nottingham police from 2012 to 2019, encompassing spatio-temporal information and police-labeled crime types. We identify Nottingham's ward of Bestwood as the site of an entrenched, governance-type organized crime group, whereas its most similar ward, Bulwell, is not. Further comparative analyses indicate that certain ordinary crime rates are significantly lower in Bestwood than in Bulwell. We conclude that governance-type organized crime can emerge in a country with a high capacity to police and in a nonimmigrant, less affluent community. Our findings suggest that traditional explanations of the emergence of criminal governance in cities need to be revisited.

Organized crime groups (OCGs) can engage in a variety of activities in cities and beyond, such as producing illegal goods and services and trading across localities[1]. For instance, cocaine is produced in Colombia and shipped to Europe[2]. However, some OCGs do more: they exercise a degree of governance over communities by imposing restrictions on people's behavior, enforcing agreements, solving disputes and imposing a rough kind of justice, taking over state functions[3–5]. Research on such governance-type organized crime dates back to the work of Landesco[6], and notable contributions include studies on traditional mafias[7–12], urban gangs in the USA[3–19] and cartels and 'combos' in Latin America[20–30], as well as recent work in the UK[31,32]. In all cases studied in the literature, criminal governance, to some extent, coexists with state governance, a feature that sets it apart from governance by rebel groups. However, most literature focuses on Latin America, traditional mafia territories or immigrant communities in urban settings. The two assumptions, either explicit or implicit, are that such groups operate in a context of states that are 'infrastructurally weak'[29] or in immigrant communities that cannot turn to legitimate institutions.

In this study, we focus on an English city in the global north, that is, Nottingham. The core aim of this paper is to establish whether a local criminal group has been able to govern one community by reducing the level of ordinary crime and punish social deviants[8,9]. In doing so, we also map crime in the city. We exploit a novel dataset comprising the public's phone call records to the police in Nottingham from 2012 to 2019. This dataset includes time, location details and crime types (CTs) labeled by law enforcement, enabling us to undertake a macro-level spatial analysis of eight major crimes over time. Initially, we placed postcode-level phone call data into the smallest output area (lower-layer super output areas (LSOAs)) made available by the census in England and Wales[33], and then we aggregated the data into Nottingham's 20 wards. We used spatial and correspondence analysis techniques to unveil associations between wards and crime categories. Our findings underscore an uneven distribution of specific crimes within Nottingham, with particular offenses being concentrated in specific areas of the city. Furthermore, our macro-level analysis suggests the persistence of certain crimes in Nottingham over time.

Alongside the quantitative analysis, we conducted field interviews with local police officers. We also analyzed books and news items related to crimes in Nottingham and undertook field trips to evaluate the neighborhoods' urban buildup. The ward of Bestwood, a

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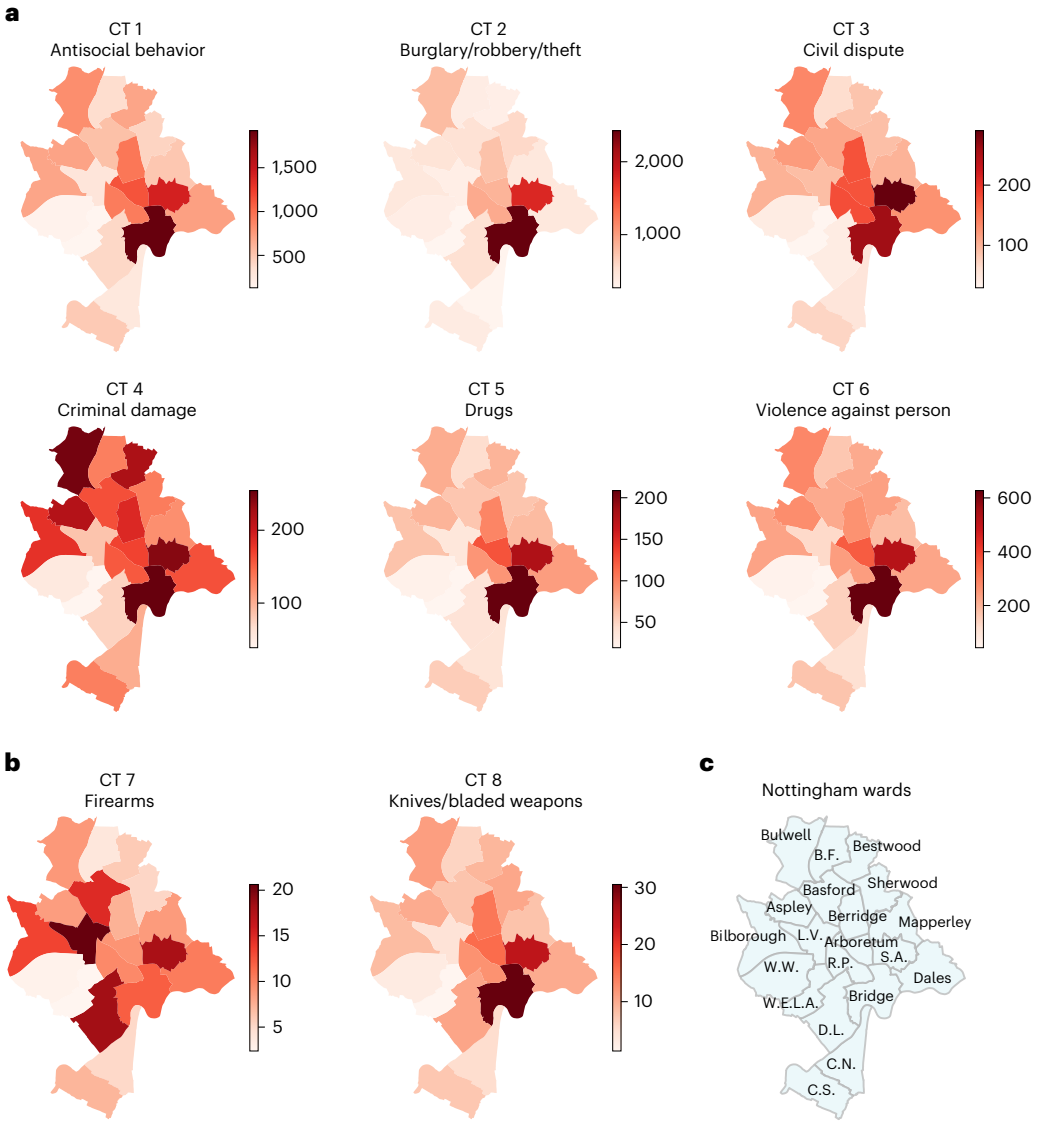


Fig. 1 | Maps of the average crime counts in the 20 wards of Nottingham (2012–2019). Each ward is colored based on its average crime count during the period. Deep red represents a high crime volume, and the color bars indicate the average counts of associated CTs. **a**, Maps showing the six CTs (CT 1–CT 6) that are mainly against people. **b**, Maps showing the two CTs (CT 7 and CT 8) that are mainly associated with the possession of tools involved in criminal activities. These are notably less than the six crimes in **a** in terms of volume. **c**, The annotated wards map of Nottingham City. Here, we use the pre-2019 Nottingham City Ward map[54] for the mapping. Some names of wards are abbreviated, that is, Bulwell Forest (B.F.), Clifton North (C.N.), Clifton South (C.S.), Dunkirk and Lenton (D.L.), Lean Valley (L.V.), Radford and Park (R.P.), St Ann's (S.A.), Wollaton West (W.W.) and Wollaton East and Lenton Abbey (W.E.L.A.). Large Nottingham wards map can also be found in ref. 54.

working-class community without many immigrants[33–35], emerges as the area where a governance-type OCG, led by its boss, Colin Gunn, has been active for decades[34]. Through a matching comparison analysis, we identified Bulwell as a ward sharing comparable socioeconomic and demographic profiles with Bestwood, yet diverging concerning the presence of a governance-type OCG. We then show that where the governance OCG is present, certain crime rates are lower. Thus, Bulwell can be considered a reasonable counterfactual for what Bestwood would have looked like without Gunn's gang.

This study combines qualitative insights and quantitative analyses, setting it apart from most works on organized crime in cities. Many of the classic studies are qualitative, while others analyze large-scale data. Our study follows in the footsteps of a small but growing set of papers that combines ethnographic insights with large-scale data collection and analysis (for example, refs. 27,28,30,36). In our study, the field interviews helped us identify the wards to study with large data. Ultimately, we show that a governance-type OCG exists in a nonimmigrant and relatively poor community in an English city, where the state is neither weak nor emerging from many years of civil war or in the proximity of global drug cartels[28,37]. While further research is needed to identify local causes of the emergence of criminal governance, traditional explanations do not suffice.

Results

Yearly criminal patterns were similar in the same ward

We first investigated the average crime counts of eight CTs in the 20 wards of Nottingham city during 2012–2019, as mapped in Fig. 1 (see Supplementary Table 1 for details). Some macro patterns emerge. For instance, Bridge and St Ann's—in the center of the city—attract high levels of all types of crime. This is where shopping centers, restaurants and malls are predominantly located. As we shall see below, this an area of 'disorganized' and highly violent crime. Neighborhoods in the periphery of the city, both south and north, generally experience lower levels of crime, yet there are differences. Lean Valley has a high level of

firearms crime, whereas Bulwell, not Bestwood, in the north of the city, ranks higher for criminal damage. The overall crime trends in the 182 LSOAs of Nottingham City did not change greatly during the 2012–2019 period (Supplementary Fig. 1).

Field interviews: the Bestwood governance-type OCG

Our analysis of news items, a book-length journalistic account of criminality in the city and 13 interviews with police officers uncovered the existence of a governance-type OCG entrenched in the neighborhood of Bestwood, in the northeast of the city. Its leader is convicted murderer Colin Gunn who, together with his 'Bestwood Cartel' gang, is linked to several murders, police corruption and large-scale drugs trafficking in the Nottingham area[38,39]. Together with his brother David and others, he has been active in Bestwood since the 1980s[39,40]. The gang "by the late nineties, [was] running protection rackets all over Bestwood",[34] in a context where there was deep distrust of the police and notable drugs distribution (officers 10 and 11). Colin even positioned people watching cars coming in and out of the Bestwood police car park (officer 10). The gang was perceived to be "the real authority in the community", to which residents would turn to have a wrong redressed, as detailed in a book-length investigation[34]. "In Bestwood, [Colin] was God-like", officer 2 told us, a view shared by Pat Chambers, manager of the community center on the Bestwood Estate, who said "He was the boss, the mafia boss. If you have a problem, you did not go to the police, you went to Colin, and Colin sorted it. […] Colin helped people and people loved him."[41]. When Colin's nephew died, he expected residents to put obituaries in the local paper to the point that the newspaper had to hire extra staff. Bestwood came to a standstill to allow a horse-drawn cart to go through the town center (officer 10). Colin's house was "almost like a castle on the hill, in the middle of the estate", for all to see (officer 10) and he cultivated an image of a local Robin Hood. "I think he probably enjoyed that [role] more than supplying drugs, he loved being that local governance within the community, the person that people looked up to and feared," (officer 10 and see also ref. 34). Colin and his peers were capable of acts of generosity toward members of the community who were struggling financially and paid for firework displays and raffle prizes for the local schools (officer 10 and ref. 34, "he also lent money"). In return for his generosity, Colin demanded loyalty and asked for favors.

The gang policed ordinary crime. An officer who has worked in Bestwood in the 1990s and 2000s recalls that, in his time on the estate, "you didn't commit burglaries or car thefts or the like on the Bestwood Estate because Colin would police that himself and he was more effective in dealing with it than the police," (officer 10). For instance, "a local teacher got her car broken into and, by the time the police got there, it's been resolved by Colin, 'no, I've got my property. Colin sorted that out I don't need you', she told me," (officer 10). A particular type of crime committed by the gang, according to our informants, is 'criminal damage.' "This is a warning sent by the OCG to a person who is out of line. Criminal damage includes arson attacks, although arson is not very common. It would be more common to smash a window or damaging a car, and it is a form of intimidation." (officer 10).

Colin Gunn was arrested in 2006[40]. Does he still manage to to exert control over the neighborhood? While the arrest surely reduces his power, his gang continues to be a presence and his reputation still mattered according to interviews. Petty criminals still use his name to increase their standing in a dispute. "You still get people saying 'well, I'm—you know, Colin Gunn's second cousin's, fourth removed former roommate'" (officer 2, see also officers 3, 8 and 10). Colin still manages to communicate from prison with his lieutenants (officers 10 and 11) and to punish those who disrespect him or his family (officer 11 and see also ref. 42). After the arrest, "he absolutely still has got influence" (officer 11 and see also ref. 40).

Police patrolling City Central and City South report high level of crime, but the gangs there are not long lived, often do not have a name and do not engage in the kind of community involvement seen in Bestwood, nor do they have the ability to corrupt public officials, reduce antisocial behavior, settle business disputes or run protection rackets (officers 1–9, 12 and 13). "There is no Robin Hood," officer 3 told us. In neighborhoods such as St Ann's and Meadows (Bridge) officers encounter "urban street gangs", dealing in drugs and engaging in robberies (officers 1 and 2). Prostitution is linked to consumption of illegal substance. Corrupting police officers and local officials is "an echelon too high for them" (officer 2). Officers also note that, in community meetings, local urban gangs are not discussed as a major concern, suggesting that their impact is low (for example, officer 1).

Correspondence analysis on wards and crimes

Multiple correspondence analysis (MCA) is a model-free technique used to establish the strength between categorical variables and represent them in a geometrical space[43,44]. We apply this method to represent the relationships between CTs and neighborhoods. It transforms rows and columns of a data matrix into points of a two-dimensional Euclidean space[45] and places categories that are associated close to each other. No pre-existing model is needed, but rather patterns emerge inductively. The existence and the strength of a relationship between two categorical variables can be established by drawing a line from the points of interest to the origin of the principal axes. For instance, in Fig. 2, an imaginary line can be drawn from the point representing Bestwood and the origin, and another imaginary line between CT 4 (criminal damage) and the origin. The angle between the two lines is acute, thus the relationship between the two variables is positive (the scalar product is positive). We can then report that criminal damage is present markedly in Bestwood, relative to all other crimes and places in the same space. If the angle is a right angle, it would mean that there is no relationship (the scalar product between the two vectors is zero) and if the angle is obtuse, the relationship would be negative (the scalar product is negative). The longer the line between the point and the origin, the stronger the relationship[44,45].

Figure 2 also shows that a large number of neighborhoods are clustered in the center of the plot, together with most crimes, which means these CTs and wards are associated or similar. At the extreme right in Fig. 2 are the suburbs, that is, Wollanton West and Wollanton East and Lenton Abbey, staying far away from most CTs, which indicates that they are similar to each other regarding eight CTs and have low level of crime (this can also be found from their average crime patterns shown in Fig. 1 or yearly crime patterns shown in Supplementary Fig. 2). In sum, Fig. 2 illustrates the relationship between eight CTs and 20 neighborhoods in Nottingham, as well as individual relationships within the same category.

Matching Bestwood

The MCA helps to place Bestwood in relation to other wards' crimes at a macro level and, along with the interviews, it raises a further question of what makes Bestwood so special. To answer this question, we select critical socioeconomic features (Table 1) from the 2011 Census for England and Wales[33] and the English Indices of Deprivation 2015[35], which have been used in a previous study[46]. We identify the ward most similar to Bestwood and then compare the crime patterns from that ward with Bestwood.

By applying a nonparametric supervised learning method called *k*-nearest neighbors (*k*-NN), we find Bulwell to be the nearest ward to Bestwood in relation to these socioeconomic features. Figure 3 shows that Bestwood has a lower level of crime than Bulwell on all CTs when measuring by the average crime counts over local population densities. Furthermore, we conducted Welch's *t*-tests on each CT (Supplementary Fig. 3) for the observed measurements from the two wards over 8 years with 10,000 bootstraps. The statistical analyses, using the crime counts per population density, indicate that Bestwood is significantly lower than its matched ward of Bulwell on every CT.

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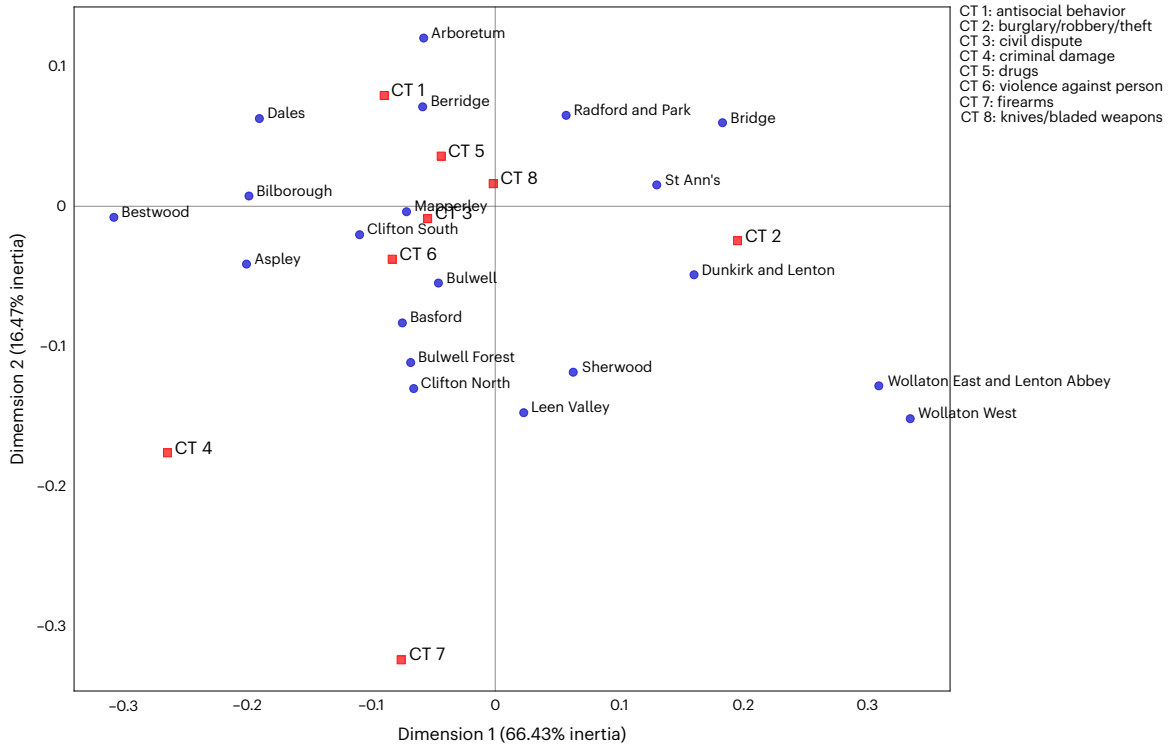


Fig. 2 | Correspondence analysis of CTs and neighborhoods in Nottingham. The relationships between the two categorical data, that is, 20 wards (blue dots) and 8 CTs (red squares) in two-dimensional space. The associations between variables are illustrated by their closeness in the plot. Dimensions 1 and 2 of the biplot correspondence graph account for 82.9% of the explained inertia, which indicates that the two principal dimensions together can cover the majority association of the categorical data[67].

These quantitative results resonate with the interviews, that is, Colin's governance-type OCG has major impacts on local crimes. In particular, policing antisocial behavior (CT 1) and burglary/robbery/theft (CT 2) appears to be a notable activity of the gang, which in some sense is in striking parallel to the same activity undertaken by republican armed groups in Northern Ireland[3]. Furthermore, crimes related to the protection of businesses (who are likely to pay protection money), such as burglary/robbery/theft (CT 2), civil dispute (CT 3) and criminal damage (CT 4) are significantly lower in Bestwood than in Bulwell. Crime related to personal safety, such as violence against person (CT 6), is also significantly lower in Bestwood. Crimes, such as drugs (CT 5), firearms (CT 7) and knives/bladed weapons (CT 8), are at approximately the same levels, suggesting that the Bestwood gang does not prevent such activities, which are a form of business and is likely to generate revenues for the gang. However, Fig. 3 shows Bestwood still has significantly lower levels than Bulwell of these three CTs.

On the basis of the yearly measurements in Supplementary Fig. 3, we can see than the ability of the gang in policing crime did not decrease following the arrest of Colin Gunn. As also suggested by the interviews, the grip of the Bestwood gang on the ward does not change much over the years, with the values for Bestwood remaining well below Bulwell, even in later years.

Discussion

This work applies a mixed-methods approach that contextualizes a large dataset of calls to the police by the public and official census and deprivation index data, as well as qualitative data collected from interviews with local police officers in Nottingham. We first show that crime patterns in the city differ: in the south and central neighborhoods, crimes are quite high, especially in St Ann's and Bridge, where the main shopping area is located. Gangs converge there to supply drugs and commit robberies. Neighborhoods in the west of the city are suburbs; hence, we see lower crime. The north of the city is the location of less affluent areas, and we observe a lower level of crime than in the center but higher than in the suburbs, and yet there is variation within the north of the city.

Through a series of in-depth interviews, analysis of written documents and field trips, we identify Bestwood as a part of the city where a governance-type OCG operates. Although after the arrest of the main boss, Colin Gunn, the power of the gang has been reduced, the OCG is still exercising governance over the neighborhood. By conducting a matched comparison, we identified Bulwell as the most similar area to Bestwood in the city in terms of several key sociodemographic variables. When examining the distribution of the crime counts per population density, we saw that all eight selected crimes are significantly lower in Bestwood than in Bulwell. Other forms of crime are very similar (drugs, firearms and knives/blades weapons), but very low in volume. Despite the presence of a serious OCG in Bestwood, no serious violence takes place. The quantitative findings resonate with the information we obtained from interviews. We conclude that the gang in Bestwood can reduce expressive crime and crimes that affect the business community, such as antisocial behavior, burglary/robbery/theft, civil disputes, criminal damage and violence against the person. As Bestwood is most similar to Bulwell except for the presence of Gunn's gang, our findings are consistent with the theory[36,47] that the gang's governance activities have reduced crime rates.

Actual crime occurrences may differ from the data documented in official crime statistics, which, in turn, differ from calls reported to police. Local populations might perceive governance-type OCG as trustworthy mediators adept at resolving conflicts and rectifying injustices. Consequently, individuals may reach out to the gang rather than the police. This implication would be that while calls to the police in Bestwood are lower, the actual crime occurrences might not be. Yet scholars should not dismiss anonymous phone lines where crimes can be reported. Such a method has been successfully adopted by several cities, including Ciudad Juárez[48], one of the most violent cities

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Table 1 | Summary of critical socioeconomic features of the 20 wards in Nottingham

Ward	Population density (number of persons per hectare)	Population aged 15–24 years (%)	Highest level of qualification: level 4 qualifications and above	Born outside the UK (%)	Social rented (%)	Income deprivation domain	Employment deprivation domain	Health deprivation and disability domain	Barriers to housing and services domain
Arboretum	76	45.2	19.1	29.3	42.7	0.23	0.17	1.34	34.53
Aspley	62.5	15.8	9.8	14.9	48.3	0.41	0.28	1.14	28.79
Basford	42.8	14.6	18.9	13.2	28.3	0.24	0.18	0.85	22.61
Berridge	76	17.6	30.4	29.5	16.5	0.23	0.17	0.73	22.27
Bestwood	57	14.6	13.3	11.4	40.8	0.29	0.23	1.12	23.57
Bilborough	32.8	13.1	11.6	10.2	44.1	0.33	0.28	1.45	22.70
Bridge	32.4	26.7	32	30.6	31	0.21	0.14	0.97	29.51
Bulwell	30.1	14.2	10	8.2	40.4	0.34	0.26	1.21	28.78
Bulwell Forest	41.1	11.8	16.1	8.8	16.1	0.17	0.15	0.55	17.61
Clifton North	28	17.9	17	8.1	19.5	0.15	0.13	0.57	23.68
Clifton South	32.1	13.3	11.3	6.5	31.4	0.23	0.19	1.00	25.31
Dales	32.5	13.7	20.6	23.7	26.7	0.26	0.21	0.96	20.09
Dunkirk and Lenton	20.9	60.8	26.9	28.6	23.5	0.09	0.06	0.62	30.73
Leen Valley	35.2	13.1	20	25.4	20	0.18	0.15	0.65	23.28
Mapperley	43.9	14.7	34.2	19.9	20	0.19	0.17	0.70	25.33
Radford and Park	88.6	48.7	28	31.4	27.4	0.13	0.10	0.61	32.52
St Ann's	76.1	32.1	17.6	30	46.8	0.28	0.21	1.35	32.24
Sherwood	48.3	12.6	35	14.5	18.2	0.19	0.16	0.76	16.36
Wollaton East and Lenton Abbey	34.6	58	21.9	27.5	28.5	0.10	0.06	0.40	36.39
Wollaton West	26.6	11.1	39.3	17	10.9	0.08	0.08	-0.34	17.85

in Mexico, as well as Rio de Janeiro[49,50] in Brazil and cities in Guatemala[51]. It should also be noted that the CTs selected for this study do not occur behind closed doors, such as domestic abuse, and often trigger the involvement of insurance companies or even medical attention. Hence, they are more visible and are more likely to generate a response. In addition, we find that reports that are very likely to trigger a call, such as drugs, firearms and knives/bladed weapons, are almost identical in both Bestwood and Bulwell. We interpret this finding as suggesting that individuals in both areas are not deterred from calling the police as these calls are anonymous, such that what we find is a genuine ability of the gang to reduce ordinary crime. It is highly unlikely that the gang has the ability to generate such fear in the community to scare off reporting to the police phone line.

While it is hard to establish causality with observational phone call data, we believe that the matched comparison goes in that direction. As for the risk of reverse causality, there are no specific reasons why this OCG would emerge within communities with low-volume crime or why it would migrate there. Indeed, Colin Gunn grew up in Bestwood[39].

The key contribution of this work is to extend the study of criminal governance to a city in the global north that is not associated with traditional mafias, drug production or immigrant communities. Bestwood has only 11.4% of residents born outside the UK (Table 1), among the lowest figure in the city (cf. the value for St Ann's of 46.8%). The ward also has a relatively high level of income and employment deprivation, and residents experience high barriers to reaching social services, are poorly educated and suffer poor health (Table 1). However, Bestwood is not the only ward with such a low income and difficulty accessing social services. Our findings present an urgent call to improve the traditional explanations of criminal governance in cities.

A powerful gang led by a charismatic leader[34] thrived in a less affluent neighborhood with low immigration. Residents suggested to

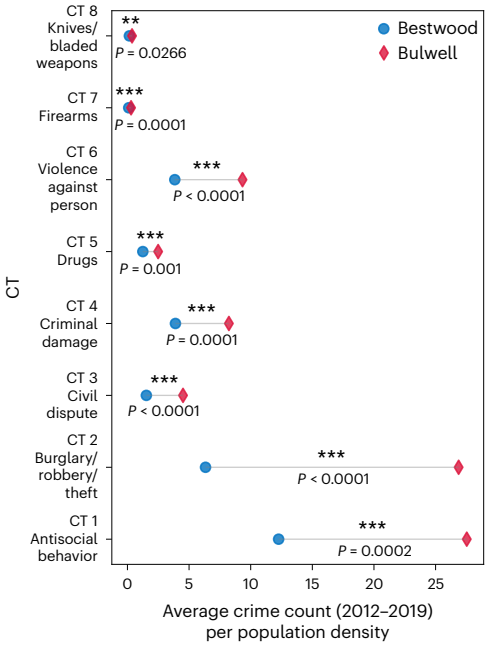


Fig. 3 | Matching comparison between Bestwood and Bulwell on eight CTs measuring by average crime counts over local population densities. The gray bars illustrate the differences in average crime rates for each CT between the two wards. Overall, Bestwood demonstrates lower average crime counts per population density than Bulwell across all eight CTs, with minimal discrepancies observed for firearms (CT 7) and knives/bladed weapons (CT 8). The *P* values under each bar indicate that, according to two-sided Welch's *t*-tests (Supplementary Fig. 3), Bestwood's crime counts per population density are significantly lower than those of Bulwell for each CT over the period. ***$P < 0.01$ and **$P < 0.05$.

us that a lack of public facilities, such as parks, social clubs and venues for recreation, fostered the rise of gang culture in a local context where drug profits were high[34] and state policing wanting. High population density is also a feature that makes Bestwood special. Recent developments in the neighborhood indicate that local authorities have increased social services and engaged in community policing through 'Operation Reacher', leading to a reduction of the gang's activity[52].

Methods

Ethic approval

This research follows all relevant ethical regulations. Approval for the study was granted by the Central University Research Ethics Committee, University of Oxford (R70851/RE004). We have obtained informed consent from all interviewees before the interviews.

Materials

Crime data and socioeconomic data. We use an anonymous dataset of the public's phone calls to the police in the city of Nottingham from 2012 to 2019 containing call time, postcode-level location and police-labeled CTs. Since the crime data are distributed at the postcode level, we first aggregate every year's data into LSOAs, which are officially designed areas in England and Wales comprising between 400 and 1,200 households and usually have a resident population between 1,000 and 3,000 (ref. 53). There are 182 LSOAs in Nottingham, making up to 20 wards. We then compute the crime counts in the 20 wards. Notably, from May 2019, Nottingham City Council adjusted the boundaries of several wards except for Bestwood, Bulwell, Bulwell Forest and Wollaton West[54]. Furthermore, the names of a few wards in Nottingham city central and south have been changed since then. For example, the majority area of ward Bridge is now in ward Meadows. Here, considering the crime data we examined, we use the prechange geographic areas and wards map to conduct the analysis. We recognize that these adjustments of ward boundaries would not substantially impact the main results in this work.

We also use the 2011 UK Census data[33] and the English indices of deprivation data[35] for Nottingham to characterize the socioeconomic features of neighborhoods. The census and deprivation data are formatted at the LSOA level. Hence we aggregate them into ward level when we make the matching comparison. We select the critical socioeconomic variables, which have been used in a recent criminology study in London, as drivers in analyzing the causes of urban crime[46].

Interviews. To identify the wards with the presence of organized crime in Nottingham, we conducted 13 interviews with senior police officers tasked with the fight against organized crime in the city now and in the recent past. The interviews took place in 2022 and 2023 (see Supplementary Information for more information on the interview times and key points).

Analyses

Selecting eight CTs. Protection theory has been used extensively to study governance-type OCGs. It posits that such groups impose protection payments to businesses in exchange for a safer environment to conduct commercial activities (enforcement of agreements/recovery of debts/protection against theft)[8,36,47,55]. Hence, we expect that civil disputes and burglary-robbery/theft should be lower in areas controlled by such groups as opposed to areas where such groups do not operate. The same theory also posits that governance-type OCGs enforce protection against expressive violent crimes to increase a process of social consensus[36], hence we expect crimes such as battery and antisocial behavior to be lower. Thus, based on this theory, we selected eight CTs. Some speak to the protection of businesses (burglary/robbery/theft, civil dispute and criminal damage), while other capture the protection against expressive violent crimes (antisocial behavior and violence against person). In addition, we select drugs, a crime that refers to a business activity that might be protected by the governance-type OCG and is very prevalent in the city. Finally, we selected crimes that speak to the means of committing the offense (firearms and knives/bladed weapons). Owing to their nature, these are crimes that are more likely to be reported accurately, hence we can have a sense of whether there is variation in propensity to report depending on the neighborhood (that in turn might be caused by fear).

Correspondence analysis. MCA is a multivariate statistical technique[43,44], conceptually akin to principal component analysis, providing a summary of categorical data in a two-dimensional space. Given two groups of variables, the method can reveal the relative relationships between and within them. In a biplot correspondence graph, variables from different categories are associated when their positions are close to each other in the plot, while variables from the same category are said to be similar if they are nearby. We explore the relative relationships between 20 wards of Nottingham city and eight CTs. We use the two dimensions with the highest variances captured for visualization, as illustrated in Fig. 2. Here, we used the Python library Prince (version 0.13.0)[56] to conduct the correspondence analysis.

Matching comparison. Matching comparison is a statistical method employed in observational and experimental studies to compare two or more groups that are matched or paired based on certain features. The general process is to identify subjects with similar features and then form pairs, wherein one individual from each pair gets one treatment while the other gets a different treatment or acts as a control. We applied the k-NN matching approach, thus we can isolate the effects of treatment or intervention being studied while controlling for the impacts of other variables, which enhances the validity of the comparison analysis and the conclusions drawn.

To conduct the comparison, we include nine socioeconomic features on 'population density (number of persons per hectare)', 'population aged 15–24 years (%)', 'highest level of qualification: level 4 qualifications and above', 'born outside the UK (%)' and 'social rented (%)', which are extracted from the UK Census 2011 data, and 'income deprivation domain', 'employment deprivation domain', 'health deprivation and disability domain' and 'barriers to housing and services domain', which are extracted from the Index of Multiple Deprivation. A detailed description of these features can be found in Supplementary Table 2.

We used the matching comparison formula to investigate the role of OCG's governance in crime concentration. On the basis of our interviews, we know that the ward of Bestwood has a governance-type OCG existing from at least the 1980s. We wanted to establish whether any other ward in Nottingham with similar socioeconomic status to Bestwood but without a similar type of OCG displays different crime patterns.

***k*-NN.** The k-NN algorithm is a nonparametric supervised learning method that is widely used in classification or regression[57,58]. Here, we use the Python library Scikit-learn (version 1.3.2)[59] to find the nearest neighbor in terms of socioeconomic features for Bestwood. We first scaled the socioeconomic features by the maximum values in each feature respectively to ensure all features are on roughly the same scale of (−1, 1). Then, we use the Minkowski metric $d(x,y) = (\sum_{i=1}^{n} |x_i - y_i|^p)^{1/p}$ to compute the similarity distance $d(x, y)$ between ward x and ward y, wherein x_i (here $i = 1, \ldots, 9$) represents the socioeconomic features of ward x and p is the parameter for the Minkowski metric in the Scikit-learn package. When $p = 1$, the k-NN algorithm in the Scikit-learn package is equivalent to using the Manhattan distance $L^1 = \sum_{i=1}^{n} |x_i - y_i|$, and $p = 2$ for the Euclidean distance $L^2 = \sqrt{\sum_{i=1}^{n} (x_i - y_i)^2}$. We check both $p = 1$ and $p = 2$, and it turns out that Bulwell is the nearest ward to Bestwood in both situations (Supplementary Table 4). Therefore, we conclude that Bulwell is the most similar ward to Bestwood in terms of the critical socioeconomic status that has a relationship with crime.

Statistical significance and robustness check. When finding the nearest ward to Bestwood, we used the above-mentioned two similarity metrics as a robustness check, which both indicate Bulwell is the most similar neighborhood to Bestwood. After obtaining the matched pair of Bestwood and Bulwell, we conducted a Welch's *t*-test (two sided)[60], along with bootstrapping (10,000 times per individual CT) to check whether the two wards are significantly different on individual CTs.

When using the measurement of crime count per population density for the Welch's *t*-tests, Bestwood was significantly lower than Bulwell on all eight CT measurements (Supplementary Fig. 3). We choose this measurement for two main reasons: first, Bestwood's population density is almost double that of Bulwell's and second, population density is often considered to have an impact on crime volume[61,62]. Therefore, a scaled comparison of crime, based on local population densities between two wards, may increase the robustness of the result.

Meanwhile, we used the measurement of crime count to conduct similar statistical analyses. We perform a Chi-squared test using the average crime counts, which shows that Bestwood and Bulwell are significantly different regarding the eight CTs (Supplementary Fig. 4). Furthermore, Supplementary Figs. 4 and 5 show that Bestwood is still significantly lower than Bulwell on CT 2, CT 3, CT 6 and CT 7 when using the measurement of crime count, while Bestwood is lower than Bulwell regarding average crime count on CT 1, CT 4, CT 5 and CT 8, as indicated in Supplementary Fig. 4.

Additionally, we conducted a comparison between Bestwood and its second-most similar neighbor, Bilborough (Supplementary Table 4). As shown in Supplementary Fig. 6, Bestwood is significantly lower than Bilborough on almost every CT except for CT 8 when measured by population density. Additionally, we compared Bestwood with its three neighbors, that is, Basford, Bulwell Forest and Sherwood, which are not very similar to Bestwood regarding socioeconomic features (Supplementary Table 4) and have lower population densities than Bestwood (Table 1). The additional comparisons (see Supplementary Information for details) show that Bestwood is still significantly lower than its neighbors on certain crimes, such as CT 2 and CT 3.

Built environment in Bestwood and Bulwell. We visited Nottingham several times to conduct the interviews, collect data from the police and observe the built environment, especially the matched wards of Bestwood and Bulwell. We also visited Clifton South and Nottingham City Center (see photos in Supplementary Information). The neighborhoods of Bestwood and Bulwell are very similar. They have similar detached and semi-detached homes and some basic shops, and the streets are well lit at night. Bulwell has no particular high-profile venues that could attract robbers. Public street touring-style videos from Bestwood[63,64] and Bulwell[65,66] also resonate with our observation. We conclude that the built environment of Bestwood and Bulwell could not account for the differences in crime rates.

Reporting summary

Further information on research design is available in the Nature Portfolio Reporting Summary linked to this article.

Data availability

The Shapefile we used to produce the wards map of Nottingham in Fig. 1 was published by the Office for National Statistics as an open data file, that is, Wards (December 2018) Full Extent Boundaries UK (https://www.data.gov.uk/dataset/8b829024-b053-4bdd-8133-d91d6e812008/wards-december-2018-full-extent-boundaries-uk). The UK Census 2011 data are publicly available at https://www.ons.gov.uk/census/2011census. The English indices of deprivation data are also publicly available at https://opendatacommunities.org/data/societal-wellbeing/imd/indices. We have no right to share the anonymous phone call data used in the study. We are happy to share the contact of the data officer at Nottingham Police, who has the authority to share the data. We can share the interview data upon reasonable request.

Code availability

Custom code was created using Python (version 3.8.8). We also used the Python libraries: csv (version 1.0), geopandas (version 0.13.2), matplotlib (version 3.7.1), numpy (version 1.21.6), pandas (version 1.5.3), Prince (version 0.13.0), seaborn (version 0.11.1), scipy (version 1.11.4) and Scikit-learn (version 1.3.2) for essential analysis. The sample code for bootstrap statistical analysis is provided in Supplementary Code.

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Author contributions

Conceptualization: F.V. and F.Z. Data curation: F.V. and F.Z. Formal analysis: F.Z. and F.V. Methodology: F.Z. and F.V. Fieldwork: F.V. and F.Z. Software: F.Z. Visualization: F.Z. Writing, original draft: F.Z. and F.V. Writing, review and editing: F.Z. and F.V.

Competing interests

The authors declare no competing interests.

Additional information

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Software and code

Policy information about availability of computer code

Data collection	No custom code was used for data collection.
Data analysis	Custom code was created using Python (version 3.8.8). We also used the Python libraries: csv (version 1.0), geopandas (version 0.13.2), matplotlib ((version 3.7.1), numpy (version 1.21.6), pandas (version 1.5.3), Prince (version 0.13.0), seaborn (version 0.11.1), scipy (version 1.11.4), and Scikit-learn (version 1.3.2) for essential analysis. We provide the sample code for bootstrap analysis in the Supplementary Code.

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The Shapefile we used to produce the wards map of Nottingham in Figure 1 was published by the Office for National Statistics as open data, i.e., Wards (December 2018) Full Extent Boundaries UK (https://www.data.gov.uk/dataset/8b829024-b053-4bdd-8133-d91d6e812008/wards-december-2018-full-extent-boundaries-uk).

The UK Census 2011 data are publicly available at https://www.ons.gov.uk/census/2011census. The English indices of deprivation data are also publicly available at https://opendatacommunities.org/data/societal-wellbeing/imd/indices. We have no right to share the anonymous phone call data used in the study. We are happy to share the contact of the data officer at Nottingham Police, who has the authority to share the data. We can share the interview data upon reasonable request.

Research involving human participants, their data, or biological material

Policy information about studies with human participants or human data. See also policy information about sex, gender (identity/presentation), and sexual orientation and race, ethnicity and racism.

Reporting on sex and gender	We do not report on the sex and gender of the participants. This work does not analyze any sex or gender information. Regarding the official census and deprivation data, there is no such information on individual human beings. Regarding the anonymized phone call data, there is no such information on individuals either. For the interview participants, we do not consider sex and gender.
Reporting on race, ethnicity, or other socially relevant groupings	We use the socioeconomic variables provided in the official census and deprivation data, which include variables such as the population aged 15-24 (%) and the percentage of individuals born outside the UK. These variables were aggregated at geographic levels and contained no individual information on race or ethnicity. There is no information on race, ethnicity, or other socially relevant groupings in the anonymized phone call data. For the interview participants, we did not consider any variables related to race, ethnicity, or other socially relevant groupings.
Population characteristics	See above.
Recruitment	For the interviews, we first contacted the Nottingham Police Department, which then selected the police officers as interviewees based on their working experience and policing areas in the city. Although the Nottingham Police Department recommended these senior officers, selection bias may exist. For example, some officers might only be familiar with the same area. To reduce this bias, we made every effort to get as many interviewees from different areas as possible. During the interviews, we also asked the interviewees about crime in other city areas, as a cross-check.
Ethics oversight	Approval for the study was granted by the Central University Research Ethics Committee, University of Oxford (R70851/RE004).

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Study description	This work is a mixed-method case study using quantitative large-scale data analysis and qualitative interviews.
Research sample	Based on official census data, we selected 20 wards (182 LSOAs) of Nottingham City as the research samples to investigate criminal governance in the city. We used police-labeled public phone calls from 2012 to 2019, along with official socio-economic data for these regions, to conduct the study. These datasets cover the entire city of Nottingham, making them representative of the area. In our analysis, we used the aggregated variables of the population aged 15-24 (%) and the % born outside the UK as provided in the census data. There is no demographic information in the anonymized phone call data. Additionally, we conducted 13 interviews with police officers who patrol Nottingham. The Nottingham Police Department selected these 13 interviewees based on their work experience and areas of responsibility, and they recommended the interviewees to us.
Sampling strategy	We analyzed data from the entire city of Nottingham during the observation period (2012-2019) using official sources. We also interviewed 13 senior police officers from different areas of the city who had extensive knowledge of local crime. The Nottingham Police Department selected the interviewees based on their work experience and patrolling areas within the city.
Data collection	The UK Census 2011 and the English indices of deprivation data (2015) were obtained from official public websites, as cited in the work. We received the anonymized phone call data from the Nottingham police department. For the qualitative interview data, we conducted 13 interviews with police officers in Nottingham. The Nottingham Police Department recommended the interviewees.
Timing	The UK Census 2011 and the English indices of deprivation data (2015) were collected and publicly released by the UK government in 2012 and 2015, respectively. We downloaded these data from the official website when we conducted the work in 2022. The phone call data were collected by the Nottingham police from 2012 to 2019. We received the anonymized data in 2022. We interviewed 13 police officers in Nottingham from 2022 to 2023.
Data exclusions	For the crime data we received from the Nottingham Police Department, we selected 8 main crime types and merged the police-labeled types that were closely related to these 8 main categories. We excluded 9 categories of police-labeled data that were

	irrelevant to the 8 main crime types.
Non-participation	No participant dropped out the study.
Randomization	For the qualitative interviews, the interviewees were recommended by the Nottingham Police Department based on the interviewee's working experience and patrolling area, which was not a randomization.

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The Triads as Business

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The Triads as Business

There is no doubt that the triads have become recognised as a sophisticated international criminal force. Their very name conjures up images of intrigue, mystery, brutality and violence and, following the handover of Hong Kong to China on 1 July 1997, there have been increasing fears that the influence of the triad societies will spread through emigration. This book investigates the reality behind the myth. Yiu Kong Chu here looks at the triads in Hong Kong, generally regarded as the headquarters of triad societies throughout the world. He describes their origins, their organisation, their involvement in legitimate businesses from the entertainment and construction industries to street hawking and the wholesale fish markets of Hong Kong and, finally, their part in illegal activities around drugs, gambling, prostitution and human smuggling.

Based on interviews with ex-triad members and victims of the triads and with police from Hong Kong, mainland China and Europe, as well as on documentary evidence, *The Triads as Business* gives a vivid and compelling picture of the triads as part of a wider society.

Yiu Kong Chu is Visiting Assistant Professor in the Department of Sociology at The University of Hong Kong. He is also the Hong Kong Representative of the Institute of Criminal Justice Studies, University of Portsmouth, UK.

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Contents

List of figures and tables vii
Foreword viii
Preface xi
Acknowledgements xiii
List of newspaper and journal abbreviations xiv

1 Triads, business, and markets 1

PART I
The triads **9**

2 Origins 11
3 Organisation 22

PART II
Legal markets **41**

4 Protection against extortionists 43
5 Protection against competitors: traditional operations 53
6 Protection against competitors: recent operations 66
7 Dispute settlement 77

PART III
Illegal markets **81**

8 Drug dealing 83

0199

9 Gambling 88
10 Prostitution 99

PART IV
International markets **107**

11 Drug trafficking 109
12 Human smuggling 115

PART V
Implications and reflections **121**

13 Are triads extortionists, entrepreneurs, or protectors? 123
14 International triad movement: emigration or reversion? 129
15 New directions in the study of triads 133

Appendix 1: Data sources 142
Appendix 2: The formation of the Tiandihui 145
Appendix 3: The 14K 147
Appendix 4: Translation of a triad expulsion order 149
Appendix 5: The Big Circle Boys 150
Appendix 6: An actress's experience with triads 153

Bibliography 155
Index 162

0200

Figures and tables

Figures

3.1	The structure of a headquarters organisation	23
3.2	The structure of a branch society	24
3.1	The structure of a modern triad society	28

Tables

3.1	The rank structure of a triad society	23
3.2	The four major triad groups and their sub-groups	26
6.1	Number of Hong Kong films (1986–93)	72

Foreword

For reasons the reader should easily grasp, original research on organised crime is in general rather scanty, and on triads in particular is almost non-existent. The only predecessor to Yiu Kong Chu's book this century, W.P. Morgan's *Triad Societies in Hong Kong,* is 40 years old.

Thus, *The Triads as Business* stands virtually alone in its field. But it can claim more than mere uniqueness. Unlike many writings on organised crime, there is nothing speculative or conspiratorial about it. Based on a wide-ranging empirical research carried out by its author with unparalleled determination over several years, this book does not just contain a rich crop of descriptive information on this phenomenon. It also tests some hypotheses derived from the economic theory of organised crime originally developed with reference to the Sicilian mafia. Written in an unassuming and succinct style, *The Triads as Business* aims to illuminate and to inform rather than to impress. And what it does illuminate often turns out to be interesting and unexpected.

For example, the link between organised crime and purely extortionate activities is shown to be largely a misconception, albeit a widespread one. More often than not, triad groups, just like the mafia, provide effective protection services to economic agents in several markets of both legal and illegal commodities. Rather than being victimised, dealers and entrepreneurs themselves often call on and bargain with triad members for various forms of assistance, especially if legal or self-managed options are either unavailable or inefficient. They occasionally end up not liking very much the services they get or how much they are asked to pay for them, but still prefer to have them of poor quality rather than not having them at all. To be sure, triad activities do have their victims - such as unprotected competitors, consumers and rival gangs – but also many beneficiaries. Triads are indeed an integral rather than a mere predatory element of many sectors of the economy.

Contrary to another misconception, triads are not an all-powerful organisation, equally and firmly in control of every sector, legal or illegal, upon which they set

their eyes. There are conditions that prevent or lead to their involvement in any one sector, which are governed by powerful economic mechanisms. In the markets of legal goods, for instance, Chu's research confirms the evidence, found both in Sicily and in the United States, that mafia-like groups are particularly apt to provide the 'muscle' that makes cartels viable, by both discouraging new entrants and ensuring that cartel members comply with their collusive agreements. It also bears out the finding that the sectors liable to this type of triads intervention have low product differentiation, low technology and low barriers to entry; and are those in which labour is unskilled, demand is inelastic and firms are many and of small size (Gambetta and Reuter 1995).

In the markets of illegal commodities too, triad involvement varies greatly by type and extent. It generally grows as the exposure of agents to the risk of robbery, cheating or extortion grows. At the same time, it diminishes if the markets involved operate in more than one territory at once, for this makes it harder to match the dynamics of these markets with triads' territorial structure. In some cases, such as wholesale and retail markets in narcotics, in which the weight of the protection services required is large relative to other assets or skills, triads tend to become more heavily involved and at times to run the business themselves rather than to act as mere protectors. By contrast, in international drug trafficking, in which the financial skills and technologies required as well as the chains of exchange are complex, triads often are, contrary to a common view, ill-equipped to play a major part.

One of the striking results of *The Triads as Business* is to reveal that many features of organised crime groups are not culturally or ethnically determined, and shows that the same economic framework can successfully explain how these groups operate and organise themselves in different parts of the world. Triads share with the mafia essential traits. Similarities are not just confined to the markets that they penetrate and to their organisational structure, which is not centralised but rather fragmented and localised. Nor do they concern only the fact that in both groups affiliation is not based on kin – contrary to what viewers of *The Godfather* are led to believe. The parallels extend even to the use of an initiation ritual and to their foundation myth: mafia and triads both claim as their founders a secret sect of seventeenth-century rebels and avengers, *I Beati Paoli*, and the monks of the Shaolin Temple respectively.

But Chu's research also gives us the opportunity to search for interesting organisational differences. For instance, the mafia, especially in Sicily, seems to have been relatively more successful in preventing the formation of competing groups. Mafia 'families' enjoy a degree of independence and occasionally engage

0203

in warfare with one another, but operate under the same ‘trademark’, sharing both a common reputation and initiation ritual. Triad groups, by contrast, comprise several ‘trademarks’ with a common initiation ritual but varying reputations and distinct origins. Furthermore, the rules that govern affiliation seem more lax in triad groups, to which even a few women have been initiated, than they are in the mafia. These and other differences, which the interested reader will no doubt detect, suggest the presence of group-specific processes. The realistic picture of triad operations and make-up that Chu provides offers us the right kind of cumulative knowledge that makes further comparative investigations possible.

Diego Gambetta
All Souls College, Oxford
July 1999

0204

Preface

In Hong Kong, triads are known to have been long involved in the illegal businesses of drugs, gambling, prostitution, loan sharking, debt collecting, and smuggling. Triads are also notorious for organised extortion from legitimate businesses, such as the entertainment industry, street hawking, wholesale markets, minibus services, interior decoration businesses, the trading of properties, and the film industry. Since Hong Kong triads are believed to be increasingly active in drug trafficking, human smuggling, and economic organised crime such as credit card fraud, counterfeiting, and money laundering, Western police predict that these triads will replace the Italian mafia as the most powerful criminal organisation in the world in the next century. Are these contentions correct? To elucidate what exactly triads do in different kinds of organised crime, this book, inspired by Gambetta's economic theory of protection, aims to critically analyse the role of Hong Kong triads in legal, illegal, and international markets in simple economic terms.

The first part of the book deals with the origin and organisation of Hong Kong triads, discussing whether the triads were imported from Qing China to facilitate the patriotic movement against the alien ruler or emerged spontaneously to respond to the conflict among different migratory dialect groups for job opportunities in labour markets at the turn of the century, and whether triad societies are centrally structured or highly unorganised. The second part examines whether triad members are mere extortionists or are able to provide real services to the business community. Triad involvement in entertainment businesses, the construction industry, outdoor filming, street hawking, minibus services, wholesale fish markets, interior decoration businesses, the selling of new flats, and the film industry are discussed. The third part deals with triad involvement in illegal markets. Using the examples of drug dealing, gambling, and prostitution, this research tests whether Hong Kong triad members directly operate illegal businesses or simply sell protection to entrepreneurs in the illegal industry. The fourth part concerns whether all international Chinese organised crime is committed by Hong Kong triads. Triad involvement in drug

trafficking and human smuggling is selected for discussion. The final part reflects whether Hong Kong triads are extortionists, entrepreneurs, or protectors and indicates international movement of triads and new directions in the study of triads.

This is a qualitative study based on a literature review and in-depth interviews. The documentary sources include newspaper and magazine articles, official reports from law enforcement agencies, and published documents on Chinese secret societies and organised crime. The main targets of interviews were Hong Kong anti-triad police officers. Interviews were also conducted with ex-triad members, social workers, reporters, teachers, and triad victims (see Appendix 1: Data sources). Law enforcers from Europe and China dealing with Chinese organised crime were consulted.

Yiu Kong Chu
September 1999

0206

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This book was largely based on my PhD thesis on Hong Kong triads carried out at the University of Exeter from 1992 to 1997. The study could not have been completed without generous help from many people. I am particularly indebted to Dr Diego Gambetta, University of Oxford, who gave me tremendous support throughout my research and whose economic theory of protection enlightened me on how to study the role of Hong Kong triads in different markets. I also wish to offer my special thanks to Mr Bill Tupman, Mrs Alison Tupman, Professor Stephen Wilks, Dr Jon Vagg, Dr Mak Lau Fong, and Dr Maggy Lee, who read through an earlier draft and suggested numerous valuable improvements. In addition, I would like to thank my good friends Mr T.W. Yue and Dr Federico Varese, who spent considerable time with me discussing organised crime.

The most difficult part of this study was the fieldwork. It could not have been done without the generous assistance of the Hong Kong Police. I owe a particular debt to Chief Inspector Peter P.F. Ip and his colleagues in the Research Unit of the Criminal Intelligence Bureau. I also wish to thank the police officers from China, the UK and other European countries for agreeing to be interviewed. My special thanks also go to the police students at the University of Exeter, who shared their valuable experiences in dealing with organised criminals.

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Newspaper and journal abbreviations

AM	*Asian Magazine*, Hong Kong
CU	*Cover-ups*, Hong Kong
EM	*East Magazine*, Hong Kong
FEER	*Far Eastern Economic Review*, Hong Kong
HKEJ	*Hong Kong Economic Journal*, Hong Kong
HKS	*Hong Kong Standard*, Hong Kong
MP	*Ming Pao*, Hong Kong
NEP	*New Evening Post*, Hong Kong
NM	*Next Magazine*, Hong Kong
OD	*Oriental Daily*, Hong Kong
SCMP	*South China Morning Post*, Hong Kong
SP	*Sing Pao*, Hong Kong
STE	*Shing Tao European*, UK
STJP	*Sing Tao Jih Pao*, Hong Kong
TKP	*Tai Kung Pao*, Hong Kong
WAM	*Wide Angle Magazine*, Hong Kong
WKJP	*Wah Kiu Jih Pao*, Hong Kong

Chapter 1

Triads, business, and markets

Triads are a menace

It is claimed that triad members existed among the indigenous inhabitants of Hong Kong Island even before the British ceded it to be their colony in 1842. On 8 January 1845, the first Ordinance to pass the Legislative Council was to deal with the suppression of triads and other secret societies. After 150 years, to date, triad societies still exist in Hong Kong, which is now a Special Administrative Region of the People's Republic of China.

It has long been believed that Hong Kong triads possess a central organisation with a 'godfather' at the top directing their local and overseas branches to organise a variety of criminal activities. The influence of the triads seems to have reached every corner of Hong Kong society – from school bullying gangs to drug rackets, illegal gambling, loan sharking, prostitution, illegal immigration, and extortion through to bona fide business operations like restaurants, clubs, and transport companies. Hong Kong triads are also believed to pose a serious threat to the law and order of Western societies. As Black (1991) asserts:

> Before Communist China takes over Hong Kong in 1997, the world's most ruthless criminal cartel will be stepping up its bid to take control of the underworld of Western society, and to spread within our culture like a criminal cancer. This cartel is the Chinese Triads – the yellow peril of the East, and now the West.

Are the above contentions correct? Ironically, in the 1960s and 1970s official US agencies held a similar conspiracy view that there was a nationwide syndicate known as mafia or Cosa Nostra which was alien to American society. It was organised by Italian immigrants who were of Sicilian origin. This alien organisation was so rigidly structured and highly centralised that it was able to control the whole American underworld. Hong Kong triads – the Chinese mafia – are now perceived as a giant criminal organisation with an omnipotent power controlling local and overseas branches for various criminal activities.

0209

The study of Hong Kong triads

While contemporary Hong Kong triads have attracted much media attention locally and internationally, very little research has been done on this subject. The only comprehensive study on Hong Kong triads is Morgan's *Triad Societies in Hong Kong* published in 1960. This was a police report describing triad activities and practices in Hong Kong from 1945 to 1958. There are also many short articles written by Hong Kong and Western police officers who have dealt with triad criminals in the last twenty years (Ellithorpe 1974; Straten 1977a,b; Winterton 1981; Donnelly 1986; Roache 1988; Andrae 1989; Boocock 1991; Main 1991; Merritt 1991a,b; Ball 1994; Williams 1994). In addition, several journalistic books about contemporary triads have been published (Robertson 1977; Posner 1988; Booth 1990; Black 1991). Although these publications provide some valuable information about triads in Hong Kong or in overseas Chinese communities, they are investigative reports rather than academic works.

Since the 1980s, several Hong Kong scholars have carried out research on some aspects of triad societies. Lo (1984) discusses the relationship between juvenile gangs and triad societies. Chan (1987) examines the process of becoming a triad member. Che (1990) deals with the causes of delinquent youths' participation in triad activities. Huque (1994) discusses the Triad Renunciation Scheme which allowed triad members a chance to sever ties with their organisations in the early 1990s. Bolton, Hutton and Ip (1996) give a detailed account of many of the issues relating to the use of triad language. Since the research papers above are short reports or articles, they do not provide a sound theoretical approach for the study of Hong Kong triads.

Two outstanding pieces of research on Chinese secret societies or criminal gangs in overseas Chinese communities have been published. Mak's book on *The Sociology of Secret Societies* (1981) argues that there are three conditions which gave rise to the emergence and persistence of Chinese secret societies in Singapore and Malaysia: (1) the inadequacy of legal protection given to the Chinese immigrants in the early Straits Settlements; (2) the adaptability of secret societies to change, for example the shift in their activities from occupational monopolisation in the early Straits Settlements to territorial demarcation in contemporary society and the reduction in hierarchical positions; and (3) the symbiotic relationship between local Chinese secret societies and the larger society. Although Mak's research gives unique insights into the emergence of Chinese secret societies, there is little discussion of organised crime committed by secret society members in Malaysia and Singapore.

Chin's book on *Chinese Subculture and Criminality* (1990) represents the first systematic academic research on Chinese organised criminality. Chin adopts a subculture theory to investigate the relationship between triad subculture and gang delinquency in New York's Chinatown. He observes that in the development of

0210

Chinese crime groups, the values and norms of triad subculture have been paramount. Initially, triad subculture stressed patriotism and righteousness. Later, loyalty to the triad groups replaced these and brotherhood became the core value. However, when the manifest and latent functions of these self-help groups became less important, the groups gradually replaced their patriotic or benevolent causes with criminal activities. Thus, Chin claims that the degeneration of patriotic triad societies into criminal gangs is due to the change of triad values and norms over the past two centuries.

Although there is no doubt that Chin's study has produced enormously valuable data about contemporary Chinese gang activities in the USA, his subcultural explanation does not seem to match very well with historical facts. According to recent historical findings, the Tiandihui, the original name of the triad society, did not appear to be an anti-government organisation. It was originally a mutual-aid association which emerged to resolve the conflict among various migratory dialect groups in the southern regions of Fujian province in mid-eighteenth-century China. More importantly, members of Tiandihui, or triads, at their earliest stage, were involved in different kinds of organised crime, especially selling protection to the people who needed to travel frequently for a living (Murray and Qin 1994).

In addition, the basic elements of triad subculture or norms are surprisingly similar to codes of conduct of other well-established criminal organisations, such as the Sicilian mafia. For instance, both organisations emphasise 'Do not disclose the secrets of the organisation', 'Do not become police informants', 'Do not betray your fellow members', 'Do not become involved with the wives of your colleagues', and so on (Morgan 1960; Gambetta 1993). Thus, it seems more interesting to study why different ethnic crime groups adopt a set of similar rules than use these 'cultural characteristics' to explain the behaviour of triad members (Diego Gambetta, personal communication, 21 May 1996). Since academic studies, theoretical writings in particular, on Hong Kong triads are extremely limited, we are still not sure what exactly Hong Kong triads do in different kinds of organised crime.

Organised criminals: entrepreneurs, extortionists, or protectors?

Over the years, organised crime has been a subject of controversy in criminology. There is no consistent definition of organised crime. 'Organised crime' has been used interchangeably with 'syndicate crime', 'professional crime', 'organisational crime', 'illegal enterprise', 'underground empire', 'gang', 'secret society', or simply 'mafia'. Related to the definitional debates are controversies about the origin and organisation of organised crime. Is organised crime an imported product or an integrated part of the society? Is organised crime centrally structured or highly unorganised? In recent years, some scholars have tried to focus on the core activities of organised crime. Do organised criminals mainly supply illegal goods and

0211

services, or do they practise extortion or sell private protection?

Since traditional US authorities see organised crime as a conspiracy, organised crime groups are believed to participate in all kinds of illegal activity. In 1966, Hoover, the FBI director, said: 'La Cosa Nostra is the largest organization of the criminal underworld in this country, very closely organized and strictly disciplined. They have committed almost every crime under the sun …' (President's Commission on Law Enforcement and Administration of Justice 1967: 19).

Smith (1978, 1980) and Haller (1990) do not agree that there is a giant criminal organisation, such as mafia, which is able to monopolise illegal industry. They claim that organised crime is a set of small and ephemeral illegal enterprises which emerge to respond to market needs. In this context, organised criminals are entrepreneurs who provide the goods and services which are proscribed by law. However, Schelling (1984) argues that 'organised crime' is not directly involved in running illegal businesses. He claims that the core activity of a 'criminal organisation' (e.g. mafia) is 'extortion' and its major victims are illegal entrepreneurs who supply illegal goods and services to the public. Illegal entrepreneurs are weak at protecting themselves because they are deprived of legal protection and this gives the criminal organisation the opportunity to extort money from them.

Gambetta (1993) has developed an economic theory of protection and has applied it to the Sicilian mafia. His theory gives unique insights into the origin, organisation, and role of the Sicilian mafia in the markets of both legal and illegal commodities. Protection, he argues, is a key resource in transactions in which there is a high risk of cheating and in which state protection is either unavailable or inefficient. Private and essentially illegal agencies, such as the Sicilian mafia, may emerge to provide protection to entrepreneurs operating in these markets.

The mafia was originally a southern Italian phenomenon – particularly virulent in western Sicily (Gambetta 1993: 75–99). Its geographic distribution was the result of the distrust endemic to the area, which became particularly marked after feudalism was officially abolished in 1812. The main effect of the demise of feudalism – the transformation of land into a market commodity subject to legally defined individual property rights – created a new demand for protection by property owners. Nevertheless, the new Italian state – which has never completely succeeded in acquiring legitimacy in the south – was not very effective in enforcing private property rights and in settling disputes. The lack of public trust thus turned that demand into one for *private* protection. Gambetta claims that the existence of this demand does not imply that someone able to meet it will necessarily emerge. In Sicily, however, many men versed in the use of violence – private armies, disbanded soldiers, and bandits – became unemployed after the break-up of feudalism and began to sell private protection to whoever wanted to buy it. It was from these groups, Gambetta argues, that the mafia originated.

0212

Gambetta (1993: 100–26) asserts that the Sicilian mafia as a protection firm is neither a tight-knit secret sect nor a totally disorganised entity. The internal organisation of an individual family is hierarchical. The reason is that in the protection market the use of violence is essential and the efficient deployment of force requires a military type of organisation. However, the relationship among mafia families is not centralised, but rather takes the form of a cartel. There is not even a single cartel embracing all Sicilian families, but a number of cartels. The 'commission', by creating a coalition of bosses, is mainly aimed at disciplining the members of each family. Gambetta maintains that, nevertheless, the arbitration role of the commission has proved far from infallible. Families, especially the larger ones, have retained their independence.

Although the mafiosi use violence, Gambetta (1993: 40–3) does not agree that the mafia is a non-rational force. He finds that the use of violence is crucial for a mafioso to establish his reputation as a reliable protector. In order to reassure his clients that he can supply credible protection, the protector must be able to show that he can successfully punish 'misbehaviour'. Gambetta notes that competition among protectors is perhaps the most common reason for its use. While cars compete on the basis of speed, safety, durability, and comfort, protectors compete in terms of toughness. The mafioso who hits hardest not only eliminates his vanquished competitors but also advertises himself to customers as a reliably tough character and the most reliable protector.

Gambetta (1993: 127–55) observes that the word 'mafia' has become a trademark in the protection market. This brand name evokes an entity with a seriously threatening reputation, and anyone who can convincingly claim to be part of it is likely to be considered a reliable protector and reap the benefit of this belief. Mafia families share an interest in protecting their trademark from abusers of various sorts, including those pretending to be members of the mafia, who, if caught, are violently punished. The only way in which someone can truthfully claim to be a member of the mafia is by having undergone the initiation ritual and by this being known with certainty to other mafiosi. The initiation ritual serves several functions, including acting as a fragile barrier against impersonators.

Gambetta (1993) opposes the view that mafiosi are illegal entrepreneurs primarily involved in the supply of illegal goods and services to the public. He also disagrees with Schelling's view that the mafia do not supply a real service but merely practise extortion at the expense of illegal dealers. He maintains that the mafia is a set of firms specialising in the supply of private protection. The primary beneficiaries are the entrepreneurs, legal and illegal alike, who are protected by the mafia. In Sicily, the mafiosi often intervene to collect debts or delay repayments. In addition, the mafia is able to protect business entrepreneurs against other criminals, such as thieves, extortionists, and kidnappers.

0213

Perhaps the most important service provided by mafiosi is to assist business entrepreneurs in monopolising the market. According to Gambetta and Reuter (1995: 128), some markets have certain characteristics that make the formation of cartels both attractive and difficult to sustain. These markets are characterised by poor product differentiation, low technology, unskilled labour, inelastic demand, trade unions, and small size of firms; however, the barriers to entry are low. In order to avoid competition, the mafia is 'invited' by business entrepreneurs to keep out new entrants and enforce the agreements among cartel members.

Gambetta (1993: 33) explains that 'time horizon' crucially affects whether protection will turn into extortion. If the mafiosi see a long future in their business, they are less likely to harass customers or provide low-quality services for fear of lowering their future income. If the time horizon shortens because of instability among mafia families, the temptation to prey grows. Furthermore, if potential customers know that the mafioso's 'life expectancy' is short, they will be more reluctant to pay protection, and a greater degree of coercion will be required to make them do so. The overall degree of stability of the protection industry is an important factor in predicting mafiosi's behaviour.

Gambetta (1993: 227) asserts that the mafia supplies, first and foremost, the organising force. Mafiosi and illegal dealers are not one and the same. The latter are usually independent economic agents licensed and protected by the former. Gambetta (1993: 226–8) claims that illegal entrepreneurs are the major customers of the protection industry because all illegal markets are both unprotected and subject to legal action. The mafia is particularly interested in supplying its protection services to the entrepreneur in certain illegal markets. For instance, as Schelling (1984) suggests, the entrepreneur who relies on high visibility to attract customers and compete for attractive locations is an ideal customer of protection. These markets encourage collusion among entrepreneurs, and this makes protection both feasible and worthwhile. By contrast, the mafia may find burglars and car thieves unattractive for protection because any territorial sharing among them is very difficult to police.

Gambetta (1993: 234–44) claims that the Sicilian mafia as a protection agency is less likely than often believed to have participated in drug trafficking because guaranteeing transactions in the heroin market is arduous. Owing to the complex nature of drug trafficking, each operation – importing from sources, refining, exporting, and selling to consumer markets – is performed by independent groups. Although some mafiosi are involved in drug trafficking, they do not supply guarantees for the whole sequence of drug transactions. Therefore, in this capacity, they should be seen as illegal entrepreneurs rather than as protectors. In addition, Gambetta finds evidence that investment in the drug market tends to be a private business among individual members. Seldom does a mafia family deal in drugs; only individual mafiosi do.

0214

In conclusion, Gambetta (1993: 155) defines the mafia as a set of firms active in the protection industry under a common trademark with recognisable features. These firms acknowledge one another as the legitimate suppliers of authentic mafioso protection and they are able to prevent the unauthorised use of their trademark by pirate firms. His economic theory of protection can be summarised as follows. First, protection firms such as the Sicilian mafia may emerge to meet a high potential demand for private protection. Second, while the internal organisation of a protection firm is hierarchical, the relationship among protection firms takes the form of cartels. Third, violence is used to build up and maintain a protector's reputation as a credible protector, and initiation ceremonies are used to define membership and thus to protect the protector's trademark from impersonators. Fourth, protectors are not extortionists but are able to provide real services to entrepreneurs. The more uncertain the prospect of remaining in business for a long time, the more likely that protection will drift towards extortion. Finally, if a protector invests in illegal industries, it is a strictly private business.

Triads, business, and markets

There is little doubt that triads are a menace in both Hong Kong and the international community. The word 'triad' conjures up many things to people: fear, intrigue, mystery, brutality, and violence. As a Hong Kong journalist puts it: 'Its use of arcane signs and symbols strikes a responsive chord in the young. It is this same "mystery" that threatens the more mature. We fear what we don't know.' (*HKS* 7 May 1986). The most direct and effective way to raise their mysterious veil is to see Hong Kong triads as business firms and investigate what exactly they do in legal, illegal, and international markets. Inspired by Gambetta's economic theory of protection, this research is specifically designed to test whether Hong Kong triads mainly supply illegal goods and services, practise extortion or sell private protection. In other words, are Hong Kong triads entrepreneurs, extortionists, or protectors in legal, illegal, and international markets?

In Hong Kong, triads are notorious for organised extortion from legitimate businesses, such as the entertainment industry, street hawking, wholesale markets, and minibus services. The recent extension of their reach to interior decoration businesses and the trading of properties, alongside the use of intimidation of famous film stars to make them perform in particular films, has aroused great public concern. According to popular belief, triad members are mere extortionists and the business community is virtually helpless to resist their demands. The results of the research reported in this book will argue that triad societies may also be able to provide real protection services. Triads can be employed by entrepreneurs to protect their businesses against attack by other gangs, manipulate a market by suppressing competitors, or recover stolen property or debts.

0215

Triads are also known to have long been involved in the illegal businesses of drugs, gambling, prostitution, loan sharking, debt collecting, and smuggling. It is generally believed that the Hong Kong illegal market is monopolised by triad societies. This book will argue that triad societies are not likely to be dominant in every aspect of illegal trade. Their participation varies from one business to another, or even within a business. Their primary role is to provide strong-arm services to illegal entrepreneurs so that they are able to run their businesses smoothly in a risky environment. Although they may get directly involved in the operation of illegal businesses, triad members are mainly responsible for security.

Since Hong Kong triads are believed to be increasingly active in drug trafficking, human smuggling, and economic organised crime such as credit card fraud, counterfeiting, and money laundering, Western police predict that these triads will replace the Italian mafia as the most powerful criminal organisation in the world in the next century. This book will discuss whether all international Chinese organised crime is committed by Hong Kong triads. Other ethnic Chinese crime groups, such as the Singapore and Malaysian gangs, Taiwanese gangs, and Mainland Chinese gangs, may have emerged as powerful crime groups in Western societies. More importantly, even if the crimes are committed by the Hong Kong Chinese, they may not be triad members. As international criminal projects usually involve a large sum of capital, extensive business connections, and high managerial skills, triad members may gain no particular advantages from running these businesses.

Although a wide range of issues about Hong Kong triads are covered in this study, the main focus of the book is to investigate what exactly Hong Kong triads do in legal, illegal, and international markets. The book tries to show that Hong Kong triads, like any other business firms, are not likely to be involved in all types of businesses. They have competitive advantages in some markets but not in others. They may lose their market share if they fail to adjust themselves in a changing environment. Therefore, the business community in particular, and the society in general, are not helpless in dealing with triads. If their protection market could be made unprofitable, most triad societies would disappear sooner or later.

0216

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0218

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0222

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0223

CONSPIRACY AMONG THE MANY:
THE MAFIA IN LEGITIMATE INDUSTRIES

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This paper considers the modes by which the mafia exercises its influence on a number of legitimate industries in both Sicily and the United States. In particular, it discusses the kind of service the mafia provides, the economic consequences of its influence, the conditions which induce the entry of the mafia in specific industries, and the conditions and policies which make it disappear. The authors share the view that mafia protection in legitimate industries, although occasionally rapacious and unreliable, is frequently neither bogus nor limited to intimidating new entrants. Under some (perhaps most) circumstances, the primary beneficiaries are the owners of the firms being coerced.

This view is based both on theoretical arguments and empirical evidence. The paper relies on a series of case studies which were autonomously developed by the authors and presented elsewhere (Reuter, 1987, 1993; Gambetta 1993). The most important type of protection supplied by racketeers to legitimate industries, which is found in most industries we studied, is the enforcement of a variety of allocation agreements among independently owned firms, with racketeer income being payment for service. This runs counter to two widespread conceptions of the involvement of the mafia in legitimate industries. One sees the racketeers's role as mere intimidation: the mafioso approach to "regulated" competition would amount to thugs resorting to muscular persuasion at the expense of an innocent competitor on behalf of either a single

monopolist or the mafia's own enterprise. The other sees racketeers as extortionists imposing their presence upon harmless dealers who would rather do without. Let us consider them in turn.

When the mafia looks after the interests of a monopolist, it is clearly useless as a cartel enforcer and protection is limited to the intimidation of new entrants. This, however, is seldom the case: although protectors have an interest in not expanding indefinitely the number of protected firms, they are subject to an opposite drive to increase it. First, the larger the number of firms the higher is the mafia's autonomy from and barganing power over any single one of them (Gambetta 1993: 22-23, 85). Second, supporting a small number of firms is risky because it provides disappointed competitors with an incentive to seek protection from police or rival racketeers (Reuter 1987: 6). Third, larger collusive agreements hold competition in check more effectively both because the cartel acts as a discouraging signal of determination and stability reducing the need to

threaten potential competitors, and because the option to exit the cartel becomes less attractive for the participants (Fiorentini 1994).

Although in particular circumstances collusion is self-enforcing (Friedman 1983: 65; 132ff.), whenever cartels rely on agreements, defection is a potential hazard and a genuine demand for protection may develop: each partner must feel confident that all other partners will comply with the pact, otherwise the cartel collapses and competition creeps back in. Furthermore even though anti-competitive outcomes can emerge without cooperation among

firms - a large firm may independently decide to exclude new entrants even if rival firms share the advantages but not the cost

- whenever restrictive practices require the contribution of all firms, an enforcing agency may be necessary to deter members from free-riding. There is therefore no theoretical reason to expect that the role of the mafia will be one of extortion rather than authentic protection (whether the price of protection is "extortionate" is a separate question to which we return later in sec.7).

Our argument is that the mafia solves a problem of potential cartels. It may be invited in by entrepreneurs themselves looking to organize some agreement or may initiate the activity itself; we have examples of both. Its comparative advantage is likely to be in organizing cartel agreements for large number industries, as well as make cartels more stable; however, success requires a number of other conditions, that we spell out in the course of the paper. Moreover, the mafia has a unique asset in this capacity, namely its reputation for effective execution of threats of violence; this creates a reputational barrier to entry.

We do not, however, claim that large number cartel organizing is the exclusive role of the mafia in legitimate industries. The garment trucking and waterfront industries in the United States (Reuter, 1987: ch.3) provide instances of other kinds of predation. However, cartel organization is an important and distinctive activity of the mafia,([1]) and not just in legitimate industries. Although illicit markets do not concern us here, there are signs that the mafia can act as cartel organizer, for instance, in bookmaking in the United States and in tobacco smuggling and purse snatchers in Southern Italy (Reuter 1983: 42-44; Gambetta 1993: 227-235).

1. The form of cartel agreements

The central problem for cartels is to design agreements which can be maintained over time. Three aspects of agreements, which are relevant to human cooperation generally, are also relevant for establishing cartels: the rules to be followed by members, the means of detecting rule violators, and the sanctions to be imposed against violators.

0225

Weakness in any of the three is likely to lead to defections and breakdown of the cartel (Stigler, 1964).

The rule. There are at least three dimensions to the rule itself which affect cartel members's willingness to enter and remain in association. First, the rule must produce results that, over time, are perceived as equitable, so as to lower risk of defection and complaint. Second, the agreement must be compatible with continued entrepreneurial autonomy. Loss of autonomy - as might arise if the cartel decided that production facilities must be centralized to maximize joint profits - transforms the bargaining positions of members and those who lose production facilities become dependent on others's willingness to honour the original commitment. This may increase the demand on trust to breaking point. Third, because of illegality, there is likely to be a strong inclination to avoid rules which require "side payments" among members that could provide valuable evidence for a prosecutor. More generally, illegal agreements are likely to minimize the number of transactions necessary for their effective execution.

Detection. The second important issue is the speed and cost of detecting violation. The longer it takes to detect it, the greater the return to violation and the lower the expected lifetime of the cartel (Stigler 1964). Similarly, the profitability of the cartel will be lowered by high costs of monitoring. More generally, the higher the cost of policing agreements the lower the likelihood that cooperation will emerge.

Sanctions. The final consideration is the nature of available sanctions. Members will doubt a cartel's potential stability if violation of rules cannot be punished without ending the cartel. A classic difficulty of price fixing agreements is that efforts to punish price cutters lead to price reductions for all customers. The possibility of selective and cheap sanctions will increase stability.(2)

A limited number of rules can sustain collusive agreements. These are price fixing, output quotas and sharing markets. Market sharing seems generally easier to enforce than, and logically prior to, the other two alternatives. In the New York carting industry,(3) for instance, in which individual customers are allocated on the basis of who first served them, cartel members have complete price autonomy. Being fixed in location, customers have little choice if other carters accept the basic rule. By contrast, if price fixing is practised - assuming that the product is homogeneous - firms usually need further allocative measures. Price fixing creates an incentive to resort to covert inducements, such as advertizing, gifts, special offers, guarantees, sponsorship etc. in order to attain higher market shares. Thus, unless firms also have market-sharing rules, price fixing is likely to be unstable, even ignoring potential entry.

0226

2. A Comparison of the Sicilian and New York mafias

The differences between the mafia in Sicily and New York are several. For example, in Sicily there is a clear geographic division; individual families have specific areas in which they have sole operating authority. Members of other families can operate there only with permission. Within New York the nature of the division is harder to determine. It certainly is not territorial, perhaps reflecting the lack of effective small area local government that would permit the use of corrupt government authority for establishing a monopolistic criminal enterprise. Above all, in a highly diversified and complex urban situation such as that of New York, a monopoly of protection on all transactions is hardly conceivable, even in a relatively small area. By contrast, in a village or district of Sicily, with limited inhabitants any one mafia family can still take care of its clients in most of their businesses; but as the number of exchanges multiplies it becomes increasingly laborious to supply territorially based protection and protection itself tends to become functionally specialized. Historic roles certainly have an influence in determining where (functionally) a family operates in New York. The Lucchese and Gambino families are the only ones of the five New York families that have a presence in the carting industry, just as it is the Genovese that are most active on the docks in Manhattan. That seems to have been the case for over forty years in the case of carting and nearly seventy years for the docks.

The capacity of the mafia to play a role in cartel organization is probably affected by this general organizational characteristic. Sicilian industry agreements may have territorial limits because the families cannot operate outside those areas. Indeed, it appears that some sharing agreements are cumbersome to execute because of the territorial division of the mafia families; the queuing for contract bids, discussed below, is an instance where arrangements have to be worked out among different families. Also, in New York there is much more of an explicit market in property rights. Carters buy and sell customers at prices that seem to represent the capitalized value of the customer allocation agreement; it is unclear whether mafiosi levy a tax on these sales. In Sicily there is no evidence of markets in such rights.

Another difference is one of scale of individual families. The mafia of Sicily are approximately 3,000, in a total of nearly 100 families. In contrast there are an estimated 5,000 mafia in New York, but grouped into only five families. Entry is more restricted in New York and the rewards of membership correspondingly greater. Few seem to enter American mafia families before their late 30's, while in Sicily members enter in their 20s.

A further important difference for our purposes is the role of the labor union. In the United States it has been the central instrument by which the mafia has acquired power in particular industries. The union provides an ideal means to dress up extortion or the suppression of competition as the expression of concern for the rights of individual

0227

workers. Interestingly, the union is critical for the initiation of a customer allocation agreement but appears not to be so central for its continuation; expectation and reputation may suffice at that point. In Sicily on the other hand the union is not a major institution. The mafia has much more direct ties to the political system and, as argued at length in Gambetta (1993), serves to provide quasi-governmental services that the elected government fails to deliver.

One final difference is worth mentioning. Illegal markets have traditionally been an important source of income more to the New York mafia than to the Sicilian mafia. In markets for horse betting, certain kinds of lottery, loansharking and (in earlier eras) prostitution and bootlegging, the mafia has served both as a provider of the goods themselves and as guarantors of contracts and dispute settlers. In recent decades, it is the latter role that has been most significant (Reuter 1983). There are thus parallels between the mafia's current role in legal and illegal markets. For the Sicilian mafia, although the role of protection has been salient for a long time, markets of illegal commodities have until recently been played a less important role. The growth of the heroin market since 1970 has changed that, but the Sicilian mafia in this case has played a direct role in provision of credit and part of the service too (Gambetta 1993: 234-244).

3. Instances of mafia cartels

With only a modest number of case studies available, even including what has appeared in historical studies, we make modest claims as to the generality of the following summary of the prevalence of different kinds of mafia cartels rules.

We know of few settings in which the mafia has enforced price fixing agreements over long periods of time. In the wholesale fruit and vegetable market in Palermo, for example, the dramatic increase in numbers of authorized market middlemen, known as commissionari, made it impossible to continue to fix prices. Until 1955 only twelve commissionari were operating and price fixing and quotas control were feasible because easy to police. A "man of respect", himself a commissionario, acted as guarantor of these arrangements and controlled the largest share of the transactions. Now that the commissionari are seventy seven,([4]) they say that it would no longer be profitable to pay someone who, like "Don Peppe" in bygone days, enforces collusion; there are simply too many commissionari and, given the large number of customers which use the market everyday, someone somewhere would always breach the deal. In section 6 we provide an analysis of why the numbers grew so substantially and broke the cartel.

Output quotas are another important alternative. The little available evidence suggests that quota agreements require extensive and intrusive inspection for their maintenance, and these are not attractive for an illegal market. The only known case of regulating output quotas involving the mafia dates back to the 19th century. Franchetti, an

0228

early and insightful scholar of the phenomenon, reports the existence of two "societies" based near Palermo: one of millers - la società Mulini - which we would call a cartel, and the other - la società della Posa - a union of cart-drivers and apprentice-millers. Both these societies are said by Franchetti to have been under the protection of "powerful mafiosi". Members paid a fee to the society and agreed not to compete. They maintained the price of flour high by regulating output, taking it in turns to restrict production and receiving appropriate compensation (notice that current EEC agricultural policies are not too dissimilar). The capo-mafia ensured that everybody paid their dues, that the miller whose turn it was to under-produce did not free-ride on his fellows by producing more than he was supposed to; and that the others did not free-ride on him, by failing either to pay the agreed compensation or to restrict production when their turn came (Franchetti [1876] 1974: p.6-7 and 96).

The remaining collusive rule, namely market sharing, can follow any one of three bases: locations, customers or queues. Which of them is adopted depends on the general conditions of the market - physical and technological constraints, size of units of demand and supply, frequency of transactions - and on which proves more suitable to monitor defectors. In what follows we assume for simplicity of exposition that agents sharing the market are sellers, but the same arguments applies to buyers. For instance, in the wholesale fish market in Palermo, middlemen share suppliers, i.e. fishermen.

Location or territory. A gets the north side, B the south side; A runs on route X and B on route Y. Trading within territorial boundaries is often found in a variety of industries, such as bus companies, airlines, telephone lines suppliers, estate agents and many more. When firms are few, and monitoring each other presents no great problem, firms can easily agree with no need of "muscle". The three top Italian producers of lead and amianthus pipes, for instance, are said to share territories - north, south and center - when it comes to large orders. These firms do not seem to need any special agency to enforce their understanding. When it comes to small contracts, which are too arduous to police, they simply prefer to compete.

But other sectors - as diverse as construction, transport and street hawkers - have been territorially controlled by mafiosi in Sicily. Enforcing the territorial allocation when markets are both visible and immobile (or at least well-defined as bus routes are) is relatively simple. Territoriality has a logical basis that makes it the dominant alternative. In Naples and Palermo mafia enforcement has also helped prevent conflict among unofficial parking attendants, whereas in a similar market in Rome, that for clearning windscreens at traffic lights, the mafia has not been available. In 1989 this business was lucrative: each man (mostly Polish immigrants) made between 100,000 and 300,000 lire a day (50 to 150 pounds) and, according to the Carabinieri, this led to violent fights over the

0229

allocation of the most profitable road junctions. The cleaners were unable to cooperate and thus attracted the attention of the authorities (la Repubblica, 2 July 1989).

Customers. Not all markets are efficiently allocated by territory: for instance, when dealers congregate in one location as in wholesale markets or when agents are highly mobile and unpredictable, as, for example, taxi drivers and, as noted by Schelling, burglars, who are both mobile and, as a matter of trade, invisible (Gambetta 1993: 220-235). Furthermore, geographical divisions are not always satisfactory because profits may be unevenly and unpredictably distributed (e.g. because of differences in regional patterns of development), that some cartel members perceive the continuation of the agreement as inequitable. An alternative solution consists in sharing customers: cartel members, in other words, agree not to accept or seek business from customers who are currently served by another member of the cartel. Where feasible, customer allocation dominates the other rules. Violations are easily detected within a short period of time and almost automatically because if a cartel member provides service to the customer of another member, that member will be aware of the loss of business of that customer. Moreover, selective sanctions can be applied by aggressive solicitation of the violator's customers.

The rule is also equitable and simple to apply. It gives to each participant what he thinks of as his already, namely his existing customers. It does not require other forms of cooperation which leave paper trails for investigators. Members can charge different prices and provide different quality of products, though there may be limits on the variation depending on the ease of comparison by customers. This type of sharing is particularly successful if customers are "fixed in location and the service or good is delivered to [them]" (Reuter 1987: 7) for policing is simpler. More generally, it is successful if the conditions permit an easy way to identify customers and keep track of their movements. When customers are big, for instance, they are easily shared between suppliers: A works for the electric company, B for the water company and so on.

This applies to the wholesale fruit and vegetable market too in Palermo. In fact, although most daily transactions now take place competitively, there is an exception which still provides mafiosi with an opportunity to exert their influence. A group of 6-7 commissionari - those said to be of "greater respect" - collude over the contracts taken out by institutions, such as schools, hospitals, barracks, and old people's homes. Each commissionario supplies specific institutions and the problem of competition is eliminated radically: by common agreement only one commissionario shows up at each tender. Relative to private customers, public institutions are fewer, take out long-term contracts, buy fixed quantities, are generally slack about quality, careless about price, and corruptible. In short, they are easy to share. The small number of participants as well as the availability of sanctions - they share the same crowded market area and could easily

0230

make life difficult for each other - are such that this agreement could in principle do without outside assistance, although some evidence suggests that this is not the case (Gambetta 1993: 206-214).

Under customer allocation arrangements, customers effectively become part of the supplier's assets, they are internalized and are in some instance traded like any other form of property. Carters in the New York metropolitan area (Long Island, New York City and New Jersey) buy and sell customers both individually and in groups. The prices of those customers, roughly 40 times their monthly gross billings in the early 1980s, provide the basis for estimating the capitalized value of the allocation agreement (Reuter 1987: 48-51).

Queues. Sharing customers, however, can prove arduous. There may simply be too many of them around, or they may be too occasional or too mobile. In short, they can be difficult to identify: how could, say, restaurants share tourists or petrol stations share motorway drivers? Until the mid-fifties when commissionari were very few at the fruit and vegetable market in Palermo, some ordinary customer sharing went on. But since both customers and sources of supply have increased these arrangements have been abandoned. One strategy for dealing with these problematic markets involves taking turns. Provided customers can be funneled through particular locations, queueing can help. The obvious case is that of taxis who line up at stations and airports.

Sharing customers is also meaningless if there is only one buyer, or, more generally, if there are fewer buyers than sellers. If there is just one buyer, queueing can work if purchases are repeated: sellers can then enter a (metaphorical) line and share the market on this basis. One common method of collusion found among building contractors in Sicily runs as follows: firms A1, A2, A3,... agree that, say, A2 should obtain the contract; the others bid artificially high prices so that A2's offer is certain to be the lowest. There are certain prerequisites for a deal of this kind to work: first, only firms in the cartel can participate while free- riders must be excluded. Next, A2 must be confident that the other firms will not submit a competitive bid at the last minute. In turn, A1, A3... require guarantees that A2 will return the favour on a future occasion and entrepreneurs therefore keep careful records of who obtained which contract. Where a contract is publicly bid on a repeat basis, the cartel may instead allocate a contract to one firm, with others designated to provide "courtesy" bids as camoflage for the arrangement. That behavior has been observed among the carters in both New Jersey and Long Island. These rights can be permanent enough that the contracts are sold from one carter to another.

4. Conditions of emergence

The ideal strategy from the entrepreneurs's point of view is to collude without paying protection money to the mafia, but this works only so long as everybody behaves

0231

and everybody believes it. Sometimes, racketeers can be called in simply ex-post facto to provide a one time service: once, in the late 70s, according to a Sicilian building contractor, two firms suddenly defected and went after a forbidden contract so that "the man of respect was called in and persuaded them to withdraw". But, generally, not much is known about the conditions which foster the continued presence of the mafia in legitimate industries. In the United States the phenomenon of racketeer-influenced industries, despite a substantial journalistic interest, has attracted little scholarly attention. As for Sicily, research on this topic is virtually non- existent.

There seems to be just one known case, the waterfront industry in New York, in which the presence of racketeers qualifies as "pure extortion"; and, even so, employers take advantage of their presence to control union members (Reuter 1987: vii; Bell 1960). But the existing studies - Landesco (1929), Block (1982), Reuter (et al. 1982, 1987) and Gambetta (1993) - found evidence that competitors seeking a collusive solution to market problems provide racketeers with the opportunity to acquire a role in their industry. Racketeers can enter "by invitation" rather than of their own initiative. Recent evidence from Sicily illustrates this case. Baldassare di Maggio, a mafioso who turned state witness in 1992, said that Angelo Siino, a building contractor, <<came to me and said that if (...) we, that is Cosa Nostra, were capable of coordinating the bids we could get much bigger profits (...). In that first stage, Cosa Nostra's problem was that of making [Siino] credible in the eyes of other contractors>> (Panorama, 11 April 1993). In order for collusion to succeed, the organizational force of the cartel must be credible: every participants must respect the agreement and in turn confidently expect that his moment to bid will come and others will respect it. Cosa Nostra supplies these guarantees. A surveyor, involved in the same enquiry said that the mafia intervenes as <<an organization which takes care of the way in which the various jobs are equitably distributed among the interested firms>> (la Repubblica, 28 October 1992). In the interrogation which originally started this enquiry in 1990, the former mayor of Baucina, near Palermo, summing up the role of the mafia, said that the local mafiosi "oversaw the fair distribution of contracts among firms participating in bids" (la Repubblica, 14 April 1990).

There is a parallel with New York: federal prosecutors in the case United States vs Salerno in 1985 proved that "the Cosa Nostra families established a club of concrete contractors who decided which contractor would submit the lowest bid on each project; other cartel members prepared their complementary bids accordingly. The 'lowest bid' was far higher than the price that fair competition would have produced" (New York Organized Crime Task Force [OCTF] 1988: 11, fn 17).

In general, racketeers offer the prospect that the conspiracy will work, simply because they provide credible enforcement. Large number cartels appear generally to have a short life because there is always an incentive for a member to leave the

0232

agreement and take advantage of the restrictions imposed on the remaining members (Scherer 1970: ch.6). Potential conspirators are aware of this and may be reluctant to enter into an arrangement that is probably short-lived as well as illegal. Racketeers by promising to take illegal but effective actions against defectors, provide potential members with credible assurance that it is likely to be of lasting benefit.

But the racketeer involvement has another benefit, once it becomes known. It reduces the willingness of customers to protest the high prices charged under the agreement or to solicit competing bids from other dealers, tempting violation. Note that the customers in the commercial sector of the carting industry in New York include major corporations competent at understanding and exercising their rights. The unspoken threat, perhaps occasionally articulated in a vague way, that aggressive action may be punished by mafia interventions, smooths customer relations for the cartel members. Given the small share of total costs associated with garbage collection, and the fact that rivals are also believed to be extorted, risky resistance is unlikely to be an attractive option. The New Jersey State Commission of Investigation (1989) noted that one carter told a reporter that a story about racketeer involvement in the industry would only help his business.

Finally, racketeers provide a reputational barrier to entry. Entrants must be concerned that they will be the target of retaliation by racketeers. Their trucks and stores may be destroyed and their customers threatened or actually subject to violence. This was certainly the case when the Brooklyn District Attorney's Office started a carting firm in 1972, as part of an undercover investigation of the industry.

Collusion alone, however, is not in itself a sufficent cause. There is no evidence of mafia control among large corporations - steel, automobiles, chemicals, rubber (Bell 1960: 176; Reuter 1987: 7): entrepreneurs of this caliber can probably count on political collusions and, more generally, grander means than the mafia (e.g. Friedman 1988). Nor does it develop in high-tech industries. For markets to be vulnerable to the mafia, collusion must be both highly desirable and difficult to bring about. The former condition depends on inelastic demand and little product differentiation, whereas the latter is due to impediments such as numerous firms and low barriers to entry (Reuter 1987: 6).

Figure 1. Conditions favouring the emergence of mafia controlled cartels

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product differentiation	low
barriers to entry	low
technology	low
labour	unskilled

0233

demand	inelastic
number of firms	large
size of firms	small
unionization	present

But even when all the right conditions obtain, a triggering event seems often necessary to attract racketeers. Slumps in the economy, for instance, can provide the activating force: in the United States during the Depression an extraordinarily deep and rapid decline in demand intensified the incentive for collusive action and related services. The need for cash becomes an important factor: Lucky Luciano, a leading mafioso during the Depression claimed

we gave the companies that worked with us the money to help them buyin' goods and all the stuff they needed to operate with. Then, if one of our manufacturers got into us for dough that he could not pay back, and the guy had what looked like a good business, then we would become his partner (...) we actually kept a whole bunch of garment manufacturers alive, and we helped all them unions, the Ladies' Garments Workers and the Amalgamated, organize the place (Gosch & Hammer ,1975: 77-8).

Racketeers's intervention can be sparked off also by the sudden greed of one of the cartel participants. Funeral homes in Naples, for instance, shared for many years hospitals without outside intervention: firm A was responsible for the deceased in hospital X, B in hospital Y and so on. They managed to keep the number of firms surprisingly low: while in Turin there are fifty firms for one million residents and in Rome seventy for 2.8 million, in Naples a population of 1.2 million is supplied by only thirteen firms. The cartel achieved these impressive results with the assistance of corrupt local politicians and administrators who rejected new applicants. But collusive arrangements remain exposed to the risk of foundering and hence to the temptation to call in the mafiosi. At the end of the 1970s one firm tried to increase its share by enlisting the protection of an aggressive gang, La Nuova Camorra Organizzata. The other funeral homes attempted first to repel the move "politically", then called in rival racketeers, who did not limit themselves to provide a one time service but decided to continue levying a protection fee even after the triggering event had been sorted out. A similar case is found in the New Jersey garbage collection industry; there, however, the aggressive carter was not backed by outside racketeers and the other carters successfully opposed his attempts to expand by "political" means alone.

According to one Sicilian contractor, mafioso intervention is much favoured by submissive expectations and can therefore be avoided; he himself had coordinated queues, ostensibly without being a mafioso. By yielding too quickly to the mafia - he

0234

claimed - one loses the respect which may otherwise be sufficient to control collusion: "a lot of entrepreneurs end up in the arms of the mafia simply because they believe it is inevitable". In New York the OCTF also found, in its investigation of the building industry, that "sometimes contractors claim not to know exactly why they pay; experience tells them that payoffs are necessary to assure that 'things run smoothly'" (1988: 17). The higher the rumour that mafia services are indispensable in a certain market or area, the higher seems the likelihood that they will be requested or accepted without question.([5]) In addition, institutions looking for builders may themselves feel lost without an outsider to choose for them for no one wants to take the responsibility of the allocation: in at least one case the contracting agent in Sicily actively sought the intervention of an external fixer when the latter was slow in coming forward autonomously.

5. Consequences

Although it is difficult to establish ex-post facto whether a given collusive arrangement could have emerged without the involvement of mafiosi, the availability of mafia services generally makes collusion more likely, more elaborate and more enduring. Thus, not only do collusive arrangements sustain the mafia, but also, the availability of mafia protection provides an incentive to seek collusive solutions.

Agreements supervised by mafiosi can embrace larger numbers of both dealers and customers: in the New York carting industry, for instance, in which racketeers played a continuing role in the operation of the allocation agreement, primarily through the constant need to mediate disputes, the industry involved the allocation of over 100,000 customers to as many as 300 carters (Reuter 1987: 11). The greater the number of firms the harder it becomes to ensure that they all keep their word. An Italian building contractor spoke of a "queue" of as many as 160 firms. It took a great deal of patience and manouvering before he eventually succeeded, as he put it, in "buying" a contract: "it is obvious that to safeguard agreements of this size one needs the threat of violence". This threat was not supplied by an entrepreneur belonging to the cartel; at most "he owns a few caterpillars". Without such a threat, as the OCTF in New York also found, "bid-rigging conspiracies may founder because the conspirators are unable to police their cartels effectively" (1988: 38).

Irrespective of the method adopted, the general consequences of restrictive practices, as Reuter argued, are threefold:

less efficient production, higher prices, and smaller firms. Less efficient production is engendered by the reduced incentive for lowering production costs; a firm cannot obtain an increase in market share by lowering costs, since all existing customers are allocated. (...) The agreement also permits inefficient firms to stay in the market and prevents efficient firms from growing. The higher prices result directly from the imposition of

0235

restraints of trade. (...) In each dimension, the effect is likely to be greater for a racket-run cartel than for other cartels. (Reuter, 1988: 7)

The first victims of collusion are consumers who end up purchasing lower-quality goods for higher prices. Potential competitors come next: successful collusion makes it almost impossible for outsiders to even contemplate entering an industry, and overt intimidation becomes redundant. This is why the enforcement of internal agreements is much more important than the brutal discouragement of rivals, even though the lack of entrepreneurial energy in the south of Italy makes the function less important there. Finally, since racketeers increase the confidence of participating entrepreneurs that the cartel will endure, incentives for efficient production are even more sharply reduced than they would be in a conventional cartel, where certainty about future success is always limited and the probability of imminent competition never vanishes.

The depressing effect on quality caused by mafia involvement can go further, especially in Sicily where inter-mafia conflicts have been more common than in the United States. The operation of the mafia is based on reputation for effective contingent violence but that does not mean that actual violence is unknown. Both in New York and Sicily an occasional killing or act of violence has been required to discipline a cartel member. Though these acts are situation specific, they also serve to enhance the reputation of the mafia and augment the reputational barrier. However, when such acts of violence become "too" frequent because of internicine wars - in Sicily during the 1980s several entrepreneurs died in the crossfire (Gambetta 1993: 191-194) - the barrier becomes so strong that those very few who venture to take up entrepreneurial activities must be selected among risk-prone individuals who both have little chance of an alternative (and less dangerous) career and are already tightly connected with a mafia family. Even discounting for the lack of incentives for efficient production enjoyed by mafia protected cartels, this group is most unlikely to contain characters versed in proper entrepreneurial tasks.

6. Conditions of disappearance

Again we note that our set of case studies is too small and diverse for the development of general propositions. However the examples are interesting in themselves as pointing to the variety of circumstances that can lead to the demise of mafia control. The fruit and vegetable market in Palermo is now largely competitive. Agents appear more concerned with quality than with establishing or violating collusive deals. The threat of violence seems remote as in any normal business environment. Local authorities can take none of the credit for the market evolution: "The contacts which our group had with the present mayor and the assessore all'Annona", concluded the Antimafia Parliamentary Commission in 1969, "gave us the impression, increasingly so, of lack of both interest and

0236

information, often coupled with open irritation towards those trying to unsettle a status quo which was not altogether disliked".[6]

For years local authorities tolerated unfair dealing: for instance, an area of the market designated for use by producers selling without the intervention of middlemen, was invaded by the most powerful commissionari who then cheekily levied 10% charge from farmers wanting to share it. In 1969 the Commission asked the mayor why an area adjacent to the market was left unused instead of being developed into further stands. The mayor replied that it was the site of a church that could not be demolished because of its artistic value. A letter of inquiry to the Soprintendenza delle Belle Arti of Palermo went unanswered. The members of the Commission went to see for themselves: they found a small chapel of no aesthetic merit being used as a garbage dump. In the same period, beautiful buildings, such as late 19th century villas by Basile, were ruthlessly demolished in Palermo to make room for urban speculators (Chubb 1982: ch. 6).

It was thanks to the central authorities, the Prefects and the Antimafia Commission, that the process of expansion, already to some extent "naturally" underway, was accelerated. The present director of the market concedes that the Palermo Prefect's policy of increasing the availability of permits was crucial in alleviating the troubles of the market. Permits rose particularly during the 1970s until the last increment, in 1981, brought the number of licences to seventy seven.

Yet, if the action of public authorities were the sole factor which brought competition about why has the same process not occurred at the fish market? The answer lies in the diverse nature of the commodities involved. The supply of fresh fish is constrained both by limited natural resources - which are either unaffected or depleted by technological development - and by the fact that it is channelled through a limited number of clearly identified ports. Fishing firms, furthermore, are fewer and easier to control than farmers. In the fruit and vegetable trade the sources of supply are both many and widely scattered, and transport routes and delivery points outside the wholesale market can multiply unnoticed.

The rapid increase in agricultural productivity and conservation techniques after the war, as well as the improved efficiency of transport, accentuated these differences and made it virtually impossible to monopolize produce. The only example of collusion mentioned by the Commission involving commissionari and their emissaries concerns a case in which distribution is forced through a bottleneck: by controlling the boats linking the small island of Pantelleria to the main island, a group known as L'Associazione made sure that the local cooperative sold the zibibbo grape exclusively to them. But in general, monopolies were already being eroded in the 1960s because, according to the Parliamentary Commission, "wealthy wholesale and retail dealers collect directly from Northern Italy and introduce ever- increasing quantities of good fruit for consumption".

0237

A further bottleneck has also been broken. Before the rural Casse di Risparmio started to function properly, credit was in the hands of the man of respect. Producers who wanted credit were obliged to sell their goods to him. As sources multiplied credit no longer had the same kind of strings attached. It is now granted sparingly to customers rather than producers and is a means of fostering competition rather than enforcing collusion. Creditors are less inclined to resort to violence against insolvent debtors lest other clients are diverted to more benign rivals.

There are also instances of the New York mafia losing its influence in industries. The trucking industry, in which the mafia notoriously had acquired influence throughout much of the nation through the instrumentality of the Teamsters Union (three of whose presidents were convicted of corruption), now seems to be much less subject to that influence. Two factors may have been significant here; deregulation of the industry (which reduced the power the union) and aggressive and imaginative prosecution of the Teamster leadership, which resulted in a reform leadership being installed at the beginning of the 1990s.

However, most targeted efforts to remove the mafia from specific industries in the United States have been generally unsuccessful. In response to concerns about the role of the mafia (and lack of competition) in the carting industry in New Jersey and New York City, the industry has been subject to regulation (since 1956 in New York City and 1968 in New Jersey). A flow of cases show that the regulation has been utterly ineffective in New York City; the evidence concerning New Jersey is less clear but anti-competitive agreements, perhaps with mafia involvement, have been alleged as late as 1988. The regulatory apparatus had indeed become one of the tools for the operation of the customer allocation agreement. The regulators allowed the sale of customers and, through inflexible price rules in New Jersey, provided the basis for contesting new entry.

7. Prices and profits

The returns to participants in these cartels are difficult to determine. The available data are best for the carting industry, where customers are treated as assets and frequently bought and sold by the participants (Reuter, 1987)

The little we know of the charges by mafia members for their services suggest that, at least where the relationship with the industry is stable, those charges are surprisingly modest, indeed well below extortionate levels. In the Long Island carting industry in the mid-1980s it appeared that the mafia took no more than $400,000 annually in tribute, though the estimated profits accruing to the carters was over $10 million. The mafia run concrete cartel in New York City levied only 2 percent of the contract price for its services in fixing prices. As for Sicily we have the followign evidence: Baldassare di Maggio, a pentito we encountered already, says about the mafia role in organizing bid-

0238

rigging in construction that <<we kept 5%...3% was for the mafioso organization and 2% was given to Siino to pay the politicians>>, that were paid as part of the overall agreement.

The fact that customers of carters are sold at such high prices in inter-carter transactions provided evidence that the primary beneficiaries of the agreement in that industry were the carters themselves. If the mafia taxed away all the returns from the agreement, then customers would have no greater value than they would in a competitive industry; in fact they sold for a very substantial mark-up over the competitive price.

We can offer no convincing explanation for these observations. If the mafia were marketing its cartel organizing services, then these might be seen as prices intended to maximize their profits over the entire market for such services. However, the peculiar lack of mafia entrepreneurialism - no new industries have been identified as being subject to mafia control over the last decades - weakens this supposition. Nor does it seem that the mafia lacks information about the profits generated to other actors in this business. Access to accounts of member enterprises is certainly not a problem in the New York markets in which the organization is active. Finally, we do not believe that these prices are set so as to minimize the risk of aggressive informing by other participants.

8. Conclusions

We make no claim to have identified all the relationships between the mafia and legitimate enterprises. The casino industry in Nevada, where the mafia interest was confined to tax fraud, debt collection from bettors, and some bankruptcy scams involving capital from the Central States Teamsters pension fund, represents a very different situation. On the waterfront in New York and Florida the mafia seems to have used its power, again through the instrumentality of a union, to extort shippers, carriers and those providing services on the docks. In neither of these industries has it acted to suppress competition on a continuing basis.

Yet, we believe that the phenomenon described in this paper is one that has received too little attention. The suppression of competition is a near universal dream of established entrepreneurs. The mafia is one of the few non-governmental institutions that can help accomplish this goal. Our impression, based on a limited set of examples, is that once the mafia has entered, its success in meeting the needs of its customers, as well as its unique reputational asset, makes the reintroduction of competition extremely difficult. The phenomenon observed here may be just a generalized form of the Stigler-Peltzman theory of state regulation (Stigler, 1971; Peltzman, 1976). The state is unable or unwilling to meet the demand of entrepreneurs for profit enhancing and risk reducing regulation; the mafia provides the service instead.

0239

The phenomenon is perhaps of more analytic than policy interest, since thre are signs that it is now receding mainly because the mafia itself appears to be diminished in power in both countries. In the United States, the result of a continued federal campaign that has led to the conviction and long-term imprisonment of much of the leadership. In Sicily too the mafia never had it so bad and is now under unprecedented state pressure: virtually all mafiosi who sat in the mafia "governing body", known as La Commissione, are now in jail. Mafioso assets worth 3,500 billion lire were seized by custom police in 1992 alone. At the same time, a new crop of mafiosi turning state witnesses has been growing and their revelations are leading to further arrests and repressive actions.([7]) Mafia reputation may be, initially at least, little diminished by these imprisonments, but its ability to venture into new fields is probably limited by the inexperience of, and instability in, the new leadership. Furthermore, the current dramatic political changes in Italy are likely to decrease the opportunities of political corruption and bid-rigging which use to provide the major outlet for mafia regulated cartels of building contractors. Finally, some of the market conditions that (jointly) facilitate mafia entry as a cartel organizer - such low technology, unskilled labor, and unioniziation - occur less frequently now than when it acquired its influence over industries, mostly between 1920 and 1950.

The prospects for increasing our understanding of the phenomenon are being enhanced by the very forces that are diminishing the mafia's powers. Certainly the trials of the major families in both Sicily and various American cities (including Boston, Chicago, Kansas City and New York) have provided a wealth of detailed information on the relationship between the mafia and their legitimate clients which awaits to be analysed.

0240

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[1]Here we prudently use the term mafia as referring to the Sicilian mafia, also known as Cosa Nostra, both in Italy and the United States. Whether other broad and enduring criminal organizations supply the same service is a matter for empirical analysis to establish.

[2]A curious case of failure of cooperation due to difficulties of both policing and sanctioning is represented by radio taxis in Palermo, see Gambetta (1993: 220-225).

[3]Carting is the term used to describe the collection of solid waste,whether from households or commercial establishments. It does not include the collection of hazardous waste, where different possibilities exist for collusion and fraud.

[4]"Up to perhaps six firms one has oligopoly, and with fifty or more firms of roughly similar size one has competition; however, for sizes in between it may be difficult to say". This is the rule of thumb offered by James Friedman's textbook (1983: 8).

[5]This is analogous to the argument which holds that widespread corruption is self-generating: the expectation suffices to produce more of the thing itself, Andvig & Moene 1990

[6] The case of this market is illustrated in full in Gambetta 1993: 206-214.

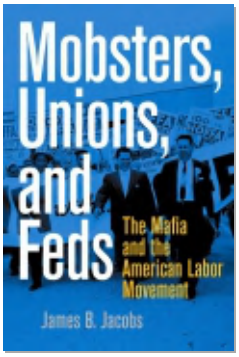
[7]For a full assessment of mafia prospects in Sicily see the new introduction to the second Italian edition of Gambetta's The Sicilian mafia, published by Einaudi (Turin) in 1994.

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Mobsters, Unions, and Feds

Jacobs, James B.



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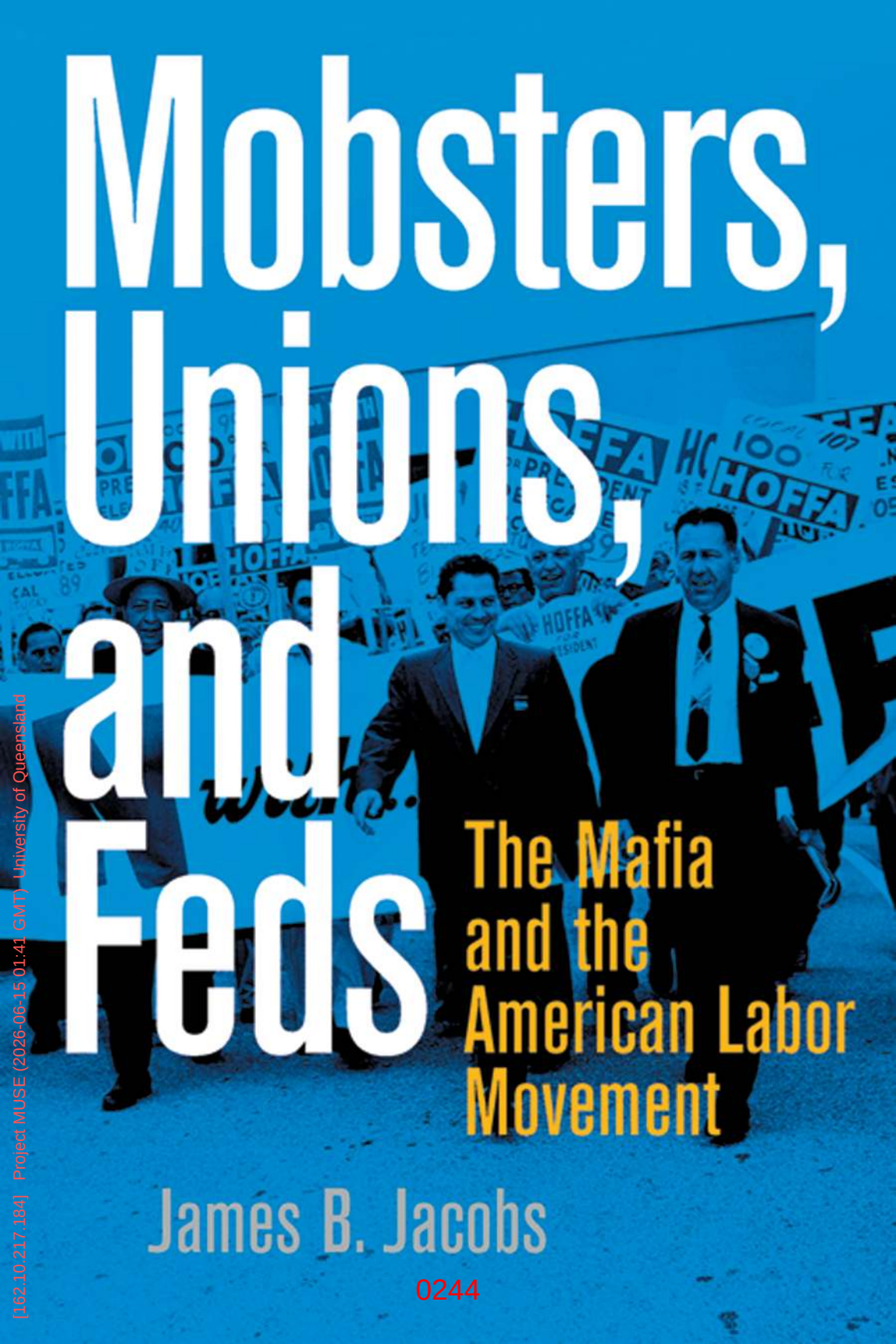
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Mobsters, Unions, and Feds

The Mafia and the American Labor Movement



James B. Jacobs

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JAMES B. JACOBS

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The Mafia and the American Labor Movement



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To Herman Benson

Racketeering is the cancer that almost destroyed the American trade-union movement.

—DAVID DUBINSKY, president of the International Ladies Garment Workers (1932–1966), David Dubinsky and A. Raskin, *David Dubinsky: A Life with Labor* (New York: Simon and Schuster, 1977), 145

American labor had better roll up its sleeves, it had better get the stiffest broom and brush it can find, and the strongest soap and disinfectant, and it had better take on the job of cleaning its own house from top to bottom and drive out every crook and gangster and racketeer we find, because if we don't clean our own house, then the reactionaries will clean it for us. But they won't use a broom, they'll use an ax, and they'll try to destroy the labor movement in the process.

—WALTER REUTHER, president of the United Automobile Workers (1946–1970), opening address of the sixteenth constitutional convention of the United Automobile, Aircraft and Agricultural Implement Workers of America, Atlantic City, NJ (April 7, 1957), reprinted in Henry Christman, ed., *Walter P. Reuther: Selected Papers* (New York: Macmillan, 1961), 192

Contents

	Preface	xi
	Acknowledgments	xxvii
	List of Acronyms	xxxi
1	Introduction	1
2	Organized Crime and Organized Labor	23
3	President's Commission on Organized Crime	40
4	Labor Racketeering in New York City	57
5	Organized Labor's Response to Organized Crime	76
6	Labor Racketeering and the Rank and File	100
7	Attacking Labor Racketeering Prior to Civil RICO (1982)	114
8	Civil RICO Suits and Trusteeships	138
9	The Liberation of IBT Local 560	161
10	The New York City District Council of Carpenters	183
11	The Four International Unions	203
12	Evaluating Civil RICO	238
13	Concluding Reflections	254
	Notes	263
	Bibliography	297
	Index	305
	About the Author	320

0253

Preface

Labor racketeering is an important example of American exceptionalism. No other country has a history of significant organized crime infiltration of its labor movement, and no other country has an organized crime syndicate with a power base in labor unions. The interrelationship, over most of the twentieth century, between organized crime and organized labor has political, social, and economic consequences that have hardly begun to be explored.

This book is not an exposé. From the early twentieth century, labor racketeering has been an important source of organized crime's power, prestige, and wealth. By "labor racketeering," I mean the exploitation of unions and union power by organized crime. By "labor racketeers," I mean Cosa Nostra* (mafia) bosses who wield influence over union officeholders and treasuries, Cosa Nostra *capos, soldiers,* and *associates* who hold union offices, and union officials who are closely allied to, and do the bidding for organized crime members. Labor racketeers treat unions like cash cows that generate money via salaries, perks, embezzlement, extortion, bribes, and fraud. They regularly use union power to establish and enforce employer cartels that fix prices, allocate contracts, and suppress competition. For these services they extract payoffs ("dues") from employer associations. Moreover, they routinely

* Joseph Valachi, an organized crime member who became a cooperating witness in the 1960s, first reported that members of the Italian-American organized crime families referred to their organization as "Cosa Nostra," which translates as "Our Thing." This was consistent with the usage of organized crime members themselves, as revealed in conversations intercepted during the 1950s. Somehow, the FBI and the media came to use the term "La Cosa Nostra" ("The Our Thing"), often abbreviated as "LCN." That name makes no grammatical sense and is not used by organized crime members. Nevertheless, because it is so widely used in journalistic and scholarly writings, I sometimes refer to Cosa Nostra as LCN.

0255

take full or partial ownership in one or more of the firms that constitute the cartel.

In their exploitation of unions, labor racketeers commit numerous criminal offenses, e.g., *extortion* of employers by threatening unlawful strikes, work stoppages, picketing, and sabotage (labor peace extortion); *soliciting and receiving bribes* (labor bribery) from employers in exchange for advantageous contract terms and for allowing the employer to ignore the terms of a collective bargaining agreement ("sweetheart deal"); *thefts and embezzlements* from the union and its pension and welfare funds; *murder, assault and battery, arson,* and other violent crimes against rank-and-file "dissidents" and uncooperative employers; and *antitrust* violations by means of price fixing, contract allocations, and preventing competitors from entering a market.[1]

Despite the fact that labor racketeering has often been exposed by congressional and other hearings, investigative journalists, and in criminal and civil racketeering cases, it has not attracted much interest from university-based scholars. Students of crime, law and society, American history, and even American labor history have largely ignored this disturbing story.

While there is a large subfield in criminology devoted to corporate crime, there is no corresponding subfield of *union crime.* Even though Edwin Sutherland invented the field of *white-collar crime,* Sutherland's and Cressey's best-selling general criminology text does not even mention labor corruption or labor racketeering. Even organized crime scholars, of whom there are very few, fail to recognize that the Mafia's unique political and economic position in American society derives from its base in the labor movement.

Academic labor lawyers do not view labor racketeering as part of their bailiwick. Their courses give short shrift to the 1957–1959 U.S. Senate (McClellan Committee) labor racketeering hearings, the most extensive congressional investigation in U.S. history.* Most law students finish their labor law course unaware that the 1959 Landrum-Griffin Act

* The McClellan Committee (Senate Select Committee on Improper Activities in the Labor or Management Field) hearings lasted almost three years, 1957–1959. They gave labor racketeering unprecedented attention. Following the hearings, Senator John L. McClellan (D.-Ark.) published *Crime Without Punishment* and the committee's chief counsel, Robert F. Kennedy, published *The Enemy Within.* Both books warned that the misuse of union power constituted a threat to the nation.

0256

was passed to remedy the labor racketeering problems exposed by the McClellan Committee. Students of employment rights and benefits are unaware that ERISA (Employee Retirement Insurance Security Act) was in part a legislative response to revelations of organized crime's infiltration and misuse of union pension and welfare funds.

No labor law casebook mentions *United States v. International Brotherhood of Teamsters*, perhaps the most ambitious organizational reform case in American history. The Department of Justice filed its civil racketeering complaint in the IBT International case in 1988. The case was settled in 1989, but the remedial phase of the litigation, i.e., the enforcement of the settlement, continues to this day (fall 2005) with no end in sight.[*2]

While there has been much academic writing about the decline of the American labor movement since approximately 1960, I don't know any scholarly article or book that even suggests that the corrosive impact of labor racketeers on union organizing and administration might have undermined the labor movement's attractiveness and strength. Rather than attributing labor's decline to internal factors like bad tactical decisions and the mechanization of the workplace or to external factors like globalization or governmental policy, this book offers organized crime penetration and exploitation as both an external and internal contributor to organized labor's dwindling power.

With just one or two exceptions, labor historians have not sought to document or explain how organized crime elements took over union locals, regional or area-wide councils, and even international unions,

[*] Despite the fact that most casebooks provide brief 75–100-page histories of the labor movement, they do not mention the long, deep, and complex twentieth-century relationship between organized labor and organized crime. For example, in Michael Harper and Samuel Estreicher's *Labor Law: Cases, Materials and Problems* (4th ed., 1996) there is no mention of the McClellan Committee hearings or the federal government's twenty civil RICO suits and resulting court-appointed trusteeships over international, regional, and local labor unions. Many labor law casebooks devote a chapter to the Landrum-Griffin Act, but without mentioning that Landrum-Griffin embodies an anti-racketeering strategy based on a belief that racketeering can best be opposed by an informed rank and file that can speak out against, organize to overthrow, and vote to oust labor racketeers. Clyde Summers et al.'s *Labor Law, Cases and Materials* (2d ed., 1998) is one of the few casebooks to provide a thorough discussion of union democracy, but the authors do not relate union democracy to organized crime exploitation. In fact, they do not mention organized crime.

looted their pension and welfare funds, sold out union members' interests, and made a mockery of union democracy.* No labor historian has sought to document and analyze the government's efforts to punish and prevent labor racketeering.

Perhaps scholars of American labor wear ideological blinders. A number of people have suggested to me that it is *antilabor* to focus on labor racketeering.** Perhaps lack of attention is explained by a general loss of interest in unions. Contemporary labor scholars seem to have turned their attention to the social and economic history of workers and the working class and away from labor organizations.

Despite the dearth of scholarship on labor racketeering, I am hardly writing on a blank slate. I owe a debt to many journalists and few scholars who have created a small but strong edifice of labor racketeering studies on which this book can build. One of the best scholars of labor racketeering was one of the first, Chicago sociologist John Landesco. In his classic *Organized Crime in Chicago*[3] (prepared as part of the massive 1929 Illinois Crime Survey), Landesco provided a great deal of description and commentary on labor racketeering before the emergence of LCN. Landesco recognized the importance of labor racketeering to organized crime. He described the connection between labor racketeering and what he called "industrial racketeering." According to Landesco, gangsters parlayed their control of unions into control over businesses and whole industries.

> In "racketeering," the gunman and the ex-convict have seized control of business associations and have organized mushroom labor unions and have maintained or raised price and wage standards by violence,

* Irving Bernstein's two-volume *History of the American Worker* (1970 and 1983) devotes only three pages per volume to labor racketeering. Melvyn Dubofsky's *The State and Labor in Modern America* (1994) and Christopher Tomlins's *The State and the Unions* (1960) do not contain an index entry for labor racketeering or organized crime. See Irving Bernstein, *The Lean Years: A History of the American Worker, 1920–1933* (Perseus Book Group, 1983), 338–41; Irving Bernstein, *Turbulent Years: A History of the American Worker, 1933–1941* (Houghton Mifflin, 1970), 123–24, 710–12. Melvyn Dubofsky, *The State and Labor in Modern America* (Chapel Hill: University of North Carolina Press, 1994); Christopher Tomlins, *The State and the Unions* (New York: Cambridge University Press, 1960).

** I strongly disagree. There is nothing prolabor about organized crime penetration and exploitation of the labor movement. Moreover, studying racketeering in the labor movement is no more antilabor than studying family violence is antifamily.

0258

> and have exploited these organizations for personal profit. . . . The gunman and gangster are, at the present time, actually in control of the destinies of over ninety necessary economic activities. Al Capone, overlord of organized crime in the Chicago region, now a stockholder in a business enterprise, ensures it "the best protection in the world."[4]

Landesco identified twenty-three racketeer-controlled trades including window cleaning, machinery moving, paper stock, cleaning and dyeing, laundries, candy jobbers, dental laboratories, ash and rubbish hauling, grocery and delicatessen stores, garage owners, physicians, drugstores, milk dealers, glaziers, photographers, florists, bootblacks, restaurants, shoe repairers, fish and poultry, butchers, bakers, and window shade men.[5] He observed that, in some "cut-throat industries," gangsters provided businessmen important assistance by organizing and enforcing profitable employer cartels that fixed prices, allocated contracts, and generally stifled competition. Racketeers used the union's monopoly over labor to force businesses to join employer associations. The employers paid "dues" that were passed along to the crime bosses. In exchange they obtained protection from business competitors and from union problems. They also obtained relief from enforcement of collective bargaining agreements and sometimes immunity from union organizing in the first place. Landesco's insight into the functional role that labor racketeers played in curbing business competition presaged the more systemic analysis of law professors G. Robert Blakey and Ronald Goldstock in the 1970s,[6] economist Peter Reuter in the 1980s,[7] and the New York State Organized Crime Task Force (led by Goldstock) in the 1990s.

Harold Seidman's *Labor Czars: A History of Labor Racketeering* (1938) appeared a decade after Landesco's book. Seidman, then a journalist and later an academic, chronicled the careers of late nineteenth- and early twentieth-century gangster-type *labor czars,* like Joey Fay (Chicago) and Robert Brindell (New York). Brindell dominated and exploited the New York City building trades for years, frequently enlisting gangsters to intimidate and extort employers and workers. Brindell and Fay treated union members' rights as commodities, which, in exchange for bribes, they sold to employers. Seidman's book clearly showed that labor racketeering preceded the dominance of Italian-American organized crime and that gangsters gained control of union

0259

locals at a time when law enforcement was weak or corrupt or both. Like Landesco, Seidman argued that (usually small) employers preferred to deal with gangsters than with politically and socially radical labor officials.

In 1931, Louis Adamic, a Chicago-based journalist, novelist, and political activist, published *Dynamite: The Story of Class Violence in America* and devoted several chapters to racketeering. He provided examples of how labor unions recruited gangsters (even "dynamiters") to help them fend off employer repression. Adamic, who was a contemporary of Al Capone's in Chicago, saw that once organized crime had its foot in the union's door, it often sought to take over. He wrote:

> We need not be shocked when we realize how close the relationship is between organized labor and organized crime. Nor need we be shocked by the thought that organized labor was a vital factor in the early history of modern racketeering, that, indeed, organized labor, perhaps more than any other economic group, started the professional criminals whose names now shriek in the headlines of their amazing careers. One should bear in mind that gangsterism was a vital factor early in the American class struggle, first on the capitalist side and then on the side of labor; and that its history is inextricably bound up with the history of organized labor.[8]

In January 1940, conservative journalist Westbrook Pegler (*Chicago Daily News* and the *Washington Post*) exposed the connection of organized crime figures, especially Arthur Flegenheimer ("Dutch Schultz") to George Scalise, president of the Building Services Employees International Union (BSEIU).[9] Early in his career, Scalise moved from union to union. He used his connections with Dutch Schultz to obtain a Teamsters charter for a union of parking garage workers.[10] David Witwer, an historian writing many decades later explained:

> Scalise, and others of his type, went into the labor movement to make money; they came from outside the ranks of the workers in the industry, with whom they did not really identify. Nor did they depend upon those workers to organize the union through mass picketing and long strikes. Instead, they used selective acts of violence committed by a few individuals, probably with links to organized crime. Free from

> having to depend on a mobilized, united membership, the Union's leadership could safely ignore the members' needs, or sacrifice them to the interests of the employers. As a result, unskilled workers scattered across a wide area and labored in small shops, [they] had little knowledge of their union, and often no say in its affairs.[11]

Later, with the backing of Chicago's organized crime syndicate, Scalise took over a Chicago BSEIU local.[12] Then via a rigged election, Al Capone assured Scalise's victory for BSEIU eastern vice-president. Eventually, Scalise became the BSEIU's international president.[13]

After World War II, investigative journalists continued to outperform university-based scholars in documenting and analyzing labor racketeering. In 1949, a *New York Sun* reporter, Malcolm Johnson, wrote a Pulitzer Prize–winning series of articles on "gangsterism" in the International Longshoremen's Association (ILA). A year later he published *Crime on the Labor Front,* a book that provided a wealth of detail about labor racketeering in the ILA, the Building Services Employees, the Waiters Union, the Cafeteria Workers Union, the International Alliance of Theatrical and Stage Employees, the International Brotherhood of Teamsters, and several construction unions. Johnson explained how mobsters take over unions and establish employer cartels.

> [A] gangster can break into a union by threats and violence or he can "fix" an election so that one of his stooges becomes a key official. Once in power, he can bribe his opposition into cooperation, or he can sew them in sacks and drop them into the river. As for carrying away the loot, almost every gangster resorts to the same tried-and-true rackets to swindle the members and coerce the company.[14]

Johnson provided many examples of how labor racketeers violate the rights and subvert the interests of union members in order to line their own pockets and the pockets of their organized crime partners. However, he insisted that employers were not just the labor racketeers' victims but, in many cases, their coconspirators: "In permitting themselves to become extortion victims they [the employers] nearly always were seeking some advantage for themselves, usually at the expense of the workers."[15] Johnson's articles and book later provided the basis for

0261

Budd Schulberg's screenplay for Elia Kazan's Academy award–winning film *On the Waterfront.*

In 1951, Daniel Bell (then a journalist, later a renowned Harvard sociologist) published his classic article "Last of the Business Rackets"* in *Fortune Magazine.* Bell provided a rich description and trenchant analysis, incorporating geographical, economic, political, ethnic, and other sociological variables to account for rampant racketeering on the New York City docks. In part, Bell attributed waterfront corruption and racketeering to geographic and economic variables. New York City was the nation's most important port. Yet, there were no railroad connections to the docks; everything had to be loaded onto and unloaded from trucks. New York City's narrow streets ensured constant bottlenecks and long queues of truckers trying to pick up or set down ship cargo. Because delay was so expensive to shippers, racketeers could manipulate the loading and unloading process to extort and/or solicit bribes.

The abundance of casual laborers in the port suited both the union bosses and the shippers. The union bosses controlled the longshoremen through their power to hire and blacklist. The stevedoring companies did not maintain a permanent workforce. Gangsters, who controlled each pier, decided who would work when ships needed loading and unloading. Men who cooperated with the racketeers were rewarded with work. Those who complained were blacklisted.[16] The racketeers also controlled all sorts of criminal enterprises that flourished on the docks, including thievery and usury.

Abused and exploited workers had no place to turn for assistance except to Father John M. Corridan, the heroic "waterfront priest." Joseph Ryan, the ILA's boss for decades, delivered votes to local politicians; in exchange the politicians turned a deaf ear to reformers' demands for improving conditions on the docks. Ryan was closely allied with William J. McCormick, business mogul, czar of the port, and one of the silent powers in New York's Democratic Party.

Bell's sophisticated analysis explained why labor unions exerted so much power over workers and so much leverage over shippers; why control of the ILA was so attractive to professional criminals; how a corrupt relationship between business and labor enriched the labor rack-

* Bell reworked the article and retitled it "Racket-Ridden Longshoremen" for his book, *The End of Ideology* (1960).

0262

eteers at the expense of the workers; and how politicians and law enforcement officials were corrupted Ethnic politics were also important. Ryan and most longshoremen were Irish. However, Italian-American gangsters like Albert Anastasia and his brother, Anthony Anastasio, controlled some ILA locals and eventually took the union away from Ryan. In 1954, the brutal exploitation of ordinary ILA members was brilliantly dramatized in the movie *On the Waterfront*, starring Marlon Brando, Eva Marie Saint, Karl Malden, Lee J. Cobb, and Rod Steiger. A spectacular success, the movie generated public and political sentiment for reforming the dockworkers' plight.

Despite at least a half century of journalistic exposés of labor racketeering, no mainstream labor historian addressed the subject until 1958, when Professor Philip Taft (Brown University) published a small (sixty-page) monograph, *Corruption and Racketeering in the Labor Movement* based on three lectures delivered at Cornell University.[18] Despite the title, Taft was not familiar with organized crime's role in the labor movement or, if he was, he chose not to write about it. Instead, he offered some vague bromides. For example, he attributed union corruption to "the avaricious creed of the larger society." He observed that "[r]acketeering in labor unions appears to flow from a general slackness in American society, an emphasis upon material gain, and practices prevalent in many areas of the business community."[19] Many labor scholars who followed Taft defended or opposed "business unionism" as the nonideological basis for the American labor movement without noting that, in some unions, so-called business unionism was essentially organized crime exploitation of workers.

In 1959, Sidney Lens, a left-wing peace and labor activist, socialist, director of CIO Local 329, occasional political candidate, and a leading American radical intellectual from the 1930s to the 1960s,* published *The Crisis of American Labor,* a remarkable book that seems to have been almost completely ignored. (Lens, like many left-wing intellectuals, got his start as a labor organizer. When his union career was stymied for political reasons, he gravitated into journalism.) Drawing on his personal experience, Lens documented and analyzed the methods by which

* In his autobiography *Unrepentant Radical* (Boston: Beacon Press, 1980), Lens said that his "true occupation was full-time revolutionary." A one-time Trotskyite, he served as secretary of Branch 26 of the Workers Alliance, Department Store Employees Union Local 291, and later as full-time director of Local 329 (the only staff member).

organized crime figures obtained influence in the labor movement. Although he didn't cite Louis Adamic, his conclusions echo Adamic's:

> [Once the employers took to hiring thugs as strike breakers,] the unions . . . took to hiring their own muscle men, men like "Big Jack" Zelig, "Joe the Greaser" Rosensweig, "Dopey Bennie" Fein. . . . [By] 1920 the gangsters had learned that it was possible to pursue the racket further. The men who came to dinner decided to stay on. They muscled themselves into a few local unions as partners. The next stage in labor racketeering was a broader effort not only to take over key local unions but international unions as well. In New York, the gambler Arnold Rothstein not only supplied thugs to the furriers and garment unions but bribed police not to molest pickets. His successors . . . Louis "Lepke" Buchalter and "Jacob the Gurrah" Shapiro built this business into a fortune.[20]

Although Lens was a labor activist, not a criminologist, he fully grasped the importance of labor racketeering for the empowerment of organized crime. "Labor racketeering is not only a source of income for the syndicate but a means of rounding out its empire; it is a not-too-hidden persuader, an integral part of a criminal trust that stretches across many fields."[21]

A decade passed before the appearance of another book on U.S. labor racketeering, but it was worth the wait. UCLA historian John Hutchinson's 1972 book, *The Imperfect Union: A History of Corruption in American Trade Unions*,[22] was the first professional history of U.S. labor corruption and racketeering. Drawing heavily on the U.S. Senate's 1957–1959 McClellan Committee hearings, it covered the period from the early twentieth century up to 1960. Hutchinson presented descriptive chapters on the "building trades," "the racketeers" and "the intervention of Congress." However, like Philip Taft, he did not distinguish ordinary corruption from Cosa Nostra labor racketeering.* In other words, despite the McClellan Committee's revelations, he did not identify organized crime's penetration of and influence over union lo-

* In addition to the small number of works on labor corruption and racketeering, there are a number of studies that touch tangentially on labor racketeering. Among these, Virgil Peterson's *100 Years of Organized Crime in New York City* is particularly useful, as is Mary Stolberg's *Fighting Organized Crime: Politics, Justice and the Legacy of Thomas E. Dewey.*

0264

cals, regional unions, and national/international unions as a special sociopolitical problem. However, the wealth of information about the influence of criminal elements in the labor movement that he unearthed must be the starting place for any subsequent study of labor racketeering.

The next important building block in the creation of the scholarly corpus on American labor racketeering was the 1990 New York State Organized Crime Task Force (OCTF)'s *Final Report on Corruption & Racketeering in the NYC Construction Industry,* published by New York University Press.[23] (I was principal draftsman.) Utilizing informants, grand juries, cooperating witnesses, union dissidents, and brainstorming sessions with various industry participants, the OCTF documented the persistence and pervasiveness of organized crime racketeering in New York City's construction unions from the early twentieth century through the late 1980s. Among other things, the report explained how the organized crime families converted their control over construction unions into a large revenue stream.

Expanding on an analysis first developed by G. Robert Blakey, Ronald Goldstock, and Gerard Bradley,[24] the OCTF investigation elaborated the concepts of *racketeering susceptibility* and *racketeering potential.* The former referred to the strategic importance of a union for an entire industry; the latter referred to the potential revenue and other advantages that could be derived from a particular union's exploitation. The OCTF report hypothesized that labor racketeers target or at least are successful in penetrating unions where both racketeering susceptibility and racketeering potential are high. It also made clear that in the past successful criminal prosecutions had little, if any, impact on LCN's influence over labor unions because other LCN members and associates simply assumed the authority and responsibilities of their incarcerated comrades. The report offered a number of recommendations, including new criminal laws, a construction industry–specific regulatory agency, and a new institute for union democracy.

There are many authors whose work, though not focusing directly on labor racketeering, does touch on the subject. For example, Stephen Fox's *Blood and Power* (1989), a history of organized crime, devotes a chapter to "gangsters, unions and employers"; Virgil Peterson's *The Mob* (1983) includes the chapters on "The Rise of Jimmy Hoffa" and "The New York State Waterfront hearings";[25] and Howard Abadinsky's *Organized Crime* text has a chapter on labor racketeering. Professor

0265

Abadinsky points out that "[a]lthough labor-related business racketeering can be conducted by anyone, the history of the labor movement shows that the most substantial corruption of unions is conducted by organized crime"[26] and that "[l]abor and business racketeering distinguish traditional organized crime from other forms, making traditional OC more influential than the others."[27] Gus Russo's recently published history of Chicago organized crime, *The Outfit: The Role of Chicago's Underworld in the Shaping of Modern America,* provides extremely useful information about the Capone gang's labor racketeering activities in the 1920s and 1930s.[28] Peter Reuter's *Racketeering in Legitimate Industries* (1987) provides important insight into organized crime's methods of creating employer cartels.[29] He explains how Cosa Nostra used Teamsters Local 813 to establish and police a cartel in New York City's commercial waste hauling industry.

As for biographies, while we do not yet have a biography of an organized crime figure who specialized in labor racketeering, such as Johnny Dioguardi, Anthony Scotto, Tony Provenzano, and Ralph Scopo, there are various biographies of criminals, labor leaders, and law enforcement officials that shed some light on labor racketeering. Among these are John Kobler's biography of the Chicago organized crime boss Al Capone; Peter Maas's biography of New York City's Gambino crime family underboss Sammy "the Bull" Gravano; James Neff's biography of Teamsters General President Jackie Presser (who was simultaneously an ally of Cosa Nostra and an FBI informant!); Mary Stolberg's biography of New York City prosecutor (later governor and Republican presidential candidate) Thomas E. Dewey, and several biographies of Teamsters President Jimmy Hoffa.[30]

The International Brotherhood of Teamsters (IBT) has attracted far more journalistic and scholarly attention than any other U.S. union.[31] Two recent books on the Teamsters are among the best: historian David Witwer's *Corruption and Reform in the Teamsters Union* (2003) and Stier, Anderson & Malone's *The Teamsters: Perception and Reality* (2002).

Although academic scholarship on labor racketeering is thin, there is an enormous amount of information to be mined from congressional hearings and reports, and more recently, from court decisions and the reports of court-appointed trustees. Throughout this book, I draw on the work of the Senate Select Committee on Improper Activities in the Labor or Management Field (the McClellan Committee) and on a number of hearings and reports by the U.S. Senate Subcommittee on Inves-

0266

tigations. Two hearings—(1) Federal Government's Use of Trusteeships under the RICO Statute (April 4, 6, & 12, 1989), and (2) Federal Government's Use of the RICO Statute and Other Efforts Against Organized Crime (August 1, 1990)—are especially valuable because they are devoted to the propriety and usefulness of civil RICO union trusteeships for combating labor racketeering. The 1986 President's Commission on Organized Crime's volume *The Edge: Organized Crime, Business and Labor Unions* synthesizes many congressional reports and adds new material.[32] Admittedly, these governmental sources reflect a certain perspective (e.g., labor racketeering is a serious problem), but they provide a great deal of information. The hearings provide a forum for law enforcement officials, union leaders, and union democracy proponents to express their views on the problem and its strategies for remediation.

With a few exceptions, the efforts of rank-and-file union members to oust racketeers from their unions have gone undocumented. The most important exception is the tiny but dogged Association for Union Democracy's (AUD) newsletters, *Union Democracy in Action* (1959–1972) and *The Union Democracy Review* (1972–present), which provide valuable information and commentary on "dissidents'" and rank-and-file insurgents' struggles for justice.[33]

So far we have been surveying what has been written about the history and dynamics of labor racketeering. But what of academic work and journalism on governmental, judicial, and labor *responses* to labor racketeering? On this, there is even less scholarship. Remarkably, although the litigative efforts of the U.S. Department of Justice (DOJ) over the past twenty years to purge organized crime from the labor movement constitute one of the most ambitious attempts at court-ordered and -supervised organizational reform in our history,* it generated little legal scholarship. There are no books and just a few law review articles.

* I don't mean to slight the ambition of court-supervised school desegregation and prison reform but, as hard as those goals were to achieve, they did involve geographically fixed institutions run by state and local employees. In the labor racketeering context, we are dealing with massive unions (Teamsters has 1.4 million members) organized into hundreds of locals spread across North America. Some of the officials of these unions wield political influence at the very highest level of American society. Some of the organized crime figures involved are among the most ruthless and influential power brokers in American history.

0267

In 1980, building on previous work by their Cornell Institute of Organized Crime, Professors G. Robert Blakey and Ronald Goldstock published "On the Waterfront: RICO and Labor Racketeering,"[34] advocating use of the federal civil racketeering statute, Racketeer Influenced and Corrupt Organizations Act of 1970 (RICO), to combat labor racketeering. In addition to its draconian criminal provisions, RICO provided the federal courts with authority to use injunctions and other "equitable remedies" to *prevent* racketeering. Blakey and Goldstock argued that "control of syndicate crime and labor racketeering will not be achieved by standard law enforcement practices," and that "RICO provides the flexibility required to implement a comprehensive strategy in the labor racketeering area. To the extent that it is used appropriately and with discretion, it offers significant potential to affect what is clearly a national problem."[35] This book shows the prescience of their prediction and also how difficult it is to purge organized crime from and reform the governance and administration of heretofore "captive" labor organizations.

From the standpoint of the union democracy movement, Professor Michael Goldberg (Widener Law School) published the most important law review article in 1989. Unfortunately, the article was published too soon to take account of the government's pathbreaking civil RICO suit against the IBT's general executive board and the Mafia's "commission" of organized crime bosses.[36] Goldberg was able to draw on the complaints and settlements (and in one case the trial transcript) from three RICO suits against union locals. However, his main goal was normative: to argue that civil RICO suits and resulting court-ordered or court-supervised trusteeships are justified because they are the only way to liberate racketeer-ridden unions. He is joined in this conclusion by Herman Benson, the founder and driving force of the Association for Union Democracy, a shoestring nongovernmental organization that has fought valiantly since 1969 to protect the rights of union members against labor racketeers.

My own (with student coauthors Christopher Panarella and Jay Worthington III) 1994 book *Busting the Mob: United States v. Cosa Nostra* sought to document and analyze the DOJ's all-out attack on organized crime triggered by the murder of Jimmy Hoffa in 1975. Toward that end, Part II of that book consists of five chapters, each a case study of an important 1980s organized crime case. One chapter is devoted to the DOJ's (federal Newark, New Jersey, Organized Crime Strike Force) 1982 civil

RICO suit against Teamsters Local 560 and another chapter to the DOJ's (Southern District of New York, headed by U.S. Attorney Rudy Giuliani) 1989 suit against the IBT's general executive board. My coauthors and I drew on the formal legal complaints, the trial and decree (in the Local 560 case), the consent decree (in the IBT case), and numerous court opinions and trustee reports. Nevertheless, when we were writing the book, the remedial phases of both cases were in their early days. At that time, it was unclear how long court monitoring would last or whether, ultimately, either trusteeship would be successful. A decade has passed; the Local 560 trusteeship has been declared successful and terminated, but the Independent Review Board in the IBT case continues, with no end in sight, to bring disciplinary actions against organized crime–connected union officials.

As the 1990s progressed, a nascent law review literature began to grow around the question of whether it is justifiable and desirable for the government to seek to reform mobbed-up unions through court-appointed and -supervised trusteeships established by civil RICO suits. Critics of the DOJ/FBI offensive against labor racketeering pointed to the unsavory history of governmental and judicial interventions in nineteenth and early twentieth century labor disputes. The critics emphasized that even well-intentioned government initiatives threatened the labor movement's independence. On the other side, Professor Michael Goldberg and University of Pennsylvania Law Professor Clyde Summers, the nation's leading legal scholar of union democracy, argued that although RICO-triggered union trusteeships carry certain dangers, there is no other way to purge organized crime from racketeer-ridden unions.

In the 2000s, my students and I published two case studies of union trusteeships and one overview of DOJ's effort to purge organized crime from the labor movement. The first case study focused on the IBT Local 560 case, which was terminated in 1999, after the DOJ and the court were persuaded that the trustee's remedial efforts had successfully purged organized crime, produced fair elections, and established a viable union democracy.[37] The second case study focused on a regional union, the New York City District Council of Carpenters, which comprised some twenty-two Carpenter union locals.[38] That trusteeship began in 1994 and was terminated in 1999, the judge declaring success and folding the trusteeship's tent. However, upon closer inspection, and in light of events that occurred after the trusteeship ended, we

could not call that trusteeship a success. Finally, in a 2004 article, two law students and I attempted to bring together what is known about all twenty civil RICO-generated union trusteeships up to that time.[39] We found only three trusteeships that could unequivocally be declared successes. Since the 2004 article, no new civil RICO union lawsuits have been filed, but it is likely that, in the years to come, there will be many more.* Certainly, criminal indictments involving organized crime and labor racketeering continue to be handed down. The on-going investigations of LIUNA, IBT, ILA, and other union locals also continue to expose corruption and racketeering.

The twenty civil RICO union lawsuits and resulting trusteeships constitute an extraordinarily important chapter in both American labor history and American law enforcement history. They inform our understanding of why the U.S. labor movement evolved the way it did and what its possible future might look like. They also inform our understanding of the potential and limits of organized crime control, and of purging organized crime from organizations dominated by intimidation and patronage. Moreover, a close look at these lawsuits and trusteeships ought to interest students who study the capacity of courts to reform corrupted or unconstitutional organizations and institutions.

* In the summer of 2005, while this book was in press, DOJ (Eastern District of New York) filed a civil RICO complaint against the leaders of the International Longshoremen's Association and several organized crime figures.

Acknowledgments

The origins of this book date back to the mid-1980s when I served as principal draftsman of the New York State Organized Crime Task Force's (OCTF) investigation and analysis of corruption and racketeering in the New York City construction industry. Our Final Report focused on labor racketeering as the basis of Cosa Nostra's immense power and influence in the construction industry. Indeed, we identified several dozen local construction unions that were strongly influenced, even controlled, by Cosa Nostra. I am indebted to the then-OCTF Director, and longtime friend, Ronald Goldstock and his excellent staff for educating me about organized crime generally and labor racketeering specifically. All the members of the OCTF were my teachers, but I want to take this opportunity to again especially thank Martin Marcus, Thomas Thacher III, Robert Mass, and Wilda Hess.

During my stint with OCTF, I came to know Herman Benson, Executive Director of the Association for Union Democracy, editor of its journal *Union Democracy Review,* and a lifetime crusader for union members' democratic rights (to speak, vote, run for office, have fair hiring halls, and fair grievance procedures). Herman, who is nearly ninety years old as this book goes to press, is a force of nature. He has encyclopedic knowledge of the struggle for union democracy. Over the many years that I have known him, he has never hesitated to share his knowledge and insights with me. His own memoir, *Rebels, Reformers, and Racketeers: How Insurgents Transformed the Labor Movement* (2004), is required reading for anyone interested in union democracy and the efforts of union members to achieve basic political rights.

When several academic publishers shied away from publishing OCTF's *Final Report on Corruption & Racketeering in the NYC Construction Industry* because of fear of displeasing some union officials (and those who claimed to speak on behalf of organized labor) who did not wish to have labor racketeering discussed in public, NYU Press agreed to

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publish the report as an academic book. For that I thank Colin Jones and Niko Pfund, then president and editor in chief.

My next step on the road to this current volume was *Busting the Mob: U.S. v. Cosa Nostra* (NYU Press, 1994) (*BTM*), a volume documenting the government's attack on organized crime in the 1970s and 1980s. Two cases highlighted in *BTM* were the 1982 civil RICO cases against IBT Local 560 and the 1988 civil RICO suit against the IBT's general executive board. For helping me to bring that work to completion, I acknowledge the excellent assistance of two NYU student coauthors, Christopher Panarella and Jay Worthington III.

In the course of researching and writing *BTM,* I got to know two remarkable public servants: Robert Stewart, the career federal prosecutor who brought the IBT Local 560 suit and steadfastly enforced the court's decree during more than ten years of litigation, and Edwin Stier, the court-appointed trustee who ultimately succeeded in reforming Local 560 and later went on to play an historic role in the effort to reform the International Brotherhood of Teamsters. Our country and its labor movement owe a great debt of gratitude to these two men. So do I.

In 1998, NYU Press published my third volume on the government's campaign against organized crime. *Gotham Unbound: How New York City Was Liberated from the Grip of Organized Crime* focused on how NYC's five Cosa Nostra organized crime families came to play such an important role in the city's economic power structure, especially in construction, the garment center, the Fulton Fish market, cargo operations at JFK airport, and the Jacob Javits Exhibition Center. Labor racketeering was not the whole story in Cosa Nostra's infiltration and exploitation of these economic sectors, but it was the most important part. Again, I was ably assisted by two NYU law student coauthors, Coleen Friel and Robert Radick, now both assistant U.S. attorneys, and by a number of research assistants including Alex Hortis, with whom I coauthored a case study of the IBT Local 560 trusteeship.

By the time we finished *Gotham Unbound,* it was clear to me that labor racketeering warranted a book in its own right. I was familiar enough with the scholarly literature to know that criminal law professors and criminologists had written very little about labor racketeering and that labor historians and legal scholars had written practically nothing about it. I began the current project. My strategy included organizing and teaching an NYU School of Law seminar (Labor Racketeering and Union Democracy) in fall 2002 and fall 2003. It was tremen-

0272

dously valuable for me to have Bob Stewart as coprofessor of the seminar in 2002. The students and I were enriched in so many ways by his unique experiences and encyclopedic knowledge. But that wasn't my only good fortune. Carl Biers, Executive Director of the Association for Union Democracy, sat in on and participated in the seminar. What's more, a number of key players in the struggle to reform "mobbed-up unions" came to the seminar as guest speakers and submitted to our relentless questioning. All of them deserve my thanks: Herman Benson, Susan Jennick, Robert Luskin, Kurt Muellenberg, Edwin Stier, and Patrick Syzmanski. Of course, thanks are also due to my students, whose participation and papers were a very important part of my education.

Over two academic years, from 2000 to 2002, I was fortunate to have NYU law student Ellen Peters working with me on a wide-ranging review of labor racketeering as a crime problem. Our article, "Labor Racketeering: The Mafia and the Unions," appeared in *Crime and Justice: A Review of Research* (2003). In summer 2002, two law student research assistants, Eileen Cunningham and Kimberly Friday, worked with me on assessing all of DOJ's civil RICO labor racketeering cases. They kept hammering away on drafts until they graduated in May 2004. Our research was published in the *Labor Lawyer* (spring 2004). I want to thank Syracuse University's Professor Robert Rabin and Jeff Philp, respectively faculty and student editor of that journal, for their patience and assistance. Several other research assistants also deserve my heartfelt thanks. Stephanie Greene provided outstanding assistance on the AFL-CIO's response to labor racketeering. Kristin Stohner did a great job on a case study of the NYC District Council of Carpenters litigation, which was published in the *California Criminal Law Review.* Sarah Marcus was an enormous help as my full-time research assistant over the 2003 summer; and likewise Adam Dressner over the 2004 summer.

In October 2004, David Garland convened an all-day workshop on the first draft of my manuscript. The participants gave me penetrating and comprehensive critiques and suggestions. This was the epitome of collegiality. In addition to David, my deep thanks to Rachel Barkow, Ron Goldstock, Susan Jennick, Bill Kornblum, John Monahan, Peter Schuck, Jerry Skolnick, Bob Stewart, and Joe Viteritti.

The final revision of the manuscript began on October 16, the day after the workshop. For the next four months Dave Sacks, working under the auspices of an NYU Center for Research in Crime & Justice

0273

fellowship served as full-time research assistant. He was simply invaluable. I could not have met the March 1, 2005 deadline without him; indeed, I almost didn't make it with him. Finally, I want to thank Bill Nelson and the NYU Legal History Colloquium for giving me an opportunity in January 2005 to workshop the revised manuscript; I benefited from many astute comments.

Throughout this project, my secretarial assistant, Marni Brand, has been a splendid right hand. She has assisted me with the preparation and logistics of the manuscript and with the multitude of administrative details of running a research project and administering a small research center. All this she does with intelligence, good humor, and professionalism. Cristina Alger provided excellent proofreading assistance at the final stage. I also received very helpful suggestions from Oscar Chase, Brandon Garrett, Deborah Malamud, and NYU Press editor Deborah Gershenowitz.

The NYU School of Law has been my professional home for more than twenty years. If there is a better place to work in academia, I haven't heard about it. I have flourished under three splendid deans—Norman Redlich, John Sexton, and Ricky Revesz—who have done more than their part in supporting and encouraging this work. I am stimulated and sustained every day by David Garland, Jerry Skolnick, and a terrific group of criminal law colleagues.

List of Acronyms

AAGCU: (AFL-CIO's) Americans Against Government Control of Unions
AFL: American Federation of Labor
AFL-CIO: American Federation of Labor-Congress of Industrial Organizations
AIW: Allied Industrial Workers of America
AUD: Association for Union Democracy
BSEIU: Building Service Employees International Union
CIO: Congress of Industrial Organizations
CSPF: (IBT's) Central States Pension Fund
DOJ: (U.S. government's) Department of Justice
DOL: (U.S. government's) Department of Labor
EO: Elections Officer (one of original three trustees in IBT case)
ERISA: Employee Retirement Income Security Act
FER: Final Election Rules
FBI: Federal Bureau of Investigation
GEB: General Executive Board
HERE: Hotel and Restaurant Employees
HEREIU: Hotel and Restaurant Employees International Union
IA: Independent Administrator (one of original three trustees in IBT case)
IATSE: International Alliance of Theatrical Stage Employees
IBT: International Brotherhood of Teamsters, Chauffeurs, Warehousemen & Helpers of America
IHC: Independent Hearing Committee
ILA: International Longshoremen's Association
ILGWU: International Ladies' Garment Workers' Union

0275

IO: Investigations Officer (one of original three trustees in IBT case)
IRB: Independent Review Board (post-1993 investigating/disciplinary office in IBT case)
IRO: Investigations and Review Officer
IRS: (U.S. government's) Internal Revenue Service
IUOE: International Union of Operating Engineers
IWW: Industrial Workers of the World
LMRA: Labor Management Relations Act (Taft-Hartley Act)
LCN: La Cosa Nostra ("our thing"), the Mafia, or the mob
LIUNA: Laborers' International Union of North America
LMRDA: Labor Management Reporting and Disclosure Act (Landrum-Griffin Act)
MITA: Metropolitan Import Truckmen's Association
MTA: Master Truckmen of America
NEMF: New England Motor Freight
NLRA: National Labor Relations Act (Wagner Act)
NLRB: National Labor Relations Board
OCRS: Organized Crime and Racketeering Section, U.S. Department of Justice
OCTF: (New York State) Organized Crime Task Force
OLMS: Office of Labor-Management Standards, U.S. Department of Labor
OLR: Office of Labor Racketeering, U.S. Department of Labor
PCOC: President's Commission on Organized Crime
RICO: Racketeer Influenced and Corrupt Organizations Act of 1970
TDU: Teamsters for a Democratic Union
TFL: Teamsters for Liberty
UBC: United Brotherhood of Carpenters
UNIRAC: FBI's acronym for its investigation of union racketeering
UTWA: United Textile Workers of America
WPPDA: Welfare and Pension Plan Disclosure Act

0276

1

Introduction

> The public must not be allowed to believe that organized labor is represented by those few unions in which union delegates have become criminals, or criminals have been made into union delegates. Unless they are purged, labor unions which have been thus taken over by criminals will, just as certainly as night follows day, wreck the cause of organized labor in this country and set back its progress many years. The officers of these unions are all too frequently the willing tools of professional criminals who direct their activities and keep them in office by means of force and fear.
>
> —Special NYC Prosecutor Thomas E. Dewey, July 30, 1935, radio address, quoted in Dewey's autobiography, *Twenty against the Underworld*

> We thought we knew a few things about trade union corruption, but we didn't know the half of it, one-tenth of it, or the one-hundredth of it. We didn't know, for instance, that we had unions where a criminal record was almost a prerequisite to holding office under the national union. . . .
>
> —AFL-CIO President George Meany reacting to the McClellan Committee hearings, as reported by the New York Times on November 2, 1957

Labor racketeering, the exploitation of unions and union power by organized crime, has been an unpleasant fact of life since the late nineteenth century. It thrived practically unopposed until the last quarter of the twentieth century and continues, albeit under relentless government attack, into the twenty-first century.

The racketeers' basic *modus operandi* includes looting union treasuries and pension funds by theft, fraud, and bloated salaries; selling out union members' rights and interests in exchange for employers'

0277

bribes and kickbacks; exploiting union power to extort employers, and conspiring with employers to operate employer cartels that allocate contracts and set prices. Labor racketeering serves the organized crime families as a bridge to the power structure in many American cities. For much of the early and mid-twentieth century, corrupt politicians provided labor racketeers protection from the criminal justice system in exchange for campaign contributions, campaign workers, votes, manipulation of elections and corrupt opportunities for personal enrichment.[1]

In the late 1950s, the Senate McClellan Committee made labor racketeering a national issue. Over the next two decades, Congress created some special labor racketeering offenses and the Senate Permanent Subcommittee on Investigations held periodic hearings and issued reports criticizing the Department of Justice and the Department of Labor for failing to attack labor racketeering. Not until the mid-1970s, after the death of longtime FBI Director J. Edgar Hoover, did federal law enforcement make organized crime control a priority. When Teamsters president Jimmy Hoffa disappeared in 1975, apparently the victim of an organized crime assassination, the FBI made labor racketeering an important target in its campaign against organized crime. By contrast, the U.S. Department of Labor and the organized labor movement essentially ignored complaints by rank-and-file union "dissidents" about organized crime intimidation, fraud, mistreatment, and exploitation.

In the 1980s the FBI, the U.S. Department of Justice, and the U.S. Department of Labor launched investigations, criminal prosecutions, and civil racketeering lawsuits against racketeer-ridden union locals, regional councils, and even national/international unions. (*International unions* have local affiliates in Canada as well as the United States.) This campaign produced hundreds of prosecutions and at least 20 court-monitored trusteeships imposed on organized crime–dominated labor unions. Some of those trusteeships have been brought to conclusion, having achieved varying degrees of success, but as of late 2005, most of them remain works in progress. New organized crime and labor racketeering cases (criminal, civil, and administrative) continue to percolate.

This chapter previews the rest of the book. Chapters 2–4 provide background on the nature and extent of the problem. Beyond that, they seek to establish two fundamental points: first, that labor racketeering has been a central and defining activity of the Cosa Nostra (LCN) or-

0278

ganized crime families; second, that labor racketeers have been a significant problem for the U.S. labor movement throughout the twentieth century. More specifically, Chapter 2 documents and explains the extent of LCN exploitation of labor unions and how that exploitation turned organized crime figures into economic and political power brokers. Chapters 3 and 4 document and explain the nature and extent of labor racketeering in the labor movement circa 1980 (Chapter 3) and in New York City in the post–World War II period (Chapter 4).

Chapters 5–7 deal with the response to labor racketeering by the American Federation of Labor (AFL), the Congress of Industrial Organizers (CIO), and the combined AFL-CIO (Chapter 5), by rank-and-file union members (Chapter 6) and by local, state, and federal law enforcement agencies (Chapter 7). Chapter 5 explains that the AFL-CIO, the U.S. umbrella labor federation, took some halting steps against labor racketeering in the 1950s, during and after the U.S. Senate's McClellan Committee hearings. However, since then, the AFL-CIO has more or less ignored the problem, apparently fearing that an attack on labor racketeering would divide and weaken the labor movement. In Chapter 6, we will see that although labor racketeers used intimidation, violence, and economic power to thoroughly repress workers and rank-and-file union members, reformers, often called "dissidents," have courageously challenged this domination with protests, election challenges, and litigation. Sadly, these struggles almost always failed, frequently costing the reformers their economic livelihood, physical security, and sometimes even their lives. Chapter 7 argues that for most of the twentieth century, local law enforcement was either too corrupt or too weak to take on organized crime although, to be sure, there were some important exceptions. Federal law enforcement remained aloof from organized crime control. When federal law enforcement finally took action, the labor racketeers suffered major defeats and momentum passed into the hands of reformers.

Utilizing in-depth case studies, chapters 8–13 begin the monumental task of documenting and analyzing the federal government's campaign against labor racketeering. The campaign began in 1982 with the filing of the first civil RICO (Racketeering and Corrupt Organizations Act) lawsuit against the racketeer-ridden Teamsters Local 560 and continues to the present (fall 2005). Chapter 8 explains the way the RICO law works in labor racketeering cases and provides an overview of twenty years of antilabor racketeering investigations and litigation.

0279

Chapter 9 presents a case study of the IBT Local 560 case, a remarkable success story. After twelve years of effort by the Department of Justice, the Department of Labor, a federal district court judge, a court-appointed trustee, and members of Local 560 purged the mobsters and voted a reform regime into office. The same cannot be said of the New York City District Council of Carpenters (Chapter 10), which, though subject to vigorous criminal and civil litigation and despite the best efforts of a savvy court-appointed trustee, has not been successfully liberated. In Chapter 11, we examine the RICO-spawned remediation of the four international unions that, for decades, have been most influenced by organized crime. Because of the immense size (geographically and numerically) of these unions, it is difficult to evaluate the RICO litigation, but we will identify some of the most important features of the reform efforts. Chapter 12 will draw some conclusions about the successes and failures of more than twenty years of anti–labor racketeering initiatives and suggest future strategies. The concluding chapter will attempt to place labor racketeering and its remediation in conceptual and theoretical perspective.

Having previewed the book's organization, we now turn to introducing the "characters."

COSA NOSTRA

The Italian-American organized crime groups that became Cosa Nostra did not invent labor racketeering. Members of Jewish and Irish organized crime groups were the earliest labor racketeers and established the basic patterns of labor racketeering.[2] The Italian-American organized crime groups became extraordinarily powerful during the period of national alcohol prohibition (1920–1933). By the 1940s, these crime "families" had more or less achieved their present-day form.[*] There were twenty-four crime families operating in twenty cities; five

[*] The history of Cosa Nostra has been often told. The bloody Castellamarese war of the late 1920s pitted two organized crime factions against each other. Salvatore Maranzano emerged the victor. But when he attempted to further consolidate his power, he was assassinated by Charles ("Lucky") Luciano, Vito Genovese, Meyer Lansky, and several other organized crime figures. Luciano assigned the major crime families territories and established a commission to mediate interfamily conflicts. See Thomas E. Repetto, *American Mafia: A History of Its Rise to Power* (New York: Henry Holt, 2004).

0280

families coexisted in New York City. All were organized along the following lines: the boss was assisted by an underboss and a *consigliere* (counselor) chosen by the "capos" as a kind of ombudsman to whom they could bring problems that arose with other capos or even with the boss. The "made members" or "soldiers" who had gone through an initiation ritual and sworn fealty to Cosa Nostra were organized into "crews," each led by a "capo" or captain. Moreover, each crew included "associates" who worked with the capo and soldiers but who were not themselves "made members." Scholars disagree as to whether the twenty-four families were "ruled" or "coordinated" by a "commission" of large family bosses. My view is that there is little evidence of the existence of a Mafia commission that *ruled* in any meaningful sense of the word. No doubt crime family bosses met from time to time, and in different configurations, to "adjudicate" or negotiate interfamily disputes and discuss matters of mutual concern. The famous 1957 mass meeting at Apalachin, New York, is an example of a convention-type get-together.[3] From time to time there may have been a group (committee) of bosses who met as a kind of court, as occasions arose, to settle interfamily disputes. But there was never anything resembling national government of organized crime families that made "law" or issued and enforced policy. The crime families have always operated autonomously.

THE UNIONS

The history of the American labor movement can be traced back to the eighteenth century.[4] Nascent labor unions proliferated by the late nineteenth century with the growth and industrialization of the U.S. economy. Indeed, that period was marked by some extraordinarily bloody clashes between labor organizers and businesses determined to prevent their workers from organizing. Most often the police and the courts sided with the employers. Many union organizers were prosecuted in state courts for conspiracy and other offenses.[5] Many courts issued injunctions ordering union leaders and members to cease and desist from strikes and other disruptions of business.* This era of violence brought

* The Norris-LaGuardia Act (1932), 29 U.S.C. § 101, prohibited federal courts from enjoining most strikes.

0281

gangsters into labor/management conflicts on both sides and laid the ground for permanent organized crime infiltration of the labor movement. Intervention by the police, prosecutors, and courts on the side of business established a legacy of suspicion and distrust of government involvement in labor matters that persists to this day throughout the labor movement.

The 1935 Wagner Act[6] recognized the right of private-sector workers to bargain collectively with their employers. The act established a National Labor Relations Board to administer a complex web of regulations governing union jurisdiction, recognition or election of the union that would serve as a given group of workers' exclusive bargaining agent, and the duties of both management and labor in negotiating in good faith with each other. Union membership soared, increasing from 3.8 million in 1935 to 12.6 million in 1945.[7]

By 1947, business leaders, Republicans and some Democrats in Congress, and some elements of the citizenry had become convinced that organized labor was too powerful. Over fierce opposition from the labor movement, Congress passed the Taft-Hartley Act,[8] which aimed to cut back labor's power by prohibiting secondary boycotts, allowing the president to temporarily halt certain strikes, prohibiting political contributions by unions, and prohibiting the closed shop. The act also included a provision outlawing labor bribery; it became a crime for an employer to give anything of value to a labor official and for a labor official to accept anything of value from an employer. President Harry Truman vetoed the law, but Congress overrode the veto with a two-thirds vote.

Labor unions were organized at the local, regional, and national/international levels. National unions granted charters to individuals to organize local chapters of their union among workers in a particular bargaining unit. Local unions typically included workers employed by a number of different businesses, usually but not always in the same industry. Thus, a local's membership could range from the low hundreds to more than ten thousand. The local's officers bargained with each of their members' employers to achieve collective bargaining agreements that governed the terms and conditions of employment. Beginning in the 1940s, union negotiators regularly sought to obtain employer contributions to worker pension and welfare funds. By the 1950s and 1960s some of these funds held immense deposits, thereby posing an irresistible target for organized crime.[9]

0282

The constitutions of some national unions provided for regional councils comprising all the local unions in that council's geographical area. The officers of the councils were chosen by the leaders of the union locals that made up the council. The powers of the councils differed, but in many cases the councils engaged in collective bargaining with the various locals' members' employers. They also provided a level of insulation for the officers who were accountable to the locals' representatives, not to the rank and file.

LABOR RACKETEERING

The penetration of labor unions by professional criminals dates back to the late nineteenth century.[10] Not all unions were equally susceptible to being taken over by organized crime elements. The most susceptible unions were those whose members worked for numerous small employers in geographically dispersed locations. Such workers were unable to organize themselves to oppose gangsterism. Working alone or in small groups, they could be easily intimidated and subdued. Therefore, it is not surprising to find that some of the first unions to be captured by organized crime were made up of restaurant workers, coach and truck drivers, and construction workers. Other unions susceptible to takeover included construction and longshoring (loading and unloading seaborne cargo), where work was seasonal or sporadic and employers relied on union hiring halls to send them workers when needed. Racketeering susceptibility was very high when union officials could punish opponents and reward supporters by denying or awarding jobs. The craft unions, those with the highest susceptibility to racketeering, were mostly affiliated with the American Federation of Labor (AFL).

The racketeering susceptibility of so-called "industrial" unions composed of factory workers was much lower. Factory workers were organized much later than "craft" workers, in part because the large employers could resist more effectively. When factory workers were organized, it was along the lines of the whole plant, that is, in industrial unions. Workers who belonged to large industrial unions were more closely tied to their employers than were craft workers who often moved from job to job, and employer to employer. Therefore it was much more difficult for labor racketeers to intimidate and dominate them. The industrial unions also tended to be more ideological than the

0283

craft unions; socialist and even communist ideology commanded a great deal of support. The more ideologically minded labor officials were less attracted to corrupt opportunities for personal enrichment. The unions that represented the factory and mine workers were mostly affiliated with the Congress of Industrial Organizations (CIO). There have been very few examples of organized crime groups making any headway in these unions.

In 1955, the American Federation of Labor (AFL) and the Congress of Industrial Organizations (CIO) combined to form the AFL-CIO. In the late 1950s, the newly combined AFL-CIO took steps against labor racketeering in its affiliated unions, but by the 1960s these initiatives had completely dissipated. Thereafter, the AFL-CIO almost always excoriated congressional and law enforcement anti–labor racketeering hearings, legislation, and campaigns as sinister attacks on the labor movement.

EMPLOYERS

Up until passage of the Wagner Act in 1935, many employers, especially large employers, fought hard to prevent the unionization of their employees. When unionization proved inevitable, these employers sometimes sought to sign representational agreements with gangster-controlled unions, which they much preferred to left-wing labor organizations because the former were susceptible to bribes in exchange for sweetheart contracts.[11] Both the employers and the labor racketeers themselves used "red-baiting" (calling opponents communists) to smear dissidents who criticized or challenged them.[12] (Echoes of such tactics can be found right up to the present day.)* The gangsters who controlled these unions could be bribed—indeed, they were in the business of soliciting bribes—to make concessions in collective bargaining agreements and/or not to enforce the terms of the agreements.

Small employers in competitive industries had another reason for preferring to deal with unions controlled by racketeers. Where there are

* In his case study of the efforts of rank-and-file Teamsters reformers to take back their local from mobsters and their cronies, Professor Robert Bruno explains how the incumbents branded the reformist group, Teamsters for a Democratic Union (TDU), "socialist and slanderous." *Reforming the Chicago Teamsters: The Story of Local 705* (De Kalb: Northern Illinois University Press, 2003), 34.

0284

large numbers of small employers in a competitive industry (for example, restaurants, laundry, trucking), the employers have a greater reason to accept, indeed to reach out to gangsters to "stabilize" cutthroat competition, neutralize labor unrest and opposition,[13] and not enforce collective bargaining agreements.[14] In addition, a strong gangster-controlled union could establish and enforce an employers' cartel that would restrict the number of employers, fix prices, and allocate contracts and customers to the cartel's members.[*] The union was in a position to do this because it could "discipline," even put out of business, an employer who refused to cooperate with the cartel.

POLITICIANS, POLICE, AND PROSECUTORS

For much of the twentieth century, urban law enforcement was laced with political influence and corruption. In most big cities, the police department, and often the prosecutor's office, was subservient to the party political machine, which, in turn, was frequently allied to organized crime. (This was dramatically illustrated by the 1951–1952 U.S. Senate hearings presided over by Senator Estes Kefauver.) By the 1940s, the local power structure in many cities was a quadripartite alliance of organized crime, elements of organized labor, elements of the business community and the Democratic Party political machine, including district attorneys and top police brass.[**15] For example, Frank Costello, New York City organized crime boss, was a power in Tammany Hall, and Tom Pendergast, the Kansas City political powerhouse, was closely allied to organized crime in Chicago and New York.

Even when they were not corrupted, local police departments and county district attorneys' offices did not have the resources to conduct the lengthy and sophisticated investigations required in organized

[*] Under the 1935 National Labor Relations Act, 29 U.S.C. § 151 et seq., an employer can voluntarily agree to recognize an organization as the exclusive bargaining representative for the employer's workers. The employees have the right to petition the National Labor Relations Board for an election, but if they do not, the employer can sign a collective bargaining agreement with the union that he or she has recognized.

[**] Robert Cooley, a Chicago lawyer closely involved with both organized crime and city politicians and judges, in the 1970s and 1980s, provides an excellent description of such an alliance. See Robert Cooley and Hillel Levin, *When Corruption Was King: How I Helped the Mob Rule Chicago, Then Brought the Outfit Down* (New York: Carroll and Graf, 2004).

0285

crime cases. Special NYS Organized Crime Prosecutor and then Manhattan District Attorney Thomas Dewey's antiracketeering investigations and prosecutions during the 1930s were the exceptions. However, before the days of legal electronic surveillance, witness immunity, witness protection programs, and methods to prevent juror intimidation, it was extremely difficult to investigate and convict organized crime figures. Moreover, individual convictions had no impact on deeply embedded systemic criminality.

HOOVER'S FEDERAL BUREAU OF INVESTIGATION (1924–1972)

Federal law enforcement had more resources and freedom than state and local law enforcement to deploy agents as it chose (rather than in response to citizen complaints), but FBI Director J. Edgar Hoover denied the existence of the Mafia and refused to devote investigative resources to organized crime.* Scholars and commentators still disagree about Hoover's motives. Some believe that he was being blackmailed by mobsters who knew about his (supposed) homosexuality.[16] Other scholars believe that Hoover did not regard organized crime as a national problem; did not believe that the FBI had jurisdiction to investigate local gangsters; feared that FBI agents would be corrupted if they became involved in investigating the vice crimes that the Mafia was engaged in (gambling, drugs, and so on); or perhaps, prior to the exposure of the organized crime conclave in Apalachin, New York, in 1957, he did not believe there was any connection or coordination among local organized crime families. Still other scholars emphasize that Hoover did not want to divert resources from investigating communists and political subversives.** Although we will probably never be able to choose

* Actually, Harry Argersinger, Director of the Federal Bureau of Narcotics and Dangerous Drugs, had much more interest in and knowledge of organized crime than Hoover, but he did not have the resources or the jurisdiction to act on this knowledge. After the McClellan Committee hearings, the FBI did engage in extensive wiretapping against organized crime, but such intercepted conversations could not be introduced in court until passage of Title III of the 1968 Omnibus Crime Control and Safe Streets Act.

** There was already precedent for cracking down on left-wing unionists but not labor racketeers when Hoover took over the FBI. The so-called Palmer Raids, carried out by

0286

definitively among these explanations, the facts are indisputable: until after Hoover's death in May 1972, the FBI did not devote resources to investigating organized crime while assigning top priority to exposing and prosecuting communists (broadly defined).[17] The Industrial Workers of the World (IWW) and other left-wing labor groups were relentlessly suppressed but organized crime labor racketeers were hardly opposed. By pursuing "radicals" rather than Mafiosi, Hoover contributed to the emergence of an American labor movement heavily infiltrated and influenced by organized crime.

Teamster history provides a telling example of how government, specifically the FBI, contributed to a racketeer-ridden labor movement while repressing a left-wing labor movement. In the 1930s, the most powerful Teamster leader in Minnesota was Farrell Dobbs, a socialist and brilliant labor organizer. He organized over-the-road freight drivers, dock workers and warehousemen throughout the Midwest. His Teamster protégé and eventual rival was Jimmy Hoffa, who recruited thugs linked to organized crime to help him battle employers. The FBI attacked Dobbs, while leaving Hoffa to prosper. In the late 1930s and early 1940s, Dobbs and more than two dozen militant socialist trade unionists were indicted under the anti-Communist Smith Act. Dobbs himself was imprisoned until the end of World War II.[*] Jimmy Hoffa became the undisputed leader of the Teamsters in Minnesota and soon in the entire Midwest. Hoffa's connections with organized crime were instrumental in vaulting him to the IBT general presidency and figured prominently in his administration of the union.[18]

U.S. Attorney General Alexander Mitchell Palmer between 1919 and 1923, amounted to a violent repression of left-wing unionism. Palmer's agents sent hundreds of radical unionists to prison and destroyed their union headquarters. The suppression of radical unionists continued for decades, and not only by the FBI. California Attorney General Earl Warren, who was destined to be Chief Justice of the most liberal Supreme Court in history, prosecuted longshoreman Harry Bridges for subversion in the 1940s. Lawrence Fleischer, *Thomas E. Dewey and Earl Warren: The Rise of the Twentieth-Century Urban Prosecutor,* 28 *Calif. W. L. Rev.* 1 (1992).

[*] After his release from prison, Dobbs served as editor of "The Militant" and, in 1953, became national secretary of the Socialist Workers Party. He ran as the SWP's presidential candidate in 1960 but received only 60,166 votes. In the 1970s, he published several books about the Teamsters, including: *Teamster Rebellion* (New York: Pathfinder Press, 1972); *Teamster Power* (New York: Monad Press, 1973); *Teamster Politics* (New York: Monad Press, 1975); and *Teamster Bureaucracy* (New York: Anchor Foundation, 1977).

0287

POST-HOOVER FBI

After Hoover's death in 1972, the FBI modernized and became an up-to-date law enforcement (rather than antisubversives) organization. It redefined organized crime as a serious problem and a top priority.[19] After Jimmy Hoffa's disappearance in July 1975, the FBI focused on labor racketeering as a key part of the organized crime problem.

The FBI defined labor racketeering first as an organized crime problem and second as a union corruption problem. Despite the employers' complicity with organized crime in exploiting their employees and corrupting their unions, investigators and prosecutors did not focus on labor racketeering as a problem of labor/management corruption.* The law enforcement agents and agencies treated corrupt employers as victims or, at worst, minor wrongdoers who could be recruited as cooperating witnesses against organized crime figures and corrupt union officials. Labor racketeers who engaged in violence, extortion, intimidation, and all sorts of crimes in addition to labor racketeering, fit law enforcement's (and the general society's) stereotype of criminals; employers did not. The labor racketeers also belonged to ethnic minority groups that, at the time, were widely believed to have a dangerous predilection for crime. Employers, on the other hand, fit law enforcement's stereotype of essentially law-abiding citizens or, at worst, minor white-collar offenders.

The post-Hoover FBI mobilized itself for a massive attack on organized crime. By the early 1980s there were three hundred FBI agents in New York City assigned to organized crime investigations. The New York City office formed separate squads for each of the city's Cosa Nostra crime families. With the urging of G. Robert Blakey and Ronald

* As Sidney Lens explained, "I'm not suggesting that corporate-racketeer collaboration was a rule in the labor movement, but neither was it an incidental aberration." Thomas E. Dewey, when he was Manhattan district attorney, denounced employers who "invite racketeers to organize their industries to increase profits at public expense." Sidney Lens, *Unrepentant Radical* (Boston: Beacon Press, 1980), 105–6.

New York Times writer A. H. Raskin detailed in a *Commentary* article "the sordid story of employer collaboration" with the Longshoremen's Association over a quarter century. He charged that they had "subverted the union . . . kept its president, Joseph P. Ryan, in automobiles and expensive clothes," and had subsidized the hooligans Ryan recruited from Sing Sing to hold the rank and file in subjection." A. H. Raskin, "Unions and the Public Interest," *Commentary* (February 1954), p. 103.

0288

Goldstock, the FBI sought to dismantle each crime family by attacking its revenue sources as well as by convicting its leaders. Unions were among organized crime's most important revenue sources and power bases.

U.S. CONGRESS

Until the late 1970s, the most important opposition to labor racketeering came from Congress via hearings, reports, and legislation. Beginning in the 1930s, but especially from the 1950s, Congress held dozens of hearings on corruption and racketeering in the labor movement, some attracted national media attention.[20] Labor officials accused Congress of holding these hearings to weaken labor rather than to fight racketeering and, to an extent, they may well have been right. It is not possible to dissect the motivations of the many senators and congressmen involved in such hearings over several decades, but undoubtedly some of their motives were antilabor or, at best, self-aggrandizing. The senators who were most aggressive in investigating and denouncing labor racketeering were southern conservatives who represented states where unions were weak and unpopular. Federal legislation that attacked labor racketeering usually was part of a larger bill that weakened organized labor. For example, the 1947 Taft-Hartley Act made it a federal crime for a union official to receive anything of value from an employer and similarly for an employer to give anything of value to a labor official. But the act also contained wide-ranging provisions designed to curb union power.*

On August 12, 1953, in response to a devastating New York State investigation of racketeering in the Port of New York and New Jersey,[21] President Dwight Eisenhower signed the Waterfront Commission Act, an interstate compact that permitted New York and New Jersey to

* Taft-Hartley (the Labor Management Relations Act) made the closed shop illegal and permitted the union shop only after a vote of a majority of the employees. It forbade jurisdictional strikes and secondary boycotts. It prohibited unions from contributing to political campaigns and required union leaders to affirm their loyalty and lack of communist ties. The act also gave the U.S. attorney general the power to obtain an 80-day injunction when a threatened or actual strike that he/she believed "imperiled the national health or safety." 29 USC Sec. 141–97. [Title 29, Chapter 7, United States Code.]

establish the Waterfront Commission of New York Harbor in order to regulate waterfront business activity and labor relations.[22] The Waterfront Commission replaced the infamous "shape up" (whereby the union bosses picked out who would work that day from the men assembled on the pier) with a hiring system that licensed longshoremen, assigned them to jobs, and guaranteed them an annual wage. It also ended the "public loading"* racket, by which the International Longshoremen's Association (ILA) required truckers to make corrupt payoffs in order to have cargo loaded or unloaded from their vehicles at the piers, even if they did not need or desire the public loaders' service. The act (and the implementing legislation passed by both the New Jersey and New York legislatures) gave the Waterfront Commission power to register workers, deny registration and employment on grounds of felony and misdemeanor convictions, and bar former convicts from holding elective ILA positions. The ILA resisted the Waterfront Commission by, among other things, challenging a provision in the law that prohibited unions that employed former felons as officers from collecting members' dues.[23] In *De Veau v. Braisted,* the U.S. Supreme Court upheld the provision, observing:

> In disqualifying all convicted felons from union office unless executive discretion is exercised in their favor . . . [this law] may well be deemed drastic legislation. But in the view of Congress and the two States involved, the situation on the New York waterfront regarding the presence and influence of ex-convicts on the waterfront was not a minor episode but constituted a principal corrupting influence.[24]

The McClellan Committee (Senate Special Select Committee on Improper Activities in the Labor or Management Field), 1957–1959, eclipses all other legislative or commission investigations into labor racketeering. Its one hundred member staff still stands as the largest congressional investigative staff in American history. The committee called 1,525 witnesses; many high-ranking union officials and mobsters refused to answer on Fifth Amendment grounds. (These were the days before the federal immunity statute, so witnesses could not

* "Public loader" referred to a worker who loaded and unloaded trucks that took cargo to and from the docks. The term was commonly used in the early twentieth century.

0290

be compelled to answer questions under an immunity grant.) The clash between the committee's chief counsel, Robert F. Kennedy, and Teamsters vice-president and then (during the course of the hearings) general president, Jimmy Hoffa, provided high drama to a national audience.

Senator John McClellan (D.-Ark.) asserted that powerful mob figures Anthony Corallo and John Dioguardi had assisted Hoffa's campaign for the IBT presidency. The committee also uncovered mob links with other unions, businesses, and industries. In his book about the McClellan Committee hearings, *The Enemy Within,* Kennedy used apocalyptic language to warn that organized crime's strategic position in the labor movement gave it the power to shake down or shut down the nation: "The point I want to make is this: If we do not on a national scale attack organized criminals with weapons and techniques as effective as their own, they will destroy us."[25]

The McClellan Committee's hearings led directly to the 1959 Labor Management Reporting and Disclosure Act,[26] known as the Landrum-Griffin Act, which, for the first time, enlisted union democracy as a key strategy in fighting labor racketeering. Senator McClellan and his colleagues argued that the best antidote to labor racketeering would be an active and informed union rank and file that would monitor its officers and throw them out if they acted contrary to the interests of the membership. Landrum-Griffin set out a federally guaranteed union members' bill of rights, including the right to speak and associate freely, run for office in free and fair elections, and have the opportunity to find out about (and, in some cases vote on) what the union's officers are doing.[27]

Congressional, usually Senate, hearings on organized crime and on labor racketeering continued through the 1960s, 1970s, and 1980s. There were several hearings on exploitation of the unions' pension and welfare funds, leading to the passage of the landmark Employee Retirement Insurance and Security Act of 1975 (ERISA). (Senator McClellan introduced the first version of the bill that eventually passed.) The Senate Permanent Subcommittee on Investigations held hearings on the four most racketeer-ridden national/international unions: Teamsters, Laborers, Longshoremen, and Hotel and Restaurant Workers. Other hearings focused on the Department of Labor's willingness and capacity to respond to evidence of labor racketeering and later on the efficacy and desirability of the RICO-spawned union trusteeships.

0291

U.S. DEPARTMENT OF JUSTICE (DOJ)

The U.S. Department of Justice is a cabinet-level department headquartered in Washington, D.C., and headed by the U.S. Attorney General. In addition to the DOJ attorneys who represent the United States in criminal and civil litigation, the FBI, Federal Bureau of Prisons, and several other agencies come under the DOJ's aegis. Importantly, however, the FBI is substantially independent of the lawyers' side of the department. The FBI director is a presidential appointee, requiring Senate confirmation, who serves a ten-year term. The DOJ criminal division's priorities are not necessarily the same as the FBI's priorities, so an organized crime control campaign required a great deal of coordination.

The DOJ's criminal division comprises twenty sections, including fraud, domestic security, asset forfeiture, money laundering, and drugs. In the mid-1950s, under the Eisenhower administration, the DOJ formed the Organized Crime and Racketeering Section (OCRS) to focus the department's anti–organized crime resources. OCRS remained a small, fairly inactive department until it was revitalized in 1961 by the new attorney general, Robert F. Kennedy. As we will see in later chapters, by the 1980s OCRS played a leadership role in organized crime control.

In addition to its central headquarters, the Department of Justice is represented by a United States attorney's office in each of the ninety-three federal judicial districts that cover the entire territory of the United States. (New York City, for example, has two judicial districts and two U.S. attorney's offices: the Southern District of New York (SDNY), which includes Manhattan, the Bronx, Westchester, and some other suburbs; and the Eastern District of New York (EDNY), which includes Brooklyn, Queens, Staten Island, and the Long Island suburbs.) The U.S. attorneys are appointed for four-year terms by the president of the United States and, like cabinet officers and certain other high governmental officials, they are subject to Senate confirmation. The budgets for the U.S. attorneys are set by central DOJ, but the U.S. attorneys have substantial autonomy and, to a large extent, choose their own investigative/prosecutorial priorities.

When Robert F. Kennedy, as U.S. attorney general (1961–1964), revitalized the Organized Crime and Racketeering Section (OCRS), he established the first federal organized crime strike force in Buffalo,

0292

New York; other strike forces soon followed.* The strike forces allowed Kennedy to circumvent both the FBI (controlled, at that time, by Hoover) and the U.S. attorneys' offices. The strike forces reported directly to the head of the OCRS, who, in turn, reported directly to Kennedy. Each strike force consisted of agents from a number of different agencies including the Internal Revenue Service, Labor Department, and FBI, although Hoover was not enthusiastic about cooperating. The strike forces undertook some important investigations and initiated some important prosecutions before Robert F. Kennedy resigned as attorney general in 1964, several months after his brother, President John F. Kennedy, was assassinated. The OCRS was not abolished, but it lost the luster and prominence that it enjoyed under Robert F. Kennedy. Not until the mid-1970s was it fully resuscitated and the number and resources of the federal organized crime strike forces increased.**

The turning point in law enforcement's attack on organized crime generally, and labor racketeering specifically, was the disappearance (immediately assumed to be a mob "hit") of James R. (Jimmy) Hoffa in the summer of 1975. Hoffa disappeared while campaigning to regain the IBT general presidency from former protégé Frank Fitzsimmons, with whom LCN had become quite comfortable.*** Organized crime had never before murdered a national figure of Hoffa's stature (unless, as some people believe, it assassinated President John F. Kennedy).[28] Almost immediately, the FBI made organized crime control its top priority. The Hoffa assassination gave the post-Hoover FBI and the OCRS a

* Kennedy's top priority was to "get Hoffa." Victor Navasky, *Kennedy Justice* (New York: Atheneum, 1971); Arthur A. Sloane, *Hoffa* (Cambridge: MIT Press, 1978); Arthur Schlesinger, Jr., *Robert Kennedy and His Times* (New York: Ballantine, 1996); David Witwer, *Corruption and Reform in the Teamsters Union* (Urbana-Champaign: University of Illinois Press, 2003). Indeed, DOJ prosecutors did bring Hoffa to trial in 1962 for extortion, but the case ended in a hung jury. In 1964, the DOJ convicted Hoffa of obstruction of justice and pension fund fraud. His appeals exhausted, he began serving his prison sentence in 1967. However, President Richard Nixon commuted the sentence in 1971, apparently a quid pro quo for the IBT's endorsement of his candidacy in the 1972 presidential election.

** Attorney General Richard Thornburgh abolished the strike forces in 1989. They had always been unpopular with the U.S. attorneys, who resented the central DOJ's taking high-publicity cases out of their hands. Individual organized crime units were subsequent established in each U.S. Attorney Office.

*** The FBI now believes that Hoffa was assassinated by Anthony Giacalone, boss of Detroit's organized crime family, and Tony Provenzano, Genovese crime family capo and head of IBT Local 560.

0293

successful rationale for launching and sustaining a campaign against the Cosa Nostra organized crime families.[29] It bears emphasizing that the FBI viewed the attack on labor racketeering as part of its strategy of crushing LCN; without this link, union corruption would not have triggered and sustained the massive federal law enforcement effort.

RACKETEER INFLUENCED AND CORRUPT ORGANIZATION ACT (RICO)

In the late 1960s, Senator John McClellan held hearings on the organized crime problem. Witnesses and the senators themselves observed that when an organized crime figure was sent to prison, the Cosa Nostra bosses assigned another to replace him. To have any chance of eliminating or substantially weakening organized crime, the government would have to do something other than prosecuting, convicting, and punishing individuals for discrete crimes.[30] The solution was RICO, a complex statute that provided DOJ and the federal law enforcement agencies with a multifaceted remedial statute whose criminal and civil provisions were aimed at convicting organized crime members and eliminating their economic base.

The 1970 RICO statute, cosponsored by Senator McClellan, created three new federal crimes, and a fourth that made criminal a conspiracy to violate any of the three. Under RICO it is a crime to invest the proceeds of racketeering activity or collection of an unlawful debt in an enterprise (any legal entity or an association in fact); it is a crime to take an interest in any enterprise through a pattern of racketeering activity or collection of an unlawful debt; and it is a crime to conduct or participate in the affairs of an enterprise through a pattern of racketeering activity or collection of an unlawful debt. In other words, it is a federal crime, punishable by up to twenty years in prison, to buy into an enterprise with "dirty money," to use muscle or fraud to acquire an interest in an enterprise, or to use an enterprise as a vehicle for carrying out racketeering activity.

In addition to its criminal provisions, RICO contains two different civil remedies. One remedy, Section 1964(a), provides a private right of action (with treble damages) for the victims of racketeering. While prominent and controversial in the commercial litigation context, this provision has never been used by victims of organized crime to sue the

Mafia for compensation. Maybe such victims doubt they would succeed in collecting any money from the mobsters; certainly fear of retaliation is a likely explanation. In any event, it is the second civil RICO provision that has proved to be an outstanding tool for attacking systemic criminality like labor racketeering. Section 1964(b) authorizes the U.S. attorney general to seek wide-ranging equitable relief to prevent continuing RICO violations. If the attorney general can persuade a federal judge (there is no right to a jury trial) of the need for extreme remedial action, the court is empowered to expel union officers, change election and hiring hall procedures, install financial controls, and appoint a trustee to monitor and enforce the remedial decree. This provides for the possibility of ongoing federal court supervision supported by continued FBI and DOJ investigations and enforcement.

In 1982, DOJ's Organized Crime Strike Force in Newark, New Jersey, brought the first civil RICO suit against a union, IBT Local 560, the largest Teamsters local in New Jersey (35,000 members). For decades, Local 560 had been the fiefdom of Tony Provenzano, a capo in the Genovese crime family and the local's top official. Union members who dared to complain or challenge "Tony Pro" were threatened, beaten, even killed; collective bargaining contracts were mocked by sweetheart deals with employers. When Tony Pro finally was imprisoned, he handed off operational control of the union to one of his brothers (who himself was later sentenced to prison) and then to another crony.[31] As would also be true in the many later civil RICO suits against unions, the government's complaint in the Local 560 case named both union officials and mobsters as defendants. After a lengthy trial, Judge Harold Ackerman found in favor of the government and ordered broad relief, including a court-appointed trustee whose assignment was to purge the mob and establish union democracy—a task, as it turned out, that consumed more than ten years.

All told, there have been twenty civil RICO suits resulting in court-appointed trustees tasked with eliminating organized crime and "restoring" union democracy. This litigation is one of the most ambitious, perhaps *the most ambitious* effort at government-sponsored and court-supervised institutional reform in American history. Government lawyers, federal judges, and court-appointed trustees have had to confront two of the most powerful institutions in American society: organized crime and organized labor. Consider that just before Rudy Giuliani, then U.S. attorney for the Southern District of New York, filed the

0295

first civil RICO suit against an international union (the International Brotherhood of Teamsters) in 1988, 264 members of Congress signed a petition to U.S. Attorney General Edwin Meese, demanding that the rumored civil RICO suit not be filed. The letter insisted that "[t]he imposition of trustees to administer an international union by the government is, on its face, inherently destructive of the ability of workers to represent and speak for themselves through their unions."[32] The suit, of course, was filed and ultimately resolved by a negotiated consent agreement that, among other things, provided for a type of trusteeship that, as of fall 2005, is still in effect.

What are the consequences of a century of labor racketeering? The American labor movement has been profoundly affected by organized crime infiltration and exploitation. For some unions, the consequences are obvious: treasuries looted, collective bargaining agreements unenforced, candidates for union office murdered, and union democracy rendered meaningless. Other unions have suffered indirectly by the erosion of organized labor's reputation in the eyes of workers, intellectuals, and young people.

There can be no doubt about the American labor movement's extraordinary decline since the 1950s.[33] The peak year (in terms of percentage) of Americans' membership in unions was 1953, when 32.5 percent of workers belonged to labor unions. In 2005, approximately 13 percent of the workforce was unionized; the percentage of public employees unionized is now higher than the percentage of private employees. Although there are a number of reasons for the decline, it seems a worthy hypothesis that labor racketeering has been an important contributing factor. Of course, there has been retrenchment and decline in many unions where there has never been a documented organized crime presence. Arguably, however, even those "clean" unions have been affected by the labor racketeering taint that tarnishes the reputation of organized labor generally. It is entirely possible that the labor movement as a whole would be much stronger if certain key unions had not been infiltrated and controlled by Cosa Nostra.

Another explanation for the decline of labor unions is that mob-dominated unions do not perform well for their members. Labor racketeers aim to maximize the wealth and power of their crime families and themselves. For them, participation in the labor movement is a racket, stealing from the unions and their benefit funds and soliciting bribes from employers. Labor racketeers are not good unionists; they

0296

exploit unions and union members. Labor racketeers are not interested in organizing workers or running unions efficiently. They appoint and promote union officials on the basis of patronage, not competence. Their unions' payrolls are loaded with relatives, friends, and organized crime associates. The history of labor racketeering is rife with examples of sweetheart contracts, double-breasted shops (allowing employers to hire nonunion as well as union employees), allowing employers to avoid required pension and welfare contributions, workers being shuttled from high-pay to low-pay locals, AFL-CIO affiliated unions taken "independent" and many other schemes that victimize rank-and-file union members in order to line the pockets of organized crime members and their corrupt union allies.[34]

What might America look like today if at least part of the American labor movement had not been hijacked by labor racketeers? Would we have a socialist or socialist-leaning labor movement along the lines envisioned by Eugene Debs, Norman Thomas, or perhaps Walter Reuther? Would labor have involved itself in politics or even become a political party as Reuther once advocated?[35] Would so-called business unionism, which defines a labor union as a business that sells labor, have been relegated to the scrap heap of history rather than to the reigning ideology of the American labor movement? We will never know, but we can be sure, given the importance of labor movements to contemporary Western democracies, that the current sociopolitical organization of the United States would be different.

We might also ask what might have been if organized crime had not been enriched and empowered by labor racketeering? Without its base in labor, the Italian-American organized crime groups would have been left to supplying illicit goods and services on the black market. Of course, LCN was, and to some extent still is, deeply involved in drugs, gambling, and loan-sharking. But these rackets do not generate the kind of access to politicians and businessmen that labor racketeering does. Fabulously wealthy drug dealers have obtained considerable political power in some South American countries but not in the United States where drug dealers remain sociopolitical outcasts. Drug dealers, at least in the United States, do not endorse and assist political candidates. They may corrupt law enforcement officials and politicians but not as systematically and extensively as LCN, and they are not nearly as able to protect themselves from arrest, prosecution, and punishment. In short, it is a fair hypothesis that if LCN had not been able to

0297

penetrate and control elements of the American labor movement, it would not have reached the pinnacles of power that it did reach in the 1970s and 1980s.

Finally, we need to ask whether the use of federal civil RICO suits, leading to court-enforced consent decrees, provides a model of organizational reform that will succeed in purging organized crime from the unions and that could be used to reform other types of corrupted organizations in the United States and other countries. There has been a long debate among political scientists and law professors about the capacity of courts to bring about sociopolitical change. This study takes that debate into a new venue and challenges us to reconsider the potential and limits of law enforcement, courts, and government to remediate deep flaws in the social fabric.

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2

Organized Crime and Organized Labor

The meeting [of organized crime bosses in Apalachin, New York, in 1957] gave to millions of Americans their first clear knowledge that we have in this country a criminal syndicate that is obviously tightly organized into a secret brotherhood, which none of its members dare to betray, and which has insinuated itself into business and labor and public life at high levels. . . . One of the most significant results of this examination of the backgrounds of the Apalachin visitors was the revelation that twenty-three of them were directly connected with labor unions or labor-management bargaining groups. It was no coincidence that the names of these men and their cronies and associates kept cropping up during almost every investigation that was made of improper activities in labor and management. Hundreds of honest, decent union officials throughout the country, and perhaps millions of their hard-working members, are daily subjected to the manipulation of these racketeers and their henchmen.

—Senator John McClellan, *Crime without Punishment* (1962), 116

The benefits a union officer's position gave to a La Cosa Nostra member included the ability to transform an ugly criminal caterpillar into a very dangerous but beautiful butterfly. It gave instant legitimacy, an unlimited expense account, legitimate income for income tax purposes, plus all the money you could steal from union dues, an entree into the business community and an entree to those aspiring for political office. Later, the unions developed Political Action Committees or PACs to use for even more political leverage. To me, the unlimited possibilities the organized crime professional criminals involved in the American labor movement had to control the American public's capitalistic and democratic society was frightening.

—James Moody, FBI official in charge of organized crime, Testimony Before Senate Permanent Subcommittee on Investigations, July 24, 1996

0299

Labor racketeering has never been just a sideline activity for the Cosa Nostra organized crime families. The image that some scholars and observers have of organized crime moving into unions and industrial racketeering as a way of laundering funds obtained from gambling, prostitution, drugs, and other black market operations is not accurate. Labor racketeering was a defining feature of American organized crime from the first decades of the twentieth century. Ultimately, it was labor racketeering that made Cosa Nostra part of the sociopolitical power structure of twentieth-century America.

LAYING THE GROUNDWORK

During the first third of the twentieth century, it was relatively easy for organized crime groups to take over local unions, especially craft unions. In violent conflicts between workers and employers, professional criminals supplied goons to both sides.[1] Once the gangsters had a foot in a union's door, they could take over by means of violence, intimidation, and election fraud. The immigrant workers could be intimidated, coerced, and deceived, but nefarious techniques were not always necessary. Some labor racketeers were charismatic leaders whom workers admired. No doubt, some workers thought they would be better off being represented by individuals with a reputation for being tough and well-connected. According to Harold Seidman's study of early twentieth-century labor racketeering, *Labor Czars* (1938):

> Unionists continued to do their own slugging until the great strikes of 1909 necessitated a change in tactics . . . the unions engaged gangsters to protect women strikers and pickets against employer thugs. . . . The unions soon discovered that gangsters did not accept temporary work. Once hired, they remained permanently employed, whether the union liked it or not. . . .[2]

Sometimes gangsters became labor officials without any vote or other action by the workers whom they came to represent. Under the 1935 National Labor Relations Act (NLRA), an employer could voluntarily recognize a particular union as the exclusive bargaining agent for his

0300

workers.* That representation would be binding for three years and would continue unless the workers voted to be represented by a different union or not to be represented by any union. Some employers happily recognized practically nonexistent racketeer-constructed "unions" because, in effect, such unions were a scam allowing the racketeers to extract bribes and the employers to avoid having to deal with a real union. Indeed, employers could call upon these unions to establish and police an employers' cartel. To cite just one early example, John Landesco's 1929 study for the Chicago Crime Commission reported that racketeers controlled the laundry industry by dominating the union that represented the drivers.

In the 1920s, such Jewish organized crime figures as Arnold Rothstein (1882–1928), Jacob Orgen (1894–1927), Jacob Shapiro (1899–1947), and Louis Buchalter (1897–1944) infiltrated the International Ladies' Garment Workers' Union (ILGWU) and leveraged their union power into domination of New York City's garment district.[3] (Carl Sifakis, author of *The Mafia Encyclopedia,* calls Buchalter *the foremost labor racket czar in the United States.*)[4] The labor racketeers of this era were sometimes recruited by "honest" union leaders to help defeat rival unions; Sidney Hillman, head of the Amalgamated Clothing Workers Union, and a key FDR New Deal advisor, called upon Buchalter to suppress competing unions and recalcitrant employers who stood in the way of his union.[5] In the 1920s, Dutch Schultz (a.k.a. Arthur Flegenheimer (1903–1935)) forcibly took over and controlled the New York City Restaurant and Cafeteria Workers Union.

THE ORIGINS OF COSA NOSTRA LABOR RACKETEERING

The Italian American organized crime groups engaged in labor racketeering from the time they began to form in the United States. Joseph ("Socks") Lanza (1904–1968) founded the Seafood Workers Union in the late 1920s and, from this power base, dominated the Fulton Fish Market

* Under the National Labor Relations Act (Sec. 9), the employees have the right to petition the National Labor Relations Board for an election, but if they do not, the employer's choice of his or her workers' exclusive bargaining agent stands. National Labor Relations Act, 29 U.S.C. §§ 151–69.

0301

in lower Manhattan, the largest wholesale fish market in the country. All the participants in the fish market made payoffs to Lanza.[6] Likewise, Anthony Anastasio (1906–1963), president of the International Longshoremen's Association (ILA) Local 1814 and vice-president of the ILA International, dominated the Brooklyn docks on behalf of his organized crime group (later taken over by Carlo Gambino and thereafter known as the Gambino crime family) from the 1930s to the early 1960s.

In Chicago, in the 1910s and 1920s, Al Capone's (1899–1947) organized crime group (later "the Outfit") dominated dozens of Chicago locals in the building trades, hotels and restaurants, and other sectors. Sometimes the Capone gang wrested control of a union from union leaders who themselves were gangsters. Harold Seidman recounts that

> [o]ne of Chicago's most powerful labor leaders was summoned to the presence of the "Big Fellow." Capone informed the unionist that the racketeers intended to take over control of his unions and, through his unions, capture many trade associations. He was advised that he could continue in nominal and titular control if he so desired. The labor leader elected to go along with the mob.[7]

Capone's gang took control of the Chicago-based Motion Picture Operators Union (MPOU). At first, the gang just demanded a partnership, but within two years Capone ordered the union president killed.[8] The Chicago Outfit leveraged its control over the MPOU to extort the theater owners and Hollywood producers. The movie producers paid the mob $150,000 (the equivalent of about $2 million in 2003 dollars) for a seven-year no-strike contract.[9] According to investigative reporter Gus Russo, under Capone lieutenant Curly Humphreys's stewardship,

> labor racketeering was perfected, turning a modestly profitable con into a multi-million dollar operation, with the Outfit controlling as much as 70 percent of the city's unions. In 1928, the boys were seeing an estimated $10 million [$107 million in 2003 dollars] a year in profit from Curly's rackets; by 1931, the estimated revenue escalated to $50 million [$604 million in 2003 dollars]—small by bootlegging standards, but with unlimited potential, since unlike Volstead [the National Prohibition Act], labor was never going to be repealed.[10]

0302

Capone biographer, John Kobler, notes: "Toward the end of 1928 the [Chicago] state's attorney's office listed ninety-one Chicago unions and [employer] associations that had fallen under racketeer rule."[11] After National Alcohol Prohibition was repealed in 1933, labor racketeering became an even more important revenue source for organized crime.

When the International Alliance of Theatrical Stage Employees (IATSE) went on strike in 1933, the employers sought the Outfit's help. The Outfit sent thugs to keep the theaters open and thereby broke the strike.[12] Paul Ricca, Tony Accardo, and Curly Humphreys demanded that IATSE hire Outfit members and associates for positions throughout the union, ensuring organized crime's presence in the film business for decades.[13] When President Ronald Reagan appointed the President's Commission on Organized Crime in 1984, he explained that he was familiar with labor racketeering because of his experience as a leader in the Screen Actors Guild.*

Every Cosa Nostra crime family has a documented history of labor racketeering (see Table 2-1 at the end of the chapter). For decades, Al Capone's protégé and successor, Tony Accardo, longtime head of the Outfit,[14] controlled numerous Laborers' International Union of North America (LIUNA) locals in Chicago. That control enabled the Outfit to designate and control the national general presidents of the international union, Peter Fosco, later Peter's son Angelo, and then Arthur E. Coia.[15] Similarly, control over the Hotel and Restaurant Employees (HERE) enabled the Outfit to name and control General President Ed Miller and his successor, Edward Hanley.[16] The Outfit, through its associate Sidney Korshak, exercised enormous influence over the IBT Central States Pension and Welfare funds, as well as influence over the IBT itself.[17]

Angelo Bruno, LCN boss in Philadelphia, dominated the roofers' union, as well as several Hotel and Restaurant Employees (HERE) locals in Atlantic City. Kansas City's LCN boss, Nick Civella, controlled the powerful IBT Joint Council. He and several other organized crime figures, as well as corrupt union officials, treated the nation's largest pension and welfare fund (IBT Central States Funds) as a bank

* Reagan was well aware of organized crime's infiltration of the IATSE, the union that represented stage hands. He himself had served as president of the Screen Actors Guild, which represented movie actors. Available at http://www.cbsnews.com/stories/2003/09/17/earlyshow/leisure/books/main573799.shtml.

0303

for organized crime.[18] (Las Vegas was first developed by loans from this fund to organized crime figures through their front men.) Angelo Lonardo, boss of the Cleveland LCN family, was also heavily involved in labor racketeering. William "Big Bill" Presser (1907–1981), an "associate" of Cleveland's Licavoli crime family, headed IBT Joint Council 41 and served as president of the huge Ohio Teamsters Conference. From this power base, he and Lonardo, with help from Civella, were able to orchestrate (Bill's son) Jackie Presser's career in several different unions, culminating in Jackie's 1983 succession to the IBT presidency.[19] Cosa Nostra bosses had a major role in choosing IBT general presidents Jimmy Hoffa, Frank Fitzsimmons, Roy Williams, Jackie Presser, and William McCarthy.

The Licavoli crime family in Cleveland controlled a number of labor unions, including ILA Local 1317 and Teamsters Locals 41, 410, and 416.[20] Moe Dalitz (1899–1989) was the crime family's chief labor racketeer. His connections to Hoffa and the Teamsters bore fruit when, later in his career, he used Teamsters' pension fund loans to build Las Vegas casinos in partnership with LCN.[21] The Cleveland organized crime family associate "Big Bill" Presser served as president of IBT Joint Council 41. For years, Presser was one of the most powerful figures behind the Teamsters Central States Pension Fund.[22] His power reached its pinnacle when son Jackie became IBT general president in 1983.[23]

Practically every major Cosa Nostra figure in the twentieth century can be linked to labor racketeering. To take a few examples: Anthony Corallo (1913–2000), a Johnny Dioguardi protégé who worked his way up to boss of the (New York City) crime family, was closely linked and, at one time or another, held office in the Painters and Decorators Union, the Conduit Workers Union, the United Textile Workers, and IBT Local 239.[24] He was convicted in the 1987 Commission Case and sentenced to one hundred years in prison.[25] Tony Accardo (1906–1992), head of the Chicago Outfit for several decades, maintained and even extended the Outfit's extensive labor racketeering interests in Chicago. Nicholas Civella (1912–1983) boss of the Kansas City crime family, through his control of IBT leader Roy Williams, was a major force in the IBT's Central States Pension and Welfare Fund and in the IBT Central States Joint Council. Angelo Lonardo, Cleveland crime family boss (who became a cooperating government witness) explained how he teamed up with Civella to get the approvals of the Chicago and New York City mobsters to make Roy Williams IBT general president. At a 1985 organized crime

0304

trial, Williams testified that, at Civella's insistence, he approved a $62.5 million pension fund loan ($107 million in 2003 dollars) to finance a mob associate's acquisition of two casinos.[26]

In the 1970s, Nicodemo "Little Nicky" Scarfo (1929–) was in charge of Philadelphia's Bruno crime family's Atlantic City interests, most importantly HERE Local 54. Later, Scarfo himself became boss of the family. Raymond Patriarca (1908–1984), for many years boss of the New England LCN family, exerted influence over New England LIUNA and IBT locals. Toward the end of his life, he was indicted for labor racketeering but was too ill to stand trial.[27] Vincent "Chin" Gigante (1926–), boss of the New York City Genovese crime family, used the family's control over Port of New York ILA locals to extort money from shipping companies. Although he began serving a life sentence in 1997, a 2003 indictment alleged continued Genovese crime family domination and exploitation of the ILA, stevedoring companies, and the New York port.

HOW MOBSTERS GAINED CONTROL OVER UNIONS

It was not difficult for organized crime figures to take over a union local. They could use threats and actual violence to drive off competing unionists and anyone else who opposed them. They could rig elections (using intimidation and fraud) to have themselves or their stooges elected to office. They could obtain employer recognition of their union by threats of violence and sabotage, or by promises of sweetheart deals. They were usually aided by widespread union members' apathy toward union governance and administration.[28]

Let us consider some examples:

LCN creates a union. Johnny Dioguardi, one of the century's most notorious labor racketeers and an early member of Al Capone's gang, moved to New York City where he became a capo in the Lucchese crime family. He and Jimmy Hoffa worked out a deal whereby Hoffa gave him a charter to organize seven so-called paper IBT locals. Hoffa needed the votes of these seven locals to assure the election of an ally to the top position in the NYC IBT Joint Council.*[29]

* Dioguardi was indicted for hiring a small-time hoodlum to throw acid in the face of crusading labor columnist Victor Riesel in 1956. (The charges against Dioguardi were dropped when the principal defendant was murdered and other witnesses refused to testify.)

0305

New labor racketeer–dominated unions continued to be formed in the decades that followed. For example, writing in March 2005 about a labor racketeering case that has gone on for almost twenty-five years, Federal District Court Judge John Gleeson said:

> Local 530 [of the Operative Plasterers and Cement Masons' International Association] was founded in 1978 by gangsters for gangsters and the companies affiliated with them. Specifically, it was founded by Lou Moscatiello, who was then an associate of the Genovese Crime Family of La Cosa Nostra, to be an employer-friendly alternative to Local 1974 [of the Drywall Tapers and Pointers].[30]

LCN takes over a union through intimidation. In 1921, several Building Service Employees International Union (BSEIU) leaders were convicted of conspiracy. The union's officials managed to obtain pardons by appealing to the Outfit to use its political influence on their behalf. As a result, the BSEIU became indebted to organized crime. Within a short time, organized crime moved to take control of the union. They gave the union's officers an ultimatum: put mob cronies in top union positions or leave town. Given the mob's influence over Chicago's political machine, there was no one to whom the union could appeal.[31]

LCN obtains control through election intimidation and fraud. In 1938, George Scalise obtained a charter to create Local 94 of the Bowling and Billiards Academy Employees Union. Scalise called on organized crime to stuff union ballot boxes.[32] Not surprisingly, he "won" the election. The local was forced to transfer to the mob a large portion of its dues and control over certain decisions.[33] Using the same strategy of election intimidation and fraud, the mob later made Scalise the BSEIU's national president.

LCN labor organization voluntarily recognized by employer as collective bargaining agent. The mob took control of some unions simply by creating the union and "persuading" employers to recognize it as the workers' exclusive bargaining agent. A good example is New York City's parking garage workers. When garage owners were threatened with systematic vandalism to customers' cars, they "voluntarily" signed representational agreements with a mob-dominated sham union; the workers paid dues without receiving any benefits or representation.[34]

There is no historical record on when organized crime's infiltration of various unions began or when it matured into working control. There

0306

is good reason to believe, however, that Cosa Nostra's influence continued to radiate into previously untainted unions throughout the later half of the twentieth century. For example, as new LIUNA locals were chartered in the New York area, they quickly succumbed to mob control. Because of international LCN domination, sometimes the establishment of new locals was dictated by the interests of LCN. Local 1030 in New Jersey is a prime example. It was set up nominally to deal with asbestos removal, but it appears that 1030 was intended from the beginning to be a vehicle for the DeCavalcante group to get its share of the action (since the NYC locals "belonged to" the Genovese and Lucchese families).

Yet another strategy that began to be used more regularly when civil RICO trusteeships started purging mobsters from the Teamsters, Hotel and Restaurant Workers, Laborers, and Longshoremen's Association was for the labor racketeers to start so-called "independent" unions, unaffiliated with any national/international union. For example, after being permanently expelled from the IBT in 1994 for embezzlement, dual unionism, and breach of other fiduciary duties, Vincent Sombrotto, former president of IBT Local 966, and that union's former secretary treasurer, Edwin Gonzales, set up a new "independent" union, Local 116 in Secaucus, New Jersey. Sombrotto and Gonzales enrolled current IBT Local 807 members into their new union. The Federal Second Circuit Court of Appeals stymied that scheme by holding that Sombrotto and Gonzales violated the district court's consent decree, which prohibited them from having any further association with the IBT. In other cases, however, racketeers successfully decertified the old (now cleaned-up) union and reestablished mob dominance over the same workers through a new independent union.

HOW ORGANIZED CRIME CONSOLIDATES ITS UNION CONTROL

LCN achieved working control of a local union by placing one of its members or an associate in the position of top union official or by intimidating or recruiting a union leader to do its bidding. The next step was to consolidate control through a combination of sticks and carrots. Any union member who dared to challenge the mob faced loss of employment and/or violent reprisals. There are many examples of

0307

"dissidents" beaten at union meetings, their homes firebombed, and themselves murdered for criticizing the union's administration or seeking union office. (See Chapter 6, Table 6-1.)

Dissidents could be expelled from the union on some trumped-up grounds. If the dissident depended on the union for job assignments through a hiring hall, as is the case in the construction industry and in longshoring, he would find himself unemployed. In industries where employers do their own hiring, a mob figure who controlled the union could tell the employer that one of his employees had become a thorn in the union's side and that the union would like to see that employee fired. The employer would likely comply in order to avoid labor trouble. Obviously, the fired employee would not get the union's assistance in challenging the dismissal. Judge Harold Ackerman described organized crime's complete lock on IBT Local 560, pointing out that LCN capo and Local 560 president, Tony Provenzano, had created a reign of terror by, among other things, killing two "dissident" Local 560 members. The message to the membership could not have been clearer: one opposed the union's leadership at risk of life and limb.[35]

The mob figures who control a union local have many "carrots" to distribute. Friends and supporters can be appointed as business agents and shop stewards or assigned no-show or high-paying jobs or lucrative service contracts. Treating the union treasury as a trough, corrupt leader can offer supporters all sorts of perks, including high salaries, no-show jobs, cars, trips, union reimbursement of personal expenses, loans, and the like. If the union operates a hiring hall, friends and supporters can be assigned regular work and the easiest and most desirable jobs. For example, the New York City District Council of Carpenters Union used a special "pool" of workers designated by the Genovese crime family from which to choose carpenters for high-paying jobs at the Javits Exhibition Center.[36] Once the mob took hold of a union, it proved nearly impossible to overthrow.

HOW LCN USES THE UNION AS A CASH COW

Labor racketeering has proved very profitable to organized crime, especially since the 1940s, when unions began bargaining to have employers automatically deduct union dues from union members' paychecks.[37] With the "check-off" in place, unions received a monthly flow

0308

of revenue without lifting a finger. A corrupt union official and the organized crime family that controlled him could take advantage of the ever-replenishing union treasury. Dues could be increased without regard for rank-and-file opposition.

There were many legal and illegal ways for labor racketeers to pull money out of a union. First, they could draw bloated and multiple salaries, a kind of legalized graft. Some union constitutions require a membership vote on officers' salaries; however, LCN treated this rule as a formality or simply ignored it. In addition to their salaries, corrupt union officials enjoyed use of union-owned cars, planes, and boats. Frequently the union also provided overpaid jobs to family members, friends, and mistresses. They also handed out no-show jobs.

Second, mob leaders could embezzle union funds. "Their unions" either maintained no financial records or kept such sloppy records that even if financial chicanery were discovered, embezzlement was practically impossible to prove. Labor racketeering became much more lucrative in the 1940s and 1950s with the rise of multimillion- (and soon, multibillion-) dollar union pension and welfare funds.[38] It became commonplace for collective bargaining agreements to impose an obligation on the employer to make payments to such funds on behalf of the employees. According to federal law, the funds would be managed by equal numbers of union-designated and employer-designated trustees. In practice, the employer appointed trustees deferred to the union trustees because (in contrast with the union) having made the contributions, the employer had little interest in how the pension money was invested or spent. Racketeers embezzled the assets of pension and welfare funds by disguising thefts as "loans," payments for nonexistent goods and services, as inflated payments for goods and services.

Third, labor racketeers could use their union position to solicit bribes from employers who wished to obtain relief from expensive collective bargaining agreement provisions. For the right price, corrupt union officials would allow employers to operate a "double breasted shop" (one employing nonunion as well as union employees), or even to operate completely nonunion. Corrupt union officials typically sold their members' rights to overtime pay, pension and welfare contributions, and to jurisdiction over certain work.

Fourth, labor racketeers could rake in money by means of the "strike insurance racket" or labor peace extortion by threatening employers with labor problems. In many businesses, any disruption of

0309

operations is enormously expensive; prolonged disruption can mean bankruptcy.

Fifth, labor racketeers could make money by using the union to set up and police employer cartels. Once the union represented workers in all or most of the firms operating in a particular industry, the organized crime faction that controlled the union could organize an employers' association. Employers' dues were passed along to Cosa Nostra, but the employers got something important for their money: the union could effectively prevent firms that were not association members from participating in the industry. If a firm tried to challenge the cartel, it would find itself beset by labor troubles and/or sabotage.[39]

Sixth, from control of an employer cartel, it was only a small step for LCN members and associates to start up, buy, or strong-arm their way into a firm doing business in the cartelized industry. The LCN-owned firms would have a competitive advantage over other cartel members: they would not have to hire union employees or, if they did, they could pay them below union wages or fail to make required contributions to union pension and welfare funds. Another scheme was to have their employees represented by a low-wage local.

Seventh, LCN could direct employers to purchase certain goods and services from mob-owned or mob-controlled supply companies. An employer who refused might face labor troubles or worse.

THE VALUE OF LABOR RACKETEERING

There is no audit to tell us how lucrative labor racketeering has been for the mob, but there are bits of evidence here and there. For example, around the turn of the century, Robert Brindell was the highest paid union official in the country; his graft is said to have netted more than $500,000 a year ($5.2 million in 2003 dollars).[40] Thomas Dewey's 1930s investigation into corruption within the restaurant industry found that racketeers embezzled one-third of union members' dues as well as $75,000 ($1 million in 2003 dollars) from Restaurant Workers Local 6; $45,000 ($600,000 in 2003 dollars) from Local 322; and $120,000 ($1.6 million in 2003 dollars) from an employer association.[41] Additionally, the racketeers received about $150,000 ($2 million in 2003 dollars) from restaurant owners. In the 1960s, Genovese crime family capo Tony Provenzano was the nation's highest-paid union official. Additional

0310

pension and financial packages were provided for him after his murder conviction.[42] In Peter Maas's biography of Sammy "the Bull" Gravano (onetime Gambino crime family underboss), Gravano states that labor racketeering could double the profit margin on a construction contract, from 15 to 30 percent, because mob-owned contractors didn't have to pay union wages or benefits.[43] A 1986 *Fortune* magazine article listing the fifty wealthiest underworld figures in the United States identified *unions* or *construction* (always union related) as a key source of income for half of these individuals (see Table 2-2 at the end of chapter).

Labor racketeering has given Cosa Nostra its special character as an organized crime syndicate. Control over labor put LCN figures in close touch with businessmen who employed the captive unions' members. The businessmen did not have the option of refusing to meet with, deal with, and get along with union officials. Moreover, when businessmen ran into labor problems, they naturally reached out to the only individuals who could fix those problems: the local LCN bosses. Because an LCN boss had influence in a number of unions, he could solve jurisdictional disputes or rein in an obstreperous union official. Their union influence turned LCN bosses into power brokers.

Labor racketeering also put LCN bosses in touch with politicians. In most big cities, at least those in the East and Midwest, organized labor was a powerful political force for much of the twentieth century. Labor endorsements were avidly sought; in addition, a supportive labor union would provide campaign contributions and manpower to distribute campaign literature and make phone calls. Union support also provided corrupt opportunities for personal enrichment. By contrast, labor opposition would practically assure defeat. Moreover, labor problems that make city life unpleasant or inconvenient during an incumbent's term, especially near election time, could very much weaken a mayor's or other public official's appeal. For all these reasons, it was important for urban politicians to curry favor with organized crime figures who were influential in the labor movement.

CONCLUSION

Labor racketeering schemes were well established by the late nineteenth and early twentieth centuries. The early twentieth-century Italian American organized crime groups were drawn to labor racketeering

0311

just as were their Jewish and Irish counterparts. As the bridge between underworld vice rackets and upper-world businesses and politics, labor racketeering turned LCN bosses into urban, regional, and even national power brokers. Craft unions especially could easily be taken over by mobsters with the capacity and reputation for violence. The racketeering potential of labor unions was high. A regular revenue stream for organized crime could be generated by union salaries, perks, extortions, bribes, embezzlements, and frauds. By the 1940s, as Cosa Nostra emerged as the dominant American organized crime syndicate, labor racketeering was an important part of LCN crime families' operations. It also provided the route by which Cosa Nostra become part of the power elite in twentieth-century urban America. In fact, it is labor racketeering that distinguishes the Cosa Nostra organized crime families from other contemporary organized crime groups such as biker gangs, street gangs, and drug-trafficking organizations.

Table 2-1
A Sample of Unions Reputed to Have Been Infiltrated by LCN at Some Time

LCN Family	*Sample of Unions Reputed to Have Been Infiltrated by LCN*
Buffalo	HEREIU Local 66; IBT Local 398
Chicago (The Outfit)	HEREIU Locals 304 and 450; LIUNA Locals 1, 5, and 8; Motion Picture Operators Local 110; Laundry Workers Local 46
Cleveland	IBT Locals 41, 73, 293, 410, 415, 416, and 796; Ironworkers Local 17
Dallas	IBT Local 745
Detroit	IBT Locals 124 and 614
Kansas City	HEREIU Local 64; IBT Local 41
Los Angeles	HEREIU Local 30
Miami/Tampa (Traficante)	LIUNA Locals 767 and 797
Milwaukee (Balistrieri)	HEREIU Local 122
New Jersey (DeCavalcante)	35 IBT locals; LIUNA Locals 394 and 1030
Northeast Pennsylvania (Bufalino)	IBT Locals 693 and 326
New England	IBT Local 25; New England LIUNA
New York (Bonanno)	Newspaper and Mail Deliverers Union of New York and Vicinity
New York (Colombo)	International Union of Operating Engineers Locals 14 and 15; HEREIU Local 3
New York (Gambino)	ILA Locals 824, 1809, 1814, and 1909; LIUNA Local 342; IBT Locals 282 and 813; ILGWU Local 102
New York (Genovese)	Plasterers Local 530; United Brotherhood of Carpenters Locals 11, 17, 608, and 964; LIUNA Locals 21 and 958; Bricklayers Local 10

0312

Table 2-1 *(continued)*

LCN Family	*Sample of Unions Reputed to Have Been Infiltrated by LCN*
New York (Lucchese)	LIUNA Local 66; IBT Locals 295, 805, 810, and 851; Painters and Decorators Union
Northern California	HEREIU Local 50; IBT Local 856
Philadelphia (Bruno/Scarfo)	Roofers Union; HEREIU Local 54; IBT Local 478
Rochester	IBT Local 398
St. Louis	LIUNA Locals 42 and 110

Table 2-2
"Top 50" Wealthiest Reputed U.S. Mafia Bosses

Rank	*Name*	*Nickname*	*Age in 1986*	*Headquarters*	*Family*	*Source of Income*
1	Anthony Salerno	Fat Tony	75	New York City	Genovese	Construction, *unions*, gambling, loan sharking
2	Anthony Accardo	Joe Batters	80	Palm Springs	Chicago	Gambling, *unions*, loan sharking
3	Anthony Corallo	Tony Ducks	73	Long Island	Lucchese	Garbage, extortion
4	Gerardo Catena	Jerry	84	Boca Raton	Genovese	*Construction*, gambling, casinos
5	Gennaro Langella	Jerry Lang	47	Brooklyn	Colombo	*Construction*, loan sharking, gambling
6	Carmine Perisco	Junior	53	Brooklyn	Colombo	*Construction*, loan sharking, gambling
7	Christopher Furnari	Christie Tick	62	New York City	Lucchese	*Construction, unions*, gambling, loan sharking
8	Salvatore Santoro	Tom Mix	70	New York City	Lucchese	*Construction, unions*, loan sharking
9	Philip Rastelli	Rusty	68	New York City	Bonanno	*Concrete, unions*, loan sharking, narcotics
10	Vincent DiNapoli	Vinnie	49	New York City	Genovese	*Construction, unions*
11	Ralph Scopo		57	Brooklyn	Colombo	*Construction, unions*
12	Russell Bufalino		83	Scranton	Bufalino	*Sweetheart contracts*
13	John Gotti		46	New York City	Gambino	Loan sharking, robbery, phonograph records
14	Joseph Bonanno	Joe	82	Tuscon	Bonanno	Narcotics
15	Santo Trafficante	Louis Santos	71	Tampa	Tampa	Gambling, loan sharking, narcotics
16	Carlos Marcello	Little Man	76	New Orleans	New Orleans	Gambling, real estate, nightclubs
17	Frank Balistrieri	Frankie Bal	68	Milwaukee	Milwaukee	Gambling, liquor, *Teamsters pension funds*
18	Michael Franzese		35	Long Island	Colombo	Movies, auto dealerships, bootleg gasoline

(continued)

0313

Table 2-2 *(continued)*

Rank	*Name*	*Nickname*	*Age in 1986*	*Headquarters*	*Family*	*Source of Income*
19	Vincent Gigante	Chin	57	New Jersey	Genovese	*Unions,* gambling, loan sharking
20	Joseph Ferriola	Joe Nagall	59	Chicago	Chicago	Gambling, extortion
21	Joseph Aiuppa	Joey O'Brien	78	Chicago	Chicago	Gambling, casinos, *unions*
22	Gus Alex	Slim	70	Chicago	Chicago	Gambling, political fixing
23	Vincent Alo	Jimmy Blue Eyes	82	Miami	Genovese	Gambling, casinos, money laundering
24	Anthony Indelicato	Bruno	39	New York City	Bonanno	Narcotics
25	Michael Genovese	Mike	65	Pittsburgh	Pittsburgh	Gambling
26	Joseph N. Gallo		74	New York City	Gambino	Pornography, real estate
27	Philip Lombardo	Benny Squint	78	Miami	Genovese	*Construction,* gambling, loan sharking
28	Raymond Martorano	Long John	59	Philadelphia	Philadelphia	Narcotics, *unions,* vending machines
29	Anthony Provenzano	Tony Pro	69	New Jersey	Genovese	*Unions*
30	John Cerone	Jackie	72	Chicago	Chicago	Casinos
31	James Napoli	Jimmy Napp	75	New York City	Genovese	Gambling, loan sharking
32	Paul Vario Sr.		72	New York City	Lucchese	Gambling, robbery
33	Carl DeLuna	Toughy	59	Kansas City, MO	Kansas City	Gambling, casinos
34	Gennaro Angiulo	Jerry	67	Boston	Boston	Numbers, loan sharking, money laundering
35	Matthew Ianniello	Matty the Horse	66	New York City	Genovese	*Unions,* topless bars, loan sharking
36	James Failla	Jimmy Brown	67	New York City	Gambino	*Unions*
37	John Riggi Sr.		61	New Jersey	DeCavalcante	*Construction, waterfront unions*
38	Louis Manna	Bobby	57	New Jersey	Genovese	*Construction,* gambling, loan sharking
39	John DiGilio	Johnnie Dee	53	New Jersey	Genovese	*Waterfront unions,* gambling, loan sharking
40	William Cammisano	Willie	71	Kansas City, MO	Kansas City	Gambling, loan sharking, fencing
41	Vincent Meli	Little Vince	62	Detroit	Detroit	Steel hauling
42	Vincent Solano	Vince	67	Chicago	Chicago	Gambling, *unions*
43	Nicodemo Scarfo	Nicky	57	Atlantic City	Philadelphia	Gambling, numbers, *unions*

0314

Table 2-2 *(continued)*

Rank	*Name*	*Nickname*	*Age in 1986*	*Headquarters*	*Family*	*Source of Income*
44	Tino Fiumara	George Grecco	46	New Jersey	Genovese *Age in*	*Waterfront Unions*
45	Donald Angelini	Don Angel	60	Chicago	Chicago	Gambling
46	Peter Milano	Pete	60	Los Angeles	Los Angeles	Gambling
47	Paul Schiro	Paulie	45	Pheonix	Chicago	Gambling
48	Chris Petti		47	San Diego	Chicago	Gambling
49	Angelo Tuminaro	Little Angie	81	Unknown	Lucchese	Narcotics
50	Frank Buccieri	The Horse	62	Palm Springs	Chicago	Loan sharking

Source: Fortune (November 10, 1986) compiled a list of the fifty wealthiest Mafia leaders from information provided by FBI agents, federal prosecutors, and local law enforcement officials. Available at http://www.fortune.com/fortune/mafia. Author's italics indicate income likely dervied from labor racketeering.

0315

3

President's Commission on Organized Crime

My family [Genovese] made a lot of money from gambling and the numbers rackets. We got money from gambling, but our real power, our real strength, came from the unions. With the unions behind us, we could shut down the city, or the country for that matter, if we needed to get our way. Our brugad [crime family] controlled a number of different unions, some of which I personally dealt with, some of which I knew about from other amico nostra. In some cases, we got money from our dealings with the unions, in some cases we got favors such as jobs for friends and relatives—but, most importantly, in all cases, we got power over every businessman in New York. With the unions behind us, we could make or break the construction industry, the garment business, the docks, to name but a few.

—Vincent Cafaro, quoted from an affidavit filed with Senate Permanent Subcommittee on Investigations, April 1988, 16–17

The Commission believes that the first step in ending labor racketeering is a recognition that the problem is both persistent and pervasive throughout many areas of the United States. During the past 25 years, law enforcement agencies have often successfully used the tools available to them to prosecute individual labor racketeers. But . . . criminal prosecutions alone are insufficient. Because of its insidious and systemic nature, labor racketeering is not easily deterred by prosecutorial efforts that merely "count bodies" as a measure of success. Instead, a new strategy must be developed to bankrupt individual mobsters and to discourage union officers, employers, and public officials from accommodating organized crime.

—President's Commission on Organized Crime, *The Edge: Organized Crime, Business, and Labor Unions, Section 1: Overview and Summary of Recommendations*, President's Commission on Organized Crime (1986), 5

0316

How extensive has labor racketeering been in the United States? How extensive is it now? These are not easy questions. There are hundreds of national/international unions and thousands of local unions. New unions are established, old ones die, some combine—hence, the number of unions varies considerably over time. Moreover, the concepts of "controlled" or "influenced" by organized crime are not self-defining. In some local unions, labor racketeers (organized crime members or associates) have held high office and controlled day-to-day administration. In other unions, key officers, though not LCN members themselves, have been the pawns of organized crime members or associates. Ideally, students of labor racketeering would have an up-to-date list of all unions which, to some extent, have been controlled or influenced by organized crime. Unfortunately, there is no such list. We do not have accurate information on possible organized crime influence in even a substantial minority of unions. Moreover, even knowledge of a percentage of racketeer-ridden unions would not tell the whole story. We would surely want to know what percentage of all union members belong to mob-infected unions.

Suppose a national/international union is run by labor racketeers and allows those racketeers to dominate key regional and local affiliates, to plunder its treasury and its pension and welfare funds, and to compromise its collective bargaining and contract enforcement. For purposes of assessing the problem should we conclude that all locals of that international union, and all members of all those locals are victims of labor racketeering? For my purposes, it is not necessary to pinpoint the percentages of unions or union members who, at any time, have been dominated, controlled, or affected by Cosa Nostra labor racketeers. The purpose of this chapter and the next is to establish that the problem is widespread, deep, persistent, and significant. This chapter examines the extent of labor racketeering through the lens of the President's Commission on Organized Crime, which was appointed in 1983. The next chapter presents a snapshot of labor racketeering in New York City during approximately the same time period.

CREATION OF THE PRESIDENT'S COMMISSION ON ORGANIZED CRIME

In 1983, President Ronald Reagan charged his eighteen appointees to the newly established President's Commission on Organized Crime

0317

(PCOC) to provide "a full and complete national and region-by-region analysis of the nation's organized crime problems, including information on its participants, an evaluation of applicable law and responses to the issue, and recommendations for future action." He named Irving Kaufman, a U.S. Second Circuit Court of Appeals judge, as chairman. The other commissioners included Senator Strom Thurman (R.-S.C.), Congressman Peter Rodino (D.-N.J.), law enforcement professionals with experience. Combating organized crime, a representative of organized labor, several academics, and the senior editor of *Readers Digest.* The commission heard testimony from FBI and Department of Labor investigators, Department of Justice lawyers, and labor leaders. The research staff undertook a comprehensive review of prior congressional investigations, hearings, and reports. The PCOC produced a series of reports, including volumes on gambling, drug trafficking, and money laundering. It devoted a thick volume, *The Edge,* to organized crime's exploitation of labor unions.

Released on March 1, 1986, *The Edge* focused mainly on four international unions with the most extensively documented history of labor racketeering: the International Brotherhood of Teamsters (IBT), the Hotel and Restaurant Employees International Union (HERE), the Laborers' International Union of America (LIUNA), and the International Longshoremen's Association (ILA). It also focused attention on labor racketeering within independent unions. Widespread labor racketeering, according to the PCOC, was distorting the nation's economy and making a mockery of union members' rights and collective bargaining agreements. Organized crime's influence over labor unions provided businesses owned, dominated, or favored by organized crime an edge over competitors.

THE TEAMSTERS

The PCOC charged that "corruption and the Teamsters [are] synonymous" and that, since the 1950s, the Teamsters had been "firmly under the influence of organized crime."[1] John Dioguardi, a capo in the Lucchese crime family, and a power broker with influence in several unions (including United Automobile Workers-AFL), was one of Jimmy Hoffa's key supporters in his rise to the IBT presidency. Hoffa gave Dioguardi charters for several New York area IBT "paper locals" (that

0318

is, locals without any members, but whose officials were either made-members or associates of the Mafia) in exchange for Dioguardi's using those locals to support Hoffa's efforts to control the important New York area IBT Joint Council, the support of which he needed to become IBT general president. According to the PCOC, organized crime has continued to maintain a firm grip on the IBT long after Hoffa's reign, using intimidation and occasional acts of violence "to quell all forms of dissent, criticism, and opposition."[2]

The Edge explained that IBT presidents "[Jimmy] Hoffa and [Roy] Williams were indisputably direct instruments of organized crime," and that [Frank] Fitzsimmons held his office by "establish[ing] a measure of détente whereby he was allowed to head the union, while organized crime stole the workers' benefit funds and used the union for numerous criminal ventures."[3] At the time of the Commission's investigation, former IBT General President Roy Williams, was cooperating with the government. Having previously been convicted of attempting to bribe Senator Howard Cannon (D.-Nev.) to vote against trucking deregulation, Williams hoped to shorten his prison sentence by serving as a cooperating witness. He testified that "every big [Teamster] local union . . . had some connection with organized crime."[4] Williams himself had been controlled by Kansas City Cosa Nostra boss Nick Civella, who had quarterbacked Williams's campaign for the IBT presidency by obtaining support from organized crime bosses around the country. Williams testified that incumbent IBT president, Jackie Presser (whose father, William Presser, was a Cleveland organized crime family associate and an IBT Central States Pension Fund Trustee until he was forced to resign from the IBT in 1976), depended upon organized crime support for his election.[5] Presser had also served as an FBI informant, helping the FBI to make cases against his political rivals in the union.

The most spectacular charge in *The Edge* was that Presser was controlled by organized crime. Presser was one of the nation's most powerful labor leaders and one of the only ones to have endorsed Reagan's presidential candidacy. The PCOC criticized Reagan's close ties with Presser: "[I]n the current administration, long delays in reaching a resolution of a DOJ investigation of Presser [could raise a concern] whether Presser's support of the administration in the 1980 and 1984 election campaigns influenced the conduct of the investigation."

The PCOC traced organized crime's control over the IBT international union to its control over key IBT locals. It documented a relation-

0319

ship between Cosa Nostra families and thirty-six IBT locals, one joint council, and a conference (a regional association of joint councils).[6] LCN converted control of locals into control of whole business sectors. For example, Gambino crime family associate Bernard Adelstein's decades-long control of IBT Local 813 was the key to the mob's domination of New York City's waste-hauling industry.

Mob-controlled union locals elected mob-controlled officers who chose mob-controlled convention delegates. The mob-controlled delegates ratified the decisions and proposals of mob-controlled international presidents, vice-presidents, and general executive board (GEB) members. Because the IBT's general president and GEB members were chosen by mob-controlled convention delegates and not by the rank-and-file members, the PCOC judged it "unlikely . . . that a reform-minded Teamster president can be elected in the near future."[7]

The PCOC explained how the Cosa Nostra organized crime families' influence in the IBT provided leverage over tens of thousands of businesses dependent upon truck deliveries; the leverage could be converted into cash through extortion, solicitation of bribes, and no-show jobs. The mobsters also enriched themselves by siphoning money from union coffers, taking kickbacks for sweetheart service contracts, and arranging loans from IBT pension and benefit funds. LCN associates like Allen Dorfman and Sidney Korshack (Chicago) and Bill Presser (Cleveland) managed the IBT Central States Pension Fund (CSPF) for the benefit of organized crime. A typical pension fund invested 5 to 10 percent of its assets in real estate; the CSPF invested more than 70 percent in real estate, much of it in mob-sponsored Las Vegas casinos. Despite the 1976 settlement of the government's challenge to the fund's governance that put control over its investments in the hands of an institutional fiduciary, organized crime continued to plunder the fund. Moreover, Dorfman continued to draw substantial fees for handling the fund's insurance business.*

The Edge concluded pessimistically that "no single remedy is likely to restore even a measure of true union democracy and independent leadership to the IBT."[8] It urged the Department of Justice to purge corruption and racketeering from the IBT through criminal prosecutions,

* Dorfman was murdered while awaiting trial on charges arising out of the FBI's STRAWMAN investigation, which focused on a conspiracy to use the Central States Pension Fund to secure interests in, and skim profits from, Las Vegas casinos. (Jacobs, *Busting the Mob,* 25.)

civil actions, administrative proceedings, and civil RICO trusteeships. Even then, the PCOC foresaw only a "modest hope of success" in wresting the IBT from the grip of organized crime.[9]

HOTEL EMPLOYERS AND RESTAURANT EMPLOYEES INTERNATIONAL UNION

According to the PCOC, LCN had exerted powerful influence over HEREIU since National Prohibition (1920–1933). The murder of a union member at the union's 1936 national convention precipitated an investigation by New York City Special Prosecutor Thomas Dewey, who uncovered rampant racketeering in restaurant industry unions and employer associations. His investigation resulted in the criminal conviction of three union officials, the suspension of a union local, and the expulsion of several union officials.[10] The McClellan Committee's hearings (1957–1959) revealed organized crime's pervasive influence in Chicago's restaurant industry through control of three HEREIU locals. Thirty years later, the PCOC charged that HEREIU has "a documented relationship with the Chicago 'Outfit' of La Cosa Nostra at the international level and [is] subject to the influence of the Gambino, Colombo, and Philadelphia La Cosa Nostra families at the local level."[11]

The PCOC drew heavily on the Senate Permanent Subcommittee on Investigations 1981–1984 hearings. One of the subcommittee's reports stated:

> The Hotel and Restaurant Employees Union represents the converse of the International Brotherhood of Teamsters. In the Teamsters, the corruption and organized crime influence are a result of the massive infiltration of the local unions. The HEREIU, on the other hand, has been infiltrated from the top. This occurred as a result of the power wielded in the Chicago area locals and the joint executive board by Joey Aiuppa, the underboss of the Chicago Syndicate. Edward Hanley was elected president of [HEREIU] in 1973 because of the power and influence of Aiuppa and the Chicago mob. This is not to say that none of the locals are hoodlum controlled or that Hanley is the first corrupt president of the union. Nevertheless, Ed Hanley represents the classic example of an organized crime takeover of a major union.[12]

0321

FBI officials told the Senate Permanent Subcommittee that HEREIU was forcing its locals to put their pension and benefit plans under the international's control to facilitate their exploitation. President Hanley reportedly said that he was "going to be able to loan out that money [pension and welfare funds] just like the Teamsters do."[13] HEREIU officials called to testify before the Senate Permanent Subcommittee repeatedly refused to answer questions. When Senator William Roth (R.-Del.) asked HEREIU Local 54 President Frank Gerace (an alleged associate of the Philadelphia Bruno/Scarfo crime family) whether he subscribed to the 1950s AFL-CIO Ethical Practices Committee's prohibition on labor officials taking the Fifth Amendment to avoid congressional scrutiny, Gerace refused to answer on Fifth Amendment grounds. The hearings also established that HEREIU officials had raised bail for Nicodemo Scarfo, boss of Philadelphia's Cosa Nostra crime family. The subcommittee's final report concluded that "many of the officers of HEREIU have consistently accorded a higher priority to their own personal and financial interests than to the interests of the rank and file membership."[14]

PCOC branded HEREIU corrupt to the core. It charged that HEREIU's president Edward Hanley had been handpicked by Tony Accardo, boss of the Chicago Outfit. Under Hanley's regime, mob figures obtained union loans and jobs and feasted on the union's assets. When the subcommittee called Hanley to testify about HEREIU's ties to organized crime, he invoked his Fifth Amendment right against compelled self-incrimination.[15]

Due to HEREIU's centralized organization, Cosa Nostra's control over Hanley provided significant influence over numerous HEREIU locals. For example, since 1978, Local 54 in Atlantic City had been dominated by different factions of Philadelphia's Bruno/Scarfo crime family. Several of Local 54's officers had criminal records for murder, arson, extortion, drugs, bribes, kickbacks, and racketeering. (The struggle for control of Local 54 led to the 1980 murder of John McCullough, president of Philadelphia Roofers Union Local 30. He was shot to death at his home allegedly for competing with HEREIU Local 54 to organize Atlantic City security guards.)[16] Local 54's dental and welfare funds were controlled by organized crime. The local also corrupted businesses and the local government in Atlantic City.

In 1982, the New Jersey Casino Control Commission prohibited Local 54 from collecting dues from casino employees because the influence of organized crime made the local unfit to represent the casino

workers' interests. Ultimately, the U.S. Supreme Court upheld that decision, observing that "[t]he advent of casino gambling in New Jersey was heralded with great expectations for the economic revitalization of the Atlantic City region, but with equally great fears for the potential for the infiltration by organized crime. . . . Congress has indicated both that employees do not have an unqualified right to choose their union officials and that certain state disqualification requirements are compatible with [the National Labor Relations Act]."[17]

The PCOC found that HEREIU Locals 6 and 100 (New York City) had been chartered and governed for the convenience of the Colombo and Gambino crime families. What appeared to some observers as a jurisdictional dispute between these two unions, in fact represented the Colombo and Gambino crime families' conflict over the division of New York's restaurant workers into locals controlled by the two crime families. In an intercepted conversation, Paul Castellano, boss of the Gambino crime family, explained that the Chicago Outfit "own[ed] the international," and that the Colombo crime family controlled the other local.[18]

LABORERS' INTERNATIONAL UNION OF NORTH AMERICA (LIUNA)

The PCOC found that organized crime had a documented relationship with at least twenty-six Laborers' International Union locals, three district councils, and the international union. The mob defrauded the union's benefits funds, extracted no-show jobs from LIUNA employers, drew reimbursements for fictitious business expenses, and operated construction industry cartels in New York City and Chicago (and probably other cities as well). The commission complained that the federal government had never seriously attempted to attack this labor racketeering.[19]

According to the PCOC, "[O]rganized crime exerts its influence [in LIUNA] principally through top officers who are associates of organized crime."[20] Angelo Fosco, LIUNA's general president from 1968 to 1975 (whose father, Peter Fosco, was an Al Capone associate and Angelo's predecessor as general president) was closely associated with the Chicago Outfit. The PCOC charged that Fosco provided jobs to organized crime members and associates and generally followed organized crime's directions. In 1982, Fosco and Tony Accardo, boss of

0323

the Chicago LCN family were tried (and acquitted) for defrauding LIUNA's health and welfare funds.

The PCOC asserted that LCN also controlled LIUNA Vice-President John Serpico, an important LIUNA figure in Chicago. "Serpico admitted that he is a friend or personal acquaintance of virtually every important organized crime leader in Chicago."[21] He was also active politically. For example, he received successive gubernatorial appointments to serve as chairman of the Illinois International Port District. According to the PCOC, the Outfit used LIUNA's international officers to gain access to Chicago mayors and Illinois governors.[22]

The PCOC provided numerous examples of how labor racketeers act contrary to the interests of labor unions and members. When the commission questioned Vice-President Serpico about John Fecarotta's duties as a LIUNA business agent and organizer, Serpico could not name a single Fecarotta contribution to Local 8. Fecarotta himself could not remember having done anything for the union; did not know anything about the union's collective bargaining agreements or pension plans; did not know what information was on the union membership cards he supposedly distributed; and did not know the names of management employees or union officers with whom he supposedly worked. Clearly, Fecarotta was a "ghost employee" whose union position was a cover for his criminal career.[23]

Organized crime controlled LIUNA's Chicago Locals 1, 5, and 8. Local 1's president, Vincent Solano, territorial boss for the Outfit's north-side operations, used union headquarters as a "contact point for his criminal organization."[24] Local 5's president was also a high-ranking Cosa Nostra figure. The PCOC called Local 8, Serpico's home local, "ground zero for an organized crime-led LIUNA benefit plan scam."[25]

Organized crime members and their associates siphoned money from LIUNA's Central States Joint Health Board and Welfare Trust Fund. The dental plan was egregiously corrupt; 68 percent of its budget went to "administrative costs" rather than to services. LIUNA's treasury paid lawyers' fees on behalf of officials charged with looting the union as well as fees to private investigators for monitoring the federal government's investigation of LIUNA.[26]

According to the PCOC, the structure of LIUNA's governance facilitated organized crime's control. It was nearly impossible for an opposition candidate to be elected to a union office because LIUNA's executive board members were elected on a nationwide basis; no dissident

could mount a nationwide campaign to defeat candidates put forward by the incumbent regime. When union offices became vacant, the mob-dominated executive board appointed replacements.

The PCOC found that Cosa Nostra used threats and intimidation to deter members from running for office against the ruling clique's candidates. It alleged that General President Angelo Fosco personally threatened to kill a potential challenger. In an intercepted conversation, LIUNA's international secretary-treasurer (and later its president), Arthur E. Coia, told a colleague that LIUNA would always be controlled by the "Italians."[27] At the 1981 LIUNA convention, a candidate who tried to speak in opposition to the ruling clique was assaulted on the spot. The PCOC pessimistically concluded that there was "little chance that the LIUNA membership will be able to eliminate organized crime's influence or control over their union as long as the governance structure remains intact. The commission believes that federal law enforcement agencies should give high priority to investigations of LIUNA and its locals."[28]

THE INTERNATIONAL LONGSHOREMEN'S ASSOCIATION

Drawing on FBI investigations, prosecutions, and legislative hearings, the PCOC called the International Longshoremen's Association "virtually a synonym for organized crime in the labor movement."[29] Ships entering harbors, day or night, need to be unloaded and reloaded quickly. Delay is expensive, even ruinous. Thus, the longshoremen have enormous leverage over shippers, who are extorted for labor peace payoffs. (The containerization of seaborne cargo since the late 1950s undermined this leverage.) Labor racketeers also enlisted port employees to facilitate cargo theft, solicited illegal labor payoffs, and extorted stevedores (companies that load and unload seaborne cargo). "Throughout its history, the international has done little, if anything, to disturb La Cosa Nostra influence in its locals."[30]

Cosa Nostra became the primary power on the New York harbor waterfront in 1937, when Anthony Anastasio (a.k.a. Anastasia) took control of the six New York harbor locals. (His brother, Albert Anastasia, was head of the infamous Murder Incorporated gang and boss of the crime group that later came to be known as the Gambino crime family.) "Under Anastasio, organized pilferage, strike insurance, kickbacks, and loansharking on the piers reached unprecedented levels."[31]

[162.10.217.184] Project MUSE (2026-06-15 01:41 GMT) University of Queensland

Anastasio delegated control of the New York City locals to various organized crime members and associates.

The 1953 New York State Crime Commission report on labor racketeering in New York City's harbor led to the creation of the New York–New Jersey Waterfront Commission. In a case involving the commission, the U.S. Supreme Court observed:

> For years the New York waterfront presented a notoriously serious situation. [The New York Crime Commission] reported that the skulduggeries on the waterfront were largely due to the domination . . . of the International Longshoremen's Association. . . . Its employment practices easily led to corruption, and many of its officials particpated in dishonesties. The presence on the waterfront of convicted felons in many influential positions was an important causative factor in this appalling situation.[32]

Despite the Waterfront Commission's efforts, the situation did not improve. The PCOC charged that Cosa Nostra completely controlled Thomas (Teddy) Gleason, the ILA's president from 1963 to 1986.[33] In the New York–New Jersey port, the Gambino crime family controlled the ILA international union.* The Gambinos controlled the New York side and the Genoveses controlled the New Jersey side. After Anastasio died in 1963, control of ILA Local 1814 passed to Anthony Scotto, a son-in-law who, until he was sent to prison in 1979, flourished in the union and as a capo in the Gambino crime family. Scotto was also influential in New York City politics, where he was a major fund-raiser for Democratic Party candidates.

In 1975, the FBI launched UNIRAC, an investigation of ILA racketeering in the ports of New York City, Miami, Wilmington, Charleston, and Mobile. Using undercover agents and electronic intercepts, the FBI uncovered extensive labor racketeering up and down the East Coast and on the Gulf Coast. Ultimately, UNIRAC led to the conviction of more than one hundred persons, including twenty ILA leaders, among them Anthony Scotto and Michael Clemente, both of whom held positions in the ILA and Cosa Nostra. In 1979, Scotto was convicted of taking more than $200,000 in payoffs from employers. New York's Gover-

* The PCOC report stated that the Genovese crime family controlled the Manhattan locals and the union's international. This is likely an error. The Gambino family was known to control these locals and the international.

0326

nor Hugh Carey and two former New York City mayors, John Lindsay and Robert Wagner, testified on his behalf at the sentencing hearing. (Scotto raised $1 million for Carey's 1974 campaign and $50,000 for Mario Cuomo.) When Scotto was sent to prison, Anthony "Sonny" Ciccone succeeded him as Gambino capo and ILA vice-president.[34] The transition was seamless.

The PCOC complained that while UNIRAC was "a very successful operation demonstrating law enforcement skill and tenacity," subsequently there had been only sporadic investigations and prosecutions, leaving organized crime's influence intact all along the eastern seaboard. In February 1981, the Senate Permanent Subcommittee on Investigations held hearings on waterfront corruption. Its report stated:

> Witnesses testified that payoffs were a part of virtually every aspect of the commercial life of a port. Payoffs insured the award of work contracts and continued contracts already awarded. Payoffs were made to insure labor peace and allow management to avoid future strikes. Payoffs were made to control a racket in workmen's compensation claims. Payoffs were made to expand business activity into new ports and to enable companies to circumvent ILA work requirements.
>
> Organized crime exerted significant influence over the ILA and many shipping companies. Some companies learned how to prosper in the corrupt waterfront environment. They treat payoffs to LCN as a cost of doing business.
>
> The free enterprise system has been thrown off balance. Contracts were not awarded on the basis of merit. The low bid did not beat the competition. Profitability was not based on efficiency and hard work but rather on bribery, extortion and underworld connections. The combination of these corrupt practices was a recipe for inflationary costs and economic decline. Much of the corruption on the waterfront stemmed from organized crime's control over the ILA, a condition that has existed for at least 30 years.[35]

Pointing to the 1984 Senate Permanent Subcommittee on Investigations' findings, the PCOC concluded that, despite its successes, UNIRAC had not purged organized crime from the ports. "Corrupt practices . . . already have begun to return to the Atlantic and Gulf Coast docks. What is needed, then, is continued scrutiny of the maritime industry by government agencies."[36]

0327

INDEPENDENTS AND OTHER UNIONS

Independent unions are labor organizations that are not affiliated with a national/international union or with the AFL-CIO. Therefore, they are free to "raid" AFL-CIO member unions. The McClellan Committee found that independent unions were particularly susceptible to organized crime's influence because their unaffiliated status made them especially difficult to monitor and police. The PCOC reached a similar conclusion: "Because such unions are not part of a larger organization that might provide supervision, labor racketeers are free to create and strategically maneuver them with complete freedom."[37] The PCOC cited Daniel Cunningham's control of the Allied Union of Security Guards and Special Police (Allied) as an example of how an independent union can become a "wholly-owned subsidiary of organized crime."[38]

Allied was founded in the 1960s by well-known racketeer Benjamin Ross and Genovese crime family soldier Joseph Agone.[39] After Ross's imprisonment, Allied presidents maintained the union's close ties to the Genovese family. In 1974, Cunningham literally purchased his position as head of Allied, using $90,000 to buy out the incumbent president's term. The Genovese crime family supported him and there was no rank-and-file vote. In return, he placed the union's pension and welfare funds at organized crime's disposal.

Cunningham ignored the union's constitution and federal labor law. No elections were held during his tenure. He appointed his cronies to top positions and increased his salary threefold. His methods for exploiting the benefit funds included reimbursing his associates for fake expenses, taking kickbacks from no-show employees and from employers and benefit providers, and making payouts to fictitious employees and service providers. In 1983, Cunningham was convicted of racketeering, bribery, embezzlement, and obstruction of justice. The PCOC concluded that the unskilled and unsophisticated workers who belong to independent unions face an especially high risk of exploitation by racketeers, exacerbated by the government's failure to investigate independent unions.

The PCOC devoted significant attention to racketeering within the New York City meat, fish, and poultry industry. Organized crime families controlled local unions affiliated with the Amalgamated Meat Cutters and Butcher Workmen of North America. They used that control to

0328

set themselves up in wholesale and retail businesses where they sometimes profited from selling fraudulently dated or tainted meat. They also bribed government inspectors to falsely grade their meat products.

While the Bonanno and Lucchese families were also involved in the meat industry, the PCOC chose to focus on the Gambino family. Paul Castellano owned Dial Poultry, which distributed chickens throughout the New York City metropolitan area. His brother, Peter Castellano, operated Quarex, an even wider distributor.[40] Both of these businesses demonstrated how LCN can exploit its union power to achieve a competitive advantage for its own companies.

PCOC CRITICISMS OF THE GOVERNMENT AND THE AFL-CIO

The PCOC strongly criticized law enforcement's efforts to combat labor racketeering. It pessimistically noted that "the government's efforts to remove organized crime's influence over unions and legitimate business have been largely ineffective. This situation does not stem simply from too few laws or unavailable remedies. It arises from a lack of political will, a lack of fixed responsibility, and a lack of a national plan of attack."[41] The PCOC concluded with a long list of recommendations.

The PCOC criticized the DOL for failing to embrace law enforcement goals, being susceptible to political interference, and failing to effectively enforce the Employee Retirement Income Security Act. It criticized the DOJ for failing to utilize civil RICO against labor racketeering. In contrast, it praised some states (for example, Florida and Arizona) for aggressively using their own racketeering statutes. Finally, the PCOC criticized the National Labor Relations Board for not having a strategy to deal with corrupt institutions; the IRS for not giving significant priority to analyzing and investigating suspicious deductions and claimed expenses, and the AFL-CIO for abdicating responsibility.

THE PCOC'S RECOMMENDATIONS

The PCOC divided its recommendations into five parts: general national strategy; protection of workers' rights; the private sector; administration of justice; and state and local government.

General National Strategy

- A greater political will to attack labor racketeering, a national plan of attack, and an understanding of the need to confront entire organized cartels rather than individual criminals.
- An end to piecemeal division of resources and accountability.
- Task Forces able to carry out industry-by-industry campaigns.
- DOJ must take a more aggressive stance towards organized crime's labor racketeering.
- The DOL must play an active role in combating racketeering. It must consolidate enforcement and oversight of employee benefit plans and labor unions.

Protect Workers' Rights

- Labor Management Relations Act should be amended to make it an unfair labor practice for a union to be controlled by or to assist organized crime. The NLRB should view racketeering activity within the framework of violations which it recognizes. Because the NLRB lacks the resources for investigations, DOJ should provide investigative assistance.
- Congress should pass a statute specifically making illegal the sale of a union, union office or union members' right to work.
- Congress should give the Secretary of Labor power to act on behalf of union members when officers breach fiduciary obligations.
- Congress should make false reporting of union activities a felony.
- Congress should amend the Hobbs Act to prohibit violence regardless of whether a "legitimate union activity or objective" can be claimed.
- The DOL should computerize and more widely disperse its data.
- The Secretary of Labor should develop guidelines on unions' excessive administrative expenses.
- The Landrum-Griffin Act should be amended to permit the DOL to set aside union elections that clearly violate basic legal conduct (violence, destruction of ballots, etc.) regardless of whether (as current law requires) it can reach a finding that the violation would have changed the election's outcome.
- The IRS should reform its enforcement policies to confront labor racketeering. The IRS should step in to actively disallow excessive salaries agreed to in collective bargaining agreements for employees assigned to union business. Employee benefit reports should be processed more quickly to eliminate unreasonable delays and backlogs.

The Private Sector

- The labor movement needs to confront organized crime's influence in business and labor.
- The AFL-CIO needs to apply its code of ethical practices.
- The AFL-CIO should require that member unions file annual reports describing their measures to uphold and enforce the ethical practices codes. Reports should list all convictions and indictments of union officers and employees, fund trustees, consultants and service providers.
- AFL-CIO Ethical Practices Committee should become active and meet regularly.
- Unions not affiliated with the AFL-CIO should establish similar codes.
- Corporations should create and enforce codes of conduct that preclude doing business with organized crime.

Administration of Justice

- Tougher sentences for convicted labor racketeers.

State and Local Government

- State and local government should cooperate to protect the waterfront from labor racketeering.
- Local and state governments should not award government contracts to suspicious businesses. This is a low cost method for keeping organized crime out of the market place.

REACTION TO *THE EDGE*

The PCOC's book-length report, *The Edge,* was well received by the media, earning praise for having shone a light on organized crime, corrupted unions, and tainted businesses. The *New York Times* said:

> The report is not a how-to-do it manual. Its aim is to lift the consciousness of our citizens about what is going on around them, stealthily and adversely affecting their lives and fortunes. In the collision between society and organized crime, sunlight and the exposure that it generates are potent weapons. The Commission organized its affairs to generate as much light as possible with the resources put at its disposal.[42]

0331

The AFL-CIO strongly criticized *The Edge,* especially its recommendation that the AFL-CIO take a more active role in ridding its affiliated unions of organized crime's influence. President Lane Kirkland stated, "If the labor movement is afflicted by racketeers, that points to a grievous failure by law enforcement authorities. . . . Corruption and criminality are attributes of individuals, not organizations." Kirkland denounced the commission's recommendations as "an Orwellian collection of proposals and in my view, a virtual blueprint for a police state."[43]

CONCLUSION

This chapter and Chapter 4 provide perspectives on the magnitude of the labor racketeering problem. I believe that a fair reading of the record would persuade an open-minded reader that the problem is significant. Over the course of the twentieth century, organized crime infiltrated and exercised influence, even control, over the nation's largest private-sector labor union and several other major unions. In addition, organized crime exerted control over hundreds of union locals. For example, approximately eighty Teamster locals (out of seven hundred) have had documented or alleged connection to organized crime.* Of course, in the great majority of Teamster locals, there was no organized crime presence. However, because of organized crime's influence over the IBT at the national/international level, over its largest pension and welfare fund, and over a significant number of its locals, labor racketeering almost certainly touched the lives of practically all Teamsters. In recent decades, the Teamsters have constituted roughly 9 percent of all U.S. union members.** If one were to add the percentage of union members in LIUNA, HEREIU, and ILA, it would be reasonable to conclude that at least as of the mid-1980s, racketeering was a substantial presence and problem in the U.S. labor movement.

* This figure was published by Project RISE, an internal Teamsters anticorruption program headed by Edwin Stier. See Stier, Anderson and Malone, LLC, *The Teamsters: Perception and Reality: An Investigative Study of Organized Crime Influence in the Union,* International Brotherhood of Teamsters, 2002.

** According to "Teamsters Online," the current IBT membership is 1.4 million members. According to the U.S. Department of Labor, there were 15.8 million union members in the United States in 2003.

4

Labor Racketeering in New York City

> New York City is the home base of a large corps of sophisticated and ruthless racketeers who not only engage in traditional organized criminal activity (including loansharking, gambling, narcotics, and redistribution of stolen goods), but who also play a major role in numerous legitimate industries, including private sanitation, garment, cargo freight, and construction.
>
> —New York State Organized Crime Task Force (OCTF), *Corruption and Racketeering in the New York City Construction Industry: Final Report to Governor Mario M. Cuomo* (1990), 77

> In the building trades, the key to nonunion labor was Cosa Nostra control of union shop stewards, many of whom were made members or sons or relatives of members. On average, a subcontractor using union labor might expect a profit margin of 15 percent. With nonunion workers, even with payoffs, the profit was 30 percent or more. If all else failed, there remained the Gambinos' control of IBT Local 282, so absolute that if all of the other New York families needed Teamster assistance, they had to share the proceeds with [Gambino boss] Paul Castellano. —Salvatore (Sammy) Gravano in Peter Maas, *Underboss* (1997), 116–17

This chapter, like Chapter 3, deals with the extent of labor racketeering. Here we focus just on New York City since approximately 1980. This is not an exposé. It does not draw on any confidential information. I am identifying only unions with publicly documented histories of organized crime influence. Almost certainly, there is unrevealed LCN influence in other New York City unions.

The labor racketeering problem in New York City is not qualita-

0333

tively different than the problems in other U.S. cities with strong union traditions. It is likely that there was more labor racketeering in New York City circa 1980 than in any other U.S. city if only because New York City has the most unions (approximately 350 locals), the most union members, the most organized crime families (five), and the most organized crime members and associates. Since the mid-twentieth century, New York City has been home to the Genovese, Gambino, Lucchese, Bonanno, and Colombo Cosa Nostra crime families: Each of the five families has been heavily involved in labor racketeering.[1] In some cases, two or more families have exerted influence in a particular union. Although New York City is not typical, it is certainly not unique. Chicago's history of labor racketeering rivals New York's, and there is a documented record of labor racketeering for many other cities, including Atlantic City, Boston, Buffalo, Cleveland, Detroit, Kansas City, Miami, Philadelphia, Pittsburgh, and St. Louis.

In creating a snapshot of labor racketeering in New York City, I draw extensively on my 1990 collaboration with the New York State Organized Crime Task Force (OCTF), the *Final Report on Corruption and Racketeering in the NYC Construction Industry,* and on my 1999 study, *Gotham Unbound: How New York City Was Liberated from the Grip of Organized Crime.* The OCTF report documented and analyzed organized crime's penetration of the city's construction unions. *Gotham Unbound* illuminated Cosa Nostra's role in the political economy of the city, focusing on six commercial venues: the Garment District; the Fulton Fish Market; the Jacob Javits Convention Center; cargo operations at JFK Airport; the commercial-waste-hauling industry, and the construction industry. This chapter provides a picture of labor racketeering in those industries and several others. Because many unions are mentioned, the following preview may be useful:

The Garment District

- International Ladies Garment Workers Union (ILGWU) Local 102

Fulton Fish Market

- United Seafood Workers, Smoked Fish and Cannery Union Local 359

Air Cargo at JFK Airport

- International Brotherhood of Teamsters (IBT) Local 295
- IBT Local 851

0334

Javits Convention Center

- IBT Local 807
- NYC District Council, International Brotherhood of Carpenters and Joiners (Carpenters)
- International Alliance of Theatrical and Stage Employees, Exhibition Employees Local 829

Waste-Hauling Industry

- IBT Local 813

Construction Industry

- IBT Joint Council 16
- IBT Local 282
- IBT Local 580
- Laborers (LIUNA) Blasters and Drill Runners Local 29
- LIUNA Cement and Concrete Workers Local 6A
- LIUNA Workers Local 20
- LIUNA Local 18A
- LIUNA Local 95
- LIUNA Local 66
- LIUNA Local 13
- LIUNA Local 23
- LIUNA Local 46
- LIUNA Local 59
- NYC District Council of Carpenters
- Carpenters Local 17
- Carpenters Local 608
- International Union of Operating Engineers (IUOE), Local 14
- IUOE, Local 15
- IUOE, Waterproofers Local 66
- Painters Union, District Council 9
- Plasterers Local 530
- Plumbers Union, Steamfitters Local 638

Seaborne Cargo in the Port of New York

- International Longshoremen's Association (ILA) Local 1814
- ILA Locals 824, 1809, and 1909 (collectively known as the West Side [of Manhattan] Locals)

0335

- ILA Local 1804
- ILA Local 1588
- ILA Local 1

Other Industries

- Amalgamated Meat Cutters' Union Local 174
- Newspaper and Mail Deliverers Union of New York and Vicinity

THE GARMENT DISTRICT

Throughout most of the twentieth century, organized crime has been a major presence in the New York City Garment District (Manhattan, Seventh Avenue and mid 30s). In 1977, the garment industry's leading trade magazine, *Women's Wear Daily,* called ILGWU Local 102, which represented truck drivers carrying material and finished garments to and from the Garment District, "an active tool of labor racketeers." Sol C. Chaikin, the president of the ILGWU international union in the 1970s, admitted that "we have never been able to control [Local] 102."[2]

The Gambino crime family leveraged control over Local 102 to establish and police an employers' association, the Master Truckmen of America (MTA), which operated a cartel among truckers doing business in the Garment District. In effect, the cartel, backed by the union's power to shut down employers, determined which truckers could do business. Cosa Nostra enforced "marriages" between manufacturers and truckers; each garment maker was bound to a particular trucking company and, whether or not satisfied with the price it paid for the service it received, it could not switch. No other trucker would handle its business. Even if the manufacturer chose to do its own trucking, it still had to pay its assigned trucker as if that trucker had done the work. Failure to comply would invite labor problems.

If a trucker refused to join the association or to follow its rules, the MTA would order a Local 102 job action—for example, drivers would sit down on the job or otherwise stop or subvert the "rebel" trucking firm's operations. If that was insufficient to bring the maverick into line, its vehicles would be vandalized or stolen. Cartel members also blocked curbs or entire streets to prevent a rebel trucker from making pickups and deliveries.

0336

An incident in the mid-1970s provides an example of how Local 102 enforced the employers' cartel. As soon as a government undercover agent running a sting operation purchased a trucking company, MTA President Frank Wolf (of the employer association) threatened a Local 102 strike (by the union) unless the new owner paid 10 percent of the purchase price to the MTA (the employers' association).

The mob's control over Local 102 ensured that Cosa Nostra's (mostly the Gambino crime family's) trucking companies enjoyed labor peace. It also gave them an opportunity to make even more profit by not enforcing the collective bargaining agreement. For example, Thomas Gambino operated his trucking firm as a "double-breasted" shop, employing both unionized and low-wage nonunionized drivers. There was, of course, no objection from the union.*

FULTON FISH MARKET

The Fulton Fish Market, the largest wholesale fish market in the United States, became a Cosa Nostra power base and profit center since the early twentieth century. The Genovese crime family's influence in the fish market was rooted in its control of the United Seafood Workers, Smoked Fish and Cannery Union.** As federal prosecutors noted in a 1981 sentencing proceeding involving several convicted officers of Local 359, "[I]n the wholesale [fish] industry, where competition is fierce and time is of the essence, it is crucial for businesses to maintain the good will of the union and the men who run it. Organized crime recognizes this power and knows how to use it."[3] The union had 850 to 900 members, including wholesalers, managers, supervisors, and the four hundred "journeymen" who set up the wholesalers' seafood

* Thomas Gambino agreed to withdraw from the Garment District and pay a $12 million fine as part of a 1993 plea bargain with the Manhattan DA's office. He was also convicted in 1993 on unrelated racketeering charges in Connecticut.

** "[Joseph 'Socks'] Lanza organized a local of the Seafood Workers Union in 1922. From that power base he turned the market into his own fiefdom, controlling every aspect of the trade, essentially by himself. . . . Under Lanza's regime the fishing boat crews were not allowed to unload their own catches. They sat by while Lanza's men took off the fish, for a fee. Lanza also charged each boat another ten dollars 'for the union's benevolent fund.' If a skipper balked at the surcharge, a five-hundred-pound bucket of fish might be accidentally dumped into the harbor." (Fox, *Blood and Power,* 176.)

0337

displays, negotiated the sales, and delivered the fish to the retail purchasers' vans parked nearby.

Carmine Romano, a Genovese crime family associate, served as Local 359's secretary-treasurer (the union's de facto top position) from 1974 to 1980. In 1980, when Carmine became a trustee of the union's pension and welfare funds, his brother Peter succeeded him as the local's secretary-treasurer. Both brothers were later convicted of RICO, conspiracy to violate RICO, aiding and abetting violations of the Taft-Hartley Act, misusing union pension funds, and extortion of union members and employers.[4]

Local 359 officers coerced wholesalers into paying for various "services" that they did not desire or need, such as cardboard signs advertising their employment of union labor. The Romanos received more than $66,000 ($200,000 in 2003 dollars) from this scam. Throughout the 1970s, union officials collected "Christmas gifts" of $300 (the equivalent of $900 in 2003 dollars) from wholesalers. The money was solicited as a holiday gift "for the boys in the union," but the money went to the Genovese crime family's coffers rather than to rank-and-file members.

Wholesalers paid $1,300 ($4,380 in 2003 dollars) a week to Carmine Romano's Fulton Patrol Association to protect their fish from being stolen. Whether this was a protection service or a protection racket was unclear even to those who paid the premiums. Federal prosecutors charged that the Fulton Patrol Association functioned as a protection racket and collected more than $644,000 (the equivalent of $2,000,000 in 2003 dollars) from wholesalers from 1975 to 1979. At the Romanos' trial on RICO charges, the president of the employers' Wholesale Fish Dealers Association testified that "if the thieves knew that the union was looking out for us . . . they wouldn't bother us . . . [b]ecause the thieves would be afraid of the union."[5] Following the Romanos' convictions, the United Seafood Workers, Smoked Fish and Cannery International Union placed Local 359 under trusteeship and ousted Carmine and Peter Romano from their union positions. Their brother Vincent then became a top official in the union.[6]

AIR CARGO AT JFK AIRPORT

Cosa Nostra's influence in the airfreight industry is well documented. For several decades, the Lucchese crime family controlled IBT Local 295

0338

and IBT Local 851, which represented the drivers who brought cargo to and from JFK airport. Once again, control over labor was parlayed into an employers' association, the Metropolitan Import Truckmen's Association (MITA), which operated a cartel.

IBT Local 295 was one of the paper locals that IBT General President David Beck and Vice-President Jimmy Hoffa gave to Johnny Dioguardi in 1956.[7] In 1970, the Lucchese crime family created IBT Local 851.[8] The intent may have been to provide a safe haven for IBT Local 295 officials who were under investigating. Harry Davidoff, a Hoffa protégé, ran Local 851 and Local 295 from the same office. In 1972, his son Mark succeeded him as head of Local 851.[9] In the 1990s, the position passed to Anthony Razza, another Lucchese associate.*

Local 851 represented "lead agents" who assign jobs to truck drivers and other airport workers; some lead agents were also associates of the Lucchese crime family. They used advanced information about valuable cargo shipments to arrange give-ups and hijackings. In a give-up, a truck driver leaves the keys in the ignition of his parked truck so it can be stolen according to a prearranged plan. In a hijacking, a Lucchese crew would intercept the truck just outside the airport grounds and wrest it from the driver. Valuables could also be stolen from the warehouse. The most infamous such heist occurred in December 1978; thieves stole nearly $6 million (the equivalent of $17 million in 2003 dollars) worth of cash and securities from the Lufthansa Airlines cargo hangar. It is likely that most of the proceeds went to Lucchese capo Paul Vario.**[10]

Through its control over the IBT locals, the Lucchese family extorted labor-peace payoffs from freight forwarders by threatening strikes, picketing, work stoppages, slowdowns, and misrouting cargo. When such threats materialize, they can impose heavy costs on freight forwarders, whose business depends upon the speedy delivery of air cargo.

* In 1993, the U.S. attorney for the Eastern District of New York obtained a criminal RICO indictment against seven individuals, including Anthony Razza, secretary-treasurer of Local 851. The indictment charged them with extortion, labor racketeering, and related offenses. The defendants entered guilty pleas. Razza received a twenty-one-month prison sentence and was barred from the IBT for life. See James B. Jacobs et al. *Gotham Unbound,* 50.

** Henry Hill revealed the details of the Lufthansa heist in his autobiographical account of life in the mob (Nicholas Pileggi, *Wiseguy* 1987), which was the basis of the popular 1990 movie *Goodfellas,* starring Robert DeNiro, Joe Pesci, and Roy Liotta.

0339

JAVITS CONVENTION CENTER

From the day the Javits Convention Center opened for business in 1986, the Genovese crime family and, to a lesser extent, the Gambinos and Colombos, used their control over three labor unions that represented Javits Center workers to place members, associates, and friends in high-paying jobs. IBT Local 807 represented workers who loaded and unloaded the delivery trucks and vans with exhibitors' products and supplies. Members of Carpenters NYC District Council assembled the booths and electrical stations and, until July 1995, Exhibition Employees Union Local 829 represented general laborers.

IBT LOCAL 807

Members of IBT Local 807 (Trade Show Division) loaded and unloaded vehicles bringing merchandise into and out of the Exhibition Center. Robert Rabbitt Sr. and his two sons controlled that local. Robert Sr. was convicted of second degree manslaughter in 1985 for fatally stabbing a shop manager. Upon release from prison five years later, he returned to his union position. In 1992, a New York State grand jury indicted him for conspiracy, receiving bribes, larceny, falsifying business records, and possessing stolen property. He pleaded guilty to falsifying payroll records and served one year in prison. In 1994, the Independent Review Board (the court-imposed monitor in the IBT international case) charged Rabbitt with accepting bribes in return for allowing an employer to use nonunion truck drivers and laborers. Rabbitt avoided an IRB sanction by agreeing to a five-year suspension from the union; his son Michael took over his union office.[11] In 1995, the Independent Review Board (IRB) found that Michael had negotiated an agreement with Javits Center employers that made the job of general foreman a nonunion position, thereby allowing his father, despite his felony record, to do the same job he did before as a union official. Finding that the Rabbitts gave lucrative center jobs to people connected to organized crime, the IRB recommended that Michael be removed from his position.[12] When he did relinquish it, Michael was guaranteed $236,000 severance pay.

Although the Rabbitts' connection to organized crime has not been proved, there is strong reason to believe that Cosa Nostra called the shots with respect to IBT interests at the Javits Center. Through its hir-

0340

ing hall, Local 807 assigned lucrative Javits Center work from a pool of forty-seven privileged members. One-third of the individuals on that list had documented ties to organized crime; some had not even belonged to the IBT before landing a center job.[13]

CARPENTERS' DISTRICT COUNCIL

In the mid-1980s, the United Brotherhood of Carpenters and Joiners New York City District Council represented approximately thirty thousand workers in twenty-two local unions. (The district council makes major policy decisions for the locals and negotiates the collective bargaining contracts). From the early 1970s, the Genovese crime family controlled the district council through its capo, Vincent DiNapoli.[14] The FBI believed that Teddy Maritas, district council president from 1977 to 1981, was a Genovese crime family associate.[15] In the early 1980s, a RICO prosecution of Maritas, DiNapoli, and others ended in a mistrial. Maritas disappeared the evening before the scheduled retrial, presumably murdered.[16] DiNapoli pled guilty.

The Carpenter's International Union placed the New York City district council under a temporary trusteeship, but that did not purge the union of organized crime's influence. The trustee chose Local 608 president Paschal McGuiness, a Genovese crime family associate,[17] to be district council president.[18] McGuinness put John O'Connor in charge of the district council's daily operations. The Department of Justice charged O'Connor with 127 counts of racketeering, including bribery, extortion, and taking unlawful gifts from contractors.[19] In 1990, he pleaded guilty to five counts and was sentenced to one to three years incarceration and fined $25,000.[20] McGuinness also hired and quickly promoted Ralph Coppola to district council representative at the Javits Center; the Genovese crime family is alleged to have inducted him as a "made member" and soon promoted him to capo.[21]

The racketeers who controlled the Carpenters' district council assigned LCN members, relatives, and friends to jobs with "decorator" companies. (Show managers hire decorating companies to prepare the center for exhibits; the companies employ workers, who are Carpenters' members, to assemble and dismantle the exhibitions.) The Carpenters' job-referral rules dictated that, with limited exceptions, jobs must be assigned to members according to length of time out of work,

0341

but the Genovese crime family's interests trumped the rules. Typically, a Genovese family associate gave union officials a preferential hiring list, from which the union officials chose thirty to forty people to work with the decorator companies. Many of these preferred workers had links to the Genovese family. Some were awarded Javits Center jobs as a reward for loyalty and service to the crime family. Others needed legitimate employment as a cover for their criminal careers and to satisfy probation and parole authorities. Employers and employees treated some of these positions as "no-show jobs."

EXPOS LOCAL 829

Workers who set up trade shows at the Javits Center were represented by the Exhibition Employees Union (Expos) Local 829. The Expos chief shop steward, much like the Teamsters general foreman, supervised Expos members and enforced their collective bargaining agreements. Steven Dellacava and Paul Coscia, reputedly associates of the Genovese crime family, were the Expos' chief shop stewards at the Javits Center until mid-1995. (Coscia also served as the vice-president of Local 829.) They determined who could work, where and when.

Although Local 829 apparently did not maintain a pool list for preferential hiring at the Javits Center, it did use selective criteria. Undercover police investigations revealed that to obtain a lucrative center job—up to $100,000 annual salary—an ordinary Expos worker had to buy a membership book.* Individuals with organized crime connections purchased books at lower cost and enjoyed priority in obtaining center assignments.

Expos union officials generated revenue for the Genovese family by other illegal schemes. They padded employers' payrolls with six ghost employees for small shows and up to twenty ghosts for larger shows. Ghost employees shared their "salaries" with shop stewards and the Genovese crime family. Another money-making scheme was the filing of fraudulent workers' compensation claims against the center; injuries sustained outside of work were alleged to have been sustained at the center.[22]

* It is not uncommon or illegal for unions to charge new members a fee when they join the union. This "pays back" the union and current members for previous expenditures from which the new members benefit.

0342

WASTE-HAULING INDUSTRY

Circa 1980, commercial-waste hauling in New York City's five boroughs was carried out by approximately three hundred small firms (one to twenty trucks) that together constituted a $1.5 billion-per-year industry. The carting companies were members of borough-based trade associations. LCN controlled both the union and the trade associations. The Association of Trade Waste Removers of Greater New York dominated the industry. For more than thirty years, James Failla, a capo in the Gambino crime family, was its president. The other Cosa Nostra–linked waste-hauler trade associations were the Kings County Trade Waste Association (Genovese), the Greater New York Waste Paper Association (Genovese), and the Queens County Trade Waste Association (Gambino).[23]

Approximately four thousand carting industry truck drivers were members of IBT Local 813, run by Bernard Adelstein. His reign over the union began in 1951 when Carlo Gambino, who later became boss of the Gambino crime family, placed him in Local 813.[24] The McClellan Committee focused on the ties between Adelstein and Vincent Squillante, a high-ranking official of the New York City Cartmen's Association and a prominent organized crime figure. It branded Adelstein the "abject tool" of organized crime. According to the committee, "[F]ar from fighting Squillante . . . [Adelstein] provided vital cooperation as [Squillante] moved . . . to ruthless czardom of the garbage industry."[25]

The situation did not change in later decades. In 1989, Salvatore (Sammy) Gravano, the Gambino crime family underboss who became the most famous and productive government cooperating witness of all time, testified that Adelstein took orders from Gambino capo James Failla; Failla exercised de facto control over IBT Local 813 while simultaneously serving as president of the employers' association. A former IBT Local 813 employee testified that Adelstein and Failla worked together in "controlling and manipulating the [waste hauling] industry in the New York City metropolitan area."[26]

Rick Cowan, an undercover police officer, spent several years implementing a sting operation by posing as a carting company executive. In *Takedown: The Fall of the Last Mafia Empire,* he and Douglas Century provide a fascinating picture of the connection among the carting companies, IBT Local 813, and the mob.[27] In one instance, Failla prevented an IBT Local 813 strike by calling a meeting of waste haulers

0343

(employers, *not* union members) and ordering them to "keep the trucks rolling."[28] According to Cowan and Century, "[E]ven though this was a meeting of management, a lot of the company owners in attendance also belonged to IBT Local 813. So if they went on strike, they'd only be striking against themselves."*[29]

Under the Gambino, Genovese, and Lucchese crime families' influence, the commercial-waste-hauling firms operated a "property-rights" system that bound every commercial customer to one carter. No other carter was allowed to solicit or accept a customer's business. IBT Local 813, under Adelstein's control, served as the cartel's enforcement arm. Local 813 drivers would refuse to work for a company that had fallen out of favor with Cosa Nostra; likewise, if a carter tried to hire nonunion drivers it would be struck and/or sabotaged. In 1989, Robert Kubecka, a "rebel" waste hauler on Long Island, had his trucks' tires slashed and windshields broken. A Gambino crime family associate offered to solve his union problems for a $20,000 payoff. (Kubecka was murdered later that year for cooperating with a law enforcement investigation.) Jerry Kubecka, Robert's father, and himself the owner of a rebel carting company, charged that IBT Local 813 threatened his customers with labor problems and violence unless they submitted to being serviced by their assigned waste hauler.[30]

CONSTRUCTION

Approximately one hundred building trades unions represent New York City construction workers.[31] The mob's influence and control over many of these unions provides a constant stream of bribes in exchange for labor peace and/or relief from labor contract provisions. Once Cosa Nostra established a power base in the construction unions, it was a small step to organizing and policing employer cartels in the construction niches corresponding to each union's jurisdiction. For example, control over the union local whose members pour ready-mix concrete led to the establishment of a mob-controlled cartel in that crucial con-

* Frank Giovinco, nephew of Genovese associate Joe Giovinco, controlled LIUNA Local 958. Carting companies, whose employees were Local 958 members, made cash payments to the boss of the Genovese crime family, Vincent "Chin" Gigante, in exchange for labor peace. (Cowan and Century, *Takedown: The Fall of the Last Mafia Empire*, 94–95, 247–48.)

0344

struction niche. There were also well-established cartels among drywall, window-replacement, and painting contractors.

Labor peace extortion was commonplace. For example, Attilio Bitondo and Gene Hanley, business agents for Carpenters Local 257, were indicted in 1987 on multiple counts of extortion over a ten-year period.[32] Among other things, they threatened to sabotage contractors by assigning them only unqualified and incompetent workers.[33] In the 1970s, Carpenters Union officials received payoffs to permit two carpentry firms to hire nonunion workers, who were paid by the number of drywall sheets installed (that is, piecework) rather than by the hour, thereby avoiding paying overtime and fringe benefits.[34] In December 2001, the U.S. Attorney for the Southern District of New York indicted a new generation of Carpenters officials for the same scheme.[35] The defendants included 73 members of the Parrello crew of the Genovese crime family, who were indicted on 98 counts, including extortion, labor racketeering, loan-sharking, illegal gambling operations, selling counterfeit money, and gun trafficking. The indictment charged 9 defendants with labor racketeering involving Locals 11 and 964, which together made up the Suburban New York Regional Council of Carpenters. These defendants were alleged to have arranged for nonunion workers to complete carpentry jobs, which allowed the defendants them to embezzle more than $1 million that should have been paid into the Suburban Council of Carpenter's pension funds.[36]

The construction unions' pension and welfare funds have been persistently defrauded. One common scheme is for contractors to bribe union officials to allow the contractors to employ nonunion workers for whom pension and welfare payments do not have to be made. Union members who complained were blacklisted, threatened, or assaulted. Corrupt pension and welfare trustees could embezzle funds by withdrawing money in their own or in fictitious names, by making "loans" that would not be repaid; by paying for nonexistent goods and services; and by taking kickbacks from contractors and service providers.[37] Dissident union members who challenged the leadership of mob-dominated unions were the most vulnerable; they might be blacklisted or beaten. Uncooperative employers faced sabotage. Because of the presence of so many known organized crime figures, actual violence was rarely necessary. A threat, even implicit, sufficed.

A comprehensive audit of labor racketeering in the huge New York City construction sector is impossible, but the New York State Orga-

0345

nized Crime Task Force and subsequent investigators have identified organized crime's influence or control over the following construction unions:[38]

International Brotherhood of Teamsters

- Joint Council 16: Joseph Trerotola, president of the Joint Council, became a vice-president of the International IBT with Cosa Nostra's approval. Patsy Crapanzano, the council's vice-president, was tied to the Genovese crime family. Gerald Corallo, president of Teamster's Local 239 and son of former Lucchese crime family boss Antonio Corallo, was listed as a member of the council's advisory board.
- Local 282: John O'Rourke, president from 1931 to 1965, was closely associated with Lucchese family members Johnny Dioguardi and Anthony Corallo. John Cody, president from 1976 to 1984, was an important Gambino crime family associate.
- Local 580 (Ironworkers Union): Peter Savino, an influential member of the local, was a Genovese crime family associate.[39] In 1984, control of the union passed to Joseph Marion of the Lucchese crime family;[40] Lucchese family associate John Morrissey was also an important figure in the local.[41]

Laborers Union

- Blasters and Drill Runners Local 29: President Louis Sanzo regarded Lucchese family soldier Samuel Cavalieri as his boss. Cavalieri's son was the administrator of the local's pension fund.
- Cement and Concrete Workers Local 6A: Ralph Scopo, president of the District Council, was a soldier in the Colombo crime family. His sons, Joseph and Ralph, were affiliated with both the District Council and Local 6A, Joseph serving as president of Local 6A.
- Cement and Concrete Workers Local 20: Vice-Presidents Luigi Foceri and Frank Bellino were members of the Lucchese crime family.
- Cement and Concrete Workers Local 18A: Genovese family capo Vincent DiNapoli controlled the local.
- Housewreckers Union Local 95: Vincent Gigante, boss of the Genovese crime family, controlled the local.
- Local 66: Vice-President Peter Vario was a member of the Lucchese crime family.
- Mason Tenders Local 13: Mike Copolla, a capo in the Genovese

0346

family, controlled the union. Basil Cervone used his power over the local and the District Council on behalf of Genovese crime family.
- Mason Tenders Local 23: President Louis Giardina was a soldier in the Gambino family.
- Mason Tenders Local 46: Peter A. Vario, nephew of Paul Vario, a Lucchese crime family capo, was business manager of the local.
- Mason Tenders Local 59: Patsy D. Pagano, secretary-treasurer until 1974, was part of the Pagano faction of the Genovese family. Daniel Pagano, who later ran the local as its business manager, was a Genovese family member. His cousin, a Genovese soldier, controlled the union in the 1980s.

United Brotherhood of Carpenters

- District Council: Teddy Maritas, president from 1977 to 1981, had a close relationship with Genovese capo Vincent DiNapoli; the FBI considered Maritas as a Genovese family associate. The next president, Paschal McGuiness, was also a Genovese associate. In 2000, President Michael Forde was indicted for labor bribery. His codefendants included a number of Lucchese family members, including acting boss Steven Crea.[42] Crea pleaded guilty. Forde was convicted in 2004.[43]
- Local 17: In 1987, the Genovese family consigliere awarded Liborio Bellomo control of the local, the largest in the District Council. In 1989, Genovese associate Enrico Ruotolo was elected business manager.
- Local 608: President Paschal McGuinness (who also became president of the District Council) was a Genovese crime family associate. A later president, Michael Forde, and business agent Martin Deveraux were convicted in 2004 for accepting bribes from contractors in a case involving the Lucchese family.[44]

Other Construction Industry Unions

- Builders and Allied Craftsmen, Local 1: President Santo Lanzafame was charged with accepting bribes in exchange for allowing job stewards to file fraudulent union documents to cover up violations orchestrated by Lucchese crime family members.[45] The judge dismissed the indictment on legal-insufficiency grounds and also under the state's Organized Crime Control Act's interest-of-justice provision.

0347

- International Union of Operating Engineers, Locals 14 and 15: Locals 14 and 15 represented workers at major building sites including the Museum of Modern Art and the federal courthouse in Brooklyn.[46] In 2003, alleged Genovese soldier Louis Moscatiello; Colombo capo Vincent Ricciardo; acting Colombo boss Joel Cacace and son Joel Jr.; and alleged Colombo underboss John DeRoss and son Jamie; and dozens of union officials were indicted in both the Southern District of New York and Eastern District of New York for running no-show job schemes at construction sites across New York City. The SDNY case focuses on Genovese control over these locals; the EDNY targets the Colombos. Joel Cacace, the acting boss of the Colombo family, admitted to the murder of Assistant U.S. Attorney Bill Aronwald's father. Several top officials of Locals 14 and 15 pled guilty to racketeering and receiving unlawful labor payments.
- International Union of Operating Engineers, Waterproofers Local 66: John Morrissey, an associate of the Lucchese crime family, collected labor peace payoffs.[47]
- Painters Union, District Council 9: Martin Rarback, secretary-treasurer until 1967, was an associate of, or at least closely associated with, Cosa Nostra. The Lucchese crime family controlled Jimmy Bishop, secretary-treasurer from 1973 to 1990.[48]
- Plasterers Local 530: Genovese Family capo Vincent DiNapoli created the union, which Louis Moscatiello, a Genovese crime family associate, ran as business manager.
- Plumbers Union, Steamfitters Local 638: George Daly, the union's business agent, was an associate of Gambino family boss Paul Castellano and Gambino soldier Thomas Bilotti.

SEABORNE CARGO IN THE PORT OF NEW YORK

Through its power base in the International Longshoremen's Association, Cosa Nostra has been a presence in New York City's waterfront throughout the twentieth century. There is documented mob control of at least six ILA locals.[49] In 1990, the government filed a civil RICO suit against these six unions; their executive boards and officers; the Genovese and Gambino crime families; the Westies, an Irish organized

0348

crime group allied with the Gambino family; and five shipping companies. The Gambino crime family controlled Local 1814 in Brooklyn and Locals 824, 1809, and 1909 in Manhattan; the Genovese crime family controlled Locals 1804 and 1588 in New Jersey.[50]

The leaders of Brooklyn Local 1814, at one time the largest ILA local in the country, had decades-long ties to the Gambino crime family. Capo Anthony Anastasio, brother of the Gambino family boss Albert Anastasia (the brothers spelled their names differently), ran the union in the 1940s and 1950s. In 1963, his son-in-law Anthony Scotto succeeded him in both the union and organized crime. Scotto served as both president of Local 1814 and as a vice-president of the International. He was banned from union office after a 1980 RICO conviction, but he remained affiliated with the union through 1990.[51] Anthony Pimpinella, a Gambino soldier, and Anthony Ciccone, a Gambino family capo,[52] both held positions in the local and International in the 1980s.[53] Ciccone, who was prohibited from participating in union activities after 1991, maintained his influence into the 2000s through his connection to Local 1814's president.[54]

The Gambino family, in collaboration with the Westies, controlled ILA Locals 824, 1809, and 1909, collectively known as the West Side (of Manhattan) locals.[55] Gambino boss John Gotti was named with John Bowers (president of three locals, as well as of the International) in a 1990 federal lawsuit alleging corruption in the West Side locals (as well as in Locals 1814, 1804, and 1588).[56] The lawsuit resulted in a consent decree, in which the government sought to eradicate the influence of organized crime in local unions affiliated with the ILA on the New York/New Jersey Waterfront.[57]

Genovese family capo Michael Clemente ran dock operations in New Jersey for Cosa Nostra as early as the 1960s, when he was banned from union office for extortion. Twenty years later, he was still involved.[58] Tino Fiumara, a member of the Genovese crime family, represented Clemente in dealing with ILA Local 1804, of Bergen, New Jersey, and ILA Local 1588 of Bayonne, New Jersey.[59] Thomas Buzzanca, president of Local 1804 in the early 1980s, was also a member of the Genovese family.[60] According to federal prosecutors, as recently as 2002, at least six officials of Local 1588, including President John Timpanaro, were Genovese crime family associates.[61] Joseph Lore, another Genovese associate, stole hundreds of thousands of dollars from Local 1588

0349

during the 1990s; he held no position in the union, but his girlfriend served as its office manager, and other mob-connected officials helped him divert funds from union officers' and members' salaries.[62]

Though only the six unions noted in the preceding paragraph were named in the 1990 civil RICO suit against the New York/New Jersey ILA,[63] later evidence pointed to mob influence in other ILA locals. In 1998, the Waterfront Commission accused Louis A. Saccenti, who ran New York Local 1235, of being a Gambino crime family associate.[64] Salvatore Gravano, underboss of the Gambino family, appointed his former bodyguard to be the delegate of Local 1 of Newark, New Jersey, to the Atlantic Coast District of the ILA in the early 1990s.[65] The U.S. Department of Justice believes that Anthony Ciccone attempted to control the management of Local 1 as recently as 2001.[66]

Cosa Nostra used its influence in the ILA to exploit the locals, the shipping industry, and the longshoremen. It determined who worked on the docks and, most importantly, which ships were unloaded and when, and in what order waiting trucks were loaded. Shippers had to make payoffs to ensure that their ships were loaded and unloaded expeditiously and to avoid labor unrest. The cost of delay gave the union representing longshoremen leverage over shippers. Furthermore, Cosa Nostra orchestrated thefts from the shipping companies. Labor racketeers bribed port employees to facilitate cargo theft, solicit illegal labor payoffs, and extort stevedores (companies that load and unload seaborne cargo).[67] The labor racketeers victimized the ILA's members through embezzlement, benefit-fund fraud, and through intimidation and violence.

CONCLUSIONS

The unions discussed in this chapter are not the only New York City unions influenced by LCN. There is evidence of an organized crime presence in the moving and storage industry, linen services, restaurants and nightclubs, and other businesses and industries.[68] Daniel Castelman, chief of investigations for the Manhattan district attorney, has said that "[e]very industry I've ever seen the mob take control of started with its influence in the union."[69]

Jonathan Kwitny's book *Vicious Circles* describes Mafia involvement in the meat industry in the 1960s.[70] He writes that Local 174 of the

0350

Amalgamated Meat Cutters' Union, which represented butchers, "was merely a branch office" of the mob. Frank Kissel, the secretary-treasurer of the local, was a close friend of mobster Lorenzo Brescia[71] and also worked with the Lucchese family's Johnny Dioguardi. Money flowed to the union and the mob from the Meat Trade Institute, an employers' association.[72]

An investigation of the Newspaper and Mail Deliverers Union of New York and Vicinity led to the indictment of several union officials and an alleged member of the Bonanno crime family, James Galante, in April 1996. Members of the union distribute papers for the *New York Times, Daily News, New York Post, El Diario,* and the *Metropolitan News Company.* Union officials were accused of several illegal schemes, including placing fictitious workers on payrolls, stealing newspapers, promoting certain employees in violation of seniority procedures, and assaulting union members who complained about illegal activities.[73]

Several dozen clear cases easily support the proposition that labor racketeering in New York City has been extensive and long lived. It is likely that some unions that have been infiltrated, even controlled, by organized crime have so far not been identified. Of course, the majority of New York City unions have not been and are not influenced by organized crime.

0351

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Organized Labor's Response to Organized Crime

> Is the government going to be here in the year 2050? The year 3000? I don't know, but I think it's something that we should be talking about because of the tremendous burden on our membership. . . . They've eliminated certain pockets of corruption in the union, and I think it's time for us to move on.
>
> —James P. Hoffa, following his election victory as general president of the International Brotherhood of Teamsters (Dec. 7, 1998)

> I have had more obloquy and more scorn from the labor movement for representing [Jock] Yablonski and [Ed] Sadlowski [reformers who ran in the 1970s against corrupt and dictatorial presidents of the United Mine Workers and United Steelworkers respectively] and helping reformers in the Laborers and other unions than I ever got from representing people under attack during the McCarthy period in the 1950s. The problems we went through in the McCarthy period were nothing compared to labor's recriminations against those who have become spokesmen for union democracy.
>
> —Joseph Rauh (famous civil rights lawyer)

Other than the brief flurry of antiracketeering activity in the 1950s, occasioned by the unification of the AFL and CIO and then by the McClellan Committee hearings, the mainstream American labor movement has mostly denied or minimized organized crime's influence over labor. While the AFL-CIO has steadfastly maintained that it is the government's responsibility to investigate and prosecute crime, it has opposed practically every government initiative aimed at fighting labor racketeering.

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0352

Organized labor's refusal to ally with the government against organized criminal elements in the labor movement is incomprehensible to law enforcement officials who view themselves as labor's liberators. However, the labor movement's suspicion and distrust of local, state, and federal governments has a long history. During labor's formative years, the government, acting through law enforcement agencies, often helped employers break strikes and punish strikers. In the late nineteenth and early twentieth centuries, labor activists were often arrested and prosecuted, frequently for conspiracy. Distrust was exacerbated in the 1920s and 1930s when the government ruthlessly suppressed leftist elements in the labor movement. Labor's suspicion of government was confirmed by the Taft-Hartley Act (1947), which, among other things, prohibited jurisdictional strikes (interunion disputes over which union has jurisdiction over a particular kind of work) and secondary boycotts (boycott of one company to force another company to recognize a union); outlawed the closed shop; permitted the union shop only on a vote of a majority of the employees; and removed all protections of wildcat strikes (unauthorized work stoppage when labor agreement is still in effect). A decade later, organized labor's distrust of the government was reaffirmed with the passing of the Landrum-Griffin Act (1959), which labor leaders regarded as undermining their ability to maintain discipline in their organizations. When President Ronald Reagan fired striking air traffic controllers in 1981, many labor officials saw another manifestation of a century-long government hostility toward organized labor. Likewise, they regarded DOJ's civil RICO suits against racketeer-ridden unions as more of the same.

SAMUEL GOMPERS (1886–1924)

Samuel Gompers and others founded the American Federation of Labor in 1886.* Gompers served as president from 1886 to 1924. In the name of a strong labor movement, he turned a blind eye to labor's reliance on gangsters to battle against strike-breaking thugs recruited by

* The American labor movement, of course, began much earlier in the nineteenth century. Indeed, it has roots in the eighteenth century. See, e.g., Howard Zinn, *A People's History of the United States* (New York: Harper & Row, 1980).

0353

antilabor employers.[1] He was unwilling to criticize the gangsters' infiltration of numerous unions.[2]

Gompers was friendly with "Umbrella" Mike Boyle,[3] boss of Local 134 of the International Brotherhood of Electrical Workers in Chicago. Boyle's nickname referred to the umbrella he hung on a bar counter into which contractors seeking favors (that is, to avoid being held to the terms of their union agreements) could deposit payoffs.[4] Boyle, like many early labor leaders, was also an employer. He held a financial interest in an electrical manufacturing company, which sought to dominate the Chicago market. Gompers promised that Chicago union members would not install electrical switchboards made outside Chicago. In return, Boyle helped Gompers fight off legislation that would prohibit the "closed shop," a union-favored contract clause that commits an employer to hiring only union workers.[5] In 1917, Boyle was convicted of a federal antitrust violation, fined $5,000, and sentenced to a year's imprisonment. Gompers successfully lobbied President Woodrow Wilson to commute the sentence.[6]

In order to counter the influence of the Central Federated Union, an AFL competitor, Gompers wanted to build up an AFL-affiliated New York City Building Trades Council.[7] Toward this end, he reached out to the notorious Robert Brindell, czar of the New York building trades, and gave him an AFL charter for a Dock and Pier Carpenters Union. Brindell forced the Board of Business Agents into the AFL-affiliated Building Trades Council;[8] the business agents obediently elected him president for life and made him the highest paid labor official in the United States.[9]

In 1922, the New York State legislature appointed the Lockwood Committee to investigate graft and racketeering in the building trades. When the committee announced that it would focus on Brindell, Gompers denounced the committee as "another part of the employers' effort to discredit the labor movement and shackle the unions with government control."[10] He insisted that the labor movement itself could take care of corrupt labor officials: "I think that the Legislature should not interfere in the matter at all, regrettable and bad as the condition may be."[11] Then he famously declared, "God save Labor from the courts."[12] Ultimately, Robert Brindell was sentenced to prison for a term of five to ten years for extorting labor peace payoffs from employers.[13]

During his long reign as AFL president, Gompers did little to prevent, investigate, or punish labor racketeering.[14] He was a realist. If the

0354

AFL were to expel racketeer-ridden unions, it would lose substantial dues revenue and weaken its position vis-à-vis employers and competing labor federations.[15] In addition, Gompers may have feared that an attack on labor racketeers would fail and result in his being deposed from the AFL presidency or worse.[16]

WILLIAM GREEN (1924–1952)

When Gompers died, William Green became AFL president, immediately promising to combat corruption and racketeering. At the 1930 AFL Convention, he stated, "If there is brought to my attention the racketeer moving under the garb of trade unionism and I can place my hands on him with convincing evidence, I will drive him from this movement, *if I can* (emphasis added)."[17] That situation seems never to have arisen; Green regularly asserted that he could do no more than exhort union officials to purge racketeers from their respective unions.[18] For example, in 1932 the AFL's Executive Council forwarded to P. J. Morrin, president of the International Iron Workers' Union (IIWU), an accusation that the IIWU's New Jersey representative, Thomas Brandle, had accepted a $10,000 ($135,000 in 2003 dollars) bribe from an employer association.[19] Green asked Morrin to take action "to safeguard the integrity, the good name and standing of your own International Union, as well as the organized labor movement."[20] When Morrin did not act, Green reemphasized that "you have the power to deal with this case of Brother Brandle to which I am calling your attention, and neither the [AFL] Executive Council nor any other International Union has any authority to do so."[21] Nevertheless, Morrin actually ordered Local 45 not to oust Brandle. The AFL took no action for more than a year. Finally, Morrin did expel Brandle from the union.[22]

In 1935, when Special Prosecutor Thomas E. Dewey began his investigation of racketeering in New York City, Green appointed a committee to "assist" Dewey.[23] But the chief function of the committee as described by Green was "to explain to Mr. Dewey that these [labor racketeering] charges were actuated by spite."[24]

David Dubinsky, president of the International Ladies' Garment Workers' Union (ILGWU) (1932 to 1966), went to the 1940 AFL convention intent on strengthening the AFL's authority to deal with racketeering in its affiliated unions. Dubinsky proposed giving the AFL's Execu-

0355

tive Council summary power to order a union affiliate to expel any officer or officers convicted of an offense involving moral turpitude or of using an official position for personal gain. Moreover, the resolution called for national and international unions to adopt rules and procedures to punish corrupt officers.[25]

The AFL's Resolutions Committee opposed Dubinsky's proposal on the ground that the AFL "is a federation of self-governing national and international unions who have been guaranteed their right to self-government, which includes their election and selection of officers and control over their conduct." Green challenged the ILGWU leaders and other critics to "show any racketeering in the American Federation of Labor."[26] He declared:

> Our national and international unions are autonomous bodies, chartered by the American Federation of Labor, governed by their own laws and administered by the officers of said organizations. . . . We have never assumed and never will assume dictatorial policies toward national and international unions affiliated with the American Federation of Labor, but with all the power we possess we appeal to the membership of every International Union affiliated with the American Federation of Labor to keep the American labor movement clean, maintain it on a high plane, and if there is any attempt on the part of wrongdoers to seek to secure control of their movement, to deal with them vigorously at once.[27]

The AFL convention passed a watered-down resolution authorizing its Executive Council, when it believed that an international union was not fulfilling its responsibility, to act against corrupt officers, and to "apply all of its influence to secure such action as will correct the situation."[28]

In 1942, the Executive Council had an excellent opportunity to act. Three hundred members of Painters Local 102 complained to President Green that the International Painters Union had refused to remove a business agent who was a convicted bribe taker connected to organized crime. Green urged Painters Union President Lawrence P. Lindelhoff to take action.[29] When Lindelhoff failed to act, the Executive Council assigned AFL Vice-President Matthew Woll to investigate. Despite the guilty jury verdict, Woll reported that he was unable to determine whether the business agent was guilty. Moreover, he emphasized that the AFL did not have authority to intervene in internal union affairs:

0356

"The Federation has no compulsory or disciplinary power. The power delegated to it is that of the use of its influence." Therefore, he suggested that the aggrieved painters take their charges to the Painters' international convention. The AFL Executive Council left final consideration of the matter to Green, who took no further action.[30]

CONGRESS OF INDUSTRIAL ORGANIZATIONS (1938–1955)

In 1938, five international unions broke away from the AFL to found the Congress of Industrial Organizations (CIO), a rival labor federation dedicated to aggressively organizing unskilled workers in the mass-production industries. The CIO was led by John L. Lewis, head of the United Mine Workers of America (UMWA); Sidney Hillman, leader of the Amalgamated Clothing Workers; David Dubinsky of the International Ladies' Garment Workers' Union; and leaders of the Textile Workers and the Typographers unions. The CIO grew rapidly and had almost 2.5 million members by 1940.

Because members of CIO unions worked in factories and mines, they were less vulnerable to intimidation than the geographically scattered craft unionists, who worked in small groups. Furthermore, the companies organized by CIO unions were much larger than the characteristically small AFL employers and far more difficult to intimidate. These gigantic corporations could also control or temper competition (by explicit or implicit agreements with one another) without the need for organized crime bosses to set up and police cartels. CIO trade unionism was more ideological (left wing) than the AFL's business unionism.* Indeed, the AFL sometimes excoriated the CIO for being a tool of the Communist Party.[31] In return, the CIO branded the AFL racketeer ridden.

John L. Lewis, longtime president of the United Mine Workers, was the first president of the CIO. He had immense power and prestige, as did his successor, Walter Reuther of the United Auto Workers. Among early and midcentury labor leaders, Reuther stands out for his vigorous stand against corruption and racketeering. For example, in 1954, when

* Business unionism is the trade-union philosophy and activity that concentrates on the improvement of wages, hours, working conditions, and so on, rather than on reform of the capitalist system.

0357

the New York Insurance Board disclosed welfare fund irregularities among some local affiliates of the Retail, Wholesale and Department Store Union (RWDSU), Reuther wrote to Max Greenberg, the president of the RWDSU, that he expected those involved to be disciplined. Greenberg later reported that three locals had been placed under trusteeship, and one had been expelled.[32] At the 1954 CIO convention, Reuther announced, "The CIO does not recognize any autonomous right of crooks and racketeers to use the good name of the CIO as a cloak for their corruption."[33] The convention approved the creation of the CIO Standing Committee on Ethical Practices to investigate cases of corruption and to recommend corrective action when necessary.

GEORGE MEANY (AFL PRESIDENT 1952–1955; AFL-CIO PRESIDENT 1955–1979)

When George Meany became AFL president in 1952, he hoped for a merger with the CIO. However, the CIO's critical attitude toward organized crime's influence in AFL-affiliated unions was a serious obstacle. Meany seized upon racketeering scandals in the International Longshoremen's Association (ILA) to demonstrate that the AFL was ready to act decisively against labor racketeering.*[34] He wrote, "The Executive Council has the power now to apply all of its influence in order to correct a situation such as the press reports indicate exists in the New York waterfront." While insisting that the AFL is not a "police force," Meany affirmed the labor federation's responsibility "to see that unions protect their members and, if they do not, that the AFL ought to tell the corrupted union that it is not protecting its members and [that] we would like to have them let us know within a reasonable time what they have done about it." The Executive Council appointed three vice-presidents to study the problem. The result was a February 3, 1953, Executive Council letter to the ILA stating, "No affiliate of the American Fed-

* Under the leadership of Harry Bridges (1901–1990), the West Coast ILA had broken away from the international union in 1940 and become the International Longshoremen's and Warehousemen's Union (ILWU), a militant and progressive union affiliated with the CIO. A book-length biography of Bridges has yet to appear, but there is much information about him in encyclopedias and general labor histories. See also the Harry Bridges Center for Labor Studies at http://depts.washington.edu/pcls/complaborhist.htm.

0358

eration of Labor has any right to expect to remain an affiliate, on the grounds of organizational autonomy, if its conduct is such as to bring the entire movement into disrepute."[35] The AFL urged the ILA to remove any person with a criminal record from office; reform "shape-up" hiring (in which union officials choose the day's workers from among casual laborers who turned up at the piers); restore democratic processes within the union; and remove officers tainted by corruption.[36]

When he failed to receive a satisfactory reply, Meany advised the ILA that the Executive Council would recommend the union's suspension from the AFL. Indeed, the AFL's 1953 convention voted 79,079 to 736 to expel the ILA and chartered a competing union, the International Brotherhood of Longshoremen (IBL). However, in a blow to reformers, the longshoremen voted to continue being represented by the ILA.[37] The defeat demonstrates what has been proved time and again in efforts to clean up racketeer-ridden unions: labor racketeers have enormous staying power, and even when put to the test, usually win elections on account of intimidation, election fraud, and charisma.

THE MERGED AFL-CIO AND THE ETHICAL PRACTICES CODES

When talks about a merger between the AFL and CIO began, AFL officials complained about communist influence in CIO affiliates; CIO officials expressed concern about racketeer influence in AFL affiliates. The merger moved forward when both sets of leaders agreed that there would be no place for either communists or racketeers in the house of labor. In 1955, AFL President George Meany became the merged AFL-CIO's first president, a position he would hold until 1979.

The AFL-CIO constitution[38] authorized an Executive Council to appoint a committee to investigate charges that a union affiliate was dominated by corrupt influences and, if confirmed, to make recommendations for remediating the situation. The AFL-CIO's first convention (1955) vested a Committee on Ethical Practices "with the duty and responsibility to assist the Executive Council in carrying out the constitutional determination of the Federation to keep the Federation free from any taint of corruption . . . in accordance with the provisions of the constitution."[39] In June 1956, the Executive Council authorized the Ethical Practices Committee to conduct hearings into corrupt practices and

0359

to formulate a set of principles to keep the federation and its affiliates free from corruption and racketeering.[40] The promulgation of these ethical practice codes was the high-water mark of the American labor movement's response to corruption and racketeering.

The Ethical Practices Committee formulated six ethical practice codes. Code #1 stated, "A charter should never be issued to persons who are known to traffic in local union charters for illicit or improper purposes." Code #2 prohibited any salaried union official from receiving additional remuneration from health, welfare, or retirement funds. It also mandated regular auditing of union financial records. The union had a responsibility to remove a fund administrator who received an unethical payment. Code #3 stated, "No person should hold or retain office . . . who has been convicted of any crime involving moral turpitude offensive to trade union morality." Code #4 prohibited union officials from maintaining investments or business interest that posed a conflict of interest. Code #5 called for proper financial practices. Code #6 required democratic elections and the protection of union members' rights.[41] While remaining on the books, by the early 1960s these codes were defunct.

GEORGE MEANY AND THE MCCLELLAN COMMITTEE

The 1957–1959 McClellan Committee's hearings exposed serious corruption in five unions: the Bakery and Confectionery Workers, the Allied Trades Union, the International Union of Operating Engineers, the United Textile Workers Union, and most importantly, the International Brotherhood of Teamsters.[42] Dozens of labor officials, most notably IBT President Dave Beck, refused to answer questions.* IBT Vice-President (and soon thereafter president) Jimmy Hoffa refused to answer some questions and was evasive and combative in his answers to others. The senators insisted that the AFL-CIO had a responsibility to act.[43]

* Beck became IBT general president in 1952. Called before the McClellan Committee in March 1957, he took the Fifth Amendment sixty-five times when questioned about an interest free loan of between $300,000 and $400,000 (or, according to the committee chair, a misappropriation of more $320,000 of union funds). State and federal officials indicted Beck on corruption and tax charges. He did not seek reelection. Jimmy Hoffa succeeded Beck as general president in 1957.

0360

Early in 1957, the Executive Council proposed as a formal policy that "all officials of the AFL-CIO and its affiliates should freely and without reservation answer all relevant questions asked by proper law enforcement agencies, legislative committees and other public bodies seeking fairly and objectively to keep the labor movement free from corruption."[44] IBT President Beck criticized this statement for infringing on member unions' autonomy. Meany replied, "If the AFL-CIO follows the proposal of your organization and equivocates on this question, we will get legislation that will hurt every one of our members and hurt every one of our unions. . . . We will be under Government control."[45] The proposed statement passed with only Beck dissenting.

Meany told the McClellan Committee that only "very, very small portions of the trade union movement are burdened by corruption." Hoping to stave off federal legislation, he promised to take action.[46] "I don't think that we should be a law enforcement agency, but I think that we have a right and a duty and an obligation to our people to try to run unions just as clean as they can be run. And run them for the benefit of members and not for the benefit of George Meany or anybody else."[47] Meany put action behind his words by removing Beck from the AFL-CIO Executive Council on account of Beck's refusal to answer both the McClellan Committee's questions and the Executive Committee's questions.[48]

ENFORCEMENT OF THE ETHICAL PRACTICES CODE: UNITED TEXTILE WORKERS

Even before the McClellan Committee hearings commenced, Meany had begun an investigation of the United Textile Workers of America (UTWA). When the UTWA sought an AFL-CIO loan, Meany asked to see the union's financial records. He received what appeared to be falsified documents. In response to AFL-CIO queries, the UTWA Executive Board promptly cleared its officials of wrongdoing. Meany explained to the McClellan Committee:

> [I]t disturbed me a great deal—maybe I was naive—because I thought all that was necessary was to acquaint the ruling [International Union] body [with the fact] that money was being used in a loose fashion. . . . Apparently, I was too optimistic about that.[49]

0361

The AFL-CIO Committee on Ethical Practices held its own hearing, found that UTWA officers had altered financial reports to cover up misuse of funds, and ordered the UTWA to eliminate various abuses and to dismiss three union officers.[50]

On December 4, 1957, the AFL-CIO Executive Council suspended the UTWA from the labor federation. That action caused the UTWA Executive Board to agree to the AFL-CIO's original terms. At a special convention in March 1958, it elected a new president and passed several reforms. Still not satisfied, Meany demanded the removal of a vice-president and the continuation of the union's probationary status. The union complied and remained on AFL-CIO probation until February 16, 1960.[51]

BAKERY AND CONFECTIONERY WORKERS UNION

The AFL-CIO Ethical Practices Committee also took action against the Bakery and Confectionery Workers Union (Bakers). Treasurer Curtis Sims brought charges against President James G. Cross and Vice-President George Stuart for the misuse of union funds. After clearing the two men of charges, the Bakers' Executive Board brought charges against Sims for injuring the union's reputation and suspended Sims from office. The McClellan Committee and the AFL-CIO Ethical Practices Committee both decided to investigate.[52]

The Ethical Practices Committee, finding that the Bakers were not in compliance with the AFL-CIO's constitutional standards, ordered the union to correct the abuses and to remove the guilty parties from office. The Bakers refused to expel Cross or to reinstate Sims. On November 5, 1957, Meany announced that the AFL-CIO had suspended the Bakers from membership.[53]

A month later, the Appeals Committee of the AFL-CIO convention recommended that the Bakers be expelled unless the union fully complied with the AFL-CIO's requirements. When the union failed to comply, it was expelled and a new union chartered. In January 1961, Cross resigned in exchange for $250,000 severance pay and the union's commitment to pay his future litigation expenses. Later, Cross, Jack Olson, and four vice-presidents of the old union were convicted of embezzling union funds. With Cross out of the picture, the old and new unions negotiated a merger.[54]

0362

DISTILLERY WORKERS

In June 1956, the AFL-CIO Ethical Practices Committee turned its attention to the Distillery Workers Union (Distillery Workers). Sol Cilento, executive vice-president in charge of New York City Local 2 had been indicted on bribery and conspiracy charges related to the union's welfare fund. His codefendants were former Building Service Employees president and mob-associate George Scalise and his LCN-sponsor, Anthony Pisano, once a member of Al Capone's organization.[55] The government alleged that the three men had received kickbacks on fund loans totaling more than $300,000 (about $2 million in 2003 dollars) over a two-year period. The three were acquitted, but a fourth codefendant was sentenced to prison.[56] When the Distillery Workers refused to cooperate with the Senate Subcommittee on Welfare and Pension Funds' investigation, the Executive Council directed the union to show cause why it should not be suspended from the federation.[57] The union denied the need for reform. The Executive Council decided to suspend the union unless it accepted one year's probationary status and the appointment of a monitor to supervise its affairs. Its back against the wall, the Distillery Workers accepted probation and a monitor. In January 1961, the AFL-CIO dissolved its monitorship and terminated the probationary status.[58]

UAW-AFL JOHN DIOGUARDI

John Dioguardi, a capo in the Lucchese crime family and notorious labor racketeer, was appointed president of the United Auto Workers Union (UAW-AFL) Local 102 in New York at the 1951 convention despite never having been employed in industries whose workers were represented by that union.* A year later, the New York City Crime Commission and Manhattan District Attorney Frank Hogan accused Locals 102 and 227 of various wrongdoings. (Dioguardi was associated with both locals, though he held office in only Local 102.) In February 1953,

* The UAW-AFL should not be confused with the United Automobile Workers (of Walter and Victor Reuther), which descends from the AUW-CIO. When the AFL and CIO merged in 1957, the UAW-CIO took the name UAW; the UAW-AFL was renamed the Allied Industrial Workers (AIW).

0363

the AFL Executive Council ordered the international union to revoke Local 102's charter or face suspension. The UAW-AFL complied by dissolving Local 102.[59]

The Manhattan District Attorney's office convicted Dioguardi on state tax evasion charges, but he returned to union politics over UAW-AFL President Lester Washburn's opposition. In April 1954, Washburn expelled Dioguardi from the union and lifted the charters of six Dioguardi-dominated locals. Incredibly, the UAW-AFL's Executive Board overruled Washburn, cleared Dioguardi of wrongdoing,[60] and reinstated him. Washburn resigned in protest.

Eventually Dioguardi also resigned, but that did not end the union's troubles. In 1955, a Senate subcommittee investigated Chicago UAW-AFL Local 286, which was dominated by Angelo Incisco, a notorious organized crime figure. The UAW-AFL revoked the local's charter on February 1, 1956, but rescinded its action the following day. The board then allowed Incisco to disaffiliate the local from the union (that is, to turn the local into an "independent union"), and taking one-fifth of the entire international union's assets.[61]

On August 27, 1956, the AFL-CIO Committee on Ethical Practices declared that the Allied Industrial Workers of America ("AIW," the UAW-AFL's new name) "may be dominated, controlled, or substantially influenced in the conduct of its affairs by corrupt influences in violation of the Constitution of the AFL-CIO."[62] The Executive Council gave the AIW the choice of accepting a monitorship and eliminating "corrupt influences" within ninety days or be expelled. The union complied, tossing four New York locals out of the union. A special convention replaced the international president. In October of 1957, the Executive Council lifted the AIW's probationary status and the monitorship ended a few months later.*[63]

INTERNATIONAL BROTHERHOOD OF TEAMSTERS

David Beck's conduct at the McClellan Committee hearings prompted the AFL-CIO Executive Council to suspend Beck from the Council and to order an investigation of the IBT.[64] The AFL-CIO Ethical Practices

* In 1993, the AIW merged with the UPIU (United Paperworkers International Union).

0364

Committee reported to President Meany that Beck and Vice-Presidents Brewster and Hoffa had misused union resources and union pension funds for personal purposes; used their official positions for personal profit and advantage; engaged in improper activities relating to health and welfare funds; engaged in extortion and bribery; failed to abide by the AFL-CIO policy against refusing to cooperate with congressional committees; failed to ensure that racketeers were not granted union charters; and that Hoffa had associated with known racketeers, including Johnny Dioguardi.[65] The AFL-CIO Executive Council ordered the IBT to report on its effort to eliminate corrupt elements by October 25, 1957.[66]

The Teamsters showed no interest in complying. Facing federal and state criminal charges, Beck chose not to seek reelection at the 1957 Teamsters convention. Jimmy Hoffa, with the support of Johnny Dioguardi and other organized crime figures, became the new general president. The AFL-CIO Executive Council suspended the IBT on October 24. The Appeals Committee rejected the IBT's appeal and recommended expulsion.[67] The 1957 AFL-CIO convention voted four to one to expel the IBT. However, the Executive Council held the door open for the Teamsters readmission if someone other than Hoffa became president. Removed from the AFL-CIO, the IBT no longer had to abide by the federation's no-raiding pact; it was free to compete with AFL-CIO affiliated unions. In the next two decades, the IBT formed locals to represent teachers, security guards, police officers, and many other workers. Consequently, the IBT became by far the largest and strongest private-sector union in the United States, with approximately two million members in 1960.

THE LANDRUM-GRIFFIN ACT

The revelations of labor racketeering brought out by the McClellan Committee's hearings made some form of federal legislation a foregone conclusion. Meany told a Congressional committee that "[u]nless certain safeguards are established, both through self-policing and legislation, the inducements and opportunities for illicit gain or improper practices will persist and there will be those who will yield to them."[68] The AFL-CIO opposed a union members' bill of rights and some other

0365

proposals but eventually supported a union financial disclosure requirement as long as the U.S. Department of Labor (DOL) would be the responsible federal agency.

John L. Lewis, president of the United Mine Workers of America (UMW) opposed *any* remedial legislation: "We find ourselves opposed to the plan for Congress to enact regulatory or punitive legislation affecting welfare funds . . . there is ample legislation on the statute books."[69] He explained that the UMW opposed any governmental encroachment into the affairs of labor organizations and sharply criticized Meany: "I am completely impatient with the attitude of the present leaders of American labor who are, in effect, at the present time saying to the Federal Congress, 'Please, gentlemen of the Congress, hurry up and enact a statute that will compel leaders to be honest and stop us from thieving from our membership.'"[70]

The Senate ultimately passed the Kennedy-Ives bill, requiring registration of pension and welfare plans with the secretary of labor; detailed reporting of receipts and expenditures; and public disclosure. In addition, the bill provided criminal penalties for failure to file, false filing, and embezzlement.[71] The bill passed the Senate, but failed in the House of Representatives. The AFL-CIO announced that the "failure of Congress to pass the Kennedy-Ives bill can be laid squarely on the doorstep of those who sought not an anti-corruption bill, but an anti-labor bill."[72]

In 1958, the Democrats won majorities in both houses. There seemed at that point no possibility that Congress would pass a bill less favorable to labor than the Kennedy-Ives Bill.[73] The AFL-CIO reiterated that "[w]e are determined that there be legislation which will eliminate the opportunities for corruption and at the same time preserve the traditional and legitimate functions of trade unions. In our opinion . . . S.505 (now Kennedy-Ervin Bill) meets this test."[74] During the debate, Senator McClellan introduced a "bill of rights for union members." The AFL-CIO opposed it, arguing that it would weaken responsible unions and generate nuisance litigation. Nevertheless, Congress passed this bill of rights by a one-vote margin.[75] President Dwight D. Eisenhower signed it into law.

The Landrum-Griffin Act (formally the Labor-Management Reporting and Disclosure Act, LMRDA) required unions to file with the DOL reports on income, expenditures, and salaries; it required bonding of officers and staff members; it forbade officers from having certain

0366

conflicts of interest; and it prohibited union loans of more than $2,000 to officers or members. It empowered the secretary of labor to seek judicial relief if union members' rights were denied or their benefit funds misused. The law made embezzling union funds a federal offense.[76]

The AFL-CIO denounced passage of the Landrum-Griffin Act, which provided the legal foundation for union democracy, with the following formal statement: "This measure was designed to destroy organized labor, but we will not be destroyed. . . . Our cause is just and we continue to move forwards. . . ."[77] A year later, the AFL-CIO excoriated the law as "the worst legislative blow suffered by the labor movement since enactment of the Taft-Hartley Act in 1947."[78]

POST–LANDRUM-GRIFFIN DEVELOPMENTS

In 1959, the ILA appealed to the AFL-CIO for readmission. The AFL-CIO agreed on condition that the ILA submit to any order issued by President Meany, provide whatever reports the federation might require, and permit Meany to attend ILA Executive Council meetings. The ILA also agreed that the AFL-CIO could impose any discipline it deemed appropriate.[79]

In 1960, a New York–New Jersey Waterfront Commission report concluded that the elimination of the "criminal domination and control (on the waterfront) . . . has not been fully accomplished."[80] The commission proposed that (1) former convicts, already barred from holding union office, be made ineligible to hold any position in a union pension and welfare fund; (2) additional misdemeanors be added to the list of offenses that bar individuals from working on the docks; (3) required registration of longshoremen with the Waterfront Commission and prohibition from interfering "with the duties of licensed or registered personnel without justification in law."[81] The ILA, strongly opposing all these proposals, unsuccessfully sought an AFL-CIO resolution condemning the Waterfront Commission and urging Congress to repeal the act. However, the AFL-CIO's 1963 convention did give the ILA part of what it wanted by opposing pending federal legislation that would have *expanded* the Waterfront Commission's powers. In the end, Congress did not expand the commission's powers.[82]

Following the passage of the Landrum-Griffin Act, President Meany took no further initiatives against labor racketeering. By the

0367

early 1960s, the Ethical Practices Committee was dormant. The AFL-CIO ignored several questionable situations. For example, in 1963, Maurice Hutcheson, president of the powerful Carpenters Union, was convicted of bribing an Indiana official to obtain advance information on highway routes.[83] Although the conviction was later reversed on appeal, Hutcheson was convicted of contempt of Congress and sentenced to six months in jail for refusing to answer committee questions. President Meany called Hutcheson a "man of character . . . an able, devoted and conscientious representative of the American trade union movement."[84]

A more disturbing example of Meany's indifference to labor corruption surrounded the power struggle in the United Mine Workers in the late 1960s. In 1969, Jock Yablonski, leader of an insurgent movement, sought to unseat President Tony Boyle (1963–1972). Although there was no organized crime labor racketeering in the UMW, Boyle ruled the union like a ruthless dictator.[85] The election campaign was marked by threats and violence. When Boyle won the election, Yablonski charged election fraud and sought to have the result overturned. Shortly thereafter, he, his wife, and daughter were murdered. Yablonski's campaign manager asked Meany to allow Yablonski's followers to state their complaints about Boyle to the AFL-CIO Executive Council so that labor might "clean its own house without Senate or Administrative inference."[86] Meany rejected the request on the ground that "the AFL-CIO traditionally refrains from intervening in the internal affairs of its own affiliates, let alone outside organizations. Incredibly, Meany asserted that government or AFL-CIO initiatives to attack labor corruption or racketeering would violate a union's "democratic structure."[87] In 1974, Boyle was convicted of first degree murder for having hired Yablonski's assassins.

LANE KIRKLAND (1979–1995)

If Meany's approach to combating labor corruption was passive, that of his successor, Lane Kirkland, was virtually nonexistent. In 1979, at the height of LCN's influence in the IBT, the AFL-CIO invited the Teamsters back into the labor federation. Kirkland argued that the Landrum-Griffin Act, by assigning the job of policing the unions to the federal government and its agencies, relieved the AFL-CIO of responsibility for

0368

addressing corruption and racketeering in its member unions.[88] Said Kirkland, "All sinners belong in the church. All citizens owe fealty to their country, and all true unions belong in the AFL-CIO."[89]

In the late 1980s, the Department of Justice was rumored to be preparing an unprecedented civil RICO suit against the Teamsters general president, general executive board, and the heads of several Cosa Nostra crime families. The Teamsters wanted to rejoin the AFL-CIO. Reconciliation promised benefits for both sides. The Teamsters would increase the AFL-CIO's membership by 15 percent, thereby enhancing the federation's finances and political clout. Moreover, as an AFL-CIO affiliate, the IBT would be bound by the federation's noncompete rule, that is, not competing to decertify other AFL-CIO unions.[90] The IBT hoped that, with AFL-CIO support, it could derail the DOJ's civil RICO lawsuit, perhaps with federal legislation outlawing court-imposed RICO trusteeships.[91]

During the 1980s, the federal government again conducted hearings into labor racketeering and considered Landrum-Griffin reforms.* In 1981, Senator Sam Nunn (D.-Ga.), chairman of the Senate Permanent Subcommittee on Investigations when the Democrats controlled the Senate, introduced legislation: (1) providing for the automatic suspension of union officers found guilty of wrongdoing (instead of waiting for the resolution of a final appeal), and (2) making it a felony for an employer to pay a bribe of $1,000 or more to a union representative.[92] The AFL-CIO supported this proposed legislation except for the automatic ten-year suspension period. Kirkland explained, "Both reason and human feeling support the view that there are situations in which a 10 year disqualification is too severe."[93] Kirkland argued that corruption is an individual, not an institutional, problem and insisted that the AFL-CIO lacked power and authority to attack racketeering in its affiliated unions. "As spokesman for organized labor the AFL-CIO asks for that [federal governmental] protection, emphasizes that the trade union movement sees such protection as a benefit, and pledges its cooperation in a joint endeavor with the Federal Government to maintain the hard-earned honor of our institutions."[94]

Kirkland told the senators that the AFL-CIO's codes of ethics were

* According to Eleanor Hill, chief counsel for the Democrats on the Permanent Subcommittee on Investigations, mainstream labor was not supportive of Senator Nunn's hearings. Personal interview by author.

0369

not being actively enforced because the Landrum-Griffin Act usurped the federation's ability to act against racketeering and that conflicts would arise if two investigative/enforcement procedures (one by the AFL and one by federal agencies) operated simultaneously. Since the government had superior fact-finding tools, it should bear the responsibility for rooting out wrongdoing. Moreover, the AFL-CIO had only the drastic power of expulsion to use in corruption and racketeering cases. "It is as though you only had capital punishment as a punishment for every rank of crime."[95] Apparently, Kirkland was not aware of or rejected the probation and monitoring that the AFL-CIO had used in the mid 1950s and did not consider use of fines.

Senator Warren Rudman (R.-N.H.) expressed the frustration caused by union officers' repeated invocations of the Fifth Amendment at congressional hearings. He asked whether the AFL-CIO's policy of disciplining members who refused to answer questions put by congressional committees still applied. Kirkland called it "an intricate question," backing away from the AFL-CIO's McClellan Committee–era position. It seemed clear that the AFL-CIO would no longer punish union officials who refused to testify at congressional hearings.[96]

The AFL-CIO supported a 1984 amendment to the Landrum-Griffin Act, which required union officers to relinquish their offices immediately upon conviction rather than months or years later when appeals had been exhausted. However, the IBT opposed even that law on the ground that while it barred convicted union officials from all union offices, it did not prohibit a convicted corporate official from holding a corporate position in a unit other than labor relations.[97]

A 1985 book by labor lawyers David Elbaor and Laurence Gold denied the existence of any organized crime problem in the labor movement.

> Today's anti-labor campaign, the intent of which is to associate unions with organized crime, corruption, and unsavory practices, is the lineal descendant of earlier efforts to tar the labor movement with simplistic yet sensational identifications between union action and Bolshevism, Communism, and other "un-American" thoughts.[98]

Elbaor and Gold criticized the Department of Labor for departing from its historic mission to protect workers and for participating in criminal investigations against union officials. According to the au-

0370

thors: (1) nearly all union-related crimes are isolated offenses by individuals; (2) DOJ only prosecutes theft of such small sums when the defendant is a union officer; (3) federal prosecutors seek to establish new theories of labor crimes by criminalizing traditional union activities; and (4) the government has abandoned civil and criminal enforcement of managements' reporting and disclosure requirements.[99] They concluded that "[t]he government's campaign, by perpetuating the myth of union corruption with stepped-up and highly publicized prosecutions, maligns labor's reputation and thereby threatens its future."[100]

AFL-CIO'S OPPOSITION TO RICO TRUSTEESHIPS

In 1987, the AFL-CIO Executive Council issued a statement opposing the rumored DOJ civil RICO suit against the IBT. "If the Justice Department brings suit seeking supervision over an international union, the AFL-CIO will do whatever is useful and productive in the legal circumstances to prevent such supervision."[101] However, the Executive Council added: "We support full and vigorous law enforcement aimed at the racketeers and the sharpsters who seek to prey on our movement; the government has an obligation to trade unions and their members to provide such enforcement."[102]

In order to mobilize support against the civil RICO suit, the AFL-CIO established an organization called Americans against Government Control of Unions (AAGCU). The AAGCU launched a public relations campaign that called the rumored suit a Reagan administration conspiracy to crush organized labor. One of its promotional statements equated "the possible [DOJ] lawsuit to the suppression of free trade unions in Poland, the Soviet Union and Nazi Germany."[103] According to the AAGCU, "the Justice Department's proposal for a government takeover of any union in this country conflicts with the basic American concept of free trade unionism and violates the 1st Amendment guarantees of free speech and association."[104]

President Kirkland publicly stated that there was "no justification whatsoever" for the Justice Department to seek to have the Teamsters put under a court-ordered trusteeship "simply because the leadership is influenced by organized crime." He said, "organized crime influence is not a "problem of any significance at this time,"[105] and that a trustee-

0371

ship is not "the proper relationship between a government and a private institution in a free society."[106]

Calling court-imposed union trusteeships contrary to the spirit of free trade unionism,[107] Kirkland warned that a civil RICO suit against the Teamsters would be a "clear abuse of the government's prosecutorial power." He insisted that the Department of Justice should prosecute those who violate the law, but not seek sanctions against unions themselves. The AFL-CIO issued a statement declaring, "In a democratic society, labor unions must be controlled by their members, not by the government."[108] With AFL-CIO and IBT prodding, 246 House and Senate members delivered a letter to the DOJ urging that no civil RICO suit be brought against the IBT.[109]

The AFL-CIO criticism of and lobbying against the DOJ suit continued even after the lawsuit was filed and settled. Kirkland described Judge David Edelstein's decisions enforcing the settlement, as "the latest in a string of orders directed at maximizing the government's control over the Teamsters" and reasserted that "this kind of judicial interference with the right of union members to self-government and with the right of unions to their autonomy is excessive and unreasonable."[110]

In 1989, President Kirkland testified before the Senate Permanent Subcommittee on Investigations that the use of trusteeships violated union members' constitutional right of association: "Government control of a private association is thus fundamentally illegitimate in that the officials who exercise control are not drawn from, are not selected by, and are not responsible to the association members."[111] In Kirkland's opinion, corruption is an attribute of individuals, not organizations, and is properly dealt with by prosecuting racketeers rather than imposing expensive trusteeships that deny the membership control of its union.[112] Kirkland stated that civil RICO suits should be brought against unions only if, despite successful criminal prosecutions, there is a clear and present danger of ongoing criminality. In addition, even if RICO suits are necessary, trusteeships are not; DOL and DOJ, according to Kirkland, could deal with union members suspected of having ties to organized crime without resorting to unions trusteeships.[113] Likewise, labor lawyer Laurence Gold pointed out, there are other less intrusive equitable remedies, such as government oversight of elections, government scrutiny of expenditures, and injunctive relief against individual wrongdoers.[114]

0372

The IBT and the AFL-CIO proposed amending RICO to (1) preclude the "wholesale removal of a union's elected officers and their replacement, for an indefinite period, by a court appointed trustee"; (2) to make it clear "that such a trusteeship, in any form, not be imposed unless and until there has been a full and final evidentiary hearing and the government has demonstrated, by clear and convincing evidence, that the interests of union members cannot be protected by any less intrusive means"; and (3) "that RICO be clarified so that no union is precluded from using its resources to hire legal counsel to defend itself or its officers."[115]

The Senate Permanent Subcommittee on Investigations took the AFL-CIO's criticisms seriously. Its 1990 report recommended that RICO trusteeships in labor cases "only [be imposed] in the most extreme circumstances" and called on the Justice Department to seek alternative remedies. Noting the AFL-CIO's opposition to RICO trusteeships, the subcommittee report called on the attorney general to issue guidelines limiting the circumstances under which DOJ would seek to have RICO trusteeships imposed on labor unions. The report recommended that a liaison be established between law enforcement agencies and the AFL-CIO to enhance cooperation.[116] These proposals were not implemented, although it has become DOJ policy to allow unions an opportunity to see and comment on RICO complaints before they are filed.

In 1996, the AFL-CIO opposed the plan of the House of Representatives Subcommittee on Human Resources and Intergovernmental Relations to hold hearings on the DOL's response to labor racketeering cases. The AFL-CIO's legislative director stated, "All they've dragged up are old news reports. They will look foolish if they try to have hearings."[117] When the hearings were officially announced in July, the AFL-CIO charged the Republican leadership with using the hearings as "an organized smear campaign against union leaders" to divert attention away from the Republicans' own agenda.[118] AFL-CIO President John Sweeney (1995–) charged that the hearings were being held to retaliate for the federation's $34 million ad campaign against Republican legislative initiatives.[119]

The AFL-CIO attacked the House Judiciary Subcommittee on Crime's 1996 hearings on the 1994 consent agreement settling DOJ's civil RICO suit against LIUNA[120] as a waste of taxpayer money and an abuse of congressional power.[121] Its press release defended LIUNA

0373

president, Arthur E. Coia, calling him a leader in "cleaning up corruption wherever he could find it. Coia and the Laborers union should be applauded for their bold actions to crack down on the last vestiges of mob control in their union—not witch-hunted because of past problems and their current opposition to [House Speaker Rep. Newt] Gingrich's attacks on working families."[122] (Subsequently, the former prosecutors hired to reform LIUNA charged Coia with having ties to organized crime; Coia was forced out of office after being convicted of corruption in federal court in Rhode Island.)

AFL-CIO officials continue to reject government antilabor racketeering initiatives as a figment of the prosecutorial imagination or a sinister plot to destroy the labor movement. The AFL-CIO's general counsel, Jon Hiatt, pointed out that the government seeks to impose RICO trusteeships on labor unions, but not on corporations, despite rampant corruption in the latter.[123] Laurence Gold expressed a similar position: "I question whether comparable cases are being brought against people in other walks of life."[124] On December 6, 2001, an AFL-CIO resolution demanded termination of the Independent Review Board, established to enforce the settlement in the IBT international case.[125]

> The goals of the Teamsters consent decree have now been secured. No legitimate reason remains to justify continued government intervention in that organization. It is time for the consent decree to end and the Teamsters Union returned to the full democratic control of its members.[126]

In early 2002, the AFL-CIO criticized the proposed fiscal year 2003 DOL budget for providing a $3.9 million increase for the Office of Labor-Management Standards (OLMS), which had requested $3.4 million and forty additional staff positions for "enhanced enforcement and outreach assistance activities to ensure compliance" with the LMRDA.[127] The OMLS's ambition was to audit at least 1 percent of labor organizations each year and to increase the transparency of union finances by, among other things, requiring that LMRDA reports be made available to the public. The AFL-CIO questioned the increase in the OLMS budget for investigations into unions while cutting programs "that directly enforce workers' job-based rights and protections." It also criticized as unnecessary the proposed 9 percent budget increase and twenty-five new employees for the DOL's Office of Inspector General.[128]

0374

CONCLUSION

Over the course of the twentieth century, with a few significant exceptions, the leaders of the U.S. labor movement have accommodated rather than opposed labor racketeers. To be sure, a few labor leaders, like David Dubinsky, Walter Reuther, Harry Bridges, and George Meany, denounced organized crime's presence and influence in the labor movement as a serious problem. However, except in the 1950s, most labor leaders accepted organized crime as a fact of life and/or believed that an all-out effort to purge racketeers from the labor movement would be disastrous for labor. And some AFL-CIO positions, like denunciation of Landrum-Griffin and DOJ's civil RICO suit against the IBT, were hostile to anti–labor racketeering efforts.

In truth, there was probably not much that honest labor leaders on their own could do about organized crime. Entrenched labor racketeers backed by LCN are formidable. The AFL's failed effort in replacing the ILA with a new, honest longshoremen's union demonstrates the sagacity of Gompers's and Green's judgment that the AFL had limited options for dealing with corruption and racketeering in its constituent unions. An AFL-CIO crusade against labor racketeers might well have weakened the labor movement, certainly in the short run. But a middle position might have achieved some success. Denunciation of labor racketeers, cooperation with government enforcement agencies, and creative use of sanctions like probation and monitoring did achieve some success in the late 1950s in cases involving the Distillery Workers, the Bakery and Confectionary Workers, and perhaps one or two other unions.

0375

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Labor Racketeering and the Rank and File

> But if the 1980s were difficult for most unions, for the Teamsters they were tragic. A combination of politicians, mafia-connected union officials, and trucking employers came to dominate the highest levels of the Teamsters. Under the control of these outsiders, during the worst years of the employers' attacks on the unions in the 1980s, the Teamsters negotiated a series of sweetheart contracts. These contracts sold out the interests of union members and weakened the labor movement as a whole.
>
> —Dan La Botz, "The Fight at UPS: The Teamsters' Victory and the Future of the New Labor Movement," Solidarity pamphlet (1997), 9

> It is beyond belief that 10,000 members would sit by and watch these things done and never utter a peep, unless a substantial number of the membership were fearful for their lives or their jobs.
>
> —U.S. Second Circuit Court of Appeals, in affirming Judge Ackerman's decision in the IBT Local 560 case, 780 F.2d at 278

Rank-and-file union members are labor racketeers' primary victims. In racketeer-ridden unions, workers suffer financially when the terms of their collective bargaining contracts are not enforced, when their pension and welfare funds are defrauded, and when their dues are used to reimburse corrupt officers' personal expenses. Their personal safety is put at risk when corrupt officers refuse to press their safety-related grievances with employers, or worse, when officers turn a blind eye to unsafe conditions in exchange for bribes. The potential effectiveness of

0376

unions in negotiating contracts, enforcing contract provisions, handling grievances, organizing, running hiring halls, and handling finances is undermined when union officials are appointed on the basis of their loyalty to organized crime. The union movement is weaker to the extent that union officials are racketeers rather than committed organizers; individual unions are weaker to the extent that union official have few administrative skills and little interest in furthering the interests of the membership. The members of racketeer-ridden unions suffer on account of the wholesale violation of their rights of free speech, participation in union elections, and fair representation in grievance proceedings.

Why does the rank and file tolerate such "leadership?" The most obvious answer is that the uncoordinated many are at the mercy of the highly organized few. In the case of nation-states, repressed populations rarely are able to overthrow totalitarian dictatorships that rely on carrots and sticks, including extreme violence, to maintain their power and privilege. So too, rank-and-file union members have almost no chance of overthrowing organized crime–backed racketeers. To be sure, some union members have testified at congressional hearings, provided information to investigative journalists, campaigned as independents for union office, lodged complaints with the Department of Labor, brought lawsuits to redress their grievances, and even begun reform organizations. Tragically, scores of such individuals have ended up losing their jobs, their physical security, and even their lives. Until the federal government cleared the way by launching a war on organized crime generally and on labor racketeers specifically, rank-and-file dissidents and reformers had little hope of liberating their unions from the grip of organized crime. Even with the government's assistance, successes have been few and hard won.

THE WEAKNESS OF THE RANK AND FILE

We have already seen (Chapter 2) that it was relatively easy for a small group of organized criminals to infiltrate and take over a union comprising hundreds and thousands of members. This should not be surprising. History is replete with examples of small, tightly knit groups specializing in violence, terrorizing, and dominating disorganized collectivities.[1] Labor racketeers only need to intimidate or otherwise neu-

0377

tralize a small number of union officials and active members, not the vast majority of the rank and file that is only weakly involved in union affairs. Not only are Cosa Nostra organized crime families closely knit groups that can draw on their expertise in intimidation and violence, they have been able to count on the cooperation of corrupt employers, the passivity of the AFL-CIO, and the cooptation of politicians.

It would be a mistake to imagine labor racketeers pitted in stark opposition to the membership. The racketeers typically enjoy some support and popularity at the early stages of their infiltration, and they attract new supporters as their hold on the union tightens. Labor racketeers are adept at establishing patronage systems. This is easiest to accomplish when the union operates a hiring hall (as in the construction industry) that can be used to reward cooperation and loyalty. Those in charge of the hiring hall can dispense the choicest (best-paid; best-conditions) work assignments to their friends, allies, and supporters. The racketeers can appoint their supporters as shop stewards and business agents. In a short time, the infiltrated union's entire administrative cadre will consist of individuals loyal to the racketeers. Contrariwise, dissidents and others who oppose the dominant clique will be frozen out of lucrative work assignments and union offices. If irritating enough, they will be blacklisted and thereby driven out of the industry and out of the union. Even where there is no hiring hall (that is, where employers do all their own hiring), the racketeers can easily make a "troublesome" union member unemployable by indicating to employers that continued employment of the individual might lead to labor problems.

The threat and actual use of violence is a massive inhibitor to anyone considering running for office against the incumbent regime. The history of many unions includes beatings and murders of dissidents who challenged the dominant clique. The collective memory of many unions' rank-and-file holds stories of dissidents murdered for challenging those in power.

Even if a union member is courageous enough to run for office against a mob-connected incumbent, it is almost impossible for him/her to win. Incumbent labor racketeers have complete control over the union's communications with the rank and file. Their newsletters provide a steady diet of proincumbent propaganda. Thus, while incumbents enjoy widespread name recognition, insurgents will likely be known only to a small circle. Incumbents cannot legally use union

0378

personnel and resources for their campaigns,[2] but in practice they can count on the active support of the union's whole administrative infrastructure. When racketeers have anticipated insurgent opposition, they have passed rules outlawing campaign donations by nonunion members, further limiting the insurgents' chances.[3] They have consistently turned to red-baiting, that is, branding critics as communists or radicals.*

The rank-and-file electorate is difficult for insurgents to reach, much less mobilize. Only a small percentage of union members are highly interested and involved in union affairs; the great majority are apathetic. Most members look to their unions to negotiate collective bargaining agreements, provide grievance representation, and pay their pensions, but they do not keep up with union politics or governance.[4] Typically, less than 5 percent of eligible members turn out at regular union meetings; less than 25 percent vote in union elections. Many union members do not know who runs their union or whether those in charge are doing a good job; many may have no idea that certain officers are organized crime members, associates, or puppets. They may chafe at mediocre contracts, favoritism, and lack of accountability to the membership, but accept this reality as inevitable.

The historian David Witwer documents an unsuccessful effort by reformers in LIUNA (NYC) Local 282 to wrest control of their five thousand–member union away from an organized crime–connected clique led from the early 1970s by labor racketeer John Cody.** In 1975, a few members formed a group called FORE (Fear of Reprisal Ends). They received nationwide attention when the TV news show *60 Minutes*

* Labor journalist Dan La Botz provides this example from a mid-1980s union insurgency in a Teamster local in Long Island City, New York: "'They did something that was very unfair, calling me, branding me as a Communist,' says [Nick] Montalvo. They went to warehouses where he wasn't known, and told workers who had never met him that Montalvo was a Communist. 'That was the only type of campaign they could put up against me—and they used it, to no avail, but they used it.'" Dan La Botz, *Rank-and-File Rebellion: Teamsters for a Democratic Union* (New York: Routledge, 1990), 138.

** David Witwer points out that although the rank-and-file members did not know about all of the ways that the incumbents were exploiting the members and looting the union, they did recognize that their collective bargaining agreements were being selectively enforced and that their grievances were being ignored. "The Landrum-Griffin Act: A Case Study in the Possibilities of and Problems in Anti-Union Corruption Law," 27 *Criminal Justice Review* 301 (2002) at 312.

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presented a segment on them. They ran candidates against the Cody group in three elections before dissolving. Witwer explains:

> The FORE members cited several reasons for their successive defeats at the polls. . . . Members had come to doubt that rank-and-filers were competent to run the union effectively. Also a sense of apathy and defeatism pervaded the membership. As one FORE member put it, "they feel there is no way you can beat the incumbents and everybody is afraid. . . ." The incumbents also benefited from a sort of insiders' coalition within the local. Many members held appointed positions that brought more overtime and increased seniority . . . ; other members were notified about lucrative long-term job assignments. Both groups could be counted on to bring in their friends and relatives to vote for the incumbents. One FORE member estimated that through this kind of patronage network the incumbents could count on . . . the votes . . . of a quarter to a fifth of the total membership . . . in addition to these factors, there remained the key issue of intimidation. . . . Too many acts of intimidation occurred to be covered in the present article.

Not only do incumbent labor racketeers have practically insurmountable advantages over insurgents in union elections, they also control the election machinery. They decide where elections will be held and the method of voting; they count the ballots and report the results. There is a long and sordid history of fraud in union elections. Moreover, under the Landrum-Griffin Act, only the Department of Labor can go to court to challenge the results of a union election and the DOL may not initiate action until its investigation confirms that election fraud "probably made a difference" in the election's outcome.

Even if an insurgent somehow wins a union election, he may be foiled by lower-level union officials who remain loyal to the racketeers. At every juncture, the reformer will face overt and covert opposition and sabotage. Furthermore, a local union reformer can be thwarted by an organized crime–controlled district council or international union. There are many examples of international unions manufacturing charges of malfeasance against local union reformers, accusing them of violating the union's constitution or bylaws and punishing them with expulsion from office or from the union altogether. A racketeer-influenced international union can lodge trumped-up charges against and replace local or district council officers with a trustee who is loyal to the

0380

ruling faction. Under the Landrum-Griffin law, trusteeships imposed on locals by the international union are presumptively valid for eighteen months.[5] In reality, given the time it takes to launch a legal challenge against such a trusteeship along with the challenger's high burden of persuasion, it is practically impossible for a trusteed local or district council to overcome the eighteen-month presumption.

INDIVIDUAL DISSIDENTS: ACTS OF DEFIANCE

"Dissident" is an unfortunate term, conjuring an image of a curmudgeon who cannot get along with anybody. Nevertheless, it is an appellation that union reformers routinely and proudly use in referring to themselves and one that others have long used to describe union insurgents. If I were writing on a fresh canvas, I would prefer the term *union reformer or insurgent,* but I will defer to the prevailing nomenclature.

However they are labeled, people willing to fight hopeless battles against massively stronger opponents frequently seem obsessed by systemic injustice to which the society appears oblivious. After months and years of futilely seeking the support of international union officials, the Department of Labor, journalists, and prosecutors, many union dissidents appear defensive and even paranoid. They believe the world is against them; of course, to a substantial extent, this is true.

It takes enormous courage for union members openly to criticize labor racketeers. Twentieth-century history is full of examples of critics being intimidated, threatened, beaten, and killed. Consider this statement provided by LIUNA reformer Chris White for the government's 1990s civil RICO suit against the Laborers International Union:

> I have been a member of the Laborers' International Union of North America (LIUNA) for over twenty years and a member of Local 942 of LIUNA in Fairbanks Alaska for about the past eighteen years. For more than fifteen years, I have attempted to work within the union to make it more democratic and responsive to the needs of the rank and file. My efforts, and those of my fellow union members who participated with me in those efforts, were met with vicious suppression, including economic reprisals, violence, and threats of violence. My home has been vandalized, my friends have been beaten, shot at, assaulted with knives and guns. Over the years, I have observed a clear

0381

> pattern within LIUNA of chilling the rights of LIUNA members and preventing democratic participation in the union's affairs. Meaningful democracy is dead within LIUNA.*

Table 6-1 lists just some of the murders that can be attributed to labor racketeers. These murders were identified by means of a limited review of court cases, newspaper stories, articles, and books. Undoubtedly there are many (perhaps even more than those listed here) that I have failed to discover. Moreover, we should also keep in mind that for every murder there probably have been a score of beatings. Some of these, like the attack with sulphuric acid that blinded crusading *Daily Mirror* columnist Victor Riesel, were very serious indeed.** There are myriad documented incidents of dissidents being attacked at national conventions and local union meetings when they asked to be recognized in order to voice a criticism or make an unwelcome nomination.

While all of these murder victims listed in Table 6-1 were individuals who had a conflict with the incumbent union power structure, not all of these victims had unblemished records. Jimmy Hoffa, for example, had a career-long history of alliances with organized crime groups, but after Hoffa went to prison, organized crime preferred Hoffa's successor, Frank Fitzsimmons, as Teamsters general president.[6] Although Hoffa was hardly a dissident or reformer, his murder sent shock waves through the rank and file. We can imagine an ordinary Teamster thinking, "If LCN would murder Jimmy Hoffa for challenging its authority, what would happen to me if I started complaining?" A few of the notorious murders listed in Table 6-1 (e.g., Jock Yablonski) had nothing to do with Cosa Nostra. Nevertheless, I include Yablonski and a few others because, arguably, every high-visibility murder of a union dissident sends shock waves through the whole labor movement.

* The government offered Chris White's declaration as part of its draft civil RICO complaint against LIUNA, U.S. v. LIUNA (N.D. Ill.). The case was settled before the complaint was filed. Years later, White was actually elected to a minor post in the local. It appears that the government's intervention has had a significant effect on LIUNA's governance and political culture.

** Johnny Dioguardi was charged with having ordered this vicious attack. When the two key witnesses against him were murdered, all charges were dropped.

0382

Table 6-1
Murders Associated with Labor Racketeering

Victim	*Year Murdered*	*Circumstances Surrounding the Murder*
Steve Kelliher	1923	Organized crime figure and labor leader; shot dead at the behest of Tommy Maloy.
Jacob Kaufman*	1931	Popular union organizer who for years had tried to persuade the courts to kick Tommy Maloy out of the unions. Killed after filing suit against Maloy and announcing that he would run against Maloy in an open election.
Dennis Ziegler*	1933	Dissident in Operating Engineers Local 569 in Chicago. Murdered.
Harry Koenig national convention.	1936	HEREIU Local 16 (New York) official. Murdered at the HEREIU
Norman Redwood	1937	Head of Laborers Local 102 in New York City. Killed by an assassin who hid in the bushes outside his home.
Peter Panto*	1939	Leader of an insurgent group in the ILA local in Brooklyn's Red Hook district; led a revolt against the corrupt union leadership of Joseph Ryan and mob boss Albert Anastasia. Lured from his home late at night and never seen again.
William Lurye*	1949	Union organizer stabbed to death in a telephone booth on West 35th Street in New York City. Two organized crime figures were arrested, but the witnesses could not make a positive ID. One witness stated he had been approached by a racketeer union official and given $100 to forget the defendants' identification.
Ed Murta*	1950s	Leader in the Carpenter's Union on Long Island; murdered.
John Acropolis*	1950s	President of Teamsters Local 456 in Westchester County, New York; murdered.
Anthony Castellito	1961	IBT Local 560 official. Murdered by Local 560 boss and LCN capo Tony Provenzano.
Walter Glockner*	1963	Local 560 member murdered the day after an argument with one of the Provenzano brothers.
Robert "Lonnie" DeGeorge*	1964–67	Union dissident in IBT Local 107 in Philadelphia. Murdered outside the local's headquarters. Francis Sheeran was charged with the murder, but the case was eventually thrown out.
Dow Wilson*	1966	Reformer in the International Painters Union in San Francisco. Murdered after criticizing and challenging International Union officers and policies. Ben Rasnick, a West Coast Painters Union leader, was convicted of ordering the murder.
Lloyd Green*	1966	Leader of the Painters Local 1178 and close ally of Dow Wilson. Murdered two weeks after Wilson.
Jock Yablonski*	1969	Murdered, along with his wife and daughter, at the end of his unsuccessful campaign to replace Tony Boyle as president of the United Mine Workers. Boyle was eventually convicted of ordering the murder.
Joe Caleb*	1972	Popular dissident in LIUNA Local 478 in Miami. Murdered after asking questions about the administration of the multimillion-dollar LIUNA trust fund controlled by District Council President Bernard Rubin, a reputed ally of the Chicago mob.
Frank Murray*	1973	Charismatic leader of ILA Local 1247 in Jersey City. Disappeared and presumed murdered after leaving an ILA meeting in midtown Manhattan.

(continued)

0383

Table 6-1 *(continued)*

Victim	*Year Murdered*	*Circumstances Surrounding the Murder*
John Cammilleri	1974	A union member, allegedly tied to organized crime. Murdered after supporting an opposition candidate for union office in Buffalo Local 210.
Jimmy Hoffa	1975	Former IBT general president disappeared and presumed murdered by LCN because of his campaign to regain the Teamsters general presidency.
Danny Evangelista*	1976	Reformer opposed Theodore Maritas's candidacy for New York District Council of Carpenters presidency. Shot to death while sitting at his desk in Local 385 headquarters.
Al Bramlett*	1977	HEREIU officer murdered in Las Vegas after opposing the move of HEREIU Local 226 health and welfare funds to Illinois.
Danny Green	1977	Teamster official and racketeer associated with the Cleveland LCN. Murdered.
Willie Nordstrom*	1978	President of Carpenters Local 488 in the Bronx who criticized the union leadership; shot to death.
Robert Flotte*	1979	Put together a caucus of white, black, and Mexican workers in Longshoremen's Local 6 in San Francisco. Murdered outside the union hall.
John McCullough*	1980	President of the Philadelphia Roofers Local 30. Shot to death at his home by Willard Moran, reputedly due to unwillingness to accede to mob-dominated Local 54's determination to organize the bartenders in Atlantic City.
Nicholas Altieri	1981	An official in ILA Local 10. Murdered because LCN feared he might become a government cooperating witness.
Gene Viernes and Silme Domingo*	1981	Leaders of an insurgent caucus who pledged to oust racketeers in Seattle. Assassinated soon after winning ILA Local 36 election.
Ben Medina*	1982	After announcing his reform candidacy for a top job in LIUNA Local 332 in Philadelphia, five masked men broke into his home, bound and gagged his wife, and beat him to death.
Bobby Love*	1982	The business manager of LIUNA Local 194 in Baltimore intended to run for president on a reform ticket. Murdered two days after Medina.
Teddy Maritas	1983	Genovese crime family associate and District Council president of New York City Carpenters Union, 1977–1981. Murdered by the mob to prevent possible cooperation with federal prosecutors.
Danielle Forgione, Jr.	1984	Business manager of LIUNA Local 948 in Florida. Murdered while under investigation for looting the pension fund.
Harry Serio*	1989	Secretary-treasurer of IBT Local 478. Ambushed and shot to death as he entered the union offices on Route 22 in Union, New Jersey. Serio had earlier announced his intention to challenge the incumbent president and expose "sweetheart" deals with Lucchese-related air freight companies.
Robert Kubecka	1989	A waste hauler in Long Island who challenged Cosa Nostra control over IBT Local 813. Murdered for cooperating with a law enforcement investigation.
Jimmy Bishop	1990	A labor racketeer allied with LCN, Bishop was murdered as part of an intragang war over which LCN faction would control Painters District Council 9.
Anthony Cuozzo	1992	Former vice-president of IBT Local 295 in Jamaica (Queens), New York. Murdered.

* Victim was a union dissenter/reformer.

0384

FRANK SCHONFELD STORY

One of the very few examples of rank-and-file union reformers succeeding in defeating a mob-dominated union occurred in the 1960s when Frank Schonfeld, a courageous member of the twelve-thousand-member New York City Painters Union District Council 9, challenged the entrenched mob-supported regime.* The mob-controlled leaders had signed lackluster collective bargaining agreements, been convicted for rigging bids on various projects, and provoked the scorn of many New York area painters. According to Herman Benson, who was personally familiar with Painters District Council 9 at the time, "The union continued to crumble: it ceased to exist on the job sites as a protector of working conditions. The contract was not enforced. Between 1953 and 1967 there was not a single general membership meeting of DC 9 painters."[7]

In 1961, Schonfeld ran for secretary treasurer (the District Council's top office). The District Council immediately brought charges against some of his allies. Despite Landrum-Griffin's guarantee that candidates for union office be given membership lists so they can contact the electorate, Schonfeld was provided only a partial list of members. Moreover, the incumbent regime's ballot counting was highly suspicious. Schonfeld was defeated, 3,700 votes to 1,700, but won a majority in locals where he had access to accurate membership lists.

After the election, the incumbent regime brought disciplinary charges against Schonfeld and suspended him from the union, but a federal judge nullified that maneuver. According to Benson, for the next six years Schonfeld and other insurgents continued to hold meetings, run candidates, and publish a newsletter, but they faced relentless opposition: "Schonfeld and his supporters were being starved out, blacklisted, denied the right to work." In 1967, the Manhattan district attorney brought a conspiracy case against the District Council 9's top official, along with various painting contractors and city officials, charging them with operating a bid-rigging cartel on New York City painting contracts. The secretary-treasurer had to resign and the Painters International placed the District Council under a trusteeship that organized crime continued to dominate.

* In *Rank and File Rebellion,* La Botz recounts a rank and file rebellion in IBT Local 138 in Long Island City, New York, that removed an entrenched labor racketeer probably (according to La Botz) connected to the Colombo crime family.

0385

The Schonfeld group went to court to have the International Union's trusteeship dissolved. The Department of Labor weighed in (as usual) on the union's side. However, a federal judge found for the insurgents. "The history of D.C. 9 elections extending into the period of the trusteeship has been marred by fraud and other irregularities. [The International Union's officers] witnessed, with apparent indifference, the repeated silencing of the opposition's views at meetings, and blatant improprieties in local balloting."[8] Schonfeld was able to resume his campaign. The judge ordered that the election be overseen by the American Arbitration Association. In September 1967, Schonfeld won a stunning victory.

Schonfeld now held the district council's top office, but the old regime held on to most other district council offices and opposed Schonfeld at every turn. Mob-backed factions of the Carpenters and Teamsters unions now raided the district council, splitting away certain locals. At Schonfeld's instigation, the rank and file voted by referendum to revamp the makeup of the district council in order to better reflect the size of the local unions composing the district council. However, the Painters International Union vetoed the change, thereby continuing to stymie Schonfeld's reform efforts. Once again the International charged him with union disciplinary violations and removed him from office; once again, a federal judge reinstated him. However, in 1973, after just two three-year terms, Schonfeld was defeated by Jimmy Bishop, a candidate allied with the Lucchese organized crime family and supported by the International Union and the members of the clique that had controlled the district council for decades. The reform was over. (In 1990, Jimmy Bishop was murdered by another organized crime faction.)

RANK-AND-FILE REFORM MOVEMENTS

A few racketeer-ridden unions have spawned national or at least regional dissident "movements." It is difficult to calculate the size of these movements or to gauge their strength because the Internet permits a single individual to post a Web site, service email subscribers, and so on.

The best-known and most effective of the rank-and-file reformist organizations is Teamsters for a Democratic Union (TDU). TDU was

0386

founded in 1976.* In 1980, it merged, under the same name, with the Professional Drivers Council, a (Ralph) Naderite public interest organization that lobbies for improved safety conditions in the trucking industry.[9] TDU surveyed workers; organized special committees to analyze safety and other problems in the industries in which Teamsters were employed; and came up with proposed rank-and-file contract demands. During its formative years, TDU focused primarily on improving Teamster contracts, but it gradually turned its attention to reforming the union's governance. Its goal was to organize a sizeable militant Teamster minority.[10] By the mid-1980s, TDU published a regular newsletter, *Convoy Dispatch,* and claimed to have ten thousand members. A flavor of what TDU stands for can be gleaned from its Rank and File Bill of Rights, which can be found on its Web site.** Among the rights sought by TDU are a fair grievance procedure, direct election of officers, equality among Teamsters, and an end to discrimination. TDU sometimes backs candidates in union elections. It campaigned hard for Ron Carey in the 1991 trustee-supervised election and helped make Carey's victory possible. However, TDU often criticized Carey's administration.

Carey (again backed by TDU) won the 1996 election against a strong challenge by James P. Hoffa (Jimmy Hoffa's son). The election was marred by charges that the Carey campaign had used union funds on behalf of its candidate. Ultimately, the court-appointed elections officer voided the election, disqualified Carey from the rerun election, and the IRB expelled him from the union. In the 1998 rerun election, TDU supported Tom Leedham, a prominent reformer. Leedham won 39 percent of the vote, but lost to James P. Hoffa (55 percent). In 2001, Hoffa defeated him again, this time by nearly a two-to-one margin (Hoffa, 200,168; Leedham, 108,389).

There is no other dissident rank-and-file labor movement with the organizational coherence and strength of TDU. Nevertheless, there are always dissident voices, more so now with the advent of the Internet.

* A predecessor rank-and-file organization called TURF (Teamsters United Rank and File) was set up in 1971 in the aftermath of a national wildcat strike that challenged Frank Fitzsimmons's leadership of the IBT. In a few years, TURF fell apart because of internal dissension. In 1975, a group of Teamster activists formed a coalition called Teamsters for a Decent Contract and a parallel organization, UPSurge, to organize UPS workers to fight for a better UPS contract.

** TDU's Rank and File Bill of Rights can be found on the Web at http://solidarity.igc.org/teamster/tdu/htm.

0387

And these voices have been encouraged by the federal government's campaign against labor racketeering. Recently, for example, a group of mostly African-American longshoremen in Charleston, Virginia, "the Charleston Five," were jailed for peacefully picketing a shipping company. The "Workers Coalition," which consists largely of officers from the Charleston Five's local union, criticized ILA International President John Bowers for waiting over a year before making a public statement supporting them.[11] The dispute has broadened into a more general challenge to the International's leadership.

THE ASSOCIATION FOR UNION DEMOCRACY

The Association for Union Democracy (AUD),[12] founded by Herman Benson and a small number of other labor radicals and idealists, is the only independent nongovernmental organization that advocates and litigates on behalf of rank-and-file union members. AUD has always been a hand-to-mouth organization with a small office in Brooklyn, a few paid staffers, and a tiny budget. Still, AUD published a regular newsletter, "Union Democracy Review," which exposes egregious assaults on union democracy as well as the occasional legal and electoral victories of rank-and-file reformers. It also holds conferences and organizes training courses and educational programs. Dissidents from any union can contact AUD for advice, including sometimes legal assistance from a very small number of volunteer lawyers.

CONCLUSION

Rank-and-file union members fit into our story mostly as victims. Labor racketeers are in the business of stealing from rank-and-file union members and selling out their rights and interests. The lack of much rank-and-file rebellion against labor racketeers does not indicate appreciation, respect, or satisfaction. Rank-and-file union member rebellion, like other rebellions against authoritarian regimes capable and willing to use violence, is extremely difficult. The collective action problem explains a great deal. It is immensely costly for any individual union member to protest against or try to organize opposition to incumbent labor racketeers. For the most part, reformers have been tragically un-

0388

successful, the victims of blacklisting, disciplinary actions, beatings, and murder. In their struggles to win basic civil rights within their unions, "dissidents" have not been able to count on the mainstream labor movement, the government, law enforcement agencies, intellectuals or even the civil liberties community for support. It has been a very lonely struggle.

The federal government's post-1980 campaign against Cosa Nostra has opened up space for insurgents to play a more active role. Even so, reform does not just spring to life naturally, and fear of the labor racketeers' return to power is a major inhibitor. Moreover, there is no guarantee that the first wave of non–Mafia connected reformers will have the competence and integrity to establish well-functioning democratic unions. Still, it must be emphasized that no meaningful reform of historically racketeer-ridden unions can be achieved without the mobilization of rank-and-file union members.

0389

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Attacking Labor Racketeering Prior to Civil RICO (1982)

> This is a preliminary report on the organized crime influence in the labor unions today in the United States. The picture that it presents is thoroughly frightening. At least four international unions are completely dominated by men who either have strong ties to or are members of the organized crime syndicate. A majority of the locals in most major cities of the United States in the International Brotherhood of Teamsters (IBT), Hotel and Restaurant Employees Union (HERE), Laborers International Union of North America (Laborers), and International Longshoreman's Association (ILA) unions are completely dominated by organized crime. The officials of these unions are firmly entrenched; there is little hope of removing them by a free election process. Convictions for misconduct have been sparse and when one corrupt official is removed another soon takes his place. The result has been a complete domination of certain industries by hoodlums. Management personnel in the companies who must deal with these hoodlums have despaired of getting help from law enforcement authorities. They pay the price of labor peace so that they may survive. The cost is passed on to the consumer.
>
> —Peter Vaira and Douglas Roller, *Report on Organized Crime and the Labor Unions* (1978), 1

From the early 1930s until the mid-1970s, Congress was much more active than local, state, and federal law enforcement in calling attention to organized crime generally and to labor racketeering specifically. The Copeland Committee in the 1930s, the Kefauver and McClellan Committee hearings in the 1950s, and the Senate Permanent Subcommittee

0390

on Investigations in the 1970s and 1980s publicized the problem, proposed new laws and increased sentences. By contrast, the federal enforcement agencies—the Federal Bureau of Investigation (FBI), the Department of Justice (DOJ), and the Department of Labor (DOL)—for different reasons, did not make organized crime or labor racketeering a high priority. Occasionally, an LCN member was convicted, usually of a nonlabor racketeering offense like income tax evasion or murder. Local police and prosecutors mostly ignored organized crime. The federal law enforcement campaign against the Cosa Nostra has roots in the 1950s and 1960s, but came of age after FBI Director Hoover's death in 1972 and in the wake of Jimmy Hoffa's assassination in 1975. Since then, the FBI and DOJ have mounted and sustained a huge organized crime control program.

CONGRESS ADDRESSES LABOR RACKETEERING: THE HOBBS ACT

In 1933, the U.S. Senate Committee on Commerce (called the "Copeland Committee" (after its chairman, New York's Democratic senator, Roy Copeland) held hearings on "racketeering," including the role of mobsters within national and local labor organizations.[1] Witnesses from the AFL Building Trade Unions' Anti-Racketeering Subcommittee complained to the Senate Committee that "most of the unions in New York were saturated with rackets."[2] Employer-witnesses complained that labor racketeers extorted payoffs by threatening business-destroying labor problems.

The Copeland Committee's hearings led to passage of a federal extortion statute, the Anti-Racketeering Act of 1934.[3] Labor leaders opposed the draft bill on the grounds that it could be used to prosecute bona fide strikes and job actions. To alleviate that concern, the final bill exempted from the definition of extortion union conduct aimed at "the payment of wages by a bona-fide employer to a bona-fide employee." The act also included a union-friendly proviso:

> that no court of the United States shall construe or apply any of the provisions of this Act in such a manner as to impair, diminish or in any manner affect the rights of bona fide labor organizations in lawfully

> carrying out the legitimate objectives thereof, as such rights are expressed in existing statutes of the United States.

A few years after passage of the Anti-Racketeering Act, federal prosecutors used the law to prosecute several Teamsters who prevented out-of-town trucking companies from driving trucks into New York City unless the companies paid the Teamster defendants for their assistance in guiding the trucks into the city. The Supreme Court reversed the convictions, holding that the Anti-Racketeering Act exempted from prosecution bona fide union demands, even if unreasonable.[4] The decision, in effect, destroyed the act's potential to punish and deter labor racketeering; the racketeers could avoid criminal liability by disguising extortions as legal, albeit unreasonable, demands for unnecessary and undesired goods or services.

Congress quickly sought to pass a new extortion statute that would definitely cover conduct like that of the defendants in the Teamsters case. The new Hobbs Act (1946) eliminated the Anti-Racketeering Act's exemption for payment of wages by bona fide employers to bona fide employees, but its sponsors assured labor and its supporters that the law could not be used to prosecute strikers.[5] In the decades that followed, the Hobbs Act was used against individuals who hijacked trucks, against corrupt state and local politicians, and occasionally against labor racketeers. In 1956, another labor racketeering prosecution reached the U.S. Supreme Court. The defendant union officials had attempted to extort money (for their own pockets) by forcing an employer to pay for both fictitious and superfluous services; the Court upheld the conviction against a challenge that the law was unconstitutional.[6] The decision was a green light for federal prosecutors to go after labor racketeers. They convicted a number of union officials who extorted payoffs from employers.[7] However, in 1973, the Supreme Court reversed a Hobbs Act conviction against strikers who had used high-powered rifles and explosives on the grounds that the Hobbs Act could not be used to punish individuals for pursuing a lawful union goal, even via criminal means.[8]

The Hobbs Act played an extremely important role in the civil RICO litigation brought against racketeer-ridden unions in the 1980s and 1990s. Prosecutors alleged and courts upheld the applicability of the Hobbs Act to LCN members and union officials who extorted

0392

union members' Landrum-Griffin rights (that is, intangible property). These Hobbs Act violations constituted "predicate offenses" that satisfied RICO's requirement of proof of "a pattern of racketeering activity."*

THE TAFT-HARTLEY ACT

In 1947, over organized labor's strenuous opposition, Congress passed the Taft-Hartley Act, which, according to its sponsors, sought to restore "a more balanced relationship" between labor and management.[9] President Harry Truman vetoed the act, but Congress overrode the veto. Taft-Hartley gave employees the right to refrain from participating in union activities, added certain union conduct to the National Labor Relations Act's list of unfair labor practices, and banned Communists from serving as union officers. It also made it a federal crime for an employer to give or lend money or anything of value to a union, union official, or union welfare fund and for a labor official to demand or accept anything of value from an employer. These criminal provisions have frequently been used to punish labor racketeers for taking employer bribes in exchange for sweetheart deals.

In 1956, the United States Supreme Court upheld the conviction of ILA President Joseph Ryan for taking payoffs from a stevedoring company in violation of the Taft-Hartley Act.[10] The president of a stevedoring company had given Ryan $1,000 each year from 1946 to 1951 in violation of Taft-Hartley. The district court found Ryan guilty, but the court of appeals reversed, holding that the president and principal negotiator of an international union was not a "union representative" for purposes of the Hobbs Act. The Supreme Court reinstated the conviction, ruling that Ryan violated Taft-Hartley by accepting money from an employer.[11] In other cases in the years that followed, Taft Hartley proved useful in persuading employers who had bribed union officials to become cooperating witnesses.[12]

* In *Bellomo v. United States,* 297 F.Supp.2d 494 (E.D.N.Y., 2003), for the first time a federal court held that denial of union democracy rights does not violate the Hobbs Act. If that decision prevails, a key government tool in the remediation of labor racketeering would have been lost.

0393

THE DOUGLAS COMMITTEE AND RACKETEERING IN THE PENSION FUNDS

After World War II, unions began to negotiate in earnest for employer-funded pension and welfare funds. (Such benefits are attractive to both management and labor because they are not taxable to employees while being tax deductible for employers.) Essentially, employers agreed to contribute a certain amount of money on behalf of their workers to funds to be used for union members' pensions, medical and dental care, and legal services. The funds (sometimes called Taft-Hartley plans) are controlled by an equal number of labor- and management-appointed trustees and administered by a fund administrator. Soon, such funds accumulated hundreds of millions, even billions, of dollars. Not surprisingly, labor racketeers immediately saw them as attractive targets for exploitation by embezzlements, fraudulent loans, kickbacks, and other manipulations.[13]

In the mid-1950s, the Senate Committee on Labor appointed a subcommittee, with Senator Paul Douglas (D.-Ill.) as chairman, to investigate corruption in union pension and welfare funds. The subcommittee illuminated widespread corruption, fraud, and abuse, especially in the Teamsters' Central States Pension and Welfare Fund. In 1959, in response to the abuses uncovered by the Douglas Committee, Congress passed the Welfare and Pension Plan Disclosure Act (WPPDA), which required pension and welfare plans to report certain fund information to the DOL. Congress intended the disclosure requirement to provide employees with enough information to monitor their plans effectively. This proved to be wishful thinking and abuses continued. In 1962, Congress strengthened the WPPDA by adding criminal provisions to punish fund administrators and trustees who took kickbacks from vendors of goods and services; the law assigned enforcement authority to the DOL.[14]

Continuing mob exploitation of union benefit funds was one factor leading Congress to pass ERISA (Employee Retirement Income Security Act) in 1974.[15] ERISA's criminal provisions dealt with (1) theft or embezzlement from employee benefit plans; (2) false statements or concealment of facts in relation to documents required by ERISA; and (3) offers, acceptances, or solicitations to influence operations of employee benefit funds.[16] Thus, federal prosecutors were armed with criminal laws to attack labor racketeers.

0394

MCCLELLAN COMMITTEE HEARINGS (1957–1959) AND THE LANDRUM-GRIFFIN LAW (1959)

The McClellan Committee's hearings (1957–1959), including some very sharp exchanges between Robert Kennedy and Jimmy Hoffa, were widely covered by newspapers, magazines, and television. They generated inexorable momentum for Congressional action. In 1959, Congress passed the Labor-Management Reporting Act of 1959 (LMRDA), popularly known as the Landrum-Griffin Act. The law bans persons with criminal records from holding union office. It also guarantees to union members basic democratic rights (speech, candidacy, voting) within their labor organizations. It declares that union officers stand in the role of fiduciaries vis-à-vis the rank and file membership.* It also seeks to achieve accountability to their memberships by requiring unions to file various financial and organizational reports with the U.S. Department of Labor.[17] For the most part, Landrum-Griffin's enforcement tools are civil rather than criminal. Congress assigned enforcement authority to the DOL, which delegated that authority to its Office of Labor-Management Standards (OLMS). OLMS can investigate and take enforcement actions on its own. In addition, aggrieved union members can bring their complaints to OLMS or, in some cases, to the National Labor Relations Board or directly to a federal court. Unfortunately, there have never been more than a handful of public interest lawyers available to help union members vindicate their Landrum-Griffin rights. OLMS enforcement has been lackluster, at best.[18]

Landrum-Griffin contains a few criminal provisions, including a wide-ranging prohibition on the use of violence to deny or interfere

* SEC. 501 (a) The officers, agents, shop stewards, and other representatives of a labor organization occupy positions of trust in relation to such organization and its members as a group. It is, therefore, the duty of each such person, taking into account the special problems and functions of a labor organization, to hold its money and property solely for the benefit of the organization and its members and to manage, invest, and expend the same in accordance with its constitution and bylaws and any resolutions of the governing bodies adopted thereunder, to refrain from dealing with such organization as an adverse party or in behalf of an adverse party in any matter connected with his duties and from holding or acquiring any pecuniary or personal interest which conflicts with the interests of such organization, and to account to the organization for any profit received by him in whatever capacity in connection with transactions conducted by him or under his direction on behalf of the organization.

with the democratic rights the law guarantees.* Another provision makes it a federal crime to embezzle funds from a labor union.** Still other provisions prohibit unions from making loans to or paying fines for union officers and filing false reports with the DOL. Over the years, the Department of Justice has used these provisions to obtain a number of convictions. For example, in *U.S. v. Bertucci* (1964), defendants were convicted for beating union members with pipes and baseball bats when those members[19] attempted to enter the union hall to vote on a collective bargaining agreement. The court explained that "[t]he LMRDA gives to the individual union members certain rights which when interfered with by a union, its officials or its agents can be redressed civilly against them. In addition, there are criminal sanctions imposed against a person who interferes with those rights."[20]

In 1961, Attorney General Robert F. Kennedy urged Congress to pass the Interstate and Foreign Travel in Aid of Racketeering Act, popularly known as the Travel Act.[21] Its sought to make federal law enforcement assistance available to attack organized crime that crosses state borders.[22] In his submission letter to the Senate Judiciary Committee, Kennedy stated, "Over the years an ever-increasing portion of our national resources have been diverted into illicit channels. Because many rackets are conducted by highly organized syndicates whose influence extends over state and national borders, the Federal Government should come to the aid of local law enforcement authorities in an effort to stem such activity."[23] Therefore, the Travel Act provided federal law enforcement with jurisdiction over use of interstate facilities to promote a number of illegal activities typically associated with organized crime.[24] The Travel Act was an early step toward establishing a legal basis for a federal war on organized crime.

* 29 U.S.C. 530. It shall be unlawful for any person through the use of force or violence, or threat of the use of force or violence, to restrain, coerce, or intimidate, or attempt to restrain, coerce, or intimidate any member of a labor organization for the purpose of interfering with or preventing the exercise of any right to which he is entitled under the provisions of this Act. Any person who willfully violates this section shall be fined not more than $1,000 or imprisoned for not more than one year, or both.

** 29 U.S.C. 501(c). Any person who embezzles, steals, or unlawfully and willfully abstracts or converts to his own use, or the use of another, any of the moneys, funds, securities, property, or other assets of a labor organization of which he is an officer, or by which he is employed, directly or indirectly, shall be fined not more than $10,000 or imprisoned for not more than five years, or both.

0396

RICO (1970)

The 1967 report of the President's Commission on Crime and the Administration of Justice presented, among other things, a frightening (and exaggerated) picture of Cosa Nostra as a well-coordinated nationwide conspiracy.[25] Subsequent congressional hearings focused on LCN's infiltration of the legitimate economy, especially labor unions and businesses. For example, on March 11, 1969, Senator McClellan (D.-Ark.) told fellow senators:

> Closely paralleling its take-over of legitimate business, organized crime has moved into legitimate unions. Control of labor supply through control of unions can prevent the unionization of some industries or can guarantee sweetheart contracts in others. It provides the opportunity for theft from union funds, extortion through threat of economic pressure, and the profit to be gained from the manipulation of welfare and pension funds and insurance contracts. Trucking, construction and waterfront entrepreneurs have been persuaded for labor peace to countenance gambling, loan-sharking and pilferage. All of this, of course, makes a mockery of much of the promise of the social legislation of the last half-century.[26]

McClellan, Senator Roman Hruska (R.-Neb.), and others argued that the federal law enforcement agencies and courts did not have adequate powers to defeat organized crime. After hearings, Congress passed the Racketeer Influenced and Corrupt Organizations Act (RICO), which made it a federal crime to use "dirty" money (proceeds of racketeering activity or collection of an unlawful debt) to acquire an interest in, or to seize an interest in, or to conduct the affairs of an "enterprise," including labor unions, by means of a pattern of racketeering activity (defined as commission of at least two of a long list of crimes within a ten-year period).[27] RICO crime is punishable by up to a twenty-year prison sentence, plus an additional twenty years for a conspiracy to violate RICO. In addition, a defendant can also be convicted and sentenced for the predicate offenses that establish the "pattern of racketeering activity" (for example, a Hobbs Act offense, labor bribery, murder, fraud). Because it was new and complex, RICO was not used much for about a decade but by the late 1970s it had become the statute of choice in organized crime prosecutions.[28] It provided federal prosecutors the

0397

advantages of draconian punishment provisions, mandatory criminal forfeiture, liberal rules on joinder of defendants and offenses, and a means of prosecuting criminal conduct that theretofore had not been reachable under federal law.

RICO also contains two civil remedies. One empowers RICO victims to sue their victimizers for treble damages. For obvious reasons, victims have not chosen to sue LCN members. The other civil RICO remedial provision authorizes the U.S. attorney general to seek and the federal courts to grant injunctions and other equitable relief to prevent defendants from committing future RICO violations. Beginning in the early 1980s, this remedy became the preferred weapon for attacking labor racketeering because it enabled the Department of Justice to obtain injunctions and consent decrees providing for court monitoring and reform of racketeer-ridden unions.

FEDERAL ENFORCEMENT AGENCIES AND LABOR RACKETEERING

Although Congress showed strong interest in labor racketeering, investigated the problem, publicized it, and passed substantive criminal legislation that featured severe punishments, the laws were not much used until the late 1970s. For the FBI, this "hands-off" policy reflected Director J. Edgar Hoover's unwillingness to devote FBI personnel or resources to organized crime investigations. Hoover's view was that organized crime was a local phenomenon and, in any event, of far less importance than other problems, especially the threat of communist subversion.

Absent FBI investigations, federal prosecutors could do little to combat organized crime generally and labor racketeering specifically. Except for a small number of DOJ personnel at central headquarters in Washington, D.C., federal prosecutors work for the 93 U.S. attorneys (one for each federal judicial district) who, as presidential appointees, operate with a good deal of autonomy from their boss, the U.S. attorney general. In theory, the U.S. attorneys can develop their own priorities depending upon the particular crime problems in their jurisdictions; in reality, they depend on the FBI and other federal enforcement agents to bring cases to them. Even though the FBI is also a part of the U.S. De-

0398

partment of Justice, it has substantial autonomy. (J. Edgar Hoover, of course, had almost complete autonomy. After his death, Congress limited future FBI directors to a single ten-year term.) Hence, it would have been impossible for DOJ attorneys themselves to launch a successful attack on organized crime or labor racketeering without the FBI director's support.

Congress gave the Department of Labor authority to enforce the Landrum-Griffin Act and an array of pension and welfare laws. But the DOL is a cabinet-level department whose main mission is to look after the concerns of organized labor, not to punish abuses by organized labor. Over the years some Senators and Congressmen have used hearings to criticize the DOL for failing to investigate and prepare cases against labor racketeers.

Despite these structural, bureaucratic, and political obstacles to the enforcement of the anti–labor racketeering laws, there were occasional prosecutions in the 1950s. Things accelerated dramatically in 1961 when Robert F. Kennedy became U.S. attorney general. Kennedy immediately turned the office's attention to organized crime. He made prosecution of IBT President Jimmy Hoffa his top priority.[29] He expanded OCRS and sent prosecutors around the country to investigate and prosecute organized crime.[30]

President John F. Kennedy was assassinated in November 1963. His brother resigned as attorney general in early 1964. Later that year, Hoffa was convicted, first of jury tampering and then of pension fund fraud. In 1967, when his appeals were exhausted, he began serving a lengthy prison term. Reacting to the 1967 President's Crime Commission's report and to Senator McClellan's and other congressmen's lobbying, Congress provided federal law enforcement with electronic eavesdropping authority (1968), the Witness Security Program (1970), and RICO (1970).

J. Edgar Hoover died suddenly in 1972. The FBI passed into new hands. There were no interest groups pressing for a federal war on organized crime. Pressure came from DOJ prosecutors and FBI agents themselves. A modern-day law enforcement agency was affronted by the machinations of a notorious crime syndicate. The FBI found the Cosa Nostra crime families an enemy worthy of the attention of a first class law enforcement agency. Perhaps the post-Hoover FBI judged itself by the power and status of the criminals who it successfully investigated.

0399

Following up on the 1967 President's Crime Commission's understanding of the organized crime problem, FBI agents and federal prosecutors launched their campaign to control organized crime by focusing on gambling, believing it to be LCN's chief moneymaking activity. But federal judges were critical of prosecuting bookmakers and gamblers in federal courts. They were not convinced that gambling was a serious national problem, and several made it clear to U.S. attorneys that they did not think that these gambling cases belonged in federal court. When the gamblers were convicted, they often drew light sentences. The organized crime campaign floundered.

President Richard Nixon pardoned Jimmy Hoffa in December 1971[31] in order to obtain the endorsement of the Teamsters of his reelection. Hoffa remained popular with rank-and-file Teamsters, but his former protégé, Frank Fitzsimmons, then serving as IBT general president, wanted to keep the position. Thus, he persuaded the Nixon administration to condition Hoffa's pardon on Hoffa's abstention from union affairs for ten years. Hoffa agreed but immediately went to court to challenge the condition and began campaigning to reclaim the Teamsters presidency.[32]

The Cosa Nostra crime families had even more influence in the IBT under the compliant Fitzsimmons than with the feisty Hoffa. On July 30, 1975, Hoffa disappeared; a mob "hit" was immediately presumed (and is now believed to have been orchestrated by Anthony Giacalone, a leader of the Detroit Cosa Nostra family, and Tony Provenzano, president of IBT Local 560 and a capo in the Genovese crime family).[33]

A revitalized OCRS established federal organized crime strike forces in thirteen cities. The strike forces comprised personnel from DOJ, IRS, DOL, and other federal and local agencies and reported directly to OCRS in Washington rather than to the U.S. attorneys.[34]

After Hoffa's assassination, the OCRS and the FBI switched their organized crime control focus from gambling to labor racketeering. The promotion of labor racketeering as an enforcement target was motivated by the goal of eradicating LCN, not by a commitment to cleaning up unions or guaranteeing union democracy. The revitalized post-Hoover FBI launched several ambitious labor racketeering investigations, including, in the late 1970s, the massive UNIRAC (Union Involved Racketeering) investigation of the International Longshoremen's Association. UNIRAC began as a Miami Strike Force project that

expanded to New York City and then to all major east coast ports. It resulted in the conviction of 130 businessmen, union officials, and Cosa Nostra members, including Anthony Scotto, an ILA vice-president and a capo in the Gambino crime family.*[35]

Another FBI investigation, PENDORF (Penetration Dorfman), focused on Cosa Nostra control over the IBT Central States Pension Fund (CSPF) and resulted in the convictions of IBT General President Roy Williams, Joe Lombardo (member of the Chicago Outfit), and Allen Dorfman (Chicago Outfit associate who represented the mob's interest in the CSPF) for attempting to bribe U.S. Senator Howard Cannon (D.-Nev.) to oppose trucking deregulation. Cosa Nostra later assassinated Dorfman because of concern that he might become a cooperating government witness.[36]

The FBI's STRAWMAN investigation focused on a conspiracy by four Cosa Nostra families to use the CSPF to obtain interests in Las Vegas casinos and to skim profits from those casinos; it resulted in convictions of Joey Aiuppa (boss of the Chicago Outfit); Jackie Cerone (underboss of the Outfit); Angelo La Pietra and Joe Lombardo (Oufit capos); Frank Balistrieri (boss of the Milwaukee LCN family); and Thomas and Milton Rockman (associates of the Cleveland crime family).

The FBI's LILREX (Long Island Labor Racketeering and Extortion) investigation targeted racketeering in New York City and Long Island's construction industry. The investigation probed the relationship between organized crime and the industry, leading to the prosecution of Theodore Maritas, president of the New York City–area District Council of Carpenters. Prosecutors charged Maritas with taking $125,000 in payoffs in return for allowing contractors to use nonunion labor on

* *Time* magazine reported Scotto's conviction this way: "As a vice president of the International Longshoremen's Association and head of its Local 1814 in Brooklyn, Anthony Scotto, 45, has long been laden with two very different reputations. A personable and articulate man who favors $500 pinstripe suits and expensive Manhattan restaurants, Scotto has lectured at Harvard University on labor relations, serves as a trustee of the Brooklyn Academy of Music and counts some of New York's most prominent politicians among his friends. But because of his occupational affiliation with the city's notoriously corrupt waterfront and his 1957 marriage to the niece of mobster Albert Anastasia, police consider Scotto to be a criminal. In 1959, the FBI went so far as to identify him as a *capodecina,* or lieutenant, in the Mafia family of Carlo Gambino, an allegation that the union leader vehemently denied." "Scotto: Out of the Dock," *Time,* November 26, 1979, 61.

0401

Manhattan and Queens construction projects and with unsuccessfully attempting to extort $100,000 more. Maritas was murdered on the eve of the trial. His five codefendants, including Lucchese crime family capo Vincent DiNapoli, were convicted. Jack McCarthy, a labor consultant with a string of labor racketeering convictions, pleaded guilty to a conspiracy count.[37]

The LIUNA investigation focused on Cosa Nostra racketeering in the Laborers International Union of North America (LIUNA). The investigation resulted in several convictions, but notable acquittals for retired Outfit boss Tony Accardo and LIUNA president Angelo Fosco. Tampa organized crime boss Santo Trafficante avoided trial on account of poor health.[38]

A joint DOL and DOJ investigation of the CSPF began in the fall of 1975. The fund, more than 70 percent invested in real estate and casinos (mostly Las Vegas), was notorious for lending money to organized crime figures and their associates. The IRS sought to revoke the fund's tax-exempt status, leading to a settlement in which twelve of the fund's sixteen trustees resigned. The CSPF agreed to hire an independent fiduciary (Equitable Life Insurance Society) to handle investments.[39] The trustees retained authority to purchase goods and services, to administer pension benefits, and to handle money from the time it was paid into the fund each month to the time (approximately thirty days later) it was deposited with the institutional fiduciary. Corruption and racketeering continued.

In 1981, the DOL filed a lawsuit against all current and former trustees of the CSPF, alleging violations of their fiduciary obligation. The lawsuit resulted in a consent decree that prohibited the fund from employing or doing business with any person who had been convicted of a felony or misdemeanor involving a breach of fiduciary responsibility and required the appointment of an independent special counsel to monitor the fund's operations.[40] The agreement and oversight subsequently were extended until September 22, 2002, and then to September 22, 2007.

Slowly, the DOL began paying increased attention to labor racketeering. In 1978, Congress established a system of independent inspectors general, accountable to Congress, in all cabinet-level federal agencies.[41] An inspector general's mission was to combat fraud, waste, and abuse. Congress specifically charged the DOL's inspector general with responsibility for investigating labor racketeering. This job was

0402

assigned to the new Office of Labor Racketeering (OLR), which would play an important role in many future investigations. OLR's agents (many recruited from other federal law enforcement agencies) were the most law enforcement–oriented personnel in DOL history, and they participated fully in the federal organized crime strike forces.*

In 1986, the President's Commission on Organized Crime reported that the labor racketeering problem, exposed by the McClellan Committee almost thirty years earlier, had worsened. But, despite the PCOC's criticism, the government had begun an unprecedented attack on LCN. The first civil RICO suit against labor racketeers (IBT Local 560) produced a wide-ranging court decree, including a court-monitored trusteeship. More such suits, following up on criminal cases of the 1970s and 1980s, were in the works.

The DOJ's and the FBI's campaign against Cosa Nostra was most vigorous and most successful in New York City, where, of course, there were the most organized crime families, members, and associates. The FBI organized separate units to focus on each family. Eventually, based upon extensive electronic surveillance and some important LCN defectors, the federal prosecutors brought RICO criminal cases against each of the Cosa Nostra crime families, charging key members with participating in the affairs of the enterprise (the crime family itself) through a pattern of racketeering activity (any number of predicate racketeering offenses).

After the successful completion of the family RICO cases, Rudy Giuliani, then U.S. attorney for the Southern District of New York (Manhattan and the Bronx) brought the most ambitious criminal RICO case in U.S. law enforcement history. In the 1985 so-called "commission case," Giuliani's office brought together in a single trial as defendants the bosses and several other leaders of the five Cosa Nostra crime families in the city, charging them with participating in the affairs of a Cosa Nostra "commission" through a pattern of racketeering activity. According to the indictment, the commission had been established by LCN bosses in 1931 to resolve disputes and regulate relations between the families. Perhaps it originally included LCN bosses from around the country, but the commission of the 1980s consisted only of the five NYC bosses. The indictment charged the defendants both with operating the

* For information and some history of the OLR, see http://www.oig.dol.gov/public/programs/oi/main.htm.

commission through a pattern of racketeering activity and with conspiring to operate it as a racketeering enterprise. The indictment alleged that through the enterprise, the defendants engaged in or aided and abetted murders, narcotics trafficking, loansharking, and labor racketeering.[42]

Much of the prosecution's case centered on the defendants' domination of the New York City LIUNA Local 6A. The prosecution sought to prove that, using its control over this Concrete and Cement Workers Union, the commission enforced a concrete cartel, which permitted only a handful of contractors to bid on concrete contracts in excess of $2 million. In exchange for this lucrative opportunity, the cartel members agreed to kick back to the commission 2 percent of the contract prices. After six days of deliberation, the jury found the defendants guilty of seventeen racketeering acts and twenty related charges of extortion, labor payoffs, and loan sharking. Giuliani announced that "[t]he verdict reached today has resulted in dismantling the ruling council of La Cosa Nostra."[43] The commission case was the highest profile and most important organized crime prosecution in U.S. history. It demonstrated, even to the skeptics, that the federal government, when aroused to action, had the ability to defeat the nation's most powerful crime syndicate. During the 1980s, prosecutors sent the boss of every Cosa Nostra crime family, and sometimes their successors, to prison.

STATE/LOCAL EFFORTS

Most law enforcement in the United States is local. Police departments are organized at the town and city level; prosecutors, at the county level. This decentralized, small-unit law enforcement is not suited to complex organized crime investigations and prosecutions. Moreover, for much of the twentieth century, police departments in many large cities were severely compromised and/or corrupted in the investigation of organized crime.[44] Consequently, with a few notable exceptions, local law enforcement did not seriously oppose organized crime generally or labor racketeering specifically.[45]

The most notable exception was Thomas E. Dewey who served as Special New York City anti-racketeering prosecutor from 1935 to 1937 and then as Manhattan district attorney from 1937 to 1941.[46] In 1936,

using New York State law, Dewey launched an investigation and prosecution of racketeering in the city's restaurant sector, where Dutch Schultz had taken control of the labor union and the employers' association. Although Schultz was murdered (by the mob for plotting to assassinate Dewey), Dewey's team indicted fourteen defendants on embezzlement and extortion charges. The prosecution's closing argument told the jurors: "This is the first time that a full industrial racket has been presented in a single case. If there is anything that is important to the community today, it is a warning that rackets can be prosecuted and broken."[47]

When Dewey moved on to the governorship, he was succeeded as district attorney by Frank Hogan, whose thirty-two-year tenure in office earned him the nickname "Mr. District Attorney." Hogan's office convicted the occasional organized crime figure, including the labor racketeer Joseph Fay.[48] As vice-president of the International Union of Operating Engineers, Fay extorted contractors working construction sites along the eastern seaboard.* In February 1945, Hogan's office charged Fay and an associate with conspiracy to extort $703,000 from contractors on the Delaware aqueduct water-supply project. Some labor leaders sharply criticized the indictment. In a kind of response, Hogan told the jury: "Labor is not on trial here. . . . These men are business partners in crime, and the business of the partnership is extortion. . . . They are shakedown artists—ruthless, grasping thieves who have lined their pockets at the expense of the laboring man they represent."[49] Fay was convicted and sentenced to seven and a half to fifteen years in prison. Nine years later, in 1954, Hogan convicted Johnny Dioguardi for failure to pay state income taxes.

Despite Hogan's early success, labor racketeering continued to flourish. In April 1985, in the wake of media allegations of rampant corruption and racketeering in the New York City construction industry, Mayor Edward Koch urged Governor Mario Cuomo to appoint a special prosecutor. Instead, the governor requested the New York State Organized Crime Task Force (OCTF), a standing state agency,

* According to labor historian Harold Seidman, Fay "shined as a good fellow. In the depression years he had been perhaps the most conspicuous spender Atlantic City has had. In one night he is reputed to have lost as much as $50,000 in various Atlantic City gambling resorts. His luxurious ten-room house in the exclusive Forest Hills section of Newark was purchased in 1930." Harold Seidman, *Labor Czars* (New York: Liveright, 1938).

0405

undertake "an intensive and comprehensive investigation."* The OCTF initiated an unprecedented multidisciplinary investigation of the almost century-long problem. In addition to utilizing standard law enforcement techniques and investigative strategies, it engaged economists, political scientists, labor relations specialists, and construction industry experts. Its 1988 report on the problem and its recommendations for reform are a major contribution to our understanding of labor racketeering. Among other things, the report found that the city's five Cosa Nostra crime families controlled more than a dozen construction unions and several construction companies.

While the OCTF investigation was under way, Governor Cuomo established the Construction Industry Strike Force (CISF), comprising prosecutors, investigators, analysts, accountants, and support staff from OCTF and the Manhattan District Attorney's office. The CISF obtained or significantly contributed to the convictions of officials in a number of construction unions, including the laborers, carpenters, teamsters, bricklayers, and mason tenders unions. The work of the ad hoc CISF led the Manhattan DA to establish a permanent labor racketeering unit.[50]

CRIME COMMISSIONS

Systemic organized crime racketeering and the corrupt relationship between urban political regimes and organized crime led to the establishment of crime commissions in several major U.S. cities.[51] Some of the commissions were arms of the legislature; others were citizen groups (often businessmen) formed without government funds or authority. For example, the famous Chicago Crime Commission was founded in 1919 by thirty-five members of the Chicago business community. Eventually, it came to comprise more than two hundred businesses and professional leaders. Over the years it has issued many important reports on the state of organized crime in Chicago. Another prominent organization, the Pennsylvania Crime Commission, was established as an in-

* The New York State Organized Crime Task Force (OCTF) under the leadership of Ronald Goldstock launched some of the most innovative organized crime prosecutions in the country, including successfully planting a recording device in the car of Lucchese family crime boss Anthony Corallo.

[162.10.217.184] Project MUSE (2026-06-15 01:41 GMT) University of Queensland

vestigative agency of state government. For decades it exposed organized crime's activities, including gambling, drug trafficking, and labor racketeering.[52]

The crime commissions do not have prosecutorial authority. In fact, some have very limited investigative authority, but they provide a forum to which people can bring complaints and information. In effect, the crime commissions call attention to the problem of organized crime at the state and local levels much in the way that Congress does at the national level.

CONCLUSION

Until the late 1970s and early 1980s, neither the federal nor state and local governments had a plan or program to attack organized crime, much less labor racketeering. In part, this was due to corruption. In many cities organized crime figures were influential in labor, business, and politics. Their influence often reached into the police departments, where they were able to choose, or at least veto, commissioners, chiefs, and heads of departments. Even where such corruption did not occur, city police departments did not have the legal, financial, or technical expertise to mount a meaningful campaign against organized crime.

To be sure, there were sporadic eruptions of law enforcement activity. From time to time, federal prosecutors did convict LCN members, some of whom were labor racketeers. For example, in 1931 U.S. Treasury Department agents used income tax evasion charges to convict Al Capone (1899–1947), the most powerful Chicago organized crime figure and labor racketeer. Joseph "Socks" Lanza (1904–1968), who organized the United Seafood Workers Union and used his labor power to dominate the New York City's Fulton Fish market, the largest wholesale fish market in the country, was sent to prison in 1932 for federal antitrust crimes; in 1943, the city's prosecutors successfully prosecuted him for extortion. In 1966, federal prosecutors obtained a labor racketeering extortion conviction against Anthony Provenzano, who served as an IBT vice-president as well as president of IBT Local 560; in 1979, federal prosecutors convicted Provenzano of murdering a union dissident. In 1973, federal prosecutors obtained a stock fraud conviction against John Dioguardi (1915–1979), one of the most powerful and prolific labor

0407

racketeers in American history. Over the course of his career he wielded power in the Teamsters, Auto Workers, and several other unions. In 1979, Anthony Scotto, vice-president of ILA and a NYC Gambino crime family capo, was convicted of violating RICO. Labor racketeering was finally on federal law enforcement's radar screen, but decades of inaction had allowed the problem to become deeply entrenched.

Even when labor racketeers were successfully prosecuted and sent to prison, there was little if any impact on racketeer-ridden unions because another organized crime figure would fill the shoes of the imprisoned racketeer.[53] Thus, at a Senate hearing in 1978, then Assistant U.S. Attorney General Benjamin Civiletti testified that more than three hundred union locals remained controlled or heavily influenced by organized crime.[54] According to DOJ attorneys Peter Vaira and Douglas Roller's report, *Organized Crime and the Labor Unions* (1978), organized crime's influence in the labor unions "presents a thoroughly frightening picture. At least four international unions are completely dominated by men who either have strong ties to or are members of the organized crime syndicate."[55] In 1980, the Senate Permanent Subcommittee on Investigations' hearings on the IBT, ILA, LIUNA, and HEREIU revealed widespread looting of pension and welfare funds.[56]

Once the FBI committed itself to a war on organized crime the tide began to turn. By the mid-1980s, the agency was involved in a full-scale attack on LCN. There were several hundred agents working on organized crime cases in New York City alone. Separate squads mapped each of the five families' tables of organization and money-making activities, then designed strategies to dismantle them. Faced with a realistic prospect of being imprisoned for life, numerous Cosa Nostra members, even capos, consigliere, and bosses, began to serve as cooperating government witnesses. The family RICO cases and the commission case brought the full resources of the federal government down on organized crime. It is against that background that we can understand and assess the extraordinary post-1980 campaign to eliminate labor racketeering.

Appendix
Congressional Labor Racketeering Hearings (1950–2000)

1950–1954

Strikes and Racketeering in the Kansas City Area, House Committee on Education and Labor Special Subcommittee on Strikes and Racketeering, 1953

Investigation of Welfare Funds and Racketeering, House Committee on Education and Labor Subcommittee on Union Welfare Funds and Racketeering, 1953.

Investigation of Racketeering, House Committee on Government Operations & House Committee on Education and Labor Special Subcommittee on Strikes and Racketeering, 1953.

Investigation of Racketeering in the Washington, DC Area, House Committee on Government Operations Special Committee on Antiracketeering, 1954.

Investigation of Racketeering in the Pittsburgh PA Area, House Committee on Government Operations Subcommittee on Public Accounts, 1954.

Investigation of Racketeering in the Minneapolis, MN Area, House Committee on Government Operations Subcommittee on Public Accounts, 1954

Investigation of Racketeering in the Cleveland Ohio Area, Parts 1–2, House Committee on Government Operations Subcommittee on Anti-Racketeering, 1954.

1955–1959

Laundry Workers International Union Welfare Fund, Vols. 1–5, Senate Committee on Labor and Public Welfare, 1955.

Violation or Non-Enforcement of Government Laws and Regulations in the Labor Union Field, Parts 1–2, Senate Committee on Government Operations Permanent Subcommittee on Investigations, 1957.

Published and Unpublished Hearings Conducted by the Senate Select Committee on Improper Activities in Labor or Management, a.k.a. the "McClellan Committee"

Investigation of Improper Activities in Labor or Management: Parts 1–58, 1957–1958 (counted as 58 separate hearings)

Chattanooga, Tennessee, Numbers Rackets and Judicial Corruption, 1957.

Election Fraud, Local 1843, United Steelworkers of America, Pittsburgh, Pa., 1957.

Investigation of Improper Activities in Labor or Management Field-New York Area, 1957.

Statement of Anthony Valente, President of the United Textile Workers of America, 1957.

Statement of Lloyd Klenert, Secretary-Treasurer of the United Textile Workers of America, Vol. 1, 1957.

Teamsters Union Activities in the Detroit Area, 1957.

Teamsters Union Activities in the Tennessee Area, 1957.

Testimony of John L. Cowling, 1957.

Testimony of Nunzio Squillante, 1957.

Testimony of Paul Dorfman, 1957.

Amalgamated Meat Cutters Union in New York City Area, 1957.

Consolidated Edison Corporation, Vol. 1 & 2, 1958.

Interview of Irvin Paul Miller, 1958.

James R. Hoffa, 1958.

0409

Juke Box Industry Union Problems, Detroit Area, 1958.
Kohler Case, 1958.
Staff Interrogation, 1958.
Labor Unions Illegal Activities Investigation, Vols. 1–3, 1958. (3 separate hearings)
Perfect Circle Co. Strike Investigation, 1958.
Staff Interrogation of Robert P. Whitman, 1958.
Staff Interrogation of Joseph P. Pizzo, 1958.
Statement Prepared by Emil Mazy, Secretary-Treasurer, United Auto Workers, 1958.
Teamsters Union Activities in Gary, Indiana, 1958.
Teamsters Union Activities in the Philadelphia Area, 1958.
Teamsters Union, Vol. 1, Vol. 2, 1958.
Testimony of Maxwell Raddock and Morris Horn, 1958.
Testimony of Melvin L. Bishop, 1958.
Amalgamated Meat Cutters and Butcher Workmen, 1958.
Amalgamated Meat Cutters and Butcher Workmen of North America, 1958.
Carpenters Union Investigation, 1958.
Carpenters Union Publishing Activities, 1958.
Juke Box Industry Union Problems, Detroit Area, 1958.
Coin Operated Machines, 1958.
Acid-Throwing Violence Against Truck Drivers in the Tampa, Florida, Area, 1959.
Coin Operated Machines, 1959.
Deposition of Randall Gray, 1959.
Milwaukee News Conference of the Chief Counsel, 1959.
New York Newspaper Distribution, 1959.
Proposed Hearings on the United Automobile Workers Union, 1959.
Publication of Illinois Teamsters News, 1959.
Teamsters Union Activities in Michigan, 1959.
Teamsters Union Activities in Michigan, 1959.
Teamsters Union Activities in New York, 1959.
Testimony of Charles Johnson, Skill Games Rental, Inc.
Testimony of Frank J. Smith, 1959.
Testimony of George F. Fitzgerald and James R. Hoffa, 1959.
Testimony of Sylvia S. Hart, 1959.
Testimony of Walter Schuler, 1959.
Testimony of Randolph Gray and Mrs. Gertrude Gray, 1959.
United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry, 1959.
United Automobile Workers Union Hearings Problems, 1959.
Staff Interview, 1959.

Published and Unpublished Hearings Conducted by Various House and Senate Committees

Violation or Nonenforcement of Government Laws and Regulations in the Labor Union Field, Senate Committee on Governmental Operations Permanent Subcommittee on Investigations, 1957.

0410

1960–1964

Local 706, Plumbers and Steamfitters Union, El Dorado, Ark., Senate Select Committee on Improper Activities in the Labor or Management Field, 1960.

Attorney General's Program to Curb Organized Crime and Racketeering, Senate Committee on the Judiciary, 1961.

James R. Hoffa and Continued Underworld Control of New York Teamster Local 239, Senate Committee on Government Operations Permanent Subcommittee on Investigations, 1961.

Relationship Between Teamsters Union and Mine, Mill and Smelter Workers, Part 1, Senate Committee on the Judiciary Subcommittee to Investigate the Administration of the Internal Security Act, 1962.

Relationship Between Teamsters Union and Mine, Mill and Smelter Workers. Abuse of Tax Exemptions by Subversive Labor Organizations, Part 2, Senate Committee on the Judiciary Subcommittee to Investigate the Administration of the Internal Security Act, 1962–63.

1965–1969

Diversion of Union Welfare—Pension Funds of Allied Trades Council and Teamsters Local 815, Senate Committee on Governmental Operations Permanent Subcommittee on Investigations, 1965.

Labor Racketeering Activities of Jack McCarthy and the National Consultants Associated, Ltd., Senate Committee on Governmental Operations Permanent Subcommittee on Investigations, 1967.

1970–1974

1975–1979

Teamsters' Union Central Pension Fund, Senate Committee on Labor and Human Resources Subcommittee on Labor, 1976.

Teamsters' Union Central Pension Fund, Senate Committee on Governmental Affairs Permanent Subcommittee on Investigations, 1977.

Teamsters' Central States Pension Fund and General ERISA Enforcement, Parts 1 & 2, House Committee on Ways and Means Subcommittee on Oversight, 1977.

Racketeering in the Sale of and Distribution of Cigarettes, Senate Committee on the Judiciary Subcommittee on Laws and Procedures, 1977.

Labor Union Insurance Parts 1–2, Senate Committee on Governmental Affairs Permanent Subcommittee on Investigations, 1977.

Teamsters Central States Pension Fund, Senate Committee on Governmental Affairs Permanent Subcommittee on Investigations, 1977.

Central States Teamsters Fund, House Committee on Ways and Means Subcommittee on Oversight, 1978.

Labor Management Racketeering, Senate Committee on Governmental Affairs Permanent Subcommittee on Investigations, 1978.

Fraud and Racketeering in Medicare and Medicaid, House Select Committee on Aging, 1978.

0411

1980–1984

Labor Union Insurance, Part 3, Senate Committee on Governmental Affairs Permanent Subcommittee on Investigations, 1980.

Review of Progress on Teamsters' Central States Pension Fund Reform, House Committee on Ways and Means Subcommittee on Oversight, 1980.

Oversight of Labor Department's Investigation of Teamsters Central States Pension Fund, Senate Committee on Governmental Affairs Permanent Subcommittee on Investigations, 1980.

Government's Ability to Combat Labor Management Racketeering, Senate Committee on Governmental Affairs Permanent Subcommittee on Investigations, 1981.

Fraud and Abuse in Pensions and Related Employee Benefit Plans, House Select Committee on Aging, 1981.

Teamsters Central States Pension Fund Reform and ERISA Enforcement Remedies, House Committee on Ways and Means Subcommittee on Oversight, 1982.

Labor Management Racketeering Act of 1981, Senate Committee on Labor and Human Resources Subcommittee on Labor, 1982.

Oversight of Teamsters' Union, Senate Committee on Labor and Human Resources, 1983.

Labor Management Racketeering Act of 1983, Senate Committee on Labor and Human Resources, 1983.

Hotel Employees and Restaurant Employees International Union, Parts 1–5, Senate Committee on Governmental Affairs Permanent Subcommittee on Investigations, 1982–1983.

1985–1989

Waste, Fraud and Abuse at Federally Funded Wastewater Treatment Construction Projects: The Potential Effects of Organized Crime Infiltration and Labor Racketeering in the New York Construction Industry, House Committee on Government Operations Subcommittee on Environment, Energy and Natural Resources, 1988.

1990–1994

1995–2000

Oversight of the Department of Labor's Efforts Against Labor Racketeering, House Committee on Government Reform Subcommittee on Human Resources and Intergovernmental Relations, 1996.

Hearings on the Invalidated 1996 Teamster Election, House Committee on Education and the Workforce Subcommittee on Oversight and Investigations, 1997.

Oversight of the Department of Labor's Efforts Against Labor Racketeering, House Committee on Government Reform, 1998.

Who Pays for the Rerun Teamsters' Election, House Committee on Education and the Workforce Subcommittee on Oversight and Investigations, 1998.

Financial Affairs of International Brotherhood of Teamsters, House Committee on Education and the Workforce, 1998.

Hearings on Invalidated 1996 Teamster Election, House Committee on Education and the Workforce Subcommittee on Oversight and Investigations, 1998.

International Brotherhood of Teamsters Re-Run Election, House Committee on Education and the Workforce Subcommittee on Oversight and Investigations, 1999.

0412

Teamsters Investigation, House Committee on Education and the Workforce Subcommittee on Oversight and Investigations, 1999.

International Brotherhood of Teamsters Financial Reporting and Pension Disclosures, House Committee on Education and the Workforce Subcommittee on Oversight and Investigations, 1998.

International Brotherhood of Teamsters Rerun Election, House Committee on Education and the Workforce, 1999.

Union Democracy, Part VII: Government Supervision of the Hotel Employees and Restaurant Employees International Union, House Committee on Education and the Workforce Subcommittee on Oversight and Investigations, 1999.

International Brotherhood of Teamsters One Year After the Election of James P. Hoffa, House Committee on Education and the Workforce, 2000.

First published in James B. Jacobs and Elizabeth Mullin, "Congress' Role in the Defeat of Organized Crime," *Criminal Law Bulletin* 39:3 (2003).

0413

8

Civil RICO Suits and Trusteeships

As Monitor I had the power to investigate and audit all aspects of the HEREIU, request assistance from any agency of the United States, retain investigators and auditors, attend all meetings of the HEREIU's General Executive Board (GEB), and finally, perform all such functions necessary to fulfill my duties. In addition, I had the power to discipline officials and members, discipline ranging from a fine to permanent removal.

—Statement of Kurt W. Muellenberg, Esq., former monitor of the HEREIU at the Subcommittee on Employer-Employee Relations, Hearing on the Hotel Employees and Restaurant Employees International Union, July 21, 1999

A trusteeship has the advantage of providing an instant tangible structure that promptly functions in making changes and doing things. It also has the advantage of being separated from the court, thus giving the illusion of independence and opportunity. In a case where financial problems are the chief source of trouble in a Union, or where entrenched incompetence in leadership temporarily undermines the rights of the membership, a trusteeship may be the best choice. That is not the case here, where the court is confronted by a Union that has existed for many, many years as a criminal-dominated organization. The shortcoming of a trusteeship, however, is clearly the distasteful and unworkable act of forcing an authority figure on the existing Union leadership and membership, who they are required to be loyal to, and indeed, expected to like.

—Louis C. Bechtle, United States District Judge, *U.S. v. Local 30, United Slate, Tile and Composition Roofers, Damp and Waterproof Workers Association*, 686 F. Supp. 1139 (1988)

Note: Part of this chapter is adapted from Jacobs, Cunningham, and Friday, "The RICO Trusteeship After 20 Years: A Progress Report," 19 *Labor Lawyer* 419 (2004).

0414

It took a decade for prosecutors to grasp RICO's potential as a powerful anti–organized crime weapon.* After 1982, the year federal prosecutors filed the IBT New Jersey Local 560 case, the government's most direct attack on labor racketeering utilized the RICO civil provision (1964a and 1964b) that authorizes the U.S. attorney general or her/his desig-nee to seek injunctive and other equitable relief to restrain further violations of RICO. Section 1964(a) states:

> The district courts of the United States shall have jurisdiction to prevent and restrain violations of section 1962 of this chapter by issuing appropriate orders, including, but not limited to: ordering any person to divest himself of any interest, direct or indirect, in any enterprise; imposing reasonable restrictions on the future activities or investments of any person, including, but not limited to, prohibiting any person from engaging in the same type of endeavor as the enterprise engaged in, the activities of which affect interstate or foreign commerce; or ordering dissolution or reorganization of any enterprise, making due provision for the rights of innocent persons.

Civil RICO is well suited to systemic organizational criminality that cannot be eradicated by one-shot or even a series of criminal prosecutions. The injunctive remedy allows the government and the federal court to implement and enforce a long-term strategy of organizational reform against a racketeer-ridden union.

ELEMENTS OF A CIVIL RICO SUIT

A civil RICO labor racketeering complaint essentially requires the same proof as a criminal RICO case. The government must prove that the defendants are likely to continue violating RICO by (1) purchasing an interest in an enterprise (the union in this context) with funds obtained

* I think the best explanation is that there is a certain institutional inertia in prosecutorial organizations, as in all organizations. Federal prosecutors were accustomed to using conspiracy statutes, extortion and other substantive crimes, to prosecute organized crime cases. RICO seemed complex and strange. Professor G. Robert Blakey, who drafted the law, spent several years proselytizing for its use. A few prosecutors started experimenting with it. As word of success spread, use of the statute became more popular.

through a pattern of racketeering activity (sec. 1962a); or (2) acquiring an interest in an enterprise (the union) through a pattern of racketeering activity (sec. 1962b); or (3) conducting the affairs of an enterprise (the union) through a pattern of racketeering activity (sec. 1962c). In less technical terms, the government must prove that the civil RICO defendants used dirty money to buy their way into a union; took control of a union through extortion, fraud or some other criminal means; or conducted the affairs of a union through criminal activity, such as violence and extortion. Almost all of the civil RICO complaints have been based upon both 1962b and 1962c.

Criminal and civil RICO complaints require proof of a "pattern of racketeering activity," defined as at least two of a long list of federal felonies and their state law equivalents.* The two "predicate offenses" must be related to one another in some way to constitute a pattern; in practice, practically any two qualifying predicate offenses will satisfy the pattern requirement. If the defendants have been previously convicted of two or more RICO predicate offenses, the government lawyers need do no more than enter proof of those convictions to satisfy the "pattern of racketeering activity" requirement. Because civil RICO requires only proof by a preponderance of the evidence while criminal RICO requires proof beyond a reasonable doubt, a civil suit can succeed against certain defendants merely by entering proof of a previous criminal RICO conviction. Alternatively, the RICO predicate offenses can be

* In a number of civil RICO complaints, the DOJ lawyers have alleged that the defendants acquired an interest in the union through Hobbs Act extortion. The Hobbs Act, one of the workhorses of federal criminal law, makes extortion that affects interstate commerce a federal crime. Extortion is the taking of property by threatening future harm to person or property. In the civil RICO labor racketeering cases, the government alleged that the defendants extorted "intangible property," the union members' Landrum-Griffin rights. Until recently, the courts acquiesced in this extension of the Hobbs Act to intangible property. However, the Supreme Court's decision in *Scheidler v. National Organization for Women* 537 U.S. 393 (2003) called this theory into question. At least one federal district court has held that, in light of *Scheidler,* the Hobbs Act cannot be used to prosecute the deprivation of intangible Landrum-Griffin rights; in other words, Hobbs Act extortion of intangible union democracy rights cannot be used as a predicate offense to prove "pattern of racketeering activity" to satisfy the requirements of either criminal or civil RICO. (*Bellomo v. U.S.,* 263 F.Supp.2d 561, 575 (E.D.N.Y. 2003). But see *U.S. v. Muscarella,* 175 L.R.R.M 3280, 23–25 (S.D.N.Y. 2004). Even if the *Bellomo* view prevails, there are other RICO predicate offenses that might be proven in labor racketeering cases.

proven at the civil RICO trial itself. Then, all that remains is for the government to persuade the court that aggressive equitable relief (for example, an injunction, a trustee, and so on) is necessary to prevent the defendants from future violations of RICO.

The government's civil RICO complaints typically ask the federal district court judge to enjoin the organized crime defendants from playing any role in the union's administration or affairs. Unless the organized crime defendant is also a union official, there is no legitimate reason for the defendant (who may be in prison anyway) to play any role in the union. Therefore, an organized crime defendant will likely not spend time or money defending himself against a civil RICO labor racketeering lawsuit but instead settle the case by agreeing to have nothing to do with the union. The challenge for the government, the federal judge, and the trustee, if one is appointed, will be to ensure that the organized crime defendant does not continue to exert influence over the union surreptitiously. If the defendant does, the U.S. attorney in charge of the case can petition the judge to hold the noncomplying organized crime defendant in contempt. The judge may also remove from office and perhaps from the union any official who has continued knowingly to associate with an organized crime member.

In their civil RICO labor racketeering suits, DOJ attorneys always name union officials as defendants. Unlike the organized crime defendants, these union defendants have not previously been convicted of RICO predicate offenses; if they had been, they would not be lawfully permitted to hold union office. Thus, government attorneys need to prove that the union defendants themselves violated RICO (1962b) by aiding and abetting the organized crime defendants in their acquisition of an interest in the union or that they violated RICO (1962c) by conducting or aiding and abetting others in conducting the un-ion's affairs through a pattern of racketeering activity, including such RICO predicate offenses as extortion of employers or union members, murder, assaulting or threatening union dissidents, or defrauding the union's benefit funds. It is also possible to obtain judgment against certain (union) defendants whose passive tolerance of LCN labor racketeering might not have been sufficient to support a criminal prosecution for aiding and abetting or for conspiracy. Unlike their organized crime codefendants, the union defendants may have

0417

an incentive to defend themselves, especially if the union pays their legal fees.*

To recapitulate, in a civil RICO suit, the U.S. attorney names both union defendants and organized crime defendants, and sometimes designates the union or its benefit fund as a "nominal" defendant. Defendants are charged with having violated RICO by (1) acquiring or aiding and abetting the acquiring of an interest in the union through a pattern of racketeering activity, typically by means of violence and intimidation against union members but also by means of taking bribes from employers, election fraud, and theft from union benefit funds, and (2) conducting the union's affairs through a pattern of racketeering activity, usually extortion, theft, and fraud. As a remedy, the U.S. attorney asks the judge to remove the union defendants from their official positions, order organized crime defendants to sever all contacts with the union, enjoin defendants from knowingly associating with organized crime members and associates. The judge is also asked to appoint a trustee empowered to initiate disciplinary charges against union officers and members who violate the decree, union constitution, or bylaws; administer the union's affairs; design and implement a fair election, and monitor a new regime for conformity with the decree, the union's constitution, and federal laws.

The specifics of the civil RICO decrees in labor racketeering cases differ. However, almost always there is a provision that empowers the trustee to act as investigator/prosecutor in initiating disciplinary charges. The judge (or perhaps another trustee) decides whether the facts establish the targeted official's "guilt" and what sanction is appropriate. For example, in the IBT International case, the investigations officer functioned as prosecutor and the administrative officer functioned as trier of fact and sentencing authority. The decree usually provides that union members and officials found guilty of disciplinary violations (for example, knowingly associating with LCN figures) have a right to appeal to the district court judge; if still dissatisfied, they may appeal to the relevant federal circuit court of appeals.

* Whether the union will be permitted to pay for a union official's legal representation in defending a civil RICO suit is a thorny legal question. Under LMRDA (29 USC 501a), only expenditures for the benefit of the union are legitimate. As things stand today, the union normally pays its officials' legal fees if the official is vindicated, but if the official loses, the union is not permitted to reimburse legal expenses.

Remarkably, the DOJ lawyers have never lost a civil RICO labor racketeering case and only two of the government's 20 civil RICO suits (IBT Local 560 and Philadelphia Roofers Local 30) necessitated trials; all the rest were resolved by negotiated consent decrees that included appointment of a trustee or monitor. The decree itself usually specifies whether the trustee should have full-time and/or part-time assistants, and the amount of the trustee's compensation. See Table 8-1 below for a list of all the civil RICO suits as of February 2005.

"Winning" a civil RICO labor racketeering case by achieving a favorable decree does not necessarily ensure that the racketeer-ridden union will be successfully reformed. These cases are won or lost in the remedial phase. The prosecutors and judges know what they want to accomplish: the eradication of organized crime elements from the union and the establishment of healthy union governance capable of resisting future intrusions by criminal elements. How to achieve these goals is less clear. The first step is to seek appointment of a trustee in whom the Department of Justice and the federal judge have confidence. This requires a person who understands organized crime and who enjoys the confidence of the FBI and DOL investigators (assuming they are still at work on the case). Almost by definition, such a person has to be a former federal prosecutor.

Table 8-1
Civil RICO Suits as of February 2005

Name of Civil RICO Suit	*Date Filed, District*	*Published Opinions Discussing Various Aspects of the Case*
1. *United States v. Local 560, International Brotherhood of Teamsters*, No. 82-689	March 9, 1982, D.N.J.	*United States v. Local 560, International Brotherhood of Teamsters*, 581 F.Supp. 279, 115 L.R.R.M. (BNA) 2829 (D.N.J. 1984), *aff'd* 780 F.2d 267, 121 L.R.R.M. (BNA) 2121 (3d Cir. 1985).
2. *United States v. Local 6A, Cement and Concrete Workers*, No. 86 Civ. 4819	June 19, 1986, S.D.N.Y.	*United States v. Local 6A, Cement and Concrete Workers*, 663 F.Supp. 192, 127 L.R.R.M. (BNA) 2540 (S.D.N.Y. 1986).
3. *United States v. The Bonanno Organized Crime Family of La Cosa Nostra, Philip Rastelli, et al.*, No. 87-2974 (IBT Local 814).	August 25, 1987, E.D.N.Y.	*United States v. The Bonanno Organized Crime Family of La Cosa Nostra*, 683 F.Supp. 1411 (E.D.N.Y. 1988); 695 F.Supp. 1426 (E.D.N.Y. 1988), *aff'd* 879 F.2d 20 (2d Cir. 1989).
4. *United States v. Local 359, United Seafood Workers, et al.*, No. 87 Civ. 7351*	October 15, 1987, S.D.N.Y.	*United States v. Local 359, United Seafood Workers*, 705 F.Supp 894, 130 L.R.R.M. (BNA) 2533 (S.D.N.Y. 1989), *aff'd* 889 F.2d 1232, 132 L.R.R.M. (BNA) 2978 (2d Cir. 1989); 55 F.3d 64 (2d Cir. 1995).

(continued)

0419

Table 8-1 *(continued)*

Name of Civil RICO Suit	*Date Filed, District*	*Published Opinions Discussing Various Aspects of the Case*
5. *United States v. Local 30, United Slate, Tile, and Composition Roofers, et al.*, No. 87-7718	December 2, 1987, E.D.Pa.	*United States v. Local 30*, 686 F.Supp. 1139, 128 L.R.R.M. (BNA) 2580 (E.D.Pa. 1988), *aff'd* 871 F.2d 401, 130 L.R.R.M. (BNA) 3058 (3d Cir. 1989).
6. *United States v. John F. Long, John S. Mahoney, et al.*, No. 5588 Cr. 943 (IBT Locals 804 and 808)	May 1988, S.D.N.Y.	*United States v. Long* 697 F.Supp. 651 (S.D.N.Y. 1988); 917 F.2d 691, 135 L.R.R.M. (BNA) 2812 (2d Cir. 1990).
7. *United States v. International Brotherhood of Teamsters*, No. 88 Civ. 4486 ("IBT International Case")	June 28, 1988, S.D.N.Y.	*United States v. International Brotherhood of Teamsters*, 708 F.Supp. 1388, 131 L.R.R.M. (BNA) 2161 (S.D.N.Y. 1989); 723 F.Supp. 203, 134 L.R.R.M. (BNA) 2707 (S.D.N.Y. 1989); 725 F.Supp. 162, 134 L.R.R.M. (BNA) 2801 (S.D.N.Y. 1989); 728 F.Supp. 1032, 134 L.R.R.M. (BNA) 2801 (S.D.N.Y. 1989); 728 F.Supp. 1032, 134 L.R.R.M. (BNA) 2281 (S.D.N.Y. 1989); 899 F.2nd 143, 133 L.R.R.M. (BNA) 2827 (2nd Cir. 1990); 905 F.2d 610, 134 L.R.R.M. (BNA) 3161 (2d Cir. 1990); 907 F.2d 277, 134 L.R.R.M. (BNA) 3172 (2d Cir. 1990); 931 F.2d 177, 137 L.R.R.M. (BNA) 2022 (2d Cir. 1991); 941 F.2d 1292, 138 L.R.R.M. (BNA) 2219 (2d Cir. 1991); 964 F.2d 180, 140 L.R.R.M. (BNA) 2022 (2nd Cir. 1992).
8. *United States v. Locals 1804-1, 824, 1809, 1909, 1588, and 1814, International Longshoremen's Association, et al.*, No. 90 Civ. 0963	February 14, 1990, S.D.N.Y.	*United States v. Local 1804-1, International Longshoremen's Association*, 745 F.Supp. 184 (S.D.N.Y. 1990); 812 F.Supp. 1303, 142 L.R.R.M. (BNA) 2533 (S.D.N.Y. 1993); 44 F.3d 1091, 148 L.R.R.M. (BNA) 2217 (2d Cir. 1995); *United States v. Carson*, 52 F.3d 1173, 149 L.R.R.M. (BNA) 2001 (2d Cir. 1995).
9. *United States v. Local 295, International Brotherhood of Teamsters*, No. 90-CV-0970	March 20, 1990, E.D.N.Y.	*United States v. Local 295, International Brotherhood of Teamsters*, 1991 WL 35497 (E.D.N.Y. 1991); 1991 WL 340575 (E.D.N.Y. 1991); 784 F.Supp. 15, 141 L.R.R.M. (BNA) 2625 (E.D.N.Y. 1992).
10. *United States v. District Council of New York City and Vicinity of the United Brotherhood of Carpenters and Joiners of America, et al.*, No. 90 Civ. 5772	September 6, 1990, S.D.N.Y.	*United States v. District Council of New York City and Vicinity of the United Brotherhood of Carpenters and Joiners of America*, 778 F.Supp. 738 (S.D.N.Y. 1991); 941 F.Supp. 349, 154 L.R.R.M. (BNA) 2281 (S.D.N.Y.)
11. *United States v. Edward T. Hanley, et al.*, No. 90-5017 (HEREIU Local 54)	December 19, 1990, D.N.J.	*United States v. Hanley*, 1992 WL 684356 (D.N.J. 1992).
12. *United States v. ILA Local 1558*, No. Civ. 0963	1992, S.D.N.Y.	*United States v. Local 1804-1, International Longshoremen's Association*, 2003 U.S. Dist. LEXIS 1105 (S.D.N.Y., Jan. 29, 2003); *United States v. Local 1804-1, International Longshoremen's Association*, 2003 U.S. Dist. LEXIS 1229 (S.D.N.Y., Jan. 30, 2003); *United States v. ILA Local 1558*, 77 Fed. Appx. 542, 2003.
13. *United States v. Anthony R. Amodeo, Sr., et al.*, No. 92 Civ. 7744 (HEREIU Local 100)	October 23, 1992, S.D.N.Y.	*United States v. Amodeo*, 44 F.3rd 141, 148 L.R.R.M. (BNA) 2226 2nd Cir. 1995).

0420

Table 8-1 *(continued)*

Name of Civil RICO Suit	*Date Filed, District*	*Published Opinions Discussing Various Aspects of the Case*
14. *United States v. Local 282 of the International Brotherhood of Teamsters*, No. 94-2919	June 21, 1994, E.D.N.Y.	*United States v. Local 282 of the International Brotherhood of Teamsters*, 13 F.Supp.2nd (E.D.N.Y. 1995).
15. *United States v. Mason Tenders District Council of Greater New York*, No. 94 Civ. 6487	September 7, 1994, S.D.N.Y.	*United States v. Mason Tenders District Council of Greater New York*, 1994 WL 742637 (S.D.N.Y. 1994); 909 F.Supp. 882 (S.D.N.Y. 1995); 909 F.Supp. 891 (S.D.N.Y. 1995)
16. *United States v. LIUNA* (International Union "voluntarily" instituted reforms in exchange for government's not filing signed consent agreement.)	Never filed	*Serpico v. Laborers' International Union of North America*, 97 F.3rd 995, 153 L.R.R.M. (BNA) 2577 (7th Cir. 1996).
17. *United States v. Edward T. Hanley, Hotel Employees Restaurant Employees International Union, and Hotel Employees and Restaurant Employees International Union General Executive Board*, Civ. No. 95-4596	September 5, 1995, D.N.J.	*United States v. Hotel Employees and Restaurant Employees International and Union*, 974 F.Supp. 411 (D.N.J. 1997); *Agathos v. Muellenberg*, 932 F.Supp. 636, 155 L.R.R.M. (BNA) 2509 (D.N.J. 1996).
18. *United States & Laborers' International Union of North America v. Construction & General Laborers' District Council of Chicago & Vicinity*, No. 99C 5229	August 8, 1999, N.D.Ill.	*Laborers' International Union of North America v. Caruso*, 1999 WL 14496 (N.D.Ill. 1999), *aff'd*, F.3rd 1195, 163 L.R.R.M. (BNA) 2204 (7th Cir. 1999).
19. *United States v. Laborers' International Union of North America Local 210*, No. 99 CV-0915A	November 18, 1999, W.D.N.Y.	*Panczykowski v. Laborers' International Union of North America*, 2000 WL 387602, 166 L.R.R.M. (BNA) 2110 (W.D.N.Y. 2000); *Caci v. Laborers' International Union of North America*, 2000 WL 387599, 166 L.R.R.M. (BAN) 2232 (W.D.N.Y. 2000).
20. *United States v. Hotel Employees and Restaurant Employees International Union Local 69*	April 17, 2002, N.D.N.Y.	
21. *United States v. International Longshoremen's Association et al.*, CV-05-3212	July 2005, E.D.N.Y.	[While this book was in press, the DOJ filed a civil RICO suit against the ILA and served Cosa Nostra figures.]

* This litigation involved the Fulton Fish Market, in which the union was a major player. The case was settled with the appointment of a "market administrator," not actually a union trustee.

SELECTING THE TRUSTEE

In the majority of cases, formal selection of the trustee has been left up to the presiding federal district court judge, with both the govern-

0421

ment and the union invited to make recommendations. In the HEREIU International case, both the government and the HEREIU sent the judge three names. The judge selected one of the government's nominees, Kurt Muellenberg, a former head of the DOJ's Organized Crime and Racketeering Section. In almost all cases one of the government's nominees has been chosen;* no trustee has been appointed over the government's objection.

In some cases the identity of the trustee has been included in the consent agreement itself. For example, the New York City District Council of Carpenters' consent decree named a trustee (designated as the Investigations and Review Officer (IRO)) and the members of an Independent Hearing Committee (IHC).[1] Under this trusteeship, the IRO would prepare disciplinary cases and the IHC would adjudicate disciplinary charges.

One of the most arresting facts about the government's twenty-year anti–labor racketeering campaign is that the trustees are almost all former federal prosecutors with experience investigating and prosecuting organized crime. Edwin Stier, trustee for a decade over IBT Local 560 was a former state and federal prosecutor. Thomas Puccio, trustee in the IBT Local 295 case, was previously head of the Federal Organized Crime Strike Force in Brooklyn.[2] Of the three members of the Independent Review Board in the IBT International case, William H. Webster was a former FBI director, Charles Carberry was a former assistant U.S. attorney, and Michael Holland was one of just a few labor lawyer trustees.[3] Holland's authority was limited to running the IBT's national election.[4] Table 8-2 provides background on the trustees appointed in the civil RICO labor cases.

* In the Chicago Laborers' District Council case, for example, Robert Bloch, formally nominated by LIUNA International, had the DOJ's strong support and approval. See National Legal and Policy Center, *Union Corruption Update,* September 10, 2001. Similarly, in the LIUNA Local 210 case, the international union appointed Gabriel Rosetti to be the trustee; the DOJ then consented to have Rosetti serve as RICO trustee as well. (Stephanie Mencimer, "Ex-FBI Official Pulls at Union's Infamous Roots; Laborers Fight Corruption From the Inside Out," *Washington Post,* June 7, 1998, at A1). In the Philadelphia Roofers Local 30/30B case, however, Judge Bechtle chose Robert Welsh, a former law clerk with an impressive record as a federal prosecutor. Telephone Interview with Robert Welsh, Special Master, Roofers Local 30/30B, in Philadelphia (November 25, 2003).

0422

Table 8-2
Trustees' Backgrounds

Trustee	*Union*	*Background*
Eugene R. Anderson (Trustee)	LIUNA Local 6A (New York)	Assistant U.S. attorney and partner in New York City law firm.
Robert E. Bloch (Trustee)	Chicago Laborers' District Council (CLDC)	Labor lawyer, Dowd, Bloch & Bennett.
John A. Boardman (Deputy Monitor)	HEREIU Local 69	HEREIU vice-president and temporary trustee of Local 69 (appointed by President Wilhelm when Wilhelm put the local under trusteeship in March 2002). Formerly president of a HEREIU local in Washington.
Charles Carberry (Investigations Officer)	IBT International	Assistant U.S. attorney, S.D.N.Y., 1979–1985; deputy chief, Criminal Division, 1985–1986; chief, Securities and Commodities Frauds Unit, 1986–1987.
Michael Chertoff (Investigations Officer)	Mason Tenders District Council (MTDC)	Assistant U.S. attorney, Southern District of New York, 1983–1987; first assistant U.S. attorney for District of New Jersey, 1987–1990; U.S. attorney for District of New Jersey, 1990–1994; U.S. Senate special counsel for Whitewater Committee, 1994–1996; partner, Latham & Watkins, 1994–2001; assistant attorney general, Criminal Division, 2001–2003; U.S. 3rd Circuit Court of Appeals, 2003.
Kenneth Conboy (Investigation and Review Officer)	New York District Council of Carpenters	U.S. district judge for the Southern District of New York. Former national appeals master for the Teamsters International nationwide election; New York City commissioner of investigation; counsel to commissioner of New York City Police Department.
Ronald E. DePetris (Independent Supervisor)	IBT Local 851	Chief assistant U.S. attorney, Eastern District of New York, 1982–1986. Assistant U.S. attorney, chief of Fraud Section, and chief of Criminal Division, Eastern District of New York, 1971–1977.
W. Neil Eggleston (Appellate Officer)	LIUNA International	Chief of appeals, U.S. Attorney's Office in Southern District of New York; former Clinton White House attorney.
James Flanagan III	HEREIU Local 54	Deputy director, New Jersey Division of Gaming Enforcement.
Robert Gaffey	ILA Local 1588	Assistant U.S. attorney, Southern District of New York, 1985–1988. Chief counsel to the investigations officer in the IBT International trusteeship.
James Gill	ILA Local 1804-; Local 1909	Five years as an assistant district attorney in Manhattan.
Stephen B. Goldberg (Election Officer)	LIUNA International	Professor of law at Northwestern University; expert in alternative dispute resolutions; served as an attorney for the National Labor Relations Board, 1961–1965.
W. Douglas Gow (Inspector General)	LIUNA International	FBI associate deputy director, Investigations.

(continued)

0423

Table 8-2 *(continued)*

Trustee	*Union*	*Background*
Steve Hammond (LIUNA trustee)	MTDC	Started in LIUNA in 1970 as a member of Local 295, Salt Lake City; elected business manager of Local 295 in 1975; appointed assistant business manager of the Oregon/Southern Idaho/ Wyoming/Utah District Council in 1987. Came to LIUNA International Headquarters in 1989 to serve as assistant director of the Construction and Jurisdiction Department. Appointed director of the department in 1994. (After trusteeship) was assigned as special assistant to the general president (Coia) in 1997. Served as co-chairman and trustee on the New York State Laborers'-Employers' Cooperation and Education Trust (LECET) until August 2003. Was elected by the LIUNA GEB as international vice-president-at-large in August 2000.
Michael Holland (Elections Officer)	IBT International	General counsel, International Union, United Mine Workers of America, 1982–1989. Chairman and trustee, UMWA Health and Retirement Funds, 1993–. Chairman and trustee, National Organizers Alliance Retirement Pension Plan, 1997–.
Joseph Jaffe (Trustee)	ILA Local 1814	Assistant U.S. attorney, Southern District of New York
Frederick Lacey (Independent Administrator)	IBT International	U.S. attorney in New Jersey, 1969–1971; Federal District Court judge, 1971–1986; chairman, U.S. Supreme Court Advisory Committee on Criminal Rules, 1984–1986; judge, Temporary Emergency Court of Appeals, 1980–1986; judge, U.S. Foreign Intelligence Surveillance Court, 1979–1985.
Mary Shannon Little (Court Officer)	HEREIU Local 100	Assistant U.S. attorney, Southern District of New York.
Robert D. Luskin (GEB Attorney)	LIUNA International	Special counsel to the DOJ Organized Crime and Racketeering Section.
Jack McDonald	LIUNA Local 210	Former FBI agent.
Robert McGuire (Trustee)	ILA Local 1588	Commissioner, New York City Police Department, 1978–1983.
Steven A. Miller (Court-Appointed Monitor)	CLDC	Chief, Special Prosecutions Section, U.S. Attorney's Office, Northern District of Illinois, 1991–1995; chief, Bank and Financial Institution Fraud Unit, 1988–1991.
Michael Moroney (Deputy Trustee)	IBT Local 295	Former federal labor investigator.
Kurt Muellenberg (Trustee)	HEREIU International and HEREIU Local 69	Former chief of the DOJ's Organized Crime and Racketeering Section.
Howard O'Leary (Investigations Officer)	HEREIU International	Assistant U.S. attorney, Detroit; partner in the Washington office of Dykema Gossett.
Lawrence Pedowitz (Court-Appointed Monitor)	MTDC	Assistant U.S. attorney, Southern District of New York, 1974–1978; chief of appeals, 1976–1977; and chief, Criminal Division, 1982–1984.

0424

Table 8-2 *(continued)*

Trustee	*Union*	*Background*
Thomas Puccio (Trustee)	IBT Local 295	Office of the U.S. Attorney, Eastern District of New York, 1969–1976 (chief, Criminal Division, 1973–1975; executive assistant U.S. attorney, 1975–1976); chief, U.S. Department of Justice Strike Force, 1976–1982.
Barbara Quindell (Elections Officer)	IBT International	Labor lawyer.
Gabriel Rosetti, Jr. (Trustee)	LIUNA Local 210 (Buffalo)	Thirty-one-year union member.
Robert Stewart (Deputy Trustee)	ILA Local 1588	Career federal prosecutor; head of the Newark Federal Organized Crime Strike Force.
Edwin H. Stier (Trustee)	IBT Local 560	Former assistant U.S. attorney in charge of the Criminal Division, Newark. Former director of the New Jersey State Division of Criminal Justice.
Daniel F. Sullivan (Chief Investigator)	HEREIU International	Supervisor, FBI Baltimore office.
Henry Tamarin (Trustee)	HEREIU Local 100	HEREIU International vice-president; also worked on HEREIU Local 54 trusteeship.
Michael Tobin (Deputy Trustee)	IBT Local 295	Former investigator for Thomas Puccio; no labor background.
Peter F. Vaira (Hearing Officer)	LIUNA International	Executive director of President's Commission on Organized Crime; former chief of DOJ's Organized Crime Strike Force in Chicago; and former U.S. attorney for Eastern District of Pennsylvania.
Robert E. Welsh, Jr. (Special Master)	Roofers Local 30/30B	Assistant U.S. attorney, 1980–1986; and chief of Major Crimes Section, 1984–1986, Philadelphia.

THE DURATION OF THE TRUSTEESHIP

The DOJ favors RICO trusteeships of indefinite duration.[5] The advantage of a trusteeship with no fixed duration is that neither the criminal element nor the rank and file will have cause to anticipate that the trusteeship will soon end with union affairs reverting to the status quo ante. The government wants the rank and file to believe that the trusteeship will remain in place until corruption and racketeering have been thoroughly eliminated. However, a trusteeship without a fixed termination date may cause the trustee (and provide an economic incentive) to operate without hurry, thereby draining the union treasury and unduly delaying the union's return to self-governance. Furthermore, without a fixed or at least presumptive termination date, it may be difficult to bring the trusteeship to an end. The union defendant will always prefer

0425

a trusteeship of limited duration, if for no other reason than that the shorter the trusteeship, the less financial drain on the union.

In the majority of labor racketeering cases, the consent decree provided for a fixed-term trusteeship, ranging from as short as eighteen months (e.g., HEREIU International and HEREIU Local 100) to as long as six years (e.g., HEREIU Local 54) (see Table 8-3). Most of the decrees or consent agreements have included an option to extend the trusteeship's duration for a further fixed period.[6]

Table 8-3
Duration of Trusteeships

Union	*Date Trusteeship Established*	*Proposed Duration of Trusteeship*	*Terms for Extensions*	*Termination Date*
IBT Local 560	June 23, 1986	Indeterminate	Not applicable	Feb. 25, 1999
LIUNA Local 6A (Cement and Concrete Workers, New York)	March 18, 1987	Until elections held in 1990	Extend twice, each time for twelve months.	September 1993
Local 359 (Seafood Workers)	Unknown	Unknown	Several extensions.	July 1994
Philadelphia Roofers Local 30/30B	June 2, 1988	Indeterminate	Not applicable	September 28, 1999
IBT International	1989	Indeterminate	Not applicable	Ongoing
IBT Local 295	April 29, 1992	Indeterminate	As of 2002, the trustee in charge recommend that although the local was ready for court-supervised elections, his trusteeship should continue, in modified form, for at least seven more years.	July 29, 2004, but chief investigator has ongoing duties until after fall 2006 election. Court may reinstate Independent Supervisor for good cause.
United Brotherhood of Carpenters and Joiners of America, New York District Council and Constituent Locals	March 4, 1994	Thirty months	The decree provided: "The Internal Review Officer [to] apply to the Court for an extension or to reduce the length of the term by six months or less, in order to complete work in progress, upon a showing of good cause and upon reasonable notice to the government and counsel for the District Council." (1994 Consent Decree, section 9(a))	June 1999

0426

Table 8-3 *(continued)*

Union	*Date Trusteeship Established*	*Proposed Duration of Trusteeship*	*Terms for Extensions*	*Termination Date*
HEREIU Local 54	April 12, 1991	Six years	No extensions. (Interview with James Flanagan, July 2002).	March 3, 1997
HEREIU Local 100	October 23, 1992	Eighteen months	Seems that there were terms; details unknown.	Fall 1994
IBT Local 282	June 1, 1994	Four years	Yes, for four years, until May 2003; see amended consent judgment in 13 F.Supp.2d 401	Ongoing
IBT Local 851	August 1994	Unknown	A court order issued October 20, 2000, extended the trusteeship until thirty days after the second set of elections following the trusteeship.	Same as for IBT Local 295
MTDC	December 27, 1994	Four years	Not extended; however, a "Supplemental" consent decree was entered into in January 1999 that provided that the trustee, Lawrence Pedowitz, would act as a "Review Monitor" for another thirty-six months, with power to apply to the Court for restoration of his trustee powers if he concluded the union was being run corruptly.	January 1999
LIUNA International	February 15, 1995	February 11, 1998 (three years)	First one-year extension, February 1998–January 1999, did not alter the agreement. Second one-year extension was announced January 8, 1999, and weakened agreement a bit—DOJ will allow LIUNA to curtail its efforts to accommodate "budgetary constraints," and DOJ can impose consent decree only if a failure to do so would "substantially interfere" with the purposes of the agreement, instead of at its discretion. Second extension was set to expire on January 31, 2000; on January 20, 2000, a new agreement, good till 2006, was reached. This agreement removes the takeover threat. DOJ now can "veto" major changes only in LIUNA's reform effort but cannot implement the previously signed consent decree. (National Legal and Policy Center, *Union Corruption Update,* January 31, 2000)	Set to terminate in 2006

(continued)

0427

Table 8-3 *(continued)*

Union	*Date Trusteeship Established*	*Proposed Duration of Trusteeship*	*Terms for Extensions*	*Termination Date*
HEREIU International	September 5, 1995	Eighteen months	Muellenberg requested a one-year extension in February 1997; court granted extension, with trusteeship ending March 5, 1998. After termination of trusteeship, Muellenberg continued as one member of a three-person oversight committee with limited authority. (Kurt Muellenberg, Federal Monitor's Final Report as Monitor, 2000)	March 8, 1998; consent decree was not technically lifted until December 1, 2000, when all the disciplinary proceedings ended.
Chicago Laborers' District Council	LIUNA trusteeship began February 1998; court-ordered trusteeship began August 12, 1999	At least two years	It does not appear that there were any explicit terms; there was not an extension.	August 30, 2001
LIUNA Local 210 (Buffalo)	December 1999 (prior LIUNA internal trusteeship from February 1996 to December 1999)	LIUNA appointed internal trustee for two-year term	In 1998, LIUNA extended the trustee's term indefinitely. (Stephanie Mencimer, "Ex-FBI Official Pulls at Union's Infamous Roots; Laborers Fight Corruption from the Inside Out," *Washington Post*, June 7, 1998)	August 2001
HEREIU Local 69	April 17, 2002	Four years	Not applicable	Terminates April 17, 2006, unless extended for cause shown.
ILA Local 1588	January 29, 2003	Eighteen months and possible eighteen months of postelection oversight	Not applicable	Ongoing

THE TERMS OF THE TRUSTEE'S EMPLOYMENT

At first blush, it would seem desirable to have a full-time trustee devoted to reforming a racketeer-ridden union. After all, trustees imposed by international unions on bankrupt and maladministered locals typically serve as full-time officials. However, it would be very difficult to re-

0428

cruit a full-time RICO remedial trustee from the ranks of private-sector law firm attorneys with prior federal prosecutorial or organized crime control experience. To serve full-time, the attorney would have to take an extended or indefinite leave from his or her law firm and perhaps a cut in pay; even so, the salary might be prohibitive for a local union. Furthermore, a union trusteeship is not a step along a career path. Years later, when the trusteeship is terminated, the lawyer/trustee would have to reconnect with his old firm or find a new one. There would be no business and no clients to bring to the firm. He certainly could not count on more union trusteeships because there are so few. Realistically, if the RICO suits required full-time trustees, they would have to be drawn from another pool, perhaps retired prosecutors, or more likely career union officials. Thus, the trustees mostly serve on a part-time basis, compensated at an hourly rate. Their weekly hours might vary from thirty or more at the beginning of the trusteeship to ten or fewer later on, according to the trustee's judgment of what is necessary. The disadvantage of a part-time trustee is that he or she will not take ownership of the task. While operating a law office and/or devoting time to other jobs, the part-time trustee may not have the time and energy necessary to reform, reconstitute, and reconstruct a union that has been operated as a mob fiefdom for decades. However, choosing someone who is not a former prosecutor carries serious disadvantages. It is crucial that government investigators completely trust the trustee and feel comfortable sharing sensitive investigative information with him or her. A union official would be very unlikely to enjoy this kind of trust.

Compensation is an important issue. Attorneys at big law firms bill their time at $300–$500 an hour, rates that union members find staggering. Some trustees have earned more than $100,000 a year for their part-time work.[7] The trustee in the Local 295 case was paid $250,000 a year for his part-time services, and his full-time deputy trustee received $150,000. Ironically, such compensation exceeds the remuneration of mob-connected union officials whose salaries and emoluments prosecutors condemned as bloated, unjustified, and exploitive. On occasion, the trustee's wages have drawn criticism from those who oppose the trusteeship on other grounds and, in some cases, may have undermined the trustee's legitimacy in the eyes of the union's members. For example, the IBT went to court to challenge (unsuccessfully) the $350 hourly rate billed by Frederick Lacey as "Administrator" (one of the three trustees) in the IBT case.[8]

0429

A trusteeship over an international union's central office requires more time, personnel, and resources than a trusteeship over a local union. After the 1991 election, the IBT three-person (plus staff) trusteeship was replaced by a three-person Independent Review Board (IRB). The IRB hired the original investigations officer (Carberry) and authorized a staff of two full-time lawyers and eight full-time investigators. According to Teamsters General President James P. Hoffa, the IRB costs the IBT approximately $8–9 million a year.[9] LIUNA estimates that it spends $5 million a year on the remediation effort led by former federal prosecutor Robert Luskin.[10] By contrast, the HEREIU International trusteeship was a much smaller and cheaper operation.[11]

Covering the costs of a RICO trusteeship over a previously exploited union often presents a major problem. The union's coffers have been plundered by racketeers and depleted by litigation costs. Funding the trusteeship could bankrupt the union or require dues increases that might cause the rank and file to abandon it. In a few cases, the international union, a much deeper pocket, has contributed financial assistance.[12] For example, the IBT Local 851 decree states that the local will set up a fund from which the trustee can draw and that the International IBT will supplement that fund. However, some trusteeships have floundered due to inadequate funding.

THE TRUSTEE'S POWERS

The trustee's powers emanate from the decree. Some trustees have been given all the powers and authority of the union's GEB, in effect empowering the trustee to administer the union, negotiate contracts, handle grievances, and initiate strikes.[13] Such a trusteeship resembles the type of trusteeship that an international union sometimes imposes on an affiliated local.

The RICO trustee who is charged with the responsibility for running the union has to devote a substantial portion of time and energy to day-to-day union administration rather than to organizational reform.[14] In the LIUNA Local 6A trusteeship, Trustee Eugene Anderson and his assistant claim to have been so preoccupied supervising the daily administration of the union that they were unable to interact with the rank and file. On the other hand, the trustee who runs the union is in a position to earn the rank and file's confidence by assisting the membership

0430

to achieve its goals rather than functioning solely as a policeman. If the budget permits, trustees who find themselves in this position (e.g., IBT Local 560) usually hire a seasoned union official to handle day-to-day union affairs while they themselves concentrate on investigations, discipline, elections, and communications with the rank and file.

Trustees typically have the authority to examine the union's books and records, and to compel sworn statements by officers, agents, representatives, employees, and members. In many cases (e.g., Roofers Local 30/30B) the trustees have been given authority to review collective bargaining contracts and to veto improper expenditures. Officers of the corrupt regime may have signed various contracts for goods and services with cronies before the trustee assumed his position, in effect providing golden handshakes to members of the heretofore dominant clique. The trustee must also scrutinize the payroll for no-show workers, improper reimbursements, and other fraudulent expenditures.

In some cases the power to bring suit on behalf of the union has enabled trustees to obtain reimbursement from the union's exploiters. For example, in the Mason Tenders District Council case, Monitor Lawrence Pedowitz filed lawsuits against former officers and trus-tees, recovering $12 million of $15 million lost because of their malfeasance. Ronald DePetris, trustee over IBT Local 851, filed two civil RICO claims against freight-forwarding companies and Local 851's former secretary-treasurer, ultimately recovering more than $3 million for the financially strapped union. Such successes obviously contribute to the trustee's credibility and popularity.

THE TRUSTEE'S DISCIPLINARY AUTHORITY

In most, but not all, RICO union cases, the decree prohibits union members, and certainly union officials, from knowingly associating with organized crime members or associates.* For example, the consent decree

* Courts have uniformly rejected challenges based on freedom of association grounds. See *U.S. v. Int'l Bhd of Teamsters,* 745 F. Supp. 908 (S.D.N.Y. 1990), 138 L.R.R.M. (BNA) 2219 (2d Cir. 1991). Courts have found either that the union constitution or the consent agreement provides ample authority to make no-knowing-contact-with-organized-criminals a condition of holding union office.

0431

in the IBT International case gave the independent administrator the IBT general president's disciplinary authority.[15] The independent administrator, Frederick Lacey, held that this authority was sufficient to expel union members, not just officers, for bringing "dishonor and disrepute" to the Teamsters on account of LCN ties. District Court Judge David Edelstein agreed and the Second Circuit Court of Appeals affirmed.[16] The trustees in the LIUNA Local 6A and HERE Local 54 cases had authority to bar candidates who knowingly associate with organized crime figures from union elections, but not the authority to expel such individuals from the union. Under those conditions, the taint of labor racketeering and atmosphere of intimidation continue to prevail.

The union trustees have usually had the power to hire members of the union staff, including business agents who negotiate labor contracts, administer grievances, file unfair labor charges, and make decisions regarding strikes and other job actions. To be successful, the trustee must demonstrate that a new regime has permanently displaced the old one. New leaders must be encouraged to come forward. However, there is a danger that, in making snap hiring decisions, the trustee will appoint people who are incompetent, unpopular, or otherwise not likely to be effective leaders. Moreover, the rank and file may resent having their officers chosen by "the government," failing or refusing to distinguish between the courts/trustee and "the government."

THE TRUSTEE'S ELECTION AUTHORITY

RICO trustees are almost always empowered to implement and monitor elections. Mounting a fair and competitive election is a major step in the union's rehabilitation. Typically, mobbed-up unions have not experienced a fair election in the memory of any living union member. As Judge David Edelstein explained in one of his many opinions in the IBT international case:

> [E]lection rules must not be viewed in a vacuum, but instead placed in their proper context. This Court has reiterated that the [IBT] Consent Decree is a unique attempt to cleanse this union. These election rules are the linchpin in that effort. This Court will only approve election rules that will guarantee honest, fair, and free elections completely

0432

secure from harassment, intimidation, coercion, hooliganism, threats, or any variant of these, no matter under what guise.[17]

The Trustee's Preparation

Ideally, a new trustee should have general knowledge about organized crime, labor unions, labor racketeering, and the history of previous efforts to reform mobbed-up unions. She/he should also know the specific facts of the case at hand, the history and politics of the targeted union, who the racketeers are and how they have exploited the union and its pension and welfare funds, and the local union's relationship to its international union and to the employers for whom its members work.

There is no manual on how to organize and implement a RICO-spawned trusteeship. Remarkably, there has never been a conference or meeting to debrief the trustees or to memorialize their experiences. Their reports have not been assembled in any retrievable way and are usually difficult to obtain. Indeed, in some cases the reports have been purposefully sanitized because the judge or trustee feared their being made public. There has been little contact among the trustees, sometimes as a matter of policy. For example, Judge Bechtle in the Philadelphia Roofers' Local 30/30B case instructed his trustee ("liaison officer") not to contact trustees in other cases lest their mistakes infect the Roofers' remediation.[18]

Typically the newly appointed trustee is briefed by the federal prosecutors who drafted the civil RICO complaint. However, the "briefing" may be no more than one or two informal discussions over lunch. Of course, the newly appointed trustee can read the civil RICO complaint, the settlement agreement, and other legal documents, including past indictments. However, because practically all of these RICO suits have been settled quickly, there are no trial transcripts or even depositions. At best, the new trustee will know the prosecutors' perception of the problem or, more accurately, of the problem's symptoms—e.g., mob influence, bloated salaries, ghost employees, and the sorry state of the union's treasury and benefit funds. Prosecutors cannot convey information about what they themselves do not know, such as the union's politics, culture, and organizational environment, as well as the nature of the business or industry environment in which the union's members work.

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In the few cases where civil RICO suits against unions have gone to trial, the judge has had significant influence over the trusteeship. After a yearlong trial in the IBT Local 560 case, Judge Harold Ackerman, appalled by the union's history of corruption and racketeering (in his words "a shameful horror story"), became strongly committed to the trusteeship's success. Without a trial, the judge may not be well versed in the union's problems. Where the judge is only tangentially involved in the case, she or he may leave the structure and powers of the trusteeship to be negotiated by the parties. Judge David Edelstein is a striking exception; even without a trial, he became strongly committed to reforming the IBT and handed down one decision after another supporting the government's trustees' positions.

The trustee, for good reason, is likely to be suspicious of existing union officers. They were probably complicit with and certainly tolerant of the labor racketeers who had exploited the union for many years. The integrity of the international union's officers will also be uncertain. Years, even decades, of organized crime domination of a local or district council could not have gone on without the knowledge, acquiescence, and complicity of some international union officers. The trustee must be wary of appearing friendly to or allied with the incumbent international union officials lest the rank and file conclude that the trusteeship is just for show.

In a few cases the new union trustee has been approached by rank-and-file members, usually "dissidents," who may previously have been bold enough to criticize the ruling clique. Some dissidents provide useful information; others' allegations are distorted by a paranoid worldview, not surprising in light of years of struggle and defeats. Too close an association with these dissidents may undermine the trustee's credibility with rank-and-file union members.[19] However, there are also costs in disappointing or alienating the dissidents.

If the trustee is going to learn more about the union, the information will probably have to come from DOL and FBI investigators, who might or might not continue, after the negotiated agreement, to work on the case, thereby supporting the trusteeship. On one hand, the investigators may be strongly invested in eliminating corruption and racketeering, root and branch. On the other hand, once there is a signed settlement, there may be departmental pressures to move on to new cases.

0434

The Operation of the Trusteeships

What does a trustee in a civil RICO union case actually do to achieve the goals of the consent agreement? There is no "to do" list. Every trustee has had to invent the job, at least to the extent of identifying and prioritizing tasks and allocating time and resources among investigations, disciplinary actions, and union-democracy-building. Because no two situations are the same, it is inevitable and desirable that each trustee attempt to address the exigencies of the case at hand. Moreover, a successful trustee changes priorities and reallocates resources as weeks, months, and years pass. A RICO union trustee has to allocate time both to responding to problems ("problem solver") and to pressing forward with a reform agenda ("organizational reformer"). Some trustees initially confronted so many union administrative problems that they were never able to move into the organizational reform mode.

Trustees have presided over regularly scheduled and special union meetings where, among other things, they have sought to explain the trusteeship to the rank and file and solicited their support. Trustees have contributed regular columns to union magazines and newsletters and published open letters to the membership explaining the civil RICO case, the charges against incumbent officials, and the trustee's role. In some cases, trustees have sought to educate the rank and file about their Landrum-Griffin rights to speak freely, run for office, vote, inspect contracts, and so on. Some trustees have maintained an open door or have met on an appointment-only basis with union members who wanted to convey their concerns or assuage their anxieties. Sorting out bona fide complaints from malicious rumors and politically motivated accusations is a constant challenge.

Trustees have had to pore over books and records to identify legitimate and illegitimate expenditures. In the HERE International case, Trustee Kurt Muellenberg found a shocking lack of bureaucratic rationality in the union's organization.[20] There was no table of organization, no job descriptions, no administrative procedures. Muellenberg's main contribution was probably his recommendations for transforming the union's administration into a modern bureaucracy.

The trustees, at varying levels of intensity, have investigated wrongdoing and wrongdoers. A minority of trustees has had an inves-

0435

tigator working specially for the trusteeship.[21] The majority has had to depend on FBI and DOL agents, which means persuading them of their own reliability and integrity.

Trustees have replaced business agents and other union personnel. They have spent time setting up fair election procedures, approving individual candidates, and supervising balloting and counting ballots. Some trustees (e.g., Edwin Stier in the IBT Local 560 case) or their assistants have negotiated collective bargaining agreements, processed workplace grievances, and led job actions.

CONCLUSION

Civil RICO has proved to be a very potent weapon for DOJ lawyers seeking to eliminate LCN's power base in certain unions. The DOJ lawyers have never lost a civil RICO union case, but that hardly means that they have achieved 100 percent of their goals. It has proved easier to draft the civil RICO complaints and to obtain favorable consent decrees than to establish successful union trusteeships. It has come as a surprise and major disappointment to government litigators and reformers that many union members have not greeted the court-appointed trustee as a liberator.

The trustees appointed in civil RICO union cases have been differently empowered, financed, and tenured. Some have exercised the same powers as the union's officers; others have been restricted to a monitoring and reporting role. Some have plugged away at their mission for more than a decade; others have completed their work in just eighteen months. Some have expelled dozens of union officers; others have expelled nobody. Some trustees, as we will see in Chapters 9, 10, and 11, appear to have succeeded in purging labor racketeers and bringing forth a new leadership cadre independent of the faction that corruptly dominated the union for decades; others have failed to free the union from the labor racketeers. Even where liberation has been achieved, there has been very little success in establishing union democracy.

0436

9

The Liberation of IBT Local 560

> It is not a pretty story . . . [it] is a harrowing tale of how evil men sponsored by and part of organized crime elements, infiltrated and ultimately captured Local 560.
>
> —Judge Harold A. Ackerman, *United States v. Local 560,* 581 F. Supp. 279, 282 (D.N.J. 1984)

> Members were intimidated from expressing their opinions and disagreements. They were intimidated, sometimes it was subtle and sometimes it was not so subtle. The Union was a burden the members suffered. It did not negotiate good contracts, good wages or good benefits. It existed for the benefit of organized crime members who controlled the union, not for the members.
>
> —Peter Brown, Local 560 president, testimony before a congressional committee in 1999

> [T]he goal [of the Trusteeship] has been to transform the culture of the Union from one in which racketeering was acceptable behavior to one in which exploitation of the membership by organized crime, or any other form of corruption, will not be tolerated. I believe we have achieved that goal.
>
> —Local 560 Trustee Edwin Stier, Report and Recommendations of the Court Appointed Trustee for Teamsters Local 560, January 1999

INTRODUCTION

In 1982, the 10,000-member IBT Local 560 was one of the largest Teamsters union locals in the country. Its members were employed by 425

Note: This chapter is a substantial revision of James B. Jacobs and David N. Santore, "The Liberation of IBT Local 560," *Criminal Law Bulletin,* March–April 2000.

0437

companies,[1] ranging from large national trucking firms to small cartage companies with as few as three or four drivers. IBT Local 560 members drove trucks, worked in warehouses, on road construction sites, and in laundries.

The Executive Board, which managed the union's daily affairs, consisted of seven elected officers, including president, vice-president, secretary-treasurer, recording secretary, and three trustees. The Executive Board appointed business agents, shop stewards, and benefit plan trustees.[2] The business agents negotiated collective bargaining agreements and handled workers' grievances.[3] Shop stewards enforced the collective bargaining agreements at work sites.[4] Benefit trustees oversaw the administration and operation of pension and welfare funds.

LABOR RACKETEERING IN IBT LOCAL 560

Anthony "Tony Pro" Provenzano, and his two brothers, Nunzio and Salvatore, dominated Local 560 for decades. Tony joined the union in the late 1940s and served as a business agent from 1948 until 1958 when he became president.[5] His rise in Local 560 paralleled his rise in the Genovese crime family, which inducted him as a "made member."[6]

In 1961, Tony enlisted Harold Konigsberg, Salvatore Briguglio, and others to kill Anthony Castellito, Local 560's secretary-treasurer.[7] Tony believed that Castellito had informed authorities about Tony's extortion of a trucking company.[8] Law enforcement authorities also suspected that Tony had ordered the 1963 murder of Walter Glockner, another Local 560 dissident. In 1966, Tony was sent to prison for extorting labor-peace payoffs from a trucking company.[9] While he was doing time, his brother Salvatore ran the union. Tony was incarcerated in the same federal prison as Jimmy Hoffa. The two had a falling out, perhaps accounting for Tony's suspected role in Hoffa's murder.[10] In 1975, federal prosecutors indicted Tony for conspiracy to violate the federal anti-kickback statute.[11] The charge related to a loan from the New York State Teamsters Conference Employee Welfare and Pension Benefit Plan.[12] Tony acted as a broker between the benefit plan's trustee and the borrowers, who had close organized crime ties. The trustee demanded a substantial kickback for putting the loan through. The borrowers balked because other parties to the transaction also de-

manded payoffs. For his role in smoothing the waters and brokering the deal, Tony was convicted in 1978 and sentenced to a four-year prison term.[13]

In 1978, Tony was sentenced to life imprisonment for his part in the murder of Local 560 dissident Anthony Castellito seventeen years earlier. The Local 560 leadership quickly voted to pay Tony a lucrative pension for the rest of his life[14] and selected his daughter, Josephine, as secretary treasurer. In 1979, at a federal trial, Tony and his henchmen Stephen Andretta, Thomas Andretta, and Gabriel Briguglio were found guilty of violating RICO based upon their labor-peace extortions of two trucking companies. Tony and Thomas Andretta were sentenced to twenty-year prison terms while Briguglio and Stephen Andretta received ten- and seven-year sentences, respectively.[15]

In 1980, Tony's two brothers, Nunzio and Salvatore, along with Michael Sciarra and Irving Cotler were indicted for a nine-year (1971–1980) extortion conspiracy to extort money from four trucking companies. Nunzio Provenzano and Cotler were sentenced to ten years and seven years, respectively; Salvatore Provenzano and Sciarra were acquitted.[16] Tony designated Sciarra to succeed him as Local 560's top official. Gabriel Briguglio himself was murdered while awaiting trial for the Castellito murder. Tony died in federal prison in 1988.[17]

THE CIVIL RICO SUIT

In March 1982, the New Jersey U.S. Attorney's Office, the Newark Federal Organized Crime Strike Force, and the Department of Justice filed a civil RICO[18] complaint against twelve individual defendants, Local 560 and its pension and welfare funds and severance pay plan. As remedies, the government sought (1) to prohibit Tony Provenzano, Nunzio Provenzano, Stephen and Thomas Andretta, and Gabriel Briguglio (the "Provenzano Group") from having contact with any officer or employee of Local 560 or any other labor organization or union employee benefit plan; (2) to remove the Executive Board, which comprised Salvatore Provenzano, Joseph Sheridan, Josephine Provenzano, J. W. Dildine, Stanley Jaronko, Thomas Reynolds, Sr. (Nunzio's brother-in-law), and Michael Sciarra; and (3) the appointment of a trustee to run and monitor Local 560 until free elections could be conducted.[19]

0439

The complaint alleged that Local 560 satisfied the definition of a RICO "enterprise" (any individual, partnership, corporations, association, or other legal entity, and any union or group of individuals associated in fact although not legal entity"). It then alleged two distinct RICO violations: (1) that the individual "Provenzano Group" defendants, associated under the leadership of Tony Provenzano and aided and abetted by past and present IBT Local 560 Executive Board members, violated RICO (1962b) by illegally acquiring and maintaining control of Local 560 through a pattern of racketeering activity; and (2) that the Provenzano Group violated RICO (1962c) by conducting Local 560's affairs through a pattern of racketeering activity.

The first RICO charge alleged that the Provenzano Group and the Executive Board had violated the Hobbs Act by using "actual and threatened force, violence and fear of physical and economic injury in order to create . . . a climate of intimidation which induced members . . . to consent to the surrender of certain valuable property in the form of their union rights."[20] The complaint cited the union defendants' extensive associations with Genovese crime family members; twenty-eight specific crimes (including the murders of Anthony Castellito and Walter Glockner); defendants' failure to take any action to reduce members' fears and perceptions. According to the government, these crimes created and sustained a climate of intimidation that deprived the union members of their Landrum-Griffin rights.[21]

The second RICO charge accused the defendants of conducting the affairs of the RICO enterprise (i.e., Local 560) through a pattern of racketeering activity consisting of at least five predicate racketeering offenses: (1) the extortion of $17,100 from Dorn Transport Company in return for labor peace; (2) the wrongful conversion of $223,785 of Local 560 funds by Anthony Provenzano, who was aided and abetted by past and present members of the Executive Board; (3) the Provenzano Group's wrongful receipt of payments from Interocean Service and Di-Jub Leasing in return for labor peace; (4) the unlawful receipt by Anthony Provenzano of Florida real estate from Thomas Romano in return for making loans available to Romano from Local 560's benefit funds; and (5) Nunzio Provenzano's wrongful receipt of labor peace payoffs from Pacific Intermountain Express Company, Mason and Dixon Lines, Inc., T.I.M.E., Inc., and Helms Express. The government also charged the Provenzano Group with conspiracy to violate RICO.[22]

0440

THE JUDGMENT

Prior to trial, the government entered into consent agreements with several of the organized crime defendants, including Tony Provenzano, Nunzio Provenzano, and Thomas Andretta, all of whom were in prison at the time. These defendants agreed that never again would they serve as union officials nor associate with any enterprise that seeks to control or influence the affairs of a labor organization.[23] The bench trial against the nonsettling defendants consumed fifty-one days spread over the period from January 25, 1983, to May 17, 1983. Some of the most persuasive testimony came from cooperating witness Salvatore Sinno, a former Provenzano Group member and accomplice in the Castellito murder. He explained Tony's role in the Genovese crime family and detailed how Tony gained and maintained control of IBT Local 560.[24] Federal District Court Judge Harold Ackerman (a former labor lawyer) wrote in his opinion: "As described by Salvatore Sinno, the Provenzano Group began its activities as a wholly illicit and criminal enterprise in which each associate accepted orders and assignments from [Tony] Provenzano and each was prepared to collaborate with other associates in carrying out particular assignments."[25]

In his lengthy opinion, Judge Ackerman reviewed the history of corruption in Local 560, emphasizing the Executive Board's failure to take any action against egregious racketeering. Ackerman found that the Provenzano Group violated the membership's Landrum-Griffin rights while the Executive Board had "done nothing to devise or implement measures reasonably calculated to prevent and detect potential 'labor peace' abuses."[26] Furthermore, Judge Ackerman found

> that a significant number of Local 560 members are in fear of the Provenzano Group, that they fear for their jobs and their physical safety, and that through this fear the members were induced by the Provenzano Group to part with their LMRDA-created union democracy rights.[27]

Judge Ackerman determined as well that Local 560 members and the local trucking industry would continue to suffer as long as Local 560 remained a "captive union" and that more criminal prosecutions would not break the Provenzano Group's hold on the union. Therefore, he

0441

enjoined imprisoned Provenzano Group members Stephen Andretta and Gabriel Briguglio from any future dealings with Local 560 and Ackerman decided to remove the Executive Board members from office because they had been indifferent to, if not complicit with, the Provenzano Group's racketeering. In justifying this drastic intrusion into the local's governance, the judge systematically reviewed the actions and inactions of each Executive Board member. For example, in commenting on Executive Board member Joseph Sheridan, Judge Ackerman stated:

> Joseph Sheridan must be removed from office for the following reasons:
> - Like J. W. Dildine, Joseph Sheridan professes to earnestly believe that Local 560's problems are the product of a government vendetta.
> - Joseph Sheridan believes that both Anthony and Nunzio Provenzano were convicted of various crimes because of their names.
> - Joseph Sheridan does not believe in the truth of the allegations which resulted in Nunzio Provenzano's conviction in the Braun case.
> - Joseph Sheridan is unable or unwilling to institute controls or safeguards to ensure that Local 560 is not victimized in the future by criminal conduct such as that which occurred in the Seatrain and City-man cases.
> - Joseph Sheridan does not consider Anthony or Nunzio Provenzano to be anything but good labor leaders.
> - If Nunzio Provenzano were eligible to serve on the Executive Board tomorrow, Joseph Sheridan, as a trustee and vice-president of Local 560, would welcome him back with "open arms."
> - Joseph Sheridan's mindset, after all that has occurred over the past thirty years, would make it impossible for him to formulate and promote policies which would be reasonably calculated to prevent or discourage further racketeering activity within Local 560 and ameliorate the current climate of intimidation. As previously noted, his loyalty has been purchased.[28]

THE TRUSTEESHIP

Judge Ackerman reasoned that only "through the imposition of a trusteeship for a curative period of sufficient length can the pattern of abuse be broken and future violations prevented." He held that the trustee-

0442

ship would last until the union conducted a democratic election. The IBT Local 560 trusteeship started its work in June 1986, after the defendants' appeals had been exhausted.* Judge Ackerman appointed Joel R. Jacobson as trustee, describing him as a "distinguished trade unionist and public official."[29] Jacobson had been an organizer for the International Ladies' Garment Workers Union, and had served as president of the New Jersey CIO and as community relations director of the United Automobile Workers.

Trustee Jacobson identified three major impediments to Local 560's operation as a proper union. Incredibly, LCN domination was not one of them. Rather, Jacobson's diagnosis of the problem focused on (1) lack of rank-and-file solidarity; (2) the disarray of pension and welfare funds and severance pay plan records; and (3) lack of training programs for union officials. Jacobson promised to reform the union by addressing these deficiencies and by impressing the membership with competent and professional administration.[30] In his one year on the job, Jacobson increased union membership by 25 percent and negotiated contracts resulting in wage increases above the national average.[31] However, he did not address the Provenzano Group's continued control over the local. Indeed, he retained most of the shop stewards who had been appointed by the Provenzano Group because he believed (1) that they were needed to carry out collective bargaining and contract administration duties; and (2) that removing elected union officials would not be consistent with the goal of restoring democracy. Jacobson did, though (albeit after considerable delay), replace the business agents

* All the defendants, except Stephen Andretta and Gabriel Briguglio, filed notices of appeal. The Third Circuit affirmed Judge Ackerman's remedy and agreed that extorting the membership's LMRDA rights violated the Hobbs Act and constituted RICO predicate acts. *United States v. Local 560, Int'l Bhd of Teamsters*, 780 F.2d 267 (3d Cir. 1985). On May 27, 1986, the Supreme Court denied certiorari. *United States v. Local 560, Int'l Bhd of Teamsters*, 476 U.S. 1140 (1986). After the district court's decision, Sciarra and Sheridan remained in office due to Judge Ackerman's stay pending appeal. On October 19, 1984, Sciarra succeeded Salvatore Provenzano (who in the meantime had been convicted of defrauding the dental benefit fund and of receiving kickbacks) as president of Local 560. He remained in office until superseded by the trustee. Sheridan remained vice-president of Local 560 until removed by the trustee. Joel Jacobson, the first trustee, permitted him to serve as a business agent until February 1987. See *United States v. Local 560, Int'l Bhd of Teamsters*, 694 F. Supp. 1185, 1160 (D.N.J. 1988), aff'd 865 F.2d 253 (3d Cir. 1988), cert. denied, 109 S. Ct. 1345 (1989).

0443

with individuals who had not held leadership positions during the Provenzanos' reign.

Unhappy about the trustee's inability or unwillingness to attack the Provenzano Group's influence, Judge Ackerman replaced Jacobson with Edwin Stier, a former federal prosecutor, New Jersey deputy attorney general, and director of the New Jersey Division of Criminal Justice. As associate trustee, Judge Ackerman chose Frank Jackiewicz, an IBT member for forty-six years who had served as shop steward, vice-president, and secretary-treasurer of IBT Local 843.* Ackerman charged Stier and Jackiewicz to "create and foster conditions under which union democracy will be restored and racketeer influence will be eliminated."[32] To achieve the court's objective, the trustee would possess the authority previously exercised by the union's Executive Board. The trustee would

- Possess the same powers accorded to the Executive Board as stipulated by the Local 560's by-laws and constitution (including participation in the affairs of all bodies related to Local 560);
- Negotiate contracts, pursue grievances, conduct organizing campaigns and participate in all lawful activities granted to a labor organization;
- Initiate, settle, and defend litigation on behalf of the local;
- Hire and fire Local 560 employees and set their wages and terms of employment;
- Appoint and remove business agents and shop stewards, subject only to the limitations established in the local's by-laws and constitution; and
- Retain or terminate any outside legal, accounting or consulting professionals.[33]

Prior to the 1998 union election, Stier was compensated $1,467 a week for essentially full-time work. Following the 1998 election, he was paid $150 per hour. Local 560, through outside counsel representing the Executive Board, argued that the postelection rate was excessive and

* Jacobson blasted his dismissal and Stier's appointment, stating, "[Judge Ackerman] wanted a whistle blower and that's what he has now. . . . [Ackerman is encouraging] union busting. I want no part of it." Rod Leith, "Ex-Teamster Trustee: Judge Sought Whistle Blower," 8, *Record*, October 1987, at A46.

beyond the union's ability to pay. Judge Ackerman disagreed, ruling that if anything "the trustee's . . . hourly rates have been seriously undervalued." He noted that Stier worked many more hours than he actually billed. Moreover, he held that Local 560 had failed to show that it could not pay the fees.[34]

When Stier and Jackiewicz took over, they found that the Provenzanos' influence was still pervasive. Tony's portrait still hung on the wall at Local 560's headquarters. Union members still regarded the Provenzano Group's handpicked successor, Michael Sciarra, as the man in charge.[35] Stier believed that to eradicate corruption and racketeering from Local 560, it would be necessary (albeit not sufficient) to transform Local 560 into a democratic union.[36] He announced that the trusteeship would operate according to the following principles:

- Union officers and business agents should understand that in performing their duties they must place the interests of the membership as a whole ahead of any other individual, group, or entity;
- Union leadership should recognize that any compromise with individuals associated with organized crime creates a risk that they will gain a foothold in the union;
- Local 560 members should be cognizant that they have the right to hold their officials accountable; and
- An atmosphere should exist at union functions and on the job site in which members are free to question their leadership's performance and voice dissenting perspectives.[37]

Stier pursued three reform strategies. First, with Jackiewicz's assistance, he sought to provide the membership effective representation. Second, he endeavored to expose past and present exploitation of the union and its pension and welfare funds. Third, he encouraged Local 560 members to participate in the union's affairs.

Stier adopted procedures and initiated programs that would demonstrate the advantages of an honest union. For example, he established contract-negotiating committees with rank-and-file members. To encourage the flow of information upward from the job sites, Stier maintained an open-door policy, urging members to bring complaints directly to him. He started a union newspaper, *The 560 Free Press,* and hired a professional journalist as editor.[38] Stier retained most of the business agents appointed by Jacobson, some of whom by then had

0445

received training at the IBT Leadership Academy. Still, after decades of racketeer control and with many members of the Provenzano clique still active in Local 560, few union members stepped forward to participate in union affairs.

After two years of union administration by the trustees, Stier scheduled an election.[39] Toward this end, he convened craft-specific meetings by dividing members into groups based on occupation. Placing members in smaller groups afforded potential candidates opportunities to meet the rank and file. He organized training sessions on the rights and obligations of union members and union officers, the IBT constitution, and Local 560's by-laws. Stier issued fair election procedures, convened a nominations meeting, and launched a voter registration drive.[40]

The Provenzano Group fought to retain its grip on Local 560.[41] It organized Teamsters for Liberty (TFL), a self-proclaimed civil liberties organization dedicated to "the termination of the Trusteeship and to the prevention of '[the] government['s] takeover of our union.'"[42] The TFL circulated petitions demanding an end to the trusteeship. It wrote to and met with government officials; invited public officials, labor leaders, and celebrities to its rallies; published its own newspaper, *We the People;* and retained attorneys to attack the trusteeship on an array of issues.[43] The TFL dominated membership meetings. It selected former Local 560 president Michael Sciarra, the Provenzanos' handpicked successor, as its candidate for president and Joseph Sheridan for vice-president.[44]

Stier and Robert Stewart, chief of the Newark federal Organized Crime Strike Force, went back to court to prevent Sciarra and Sheridan from running for Local 560 office.[45] The government charged that Sciarra was the designated representative of Matthew Iannello, a capo in the Genovese crime family.[46] It played recordings of intercepted conversations between Ianniello and various members of the pre-trusteeship Executive Board. These conversations illuminated Iannello's position within the Genovese crime family and his intention to retain control of Local 560. In one conversation, Iannello told Stanley Jaronko (a union officer whom Judge Ackerman had found to have aided and abetted the Provenzano Group) that he had to "run the shop, or do something with the shop" and then "let Mike [Sciarra] run the show."[47]

0446

Judge Ackerman requested that another federal judge, Dickinson R. Debevoise, hear the government's motion to bar Sciarra and Sheridan from the upcoming election. The federal prosecutors sought to prove that Sheridan had been responsible for negotiating a sweetheart contract between Local 560 and Walsh Trucking and Consolidating Company in 1978 and that, thereafter, Sciarra and Sheridan arranged sweetheart contracts with Walsh Trucking.* Furthermore, the government presented evidence on Sciarra's mishandling of members' grievances against New England Motor Freight (NEMF) in support of Local 560's sweetheart contract with NEMF.[48] Finally, Stewart sought to show that Sciarra and Sheridan assisted a New Jersey attorney in setting up a fraudulent prepaid legal services scheme for Local 560 members.

According to Judge Debevoise, the government would "unquestionably be irreparably injured if preliminary injunctive relief [were] not granted. . . . All [the government's work] will have been expended for no purpose if an election returns Local 560 to the Genovese family and its minions."[49] Consequently, in September 1988, Judge Debevoise issued a preliminary injunction barring Sciarra and Sheridan from running for union office.[50]

Still the Provenzano Group did not give up. It chose Daniel Sciarra, Michael Sciarra's brother, and Mark Sheridan, Joseph Sheridan's nephew, to carry the banner for the Provenzano Group.[51] In a heavy blow to the court and the trusteeship, Sciarra and Sheridan prevailed by a two-to-one margin.[52] It appeared that Local 560 members preferred to be represented by individuals backed by the old regime than by reformers supported by the government and the court-appointed trustee.**

* The government alleged that beginning in late 1977 and continuing for a decade, Iannello, acting on behalf of the Genovese crime family, conspired with Anthony Provenzano and other Local 560 officials and with New Jersey trucking magnate Francis J. Walsh, Jr., to engage in a payoff scheme that enriched the conspirators at the expense of Walsh's employees.

** Extensive interviews with rank-and-file Local 560 members conducted by Harvard Professor Linda Kaboolian following the election revealed that union members resented the government's interference with their right to run their union as they chose. While some union members blamed Provenzano for some of Local 560's problems, that blame did not carry over to Daniel Sciarra and Mark Sheridan.

0447

DISQUALIFYING MICHAEL SCIARRA

Daniel Sciarra appointed Michael Sciarra and Joseph Sheridan as Local 560 business agents.* Stewart went to court to block the appointments, but Judge Debevoise decided not to prohibit Sciarra and Sheridan from serving as business agents, reasoning that the election had severed the link with the old regime, thereby entitling the Executive Board to a presumption that it would act lawfully and in the best interest of the membership.

The naiveté of Judge Debevoise's presumption was soon apparent. Michael Sciarra exercised de facto control of the union. By the third postelection union meeting, there were no longer any dissenting voices. Sciarra's supporters, strategically positioned throughout the meeting hall, intimidated would-be critics.[53] Indeed, they loudly heckled Stier. Sciarra himself physically threatened a Department of Labor agent at the union hall.[54]

In February 1990, Robert Stewart again asked Judge Debevoise to oust Sciarra and Sheridan from their positions as business agents.[55] Sheridan agreed to resign his office. Judge Debevoise granted the motion to oust Sciarra, concluding that "[a]s long as Michael Sciarra holds any position within Local 560 he will be able through his forceful and dominating personality, through his hold on a large and vocal segment of the membership and by virtue of the inexperience and subservience of the present officers and Board members to dominate and control the Local."[56]

Two months after Judge Debevoise removed Sciarra from his business agent position, the government sought to enjoin Sciarra permanently from any participation in Local 560 affairs.[57] After a two-day trial illuminating Sciarra's relationship with the Genovese crime family, Debevoise permanently enjoined Sciarra from "holding any office or

* In January 1989, the government obtained an order that required Michael Sciarra and Joseph Sheridan to show cause why they should be permitted to serve as business agents. The court initially concluded that there was not sufficient evidence to prohibit Sciarra and Sheridan from serving as business agents. The court reasoned that the election had severed the link in the chain of criminality and that the newly elected Executive Board was entitled to a presumption that it would discharge its duties lawfully and in the best interest of the local. New predicate acts of misconduct were necessary to prohibit Sciarra and Sheridan from assuming such positions. See *United States v. Local 560, Int'l Bhd of Teamsters,* 974 F.2d at 324.

0448

position of trust within or otherwise endeavoring to influence the affairs of Local 560."[58] Nevertheless, Sciarra continued to exert influence.

In early 1991, the government sought to expand the permanent injunction against Sciarra.[59] This time Judge Debevoise permanently barred Sciarra from holding any position in Local 560, participating in any Local 560 functions, visiting the union hall, or attempting to influence the union's affairs.[60] This was the most drastic court-imposed sanction any court had ever applied to a union member who had not been convicted of a crime.

Still, Sciarra exercised de facto power. The day after Judge Debevoise barred him from participating in union affairs, Sciarra met with Executive Board members Daniel Sciarra, Robert Marra, Peter Granello, and Alfred Vallee to settle a dispute between Vallee and the others. The Executive Board still looked upon Sciarra as its leader.[61] Jobs were still awarded according to a member's loyalty to the Provenzano/Sciarra clique.[62] During a December 1990 membership meeting to nominate delegates to the IBT International convention, TFL supporters physically assaulted a Sciarra critic.[63]

In September 1991, the Local 560 Executive Board went to court seeking termination of the trusteeship.[64] Stewart counterattacked, requesting court-ordered procedures for allocating construction jobs* and enhancement of the trustee's investigative powers.[65] After a hearing,** but prior to the judge's decision, the Executive Board and the government entered into a settlement agreement, pursuant to which (1) the Executive Board would comprise six members;[66] (2) Daniel Sciarra would resign as president;[67] and (3) the local's secretary-treasurer, Robert Marra, recording secretary, Alfred Vallee, and trustee Peter Granello would retain their positions. Marra, Vallee, and Granello were to select one individual from among the remaining two trustees (James Bartolomeo and Nicholas Juliano) and the vice-president (Mark Sheridan) to serve as a trustee.[68] They selected Bartolomeo.[69] The court authorized

* Construction jobs performed by Local 560 members generally related to road and highway construction.

** The evidentiary hearing focused on the discriminatory allocation of construction jobs and an attempt to defraud the welfare fund in favor of a Sciarra relative. The evidence showed that a business agent coerced two employers to file false employment records on behalf of Daniel and Michael Sciarra's niece's husband who recently died of a drug overdose, thus enabling the widow fraudulently to receive life insurance proceeds. See *United States v. Local 560, Int'l Bhd of Teamsters*, and Mezzina and Conlon, Complaint, at 22–29.

0449

Stier to fill two empty trustee positions with any Local 560 member in good standing.[70]

The settlement sought to eliminate corruption in the construction unit by authorizing Stier to appoint a new business agent and by ordering the Executive Board to create a fair job referral plan for road construction jobs.[71] Eventually, the board designed a complex formula for ranking members' eligibility for job assignments.[72]

In September 1992, after becoming aware that Michael Sciarra was continuing to associate with Executive Board member Robert Marra and had attempted to defraud the benefit funds, Stier and Stewart obtained yet another court order, this one providing that the Local 560 Executive Board would be expanded to seven members headed by the president.[73] Robert Marra was forced to resign.[74] The board appointed Alfred Vallee as president[75] and Peter Granello as secretary-treasurer. Vallee and Granello had exhibited autonomy from the Sciarra group during their careers with Local 560. For the first time in living memory, the board was composed of a majority of officers independent of the Provenzano Group. In 1994, in an act of telling independence, the board removed three of its own members for failure to fulfill their fiduciary duties to the membership.[76] By 1995, six of the seven Executive Board members had no previous ties to the Provenzano Group.

With the Executive Board's consent, the court gave Stier new powers to investigate violations of Local 560's constitution and by-laws and authority to render binding decisions against union members.[*] Between 1995 and 1998, four Local 560 members were expelled because of contact with Michael Sciarra and/or defrauding the union; a fifth member resigned in anticipation of formal charges. All told, during Trustee Stier's tenure, eighteen individuals charged with misconduct were expelled or resigned from the union.[77]

[*] These procedures allowed Stier to investigate any member's conduct. If he uncovered actionable wrongdoing, he would serve the member with specific charges. The member could present a defense to the Executive Board and Stier. Thereafter, Stier would forward his decision and proposed remedial action to the Executive Board for consideration. After reviewing the board's comments, Stier would finalize his decision and present it to the member, who, if dissatisfied, could appeal to the district court judge. See Consent Order at 3–12 (Feb. 22, 1995), *United States v. Local 560, Int'l Bhd of Teamsters,* 581 F. Supp. 279 (D.N.J. 1984) (82–689), Report and Recommendations, at 13–14.

THE 1998 ELECTION

In 1998, three conditions convinced Stier to proceed with another election for Local 560 officers. First, union members were able to secure job referrals from the union without having to cater to Sciarra loyalists. This was most important in the construction unit, which Stier used as a barometer for the union as a whole. The job referral system now operated according to objective criteria, not loyalty to the Provenzano Group. Second, most of the organized crime–connected Local 560 members had been ousted from the union. Third, a new group of leaders now held union offices. Stier observed that membership meetings were "drastically different from those that were held during the era when the Sciarra group dominated . . ." and that "Local 560 members now viewed the Executive Board as the membership's representatives and not as an arm of the government."[78]

The incumbent Executive Board ran as one slate, led by Peter Brown, whom the board had appointed as acting president in 1997. Brown had been a member of Local 560 since 1978 and was an early supporter of the trusteeship. In 1990, Brown was fired from his trucking company job, in his view due to Michael Sciarra's influence. Brown's fortunes turned with those of the trusteeship. He was appointed as a business agent (1993) and then as a trustee (1995).[79] Brown's slate faced two competing slates. A different Daniel Sciarra, this one Michael and Daniel's nephew, led one of the slates. Alfred Laurie, a former office manager during Sciarra's administration, led the other.[80] The Sciarra and Laurie slates branded Brown and his running mates "government men."

Stier decided that mail balloting would maximize participation and minimize intimidation. He required candidates to keep detailed records on campaign donations and expenditures. Forty-six percent of the 4,400 eligible Local 560 members voted in the election.[81] Brown received 1,049 votes (55 percent) and Daniel Sciarra, 376 (20 percent).[82] The power and prestige of the Provenzano Group had finally been broken. Peter Brown was sworn in as president of Local 560 on March 19, 1999, by IBT president James P. Hoffa, whose father had been murdered by a group of LCN figures, probably including Tony Provenzano. When Brown died in 2004, he was succeeded by Thomas McGinley who has carried on in the same style of reformist leadership.

0451

TERMINATION OF THE TRUSTEESHIP

On February 25, 1999, Trustee Stier, the DOJ, and the DOL recommended that the court end its supervision of IBT Local 560.[83] The DOJ lawyers told Judge Ackerman that the union was now democratically governed. Judge Ackerman terminated Stier's monitoring and investigative roles, but required the Executive Board to name Stier as a trustee of the local's pension and welfare funds.[84] Furthermore, Ackerman approved a four-year consent decree between the Justice Department and the union that allowed Ackerman to put Local 560 back under trusteeship if systemic corruption or Cosa Nostra influence re-emerged.[85] As with the previous consent decree, union members could be expelled for knowingly associating with Cosa Nostra members or expelled union members.[86] No such problems occurred over the course of the next four years.

FACTORS THAT LED TO THE PURGING OF COSA NOSTRA FROM LOCAL 560

Although court-appointed trustees have monitored, supervised, or managed other "mobbed-up" union locals and even internationals, one scholar recently commented that "only Local 560 has seen a real transformation."[87] This is particularly impressive because no union local was more thoroughly dominated by organized crime than IBT Local 560. What accounts for the successful transformation of Local 560? Undoubtedly, there was a confluence of favorable forces, but the most important was the structure and continuity of the trusteeship, the judges' support of the trustee, and the trustee's stamina and skill.

THE FRAMING OF THE TRUSTEESHIP

The persistence into the 1980s of labor racketeering in Local 560 provides strong support for the conclusion that criminal prosecutions alone cannot eliminate entrenched labor racketeering. The Provenzano Group proved very resilient. When Tony Provenzano, his brothers and henchmen went to prison, they chose loyal subordinates to fill their va-

0452

cated positions. Civil RICO permitted a comprehensive attack on the whole corrupt regime. But the preconditions for a comprehensive remedy were the relentless persistence of the DOJ attorney, the willingness of two district court judges to act decisively, and a trustee's commitment to seeing the job through to a successful completion.

IMPORTANCE OF THE TRIAL

A lengthy trial enabled Judge Ackerman to learn firsthand the depth of the corruption and racketeering in Local 560, which he branded a "multifaceted orgy of criminal activity."[88] Over the course of the fifty-one-day bench trial, witnesses detailed organized crime's entrenchment in IBT Local 560. Ackerman heard Genovese capo (and the government's star witness) Salvatore Sinno testify about the link between the union and Genovese crime family.[89] He listened to Executive Board members express admiration for Tony Provenzano, a convicted murderer, labor racketeer, and organized crime member. Such testimony persuaded Ackerman to impose a heretofore unprecedented remedy, a court-appointed trustee empowered with all the authority of the union's Executive Board.[90] It should not be forgotten that Ackerman himself had been a union lawyer before being appointed to the bench and was thus almost uniquely qualified to understand the "situation on the ground" that needed to be changed. Furthermore, Ackerman had had considerable experience in a prior institutional reform case involving the Essex County jail.

Most all civil RICO actions against mobbed-up unions have been resolved by negotiated consent decrees. In such cases, the judge who approves the decree may not fully grasp the magnitude of the corruption and not have become personally committed to ending it. Without a trial, the government may have negotiated a settlement with Local 560 that was not as far-reaching as Judge Ackerman's order. Furthermore, because of the trial, Ackerman was in a position to deal confidently with subsequent DOJ motions. At every step of the way, Stier benefited from the strong support of the federal Organized Crime Strike Force, especially Assistant U.S. Attorney Robert Stewart, who stayed with the case from beginning to end. Judge Ackerman's and Judge Debevoise's determination were also critical.

0453

WIDE-RANGING TRUSTEESHIP

Judge Ackerman defined the trustee's goal in broad and ambitious terms. He empowered the trustee "to act as he may, in good judgment, to administer the affairs of Local 560 and to create and foster conditions under which union democracy will be restored and racketeer influence will be eliminated."[91] The remedial decree authorized the trustee to implement whatever policies he deemed necessary and in the best interest of the local. Unlike trustees in other civil RICO consent decrees, Stier was not burdened with the time-consuming process of repeatedly having to petition the court for approval prior to instituting reforms.

TRANSFORMING THE ROLE OF THE TRUSTEE FROM UNION MANAGER TO CORRUPTION FIGHTER

Although Ackerman applauded the efforts of his first trustee, Joel Jacobson, he knew that a different approach was needed to "insure that the documented egregious pattern of racketeering activity does not reemerge. . . ."[92] Jacobson had extensive experience in union governance, but not in combating organized crime. Clearly, investigative and prosecutorial expertise was needed. When Ackerman appointed Edwin Stier and Frank Jackiewicz, he wrote that the two men "bring to the task at hand unique talents which in combination are essential for this new phase of the trusteeship."[93] With Stier's appointment, Ackerman in effect redefined the trustee's primary job as purging organized crime.

Stier's prosecutorial background turned out to be critically important. He worked easily and effectively with FBI and DOL investigators and with federal prosecutors. Still, it may also have been important that Stier did not fully delegate his union administrative powers to Jackiewicz, believing it necessary to participate personally in Local 560's affairs, including collective bargaining, strikes, and picketing, in order to understand the organization and culture of the local and to establish credibility with the rank-and-file membership. It is certainly important that Stier was able to devote practically all his time to the trusteeship for several years. At the time he took the job, he operated like a full-time consultant rather than like a big-law-firm partner

0454

whose duties as a trustee may be just one of many professional responsibilities.

DEVELOPMENT OF NEW UNION LEADERS

To succeed in reforming IBT Local 560, Trustee Stier needed to recruit and develop a new cadre of union leaders. It was a major challenge because, for decades, the only members with leadership experience were either members or supporters of the Provenzano Group.

From the outset, Stier sought to create an atmosphere conducive to the emergence of new leaders. He appointed several members to the contract-negotiating committees, a role once reserved for Tony Provenzano's henchmen. As new people began to assume official responsibilities, Stier steadily delegated more administrative responsibilities. He did not offer training programs for emerging leaders because he feared that the membership would view participants as government pawns.[94] In distancing himself from the local's government, Stier helped to legitimize the board as an independent body.

Union members who had not held office before gained experience as shop stewards and Executive Board members. As time passed, these leaders gained the respect of the general membership. The 1998 election of Peter Brown illustrated this shift. Brown, who had been vilified for his protrustee stance in the 1980s, soundly defeated his opponents in the 1998 election and was easily reelected in 2001 and 2004.

PURGING ORGANIZED CRIME

Stier's dogged effort to purge organized crime's influence from Local 560 was essential to the reform project. Stier had to excise every vestige of the Provenzano/Sciarra regime. If union members thought there was any chance of organized crime regaining control of the union, they would not support the reform effort. Stier realized the paramount importance of eliminating the Genovese crime family's handpicked successor, Michael Sciarra, and his successor, Daniel Sciarra, from Local 560.

DOJ's assistance was essential for Stier's success. When Stier sought judicial intervention, he was steadfastly supported by Assistant

0455

U.S. Attorney Robert Stewart, who had drafted the RICO complaint and tried the case against the Local 560 officers. Stewart drafted virtually all of the government's motions relating to Local 560. Few government attorneys involved in union RICO cases have had Stewart's longevity. His knowledge of the multiple challenges faced by the trusteeship allowed him to respond effectively to Stier's concerns. Stewart and Stier acquired enough evidence to prove that the Genovese crime family had designated Michael Sciarra as boss of the local. Judge Debevoise enjoined Michael Sciarra and Joseph Sheridan from running for office. Later, Sciarra was expelled from the union.

Two federal judges played critical roles in eradicating organized crime from the union. Judge Harold Ackerman realized the extent of organized crime's entrenchment in the union and resisted the temptation to bow to the local's initial desire for self-regulation. He did not back off in the face of the TFL's rallies or characterization of the civil RICO as antiunion.

Judge Debevoise's decision to grant an injunction to forbid Michael Sciarra from running for Local 560 office came at a crucial moment. Although Michael Sciarra still exerted influence after his brother Daniel was elected president, had Michael been elected by the membership, the Provenzano Group's power would have been legitimated.

STIER'S LONGEVITY AND CREATIVITY

Civil RICO provided a means for achieving reforms, but successfully reforming a racketeer-ridden union like Local 560 requires significant time. By serving for *ten years,* Trustee Stier provided constant pressure for reform. No other trustee in any labor racketeering case has served that long. The trustee's longevity symbolized to the rank and file the court's determination to reform the union; it also provided the trustee with invaluable knowledge and experience. Prosecutors and judges may wish for a quick fix in such cases, but the history of the IBT Local 560 case indicates that the trustee's own determination is an important factor. As time passed, Local 560's membership changed. Through the natural process of relocation and retirement, many Local 560 members who had lived under the Provenzano Group's reign were succeeded by workers who had not experienced Cosa Nostra's domination and had never met or seen the Provenzanos.[95]

0456

REFORMING THE PENSION AND WELFARE FUNDS

Stier assigned high priority to the protection of the pension and welfare funds.* One of his first acts as trustee was to appoint himself the funds' sole trustee. He ordered a background check on all companies and individuals that provided services to the funds. Stier made Local 560's funds the first in the country to be invested solely in index funds, so that an active fund manager was not required. To further insure the integrity of the funds, Stier hired Deloitte & Touche to perform regular audits, which were made available to the membership. Stier also hired a full-time controller to serve as chief financial officer. The pension and welfare funds' performance improved markedly, producing increased member benefits. This achievement boosted Stier's credibility and popularity.[96]

CONCLUSION

Although, prior to the government's 1982 civil RICO suit, sporadic criminal prosecutions sent Tony Provenzano, his brothers, and several associates to prison, the prosecutions did not loosen the racketeers' grip on the union. Remarkably, the indictments and convictions did not break, or perhaps even weaken, the Provenzanos' control over Local 560.

The failure of past criminal prosecutions led the Newark federal Organized Crime Strike Force to initiate the first-ever civil RICO action against a labor organization. Replacing the Executive Board with a court-appointed trustee paved the way for purging LCN and ultimately returning the local to its members. Judge Ackerman and Trustee Stier

* Between early 1974 and late 1977, members of the Provenzano clique looted one of the local's benefit funds of more than half of its assets. In 1974, Thomas Romano, a real estate developer, met with then Local 560 president Salvatore Provenzano (whom Tony had installed while he himself was in prison) to discuss a loan for a condominium project in Florida. The fund trustees, including Salvatore Bruguglio and Stephen Andretta, lent Romano $4.6 million. After the loan was granted, Tony purchased a Florida home from Romano at a sharply discounted price. A year later, even though the Florida real estate market was in a downturn, Romano secured an additional $1.8 million loan for the project. In 1977, Romano sold Tony Pro another property at a below-market price. *United States v. Local 560, Int'l Bhd of Teamsters*, 780 F.2d, 294.

0457

succeeded because of a confluence of factors, some well planned and executed, others merely fortuitous. Judge Ackerman's novel decree focused not only on the need to run the union honestly but also on the need to purge LCN's influence. His wide-ranging decree paved the way for Stier to reform the local. Stier's skill in developing a new cadre of union leaders eventually led to the reconstruction of the union and to significant numbers of members recognizing that the new union was far better than the old. From an *ex ante* perspective, one could not have anticipated the determination and perseverance of Judge Ackerman, Trustee Stier, and Assistant U.S. Attorney Stewart. Yet, *ex post* it seems likely that the trusteeship would not have been successful without their sustained commitment. Ultimately, Stier succeeded because of two interrelated strategies. He and Stewart kept continuous pressure on the Provenzano Group, purging its members from the union. Stier identified, encouraged, and supported future leaders from the local's rank and file.

The successful use of civil RICO against IBT Local 560 demonstrated a new and powerful weapon against labor racketeering. After *United States v. Local 560,* the Justice Department brought similar suits against many other racketeer-ridden unions. However, victory at the trial and the imposition of a trusteeship are only necessary preconditions for success; they do not guarantee success.

0458

10

The New York City District Council of Carpenters

> Most of the people whom the Carpenters union refers to jobs at the Javits Center are either members and associates of the Genovese family, or friends and relatives of Genovese family members and associates.
>
> —Testimony of former Colombo crime family capo Salvatore Miciotta as quoted in Kenneth Conboy, *Second Interim Report of the Investigations and Review Officer,* March 13, 1995

> The IRO [Investigations and Review Officer] has justified his more intrusive role by arguing the following: The District Council does not have a strong tradition of democratic leadership, and has never held an election wherein the rank-and-file membership directly elected the leadership. The complaint in the civil RICO action alleged various acts of corruption, fraud, and violence, and the IRO contends that his staff's own observations of last summer's local union elections confirmed the view that incumbents often use their positions to "manipulate the system" and that the opposition is targeted for intimidation and economic reprisal.
>
> —Judge Charles S. Haight, Jr., *U.S. v. NYC Dist. Council of Carpenters,* 880 F. Supp. 1051, 1067 (S.D.N.Y. 1995)

The New York City District Council of Carpenters, located in Manhattan, is one of the city's largest unions, representing approximately thirty

Note: This chapter is based on James B. Jacobs and Kristin Stohner, "Ten Years of Court-Supervised Reform: A Chronicle and Assessment," 6 *California Law Review* 3 (2004).

0459

thousand members.* At the time the U.S. attorney's office brought the 1990 civil RICO suit, the district council negotiated, implemented, and enforced collective bargaining agreements, and handled disputes, grievances, and arbitrations on behalf of twenty-two local Carpenters unions. The collective bargaining agreements require employers to make contributions on behalf of their employees to union pension and welfare funds. Although the funds are governed by an equal number of employer-appointed and union-appointed trustees, in reality, the union-appointed trustees control the funds.

Before the 1990 civil RICO settlement, district council officers also served as officers in their home locals and thereby drew two salaries, one from the local and one from the district council. For example, Frederick Devine, president of the district council (1991–1996), also served as Local 1456's president. John Abbatemarco, the district council's first vice-president, also served as Local 257's vice-president.[1]

In the 1970s and 1980s, the Genovese crime family controlled the district council through Vincent DiNapoli, a capo in the crime family who had also become a powerful figure in the drywall industry. According to the FBI, Teddy Maritas, district council president from 1977 to 1981, was a Genovese crime family associate.[2] Eventually, Maritas disappeared, presumed murdered because the boss of the Genovese family suspected him of cooperating with federal prosecutors. Thereafter, the mob continued its control over the district council through presidents Paschal McGuinness (1982 to 1991) and Fred Devine (1991 to 1996).

The Genovese crime family maintained its grip on the district council by intimidation and violence and by controlling access to jobs. Like most construction workers who go from project to project working for different employers, carpenters often depend upon their union for jobs. Collective bargaining agreements require contractors to call the union's

* The United Brotherhood of Carpenters (UBC) International Union, headquartered in Washington, D.C., has approximately 520,000 members in the United States and Canada. Available at http://www.carpenters.org/home.html. Its constitution requires a regional ("district") council whenever two or more locals exist in the same locality. (Constitution of the United Brotherhood of Carpenters and Joiners of America, § 26(B)). Each district council has its own by-laws, officers, treasury, and jurisdiction over contracts, grievances, and benefit funds. The affiliated local unions elect delegates to the district council in proportion to the size of their memberships. *United States v. Dist. Council*, 778 F. Supp. 738, 743 (S.D.N.Y 1991).

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hiring hall when they have a construction contract to perform. Thus the union can blackball "troublemakers" and reward loyal supporters by withholding or assigning work.[3]

For many years, the Genovese crime family used the district council to create and maintain a drywall cartel.[4] The cartel rigged bids, allocated contracts, and fixed prices. Some Genovese crime family members, like DiNapoli, held ownership interests in drywall companies. The union could prevent drywall contractors who were not members of the cartel from performing their contracts by assigning them incompetent or purposefully destructive workers, or by disrupting the whole construction project by calling strikes and slowdowns.

In the early 1980s, a federal RICO prosecution of Maritas, DiNapoli, and others based on the drywall cartel resulted in a mistrial.[5] On the evening before the retrial in March 1982, Maritas disappeared, never to be seen or heard from again.[6] DiNapoli pleaded guilty. While DiNapoli served a five year prison term, his brother, Louis, allegedly represented the Genovese crime family's interest in the district council. Soon after DiNapoli's release from prison, he was prosecuted in the Genovese "family RICO" case, which brought to trial a number of the top figures in the Genovese family, charging them, among other things, with operating a poured-concrete cartel in the city's construction industry. DiNapoli was convicted and sentenced to another long prison term.[7]

The Carpenters International Union placed the New York City district council under trusteeship.[8] The trustee merged four locals to create Local 17, thereby purposefully or inadvertently consolidating the Genovese crime family's influence over carpenters' jobs in upper Manhattan and the Bronx.[9] The trustee also chose Local 608 president, Paschal McGuinness, a Genovese crime family associate, to be the new district council president.[10] McGuinness put John O'Connor in charge of the district council's daily operations. In 1990, O'Connor pled guilty to receiving a bribe from an employer and was sentenced to one to three years in prison, and fined $25,000. McGuinness was acquitted.[11]

Violence and corruption flourished under McGuinness's presidency. McGuinness gave preference to Genovese family associates for high-paying and desirable jobs at the Jacob Javits Exhibition Center.[12] Six of the ten violent acts cited as predicate offenses in the government's 1990 civil RICO suit against the district council occurred during McGuinness's presidency, including an assault with an iron pipe against a dissident member at a job site and the nonfatal shooting of John

O'Connor.* Further, the government alleged that McGuinness himself committed seven of the racketeering acts listed in the civil RICO complaint; all involved accepting bribes in exchange for not enforcing terms of the union's collective bargaining agreement. In a deposition, Marcello Svedese, a district council officer from 1981 to 1989 and a cooperating government witness, explained McGuinness's ties with organized crime:

> I have known Paschal McGuinness to associate with various organized crime figures in connection with the district council. I was present at a meeting between McGuinness and Louis DiNapoli, a made member of the Genovese Family, and I have discussed organized crime and the district council with McGuiness on many occasions.[13]

THE 1990 CIVIL RICO SUIT AND SETTLEMENT

In September 1990, the U.S. attorney for the SDNY filed a civil RICO complaint against the New York City District Council of Carpenters' former and current officers and six LCN figures.[14] The complaint named the district council, its constituent local unions, and its benefit funds as the RICO enterprise. It alleged two separate RICO violations: (1) that the LCN defendants, aided and abetted by past and present district council officers, violated RICO (1962b) by acquiring an interest in and control over the union through a pattern of racketeering activity, and (2) that (in violation of 1962c) the defendants conducted the district council's affairs through a pattern of racketeering activity.

The first RICO count alleged that "the defendants . . . unlawfully . . . affect[ed] commerce . . . by extortion [i.e., violated the Hobbs Act] . . . in that they obtained and attempted to obtain property" by violence and intimidation.[15] The "property" that the defendants allegedly extorted was the union members' Landrum-Griffin rights.[16] The RICO complaint alleged a pattern of racketeering activity based upon fifty-four predicate acts including murders: assaults with firebombs, iron pipes, knives, and guns; appointments to union leadership positions of inexperienced, incompetent, and corrupt individuals; union officials' associa-

* According to government investigators, John Gotti, boss of the Gambino crime family, ordered the assault on O'Connor because O'Connor (probably unwittingly) was responsible for trashing a restaurant in which Gotti held an interest. At Gotti's trial, O'Connor testified *for the defense.*

0462

tions with known organized crime members; the defendant union officers' failure to take action to rid the union of corruption; and abuse of their union office. The government also charged the defendants with conspiracy to violate RICO.[17]

The second RICO count was based upon § 1962(c) (participating in the affairs of an enterprise through a pattern of racketeering activity); it also cited fifty-four predicate racketeering acts including extortion, receipt of illegal payoffs, mail fraud, and operating a benefit fund unlawfully.[18] The government sought preliminary and permanent injunctions (1) to prohibit the organized crime defendants and those in active concert with them from having contact with the district council or any other labor organization; (2) to prohibit current, former, and future officers of the district council from committing racketeering acts and from associating with any member or associate of LCN; (3) to appoint a court liaison officer with the authority necessary to prevent racketeering activity and to ensure union democracy; (4) to enjoin union members and officers from interfering with the court liaison officer's execution of her or his duties; and (5) to grant the government further preliminary relief if necessary. The government also requested a court-supervised election of district council officers.

THE SETTLEMENT

The parties settled the case in March 1994.[19] The U.S. attorney agreed to drop the civil RICO complaint in exchange for significant district council reforms designed to purge the union of organized crime and promote union democracy. The consent decree's stated purpose was to ensure a democratic union. Toward that end, the parties agreed that there should not be any criminal element or LCN corruption in the district council and its constituent locals. All union officers agreed to be permanently enjoined from (a) committing any act of racketeering activity; (b) knowingly associating with any member or associate of any LCN crime family or other criminal group, or with any person prohibited from participating in union affairs; and (c) obstructing or otherwise improperly interfering with the court-appointed officer's efforts to enforce the consent decree.

The consent decree named former Federal District Court Judge Kenneth Conboy as the court-appointed Investigations and Review

0463

Officer (IRO). The district council would pay $65,000 each month to cover the compensation and expenses of the IRO and the Independent Hearing Committee (IHC). If the IRO's expenses exceeded $65,000, the United States Brotherhood of Carpenters and Joiners of America (UBC) International would contribute up to an additional $15,000. Any disciplinary charges brought by IRO Conboy against union officers or members would be tried before a five-person IHC.

The IRO's powers included investigating district council operations and individuals; bringing disciplinary charges against union officers and members;* exercising veto authority over union officers' decisions; recommending organizational reforms; formulating and implementing new job referral rules; and organizing and supervising the district council's 1995 elections.[20] Conboy's decision would be final unless, on appeal, the district court found it to be arbitrary and capricious. His term of office was set at thirty months, renewable for up to an additional six months upon a showing of good cause. His supervisory authority over elections would terminate after certification of the 1995 election results.

In order to "eliminate the corruption, favoritism and cronyism that existed under the old system," the consent decree provided that each local union in the NYC district council would have thirty days to implement new job referral rules, which had to include nondiscriminatory and nonexclusive job referrals ("nonexclusive" means that an employer does not have to hire employees exclusively through the hiring hall); registering members' eligibility for job referral; a procedure that refers jobs to members who have been on the waiting list the longest; effective dissemination of the job referral rules; maintenance of accurate job referral records; and access by union members to job referral information.[21]

The consent decree ended the longtime practice of union officials drawing multiple salaries. It also required that for seven years the district council would give prior written notice to the government and to the IRO of proposed changes to any rules or procedures covered by the consent decree.

* The IRO could initiate a disciplinary action against a union officer or member by serving that person with a specific written charge. Within a week after service of the charge, a panel composed of three IHC members would be selected. The IRO would choose one panel member, the charged party would choose another, and the two members would choose the third member. A hearing would be conducted within thirty to sixty days according to the rules and procedures applicable to labor arbitration hearings.

0464

District council officers had always been chosen by delegates handpicked by the local unions' leaders. The consent decree instructed the IRO to implement and supervise the first rank-and-file election in the district council's history.[22] Toward that end, IRO Conboy drafted rules for conducting a secret-ballot election, including guidelines for "nominating candidates, disseminating information about nominated candidates to the membership at union expense, and conducting a secret ballot election."[23] Additionally, the consent decree empowered the IRO to hire or designate other persons or entities to assist in carrying out the rules, to resolve all election disputes, and to certify the election results.[24]

To summarize, the consent decree empowered the IRO to

- initiate and serve disciplinary charges against any member of the district council and its constituent locals for any matter constituting an offense under any applicable law, the union's constitution or its by-laws, working rules or obligations;
- take such reasonable steps as are lawful and necessary to be fully informed as to the district council's activities;
- study and recommend reforms of the district council's and its locals' operations (including but not limited to procedures for investigating and disciplining misconduct and procedures for filling vacancies in union offices);
- supervise the adoption, implementation, and operation of the job referral rules;
- supervise all phases of a secret ballot election of the district council executive board scheduled for June 1995 and any special elections that might occur before then; and
- employ or engage the services of any personnel necessary to assist in the proper discharge of the IRO's duties.

IMPLEMENTING THE CONSENT DECREE

Recognizing the importance of obtaining rank-and-file support, IRO Conboy published an open letter to the membership in the union's newsletter, *The Carpenter,* explaining his responsibilities. He announced three basic objectives for the trusteeship: (1) to cleanse the union of corrupt individuals; (2) to reform the job referral system; and (3) to conduct a direct rank-and-file election for union officers. "I hope to have your

support and cooperation as I oversee the enactment of these important reforms over the coming months. I would also encourage any member to contact me . . . on an entirely confidential basis, with any suggestions or information that would enable me to perform my duties more effectively."[25] The district council's officers went to court to stop Conboy from publishing IRO reports in *The Carpenter.* They argued that such reports improperly cast the union's officers in a bad light. Judge Charles Haight ruled in Conboy's favor.[26]

Conboy's new job referral rules required that union members be referred to jobs according to the length of their unemployment. Five months after the rules were implemented, Conboy found that complaints about job referrals had decreased dramatically.[27] "The rules are generally being followed most of the time." However, he also reported that some locals, especially Local 17, continued to operate an "informal system" that reserved the best jobs for a pool of favored members.

THE LOCAL 17 TRUSTEESHIP

Local 17, the largest local in the district council, was created in 1981 by the merger of four local unions. Ironically, although the merger's declared purpose was to prevent corruption and racketeering, its effect was to consolidate the Genovese crime family's control over jobs and influence within the district council.[28] A jurisdictional dispute between two Genovese crime family crews resulted in the Genovese crime family consigliere's "awarding" Local 17 to Barney Bellomo's crew.[29] The June 1989 election generated a slate of candidates consisting of Genovese crime family associates. Enrico Ruotolo was elected business manager; three years later he was selected as Local 17's delegate to the district council.[30]

Conboy filed disciplinary charges against Ruotolo, alleging that he lied on a deposition, referred union members to a nonunion contractor, referred ineligible union members to jobs, and routinely associated with LCN members.[31] Moreover, Conboy's investigation of Local 17 illuminated a dire financial situation, numerous job rule violations, and links to organized crime.[32] Thus, Conboy requested that the Carpenters (UBC) International union impose a trusteeship over Local 17. In April 1995, the general president complied, appointing a trustee whom Conboy found cooperative and helpful.[33]

0466

THE JACOB JAVITS EXHIBITION CENTER INVESTIGATION

In July 1994, Conboy began investigating Cosa Nostra's control over carpenters' jobs at the Javits Center, which is owned and operated by a public corporation (New York Convention Center Operating Corporation).[34] The district council's two representatives at the Javits Center were Anthony Fiorino and Leonard Simon. Fiorino was Genovese crime family acting boss Barney Bellomo's brother-in-law, and Simon was Genovese capo[35] Ralph Coppola's brother-in-law.[36] President Fred Devine, who himself had been linked to the Colombo family,[*] appointed Fiorino and Simon to their positions.[**] Conboy found that Fiorino and Simon filled all carpenter jobs from a "pool list" of one hundred carpenters,[37] many of whom had criminal records, ties to organized crime, or both.[38]

In September 1994, Conboy attempted to implement a nondiscriminatory job referral system for coveted Javits Center jobs.[39] Fiorino and Simon, with Devine's support, opposed Conboy's plan, proposing instead that the collective bargaining agreement be amended to insulate their Javits Center pool list from the job referral rules. Devine refused Conboy's demand that Fiorino and Simon be replaced. In October 1994, Simon resigned his position as the Carpenters union's top official at the Javits Center, but he remained at the center as a highly paid shop steward. Conboy brought a disciplinary action against Simon, charging that

[*] Marcello Svedese testified to Devine's relationship with the Colombo crime family: "A number of times, Freddie Devine told me that he had connections in the Colombo Organized Crime Family. On one occasion, I saw Vincent 'Jimmy' Angellino meeting with Freddie Devine in Devine's District Council office. . . . Angellino . . . was a Capo in the Colombo Organized Crime Family." Salvatore Gravano knew of another connection: "I am aware that Fred Devine is associated with Thomas Petrizzo, a capo in the Colombo Organized Crime Family." Salvatore Gravano Decl. at 4, *United States v. Dist. Council,* 1994 WL 704811 (S.D.N.Y. Dec. 16, 1994) (No. 90 Civ. 5722 (CSH)) (Feb. 10, 1993).

[**] Devine asserted that he had removed Ralph Coppola as the Carpenters chief steward at the Javits Center because of his ties to organized crime. Letter from Frederick Devine to Ralph Coppola of Aug. 6, 1991. But Coppola continued to supervise Genovese operations at the center even though he technically no longer worked there. Alphonse D'Arco Decl. at 7, *United States v. Dist. Council,* 1994 WL 704811 (S.D.N.Y. Dec. 16, 1994) (No. 90 Civ. 5722 (CSH)) (May 24, 1994). Devine denied having known about Fiorino's association with organized crime when he appointed him to oversee job referrals at the center. Frederick Devine Dep. at 140–42, *United States v. Dist. Council,* 1994 WL 704811 (S.D.N.Y. Dec. 16, 1994) (No. 90 Civ. 5722 (CSH)) (Sept. 1, 1994).

0467

he brought discredit to the union by using a pool list, allowing non-union members to work at the center, submitting a false application to the international union, and receiving compensation from an employer in violation of the Taft-Hartley Act. These charges led Simon to resign from the union.[40]

In December 1994, Conboy filed disciplinary charges against Fiorino, alleging eight violations of the UBC's Standards of Conduct, including knowingly associating with members of organized crime; discriminating against rank-and-file members; threatening a union member with physical harm; acting on behalf of a contractor seeking to hire non-union members; participating in a labor bribery scheme; allowing men suspended from the union to continue working at the Javits Center; falsely representing his own qualifications as a carpenter when he applied for union membership; and violating the district council bylaw against invoking the Fifth Amendment before a committee of investigation. The IHC panel found most of the charges proved and expelled Fiorino from the union for life.[41] Judge Haight affirmed.[42] On the charge that Fiorino knowingly associated with organized crime members, he wrote:

> To the extent that Fiorino's contacts with Bellomo and Capolla antedate the execution of the Consent Decree in March 1994, they cannot be said to violate the decree. But a union member's knowing association with members of organized crime may be regarded as conduct "discreditable" to the union, and thus violative of the district council's by-laws and the local's constitution. . . . [T]here is clearly substantial evidence of [Fiorino's] knowing association with Bellomo; and particularly considering Bellomo's prominence in the Genovese crime family, as described by cooperating witnesses, that association is sufficient in itself to sustain Charge One against Fiorino.[43]

In light of the district council's and Devine's unwillingness to reform job referrals at the Javits Center, Conboy petitioned Judge Haight to (1) invalidate portions of the collective bargaining agreement governing district council job referrals in the trade show industry and the manner of compensating the district council's representatives at the center; (2) require the district council to refer trade show jobs in accordance with the consent decree; and (3) authorize the IRO to oversee district council activities in the trade show industry.[44] Judge Haight again ruled in Conboy's favor.

The media closely covered Fiorino's disciplinary hearing, thereby generating political momentum to eliminate organized crime's influence at the Javits Center. The Governor's Office announced a plan whereby the center would hire a permanent workforce, eliminating dependence on the union's hiring hall. In July 1995, current employees were forced to resign and reapply for their jobs if they desired. The center also accepted job applications from nonincumbents.[45] Applicants were screened for criminal records and ties to LCN. The center hired five hundred workers, half of whom had not previously worked there. The new "exhibit workers" were represented by the Carpenters union, but as state employees, they were covered by a new collective bargaining agreement.[46] A short time later, the New York State comptroller found that the Javits Center had experienced a "complete turnaround" with respect to corruption, operations, and exhibitors' satisfaction.[47]

THE 1995 DISTRICT COUNCIL ELECTION

The district council attacked the IRO's Final Election Rules (FERs), complaining that the IRO's power under the consent decree was limited to supervising the election and did not extend to running the election. Judge Haight held that Conboy had acted properly.[48]

The district council charged that Conboy had in a number of ways "exceeded his authority and abused his discretion."[49] The district council objected to the FERs because they lacked exceptions for candidates running unopposed; providing candidates with access to union membership lists, including addresses; expense of required mailings; lack of restrictions on the content of campaign literature; complexity of the rules; method of listing candidates' names on the ballots; confidentiality of nominating petitions; prohibition on local unions' endorsements of candidates; inclusion of the position of second vice-president; and in-person voting. Judge Haight ruled against each of these objections.[50] With respect to Local 608's request that the election be delayed, Judge Haight wrote,

> I think there is some urgency to holding the election as soon as possible. . . . The 1995 election will ideally not only be a fair and democratic one, but will also reveal a variety of information about the current state of the union and its practices. The sooner the election can be held

0469

> and the results studied, the better the sense the IRO will have of the proper focus of the remainder of his tenure.[51]

In order to keep corrupt candidates off the ballot, Conboy required each candidate to have been in good standing as a union member for twelve consecutive months prior to nomination; a UBC member for two consecutive years immediately prior to nomination; never convicted of a crime making him or her ineligible under federal law to hold union office.[52] Once having satisfied the eligibility requirements, a prospective candidate had to submit a nominating petition signed by at least 125 members in good standing. If the IRO certified his or her candidacy, the candidate would have the right to make speeches at membership meetings and to obtain a mailing list of eligible rank-and-file voters. Each candidate had the right, at his or her expense, to hire an observer to witness the distribution of campaign literature and to observe conduct at the polling site. The rules provided candidates equal opportunity to place campaign material in *The Carpenter.* Conboy limited campaign contributions to $250 per member and required disclosure of campaign contributions and expenditures. The rules called for in-person voting by machine ballot except that a member living seventy-five miles or more from headquarters could use a mail ballot. Each candidate could name one member in good standing to the election committee, which would monitor the balloting and count the votes. The committee's decision would be subject to review by the election officer (an assistant appointed by the IRO) or the IRO. The rules defined election misconduct (including but not limited to voting fraud, ballot tampering, and forgery) for which the IRO could bring disciplinary charges.

The IRO rejected only two of nineteen nominating petitions. Fifteen of the seventeen candidates who formally accepted nomination were affiliated with one of four slates. The Unity and Experience slate, led by incumbents Fred Devine and Robert Cavanaugh, put forward candidates for all five executive committee positions (president, first vice-president, second vice-president, secretary-treasurer, and chairman of the trustees). The Membership's Choice slate also contested all five positions. Conboy believed that its presidential nominee, Local 608 President Patrick Harvey, was the only candidate with enough support to seriously challenge Devine. But Harvey was not obviously a reform candidate having invoked the Fifth Amendment during the 1990 RICO case and being closely associated with Paschal McGuinness.[53]

0470

Conboy's most important and time-consuming election task was compiling a master list of eligible voters.[54] In 1994, the district council provided him with a list of 40,000 eligible voters. Conboy found that less than half (16,719) were eligible to vote. He hired a temporary staff to assist in the election, which was conducted primarily by means of voting machines. No individuals other than the temporary staff and two election observers from each slate were allowed into the voting room.

About 46 percent of eligible voters (7,684 union members) cast ballots. All candidates on the Unity and Experience slate, which received 58.7 percent of the total vote, were victorious, *thereby returning to office incumbents and others associated with the clique that had long dominated the union.*[55] Much the same thing had happened in the Local 560 case: Michael Sciarra and his brother Daniel dominated the first fair election in that union's history.

These election victories demonstrate just how deeply labor racketeers are entrenched in certain unions. They maintain power by manipulating both sticks and carrots. Decades of domination may have convinced rank-and-file members that opposition will be futile and dangerous. Likewise, the labor racketeers operate a pervasive patronage system that provides many benefits to loyalists, who then have a vested interest in perpetuating the regime. In addition, many labor racketeers are charismatic personalities to whom rank and filers are attracted. Finally, most union members are apathetic, paying little attention to union governance and policies.[56]

OTHER INVESTIGATIONS

Conboy's investigations continued. In 1996, his office charged five local union officers with violating district council bylaws by invoking the Fifth Amendment when questioned during the civil RICO suit. In 1997, four of them (including 1995 presidential candidate Patrick Harvey) resigned rather than go through the disciplinary hearing process.[57] (The fifth officer ultimately signed a settlement agreement barring him from union office for life.)[58]

After receiving information about a Local 257 member who was extorting payments from a contractor, Conboy and the Manhattan district attorney persuaded the contractor to cooperate. The union member was

0471

arrested in October 1996 for taking a subsequent payoff.[59] He was later convicted of a misdemeanor and settled the IRO's charges by agreeing to be barred from union office.[60] Conboy also brought charges against a former delegate and trustee of Local 348 for refusing to submit to a deposition concerning his association with a Colombo family capo.[61]

In 1997, the IRO charged the president of Local 531 with interfering with the IRO's work and with using union funds to purchase a vehicle. The official agreed to be barred from union office for life.[62] In 1998, a former Local 257 officer paid a fine to settle charges that he knowingly accepted shop steward referrals for which he was ineligible.[63] The former president of Local 257 was investigated for receiving illegal payments from contractors, violating district council rules, and for putting himself on the out-of-work list although he was employed.[64]

INTERNATIONAL UNION'S TRUSTEESHIP OVER THE DISTRICT COUNCIL

Because the victors in the 1995 election were allied with the same faction that had controlled the district council for many years, Conboy urged Carpenters International President Douglas McCarron to impose a trusteeship on the district council, thereby replacing the incumbent officers. According to Conboy, "In light of such entrenched corruption, it was clear to us that the only realistic hope of returning the district council to its membership required the intervention of the International."[65] He stressed the importance of replacing the district council's incumbent officers with "strong and independent outside leadership."[66] McCarron complied on June 25, 1996, appointing Carpenters Vice-President Douglas Banes to take over the administration of the district council.

The district council appealed McCarron's actions to the International union's general executive board. More than one hundred people testified, including Banes and Conboy.[67] Conboy testified that Fred Devine took cash payoffs, appointed Fiorino, refused to dismiss Fiorino, made corrupt job referrals, and mishandled the district council's benefit funds.[68] The hearing committee concluded that Devine and the other officers mismanaged the district council's cash reserve so that its net worth dropped from $6.45 million in 1991 to $224,060 in 1996. Devine spent $389,000 on private jets in a period of thirty months. Devine supplied the staff with luxury cars and paid twice what legiti-

0472

mate automobile dealers would charge. Devine's $25,000 car allowance did not include gas, oil, maintenance, or insurance. The union paid Devine's girlfriend $60,000 as a "consultant"; Devine's chauffeur was paid $60,000 a year out of trust fund money; and Devine used trust fund money to employ Genovese crime family associates. The hearing committee concluded that the International union's trusteeship had been properly imposed and extended its duration.[69]

The Banes trusteeship seemed to make some significant reforms aimed at remedying the financial crisis and combating corruption. A few of Devine's protégés, including his son and Bernard Cohen, the district council's general counsel, were terminated.[70] Subsequently, the Manhattan district attorney charged Cohen with stealing more than $150,000 from the district council by overbilling and by inflating the expenses of a lobbyist who worked for him. Ultimately, he pleaded guilty to falsifying records.[71] Devine was convicted on six felony grand larceny counts.[72]

Banes moved to put the district council back on sound financial footing by reducing unjustifiable salaries, cutting costs, and rationalizing operations.[73] In May 1997, the International reorganized the New York City district council into a more centralized "full service district council" whose officers would be accountable to and elected by the rank and file. Moreover, the job referral system would be run by business agents employed by and subject to removal by the district council. Some local unions would be merged.[74] In announcing the plan, President McCarron said, "Despite the [IRO's] supervision, the consent decree and federal investigations, corruption continues in many local unions throughout the district council. Only a fundamental structural change . . . can eradicate the problem and return the Union to its members' control."[75] McCarron declared that the "membership has been poorly served by the present structure," and noted that the district council had lost approximately five thousand union members in five years, depleted its $6 million treasury, and incurred upward of $5 million in debt. He predicted that centralization of authority in the district council would provide the solution.*

* Lawsuits by local unions and individual carpenters significantly delayed the restructuring plan's implementation. Ultimately, the court held that the plan did not violate the consent decree (*Local Unions v. United Bhd of Carpenters,* 1997 WL 630179 (S.D.N.Y. Oct. 9, 1997)) and that prior court approval of the restructuring plan was not required (*United States v. Dist. Council,* 972 F. Supp. 756, 759 (S.D.N.Y. 1997).

0473

TERMINATING THE IRO AND THE UBC TRUSTEESHIP

In October 1996, the court approved another six-month extension for IRO Conboy. Because of the district council's shaky financial status, Conboy consented to a reduction in compensation from $65,000 a month to $45,000 and agreed not to seek further extensions. On March 3, 1997, President McCarron voluntarily extended Conboy's tenure through March 4, 1998, and then to June 5, 1998. On June 4, 1998, the parties agreed to a final twelve-month extension.[76] One year later, Judge Haight wrote

> The district council's refusal to extend the IRO's tenure means that the IRO will not be able to discharge the last vestiges of his previously delineated responsibilities. Accordingly, this is likely the last opportunity that the Court will have to address former Judge Conboy in a formal opinion. I seize the opportunity to thank him for his tireless and invaluable service to the parties and to the Court during the course of an arduous, complex and challenging case. The Court's IRO has been the very model of a modern Court-appointed officer. Ave atque vale.[*]

In 1999, the Carpenters International Union dissolved its trusteeship over the New York district council. In January 2000, almost ten years after the civil RICO case was filed, Local 608's President Michael Forde[**] was elected president of the district council.[77] Ominously, two years before Conboy had charged Forde with violating job referral rules in assigning jobs among Local 608 members.[78] In 2000, the Manhattan district attorney charged Forde and several Cosa Nostra codefendants

[*] *United States v. Dist. Council*, 1999 U.S. Dist. LEXIS 8781, at *22 n. 4. Conboy also had his critics. For example, "[T]he IRO's tenure under the consent decree was about to expire at the time the UBC took over our council, the UBC extended his tenure at the time of the take over at the cost of sixty-five thousand a month. Ever since, the IRO has been writing shining reports to the court regarding Mr. McCarron's actions and it seems every time he writes a report he gets another extension of his tenure." *Impediments to Union Democracy Part II* app. F., 101, available at http://edworkforce.house.gov/hearings/105th/eer/ud62598/lebo.htm (statement of William S. Lebo, a member of Local 45 (June 25, 1998). Conboy's Sixth Interim Report charges that some union members who complained about the International trusteeship were Devine supporters with ties to organized crime. Sixth Interim Report, at 11–12.

[**] Forde's father, who preceded Forde as president of Local 608, had been convicted of Taft-Hartley crimes in the 1980s.

0474

with taking bribes in exchange for ignoring violations of the collective bargaining agreement.

The thirty-eight codefendants included union officers, contractors, and eleven alleged organized crime figures.[79] Steven L. Crea, the Lucchese crime family boss, was the leading organized crime figure among the defendants.[80] According to the district attorney, the Lucchese crime family took money from contractors in exchange for promising protection from labor problems. Forde thus became the fourth consecutive district council president since 1980 to be charged with labor racketeering. (See Table 10-1 below for a list of labor racketeering prosecutions related to the New York City District Council of Carpenters.) Nevertheless, he was elected in 2002 as executive secretary treasurer (the new title for the district council's top officer) with 80 percent of the vote.[81]

Table 10-1
Labor Racketeering Prosecutions Related to the NYC District Council of Carpenters

Case	*Result*
United States v. Maritas, Cr. No. 81-122 (E.D.N.Y.)	Former District Council President Theodore Maritas and Genovese capo Vincent DiNapoli were indicted for RICO violations.
United States v. Giangrande, 805 F.2d 391 (2d Cir. 1986)	District council officer Artie Giandrande, convicted after trial for conspiracy, mail fraud, and illegal labor payoffs.
People v. Bitondo, Ind. No. 7952/87 (N.Y. Sup. Ct. N.Y. Co.)	Local 257 officers Attilio Bitondo and Gene Hanley were indicted for receiving illegal payoffs and engaging in extortion.
United States v. Cervone, et al., Cr. No. 87-579 (E.D.N.Y)	Henry Walaski, an officer of Local 531 and district council delegate, was convicted for violating RICO and receiving illegal payoffs.
People v. Holden, Ind. No. 9352/87 (N.Y. Sup. Ct. N.Y. Co.)	Local 608 shop steward William Holden was convicted of criminal contempt and perjury in an investigation of the Carpenters Union.
People v. Forde, Ind. No. 7951/87 (N.Y. Sup. Ct. N.Y. Co.)	Martin Forde, an officer of Local 608, was convicted for receiving an illegal labor payoff.
People v. Zeidman, Ind. No. 7950/87 (N.Y. Sup. Ct. N.Y. Co.)	District Council First Vice-President Irving Zeidman was indicted for accepting labor payoffs.
United States v. Waller, Cr. No. 88-466 (E.D.N.Y.)	Local 531 officer Robert Waller, Jr. was convicted of extortion.
People v. Hubelbank, Crim. Complaint No. 9N072405/89 (N.Y. Crim. Ct. N.Y. Co.)	District council trustee and former Local 135 officer Israel Hubelbank was convicted of accepting illegal labor payoffs.
People v. Moscatiello, Ind. No. 8081/89 (N.Y. Sup. Ct.)	Local 17 business manager Benedetto Schepis was indicted for crimes involving Local 135.
People v. Forde, Ind. No. 5544/00 (N.Y. Su. Ct. N.Y. Co.)	District Council President Michael Forde and his business agent Michael Devereaux convicted by a Manhattan jury of accepting $100,000 in cash as part of a $50,000 promised bribe from a defunct construction company.

0475

ASSESSING SUCCESSES AND FAILURES

Successes

According to Conboy, the trusteeship was successful in purging the district council of mob-affiliated and corrupt officials, conducting a free and fair election in 1995, cleaning up the Javits Center, and revamping the job referral system. He filed disciplinary charges against a number of union officials, including Anthony Fiorino, Lenard Simon, and Enrico Ruotolo. IRO Conboy and Trustee Banes removed from union office all of the 1995 incumbents. The 1995 election gave members the right to vote directly for officials, but the election did not produce a break with the regime that had long dominated the union.*

The job referral system was substantially reformed. Conboy wrote in March 1996 that "it can safely be said, given the high volume of carpenters referred from the out-of-work lists, and diminishing number of complaints we receive concerning the referral process, that the average rank and file member has greatly benefited from the implementation of the job referral rules."[82] A year later, Conboy reported that complaints had declined to an average of two or three a month, which his office was able to resolve informally.[83]

In July 2001, however, Eugene Clarke, a member of Local 608, filed a complaint with the district council's executive committee alleging that Local 608 was appointing shop stewards in violation of the referral rules. He complained that some employees who supported Michael Forde received job assignments out of turn and that others, like him, did not receive job assignments because they opposed Forde.[84] While not admitting wrongdoing, the district council agreed to change the job referral rules to require more oversight of shop steward appointments[85] and to hire former Assistant U.S. Attorney Walter Mack as Independent Investigator, responsible for investigating allegations of job referral rule violations.**[86]

It is hard to say whether the centralization of the district council

* A dissident group, Carpenters for a Democratic Union International (CDUI), demands "one member, one vote" for all union positions, direct membership votes on contracts, and direct election of delegates. See http://www.ranknfile.net/.

** In April, 2005, over the government's opposition, the court granted the district council's motion to terminate Mack, but on the condition that a successor acceptable to the court be appointed.

0476

at the expense of the locals qualifies as a success. On the one hand, the district council can be more easily monitored and held accountable for racketeering in its constituent locals. On the other hand, a leading advocate for union democracy commented at a 1988 congressional hearing on union democracy:

> The delegate system is no substitute for direct elections. A membership of thousands armed with the right to vote, cannot be easily manipulated by the officers above. But a delegate body of 150 can be dominated by an officialdom which dispenses favors and perks to only 76 lucky delegates. Direct elections allow the member-voters to control the officers. Election by delegates allows the officers to control the delegate-voters.[87]

Failures

Although the 1995 election was conducted fairly, Fred Devine was reelected president, thereby perpetuating the old regime's control. Fraud, corrupt practices, and racketeering continued. The UBC negated the 1995 election by imposing a trusteeship on the district council, thereby removing Devine. Michael Forde's slate won the 1999 election. Just months later, the Manhattan district attorney charged Forde and several top Cosa Nostra figures with orchestrating a bribery scheme whereby contractors paid off union officials in exchange for their allowing the contractor to use nonunion labor on a hotel renovation project.[88] Even though indicted, Forde won the 2002 district council election.

The goal of the 1994 RICO suit—purging organized crime's influence from the district council—has clearly not been achieved. The alliance between labor racketeers and corrupt union officials has proved resilient. As long as rank-and-file Carpenters Union members see or perceive "business as usual," they will be cynical about prospects for reform and unwilling to stand up against the old regime. Not only have the government, the court, and the court-appointed trustee been unable to end mob influence in the district council, they have been unable to prevent LCN labor racketeers from expanding their influence to Westchester County (just north of New York City). In December 2001, the Department of Justice indicted seventy-three members of the Parrello Crew of the Genovese crime family on ninety-eight counts, including extortion, labor racketeering, loan sharking, illegal gambling

0477

operations, selling counterfeit money and gun trafficking.[89] Nine were accused of labor racketeering involving Locals 11 and 964, which together constituted the Suburban New York Regional Council of Carpenters. These defendants were alleged to have arranged for nonunion workers to complete carpentry jobs, allowing the defendants to embezzle more than $1 million that should have been paid into the Suburban Council's pension funds.[90]

Whether the IRO could have done anything more to facilitate a reform movement among the New York City carpenters is an important question. In the IBT Local 560 trusteeship, the trustee reached out to the rank and file, appointed some individuals to steward positions and other offices, and successfully encouraged other members to become involved in union governance and politics, helping eventually to bring a reform slate to power. Stimulating reform in the building trades is undoubtedly more difficult because work is seasonal and insecure; workers move from one job and contractor to another. Because the union determines whether an individual gets work, it is risky for a rank and filer to challenge the incumbent clique. Because the district council comprises some twenty locals spread out across the metropolitan area, it is difficult for an insurgent candidate to achieve the name recognition necessary to defeat an incumbent union officer.

Still, there is some reason for optimism. The relentless governmental and judicial efforts to purge LCN from the district council have clearly succeeded to a significant extent. The old labor racketeering element has been severely weakened. The membership has had a taste of free elections and fairer work assignments. The union's finances are much more transparent and accountable. The pension and welfare funds are more secure. Achieving further reform, however, will require the emergence of a new cadre of union leaders.

0478

11

The Four International Unions

The President's Commission on Organized Crime (PCOC) focused most of its resources on documenting and excoriating corruption and racketeering in the IBT, HERE, LIUNA, and ILA. The PCOC sharply criticized the federal government for not aggressively seeking to purge LCN's influence from these influential international unions. Twenty years have passed. Each of these unions has been the target of extensive civil RICO litigation and remedial efforts. There has been a great deal of progress, but it is still too soon to pronounce any of the four international unions free of labor racketeering.

THE IBT

> Roy it's a bad situation. . . . You can run, but you can't hide. My advice to you is to cooperate or get your family killed. Roy, these are bad people. And they were here a long time before you and me came. And they'll be here a long time after we're gone. They've infiltrated into every big local union, every conference and pension fund—even the AFL-CIO! I'm tied as tight as I can be.
>
> —Jimmy Hoffa to Roy Williams. Quoted in James Neff, *Mobbed Up: Jackie Presser's High Wire Life in the Teamsters, the Mafia and the FBI* (1989)

Soon after the PCOC issued *The Edge*, rumors began to circulate that the Department of Justice was considering a civil RICO complaint against the IBT's General Executive Board. To head off such a lawsuit, IBT General President Jackie Presser launched a lobbying and public relations campaign seeking support from politicians and the AFL-CIO.[1] Presser accused the Reagan administration generally and the DOJ particularly

0479

of union bashing:* "Takeovers of unions are nothing new—Communists and Fascists have been doing so for decades. However it is a sad day in the history of the United States and the American labor movement when such tactics are employed." Presser must have been pleased by the positive response from the nation's political leaders: 246 members of Congress signed a petition urging the Department of Justice not to file a civil RICO suit against the IBT.[2] According to the petition: "The exercise of such authority . . . would establish a precedent which strikes at the very foundation of our democracy." Senator Orin Hatch (R.-Ut.) said that the DOJ suit against the IBT "flies in the face of democratic principles" and "is a terrible precedent."[3] This unprecedented intervention on behalf of a potential federal racketeering defendant (without any public information about the factual basis for DOJ's rumored complaint) illustrates the enormous political power of the nation's largest private-sector union as well, perhaps, as the cynicism of the politicians in associating the racketeer-ridden IBT with democratic unionism and American democracy.** The AFL-CIO also responded positively to Presser, inviting the Teamsters to return to the house of labor after thirty years in exile.

On June 28, 1988, Rudy Giuliani, U.S. attorney for the Southern District of New York filed one of the most remarkable lawsuits in American history, a civil RICO suit against the International Teamsters Union. The complaint named as defendants the union's leaders and the leaders of the nation's dominant crime syndicate—specifically, the International Brotherhood of Teamsters, the Cosa Nostra "Commission,"*** 26 Cosa Nostra members and associates including Genovese crime family boss

* The PCOC questioned whether an investigation of Jackie Presser had been delayed because of Presser's political support for President Ronald Reagan in 1980 and 1984. (Steven Kurkjian, "Panel Says Organized Crime Corrupts Unions," *Boston Globe*, January 15, 1986.)

** The IBT was and is the largest private-sector union in North America. It had approximately 2 million members at its peak in the 1960s and has about 1.4 million members in 2005. The IBT began as a union for horse-drawn vehicles and then trucks, but with the expulsion from the AFL-CIO in the 1950s, it became a kind of conglomerate union, representing all sorts of workers, including those in freight, warehousing, manufacturing, construction, private security, and air transportation.

*** The Commission, established by LCN bosses in 1931 to resolve disputes among organized crime families, originally comprised prominent LCN bosses from around the country, but by the 1980s, it either consisted of the five New York City LCN bosses or perhaps the five families had their own NYC metropolitan-area commission.

0480

Tony Salerno (or perhaps underboss if, as seems likely, the crafty Vincent Gigante actually ruled the family), Lucchese boss Anthony Corallo, Chicago Outfit boss Joey Aiuppa, and Milwaukee crime family boss Frank Balistrieri. The other defendants were the IBT's General Executive Board (GEB), and eighteen present and former GEB members, including President Jackie Presser and General Secretary-Treasurer Weldon Mathis.[4] The complaint charged that the organized crime defendants, aided and abetted by the union defendants, violated RICO (1962b) by acquiring an interest in the IBT through a pattern of racketeering activity, including extortion, violence, fraud, and violation of the IBT members' Landrum-Griffin rights. The complaint further alleged that the defendants violated RICO (1962c) by conducting the affairs of the IBT through a pattern of racketeering activity, including extortion fraud, violence, and other criminal conduct. The complaint cited a litany of violent acts by LCN members and associates against Teamsters members who dared to criticize or question the ruling clique and against employers who refused to accede to the labor racketeers. The government alleged that despite 191 criminal convictions and 22 civil enforcement actions, neither the IBT general president nor any member of the union's GEB had conducted any investigations or disciplinary actions regarding labor racketeering.*

Giuliani asked the court to remove the GEB members and to establish a trusteeship to oversee the union's affairs and supervise a national election.[5] In preparing for trial, the government's star witnesses were former General President Roy Williams (1981–1983) and former Cleveland LCN boss Angelo Lonardo, both of whom had become cooperating government witnesses.[6]

Despite a GEB resolution prohibiting defendants from making individual settlements with the government, three vice-presidents, recognizing the personal financial and emotional costs of litigation, quickly broke ranks. For example, Robert Holmes, Sr., a Teamster for fifty-two years, agreed to resign all union positions in full settlement of the complaint against him.

On March 13, 1989, the IBT (as an entity) and the DOJ agreed to a consent decree. The union acknowledged "that there have been

* Harold Friedman, head of IBT Joint Council 41 and the IBT Ohio Conference, explained that to have inquired into a fellow IBT officer's indictment or conviction would have been "bad manners."

0481

allegations, sworn testimony and judicial findings of past problems with Cosa Nostra corruption of various elements of the IBT," and agreed that the IBT should be free of any criminal element, and should be governed democratically "for the sole benefit of its membership without unlawful outside influence."[7] The consent decree provided for a permanent injunction barring the organized crime defendants from any future involvement with the IBT; changing the IBT constitution to require democratic elections for International officers; prohibiting IBT members from knowing association with LCN members and with expelled members; and, most important, the appointment of a trusteeship made up of three court-appointed officers—independent administrator, investigations officer, and elections officer—to oversee the union's reform. Judge David Edelstein appointed former federal judge Frederick Lacey as independent administrator, former assistant U.S. attorney Charles Carberry as investigations officer, and labor lawyer Michael Holland as elections officer. If the 1991 election were to be certified as having been conducted in conformity to the new election rules, the three-person trusteeship would be replaced by a three-person Independent Review Board (IRB).

The consent decree gave the Independent Administrator (IA) authority to discipline (by means of expulsion, suspension, or fine) union members and officers, and to impose trusteeships on IBT locals controlled by LCN. It also empowered the IA to veto any IBT decision that would further the interests of labor racketeers. The IBT general president and GEB retained day-to-day administrative authority and the authority to negotiate collective bargaining agreements.

The investigations officer (IO) was charged with responsibility for investigating corruption in Teamsters local, regional, and international unions and for recommending to the IA disciplinary action against individuals found to have violated the IBT constitution. As soon as the consent decree was filed, the IO began investigating and preparing disciplinary charges against many of the civil RICO defendants and other IBT officials. Soon there began to flow a steady stream of disciplinary cases that continues to this day (February 2005).

The consent decree set out rules for future national elections, including direct secret balloting and a prohibition on candidates accepting campaign donations from employers, foundations, trusts, or similar entities. It left other election procedures to be developed by the

0482

elections officer (EO), who was empowered to oversee direct 1991 and 1996 rank-and-file secret-ballot elections for the union's international officers.

William McCarthy, with the support of the New England Patriarcha crime family, became general president following Jackie Presser's death in July 1988. After signing the consent decree, General President McCarthy had an immediate change of heart. He described the consent decree as failing to provide "the vindication and exoneration the Teamsters deserve. . . . [T]his suit should never have been filed in the first place." Numerous IBT locals filed lawsuits asserting that they were not bound by the consent decree because they were neither defendants in the civil RICO suit nor signatories to the consent agreement.[8] Judge Edelstein thwarted this strategy, first by combining all IBT/consent decree litigation in his court and then by ruling that the consent decree did bind the IBT locals.[9] He declared:

> The International IBT and all of its subordinate entities are merely structures created to represent and serve its constituent membership. Indeed, the law governing lawsuits against labor unions embodies the underlying philosophy that a union is no more than its membership. Legally, an unincorporated association is a collective substitute for its members individually. Under the IBT Constitution, all members of the Union—officials and rank and file alike—are jointly members of both their individual local and the International IBT.[10]

The IBT refused to reimburse some of the court-appointed officers' expenses and resisted the IA's efforts to inform the rank and file of actions against corrupt IBT officials. At its 1991 convention, the IBT refused to enact constitutional amendments to which the consent decree committed it. As the IBT's opposition mounted, so too did Edelstein's resolve. He ruled time and again against the IBT, persevering until he achieved compliance with his orders.

IA Lacey served as the trier of fact and sentencing authority on charges brought by IO Carberry against Teamsters officials and members. Typical charges included membership in or knowing association with members of Cosa Nostra,[11] failure to investigate corruption within the local, joint council, or international in which the individual held office, refusal to testify at a disciplinary hearing,[12] embezzle-

0483

ment,[13] and assault.[14] Sentences ranged from reprimand to expulsion from the union. On appeal, Edelstein consistently upheld IA Lacey's decisions.

IO Carberry and his staff reviewed old criminal cases and audited locals with a reputation for being influenced by organized crime.[15] The FBI provided a wealth of information. Some IBT members came forward to report wrongdoing. When Carberry found sufficient evidence, he filed disciplinary charges. IBT Vice-Presidents Harold Friedman and Anthony Hughes were his first targets. Because both officials had been convicted of racketeering (but had appeals pending in the Sixth Circuit), it seemed to follow that they should be expelled from the union. However, they argued that Carberry had no authority to charge (and Lacey to discipline) them on the basis of convictions that occurred before the consent decree was signed. Judge Edelstein disagreed:

> [T]he ultimate aim of the consent decree is to guarantee free elections and to rid the IBT of the hideous influence of organized crime . . . the election oversight may imperil unfairly-elected officers, and the prosecution scheme may ultimately suspend corrupt members.

A 2004 study found that since the signing of the consent decree in 1989, 670 charges had been brought against 583 members and officers of the Teamsters.[16] These charges involve members or officers of 128 locals, led by Local 813, with 58 members and officers charged. Eighty-five local union presidents have been charged. The most frequent offense is embezzlement. Many of those charged entered "plea bargains" with the IRB, agreeing to suspension, resignation, fine, restitution, and other sanctions. The most frequent sanction, meted out to 201 Teamsters, was permanent expulsion.[17] Pursuant to IRB investigations and recommendations, the IBT International Union placed thirty-five locals and one joint council under trusteeship.

Elections officer Holland created a three-step process for the election of the IBT general president, general secretary, and GEB members. First, the IBT locals would hold secret-ballot elections for delegates to the IBT convention. Second, the delegates would nominate candidates for national office. Third, all rank-and-file members would vote in a secret-ballot election supervised by independent monitors. The IBT opposed these proposed reforms, arguing that the consent decree empowered Holland only to *monitor* the electoral process for fraud, not to

0484

establish new election rules. Judge Edelstein ruled that Holland had not exceeded his authority.[18]

At the 1991 IBT convention, the delegates rejected the constitutional amendments to which the consent decree committed the union. The DOJ lawyers, anticipating the revolt, had asked Edelstein to impose the constitutional changes by court order; the judge issued an injunction to that effect. At the convention itself, the delegates railed against Edelstein, the government, and the consent decree.

The first direct election of international IBT officers took place in 1991. There were three candidates: R. V. Durham, a member of the GEB; Walter Shea, a career Teamster administrator who had essentially run the union during much of the Fitzsimmons administration; and Ron Carey, a self-styled reformer who headed a large New York City IBT local. Judge Lacey ruled ineligible a fourth candidate, James P. Hoffa, a lawyer and son of Jimmy Hoffa, because he had never been a Teamster. Carey enjoyed the support of the Teamsters for a Democratic Union (TDU), the best-developed rank-and-file reform group in the American labor movement.[19] He promised to eradicate mob influence in the Teamsters. To many observers, his election, with 48.5 percent of the vote, was a huge victory for reformers and proof of the trusteeship's success (although only one-third of eligible Teamsters voted).* Nevertheless, Carey kept an arm's-length distance from the court-appointed officers, calling the trusteeship improper, unnecessary, and undemocratic. Carey eliminated the practice of top officials drawing multiple salaries, trimmed the IBT budget, sold some of the union's airplanes and other extravagant possessions, created an Ethical Practices Committee, and imposed trusteeships on a number of mob-controlled locals. He led the Teamsters strike against United Parcel Service, the union's largest employer, and achieved a favorable contract.

After certification of the 1991 election, a three-member Independent Review Board (IRB) replaced the three-person court-appointed trusteeship. The U.S. attorney general's appointee to the IRB was Frederick Lacey. The IBT appointed Carey's campaign manager, E. Harold Burke. When Lacey and Burke were unable to agree on the third member, Judge Edelstein appointed former FBI director William Webster.

* An early 1990s survey found that half of the IBT members surveyed could not name the IBT International general president. See Robert Bruno, *Reforming the Chicago Teamsters: The Story of Local 705* (De Kalb: Northern Illinois University Press, 2003).

The IRB immediately hired Charles Carberry to serve as investigations officer. (Burke was later replaced by Grant Crandall, a distinguished labor lawyer and general counsel of the United Mine Workers Union.)

The 1996 election was vigorously contested. Carey's opponent was James P. Hoffa who, by signing on as an assistant to an IBT local president in Chicago, became eligible to run in the 1996 election. Carey won by a slim majority (52 percent), but the elections officer (Barbara Quindell, who had replaced Michael Holland) refused to certify the result because of campaign finance violations. She found that Carey's campaign illegally funneled $885,000 of IBT funds to political action groups (associated with the national Democratic Party), which arranged donations of the same amount to Carey's campaign.[20] In other words, she found that the Carey campaign had, by means of a crude money laundering scheme, illegally utilized almost $1 million of IBT funds on behalf of Carey's campaign. She ordered that the election be rerun.

In November 1997, yet another elections officer (Kenneth Conboy, the same man who served as trustee (IRO) in the District Council of Carpenters case) barred Carey from the rerun election because of the money laundering scheme; the IRB affirmed and subsequently expelled Carey from the union.* James P. Hoffa won the 1998 rerun (of the 1996) election by a wide margin, and, in 2001, his Hoffa Unity Slate of candidates for the General Executive Board overwhelmingly won a five-year term. That same year, a former U.S. attorney for the District of Columbia, Joseph Di Genova, replaced Grant Crandall as the IBT's representative on the IRB, and former U.S. attorney general Benjamin Civiletti replaced Judge Lacey as the government's representative; William Webster continued to serve.**

Hoffa campaigned on the promise of doing everything possible to terminate the IRB. After the election, he announced that he was hiring Edwin Stier to head an internal anticorruption unit that would eventually demonstrate to the government and the court that the IBT could police itself. Stier brought enormous credibility to the internal reform effort, called Project RISE (Respect, Integrity, Strength, Ethics) because he had served so successfully as trustee in the IBT Local 560 case.***

* Carey was subsequently prosecuted and acquitted (October 12, 2001).

** Judge David Edelstein died in August 2000. The IBT case was then assigned to Judge Loretta A. Preska.

*** Stier also appointed a ten-member Board of Advisors to monitor Project RISE's progress and to make suggestions where appropriate. I served as a member of that board.

Project RISE had three components: a rank-and-file initiative to draft an ethical practices code and enforcement machinery; a professional investigative initiative to assess the state of corruption and racketeering throughout the union; and an initiative to write an internal history of labor racketeering in the Teamsters. Stier hired a former justice of the New Mexico Supreme Court to chair the ethical practices code committee composed of twenty rank-and-file members from across the United States and Canada. The group met over a period of eighteen months and produced an impressive set of ethical rules, disciplinary procedures, and enforcement machinery. However, the Hoffa administration took the position that it would not implement the code until the IRB's enforcement authority was phased out. As of summer 2005, there is no sign of such a prospect.

The second Project RISE component was an investigation of continued organized crime influence in the IBT. For this job, Stier chose James Kossler, the former organized crime coordinator in the New York City FBI office. Kossler, in turn, hired a number of former FBI agents and DOL investigators from around the country. The Kossler team conducted at least a cursory investigation of every IBT local that had ever been alleged to have been infiltrated or influenced by organized crime. It found no indication of organized crime influence in the vast majority of these previously tainted locals. In several locals where questionable influences still existed, IRB investigations and disciplinary proceedings were under way. Kossler's team also continued to investigate.

Project RISE's third component was a comprehensive history of the connection between organized crime and the IBT. The principal author was Howard Anderson, one of Stier's law partners and a former congressional staffer. The history (*The Teamsters: Perception and Reality*), published by the IBT,[21] seems primarily addressed to the U.S. attorney for the Southern District of New York and to Judge Preska, who presides over the consent decree. Its basic theses are (1) that mob infiltration of the Teamsters was the consequence of a strong organized crime syndicate, a weak governmental organized crime control effort, and an unwillingness of the IBT leadership to confront LCN; and (2) that currently a strong federal organized crime control effort, plus a strong IBT antiracketeering commitment, plus a much-weakened LCN add up to a healthy, independent, and honest Teamsters union.

Unfortunately, Project RISE disintegrated in spring 2004. Stier and Kossler resigned, charging that the Hoffa administration was blocking

[162.10.217.184] Project MUSE (2026-06-15 01:41 GMT) University of Queensland

their investigation of LCN influence in their Chicago-area IBT locals and their joint council. Stier and Kossler had come to believe that they had been overly optimistic in their initial assessment of the state of many IBT locals and that organized crime continues to exercise influence, especially in Chicago. The Teamsters leadership took the position that Project RISE was too expensive and that Stier had overstepped his mandate; Hoffa appointed Edward McDonald, former head of DOJ's Brooklyn Organized Crime Strike Force to investigate Stier's charges. A public version of McDonald's report, released in July 2005, concluded that Stier's and Kossler's accusations of organized crime involvement in the Chicago-area IBT were baseless.

IBT CONCLUSION

In 1986, the PCOC considered reforming the IBT nearly impossibile. However, the FBI and DOJ campaign against organized crime greatly weakened the crime syndicate. The federal civil RICO suit against the IBT international and the court-imposed trusteeship that it produced, backed by Judge Edelstein's steadfast determination to enforce the letter and spirit of the consent decree, triggered major changes in the IBT. None of the defendants in the 1989 DOJ civil RICO suit remain in office. The Independent Administrator and its successor, the Independent Review Board, have expelled hundreds of organized crime figures and associates from the union, placed or been responsible for placing dozens of corrupted locals under international union trusteeships, thereby allowing, in some cases, reformers to take control of their locals,* and produced three fair and competitive international elections.

Separate court-appointed trusteeships over a few of the most corrupt locals (e.g., IBT Local 560) have also shown impressive results. Until 2004, the James P. Hoffa administration, under the auspices of Project RISE, seemed committed to rooting out vestiges of organized crime

* Professor Robert Bruno's in-depth case study of IBT Local 705 in Chicago (*Reforming the Chicago Teamsters,* 2003) shows how the consent decree led to the IBT's imposition of a trusteeship over Local 705, opening the door for reformers to compete for union office. He concludes that although the International's trustee did a good job, he was unable to change the rank and file's positive attitude toward the old regime. He attributes real reform to the strenuous efforts of reformist elements in the local.

in order to persuade the government and the court to retire the consent decree and dissolve the Independent Review Board. Where they were once vilified, former FBI agents and federal prosecutors had access to IBT headquarters, President Hoffa, and his top staff. Unfortunately, events in the first half of 2004 cast a dark shadow over the credibility of the IBT's commitment to reform. The collapse of Project RISE means that the IBT's internal reform effort has been, at best, partially successful. Labor racketeers quite possibly remain a force to be reckoned with, especially in certain Chicago-area locals. Moreover, the Chicago Outfit has not been as vigorously prosecuted or as significantly weakened as LCN families in other cities.* Of course, the IRB remains in place for the foreseeable future, thereby assuring ongoing investigation and disciplinary action.

HEREIU

> Numerous allegations of possible association with organized crime groups were known over the years, yet no investigations were ever conducted by the HEREIU to ascertain the facts. Mr. [General President Edward] Hanley rewarded family and friends, especially from the Chicago, IL area with positions with the International Union without evaluating the needs of the union. All these appointments were approved by the General Executive Board without questions or challenges.
>
> —Kurt Muellenberg, Court-Appointed Monitor of HEREIU, August 26, 1988.

In 1958, the McClellan Committee found that LCN Chicago Outfit boss Tony Accardo controlled three Chicago-area Hotel and Restaurant Workers locals. Joey Aiuppa, Accardo's lieutenant and later his successor, was secretly the boss of one of these locals. *The Edge* concluded that the Chicago Outfit controlled HEREIU and that General President Ed Hanley, who had been promoted from one of the Chicago-area locals to

* In April 2005, the Chicago U.S. attorney's office announced a massive indictment against at least fourteen organized crime figures who were charged with numerous counts of murder, loan sharking, illegal gambling, and tax fraud. *U.S. v. Calabrese et al.*, no. 02 CR 1050 (N.D. Ill. April 25, 2005).

the general presidency, was the Outfit's tool. A 1984 Senate Permanent Subcommittee on Investigations report noted that Hanley had used mergers of locals, international trusteeship of locals, and personnel transfers to solidify the international union's control over local union officers and treasuries. It accused him of hiring a number of LCN members and associates as international union organizers and for other union positions. In addition, according to the Senate Subcommittee, LCN controlled several HEREIU locals in Chicago and other cities.

HEREIU LOCAL 54

The government's effort to reform HEREIU began with HEREIU Local 54 in Atlantic City.* In 1979, the local's longtime president, Ralph Natale, an associate of Philadelphia's Bruno LCN crime family, was sentenced to thirty years' imprisonment for a variety of offenses. To take his place, President Hanley appointed Frank Gerace, an associate of Nicodemo Scarfo, the Philadelphia LCN crime family capo in charge of the family's Atlantic City interests.[22] The U.S. Senate Subcommittee identified Local 54 President Gerace and Local 54's vice-president as pawns of Scarfo and the imprisoned Natale.[23]

In 1981, the New Jersey Casino Control Commission and the Division of Gaming Enforcement, established to prevent organized crime from penetrating Atlantic City casinos, found that LCN, through Gerace, controlled Local 54. It ordered Local 54 to remove Gerace and two others from union office. The commission warned that if the union failed to comply, it would be prohibited (under New Jersey law) from collecting dues from casino employees, which would cause the union's demise. After a protracted battle in the courts, the U.S. Supreme Court affirmed New Jersey's power to impose more stringent antiracketeering regulations than those imposed by federal law.[24] Gerace resigned his union presidency, but Local 54 continued to employ him as a "consultant."[25]

In 1984, the Senate Permanent Subcommittee on Investigations, after a three-year investigation of the Hotel and Restaurant Workers, concluded that the Philadelphia LCN controlled Local 54 and exerted

* The local had experienced extraordinary growth when casino gambling in Atlantic City was legalized in 1978. Local 54's membership swelled to 22,000.

0490

"substantial influence" over the HERE International Union. At subcommittee hearings, thirty-four witnesses, including both HEREIU officials and reputed mobsters, refused to answer questions, asserting the Fifth Amendment right against compelled self-incrimination. The subcommittee's report found that the Atlantic City and Las Vegas locals' dental plans served as slush funds for LCN figures.[26] In the wake of the report, federal prosecutors brought criminal ERISA charges against several union officials and filed a civil suit against Local 54's dental plan and the plan's administrators and service providers. The union and certain providers settled these lawsuits in 1988, agreeing to pay the benefit plan $3.85 million.

In December 1990, the U.S. attorney for the Northern District of New Jersey filed a civil RICO suit against Local 54, General President Edward Hanley, nine former and current Local 54 officers, and ten LCN members and associates, alleging a twenty-year pattern of racketeering. Those named in the suit included Nicodemo Scarfo (Bruno's successor as boss of the Philadelphia LCN family); Philip Leonetti (former Philadelphia LCN underboss); Anthony Piccolo (acting boss of the Philadelphia LCN family); and, nominally, Local 54's affiliated benefit plans and severance fund.[27] The suit charged that Ralph Natale and other organized crime figures had prevented democratic elections within Local 54 by threatening to kill union members who opposed or ran against mob-backed candidates. The consent decree removed eight Local 54 officers and employees from their union positions and permanently enjoined Frank Gerace from participating in HEREIU affairs.[28] Two defendants were enjoined from holding office in Local 54 for ten years, and two others for seven years. The LCN defendants were permanently enjoined from participating in Local 54's affairs. President Hanley agreed not to interfere with the remedial effort or to make any changes in Local 54's organization without a court-appointed monitor's approval.

U.S. District Court Judge Garrett E. Brown appointed the U.S. attorney's nominee, James F. Flanagan (former deputy director of the New Jersey Division of Gaming Enforcement), as "monitor" of Local 54's affairs. Flanagan's authority extended to investigating, auditing, and reviewing all aspects of Local 54's and its affiliated benefit plans' operations. The court also empowered Flanagan to serve as trustee of HERE International Welfare and Pension Funds. Monitor Flanagan would exercise full powers of a trustee, but with respect to union affairs, he would have only the authority to petition the court to protect Local

0491

54 members' rights. The consent decree postponed Local 54's 1991 election until Flanagan could implement democratic election procedures.[29] The judge provided that the "monitorship" would last at least two full election cycles.

When Flanagan assumed his duties, he found the local's finances and operations in shambles. There was no representation available for members who wished to file grievances against their employers. Pursuant to the consent agreement, the union's officers (including business agents) were fired or resigned. Flanagan held quarterly membership meetings, provided education and training to union members, and revitalized grievance handling.[30] He severed questionable contracts with service providers linked to organized crime. President Hanley, with Flanagan's agreement, assigned two experienced HEREIU officials to assist him. Flanagan also hired Michael Holland (the first elections officer in the IBT case) to consult on elections and an accounting firm to conduct annual audits.

Holding a democratic election was the top priority. Flanagan used the local's newsletter to encourage members to vote. He formulated new election procedures, including a grievance procedure to resolve election disputes. Candidates had to pass both FBI and DOL background checks.

In the first election, held in 1993, three of four candidate slates were controlled or influenced by LCN. These slates put forward candidates backed by competing organized crime groups, one headed by the imprisoned Natale and the other by John Stanfa, who, with Genovese crime family support, had attempted to take over the Bruno/Scarfo family after Scarfo was convicted on RICO charges in 1990.[31] Using tapes of Natale's intercepted phone conversations from prison, DOL agents exposed Natale's plan and Flanagan disqualified Natale's candidates.[32] All told, Flanagan disqualified eight candidates because of their organized crime associations. Judge Brown upheld these disqualifications.

Only 22 percent of eligible voters cast ballots in the 1993 secret ballot elections for Local 54 officers. The victors were all individuals who had never held union office before and had no connection with the old regime. In the August 1996 election, more than ninety candidates competed for union office, including four candidates for president. There were no allegations of organized crime involvement. Thirty-three percent of the union membership voted.[33] All the incumbent officers were ousted. Local 54, one of the most racketeer-ridden union locals in the

0492

country, had been liberated and even transformed into a union with truly competitive politics. The monitorship was proclaimed a success by all parties and dissolved in February 1997.[34]

HEREIU LOCAL 100

In 1992, the U.S. attorney for the Southern District of New York filed a civil RICO suit against HERE Local 100.[35] The complaint charged that President Anthony Amodeo and Vice-Presidents Anthony Amodeo Jr. and Jack DeRoss were running Local 100 on behalf of the Gambino and Colombo LCN crime families. It also charged that the defendant union officers employed organized crime members and associates in union jobs and committed or tolerated bribery, extortion, and violence. The case was settled by a consent decree that barred the Amodeos from the union and installed former Assistant U.S. Attorney Mary Shannon Little as trustee. The trusteeship lasted eighteen months and ended with the election of new union leadership.

CIVIL RICO SUIT AGAINST HEREIU

In September 1995, DOJ filed a civil RICO complaint against the 250,000-member Hotel and Restaurant Employees International Union (HEREIU), alleging that since the 1970s its General Executive Board (GEB) members had conspired with organized crime figures to obtain illegal payments from employers, embezzle union assets, and violate union members' Landrum-Griffin rights. Simultaneously, HEREIU and DOJ filed a consent decree[36] whose stated purpose was to free "HEREIU and all its locals from the direct or indirect influence of organized crime, now and in the future."[37] The defendants agreed not to commit crimes; associate with organized crime members and associates; allow barred individuals from exercising control or influence over HEREIU's affairs; and not to obstruct implementation of the consent decree. The consent decree also required that HEREIU, at its next national convention, adopt an ethical practices code and establish a public review board to implement and enforce it.

Federal District Court Judge Garrett E. Brown (who had presided over the HERE Local 54 case) appointed Kurt Muellenberg, a retired

0493

career federal prosecutor, who had served as head of DOJ's Organized Crime and Racketeering Section, as monitor for a term of eighteen months. The consent decree empowered Muellenberg to remove HEREIU local, regional, and international officials for violating any provision of the settlement, committing any crime involving the union or its employee benefit plans, or furthering the influence of any organized crime group. Muellenberg had authority to appoint and discharge union employees and candidates for union office and to disapprove collective bargaining agreements. The court ordered that at its 1996 convention HEREIU adopt an ethical practices code that would define prohibited conflicts of interest by union officers. Muellenberg appointed former FBI agent Daniel F. Sullivan as chief investigator and former Assistant U.S. Attorney Howard E. O'Leary as investigations officer. The consent decree provided for an eighteen-month monitorship with the possibility of an extension. When the term expired, the monitorship was extended for an additional twelve months.

Muellenberg found that many HEREIU locals had a history of organized crime infiltration; did not follow their bylaws; gave inadequate notice of membership meetings; failed to document expenses; failed to submit officers' bonuses and raises to the membership for approval; failed to train officers, business agents, and organizers; and failed to promulgate or maintain standards for personnel, pay scales, job descriptions, and performance.[38] The international union reimbursed business expenses without submission of receipts or explanations. According to Muellenberg, it "suffered from a management deficit and did not subscribe to generally accepted business practices."[39] He described the international union as an agglomeration of employees and officers without any clear rules or procedures. "There is no budget, no organizational chart, no job descriptions for employees, and no manual."[40] He charged that President Hanley hired friends and family members to union positions and as consultants, remunerated them generously, and ran the union like a personal fiefdom.

Muellenberg dissolved eleven improper trusteeships, which the international had imposed to provide jobs to cronies, including organized crime figures and associates. He placed five other locals under trusteeship because federal prosecutors had charged officers of those locals with embezzlement and/or filing false reports to the Department of Labor.[41] In addition, he permanently barred twenty-three individuals from participating in union affairs because of organized crime associa-

0494

tions or failure to cooperate with the monitor. He barred two individuals from participation in union affairs for thirteen years, and two others from holding a position of trust in the union for three years.[42]

Muellenberg devoted much time to investigating President Hanley, who, according to the PCOC, had been put in power and kept there by the Chicago Outfit. Ultimately, Muellenberg charged Hanley with using union automobiles and the union airplane for personal purposes, receiving unearned salary and pension contributions, associating with organized crime members, and setting up a paper local near his Wisconsin vacation home so an individual whom Hanley appointed as that local's president could serve as factotum for Hanley and his friends. On February 19, 1998, Hanley agreed to retire and pay HEREIU $13,944 relating to his purchase of HEREIU-leased automobiles. He also assumed payment of the premiums on a life insurance policy that the union had purchased for him.[43] In return, Muellenberg agreed to cease investigating Hanley's actions during his tenure as general president. Hanley's retirement package included a $350,000 annual salary for life. Hanley's son, Thomas W., agreed to resign for one year and to reimburse HEREIU $25,000 in order to end an investigation into his abuse of union expense accounts.[44]

Muellenberg loaded his August 25, 1998, final report with recommendations for rationalizing the union's administration. On September 1, 1998, HEREIU's GEB voted to implement all of Muellenberg's recommendations on structure, governance, and operations of the international and locals.[45] Just before the monitorship was terminated in 1999, Muellenberg expelled John Agathos and John Agathos Jr. from their positions as Local 69 (Secaucus, N.J.) president and health and pension fund administrator, respectively, because of their links to organized crime.

The monitorship was superseded by a three-person (later expanded to five) Public Review Board (PRB); Muellenberg, Archbishop James P. Keleher of Kansas City, and former Illinois governor James R. Thompson were appointed to the board, which is responsible for overseeing implementation of the ethical practices code. It has authority to review member complaints and to conduct hearings to insure ethical standards in the union's operations, and power to suspend or expel members found to have violated the code. Hanley was replaced as general president by John W. Wilhelm, a well-respected HEREIU official who had never been accused of associating with nor influenced by

organized crime. But neither has Wilhelm repudiated Hanley and the old regime. He has publicly said that he does not believe that LCN ever exerted significant influence in his union and that the monitorship would be useful because it would be "an independent, expert, well-resourced investigation that [would show] that the national leadership of this International Union is not corrupted, controlled, or influenced by organized crime."[46] In 1999, Wilhelm named the HERE International headquarters building in Washington, D.C., for Edward Hanley.

HEREIU CONCLUSION

In striking contrast to the huge fifteen-plus-year ongoing trusteeship in the IBT case, Muellenberg, with only a small staff to assist him, served as monitor for just thirty-six months. The weight of his efforts was directed at improving the union's administration and accounting. The new administration adopted the monitor's recommendations for improving the union's management. The union added a progressive ethical practices code to its constitution and a public review board to enforce it. Hanley's successor enjoys a progressive reputation and bears no organized crime taint, but he has not repudiated Hanley or acknowledged the union's long history of ties to LCN.

Although some of HEREIU's most notorious members were expelled and Hanley was forced to resign,* Muellenberg's investigations and disciplinary actions were not nearly as extensive as those of the independent administrator and IRB in the IBT case. Muellenberg focused surprisingly little attention on identifying or purging organized crime's influence from the union. He also did not make it a top priority to investigate and remedy racketeering in HEREIU locals. No change was made in HEREIU's election procedures.

* Although some commentators criticized the deal with Hanley as letting a labor racketeer off too easily, it is easier to suspect organizational criminality than to prove it. Corruption by high-level officials is difficult to prove because such individuals have the resources and capacity to cover their tracks and give apparent legitimacy to their exploitative conduct. Furthermore, prosecuting Hanley might have taken years. A further obstacle to punishing wrongdoing is posed by ERISA, which prevents pension forfeiture, even against an official who has stolen money from his union. James B. Jacobs, Coleen Friel, and Edward O'Callaghan, "Pension Forfeiture: A Problematic Sanction for Public Corruption," *American Criminal Law Review* 35: 57–92 (1997).

0496

Whether HEREIU has been purged of LCN influence is an open question.* In April 2002, the New Jersey U.S. Attorney's Office brought a civil RICO suit against HERE Local 69, a local over which Muellenberg had imposed a trusteeship three years before. Dave Freeback, the trustee whom Muellenberg had appointed to reform the local, was himself forced out of office in 2001 after charges of financial mismanagement and dishonesty. The 2002 civil RICO lawsuit charged that, for fifteen years, Genovese crime family members and associates had used extortion and intimidation to influence Local 69's affairs and that the local's officers had failed to investigate or take any action whatsoever to remedy the situation. Indeed, according to the complaint, Local 69's officers colluded with LCN labor racketeers in exploiting the local and its members. The federal prosecutors alleged that the local, among other things, had made $524,000 in "severance payments" to the Agathoses, father and son. The district court appointed Muellenberg to serve as monitor over the local and empowered him to investigate the union, approve and disapprove union expenditures, review and take action on collective bargaining agreements, and otherwise supervise the union's affairs. In 2005, Freeback pled guilty to federal charges of embezzling money from both the union and its benefit fund. Muellenberg's monitorship continues as this book goes to press, but Local 69 is slated to be merged out of existence in 2006.

LIUNA

> In summation, Mr. Chairman, we are extremely proud of everything we have accomplished to date to ensure all Laborers the corruption-free, fully-democratic union they deserve. We also recognize that there is much work still to be done and our commitment to democracy and reform remains as deep and unyielding as ever.
>
> —LIUNA General Counsel Michael S. Bearse, Testimony at the Laborers International Union of North America, House Subcommittee on Employer/Employee Relations, May 4, 1998

* On July 8, 2004, HERE merged with UNITE (formerly the Union of Needle Trades, Industrial and Textile Employees), forming UNITE HERE.

0497

> The so-called LIUNA "internal reform effort" is a failure and a sham. . . . This latest extension is extremely inadequate. It's an outrage. . . . From Connecticut to California, NLPC [National Legal and Policy Center] continues to get reports from dissidents of the widespread corruption that still exists in many LIUNA locals.
>
> —National Legal and Policy Center President Peter Flaherty, January 7, 1999

Historically, LIUNA, at the international and local levels, especially in Chicago and New York City, was, like HEREIU, closely tied to Cosa Nostra crime families. Outfit boss Tony Accardo exercised a great deal of influence in the union for many years.[47] He and his successors controlled LIUNA's general presidents (Peter Fosco and his son Angelo)* and the officers of many locals.

In late 1994, the DOJ presented LIUNA officials with a 212-page civil RICO complaint, alleging that LCN crime families dominated the 800,000-member union,[48] and alleging 100 predicate racketeering acts. The complaint named 39 defendants, including General President Arthur A. Coia, General Secretary-Treasurer Rollin P. "Bud" Vinall, all 10 LIUNA vice-presidents and the union's general counsel. The complaint alleged that the defendants violated the rights of LIUNA members through intimidation, violence, and economic coercion, and that the union defendants violated their (Landrum-Griffin-imposed) fiduciary duty to the membership by failing to investigate, prevent, or remedy corruption.

As a remedy, the government sought the expulsion of Coia and the other union leaders, and requested that one or more "court liaison officers" be appointed to carry out the duties of the general president and the General Executive Board (GEB) and to prevent any GEB action that would violate union members' rights or perpetuate criminal influence in the union. The draft complaint requested that the union's constitution be amended to prohibit discriminatory hiring hall practices, and to provide for direct rank-and-file election of officers. The DOJ lawyers also included a request for a court-appointed elections officer.

Following its usual procedure in such cases, before filing the com-

* Angelo named his son Peter. And this Peter, like father and grandfather, was also active in LIUNA. Robert Luskin and the civil RICO–spawned reform team removed Peter from office.

0498

plaint, DOJ offered the union an opportunity to respond to the allegations. DOJ offered to meet with LIUNA's representatives, albeit not with LIUNA's longtime general counsel, who was a defendant in the suit. At that point, General President Arthur Coia hired Robert Luskin, a former federal organized crime prosecutor, to represent the union in negotiations with DOJ.

Luskin sought to persuade Coia that it would be a waste of millions of dollars to contest the government's overwhelming case and that, if the case went to trial, the court would almost certainly impose an external monitor like the IRB in the IBT case. Simultaneously, Luskin sought to persuade the DOJ that an *internal union reform effort* could produce more reliable long-term reform then a court-imposed trusteeship, which, based upon IBT Local 560 and the HEREIU experiences, seemed to alienate the rank and file and solidify support for the entrenched regime.

After three months of negotiations, LIUNA and the DOJ announced a unique settlement. The DOJ agreed to forgo filing its civil RICO complaint if LIUNA installed an internal reform team and reform program acceptable to DOJ. According to the settlement, LIUNA would sign a consent decree agreeing to an external court-appointed monitor, but the DOJ would refrain from filing the signed consent decree for ninety days; after that time, the DOJ could file the consent decree at its sole discretion if it was dissatisfied with LIUNA's reform effort. Subsequently, the agreement was extended to 2001 and then, with certain modifications, to 2006.* The signed consent decree has never been filed. Instead, reform has proceeded under the auspices of a LIUNA reform team.

In order to satisfy the DOJ, LIUNA adopted an ethical practices code (drafted by Luskin) and established four new positions: (1) GEB attorney, filled by Robert Luskin, to investigate and prosecute violations of the ethical practices code; (2) inspector general, filled by Douglas Gow, retired high-level FBI official, to investigate violations of the ethical practices code; (3) independent hearing officer, filled by

* Although some critics contend that the settlement let LIUNA off too easily, I do not agree. The settlement put DOJ in a "heads I win, tails you lose" position. The DOJ obtained a signed consent agreement that included everything it asked for in the civil RICO complaint. The DOJ could make this remedy effective, at its sole discretion, any time after ninety days had passed from the date of the settlement. Moreover, the DOJ itself, rather than a judge or court-appointed trustee, would monitor and judge LIUNA's remedial efforts. It is hard to see how the government could have obtained a better resolution.

0499

Peter Vaira, former chief of the DOJ's Chicago Organized Crime Strike Force and former U.S. attorney in Philadelphia, to serve as judge and arbitrator in disciplinary cases; and (4) appellate officer, filled by Neil Eggleston, a former federal prosecutor assigned to replace John Serpico, a Chicago labor racketeer, who had been in charge of hearing disciplinary appeals from throughout the union. Luskin hired two dozen former FBI agents, two full-time law firm associates, and one full-time person to work on job referral reform. Inspector General Gow hired three full-time staff members. The reform unit also had authority to place corrupted LIUNA locals into trusteeship.

The newly appointed LIUNA officers established a confidential toll-free telephone number and a confidential post office box to solicit complaints from the LIUNA membership. By mid-1996, the reform officers had charged Serpico and Vice-President Robert Cavone with knowingly maintaining organized crime ties and had begun more than 345 investigations; expelled from the union 25 officers and members for violating the ethical practices code; removed all of the officers of LIUNA Local 210 (Buffalo, N.Y.); placed Chicago LIUNA Local 8 under emergency trusteeship; and sent Steve Hammond to work with Trustee Michael Chertoff (former federal prosecutor and later Secretary of Homeland Security) to clean up the racketeer-ridden New York City Mason Tenders District Council.* The reform team also initiated an investigation of General President Coia.[49]

At its convention, LIUNA amended its constitution to require direct rank-and-file secret-ballot election of the general president and general secretary-treasurer. It also expanded its GEB from ten to thirteen members, requiring that nine members be elected regionally so that the board would be more accountable to the membership. As well,

* The following illustrates the kind of legal energy required to remove just one union actor from the scene. (There have been scores of similar cases.) The draft civil RICO complaint named Sam Caviano, a vice-president and regional manager for the New York City area (including the Mason Tenders), as a defendant. The government alleged that Caviano was a tool of the Genovese crime family. Luskin charged Caviano with a disciplinary violation, and Vaira suspended him from the union. Caviano then filed suit in federal district court challenging the disciplinary procedure. The judge ruled for the government on summary judgment. Then the government and Caviano signed a settlement agreement, agreeing that he would resign voluntarily. During the interim, he also attempted to continue running the union's benefit funds, changing the trust agreements to perpetuate his power as trustee. Luskin sued in federal court and obtained a preliminary injunction removing Caviano from the benefit funds.

0500

it changed its procedures for selecting convention delegates and eliminated several locals whose primary purpose seemed to be to provide convention votes to organized crime. LIUNA also hired an independent elections officer (Northwestern University Law School Professor Stephen B. Goldberg) and two deputy election officers, jointly selected by the government and union, to monitor union elections at the local, regional, and international levels. The union adopted uniform job referral rules to prevent discriminatory hiring-hall practices. Luskin hired an independent accounting firm to audit LIUNA's finances.[50] Still, in the 1996 international election for general president, the only candidate to challenge Coia was Bruno Caruso who charged that Coia was *too cooperative with the government.* Coia was reelected, once again demonstrating the unwillingness or inability of racketeer-ridden unions to vote labor racketeers out of office.

In November 1997, Luskin filed disciplinary charges alleging that Coia knowingly associated with organized crime members, permitted organized crime to influence union affairs from 1986 to 1993, and accepted illegal payoffs from a LIUNA service provider. The hearing, which lasted from April 14, 1998, until June 23, 1998, included more than five hundred exhibits. Testimony filled thousands of transcript pages. Independent Hearing Officer Vaira "acquitted" Coia of the allegations of organized crime association and influence but found him "guilty" of accepting illegal benefits from a LIUNA service provider. He fined Coia $100,000 but did not remove him from office.[51] The U.S. Attorney's Office in Rhode Island immediately brought criminal tax evasion charges against Coia, based upon benefits Coia had received from the service provider. Before the criminal trial, the parties entered into a plea agreement whereby Coia agreed to relinquish the general presidency and become *general president emeritus for life* at an annual salary of $335,516.[52] The GEB appointed Terrence O'Sullivan, Coia's chief of staff, as his successor.

When Luskin brought disciplinary charges against a mobbed-up local, there was a hearing before Hearing Officer Vaira. If Vaira sustained the charges, the local and its officers could appeal to the federal district court judge presiding over the suit, but Luskin and Vaira were consistently upheld. When the officers of the local union were removed, Luskin appointed replacements. By 2002, 226 officers and members had been expelled from the union, 127 of these because of ties to organized crime. As of early 2004, nearly three dozen LIUNA locals and district

0501

councils had been placed under trusteeships or monitoring because of mismanagement, connections to organized crime, or corruption.

In 2001, the DOJ and LIUNA amended and extended their agreement. The government recognized and publicly acknowledged the success of the Luskin-led reform effort and relinquished the so-called contingent consent decree, i.e., the DOJ gave up the option of filing the signed consent decree imposing an external IRB-type monitor. The parties agreed that LIUNA's future obligation would be to maintain the existing reform program. If LIUNA fails to do that, the DOJ could secure an injunction restoring the reform program. This agreement will be in force until the conclusion of LIUNA's 2006 general election. Luskin does not anticipate the completion of his work in the foreseeable future.

LIUNA CONCLUSION

In 1994, the DOJ prepared the first major attack on LIUNA labor racketeering at the national level. The civil RICO complaint led to a creative settlement between the government and the union. LIUNA hired four former federal law enforcement figures to enforce its new code of ethics. This internal reform project has scored many important successes. Hundreds of corrupt and/or organized crime–connected officers and members have been purged. Dozens of locals have been put under trusteeships. The international union suspended John Serpico, labor racketeer and political power broker, from his union positions in 1995.* Many other officers and members were also expelled or suspended.

Nevertheless, there is no sign of union democracy. There is no insurgent rank-and-file movement and very few contested elections. The reformers are regarded as "government men" or "policemen"; a culture of reform has not yet taken hold. New election procedures were not implemented. There remains a great deal of labor racketeering in the locals and in certain regional unions, like the New York City Mason Tenders District Council. Indeed, from 1999 to 2002, corrupt union officials were prosecuted for defrauding LIUNA locals in Chicago (Local 5), Des

* Serpico then signed on as a "consultant" for a Chicago local of the International Union of Allied Novelty and Production Workers. He also served for a time as president emeritus of the Central States Joint Board, which provides administrative services to Chicago-area unions. In the summer of 2001, Serpico and two associates were convicted of taking kickbacks in exchange for steering union business to certain companies.

0502

Moines (Local 177), and Niagara Falls (Local 91), and others.[53] In January 2005, the LIUNA General Executive Board imposed a trusteeship over Local 29 (New York City) in order to "eliminate organized crime corruption within the local."[54] Also in January 2005, the LIUNA reform unit charged that there was rampant organized crime–connected corruption in LIUNA Local 734 which operates in southern New Jersey and Pennsylvania.

ILA

> [W]orkers of the Port of New York are being exploited in every possible way and . . . they are not receiving the protection which they have every right to expect as trade unionists. . . .
>
> —Letter, Executive Council, AFL, to officers and members of the ILA, February 3, 1952; quoted in Vernon H. Jensen, *Strife on the Waterfront: The Port of New York since 1945* (Ithaca: Cornell University Press, 1974), 105

> When we began this case three years ago, we were shocked at the extent to which the ILA was controlled by organized crime.
>
> —The FBI's top official in New York, according to *New York Times* reporter Frank Swoboda, *New York Times,* February 15, 1990

Of the four most racketeer-ridden international unions named by the President's Commission on Organized Crime, only the ILA has not (at least as of winter 2005) been subject to a civil RICO suit, although such a suit has been rumored for almost a decade to be in the works. Perhaps the government has refrained from bringing such a suit in order to see whether its omnibus 1990 civil RICO suit against ILA locals in the New York City/New Jersey area produces the necessary reforms.

On February 14, 1990, the U.S. Department of Justice filed a civil RICO suit[55] against six ILA locals representing dock workers in the New York/New Jersey port as well as their executive boards and officers; the Genovese and Gambino crime families; the Westies, an Irish organized crime group allied with the Gambino family; and five waterfront employers.[56] The complaint charged that the waterfront had "been the setting for corruption, violence, and abuse of waterfront labor and

0503

business by New York La Cosa Nostra Families" for more than fifty years. It alleged that the Genovese and Gambino organized crime families control and exploit the ILA locals and their members and the shipping industry. According to the government, despite the many criminal convictions that resulted from the FBI's massive UNIRAC (Union Racketeering)* investigation in the late 1970s, the Genovese and Gambino crime families, by means of their influence in the ILA, continued to exert influence in many eastern seaboard ports. The government cited dozens of instances of embezzlement, solicitation and receipt of bribes, benefit fund fraud, extortion of employers, and violation of the rank and file's Landrum-Griffin rights as RICO predicate acts.

To remedy these alleged RICO violations, the Department of Justice asked the court to enjoin the organized crime defendants from participating in ILA affairs, having any dealings with union officers and employees, and committing racketeering acts. The DOJ requested the court to require the defendants to disgorge the proceeds of their RICO violations and to enjoin the defendant union officials from knowingly associating with Cosa Nostra members or associates. The complaint also asked the court to appoint "liaison officers" for each of the ILA locals to "discharge those duties of the Executive Board[s]"; "review the proposed actions of the Executive Board[s]"; implement fair elections; and oversee union reform.

ILA LOCAL 1804-1 (BERGEN, N.J.)

On March 25, 1991, ILA Local 1804-1 and its Executive Board and officers entered into a consent judgment with the DOJ. Local 1804-1's current and future Executive Board and its officers agreed to be enjoined from racketeering activity and from knowingly associating with members or associates of organized crime.[57] The consent judgment provided for a monitor to oversee Local 1804-1's operations until the 1997 election. The monitor would have full access to all union documents and

* "Perhaps the modern era in the government's anti–organized crime war dates to the FBI's massive UNIRAC investigation of the International Longshoreman's Association in the late 1970s. The labor racketeering investigation, the subject of special Senate hearings in 1981, resulted in the conviction of 130 businessmen, union officials, and Cosa Nostra members, including Anthony Scotto." (Jacobs et al., *Busting the Mob,* 6.)

0504

information; authority to discipline union officers, agents, employees, and members; power to investigate corruption or abuse of union funds; and supervisory authority over the union's 1994 and 1997 elections. In addition, the monitor had authority to review and veto union expenditures, union contracts, personnel decisions, and proposed changes to the union's constitution and bylaws.

Local 1804-1 agreed to pay the monitor's salary and operating expenses and not to oppose or interfere with the monitor's execution of his duties. The consent judgment provided that Local 1804-1's constitution be amended to include salary caps for officers, election of shop stewards, and a prohibition on union loans to union officers and members. It permitted Local 1804-1's Executive Board to remain in office but required several board members to pay $100,000 to Local 1804-1's treasury. Ten years after the settlement, other than the expulsion of several officers, very little had changed.

ILA LOCAL 824, ILA LOCAL 1809, AND ILA LOCAL 1909 (MANHATTAN WEST SIDE LOCALS)

On March 26, 1991, Locals 824, 1809, and 1909—collectively known as the (Manhattan) West Side Locals—and their Executive Boards and officers signed a consent judgment with the DOJ. Without admitting wrongdoing, the defendant union officials agreed to be enjoined from knowingly associating with any member or associate of organized crime.[58] Executive Board members John Potter and Thomas Ryan resigned, agreeing to be enjoined from holding ILA office in the future. ILA International President John Bowers (also president of the three West Side Locals) and Executive Board member Robert Gleason agreed to resign their memberships in an employer association, the NYSA (New York Shipping Association)-ILA Contract Board. The consent judgment also provided that the Department of Labor would supervise the West Side Locals' 1991 and 1994 elections and that the DOL would have access to union records necessary to carry out this responsibility.

Local 1909 agreed to implement fair job referral rules and procedures; discontinue no-show jobs; discipline those who violate hiring or employment procedures; and accept the court appointment of an employment practices officer whose term would run until certification of the 1994 union election. He or she would be paid by the union, have

full access to union records and report to the court at least every six months. The West Side Locals agreed not to obstruct, oppose, or otherwise interfere with the work of the DOL or the employment practices officer. Incredibly, President John Bowers proclaimed the consent judgment "a complete victory," asserting that nothing exceptional had been granted to the government in exchange for the settlement.

The remaining civil RICO defendants went to trial in spring 1991, but only four defendants persisted to judgment; the rest settled. On June 1, 1991, Anthony Scotto, one of the most powerful labor racketeers in U.S. history in light of his high rank in both Cosa Nostra (capo) and in the ILA (international vice-president), agreed to pay $50,000 and to be banned permanently from union office and association with the union, and with employers with whom the union had collective bargaining agreements. When, subsequently, Scotto was sentenced to prison in a separate criminal case, Anthony Ciccone succeeded him in both the Cosa Nostra and union roles.

ILA LOCAL 1814 CONSENT DECREE (BROOKLYN)

ILA Local 1814, its Executive Board and officers entered into a consent decree with the DOJ in December 1991. The individual defendants and officers, without admitting wrongdoing, acknowledged past allegations, testimony, public findings, and criminal prosecutions. They agreed to be enjoined from knowingly associating with organized crime members or associates.[59]

The consent decree provided for a court-appointed monitor to have full access to the union's books, records, and other information; disciplinary authority; and supervisory authority over the 1993 and 1996 elections. The monitor, paid by the union, would hold veto power over union expenditures, contracts, appointments, and proposed constitutional and bylaws amendments. The monitor, Joseph Jaffe (a former assistant U.S. attorney in SDNY), was authorized to hire legal counsel, accountants, consultants, investigators, and any other personnel necessary to assist him in carrying out his duties.

The consent decree required amending Local 1814's constitution to provide for secret-ballot, rank-and-file elections of shop stewards and limitations on officers' compensation. Moreover, two Executive Board

members had to resign their Local 1814 positions and agree not to be employed by the ILA in the future. Ciccone had to resign his office but was permitted to remain a union member and receive union benefits.[60] The other members of the Executive Board were also permitted to keep their positions. The "monitorship," which expired after the 1996 election, did not accomplish much change in Local 1814. Although the union is far less influential than it once was because there are few functioning cargo operations left on Brooklyn's docks, the Gambino crime family's influence remains strong, as demonstrated by the June 2002 indictment of Gambino crime family members and union officials for operating ILA Local 1814 as a racketeering enterprise.[61]

The federal indictment alleged, among other things, that the Genovese and Gambino crime families conspired to control selection of ILA officials. Moreover, the government charged that, despite the 1991 consent decree that prohibited Anthony Ciccone from participating in ILA and waterfront affairs, he continued to be in charge of the Gambino family's interests in the ILA (including Local 1814 and Local 1). Among its specific allegations, the government charged that the mob defendants accepted a $400,000 payoff from two brothers who wanted the contract to provide prescription drugs to the ILA's health and welfare program. A jury found all defendants guilty.[62]

The ILA international union reacted to these indictments by placing Local 1814 in trusteeship. ILA International Executive Board member Robert Gleason was named trustee. Eventually Gleason was replaced by an ILA official from outside the New York/New Jersey area. Hoping to prevent a civil RICO suit, the ILA International hired former federal Brooklyn Strike Force head, Andrew Maloney (the same individual later hired by James P. Hoffa as special counsel when Ed Stier and Jim Kossler resigned), to monitor MILA.

LOCAL 1588 (BAYONNE, N.J.)

On January 3, 1992, the last of the six locals named in the 1990 civil RICO suit, Local 1588 and its Executive Board, entered into a consent agreement. ILA Local 1588's secretary-treasurer, Donald Carson, was convicted in 1988 of RICO conspiracy and extortion involving Local 1588.[63] In 1990, Local 1588's president and secretary-treasurer declined

0507

to run for re-election. The consent order acknowledged that "the new executive board already has taken steps to return Local 1588 to fiscal soundness and to remove the taint of organized crime corruption."

The consent decree established an "ombudsman," who would function until the 1993 election or longer at the option of the union's Executive Board or membership.[64] The ombudsman's office was to be staffed by two individuals, one appointed by the court and one by the union. The court appointed Robert Gaffey, formerly an assistant U.S. attorney and later chief counsel to the investigations officer in the IBT International case. The ombudsman was charged with enforcing the union's constitution and bylaws. Although the ombudsman had power to file disciplinary charges after consulting with the union's Executive Board, it had few other powers and a paltry budget. The consent agreement provided for election of stewards and constitutional changes to disciplinary procedures, Department of Labor supervision of the local's 1993 election, and an injunction preventing two named individuals from serving as shop stewards or in any other ILA office or position.

Ombudsman Gaffey's main achievement was to generate a slate of reform candidates to oppose Donald Carson's Genovese-controlled slate. The "reform" slate won the 1993 election; the office of ombudsman expired. Unfortunately, the new head of Local 1588 was convicted of stealing union funds and removed from office. The brief trusteeship must be regarded as a complete failure.

In 2003, the government brought a civil contempt proceeding against Local 1588, asserting that the local had violated the 1992 consent judgment. Arguing that an outside trustee was unnecessary, the ILA put Local 1588 in trusteeship. Nevertheless, the judge ruled for the government and appointed former New York City Police Commissioner Robert McGuire as trustee and gave him sweeping powers over all aspects of union operations. MaGuire hired Robert Stewart, formerly chief government counsel in the IBT Local 560 case, as his deputy trustee. In an effort to strengthen the foundations of a democratic union, McGuire and Stewart hired Carl Biers, the former executive director of the Association for Union Democracy. This is a very important experiment that ought to tell us much about the potential of a union democracy specialist to transform a thoroughly corrupted and exploited union into a democratic union.

0508

ILA CONCLUSION

The remedial litigation to reform the ILA achieved, at best, very limited success. In January 2002, the U.S. attorney's office (Brooklyn) announced an indictment against eight leaders and members of the Genovese crime family, including its boss Vincent Gigante, alleging extortion from waterfront employers and businesses in the New York City metropolitan area, northern New Jersey, and Miami.[65] The indictment accused the mob defendants of conspiring to violate the rights of ILA members by defrauding the union's pension and welfare fund. It also charged them with extorting firms that repair cargo containers.

Six months later, in June 2002, a federal grand jury returned a second series of indictments against seventeen members and associates of the Gambino crime family, including the boss (Peter Gotti); two captains (one of whom was Local 1814 boss and LCN capo Sonny Ciccone); four soldiers; and ten associates, including the ILA Local 1814's president and vice-president. Both the January and June 2002 indictments alleged the same type of labor racketeering that has been repeatedly exposed since the 1950s. Despite prosecutions, investigative commissions, civil RICO suits, and trusteeships, LCN continues to exert powerful influence over the ILA locals throughout the New York/New Jersey port. In 2004, the government announced yet another major ILA indictment, this one naming as defendants the incumbent presidents of ILA Local 1804-1, ILA Local 1235 in New Jersey, and seven Miami locals (1922; 1922-1; 2062). The indictment alleged that the three officials functioned as Genovese crime family associates. According to the indictment, the Genovese family created the three locals in the 1960s that would represent workers who repair and service cargo containers and serve the interests of the crime family.[66]

CONCLUSION

It is difficult to appreciate the amount of legal energy that has been poured into the effort to reform the IBT, LIUNA, HERE, and ILA. In terms of number of motions, decisions, orders, opinions, and reports by judges and their trustees, these cases may be unparalleled in the history of American law. One colleague tells me that she counted two

hundred signed opinions/orders by Judge David Edelstein in the IBT international case; that does not, of course, include orders of his successor, Judge Preska. The written opinions by the General Executive Board and the appellate officer in the LIUNA case fill more than a dozen volumes. The total number of hours that assistant U.S. attorneys, judges, and trustees have devoted to these cases is staggering. Half a dozen ambitious scholars would be consumed for years by the task of documenting and assessing the impacts of this legal intervention. So far, however, evaluation has attracted little governmental or scholarly interest.

It is striking how different the reform efforts directed against the four racketeer-ridden international unions has been. The ILA has not yet been subject to a civil RICO suit against its central headquarters and General Executive Board. Such a suit has been rumored for several years. The possibility, indeed the threat, of such a suit has itself had consequences. The ILA has hired an outside lawyer to recommend and implement reforms that might prevent a civil RICO suit. Quite possibly the international union operates differently because of the civil RICO threat. Of course, the operation of the several New York/New Jersey locals has been substantially affected, although it does not appear that any of those trusteeships can be called a substantial success. Indeed, Local 1588 is now in a second-round trusteeship and major organized crime prosecutions have exposed extensive LCN involvement in several of the other locals.

The trusteeship in the HEREIU case is by far the least intensive and comprehensive of those imposed on the four international unions. Compared to the others, that trusteeship was brief in duration, scantily staffed, and minimally intrusive. If the kind of massive remedial effort that took place in the IBT and LIUNA cases was necessary, it is hard to believe that the relatively minimalist effort in the HEREIU case could have been sufficient (assuming, of course, some rough parity in the extent of the racketeering). Nevertheless, there are several important achievements. Ed Hanley was removed from office. A small number of mob-associated officers were expelled from the union. A few locals were placed under trusteeships. The new president has better credentials than the presidents of the other three international unions, but even he has not repudiated the old regime. Investigations of labor racketeering in the HEREIU, to my knowledge, have more or less ceased. Although the union is clearly less mob influenced than it was, we do not

0510

know whether HEREIU has been substantially liberated. If so, it is crucial to determine how this could have been accomplished with such a comparatively inexpensive and short-term effort.

LIUNA was never placed under a formal trusteeship, but the reform effort that the union agreed to implement is the functional equivalent of a RICO trusteeship, albeit without judicial involvement. The people whom the union hired to carry out the reforms necessary to forestall the civil RICO suit's being filed were drawn from the same pool of former prosecutors and retired law enforcement personnel who served in practically all the civil RICO union cases. One of the rationales for preferring this approach was that the rank and file would be less alienated by an internal effort than an external one, but this is not obviously borne out by events. The reform unit hired by LIUNA and led by Robert Luskin is, in every sense of the term, an "outside" group. These are not home grown union officials working within the system to clean things up. These are former prosecutors and FBI agents carrying out criminal-type investigations and bringing aggressive disciplinary actions to expel mob-tainted union officials and to place mob-tainted locals under trusteeship. While, in theory, the LIUNA reform unit is not as secure as a trusteeship that owes its existence to a judicially enforceable consent decree, in fact it is absolutely secure. LIUNA officials know that if they were to disband the reform unit, a DOJ civil RICO suit would swiftly ensue.

The IBT remedial effort is the most formal, the most resource intensive, and has the longest duration. In striking contrast to the LIUNA remediation, the IRB operates at arm's length from the union, much like a prosecutor's office. The IBT takes no ownership of the IRB and, in fact, is critical and hostile toward it. This encourages the rank and file to see the remediation effort as unreasonably imposed by the government on their "misunderstood and mistreated" union. That being said, there can be no denying or minimizing the enormous impact that the IRB has had on the organization, personnel, and operation of the IBT. With hundreds of officials expelled and dozens of locals in trusteeship, the IBT has been and continues to be subjected to a thorough organizational cleansing. There is much reform to applaud, but it would be a mistake to declare the mission accomplished.

One interesting and important observation is that none of the four unions has been taken over by a reformist regime that condemns and repudiates that union's past association with organized crime and em-

0511

braces the government as liberators. Even Ron Carey, the most reform oriented of the new wave of officials in these unions, did not go that far. He may have condemned the organized crime element in the IBT, but he did not embrace the government as a liberator. In part, this speaks to the unhappy history of government suppression of unions in the late nineteenth and early twentieth centuries. In part, it may speak to the strength of organized crime's influence in these unions.

POSTSCRIPT

In July 2005, the U.S. Attorney for the Eastern District of New York (Brooklyn) filed the long-awaited and long-rumored civil RICO suit against all 31 members of the International ILA's Executive Council as well as several leaders and members of Cosa Nostra. This suit follows up and builds upon the recent criminal prosecutions of Gambino and Genovese Crime Family members for labor racketeering in Brooklyn and Staten Island(Gambino) and New Jersey and Miami (Genovese).

The RICO complaint charged the defendants with conspiring to dominate the ports by placing organized crime members and associates into high-ranking ILA positions and rigging union elections. The complaint called long-time ILA President John Bowers "a Genovese Crime Family associate" and charged the defendants with conspiring to eventually replace the 80 year old Bowers with General Organizer Harold Daggett whom the complaint also refers to as a "Genovese Family associate." Furthermore, the U.S. Attorney alleged that the Gambino Family agreed to support Daggett as Bowers' successor in exchange for several Gambino members and associates being appointed to top union and benefit fund positions.

One of the most salient racketeering episodes charged in the complaint is that the defendants defrauded the ILA membership by arranging to award a major health fund contract to a company connected to Cosa Nostra.

In terms of relief, the U.S. attorney is asking the federal court to bar Bowers, Daggett, several other top ILA officials as well as alleged mobsters Peter Gotti, Jerome Brancato, and Anthony Ciccone from employment by the union or by any company doing business in the Port of New York. In addition, the government seeks a court-appointed trustee to run and reform the ILA and its associated pension and welfare funds

0512

and to hold a fair election for Executive Council positions. Finally, the U.S. attorney is asking the court to order the defendants to disgorge the proceeds of their labor racketeering activity. See *U.S. v. ILA et al.,* case 1:05-cv-03212-ILG-WP (E.D.N.Y., filed July 6, 2005).

The ILA defendants have vowed to fight the suit.

12

Evaluating Civil RICO

> Furthermore, it can be argued that the long-term effect of this type of RICO suit may be to decrease the overall level of democracy in the labor movement. A proliferation of RICO trusteeships could foster a siege mentality among members of organized labor...This siege mentality phenomenon underscores the importance of the judiciary clearly articulating the reasons and standards for imposing a trustee. Only by making clear to union members that corruption and not organized labor is the target of the RICO litigation can the government and the courts avoid exacerbating the very problem they seek to correct.
>
> —Professor Clyde Summers, University of Pennsylvania Law School, at http://www.ipsn.org/court_cases/union_receiverships_under_rico.htm

> Where you can identify individual criminal conduct, it should be investigated and punished severely. But where it has gone on for so many years and it has become so much a part of the fabric of the organization that you are dealing with, civil RICO represents a drastic, but nonetheless often necessary solution.
>
> —Benito Romano, U.S. Attorney, SDNY, Hearings before the Senate Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, 101st Cong., 1st sess., April 4, 1989

Evaluating the success of RICO union trusteeships is essential, but extremely complex. It is incredible that more than twenty years of civil RICO litigation against racketeer-ridden unions has been conducted without any evaluation whatsoever. Not a single conference or workshop has ever been convened. Successes and failures have never been

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0514

identified, much less documented or analyzed. All U.S. attorneys considering civil RICO union suits have had to begin from scratch or with only vague ideas as to what kind of relief to ask for. They have no record to guide them in anticipating or addressing posttrial or postsettlement problems of organizational reform.

Evaluation questions abound. At what point in the remedial process is an evaluation appropriate? If the life of the trusteeship has been extended, should evaluation similarly be delayed? In the event that the trusteeship was established for an indefinite term, should evaluation await the trusteeship's termination, no matter how long that takes?* Ideally, a trusteeship should be evaluated at several points in time. We would like to know, for example, what progress has been made after the first two years, and then after five years, if the trusteeship lasts that long. (Indeed, this is essential so that midtrusteeship corrections can be made.) We should also like to know what the situation looks like several years after the trusteeship's termination. Did the union revert to its pretrusteeship condition? Is it now a democratic union accountable to the membership?

The conceptual problems are matched by the problems involved in obtaining accurate empirical evidence on which to make an informed judgment about successes and failures. How can an evaluator assess the status of organized crime's influence on union affairs? Dissidents may believe that new union officers are corrupt. They can hardly be blamed for being suspicious, but they may be incorrect. Developing reliable informants is a major challenge for investigators and takes a great deal of time, energy, and resources. If FBI and DOL agents have remained on the case, they may have informants who can provide accurate information about the current relationship between organized crime and the union. Unfortunately, the FBI and DOL agents may have moved on to

* Another concern is that it may not be obvious when a trusteeship has ended. In a number of cases, when the original trusteeship ended, the judge maintained the court's jurisdiction and continued monitoring through a new arrangement. For example, in the Mason Tenders District Council case, after the expiration of the trusteeship, a "supplemental" consent decree was entered into in January 1999 that provided that the trustee, Lawrence Pedowitz, would act as a "Review Monitor" for an additional thirty-six months, with power to apply to the Court for restoration of his trustee powers if he concluded the union was being run corruptly. *United States v. Mason Tenders District Council of Greater New York*, 1994 WL 742637 (S.D.N.Y. 1994); interview with Lawrence Pedowitz (Nov. 2002).

0515

other cases or, if still involved, lack accurate information about new officials. Even if the investigators have or think they have accurate information, they are likely to be holding it for future prosecutions and therefore be unwilling to divulge it to university-based researchers or to other evaluators. They may not even be willing to share their information with the trustee (which is an argument in favor of drawing trustees from the ranks of former law enforcement officials).

The very meaning of "success" is debatable. Do we mean whether the trustee achieved the goals defined by the federal prosecutor in charge of the case? But what if those goals were under- or overly ambitious? What if the goals were only partially achieved? The anti–labor racketeering initiatives were launched to purge Cosa Nostra from the unions; union democracy was a means, not an end. Nevertheless, it now seems clear that without establishing some modicum of union democracy, at least fair elections, a trusteeship cannot be successful. Certainly, from the rank and file's perspective, nothing positive will have been achieved if one set of racketeers is replaced by another set, even if the new racketeers are affiliated with another organized crime group or are unaffiliated with any organized crime group.

It is essential to recognize that we are talking about an *evaluative process.* We can begin by identifying three basic criteria of success: (1) the purging of organized crime figures and their allies from the union; (2) competitive elections; and (3) a complete break with the racketeer-dominated regime that controlled the union before the civil RICO suit was filed. Ideally, evaluators would have enough information, including court documents, media accounts, and interviews to assess whether each trusteeship has met these criteria.

The Department of Justice's Organized Crime and Racketeering Section[1] and its National Institute of Justice are logical candidates to evaluate civil RICO union trusteeships.[2] We desperately need an ongoing "Program for the Evaluation of Civil RICO Union Litigation" that would carry out or contract for case studies, conferences, and workshops; store and index key documents; and encourage empirical research. Such a unit could draw on the vast experience of trustees in other institutional-reform cases involving schools, prisons and jails, and mental hospitals.[3] It might also prove useful to examine the experiences of democratic reform initiatives in eastern European countries.

0516

THE POTENTIAL AND LIMITS OF CIVIL RICO

Civil RICO appears to be the best available weapon for combating labor racketeering. Without any new investigation, federal prosecutors can bring a civil RICO action following up on previous criminal prosecutions against union officials and organized crime figures who have dominated and exploited a particular union. Indeed, the very preparation of a civil RICO labor racketeering complaint can be an important step toward conceptualizing the problem. Properly drafted, the complaint will identify the roles of and relationship between organized crime figures and union officers in exploiting the union. The litany of past crimes will reveal patterns of intimidation, fraud, extortion, and all manner of corruption.

A comprehensive, fully documented civil RICO complaint is important because, in the absence of a trial, it will serve as the historical and sociological record of labor racketeering in the union. (Unfortunately, these complaints have not been stored in a database nor can they be obtained without considerable effort.) There has been only one full-fledged trial (IBT Local 560) among the twenty civil RICO union cases and one preliminary injunction hearing in which significant testimony was presented (Roofer's Local 30/30B). The rest of the cases were settled. The U.S. attorneys have been extraordinarily successful in obtaining the relief that they asked for, but, in most cases, this relief has not been adequate to remedy the racketeering problem. (My own impressionistic conclusions about the success of all twenty-one civil RICO union trusteeships are presented in Table 12-1.)

For at least two reasons, the settlements in the civil RICO union cases have not been carefully enough thought through. The first reason is that it is a formidable undertaking to analyze thoroughly the labor racketeering problem in a union local, much less a district council or a huge national/international union. Ideally, the U.S. attorney, the judge, and the trustee would want to know a great deal about the industry's economics and labor relations; the history of the racketeer-ridden union; the history of organized crime in the geographic area in which the union operates; the demographics of the union members; the nature of the union members' employment; and the union members' relationships with and attitudes toward their union and employers. In other words, in an ideal world, a U.S. attorney would have a complete case study of the targeted union *before filing the civil RICO suit.*

0517

Table 12-1
Evaluation of Civil RICO Union Trusteeships

Union	*Organized Crime Associates Expelled*	*Elections*	*Conclusion and Sources*
IBT Local 560	The entire Provenzano clique was expunged. The consent decree terminating the trusteeship continued to make knowing association with organized crime members, or with individuals previously expelled from the union, a union-expelled offense.	In December 1998, the Sciarra slate, associated with the Provenzanos, received only 20% of the vote, while a reform slate led by Pete Brown garnered 55%.	Success. Stier, Anderson & Malone, LLC, *The Teamsters Perception and Reality*, 380–83 (2002). Jacobs and Santore, "The Liberation of IBT Local 560," (2001).
LIUNA Local 6A	After the consent decree was signed, 16 of the 25 officers of Local 6A and the District Council resigned their positions, but remained in the union. Nine defendants were allowed to keep their positions.	Neither the 1987 nor 1990 election produced any challengers to the clique that controlled the union.	Failure. The trustee himself did not believe that much was accomplished. Ieromino, "Note, RICO: Is It a Panacea or a Bitter Pill for Labor Unions, Union Democracy and Collective Bargaining?" (1994).
Philadelphia Roofers' Local 30/30B	13 officers removed as a result of a criminal case preceding the civil RICO lawsuit.	Formally fair elections were held, but there was no break with the previous regime. The same clique retained power.	Failure. On March 28, 2003, the Roofers International petitioned the court for a preliminary injunction and imposed its own trustee over the local. *United Union of Roofers v. Composition Roofers Union*, Local 30, 2003 WL 21250627 (E.D. Pa. March 28, 2003). Jacobs, Cunningham, and Friday, "The RICO Trusteeships after 20 Years" (2004).
IBT International	Independent Administrator Lacey, and after the 1991 election the Independent Review Board, acted as trier of fact and sentencing authority on almost 500 charges brought by Carberry. There was a massive purge of organized-crime-associated union officers.	The IBT held competitive elections in 1991, 1996, 1998 (re-run) and 2001. None of the old mob-connected clique remains on the GEB.	Provisional success. It is very difficult, however, to assess the situation that exists throughout a million-plus-member union. Jacobs, Panarella and Worthington, *Busting the Mob*, 175–76 (1994). Stier, Anderson & Malone, LLC, *The Teamsters: Perception and Reality* 339–41 (2002).
IBT Local 295	All executive board members except one were expelled from the union. A handpicked successor was also expelled (and subsequently murdered).	No elections.	Probable failure. Still in progress. A 2002 study by the Teamsters International suggests that there is still organized crime influence in the local. Stier, Anderson & Malone, LLC, *The Teamsters: Perception and Reality* 417 (2002).

New York District Council of Carpenters	Several union officials with ties to organized crime were purged from the union.	The 1995 elections resulted in election of members of the clique that had dominated the union for decades. A 1997 international trusteeship removed the District Council's officers. In 1999, Michael Forde was elected president. Subsequently, he was convicted of taking bribes.	Failure. Michael Forde and other officials convicted of taking payoffs from contractors. Jacobs and Stohner, "Ten Years of Court Supervised Reform" (2004).
HEREIU Local 54	Monitor forced eight officers from office, but they remained in the union.	1993 and 1996 elections resulted in a clear break with the old regime.	Success. Jacobs, Cunningham, and Friday, "The RICO Trusteeships after Twenty Years" (2004).
HEREIU Local 100	President and business manager and vice president were enjoined from participating in the affairs of the local. Consent Decree, *United States v. Anthony R. Amodeo, Sr., et al.* 92 Civ. 7744 (S.D.N.Y. 1992).	The appointed trustee was elected to lead the local, and then re-elected.	Substantially successful. The trustee's last report to the court said that there was no longer "even a hint of organized crime influence." Interview with Mary Shannon Little (Nov. 2002).
IBT Local 282	Three Local 282 stewards removed for committing acts of corruption and for associating with Gambino LCN family members.	Unknown	Unclear. Department of Labor, Office of Inspector General, 1996 Report, *available at* www.oig.dol.gov/public/reports/sar/sar0996/olr2.htm.
IBT Local 851	As of 2002, 32 members had been disciplined; nine had resigned or been expelled.	Competitive elections held April 2001	Possible success. "Given the deep entrenchment organized crime had for decades in . . . Local 851 . . . the combined actions of law enforcement, . . . Local 851's monitorship and the Teamsters themselves must be viewed as an overall success." Stier, Anderson & Malone, LLC, *The Teamsters: Perception and Reality* 416 (2002).
Mason Tenders' NYC District Council	More than a score of officials ousted, including several who were alleged soldiers in the Genovese crime family.	The election officer drafted election rules for the 1997 election, recommending that 16 of the approximately 70 candidates for union office be disqualified; the Monitor disqualified 15. *United States v. MTDC*, 1997 WL 340993 (S.D.N.Y. 1997).	Failure. In September, 2004, the District Council and Local 79 entered into voluntary supervision by LIUNA International. Five top officers resigned; two are facing criminal charges. *Hearing on "Impediments to Union Democracy," Before the Subcomm. on Employer-Employee Relations of the House Comm. on Educ. and the Workforce*, 105th Cong. (May 4, 1998) (statement of Michael S. Bearse, General Counsel LIUNA).

(continued)

Table 12-1 *(continued)*

Union	*Organized Crime Associates Expelled*	*Elections*	*Conclusion and Sources*
LIUNA International	More than 300 officials and members have been expelled or forced to resign due to disciplinary changes. LIUNA has imposed more than 40 trusteeships and "supervisions" of various locals and subordinate entities for ties to OC, financial mismanagement or lack of democratic processes. These trusteeships and supervisions have resulted in the removal of approximately 200 officers and the implementation of better financial management and greater democracy.	Election procedures have been reformed. Monitor considered 1996 general elections a limited success. But there has been no decisive change in leadership.	Substantially successful. Very difficult, though, to assess whole International Union. *See, e.g.*, Stephanie Mencimer, "Ex-FBI Official Pulls at Union's Infamous Roots," *Washington Post*, June 7, 1998.
HEREIU International	Muellenberg permanently barred 23 individuals from participating in union affairs because of organized crime associations or failure to cooperate with the monitor. Two individuals were barred for 13 years, and two individuals for three years.	Muellenberg reviewed more than 1064 candidates for election to local union office, approved 64 elections, and postponed or invalidated 3 elections. No decisive change in the International Union's leadership, but current president enjoys an outstanding reputation as a progressive union leader.	Substantially successful. However, it is very difficult to assess whole International Union. National Legal and Policy Center, *Letter to Muellenberg, HERE Public Review Board Member*, Aug. 30, 1999, *at* www.nlpc.org/olap/HERE/990830KM.htm.
Chicago Laborers' District Council	Bloch removed all former CLDC officers, instituted reform policies, and negotiated a new 3-year labor contract for the locals that provided for higher wages, better benefits, and, for the first time, a grievance procedure. The Monitor filed charges against two CLDC officials who are the sons of Chicago LCN figures. Charges were settled so that these two individuals agreed to give up their membership after two more years of union employment.	There was a contested election in 2004. The victorious business manager, president, and secretary treasurer are all unconnected to the old regime.	Unclear. There are still rumors of organized crime influence in some of the locals that comprise the District Council. National Legal and Policy Center, *Union Corruption Update*, September 10, 2001.
LIUNA Local 210 (Buffalo)	30 union members and officials expelled.	One round of competitive elections held. Appears to be a break with several decades of domination by Buffalo organized crime family. Elections did not bring a reform regime to power. Judge re-imposed trusteeship almost a decade after first trusteeship ended.	Unclear. Still in progress.
HEREIU Local 69	No elections have been held. 2002 trusteeship imposed.		Unclear. Still in progress. Administrator appointed by trustee convicted of embezzlement. Local 69 to be merged out of existence.

ILA Local 1588			Failure. The trusteeship imposed in 1991 has to be judged a failure. A second-round trusteeship, imposed in 2003, is on-going. John Timpanaro was installed as ILA Local 1588 president in January 2002. In May 2002 he was indicted on charges of racketeering and extortion. Larry McShane, "On the Waterfront, in the Courtroom; Storied New Jersey Union Local Faces Another Racketeering Trial This Spring," *Washington Post*, Jan. 4, 2004. On January 29, 2003, Federal Judge John S. Martin, Jr. appointed former New York City Police Commissioner Robert McGuire as trustee. McGuire chose Robert Stewart as his deputy. National Legal and Policy Center, *Union Corruption Update*, February 3, 2003.
ILA Local 1814	Several officers had to resign.		Failure. On June 3, 2002, 17 members and associates of the Gambino crime family or officials of ILA Local 1814, including Local 1814 President Frank Scollo, were arrested and indicted for racketeering. The indictment included charges of placing organized crime members in top union jobs and carrying out day-to-day extortion and loan sharking. James Jacobs and Ellen Peters, *Labor Racketeering: The Mafia and the Unions*, 30 Crime and Justice 229, 270 (2003).
ILA Local 1804-1	Some union officers expelled.	Elections did not achieve clear break with past.	Failure.
ILA Locals 824, 1809, 1909 (Manhattan West Side locals)	As part of the consent decree, several officials agreed to resign. Anthony Scotto banned for life. But the locals remained in the hands of the same clique that had dominated for decades.	Elections did not achieve clear break with past.	Failure. A new wave of indictments in 2003 allege the same types of racketeering as in previous decades.

The second reason that settlements have not been adequately thought through is that neither federal enforcement agencies nor federal prosecutorial offices have expertise in carrying out such analyses. Law enforcement agencies and prosecutors are experts in investigations, case preparation, and trial practice. A different set of skills is necessary for succeessful organizational reform. Unfortunately, this expertise has not been incorporated into central DOJ or into the U.S. attorney's offices. Perhaps it is still not too late for the DOJ to establish a unit devoted to union reform or to organizational reform generally. A second-best approach would be for the DOJ to identify a core of consultants (including those FBI and DOL investigators, prosecutors, trustees, and union officials who have performed best in previous cases) to whom U.S. attorneys could turn for assistance as need arises.

To add complications, unless the DOJ can specify the organization and operation of the trusteeship and the identity of the trustee, there is no guarantee that the judge will choose the right trustee and provide the necessary support for the trusteeship. During the remedial phase of civil RICO litigation, the court and court-appointed trustee, not the DOJ, are the chief actors. Frequently, the judge knows very little about the extent of the problem (hence, another reason that the civil RICO complaints should be rich in detail).

In designing trusteeships and choosing trustees, much can be learned from the history of prison and jail litigation and the rich academic literature that it has spawned.[4] The prison and jail litigation has produced a corps of experienced trustees who have developed expertise as, in effect, "turn-around specialists." These individuals go from one case to another; sometimes they supervise several cases in different states at the same time. Federal district court judges presiding over jail and prison conditions of confinement litigation seem amenable to choosing a trustee with a proven track record. So far, this has not been true of the civil RICO union cases.

There is no script for sucessfully performing as a trustee. However, the likelihood that the government, court, and trustee will get it right would be greatly increased if there were a reservoir of information about previous trusteeships. It is incomprehensible, with stakes this high, that the government has not made an effort to evaluate the union trusteeships or even to document the basic facts. We need answers to many questions: Did the DOJ lawyers name the correct defendants? Which consent decree provisions are most important? Did government

0522

lawyers seek and obtain key union officers' resignations? What trusteeship powers are most important? How much money is necessary to support an effective trusteeship? How should the trusteeship be organized? What is the most valuable background for a trustee? How should trustees be compensated? How many hours per week should the trustee devote to the job? Is it essential for the trustee to maintain a presence at union headquarters? When, how often, and under what circumstances should the trustee meet with union members? What kind of investigative and union administrative support services does the trustee require? What should be the trusteeship's duration? What remedial strategies work best? What criteria can the trustee and the court use to determine whether the trusteeship has achieved its goal(s)? When and how should the trusteeship be terminated? To date, these questions remain unanswered and mostly unasked.

Civil RICO complaints seeking to liberate racketeer-ridden labor unions need to produce settlements with provisions that make knowing association with LCN members (or any expelled union members) a union expellable offense. However, a provision by itself is of little value. There must be investigators to ferret out relationships between union officials and organized crime members and associates. There must be disciplinary actions to prove such connections and to press for the imposition of effective penalties. Such ongoing investigative and disciplinary work may alienate union members who are suspicious of government officials and/or easily persuaded by charges leveled against the government reform effort (e.g., represents right-wing Republican agenda; will bankrupt the union). Therefore, "winning hearts and minds" of rank-and-file members should not be ignored. Here again, there may be much to learn from the experiences of court-appointed trustees who have sought to reform schools, jails, prisons and mental hospitals.

Finally, we need to recognize that reforming a union is even harder and more complicated than purging organized crime from a union. We can hardly celebrate the success of a civil RICO lawsuit and trusteeship if Cosa Nostra's influence is replaced by the influence of another group of labor racketeers. Throughout U.S. labor history there have been corrupt union strongmen, independent of organized crime families, who have exploited their unions. One example is Tony Boyle of the United Mine Workers. He was ultimately convicted of ordering the murder of insurgent Jock Yablonski and his family.[5] It is not difficult to find con-

0523

temporary examples. Recently, for example, the Manhattan District Attorney's Office proved extensive corruption in New York City's District Council 37 of the American Federation of State, County, and Municipal Employees (AFSCME),[6] a union representing 105,000 city employees in 56 locals. Since 1998, there have been more than 30 indictments and more than 20 guilty pleas. According to Manhattan District Attorney Robert Morgenthau, "This is not an anti-labor prosecution. It's a pro-labor prosecution. The victims were the union members."[7]

Admittedly, "independent labor racketeers" can more easily be thrown out by rank-and-file reformers or by government prosecutors than Cosa Nostra labor racketeers. Nevertheless, "independents" can do great harm. Such individuals need to be identified and removed from union affairs before they become so formidable that neither ordinary elections nor ordinary crime control techniques are capable of dislodging them and their cohorts. This threat highlights the need for some kind of institutionalized union corruption and racketeering watchdog, the equivalent of the Security and Exchange Commission (SEC), which, since the 1930s, has monitored, investigated, and brought civil actions against and prosecuted corporate corruption. Enough time has passed to demonstrate clearly that the Department of Labor cannot play this role. It is, and likely must be, too closely associated with labor union officialdom. Perhaps the labor racketeering unit in the main DOJ can fulfill this function, but because administrations change and priorities wax and wane in Washington, D.C., it would be better to institutionalize such a watchdog in a new governmental agency patterned after the SEC.

FAIR ELECTIONS

Elections are a basic and essential method for principals to hold their agents accountable. They provide an opportunity for the electorate to "throw the rascals out" and replace them with agents who represent their interests. But there are real barriers to the union members playing this monitoring role. First, there is a collective action problem. The vast majority of union members are unwilling to invest much time and energy into monitoring their unions. Second, it is difficult to monitor a union, especially a racketeer-ridden union that operates without trans-

0524

parency. The racketeers control practically all information about how the union is being run; they control the union magazine or newsletter and use it as a proincumbent propaganda sheet. A union member who asks to see documents or who publicly questions the officials may cease getting job assignments, lose his or her job, or face physical intimidation and violence. In other words, for rank-and-file union members monitoring costs are extremely high.

Because of the incumbent regime's control over information, union members often do not understand how they are being exploited. They might not realize that their collective bargaining agreements are mediocre or worse. They might be impressed by good paper agreements that, in practice, are not enforced by union officials who take bribes. They may think their pension benefits are excellent only to find when they retire that they face all sorts of hurdles in qualifying for any benefits or that the fund itself has been inexplicably depleted. They might be so used to union business as usual that they cannot conceive of an honestly run union.

Even if union members realize that they have been exploited, they may be unable to vote the incumbents out of office. Many unions have *never* had a competitive election. A competitive election cannot occur without a mobilized opposition, but it is very difficult for opposition to form in the face of intimidation; it is especially difficult when union members are scattered over numerous small work sites throughout a large geographical area. The logistical difficulties of preparing and implementing a fair election should not be minimized. There are experienced organizations capable of providing expert assistance, but it cannot be done "on the cheap."

Federal prosecutors who prepare civil RICO complaints should demand fair elections and the resources, expertise, and monitoring services that can make fair elections possible. The trustee needs to draft election rules carefully, giving attention to nominating procedures, access to membership lists and the union magazine, secret balloting, and honest counting.

One of the toughest and most important decisions for a trustee is when to schedule a new election. On the one hand, the supervising judge and the union members may be impatient to return the union to its membership. On the other hand, an electoral victory for the LCN-backed regime is a major setback to the reform effort. It is essential that

0525

the trustee have the authority to screen candidates and eliminate individ-uals with ties to the old regime. Nevertheless, experience shows that labor racketeers do not cede power easily; they have many ingenuous strategies for maintaining their control through front men and proxies. What happens if the LCN-backed faction wins the election? If the trus-tee accepts the results, the rank and file may conclude that the trusteeship is a sham. If the trustee rejects the results, the trusteeship's opponents will condemn the judge and the trustee for being antidemocratic and antilabor. Thus, it is crucial that the trustee prevent such a result from occurring by delaying the election until new union leadership has emerged. It is also essential that the trustee be empowered to monitor more than one election cycle because the labor racketeers can easily rebound after a single election defeat.

THE IMPORTANCE OF UNION DEMOCRACY

Ever since the McClellan Committee turned a spotlight on labor racketeering, would-be union reformers have recommended union democracy as medicine. They argue that a union that has significant member involvement, contested elections, and respect for members' right to be politically active within the union will be resistant to racketeer takeovers. But these are difficult preconditions to achieve. Practically no unions have stable "parties" or regularly contested elections. Practically all unions are controlled and governed by cliques that retain power indefinitely. Contested elections, which occur very rarely, are almost always the result of a schism within the ruling clique. Perhaps this is a confirmation of Robert Michels's axiom that all organizations evolve in the direction of oligarchy.[8] Perhaps it reflects the fact that America's mainstream labor movement has opposed union democracy? Perhaps it reflects the fact that because union officials have no career paths beyond their union positions? Whatever the reasons, the lack of democracy (at least competitive elections) is a long-standing reality that civil RICO union litigation is unlikely to change.

Making union democracy a reality would require a major commitment from the government or perhaps from one of the large private philanthropic foundations. New legal and other initiatives could build on the dedicated, but weak, union democracy movement comprising rank-and-file union activists, intellectuals, and a few not-for-profit or-

0526

ganizations.*[9] Its idealistic proponents champion union democracy not as a means to defeat labor racketeering but as the basis of a healthy labor movement. They believe that only democratic unions fulfill the aspirations of the labor movement and that union democracy will nurture and strengthen democratic values in the larger society. In addition, they argue that democratic unions will have a stronger claim on union members' loyalties, thereby strengthening the union's position in contract negotiations and job actions. The union democracy proponents also believe that union members will find satisfaction and self-actualization through participation in democratic unions.

Union democracy proponents and lawyers have worked tirelessly, and with some limited success, to make union democracy a civil liberties issue. They provide an ear to union members who complain they have been mistreated by corrupt union officials. They file suits with the Department of Labor and with the federal courts, but they are immensely outgunned by the unions that they challenge.[10] The torch has been courageously carried for decades by the minuscule Association for Union Democracy, which operates on a shoestring budget with a handful of staff. The country would be very well served by a governmental or, better yet, a private foundation's serious funding of AUD or some new "Center for Union Democracy."

REGIME CHANGE

A racketeer-ridden union needs an entirely new leadership cadre both to break ties with the past and to shatter the perception that the union is in league with the devil. This is a formidable challenge for federal prosecutors, federal judges, and trustees. Where will new union leadership come from? If for decades the incumbents controlled the union's administration and all its officers, there may be no members who have administrative and governing experience. How will new union leaders be trained? If they are chosen by the government, court, or trustees, the rank and file may regard them as stooges. Ideally, a group of union

* Two prominent union democracy NGOs are the Association for Union Democracy (see http://www.uniondemocracy.com) and Labor Notes (see http://www.labornotes.org/index.html). Teamsters for a Democratic Union (TDU) is the most prominent rank-and-file union reform organization (see http://www.tdu.org/TDU_Info/tdu_info.html).

0527

reformers with expertise could move from union to union in trusteeship situations, helping to stimulate regime change. Additionally, their jobs would be easier and more likely to result in success if they could offer members of the liberated union an opportunity to attend a union leadership training program run by organized labor itself. Perhaps the highly regarded labor institutes run by some of the large industrial-type unions could be induced to train a certain number of rank-and-file union members from racketeer-ridden unions currently in trusteeship. Perhaps there is a role for some of the university-based labor programs to provide training. Perhaps wholly new program providers are needed. However it is done, it is clear that identifying, training, and nurturing new union leadership is absolutely essential.

CONCLUSION

The civil RICO union trusteeships have been the best weapon yet devised for attacking labor racketeering. A few have clearly been successful; most have achieved no more than limited successes; many have utterly failed. There is good reason to believe that the civil RICO trusteeship methodology has not yet come close to reaching its full potential. We need a systematic program for collecting data on and evaluating trusteeships. If any doubt remains, it is now time to recognize that reforming racketeer-ridden unions is extremely difficult. There is no magic wand. Naming a former federal prosecutor, now serving as a partner in a prestigious law firm, as trustee and exhorting him to reform the union will not suffice. Effective trusteeships need immense preplanning; comprehensive analysis of the specific labor racketeering problem; careful attention to the civil RICO complaint and settlement; proper empowerment and financing of the trusteeship; shrewd choice of a trustee; a well-thought-through program of reform; an evaluation strategy and patience. We have enough experience to know that success is very hard to achieve.

A successful campaign against labor racketeering requires a sustained attack on organized crime. Both the general anti–organized crime campaign and the more specific anti–labor racketeering initiatives must be supported by adequate resources and conducted with skill and determination. Whether this kind of law enforcement pressure can be maintained in the future is an open question. Al Qaeda's Sep-

tember 11, 2001, attacks on New York City and Washington D.C. led to the reorganization and redeployment of FBI resources. The FBI's top priority now is antiterrorism.[11] For the foreseeable future, the FBI will be judged on how well it carries out its antiterrorism mission. This fact casts a long shadow over future anti–labor racketeering initiatives, especially in the absence of a substantial non-law-enforcement constituency for the anti–organized crime and anti–labor racketeering efforts.

0529

13

Concluding Reflections

I know from experience that some readers will disagree with my assertion that this is a prolabor book, but I do insist upon it. There is nothing anti-American about exposing the horror of U.S. slavery. There is nothing antifamily about exposing the tragedy of family violence. There is nothing antibusiness or anti–capitalist system in analyzing corporate accounting frauds. Indeed, these are all necessary in order to make progress in race relations, family policy and women's rights, and corporate accountability. Likewise, there is nothing antilabor about exposing and explaining organized crime's infiltration and exploitation of the labor movement. Indeed, the heroes of this book are those labor leaders and rank and filers who opposed and struggled against labor racketeering, sometimes at the cost of their lives.

We can learn much about various institutions and organizations by examining how they react to and seek to prevent corruption. This book does not compare labor unions with other institutions and organizations. There is no suggestion that labor unions are more corrupt than, for example, corporations, government, or the legal profession. Indeed, as I complete this book, the United States is experiencing the greatest wave of corporate frauds in our history. Those frauds and corruption in other institutions, organizations, and professions demand their own analyses. To be sure, there will be commonalities, but there will also be significant differences. The most distinctive feature of corruption in the labor movement is the prominent role of the Cosa Nostra organized crime families. This entanglement makes the problem exceptionally difficult to solve.

IS THERE SOMETHING ABOUT UNIONS?

One might well ask whether there is something unique about labor unions that accounts for their attraction and vulnerability to organized

0530

crime. In support of that thesis one might call on Robert Michels's "iron law of oligarchy": Organizations evolve toward concentration of power at the top. But Michels meant to posit a rule that would hold true for all organizations, not just or primarily unions. More important, labor racketeering is not just or primarily a story of authoritarian union governance; it is a story of Cosa Nostra infiltration and exploitation.

Unions may well have a distinctive susceptibility to organized crime racketeering. They are attractive targets because they receive a constant flow of dues and pension and welfare contributions that employers automatically deduct from workers' pay. Cosa Nostra has no compunctions about using violence and election fraud; it has expertise in both these methods of seizing organizational control. Once in power, labor racketeers can reinforce control through the many carrots and sticks at their disposal. They also benefit from the absence of competition from other organizations; once a union is recognized as a bargaining unit's exclusive representative, AFL-CIO rules prohibit other unions from challenging that representation.

Perhaps unions are exceptionally difficult for insiders or outsiders to monitor. Very few union members take a strong interest in union governance and, as we have seen, labor racketeers can make the costs of monitoring very high by means of violence, intimidation, and control over information. By contrast, public corporations are more easily monitored by boards of directors, stockholders, the business press, investing institutions, and the Securities and Exchange Commission (SEC). The SEC enjoys an excellent reputation as a well-resourced, independent, competent, and vigorous enforcement agency. Of course, neither it nor the other corporate monitors prevented Enron and the other corporate frauds that looted billions of dollars from corporations, stockholders, and creditors. Nevertheless, these corporate scandals have not been blamed on the SEC or undermined confidence in its regulatory role. If there had been an SEC-like agency responsible for monitoring union violations of Landrum-Griffin, ERISA, and other labor laws, it would certainly have been more difficult for labor racketeers to have taken over and exploited unions. We have seen, however, that with the exception of sporadic congressional investigations and quixotic individual union member protests, labor racketeering was practically unopposed for most of the twentieth century. By the time the FBI and the Department of Justice began to focus on labor racketeering, racketeers were deeply and powerfully entrenched.

0531

A structural explanation may be most useful for explaining why some unions were taken over by organized crime while others were not. For the most part, the racketeering susceptibility of the old CIO industrial unions was low. There was strength in numbers. Union leaders who work alongside hundreds or thousands of other workers in a factory or mine were much harder to intimidate or otherwise displace than union leaders who work for a hotel, trucking company, or construction contractor with a relatively small and/or dispersed workforce marked by high turnover. Likewise, it is much easier for opposition leaders to become known and develop a following when they work in a large site like a factory or a mine. In those industries, employees may work for the same company for many years, even for life. On the other hand, many workers in construction, trucking, hotels and restaurants, and stevedoring work sporadically and for different employers.

There is little or nothing new in labor racketeering. The same organized crime families have engaged in the same type of exploitation for much of the twentieth century. Union officers in racketeer-ridden unions often "inherit" their positions from fathers and grandfathers. The forms of domination that appeared in the 1920s and 1930s still prevail. The cartels, bribes for sweetheart deals, extortion of employers, embezzlements from union treasuries, and frauds on pension and welfare funds all have their roots in the first half of the century.

CONTINGENCIES OF AMERICAN HISTORY

The persistence of labor racketeering is dependent on certain contingencies of American history. Obviously, there would have been no organized crime penetration without the existence of a powerful organized crime syndicate with the expertise and motivation to exploit labor unions, businesses, and industries. Cosa Nostra did not always have to fight its way in the door; it was often invited inside. The bitter opposition of employers to labor unions, including the recruitment of strike breakers and gangsters, created labor's need for a counterforce. Not surprisingly, some organized crime figures who helped to defend labor unions earned the rank and file's gratitude. It was also fortuitous for the labor racketeers that in many nascent unions there was a congenial ethnic base.

It would be naive and factually incorrect to think that labor racket-

0532

eering developed "under the radar." To the contrary, labor racketeering was consciously permitted, even chosen. Employers would have preferred no unions but, in many cases, they found Cosa Nostra labor racketeers preferable to leftist militant unionists who were ideologically opposed to the capitalist system. We should not forget or discount the willingness of employers to reach out to organized crime figures to obtain sweetheart collective bargaining contracts and the nonenforcement of expensive contractual provisions. Perhaps even more valuable to employers was the role that organized crime figures could play in creating and policing business cartels that fixed prices and limited competition. Such cartels have been commonplace in industries like construction and trucking. Organized crime bosses also functioned as power brokers who could quickly solve jurisdictional disputes between unions and could broker deals with businessmen and politicians.

Throughout most of the twentieth century, especially the first half, the government did not combat organized crime labor racketeers. In the big eastern and midwestern cities where unions and organized crime were strongest, local politicians closely cooperated with the organized crime bosses; frequently there was a symbiotic relationship between the Democratic Party political machines and the organized crime families. The urban political machines could make or break local, state, and national political candidates. Local police and prosecutors, highly politicized in those days, were often influenced, bribed, or intimidated by organized crime groups, or at least unwilling to oppose them. Even if law enforcement was not compromised, it lacked the resources to oppose them. The organized crime bosses were not nearly as influential at the state and federal levels as they were at the local levels, but their influence extended to the highest levels of American politics and government.

For reasons specific to American federalism, there was no federal national police force until the first decade of the twentieth century; even then, the FBI evolved very slowly. Under J. Edgar Hoover's half century of leadership, the FBI was far more concerned with communists, socialists, and other perceived subversives than with city-based organized crime families. Indeed, the FBI, on occasion was willing to form alliances with Cosa Nostra to assure, for example, the security of the ports during World War II and the assassination of Cuban President Fidel Castro in the early 1960s. Remarkably, the FBI posed no significant opposition to organized crime until after Hoover's death in 1972.

Fear and abhorrence of communism and socialism was another

0533

contingency of twentieth-century American history that facilitated labor racketeering. Governments at all levels, but especially the federal and state levels, viewed leftist labor leaders with antipathy and anxiety. They were often willing to use governmental resources to suppress such leaders and their unions even if it meant allying with organized crime figures. American politicians in the first half of the twentieth century were also more comfortable dealing with organized crime bosses than with communists and socialists. New York City mayors William O'Dwyer (1946–1950) and Vincent Impellitteri (1950–1953), for example, were said to have had close relationships with Frank Costello, so-called "prime minister of the underworld" and the top New York City Cosa Nostra figure of his day.

The first alarms about labor racketeering were sounded by social reformers concerned about the plight of oppressed longshoremen. Then investigative journalists found labor racketeering to be a compelling story. *On the Waterfront* contributed greatly to making labor racketeering a public issue. Perhaps the publicity generated by the movie forced the government to respond? But, one need not be a cynic to recognize that it was not the plight of the workers and their lack of rights vis-à-vis their unions that first got Congress involved. Clearly, Senator McClellan and other (especially southern) senators were as much, probably more worried about unions growing too strong than they were about the plight of rank-and-file union members. In the McClellan Committee hearings, concern about the dangers of "big labor" combined with concern about the dangers of "the Mafia," perceived at the time as a foreign-based ethnic threat to the American way of life.

There was never an interest group pressing for the protection of union members' rights against corrupt union leaders. The FBI's post-Hoover initiatives against labor racketeering were the result of the larger war against organized crime. By the mid-1970s, the Department of Justice and the FBI were affronted by the flagrant activities of the Cosa Nostra crime families in the major cities. The war on organized crime began with a campaign against Cosa Nostra's gambling interests, but that strategy encountered serious resistance among federal judges. It was the assassination of Jimmy Hoffa in 1975 that turned federal law enforcement's attention to organized crime's position in the labor unions. From that point on, the anti–labor racketeering campaign was an important part of the war against organized crime.

Congress passed RICO in 1970 to combat organized crime, espe-

0534

cially its perceived infiltration of the legitimate economy. Organized crime's threat to unions, as well as legitimate business, was frequently mentioned at the hearings leading up to the bill's passage. However, it was not until 1982 that civil RICO was pressed into service as an anti–labor racketeering tool. The New Jersey federal prosecutors convincingly demonstrated that civil RICO was well suited for use against Cosa Nostra's domination of one of the nation's most racketeer-ridden union locals. Even then, the first lawsuits encountered substantial opposition from the labor movement, many politicians, and members of the public suspicious of the motives of the Reagan-era Department of Justice. By then, however, the Department of Justice and FBI were sufficiently independent that even if political interference had been attempted, it could not have halted the attack on labor racketeering. The FBI and DOJ campaign had taken on unstoppable momentum.

Without civil RICO there could not have been a focused anti–labor racketeering campaign. There is no other nearly as effective way to attack the kind of systemic entrenched organizational criminality in local, regional, and national labor unions. Nevertheless, civil RICO was not initially embraced by FBI agents and federal prosecutors who were much more comfortable with criminal prosecutions. Indeed, the reward system in the FBI was based upon convictions. The use of civil RICO was given a powerful shot in the arm when the FBI leadership decided to count civil RICO cases as equivalent to major convictions.

Although civil RICO has been the most important law enforcement strategy in attacking labor racketeering, it has fallen seriously short of its full potential. The majority of trusteeships have not produced regime change. Many have not produced a single fair, much less competitive, election. The majority have probably not completely purged organized crime's influence from the union. Indeed, the absence of any governmental attempt to evaluate the civil RICO union lawsuits demonstrates the lack of systematic thought about how to utilize civil RICO most effectively.

SIGNIFICANCE OF LABOR RACKETEERING FOR ORGANIZED LABOR AND SOCIETY

Asking the counterfactual question can be an interesting thought experiment that sheds light on the importance and significance of key

0535

historical events. What if Japan had not attacked Pearl Harbor? What if the Supreme Court had not declared school segregation unconstitutional in *Brown v. Board of Education?* What if organized crime labor racketeers had not infiltrated and exploited the American labor movement?

If there had been no organized crime and therefore no organized crime penetration of the labor movement, the nascent labor unions would have had more difficulty achieving early victories and ultimate recognition. It is possible that a combination of reactionary employers, politicians, and law enforcement personnel would have crushed unions completely or shaped a completely employer-dominated union movement. It is also possible that corrupt labor czars would have seized power in the very unions that organized crime racketeers eventually controlled.

In light of the fact that labor unions have achieved legitimacy in all Western countries, I think it is more likely that the Wagner Act would have eventually passed and that labor unions would have achieved legitimacy in the United States. The socialists and communists would have been a stronger force in the union movement. With unions in the hands of militant unionists, not labor racketeers, the U.S. labor movement would have been more aggressive in organizing, more appealing to youth and intellectuals and stronger.*

A more powerful, socialist-leaning labor movement might have had a significant impact on American politics. The United States is unusual among Western democracies for lack of a labor party. Perhaps, without labor racketeers, the U.S. labor movement would have organized a political party. Alternatively, it might have become an influential "progressive" wing of the Democratic Party, thereby having made the party's long accommodation with southern segregationists less likely. If the United States had had a twentieth-century labor party or a more leftist Democratic Party, our politics might have been completely different.

Even though the foregoing is wild speculation, it does give pause to think seriously about the importance of labor racketeering to the labor movement, U.S. politics, and U.S. society generally. The history of or-

* The leftist elements in the labor movement were by no means united or comfortable with one another. To the contrary, there were bitter ideological differences among them and these may ultimately have split and weakened the labor movement.

0536

ganized crime and organized labor has been long neglected, even affirmatively denied. I hope this book will stimulate the kind of attention that the topic clearly warrants. One can easily imagine a dozen Ph.D. dissertations documenting how various racketeer-ridden unions actually functioned, how their members fared in comparison to the members of honest unions as well as to nonunionized workers doing the same kind of work. Perhaps, ultimately, we might identify different "types' of labor racketeers, e.g., those who pressed the interests of the workers they represented while skimming money from the union and those who essentially treated the union as an organization to be exploited to the fullest.

WHAT OF THE FUTURE?

This book is not just about days past. Labor racketeering is still occurring. Cosa Nostra still controls local and regional unions and wields influence in several important international unions. Only three of the hard-fought civil RICO union trusteeships can be judged to have been completely successful; for many of the others, it is still too early to say. Some of the trusteeships must be considered complete failures. The Cosa Nostra crime families are much weaker than they were at the height of their power (perhaps in the 1960s or 1970s), but they continue to be a presence in most of the cities where they have existed since the early twentieth century. If, as seems likely, FBI pressure on them wanes, it is possible that they will make a combat.

The effort to reform the American unions controlled by organized crime could be analyzed as an experiment in democratization "from above."[1] As with the American incursion into Iraq, those who are waging the campaign against labor racketeering believe that they can bring democracy to organizations and peoples long dominated by corrupt and autocratic leaders. The law enforcement personnel, DOJ lawyers, federal judges, and court-appointed trustees have had much more time to achieve victory over organized crime in American unions than U.S. military forces have had to achieve victory in Iraq. Nevertheless, as in Iraq, establishing democracy in previously captive labor unions is much more difficult than the "liberators" expected.

DOJ lawyers initially (and with hindsight, naively) believed that their investigators and court-appointed trustees would be welcomed

0537

by the rank and file with open arms. Two decades of experience have proved otherwise. There is far more rank-and-file suspicion of the government, the courts, and the trustees than public officials had anticipated or want to admit. The regimes backed by Cosa Nostra continue to exercise influence (even prevail) over many unions that the government and the courts have sought to reform; the Cosa Nostra–backed candidates have won more elections than they have lost.

As in the war to bring democracy to Iraq, the government has much credibility at stake in its anti–labor racketeering campaign. If it loses interest, withdraws, and allows Cosa Nostra to reconsolidate its control, it will be harder in the future to persuade criminals and would-be criminals that U.S. law enforcement has staying power. Likewise, it will be harder to persuade affected citizens to throw in their lot with the government. They will rightly fear that law enforcement will withdraw with the job only half completed.

The American labor movement has much at stake in this twenty-five-year campaign against Cosa Nostra labor racketeering. A victory over Cosa Nostra and labor racketeering could release a great deal of energy within the labor movement if previously cynical union members change their minds about the possibility of reform. It could also release a great deal of pro-union sentiment in the larger society if the labor movement could once again attract the interest and support of idealists and intellectuals. The civil RICO trusteeships should be seen as a positive opportunity for a brighter future rather than as some kind of contemporary version of early-twentieth-century government union busting.

0538

Notes

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0539

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0540

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0542

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0552

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125. International Brotherhood of Teamsters, Press Release, "American Labor Movement Demands Lifting of Consent Decree," December 6, 2001, Teamsters Online, http://www.teamsters.com/comm/releases.asp (visited October 17, 2002).

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3. Upheld by the Supreme Court in *United Steelworkers of America, AFL-CIO v. Sadlowski,* 457 U.S. 102 (1982).

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5. 29 USC 464(c)).

0555

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7. Herman Benson, *Rebels, Reformers and Racketeers: How Insurgents Transformed the Labor Market* (Bloomington, Ind.: AuthorHouse, 2004), 40.

8. *Schonfeld v. Raftery,* 271 F. Supp. 128, 133 (S.D.N.Y. 1967).

9. See Arthur Fox and John Sikorski, *Teamster Democracy and Financial Responsibility: A Factual and Structural Analysis* (Washington, D.C.: PROD, 1976).

10. Dan La Botz, *Rank and File Rebellion: Teamsters for a Democratic Union* (London: Verso Books, 1990); Dan La Botz, *The Fight at UPS: The Teamsters' Victory and the Future of the New Labor Movement.* Solidarity Pamphlet (1997).

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2. Ibid., 798.

3. Anti-Racketeering Act of 1934, 48 Stat. 979.

4. *U.S. v. Teamsters Local 807,* 315 U.S. 521 (1942).

5. The Hobbs Act made criminal "whoever in any way or degree obstructs, delays, or affects commerce or the movement of any article or commodity in commerce, by robbery or extortion or attempts or conspires so to do, or commits or threatens physical violence to any person or property. . . ." 18 U.S.C.A. § 1951.

6. *United States v. Green,* 350 U.S. 415 (1956).

7. See, e.g., *United States v. Iozzi,* 420 F.2d 512 (4th Cir. 1970); *United States v. Kramer,* 355 F.2d 891 (7th Cir. 1966), cert. granted and case remanded for resentencing, 384 U.S. 100 (1966); *Bianchi v. United States,* 219 F.2d 182 (8th Cir. 1955).

8. *U.S. v. Enmons,* 410 U.S. 396 (1973).

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11. Ibid., at 307.

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0556

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15. James A. Wooten, *The Employee Retirement Income Security Act of 1974: A Political History* (Berkeley: University of California Press, 2004).

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19. *United States v. Bertucci,* 333 F.2d 292, 295 (3d Cir. 1964).

20. Convictions upheld on appeal. *U.S. v. Bertucci,* 333 F.2d at 300. For more examples of criminal prosecutions brought under the LMRDA, see *U.S. v. Roganovich,* 318 F.2d 167 (7th Cir. 1963), and *U.S. v. Kelley,* 545 F.2d 619 (1976).

21. 18 U.S.C.S. 1952.

22. *U.S. v. Altobella,* 442 F.2d 310 (1971).

23. S. Rep. No. 644, 87 Cong., 1st sess. (1961), 4.

24. *U.S. v. Nardello,* 393 U.S. 286 (1969).

25. The 1967 President's Commission on Crime and the Administration of Justice, Task Force on Organized Crime, Task Force Report on Organized Crime (Washington, D.C.: GPO, 1967).

26. 115 *Congressional Record* 5874 (1969) (remarks of Senator McClellan).

27. 18 U.S. Secs. 1962–65.

28. James B. Jacobs, Christopher Panarella, and Jay Worthington III, *Busting the Mob: United States v. Cosa Nostra* (New York: New York University Press, 1994).

29. Robert F. Kennedy, *The Enemy Within: The McClellan Committee's Crusade Against Jimmy Hoffa and Corrupt Labor Unions* (New York: Harper & Row, 1960); Victor Navasky, *Kennedy Justice* (New York: Atheneum, 1971); Steven Brill, *The Teamsters* (New York: Simon and Schuster, l978); Dan E. Moldea, *The Hoffa Wars: Teamsters, Rebels, Politicians and the Mob* (New York: Charter Books, 1978); Arthur Schlesinger Jr., *Robert Kennedy and His Times* (New York: Ballantine Books, reissue edition, 1996).

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0557

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34. James B. Jacobs, Christopher Panarella, and Jay Worthington III, *Busting the Mob: U.S. v. Cosa Nostra* (New York: New York University Press, 1994).

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37. Permanent Subcommittee on Investigations of the Senate Committee on Government Operations, *Labor Racketeering Activities of Jack McCarthy and National Consultants Associated, Ltd.* (Washington, D.C.: GPO, 1967).

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40. *Donovan v. Fitzsimmons,* consent decree, 90 F.R.D.583 (N.D. Ill., 1981).

41. Inspector General Act of 1978, Pub. L. 95-452, 92 Stat. 1101 (now codified as amended at 5 U.S.C. App. 1–12).

42. Jacobs et al., *Busting the Mob,* 80–82.

43. Ibid., 84–86.

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50. Jacobs et al., *Busting the Mob,* 89.

51. For a history of the state and local crime commissions, see Lee Bernstein, *The Great Menace: Organized Crime in Cold War America* (Amherst: University of Massachusetts Press, 2002), chapter 5.

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0558

53. Gerald E. Lynch, "RICO: The Crime of Being a Criminal," 87 *Columbia Law Review* 661–764, May 1987; 87: 920–84 (June 1987).

54. Labor Management Racketeering, Senate Committee on Governmental Affairs, Permanent Subcommittee on Investigations, 1978, 77.

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56. Sam Nunn, "The Impact of the Senate Permanent Subcommittee on Investigations on Federal Policy," *Georgia Law Review* 21:17–56, at 25.

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2. See generally Tom Robbins, "The Clean-Up Man: Chic Ex-Prosecutor Makes a Bundle Overseeing Teamsters Local," *Village Voice,* April 18, 2001.

3. Stephanie Mencimer, "Ex-FBI Official Pulls at Union's Infamous Roots," National Legal and Policy Center, *Union Corruption Update,* August 16, 1999, at A1.

4. James B. Jacobs and Ellen Peters, "Labor Racketeering: The Mafia and the Unions," 30 *Crime and Justice: A Review of the Research* 229 (2003), 245, 247.

5. See, e.g., *United States v. Local 30 United Slate, Tile and Composition Roofers, Damp and Waterproof Workers Association,* 686 F. Supp. 1139 (1988); *United States v. Laborers' International Union of North America* (Consent Decree, February 15, 1995); see also National Legal and Policy Center, *Union Corruption Update,* January 31, 2000.

6. The Philadelphia Roofers Local 30/30B decree established a "decreeship" with an indefinite term. Judge Bechtle believed that success could be achieved only by convincing the rank and file and the racketeers that court supervision would last as long as necessary to solve the problem. *United States v. Local 30 United Slate, Tile and Composition Roofers, Damp and Waterproof Workers Association,* 686 F. Supp. 1139 (1988).

7. Carl Biers, "Monitor Airs Hotel Union's Dirty Linen," *Union Democracy Review,* no. 121. Robert Luskin, the General Executive Board attorney of LIUNA International and his law firm, received at least $4 million in compensation from November 1994 to June 1998. National Legal and Policy Center, Organized Labor Accountability Project, *Failure of LIUNA "Internal Reform Effort,"* (Jan., 1999).

8. *United States v. International Brotherhood of Teamsters,* 1992 WL 297489 (S.D.N.Y. October 6, 1992).

9. Steven Greenhouse, "Teamsters Push to End Decade of Supervision,"

0559

New York Times, August 14, 1999, at A1 (stating that the trusteeship had cost the IBT $82 million, or about $8–9 million per year).

10. The internal reform process had cost about $35 million by September 1999. Mark Murray, "Labor on Patrol," *National Journal,* Sept. 4, 1999, at 2489.

11. Kurt Muellenberg retired from the Department of Justice and did not plan a full-time second career in the private sector; he agreed to a $190 hourly rate. Interview with Kurt Muellenberg, Nov. 7, 2002.

12. *United States v. Int'l Bhd Of Teamsters Local 851* (consent decree reached before filed) (Sept. 12, 1995).

13. For example, Trustee Robert Bloch in the Chicago Laborers District Council trusteeship negotiated a new three-year labor contract that provided for higher wages, better benefits, and, for the first time, a grievance procedure. Press release, "United States Department of Justice, Consent Decree Allows Federal Court to Supervise Purge of Organized Crime from 19,000 Member Chicago Laborers' Council," August 12, 1999.

14. Eugene Kiely, "Local 560: Proof is in the Vote; Election Is Test of U.S. Efforts to Clean Up Teamsters," *Record,* Nov. 27, 1988, at A2.

15. *United States v. Local 1804-1 et al.*, consent judgment for Local 1804-1, 4–5.

16. *United States v. Int'l Bhd of Teamsters,* 745 F. Supp. 908, 135 L.R.R.M. (BNA) 3079 (S.D.N.Y. 1990), *aff'd,* 941 F.2d 1292, 138 L.R.R.M. (BNA) 2219 (2d Cir. 1991).

17. *United States v. International Brotherhood of Teamsters,* 742 F. Supp. 94, 97 (S.D.N.Y. 1990).

18. Telephone Interview with Robert Welsh, Special Master, Roofers Local 30/30B, in Philadelphia (Nov. 25, 2003).

19. Herman Benson's *Rebels, Reformers and Racketeers: How Insurgents Transformed the Labor Movement* (Bloomington, Ind.: AuthorHouse, 2004) is a compelling account of the frustrations and dangers experienced by dissidents.

20. Interview with Kurt Muellenberg (Nov. 7, 2002).

21. The MTDC had its own Investigations Officer, Michael Chertoff. Consent Decree, *United States v. Mason Tenders District Council of Greater New York,* 94 Civ. 6487 (S.D.N.Y. 1994). The LIUNA International union agreed to "voluntarily" adopt a major reform effort in order to avoid a court-ordered trusteeship. Robert Luskin serves as counsel, prosecuting disciplinary cases; W. Douglas Gow serves as "Inspector General," investigating allegations of member impropriety or fraud; Peter Vaira serves as "Hearing Officer," deciding a member's guilt or innocence on the basis of evidence gathered by the inspector general (as well as hearing the member's defense); and W. Neil Eggleston serves as "Appellate Officer," hearing appeals from rulings by the hearing officer. National Legal and Policy Center, Organized Labor Accountability Project, *Failure of LIUNA "Internal Reform Effort"* (Jan. 1999), 3–4.

0560

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2. Ibid., at 287.
3. Telephone interview with Edwin Stier (July 3, 2000) [hereinafter Stier Interview II]. See generally, Leonard R. Sayles and George Strauss, *The Local Union* (New York: Harper, 1967), 125 (discussing the role of business agents).
4. Sayles and Strauss, *The Local Union,* 48–55 (discussing the steward as a "middle man"); Stier interview II.
5. *Local 560, Int'l Bhd of Teamsters,* 581 F. Supp. at 289.
6. James B. Jacobs, Christopher Panarella, and Jay Worthington III, *Busting the Mob: U.S. v. Cosa Nostra* (New York: New York University Press, 1994), 32.
7. Mike Kelly, "The Legacy of Tony Pro," *Record,* Dec. 13, 1988, Bl. For his services, Konigsberg paid $15,000. *Local 560, Int'l Bhd of Teamsters,* 581 F. Supp. at 307.
8. *Local 560 Int'l Bhd of Teamsters,* 581 F. Supp. at 292.
9. 18 U.S.C. 1951; *United States v. Provenzano,* 334 F.2d 678 (3d Cir. 1964), petition for cert. denied, 379 U.S. 947 (1964).
10. *Local 560, Int'l Bhd of Teamsters,* 581 F. Supp. at 289.
11. 18 U.S.C. 371.
12. *United States v. Provenzano and Bentro,* 440 F. Supp. 561 (S.D.N.Y. 1977).
13. *United States v. Provenzano,* 615 F.2d 37, 39–42 (2d Cir. 1980); *Local 560, Int'l Bhd of Teamsters,* 581 F. Supp. at 289; Laurie Cohen and Herb Greenberg, "The Giura Bombshell, Bizarre Turn for Noted Money Manager," *Chicago Tribune,* Feb. 9, 1986, at C1.
14. *Local 560, Int'l Bhd of Teamsters,* 581 F. Supp. at 311.
15. See generally, *United States v. Provenzano,* 605 F.2d 85 (3d Cir. 1979); *Local 560, Int'l Bhd of Teamsters,* 780 F.2d 267, 273–74 (D.N.J. 1985).
16. *Local 560, Int'l Bhd of Teamsters,* 780 F.2d at 274; Peter Sampson, UPI, July 9, 1981, available in LEXIS, News Beyond Two Years File.
17. Susan Edelman, "100 Attend Low-Keyed Funeral for Tony Pro," *Record,* Dec. 18, 1988, A1.
18. 18 U.S.C. 1964. See Gerard E. Lynch, "RICO: The Crime of Being a Criminal," Parts I and II, 87 *Colum. L. Rev.* 661 (1987) and Parts III and IV, 87 *Colum. L. Rev.* 920 (1987); Michael J. Goldberg, "Cleaning Labor's House: Institutional Reform Litigation in the Labor Movement," 1989 *Duke L.J.* 903 (1989) (hereinafter *Cleaning Labor's House*).
19. *Local 560, Int'l Bhd of Teamsters,* 581 F. Supp. at 287–88.
20. Ibid., at 284.
21. Ibid., at 285.

0561

22. Ibid., at 286.
23. *United States v. Local 560, Int'l Bhd of Teamsters,* 780 F.2d 267 (3d Cir. 1985).
24. *Local 560, Int'l Bhd Of Teamsters,* 581 F. Supp. at 299–301.
25. Ibid., at 318.
26. Ibid., at 318.
27. Ibid., at 317.
28. Ibid., at 324.
29. *United States v. Local 560, Int'l Bhd of Teamsters,* 1987 U.S. Dist. LEXIS 14878, 2 (D.N.J. 1987).
30. See James B. Jacobs, Christopher Panarella, and Jay Worthington III, *Busting the Mob: U.S. v. Cosa Nostra* (New York: New York University Press, 1994), 35–36.
31. *Local 560, Int'l Bhd of Teamsters,* 1987 U.S. Dist. LEXIS 14878 at 3.
32. Ibid., at 6.
33. Ibid., at 6–8.
34. *United States v. Local 560, Int'l Bhd of Teamsters,* 731 F. Supp. 1206, 1206–9 (D.N.J. 1990).
35. See Report and Recommendations of the Court Appointed Trustee for Teamsters Local 560, at 5 (Jan. 1999); *Local 560, Int'l Bhd of Teamsters,* 581 F. Supp. at 279, (D.N.J. 1984) (82–689) (hereinafter Report and Recommendations).
36. Jacobs et al., *Busting the Mob,* 36.
37. Report and Recommendations, at 2.
38. Tom Toolen, "Editor Sheds Light On Union Local," *Record,* Jan. 26, 1988, at B11.
39. Robert D. McFadden, "Teamster Unit is Given Back Local Control," *New York Times,* Feb. 26, 1999 at B1.
40. Plan for Transition to Membership Control of Local 560, Report to Judge Ackerman, at 4 (Feb. 10, 1988); *Local 560, Int'l Bhd of Teamsters,* 581 F. Supp. 279 (D.N.J. 1984) (82–689).
41. Recommendations for Modification of Local 560 Trusteeship After December 6, 1988, Report to Judge Ackerman, at 4–5 (Nov. 21, 1988); *Local 560, Int'l Bhd of Teamsters,* 581 F. Supp. 279 (82–689). Judge Ackerman affirmed Stier's recommendations. See Letter Opinion and Order (November 28, 1988); *Local 560, Int'l Bhd of Teamsters,* 581 F. Supp. 279 (82–689).
42. *Local 560, Int'l Bhd of Teamsters,* 694 F. Supp. 1158, 1184–85 (D.N.J. 1988); see also "Teamster Rallies Called Nazi-Like," *Record,* Mar. 21, 1990 at A5.
43. *Local 560, Int'l Bhd of Teamsters,* 694 F. Supp., at 1185.
44. Ibid.
45. Ibid., at 1158.
46. Ibid., at 1156–66.
47. Ibid., at 1170.
48. Ibid., at 1168–69.

0562

49. Ibid., at 1192.
50. Ibid.
51. *Local 560, Int'l Bhd of Teamsters,* 974 F.2d 315, 324 (3d Cir. 1992).
52. See Eugene Kiely, "Teamsters Leaders Vow Honest Union; Control Shifts to Sciarra Slate," *Record,* Dec. 8, 1988, at A1; Stewart interview. Stier's assessment of the state of the trusteeship and union postelection can be found at Federal Government's Use of Trusteeships under the RICO Statute: Hearings before the Senate Permanent Subcommittee on Investigations, 101st Cong., 1st sess., (1989), at 179–258.
53. Report and Recommendations to Judge Ackerman, at 9.
54. *Local 560, Int'l Bhd of Teamsters,* 736 F. Supp. at 607.
55. *Local 560, Int'l Bhd of Teamsters,* 974 F.2d, at 315.
56. *Local 560, Int'l Bhd of Teamsters,* 736 F. Supp., at 612.
57. *United States v. Local 560, Int'l Bhd of Teamsters,* 754 F. Supp. 395 (D.N.J. 1991).
58. *Local 560, Int'l Bhd of Teamsters,* 754 F. Supp. at 408.
59. *United States v. Local 560, Int'l Bhd of Teamsters,* Unpublished Opinion of March 27, 1991, aff'd, 974 F.2d 315 (3d Cir. 1992).
60. Judgment Order and Permanent Injunction, at 1 (Mar. 27, 1991), *United States v. Local 560, Int'l Bhd of Teamsters,* 581 F. Supp. 279 (D.N.J. 1984) (82–689).
61. *United States v. Local 560, Int'l Bhd of Teamsters* and Mezzina; Conlon, Complaint, at 17–18.
62. Stewart interview.
63. *United States v. Local 560, Int'l Bhd of Teamsters;* Mezzina and Conlon, Complaint, at 16.
64. *United States v. Local 560, Int'l Bhd of Teamsters*; Mezzina and Conlon, Compl., at 16.
65. Report and Recommendations, at 10.
66. Interim Settlement Agreement and Consent Decree at 5 (Feb. 6, 1992); *United States v. Local 560, Int'l Bhd of Teamsters,* 581 F. Supp. 279 (D.N.J. 1984) (82–689) (hereinafter Interim Settlement).
67. Order of Modification of Interim Settlement Agreement and Consent Decree of Feb. 6, 1992, and Sept. 11, 1992, at 3; and May 18, 1994, at 3–4.
68. See Order of Modification of Interim Settlement Agreement and Consent Decree of Feb. 6, 1992, and Sept. 11, 1992, at 3; and May 18, 1994, at 4.
69. *United States v. Local 560, Int'l Bhd of Teamsters,* 581 F. Supp. 279 (D.N.J. 1984) (82–689) (listing the members of the Executive Board).
70. Interim Settlement, at 4.
71. Ibid., at 7–8.
72. Report and Recommendations, at 11; Stewart interview.
73. Modification of Interim Settlement Agreement and Consent Decree of

0563

Feb. 6, 1992, at 1–2 (Sept. 11, 1992), *United States v. Local 560, Int'l Bhd of Teamsters*, 581 F. Supp. 279, (D.N.J. 1984) (82–689) (hereinafter Modification of the Interim Settlement).

74. Modification of Interim Settlement, at 1–2.

75. Stier interview.

76. Report and Recommendations at 13; Order of Modification of Interim Settlement Agreement and Consent Decree of Feb. 6, 1992 and Sept. 11, 1992 at 3 (May 18, 1994), *United States v. Local 560, Int'l Bhd of Teamsters,* 581 F. Supp. 279 (D.N.J. 1984) (82–689) (citing Al Vallee's resignation), and Consent Order Approving Appointment Filling Vacancy to the Local 560 Executive Board (Nov. 14, 1995), *United States v. Local 560, Int'l Bhd of Teamsters,* 581 F. Supp. 279 (D.N.J. 1984) (82–689) (consent order approving appointment to fill vacant Executive Board seat).

77. Ellen Simon, *Newark Star-Ledger,* Feb. 26, 1999. See, e.g., In Re: Onofrio "Fred" Mezzina, Decision and Opinion of the Court Appointed Trustee (Aug. 30, 1995), *United States v. Local 560, Int'l Bhd of Teamsters,* 581 F. Supp. 279 (D.N.J. 1984) (82–689).

78. Report and Recommendations, at 15–16.

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80. Report and Recommendations, at 19.

81. Simon, *Newark Star-Ledger.*

82. Ibid.

83. Robert D. McFadden, "Teamsters Unit Is Given Back Local Control," *New York Times,* Feb. 26, 1999 at B1; Transcript of Proceedings Regarding Ending the Trusteeship, at 3 (Feb. 25, 1999), *United States v. Local 560, Int'l Bhd of Teamsters,* 581 F. Supp. 279 (D.N.J. 1984) (82–689).

84. McFadden, "Teamsters Unit Is Given Back Local Control," at B1.

85. See ibid.

86. David Voreacos, *Record,* Feb. 26 1999, at A1.

87. Kaboolian testimony.

88. *Local 560, Int'l Bhd of Teamsters,* 581 F. Supp., at 282.

89. Ibid., at 299.

90. Ibid., at 326.

91. *United States v. Local 295, Int'l Bhd of Teamsters,* 1987 U.S. Dist. LEXIS 14878, at 6.

92. *Local 295, Int'l Bhd of Teamsters,* 1987 U.S. Dist. LEXIS 14878, at 4.

93. *Local 295, Int'l Bhd of Teamsters,* 1987 U.S. Dist. LEXIS 14878, at 5.

94. Stier interview II.

95. Robert C. Stewart, "Voice of the Bar: Local 560 Prosecutor Rebuts Criticism of Trusteeship," *N.J.L.J.,* November 15, 1999, at 25.

96. Stier interview II.

0564

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1. *United States v. Dist. Council,* 778 F. Supp. 738, 743 (S.D.N.Y 1991).
2. Government's Motion for Preliminary Relief, 12.
3. Second Interim Report of the Investigations and Review Officer, 41–42; *United States v. Dist. Council,* 1994 WL 704811 (S.D.N.Y. Dec. 16, 1994) (No. 90 Civ. 5722 (CSH)) (Mar. 13, 1995) (hereinafter Second Interim Report).
4. Government's Motion for Preliminary Relief, 12–14.
5. Government's Motion for Preliminary Relief, 15; *United States v. Maritas,* Cr. No. 81–122 (E.D.N.Y. 1981).
6. Government's Motion for Preliminary Relief, 15; see also Government's Supp. Compl., 37.
7. See *U.S. v. Salerno,* 505 U.S. 317 (1992).
8. Government's Motion for Preliminary Relief, 16.
9. Ibid.; Svedese Aff., ¶ 3, 2.
10. Svedese Aff., ¶ 30, 13.
11. *People v. O'Connor, Ind.* No. 7953/87 (N.Y. Sup. Ct. N.Y. Co. Sept. 6, 1989).
12. Second Interim Report, 18; Salvatore Miciotta Decl. ¶¶ 3–11, *United States v. Dist. Council,* 1994 WL 704811 (S.D.N.Y. Dec. 16, 1994) (No. 90 Civ. 5722 (CSH)) (Nov. 9, 1994).
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20. Consent Decree, 5.
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0565

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0566

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60. Ninth Interim Report, 32.
61. Sixth Interim Report, 25.
62. Ninth Interim Report, 31.
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0569

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31. Frank Friel and John Guinther, *Breaking the Mob* (New York: McGraw-Hill, 1990).

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33. Department of Labor Office of the Inspector General, 1996 Report, http://www.oig.dol.gov/public/reports/sar/sar0996/olr2.htm.

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35. 92 Civ. 7744 (RPP) (S.D.N.Y. 1992).

36. *United States v. HEREIU,* Civ. No. 95-4569 (D.N.J. 1995).

37. Kurt W. Muellenberg, Final Report as Monitor of HEREIU, August 26, 1998, 2. Available at http://www.heretics.net.

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41. The five locals placed in trusteeship by Muellenberg were Local 122 in Milwaukee; Local 69 in Secaucus, N.J.; Local 4 in Buffalo; Local 57 in Pittsburgh; and AFL-CIO Nursing Home Council in Buffalo. Two (Local 122 and Local 69) held elections and were removed from trusteeship by the end of Muellenberg's term as monitor (Muellenberg 1998, 52–53). These actions in tabular form can be found at http://www.ipsn.org/HEREIU_Table.htm.

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0570

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57. *United States v. Local 1804-1 et al.,* consent judgment for Local 1804-1, 3.

58. Ibid., 8.

59. *United States v. Local 1804-1 et al.,* consent decree for Local 1814, 2–3.

60. See *United States v. Local 1804-1 et al.,* 44 F.3d 1091, 1094 (2d Cir. 1995).

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63. *United States v. DiGilio,* 86 Cr. 340 (D.N.J.)(DRD), aff'd mem., 870 F.2d 652 (3d Cir. 1989), vacated and remanded, 110 S. Ct. 2162 (1990).

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65. *United States v. Liborio "Barney" Bellomo et al.,* Cr. No. 01-416 (S-8) ILG (2002).

66. *U.S. v. Arthur Coffee, Harold Daggett and Albert Cernades,* 04 CR 651 (5-1) (IILG) (E.D.N.Y. 2004).

0571

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0572

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0580

Index

Page numbers including an asterisk refer to a footnote.

60 Minutes (TV show), 103–104
100 Years of Organized Crime in New York City (Peterson), xx*
560 Free Press, The (newspaper), 169

AAGCU (Americans Against Government Control of Unions), 95
Abadinsky, Howard, xxi–xxii
Abbatemarco, John, 184
Accardo, Tony, 27, 28, 46, 47–48, 126, 213, 222
Ackerman, Harold: IBT Local 560 case, 19, 32, 100, 158, 161, 165–169, 168*, 170, 171, 176–178, 180, 181–182
Adamic, Louis, xvi, xx
Adelstein, Bernard, 44, 67–68
AFL (American Federation of Labor), 77–81, 82–83, 99
AFL-CIO (American Federation of Labor-Congress of Industrial Organizations), 3, 8, 46, 53, 55, 82–99, 192, 204
AFL-CIO Nursing Home Council (Buffalo), 294n41
AFSCME (American Federation of State, County, and Municipal Employees) District Council 37, 248
Agathos, John, 219, 221
Agathos, John, Jr., 219, 221
Agone, Joseph, 52
Aiuppa, Joey, 45, 125, 205, 213
AIW (Allied Industrial Workers), 87*, 88, 88*
Allied Industrial Workers (AIW), 87*, 88, 88*
Allied Trades Union, 84
Allied Union of Security Guards and Special Police, 52
Amalgamated Clothing Workers Union, 25, 81
Amalgamated Meat Cutters and Butcher Workmen of North America, 52–53, 60, 74–75
American Arbitration Association, 110
American exceptionalism, xi, 256–259
American Federation of Labor (AFL), 77–81, 82–83, 99
American Federation of Labor-Congress of Industrial Organizations. *See* AFL-CIO
American Federation of State, County, and Municipal Employees (AFSCME) District Council 37, 248
Americans Against Government Control of Unions (AAGCU), 95
Amodeo, Anthony, 217
Amodeo, Anthony, Jr., 217
Anastasia, Albert, xix, 49, 125*
Anastasio, Anthony (aka Anastasia), xix, 26, 49–50, 73
Anderson, Eugene, 154
Anderson, Howard, 211
Andretta, Stephen, 163, 166, 167*, 181*
Andretta, Thomas, 163, 165
Angellino, Vincent "Jimmy," 191*
Anti-Racketeering Act of 1934, 115–116
Apalachin conclave (1957), 10, 23
Argersinger, Harry, 10*
Aronowitz, Stanley, 267n33
Aronwald, Bill, 72
Association for Union Democracy (AUD), xxiii, xxiv, 112, 232, 251, 251*

Bakery and Confectionery Workers, 84, 86, 99
Balistrieri, Frank, 125, 205

0581

Banes, Douglas, 196–197
Bartolomeo, James, 173
Bearse, Michael S., 221
Bechtle, Louis C., 138, 146*, 157, 283n6
Beck, David, 63, 84*, 84–85, 88–89
Bell, Daniel, xviii*, xviii–xix
Bellino, Frank, 70
Bellomo, Barney, 190, 191
Bellomo, Liborio, 71
Bellomo v. United States, 117*, 140*
Benson, Herman, xxiv, 109, 112
Bernstein, Irving, xiv*
Bertucci, U.S. v., 120
Biers, Carl, 232
Bilotti, Thomas, 72
Bishop, Jimmy, 110
Bitondo, Attilio, 69
Blakey, G. Robert, xv, xxi, xxiv, 13, 139*
Blasters and Drill Runners Local 29, 70
Bloch, Robert, 146*, 284n13
Blood and Power (Fox), xxi
Bonanno, Bill, 267n28
Bonanno crime family, 53, 58, 75
Bowers, John, 73, 112, 229, 230, 236
Bowling and Billiards Academy Employees Union Local 94, 30
Boyle, Tony, 92, 247
Boyle, "Umbrella" Mike, 78
Braisted, De Veau v., 14
Brancato, Jerome, 236
Brandle, Thomas, 79
Brescia, Lorenzo, 75
Brewster, Frank, 89
Bribes, xii, 33
Bridges, Harry, 10**, 12*, 82*, 99
Briguglio, Gabriel, 163, 166, 167*
Briguglio, Salvatore, 162, 181*
Brindell, Robert, xv, 34, 78
Brown, Garrett E., 215, 216, 217–218
Brown, Peter, 161, 175, 179
Bruno, Angelo, 27
Bruno, Robert, 8*, 212*
Bruno crime family, 29, 214
Bruno/Scarfo crime family, 46
BSEIU (Building Service Employees International Union), xvi, 30, 87
Buchalter, Louis "Lepke," xx, 25
Builders and Allied Craftsmen Local 1, 71
Building Service Employees International Union (BSEIU), xvi, 30, 87
Burke, E. Harold, 209–210
Business unionism, xix, 21, 81, 81*
Busting the Mob: United States v. Cosa Nostra (Jacobs, Panarella and Worthington III), xxiv
Buzzanca, Thomas, 73

Cacace, Joel, 72
Cacace, Joel, Jr., 72
Cafaro, Vincent, 40
Cannon, Howard, 43, 125
Capone, Al, xv, xvii, xxii, 26, 29, 47, 131
Carberry, Charles, 146, 154, 206, 207–208, 210
Carey, Hugh, 51
Carey, Ron, 111, 209–210, 210*, 236
Carpenter, The (newsletter), 189–190, 194
Carpenters for a Democratic Union International (CDUI), 200
Carpenters Union. *See* UBC (United Brotherhood of Carpenters)
Carson, Donald, 231, 232
Caruso, Bruno, 225
Castellano, Paul, 47, 53, 57, 72
Castellano, Peter, 53
Castellito, Anthony, 162, 163, 164, 165
Castelman, Daniel, 74
Castro, Fidel, 257
Cavalieri, Samuel, 70
Cavanaugh, Robert, 194
Caviano, Sam, 224*
Cavone, Robert, 224
CDUI (Carpenters for a Democratic Union International), 200
Cement and Concrete Workers locals, 70
Central Federated Union, 78
Central States Pension Fund. *See* CSPF
Century, Douglas, 67–68
Cerone, Jackie, 125
Chaikin, Sol C., 60
"Charleston Five," 112
Chertoff, Michael, 224
Chicago Crime Commission, 130–131
Chicago Laborers District Council, 284n13
Ciccone, Anthony "Sonny," 51, 73, 74, 230, 231, 233, 236
Cilento, Sol, 87
CIO (Congress of Industrial Organizations), 8, 81–82, 82–83, 84, 256

0582

CISF (Construction Industry Strike Force), 130
Civella, Nicholas, 27, 28–29, 43
Civiletti, Benjamin, 132, 210
Clarke, Eugene, 200
Clemente, Michael, 50, 73
Closed shops, 13*, 78
Cody, John, 70, 103–104
Cohen, Bernard, 197
Coia, Arthur E., 27, 49, 98, 222–223, 224, 225
Colombo crime family, 47, 58, 64, 72, 109*, 138, 191, 191*, 217
Communism, 258
Conboy, Kenneth, 183, 187–198, 198*, 210
Congress of Industrial Organizations (CIO), 8, 81–82, 82–83, 84, 256
Construction Industry Strike Force (CISF), 130
Convoy Dispatch (newsletter), 111
Cooley, Robert, 9*
Copeland, Roy, 115
Copeland Committee, 114, 115
Copolla, Mike, 70
Coppola, Ralph, 65, 191, 191*, 191**
Corallo, Anthony "Tony Ducks," 15, 28, 70, 130*, 205
Corallo, Gerald, 70
Cornell Institute of Organized Crime, xxiv
Corridan, John M., xviii
Corruption & Racketeering in the NYC Construction Industry (OCTF), xxi, 57
Corruption and Racketeering in the Labor Movement (Taft), xix
Corruption and Reform in the Teamsters Union (Witwer), xxii
Cosa Nostra ("our thing"), xi*, 2–3, 4–5, 23–39, 121, 162, 176–181, 261. *See also* Organized crime
Coscia, Paul, 66
Costello, Frank, 9, 258
Cotler, Irving, 163
Cowan, Rick, 67–68
Craft unions, 7, 36
Crandell, Grant, 210
Crapanzano, Patsy, 70
Crea, Steven, 71, 199
Cressey, Donald R., xii
Crime commissions, 130–131
Crime on the Labor Front (Johnson), xvii–xviii
Crime Without Punishment (McClellan), xii*, 23
Crisis of American Labor (Lens), xix–xx
Cross, James G., 86
CSPF (Central States Pension Fund), 27, 28, 43, 44, 118, 125, 126
Cunningham, Daniel, 52
Cuomo, Mario, 51, 129–130

Daggett, Harold, 236
Dalitz, Moe, 28
Daly, George, 72
Davidoff, Harry, 63
Davidoff, Mark, 63
De Veau v. Braisted, 14
Debevoise, Dickinson R., 171–173, 177, 180
Debs, Eugene, 21
Decavalcante crime family, 31
Dellacava, Steven, 66
Deloitte & Touche, 181
Democratic Party, 257, 260
Department Store Employees Union Local 291, xix*
DePetris, Ronald, 155
DeRoss, Jack, 217
DeRoss, Jamie, 72
DeRoss, John, 72
Deveraux, Martin, 71
Devine, Frederick, 184, 191, 191*, 191**, 194, 196–197, 198*, 201
Dewey, Thomas E., xx*, xxii, 1, 10, 12*, 34, 45, 79, 128–129
Di Genova, Joseph, 210
Dial Poultry, 53
DiBiasi, Thomas, 171
Dildine, J. W., 163, 166
DiNapoli, Louis, 185, 186
DiNapoli, Vincent, 65, 71, 72, 126, 184, 185
Dioguardi, Johnny ("Johnny Dio"): Beck and, 63; biography, xxii; Capone and, 29; convictions of, 129, 131–132; Hoffa (Jimmy) and, 15, 29, 42–43, 63, 89; IBT Local 295, 63; Kissel and, 75; Lucchese crime family, 29, 42, 70; McClellan on, 15; Riesel and, 29*, 106**; UAW-AFL Local 102, 87–88
Distillery Workers Union, 87, 99
Dobbs, Farrell, 11, 11*

0583

Dock and Pier Carpenters Union, 78
DOJ (U.S. Department of Justice): CSPF investigation, 126; efforts to purge organized crime from the labor movement, xxiii; FBI, 16, 122–123; IBT, 204; Organized Crime and Racketeering Section, 16–17, 17–18, 123, 124, 240; PCOC, 44–45, 53, 54; RICO, 18; RICO civil suits winning percentage, 143; strike forces, 16–17, 19, 124; U.S. attorneys, 16, 122–123
DOL (U.S. Department of Labor): anti-labor racketeering budget, 98; CSPF investigation, 126; Elbaor and Gold on, 94–95; IBT Local 560, 178; Landrum-Griffin Act, 123; Office of Labor-Management Standards (OLMS), 98, 119; Office of Labor Racketeering (OLR), 127; PCOC, 54; response to labor racketeering, 2, 126–127; RICO trusteeships, 239–240
Dorfman, Allen, 44, 44*, 125
Dorn Transport Company, 164
Double breasted shops, 33
Douglas, Paul, 118
Douglas Committee, 118
Drywall Tapers and Pointers Local 1974, 30
Dubinsky, David, vii, 79–80, 81, 99
Dubofsky, Melvyn, xiv*
Dues check-offs, 32–33
Durham, R. V., 209
Dynamite: The Story of Class Violence in America (Adamic), xvi

Edelstein, David, 96, 156–157, 158, 206–209, 210**, 212, 234
Edge: Organized Crime, Business and Labor Unions (PCOC), xxiii, 40, 55–56, 203, 213
Eggleston, Neil, 223–224, 284n21
Eisenhower, Dwight, 13, 90
Elbaor, David, 94–95
Embezzlement, xii, 33, 208
Employee Retirement Income Security Act (ERISA), xiii, 15, 53, 118
Employer cartels, 34
Employers: as cooperating witnesses, 117; corporate fraud, 254, 255; Cosa Nostra, 34, 35; to FBI, 12; gangsters, xvi, xx, 8, 24; labor racketeering, xi–xii, xvii–xviii, xx, 40, 256, 257; opposition to left-wing labor organizations, 8–9; opposition to unions, 256; red-baiting by, 8
End of Ideology (Bell), xviii*
Enemy Within (Kennedy), xii*, 15
ERISA (Employee Retirement Income Security Act), xiii, 15, 53, 118
Estreicher, Samuel, xiii*
Expos Local 829, 66

Failla, James, 67–68
Fay, Joey, xv, 129
FBI (Federal Bureau of Investigation): alliances with Cosa Nostra, 257; budget allocations, 296n11; DOJ, 16, 122–123; Hoffa assassination, 17–18; Hoffa (James P.), 213; Hoffa (Jimmy), 11; IBT Local 560, 178; LILREX investigation, 125–126; LIUNA investigation, 126; in New York City, 12–13; PENDORF (Penetration Dorfman), 125; priorities, 115, 253; response to labor racketeering, 2, 10–13; RICO civil suits, 259; RICO trusteeships, 239–240; STRAWMAN investigation, 125; suppression of radical unionists, 11, 11*; term for Cosa Nostra, xi*; UNIRAC investigation, 50–51, 124–125, 228, 228*
Fecarotta, John, 48
Federal Government's Use of the RICO Statute and Other Efforts Against Organized Crime (Senate hearings), xxiii
Federal Government's Use of Trusteeships under the RICO Statute (Senate hearings), xxiii
Fein, Benjamin ("Dopey Bennie"), xx
Fera, Vince, 294n42
Fifth Amendment, 46, 192, 194, 195, 215
Fighting Organized Crime: Politics, Justice and the Legacy of Thomas E. Dewey (Stolberg), xx*, xxii
Fiorino, Anthony, 191*, 191–193, 196, 200
Fitzsimmons, Frank, 17, 28, 43, 106, 111*, 124
Fiumara, Tino, 73
Flaherty, Peter, 222
Flanagan, James F., 215–216
Flegenheimer, Arthur ("Dutch Schultz"), xvi, 25, 129

0584

Foceri, Luigi, 70
Forde, Michael, 71, 198–199, 200, 201
Fosco, Angelo, 27, 47–48, 49, 126, 222
Fosco, Peter, 27, 47, 222
Fosco, Peter (Angelo's son), 222*
Fox, Stephen, xxi
Friedman, Harold, 205*, 208
Fulton Patrol Association, 62

Gaffey, Robert, 232
Galante, James, 75
Gambino, Carlo, 26, 67, 68, 125*
Gambino, Thomas, 61, 61*
Gambino crime family: bosses, 73, 186*; *capodecinas,* 125; capos, 49, 67, 132; Ciccone and, 51; family members, 74; HEREIU Local 100, 217; HEREIU locals, 47; ILA, 227–228, 233; ILA Local 1814, 231; ILGWU Local 102, 60; indictments of, 72; Javits Convention Center, 64; meat industry, 53; MTA Local 102, 61; Murder Incorporated, 49; New York waterfront, 50; PCOC, 53; Port of New York shipping, 72–73; RICO civil suit, 227, 236; underbosses, xxii, 74
Garment Workers' Union. *See* ILGWU
Genovese, Vito, 4*
Genovese crime family: bosses, 29; capos, 19, 34, 51, 65, 73, 170; Expos Local 829, 66; Fulton Fish Market, 61–62; Greater New York Waste Paper Association, 67; HEREIU Local 69, 221; IBT Local 560, 162–163, 164, 171; ILA, 50*, 227–228, 233; ILA Local 1814, 231; independent unions, 52; indictments of, 72; Javits Convention Center, 64, 183; Kings County Trade Waste Association, 67; Moscatiello and, 30; New York City District Council of Carpenters, 184–185, 197; New York ILA locals, 29; New York waterfront, 50; NYC District Council of Carpenters, 65–66; Parrello Crew, 69, 201–202; Port of New York shipping, 72–73; Provenzano Group, 164; Provenzano (Tony) and, 19, 34, 162, 165; RICO civil suit, 227, 236; Sciarra and, 172; soldiers, 52; UBC Local 17, 190; United Seafood Workers Local 359, 62; waste-hauling industry, 67–68
Gerace, Frank, 46, 214, 215
Giacalone, Anthony, 17***, 124, 282n33
Giardina, Louis, 71
Gigante, Vincent "Chin," 29, 68, 68*, 70, 95, 205, 233
Gingrich, Newt, 98
Giovinco, Frank, 68*
Giovinco, Joe, 68*
Giuliani, Rudolph (Rudy), xxv, 19–20, 127–128, 204–205
Gleason, John, 30
Gleason, Robert, 229, 231
Gleason, Thomas (Teddy), 50
Glockner, Walter, 162, 164
Gold, Laurence, 94–95, 96, 98
Goldberg, Michael, xxiv, xxv
Goldberg, Stephen B., 225
Goldstock, Ronald, xv, xxi, xxiv, 13, 130*
Gompers, Samuel, 77–79
Gonzales, Edwin, 31
Goodfellas (film), 63*
Gotti, John, 73, 186*
Gotti, Peter, 233, 236
Gow, Douglas, 223–224, 284n21
Granello, Peter, 173–174, 174
Gravano, Salvatore (Sammy, "the Bull"), xxii, 35, 57, 67, 74, 191*
Greater New York Waste Paper Association, 67
Green, William, 79–81
Greenberg, Max, 82

Haight, Charles S., Jr., 183, 190, 192–194, 198
Hammond, Steve, 224
Hanley, Edward: Accardo and, 46; building named for, 220; government's deal with, 219, 220*; HERE, 27; HEREIU international case, 218; HEREIU Local 54 case, 215, 216; HEREIU presidency, 45–46, 213–214; investigation of, 219; Muellenberg on, 213; the Outfit, 214, 219; resignation from HEREIU, 220, 220*, 234
Hanley, Gene, 69
Hanley, Thomas W., 219
Harper, Michael, xiii*
Harvey, Patrick, 194, 195
Hatch, Orin, 204
Helms Express, 164

0585

HEREIU (Hotel and Restaurant Employees International Union), 27, 45–47, 114, 138–139, 145–146, 150, 213–221, 234–235
HEREIU Local 1, 294n42
HEREIU Local 4, 294n41
HEREIU Local 6, 47
HEREIU Local 54, 29, 46–47, 150, 214–217
HEREIU Local 57, 294n41, 294n42
HEREIU Local 69, 219, 221, 294n41
HEREIU Local 100, 47, 150, 217
HEREIU Local 122, 294n41
Hiatt, Jon, 98
Hickman, Robert L., Sr., 294n42
Hill, Eleanor, 93*
Hill, Henry, 63**
Hillman, Sidney, 25, 81
History of the American Worker (Bernstein), xiv*
Hobbs Act (1946), 54, 116–117, 117*, 164, 186, 280n5
Hoffa, James P., 111, 154, 175, 209, 210, 212–213, 231
Hoffa, James R. (Jimmy): biographies, xxii; conviction of, 123; Cosa Nostra, 28; Dalitz and, 28; Dioguardi and, 15, 29, 42–43, 63, 89; disappearance/murder (1975), xxiv, 2, 12, 17*, 17–18, 106, 115, 124, 175, 258; Dobbs and, 11; *The Edge* on, 43; extortion trial (1962), 17*; FBI, 11; Fitzsimmons and, 17, 124; Giacalone and, 17***, 124, 282n33; IBT presidency, 15, 28, 42–43, 76, 84; IBT vice-presidency, 63; Kennedy (Robert F.) and, 15, 17, 119; McClellan Committee, 84; McClellan on, 15; Midwestern teamsters, 11; misuse of union resources, 89; Nixon's pardon of, 17*, 124; Provenzano and, 17***, 124, 162; son, 111; successor, 106; to Williams, 203
Hogan, Frank, 87, 129
Holland, Michael, 146, 206, 208–209, 210, 216
Holmes, Robert, Sr., 205
Hoover, J. Edgar, 2, 10–11, 12, 17, 115, 122, 123, 257
Hotel and Restaurant Employees International Union. *See* HEREIU
Housewreckers Union Local 95, 70
Hruska, Roman, 121
Hughes, Anthony, 208
Humphreys, Murray "Curly," 26, 27
Hutcheson, Maurice, 92
Hutchinson, John, xx–xxi

Iannello, Matthew ("Matty the Horse"), 170, 171*
IATSE (International Alliance of Theatrical Stage Employees), 27, 27*, 59
IBL (International Brotherhood of Longshoremen), 83
IBT (International Brotherhood of Teamsters, Chauffeurs, Warehousemen & Helpers of America), 203–213; in 1980s, 100; AFL-CIO, 88–89, 93, 204; CIO, 84; construction industry racketeering, 70; General Executive Board (GEB), xxv, 44, 203, 205, 206; HEREIU compared to, 45; Hobbs Act violations, 164; Independent Review Board (IRB), 111, 154, 206, 209–210, 212–213; journalistic/scholarly attention, xxii; Landrum-Griffin Act, 94; locals allegedly controlled by organized crime, 56; New England locals, 29; New York City locals, 58–59; PCOC, 42–45, 212; pension fund (*see* CSPF); presidential election (1996), 111, 210; presidents, 28, 43, 63, 84*, 207; Project RISE, 56, 210***, 210–212, 213; proposals for amending RICO, 97; raiding other unions, 89; remedial effort, 235; RICO civil suit, 19–20, 95–97, 142, 146, 153, 154, 156, 163–182, 204–213, 234; Teamsters for a Democratic Union (TDU), 8*, 110–111, 209, 251*
IBT, U.S. v., xiii, 155*
IBT Central States Joint Council, 28
IBT Joint Council, 27, 28
IBT Joint Council 16, 59, 70
IBT Joint Council 41, 28
IBT Local 41, 28
IBT Local 116, 31
IBT Local 138, 109*
IBT Local 239, 70
IBT Local 272, 25
IBT Local 282, 57, 59, 70
IBT Local 295, 58, 62–63, 146, 153, 168–169
IBT Local 410, 28
IBT Local 416, 28
IBT Local 560, 161–182; Ackerman and, 19,

0586

32, 100, 158, 161, 165–169, 168*, 170, 171, 176–178, 180, 181–182; dissident members, 32, 162, 172; elections, 170–171, 175, 195; president, 32, 124, 161; Provenzano and, 19, 32, 124, 131, 162–163, 165, 181; RICO civil suit, xxiv–xxv, 3–4, 19, 32, 100, 146, 158, 160, 161–166; RICO trial, 143, 158, 177, 241; RICO trusteeship, xxv, 146, 155, 166–182, 202, 212; size, 19, 161; Stier and, 146, 160, 161, 168*, 168–170, 172, 174*, 174–176, 177–182
IBT Local 560, U.S. v., 182
IBT Local 580, 59, 70
IBT Local 705, 212*
IBT Local 807, 31, 59, 64–65
IBT Local 813, xxii, 44, 59, 67–68, 208
IBT Local 843, 168
IBT Local 851, 58, 63, 63*, 154, 155
IBT Local 966, 31
IBT NYC Joint Council, 29, 43
IBT Ohio Teamsters Conference, 28
IIWU (International Iron Workers' Union), 79
ILA (International Longshoremen's Association), 227–234; AFL, 82–83; Anastasio and, xix; "Charleston Five," 112; Genovese crime family, 50*, 227–228, 233; Meany and, 91–92; New York City locals, 59–60; organized crime, 51; PCOC, 49–51; public loading, 14, 14*; RICO civil suit, 227–228, 234, 236–237; Ryan (Joseph) and, xviii–xix; Scotto and, 73, 132; shape ups, 14; UNIRAC, 50, 124–125, 228, 228*; Waterfront Commission, 14
ILA Local 1, 60, 74
ILA Local 824, 59, 73, 229–230
ILA Local 1235, 74, 233
ILA Local 1317, 28
ILA Local 1588, 60, 73, 231–232, 234
ILA Local 1804, 60, 73
ILA Local 1804-1, 228–229, 233
ILA Local 1809, 59, 73, 229–230
ILA Local 1814, 26, 50–51, 59, 73–74, 229–230, 231, 233
ILA Local 1909, 59, 73, 229–230
ILGWU (International Ladies' Garment Workers' Union), 25, 79–80, 81, 167
ILGWU Local 102, 58, 60–61
ILWU (International Longshoremen's and Warehousemen's Union), 82*
Impellitteri, Vincent, 258
Imperfect Union: A History of Corruption in American Trade Unions (Hutchinson), xx–xxi
Incisco, Angelo, 88
Incumbent racketeers, 102–104, 249
Independent unions, 31, 52–53
Industrial racketeering, xiv–xv
Industrial unions, 7–8
Industrial Workers of the World (IWW), 11
Internal Revenue Service (IRS), 53, 54
International Alliance of Theatrical Stage Employees (IATSE), 27, 27*, 59
International Brotherhood of Electrical Workers Local 134, 78
International Brotherhood of Longshoremen (IBL), 83
International Brotherhood of Teamsters, Chauffeurs, Warehousemen & Helpers of America. *See* IBT
International Brotherhood of Teamsters, U.S. v., xiii, 155*
International Iron Workers' Union (IIWU), 79
International Ladies' Garment Workers' Union (ILGWU), 25, 79–80, 81, 167
International Longshoremen's and Warehousemen's Union (ILWU), 82*
International Longshoremen's Association. *See* ILA
International Painters Union Local 102, 80
International Union of Operating Engineers (IUOE), 72, 84, 129
International unions, 2, 42, 105, 114
Interstate and Foreign Travel in Aid of Racketeering Act (Travel Act, 1961), 120
Iron law of oligarchy, 255
IRS (Internal Revenue Service), 53, 54
IUOE (International Union of Operating Engineers), 72, 84, 129
IUOE Local 14, 59, 72
IUOE Local 15, 59, 72
IUOE Local 66, 59, 72
IWW (Industrial Workers of the World), 11

Jackiewicz, Frank, 168–169, 178
Jacobson, Joel R., 167*, 167–168, 168*, 169, 178

0587

Jaffe, Joseph, 230
Jaronko, Stanley, 163, 170
Jensen, Vernon H., 227
Jewish organized crime figures, 25
Johnson, Malcolm, xvii–xviii
Juliano, Nicholas, 173
Jurisdictional strikes, 13*

Kaboolian, Linda, 171*
Kaufman, Irving, 42
Kazan, Elia, xviii
Kefauver, Estes, 9
Kefauver Committee, 114
Keleher, James P., 219
Kennedy, John F., 17, 123, 267n28
Kennedy, Robert F., xii*, 15, 16–17, 119, 120, 123
Kennedy-Ervin Bill (1959), 90
Kennedy-Ives Bill (1958), 90
Kings County Trade Waste Association, 67
Kirkland, Lane, 56, 92–96
Kissel, Frank, 75
Kobler, John, xxii, 27
Koch, Ed, 129
Konigsberg, Harold, 162
Korshak, Sidney, 27, 44
Kossler, James, 211–212, 231
Kubecka, Jerry, 68
Kubecka, Robert, 68
Kwitny, Jonathan, 74–75

La Botz, Dan, 100, 103, 109*
La Cosa Nostra. *See* Cosa Nostra
La Pietra, Angelo, 125
Labor Czars: A History of Labor Racketeering (Seidman), xv–xvi, 24
Labor Law: Cases, Materials and Problems (Harper and Estreicher), xiii*
Labor Law, Cases and Materials (Summers et. al.), xiii*
Labor Management Relations Act (LMRA). *See* Taft-Hartley Act
Labor Management Reporting and Disclosure Act (LMRDA). *See* Landrum-Griffin Act
Labor Notes, 251*
Labor racketeering: American exceptionalism, xi, 256–259; consequences/significance of, 20–22, 259–261; cost to monitor, 255; criminal prosecutions for, xxi, 40, 139, 176–177, 181; definition, xi, 1; entrenchment/staying power, xiii, 1, 83, 102, 255, 256; evolution of, 4–5, 35–36; extent, 41, 56; hearings about, 13–15, 114–115, 133–137; *modus operandi*, xvii, 1–2, 29–32, 208; murders/violence associated with, xii, 102, 106–108; passive tolerance, 141; primary victims, 100; scholarship about, xii–xxv, xxiii; turning point in fight against, 17; value of, 34–35
Laborers' International Union of North America. *See* LIUNA
Lacey, Frederick, 153, 156, 206–209
Landesco, John, xiv–xv, 25
Landrum-Griffin Act (Labor Management Reporting and Disclosure Act, 1959): AFL-CIO, 91, 94; distrust of government, 77; enforcement, 123; IBT, 94, 205; IBT Local 560, 165; McClellan Committee hearings, xii–xiii, 119; New York City District Council of Carpenters, 186; passage, 15; PCOC, 54; provisions, 15, 90–91, 119*, 119–120, 120*, 120**; trusteeships imposed on locals, 105; union elections, 104
Lansky, Meyer, 4*
Lanza, Joseph ("Socks"), 25–26, 61**, 131
Lanzafame, Santo, 71
"Last of the Business Rackets" (Bell), xviii
Laurie, Alfred, 175
LCN (La Cosa Nostra). *See* Cosa Nostra
Leedham, Tom, 111
Left-wing labor organizations, 8–9, 11, 11*, 260*
Lens, Sidney, xix*, xix–xx, 12*
Leonetti, Philip, 215
Lewis, John L., 81, 90
Licavoli crime family, 28
LILREX investigation, 125–126
Lindelhoff, Lawrence P., 80
Lindsay, John, 51
Little, Mary Shannon, 217
LIUNA (Laborers' International Union of North America), 221–227; Accardo and, 27, 222; Appellate Officer, 284n21; consent decree, 236; construction industry racketeering, 70–71; cost of remediation efforts, 154, 235; FBI investigation, 126;

0588

FORE (Fear of Reprisal Ends), 103–104; Hearing Officer, 284n21; Inspector General, 284n21; internal reform program, 223–226, 235, 284n10, 284n21; New England locals, 29; New York area locals, 31; New York City locals, 59; organized crime, 114; the Outfit, 48; PCOC, 47–49; presidents, 27, 97–98, 225; RICO civil suit, 97–98, 105–106, 106*, 221–227, 234; RICO trusteeship, 146*, 225, 235
LIUNA Central States Joint Health Board and Welfare Trust Fund, 48
LIUNA Local 1, 48
LIUNA Local 5, 48, 226
LIUNA Local 6A, 59, 70, 128, 154
LIUNA Local 8, 48, 224
LIUNA Local 13, 59, 70–71
LIUNA Local 18A, 59, 70
LIUNA Local 20, 59, 70
LIUNA Local 23, 59, 71
LIUNA Local 29, 59, 70, 227
LIUNA Local 46, 59, 71
LIUNA Local 59, 59, 71
LIUNA Local 66, 59, 70
LIUNA Local 91, 227
LIUNA Local 95, 59, 70
LIUNA Local 177, 227
LIUNA Local 210, 146, 224
LIUNA Local 282, 103–104
LIUNA Local 734, 227
LIUNA Local 942, 105
LIUNA Local 1030, 31
LMRA (Labor Management Relations Act/Taft-Hartley Act). *See* Taft-Hartley Act
LMRDA (Labor Management Reporting and Disclosure Act). *See* Landrum-Griffin Act
Local 30, United Slate, Tile and Composition Roofers, Damp and Waterproof Workers Association, U.S. v., 138
Local unions, 6–7
Lockwood Committee, 78
Lombardo, Joe, 125
Lonardo, Angelo, 28, 205
Longshoremen's Union. *See* ILA
Lore, Joseph, 73
Lucchese crime family, 29, 42, 53, 62–63, 68, 70, 110, 126, 130*
Luciano, Charles ("Lucky"), 4*
Luskin, Robert, 154, 222*, 223–226, 224*, 235, 283n7, 284n21

Maas, Peter, xxii, 35, 57
Mack, Walter, 200, 200*
Mafia. *See* Cosa Nostra
Mafia Encyclopedia (Sifakis), 25
Maloney, Andrew, 231
Maranzano, Salvatore, 4*
Marion, Joseph, 70
Maritas, Teddy, 65, 71, 125–126, 184, 185
Marra, Robert, 173–174
Mason and Dixon Lines, 164
Mason Tenders District Council, 224, 226, 239*
Mason Tenders locals, 70–71
Master Truckmen of America (MTA), 60, 61
Mathis, Weldon, 205
McCarron, Douglas, 196, 197, 198
McCarthy, William, 28, 126, 207
McClellan, John, xii*, 15, 18, 23, 121, 123, 258
McClellan Committee hearings (1957-1959): AFL-CIO Ethical Practices Committee, 86; Beck and, 84–85, 88–89; books based on, xii*, xx, xxii; Chicago restaurant industry, 45; ERISA, xiii; Hoffa and, 84; labor racketeering as an issue, 2; Landrum-Griffin Act, xii–xiii, 119; Meany and, 1, 84–85; scope, 14–15; waste-hauling industry, 67
McCormick, William J., xviii
McCullough, John, 46
McDonald, Edward, 212
McGinley, Thomas, 175
McGuinness, Paschal, 65, 71, 184, 185–186, 194
McGuire, Robert, 232
Meany, George, 1, 82–85, 86, 89, 91–92, 99
Meat Trade Institute, 75
Meese, Edwin, 20
Michels, Robert, 250
Miciotta, Salvatore, 183
Miller, Ed, 27
The mob. *See* Cosa Nostra
Mob, The (Peterson), xxi
Mobbed Up: Jackie Presser's High Wire Life in the Teamsters, the Mafia and the FBI (Neff), 203

0589

Montalvo, Nick, 103
Moody, James, 23
Morgenthau, Robert, 248
Morrin, P. J., 79
Morrissey, John, 70, 72
Moscatiello, Louis, 30, 72
Motion Picture Operators Union (MPOU), 26
MPOU (Motion Picture Operators Union), 26
MTA (Master Truckmen of America), 60, 61
Muellenberg, Kurt W., 138, 146, 159, 213, 217–221, 294n41
Mueller, Robert S., 296n11
Murder Incorporated, 49
Muscarella, U.S. v., 140*

Nader, Ralph, 111
Natale, Ralph, 214, 215, 216
National Institute of Justice, 240
National Labor Relations Act (NLRA/Wagner Act), 6, 9*, 24–25, 25*, 54, 260
National Labor Relations Board (NLRB), 6, 9, 53, 54, 119
National Legal and Policy Center (NLPC), 221–222
National Organization for Women, Scheidler v., 140*
National unions, 6–7
Neff, James, xxii, 203
New Jersey Casino Control Commission, 214
New Jersey Division of Gaming Enforcement, 214, 215
New York City, 57–75; building trades/construction, xxi, 57, 59, 68–72, 125–126 (*see also* New York City District Council of Carpenters); crime families in, 4–5, 57, 58, 127; FBI in, 12–13; fish industry, 52; Javits Convention Center, 32, 59, 64, 183, 185, 191–193, 200; meat industry, 52, 74; parking garage workers, 30; poultry industry, 52; U.S. judicial districts in, 16; waste-hauling industry, xxii, 44, 59, 67–68; waterfront, xviii–xix, 49–50, 51, 82, 91, 227
New York City Cartmen's Association, 67
New York City District Council of Carpenters, 183–202; Javits Convention Center, 32, 59, 185, 191–193, 200; labor racketeering prosecutions, 65–66; presidents, 125, 184; RICO civil suit, 4, 146, 185–202; RICO trusteeship, xxv–xxvi, 146. *See also* UBC (United Brotherhood of Carpenters)
New York–New Jersey Waterfront Commission, 50, 91
New York Shipping Association (NYSA), 229
New York State Crime Commission, 50
New York State Organized Crime Task Force (OCTF), xv, xxi, 57, 69–70, 129–130, 130*
New York State Teamsters Conference Employee Welfare and Pension Benefit Plan, 162
Newspaper and Mail Deliverers Union, 6, 75
Nixon, Richard, 17*, 124
NLPC (National Legal and Policy Center), 221–222
NLRA (National Labor Relations Act/Wagner Act), 6, 9*, 24–25, 25*, 54, 260
NLRB (National Labor Relations Board), 6, 9, 53, 54, 119
No-show jobs, 33
Norris-LaGuardia Act (1932), 5*
Nunn, Sam, 93, 93*
NYSA (New York Shipping Association), 229

O'Connor, John, 65, 185–186, 186*
OCRS (Organized Crime and Racketeering Section, U.S. Department of Justice), 16–17, 17–18, 123, 124, 240
OCTF (Organized Crime Task Force, New York State), xv, xxi, 57, 69–70, 129–130, 130*
O'Dwyer, William, 258
Office of Labor-Management Standards, U.S. Department of Labor (OLMS), 98, 119
Office of Labor Racketeering, U.S. Department of Labor (OLR), 127
O'Leary, Howard E., 218
OLMS (Office of Labor-Management Stan-

0590

dards, U.S. Department of Labor), 98, 119
OLR (Office of Labor Racketeering, U.S. Department of Labor), 127
Olson, Jack, 86
"On the Waterfront: RICO and Labor Racketeering" (Blakey and Goldstock), xxiv
On the Waterfront (film), xviii, xix, 258
Operative Plasterers and Cement Masons' International Association Local 530, 30
Organized crime: American labor movement, 254–256; Apalachin conclave (1957), 10; business unionism, xix; Cosa Nostra compared to other groups, 36; crime commissions, 130–131; Democratic Party, 257; difficulties investigating/prosecuting, 10; federal law enforcement, 3, 18, 122–128; HERE, 114; Hoover and, 10–11; IBT, 56; ILA, 51, 114; international unions, 114; labor racketeering, xi, xx; LIUNA, 114; local law enforcement, 3, 9–10, 128–129; state law enforcement, 128–129. *See also* Cosa Nostra
Organized Crime (Abadinsky), xxi–xxii
Organized Crime and Racketeering Section, U.S. Department of Justice (OCRS), 16–17, 17–18, 123, 124, 240
Organized Crime in Chicago (Landesco), xiv–xv, 25
Organized labor. *See* Unions
Orgen, Jacob, 25
O'Rourke, John, 70
O'Sullivan, Terrence, 225
Outfit: The Role of Chicago's Underworld in the Shaping of Modern America (Russo), xxii
Outfit (Chicago crime group), 27, 30, 45, 47, 48, 213, 214, 219, 267n28

Pacific Intermountain Express Company, 164
PACs (Political Action Committees), 23
Pagano, Daniel, 71
Pagano, Patsy D., 71
Painters Union District Council 9, 59, 72, 109–110
Palmer, Alexander Mitchell, 10**
Palmer Raids, 10**
Panarella, Christopher, xxiv
Parello crew (Genovese crime family), 69, 201–202
Patriarca, Raymond, 29
Patriarca crime family, 207
PCOC (President's Commission on Organized Crime), xxiii, 27, 40–56, 203, 204*, 212–213
Pedowitz, Lawrence, 155, 239*
Pegler, Westbrook, xvi
Pendergast, Tom, 9
PENDORF (Penetration Dorfman), 125
Pennsylvania Crime Commission, 131
Pension and welfare funds, 6, 118. *See also* CSPF (Central States Pension Fund)
Peterson, Virgil, xx*, xxi
Petrizzo, Thomas, 191*
Piccolo, Anthony, 215
Pileggi, Nicholas, 63*
Pimpinella, Anthony, 73
Pisano, Anthony, 87
Plasterers Local 530, 59, 72
Plumbers Union Local 638, 59, 72
Political Action Committees (PACs), 23
Potter, John, 229
President's Commission on Organized Crime (PCOC), xxiii, 27, 40–56, 203, 204*, 212–213
Preska, Loretta A., 210**, 211, 234
Presser, Jackie, xxii, 28, 43, 204*, 205, 207
Presser, William "Big Bill," 28, 43, 44
Professional Drivers Council, 111
Project RISE, 56, 210***, 210–212, 213
Provenzano, Josephine, 163
Provenzano, Nunzio, 163, 164, 165, 166
Provenzano, Salvatore, 163, 167*
Provenzano, Tony ("Tony Pro"): admiration for, 177; biography, xxii; consent agreement, 165; conviction of, 131; Genovese crime family, 19, 34, 162, 165; Hoffa and, 17***, 124, 162, 175; IBT Local 560, 19, 32, 124, 131, 162–163, 165, 181; imprisonment, 176–177; portrait, 169; real estate purchase, 181*; Romano and, 181*
Provenzano Group, 163–182
Public loading, 14, 14*
Puccio, Thomas, 146

0591

Queens County Trade Waste Association, 67
Quindell, Barbara, 210

Rabbitt, Michael, 64–65
Rabbitt, Robert, Sr., 64–65
Racketeer Influenced and Corrupt Organizations Act of 1970. *See* RICO
Rank and File Rebellion (La Botz), 109*
Rank-and-file union members, 100–113; apathy, 195; dissidents among, 3, 31–32, 102, 105–106, 113, 158, 162, 172; distrust of government, 6, 77, 98, 247, 262; reformers, 104–105, 110–112, 113, 235–236; RICO trusteeships, 160; rights against corrupt union leaders, 258; voting racketeers out of office, 225
Rarback, Martin, 72
Raskin, A. H., 12*
Rauh, Joseph, 76
Razza, Anthony, 63, 63*
Reagan, Ronald, 27, 27*, 41–42, 43, 77, 204*
Red-baiting, 8, 8*, 103
Regional councils, 7
Report on Organized Crime and the Labor Unions (Vaira and Roller), 114, 132
Restaurant and Cafeteria Workers Union, 25
Restaurant and Cafeteria Workers Union Local 6, 34
Restaurant and Cafeteria Workers Union Local 322, 34
Retail, Wholesale and Department Store Union (RWDSU), 82
Reuter, Peter, xv
Reuther, Walter, vii, 21, 81–82, 99
Reynolds, Thomas, Sr., 163
Ricca, Paul, 27
Ricciardo, Vincent, 72
RICO (Racketeer Influenced and Corrupt Organizations Act of 1970): advocates for using it against labor racketeers, xxiv; Blakey and, xxiv, 139*; civil remedies, 18, 122; DOJ, 18; draftsman of, 139*; Goldstock and, xxiv; passage, 121, 259; potential as an anti-racketeering weapon, 139, 241–248, 252, 259; proposed amendments, 97; provisions, 18, 19, 121–122, 139–140, 187; RICO "enterprise," 164, 186; Senate hearings about, xxiii
RICO civil suits, 138–145; commission case, 127–128; complaints, 139–142, 222, 241, 247; consent decrees, 146, 177, 178, 187–190, 205–208, 212*, 215, 217, 229–230, 236, 239*; documentation of, 157; effectiveness, 160; fair elections, 248–250, 262; FBI, 259; first suit, 3, 127; Gambino crime family, 227, 236; Genovese crime family, 227, 236; HEREIU, 138–139, 145–146, 217–220; HEREIU Local 54, 214–217; HEREIU Local 100, 217; Hobbs Act, 116–117; IBT, 19–20, 95–97, 142, 146, 153, 154, 156, 163–182, 204–213, 234; IBT Local 295, 146; IBT Local 560, xxiv–xxv, 3–4, 19, 32, 100, 143, 146, 158, 160, 161–166; IBT Local 851, 63*; ILA, 227–228, 234, 236–237; investigators, 247; LIUNA, 97–98, 105–106, 106*, 221–227, 234; necessity for, 238; new leadership, 179, 250, 251–252; New York City District Council of Carpenters, 4, 146, 185–202; PCOC, 53; predicate offenses, 140–141, 186–187, 222; reforming a union, 247–248; remedial phase, 246; settlements, 241; supplemental consent decrees, 239*; threat of, 234; trials, 143, 158, 177, 241
RICO trusteeships, 145–160, 238–253; advantages/disadvantages, 138; AFL-CIO, 95–98; alternatives to, 96; constitutional right of association, 96; HEREIU, 145–146, 150, 218–219, 220, 234–235; IBT Local 560, xxv, 146, 155, 166–182, 202, 212; justifications for, xxiv, xxv; LIUNA, 146*, 225, 235; New York City District Council of Carpenters, xxv–xxvi, 146; number of, xxvi, 19; powers to act, 142; Roofers Local 30/30B, 146*, 157, 283n6; Senate hearings about, xxiii; success of, xxv, xxvi, 252, 261; trustee compensation, 153, 168–169, 188, 198, 207, 283n7; UBC Local 17, 190
Riesel, Victor, 29*, 106
Rockman, Milton, 125
Rockman, Thomas, 125
Rodino, Peter, 42
Roller, Douglas, 114, 132

0592

Romano, Benito, 238
Romano, Carmine, 62
Romano, Peter, 62
Romano, Thomas, 164, 181*
Roofers Union Local 30/30B, 46, 143, 146*, 155, 157, 241, 283n6
Rosensweig, "Joe the Greaser," xx
Rosetti, Gabriel, 146*
Ross, Benjamin, 52
Ross, Nancy, 294n42
Rostenkowski, Daniel, 294n42
Roth, William, 46
Rothstein, Arnold, xx, 25
Rudman, Warren, 94
Ruotolo, Enrico, 71, 190, 200
Russo, Gus, xxii, 26
RWDSU (Retail, Wholesale and Department Store Union), 82
Ryan, Joseph, xviii–xix, 12*, 117
Ryan, Thomas, 229

Saccenti, Louis A., 74
Sadlowski, Ed, 76
Salerno, Tony ("Fat Tony"), 205
Sanzo, Louis, 70
Savino, Peter, 70
Scalise, George, xvi–xvii, 25, 30, 87
Scarfo, Nicodemo "Little Nicky," 29, 46, 214, 215
Scheidler v. National Organization for Women, 140*
Schonfeld, Frank, 109–110
Schulberg, Budd, xviii
Sciarra, Daniel, 171–172, 173, 179, 180, 195
Sciarra, Daniel (Daniel & Michael's nephew), 175
Sciarra, Michael, 163, 167*, 169, 170–175, 172*, 179, 180, 195
Scopo, Joseph, 70
Scopo, Ralph, xxii, 70
Scopo, Ralph, Jr., 70
Scotto, Anthony, xxii, 50–51, 73, 125, 125*, 132, 228*, 230
Seafood Workers Union, 26
Securities and Exchange Commission equivalent, 248, 255
Seidman, Harold, xv–xvi, 24, 26, 129*
Senate Permanent Subcommittee on Investigations, 51, 93, 93*, 96, 114–115, 132, 214–215
Senate Select Committee on Improper Activities in the Labor or Management Field. *See* McClellan Committee hearings
Serpico, John, 48, 224, 226, 226*
Shape ups, 14
Shapiro, Jacob "Gurrah," xx, 25
Shea, Walter, 209
Sheridan, Joseph, 163, 166, 167*, 170–172, 172*, 180
Sheridan, Mark, 171, 173
Sifakis, Carl, 25
Simon, Leonard, 191, 192, 200
Sims, Curtis, 86
Sinno, Salvatore, 165, 177
Solano, Vincent, 48
Sombrotto, Vincent, 31
Squillante, Vincent, 67
Stanfa, John, 216
State and Labor in Modern America (Dubofsky), xiv*
State and the Unions (Tomlin), xiv*
Stewart, Robert, 170–174, 177, 180, 182, 232
Stier, Anderson & Malone, xxii
Stier, Edwin: IBT Local 560 case, 146, 160, 161, 168*, 168–170, 172, 174*, 174–176, 177–182; Project RISE, 56*, 210***, 210–212; resignation from ILA, 231
Stolberg, Mary, xx*, xxii
STRAWMAN investigation, 125
Strike forces, 16–17, 19, 124
Strike insurance, 33–34
Stuart, George, 86
Suburban New York Regional Council of Carpenters, 69, 202
Sullivan, Daniel F., 218
Summers, Clyde, xiii*, xxv, 238
Sutherland, Edwin, xii
Svedese, Marcello, 186, 191*
Sweeney, John, 97
Swoboda, Frank, 227

Taft, Philip, xix, xx
Taft-Hartley Act (1947), 6, 13, 13*, 77, 91, 117, 192
Taft-Hartley plans, 118
Takedown: The Fall of the Last Mafia Empire (Cowan and Century), 67–68

0593

TDU (Teamsters for a Democratic Union), 8*, 110–111, 209, 251*
Teamsters: Perception and Reality (Stier, Anderson & Malone), xxii, 211
Teamsters for a Democratic Union (TDU), 8*, 110–111, 209, 251*
Teamsters for Liberty (TFL), 170, 173, 180
Teamsters Union. *See* IBT
Textile Workers Union, 81
TFL (Teamsters for Liberty), 170, 173, 180
Thomas, Norman, 21
Thompson, James R., 219
Thornburgh, Richard, 17**
Thurman, Strom, 42
T.I.M.E., Inc., 164
Timpanaro, John, 73
Tomlin, Christopher, xiv*
Trafficante, Santo, 126
Travel Act (Interstate and Foreign Travel in Aid of Racketeering Act, 1961), 120
Trerotola, Joseph, 70
Truman, Harry, 6

UAW (United Automobile Workers), 167
UAW Local 102, 87–88
UAW-AFL (United Auto Workers Union), 87*, 87–88
UBC (United Brotherhood of Carpenters), 71, 184*, 185, 188, 196–197, 198. *See also* New York City District Council of Carpenters
UBC District Council, 71
UBC Local 11, 69
UBC Local 17, 59, 71, 185, 190
UBC Local 257, 195, 196
UBC Local 531, 196
UBC Local 608, 59, 65, 71, 185, 193–194, 198–199, 200
UBC Local 964, 69
UDC Local 11, 202
UDC Local 964, 202
UMWA (United Mine Workers of America), 81, 92
Underboss (Maas), 57
Union busting, 168*, 262
Union democracy: Association for Union Democracy (AUD), xxiii, xxiv, 112, 232, 251, 251*; denial of union democracy rights, 117*; importance of, 250–251; Labor Notes, 251*; LIUNA, 226; recriminations against spokesmen for, 76; RICO, xxiv; RICO trusteeships, 240; Teamsters for a Democratic Union (TDU), 8*, 110–111, 209, 251*
Union Democracy in Action (newsletter), xxiii
Union Democracy Review (newsletter), xxiii
Unions: decline, 267n33; denunciations of racketeering, vii, 81–82, 99; evolution of, xxvi; government prosecution of, 95; history, 5–7; infiltration by Cosa Nostra, 36–37; labor racketeering, 259–261; legitimacy of, 260; membership fees, 66*; membership in, 20; pro-union sentiment, 262; reforming a union, 247–248; regime change, 251–252; response to labor racketeering, 2–3, 76–99; susceptibility to racketeers, xxi, 7–8, 36, 81, 254–259; trusteeships imposed on locals by international unions, 105; union strongmen, 247–248. *See also* Rank-and-file union members
UNIRAC investigation, 50–51, 124–125, 228, 228*
Unite HERE, 221
United Auto Workers Union (UAW-AFL), 87*, 87–88
United Automobile Workers-AFL, 42
United Automobile Workers (UAW), 167
United Brotherhood of Carpenters. *See* UBC
United Mine Workers of America (UMWA), 81, 92
United Paperworkers International Union (UPIU), 88*
United Parcel Service, 209
United Seafood Workers Local 359, 58, 61–62, 131
U.S. attorneys, 16, 122–123
U.S., Bellomo v., 117*, 140*
U.S. Department of Justice. *See* DOJ
U.S. Department of Labor. *See* DOL
U.S. Internal Revenue Service (IRS), 53, 54
U.S. Supreme Court, 214
U.S. v. [Defendant]. See case name under defendant's name
United Textile Workers of America (UTWA), 84, 85–86
Unrepentant Radical (Lens), xix*

0594

UPIU (United Paperworkers International Union), 88*
UTWA (United Textile Workers of America), 84, 85–86

Vaira, Peter, 114, 132, 223, 224*, 225, 284n21
Valachi, Joseph, xi*
Vallee, Alfred, 173–174
Vario, Paul, 63, 71
Vario, Peter, 70
Vario, Peter A., 71
Vicious Circles (Kwitny), 74–75
Vinall, Rollin P. "Bud," 222

Wagner, Robert, 51
Wagner Act (National Labor Relations Act/NLRA), 6, 9*, 24–25, 25*, 54, 260
Walsh Trucking and Consolidating Company, 171
Warren, Earl, 10**
Washburn, Lester, 88
Waterfront Commission Act (1953), 13–14
We the People (newspaper), 170
Webster, William H., 146, 209
Welfare and Pension Plan Disclosure Act (WPPDA, 1959), 118
Welsh, Robert, 146*
Westies, the, 72–73, 227
White, Chris, 105–106, 106*
Wilhelm, John W., 219–220
Williams, Roy, 28–29, 43, 125, 203, 205
Wilson, Woodrow, 78
Wiseguy (Pileggi), 63*
Witwer, David, xvi–xvii, xxii, 103**, 103–104
Wolf, Frank, 61
Woll, Matthew, 80–81
Worthington, Jay, III, xxiv
WPPDA (Welfare and Pension Plan Disclosure Act, 1959), 118

Yablonski, Jock, 76, 92, 106, 247

Zelig, "Big Jack," xx

0595

About the Author

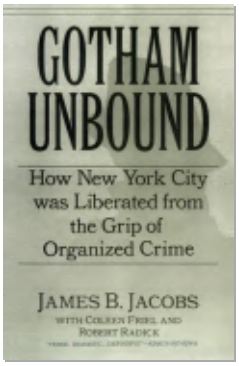
JAMES B. JACOBS is Warren E. Burger Professor of Law and Director, Center for Research in Crime and Justice, New York University School of Law. A lawyer/sociologist, Jacobs writes widely on criminal justice topics including prisons, corruption, hate crime, and organized crime. This book is the fourth volume in a long-term research project to document and analyze the status of organized crime and organized crime control in the last quarter of the twentieth century and the first decade of the twenty-first century. Each volume stands on its own, offering a particular perspective on different facets of Cosa Nostra's political and economic power and the government's post-1970s criminal and civil remedial efforts.

0596

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with Coleen Friel and Robert Radick

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From JBJ to Jan

From CF to Mom and Beth, for all your support, and
to the memory of my father, who is so sorely missed

From RR to Mom, Dad, and Lindsay

0603

Contents

	Acknowledgments	ix
1	An Introduction to the Place and the Players	1
	I The "Mobbing-Up" of New York City	11
2	A Cosa Nostra Outfit: Seven Decades of Mob Rule in the Garment District	15
3	Fishy Business: The Mafia and the Fulton Fish Market	33
4	The Taking of John F. Kennedy Airport	48
5	Exhibiting Corruption: The Javits Convention Center	65
6	Carting Away a Fortune: Cosa Nostra and the Waste-Hauling Industry	80
7	Building a Cosa Nostra Fiefdom: The Construction Industry	96
8	Conclusion to Part I	116
	II The Liberation of New York City	129
9	Liberating the Garment District	135
10	Freeing the Fulton Fish Market	146
11	Purging the Mob from John F. Kennedy Airport	164
12	Ridding the Javits Convention Center of Organized Crime	176
13	Defeating Cosa Nostra in the Waste-Hauling Industry	190

0605

14 Cleansing the Construction Industry 206

15 Conclusion to Part II 223

Notes 235
Glossary of Names 289
List of Indictments and Judicial Decisions 307
Select Bibliography 311
Index 315
About the Authors 329

0606

Acknowledgments

The seeds for this book were planted in the late 1980s when I was collaborating with the New York State Organized Crime Task Force on its investigation and analysis of corruption and racketeering in the New York City construction industry. It was obvious at that time that Cosa Nostra's entrenchment in the construction industry had analogs in a number of other businesses, industries and economic sectors. I thought then and continue to think now that a single volume laying out Cosa Nostra's role in the New York City economy would provide an important perspective on Cosa Nostra, New York City, and the urban history of the United States. In any event, I owe my friends and former colleagues at OCTF a great debt of gratitude for enlightening me about organized crime and industrial racketeering. Thus, my thanks once again to Joe DeLuca, Ron Goldstock, Wilda Hess, Marty Marcus, Robbie Mass, Toby Thacher, and all the other members of the OCTF team. Ron Goldstock deserves a special expression of gratitude. He has encouraged, stimulated, informed, criticized, and assisted every step of the way—he's an extraordinary friend and colleague.

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0607

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James B. Jacobs
New York City
December 1998

0608

1

An Introduction to the Place and the Players

COSA NOSTRA IS the largest, most sophisticated, most powerful, and most remarkable crime syndicate in the history of the United States. For reasons that this book makes clear, it is unlikely that any other crime syndicate, at least in the foreseeable future, will play anything like the role that Cosa Nostra has played in our nation's social, economic, and political life. Yet, for reasons this book also makes clear, Cosa Nostra's survival into the next millennium, in anything like its twentieth-century form, can be seriously doubted.

This book deals with Cosa Nostra's entrenchment in New York City's economy and with federal, state, and local governments' omnibus and unprecedented efforts to liberate New York City from Cosa Nostra in the last two decades of the twentieth century. Part I spotlights six major businesses or industries in New York City that have been "mobbed-up" for decades, in some cases for most of the century. Part II examines the federal, state, and local organized-crime control strategies that have achieved significant success in purging Cosa Nostra from the city's social, economic, and political life. The List of Names at the back of the book provides the reader a quick and easy way to identify all the criminals and crime controllers mentioned throughout the book.

With respect to organized crime, New York City is not unique. While the names of the Cosa Nostra families and other details differ from city to city, the main themes of the story we tell for New York City could also be told for Boston, Buffalo, Chicago, Cleveland, Jersey City, Kansas City, Las Vegas, Los Angeles, Miami, New Orleans, Newark, Philadelphia, and many other large and small U.S. cities. In every one of these cities Italian organized-crime groups have a long history of extensive industrial and labor racketeering and of having functioned as important players in urban politics and in the urban power structure.

0609

Therefore, we believe that this book casts light on the urban history of the United States, not just on New York City.

Any study of twentieth-century U.S. urban economics or politics ought to include major chapters on Cosa Nostra, yet, in the past, many of them have not, perhaps because there is a brick wall between criminology and political science. We need to tear down the wall and build a bridge. We hope that this book will make it more difficult for urban scholars, whatever their discipline, to ignore the importance of organized crime in the twentieth-century lives of American cities.

NEW YORK CITY

New York City hardly needs introduction.[1] It is and has been, since the early nineteenth century, the nation's largest city in terms of population and urban economy. It consists of five boroughs: Manhattan, Bronx, Queens, Brooklyn, and Staten Island. The organized-crime racketeering recounted in this book took place in all five boroughs. There have always been neighborhoods in each of the boroughs where organized-crime figures live, socialize, and conduct business. Each of the five New York City–based Mafia families operates in all five boroughs.

New York City has a huge and diverse economy. (Its 1997 "gross city product" amounted to a staggering $330 billion.) For most of the twentieth century, it was an industrial giant and waves of new immigrants were absorbed by its factories. By the 1980s, the city's industrial base had substantially declined, and its economy had become postindustrial, dominated by the banking and finance and securities industries. Not only is New York City the nation's financial and legal center, it is also the center for fashion and the arts. It has a huge multibillion-dollar construction sector. Until the 1950s, it had the busiest seaport in the United States. Even today more cargo is shipped through John F. Kennedy Airport than through any other airport in the nation. The wholesale food markets attract retailers from all over the metropolitan area, and even the region. Its service industries, like waste hauling, are also large, lucrative, and complex. Its convention center, while no longer the largest in size, is still one of the country's most important and prestigious.

Politically, New York City is solidly Democratic; Democrats outnumber Republicans by more than six to one. Almost all the city's

0610

elected officials (with the significant exception, since 1994, of Mayor Rudolph Giuliani) are Democrats. For most of the twentieth century the local Democratic Party was dominated by Tammany Hall, a powerful political club that thrived on patronage and corruption. In the 1940s and 1950s, Cosa Nostra boss Frank Costello was a major powerbroker in Tammany Hall and in New York City's political scene. Since the demise of Tammany Hall in the 1960s, the Democratic Party has been far less cohesive. Politics is no longer dominated by political clubs and party bosses. As is true of American politics generally, parties are much less important than they once were; that means that interest groups are more so. In New York City, unions are among the leading interest groups. Throughout the twentieth century, New York City has been a union town and there is a very strong link between the unions and the Democratic Party. Labor unions consistently endorse Democratic candidates and contribute money and personnel to their campaigns.

Organized crime has long been a blight on the labor movement in the city. Many union locals and district councils have been dominated or strongly influenced by organized crime for decades. While there is little, if any, evidence that the organized-crime families directly received corrupt favors from politicians in exchange for financial and other support, we suggest that city politicians' and the city government's indifference to the growth and entrenchment of Cosa Nostra in the local economy at least intimates a comfortable modus vivendi. No mayoral administration (with the possible exception of Fiorello LaGuardia's) until the Giuliani administration made organized-crime control an important priority.

New York City, with approximately 310,000 full-time employees, has more employees per capita than any other U.S. city and spends more money per capita than any other. The city's operating budget for FY 1998 is $34 billion, larger than the budgets of all states except California and New York. This city provides more extensive services and engages in more extensive regulation than any other U.S. city. Nevertheless, until the Giuliani administration, the regulatory apparatus never focused on opposing, much less purging, organized crime.

New York City has one mayor, a unicameral city council, and a single police department. Each borough has its own independent district attorneys. Most of the organized-crime prosecutions and civil suits discussed in Part II were brought by federal prosecutors, but of

0611

those brought by the district attorneys, the Manhattan district attorney was by far the most active.

THE LAW ENFORCEMENT FRAMEWORK

New York City is home to a number of federal, state, and local law enforcement agencies. The U.S. Department of Justice has a U.S. attorney's office in every federal judicial district in the United States. There are two federal judicial districts in the city and therefore two U.S. attorney's offices: one in the Southern District of New York (S.D.N.Y.), in Manhattan; one in the Eastern District of New York (E.D.N.Y.), in Brooklyn. Each office is run by a U.S. attorney appointed by the president with the advice and consent of the U.S. Senate. The offices are staffed with dozens of assistant U.S. attorneys appointed by the two U.S. attorneys.

For most of the 1970s and 1980s, the Department of Justice also operated a number of organized-crime strike forces around the country; the federal Brooklyn Organized Crime Strike Force is referred to throughout this book. Early on the federal organized strike force in Manhattan was merged into the U.S. Attorney's Office, which thereafter handled organized-crime investigations and prosecutions along with its other responsibilities.

At the national level, the Federal Bureau of Investigation (FBI) is situated within the U.S. Department of Justice but operates more or less independently of the central department and the ninety-three U.S. attorneys. In other words, the FBI is responsible for criminal investigations and the U.S. attorneys are responsible for prosecuting cases; FBI agents do not take orders from U.S. attorneys and their assistants. For an organized-crime control program to operate effectively, both the FBI and the two U.S. Attorney's Offices had to be willing to make it a top priority and to cooperate with one another. In the 1980s, many joint ad hoc strike forces were formed between the FBI, the two U.S. Attorney's Offices, and—sometimes—other federal agencies as well as the New York City Police Department.[2] There are three FBI offices in the New York City area: Manhattan, Queens, and New Rochelle (a northern suburb). Until the late 1970s these offices operated quite independently, but as the organized-crime control program of the 1980s got into full swing,

0612

the offices' organized-crime investigations were coordinated under a single authority.

The FBI is a proactive law enforcement agency. It does not primarily respond to victims' complaints. It investigates crimes and crime problems that come to light in diverse ways, that violate federal law, and that are serious, high visibility, beyond the capacity of local law enforcement agencies, or simply outside any other agency's jurisdiction. The FBI has the capabilities to investigate these problems through the use of high-tech forensics, sting operations, undercover agents, informers, electronic surveillance, and financial-data analysis.

The FBI has a great deal of discretion as to which crimes or criminals it wishes to investigate. Unlike a city police department, it is in a position to prioritize, and must by necessity do so. Because it has great discretion in prioritizing, it can concentrate tremendous resources on particular crime problems. For decades, organized-crime control was not a high priority for the FBI. By the mid-1980s, it had become the top priority.

The FBI investigates and the U.S. attorneys prosecute conduct that violates federal law. At the beginning of the twentieth century, there were comparatively few federal crimes and only a small role for federal law enforcement.[3] Federal criminal law has since proliferated so dramatically that the FBI could find a legal basis for investigating a large percentage of crimes. RICO, the 1970 federal racketeering law, provided the FBI jurisdiction to investigate practically all suspected crimes committed by suspected organized-crime members and their associates.

The U.S. attorneys and assistant U.S. attorneys who work in New York City bring their cases to federal courts in either the Southern (Manhattan) or Eastern (Brooklyn) Districts of New York. The district court judges who preside over the courtrooms are appointed by the president with the advice and consent of the U.S. Senate; they have life tenure. Appeals from these federal courts are heard by the Second Circuit Court of Appeals. The only appeal beyond that is to the U.S. Supreme Court.

New York City's five district attorneys, nominated by their political parties, are elected to four-year terms by the citizens of their boroughs. They are independent of the mayor and of the New York State attorney general. In fact, they do not take orders from any higher authority, federal or state, and they are under no compulsion to cooperate with one another. To our knowledge, the five district attorneys, or even any two,

0613

have never joined in a coordinated organized-crime control program. Cooperation occurs strictly on a case-by-case basis.

The New York City district attorneys bring their cases to state courts. The supreme court is the highest level trial court; its judges are called justices. The justices are supposedly elected. But appointed "acting justices" outnumber their elected colleagues. Appeals are heard by an intermediate appellate court, the appellate division. Final appeal can be taken to the New York State Court of Appeals.

The New York City Police Department, with forty thousand officers, is by far the nation's largest. Like all front-line police departments, it is mostly reactive rather than proactive. Unlike the FBI, the NYPD must respond to all citizen reports of crime and to many service calls as well. Its top priority is street crime and order maintenance, not white-collar or organized crime, both of which are extremely labor-intensive and expensive to investigate. Nevertheless, the NYPD has more capacity for proactive and complex investigations than any other city police department in the United States. Its Organized Crime Bureau is long-standing and is staffed by some very experienced detectives. During the 1980s, there was unprecedented cooperation between the bureau and the FBI. In addition, it worked on some creative proactive investigations with the Manhattan District Attorney's Office.

In 1970, New York State created its own Organized Crime Task Force (OCTF). Although it had some limited successes during its early years, by the end of its first decade it was essentially moribund. In 1981, it was reorganized with headquarters in White Plains (a northern suburb) and field offices in Buffalo and Albany. Unlike the U.S. Attorney's Offices and the New York City District Attorney's Offices, after its restructuring the OCTF became a hybrid investigative and prosecutorial agency. During the 1980s and early 1990s, the heyday of the OCTF, the agency employed roughly twenty attorneys and fifty investigators, analysts, and accountants, as well as other professional staff, all working directly for the OCTF director.

The OCTF has statewide jurisdiction; it can carry out investigations and, with the consent of the local district attorney, bring state-court prosecutions anywhere in the state, including New York City. Until recently OCTF was independent of other federal, state, and local law enforcement agencies. Nevertheless, many of the organized-crime investigations referred to in Part II involved significant cooperation between the OCTF and federal and local investigative and prosecutorial offices.

0614

OCTF often handed its investigations over to federal or city prosecutors. On occasion, OCTF lawyers prosecuted cases themselves or were "cross-designated" as assistant U.S. attorneys or as assistant district attorneys.

COSA NOSTRA

There is a lively debate among scholars as to whether American Italian organized crime was transplanted from Italy or is an essentially American phenomenon.[4] Those who favor the transplant theory point to the strong Mafia tradition in Sicily and to the role of Sicilian immigrants in developing organized-crime groups in the United States in the first decades of the twentieth century. Those who favor a nativism theory point to the ways in which the Italian American organized-crime groups connect to American society and its economy. There is no reason to treat these as rival theories. It is entirely plausible to hold that Italian American organized crime has its roots in Italian and especially Sicilian society and culture and, over the years, has adapted to American society and taken on an a distinctly American cast.

It should be emphasized that the American Cosa Nostra and the Italian Mafia are not now and never have been a single organization or even two branches of a single organization. During the twentieth century, they operated as separate and distinct organizations, although they have cooperated in certain criminal ventures, principally drug trafficking, as in the famous "pizza connection" case.[5]

It is now common to trace the emergence of the modern-day Cosa Nostra to the early 1930s. Much of this history was revealed in 1963 by Joseph Valachi, the first Cosa Nostra member to go public and the first to explain that the Italian organized-crime groups referred to themselves as "Cosa Nostra."[6] In this book we use the terms *Cosa Nostra, Mafia, mob,* and *Italian organized-crime families* interchangeably.

According to Valachi, in early 1930, Joseph Masseria and his associates decreed a death sentence for any underworld figure who originated from the locality of Castellammare de Golfo, Sicily. The warfare that followed was known as the "Castellammarese War." One faction was led by Masseria and the other by Salvatore Maranzano. Other gangs and underworld leaders linked themselves to one of the two factions. Vito Genovese, Lucky Luciano, Dutch Schultz, and Al Capone

0615

supported Masseria. In 1931, Masseria was assassinated on Luciano's orders, just before he could carry out his plan to kill Maranzano. Masseria's death concluded the "Castellammarese War." Maranzano called a meeting of almost four hundred gangsters in order to create a structure and forge rules for the organized-crime groups. The jurisdiction of various organized-crime "families" throughout the United States was recognized. Maranzano himself was assassinated only months after this historic meeting.

In the 1920s and 1930s there were a number of ethnically based (e.g., Jewish, Irish, German) organized-crime syndicates in the United States. Underworld figures like Arnold Rothstein and Dutch Schultz were among the most powerful organized-crime overlords. With the important exception of Meyer Lansky and a number of other Jewish gangsters and a few Irish American syndicates (e.g., the Hill Mob in Boston and the Westies in New York City), the non-Italian organized-crime groups did not make the transition into the post-Prohibition world.

The Italian American organized-crime groups had been infiltrating legitimate business since the 1930s, perhaps earlier. They were active on both sides of the labor struggles of the 1930s and emerged with strong footholds in many important labor unions.[7] By the 1950s, Cosa Nostra had achieved virtual hegemony in the underworld of organized crime. Italian American organized-crime "families" were entrenched in twenty-four large American cities and, to a greater or lesser extent shook down and "licensed" other criminals and supplied illicit goods and services, like drugs, prostitution, usurious loans, and pornography. Perhaps even more importantly, in the large urban areas they infiltrated labor unions, businesses, and industries. In addition, they participated in (usually Democratic Party) politics; the history of the Cosa Nostra is intertwined with the history of the urban political machines.

It is a major thesis of this book that the Italian American organized-crime families have been involved in industrial racketeering since the early twentieth century and that it is this racketeering, and the economic power and social and political status associated with it, that makes these organized-crime groups different from other organized-crime groups in the United States.

In the mid-1980s, twenty-four Italian organized-crime families were identified as active in the United States. Of these, no city had more than one family except New York, which had five: Genovese, Gambino,

0616

Lucchese, Bonanno, and Colombo. FBI Director William Webster testified before the President's Commission on Organized crime (PCOC) in 1983 that there were approximately seventeen hundred "made members" of Cosa Nostra and perhaps ten times that number of associates. (Other estimates are as low as four associates for every made member.)

The 1967 Task Force on Organized Crime asserted that Cosa Nostra was a nationwide syndicate governed by a ruling "commission" comprising the bosses of the nation's most powerful families. In his 1983 biography, Joseph Bonanno also spoke about a nationwide commission.[8] However, other than a mysterious and bungled 1956 conference in Appalachin, New York, which was attended by Cosa Nostra figures from all over the country, we do not think there is empirical evidence to support its existence. It is best to think of Cosa Nostra as a melange of locally based crime families, each of which has exclusive jurisdiction in its territory.

This does not mean that there is no cooperation among the Cosa Nostra crime families. Indeed, electronic surveillance in the early 1980s revealed that the five New York City–based Italian American organized-crime families, or at least four of them, utilized a council or commission from time to time. But that commission's jurisdiction and authority are unclear. It functioned intermittently, like a court called upon to solve occasional disputes. Furthermore, from time to time crime bosses from outside New York City came to the city to consult with Tony Salerno, the apparent boss of the Genovese crime family,* about obtaining the New York City commission's assistance.

Each of the Cosa Nostra crime families is headed by a "boss" who exercises unchallenged authority (within the family) and whose position entitles him to a generous cut of all the members' revenues. The boss provides resources, sometimes including defense lawyers, for members and their families when needed. He also takes care of payoffs to politicians, police, and other officials necessary for keeping the family's operations running smoothly. In addition, he can approve or veto the proposal of one of his family's crews or individuals to embark upon a new criminal venture. Of course, the boss also represents the family at all interfamily "sit-downs" and negotiations.

*Until the end of the 1980s, law enforcement agencies believed that Salerno was the Genovese family boss. In the 1990s, it became apparent that Vincent "the Chin" Gigante had actually been the boss, but preferred to remain behind the scenes.

0617

The second in command, acting as a deputy for the boss, is the "underboss." The third position in the family's ruling triumvirate is a senior advisor known as "consiglieri" or counselor. The boss chooses a limited number of "capos" (caporegimes), each with authority over a "crew" comprising soldiers ("made members" of Cosa Nostra, sometimes referred to as "good fellows" or "wise guys") and associates. All members of Cosa Nostra are of Italian descent and all are male. Associates, often as crew members, work with and for Cosa Nostra members, but they do not enjoy the rights and prerogatives of membership.

In effect (as Ron Goldstock has pointed out), the Cosa Nostra families provide their members a license to engage in various criminal schemes; the boss and the family ensure that other criminals will not interfere. The family provides a dispute resolution mechanism in the event that a member or associate finds himself in conflict with another organized-crime figure. And the family provides force and the threat of force to enforce the members' "legitimate" interests. Finally, the family also provides a limited system of welfare support.

Cosa Nostra is a secret organization that swears its members to omerta, a code of silence. Cosa Nostra does not hold open meetings or issue earnings statements. It does not maintain corporate headquarters or offices; it does not keep meticulous books and records. Thus, until Joseph Valachi defected from the mob and went public in 1963, no Cosa Nostra member had ever admitted to the organization's existence, much less described its history, structure, rules, and activities. With the exception of Ianni and Reuss-Ianni,[9] sociologists and criminologists have not been able to carry out case studies of Cosa Nostra; nor does the subject lend itself to quantitative analysis.

Cosa Nostra's longevity can be attributed to the ability of each family to seek out, develop, and exploit a range of criminal opportunities, including but not limited to the corruption and control of national and local labor unions, the creation and enforcement of cartels (through bribery and extortion), the supplying of illicit goods and services, and the carrying out of thefts, frauds, and hijackings. Cosa Nostra's foothold in both the criminal underworld and the upperworld of legitimate business, unions, and politics distinguishes it from other United States organized-crime groups that may participate successfully in illicit markets but have been uninterested or unable to entrench themselves in labor, business, and politics.

0618

PART I

THE "MOBBING-UP" OF NEW YORK CITY

Part 1 consists of seven chapters. Chapters 2 through 7 each explain how Cosa Nostra infiltrated, wielded power in, and profited from a particular industry. Chapter 8 generalizes from the chapters that precede it and draws conclusions about Cosa Nostra's industrial racketeering.

We do not mean to leave the impression that the six industries are the only industries in New York City that have been infected with mob-orchestrated racketeering. Over the course of the twentieth century, Cosa Nostra has extended its tentacles into dozens of New York City–area industries. A 1930s investigation of organized crime in New York found a pervasive mob presence in the following industries: bead, cinder, cloth shrinking, clothing, construction, flower shops, Fulton Fish Market, funeral parlors, fur dressing, hod carriers, ice, kosher butchers, laundry, leather, live poultry, master barbers, milk, millinery, musical, night patrol, neckwear, newsstands, operating engineers, overall, paper box, paper hangers, shirtmakers, taxicabs, waterfront workers, and window cleaners.[1] Many of these industries no longer exist, and some that do still exist may no longer be influenced by the mob. It is clear, however, that organized crime's involvement in legitimate industry sweeps broadly and stretches over nearly a century.

0619

The absence of a chapter on Cosa Nostra's notorious role in the International Longshoremen's Association (ILA) and the loading and unloading of seaborne cargo on New York City docks requires a word of explanation. The six industries examined in this book provide a portrait of New York City's organized-crime families in the city's economy as of the 1980s. In short, we chose to shine a light on racketeering in New York City at a single point in time rather than provide the reader with a pastiche of racketeering at different times throughout the century. Chapters 2 through 7 might be thought of as a series of case studies of industrial racketeering. But the chapters ought to be read holistically: taken together, they aim to portray the status and activities of New York City's five organized crime-families circa 1980–1985.

Still, Cosa Nostra's notorious role in New York City's waterfront is worthy of mention. In the 1940s and 1950s, the Port of New York handled more tonnage by far than any port in the United States. The pinnacle of the mob's domination of the docks was the 1930s–1950s. The story was immortalized in the famous film *On the Waterfront* (1954; produced by Sam Spiegel and starring Marlon Brando). In addition, the mob's control of the docks was brilliantly analyzed by Harvard sociologist Daniel Bell in his classic essay "The Racketeer-Ridden Longshoremen."[2]

Cosa Nostra's waterfront power base was the ILA. In the 1940s and 1950s, Brooklyn Local 1814, the largest ILA local in the country, was headed by Cosa Nostra capo Anthony "Tough Tony" Anastasio, brother of Albert Anastasia,[3] boss of the Gambino crime family and the "key waterfront crime boss in Brooklyn."[4] When Anastasio died in 1963, control of Local 1814 passed to Anthony Scotto, a son-in-law, who flourished in the union, in organized crime as a capo in the Gambino crime family, and in New York City political circles. Cosa Nostra used its influence in the ILA to determine who worked on the docks and, most important, which boats were unloaded and when, and which of the waiting trucks were loaded and when. Shippers had to pay off the mob to ensure that their ships were loaded and unloaded and to avoid labor unrest. Furthermore, Cosa Nostra orchestrated extensive and systematic thefts from the shipping.

In the mid-1950s, the New York and New Jersey Waterfront Commission was established to purge the Mafia from the waterfront and to clean up other abuses.[5] The commission was not successful; FBI investigations in the 1970s found that organized crime dominated the ILA lo-

0620

cals up and down the East Coast. Today, in part because of Cosa Nostra's racketeering, very little shipping business remains in New York City.

Cosa Nostra exercised power in many other sectors of the economy. Historian John H. Davis, who has written extensively about organized crime, concludes that by 1965 Carlo Gambino, boss of the Gambino crime family, had amassed a conglomerate of interests in the legitimate business world:

> Gambino gained a lucrative foothold in Castro convertible furniture (exclusive control of mattresses used in Castro beds, and the trucking of Castro furniture from factory to showroom to retail outlets), Pride Meat supermarkets (run by his cousin and brother-in-law Paul Castellano), fuel oil trucking, pizza parlor equipment concerns, meat-packing companies—the list was endless.[6]

In 1979, *Wall Street Journal* reporter Jonathan Kwitny published *Vicious Circles,*[7] detailing Cosa Nostra racketeering in legitimate industries, including meatpacking, cheese importation, lunch carts, trucking, securities, alcohol, waterfront, cargo operations, and clothing manufacture in the metropolitan area. Kwitny described the intricate system of physical intimidation and economic coercion and cooperation that enabled the Cosa Nostra organized-crime families to establish themselves as integral players in the core industries of the city.

Even in the 1980s, the six industries covered in chapters 2 through 7 were not the only New York City industries or business sectors with an organized-crime presence. Had we unlimited space and the reader's unlimited patience, we could have included chapters on the moving and storage industry, linen service, restaurants, and nightclubs. Recently, Cosa Nostra has been active in street fairs and even in the securities industry.

The Feast of San Gennaro has taken place in Little Italy since 1916. It is New York City's largest and best-known street festival.[8] In 1996, following a joint investigation by the New York Police Department (NYPD) and the Federal Bureau of Investigation (FBI), a federal grand jury indicted nineteen members of the Genovese crime family for participating in the affairs of an enterprise (i.e., the family) through a pattern of criminal activity. The predicate offenses included fraud and extortion related to the annual San Gennaro festival. The indictment

0621

charged that the defendants skimmed money from the rent paid by vendors to the organizers of the street fair and defrauded the city on taxes.[9] While the indictment was pending, the Giuliani administration forced the San Gennaro Society, the festival's sole sponsor, to submit to review by a city-appointed monitor, John C. Sabetta. In his official report to the mayor, Sabetta charged that the society was not a genuine not-for-profit organization, that it violated the city's permit provisions, and otherwise failed to comport with its charter as a charitable organization.[10] In August 1996, the mayor replaced the society with a new sponsor and requested that the Roman Catholic Archdiocese oversee San Gennaro's finances to ensure that profits were donated to schools and parishes in lower Manhattan. Ultimately, James "Little Jimmy" Ida, the Genovese consigliere, and Nicholas Frustraci, a Genovese soldier, were convicted and sentenced to long prison terms.

In the 1990s, some Cosa Nostra members set their sights on Wall Street. High-ranking members of the Bonanno and Genovese crime families shook down the employees of a small brokerage firm to obtain large stock holdings at basement-level prices from a company called HealthTech. Allegedly, with the cooperation and support of HealthTech's CEO, Cosa Nostra members proceeded to inflate the trading price of the security and resell the shares to unsuspecting customers to whom the brokers had recommended the stock.[11] The scheme, called a "pump and dump," resulted in a $3 million loss to investors in seven states when the stock price fell precipitously. In 1997, the United States attorney for the Southern District of New York indicted seventeen individuals in a ninety-seven page, twenty-five count indictment for securities fraud, bank fraud, and extortionate activity.[12]

Having said that chapters 2 through 7 do not exhaust Cosa Nostra's activity in New York City's economy, we emphasize that Part 1 deals with the most important examples of Cosa Nostra's industrial racketeering. We aim to explain and document how Cosa Nostra relates to the unions and businesses in each of these industries, how it pulls money out, and how its operations flourished for so many decades without significant interference.

0622

2

A Cosa Nostra Outfit

Seven Decades of Mob Rule in the Garment District

> The maintenance of right conditions in New York's great garment industry has required eternal vigilance—not only of public officials but of labor organizations. . . . Despite the efforts of these agencies, some segments of the garment trade have become the spawning grounds for racketeers intent to make an illicit living off this enterprise. These elements sometimes gain a strong foothold in certain sections. . . . At times, violence and intimidation have donned the honorable cloak of unionism for the purpose of betraying it.[1]
>
> —Justice Samuel H. Hofstadter's opinion in *Barton Trucking Corp. v. O'Connell* (1958)

CHRONOLOGY

1920 Organized-crime boss Arnold Rothstein emerges as a major force in the Garment District. Clothing designers pay him to fight against labor unions, and labor unions pay him to derail company strikebreakers. When Rothstein is murdered in 1928, Louis "Lepke" Buchalter and Jacob "Gurrah" Shapiro take over his rackets and expand their power base to include ownership of design companies and control of trade associations and truckers' unions.

1950s The U.S. Justice Department investigates and prosecutes several trucking companies on antitrust charges. *United States v. Cloak and Suit Trucking Ass'n., Inc*. results in a consent decree, but enforcement is negligible and results unimpressive.

0623

1957 Midlevel city employee in the Office of the New York City Commissioner of Licenses denies license renewal to mob-dominated trucking firm. The city wins the ensuing court battle, but the agency does not follow up this regulatory initiative.

1972 The New York City Police Department wages an aggressive parking-ticket campaign against the trucking cartel. Gambino sues New York City for violating his Fourteenth Amendment due process rights. The ticket campaign is dropped as part of the settlement.

1973 Federal and local law enforcement agencies launch Project Cleveland, a sting operation that reveals the role of the International Ladies Garment Workers Union (ILGWU) Local 120 and the Master Truckmen of America in maintaining Cosa Nostra's trucking cartel in the garment industry. New Jersey mobster Anthony "Tony Pro" Provenzano is convicted, but other cases fail.

1982 New York state senator Franz Leichter issues a report detailing Cosa Nostra's control over New York City's garment industry. He charges that Joey Gallo, the Gambino crime family consigliere, controls the Greater Blouse, Skirt and Undergarment Association.

1987 Joey Gallo is convicted of bribery and given long prison sentence.

1988 The Manhattan District Attorney's Office launches a sting operation by establishing a Garment District trucking company and a Chinatown contracting company. Investigators record incriminating conversations between the Gambino brothers.

1992 In mid-trial, Joseph and Thomas Gambino plead guilty to a single antitrust count. They agree to pay $12 million in fines, leave the industry permanently, and allow a "Special Master" to monitor the sale of their companies and to monitor the industry. Former New York City police commissioner Robert McGuire is appointed special master for a five-year term. He and Michael Slattery institute major reforms, set up a victim's compensation fund, and closely monitor garment industry operations.

0624

1993 Thomas Gambino is convicted of racketeering, loan-sharking, and running illegal gambling operations in Connecticut and sentenced to five years in prison.

1997 Robert McGuire's five-year term as special master ends. He cites significant drops in trucking costs in the garment industry.

1998 The U.S. Attorney's Office for the Southern District of New York brings two separate indictments, both alleging the continuation of mob-run labor racketeering in the Garment District. One indictment charges the acting boss of the Lucchese crime family, Joseph "Little Joe" DeFede, and six other defendants, including New York attorney Irwin Schlacter, with imposing an annual "mob tax" of nearly half a million dollars on contractors and designers in exchange for labor peace. The second indictment charges five defendants, including a capo from the Genovese family and a capo from the Gambino family with extorting payoffs from a garment factory and its affiliates from 1991 through 1994.

Since the second half of the nineteenth century, the garment industry has been an important component of New York City's economy. The "needle trades" played a crucial role in absorbing millions of immigrants over the past century and a half. While tens of thousands of immigrants labored in sweatshops for minimal pay, many of them viewed employment in the Garment District as an opportunity to settle into American society and pursue entrepreneurial ambitions. Over time, the ethnic makeup of the workforce changed: in the 1840s, Irish and German workers dominated the garment trade; by the mid-nineteenth century, Jewish immigrants from Germany and Austria-Hungary were entering the industry in ever-increasing numbers. Russian and Polish Jews succeeded them, followed by Italians, African Americans, Puerto Ricans, Dominicans, and Chinese.[2]

In 1890, New York City's Garment District employed 83,000 people, and capital investments in the industry amounted to $630 million; in 1914, New York City employed 62 percent of the women's-apparel workers in the country.[3] The Garment District saw its heyday in the middle of the century, when it employed more than 300,000 people. While an expanding market for low-priced imported clothing eroded

0625

the city's dominant role in the decades that followed, the industry still employed 86,000 people in 1993.[4]

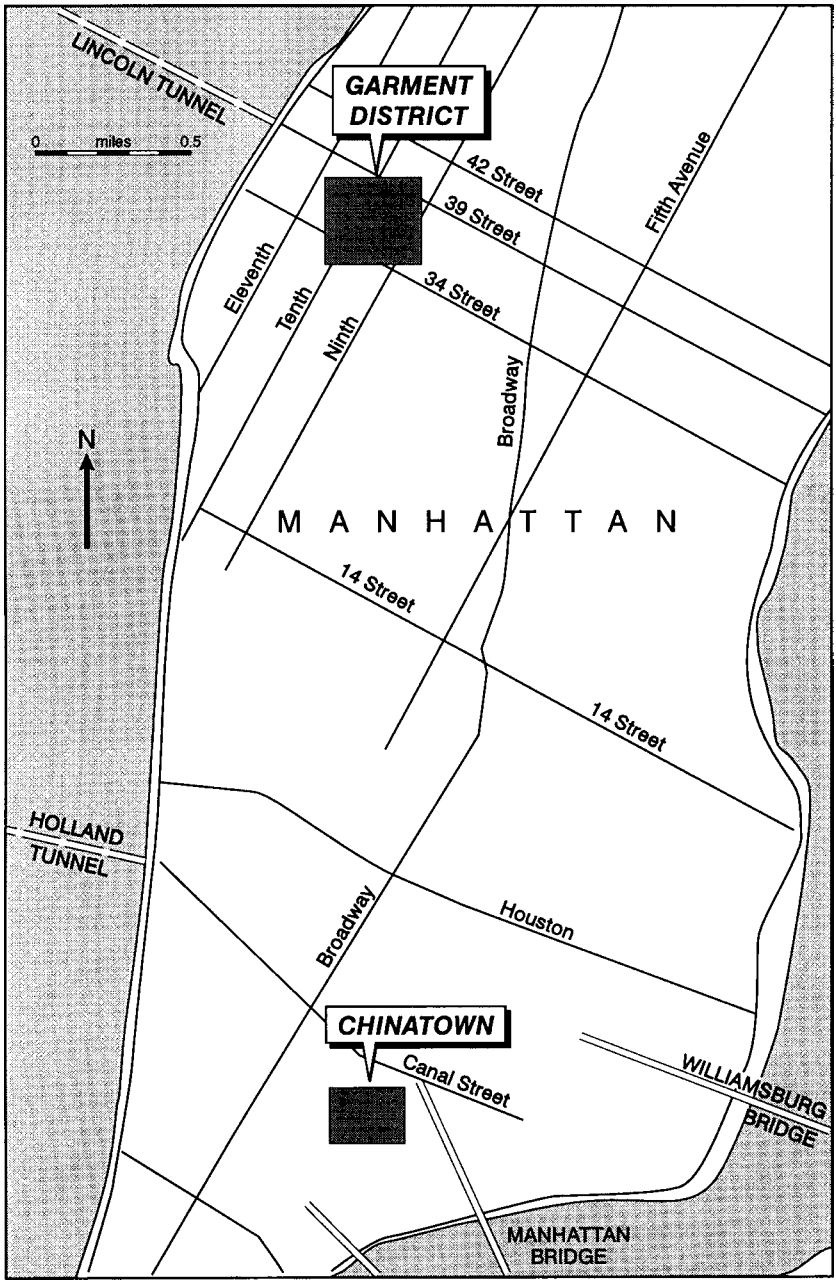
From the early twentieth century to the present day, the garment industry has proved fertile soil for organized crime. Arnold Rothstein, the first dominant organized-crime figure of the twentieth century, became involved in the industry when designer companies invited his thugs to crush emerging unions.[5] Rothstein ultimately played both sides of the fence by providing muscle to the unions. Following his murder in 1928, Louis "Lepke" Buchalter and Jacob "Gurrah" Shapiro took over his labor rackets and eventually gained full control over trade associations, truckers' unions, and designer firms.

Buchalter's and Shapiro's power was brought to the attention of the public by Thomas E. Dewey, who served as special prosecutor of the State of New York from 1935 to 1937, and as the Manhattan district attorney from 1938 to 1942. One of Dewey's biggest cases was the prosecution of Buchalter and Shapiro for extorting tens of millions of dollars from businesses.[6] Shapiro was convicted of extortion in the baking industry, another mob-dominated sector of the local economy. Federal prosecutors first tried and convicted Buchalter for racketeering in the fur industry; later, Dewey successfully prosecuted him for racketeering in the baking industry.[7] Ultimately, Brooklyn District Attorney William O'Dwyer convicted Buchalter of murdering Joseph Rosen, a truck driver in the garment industry who had cooperated with Dewey's investigations. Buchalter was executed in 1944.[8]

After the demise of Buchalter and Shapiro, Italian American organized-crime figures rose to power in the New York City garment industry. Among them, the seven most important were Thomas Lucchese, James Plumeri, Dominick Didato, Natale Evola, John "Johnny Dio" Dioguardi, and Thomas and Joseph Gambino.[9] Although Dewey prosecuted and convicted Plumeri and Dioguardi for extorting money from truckers working in the Garment District, the two served only brief jail sentences. Dewey referred to Dioguardi as a "young gorilla"[10] and "a racketeer on a long way up to 'success' in organized crime."[11]

Cosa Nostra maintained its power over the Garment District by operating a trucking cartel, which it enforced through control over a trucking trade association, the drivers' union, and a contractors' association. Profits derived from extortion and from ownership interests in trucking companies and designer firms. In the 1980s, capo Thomas Gambino and his brother Joseph were the most important Cosa Nostra figures in the

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LINCOLN TUNNEL
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GARMENT DISTRICT
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39 Street
34 Street
Fifth Avenue
Eleventh
Tenth
Ninth
Broadway
N
M A N H A T T A N
14 Street
14 Street
HOLLAND TUNNEL
Broadway
Houston
CHINATOWN
Canal Street
WILLIAMSBURG BRIDGE
MANHATTAN BRIDGE

Garment District. Ultimately (as we shall see in chapter 9), they were brought down in an elaborate sting operation executed by the New York County District Attorney's Office.

HOW THE GARMENT INDUSTRY WORKS

New York City's Garment District consists of three major components: designers ("manufacturers") in midtown Manhattan (the "Garment District"), contractors in lower Manhattan's Chinatown, and trucking companies. All three of these businesses have been controlled or influenced by organized crime since the early decades of the twentieth century.

"Manufacturers" are businesses that design women's and men's fashions, contract for their production, and sell the finished goods to retailers. The term *manufacturer* is misleading, since most of these companies design but do not actually manufacture clothing. They include such household names as Liz Claiborne, Calvin Klein, and Donna Karan,[12] and numerous smaller and lesser-known companies.

Designers first assess the fashion trends and develop designs for the clothing they will sell for that season. Second, they purchase large rolls or bolts of fabric known as "piece goods" from suppliers from all over the country, which are delivered by the colorful "pushboys" who are a Garment District institution. Third, designers employ cutters,[13] who use electric knives or heavy shears, to cut the fabric into individual pieces of a dress or blouse that, when sewn together, result in the final product. Fourth, designers send this cut-work to contractors, who might be thought of as manufacturers. They sew the cut-work together into a finished product and affix the designers' labels. Finally, the designers place their apparel with retail outlets. Throughout this process, timeliness is essential because the clothes have a narrow window of marketability; today's trend-setting garments are tomorrow's castoffs. If apparel is not delivered on schedule, a season's business may be lost, or stores may fill up their racks with other items. Thus, designers are highly vulnerable to threats of delay.

Contractors essentially are sewing factories, which receive raw materials from the designers and make them into finished garments. In recent decades, the majority of contractors are located in Chinatown

0628

"sweatshops," where Chinese women, some of them illegal immigrants, use sewing machines to stitch cut-work.[14]

Trucking companies transport the cut-work from midtown designers to Chinatown contractors. They also take finished apparel back to the Garment District for inspection or transport it directly to retailers. Over the years, the Gambino crime family expanded its garment interests to New Jersey, where additional sweatshops, trucking companies, and warehouse outlets are located.

COSA NOSTRA AS BANKER

Cosa Nostra served as a bank for many garment industry participants. All five New York City Cosa Nostra crime families engage in loansharking.[15] Many designers and contractors are undercapitalized. If costs escalate sharply, orders dry up, or fashions change, firms find themselves short of cash.[16] Given the precarious nature of the business, and the sudden vulnerability of the companies when cash needs arise, banks are not often a viable option. Moreover, many firms, especially Chinatown contractors, are not considered good risks.

Organized crime kept a steady supply of cash flowing in the garment industry, in effect serving as its covert financier and banker. Capos distributed cash to soldiers charging interest of perhaps 0.5 percent a week. The soldiers then distributed the money to street-level loansharks, who lent it out at rates of approximately 3 to 5 percent a week. At such high rates, the interest ("vigorish," or "vig") added up rapidly so that the borrower paid interest as high as 222 percent a year.[17] Companies that could not meet their payments were sometimes forced to place a few "no-show" workers on the payroll, or share or cede ownership of their firms to organized-crime figures.

Financial services often provided Cosa Nostra's first contact with new design firms and contractors; other services followed. The design firms needed sewing services, the contractor shops needed raw materials, and both needed trucking services. Cosa Nostra's trucking companies often provided the only means by which contractors could obtain orders from designers. A new contractor would ask a trucker to help the contractor secure sewing work from the midtown designers; the trucker would oblige and transport a shipment of cut-work from midtown to

0629

Chinatown. Having once accepted the assistance, that sewing factory was "married" for life to that trucker, who would provide all future shipping services.

Manufacturers had the same experience. For example, when Aaron Freed opened his sportswear firm, the Gambino brothers helped him find contractors to do his sewing work. When he had trouble paying bills, the Gambinos let his credit run for months. Even when he used a "gypsy" trucker, as he did occasionally, he still had to pay his assigned trucker as if the latter had performed the work.[18]

COSA NOSTRA'S TRUCKING CARTEL AND THE "PROPERTY-RIGHTS" SYSTEM

The mob's power in the Garment District stemmed from its control of the trucking companies and influence over their drivers. Members of the trucking cartel provided essential services to the midtown designers and Chinatown contractors. The coercive marriage of contractors and designers to truckers constituted an elaborate "property-rights" system enforced by the trucking cartel. In reality, the truckers themselves decided which trucking company would service each Chinatown contractor and Garment District manufacturer. Cosa Nostra–controlled trucking companies treated their customers as property.[19] The property-rights system became so institutionalized that trucking companies, through front organizations described below, signed *written* agreements allocating territories and customers.[20] Fixed prices were maintained and competitive behavior was suppressed through financial penalties and violence.

The sanctity of "marriage" was enforced through economic coercion and, occasionally, through intimidation and violence. For example, if a contractor sought to terminate its relationship with its trucking partner, the truckers' cartel would ensure that the firm received no work from midtown designers—in effect, an economic death sentence. The unhappy contractor would have no choice but to return to its former partner. On occasion, a contractor was so anxious to break free of its trucker that it shut down in one area and reopened elsewhere. If this ruse was discovered, the contractor would be forced back into the arms of its original marriage partner. If a designer tried to divorce its contractor, no contractors or truckers would come courting; the only op-

0630

tions were to reconcile with the original trucker, close the company, or appeal to Cosa Nostra bosses to work out a solution.

In addition to price fixing, truckers had two other lucrative schemes. The first involved the billing system. The designers had to pay up front, not after services were provided. Thus, when a Chinatown contractor received an order from a designer, the designer subtracted its trucking cost from its payment to the contractor.[21] Contractors, frozen out of the pricing process, never knew exactly what it cost to have cut-work shipped to and from Chinatown.

"Round-trip pricing" also enriched the truckers. Cut-work had to be transported from the contractor's shop back to the Garment District or directly to retailers. The designers had to pay for the round-trip, regardless of whether the trucker actually moved the finished apparel. A contractor who needed to rush finished goods uptown might not be able to wait for its assigned trucker.[22] If the contractor delivered the goods personally, or employed another person to do so, the assigned trucker still had to be paid. In fact, by billing designers rather than contractors, truckers ensured that the latter would not have an opportunity to object until after such payments had been made.

THE MASTER TRUCKMEN OF AMERICA (MTA) AS CARTEL ENFORCER

Cosa Nostra relied on a trade association to enforce the cartel. The Master Truckmen of America (MTA), controlled by the Colombo family, policed and managed Cosa Nostra's trucking cartel. Any "alien" truckers who tried to break into the industry faced an array of anticompetitive practices. The MTA would inform would-be entrants to the Garment District that they could not do business there; some lucky or connected firms were allowed to join the cartel, but unless they had bought out a cartel member, they would have no customers. If a trucking company refused to join the MTA, or failed to pay its dues, the drivers—who were all members of the International Ladies Garment Workers Union (ILGWU) local—would strike. If that was insufficient to bring the rebel trucker into line, trucks would be vandalized or stolen. Cartel truckers also engaged in "monopolistic parking practices,"[23] blocking curbs or entire streets so that an "unconnected" firm could not deliver its shipments. Thus, the trucking cartel ensured that the marriage system

0631

would not be subverted and that Cosa Nostra's domination of garment trucking remained absolute.

COSA NOSTRA'S POWER OVER THE TRUCK DRIVERS: ILGWU LOCAL 102

ILGWU Local 102, which represented the truck drivers, was another base of Cosa Nostra's control in the garment industry. While the ILGWU as a whole had remained mostly free of racketeering throughout its history, the garment industry's leading trade magazine, *Women's Wear Daily*, called Local 102 "an active tool of labor racketeers." Sol C. Chaikin, the president of the ILGWU in the 1970s, admitted that "we have never been able to control 102."[24]

Local 102 served the mob in three critical ways: it helped the MTA preserve Cosa Nostra's trucking cartel; it ensured that Cosa Nostra trucking companies avoided labor disputes with other ILGWU locals; and it prevented any other union from entering the industry.[25] If a trucker refused to join the MTA or to succumb to its anticompetitive demands, the MTA would arrange for a Local 102 job action. Noncompliant truckers were soon brought to heel; there was zero tolerance for attempts to undercut Cosa Nostra's inflated rates in cut-work trucking. This perverse alliance between the employers' trade association and the employees' trade union guaranteed Cosa Nostra's control over the industry. An incident that occurred during the Project Cleveland investigation reveals how Local 102 served the interests of the MTA. As soon as a government undercover agent purchased a trucking company, MTA President Frank Wolf threatened a Local 102 strike unless the new owner paid 10 percent of the purchase price to the MTA.[26]

Cosa Nostra's control over Local 102 ensured that Cosa Nostra trucking companies enjoyed labor peace. If an ILGWU local struck a mob-controlled company, replacement drivers managed to get through the picket lines. Some of the drivers were actually members of Local 102, or it would turn out that union officials had ordered strikers to stay off the picket lines just when the replacement drivers arrived. In either event, the union would lose the strike.

Significantly, not all of the drivers employed by mob-owned trucking companies belonged to a union. Sometimes high-ranking organized crime members like Thomas Gambino ran "double-breasted" shops,

0632

employing a mixture of unionized and nonunionized drivers. These mobsters used their favored status as garment industry power players to avoid paying union-scale wages.

Cosa Nostra also used Local 102 to prevent any other union from representing garment truck drivers. In one reported case, Matthew Eason, a union organizer and president of a local affiliate of the United Warehouse Industrial and Affiliated Trades Employees Union, filed a petition with the National Labor Relations Board (NLRB), seeking to have his union represent the employees of two employment agencies. However, Eason ran into complications because the employment agencies were supplying workers to Interstate Dress Carriers, a New Jersey–based trucking company with ties to the Lucchese Family.[27] Eason was soon approached by representatives of Interstate Dress and the union. They offered him bribes to withdraw his labor petition and threatened him with physical harm if he refused.[28]

CONTROLLING THE CONTRACTORS: THE GREATER BLOUSE, SKIRT, AND UNDERGARMENT ASSOCIATION

Cosa Nostra used the Greater Blouse, Skirt, and Undergarment [Employer] Association (Greater Blouse), which represented the interests of approximately one hundred unionized contracting companies, to control the Chinatown contractors.[29] Greater Blouse brokered collective bargaining agreements between the contractors, and the ILGWU and sought generally to resolve labor problems.[30] In addition, Greater Blouse entered into agreements with other trade associations, including trucking companies and Seventh Avenue designers.

In his 1982 report investigating the mob's role in the Garment District, New York State Senator Franz Leichter charged that the Gambino family used Greater Blouse to solidify its domination of labor and expand its infiltration. Joseph N. Gallo, the business representative and de facto head of the association, was also the Gambino crime family's longtime consigliere.[31] Since Cosa Nostra firmly controlled the association and, by extension, labor contracts in the industry, contractors either paid a hefty fee to join Greater Blouse or found another line of work.

A May 1983 intercepted telephone conversation between Gambino crime-family boss Paul Castellano and Thomas F. Gambino[32] indicated that their family shared control of the association with two other New

0633

York crime families. Gambino told Castellano, "You got a third in it [Greater Blouse], the West Side has a third in it and Jerry has a third in it." According to prosecutors, the "West Side" referred to the Genovese family, and "Jerry" was the Colombo family's acting boss Gennero "Jerry" Langella.[33]

In 1976, the Chinese Garment Makers Association (CGMA) brought a lawsuit in state supreme court charging that Greater Blouse's officers had entered into an agreement with a major designer trade association aimed at diverting contractors' profits into mob bank accounts.[34] The agreement required the designers to deduct more than 7 percent of the money owed to the contractors and send it directly to Greater Blouse, which ostensibly used the sum to cover "administrative expenses" before forwarding the remaining amount, if any, to the sewing factories. According to the CGMA, the "administrative expenses" were mob payoffs. The CGMA claimed the scam was even worse than it appeared because Greater Blouse inflated the deducted amount by basing it on the contractors' gross proceeds—the contract price *plus* overhead, transportation costs, and profits. This practice, according to contractors, allowed the association to siphon off as much as $30 million annually from the contractors' shops.

The CGMA also charged that Greater Blouse denied members access to the association's rules, procedures, and financial statements and that contractors were denied their rights and were unable to protect their interests. But the judge ruled against them, stating that the "challenged method of electing the directors did not violate state law."[35]

Cosa Nostra also used its control over Greater Blouse to obtain no-show jobs from member firms. Such "jobs" provided valuable patronage and legitimate cover for racketeers.[36] Cosa Nostra further used Greater Blouse as a cash cow by diverting contractors' membership dues into its own coffers. At $50 a month for each of the seven hundred members, these dues amounted to $35,000 each month, or $420,000 a year.

COSA NOSTRA'S PROFITS: INTERESTS IN TRUCKING AND DESIGNER FIRMS

The Cosa Nostra crime families profited from ownership of trucking companies. Thomas Lucchese, a Cosa Nostra crime-family boss from 1953 until his death in 1967, controlled Champion Trucking and passed

0634

it on to his heirs in the Lucchese family. Another major Lucchese figure, James Plumeri, owned Ell-Gee Carriers Corporation and Barton Trucking Company. Natole Evola, a powerful member of the Bonanno crime family, owned Amity Garment Delivery Company and had interests in Trinity Trucking, Belmont Garment, ECCO Trucking, and Milton Feinberg Trucking.[37]

Thomas F. Gambino, widely regarded as the most powerful organized-crime figure in the Garment District, held ownership interests in a number of trucking and design companies. At various times he controlled no fewer than eight garment trucking firms: Astro Carriers, Major Dependable Delivery, Dynamic Delivery, JHT Leasing, Clothing Carrier's Corporation, Greenberg's Express, GRG Delivery, and Consolidated Carriers, the largest hauler of garments in New York City.[38] In 1974, *Women's Wear Daily* charged that all five New York Cosa Nostra families held interests in garment trucking.[39]

Some Cosa Nostra figures also held ownership interests in design firms. As early as the 1930s, Thomas Lucchese was infiltrating design firms through threats and violence. Together with his son-in-law Thomas Gambino, he held significant interests in both Sherwood Fashions and Budget Dress Corporation; when testifying before the McClellan Committee, Lucchese admitted his interests in garment design companies.[40] After Lucchese's death in 1967, his garment-industry companies passed to the new Lucchese family boss, Vittorio Amuso, who allowed high-ranking Lucchese figure Michael Pappadio to monitor and control the family's garment-industry interests until 1989.[41] Other prominent organized-crime figures who have held interests in the garment industry include Carlo Gambino (Arlene Dress Company),[42] and Paul Castellano (G & I Dress Company).[43]

These garment-industry interests were lucrative for Cosa Nostra. For example, in a 1994 racketeering, conspiracy, and murder case against Lucchese figure Anthony Casso, two witnesses testified that from 1987 onward, Casso and Amuso received millions of dollars in cash from the Lucchese family's garment-industry businesses.[44] When, in 1993, Thomas Gambino was sentenced to a five-year prison term for racketeering, loan-sharking and illegal gambling, he was worth an estimated $100 million;[45] much of this fortune derived from his garment-industry interests.

If, however, Cosa Nostra determined that a particular design firm was not worth keeping in operation, a "bust out" (bankruptcy fraud)

0635

stripped the company of all its assets and left creditors in the cold. In his 1982 report, New York State Senator Franz Leichter reconstructed the details of a bust out orchestrated by Michael Pappadio. Together with two associates and legitimate garment-industry designers, Pappadio incorporated a firm called Fashion Page. In 1975, when the firm's business began to decline, Pappadio's friends and associates supposedly lent the company $275,000. Soon thereafter, two fires destroyed Fashion Page. The first, in May of 1975, led to an insurance recovery of $300,000, the majority of which went to repaying the Pappadio loans rather than Fashion Page's numerous creditors. Seven months later, another fire destroyed all the company's books and records. Two weeks after that, the business closed for good.[46]

THE U.S. DEPARTMENT OF JUSTICE'S ANTITRUST SUITS

On April 30, 1951, the Antitrust Division of the U.S. Department of Justice (DOJ) filed two separate civil antitrust suits against the garment industry's truckers.[47] One suit attacked the marriage system that dominated the trucking of men's coats and suits; the other targeted the trucking of women's garments.[48] The litigation languished for more than four years until, in October 1955, the parties signed consent decrees that prohibited a range of anticompetitive practices. The garment truckers agreed to open to DOJ attorneys all books, ledgers, accounts, correspondence, memoranda, and other records and documents. The trade associations agreed to submit written reports to the government regarding their compliance with the terms of the settlement. The federal court retained jurisdiction so that if the defendants engaged in the same illegal practices, the government would not have to file a new lawsuit. Instead, the Antitrust Division could merely "apply to the Court at any time for such further orders or directions as may be necessary or appropriate for the . . . carrying out" of the judgment.[49]

The consent decrees raised expectations that were not realized. Rather than driving organized crime out of the Garment District, the decrees merely encouraged the mob to become more surreptitious; written documents that formerly had spelled out flagrant illegal practices were replaced by unwritten rules of cooperation.[50] The marriage system did not change. Nearly thirty years later, garment truckers were continuing to fix prices, allocate customers, prevent designers and con-

0636

tractors from selecting shippers, and to harass and to bar competitors from the industry.

NEW YORK CITY'S REGULATORY FAILURE

Operation of a common-carrier trucking firm in New York City historically required a license issued by the commissioner of licenses.[51] In 1957, for reasons that are unclear, the commissioner briefly used his licensing authority to oppose organized crime. Barton Trucking Corporation, a firm that operated five trucks in the Garment District, filed a routine application for a public cart license.[52] For decades, the commissioner had always granted such licenses upon request. The statute made citizenship the only qualification for a public cartman's license and did not appear to give the commissioner discretion.[53] However, Barton Trucking was controlled by James Plumeri, a former associate of Buchalter and Shapiro and a well-known racketeer in the garment industry. Commissioner Bernard J. O'Connell pointed to Plumeri's prior conviction for extortion and other racketeering-related crimes in the Garment District, found Plumeri to be unfit as a public cartman, and denied Barton Trucking a license.

The decision set off a round of litigation. Plumeri's lawsuit charged that the commissioner's denial deprived Barton Trucking of a valuable property right without due process of law; that the commissioner had acted arbitrarily and beyond his powers; and that public carriers in the garment trucking industry were exempt from licensing requirements.[54]

The trial court rejected all of the plaintiff's claims and affirmed the license denial. Judge Samuel H. Hofstader's opinion decried organized crime's infiltration of legitimate industries: "some segments of the garment trade have become the spawning grounds for racketeers intent to make an illicit living off this enterprise." The judge noted that "the license commissioner, like other public officials, [was] aware that the hoodlum empire extends into many territories."[55] In upholding the denial of Plumeri's license, the court held that the commissioner had the power to consider an applicant's character (or lack of it) when exercising his licensing authority.

Plumeri dominated the next round. In December 1958, the appellate division reversed the lower court's ruling, finding that the commissioner had exceeded his authority under the public cart–licensing

0637

statutes.[56] Although the appellate court noted that Plumeri's criminal background might render him unfit to operate in the garment-trucking business, the court found that the licensing commissioner had arrogated power that was not his to wield.[57] However, a year later, the Court of Appeals, New York's highest court, reversed the appellate division and reinstated Hofstader's ruling, thereby leaving Plumeri and Barton Trucking without an operating license. The Court of Appeals held that although the commissioner did not have explicit power to consider an applicant's character, "power to grant a license necessarily implies power to withhold it for good cause."[58] Thus, the commissioner was "not only empowered, but indeed . . . duty bound" to inquire into the personal character of proposed licensees,[59] and Plumeri's criminal record provided a wholly adequate reason to deny Barton Trucking's application.[60]

Unfortunately, city officials did not use this important affirmation of their licensing authority to advance the attack on organized crime. It was not until the Giuliani administration came into office in 1994, that regulatory power was again aimed at purging organized-crime figures from legitimate industries.

THE PROJECT CLEVELAND TRUCKING INVESTIGATION

In March 1973, with the cooperation of William Aronwald, head of DOJ's Joint Strike Force Against Organized Crime in Manhattan, the New York City Police Department purchased a garment-trucking firm known as Gerro Trucking in order to obtain evidence of organized crime's involvement in the garment industry.[61] Law enforcement officials established Herman Goldfarb, an ex-convict, as the president and owner of Gerro Trucking, wired him and his offices with recording devices, and waited to see who might fall into the trap.[62]

Through the duration of Project Cleveland—from March 1973 to approximately August 1974—law enforcement agents taped thousands of hours of conversations, which included incriminating evidence against a number of trucking industry figures. By October 1975, a federal grand jury had indicted eight people on charges of conspiracy and extortion. In one indictment, the federal government charged MTA Director Frank Wolf with extorting a $5,000 payment from Gerro Trucking. A union official was also indicted for allegedly cooperating with

0638

Wolf in threatening to stage a strike against Gerro Trucking if an extortionate payment was not made. Matthew "Matty the Horse" Ianniello, a captain in the Genovese crime family and Frank Wolf's assistant, as well as a business agent for ILGWU Local 102, was also named in the indictment. Project Cleveland eventually led to a labor-racketeering conviction of New Jersey Teamster official and Cosa Nostra capo Anthony "Tony Pro" Provenzano.[63] In its scope, degree of local and federal cooperation, and inventiveness, this sting operation was a promising remedial effort.

But Project Cleveland failed to make a serious inroad against Cosa Nostra's garment-industry interests. Most of the high-ranking organized-crime figures in the garment industry remained untouched. To be sure, Provenzano's conviction was an important victory for federal prosecutors. Yet that case had little relation to mob influence in the Garment District. Among the Project Cleveland defendants directly involved in the Garment District, four men—including Frank Wolf and Matthew Ianiello—were acquitted in November of 1976. This was a major blow to law enforcement efforts because the MTA played a key role in Cosa Nostra's garment-industry operations, and because Wolf was the most important defendant in the case.

Trying to put a positive spin on the government's effort, Aronwald emphasized that Project Cleveland had led to the imprisonment of individual mobsters and spawned similar sting operations that produced additional convictions.[64] While it is true that Project Cleveland disrupted organized crime's operations in the Garment District slightly, major Cosa Nostra figures—the Gambino brothers in particular—remained untouched and the mob's domination of the Garment District remained rock solid.

CONCLUSION

Perhaps no other industry is more bound up with the history and peoples of New York City than the garment industry. Perhaps in no other industry did organized-crime figures operate so openly. This was due to the fact the Gambino brothers and other organized-crime figures owned their own companies and because the garment industry's legitimate institutions were so interwoven with the mob-sponsored truckers' cartel. The MTA, the ILGWU Local 102, and Greater Blouse all

0639

collaborated with the mob; each reinforced and strengthened the trucking cartel, and each funneled money into the coffers of organized crime. The marriages of trucking companies to manufacturers and contractors produced a property-rights system enforced by Cosa Nostra through the trucking cartel. While Thomas Dewey's prosecutions in the 1930s and 1940s and the Project Cleveland prosecutions in the 1970s put some organized-crime figures behind bars, the government's best shots were not nearly enough to weaken Cosa Nostra.

The *Barton Trucking* case might have provided New York City with a tremendously important tool to use against organized crime. The New York State Court of Appeals had held that the city could base denial of trucking licenses solely on applicant character. Trucking companies owned or operated by known mobsters could be purged from the industry. No arrests, prosecutions, or long trials were needed; a mob-controlled business could be crippled by an administrative decision. Having established its authority over licensing garment truckers, New York City officials did not attempt to drive Cosa Nostra–owned truckers out of the garment trade. In fact, organized crime only became more entrenched in garment trucking in the ensuing decades. Why then did the city not use its regulatory and licensing power against organized crime? Unfortunately, we can confidently offer no answer to that question. However, we believe that an answer should be sought in the symbiotic relationship between city politicians and Cosa Nostra.

0640

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Fishy Business

The Mafia and the Fulton Fish Market

> [Operating] in a frontier atmosphere . . . the Fulton Fish Market is a sovereign entity where the laws of economic power and physical force, not the laws of New York City, prevail.[1]
>
> —Frank Wohl, court-appointed monitor of the Fulton Fish Market, 1990

CHRONOLOGY

1883 The Fulton Fish Market opens in lower Manhattan.

1923 Joseph "Socks" Lanza establishes himself as the de facto boss at the Fulton Fish Market by controlling Local 359 of the United Seafood Workers, Smoked Fish and Cannery Union.

1933 The U.S. attorney for the Southern District of New York charges Local 359, twenty-four companies, three trade associations, and fifty-four individuals operating at the market with extortion and running a cartel in violation of the Sherman Act. Among the defendants is Joseph "Socks" Lanza, a capo in the Genovese family, Local 359's business agent, and "czar" of the Market. Many defendants enter guilty pleas, including Lanza, who serves two years in prison.

1938 Lanza is convicted on federal racketeering charges; five years later he is found guilty of extortion and remains in prison until 1950. He is returned to prison for violating parole by associating with organized-crime figures.

0641

1968 Lanza, still on the union payroll, dies. He has been the undisputed ruler of the Fulton Fish Market for forty years.

1974 Carmine Romano, Lanza's successor as the Genovese crime family's manager of the Fulton Fish Market, becomes secretary-treasurer of Local 359.

1975 Carmine Romano establishes the Fulton Patrol Association, ostensibly to prevent thefts of seafood. For this "protection," wholesalers pay $1300 weekly to the thieves who regularly stole from them.

Local 359 officials extract payoffs, characterized as Christmas presents, from wholesalers. The money, supposedly earmarked for local members, goes directly to the Genovese crime family.

1979 At the direction of the U.S. attorney for the Southern District of New York, the New York City Police Department, the U.S. Internal Revenue Service, and the U.S. Department of Labor undertake a joint investigation of organized crime at the Fulton Fish Market. The investigation results in the conviction of forty-four defendants and fines totaling $331,000.

1980 Carmine Romano relinquishes his position as secretary-treasurer of Local 359 to his brother Peter. Carmine becomes trustee of Local 359's welfare and pension funds.

1981 Carmine and Peter Romano, as well as Local 359 as an entity, are targeted by federal law enforcement officials in *United States v. Romano,* the most significant case arising out of the 1979 investigation of Genovese operations in the Fulton Fish Market. Both brothers are convicted. Carmine receives a twelve-year prison sentence; Peter, eighteen months.

1982 United Seafood Workers, Smoked Fish and Cannery Union places Local 359 under trusteeship and strips Carmine and Peter Romano of their union positions, but the election of their brother Vincent to the Local 359 presidency perpetuates the influence of the Genovese crime family.

Mayor Edward I. Koch transfers the responsibility for collecting rent payments from wholesalers at the Fulton Fish Market

0642

to the South Street Seaport Corporation, but rents are frozen for ten years.

1987 With evidence generated by Operation Sea Probe, a joint FBI and NYPD investigation, U.S. Attorney Rudolph Giuliani files a civil RICO suit against twenty-nine defendants, Local 359, its officers, and the Genovese crime family. One year later, most of the defendants enter into a consent judgment; a default judgment is entered against the rest. The court appoints Frank Wohl to act as the market administrator.

1990 Wohl's report cites continuing rampant racketeering at the market. He imposes fines on companies and individuals for violating the consent decree and calls for comprehensive city regulation.

Eight loading companies earn $5 million annually by charging retailers exorbitant rates to park in city-owned lots around the market.

1995 New York City Council passes Local Law 50, Mayor Giuliani's reform bill, empowering the city to regulate, investigate, license, register, and expel businesses and individuals from the Fulton Fish Market. Despite retaliatory labor strikes, court challenges, and picketing, many reforms are implemented. The city removes six unloading companies from the market because of their connection to organized crime and replaces them with a city-approved company.

The New York City Department of Business Services becomes the landlord of the market; New York Economic Development Corporation serves as agent. A new lease agreement raises wholesalers' rents substantially. The city gains $1.3 million in revenue. Two of the mob-affiliated loading companies are removed from the market.

1996 Six of the eight remaining loading companies are removed from the market. The two remaining loading companies, licensed by the city, agree to reduce their charges by approximately 70 percent.

0643

1997 Local Law 28 is passed to extend Local Law 50's reforms to the city's other wholesale food markets and to expand the city's power to regulate the Fulton Fish Market.

HOW THE FISH MARKET WORKS

The Fulton Fish Market is the oldest and largest wholesale fish market in the United States. It was organized in 1833 to serve fishing fleets on the East River near Fulton Street. However, as early as 1924, some suppliers were trucking seafood to the market. Today, no seafood is delivered directly by ship; rather, refrigerated trucks bring seafood from around the world to the market in boxes of one hundred pounds or less, some of which is flown in from abroad. The market runs from 10:00 P.M. to 10:00 A.M., Sunday through Friday. It consists of approximately seventy "stalls"—storefronts with stand space out front where most of the actual selling occurs. By morning, the stands are emptied and the buildings closed; only a few scattered fish and wooden wholesaler signs remain to hint at the overnight bustle. More than five hundred people work at the market. Approximately two hundred million pounds of seafood are delivered to the market annually. Estimates of the dollar amount of seafood sold annually vary from $200 million to $2 billion.[2]

The fish market occupies two blocks of South Street in lower Manhattan, stretching from Fulton Street north to Peck Slip, underneath the FDR Drive overpass (see map, p. 147). Approximately half the wholesalers' stalls are housed at street level in two rundown, sheet-metal warehouses owned by New York City: the 1907 Tin Building or "Old Market Building," and the 1939 "New Market Building." Across South Street, opposite the two main warehouses, fifteen wholesalers lease separate garage-like stalls in newer, city-owned buildings, and others operate from their own buildings.[3] At the end of 1998 there were approximately sixty wholesalers operating at the Fulton Fish Market.

Wholesale seafood vendors at the Fulton Fish Market, like firms in the garment industry, are extremely vulnerable to threats of delay. Time is of the essence in selling fish. First, fishermen sell their catch to suppliers. The suppliers pack fish in boxes and use freight-hauling companies to transport it to the Fulton Fish Market. Fish from the West Coast and abroad is trucked in from area airports. Beginning at 10:00 P.M., truckers deliver frozen and fresh seafood in vehicles ranging from huge

0644

forty-foot refrigerated trailer trucks to small vans.[4] Each week, approximately four hundred vehicles belonging to dozens of trucking companies and suppliers transport seafood to the market. They line up along South Street north of the market and wait to be unloaded.[5]

Prior to the city's 1990s reforms, the unloaders had tremendous leverage over truckers and suppliers.[6] It is tiring, expensive, and frustrating for truckers to sit for hours waiting for a service that they could easily provide themselves. The time at which a truck is unloaded directly affects the day's profit because fish displayed at the wholesalers' stalls by 3:00 A.M. commands a higher price than fish displayed at 6:00 A.M.. Thus, truckers were willing to pay to be accorded priority.

After the seafood is unloaded, it is delivered to wholesalers' stalls. The wholesalers employ approximately eight hundred workers, called "journeymen," who prepare the seafood for display, sell it, and deliver it to their customers' vehicles. Many of these workers are members of Local 359 of the United Seafood Workers, Smoked Fish and Cannery Union.[7]

By 3:00 A.M., the deliveries are displayed and hundreds of "retailers" from restaurants and retail seafood stores begin arriving at the market. Until the recent reforms, eleven loading companies, which were distinct entities from the unloading companies, assigned each retailer to a particular parking area in one of the eleven designated parking zones, located on public property. The retailers had no say in where they would be permitted to park and often were unable to change zones. The retailers leave their vehicles unlocked and walk from stall to stall, selecting seafood from the various wholesaler displays. The wholesalers' journeymen use hand trucks and "hi-los" to take the fish to the retailers' parked vehicles. There the journeymen load the fish into the vehicles. Retailers paid fees ranging from $5 to $50 per night to the loaders to keep their vehicles and fish secure from vandalism or theft.

Suppliers are also somewhat dependent on the goodwill of the wholesalers, who sell their catch primarily for cash, at prices reached in on-the-spot negotiations with retailers and restaurant owners. Prices vary according to quality, quantity, and demand. The wholesalers, who—in effect—operate on consignment or commission, take a fee from each retailer's or restaurateur's payment and remit the remainder to the supplier.[8] Thus, the supplier does not know in advance the price his fish will command and must rely on the wholesaler's negotiating

0645

skills and honesty. Although the situation is changing, most of the market's sales involve cash.

HOW COSA NOSTRA CONTROLLED THE FULTON FISH MARKET

The Fulton Fish Market has been a revenue source and a power base for Cosa Nostra since the early twentieth century. The Genovese crime family has influenced every facet of the market's operations since the 1920s. This influence flowed from control of Local 359 of the United Seafood Workers, Smoked Fish and Cannery Union, which represents the four hundred journeymen and twenty wholesalers, managers, and supervisors. However, not all journeymen are union members, and the former loading and unloading crews were not unionized. The Genovese crime family created loading and unloading cartels, maintained interests in some wholesaling companies, operated "security services," and organized and charged for parking.[9] The Bonanno crime family played a lesser role in the market, through ownership of certain unloading companies and by conducting loan-sharking, gambling, drug sales, and protection services on premises.

As with the other mobbed-up industries examined in this book, Cosa Nostra functioned as a kind of legislature, court, and police force for the market. The rules covered competition, prices, labor relations, payoffs, and respect. Businesses and individuals faced threats of violence, property damage, and expulsion from the market for violating the rules.[10]

The Genovese crime family governed through two wholesaler associations, which represented many wholesalers at the market. The wholesalers located in the Old Market Building warehouse were represented by the Fulton Fishmongers Association, and those located in the New Market Building warehouse were represented by the New York Wholesale Fish Dealers Association. These organizations cooperated in market governance and defended market operations to the outside world. For example, the president of the Fulton Fishmongers explained that the low rent paid by the wholesalers was justified by the run-down accommodations in the Old Market Building.[11]

When problems such as theft of fish arose, the associations knew whom to contact. In 1975, the president of the Wholesale Fish Dealers

0646

Association asked Carmine Romano, an associate of the Genovese crime family and the secretary-treasurer of Local 359, for help in preventing thefts. Cosa Nostra established a watchmen's association to patrol the market area; whether this was a protection service or a protection racket was unclear, even to those who paid the premiums. Years later, at Romano's trial on federal racketeering charges the president testified that "if the thieves knew that the union was looking out for us . . . they wouldn't bother us . . . [b]ecause the thieves would be afraid of the union."[12]

COSA NOSTRA'S DOMINATION OF LOCAL 359

Given the perishability of seafood, the market required a reliable labor force. As federal prosecutors noted in a 1981 sentencing proceeding involving several convicted Local 359 officials, "[I]n the wholesale [fish] industry, where competition is fierce and time is of the essence, it is crucial for businesses to maintain the good will of the union and the men who run it. Organized crime recognizes this power and knows how to use it."[13]

Cosa Nostra's influence in the Fulton Fish Market was rooted in its control of Local 359. That union had only 850 to 900 members including the four hundred journeymen at the market who set up the wholesalers' seafood displays and sold and delivered the fish.[14] The Genovese crime family controlled Local 359 since the 1920s; for decades, Joseph "Socks" Lanza, a capo in the Genovese family, used his position as business agent of Local 359 as a power base. Known as the "czar of Fulton Market," Lanza determined who could transact business of any kind anywhere on market premises from the 1920s to the 1960s.[15] Lanza ran Local 359 for the benefit of the Genovese crime family. He accepted payoffs in exchange for the nonenforcement of certain contract terms and for not seeking increased wages and benefits for union members.[16] The result was labor peace and a smooth-running market.

Lanza found many ways to turn power into cash at the market. In the early 1930s, the Manhattan District Attorney's Office revealed that fishing-boat captains were forced to pay tribute in order to have their catch unloaded without problems. To obtain the ice needed to preserve their fish, boat crewmen were forced to hand over bags of scallops to the unloading crews.[17]

0647

In 1933, the Manhattan U.S. Attorney's Office brought a sweeping indictment against Local 359, twenty-four companies, fifty-four individuals (including "Socks" Lanza), and three trade associations operating in the market.[18] The indictment alleged that the wholesalers were running a cartel in violation of the Sherman Anti-Trust Act. The government also charged the defendants with extorting "tribute" from boat captains for the privilege of doing business at the market. Lanza and others entered guilty pleas, and Lanza served a two-year prison term. In 1938, after several failed attempts, the federal government finally convicted Lanza. In 1943, he was convicted again, this time for extorting money from the president of a Teamsters union local.[19]

Paroled in 1950, Lanza was arrested again in 1957, for gambling and consorting with organized-crime figures. After the parole violation was resolved in Lanza's favor, there was a public scandal and two official investigations. The parole decision was overturned and Lanza returned to prison.[20] Nevertheless, Lanza remained on the union payroll and continued to rule the market until his death in 1968.

Over the years, "Socks" Lanza was assisted by Nunzio "Harry" Lanza, a brother, who served as a Local 359 official throughout the 1960s. He too was a capo in the Genovese crime family. In the 1970s, a brother-in-law of the Lanza brothers served as president of the local, and a Lanza son-in-law served as union attorney.[21] From 1974 to 1980, Carmine Romano, whom federal investigators considered to be Lanza's successor as the Genovese crime family's Fulton Fish Market "manager," served as secretary-treasurer, the de facto top position of Local 359. His brother Peter Romano took over as business agent. Carmine Romano served as Local 359's secretary-treasurer until Peter succeeded to that position in May 1980; Carmine then became trustee of the union's welfare and pension funds.

In 1979, the U.S. attorney for the Southern District of New York led a joint investigation into organized-crime operations at the Fulton Fish Market. The investigation produced more than forty convictions. The most important prosecution, *United States v. Romano*,[22] targeted a variety of extortion schemes. The government alleged that the defendants had established the Fulton Patrol Service, which, functioning as a protective racket, collected more than $644,000 (the equivalent of upwards of $1,700,000 in 1996 dollars)[23] from wholesalers from 1975 to 1979. The defendants were charged with extorting Christmas payments from the wholesalers and with forcing them to pay $25 a month to rent useless

0648

union placards. Some businesses continued to pay the sign rental fee for years after they had ceased displaying the signs.[24]

The Romanos were convicted of RICO, conspiracy to violate RICO, aiding and abetting violations of the Taft-Hartley Act, and misusing union pension funds.[25] In addition, Carmine was convicted of misusing union funds, and Peter of obstructing justice and perjury. Carmine Romano received a twelve-year prison sentence and a $20,000 fine; Peter got eighteen months. Both Romanos had to forfeit their union positions.[26]

Vincent Romano assumed control of market operations after his brothers were ousted from their union positions in 1981.[27] The Genovese crime family thus maintained the tradition of adapting to criminal prosecutions by handpicking the successors of those who had been convicted. The family continued to extract revenue from the market by receiving bribes in exchange for not enforcing collective bargaining terms. Incredibly, the family also continued its extortionate practices—the protection rackets, the union-shop signs, and the Christmas presents.

THE WATCHMAN'S ASSOCIATION PROTECTION RACKET

As early as the 1920s, Lanza instructed his underlings to steal seafood from wholesalers, and then persuaded the victims to purchase theft insurance from him.[28] In 1931, Manhattan District Attorney Thomas C. T. Crain estimated that gangsters were shaking down fish merchants to the tune of $25,000 a year.[29] One wholesaler testified that he had paid $5,000 to Lanza's watchman's association for "protection." By 1981, the Fulton Patrol Association was collecting $700,000 ($1,180,000 in 1996 dollars) from businesses in the Fulton Fish Market.[30]

The wholesalers did not complain publicly about Lanza or market operations. They maintained that paying Lanza was cheaper and more efficient than other means of preventing thievery. The president of the Fulton Fishmongers Association (the trade association representing the Old Market Building wholesalers) explained that "in almost every instance when someone has missed a barrel or a box of fish it has been returned within a few hours after we reported it" to the protection association.[31] Wholesalers declared that they were not victims of extortion but beneficiaries of theft insurance.

0649

The Genovese crime family continued this racket through the years. For example, in 1975, Carmine Romano established the Fulton Patrol Association to protect the New Market Building wholesalers from thefts of seafood. For this "insurance" the New Market Building wholesalers paid $1,300 ($3,720 in 1996 dollars) a week. Although the association employed only two watchmen, the number of thefts dropped significantly.[32] Perhaps the association instilled fear in would-be thieves; more likely, the wholesalers were paying off the very people who had been stealing from them. Tired of high theft rates, the Old Market Building wholesalers eventually purchased the association's services as well. The most lucrative scam was the association's special service of guarding unsold fish stored overnight for $2,800 weekly per wholesaler.[33]

Loading companies provided their own protection services to retailers. For a fee, the loading crews watched over the restaurateurs' and fish store–owners' unlocked vehicles while they shopped. According to the loading companies, it was not a protection scam. "We help to stack the fish, we make sure it's not stolen, and we allow the retailers to go to all the wholesale stands without worrying about thousands of dollars of fish waiting in their vans." Nevertheless, in a tax-evasion case one loader admitted that he encouraged retailers' payoffs with threats of violence; those who did not pay found their vehicles damaged and their fish stolen. In other words, the loaders were not typical security guards. For example, in 1995, one of the loaders was a Genovese family associate; two others were awaiting trial on federal armed bank robbery and explosives charges.

The prosecution of the racketeers was impeded by witnesses' concerns that testifying would provoke violent retaliation against themselves and their families. Three wholesalers chose to serve six-month prison terms rather than testify against Romano and his associates.[34] Others committed perjury.[35] Local 359's longtime accountant admitted that he lied to a grand jury about Carmine Romano's participation in the Fulton Patrol Service scheme because he feared the Genovese crime family's retaliation.[36] Immediately following the trial, one witness was shot several times in front of union headquarters. No one ever was arrested. At the trial of Carmine Romano, the defense presented 350 letters from wholesalers, union members, and other market participants attesting to his integrity and good reputation.[37]

0650

COERCED RENTAL OF UNION SIGNS

Until the 1980s, Local 359 officials forced wholesalers to "rent" cardboard signs stating that they employed union labor. The Romanos received more than $66,000 ($112,000 in 1996 dollars) in rent from this scam.[38] These sign rentals violated the Local 359 constitution.[39] In 1981, a federal court struck down the practice as violating the Taft-Hartley Act. Soon thereafter, the United Seafood Workers, Smoked Fish and Cannery Union placed Local 359 under trusteeship and ousted Carmine and Peter Romano from their union positions.[40] But the Genovese crime family retained its influence over Local 359 through Carmine and Peter's successor, their brother Vincent Romano.

EXTORTING CHRISTMAS PAYMENTS

Fulton Fish Market wholesalers routinely gave Christmas presents to Local 359 officials. To insulate themselves from Taft-Hartley Act liabilities, union officers used middlemen to collect the funds; occasionally, however, they solicited directly. Throughout the 1970s, wholesalers were encouraged to make a holiday contribution "to the boys in the union." The union members never saw the money, which went directly into the coffers of the Genovese crime family.

Before 1975, this Christmas "gift giving" was informal and irregular. After 1975, it became a systematic extortion scheme.[41] In *United States v. Romano,* the government alleged that from 1975 to 1979, union officials collected $300 per wholesaler each Christmas.[42] In 1979, the Fulton Fishmongers Association gave a lump sum donation of $2,400 ($5,000 in 1996 dollars) to the union, in lieu of individual contributions. The wholesalers apparently decided to overlook the illegality of such payments.

DEFRAUDING SUPPLIERS

Wholesalers received fish from suppliers on consignment, sold it to retailers, deducted a "commission," and remitted the remainder to the supplier.[43] At the time the fish was delivered to the wholesaler, the

0651

supplier could not know what its ultimate payment would be because fish prices fluctuate daily. Thus, the suppliers risked being cheated.

The consignment system also made suppliers vulnerable to phantom wholesalers. Such corrupt wholesalers would order increasing amounts of seafood, eventually accepting large quantities with no intention of paying the supplier. The owner of the phantom company would then, often at the same location, establish a new wholesale business under another name and repeat the fraud. Although New York City had the authority to refuse licenses to unreliable wholesalers, it did not choose to exercise it.[44]

In the late 1980s, officials estimated that suppliers lost $6 million as a result of fraud. Most out-of-state suppliers feared pursuing legal remedies because of the market's reputation for being mobbed up. Moreover, phantom wholesalers were hard to locate. Given the difficulty of proving criminal fraud and finding corrupt wholesalers, criminal prosecutions were also rare.

THE UNLOADING CARTEL

For decades, the Genovese crime family operated a lucrative unloading cartel at the market. Genovese soldiers ensured that no companies unaffiliated with the cartel worked at the market. In return, cartel members kicked back a portion of their revenues to the organized crime family. Throughout the 1970s, for example, the unloading companies made cash payments to Carmine Romano every Friday in the back room of a nearby Genovese social club.

The job of the unloading companies was to remove boxes of fish from the trucks and place them on the ground. This simple task required only basic equipment and unskilled labor. In the late 1980s and early 1990s approximately six unloading companies operated at the market; each one employed one "unloading crew" or "gang," ranging in size from two to thirteen employees, to take the fish from the suppliers' trucks to the wholesalers' stalls. In 1992, the unloading companies had estimated combined gross revenues of more than $2 million ($2.24 million in 1996 dollars).[45]

The cartel assigned wholesalers, suppliers, and truckers to particular unloaders. As in the case of the property-rights system that bound Garment District manufacturers to truckers, Fulton Fish Market truck-

0652

ers had no de facto ability to choose an unloading company. Similarly, the wholesalers who paid the unloaders' fees had no say in the assignment of the crews.[46] Truckers, suppliers, and wholesalers all understood that they could not unload their own trucks or choose a particular unloading crew. Indeed, truckers had to wait for the services of their assigned unloading crew, whether or not other crews were available. No unloading crew would solicit customers who "belonged" to other unloading crews.

There was no price competition among the unloading crews; to the contrary, there was a to-the-penny uniformity in the prices they charged the wholesalers: usually $1.35 per one-hundred-pound box and $0.65 per sixty-pound carton.[47] The power of the unloaders allowed them to extract supplemental charges ranging from $10 to $60 per truck. "Jump-up" or "man-on-truck" charges had to be paid in cash when an unloader entered the truck to unload cargo, and, often, even if the unloaders didn't enter the truck. Unloaders in other cities performed this service for the basic unloading fee.

STEALING SEAFOOD

Unloading crews and their associates had many opportunities to steal fish. Unloaders did not sign receipts for the products they handled. Moreover, there was no time to weigh shipments as they passed through the market. Stolen fish were easily diverted to mob-connected wholesalers.[48] Cosa Nostra "skimmed" or "tapped" money by taking a cut of seafood stolen by the unloaders. One undercover agent estimated that, as a group, wholesalers who were not mob controlled lost between two thousand and three thousand pounds of fish a night because of skimming; retailers had to purchase a 115-pound box of seafood to be sure of obtaining 90-pounds.[49] Wholesalers' annual losses added up to an estimated $1.5 million.[50]

THE LOADING COMPANIES' PARKING RACKET

Through the loading companies, Cosa Nostra controlled parking at the market.[51] The parking areas varied in size, each operated by a different loading company. Some companies or their affiliates leased premises

0653

from the city for a nominal fee. Others simply appropriated the public streets for their private business without making any payments. The loading companies reaped lucrative profits. Circa 1990, the loading companies charged $20 a night or more for parking, depending on a variety of factors including the size of the retailer's vehicle and often the retailers' ethnicity. The loading companies reaped an estimated $5 million a year ($5.9 million in 1996 dollars) in fees from parking alone.[52] The Genovese crime family received a significant portion of this amount.

NEW YORK CITY'S FAILURE TO REGULATE

Until 1982, the city's Department of Ports and Terminals collected rents at the market. In 1982, Mayor Edward I. Koch's administration transferred responsibility for rent collection to the South Street Seaport Corporation as part of a deal to develop the waterfront area and historic landmark district adjoining the Fulton Fish Market. The South Street Seaport Corporation inherited two main leases in 1982, one with the New York Wholesale Fish Dealers Association (representing New Market Building wholesalers) and the other with the Fulton Market Fishmongers Association (representing Old Market Building wholesalers).

It was anticipated that the transfer of responsibility to the corporation would increase revenues for the South Street Seaport Museum. However, this goal was thwarted because both the Koch and Dinkins administrations prohibited the South Street Seaport Corporation from raising rents while the market's operations were being investigated. In 1992, a government consultant reported that New York City received approximately $268,000 ($300,000 in 1996 dollars) annually in rent from the wholesalers in city-owned buildings, but that the annual market value of the leases was close to $3 million.[53] Politicians remained passive about this loss of potential revenue.

CONCLUSION

From the early twentieth century, the Fulton Fish Market served the Genovese crime family as a base of power and revenue. Businesses and individuals faced threats of violence and property damage if they did

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not follow the mob's dictates. The Genovese family used its influence over Local 359 to extort money through the collection of Christmas payments and union placards. Cosa Nostra established cartels of loading and unloading companies, controlled parking, and forced wholesalers to pay "insurance" to prevent theft.

City regulation was practically nonexistent. In the 1930s, businesses at the market were required to obtain permits from the Department of Markets.[54] It was alleged that only the approval of "Socks" Lanza, who maintained close friendships with many Tammany Hall politicians, was needed to obtain such permits.[55] Manhattan District Attorney Thomas C. T. Crain, facing removal from office in 1931, testified that he could not explain why he had been lax in investigating and prosecuting organized crime in the market.[56]

The relationship between top-ranking organized-crime figures and prominent politicians continued for decades, and no doubt had important implications for the lackluster efforts of law enforcement to crack down on mob domination of legitimate industries. While a few important mob figures were prosecuted and convicted of racketeering in the 1980s and court-appointed officials were put in place to root out corruption in the market, the overall results were unimpressive. Inaction by city officials and the inability of law enforcement agencies to weaken the Genovese crime family's lock on the market permitted racketeering to flourish. Suppliers, wholesalers, and retailers had no choice but to consider the payoffs as the cost of doing business, which they passed on to consumers through higher seafood prices. For decades, mob rule was an intractable fact of life at the Fulton Fish Market.

Participants in the Fulton Fish Market did not complain. Some observers attributed participants' silence to the fact that the costs of doing business with Cosa Nostra were passed on to consumers.[57] Mob rule had certain advantages. Cosa Nostra prevented competition in the provision of unloading, loading, and parking services. The lack of competition allowed cartel members to set prices higher than any fish market in the country, even controlling for the higher cost of living in New York City. With organized crime firmly in control of the union, labor relations remained peaceful. Other than a strike in 1987, there was no serious disruption of operations or a crisis in getting fish to restaurants and retail stores. It was not until the mid-1990s, under the Giuliani administration's organized-crime control campaign, that the city used its regulatory authority to attack organized-crime racketeering at the market.

0655

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The Taking of John F. Kennedy Airport

> The goods that come into the various airports around New York City . . . truckers have to pick [the goods] up, and take the goods where they are destined. . . . So the truckers have an important and integral part, a key position in the New York area through the fact that they have control over . . . the airport. If it gets into the wrong hands, of course, there can be a stranglehold over New York City.[1]
>
> —Robert F. Kennedy, chief counsel, McClellan Committee Hearings, U.S. Senate, 1957

> I don't think he knows in his heart that we rule the airport.[2]
>
> —Frank Manzo, the Lucchese crime family's overseer at JFK Airport, in an intercepted conversation reported by the *New York Times* in 1985, discussing an airfreight executive's refusal to make payoffs in exchange for labor peace.

CHRONOLOGY

1948 Idlewild Airport opens in Queens; in 1963, it is renamed John F. Kennedy Airport. From its inception, the airport is plagued by mob-orchestrated cargo theft.

1956 Teamsters Local 295 is established to represent the clerical employees, dispatchers, truck drivers, and warehouse workers employed by freight-forwarding and trucking companies that service the airport. The Lucchese crime family controls the local.

1958 John "Johnny Dio" Dioguardi, a capo in the Lucchese family, and John McNamara, president of Local 295, are convicted of conspiracy and extortion.

0656

McClellan Committee Report finds that Jimmy Hoffa created Local 295 and several other paper locals to pay off the Lucchese crime family which supported Hoffa's candidacy for the International Brotherhood of Teamsters presidency.

1968 The New York State Investigation Commission (SIC) conducts investigations and public hearings into racketeering at the airport.

1969 Future Gambino crime-family boss John Gotti pleads guilty to charges of truck hijacking at the JFK Airport and serves three years in prison.

1970 The Lucchese crime family supports the establishment of Teamsters Local 851, which represents over two thousand truck drivers and warehouse workers and fourteen hundred clerical employees and dispatchers who were former members of Local 295.

1971 U.S. Attorney General John Mitchell announces two criminal antitrust indictments against thirteen trucking companies, six individuals, and the National Association of Air Freight (NAFA). Most of the defendants plead no contest and enter into a consent decree that dissolves NAFA and prohibits the fixing of airfreight prices.

1978 Robbers take $5.8 million in cash and securities from a Lufthansa Airlines cargo hangar; it is the largest robbery in U.S. history at the time. A mere $100,000 is recovered and only one individual ever convicted; evidence implicates the Lucchese crime family.

1983 The federal Brooklyn Organized Crime Strike Force launches the Kenrac (Kennedy Rackets) investigation, which collects evidence of bribery, theft, and labor racketeering, leading to the convictions of mob-connected officers of Locals 295 and 851.

1985 The Kenrac investigation results in the indictments of eleven people for bribery and labor racketeering; in a separate prosecution, seven people are charged with extortion and conspiracy. Harry Davidoff, vice-president of Local 851, receives a

0657

twelve-year prison sentence and $125,000 fine. The other defendants enter guilty pleas, including Frank Manzo, the Lucchese crime family's airport overseer; Local 295 President Frank Calise; and Lucchese capo Paul Vario. They receive twelve-, nine-, and six-year prison sentences, respectively.

1989 Pursuant to a settlement reached in *United States v. International Brotherhood of Teamsters,* Judge Frederick B. Lacey is appointed independent administrator. Lacey initiates the permanent removal of Teamsters Local 295 president Anthony Calagna and the suspension of five other officers.

1990 The U.S. attorney for the Eastern District of New York brings a civil RICO suit against Locals 295 and 851. The complaint targets fourteen individuals, including several members of the Lucchese and Gambino families. In 1992, a federal district court judge imposes a temporary trusteeship on Local 295.

1991 The Kenrac II investigation, launched in 1987, ends with indictments for bribery and labor racketeering against seven individuals, among them Anthony Calagna and Gambino capo Anthony Guerrieri. All are found guilty; Calagna receives a prison sentence and is banned from all union activity for thirteen years.

1992 Local 295 is placed under trusteeship. Judge Nickerson appoints Thomas Puccio, a former assistant U.S. attorney and former chief of the Brooklyn Organized Crime Strike Force, as trustee.

1993 In September, the U.S. attorney for the Eastern District of New York obtains a criminal RICO indictment against seven individuals, including Anthony Razza, secretary-treasurer of Local 851, and Anthony Calagna, the former president of Local 295. The indictment charges them with extortion, labor racketeering, and related offenses. The defendants enter guilty pleas. Razza receives a twenty-one-month prison sentence and is barred from the IBT for life.

In June, Trustee Puccio files a motion with Judge Nickerson seeking to extend his trusteeship to Local 851.

0658

Following Razza's indictment, IBT President Ron Carey ousts the leadership of Local 851, and appoints Curt Ostrander as temporary trustee.

1994 The U.S. Attorney's Office for the Eastern District of New York, Local 851, and the IBT sign a consent decree establishing a bifurcated monitorship over Local 851. Former federal prosecutor Ron DePetris is appointed independent supervisor of Local 851, and Curt Ostrander is appointed to continue as union trustee.

1995 DePetris, on behalf of Local 851, files civil RICO suits against two freight-forwarding companies.

1997 Indictment of eighty-three defendants for participating in an air cargo theft ring.

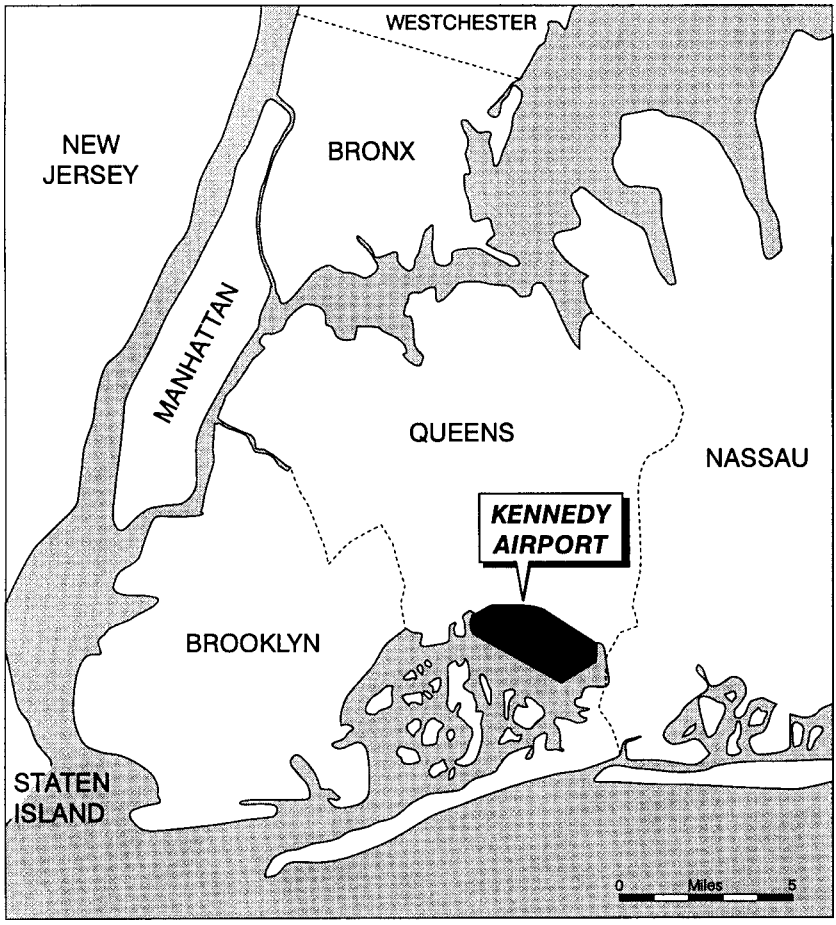
1998 Both defendant freight forwarding companies settle with Local 851.

Puccio and DePetris remain in place as the union trustee of Local 295 and independent supervisor of Local 851, respectively. The terms of both men are due to expire sixty days after the locals hold free elections and the court certifies the results.

In December, fifty-six individuals and eight corporations are indicted as a result of Operation Rain Forest. The defendants are charged with stealing, fencing, and distributing air cargo from John F. Kennedy Airport.

John F. Kennedy International Airport (JFK Airport), which opened as Idlewild Airport in 1948,[3] is located in southeastern Queens on the shores of Jamaica Bay, fifteen miles from the center of Manhattan. In 1993, it accounted for roughly 30 percent of the total value and tonnage of air cargo imported into the United States and for roughly 24–31 percent of the total value and tonnage of exported cargo.[4] "A city unto itself,"[5] JFK Airport's five thousand acres contain runways, terminal buildings, hangars, warehouses, high-security storage vaults, container stations, and truck depots. The Airport employs more than forty thousand people. The Port Authority of New York and New Jersey operates the airport and derives revenue from the airlines, freight forwarders,

0659



and customs brokers. The land is owned by New York City and leased to the Port Authority.

In the 1950s as freight business moved from ships to airplanes, the Lucchese crime family expanded its operations from the New York City waterfront to JFK Airport.[6] Its primary power base at JFK consisted of two Teamsters union locals, Local 295 and Local 851, which represent employees of freight-forwarding and trucking companies. The Luccheses also exercised control over trucking services at the airport through the Metropolitan Importer Truckmen's Associa-

0660

tion (MITA) and by maintaining ownership interests in several trucking companies.

The volume and value of the cargo made theft at JFK Airport a highly attractive enterprise for organized crime. Through its entrenched position there, the Lucchese crime family profited from the theft of air cargo and from payoffs by freight-forwarding companies. The union locals also provided jobs for Cosa Nostra members and associates; union officers handpicked by the Lucchese family steered work to mob-controlled trucking companies. Cosa Nostra transformed control of trucking services into revenue through payoffs from members of the trucking cartel and by profits from ownership interests in trucking companies.

HOW THE AIR-CARGO INDUSTRY OPERATES

Importers, manufacturers, and wholesalers located throughout the United States rely on the air-cargo industry to transport goods through JFK Airport to the New York City metropolitan area and beyond. The industry involves shippers, airlines, freight-forwarding companies, and IBT Local 295 and IBT Local 851. Local 295, with over two thousand members, represents truck drivers, helpers, switchers, platform men, motor-lift operators, mechanics, garage employees, and fuellers employed by freight-forwarding companies. Local 851 represents office clerical workers and dispatchers employed by freight-forwarding companies, and has an estimated fourteen hundred members.

The freight-forwarding companies coordinate, arrange, and manage the operations necessary to the movement of cargo. Typically, the freight forwarder, who is employed by a manufacturer or other shipper, secures insurance, warehouses the merchandise, and when necessary, arranges for repacking, marking, and weighing.[7] Approximately three hundred forwarding companies operate at JFK Airport; the majority use their own trucks and drivers. Most are large, national corporations that maintain offices and warehouses at the airport. If the freight forwarder does not provide its own ground transportation, it contracts with a trucking company to drive cargo to and from the airport. The trucking companies operating at the airport range in size from "mom-and-pop" companies to organizations with several hundred employees.

0661

The following example illustrates how an air-cargo transaction operates. The manufacturer hires a freight-forwarding company to ship shoes from a factory in a Miami suburb to a department store in Jersey City, New Jersey. The forwarder hires a Florida trucking company to pick up several hundred boxes of shoes at the shipper's factory and take them to the forwarder's warehouse at Miami Airport. The forwarder packs the shoes into containers that also hold cargo the forwarder has received from other shippers, allowing the forwarder to take advantage of the airline's lower bulk rates. Truck drivers, employed by the forwarder, take the containers to the cargo terminal, where airline employees load them onto the aircraft. At JFK Airport, airline employees unload the containers. The truck drivers take the containers to the forwarder's warehouse, where they are disassembled. Trucking companies, or the freight-forwarder's trucks, take the shoes to Jersey City.

COSA NOSTRA'S CONTROL OF TEAMSTERS LOCALS 295 AND 851

Cosa Nostra's influence in the airfreight industry is well documented.[8] For several decades, the Lucchese crime family played a role in key facets of air-cargo operations through its domination of IBT Locals 295 and 851. The locals' memberships comprised the men and women responsible for the clerical work, trucking, and loading and unloading of air cargo. Control over these unions gave the Mafia control over the shipping operations at JFK Airport.

Hoffa and the Creation of Paper Locals

From its inception in 1956, Local 295 was awash in corruption. Jimmy Hoffa, who attained stature within the Teamsters union as the central regional leader of the major Midwest locals, obtained authorization to charter Local 295 and six other International Brotherhood of Teamsters (IBT) locals in New York City in order to expand his power base into the Northeast.[9] Robert Kennedy, who investigated Hoffa and the Teamsters as chief counsel to the U.S. Senate's Select Committee on Improper Activities in the Labor or Management Field (the McClellan

0662

Committee) scornfully referred to the seven new union affiliates as "paper locals."[10]

At the hearings, the McClellan Committee played intercepted telephone conversations that Hoffa had conducted with John "Johnny Dio" Dioguardi, a soldier in the Lucchese crime family and a notorious labor racketeer.[11] The recorded conversations revealed a conspiracy between Hoffa and Dioguardi to use Local 295 and the six other bogus locals to ensure the election of their handpicked candidate, John J. O'Rourke, to the presidency of the IBT Joint Council, an umbrella organization representing the interests of more than 125,000 rank-and-file Teamsters in the New York City metropolitan area.[12] Senator John L. McClellan, the chairman of the committee, commented that "[t]he fact that one of the nation's most powerful labor leaders, James R. Hoffa . . . used [John] Dioguardi and [Anthony] Corallo[13] in his efforts to capture control of [the Teamsters] in New York City only serves to underline the importance of gangster infiltration in the labor movement."[14]

The power-grabbing scheme of Hoffa and Dioguardi was a resounding success. In 1957, with the support of regional Teamsters organizations in the South, Midwest, and, critically, the Northeast, Hoffa was elected the International President of the Teamsters union. John O'Rourke was elected vice-president.[15] Cosa Nostra's influence now reached to the very top of the Teamsters. In New York City, Cosa Nostra used its power in the Teamsters to infiltrate the air-cargo industry; Local 295 functioned as the Lucchese crime family's puppet until the early 1990s, when it was placed under trusteeship.[16]

In 1970, the Lucchese crime family expanded its power base by forming IBT Local 851, which served as a haven for Local 295 officials under investigation for soliciting and taking bribes from freight forwarders and for various labor-racketeering schemes.

CORRUPT UNION OFFICERS

Once elected IBT president in 1956, Hoffa repaid his debt to the Lucchese crime family for supporting his successful bid for the IBT presidency by appointing Harry Davidoff, a close Lucchese associate, to head Local 295. Davidoff dominated Local 295 for forty years. Two

0663

decades into Davidoff's rule, the Senate's Permanent Subcommittee of Investigations characterized him as "a ruthless New York thug, a gangster who gravitated to the labor movement for no other reason than to steal from it."[17] When Harry stepped down, his son Mark and Frank Calise ran the two IBT locals. In 1985, when Calise was convicted of labor racketeering and sentenced to a nine-year prison term, Lucchese member Anthony Calagna and various relatives assumed control of the unions.

LEAD AGENTS AND TRUCK HIJACKING

The lead agent position was a key role in the freight forwarding business. They allocated the job assignments for truck drivers, warehouse workers, clerical workers, and dispatchers. Many of the lead agents at the airport were members of Local 851. Some were associates and friends of the Lucchese crime family. Despite the fact that lead agents played an important managerial function, the freight forwarders had no role in choosing them.

Lead agents were in a position to arrange truck "give-ups" and hijackings, the two most common forms of cargo theft at JFK Airport.[18] In a give-up, the truck driver who is transporting goods to or from JFK Airport parks the truck with the keys in the ignition, then leaves the vehicle for "a minute" to get a cup of coffee or use a bathroom. In his absence, the truck is stolen according to a prearranged plan. Hijackings require a lead agent to tip off Lucchese representatives at the airport about a valuable cargo shipment and its scheduled route. A Lucchese truck-hijacking crew intercepts the truck just outside the airport grounds and wrests it from the driver, using violence or the threat of violence.[19]

Many high-ranking organized-crime figures cut their teeth carrying out truck hijackings and give-ups at JFK Airport. For example, in 1969, future Gambino crime family boss John Gotti was sent to prison for hijacking trucks transporting clothing from JFK Airport.[20] Henry Hill, protagonist of the book *Wiseguy* and of the movie *Goodfellas*, spent much of his criminal career carrying out airport-related cargo thefts. Hill often assisted Jimmy Burke, a notoriously ruthless associate of the Lucchese crime family, who was reputed to be the "best" airfreight hijacker oper-

0664

ating out of the airport. Burke and his crew were responsible for the theft of millions of dollars of valuable cargo, which ranged from jewelry, weapons, and securities bonds, to household appliances, meat, shoes, and toys.[21] According to Hill, the secret to Burke's success was his cadre of informants: insider tips flowed in from all sectors of the airport as cargo handlers, truck drivers, and airline employees assisted the thievery in exchange for a fraction of the take. To safeguard his operations, Burke bribed corrupt policemen to alert him to government informants and potential witnesses. Hill remarked that when it came to linking Burke to a hijacking, "[t]here was never one driver who made it into court to testify against him. There were quite a few dead ones who tried."[22]

The Lufthansa Heist

The December 1978 robbery of cash and securities from the Lufthansa Airlines cargo hangar at JFK Airport was, at that time, the most lucrative robbery in the nation's history. The tabloids called it "the crime of the century," and it has inspired several books and films. Armed with detailed information about the complex security system from one of the cargo's supervisors, a Lufthansa employee named Louis Werner, a gang of seven masked gunmen broke into a high-security Lufthansa Airlines building. The robbers rounded up the guards and forced them to open the vault where the shipment was kept. In a little more then an hour, they had stolen an estimated $5 million of unmarked money and $875,000 worth of jewelry.

The robbers' familiarity with the layout of the building and the fact that they addressed several Lufthansa employees by name caused the FBI to suspect an inside job. According to the FBI agent who directed the investigation, the four robbers and mastermind of the theft retained a small portion of the proceeds and passed the rest to Lucchese capo Paul Vario.[23] According to Henry Hill, the mastermind of the theft was Jimmy Burke. But the only individual ever prosecuted in connection with the robbery was Louis Werner, the Lufthansa cargo supervisor who had first tipped off the mob to the existence of the shipment. In 1979, Werner was convicted and sentenced to fifteen years in prison.[24] Of the nearly $6 million stolen, only $100,000 was ever recovered.[25]

0665

THE SALE OF LABOR PEACE

The Lucchese crime family's influence with Locals 295 and 851 secured advantages above and beyond opportunities for lucrative heists. One advantage was the ability to sell labor peace to freight fowarders. Picketing, work stoppages, slowdowns, and misroutings could impose staggering costs on freight forwarders, whose businesses depended upon the speedy delivery of air cargo. For example, when members of Locals 295 and 851 conducted a five-month strike at the JFK Airport against Emery Worldwide in 1989, the company lost $20 million in revenue and eventually went bankrupt.[26] In 1984, the Brooklyn Organized Crime Strike Force estimated that Cosa Nostra received millions of dollars every year in labor-peace payoffs from freight forwarders.[27]

Freight-forwarding companies and trucking companies operating at JFK Airport also made payments to Cosa Nostra to avoid enforcement of expensive contract terms, especially featherbedding requirements. For example, between 1992 and 1993, Kuehne & Nagel Air Freight paid upwards of $100,000 in bribes to Anthony Razza, the secretary-treasurer of Local 851 and an associate of the Lucchese crime family, in exchange for a favorable collective bargaining agreement. Among the advantageous terms in the new contract was a yearlong freeze in pension contributions by Kuehne & Nagel Air Freight for its Local 851 employees.[28] Payoffs purchased additional benefits. For example, union officials assisted forwarding companies in recruiting customers from competitors and granted them immunity from cargo thefts.

For decades, freight forwarders made payoffs to officers of Locals 295 and 851; these were passed along to high-level Lucchese members. When federal investigators intensified their investigations of organized crime in the JFK air-cargo industry, freight forwarders began using intermediaries, usually corrupt union officials who would funnel the money directly to the Lucchese family. Forwarding-company executives would disguise the bribes as payments to labor-consulting companies (run by Lucchese family associates) for services rendered.[29]

The Lucchese crime family used Teamsters Locals 295 and 851 to reward friends and associates with jobs as truck drivers, warehouse workers, dispatchers, and clerical employees. Some union members had to pay off union officers to retain their employment. Union officers,

0666

in the usual manner, passed these payments to high-ranking members of the Lucchese crime family.

COSA NOSTRA'S OWNERSHIP INTERESTS IN TRUCKING

Cosa Nostra members and associates held ownership interests in trucking companies in the JFK Airport air-cargo industry. Local 295's contracts with freight-forwarding companies contained a provision prohibiting the use of a trucking company at the airport without the union's written permission. In this way, the union steered freight forwarders to mob-controlled trucking companies, which enjoyed immense advantages over competitors. Cosa Nostra members owned, operated, or received payments from at least twelve trucking companies. For example, Cosa Nostra associate Frank Manzo, overseer of the Lucchese crime family's interests at the airport, owned two trucking companies: LVF Air Cargo, Inc., and LVF Airport Service Inc.[30]

THE ROLE OF MITA

For two decades, the Lucchese crime family controlled the Metropolitan Import Truckmen's Association (MITA), a trade association comprising a dozen trucking companies operated by Cosa Nostra associates from their positions as trucking consultants and troubleshooters. (These positions were less conspicuous than high-profile, upper-echelon MITA positions.) By 1965, according to law enforcement officials, practically every top MITA officer answered to the mob.[31] Through its decades-long domination of this trade association, the Lucchese crime family, with the support of Local 295, enforced a trucking cartel at JFK Airport.

Members of the trucking cartel paid hefty fees to the trade association, which were passed along to the Lucchese crime family. The airlines initially asserted that they should be free to negotiate for trucking services with any trucking company, regardless of whether it was a member of MITA, but they eventually acquiesced to the trade association's membership requirement. Coercion was an obvious factor: unaffiliated trucking companies attempting to operate without cartel approval found that the cargo they were scheduled to pick up at JFK arrived badly damaged or did not arrive at all.

0667

GOVERNMENT RESPONSES

Port Authority

The Port Authority of New York and New Jersey, the government agency responsible for overseeing operations at JFK Airport, took some remedial action to augment airport security forces but was not effective in combating Cosa Nostra activity. In 1987, the head of the Port Authority police force acknowledged that stealing and extortionate activity at the airport, which had resulted in a $3 million loss the previous year, was "getting worse."[32] Five years later, reacting to a 1991 report of the amount of cargo stolen from the airport, Port Authority officials insisted that labor racketeering and theft were not significant problems because the reported $5.4 million loss represented only a fraction of the estimated $80 billion worth of goods transported annually.[33]

In 1994, freight-forwarding companies reported 218 cargo thefts, resulting in losses of nearly $5 million.[34] That same year, twenty-two robbers belonging to crews headed by low-level associates of the Gambino crime family were arrested following a two-year investigation launched by the Queens County District Attorney's Office. Although none of the individual robberies carried out by the crews was large enough to attract the attention of investigators, it is believed that the aggregate impact of the crews' activities resulted in financial losses greater than those incurred from the infamous Lufthansa heist.[35] In the mid-1990s, Port Authority officials tightened security at JFK Airport. In response, the thieves, under Cosa Nostra's direction, began targeting warehouses used by freight-forwarding companies located off airport premises.

DOJ Initiatives

In the late 1960s, the National Association for Air-Freight, Inc. (NAFA), a national organization of trucking companies, absorbed MITA. Subsequently, the federal government attempted to break up Cosa Nostra's trucking cartel in the JFK air-cargo industry. Three antitrust cases were filed, two criminal and one civil, which named as defendants NAFA, several trucking companies, and their officers. In 1974, twelve trucking companies, three individuals, and NAFA entered a consent decree that, among other things, ordered the dissolution of NAFA

0668

and enjoined the fixing of prices for ground transportation of imported air freight at JFK.[36] However, the consent decree merely forced mobsters to exercise control over trucking services at the airport through alternative means. The Lucchese crime family continued to dominate the trucking business through Local 295 and Local 851, and through direct or indirect control over several trucking firms. Cosa Nostra's control of airport cargo operations remained firm well into the 1980s.

Operation Kenrac

In 1983, the Federal Organized Crime Strike Force, based in Brooklyn, launched an investigation code-named Kenrac—"Kennedy Rackets." The investigation, which lasted five years and resulted in several important convictions, painted a disturbing picture of the depth and scope of the mob's infiltration of the air-freight industry. By 1985, the FBI had amassed enough incriminating evidence, which included five hundred reels of taped conversations from bugs placed in Lucchese crime family associate and airport overseer Frank Manzo's home and telephone, to arrest Manzo as well as Local 295 President Frank Calise and Local 851 Vice-President Harry Davidoff.

Based on the Kenrac findings, the U.S. Attorney's Office for the Eastern District of New York obtained a twenty-three count indictment charging Manzo, Davidoff, Calise, and eight others with participating in a conspiracy to commit extortion through a pattern of racketeering activity that included shaking down shipping and trucking companies at JFK Airport.[37] Faced with overwhelming evidence against them, Manzo and Calise both entered guilty pleas and received prison terms of twelve and nine years, respectively. Harry Davidoff went to trial in federal district court on a five-count indictment.[38] He was found guilty but obtained a reversal several years later in the Second Circuit Court of Appeals. However, Davidoff was ultimately retried, convicted, and sentenced to ten years in prison.[39]

While the government's victories against top Cosa Nostra–affiliated power brokers at JFK Airport seem impressive, the Kenrac prosecutions failed to make significant inroads into the mob's dominion over the airport. The prosecutions of Davidoff, Calise, and Manzo effectively derailed the criminal careers of those individuals without addressing the partnership between the upperworld and underworld that enabled Cosa Nostra to continue operations after the convictions.[40]

0669

CONSEQUENCES OF COSA NOSTRA'S CONTROL OF JFK AIRPORT

Mob control of the air-cargo industry at JFK has had significant and long-lasting consequences on the economy of New York City. The share of air freight entering the United States through JFK Airport fell from 41 percent in 1977 to 33 percent in 1987.[41] Some commentators attributed the decline, at least in part, to the reluctance of companies to open or expand air cargo operations at the airport because of the presence of organized crime.[42] At least one large freight-forwarding company refused to handle high-value cargo, such as furs and watches, if the shipment had to pass through JFK Airport.[43] In the 1980s, several shippers, including IBM, began to divert cargo to other airports. While labor racketeering and cargo theft were not unique to JFK Airport, these problems were perceived to be most serious there.[44]

Surprisingly, airlines carrying cargo through JFK Airport did not often complain about organized crime; some refused to acknowledge that a problem even existed. The most likely explanation for this silence is fear of adverse publicity. Airlines have a strong interest in maintaining a public image of tight security to attract and retain the allegiance of travelers.

For decades, officials who investigated mob-operated shakedowns of freight-forwarding companies at JFK Airport reported that the businessmen targeted by Cosa Nostra were similarly silent. The victims' reluctance to come forward was often attributed to concerns for physical safety.[45] Another factor was the mob's role in stabilizing the industry by "curbing competition, setting prices [and] allocating markets."[46] In fact, many freight-forwarding companies would not have remained in business if they had to pay union wages and benefits. By contrast, companies that cooperated with Cosa Nostra thrived. The money that freight forwarders saved in labor costs by avoiding strict enforcement of contract provisions—sometimes unionization itself—far exceeded the costs of the payments required to obtain such preferential treatment. Companies paid off top-echelon union representatives to be allowed to use nonunion labor, which is much cheaper. It is unlikely that the freight forwarders passed on any savings to their customers and indirectly to the public. However, schemes like this call into question the existence of a "mob tax."[47]

0670

Union members were the true victims of organized crime at the airport. Their leaders usually failed to aggressively police employers to ensure that proper benefit contributions were paid, and sometimes took (and solicited) bribes to look the other way. In addition, the union officers themselves sometimes embezzled and misused funds.

Yet, members of Locals 295 and 851 did not complain about Cosa Nostra's control of their unions. Many members gained entrance into the union through relatives or friends, often through connections to the Lucchese crime family. Members with ties to organized crime recruited others to perpetuate the connection. Few dared to complain about illegal practices at the airport or within the union. It was in their best interest to remain silent because those who caused trouble were threatened with loss of employment and physical harm. Those who cooperated with union officials received favorable treatment, such as overtime schedules and desirable work assignments.[48]

It seems that the Kenrac investigation, which dislodged from the industry three of the most entrenched and powerful Cosa Nostra figures, would have significantly reduced mob-orchestrated thievery and extortion at the airport. But it did not. Davidoff, Manzo, and Calise were soon replaced by other organized-crime associates. In addition, the Gambino crime family took advantage of the brief period of upheaval following their convictions to take over part of the Lucchese crime family's turf. Five years after the Kenrac defendants were convicted and sentenced, federal government officials sought to have Local 295 placed under trusteeship. In granting the government's request, Federal District Court Judge Eugene H. Nickerson stated, "[The] contention that Local 295 is now free of the influence of organized crime rings hollow. . . . [T]he evidence exhibits [that] Local 295's officers closed ranks against the government's investigation."[49]

CONCLUSION

Cosa Nostra members and associates, journalists, and others familiar with the air-freight industry have long referred to JFK Airport as the mob's "candy store."[50] *Wiseguy* protagonist Henry Hill explains, and a slough of prosecutions and investigations confirm, that the airport's air-cargo operations were thoroughly dominated by Cosa Nostra from the opening of the airport in 1948 until at least the late 1980s.

0671

The mob's power base was Teamsters Locals 295 and 851. The former (along with several other paper locals) was created by Jimmy Hoffa in the 1950s, with the help of the Lucchese crime family, to further his IBT presidential ambitions; the latter was created in 1971 as a haven for 295 officials under government investigation. Through domination of these Teamsters locals, the Lucchese crime family established and policed a trucking cartel. Cartel members made regular payoffs in exchange for labor peace. Cosa Nostra expanded its revenues from the airport by handpicking union officials with the power to exploit their detailed knowledge of valuable cargo shipments to set up truck give-ups and hijackings.

Mob rule came at the expense of rank-and-file union members, unaffiliated trucking companies, businesses that depended upon receiving cargo shipments, and the general public, which was forced to pay a mob tax reflecting the cost of mob payoffs on goods shipped through the airport. Although high-profile investigations since the 1950s have repeatedly exposed the presence of organized crime in the air-cargo industry at JFK Airport, law enforcement officials were unsuccessful in purging or even disrupting organized crime's cartel until the mid-1990s.

0672

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Exhibiting Corruption

The Javits Convention Center

> [Y]ou're buying a pass in and out of here. You can't do that. You know, if we're hitting everybody else, which we are, you know making them do certain things . . . how do you get a pass[?] How could that possibly be? You know what I'm talking about? You understanding what I'm saying?[1]
>
> —Wire-tapped conversation between Robert Rabbitt Sr., the general foreman at the Javits Center, and freight-company president Ronald Muller

CHRONOLOGY

1986 The Jacob Javits Convention Center opens.

Anthony Salerno, ostensible boss of the Genovese crime family, is convicted on federal charges of rigging Javits Center concrete bids and of inflating the center's construction costs by approximately $12 million. The Julius Nasso Concrete Company and the S & A Concrete Company are also implicated in the illegal concrete cartel.

1987 The U.S. attorney files a civil RICO action against Teamsters Local 814, alleging that the Bonanno crime family controls the local and its officers. Pursuant to a consent decree a court-appointed trustee is directed to purge the local of organized crime.

1988 The U.S. attorney files a civil RICO suit against the International Brotherhood of Teamsters and the Teamsters General

0673

Executive Board. The consent decree creates an Independent Review Board (IRB) composed of three court-appointed officers to oversee disciplinary and electoral processes. The IRB begins purging mobsters from corrupted locals, including Local 807, which had become a haven for ousted officials from Local 814. Local 807 members load and unload vehicles.

1990 The U.S. attorney for the Southern District of New York files a RICO suit against the District Council of Carpenters and its chief officials.

1991 Ralph Coppola, chief steward of the Javits Center, is identified as an agent of the Genovese crime family and removed from his position.

1992 Twenty-seven members of the Carpenters union, the Teamsters union, and the Exhibition Employees Union who work at the Javits Center are indicted on charges of theft, extortion, and violence. Twenty-four plead guilty; three are acquitted.

Robert Rabbitt Sr., general foreman of Local 807, is indicted for receiving bribes, larceny, possessing stolen property, conspiracy, and falsifying business records. He pleads guilty to the last charge and serves one year in prison. The same charges are brought against his son Michael, but are dropped pursuant to Robert's plea agreement and Michael's promise to perform one year of community service.

1994 The case against the Carpenters union and its chief officials ends in a consent decree, permanently enjoining the defendants from racketeering or knowingly associating with any organized-crime figures. The court appoints Kenneth Conboy to monitor compliance with the terms of the decree.

Robert Rabbitt Sr. resigns from Local 807 for five years as part of a settlement with the IRB. His son Michael takes his place.

Carpenters union District Council President Frederick Devine appoints mob associates Anthony Fiorino and Leonard Simon District Council representatives at the Javits Center.

0674

1995 New York State Comptroller H. Carl McCall issues an audit report charging Javits officials with mismanagement and toleration of corruption.

The New York State Senate holds hearings on racketeering at the Javits Center.

IBT President Ron Carey, acting on the basis of an IRB report, removes the leadership of Local 807 and places the local under trusteeship.

Governor George S. Pataki nominates Robert Boyle as president and CEO of the Javits Center and Gerald McQueen as inspector general.

Anthony Fiorino faces the first disciplinary hearing conducted under the Carpenters union consent decree. Following testimony by federal investigators concerning his close connection to the acting boss of the Gambino crime family, Fiorino is expelled from the union.

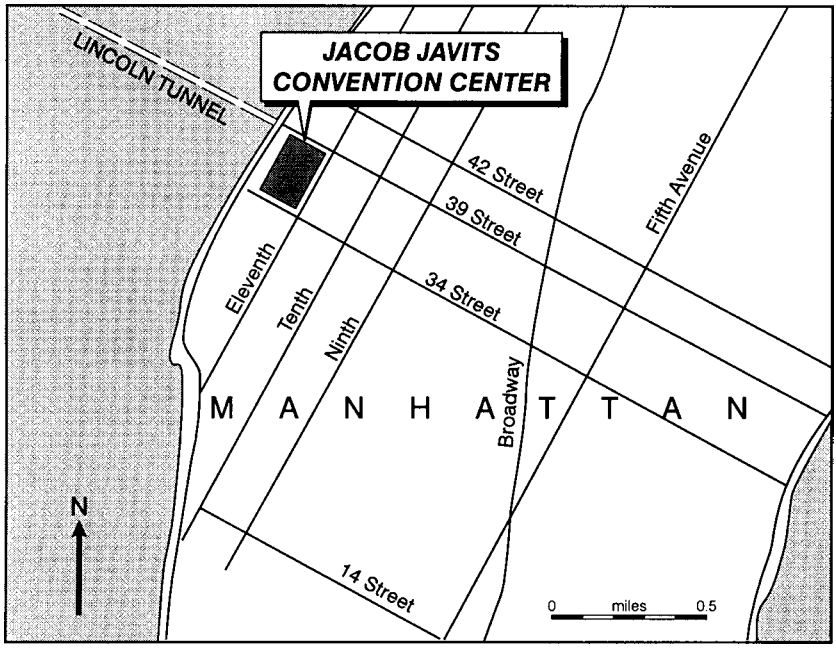
1996 Manhattan District Attorney Robert Morgenthau obtains indictments against several members of Exhibition Employees Union Local 829 for misusing union benefits while employed at the Javits Center.

1997 Gerald McQueen becomes president and CEO of the Javits Center.

In 1969, New York Mayor John Lindsay proposed a new exhibition and convention center to replace the New York Coliseum. The mayor and other proponents promised that a new center would compete more successfully for national trade shows and would stimulate New York City's economy by creating employment and business opportunities. Another benefit would be revitalization of the rundown site consisting of twenty-six acres stretching between 11th and 12th Avenues and from 34th and 39th Streets on Manhattan's west side.

Plans for the 1.8-million-square-foot Convention Center, which was later named for the popular former Republican U.S. Senator, won legislative approval and a $375 million initial construction budget in 1979.[2] Responsibility for construction and development was assigned to the

0675



New York Convention Center Development Corporation (CCDC). The groundbreaking ceremony for the convention center, the nation's largest at that time, took place in late 1980. The center opened for business in April 1986.

Since the first concrete was poured for construction, the Javits Center was mired in organized-crime corruption and racketeering. Cosa Nostra bosses and members owned the concrete companies and dominated the union that poured the concrete. The CCDC awarded a major Javits Center construction contract to Julius Nasso Concrete Company and S & A Concrete Company, allotting $30 million for the concrete superstructure of the facility.[3] Both companies were later tied to the concrete cartel run by the Cosa Nostra "commission."[4] Anthony "Fat Tony" Salerno, ostensible boss of the Genovese organized-crime family, was convicted of rigging Javits Center concrete bids and of inflating the center's construction costs by approximately $12 million.[5] Few contractors were willing to complain; retaliation could be swift and brutal. For ex-

0676

ample, Irwin Schiff, owner of an electrical contracting company doing work during construction of the center, was murdered in a Manhattan restaurant soon after complaining to the FBI about corruption and theft at the center.[6]

By establishing a power base in the Teamsters, Carpenters, and Exhibition Employees Unions, Cosa Nostra crime families infiltrated the center, controlled its operations and extracted millions of dollars annually.[7]

OPERATION OF THE CONVENTION CENTER

Legal and Administrative Framework

The Javits Center is a state-owned facility operated as a corporation by the New York Convention Center Operating Corporation (CCOC), a public benefit corporation.[8] The CCOC is responsible for marketing the center to prospective exhibitors and, since 1991, for its management. The CCOC is run by the thirteen-member Board of Directors, of whom the governor appoints seven and state legislative leaders appoint six.[9] Appointees serve staggered three-year terms without pay; major responsibilities include setting Javits Center policy and appointing key administrative personnel. The governor recommends the chairman of the Board of Directors; the board has always approved the governor's recommendations.

Governor Mario Cuomo played a high-profile role in promoting the center in the early 1980s for its revitalization effects on Manhattan's west side. However, during the mid-1980s his administration referred complaints of exorbitant costs and corruption elsewhere.

Several members of the Board of Directors were large campaign contributors and friends of state politicians.[10] For example, Governor Cuomo appointed one board member who reportedly contributed $24,000 to his reelection campaign.[11] For strategic reasons, as well as because the board positions were unpaid and low profile, there was little incentive for board members to involve themselves in the center's management. William Stern, head of the Urban Development Corporation under Governor Cuomo, observed that the "Board is there to make sure everyone's political interests are met."[12]

0677

Arranging a Show

Trade shows and conventions are scheduled and advertised often several years in advance. Until the 1995 reforms at the center, a representative of a trade organization contacted a show manager to arrange a show date.[13] The show manager arranged the dates for the show, rented space from the center, sold it to exhibitors, and hired decorating companies to prepare the center for exhibits. The decorating companies would use the unions' job referral system to employ workers to assemble and dismantle the exhibitions.* Workers lay carpet, load and unload trucks, install electrical fixtures, and perform other types of manual labor.**

The center operates most efficiently and profitably when shows are scheduled one immediately after another. Thus, Javits management has a strong interest in breaking down and packing up the shows as soon as they finish so that the next show can be set up; as a result, most of the setting up and breaking down of shows occurs at night, under time pressure. Before an exhibition opens, the mainly unskilled or semiskilled workers may work around the clock loading and unloading trucks and vans, moving merchandise into and out of the convention hall, and assembling and dismantling display stands, tables, and seats.

Collective Bargaining Framework

Several unions represent the men and women who work at the center. The Teamsters (Local 807) represent workers who load and unload the delivery trucks and vans with exhibitors' products and supplies. Members of several Carpenters union locals assemble the booths and electrical stations, and, until July 1995, the Exhibition Employees Union (Local 829) represented the general laborers.

*Before 1995, the Javits Center directly employed approximately three hundred people who carried out routine day-to-day operations like event management (including booking shows, marketing, and operating the facility), administration, maintenance, and security. After 1995, the center put on its payroll workers who used to be employed by decorating companies, this swelled the payroll to two thousand employees.

**The center bills the show manager for rent, cleaning, and electrical services. The decorating company bills the show manager exhibitors. The trade association pays the center, and the center's management pays the decorators who worked on that show. The labor expenses are billed separately; each exhibitor is responsible for the labor expended on its exhibits. The trade association also bills each exhibitor according to the floor space used.

0678

Until the mid-1990s, each union negotiated a collective bargaining agreement with the decorator companies. These agreements provided that 50 percent of the labor force for a particular show would be chosen by the decorator and 50 percent by the union through its hiring hall. Throughout the 1980s, the contracts also specified how many workers were required for various tasks, often many more than necessary. This featherbedding in part accounts for convention costs that were two and a half times those in Chicago and four times those in Atlanta.[14]

Featherbedding

Collective bargaining agreements covering work at the Javits Center mandated featherbedding and exorbitant labor costs. Union work rules required that a licensed electrician be paid close to $80 to plug in a lamp.[15] Unloading a forklift required nine workers; the same job required only three workers in Chicago. Exhibitors paid $70.50 an hour for a general laborer at Javits, and coughed up an hourly rate of $127.50 for weekend work and overtime. The comparable rates in Atlanta and Chicago were $33 and $48 an hour, respectively.

Agreements with decorator companies also gouged exhibitors. During the 1994 New York Auto Show, exhibitors paid $10 for a quart of orange juice, $27 for a gallon of coffee and $12 for a pot, and $10 for a sixteen-ounce bag of potato chips. Javits Center contracting rules foisted these outrageous prices upon the trade shows by forbidding trade associations and exhibitors from providing any goods and services themselves. The New York Auto Show organizers claimed that the cost of a New York show was 60 percent higher than a show in Detroit, Chicago, or Los Angeles.[16]

Cosa Nostra's Influence at the Center

Cosa Nostra exerted control over and extracted money from the Javits Center through control of businesses and labor unions. Members and associates of the Genovese, Gambino, and Colombo crime families held important positions within the union locals. They profited by allowing exhibitors to buy their way out of burdensome contractual requirements, and by placing members, associates, and friends in highly paid positions at the center.

0679

THE CARPENTERS UNION AND THE JAVITS CENTER

Before the late 1990s, there were approximately twenty locals of the International Brotherhood of Carpenters and Joiners in the New York City area, organized under the umbrella of the District Council, which makes major policy decisions for the locals and negotiates the collective bargaining contracts. From the 1960s, the Genovese crime family influenced operations at the Javits Center through its control over the Carpenters union. Vincent "the Fish" Cafaro, a Genovese family member turned government informer, explained that the Genovese family "controlled the hiring of Carpenters union members, first at the [New York City] Coliseum, and then at the Javits Center."[17] Although other Cosa Nostra families exerted influence at the center, the Genovese family was the dominant force.[18]

The Carpenters union job-referral rules dictated that, with limited exceptions, work had to be distributed to members according to their placement on an out-of-work list. Contractors might specifically request a particular union member, but the request had to conform to certain requirements.[19] If a contractor needed a person with a special technical skill, the union was supposed to assign the first out-of-work person on the list with that qualification. In theory, unemployed union members registered at their local union office, which placed them on a chronological list and distributed job assignments accordingly.

In reality, the Genovese crime family ignored the rules and substituted its own criteria for filling carpenter positions at the Javits Center. Typically, a Genovese family associate gave union officials a preferential hiring list, from which between thirty and forty people were selected to work for decorator companies with business at the center. For several years, Cafaro himself had final say over hiring decisions.

Investigations into hiring at the Javits Center, which followed the settlement of a civil RICO suit against the Carpenters union, revealed a preferred "pool list" of approximately one hundred workers who received job referrals before other union members.[20] Many individuals on the pool list had known links to organized crime, mostly to the Genovese family. Sixty pool-list members had criminal records, including convictions for arson and murder. Almost all the listed individuals were Italian Americans; there were no women or minorities. In 1994, approximately half of these men earned more than $40,000, one-third more than $50,000, and six more than $100,000.[21]

0680

During an FBI raid on a Genovese-family social club, agents found a list of fourteen individuals, all but one of whom had worked (or was working) as a carpenter at the Javits Center, and eight of whom appeared on the union's pool list.[22] A former Colombo family capo testified that "most of the people whom the Carpenters union refers to jobs at the Javits Center are either members and associates of the Genovese family, or friends and relatives of Genovese family members and associates."[23] The Genovese family maintained such tight control over who was employed at the center that members of other Cosa Nostra families were at times unable to get jobs there.[24]

The District Council's Ties to Cosa Nostra

The Carpenters District Council's representatives at the Javits Center invariably had close ties to organized crime, especially to the Genovese crime family. Representatives used their power to assign Cosa Nostra members, relatives, and friends to positions with decorator companies. Some jobs were awarded as payment for favors, others to provide legitimate employment for paroled family members. Many positions were treated as "no-show jobs," in which employees who never came to work were carried on the work roster and paid.

Ralph Coppola, an important Genovese associate, began working at the Javits Center in 1987, after his release from prison, where he had served time for arson.[25] He was assigned to the center by then-District Council president Paschal McGuinness, an alleged Cosa Nostra associate. Coppola was quickly promoted to District Council representative and allegedly inducted as a member of the Genovese family.[26] According to Salvatore "Sammy the Bull" Gravano, the underboss of the Gambino crime family who became a cooperating witness, Coppola ran the center on behalf of the Genovese family.[27]

In August 1991, Coppola was replaced at the center after a news article identified him as a Genovese agent.[28] In removing Coppola, Carpenters District Council president Frederick Devine cited Coppola's ties to organized crime.[29] However, Devine himself allegedly had ties to Cosa Nostra. Gravano told investigators that Devine was a puppet of the Colombo family, and another government informant stated that he had seen Devine meeting with members of the Colombo crime family in the District Council office.[30] Federal investigators charged that Devine worked with the DeCavalcante crime family of New Jersey and

0681

with the Genovese crime family. (In 1998, federal prosecutors succeeded in convicting Devine on six counts of grand larceny for which he received a fifteen-month prison term.)[31]

In April 1994, Devine appointed Anthony Fiorino and Leonard Simon to be the District Council's representatives at the center.[32] That year, they earned more than $106,000 and $144,000, respectively. The 1995 New York State Senate hearings on operations at the Javits Center uncovered important background information on Fiorino and Simon that demonstrates organized crime's entrenchment at the center.

Fiorino became a member of Local 257 in 1982 at the urging of a Genovese associate.[33] In 1988, the District Council appointed him to the supervisory position of "timekeeper" at the center. Three years later, he was promoted to chief of carpenters at the center, and in 1994, he succeeded Coppola as District Council representative. Law enforcement agencies believed that Fiorino's rapid advancement is explained by his ties to organized crime, especially to his brother-in-law Liborio "Barney" Bellomo, a capo and reputedly, for a time, acting boss of the Genovese crime family.

Leonard Simon had no carpentry skills prior to being employed at the Javits Center. He was an out-of-work taxi driver when he submitted a fraudulent application to the union, swearing that he had five years' experience in the trade. However, Simon had a key connection: his brother-in-law Ralph Coppola.[34] With Coppola's recommendation, he obtained a permanent job at the center.[35] Later, Simon advanced to District Council representative.

There is a dispute over the circumstances surrounding the appointments of Fiorino and Simon. Devine testified at a New York State Senate hearing that he barely knew the two men, and had chosen them on the recommendation of Fabian Palomino, the center's president and CEO.[36] Testifying at the same hearing, Palomino disclaimed knowing Fiorino and Simon, and stated that Devine had appointed both men without his recommendation.

Other Cosa Nostra Families

While the Genovese family has been the dominant Cosa Nostra presence at the Javits Center, other organized-crime families have also played a role. Alphonse "Little Al" D'Arco, former acting boss of the Lucchese crime family, explained the Lucchese family's role in control-

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ling officials of the Carpenters union as "shaking down businesses that employed union members, ghost-payrolling family members, and stealing from employee pension and welfare funds."[37] Salvatore Miciotta, a former capo in the Colombo crime family, claimed to have paid $60,000 a year to the Lucchese, Colombo, and Genovese families so that his exposition company could do business at the Javits Center.

THE TEAMSTERS AND THE JAVITS CENTER

The International Brotherhood of Teamsters (IBT) Local 807 (Trade Show Division) is critical to Javits Center operations. Members of Local 807 primarily load and unload vehicles in preparation for trade shows.

Teamsters Hiring at the Center

Teamsters positions at the Javits Center paid between $21 and $43 an hour, plus generous benefits.[38] The October 1994 contract provided that Saturday and Sunday work would be paid at double the hourly rate; holiday work, triple. Decorators also paid Christmas bonuses of up to $5,000 to Teamsters members employed at the center.

The Teamsters Trade Show Division, through its hiring hall, assigned Javits Center work to *preferred* union members only. The jobs were distributed according to a seniority list consisting of forty-seven privileged members. If the seniority list was exhausted, jobs were assigned to members on the "shape" list of thirty members.[39] "Shape" refers to the process by which union members assemble at either the local office or the place of employment to be selected for work. Union members are usually called by their local and told to go shape at a job site. The general foreman selects members from the shape and assigns them work.

Teamsters who were not on the seniority or shape lists could not work at the center. Many of those on the seniority list were friends and relatives of Teamsters officials and Cosa Nostra members;[40] some had not even belonged to the Teamsters before working at the center. At least eleven members of the seniority pool were relatives or friends of the general foreman; at least fifteen members were relatives or friends of other Local 807 members.[41] One-third of the individuals on Local 807's seniority list had known ties to organized crime.[42]

0683

The Rabbitts and Teamsters Local 807

For almost three decades, the Teamsters Trade Show Division was led by Robert Rabbitt Sr. and his sons Michael and Robert Jr. The Rabbitts created the Teamsters seniority lists, which enabled them to dictate Teamsters hiring at the center.[43]

The elder Robert Rabbitt became a member of Teamsters Local 807 when he was seventeen years old.[44] He was appointed shop steward in 1967, became an officer of Local 807 in 1970, and was subsequently promoted to business agent, responsible for representing the Trade Show Division of Local 807 at the Coliseum.[45] Before the Javits Center opened, collective bargaining negotiations conducted between decorators and the IBT created the position of general foreman explicitly for Rabbitt Sr.[46] As general foreman, Rabbitt oversaw all Teamsters members at the center and served as a liaison between the decorator companies and center management.

In 1985, Robert Rabbitt Sr. was convicted of second degree manslaughter for fatally stabbing a garment shop manager, and sentenced to prison. The court banned him from the union for five years.[47] However, the general foreman's post was held open for him until his release.[48] In February 1992, a New York State grand jury indicted him for conspiracy, receiving bribes, committing larceny, falsifying business records, and possessing stolen property.[49] Rabbitt pleaded guilty to falsifying payroll records so workers could illegally receive workers' compensation benefits and served one year in prison.[50] Afterward, he resumed general foreman duties at the Javits Center. In 1994, IBT investigators threatened to charge Rabbitt with accepting bribes in return for overlooking an employer's use of nonunion trucks and laborers at the center. In the face of these looming charges as well as possible charges for failing to cooperate with union investigations, Rabbitt agreed to a five-year suspension from the union.[51] His job responsibilities were transferred to his son Michael.[52]

The Teamsters collective bargaining agreement with the decorators expired in September 1994, while Rabbitt Sr. was in prison. Michael Rabbitt led the negotiating team bargaining with the decorator companies.[53] As part of the new agreement, the position of Teamsters general foreman at the center was changed to a management, nonunion assignment; thereafter, a criminal record would not be a disqualification. Because the general foreman was no longer a union position, Teamsters re-

0684

formers were powerless to suspend any corrupt person who held it. The general foreman still managed the Teamsters but was no longer accountable to the membership. The general foreman's contract provided for a $150,000 salary and a $236,000 severance in the event of dismissal without just cause.

After his father went to prison, Michael Rabbitt left the union and took the position of general foreman. Although the Rabbitt family is allegedly mob-connected, the details of the relationship remain unclear. Stories hinting at the power of the father and sons are intriguing but fail to supply hard facts. For example, shortly after his release from prison in 1988, Rabbitt Sr. had a fistfight with a Teamsters member alleged to be a member of the Bonanno family. Such assaults usually trigger serious consequences for anyone who lacks strong ties to organized crime. There was no retaliation against Rabbitt. Further, as general shop steward, Michael Rabbitt selected Armando Rea as assistant general shop steward; the father's involvement in the decision was suspected. A civil RICO suit against IBT Local 814 later exposed Rea as a Bonanno soldier and banned him from Teamsters membership. Michael Rabbitt denied knowledge of Rea's organized-crime connections.[54]

THE EXHIBITION EMPLOYEES AND THE JAVITS CENTER

Local 829 of the Exhibition Employees Union (Expos) is affiliated with the International Alliance of Theatrical and State Employees of the AFL-CIO. A probe by the Manhattan District Attorney's Office found that more than 60 percent of Expos Local 829 workers employed at the Javits Center had felony records.[55] Although the Expos apparently did not maintain a pool list for preferential hiring at the Javits Center, it did use selective criteria. Undercover police investigations revealed that to get one of the handsomely paid jobs at the center—up to $100,000 a year—an ordinary Expos worker had to buy a membership book from union officials for $13,000 to $22,000. Individuals with organized crime connections purchased books at lower cost and enjoyed priority for center assignments.[56]

Exhibition officials also allegedly padded payroll rosters with six ghost employees for small shows and up to twenty ghosts for larger shows. Typically, some of the ghost employees were parolees who used proof of employment at the center to stay out of prison. Ghost

0685

employees shared their "salary" with the shop stewards and the Genovese crime family. This scam cost hundreds of thousands of dollars each year.

The Expos chief shop steward, much like the Teamsters general foreman, supervised Expos members at the center. Steven "Beansy" Dellacava and Paul Coscia were chief shop stewards for the Expos at the Javits Center until mid-1995; together, they determined who could work where and when. Coscia was also the vice-president of Local 829; Dellacava began working at Javits in 1990 after his release from prison, where he had served time for selling heroin. Both men were reputedly associates of the Genovese crime family.

Expos officials apparently orchestrated fraudulent legal claims against the center. Injuries sustained in nonwork accidents were presented as workplace on-the-job casualties, which enabled the injuree to file a workers' compensation claim against the center. The worker paid off Paul Coscia, who directed others to stage the accident and serve as witnesses. The settlement was divided among the injured worker, the shop stewards, and mob bosses.

CONCLUSION

From the day construction began, Cosa Nostra was a key player in the life of the Javits Center. The mob, particularly the Genovese crime family, had a stranglehold on three labor unions that represented center workers, and used its power to direct high-paying jobs to members, associates, and friends.

Teamsters Local 807, dominated through Robert Rabbitt Sr. and his two sons, may also have been controlled by Cosa Nostra. While the details of the Rabbitts' connections to organized crime have never been proved, there seems little doubt that Cosa Nostra called the shots with respect to Teamsters interests in the Javits Center. Jobs were given out by the general foreman—Robert Rabbitt Sr. or Michael Rabbitt—based on a preferred list comprised of many individuals with ties to organized crime.

Although the Expos workers did not have pool lists like those of the Teamsters and the Carpenters, they too allocated center jobs selectively. Workers had to buy union membership books for up to $22,000 in order to obtain lucrative center jobs. The Expos union at the center was per-

0686

vaded by ghost employees, personal-injury fraud, and abuse of security privileges.

Although Cosa Nostra's influence was well known to everyone who transacted business at the center and was reported extensively by journalists, for years politicians and law enforcement officials made little if any effort to attack the status quo. Until the mid-1990s, the mob's power at the Jacob Javits Center seemed impregnable.

0687

6

Carting Away a Fortune

Cosa Nostra and the Waste-Hauling Industry

> [W]e find that garbage collection industry men banded together in associations which eventually . . . invoked monopoly and restraint of trade arrangements with a system of punishments for nonconforming members. . . . In Vincent Squillante we have presented the picture of a man who traded on his association with key underworld characters and his ability to "handle" Local 813, International Brotherhood of Teamsters, to parlay himself into a position where he was the absolute czar of the private sanitation industry in Greater New York.
>
> —McClellan Committee Hearings, 1957

CHRONOLOGY

General History

1947 New York City officials dissolve employer trade-waste associations; associations soon reemerge under different names.

1958 McClellan Committee exposes IBT Local 813 boss Bernard Adelstein's ties to organized crime.

1986 State Assemblyman Hinchey issues report on New York waste-hauling cartel.

1992 Bernard Adelstein, longtime head of IBT Local 813, purged from Teamsters by trustee.

1994 James "Jimmy Brown" Failla, head of trade associations, pleads guilty to conspiring to murder.

0688

New York City Cartel

1974 Brooklyn District Attorney Eugene Gold indicts fifty-five carting firms and nine officials, including Cosa Nostra members; several convictions, but no structural reforms.

1977 Joseph Gambino and Carlo Conti convicted of racketeering and sentenced to prison.

1985 U.S. Attorney Rudolph Giuliani indicts Matthew "Matty the Horse" Ianniello for carting racketeering; he is later acquitted.

1987 Mayor Edward Koch announces support for a plan to create a firm to compete with the carting cartel; the plan is never implemented. The public advocate, Mark Green, later proposes a new version of the plan; it too goes unimplemented.

1989 U.S. Attorney Otto Obermaier convicts Gambino crime-family member Angelo Paccione; he is sentenced to twelve years and $22 million in fines.

1990 Mark Green and Richard Schrader become commissioner and deputy commissioner of Department of Consumer Affairs, and begin using the agency to oppose organized crime and the cartel.

1993 After unsuccessful efforts to break into the New York City waste-hauling market, Browning Ferris Industries (BFI) agrees to assist New York County District Attorney Robert Morgenthau's investigation.

1995 Morgenthau announces state racketeering indictments against twenty-three carting firms and associations.

By 1997, all defendants have been found or have pled guilty.

1996 Local Law 42 passes; Trade Waste Commission created, issues comprehensive rules, including a reduction in the maximum carting rates.

1998 Fear of corporate monopolistic control over the New York City's waste-hauling industry is addressed, as the merger of Waste Management and USA Waste becomes contingent upon

0689

the companies' divestiture of three transfer stations in the New York City area.

Long Island Cartel

1984 OCTF Director Ron Goldstock indicts sixteen Long Island carting firms, individuals, and public officials on antitrust charges. Several defendants are convicted, but given light sentences.

1986 Lucchese family capo Salvatore Avellino pleads guilty to state charges of coercion.

1989 Robert Kubecka and brother-in-law murdered by Cosa Nostra for cooperating with law enforcement officials.

U.S. Attorney Andrew J. Maloney files civil RICO suit against Long Island carting cartel; 112 defendants, including 64 Gambino family and Lucchese family members and associates, 44 carting firms, carters' trade association, and IBT Local 813. Leads to federal monitorship.

1994 U.S. Attorney Zachary Carter achieves federal monitorship over entire Long Island waste-hauling industry.

Former prosecutor Michael Cherkasky appointed industry monitor.

New York City residences and businesses produce thirteen thousand tons of trash every day, not including the debris generated by construction projects.[1] Once generated, trash undergoes a two-step process: collection and disposal. Collection is generally a separate industry from disposal; disposal involves providing a final resting place for trash, such as a landfill or incinerator.[2] In New York City, the Department of Sanitation collects residential waste. Commercial-waste hauling—that is, collection—the focus of this chapter, is carried out by approximately three hundred small firms (one to twenty trucks) that together constitute a $1.5 billion per year industry.[3] The drivers and trash collectors are represented by Teamsters Local 813. Most of the firms are members of one of four trade associations.

Although the cartel's precise origins are unclear, New York City officials received complaints as early as 1947 that illegal activities were restricting free competition in the waste-hauling industry.[4] At that time,

0690

the cartel controlled only the collection of commercial paper products (the New York City Department of Sanitation picked up most other commercial waste and all residential waste). The city's decision in 1956 to privatize commercial-waste hauling provided a lucrative opportunity for racketeering; suddenly, private carters had approximately fifty-two thousand new customers, a 70 percent expansion of their client base.[5] Restaurants, stores, office buildings, and light industry made up the bulk of the new client base.

Similar cartels operated on Long Island and in Westchester County, just north of New York City. On Long Island, the cartel was established and policed by the Lucchese crime family. The Westchester County carting cartel was run by associates of the Genovese crime family.*

A few very large companies dominated the industry. In New York City, several companies associated with Barretti Carting and several associated with V. Ponte & Sons serviced a large portion of the city. Likewise, on Long Island Salvatore Avellino's SSC Corporation and Emedio Fazzini's Jamaica Ash dominated the industry. But the majority of New York City and Long Island carting companies operated with fewer than five trucks and fewer than ten employees, either as close corporations

*In 1996, following a ten-year federal investigation, RICO and other federal charges (sixty-one counts in all) were brought against seven individuals and fourteen businesses. Prosecutors alleged the defendants maintained a property-rights system and shared profits, which were concealed through sham transactions and false tax statements. On September 30, 1997, five individuals and thirteen waste-hauling companies pled guilty to multiple charges. Among those pleading guilty were Mario Gigante, a brother of former, suspected Genovese boss Vincent "the Chin" Gigante, and Thomas Milo, the sole owner of Suburban Carting Corporation, the country's largest privately held waste-hauling company. Gigante and Milo were sentenced to prison terms of forty-two months and thirty-three months, respectively. As part of their plea agreements, the defendant companies consented to be monitored by former assistant U.S. attorney Walter Mack. Ultimately, all the defendants pled guilty and collectively were fined roughly $17 million. Westchester County has since required all carting businesses placing bids on county contracts to undergo a thorough background investigation. See *United States v. Gigante et al.*, 948 F. Supp. 279 (S.D.N.Y. 1996) (provides some information regarding the indictment); Benjamin Weiser, "Haulers Plead Guilty to Controlling Garbage Routes with Violence," *New York Times,* October 1, 1997, B5; "Waste Hauler Sentenced to 33 Months for Fraud," *New York Times,* February 24, 1998, B2; "Gigante Sentenced in IRS Fraud," *U.P.I.,* April 9, 1998; Alex Philippidis, "Mamaroneck Carter May File Suit Against Former Partner," *Westchester County Business Journal,* 36, no. 41 (October 13, 1997): 5; Donna Greene, "County Includes Integrity as Part of Carting Contract," *New York Times,* May 10, 1998, Westchester sec., 9.

0691

or partnerships passed down from father to son;[6] traditionally, the majority of owners have been Italian Americans.[7] In his in-depth study of racketeering in the carting industry in New York City and Long Island, Peter Reuter hypothesizes that the "ethnic homogeneity" that characterized the carting companies facilitated the Mafia's infiltration of the industry and the creation of a cartel system.

Under the Gambino and Lucchese crime families' influence, the commercial-waste hauling firms, like the trucking firms in the Garment Center, operated a "property-rights" system that bound every commercial customer to one carter for life. The industry was also characterized by bid rigging, inflated pricing mechanisms, and threats of violence.[8]

THE PROPERTY-RIGHTS SYSTEM

Under the property-rights or customer-allocation system, developed and enforced by the Gambino, Genovese, and Lucchese crime families, each customer (or, to be precise, each "stop") belonged to a particular cartel member; no other carter was allowed to solicit or accept the customer's business.[9] The carter owned his stops in perpetuity. When a business changed hands or disappeared, a successor business at the same location remained the property of whichever carter had serviced that stop. Stops taken together were called a "route";[10] stops could be sold to other firms in the cartel but could not otherwise change hands.[11] When disputes regarding ownership of a particular stop arose, they were settled by the trade association. Customers who tried to switch to another carting company quickly discovered that they were unable to get any service. Eventually, disgruntled customers were forced back to their assigned carter, often with penalty charges to drive home the message. (In some cases, the cartel would permit a switch, if the successor carter compensated its predecessor.)

POLICING THE CARTELS: COSA NOSTRA AND THE TRADE ASSOCIATIONS

Through the New York City and Long Island trade associations, Cosa Nostra policed the carting cartels. Outside companies could not partic-

0692

ipate in the industry and cartel members could not compete with one another. National waste-hauling companies did not seek business in either the New York or Long Island markets. The absence of such companies from these lucrative markets was, according to Reuter, the result of the "effectiveness of the racketeer reputation of the industry . . . and of customer allocation agreements."[12]

The trade associations came under scrutiny as early as 1947, when the New York City Commissioner of Investigation found that "[i]n addition to restricting competition by dividing territory and fixing noncompetitive prices, the associations policed the industry in order to maintain their monopoly."[13] To combat the associations' stranglehold over the industry, the commissioner ordered the dissolution of the Greater New York Trade Waste Association, Inc., the Brooklyn Trade Waste Removers' Association, Inc., and the Queens Trade Waste Removal Association. This effort was not successful, for the associations soon reappeared under new names.

The Association of Trade Waste Removers of Greater New York dominated the industry during the period of organized crime's greatest power. Its president for more than thirty years was James "Jimmy Brown" Failla, a capo in the Gambino crime family. Failla held weekly meetings in the association's offices or at a Brooklyn club to assign routes, resolve disputes, and conduct routine business.[14] Other Cosa Nostra–linked trade associations included the Kings County Trade Waste Association (Genovese), the Greater New York Waste Paper Association (Genovese), and the Queens County Trade Waste Association (Gambino). The Long Island carting industry was governed by the Private Sanitation Industry Association of Nassau/Suffolk, which for years was controlled by Salvatore Avellino, a member of the Lucchese crime family.[15]

By maintaining the property-rights system and the cartel, organized crime provided a valuable service to the small firms in the industry. Cartel members charged exorbitant prices and engaged in unconscionable business practices like inflating the amount of waste collected in order to justify higher charges. They did not have to compete for business, and could charge high prices to their customers, who ultimately passed them on to all New York City and Long Island residents. The carters flourished despite inefficiencies that would have been fatal to firms in a competitive industry.

0693

Ownership Interests

A number of Cosa Nostra members held ownership interests in the carting industry. To name just a few examples: Joseph Gambino, son of the onetime Gambino family's crime boss Carlo Gambino, owned several Bronx waste-hauling firms, including the P & S Sanitation Company;[16] Salvatore Avellino, a soldier in the Lucchese crime family and a close associate of crime boss Antonio "Tony Ducks" Corallo, controlled the Salem Sanitary Carting Corporation;[17] Gambino associate Angelo Paccione owned the National Carting Company of Brooklyn;[18] and Matthew "Matty the Horse" Ianniello, an underboss in the Genovese family, ran Consolidated Carting, among other firms.[19]

ENFORCING THE CARTEL

The mob's enforcement mechanisms prevented cheating by cartel members and competition from nonmembers. Monitoring required little effort because the customer-allocation system made prohibited competition easy to spot. Organized-crime figures and cartel members used economic pressure, subtle forms of coercion, and outright violence to punish those who sought to take more than their presliced piece of the pie.

The most common punishments were economic sanctions. If one carter took a customer away from a fellow cartel member, then Cosa Nostra, acting as an instrument of the trade association, would order the wrongdoer to compensate the victim by handing over a customer of equal or greater value.[20] Sometimes, the rebel had to pay a penalty to the wronged carter, as much as sixty-five times the monthly revenue received from the stolen customer. In effect, the trade association functioned like a court with special power to enforce its decrees. Carters who refused to accept the jurisdiction of the trade association found themselves the target of a strike or other job actions by Teamsters Local 813, the only union representing the drivers.[21]

The cartel was so tightly managed and cheating so unlikely to be successful that violence was seldom necessary. However, from time to

0694

time the actions of rebel carters sparked violent reactions. Their drivers were beaten, their trucks destroyed, and they themselves threatened and assaulted.[22] The owners of at least one rebel carting company paid with their lives.

In 1982, Robert Kubecka, a rebel waste hauler on Long Island, began cooperating with law enforcement officials. Kubecka had refused to abide by the cartel's property-rights system and recorded conversations with cartel members that aided a number of major investigations. In 1989, Kubecka and his brother-in-law Donald Barstow were murdered. In 1993, Salvatore Avellino pled guilty to conspiracy to commit these murders and was sentenced to an indeterminate sentence of three-and-a-half to ten-and-a-half years. Two years later, Carmine Avellino (Salvatore's brother), Anthony Baratta, Frank Federico, and Rocco Vitulli were indicted in connection with the Kubecka and Barstow murders. All the defendants, except Federico, whose whereabouts is unknown, pled guilty to lesser offenses. In 1998, former Lucchese family underboss Anthony Casso was sentenced to life in prison for conspiracy to commit murders and other crimes, including the murders of Kubecka and Barstow.[23]

ENFORCING THE PROPERTY-RIGHTS SYSTEM

When necessary, Cosa Nostra kept customers in line. Every business, from the smallest bodega to the largest department store, was married to one of the carting companies. Divorce was difficult, if not impossible; businesses that attempted to break away from their partners faced threats and vandalism.[24] When one businessman canceled his waste-hauling contract and started hauling away his own waste, garbage was dumped on his doorstep with a note threatening to bomb his business unless he continued to pay his carter.[25]

Most customers, however displeased with their carter, did not need to be warned twice. When a national hauling firm attempted to break into the New York City market with an offer to cut current carting rates in half, practically no businesses showed interest.[26] One bank executive explained that he refused an opportunity to save 50 percent on waste disposal because he feared the bank's automated teller machines would be vandalized.

0695

COSA NOSTRA'S CONTROL OVER IBT LOCAL 813

Cosa Nostra's influence in the waste-hauling industry was reinforced by its control over Teamsters Local 813, which represented the drivers employed by the carters.[27] For decades, the local was run by Bernard Adelstein, a man whom the McClellan Committee in 1958 branded the "abject tool"[28] of organized crime. Adelstein's reign at Local 813 lasted until he was banned from the IBT in 1992.[29] The McClellan Committee paid special attention to the ties between Adelstein and Vincent "Jimmy" Squillante, a high-ranking official of the New York City Cartmen's Association, and a known mobster. According to the committee, Local 813 was the personal fiefdom of Adelstein, and "far from fighting Squillante . . . [Adelstein] provided vital cooperation as [Squillante] moved . . . to ruthless czardom of the garbage industry."[30*]

Under Adelstein's stewardship, Local 813 served the interests of the organized crime–sponsored cartel. If a carter fell out of favor with Cosa Nostra, members of the local would refuse to work for that company. In 1989, Robert Kubecka had reported that the tires on his trucks were slashed and the windshields broken; a Gambino crime family associate offered to solve his union problems for a $20,000 fee.[31] Jerry Kubecka, father of the murdered Robert, and himself the owner of a rebel carting company, charged that Local 813 threatened his customers with labor problems and violence unless they agreed to be serviced by a firm designated by the cartel.

Years later, in 1989, at a hearing looking into Adelstein's underworld ties, a Gambino-crime-family-underboss-turned-government-witness, Salvatore "Sammy the Bull" Gravano, testified that Gambino capo James "Jimmy Brown" Failla exercised de facto control over Local 813, and that Adelstein "answer[ed] directly"[32] to Failla. A former employee of Local 813 testified that Adelstein and Failla met at least once every two weeks, and worked together in "controlling and manipulating the private sanitation industry in the New York City metropolitan area."[33]

*Following the McClellan Committee hearings, both Adelstein and Squillante were indicted on extortion charges. Adelstein was found guilty, but his conviction was subsequently overturned. Squillante disappeared before trial and is presumed dead. Robert E. Kessler and Phil Mintz, "Feds vs. LI Carters," *Newsday,* June 8, 1989, 3.

0696

Government Responses to Racketeering in Carting

The initial response of law enforcement agencies to the McClellan Committee's reports of mob activity in the garbage industry was ambitious, but in the end little was accomplished. New York State's attorney general sought injunctions against Local 813, three trade associations, and approximately four hundred individuals and corporations involved in the waste-hauling business.[34] He sought to prohibit the defendants from joining the trade associations and from engaging in anticompetitive practices. In 1959, after a protracted court battle, injunctions were granted against the various defendants. It proved to be a Pyrrhic victory, however because state officials left the injunctions largely unenforced.[35]

Information uncovered by the McClellan Committee also led to criminal charges against Squillante, Adelstein, and others. Adelstein was convicted of extortion, but the conviction was overturned on appeal.[36] Squillante disappeared, presumed murdered.[37] In the final analysis, although government hearings succeeded in exposing and bringing a degree of notoriety to a multimillion-dollar racketeering scheme operating in the New York waste-hauling industry, law enforcement efforts were largely ineffective in defeating Cosa Nostra's corruption and racketeering.

MORIBUND REGULATOR: NEW YORK CITY'S DEPARTMENT OF CONSUMER AFFAIRS

The New York City agency responsible for regulating the carting industry was the Department of Consumer Affairs (DCA), created by Mayor Robert Wagner in 1956 to bolster the city government's role in monitoring waste disposal.[38] The DCA was empowered to set licensing requirements, issue carting licenses, and set maximum rates for hauling trash. However, rather than using its licensing authority to keep corrupt individuals and firms out of the industry or to encourage fair economic competition, the DCA simply issued permits on request. The DCA was so promiscuous in granting licenses that in a 1980 interview, one longtime employee could not recall a single license denial in the agency's history.[39] Moreover, the DCA set maximum carting rates that were extremely high—well above the prevailing rates in any other U.S. city—

0697

and cartel members treated the maximum rate as the only rate. Customers, who were not in a position to protest, were told that the exorbitant bills were due to the city-*imposed* rate. Thus, the DCA regulations actually helped to maintain the Cosa Nostra–sponsored cartel.[40] (In the early 1990s, the DCA did reduce the maximum rate, but a lawsuit resulted in the maximum rate's being reset at $14.75 per cubic yard.)

To say that, up until 1990, the DCA failed to exercise its regulatory power effectively would be a gross understatement. For example, in setting maximum carting rates, the DCA's consideration of the waste haulers' costs mocked its role as an independent regulator. To calculate costs, the agency had to factor in the amounts charged by landfills for waste disposal. However, while disposal companies based their prices on the volume of *compacted* waste, carters billed their customers according to cubic yards of *uncompacted* waste.[41] Price monitoring was difficult because of uncertainty about how tightly the carting firms' different equipment could pack waste. If a carter collected 3.5 cubic yards of loose garbage from a customer and could compact that amount into a single cubic yard before taking it to the landfill, then the carter should be able to pass along only the cost of disposing of that single cubic yard. Alternatively, if the carter could compact 3.5 cubic yards into half a cubic yard, then the disposal cost to the customer should have been halved. But carters routinely collected 3.5 cubic yards of loose garbage, compacted it into cubic half yards, and charged their customers for the full cubic yards, thereby passing on two times their landfill costs.

Waste haulers also routinely overcharged their captive customers by billing them for more loose garbage than they actually collected. Because customers rarely measure their waste, it was easy for the carters to exaggerate the amount hauled away.[42] As a result, charges for waste haulage bore little relation to the cost of its collection and transportation to the landfill.

Unhappy customers had two options: (1) confront the carting company; or (2) complain to the DCA. The first option required the complainant to hire a trash auditor, of which there were few, and then confront a company known to be mob-connected—hardly an attractive prospect. DCA did have a complaint procedure and a small number of investigators. And in some cases, customers did obtain restitution. But for the most part, DCA simply would not or could not challenge the systemic corruption and racketeering.[43]

0698

A small New York City business, such as a corner grocery or delicatessen, paid about $15,000 annually for trash removal. Restaurants coughed up $50,000, and large office buildings were charged as much as $1 million per year.[44] While Los Angeles and Boston businesses were paying $9 and $5.30 respectively for every cubic yard of waste hauled away, their New York City counterparts were paying $14.70.[45]

Bid rigging among carters occurred frequently on Long Island, where municipalities would solicit bids for hauling an entire community's waste.[46] However, New York City was hardly immune. When a large customer solicited competitive bids, the waste-hauling firms would collusively decide the low bid and low bidder. For example, in November 1996, state prosecutors indicted several carting companies for fixing bids in connection with the waste collection at fourteen federal buildings, including offices, courthouses, and the FAA control tower at JFK International Airport.

In 1990, Mark Green became commissioner of DCA. He and Deputy Commissioner Richard Schrader (who succeeded Green in 1993 when Green was elected public advocate) tried to mobilize DCA in opposition to the cartel. They moved to revoke Paccione's license, charging price gouging, fraudulent contracts, and intimidation of customers and competitors. When Paccione's company was put into receivership, DCA worked with the trustee, Barrington Parker. Next, DCA launched an expensive and expansive law enforcement effort aimed at voiding illegal waste-hauling contracts. Thousands of citations were issued, and annual reporting requirements were significantly increased. Finally, Green put forward a proposal to create a new licensing authority that would put out bids for companies to service a large area of the city. Each company would have to employ an IPSIG (Independent Private Sector Inspector General) to monitor its operations and report to the government.

SPORADIC LAW ENFORCEMENT

From 1973 to 1974, Brooklyn District Attorney Eugene Gold ran a sixteen month–long undercover investigation of the private carting industry in his jurisdiction.[47] His office set up a carting firm on Coney Island staffed by undercover officers. Although the government carting firm undercut the prices of its competitors by 30 percent, and actively solicited two thousand businesses, it attracted only nineteen customers.[48]

0699

Ultimately, Gold obtained indictments for criminal restraint of trade against fifty-five Brooklyn carting firms and nine carting industry officials, including members of the Gambino, Genovese, and Colombo crime families. The defendants pled guilty in exchange for light sentences.[49] Not one defendant served any jail time; most received insubstantial fines. The DCA imposed its own paltry penalty: $500 per truck.

Meanwhile, New York State Attorney General Louis J. Lefkowitz obtained a court-ordered dissolution of the Brooklyn Trade Waste Association. A Brooklyn grand jury recommended that New York City take over the collection of the waste from commercial businesses located in residential buildings.[50] While considering this proposal, the DCA temporarily stopped issuing new licenses to carting firms with pending indictments, but this show of regulatory muscle was short-lived. Ultimately, every request for a licensing renewal was granted.[51]

The DCA episode illustrated the prevailing view among city officials that the licensing-on-demand policy promoted stability in the carting industry. Leo Pollock, head of the DCA's Trade Waste Division, explained that "we didn't want price wars and chaos in the industry. We didn't think that would protect the public."[52] Although one sanitation commissioner supported a proposal that would have transferred control of fifty thousand stops from privately owned companies to the Sanitation Department, his successor vetoed the idea, and other city officials were equally disinclined to alter the status quo.[53] According to one high-ranking city official, Mayor Abraham Beame "wished the situation would just blow over."[54] Thus, District Attorney Gold's efforts failed to achieve systemic change. If anything, the fizzling of his ambitious prosecutorial effort demonstrated the extent to which political and administrative inertia hindered efforts to destroy the waste-hauling cartel.

Investigation of the Long Island Cartel and Antitrust Suits

In the late 1970s, rebel carter Robert Kubecka, who had long refused to join the Long Island cartel and who had complained to various law enforcement agencies for years, agreed to assist the New York State Organized Task Force (OCTF) in an effort to break the mob's stranglehold on the carting industry. The OCTF, assisted by Kubecka, launched an eighteen-month investigation. In 1982, the OCTF obtained court authorization to bug the automobile of Antonio "Tony Ducks" Corallo,

0700

then the head of the Lucchese crime family. The "car bug" turned out to be one of the most productive electronic surveillances of the 1980s.*

Many prominent mobsters and industry figures were caught up in the government's net, including Corallo; his underboss Salvatore "Tom Mix" Santoro; Salvatore Avellino; and James Corrigan, the director of the Private Sanitation Industry Association. Based upon information obtained through the intercepted conversations, New York State Organized Crime Task Force Director Ronald Goldstock indicted twenty-one individuals, including Corallo, and sixteen waste-hauling firms[55] on charges of conspiring to dominate private-garbage collection on Long Island[56] by dividing up territory and stifling competition through threats and agreements, and of conspiring to rig bids on commercial carting contracts.[57] According to the OCTF, this racketeering resulted in overcharges of more than $10 million a year in Suffolk County alone.

The defendants were charged with many offenses, chief among them maintaining a customer-allocation system and conspiring to injure Kubecka. Goldstock claimed that Salvatore Avellino ran the cartel through the Private Sanitation Industry Association of Nassau/Suffolk, which diverted more than $400,000 to the Lucchese crime family.[58] While several defendants pled guilty in 1987 to state charges[59] and juries convicted the remaining defendants in 1988,[60] the impact of the convictions ultimately was undermined by light sentences.[61] Justice John Vaughn ordered the defendants to spend six months in jail or to provide 840 hours of community service by collecting waste for Long Island towns. The guilty carters were fined between $6,000 and $10,000 each. Perhaps in response to complaints over such mild sentences, in 1988 Justice Vaughn imposed $1 million fines on two carting companies found guilty after trials.

OCTF Director Ronald Goldstock, while dismayed by the light sentences, stated that he did not believe that traditional prosecutions could rid the carting industry of the mafia. On January 22, 1985, Attorney General Robert Abrams brought a federal antitrust suit seeking to alter permanently the way carting companies did business on Long Island.[62] The suit alleged that twenty-four Long Island carting companies and twenty-five of their chief executives had violated the Clayton Act,

*Evidence obtained from the Corallo car bug contributed to the conviction of thirty-eight organized crime figures, public officials, and carting companies and to the commission case, the most important organized crime case in U.S. history.

0701

which prohibits unfair trade practices.[63] The suit sought treble damages for the victims of the conspiracy—the municipalities, school districts, and individual customers—all of whom had paid inflated waste-hauling charges for decades, and argued that the defendants should pay a multimillion-dollar fine.[64]

Goldstock called for far-reaching changes in the private carting industry. He sought an injunction requiring that defendants bill customers on a standard unit of measurement—such as a standard container—so customers could compare the rates of different carters. He also asked the court to order carters to publish their rates and the names of their institutional customers, and to provide customers with a written statement that they could cancel their carting contract on ten days' notice. The goal was "to open up the competitive forces in the market place to allow free and open competition."[65]

In 1989, the New York State Attorney General's office settled this antitrust suit for just $3 million in cash and services. None of the proposed structural changes was achieved. However, by targeting the cartels as criminal enterprises, urging structural reforms to a corrupted industry, and focusing on restraint of trade violations, Goldstock provided a model for law enforcement agencies to follow in future attacks on the Cosa Nostra–run waste-hauling cartel on Long Island.

In August 1989, Robert Kubecka and his partner, Donald Barstow, were murdered in the office of their carting company. In 1994, Salvatore Avellino, head of the Lucchese family's waste-hauling operations on Long Island and the de facto head of the carters' trade association, pled guilty to conspiracy to commit those murders.[66]

CONCLUSION

Since the mid-1950s, the New York City area carting industry was dominated by cartels and a customer-allocation system. Two cartels, one in New York City and one on Long Island, were managed and policed by trade associations and IBT Local 813. Local 813 head Bernard Adelstein and Vincent Squillante, an officer of the New York Cartmen's Association and a mobster, forged a relationship that furthered Cosa Nostra's interests in the carting business. The trade association and the union were pawns of the Lucchese and Gambino crime families. The cartels were so strong for so long that any challenges by rebel customers or

0702

carters were easily defeated by economic sanctions. Personal violence was rarely necessary.

For many years, the New York City Department of Consumer Affairs seemed to exercise its regulatory powers in a manner that was wholly consistent with the interests of the cartel members and the organized-crime figures for whom they fronted. The DCA essentially gave out licenses to anyone who asked, set high maximum rates, and gave tacit sanction to the property-rights system. In 1988, Commissioner Angelo Aponte, approved an enormous—38 percent—increase in waste-hauling rates. He noted that anyone who believed that free enterprise was a term that reasonably characterized the trade waste-removal industry was operating under an illusion. For the business community, the waste-hauling cartels and the mobsters who sponsored them were simply a fact of life in New York City.

0703

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Building a Cosa Nostra Fiefdom

The Construction Industry

> But we gotta have the strength so that when a fucker comes along and bids [on a contract which is supposed to be limited to members of a Cosa Nostra family–sponsored cartel] tomorrow he's got four gold tooths [organized crime members] in front of him saying "now that [you've got the contract] where are all the workers?" That's the power.
>
> Now, as the Association, we control the [employers.] When we control the men we control the [employers] even better because they're even more fuckin' afraid.
>
> Do you understand me? When you got a [employer] who steps out of line, you got the whip. You got the fuckin' whip. This is what he [one of the crime bosses] tells me all the time. A strong union makes money for everybody, including the wise guys. The wise guys make even more money with a strong union.[1]
>
> —Salvatore Avellino, soldier in the Lucchese Crime Family

CHRONOLOGY

1970s FBI conducts the Long Island Labor Racketeering and Extortion (LILREX) investigation, which results in prosecutions against drywall racketeer and Genovese family capo Vincent DiNapoli.

1981 Brooklyn Organized Crime Strike Force brings charges against DiNapoli, Carpenters union President Teddy Maritas, and others for running a drywall cartel. One year later, after a trial end-

0704

ing in a hung jury, Maritas "disappears" and the others all plead guilty.

1985 Governor Mario Cuomo requests that the New York State Organized Crime Task Force undertake a comprehensive investigation into corruption and racketeering in the New York City Construction Industry.

1986 President's Commission on Organized Crime gives its report on nationwide labor racketeering, calling for greater use of civil RICO.

Federal prosecutors win one-hundred-year sentences against bosses of four of New York City's five Cosa Nostra crime families for running a Cosa Nostra "commission" as a racketeering enterprise.

Federal prosecutors convict leading members of the Colombo family in the Colombo family RICO case, largely for their role in the concrete cartel.

New York City establishes a city-subsidized concrete batching plant.

1987 Governor Mario Cuomo creates the Construction Industry Task Force, comprising prosecutors, investigators, accountants, and support staff from both the OCTF and the Manhattan District Attorney's Office.

Local 6A and the District Council of Cement and Concrete Workers enter a consent decree. The court appoints Eugene R. Anderson as trustee. His trusteeship extends to 1993. Anderson believed the trusteeship did not have any significant effects due to limited powers, funding, and support.

1988 Federal prosecutors convict leading members of the Genovese family in the Genovese family RICO case, seizing its interests in the concrete companies involved in the concrete cartel.

1989 School Construction Authority is created, partially in response to the corruption associated with New York City Board of Education's construction operations. Thomas Thacher is its first inspector general. It institutes a prequalification procedure to

0705

prevent construction companies with mob ties from obtaining school construction contracts.

1990 New York City starts the VENDEX system, a computer database of government contractors.

Federal prosecutors bring charges against the organizers of the window-replacement cartel. The trial, mired with murders, jury tampering, and fugitives, produces only three convictions. But others are later convicted.

Manhattan District Attorney's Office successfully brings charges against the twelve-year-old painters' cartel run by the Lucchese crime family.

OCTF issues its final report on corruption in New York City's construction industry. Its recommendations go largely unheeded.

1993 A four-year Manhattan District Attorney's Office investigation culminates in a series of prosecutions against systemic bribery and payoffs in the plumbing industry. Attempts to place the union under a government monitor are denied by the court when the national headquarters imposes a trusteeship of its own. The trusteeship fails to loosen the Lucchese family's grip over the union.

1994 Kenneth Conboy is appointed as trustee over the Carpenters District Council as part of an agreement settling a civil RICO suit. His efforts lead the international union to oust Frederick Devine, president of the District Council.

Lawrence Pedowitz and Michael Chertoff are appointed as monitor and investigations officer, respectively, over the Mason Tenders District Council as part of an agreement settling civil RICO and ERISA charges brought by federal prosecutors. By 1998, general counsel for the international organization lauds the success of the trusteeship in cleansing the district council of corruption.

1995 IBT Local 282 consents to the presence of a court-appointed "corruption officer" who will work alongside a court-approved trustee from the international organization.

0706

1998 Mayor Giuliani proposes a regulatory licensing system for general contractors.

The New York City construction industry is an entire sector of the urban economy, comprising numerous subindustries such as demolition, concrete, rebar, plumbing, drywall, and masonry. It is much greater in scale than the other industries we are examining. Moreover, unlike the other industries, it is not geographically fixed but rather does business everywhere in the city. There are thousands of construction projects at any point in time, ranging from small renovations to massive public works and skyscrapers. For most of the twentieth century, Cosa Nostra has been entrenched in this multibillion-dollar industry.

The New York City construction industry is a huge, decentralized, fragmented agglomeration of thousands of construction companies and materials suppliers, hundreds of general contractors, dozens of major developers, and many onetime or infrequent builders ranging from large corporations to small entrepreneurs. The city is a union town: nearly one hundred trade unions represent the approximately hundred thousand skilled and unskilled workers in the city's construction industry. Architects, engineers, bankers, insurance brokers, lawyers, accountants, public administrators, and contracting personnel also play significant roles.

Major construction projects require extraordinary coordination. Sites must be acquired and capital (construction loans) secured. Lawyers and consultants have to obtain zoning and building permits. Architects and engineers must develop plans. Once construction begins, time is always of the essence. Delays can add huge costs to a project and can bankrupt contractors and developers.

In most major construction projects, the prearranged coordination of contractors and workers from several different trade unions contributes to the industry's susceptibility to disruption and delay. Consider a typical high-rise construction project. After the initial financial and legal hurdles are cleared, existing buildings on the chosen site must be demolished before it can be cleared and excavated. Next, foundations of poured concrete are laid. The superstructure is then built, using steel, reinforced concrete, brick, or some combination of these materials. Then the interior elevators, stairs, plumbing, electrical systems, drywall, and heating and cooling systems are installed. Finally, carpentry,

0707

painting, and the installation of doors, windows, and fixtures complete the project.[2]

There is potential for labor and supply problems at every stage, and any individual or organization that can stop the process has the potential to extract payoffs. For more than fifty years, Cosa Nostra's domination of construction unions enabled it to exploit that potential.

THE LABOR RELATIONS FRAMEWORK

Unions and contractors are connected in a complex web of collective bargaining. A single contractor may be a member of several employer associations that negotiate in his behalf with a single union. Conversely, a single union may bargain with a dozen contractor associations. Furthermore, union locals often dispute about jurisdiction over tasks on a construction site.

Many labor contracts impose featherbedding (more workers than are necessary to carry out particular jobs). Sometimes they contain provisions forbidding efficient technologies (e.g., no spray painting). Some contracts require employers to employ workers whose job is not to work for the employer but to enforce the union's rules and interests (e.g., the working Teamsters foreman who makes sure that every trucker who enters the site is a union member).

Construction firms maintain only a small full-time workforce of managers and foremen. When they obtain a contract, they contact the union hiring hall to get the necessary workers. If a union is unhappy with a particular employer, it can assign that employer incompetent workers. Additionally, each union has the de facto power to shut down a site by striking and picketing as well as by sabotage. Essentially, the construction unions determine which companies can do business and which cannot.

In response to the many craft unions' power to set unfavorable terms and to engage in extortion, contractors and builders have reached out to actors with power to control unions, ensure labor peace, and provide relief from onerous collective bargaining provisions. For half a century, Cosa Nostra has had that power.

As we have seen in previous chapters, racketeers can use union power to create and enforce employer cartels. If the union controls which contractors work in a particular construction niche, it can estab-

0708

lish and enforce cartels that permit only certain companies to do business. For most of the twentieth century the New York City construction industry has been characterized by employer cartels enforced by Cosa Nostra–influenced or –dominated unions.

COSA NOSTRA AND THE NEW YORK CITY CONSTRUCTION UNIONS

Cosa Nostra's primary power base in the New York City construction industry has been the construction trade unions. The 1986 Report of the President's Commission on Organized Crime (PCOC) found that more than a dozen construction-union locals "have a documented relationship with one or more of the New York City [Cosa Nostra crime] families, often through the holding of union office."[3] The New York State Organized Crime Task Force's comprehensive investigation of corruption and racketeering in the New York City construction industry, conducted in the mid-1980s, found even more extensive labor racketeering in the industry, including the following examples:[4]

DELIVERY

- Teamsters Joint Council 16, the largest IBT joint council, has had several officers tied to the Genovese and Lucchese crime families. For example, Joseph Trerotola, a mob associate, was both president of Joint Council 16 and a vice-president of the international union. In 1991, Trerotola left the union when charged with mob toleration.[5] Joint Council 16's vice-president for several years was Patsy Crapazano, a convicted extortionist tied to the Genovese crime family.[6]
- Officials of IBT Local 282, which represents the drivers of concrete trucks, has been closely associated with or controlled by members of Cosa Nostra for decades. As early as 1954, Manhattan District Attorney Frank Hogan reported that gangsters were threatening concrete suppliers with labor problems. John O'Rourke, president of Local 282 from 1931 to 1965, was closely associated with Lucchese family members Johnny Dio Dioguardi and Antonio "Tony Ducks" Corallo. From 1976 to 1984, Local 282's president was John Cody, one of the most powerful labor figures in New York City and a close associate of the Gam-

0709

bino crime family. An investigation revealed that Cody paid $200,000 a year to the family boss, Carlo Gambino. In 1982, Cody was convicted of operating Local 282 as a racketeering enterprise through extortion, kickbacks, and bribery.[7] Robert Sasso, the president following Cody, pled guilty to racketeering in 1994 as did Local 282 president Mike Boorgal.[8]

SITE PREPARATION

- Blasters and Drill Runners Local 29 of the Laborers Union was long controlled or influenced by a number of Lucchese crime family members. Secretary-treasurer Amadio Petito was convicted of perjury and contempt for refusing to testify before a grand jury investigating whether President Louis Sanzo had received illegal payoffs and whether Lucchese soldier Salvatore Cavalieri, who was not a union member, actually controlled Local 29 and shared payoffs with Sanzo. The government produced evidence that Sanzo considered Cavalieri to be his boss and that Cavalieri's son was administrator of Local 29's pension and welfare fund. Sanzo was convicted of tax evasion and conspiracy to defraud, based on payments he received as part of a money-laundering scheme involving mob-related construction companies.[9]
- Housewreckers Union Local 95 of the Laborers Union was controlled by Vincent "the Chin" Gigante, boss of the Genovese crime family. In 1984, Local 95 President Joseph Sherman, business manager Stephen McNair, and Secretary-Treasurer John "Pegleg" Roshetski were convicted of labor racketeering.[10]

CONCRETE

- There is a long history of Cosa Nostra involvement with Cement and Concrete Workers Local 6A of the Laborers Union. Until the late 1980s, Cosa Nostra controlled this local, as well as the District Council, through Ralph Scopo, a soldier in the Colombo crime family. Scopo resigned as president of the District Council in 1985 after he was indicted on federal racketeering charges (of which he was later convicted).[11] Scopo's sons Joseph and Ralph continued to be affiliated with both the District Council and Local 6A, with Joseph serving as president of Local 6A, until they resigned in 1987.[12] A court-appointed monitor was placed in charge of Local 6A and the District Council from 1987 to 1992.[13]

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- For years, Laborers Local 66 was controlled by Peter "Jocko" Vario (nephew of Lucchese family capo Paul Vario), formerly a vice-president of the local, and a member of the Lucchese crime family. In December 1988, Peter Vario, Michael LaBarbara Jr., the business manager, and James Abbatiello, an assistant business manager, were charged with operating Local 66 as a criminal enterprise and sharing the proceeds of their racketeering with the boss and underboss of the Lucchese crime family. They were eventually convicted and resigned from their union positions.[14]

MASONRY

- Mason Tenders Local 23 of the Laborers Union was controlled, until his 1986 conviction for labor racketeering, by Louis Giardina, a former president of Local 23 and a member of the Gambino crime family.[15]
- Mason Tenders Local 59 of the Laborers Union was controlled by the Pagano faction of the Genovese crime family for many years. In an intercepted telephone conversation, the late Joseph Pagano (a Genovese family member), claimed that Local 59 had "belonged to his family for fifty years."[16]
- Peter A. Vario (cousin of Peter Vario, above),[17] a member of the Lucchese crime family and business manager of Mason Tenders Local 46 of the Laborers Union, was convicted in 1988 of labor racketeering and of taking labor-peace payoffs from contractors.[18] The same prosecution also led to the conviction of Basil Cervone, business manager of Mason Tenders Local 13 as well as an officer and union trustee of the trust funds.
- In 1994, the Mason Tenders District Council (MTDC) and several of its officers were charged in a civil RICO suit alleging that the MTDC was a corrupt enterprise that was closely associated with the Genovese, Lucchese, and Gambino crime families. For more than twenty years the MTDC allegedly had extorted payoffs, embezzled trust funds, engaged in kickback schemes with companies, and allowed constituent locals to do the same.[19] Its former president, Frank Lupo, admitted that Cosa Nostra used its control over hiring halls to handpick him for the "elected" presidential position that his father, a member of the Genovese crime family, and his grandfather had held before him. As president, Lupo's role included using union funds to buy real estate at

0711

highly inflated prices, presumably to profit Cosa Nostra.[20] In 1995, the parties entered into a consent decree to purge the union of Cosa Nostra and corrupt influences.[21]

CARPENTRY

- The New York City and Vicinity District Council of Carpenters has long been used by Cosa Nostra to control the city's drywall industry. Genovese family capo Vincent DiNapoli played a major role in orchestrating the District Council's racketeering schemes. Three recent presidents of the District Council, whose combined tenures span three decades, were charged with criminal activity in association with Cosa Nostra.[22] Government officials believe that members of the Genovese family have had direct control over the District Council's presidents. Theodore Maritas, president from 1977 to 1981, was presumed murdered after a labor-racketeering trial against him and other Cosa Nostra members ended in a hung jury. Paschal McGuinness, president from 1984 to 1991, was acquitted of criminal activity related to Cosa Nostra.[23] Frederick Devine, president from 1991 to 1996, was ousted by the international union for alleged mob ties, convicted in 1998 for stealing union funds, and sentenced to fifteen months in prison.[24]
- Many officials in Carpenters Locals 17, 135, 257, 531, 902, and 608 have been convicted for Cosa Nostra–related criminal activity.[25]
- Vincent DiNapoli, a multiply convicted Genovese family capo, along with several contractors, was responsible for creating Plasterers Local 530 as an alternative labor supply to the drywall-taping union.[26] Local 530 for years was run by Louis Moscatiello, a Genovese family associate. In 1989, Moscatiello was indicted for receiving bribes, enterprise corruption, and other offenses. In 1991, Moscatiello was convicted of receiving bribes and other offenses, though the enterprise-corruption charge was dismissed.[27]

PLUMBING

- Steam Fitters Local 638 of the Plumbers Union was, for years, represented by its business agent, George Daly, an associate of Gambino family boss Paul Castellano and soldier Thomas Bilotti. Daly served as Local 638's business agent until his 1987 conviction for soliciting payoffs to insure labor peace.[28]

0712

- Officials of Plumbers Local 2, the largest plumbing local in the nation, were charged with enterprise corruption and related crimes in 1993.[29] A former president and four former business agents pled guilty. Paul Martello was elected as business agent, despite the pending charges.[30]

PAINTING

- In 1990, present and former officials of the International Brotherhood of Painters and Allied Trades District Council 9 and its constituent locals were charged with enterprise corruption of the Painters Union from 1978 to 1990.[31] Several officials, including Paul Kamen, head of the District Council at the time, pled guilty. Kamen admitted that he was under the direct control of the Lucchese crime family.[32] Kamen's predecessor, Jimmy Bishop, who was president from 1973 to 1989, was allegedly handpicked by the Lucchese family as well. He was shot to death in 1990.[33]

WINDOWS

- In 1994, Thomas McGowan, an official in Local 580 of the Architectural and Ornamental Ironworkers Union, which was responsible for supplying window-replacement workers in the metropolitan area, was convicted for participating in labor payoffs.[34] Local 580 was also implicated as the engine behind a highly publicized bid-rigging scheme for window-replacement projects.[35]

Until the court-appointed trusteeships of the 1990s, once racketeers infiltrated and gained control of a union, it proved impossible to expel them. Corrupt officials of construction unions controlled election procedures, had the power to expel members for "improper conduct," and determined who worked at what jobs.* Additionally, union officials who served as trustees of various benefit funds could use these funds

*Because construction workers are usually hired by employers on short-term bases, the hiring hall was developed as a work-referral system to match unemployed union members with job vacancies. While theoretically efficient, the potential for abuse inherent in such official control is obvious; a member who wants to work must go along to get along. New York State Organized Crime Task Force, *Corruption and Racketeering in the New York City Construction Industry* (New York: New York University Press, 1990), 52 (citing and quoting Robert M. Bastress, "Application of a Constitutionally-Based Duty of Fair Representation to Union Hiring Halls," *West Virginia Law Review* 82 (fall 1987): 31, 36).

0713

to enhance their power as well as their lifestyles. Finally, the presence of so many known organized-crime figures in the industry made the explicit threat of violence credible and implicit threats usually sufficient.[36]

The national and international unions that charter the locals in the New York City construction industry either have been disinclined or unable to dislodge the racketeers. The U.S. Department of Labor has not aggressively dealt with complaints of corruption and racketeering. Likewise, the Landrum-Griffin Act, which was meant to ensure union democracy, has been narrowly interpreted and weakly enforced. Thus, for most of the twentieth century, the Mafia's influence in the New York City construction unions has been secure as well as pervasive.

TRADITIONAL CRIMES AND RACKETS

For many years, Cosa Nostra was so thoroughly entrenched in the New York City construction industry that, not surprisingly, its members engaged in all sorts of criminality and rackets related to the industry. For example, construction sites provide restricted areas obscured from public view, and Cosa Nostra members, with ready access through the unions, have regularly benefited from gambling and loan-sharking on such sites.[37] There has also been systematic theft and fraud of union benefit funds. Union officials often handpick the trustees of benefit funds that control hundreds of millions of dollars. Corrupt officials and trustees defraud the funds by accepting payoffs from employers who wish to avoid making mandatory benefit payments. They also steer contracts for benefit-plan services (for example, medical, dental and legal services) to companies controlled by fellow racketeers or to legitimate companies willing to pay kickbacks to obtain these lucrative contracts.[38] For example, Frederick Devine, the former president of the New York Carpenters District Council, dipped into his organization's assets (estimated at over $1 billion)[39] to pay for personal services such as chartered jets, limousines, and entertainment.[40] He also steered dental contracts to a New Jersey dentist in return for extensive personal dental services.[41]

Perhaps most important, Cosa Nostra's union control facilitated extortion and solicitation of bribes from contractors. With the credibility to threaten labor unrest and sabotage, racketeers extort payments from

0714

contractors for whom delay means disaster. In turn, contractors pass these extra costs on to consumers. While some contractors are victims of Cosa Nostra's threats, others are willing partners of a crime syndicate that assures smooth performance.[42] Similarly, with the power to choose not to enforce costly collective bargaining provisions (e.g., overtime pay, benefit-fund contributions, on-site union stewards), racketeers solicit bribes from unscrupulous contractors.

Domination of New York City's construction trade unions not only profited Cosa Nostra, it gave Cosa Nostra members and associates the political and economic influence that made this organized-crime syndicate unique. Union positions and positions with contracting firms provided tax covers and legitimate business fronts. For example, John Gotti was a plumbing salesman with ARC Plumbing Company, and Sammy "the Bull" Gravano was the president of JJS Construction Company.[43] "The ability to take a Cosa Nostra member and make him a union officer . . . gave a criminal caterpillar, you might say, the ability to become a very beautiful but dangerous butterfly. It gave him instant legitimacy, an unlimited expense account, legitimate income for income tax purposes, plus all the money he could steal from union dues, an entree into the business community and an entree to those aspiring for political office."[44] It is difficult to overstate the construction industry's importance to Cosa Nostra, both for power and profit.

COSA NOSTRA AND EMPLOYER CARTELS

Once Cosa Nostra established a power base in one of the construction unions, it was a small step to organizing and policing an employer cartel in the construction niche corresponding to that local union's jurisdiction. For example, control over the local whose members pour ready-mix concrete led to the establishment of a cartel of ready-mix concrete producers. Likewise, control over the local whose members put up dry wall in interior construction led to the establishment of a cartel of drywall contractors.

While cartels were reinforced by Cosa Nostra's control of employers through control of employer associations, and by mobsters who owned some of the cartel-affiliated companies, it was Cosa Nostra's union power that established and maintained these cartels.

0715

The Concrete Cartel

Concrete is the basic building block of the physical environment. Among other uses, it is required for the foundations and superstructure of high-rise buildings.* Concrete can account for as much as 25 percent of the cost of a high-rise building. In the late 1980s, between $300 to $500 million was spent annually on concrete in New York City construction.[45] Cosa Nostra dominated this entire subindustry for several years.

According to evidence presented at the "Genovese family" and "commission" trials,[46] Cosa Nostra controlled ready-mix concrete suppliers and contractors through its domination of Local 6A and the District Council of Cement and Concrete Workers, and of IBT Local 282.[47] The Colombo crime family dominated both Local 6A and the District Council. In 1977, Ralph Scopo, a prominent Colombo member, became president of the District Council. Teamsters Local 282 represented the drivers of cement-mixing trucks.[48] John O'Rourke, an associate of the Gambino family, was president of Local 282 from 1931 to 1965. From 1976 to 1984, the Gambino family controlled Local 282 through its associate John Cody. Some observers called Cody, during the years of his reign, the most powerful labor leader in New York City.[49]

Cosa Nostra monopolized the city's suppliers of ready-mix concrete through Genovese associate Edward "Biff" Halloran.[50] By 1981, Cosa Nostra families had helped Halloran obtain ownership and control, in whole or in significant part, of the three largest producers of ready-mix concrete in the metropolitan area, and the only companies with batching plants in Manhattan: Certified Concrete Company,

*Concrete is a mixture of sand, gravel, crushed stone, and other aggregates held together by cement, which bonds the aggregates when combined with water. Concrete hardens as a result of a chemical reaction between water and cement. There are two ways to use concrete. The first is ready-mix concrete. Ready-mix companies are suppliers and transporters of concrete. They purchase the aggregates and cement from local suppliers of those materials. When called upon by a concrete contractor, they combine the aggregates with the cement and water in ready-mix or "batching" plants, and then ship them out in their concrete-mixer trucks whose spinning drums retard setting. Local batching plants are a must, since the concrete will set in ninety minutes, even in the mixer trucks. The second type of concrete is precast concrete, which is precast by the supplier. See John Sedgwick, "Strong But Sensitive; Concrete Construction," *Atlantic,* April 1991, 70.

0716

Transit Mix Concrete Corp., and the Big Apple Concrete Company (which merged with Transit Mix). Cosa Nostra, through Halloran, controlled the entire New York City supply of ready-mix concrete. In return for the monopoly over concrete production, Halloran kicked back to Cosa Nostra's "commission" $3 per cubic yard of poured concrete.[51]

With power over both the product and labor, it was a simple step to control the contractors who poured concrete.* On all concrete-pouring contracts up to $2 million, the Colombo family exacted a 1 percent kickback. Contracts from $2 to $5 million could be performed only by members of a club of contractors selected by Cosa Nostra's Commission. These favored contractors were required to kick back 2 percent of the contract price to the "commission." Contracts worth more than $5 million were the exclusive province of S & A Concrete Company, in which Anthony "Fat Tony" Salerno (boss of the Genovese crime family) and Paul Castellano (boss of the Gambino family) allegedly held hidden interests.[52] Therefore, Cosa Nostra profited from the cartel both through kickbacks and ownership interests. Throughout the 1980s, concrete prices in New York City were 70 percent higher than in other major U.S. cities.[53]

Cosa Nostra figures, using Laborers Local 66 as a power base, organized a second concrete cartel on Long Island. This cartel paid off union officials to permit the contractors to operate double-breasted (i.e., partially nonunion) shops, avoid employment of union shop stewards, pay union workers below scale, and forgo employer contributions to the union benefit and welfare funds.[54] The cartel, organized by the Lucchese crime family through Local 66 vice-president Peter "Jocko" Vario, rigged bids and allocated contracts. In return for the benefits of membership, the cartel contractors paid 1 percent of the price of certain contracts to Vario.[55]

*Although Cosa Nostra did not have similar control over the supply of precast concrete, its use was limited in the metropolitan area. According to one builder, Sam LeFrak, the precast suppliers had some sort of arrangement with John Cody of Teamsters Local 282. In the $250 million Gateway Plaza apartment complex, LeFrak upset Cody and his associates by using precast concrete. Using Cosa Nostra's muscle in other construction areas, Cody convinced LeFrak to use ready-mix concrete. See Roy Rowan, "The Mafia's Bite of the Big Apple," *Fortune,* June 6, 1988, 128; Selwyn Raab, "Irregularities in Concrete Industry Inflate Building Costs, Experts Say," *New York Times,* April 26, 1981, A1.

0717

The Drywall Cartel

In the late 1970s, the FBI's Long Island Labor Racketeering and Extortion (LILREX) investigation uncovered a club of drywall contractors controlled by Vincent DiNapoli, a Genovese capo.[56] Drywall is used in numerous construction projects as a cheap replacement for plaster. In 1993, this subindustry accounted for more than $100 million in New York City construction contracts, most of which were awarded to club members.[57]

Unlike the concrete cartel, the drywall cartel apparently did not control the drywall manufacturers. However, Cosa Nostra controlled the Carpenters union, owned or controlled the majority of the city's drywall contractors, and ran the Metropolitan New York Dry Wall Contractors Association, the industry's major employers' association.

The club consisted of the twenty companies that were members of the Metropolitan New York Dry Wall Contractors Association. In the late '70s and early '80s, they obtained most of the public and private drywall contracts; only a handful of contractors controlled all the city's drywall contracts over $350,000.[58] In an intercepted conversation, Louis Moscatiello, a Genovese associate, explained that the Metropolitan New York Dry Wall Contractors Association had belonged to the Genovese family for forty-five years.[59] The LILREX investigation also discovered that DiNapoli and his associates profited not only from payoffs but also from ownership interests in Inner City Drywall Corporation and Cambridge Drywall and Carpentry Corporation, two of the largest drywall contractors at that time.[60]

The cartel was enforced by the New York City Carpenters union locals and their District Council. (Made up of an executive board and delegates from its constituent locals, the District Council negotiates, supervises, and delegates enforcement of collective bargaining agreements; it also authorizes picketing). The Genovese crime family had dominated the District Council since at least the 1970s, when Vincent DiNapoli and Peter Defeo, two Genovese family capos, exerted strong influence over Theodore Maritas, the District Council's president.[61] The Genovese family's control over the District Council was reinforced by its direct control over several union locals.[62]

DiNapoli used his labor power to form a club of dues-paying drywall contractors who allocated the majority of New York City's drywall

0718

jobs through bid-rigging schemes. Club members paid up to 2 percent of the contract price (which was often inflated to cover that cost) for each job that they were awarded through rigged bids. Contractors in which DiNapoli did not hold interests were charged an additional $1,000 per week in return for labor peace. For additional bribes, contractors could avoid certain provisions of the collective bargaining agreements.[63]

In March 1981, the Brooklyn Organized Crime Strike Force obtained a RICO indictment against Vincent DiNapoli, Theodore Maritas, and several others.[64] Shortly after the trial ended in a hung jury, Maritas "disappeared," presumed murdered to prevent him from cooperating with the government.[65] In April 1982, the other defendants, including DiNapoli, were convicted on guilty pleas.[66] While DiNapoli was serving his five-year prison term, other members of the Genovese family took over his labor racketeering and cartel management responsibilities.[67]

The two succeeding District Council presidents, Paschal McGuinness and Frederick Devine, were both charged with criminal activity associated with Cosa Nostra.[68] In 1996, the national union ousted Devine from office because of alleged mob ties, and in 1998 he was convicted of stealing from the union's benefit funds.[69]

The Window-Replacement Cartel

In 1991, the highly publicized "windows" case exposed another major cartel in the New York City construction industry. A federal prosecution revealed that senior members of four of the city's five Cosa Nostra families (the Bonanno family was not represented) formed a club of window-replacement companies that dominated the public sector of the industry from 1978 to 1990.[70] Over those twelve years, the New York City Housing Authority (NYCHA) alone granted $191 million in window-replacement contracts. The club rigged approximately $150 million of those contracts.[71]

The Lucchese crime family controlled Local 580 of the Architectural and Ornamental Ironworkers Union (Local 580), which was responsible for supplying window-replacement workers in the metropolitan area,[72] through two of the local's business agents.[73] Cosa Nostra used its influence and Local 580's power to extort payoffs, solicit bribes, and police the cartel.

0719

Federal prosecutors charged that Cosa Nostra had imposed a $1 to $2 per window charge on most public and some private window-replacement contracts in New York City. These proceeds lined the pockets of corrupt union officials, housing authority officials, and Cosa Nostra bosses. The window-installation companies rigged bids, enjoyed labor peace, and used nonunion labor.[74] Prosecutors in the windows case asserted that members of the club willingly cooperated because the cartel allowed them to pass along inflated prices to the NYCHA and private consumers.[75] Those who challenged the cartel encountered threats or acts of violence and labor problems.[76]

Peter Savino, a mobster-turned-informant, surreptitiously recorded hours of conversations about the cartel's operation.[77] At the trial he testified about the union's methods of policing the cartel. Competitors would be forced to employ union members at the highest rate, while club members were allowed to use nonunion members whom they paid low wages.[78] Moreover, the union (through its hiring hall) would assign the overcharged competitors low-quality workers.[79] Savino explained in court, "Thirty company workers could do 300 windows a day. If union men were used, thirty men could do only 50 windows a day. That would put a guy out of business."[80]

Cosa Nostra members also held ownership interests in some of the companies in the club, thereby benefiting from company profits, as well as payoffs and kickbacks. Savino testified that the Lucchese family provided him $500,000 to start Arista Windows, and that Local 580 then helped his company obtain contracts.[81]

Control, either by ownership or influence, of installation companies further hindered competition by creating additional entry barriers to the market. For example, when Graham Architectural Products, Inc. (Graham), a manufacturer and supplier of windows, tried to expand into the installation business, its customers threatened to seek other suppliers. Moreover, when Graham sought to escape Cosa Nostra's influence by seeking business from other installation companies, it found that they too were controlled by organized crime.[82]

For twelve years, Cosa Nostra reaped profits from its windows racket while consumers and taxpayers paid roughly a 10 percent Mafia tax on window-replacement contracts.

0720

Painting Cartel

In 1990, a joint investigation by the U.S. Department of Labor, the Manhattan District Attorney's Office, and the New York Police Department lead to state racketeering (OCCA) charges against Lucchese underboss Anthony "Gaspipe" Casso, Lucchese capo Peter "Big Pete" Chiodo, senior officials of Painters District Council 9 and several of its constituent locals, and two painting-company executives for rigging bids on all major painting contracts from 1978 to 1990.[83] Members of a club of painting contractors kicked back up to 10 percent of revenue from mob-allocated contracts in return for labor peace, and for sweetheart deals allowing them to violate collective bargaining agreements.[84]

Corrupt Painters Union officials enforced the Luccheses' domination of the subindustry. The Mafia's control over the union was illustrated by Jimmy Bishop's District Council 9 presidency and murder. In 1973, Bishop was elected council president with Cosa Nostra's backing. Sixteen years later he was forced to resign when the Luccheses' boss began to serve his hundred-year prison term. The faction that took over the Lucchese family wanted its own men running the union, and replaced Bishop with Paul Kamen.[85] Bishop was later shot to death, reportedly after agreeing to cooperate with the government.[86]

In 1991, Paul Kamen, president of the Painters District Council 9, along with eight other union officials, pled guilty to state enterprise corruption (OCCA) charges, confirming law enforcement charges that the union's executive leadership had been handpicked by the Lucchese crime family. In an intercepted conversation, Kamen described the mob tax:

> You shake somebody's hand, that's it by me. . . . You first got to get 5 to 10 percent, a little higher, then you got it made. That's all you have to do. I'm compassionate, 10 percent. It's not hard.[87]

For twelve years 10 percent of all major painting contracts, especially subway and steel painting contracts,[88] lined the pockets of corrupt officials and the Lucchese crime family.

0721

Racketeering in the Plumbing Industry

Ending in 1993, a four-year investigation by the Manhattan District Attorney's Office uncovered a widespread system of payoffs and bribes throughout the city's plumbing industry. Cosa Nostra, corrupt officials of Plumbers Local No. 2 (Local 2), plumbing inspectors, and more than twenty plumbing contractors were involved in a coordinated system of corrupt payoffs from 1983 to 1993.[89] Local 2's plumbers were involved in every major Manhattan and Bronx construction job over this period; their pervasive presence led to bid-rigging schemes, extortion, and bribery totaling more than $1 million, as well as millions in withheld benefit payments.[90] Louis Moscatiello Sr., a Genovese associate, was suspected of having organized this scheme. Louis Moscatiello Jr. (having taken over after his father's 1991 conviction for labor racketeering in the drywall subindustry), was indicted as a coordinator of the plumbing rackets.[91] Prosecutors alleged that the Moscatiellos and union officials created a "Local 2 Control Group" that used mob muscle and union power to run the plumbing rackets.[92]

For payoffs of up to thousands of dollars by each contractor, the mob-associated union officials offered labor peace and the opportunity to violate provisions of collective bargaining agreements. Contractors hired nonunion plumbers (for whom corrupt officials often provided false union-membership cards), avoided pension and welfare contributions, and evaded taxes.[93] Additionally, Cosa Nostra members held ownership interests in several of the plumbing companies. One major plumbing company, De-Con Mechanical, was so closely connected to the Mafia that it did not need to make payoffs to avoid burdensome collective bargaining contract provisions. At the same time, Local 2 officials hindered new companies' efforts to enter the market by selectively enforcing collective bargaining agreements against them.[94]

CONCLUSION

The Mafia has been active and influential in New York City's construction industry for fifty years. The organized-crime families controlled key union locals and district councils in many crafts and trades, such as the laborers, teamsters, carpenters, and mason tenders. Union power enabled them to set up employer cartels, like those in poured concrete,

0722

drywall, and window replacement. Cosa Nostra members, including bosses like Paul Castellano (Gambino), Sammy "The Bull" Gravano (Gambino), and Vincent DiNapoli (Genovese) also held ownership interests in contracting companies. The mob was able to place its members, associates, relatives, and friends in lucrative jobs or no-show positions. Union workers were controlled with threats and regularly cheated out of jobs, contractual benefits, and wages. Cosa Nostra members obtained social and political status as labor leaders, businessmen, and power brokers. Contractors adapted to and often benefited from the mob's presence. New York City taxpayers and citizens paid a hefty mob construction tax.

0723

8

Conclusion to Part I

> Whether by violence or by effective mutual understanding, the stability of the market is highly desired in established businesses. . . . The gangster undertakes to effect by illegitimate means what is a normal tendency in legitimate business.[1]
>
> —Joseph Landesco, *Organized Crime in Chicago* (Chicago: University of Chicago Press, 1968; originally published in 1929)

> But the Mafioso, however he dresses and whatever he rides around in, is a gunbearing grisly who probably has [killed] and will kill on orders, and almost certainly is engaged in robbing innocent people of their money through force and fraud.
>
> —Johathan Kwitny, *Vicious Circles: The Mafia in the Marketplace* (New York: Norton, 1979)

THIS CHAPTER DRAWS some general observations from the case studies in chapters 2 through 7. We deal first with the light those chapters shed on the nature of Cosa Nostra as a crime syndicate, then on lessons that can be drawn concerning Cosa Nostra's industrial racketeering, and finally on implications for our understanding of the twentieth-century urban political economy.

CONFLICT AND COOPERATION

The image of Cosa Nostra as racked by interfamily conflict over territory and control of rackets does not conform with reality.[2] While there was significant gangland warfare in the 1930s and 1940s, after World War II the relationship among the five New York City Cosa Nostra fam-

0724

ilies was generally peaceful. In fact, our research has identified only a handful of incidents of interfamily violence. Moreover, no single sector of the economy was under the exclusive domain of one particular organized crime family; at least two crime families played a role in each of the industries we have examined.

Contrary to popular myth, the five New York Cosa Nostra families have an impressive record of cooperation with one another in industrial racketeering. How this was accomplished remains a question for future research. Perhaps industrial racketeering simply requires a great deal of cooperating, and crime syndicates heavily involved in industrial racketeering are first and foremost concerned with keeping business running smoothly. While there may or may not have been a functioning nationwide commission of Cosa Nostra families that developed in the aftermath of World War II,[3] there is no question that the Gambino, Genovese, Lucchese, and Colombo crime families participated in an interfamily council based in New York City. The Bonannos, at least for a time in the 1980s, were excluded from participation on the "commission," reputedly because of their extensive drug dealing and perhaps also because they had allowed their organization to be infiltrated by undercover FBI agent Joe Pistone (alias Donnie Brasco).[4] The four bosses held meetings to resolve disputes and coordinate racketeering activities. The concrete cartel, with its complex formula for sharing the spoils, is the best example of an interfamily cooperative enterprise.

ACCOUNTING FOR COSA NOSTRA'S SUCCESS

How were the Italian American organized-crime families able to attain so much power in the business world and what explains their extraordinary success, even more remarkable considering that Cosa Nostra bosses lack formal education in economics, accounting, law, labor relations, and other disciplines relevant to functioning successfully in business? Furthermore, to avoid detection, Cosa Nostra members had to run their operations without extensive bookkeeping and records and, starting in the late 1970s, increasingly without using the telephone. Moreover, seeking redress through the court system was not an option.

Part of the explanation for the mob's effectiveness in the business world lies in the advantages it reaped from its reputation for violence.[5] Although we have uncovered relatively few incidents of serious bodily

0725

harm exacted against legitimate businessmen, nonetheless, the threat of violence was omnipresent. The organized-crime families' reputation for ruthless violence guaranteed that individuals and firms would yield to their demands.

One striking example of Cosa Nostra's power to intimidate is provided by Peter Reuter's study of the New York City waste-hauling cartel. Reuter explains that in the two decades during which a Mafia member sat on the grievance committee of the New York Trade Waste Association, no carter ever refused to accept the committee's resolution of a dispute over "ownership" of a customer. According to Reuter, "The implied threat of force provide[d] the ultimate incentive to accept the committee's rulings."[6] Likewise, threats of violence deterred unhappy union members from contesting the mob's control of their unions and deterred would-be competitors from attempting to challenge the monopoly established by a club of mobbed-up companies. In effect, Cosa Nostra's capacity to enforce its will through violence is analogous to the government's power to call upon the police, courts, and prisons to enforce its edicts.

A second important Cosa Nostra asset was reliability, at least in comparison to other gangs and gangsters. Cosa Nostra protected its business partners against extortion and harassment by other less stable and less reliable criminals and opportunists. In Italy, Mafia members called themselves, and were known as, "men of honor." The self-image and reputation carried over to the United States. Businessmen knew or at least had reason to hope that with Cosa Nostra, a deal was a deal, notwithstanding the fact that there are many examples of cheating and double-crossing.

A third Cosa Nostra asset might be called "general business acumen." The Italian American organized-crime families held an entrepreneurial worldview and an aptitude for business. They operated according to the view that what is good for business generally is good for Cosa Nostra. Rather than *taking over* legitimate businesses, Cosa Nostra typically preferred to take a cut and provided a desirable service in return. To adopt an expression that is widely heard in studies of the Sicilian Mafia, Cosa Nostra's business strategy was "to wet its beak" (to take a cut) in as many different enterprises as possible. In general, the mob took a slice, not the whole pie.

The adjectives that best describe Cosa Nostra are *entrepreneurial, opportunistic,* and *adaptable*. Cosa Nostra bosses and members have a

0726

knack for finding ways to exploit market vulnerabilities and to satisfy business's desire for stability and predictability. The career of Gambino underboss Sammy "The Bull" Gravano provides an excellent example of the energy, imagination, and entrepreneurship that characterize the Italian American organized-crime families.

Sammy Gravano, a man with only a grade-school education, made millions of dollars in legitimate businesses. He was a consummate mobster-entrepreneur: energetic, imaginative, and resourceful. He advanced from small-time hustler to owner of nightclubs and plumbing, drywall, carpeting, and painting companies.[7] Ultimately, Gravano acquired interests in several parts of the construction industry: concrete pouring, asbestos, floor-inlay, and steel-erection companies.[8] His status in the mob enabled him to carry out contracts and guarantee labor peace to cooperative subcontractors, who repaid the favor with kickbacks ranging from $15,000 to $20,000 per contract. In 1989, he handed over close to $1.2 million in profits from rigged construction bids to Gambino family crime boss John Gotti.[9] Gravano, like many of the Cosa Nostra figures, kept seeking opportunities to make money in one business scheme and racket after another. He capitalized on his reputation as a Cosa Nostra member and on the network of connections that Cosa Nostra membership provided him. In addition, and like many of his underworld colleagues, his outgoing, even charismatic, personality was an asset in dealing with business people who apparently concluded that Gravano was no mobster, but an "underworld" figure who shared their passion for business.

COSA NOSTRA'S RESTRAINED AMBITIONS

After reading chapters 2 through 8, the reader may wonder why Cosa Nostra did not completely take over the garment, construction, and waste-hauling industries, the Fulton Fish Market, JFK Airport, and the Javits Convention Center. Since it had the power to determine which firms could participate in these industries, why did it not purge them of all non–Cosa Nostra participants? Had they so desired, the five organized-crime families could have owned all the waste-hauling firms in the carting industry, all the freight-forwarding firms at JFK Airport, and all the fish wholesalers at the Fulton Fish market. They could have used that control to take over supply companies and

0727

they could have continued growing and expanding like many national and multinational conglomerates.

With substantial discretion over prices, it is surprising that Cosa Nostra never priced products or services beyond what the market would bear. There are no examples of the mob's overreaching itself: prices were high but not so exorbitant that large numbers of customers refused to pay and sought alternative markets. Why, for example, did Cosa Nostra charge $12 a day to park at the Fulton Fish Market rather than two or three times that amount? Although poured concrete and commercial waste–hauling prices were the highest in the nation, they were stable and sustainable. In other words, Cosa Nostra did not appear to be searching for the highest price the market would bear or to be focused on maximizing profits. Higher concrete cartel prices would hardly have shut down high-rise construction, and higher carting rates almost certainly would not have triggered a revolt by businesses. Peter Reuter believes, based upon a sophisticated economic analysis, that the Mafia failed to take full advantage of its monopoly power in the New York City carting industry, a conclusion that appears equally true of other mobbed-up industries. It seems fair to say that Cosa Nostra has repeatedly refrained from fully exploiting its economic power.

The Italian organized-crime families did not have a plan or strategy for "taking over" entire industries. Unlike many "legitimate" companies, Cosa Nostra's goal was not to get larger and larger. Indeed, Cosa Nostra had no corporate or collective goal at all. Cosa Nostra should be thought of as a loose confederation of individual entrepreneurs and entrepreneurial cliques franchised and protected by the bosses at the top. Certainly, the mob was not aggressive about expanding its membership: those interested in joining the organization had to apprentice to become "made" members. Very few new members were initiated annually; sometimes the organization was closed to new membership for years. Furthermore, the recruitment pool remained closed to non–Italian Americans. All this leads to the conclusion that Cosa Nostra crime families did not function like a corporation.

While remaining a close-knit and in-bred organization may have maximized the chances of maintaining loyalty and secrecy, it also served as a check on expansion.[10] Cosa Nostra stayed with what it knew best: labor racketeering, labor-peace extortion, theft, and fraud. And, of course, the families also devoted substantial time and resources to illegal rackets and traditional crimes, thereby expending energy that might

0728

otherwise have gone into building up their power bases in legitimate industries.

Admittedly, there are counterexamples such as Thomas Gambino. A capo in the Gambino crime family, he devoted most of his time and energy to operating his four trucking companies, from which he amassed an estimated $100 million fortune.[11] And certainly, Cosa Nostra's absolute dominion over the concrete industry through a mob-owned and -operated cartel illustrates an extremely aggressive move to monopolize an entire sector of the economy. But these are the exceptions; the overwhelming majority of Cosa Nostra leaders seemed content to share "their" industries with legitimate businessmen.

INDUSTRIAL RACKETEERING

Part 1 documents the remarkable record of industrial racketeering accumulated by New York City's five Italian American organized-crime families during the twentieth century. While many readers may be surprised, even shocked, by the extent of mob involvement in New York City's core economy, this book is no exposé. Industry participants with eyes and ears open were well aware of the Mafia's importance on and behind the scenes. Public hearings and reports, magazine and newspaper accounts, and indictments made such information available to the general public. Among savvy New Yorkers and interested outsiders, it was common knowledge that, for example, the waterfront, Garment Center, and fish market were all under mob control. Our contribution is the big picture of Cosa Nostra's half century of industrial racketeering in New York City.

For much of the twentieth century, the Italian American organized-crime families were a powerful force in, and strongly influenced, indeed dominated, many of the key industries of the nation's largest city. By "influenced" and "dominated," we mean that Cosa Nostra wielded significant power in the unions and companies that constituted these industries by handpicking staff and exacting tribute through numerous rackets and schemes. Mobsters served as union officials or had substantive input into the appointment of such officials and greatly affected their decisions. Union business agents, shop stewards, and trustees of the pension and welfare funds generally owed their jobs to the mob. Cosa Nostra's influence made itself felt from top to bottom, so

0729

that many rank-and-file employees felt obligated to organized-crime figures for their jobs and other favors. Mafia members and associates determined who worked, who got paid to stay home, who got promoted, and who was blacklisted.

Chapters 2 through 7 each have a labor-racketeering component. Cosa Nostra has a long history of involvement in labor unions, a history that began during the 1920s and 1930s when management hired streetwise mobsters to break strikes.[12] Soon the unions were hiring Cosa Nostra members and associates to fight back against management goons. Once the mobsters got into the New York City area unions, they never left. They muscled or manipulated their way into leadership positions and solidified control through threats and favors. Union offices and good jobs were filled with Cosa Nostra members, relatives, associates, and friends. Friends and friends of friends got union cards; those who played along got preference for the best and easiest jobs and for appointments as business agents and shop stewards. Thus, it is not surprising that over time, the mob-sponsored officials came to dominate their unions. Until the civil RICO lawsuits of the late 1980s and early 1990s produced court-appointed monitors to purge organized crime from various unions, we know of no case in which a union that had been taken over by the Mafia was ever liberated.[13] Organized crime's control over a union local or district council provided the springboard for infiltrating legitimate businesses and establishing cartels. Holding office in union locals, district councils, and the parent international unions themselves provided Cosa Nostra members and associates with power and status. These individuals had ready access to politicians and a stock of jobs that could be allocated to members, associates, and friends.

Interestingly, certain mob-connected union officials seemed popular with union members. In fact, some court-appointed monitors found that the rank and file did not seem interested in democratic reform and even supported Cosa Nostra–designated candidates when given a chance to vote in free elections.[14] Some rank-and-file members were obliged to the mob through a patronage system. Others, no doubt, were captivated by the charisma of some organized-crime figures. The magnetic personalities of some mobsters with high-ranking union positions had a powerful effect on what Gambino family crime boss John Gotti called "our public."[15] Often men like Gotti were given the attention and

0730

deference normally reserved for movie stars and sports heroes, not simply in their own neighborhoods but also in the national media.[16]

Not everyone benefited from mob involvement. Among the losers were firms prevented from competing and consumers who paid higher prices for goods and services. The rank-and-file members of mobbed-up unions were also victims. Cosa Nostra deprived union members of their right to a democratic union and diverted the best jobs to Cosa Nostra members and their associates. Mob-affiliated union bigwigs sold out their underlings by signing sweetheart labor contracts with mob-friendly companies or, in exchange for bribes, by allowing those same companies to operate as nonunion shops or as double-breasted shops. For officials in mobbed-up unions, Cosa Nostra was the relevant constituency, not the membership. Corrupt union officials took bribes from employers and allowed them to escape their contractual obligation to make required payments to their workers' benefit and retirement funds. Like the proverbial fox in the henhouse, Cosa Nostra members and their associates sometimes sat on the board of benefit and welfare funds.

If a company refused to conform to Cosa Nostra's will and disobeyed its rules, it quickly found itself confounded by labor problems, bereft of reliable workers, or debilitated by sabotage. Inevitably, a rebellious company came to heel. A telling indicator of Cosa Nostra's power is the absence of violence in its dealing with legitimate industries. A constant need to resort to force would have indicated weakness, not strength.

Cosa Nostra as a Rationalizing Force

The mob's powers of intimidation, while impressive, were not the sole reason for the compliance of its upperworld business partners, who were hardly innocent victims. Rather, as sociologist Joseph Landesco insightfully pointed out in 1929, "[T]he racketeer does not always impose himself upon an industry or an association. He is often invited in because his services are welcome."[17] Indeed, something more than fear inspired legitimate businessmen to cooperate with the mob. Membership in Cosa Nostra–sponsored employer cartels had many attractive benefits. Provided that they kicked back a percentage of their profits to the mob, cartel members received protection against competitors

0731

and a de facto license to fix prices, allocate contracts, and treat their customers like property.

In its comprehensive study, the New York State Organized Crime Task Force concluded that Cosa Nostra played a "rationalizing role" in New York City's construction industry. The phrase accurately captures reality. In the industries examined in Part 1, the mob functioned like a quasi government by providing protection against competition, conflict resolution, policing, and escape hatches from onerous contractual obligations. Moreover, Cosa Nostra bosses functioned as "fixers" in bringing together disparate actors, brokering partnerships and deals, and guaranteeing that the parties would live up to their promises.

IS THERE SOMETHING UNIQUE ABOUT THESE INDUSTRIES?

Was Cosa Nostra's success in industrial racketeering facilitated by the organization and structure of the particular New York City industries it chose to infiltrate? In addressing this question, one has to be wary of the *post hoc ergo propter hoc* fallacy. That is, *first* selecting only industries known to be mobbed up, and *then* seeking out common traits among those industries to explain why they are mobbed up. A properly conducted study would rank various characteristics of a whole range of industries, some ruled by Cosa Nostra and others not, to see whether the two groups differ significantly on any of these selected characteristics. Even then, inferring causation would still be a problem because mob infiltration might cause certain industries to acquire certain common traits, rather than those common traits' being the cause of infiltration.

Still, on the surface, particular commonalities between mobbed-up industries are striking. Notably, timeliness is of critical importance in all the industries we have examined: garments must be delivered on time or there is no market for them; fish spoils; construction delays can bankrupt a developer. Thus, an actor with the power to impose a delay can extort money in exchange for refraining from exercising that power. But the significance of timeliness is open to question because almost every industry has some "time-is-of-the-essence" feature. Practically all manufacturers, for example, have to ship out their products on time or face the wrath or desertion of their buyers.

Furthermore, while timeliness is important, there is no reason to focus on it as the only variable that provides an opportunity for threat-

0732

ening a firm with costs or injury. There is potential power in being able to impose costs by whatever means—strikes, labor unrest, sabotage.

The New York State Organized Crime Task Force argued that mobbed-up industries are highly "susceptible" to racketeering, meaning that such industries possess a structure and organization that encourages industry participants to engage in racketeering, or that provides opportunities for industry outsiders to control or influence critical industry components. The OCTF also concluded that mobbed-up industries had a high degree of "racketeering potential." That is, large amounts of money could be readily siphoned out of these businesses by exploiting their susceptibility. Although this explanation seems to capture a certain truth, it is also tautological. Undoubtedly, the industries that organized crime successfully infiltrated had characteristics that made them vulnerable to infiltration. But although the OCTF did provide a compelling explanation of, for example, the construction industry's vulnerability to disruptions and delays throughout the building process, it failed to apply this rough conceptualization to a whole range of industries *before* determining whether all of those industries had experienced mob infiltration. Couldn't we construct a similar story to explain, after the fact, why any industry was vulnerable to being exploited by organized crime?

A second problem that arises in trying to explain why certain industries have fallen prey to organized-crime syndicates and other industries have not is a disquieting lack of certainty about which industries the mob does have a foothold in. We cannot be completely secure in an assertion that organized crime is not and has never been involved in a particular industry. As we have seen, organized crime has been present in a great number of New York City industries over the course of the twentieth century.

URBAN POLITICS AND ECONOMICS

Organized crime should not be an exclusively criminological topic but should be of great interest to economists, political scientists, and urbanologists. However, with some notable exceptions, urbanologists have not studied Cosa Nostra's role in shaping the economic, political, and physical environment of America's cities. The oversight is hard to understand. Mafia bosses were unquestionably part of the

0733

power elite in Buffalo, Chicago, New Orleans, Boston, Cleveland, Kansas City, Philadelphia, Las Vegas, Providence, and many other cities. Throughout the twentieth century, Mafia dons have mingled in business, labor, and political circles as the friends, advisers, and financial supporters of business executives, union leaders, and political party bosses. Their personal and professional connections to New York City's political and economic power brokers needs to be thoroughly documented.*

The link between organized crime and local politics was strongest in the 1940s and 1950s. For example, New York City organized-crime boss Frank Costello had close ties to Tammany Hall and functioned as a kind of political patron. New York City mayor William O'Dwyer was forced to resign from office in 1950, amidst allegations of personal ties to organized crime. His successor, Vincent Impellitteri, was also accused of having mob connections. However, according to New York City historian Robert Snyder, by "the middle of the 1960s the long-standing ties between organized crime and the city's political machine had been broken."[18] *Weakened* might be more accurate. Although, since the 1960s, there have been no allegations linking New York City mayors to organized crime, that hardly proves that the Mafia crime bosses have failed to exert influence over other city politicians and officials.

One striking example of the symbiotic relationship that existed between mobsters and politicians involved high-ranking Mafia figures Antonio Corallo and Daniel Motto and city official James Marcus, all of whom were indicted in 1967 for multiple criminal offenses arising out of the awarding of a million-dollar city contract.[19] Marcus had been appointed commissioner of the Water Department by Mayor John Lindsay in September 1966.[20] As commissioner, Marcus was responsible for allocating contracts related to the construction of water conduits or the rehabilitation of the water supply for the five boroughs.

*For example, any discussion of New York City's great public works projects of the mid-twentieth century is incomplete without extensive analysis of the role played by five crime families. Because Cosa Nostra controlled the construction unions, it is inconceivable that these massive building projects could have been completed without first obtaining, through financial inducement, the approval and cooperation of the mob bosses. Yet in Robert Caro's masterful Pulitzer Prize–winning biography of Robert Moses, who reigned supreme for decades as New York City's premier city planner, there is no mention of Cosa Nostra or organized crime. See Robert Caro, *The Powerbroker* (New York: Knopf, 1974).

0734

Deeply in debt because of poor stock investments and badly in need of cash, Marcus accepted bribes from Motto and Corallo; in exchange, he arranged for the million-dollar contract to clean up the Jerome Park Reservoir in the Bronx to be awarded to a mobbed-up construction company called S. T. Grand. Marcus awarded the contract in November 1966, just two months after his appointment as commissioner, in exchange for thousands of dollars in personal loans from Motto and a percentage of the contract price as a kickback.[21] Confronted with inculpatory conversations intercepted by electronic surveillances, Marcus resigned as commissioner.[22] Ultimately, he pled guilty to a lesser offense and served as a principal witness in the trial of Corallo, Motto, and Fried, all of whom were convicted of conspiracy to violate New York State bribery laws.[23]

The Marcus story is one of many examples of Mafia involvement in city politics. However, the connection between Cosa Nostra and New York City's political elite has never been thoroughly examined. In many U.S. cities, the Mafia has been active in politics by rallying neighborhood residents behind selected candidates and by funneling significant amounts of money and grassroots organizing into political campaigns. It is impossible to believe that the five families operated so openly for so long without at least an understanding with the city's political elite. The lack of any serious initiatives by city officials to attack organized crime, (other than sporadic and largely unsuccessful prosecutions by law enforcement), supports the hypothesis that for many politicians, Cosa Nostra was at least an acceptable fact of life. For some politicians, organized crime was more than that; it was a crucial ally.[24]

CONCLUSION

At least as applied to Cosa Nostra, the model of criminal syndicates as essentially suppliers of illegal goods and services, and investors or launderers of profits in legitimate business is inaccurate. Since the 1930s (after the repeal of National Prohibition), organized-crime groups in New York City have been heavily involved in industrial racketeering not as a sideline but as a core activity. Industrial racketeering must be seen as the defining characteristic of Cosa Nostra, what makes it unique among contemporary U.S. organized-crime groups. There are other criminal organizations that traffic in drugs, pornography, prostitution,

0735

and gambling and that engage in systematic thefts, but, since the 1950s no other criminal organization has controlled labor unions, organized employer cartels, operated as a rationalizing force in major industries, and functioned as a bridge between the upperworld and underworld.[25] To find an accurate parallel, one must look outside the United States to Mafia organizations in Italy, the Yakuza in Japan, and perhaps the so-called Russian Mafia in Russia.

In the 1920s and 1930s, there were very strong Jewish, Irish, and German organized-crime groups. There have been African American organized-crime groups throughout the twentieth century active in "numbers," prostitution, and other rackets, mainly in urban neighborhoods. As the twentieth century draws to a close, we see the emergence of a Russian Mafia, Chinese triads or "tongs," Colombian drug traffickers, and Jamaican posses, to name a few. Crime groups like these clearly have the capacity to mount sophisticated criminal operations and to utilize deadly violence when necessary to further their goals. Yet, Cosa Nostra stands apart. No other organized-crime group has shown anything resembling the business sophistication and acumen of the Italian American organized-crime families. No other group has demonstrated the ability to control labor unions, much less play the roles of peacekeeper, cartel enforcer, and "fixer" for entire industries. None has become a political force by underwriting campaigns and taking control of grassroots party organizations. Cosa Nostra is distinctive, even unique, because it has successfully penetrated labor unions to seize control of legitimate industries. The resulting economic power produced high social status and engendered respect, deference, and fear among businessmen and politicians, thereby ensuring that the Cosa Nostra families would wield significant influence in both the upper- and underworlds. The diverse and successful enterprises of Cosa Nostra, and its resulting power and prestige, justify treating this organized-crime syndicate as a criminological topic in its own right.

0736

PART II

THE LIBERATION OF NEW YORK CITY

Part 2 documents federal, state, and local law enforcement's and New York City government's extraordinary attack on Cosa Nostra's industrial racketeering that, by the end of the twentieth century, has ended or seriously threatened Cosa Nostra's influence and control in the industries we examined in Part 1. We tell the story as a tale of industry-by-industry liberation, thereby keeping the focus on New York City's economy. But the story could be told differently, for example, as the last (or perhaps penultimate) chapter in the history of Cosa Nostra or as a chapter in the history of federal, state, and local organized-crime control.

The battle to purge the Italian American organized-crime families from each industry occurred in the context of a campaign by the FBI and the U.S. Department of Justice, complemented and assisted by the efforts of state and local law enforcement agencies, to decimate the Italian American organized-crime families all around the United States. Up until approximately 1980, federal, state, and local organized-crime control initiatives had been sporadic and ineffective. Of course, there had been successes, like Thomas Dewey's prosecutions of Lepke Buchalter (murder), the only organized-crime figure ever to be executed, and

0737

Lucky Luciano (compulsory prostitution),[1] and the federal government's success in jailing Al Capone (income tax evasion).[2] Moreover, we have seen that powerful mobsters like Socks Lanza (fish market)[3] and Johnny Dioguardi (Teamsters and JFK Airport trucking)[4] were convicted and sentenced to long prison terms. Nevertheless, even these major prosecutions failed to disrupt Cosa Nostra's operations and power bases.

Organized crime flourished in the absence of serious opposition. Local police departments and prosecutors lacked the resources and tools to mount sustained investigations and prosecutions of powerful organized-crime figures and, in any event, individual prosecutions, or even series of individual prosecutions, did not disrupt the crime syndicate's operations.[5] Moreover, a symbiotic relationship between organized crime and the urban political machines insulated Cosa Nostra from sustained law enforcement investigations. That, at least, was the conclusion of the U.S. Senate's 1950–1951 Kefauver Committee, whose hearings revealed friendly relationships between organized-crime bosses and mayors, police chiefs, and politicians in many cities.[6] Perhaps just as important as outright political corruption was the view of honest law enforcement officials that organized-crime control was too expensive, too complex, and even too exotic to be given top priority.

Despite the Kefauver, McClellan (1957–1960),[7] and other congressional committees, FBI Director J. Edgar Hoover would not devote significant resources to organized-crime investigations; indeed, until well into the 1960s, he refused even to recognize the Mafia's existence. This egregious intransigence has never been satisfactorily explained: whether it was due to his desire not to divert the FBI's attention from what he considered "more important" targets, like the Communist Party, to prevent the FBI from being tainted by corruption, or perhaps to Cosa Nostra's compromising him in some way (as some have alleged), has never been established.[8]

The federal organized-crime control program evolved slowly from the early 1960s to full maturity in the mid-1980s. There were many important steps along the way. U.S. attorney general Robert Kennedy (1961–1964) revitalized the Organized Crime and Racketeering Section (OCRS) of the U.S. Department of Justice.[9] The Task Force on Organized Crime of the President's Commission on Crime and the Administration of Justice (1967) produced a frightening (indeed, exaggerated) report on the power and organization of organized crime.[10] In 1967, Congress es-

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0738

tablished, independent of the U.S. attorneys, organized-crime strike forces that reported directly to the OCRS; ultimately, there was a federal organized-crime strike force in each of the cities where there was a major organized-crime presence.[11] The federal strike force in Brooklyn handled many of the cases highlighted in Part II of this book. The strike force in the Southern District of New York (Manhattan, Bronx, Westchester) was merged into the U.S. Attorney's Office in 1972. In 1989, all the organized-crime strike forces were disbanded and merged with the U.S. Attorney's Office in their jurisdictions.[12] The Brooklyn Organized Crime Strike Force became a unit within the U.S. Attorney's Office for the Eastern District of New York (Brooklyn, Queens, Long Island).

Although the FBI engaged in electronic eavesdropping on organized crime after the Appalachin Conference came to light in 1957, the legal status of such activity was ambiguous. The 1968 Omnibus Crime Control and Safe Streets Act[13] provided a standard and a procedure for legal electronic surveillance that, by the 1980s, enabled the FBI to spin a thick web of wiretaps and electronic bugs around the organized-crime families. The inculpatory conversations intercepted by this surveillance provided further leads and ultimately the most effective trial evidence.

In 1970, Congress passed the most important substantive anti–organized-crime statute in history, the Racketeer Influenced and Corrupt Organizations Act (RICO),[14] which, among other things, makes it a crime to acquire an interest in, to participate in the affairs of, or to invest the profits acquired from an enterprise through a pattern of racketeering activity. *A pattern of racketeering activity* is defined as any two federal or state crimes listed in the act that are committed within ten years of one another. *An enterprise* is defined as any individual, organization, or group of individuals legally constituted or associated in fact.[15]

RICO made it possible to bring to a single trial whole criminal groups and families—all those defendants who participated in the affairs of the same enterprise (e.g., a crime family or union local) through a pattern of criminal activity and ushered in an era of organized-crime "megatrials." RICO's penalties are draconian. In addition to twenty-year maxima for violation of both the substantive and conspiracy provisions, RICO also provides for huge fines and for mandatory forfeiture of the defendant's property that is traceable to the proceeds of racketeering activity.[16] Although it took a decade, and the persistent prodding of Professor G. Robert Blakey, the law's principal draftsperson, once the FBI and federal prosecutors began using RICO, and the U.S. Supreme

0739

Court had given a green light to use the law against wholly criminal enterprises, practically every significant organized-crime prosecution was brought under the statute. Rudolph Giuliani, the U.S. attorney for the Southern District of New York in the mid-1980s, brought a RICO suit against the bosses of all the families, alleging that they had participated in the affairs of an organized-crime commission through a pattern of racketeering activity (the "commission case,"[17] probably the most famous and important organized-crime prosecution in U.S. history). The two U.S. attorneys in New York City brought separate RICO prosecutions against the leaders of each of the New York crime families (the so-called family RICO prosecutions).[18]

RICO also contains two civil remedial provisions. The one that gives private victims the right to sue racketeers for triple damages[19] has not been used against organized-crime families or members. However, the provision authorizing the government to sue racketeers for injunctions, restraining orders, and other equitable remedies to prevent further racketeering[20] has been used a great deal, providing the government a powerful tool for purging organized crime from labor unions and industries.

In 1970, Congress also created the Witness Security Program,[21] (popularly known as the Witness Protection Program) which gave prosecutors the opportunity to offer cooperating witnesses a new identity and a new life; for the first time, it became possible for one to testify against organized-crime colleagues and survive. J. Edgar Hoover died in 1972, thereby removing an insurmountable obstacle to an all-out assault on organized crime. The way was clear for new leadership to reorganize and reorient the FBI.

The first half of the 1970s did not see major progress against Cosa Nostra. Following the view of the 1967 Task Force on Organized Crime, the FBI's main organized-crime focus was gambling. But the antigambling program was diffuse and unsystematic; it landed many small-time criminals and many defendants unconnected to the Cosa Nostra families. Consequently, it failed to make a persuasive case for the importance of attacking organized crime. Some U.S. attorneys, juries, and federal judges bridled at the prosecution of defendants who appeared to be nondangerous gamblers.[22]

In the late 1970s, after the disappearance and presumed murder of former Teamsters leader Jimmy Hoffa, the FBI shifted its focus to organized crime's labor racketeering. The labor-racketeering investigations of the Teamsters and Longshoremen's unions led to much greater

0740

and more sophisticated intelligence about the operations of the Cosa Nostra crime families. And mounting exposes of Cosa Nostra's control of major unions and industries touched a responsive chord in the media and in Congress.

The FBI offices, especially the New York office, made organized-crime control a top priority and reorganized so that separate squads were assigned to each organized-crime family; each squad's mission was to identify the family's membership, table of organization, and rackets and then to come up with a plan for bringing down the entire family. By the early 1980s, there were some three hundred FBI agents, assisted by one hundred New York City Police Department detectives and officers, working on the organized-crime investigations in New York City alone. The chief investigative tool was electronic surveillance. The FBI became adept at establishing the probable cause necessary for obtaining judicial warrants to conduct electronic surveillance by means of telephone wiretaps and tiny microphones ("bugs"). Extremely productive bugs were placed in the homes, social clubs, and cars of many of Cosa Nostra's top leaders. These bugs allowed the agents to listen to and record details of labor racketeering, loan-sharking, cartel enforcement, crime-family politics, and diverse criminal schemes. In subsequent trials the mobsters could be inculpated by their own words.[23]

The federal organized-crime control program was supplemented and often assisted by state and local law enforcement agencies. The New York State Organized Crime Task Force (OCTF), under the leadership of Ronald Goldstock, made an enormous contribution by reconceptualizing organized-crime investigation along the lines suggested by Blakey. OCTF personnel were responsible for the famous "car bug" that for months allowed agents to listen in on the incriminating conversations of Tony "Ducks" Corallo, the Lucchese crime family boss and for the bug on John Gotti's social club.[24] The Manhattan District Attorney's Office played the lead role in several of the major investigations and prosecutions detailed in Part 2.

Cosa Nostra's much-vaunted omerta (code of silence) melted down under the government's relentless campaign. Until Joseph Valachi went public in 1963,[25] there had never been a Cosa Nostra defector willing to testify about the organization. In the late 1980s and 1990s many high-ranking organized-crime figures were cooperating with federal, state, and local prosecutors in exchange for leniency and placement in the Witness Security Program.[26]

0741

The final piece of this contemporary organized-crime control effort was put into place by Rudolph Giuliani's mayoral administration. As mayor, Giuliani continued his attack on the Cosa Nostra crime families, now utilizing the city's regulatory authority over businesses and industries. The administration's goal was to require firms in mob-tainted industries to obtain business licenses and to deny such licenses to Cosa Nostra members, associates, and friends.

0742

9

Liberating the Garment District

> You can't manufacture anything in New York without using trucks. If you control the trucks you control the industry, and [the Gambino brothers] control the trucks. And their partner is organized crime. They control what factories in the garment industry use what trucks, which destroys competition and destroys freedom to choose. . . . [The defendants] levy a tax that flows through the pockets of Thomas Gambino and Joseph Gambino [who are] known in the industry as members of the Gambino crime family.[1]
>
> —Assistant District Attorney Elliot Spitzer,*
> opening statement in *People v. Gambino,* 1992.

COSA NOSTRA WAS entrenched in the New York City garment industry since the 1920s. The mob was able to establish and police a trucking cartel by controlling the Master Truckmen of America, the International Ladies Garment Workers Union Local 102, and the Greater Blouse, Skirt, and Undergarment Association. The cartel consisted of trucking companies owned or controlled by members of Cosa Nostra families. Through the property-rights system and fixed prices, cartel members derived enormous profits. Prior to the 1990s, government efforts to purge the mob from the garment industry had failed to make much of an impression.

The Department of Justice's 1951 antitrust suit resulted in a favorable consent decree but not in any change in business as usual.[2] In the late 1950s, the New York City commissioner of licenses' successful debarment of Barton Trucking from the industry could have led the way to a major attack on the Cosa Nostra cartel, but no subsequent action was

*Spitzer was elected New York State attorney general in 1998.

0743

taken.[3] Project Cleveland, the joint federal-city investigation during the mid-1970s produced several convictions, but again there was no significant impact on the property rights, the cartel, or Cosa Nostra's influence.[4]

The breakthrough came in the 1990s. The Manhattan District Attorney's Office brought a major criminal case against Thomas and Joseph Gambino, by far the most important Cosa Nostra figures in the garment industry. The trial ended in a remarkable plea bargain that went a long way towards removing the Gambino brothers from the industry and established a court-appointed special master whose efforts to eliminate the trucking cartel appear to have been successful.

THE CHRYSTIE STREET FASHIONS AND LOK-KEY STING

In the late 1980s, Thomas Gambino, a capo in the Gambino crime family, and his brother Joseph were at the height of their power in New York City's garment trade.[5] They owned several garment-trucking firms, including Consolidated Carriers and Greenberg's Express, and held many other interests in the industry. Thomas Gambino's personal wealth was approximately $100 million.[6]

In August 1988, the Manhattan District Attorney's Office initiated two undercover sting operations.[7] The goal was to build a criminal case against the Gambinos and purge the garment industry of racketeering.[8] The DA's office set up a sewing shop in Chinatown. To all appearances, its Chrystie Street Fashions was not different from many other Chinatown contractors.[9] Approximately twenty-five women worked at sewing machines throughout the day, making skirts and blue jeans; they had no idea that their supervisor, Ron Rivera, was a New York State Police officer (no New York City detectives were used for fear that they might be recognized).[10] During Chrystie Street Fashions' one-year existence,[11] law enforcement officials secretly recorded numerous conversations between Rivera and Consolidated Carriers "salesmen" who advised Rivera that Chrystie was a Consolidated shop and that Rivera could therefore not hire any other trucking firm.[12]

The second sting operation involved Lok-Key Transportation, a small trucking company ostensibly headed by David Chan, who was really New York State Police detective Kim Lee. While police videotaped the scene, Lee visited Chrystie Street Fashions when Consolidated salesmen were present and offered his own trucking services to

0744

Rivera; this was a direct challenge to the cartel. Consolidated's salesmen informed Lee that Chrystie was a "Consolidated shop" that Lok-Key could not service.[13]

In addition to these operations, police officers obtained court authorization to install listening devices at Consolidated Carriers' headquarters, including the offices of Joseph and Thomas Gambino.[14] On January 30, 1990, after the bugs revealed enough information to support a search warrant, law enforcement agents seized financial records from ten Garment District trucking firms.[15]

INDICTMENTS OF THE GAMBINO BROTHERS

In October 1990, a fifty-five-count indictment charged the Gambino brothers, two of their employees, and four of their trucking companies with racketeering, under New York's Organized Crime Control Act (OCCA). The OCCA charge alleged that the four men and four companies constituted a wide-ranging conspiratorial scheme that, through at least twenty acts of extortion, prevented garment firms from choosing their own truckers.[16] The indictment also alleged that the defendants violated New York State's antitrust law (the Donnelly Act) by allocating customers and territory.[17] A second indictment charged three Gambino associates and six trucking companies with conspiring to restrain trade by forging an illegal combination with the Gambinos.[18] In announcing these indictments, New York City District Attorney Robert Morgenthau asserted that the defendants had imposed a mob tax on every garment shipped in New York City, reaping tens of millions of dollars in illicit profits, ultimately funded by consumers. Prosecutors contended that the ten trucking companies named in the two indictments handled about 90 percent of the garment industry's trucking routes.[19] Thus, the DA's office hoped that by convicting the defendants and seizing their businesses, it could break up the cartel and the marriage system, eliminate Cosa Nostra's presence in garment trucking, and stimulate competition among trucking companies.

In April 1991, the seven individual defendants and ten trucking companies in *People v. Gambino* sought dismissal of the state-racketeering charge on the ground that the terms "criminal enterprise" and "pattern of racketeering activity" were unconstitutionally vague. Justice Herbert Altman upheld the OCCA, finding that the statute provided

0745

fair notice to the defendants that their alleged conduct was prohibited.[20] The defendants also argued that the grand larceny and extortion counts of the OCCA charges could not stand because the right to choose a trucker was not "*property*" protected under New York State law. Justice Altman rejected that argument as well, holding that when an "advantageous business relationship [i]s denied as the result of extortionate acts," the right to create and maintain that relationship constitutes legally protected property.[21] After Justice Altman cleared away these and other arguments, the district attorney was free to proceed to trial.

THE TRIAL OF THOMAS AND JOSEPH GAMBINO

The Gambino brothers' state court trial began on February 4, 1992; John DiSalvo and Raymond Buccafusco were tried as codefendants. From the outset, both the prosecution and defense clashed over whether there was sufficient evidence to establish extortion. In his opening statement, Assistant District Attorney Elliot Spitzer told the jury that "[e]verbody in the Garment district" knew who the Gambinos were and that the defendants "used their reputations as the Gambino crime family as a tool of fear—and they took it to the bank." Spitzer explained that when the Gambino name was not enough, "and when somebody stepped out of line, the velvet gloves came off, somebody was sent to the hospital for six months." In his opening statement, Thomas Gambino's lawyer ridiculed the allegation that his client had ever used threats in operating his garment-trucking businesses. "You will not find any baseball bats. You won't find any broken bodies. This is simply a business case, no matter the names and nasty things [the prosecutors] call Tommy Gambino."[22]

The first prosecution witness was the manager of a dress company who testified that when he was in the shop of a contractor who did not want to use Gambino trucks, several imposing men in trench coats suddenly appeared, silently intimidating the contractor. According to the witness, the message the Gambinos conveyed was that "you don't mess around with Consolidated," and that "you have to accept their control —you have to play the game."[23] At most this incident proved an *implied threat,* and only an indirect link to the Gambinos themselves.

To prove the nature and scope of the marriage system, prosecutors called officer Ron Rivera, who recounted how a Consolidated salesman told Lok-Key's Kim Lee that Chrystie Street Fashions was "a Consoli-

0746

dated shop" and that Lee should look for work in Long Island City. A videotaped recording showed another Consolidated salesman telling Lee that "if I find [another trucker] here I try to get them out." When Lee asked if the contractor had the right to choose its own trucker, the salesman replied, "No they don't. It's like a franchised shop." Rivera explained how Consolidated helped steer him work from designers. However, when he tried to obtain the services of another trucker, he was told that he could not obtain its services; he had no choice but to stay with Consolidated.[24]

The defense lawyers hammered away at any suggestion that the Gambinos used violence or extortion. Defense lawyer Gerald Shargel forced a former Consolidated salesman testifying for the prosecution to admit that he had never physically threatened contractors, and that if a contractor were to ship with a non-Gambino company, the salesman would threaten only to stop finding business for that contractor.[25]

In sixty thousand recorded conversations, there were few actual threats of physical violence, which were essential to the extortion charges. The closest the prosecution came was a statement by a Consolidated employee discussing the activities of Lok-Key trucker Kim Lee. The employee stated: "I don't want to say he's gonna get his ass kicked, but he will, sooner or later. One of the fucking truckers will take him apart. He'll be spending the next six months in the fucking hospital."[26] After three weeks of testimony, no direct threats had been linked directly to the Gambinos. The *New York Times* reported that "there has been no mention of any mob murders. In fact, the evidence shows that Thomas and Joseph Gambino . . . were ever so polite in making sure they did not encroach on truckers controlled by rival organized-crime families."[27]

THE PLEA BARGAIN

On February 26, 1992, Thomas and Joseph Gambino along with their two codefendants joined three other defendants in the second indictment in agreeing to a novel plea bargain. The Gambinos pled guilty to a single felony antitrust count;[28] in exchange the prosecutors dropped the remaining fifty-four charges.[29]

The Gambinos agreed to stop enforcing the marriage system immediately, to quit the trucking business by selling their major trucking

0747

concerns under court supervision, to grant the court and a "special master" jurisdiction over their trucking companies, and to have no contact with their soon-to-be former companies.[30] Further, the Gambinos agreed to pay a $12 million fine to the state, which would be earmarked for victims of Gambino-trucking overcharges, the cost of the court-appointed special master, and the costs of the government's investigation and prosecution.[31]

The prosecutors thought the agreement made sense in light of uncertainties in their case. As prosecutor Michael Cherkasky explained: "We knew we had them *legally* cold on the antitrust counts . . . [but] our extortion case was *very, very* weak to begin with, and was only getting worse at trial." Cherkasky feared that a "runaway jury" might not convict the defendants on the antitrust charge if it decided to acquit on the more serious extortion charges.

The prosecutors decided to trade off the possibility of impressive prison sentences against the Gambinos* for the opportunity to conduct industry-wide remediation through a special master. District Attorney Morgenthau argued that although his office had given up on a jail term for the Gambinos, it had accomplished what prosecutors all the way back to Thomas Dewey had not. Referring to Cosa Nostra's role in the in the Garment District, Morgenthau stated, "[T]his takes them out in one fell swoop." According to Ronald Goldstock, director of New York State's Organized Crime Task Force, "It's a terrific settlement. . . . Certainly the public is better off with the garment industry taken from the hands of racketeers than with a person sent to prison."[32]

THE SPECIAL MASTER'S REMEDIAL EFFORT

In April 1992, Justice Thomas Galligan appointed former New York City Police Commissioner Robert McGuire, CEO of Kroll Associates, to serve as the special master called for in the plea agreement. The special master's role was to oversee the Gambinos' sale of their trucking inter-

*Thomas Gambino was unable to avoid prison time as a result of his 1993 convictions on various racketeering, gambling, and loan-sharking charges in connection with running Gambino crime family operations in Connecticut. He was sentenced to five years. See *United States v. Gambino,* 835 F. Supp. 74, (E.D.N.Y. 1993)(motion for new trial); Pete Bowles, "Goodfella Did Good; Still Gets Slammer," *Newsday,* October 30, 1993.

0748

ests and their withdrawal from the industry.* McGuire was authorized to "issue such orders and rules as he deems reasonable and appropriate to eliminate anti-competitive practices and encourage competition" in cut-work trucking.[33] He hired a team of lawyers, accountants, and former law enforcement officers to assist in carrying out the remedial effort.

Under the terms of the plea bargain, the special master was to oversee the sale of Gambino-owned trucking companies, shipping contracts, account lists, and routes.[34] While the Gambinos' attorneys had the authority to negotiate terms of the sales and financing with prospective buyers, these were subject to McGuire's final approval. McGuire made it clear that the Gambinos would not be allowed to sell their interests to family members, friends, or to any company with ties to Cosa Nostra. His team subjected prospective buyers to a twenty-page questionnaire and reserved the right to have forensic accountants look at their financial records.[35]

The defendants' trucking interests were eventually sold to four different trucking companies in the summer of 1993,[36] after the deadline had been extended to conduct final background investigations of the buyers.[37] The special master's office then monitored the operations and ownership of each of these successor companies, as well as the remaining trucking companies named in the original indictment. By conducting quarterly audits, McGuire's staff sought to ensure that organized crime did not reenter the industry and that the successor firms did not employ the same anticompetitive tactics as the Gambinos.[38]

The special master also established a compensation fund for victims of the trucking cartel. From the Gambinos' $12 million fine, $3 million was set aside to compensate those who had been overcharged by the defendant trucking companies. McGuire placed advertisements in the trade magazine, *Women's Wear Daily,* and in three Chinese-language newspapers,[39] aimed at designers and contractors who had been victimized by the marriage system. Despite the longevity of the cartel, there were few claimants. Only $800,000 was paid out. The remaining $2.2 million reverted to the state of New York.[40] Perhaps contractors

*The Gambinos were divested of their interests only in companies that had violated antitrust laws. They still maintained ownership of Dynamic Trucking, an interstate trucking company that accounted for $57.6 million of revenue and $4.2 million profit. See Gay Jervey, "Waltzing with the Wise Guys," *American Lawyer,* May 1992, 90.

0749

who had overpaid for garment trucking were no longer in business, or did not notice the advertisements,[41] did not have the necessary records to verify their claims, or were reluctant to get involved.

McGuire sought to stimulate competition in the garment-trucking industry.[42] New rules for the trucking of cut-work between designers and contractors prohibited trucking companies from (1) entering into agreements with other firms to fix rates or terms; (2) trading customer lists or the rights to customers, except in the sale of an entire trucking firm; and (3) establishing an exclusive relationship whereby a contractor or designer agrees to deal with only one trucking firm. The rules further required that trucking invoices include a written notice stating the rate, and that the relationship between the trucker and the designer or contractor not be exclusive. Finally, in an attempt to end loan-sharking, McGuire required that loans by trucking companies in excess of $250 had to be approved by his office. Justice Thomas Galligan approved these rules, along with other monitoring and enforcement provisions.[43]

The special master's office established a monitoring program for both Seventh Avenue designers and Chinatown contractors; the primary focus was on the latter. Meetings were held in Chinatown, and more than five hundred contractors and manufacturers were interviewed on a continuing basis. The manager or owner was given the "Know Your Trucking Rights" flyer (in English and Chinese) describing the special master's rules, emphasizing the fair-trade practices that now governed garment trucking, and providing a toll-free number to report violations.[44] A former FBI agent and six full-time field investigators monitored compliance on a daily basis. The investigators met with the owners of each shop and asked whether they had encountered trucking company problems. They discovered a number of violations by truckers and apparent attempts to evade the new rules. When violations were discovered, Special Master McGuire imposed the costs of the investigation on the violators. At the same time, McGuire persuaded other trucking companies to submit voluntarily to the special master's jurisdiction.[45]

When his special master's term ended in February 1997, Robert McGuire was optimistic about the future of the industry. He stated that "once the chains [of Cosa Nostra control] are unraveled as they have been, I doubt they will become entwined again."[46]

0750

RECENT ALLEGATIONS OF COSA NOSTRA INFLUENCE IN THE GARMENT TRADE

While driving the Gambinos out of the garment industry was a significant step in eradicating organized crime from the industry, other mobsters continued to engage in illegal activity in the Garment District. McGuire and his chief investigator reported to the U.S. Attorney's Office and the FBI information they had uncovered while serving in their court-appointed positions but had been unable to pursue due to jurisdictional limitations.[47] A joint investigation involving the U.S Attorney's Office for the Southern District of New York, the Division of Labor Racketeering of the U.S. Labor Department's Office of the Inspector General, the FBI, and the New York City Police Department was then launched.[48] On April 28, 1998, the U.S. Attorney's Office obtained two indictments against twelve individuals for extorting garment companies. Seven men, including Joseph "Little Joe" DeFede, the acting boss of the Lucchese crime family, were indicted on nine racketeering and seven extortion counts stemming from a scheme that extorted upwards of $480,000 annually from garment businesses.[49] This indictment alleged that the defendants had established extortionate control over various Garment District businesses by

- identifying members of said enterprise as associates and members of Cosa Nostra or the Mafia;
- threatening labor unrest;
- threatening and causing economic harm;
- using and threatening physical violence; and
- obstructing law enforcement investigations by tampering with potential witnesses.[50]

The first indictment named attorney Irwin Schlacter as an associate of the Lucchese family and alleged that he collected extortion payments from Garment District companies on behalf of the Luccheses.[51] In a wiretapped conversation, Schlacter told a trucker that he would suffer the same fate as Mike Pappadio, a former Lucchese associate who was murdered for skimming extortion payments.[52] Although the indictment alleged the enterprise's ability to "disrupt labor peace and . . . control . . . labor unions,"[53] no specific union was implicated.

0751

However, it is possible that UNITE* Local 102 played a role since it is the primary union operating in New York City's garment industry.[54]

Michael Vuolo was also named as a defendant in the racketeering and extortion indictment. He had pled guilty to criminal solicitation as part of the Gambinos' 1992 plea bargain but had been allowed to retain his garment-trucking company. Vuolo's interest in AAA Garment Delivery and its assets are subject to RICO's forfeiture provisions.[55] All told, the government sought $2.5 million from the defendants, allegedly the proceeds obtained through illegal racketeering activity.[56]

The second indictment charged five members and associates of the Gambino and Lucchese families, including Gambino capo Joseph ("the Kid") Gallo** and Joseph Gatto, a Genovese capo, with extorting Hudson Piece Dye and its affiliate companies.[57]

WILL THE GARMENT DISTRICT EVER BE FREED?

As this book goes to press in early 1999, the trucking cartel seems to be broken. The Gambinos' plea bargain and the special-master's work, freeing designers and contractors from the marriage system and stimulating competition among new independent truckers, constitute extremely significant steps toward purging Cosa Nostra from the Garment District. New truckers are competing for work. More than seventy-five independent trucking firms have entered the garment industry.[58] Prices have declined. By the mid-1990s, the special-master's office estimated that trucking costs had dropped approximately 20 percent. The cost of shipping a pair of jeans had dropped from 40 to 45 cents to 15 to 20 cents. According to Special Master McGuire, "For the first time in decades, customers are shopping for truckers and willing to move if they don't get the right price or good service."[59] *Women's*

*UNITE (Union of Needletrades, Industrial and Textile Employees) was formed in 1995 when the International Ladies Garment Workers Union (ILGWU) merged with the Amalgamated Clothing and Textile Workers Union (ACTWU). See Arthur Friedman, "UNITE Ratified Unanimously," *Women's Wear Daily*, June 29, 1995, 9.

**Gallo's father, Joe N. Gallo, a former Gambino family consigliere, was cited in New York State Senator Franz Leichter's 1982 report as the de facto head of the Greater Blouse, Skirt, and Undergarment Association, through which Cosa Nostra diverted huge amounts of money. Franz Leichter, "Sweatshops to Shakedowns: Organized Crime in New York's Garment Industry" (unpublished, March 1982), pt. 3 38–40.

0752

Wear Daily reported that garment contractors and designers feel a distinct change in the industry, and are no longer married to any trucker or subject to billing for trips that were never made.[60]

Still the battle against Cosa Nostra continues. Although no Cosa Nostra figures have arisen to take the place of Thomas and Joseph Gambino, organized crime still is a presence in the garment industry. Following the latest indictments, New York City Police Commissioner Howard Safir commented, "I don't think anybody . . . is declaring victory."[61] The latest round of indictments show that Cosa Nostra still has enough influence to force businesses to pay extortionate demands, but it also shows law enforcement's perseverance. Robert McGuire urges "vigorous investigation of organized crime's tie to the industry into the indefinite future."[62] If his advice is followed, there is an excellent prospect that the garment industry eventually will be fully liberated.

0753

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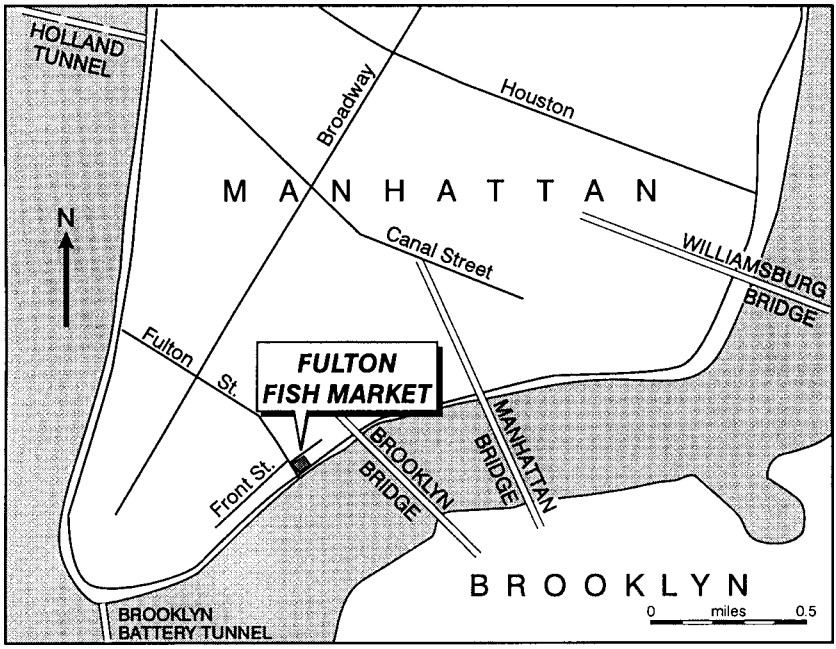
Freeing the Fulton Fish Market

> The [New York City] Council hereby finds that the Fulton Fish Market, the center of New York's wholesale seafood industry located in lower Manhattan, has for decades been corruptly influenced by organized crime. . . . The council further finds that despite the repeated efforts of law enforcement to prosecute crimes there and the presence of a court-appointed administrator for the Market, the problem of organized crime corruption in the Market has persisted. . . . The council therefore finds that . . . it is necessary for the commissioner of business services to have expanded authority to license and/or register businesses in the Market area and to regulate the conduct of such businesses.[1]
>
> —Legislative findings to Local Law 50, 1995.

COSA NOSTRA HAS been entrenched at the Fulton Fish Market since the 1920s. Through its control of Local 359 of the United Seafood Workers, Smoked Fish and Cannery Union, the Genovese family ran a protection racket and forced wholesalers to rent union signs and contribute to a Christmas fund. Some members of the Genovese and Bonanno crime families owned unloading and loading companies that operated as cartels that limited competition and fixed prices. Although the market is located on city property, loading companies paid nominal rent, if any, and profited from parking fees. The Department of Ports and Trade which had regulatory responsibility for the market, made no serious effort to attack the mob's interests. The incarceration of mob czars Joseph "Socks" Lanza and his successor, Carmine Romano, had no impact on organized crime's domination.

In the late 1980s, the U.S. Attorney's Office for the Southern District of New York filed a pathbreaking civil racketeering suit that resulted in the entire market's being subjected to the supervision of a court-appointed market administrator. The administrator had only limited suc-

0754



cess in purging organized crime, but upon the completion of the administrator's term, the city established a comprehensive and aggressive regulatory regime that has achieved impressive results.

OPERATION SEA PROBE AND *UNITED STATES V. LOCAL 359*

In late 1984, a joint task force, made up of twelve FBI agents and twelve NYPD officers, launched Operation Sea Probe,[2] an investigation of the Fulton Fish Market that involved hundreds of hours of undercover operations and extensive electronic surveillance.[3] The investigators followed market racketeers to Brooklyn, Queens, and Staten Island to map their connections to other organized-crime members.[4]

Recognizing that past criminal prosecutions had failed to wrest control of the market from Cosa Nostra, U.S. Attorney Rudolph Giuliani filed a civil RICO suit in October 1987. Unlike earlier civil RICO suits, this case was brought without the benefit of a prior criminal case.[5]

0755

Giuliani analogized this use of civil RICO to the use of the Sherman Anti-Trust Act to break up monopolies in the early twentieth century and to the use of federal court trusteeships to desegregate school districts.[6] The lawsuit sought to place the entire market under court supervision and to appoint a trustee for Local 359.[7]

The civil RICO complaint, assigned to Judge Thomas P. Griesa, named twenty-nine defendants, including Local 359 and its officers, and the Genovese crime family as an entity.[8] It alleged that Carmine Romano, as secretary-treasurer of Local 359, and later Vincent Romano, as de facto head of the local, on behalf of the Genovese crime family had engaged in diverse criminal activity, including extortion, gambling, theft, and loan-sharking, at the Fulton Fish Market. The government charged that the Genovese family used Local 359 to extort payoffs from wholesalers by threatening labor problems. In December 1987, the government moved for a preliminary injunction that would entail appointment of an "administrator" to oversee market operations and to prevent organized-crime activity, and appointment of a trustee to replace Local 359's executive officers.[9]

THE CONSENT DECREE

In April 1988, twenty-five of the twenty-nine defendants, including Vincent and Carmine Romano, entered into a consent judgment. A default judgment was entered against the remaining defendants, including the Genovese crime family. The consenting defendants, most of whom had an interest in the unloading and/or parking enterprises at the market,[10] agreed to injunctions prohibiting racketeering practices and to the appointment of a market administrator. The consent judgment permanently enjoined Carmine and Vincent Romano from having any interest in Fulton Fish Market operations and any contact with Local 359.[11] The consent judgment required six other defendants to notify the market administrator of any market-related interests they possessed and prohibited contact with Local 359.[12] All defendants and all persons in active concert or participation with them were prohibited from participating in any illegal activities, including extortion, theft, and gambling, as well as colluding, conspiring, or agreeing with any other individual to participate in such acts. The default judgment barred the Genovese family from participating in any Fulton Fish Mar-

0756

ket or Local 359 activities.[13] Judge Griesa retained jurisdiction to try any contempt proceedings arising out of alleged violations.

After the settlement, the U.S. attorney filed an amended complaint, naming Local 359 and its president, Anthony Cirillo, and secretary-treasurer, Dennis Faicco, as defendants. Charging that Local 359 and the two union officers were puppets of the Genovese crime family, the U.S. attorney asked the court to remove Cirillo and Faicco, and appoint a trustee to run the local until a free and fair election could be held. The government listed as RICO predicates wire fraud, extortion, and violations of the Taft-Hartley Act (which prohibits union officials from receiving payments from employers).[14]

In denying the government's request for a trusteeship over Local 359, Judge Griesa acknowledged that the Genovese crime family had ruled the union in the past but expressed hope that the consent and default judgments would be sufficient remedies. He noted that the United Food and Commercial Workers International had placed Local 359 in trusteeship from 1981 to 1983, following the convictions of Carmine and Peter Romano, and that new elections had produced the two current defendant officers. Judge Griesa wrote that "[t]he proof offered by the Government has not been sufficient to support its essential claim—i.e., that the Genovese family currently controls, and in recent years has controlled, Local 359 and its principal officers. . . . [However,] [t]his is not to say that there is no evidence of the presence of organized crime, particularly Genovese family operatives, in the Fulton Fish Market."[15*]

THE COURT-APPOINTED MARKET ADMINISTRATOR

The consent judgment directed the parties jointly to name at least one but no more than three proposed candidates for the position of market administrator. From this list, Judge Griesa appointed Frank H. Wohl, a former assistant U.S. attorney then in private practice, to a renewable four-year term.[16]

*The Second Circuit Court of Appeals affirmed the dismissal of the RICO extortion and wire-fraud charges but remanded for reconsideration of the RICO Taft-Hartley violations. *United States v. Local 359,* 889 F.2d 1232 (2d Cir. 1989). The U.S. attorney has taken no subsequent action against the union regarding the Taft-Hartley allegations.

0757

The consent and default judgments empowered the administrator to take sworn testimony from persons with knowledge about racketeering at the market and to inspect the books and records of individuals, businesses, and other entities operating there. With the court's approval, the administrator could implement rules and regulations necessary to ensure compliance with the injunction. The administrator had authority to impose sanctions on the defendants "or any person in active concert or participation with them," for violating provisions of the consent judgments. Possible sanctions included, but were not limited to, public posting of the violations, fines, suspension, and debarment from operating at the Fulton Fish Market. Permanent debarment or a suspension from the market in excess of one year required court approval.

Judge Griesa retained jurisdiction to "supervise the activities of the Administrator and to entertain any future applications by the Administrator or the parties." The administrator could apply to the court for any assistance or relief that he deemed necessary and appropriate. The consent judgment required the administrator every four months to file with the court a written report of his activities.[17]

The Market Administrator's Struggles

Market Administrator Wohl opened an office near the market. He hired Brian Carroll, a retired New York City Police detective, as his deputy administrator. Wohl carried out the duties of market administrator on a part-time basis; Carroll worked full-time. In addition, the office employed three full-time investigators.[18]

Wohl submitted fourteen reports to the court, plus an extensive 1990 midterm report. In his reports, Wohl stated that his staff conducted *confidential investigations,*[19] but no details were provided. All reports documented the resistance Wohl encountered from market businesses when he attempted to procure sworn testimony, records, and books. According to Deputy Administrator Brian Carroll:

> It is important for us to have these records and ultimately the testimony . . . if we are to effectively monitor them and be in the position to draft meaningful regulations governing market operations. Those from whom we have sought testimony or books and records have generally resisted our demands, and the Administrator has had to seek re-

0758

> course from the Court. . . . [T]he process has consumed valuable time. Moreover, once we have successfully compelled an individual to give testimony, the testifier often invokes his constitutional privilege against self-incrimination and refuses to answer key questions.[20]

The court consistently upheld the administrator's requests for defendants' sworn testimony, records, and books.[21] However, the administrator had no power to grant immunity; thus a claim of Fifth Amendment privilege effectively blocked many lines of investigation.

In his midterm report, filed two years into his term, Wohl observed that racketeering remained rampant.[22] Yet, the market administrator's staff claimed that the existence of the administrator's office had resulted in a marked reduction of "skimming," the systematic theft of fish from each box as it is unloaded.

Wohl continually urged city politicians to play a more aggressive role in supervising market operations.[23] In November 1988, the New York City Department of Ports, Trade, and Commerce appointed a market manager to exercise the city's administrative power at the market. The market manager's task was not to purge organized crime from the market but to improve the market's facilities.[24] The Dinkins administration eliminated the market-manager position in 1991 for budgetary reasons, despite the administrator's claims that additional staff was needed.

Wohl's midterm report criticized city officials for failing to regulate and police the market. Wohl claimed that he had delayed issuing the midterm report in the hope that city officials would be stirred from their lethargy,[25] and charged that despite promises to the contrary, the Koch and Dinkins administrations had not taken sufficient action. Wohl stated that city officials had told him that they feared for the safety of city employees, worried about the corruption of police officers, and blamed the fiscal crisis for failing to act.[26] A spokeswoman for the New York City Office of Business Development responded that Wohl's report of racketeering activities was "old news" and reflected his "inability to correct the problem" despite an annual $1 million budget and a large staff.[27]

It is difficult to evaluate the success of Wohl's $3.5 million monitorship.[28] The administrator's powers were probably inadequate to accomplish the court's objectives. The court had granted Wohl power to impose sanctions on the defendants named in *United States v. Local 359*

0759

but not on other market participants, such as the wholesalers. Moreover, identifying and communicating with businesses in the market proved difficult. The city did not even have a list of market participants, and compiling basic information was further complicated by language barriers.[29]

It is unclear why Wohl's office devoted so much time and resources to obtaining business records and books. Perhaps Wohl believed that they would reveal violations of the consent judgment or racketeering schemes themselves, but it seems unlikely that market participants would have formally recorded such incriminating information.

Sanctioning Noncomplying Unloading Companies

In 1990, Wohl's office received information that defendant Dominick Lategano had retaliated against a seafood company for complaining about the unloading cartel. The seafood company experienced protracted delays in the unloading of its merchandise and its employees received death threats.[30] Wohl's office and the New York City Department of Investigation (DOI) started a sting operation that lasted from September 1990 through April 1991, the first time the DOI had played a major role in an organized-crime investigation at the Fulton Fish Market.

The DOI sting operation set up a trucking company, Stingray Express, to determine whether any of the consenting defendants were still operating an unloading cartel.[31] Stingray Express posed as a supplier that trucked small quantities of its own fish to the market. At first, an unloading company headed by Gerard Albanese, an alleged Genovese associate, unloaded the Stingray trucks without incident. When, two months later, Stingray expanded its business by delivering eighty boxes of fish that bore the label of another Long Island supplier, Albanese told Stingray's owners to say that the boxes did not come from the Long Island supplier whose name appeared on the label but from other sources. John Gillio, the head of another unloading company, soon approached the Stingray employees and asked the origin of Stingray's cargo. The undercover agents showed Gillio documents indicating that the eighty boxes were those of a Long Island supplier. Gillio advised the agents that his company handled all trucks from Long Island and told them he would speak to some "people," who would talk to Albanese. When the undercover agents asked Gillio who allocated work among

0760

the unloading crews, Gillio replied that there were "people" who made those decisions. Gillio also told the agents that he would need to be paid for the unloading of the cargo, even if Albanese performed the service.[32]

In June 1992, Wohl imposed sanctions on five unloading companies that were defendants in the civil RICO suit on the ground that they had conspired to reestablish an unloading cartel,[33] and that the manner of the conspiracy indicated organized-crime involvement.[34] The fines, varying in amounts, totaled $200,000. Wohl ordered that notice of the companies' violations be posted at the Fulton Fish Market and distributed to all parties doing business there. Wohl also suspended the bosses of each of the three unloading crews from working at the market. These sanctions, which came in the fourth year of Wohl's term, were the only penalties Wohl imposed during his administratorship.

Judge Griesa sustained the findings, concluding that "the influence of organized crime in the market still exists to some extent." However, Judge Griesa overturned the suspensions because they "could impair the functioning of the Market." He expressed hope that the fines alone would serve as a "severe warning" and reserved the right to renew the suspensions "if it becomes necessary in the future."[35] In essence, Judge Griesa was acknowledging the three suspended defendants' and Cosa Nostra's power to disrupt or even paralyze the market.

At Mayor David Dinkins's urging, Wohl petitioned the court to extend his term beyond May 1992, until the city could take over the task of supervising the market. Judge Griesa approved Wohl's request. Wohl also asked that the court order the U.S. Department of Justice to fund the extended term. U.S. Attorney Otto G. Obermaier objected to further payments, claiming that the city was responsible for regulating the market.[36] Eventually, after Mayor Dinkins wrote a letter to U.S. Attorney General William Barr, the necessary funds were allocated.[37] Wohl's administratorship ended later that year.

NEW YORK CITY REGULATORY ACTION: LOCAL LAW 50

Shortly after the release of Wohl's 1990 midterm report, representatives of the New York City Department of Ports, Trade, and Commerce announced a plan for "comprehensive reform" at the Fulton Fish Market.[38] Six months later, no plan had been unveiled; city officials claimed that budget cuts and legal complications were responsible for the delay.

0761

Ports and Trade's 1991 budget was cut $1 million; thirty-five of its two hundred employees were laid off, including five of the nine employees assigned to the Fulton Fish Market. City officials postponed issuing regulations for licensing loaders and unloaders until they could conclude negotiations with the South Street Seaport Corporation (SSSC) to return leases to the city.[39] (The city had previously transferred authority to administer leases and collect rent from wholesalers at the market to the SSSC, an arm of the South Street Museum. Pursuant to the contract, the SSSC kept 10 percent of the rent revenue it collected.)[40]

In 1992, the New York City Council opened hearings into whether the market required city supervision.[41] At a May 1992 council hearing on the "City's failure to regulate the Fulton Fish Market," Wohl testified that the absence of an effective regulatory presence created an environment in which racketeering thrived. Several witnesses testified that a lawless environment at the market prevented merchants from doing business honestly. In fear of the consequences of testifying against Cosa Nostra, several witnesses wore black hoods. One witness, identified as a Brooklyn restaurateur, testified that he was beaten by a gang of men for parking in the wrong spot at the market. A Florida truck driver told the committee that he had been dismissed from his job and blacklisted at the market for complaining about workers who refused to unload his cargo. A North Carolina seafood supplier reported that he stopped doing business at the market after wholesalers had stolen $40,000 and that on a different occasion a wholesaler had pulled a gun on him while he was collecting a bill.[42] Another supplier testified that he had quit doing business at the market because wholesalers did not pay their bills and then disappeared.

Officials testified that the city's failure to collect permit and license fees from unloaders, loaders, and wholesalers, and its failure to negotiate reasonable rent increases with the two wholesaler associations over a ten-year period, cost the city nearly $2 million in revenue each year.[43] A DOI official described the results of the "Stingray" investigation, which had uncovered weapons trading, drugs, and racketeering at the market.[44] An attorney representing unloading and loading firms stated that the allegations of corruption were false and that there was no system of unlawfully assigning trucks to specific unloading crews.

At the City Council's next hearings (March/April 1995), Mayor Giuliani unveiled his plan to regulate the market. The City's Economic Development Corporation would take over rent collection from the

0762

SSSC and increase rents. The Department of Investigation would conduct background investigations of companies and workers. The Department of Business Services (as successor to Ports, Trade, and Commerce) would issue licenses and registrations only to businesses it deemed commercially suitable and of good character, honesty, and integrity.

Several council members questioned the need for background investigations of individuals and businesses, especially the use of fingerprinting.[45] Others questioned whether the Department of Business Services could handle the responsibility of managing the market. The president of the Committee to Preserve the Fulton Fish Market, a group representing businesses at the market, argued that the proposed bill would drive business to New Jersey and other sites. Several business owners argued that there was no need for the city to take action.[46]

Two days after the March 1995 City Council hearing, fire swept through the Old Market Building. The fire commissioner determined that the blaze had been set purposely.[47] Some officials speculated that the fire might have destroyed financial records crucial to the city's inquiry into market operations.[48] The crime has never been solved.

Wholesalers threatened to move out of Manhattan if the city raised rents and implemented licensing; they met with the mayors of Yonkers and other cities to discuss possible relocation.[49] In the ensuing war of words, Giuliani threatened to replace the wholesalers. Chief of staff Randy Mastro sent out several hundred letters soliciting businesses to move their operations to the market to replace any departing businesses.[50]

On June 14, 1995, the New York City Council overwhelmingly passed Local Law 50, the city's comprehensive regulatory plan. In its legislative findings, the council said criminal prosecutions and a court-appointed administrator had failed to purge the market of organized crime. The council pointed to loading and unloading cartels, violence and threats of violence, and the practices of "phantom" wholesalers.[51]

Establishing a Market Manager

Local Law 50 authorizes the commissioner of the Department of Business Services to designate a market manager to provide day-to-day on-sight supervision.[52] The market manager is authorized to promulgate rules and regulations; require licensees and registrants to maintain

0763

certain records and periodically to examine those records; make referrals to appropriate law enforcement agencies; and perform other duties that the commissioner deems necessary.

Licensing and Regulating the Unloading and Loading Businesses

Pursuant to Local Law 50, every unloading and loading business must obtain a license from the Department of Business Services. The license specifies the maximum rates to be charged for services. The commissioner is authorized to suspend or revoke any business license, or pursue other remedies for Local Law 50 violations. The commissioner may also promulgate rules to ensure orderly unloading, including a queueing procedure for unloading trucks. The commissioner may designate loading areas, and require loading companies to obtain a city lease or occupancy permit. The commissioner was directed to determine whether a city agency should take over loading and unloading services.

Registering and Regulating Wholesalers and Delivery Drivers

Local Law 50 requires wholesalers to register with the city and to obtain a registration number from the commissioner. The registration scheme is aimed at eliminating "phantom" wholesalers.[53] Wholesalers are prohibited from assigning or subleasing their premises to other wholesalers, unless the assignee or sublessee is also registered with the city. Additionally, wholesalers are required to notify the commissioner of any change in ownership subsequent to registration. Each wholesaler must obtain a stand permit, at a rate to be determined by the commissioner, before placing any seafood on the street. The commissioner must maintain and make available a list of all wholesalers who are registered and have permits.

Identification Cards and Penalties

Local Law 50 requires all principals, employees, and agents of licensed and registered businesses to obtain official photo identification

0764

cards issued by the market manager. Applicants for "class A" photo identification cards (issued to all owners, employees, and agents of unloading and loading businesses) must be fingerprinted by a person designated by the commissioner and pay the Division of Criminal Justice Services to conduct a criminal-history search.[54] The market manager may also require any person applying for a "class B" photo identification card (issued to all principals, employees, and agents of wholesale companies) to be fingerprinted where there is ample cause to believe that the applicant lacks "good character, honesty and integrity."[55]

Each applicant for photo identification must provide the Department of Business Services with certain information, including any criminal or civil investigation the applicant has been subject to over the preceding five years. The department may refuse to issue a photo identification card if it deems the person lacking in good character, honesty, and integrity. In making this determination, the department must take into account any criminal conviction, any pending criminal or civil proceedings against the applicant, involvement in racketeering activity, and the applicant's "knowing association" with any person who has been convicted of racketeering activity. The commissioner may require the forfeiture of any vehicle, equipment, or property used in violation of the licensing provisions. The law authorizes the Department of Business Services to investigate any matters that fall under the auspices of the regulatory regime.

Any business required to have a license, permit, or registration is liable for violations committed by its principals, employees, or agents. Violations of Local Law 50 or rules promulgated pursuant to it, are punishable by up to $10,000 for each violation. Operation of a loading or unloading business without a license constitutes a misdemeanor punishable by criminal fines, imprisonment, and additional civil penalties.

Local Law 50 requires the commissioner of business services to submit to the City Council regular reports of its market-related investigations. The reports must provide the number of criminal acts and violations reported, referrals to law enforcement agencies, lists of unloading and loading companies and wholesalers, and other information on applications denied and on revenue collected or outstanding.

The Committee to Save the Fulton Fish Market brought a suit in the U.S. District Court for the Southern District of New York challenging Local Law 50 as unconstitutional and contrary to state law. Judge Griesa dismissed the complaint as "entirely without merit."[56]

0765

THE CITY'S REGULATORY ATTACK

Raising the Rents

In 1994, the South Street Seaport Corporation asked the city for permission to resign as the market's landlord. SSSC officers were frustrated by financial losses. The corporation spent an average of $120,000 annually managing the market and received about $27,000 as its 10 percent share of rent revenues.[57] The New York City Economic Development Corporation, as agent for the Department of Business Services, reached a new lease agreement with the Fulton Fishmongers Association, the lessee of the fire-damaged Old Market Building. Wholesalers, who had been paying $72,000 a year to rent city property, agreed to pay $450,000 in the first year of the new ten-year lease; $550,000 in the second year; and $650,000 for each of the remaining eight years.[58] Shortly thereafter, the other major wholesalers' association, the New York Wholesale Fish Dealers Association, agreed to an increase in annual rent from $90,000 to $675,000.[59] The South Street Sidewalk Association, a smaller group of wholesalers, also consented to a rental increase, from $80,000 annually to $650,000 a year, effective June 1, 1998.[60] The city benefited by almost a million dollars the first year.

Evicting Wholesalers

In July 1995, acting under its authority as landlord, the city removed from the market five wholesalers. Two of these companies were owned by relatives of alleged Cosa Nostra figures. Alphonse Malangone Jr., son of a suspected Genovese capo, and Thomas Gangi, son of the alleged Genovese family boss at the market, Rosario Ross Gangi, were each denied leases.[61] In 1996, another wholesaler with suspected ties to Gangi was denied a license on the grounds of falsified records and refusal to discuss relationships with organized-crime figures.[62]

Eliminating the Unloading Cartel

In October 1995, Mayor Giuliani announced his intention to replace the six unloading companies at the market with a single company chosen by the city.[63] Commissioner of Business Services Rudy Washington claimed that five of the six existing companies had engaged in serious

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misconduct, and that the sixth was linked to an unloader who had refused to testify in a federal investigation.[64] The city rejected the license applications of all six companies. In one blow, a cartel that operated for more than half a century was gone. The city solicited bids from companies desiring to carry out all the unloading operations at the market. Laro Maintenance Corporation submitted the lowest bid and passed the DOI background check. The city's contract with Laro called for unloading fees 20 percent below those previously charged. Laro agreed to unload trucks on a first-come, first-serve basis.

Laro's debut was disastrous. Four hundred journeymen, members of Local 359, refused to move the seafood from wholesalers' stalls to the buyers' vehicles. The Market was brought to a virtual standstill. The protesters claimed that their action was meant to show solidarity with the forty employees who lost their jobs when the six unloading companies were evicted. Ironically, Laro's workers were unionized, unlike the cartel employees they were replacing.[65]

The wholesalers also protested. They told journalists that Giuliani's ousting of the six unloading companies would produce market chaos and higher seafood prices. The Committee to Save the Fulton Fish Market distributed flyers charging that the new regulations "will destroy your Fulton Fish Market."[66] The committee also sought a court order reinstating the dismissed unloading companies,[67] arguing that the city's denial of licenses was an improper exercise of power and a violation of due process. Judge Griesa denied the petition.[68] Giuliani threatened to shut the market if there were further delays or disruptions.[69]

Two months after Laro took over the unloading function, the DOI discovered that Laro had provided incomplete information on its license application.[70] The company had not disclosed that it had been investigated by the National Labor Relations Board for allegedly refusing to hire thirteen janitors at another location because they belonged to a union that Laro did not recognize. Despite this stain on Laro's character, the DOI concluded that overall Laro has enjoyed a good business reputation and Laro's contract was upheld.[71]

Targeting Mobbed-Up Waste Haulers

The new ten-year leases that the three wholesaler associations signed with the city prohibited them from associating or doing business with organized-crime figures. Nonetheless, in October 1995, the

0767

associations contracted with Barretti Carting, a waste-hauling company that had been named in a racketeering indictment filed by the Manhattan District Attorney's Office several months earlier. Prosecutors charged that Barretti Carting was a member of a mob-run waste hauling cartel. The wholesaler associations argued that Barretti had been the main waste hauler at the market for years, and that the associations were contractually bound to Barretti.[72] The mayor gave the wholesaler associations an ultimatum: break the contract with Barretti or face eviction from the market. The associations fired the waste-hauling company. Within days, the wholesaler associations signed contracts with a new carter[73] that charged 40 percent less than Barretti.[74]

Driving Out Corrupt Loaders

In August 1995, Department of Business Services Commissioner Rudy Washington notified loaders that they would have to obtain a license to continue operating at the Fulton Fish Market. Eleven loading companies brought a state-court suit challenging the constitutionality of Local Law 50. They argued that they had previously signed a valid fifty-year lease with the (then-landlord) South Street Seaport Corporation. The court found that no valid lease existed and upheld the constitutionality of Local Law 50.[75]

In December, 1995, the city used Local Law 50 to oust two longtime loading businesses at the market; the owners of both had pled guilty to charges that they were part of a thirteen-member Cosa Nostra conspiracy that robbed four banks and an armored-truck depot.[76] Giuliani then sent in city officials to begin running two of the market's loading zones. Hoping that its presence would deter vandalism and violence, the city provided free loading services. This action set off a work slowdown similar to the one on Laro's first day.[77] It was resolved by reassigning those zones to existing loading companies.

In May 1996, the city ousted another loading company on the ground that its owner had been convicted of tax evasion.[78] In July, the Department of Business Services denied a loading license and a photo identification card to Joseph "Chief" Macario, because Macario's company did not have adequate insurance and because of Macario's knowing "associations with the Genovese organized crime family."[79] Anticipating that the license denial would trigger violence, police reinforcements were assigned to the market immediately following the

0768

announcement. Furthermore, Macario challenged the Department of Business Services in state court. The court held that the first ground was insufficient but upheld the denial of the business license and identification card on the ground that Macario had "knowing associations" with recognized organized crime figures.[80]

In January 1997, the Department of Business Services awarded licenses to only two of the six remaining loading companies. Even though these two companies had previously engaged in questionable practices, city officials asserted that they had cooperated with the city's reform efforts. Moreover, no outside loading companies had submitted bids for the loading contracts. The two-year contracts set the maximum rates that these companies could charge for loading, parking, and security services.[81] Parking fees dropped from as high as $20 to a maximum of $4 a night for cars, vans, and most trucks, and $6 for the largest trucks. It was estimated that restaurateurs and retailers would save $2.5 million annually.[82]

EXPANDING THE REGULATORY INITIATIVE TO OTHER NEW YORK CITY MARKETS

In October 1996, Mayor Giuliani proposed a bill that would give the city new powers to remove corrupt union officials from the city's seven major wholesale food markets: New York City Terminal Market, the Bronx Terminal Market, the Brooklyn Terminal Market, the Gansevoort Meat Market, the Brooklyn Wholesale Meat Market, the Hunts Point Produce Market, and the Fulton Fish Market.[83] Deputy Mayor Randy Mastro declared, "Every one of these markets in the past decade has involved not one but several mob families."[84] Mastro stated the bill's immediate targets included officials in three unions linked to Cosa Nostra, including Local 359.[85]

At the City Council's Economic Development Committee's hearings in November 1996, Assemblyman Brian McLaughlin (D-Queens), president of the New York City Central Labor Council, denounced the bill as overly broad and intrusive. However, the following spring, a compromise was reached when it was agreed that an arbitrator would have authority to hear appeals of any union-official removals. The City Council passed Local Law 28,[86] and Mayor Giuliani signed it into law on May 16, 1997.

0769

Local Law 28 is similar in many respects to Local Law 50 in that it requires all food purveyors to obtain licenses and to submit to background checks, thus allowing the city to oust any companies with ties to organized crime. Yet, Local Law 28 is more expansive than Local Law 50 because it gives the city authority to investigate and suspend union officials for misconduct or for knowingly associating with organized crime figures.[87] It also applies to other market businesses, such as suppliers of ice. The effectiveness of Local Law 28, however, remains to be seen.

A LIBERATED FISH MARKET

The freeing of the Fulton Fish Market from Cosa Nostra influence is attributable to the civil RICO suit filed by then U.S. Attorney Rudolph Giuliani and to the comprehensive city regulations that were put into place after Giuliani became mayor. The liberation of the Fulton Fish Market ought to be credited to Giuliani's determination.

The civil RICO suit, *United States v. Local 359,* may not have been sufficient to purge the mob from the market, but it was a good start. It forced several prominent racketeers to leave the market. It also placed an administrator into the market's day-to-day operations. Although the administrator's accomplishments were modest, at least the mob was not able to remobilize as long as the administrator and his staff were on the job. Indeed, their presence signaled that change might be possible. Furthermore, the administrator pressed the city to exercise its regulatory power more aggressively.

Local Law 50 was the decisive breakthrough. The licensing system led to the expulsion of the entire coterie of unloading companies and all but two of the loaders. Practically overnight, the unloading cartel that had lasted half a century was replaced by a company chosen by the city. Laro's fees were 20 percent below the cartel's rate. Jump up fees were eliminated. In January 1997, the Department of Business Services granted licenses to only two loading companies, both of which had cooperated with the city. These regulatory reforms show real promise.

One year after Local Law 50 was enacted, a report credited Giuliani's campaign to remove Cosa Nostra from the Fulton Fish Market with having brought about slightly lower seafood prices (a 2 percent decrease, compared with a 13 percent increase nationwide) and a greater supply of fish.[88] In 1998, city officials claimed that the overall

0770

cost of fish has declined 13 percent, and the amount of fish transported to the market has increased 14 percent.[89] Incredibly, the head of the Committee to Save the Fulton Fish Market testified before the City Council in 1997 that the reforms were working and that the Department of Business Services were "vital agencies whose presence provides a safe and comfortable environment in which to do business." Based on the success of this initiative at the Fulton Fish Market, Local Law 50 has provided the model for legislation to oust Cosa Nostra from New York City's other major wholesale food markets and from the waste-hauling industry.

0771

11

Purging the Mob from John F. Kennedy Airport

> This court is satisfied that it is faced with an extraordinary situation. . . . Contrary to the argument of Local 295, vestiges of its old regime are not gone. The record established . . . a consistent and extended pattern of racketeering and extortion. . . . Many of the guilty do not appreciate the gravity of their crimes. None of their associates has displayed any interest in reforming the union. The record shows a smug, almost contemptuous, indifference to the presence of organized crime in union affairs by a number of former union officials and an active effort by many in Local 295 to thwart reform. . . . This court concludes that there is a likelihood of continued corruption and that the court should appoint a trustee.[1]
>
> —Justice Eugene H. Nickerson, *United States v. Local 295,* 1992

ALMOST FROM THE date of its opening, JFK Airport's cargo operations served, in the words of Henry Hill, as a "candy store" for the mob. The Luccheses were the dominant organized-crime family at the airport; their power base was the two International Brotherhood of Teamsters (IBT) locals whose histories are inextricably linked to organized crime, IBT Local 295 and IBT Local 851. The mob used these unions to extract payoffs from freight-forwarding companies seeking labor peace and avoidance of burdensome contract provisions. Lead agents, handpicked by Cosa Nostra, facilitated profitable truck give-ups and hijackings. Cosa Nostra also policed a trucking cartel. Cartel members' trade association dues flowed directly to the Lucchese crime family; the association fixed prices and prohibited noncartel-member trucking firms from entering the JFK cargo market.

0772

Ever since the 1958 McClellan Committee Hearings exposed organized-crime racketeering in the air cargo industry at JFK Airport, federal, state, and local law enforcement agencies have launched periodic attacks, including antitrust suits in the 1970s, criminal prosecutions in the 1970s and 1980s, and civil RICO suits in the late 1980s and early 1990s. Only the civil RICO suits have seriously challenged Cosa Nostra's domination of the airport's cargo industry.

REFORMING THE INTERNATIONAL BROTHERHOOD OF TEAMSTERS FROM THE TOP DOWN

Purging Cosa Nostra from the two IBT locals at JFK Airport took place in the context of the larger remedial effort to eradicate mob influence from the national Teamsters union, at the time the nation's largest union.[2] In 1988, U.S. Attorney Rudolph Giuliani filed a civil RICO suit that charged the Teamsters' national General Executive Board with running the IBT as a racketeering enterprise in collaboration with Cosa Nostra.[3] Pursuant to a 1989 consent decree, a three-person trusteeship was established over the IBT: former federal Judge Frederick B. Lacey was appointed independent administrator; former federal prosecutor Charles Carberry was selected as investigations officer; and labor lawyer Michael Holland was appointed elections officer.* The consent decree empowered the investigations officer to seek the dismissal of corrupt officials from the union and to establish trusteeships for corrupt locals. In the course of three years, the trusteeship removed nearly two hundred union officials from Teamsters locals across the country.[4]

In June 1991, Investigations Officer Carberry charged the officers of Local 295 with breaching their fiduciary duty to the local's membership by failing to investigate rampant corruption and by embezzling Local 295 funds. As a result, six of the seven Local 295 officers were removed

*Pursuant to the 1989 consent decree, an independent review board (IRB) replaced the court-appointed trusteeship in October 1992. The IRB's directive was to investigate and eliminate corruption in the IBT. The three-member board consisted of IBT Independent Administrator Frederick Lacey, former CIA and FBI Director William Webster, and Harold Burke, the former head of the United Mine Workers union. (Grant Crandall, UMW's general counsel replaced Burke in June 1993.)

0773

from their posts. Anthony Cuozzo, the only remaining officer, was soon forced to resign because of "knowing association" with Anthony Calagna, a member of the Lucchese crime family and former president of Local 295. Cuozzo was later murdered.[5] Independent Administrator Lacey permanently suspended Local 295 president Anthony Calagna from the IBT and ordered him to repay $50,000 to the local.[6] The federal district court affirmed these actions and approved the order removing the officers.[7] The ousted officials of Local 295 then attempted to arrange that a special election be held to select their successors.[8] In response, Lacey obtained a court order placing Local 295 under a temporary trusteeship and appointed William Ferchak, a longtime officer of IBT Local 732, temporary trustee of Local 295.[9]

In March 1992, Ron Carey,* the newly elected reform president of the IBT, without prior notice to the IBT independent administrator, announced his intention to replace Ferchak with William F. Genoese, another officer of IBT Local 732. The independent administrator vetoed that appointment, finding that Genoese had a "sad record of inaction in the face of a long history of corruption at [JFK] Airport"[10] and was closely tied to the Lucchese crime family. Carey later stripped Genoese of his Local 732 position, citing a "pattern of malfeasance" in the use of membership dues, and installed a temporary trustee to run Local 732.[11]

The IBT trusteeship also launched a comprehensive investigation of Local 851. In 1990, as the investigation moved forward, Mark Davidoff resigned as secretary-treasurer (the top position in Local 851) and was replaced by Anthony Razza.[12] The 1993 indictment of Razza prompted IBT President Ron Carey to appoint Curt Ostrander, an IBT Local 559 official, as temporary trustee and Brian Kelly, a member of New York City's Mollen Commission (investigating police corruption), as investigator.[13]

*Carey won the IBT's first election under the consent decree with the motto "No Corruption, No Excuses, No Exceptions." His appointment of Genoese stirred controversy. The Department of Justice launched an investigation into Carey's ties to organized crime. Carey claimed that his nomination of Genoese was an "honest mistake." The Genoese appointment haunted Carey's reelection campaign. The opposing candidate, Jimmy Hoffa Jr., claimed that Carey was a puppet of Cosa Nostra. Carey won the election by a close margin. The election was overturned by elections monitor Barbara Zack Quindel because of fund-raising improprieties. In November 1997, Carey was prohibited from seeking reelection, and in July 1998, the IRB banned Carey from the Teamsters for life.

0774

ATTACKING THE TWO IBT LOCALS

The FBI and U.S. Department of Justice were not impressed with the Teamsters' progress in reforming Locals 295 and 851. In March 1990, U.S. Attorney for the Eastern District of New York Andrew J. Maloney filed the most ambitious legal attack ever launched against organized crime in the JFK cargo industry. In addition to Locals 295 and 851, the government named as defendants fourteen individuals, most of whom were identified as members or associates of the Lucchese and Gambino crime families, or as officers and former officers of IBT Locals 295 and 851, including Harry and Mark Davidoff, Frank Calise, and Anthony Calagna.

The complaint alleged that the Lucchese crime family had used its control of Teamsters Locals 295 and 851 to extract revenue from the cargo industry at JFK Airport and charged numerous acts of extortion and labor racketeering. For example:

- Between September 1980 and September 1982 defendants Harry and Mark Davidoff, Frank Calise, and Frank Manzo prevented Union Air Transport from using a specific warehouse and transportation service unless the company paid the defendants money.
- In 1983 and 1984, Harry Davidoff, Frank Manzo, and Frank Calise threatened to organize the nonunionized workforce of Pandair unless Pandair paid the defendants money.
- Between August 1983 and December 1984, Frank Manzo and Frank Calise "threatened a strike, boycott, or other collective labor group action" injurious to Kamino Air Transport, unless the company paid off the defendants.
- Defendants Frank Manzo and Frank Calise threatened to increase Schenkers International Forwarders' labor costs unless payments were made.
- Harry Davidoff, Mark Davidoff, Frank Calise, and Anthony Guerrieri extorted Stair Cargo Services by threatening to force the company to hire workers affiliated with Teamsters Local 295.
- Frank Manzo, Frank Calise, and Richard Schroeder threatened to enforce a collective bargaining contract's provisions requiring pension and welfare contributions to Teamsters Local 851 unless the company made payoffs to the defendants.[14]

0775

In March 1991, U.S. District Judge Eugene Nickerson granted partial summary judgment against Harry Davidoff and Frank Calise, finding that their prior racketeering conspiracy and extortion convictions[15] established the predicate acts needed to satisfy the government's civil RICO case.[16] The court enjoined the two men from participating in the affairs of Locals 295 and 851, their executive boards, or any other labor organization or employee benefit plan. Davidoff and Calise were also enjoined from associating with officers, auditors, and employees of Locals 295 and 851.[17] Furthermore, the court ordered the defendants to repay $961,400* that they had obtained in payoffs from freight forwarding companies.[18] Nevertheless, the court declined to impose a permanent trusteeship over the locals, finding insufficient evidence of "continuing corruption."[19]

Court Approves Local 295 Trusteeship

In 1992, after further motions by Independent Administrator Lacey, Judge Nickerson determined that the IBT-installed temporary trustee was unable to rid Local 295 of corruption.[20] Judge Nickerson cited the local's continuing $2,000 a month payments to Harry Davidoff, despite his criminal convictions and civil sanctions, and the use of union funds to pay attorneys' fees for former Local 295 President Anthony Calagna's defense on charges of extortion and labor racketeering. Pointing to Local 295's history of Cosa Nostra domination and the recent convictions of several of its officers as justifications for close scrutiny, Judge Nickerson imposed a permanent trusteeship.[21] He acknowledged that "Congress considered the appointment of a trustee to run the affairs of a union local as an extraordinary measure," but concluded that the court was indeed faced with an extraordinary situation.[22] Moreover, Judge Nickerson noted that "[t]he implementation of trusteeships under civil RICO is no longer a novel, one-time experiment. It is quickly being recognized as an extremely valuable part of effective law enforcement."[23] The court set no time limit for the trusteeship; it would last until "honest and uncoerced" elections for new officers could be held.[24]

In April 1992, Judge Nickerson appointed Thomas Puccio, a former assistant U.S. attorney and former head of the Brooklyn Organized

*The judge later vacated the amount and ordered further hearings to determine just how much the defendant owed.

0776

Crime Strike Force, as trustee of Local 295. The court granted Puccio broad authority to administer the daily affairs of the local, to investigate corruption, and to oversee the election of union officials. Puccio vowed to use all investigative strategies, including undercover agents and sting operations, to root out corruption.[25] He hired Mike Moroney, a former member of the U.S. Department of Labor's Office of Labor Racketeering and former assistant to IBT's Investigations Officer Charles Carberry, to serve as deputy trustee.[26]

Puccio faced a number of obstacles. His position was part-time, and although he had extensive experience investigating corruption, he had no experience negotiating and enforcing collective bargaining agreements or overseeing routine union matters. Moreover, IBT President Ron Carey was not supportive. He maintained that the fifteen-member ethical-practices board he had created in 1992 was sufficient to deal with Local 295's problems and that further government intervention in Teamsters affairs was unjustified.[27] The Lucchese crime family's continued influence over Local 851, Local 295's sister local, also impeded Puccio's efforts. Puccio claimed that Local 851 encouraged at least thirty Local 295 truck drivers to transfer their memberships to Local 851, in order to elude investigation, notwithstanding the fact that Local 851 represented clerical employees and dispatchers. Forces within Local 295 itself also hindered Puccio's initiatives. A group calling itself the "United Workers Council" distributed newsletters smearing Puccio and his staff.[28]

To foster a democratic atmosphere, Puccio conducted an educational program for Local 295's general membership regarding grievance procedures and union democracy. The trustee's staff distributed copies of collective bargaining agreements to Local 295 members. The deputy trustee published a monthly newsletter describing the trustee's efforts to rid the local of organized crime and discussing other union matters.[29] An advisory committee composed of union members provided the membership with a direct line of communication to the trustee. Puccio also rewrote the local's bylaws to protect union members from corruption. For example, the new bylaws restricted the salaries and pensions of Local 295 officers; required the local's officers to take specific actions against corruption; and provided that shop stewards would be elected, not appointed.[30] Puccio filed a $558,000 insurance claim to recover Local 295 funds embezzled by former union officers. He also sought, on behalf of Local 851 and Local 295 pension and welfare funds, to recover severance and benefit monies paid to

0777

former Local 295 officers, including $305,000 paid to Harry Davidoff's daughter, Sharon Moskowitz, a former administrator* of the Local 851 benefit fund.[31] Puccio also warned corporate executives to avoid doing business with a dozen freight-forwarding companies he had identified as controlled by Cosa Nostra.[32]

Puccio's initiatives, however, came at a high price. He exceeded his budget, and spent far more than Local 295's annual income, nearly bankrupting the local.[33] Puccio paid hundreds of thousands of dollars to lawyers and accountants who billed at hourly rates of up to $375. Puccio's salary was $250,000 per year for his part-time services as trustee; his deputy trustee received $150,000 as full-time compensation.[34]

Independent Supervisor for Local 851

In 1992, the U.S. Attorney's Office for the Eastern District of New York sought a court-appointed trusteeship for Local 851. Opposing the motion, Local 851 argued that the election of Anthony Razza as secretary-treasurer had ended corruption. Razza submitted an affidavit claiming that he was committed to a corruption-free union, and that he had succeeded in ridding Local 851 of organized crime. The court again declined to appoint a trustee in the absence of evidence of recent corruption. In September 1993, Razza was indicted on extortion, racketeering, and tax-fraud charges.[35] In April 1994, he pled guilty to receiving unlawful payoffs from Kuehne & Nagel Air Freight and to engaging in a tax-fraud conspiracy with Amerford International;[36] he was sentenced to twenty-one months in prison.[37]

In June 1993, Thomas Puccio filed a motion with Judge Nickerson to extend his Local 295 trusteeship to include Local 851. Puccio asserted that the Lucchese crime family was using Local 851 to frustrate his reform of Local 295. Puccio also alleged that Local 851's president and vice-president had ties to the Lucchese crime family and that local officials had received hundreds of thousands of dollars in bribes from freight-forwarding companies.[38] He later argued that Razza's indictment provided sufficient evidence of current corruption. Local 851 contended that no trustee was needed and that Puccio's expenditures and

*Ultimately, Ms. Moskowitz prevailed, but the pension and welfare fund did recoup some money by means of an indemnification from an insurance carrier.

0778

extensive delegation of duties demonstrated "his unfitness" to serve as a union trustee.[39]

In October 1994, with Puccio's motion pending, the U.S. Attorney's Office, Local 851, and the International Brotherhood of Teamsters signed a consent decree placing Local 851 under a court-appointed independent supervisor.[40] According to the decree, anyone currently serving as a court-appointed trustee or deputy trustee was excluded from serving as Local 851's independent supervisor, thereby preventing the appointment of Puccio or Moroney, whom union officials accused of looting Local 295. Judge Nickerson appointed former federal prosecutor Ron DePetris to the position. DePetris hired David Krasula, a former long-time investigator with the U.S. Postal Inspection Service and the U.S. Department of Labor, as his chief investigator.

Instead of providing for the usual one-person trusteeship, the consent decree created a bifurcated monitorship; DePetris would be responsible for ferreting out corruption; Curt Ostrander, the temporary union trustee appointed by the IBT, would continue to oversee Local 851's daily affairs.[41] The court authorized the independent supervisor to review the union trustee's expenditures, contracts, leases, and appointments. The independent supervisor could veto expenditures, contracts, or appointments that furthered racketeering or knowing associations with members of organized crime.*

The union trustee and the independent supervisor jointly must decide when free and fair elections are feasible. The independent supervisor is responsible for administering the elections. The terms of the union trustee and the independent supervisor terminate sixty days after the independent supervisor certifies the results of the elections to the court. As of June 1, 1999, the local-wide election of officers had not yet taken place.

The consent decree enjoined members and officers of Local 851 from engaging in racketeering, knowing association with any member, associate, or other individuals involved with any organized-crime group, and obstructing the work of the independent supervisor.[42] The consent decree authorized the independent supervisor to investigate

*The consent decree also required a hearing officer, who had to be "acceptable to both [the U.S. Attorney's Office and Local 851] and who has . . . experience in labor-management relations," to review the independent supervisor's vetoes. *United States v. Local 295,* 90 Civ. 1012 (E.D.N.Y. 1992) Consent Decree, 15.

0779

any such acts and, where appropriate, to conduct disciplinary hearings. However, the independent supervisor was authorized to discipline only officers of Local 851 and the other persons named in the consent decree.[43] He could remove officers from their positions and expel them from the union. But he could not discipline members qua members.

When Ron DePetris became independent supervisor, there were no officers to investigate because the IBT had replaced them with temporary trustee Curt Ostrander. As a result, DePetris focused his investigations on Local 851's two business agents and approximately fifty shop stewards, and on lead agents. He later obtained court approval to extend his investigations and disciplinary proceedings to union members who obstructed the work of the independent supervisor.[44] DePetris removed six of the fifty shop stewards from their positions, and he disciplined sixteen lead agents, who were charged with obstructing the work of the independent supervisor.

The independent supervisor's budget was set at $300,000 a year, including salaries, to ensure that Local 851's finances would not suffer the same fate as Local 295's.[45] Under the consent decree the national Teamsters union agreed to support the Local 851 independent supervisor and union-trustee positions, if necessary. Because of the financial straits in which Local 851 found itself at the time of DePetris's appointment, the IBT provided the funding.[46]

DePetris's Effort to Recover Damages for Past Corruption

In an effort to restore the local's financial health, DePetris sought to recover Local 851 assets that had been dissipated or misappropriated. A year into his term, DePetris filed two civil RICO suits against freight-forwarding companies and Anthony Razza.[47] These suits were the first ever initiated by a court-appointed monitor to recover civil damages on behalf of a labor union for past corruption.[48]

Following an extensive investigation by the New York State OCTF, in the first suit, filed in 1995 against Amerford International (now known as Thyssen Haniel Logistics), its parent company, and Razza, DePetris charged the defendants with violating RICO and a New York State labor law[49] by participating in a labor-payoff scheme. In 1990, Amerford was seeking to drastically reduce its labor costs at JFK airport by eliminating many Local 851 positions. However, such terminations were prohibited under the collective bargaining agreement. With the

0780

assistance of Razza and others, including Patrick Dello Russo, a shop steward of Local 295 and an unofficial representative of Local 851, Amerford was able to reduce its labor force at JFK by more than twenty employees and maintain labor peace. Dello Russo had previously been given an eighteen-month no-show position as a warehouseman with Amerford that paid him $128,622.

As part of the scheme, the company entered into a consulting agreement with KAT Management Services, whereby KAT received roughly 25 percent of the money Amerford saved because of its reduced labor force. KAT was a front for the Lucchese family; money withdrawn from the KAT account was subsequently distributed in cash to Lucchese members, including Anthony Calagna, then president of Local 295. In all, payments in excess of $500,000 were made to KAT. To conceal the scheme, Amerford disguised the terminations as transfers by offering the terminated Local 851 employees similar positions in Hartford, Connecticut. Razza and Dello Russo told the employees that Teamsters Local 851 supported Amerford's actions and would not be able to assist the workers in fighting the transfers. None of the employees accepted the disingenuous transfer option.[50]

In 1993, Razza, Dello Russo, Calagna, and Andrew Titley, Amerford's chief financial officer, were charged with, among other crimes, participating in an illegal labor-payoff scheme and tax-fraud conspiracy.[51] Harold Niehenke, president and chief executive officer of Amerford, pled guilty to state charges alleging that he had agreed to pay KAT "so that the terms of the collective bargaining agreement . . . would not be enforced . . . and consequently, Amerford . . . terminated . . . over 20 union members, and thereby wrongfully obtained their . . . contractual rights to employment."[52] In April 1994, Titley pled guilty to making unlawful payoffs to Dello Russo in connection with Dello Russo's no-show position. Calagna admitted to (1) conspiring to participate in a RICO enterprise (the Lucchese crime family), which included as predicate acts unlawful labor payoff demands from Amerford, and (2) conspiracy to commit tax fraud. Dello Russo pled guilty to (1) conspiring to participate in a RICO enterprise (the Lucchese crime family), which included as predicate acts unlawful labor payoff demands from Amerford and another JFK freight-fowarding company (K&N), including payment for a no-show position, and (2) conspiracy to commit tax fraud. Razza pled guilty to unlawfully receiving labor payoffs from another company and conspiracy to commit tax fraud.[53]

0781

DePetris, on behalf of Local 851, entered into a settlement with the defendants in June 1998. Amerford agreed to pay Local 851 $1.2 million to resolve the RICO action and $2 million to settle the state labor law claim.[54] The state claim was supposed to be satisfied by funds previously paid by Amerford to the New York State Organized Task Force in 1994, but the OCTF resisted turning over the money.[55]

The second action, initiated in 1997, sought to recover treble damages from Kuehne & Nagel Air Freight (K&N) and Anthony Razza. As the 1988 collective bargaining agreement between K&N and Local 851 was about to expire in January 1992, K&N's vice-president, Chester Calamari, was engaged in negotiations with Razza. Razza advised Calamari to contact Anthony Dello Russo. Dello Russo offered to settle K&N's collective bargaining difficulties for $50,000 in cash and arranged for Calamari to make the payments, disguised as consulting fees, to Group East, headed by attorney Anthony Figoni.

In April 1992, K&N and Local 851 entered into a new two-year collective bargaining agreement. Razza made many concessions, including freezing K&N's pension contributions for up to a year. In return, Calamari paid more than $100,000 to Group East. Figoni then withdrew the monies, and after retaining some to cover taxes, gave most of it to Dello Russo, who in turn paid Razza and the Lucchese family. In a criminal case involving this scheme, Razza pled guilty to receiving labor payoffs from K&N, and to tax-fraud conspiracy.[56]

In March 1998, U.S. District Judge Nickerson denied Kuehne & Nagel's motion to dismiss. He ruled there were sufficient allegations that the freight-forwarding company had been part of a scheme that enriched the Lucchese crime family.[57] Damages, if awarded, would be used to reimburse the International and the Local for some of the costs of the independent supervisor's office.[58]

CONCLUSION

Cosa Nostra's entrenchment in the JFK Airport's freight industry dates back to at least the early 1950s. Although the Kenrac investigations and prosecutions sent many mobsters to prison, Cosa Nostra's influence at the airport was undiminished into the 1980s. Recognizing that additional investigations and prosecutions would not have the desired impact, the U.S. Attorney's Office for the Eastern District of New York brought a suc-

0782

cessful civil RICO suit against Teamsters Locals 295 and 851. That suit coincided with the sweeping reform effort taking place within the International Brotherhood of Teamsters as a whole under the aegis of the three-person trusteeship led by Independent Administrator Frederick Lacey.

Under the 1989 consent decree between the IBT General Executive Board and the federal government, the Teamsters union launched its own efforts to rid Locals 295 and 851 of organized crime. The IBT removed the officers of Locals 295 and 851 and appointed temporary trustees to run the locals. Seeking to make these trusteeships permanent, the U.S. Attorney's Office filed a civil RICO suit against both locals in 1990. After some reluctance, the district court established a permanent trusteeship over Local 295 in 1992, naming Thomas Puccio trustee. Two and a half years later the court established a bifurcated monitorship over Local 851, consisting of an independent supervisor, Ronald DePetris, authorized to root out corruption, and a union trustee, responsible for managing the daily affairs of the union. DePetris has succeeded in recovering funds for Local 851 and in severing many of the union's ties with Cosa Nostra.

While Cosa Nostra's presence at JFK Airport is diminished, it is not expunged. In May 1997, U.S. Attorney Zachary Carter announced that eighty-three people had been arrested as a result of an FBI sting operation called Kat-Net. The agents had established a fencing operation that attracted gangs of thieves operating at JFK Airport. The agents purchased $13 million worth of goods from the thieves for $700,000. Interestingly, only a few of the thieves had organized-crime (Gambino) ties, demonstrating perhaps that the mob's dominance over thievery at the airport has ended.

In mid-December 1998, Queens District Attorney Richard Brown, head of the New York City FBI office Lewis Schiliro, NYPD Commissioner Howard Safir, and Port Authority Police Superintendent Fred Morrone announced the indictment of fifty-six individuals and eight corporations for theft, fencing, and distribution of property stolen from warehouses in and around JFK Airport. According to Commissioner Safir, Operation Rain Forest led to the recovery of more than $5 million worth of stolen goods. While two of the defendants are IBT union stewards, once again it appears that this organized theft cannot be attributed to Cosa Nostra. It is another indication that the underworld and the upperworld at the airport are changing. It reminds us as well that crime can, does, and will continue even without the Cosa Nostra crime families.

0783

12

Ridding the Javits Convention Center of Organized Crime

> I will put the power of this Governorship behind the prosecutions to sweep out organized crime from the Javits Center. . . . Criminals were given a virtual monopoly on the jobs at the Javits Center. That is wrong, and it must end.[1]
>
> —Governor George Pataki, addressing the New York State Senate Standing Committee on Finance, 1995

FROM THE MOMENT construction began, the Javits Convention Center served as a profit center for the mob. Cosa Nostra's influence was rooted in its control over the unions that represented center workers. The Genovese family's control over the Carpenters union allowed the mob to manipulate the job referral system and place friends and associates in high-paying or no-show jobs. IBT Local 807, led by Robert Rabbitt Sr. and his sons Michael and Robert Jr., also placed many known Cosa Nostra associates in high-paying center positions. Officials of Local 829 of the Exhibition Employees Union padded employers' payrolls with ghost employees, including Cosa Nostra members and associates, and operated a fraudulent workers' compensation racket. The center's Board of Directors and management showed little inclination to challenge organized crime. Efforts to purge Cosa Nostra did not begin until the 1990s. The most important law enforcement initiatives were civil RICO suits brought against the Carpenters union and the Teamsters, and Governor George Pataki's shake-up of the center's management. The law enforcement and administrative reforms show strong signs of success.

0784

ATTACKING LABOR RACKETEERING

The Consent Decree in the Carpenters Union Case

In September 1990, the U.S. Attorney's Office for the Southern District of New York, with cross-designated attorneys from the New York State OCTF, filed a civil RICO suit against the District Council of the Carpenters union and its chief officials, charging that the union had been infiltrated by organized crime and was being operated in a corrupt manner.[2] Predicate offenses included extortion and illegal receipt of payments and benefits. The suit, settled one month into the trial, resulted in a consent decree[3] declaring that "there should be no criminal element or La Cosa Nostra corruption in any part of the . . . union" and that the union should be operated without unlawful outside influence.[4] All members and officers of the union were permanently enjoined from racketeering activity and from any knowing association with organized-crime figures.

The consent decree provided for the Investigations and Review Officer (IRO) to implement and supervise the settlement. The parties agreed on former federal judge and former New York City Commissioner of Investigation Kenneth Conboy as IRO. Conboy's mandate was to review the practices and policies of the union; initiate and conduct investigations into allegations of misconduct; bring disciplinary actions against union members; and if necessary, present evidence of wrongdoing to the Independent Hearing Panel (IHP).[5*] The IRO's decisions could be appealed to Federal District Judge Charles Haight, who retained jurisdiction over all related matters.[6]

In March 1995, Anthony Fiorino, who held various high-ranking positions in the Carpenters union at the Javits Center, became the first union member to face disciplinary charges.[7] The hearing lasted ten days and produced more than two thousand pages of testimony.[8]

Conboy argued before the IHP that Fiorino was the Genovese crime family's agent at the Javits Center. According to Conboy, Fiorino had assigned inactive union members and nonmembers to carpenter

*The IHP is composed of three members of the Independent Hearing Committee (IHC), which consists of the five individuals appointed by the consent decree. The IHP is selected in the usual manner for arbitration panels: the IRO chooses a member, the charged party selects another, and the IRO and the charged party collectively choose the third participant. *United States v. District Council,* 90 Civ. 5722, Consent Decree (1994), 4–5.

0785

positions at the center, ran a corrupt hiring list, and maintained active contact with Cosa Nostra figures.[9] Fiorino countered that his only contact with his brother-in-law Liborio "Barney" Bellomo, acting boss of the Genovese family, was at family gatherings or in accidental meetings on the street.[10] He claimed that the two men never discussed union business or the center and that he did not even know his brother-in-law's occupation.

Fiorino was also charged with threatening a union member who complained about contract violations on a job site in 1984.[11] Gerald Kelty of Carpenters Local 257 claimed that he was set on fire by someone wielding a welding torch and that bundles of ten-foot-long metal studs had twice been dropped on him. (He escaped uninjured.)[12]

The IHP found that Fiorino had knowingly associated with members of the Genovese crime family and had enforced a corrupt employment-referral system that gave preference for center jobs to individuals connected to the Genovese crime family.[13] Fiorino was expelled from the union for life.[14] Judge Haight affirmed the decision, concluding that "beginning in or about April 1994 and continuing thereafter, Fiorino knowingly discriminated against union members by referring for work a small group of favored individuals."[15]

In June 1996, Conboy's investigations culminated in the dismissal of New York City's District Council of Carpenters president Frederick Devine by international union president Douglas McCarron.[16] In a subsequent criminal case, federal prosecutors presented evidence to prove that Devine received payoffs from contractors and that he was controlled by Thomas Petrizzo, a capo in the Colombo crime family.[17] Devine was convicted on six grand-larceny charges stemming from a scheme in which he siphoned money from the union's coffers to pay for lavish winter excursions for friends and family and for personal travel expenses.[18] He was sentenced to fifteen months in prison.[19]

THE CONSENT DECREE IN THE TEAMSTERS CASE

The historic civil RICO complaint against the IBT's General Executive Board (GEB) resulted in a 1989 consent decree providing for an investigations officer, an independent administrator, and an elections officer.[20] In January 1992, the three positions were superceded by an Independent Review Board (IRB), which was authorized to investigate corrup-

0786

tion, issue written reports, and hold adjudicatory hearings. The IRB typically investigated, then reported its findings to the Teamsters' General Executive Board, which had the opportunity to initiate corrective measures before the IRB took disciplinary action.

The IRB issued a series of reports recommending the expulsion of certain IBT Local 807 members who were employed at the Javits Center. The IRB charged that Local 807 had become a haven for corrupt IBT Local 814 officials. Pursuant to a civil RICO suit alleging that the Bonanno crime family controlled the officers of Local 814.[21] Arthur Eisenberg, a former regional director of the National Labor Relations Board in New Jersey,[22] was appointed trustee by the court in 1987.[23]

The IRB operated according to the view that "in the absence of direct evidence of knowledge of the organized crime ties of an associate . . . such knowledge may be inferred from the duration and quality of the association."[24] The IRB found that certain Local 807 members had violated the conditions of union membership by bringing reproach upon the union by associating with organized crime figures. Consequently:

- March 23, 1994—The IRB recommended John C. Zanocchio be charged with violating the IBT oath by knowingly associating with members of organized crime. Zanocchio was found to be a member of the Bonanno crime family and permanently barred from the IBT.[25]
- March 24, 1994—The IRB recommended Robert Rabbitt Sr. be charged with bringing reproach upon the union by taking money from an exhibitor at the Javits Center. Settlement on May 31, 1994. Rabbitt Sr. resigned from the union for five years and took a management position as general foreman at the Javits Center.
- May 12, 1994—The IRB recommended charges against Armando Rea, who was appointed assistant shop steward by Michael Rabbitt in 1993.[26] The IRB found Rea to be a member of the Bonanno crime family and permanently barred him from the union.
- January 30, 1995—The IRB recommended charges against Michael Porta Jr. for knowingly associating with members of organized-crime families. FBI agents testified that Porta was a member of the Gambino crime family and that previously he served organized crime's interests as a member of Local 1814 of

0787

the International Longshoreman's Association (ILA). The IRB permanently barred Porta from union-related activities. The federal court affirmed.[27]

- June 9, 1995—The IRB recommended charges against Costabile Lauro for knowingly associating with members of organized crime.[28] The IRB found that Lauro had sustained and purposeful associations with members of the Gambino crime family. Lauro had previously been a member of ILA Local 1814. Lauro was banned from the union.[29]
- February 14, 1996—The IRB recommended charges against Dominic Froncillo for knowingly associating with a member of organized crime. Froncillo testified that for approximately fifteen years he had been friends with Alphonse Malangone, reputed Genovese family capo. Froncillo was permanently barred from the union.[30]

The IRB's March 1995 report documented Robert Rabbitt Sr.'s extensive nepotism and corruption and recommended that IBT Local 807 be placed under trusteeship.[31] Upon review of Local 807's collective bargaining agreements, the IRB concluded that the Javits contract provided union workers with higher wages and benefits than any other Local 807 agreement.[32] It attributed this generous compensation to organized-crime influence and featherbedding. The report also pointed to the criminal records and organized-crime ties of eleven IBT members working at the convention center.

The IRB recommended that union charges be filed against Michael Rabbitt and the other members of the union bargaining team for acting without regard for the union's interest in negotiating the deal that removed the general foreman position from the union. According to the IRB, the transfer of the general foreman position deprived the union of significant influence over how Teamster jobs were carried out.[33] The IRB's March 1995 report spurred IBT President Ron Carey to remove the leaders of Local 807 and to place the local under trusteeship.[34] Johnnie Brown, the newly appointed trustee, was ordered to implement the IRB's recommendations.[35]

State prosecutors brought criminal charges against individual IBT members for various Javits Center rackets, including extorting money from businesses and falsifying bills and general business records. On February 5, 1992, Robert Rabbitt Sr. was indicted along with twenty-six

0788

other persons for theft, extortion, and violence related to the Javits Center,[36] and was specifically charged with conspiracy to extort money (by threatening economic harm) from the president of a company doing business at the center.[37] Robert Sr. and Michael Rabbitt were also indicted for receiving bribes, grand larceny through extortion, and criminal possession of stolen property.[38] Other charges against the Rabbitts and other Javits workers included the falsification of business records, making false entries in business records, and concealing the entries[39] with the intent to defraud.[40]

Robert Rabbitt Sr. pled guilty to the falsification of business records on November 9, 1992.[41] Under the plea agreement, all other charges against him were dismissed. His sentence was one-and-a-half to four-and-a-half years. Charges against Michael Rabbitt were dismissed.[42] Another Teamster, Michael Potts, was charged with scheming to obtain unemployment compensation and falsifying business records.[43] He pled guilty to attempted falsification of business records.[44] One other defendant was charged with two counts of grand larceny through extortion, pled guilty to promoting gambling, and was forced to pay a $500 fine. The most important impact of the criminal cases was not the modest sentences but the use of the convictions by the union trustees to remove the defendants from the unions and thus from the Javits Center.

Charges against the Exhibition Employees Union Local 829

The Exhibition Employees Union Local 829, like the locals of Teamsters and the Carpenters, was extensively investigated by local and federal law enforcement agencies. A joint investigation conducted by the Manhattan District Attorney's Office, the New York City Police Department, the U.S. Department of Labor, and the Javits Center's Inspector General[45] resulted in indictments against two Local 829 officers and seven rank-and-file members.[46] Local 829 President John McNamee and Vice-President and Javits Center shop steward Paul Coscia were accused of fraudulently acquiring union health benefits for Genovese family associate John Sullivan, who was not a union member.[47] Several Local 829 members were charged with felonies relating to misuse of union benefits while employed at the Javits Center.[48] There were also charges of loan-sharking,[49] bookmaking,[50] fraudulently collecting unemployment[51] and disability[52] compensation, and conspiring to bribe officials of Teamsters Local 807 in

0789

order to get on the hiring list.[53] Most of the charges were disposed of through guilty pleas.[54]

Manhattan District Attorney Robert Morgenthau also investigated a scheme by which Javits Center workers, in collaboration with a dishonest lawyer, filed phony workers' compensation claims on behalf of center employees. From 1992 to 1995, an attorney who was a cousin of an Exhibition Employees Union official admitted filing over a dozen such lawsuits for more than $20 million. This racket no doubt was a factor in the 25 percent increase in the center's 1995 insurance premium.[55]

ADMINISTRATIVE AND POLITICAL INVESTIGATIONS

The Role of the Inspector General

New York State's 1987 Internal Control Act required all public authorities, including the Javits Center, to appoint an internal control monitor.[56] Pursuant to the act, the Javits Center delegated that duty to an inspector general, who also was made responsible for providing the Board of Directors with information necessary to formulate effective policy. In 1991, Javits Center CEO Fabian Palomino selected as the center's first inspector general Henry Flinter, a former assistant inspector general for the Metropolitan Transportation Authority and a former investigator for the New York State Organized Crime Task Force.[57] Subsequently, the position has always been filled by a person with substantial investigative or organized-crime control experience.

In November 1994, Sebastian Pipitone (formerly a New York City police officer),[58] the next inspector general under Palomino, made a significant advance in crime control when he changed the method of distributing paychecks.[59] Previously, union representatives at the center distributed paychecks to center workers. The new rules required workers to come to the center, present identification, and be photographed, in order to pick up their paychecks.[60] Use of this strategy led to the removal of more than two dozen ghost workers from the payroll.[61] When the unions protested and threatened a work slowdown, Pipitone threatened to revoke parking privileges, thereby forcing workers with vehicles to pay $20 a day to park. The unions backed down.[62]

In 1994, Pipitone conducted a surprise search of the center and uncovered three stolen motorboat engines and stolen nautical equipment

0790

worth more than $100,000.[63] The equipment had been stolen from the Boat Show and hidden in air-conditioning ducts.[64] According to the Javits administration, surprise searches decreased theft at the center by 77 percent during Pipitone's tenure.[65]

The State Comptroller's Devastating 1995 Audit

State Comptroller H. Carl McCall issued a scathing report on the Javits Center in spring 1995.[66] The audit, covering the period January 1992 through November 1994, charged center officials with tolerating corruption and mismanagement.[67] McCall charged CEO Fabian Palomino with ignoring established management policies and procedures, failing to provide the Board of Directors with sufficient information, and violating employment and purchasing requirements.[68] The center's Board of Directors was accused of rubber-stamping Palomino's decisions and failing to take an active role in the center's governance.[69]

McCall charged Palomino with violating hiring and promotion rules and making personnel decisions without required documentation. Review of personnel files revealed that many jobs lacked a description of employee qualifications and had been filled without a job announcement, in violation of internal control procedures.[70] Most files only contained a letter from Palomino stating that the employee had been hired at a prescribed salary and title. There were also many instances of salary increases and decreases without corresponding performance reviews or explanations.[71]

McCall found that a great deal of security equipment, such as doorknobs, locks, two-way radios, and security cameras, had been purchased but never installed.[72] He also accused Palomino of improperly providing free parking to Governor Cuomo's son.[73]

Palomino was criticized for making purchases and negotiating contracts without board approval. The audit found that 60 percent of procurement contracts, worth $6.7 million, had not been awarded according to the required competitive bidding process.[74] Early in his tenure, Palomino broke a waste-hauling contract with Allied Sanitation, threatening to have Allied employees arrested if they returned to the center. Palomino then awarded the contract to another company, circumventing the bidding process under the guise of an emergency. McCall's auditors observed that Palomino's "unchecked control over most Corporation matters" had permitted inappropriate

0791

hiring and vendor favoritism.[75] The audit stated that by consolidating managerial power, Palomino reduced the oversight necessary to prevent corruption.[76]

Despite the extensive authority bestowed upon the inspector general, with a few exceptions, McCall found that the position had been underutilized and ineffective. The state comptroller's audit stated that the inspector general's powers were compromised by lack of autonomy because the inspector general reported directly to the CEO.[77] After the audit, the inspector general was made to report directly to the Board of Directors.

The State Legislature's Hearing Regarding the Javits Center

The state audit of the Javits Center and the reports of the court-appointed trustees in the labor-racketeering cases prompted the state Senate to convene a hearing in March 1995. New York City Mayor Rudolph Giuliani testified that the Convention Center had been losing business, costing the city $500 million in lost revenue and five thousand jobs. He urged that a civil RICO suit be brought against the center and the unions in order to produce a court-appointed trustee with the resources and ability to curtail corruption, and he recommended privatization of the center's management, following the successful model of convention centers in other cities.

Frederick Devine, president of the District Council of the Carpenters, testified that he was willing to renegotiate the union's contract but challenged the charge that the Carpenters union was to blame for high costs at the center. Fabian Palomino, who had resigned as CEO two months previously, testified that he had been aware of organized-crime infiltration but felt that it was law enforcement's job to combat it; he had been responsible for managing the center.

Governor George Pataki also testified at the hearing. He asked the members of the Board of Directors of the center to resign and threatened to close the center if they refused. Pataki insisted that "it is critical that we have a new team in place that is accountable to the public and dedicated to sweeping out corruption and mismanagement."[78] According to the center's incorporation documents, the governor could forcibly remove board members only for just cause.[79] Pataki nominated Robert Boyle for the center's chief executive and Gerald McQueen for its inspector general.[80] McQueen was approved unanimously.

0792

Boyle had served as Pataki's gubernatorial campaign treasurer, was a successful executive in the construction industry, and had been the chairman of the Hudson Valley Hospital Center in Westchester County.[81] The Cuomo board members (who did not resign immediately as requested) objected to Boyle's nomination on the ground he lacked experience, but the nominee was eventually confirmed. Other strong law enforcement figures, like Ronald Goldstock, the former director of the New York State Organized Crime Task Force, and antitrust expert Lloyd Constantine, a former assistant attorney general, were appointed to the board.[82]

BOYLE'S ADMINISTRATIVE INITIATIVES

Robert Boyle, who became the Javits Center's president and CEO in 1995, moved aggressively against organized crime. With Governor Pataki's strong encouragement and support, he implemented a new hiring system and negotiated contracts with the unions. The New York Convention Center Operation Corporation (NYCCOC) articles of incorporation reserved to the corporation the power to "do all things necessary or convenient to carry out the purposes" of the convention center.[83] Boyle eliminated the decorator companies' role in hiring center labor. Henceforth, the Javits Center would negotiate directly with the unions.

In June 1995, Boyle negotiated collective bargaining agreements with each of the labor unions. The new contracts provided that Javits Center management would hire laborers for exhibition and trade shows, allowing the center to control the number of employees on a particular job and thereby eliminating unnecessary and no-show workers. The unions were no longer allowed to pick which members would be assigned center jobs. At the same time the workers became state employees, subject to the Taylor Law that forbids government employees from striking.[84]

On June 29, 1995, Boyle announced that all center employees would have to apply for their jobs the following day. All New York newspapers carried advertisements announcing job openings. On July 1, 1995, between two thousand and five thousand nonunion job applicants assembled at the center, joining more than one thousand union members who had applied for their jobs the previous day.[85]

0793

Based upon the results of a three-page job application (which asked if the applicant had ever been convicted, whom he or she knew and associated with both within the Javits Center and outside it, and the applicant's previous work history) and an interview by a member of Boyle's thirty-person staff, five hundred applicants were hired for permanent staff positions. Only half of the new hires had previously worked at the center.[86] Carpenters union officials Anthony Fiorino and Leonard Simon were not hired.[87]

Boyle organized the new workforce into two divisions: the freight and the erector units. The Teamsters and the Carpenters, the two unions that met the new representational criteria,[88] were recognized as bargaining agents for the freight unit and the erection unit, respectively.[89*]

The Counterattack of the Carpenters Union

In late 1995, the District Council of Carpenters and union member Dominic Claps filed an action in state court seeking an injunction to prohibit center management from discriminating against union carpenters and shop stewards, and monetary and punitive damages. Claps had been designated the general job steward at Javits by the District Council in November 1995. Thereafter, he was only called into work intermittently. The union, on Clap's behalf, claimed that the center was illegally discriminating against union members based on their activity outside the work and union environment. The center cited its right to refuse to employ any individual as long as the decision is made in good faith and complies with the collective bargaining agreements. On February 27, 1996, the court ruled that the Carpenters union must abide by the grievance procedures established by the collective bargaining agreement before petitioning the court and that the union as an entity could not initiate the suit because under New York State law such an ac-

*Unions had to certify that they represented at least 50 percent of the union card–carrying workforce in a particular unit. The District Council of Carpenters had presented bargaining authorization cards from 296 of 390 employees in the erection division, and the Teamsters Local 807 obtained authorization from 91 of 145 workers in the freight unit. However, Exhibition Employees Union Local 829 did not meet the criteria and thus was not recognized as a bargaining agent. "Two Unions Reinstated at the Javits Center," *New York Times,* July 19, 1995, B6.

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0794

tion may be brought only by "an aggrieved individual."[90] Subsequently, an arbitrator ruled in favor of the center.

On November 20, 1995, District Council President Frederick Devine announced plans to use the union's $1.5 billion pension and benefit fund to purchase the New York Coliseum in order to provide employment for carpenters ousted from the Javits Center.[91] (The city-owned Coliseum had been largely unused since the construction of the Javits Center and had been for sale for several years.) Mayor Giuliani rejected the idea that same day, citing the District Council's involvement in corruption and racketeering at the Javits Center.[92] Because the city retains final veto power on all matters relating to the Coliseum, the mayor's opposition, in effect, killed the proposal.

LEGISLATIVE INACTION

Governor Pataki and Robert Boyle requested the New York State Senate to consider a law similar to New York City's Local Law 50, which directs the manager of the Fulton Fish Market to require market participants to be fingerprinted and to apply for business licenses. Boyle's proposal would have permitted Javits Center management to fingerprint employees and to require a special license for all businesses operating at the center. These procedures would allow further background checks on all individuals, with the purpose of rooting out Cosa Nostra members and associates. Licenses would be denied to workers with criminal histories or ties to organized crime.

The State Assembly rejected the bill on June 29, 1995, just as Boyle's new hiring plan was being implemented. Both Boyle and Pataki accused the Speaker of the Assembly of being an ally of former Carpenters union President Frederick Devine and of attempting to undermine the Javits Center reform program.[93] The bill, reintroduced in the Assembly the following year, provided for the appointment of a temporary receiver for the center in the event that there was evidence of management corruption, and authorized this receiver to implement licensing requirements and to investigate center contractors and employees.[94] The license application would include the applicant's fingerprints, photograph, and a criminal background check.[95] In passing a watered-down version of the bill, the Assembly noted that the center's history of suspect hiring and employment practices

0795

had hurt legitimate employees and workers as well as the economy of the state and New York City.[96] Boyle opposed the bill on the ground that it was too weak and administratively cumbersome. It restored the Carpenters union's power to assign jobs.[97] The bill was ultimately blocked in the Senate. In any event, by this time the changes at the center were so dramatic that the reason for the bill arguably no longer applied.

Mayor Giuliani's recommendation that ownership of the Javits Center be transfered from New York State to New York City attracted attention but little support, especially in light of the center's impressive recovery.[98]

A LIBERATED CONVENTION CENTER?

Concurrent law enforcement and administrative remedial efforts have largely eliminated the organized-crime racketeering that plagued the Javits Center from its inception till the mid-1990s. The Carpenters union and the Teamsters union have each experienced a makeover. The consent decrees in the Carpenters and the Teamsters cases resulted in court-appointed trusteeships. Kenneth Conboy has overseen the purge of the mob from the Carpenters union.

The Independent Review Board, authorized to investigate corruption throughout the IBT, removed many Cosa Nostra members and associates from Local 807. In March 1995, IBT President Ron Carey placed the local under trusteeship. The Exhibition Employees Union avoided a court-imposed trusteeship but was not certified as a collective bargaining agent in 1995 when the Javits Center was thoroughly reorganized.

The revitalization of the Javits Center's management clearly has had an impact. The hiring process, implemented by Robert Boyle,* opened center employment to a large pool of job seekers while simultaneously purging employees with ties to organized crime. A recent report by the Office of the State Comptroller praises the Javits Center for

*In early 1997 Boyle was named executive director of the Port Authority of New York and New Jersey. Inspector General Gerald McQueen then became president and chief executive officer of the Javits Center. Boyle was appointed chairman of the Javits Center Board.

0796

"complete turnaround." The center now has inventory-control procedures, working security locks on all doors, and new guidelines for the approval of contracts.[99] According to Comptroller McCall, "Corporation officials have made major changes, and have fully implemented the recommendations from our prior audit reports."[100]

As the result of law enforcement, political, and administrative efforts, the Javits Center is fully booked for the next two years and is already booking shows for the year 2006. During the fiscal year ending in March 1998, the center earned profits in excess of $400,000, a major improvement from its $1.6 million deficit in 1995.[101] Administrative and personnel costs have decreased considerably, resulting in 10 percent to 40 percent lower exhibition rates.[102] The vice-president of the American Society of Association Executives described the center as an emerging "hot" destination for conventions.[103] The success of the center has even led to talk of its expansion. Governor Pataki and other state officials have discussed doubling its current exhibition space to 1.5 million square feet, an unthinkable idea just a few years ago.[104]

0797

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Defeating Cosa Nostra in the Waste-Hauling Industry

> Those carters who misused the legitimate business opportunities of this industry besmirched and submerged the interests and welfare of the legitimate carters. The surgery performed by Local Law 42 clearly was essential, overdue and carefully tailored to protect the public interest with measured consideration of the interests and welfare of those who strive only for fair business conditions. . . . The public interest required drastic corrections.[1]
>
> —Justice Milton Pollack, *Sanitation and Recycling Industry, Inc. v. City of New York*, 1996

THE NEW YORK CITY metropolitan area waste-hauling industry was, into the 1990s, dominated by two powerful Cosa Nostra–led cartels, one on Long Island and one in New York City. The cartels enforced a property-rights system through economic coercion, and threats to property and person. The cartels were policed by the Lucchese and Gambino crime families, which controlled the trade associations and unions. Lucchese capo Salvatore Avellino controlled the Long Island cartel through the Private Sanitation Industry Association of Nassau/Suffolk. The Association of Trade Waste Removers of Greater New York, the largest carting employers association in New York City, led by Gambino capo James Failla, limited entry into the industry, fixed prices, and allocated customers. For decades, IBT Local 813, representing the employees of all New York City metropolitan area carters, was run by Bernard Adelstein, a longtime associate of the Gambino crime family. If a carter violated a cartel rule, Local 813 would mount a job action and perhaps threaten the company's customers with violence. In addition, many Cosa Nostra members and associates owned carting businesses.

0798

Prior to the 1990s, attempts to rid the carting industry of mob influence had been unsuccessful. Up until the 1990s the New York City Department of Consumer Affairs, which had the power to establish licensing requirements and set maximum rates, was completely ineffective. Licenses were issued upon request and maximum rates were set to the liking of the cartel, that is, much higher than rates in any other cities. Law enforcement agencies had been unable to bring about any systemic change in the industry. The DCA, under Commissioner Mark Green, began to focus on corruption and racketeering and undertook some important initiatives.

In the 1990s, the combination of criminal prosecutions, civil racketeering suits, a court-appointed monitorship, and a major city regulatory initiative, combined with the willingness of a few large national waste-hauling companies to enter the New York market, has resulted in the apparent elimination of Cosa Nostra from both the Long Island and New York City waste-hauling industries.

ATTACKING THE LONG ISLAND CARTEL: THE CIVIL RICO SUIT

On June 7, 1989, the U.S. attorney for the Eastern District of New York, Andrew J. Maloney, brought a civil RICO suit against the Long Island carting cartel. Maloney charged 112 defendants—including 64 Gambino and Lucchese family members and associates, 44 carting companies, the carters' trade organization, and Teamsters Local 813—with 486 separate acts of racketeering conducted through 46 separate enterprises.[2] The complaint alleged that

- For several decades, the solid waste disposal industry in Nassau and Suffolk counties has been infiltrated, controlled, influenced, corrupted and run by organized crime.
- The Lucchese and Gambino families have been the principal source of such Mafia influence.
- Mafia control of the industry has eliminated competition and . . . cost the residents and businesses [of Long Island] millions of dollars.
- Mafia influence has been accomplished through the use of threats and violence, through the infiltration and control of labor unions,

0799

and through the bribery and corruption of local government officials and employees.

- Finally, [m]embers and associates of organized crime families were and are directors, officers, employees, and . . . shareholders of various carting companies.[3]

According to Maloney, "[T]he relief we're seeking here is to put these people forever and a day out of the carting business." He asked the court to divest the managers of the forty-four indicted waste-hauling firms of their ownership interests, appoint a trustee to oversee the Private Sanitation Industry Association of Nassau/Suffolk, and remove Bernard Adelstein from his position as secretary-treasurer of International Brotherhood of Teamsters Local 813.[4] Maloney also sought to establish a $3 million fund for victims of the Long Island waste-hauling cartel. Shortly after the lawsuit was filed, two of the nation's largest waste-hauling firms, Browning Ferris Industries of Houston and Waste Management, Inc., of Oak Brook, Illinois, announced that they were considering entering the Long Island market.[5]

U.S. District Court Judge I. Leo Glasser dealt Maloney two early setbacks. First, he criticized the suit as "a transparent endeavor to lay claim to the largest civil RICO case ever, with government lawyers multiplying defendants, enterprises, and predicate acts as though numbers were ends in themselves."[6] Second, although allowing the case to go forward, Judge Glasser dismissed the claim for monetary relief on the ground that the RICO statute does not give the government standing to sue for damages.[7]

Wounded but not defeated, the U.S. Attorney's Office, now headed by Acting U.S. Attorney Mary Jo White, moved for partial summary judgment against Salvatore Avellino, head of the Private Sanitation Industry Association of Nassau/Suffolk.[8] Judge Glasser held that Avellino's guilty pleas in the OCTF cases "conclusively establish that he committed at least two predicate acts necessary for RICO liability."[9] Accordingly, he issued an injunction permanently barring Avellino from the waste-hauling industry, and forfeited Avellino's waste-hauling interests as well as the proceeds derived from his illegal actions.[10*] The

*Salvatore Avellino was sentenced to a three and a half– to ten and a half–year prison term for conspiring to murder two carters who cooperated with an Organized Crime Task Force investigation. He was also sued by the estate of murdered carter Jerry Kubecka. See *Jerry Kubecka v. Avellino,* 898 F. Supp. 963 (E.D.N.Y. 1995).

0800

government sought and received similar relief against Nicholas Ferrante, a Lucchese family associate.[11]

The Appointment of an Industry Monitor

In 1994, the parties reached a negotiated settlement. The defendants agreed not to associate with Cosa Nostra members and not to allocate customers by means of a "property rights" system. Avellino's SSC Corporation, now run by his wife and son-in law, and Emedio Fazzini's Jamaica Ash Corporation agreed to be monitored.[12] Waste haulers that were not parties to the consent decree still faced prosecutions.[13] Some of these firms voluntarily signed the consent decree. By January 1998, more than two-thirds of the original defendants had either come under the monitorship or divested themselves of their Long Island waste-hauling businesses.[14] Firms in the former category agreed to be monitored for five years[15] and to pay the costs of the monitoring effort.[16] A method had been found to shift the costs of law enforcement investigation to the suspects themselves.

The compliance officer was to be nominated by the U.S. Justice Department, subject to Judge Glasser's approval. The officer was given broad power to investigate the defendants to ensure that they did not associate with organized-crime figures or violate antitrust and other criminal laws. In the event that the monitor found evidence of racketeering, bid rigging, or customer-allocation schemes, he was to present his findings to either a hearing officer jointly selected by the carters and the Justice Department or to a federal magistrate. Michael Cherkasky, a former prosecutor (a member of the Manhattan DA's team in the Garment Center case against the Gambinos) and managing director of a private investigations firm, was selected to be the industry's compliance officer. His staff includes a former federal prosecutor, two accountants specializing in fraud, and two former law enforcement investigators. The hearing officer, former New York State Supreme Court Judge Leon Lazar could impose fines up to $75,000. The magistrate, by contrast, would be bound by the federal rules of evidence but would have the power to bar people from the waste-hauling industry and to order the forfeiture of illegal profits, no matter how large. The government or a carter could appeal the hearing officer's decisions to Judge Glasser.[17]

Cherkasky set up a twenty-four-hour, toll-free phone number for reporting corruption, racketeering, and anticompetitive practices.[18]

0801

He enforced the settlement against defendant firms and individuals by bringing, or by threatening to bring, charges before the magistrate.[19]

The monitor's most important achievement was opening up the industry to competition. Decades of anticompetitive practices had allowed many inefficient firms to profit because the cartel and property-rights system guaranteed them a customer base. Prior to 1994, no national waste-hauling corporation did business on Long Island.[20] After the settlement, several national waste-hauling corporations bought out defendant carting firms and entered the Long Island market. In April 1997, SSC was sold to Arizona-based Allied Waste Industries.[21] The world's largest waste-carting company, Waste Management, purchased South Side Carting.[22] USA Waste Services, Inc., purchased the assets of Vigliotti Brothers Carting.[23] Jamaica Ash remains the last major carting firm on Long Island not tied to a national corporation. Cherkasky speculates that by 2000, the entire Long Island market will be serviced by national companies.[24] The old cartel has disappeared.

Competition among the new carting companies on Long Island has resulted in lower prices. One large customer's annual bill fell from $360,000 to $170,000.[25] The winning bid for residential waste hauling decreased roughly 50 percent.[26]

BREAKING UP THE NEW YORK CITY CARTEL

The Chambers Paper Fibers' and BFI's Undercover Operations

New York City officials recognized that introducing competition would lead to the break-up of the carting cartel. But Cosa Nostra's decades-long stranglehold on the city's waste-hauling industry was a strong deterrent to outside firms. As late as 1993, New York City was the only major U.S. city in which no national waste-hauling firm operated. Browning Ferris Industries (BFI), a Houston-based company and the nation's second-largest carting firm, with more than $4.3 billion in revenues[27] and business in at least forty-four states,[28] did not service a single stop in New York City. WMX Technologies, Inc., posted upwards of $9 billion in revenues during 1993[29] but stayed out of the city.[30]

0802

To encourage national firms to enter the New York City market, the U.S. Justice Department offered to sell to outside firms the routes it seized from private haulers that had illegally dumped toxic materials. The department scheduled a February 1991 meeting with national waste haulers to encourage and facilitate the sales. As an added incentive, New York City Consumer Affairs Commissioner Mark Green promised that the city would buy back the routes if the new purchasers were driven out by organized crime.[31]

Although none of the major companies accepted the government's offer, BFI eventually decided to test the $1.5 billion New York City waste-hauling market. In late 1991, BFI obtained the contract to collect refuse at Columbia-Presbyterian Medical Center in Manhattan.[32] A BFI spokesperson said, "We're sending a message to Cosa Nostra . . . we're not being run out of town."[33] Cosa Nostra sent back its answer; the severed head of a German shepherd with a note in its mouth: "Welcome to New York."[34] The Council of Trade Waste Associations sued BFI for wrongfully interfering with preexisting carting contracts and for engaging in anticompetitive practices. Judge Diane Lebedeff quickly ruled against the council, upholding BFI's right to compete with local carters.[35] The council then initiated an anti-BFI advertising campaign; it called BFI a predatory pricer and an environmental polluter.[36] One television advertisement mocked BFI's lack of familiarity with New York City by portraying a Texan in a garbage truck staring at a map, trying to find Third Avenue and 75th Street.[37]

The Manhattan DA's office and the New York City Police Department's Organized Crime Investigation Division launched a major investigation of the cartel in 1990. In 1992, an undercover sting was initiated. Detective Richard Cowan posed as a manager of Chambers Paper Fibers Corporation, a Brooklyn-based carting company. During Cowan's three-year undercover operation, he paid more than $790,000 to other carters for the right to service specific stops.[38]

The Chambers Paper Fibers Corporation provided reliable evidence of Cosa Nostra's threats and violence. When Chambers Paper took away customers from members of the cartel, the cartel demanded that Chambers Paper give up its newly signed stops. Chambers Paper's drivers were threatened and beaten (one suffered a severe skull fracture), and a truck was burned. Leaders of the Council of Trade Waste Associations explained that if Chambers Paper paid its dues and stopped stealing customers, the violence would cease.[39]

0803

A year after its entrance into the New York City market, BFI still found local businesses unwilling to change carters, even though BFI's rates were as much as 40 percent lower than those of cartel members. BFI purchased several companies seized by federal authorities[40] but was unable to attract new customers. By 1993, BFI realized that its ability to compete in New York City depended upon the DA's success in purging organized crime from the industry. BFI then committed itself to active cooperation with the Manhattan District Attorney's office, allowing an undercover police officer to pose as one of its employees. For two years as the BFI/District Attorney's Office investigation gathered evidence, BFI's trucks were followed and stolen, its drivers threatened, and its executives subject to intimidating phone calls and letters.[41]

The 1995 Indictments and Plea Bargains

On June 22, 1995, District Attorney Morgenthau called a press conference to report sweeping indictments in New York City's waste-hauling industry.[42*] Charging that organized crime dominated the industry through extortion, coercion, conspiracy, and anticompetitive practices, Morgenthau announced a 114-count indictment against 17 people, 23 carting companies, and 4 trade associations.[43]

The indictment's first count charged that the defendants violated OCCA, New York State's version of the federal RICO statute,[44] by "having knowledge of the existence of a criminal enterprise (called herein the cartel) [and] intentionally conducting and participating in the affairs of the cartel by participating in a pattern of criminal activity."[45] The indictment then listed 113 predicate racketeering acts, including antitrust violations, arson, extortion, coercion, attempted murder, and the falsification of business records.[46] The indictment contended:

*The District Attorney's Office obtained an additional indictment of seventy-four counts on June 18, 1996, against thirteen individuals and eight companies, most of whom had been named in the previous indictment. The new indictment charged the defendants with violating OCCA. The primary racketeering act involved six individuals and five companies controlled by Phillip Barretti Sr. and his sons. Among those newly charged were Joseph and Frank Vitarelli, owners of All City Paper Fibers, and Adriane Paccione, owner of Yankee Continental Carting. David Voreacos, "Trash Industry Crackdown Widens: Bribery Bid-Rigging Charged," *Record,* June 20, 1996, A8.

0804

> The defendants and others banded together as the cartel in order to restrain competition in the private carting industry throughout the City of New York, and to keep carters' price and profits artificially high. The cartel's basic rule was that no carter be permitted to compete for the business of a customer serviced by another carter. The cartel enforced this rule by acts of violence, including attempted murder, assault and arson, and threats of violence, and concerted economic pressure.[47]

The Manhattan District Attorney's Office secured an emergency court order temporarily freezing $268 million of the indicted companies' and individuals' assets, and sought the appointment of receivers to monitor the defendant companies during the pendency of the criminal trial.[48] In December 1995, New York State Supreme Court Justice Walter M. Schackman selected nine receivers to ensure that the defendant carters did not hide or dissipate their assets before a judgment was rendered.[49] The receivers were given broad investigative powers to examine the records and activities of the firms.[50]

As the trial neared, it was revealed to the defendants that more than four hundred of their conversations had been taped by undercover detective Richard Cowan during his three years at Chambers Paper Fibers.[51] Faced with overwhelming inculpatory evidence, ten defendants entered guilty pleas. The most significant plea was that of Angelo Ponte, the longtime owner of one the largest waste-hauling firms in New York City and allegedly a business partner of the Genovese crime family.[52] Ponte pled guilty to attempted enterprise corruption and was fined $7.5 million, sentenced to a prison term of two to six years, and permanently barred from the waste-hauling industry. Ponte sold his waste-hauling assets to USA Waste Services, Inc., now prepared to test the waters of the New York City market.[53] Ponte's son, Vincent, pled guilty to paying a $10,000 bribe to obtain a waste-hauling contract. He was sentenced to five years' probation.[54]

The day before the jury was selected, five more defendants pled guilty to a single felony count of attempted enterprise corruption, and another defendant pled guilty to violating the Donnelly Act, New York State's antitrust law. Only six defendants remained:[55] Joseph Francolino, a Gambino family soldier and business agent of the Association of Trade Waste Removers of Greater New York; Frank Giovinco, the business agent of the Greater New York Waste Paper

0805

Association and alleged Genovese associate; Alphonse Malangone, formerly business agent of the Kings County Trade Waste Association and Genovese capo; Phillip Barretti Sr., owner of the third-largest waste-hauling company in New York City; and Louis Mongelli and his son Paul, owners of a Bronx-based carting company and alleged associates of the Genovese family.[56]

As the trial, which began in late May 1997, was about to enter its third month, and following Detective Cowan's eighteen days of testimony, four more defendants entered into plea agreements. Phillip Barretti Sr. received the most severe sentence: a prison term of four and a half to thirteen years and a $6 million fine. Frank Giovinco was sentenced to three and a half to ten and a half years in prison; Paul Mongelli, four to twelve years; and Louis Mongelli, three to nine years.[57] In October, after twelve days of jury deliberations, the two remaining individual defendants, Joseph Francolino and Alphonse Malangone, were convicted on all counts.[58] Francolino was sentenced to ten to thirty years in prison and fined $900,000.[59] Malangone, five to fifteen years and $200,000.[60] Thus, all seventeen individuals, four trade associations, and twenty-three companies in the original indictment were convicted.

Dismantling the Trade Association

In 1993 and 1994, while the Manhattan District Attorney's Office and the New York City Police Department were gathering evidence on the New York City waste-hauling cartel, federal prosecutors continued their relentless assault by targeting two vital components of the New York City metropolitan area carting cartels: the Association of Trade Waste Removers of Greater New York and IBT Local 813.

In April 1993, federal prosecutors obtained RICO indictments against James "Jimmy Brown" Failla, a capo in the Gambino crime family, who had run the association since 1957,[61] and five other Gambino family members and associates.[62] Failla was charged with four predicate acts: conspiracy to murder and the actual murder of Thomas Spinelli, a grand jury witness who had testified against John Gotti; tampering with a witness; and conspiring to extort money from carting companies.[63] On April 4, 1994, Failla and four of his codefendants pled guilty to murder conspiracy. In return, prosecutors agreed

0806

to drop the other charges and to recommend a seven-year prison sentence. Judge Charles Sifton criticized the plea agreement as too lenient. The prosecution responded that the defendants' age and health complications (Failla suffered from high blood pressure and heart problems) justified the plea bargain. Ultimately, Judge Sifton accepted the agreement, thereby removing Failla from the waste-hauling industry.[64]

Purging the Mob from IBT Local 813

In 1992, Charles Carberry, the investigations officer in the national IBT case, began investigating Bernard Adelstein, secretary-treasurer (the top position) of IBT Local 813, which represented employees of New York City and Long Island carting companies. Adelstein's ties to organized crime had first been brought to public attention twenty-five years earlier by Robert F. Kennedy during the McClellan Committee hearings. Throughout his lengthy career, Adelstein had served the interests of organized crime and the waste-hauling cartel. If a carter tried to take over another firm's customer or route, Adelstein would threaten a Teamsters strike against the rebel company.[65]

Carberry sought union discipline against Adelstein on grounds of his close association with James Failla. In permanently barring Adelstein from the Teamsters, Independent Administrator Frederick B. Lacey stated, "Adelstein's associations with the underworld are repugnant. . . . Only by cleansing the [Teamsters] of the likes of Adelstein can the Union ever hope to function as a corruption-free, democratic organization."[66] Adelstein appealed the administrator's decision to the district court, and to the Second Circuit Court of Appeals, but both courts affirmed Lacey's decision.[67] The Teamsters' president, Ron Carey, removed most of Local 813's other officials and appointed a trustee to run the local.[68]

A second stream of reformist pressure on IBT Local 813 resulted from the federal civil RICO suit against the Long Island carting industry. In the 1994 settlement, Local 813 agreed to a court-appointed monitor to root out racketeers and to monitor the reform effort.[69] Judge Glasser appointed Joseph Foy monitor and enjoined union members from engaging in racketeering activities or associating with organized crime figures.[70]

0807

REGULATION WITH TEETH: THE NEW YORK CITY TRADE WASTE COMMISSION

The most novel effort to break the fifty-year-long cartel among New York City carters was the regulatory initiative launched by the Giuliani administration. In furtherance of his determination to liberate the city from the influence of organized crime, Giuliani established a new agency that spun a regulatory web around the carting industry. Giuliani's plan built upon the "exclusive-licensing" model that Consumer Affairs Commissioner Mark Green had proposed in the early 1990s[71] (that model, in turn, built on the licensing program of the New Jersey Gambling Commission and Waterfront Commission) and the licensing system in place at the Fulton Fish Market.[72] The mayor's plan included licensing industry participants, reducing carting rates, and increasing competition.

On November 30, 1995, Mayor Giuliani made a joint appearance with now Public Advocate Mark Green, City Council Speaker Peter Vallone, and District Attorney Robert Morgenthau to announce the proposal that would ultimately become Local Law 42.[73] The law embodies several different strategies of organized-crime control: (1) licensing to bar mob-connected carters from the industry; (2) maximum rates to prevent the cartel from extracting exorbitant profits; and (3) prohibiting contractual terms that facilitated the carters' hold on their customers.[74] The preamble declared that "the carting industry has been corruptly influenced by organized crime . . . [and] fostered and sustained a cartel" and that Local Law 42 intended to "enhance the city's ability to address organized crime corruption, to protect businesses who utilize private carting services, and to increase competition in the carting industry." A Trade Waste Commission (TWC) would take over the regulatory responsibilities of the Department of Consumer Affairs with respect to the carting industry. The TWC was authorized to

- Establish standards for the issuance and revocation of waste-hauling licenses;
- Make individual determinations regarding the issuance, suspension, and revocation of such licenses;
- Investigate the background and fitness of a licensee's employees;
- Appoint independent auditors and monitors;

0808

- Establish maximum and minimum rates for waste-collection and disposal;
- Investigate any matter within the TWC's jurisdiction, including the power to compel testimony and the production of documents;
- Establish service standards for all licensees, including standards for contracts, billing, and compliance with safety and health measures;
- Establish special trade waste–removal districts; and
- Establish fees and rules that the TWC deems necessary for effecting the purposes of Local Law 42.*

The TWC consists of the commissioners of the departments of investigation, business services, consumer affairs, and sanitation. It is headed by an executive director appointed by the mayor. The entire agency is staffed with individuals who have experience investigating or prosecuting organized crime. Edward Ferguson, the first director, had previously served as a federal prosecutor under Giuliani. Thirty New York City police detectives, working out of the Police Department's Organized Crime Control Bureau, are assigned to the TWC to conduct background checks on carting firms and to investigate complaints. The TWC also employs eight auditors and seven inspectors.[75]

The waste-hauling cartel, fighting for survival, launched a legal counterattack. A few days after Mayor Giuliani signed the new law and appointed Deputy Mayor Randy Mastro to serve as acting chair of the TWC, the carters filed a federal suit challenging the law's constitutionality.[76] The plaintiffs argued that the provisions regulating waste-hauling contracts violated the Contract, Takings, and Due Process Clauses of the U.S. Constitution, and that the provisions regarding licensing violated the waste-haulers' constitutional rights to

*Such a regulatory scheme would not be feasible on Long Island because each town has separate licensing procedures and requirements. Long Island waste-hauling Compliance Officer Michael Cherkasky has proposed the creation of an ad hoc committee that would include representatives from the various towns on Long Island, law enforcement agencies, the New York State Department of Environmental Control, the FBI, and the U.S. Attorney's Office for the Eastern District of New York, to address waste-hauling issues. *United States v. Private Sanitation Indus. Assoc.*, CV-89-1848 (E.D.N.Y. 1989), Report VII From the Compliance Officer, January 26, 1998, 7–8.

0809

privacy and association.[77] Mastro responded that "Local Law 42 is an appropriate exercise of the City's police power and authority to regulate local industry to remove organized crime's 40-year stranglehold over the City's private carting industry."[78] In a June 26, 1996, written order, U.S. District Judge Milton Pollack upheld the constitutionality of Local Law 42, stating, "The surgery performed by Local Law 42 clearly was essential, overdue and carefully tailored to protect the public interest."[79]

The carters also failed to persuade the Court of Appeals.[80] Writing for a unanimous panel, Judge Richard Cardamone traced the history of corruption, intimidation, and racketeering in the waste-hauling industry, labeled the waste-hauling cartel a "'black hole' in New York City's economic life," and rejected every one of the carters' constitutional arguments.[81]

Undaunted, the carters next brought suit in state court presenting many of the same constitutional arguments.[82] The state court judge granted the TWC's motion to remove the case to federal court, where Judge Pollack again rejected the legal arguments he had heard only four months before.[83]

The TWC vigorously publicized the new law and regulations. A flyer bearing a large seal of the city of New York and the bold words "Notice From Mayor Rudolph W. Giuliani and the New York City Trade Waste Commission" announced to all waste-hauling customers: "THIS MAY BE YOUR INDEPENDENCE DAY." Local Law 42 declared all carting contracts terminable-at-will by the customer on thirty days' notice. The flyer also explained that the customer was free to void its contract and to negotiate with a carter of its choice. The flyer explained that carting contracts could not extend beyond two years, and that if a customer's contract with one carter was assigned to another firm, the customer would have the right to reject the assignment and select a new carting company. "You will now have freedom of choice and the right to a fair and honest price," the notice stated, exhorting customers to "EXERCISE YOUR RIGHTS."

A waste hauler could seek a waiver from the provision voiding its contracts if it could show that its contracts were fair and that it did not engage in illegal business practices. In determining whether to grant a waiver, the law instructed the TWC to consider "information concerning the business and its principals and the full circumstances surrounding the negotiation or administration of such contracts."[84] In the sum-

0810

mer of 1996, when the commission denied the waiver applications of fourteen major carting firms, it gave 10,000 New York City businesses the right to cancel their waste-hauling contracts immediately, freeing them to deal with any waste-hauling firm.[85] Of the 335 carting firms operating in New York City, 212 applied for waivers. The TWC granted only forty.[86]

On September 30, 1996, the TWC issued comprehensive rules. Among them: (1) a carter may not associate with a person whom the carter knows or should know is a member of organized crime; (2) carters may not use trade associations to resolve their disputes over customers, nor to make payments for acquiring former customers of other carters; (3) carters must file their proposed rates with the TWC, to ensure that they are not higher than the maximum allowed by the city; and (4) carters must offer a written contract to each customer; any oral contract can be terminated at will by the customer. Trash haulers convicted of violating the TWC's rules could be fined up to $10,000 and, for operating without a license, sent to jail for up to six months.[87]

On March 26, 1997, the TWC reduced the maximum rate that could be charged for commercial carting to $12.20 per cubic yard of uncompacted waste (down from $14.70 previously set by the Department of Consumer Affairs), and $30.19 per cubic yard of compacted waste (down from $46.70).[88] Giuliani called the reductions the largest tax cut of his administration. Indeed, the reductions were striking. The World Trade Center's annual carting bill dropped 80 percent (from $3 million to $600,000); Columbia Presbyterian Hospital's, 60 percent (from $1.2 million to $480,000); and the bill at 26 Federal Plaza's, 65 percent (from $369,000 to $130,000).[89]

A NEW THREAT TO COMPETITION IN THE CITY'S WASTE-HAULING INDUSTRY

The elimination of the cartel and of organized crime does not mean that competition will reign forever. The Trade Waste Commission has been harshly criticized by smaller carting companies and local businesses that blame it for delays in processing their license applications, thereby ceding the industry to a new cartel of major corporations. In early 1998, a proposed merger involving Waste Management, Inc., the nation's largest carting company, and USA Waste Services, the third-largest,

0811

threatened to consolidate 40 percent of the New York City market[90] and 72 percent of the city's transfer-station capacity.[91] By controlling the transfer stations, the new company would be able to increase transfer costs, thereby effectively driving smaller firms out of business and thus nullifying the City's efforts to bring bona fide competition to the industry. At a July 1998 meeting of the City Council's Committee on Consumer Affairs it was reported that roughly 9,500 shopkeepers have experienced a 30 percent increase in their carting costs.[92] Brooklyn Borough President Howard Golden stated in a letter to U.S. Attorney General Janet Reno that New York City was "exchanging organized crime control [over the waste hauling industry] for monolithic corporate control."

By mid-July 1998 a settlement was reached between Waste Management and USA Waste Services officials, and the U.S. Justice Department and thirteen state attorneys general. The settlement allowed for the merger to occur contingent upon the companies' divestiture of three New York City area waste transfer stations.[93]

A WASTE-HAULING INDUSTRY FREE OF THE COSA NOSTRA?

After almost fifty years of dominating waste hauling in New York City and Long Island, organized crime has been routed. The multifaceted remedial efforts of the 1990s, including the creation of the Trade Waste Commission, the Manhattan district attorney's prosecutions, and the Long Island monitorship, appear to have liberated the carting industry and its customers.

As recently as the early 1990s, BFI had no more than 200 clients among the approximately 250,000 commercial enterprises in New York City,[94] and other national carting firms were not willing to compete in the New York City market.[95] By 1997, BFI had more than 500 customers,[96] but it is overshadowed by both USA Waste, which purchased Barretti Carting and began servicing Barretti's nearly 5,000 customers,[97] and WMX, which purchased Resource NE and serves 6,000 businesses citywide.[98] Even more impressive than the entrance and expansion of national firms into New York City's market is the emergence of bona fide competition. Waste-hauling costs for large office buildings have dropped between 30 and 40 percent, and for

0812

smaller businesses by as much as 25 percent.[99] According to industry experts, these reductions indicate that there is real competition in the city's waste-hauling industry.[100]

The TWC has been the most creative and important strategy in purging the mob from the carting industry. Staffed by former law enforcement personnel, it functions like a quasi law enforcement agency. It uses its investigative powers and resources to bar firms tainted by organized crime from the industry. As long as the TWC is run by competent and aggressive officials, Cosa Nostra's comeback in the carting industry is unlikely. The true test of the regulatory strategy will come when Giuliani leaves office. Then we will see if the TWC remains vigorous or deteriorates into a moribund regulator.

0813

14

Cleansing the Construction Industry

> We must break the back of corruption in the City's massive construction industry. Price fixing, job extortion, kickbacks and organized crime infiltration and control of legitimate business cannot and will not be tolerated in the greatest City of the greatest State in America.[1]
>
> —Governor Mario M. Cuomo, 1985

THE ITALIAN AMERICAN organized-crime families have been prominent in the New York City construction industry since the 1930s. In the mid-1980s, their influence and power was certainly at or near its pinnacle. Their most important power base was the construction union locals affiliated with the Teamsters, Carpenters, Masons, Laborers, and Plasterers unions. Control of the unions enabled the Cosa Nostra families to solicit bribes, extort contractors, and place members, associates, and relatives in bona fide and no-show jobs with contractors and suppliers; to take ownership interests in contracting and supply firms; and to set up and police cartels in a number of construction niches like drywall, concrete, and window replacement.

Over the years there have been periodic exposés of corruption and racketeering in the construction industry. In the mid-1980s, amid yet a new scandal, Governor Mario M. Cuomo asked the New York State Organized Crime Task Force (OCTF, an independent state agency) for a comprehensive examination of the problem. The OCTF launched the most thorough investigation and analysis of construction-industry corruption in history. Nevertheless, its many recommendations have gone largely unheeded.

Other than OCTF's investigations there has not been an organized-crime control program specifically aimed at the massive construction industry. But there have been a number of important initiatives, especially trusteeships imposed on corrupt labor-union locals and district

0814

councils, and efforts by government agencies like the School Construction Authority to police their construction contracts and contractors. In the spring of 1998, the Giuliani administration proposed a regulatory attack on construction-industry racketeering, which, if implemented, would be the most ambitious and comprehensive organized-crime control program specifically aimed at the city's construction industry.

THE OCTF INITIATIVE

In April 1985, in the wake of allegations by the media and conclusions by the New York State Investigation Commission of rampant corruption and racketeering in the New York City construction industry, Mayor Edward I. Koch urged Governor Cuomo to appoint a special prosecutor. Cuomo agreed that the problem was serious, but rather than appoint a special prosecutor, he requested the OCTF (1) to undertake an "intensive and comprehensive investigation into allegations of corruption and racketeering in the New York City construction industry"; (2) to determine "the appropriate prosecutorial and other responses to alleged organized crime activity within the multibillion dollar construction industry"; and (3) to report its conclusions to him and the state attorney general.

Although he had rejected Koch's proposal for a special prosecutor, Cuomo recognized the need to enhance and focus the law enforcement effort. Thus, in December 1987 he created the Construction Industry Strike Force (CISF), composed of prosecutors, investigators, accountants, and support staff from both the OCTF and the Manhattan District Attorney's Office.

The OCTF responded to the governor's request by initiating criminal investigations, designing and utilizing a computer database on construction-industry corruption and racketeering, undertaking an analytical study of the nature and causes of construction-related corruption and racketeering, and embarking upon a broad search for strategies to attack the problem. The CISF produced a number of important investigations and prosecutions involving mobsters, employers, unions, and union officials involved in the drywall, concrete, painters, and plumbers cartels.

OCTF's 1998 Interim Report and 1990 Final Report comprise a comprehensive multidisciplinary analysis of corruption and racketeering in

0815

the construction industry, especially the structural, processual, legal, and regulatory variables that make the industry so vulnerable to systemic criminality. Some of the OCTF's primary recommendations were:

- Establish an Office of Construction Corruption Prevention (OCCP)
  As envisioned in the report, the primary purpose of the office would have been to utilize intelligence, information, and industry knowledge (much of which was to be collected by OCTF's research and analysis unit) to design and implement regulations and procedures that bolster deterrence, further incapacitation, block opportunities, and reduce racketeering susceptibility and potential. The office would have combined the Department of Investigation's investigative authority and expertise with the New York City Office of Construction's regulatory authority and expertise. The possibility of creating an OCCP has never been seriously considered.
- Certified Investigative Auditing Firm (CIAF) Program
  The report proposed that the principal contractor on public works projects in excess of $5 million would be required to hire a private-sector monitor and dedicate at least 2 percent of the project budget to the CIAF. The CIAFs would, in effect, function as private inspectors general to insure compliance with relevant laws and regulations and to deter, prevent, uncover, and expose unethical or illegal conduct. This proposal has never been implemented, but CIAFs (often called IPSIGs—Independent Private Sector Inspector Generals) have been utilized on a case-by-case basis by the School Construction Authority, the Trade Waste Commission, and, more recently, by a number of city agencies.
- Office of Union Members Advocacy (OUMA)
  The report saw union democracy as an important bulwark against labor racketeering and hence urged the creation of a new agency to act as ombudsman in advancing the rights of construction-union members. "If rank-and-file union members can make their elected officers responsive to the membership's actual needs and best interests, racketeers will no longer be able to sell out the rights of union members by soliciting bribes and extorting money from contractors."[2] This proposal was never seriously debated, but many of the court-appointed union trustees focused on promoting union democracy.

0816

- State and City Tax Enforcement
  The report urged that state and local tax agencies make construction-industry tax fraud an enforcement priority. "The tax agencies' efforts to audit construction companies, to increase tax compliance, and to recover money from tax evaders would also provide investigative leads for the law enforcement agencies, since most corporate racketeering is accomplished by falsification of corporate books and tax fraud." This recommendation was not implemented.

THE ELIMINATION OF CARTELS

The major organized crime–sponsored cartels, described in chapter 7, each of which lasted for a decade or more, seemed to have been broken up by a combination of criminal prosecutions and civil RICO suits resulting in court-appointed trusteeships over corrupt labor unions.

The Concrete Cartel

Throughout the 1980s, state and federal prosecutions targeted members and associates of Cosa Nostra who controlled the concrete subindustries. In 1982, John Cody, Gambino associate and president of Teamsters Local 282, which controlled the drivers of concrete-mixing trucks, was indicted and convicted on charges of labor bribery and racketeering.[3] Four years later, in the Colombo family RICO prosecution, Ralph Scopo and other prominent Colombo family members were convicted. An important part of that case focused on the lower tier of Cosa Nostra's concrete cartel—the extortion of 1–2 percent fees on all concrete contracts under $2 million.[4] Also in 1986, in "the commission case," federal prosecutors proved the creation and supervision of the concrete cartel's $2–$5 million club. The defendants, senior members of four of New York City's five Cosa Nostra families, including Ralph Scopo,[5] were sentenced to hundred-year prison terms. In 1988, the government obtained a RICO conviction against the Genovese family and its ostensible boss, Anthony "Fat Tony" Salerno (law enforcement agents later came to believe that Vincent Gigante was the boss and Salerno the underboss). S&A Concrete's monopoly of concrete jobs of more than $5 million, the top tier of Cosa Nostra's

0817

cartel, figured prominently in that case;[6] half of S&A's assets were forfeited to the federal government. The concrete-producing companies that Cosa Nostra controlled through Biff Halloran were also forfeited.[7]

The federal prosecutors' civil RICO suits resulted in court-appointed monitorships placed over Local 6A and the District Council of Cement and Concrete Workers in 1987, and over Teamsters Local 282 in 1995. The former trusteeship ended in 1993 with reports of no significant change; the latter trusteeship was still in place at the end of 1998.[8]

The prosecutorial efforts were complemented by at least one important mayoral initiative.[9] In 1986, the Koch administration moved against the mob-controlled monopoly on concrete *production* by setting up a city-subsidized batching plant from which all city building projects would have to purchase their concrete.[10] The goal was to break the mob's monopoly by establishing a competitor that would sell concrete at a fair market price, thereby undercutting the cartel. It didn't work out that way. Perhaps not surprisingly, the city had great difficulty finding a reputable business person who wanted to go into head-to-head competition with the mob-controlled concrete companies. Mustapha Ally, a Maryland resident with little concrete production experience, was the only viable respondent to the city's solicitation.[11] His fledgling company, the West 57th Street Concrete Company (West 57th), was plagued by lawsuits from companies alleging unfair competition.[12] Ultimately the city canceled its contract in August 1987, because Ally's company had failed to produce a significant amount of concrete.[13]

F.E.D. Concrete Company bought the contract rights from Ally, and had the West 57th plant producing at full capacity by 1988.[14] However, by then the market price of concrete had fallen dramatically and the city found itself paying more for concrete than private developers. Nevertheless, in 1991 the city renewed F.E.D.'s contract for five more years. Two years into its renewed contract the West 57th plant was bankrupt; F.E.D. subcontracted its New York City contracts to a company that some law enforcement agents suspected of mob-affiliations.[15] This strategy failed to keep F.E.D. afloat, and West 57th collapsed in bankruptcy in 1995.[16] At the end of 1998 the city reverted to purchasing ready-mix concrete in the private sector.

After the Genovese family trial in 1988, in which Certified Concrete and Transit Mix, the two Halloran-owned companies that monopolized production during the cartel's reign, were forfeited to the court and

0818

placed under court trustee David Brodsky. By 1990, Certified Concrete was bankrupt. The U.S. attorney began investigating whether Certified Concrete's business had been turned over to Valente Industries, which State Attorney General Robert Abrams feared was well on its way to creating a new monopoly over concrete production.[17] That same year, the court sold Certified Concrete and Transit Mix Concrete to John Quadrozzi with the requirement that there be a seven-year court monitor. Two years later, Quadrozzi was indicted on charges of making illegal payoffs to union leaders and the mob.[18] Although concrete-production and -contracting cartels have been broken up, it remains to be seen whether the Mafia will be purged from the city's subindustry.

Drywall

In the late 1970s, the FBI's Long Island Labor Racketeering and Extortion (LILREX) investigation[19] revealed a club of drywall contractors supervised by Vincent DiNapoli, a Genovese soldier, aided by Teddy Maritas, the Carpenters District Council president.[20] This investigation lead to a 1981 RICO suit by the Brooklyn Organized Crime Strike Force against DiNapoli, Maritas, and several others.[21] The trial ended in a hung jury and Maritas disappeared just before the retrial. Vincent Cafaro, a Genovese member cooperating with the government, testified that Maritas was murdered to prevent his possible cooperation with the government. In April 1982, the other defendants pled guilty. DiNapoli received a five-year sentence; other members of the Genovese family took over his rackets.

Continued federal investigations into the drywall cartel led to the successful prosecution of Standard Drywall Corporation and Prince Carpentry on charges of mail fraud and tax evasion involving schemes to avoid making required union benefit-fund contributions and assisting employees to obtain illegal unemployment benefits.[22] The club of mob-controlled companies was broken up, but Cosa Nostra's presence in the subindustry continued. DiNapoli even remained a significant shareholder in Inner City Drywall, a major contractor, until he sold his shares following his 1988 conviction in the Genovese family RICO case.[23]

In 1987, law enforcement officials began a series of prosecutions and civil suits aimed at purging Cosa Nostra from the drywall industry.[24] Officials of Carpenters Local 608 were successfully prosecuted for

0819

extorting payoffs and soliciting bribes from contractors.[25] The most significant government initiative was a civil RICO suit that resulted in a consent decree in which the Carpenters District Council promised to cleanse itself and its constituent locals of Cosa Nostra's influence.[26] Former Department of Investigations commissioner and former federal judge Kenneth Conboy was appointed to monitor the consent decree, and he expelled several corrupt officials and stewards. Moreover, he convinced the international organization to impose a trusteeship that promises significant hiring-hall reform, reorganization of union leadership, and further efforts to purge the union of organized crime.[27]

Window Replacement

In 1990, officials of Local 580 of the Architectural and Ornamental Ironworkers Union (Local 580) and senior members of four of New York City's five Cosa Nostra families were indicted on RICO charges. Among the predicate offenses were extortion, labor payoffs, and bid rigging on contracts with the New York City Housing Authority.[28] The prosecution's key witness was Peter Savino, a Genovese associate, who, as a government cooperator from 1988 to 1989, surreptitiously recorded many hours of conversations regarding the windows cartel.[29] The trial, which played out like a movie, was mired with murder, fugitive defendants, jury tampering, and turncoats.[30]

Vincent "the Chin" Gigante, reputed boss of the Genovese family, was found mentally unfit to stand trial.[31] Vittorio Amuso and Anthony "Gaspipe" Casso, boss and underboss of the Lucchese family, went into hiding. The organizers of the cartel, Venero Mangano and Benedetto Aloi (underbosses of the Genovese and Colombo families, respectively),[32] received significant sentences for conspiring to murder witnesses after discovering Savino's cooperation with the FBI.[33] Peter Chiodo, a Lucchese capo who entered into a cooperation agreement, testified that, on orders from the defendants, he murdered codefendant John Morrissey, a Local 580 business agent and Lucchese associate.[34]

Of the fifteen original defendants, eight went to trial; there were just three convictions.[35] Those convicted were Mangano and Aloi, two of the main organizers of the cartel, and Dennis DeLucia, a Colombo soldier. Follow-up prosecutions succeeded in convicting Thomas McGowan, the Manhattan business agent of Local 580, for receipt of illegal labor payments from a private contractor.[36] Vittorio Amuso was convicted on

0820

a superseding indictment of a number of crimes including participation in the windows cartel.[37] Vincent "the Chin" Gigante was convicted in 1997 of RICO and extortion, labor payoffs, and murder conspiracies.[38] Finally, Anthony "Gaspipe" Casso was arrested in 1993 after a two-and-a-half year manhunt, pled guilty in 1994 to racketeering and murder charges, became a government witness, was discredited and removed from the Witness Security Program, and finally sentenced to life imprisonment without parole.[39]

Painting

In the summer of 1990, one month after the windows indictments, the Manhattan District Attorney's office obtained indictments against union officials, contractors, and Cosa Nostra members for operating a cartel in the painting industry.[40] Specifically, prosecutors accused members of the Lucchese crime family with controlling union officials in Painters District Council 9 and its locals and with conspiring with painting contractors in a twelve-year bid-rigging scheme tainting all major public and private painting contracts in the city.[41] By 1991, Anthony Casso was on the run from the windows case, another defendant became a government witness, and others had pled guilty. This was the first successful use of New York State's Organized Crime Control Act against labor officials.[42] Two years later, combined Manhattan District Attorney, FBI, and IRS investigations led to successful charges focusing on the Lucchese family's domination of steel-painting contracts during the same time period.[43] The cartel seems to have been broken up.

Racketeering in the Plumbing Industry

In 1993, a four-year investigation culminated in a series of Manhattan District Attorney's Office prosecutions against Genovese associate Louis Moscatiello Jr., Plumbers Local Union No. 2 (Local 2) officials, plumbing contractors, a major accounting firm, and plumbing inspectors, in an attempt to break up a plumbing cartel of ten years' duration.[44] Louis Moscatiello Jr. was acquitted.[45] Prosecutions against ten union officials led to seven convictions and three acquittals.[46] The district attorney's effort to have Local 2 placed under trusteeship was preempted when the Plumbers Union's national headquarters imposed its own trusteeship over the local.[47] However, progress in eliminating

0821

organized crime from Local 2 was undermined in 1997, when Local 2 was merged with the reputedly corrupt Local 1.[48] The prosecution of contractors continues.

LABOR RACKETEERING AND UNION TRUSTEESHIPS

Many of the key mobbed-up construction unions identified in the 1990 OCTF Report have been placed under federal court–appointed trusteeships or monitorships or under receiverships imposed by the parent international union. It would be a stretch to see these trusteeships as part of a single strategic move to clean up the construction industry, but many of the lawsuits that produced these trusteeships were spawned by the construction-industry investigation launched in the mid-1980s by Governor Cuomo and Mayor Koch.

Carpenters District Council

One of the most successful union trusteeships is the one imposed on the Carpenters District Council.[49] Even before the 1994 settlement of the civil RICO suit, the lawsuit itself had prompted anticorruption efforts within some of the District Council's constituent locals. An interim investigation into elections and misconduct charges helped rank-and-file members to oust long-time incumbents in elections at Locals 17 (Bronx) and 20 (Staten Island). The Association for Union Democracy noted that "the combination of government action and rank and file involvement stimulates union democracy against corruption."[50]

As the District Council's IRO, Kenneth Conboy charged several local union officials and members with being associated with Cosa Nostra; most of these cases resulted in permanent bars from union office, retirements, and expulsions from the union.[51] Ousting corrupt officials was only the beginning. Conboy also persuaded the international organization to impose a trusteeship over the union.[52] The need for the parent body's aid was made apparent when Frederick Devine, a Cosa Nostra associate and incumbent president of the District Council, won a landslide victory as incumbent president of the council in 1995.[53] As Conboy wrote in a 1996 report, "[T]he influence of organized crime on the District Council and its locals is pervasive and long-standing. . . .

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The only realistic hope of returning the District Council to its membership require[s] the intervention of the International."[54]

In June of 1996, Douglas McCarron, president of the Carpenters International union, imposed an emergency trusteeship over the District Council, ousting Devine from office.[55] McCarron, in cooperation with Conboy, also implemented a controversial restructuring plan for the District Council and its locals.[56] One significant reform is a computerized central dispatch to "conclusively end the tyranny of business agents in dispensing jobs and controlling the livelihoods of rank and file carpenters."[57] Other measures include the implementation of a district-wide out-of-work list for the appointment of job stewards, as well as the use of a labor-management fund to employ liaisons with law enforcement agencies who would act to enforce collective bargaining agreements.[58] While allegations of harassment and job referral violations continue, Conboy believes that "the union is carefully but steadily progressing towards . . . effective self-governance."[59] Locals' elections are planned for the summer of 1999, and District Council elections for 2000.[60]

Teamsters Local 282

IBT Local 282, the mob-controlled union that enforced the concrete-pouring cartel, was placed under international trusteeship in 1992, shortly after Robert Sasso quit as a result of an investigation by the IBT's investigations officer, Charles Carberry.[61] Ron Carey initially appointed Johnnie Brown as trustee. Two years later, after guilty pleas by five former and current Local 282 officials, including Sasso,[62] federal prosecutors brought a civil RICO suit against the local. That suit led to a 1995 agreement whereby a full-time court-appointed "corruption officer" would ferret out corruption and a court-approved trustee from the International would run the union.[63] The court appointed former chief investigator to the Mollen Commission and former police Lieutenant Robert Machado as the corruption officer.[64] Machado is empowered to remove officials and stewards from their positions without a hearing (their cases would then be referred to an IBT review board); within months of his appointment he had removed sixteen officials identified by the U.S. Labor Department as organized-crime associates.[65]

The settlement further required the International to replace Jimmy Brown with Peter Mastrandrea, and later with Gary LaBarbera.[66] Union

0823

reformer Larry Kudla praised LaBarbera's appointment as a positive step.[67] But some knowledgeable observers are not yet willing to label the Local 282 reform effort a success story.[68]

Local 6A and the District Council of Cement and Concrete Workers

Local 6A and the District Council of Cement and Concrete Workers, which played a key role in assuring the mob's control over the concrete industry, signed a consent decree that resulted in the resignation of sixteen union officers, including Ralph Scopo Jr., who was president of Local 6A, and his brother, who was vice-president; both men were permanently enjoined from the union's affairs.[69] The union was placed under a court-appointed trusteeship from 1987 to 1993.[70]

In March 1987, Judge Vincent Broderick appointed former federal prosecutor Eugene R. Anderson to monitor Local 6A and the District Council,[71] both of which were reportedly "captive labor organizations"under the Colombo family's control.[72] At the end of his six-year tenure, Anderson concluded that his trusteeship had not made significant headway toward rooting out corruption. He blamed his limited powers, inadequately funding, and insufficient support from the FBI and the U.S. Labor Department.[73]

Mason Tenders District Council

In 1994, a civil RICO and ERISA (Employee Retirement Income Security Act) suit brought by federal prosecutors established a monitorship over the Mason Tenders District Council, which represents twelve locals whose members perform jobs including general labor, bricklaying, masonry, and asbestos removal throughout the metropolitan area.[74] The court appointed former federal prosecutor Lawrence B. Pedowitz and former New Jersey U.S. Attorney Michael Chertoff to act as monitor and investigations officer (IO), respectively. The monitor and IO expelled several members from the union, including a convicted Long Island racketeer, Peter "Jocko" Vario, a Lucchese member.[75] Chertoff also worked with the FBI and Department of Labor to bar corrupt candidates from 1997 elections for local officials.[76] The District Council has also mandated FBI clearances for shop-steward positions.[77]

0824

Just prior to the 1994 consent decree, the Laborers International Union of North America (LIUNA) imposed its own trusteeship over the District Council, naming David Elboar trustee. Elboar signed the consent decree establishing the court monitorship. Steven Hammond, who replaced Elboar in 1995, felt that removal procedures against corrupt officials were delaying efforts to clean up the union. He therefore proposed a restructuring plan to consolidate the District Council's twelve locals into four, eliminating most of the corrupt officials' positions. This plan was implemented in 1996.[78]

Under threat of a civil RICO suit seeking a court-ordered trusteeship, the International union itself agreed to combat corruption to the Justice Department's satisfaction.[79] The International committed itself to job-referral and hiring-hall reforms. Although the Justice Department has been satisfied with LIUNA's efforts thus far, some union members complain that LIUNA is exaggerating its anticorruption efforts to placate the government until the oversight agreement ends.[80] As of the summer of 1998, no significant effects of this agreement have reached New York City's laborers locals.[81]

In May of 1998, LIUNA's general counsel testified to the success of the Mason Tenders District Council's trusteeship, claiming that "all vestiges of corruption and organized crime influence" have been eradicated.[82] However, prominent union-democracy activist Herman Benson believes that further efforts are necessary to eradicate and prevent Cosa Nostra's long-standing influence in the District Council.[83]

Painters

In 1991, in the wake of state racketeering charges against Local 1486 (Long Island) and District Council 9 (New York) alleging a conspiracy with Cosa Nostra to maintain a painting cartel,[84] William Duvall, the International Painters Union president, placed District Council 9 under the trusteeship of John Alfarone.[85] Alfarone, a longtime union official who had opposed mob corruption in a local dry-wall union, was hampered by limited powers and internal conflicts within the International's executive body. Even though state charges led to several convictions and prison terms, some officials who had been appointed by the corrupt regime kept their union positions and their control over job assignments. In 1992 elections, "picked representatives of the old guard took over—took back—all offices, all without opposition except for

0825

one." Frank Schonfeld, a veteran Painters Union reformer, noted in the *Union Democracy Review* that without a government presence behind the trusteeship, and without strong backing by the International union, "the overhanging climate of fear and apathy was never lifted."[86] In his view, the union local remains under the Lucchese family's influence.[87]

Ironworkers Local 580

There has been no action taken to place Ironworkers Local 580, the "corrupt engine" behind the Cosa Nostra's window-replacement cartel, under court supervision. Individuals like Thomas McGowan, the union's Manhattan business agent who participated in the cartel, were convicted, but there is no evidence that the union has been purged of corruption. Local 580 continues to have a reputation for organized crime ties.[88]

Plumbers

In 1993, the Manhattan District Attorney's Office launched a major prosecution against officials in Local 2 (Manhattan and the Bronx) of the Plumbers Union.[89] The International union imposed its own trusteeship in 1994, thereby heading off the DA's effort to obtain a court-appointed trustee.[90] The trustee instituted a hiring hall, a positive step because the union had had no job-assignment rules prior to that time. In 1996, the reform effort suffered a setback when an indicted candidate was elected as business agent.[91] Although the trusteeship seemed to be on the road toward reform, its efforts were rendered moot in 1997 when the International organization merged Local 2 with the reputedly corrupt[92] Local 1 (Brooklyn and Queens).[93]

SCHOOL CONSTRUCTION AUTHORITY'S AND OTHER AGENCIES' INITIATIVES

Although no action was taken on its major recommendations, the 1990 OCTF report attracted a great deal of attention. The School Construction Authority (SCA) took the ideas of the report farther than any other public agency. In part, the SCA was created in 1989 because of the corruption associated with the New York City Board of Education's con-

0826

struction operations.[94] The founders of the SCA were determined to keep the new authority squeaky clean. This led them to appoint Thomas D. Thacher II (former CISF director) as the first inspector general. Thacher took the job only after the SCA met his condition that the IG office would have a staff of sixty. Thus, from the outset the SCA made a heavy investment in the control of corruption and organized crime.

The SCA's boldest move was to require the prequalification of contractors who wished to bid on SCA contracts. Contractors had to submit to a thirty-page prequalification questionnaire that included questions such as "In the past ten years has the applicant firm or any of its current or past key personnel or affiliate firms 1) taken the Fifth Amendment in testimony regarding a business related crime?; 2) given or offered money to a labor official or public servant with intent to influence that labor official or public official with respect to any of his or her official acts, duties or decisions as a labor official?; 3) agreed with another to bid below the market rate?" An applicant can be blacklisted as well as prosecuted for a false answer.

The SCA investigators scrutinized the forms and did their own independent investigation. In August 1991, the SCA announced that it was blacklisting for up to five years more than fifty construction companies.[95] More than half the disqualifications were based on purported mob ties or criminality. By 1995, the SCA reported that it had conducted upwards of 3500 background evaluations and debarred 200 firms, "many of whom had ties to organized crime or were the alter ego of firms with prior legal or debarment problems."[96] For example, the SCA debarred the concrete company owned by Nick Auletta's (Genovese crime family) son and the DeCon Plumbing company, which was largely owned by Gerald Fiorino, a Genovese soldier.[97]

Some "problem" contractors were not disqualified if they agreed to hire a private investigating firm (CIAF) (1) to design a code of ethics for the contractor; (2) to implement a corruption prevention program; and (3) to audit and report to the SCA on the contractor's compliance with the code and the program.[98]

The new New York City Charter contained many anticorruption provisions that were meant to respond to charges that the public-construction process was vulnerable to corruption.[99] Under new contract-procurement rules, each agency's contracting officer and chief administrator had to determine whether a contractor or vendor was financially, operationally, and *morally* responsible.

0827

The city also started the VENDEX system, a computer database of government contractors.[100] VENDEX aimed to collect information about contractors' organized-crime ties or other wrongdoing. Would-be contractors and their principals had to fill out an extensive VENDEX questionnaire (twenty-seven pages for business entities; thirteen for principals) about the business, its principals, its tax returns, and its history of government contracting.[101] *Before* awarding a construction contract, a city agency is required to check whether the VENDEX system contains any negative information about that contractor. If so, the agency would be well advised to withdraw the contract or to place some restrictions or conditions on the contractor.

In practice, VENDEX did not work as well as its originators had imagined. For one thing, construction companies disappear and then reappear with new names and owners of records. For another, law enforcement agencies, including the New York City Department of Investigation, were unwilling to share information because information released prematurely could compromise an investigation. Thus, if an executive agency (e.g., Corrections or Environmental Protection) found an indication in VENDEX that allegations had been made against a particular contractor or that the contractor was being investigated, it often could not get any further information. Of course, a risk-averse agency (which most were and are) might wish to stay clear of any contractor whose subsequent indictment might later cause embarrassment.

The VENDEX system and the city's new zeal in keeping itself at arm's length from organized crime did have impact. In one high-visibility case, Comptroller Elizabeth Holtzman persuaded the city to rescind a contract held by a company run by Carmine Agnello, John Gotti's son-in-law, to remove abandoned cars from Brooklyn streets. According to Holtzman, the C & M Agnello Company and its owner had been implicated in a "chop-shop" (stripping down cars) operation in Queens, and Agnello was under investigation for possible jury tampering in a Brooklyn organized-crime trial involving Gotti's brother, Gene.[102] The comptroller also succeeded in blocking a jail-construction project that had gone to a firm whose president owned a majority interest in a concrete company that was operated by a son-in-law of former Gambino family boss Paul Castellano.[103]

0828

THE CITY'S REGULATORY PROPOSAL

In May 1998, the Giuliani administration announced that it was preparing a proposal for attacking corruption and racketeering, as well as safety hazards, in the construction industry that would build on the Trade Waste Commission model. The legislation would require that all general contractors be licensed by a new New York City Construction Commission. The commission would be able to deny licenses to applicants lacking "good character, honesty and integrity," and to prohibit licensees from subcontracting with or employing persons deemed similarly lacking. Certain categories of subcontractors would also require licenses. Alternatively, the commission could require the general contractor or subcontractor to hire a preapproved independent monitor (IPSIG) based on the OCTF's CIAF model.

Critics immediately pointed out several perceived flaws. One, the bill gives sweeping discretionary authority to the Commission to put people out of business. Arguing that the city has not even been able to coherently define who is a "responsible" bidder under the city charter, construction-industry insiders complain that Giuliani's proposal leaves too much room for arbitrary and unfair determinations. Two, the bill is too ambitious. It demands more of the commission than the commission will be able to deliver. Even the Trade Waste Commission has found it difficult to process license requests expeditiously. What will happen to general contractors if the commission's licensing reviews get bogged down? The general contractors will be left in limbo and financially ruined. Three, the bill unfairly burdens general contractors with the duty to investigate and make judgments about the integrity of subcontractors. Such investigations will mean extra costs and delays at the expense of job performance. Four, the bill focuses too heavily on organized crime, overlooking significant issues of technical competence that plague public construction projects. And five, the bill is overinclusive, extending the city's regulatory reach to in-house construction-management divisions of major owners that have never exhibited any problems with corruption, such as New York University and Columbia University.

There are tens of thousands of city contractors, each owned by and employing various numbers of individuals. Is it feasible for the city government to take on the responsibility of investigating and vouching for the moral integrity of even a fraction of these firms? An

0829

entire system of norms, rules, and procedures, and a large bureaucracy might ultimately be necessary to implement a fair and comprehensive system to judge the moral eligibility of government contractors. Isn't that the kind of exaggerated ambition that will ultimately come back to haunt government agencies as journalists, other observers, and critics confront government officials with contracts that have been let to all sorts of morally questionable individuals who inevitably will slip through the net?

CONCLUSION

The late 1980s and early 1990s were marked by long-term investigations and the effective use of RICO and OCCA against cartels that dominated the city's concrete, drywall, window-replacement, and painting subindustries. However, even though the government successfully broke up these organized cartels, widespread corruption persists, especially where unions remain under Cosa Nostra's influence.

The Carpenters, Teamsters, and Mason Tenders cases show that coordination between union forces and the government can successfully work toward purging Cosa Nostra. Yet in many of the city's construction trade unions, such as plumbing, painting, and concrete, mobsters continue to suppress union democracy. The case studies demonstrate that trusteeships without a strong government presence fail to inspire the courage and leadership among rank-and-file members required to bring about reform.

Even without the presence of mobsters, widespread and sometimes highly organized corruption exists in the construction industry. In 1998, a Manhattan District Attorney's Office prosecution exposed a cartel of interior construction companies that monopolized the multibillion-dollar office-renovation and -relocation subindustry. The cartel's bid rigging increased the cost of interior office construction by 20 percent.[104] Five of the companies entered plea agreements.[105] Further investigations and prosecutions of participants in New York City's construction industry continue.[106]

0830

15

Conclusion to Part II

> With instability at all levels and with continuing sociological change inevitable, if current law enforcement efforts are maintained in the next five to ten years, the mob is likely to be rendered totally unrecognizable from what it has been for the last sixty years.[1]
>
> —Ronald Goldstock, director, New York State Organized Crime Task Force, 1990

THE SUCCESSFUL PURGING of Cosa Nostra groups from New York City's core economy was not accomplished simply by applying "more of the same" law enforcement medicine that had been administered in previous decades. Success depended upon major innovations and "institution building" in organized-crime control. The introduction to Part 2 briefly sketched the evolution of the federal organized-crime control program. In this chapter we highlight and assess the organized-crime control innovations that have had the greatest impact on industrial racketeering.

CIVIL RICO AND COURT-APPOINTED TRUSTEESHIPS

Traditionally, the only approach to organized-crime control was criminal prosecutions that aimed to send mobsters to prison for lengthy terms. Unfortunately, although a prison term (if lengthy) is a major blow to a particular crime boss, it has little impact on the operations of a powerful, diversified, and entrenched criminal syndicate that can promote replacements from its ranks. Putting mobsters in prison did nothing to eliminate racketeering in unions or companies, or to eliminate cartels. Thus, the defeat of organized crime awaited a different remedy, one that aimed at syndicates and systemic criminality.

0831

Civil RICO provided the means. Most of the key federal organized-crime control initiatives discussed in Part II were brought as civil RICO suits. These suits sought restraining orders, injunctions, and trusteeships to prevent racketeering and to purge Cosa Nostra members and associates from the defendant organization. Civil RICO is particularly well suited to combating racketeering in labor unions and companies, that is, formal organizations that can be monitored. If the individual defendants have previously been convicted of crimes that constituted racketeering acts (so-called RICO predicates), there is no need to relitigate them. The suit therefore turns merely on proof that the racketeering acts were linked to an enterprise (e.g., union or company). Even without previous convictions, it is easier for prosecutors to prove civil RICO liability than criminal liability. Civil RICO suits are governed by civil, not criminal, procedure. Therefore, the government is entitled to extensive pretrial discovery (depositions and documents), which can provide a wealth of information from corrupted companies and unions. The government bears a lesser burden of proof in a civil trial, preponderance of the evidence as compared with beyond a reasonable doubt. There is no requirement of jury unanimity in a civil trial, and, unlike criminal procedure, the government can appeal a verdict in favor of the defendant.

The most important innovation brought about by the extensive use of civil RICO has been the appointment of monitors or trustees to carry out the terms of the court orders or negotiated settlements. In effect, the courts transplanted the techniques and strategies of organizational reform, developed in the school desegregation and unconstitutional prison conditions cases, to the organized-crime domain. Like the special masters appointed to oversee school desegregation or the remediation of deplorable prison conditions, the court-appointed trustees carry out the judge's mandate to transform an organization, for example, purging a union local of corruption and racketeering and restoring union democracy to the rank and file.

Not all of the trustees discussed in Part 2 of this book owed their appointment to a civil RICO suit. Nevertheless, the RICO trusteeships have been the model for other trusteeships, however authorized. For example, in the imaginative plea agreement that resolved the Manhattan district attorney's criminal prosecution of Thomas and Joseph Gambino, the parties agreed to the appointment of former New York City Police Commissioner Robert McGuire as special mas-

0832

ter to oversee the Gambinos' sale of their Garment Center trucking interests.

The trustee is usually appointed for a lengthy or indefinite term, thus announcing to the mobbed-up union or company, and, more important, to rank-and-file members, clients, customers, and business associates, that the government will not disappear and that the situation will not revert to the status quo ante. A trusteeship signals a remedial *process,* not a one-shot punch. The trustee's specific mandate and powers are shaped by the judge, if there was a trial, or by the parties in the event of a negotiated agreement. The defendants are ordered (or voluntarily agree) to cease racketeering activities and contact with Cosa Nostra members. The trustee's mandate includes the goal of eradicating organized crime (and racketeering, payoffs, kickbacks, bribes) from the tainted organization. The judge maintains continuing jurisdiction and can issue supplemental orders if necessary; recalcitrance and interference can be punished as contempt.

Most of the trustees have been appointed in labor-racketeering cases. Some judges have given a single trustee authority to run the union, as well as a mandate to purge corruption. Other judges have limited the trustee's role to investigations and discipline relating to racketeering.

To assure that racketeering has ceased in corrupted organizations, judges have typically vested the RICO trustees with wide-ranging investigative powers, including authority to subpoena books and records and to compel testimony under oath. Some union trustees have had authority to discipline union officers and members; others could bring disciplinary charges against union officials and members before an independent hearing board or the judge. In either case, union members found to be associated with organized-crime figures could be purged from the union. This is a powerful and effective tool.

The proliferation of RICO (and other) trusteeships has created a new career path for former prosecutors and law enforcement agents. Many of the trustees who have played crucial roles in the liberation of the New York City economy from mob influence had previously served in law enforcement capacities. Such individuals come to the job with a wealth of information about organized crime and significant investigative expertise. They also have close ties to federal, state, and local law enforcement agencies. Of course, although it makes good sense that a trustee whose purpose is to purge organized crime should be drawn

0833

Table 15.1
Court-Appointed Monitors/Trustees

Union/Industry	Monitor/Trustee	Other Positions Held
Fulton Fish Market Local 359	Frank Wohl	Assistant U.S. Attorney
IBT Local 295 at JFK	Thomas Puccio	Brooklyn OCSF
Garment Industry; Special Master over selected defendants	Robert McGuire	New York City Police Commissioner
Long Island Carting	Michael Cherkasky	Division Chief, Manhattan District Attorney's office
IBT Local 851 at JFK	Ron DePetris	Chief Assistant U.S. Attorney
IBT	Charles Carberry Frederick Lacey	Assistant U.S. Attorney Federal Judge and U.S. Attorney
Carpenters District Council	Kenneth Conboy (IRO)	DOI Commissioner; Federal Judge
Teamsters Local 282	Robert Machado (Corruption Officer)	Chief Investigator for the Mollen Commission; Police Lieutenant
Local 6A and District Council of Cement and Concrete Workers	Eugene R. Anderson	Assistant U.S. Attorney
Mason Tenders	Lawrence B. Pedowitz	Assistant U.S. Attorney
District Council	Michael Chertoff	Assistant U.S. Attorney; New Jersey U.S. Attorney; Special Counsel for the Whitewater Investigation

from the ranks of former law enforcement personnel, it is less obvious that a trustee who stands in the shoes of the local's president should be a former prosecutor. Certainly, there is nothing in the prosecutor's training or experience that qualifies him or her to negotiate collective bargaining agreements or handle grievances and enforce contract provisions.

The funding of court-appointed trusteeships is a crucially important matter. The most common funding source in the union cases has been the very union local that was exploited by racketeers in the years leading up to the trusteeship; in some cases this has bankrupted the local union. In a few cases, the international union has paid the bill for the trustee and his staff. The judge can fix the trustee's compensation.

0834

Usually, trustees are compensated at a rate comparable to lawyers in private practice. Ironically, this may be more compensation than was paid to the corrupt union officer whom the trustee replaced. Because RICO trusteeships should not be seen as sinecures that judges hand out to friends and former colleagues, it is imperative that regularized method(s) and mechanisms for choosing and compensating trustees be established.[2]

Even though RICO trusteeships are one of the most important law enforcement innovations of this generation, they have not always been successful. Sometimes the trustees have become bogged down in the details of union administration. Sometimes they have not found the right techniques or not had enough backing from the court. The trustees whose only responsibilities are investigative and disciplinary probably have been more successful than those who have also had to shoulder responsibility for running the union.

RICO trusteeships raise a number of legal and philosophical questions that need to be examined. Trustees have voided elections, replaced union officers, redesigned hiring halls, and expelled union members for associating with organized-crime figures. One might legitimately ask whether such power is fully consistent with a free labor movement based on union members' sovereignty over their unions. Also, one might ask when the trusteeship should end: When new elections have been held? When all traces of organized crime have been eliminated? Not until union democracy is thriving? As in other institutional litigation, there is a tendency for RICO trusteeships to take on a life of their own, accumulating more goals as time passes and all sorts of problems come to the trustee's attention.

Private-Sector Monitors

Drawing on the public sector's experience with inspectors general, the New York State Organized Crime Task Force's *Final Report on Corruption and Racketeering in the New York City Construction Industry*[3] first raised the idea of requiring government contractors to hire a certified investigative auditing firm (CIAF) to assure that the private contractor was not tied to organized crime, covering up criminality, or being victimized by racketeers or public officials.

Ronald Goldstock, director of the New York State Organized Crime Task Force, 1981–1994, in several plea bargains required companies to

0835

hire IPSIGs and encouraged regulatory agencies to do the same, in effect, forcing questionable contractors to police themselves. The inspector general's office of the School Construction Authority was the first agency to utilize IPSIGs to monitor contractors, assist them in establishing corruption controls, and to report to the SCA on the firms' conduct.[4] The Trade Waste Commission took monitoring to the next stage by making hiring an IPSIG a condition of licensing for certain firms. The New York City Department of Investigation has recommended IPSIGs to a number of city departments that do business with questionable contractors.

The IPSIG is one of the great contemporary innovations in organized-crime control. It has spawned the formation and growth of private-sector investigation firms run and staffed by former prosecutors, forensic accountants, analysts, and detectives. These firms provide monitoring services for companies that wish to assure clients and government regulators that they are complying with all laws and regulations. Further, under the U.S. Sentencing Commission's Corporate sentencing guidelines, a corporation that can show that it exercised due diligence in designing an internal corruption-control system significantly limits its exposure (i.e., fines) in the event that a crime is uncovered. The monitor, in effect, investigates the company at the company's own expense and reports to the company's top management and to the government on any problems that it finds. The monitor invariably has power to audit the company's books and records, interview employees, and interview subcontractors. If the monitor finds something suspicious, like excessive fees to a questionable "consultant," he informs the government agency, which can demand an explanation from the company. Likewise, if one of the company's subcontractors is known to be mobbed-up or if an employee is a known mob associate, the monitor demands that the company explain why the subcontract should not be terminated and the employee fired.

"Monitoring" is an art, not a science. Success depends upon the skills, persistence, energy, and intelligence of the monitor. In addition, the government agency that has imposed the monitor has to manage the monitor to make sure that the monitor is aggressive enough (but not too aggressive) and must evaluate the accuracy of the monitor's reports. The independent private-sector monitors work best when they are focused on a specific problem, like payoffs to organized crime or de-

0836

frauding union workers. Likewise, they also are most effective when the company's management is committed to solving the problem and maintaining its reputation and good relationship with the government agency.

Rudolph Giuliani

It is dangerous to personalize history, yet it is difficult to escape the conclusion that Rudolph Giuliani has played an extremely important role in the struggle to defeat New York City's Cosa Nostra crime families. Giuliani's first major contribution to organized-crime control came when he served as associate U.S. attorney general (1981–1983). (He had previously served as an assistant U.S. attorney in New York City.)[5] According to President Reagan, Giuliani helped to convince him and other top officials in the administration that they should commit themselves to a full-scale organized-crime control effort.[6]

In 1983, Giuliani opted to return to New York City as U.S. attorney for the Southern District of New York (1983–1989). During his tenure, he compiled a record as the most active and successful organized crime prosecutor since Thomas Dewey. Giuliani's office brought many of the lawsuits that are featured in Part 2. His office indicted the Cosa Nostra commission for running a racketeering enterprise and, in one blow, brought down a number of the nation's top crime bosses.[7] That case and some associated lawsuits against Biff Halloran brought an end to the concrete cartel.[8] Giuliani's office brought four of the five so-called family RICO prosecutions against key members of all five New York City Cosa Nostra crime families. The theory of each prosecution was that the defendants, in violation of RICO, participated in the affairs of an enterprise (i.e., their crime family) through a pattern of racketeering activity (i.e., their individual and joint crimes).[9] Giuliani's office brought the civil RICO suit against the Romanos and Local 359 at the Fulton Fish Market.[10] As we have seen, it resulted in consent and default judgments and the appointment of a market administrator. Another of Giuliani's most important cases was the unprecedented civil RICO labor-racketeering suit against the General Executive Board of the Teamsters International Union.[11] The suit resulted in a trusteeship that, in various guises, has lasted ten years; made possible the first free elections in generations; and purged hundreds of corrupt national, regional, and local officials from the union.

0837

Regulatory Strategies

Although it builds upon the experiences of the Nevada Gaming Commission, the New Jersey Gambling Commission, and the New York/New Jersey Waterfront Commission, the mobilization of local regulatory authority to attack organized crime is a New York City–specific innovation. Until recently, mayors viewed organized-crime control as the responsibility of law enforcement agencies. The Giuliani administration accepted responsibility for cleaning up racketeer-ridden industries, arguing that they impeded the city's growth and prosperity. The city's regulatory initiatives have significantly expanded the repertoire of organized-crime control strategies.

When Giuliani became mayor of New York City (1994), he immediately set out to complete the work he had started as U.S. attorney. His first organized-crime control initiative built on his previous effort to purge the mob from the Fulton Fish Market. He established a licensing scheme (the jurisdiction of which was eventually extended to all of the city's food markets), which included background checks for many market participants. The city began aggressively managing the market; it threw out the mob-connected unloading companies, signed a contract with an independent firm to provide unloading services, and appointed a market manager to provide day-to-day supervision.

The Giuliani administration's next major organized-crime control initiative sought to eliminate the Cosa Nostra–run waste-hauling cartel by means of the New York City Trade Waste Commission. Giuliani appointed a former assistant U.S. attorney to head that agency. The TWC used its authority to deny business licenses to carters with ties to organized crime. Some companies were allowed to continue participating in the industry only by agreeing to hire an IPSIG to guarantee that the company was operating lawfully and without organized crime contacts.

The Trade Waste Commission is a model that may well be followed around the country and around the world. The TWC has used its licensing authority to purge the carting industry of mob-connected firms. Quite simply, the agency denies a business license to any firm that is connected to organized crime. And it has the expertise and investigative resources to ferret out such information. Furthermore, it has used its rule-making and (maximum) price-setting authority to break down

0838

the customer property-rights system and to stimulate competition. The TWC's investigators constantly look for signs of organized crime and act swiftly if any sprouts are sighted.

In his second mayoral term, Giuliani prepared his most ambitious initiative, a regulatory attack on corruption and racketeering in the construction industry. The proposal called for a five-person commission to license the five hundred largest construction contractors in the city. Licenses would be granted on the condition that these contractor-licensees police their subcontractors. As this book goes to press, the proposal is still pending.[12]

The TWC has had great initial success, yet we must sound a note of caution. The history of government licensing agencies is a checkered one. At different points in time in various U.S. states and cities licensing authorities, like the state liquor authorities, have fallen into the hands of political cronies and have been associated with a great deal of corruption. The TWC is currently being run by organized-crime fighters of the highest personal integrity, but who is to say that later mayors will not use the commission to reward political allies and that the TWC won't someday end up being captured by the industry, or worse?

Although the strategy used at the Javits Center was less dramatic, it demonstrated that a little political will goes a long way, especially in conjunction with persistent and ongoing law enforcement efforts. Quite simply, Governor Pataki committed himself to cleaning up the center, changed its governing board and hired a new CEO, who forced the center's entire workforce to resign and apply for positions. Employees with criminal records and/or organized-crime ties were not rehired. Labor relations were revamped. Good management was instituted. Success followed.

IS THE BATTLE WON?

Admittedly, it is not possible to prove definitively that Cosa Nostra is no longer a force, or at least a substantial force, in New York City's core economy. We necessarily have to make inferences from a number of facts and rely on the assessment of observers close to the scene.

0839

What is the evidence that Cosa Nostra's demise is at hand? First, there is the remarkable list of leaders who are in jail for lengthy or life terms. With the 1997 sentencing of Vincent "the Chin" Gigante (boss of the Genovese crime family), there is no longer a single renowned New York City Cosa Nostra leader on the streets.[13] Certainly, there is no John Gotti walking around thumbing his nose at law enforcement, publicly holding court, and collecting homage. Current Cosa Nostra members are maintaining very low profiles. The New York City Cosa Nostra "commission" reputedly has ceased to function.[14]

The mob seems to be eliminated from the Javits Center and the Fulton Fish Market and is nearly gone from the New York City and Long Island carting industries, at least that is the assessment of law enforcement personnel, city officials, and people who do business in these industries. One key indicator is the dramatic decrease in prices in the carting industry and fish market. The Javits Center is also enjoying booming business, reversing a downward trend. The air-cargo industry at JFK Airport has reported a steep decrease in the amount of cargo thefts.

In the construction industry, the cartels in concrete and drywall have completely disappeared. A great deal of progress has been made toward purging organized crime from the Teamsters union. The IBT's General Executive Board no longer contains any known mob members. The national election process is much freer.[15] Union democracy now has a chance. The efforts of the national union to remove the stain of racketeering from its locals has had impact. The Carpenters union has been substantially reformed, and labor racketeering is certainly on the wane in a number of the other previously mobbed-up unions' locals. It is premature to say that there is no organized-crime presence, but there is little doubt that that presence is far less significant than it was in the 1980s.

It takes courage or perhaps foolhardiness to pronounce the death of Cosa Nostra, a crime syndicate that has wielded enormous power in the underworld and upperworld for more than half a century. How can we be sure that new Cosa Nostra leaders will not arise and that Cosa Nostra will not find its way into new industries? The short answer is that we cannot. If law enforcement is not vigilant, if the next New York City mayoral administration turns a blind eye toward organized crime, Cosa Nostra might indeed make a comeback. Administrations come and go. Priorities change. Strong leaders emerge and

0840

disappear. It is not in the nature of our governmental system to stay focused on one set of problems and to build upon programmatic and administrative experience, even successes. However, as of this writing, there seems to be a good chance that Cosa Nostra's role as a key player in the New York City economy and power structure will not survive into the twenty-first century.

0841

Notes

NOTES TO CHAPTER 1

1. See Kenneth T. Jackson, ed., *The Encyclopedia of the City of New York* (New Haven: Yale University Press, 1995).

2. See James B. Jacobs, Christopher Panarella, and Jay Worthington, *Busting the Mob: United States v. Cosa Nostra* (New York: New York University Press, 1994).

3. John J. DiIulio Jr. et al., "The Federal Role in Crime Control," in *Crime,* James Q. Wilson and Joan Petersilia (San Francisco: Institute for Contemporary Studies Press, 1995).

4. See Howard Abadinsky, *Organized Crime,* 4th ed. (Chicago: Nelson Hall, 1994); Alan Block, "Organized Crime: History and Historiography," in *Handbook of Organized Crime in the United States,* ed. Robert Kelly, Ko-Lin Chin, and Rufus Schatzburg (Westport, Conn: Greenwood Press, 1994).

5. *United States v. Badalamenti,* 84 Cr. 236 (S.D.N.Y. 1987), convictions aff'd. in 887 *United States v. Casamento* F.2d 1141 (2d Cir. 1989); Shana Alexander, *The Pizza Connection* (New York: Weidenfeld, 1988).

6. Peter Maas, *The Valachi Papers* (New York: G. P. Putnam's Sons, 1968); see also Henry Zeiger, *Sam the Plumber* (Bergenfield, N.J.: New American Library, 1973).

7. Philip Taft, *Corruption and Racketeering in the Labor Movement* (Ithaca: New York State School of Industrial and Labor Relations, 1970).

8. Joseph Bonanno (with Sergio Lalli), *A Man of Honor: The Autobiography of Joseph Bonanno* (New York: Simon and Schuster, 1983).

9. Francis Ianni and Elizabeth Reuss Ianni, *A Family Business: Kinship and Social Control in Organized Crime* (New York: Russell Sage, 1972).

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1. Alan A. Block and William Chambliss, *Organizing Crime* (New York: Elsevier, 1981), 14–15.

2. Daniel Bell, "The Racket-Ridden Longshoremen: The Web of Economics

0843

and Politics," in *The End of Ideology,* ed. Daniel Bell (New York: Collier, 1961), 175–209.

3. Although brothers, Tony Anastasio and Albert Anastasia chose alternate spellings of their family name. See John H. Davis, *Mafia Dynasty* (New York: HarperCollins, 1993), 58.

4. Virgil W. Peterson, *The Mob: 200 Years of Organized Crime in New York* (Ottawa, Ill.: Green Hill, 1983), 290.

5. Ibid., 291–93.

6. Davis, *Mafia Dynasty,* 115.

7. Jonathan Kwitny, *Vicious Circles: The Mafia in the Marketplace* (New York: Norton, 1979).

8. See Vivian S. Toy, "Deal Expected on Street Fair in Little Italy," *New York Times,* September 10, 1995, A45.

9. *United States v. Bellomo,* 96 Cr. 430 (LAK), Indictment; *United States v. Bellomo,* superceding indictment dispositions (April 23, 1997).

10. John C. Sabetta, *Report to the Mayor Concerning the Society of San Gennaro and the 1995 San Gennaro Feast,* 9, December 1995.

11. Benjamin Weiser, "Brokers and Mob Linked to Swindle," *New York Times,* November 26, 1997, A1.

12. *United States v. Gangi et al.,* 97 Cr. 1215.

NOTES TO CHAPTER 2

1. *Barton Trucking Corp. v. O'Connell,* 173 N.Y.S.2d 464 (N.Y.Sup. 1958).

2. See Robert D. Parmet, "Garments," in *The Encyclopedia of New York,* ed. Kenneth T. Jackson (New Haven: Yale University Press, 1995), 451–53.

3. Ibid., 452. This figure is adjusted to 1995 dollars from $48.4 million, based on *Historical Statistics of the United States, Colonial Times to 1970,* series F 1–5, and *1997 Economic Report of the President* (Washington, D.C.: Government Printing Office, 1997), 481.

4. See Parmet, "Garments," 452.

5. See Franz S. Leichter, "Sweatshops to Shakedowns: Organized Crime in New York's Garment Industry" (unpublished, March 1982), pt. 3, p. 5.

6. See Parmet, "Garments," 450–453; Jenna W. Joselit, *Our Gang: Jewish Crime and the New York Jewish Community, 1900–1940* (Bloomington: Indiana University Press, 1983), 128.

7. See Joselit, *Our Gang,* 128.

8. See Thomas E. Dewey, *Twenty Against the Underworld* (Garden City, N.Y.: Doubleday, 1974), 476.

9. Ibid., 305.

10. See Arthur A. Sloane, *Hoffa* (Cambridge: MIT Press, 1991), 81.

11. See Dewey, *Twenty Against the Underworld,* 309.

0844

12. See Parmet, "Garments," 453.

13. The cutting trade appears to have been pushed to the margins over time. Previously, cutters worked on the premises of Seventh Avenue designers, but now much cutting is done either abroad or across the Hudson River in New Jersey. See James Traub, "Behind All of That Glitz and Glitter, the Garment District Means Business," *Smithsonian,* August 1985, 36.

14. See Franz S. Leichter, "The Return of the Sweatshop: A Call for State Action," in "A Report on New York's Garment Industry" (unpublished, October 1979), pt. 1, pp. 3–5.

15. See ibid.; New Jersey State Commission of Investigation, *A Report on the New Jersey Garment Industry* (April 1991), 28. See also Tony DeStefano, Thomas Moran, and Allen Richardson, "Loanshark Jaws Take Biggest Bite," *Women's Wear Daily,* August 23, 1977, 1.

16. See Leichter, "Sweatshops to Shakedowns," pt. 3, p. 42.

17. See DeStefano, Moran, and Richardson, "Loanshark Jaws Take Biggest Bite," 1.

18. See Ralph Blumenthal, "When the Mob Delivered the Goods," *New York Times,* July 26, 1992, 23.

19. See New Jersey State Commission of Investigation, *A Report on the New Jersey Garment Industry,* 26.

20. See Moran, DeStefano, and Richardson, "Trucks to Bucks It's All for Sale," *Women's Wear Daily,* August 22, 1977, 1; Tony DeStefano, Thomas Moran, and Allen Richardson "Wheeler-Dealers' Code of the Road," *Women's Wear Daily,* August 26, 1977, 1.

21. See Leichter, "The Return of the Sweatshop" (unpublished, February 1981), pt. 2, p. 6.

22. See New Jersey State Commission of Investigation, *A Report on the New Jersey Garment Industry,* 29; Leichter, "The Return of the Sweatshop," pt. 2, p. 9.

23. See Leichter, "The Return of the Sweatshop," pt. 2, p. 14.

24. See Allen Richardson, Tony DeStefano and Thomas Moran, "Trucking Local 102: Who Sat in the Drivers Seat?" *Women's Wear Daily,* August 29, 1977, 1.

25. *United States v. DiLapi,* 651 F.2d 140, 140–143 (2d Cir. 1981).

26. See Richardson, DeStefano and Moran, "Trucking Local 102."

27. See Leichter, "The Return of the Sweatshop," pt. 2, p. 14.

28. *United States v. DiLapi,* 651 F.2d 140, at 143.

29. See Selwyn Raab, "Wiretap Evidence in Gambino Case Links Garment Group to Mob," *New York Times,* April 30, 1989, 38 (estimates five hundred member contractors; Leichter, "Sweatshops to Shakedowns," pt. 3, p. 38 (estimates seven hundred contractors).

30. See Leichter, "Sweatshops to Shakedowns," pt. 3, p. 38.

31. Joseph Nicholas Gallo is often confused with Joseph "Crazy Joe" Gallo,

0845

who was also a member of the Gambino crime family. Joseph N. served as consigliere under Paul Castellano and John Gotti until his conviction and incarceration in 1989. See James B. Jacobs, Christopher Panarella, and Jay Worthington, *Busting the Mob: United States v. Cosa Nostra* (New York: New York University Press, 1994), 226. "Crazy Joe" was a "key figure" in the notoriously violent "Gallo Gang," which he ran with his brothers Lawrence and Albert Jr. until his assassination in 1972. See Virgil Peterson, *The Mob: 200 Years of Organized Crime in New York* (Ottawa, Ill.: Green Hill, 1983), 337; 404–5; 407–8.

32. Thomas F. Gambino was the son of former Gambino crime boss Carlo Gambino. He was also married to the daughter of former Lucchese family crime boss Thomas "Three Fingers Brown" Lucchese. See, e.g., John H. Davis, *Mafia Dynasty: The Rise and Fall of the Gambino Crime Family* (New York: Harper Collins, 1993), 90–91.

33. Ibid; see also Tony DeStefano, Thomas Moran, and Allen Richardson, "U.S. Continues Probe of Organized Crime Links to SA Firms," *Women's Wear Daily,* May 2, 1989, 1.

34. See Leichter, "Sweatshops to Shakedowns," pt. 3, pp. 39–40.

35. Ibid., 40.

36. See DeStefano, Moran, and Richardson, "U.S. Continues Probe of Organized Crime Links to SA Firms"; Leichter, "Sweatshops to Shakedowns," pt. 3, p. 38.

37. See Tony DeStefano, Thomas Moran, and Allen Richardson, "The Rule of the Mob: Keep on Truckin'," *Women's Wear Daily,* August 25, 1977, 18; and idem, "Sherwood: A Look Behind the Door," *Women's Wear Daily,* August 24, 1977, 13.

38. See Leichter, "Sweatshops to Shakedowns," pt. 3, p. 10; *People v. Gambino, Indictment No. 11859-90,* Plea Agreement: 12–13.

39. See Moran, DeStefano, and Richardson, "Trucks to Bucks It's All for Sale."

40. *People v. Gambino, Indictment No. 11859-90,* Plea Agreement: 13–14.

41. *United States v. Amuso,* 21 F.3d 1251, 1254 (2d Cir. 1994).

42. See Moran, DeStefano, and Richardson, "Trucks to Bucks It's All for Sale."

43. Leichter, "Sweatshops to Shakedowns," pt. 3, p. 13.

44. *United States v. Casso,* 843 F. Supp 829, 835 (E.D.N.Y. 1994).

45. See Davis, *Mafia Dynasty,* 290–98.

46. Ibid., 22–23.

47. See, e.g., *United States v. Socony-Vacuum Oil Co.,* 310 U.S. 150, n. 59 (1940) ("Whatever economic justification particular price-fixing agreements may be thought to have, the law does not permit an inquiry into their reasonableness. They are all banned.").

48. *United States v. Cloak and Suit Trucking Ass'n, Inc.,* Civ. No. 66-141, Oc-

0846

tober 24, 1955, reported in *1955 Trade Cases,* Commerce Clearing House, 68, 175, at 70, 835.

49. Ibid.

50. See Moran, DeStefano, and Richardson, "Trucks to Bucks It's All for Sale," and "Wheeler-Dealers' Code of the Road."

51. See *Barton Trucking Corp. v. O'Connell,* 173 N.Y.S.2d 464, 466 (1958) (referring to Section B32-93.0 of the Administrative Code of the City of New York).

52. *Barton Trucking Corp. v. O'Connell,* 197 N.Y.S.2d 138, 141 (N.Y. Ct. of App. 1959).

53. *Barton Trucking Corp. v. O'Connell,* 180 N.Y.S.2d 686, 689 (App. Div. 1958).

54. *Barton Trucking Corp. v. O'Connell,* 10 Misc.2d at 719–20; 173 N.Y.S.2d at 467–78.

55. Ibid., at 718; 466.

56. *Barton Trucking Corp. v. O'Connell,* 180 N.Y.S.2d at 688, 691.

57. Ibid., at 691.

58. *Barton Trucking Corp. v. O'Connell,* 197 N.Y.S.2d at 144.

59. Ibid., at 148.

60. Ibid., at 149.

61. See Marcia Chambers, "8 Indicted for Graft in Garment District," *New York Times,* October 16, 1975, 1.

62. In what was termed "Project Detroit," a coat designer named Harold Whellan also agreed to serve as an informant and to use his own firm, Whellan Coat Company, to develop contacts and engage in recorded discussions with organized-crime figures. See DeStefano, Moran, and Richardson, "The Rule of the Mob." Project St. Louis reportedly consisted of a sting operation selling stolen garment-industry goods. See Martin Tolchin, "Senate Unit Asks Why Crime Inquiry Here Was Ended," *New York Times,* April 7, 1975, 1.

63. *United States v. Provenzano,* 615 F.2d 37, 40 (2d Cir. 1980).

64. See Arnold H. Lubasch, "Four Are Acquitted in Extortion Trial," *New York Times,* November 21, 1976, 36.

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1. Frank Wohl, *Midterm Report of Administrator* (August 8, 1990), 11, pursuant to April 15, 1988, Consent Judgment in *United States v. Local 359,* 87 Civ. 7351 (S.D.N.Y. 1992).

2. Compare, e.g., *United States v. Local 359,* 705 F. Supp. 894, 899 (S.D.N.Y. 1989), with Selwyn Raab, "Delay in Tackling Fish-Market Crime," *New York Times,* February 17, 1991, 46.

3. See Selwyn Raab, "Fish Market's Problems Revert to New York City," *New York Times,* March 27, 1994, A1.

0847

4. Frank Wohl, *Notice of Imposition of Sanctions* (June 18, 1992), 5, pursuant to April 15, 1988, Consent Judgment in *United States v. Local 359,* 87 Civ. 7351 (S.D.N.Y. 1992).

5. The description of market operations is based on an interview with Frank Maas, first deputy commissioner, New York City Department of Investigation, October 31, 1995.

6. See Brian Carroll, "Combating Racketeering in the Fulton Fish Market," in *Organized Crime and Its Containment: A Transatlantic Initiative,* ed. Cyrille Fijnaut and James Jacobs (Boston: Kluwer, 1991), 194.

7. *United States v. Romano,* 684 F.2d 1057, 1060 (2d Cir. 1982).

8. See "The Fulton Fish Market: Hearings Before the New York City Council Committee on Economic Development" (May 4, 1992).

9. See *United States v. Local 359,* 705 F. Supp. 894, 906 (S.D.N.Y. 1989).

10. Carroll, "Combating Racketeering in the Fulton Fish Market," 183, 192.

11. See Raab, "Fish Market's Problems Revert to New York City."

12. *United States v. Romano,* 684 F.2d at 1061 (2d Cir. 1982).

13. John S. Martin, "Sentencing Memorandum" (January 4, 1981), 24, following *United States v. Romano,* 81 Cr. 514 (S.D.N.Y. 1981). In 1989, eight individuals, including a captain of the Bonanno crime family, pled guilty to racketeering in connection with a gambling and loan-sharking ring that operated at the Fulton Fish Market. See Paul Moses, "Guilty Pleas on Rackets Charges," *Newsday,* December 21, 1989, 35.

14. *Danielson v. Local 359,* 405 F. Supp. 396 (S.D.N.Y. 1975).

15. "Lanza Is Sentenced to Six Months More," *New York Times,* March 19, 1938, 10.

16. *Report of Judge Samuel Seabury to Honorable Governor Roosevelt Recommending Dismissal of Crain Charges,* reprinted in *New York Times,* September 1, 1931.

17. See Carroll, "Combating Racketeering in the Fulton Fish Market," 185.

18. The trade associations were the Fish Credit Association, Inc., Bronx and Upper Manhattan Fish Dealers Association, Inc., and Brooklyn Fish Dealers Association, Inc. See "54 in Fish Trade Indicted in Racket," *New York Times,* September 1, 1931, 14.

19. See Howard Abadinsky, "Fulton Fish Market," *Organized Crime,* 4th ed. (Chicago: Nelson-Hall, 1994), 393.

20. See Virgil Peterson, *The Mob: 200 Years of Organized Crime in New York* (Ottawa, Ill.: Green Hill, 1983), 314–15.

21. See Martin, "Sentencing Memorandum," 21.

22. *United States v. Romano,* 684 F.2d 1057 (2d Cir. 1982).

23. This and other dollar figures are based on the Consumer Price Index obtained from Bloomberg, Inc. In this case the CPI was the average of the numbers for 1976 and 1977.

0848

24. See Martin, "Sentencing Memorandum," 12–13.

25. Other alleged coconspirators were severed before trial, and the Romanos were tried on a redacted ninety-four-count indictment. See *United States v. Romano,* 684 F.2d 1057, 1059 (2d Cir. 1982).

26. *United States v. Local 359,* 705 F. Supp. 894, 895 (S.D.N.Y. 1989).

27. Complaint, filed October 15, 1987 in *United States v. Local 359,* 87 Civ. 7351 (S.D.N.Y. 1992).

28. See Carroll, "Combating Racketeering in the Fulton Fish Market," 185.

29. See "Crain Tells of Terrorism," *New York Times,* April 9, 1931, 1.

30. See Martin, "Sentencing Memorandum," 11.

31. See "Market Men 'Glad' to Buy Protection," *New York Times,* January 16, 1934, 8.

32. *United States v. Romano,* 684 F.2d at 1060–61.

33. See James Cook, "Fish Story," *Forbes,* April 1982, 60.

34. *United States v. Romano,* 684 F.2d at 1062; see also Arnold H. Lubasch, "Organized Crime Said to Rule Fulton Fish Market," *New York Times,* August 23, 1981, p. 46.

35. See, e.g., *United States v. Nunzio Leanzo,* 80 Cr. 808 (S.D.N.Y. 1981) (sentencing owner of an unloading company to two years in prison for committing perjury before the grand jury).

36. *United States v. Romano,* 684 F.2d at 1065.

37. See Arnold H. Lubasch, "Union Heads Sentenced in Fulton Market Payoffs," *New York Times,* February 6, 1982, 27.

38. See Martin, "Sentencing Memorandum," 13.

39. *United States v. Romano,* 684 F.2d at 1062.

40. See Martin, "Sentencing Memorandum," 14.

41. See ibid.

42. *United States v. Romano,* 684 F.2d at 1061.

43. See "The Fulton Fish Market: Hearings Before the New York City Council Committee on Economic Development."

44. See Wohl, *Midterm Report of Administrator,* 7–8.

45. See Wohl, *Notice of Imposition of Sanctions,* 6.

46. See Carroll, "Combating Racketeering in the Fulton Fish Market," 193.

47. See Wohl, *Midterm Report of Administrator,* 16

48. See Sentencing Memorandum, *United States v. Local 359,* 81 Cr. 514 at 24 (S.D.N.Y. 1981).

49. Interview with Frank Maas.

50. See Cook, "Fish Story," 60.

51. See Martin, "Sentencing Memorandum," 25.

52. See Selwyn Raab, "A Crackdown on Fees at Fulton Fish Market," *New York Times,* January 11, 1987, 28.

0849

53. See Selwyn Raab, "To Fight Mob, Giuliani Proposes Takeover of Fulton Fish Market," *New York Times,* February 1, 1995, A1.

54. *Russo v. Morgan,* 21 N.Y.S.2d 637 (1940). It was alleged that throughout the 1930s, only Joseph "Socks" Lanza could obtain these permits. See Rebecca Rankin, *New York Advancing: A Scientific Approach to Municipal Government* (New York: Gallery Press, 1936), 282.

55. See "Crain Tells of Terrorism."

56. See "Crain Denounces Accusers as Police Official Admits Racketeering City-Wide," *New York Times,* April 14, 1931, 1.

57. See Cook, "Fish Story," 60.

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1. Select Committee on Improper Activities in the Labor or Management Field, 85th Cong., 1st sess., 1957, 3597.

2. See Stanley Penn, "Mob Rule: How Mafia Controls Air-Cargo Businesses at Kennedy Airport," *Wall Street Journal,* May 22, 1985, 1.

3. JFK Airport opened on July 1, 1948, as Idlewild Airport; it was renamed in 1963. See Paul Barnett, "John F. Kennedy International Airport," in *The Encyclopedia of the City of New York,* ed. Kenneth Jackson (New Haven: Yale University Press, 1995), 623.

4. See Office of Economic and Policy Analysis, *Port Authority of New York and New Jersey International Air Cargo Statistics: Year End 1993* (1994), 1.

5. Interview with David Krasula, chief investigator of the New York City Teamsters Local 851, April 16, 1997.

6. Ibid.

7. Select Committee on the Impact of Crime on Small Business, 91st Cong., 2d sess. 1970, 545.

8. The *New York Times* and other newspapers have extensively documented the presence of organized crime in the urban economy.

9. See Arthur A. Sloane, *Hoffa* (Cambridge: MIT Press, 1991), 82–83, 86–87; Stephen Brill, *The Teamsters* (New York: Simon & Schuster, 1978), 204; Robert D. Leitner, *The Teamsters Union: A Study of Its Economic Impact* (New York: Bookman, 1957), 122–23.

10. See H.R. 1417, 85th Cong., 2d sess., 1958, 168–72 (1958); Ralph C. James and Estelle Dinerstein James, *Hoffa and the Teamsters: A Study of Union Power* (Princeton: D. Van Nostrand, 1965), 18–21.

11. John "Johnny Dio" Dioguardi, a longtime soldier in the Lucchese crime family, was a convicted felon who had been incarcerated twenty years earlier for extorting money from truck operators in the garment industry. See Sloane, *Hoffa,* 81. In 1956, Dioguardi achieved national notoriety when U.S. Attorney Paul Williams charged him with plotting to throw sulfuric acid in the face of

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labor journalist Victor Riesel. The charges were ultimately dropped. See Virgil W. Peterson, *The Mob: 200 Years of Organized Crime in New York* (Green Hill, 1983), 310–11.

12. See Sloane, *Hoffa,* 82–83.

13. Anthony "Tony Ducks" Corallo was a high-ranking member and ultimately boss of the Lucchese crime family. In 1986, he was convicted under RICO of participating in a "commission" of Cosa Nostra bosses through a pattern of racketeering and sentenced to one hundred years in prison. See James B. Jacobs, Christopher Panarella, and Jay Worthington, *Busting the Mob: United States v. Cosa Nostra* (New York: New York University Press, 1994), 81, 86.

14. Select Committee on Improper Activities in the Labor or Management Field, 85th Cong., 2d sess., 1958, 12191, quoted in Peterson, *The Mob,* 339.

15. See James and James, *Hoffa and the Teamsters,* 21, 131.

16. See *United States v. Local 295,* 784 F. Supp. 15 (1992).

17. See Penn, "Mob Rule."

18. Nicholas Pileggi, *Wiseguy: Life in a Mafia Family* (New York: Simon and Schuster, 1985), 181.

19. Interview with Steve Carbone, supervisory special agent of the Federal Bureau of Investigation, March 7, 1997.

20. See Roy Rowan, "The 50 Biggest Cosa Nostra Bosses," *Fortune,* November 1986, 24.

21. See Pileggi, *Wiseguy,* 84, 92.

22. Ibid., 90.

23. Interview with Steve Carbone.

24. See *United States v. Werner,* 620 F.2d 922 (2d Cir. 1979).

25. See Richard Haitch, "$5 Million Holdup," *New York Times,* October 2, 1983, 49; see also Pileggi, *Wiseguy,* 179–81.

26. See Ira Breskin, "Teamsters Strike Emery Facilities in New York," *Journal of Commerce,* July 20, 1989, 4B.

27. See *Local 851 v. Thyssen Haniel Logistics, Inc.,* 1996 WL 5252-48, *6 (E.D.N.Y. September 5, 1996); Selwyn Raab, "U.S. Inquiry Finds Gangsters Hold Grip on Kennedy Cargo," *New York Times,* September 30, 1984, 1.

28. *Local 85 v. Kuehne & Nagel Air Freight, Inc.,* 1998 WL 178873, *1 (E.D.N.Y. March 6, 1998).

29. Interview with Ron DePetris.

30. Interview with David Krasula.

31. New York State Commission of Investigation, "Racketeer Activities in the New York City Freight Industry," in *New York State Commission Report on Organized Crime* (1968), 41.

32. William Ferrante, Port Authority's chief of police at JFK Airport, quoted in Roy Rowan, "How the Mafia Loots JFK Airport," *Fortune,* November 1986, 24.

0851

33. See Joseph P. Fried, "Airport Crime Under Attack in U.S. Drive," *New York Times,* May 17, 1992, 33.

34. See Selwyn Raab, "Kennedy Airport: Mob's Candy Store," *New York Times,* August 3, 1994, B2.

35. See David Firestone, "22 Are Arrested in Thefts of Kennedy Airport Cargo," *New York Times,* August 3, 1994, A1.

36. See *United States v. NAFA,* 1974 WL 903, *1 (E.D.N.Y., August 29, 1974).

37. *United States v. Santoro,* Cr. No. 85-100(S) (E.D.N.Y. November 7, 1986); Joseph Fried, "11 Indicted In Airport Extortion Case," *New York Times,* February 22, 1985, B3.

38. *People v. Davidoff,* Cr. No. 85-100(SS) (E.D.N.Y. December 12, 1986).

39. *United States v. Davidoff,* 845 F.2d 1151 (2d Cir. 1988).

40. See, e.g., *United States v. Local 295,* 784 F. Supp. 15, 21–22 (E.D.N.Y. 1992).

41. See James Cook, "The Worms in the Big Apple," *Forbes,* September 1987, 102.

42. See Selwyn Raab, "U.S. Inquiry Finds Gangsters Hold Grip on Kennedy Cargo," *New York Times,* September 30, 1984, 1.

43. See Cook, "The Worms in the Big Apple."

44. See Fried, "Airport Crime Under Attack in U.S. Drive."

45. See, e.g., *United States v. Santoro,* 647 F. Supp. 153, 158 (1986); Raab, "U.S. Inquiry Finds Gangsters Hold Grip on Kennedy Cargo."

46. See Rowan, "How the Mafia Loots JFK Airport."

47. Interview with Edward McDonald, head of the Brooklyn Organized Crime Strike Force, in Raab, "U.S. Inquiry Finds Gangsters Hold grip on Kennedy Cargo."

48. Local 295, "The Problem of Airborne Management Harassment," #*295 News,* February 1993, 7.

49. *United States v. Local 295,* 784 F. Supp. 15, 21–22 (E.D.N.Y. 1992); see also Fried, "Airport Crime Under Attack in U.S. Drive."

50. See, e.g., Raab, "Kennedy Airport."

NOTES TO CHAPTER 5

1. IBT Independent Review Board, "Report Concerning Proposed Charges Against Local 807 Member Robert Rabbitt, Sr.," December 1993.

2. See New York State Management Division of Management Audit, *An Evaluation of Management Activities and Controls at the Jacob K. Javits Convention Center* (May 1995); Philip Lentz, "Late, Over Budget . . . and Worth It? N.Y. Convention Center Draws Flak," *Chicago Tribune,* April 13, 1986, C6.

3. Brett Pulley, "Senate to Begin Hearings on Operation of Javits Center," *New York Times,* March 16, 1995, B4.

0852

4. See James B. Jacobs, Christopher Panarella, and Jay Worthington III, *Busting the Mob: United States v. Cosa Nostra* (New York: New York University Press, 1994).

5. Pulley, "Senate to Begin Hearings on Operation of Javits Center."

6. George James, "Court Records Say That Schiff Was Informant," *New York Times,* 10 June 1989, A30.

7. *Management and Operations of the Jacob K. Javits Center,* Investigative Hearing before the New York State Senate, March 16, 1995, statement of Governor George E. Pataki, 8–15.

8. The Urban Development Corporation (UDC) was formed as a public benefit corporation for the benefit of the people of the state, for a public purpose, and to perform an essential government function. This status exempts the corporation from all city, state, and local taxes.

9. Of the board members appointed by the legislature, two are chosen by the president of the Senate, one by the Senate minority leader, two by the Assembly speaker, and one by the Assembly minority leader.

10. *Management and Operations of the Jacob K. Javits Center,* statement of Senator Leichter, 21; Wayne Barrett, "Headless Center in Top-Led Scandal," *Village Voice,* March 28, 1995, Metro sec. 12.

11. Barrett, "Headless Center in Top-Led Scandal."

12. Brett Pulley, "Portrait of Javits Center's Chief: Autocratic, Disdainful of Rules," *New York Times,* May 6, 1995, A1.

13. The New York Auto Show, coordinated by the Greater New York Auto Association (a trade association representing five hundred franchised new-car dealers), provides an example of how the center works. See *Management and Operations of the Jacob K. Javits Convention Center,* statement of Mark Schienberg, 82–106.

14. *Management and Operations of the Jacob K. Javits Convention Center,* statement of Governor George E. Pataki, 15.

15. Ibid., statement of Mayor Rudolph Giuliani), 43–45.

16. See ibid., statement of Mark Schienberg, 86.

17. Kenneth Conboy, *Second Interim Report of the Investigations and Review Officer,* Report to Judge Haight, March 13, 1995, 18. Cafaro was the righthand man of Anthony "Fat Tony" Salerno, boss of the Genovese family until his stroke in 1981. *United States v. District Council,* 90 Civ. 5722 (CSH).

18. Conboy, *Second Interim Report of the Investigations and Review Officer,* 5.

19. Contractor requests must be presented in writing. To request a specific union member, the contractor must have employed that member within the past three months.

20. See Conboy, *Second Interim Report of the Investigations and Review Officer,* 8–24.

21. Kenneth Conboy, *First Interim Report of the Investigations and Review*

0853

Officer, Report to Judge Haight, September 1994, 28; *United States v. District Council,* 90 Civ. 5722 (CSH), 1990.

22. Tom Robbins, "Javits List in Chin's HQ," *Daily News,* March 22, 1995, 38; see also Kenneth Crowe, "Smoking List in Javits Hearing; Names May Link Carpenters Rep to Genovese Crime Family," *Newsday,* March 22, 1995, Business sec., A34.

23. The Colombo capo was Salvatore Miciotta. See Conboy, *Second Interim Report of the Investigations and Review Officer,* 13.

24. Salvatore Miciotta tried, and failed, to get his son a job at the center. See ibid., 4.

25. Kenneth Conboy, *Third Interim Report of the Investigations and Review Officer,* Report to Judge Haight, October 31, 1995, 45; *United States v. District Council,* 90 Civ. 5722 (CSH).

26. Conboy, *Second Interim Report of the Investigations and Review Officer,* 6.

27. Damon Stetson, "Carting Trade Has History of Strong-Arm Tactics," *New York Times,* December 11, 1975, 55.

28. Jerry Capeci, "Union Boss to Hammer Mob Link," *Daily News,* March 16, 1995, News, 5. The informant was Alfonse "Little Al" D'Arco, the Lucchese family's former acting boss.

29. Conboy, *Second Interim Report of the Investigations and Review Officer,* Exhibit 5, p. 1.

30. Ibid., 4, 17.

31. See Selwyn Raab, "Former Chief of the Carpenters Union Convicted of Stealing Funds," *New York Times,* March 25, 1998, B3; Barbara Ross and Bill Hutchinson, "Jail for Ex-Carpenter Boss," *Daily News,* August 18, 1998, News sec., 11.

32. Conboy, *First Interim Report of the Investigations and Review Officer,* Exhibit 13, Letter of Frederick W, Devine, dated April 25, 1994.

33. The associate was Attilio Bittondo, who was convicted of conspiracy, and bribery of a labor official in 1990. See Conboy, *Second Interim Report of the Investigations and Review Officer,* 11.

34. See Jerry Capeci and Tom Robbins, "Javits Center a Genovese Show," *Daily News,* March 15, 1995, News sec., 24.

35. Conboy, *Second Interim Report of the Investigations and Review Officer,* 10–11.

36. *Management and Operations of the Jacob K. Javits Center,* statement of Frederick Devine, 117–18.

37. Conboy, *Second Interim Report of the Investigations and Review Officer,* Exhibit 18, p. 3.

38. Kenneth Crowe, "All in the Family," *Newsday,* June 19, 1995, C1.

39. Kenneth Conboy, *Fourth Interim Report of the Investigations and Review*

0854

Officer, Report to Judge Haight, March 15, 1996, 5; *United States v. District Council*, 90 Civ. 5722 (CSH). Some Teamsters members indicated that they went to the Javits Center and took part in the shape before they had become union members.

40. "Trusteeship Recommendation Concerning Local 807," *IBT Independent Review Board Report* (March 1995), 26–37.

41. Ron Scherer, "A Look Under the Hood of Teamsters 807," *Christian Science Monitor,* May 24, 1996, 1.

42. *United States v. International Brotherhood of the Teamsters, et al.,* 708 F. Supp. 1288 (S.D.N.Y. 1989); see "Trusteeship Recommendation Concerning Local 807," 1. For a discussion of the IBT case, see James B. Jacobs, Christopher Panarella, and Jay Worthington, *Busting the Mob: United States v. Cosa Nostra* (New York: New York University Press, 1994), 167–210.

43. Crowe, "All in the Family."

44. See IBT Independent Review Board, *Concerning Proposed Charges Against Local 807 Member Robert Rabbitt, Sr.* (December 1993), for sworn statement of Robert Rabbitt Sr., general foreman of the Javits Center.

45. See Crowe, "All in the Family."

46. IBT Independent Review Board, *Concerning Proposed Charges Against Local 807 Member Robert Rabbitt, Sr.*, sworn statement of Rabbitt Sr., general foreman of the Javits Center, who testified that the position was created by the contractors and Local 807.

47. *People v. Rabbitt,* 506 N.Y.S.2d 983 (1986).

48. IBT Independent Review Board, *Report Concerning Charges Against Local 807 Members Michael Rabbitt, John Hohmann, James Tansey, Donald Rozas, Brian Rittenhouse, James Perrone, Antony Furino and Vincent Michaels* (May 1995); Crowe, "All in the Family."

49. *New York v. Robert Rabbitt Sr.,* Indictments 245–249/92.

50. Plea Agreement, *New York v. Robert Rabbitt Sr.,* Indictments 245–249/92, dated November 9, 1992; Crowe, "All in the Family."

51. IBT Independent Review Board, *Report Concerning Charges Against Local 807 Members Michael Rabbitt* (and others); Crowe, "All in the Family."

52. Plea Agreement, *New York v. Robert Rabbitt Sr.,* Indictments 245–249/92, dated November 9, 1992.

53. Crowe, "All in the Family."

54. IBT Independent Review Board, *Report Concerning Charges Against Local 807 Members Michael Rabbitt* (and others); Crowe, "All in the Family."

55. See Tom Robbins, "Bid to Cut Mob from Javits," *Daily News,* June 21, 1995, 8.

56. See Tom Robbins, "A Daring Undercover Cop," *Daily News,* March 15, 1995, 3.

0855

NOTES TO CHAPTER 6

1. "Ringing in Recycling," *New York Times,* December 30, 1996, A14.

2. Peter Reuter, "The Cartage Industry in New York," in *Beyond the Law: Crime in Complex Organizations,* ed. Michael Tonry and Albert J. Reiss Jr. (Chicago: University of Chicago Press, 1993), 151–52.

3. William Bunch, "Fighting a Trashy Image," *Newsday,* April 12, 1995, A24.

4. "City Ends Monopoly in Waste Collection," *New York Times,* March 15, 1947.

5. The city ended its collection services to commercial establishments in residential areas because it decided such services represented an improper subsidy to a specific class of businesses. See Peter Reuter, *Racketeering in Legitimate Industries: A Study in the Economics of Intimidation* (Santa Monica: Rand, 1987), 8–9; James Cook, "The Garbage Game," *Forbes,* 21 October 1985, 122–23. The Trade Waste Commission, *Report on the Reduction of the Maximum Legal Rate for the Removal of Trade Waste,* March 25, 1997, 6.

6. Reuter, *Racketeering in Legitimate Industries,* 8–9.

7. Reuter, "The Cartage Industry in New York," 154. In Chicago, most waste haulers have been of Dutch origin; in Los Angeles, the firms historically have been predominately Armenian and Jewish.

8. See *United States v. Gotti,* 1997 WL 157549, *15 (E.D.N.Y., April 3, 1997); *United States v. Private Sanitation Industry Assoc. of Nassau/Suffolk, Inc.,* 995 F.2d 375,376 (2d Cir. 1993); *United States v. Casso,* 843 F. Supp. 829, 837 (E.D.N.Y. 1994).

9. Reuter, *Racketeering in Legitimate Industries,* 7.

10. "New York and Cosa Nostra: Clean Streets," *Economist,* March 12, 1994, 33.

11. Reuter, *Racketeering in Legitimate Industries,* 10.

12. Reuter, "The Cartage Industry in New York," 155–56.

13. "City Ends Monopoly in Waste Collection," 11.

14. Selwyn Raab, "He Runs Trash Hauling with Silence and Pastry," *New York Times,* February 20, 1993, 21.

15. John Rather, "U.S. Tries to Bar Crime Families from Carting," *New York Times,* June 18, 1989, 1.

16. Arnold H. Lubasch, "Undercover Concern Used in Garbage Case," *New York Times,* May 20, 1977, A26.

17. "21 Are Indicted on Long Island: Carting Plot Is Alleged," *New York Times,* September 14, 1984, B2.

18. Kevin Flynn, "Mayor to Return Funny Money," *Newsday,* January 11, 1991, 3.

19. See James B. Jacobs and Alex Hortis, "New York City as Organized Crime Fighter," *New York Law School Law Review* 42, nos. 3–4 (1998): 1069–92;

0856

Arnold H. Lubasch, "19 Are Charged in City Racketeering Inquiry," *New York Times,* February 20, 1985, B3.

20. Detective Joseph Lentini, *In Re Warrant to Search the Greater New York Waste Paper Association,* search warrant affidavit submitted to the New York State Supreme Court (June 1995), 4–5.

21. Jonathan Rabinovitz, "Union Local Agrees to Court Monitor to Bar Any Association with Mobsters," *New York Times,* January 12, 1994, B4.

22. Ibid.

23. John McQuiston, "Families of Slain Informers Awarded $10.8 Million," *New York Times,* July 22, 1998, B7.

24. Alan A. Block and Frank R. Scarpetti, *Poisoning for Profit: Cosa Nostra and Toxic Waste in America* (New York: Morrow, 1985), 89.

25. Damon Stetson, "Carting Trade Has a History of Strong-Arm Tactics," *New York Times,* December 11, 1975, 55.

26. Allan Meyerson, "The Garbage Wars: Cracking the Cartel," *New York Times,* July 30, 1995, C1; Greg Goeller, "BFI Intent on Staying in NYC: Garbage Company Facing Heat from Organized Crime," *Houston Post,* March 18, 1995, C1.

27. Raab, "He Runs Trash Hauling with Silence and Pastry," 21.

28. Senate Select Committee on Improper Activities in the Labor or Management Field, *Report No. 1417,* 85th Cong., 2d sess. (Washington, D.C.: Government Printing Office, 1958), 328.

29. Ibid.

30. Ibid., 310; see also Reuter, "The Cartage Industry in New York," 157.

31. Tom Renner and Michael Slackman, "They Defied Cosa Nostra," *Newsday,* September 24, 1989, 5.

32. *United States v. IBT,* 998 F.2d 120, 122 (2d Cir. 1993).

33. Ibid.

34. Block and Scarpetti, *Poisoning for Profit,* 73.

35. Ibid., 74.

36. *People v. Adelstein,* 8 N.Y.2d 998 (N.Y. App. Div. 1960).

37. Ibid.; see also Reuter, "The Cartage Industry in New York," 157.

38. Ibid., 186–87.

39. Ibid.

40. Ibid., 159.

41. Nicholas Gage, "Carting in Brooklyn Is Linked to Crime," *New York Times,* March 19, 1974, 1.

42. See Jacobs and Hortis, "New York City as Organized Crime Fighter," 5; I. Jeanne Dugan, "The Auditor of Your Dumpster," *Business Week,* May 13, 1996, 14; see also Roy Rowan, "The 50 Biggest Media Bosses," *Fortune,* November 10, 1986, 24.

43. Dugan, "The Auditor of Your Dumpster."

0857

44. Selwyn Raab, "To Prosecutors, Breakthrough After 5 Years of Scrutiny," *New York Times,* June 23, 1995, B3.

45. "N.Y.C. Bill Seeks to Curtail Mob Influence in Commercial Hauling," *Integrated Waste Management,* April 26, 1995, 5.

46. John T. McQuiston, "Break-Up of Carters Sought," *New York Times,* 27 January 1985, 8.

47. Gage, "Carting in Brooklyn is Linked to Crime."

48. Reuter, "The Cartage Industry in New York," 180; Frank J. Prial, "55 Carters Are Charged with Brooklyn Monopoly," *New York Times,* March 29, 1974, 1.

49. Reuter, "The Cartage Industry in New York," 164; Damon Stetson, "Carting Trade Has History of Strong-Arm Tactics."

50. "State Seeks to Curb Brooklyn Carter," *New York Times,* November 21, 1974, 38; Stetson, "Carting Trade Has History of Strong-Arm Tactics."

51. Peter Reuter, "The Cartage Industry in New York," in *Crime and Justice: An Annual Review of Research,* ed. Michael Tonry 18 (1994): 149–201.

52. David Bird, "City May Take Indicted Carters' Routes," *New York Times,* July 22, 1974, A1.

53. Ibid.

54. Ibid.

55. See *People v. Vespucci,* 553 N.E.2d 965, 966 (N.Y. 1990); "21 Are Indicted on Long Island."

56. "21 Are Indicted on Long Island."

57. *People v. Vespucci,* 553 N.E.2d, at 966–67.

58. "21 are Indicted on Long Island."

59. *People v. Private Sanitation Indus. of Nassau/Suffolk, Inc.,* 136 Misc. 2d 612, 613 (Suffolk County Ct. 1987).

60. *People v. Sail Carting & Recycling Co., Inc.,* 158 A.D. 2d 724, 724 (N.Y. App. Div. 1990).

61. "9 Garbage Haulers Face Jail or Work," *New York Times,* January 13, 1987, B5; Don Smith, "Judge Fines Carting Firms $1.01 M," *Newsday,* January 26, 1988, 25.

62. *State v. Salem Sanitary Carting Corp.,* 1989 WL 111597 (E.D.N.Y. Aug. 9, 1989), at 1: John T. McQuiston, "Breakup of Carters Sought," *New York Times,* January 27, 1985, 8.

63. 15 U.S.C. 12–27.

64. *State v. Salem Sanitary Carting Corp.,* 1989 WL 111597, at 1.

65. McQuiston, "Breakup of Carters Sought."

66. See *Jerry Kubecka, Inc. v. Avellino,* 898 F. Supp. 963, 966 (E.D.N.Y. 1995). The Kubecka and Barstow families brought a civil-racketeering and wrongful-death suit against Avellino, Lucchese crime family member Anthony Casso, and two carting companies that Avellino owned. The families next brought suit

0858

against the state of New York, alleging that the New York State Organized Crime Task Force, with which Kubecka and Barstow had been cooperating, failed to protect the two men from being murdered. See *Kubecka v. State,* 1996 WL 766553, *1 (N.Y.Ct.Cl. December 20, 1996). The New York Court of Claims ruled for the plaintiffs, finding that the OCTF failed in its duty to provide reasonable protection to the decedents. In June 1998, New York State was ordered to pay $10.8 million to the families of Kubecka and Barstow. John T. McQuiston, "Families of Slain Informers Awarded $10.8 Million," *New York Times,* July 22, 1998, B7.

NOTES TO CHAPTER 7

1. New York State Organized Crime Task Force, *Corruption and Racketeering in the New York City Construction Industry* (hereinafter OCTF Final Report) (New York: New York University Press, 1990), 83.

2. See ibid., 16–17.

3. Ibid., 225–26.

4. See OCTF Final Report.

5. Joseph Trerotola, in his eighties at the time, died later that year. Jerry Seper, "Organized Labor Fights Family Ties," *Insight on the News,* November 21, 1994, 6.

6. See OCTF Final Report, 81.

7. See *United States v. Cody,* 722 F.2d 1052 (2d Cir. 1983), cert. denied, 467 U.S. 1226 (1984).

8. See *United States v. Sasso,* Cr. 92-1344 (IBT Local 282 F.O.R.E. Collection, Tamiment Library, Robert F. Wagner Labor Archives, New York University); Robert Kessler, "Union Boss Sentenced," *Newsday,* September 10, 1994, A13.

9. See *United States v. Petito,* 671 F.2d 68 (2d Cir.), cert. denied, 459 U.S. 824 (1982); *United States v. Sanzo,* 673 F.2d 64 (2d Cir.), cert. denied, 459 U.S 858 (1982).

10. See OCTF Final Report, 21, 81 (citing *United States v. Sherman,* 84 Cr. 205 (S.D.N.Y. 1984)).

11. Ralph Scopo died in prison in March 1993. See *United States v. LIUNA,* draft complaint at 15(1).

12. In March 1987, pursuant to a civil RICO suit brought by the U.S. attorney for the Southern District of New York, Local 6A of the District Council of Cement and Concrete Workers agreed to replace many of its leaders and accept supervision by a court-appointed trustee. *United States v. Local 6A, Cement and Concrete Workers,* 86 Civ. 4819 (S.D.N.Y. 1986).

13. See ibid.; *United States v. Local 6A, Cement and Concrete Workers,* 832 F. Supp. 674 (1993) (noting that monitorship was to end 1990 but was extended to 1992); see also OCTF Final Report, 79.

0859

14. In September 1989, LaBarbara and Abbatiello pled guilty to multiple counts of accepting payoffs totaling $18,000 from seven Long Island contractors. Abatiello also pleaded guilty to obstructing justice by instructing a witness to lie to the grand jury. Vario resigned from the union in December 1988. In March 1990, he was convicted on thirty-eight federal counts. See *United States v. Vario,* 88 Cr. 719 (E.D.N.Y. 1988).

15. See *United States v. Gallo,* 671 F. Supp. 124 (E.D.N.Y. 1987); *United States v. Daly,* 842 F.2d 1380 (2d Cir. 1988); Kevin Flynn and Michael Weber, "Blast Firms' Tangled Mob Ties," *Newsday,* April 9, 1983, News sec., 3.

16. *People v. Pagano,* Indictment No. 120/89 (Rockland County 1989). In this case, Daniel and his son Joseph pleaded guilty to loan-sharking and gambling charges.

17. See *United States v. LIUNA,* Draft Complaint at 13(z).

18. *United States v. Cervone,* 907 F.2d 332 (2d. Cir. 1990).

19. See *United States v. Mason Tenders District Council of Greater New York,* 94 Civ. 6487 (RWS), 1997 WL 97836 at *1 (S.D.N.Y. March 16, 1997).

20. See *United States v. Mason Tenders District Council of Greater New York,* 94 Civ. 6487 (RWS), 1995 WL 679245 (S.D.N.Y. November 15, 1995); Richard Bernstein, "Papers Diagram Mob's Grip on a Union," *New York Times,* November 2, 1994, B1.

21. See *United States v. Mason Tenders District Council of Greater New York,* 1997 WL 97836 at *1.

22. See *United States v. District Council,* 90 Civ. 5722 (CSH), Government's Memorandum in Support of Its Motion for Preliminary Relief (hereinafter Government's Memorandum), 1–15; Selwyn Raab, "Former Chief of Carpenters' Union Convicted of Stealing Funds," *New York Times,* March 25, 1998, B3.

23. As a reaction to the federal investigation of Maritas, the international union imposed a trusteeship over the District Council from 1981 to 1984. See *United States v. McGuinness,* 764 F. Supp. 888, 891 (S.D.N.Y. 1991); Jerry Gray, "Union Leader Wins Acquittal in a Bribe Case," *New York Times,* July 25, 1991, B1.

24. Kenneth Conboy, *Fifth Interim Report of the Investigations and Review Officer,* Report to Judge Haight, September 30, 1996; *United States v. District Council,* 90 Civ. 5722 (CSH); Raab, "Former Carpenters' Union Chief Convicted of Stealing Funds." Devine was later sentenced to a fifteen-month prison term. Barbara Ross and Bill Hutchinson, "Jail for Ex-Carpenter Boss," *Daily News,* August 18,1998, News sec., 11.

25. OCTF Final Report, 50–51.

26. Interview with James McNamara, former director of the Mayor's Office of Construction Industry Relations, former consultant to the Manhattan District Attorney's Office and to the OCTF, on September 8, 1998.

0860

27. See Selwyn Raab, "New York Officials of Plumbing Union Charged in Bribery," *New York Times,* October 15, 1993, A1; *People v. Moscatiello,* 566 N.Y.S.2d 823.

28. See *United States v. Daly,* 842 F.2d 1380 (2d Cir. 1988); *United States v. Gallo,* 671 F. Supp. 124 (E.D.N.Y. 1987), Cr. 86-452(S); Selwyn Raab, "Court Aide and 15 Others Indicted in Move Against Gambino Group," *New York Times,* June 21, 1986, A1.

29. See *People v. Salzarulo,* 639 N.Y.S.2d 885 (1996).

30. See Manhattan District Attorney, news release, April 22, 1996 (James McNamara collection, Tamiment Library, Robert F. Wagner Labor Archives, New York University); Selwyn Raab, "Ex-Plumbers' Union Officials Guilty in Extortion," *New York Times,* April 23, 1996, B4. Paul Martello was later acquitted. Interview with James McNamara on September 8, 1998.

31. See *People v. Capaldo,* 572 N.Y.S.2d 989 (1991).

32. See Selwyn Raab, "Painters Union Officials Admit Links to Mob," *New York Times,* March 10, 1991, A31.

33. Association for Union Democracy, "Jimmy Bishop Murdered in Painters District Council 9," *Union Democracy Review,* No. 77 (August 1990): 4.

34. See *United States v. McGowan,* 58 F.3d 8 (2d Cir. 1995).

35. See *United States v. Gigante,* 39 F.3d 42 (2d Cir. 1994); *United States v. McGowan*; *United States v. Mangano,* 90 Cr. 0446 (E.D.N.Y.).

36. OCTF Final Report, 31–51.

37. OCTF Final Report, 64, 93–94 (citing President's Commission on Organized Crime, *Organized Crime and Labor-Management Racketeering in the United States, Record of Hearing VI, Chicago, Illinois* (Washington, D.C.: Government Printing Office, April 1985)).

38. OCTF Final Report, 28.

39. Rich Blake, "NY Carpenter's Reportedly Reviewing Mandates Totaling $1.3 Billion," *Money Management Letter,* May 5, 1997, 9, 1.

40. See Tom Robbins, "Carpenters' Ex-Prez Hit in Fund Theft," *Newsday,* October 25, 1996, News sec., 2.

41. See *United States v. District Council,* 90 Civ. 5722 (CSH), Declaration of Jesse Hyman, at 9.

42. See OCTF Final Report, 23.

43. Ibid., 84–85.

44. Hearings on Organized Crime and the Laborer's International Union of North America, before the Subcommittee on Crime, of the House Judiciary Committee, 104th Congress, 2d session, July 24, 1996, at 47 (testimony of James E. Moody, former Deputy Assistant Director, Criminal Investigations Division, FBI).

45. Michael Oreskes, "Corruption Is Called a Way of Life in New York Construction Industry," *New York Times,* April 25, 1982, A1.

0861

46. *United States v. Salerno,* 86 Cr. 245 (S.D.N.Y. 1986); *United States v. Salerno,* 85 Cr. 139 (S.D.N.Y. 1985).

47. M. A. Farber, "Concrete Contractors Tell of Payoffs to a Union Leader for Labor Peace," *New York Times,* December 18, 1985, B1; M. A. Farber, "Colombo Jury Hears Tapes of '83 Conversations about Payments," *New York Times,* April 21, 1985, A31; Ronald Smothers, "Jury Is Told Crime Families Control Concrete Business," *New York Times,* January 15, 1986, B3.

48. Roy Rowan, "The Mafia's Bite of the Big Apple," *Fortune,* June 6, 1988, 128.

49. Selwyn Raab, "Key Teamster Leader Is Convicted of Labor Racketeering by Long Island Jury," *New York Times,* October 9, 1982, A1.

50. See *United States v. Halloran,* 86 Cr. 245, 1989 WL 2691 (S.D.N.Y. 1989).

51. Rowan, "The Mafia's Bite of the Big Apple," 128.

52. See OCTF Final Report, 87; *United States v. Salerno,* 937 F.2d 797 (2d Cir. 1991), rev'd., 505 U.S. 317 (1992); *United States v. Salerno,* 974 F.2d 231 (2d Cir. 1992), rev'd. in part sub nom., *United States v. DiNapoli,* 8 F.3d 909 (2d Cir. 1993) (en banc); *United States v. Migliore,* 104 F.3d 354 (2d Cir. 1996) (noting that all five remaining defendants pled guilty by 1995).

53. See Selwyn Raab, "Trouble for New York's Concrete Venture," *New York Times,* May 30, 1993, A29; Selwyn Raab, "Irregularities in Concrete Industry Inflate Building Costs, Experts Say," *New York Times,* April 26, 1982, A1.

54. See *United States v. Vario,* 88 Cr. 719 (E.D.N.Y. 1988).

55. For a detailed description of this conspiracy, see Robert W. Greene, "The LI Concrete Trial," *Newsday,* March 11, 1990, Long Island ed., 3; Tom Morris, "LI Prices among Highest," *Newsday,* March 11, 1990, Long Island ed., 3; Steve Wick, "How a Small Firm Became the Island's Largest Supplier," *Newsday,* March 11, 1990, Long Island ed., 27.

56. See Government's Memorandum, 12.

57. See Selwyn Raab, "Investigators Charge Contractors Formed 'Club' for Tax Fraud," *New York Times,* July 6, 1983, A1.

58. Interview with James McNamara on September 8, 1998; Memorandum regarding conversations with Michael Gedell (Jim McNamara Collection, Tamiment Library, Robert F. Wagner Labor Archives, New York University Library).

59. See Government's Memorandum, 1–15.

60. See OCTF Final Report, 84; *United States v. District Council,* 90 Civ. 5722 (CSH), Svedese Affidavit, 7.

61. Government's Memorandum, 12; *United States v. District Council,* 90 Civ. 5722 (CSH), Declaration of Salvatore Gravano at 3; 90 Civ. 5722 (CSH), Affidavit of Marcello Svedese, 4–6.

62. See OCTF Final Report, 50–51.

63. See Rowan, "The Mafia's Bite of the Big Apple"; Government's Memorandum, 12; OCTF Final Report, 85.

0862

64. See *United States v. Maritas,* 81 Cr. 122 (E.D.N.Y. 1981); see also Selwyn Raab, "Contractor on U.S.-Backed Projects in Bronx Is Tied to Organized Crime," *New York Times,* March 1, 1981, A1.

65. Government's Memorandum, 15; *United States v. District Council,* 90 Civ 5722 (CSH), Declaration of Vincent Cafaro, 6.

66. See OCTF Final Report, 84.

67. See Government's Memorandum, 16–17.

68. See *United States v. McGuinness,* 764 F. Supp. 888, 891 (S.D.N.Y. 1991); Gray, "Union Leader Wins Acquittal in a Bribe Case."

69. Conboy, *Fifth Interim Report of the Investigations and Review Officer,* 21–24; Selwyn Raab, "Former Carpenters' Union Chief Convicted of Stealing Funds," *New York Times,* March 25, 1998, B3.

70. See *United States v. Gigante,* 39 F.3d 42 (2d Cir. 1994).

71. See Pete Bowles, "'Window' Trial Gets Rackets Buildup," *Newsday,* April 24, 1991, News sec., 21.

72. See *United States v. Gigante,* 39 F.3d at 44.

73. See *United States v. McGowan,* 854 F. Supp. 176, 182 (E.D.N.Y. 1994), aff'd. 58 F.3d 8 (2d. Cir. 1995). Thomas McGowan, acquitted in the "windows" case, was convicted of related conspiracies in 1994. See *United States v. McGowan,* 58 F.3d 8, 11 (2d Cir. 1995). Belief that John Morrissey might testify for the government led to his murder in 1989 (before the trial began) by another defendant in the "windows" case. Peter Chiodo, who later become a government witness, admitted responsibility. See *United States v. Gigante,* 39 F.3d at 46 (referring to Chiodo's testimony in *United States v. Fatico,* 579 F.2d 707 (2d Cir. 1978)).

74. See *United States v. Fatico,* 579 F.2d 707 (2d Cir. 1978); *United States v. Gigante,* 39 F.3d at 45.

75. Arnold H. Lubasch, "US Says Mob Gained Grip on Window Trade," *New York Times,* April 24, 1991, B3 (quoting prosecutor's opening statement).

76. See *United States v. Gigante,* 39 F.3d at 45.

77. See ibid.

78. See Pete Bowles, "Mobster: I Bribed City Housing Chief," *Newsday,* May 8, 1991, News sec., 33.

79. *Newsday* reported that unions assigned "drunks and derelicts" to competitors. See ibid.

80. Ibid. (quoting testimony of Savino).

81. See Pete Bowles, "Window Opened on Alleged Mob Scam," *Newsday,* May 7, 1991, News sec., 23.

82. See *United States. v. Gigante,* 39 F.3d at 45.

83. Selwyn Raab, "12 Indicted as Mob Rulers of Painting," *New York Times,* June 22, 1990, B1; *People v. Capaldo,* 572 N.Y.S.2d 989 (1991) (holding that OCCA was not unconstitutionally vague); U.S. Dept. of Labor, press release, June 26,

0863

1990 (Jim McNamara Painters Collection, Tamiment Library, Robert F. Wagner Labor Archives, New York University).

84. Raab, "12 Indicted as Mob Rulers of Painting."

85. See Association for Union Democracy, "Jimmy Bishop Murdered in Painters District Council 9."

86. See Raab, "Painters Union Officials Admit Links to Mob," A31.

87. Robert E. Tomasson, "Documents Describe Corruption in Painters' Union," *New York Times,* April 21, 1991, A1.

88. "Painters Union Double-Dipped in Green Deals," *Engineering News-Record* (231, no. 15) (October 11, 1993): 18; Arnold H. Lubasch, "13 Indicted in U.S. Drive Against Mob," *New York Times,* November 1, 1992, A64.

89. Raab, "Ex-Plumbers' Union Officials Guilty in Extortion."

90. Selwyn Raab, "Top Plumbing Company Cited in Tax Evasion Case," *New York Times,* April 14, 1994, B3; Raab, "New York Officials of Plumbing Union Charged in Bribery," A1.

91. *Morgenthau v. Salzarulo,* Affirmation in Support of Plaintiff's Application for a Temporary Restraining Order and Motion for a Preliminary Injunction and Appointment of a Temporary Receiver (Jim McNamara Collection, Tamiment Library, Robert F. Wagner Labor Archives, New York University); Raab, "New York Officials of Plumbing Union Charged in Bribery." Louis Moscatiello Jr. was later acquitted.

92. *Morgenthau v. Salzarulo,* Affirmation in Support of Plaintiff's Application for a Temporary Restraining Order and Motion for a Preliminary Injunction and Appointment of a Temporary Receiver (Jim McNamara Collection, Tamiment Library, Robert F. Wagner Labor Archives, New York University).

93. *Trustees of Plumbers and Pipefitters National Pension Fund, v. Transworld Mechanical, Inc.,* 886 F. Supp. 1134, 1138 (S.D.N.Y. 1995).

94. Interview with Perry Carbone, former assistant district attorney in Manhattan.

NOTES TO CHAPTER 8

1. See John Landesco, *Organized Crime in Chicago* (Chicago: University of Chicago Press, 1968; originally published in 1929).

2. Cf. Peter Maas, *Underboss: Sammy "The Bull" Gravano's Story of Life in the Mafia* (New York: HarperCollins, 1997), 43, 65–66.

3. There is some dispute as to whether a national "commission," ostensibly made up of the most powerful representatives of the major Italian crime families, ever existed. Compare Maas, *Underboss,* 33–34, with James B. Jacobs, Christopher Panarella, and Jay Worthington, *Busting the Mob: United States v. Cosa Nostra* (New York: New York University Press, 1994), 79–91.

0864

4. Other reports hold that by the early 1980s, the Bonanno family had dropped out of the "commission" because of internal warfare. The leaders of the Bonanno family were indicted in a separate RICO prosecution for conducting a criminal enterprise (the crime family) through a pattern of racketeering activity (supplied by information gathered from Operation GENUS). See Jacobs, Panarella, and Worthington, *Busting the Mob,* 81.

5. See Peter Reuter, *Racketeering in Legitimate Industries: A Study in the Economics of Intimidation* (Santa Monica: Rand 1987).

6. Peter Reuter, "Regulating Rackets," *American Enterprise Institute Journal on Government and Society,* September/December 1984, 34.

7. Maas, *Underboss,* 61–63, 105, 135–36, 167.

8. Ibid., 232–33, 277.

9. Ibid., 283.

10. Many newly made Cosa Nostra members married into the family, or had blood ties to the mob. See generally, ibid.

11. John H. Davis, *Mafia Dynasty: The Rise and Fall of the Gambino Crime Family* (New York: HarperCollins, 1993), 114.

12. There is no definitive study of the history of organized-crime's involvement in the American labor movement. But see Philip Taft, *Corruption and Racketeering in the Labor Movement,* 2d ed. (Ithaca: New York State School of Industrial and Labor Relations Press, 1970); John Hutchinson, *The Imperfect Union* (New York: Dutton, 1970; Stephen Fox, *Blood and Power: Organized Crime in the Twentieth Century* (New York: Morrow, 1989).

13. Notably, union reformer Frank Schonfeld won control of Painters District Council 9 in 1967, but without government assistance in rooting out corruption, his six-year term failed to liberate the union from organized-crime's influence. See Association for Union Democracy, "Painters, Roofers, Fish Market," *Union Democracy Review* 90 (October 1992): 6.

14. Jacobs, Panarella, and Worthington, *Busting the Mob.*

15. Maas, *Underboss,* 279.

16. Perhaps rank-and-file indifference to the possibility of reform can be explained by the fact that union democracy is not important to most union members. See James Coleman, Seymour Martin Lipset, and Martin A. Trow, *Union Democracy, The Internal Politics of the International Typographical Union* (Glenco, Ill.: Free Press, 1956).

17. Landesco, *Organized Crime in Chicago,* 152.

18. Robert W. Snyder, "Organized Crime," in *Encyclopedia of New York City,* ed. Kenneth Jackson (New Haven: Yale University Press, 1995), 866–68.

19. *United States v. Corallo,* 413 F2d 1306 (2d Cir. 1969).

20. See ibid., 1312.

21. See ibid., 1315; 1319.

22. See ibid., 1318.

0865

23. See ibid., 1306–7.

24. See George Walsh, *Public Enemies: The Mayor, the Mob and the Crime That Was* (New York: Norton, 1980).

25. Earlier in the twentieth century, other ethnic organized-crime groups did engage in industrial racketeering. For example, notorious Jewish ganglord Lepke Buchalter, aided by his violent sidekick Gurrah Shapiro, ran rackets in the garment industry in the 1930s, until the state convicted and executed him for murder. See chapter 2; Jonathan Kwitny, *Vicious Circles: The Mafia in the Marketplace* (New York: Norton, 1979) 65, 236, 267.

NOTES TO THE INTRODUCTION TO PART 2

1. Thomas E. Dewey, *Twenty Against the Underworld* (Garden City, N.Y.: Doubleday, 1974), 475–76 (Lepke conviction) and 262–70 (Luciano case)

2. John Kobler, *Capone: The Life and World of Al Capone,* (New York: De Capo, 1992), 270–82.

3. See chapter 2.

4. See chapter 3.

5. Gary W. Potter, *Criminal Organizations: Vice, Racketeering and Politics in an American City* (Prospect Heights, Ill.: Waveland Press, 1994), 182–84.

6. U.S. Senate Special Committee to Investigate Organized Crime in Interstate Commerce (Kefauver Committee), *Final Report,* 82d Cong., 1st sess., 1951, S. Rept. 725.

7. *U.S. Senate Select Committee on Improper Activities in the Labor or Management Field* (McClellan Committee), *Final Report,* 86th Cong., 2d sess. 1960, S. Rept. 1139.

8. Anthony Summers, *Official and Confidential: The Secret Life of J. Edgar Hoover* (New York: G. P. Putnam's Sons, 1993), 237–59. See also Arthur M. Schlesinger Jr., *Robert Kennedy and His Times* (Boston: Houghton, Mifflin, 1978), 264–66.

9. Schlesinger Jr., *Robert Kennedy and His Times,* 266–72.

10. U.S. Task Force on Organized Crime, *Task Force Report: Organized Crime, Annotations, and Consultants' Papers,* (Washington D.C.: Government Printing Office, 1967).

11. James B. Jacobs, Christopher Panarella, and Jay Worthington, *Busting the Mob: United States v. Cosa Nostra* (New York: New York University Press, 1994), 14.

12. Attorney General Order No. 136-89, December 26, 1989 ("Order Directing Realignment of Organized Crime Program Resources").

13. Part of Title III of the Omnibus Crime Control and Safe Streets Act of 1968. 18 U.S.C. 2510-20 (1982)

14. 18 U.S.C. 1961.

0866

15. 18 U.S.C. 1961 (d).

16. 18 U.S.C. 1963 (a).

17. *United States v. Salerno,* 85 Cr. 139 (S.D.N.Y. 1985).

18. See Bonanno family: *United States v. The Bonanno Organized Crime Family,* 87 Civ. 2974 (E.D.N.Y. 1987); Colombo family: *United States v. Persico,* 832 F.2d 705 (2d Cir. 1987), *United States v. Colombo,* 616 F. Supp. 780 (E.D.N.Y. 1985); Gambino family: *United States v. Gotti,* 641 F. Supp. 283 (S.D.N.Y. 1986); Genovese family: *United States v. Salerno,* 868 F.2d 524 (2d Cir. 1989).

19. 18 U.S.C. 1964 (c).

20. 18 U.S.C. 1964 (a).

21. The Witness Security Program was created by the Organized Crime Control Act of 1970. Public Law 91–452, *United States Statutes at Large* 84, secs. 922, 922–23 (1970).

22. Personal interview, Robert Stewart, July 28, 1998.

23. Personal interview, James Kossler, July 9, 1998.

24. Jacobs, Panarella, and Worthington, *Busting the Mob,* 80–81.

25. Peter Maas, *The Valachi Papers* (New York: Putnam, 1968).

26. Jacobs, Panarella, and Worthington, *Busting the Mob,* 13–14.

NOTES TO CHAPTER 9

1. Arthur Friedman, "Gambino Trial: SA to Take Witness Stand," *Women's Wear Daily,* February 5,1992, 1.

2. See, for example, *United States v. Cloak and Suit Trucking Ass'n, "Undercover Cop Tells of Trucker's Threats," Women's Wear Daily,* February 7, 1992, 13.

8. Manhattan district attorney Robert Morgenthau announced that the prosecutions reflected a comprehensive, industry-wide approach and a break with past law enforcement efforts. "This time we are focusing on the major entrenched players. And we are doing our level best to get rid of these illicit activities." Selwyn Raab, "Police Say Their Chinatown Sting Ties Mob to the Garment Industry," *New York Times,* March 20, 1990, A1.

9. Thomas Ciampi, "Gambino Trucking Trial Hears How SA Apportioned," *Women's Wear Daily,* February 11, 1992, 28.

10. Friedman, "Gambino Trial."

11. Friedman and Struensee, "Undercover Cop Tells of Trucker's Threats."

12. Ibid.; Raab, "Police Say Their Chinatown Sting Ties Mob to the Garment Industry."

13. Friedman and Struensee, "Undercover Cop Tells of Trucker's Threats."

14. Selwyn Raab, "7 Held in Extortion of Mob Clothiers," *New York Times,* October 19, 1990, B3.

15. Raab, "Police Say Their Chinatown Sting Ties Mob to the Garment Industry," 13.

0867

16. John DiSalvo, Raymond Buccafusco, Clothing Carriers Corp., Consolidated Carriers Corp., Greenberg's Express, Inc., and GRG Delivery Corp. were also named in the indictment. *People v. Gambino,* Indictment No. 11859-90.

17. Ibid.

18. The second indictment named David Stuart, Mark Stuart, Michael Voulo, AAA Garment Delivery, Inc., J. R. Garment Delivery, Inc., IMC Carriers, Ltd., FM & J Delivery Service, Inc., Lucky Apparel Carriers, Inc., Lucky Garment Transportation Co., Inc. *People v. David Stuart,* Indictment No. 11858-90.

19. Raab, "7 Held in Mob Extortion of Clothiers."

20. *People v. Gambino,* in *New York Law Journal,* May 1, 1991, 23.

21. Ibid.; Cerisse Anderson, "OCCA Counts Stand in Trucking Case," *New York Law Journal,* April 30, 1991, 1.

22. Ronald Sullivan, "Gambino Gained 'Mob Tax' with Fear, Prosecutor Says," *New York Times,* February 5, 1992, B3.

23. Ronald Sullivan, "Gambino Trial: Trucks and 'Guys in Trenchcoats,'" *New York Times,* February 6, 1992, B2.

24. Friedman and Struensee, "Undercover Cop Tells of Truckers' Threats."

25. Chuck Struensee, "Ex-Gambino Rep Testifies He Didn't Threaten Firms," *Women's Wear Daily,* February 20, 1992, 9.

26. Ralph Blumenthal, "When the Mob Delivered the Goods," *New York Times Magazine,* July 26, 1992, 23.

27. Ronald Sullivan, "2 Gambinos Go on Trial, Very Quietly," *New York Times,* February 23, 1992, A1.

28. Specifically, the Gambinos pled guilty to violating New York's General Business Law 340, 341, as did John DiSalvo, Clothing Carriers Corp., Consolidated Carriers Corp., Greenberg's Express, Inc., and GRG Delivery Corp. Jonathan M. Moses and Milo Geyelin, "Legal Beat," *Wall Street Journal,* February 27, 1992, B8.

29. Michael Vuolo, AAA Garment Delivery, Inc., J. R. Garment Delivery, Inc., IMC Carriers, Ltd., FM & J Delivery Service, Inc., Lucky Apparel Carriers, Inc., and Lucky Garment Transportation Co., Inc. pled guilty to violating the same state business laws as the Gambinos. Both David Stuart and Raymond Buccafusco pled guilty to violating New York State Penal Law sec. 100.05 (criminal solicitation). The charges against Mark Stuart were dropped. *People v. Gambino,* Indictments 11859-90 and 11858-90, Plea Agreement, 2–3 (1992).

30. DiSalvo and Buccafusco also were forced out of the garment industry. *People v. Gambino,* Indictments 11859-90 and 11858-90, Plea Agreement, 4 (1992). Voulo and David Stuart, along with the other companies mentioned in the second indictment, agreed to cease anticompetitive practices. *People v. Gambino,* Indictments 11859-90 and 11858-90, Plea Agreement, 3 (1992).

31. *People v. Gambino,* Indictments 11859-90 and 11858-90, Plea Agreement, 4 (1992).

0868

32. Gay Jervey, "Waltzing with the Wise Guys," *American Lawyer,* May 1992, 86.

33. *People v. Gambino,* Indictments 11859-90 and 11858-90, Plea Agreement, 6 (1992).

34. Ibid., 5.

35. Arthur Friedman, "Robert McGuire Says He Aims to Nurture Competitive Trucking on SA; Court-Appointed Special Master Over Garment Industry Trucking," *Women's Wear Daily,* March 29, 1993, 8.

36. Arthur Friedman, "McGuire: SA Trucking on a Level Playing Field," *Women's Wear Daily,* November 29, 1993, 3.

37. "Gambinos Get Extension on Sale of Truck Companies," *Women's Wear Daily,* March 17, 1993, 16.

38. Friedman, "McGuire: SA Trucking on a Level Playing Field."

39. "Gambinos Get Extension on Sale of Truck Companies."

40. Arthur Friedman, "McGuire: The Trucks Are Rolling," *Women's Wear Daily,* March 7, 1995, 8.

41. "Gambinos Get Extension on Sale of Truck Companies."

42. Friedman, "Robert McGuire Says He Aims to Nurture Openly Competitive Trucking on SA."

43. Chuck Struensee, "Court Approves New SA Trucking Rules," *Women's Wear Daily,* April 6, 1993, 14.

44. Robert J. McGuire, *Report of the Special Master,* April 7, 1995, 10–11, pursuant to *People v. Gambino,* Indictments 11859-90 and 11858-90, plea agreement.

45. Friedman, "McGuire: The Trucks Are Rolling."

46. Ibid.

47. Arthur Friedman, "McGuire: More Probes Needed," *Women's Wear Daily,* April 30, 1998, 1.

48. Office of the Inspector General, press release, April 28, 1998 http://www.dol.gov/dol/opa/public/media/press/oig/oig98181.htm.

49. *United States v. Defede,* Indictment No. 98 Cr. 373 (S.D.N.Y. 1998), 19.

50. Ibid., 6.

51. Ibid., 5; Sharon Edelson and Arthur Friedman, "Probe into Mob Might Also Aim at Apparel Union," *Women's Wear Daily,* April 30, 1998, 1.

52. Al Guart, "Feds Bust Mob Boss; Garment Center Rackets Unraveling, FBI Claims," *New York Post,* April 29, 1998, 5.

53. *United States v. Defede,* Indictment No. 98 Cr. 373 (S.D.N.Y. 1998), 6.

54. Edelson and Friedman, "Probe into Mob Might Also Aim at Apparel Union."

55. 18 U.S.C. 1963 (a)(1), (a)(2), and (a)(3).

56. *United States v. Defede,* Indictment No. 98 Cr. 373 (S.D.N.Y. 1998), 19.

57. Edelson and Friedman, "Probe into Mob Might Also Aim at Apparel Union."

0869

58. Ibid.; Patricia Hurtado, "A Dressing Down; Indictment Alleges Mob Has Control of Garment Dist.," *Newsday,* April 29, 1998, 5.

59. Selwynn Raab, "Curb on Mob Aids Garment Makers," *New York Times,* June 12, 1995, A1.

60. Friedman, "McGuire: The Trucks Are Rolling."

61. Guart, "Feds Bust Mob Boss."

62. Friedman, "McGuire: More Probes Needed," 1.

NOTES TO CHAPTER 10

1. Administrative Code of the City of New York, Title 16A, sec. 1, January 26, 1994. (Hereinafter Local Law 50.)

2. 705 F. Supp. 894, 900 (S.D.N.Y. 1989).

3. Brian Carroll, "Combating Racketeering in the Fulton Fish Market," in *Organized Crime and Its Containment: A Transatlantic Initiative,* ed. Cyrille Fijnaut and James Jacobs (Boston: Kluwer, 1991), 183, 186.

4. *United States v. Local 359,* 705 F. Supp. 894, 900 (S.D.N.Y. 1989).

5. Benjamin Ward, *A Former Commissioner's View on Investigating Corruption, New York Law School Law Review* (1995): 45, 46.

6. Eileen V. Quigley and Bob Drogan, "U.S. Seeks Control of Fish Market under Rackets Law," *Los Angeles Times,* October 16, 1987, 30.

7. The three previous suits seeking union trusteeships involved Local 560 of the International Brotherhood of Teamsters, Local 6A of the New York District Council of Cement and Concrete Workers, and Local 814 of the International Brotherhood of Teamsters. Arnold H. Lubasch, "Mafia Runs Fulton Fish Market, U.S. Says in Suit to Take Control," *New York Times,* October 16, 1987, 1.

8. The court dismissed the government's claims against Local 359, the executive administrator of the union welfare and pension fund, and two trustees of the welfare and pension fund. Carroll, "Combating Racketeering in the Fulton Fish Market," 187.

9. *United States v. Local 359,* 705 F. Supp. 894, 895–96 (S.D.N.Y. 1989).

10. Carroll, "Combating Racketeering in the Fulton Fish Market," 188.

11. *United States v. Local 359,* 87 Civ. 7351, (S.D.N.Y. 1987), Consent Judgment, April 15, 1988, 2. (Hereinafter Local 359 Consent Judgment.)

12. Peter Romano, Robert and Thomas La Carrubba, Joseph Macario, Camine Russo, and Elia Albanese, *Local 359 Consent Judgment,* 3.

13. Ibid., 1–9.

14. *United States v. Local 359,* 705 F. Supp. 894, 897 (S.D.N.Y. 1989).

15. Ibid., 917.

16. *Local 359 Consent Judgment,* 13–14.

17. Ibid., 10–14.

0870

18. Anemona Hartocollis, "A History of Mob's Influence at Market," *Newsday,* December 24, 1990, 3.

19. Frank Wohl, *Second Report of the Administrator* (February 21, 1989), 1, pursuant to *Local 359 Consent Judgment*.

20. *United States v. Local 359,* 87 Civ. 7351 (S.D.N.Y. 1991).

21. *United States v. Local 359,* 87 Civ. 7351 (S.D.N.Y. 1991).

22. Frank Wohl, *Midterm Report of the Administrator* (August 10, 1990), 16, pursuant to *Local 359 Consent Judgment.*

23. Joseph F. Sullivan, "Union Overseers Seek More Time and Support in Curbing Mob Ties," *New York Times,* April 9, 1989, 30.

24. Administrator Wohl claimed that the market manager "has done an excellent job and has achieved some improvements with regard to sanitation, garbage removal, traffic patterns, police presence and collection of overdue rents." However, Wohl pointed out that the market manager's staff of two employees was too small to run the market efficiently. Wohl, *Midterm Report of the Administrator,* 9.

25. Selwyn Raab, "Curbs Due on Rackets at Fish Market," *New York Times,* August 10, 1990, B3.

26. Wohl, *Midterm Report of the Administrator,* 21.

27. Jeanne Nathan, spokeswoman for the New York City Office of Business Development, quoted in *Associated Press,* "Racketeering Rampant at Fulton Fish Market," August 8, 1990.

28. Selwyn Raab, "Fulton Panel Gets Details on Violence," *New York Times,* May 5, 1992, B1.

29. By the 1990s, the majority of seafood retailers were Korean Americans. The administrator's office provided Korean translations of all written communication with market retailers.

30. Frank Wohl, *Notice of Imposition of Sanctions* (June 18, 1992), pursuant to *Local 359 Consent Judgment*.

31. Frank Wohl, *Fulton Fish Market Administrator's Statement of Reasons Supporting Imposition of Sanctions* (June 18, 1992), pursuant to *Local 359 Consent Judgment.*

32. Wohl, *Notice of Imposition of Sanctions*.

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34. Wohl*, Notice of Imposition of Sanctions*; the administrator's sanctions were upheld on appeal. See *United States. v. Local 359,* 87 Civ. 7351 (S.D.N.Y. 1994); *United States v. Local 359,* 55 F.3d 64 (2d Cir. 1995).

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0871

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40. Selwyn Raab, "Fish Market's Problems Revert to New York City," *New York Times,* March 27, 1994, 1.

41. *New York City Council Hearing on the Fulton Fish Market,* May 4, 1992, remarks by Richard M. Weinberg, general counsel for the Legal Division of the City Council, 13.

42. Ibid., 5, 10, 23–25, 49.

43. Ibid., remarks by Robert Brackman, deputy commissioner of the New York City Department of Investigation, 135–51.

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45. See New York City Council, *Committee on Economic Development Meeting,* March 27, 1995.

46. Ibid., remarks by Michael Driansky, president of The Committee to Preserve the Fulton Fish Market, 159–68.

47. Joe Sexton, "Fulton Market Fire Investigators Find Blaze Was Deliberately Set," *New York Times,* March 31, 1995, 4.

48. Joe Sexton, "Fire Sweeps Through Major Building at Fulton Fish Market," *New York Times,* March 30, 1995, B1.

49. Selwyn Raab, "Fish Dealers May Abandon Fulton Market," *New York Times,* April 18, 1995, B1.

50. Selwyn Raab, "Giuliani Seeks Fish Sellers for Market," *New York Times,* April 29, 1995, 25.

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53. New York City Council, *Committee on Economic Development Meeting,* March 27, 1995, remarks by Randy Mastro, mayor's chief of staff, 10–11.

54. Local Law 50, sec. 22-216(a)(i). The commissioner may, after notice and the applicant's opportunity to be heard, refuse to issue a photo identification card. Local Law 50 provides that the commissioner may consider, among other factors, (1) a pending indictment or criminal action against the applicant, which would provide a basis for denial of a business license or photo identification

0872

card; and (2) a conviction of such applicant of a crime, which, under article 23 of the correction law, would provide a basis for denial of a business license. Local Law 50, sec. 22-216(b).

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56. *Committee to Save the Fulton Fish Market v. City of New York,* 95 Civ. 8759 (S.D.N.Y. 1996).

57. Raab, "Fish Market's Problems Revert to New York City."

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73. Tom Robbins, "City Unloads on Six Fishy Firms," *Newsday,* October 14, 1995, 2.

74. "Carters Dropped at Fish Market," *Crain's New York Business,* October 16, 1995, 1.

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0873

76. Selwyn Raab, "Two Loaders Are Evicted from the Fulton Market," *New York Times,* December 31, 1995, 4.

77. Selwyn Raab, "Fish Market Disrupted for Second Day," *New York Times,* January 4, 1996, B4.

78. "Security Firm Ousted at Fulton Fish Market," *New York Times,* May 18, 1996, B4.

79. Selwyn Raab, "Man Linked to Mob Loses Spot at Market," *New York Times,* July 11, 1996, B6.

80. "Fish Market Ouster Upheld," *New York Times,* July 31, 1996, B3.

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4. James B. Jacobs, Christopher Panarella, and Jay Worthington, *Busting the Mob: United States v. Cosa Nostra* (New York: New York University Press, 1994), 167–81.

5. *United States v. Int'l. Brotherhood of Teamsters,* 1992 U.S. Dist. LEXIS 795,

0874

802 (S.D.N.Y. 1992). The IBT independent administrator also permanently expelled Patrick Dellorusso, a Local 295 member and associate of the Lucchese crime family, from the IBT in 1994. This debarment was upheld by the District Court. *See United States v. Int'l. Brotherhood of Teamsters,* 853 F. Supp. 757, 758 (S.D.N.Y. 1994).

6. *United States v. Int'l. Brotherhood of Teamsters,* 90 Civ. 0970 (E.D.N.Y. 1990).

7. For an in-depth discussion and analysis of the IBT case, see Jacobs, Panarella, and Worthington, *Busting the Mob,* 167–81.

8. *United States v. Int'l. Brotherhood of Teamsters,* 803 F. Supp. 761, 786 (S.D.N.Y. 1994).

9. The district court approved Ferchak's appointment in September 1991. Ibid.

10. *United States v. Int'l. Brotherhood of Teamsters,* 803 F. Supp. 761 (S.D.N.Y. 1994).

11. Kenneth C. Crowe, "Teamsters Leader Accused of Misusing Dues," *Newsday,* January 12, 1994, 35.

12. Kenneth C. Crowe, "Teamster Boss at JFK Quits," *Newsday,* February 16, 1990, 51.

13. "Teamsters Union Names Trustee to Oversee New York Local," *Journal of Commerce,* February 2, 1994, 2B.

14. *United States v. Local 295 of the Int'l. Brotherhood of Teamsters,* CV-90-970, (E.D.N.Y. 1990), amended complaint.

15. Both Davidoff's and Calise's convictions stem from *United States v. Santoro* 647 F. Supp. 153 (E.D.N.Y. 1986). Calise pled guilty to RICO conspiracy and was sentenced to nine years in prison. Davidoff was found guilty of RICO conspiracy and four extortion-related charges. These convictions were subsequently overturned by the U.S. Court of Appeals for the Second Circuit because the district court had erred in refusing Davidoff's request for a bill of particulars. *United States v. Davidoff* 845 F.2d 1151 (2d Cir. 1988). On retrial in 1989, Davidoff was again found guilty and sentenced to a ten years prison term. 85 Cr. 100 (s) (E.D.N.Y. 1989)

16. 18 U.S.C. 1964 (b).

17. *United States v. Local 295,* 90 Civ. 0970 (E.D.N.Y. 1990).

18. Edward Frost, "U.S. Judge Authorizes Trustee to Oversee Teamsters Local," New York Law Journal 207 (1992): 1, 2.

19. *United States v. Local 295,* 90 Civ. 0970 (E.D.N.Y. 1990).

20. Frederick Lacey, former IBT independent administrator, and later IBT Independent Review Board member, sent a letter to the court urging the appointment of a permanent trustee, citing the institutional and personal limitations of the temporary trustee. He argued that the temporary trustee lacked the skills and experience necessary to investigate and remediate corruption plaguing Local 295. *United States v. Local 295,* 784 F. Supp. 15, 17 (E.D.N.Y. 1992).

0875

21. Ibid., 20, 18, 22.

22. *United States v. Local 295,* 784 F. Supp. 15, 17 (E.D.N.Y. 1992).

23. Ibid.

24. Joseph P. Fried, "Airport Crime Under Attack in U.S. Drive," *New York Times,* May 17, 1992, 33.

25. Ibid.

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27. Jeff Girth and Tim Weiner, "Despite Change, Reform Is Slow in the Teamsters," *New York Times,* June 28, 1993, A1; Kenneth Crowe, "Friction Drives the Hearings in Judge's Watch Over Teamsters," *Newsday,* October 4, 1992, 82.

28. Selwyn Raab, "Obstacles to Cleanup: Mob Hinders, Teamster Trustee Says," *New York Times,* June 29, 1993, B1.

29. "Trustee Puccio Identifies Companies as Organized Crime Controlled and Demands Employer Action," #*295 News,* May 1993, 4.

30. "Local 295 By-Laws To Be Rewritten," #*295 News,* October 1992, 7; "News You Can't Use But Might Want to Know," #*295 News,* February 1993, 15.

31. "News You Can't Use But Might Want to Know," 14, 15.

32. "Trustee Puccio Identifies Companies as Organized Crime Controlled and Demands Employer Action."

33. Michael Tobin claims that the trustee has curbed costs and that the union local will sson be back "in the black." Personal Interview, Michael Tobin, deputy trustee, Teamsters Local 295, March 10, 1997. On the cost of the trusteeship, see also Ronald Goldstock, Leslie Skillen, Barry DeFoe, and Wilda Hess, *Report of Working Group of the International Association of Private Sector Inspectors General* (1996), Appendix.

34. Raab, "Obstacles to Cleanup."

35. *United States v. Dello Russo and Razza,* 93 Cr. 1012 (E.D.N.Y. 1993)

36. *Local 851 of the Int'l. Brotherhood of Teamsters v. Kuehne & Nagel Air Freight Inc.,* 97 Civ. 0378 (E.D.N.Y. 1997), Complaint 12–13; "Razza Pleads Guilty," #*295 News,* April 1994, 1.

37. "Corruption Is Cited in Suit on Dismissals," *New York Times,* December 17, 1995, 55.

38. Raab, "Obstacles to Cleanup."

39. Kenneth C. Crowe, "Puccio Trusteeship Questioned," *Newsday,* August 26, 1994, 59.

40. *United States v. Local 295,* 90-CV-1012 (E.D.N.Y. 1990) Consent Decree, September 1994. (Hereinafter *Local 295 Consent Decree*.)

41. Eileen Sullivan replaced Ostrander as union trustee in November 1996.

42. *Local 295 Consent Decree*.

43. Where a member of Local 851 who is an officer or steward asserts his

0876

Fifth Amendment privilege against self-incrimination in the course of an investigation by the independent supervisor, the independent supervisor may refer the case to the IBT Review Board for appropriate action.

44. An amendment to the consent decree was required because the independent supervisor lacked authority to discipline members qua members. The independent supervisor could remove lead agents from the union, but not from their jobs.

45. *Local 295 Consent Decree,* 10–11.

46. The Local 851 treasury was completely depleted at the time of DePetris's appointment in November 1994. Personal interview, Ron DePetris, independent supervisor, Teamsters Local 851, April 16, 1997.

47. *Local 851 of the Int'l. Brotherhood of Teamsters v. Kuehne & Nagel Air Freight, Inc.,* 97 Civ. 0378 (E.D.N.Y. 1997) and *Local 851 of the Int'l. Brotherhood of Teamsters v. Thyssen Haniel Logistics, Inc.,* 95 Civ. 5179 (E.D.N.Y. 1995).

48. Personal interview, Ron DePetris.

49. Sec. 725 New York Labor Laws.

50. *Local 851 of the Int'l. Brotherhood of Teamsters v. Thyssen Haniel Logistics, Inc.,* 95 Civ. 5179 (E.D.N.Y. 1995), Compl.

51. Ibid., 19, 20, discussing *United States v. Dello Russo and Razza,* 93 Cr. 1012 (E.D.N.Y. 1993).

52. Ibid., 21, discussing *People v. Niehenke,* Superior Court Information #86218.

53. Ibid., 19–23.

54. *Local 851 of the Int'l. Brotherhood of Teamsters v. Thyssen Haniel Logistics, Inc.,* 95 Civ. 5179, Consent Order, June 2, 1998, 2.

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57. *Local 851 v. Kuehne & Nagel Air Freight, Inc.,* 1998 WL 178873 (E.D.N.Y. 1998), Civil RICO Report, vol. 13, no. 22, 29 April 1998.

58. Personal interview, Ron DePetris.

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3. *United States v. District Council,* 1995 U.S. Dist. LEXIS 8229, at *2.

4. *United States v. District Council,* 90 Civ. 5722, Consent Decree 2. (Hereinafter *District Council Consent Decree*.)

0877

5. Ibid., 3–12. The Independent Hearing Committee comprised Patrick Barth, Paul Curran, John Fried, Helen Gredd, and Alan Kaufman.

6. Ibid., 13.

7. Kenneth Conboy, *Third Report of Investigations and Review Officer,* Report to Judge Haight, October 31, 1995, 6.

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9. Selwyn Raab, "Javits Union Boss Says He Just Scrapes By," *New York Times,* April 7, 1995, B3.

10. Selwyn Raab, "Mob's Man? No, Says Javits Hall Union Chief," *New York Times,* April 6, 1995. The Independent Hearing Panel (IHP) found Fiorino's version of events "implausible." Conboy, *Third Report of Investigations and Review Officer,* 45.

11. Conboy, *Third Report of Investigations and Review Officer,* 43.

12. Kenneth Crowe, "Smoking List in Javits Hearing; Names May Link Carpenters Rep to Genovese Crime Family," *Newsday,* March 22, 1995, A34.

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16. Douglas J. McCarron, testimony before the House and the Workforce Committee Employer-Employee Relations Subcommittee, June 25, 1998.

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20. *United States v. Int'l. Brotherhood of Teamsters,* 998 F.2d 1101, 1105 (S.D.N.Y. 1993).

21. *United States v. Bonanno LCN Family, IBT Local 814,* Civ. 87-2974 (E.D.N.Y. August 25, 1987).

22. Leonard Buder, "Judge Approves Decree to Help Rid Teamster Local of Mob Control," *New York Times,* October 10, 1987, 34.

23. *United States v. Bonanno LCN Family, IBT Local 814,* Civ. 87-2974 (E.D.N.Y. 1987), Consent Judgment.

24. *Investigations Officer v. Senese et al.,* independent administrator decision at 37, aff'd. *United States v. Int'l. Brotherhood of Teamsters,* 745 F. Supp. 908 (S.D.N.Y. 1990), aff'd. *United States v. Int'l. Brotherhood of Teamsters,* 941 F.2d 1292 (2d Cir. 1991).

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29. *United States v. Int'l. Brotherhood of Teamsters,* 910 F. Supp. 139 (S.D.N.Y. 1996), aff'd. IRB decision.

30. *United States v. Int'l. Brotherhood of Teamsters,* 946 F. Supp. 318, (S.D.N.Y. 1996).

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40. Ibid.

41. *People v. Robert Rabbitt Sr.,* Indictments 245–249/92, Plea Agreement (November 9, 1992).

42. Crowe, "The Rabbitts of Brooklyn May Soon Lose Their Grip on Union Hiring at the Javits Center."

43. *People v. Potts,* Indictment 254-92 (1992), Certificate of Conviction (January 29, 1992).

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0879

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49. *People v. McCann,* Indictment 4035/96 (1996).

50. *People v. McCann,* Indictment 4034/96 (1996).

51. *People v. McCann,* Indictment 4292-96 (1996); *New York v. Falco,* Indictment 4033/96 (1996).

52. *People v. Gardner,* Indictment 4032/96 (1996).

53. *People v. McCann,* Indictment 4031-96 (1996)

54. *People v. Gardner,* Indictment 4031-96 (1996) (pled guilty to conspiracy in the fifth degree and received a conditional discharge); *People v. Gardner,* Indictment 4032-96 (1996)(pled guilty to grand larceny in the third degree and received a conditional discharge); *People v. Falco,* Indictment 4033-96 (1996)(pled guilty to forgery in the second degree and grand larceny in the third degree); *People v. McCann,* Indictment 4034-96 (1996) (pled guilty to promoting gambling in the first degree); *People v. McCann,* Indictment 4035-96 (1996) (pled guilty to criminal usury in the first degree and received a $5,000 fine*); People v. McCann,* Indictment 4292-96 (1996) (pled guilty to falsifying business records in the first degree); *People v. McNamee,* Indictment 4293-96 (1996) (McNamee's case was abated; the others pled guilty to conspiracy in the second degree and insurance fraud in the third degree).

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60. *Management and Operations of the Jacob K Javits Center: Investigative Hearing Before the State Senate* (New York, 1995), 169.

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2. *United States v. Private Sanitation Indus. Assoc. of Nassau/Suffolk, Inc.*, 793 F. Supp. 1114, 1120 (E.D.N.Y. 1992).

3. Ibid., 1121.

4. Leslie Gevirtz, "Gotti Targeted in Fed's Attack on Trash Hauling Cartel" U.P.I., June 7, 1989.

5. John Rather, "U.S. Tries to Bar Crime Families from Carting," *New York Times,* June 18, 1989, Long Island sec., 1.

6. *United States v. Private Sanitation Indus. Assoc. of Nassau/Suffolk, Inc.*, 793 F. Supp. 1114, 1120–21 (E.D.N.Y. 1992).

0882

7. Ibid., 1149. Judge Glasser's ruling was based on the Second Circuit's interpretation of the language of 28 U.S.C. 1964(c), under which a RICO plaintiff seeking monetary damages must have suffered injury to his business or property. See *United States v.* Bonanno LCN Family, 683 F. Supp. at 1456 (E.D.N.Y. 1987) aff'd. 879 F.2d at 27 (2d Cir. 1989). In Glasser's opinion the government had not demonstrated such injury.

8. *United States v. Private Sanitation Indus. Assoc. of Nassau/Suffolk, Inc.,* 811 F. Supp. 808, 810 (E.D.N.Y. 1992)

9. Ibid., 815. Judge Glasser referred to Avellino's 1992 guilty pleas in *People v. Salem Sanitary Carting Corp.*, CV-85-0208 (E.D.N.Y. 1985), where he agreed to pay $231,000 and to refrain from conspiring to restrain trade. In 1986, he pleaded guilty to coercion in the first degree and to conspiracy to commit bribery.

10. Ibid., 818.

11. *United States v. Private Sanitation Indus. Assoc. of Nassau/Suffolk, Inc.,* 899 F. Supp. 974 (E.D.N.Y. 1994). Glasser relied on Ferrante's guilty pleas to coercion and bribery.

12. Robert Kessler, "U.S. Monitors to Oversee Carting on LI; Aim Is to Shut Out the Mob," *Newsday,* March 3, 1994, 4.

13. Personal interview with Michael Cherkasky, June 12, 1998; Kossler, "U.S. Monitors to Oversee Carting on LI."

14. Michael Cherkasky, *Report VII From the Compliance Officer,* (January 26, 1998), 2, pursuant to *United States v. Private Sanitation Indus. Assoc.*, CV-89-1848, (E.D.N.Y. 1992).

15. Cherkasky's monitorship is to conclude in the year 2002.

16. "Carting Judgment Is Filed," *New York Law Journal,* March 3, 1994, 4.

17. Robert E. Kessler, "Ex-Prosecutor Eyed for Carting Monitor," *Newsday,* April 28, 1994, A26; John McDonald, "New Monitor Assures East End Carters," *Newsday,* July 15, 1994, A27.

18. Robert E. Kessler, "Striking at Corrupt Carters; Syosset Man Barred from Trash Industry," *Newsday,* October 18, 1994, A3.

19. More often than not the threat of charges before the magistrate leads to a settlement. The largest settlement has been $65,000. Personal interview with Michael Cherkasky, June 12, 1998.

20. Ibid.

21. Michael Cherkasky, *Report VI from the Compliance Officer,* July 11, 1997, 2.

22. Elizabeth Moore, "Cartel Out, Now Buyers In," *Newsday,* June 22, 1997, A8.

23. Cherkasky, *Report VI from the Compliance Officer,* 1–2, fn. 1.

24. Personal interview with Michael Cherkasky.

25. Cherkasky, *Report III from the Compliance Officer,* December 22, 1995, 5.

0883

26. Ibid.

27. Daniel Fisher, "Mr. Clean Ruckelshaus Helps BFI Get Ahead in Garbage Game," *Houston Post,* December 5, 1994, E2.

28. Larry Black, "New York Tidies Up Garbage Image," *Independent,* February 7, 1991, 24.

29. Fisher, "Mr. Clean Ruckelshaus Helps BFI Get Ahead in Garbage Game."

30. Ironically, California prosecutors have also charged WMX with links to organized crime. WMX strongly disputes the allegation and has filed suit against the prosecutors. See *WMX Technologies v. Miller,* 104 F.3d 1133 (9th Cir. 1997).

31. Allan R. Gold, "U.S. Acts to End Monopolies in New York Trash Hauling," *New York Times,* February 6, 1991, A1.

32. Kevin Flynn, "Violations May Trash Efforts of Firm to Crack Into Carting," *Newsday,* May 19, 1992, 23.

33. Matthew L. Wald, "Trash Giant Makes Plans to Expand in New York," *New York Times,* October 7, 1993, B5.

34. Greg Groeller, "BFI Intent on Staying in N.Y.C.; Garbage Company Facing Heat from Organized Crime," *Houston Post,* March 18, 1995, C1; Philip Angell, "Competition vs. Corruption: Reforming New York's Garbage Waste Industry," *Civic Bulletin,* October 1996, 2.

35. "Solid Waste: Supreme Court Decision May Trigger Price War," *Greenwire,* February 28, 1994.

36. Wald, "Trash Giant Makes Plans to Expand in New York."

37. Allen R. Myerson, "The Garbage Wars," *New York Times,* July 30, 1995, 1.

38. The officer also posed as a relative of the owner. Selwyn Raab, "When the Mafia Got Greedy, a Garbage Hauler Went Undercover," *New York Times,* June 9, 1996, 37.

39. *In re a Warrant to Search the Greater New York Waste Paper Ass'n.* (N.Y. Sup. Ct. 1995), Search Warrant Affidavit of Det. Joseph Lentini.

40. See *United States v. Mongelli,* 2 F.3d 29, 30 (2d Cir. 1993); "Browning-Ferris Expands with Purchase of Mob Haulers," *Reuter Business Report,* October 20, 1994. The companies were formerly owned by Louis and Robert Mongelli, both of whom pled guilty to racketeering in 1992.

41. Angell, "Competition vs. Corruption," 1.

42. James C. McKinley, Jr., "Big Private Garbage Haulers, Linked to Mafia, Are Indicted," *New York Times,* June 23, 1995, A1.

43. Indictment No. 05614/95 (1995), *People v. Association of Greater Trade Waste Removers* (Supreme Court, New York County), at 1–2.

44. See New York Penal Law 460.20(1)(a).

45. Indictment No. 05614/95 (1995), *People v. Association of Greater Trade Waste Removers* (Supreme Court, New York County), at 2.

0884

46. Each of these 113 was also charged as an independent criminal violation. Indictment No. 05614/95 (1995), *People v. Association of Greater Trade Waste Removers* (Supreme Court, New York County), at 69–149.

47. Indictment No. 05614/95 (1995), *People v. Association of Greater Trade Waste Removers* (Supreme Court, New York County), at 3.

48. Joe Sexton, "Monitors to Oversee Finances of Indicted Trash Haulers," *New York Times,* September 16, 1995, 23; "Watchdogs Can't Do Much Watching," *Crain's New York Business,* September 18, 1995, 1.

49. The monitors were two former New York State appellate division judges, Sidney Asch and Bentley Kassal; four former State supreme court judges, Thomas Galligan, Michael Dontzin, Burton Sherman, and Seymour Schwartz; and three lawyers, Harold J. Reynolds, Lawrence Goldberg, and Murray Greenspan. George James, "Monitors Appointed for Trash Haulers," *New York Times,* December 23, 1995, 31.

50. *Morgenthau v. Allocca,* in *New York Law Journal,* September 25, 1995, 25.

51. Selwyn Raab, "Arson Case Turned Into an Offer He Couldn't Refuse," *New York Times,* June 23, 1997, 3.

52. Selwyn Raab, "Trash Carter Pleads Guilty to Corruption," *New York Times,* January 28, 1997, B2.

53. "USA Waste's Acquisitions Sharply Boost NY Volume: Company Grabs Top Market Share; Other National, Local Firms Buy Too," *Crain's New York Business,* 21 April 1997, 60.

54. Raab, "Trash Carter Pleads Guilty to Corruption."

55. A seventh defendant, Patrick Pecoraro, and the Kings County Trade Waste Association had their trials severed because of the death of their attorney. Eventually, both pled guilty on January 21, 1998: Pecoraro to three antitrust violations and attempted enterprise corruption; the trade association to one antitrust violation. "More Guilty Pleas Entered; Sentences Handed Down in New York Carting Trial," *Solid Waste Report* 29, no. 5 (January 29, 1998).

56. Selwyn Raab, "Testimony to Start in Trash Carting Trial," *New York Times,* May 27, 1997, B3.

57. Selwyn Raab, "Trash Haulers Plead Guilty in Cartel Case," *New York Times,* July 23, 1997, B3.

58. Francolino was found guilty of all thirty-four charges against him, including grand larceny by extortion, coercion, and antitrust violations. Malangone was convicted on all ten charges. "Last Two Defendants Convicted on All Counts in New York City Carting Trial," *Solid Waste Report* 28, no. 42 (October 23, 1997).

59. "Defendants in New York City Carting Trial Hit with Prison Terms and Fines," *Solid Waste Report* 28, no. 50 (December 18, 1997).

0885

60. "More Guilty Pleas Entered, Sentences Handed Down in New York Carting Trial."

61. Pete Bowles, "Feds Indict 6 Pals of Gotti in Death of a Mob Witness," *Newsday,* April 20, 1993, 18.

62. *United States v. Failla,* 1993 WL 547419 (E.D.N.Y. December 21, 1993), at *1. The other defendants were Daniel Marino, Joseph Watts, Louis "Louis Fats" Astuto, Philip "Philly Dogs" Mazzara, and Dominick "Fat Dom" Borghese. Astuto, Mazzara, and Borghese were soldiers in the Gambino family and Watts was an associate. Watts was also charged with the conspiracy and subsequent murder of former Gambino family boss Paul Costellano and Gambino capo Thomas Bilotti.

63. *United States v. Failla,* 1993 WL 547419 at *1.

64. Joseph P. Fried, "Judge Says He May Reject Plea Deal in Garbage Hauling Case," *New York Times,* April 5, 1994, B3. The sixth defendant, Joseph Watts, decided to go to trial but pled guilty to conspiracy to murder Spinelli and was sentenced to six years in prison. See Joseph P. Fried, "Plea Deal Keeps 'Sammy Bull' Off Stand," *New York Times,* February 16, 1996, B3.

65. Jonathan Rabinovitz, "Union Local Agrees to Court Monitor to Bar Any Association with Mobsters," *New York Times,* January 12, 1994, B4.

66. Ibid.

67. See *United States v. Int'l. Brotherhood of Teamsters,* 998 F.2d 120, 121 (2d Cir. 1993).

68. Rabinovitz, "Union Local Agrees to Court Monitor to Bar Any Association with Mobsters."

69. Robert E. Kessler, "New Teamsters Job: Rackets-Buster," *Newsday,* January 12, 1994, 6; Rabinovitz, "Union Local Agrees to Court Monitor to Bar Any Association with Mobsters."

70. Jonathan Rabinovitz and Annette Fuentes, "The Polsinelli Family Wants Wood to Burn," *Daily News,* May 7, 1995, 1. (Mentions Foy as Local 813's trustee.)

71. Mark Green, "Competition in Sanitation: How to Reduce Costs and Improve Service for Businesses and Residences," drafted January 11, 1994 and introduced at the January 26, 1994, New York City Council meeting.

72. Philip Lentz, "Mayor Aiming at Mob Carters: Breaking Silence, Rudy Eyes Licenses, Background Checks and a New Post," *Crain's New York Business,* November 13, 1995, 3.

73. Local Law 42 is officially entitled "A Local Law to Amend the Administrative Code of the City of New York in Relation to Commercial Waste Removal." Local Law 42 added Title 16-A to the Administrative Code, setting forth new regulations for commercial waste hauling in New York City. We refer to Title 16A as Local Law 42.

74. Local Law 42, 16-501 to 16-525.

0886

75. James B. Jacobs and Alex Hortis, "New York City as Organized Crime Fighter," *New York Law School Law Review* 42, nos. 3–4 (1998): 1069–92.

76. *Sanitation and Recycling Indus., Inc. v. City of New York,* 928 F. Supp. 407 (S.D.N.Y. 1996)

77. Ibid., 412.

78. Declaration of Randy M. Mastro, June 17, 1996, *Sanitation and Recycling Indus., Inc. v. City of New York,* 96 Civ. 4131 (MP) (S.D.N.Y.), at 2.

79. *Sanitation and Recycling Indus., Inc. v. City of New York,* 928 F. Supp. 407, 424 (S.D.N.Y. 1996).

80. *Sanitation and Recycling Indus., Inc. v. City of New York,* 107 F.3d 985, (2d. Cir. 1997).

81. Ibid., 985.

82. *Universal Sanitation Corp. v. Trade Waste Comm'n.,* 940 F. Supp. 656, 659 (S.D.N.Y. 1996).

83. Ibid., 660–61.

84. Local Law 42, 11-iii (June 3, 1996).

85. The firms denied exemption were V. Ponte & Sons Company, Vaparo Company, Vigliotti & Sons, AVA Carting, Duffy Waste and Recycling, Rutigliano Paper Stock, All City Paper Fibers, V.A. Sanitation, Litod Paper Stock, Professional Recycling, Crest Carting, and Yankee Continental Carting. Selwyn Raab, "City's New Waste Agency Flexes Regulatory Muscles," *New York Times,* August 10, 1996, 27; David Medina, "Companies Raise a Stink over Haulers' Contracts," *Crain's New York Business,* August 26, 1996, 33.

86. Personal interview with Chad Vignola, deputy commissioner for licensing and operations, New York City Trade Waste Commission, December 11, 1997.

87. Selwyn Raab, "Trash Haulers Told: No Mobsters or Odors," *New York Times,* September 1, 1996, 43.

88. New York City Trade Waste Commission, "Notice of Promulgation of Final Rule"; see also *Rules of the City of New York,* Title 17, ch. 1, 5-02(a) and 5-02(b); Selwyn Raab, "New York Cuts Hauling Rates for Garbage," *New York Times,* March 26, 1997, B1.

89. City of New York Trade Waste Commission; *The Trade Waste Commission's Report on the Reduction of the Maximum Legal Rate for the Removal of Trade Waste,* March 25, 1997, 17.

90. Philip Lentz, "Back to Garbage Cartel? Giants to Merge; Prices May Jump Here," *Crain's New York Business,* March 16, 1998, 1.

91. Juan Gonzalez, "New Cartel Cashing in on Trash," *Daily News,* July 7, 1998, 10.

92. Abby Goodnough, "Hauling Rates for Garbage Rising Again, Shops Report," *New York Times,* July 15, 1998, B5.

93. Douglas Martin, "Settlement Allows Trash Companies to Merge After Divesting," *New York Times,* July 17, 1998, B5.

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94. Sharon McDonnell, "Trash-Carting Outsider Slowly Gains Foothold," *Crain's New York Business,* March 20, 1995, 28.

95. Philip Lentz, "Garbage Rivals Ignore NY Despite Mob Bust," *Crain's New York Business,* June 26, 1995, 1.

96. Philip Lentz, "Out-of-Towner Faces Down Tainted New York Industry," *Crain's New York Business,* April 8, 1996, 32.

97. Selwyn Raab, "Texas Company Agrees to Buy Mafia-Linked Waste Hauler," *New York Times,* January 23, 1996, B1.

98. Thomas J. Lueck, "Major U.S. Recycler to Buy Large New York Trash Company," *New York Times,* 1 March 1996, B5.

99. Trade Waste Commission, *Estimated Annual Savings from Reductions in Trade Waste Collection Costs* (1997).

100. Philip Lentz, "Big Companies Abandon Cartel for New Players," *Crain's New York Business,* June 26, 1996, 3.

NOTES TO CHAPTER 14

1. New York State Organized Crime Task Force, *Corruption and Racketeering in the New York City Construction Industry* (hereinafter OCTF Final Report) (New York: New York University Press, 1990), 1, quoting a June 25, 1985, letter from Governor Mario M. Cuomo to Mayor Edward I. Koch.

2. OCTF Final Report, 169.

3. *United States v. Cody,* 722 F.2d 1052 (2d Cir. 1983), cert. denied, 467 U.S. 1226 (1987).

4. *United States v. Langella,* 804 F.2d 185 (2d Cir. 1986).

5. James B. Jacobs, Christopher Panarella, and Jay Worthington, *Busting the Mob: United States v. Cosa Nostra* (New York: New York University Press, 1994), 79–87; *United States v. Salerno,* 85 Cr. 139 (S.D.N.Y. 1985). Ralph Scopo died in prison in March 1993.

6. *United States v. Halloran,* 1989 WL 2691 (S.D.N.Y. January 11, 1989); *United States v. Salerno,* 937 F.2d 797, (2d Cir. 1991), rev'd. 505 U.S. 317 (1992); *United States v. Salerno,* 974 F.2d 231 (2d Cir. 1992), rev'd. in part sub nom., *United States v. DiNapoli,* 8 F.3d 909 (2d Cir. 1993) (en banc); *United States v. Migliore,* 104 F.3d 354 (2d Cir. 1996) (noting that all five remaining defendants pled guilty by 1995).

7. *United States v. Halloran,* 1989 WL 2691; *United States v. Salerno,* 937 F.2d 797; Selwyn Raab, "Big Concrete Supplier Faces U.S. Inquiry into Possible Mob Tie," *New York Times,* March 5, 1990, B1.

8. Interview with Herman Benson of the Association for Union Democracy on July 14, 1998; Kenneth Crowe, "New Trustee for Powerful Union Group," *Newsday,* March 27, 1996, A47; Association for Union Democracy (AUD), "Federal Trusteeship over Cement Workers." *Union Democracy Review,* May 1987, 13;

0888

Michele Galen, "N.Y.–Based Union Agrees to Less-Radical Approach." *National Law Journal,* August 31, 1987, 30; David M. Halbfinger, "Corporate Cops: They're Private, They're Crime Busters and They're Proliferating," *Newsday,* March 26, 1995, Money & Careers sec., 1.

9. A year earlier there had also been an important, albeit unsuccessful state civil antitrust action alleging that the ready-mix producers were monopolizing concrete production in New York City. *Palmieri v. State of New York,* 779 F.2d 861 (2d Cir. 1985); see also *Big Apple Concrete Corp. v. Abrams,* No. 82/27293 (Sup. Ct., N.Y. Co. June 9, 1983), rev'd. in part, 481 N.Y.S.2d 335; see also President's Commission on Organized Crime, *The Edge: Organized Crime, Business, and Labor Unions* (Washington, D.C.: Government Printing Office, March 1986), 226–27.

10. *Quadrozzi v. City of New York,* 127 F.R.D. 63, 66 (S.D.N.Y. 1989).

11. Ally allegedly misrepresented his "financial background, experience, assets and ability to run a concrete plant" according to former deputy mayor Robert Esnard. He also attempted to make a $10,000 contribution to Mayor Koch through former senator George McGovern. Howard Kurtz, "George McGovern, $10,000 in Cash and a Donation That Wasn't Made: Ex-Senator's Only Activity as Lobbyist Tangles Him in Legal Dispute," *Washington Post,* April 5, 1990, A10; Suzanne Daley, "Ad Spurs a 'Bored' Guyanese to Build City Concrete Plant," *New York Times,* August 31, 1986, A45; *Quadrozzi v. City of New York,* 127 F.R.D. at 66.

12. While the court ultimately dismissed the suit, holding that the city had a "duty . . . to take action" in light of monopolistic underworld domination of concrete production," investors backed out of the project. *Quadrozzi v. City of New York,* 127 F.R.D. at 66; Kirk Johnson, "City Project on Concrete Threatened," *New York Times,* April 13, 1987, B1.

13. In July 1987, West 57th produced its first one hundred cubic yards of concrete, barely avoiding contract cancellation. However, the fledgling company was unable to meet further production requirements. See Bruce Lambert, "Concrete Company Given 2d Chance by Koch," *New York Times,* July 28, 1987, B3; Elizabeth Kolbert, "New York City Cancels Concrete Plant Deal," *New York Times,* August 19, 1987, B3.

14. Selwyn Raab, "Trouble for New York's Concrete Venture," *New York Times,* May 30, 1993, A29.

15. Selwyn Raab, "Mob Allegation Clouds New York Concrete Deal," *New York Times,* September 23, 1994, B1.

16. Selwyn Raab, "City Tries Again to Set Up Manhattan Concrete Plant," *New York Times,* April 15, 1996, B5.

17. Selwyn Raab, "Big Concrete Supplier Faces U.S. Inquiry into Possible Mob Tie," *New York Times,* March 5, 1990, B1.

18. Ronald Sullivan, "Businessman Is Accused of Mob Ties," *New York Times,* May 30, 1983, A29.

0889

19. *United States v. District Council,* 90 Civ. 5722 (CSH), Government's Memorandum of Law in Support of Its Motion for Preliminary Relief (hereinafter Government's Memorandum), 12.

20. *United States v. District Council,* 90 Civ. 5722 (CSH), Declaration of Marcello Svedese, 7.

21. Government's Memorandum, 14.

22. *United States v. Standard Drywall Corporation,* 617 F. Supp. 1283 (E.D.N.Y. 1985); Selwyn Raab, "Investigators Charge Contractors Formed 'Club' for Tax Fraud," *New York Times,* July 6, 1983, A1; President's Commission on Organized Crime, *Report to the President and Attorney General: The Edge—Organized Crime, Business, and Labor Unions* (Washington, D.C.: Government Printing Office, 1986), 234–35; OCTF Final Report, 27.

23. Murray Kempton, "Customs of Accommodation," *Newsday,* July 30, 1989, News sec., 4; *United States v. Salerno,* 937 F.2d 797 (2d Cir. 1991); *United States v. Migliore,* 104 F.3d 354 (2d Cir. 1996).

24. Selwyn Raab, "Carpenter Union Official Is Linked To Extortion Plot." *New York Times,* July 20, 1987, B1; Selwyn Raab, "5 Carpenters' Union Leaders Indicted in Extortion," *New York Times,* October 14, 1987, A1.

25. OCTF Final Report, 20, 50; Government's Memorandum, 20–21; *People v. Schepis,* 614 N.Y.S.2d 719 (1994).

26. *United States v. District Council,* 90 Civ. 5722 (CSH), Consent Decree (1994).

27. Kenneth Conboy, *Fifth Interim Report of the Investigations and Review Officer,* Report to Judge Haight, September 30, 1996; *United States v. District Council,* 90 Civ. 5722 (CSH).

28. *United States v. Gigante,* 39 F.3d 42, 45 (2d Cir. 1994).

29. Ibid.; Pete Bowles, "Window Opened on Alleged Mob Scam," *Newsday,* May 7, 1991, News sec., 23.

30. One juror was dismissed for talking with her jailed boyfriend. The boyfriend later pleaded guilty to conspiring with other inmates to tamper the jury. Pete Bowles, "2 Plead Guilty in Windows Case," *Newsday,* November 3, 1992, News sec., 76.

31. Patricia Hurtado, "Reputed Mobster Mentally Unfit to Go on Trial," *Newsday,* March 12, 1991, News sec., 6.

32. Arnold Lubasch, "US Says Mob Gained Grip on Window Trade," *New York Times,* April 24, 1991, B3; Peter Bowles, "Mistrial Asked in Mob Case; Defendants' Alleged Ties to the Mob," *Newsday,* August 13, 1991, News sec., 4.

33. Mangano's sentence was increased from 27 to 33 months to 188 months; Aloi's from 27 to 33 months to 200 months. *United States v. Gigante,* 39 F.3d at 46–47.

34. Chiodo himself was the target of an assassination attempt not thought

0890

to be related to his testifying. *United States v. Gigante,* 39 F.3d at 46; *United States v. Amuso,* 21 F.3d at 1251, 1255 (2d Cir. 1994).

35. *United States v. Gigante,* 39 F.3d at 42; *United States v. Amuso,* 21 F.3d at 1254.

36. *United States v. McGowan,* 58 F.3d 8 (2d Cir. 1995).

37. *United States v. Amuso,* 21 F.3d at 1254.

38. *United States v. Gigante,* 989 F. Supp. 436, 438 (E.D.N.Y. 1997).

39. Selwyn Raab, "Reputed Crime Boss Is Said to Have Stored Cash in Hideaway," *New York Times,* January 21, 1993, B2; Pete Bowles, "Mobster Dropped As Witness," *Newsday,* July 1, 1998, A29; Devlin Barrett, "Rubout King 'Gaspipe' Gets Life 15 Times," *New York Post,* July 9, 1998, News sec., 10.

40. *People v. Capaldo,* 572 N.Y.S.2d 989 (1991).

41. Selwyn Raab, "A Corrupt Alliance in New York Clenches the Construction Trade," *New York Times,* June 23, 1990, A25.

42. *People v. Capaldo,* 572 N.Y.S.2d 989 (1991) (upholding OCCA charges as not unconstitutionally vague).

43. "Painters Union Double-Dipped in Green Deals," *Engineering News-Record* 231, no. 15, October 11, 1993, News sec., 18.

44. Associated Press, "10 Indicted in Plumbing Industry Probe," *Record,* April 14, 1994, A4; John Jordan, "Accounting Firm Charged under New State Racketeering Law," *Westchester County Business Journal* 33, no. 17 (April 25, 1994): sec. 1, 3.

45. Interview with James McNamara on September 9, 1998.

46. James McNamara, "Democracy Buffeted by Backlash," *Union Democracy Review,* no. 113, July 1997, 5; Justice Fried, "Surveillance of Defendants Reveals They Are Not Too Ill to Be Jailed," *New York Law Journal,* October 21, 1996, Court Decisions, 25; Selwyn Raab, "Ex-Plumbers' Union Officials Guilty in Extortion," *New York Times,* April 23, 1996, B4.

47. Justice Fried, "Provisional Remedies Are Denied Because of Actions by Union's Parent," *New York Law Journal,* April 4, 1994, Court Decisions, 25.

48. Interview with Herman Benson of the Association for Union Democracy on July 14, 1998; James McNamara, "Democracy Buffetted by Backlash," *Union Democracy Review,* no. 113, July 1997, 5.

49. *United States v. District Council,* 90 Civ. 5722 (CSH), consent decree (1994); see also 880 F. Supp. 1051 (S.D.N.Y. 1995) (upholding IRO's election rules).

50. Susan Jennik, "U.S. RICO Suit and Union Democracy Disturb Carpenter Officials," *Union Democracy Review,* no. 89, August 1992, 1–2.

51. Kenneth Conboy, *Ninth Interim Report of the Investigations and Review Officer,* Report to Judge Haight, June 28, 1998, 26–33; *United States v. District Council,* 90 Civ. 5722 (CSH).

0891

52. Conboy, *Fifth Interim Report of the Investigations and Review Officer,* 2.

53. According to Douglas McCarron, the international president, Devine "bought his 1995 reelection by providing pension benefit increases that neither the pension nor welfare benefit funds could afford." Moreover, Devine's corrupt practices largely contributed to the funds' impoverished state. Prepared Statement of Douglas J. McCarron, General President, Before the House and the Workforce Committee Employer-Employee Relations Subcommittee, June 25, 1998.

54. Conboy, *Fifth Interim Report of the Investigations and Review Officer,* 2.

55. Prepared Statement of Douglas J. McCarron, General President, Before the House and the Workforce Committee Employer-Employee Relations Subcommittee.

56. Ibid. Some observers believe that the restructuring reduces union democracy by converting elected positions to appointed positions. Interview with James McNamara, former director of Mayor's Office of Construction Industry Relations, former consultant to the Manhattan DA's Labor Racketeering Unit, on September 8, 1998; see also OCTF Final Report.

57. Conboy, *Ninth Interim Report of the Investigations and Review Officer,* 19.

58. Ibid., 26–33; Kenneth Conboy, *Eighth Interim Report of the Investigations and Review Officer,* Report to Judge Haight, November 29, 1997, 3–4; *United States v. District Council,* 90 Civ. 5722.

59. Conboy, *Ninth Interim Report of the Investigations and Review Officer,* 35.

60. Prepared Statement of Douglas J. McCarron, General President, Before the House and the Workforce Committee Employer-Employee Relations Subcommittee.

61. Kenneth Crowe, "Teamsters Seize Locals Suspected of Ties to Mob," *Newsday,* July 16, 1992, Business sec., 47.

62. "Teamsters Officials Face Extortion Charges," *New York Times,* July 2, 1993, B6.

63. Samson Mulugeta, "Feds to Monitor Union," *Daily News,* March 24, 1995, 7.

64. Kenneth Crowe, "New Trustee for Powerful Union Group; Stony Brook Man Picked for Teamsters Local 282 for Trusteeship of Local," *New York Times,* March 27, 1996, A47.

65. Kenneth Crowe, "Mob-Linked Teamsters Removed in Crackdown," *Newsday,* October 4, 1995, A46.

66. Kenneth Crowe, "Trustee Named to Oversee Javits Teamsters Local," *Newsday,* March 29, 1995, A37.

67. Crowe, "New Trustee for Powerful Union Group."

68. Interview with Herman Benson.

69. Ibid.; James S. Newton, "Concrete Workers Wary of U.S. as Union Boss," *New York Times,* March 22, 1987, A1.

0892

70. *United States v. Local 6A, Cement and Concrete Workers,* 832 F. Supp. 674, 677 (S.D.N.Y. 1993).

71. Association for Union Democracy, "Federal Trusteeship over Cement Workers," *Union Democracy Review,* no. 58, May 1987, 13.

72. Alan Barnes, "Suit Seeks Federal Trusteeship Over Cement Workers Local." *Union Democracy Review,* no. 55, November 1986, 8.

73. Association for Union Democracy, "Federal Trusteeship over Cement Workers"; Michele Galen, "N.Y.–Based Union Agrees to Less-Radical Approach," *National Law Journal,* August 31, 1987, 30.

74. *United States v. Mason Tenders District Council,* 94 Civ. 6487 (RWS), 1997 WL 97836 at *1 (S.D.N.Y. March 6, 1997); 1995 WL 679245 at *2 (S.D.N.Y. November 15, 1995).

75. *United States v. Mason Tenders District Council,* 94 Civ. 6487 (RWS), 1996 U.S. Dist. LEXIS 13231 (S.D.N.Y. August 14, 1996) (upholding ban against Lanza); 1998 U.S. Dist. LEXIS 237, *19 (S.D.N.Y. January 12, 1998) (upholding Vario's expulsion and fine for improper severance pay).

76. *United States v. Mason Tenders District Council,* 1997 U.S. Dist. LEXIS 8715, *10–11 (S.D.N.Y. June 19, 1997).

77. Testimony of Michael S. Bearse, general counsel, Laborers International Union of North America, before the House Education and the Workforce Committee Subcommittee on Employer-Employee Relations Impediments to Union Democracy, May 4, 1998.

78. *Mason Tenders District Council v. Laborers International Union of North America,* 924 F. Supp. 528 (S.D.N.Y. 1996).

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80. Rael Jean Isaac, "A Corrupt Union Escapes Justice" (editorial), *Wall Street Journal,* July 27, 1998.

81. Interview with Herman Benson.

82. Testimony of Michael S. Bearse, General Counsel LIUNA, Before the House Subcommittee on Employer/Employee Relations, May 4, 1988.

83. Interview with Herman Benson.

84. *People v. Capaldo,* 572 N.Y.S.2d 989 (1991).

85. Frank Schonfeld, "A Failed Trusteeship in Painters District Council," *Union Democracy Review,* no. 90, December 1993, 7; Kenneth C. Crowe, "Painters Union Put into Trusteeship," *Newsday,* March 5, 1991, News sec., 28.

0893

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87. Interview with Herman Benson.

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92. Interview with Herman Benson.

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0894

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9. See Bonanno family: *United States v. The Bonanno Organized Crime Family,* 87 Civ. 2974 (E.D.N.Y. 1987); Colombo family: *United States v. Persico,* 832 F.2d 705 (2d Cir 1987), *United States v. Colombo,* 616 F. Supp. 780 (E.D.N.Y. 1985); Gambino family: *United States v. Gotti,* 641 F. Supp. 283 (S.D.N.Y. 1986); Genovese family: *United States v. Salerno,* 868 F.2d 524 (2d Cir 1989).

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13. *United States v. Gigante,* 989 F. Supp. 436 (E.D.N.Y. 1997).

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0895

Glossary of Names

Robert Abrams New York State attorney general, 1979–1993.

Bernard Adelstein Founder and secretary-treasurer (top position) of Teamsters Local 813 from 1951 to 1992. Linked with the Gambino and Lucchese crime families.

Benedetto Aloi Underboss of the Colombo crime family. Organized the window-replacement cartel with Venero Mangano. He was convicted in 1991 for his participation in the cartel.

Mustapha Ally Maryland resident who in 1986 won the contract to start a concrete-batching plant that would supply concrete for all New York City public construction projects. Because his West 57th Street Concrete Corporation was unable to produce significant amounts of concrete, the contract was terminated.

Herbert Altman New York State justice who upheld the constitutionality of Organized Crime Control Act (OCCA), the state racketeering statute.

Vittorio Amuso Boss of the Lucchese family who fled to avoid prosecution in the windows case. Ultimately, he was apprehended and convicted of murder and racketeering.

Eugene R. Anderson Former federal prosecutor who served from 1987 to 1993 as the court-appointed trustee for Local 6A and the District Council of Cement and Concrete Workers. He concluded that the trusteeship was largely unsuccessful due to inadequate legal powers and insufficient funding.

William Aronwald Head of the U.S. Department of Justice's Joint Strike Force Against Organized Crime in Manhattan in the 1970s. He coordinated Project Cleveland, a large-scale sting operation in the garment center from March 1973 to August 1974.

0897

Salvatore Avellino Lucchese family capo who dominated waste hauling on Long Island through the Private Sanitation Industry Association of Nassau/Suffolk from the 1960s to the 1980s. Owned Salem Sanitary Carting Corporation. He was convicted of murder conspiracy and racketeering in 1994.

Liborio "Barney" Bellomo Genovese family capo and reputedly the family's acting boss in the mid-1990s. In February 1997, he pled guilty to extortion related to the carting and construction industries and received a ten-year prison term.

G. Robert Blakey Principal draftsman of RICO statute, criminal law professor, and key advisor to the FBI in the 1980s.

Robert Boyle Appointed by Governor George Pataki as Javits Center president and CEO in 1995 with a mandate to purge organized crime. He implemented major reforms in the administration of the center. He resigned in 1997 to become executive director of the Port Authority of New York and New Jersey, and chairman of the Javits Center Board.

William Bratton New York City police commissioner, 1994–1996.

Raymond Buccafusco Codefendant with the Gambino brothers in the 1992 Garment Center racketeering case. He entered into a plea agreement.

Louis "Lepke" Buchalter In 1928, with Jacob "Gurrah" Shapiro, he took over Arnold Rothstein's labor rackets in the garment industry. He owned design firms and controlled trade associations and the truckers' union. He was convicted of murder and executed in 1944.

Vincent "the Fish" Cafaro Genovese family soldier who played a key role at the Javits Center and in the Carpenters' union. He became a cooperating witness and testified in several prosecutions and in the civil RICO suit against the Carpenters District Council.

Anthony Calagna Picked by Lucchese crime family in 1990 to run International Brotherhood of Teamsters Local 295 after Frank Calise was convicted of labor racketeering. He pled guilty in 1991 to extorting payoffs from a trucking company at JFK Airport.

Frank Calise Picked by Lucchese crime family to run International Brotherhood of Teamsters Local 295 when the Davidoffs were driven

0898

from power. In 1990, along with Harry Davidoff, Calise was convicted of labor racketeering involving payoffs from freight-forwarding companies at JFK Airport. He was sentenced to a nine-year prison term.

Charles Carberry Former federal prosecutor who was appointed investigations officer pursuant to the 1989 consent decree that established a three-person monitorship over the general executive board of the International Brotherhood of Teamsters. His investigations led to disciplinary charges against hundreds of Teamsters officials and members. Most charges resulted in expulsions and resignations from the union.

Ronald Carey Teamsters union reformer who campaigned against corruption and organized crime and was elected president of the International Brotherhood of Teamsters in 1991. He imposed trusteeships on several corrupt locals and stripped several local officers of their positions. He was charged with campaign finance fraud in the 1996 Teamsters election, was removed from office, and was expelled from the union.

U.S. Attorney Zachary Carter U.S. attorney for the Eastern District of New York, 1993 to present.

Anthony "Gaspipe" Casso Lucchese underboss who went into hiding in 1991 after being indicted in the windows case. While on the lam, he was also charged with involvement in the painters cartel. Apprehended in 1993, he pled guilty and served as a government witness. However, his untruthful testimony led to his removal from the Witness Security Program and ultimately to several life sentences for murders and other crimes.

Paul Castellano Carlo Gambino's successor as boss of the Gambino crime family. He was heavily involved in construction-industry racketeering, including the concrete cartel. He was assassinated in 1985 by a Gambino crew headed by capo John Gotti, who then became his successor as boss.

Michael Cherkasky Chief of Manhattan D.A. Office's investigations division who led the investigation of the Gambinos garment-industry racketeering. Later, as an executive of a private-sector security firm, he assisted Special Master Robert McGuire in the remedial phase of the Garment Center case. In 1994, he was appointed monitor for the Long Island waste-hauling industry. In 1997, he was appointed to monitor the 1998 International Brotherhood of Teamsters election.

0899

John Cody Gambino associate and president of International Brotherhood of Teamsters Local 282 from 1976 to 1982. One of the most powerful labor figures in New York City, he was convicted of racketeering in 1982 and sentenced to five years in prison.

Kenneth Conboy Former New York City commissioner of investigation and federal judge who was appointed to be the investigations and review officer over the Carpenters District Council in 1994. His efforts led Carpenters International president Douglas McCarron to place the District Council under trusteeship in 1996. Conboy also serves (as of January 1999) as the court-appointed election officer in the International Brotherhood of Teamsters case.

Paul Coscia Chief shop steward and later vice-president of the Exhibition Employees Union Local 829, which represented workers at the Javits Center. Reputed to be an associate of the Genovese crime family.

Mario Cuomo Governor of New York State from 1983 to 1995.

Alphonse "Little Al" D'Arco Acting boss of the Lucchese crime family who exerted influence on the Carpenters union and received payoffs from businesses that employed members of the union, ghost payrolled family members, and defrauded employee pension funds. Became a government witness.

Harry Davidoff Lucchese family associate whom Jimmy Hoffa appointed president of International Brotherhood of Teamsters Local 295 in 1956. He dominated Local 295 until 1989, when he was convicted on racketeering, extortion, and conspiracy charges. He was sentenced to twelve years in prison and banned from participating in the affairs of Local 295 and Local 851. In 1991, he and Frank Calise were convicted of collecting payoffs from freight-forwarding companies at JFK Airport. He was fined nearly $1 million.

Mark Davidoff Harry Davidoff's son, secretary-treasurer of International Brotherhood of Teamsters (IBT) Local 851. He resigned in 1990 when the IBT Review Board began investigating racketeering in New York City Teamsters locals.

Steven "Beansy" Dellacava Chief shop steward, with Paul Coscia, for the Exhibition Employees Union at the Javits Center until mid-1995. Reputed to be an associate of the Genovese crime family. After leaving the

0900

Javits Center, he controlled job distribution for exhibition and trade shows in other New York facilities.

Ron DePetris Former chief assistant U.S. attorney, Eastern District of New York, who, pursuant to a 1994 consent decree, was appointed independent supervisor of International Brotherhood of Teamsters Local 851, which represented workers in the JFK air-cargo industry. He hired David Krasula as his chief investigator.

Frederick Devine President of the Carpenters District Council from 1991 to 1996. Mob turncoats, including Vincent Cafaro and Sammy Gravano, testified that he was associated with several Cosa Nostra families. He was ousted from his position in 1996 by the International union president. In 1998, he was convicted of embezzling union funds and sentenced to fifteen months in prison.

Thomas E. Dewey Assistant U.S. attorney for the Southern District of New York from 1931 to 1933. Special prosecutor for the State of New York from 1935 to 1937. Manhattan district attorney from 1938 to 1942. He prosecuted several organized-crime figures, including garment-industry racketeers Louis "Lepke" Buchalter, Jacob "Gurrah" Shapiro, and John "Johnny Dio" Dioguardi. He was New York State governor from 1943 to 1952.

Vincent DiNapoli Genovese family capo who organized the drywall cartel. He controlled Cambridge Drywall and Inner City Drywall. He was also responsible for creating Plasterers Local 530, which was run by Louis Moscatiello. In 1980, he was convicted of racketeering and sentenced to a five-year prison term. In 1988, he was convicted in the Genovese family RICO case and sentenced to a long prison term.

John "Johnny Dio" Dioguardi Capo in the Lucchese crime family who was associated with Thomas Lucchese in the Garment Center. He was convicted on racketeering charges in the 1930s but served only a brief sentence. He worked as a trucking "consultant" for the Metropolitan Import Truckmen's Association (MITA), later known as the National Association for Air-Freight, Inc. (NAFA). He assisted Jimmy Hoffa in taking control of Teamsters Joint Council 16, which includes Local 295 and many other locals. He was convicted in 1958 for conspiracy and extortion in connection with labor racketeering at JFK Airport. He went to prison in 1973 on a stock-fraud conviction and died there in 1979.

0901

John DiSalvo Owner of trucking interests in the Garment Center who was named as a codefendant with the Gambino brothers. He entered a plea agreement in 1992.

Natale "Joe Diamond" Evola Longtime member and nominal boss of the Bonanno crime family in the early 1970s. He owned several Garment Center trucking companies and was a major racketeer in the Garment Center. He died of natural causes in 1973 while under federal investigation.

James "Jimmy Brown" Failla Managed Association of Trade Waste Removers of Greater New York for more than thirty years. Exerted influence over International Brotherhood of Teamsters Local 813. Capo in the Gambino family. In 1994, he pled guilty to charges of conspiracy to commit murder and received a seven-year prison term.

William A. Ferchak Longtime officer of International Brotherhood of Teamsters (IBT) Local 732 whom Frederick Lacey appointed temporary trustee of IBT Local 295 in 1991.

Edward T. Ferguson III Former federal prosecutor who, in 1997, was appointed executive director of New York City Trade Waste Commission.

Anthony Fiorino Genovese crime-family associate and Liborio Bellomo's brother-in-law. In 1982 he became a member of Carpenters Local 257 and was named shop steward in 1985. He was assigned to the Javits Center in 1988 and four weeks later appointed to the supervisory position of "timekeeper." He was soon promoted to be the chief of carpenters at the center. Frederick Devine appointed him to succeed Ralph Coppola as District Council representative in 1994. He was the first union member to face disciplinary charges under the consent decree. He was expelled from the union for life for knowingly associating with members of the Genovese crime family and for enforcing a corrupt "pool-list" referral system.

Dominic Froncillo International Brotherhood of Teamsters Local 807 member and Javits Center employee whom the Independent Review Board charged with knowingly associating with a member of organized crime. He testified to a fifteen-year friendship with Alphonse Malangone, reputed Genovese family capo. In 1996, he was permanently barred from the union.

0902

Thomas Galligan New York State justice who presided over *People v. Gambino et al.* (1992). He appointed Robert McGuire as special master of the Gambinos' trucking interests in the Garment Center.

Joseph N. Gallo Gambino family consigliere who controlled the Greater Blouse, Skirt and Undergarment Association. He was convicted of bribery in 1987 and sentenced to a long prison term.

Carlo Gambino Boss of Gambino Cosa Nostra crime family. Father of Thomas and Joseph Gambino. He selected Paul Castellano as his successor. He died in 1976.

Joseph Gambino Carlo Gambino's son and Thomas Gambino's brother. The Gambino brothers were the dominant figures in Garment Center trucking until in a 1992 plea bargain they agreed to withdraw from the industry and pay a $12 million fine.

Thomas Gambino Carlo Gambino's son and Joseph Gambino's brother. The Gambino brothers were the dominant Cosa Nostra figures in the New York City garment industry until their 1992 plea bargain, in which they agreed to withdraw from the industry and pay a $12 million fine. Thomas's wealth was estimated as $100 million. He was convicted in 1993 on unrelated racketeering charges in Connecticut and was sentenced to a five-year prison term.

William F. Genoese Officer of International Brotherhood of Teamsters (IBT) Local 732. He was nominated by IBT president Ron Carey in 1992 to replace William Ferchak as temporary trustee of Local 295. After an investigation uncovered ties to the Lucchese crime family and inaction in the face of corruption at JFK Airport, his nomination was vetoed by IBT Independent Administrator Frederick Lacey. President Carey ultimately stripped him of his Local 732 position.

Vincent "the Chin" Gigante Boss of the Genovese family who was known to walk the streets in his bathrobe while mumbling to himself. Government prosecutors argued that he was faking mental illness. Sammy Gravano testified that Gigante was in full control of his wits and the Genovese family. Gigante avoided trial in the windows RICO case when found mentally unfit to stand trial. In 1997, he was convicted of RICO and sentenced to twelve years in prison.

0903

Rudolph Giuliani Associate attorney general of the United States, 1981–1983. U.S. attorney for the Southern District of New York, 1983–1989. His office prosecuted the Gambino, Bonanno, and Genovese family RICO cases and *United States v. Salerno,* the "commission" case. He also brought civil RICO suits against the general executive board of the International Brotherhood of Teamsters, and against Local 359 and the Genovese family at the Fulton Fish Market. As mayor (1994–present), he established a licensing system to free the Fulton Fish Market of mob control and a Trade Waste Commission to break up the waste-hauling cartel.

Leo I. Glasser United States district judge, Eastern District of New York, who presided over several organized-crime cases, including *United States v. Private Sanitation Industry Assoc. of Nassau/Suffolk, Inc.,* and *United States v. Gotti.*

John Gleeson Assistant U.S. attorney, Eastern District of New York, and chief of that office's organized crime section, 1990–1993. Federal court judge, 1994 to present.

Ronald Goldstock Director of New York State's Organized Crime Task Force, 1981–1994, who directed the comprehensive investigation of corruption and racketeering in the New York City construction industry. He first advocated use of private monitors as an organized-crime control strategy. He played a key role in investigating the Long Island carting cartel. In 1996, he was appointed to the Board of Directors of the New York Convention Center Operating Corporation, which operates the Javits Center.

John Gotti Boss of the Gambino crime family in the 1980s after the assassination of Paul Castellano. In the 1960s, he spent three years in prison for hijacking trucks from JFK Airport. He was convicted in 1992 of RICO violations and various predicate offenses, including the murder of Paul Castellano. He was sentenced to life in prison.

Victor Grande Pled guilty in 1982 to failure to pay taxes on money received from a vehicle-protection racket at the Fulton Fish Market.

Sammy "the Bull" Gravano Gambino underboss who cooperated with the government and testified against John Gotti in 1992 and against several other important mob figures.

0904

Mark Green Commissioner of Department of Consumer Affairs from 1990 to 1992. With Deputy Commissioner Richard Schreder, he undertook a number of initiatives to purge organized crime from the carting industry. In 1993, he was elected public advocate.

Thomas Griesa U.S. district judge for the Southern District of New York who presided over a number of cases involving the Fulton Fish Market, including *United States v. Local 359.*

Charles Haight Federal judge who presided over the civil RICO suit against the Carpenters District Council. He appointed Kenneth Conboy investigations and review officer.

Edward "Biff" Halloran Genovese associate who monopolized all ready-mix concrete suppliers in the 1980s. He was convicted in the Genovese family RICO case in 1988, and the companies he owned were forfeited to the government.

Henry Hill Lucchese associate turned government witness. He claims to have masterminded the 1978 Lufthansa heist with Jimmy Burke and Paul Vario. He testified against various Lucchese members and associates and entered the Witness Security Program. The story of his life, written with Peter Maas, was published as *Wiseguy* and later adapted into the movie *Goodfellas*.

James R. Hoffa Turned over several New York City–area International Brotherhood of Teamsters (IBT) locals to Cosa Nostra in exchange for the mob's support in his 1956 campaign for the IBT presidency. President of IBT from 1956 to 1958, and from 1961 until his conviction in 1964 for pension fraud and jury tampering. Disappeared in 1975, presumed the victim of a mob assassination, while campaigning to regain control of the IBT on a platform of freeing the union from mob domination.

Samuel H. Hofstadter New York State justice who, in the 1950s, upheld New York City's denial of a license to James Plumeri's garment-industry trucking company because of Plumeri's ties to organized crime.

Michael Holland Labor lawyer appointed elections officer pursuant to 1989 consent decree that established a three-person trusteeship over the International Brotherhood of Teamsters.

Matthew "Matty the Horse" Ianniello Longtime capo in the Genovese crime family. He was involved in several rackets, including working as

0905

Frank Wolf's assistant in the Master Truckmen of America and as a business agent for International Ladies Garment Workers Union Local 102. In 1976, he was acquitted of conspiracy to commit extortion in Garment Center. Convicted in 1986 on unrelated racketeering charges and sentenced to a long prison term.

Paul Kamen President of Painters District Council 9 until 1991, when he pled guilty to Organized Crime Control Act (OCCA) enterprise corruption related to the painters cartel. His plea confirmed prosecutors' suspicions that he was associated with the Lucchese crime family.

Gerald Kelty Member of Carpenters Local 257 who alleged that Anthony Fiorino had ordered him set on fire and had metal studs dropped on him because he had complained about union-contract violations.

Edward I. Koch Mayor of New York City, 1978–1989. He joined with Governor Cuomo in calling for an investigation of corruption and racketeering in the construction industry.

James Kossler Coordinating supervisor, organized crime branch, New York City FBI office, late 1970s to late 1980s. One of the key figures in designing and implementing the FBI's organized-crime control program.

David Krasula Longtime investigator with the U.S. Postal Inspection Service and U.S. Department of Labor. He was hired by Ron DePetris as chief investigator of International Brotherhood of Teamsters Local 851, pursuant to the October 1994 consent decree in a case involving racketeering in the air-cargo industry at JFK Airport.

Frederick B. Lacey Former federal judge who, pursuant to 1989 Teamsters consent decree, served as independent administrator in the trusteeship over the International Brotherhood of Teamsters. Later he served as a member of the Independent Review Board in that same case.

Joseph "Socks" Lanza Genovese crime family capo who controlled Fulton Fish Market and exerted much influence on the entire New York City waterfront from the 1920s to the 1950s. In 1923, he organized Local 359 of the United Seafood Workers representing workers in the Fulton

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Fish Market. Despite criminal convictions and prison terms, he remained on the local's payroll and served as its business agent until his death in 1968.

Nunzio "Harry" Lanza Capo in the Genovese crime family and brother of Joseph Lanza. He served as a Local 359 official throughout the 1960s.

Franz Leichter New York State senator who, in 1981, issued a comprehensive report on Cosa Nostra's involvement in the New York City garment industry.

Thomas "Three-Finger Brown" Lucchese Successor to Jacob Shapiro and Louis Buchalter. As boss of the Lucchese crime family, he had several ownership interests in and was involved in managing rackets in the garment industry. His garment-industry interests were passed on to his son-in-law Thomas Gambino and to Joseph Gambino.

Andrew J. Maloney U.S attorney for Eastern District of New York from 1986 to 1992.

Venero Mangano Genovese underboss in the late 1980s who organized the window-replacement cartel with Benedetto Aloi and conspired to murder potential witnesses. He was convicted in 1991 and received a 188-month sentence.

Theodore "Teddy" Maritas President of the Carpenters District Council from 1977 to 1981. He allegedly helped Vincent DiNapoli organize and enforce the drywall cartel. The prosecution against him and DiNapoli for drywall racketeering ended in a hung jury. He disappeared in 1992, presumed murdered to prevent cooperation with the government against his codefendants.

Paul Martello Business agent of Plumbers Local 2 who was reelected in 1996 despite pending charges of enterprise corruption and other crimes related to the painters cartel. He was acquitted of those charges.

Randy Mastro Assistant U.S. attorney in the Southern District of New York under Rudolph Giuliani. Lead attorney on the civil RICO suit against the International Brotherhood of Teamsters general executive board and Cosa Nostra members. Chief of staff and deputy mayor of the City of New York, 1994–1998. First (temporary) director of the Trade Waste Commission, 1996–1997.

0907

H. Carl McCall New York State comptroller whose 1995 audit criticized the Javits Center's management and financial controls.

Edward McDonald Director of Brooklyn Organized Crime Strike Force from 1982 to 1989.

Thomas McGowan President of Local 580 of the Architectural and Ornamental Ironworkers Union. He was acquitted in the windows prosecution. He was convicted in 1994 for crimes, related to the windows cartel, involving payoffs from a private contractor.

Robert McGuire New York City police commissioner who was appointed special master over the Gambino brothers' Garment Center trucking interests from 1992 to 1997. He instituted several reforms to break up the trucking cartel's "marriage system" and established a $3 million victims' compensation fund from the Gambinos' $12 million fine.

Gerald McQueen Former investigator in the Manhattan district attorney's organized crime and labor racketeering unit. In 1995, Governor Pataki appointed him inspector general of Javits Center. In 1997, the governor appointed him chief executive officer of the center. He carried forward the organized-crime-control and administrative-reform program of Robert Boyle.

John Mitchell U.S. attorney general, 1969–1972. He brought antitrust suits in 1971 against several New York City trucking companies and the National Association for Air-Freight, Inc. (NAFA), leading to the 1974 dissolution of the corrupt trade association.

Robert Morgenthau U.S. attorney for Southern District of New York, 1961–1970. Manhattan district attorney 1975 to present.

Michael Moroney Former official in the U.S. Department of Labor's Office of Labor Racketeering who in April 1992 was hired by Thomas Puccio as deputy trustee of International Brotherhood of Teamsters Local 295.

Louis Moscatiello President of Plasterers Local 530, which was created by Vincent DiNapoli. He was convicted in 1991 for his role as a bribe broker in the drywall industry and sent to prison.

0908

Eugene H. Nickerson Federal judge who presided over cases dealing with JFK Airport racketeering.

Curt Ostrander Appointed trustee of Local 851 in 1994 by International Brotherhood of Teamsters President Ron Carey. He was replaced by Eileen Sullivan in November 1996.

Fabian Palomino Javits Center's president and CEO, 1991–1995. The state comptroller charged that he mismanaged the center and tolerated corruption.

George Pataki Governor of New York State, 1994 to present. He committed his administration to an all out attack on organized crime at the Javits Center. He appointed Robert Boyle as CEO of the Javits Center and Gerald McQueen as the center's inspector general.

Sebastian Pipitone Javits Center inspector general, 1994–1995, under CEO Fabian Palomino.

James Plumeri Lucchese crime-family member who held ownership interests in the Garment Center, including, Ell-Gee Carriers Corp. and Barton Trucking Company. He unsuccessfully challenged the New York City commissioner of licenses for denying a business license to Barton Trucking in the 1950s. He was murdered in 1971.

Angelo Ponte Member of the carting cartel. Owner of CV Ponte & Sons, one of the largest waste-hauling firms in the city, and allegedly a business partner of the Genovese crime family. Pled guilty to attempted enterprise corruption and was sentenced to two to six years in prison, fined $7.5 million, and permanently barred from the waste-hauling industry.

Michael Porta Jr. International Brotherhood of Teamsters member employed at the Javits Center. In 1995, he was charged with knowingly associating with members of organized-crime families and permanently barred from the union.

Anthony "Tony Pro" Provenzano Longtime president of International Brotherhood of Teamsters Local 560 and capo in the Genovese crime family. In 1978, as a result of the Project Cleveland investigation, he was convicted of illegally obtaining a loan from a union pension fund. In 1978, he was convicted of murder and later died in prison.

0909

Thomas Puccio Former assistant U.S. attorney and former chief of the Brooklyn Organized Crime Strike Force. As a private lawyer, he was appointed trustee of IBT Local 295 in April 1992.

Michael Rabbitt Son of Robert Rabbitt Sr. In 1994, he headed Teamsters' contract-negotiating team with the decorator companies. The contract redefined the general foreman as a management position. He left the union and assumed the new general foreman position. He was indicted for conspiracy to extort money from the president of a company doing business at the Javits Center, receiving bribes, grand larceny through extortion, criminal possession of stolen property, and falsification of business records with the intent to defraud. All the charges were dropped after Rabbitt Sr. pled guilty. He subsequently relinquished the general foreman position to Rabbitt Sr. upon the latter's release from prison.

Robert Rabbitt Sr. With sons Michael and Robert Jr., led International Brotherhood of Teamsters Local 807 for almost three decades. Business agent of Teamsters Local 807 charged with bringing reproach upon the union by taking money from an exhibitor at the Javits Center. Upon settlement, he resigned from the union for five years. He was indicted for conspiracy to extort money from the president of a company doing business at the Javits Center, receiving bribes, grand larceny through extortion, criminal possession of stolen property, and falsification of business records with the intent to defraud. He pled guilty to falsification of business records, and all the other charges were dropped. He was convicted of second-degree manslaughter in 1985 and banned from the union for five years. The general foreman position was held open until he was released from prison in 1988. In 1992, he pled guilty to falsifying business records and, after serving one year in prison, returned to the position of general foreman. Under threat of bribery charges, he accepted a five-year suspension from the union, and his son Michael took over his position.

Robert Rabbitt Jr. Son of Robert Rabbitt Sr. who succeeded his father as International Brotherhood of Teamsters (IBT) Local 807 business agent. He was removed from this position in 1985 by IBT President Ron Carey.

Anthony Razza Secretary-treasurer (the top position) of International Brotherhood of Teamsters Local 851, which represented employees in

0910

the JFK air-cargo industry. In 1994, he was convicted of labor racketeering and tax fraud and sentenced to twenty-one months in prison. He was barred from the IBT for life.

Armando Rea Teamster member employed at the Javits Center who in 1994 was charged with violating the International Brotherhood of Teamsters oath by being a member of an organized-crime family and associating with organized-crime figures. The Independent Review Board permanently barred him from the union.

Salvatore Reale Associate of the Gambino crime family who served as director of security for a trucking company at JFK Airport. He was John Gotti's "on-stage guy" at JFK Airport. Named Man of the Year by the Patrolmen's Benevolent Association in 1978. In 1987, he pled guilty to extortion and was sentenced to a fifteen-year suspended prison term.

Ronald Rivera New York State Police officer who ran Chrystie Fashions during yearlong undercover sting operation in the Garment Center. He testified for the prosecution against the Gambino brothers.

Carmine Romano "Socks" Lanza's successor as the Genovese family's boss at the Fulton Fish Market. He served as secretary-treasurer of United Seafood Workers, Smoked Fish and Cannery Union Local 359 from 1974 to 1980, when he received a twelve-year prison sentence for violating RICO and the Taft-Hartley Act.

Peter Romano Brother of Carmine Romano. He was appointed business agent of Local 359 in 1974 when Carmine became secretary-treasurer. In 1981, he was convicted of obstruction of justice and perjury and sent to prison for eighteen months.

Vincent Romano Brother of Carmine and Peter and member of the Genovese crime family. He assumed control of the Fulton Fish Market in 1981 following his brothers' convictions. He took over as secretary-treasurer of United Seafood Workers, Smoked Fish and Cannery Union Local 359 in 1980. A 1988 consent judgment permanently barred him from working in the market.

Arnold Rothstein First major organized-crime figure involved in New York City's garment industry. He employed thugs for and against designers in their battles with unions. He was murdered in 1928.

0911

William Ruckelhaus Chief executive officer of Browning, Ferris, Inc. (BFI), who led BFI into the New York waste-hauling market in 1991, and cooperated with District Attorney Morgenthau.

Anthony "Fat Tony" Salerno Genovese family's ostensible boss. FBI later considered him to be Vincent Gigante's subordinate. He was convicted in the 1986 "commission" case, among other things, of rigging Javits Center bids, inflating the center's concrete bids, and inflating the center's construction costs by approximately $12 million. He died later in prison while under indictment in the Genovese family RICO case.

Robert Sasso President of International Brotherhood of Teamsters Local 282. He resigned as a result of an investigation by the International union's court-appointed investigations officer, Charles Carberry, into allegations that Sasso was influenced by the Gambino crime family. He pled guilty to racketeering involving an extortion conspiracy with organized crime in 1994.

Peter Savino Genovese associate implicated in the windows cartel. He started Arista Windows with Lucchese drug money and used Cosa Nostra's domination of the window-replacement industry to advance the company. He became a government informant, and surreptitiously recorded several hours of conversations regarding the windows cartel.

Irwin Schiff Owner of electrical contracting company that did business at the Javits Center. He was murdered in a Manhattan restaurant after informing the FBI of an alleged contract killing at the center and of a money-laundering scheme.

Ralph Scopo Colombo soldier who enforced the concrete cartel through his position as the president of the District Council of Cement and Concrete Workers. He was convicted in both the "commission" and Colombo family RICO cases and sentenced to one hundred years in prison.

Jacob "Gurrah" Shapiro Along with Louis "Lepke" Buchalter, took over Arnold Rothstein's labor rackets in the New York City garment industry. He expanded into ownership of design firms, controlled the trade associations and the International Ladies Garment Workers Union's local. Shapiro was convicted of extortion in 1938.

0912

Gerald Shargel Prominent criminal defense lawyer who represented John Gotti in his 1990 state case and the Gambino brothers in their 1992 case. He negotiated a plea agreement with the Manhattan District Attorney's Office in which the Gambino brothers agreed to withdraw from the industry and to pay a $12 million fine.

Elliot Spitzer Assistant district attorney (New York County) who served as lead prosecutor in the Garment Center racketeering case in 1992 against Thomas and Joseph Gambino. Elected New York State attorney general in 1998

Marcello Svedese Carpenter's union official who, as a cooperating witness, testified in several cases, including the civil RICO suit against the Carpenters District Council.

Brian Taylor FBI agent who played an important part in both the fish market and carting investigations. He succeeded James Kossler as coordinating supervisor, organized-crime branch, New York City FBI office.

Thomas D. Thacher II Director of the Construction Industry Strike Force in the late 1980s and first inspector general of the School Construction Authority in 1989.

Paul Vario Capo in the Lucchese crime family who, according to Henry Hill, directed the Lufthansa heist. He was convicted and sentenced to four years in prison for conspiring to secure the early release of a Lufthansa employee who had been convicted for involvement in that heist. He was convicted in 1986 of extorting from trucking companies operating at JFK Airport, and was sent to prison. He died in prison in 1988.

Peter "Butch" Vario Nephew of Paul Vario, cousin to Peter "Jocko" Vario, and an associate of the Lucchese crime family. Business manager of Mason Tenders Local 46 from 1984 to 1989. In 1988, he was convicted of RICO conspiracy involving labor payoffs in Queens. He was sentenced to three and a half to ten and a half years in prison in 1989.

Peter "Jocko" Vario Nephew of Paul Vario. Cousin to Peter "Butch" Vario. Lucchese soldier. Vice-president of Laborer's International Union of North America Local 66, which policed the Long Island concrete cartel. He was convicted in 1990 for RICO conspiracy involving

0913

labor payoffs in Queens and was sentenced to a forty-six-month prison term.

Mary Jo White Former acting U.S. attorney, Eastern District of New York. U.S. attorney for Southern District of New York from 1993 to present.

Frank Wohl Former federal prosecutor appointed administrator of the Fulton Fish Market by Judge Griesa following the 1988 *United States v. Local 359* consent and default judgments. He issued fourteen reports from 1988 to 1992, including a 1990 midterm report calling on New York City to pass comprehensive regulatory reforms. He hired Brian Carroll as assistant administrator.

Frank Wolf President of the Master Truckmen of America (MTA) representing trucking companies in the garment center. As a result of the Project Cleveland sting operation, he was indicted for extortion. His acquittal in 1976 was a major blow to the Project Cleveland effort.

John C. Zancocchio Member of International Brotherhood of Teamsters (IBT) Union who worked at Javits Center. He was charged with violating the IBT oath by knowingly associating with members of organized crime. In 1994, IBT's Independent Review Board found him to be a member of the Bonanno crime family and barred him from the IBT.

0914

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Big Apple Concrete Corp. v. Abrams, 481 N.Y.S.2d 335 (1983).
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Danielson v. Local 359, 405 F. Supp. 396 (S.D.N.Y. 1975).
Devine v. New York Convention Center Operating Corp., 639 N.Y.S.2d 904 (N.Y. Sup. Ct. 1996).
Jerry Kubecka, Inc. v. Avellino, 898 F. Supp. 963 (E.D.N.Y. 1995).
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People v. Capaldo, 572 N.Y.S.2d 989 (1991).
People v. Davidoff, 85 Cr. 100 (SS) (E.D.N.Y. December 12, 1986).
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People v. Gambino, Indictment No. 11859-90.
People v. Gardner, Indictment No. 4032-96.
People v. McCann, Indictment No. 4292-96.
People v. McNamee, Indictment No. 4293-96.
People v. Moscatiello, Indictment No. 8081/89 (N.Y. County 1989).
People v. Pagano, Indictment No. 120/89 (Rockland County 1989).
People v. Potts, Indictment No. 254-92.
People v. Private Sanitation Industry of Nassau/Suffolk, Inc., 136 Misc.2d 612 (Suffolk County Court, 1987).
People v. Robert Rabbitt Sr., Indictment Nos. 245–249/92.
People v. Sail Carting & Recycling Co., Inc., 158 A.D.2d 724 (N.Y. App. Div. 1990).
People v. Salzarulo, 639 N.Y.S.2d 885 (1996).

0915

People v. Schepis, 614 N.Y.S.2d 719 (1994).
People v. Stuart, Indictment No. 11858/90 (October 1990).
People v. Vespucci, 553 N.E.2d 965 (N.Y. 1990).
Quadrozzi v. City of New York, 127 F.R.D. 63 (S.D.N.Y. 1989).
Russo v. Morgan, 21 N.Y.S.2d 637 (1940).
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United States v. Amuso, 21 F.3d 1251 (2d Cir. 1994).
United States v. Badalamenti, 84 Cr. 236 (S.D.N.Y. 1987).
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United States v. Bellomo, 96 Cr. 430 (LAK).
United States v. Casso, 843 F. Supp. 829 (E.D.N.Y. 1994).
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United States v. Cody, 722 F.2d 1052 (2d Cir. 1983).
United States v. Colombo, 616 F. Supp. 780 (E.D.N.Y. 1985).
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United States v. Failla, 1993 WL 547419 (E.D.N.Y. December 21, 1993).
United States v. Gallo, 671 F. Supp. 124 (E.D.N.Y. 1987).
United States v. Gangi, Indictment No. 97 Cr. 1215.
United States v. Gigante, 39 F.3d 42 (2d Cir. 1994).
United States v. Gotti, 1997 WL 157549 (E.D.N.Y. April 3, 1997).
United States v. Gotti, 641 F. Supp. 283 (S.D.N.Y. 1986).
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United States v. Mongelli, 2 F.3d 29 (2d Cir. 1993).
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0917

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0919

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0921

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0922

Index

Note: *Italicized* letters *n*, *m*, and *t* following page numbers indicate notes, maps, and tables, respectively.

Abbatiello, James, 103, 252*n*14
Abrams, Robert, 93, 211
Adelstein, Bernard, 88, 94, 190; Cosa Nostra ties of, 80; investigation of, 199; prosecution of, 89, 192
Agnello, Carmine, 220
Air-cargo industry: operations of, 53–54; *See also* John F. Kennedy Airport
Albanese, Gerard, 152
Alfarone, John, 217
Ally, Mustapha, 210, 281*n*11
Aloi, Benedetto, 212
Altman, Herbert, 137–38
Amerford, 172–74
Amuso, Vittorio, 27, 212–13
Anastasia, Albert, 12
Anastasio, Anthony ("Tough Tony"), 12
Anderson, Eugene R., 97, 216, 226*t*
Antitrust suits: against air-cargo industry cartels, 49, 60; against garment industry cartels, 28–29, 135; against seafood industry cartels, 34–35, 40–42; against waste-hauling industry cartels, 81–82, 83*n*, 93–94
Aponte, Angelo, 95
Architectural and Ornamental Ironworkers Union, Local 580, 105, 111–12; prosecution of, 212; reforms of, 218
Aronwald, William, 30
Association of Trade Waste Removers of Greater New York, 85, 190; dismantling of, 198–99
Avellino, Carmine, 87
Avellino, Salvatore, 82–83, 85–86, 190; on Cosa Nostra's influence, 96; prosecution of, 87, 93–94, 192
Banking services, Cosa Nostra and, 21
Baratta, Anthony, 87
Barretti, Phillip, Sr., 196*n*, 198
Barretti Carting, 83
Barstow, Donald, 87, 94
Barton Trucking, 29–30, 32, 135, 239*n*52
Beame, Abraham, 92
Bell, Daniel, 12
Bellomo, Liborio ("Barney"), 74, 178
Benson, Herman, 217
BFI. *See* Browning Ferris Industries
Bid rigging, in waste-hauling industry, 91
Bilotti, Thomas, 104
Bishop, Jimmy, 105, 113
Bittondo, Attilio, 246*n*33
Blakey, G. Robert, 131
Blasters and Drill Runners Local 29, Laborers Union, 102
Bonanno crime family: and Fulton Fish Market, 38; and nationwide commission, 117, 257*n*4
Bonanno, Joseph, 9
Boorgal, Mike, 102
Boss, Cosa Nostra, 9; functions of, 10
Boyle, Robert, 67, 184–85, 188*n*; administrative initiatives of, 185–87
Bribes, extortion of, 106–7
Broderick, Vincent, 216
Brodsky, David, 211
Brooklyn Organized Crime Strike Force, 4, 49, 96, 131
Brooklyn Trade Waste Association, 85, 92
Browning Ferris Industries (BFI), 81, 194–96, 204
Brown, Johnnie, 180, 215, 271*n*34
Brown, Richard, 175

0923

Buccafusco, Raymond, 138, 260*n*29–260*n*30
Buchalter, Louis ("Lepke"), 15, 18, 129, 258*n*25
Burke, Harold, 165*n*
Burke, Jimmy, 56–57

Cafaro, Vincent ("the Fish"), 72, 211
Calagna, Anthony, 50, 56, 166, 173
Calamari, Chester, 174
Calise, Frank, 50, 56, 61; charges against, 167–68, 267*n*15
Capone, Al, 7, 130
Capos, 21
Carberry, Charles, 165, 199, 215
Cardamone, Richard, 202
Carey, Ron, 51, 166; and Local 295, 169; and Local 807, 67, 180; and Local 813, 199
Carpenters Union: civil RICO suit against, 66, 104; Cosa Nostra and, 73–74, 110, 176; counterattack of, 186–87; District Council, 110; District Council, trusteeship over, 98, 214–15; investigations of, 177–78; and Javits Convention Center, 70–75, 186; Local 257, 74; Local 608, prosecution of, 211–12; New York City and Vicinity District Council, 104; plans to purchase New York Coliseum, 187; reform of, 186, 232
Carroll, Brian, 150–51
Carter, Zachary, 82, 175
Carting cartels: bid rigging by, 91; civil RICO suit against, 191–94; efforts to reform, 201*n*; enforcement of, 86–87; investigation of, 92–93; Long Island, 82–83, 85; New York City, 81–82; origins of, 82–84; policing of, trade associations and, 84–86; Westchester County, 83
Casso, Anthony ("Gaspipe"), 27, 87, 113, 212–13
Castellano, Paul, 25–27, 104, 109
Catellammarese War, 7–8
Cavalieri, Salvatore, 102
CCDC. *See* Convention Center Development Corporation
Cement and Concrete Workers Local 6A, 97, 102, 108; monitorship over, 210; prosecution of, 97; reform of, 216, 251*n*12
Certified Concrete, 211
Cervone, Basil, 103
CGMA. *See* Chinese Garment Makers Association
Chaikin, Sol C., 24
Chambers Paper Fibers Corporation, 195, 197
Cherkasky, Michael, 82, 140, 193–94, 226*t*
Chertoff, Michael, 98, 216, 226*t*
Chinatown garment contractors, 20–21; control over, 25–26; and designers, forced marriage of, 22–23; monitoring program for, 142; and trucking cartel, 21–23
Chinese Garment Makers Association (CGMA), 26
Chiodo, Peter ("Big Pete"), 113, 212, 255*n*73, 282*n*34–283*n*34
Christmas payments, 43
Chrystie Street Fashions, 138–39
Cirillo, Anthony, 149
CISF. *See* Construction Industry Strike Force
Civil RICO suits, 224; against Carpenters Union, 66, 104; against carting cartels, 191–94; versus criminal prosecutions, 223–24; against Seafood Workers (Local 359), 35, 147–49, 162; against Teamsters Union, 50, 65–66, 77
Claps, Dominic, 186
Cloak and Suit Trucking Ass'n, Inc., 15, 28, 238*n*48–239*n*48
Clothing industry. *See* Garment industry
Cody, John, 101–2, 108, 109*n*, 209
Colombo crime family: and construction industry, 97, 102, 108; and garment industry, 26; and Javits Convention Center, 73, 75; prosecution of, 209
"Commission case," 132, 209
Committee to Save the Fulton Fish Market, 155, 157, 159, 163
Conboy, Kenneth, 66, 98, 177–78, 212, 214, 226*t*
Concrete, types of, 108*n*
Concrete cartel, 108–9; elimination of, 209–11; in Javits Center construction, 68; prosecution of, 65, 97; unions and, 101–3
Consiglieri, 10
Consolidated Carriers, 136–37

0924

Constantine, Lloyd, 185
Construction industry, 96–115; city regulatory proposal regarding, 220–21; components of, 99–100; Cosa Nostra-dominated unions and, 101–6; elimination of cartels in, 209–14; employer cartels in, 107–14; hiring practices in, 105*n*; investigations of corruption in, 101; and Javits Convention Center, 65, 68; labor relations framework in, 100–101; OCTF investigations of, 206–9; reform of, 206–22; School Construction Authority and, 97–98, 218–19; scope of, 99; traditional crimes and racket in, 106–7; VENDEX system and, 98, 219–20
Construction Industry Strike Force (CISF), 207
Construction Industry Task Force, 97
Conti, Carlo, 81
Contractors, garment, 20–21; control over, 25–26; and designers, forced marriage of, 22–23; monitoring program for, 142; and trucking cartel, 21–23
Convention Center. *See* Jacob Javits Convention Center
Convention Center Development Corporation (CCDC), 67–69
Coppola, Ralph, 66, 73–74
Corallo, Anthony ("Tony Ducks"), 92–93, 243*n*13; and construction unions, 101
Corallo, Antonio, 126–27
Corrigan, James, 93
Cosa Nostra, 7–10; business acumen of, 118; and Carpenters union, 73–74; command structure of, 9–10; conflict and cooperation within, 9, 116–17; and construction industry, 96–115; defining characteristics of, 127–28; financial services of, 21; and Fulton Fish Market, 33–47; and garment industry, 15–32; intimidation power of, 117–18; and Javits Convention Center, 65–79; and JFK Airport, 48–64; longevity of, factors responsible for, 10; members of, 9–10; nationwide commission of, 117, 256*n*3; operations of, 8; origins of, 7–8; and politics, 8, 130; as rationalizing force, 123–24; reliability of, 118; restrained ambitions of, 119–21; and shipping business, 12–13; success of, accounting for, 117–19; terms used for, 7; and unions, 24–25; victory over, evidence for, 231–33; and Wall Street, 14; and waste-hauling industry, 80–95
Coscia, Paul, 78, 181
Costello, Frank, 3, 126
Cowan, Richard, 195, 197
Crain, Thomas C. T., 41, 47
Crapazano, Patsy, 101
Crew, 10
Crime. *See* Organized crime
Crime control. *See* Organized-crime control
Criminal prosecutions, versus civil RICO suits, 223–24
Cuomo, Mario: and construction industry, 97, 206–7; and Javits Center, 69
Cuozzo, Anthony, 166
Customer-allocation system. *See* Property-rights system

Daly, George, 104
D'Arco, Alphonse ("Little Al"), 74
Davidoff, Harry, 49–50, 55–56; charges against, 167–68; prosecution of, 61, 267*n*15
Davidoff, Mark, 166–67
Davis, John H., 13
DCA. *See* Department of Consumer Affairs
DeCavalcante crime family, 73
Decorating companies, at Javits Center, 70, 185
DeFede, Joseph ("Little Joe"), 17, 143
Defeo, Peter, 110
Dellacava, Steven ("Beansy"), 78
Dello Russo, Patrick, 173, 174, 267*n*5
DeLucia, Dennis, 212
Democratic Party, New York City, 3
Department of Business Services, 264*n*52; and Fulton Fish Market, 155–57
Department of Consumer Affairs (DCA), 89–92, 95, 191
Department of Investigation (DOI), Fulton Fish Market operation, 152
Department of Ports, Trade, and Commerce, 153–54; Market Manager's Office within, 264*n*52
Department of Sanitation, 82
DePetris, Ronald, 51, 171–74, 175, 226*t*

0925

Designers, garment, 20; and contractors, forced marriage of, 22–23; Cosa Nostra's infiltration in firms of, 27–28; monitoring program for, 142
Devine, Frederick: appointments by, 66, 74; as Carpenters District Council President, 187; Cosa Nostra ties of, 73; fraudulent practices of, 106; ousting of, 98, 104, 111, 178, 215; reelection of, 214, 284*n*53; state legislature's hearing and, 184
Dewey, Thomas E., 18, 129
Didato, Dominick, 18
DiNapoli, Vincent, 96, 104, 110–11; prosecution of, 211
Dioguardi, John ("Johnny Dio"), 18, 48, 242*n*11–243*n*11; and construction unions, 101; and Jimmy Hoffa, 55
DiSalvo, John, 138, 260*n*28, 260*n*30
District attorneys, in New York City, 5–6
Docks, New York, mob's control of, 12–13
DOI. *See* Department of Investigation
Donnelly Act, 137
Drywall cartel, 110–11; elimination of, 211–12; prosecution of, 96–97; unions and, 104
Duvall, William, 217

Eason, Matthew, 25
Economy, New York City, 2; Fulton Fish Market and, 35, 46; garment industry and, 17–18; JFK Airport and, 62–63
Eisenberg, Arthur, 179
Elboar, David, 217
Electronic surveillance, 131, 133; in Gambino case, 137; in waste-hauling industry investigation, 93
Ethnic homogeneity: and organized crime, 8, 128, 258*n*25; in waste-hauling industry, 84, 248*n*7
Evola, Natale, 18
Exhibition Employees Union (Expos): charges against, 181–82; and Javits Convention Center, 70, 77–78, 186*n*, 188; Local 829, 67, 70, 77, 176; prosecution of, 66–67
Extortion schemes: bid rigging, 91; Christmas payments, 43; featherbedding, 71, 100; ghost employees, 77–78; labor-peace payoffs, 58–59; parking racket, 37, 45–46; property-rights system, 22–23, 44–45, 84; protection racket, 34, 39–42; rental of union signs, 43; worker's compensation claims, 78, 182

Faicco, Dennis, 149
Failla, James ("Jimmy Brown"), 85, 88, 190; prosecution of, 80, 198
Families, Italian organized-crime: cooperation among, 9, 116–17; FBI squads assigned to, 133; functions of, 10; in New York City, 8–9; *See also specific family*
Fashion Page, 28
Fazzini, Emedio, 83
FBI. *See* Federal Bureau of Investigation
Feast of San Gennaro, 13–14
Featherbedding: definition of, 100; at Javits Convention Center, 71
F.E.D. Concrete Company, 210
Federal Bureau of Investigation (FBI), 4–5; electronic surveillance by, 131, 133; under Hoover, 130; Kat-Net operation, 175; LILREX investigation, 96, 110, 211; Operation Sea Probe, 35, 147; and organized crime control, 132–33
Federal courts, in New York City, 5
Federico, Frank, 87
Ferchak, William, 166
Ferguson, Edward, 201
Fernandez, Al, 271*n*34
Ferrante, Nicholas, 193
Figoni, Anthony, 174
Financial services, Cosa Nostra and, 21
Fiorino, Anthony, 66–67, 74, 177–78, 186
Flinter, Henry, 182
Foreman (Teamsters), 100
Foy, Joseph, 199
Francolino, Joseph, 197–98, 277*n*58
Freed, Aaron, 22
Freight-forwarding companies, 53–54; advantages of mob cooperation, 62; investigation of, 172; labor-peace payoffs from, 58; lead agents in, 56, 172; legal action against, 173–74
Froncillo, Dominic, 180
Frustraci, Nicholas, 14
Fulton Fish Market, 33–47, 147*m*; City Council hearings on, 154–55; Committee to Save, 155, 157, 159, 163; Cosa Nostra's control of, 38–39; court-

0926

appointed administrator of, 149–53, 263*n*24; fire at, 155; investigation of, 40–41; liberation from mob influence, 146–63; Local Law 50 and, 35, 155–57; market manager of, establishing, 155–56, 264*n*52; operation of, 36–38; Operation Sea Probe and, 35, 147; parking racket at, 37, 45–46; property-rights system at, 44–45; protection racket at, 34, 39–42; regulatory strategies in reforming, 230; rent revenues from, 35, 46, 154, 158; waste-haulers in, targeting, 159–60
Fulton Fishmongers Association, 38, 41; rent agreement with, 158
Fulton Patrol Association, 34, 40–42

Galligan, Thomas, 140, 142
Gallo, Joseph ("Crazy Joe"), 237*n*31–238*n*31
Gallo, Joseph ("the Kid"), 144
Gallo, Joseph Nicholas ("Joey"), 16, 25, 144*n*, 237*n*31–238*n*31
Gambino, Carlo, 27, 102
Gambino crime family: and airfreight industry, 63; and construction industry, 101–2, 104; and garment industry, 16–17, 21–22, 25–26; industries controlled by, 13; and shipping business, 12; suit against New York City, 16; and waste-hauling industry, 85, 94
Gambino, Joseph, 18–20, 136; prosecution of, 81, 137–40, 259*n*8, 260*n*28; and waste-hauling industry, 86
Gambino, Thomas F., 18–20, 27, 136, 238*n*32; career of, 121; conversations with Paul Castellano, 25–26; personal wealth of, 136; prosecution of, 137–40, 259*n*8, 260*n*28; sentencing of, 17, 140*n*
Gambling, on construction sites, 106
Gangi, Rosario Ross, 158
Gangi, Thomas, 158
Garbage collection industry. *See* Waste-hauling industry
Garment District, 19*m*, 20; ethnic makeup of workforce, 17; "property-rights" system in, 22–23
Garment industry, 15–32; and antitrust suits, 28–29; cash flow into, 21; components of, 20–21; ILGWU Local 102 and, 24–25; investigation of, 30–31; liberation from Cosa Nostra rule, 135–45; in New York City's economy, 17–18; recent allegations of Cosa Nostra influence in, 143–44
Gatto, Jospeh, 144
Genoese, William F., 166
Genovese, Vito, 7
Genovese crime family: and Carpenters Union, 178; and construction industry, 97, 101–4, 110; and Fulton Fish Market, 33–34, 38–41, 44, 46–47; and garment industry, 26; and Javits Convention Center, 66, 68, 72–74; prosecution of, 147–49, 209–11; and San Gennaro festival, 13–14; and waste-hauling industry, 83, 85–86
Gerro Trucking, 30
Ghost employees, 77–78
Gigante, Mario, 83*n*
Gigante, Vincent ("the Chin"), 9*n*, 102, 209; prosecution of, 212–13, 232
Gillio, John, 152–53
Giovinco, Frank, 197–98
Giuliani, Rudolph: and construction industry reform, 99, 207, 221; and Fulton Fish Market reform, 147–48, 154–55, 158–59, 162; and Javits Center reform, 184, 187–88; and organized-crime control, 3, 35, 134; regulatory strategies of, 230–31; RICO suit brought by, 132; role of, 229; and Teamsters reform, 165; and waste-hauling industry reform, 81, 200–203; and wholesale food markets reform, 161
Glasser, I. Leo, 192
Gold, Eugene, 81, 91–92
Goldfarb, Herman, 30
Goldstock, Ronald, 10, 82, 93–94, 133, 140, 185, 223, 227
"Good fellows," 10
Gotti, John, 49, 56, 107, 119, 122, 232
Graham Architectural Products, 112
Gravano, Salvatore ("Sammy the Bull"), 73, 88, 107; career of, 119
Greater Blouse, Skirt and Undergarment [Employer] Association, 16, 25–26, 144*n*
Greater New York Trade Waste Association, 85
Green, Mark, 81, 91, 191, 195, 200

0927

Griesa, Thomas P., 148–49, 153, 157, 159
Guerrieri, Anthony, 50, 167

Halloran, Edward ("Biff"), 108–9, 210
Hammond, Steven, 217
HealthTech, 14
Hijackings, truck, 56–57
Hill, Henry, 56–57, 63, 164
Hoffa, Jimmy, 49, 54, 132
Hoffa, Jimmy, Jr., 166*n*
Hofstader, Samuel H., 29
Hogan, Frank, 101
Holland, Michael, 165
Holtzman, Elizabeth, 220
Hoover, J. Edgar, 130, 132
Housewreckers Local 95, Laborers Union, 102

Ianniello, Matthew ("Matty the Horse"), 31, 86; prosecution of, 81
IBT. *See* International Brotherhood of Teamsters
Ida, James ("Little Jimmy"), 14
ILA. *See* International Longshoremen's Association
ILGWU. *See* International Ladies Garment Workers Union
Impellitteri, Vincent, 126
Independent Review Board (IRB), and Teamsters Union, 165*n*, 178–80, 188
Industrial racketeering, 8; airfreight industry, 48–64; benefits of, 123–24; construction industry, 96–115; convention center, 65–79; cooperation in, 117; as defining characteristic of Cosa Nostra, 127–28; garment industry, 15–32; legal actions combating, 223–24; scope of, 121–22; seafood industry, 33–47; susceptibility to, 125; targets of, 11, 13; timeliness factor and, 124–25; unions and, 122–23; victims of, 123; waste-hauling industry, 80–95
Interest groups, New York City, 3
Internal Control Act, New York State, 182
International Alliance of Theatrical and State Employees, AFL-CIO, 77
International Brotherhood of Carpenters and Joiners. *See* Carpenters Union
International Brotherhood of Painters and Allied Trades. *See* Painters Union
International Brotherhood of Teamsters (IBT), 49; civil RICO suits against, 50, 65–66, 77; and concrete-pouring cartel, 215; Cosa Nostra's control over, 52, 54–56, 63, 88–89, 164; damages from past corruption, efforts to recover, 172–74; effectiveness of reform, 164; and freight-forwarding companies, 62; General Executive Board, civil RICO complaint against, 178; Independent Review Board and, 165*n*, 178–80, 188; investigations of, 132–33, 178–82; and Javits Convention Center, 65, 70–71, 75–77, 186; Joint Council 16, 101; labor-peace payoffs to, 58, 132–33; legal attack against, 167–68; Local 282, 98, 101–2, 108, 109*n*, 215–16; Local 295, 48–56, 63, 164–70, 175; Local 732, 166; Local 807, 66–67, 70–71, 75–78, 176, 179–80; Local 813, 80, 82, 86, 88–89, 94, 190–91, 199; Local 814, 65, 77; Local 851, 48–53, 55–56, 58, 63, 164, 166–75; reform of, 165–66, 174–75, 199, 232; trusteeships over, 50–51, 168–72, 175, 215–16, 271*n*34; and waste-hauling industry, 88–89; *See also specific Local*
International Ladies Garment Workers Union (ILGWU), 16, 23; Local 102, 24–25, 144; merger of, 144*n*
International Longshoremen's Association (ILA), 12–13; labor-racketeering investigation of, 132–33
Interstate Dress Carriers, 25
Intimidation, Cosa Nostra's powers of, 117–18
Investigation firms, private sector, 228
IRB. *See* Independent Review Board
Irish American organized crime, 8
Ironworkers Union. *See* Architectural and Ornamental Ironworkers Union
Italian American organized crime: origins of, theories of, 7; *See also* Cosa Nostra

Jacob Javits Convention Center, 65–79, 68*m*; audit of, 183–84; under Boyle, 185–87; Carpenters union and, 72–75; collective bargaining at, 70–71; construction of, 67–68; Cosa Nostra's influence at, 71–72; Expos union and, 77–78;

0928

featherbedding at, 71; fraudulent legal claims against, 78; hiring practices at, 72–73, 75, 77, 245*n*19; Inspector General's role in, 182–84; legal and administrative framework of, 69; legislative inaction regarding, 187–88; liberation from mob influence, 176–89; operation of, 69–72; regulatory strategies in reforming, 231; state legislature's hearing regarding, 184–85; Teamsters union and, 75–77
Jamaica Ash, 83, 194
Javits Convention Center. *See* Jacob Javits Convention Center
Jewish organized crime, 8, 258*n*25
John F. Kennedy Airport (JFK Airport), 48–64, 52*m*; cargo theft at, 48–49, 53, 56–57, 60; Cosa Nostra's control of, 52–53; economic consequences of mob control, 62–63; government investigations of, 49–50, 60–61, 63; liberation from mob influence, 164–75; operations of, 51–54; trucking cartel at, 53–54, 59
Joint Council 16 (Teamsters), 101
Journeymen, Fulton Fish Market, 37, 39
Julius Nasso Concrete Company, 65, 68

Kamen, Paul, 105, 113
KAT Management Services, 173
Kat-Net, 175
Kefauver Committee, 130
Kelly, Brian, 166
Kelty, Gerald, 178
Kennedy, Robert F., 48, 54–55, 130, 199
Kennedy Airport. *See* John F. Kennedy Airport
Kenrac investigation, 49, 61, 63; results of, 49–50, 174; second stage of, 50
Kings County Trade Waste Association, 85
K&N. *See* Kuehne & Nagel Air Freight
Koch, Edward I., 34, 46; and construction industry reform, 207, 210; and waste-hauling industry reform, 81
Krasula, David, 171
Kubecka, Jerry, 88, 192*n*, 250*n*66–251*n*66
Kubecka, Robert, 82, 87–88, 92, 94
Kudla, Larry, 216
Kuehne & Nagel Air Freight (K&N), 174
Kwitny, Jonathan, 13, 116

LaBarbara, Michael, Jr., 103, 252*n*14
LaBarbera, Gary, 215–16
Laborers International Union of North America (LIUNA): Blasters and Drill Runners Local, 102; Cement and Concrete Workers Local, 97, 102, 108, 210, 216, 251*n*12; combating corruption in, 285*n*79; Housewreckers Local, 102; Local 66 of, 103, 109; and Mason Tenders District Council, 217; Mason Tenders Locals, 103
Labor movement. *See* Unions
Labor-peace payoffs, 58–59
Lacey, Frederick B., 50, 165, 199, 226*t*, 267*n*20
Landesco, Joseph, 116, 123
Landrum-Griffin Act, 106
Lansky, Meyer, 8
Lanza, Joseph ("Socks"), 33–34, 39–40, 47
Lanza, Nunzio ("Harry"), 40
Laro Maintenance Corporation, 159
Lauro, Costabile, 180
Law enforcement agencies, New York City, 4–7; early successes of, 129–30; impotence of, 130; *See also specific agency*
Lawsuits. *See* Antitrust suits; Civil RICO suits
Lazar, Leon, 193
Lead agents, in freight-forwarding companies, 56; investigation of, 172
Lebedeff, Diane, 195
Lee, Kim, 136, 138–39
Lefkowitz, Louis J., 92
Leichter, Franz, 16, 25, 28
Licensing: of carting companies, 200; of construction companies, 220–21; of convention center workers, 187–88; of food purveyors, 162; of loading and unloading companies, 156, 159–62; of trucking companies, 29–30, 32; of waste-hauling companies, 89, 92, 95, 191
LILREX investigation. *See* Long Island Labor Racketeering and Extortion investigation
Lindsay, John, 67
LIUNA. *See* Laborers International Union of North America
Loading companies, Fulton Fish Market, 37; city actions against, 35, 160–61; hearings against, 154; licensing and regula-

0929

Loading companies *(continued)*
tion of, 156; parking racket of, 45–46; protection services of, 42
Loan-sharking: on construction sites, 106; garment industry, 21
Local 2 (Plumbers), 105, 114; merger with Local 1, 214; prosecution of, 213; reforms of, 218
Local 6A (Laborers), 97, 102, 108; monitorship over, 210; reform of, 216, 251*n*12
Local 13 (Laborers), 103
Local 23 (Laborers), 103
Local 29 (Laborers), 102
Local 46 (Laborers), 103
Local 66 (Laborers), 103, 109
Local 95 (Laborers), 102
Local 102 (ILGWU/UNITE), 24–25, 144
Local 257 (Carpenters), 74
Local 282 (Teamsters), 98, 101–2, 108, 109*n*; trusteeship over, 215–16
Local 295 (Teamsters): civil RICO suit against, 50; Cosa Nostra's control of, 52, 54–56, 63; creation of, 48–49; effectiveness of reform of, 164; labor-peace payoffs to, 58; legal attack against, 167–68; membership of, 53; reform of, 165–67; trusteeship over, 50, 168–70, 175
Local 359 (Seafood Workers), 37; city regulations and, 159; civil RICO suit against, 35, 147–49, 162; Cosa Nostra's domination of, 33–34, 39–41; extortion schemes associated with, 43
Local 530 (Plasterers), 104
Local 580 (Ironworkers), 105, 111–12; prosecution of, 212; reforms of, 218
Local 608 (Carpenters), 211–12
Local 638 (Plumbers), 104
Local 732 (Teamsters), 166
Local 807 (Teamsters): charges against, 179–80; and Javits Convention Center, 75–76, 78, 176; Rabbitts family and, 76–77; reform of, 66–67; trusteeship over, 271*n*34
Local 813 (Teamsters), 82, 86, 94, 190; charges against, 191; Cosa Nostra's control over, 88–89; Cosa Nostra ties of, 80; reform of, 199
Local 814 (Teamsters), civil RICO suit against, 65, 77
Local 829 (Expos), 67, 70, 77, 176; charges against, 181–82
Local 851 (Teamsters): Cosa Nostra's control of, 52, 55, 63, 164; creation of, 49; damages from past corruption, efforts to recover, 172–75; investigation of, 166–67; labor-peace payoffs to, 58; legal attack against, 50, 167–68; Local 295 trusteeship and, 169; membership of, 53, 56; trusteeship over, 50–51, 170–72, 175
Local 1486 (Painters), 217
Local Law 28, 36, 161–62
Local Law 42, 81, 200–202, 278*n*73
Local Law 50, 35, 155–57, 162–63, 264*n*54–265*n*54; suit challenging, 160; violations of, penalties for, 157
Lok-Key Transportation, 136–37
Long Island carting cartel, 82; bid rigging by, 91; civil RICO suit against, 191–94; efforts to reform, 201*n*; investigation of, 92–93; origins of, 83; trade association policing, 85
Long Island concrete cartel, 109
Long Island Labor Racketeering and Extortion (LILREX) investigation, 96, 110, 211
Lucchese, Thomas ("Three Fingers Brown"), 26–27, 238*n*32
Lucchese crime family: and airfreight industry, 48, 52–54, 58, 63–64, 164; and construction industry, 98, 101–3, 105, 109, 111–13; and garment industry, 17, 26–27, 143; and Javits Convention Center, 74–75; and Long Island carting cartel, 83; prosecution of, 213; and waste-hauling industry, 85–86, 93–94
Luciano, Lucky, 7–8, 130
Lufthansa Airlines robbery, 57
Lupo, Frank, 103–4

Macario, Joseph ("Chief"), 160–61
Machado, Robert, 215, 226*t*
Mack, Walter, 83*n*
Made members, of Cosa Nostra, 9–10
Mafia, Italian, and American Cosa Nostra, 7
Malangone, Alphonse, 158, 180, 198, 277*n*58
Maloney, Andrew J., 82, 167, 191–92

0930

Mangano, Venero, 212
Manhattan District Attorney's Office, undercover sting operations by, 136–37
Manufacturers, garment, 20
Manzo, Frank, 48, 50, 59; charges against, 167; prosecution of, 61
Maranzano, Salvatore, 7–8
Marcus, James, 126–27
Maritas, Theodore ("Teddy"), 104, 110–11; prosecution of, 96, 211
Martello, Paul, 105
Masonry cartel, 103–4
Mason Tenders District Council (MTDC), 103; monitorship over, 98, 216–17
Mason Tenders Locals, 103
Masseria, Joseph, 7–8
Master Truckmen of America (MTA), 23; charges against, 30–31; and ILGWU Local 102, 24
Mastrandrea, Peter, 215
Mastro, Randy, 155, 161, 201–2
McCall, H. Carl, 67, 183, 189
McCarron, Douglas, 178, 215
McClellan, John L., 55
McClellan Committee hearings, 49, 54–55, 80, 88, 164, 199
McGowan, Thomas, 105, 212, 218, 255*n*73
McGuinness, Paschal, 73, 104, 111
McGuire, Robert, 16–17, 140–42, 144, 226*t*
McLaughlin, Brian, 161
McNair, Stephen, 102
McNamara, John, 48
McNamee, John, 181
McQueen, Gerald, 184, 188*n*
Metropolitan Importer Truckmen's Association (MITA), 52–53, 59
Metropolitan New York Dry Wall Contractors Association, 110
Miciotta, Salvatore, 75
Milo, Thomas, 83*n*
MITA. *See* Metropolitan Importer Truckmen's Association
Mitchell, John, 49
Mob. *See* Cosa Nostra
Mob tax, 62, 64, 137
Mongelli, Louis, 198
Mongelli, Paul, 198
Monitorships: background of appointees, 225–26, 226*t*; over Cement and Concrete Workers Local 6A, 210; over garment industry, 142; over Mason Tenders District Council, 98, 216–17; over waste-hauling industry, 193–94, 277*n*49; private sector, 227–29; under RICO, 224–25
Morgenthau, Robert, 67, 81, 137, 140, 182, 196, 200, 259*n*8
Moroney, Mike, 169
Morrissey, John, 255*n*73
Morrone, Fred, 175
Moscatiello, Louis, Jr., 114, 213
Moscatiello, Louis, Sr., 104, 110, 114
Moskowitz, Sharon, 170
Motto, Daniel, 126–27
MTA. *See* Master Truckmen of America
MTDC. *See* Mason Tenders District Council

National Association of Air Freight (NAFA), 49, 60–61
Nativism theory, of Italian American organized crime, 7
New York and New Jersey Waterfront Commission, 12
New York City, 2–7; boroughs of, 2; economy of, 2; government of, 3; Italian organized-crime families in, 8–9; law enforcement agencies in, 4–7; licensing authority of, 29–30, 32; politics of, 2–3; rent revenues, Fulton Fish Market and, 35, 46, 154, 158
New York City carting cartel, 81–82
New York City Housing Authority (NYCHA), 111
New York City Police Department (NYPD), 6; Operation Sea Probe, 35, 147; Project Cleveland investigation, 16, 30–31, 135
New York Wholesale Fish Dealers Association, 38; rent agreement with, 158
Nickerson, Eugene H., 50, 63, 168, 174; on Teamsters Local 295, 164, 168
Niehenke, Harold, 173
NYPD. *See* New York City Police Department

Obermaier, Otto, 81
OCCA. *See* Organized Crime Control Act
O'Connell, Bernard J., 29
OCRS. *See* Organized Crime and Racketeering Section

0931

OCTF. *See* Organized Crime Task Force
O'Dwyer, William, 18, 126
Omerta, 10, 133
Omnibus Crime Control and Safe Streets Act, 131
On the Waterfront (film), 12
Operation Rain Forest, 51, 175
Operation Sea Probe, 35, 147
Organized crime: ethnically based, 8; Italian American. *See* Cosa Nostra; and labor movement, 3, 8, 18, 39, 54–55, 122; and politics, 47, 125–27
Organized Crime and Racketeering Section (OCRS), U.S. Department of Justice, 130
Organized Crime Bureau, NYPD, 6
Organized-crime control: cost of, shifting to suspects, 193; evolution of, 130–34; FBI and, 132–33; innovations in, 223
Organized Crime Control Act (OCCA), 137, 213
Organized Crime Task Force (OCTF), 6–7, 130, 133; construction industry investigations, 98, 206–9; on susceptibility to racketeering, 125; waste-hauling industry investigations, 92
O'Rourke, John, 55, 101, 108
Ostrander, Curt, 51, 166, 171–72

Paccione, Adriane, 196*n*
Paccione, Angelo, 86, 91; prosecution of, 81
Pagano, Joseph, 103
Painters cartel, 113; elimination of, 213; prosecution of, 98; unions and, 105
Painters Union: District Council 9, 105, 113, 213, 217, 257*n*13; Local 1486, 217; reforms in, 217–18
Palomino, Fabian, 74, 182; charges against, 183–84
Pappadio, Michael, 27–28, 143
Parker, Barrington, 91
Parking racket, Fulton Fish Market, 37, 45–46; elimination of, 161
Pataki, George S., and Javits Center reform, 67, 176, 184, 231
PCOC. *See* President's Commission on Organized Crime
Pecoraro, Patrick, 277*n*55
Pedowitz, Lawrence B., 98, 216, 226*t*
People v. Gambino, 137–40
Personalities, mobster, 119, 122
Petito, Amadio, 102
Petrizzo, Thomas, 178
Photo identification cards, at Fulton Fish Market, 156–57, 264*n*54–265*n*54
Pickett, Harry, 181
Pipitone, Sebastian, 182
Pistone, Joe (Donnie Brasco), 117
Pizza connection case, 7
Plasterers Local 530, 104
Plumbers Union: Local 1, 214; Local 2, 105, 114, 213, 218; reforms of, 218; Steam Fitters Local 638, 104
Plumbing cartel, 114; elimination of, 213–14; prosecution of, 98; unions and, 104–5
Plumeri, James, 18, 27; lawsuit by, 29–30
Police. *See* New York City Police Department
Politics: Cosa Nostra and, 8, 130; New York City, 2–3; organized crime and, 47, 125–27
Pollack, Milton, 190, 202
Pollock, Leo, 92
Ponte, Angelo, 197
Porta, Michael, Jr., 179
Port Authority of New York and New Jersey, 51, 60, 188*n*
Port of New York, Cosa Nostra's role in, 12
Potts, Michael, 181
President's Commission on Organized Crime (PCOC), 1986 Report of, 101
Price fixing, trucking cartel and, 22–23
Private Sanitation Industry Association of Nassau/Suffolk, 85, 93, 190
Project Cleveland, 16, 30–31, 136
Property-rights system: at Fulton Fish Market, 44–45; in Garment District, 22–23; in waste-hauling industry, 84, 87
Protection racket, at Fulton Fish Market, 34, 39–42
Provenzano, Anthony ("Tony Pro"), 16, 31
Public works projects, Cosa Nostra and, 126*n*
Puccio, Thomas, 50, 168–70, 226*t*
Pump and dump scheme, 14
Pushboys, garment, 20

0932

Quadrozzi, John, 211
Queens Trade Waste Removal Association, 85
Quindel, Barbara Zack, 166*n*

Rabbitt, Michael, 66; charges against, 180–81; and Teamsters Local 807, 76–78
Rabbitt, Robert, Jr., 76
Rabbitt, Robert, Sr.: charges against, 179–81; and Javits Convention Center, 65; prosecution of, 66, 76; and Teamsters Local 807, 76–77
Racketeer Influenced and Corrupt Organizations Act (RICO), 5, 131–32; civil suits under. *See* Civil RICO suits; trusteeships under, 224–25, 227
Razza, Anthony, 50, 58, 166, 170, 173–74
Rea, Armando, 179
Reliability, Cosa Nostra and, 118
Retailers, Fulton Fish Market, 37, 263*n*29
Reuter, Peter, 84–85, 118, 120
RICO. *See* Racketeer Influenced and Corrupt Organizations Act
Riesel, Victor, 243*n*11
Rivera, Ron, 136, 138
Romano, Carmine, 34, 39–42, 44, 148; trial of, 34, 42
Romano, Peter, 34, 40–41
Romano, Vincent, 34, 41, 148
Rosen, Joseph, 18
Roshetski, John ("Pegleg"), 102
Rothstein, Arnold, 8, 15, 17

Sabetta, John C., 14
S & A Concrete Company, 65, 68, 109; prosecution of, 209–10
Safir, Howard, 145, 175
Salerno, Anthony ("Fat Tony"), 9, 109; prosecution of, 65, 68, 209
San Gennaro festival, 13–14
Santoro, Salvatore ("Tom Mix"), 93
Sanzo, Louis, 102
Sasso, Robert, 102, 215
Savino, Peter, 112, 212
SCA. *See* School Construction Authority
Schackman, Walter, 197
Schiff, Irwin, 69
Schiliro, Lewis, 175
Schlacter, Irwin, 17, 143
Schonfeld, Frank, 257*n*13
School Construction Authority (SCA), 97–98, 218–19
Schrader, Richard, 81, 91
Schroeder, Richard, charges against, 167
Schultz, Dutch, 7–8
Scopo, Joseph, 102
Scopo, Ralph, 102, 108
Scotto, Anthony, 12
Seafood industry. *See* Fulton Fish Market
Seafood Workers Union. *See* United Seafood Workers, Smoked Fish and Cannery Union
Shapiro, Jacob ("Gurrah"), 15, 18, 258*n*25
Shargel, Gerald, 139
Sherman, Joseph, 102
Shipping business, Cosa Nostra's control over, 12–13
Sicilian society, and Italian American organized crime, 7
Simon, Leonard, 66, 74, 186
Slattery, Michael, 16
Snyder, Robert, 126
Socony-Vacuum Oil Co., 28, 238*n*47
Soldiers, Cosa Nostra, 21
South Street Seaport Corporation (SSSC), 46, 154, 158
Spinelli, Thomas, 198
Spitzer, Elliot, 138
Squillante, Vincent ("Jimmy"), 80, 88–89, 94
SSC Corporation, 83, 194
SSSC. *See* South Street Seaport Corporation
Steam Fitters Local 638, Plumbers Union, 104
Stern, William, 69
Sting operations: at Fulton Fish Market, 152; Kat-Net, 175; of Manhattan District Attorney's Office, 136–37; Project Cleveland, 16, 30–31, 135; in waste-hauling industry, 195–96
Stingray Express, 152
Strike forces, organized-crime, 4, 131
Stuart, David, 260*n*29
Stuart, Mark, 260*n*29
Sullivan, John, 181
Suppliers, Fulton Fish Market, 37; defrauding of, 43–44; testimonies of, 154
Sweatshops, Chinatown. *See* Chinatown garment contractors

0933

Tammany Hall, 3, 126
Tax, mob, 62, 64, 137
Teamsters Union. *See* International Brotherhood of Teamsters
Thacher, Thomas, 97, 219
Theft: at Fulton Fish Market, 43; at Javits Center, 182–83; at JFK Airport, 48–49, 53, 56–57, 60, 175; of union benefit funds, 106
Theft insurance, Fulton Fish Market, 34, 39–42
Titley, Andrew, 173
Tobin, Michael, 268*n*33
Trade Waste Commission (TWC), 81, 200–203, 205, 230–31
Transplant theory, of Italian American organized crime, 7
Trerotola, Joseph, 101
Trucking companies: and air-cargo industry, 53–54, 59, 164; antitrust suits against, 15–16, 27–28; Cosa Nostra's control over, 18, 21–22, 26–27; and Fulton Fish Market unloading cartel, 44–45; and garment industry, 15–32, 135; hijackings of trucks, 56–57; licensing of, 29–30, 32; and Master Truckmen of America (MTA), 23–24; and Metropolitan Importer Truckmen's Association (MITA), 52–53, 59; Project Cleveland investigation of, 16, 30–31, 135; and property-rights system, 22–23; prosecution of, 137–40; special master's remedial efforts regarding, 140–42
Trusteeships: background of appointees, 225–26, 226*t*; cost of, 268*n*33; ending, 227; funding of, 226–27; over Carpenters District Council, 98, 214–15; over Teamsters Locals, 50–51, 168–72, 175, 215–16, 271*n*34; under RICO, 224–25, 227
TWC. *See* Trade Waste Commission

UDC. *See* Urban Development Corporation
Underboss, Cosa Nostra, 10
Union benefit funds, theft of, 106
Union of Needletraders, Industrial and Textile Employees (UNITE), Local 102, 144
Unions: airfreight industry, 48–56, 62–63; construction industry, 99–107, 206; exhibition, 66–67, 71, 77–78; garment industry, 16, 23–25; and industrial racketeering, 122–23; largest, 266*n*2; membership response to mob influence, 122, 257*n*16; in New York City, 3; organized crime and, 3, 8, 18, 24–25, 39, 54–55, 62–63; seafood industry, 33–34, 37, 39–41; waste-hauling industry, 80, 82, 88–89, 94; *See also specific union*
Union signs, rental of, 43
UNITE. *See* Union of Needletraders, Industrial and Textile Employees
United Seafood Workers, Smoked Fish and Cannery Union, Local 359, 37; city regulations and, 159; civil RICO suit against, 35, 147–49, 162; Cosa Nostra's domination of, 33–34, 39–41; extortion schemes associated with, 43
United States v. International Brotherhood of Teamsters, 50
United States v. Local 359, 147–48, 162; consent decree in, 148–49
United States v. Romano, 34, 40–41, 43, 240*n*13
Unloading companies, Fulton Fish Market, 37, 44–45; elimination of cartel, 158–59; hearings against, 154; licensing and regulating, 156; sanctioning of, 152–53
Urban Development Corporation (UDC), 245*n*8
U.S. Attorney's Offices, and FBI, 4
USA Waste Services, 203–4
U.S. Department of Justice: and antitrust suits against trucking cartel, 28–29; U.S. attorney's offices, 4

Valachi, Joseph, 7, 10, 133
Vallone, Peter, 200
Vario, Paul, 50, 57
Vario, Peter ("Jocko"), 103, 109, 216, 252*n*14
Vario, Peter A., 103
Vaughn, John, 93
VENDEX system, 98, 220
Vigorish, 21
Violence, reputation for, and mob's success, 117–18

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Vitarelli, Frank, 196*n*
Vitarelli, Joseph, 196*n*
Vitulli, Rocco, 87
V. Ponte & Sons, 83
Vuolo, Michael, 144, 260*n*29

Wagner, Robert, 89
Wall Street, Cosa Nostra and, 14
Washington, Rudy, 158
Waste-hauling industry, 80–95; antitrust suits against, 93–94; attracting competition in, 194–95; bid rigging in, 91; civil RICO suit against, 191–94; Cosa Nostra's intimidation power in, 118; Cosa Nostra's ownership interests in, 86; enforcement of cartels in, 86–87; ethnic homogeneity of, 84, 248*n*7; Fulton Fish Market and, 159–60; government responses to racketeering in, 89; indictments of companies in, 196–98; investigations of, 91–93; Javits Center and, 183; Local Law 42 and, 81, 200–202; monitorship over, 193–94, 277*n*49; new threat to competition in, 203–4; origins of cartels in, 82–84; overcharging practices in, 90–91; property-rights system in, 84, 87; reform of, 190–205; regulatory strategies in reforming, 230–31; Teamsters union and, 88–89; trade associations and, 84–86; Trade Waste Commission and, 81, 200–203, 205, 230–31; undercover investigations of, 195–96
Waste Management, Inc., 203–4
Webster, William, 9, 165*n*
Werner, Louis, 57
Westchester County carting cartel, 83
West 57th Street Concrete Company, 210, 281*n*13
White, Mary Jo, 192
Wholesale food markets: regulation of, 36, 161; *See also* Fulton Fish Market
Wholesalers, Fulton Fish Market, 37; evicting, 158; phantom, 44, 156; registering and regulating, 156; and unloading companies, 45
Williams, Paul, 242*n*11
Window-replacement cartel, 111–12; elimination of, 212–13; prosecution of, 98; unions and, 105
"Wise guys," 10
Witness Security Program, 132–33
WMX Technologies, 194, 204, 276*n*30
Wohl, Frank H., 35, 149–54, 226*t*, 263*n*24
Wolf, Frank, 24, 30–31
Women's Wear Daily (magazine), 24, 27, 144–45
Worker's compensation, as extortion scheme, 78, 182

Zanocchio, John C., 179

0935

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0937

morphine derivatives. As Park carefully illustrates, these illnesses were important determinants of Hitler's political behavior.

One of the rewarding strengths of Park's analyses is his sensitivity to the behavioral correlates of disease and medications. This, combined with his skillful analysis of decision-making processes, nicely integrates the multiple dimensions of political behavior within a single individual. Moreover, so effective is this work, that it speaks strongly to reorienting much of what we call *political decision making* to the individual level of analysis.

I do have some problems with the book. For a volume packed with a considerable amount of scientific detail, it would have been helpful to the reader to have the text broken up into subsections for ease of reference and for pulling out comparative data. Beyond the chapter titles, no subsections exist.

I found the concluding chapter disappointing, not for what it said but for what it did not say. This chapter deals essentially with the provisions of the 25th Amendment to the U.S. Constitution. However, since only two of the eight cases in the volume were U.S. citizens, the applicability to other political systems is limited indeed. A cross-national focus on disability would have been useful.

Park is strongly critical of the physicians who treated the leaders under study here. A considerable amount of professional incompetence and deceptive behavior is documented. An extended reflection on this would have been helpful. Why did heads of state not recruit the best medical talent of the day as their private physicians? How should physicians for heads of state be chosen? How should they be removed when found incompetent? Why did the political entourage around each head of state tolerate medical incompetence and deception? The author provides the beginnings of responses to some of these questions throughout the book, but the answers never come together in a coherent way in the concluding chapter.

But these criticisms are minor. Park has produced a volume that is destined to become a classic interdisciplinary study of individual-level political decision making. It deserves serious attention.

THOMAS C. WIEGELE

Northern Illinois University

Political Authority in a Sicilian Village. By Filippo Sabetti (New Brunswick, NJ: Rutgers University Press, 1984. xi, 293p. $35.00).

Over the past decade-and-a-half a number of books have taken on the problem of the Mafia in Sicily, confronting the apparent paradox of an outlaw regime coexisting with a modern western state. From Anton Blok's *The Mafia of a Sicilian Village* (1974) and Jane and Peter Schneider's *Culture and Political Economy in Western Sicily* (1976) to Pino Arlacchi's *La mafia imprenditrice* (1983), they have asked whether there is any special cultural basis for the Mafia and how the Mafia has been produced by national and international political economic forces.

Sabetti, reconstructing the political history of a western Sicilian village over the past two centuries, tackles these same problems and is at pains to show that the Mafia arose not due to any Sicilian defects of culture or personality nor to any aversion to taking collective political action but is instead attributable to an administrative structure and national policies that robbed the people of their local autonomy. In this view, the Mafia was created as a means through which peasants could defend themselves from the caprices of extralocal powers, especially as these developed in the wake of Italian Unification in the 1860s.

One of the book's merits is the meticulous reconstruction of the relationship between the development of a Mafia system of power in this village and the development of Church-inspired and socialist social movements around the turn of the century. According to Sabetti, the Mafia grew up as a system of local consensus, sanctified by the local clergy. Hence, Sabetti argues against his predecessors' view that the Mafia developed as the exploitative arm of estate managers to maintain rural order and put down peasant attempts to assert greater power.

Sabetti also discusses the transformation of the local government in the post-World War II years "into a sort of trading company" of the Mafia (p. 168). Government patronage was dispensed to supporters and hurdles were erected to prevent opponents from availing themselves of the public benefits to which they were legally entitled. Yet according to Sabetti the Mafia collapsed shortly after this, in the

0939

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1950s, following its transformation from a system that represented the interests of the peasants to one that was wholly parasitical. It was this loss of moral authority together with the increased strength of the national party organizations at the local level that brought about its demise.

Here we have a strikingly positive view of the development and functioning of the Mafia at the local level in Sicily. The Mafia is seen as a continuation of a local self-help tradition that lasted as long as it benefitted the villagers and then disappeared when it had outlived its usefulness to them. Rather than reflecting amoral familism, the political history of the village shows, according to Sabetti, a value system prizing "universalistic values of liberal democracy" (p. 235).

This is a surprising book, taking a thesis dear to Sicilian apologists—that all Sicily's problems derive from the national bureaucracy—and arguing that until the nineteenth century institutional arrangements in baronial Sicily were more conducive to local self-government than in more recent times. While provocative, it is unlikely to convince many scholars to overturn their less rosy view of the development and role of the outlaw regime, both because of questions of evidence regarding the relationship between the landowners and the Mafia at certain crucial points, and because, assuming Sabetti's portrait is accurate, the evidence from other parts of western Sicily make his village appear unusual. Blaming "general social disintegration" (p. 234) in Sicily on "institutional arrangements" and especially on centralization of power and lack of local autonomy, can be convincing only if it is shown that these institutional arrangements are different in Sicily than in northern Italy, which has a very different political culture. This Sabetti does not do, at least for the postwar years. Finally, it would also be helpful if more consideration were given to the movement of the Mafia from the countryside to the big cities and the change in the nature of the Mafia from an agrarian phenomenon to one principally involved in state parasitism in the form of living off development and construction contracts and the like, as well as the new-found wealth available through the drug trade. The decline of the Mafia in a small rural village of Sicily signals not the end of the Mafia but merely its moving on to greater opportunities elsewhere, a statement with which Sabetti would likely agree.

DAVID I. KERTZER

Bowdoin College

Crisis in the French Labour Movement: A Grassroots Perspective. By W. Rand Smith (New York: St. Martin's, 1987. xiii, 272p. $29.95).

W. Rand Smith asserts that most literature on French trade unions focuses on the pronouncements of the peak confederations rather than on the actions of union locals at the shop-floor and plant levels. He addresses the problem by studying union locals of two major trade union confederations, the Confederation Générale du Travail (CGT) and the Confederation Française Démocratique du Travail (CFDT), in four metalworking plants in Grenoble.

The introductory section describes the theoretical and historical setting of the study. Smith seeks to determine whether the crisis of French trade unions derives from economic factors, such as shifts in the occupational structure from manual to technical positions; from political factors, particularly splits within the French Left; or from institutional changes, especially unions' greater legal rights, which paradoxically may weaken them by separating leaders from rank-and-file workers. (Smith later emphasizes the importance of management and local union strategy.)

Part 2 describes the four plants that served as research sites, with particular attention to the CGT and CFDT locals, and reports findings from Smith's interviews with union militants. The background and motivation of rival union militants are remarkably similar. In particular, and contrary to expectation, CFDT militants are only slightly more religiously observant than their CGT counterparts. The most interesting finding is that militants report that their greatest problem—mentioned more than twice as often as their relations with management—is the distrust in which militants are held by rank-and-file workers! Unfortunately, Smith barely explores the possible basis for this distrust, which would seem central in explaining union difficulties.

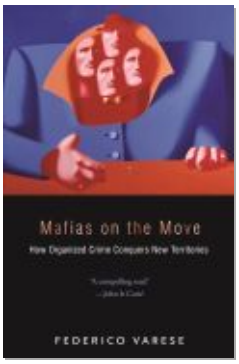
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0940

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"A compelling read"
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0942

Mafias on the Move

Mafias on the Move

HOW ORGANIZED CRIME CONQUERS NEW TERRITORIES

Federico Varese

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0945

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0946

Contents

Acknowledgments vii

One Introduction 1

Two Mafia Transplantation 13

Three The `Ndrangheta in Piedmont and Veneto 31

Four The Russian Mafia in Rome and Budapest 65

Five Lessons from the Past: Sicilian Mafiosi in New York City and Rosario, circa 1880–1940 101

Six The Future of the Mafias? Foreign Triads in China 146

Seven Mafia Origins, Transplantation, and the Paradoxes of Democracy 188

Notes 203

References 237

Index 263

0947

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This book stands on the shoulders of four hard working and dedicated assistants. I was extremely fortunate to employ Paolo Campana on a grant to code and analyze the data on the Russians in Rome. Paolo has worked well beyond the call of duty and the expiry of the grant, helping me to collect data on Bardonecchia as well, and accompanying me on research trips to Piedmont and Rome. He has also read the entire manuscript and made innumerable suggestions. I hope that readers will appreciate the range of Chinese-language sources I have been able to use. This is the work of a researcher based in China who was employed full time for a year on this project. I have at times bombarded him with requests for further data and information, and he complied fully and with the best possible attitude. For reasons that should be obvious, he prefers not to have his name revealed in print. Professor Carina Frid guided me through the history of the city of Rosario. She pointed me in the right direction many times, answered numerous questions, and read a version of chapter 5, offering most helpful suggestions, and showing a deep knowledge of the economic and social history of the city. Carina also collected data on construction permits on my behalf. We plan to collaborate further. Finally, Borbála Garai translated some press reports on the Russian mafia in Budapest and helped compile the data set on migration to Hungary in the 1990s. Although none of the valiant individuals mentioned above are responsible for the remaining omissions and errors, they have made this work more credible and offered me much intellectual pleasure.

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0949

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Gaining access to data is notoriously difficult in my field of study. I was lucky to find officials who made my research possible. The mayor and the staff at the Comune of Bardonecchia opened the town archive to us, making it possible to collect the data presented in chapter 3. Prosecutors, judges, and archivists at the Turin, Rome, and Bologna courts cooperated to secure my access to criminal cases. I would like to thank in particular Luigi De Ficchy, Paolo Giovagnoli, Aurelio Galasso, Guido Papalia, Morena Plazzi, and the late Maurizio Laudi for sharing their views with me on cases in which they were involved.

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0950

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0951

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I published a shorter version of chapter 3 as "How Mafias Migrate" in *Law and Society Review* 40, no. 2 (2006): 411–44. I am grateful to the editor and the publisher for allowing me to reproduce some parts here.

Sections of this work are based on judicial evidence. Such evidence is used simply for analytical reasons, and there is no intention to imply any criminal responsibility of the individuals mentioned in this work.

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0952

Mafias on the Move

0953

Introduction

On September 11, 1996, *Boris Sergeev*, the director of an import-export company based in Rome and father of two, a stocky man in his late forties, arrived in Moscow to finalize a valuable contract for the importation of frozen meat. The Russian partners were Agroprom, a giant Soviet agricultural concern that was now in private hands, and two prominent banks, the Nuovo Banco Ambrosiano and Promstroybank. The former had a somewhat bumpy history—its CEO Roberto Calvi was found hanging from beneath Blackfriars Bridge in London in 1982—but was now under new management and aggressively trying to enter the Russian market. Promstroybank of Saint Petersburg was a safe bet—formerly the largest state bank in the Soviet Union and now a joint-stock company. Even Vladimir Putin once sat on its board. Some twenty million U.S. dollars were at stake. Sergeev had several meetings with top officials at both banks and the Ministry of Agriculture. His most valued contact in the political world was a Soviet-era politician who had taken part in the coup that tried to oust Mikhail Gorbachev in August 1991 and was now a lobbyist for agro-industrial interests.

By the end of the week, Boris had secured the funding and felt confident. Despite fears voiced by his family before the trip, nothing bad had happened. He could relax and spend the last few nights in his native city in style. He took a suite at an upscale hotel located on the central Tverskaya Ulitsa, the street a few yards from Red Square that runs northwest from the Manege toward Saint Petersburg. On the night of September 23, he was sipping predinner drinks at the bar on the fourth floor when two men entered

0955

the hotel looking for him. Even with the closed-circuit television system and heavily armed guards that patrolled the hotel's granite lobby, entry was not difficult. The pair showed a bogus hotel pass and boarded the elevator to the fourth floor. Sex for sale was on display at the bar. Yet they moved on, past the gaggle of women flaunting their heavy makeup and cheap jewelry. They stopped in front of Boris's table and extracted two TT pistols with a silencer. Their victim was hit in the head by four bullets (some reports say five). The killers, who were seen on the closed-circuit television camera, calmly took the elevator back to the lobby, walked on to the busy Tverskaya, and climbed into an old Zhiguli that was waiting for them. They were in the hotel for no more than six minutes, between 6:55 and 7:01 p.m.

In the meantime, some fifteen hundred miles away, a special unit of the Italian police was picking up a lot of chatter on the several telephone lines that it was tapping. More details on the murder emerged. Boris's brother, *Sasha*, who lived in Vienna, had joined him and was sitting on the same sofa when Boris was shot. At 7:51 p.m. Moscow time, Sasha, still in shock, called Boris's wife, *Nadia*, in Rome from the police station where he was being interrogated. At first she thought he was joking, but then she asked if it was a "Georgian" who had shot Boris. Sasha replied: "It happened very fast, but the man was dark skinned." The next day they spoke again. Boris's distraught wife could not comprehend how the murder could have happened in one of the best hotels of the city, in front of so many people, with no reaction whatsoever from the hotel "security." "The police say," replied Sasha, "that the murder had the hallmarks of a professionally planned operation, with the intention of sending a clear message to others as well. Nadia, believe me, there is no chance the culprits will ever be found."

The victim in question was no ordinary businessman. Born in Russia in 1948, he had used at least four aliases in the previous ten years. He moved to Rome in 1993 to set up an import-export company. By then, he had already been prosecuted in Italy, Austria, and France on several charges related to the possession of weapons, forgery, polygamy, and fraud. He was rumored to own a large villa in Vienna and hold bank accounts worth at least thirty million U.S. dollars. Official papers state that his company, *Global Trading*, dealt in the import and export of frozen meat and other food products along with oil, alcohol, timber, and coal. The company also conducted, so the papers claim, "market research." Intent on covering his tracks, Boris had taken a rather roundabout way to reach Moscow:

0956

he flew from Rome to Milan, then crossed the Swiss border in a rented car, and finally took a plane from Zurich to the Russian capital. While in Moscow, he carried a gun at all times. The Italian authorities were certain that Global Trading was a front for the Solntsevskaya, the most important crime group to emerge from the collapse of the Soviet Union. The Russian mafia had created an outpost in a faraway territory and was expanding fast. It was high time that someone took notice. When I was shown the files for this investigation, almost ten years ago, I decided to devote my research to the study of mafias' ability to transplant in new and distant territories. This book is the result.

One reading of the Tverskaya hotel murder would support the conventional wisdom on globalization and "transnational organized crime" that has emerged in recent years, especially thanks to authors such as Claire Sterling (*Crime without Frontiers*), Manuel Castells (*The Rise of the Network Society*), Moises Naim (*Illicit*), Louise Shelley (*Global Crime Inc.*), and Phil Williams, and is influential among policymakers: organized crime migrates easily, due to the spread of globalization and population migration, and criminal multinational corporations are increasingly unattached to a specific territory. "International organized crime," writes Shelley, the director of the Transnational Crime Institute in Washington, DC, "has globalized its activities for the same reasons as legitimate multinational corporations." She maintains that "just as multinational corporations establish branches around the world to take advantage of attractive labour or raw material markets, so do illicit businesses."[1] For Williams, organized crime now "can migrate easily."[2] Castells, who also describes this phenomenon, lists a number of localities where (he thinks) well-known mafias have opened outposts, such as Germany for the Sicilian mafia, Galicia for Colombian cartels, and the Netherlands for the "Chinese triads."[3] These and other authors go further by arguing that the notions of territorial entrenchment and control are becoming obsolete for a "Global Crime Inc." that "transcends the sovereignty that organizes the modern state system."[4] Factors often cited to explain the globalization of criminal activities and the geographical expansion of criminal firms include technological innovation in communications and transportation along with disappearing language barriers.[5] This position reflects the broader debate on the nature and consequences of globalization, and is consistent with the view advanced by authors who emphasize the de-territorialization of economic power.[6]

0957

The "transnational organized crime consensus" is influential among policymakers. Mafias have now become "liquid," as argued in a recent report by the Italian Anti-Mafia Parliamentary Commission (CPA). Liquidity in this context does not refer to the availability of cash but instead to a version of modernity where control of a territory has been superseded by a rather unspecified fluidity. Politicians from both ends of the political spectrum find ammunition in the assertions promoted by the consensus: sections of the Right peddle unqualified fears of migrants, while some on the Left are only too happy to blame globalization and "neoliberal policies" for local state failures.

The world of international crime is more complicated than these authors wish to admit. Chapter 4 and chapter 7 will expand on the context of the Tverskaya hotel murder and unpack its mechanics. Here I wish to direct the reader's attention to the fact that most authors interpret globalization as a process that facilitates movement and eventually transplantation. In order to evaluate the effect of globalization on organized crime generally and mafias more specifically, one needs to spell out the motivations for a group to open a branch abroad and the effects that different motivations have on how those outposts are created as well as explore whether globalization might have the opposite effect—namely, that of enabling a mafia to acquire resources produced in other countries simply by buying them on the open market rather than by setting up foreign branches. Furthermore, not all attempts at transplantation are successful. To outsiders, a mafia group might seem like a giant and unbeatable octopus about to take over the world from its headquarters in an unreachable Eastern European city. Looked at from the ground up, transplantation is fraught with difficulties.

Does it follow that mafias can never be found in faraway territories? Both Peter Reuter and Diego Gambetta, arguably the foremost scholars in the field of mafia studies, have emphasized that these organizations are hard to export and tend to be local in scope. An illegal organization opening a branch abroad would find it difficult to monitor its agents in distant localities. Outside their home region, mafiosi would struggle to corrupt the police and collect reliable information. Finally, it might be taxing to make victims believe that the person standing in front of them belongs to a menacing, foreign mafia. A reputation for violence depends on long-term relations, cemented within independent networks of kinship, friendship, and ethnicity. It is next to impossible to reproduce them in a new land.[7]

0958

And yet under particular conditions, mafia groups have been able to open branches in distant territories. In the 1950s, members of the Calabrese `Ndrangheta migrated to the northern Italian region of Piedmont, managed to penetrate the construction sector of some towns outside Turin, and soon became entrenched. In 1995, the president of Italy disbanded the city council of Bardonecchia, which hosted the 2006 Winter Olympics, as a result of the `Ndrangheta's enduring influence. This was an unprecedented decision for a town in the north of Italy. An attempt by the `Ndrangheta to set up a branch in the Veneto region at around the same time, however, failed.

Similar dyads, although neglected in the literature on organized crime, are not that rare. Most strikingly, the migration to the United States of Italians, some with mafia skills, at the turn of the nineteenth century gave rise to a set of powerful mafia groups known as the "five families" in New York City. Italian migration to another seaport, the city of Rosario in Argentina, failed to generate long-lasting criminal groups of Italian descent. After a relatively brief spell, the "Rosario Mafia" disappeared and is now a forgotten episode of local history. Why? The central question of this book is why in some cases mafia transplantation succeeded while in others it failed. In order to answer this question, I have used a wide range of data and traveled to several parts of the world during the past ten years.

Below I consider cases of both successful and unsuccessful attempts by mafias to open branches outside their territory of origin. Chapter 3 is a matched comparison between Bardonecchia and Verona, while chapter 4 is a study of efforts by the Solntsevskaya to create subsidiaries in Rome and Budapest. Chapter 5 takes us back to the turn of the twentieth century with a matched comparison between New York City and Rosario. The final chapter of this book explores the movement of Hong Kong and Taiwanese triads to mainland China. In chapter 7, I outline a general perspective of mafia emergence and transplantation, and offer some considerations on the relation between democracy and mafias.

Before I proceed further and anticipate the conclusions I reach, I should say a few words on the unit of analysis (mafia), the phenomenon (transplantation), and the structure of the argument. I focus below on a specific type of criminal organization, defined as a group that supplies protection in the territory of origin. The `Ndrangheta, the Sicilian Cosa Nostra, the

0959

Italian American mafia, the Hong Kong and Taiwanese triads, the Solntsevskaya and other Russian *gruppirovki*, and the Japanese yakuza are essentially providers of extralegal governance, and can be collectively referred to as mafias.[8] These groups engage in extortion—the forced extraction of resources in exchange for services that are *not* provided.[9] But such behavior is not their defining feature.[10] Rather, they are groups that aspire to govern others by providing criminal protection to both the underworld and the "upper world."[11] They can supply genuine services like protection against extortion; protection against theft and police harassment; protection for thieves; protection in relation to informally obtained credit and the retrieval of loans; the elimination of competitors; the intimidation of customers, workers, and trade unionists for the benefit of employers; the intimidation of lawful right holders; and the settlement of a variety of disputes. For example, in his classic study of Chicago organized crime published in 1929, the U.S. ethnographer John Landesco highlighted the enforcement of cartel agreements as a service provided by mafia groups. Producers have an incentive to enter into cartel agreements but also to undercut fellow conspirators, placing themselves in a classic Prisoner's Dilemma. The mafia offers to enforce the cartel agreement among producers, thereby deterring conspirators from cheating on the deal.[12]

I take the word "transplantation" to mean the ability of a mafia group to operate an outpost over a sustained period outside its region of origin and routine operation.[13] Although in principle the new territory could be contiguous or faraway, I will focus mostly on territories that are not contiguous (a better word for transplantation in contiguous territories might be expansion). The actors involved are "made" members of the organization of origin; in other words, they are bona fide mafiosi who have gone through an initiation ritual in the territory of origin. If transplantation succeeds, such rituals may come to be performed in the new environment and recognized by the group of origin. Mafiosi might find themselves in the new territory by an accident of history, such as migration, or because they have been forced to reside there by a court order. In such cases, their presence is due to exogenous factors rather than an explicit *ex ante* plan to set up shop in a new region. Alternatively, or in addition, the mafia of origin might consciously decide to open a branch in a new land. In both scenarios the "foreign" mafiosi actively work at creating a new group, relying on the skills acquired beforehand. The new entity or "family" is either

0960

affiliated to or a branch of an established existing mafia family. The outpost might become financially autonomous and able to generate its own profit, or continue to rely on transfers from the center. A rather crude indicator of the phenomenon is whether the mafiosi in question reside in the new territory, although they might be seen occasionally to travel back "home." Over time, the branch organization might drift away from the original "firm" and become fully autonomous as well as financially independent, or retain a degree of dependency with the homeland.

The above definition helps distinguish transplantation proper from several phenomena that are often lumped together in the category of transnational organized crime. Criminals crossing a border (physically or virtually, as in the case of Internet frauds) with an illicit good or a person do not automatically qualify as either mafia or transplantation but rather as a form of illegal *trade*, and need to be placed in a conceptual box that differs from attempts to control markets or territories abroad. Similarly, members of mafia groups traveling abroad do not constitute transplantation of the group, nor do conspiracies between mafiosi and foreign criminals to smuggle workers, drugs, weapons, and other illegal commodities either into or out of their country.

In this work, I try to identify distinctive factors in the narratives that I present. One is the generalized migration of the population from territories where mafias are well established, such as western Sicily and Calabria. It seems plausible that when large groups of individuals migrate from territories where mafias are pervasive, some with criminal skills would also relocate and be more likely to engage in mafia activities in the new territory (I am referring here to resettlement prompted by non-mafia-related reasons). A second possible boost to mafia transplantation might be the migration of people specifically trained in violence and with mafia skills. In the case of Italy, we can evaluate this dynamic thanks to *soggiorno obbligato*, a policy that punished convicted mafiosi by forcing them to relocate outside their area of origin. Third, I consider the extent to which members of mafia groups are pushed to migrate in order to escape mafia wars or prosecution in their areas of origin, or whether they are in search of particular resources or investment opportunities.

In each chapter, I then discuss the conditions under which mafia groups are likely to become entrenched. A key dimension is the presence of a

0961

demand for criminal protection in the new place. The presence of large illegal markets, booms in construction, an export-oriented economy, incentives to create cartel agreements, or the inability of the state to settle legal disputes quickly and effectively usually generate such a demand. I also examine whether lack of trust and low levels of civic engagement would predict a higher likelihood of mafia entrenchment.

Let me anticipate the main conclusions of this study. In all the cases narrated in this book, mafiosi find themselves in the new locale not of their own volition; they have been forced to move there by court orders, to escape justice or mafia infighting and wars. They are not seeking new markets or new products but are instead just making the most of bad luck. I had not anticipated this result, and certainly did not choose the cases in order to conform to this finding. What might appear the product of globalization is in fact the consequence of state repression exporting the problem to other countries (even mafia infighting can to an extent be the product of pressure put on the group by the state). This finding does vindicate an aspect of the perspective suggested by Reuter and Gambetta—namely, that mafias would not normally move out of their territory. An additional issue I explore is that even if they do not move willingly, they can still to an extent choose *where* to move. I find that they move to places where they had a previous contact, a trusted friend or a relative.

Is the presence of mafiosi in a new territory enough for a mafia to emerge? No. A special combination of factors must be present. First, no other mafia group (or state *apparati* offering illegal protection) must be present. It is too much of an uphill struggle for an incoming mafia to set up shop in the presence of a powerful local competitor. Second, a mafia group is most likely to succeed in transplanting when its presence coincides with the sudden emergence of new markets. To the degree that the state is not able to govern new markets, the possibility of mafia emergence or entrenchment from abroad is strong. States might be unable to clearly define and protect property rights, and market operators hence would develop a demand for alternative sources of protection. In addition, states by definition cannot protect dealers of illegal commodities. In both instances, significant opportunities exist for mafias to govern access to valuable markets, offer genuine services of dispute settlement and protection, enforce

0962

cartel agreements, reduce competition, and thus serve the interests of a sector of society. These opportunities can be easily taken up when a supply of people trained in violence, either local or from abroad, is at hand.

The presence of a supply of mafiosi and the inability of the state to govern markets are the key factors that link cases of successful transplantation, such as the `Ndrangheta in Bardonecchia (chapter 3) and the Russian mafia in Hungary (chapter 4). In Bardonecchia, disenfranchised migrant workers from outside the region accepted illegal employment over unemployment, thereby forgoing membership in trade unions and more generally state-sponsored protection. Entrepreneurs not only hired illegal workers but also schemed to restrict competition. The structure of the local labor market and the booming construction industry (in which firms compete locally and there is a strong incentive to form cartels) led to the emergence of a demand for illegal protection. Members of the `Ndrangheta Mazzaferro clan resided in this territory. They offered certain firms privileged access to this market, and were able to settle disputes between workers and employers.

Although Piedmont does not have a new market economy like those of Eastern Europe, a striking parallel exists in the successful transplantation of the Russian mafia's Solnstevo criminal group in Budapest (chapter 4). In that instance the state failed to create a system to adjudicate disputes quickly and effectively, thereby leaving significant sectors of the emerging market economy unprotected by the law, as was the case for immigrant workers in Bardonecchia. When vast numbers of economic agents operate in an unprotected market, they develop a demand for nonstate forms of protection. In both Bardonecchia and Budapest, skilled criminals were available to organize a mafia group and offer a variety of services, such as the settlement of disputes and elimination of competitors in local markets.

A powerful set of mafia groups emerged in the United States around 1910 because of the unintended consequences of police reform and it was able to expand later thanks to Prohibition (chapter 5). Until then, illegal markets were protected by a combination of local politicians and corrupt police officers. When the mayor of New York enacted far-reaching reforms that curbed grand graft, illegal markets such as gambling and prostitution were in search of new protectors. In legal markets, like garment production, poultry, garbage collection, and construction, existing operators were

0963

only too happy to turn to an agency able to ensure the continuation of cartelization. Unemployed immigrant workers, mostly from southern Italy and equipped with some mafia skills, stepped in.

The case of China allows us to spell out in greater depth some crucial mechanisms. The state has been unable to offer swift and efficient avenues of dispute settlement for the new players in the rapidly emerging market economy, and a significant sector of the workforce operates in the informal economy, where state protection is absent. In addition, large illegal markets, such as in prostitution, gambling, and drug trafficking, have developed since the opening of the Chinese economy in the 1980s. On the "supply-side" of the story, "brothers" (triads members) from Hong Kong and Taiwan have moved to the Middle Kingdom. They have failed (so far) to become entrenched and offer generalized protection, however. Why? Chapter 6 shows that in China, a powerful actor is already in place to offer such services—that is, corrupt fragments of the state apparatus, which work as the "protective umbrella" for both legal and illegal businesses. In the cases of successful transplantation, no other mafia (or bent state apparatus) was already on the ground to compete with the outsiders.

Globalization hinders mafia transplantation in a way that has escaped most contributors. In the case of two of the failed attempts to transplant mafias, the local economies relied on exports—Verona on exported furniture, and Rosario on exported agriculture. There is no demand for cartels in the export-oriented sector of the economy since producers export to different parts of the world. In order to stop competition for producer A in, say, northern Europe, the mafia would need to scare away producers in a variety of different countries who all export to northern Europe. Thus, as economies become more export oriented due to globalization, the likelihood that mafias will transplant themselves may diminish.

Migration as such is clearly not a cause of mafia transplantation. Despite roughly similar patterns of migration from the south to the north of Italy, a southern mafia did not transplant itself in either Rome or other towns of Piedmont. Only when migration is coupled with illegal employment and the absence of state protection does a demand for criminal protection emerge that can be met by a mafia. In other words, migration—even from regions with a high mafia density—does not necessarily carry the seed of a new mafia. Rather, it is the state's failure to offer effective legal protection

0964

and the lack of avenues for legitimate employment that set in motion a chain of events that might give rise to a new mafia.

The Italian policy of soggiorno obbligato, flawed as it might have been, cannot be blamed for successful transplantation. In the case of Bardonecchia, the supply of foreign mafiosi went hand in hand with a genuine demand for criminal protection. When it did not, transplantation failed. Moreover, other parts of Piedmont and northern Italy also experienced an influx of skilled mobsters forced to migrate due to the soggiorno policy, but mafias did not develop. Similarly, the Russians in Rome failed to establish a successful group because there was no demand for their services. Even a supply of specialized criminals (as distinct from generalized migration) is not enough to produce successful transplantation.

Contrary to what is suggested by the seminal work of Robert D. Putnam, a high level of generalized trust and "social capital" among the law-abiding population is not enough to prevent transplantation. The study of Bardonecchia suggests that high levels of trust among the general population are not sufficient to prevent transplantation and social capital might remain high while a mafia flourishes. The mafia was able to offer to a large enough section of the local population protection against competition, a workforce cheap enough to reap the opportunities generated by the construction boom, and more generally capital and employment. Those who rejected this state of affairs, recognizing that it was built on violence and disrespect for the law, were soon ostracized and marginalized.

Not only do I show that a mafia can transplant itself in highly civic northern Italy and that some local groups can rally to its defense. I also establish that in Verona the dense network of social trust allowed the drug trade to operate without recourse to third-party enforcers. This network reduced the demand for third-party enforcement by the mafia and thereby inhibited mafia migration. The more general point is that social capital can be used for good or ill depending on the goals of the actors involved.

In all the cases narrated in this book, mafiosi were forced to move, but once in the new territory, started investing in the local economy, as the Russian mafia did in Rome and the triads did in China. Yet investments alone are not sufficient to lead to long-term transplantation. When investments combine with a supply of mafiosi and a specific demand for protection services, a group can become entrenched.

0965

Finally, the incentives to open outposts abroad in order to obtain resources such as labor, intelligence, and specialized equipment are few, and decrease as the mobility of goods and people increases. Globalization will increase the ability of mafia groups to obtain some of the resources that they need without having to move. To put it more generally, globalization will affect the way crime is committed in a given locale. For instance, labor mobility *toward* traditional mafia territory can well increase, allowing mafias to import labor from trusted suppliers. A feature of globalization that we observe in legitimate firms—the ability to outsource work, such as opening call centers in India—will not be an option for mafia groups; workers cannot be located in India to run protection rackets in New York City. To the extent that mafias seek specialized technical equipment, like arms, globalization could increase the number of international locations from which a mafia group obtains its resources, but will reduce the motivation to open outposts abroad.

Can the conclusions on transplantation form the basis of a general perspective of mafia emergence and transplantation? A relatively recent body of research has shown that mafias emerge in societies that are undergoing a sudden and late transition to the market economy, lack a legal structure that reliably protects property rights or settles business disputes, and have a supply of people trained in violence who became unemployed at this specific juncture. This perspective—I call it the "property-right theory of mafia emergence"—has been applied to cases such as Sicily, Japan and post–Soviet Russia, to explain how mafias might emerge in times of rapid but flawed transitions to the market economy. I suggest that this perspective is a special case of a broader phenomenon. Mafias emerge and transplant when certain key structural conditions are present in the economy. The critical factor is proximity to a sudden market expansion that is not properly regulated by the state and the presence of people who can step in to regulate such markets. In a nutshell, opportunities in the market economy bring about mafias. Effective states can ensure the orderly development of markets, and hence neutralize a mafia's transplantation or emergence. In chapter 7, I address the unintended consequences of some state policies along with the complex relationship between democracy and mafias. I also return to Boris's murder at the Tverskaya hotel and offer a clue to identify the culprit.

0966

Mafia Transplantation

Does transplantation ever take place? It is often difficult to gauge what the police, judicial authorities, or press reports mean when they claim, for example, that the Russian mafia is active in at least twenty-six foreign countries, or that the Calabrese `Ndrangheta is present in more than twenty countries.[1] From the few academic studies that mention the phenomenon, we know that mafias are rather stationary. Peter Reuter, while discussing U.S. "illegal enterprises" (of which mafias are a subset), notes that they tend to be "local in scope."[2] In *The Sicilian Mafia*, Diego Gambetta writes that "not only did the [Sicilian] mafia grow mainly in Western Sicily, but, with the exception of Catania, it has remained there to this very day." More generally, the mafia, he adds, "is a difficult industry to export. Not unlike mining, it is heavily dependent on the local environment."[3] Similarly, Yiu Kong Chu argues that "Hong Kong Triads are localized and they are not international illegal entrepreneurs whose wealth and connections may enable them to emigrate to Western countries." Although Hong Kong triads might be involved in international crime, observes Chu, they "are not likely to be the key organisers."[4] Peter Hill, the author of *The Japanese Mafia*, dates the beginning of the foreign activities of yakuza from the 1970s, when the Ishii Susumu branch of the Tokyo-based Inagawa-kai started to organize gambling trips for wealthy Japanese. A few years later, corporate racketeers began to target Japanese companies abroad. Yet "more usually foreign travel has been recreational or to invest either in real estate (usually very unsuccessfully) or weaponry. At no time however, have the yakuza managed to extend their core protective role beyond a native

0967

Japanese market."[5] Moreover, the opposite claim—that a Chinese mafia is invading traditional yakuza turf—is, according to Hill, for the moment incorrect and politically motivated.[6]

Reuter and Gambetta offer several theoretical insights into why mafias find it difficult to become entrenched in foreign countries.

Ability to monitor agents. Distance makes it harder to monitor an employee, and ensure that the agent works efficiently and honestly. The agent can misappropriate capital (both tangible and organizational) from the enterprise by embezzling it and engage in activities that are not sanctioned by the principal, thereby attracting police attention and endangering the entire organization. In order to get off, the agent might even inform on the bosses back home.[7]

Information collection and communication. The collection of reliable facts on what people do is a vital part of a mafioso's job, but they are likely to find it hard to come by this information in an unfamiliar region, where they cannot rely on an extensive network of friends and accomplices. Furthermore, agents and bosses need to be in touch frequently, thus increasing the need for communication traffic between the two territories. Since face-to-face meetings would be the exception rather than the rule, the likelihood that the police might intercept such communication increases with distance.

Reputation. Reputation is a crucial asset for mafiosi to carry out their jobs. The greater one's reputation for the ability to wield violence, the lesser one's need to resort to violence, since victims comply more readily. Reuter writes that investments in violence, which yield a reputation for being able to deliver threats, have a higher return when the criminal has contacts, through a continuous chain of other persons, with at least one witness to the violent act. It is more likely that such a chain is broken with distance. Along similar lines, Gambetta maintains that a reputation for effective violence depends on long-term relations, cemented within independent networks of kinship, friendship, and ethnicity. It is next to impossible to reproduce such networks in a new setting.[8]

Still, transplantation does take place. In his memoirs, Catania mafia boss Antonio Calderone reminisces that during his time, there were two

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recognized branches of Sicilian mafia families in central and northern Italy. Another family operated for a while in Tunis, its existence having been recorded since at least the 1930s. "At the time," writes Calderone, "Tunis was a haven for many mafiosi fleeing Fascism. . . . [There] they had formed a regular family with a representative."[9] In his study of southern Italian mafias' expansion and entrenchment in nontraditional territories within Italy, Rocco Sciarrone shows how a concatenation of mechanisms accounts for the expansion of the Neapolitan Camorra in the neighboring region of Apulia in the late 1970s and early 1980s. First, a number of Camorristi had been incarcerated or forced to resettle in Apulia. By the 1980s a new smuggling route from Yugoslavia had opened, and Apulia had become a crucial node. As the former Yugoslavia descended into war in the early 1990s, Apulia offered even greater criminal opportunities for smuggling drugs and people from the ruins of the former Communist bloc. Finally, the leader of the Neapolitan Camorra, Raffaele Cutolo, decided to expand into Apulia, putting into action a long-term plan that included establishing relations with corrupt officials. Yet the final outcome was not as Cutolo had planned: soon the local criminals tried to free themselves from their masters and founded the Sacra Corona Unita, a new mafia invoking the regional Pugliese identity against the intrusion of the foreign Neapolitans.[10]

Moving beyond Europe, we encounter other instances. The charismatic leader of Taiwan Bamboo United, a major triad group, has been living in Cambodia for several years, where he appears to broker deals between visiting businesspeople and the local elite. At least thirty other Taiwanese gangsters live and operate in Phnom Penh.[11] According to reports, the reign of Evgenii Petrovich Vasin, a Russian mafia boss of the Far East, has been succeeded by that of a triad boss, Lao Da, now "the main organized crime figure in Vladivostok."[12] Xiangu Du, a Chinese national, led a gang in the Russian city of Khabarovsk for four years (1997–2001).[13] But at the same time Russian groups moved westward. Two subsidiaries of the Moscow-based crime group Solntsevskaya operated in both Rome and Budapest, as I will show in chapter 4. As for the Japanese case, although Hill downplays the presence of the yakuza abroad, he suggests that "the presence of non-Japanese criminals in Japan is likely to become more significant in the future."[14] Thus, transplantation seems to be a real phenomenon in need of an explanation.

0969

Factors Conducive to Transplantation

Why do mafias succeed in setting up branches in a new territory? I have organized the factors into two broad categories: supply, and local conditions relevant to demand.

SUPPLY

Migration is the explanation for mafia transplantation most often cited by the press, academics, and prosecutors.[15] Although never properly unpacked, a straightforward quantitative logic lies at the root of this theory: assuming that a given proportion of a population consists of criminals, the greater the migration of individuals from that population, the larger the number of criminals that will reach a new territory. Moreover, migration from territories of origin where there is a high proportion of mafiosi appears to carry the greatest threat of mafia transplantation.[16] Thus, the large migration from southern Italy to the United States at the end of the nineteenth century included many individuals with "the necessary skills for organizing a protection market."[17] The view that links migration to mafia transplantation can take simplistic and crude forms. Within Italy itself, the Northern League labels all southerners as a potential crime threat and has called for controls over south-north migration in order to prevent the spread of organized crime. The notion that Italian migration alone is responsible for the creation of the Italian American mafia in the United States is part and parcel of the now-discredited "alien conspiracy theory" of organized crime.[18] The presence of migrants from mafia territories, although clearly a contributing factor, is not sufficient for the establishment of new mafias, otherwise we would find mafias in every country to which southern Italians have migrated in the past.

A specific push factor for mafia transplantation in the case of Italy was the perverse policy of forcing convicted mafiosi to reside outside their area of origin as a form of punishment.[19] Based on a naive view of the mafia as a product of backward societies, forced resettlement (soggiorno obbligato) started in 1956, and was predicated on the assumption that away from their home base and immersed in the civic, law-abiding culture of the North, mafiosi from the South would abandon their old ways. Since the mid-1950s this policy has brought hard-nosed lawbreakers to the northern regions of Italy, including Lombardy, Piedmont, and Emilia-Romagna.

0970

The mafioso-turned-state-witness Gaspare Mutolo commented that the policy of forced resettlement "has been a good thing, since it allowed us to contact other people, to discover new places, new cities."[20] The soggiorno obbligato selected for forced migration individuals with specific mafia skills, and unintentionally allowed them to expand their networks and knowledge of the world (see chapter 3).

Criminals, including members of mafia groups, are also pushed to migrate in order to escape mafia wars or police repression in their areas of origin. Such cases abound in the history of mafias. For instance, Antonio Deodati escaped from Sicily to New York City in the 1860s to save himself from a "death" sentence passed on him by fellow mafiosi (he was nonetheless murdered in Brooklyn in 1865; see chapter 5).[21] *Ivan Yakovlev*, the Russian boss in Rome, was eager to move from Moscow to Italy because he was afraid of being killed by the Solntsevskaya ruling elite (see chapter 4). Vyacheslav Kirillovich Ivan'kov, often described as the Solntsevskaya envoy to the United States tasked with creating the Russian mafia in that country, in fact left Russia in 1992 because "it became too dangerous for him there."[22] Many yakuza active in the Philippines are actually ex-members who have been expelled from their groups.[23] Georgian *vory-v-zakone* (a type of mafia boss in the Soviet Union) "migrated" to Russia whenever there was a change at the top of the Georgian Soviet Republic's political elite, since every new first secretary would try to impress Moscow by conducting purges as well as cracking down on corruption and crime.[24] Following the Rose Revolution of 2003–5, the new Georgian president launched a harsh repression of what was left of the Georgian *vory*, referred to now by their Georgian-language equivalent of *kanonieri kurdebi*. A direct consequence of the repression was the escape of several leaders to Moscow (again), Spain, and other countries.[25] Similarly, Taiwan's campaigns against organized crime in 1984, 1990, and 1996 facilitated the relocation of triad bosses to China. As crime expert Ko-lin Chin aptly put it, "Even though initially they [Taiwanese triad members] had no intention of staying away from Taiwan for long, they ended up living abroad for months, or even years. . . . As many fugitives started new lives abroad, they not only became entangled in the affairs of the overseas Chinese community, but also established connections with local crime groups in the host societies" (see chapter 6).[26] Fascism's repression of the Sicilian mafia led to families emerging outside the island, such

0971

as Tunis, and some leaders arriving on the shores of the American continent, both in New York City and Rosario (see chapter 5). A systematic study of a Camorra clan shows that out of fifty-one members, only four individuals resided abroad, in Aberdeen and Holland. All four were escaping from the Italian police.[27] Thus, a neglected aspect of globalization is at work here: repression in one corner of the world has an unintended effect on another.

The factors that I have reviewed so far are unintentional (migration, forced resettlement, and fear of punishment). Yet mafia bosses are also capable of deliberate and strategic thinking. Below I explore whether mafias sometimes act like legitimate firms and rationally decide to expand to new territories in order to exploit special business opportunities, unprompted by police repression or mafia infighting. At least in theory, mafias might be after specific resources or investment opportunities, or wish to invade a new market.[28]

Resources. For a legitimate firm, the decision to open a branch abroad may be motivated by the desire to acquire a specific resource, such as a mineral or labor, at a lower cost. Resources also include intangible goods like knowledge, innovation capabilities, and management or organizational skills.[29] The motivation to open a branch abroad is predicated on the fact that the resources desired by the firm cannot be simply bought on the open market or accessed remotely.

For a mafia, resource-seeking motivations might include looking for labor, a key input factor. Is it plausible that a mafia would open a branch abroad to recruit "workers" for its operations back home? Broadly speaking, mafias hire two kinds of workers: casual and permanent. Casual workers include specialists in explosives, chemists, translators, people familiar with certain premises, and government officials. It is possible that some occasional helpers are hired from faraway lands, but it is unlikely that a mafia would open an outpost in order to do so. Such hiring is unusual. Permanent employees normally undergo an initiation ritual and work under the direct orders of the head of a group.[30] One indispensable quality for full-time workers is dependability; another is the proven ability to use violence. It follows that recruitment normally occurs within the area in which the group operates. Only by having known the recruit for many years can

0972

a boss be confident that the newcomer is not an undercover agent.[31] The boss will also know the family relations of the aspiring member, making it easier to threaten him in the event that he decides to turn state witness. Still, at least one significant case of labor mobility exists in the history of the Italian American mafia. In the 1970s, a capo in the Bonanno New York mafia family recruited cold-blooded Sicilian killers in order to help him distribute drugs on the East Coast of the United States. At first this strategy proved highly successful and he was able to corner a significant segment of the market; but eventually the killers betrayed him and the capo was himself assassinated.[32] In this case the Bonanno family imported workers rather than employ them in a subsidiary abroad, and the source of recruitment was closely allied to the Bonanno family.

Other resources of interest to mafias include technical equipment (such as arms, hideaways, and spying technology), passports, and bank accounts. Mafias are more likely to access resources on the open market when their quality can be clearly defined, as with technical equipment, weapons, and surveillance tools. Mafia members might want to acquire foreign passports in case they need to escape quickly, open bank accounts to deposit their money, or hire the services of lawyers in a foreign country, but the group as such would not need to relocate abroad. Like ordinary firms, it is possible that mafias could hire a workforce from another territory, and then that workforce would relocate to the mafia's territory of origin. As the mobility of people and goods grows, there will be even fewer incentives for mafia groups to establish outposts in distant territories in order to acquire specific input resources.

Investments. A legitimate firm might wish to reinvest the proceeds of its core activity in other businesses. Such decisions might be motivated by tax and performance incentives provided by governments, or by the desire to operate in more efficient financial systems. This type of investment-seeking location decision will be affected by new technologies, as greater integration between different markets makes it easier to invest in other countries' assets without the need to physically open a branch in the new territory.

It is harder for a mafia group than for legitimate firms to monitor remote investments. Like other firms, mafias seek to reinvest their proceeds in profitable enterprises. Mafia investments, though, are informal and often involve cash, and no recourse to the legal system exists in the event

0973

of a dispute. Moreover, money laundering and investments in the legal economy can involve several hundred one-shot transactions between business associates of the criminal group and legitimate firms in foreign and inhospitable countries. Those tasked with undertaking these decisions enjoy a significant amount of discretion and are hard to monitor. Investments can go wrong, and the bosses back home cannot easily verify claims and reports. This situation generates specific incentives for bosses to go abroad to monitor transactions with legitimate entrepreneurs directly. For instance, the Sicilian mafia opened such an office in Rome at the beginning of the 1970s by sending Pippo Calò, the boss of the Porta Nuova family. Passing himself off as an antiques dealer, Calò invested large amounts of money, mainly in real estate, for several mafia families. In connection with his activities in Rome, he was accused of the murder of Roberto Calvi, the chair of Banco Ambrosiano. Calvi was killed in 1982 in London, allegedly because he lost funds entrusted to him by the mafia when his bank collapsed.[33] Similarly, after the Chicago outfit decided to invest some of its money into casinos in Las Vegas following the Second World War, it regularly sent an envoy to ensure that profits were "skimmed" and channeled back home to families in Chicago, Kansas City, Saint Louis, and Milwaukee. The partly fictionalized movie *Casino* (1995) recounts the exploits of one such enforcer, Anthony Spilotro.

Markets. A legitimate firm might open a subsidiary in a different country in order to carry out its main activity in a new market. For mafias, the core business of the firm is control of a territory or market. Would a mafia, unprompted by police repression or mafia infighting, rationally decide to colonize a virgin territory? It is unlikely that a mafia group would undertake to invade a foreign territory already dominated by another criminal group, or that if it decided to do so, it would be successful. Thus one local factor—namely, the presence or absence of an existing group—must be one consideration in calculating the pros and cons of any colonization strategy. It is still possible that a mafia rationally decides to expand when it perceives that there are no local competitors and the opportunities are great enough to offset the considerable start-up costs of such a venture. In the course of presenting the case studies in subsequent chapters, I will evaluate whether mafias ever think in this way, or whether mafia transplantation is more likely an outcome that is not fully intended, at least at first.

0974

In conclusion, the incentives to open outposts abroad in order to obtain resources such as labor, intelligence, and specialized equipment are few, and are set to further decrease as globalization spreads. Globalization increases labor mobility generally, and therefore a mafia probably does not need to open an outpost abroad to attract workers to its traditional area of operation. Moreover, mafias hire people they trust locally, rather than open a branch abroad to recruit workers for their home turf. To the extent that mafias seek specialized technical equipment, such as arms, globalization could increase the number of international locations from which a mafia group obtains its resources, and thus there would be no need to open a branch abroad. They can simply buy the goods on the open market. Some mafia investments might require close scrutiny and give rise to incentives to open outposts abroad to monitor investments in distant territories. Such was the reason for the mob presence in Rome and Las Vegas. Market-seeking ventures of mafia groups are unlikely to involve the takeover of territories already occupied by existing local groups, unless the local groups are particularly weak and the incentives to move there are overwhelming. More generally, I do not expect a rational decision to open a branch in order to conquer a territory in a faraway land. Transplantation is more likely the outcome of unintended consequences.

Conditions in the New Territory and the "Demand" for Mafias

Once mafiosi find themselves in the new territory, under what conditions do they succeed in becoming entrenched?

The level of generalized trust (trust in others whom we do not know) in the new land is, for some authors, an important variable that could explain the entrenchment of mafias. James Coleman has pointed out that a low level of trust reduces actors' ability to cooperate and communicate, inhibiting collective action.[34] The less that trust exists among law abiders, the less likely it is that civil society will organize to oppose the entrenchment of a mafia group. One can further predict that the lower the trust among lawbreakers, the greater their demand for protection services will be; a mafia facilitates exchanges among criminals who distrust each other by offering the enforcement of deals and promises. This line of reasoning implies that mafias are more likely to transplant successfully to regions

0975

with little trust among law abiders and lawbreakers (each condition is independent of the other).

How is trust created? Robert Putnam's classic studies *Making Democracy Work* (1993) and *Bowling Alone: The Collapse and Revival of American Community* (2000) posit that local voluntary (nonpolitical) groups that bring people together provide private benefits to participants. In addition, he suggests that such groups can generate "social capital" that is *transferable* to society as a whole, thereby increasing the stock of generalized trust and promoting democratic values. Putnam shows that southern Italy is trapped in a long-term vicious circle of a lack of trust and civic virtue, whereas such virtue is robust in the North. Regions such as Sicily, Campania, Calabria, and Basilicata consistently score the lowest in terms of social capital, while Piedmont, Emilia, Veneto, and Lombardy score the highest. As Putnam explains, "In the most civic regions . . . citizens are actively involved in all sorts of local associations—literary guilds, local bands, hunting clubs, cooperatives and so on. They follow civic affairs avidly in the press, and they engage in politics out of programmatic conviction." By contrast, in the less civic regions such as Calabria, citizens take part in the political process because they are motivated by particularist short-term individual benefits rather than an interest in general issues. "An absence of civic associations and a paucity of local media in these latter regions mean that citizens there are rarely drawn into community affairs." Putnam traces levels of "civicness" in Italy back to medieval times and finds a remarkable stability over the centuries for which comparable data are available.[35]

Since levels of trust and civic culture are highly stable across the centuries, and organized crime is correlated with low levels of trust and social capital, Putnam's work implies that mafia transplantation to an area that traditionally experiences high levels of social capital is ceteris paribus harder to achieve. Thus, areas in northern Italy that historically have had high levels of trust and social capital along with no mafia should be more resistant to mafia attempts to immigrate and establish themselves. This view implies that high levels of trust and criminal protection are inversely related: when one is high, the other is low or absent.

Putnam's work has been criticized—most eloquently by Susan Rose-Ackerman—for failing to show a link between participation in civic associations, and the production of generalized trust and democratic values.[36] My critique is different. Moderately high levels of social capital

0976

and civic engagement can coexist with the presence of mafia protection. Such a "service" may be welcomed by sectors of the population because it provides an advantage in a given market. Alternatively, or in addition, a demand for mafia protection emerges among those dealing in illegal commodities. This perspective suggests that civic engagement and the demand for private protection are independent of each other. If we think of private protection in a broader sense to include the enforcement of cartel agreements, the reduction of competition, and the organization of illegal markets that supply goods in high demand among a population (such as prostitution or alcohol), it is evident that criminal organizations may supply a solution welcomed by significant sectors of a society. Indeed, protectionism, though an enemy of global competition, is promoted by legal as well as illegal means—as, for example, when local governments impose restrictions on nonnative business groups and workers in order to protect entrenched local interests. Therefore, a high level of civic engagement does not in itself prevent mafia transplantation; the private protection supplied by mafias is orthogonal to social capital and civicness as defined by Putnam. In order to substantiate these suggestions, I consider territories in nontraditional mafia areas where trust and social capital are reportedly high (see chapter 3).

A key argument of this book is that the presence of a genuine demand for criminal protection, the core activity of mafias, leads to long-term transplantation. A demand for criminal protection is a critical factor that prompts both the birth of homegrown mafias and the migration of established ones. Such a demand interacts with a number of local conditions. In legal markets, the more incapable a state is of protecting its citizens and settling disputes among actors in the economy, the greater the demand for alternative sources of protection. Such demand arises because of the state's lack of competence to act as a credible third-party enforcer of agreements.

A second type of demand for protection emerges when entrepreneurs seek to sell legal commodities illegally. This might take the form of trying to wipe out competition or organize cartel agreements with mafia support. A sector of the economy that typically generates high incentives to create cartels is construction: firms compete on a local market, and the barriers to entry are relatively low. Construction cartels often emerge without the need for mafia enforcement. A small number of firms simply corner the

0977

market. Yet a sudden explosion in the construction market would open up the market to new entrants. Incumbents might then develop a demand for protection against outsiders. Given this, construction sector booms might lead to a demand for criminal protection. Below I explore in depth two such cases, in Bardonecchia and Rosario.

On the other hand, economies that are export oriented will generate less demand for mafia protection: the mafia cannot help exporters to penetrate distant markets by harassing another entrepreneur who lives in the same place but exports to a different part of the world. For the mafia to be effective, producers must compete in the same market. On the other hand, several exporters of the same product to the same market would benefit from mafia protection. In the area north of Naples, for instance, the Nuvoletta family ensured that only certain food products, including Parmalat milk and Bauli Panettone, were carried in shops and supermarkets. The large producers from the North, such as Parmalat and Cirio, were willing to enter into direct contact with the Camorra in return for a near monopoly. Only after the police uncovered the scheme did these multinationals claim that they had been the victims of "racketeers."[37]

The demand for property rights protection in illegal markets is rife. Not only is state protection absent by definition, but state action is aimed at arresting actors in such markets and confiscating their "property" ("That's what the FBI can never understand," says Henry Hill in the book *Wiseguy*, "that what Paulie [mafia member Paul Vario] and the organization offer is protection for the kinds of guys who can't go to the cops").[38] As a consequence, illegal assets are highly vulnerable to lawful seizure and theft, and property rights are disputed to a much greater degree than in legal markets. Moreover, information about the quality of goods as well as the identities and whereabouts of the actors is particularly poor in illegal markets; entrepreneurs in these markets cannot freely advertise their good reputation, creditors disappear, informants consort with the police, and undercover agents try to pass themselves off as bona fide fellow criminals. As documented by several studies, mafias offer protection to criminals in the underworld and, in so doing, make illegal markets run more smoothly. It is thus plausible that the larger the illegal markets are, the greater the demand for protection will be. When there is a time lag between the emergence of a demand for protection and the provision of suitable local supply, the opportunity to supply mafia services may be seized by transplanted groups.

0978

As such, the state's lack of competence in legal spheres and unwillingness to protect illegal activities leads actors to look for alternatives, and so increases the demand for mafia services. In the presence of a suitable supply, foreign groups might become entrenched in a new territory.

Other features of the new territory are related to transplantation, such as size and the presence of local protectors. For instance, ceteris paribus, the smaller the new territory or the market, the easier it is to penetrate it. As mentioned above, the construction market is vulnerable to mafia penetration. It is easier to control a construction sector populated by thirty players than one populated by three hundred, however. If a mafia tries to penetrate politics through the control of votes, it is easier to control politics if the district is small. It takes more voters to influence the election of the mayor of a large city than of a smaller one. Where local protectors, such as a mafia or fragments of the state apparatus, are present and effective, it might be next to impossible for incoming mafiosi to dislodge them. When Taiwanese triad bosses and foot soldiers were forced to flee their home country and landed in places like Thailand and Vietnam, they soon discovered that the locals controlled all the criminal markets and they had little chance of replacing them. One brother in Vietnam said that "there are also Vietnamese gangs here, but we will never get into any conflicts with them because, the bottom line is, it is their territory. It is impossible for us to be in command here."[39]

Large constituencies or markets and export-oriented economies are negatively related to a demand for mafia protection and thus transplantation, while construction booms and large illegal markets are positively related to such a demand.

Reputation, Information, and Monitoring

Let's return to the challenges to transplantation raised by Reuter and Gambetta—that is, advertising one's reputation, the collection of information, and the difficulties of monitoring agents in a distant territory. Clearly, the incoming mafiosi must be able to persuade the local population that they truly belong to a menacing established mafia (cases of individuals faking such membership have been recorded).[40] Although a difficult task, it is not impossible. Reuter himself, in a classic article on the decline of the Italian mafia in the United States, notes that Colombian drug dealers in the 1980s

0979

managed to develop their own reputation for ruthless violence—a reputation that has become more menacing than that of the U.S. Cosa Nostra.[41] "Advertisement" in this domain might well rely on indirect strategies: newspaper investigations, popular culture, and the media unintentionally promote the name of a mafia when depicting it in movies or reporting on its activities. Gangsters indeed welcome movies about them. One producer told Italian film critic Tullio Kezich that "organized crime does not mind movies about the mafia; on the contrary it considers them with a dose of pride, as something that can shed an appealing light [on them], especially if a boss is played by a popular actor."[42] In this specific domain, aspects of globalization might be coming to the aid of the incoming mafia. One would expect that the increase in communication and the spread of media news would make it easier for a new group to signal to a wider audience its arrival in town along with its connections to a menacing homeland. Yet the mafiosi abroad still requires their audience to link them as individuals with the worldwide reputation of their groups. They therefore should be working hard at reinforcing markers such as ethnicity that associate them with the mafias of their origin. Paradoxically, mafiosi might exploit prejudices against immigrants to their own advantage.

A key resource for a mafia group is the ability to collect reliable information. Both Reuter and Gambetta suggest that a mafia working in a new territory would find it impossible to carry out this task. A tangible and long-term presence in the new territory is fundamental. But how long is "long"? It is plausible that a number of years would suffice to create a network of informants. In addition, the information to be collected need not be about complex transactions or numerous locales. It might well be about a local market in the new territory, as in the case of the construction industry in Bardonecchia (see chapter 3). To the extent that a mafia can count on migration networks in the new locale, some information will be easier to come by. Significant economic investments in the new territory by associates of the incoming mafia can also be a conduit for data gathering for a criminal group. In sum, the collection of information in the new place is not an insurmountable obstacle to transplantation, only a challenge.

A final point of skepticism about the ability of mafias to transplant indicates that agents abroad are harder to monitor. They might take risks while away, thereby increasing their chances of being arrested and the danger for the boss back home. The case of Anthony Spilotro supports this

0980

viewpoint. While in Vegas, he started to run a burglary ring, endangering the mafia investment due to renewed police attention. The bosses back home ultimately punished him with a gruesome death. Yet the Chicago outfit did not plan to exercise territorial control in Las Vegas but simply wanted to ensure that its investments were safe. In the framework of this book, they were motivated to open a branch abroad to monitor investments. Any illegal investment raises the danger that the agent might cheat, since the principal cannot undertake it directly but instead needs to go through fronts, lawyers, bankers, and the like.

More generally, the "hard-to-monitor" argument hinges on the assumption that a mafia group, like a standard company, rationally decides to open a branch in a distant territory that is directly dependent on the homeland. A more plausible mechanism of mafia diffusion is through the unintended consequences of state action or mafia wars, as I will show below. A mafioso finds himself in the new territory because he escapes from his homeland. Once there, he will have the chance to explore local opportunities and negotiate arrangements that reduce the need for complex ways to monitor his actions by the homeland. It is unlikely that he will receive a salary from the boss back home. Rather, he will have to earn his own money by entering the local market. The group of origin may do no more than bestow a seal of approval on the existence of the outpost, which has a great deal of autonomy. The outpost abroad is not a branch of a corporation but rather a semiautonomous unit allied to the homeland. If seen in this light, the objections raised by these authors vanish.

The Key Factors in Summary

Table 2.1 presents a summary version of the factors discussed above. "Supply" refers to unintentional and intentional factors that account for the presence of the mafiosi in the new territory. They could also be thought of as "push" factors. The table includes a line for generalized population migration and another for mafiosi migration. Such latter migration can be willing or unwilling. "Willing" aims to describe whether the mafioso migration is due to intentionally seeking resources, investments, or markets. "Unwilling" refers to the soggiorno obbligato policy, mafia wars, and the attempt to escape prosecution. Among the "local conditions," I include the level of trust in the new locale (as measured by Putnam), the presence

0981

TABLE 2.1
Factors Facilitating Mafia Transplantation

	Factors facilitating mafia transplantation
	Generalized migration Mafiosi migration (willing/unwilling)
Supply of mafiosi	
Local conditions	Level of trust/civic engagement Presence of local illegal protectors Size of locale New and/or booming markets*
Demand for mafia services	
Transplantation	

* The markets considered are construction (Bardonecchia and Rosario), drugs (Verona and China), property rights (Budapest and China), oil (Budapest), alcohol (New York City), gambling (New York City and China), and prostitution (China).

or absence of local protectors, such as an existing mafia or corrupt officials and police, and the size of the locale. By "new and booming markets," I refer to whether the economy has undergone some sudden change. For instance, a construction boom would qualify as one. Also a wholesale transition to the market economy or the sudden outlawing of alcohol consumption would create new and booming markets. I suggested above that some such factors are causally linked to others: a construction boom, the sudden outlawing of alcohol, or low levels of trust could give rise to a demand for criminal protection. Such a connection, however, is not mechanical; if actors in a given market are able to regulate the sudden changes in the market and cope, they would not develop such a demand. If the state is efficient at defining and protecting rights in a new market economy, a de-

0982

mand for criminal protection would not arise. If the operators in the drug market are able to settle disputes without recourse to a third-party criminal enforcer, such a demand again would not emerge.

In the remainder of the book, I evaluate empirically whether the factors listed in table 2.1 have generated such a demand, and whether a foreign mafia was able to intercept such a demand and become entrenched in a faraway territory (transplantation).

Case Selection

A final word on how I selected the cases. Researching criminal organizations is a hazardous enterprise, and often chance encounters with data direct the scholar toward a particular case study. The main criterion that I have followed, however, is the "possibility principle." The said principle prescribes the inclusion of cases where the outcome of interest—in this instance, transplantation—is possible. In some of the cases included transplantation did not occur; nevertheless, it was tried. A related criterion for inclusion is variation in the "dependent" variable (transplantation). Only by presenting cases in which mafias failed to transplant as well as ones where they succeed can one hope to identify the factors that are most likely to cause transplantation. The negative cases of this study are the failed attempts of the Mazzaferro family to create an outpost in the city of Verona, in the Veneto region, in the 1980s; the Moscow-based Solntsevskaya to open a branch in Rome in the mid-1990s; and a mafia to emerge in Rosario, circa 1910–40. Foreign triads have also so far failed to establish themselves in China. In all instances these organizations tried to transplant. The two criteria combined—the possibility principle and variation in the dependent variable—led me to exclude "irrelevant" cases—namely, cases where there was no transplantation and also no indication that it was ever attempted.[43]

I have used three further criteria for selection. First, among the territories of destination, I discuss both advanced market economies and newly created ones. Variation on this dimension allows me to establish whether similar (or different) reasons account for transplantation to newly created and advanced market economies, and make it easier to generalize from my findings. Second, I include regions, among the territories of destination, where the level of interpersonal trust and civic engagement was high along

0983

with those where it was low before the arrival of the mafia. In particular, Piedmont and Veneto are high-trust regions in Italy, while Rome, Budapest, and China have low levels of interpersonal trust. Since the level of trust in the territory of destination is a factor that I suspect might affect the ability of mafias to entrench themselves, variation in this independent variable was crucial.

Ultimately, this is a study with many variables and few cases. In order to control as much as possible for intervening variables, I have tried to match cases. For instance, the movement to Bardonecchia (Piedmont) is matched by the failed attempt of the same mafia group to move within the same part of the same country (the city of Verona in northern Italy). Although not a perfect control, we can assume that many intervening variables, such as the level of corruption and policing, are similar. At any rate, the conclusions that I reach must be considered tentative, and this work calls for more instances to be studied and compared with the ones that I cover in this book. In this field of study there is no substitute for detailed narratives and in-depth discussions of specific cases.

0984

The `Ndrangheta in Piedmont and Veneto

The `Ndrangheta

"The `Ndrangheta is as invisible as the other side of the moon" remarked a prosecutor in Florida in the 1980s.[1] Indeed, the organization managed for a long time to remain under the radar of many police forces around the world, in part thanks to the small number of turncoats. In the same period, Tommasso Buscetta, the highest-profile Sicilian mafioso turned state witness, even suggested impishly that it might not exist as an autonomous entity.[2] Notwithstanding Buscetta, historians have documented the existence of the `Ndrangheta since the late nineteenth century, although at that time it did not yet have a name of its own. Official sources refer to Calabrian criminals as *Camorristi* and occasionally also as mafiosi. Other terms used were *Picciotteria* and, oddly, *Famiglia Montalbano*, also the title of a novel. The very word *`Ndrangheta* was first recorded only in 1909. The etymological origin is the Greek *andragathos*, meaning a brave and daring man.[3]

Another word of Greek origin, *`ndrina* ("a man who does not bend"), refers to the basic unit of the organization, and is the equivalent of the Sicilian mafia's family or *cosca*. According to the Italian Anti-Mafia Parliamentary Commission (CPA), each *`ndrina* is "autonomous on its territory and no formal authority stands above the `ndrina boss."[4] The `ndrina is usually in control of a small town or neighborhood. If more than one `ndrina operate in the same town, they form a locale. In some cases, *sotto `ndrine* have been established. A rather elaborate internal structure is

0985

shared by most `*ndrine*, and includes the boss and six lower ranks. Each rank could be further differentiated into further internal ranks.[5]

The village of San Luca on the Aspromonte Mountains in the province of Reggio Calabria is the core `Ndrangheta territory. The Sanctuary of Our Lady of Polsi (located in the San Luca district) has long been the meeting place of affiliates, and the `ndrina based in this village is granted special authority. Every new group must obtain the authorization of the San Luca family in order to operate. Former members report that "every *locale* deposits a small percentage of their illicit proceeds to the principal of San Luca in recognition of the latter's ancient supremacy."[6]

From at least the 1950s the chiefs of the `Ndrangheta have held annual meetings, fittingly called *crimini*, at the Sanctuary of Polsi between September and October (the exact date is constantly changing). Cesare Polifroni, a former member, testified that at these meetings every boss "must give an account of all the activities carried out during the year and of all the most important events taking place in his territory such as kidnappings, homicides, etc."[7] The *capo crimine*, who is elected every year, is in charge of convening the meeting, but far from being "the boss of the bosses," actually he has little authority to interfere in family feuds or control the level of interfamily violence. The `Ndrangheta equivalent of the Apalachin meeting took place in October 1969, when the police raided the gathering and captured more than seventy `*Ndranghetisti*—although many more managed to escape. Allegedly, the purpose of the meeting was to suggest a unified command structure of the `Ndrangheta and support a right-wing conspiracy to take over the Italian state. Both plans failed.[8]

Bosses from outside Calabria, from as far away as Canada and Australia, regularly attend the fall meetings at the Sanctuary of Polsi—an indication that the `ndrine around the world perceive themselves as being part of the same collective entity.[9] Nonetheless, and as in the case of other mafias, separate units have often been at war with one another. For instance, in Siderno, a town on the Ionic coast, the theft of some guns belonging to one of the family chiefs led to 34 people being killed in a "war" that lasted from 1987 to 1991. One conflict between two `ndrine in Reggio Calabria claimed hundreds of lives. Mafia killings in Calabria took the lives of 680 people during 1986–91 alone—a figure that approximates the number of deaths in civil wars.[10] From 1991, attempts have been made to create a Sicilian mafia-style regional commission but they have not yet succeeded,

0986

although loose mechanisms of communication, coordination, and dispute settlement have existed since the end of the nineteenth century.[11]

The `Ndrangheta is ultimately a loose confederation of mafia families, most of which (eighty-six) operate in the province of Reggio Calabria in southern Calabria.[12] This mafia has systematically forced local entrepreneurs to pay protection money, corrupted officials, and penetrated politics.[13] Politicians have been threatened, wounded, and killed, while bosses have successfully stood in local elections. In the 1990s, the Italian government disbanded eighteen city councils due to the `Ndrangheta's ability to pervert local electoral processes.[14] In 2007 killers from San Luca, this mafia's stronghold, murdered six people outside an Italian restaurant in Duisburg, in northwestern Germany, bringing the ruthless nature and international reach of the organization home to the European public.[15]

The key difference between the `Ndrangheta and mafias from Sicily, the United States, Russia, Hong Kong, and Taiwan is the role of kin. While other mafias try to minimize the number of blood relatives accepted into each family, within the `Ndrangheta blood family and membership of the crime family overlap. By and large, the `ndrine consist of men belonging to the same family lineage. An antimafia prosecutor in Reggio Calabria, Salvatore Boemi, maintains that "one becomes a member by the simple fact of being born into a mafia family," although other reasons might attract a young man to seek membership, and nonkin can also be admitted.[16] A former member, Pasquale Barreca, confirms that "in most cases one becomes `ndranghetista through family links."[17] Marriages help to cement relations within each `ndrina and expand membership. As a result, a few blood families constitute each group, and for this reason "a high number of people with the same last name often end up being prosecuted for membership of a given `ndrina."[18] Indeed, since there is no limit to the membership of a single unit, bosses try to maximize the number of descendants.[19]

The kinship link has meant that the `Ndrangheta has experienced significantly fewer defections (*pentiti*) than the Sicilian mafia, as shown in table 3.1, since turning oneself in to the police or informing on partners in crime amounts to informing on one's own extended family.[20] The same applies to the Neapolitan Camorra, which has an organizational structure akin to the `Ndrangheta.[21]

The coincidence of blood and mafia family also seems to have helped the `Ndrangheta expand beyond its traditional territory—a dynamic suggested

0987

TABLE 3.1
Membership of Mafia Groups, Number of Pentiti (Mafiosi Who Have Turned State's Witness) per Group, and Pentiti as Percentage of Membership

	*Membership**	*Pentiti (1995 data)*	*Pentiti 1995 as percentage of membership*
Cosa Nostra	5,487 (1995)	381	6.9
`Ndrangheta	5,000 (1994)	133	2.6
Camorra	6,700 (1993)	192	2.8
Total	17,187	706	4.1

* Date of estimate in parentheses.
Sources: For the membership of Cosa Nostra and `Ndrangheta, see the official data quoted in Paoli 2003, 26, 30; for Camorra, see CPA 1993a; for the number of pentiti, see CD 2000.

by the authors of one of Italy's parliamentary reports on this mafia: "The familial bond has not only worked as a shield to protect secrets and enhance security, but also helped to maintain identity in the territory of origin and reproduce it in territories where the family has migrated."[22] The `Ndrangheta has clearly demonstrated a remarkable ability to establish branches abroad. `Ndrine are reported to be operating in northern Italy, Germany, Belgium, Holland, France, Eastern Europe, the United States, Canada, and Australia.[23] According to the Anti-Mafia Parliamentary Commission, the dependency of the subsidiary groups is significant: a subsidiary "is an outpost of the original cosca and depends on it to function."[24] Still, the activities of these subsidiaries vary, and more research is necessary to detail the relations between groups. In 2000, prosecutors pointed out that Germany, Eastern Europe, and Australia were areas where the `Ndrangheta invested the proceeds of its illegal activities heavily rather than aspiring to establish control over territory.[25] Yet there have been no in-depth studies of the `Ndrangheta's transplantation into new territories. I now turn to such a case, in the town of Bardonecchia in northern Italy.

The `Ndrangheta in the Val Susa Valley, Piedmont

One has to travel more than fourteen hundred kilometers from Calabria to reach the valleys outside Turin at the center of the story of the `Ndrangheta taking root in Piedmont. The town of Bardonecchia (three

0988



FIGURE 3.1 Map of Italy

thousand inhabitants) lies in the Val Susa Valley, the most western part of Italy, bordering France. Bardonecchia has throughout its history been a transit zone, with many armies, traders, and smugglers passing through the tortuous mountain crossings of the Cottian Alps (Alpes Cottiennes). In the mid-nineteenth century, the Piedmontese government gave the order to start work on a railway line to connect Turin to the (now-French) city

0989

of Modane, running under the Frejus tunnel and through Bardonecchia. The Frejus railway line, completed in 1871, gave a massive impetus at the end of the nineteenth century to the town's tourist industry, and members of the aristocracy and upper classes from Turin and Genoa began building pleasant summer villas in the art nouveau style. By the beginning of the twentieth century winter sports had developed, and in 1908 a skiing club was founded in Bardonecchia. Local histories also recall the exploits of the two Norwegian brothers, Harald and Trigwe Smith, who in 1911 broke the world record for trampoline jumping with a forty-four-meters-long jump. The trampoline had been constructed in an area that was to be named after the Smith brothers, Campo Smith. The land was given to the city by one of those wealthy families that had patronized Bardonecchia at the turn of the twentieth century, with the explicit provision that it should be made into a public park and remain so in perpetuity. Eighty-five years later, the same area had acquired immense real estate value, and was at the center of a major scandal involving local officials, construction companies, and the Mazzaferro clan of the `Ndrangheta. The scandal led to the mayor being arrested, and the city council was disbanded for "mafia penetration"—the first instance of this kind in a city outside the south of Italy (the mayor was eventually acquitted).[26] The data I present below suggest that the `Ndrangheta was best placed to exploit the lucrative opportunities in the construction business in the Val Susa Valley and in particular Bardonecchia in the 1960s.

According to established theories of social capital, Piedmont—one of the most industrialized areas of the country and home to the Fiat car manufacturing company—is a most unlikely territory for a mafia to take root. In contrast to the vicious circle of low interpersonal trust and unresponsive local institutions that is typical of southern regions, Piedmont scores among the most "civic" regions in the country, with a high level of interpersonal trust and highly effective local institutions, as measured by Robert Putnam's Civic Community Index. Putnam's historical index of "civic traditions" for the period 1860–1920 has Piedmont scoring even more favorably—second only to Emilia Romagna—as the most civic region of Italy.[27]

Let us now turn to immigration from high mafia regions of the country. Could this be the factor that explains mafia transplantation in the Val Susa Valley? To be sure, since the 1950s Piedmont has experienced significant

0990

flows of immigrants, which in turn have changed its ethnic composition dramatically. Between 1951 and 1961, 440,040 immigrants moved to Turin (the largest city in the region), increasing its population by 42 percent. The share of the population born outside the region more than doubled from 1951 to 1971. It should be noted, however, that other cities, such as Rome and Milan, also experienced dramatic increases in population, yet did not succumb to mafia entrenchment. The data in table 3.2 show that Rome had higher immigration from "mafia regions" than Turin in the 1950s and 1960s, and a similar level of immigrants in the 1970s and 1980s. And yet no mafia became entrenched in Rome.[28] (A potentially revealing parallel with Bardonecchia is the small town of Buccinasco, outside Milan, where the `Ndrangheta appears to be entrenched and to control the construction sector).[29] Migration is not the whole story.

In chapter 2, I drew a distinction between generalized patterns of migration and the migration of specific individuals who belonged to a mafia group. The presence of even a small number of the latter can be highly significant because these are specialized criminals, well equipped to set up criminal groups.

Because of the policy of soggiorno obbligato, we know how many people had been forced by court orders to reside in the region. In the period 1961–72, fifty-four individuals were ordered by the courts to resettle in Turin Province. Compared with other regions, however, Piedmont experienced only an average number of such forced migrations of specialized criminals. For instance, 15 percent of the criminals who were sentenced under the soggiorno obbligato policy relocated to Lombardy, 10 percent to Emilia Romagna, 9 percent to Tuscany, and 11 percent to Piedmont. Furthermore, Piedmont's provinces of Cuneo, Asti, and Alessandria likewise experienced an influx of hardened criminals in the period 1961–72 (respectively, sixty-three, thirty-six, and fifty-four individuals), but mafias did not become entrenched there.[30] Thus, no direct link exists between soggiorno obbligato and mafia formation.

I now turn to a discussion of the local conditions that existed in this part of Piedmont, starting with a look at the construction sector. Between 1950 and 1959, this sector of the economy was virtually monopolized by three local companies that had roughly 50 percent of the market between them, as measured by the number of licenses that they obtained to build new homes in the town (table 3.3).

0991

Table 3.2

Regions of Birth for Residents of Turin, Milan, Rome, and Verona Provinces, 1951, 1961, 1971, and 1981 (%)

1	*2*	*3*	*4*	*5*	*6*
Census Year	*Province*	*Percentage of residents born within the region*	*Percentage of residents born outside the region*	*Percentage of residents born in Sicily, Campania, and Calabria*	*Percentage of residents born in Calabria*
1951					
	Turin	80.3	17.1	2.4	0.5
	Milan	79.3	18.9	2.2	0.3
	Rome	67.0	30.6	7.4	1.7
	Verona	93.2	5.6	0.5	0.1
1961					
	Turin	68.7	28.8	6.2	1.9
	Milan	72.0	26.1	4.3	1.0
	Rome	64.4	33.3	8.9	2.4
	Verona	91.1	7.6	0.9	0.1
1971					
	Turin	60.8	36.7	12.2	3.7
	Milan	66.2	31.8	8.8	2.3
	Rome	64.1	33.0	9.8	2.6
	Verona	89.9	8.6	1.2	0.2
1981					
	Turin	63.6	34.1	12.8	4.0
	Milan	68.1	29.8	9.6	2.5
	Rome	69.4	27.9	7.1	2.3
	Verona	88.4	10.1	1.7	0.4

Notes: Columns 3 and 4 do not sum to one hundred because individuals born outside Italy have been excluded. The province (provincia) is an official administrative unit and includes territories beyond the city limits.
Sources: Data based on ISTAT 1951, 1961, 1971, 1981.

0992

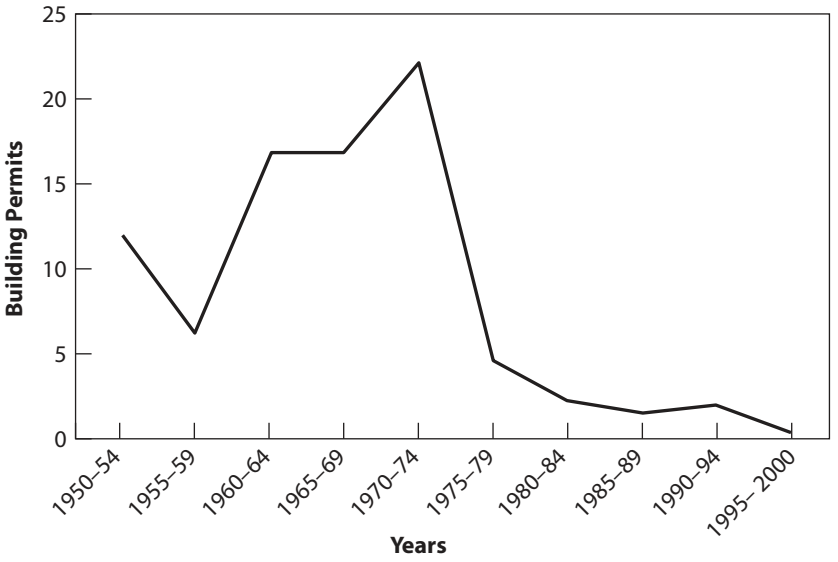


FIGURE 3.2 Number of licenses to build new dwellings, city of Bardonecchia, 1950–2000

As a consequence of the expansion of tourism in the early 1960s, a strong demand for housing developed. During a period of fifteen months in 1967 and 1968, some eighty thousand new dwellings were built in the Val Susa Valley.[31] Figure 3.2 gives a quantitative, albeit partial, picture of this trend. Like table 3.3, figure 3.2 is based on data about legally obtained licenses to build new residential dwellings issued in the period 1950–2000. These data were collected in the archives of the city of Bardonecchia and had never been examined previously. Typically, each license refers to a major construction project, since it was common for a single application to be made for the construction of one building (or sometimes two) containing a minimum of eight flats and a maximum of fifty.

The market peaked between 1960 and 1974. (In the same period, a new highway and the Frejus tunnel to France worth some 170 billion lira—the equivalent of approximately US$275,000,000 in 1971 dollars—were under construction.)[32] In the period 1985–94, a further 1,300 dwellings were built—a total of 282,000 cubic meters of construction worth 500 billion lira, or approximately US$310,000,000 in 1994 dollars.[33]

The arrival of new actors in the market is partially captured by the data on building licenses that I collected in Bardonecchia. Table 3.3 gives the

0993

TABLE 3.3
Percentage Shares of Licenses Obtained by Four Firms to Build New Dwellings, Bardonecchia, 1950–79

Firm/five-year period	*1950–54*	*55–59*	*60–64*	*65–69*	*70–74*	*75–79*
Gibello	28.0	12.0	15.8	1.4	7.6	5.9
Carisio and Pesando	14.0	20.0	10.5	5.6	1.8	5.9
Patané and Raitieri	0	0	7.9	13.9	6.3	5.9
Zedda Aldo and Iginio	4.0	16.0	18.4	1.4	0	0
Total	46	48	52.6	22.3	15.7	17.7

Sources: Data collected in Ufficio Licenze Edilizie, city of Bardonecchia.

percentage of the market share for the four biggest companies operating in Bardonecchia between 1950 and 1979. In the 1960s a new firm, Patané and Raiteri, energetically entered the market and obtained 8 percent of all the licenses granted in the period 1960–64. Zedda Aldo and Iginio, one of the original firms that had been operating in Bardonecchia since at least the 1950s, saw its share of licenses fall in the period 1965–69; by 1970 it was out of the market. Overall, the market expanded, and the top four companies accounted for only 22.3 percent of the sector between 1965 and 1969, and even less in the next two periods. Rather mysterious *immobiliari* (literally "real estate companies") appeared and disappeared frequently from the 1960s onward, but when present, they were involved in major works such as Immobiliare Patrizia, which gained 5 percent of the market in 1970–74. Another new company gained almost 9 percent in the same period. Both disappeared in the next period.

The sudden expansion of the construction market had two key consequences: local construction companies did not have a large enough workforce to meet the new demand, and new firms entered the market. Some construction firms in the Val Susa and nearby Canavese valleys therefore turned to "fixers" who supplied immigrant workers, typically with little education and unable to find employment in large companies like Fiat. Many of the new immigrants lived in appalling conditions in Turin. These poorly qualified and nonunionized workers accepted short-term, temporary employment and low salaries, and worked without accident insurance coverage. Several firms welcomed the possibility of hiring cheap labor

[162.10.217.184] Project MUSE (2026-06-15 01:44 GMT) University of Queensland

in order to save on mandatory health contributions and safety costs, and more generally to bypass trade union controls. Moreover, by hiring the workforce indirectly, the firms avoided having to pay transfer, catering, and accommodation costs.[34] New construction companies also entered the market at the suggestion of the Calabresi who had been residing in the valley under the soggiorno obbligato policy. These new firms, too, employed an illegal workforce and turned for protection to the Calabrese mafia. Many residents were able to sell their plots of lands at considerably high prices to the constructors.[35]

Mario Corino, the mayor of Bardonecchia in the 1970s and a fierce antimafia campaigner, summarizes the situation in the town as follows:

> I have been active in politics for 40 years as a member of the Christian Democracy Party. I was the elected mayor of Bardonecchia from December 1972 until 1978. Since 1990, I have been the Leader of the Opposition in the City Council. As early as the 1960s I realised that, for the good of the city, we first had to study the mafia phenomenon, and then to make it clear that we did not condone it. Once my position became known, I found myself the object of night-time displays of aggression and was in a constant state of fear for my life. . . . During my term as mayor of Bardonecchia, my position became even more delicate. The mafia were a long-term fixture (it was pointless trying to deny it) and I would have to choose one side or the other. I therefore made the decision that it was my duty to fight this phenomenon, which I considered to be unacceptable. In particular, those years saw the emergence of labor racketeering. When I became mayor, I discovered that more than 72 construction sites had been opened in Bardonecchia, in which a number of workers who had come from the south, and especially from the Gioiosa Ionica area [Calabria], lived, literally "camped out" in extremely unhygienic conditions. Many of them had criminal records and weren't legally allowed to work.
>
> The managers of these construction sites gave me no guarantees as to either public order or the working and living conditions of those who worked on them. Independently of any investigations I was making, the Work Inspector also decided to carry out checks on the sites to ascertain the position of these people. However, they

0995

> were usually forewarned of the Inspector's arrival, and nowhere to be found. It was all extremely and uncomfortably illegal. Faced with this problem, I tried to confront it by involving the Trade Unions Associations as well, and together we obtained an audience with the Anti-Mafia Commission. Following our audience, a delegation presided over by MP La Torre [later murdered by the Sicilian mafia in Palermo in April 1982] began various investigations into, and checks on, these sites to verify what we had said. This was, however, just one part of a wider situation which was endangering the safety of the city.[36]

The current mayor of Bardonecchia has a rather more positive outlook on the same events:

> My view is that these individuals [originating in Calabria] entered the construction sector using the carrot rather more than the stick. One must recall that there was a significant expansion in the market in the 1970s, especially an increase in second homes and homes for tourists. Local entrepreneurs often were short of labor, and these people delivered it. Thus, they performed a service for the local economy. They brought to Bardonecchia some unqualified, as well as qualified, workers, and found them employment.[37]

Some firms and workers that had not been hired through the racket were intimidated, and eventually forced to exit the market.[38] As the racket expanded, more local firms started to hire illegal workers. The final outcome was that a number of firms—some local, and some newly arrived from Calabria—came to rely on workers supplied by the Calabresi and employed them illegally. In all, the racket was beneficial to both nonunionized immigrant workers and construction companies (a phone intercept testifies to workers' support for the main fixer: "The Calabresi respect him because he finds them work").[39] Such an equilibrium, however, meant that workers could not turn to trade unions in the event of disputes with employers, and employers could not turn to legitimate sources of protection in the event of disputes with this vast contingent of workers. A demand thus emerged for an alternative, nonstate source of protection. Entry into this market was policed by the mafia, which also oversaw

0996



Mario Corino (1929–2010), the primary school teacher who became the mayor of Bardonecchia in 1973 and took on the `Ndrangheta at great personal costs. He is now a largely forgotten figure in the valleys that he loved so much and an unsung hero of the fight against organized crime in Italy. Photo credit: *La Luna Nuova.*

employer-employee relations and used violence to achieve control of the construction industry.

A spate of cases of intimidation led to an investigation by the Anti-Mafia Parliamentary Commission, which first visited the area in 1974, as recalled by Mayor Corino above. The investigation recorded "widespread intimidation, improper allocation of workloads, exploitation, improper salary reductions, and racketeering," and estimated that 70 to 80 percent of the labor force in Bardonecchia was hired through this racket.[40] In one instance, a group of mafia-backed Calabresi workers showed up fully armed at a construction site, and forced the bricklayers to quit their jobs then and there. The firm that had (legally) hired the bricklayers was forced out of

0997

Bardonecchia.[41] It was not uncommon for construction sites to be set on fire.[42] In 1970, a worker at a building site was killed with a *lupara* (sawed-off shotgun), and his body was found in a nearby town.[43] In 1975, Mario Ceretto, a Cuorgnè developer, was kidnapped and murdered. A former `ndranghetista testified that the man had been targeted because he was a competitor in the construction business.[44] When in 1976 two thieves were caught trying to steal from a construction site, they were tortured for several hours and one of them became paralyzed in both legs as a result.[45]

The main organizers of labor racketeering in Bardonecchia were two Calabresi who had moved there as a consequence of the soggiorno obbligato policy: Rocco Lo Presti and his cousin Francesco (Ciccio) Mazzaferro. Both came from the town of Gioiosa Ionica and were members of the Mazzaferro clan.[46] Lo Presti, a stocky young man with a sharp look and pitch-dark hair, had moved to Bardonecchia from Calabria in 1952. By the time of the construction boom in the 1960s, Lo Presti had become the main illicit supplier of cheap labor to the area and had called in construction companies from Calabria. He also established several firms of his own and obtained unlawful subcontracts, especially in the area of plastering and framing. A Turin-based construction entrepreneur testified to the following:

> Everybody knew that one could work in the construction business in Bardonecchia only after having obtained Lo Presti's approval. One could obtain such approval only if introduced by somebody from Calabria, and by paying up. I recall what happened to me in 1979: at the time, I wanted to obtain the contract to build sewerage in Bardonecchia, but I was told that I needed Lo Presti's approval. Thus I obtained an introductory note for Lo Presti. Eventually, I did not bid for the contract, because I was told that another company was supposed to win.[47]

By the early 1970s, Lo Presti had been convicted three times by the court of Turin for a variety of crimes, including "violation of the law on hiring workers and workers' protection." He was charged with—and acquitted of—murder (1982), fencing (1987), and extortion and mafia activities (1995 and 1999). It was not until 2002 that he was found guilty of engaging in mafia activities and sentenced to six and a half years in prison. Recently, he

0998

was serving his sentence in a private clinic. On January 22, 2009, he was confined to bed, hardly able to talk and fighting a degenerative form of diabetes, when he was ordered to move from the clinic to the convicts' wing of the Turin Molinette hospital. After the officers read the removal order to Lo Presti forcing him to serve his remaining sentence in prison, he shook their hands and whispered, "I follow you." He died the next day.[48]

Lo Presti's associate Mazzaferro was found guilty in Calabria in the early 1970s of heading a mafia organization that exercised a monopoly over transportation in the area of Gioiosa Ionica. As a consequence of this verdict, the court ordered him to reside outside his region of origin, and he moved to Bardonecchia in 1972. There he started a transport company servicing construction sites and obtained several contracts related to the construction of the Frejus tunnel. The then mayor of Bardonecchia recalls the arrival of Mazzaferro in town in 1972:

> It was around this time that a number of people who were linked to mafia families such as the Mazzaferros were sent to the Bardonecchia area. When they arrived in Bardonecchia, the Mazzaferro family member would come into my office and say, "You have received instructions from the Locri Tribunal to find me a job and somewhere to live. But don't worry about it: I will find them on my own." And indeed, it was not long before an excavation company (with a never-ending supply of trucks) sprang up that effectively monopolized the market in that area.[49]

In fact, a Turin court found that Mazzaferro had acquired these contracts "through the use of force and intimidation."[50] Throughout the 1980s he was charged with a variety of offenses in three regions—Piedmont, Calabria, and Sicily. In 1987, he was found guilty of being the boss of a "mafia group" based in Piedmont that was involved in several crimes, including drug trafficking and illegal money lending.[51]

The pattern described above is virtually identical to that in the neighboring Canavese Valley, where two individuals of Calabrese origin, who had migrated to Cuorgnè in 1972 and 1963, undertook activities in the construction industry similar to those of Lo Presti and Mazzaferro. The Turin court accused them of having created a mafia group.[52] By the mid-

0999

1970s, entry into the construction industry in the two valleys (Val Susa and Canavese) was thus completely controlled by the `Ndrangheta.[53]

The mafia's control of labor and the overall construction industry soon evolved into a wider protection system. A city council employee is known to have handed over Lo Presti's business card to people applying for business licenses in the area. In one case he was heard saying, "You should get in touch with Lo Presti in order to avoid problems." Inspectors sent by the prefect of Turin noted that "in Bardonecchia, everybody assumes that it is necessary to obtain Lo Presti's endorsement in order to engage in any commercial activity."[54] Another telling instance is narrated by a member-to-be of the `Ndrangheta (who then turned state witness). In 1987, this man had started a fight at a disco because the bouncer would not allow a friend of his to enter. Shortly after the incident, "Lo Presti got in touch with me, and asked for an explanation of what had happened, because the disco was *under his protection*. At that time, I was not yet a member of the Belfiore family. I explained myself and he agreed with my reasons and let me alone."[55]

Violence now extended beyond the construction industry. Lo Presti was charged by the police with ordering the assault of and inflicting grievous bodily harm on a local politician (and future mayor) in 1963.[56] The first "mafia murder" in Bardonecchia took place in 1969, when Lo Presti's brother-in-law killed a man.[57] In Cuorgnè, a Calabrese who had been forced to relocate to the town came into conflict with Lo Presti and Mazzaferro, and was murdered in 1972.[58] Between 1970 and 1983, twenty-four people originally from Calabria were killed in Turin Province (which includes Bardonecchia and Cuorgnè), while Turin's Procurator Office recorded forty-four mafia murders.[59] The most high-profile murder was that of Bruno Caccia, the chief public prosecutor of Turin, who was gunned down by members of the `Ndrangheta, among them Mimmo Belfiore, the brother of a developer from Calabria operating in Bardonecchia and an associate of Lo Presti.[60] According to a police investigation, Lo Presti received a phone call on the day of Caccia's murder allegedly saying, "Here is your birthday present" (Caccia had investigated Lo Presti several times; no one suggested that Lo Presti was directly involved in this murder).[61] Violence continued steadily throughout the 1980s and 1990s.[62]

The judicial system and the police also felt the full weight of mafia pressure, and ominous mafia messages were sent to local officials. In 1990

1000

Lo Presti threatened a police officer, proving that he was aware of the secret investigations directed at him. In 1991, another officer was suddenly transferred to high-density mafia territory in Calabria after having written an investigative report on Lo Presti. In 2000, the carabinieri station chief was charged with favoring criminal suspects but was later acquitted. The ruling acknowledged that he was conducting "friendly and improper relations" with Lo Presti. Several officers were also removed.[63] A woman who had testified against Lo Presti in the pretrial phase in 1999 later refused to confirm her statement at the trial, explaining in tears that she felt threatened and scared.[64] A solicitor who was a member of the town committee that dealt with building applications suggested an increase in the environmental fee (*onere di urbanizzazione*) to be paid by a construction company. When he returned home, he found a large knife stuck in his video-recorder. He immediately resigned, citing "health reasons."[65] Another "unreasonable" solicitor hired by the city council had the door of his house burned.[66]

To what extent did the high level of interpersonal trust and the potential for collective action function as a barrier to mafia entrenchment, as hypothesized in chapter 2? At first local politicians and trade unions resisted the mafia. Corino, the mayor of Bardonecchia between 1972 and 1978, and later an opposition politician, openly denounced the presence of the mafia in the town and rejected its offer of electoral support (he had been physically assaulted in 1963).[67]

The Turin section of the Construction Workers' Union alerted the authorities at its annual conference in Bardonecchia in 1972. In only one of sixty building sites were workers able to elect delegates to the conference, and only twenty people attended an antimafia trade union rally in Bardonecchia. Trade union officials were directly intimidated by phone in advance of their tour of the building sites in Bardonecchia and, once there, found that workers did not want to speak to them.[68]

The reaction of civil society was not sufficient to prevent the mafia from becoming entrenched. The `Ndrangheta was able to forge a vast social constituency among both migrant workers, who generally remained grateful for even illegal employment, and employers. The mafiosi extended their protection to other spheres of the social life of immigrant workers, who were often ostracized by the native population. Shrewdly, the mafiosi also offered protection to Piedmontese residents by punishing those Calabresi

1001

residents who misbehaved. For instance, they punished Calabresi who offended local women outside bars and nightclubs.[69] Their territorial control allowed the group to branch out and protect other criminal businesses, including arms trafficking, drug dealing, and money laundering. For example, a laboratory producing ecstasy tablets was found in Val Susa in 1994.[70] Ominous signs of the expansion of this mafia group were also highlighted by an investigation in the late 1990s into racketeering by construction companies in nearby towns.[71]

The step from a successful protection racket to the penetration of local politics was a short one. The mayor of Bardonecchia discovered that, by the time of the 1971 census, some three hundred people all originating from the area around Lo Presti's birthplace in Calabria had recently registered as residents in Bardonecchia. This number amounted to almost the entire increase in population since the previous census. As the voters numbered some fifteen to sixteen hundred adults, the newly registered residents could have accounted for up to 19 percent of the electorate (it is not known whether all the new residents were of voting age, although the mayor seemed to think so).[72] Lo Presti boasted in a phone call of controlling five hundred votes and influencing elections to the point where the majority of the city councillors were in his pocket.[73] He tells a candidate in another phone conversation: "We have never lost [an election]."[74] To a local paper he declares: "No administration [in Bardonecchia] is elected without the support of the southerners [*meridionali*]. I can tell you that I do not need to tell my friends how they should vote. They know my ideas and, if they love me, they know for whom they should vote."[75]

In 1975, the Turin court noted that a power struggle was under way between the incumbent mayor (Corino) and the Calabrese clan of Lo Presti. In 1979, a new administration was elected that was more favorable toward the Calabresi. Lo Presti himself declared, "Some days ago, [the new mayor] asked for help, and I helped."[76] In effect, the political coalition that won the elections in 1979 has been reelected ever since. A report produced for the prefect of Turin notes that in 1988, the mayor was voted for unanimously by both the winning coalition and the opposition councillors (mayors were at the time elected by the city council).

In 1994, Bardonecchia hit the national headlines. The mayor and other councillors were arrested for their involvement in the illicit allocation of construction permits (*speculazione edilizia*), unjustified variations to plan-

ning decisions, and undercharging for and underselling valuable land (it should be stressed that they were later acquitted at the appellate stage and had been compensated by the Italian state for the judicial error). The father of the mayor appears in the license records above. The land in question is Campo Smith, where the Smith brothers established the world record for trampoline jumping in 1911. In essence, the case involved underselling a valuable green area to a developer controlled by Lo Presti and then granting him permission to develop it. The land, estimated to be worth 1.6 billion liras in 1995, was sold for 17 million liras. The overall value of the development was later estimated to be 90 billion liras by the authorities investigating the case. The developers and contractors entrusted with the work included individuals sentenced for violent crimes and drug trafficking rather than bona fide professionals.[77]

This situation resulted in an unprecedented move for a town in northern or central Italy: in 1995 the president of Italy suspended the democratic process and disbanded the city council because of "mafia penetration."[78] Nonetheless, in the 1996 election the ticket that had supported the disgraced mayor campaigned for "continuity" and obtained almost 70 percent of the votes. Both the left-wing Partito Democratico della Sinistra and the right-wing parties supported this ticket, while the leader of the opposition reported pressure on one of their candidates during the electoral campaign. The 1996 administration included four individuals (among them the new mayor) who had served in the disbanded 1995 administration and had been under investigation. The 2001 administration was also a political heir of the disbanded 1995 local government; it included two individuals who had served in the 1995 administration and seven who had served in the 1996 administration. Despite presidential intervention, there was clear political continuity between these administrations.[79]

As in other mafia territories, Bardonecchia saw the emergence of a code of silence (*omertà*). Police officers and investigators "found among the population a very low propensity to help the authorities in their investigation."[80] In 1994, when the elected officer with the tourism portfolio was asked about his plans to keep the mafia out of local politics, he answered, "Our job is to manage local affairs; police officers (and there are plenty of them in town) should worry about the mafia."[81] Similarly the mayor, charged with being involved with the mafia, and son of the owner of the construction company, declared that "unlike my colleagues,

I don't play the policeman," and "we should be grateful to the soggiorno obbligato policy, which brought to our town people like Lo Presti and Mazzaferro."[82] After the 1996 elections the newly elected mayor stated, "We are cooperating with law enforcement to clarify what went on in the past, but, believe me, in town nothing ever went on, there were no connections between local politics and the mafia (assuming that the latter ever existed)."[83] As late as 2001, the mayor was still demanding a "public apology" from the state for disbanding the city council in 1995.[84] The mayor elected in 2001, in contrast, established links between his office and antimafia campaigners based in Turin and was supportive of the present study, although he belonged to the same political faction as the mayor who was under investigation, and considered the 1995 suspension of the city council futile and wrong.[85] The passing away of Mario Corino, the antimafia mayor of Bardonecchia, on February 2, 2010, went virtually unnoticed. Contrary to the extensive press received by Lo Presti for his death (including a full page in the national paper *La Stampa*), Corino's death elicited only two short articles in news bulletins with a local circulation in the Val Susa Valley. One such piece did not mention his efforts against crime and described him as a difficult man who, "for good or for bad," had an impact on his community. His courage went unsung.[86]

Collective action was now working in the opposite direction to virtuous social engagement, with people being mobilized in order to support mafia-tainted politicians. The parish priest of Bardonecchia organized a four-hundred-person march in support of the disgraced mayor, with the endorsement of the bishop, who himself went on record as saying, "I would deny the presence of the mafia in this area."[87] Both clergymen were later interviewed by the investigating magistrates about their roles in the march and claimed that they were simply supporting a group of parishioners who had "spontaneously" organized the rally themselves.[88] A march against mafia penetration into the North, organized by the Northern League in the town on May 27, 1995, failed to attract any support whatsoever, according to a police report from June ("indeed, the population even avoided being seen anywhere near the site of the march").[89] No other political party organized rallies of this kind. After the dismissal in 1995 of the local administration, *La Stampa* interviewed a number of casually selected residents and long-time vacationers; the former expressed their

support for the mayor, while the latter favored the presidential measure, indicating some local support for the criminal state of affairs.[90]

Was social capital depleted as a consequence of the mafia penetration, as predicted by Putnam's work? If one measures social capital as voting in referenda and the European elections—where the constituency covers the whole of northern Italy and thus the link with a specific candidate is rather loose—the answer is negative. For instance, in 1979, 85.13 percent of the electorate voted in the European elections, virtually identical to the turn out in Turin Province (87.09 percent) and the northwest electoral constituency (88.75 percent). Similarly, in the last referendum (2009), although the turnout in Bardonecchia (25.52 percent) was lower than in Turin Province (36.87 percent), it was higher than in other Piedmontese provinces, such as Asti (17.78 percent), Cuneo (23.92 percent), and Verbano-Cusio-Ossola (15.46 percent).[91] Mafia presence does not seem to have led to a drop in civic engagement as measured by electoral turnout.

Connections exist between the homeland and the groups operating in Piedmont. In order to gain entry into the Bardonecchia `ndrina, a would-be member had to travel back to Calabria to undergo the initiation ritual.[92] This suggests that the mafia of Bardonecchia is a branch of the Mazzaferro family rather than an independent entity. Other evidence of connections exists. Piedmontese clans are expected to assist fugitives from Calabria, support other members imprisoned in the region, distribute drugs, and more generally invest capital from Calabria in the legal economy.[93] Construction companies in the two valleys—Val Susa and Canavese—have been found guilty of laundering drug money from Calabria, with the help of local professionals.[94] ("It is easier to launder money through a construction project," maintains a police investigator who has worked on Bardonecchia extensively, "than to invest it in immovable property, as there are many expenses, many of which can be settled informally, without issuing official invoices.")[95] Giuseppe Ursino, the cousin of the Ursini-Scali family boss based in Gioiosa Ionica and Lo Presti's nephew, was arrested in Bardonecchia in 1993, along with another fifteen Calabresi who had settled in the Turin area.[96]

Other mafias have also made an appearance in Bardonecchia. In the 1970s, some members of the Sicilian and U.S. mafias tried to enter the construction industry—in particular members of the Gambino and

Spatola families—but they were eventually dissuaded by the `Ndrangheta and left town, according to confidential police reports. A summit involving Calabrese, Italian American, and Sicilian mafiosi was to take place in the town in 1975, but it was canceled at the last minute, possibly because it was known that the police would have raided it. Still, contacts with the U.S. Gambino family and the local `Ndrangheta continued, and relationships remained friendly. In the 1990s, Sicilian fugitives passed through town and a boss, Salvatore Inzerillo, resided there for a few months. An as-yet-unpublished piece of evidence alleges that Totò Riina, the so-called boss of bosses of the Sicilian mafia, visited Bardonecchia as he was interested in investing money in construction. He disappeared before he could be arrested and remained a fugitive for several more years.[97]

To conclude, the story of the `Ndrangheta in the Val Susa Valley is closely linked to the expansion of construction in the 1960s, which brought significant profits to a vast part of the population. Local firms could not meet the demand for new homes and started to hire illegally, through Calabresi fixers, unemployed immigrants who had moved to Turin. New firms from Calabria also entered the market at the suggestion of Calabresi who had found themselves in Bardonecchia due to the soggiorno obbligato policy or had simply started to work in the construction sector. Neither this large workforce nor its employers could turn to the state to settle any disputes that might have emerged. Moreover, the Calabresi involved in the labor racket began to offer criminal protection to both workers and employers as well as enforce a cartel of market incumbents. Violence was used to force some firms out of the booming construction sector. Over time, individuals who were favorable toward the mafia penetrated politics. Initial high levels of trust did not prevent transplantation. It is hard to tell whether trust was depleted as a consequence of the arrival of the mafia, but surely civic engagement (as measured by voting in referenda and the European elections) remained high. Portions of civil society even mobilized in support of mafia activities.

To fully understand why the `Ndrangheta succeeded in becoming entrenched in Bardonecchia, one needs to compare this case to another instance where the `Ndrangheta tried but failed. To find a comparable city is a challenge. First, the city in question must be in a part of the country

1006

that is as similar as possible to Bardonecchia in as many ways as possible (so that we can discount them) while at the same time having been subject to such an attempt. An added complication is that, typically, information on failed cases is harder to come by.

The `Ndrangheta in Verona

The journey from Reggio Calabria to Verona is almost as long as the one to Bardonecchia, and the Northern city could not be more different from the one in Calabria. Instead, Verona and the Veneto region share many features with Turin and Piedmont. Putnam's Civic Community Index puts Veneto—like Piedmont—among the most civic regions of Italy. Verona sports an array of positive indicators, such as the highest gross domestic product and highest disposable income in Veneto, virtually full employment, high levels of cultural consumption, and one of the lowest crime rates in Italy.[98] It is world famous for the opera season at L'Arena running every year from June to August, and for the setting of the doomed love story *Romeo and Juliet*. In a street just off the main square, Piazza delle Erbe, stands a house falsely claiming to be Juliet's home. A short passageway covered with slips of paper containing love pledges leads to a narrow and always-crowded courtyard. Above one's head towers Juliet's balcony, while a bronze statue of William Shakespeare's heroine occupies the center of the paved *cortile*, one breast shining indecently as a result of the thousands of hands that have touched it for luck.

And yet Verona is a city that does not live in the past. The economic structure of the district changed after the Second World War from being mostly agricultural and based on sharecropping to being export-led, competing successfully in international markets for goods that require a high level of craft and skill, such as wooden furniture, footwear, engineering, wine, confectionery, and graphic design.[99] Pino Arlacchi and Roger Lewis, the authors of a study on drug consumption in Verona, describe the city as a tight-knit community where informal social control is exercised by "the bar owner, the newsagent, the teacher, the priest, the doorman, parents, and women talking on their door steps."[100]

Verona's population grew dramatically in the period 1951–81 as a result of immigration. Between 1951 and 1961 the net population increased from

185,482 to 215,733, with immigrants making up 34 percent of the total population by 1961.[101] Overall, in the period 1951–71, the population of the city grew by 29.2 percent (slightly more than the figure for northeastern Italy, which was 27.2 percent in the same period). Despite the rise in population, however, the demographic makeup of Verona did not change as it did in Turin. As shown in table 3.2, more than 93 percent of the 1951 population was born in the city or the Veneto region, 13 percentage points more than the equivalent figure for Turin. Still, the divergence between Verona and the other cities discussed above is even more striking in the succeeding decades. In the 1961 census, Turin, Milan, and Rome had between 26 and 33 percent of people born outside the region, while Verona had just 7.6 percent. By the 1981 census, Verona had almost 90 percent of residents born in the same region, roughly 20 percentage points more than in Milan and Rome, and 30 percentage points more than in Turin. Throughout the period covered in table 3.2, the number of residents originating from Calabria, Sicily, and Campania was negligible.

Where did the new residents of Verona come from? In contrast to the pattern experienced in Turin, Milan, and Rome, the new residents of Verona came from the surrounding region and mainly consisted of agricultural workers seeking better employment in the local factories. These immigrants managed to find employment in local industries. At this time there was a net increase in the supply of jobs relative to demand, and the rate of unemployment remained low and also considerably lower than the Italian average.[102]

As in the case of Piedmont, several members of `Ndrangheta families had been forced to resettle in Verona during the 1960s and 1970s through the same soggiorno obbligato policy described above.[103] In the period 1965–74, some one hundred people moved to the province for this reason. Not all of them had been found guilty of mafia crimes. For instance, in February 1974, out of sixteen such felons residing in Verona, only four had been found guilty of mafia-related crimes in the South.[104] Another source of people trained in the use of violence and specific to Verona was the vast contingent of neofascists, who over the years had been involved in, and charged with, several violent crimes. In particular, the neofascist Ordine Nuovo was founded in Verona, while most members of the Rosa dei Venti and the Nuclei Armati Rivoluzionari, two other extreme right-wing groups, lived in Verona. Veronese neofascists were questioned and

1008

investigated in connection with the bomb placed in Brescia in May 1974 that killed eight people and injured more than a hundred.[105]

The only significant illegal market in Verona in this period was that for drug consumption and trafficking. Some 10 percent of young people used drugs regularly. According to police estimates, roughly eight thousand people were habitual consumers in the late 1970s.[106] Consumption and trading were rather open, involving local youths influenced by the revolution in personal behavior of the late 1960s. In 1974, police raided an apartment where teenagers openly smoked and traded hashish (it was reoccupied shortly afterward). Most business occurred in Piazza dei Signori and Piazza delle Erbe, both central city squares not far from Juliet's balcony.[107] Arlacchi and Lewis estimate that up to 60 percent of those involved in heroin use and trafficking in Verona at that time were educated, self-employed proprietors, or managers of small businesses, and came from relatively well-off families. In other words, operators in the market belonged to the same social milieu that had given rise to a flourishing economy, and adopted the same norms of fair dealing and commercial practices that characterized the legal sectors of the economy. Transactions in the illicit drug market took place according to shared rules of fair bargaining, and punishment took the form of exclusion from future exchanges as well as refusal to offer credit and discounts. In addition, a significant level of barter and individualized exchange took place, and no third-party mechanism to punish defectors existed. Most of the arrests of both consumers and local traffickers were for direct violations of drug laws rather than violent crimes connected to the drug trade, and most of those arrested were sent to prison only once rather than being repeat offenders.[108]

Operators in the drug market seemed able to satisfy the growing demand. At first, supplies of morphine and heroin arrived in the city with users who had visited Bangladesh and Pakistan in the early 1970s. In a matter of a few years (1974–75), individual consumers, small-time local traffickers, and consumers' cooperatives started to buy heroin that came from southeast Asia via Amsterdam and Munich, and from the Middle East via Yugoslavia. Over the following years the quality of the product increased, as did the sources of supply (between fifty and eighty kilograms were sold monthly in the city, according to police estimates).[109] A Communist Party official at the time and antidrug activist, Dino Facchini, recalls an aspect of the heroin transportation routes into the city:

1009

> A significant element facilitating drug trafficking was the Interporto terminal. The terminal provides infrastructure for freight activity, making available multiple modes of transport. In essence, it means that goods may arrive by different means—say, by rail—and then be loaded onto trucks. The Interporto is located at intersection of the Brenner (north-south) and Serenissima (east-west) turnpikes, and is directly connected to the Verona airport. There is also a customs office. More than four hundred companies have offices there, and it employs some four thousand people. I know this well because I served for several years on the board of the Interporto [board members are political appointees]. Thus, the heroin was arriving from Eastern Europe by truck and by rail, was going through the terminal, and then entered the rest of the Italian market.[110]

Suddenly, Verona found itself at the center of an international drug route, and its heroin, the so-called La Veronese, acquired a national reputation as cheaper and purer than many other variants. Local consumers introduced trusted outsiders—especially consumers based in the surrounding towns—to sellers, and the market gradually spread to the rural areas.[111] As this illegal market was expanding, the number of people under eighteen years of age charged with drug-related offenses actually dropped in the period 1970–87.[112] Prior to the arrival of the Calabresi, violent conflict was virtually absent, as evidenced by the data on murders: the rate in Verona city was lower than the average of the Veneto region, and six times lower than the national average.[113]

A colorful character from this time is a young local lad, thin with pockmarked cheeks, best known by his nickname, "Gengiva" (Gum). He is credited with having introduced considerable quantities of heroin into the city over a twenty-year period. A carpenter by trade, he started his career—after a brief spell as a bank robber—with other like-minded locals, also known by their nicknames, such as "Camay," "Gancio" (Hook), "Bistecca" (Steak), "Gamba" (Leg), "Perry," "Elio il bello," and "Volante d'oro" (Golden Wheel). In his time, Verona came to be known as "the Bangkok of Italy," and the long line of cars visiting the city from all over northern Italy to buy heroin was dubbed "the Ho Chi Minh Trail."[114]

In the 1970s, the Calabresi in town decided to muscle into the legal and illegal markets. As early as 1973, they began trying to extract money

1010

from legal entrepreneurs. For instance, in early January 1974, in the city of Ronco, near Verona, several prominent entrepreneurs and politicians received threats and demands for money.[115] In the eastern and southern parts of the province of Verona, home to successful export-oriented furniture makers, police uncovered extensive extortion. Some one hundred thefts of trucks carrying furniture reportedly took place in 1973 alone. The Calabresi claimed that they could offer protection against such occurrences.[116] Violence and crime increased in this period, with businesspeople in particular experiencing a rise in intimidation, robberies, and homicides.[117] Answering a confidential survey administered to two hundred local entrepreneurs, 38.2 percent of the respondents stated that extortion was "common," 9.3 percent stated that it was "all-embracing," while 45 percent declared it was "limited." Only 4.6 percent answered that the phenomenon did not exist in Verona.[118]

The Calabresi also tried to gain control of the drug market by using violence against existing traders and establishing direct links with suppliers. Six murders connected to disputes in the drug market took place in rapid succession. One of the victims was murdered mafia style (*incapretare*). This involved tying his hands and feet behind his back with a rope that also went around his neck; death came as a result of self-inflicted strangulation.[119] The large drug suppliers whom the Calabresi contacted (Sicilian mafiosi and Turkish heroin suppliers) demanded payment in cash on consignment. Since the Calabresi faced a chronic shortage of funds, they decided to raise capital by kidnapping wealthy Veronesi for ransom, relying on their region of origin for hiding places. Ten Veronesi were kidnapped between 1974 and 1978.[120]

The key organizer of the transplantation attempt was Cosimo Ierinò, a prominent member of the Mazzaferro clan, born in Gioiosa Ionica, the Calabrian hometown of Lo Presti. Like Lo Presti, he was related to the Mazzaferro, having married the sister of Vincenzo and Giuseppe Mazzaferro. In a curious twist, Ierinò disappeared from Verona for a while and surfaced in Bardonecchia. Other prominent individuals involved were two sets of brothers—the Corsaro and Camera brothers.[121] The group recruited local petty criminals and neofascist activists in an attempt to create a protection racket and control the lucrative drug trade. They planned to establish a system of concessions whereby a set of local criminals (thieves, con artists, extortionists, pimps, and smugglers) would be identified and put in charge

of a given territory, encouraged to extract protection payments from local businesspeople, and forced to hand over a portion of their earnings to the Calabresi. The Calabresi, in turn, would offer services such as dispute settlement, refuge and hiding places for people and illegal goods, and the intimidation of political and law officials. As part of this strategy, they started to hand out bribes to local law enforcement and party functionaries.[122]

A clear attempt to penetrate politics is also on record. Several drug dealers and other individuals from Calabria became card-carrying members of the tiny Partito Social Democratico Italiano. Shortly thereafter they were elected to positions of responsibility within the party. Reputedly, the local party leader, also from Calabria, was supporting them. Their acceptance into the party and rapid rise through the ranks generated internal opposition, resignations, emergency meetings, and alarm in the city.[123]

Violence spread beyond the drug market. The highest-profile murder at this time was that of Fabio Maritati, the son of a police officer, possibly a case of mistaken identity (the real target was his father), on December 21, 1979. The murder was related to Maritati's investigations into truck thefts (he was with the transport police). At the trial, it transpired that another police officer had helped the killers.[124]

As in the case of Bardonecchia, civil society was quick to mobilize against outside criminal elements. At the forefront of this grassroots movement were the Catholic church, the local chapter of the Italian Communist Party, and the newly created Association of Concerned Families against Drugs.[125] A large rally against drugs and organized crime took place in December 1980, and some ten thousand people signed a petition to the same effect in 1981.[126] At the instigation of the Communist Party, an even larger and televised march of protest, attended by the speaker of the House of Representatives, was organized for October 1982.[127] All local political leaders (with the exception of the neofascist Movimento Sociale Italiano) denounced drug dealing, and resolutions were passed in the city and provincial councils in support of the fight against organized crime.[128] The local paper, *L'Arena di Verona*, rallied behind the efforts to free the city from these criminals, and ran several features openly opposing the presence of the Calabresi in town, often using bigoted language.[129]

Local campaigners were targeted and violence was used against them. On December 8, 1980, the editor of *L'Arena di Verona* was the victim of an attempt on his life.[130] Members of the Association of Concerned Fami-

lies, a priest, and Communist activists were all threatened, affronted, and physically attacked.[131] In contrast to the outcome in Bardonecchia, however, the concerted pressure of civil society on both the police and judiciary yielded tangible results—namely, the removal of officials and politicians who had accepted bribes from the mafia.[132] The attempted penetration of the Partito Social Democratico Italiano was short-lived. Unable to control a significant share of votes in a city much larger than Bardonecchia, the Calabresi were unable to influence the outcome of elections.

By the mid-1980s, the long-term plan of establishing a protection racket and controlling the drug market in Verona had failed. Ierinò, for instance, resumed his activities in Calabria and was eventually arrested in 1995. In the meantime, the drug market continued to flourish according to the rules of fair bargaining and reciprocity described above, and was being run by entrepreneurs beyond suspicion.[133] For example, in February 1988, the police intercepted eighty-five kilos of pure heroin, with a street value of 150 billion liras (or US$128,000,000). The masterminds of the traffic were a former postal worker, a wine producer, and the owner of a livery stable. An in-depth newspaper investigation concluded in 1988:

> Going over the occupations of those arrested for drug trafficking, one often comes across hairdressers, manicurists, small entrepreneurs, pasta makers, bar owners, door-to-door salesmen, individuals with regular jobs. And entire families, spanning from grandfathers to grandchildren. Reportedly, a couple of years ago local entrepreneurs even formed an investment company to collect funds to invest in the heroin traffic, with a 30 percent guaranteed return.[134]

For his part, Gengiva returned to drug trafficking in Verona. In 1988, the police found some eighty kilos of heroin in one of his villas. In 1994, he realized that his luck had run out—a police officer who had helped him throughout had just been arrested for favoring criminals—and flipped, revealing the ins and outs of the local drug market. Courtesy of a local veteran crime correspondent, I met Gengiva in 2005. Excessive drug and alcohol consumption had taken their toll on his health. He was spending most of his days sitting at a central café, just opposite the Arena, not far from Piazza delle Erbe. Gaunt, with darkened teeth and scant hair, he wore dark glasses and was dressed smartly. He willingly recounted some details

of his previous life, but mainly evoked for me the many places that he had visited in the Far East and the many properties that he had acquired. Gengiva had also grown wiser. In heavy Veronese dialect, he said that it is not worthwhile misbehaving in life, as you will pay for it in the end. Frail and ailing, he died in 2008, at age fifty-three.[135]

A combination of factors accounts for the Calabresi failure at transplantation. First, the new immigrants found official employment in the local industries. In the legal markets, extortion was directed at export-oriented firms that were not in direct competition with each other. In contrast to the case of Bardonecchia, employers would not benefit from the creation of a cartel of a few locally based firms to exploit a local market, since they were mainly exporting their goods to diverse markets in northern Europe and the United States. The service offered by the Calabresi turned out to be purely extortionary. Collective action, fostered by an active civil society, thereby became more effective than in Bardonecchia.

One would expect that the expanding drug market in Verona shared key features with the expanding construction market in Bardonecchia, giving rise in both instances to a demand for mafia-type protection. Furthermore, the drug market was illegal, thus there were no legal competitors who could have stepped in. And yet the Calabresi failed to control the market. There are at least three key differences between the two cases. First, in Verona the dealers had emerged from the same local milieu as the consumers, felt a common connection to the radical behavioral revolution of the 1960s, knew each other well, and relied initially on trust but then, as the number of market actors grew, rules of fair bargaining and cooperation in their exchanges. They did not need a third-party enforcer of deals. The makeup of the market actors is markedly different from the poorly educated and unemployed immigrant workers living in squalor in Turin and needing the Calabrese fixer to find employment.

Second, in Verona—as in other instances—the mafia found it impossible to create bottlenecks to channel the supply of drugs into the city.[136] The Calabresi could not offer local dealers access to particularly attractive new sources of supply, as Turkish and Sicilian mafiosi did not enter into exclusive deals with one distributor. In Bardonecchia, by contrast, construction firms arrived from Calabria to offer employment to the immigrant workers.

Third, dealing in drugs is not an activity tied to a fixed place, as in the case of construction. Construction sites provide a focus for violence, as did bars during Prohibition in the United States.[137] The Veronesi were able to elude mafia attempts at controlling their activity, moving distribution to different areas while continuing to sell to customers with whom they had developed long-term relations of cooperation. Local dealers did not need or demand Calabresi protection in the illegal market.

Conclusions

In light of the different outcomes of the `Ndrangheta attempts at transplantation in the two regions, I can draw some general considerations. Table 3.4 summarizes the key factors that the two cases share and those that distinguish them (it also includes columns that will be filled as I cover the other cases in this book).

Supply. Immigration impacted the two locales differently. Verona experienced significant arrivals, like Turin, Rome, and Milan, but in contrast to the case of Turin, immigrants found employment in the expanding local economy. No pocket of poorly housed immigrants far away from their structures of support existed in Verona at this time. A second difference is that immigrants were from the region of Veneto, rather than from the South.

The comparison between Bardonecchia and Verona reveals that in both cases, mafiosi from Calabria were forced to resettle in these regions, but only in Bardonecchia did they succeed in realizing their long-term criminal goals. Moreover, other parts of Piedmont and northern Italy experienced an influx of a similar or higher number of individuals forced to migrate due to the soggiorno policy, yet mafias did not emerge everywhere. A supply of specialized criminals (as distinct from generalized migration) is not enough to produce successful transplantation. As for ex ante motivations to expand, I found no evidence that the incoming mafiosi arrived in order to obtain special resources, invest in the local economy, or colonize a new market. Mafiosi did invest *after* they had been forced to migrate there, but this was not the reason that they migrated.

Local conditions. A high level of interpersonal trust and civic engagement is present in both cities. It is hard to tell conclusively whether trust was

Table 3.4

Factors Facilitating Mafia Transplantation, Bardonecchia and Verona

Factors facilitating mafia transplantation/cases	*Bardonecchia*	*Verona*	*Budapest*	*Rome*	*New York City (1910–30)*	*Rosario (1910–30)*	*Shenzhen/ Guangzhou*
Generalized migration	Yes	No					
Mafiosi migration (willing/unwilling)	Yes (unwilling)	Yes (unwilling)					
Supply of mafiosi	Yes	Yes					
Local conditions							
Level of trust/civic engagement	High	High					
Presence of local illegal protectors	No	No					
Size of locale	Small	Large					
New and/or booming markets*	Yes	Yes					
Demand for mafia services	Yes	No					
Transplantation	Yes	No					

* The markets considered are construction (Bardonecchia and Rosario), drugs (Verona and China), property rights (Budapest and China), oil (Budapest), alcohol (New York City), gambling (New York City and China), and prostitution (China).

depleted as a consequence of the success of the `Ndrangheta in Bardonecchia. Surely, voting in referenda and the European elections (where the constituency covers the entirety of northern Italy) continued to be high, and mobilization took place in order to defend the mafia rather than oppose it.

One might ask if the effectiveness of law enforcement could account for the diverging outcomes. There is no evidence that the police and judiciary were less efficient in Turin Province than in Verona. In both cases, I found instances of occasional corruption within law enforcement. Indeed, in the case of Verona, a corrupt police officer was behind the murder of a colleague who was investigating cargo thefts. The judiciary in both locales put pressure on the mafia, instructing several trials since the 1970s. (As for the existence of local protectors, no homegrown mafia existed in either Bardonecchia or Verona, unlike cases that I will explore later in this book.)

Verona is a significantly bigger city than Bardonecchia. The penetration of politics is, ceteris paribus, easier the smaller the locale. According to his own estimate, Lo Presti controlled five hundred votes in the Piedmontese town. That portfolio of votes was enough to elect a sizable section of the city council. The same five hundred votes would have had a less dramatic impact in Verona, where the Communist Party alone could count on fifteen thousand card-carrying members. The structure of the economy also differed. Verona was an export-oriented economy, and thus we would expect it to be less susceptible to mafia efforts to offer services of cartelization. The Bardonecchia economy experienced an economic boom in a local market, where mafia services aimed at reducing competition would have benefited market incumbents in significant sectors (see the "new and booming market" condition in table 3.4).

In short, a combination of factors account for the outcome in the Piedmontese town—that is, large-scale migration from outside the region combined with illegal employment in a localized booming market of a small town and the presence of a small supply of `Ndranghetisti forced to reside there. The migrant workers accepted illegal employment, and thereby deprived themselves of trade union and more generally state-sponsored protection. If they had acted differently, they would have remained unemployed. Construction firms benefited from the muscle offered by the `Ndrangheta in pushing out competitors. A demand for criminal protection allowed the `Ndrangheta Mazzaferro clan to offer its services and

entrench itself in a faraway territory. Contrary to what some authors might have predicted, the levels of trust and social capital among the population at large did not in themselves prevent transplantation.

A booming illegal market does not always generate a demand for criminal protection. In Verona a mafia failed to take root in a large illegal market, where by definition traders cannot turn to the state in case of disputes. This reflects a combination of three factors. First, traders and consumers knew each other, and had entered into long-term relations of cooperation. A third-party enforcer of deals was not necessary; a customer who defected simply would not be served the next time around. Second, the Calabresi had no particular connection to drug suppliers and could not force local dealers to use their sources. Third, selling drugs is a more mobile type of economic activity than erecting a high-rise building. To the extent that the Calabresi tried to force dealers operating in a given area to hand over a cut to them, the latter would simply have moved elsewhere.

Let me offer a final word on the relationship between the outpost and homeland in Bardonecchia. There is no evidence that the Calabrese bosses were paying a salary to Lo Presti or other mafiosi in Bardonecchia. However, the outpost was not fully independent, as indicated by the fact that it did not have the power to carry out initiation rituals. New recruits had to travel back to the homeland to join the organization. What accounts for this relatively close relationship? The explanation lies in the pre-eminence of money-laundering: Calabrese firms operating in Bardonecchia were a conduit for investing money obtained by the `Ndrangheta in Calabria. Since capital was coming directly from the cosca in Calabria, the group of origin retained a relatively strong connection with the outpost.

FOUR

The Russian Mafia in Rome and Budapest

The Solntsevskaya

Solntsevo is a rundown, working-class district of Moscow, located in the western and southwestern parts of the city. Lying outside the MKAD, Moscow's equivalent of Washington's Beltway or London's M25, the inhabitants of central Moscow would never venture into this depressed zone of the outer city, and many would not even consider it part of the Russian capital.[1] The intrepid traveler who still wants to visit Solntsevo must spend no less than an hour on the orange metro line that leaves from the center of town and then, once they have reached the end of the line, board a city bus. The area used to host a pleasant spread of dachas until the Soviet authorities decided to construct several impersonal high-rise buildings. Possibly in recognition of the fact that skyscrapers obscure the sun, the district was named after the Russian word for sun (*solntse*) when it was officially established in 1938. As in other instances where the object does not fit the moniker, the English rendering of Solntsevo is Sunnyside.

This district has given its name to arguably the mightiest organized crime group to emerge from the wreckage of the Soviet Union, often referred to as the "Solntsevo fraternity" (*Solntsevskaya bratva*). The founder of the fraternity, allegedly, is Sergei Mikhailov, a respected businessperson and patron of the Orthodox Church. Nowadays, you can see pictures of him wearing a tweed jacket and tie, perfectly shaved and groomed, with serious yet quizzing eyes glaring into the camera. He was born into a modest working-class family in February 1958 and raised in Solntsevo. As a young



Five-story apartment houses on Glavmosstroy Street, Solntsevo, Moscow. Photo credit: Artem Kostyukovsky.

man, Mikhailov trained to be a maître d'hôtel at the Sovietskaya Hotel in central Moscow while cultivating his other passion: wrestling. In 1984, he was found guilty of insurance fraud (he stole his own motorbike) and spent several months in custody. After receiving a conditional jail sentence, he returned to Solntsevo, and started setting up sports clubs and organizations to which he recruited the tough, unemployed, and aggressive young men living in the district.[2] He joined forces with a former prison inmate, Victor Averin, to create his own gang, and named it after the district. It was only with the spread of the new post-Soviet market freedom that the Solntsevskaya became a significant player in the Russian underworld. In order to fend off a major challenge from Chechen groups, Mikhailov joined forces in 1989 with Sergei Timofeev. Nicknamed "Sil'vestr" after Sylvester Stallone for his muscular build, Timofeev was the leader of the Orekhovskaya gang comprising mainly young sportsmen and wrestlers. By the mid-1990s, the Solntsevo had grown in strength. A Federal Bureau of Investigation (FBI) report in 1995 described it as the most powerful

[162.10.217.184] Project MUSE (2026-06-15 01:44 GMT) University of Queensland



Sergei Anatol'evich Mikhailov (b. 1958), the founder, allegedly, of the Solntsevskaya bratva in Moscow. He is now a respected businessperson and patron of the Russian Orthodox Church. Photo credit: News Agency Thompson Reuters.

Eurasian organized crime group in the world in terms of wealth, influence, and financial control.[3] The core of its business was protection, or what in Russian is termed "roof" (*krysha*).[4]

Estimates of the size of the brotherhood (possibly exaggerated) range from five to nine thousand members. The group comprises no fewer than ten semiautonomous brigades (*brigady*), which operate under the umbrella name of Solntsevskaya. The Russian police claim that it controls various banks along with about a hundred small and medium-size enterprises. Although little is known of the inner workings of the group, former members have claimed that the organization is governed by a council of twelve individuals, who meet regularly in different parts of the world, often disguising their meetings as festive occasions. The Solntsevskaya maintains a common fund (*obshchak*), which is reinvested into the legal economy through a number of banks that work for the organization, with members

of the organization's council overseeing the investment decisions. At one point in its history, this mafia set foot on the Italian peninsula.

The Solntsevskaya in Italy

Fano is a sleepy beach resort on the Adriatic Sea, in the Italian region of Marche, a few kilometers from the more prestigious cities of Pesaro and Urbino. Among its few historical claims to fame is having been invaded by Cesare Borgia, the man who tried to create a state of his own in central Italy in the late fifteenth century and was the main subject of Niccolò Machiavelli's *The Prince*. The city was bombed heavily during the Second World War by Allied troops, while the Nazis destroyed its historical towers and bridges (the Gothic Line stopped here). The center of the town still retains its pleasant character, with the spread of cafés and hangers-on one would expect on a warm day in a town in this part of the world. Besides tourism and small-scale fishing, family-run firms producing shoes, hosiery, furniture, and home furnishings abound, frequently supplying their products to big European brands. Professors at the local university contend that a special "Marche model" of economic development characterizes the area.

Fano is also where two mobsters, Monya Elson and Yossiff Roizis, had come to live in the 1980s and 1990s. Their arrest in 1995 started a chain of events that led to several investigations in the United States and Italy, revealing the presence of the Solntsevskaya in Rome. Monya Elson, a native of the Jewish ghetto in Chisinau (Kishinev), the capital of Moldova, had migrated to New York City in 1978, claiming Jewish preferential status. When he arrived in the United States, he continued to exploit his Jewish identity. He would dress up as an Orthodox Jew and, with an accomplice, walk into a jewelry shop, asking to see expensive diamond stones. While his accomplice blathered in Yiddish, distracting the shop owner, Elson, sporting a paste-on beard, side curls, long black coat, and black hat, switched the diamonds with cubic zirconia. He soon graduated to more serious crimes, including extortion and murder. His rise in the Russian underworld brought him into contact and then conflict with a prominent Russian drug dealer, and then with Viacheslav Ivan'kov, nicknamed "Yaponchik," the Solntsevskaya boss who had escaped to New York.[5] In order to avoid being murdered, he fled to Fano, where a Ukrainian with a U.S. passport, Yossif Aronovich Roizis, had been living since the mid-



Pallbearers carrying entrepreneur and *vor-v-zakone* Vyacheslav Ivan'kov aka Yaponchik's casket to his grave in the prestigious Vagankovskoye Cemetery, Moscow, on October 13, 2009. Photo credit: RIA Novosti News Agency.

1980s. Roizis had started an import-export business of furniture between Italy, Brooklyn, and Russia. Allegedly, Roizis and Elson had met in Budapest at a gathering of associates of the Solntsevskaya.

The Italian police were keeping an eye on Roizis, who had previously been charged with drug offenses (but never convicted) and was receiving money from exotic locations, including New York and Russia, into his account at the Banca Popolare dell'Adriatico di Pesaro, not quite a renowned investment establishment. The U.S. institution at the center of the unexplained money transfers to Roizis was the Bank of New York, eventually the subject of an investigation that made headlines around the world in the late 1990s when two Russian émigrés working at the bank—one was a vice president— illegally moved more than US$7 billion via hundreds of wires. Nine people were eventually prosecuted.[6] At the same time, Elson was wanted in New York for murder and, at the prompting of the FBI, the



Sharply dressed mourners entering the church for Ivankov's funeral. Photo credit: RIA Novosti News Agency.

Italian police closed in. In the early hours of March 8, 1995, they stormed through the door of Roizis's apartment and arrested the two men.

Shortly after his arrest, Roizis began to cooperate with the authorities. In a startling development, he informed them that, in a small seaside resort just outside Rome, a prominent member of the governing body of the Solntsevskaya, *Ivan Yakovlev,* had been in residence since October 1994 (some documents relating Yakovlev to Elson were found in Roizis's apartment). A special unit of the Italian police was quickly assembled and started an undercover investigation of this cell of the Solntsevskaya in Rome, lasting three years (1995–97) and resulting in a three-volume report that was to be used during the trial. The document contains hundreds of pages of transcripts of telephone conversations between Italian and Russian criminals, checks on money transfers, international financial operations involving banks in London, Budapest, Vienna, New York, and Rome, property speculations in Italy, and individual files on some forty-five people. For each individual, the file contains information concerning

their various aliases, passport details, residencies, travels, ownership of real estate, and information collected from other police forces. These people include members of parliament in both Italy and Russia, political leaders in Russia such as a governor, lawyers, executives of various banks in Rome, Moscow, and Saint Petersburg, a general of the Italian army, the former deputy head of one of Italy's oil and gas concerns, former KGB officers, a colonel in the North Korean army, the Russian government's undersecretary of state for energy, police officers, and embassy staff in Rome. The companies involved include car and computer manufacturers as well as Russian oil companies. This source paints an elaborate picture of the operations and objectives of the group.

The end point of this investigation was October 1996, a few weeks after the murder narrated in the introduction of this book, when Sergeev, a business associate of Yakovlev, also operating in Rome, was gunned down in Moscow. The Italian police wrapped up the investigation and sent the results to the prosecutor. The main players were subsequently arrested. It transpired at the trial that the police did not have the correct authorization to collect evidence, especially wiretapping evidence. This technicality prevented the prosecutors from using the material that had been collected, and the court case collapsed.[7] The Russian protagonists of this story were nevertheless expelled from Italy and later resurfaced in Moscow. Thus the reader must remember that the people discussed here have not been convicted of any crime in Italy. In order to protect their identity, all names have been changed. Some place names have also been changed.

As for chapter 3, I start by reviewing whether Rome was ever a destination for Russian immigrants. During the 1970s, the Italian capital was a transit zone for Russians of Jewish origin on their way to the United States.[8] At this late juncture in the Cold War the Soviet leader, Leonid Brezhnev, sought to improve links with the West, in particular the United States. In a move bitterly opposed by U.S. president Richard Nixon and U.S. secretary of state Henry Kissinger, the U.S. Democratic senator Henry Jackson succeeded in linking the status of "most-favored nation" to the issue of Jewish immigration. In 1975, U.S. president Gerald Ford signed the Jackson-Vanik Amendment into law. Brezhnev obliged the senator and started to allow a number of Russian Jews to emigrate.[9] In a hideous twist,

the Soviet government made sure that its worst criminals were among the "Jews" allowed out of the country. The route that the migrants took was rather complex. Normally, they would go to Vienna and then be moved to other distribution centers. One such transit camp was located in Ladispoli, a town thirty kilometers from Rome on the Via Aurelia, the highway built originally in Roman times that links the Italian capital to Pisa, now known also as Strada Statale 1. The camp was run by the Lubavitch movement and the American Jewish Joint Distribution Committee. While in Rome, the Russians applied for a visa to the United States.

In the late 1970s and 1980s, there were several thousand Russians in the Ladispoli camp at any one time.[10] Exasperated by the long delays, they organized protests directed at the U.S. embassy. They also ventured out of the camp and engaged in small commerce. Once a week, the camp residents would go to Rome, squeezing on to the local buses and converging on Vittorio Square in the Esquilino neighborhood, not far from the railway station, and on Sundays they would go to Porta Portese. Throughout the 1980s, the famous Porta Portese flea market had a so-called Russian area (*la zona dei Russi*), where refugees would sell objects smuggled out of the Soviet Union. The area has since been taken over by Chinese sellers.

Monya Elson was one of those Russian Jews who transited through Ladispoli in 1978, after a brief spell in Vienna, equipped with a visa for entry into Israel. He was in the town for three months where—in his free time—he pick-pocketed the locals in order to buy designer clothes for his wife and daughters.[11] A newspaper investigation dated 1977 confirms that Italians were exasperated by the petty crime undertaken by some of the refugees and records instances of racist slurs directed at them.[12] Camps such as the one in Ladispoli proved to be excellent recruiting grounds and networking centers, where gangsters on their way to Brighton Beach met gangsters bound for Antwerp, Brussels, or London. Once they arrived at their new destination, they had a ready-made set of friends to whom they could turn for advice as well as an international network.[13] By 1991, the United States stopped awarding the status of refugee to Russian Jews, who could now apply to move to the United States directly from Moscow. This type of migration left virtually no trace in Rome, but the physical proximity of so many criminals had far-reaching consequences, never recognized at the time.[14]

The post–Cold War phase of Russian migration to Rome involved few individuals. Immigrants residing in the city in 1997 numbered no more than 800 in a city of more than 2.5 million people. The following years saw a similarly low number of arrivals to the Eternal City. For instance, in 2005 no more than 1,000 Russians were registered in Rome, fewer than the numbers of some 40 other nationalities, suggesting a rather stable trend. What they had in common with the earlier migration is that they, along with other East European immigrants, chose to live in the small towns off the Via Aurelia, where housing is cheap. In fact, when Yakovlev arrived in Italy he moved to *Margherita Laziale* (population just over 14,000, according to official 1995 data), a town not far from Ladispoli, with few Russian residents.[15] He rented a large villa tucked away on a side street, and lived there with his wife, two sons, and a rottweiler.

Yakovlev was a senior figure in the Solntsevskaya, regularly invited to attend the Supreme Council of the organization, such as the one that took place in November 1993 in Miami with the other eleven bosses. Born in the Russian Far East and a guest of Soviet prisons in the 1970s, Yakovlev was running a crew attached to this crime group in Moscow. Most crucially, he had been a close ally of Timofeev, who was gunned down in September 1994 together with one of his lieutenants (a man called Kruglov).[16] Indeed, one of the most trusted associates of Yakovlev in Rome had worked as Timofeev's driver for several years. A war was clearly under way among the high echelons of the organization. A well-built man with short graying hair and blue sullen eyes glaring at the camera for his passport photo, Yakovlev had a choice: stay in Moscow and fight, or send a strong signal of neutrality toward the winning faction. As is often the case in the criminal world, the decision to move away could be such a signal. Remarkably, Yakovlev and his entire crew surfaced in Rome a little more than a month after the death of Sil'vestr. According to conversations intercepted while already in Italy, Sil'vestr's supporters were afraid to meet the same fate as their old leader. *Fedya Sidelnikov*, speaking from Moscow where he planned to attend the funeral of a man gunned down in the war, tells Yakovlev, "They will kill all Seriozha's people." "For instance, they have just killed [XXX], who had done nothing and nobody knows why he ended up dead. . . . Even the police says that if all the followers of Sil'vestr (the *Silvestrovskie*) die, there will be peace."[17] In a rare display of criminal bonding,

Yakovlev's interlocutor, against the advice of the boss, states that he wants to attend XXX's funeral, even if it might be dangerous: "I have to go, he was a true friend and a cell mate."[18] In a subsequent conversation, the boss discusses a newspaper report claiming that he "had escaped from [the Far East] and was hiding in Italy." He wonders why such a piece of news had appeared: "Is this a message? Do they still want to kill me?" As for his standing in the Moscow underworld, the wife of the boss tells her son: "I think Ivan is worth nothing nowadays in Moscow." Thus, mafia internal squabbles are at the origins of Yakovlev's presence in Rome.[19]

Although Italy did not have a significant Russian population, it did have the largest Communist Party in Europe (though the party was never in government). Some of the party faithful had married Soviet citizens and spoke some Russian. Crucially, one of Yakovlev's future Italian accomplices had worked for several years at the party headquarters in Rome and had a Russian wife.[20] This is a background factor that eventually facilitated Yakovlev's work in Rome. A view that emerges among the group members is that Italy was an easy country to move to. "Here [in Italy] you can do whatever you want, it is not Europe," quips a longtime collaborator of the boss.[21]

Yakovlev already knew at least two Russians in Italy. Boris Sergeev, who was to become central to Yakovlev's operation in Italy, was a businessperson with contacts with the Solntsevskaya who dealt in oil products originating in Chechnya and had been involved in some money-laundering operations while living in Vienna. He moved near to another town on the Lazio seaside in the early 1990s and set up a number of companies located at an address in Rome where Yakovlev's firms would come to be registered. As narrated in the introduction, he was ultimately murdered in Moscow in 1996. Another collaborator of Yakovlev's, *Bogdanovich*, had relocated to Italy before Yakovlev, in 1991, and lived in Ladispoli. A small-time crook, Bogdanovich spoke Italian and would become a trusted gofer of the boss.[22]

Among the Russians who moved to Italy with Yakovlev were *Sidelnikov* and his wife. Yakovlev's closest and most trusted associate, he had been a bodyguard of the Solntsevskaya founder and first leader. His wife, *Raisa Artamova*, was managing the common fund ("the pot") in Italy for the group.[23] Yakovlev's crew, which remained based in Moscow, included *Rostovtsev*, a former KGB officer who was fluent in Italian and had close contacts with the Italian embassy in Moscow as well as with the political elite

in Russia, and had been collaborating with Yakovlev for eight years; he was involved in arranging visas and passports as well as trips to Moscow by Italian contacts of Yakovlev. *Vlasik*, also based in Russia, was a businessperson who had worked for Yakovlev as the "clean face" of the organization and was a financial wizard. Eventually he was killed.[24]

A key local helper was *Giorgio Facchini*, a former low-level official at the Rome headquarters of the Italian Communist Party who was married to a Russian, *Alina Kamenskaya*. At the time of his employment in the Communist Party bureaucracy, Facchini organized trips and cultural exchanges between Italy and the USSR. After being dismissed by the party in the mid-1980s, he continued to be involved in tourism and cultural exchanges throughout the 1990s. Another critical player in Yakovlev's Italian crew was *Giovanni Pepe*, Facchini's assistant. Finally, mention should be made of *Riccardo Brenno*, former manager of a sizeable Italian company. He emerged as the most high-profile Italian involved with the group—a man whose connections extended to the highest echelons of the business and political elite of the country. Table A4.1 in the appendix to this chapter summarizes some characteristics of the main players.[25]

Was there a sudden expansion of either legal or illegal markets at this point in Margherita Laziale or Rome more generally, like in Bardonecchia and Verona? I found no evidence of this. The construction boom had taken place in the 1950s and 1960s in the seaside town, and no new significant construction was under way in the 1990s. As for illegal markets in Rome, prostitution and drug trafficking were dominated by, respectively, Nigerians and Brazilians, and local Italian gangs.[26]

What, then, did Yakovlev do in Margherita Laziale? In order to answer this question, I embarked on a systematic content analysis of all the segments of conversations intercepted by the police (a "segment of conversation" is a fragment of a conversation that has a meaningful beginning and end). After coding each segment, I decided to divide the topics of conversation into four main categories: investments in the legal economy, the acquisition of resources, protection activities, and maintaining internal order. "Investments in the economy" refer to attempts to reinvest the proceeds originating from the Solntsevskaya core activity in Russia in a variety of other businesses. "Resource acquisition" refers to the acquisition of specific input resources to run the group, such as information, equipment,

TABLE 4.1
Distribution of Tasks Discussed in Segments of Conversations

	Tasks by segment of conversations	
Tasks	*Frequency*	*Percent*
Investments in the economy (E)	620	52.2
Resource acquisition (RA)	262	22.1
Maintaining internal order (MIO)	235	19.8
Protection activities (PA)	67	5.6
Total	1,184	99.7
Other	3	0.3
Total	1,187	100.0

or labor. "Protection activities" refer to efforts to control markets and offer criminal protection. Finally, "maintaining internal order" refers to the activities of monitoring, intimidation, and punishment of both local fixers and Russian members.

Table 4.1 presents the data. Slightly over half of the segments of the conversations concern investments in the economy. Resource acquisition and maintaining internal order are the next two most important tasks discussed, while discussions of protection activities come last.

Let's now turn to what appears to be the main task undertaken by the group in Rome: investing money in the legal economy. A significant amount of time, scheming, and traveling was devoted to identifying investment opportunities, mainly in Italy, and exporting goods to Russia. The source of the money to be used in these ventures was clearly Russia. The most basic money laundering technique was to set up a vast network of individuals traveling from Russia to Italy carrying cash. Yakovlev and his associates would take the money, buy the products, and send them back. The Italian police point out that the system may appear rudimentary and of little consequence, but in fact it is used by various Russian criminal organizations, and may involve thousands of people and the transfer of hundreds of millions of dollars.[27] A more sophisticated system to introduce money into the Italian economy was through bank transfers to various companies—all

based at the same address in Rome—that had been set up by Yakovlev's associates in Italy. Money laundering occurred through Russian and, outside Russia, mainly Austrian banks connected with the Solntsevskaya.[28]

The money coming from Russia was invested in a vast array of import-export ventures. The Russian actors in this story, in particular Yakovlev, contacted hundreds of Italian companies and businesspeople, offering to buy their products. The police file records no fewer than a hundred such deals. The deals ranged from purchasing sparkling wine to buying frozen meat, wood, furniture, wheat, steel, pharmaceutical products, Olivetti computers, food products (including fish), Armani suits, works of art, gold, helicopters, and antennas. The Russians had plans to buy a fishery in Tuscany—a scheme that failed. From Italy they also negotiated the establishment of a gambling boat in Korea, another failed venture, and the purchase of goods in Venezuela. The group controlled a small arms shop in Moscow and arranged for several shipments of firearms to be sold there. The Russians seemed to be indiscriminate in their import activities. Normally, they would make an appointment with the firm in question, often pay in cash, and arrange for the delivery of the goods to Russia.

The highest-profile Italian businessperson who worked with Yakovlev was Brenno. The boss said about him:

> Brenno is the former deputy head of [an important Italian company]. He had some problems with the law, but now he is a free man. . . . He was sentenced to four years, but he lives at home, he works, he is all right. Whatever happens, he can fix everything with a phone call in every part of the world. I know him very well, and he has many friends, all Andreotti people.

When he traveled to Moscow to negotiate import-export deals for the group, Brenno was given the royal treatment. The boss ordered a Russian Duma member to be Brenno's chaperone in the Russian capital: "[He] is coming Sunday. Go get him at the airport, take good care of him, take him to the best restaurants, champagne, obviously. Give him an armed escort and a 'cow' for the night. You will see, he is a very serious man. [Prime Minister Viktor S.] Chernomyrdin was keeping his head down when they met."[29]

Some of the transactions were wholly illegal in nature. One significant activity was the illegal export of oil from Russia to various countries, including Italy.[30] The group was also involved in a scam for which the Russians are well known: the attempt to sell radioactive material, especially so-called red mercury, on the international black market. Such a product did not exist, at least in the form described to the prospective buyers. A member of the North Korean army fell for the trick, and several conversations refer to this sale.[31]

The common feature of these ventures was that the money used to pay Italian suppliers came from criminal activities outside Italy, in breach of Italian law. From several conversations it transpires that the money being imported illegally into Italy, and more generally at the disposal of Yakovlev for investment in the legal economy, was the fruit not only of the criminal activities of Yakovlev's crew in Moscow. For instance, in one conversation Yakovlev referred to other Russian criminal groups as having contributed money to the rather significant investment in a fishery. Similarly, it emerged that the money entrusted to a Russian businessperson close to the group, Vlasik, to invest in Korea, belonged to at least three different groups: "In this thing [business venture], there is money invested belonging to people from Magadan to Moscow. We must put Vlasik immediately on trial."[32]

In order to carry out their business deals, the Russians, sometimes with their Italian helpers, traveled extensively through northern and central Italy and stayed in hotels in Lombardy, Veneto, Marche, Piedmont, Tuscany, and Emilia Romagna. They also went to Switzerland several times. Among these trips, some were to Pesaro and the Fano area to negotiate the purchase of furniture using some of the contacts of Elson and Roizis.

While Yakovlev was investing money originating in several groups in Russia, these gangs' representatives traveled regularly to Italy to inspect their investments, to the point that Yakovlev decided to rent a house for his guests. Visitors included members of the Izmailovo and the Kurgan mafia groups along with leaders of other Russian mobs. When they came, Yakovlev made sure they were provided with prostitutes, often Russians. One of his helpers said on the phone, "I am on my way to Venice to bring prostitutes to our guests, because our friends cannot stay without hookers a single day!" Another pastime was attending sporting events, such as the

final of the Champions League between Juventus and Ajax in May 1996, or a Davis Cup match between Russia and Italy, also in 1996. On that occasion, the group was partying with one of the Russian players, allegedly providing him with illegal substances.

Yakovlev devoted almost 50 percent of his conversations to investments in the economy, and Sergeev, Yakovlev's business partner who was later killed, devoted 67 percent of his conversations to this task. In contrast, Sidelnikov, Yakovlev's enforcer, hardly spoke about this item. Sixty-two and 97 percent of the time Pepe, the Italian fixer, and Brenno, respectively, dealt with investments in the economy. Another indicator of whether the activity was directed at Italy or Russia is the country of origin and country of destination of the call. Seventy-five percent of the calls originated in Italy, while Russia was the country of origin for 16 percent of the calls. Italy received 65.5 percent of the calls, and Russia got 23.5 percent. This suggests that most of the talking was done within Italy, with some significant conversations made to and from Russia, since goods were eventually going to reach that country.

These data point to a rudimentary division of labor within the group, with some actors, such as Brenno, almost exclusively dedicated to helping the group fulfill the aim of finding investment opportunities, while others, as we will see below, were more evenly spread across the tasks they discussed. A third subgroup focused exclusively on other tasks.

To what extent were the Russians in Rome to acquire input resources for their operations in Russia? Some authors discussed in chapter 2 suggested that one effect of globalization for legitimate firms is to open outposts abroad in order to acquire resources that are not easily movable, such as minerals, or labor. Intangibles such as knowledge, innovation capabilities, and management or organizational skills are also among the resources being sought. For illegal firms, resource seeking could refer to intelligence and information, labor, and technical equipment like arms, hideaways, and spying technology. Did Yakovlev go to Rome to acquire resources to use for his Russian operations? Once I had read the content of the conversations relating to this task, I discovered that the actors were referring to resources that were instrumental in running the crew *in Italy* rather than input resources for the group back in Russia. The group spent a lot of time

trying to open bank accounts, and to obtain Italian citizenship through fictitious marriages, forged drivers' licenses, and guns. In order to achieve these aims, they engaged in the corruption of local officials.[33]

At least nine fictitious marriages involved key members of the group. The local fixers for the group would find Italians willing to marry Russian nationals for a sum varying between US$15,000 and US$20,000. For instance, both Yakovlev and his wife married Italian citizens, although they continued to live together.[34] The few guns that the group used were smuggled into Italy by some of the female members. These guns were for their own personal use rather than for sale on the Italian market, and came from Russia; they were not a resource acquired in Italy for the Russian operation.

Overall, 22 percent of all conversation segments were devoted to resource acquisition. The Italian fixers of the group and Bogdanovich, the close collaborator of Yakovlev who spoke Italian and had been in Margherita Laziale since 1990, were those mostly involved in conversations about resource acquisitions, well above the overall average (with Bogdanovich at 55 percent, Facchini at 52 percent, Facchini's Russian-speaking wife at 45 percent, and Pepe at 23 percent). The keeper of the common fund spoke mainly about maintaining internal order (62 percent), but her second most important task was resource acquisition (31 percent). The boss was well below the average, with 11.2 percent, while Sergeev was near the average, with 19 percent. Some 80 percent of conversations that had resource acquisition as their main topic were made *within* Italy, and only 16 percent between Italy and Russia.

The key aspect of resource acquisition is that resources were used to ensure the group functioned properly in Italy instead of being invested in operations in Russia. This is contrary to the view that mafias open outposts abroad in order to take advantage of attractive labor or raw material markets. The data show that a rudimentary division of labor emerged, with the Italian fixers and a Russian go-between involved in acquiring resources, while the "enforcers" and "businesspeople" scored quite low or very low on this measure. As one would expect, most of the conversations were within Italy because the resources to be acquired were in Italy.

Since protection racketeering is the Solntsevskaya's core business, we should expect the group to engage in such activity if its motivation for migrating to Italy were to expand its core activity (the market-seeking motivation dis-

1034

cussed in chapter 2, pp. 20–21). To the contrary, none of the recorded conversations referred to protection activities in Italy. They instead offered a fascinating insight into racketeering in Moscow and, to a lesser extent, other cities such as Prague. The calls were frequently prompted by a delay in payments or interference from other racketeers. For instance, the boss threatened the owner of a shop in Moscow who was late with a payment of US$25,000. In another case, a Moscow wholesale dealer of food products—under Yakovlev's protection (to whom he paid US$200,000 a month)—was being harassed by some officials who had requested a million rubles. Clearly his protection was far from tightly sealed, and naturally the boss was worried by this attempt to harass one of his protégés. In a similar situation, in July 1996, the boss received a call from Prague; the caller explained that he had been harassed by certain "gypsies" who were demanding protection money from him. The man in Prague recounted that when asked who his protector (*vor-v-zakone*) was, he named Yakovlev. Tellingly, the Czech gypsies replied that such a protector should be there to look after his associate rather than remaining several thousand kilometers away. (As Machiavelli taught us, the prince has to reside among his people.) The boss at the other end of the telephone line was duly cross.[35]

No conversation referred to any attempt to create a protection racket in Italy. The only information recorded by the police on this dimension was a criminal charge brought against Bogdanovich in 1991, three years before the arrival of Yakovlev in Rome. Bogdanovich was briefly arrested for attempting to extort money from two other individuals from the former Soviet Union. The case collapsed in court, and Bogdanovich was acquitted.

The two actors who were most involved in discussing protection activities were Yakovlev (14 percent) and Sidelnikov (22 percent), well above the 6 percent average for the group. Also, most of the calls were between Italy and Russia (83 percent), and only one call was within Italy, suggesting that the activity in question was located outside Italy, and the Russians in Rome needed to call home to manage this aspect of their criminal activities.

Any crime boss has the task of maintaining internal order, ensuring that his underlings do not disobey or report him to the authorities, and more generally that members of his crew do not cheat. The mere threat of violence should be sufficient to ensure compliance. This was the case with *Marco Ferrari*, a Roman petty criminal, who had "misbehaved" and even

threatened to report Yakovlev to the police unless the boss repaid some money he owed him. The reaction of the Russian criminal and his deputy was swift: they scared him to the point that Ferrari recanted and apologized profusely. Ferrari was then eased out of the organization rather than physically punished, possibly because such punishment would have attracted the attention of the Italian police.[36]

One would imagine that the ability of such a powerful organization as the Solntsevskaya to inspire fear and obtain compliance would be sufficient to ensure obedience from its accomplices. Yet mafia-type criminal organizations might have to use more violence than one would expect. Vlasik, a Russian in his mid-forties with a mild stutter, had been entrusted by Yakovlev with a considerable sum to invest in a deal in Korea. It transpired that the money originated in several Russian groups, not just from Yakovlev's own crew.[37] Although Vlasik must have known the risk that he was taking, he embezzled the funds and tried to disappear. "It is a bloody pain to think that among us only Vlasik is able to carry out financial operations," notes the boss. "And that is why he takes advantage of us—retorts his interlocutor,—but I will show him what a badly beaten up guy looks like and make him understand that he will be next."[38] Vlasik was eventually tracked down in Korea and escorted back to Italy, where he was held in captivity and tortured for some weeks. Later he was put on a plane to Moscow, accompanied by a "jailer." While in Russia, Vlasik managed to escape and gave himself up to the police. The punishment was only delayed; he was later killed.[39]

Twenty percent of the conversations dealt with internal order. The upper echelon of the group had more conversations about this topic than average: Yakovlev had a value of 28 percent, while Yakovlev's two enforcers had values of around 45 percent (with Sidelnikov at 44 percent, and Vladimir Sidorov at 45 percent). Most remarkably, it transpires that women were directly involved in discussing issues related to maintaining internal order. For instance, Yakovlev's wife, Marina (with a value of 53.3 percent), directly threatened Ferrari, whose wife was Russian, for disobeying Yakovlev ("we will chop your head off"). Ferrari's wife calls back, begging for forgiveness, admitting that they had been wrong and one needs to pay respect to the boss, "because he has been in prison for 15 years." Alina Kamenskaya (38 percent), the wife of Italian fixer Facchini, on several occasions advocated appropriate punishments for those who had misbehaved

toward Yakovlev.[40] Artamova, the keeper of the common fund, engaged in many conversations related to maintaining internal order (62 percent). The women around Sergeev, who would be killed in 1996, also spent a considerable amount of time talking about internal order. Kostina, his "official" Italian wife who worked as his interpreter and overall helper in Italy, had a value of 58 percent, while Sergeev's real wife, Nadia, with whom he lived, had a value of 33.3 percent.

On the whole, severe acts of violence were rarely carried out in Italy, and murders were committed only in Russia. This suggests that the group did not want to attract the attention of the police in Italy.

Figure 4.5 presents the tasks discussed in all the conversations over almost a year—from January 1996, when the Italian police started systematic phone intercepts, to October 1996, when Sergeev was killed. The only correlation that is statistically significant is between resource acquisition and investments in the economy ($r = 0.758$, $p = 0.011$, $N = 10$). That is, discussions of investment opportunities in the economy covary with discussions of acquisition of resources, suggesting a relation between the two sets of tasks. This further confirms that discussions on resource acquisition were closely connected to those about money laundering and illegal investments in the Italian economy. In contrast, references to protection racketeering do not seem to be cyclic and are unrelated to other tasks. As mentioned above, racketeering was carried out in Russia by members of the group—a task unrelated to their presence in Italy.

As in other cases discussed in this book, a prominent mafioso reached a faraway land as the product of an unintended consequence; a war in Moscow pushed Yakovlev to Rome. He withdrew from the conflict at the price of losing some control over his racket at home. While in the Italian capital, he maintained contacts with the new leadership and helped them invest some of their money in the West (recall that in the mid-1990s the Russian banking system was under severe strain, the ruble was not a safe currency, and Russia defaulted on international loans in August 1998).[41] Thus, the activities of the Italian outpost were squarely in the realm of investment seeking although one cannot state that this was the motivation to open the outpost.

The organization was not looking for any particular resource to use in running its core business in Russia of protection racketeering or even

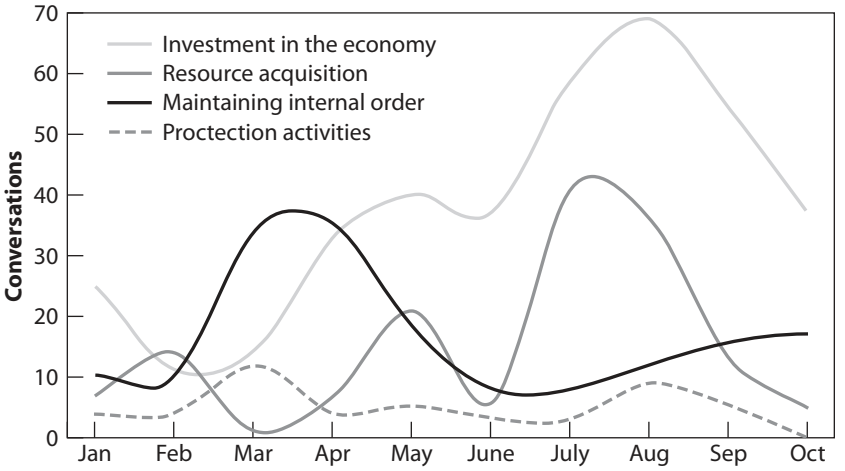


FIGURE 4.1 Tasks discussed in conversations, January to October 1996

related businesses, such as prostitution or drug trafficking. Nor was Italy a place where a firm-owned subsidiary could act as a conduit for valuable local knowledge to be used in Russia. Again, this marks a departure from the behavior of legitimate firms taking advantage of globalization.

The organization was not planning to enter the market of any rival organization. In one of his conversations, the boss made it clear that the Italian capital had been selected because it harbored no major criminal organizations, such as the Sicilian mafia.[42] Indeed, if market expansion had been a motivation, violence would have ensued, while the Italian outpost was careful to avoid drawing any attention to itself. The group had been able to evade the notice of the police in Rome. Only a tip-off from the Russian mobster arrested in Fano alerted the authorities to the existence of such an entity in Rome.[43]

Yakovlev would at the same time invest money originating from several Russian groups in the legal economy while continuing to run his protection rackets in Russia. This explains why a proportion of the conversations of the Russians in Italy involved matters related to the racketeering activities of Yakovlev back in Russia.

Clear signs of the internal division of labor emerge. Besides the boss, the only official role in the group is that of Artamova, who controlled the group's budget. But an informal structure becomes evident from the patterns of the

conversations. Some of the Russian enforcers who had joined Yakovlev in Italy were mainly involved in (talking about) enforcing internal order within the group and protection racketeering back home. Women were highly involved in conversations over internal matters, including punishment. As one would expect, Italians with a local knowledge of Rome mainly helped in acquiring resources for the group to operate in Italy. Italians also were relatively more concerned with investments in the economy, as the group was dealing with Italian entrepreneurs. The boss was heavily involved in most tasks (with the exception of resource acquisition), but especially in overseeing investment decisions and reporting back to Russia. In a separate paper, I explore further issues related to the internal division of labor through the use of correspondence and social network analyses.[44]

How did Yakovlev's Italian adventure end? The entire crew, including guests from Moscow, was celebrating the birthday of the boss in a posh resort in early 1997. They had booked an entire floor of the most expensive hotel in town. The guests had arrived with several thousand U.S. dollars each, as birthday gifts for the boss. The only object of value to be put in the hotel's safe, however, was a precious Russian Orthodox bible. Yakovlev kept his boys (*rebyata*) on a short leash; he made them go to bed at 6:00 p.m. but forced them to get up at 3:00 a.m. to engage in endless discussions, while his crew was half asleep and half drunk. It is possible that Yakovlev was about to perform an initiation ritual for a new member, since a black cloth with verses in old Russian engraved in gold and scrolls containing Russian Orthodox prayers were later found in his rooms.

Several officers disguised as waiters and hotel staff observed the group for a few days. When the order arrived, in the early hours of the morning, they made the arrests. The entire operation took no longer than five minutes, without disrupting the wealthy clientele's sleep. After his arrest, the boss made a point of paying the bill in full, in cash. The next day his photos were all over the papers. Italian readers could see a man with cropped white hair, a tattoo in the hollow of his right hand, waving his fingers at the cameras, his eyes screaming with rage, furious yet nonplussed by the arrest.

The story presented here involves the most powerful mafia group operating in Russia at the time, and implicates a vast section of the Italian political and administrative class. And yet the group failed to take root

in the country where it had chosen to relocate. After the arrest of the key players and their repatriation to Russia, the police and prosecutors told me that the group had left no traces in Rome.[45] Organized crime is not always successfully transplanted in a different territory. In some cases, it is enough to eliminate a few central actors to disband a network. As the group did not offer any particular service to the local criminal markets, no demand for it existed and no other group replaced it. The failure of transplantation does not mean that the crime group is weak in its territory of origin, though. After being rebuffed in Rome, Yakovlev and his crew returned home and continued their activities there. In the home country, this mafia group still extracts protection money and governs a territory.

The Solntsevskaya in Hungary

The story of the Solntsevskaya penetration of Hungarian society revolves around a Ukrainian-born businessman, Semën Yudkovich Mogilevich, who moved to Budapest in 1991 and was arrested in 2008. Mogilevich, who is bald, weighs some three hundred pounds, and is a chain smoker ("Davidov's cigarettes"), holds a degree in economics from Lvov University. He came to international attention when the FBI accused him of involvement in the Bank of New York scandal mentioned previously (p. 70). He had solid connections with the Solntsevskaya's leaders, Mikhailov and Averin, who had both chosen Budapest as the site of one of their residences in Eastern Europe.[46] Were they part of a larger migration of ordinary Russians—and possibly Ukrainians—to Hungary? Between 1990 and 2005, Russian and Ukrainian nationals never reach 1 percent of the total population. Romanians, Serbians, Germans, and Polish nationals are all more numerous, and significantly so (See table A4.2 in the appendix to this chapter).

On the other hand, the police claim that specialized criminals from Russia were in quite good number following the early 1990s. It appears that the initial presence of a 'supply' of Russian criminals in Hungary was due to an accident of history, namely the vast contingent of Red Army soldiers and security officials stationed in the country. Reportedly, more than 1,000 Russians deserted the Red Army just before they were due to return home in 1991, and many of them went on to set up crime groups. In 1998 the police estimated that "200 criminal gangs, mostly Russian controlled, have established themselves in the country, with a couple of

dozen dominating."[47] According to U.S. and Hungarian officials, many of the criminal bosses had a background in the KGB and the Soviet army.[48]

Contrary to the situation in Rome, at the time of the Solntsevskaya attempts to move into Budapest, the country as a whole was undergoing a transition from a state-planned to a market economy. Hungary had begun restructuring state-owned enterprises before the end of the Communist regime, and by 1985 two-thirds of all state enterprises had been granted self-governance through enterprise councils. By the end of the 1990s, between 80 and 85 percent of the gross domestic product (GDP) was privately owned. The emerging market economy could also rely on laws and regulations that had been in place even during the Communist regime. A commercial code, never formally repealed during the Communist period, had existed since before the Second World War, in turn based on a law passed in 1875. Moreover, reforms that began as early as 1968 and continued, with interruptions, up to 1988 had reduced the role of the state in the economy and given greater autonomy to enterprises. The Act on Business Organizations of 1988 consolidated previously fragmented corporate law and was amended throughout the 1990s to reflect the changing commercial environment.[49]

The transition to the market led to a significant expansion of the economy. The value of the GDP at 2006 prices went from 2,498.3 billion Hungarian forints in 1991 to 23,795.3 billion forints in 2006. The real wage index (1990 = 100.0) grew from 93 in 1991 to 121.7 in 2007.[50]

Still, the Hungarian transition has not been entirely free of problems. Hungary underwent what scholars have labeled "spontaneous (or informal) privatization," led by managers who were able to acquire stakes in state companies in the absence of legislation that fully protected shareholders or clearly defined property rights. László Urbán, an economist, writes that "informal privatization ranges on a scale from outright theft of potentially useful physical assets of a SOE [state-owned enterprise] through different forms of simple corruption to more sophisticated appropriation of assets through the creation of new corporations."[51]

Notwithstanding the relatively probusiness atmosphere of Hungary during its socialist period, a fully developed legal framework was not yet in place by the time the transition got under way. Writing in the late 1990s, György Csáki and Gábor Karsai point out that

> there are several legal and institutional problems that hinder the effective operation of Hungarian enterprises. Certain laws and modifications (for example the reform of the real estate law and the contract law) are still lacking. Conceptually, the majority of existing economic regulations is not sufficiently developed and includes a number of internal contradictions as well as contradictions with other laws.[52]

The state apparatus proved slow and ineffective in servicing the new market players. The real estate register was inaccurate and outdated, and the process of company registration was slow. In the early 1990s, the poorly computerized Hungarian real estate registers was inadequate to deal with the demands for the production and modification of information. Throughout the 1990s' boom in company creation, company registration faced the same challenge. Thus, Csáki and Karsai observe, "There is no up-to-date company data with respect to the assets and financial position of market players. The problems caused by overloading, as well as by the widening circle of corruption and other abuses, only make matters worse."[53]

Such inefficiencies decreased public confidence in the legal system, and economic crimes increased. In the 1990s tax avoidance became widespread, and the breaching of contracts, value-added tax fraud, and false bankruptcy petitions were considered minor transgressions.[54] According to a survey conducted in 1998, some 80 percent of the respondents agreed that "in order to get by, it was necessary to break the rules."[55] As crime against property increased significantly during the transition, the criminal justice system proved to be, in the view of Csáki and Karsai, "almost entirely powerless in the face of the spread of economic criminality," and the capacity of the civil law courts was "not satisfactory."[56]

Court proceedings were "lengthy," and delays in the pronouncements of verdicts were "frequent," making the execution of verdicts "often impossible."[57] The introduction in 1994 of an act meant to speed up the execution of court orders did not change matters much; the only major change was the increased costs of and payments to the private executors.[58] Police corruption has also been described as "pervasive."[59] Not surprisingly, the level of the informal economy was vast, at approximately 31 percent of GDP in 1994.[60]

Has the imperfect transition to the market economy generated a demand for criminal protection? Géza Katona, former chief of the Investigation

Department of the National Police, links the initial shortcomings of the Hungarian transition to a market economy to the rise in the demand for mafia-related activities, in a lucid analysis that is worth quoting at length:

> A new arena has been created by organized crime during the 1990s: the so-called violence industry. It is quite normal for a newly established market economy to face serious capital shortages. The financial foundations of the private enterprises are usually very shaky and unstable. In such a situation the role of the state in the enforcement of private law becomes extremely important. The court's rapid, reliable, and effective enforcement of contracts, bankruptcy, and debt collection are crucial for the new economic actors. In this respect, the Hungarian state has miserably failed in the last few years. Civil law cases drag on for years, and the enforcement of judicial decisions is unreliable. The state has failed to establish a well-functioning legal and institutional system, to set up an effective legal framework for the private economy, or to pass an effective law on bankruptcy. . . . [It] has also failed to create and administer a reliable system for registering real property. This negligence has created a paradise for those who make use of others' well-meaning, law-abiding behavior. It is not surprising that businessmen, some law-abiding and others not, try to defend themselves and find other non-legal or semi-legal ways to defend their interests, without legal support from the state. The defects of state law enforcement have opened the field to organized crime, and their "violence" organizations have simply taken control of this area.[61]

Katona concludes by pointing out that organized crime has played a major role in the area of the extrajudicial settlement of disputes; indeed, it has virtually "taken over" this sphere.

Katona identifies a second area of opportunity for criminal organizations to control a market: the oil sector. After 1989, the former state oil trade monopoly ceased to exist while new regulations for the oil sector were still absent. Virtually anyone could establish a firm to sell oil, since the state failed to screen firms seeking official registration; meanwhile, due to the departure of the Soviet troops, vast storage facilities had become available. At the same time, the Hungarian government, in an effort to shield farmers and the poor from the full impact of high inflation and

rising heating bills, introduced a dual-price system for heating and diesel oil. One side effect was the creation of artificial opportunities for money-making operations.[62]

In contrast to the virtual absence of mafia-related violence in Rome, the level of such brutality was high in Hungary. The *Washington Post* reported on December 21, 1998 that

> by 1996, violence began to spill onto the streets here. The Hungarian police have recorded 140 mob-related bombings, grenade attacks and killings since 1991, most in recent years. In November 1996, alleged mob leader Jozsef Prisztas was gunned down and killed on a Budapest street. In August 1997, shots were fired into a disco, wounding one woman. Last February [1998], a business magnate with alleged mob ties was assassinated with an automatic weapon as he sat in his car at a traffic light. A grenade was hurled at a bar the following month. And in June, shots were fired into a shop, injuring one person. Mobsters killing mobsters, however, engendered a certain so-what attitude among the public, officials said.[63]

Between 1991 and 1998, there were more than 100 gangland murders and 170 explosions in Hungary.[64]

An oblique reference to the Solntsevskaya appeared in the *Boston Globe* on November 29, 1998, which reported on a "Russian-speaking gang believed to be the most powerful and dangerous in Hungary." The article continued: "This mob, law enforcement sources said, has a presence in the United States."[65] I now turn more specifically to the activities of this group in Budapest.

Through Mogilevich, the Solntsevskaya created an intricate network of companies and factories in Hungary, laundering and investing a significant amount of money in the legal economy, mainly in arms production and the oil business. In 1995 Mogilevich bought Magnex 2000 (a magnet manufacturer in Budapest), the Army Co-op (a mortar and antiaircraft gun factory), Balchug (a firm that produces and sells office furniture), and Digep General Machine Works (an artillery shell, mortar, and fire equipment manufacturer). Mogilevich had been involved in the oil business since the 1980s, creating Arbat International, a petroleum export-import

company of which he owned 50 percent (the other shareholders were Ivan'kov, Mikhailov, and Averin), and Arigon Ltd., which sold oil products to the Ukrainian railway administration and was allegedly managed by Mikhailov's wife. Most recently he has been connected to Eural Trans Gas, an obscure Hungarian company holding a contract with Gazprom to provide gas from Turkmenistan to Ukraine.[66]

The Solntsevskaya did not limit itself to investment in the legal economy but tried to defraud the Hungarian government and push competitors out of the oil market. In short, the government had passed a law subsidizing some gas consumption for home use, creating opportunities to arbitrage between the subsidized price and the market one. Several loopholes in the law made it easier for criminal elements to enter this market.[67] Some believe that the loophole might have been intentional. According to one view, the Hungarian secret services were also players in this market, exploiting the opportunity generated by this law in order to buy arms to help the Croatians in their war against Serbia during the Yugoslavian conflict in the 1990s. Although I have no way to confirm this interpretation, it is well known that Croatia armed itself in the lead-up to the war and that some weapons came from Hungary. Belgrade amassed evidence that Croatia's defense minister was importing arms from warehouses in Hungary.[68] In any case, the unintended consequences of a well-meaning policy that created easy opportunities to defraud the state and enforce criminal monopolies over supplies of oil constituted a second crucial factor fostering the growth of Russian groups in Hungary. It is widely believed that the warfare within the Hungarian underworld, which took place in the 1990s, and involved both Russian and Hungarian groups, was due to conflict over how to allocate lucrative state oil and gas contracts.[69] According to a BBC documentary on Mogilevich's activities, Zoltán Seres, one of his Hungarian partners, was "the victim of the Russian-Hungarian turf wars which have followed the oil rackets."[70] A businessperson involved in oil fraud, Tamás Boros, said during confessions made to the police in February 1997 and May 1998 that "company owners who had not imported oil through the Russian Mafia boss Semyon Mogilevich were threatened and blackmailed."[71] Boros was killed, together with three other victims, in a car bomb explosion in central Budapest in early July 1998.[72]

The Solntsevskaya has expanded beyond the oil business, runs protection rackets and prostitution rings in Budapest, and has tortured and

murdered local opponents.[73] (Averin is suspected by the Hungarian police of the murder of a man in Budapest, Andrey Mochin. Also, he allegedly acted as an intermediary in the kidnapping of another man, Abner Kandov.) According to police sources cited by *Népszava* in 1998, a Hungarian daily, some eight hundred companies in Hungary have direct links to the underworld.[74] Although it is hard to discern the exact nature of the relationship between these firms and the underworld, mafia groups typically offer criminal protection to firms that cannot turn to the state. Partial evidence of this was revealed at the "bomb factory" trial of former Stasi agent Dietmar Clodo.[75] At the trial, several defendants named Leonid Goldstein Steigura as the second-in-command of Mogilevich's operation in Budapest and the real owner of the bomb-making facility run by Clodo. More importantly, a killer for the group, Nándor Erdélyi, claimed that criminals in Budapest had to pay a 50 percent "fee" to Steigura in order to be allowed to operate.[76] Furthermore, at the same trial it emerged that Steigura had planned Mogilevich's murder, possibly in an attempt to increase the autonomy of the group from the original, Moscow-based mafia.

Additional evidence of the ability of this Russian crime group to impose its protection on traders based in Hungary came to light in November 2003, when four men were arrested by the police with the FBI's help. They were charged with having forced their protection on as many as a thousand small businesspeople and shop owners, for a total income of some US$10 million. Police claim that the leader of the group, a Ukrainian Israeli Greek citizen, was working for Mogilevich.[77] As recently as March 2007, officials in Hungary believed that Russian-speaking groups were well entrenched in the country. The 2006 yearly report of Hungary's National Security Authority states that "it is still the case that Hungarian and Russian-speaking organized crime groups are the dominant forces in Hungary." Among other sectors, Russian organized crime groups are entering Hungary's booming construction material trade, the report says.[78]

Although the evidence is sketchy, it appears that the Solntsevskaya and Russian criminal groups more generally have established themselves in Hungary—contrary to the outcome that we observed in Rome. The Russian mafia is simultaneously trying to exercise a monopoly over certain

[162.10.217.184] Project MUSE (2026-06-15 01:44 GMT) University of Queensland

sectors of the economy, such as the oil business, and offering criminal protection to both businesspeople in the gray economy and criminal entrepreneurs. It has penetrated into the economy and has sustained its activity for a long period of time.

Conclusions

The comparison between Rome and Budapest allows us to identify key factors at work in Mafia transplantation (table 4.2).

A number of elements are shared by both cases, suggesting that they do not explain the divergent outcome. In both cases generalized migration from Russia was negligent. Also, Russian mafosi were in Rome and Budapest due to forced migration (Rome) or accident (past Soviet presence). The crucial difference between Rome and Budapest was the presence in the latter of new and booming markets (legal and illegal) that were not adequately protected by state institutions, thereby generating a demand for nonstate forms of protection. This is the key variable that leads to long-term entrenchment.

The emergence of vast market opportunities unregulated and unprotected by the state offers incentives for mafiosi from different territories to exploit local opportunities by offering criminal protection. Hungary experienced both the inability of the state to clearly define and protect property rights, and the presence of lucrative opportunities to obtain selective access to valuable markets, such as oil and gas, through the use of violence (Bardonecchia experienced only the latter, lucrative opportunities in the construction business). This concatenation of factors increases the likelihood of mafia transplantation. Such a conclusion goes against supply-side explanations of both the origin and diffusion of mafias—that is, against the idea that the presence of a supply of criminally minded people is sufficient for a mafia to develop in a new territory. If mafiosi exist in an area where no significant unprotected market exists, I contend that they will simply be unemployed mafia enforcers.

The Hungarian case indicates that circumstances conducive to mafia transplantation can be the product of state failures to equip a country fast enough with the institutional features of a market economy, such as a well-functioning legal system as well as clearly defined and enforced property

1047

Table 4.2

Factors Facilitating Mafia Transplantation, Bardonecchia, Verona, Budapest, and Rome

Factors facilitating mafia transplantation/cases	*Bardonecchia*	*Verona*	*Budapest*	*Rome*	*New York City (1910–30)*	*Rosario (1910–30)*	*Shenzhen/ Guangzhou*
Generalized migration	Yes	No	No	No			
Mafiosi migration (willing/unwilling)	Yes (unwilling)	Yes (unwilling)	Yes (unwilling)	Yes (unwilling)			
Supply of mafiosi	Yes	Yes	Yes	Yes			
Local conditions							
Level of trust/civic engagement	High	High	Low	Low			
Presence of local illegal protectors	No	No	No	No			
Size of locale	Small	Large	Large	Large			
New and/or booming markets*	Yes	Yes	Yes	No			
Demand for mafia services	Yes	No	Yes	No			
Transplantation	Yes	No	Yes	No			

* The markets considered are construction (Bardonecchia and Rosario), drugs (Verona and China), property rights (Budapest and China), oil (Budapest), alcohol (New York City), gambling (New York City and China), and prostitution (China).

rights. The unintended results of a well-meaning policy that created easy opportunities to defraud the state and enforce criminal monopolies over supplies of oil constituted a second crucial factor fostering the move of Russian groups to Hungary.

Still, the Italian authorities have reason to worry about the ease with which Russians were able to launder money in the country. Italy has rather inflexible instruments to deal with this crime. Whenever financial authorities come across irregularities and suspicious activities, they can only initiate a superficial investigation and then turn the evidence over to a prosecutor's office, where thousands of similar files await the attention of the judiciary.[79] The jurisdiction over financial crimes in Italy belongs almost entirely to the criminal prosecutor, and both financial institutions and prosecutors have to uphold the *segreto istruttorio*: the duty to keep the identities of persons under investigation secret. This provision stops the authorities from exposing businesses that engage in sharp practices or become conduits of money laundering, hence eliminating reputational sanctions. Other jurisdictions (such as the United Kingdom) allow the financial authorities to conduct parallel investigations, which turn out to be faster, and also involve civil sanctions and incentives for collaboration on the part of the businesses involved. As the cases of Bardonecchia and Budapest show, it might well be that criminal markets open up while a foreign mafia is residing in the new territory and engaging in money-laundering activities. At that point, conditions conducive to long-term entrenchment would obtain.

Appendix

wiretap records

The police investigation into the Solntsevskaya crime group started in 1995 and lasted three years, from 1995 to 1997. By January 1996, the police were consistently listening in on twenty-four phone lines (cell phones and terrestrial lines). A total of nineteen people used such lines. The protagonists of this story talk about incriminating matters on the phone, including the use of violence and torture along with the murders that they plot and later carry out. If they had talked strategically on the phone, we would expect them not to reveal so much and to omit information that under any legislation could result in a lengthy sentence. Furthermore,

the police validated the content of some conversations by tailing several individuals and checking their movements within Italy as well as to and from Italy.

For the purpose of this chapter, I have carried out a systematic content analysis of the conversations that were recorded by the police in order to establish the topics discussed and the tasks undertaken by the group in Rome. With the assistance of Paolo Campana, I created a file with all the conversations recorded by the police for the period 1995–96. For each conversation, we coded the topics discussed (each conversation could include several topics). The total number of topics for all conversations comes to sixty-nine. We also identified the task that the actors were discussing. Drawing on the theoretical discussion outlined in chapter 2, we identified four tasks: resource acquisition, investment in the economy, involvement in protection rackets, and maintaining internal order. Taken together, these tasks cover all the conversation segments, save for three (see table 4.1). Most of the conversations (97.5 percent) took place without an interpreter between the two speakers.

We made several decisions regarding these data. The conversations are informal, and jargon is often used. The informal nature of the conversations implies that hidden meanings are transmitted. An automatic form of coding, such as counting words, would not register such meanings. Hence, we decided to read and code each conversation manually. We also coded segments of conversation. A segment of conversation, as noted earlier, is a fragment of a conversation that has a meaningful beginning and end. In order to reduce coder bias, we undertook intercoder reliability tests for the tasks, which resulted in a high and statistically significant correlation coefficient between the two coders. (The two coders read a sample of the conversations [N = 20], identified the tasks and topics, and checked the level of intercoder reliability. The correlation coefficient between the two coders resulted in 0.95, $p = 0.001$.) This degree of concordance enhances our confidence in the reliability of the results.

Third, while studying the files, we decided to use only the conversations from January 1996 to October 1996 (N = 758). This is because the wiretapping started in earnest in January (only two conversations were recorded in 1995). In December 1995, phone lines and cell phone numbers were still being put under surveillance, and the police recorded few

conversations.[80] The end point is late October 1996, a few weeks after Sergeev was killed.

We also coded quantitative information on the group and extracted network data. The police intercepted no fewer than 164 individuals over the period of the investigation. Of the 164 individuals involved in criminal conversations, 115 (more than 70 percent) were men, and the overwhelming majority were either Italian (50 people, or 30 percent) or born in the former Soviet Union (107 people, or 65 percent). Additional nationalities were Polish (2) and Korean (2); the nationality of 3 individuals is unknown. The place of birth, however, may be a poor indication of where the actors actually operated at the time of this investigation. We could reconstruct this type of information for 161 of the 164 actors. These data confirm that most of the individuals operated in either Rome (47.6 percent) or Moscow (20.5 percent). The median year of birth is 1957 (thirty-nine years old in 1996). This suggests that the group was made up of rather experienced individuals—an age profile similar to the Sicilian mafia.[81]

We created three network data sets: a global network of 164 actors; a directed global network where we recorded who initiated the call (as we could not find this information for all calls, this data set contains only 138 actors); and a longitudinal directed network, which includes 138 actors, with the direction of the call split at three points in time (I–III/96, IV–VI/96, and VII–IX/96). Finally, we matched several attributes (gender, language(s) spoken, nationality, and tasks) to the actors by creating an attribute file. In a series of future journal articles, we will present the results of this more sophisticated analysis.

Table A4.2 shows official data from the population censuses on foreign residents in Hungary since 1990 as a percentage of the total population. The data in the first column refer to people whose mother tongue is other than Hungarian.

The data in table A4.2 suggest that many other groups besides Russians and Ukrainians have settled in Hungary, and that their numbers are negligible compared with the total population. In 1991 almost 40,000 people spoke German as their mother tongue, or some 0.3 percent of the total population. Other languages more widely spoken than Russian and Ukrainian were Croatian (17,577 people), Slovakian (12,745), and Roma-

TABLE A4.1
Summary Characteristics of Key Players, Russian Mafia in Rome

Name (changed)	*Nationality*	*Background*	*Function*
Yakovlev, Ivan	Russian	Crime	Boss
Pepe, Giovanni	Italian	Journalism	Local fixer
Sergeev, Boris	Russian	Business/crime	Russian businessperson close to the Solntsevskaya, murdered in 1996
Bogdanovich, Oleg	Russian	Crime	Boss's bodyguard and gofer
Facchini, Giorgio	Italian	Politics	Local fixer
Sergeeva, Nadia	Russian		Sergeev's wife
Kamenskaya, Alina	Russian		Facchini's wife
Brenno, Riccardo	Italian	Business	Business associate of the group
Kamenskii, Vadim	Russian		Facchini's son
Artamova, Raisa	Russian		Sidelnikov's wife, keeper of the common fund
Pepe, Elena	Italian		Pepe's wife
Sidelnikov, Fedya	Russian	Crime	Boss's right-hand man
Yakovleva, Marina	Russian		Boss's wife
Sidorov, Vladimir	Russian	Crime	Boss's right-hand man
Kostina, Sonya	Russian		Sergeev's Italian wife
Sergeev, Denis	Russian		Sergeev's son
Rostovtsev	Russian	KGB	Based in Moscow, keeps contacts with Italian embassy and the political elite in Russia
Vlasik	Russian	Business	Business partner, murdered in 1996
Sergeeva, Ekaterina	Russian		Sergeev's daughter
Manin	Russian	Politics	Russian politician
Yakovlev, Alex	Russian		Boss's son
Ferrari, Marco	Italian	Petty crime	Associate of the group
Rossi, Donatella	Italian		Office secretary

1052

nian (8,730). Polish (3,788) is just below the level of Russian. According to the 1995 data column, Romania, Serbia, Germany, and Poland all have more nationals in Hungary than the Ukraine, and the number of Russians is negligible. In 1995, Ukrainians accounted for 0.034 percent of the entire population. If we add the Russians, the combined percentage amounted to 0.036 percent in 1995.

Table A4.2

Total Population and Foreign Citizens Residing in Hungary by Country, 1990–2005

	*1990**	*1995*	*1996*	*1997*	*1998*	*1999*	*2000*	*2005*
Total population		10,245,677	10,212,300	10,174,442			10,138,844	10,006,835
Romania	8,730	68,439	65,705	61,579	62,130	57,357	57,343	41,561
Serbia and Montenegro	2953	15,297	16,173	15,449	14,250	15,223	15,571	12,664
Ukraine	674	3,501	4,432	5,625	7,184	9,898	11,016	8,947
Germany	37,511	7,427	7,802	8,277	8,985	9,396	9,631	7,493
Poland	3,788	4,628	4,521	4,297	4,471	4,386	4,144	2,279
Russia	3,902	277	1,124	1,708	2,502	2,809	3,002	1,893
Slovakia	12,745	231	461	600	968	1,571	1,717	1,576
Croatia	17,577	305	532	688	929	1069	1,162	917
Austria	***	616	694	872	1,031	990	1,053	694
China	204	3,469	4,276	6639	7,809	8,306	8,861	5,819
United States	410**	1,700	2,008	2,420	2,835	3,132	3,261	1,636
Africa	229	2,081	2,210	2,488	2,659	2,594	2,559	1,233
Australia and Oceania	**	573	717	734	750	812	779	507
Total foreign****		138,101	139,954	142,506	148,263	150,245	153,125	110,028
Total population	10,381,959	10,245,677	10,212,300	10,174,442			10,138,844	10,006,835

Notes: * Data refer to people who declare that they speak a given language as their mother tongue

** People who give English as their mother tongue; for 1990, Australians are counted under the United States.

*** Austrian nationals are counted as German speakers in this column.

**** Total includes more countries than those listed in the table.

Sources: Központi Statisztikai Hivatal (Central Statistics Office), available at http://portal.ksh.hu/pls/ksh/docs/eng/xstadat/xstadat_annual/tabl1_06iea.html; http://www.nepszamlalas.hu/eng/volumes/06/00/tabeng/1/prnt01_11_0.html.

Lessons from the Past: Sicilian Mafiosi in New York City and Rosario, circa 1880–1940

A tough young man with neither prospects nor any intention of working in the sulfur mines or fields of his hometown, Siculiana, in the Agrigento Province of Italy, Nick Gentile—also known as Zu Cola (1885–unknown) and author of the first insider's account of the American mafia—preferred to try his luck abroad. A well-oiled network allowed him to reach the United States and land in New York City in 1903 at the age of eighteen, with an address in hand, 91 Elizabeth Street, in one of the city's Sicilian colonies. His U.S. contact, who directed immigrants from Siculiana and the nearby villages to their place of employment, sent Gentile to do railroad construction in Kansas City, a six-day train journey from New York. In a few years, Gentile did away with his work clothes, sporting expensive suits and darting scowling eyes in the pictures that survived.[1] A fellow Sicilian, Gaetano Pendino, from Alessandria della Rocca, a small town some forty kilometers from Siculiana, chose instead to migrate to Argentina, where he arrived in 1888 at the age of thirty-five. After working as a bricklayer and builder, he eventually established himself as the boss of the mafia in Rosario. This mafia, however, lasted only a relatively short period of time. Scholars who link the emergence of the mafia in New York City to Italian migration ignore the fact that in the same period many Italians, including those of a criminal bent, migrated to several other destinations. Yet not everywhere Italians went did a stable and long-lasting criminal organization with features similar to the Sicilian Cosa Nostra emerge. After sketching the contours

of the mafia in Sicily in the nineteenth century, this chapter outlines the parallel history of Italian migration and mafia activities in New York City and Rosario, and offers an analytic account of the diverging outcomes.

The Mafia in Sicily

The first clear sign that a Mafia existed in Sicily dates from the 1830s. In 1838, the procurator general of Trapani wrote that "in many villages, there exist fellowships [*unioni*] or fraternities" led by a boss. Each fraternity had a common fund, and the members included ordinary people, landowners, and even priests. One service that they performed was to retrieve stolen property, in particular cattle. The official perceptively dubbed the societies "small governments within the government," suggesting that by this time they were already an established extralegal form of governance, in competition with the state.[2]

After unification (1861), the "Southern Question" became a burning political issue for the new Italy. The government struggled to impose the rule of law on Sicily, where insecurity and "banditism" were rife, and it feared rebellions and secessionist movements inspired by the defeated Bourbons and the Catholic church. Dissatisfied with an official report on the state of affairs in the island, a twenty-nine-year-old Tuscan aristocrat, Leopoldo Franchetti, set out for Sicily in 1876 to undertake independent research on the *Condizioni politiche ed amministrative della Sicilia*. Franchetti's study ranks among the classics of nineteenth-century social science, on par with Alexis de Tocqueville's *Democracy in America*. Among his numerous insights, he wrote that members of the mafia belonged to all classes and occupations, including the middle class, and were autonomous from other social and political entities, such as the state. He also suggested that the mafia's single most important activity was ensuring selective access to key resources, in a context where the state was unable to offer fair and universal rules. More specifically, Franchetti documented the existence of cartels among producers backed by the mafia. In one case, a society of millers (*la società dei Mulini*) was said by Franchetti to be under the protection of "powerful Mafiosi." Members of the society kept the price of flour artificially high, and the capo mafia ensured that everybody followed the agreement and did not free ride on fellow society members by producing more than the agreed-on quota.[3]



FIGURE 5.1 Map of Sicily

By the end of the nineteenth century, some organizational features of this secret fraternity had been identified. A book published in 1886 and based on police documents dating back to 1860 describes in detail the structure of some early *cosche* (individual, autonomous "families"), the division of territory, and the mechanisms of coordination among them. Rather than a single giant organization stretching across the entire island, the mafia was composed of cosche, located in western Sicily, who recognized each others' right to exist, and had devised means to coordinate activities and settle interfamily disputes. A police report compiled in 1898 and 1900, the *Rapporto Sangiorgi*, names eight mafia families operating in Palermo and the nearby villages at the time. It identifies the bosses and the underbosses, and includes personal details on many of the rank-and-file members. The document recounts the initiation ritual, code of behavior, and many markets that the mafiosi had penetrated, and confirms that a coordinating body linked the cosche of Palermo to those operating on the city's outskirts. According to the report, some 218

1057

individuals had joined this society. Scholars often marvel at the striking continuity of the mafia's organizational structure from its origin in the first part of the nineteenth century to the time of the revelations during the Maxi trial in the 1980s.[4]

From the mid-nineteenth century, many Sicilians, including members of the mafia, were on the move. In the remainder of this chapter, I will trace their migration to New York City and Rosario, Argentina. Most crucially, only in the North American city did a mafia that resembled the Sicilian one emerge. Below, I explain why.

The Italian American Mafia in New York City

New York City was a key destination for the first wave of European immigrants— mostly Irish and Germans—who arrived in the 1840s, in the wake of the potato famine in Ireland. Jews from Eastern Europe landed in the 1880s, while most of the Italians reached their new *patria* in the period between 1876 and 1915. The number of Italians in New York City rose from just over 12,000 in 1880 to just over 145,000 in 1900 (see table A5.1). By 1910, immigrants and first-generation Italian Americans accounted for 500,000 New Yorkers—a tenth of the city's population. When the First World War broke out, 370,000 Italians lived in New York City.[5] Between 1876 and 1930, some 80 percent of Italian migrants to the United States had originated from southern Italy (see table 5.3 below). Italians reached New York City within a short time span and arrived relatively late in the city's own development, when other ethnic groups had already established themselves. The majority of them joined the unskilled labor force.[6]

Nested within the flow of Italians to New York City were people who had mafia skills and had been initiated into cosche back home. Many were running from the reach of state organs. For instance, Ignazio Lupo became embroiled in a dispute in his store in Palermo in 1898, which ended with Lupo murdering a man. He went into hiding and, on the advice of his parents, fled Italy, reaching New York, where he joined a gang of counterfeiters headed by Giuseppe Morello (see below). Similarly Joseph Bonanno narrates that his father, a man of honor back in their hometown of Castellammare del Golfo, moved to Brooklyn in 1908 in order to avoid prosecution (later returning to Sicily in 1911). The same applies to Giuseppe Joe Masseria, who apparently fled his hometown to avoid murder charges.[7]

Some mafiosi were running away from other mafiosi. The corpse of Antonio Deodati, a Sicilian counterfeiter, was found in 1865 in the woods near Greenwood Cemetery, Brooklyn, having suffered pistol shots to the head. Italian authorities, in a report cited by the *Times* (London), on June 21, 1875, claimed that Deodati had fled to New York City in order to escape a mafia feud, but was "overtaken by an assassin, especially sent out after him, and horribly murdered."[8]

One political development prompting some mafiosi to run off to the United States was Benito Mussolini's accession to power in 1922. In October 1925, Mussolini appointed Cesare Mori as a special prefect to Palermo, giving him vast police powers and an army of elite agents to eradicate the "honored society." Dubbed the "Iron Prefect," and aided by some landowners and businesspeople, Mori rounded up and imprisoned scores of clan bosses as well as innocent bystanders. Bonanno—the future boss of the Bonanno family in New York City—writes in his autobiography that in 1924,

> a tempest would tatter my sails and toss my ship in unknown waters. Now undisputedly in control of the national government, Mussolini sought to eradicate all dissent and to install a totalitarian regime. . . . Men of my Tradition reviled Mussolini, once he showed his true colors, ... [and] were imprisoned in droves, often on the flimsiest charges. They were tried and sentenced with utter disregard for their civil liberties.[9]

In fact, mafiosi were far less antifascist at first, and even planned to support a fascist party list in the 1924 elections.[10] By late 1925, though, Mori's policies had begun to have some effect and forced many mafia members to escape. Antonio Calderone (b. 1935), the Catania underboss, writes in his memoirs: "There was nearly no mafia left after the war. Sicilian families had been shut down by prefect Mori."[11] Some of Calderone's relatives escaped to Tunis, where by the 1930s a mafia outpost was fully operational.[12] The boss of Tommaso Buscetta's family in Palermo took shelter in France instead. Bonanno explains that "many [men of my tradition] were forced to flee to America" as a consequence of Mori's action in Sicily.[13] David Chandler, in his book *The Criminal Brotherhoods*, suggests that no less than five hundred mafiosi escaped Mussolini's regime

by immigrating to the United States, although such a figure is most likely an exaggeration.[14] In conclusion, a contingent of Sicilian mafiosi was present in North America.

Protective Umbrellas

Did Sicilian mafiosi find in New York City a land rich in criminal opportunities that would allow them to re-create the control of markets and territories they had in their homeland? I now turn to a brief description of New York City, and the opportunities to control markets and enforce protection rackets. In the mid-nineteenth century, the city was already one of the world's greatest metropolises. By 1860, it handled two-thirds of all U.S. imports and one-third of its export trade, and ranked first in the country in all but seven items of exportable goods.[15] In transportation links and banking, New York towered over the rest of the country. By 1890, its population was almost double the 1860 figure. Manhattan dominated the women's and men's clothing trade, and ranked first nationally in the number of factories, their capital valuation, gross domestic product, and number of employees. A great deal of its economic achievements depended on the continuing availability of cheap immigrant and nonunionized labor working in appalling conditions.[16]

The new wave of Italian and Jewish immigrants in the 1880s settled near their compatriots, mainly in the low-rent, run-down areas of the Lower East Side (their arrival encouraged the Irish and German residents to leave). In the Fifth Ward Neapolitans lived mainly on Mulberry Street, while the Genoese and Sicilians settled, respectively, on Baxter and Elizabeth Streets. Northern Italians were to be found in the Eighth or Fifteenth Wards west of Broadway.[17] The Italian neighborhood of Five Points was "at the time perhaps the worst slum in the world."[18] The West Twenties (starting around West Twenty-third Street) was the hub for gambling dens, brothels, and late-night saloons. A police captain labeled this area the "Tenderloin," while a less-endearing name, "Satan's Circle," originated with enraged preachers. In a lengthy article published in 1909, *McClure Magazine* called Satan's Circle "the recognized metropolis of American criminals."[19] Vice also flourished somewhat south of the Tenderloin, in the Battery, Five Points, and Bowery, close to where the Italians lived.[20]

The illegal markets of sex and gambling were sizable. In 1897, New York had some 30,000 public prostitutes. By 1900, there were more than 250 brothels in Satan's Circle, and over a thousand poolrooms and card rooms in Manhattan. These services were illegal, but who was protecting them? The most profitable illegal markets since the mid-nineteenth century in the city were protected by an alliance of corrupt politicians and police officers. This was the time when "political machines" dominated U.S. cities—a system that ensured the distribution of jobs and favors in exchange for votes. The most influential organization in New York City was the Society of Tammany, the Democratic political club on East Fourteenth Street. In each election ward, a "captain" was responsible for making sure that votes would flow toward Tammany's candidates. Often, the captain employed gangs of petty criminals who would vote more than once (they were known as "repeaters"). In exchange, the captain ensured that jobs, contracts, and permits were handed out to the politically well connected, although the ward captain frequently provided genuine help to the newly arrived destitute residents. Yet merit was hardly a concern for appointing somebody to public office: often people with a criminal record were selected to work as court clerks, while judges and prosecutors routinely accepted bribes. Between 1886 and 1902, Tammany was headed by a former street brawler and petty gangster who had been tried for murder.[21]

Police recruitment was in the hands of ward leaders and activists, who would recommend a potential recruit directly to police commissioners, bypassing the uncertain and demanding application to the Civil Service Board, an independent body that appointed officers on merit. During the last decade of the nineteenth century, individuals following the former route had a nine-in-ten chance of being successful, while those applying through the latter had a one-in-eight chance. Not only did recruits have to be connected to local politicians but they also had to pay in the region of $250 to $300 (a full year's pay was $600) to join, and substantially more to be promoted (a captaincy cost somewhere between $12,000 and $15,000).[22]

"Big Tim" Sullivan (1862–1913) was at various points district leader of the wards that comprised the Five Points and Satan's Circle. As historian Mike Dash has vividly shown, the Democratic machine led by Sullivan not only manipulated polls but also enforced a strict protection racket,

collecting money from saloons, brothels, and gambling establishments in exchange for protection from law enforcement. Sullivan used new immigrants, including Italians, as enforcers for his get-the-vote operations, but racketeering was done by the political-police alliance. Police officers on the ground extracted payments and kicked a portion of their take "up" to senior officers and their political allies. In other parts of the city, "clubbers" also helped employers keep peace with labor, and ensured that workers would be intimidated and harassed when going on strike and marching through the city. Arrests were often arbitrary and a source of graft; it was common practice for police on the beat to arrest people and have them locked up at the nearest station house. The charge would then be dropped, and the bail money went into the pocket of the arresting officer, their precinct captain, and the bondsperson (in 1909, 262,000 arrests had been made in New York City, compared to 111,000 in London, despite its larger population). Corruption was so widespread that officers would not bother to investigate robberies unless the victim offered a reward. Thieves were permitted to operate within carefully defined territories on the condition that they handed back the proceeds of certain robberies on demand, so that the police officer could claim to have recovered the stolen merchandise. On the other hand, owners of brothels and gambling dives obtained a degree of safety for their money. Police Commissioner William McAdoo observed: "A corrupt police captain doesn't have to force payments. They will thrust money upon him and those under him. These men and women feel that when they pay their money they are going to be protected."[23]

A damning investigation into the system of graft in the state Senate—the Lexow Committee of 1894–95—set in motion some key reforms. Building on the committee report, the city administration reduced discretion for recruitment into the police force, bringing to an end the practice of paying a fee to join. To a degree, this reform reduced the intimate ties between the police and politicians, but it was not enough to stop the grafting. Freed from their political overlords, the New York police simply began to keep the income from corruption for themselves. According to the *New York Times*' calculations published in 1900, the owners of the city's largest gambling clubs paid as much as $12,000 a year for protection; smaller operators were required to part with nearly $2,000; poolrooms stayed open in exchange for $300 a month and craps games for $150. Millions were handed over to the police every year, in "taxes" that were—according to

the newspaper—as fixed in size and regularity as the "laws of Medes and Persians."[24] Similarly, brothel owners paid heavily for police protection, and, if they failed to do so, found themselves mercilessly raided.[25]

By 1910, a combination of effective reforms and a few driven individuals led to the virtual end of grand graft. The reformist district attorney, William Travers Jerome (a cousin of Winston Churchill who had worked for the Lexow Committee), joined forces with the mayor, Judge William Jay Gaynor, elected in 1910, to enact and see through far-reaching reforms. First, the mayor appointed a like-minded police commissioner, Rhinelander Waldo. He went on to put an end to arbitrary arrests by the police; for trivial matters, police officers now were to issue a simple summon, otherwise every arrest was to be based on legal evidence and the suspect was to be taken before a magistrate on the day of the arrest. The aim was to dry up a major source of bribes for the arresting officer and precinct captain. Gaynor encouraged the prosecution of police officers who raided premises without the proper warrant and advised gamblers that they should resist arrest if the police did not show the correct paperwork. Then, observing that the New York Police Department regularly broke up strikes as well as dispersed meetings organized by socialists and anarchists, he instructed officers to protect pickets and marchers, so long as the protesters obeyed the law. This was at a time when militancy was on the rise. For instance, in 1909, some seventy thousand "shirtwaist" women had gone on a strike led by Clara Lemlich. Gaynor's biographer writes: "During 1910 immigrant workers . . . fought out a long, bitter strike, and Gaynor kept the police, who before notoriously sided with the employers, out of the dispute."[26] These measures worked. By the end of 1910, arrests had fallen by one-third, police behavior had noticeably improved, and some of the force's most unrepentant grafters had been summarily dismissed. In addition, trade union activities were growing.[27]

Mayor Gaynor went further: he centralized policing, so that officers on the beat did not have the power to raid establishments. Police officers made a lot of money by threatening to shut down bars and taverns that violated Sunday closing laws (there were nine thousand saloons and eighteen hundred hotels serving liquor in New York). For a bribe, the officers could be persuaded to look the other way. The mayor's solution was twofold: first, he called the Liquor Dealers' Association and ordered its members to stop paying protection money. He then issued



William Jay Gaynor (1848–1913), mayor of New York City (1910–13), hit by a bullet. Source: Frederic Lewis, photographer/Hutton Archive/Getty Images.

instructions ordering police officers to stop entering licensed premises or speaking to their owners. Detectives were forbidden to make on-the-spot arrests or report violations of the law to their captain. Rather, they were to file an affidavit for each violation with the district attorney, where intelligence would be collated and indictments prepared. Remarkably, the

plan worked. Violations of the Sunday closing law fell to a mere handful within two weeks. By the beginning of 1911 saloon graft had been practically wiped out for the first time in living memory. One bartender, who had worked thirty-five years in the New York liquor trade, marveled that he had never known a time "when the laws were so nearly enforced in their intent as they are today. Mayor Gaynor has done away with the collector who used to come around from 'the man higher up.'"[28] The city newspapers were effusive in their praise.[29]

The mayor applied the same logic to the policing of gambling and prostitution. Until then, the suppression of vice had been the responsibility of New York's fifty or so precinct captains, each of whom would gather intelligence and order raids in their own district. The mayor transferred responsibility for policing brothels and gaming clubs to headquarters, forbidding precinct cops from mounting raids and opening up the possibility of gathering intelligence from all five boroughs. Thus, corrupt captains could no longer offer ironclad protection. Gaynor hoped that this would make it easier to curb graft as well as deal with the most influential madams and gamblers, some of whom controlled premises all over the city.[30]

Such innovations were complemented by the creation of special police squads, based at the headquarters and reporting directly to the commissioner. These squads would conduct raids that had hitherto been carried out at the precinct level and—properly led and supplied with detailed information—might well succeed in closing down establishments that had enjoyed police protection. Most of the targets for the raids were selected by the police commissioner or mayor, acting in response to tip-offs received from members of the public who were—it seems more than likely—in many cases rivals of the gamblers on whom they informed. This system made it virtually impossible for unscrupulous officers, bent on continuing to extort gambling dens and brothels, to offer effective protection, as they had no power to stop raids or be informed beforehand that a raid was being set up. Further reforms to reduce waste and improve accounting practices were introduced by Gaynor's successor, elected in 1914.[31]

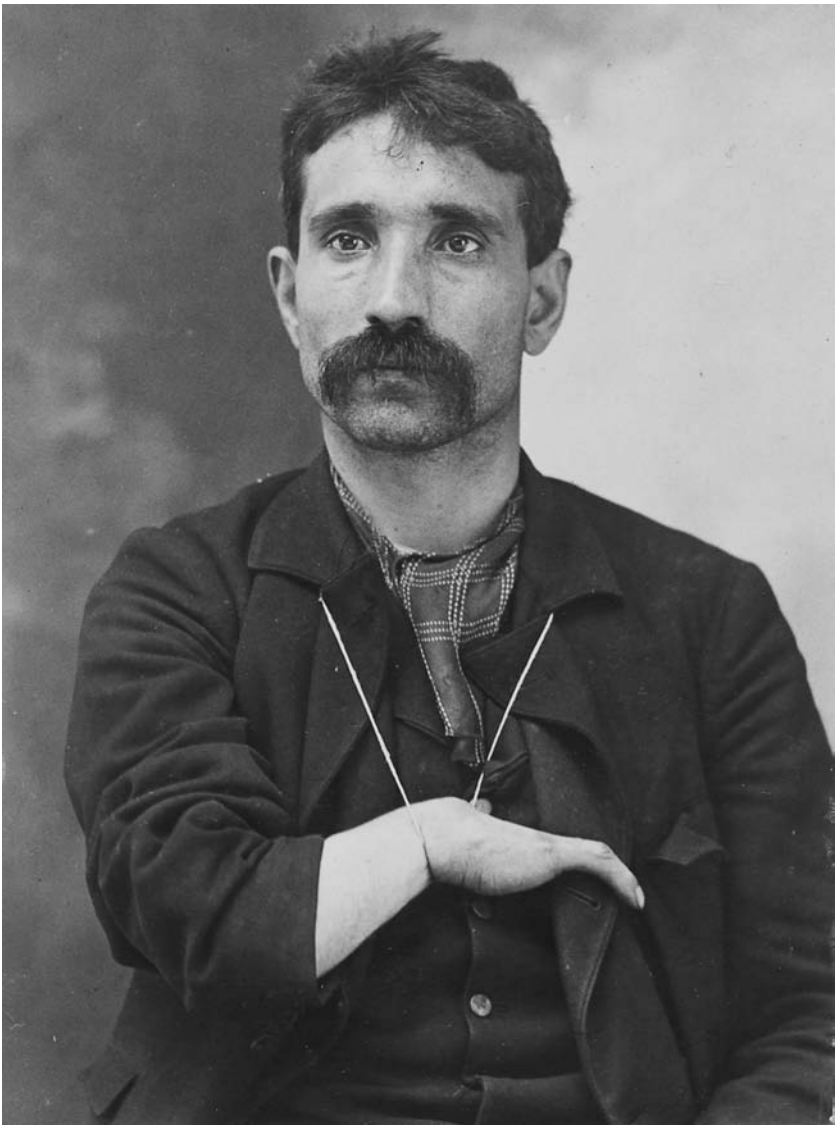
Early Italian Criminality

At first, Sicilians with a criminal inclination, and even members of Sicilian cosche, did not embark on activities that indicated an ability to control markets or specialize in protection, contrary to what they did in Sicily.

In other words, there might have been mafiosi, but there was as yet no mafia because the police was performing this function. For instance, Italians were involved in counterfeiting from at least the 1860s. One gang of counterfeiters, all originating from Messina, was exposed in 1865 in connection with the Deodati murder. Another significant murder connected to this trade—that of Antonio Flaccomio, who was stabbed to death in 1888 at the corner of St. Marks Place and Third Avenue by a counterfeiter named Carlo Quatertaro—led Chief Inspector Thomas Byrnes to declare that Sicilians "banded together in a secret society known as the Mafia" were the culprits.[32] Morello (1867–1930) and his brother-in-law, Lupo, led one prominent counterfeiting gang based in East Harlem. The forgeries were manufactured in upstate New York. Morello and Lupo then sold them to wholesalers at thirty to forty cents on the dollar for distribution throughout the country. By 1899, Morello was an influential figure in East Harlem, along with his brothers Tony and Vincent and their half-brother Ciro Terranova. Counterfeiting generated great alarm among U.S. authorities, since it was undermining confidence in the currency, and significant resources were devoted to stopping it. These efforts were successful, and by 1910 massive police repression led to the virtual death of this criminal activity. The participants themselves understood that the costs of engaging in this trade were high. As late as 1963, novices taking the mafia ritual oath in New York were still required to promise not to take part in counterfeiting.[33]

Italians were also stealing horses at the turn of the twentieth century in New York City. In 1908, more than a hundred complaints reached police headquarters from people whose horses and wagons had disappeared, causing insurance rates to rise. A year later, a network was discovered, "working on a scale unknown even in the days of 'horse lifting' in the West," the *New York Times* reported in October 1909.[34] The stolen animals were taken to a stable where they were kept before being sold. The police identified 334–337 East 108th Street, in Italian Harlem, as the hub of the ring. And yet there were no territorial disputes between different gangs of horse thieves, and in any case the business died when motorized public transport and automobile usage increased.[35]

At the turn of the century, a crude technique of random extortion known as "Black Hand" came to define the perception of southern Italian immigrants in the mind of the U.S. public. The standard Black Hand



Giuseppe Morello (1867–1930), a prominent counterfeiter in New York City. Photo credit: David Critchley.

crime consisted of sending a letter to businesspeople and shopkeepers in Italian neighborhoods warning them of dire consequences if they failed to pay up. Invariably, the picture of a black hand fringed by a knife and skull was imprinted on each letter. The Black Handers did not attempt to control markets, territory, or even the name Black Hand, although some gangs formed and celebrated rituals. Soon, every crime committed by Italians was credited to the Black Hand, and press excitement encouraged both the real practice and the emergence of fakes. Continued press coverage led to more and more letters being sent. The Black Hand brand proliferated in several U.S. cities, but it did not correspond to any specific organization. Eventually it died out, perhaps for lack of a connection to a specific mob able to prevent other lesser entities from using the same logo (Black Hand); when inefficient groups used the label, victims realized that they could safely avoid paying. [36]

In conclusion, before Gaynor's reforms, Italians were involved in a variety of crimes—counterfeiting, horse theft, and crude extortion—but they had not yet managed to reproduce the control of markets and territories typical of Sicily in New York City.

The Birth of the Mafia

Paradoxically, the end of widespread police corruption instigated by Gaynor's reforms and more generally by the Progressive movement led to the birth of the mafia. Police reform had left a void to be filled by new actors. As policing was being centralized, an organization able to coordinate illegal activities was much needed. For instance, a mafia could prevent rival gamblers from informing on each other and enforce an informal license system. It could put pressure on local police officers on the beat not to pass information to headquarters. Around this time, Italians started to protect brothels and gambling establishments. In a few years, Lucky Luciano would be indicted for controlling no less than eighty brothels in Manhattan. The protection that Gaynor's reforms afforded to trade unions led some employers to turn to mafiosi rather than corrupt police officers. The former leader of the notorious Five Points Gang, the Italian Paul Kelly (Paolo Vaccarelli), moved into labor racketeering at this time. Some workers too turned to extralegal help. In 1913, an Italian gang that had been implicated in crude Black Hand extortion offered its violent ser-

vices to workers (not employers, in this case) in the garment industry. Mafiosi rather quickly started to offer their services to market operators who wanted to keep some competitors out of a given industry or expel troublesome insiders, and enforce cartels among a limited amount of producers, as they did in the case of millers in Sicily I discussed at the beginning of this chapter. Gaetano "Tom" Reina (the future boss of the Lucchese family), Tommaso Gagliano (also a future boss in the same family), and Jack Dragna were implicated in the murder of a poultry dealer in 1914, Barnet Baff. The dealer had volunteered information to the district attorney's office on a cartel of eighty-seven other dealers. Industry insiders who wanted to punish the defector had orchestrated the murder. Italians infiltrated other industries, such as barbershops, the garment industry, and the docks. Over the subsequent decade, they continued to organize cartels, such as the Bronx lathing and plastering industry, the fiefdom of the Lucchese family since at least 1928. Although some Italian criminals could be found operating in illegal markets at the apex of Tammany, they typically were not the protectors, but rather the operators of brothels and shady saloons. It was only after the reforms described above that their role changed.[37]

A major impetus to the expansion of the Italian American mafia was the creation of yet another vast illegal and unprotected market. Legislation intended to prohibit the "manufacture, sale, or transportation of intoxicating liquor" culminated in the approval by the U.S. Congress of the Eighteenth Amendment to the Constitution in January 1919. By the end of 1919, thirty-six states had ratified the amendment. Prohibition and its enforcement machinery, the Volstead Act, came into effect at midnight on January 16, 1920. This "noble experiment" (in the words of President Herbert Hoover) was part of the same Progressive movement that had succeeded in reducing grand graft and police corruption in the first decade of the twentieth century.[38]

An illegal market estimated to be worth some two billion dollars a year was born overnight.[39] The bulk of the alcohol that reached consumers was either produced abroad and smuggled into the country (the so-called high seas or rum-running operations), or produced illegally in the United States and transported on land. As a rule, higher-quality merchandise was produced abroad while domestic producers manufactured the cheaper-grade liquor.[40]

Those who imported liquor from abroad formed international networks of cooperation. The Canadian-U.S. border (some thousand miles long) was one point of entry for land smuggling operations. Thus, several U.S. traffickers teamed up with Canadian distillery conglomerates and liquor distributors. Another method of getting the goods to the East Coast market was by means of ocean vessels anchored offshore in international waters, on "Rum Row," as the stretch of coast on Long Island and northern New Jersey came to be known. The ships would sell their cargo to the owners of high-speed "feeder" boats, who would then bring the merchandise to beaches on Long Island and northern New Jersey.[41]

The alcohol coming in from Rum Row would be loaded onto trucks and sent to depots located in Manhattan. The market was fraught with dangers. Hijackers of vessels were a serious problem for sailors bringing cargo from abroad. Herbert Asbury (the author of *Gangs of New York*) recalls in his 1950 study of Prohibition that "these seagoing hijackers, in fast boats, swarmed along the Row and robbed everybody they could catch and overpower. They prayed principally on the small craft, some of which carried huge sums of money, jumping them if possible on their way out to the Row."[42] Alastair Moray, a Scottish rumrunner with literary aspirations who kept a diary of his years in this business, concurs: "There is a good deal of what is known as 'hi-jacking,' inshore and out here too; in plain English, 'highway robbery.'"[43] Most of the sailors were armed with revolvers, rifles, and the occasional machine guns, and would not dare to go on deck unarmed during the night. Bill McCoy, possibly the best-known captain on Rum Row, aimed machine guns and rifles at any unknown boat that approached his ship, and allowed only one person aboard at a time.[44]

The route from the Long Island beaches to the City was also dangerous. Hijackers would regularly stop the trucks, hold up the drivers, and steal the cases. A man known as Big Eddie led a notorious gang of hijackers. "The New York police," writes Asbury, "said that he and his gang hijacked many truckloads of liquors on the roads of Nassau and Suffolk counties, the principal highways into New York from the lower end of Long Island."[45]

Jewish and Italian gangsters—such as Arnold Rothstein, possibly the most enterprising bootlegger on Rum Row—took it on themselves to offer two services to this market: the protection of truckloads, and a place where

buyers could meet sellers. Luciano and Frank Costello together with Rothstein created squads to protect the procession of vehicles carrying liquor on the way to the warehouses. Each truck had a driver up front and two armed guards in the back, ready to fire if attacked. The recruits for this job were Italian and Jewish youths from the Lower East Side.[46]

Early Italian mafiosi were also responsible for the creation of the equivalent of a Stock Exchange for booze, the so-called curb exchanges (after the name of the New York Stock Exchange, originally called the Curb Exchange), where bootleggers met buyers. The first curb exchange emerged in September 1920 in the area bounded by Canal, Bowery, Prince, and Mulberry Streets, right in the middle of a territory controlled by Joe "the Boss" Masseria (see below) and just a block away from police headquarters. Bootleggers and buyers met almost every night from 9:00 p.m. to 1:00 a.m. to deal cases of rye whiskey, Scotch whiskey imported from England, bourbon, Canadian scotch, Canadian rye, domestic Gordon's gin, Burnett's bonded gin, Italian vermouth, French vermouth, and Dubonnet (the list is courtesy of the local police).[47]

In order to avoid police detection, a slightly different meeting place was selected every night. The curb traders, writes the *New York Times*, met in "yards of tenement houses, usually in the rear of saloons."[48] The products, continues the *New York Times* article, "were sold by purveyors on the 'curb,' either in single cases or by the load. While the sales were effected on the 'market,' . . . the liquor itself was not handled at the 'curb,' but was obtained on orders at various rendezvous in different parts of the city, and in New Jersey, Long Island, and Connecticut points."[49] For instance, on March 20, 1921, the police raided a garage at 144 Mulberry Street. About one hundred people ("recognized by the agents as bootleggers") were gathered there, but only samples of liquor were seized.[50]

Curb trading was more efficient than the system employed previously. In the previous system, all liquor was stored in cellars and tenement apartments, so it was easy for the police to spot the trucks coming and going, and thus arrest the drivers. Now, the liquor was hidden out of the city and directly dispatched to the buyers. "The brokers," officials told the *New York Times*, "do not handle any liquor themselves, nor is any money displayed on the market, . . . so [officers] have difficulties in getting any evidence."[51] Most significantly, these individuals were private protectors independent of bootleggers and restaurateurs. An informant told the *New*

York Times that "a considerable number of them were agents, who received commissions both from the bootleggers and the purchasers." These individuals were tasked not only with providing physical protection but also ensured that promises made on the curb were kept. The strong-arm men were local youths from the Italian neighborhood: "The sudden prosperity of some of these agents has been the source of considerable comment on the part of the police and residents of this bootlegging zone. All are young men whose homes are in nearby tenements."[52] This segment of the market was not run as a cartel of the suppliers (the bootleggers) and consumers (the saloon keepers) but rather the mafia offered a universal service to both the sellers and buyers. It was more profitable for the mafia to be paid a fee by all market participants than to force some out.

Curb exchanges were not limited to lower Manhattan. A "whiskey curb exchange" was reported to be operating in New Jersey already in November 1920. When police started to raid the curb exchange in Little Italy, the market moved uptown, and Prohibition officials admitted that "it is increasing its operations. . . . The new curb is said to be on Fortieth Street, near Broadway, and most of the 'brokers' who did business in the old market, on Mulberry Bend, have shifted their activities."[53]

Masseria, who was to become the head of the most influential New York syndicate in the 1920s, lived above a saloon on Forsyth Street, right in the curb exchange area. His early criminal career included extortion, kidnapping, and burglary. Together with associate Tommy Pennochio, Masseria was the organizer of this portion of the market, independently from both the bootleggers and buyers of liquor. Another significant player in the curb exchange was Salvatore Sabella, who had worked and had been arrested at the curb exchange. The boss of an existing Italian group, Salvatore D'Aquila, wanted a cut from this business. One famed street battle erupted on May 8, 1922, within a block of the police headquarters in the curb exchange territory, between D'Aquila and Masseria men. The struggle between the Masseria and D'Aquila families ended when, on August 11, 1922, D'Aquila's main killer was assassinated by Masseria. At this stage, Masseria gained considerable prestige and started to undermine D'Aquila both in New York and other cities. Eventually D'Aquila himself was gunned down, beside his car, on October 10, 1928, after driving his wife and children from the Bronx to consult a doctor. Following his death, the D'Aquila family would ally with Masseria.[54]

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Mafia historian David Critchley notes that Masseria's role in the curb exchange market enabled him to expand "from his lower east side territory and secured a lock on an important portion of the Italian-American underworld extending from Brooklyn to the Bronx, operating primarily through Salvatore Lucanio and West Side-based Vito Genovese."[55] Bonanno, an enemy of Masseria, concurs that, at the height of Prohibition, Joe the Boss was the dominant leader.

By 1928, the Coast Guard had grown more effective at intercepting this illegal traffic at sea. A series of treaties with other countries also allowed the Coast Guard to search and seize within one hour's running distance of the U.S. coast, while its fleet was greatly improved by 1928. Rum Row had declined in importance by this time as a source of imported liquor.[56] Local booze producers flourished as a result of such decline. Italians were quick to enter this section of the market as well. Salvatore Maranzano, the mafioso who would fight the Castellammare War against Masseria in 1930 for control of the Italian American mafia, came to prominence by protecting illegal distilleries. Already a mafioso of consequence in Sicily, born in 1886, he arrived in New York most likely in 1925 via Canada. He entered the Schiro family and soon took control of the *borgata* (the word borgata is equivalent to cosca, although it is normally used to refer to U.S. mafia groups only). Maranzano had invested in a number of distilleries in Pennsylvania and upstate New York. The operations were typically run by a local manager and part owner who was not a member of the mafia; Maranzano and his gang provided protection for this network of producers of illegal products. He ensured that supplies arrived as well as that the whiskey was stored in safe houses and then shipped on to the buyers. He dealt with the police and settled disputes that arose among the various players. Bonanno, who worked for Maranzano, recalls that hijacking of delivery trucks was a common occurrence and one of his jobs was to retrieve stolen trucks. In one instance, a violent shootout led to a significant police investigation.[57] Italian mafiosi were now deeply involved in the largest illegal market of the time and a rough distinction between producers (bootleggers, the stills' managers), buyers (saloon owners), and protectors (mafiosi) was emerging. This was a far cry from writing extortion letters or stealing horses. Surely the goods were reaching the consumers: the mayor of Berlin, while visiting the city in the fall of 1929, asked the mayor of New York, "When does the Prohibition law go into effect?"[58]

Prohibition provided an enormous boost to both the personnel and power of Italian organized crime. The risk of punishment was low, the gains to be made were enormous, and there was no social stigma attached to this trade. One by-product of the massive profits was that syndicates could easily bribe the judiciary and politicians in New York City, reversing the attempt at curbing corruption initiated by Mayor Gaynor in 1910.[59]

Organizational Maturity

Italian criminal groups existed in New York City before Prohibition: the Morello gang of counterfeiters in East Harlem; a group led by Nicolò (Cola) Schiro, mainly formed by immigrants from Castellammare del Golfo and based in Brooklyn; and the borgata around D'Aquila, also in Brooklyn. How were these groups related to the Sicilian mafia? Although American mafiosi were not agents of the Sicilian ones, the homeland still exerted some influence on such U.S. outposts. Between 1910 and 1920, there were three different routes into a U.S. family. One was previous membership in a Sicilian cosca. Nick Gentile—who had entered the Porto Empedocle one before migrating to the United States in 1903—was admitted into the Philadelphia family in 1905. He then moved to Pittsburgh, where after a brief and successful campaign against the despised local gang of Neapolitan descent, he murdered the boss and became a capo. Such a route was open as late as 1925, when Maranzano was accepted into the Schiro family right after arriving in New York City "because," writes Bonanno, "of his position in Sicily."[60] It was customary for would-be members to carry a letter from Sicily testifying to their position in the cosca back home. When Morello was captured in 1909, the secret service discovered such "letters of admittance." Gentile confirms in his memoirs that would-be mafiosi from the old country needed a "letter of reference" from Sicilian bosses in order to be admitted into a cosca, and any change of family had to be approved by the boss back home. A second route was birth in a Sicilian town that was known to be under the sway of the mafia, and thus where Sicilian mafiosi could "vouch" for a prospective U.S. member. Third, coming from a well-known mafia family could ease admittance. This appears to be the way Bonanno entered the Schiro mob: his father had been a leader back home. Still, in contrast to Sicily, mafiosi in the United States could move

quite freely from one family to another, as Gentile did, and dual membership (Sicilian and American) was possible.[61]

As a consequence of Prohibition, the New York mafia families consolidated and grew in number (table 5.1). Masseria, who had played a crucial role in the development of the curb exchange, was the boss of a new family firmly located in Brooklyn and the Bronx as well as in Manhattan and, following the murder of D'Aquila, the D'Aquila family had become an ally. Joe the Boss also had contacts with mafia syndicates in Chicago, Detroit, and Cleveland (Capone was his ally in Chicago). Maranzano, who had taken control of the Brooklyn Schiro family, greatly strengthened it to the point that it became Masseria's main competitor in the war that broke out in 1930, the Castellammare War. The Reina (later Lucchese) had absorbed the bulk of the Morello borgata in the 1920s. By the late 1920s, a second new family had emerged, the Profaci, later called Colombo. Thus, the number of established mafia groups in New York City grew to five and also swelled their ranks. The Castellammare War was a conflict between the two main leaders at the time, Masseria (allied to D'Aquila) and Maranzano (allied to Reina; Profaci remained neutral). Although Maranzano won the war, he was soon gunned down, due to the fear that he would want to exert excessive control over the other groupings. As a result of the war, the new leaders created a commission—a forum where key decisions were discussed and enforced. Individual families retained their autonomy, and over the subsequent decades, the commission tended to intervene mainly when an individual family was unable to choose a successor and plunged into internecine violence. Contrary to a widespread conception suggesting that the Five Families were created after the Castellammare War, they were already in place by the late 1920s. What did change after the conflict was the identity of some leaders. For instance, because of the war, Luciano and Bonanno were elevated to the rank of boss. These Five Families exist to this day.[62]

By the late 1920s, U.S. families were growing in importance in the eyes of their Sicilian counterparts. For example, when a significant dispute arose between two Palermo mafia factions in 1928 over how to split a payment from a company that had obtained a public contract thanks to the mafia, a U.S. delegation was sent to put an end to the dispute, as testified to by Dr. Melchiorre Allegra in his 1937 deposition: "I was told that three

Table 5.1

Timeline of Italian American Crime Families, 1910 Circa to Present, Core Territories and Key Events

Timeline:					
c. 1910		D'Aquila (Brooklyn and Manhattan)	Morello (East Harlem and Manhattan)	Schiro (Brooklyn)	
c. 1920		D'Aquila (Brooklyn and Manhattan)	Morello (East Harlem and Manhattan)	Schiro (Brooklyn)	
Late 1920s	Masseria (Brooklyn, Bronx, East Harlem, and Manhattan)	D'Aquila-Mineo-Mangano (Brooklyn and Manhattan)	Reina-Gagliano (East Harlem)	Schiro-Maranzano (Brooklyn and Manhattan)	Profaci (Brooklyn and Staten Island)
1931	Castellammare War: Maranzano boss; Masseria killed				
1931	Murder of Maranzano (September 10, 1931)				
	Creation of the Commission				
1931–	Luciano-*Genovese*	Mangano-*Gambino*	Gagliano-*Lucchese*	*Bonanno*	Profaci-*Colombo*

Notes: The names of the Five Families, as they are known today, are in italics. Luciano, Mangano, Gagliano, Bonanno, and Profaci were the bosses in 1931 as well as members of the Commission, which included representatives from Chicago and Buffalo.
Sources: Bonanno with Lalli 1983; Critchley 2009; personal communication, December 19, 2009.

special delegations composed of mafiosi residing in the US arrived [in Palermo] with the ultimately unsuccessful aim of finding a solution to the dispute."[63]

The U.S. groups were also becoming autonomous, rescinding any dependency on the Sicilian homeland. By the end of the war that pitted Masseria against Maranzano, and led to the death of both leaders in 1931, dual Sicilian and U.S. mafia membership was forbidden. Furthermore, membership of a Sicilian cosca was no longer a sufficient qualification to join a U.S. family. Buscetta dates the full separation between the two entities at around 1950.[64]

Because of the Castellammare War, the families had turned to new sources for recruitment. In order to increase their ranks to fight the war, families started to look beyond Sicilians and, anathema to a Sicilian mafioso, admitted Neapolitans, the most famous being Joe Valachi, who testified against the mafia in 1963. Over time, typical new recruits came to be youths of Italian descent who had grown up in the inner-city neighborhoods of New York City. The candidates would be observed for a while and then, if deemed worthy, schooled for full membership. This is a sure sign that the U.S. mafia had become an autonomous organization.[65]

Italian American families had not yet acquired a publicly recognized name. Until the 1960s, each borgata was called after the name of the boss at the time or the territory that they inhabited (for example, the Luciano-Genovese faction was known as the West Side to insiders). Thus how did the Gambino, Genovese, Bonanno, Colombo, and Lucchese families come to acquire stable names by the 1960s that have survived to this day? Table 5.2 offers an important clue. In October 1963, Valachi, a soldier in the Masseria-Luciano borgata, gave a televised testimony to the Permanent Subcommittee on Investigations of the U.S. Senate Committee on Government Operations (best known as the McClellan Committee). In October 1963 the bosses happened to be Gambino, Genovese, Bonanno, Colombo, and Lucchese. The testimony transfixed the U.S. public, and the families were from then on assured a place in the U.S. psyche with the names of the bosses at that particular time. As in other instances, an external source conferred a recognizable identity on a phenomenon that already existed but was struggling to consolidate. In order to be recognized, mafiosi themselves started to call their organizations by names that they had not quite chosen.

TABLE 5.2
The New York City Mafia Bosses by Families and Key Events, 1930s–80s

Timeline:	*Familes*				
	Genovese	Gambino	Lucchese	Bonanno	Colombo
1930s	Salvatore Lucania ("Charlie Lucky" Luciano), 1931–46	Vincent Mangano, 1931–51	Tom Gagliano, 1931–53	Joseph Bonanno, 1931–68	Joe Profaci, 1931–62
1940s	Frank Costello, 1946–57				
1950s		Albert Anastasia, 1951–57			
			Gaetano Lucchese (Thomas Lucchese), 1953–67		
	Vito Genovese, 1957–69	Carlo Gambino, 1957–76			
1960s					Joseph Colombo, 1962–71
October 1963			Valachi hearings		
1964–69			Bonanno war		
			Carmine Tramunti, 1967	Natale "Joe Diamond" Evola, 1968–73	
	Tommy Eboli, 1969–72		Anthony "Tony Ducks" Corallo, 1967–87		
1970s	Frank "Funzi" Tieri, 1972			Philip Rastelli, 1973–85	Vincent Aloi, 1971
	Anthony "Fat Tony" Salerno, 1972–87				Carmine Persico, 1971–96
		Paul "Big Paulie" Castellano, 1976–85			

Notes: The dates refer to the tenure of each boss. The names of bosses at the time of Valachi hearings are set in bold. Tom Gagliano might have died in 1951.

Let me conclude this section on the birth of the Italian American mafia. Mafiosi arrived in New York City before a mafia was present, in a fashion not dissimilar from the arrival of members of the `Ndrangheta in Bardonecchia and Verona in the 1960s. The push factor was the unintended consequence of prosecution in Italy along with the attempt of mafiosi in Sicily to avoid mafia disputes and punishment, as was the case with Yakovlev's move to Rome in the 1990s and those of triad members to China in the 1990s (see chapter 6). Some of course just came as part of the generalized migration to North America, in search of a better life. In the nineteenth century, the most profitable markets were already protected by a combination of corrupt police officers and local politicians. The arrangement is not unlike the "protective umbrellas" operating in China (see chapter 6). Italians in the United States did congregate in crime groups and even performed admission rituals, while the Sicilian homeland had a say on admission and moves among families, and operated as a certification agency on reputations. The Italian Americans involved themselves in ordinary crimes, such as counterfeiting, horse theft, and crude extortion.

In the first decade of the twentieth century, leaders of the Progressive movement to reform city politics were successful in curbing grand corruption. Prostitution, gambling, and late-night drinking as well as labor relations were suddenly left unprotected. A central argument of this chapter is that the unintended consequences of police reform gave the mafiosi a golden opportunity to become entrenched as suppliers of services of dispute resolution and protection.

In addition, the Progressive movement succeeded in banning alcohol consumption and manufacturing in 1920. Thus, another vast unprotected market was created shortly after the reform of the police. Mafiosi stepped in to protect truckloads entering the city from Rum Row and large stills in upstate New York. They were also instrumental in the creation of spaces where suppliers could meet distributors and prices could be set. The Italian mafiosi were independent of either suppliers or distributors, offering their services to both. Contrary to a common perception, Prohibition did not create the Italian American mafia.[66] Rather, mobsters had already penetrated some key markets in the previous decade. During and after Prohibition, the Italians continued their involvement in other illegal markets, such as prostitution and gambling.[67]

The Five Families as we know them today had already been formed by the mid- to late 1920s. They had also already started to assert their independence from the Sicilian homeland, as demonstrated by the fact that dual membership in the two organizations came to be forbidden and the major source of recruitment became, from the late 1920s onward, local youths of Italian descent. The final nail in the organizational edifice of the Italian American mafia was the Valachi testimony in 1963. While it fixed the spotlight on the organization, it also gave each family a stable and recognizable name that persisted after the demise of the particular boss.

Italian Mafia in Rosario

Italians set foot in Argentina earlier than in New York City, arrived at a more even pace, and were the most numerous migrant group. Significant influx to the shores of Río de la Plata had started already in the mid-eighteenth century. By 1855, Italians were the largest migratory group in Buenos Aires and other urban centers in the provinces of Santa Fe and Entre Ríos. Most of them lived in the La Boca neighborhood of Buenos Aires, where they already constituted almost a quarter of the capital city's population. Italians continued to form the bulk of overseas migration to Argentina in the last decade of the nineteenth century and until the First World War. According to the Third National Census of 1914, almost a million of them resided in Argentina, making up 20 percent of the population of the capital.[68] While those going to New York City arrived relatively late in the city's own development, when other ethnic groups had already established themselves and the majority of them joined the unskilled labor force, in Argentina the first wave of Italians was able to enter the professions and more generally join the local elite.

The regional background of Italian immigrants to Argentina was also different from the background of those who emigrated to New York City. In the Latin American country, 41 percent came from northern Italy, 47 percent from southern Italy, and 12 percent from central Italy (see table 5.3), while some 80 percent of the migrants to the United States had originated in southern Italy.[69]

And yet one has to be mindful of the changes over time. Arrivals to Argentina from southern Italy jumped from 28 percent of the total Italian immigration in the 1870s to 55 percent in the first decade of the twentieth

1080



FIGURE 5.2 Map of Argentina-Rosario

TABLE 5.3
Regional Origins of Italian Immigrants to Argentina and the United States, 1876–1930

Period	*Percentage from northern Italy*	*Percentage from central Italy*	*Percentage from southern Italy*
	Argentina		
1876–78	66	6	28
1884–86	66	9	25
1894–96	44	16	39
1904–6	32	20	48
1907–9	31	14	55
1910–14	31	14	54
Total, 1876–1930	41	12	47
	United States		
1876–78	41	11	47
1884–86	12	3	85
1894–96	7	5	88
1904–6	9	12	79
1907–9	9	14	78
1910–14	11	14	75
Total, 1876–1930	11	9	80

Source: Klein 1983, 309.
Note: "The regional divisions used here are those in effect before 1919—that is, northern Italy includes Piedmont, Liguria, Lombardia, and Veneto; central Italy includes Emilia, Toscana, Marche, Umbria and Lazio; southern Italy includes the remaining peninsular divisions plus the islands" (Klein 1983, 309).

century. By the end of the nineteenth century, migration from northern Italy declined (especially from Liguria and Lombardy), while arrivals from other central (Le Marche) and southern regions (Abruzzi, Campania, Calabria, Basilicata, and Sicily) increased in relative terms. In the first decade of the twentieth century, many Sicilians, mainly from Caltanissetta, Catania, and Agrigento, moved to urban Argentina. Their professional background also changed: the number of farmers (*agricultores*) declined, while the numbers of day laborers (*giornalieri*) and artisans increased.[70]

After Buenos Aires, Rosario attracted the greatest number of immigrants, mainly from Europe. Italians started arriving in the first half of the nineteenth

century and represented the highest percentage of the city's foreign residents, followed by the Spaniards (who were almost as many as the Italians in 1926), French, Russians, and British.[71] The composition of the Italian contingent in Rosario did not diverge from the national trend. The majority of Italian immigrants recorded in 1870 was from Liguria, Piedmont, and Lombardy, and was made up of mostly shopkeepers and shop assistants, craftspeople, or those employed in the services sector. This first wave was upwardly mobile, in a social setting that did not have an entrenched Argentinean aristocracy. The later influx represented less-qualified workers (agricultural laborers and day laborers), who found jobs in the construction of urban infrastructure and did not achieve the same economic success. According to estimates by economic historian Carina Frid, the Sicilian population reached its peak in Rosario in 1900–1914, when it represented between 15 and 20 percent of Rosario's Italian population for a total ranging from 8,500 to 10,800 of the 54,401 Italians residing in Rosario in 1914.[72] An analysis of marriage records in the Fifth District of Rosario in 1905 (n = 582) shows that 19 percent of the total number of those getting married originated from Sicily, followed by Piedmontese (18 percent). Other regions were less represented.[73]

A number of the Italian residents in Rosario (including the leaders of its mafia) had been born in Agrigento Province in Sicily. According to a conservative estimate, the Agrigentini in Rosario were just below one thousand in the period 1900–1905. At the end of the nineteenth century, this part of Italy experienced substantial departures to both North and South America. Some villages in the northern part of the Magazzolo Valley (Alessandria della Rocca, Cianciana, Bivona, Raffadali, Santo Stefano Quisquina, and Burgio) were almost emptied (see fig. 5.1). The valley was an inhospitable land, where most people worked in the fields or sulfur mines. The inhabitants were mainly bricklayers, shoemakers, and unskilled workers. Some found employment in construction, while others went to reside in—and work in the fields of—the agricultural towns of Arroyo Seco, Serodino, and Villa Gobernador Gálvez outside Rosario (see fig. 5.2).[74]

Was there a "supply" of people with mafia skills in Rosario, as there was in New York City? The Rosario mafiosi were from Sicily, originating from the Magazzolo Valley. José Cuffaro and Esteban Curabà, heading a group of *paesani* involved in kidnapping and blackmailing from the mid-1910s, had been born in Raffadali, near Agrigento. Gaetano Pendino, a Sicilian



Juan Galiffi (1892–1943), the charismatic crime boss of Rosario in the 1930s, known as "Al Capone Argentino." Photo Credit: Osvaldo Aguirre. Historias de la mafia en la Argentina (Buenos Aires: Aguilar, 2000).

from Alessandria della Rocca, chose to migrate to Argentina, where he arrived in 1888 at the age of thirty-five and eventually became the boss of the mafia in Rosario. Santiago Buè and Carlo Cacciatore, members of Francisco Marrone's group (see below), came from the same town in Agrigento Province, and were at once cousins and brothers-in-law. Some Sicilians later involved in crime in Rosario originated from Catania Province, but their role was more limited.[75]

The most charismatic crime leader of the 1930s was Juan Galiffi, dubbed by the press "Al Capone Argentino" and made into Argentinean public enemy number one. Born in Ravanusa (Agrigento) in 1892, he arrived in Argentina in 1910 and first settled in Buenos Aires. Galiffi claimed to be a barber and trader. His career as a businessperson was rather successful. He associated with a Milanese who owned a vineyard in the province of San Juan. Soon after, he forced his Milanese partner out and became the sole proprietor of the firm Vinos Galiffi as well as the owner of a furniture

workshop. His criminal career started in the 1910s as a thief in Santa Fe, Córdoba, La Rioja, and Salta provinces. In the early 1920s he married the daughter of a criminal from the town of Gálvez (240 kilometers from Rosario), where he rented a café (*fonda*). He was accused of robbery and disposing of stolen goods (fencing), though he managed to avoid prison. By the mid-1920s, he had moved to Rosario, where the police suspected him of being a mafia boss as well as involved in several kidnappings and the 1932 murder of a *La Crítica* journalist. Galiffi was also suspected of counterfeiting, extortion, and fixing horse races.[76]

A new generation of mafia leaders arrived in Rosario in the latter part of the 1920s, as a consequence of the fascist repression in Italy. Their arrival upset the local equilibrium and led to violence. The most important newcomer, via France, was Marrone, known as "Don Chico" or "Chicho el Chico" (although he used an exotic name at first—Ali Ben Amar de Sharpe). According to a statement made in 1938, Don Chico arrived in Argentina in 1930 with messages to deliver to Galiffi from Palermo. More specifically, a defendant (who was the first person that Marrone contacted in Argentina) claimed that Marrone "had a mission to accomplish" on behalf of the Sicilian mafia, to ensure that his fellow Palermitani were not taken advantage of by the Sicilians from Agrigento.[77] As soon as he arrived, he tried to muscle his way to the top of the local underworld. He orchestrated the death of three old-timers allied to Galiffi in a villa in San Lorenzo (twenty kilometers from Rosario). The massacre generated great police interest and concern among other Italian criminals, sowing the seeds of further violence. Marrone's epoch was short lived, however. In April 1932, Galiffi convinced him to attend a meeting at his house in Buenos Aires, where Marrone was assassinated.[78]

Local Conditions

I now turn to review the local economic conditions of the city in order to explore whether a demand for protection might have been present in specific markets. Rosario in 1850 was a trading post of no more than three thousand inhabitants in the southeastern Santa Fe Province. It was famed in the late eighteenth century for its locally bred mules as well as the silver, copper, and hides that it received from the interior and forwarded to Buenos Aires. From the late 1830s, its port was banned from foreign trade

by a decree of Juan Manuel de Rosas, the first strongman of independent Argentina. Yet Rosario's marginal economic role was to end in August 1852, when a politically weakened Rosas ended Buenos Aires's legal monopoly on international trade. The port was now allowed to receive ocean-going ships. Another lucky development took place a year later, when the province of Buenos Aires seceded from the rest of the country (it rejoined a decade later) and Rosario became for a brief period the capital-cum-port of the Argentine Confederation. As a consequence, Rosario's trade and population tripled between 1852 and 1858, and received a significant number of Italian immigrants, mainly from Liguria and Piedmont, who would eventually form the economic and social elite. As the city's leading historian Juan Álvarez noted, there were two great epochs in Rosario's history: "that with the river closed, which meant poverty and backwardness, and that with the river open, which meant prosperity and culture."[79]

In the mid-1870s, Rosario as well as the rest of the country went through an economic depression, stopping economic growth and reducing immigration to half of what it had been earlier in the decade. By the 1880s, though, the recession ended, and stable links with international capital and commodity markets led to an impressive burst of direct investment along with the arrival of nine hundred thousand immigrants to Argentina between 1880 and 1890.

The economy of Rosario from this period onward was mainly based on grain production, and land plots tended to be large. Agricultural development was impressive: grain production tripled between 1883 and 1895, and at least 150,000 seasonal laborers worked in the fields. In contrast to western Sicily, where land plots were small, medium-scale rural properties of one to three hundred hectares were common in the province after the 1860s; land tenancy developed in some districts of southern Santa Fe, as large-scale land proprietors (mainly cattle breeders) rented out part of their land for agricultural production. In 1890, an economic crisis ruined many small private producers and agricultural colonies, hastening the trend toward the consolidation of landownership. The price of land increased, making it even harder to buy after 1890. According to economic historian Michael Johns, Rosario lived off the value of its rich hinterland. "Moving commodities, primarily grain, was Rosario's main economic function."[80] The massive expansion of agriculture led also to the creation of factories mainly connected to agriculture production, rail links, and housing.[81]

Unlike in Sicily, where *banditismo* was rife after Italian unification, there was no threat to the transportation of products from the interior to the port. The bands of *Indios* that could have intercepted the goods and robbed the farmers had been exterminated by the vicious campaign conducted by Rosas in 1833 in the province of Buenos Aires. In the second half of the nineteenth century (1858–84), the local provincial government ensured that the rich landowners had nothing to fear from these and other potential bandits. In addition, trade unions were slow to organize in Argentina. Unionization started at the end of the nineteenth century, while the first strikes took place in 1902–3, led mostly by anarchists from northern and central Italy. A wave of strikes hit Argentina in the period 1907–10, but the police ruthlessly repressed them. A leader of the Radical Party in Rosario concluded a speech in 1906 by attacking the government's violent repression with these words: "Here in the City of Rosario . . . the police declared the workers outside the law. Under the pretext of searching for presumed delinquents, they have closed down union headquarters, they have searched homes at all hours of the night, masses have been imprisoned, and what is more despicable, workers declared innocent have been held for 18 hours and beaten up in police stations." There was no Mayor Gaynor to protect protesters.[82] Contrary to New York City, in Rosario there was no demand for an illegal protection agency to supply muscles against employees. The official organs of the state took care of that.

The economic crisis that coincided with the First World War caused numerous small farmers, land tenants, and businesses to default on their credits. Yet no demand for informal dispute settlement in the countryside emerged, mainly thanks to a peculiar system for settling disputes—an informal tribunal known as Paz del Trigo.[83] After 1918, Rosario experienced another brief economic boom that came to an end with the worldwide crash of 1929. The city then relinquished its role as a leading commercial center and has relied on grain exports ever since. Argentinean democracy suffered a blow in 1930, when a military coup took place. Although a civilian government was reinstated in 1931, the Partido Radical and the Communist Party were outlawed, and electoral frauds helped a general win the presidential elections. This period in Argentinean history is known as the Infamous Decade and marks the beginning of the end of Argentinean democracy. By 1943, another coup was staged.

The Construction Sector

There was a point in the history of Rosario when a demand for extralegal protection might have emerged: the construction boom of 1904–11 offered Italian criminals the opportunity to enforce a cartel of firms, excluding competitors in a lucrative market, as the `Ndranghetisti did in Bardonecchia in the 1960s. I now explore this little-known episode. Pendino operated a construction firm from 1895 until around 1913, at a time when the sector was employing between 8 and 12 percent of the entire labor force. Figure 5.6 records the number of building permits granted by the city of Rosario between 1890 and 1910. It shows an increase between 1894 and 1895 and a steady growth from 1904. The boom came to an end by the beginning of the First World War.

The housing boom was driven by the construction of new *conventillos* (tenements) and the transformation of houses into rental units—a profitable investment. Indeed, according to estimates by Johns, rents on houses and labor costs were possibly the highest in Argentina.[84] Labor in the construction industry was organized through merchants who supplied workers (bricklayers, painters, carpenters, and unskilled laborers) to construction firms. The merchants organized workers from the same area of origin in Italy and even offered them accommodation. Italian laborers, bricklayers, and builders had also formed their own association in 1895, the Sociedad Cosmopolita de Obreros Albañiles, which comprised around five hundred members out of a total workforce of seventy-five hundred. Except for the years of economic crisis (1890–95), the demand for bricklayers and construction materials was high, and it increased particularly after 1904. As the industry began to boom, workers mainly originating from central and southern regions, such as Le Marche, Calabria, and Sicily, were hired.[85]

In order to ascertain whether new construction firms owned by southern Italians had entered the market, I collected information on building permits from 1890 to 1910. Table 5.4 shows the share of the market in the preboom and boom periods.[86]

Between 1890 and 1904, four firms had a significant share of the market. Rizzi and Prioni were both run by families from the North (respectively, Liguria and Lombardy). Little is known about Bongiovanni, except that it operated only until 1899. Curti was from Agrigento and a relative of Pendino. Indeed, it is likely that Pendino chose to migrate to Rosario because

1088

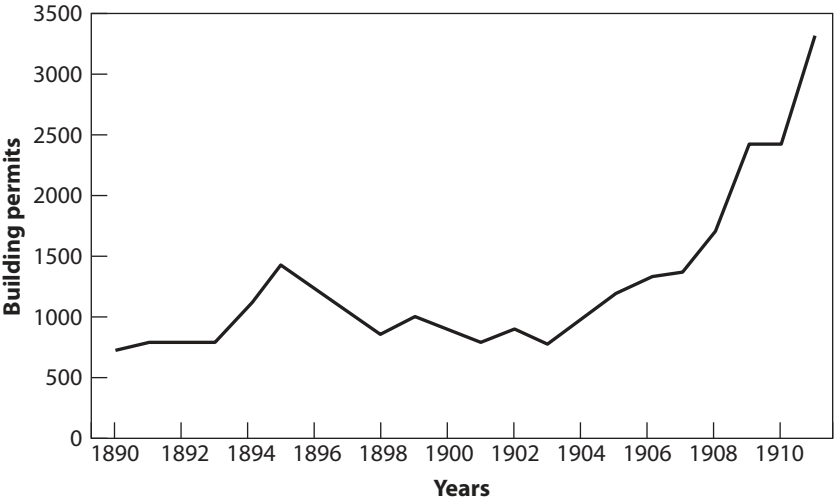


FIGURE 5.6 Building Permits, Rosario,1890–1910
Source: Lanciotti 2004, 229.

he hoped to find a job through his relative. All four firms are documented as operating since at least the early 1890s. I have also listed Micheletti, although it had only 3.2 percent of the market in this period, because it became a significant player later. An established firm, Micheletti was closely connected to the Catholic church in Rosario and remained a prominent constructor even after the First World War. The rest of the market was quite fragmented. Fifty-nine firms (out of eighty-five) had less than 1 percent of the permits. Only ten companies had more than five contracts.

As the market expanded in the next period, the number of firms grew (N = 189) and the established firms lost quotas. Micheletti, Rizzi, Prioni, and Curti were now the top four firms, with 22.8 percent of the total permits. The remaining ones gained little share in new projects. In the 1905–11 period, 157 firms applying for permits had less than a 1 percent market share, out of a total of 189 firms. Pendino's firm had 1.1 percent of the construction permits in this period. Large traditional companies such as Maspoli and Co. won profitable public contracts, including the construction of the Italian Hospital of Rosario, the Opera Theater as well as the North, South, and Central Markets.[87]

Rosario's construction market shares some key similarities with Bardonecchia's. They include a sudden boom, the presence of both workers

TABLE 5.4
Percentage Shares of Licenses Obtained by Five Firms to Build New Dwellings, Rosario, 1890–1907

Firm/year	*1890–1904*	*1905–11*
Rizzi	10.7	5.8
Prioni	9.6	5.1
Bongiovanni	6.8	—
Curti	6.0	4.5
Micheletti	3.2	7.3
Total	33.1	22.8

Source: Archivo de Obras Particulares, Municipalidad de Rosario, Rosario.

and entrepreneurs from so-called mafia regions (Calabria and Sicily, respectively), and a clear attempt by individuals linked to the mafia to establish themselves in the market.[88] Masons were organized in a trade union of notable size, making communication and coordination easier. Why, then, did the mafia fail to penetrate this market? Surely the most profitable public projects of this time required contacts within the political elites, and traditional companies secured those contacts. Yet the market boom revolved around the construction of houses for the middle and lower middle class in the suburbs as well as the working-class neighborhoods—a sector of the market that could have been cornered by mafia firms. Also, in such a long period, firms connected to the mafia could have secured public contracts, as they did in both Sicily and New York City, and Rosario gangs had contacts with the political elite of the period, as mentioned below.

Despite some crucial similarities, differences exist that ultimately explain the diverging outcomes. A structural difference is the sheer scale of the market: many more operators were at work in Rosario than in Bardonecchia[89] A mafia finds it extremely difficult, if not impossible, to create cartels when the market actors run into the hundreds. Most crucially, the mafiosi did not have a lock on the labor supply. Recall that in Bardonecchia Lo Presti was the sole supplier of unemployed workers to local companies, which hired their workforce in defiance of existing legislation. Lo Presti ensured services of dispute resolution between workers (hired

1090

illegally) and construction firms (which benefited from such informal arrangements, but could not use the law when disputes arose). In Rosario, firms could bypass a mafia fixer and hire workers through several *padroni* who had no connection to the Agrigentani. Two generous sources of labor were available: the rural folk who moved to the city during the agricultural off-season in search of work in the housing industry, and continued migration from Italy.[90] Since migration from Italy was conducted through "chains"—namely, immigrants arrived because relatives and acquaintances had arrived before them—the supply of labor was diversified. Workers from several parts of Italy, such as Le Marche along with various parts of southern and northern Italy, would arrive in Rosario and be directed to employment through their regional networks. None had complete control over the supply, as Lo Presti had in the case of Calabresi working in Bardonecchia. Since workers in Rosario were hired legally, within a general framework of informality and flexibility, there was no demand for extralegal dispute settlement. To the extent that disputes arose, bosses could turn either to the law or existing informal systems of dispute resolution (it does not follow that workers were better protected in Rosario than in Bardonecchia).

Italian Criminality

The mafia failed to penetrate a booming new market (construction). In addition, trade union activism was repressed by brutal state intervention, thus there was no demand for mafia groups to do so, and no significant illegal market existed in the city. Some of the mafia activities do suggest an attempt to offer services of dispute resolution and protection, however the demand was never enough for the mafia to become a viable and long-term criminal group. Pendino acted as an informal judge within the Sicilian community of Rosario, moderating differences and trying to settle disputes. Along with his associate Curabà, Pendino represented the *mafia limpia*. A member of Marrone's gang (see below), testifying before a judge in 1939, described them as "people who had ascendancy over their countrymen and settled their disputes."[91] A police document dated 1899 contains a description of the new crime of *vendetta*: the use of violence to settle disputes within the Italian community without turning to the authorities. The murder of Francisco Randisi, an unemployed day laborer

1091

from Raffadali who was assassinated in 1909 while leaving a boarding-house used by Sicilians, was considered a vendetta murder, as was the murder of Cayetano Saracco in 1903. In a town fifty kilometers south of Rosario (Arroyo Seco), Maria Ferraris was murdered in 1910. The police discovered that the murder had been ordered by her husband and carried out by people linked to Pendino. Vendetta episodes continued to feed the collective imagination and the police chronicle. In some cases, the authorities concluded that such crimes were the product of an internal mafia feud, as in the case of the homicide of Nicodemo Furforo, which took place in Arroyo Seco in 1911. Furforo was suspected of informing the police about a plot to assassinate a shopkeeper.[92]

Italians also provided muscle and personal protection for politicians or their clients during the elections. The local mafia groups sided with the provincial government, which supported the Unión Cívica Radical Antipersonalista, a faction of the larger Unión Cívica Radical (1891), founded in 1924. They acted as bodyguards, intimidated the political opponents of incumbent government officeholders, and helped secure election victories in small towns and cities in the interior of Santa Fe Province. Mafia boss Galiffi in the mid-1920s carried out several acts of intimidation against the local opponent of the Unión Cívica Radical Antipersonalista in the town of Gálvez (there is no evidence that Galiffi had a political agenda of his own).[93]

The political elite did return favors. The first indirect evidence of such connections emerged in the first decade of the twentieth century, when twenty Sicilians from Agrigento Province requested Argentinean citizenship and were supported by Lisandro de la Torre, a candidate for the Liga del Sur, a reformist party that represented the interests of traders and rural producers south of Santa Fe. Among the Sicilians was Pendino, who was considered at the time the boss of the local mafia. More direct evidence of favors emerged when Carlos Centeno, lieutenant governor of the Unión Cívica Radical Antipersonalista, repaid gangs connected to Galiffi by ensuring the reduction of the prison sentences they received for committing a murder. The Antipersonalisti also approved Galiffi's request for citizenship in 1925 (Galiffi by that time had been operating in the criminal underworld in Santa Fe). Arturo Amato, a Radical Party leader and police adviser, became one of the defenders of Galiffi in the first case against him for robbery and blackmailing, while Claudio Newell, a lawyer and

politician with the Radical Party, defended associates of Galiffi. The Santa Fe political elite favored the election of judges amenable to "listening" to political officials. The criminal activities of these Italians were protected in the 1920s and 1930s by the weakness and impunity generated by the same judicial system of Santa Fe Province.[94]

And yet the Rosario mafia was never able to offer services that were demanded by a large enough sector of the local population. For the most part, it engaged in an Argentine version of the Black Hand (Mano Negra) blackmail practices, train robberies, and kidnapping for ransom. The victims of blackmail and threats were in most cases fellow Italians who worked in small businesses, or were craftspeople, shopkeepers, and commodity traders. José Martiré, a potato trader who resided in the suburbs north of Rosario, refused to yield to frequent blackmail and had an incendiary bomb thrown at his house in 1911. Even a prominent member of the underworld, Pendino, was on the receiving end of an arsonist attack in 1907. Although a Mano Negra group led by three men originating from nearby Catania was arrested in 1912, blackmailing continued throughout the 1920s, in contrast to New York City, where this type of crime died out by 1915.[95]

The Cuffaro gang, the most renowned in the 1910s, is credited with carrying out the first Argentine train robbery. Thanks to a tip from a guard who worked in the Central Railway, the gang attacked train number 20 on its way from Tucumán to Buenos Aires. The exploit made the headlines, while the police were duly criticized for their incompetence. As a direct result of the public outrage, the investigation unit of the Rosario police was reorganized and its leadership removed.[96]

By 1914, criminals of Italian origin had turned to a new crime: kidnappings for ransom. The first well-known case was that of the son of Antonio Bevacqua, a coal merchant. His kidnapper, Nicolás Ballestreri, one of the first capos to engage in ransom kidnappings, demanded an exorbitant sum, but did not receive it and so killed the hostage. Kidnappings for ransom continued in the 1920s and 1930s in Santa Fe Province and Buenos Aires, and generated significant social alarm. The victims were professionals, traders, industrialists, and landowners. One of the most brazen acts on the part of the mafia was the kidnapping and murder in 1932 of Silvio Alzogaray, the Rosario correspondent for *La Crítica* who had covered crime in the city. Several theories were floated in the press as to why such a murder was carried out. One suggests that Alzogaray had tried to extort

money from mafia boss Galiffi in exchange for compromising documents, while another theory purports that the journalist had started to uncover police corruption in Rosario.[97]

The abduction and murder of Abel Ayerza—a medical student and son of a wealthy Catholic doctor whose family was connected to the Agustín P. Justo's government—in October 1932 stirred public opinion in an unprecedented way. The case inspired two plays at the time, *La Maffia* and *Don Chicho*, and two movies, *Bajo las garras de la mafia* (1933) and *Asesinos* (1933), and influenced the Senate debate on the new Criminal Code. Rumors ranged widely, and included suggestions that the incident was a staged kidnapping. The discovery of the young man's body on February 21, 1933, led public opinion to focus on the failure of the police and generated calls for the culprits to be severely punished. At the funeral, one orator blamed unregulated foreign immigration for the rise in violence in the country. The boy's kidnappers, linked to Galiffi's gang and of Italian origins, were apprehended in April of the same year (the boy was held captive by the Di Grado family, which owned a fruit and vegetable store in Rosario).

After the murder of Abel Ayerza in 1933, Galiffi fled to Montevideo. He then decided to return to Argentina in 1934 in order to prove his innocence, but was betrayed by his associates, arrested, and accused of the kidnapping of Marcelo Martin (a professional snatched in 1933). After a brief time behind bars, Galiffi was expelled to Italy in 1935. There he continued his low-level criminal life. Accused of counterfeiting, in 1939 he was imprisoned in Milan, where he died in 1943. Galiffi's arrest and expulsion weakened the Rosario mafia, which was also under renewed pressure from the government and the press because of the Ayerza murder (the mafia was also accused of consorting with anarchists). The majority of the ringleaders received prison sentences, while others were expelled from the country.[98]

Galiffi's shadow, however, still haunted the collective imagination; rumors suggested that he had returned illegally to Argentina and that his followers rallied behind his daughter, Agata Galiffi. Agata's green eyes earned her the nickname of "Gatta" (cat), while her decision to leave her husband and move in with a lover fascinated the local press. Up until her arrest in 1938, she was heavily involved in criminal affairs. She had been present at the murder of Don Chico in her father's house and, after Juan had fled to Italy, she continued to organize currency and stock counterfeiting operations.



Agata Galiffi (1916–67), the olive-skinned and aspiring actress was the daughter of Juan Galiffi, the Rosario mafia boss. Known as "Flor de la Maffia," she followed in the footsteps of her father and masterminded the Banco de Tucumán robbery. Photo Credit: Osvaldo Aguirre. Historias de la mafia en la Argentina (Buenos Aires: Aguilar, 2000).

The police regarded her as a capo in Rosario and a key player in the Argentine underworld. In 1938, she was arrested while discussing a plan to rob a bank in the city of Tucumán; the gang had drilled a tunnel almost a hundred meters long with the aim of switching good banknotes kept in the bank's safe with fakes. Sentenced to prison in 1939, Agata was released in 1948 and went on to work as a nurse in Rosario, Buenos Aires, Villa Constitución, and Caucete (a small town in San Juan Province), where she managed her father's property until her death in 1967. By 1940, the Italian mafia had died out.[99] Galiffi is now one of trendiest clubs in Rosario, "prácticamente un icono de nuestra ciudad," writes one of its five thousand friends on its Facebook page, advertising two dancing halls, karaoke, and a VIP space for its best customers.

In conclusion, Italians migrated to Rosario in two broad phases. The first wave of migrants was from the North, some joined the professions while others became large landowners and entrepreneurs. The profile of the migrants in the second phase is quite similar to those who migrated to New York City and were mainly low skilled, and found employment in agri-

culture as seasonal laborers and in the construction industry. Among the immigrants from Sicily, some had a mafia background, but the local conditions did not offer opportunities for these mafiosi to become established in the long run.

As in Bardonecchia, the construction market boomed and individuals connected to crime tried to penetrate it. The size of the market, much larger than in Bardonecchia, and the presence of a varied source of cheap labor that was not controlled by the mafia led to the ultimate failure of this criminal organization to control a key sector of the economy. As for illegal markets, and in contrast to New York City, in Rosario there was no equivalent of Prohibition. In addition, the police repressed labor militancy, thereby drying up a source of activities in which the mafia in New York was prominent. It is intriguing to note that the Partito Radical seemed to make use of mafiosi—the very party that would be banned after 1931. This suggests that electoral democracy would in some circumstances offer opportunities to mafias—a theme that I will return to in chapter 7. Rosario mafiosi thus engaged from the start in crimes such as theft, counterfeiting, the Mano Negra, and to a degree unknown even in the early years in New York City, kidnapping. A rudimentary organizational structure and the presence of charismatic leaders were not sufficient to entrench this mafia in Rosario. There were some mafiosi, but never a mafia.

Conclusions

Rather than summarizing the reasons for the divergent outcomes of Rosario and New York City, I want to try to take stock of the results that have accumulated across the six case studies (table 5.5). As for "supply," generalized migration from mafia territories is usually present when transplantation succeeds, with the exception of Budapest. Yet migrants from mafia territories do not invariably produce a mafia, as testified to by the case of Rosario discussed in this chapter. Clearly, a supply of mafiosi must be present for transplantation to take place, and thus the long list of "Yes" in the "Mafiosi migration" row in table 5.5. What is rather counterintuitive is that I found no instances where mafiosi rationally decided to move in order to open an outpost abroad. They were usually pushed out by state policies, mafia feuds, or in some cases covered in this chapter, poverty. (In the case of Hungary, the initial supply of foreign individuals inclined

1096

to form criminal groups was composed by Red Army defectors). Yet, when forced to move, mafiosi do not choose their new location at random: unless they are told by the courts where to go, they usually join relatives, trusted friends or previous contacts. Contrary to the view that high levels of trust prevent transplantation, this book's findings indicate that such outcome is possible even in highly civic territories, such Bardonecchia. Table 5.5 also suggests that local protectors must not be present for a mafia to transplant successfully. The case of New York City before 1910 is telling: while the police themselves were enforcing protection rackets, the Sicilians had no hope. Paradoxically, when a movement to reform city politics and the police was successful at curbing corruption, a demand for protection developed.

Transplantation goes hand in hand with a demand for criminal protection. New and booming markets tend to generate such a demand. For a mafia to be successful and exert a role, though, it must be able to solve problems in such markets that have not already been solved autonomously by local actors, as in the case of Verona. For instance, the Italian American mafia supplied a service highly valued by market operators: protection of the truckloads and stills, and a place where buyers and sellers could meet. Construction booms can generate such a demand when a mafia has monopoly access to cheap labor that can be hired illegally. Once firms and workers step outside the frame of legality, a demand for alternative forms of dispute settlement emerges. On the contrary, in Rosario local firms managed the same boom by hiring employees legally and bypassing anybody who could have exclusive control of the workers. Rather than liquid and floating in a virtual world, the markets covered in this book are all localized in a specific territory; there is no instance of a mafia offering protection to computer hackers or traders in sophisticated derivatives. Mafiosi might use the Internet for conducting frauds or invest their money in the Stock Exchange, but they do that as customers, not as protectors. Certainly, some structural factors can make it easier for mafias to become entrenched: the smaller a locality, the easier it is to control it. Yet a mafia can develop in a metropolis when an illegal market is large enough, as in the case of Prohibition. Ultimately, a demand for mafia services emerges out of transformations in the economy that local actors and regulators have not been able to govern. When foreign mafiosi are present and can offer genuine protection to some, transplantation is set to take place.

TABLE 5.5

Factors Facilitating Mafia Transplantation, Bardonecchia, Verona, Budapest, Rome, New York City, and Rosario

Factors facilitating mafia transplantation/cases	*Bardonecchia*	*Verona*	*Budapest*	*Rome*	*New York City (1910–30)*	*Rosario (1910–30)*	*Shenzhen/ Guangzhou*
Generalized migration	Yes	No	No	No	Yes	Yes	
Mafiosi migration (willing/unwilling)	Yes (unwilling)	Yes (unwilling)	Yes (unwilling)	Yes (unwilling)	Yes (unwilling)	Yes (unwilling)	
Supply of mafiosi	Yes	Yes	Yes	Yes	Yes	Yes	
Local conditions							
Level of trust/civic engagement	High	High	Low	Low	Low	Low	
Presence of local illegal protectors	No	No	No	No	No	No	
Size of locale	Small	Large	Large	Large	Large	Large	
New and/or booming markets*	Yes	Yes	Yes	No	Yes	Yes	
Demand for mafia services	Yes	No	Yes	No	Yes	No	
Transplantation	Yes	No	Yes	No	Yes	No	

* The markets considered are construction (Bardonecchia and Rosario), drugs (Verona and China), property rights (Budapest and China), oil (Budapest), alcohol (New York City), gambling (New York City and China), and prostitution (China).

[162.10.217.184] Project MUSE (2026-06-15 01:44 GMT) University of Queensland

Appendix

Table A5.1

Foreign-born Italians in New York City and Rosario, 1860–1930

*Year**	*New York City's Italian population*	*Italian-born as a percentage of New York City's total population*	*Rosario's Italian population*	*Italian-born as a percentage of Rosario's total population*
1860	1,464	0.1	—	—
1870 (1869)	2,794	0.3	2,120	9.0
1880 (1887)	12,223	1.0	11,955	23.0
1890 (1895)	39,951	2.6	25,546	28.0
1900	145,433	4.2	25,679	23.0
1910	340,765	7.1	37,414	20.0
1920 (1914)	390,832	7.0	45,357	18.0
1930 (1926)	440,200	6.4	79,920	19.6

* The year of Rosario's census is in brackets.

Sources: For New York City, Baily 1983, 300; 1999, 58. For Rosario, Frid de Silberstein 1992; Cuarto Censo Municipal de Rosario 1926.

SIX

The Future of the Mafias? Foreign Triads in China

The New China

I crossed into China in September 2009. My companion and I had boarded the East Rail Line in downtown Hong Kong heading toward Lo Wu, the last stop before the People's Republic of China. The trip takes no more than forty-five minutes, and there is hardly any time to enjoy the vista. The train races through the center of Hong Kong, allowing the passenger just a glimpse of Mong Kok, the suburb where most of the brothels and karaoke bars run by the triads are located, and quickly covers the several miles of the agricultural, sparsely built land in the new territories, before reaching the border. After our passports were checked on the former British colony side, we set out on foot to cross a modern overpass, equipped with conveyor belts for speedy arrival to the other side. The bridge stands over the Shenzhen River separating Hong Kong from the Middle Kingdom (the name of China in Mandarin). As we approached the other side, I looked at the riverbank through the thick glass. I was reminded by my companion that not long ago Chinese nationals trying to cross this stretch of water would have been shot at by border guards, just as the East Germans who tried to climb the Berlin wall. Today, the business elites of Hong Kong, Taiwan, and other capitalist economies are undertaking the journey in the opposite direction.[1]

Once we got across, we were in Shenzhen, a metropolis of twelve million with a skyline littered with as many skyscrapers as New York City (as

far as I could judge), hypermalls, and factories. The city lies on the eastern shore of the Pearl River delta. To the north was our next destination, Dongguan, where I was going to conduct several interviews. A fast train service then connects Dongguan to Guangzhou, the capital of the Guangdong region, the third city in which I spent time last winter.

Until 1979, Shenzhen as such did not exist; it was a fishing village named Bao'an, with 310,000 residents. This part of the world was transformed in more than just name when Deng Xiaoping decided to open China to the world economy in 1978. The new policy called for the creation of special economic zones where the government offered tax benefits, relaxed regulation, invested in better infrastructure, and reduced bureaucratic obstacles in order to attract foreign investors. The central government selected several cities in the Guangdong, Fujian, and Hainan provinces as the sites of China's experiment with a market economy—among them Shenzhen and Dongguan.[2]

Deng's reform produced unprecedented economic development and unemployment. China's GDP grew by 8.8 percent between 1978 and 1991 on average every year (Guangdong's GDP grew by 12.8 percent on average in the same period). The economic boom spurred a construction spree and rapid urbanization. Roads and superhighways were built to serve the ever-increasing number of cars, and construction of some ten to twelve million housing units is begun every year (Chinese citizens can now apply for personal loans and mortgages). Capital inflow was mainly coming from Taiwan, Hong Kong, and the United States. After Taiwan lifted the ban on its citizens visiting China in 1987, the first to invest in the mainland were small- and medium-scale manufacturers. By 1991, Taiwan was the second-largest investor in China after Hong Kong. In the meantime, around 170 million peasants were officially classified as surplus labor in 1990. This number swelled to 200 million in 1994 and then approximately 300 million in 2000. The northeast was the most seriously affected area. Starting in the 1980s, the Chinese government also reduced military personnel on a large scale.[3]

The increase of surplus labor in the rural areas led to China's "internal immigration"—millions of people fled to cities to seek employment. Mostly they left the western and central provinces to find employment in the more economically developed eastern provinces, such as Guangdong, Zhejiang, Fujian, Jiangsu, and the cities of Beijing and Shanghai. Some



FIGURE 6.1 Maps of China



Shenzeng construction site. Photo Credit: Federico Varese.

two hundred million people were on the move. At three times the number of people who emigrated from Europe to the United States over a century, this represents the largest migration in human history. One finds them employed in factories, restaurants, cleaning services, babysitting, garbage collection, and the sex industry. (Several reports suggest that they are responsible for increasing crime rates.)[4]

Young, immigrant women service the entertainment and night economy of Shenzhen, as I discovered during the first evening that I was in the city, when we were invited by scions of rich Hong Kong businessmen to join them for a night of partying. Trendy, unattached, and foreign educated, these partygoers travel (with bodyguards) to Shenzhen every weekend and keep apartments next to upscale saunas. My evening's entertainment included a massage, dinner, drinks, and games at the most expensive sauna in town. Rather incongruously, the sauna was decorated with gilded festive ornaments hanging from the ceiling celebrating the sixtieth anniversary of Communist China in a setting that encouraged anything but communist frugality. The night ended at one of the hippest discos, Baby Face,

where we were greeted by the manager and quickly surrounded by hostesses, all immigrant women. Although prostitution was not on display at the disco, other clubs and saunas have such a reputation. And so do entire districts. The phenomenon is so widespread that certain parts of Shenzhen and Dongguan have been dubbed "concubine villages" or "second-wife villages" (*er nai cun*), where for a few hundred pounds a month middle-aged men from Hong Kong and Taiwan keep a young (immigrant) woman as a long-term mistress. One such neighborhood is the New Garden Village in Dongguan, a long row of drab apartment buildings and shopping centers, frequented by heavily made-up female shoppers.[5]

Movements of Triad Members to China: The Supply

Have triads from Hong Kong and Taiwan also followed the swarm of businesspeople, wealthy partygoers, and immigrants from the poorest parts of China, and transplanted to the regions that have opened up to Western capital? The first sign of foreign triad activities on the mainland dates to the early 1980s. In 1982, the Shenzhen police arrested 76 Hong Kong criminals with triad backgrounds. By 1992, 338 triad members were behind bars in Shenzhen. In the next two years, the Guangdong police arrested an additional 11 members of the Hong Kong triads.[6]

A key motivation for the brothers (triads members) to cross into China was to avoid police scrutiny and antigang crackdowns in Hong Kong and Taiwan. For instance, crime expert He Bingsong writes that

> police found that over 30 criminals that were wanted by the Hong Kong and Taiwan police came to hide in Shenzhen and engaged in criminal activities between 1992 and 1994. . . . While sheltering in Shenzhen, they not only continued their criminal operations, but also actively recruited new members and spread their criminal skills. For example, shortly after he escaped to Mainland China following an armed robbery, He Suti, a member of Hong Kong "Victory" Triad group, was involved in three stolen cars cases within three months.[7]

Since police in Hong Kong were making it increasingly difficult for triads to carry out their functions, such as reunions, parties, and funerals, the brothers went to China. The Sun Yee On, a Hong Kong triad, started

to perform ceremonies in Guangdong in 1999. The most significant one discovered by the police took place in April 2000, when three senior members of the Sun Yee On performed the Zhazhi ritual in Shenzhen. During the ritual, six Blue Lantern–level members were promoted to Red Pole, a senior position in the group. Shenzhen was also used as a convenient location to plan crimes far from the interference of Hong Kong antitriads squads. For instance, the kidnapping of the son of one of the richest Hong Kong businessman took place in 1996—a joint plot by a Hong Kong triad and Chinese gangsters in Shenzhen.[8]

Taiwanese mafia leaders and foot soldiers have also been escaping police crackdowns and hiding abroad since at least the 1980s. Indeed, a major effect of antitriads operations in Taiwan was to push gang leaders overseas and internationalize the Taiwanese underworld. The first major operation, named "Clean Sweep," took place in 1984 and lasted several months, leading to the arrest of thousands of criminals. Those who managed to escape fled Taiwan and sought refuge in Thailand, Japan, and the Philippines. Those who were caught were housed in two reform camps in remote areas of the country. After living together for almost three years, they came to know each other well. According to a Taiwanese middle-ranking boss, Clean Sweep did not solve the crime problem; "actually," he maintains, "it allowed *jiaotou* [organized crime] figures from across Taiwan to come together and establish a network. After their release, if one asked for help from another, it was unlikely that it would be refused."[9] Indeed, the Celestial Alliance, which was to become one of the most formidable and resilient mafia groups in Taiwan, was formed in those prison camps. The 1984 crackdown had a second unintended consequence: it disrupted the orderly division of territories among bosses, and allowed for ruthless, inexperienced aspiring criminals to emerge and claim profitable territories and businesses. When the brothers were released from the camps in 1988 and wanted to reassert power over their turfs, the authorities witnessed an escalation of gang violence. As a result, a new antimafia operation—"Operation Thunderbolt"—was launched in 1988. This time the targets were better prepared than in 1984; they were ready to flee, with their main destination being China. As He put it, "Many Triad groups members in Taiwan who were on the run or had escaped from jail came to Mainland China, changed their names, rented houses, got married and settled down."[10] Most of them chose Guangdong and the

Fujian region, which is located opposite Taiwan, some 150 miles across the Taiwan Strait (the dialect spoken in southern Fujian is the same as the one used in Taiwan). Although the first Taiwanese triad arrived in China in 1987, a massive exodus started only after Operation Thunderbolt, when some three hundred organized crime figures left Taiwan for China. Among them were Wu Tungtang of the Celestial Alliance as well as one of the leaders of Bamboo United, White Wolf (Chang Anlo), who moved to Shenzhen in 1988 and to this day lives there. Crime chronicles in both countries recount the stories of many brothers who moved to this part of the world, including one who arrived in Shenzhen via Argentina. Between 1992 and 1994, no less than thirty criminal leaders from Taiwan were hiding in Shenzhen.[11]

In 1996, a third major antitriads operation was launched in Taiwan, set off by the stabbing of one lawmaker, the kidnapping of another, and the outbreak of a major bid-rigging scandal—all involving triad members. As in previous antitriads sweeps, the major organized crime figures fled the country, with most of them heading to China. By 1999, more than a thousand members had settled in China, mainly in Dongguan, Guangzhou, and Shenzhen in Guangdong Province, Xiamen and Fuzhou in Fujian Province as well as in Shanghai and on Hainan Island, and they traveled freely to Singapore, Thailand, and the Philippines. By the beginning of the new century, Bamboo United had a presence in Guangdong and the Pearl River area, the Celestial Alliance in Fuzhou and Xiamen, and the Four Seas in Shanghai and Haikou.[12]

The Chinese authorities generally do not pursue fugitives and former criminals unless they commit crimes. In fact, they view their presence as an opportunity to attract foreign investment. Ultimately, as long as these gangsters bring investments to the mainland, they are welcomed as businesspeople by the Chinese authorities. And investments they did bring. In May 1992 a boss of Hong Kong 14K triad group, Huang Jianming, entered China and started a program of investments of 14K funds into Shenzhen, beginning with a restaurant. By 1998, he had acquired thirty-five properties. Similarly, the Sun Yee On invested in a multiplex to be built in Shenzhen (Nanshan District). Taiwan's Pine Union gang also bought real estate. Chen Nuoquan, a former high-ranking member of the Wo Shing Tong triad society, bought a hotel in Shenzhen (his hometown), where he recruited local youngsters and formed his own gang, the Fly-

ing Eagle. According to an investigation conducted in Shenzhen in 1999, among the fifty-two restaurants and entertainment businesses owned by overseas citizens, thirty-two were associated with outside triads, making up 62 percent of the total. In Fuzhou, Taiwanese triads formed joint stock companies, invested in shares, and hired local agents to open firms and purchase real estate. They established businesses in the service and entertainment sectors. For instance, Wu Tungtang, the leader of Celestial Alliance Sun Branch, owns a luxury hotel in Fuzhou.[13]

A major concern of previous chapters was to identify a supply of people who belong to a mafia group moving into new territories. Even a small number of the latter can be highly significant because such specialized criminals are well equipped to set up criminal groups. Although the numbers of hardened criminals might be relatively small, they have the potential to recruit among the new unemployed or underemployed immigrants. The data above suggest that a supply of members of the Hong Kong and Taiwanese triads was present and tried to create groups in mainland China. They moved due to renewed police pressure in their homeland (this was the historical nemesis of a set of events that took place in 1949, when Chinese underworld leaders had escaped to Hong Kong and Taiwan after the Communist victory in order to avoid execution).[14] Once in China, they found a land rich in commercial opportunities and invested some funds in the new market economy. Has the presence of these individuals led to the entrenchment of foreign mafias in China? Surely, new markets—legal and illegal—have suddenly emerged and expanded: construction, manufacturing, gambling, prostitution, and drug trafficking. Such developments in the economy lead to disputes among market actors, and the emergence of a demand for services of dispute settlement and protection. Who is fulfilling such a demand? My aim is to establish if foreign or local triads or members of the state apparatus offer criminal protection to these market operators.

I draw on twelve in-depth field interviews and a detailed examination of seventy-four mafia cases extracted from four Chinese-language sources.[15] For the most recent period (2008–9), I selected official press reports released by the Ministry of Public Security. All publications adopt the official Chinese definition of an organized crime group: "an organization with an underworld nature." To qualify, a group must show some organizational structure, a clear leadership, and engage in illegal activities. Otherwise,

the definition is rather general.[16] The cases are listed in the appendix to this chapter. The data have no claim to be representative.

Legal Markets

Workers in the new market economy have plenty of reasons to feel exploited and thus enter into disputes with their employers. For one, they might want to sue the companies for the appalling working conditions that they have to accept. In the four factories between Shenzhen and Dongguan that I visited, workers slept on bunks ten to twelve to a room in close proximity to unsanitary lavatories and were fed a basic meal (rice, a meat dish, and some soup), with the day starting at around 7:00 a.m. for a total of ten to twelve hours of work. The rooms were cold and had thick metal bars on the windows. A manager accompanying me explained that the bars were necessary to ensure against workers stealing production material. More generally, the security situation in factories in Dongguan is serious, he added, because workers "steal all the time and misuse factory equipment. For instance, the Nike shoes you can find in markets in Guangzhou are perfect replicas of the authentic shoes, because they are produced at night in the same factory! So they are pretty close to the real thing." According to him, factory management in Dongguan adopts a "ten percent ratio"—namely, it hires ten guards for every one hundred workers.[17]

Metal bars might prevent theft, but they also endanger residents in case of an emergency. Indeed, an instance that shocked China in 1993 was a fire in a Shenzhen factory that subcontracted work for a European toy maker. The flames claimed the lives of eighty workers, and a score of others were seriously burned and injured. (In a factory producing office furniture, I saw employees not wearing any protective equipment. Splinters of wood flew everywhere, and sometimes workers would look into the holes being drilled, putting their eyesight at risk.) Often employers simply failed to pay the promised wages, as in the case of a Mr. Zhang reported on Beijing Television in February 2007. Mr. Zhang had convinced an entire brigade of fellow villagers to accept work at a construction site in 2004, but when the time came to pay them, the management refused to shell out the salaries. The villagers followed procedures and filed a lawsuit to demand payment. The court issued an order in their favor, but when it was time to enforce the court order, the boss and other managers of the

construction project disappeared. This is not an isolated instance; an official survey conducted in 2003 discovered that some 75 percent of migrant workers experience various forms of wage nonpayment.[18]

Prosecutors admit that legal avenues to settle disputes are wanting. Zhai Yunfeng, the deputy attorney general of the Qinhuai District (Nanjing) Procurator's Office, says:

> There are many drawbacks in settling commercial disputes through the courts. Firstly, it is expensive. If the creditor relies on the trial procedure to settle commercial disputes, he or she has to pay the litigation fee, enforcement fee, travel expenses, and counsel fee. In addition, the process is complicated and time-consuming. Secondly, trial procedure takes a long time. The first instance of an ordinary civil case takes about half a year, and the second instance about three months, excluding any postponement in the proceedings. Most creditors lack the patience to go through the whole trial procedure, especially if the value of the matter is not great. Thirdly, the enforcement of court orders is difficult. Even though the creditor wins the case, he or she cannot get the money back with simply a note from the court acknowledging the debt.[19]

The situation is no better in Guangdong. In an interview, Chief Justice Lu Botao of the Guangdong Provincial Higher People's Court acknowledged that the courts' inability to enforce decisions relating to business disputes in a timely fashion had reduced public confidence in the judicial system. Justice Lu stressed that "people are reluctant to go to court to settle disputes" because it is "time consuming and expensive," and it is difficult to "get the compensation back [even if] you win the case."[20]

Empirical studies conducted by Chinese scholars confirm that the civil court system is not well equipped to adjudicate cases competently, quickly, and effectively. Cases submitted to the courts have increased dramatically without an equivalent increase in resources, and are more complicated in nature than in the prereform era, while judges have for the most part a basic legal education. In addition, several structural features make it more difficult to reach decisions in Chinese courts than in other countries. One such feature is that the judge is supposed to not only adjudicate on the merits of the case but also collect evidence directly in appeal cases. Judges

1109

are not entirely independent of political pressure, especially from the local administration (a lawyer admitted that "whenever there is a business dispute and the case is being handled in court, we always try to find a high ranking government official to tell the court how to decide the case").[21] Finally, the enforcement of court decisions is particularly weak, and more so when the respondents are outside the territorial limit of the original court. More than two million court orders and decisions were officially recorded as "pending for enforcement" in 1998. In the 1990s, around 50 percent of the rulings in cases concerning economic disputes were enforced, but the situation was, according to a particular study, worse in lawsuits between banks and companies (banks won 95 percent of the lawsuits, yet only 15 percent of the rulings were enforced). Not surprisingly, people's confidence in the judicial system is low. A full-length study of courts in China by Jiang Qingyun describes the situation as a "judicial crisis."[22]

Often workers do not even sign official contracts and, operating in the informal economy, cannot turn to the courts. Estimates suggest that between two-thirds and three-quarters of all new employment in China is in the burgeoning informal economy that already incorporates eighty million people. The Department of Labor in Suizhou City in Hubei carried out random checks on 134 companies and found that not one had issued a contract. The *Jinan Daily* reported research conducted in the city according to which eight out of ten migrants did not even know what a labor contract was—and of the few who did know, most thought contracts were ineffective. The managers of labor-intensive industries frequently prefer a cheap and easy-to-dismiss workforce, bypassing trade union controls and saving on health provisions, while independent labor unions are still illegal in China. Legions of workers are therefore excluded from state-supplied forms of protection and legitimate avenues of dispute settlement.[23]

Let me take stock of the evidence presented so far: China is undergoing an economic boom; the state is unable to settle disputes swiftly and effectively; generally there is little trust in government or interpersonal trust; a vast sector of the population operates in the shadow economy, where by definition it cannot count on legal venues of dispute settlement; and foreign triads have been operating on the mainland. Does it follow that the latter are intercepting the demand for protection that the state is unable to offer? Rather than foreign mafiosi, members of the state apparatus featured prominently in the interviews that I conducted with businesspeople in the

1110

industrial heartland between Shenzhen and Dongguan. In order to interview the owner of a lightbulb factory, I took a bus that crossed the Dongguan industrial area—the same bus that takes workers to their places of employment and residence (the entire ride takes six hours). Factories tend to cluster around a number of cement constructions where workers can shop and find entertainment. On the way to the meeting, we passed Changping, a suburb outside Dongguan, a particularly poor district with high levels of unemployment, and a hub for drug dealing and cheap sex.

The factory owner is a middle-level businessman from Taiwan. He has been operating in the industrial wasteland of Dongguan since the early 1990s. "Until 2001 it was truly a Wild East," he says. "People were going around with guns for self-protection. I myself saw several bodies just left on the side of the streets. If one shot someone else, nobody would know. The situation has improved significantly these days, but security and protection are still a major concern and we factory owners are very sensitive to this issue." Protection of a higher order is also necessary. In order to operate, he continues, one has to develop a working relationship with a member of the state apparatus who will help in case of need. They will also tell you whom to hire. He had to take on a woman, who was well connected with the local administration and the military. After a few years, he decided to fire the lady. Since she was well connected, she was able to mobilize an army unit on her behalf. The unit surrounded the factory. The owner, however, had also formed his own links with the military. Thus, he could call on the help of another unit, which encircled the first unit. "The factory yard seemed a battle ground, with two armies facing each other and ready to fire," he laughed. Ultimately, both parties lost a lot of money because they had to pay off their respective military friends for this service. He concluded, "It is much better to solve matters in a nonconfrontational way, simply because it is cheaper." He was able to fire the woman, but had to compensate her more than he had wished to.[24]

In a similar case, an investor obtained a license to build a factory producing plastic in Dongguan. According to the terms of his license, he could import raw material without paying import duties, but he was not allowed to sell his products on the Chinese market, only to export them or sell them to foreign-owned companies. He negotiated the terms of the license with a set of local officials in return for upfront bribes and the promise to pay them a fraction of the profit he made by breaking the license agreement. In return,

1111

the officials ensured him protection against inspections. This arrangement gave rise to a typical situation of asymmetrical information, whereby the officials would not know if the businessperson was cheating on the deal. In order to monitor him, they forced him to hire a chief accountant and a manager. At regular intervals, the factory gets "inspected" by the officials. If they are not satisfied with the accounts, they detain either the owner or the accountants for breaking tax regulations (at some point, they suspected that the accountants were colluding with the entrepreneur and pocketing what was due to them).[25] The interlocked system between officials and entrepreneur went beyond a one-off corruption benefit (obtaining a license), and evolved into a long-term partnership.

As documented by several scholars, such arrangements are ubiquitous in the Middle Kingdom and are known as "protective umbrella" (*baohusan*): fragments of the state apparatus agree to protect businesspeople against the authorities and other competitors in exchange for regular payment.[26] These solutions differ from standard corruption, where one corrupter pays a corruptee for a specific service (say, obtaining a passport or license). They are more far reaching and involve a wider menu of protection services. Since any economic activity in China is subject to intrusive inspections and requires several permits, and independent courts are not effective in protecting the victims of officials' harassment, even entrepreneurs producing legal commodities, such as lightbulbs, can benefit from entering into such arrangements. The system of protective umbrellas has a striking parallel in the "roof system" that emerged after the transition to the market economy in the Soviet Union and Russia. Roof providers in Russia include the Federal Security Services, the Ministry of Internal Affairs, and other official organizations as well as criminal gangs.[27] Although the Chinese authorities in Beijing pride themselves on having followed a path into capitalism that is noticeably different from the Soviet Union's lawless collapse, ultimately a similar equilibrium has emerged. One might further speculate that the umbrella system ensures continued control over the economy by officials, albeit one that distorts incentives and produces significant waste, and that is occasionally punished by the center with exemplary show trials.[28] In both countries, a precarious balance between local incentives to develop protective umbrellas and the center's aspiration to remain in overall control is constantly negotiated.

Mobilizing one's umbrella is costly and hence regarded as a strategy of last resort. At times, one can just invoke it in the hope that it will be sufficient. One respondent explained to me that in a dispute he had about badly produced glass products, he made it clear that he could count on the services of a specific military umbrella. The name in itself was enough to have the supplier rework the product. Directly mobilizing the umbrella might also alert the protector to new business that the entrepreneur is keen to keep away from the usually greedy hands of the official. In addition, the same respondent suggested, a small-time businessperson might not be valuable enough for an umbrella to take them under their protection, and thus the entrepreneur might turn to one-off protection services.[29] In this context, purely private and unregistered debt collection and dispute resolution agencies have emerged, in which many of the employees have a criminal record. A conservative estimate puts the number of people employed as debt collectors by unregistered companies in China at more than one hundred thousand. Clients include ordinary people and migrant workers.[30]

The following story from the city of Nanjing is telling. In May 2006, Liu paid more than 150,000 yuan to Wang, the manager of a chemical company. Yet Wang did not deliver any chemical product to Liu, nor did he pay the money back. Liu demanded repayment several times, but in vain. Finally, Liu saw an advertisement for a debt collection company in the local newspaper. He signed a contract with the agency and agreed to pay a fee equivalent to 30 percent of the sum to be recovered. On the night of February 10, 2007, four collectors chased Wang's car and forced him out. Wang ran for his life, but was soon caught by his chasers and received a severe beating. He was forced to leave his car as collateral for the unpaid debt. As soon as he was free, Wang reported the case to the authorities, and the police detained four individuals. The investigation established that the top four debt collection agencies in the city were retrieving millions every year for their clients through the use of violence. A follow-up investigation by the Procurator's Office revealed that most employees of these firms had criminal records.[31]

Rather than regulating the industry, the government has taken steps to outlaw debt collection companies. In 1995, the Ministry of Public Security along with the Administrative Department for Industry and Commerce



A debt collection agency, Nanjing, China. The advertisement on the second floor reads "Professional debt recovery." Photo Credit: Zhejiang online.

issued a notification that forbade the establishment of debt-collecting companies by any institution or person. The notification ordered organs of the Administrative Department for Industry and Commerce to close down existing debt-collecting companies, and notify them to apply for a cancellation or change-of-business license. Any company that failed to abide by the notification would have its business license withdrawn by the department organs. This provision was confirmed by further legislation.[32] "Obviously, all debt-collecting companies have been made illegal by the government," concludes Lei Hanshan, the chief partner of Yihe Law Firm of Nanjing.[33] Professor Yuan Jiuhong of the Southeast University of China has perceptively suggested that this legislation increases immensely "the possibility that such companies will collude with mafia groups or develop into mafias."[34]

1114



A professional debt collector, Nanjing, China. The man wears a vest with two Chinese characters, which read "Debt collecting." Photo Credit: South China Daily.

Have local criminal groups emerged as suppliers of services of dispute settlement and debt collection for legal entrepreneurs? Among the seventy-four cases I reviewed in depth, the majority of the gangs involved in dispute settlement and debt collection were also running casinos and/or prostitution rings.[35] For example, two former inmates running a gang for nine years (1991–2002) in Zunyi, Guizhou Province, were eventually found guilty of "running a sauna fitness club as a stronghold for gambling, prostitution and debt-collection, armed robbery, extortion, illegal detention of others, and bribing several police inspectors."[36] When a group is effective at collecting gambling debts, it has the resources to collect other debts as well. Two cases refer to companies that appear to have been legal firms gone underground



Mafia debt collection agency cartoon, China. The cartoon by Yao Wen depicts a debt-collecting company recruiting its staff. Big Brother asks the applicants, "Have you ever killed someone?" The advertisement on the wall reads "People who ever killed someone, who once were prisoners, and who are bold and aggressive enough would be desirable." Image Credit: Wen Yao.

(one was called "solving your problem"). In conclusion, these findings suggest that some legitimate debt collection firms have gone underground, and that the groups involved in gambling and prostitution are also branching out in offering services of debt collection.

I now return to the core preoccupation of this book—whether foreign triads have been able to supply services of dispute settlement and protection to entrepreneurs dealing in legal commodities in mainland China. I have not come across any such case during my field trip. Taiwanese triads are present on the mainland, as I have established above, but to the extent that they are involved in solving problems, they can go only as far as settling disputes among Taiwanese businesspeople. Ko-Lin Chin interviewed some Taiwanese gangsters in 2000 in Changan, a town near Shenzhen. These individuals were only helping Taiwanese investors settle disputes among themselves. One Bamboo brother based in Changan told Chin: "There are many disputes among Taiwanese businessmen and whenever they have conflicts, they like to seek help from us because they don't have

much confidence in the Chinese legal system."[37] There is no indication that they have gone beyond the Taiwanese economic community and established themselves as independent suppliers of protection services. Clearly, as the number of Taiwanese businesspeople grows in China, it is possible that crime groups from that country will grow in importance.

Gambling

The booming gambling sector has generated a vast set of opportunities for loan sharks, and a demand for debt recovery and dispute settlement services. Since the beginning of Deng's policy to open the country to the market economy, more and more people have been traveling from several parts of China to gamble in Macau—from 1999 a special region of the People's Republic of China—and Guangdong. In 2005, Macau drew 10.5 million mainland Chinese visitors—a 147 percent increase on three years earlier. In a move aimed at undercutting competition, the Chinese government forced the Burmese to shut down more than eighty casinos along the border with southwestern China in 2005. Although the average table in Macau earns three times more than a comparable one in Las Vegas, the global financial crisis of 2008 did not spare the former Portuguese colony, bringing to a halt construction on nine multibillion-dollar casinos and hotels. When I visited in late 2009, steel and concrete skeletons covered swaths of the Cotai Strip, the new development to the south of the main Macau peninsula. Beijing also tightened visa regulations on mainland visitors in 2008. Yet since August 2009, the Chinese government has quietly relaxed the curbs, and gamblers from the mainland have increased significantly since 2008. Underground gambling dens also exist on the mainland. In May 2006, China Central Television, the major broadcasting television network in the country, reported that the number of underground casinos exceeded one hundred in the small county of Lianping in northern Guangdong Province. Gamblers from all over Guangdong and several adjacent provinces converged on the Lianping casinos to gamble day and night. In 2003 alone, the Guangdong police raided more than eighteen hundred underground lottery outlets and casinos in Guangdong.[38]

Gambling gives rise to loan sharking. According to official data, loan sharking accounts for the second-highest number of arrests after drug-related

crimes in Macau. Kidnappings for the purpose of repayment of gambling debts increased from twenty-four cases in 2005 to forty-eight in 2006. Diamantino Santos, the coordinator of the Macau Security Bureau, explains that "95 percent of these cases in Macau are usually related to gambling-linked crimes, like loan sharking."[39] The 2006 figures also show a rise in illegal activities closely tied to the gaming industry, such as fraud, robbery, or abuse of confidence.[40]

The inducement of Chinese high rollers to VIP rooms in Macau and the loans they are given generates specific opportunities for strong-arm people to act as enforcers of gambling debts in China. I now turn to a detailed exposition of this system, with the aim of linking it to an as yet underexplored push factor for the transplantation of triads from Macau and Hong Kong to mainland China. VIP rooms are sections within a casino where high rollers stake their bets. They exist in all major gambling venues. For instance, in Las Vegas high rollers are known as "whales" and are actively pursued by casino promoters, who offer them inducements to patronize their casino (and only theirs). The VIP system in Macau, however, is somewhat peculiar.

A visit to the former Portuguese colony with the appropriate guide can help make sense of this system. I visited the Grand Lisboa, a giant, Fabergé egg-shaped casino sitting underneath a fifty-two-story hotel tower shaped as a soaring lotus flower that opened to the public in 2007 and caters mostly to mainland Chinese. The Grand Lisboa stands next to Casino Lisboa, built in the 1970s. The famed Macau multibillionaire Stanley Ho, who held the monopoly on gambling on the island from 1962 to 2002, owns both casinos. My guide and I quickly walked across the main hall where regular players spend their time (and money) at the "mass gaming tables," and entered a VIP room. Two heavily built bouncers dressed in tuxedos were standing in front of the door, ushering us through an additional metal detector, but there was no need to hand over eyeglass cases, bags, or keys. The decor was garish, with fake gilded columns, richly decorated canapés, and statuettes of ancient warriors. Plenty of waiters were on call to answer requests for drinks and food. We also saw a cage dispensing chips and, at one of the three tables, a croupier servicing a loud party of mainland Chinese who, to my guide, looked like the family of a wealthy official. The gambler was playing baccarat, the card game favored by James Bond (in *Casino Royale*, Bond and le Chiffre play a variant of baccarat

called *chemin-de-fer*). To me, it was striking how superstitious he seemed to be, praying and hissing as the cards were dealt and uncovered. The women and the younger members of the party gathered around the older man, groaning and gasping at every deal. Hovering around was a peculiar majordomo, who made sure that the gambler had his drink and enough room to move. He also seemed busy substituting the chips that the player was winning with what to me looked like similar chips, of the same value but differently shaped.[41]

I was to receive an education on how the VIP rooms work in Macau from a hulking Chinese man based in Hong Kong. Mr. *Xin* is a "junket operator," offering free trips to mainland Chinese high rollers to Macau VIP rooms. Xin is attached to a room run by a "promoter," who rents it from the casino and puts down collateral to gain access to chips. Traditionally, junket operators were jobless individuals who would scout for gamblers from the cities in the vicinity of Macau and get paid a small fee by the casino. Macau's gambling world underwent a sea change when the island lost its status as a Portuguese territory in 1999. When the Chinese took over, they revoked Ho's concession, thereby opening the market to Western operators. Mainland residents soon became the main players. At this point, junket dealers went from being lowlifes trying to entice local players to a table to marketing agents of the casino on the mainland.[42] This was the case of the majordomo I had observed.

Xin had made deals with travel agencies in three different cities in Guangdong, offering free trips to Macau to high rollers. Ultimately, his business is to entice wealthy Chinese players to a VIP room similar to the one I had visited at the Grand Lisboa and to act as their lackey (by 2008, some 80 percent of the VIP players came from mainland China).[43] Once the players land in Macau, Xin accompanies them to the VIP room, where he lends them chips to play—in the region of five hundred thousand Hong Kong dollars (almost sixty thousand U.S. dollars). The high rollers thus do not need to carry a lot of cash and can bypass the laws regulating the export of money out of China. Moreover, the players can avoid declaring the source of their money (most likely they would be highly embarrassed if they had to). The chips that the junket operator lends—called "dead," "junket," or "clay" chips—cannot be redeemed by the players for cash in the main casino and have a market value that is slightly lower than the nominal value (in the region of 0.7–0.8, I was told). As the players

receive chips from their wins, the junket operator replaces the redeemable chips with unredeemable ones, making a profit (notably, the junket operator profits from the game lasting a long time, rather than from either the gambler or the house winning). The junket operator also offers advice and possibly other services, such as introductions to a good sauna, massage, and prostitutes. When the game is finished, in theory the gambler might have won, thereby simply paying the debt back and offering a tip to their "friend." Most likely, the gambler loses, and thus the operator has to collect his debt. I was told that in most cases, the VIP players pay up. Occasionally they do not. If the junket operators cannot recover the debt, they face losing a considerable sum. Loans offered in the VIP rooms exist in limbo and cannot be legally enforced in mainland China.[44]

The VIP room system remains profitable for casinos, which can count on a wide-ranging network of marketing agents without running any risk. The revenues generated by VIP rooms are enormous. The average VIP room share of total gaming revenues for the period 2000–2007 is almost 70 percent, although the mass-market sector is becoming larger.[45] The casino management is a few steps removed from any violence related to eventual disputes. Junket operators face far greater risks, but can reap significant earnings. The system, however, opens up scope for extralegal services of debt collection. Such a situation creates a demand for muscle, and potentially a link between Macau-based triads and the mainland. Some debtors are allowed to return home to gather the money; others are imprisoned in Macau, from where they instruct relatives to pay.

Collecting gambling debts is a significant business for crime groups in mainland China. This particular activity also leads local groups to team up—while remaining separate—with foreign mafias in an effort to chase Chinese gamblers who fail to pay their dues while gambling in Macau. I have come across five such cases. For instance, the Foshan Water Room gang based in the city of Foshan, Guangdong, had teamed up with the Macau Sui Fong (Water Room) triad, the main Macau mafia group. The leader had copied the structure of the Water Room gang, appointing three underlings to manage three different aspects of the gang's activities. Most importantly, they assisted the Macau-based triad in tracking down the families of mainland gamblers who had failed to pay up for their losses in the Las Vegas of the East. They also expanded into loan sharking and betting for sports events. Eventually, they were brought to justice in 2000,

after operating for five years (the Water Room triad has also forged ties with a group in Fujian for similar purposes).[46] Another Macau triad, the Great Ring Gang, had set up relations with a gang operating for six years in Guangzhou. As reported in an indictment, the gang "established action teams in the mainland to collect gambling debts."[47] An official at the Guangdong Department of Justice confirmed to me that Hong Kong triads have great influence in Guangzhou.[48]

A high official at Zhuhai Bureau of Justice, a city a few kilometers north of Macau in Guangdong Province, told me that

> there are four main [triads] groups in Macau, 14K, Water Gang, Great Ring Gang, and Wo Shing Yee. All the four main groups were discovered in Zhuhai. Their main businesses included collecting debts for Macau casinos, organizing prostitution, smuggling, kidnapping, manufacturing and selling counterfeit money and collecting protection fees. . . . [I]t was common that Macau mafias came to Zhuhai and other cities in Guangdong to recruit local members, or forge alliances with local gangs to commit crimes. This was a strategy to extend their territory of influence. For example, Wo Shing Yee of Macau established a gang in Jiangmen city [a city some one hundred kilometers northwest of Zhuhai] and provided financial support for the gang to conduct business in the mainland. But the gangsters were local thugs.[49]

The 14K triad (based in both Macau and Hong Kong) also wanted to ensure that it had an outpost on the mainland to track down gamblers who failed to honor their debts. As is often the case, prison provides valuable contacts for gangsters. Two members of the 14K, "Four-Eyed Xiong" Chen and his brother "Big Jie," had shared a cell with two Guangzhou criminals— Jiang Jinxin and Zeng Jijun. The latter eventually became the 14K contacts in the city. Jiang and Zeng would track down gamblers who had not paid their debts and had slipped back to the mainland. After the funds were recovered, they would be transferred by the Guangzhou outpost to the brothers in Hong Kong and Macau using a network of underground banks and legitimate businesses. For instance, on the afternoon of November 18, 1996, Big Jie, Jiang, and Zeng went to the China Grand Hotel in Guangzhou to demand the repayment of HK$2.6 million from

a gambler who had borrowed money in a VIP room in Macau and failed to pay it back. Violence ensued, and one person was severely wounded. In another case, in November 1998, the general manager of the Yushun Company of Shanghai borrowed HK$300,000 from the 14K while at the gambling table of the New Century Casino in Macau. The Chen brothers demanded the repayment of this debt several times, but the manager did not return the money. In March 1999 they dispatched their team to Shanghai, where they ultimately killed the gambler's girlfriend.[50]

When Zeng was sentenced to death in 2001, the Chen brothers joined forces with another heavy, Mai Guoqing, who in turn worked with a local gang leader, Li Deliang. As the group grew in strength, it moved beyond collecting gambling debts and formed a debt collection agency, which recovered debts for local customers. Within a short period, the group made at least 7 million yuan in profit. An indictment against the group lists several cases of the violent recovery of ordinary business debts. For example, in February 2001 a customer offered to pay Mai and Li to recover 250,000 yuan from a man called Wu, who lived in the Liwan District in Guangzhou. The gang went to Wu's residence and took the man to the Jiahua Restaurant, in another part of town. They then moved the hostage several times to a variety of locations, mainly around the city airport. He was beaten and tortured. Once the gang was tipped off that the police were after them, they moved their hostage to a farm and were later arrested. Wu escaped alive. In a similar situation in December 2001, two Hong Kong businesspeople asked the gang to recover HK$6 million from a debtor, Kuang, from Guangzhou—offering a fee of 30 percent of the money to be recovered. Kuang, who was kidnapped and tortured at a secret location, finally agreed to pay 3.6 million yuan. Mai demanded the immediate payment of 1.5 million to a designated bank account as a condition for freeing the debtor. Mai stressed that the rest had to be paid within one month. Kuang and his brother eventually paid back the money, and Mai and Li got 900,000 yuan for their services. According to a twenty-four-page indictment issued by Guangzhou Procurator's Office, thirty people were tried in 2003 for twenty-four crimes.[51]

Taiwanese gang leaders interviewed by Ko-Lin Chin in Changan (an industrial town north of Shenzhen) confirm the picture that emerged above: that they settle gambling disputes among Taiwanese

1122

businesspeople only, for debts incurred in Taiwan. A Taiwanese brother who owns a restaurant in Changan had this to say:

> I helped [Mr. Hsieh, a businessman from Taiwan] take care of gambling debt of ten million yuan he owed another Taiwanese businessman. A group of brothers from Taiwan were coming over to Changan to settle it, possibly by taking over Mr. Hsieh's factory. Mr. Hsieh asked me for help, and I had the whole thing settled by having Mr. Hsieh pay the businessman NT$700,000. Mr. Hsieh initially said that he could come up with only NT$500,000, but the businessman and his people said no. So I asked Mr. Hsieh to come up with more, and he increased the amount to NT$700,000. That was a pretty good deal for him.[52]

The collection of gambling debts provides a link between Macau and Hong Kong triads and mainland Chinese gangs. The former team up with the latter in order to track down gamblers and their families who failed to pay their debts. It is still too early to say whether foreign triads will become entrenched on the mainland. This criminal activity remains in any case an important source of contacts, and has the potential to allow Hong Kong and Macau mafias to spread on the mainland. As for Taiwanese triads, they appear to be, at most, dealing with debts incurred by gamblers in Taiwan itself.

Prostitution

The junket operator who educated me about his business was keen to let me know that he could provide overall care for any customer, including me if I wished. In particular, he would take me to "the best sauna in Macau." Without the need to insist much, he let me into his secret: the best place in town for prostitutes was the sauna at the Golden Dragon Hotel called "18," a place that I had read about before traveling to Macau, where it was rumored that Uzbek women are trafficked (no evidence was proved in court).[53] Located just off the main street that connects the Hong Kong ferry pier to the center of town, "18" is on the third floor of a glittering

four-star hotel and can be reached via an elevator. A plastic-coated price list is placed on a freestanding lectern at the entrance. Ethnicity is a price discriminator: Taiwanese are the most expensive, and Uzbeks are the cheapest. One can also opt to have a sauna only or a standard Chinese massage. Payment is at the end. After perusing the "menu," the customer is whisked to a changing room to undress. He is then led to a large hall with a mammoth bathtub in the middle, and steam rooms and showers to the left. Half-naked girls appear on a balcony and start to dance, eventually undressing fully. Then a parade of some seventy women marches into the main hall, each with a number and a colored pin attached to their bathing costume. They slowly do the room, stopping in front of men draped in their bathrobes for a minute or two, and then move forward. A customer does not need to follow the parade. When he makes up his mind, the john informs the majordomo of his choice and is accompanied to a room, where he and his companion have sex. Men whose bodies are covered in elaborate tattoos are easily found at "18."[54]

While prostitution is legal in Macau, it is not in China. Following the Communist takeover in 1949, local governments were given the task of eliminating counter-revolutionary decadence. The first crackdown against brothels took place in the capital in 1949. Several others followed. During Mao's reign, prostitutes faced severe penalties and could be sent to labor camps for education. In 1958, the Chinese Communist Party announced that prostitution had been eradicated. Even the twenty-nine venereal disease research institutes were closed.[55]

Since the beginning of China's transition to the market economy in 1978, all forms of sex for cash have reemerged. Initially, the phenomenon was limited to the eastern, coastal cities, but since the 1990s it has spread across the country. Arrests of prostitutes, clients, and pimps have increased every year since 1982. Some suggest that the business employs ten million people, with an annual turnover of one trillion yuan. The bulk of the sex trade takes place in karaoke bars, hotels, saunas, beauty salons, and teahouses. A common euphemism for hostesses working in karaoke bars is "ladies of the three accompaniments." In theory, they accompany men by chatting, drinking, and dancing. In reality, they allow clients to fondle them and are willing to engage in sexual intercourse. "Dingdong ladies" are women who phone hotel guests offering sex, while "street girls" try their luck at the lowest level of this profession.[56]

[162.10.217.184] Project MUSE (2026-06-15 01:44 GMT) University of Queensland

Contrary to common misperceptions, Chinese law does not depart significantly from Western countries' provision in this sphere. The law distinguishes those who organize and induce others into prostitution from those who engage in the act by paying or receiving money (the clients and the workers). Statutes passed since 1991 have made the involvement of a third party, such as a pimp, a criminal offense, even punishable with death. Bar, sauna, and massage parlor owners all face the risk of long prison sentences if found guilty. Sex workers and their clients are mainly dealt with through administrative law, although they face arrest and heavy fines. Hostesses are the most vulnerable, since local authorities have several means at their disposal to harass and humiliate them. The Communist Party has issued specific disciplinary measures to expel members caught red-handed.[57] How do actors in this market, especially the owners of brothels, negotiate protection against police arrest? To whom do they turn to fend off rowdy customers and violent thugs?

After an interview in a factory outside Guangzhou, the owner showed us an upscale karaoke bar in a nearby town that he patronizes regularly. I asked if he knew whether the establishment has entered into a protective umbrella with anyone. According to the factory owner, the hotel was under the wing of police officers to whom it could turn if there was a serious dispute and who protect it against random police raids, while the hotel security guards fend off local thugs and unruly customers. He added that low-level establishments are at much greater risk from local thugs and other bar owners—who harass competitors and try to steal their workers—because they are located in red-light districts and dangerous neighborhoods. The police protectors would not offer help in these fights and would indeed expect them to be handled with discretion, so that attention is not drawn to the bar. Many officials justify their actions by arguing that karaoke bars promote the local economy as well as help businesspeople forge stronger bonds and strike deals.[58]

A Chinese scholar who worked in a karaoke bar for twenty months in Dalian between 1999 and 2002 confirms that officials—especially police officers—are regularly paid for protecting these establishments. One Public Security Bureau officer remarked to her: "Karaoke bars and hostesses are our source of livelihood. We basically cannot live without them."[59] As in the case of legitimate businesspeople who are forced to hire individuals suggested by their umbrella, police officers have devised a system to keep

informed on the activities of the brothels: they maintain a group of "spy hostesses" who report on the club conditions as well as act as these officials' personal harem.[60]

The case of Chen Kai from Fujian has brought to the fore the reach of protective umbrellas. Chen Kai was sentenced to death in 2005 for organizing prostitution in Fuzhou. Before being arrested, he was the head of a conglomerate that included a hotel, a nightclub, three restaurants, a real estate development firm, and three saunas. Chen Kai had started as a street seller and then entered the electronic gambling industry. As his business interests grew and expanded into entertainment, he struck a deal with the city chief of police, who was known as the "Godfather of Fuzhou," and named the chief's son the vice president of his company. Whenever an investigation was initiated, the chief of police would block it. No less than fifty officials were eventually found guilty at the Chen Kai trial in 2003. They were, as the *China Daily* noted, the protective umbrella for Chen Kai operations.[61] People familiar with the case suggest that Chen was nothing but a brothel owner, and the violence used by him was limited to maintaining order within his premises and occasionally forcing waiters into providing sexual services for officials who took a fancy to them.[62] Protection was coming from his umbrella.

Among the seventy-four cases that I reviewed in depth, nine groups were found guilty of running brothels. None is on record as trying to monopolize the business. These cases seem to refer to instances of involvement in managing a brothel, rather than wide-ranging attempts to control the market. There is no evidence that foreign triads played a role in this business. In sum, it appears that fragments of the state, and in particular the very people who are supposed to fight prostitution, act as the industry's protectors and there is yet more evidence that these arrangements are localized in nature.

Drug Trafficking

Chinese drug traffickers benefit from proximity to a 150,000-square-mile patch of land in the Wa area of the northern Shan state of Burma, known to the world as the golden triangle. Burma is the second-largest opium-producing country in the world after Afghanistan. The methamphetamine production plants blamed for the "speed" epidemic in Thailand in the

1990s are also located here. After the country gained independence in 1948, the Communist Party of Burma controlled most of the area. In the same year as the Berlin wall collapsed and Eastern Europe was freed from Soviet influence, the leaders of the Wa ethnic group dissociated themselves from the Communist Party of Burma and signed a peace treaty with the government. Under the conditions of the treaty, the Wa army was allowed to remain in control of the territory and retain its arsenal, while the Burmese leadership could direct its attention to crushing the indigenous democratic movement. The Wa army—defined by the U.S. Department of Justice as "one of the largest heroin-producing and trafficking groups in the world"—continued its long-standing involvement in the cultivation, production, and distribution of drugs.[63] Here opium cultivation is legal and is a major source of tax revenue for the Wa leadership. Local farmers pay a compulsory tax in opium regardless of whether they grow the plant or not, thereby forcing them to either start cultivation or buy opium to pay the tax. Heroin and methamphetamine factories are illegal, although they operate under the informal protection of army officers.[64]

In the early 1990s, legitimate and illegitimate cross-border trade between Burma and China began to flourish. Many entrepreneurs from China shuttled between the Wa region and the newly established special economic zones in search of opportunities. With the arrival of the Chinese, heroin production grew. The presence of a developed chemical industry in China makes it relatively easy to obtain and import the precursor chemicals needed for narcotics production from China into Burma, and export the finished product from Burma back to China and then onward internationally. Methamphetamine production took off when the Thai authorities decided to crack down on this drug in their own country in the mid-1990s. Chinese entrepreneurs operating in China, Burma, and Thailand took advantage of the situation, and began to mass-produce methamphetamine in the Wa area to meet the enormous demand in Thailand.[65]

The heroin produced in the Wa region travels into China through the province of Yunnan, onward through Guangdong, Shenzhen, and Hong Kong, and finally reaches North America. As the cross-border trade of legal commodities between China and Burma started to swell in the 1980s, and continued to expand rapidly in the 1990s, drug trafficking along the border area also flourished. Significant seizures of heroin in Yunnan Province are on record since at least 1986. In the 1990s, there was a noticeable

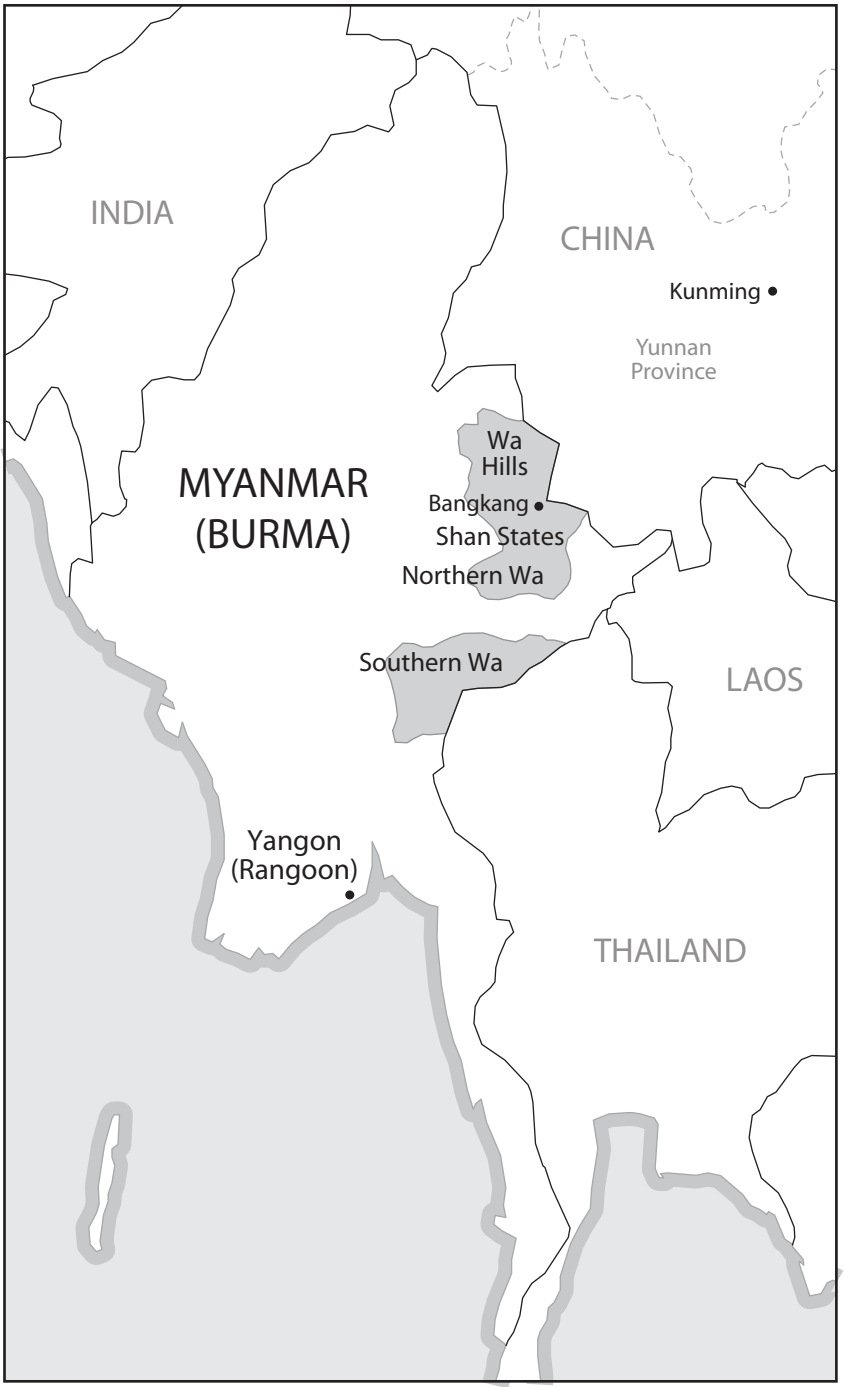


Figure 6.2 Map of the Wa area

increase in the number of detected cross-border drug trafficking cases. As reported by the U.S. Drug Enforcement Administration in 2002, "China's Yunnan province has become the primary transit point for Burmese heroin."[66] The drug then reaches Guangdong Province, the primary distribution point for both the domestic and international market. In 2002 only, the Guangdong police seized 1,618.72 kilograms of drugs and cracked down on 5,745 drug-related criminal activities. In describing the situation, an officer in charge of narcotics control stressed that "Guangdong has become the major channel and distributing center for drug smuggling activities."[67]

Once in Guangdong, the drug reaches the United States via Shenzhen and Hong Kong. In the late 1980s, a change in the export methods employed by the Chinese was detected. Instead of using drug couriers traveling to U.S. airports from Hong Kong and Bangkok, Chinese traffickers began to send large quantities of heroin (from fifty to one hundred pounds or more) to the seaports of Newark and Elizabeth, New Jersey, and Chicago, hidden in cargo containers shipped from Asian ports, such as Shenzhen and Hong Kong. The drugs were carefully stuffed into products such as furniture and frozen seafood. In one instance, drug traffickers stuffed heroin into five boxes of goldfish that were to be shipped to an aquarium in San Francisco. The trick was discovered, and led to the exposure of the activities of a drug-trafficking ring between mainland China, Hong Kong, and the United States.[68]

For such complex transshipping operations to be successful, several actors must be involved at various points of the trade and protection must be arranged. Are foreign triads the main suppliers of such service? There is no evidence that triads are directly involved in smuggling drugs or that they offer protection to the trade (the distinction is crucial). The traders responsible for the bulk of heroin imported from Burma through China into the United States are international businesspeople of Chinese origin who take advantage of their connections and legitimate commercial operations to carry out the transportation of drugs from the source countries. The major traffickers are entrepreneurs who have links with the communities to which the drug is exported.[69] Since the adoption of the open-door policy, Chinese investors—especially from the provinces of Yunnan and Sichuan—have visited the Wa area of Burma. Their presence has helped

the Wa leaders to develop the manufacturing of drugs. They also organize the trafficking of the product back to China, independently of any connection with Hong Kong and Taiwanese triads. They use legitimate transportation networks to reach Shenzhen and Hong Kong. Once there, one would expect that Hong Kong triads might control the harbors. The reality is, however, different. Hong Kong triads control low-level drug dealing in the city for local consumption, but they have never become the dominant players in the international trade. At every stage, successful traffickers rely on officials to turn a blind eye, as several observers have suggested.[70]

Two members of the security branch of a Western multinational operating in Asia whom I interviewed in Hong Kong dismissed the idea that triads are prominent in any smuggling activities, of either humans or drugs. In their extensive investigations of the matter (which include running informants and intercepting communications), they have come across only one reference to a Taiwanese triad member who seemed somewhat connected, although in a personal capacity rather than as a member of his mafia group. In their opinion, the smuggling of illegal products out of China is overseen by corrupt officials. "We know that during the recent Olympic Games, officials in Beijing phoned their opposite numbers in the provinces ordering them to suspend shipments of illegal commodities. The order was meant to last until the end of the Paralympics!"[71] They added that illegal trafficking is greatly facilitated by the Container Security Initiative.

The Container Security Initiative allows U.S. Customs and Border Protection officials to inspect containers in foreign seaports before they are loaded on board vessels destined for the United States. The inspections take place with the support of local customs officials. In China, the ports of Hong Kong, Shenzhen, and Shanghai are part of the initiative. Indeed, Hong Kong and Shanghai are the largest ports in the world shipping goods to the United States. In the immediate wake of the World Trade Center attack in 2001, U.S. customs developed this initiative to address "the threat to border security and global trade posed by the potential for terrorist use of a maritime container to deliver a weapon," as its Web site recites. The containers deemed to pose a threat are examined at the port of origin using "sophisticated technology" aimed at detecting nuclear and radiological material. Once they have passed the check, they can enter the United States without further scrutiny.[72]

In effect, "local custom officials tell U.S. agents where to look and where not to look," one of my informants told me. They added, "It is like having the crooks telling the police what to do."[73] To put it differently, this source claims that local bureaucrats, who speak the language and know the American operative procedures, have worked out what kinds of goods would not be picked up by the U.S. technology. The surest way to ensure that cigarettes or drugs are smuggled into the United States is to have the containers inspected for nuclear and radiological material. Since the technology does not detect other commodities, the container is then given a clean bill of health and allowed to enter the United States without any further check.[74]

Conclusions

So far, China counts as another negative case in the general argument of this book. Members and bosses of foreign triads are present on the mainland, but have not yet emerged as a viable mafia supplying private protection. As in the case of Bardonecchia and Rome, mafiosi did not decide to migrate out of their own free will. Their presence in the new territory is the unintended consequence of police action in their country of origin. Once they found themselves on the mainland, they quickly realized that the new China offered many opportunities to invest some of their gangs' funds, but they have so far failed to establish themselves as viable protectors for legal entrepreneurs. Some conditions for their success were present: a language and ancestry in common with the locals (Taiwanese is similar to the dialect of southern Fujian; some Hong Kong triads members originated from Guangdong region); the presence of many new immigrants from other parts of China who were underemployed or out of work; and the presence of new and booming markets, including illegal markets such as gambling and prostitution (table 6.1). Such a situation should have generated a demand for criminal protection and offered opportunities for mafiosi, local or foreign. In reality, though, the outcome was different because a powerful protector was already on the ground: corrupt fragments of the state apparatus.

Remarkably, the jargon word for the activities of the latter is protective umbrella—a clear indication that what officials offer goes beyond simple,

one-off corruption services and encompasses long-term arrangements to take care of (and profit from) private entrepreneurs. In the Russian case, some criminal gangs became powerful roofs for businesspeople, although official roofs played the biggest role in the market for informal, illegal private protection. The case of China indicates that few criminal groups have managed to take on the role of protective umbrellas. Instead, corrupt elements of the state apparatus, such as the military, police, and the local administration, act as the protectors of legitimate businesspeople (table 6.1), like the producer of lightbulbs that I encountered in Dongguan. As suggested in chapter 2, it would be an uphill struggle for an incoming mafia to dislodge an existing local criminal protector, especially one with the organs of state power at its disposal.

Since the opening of the economy, illegal markets have also boomed in China: gambling, prostitution, human smuggling (an issue that I have touched on only tangentially in this chapter), and drug trafficking. For the most part, it seems that even in illegal markets, fragments of the state apparatus offer protection. This is especially evident in the protection of prostitution. Gambling gives rise to loan sharking and a demand to recoup debts incurred at the tables in Macau by mainland Chinese. In such cases, Macau triads may team up with gangs on the mainland to trace the gamblers—or their families—and some of these gangs have then expanded their business into the collection of ordinary, business debts. If allowed to expand further, these gangs could develop into fully fledged mafia groups offering generalized protection services to whomever can pay. Since they enforce promises on behalf of foreign triads, in my view this represents a potential mechanism for long-distance cooperation and the transplantation of foreign triads to China. Yet there is no strong evidence that such transplantation has taken place. Quite to the contrary, it appears that local authorities have been quick to outlaw debt collection agencies and have arrested those tied to triads.

Have foreign triads been able to penetrate the lucrative drug trade? The short answer is, again, no. The heroin that leaves the Wa area of Burma is transported into China by low-level couriers organized by respectable businesspeople. When the drug reaches the ports of Shenzhen and Hong Kong, crucially placed custom officials exploit the system to sign off cargo bound for U.S. ports. The Container Security Initiative might have prevented the shipment of nuclear and bacteriologic weapons to U.S. soil,

Table 6.1

Factors Facilitating Mafia Transplantation, Bardonecchia, Verona, Budapest, Rome, New York City, Rosario, and Southern China

Factors facilitating mafia transplantation/cases	*Bardonecchia*	*Verona*	*Budapest*	*Rome*	*New York City (1910–30)*	*Rosario (1910–30)*	*Shenzhen/ Guangzhou*
Generalized migration	Yes	No	No	No	Yes	Yes	Yes
Mafiosi migration (willing/unwilling)	Yes (unwilling)	Yes (unwilling)	Yes (unwilling)	Yes (unwilling)	Yes (unwilling)	Yes (unwilling)	Yes (unwilling)
Supply of mafiosi	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Local conditions							
Level of trust/civic engagement	High	High	Low	Low	Low	Low	Low
Presence of local illegal protectors	No	No	No	No	No	No	Yes
Size of locale	Small	Large	Large	Large	Large	Large	Large
New and/or booming markets*	Yes	Yes	Yes	No	Yes	Yes	Yes
Demand for mafia services	Yes	No	Yes	No	Yes	No	No
Transplantation	Yes	No	Yes	No	Yes	No	No

* The markets considered are construction (Bardonecchia and Rosario), drugs (Verona and China), property rights (Budapest and China), oil (Budapest), alcohol (New York City), gambling (New York City and China), and prostitution (China).

but has also ensured that cargoes checked in China enter directly into the United States without further inspection. It might prove a devil's pact.

This chapter has raised some questions that cannot be fully answered at this stage and would require a separate study. It is nevertheless worth spelling them out. Who is allowed to acquire a protective umbrella? On the basis of the respondents' suggestions, it appears that the protection industry is stratified. Small entrepreneurs are not large and profitable enough to be of interest, and therefore may be more likely to enlist the services of independent debt collection agencies when they enter into a dispute. Since the government has moved to outlaw legitimate debt collection agencies, it could in effect have pushed low-level businesspeople into the hands of now-criminalized and unregistered agencies.

A second issue that I have touched on is the relationship between the center and periphery. To what extent can Beijing dictate to the provinces what to do in terms of illegal activities? There are several instances in which it appears that the center retains a degree of control. When the latter decides to arrest gang leaders protected by officials, it bypasses the local police and simply descends on the city to round up the suspects. In order to avoid embarrassment during high-profile events such as the Olympic Games or the sixtieth-anniversary celebrations for the People's Republic of China, Beijing appears to have been able to tell the periphery to stop smuggling operations, and enforce more strictly antiprostitution and drug consumption rules, as I learned in the disco in Shenzhen in late September 2009. And yet the periphery can also "bribe" the center. In order to obtain the go-ahead and funding for major public works, local cadres can entice national-level officials. Once the project is approved, local officials have plenty of opportunities to handpick the construction company and extract bribes, as documented by Xueliang Ding.[75] This system produces what the Chinese call "doufu-zha structures"—deeply flawed constructions that put lives at risk.

As Timothy Garton Ash has remarked recently, China might well be the defining geopolitical story of our time.[76] Yet observers routinely fail to connect the macropicture with microlevel processes. A recent report from the McKinsey Global Institute points out that China underconsumes and overinvests, mostly in building projects. The stimulus plan that China enacted in 2009 focused almost entirely on building infrastructure and public works, while other countries have also passed tax breaks and improved social safety nets.[77] Only by recognizing the massive opportunities

for kickbacks that construction projects open up for officials in both the center and periphery, can one make full sense of macroeconomic decisions. The equilibrium between central government and cadres in the provinces appears precarious, and deserves a full study of its own. To the extent that criminal gangs in the periphery overpower local power holders, they could become the interlocutor of the center, and China might well develop pockets where mafias are entrenched, like in southern Italy, certain parts of Latin America, and the former Soviet Union.

Appendix

Table A6.1

Summary Information on Seventy-four "Organizations with an Underworld Nature," China, 1992–2009

Name of gang	*Length of activity in years*	*Start date*	*Location (region)*	*Size*	*Background leadership**	*Main charges*
1. Anda LU Brothers	16	1992	Heilongjiang	54	3	Kidnapping, loan-sharking, raping, gambling, prostitution, corruption, frauds
2. Black Leopard	1	1995	Sichuan	N/A	N/A	Robbery, protection racket, contract killing
3. Blue Clothes squad	7	2000	Liaoning	N/A	3	Debt collection and dispute settlement in real estate
4. Bo TIAN's gang	6	1995	Jilin	N/A	1	Kidnapping, extortion, monopolization of coal sector
5. Broadsword	1	N/A	Shanghai	N/A	N/A	Robbery, debt collection, extortion, monopolization of entertainment sector, drug trafficking
6. Caiping XIE's gang	5	2004	Chongqing	18	1	Loan-sharking, gambling, dispute settlement
7. Central China overlord	1	1994	Henan	N/A	1	Raping, hooliganism, attempts to control transport sector
8. Changli He's gang	1	N/A	Henan	N/A	1	Corruption

TABLE A6.1 (*cont.*)

Name of gang	*Length of activity in years*	*Start date*	*Location (region)*	*Size*	*Background leadership**	*Main charges*
9. Chongqing Mingliang CHEN's gang	8	2001	Chongqing	47	N/A	Kidnapping, extortion, prostitution, drug trafficking
10. Deliang LI and Guoqing MAI's gang	6	1996	Guangdong	N/A	4	Kidnapping, robbery, collection of gambling debts, extortion, protection rackets, blackmailing
11. Deping JIANG's gang	5	1997	Jiangsu	20	3	Monopolization of excavation sector
12. Fang Guangcheng's gang	9	1996	Beijing	36	1	Extortion, monopolization of construction
13. Foshan Water Gang	5	1995	Guangdong	N/A	3	Collection of gambling debts, arms dealing, loan-sharking, gambling
14. Great Ring (or Big Circle Boys)	4	1994	Macao	N/A	2	Kidnapping, robbery
15. Guanglong ZHOU's gang	6	1995	Guangdong	N/A	1	Protection racket, monopolization of transportation and taxi industry
16. Guizhen MA's gang	14	1995	Jilin	10	N/A	Loan-sharking, extortion, gambling, corruption
17. Guojian LI's gang	1	2007	Hubei	7	4	Monopolization of fruit and vegetable market
18. Handan Lifa LIN's gang	5	2003	Hebei	24	N/A	Extortion in construction
19. Hong YANG's gang	3	2004	Hubei	N/A	3	Debt collection, collection of gambling debts, extortion, gambling
20. Hongyong ZHANG's gang	4	2005	Hebei	90	2	Tax evasion, theft of raw materials
21. HU Brothers	9	1996	Beijing	34	N/A	Kidnapping, arms dealing, illegal sand excavation, illegal detention, corruption

TABLE A6.1 (*cont.*)

Name of gang	*Length of activity in years*	*Start date*	*Location (region)*	*Size*	*Background leadership**	*Main charges*
22. Huaibei mafia	16	1993	Anhui	N/A	N/A	Debt collection, loan-sharking, protection racket, gambling, control of coal sector
23. Jianshe LI's gang	8	1994	Hebei	40	1	Kidnapping, debt collection, extortion, controlling officials, dispute settlement, illegal detention
24. Jinwen XIONG's gang	8	1992	Yunnan	N/A	3	Kidnapping, extortion, rape, gambling, illegal activities in mining, illegal detention
25. Kai ZHAO's gang	9	2000	Jilin	10	N/A	Monopolization of gas sector, dispute settlement
26. LI Brothers	3	1997	Gansu	54	1	Robbery, protection racket, gambling
27. Lifeng TANG's gang	1	1998	Henan	N/A	4	Debt collection, protection racket, control of elections, gambling
28. Luoma group		N/A	Sichuan	N/A	N/A	Monopolization of entertainment and car repair business
29. MA and DING's gang	9	1992	Gansu	60	N/A	Robbery, extortion, protection rackets, gambling, monopolization of entertainment
30. Man FENG's gang	8	1993	Chongqing	110	3	Extortion, monopolization of real estate and construction, control of officials, dispute settlement, corruption
31. Mingran ZHU's gang	2	1999	Xinjiang Uigur	N/A	4	Extortion, monopolization of fruit and vegetable market
32. Nanyang Yugang BAI's gang	5	2004	Henan	27	N/A	Extortion, monopolization of excavation and mining
33. Nine Brothers	N/A	N/A	Guangdong	N/A	N/A	Protection racket, gambling, usury
34. Pengfei SONG's gang	15	1993	Liaoning	95	5	Monopolization of transportation

TABLE A6.1 (*cont.*)

Name of gang	*Length of activity in years*	*Start date*	*Location (region)*	*Size*	*Background leadership**	*Main charges*
35. Pingyuan mafia	12	1980	Yunnan	N/A	1	Arms dealing, protection racket, drugs, control of officials, mining, and stolen cars
36. Qiaosi criminal syndicate	7	1990	Heilongjiang	N/A	2	Extortion, rape, monopolization of entertainment and construction
37. Renhao ZHENG's gang	3	1998	Heilongjiang	N/A	3	Kidnapping, extortion at fruit and vegetable market
38. Shaoxi ZOU's gang	15	1994	Guizhou	N/A		Arms dealing, gambling, prostitution
39. Shengli LIANG's gang	14	N/A	Henan	143	3	Debt collection, monopolization of entertainment, construction, and transportation, dispute settlement
40. Shiwei REN's gang	13	1995	Liaoning	43		Hooliganism
41. Shounan ZHOU and Xu DING's gang	9	1991	Guizhou	N/A	3	Robbery, debt collection, collection of gambling debts, extortion, gambling, prostitution, illegal detention, corruption
42. Sicong XIA's gang	N/A	N/A	Hubei	21	1	Monopolization of construction
43. Sister Nine's gang	6	1996	Sichuan	N/A	3	Kidnapping, debt collection, protection racket, gambling, prostitution, drugs, illegal detention
44. Solving Your Problems gang	3	N/A	Hunan	N/A	3	Robbery, extortion, protection racket, dispute settlement, illegal detention
45. Songyu HU's gang	2	2006	Gansu	53	N/A	Robbery, protection racket, entertainment, illegal detention
46. Tao HUANG's gang	5	1997	Jiangxi	N/A	4	Kidnapping, robbery, extortion of taxi drivers, protection racket, gambling

TABLE A6.1 (*cont.*)

Name of gang	*Length of activity in years*	*Start date*	*Location (region)*	*Size*	*Background leadership**	*Main charges*
47. Thirteen Protectors	5	1997	Yunnan	N/A	N/A	Debt collection, arms dealing, extortion, protection racket, gambling, monopolization of transportation
48. Tianqing YANG's gang	4	2005	Chongqing	9	3	Debt collection, loan-sharking, extortion
49. TU Brothers	3	1998	Guizhou	N/A	3	Debt collection, protection racket in entertainment and prostitution
50. Underworld 110	1	2005	Hunan	13	N/A	Debt collection, extortion
51. Wanchun HAO's gang	8	2008	Liaoning	24	N/A	Extortion, frauds
52. Wei ZHANG's gang	6	1995	Zhejiang	N/A	3	Bid rigging, real estate, corruption, stolen cars, frauds
53. Weiguo ZHENG's gang	3	1998	Shaanxi	N/A	1	Protection racket, bid rigging, monopolization of excavation
54. West gang	6	1993	Guangxi	N/A	2	Debt collection, loan-sharking, gambling
55. White Dragon	N/A	N/A	Guizhou	16	N/A	Robbery, transportation
56. Wolf	6	N/A	Shanxi	49	3	Robbery, arms dealing, extortion, rape, gambling, usury
57. Xiangji ZHUANG's gang	4	1996	Hunan	N/A	3	Monopolization of construction sector
58. Xiangu DU's gang	4	1997	Heilongjiang	N/A	4	Robbery
59. Xianliang FU's gang	2	1999	Sichuan	N/A	3	Collection of gambling debts, loan-sharking, gambling, transportation, usury
60. Xiaoming LIANG criminal syndicate	4	1994	Jilin	N/A	2	Kidnapping, robbery, gambling, prostitution

TABLE A6.1 (*cont.*)

Name of gang	*Length of activity in years*	*Start date*	*Location (region)*	*Size*	*Background leadership**	*Main charges*
61. XU's criminal syndicate	2	1992	Zhejiang	N/A	3	Robbery, arms dealing, extortion, rape, monopolization of transportation, drug trafficking, dispute settlement
62. Yali YU's gang	11	1998	Jilin	13	N/A	Corruption, frauds, tax evasion
63. YANG and XIE's gang	4	N/A	Fujian	N/A	N/A	Robbery
64. Yangjiang mafia	15	N/A	Guangdong	N/A	4	Protection racket, monopolization of entertainment, transportation, gasoline, and construction materials
65. Yanhong BAI's gang	15	1993	Sichuan	8	N/A	Gambling, drug trafficking, controlling officials
66. YE Ba Er gang	19	1990	Guizhou	23	3	Gambling, prostitution, dispute settlement, illegal detention, illegal logging
67. Yibing CHEN's gang	3	1998	Beijing	N/A	1	Protection racket of transportation and retail
68. Yong LIU's gang	5	1995	Liaoning	N/A	1	Monopolization of entertainment, supermarkets, real estate, sale of cigarettes, and construction
69. Yongfeng WEI's gang	5	2002	Shaanxi	18	N/A	Kidnapping, robbery, debt collection, extortion, protection rackets, gambling, monopolization of waste disposal and gambling, illegal detention
70. Yu ZHOU's gang	4	2002	Hubei	40	N/A	Prostitution, entertainment
71. Zhenhuang DU's gang (or White Pig)	8	2000	Fujian	N/A	N/A	Extortion, gambling, dispute settlement

TABLE A6.1 (*cont.*)

Name of gang	*Length of activity in years*	*Start date*	*Location (region)*	*Size*	*Background leadership**	*Main charges*
72. ZHU family	12	1989	Jiangxi	N/A	1	Kidnapping, debt collection, loan-sharking, corruption, gambling, extortion in transportation, mining, fruit and vegetable market, gasoline, waste disposal
73. ZI family	4	1997	Heilongjiang	N/A	3	Arms dealing, prostitution, monopolization of entertainment and real estate, stolen cars, illegal logging
74. Ziqiang ZHANG and Jihuan YE's gang	6	1990	Guangdong	N/A	3	Kidnapping, arms dealing, robbery

* Key to "background of leadership": 1 = official/politician/relative of; 2 = police officer; 3 = ex-prisoner/criminal; 4 = businessperson; 5 = migrant worker.
Sources: He 2003; Zhang 2006; Li and Ke 2006; Kang Kang 1998; selected official press reports.
Note: The cases listed in table A6.1 come under the Chinese definition of mafia group ("organizations with an underworld nature"), but do not all display the features of a mafia group as defined in this book. Clearly, this list does not claim to be representative. The cases were deemed important by the sources listed above.

Mafia Origins, Transplantation, and the Paradoxes of Democracy

Boris Sergeev, the Solntsevskaya associate operating in Rome, was a flitter, laying his eggs in many nests. Born in Moscow, he lived in Vienna and Paris. His police file lists several aliases. He was a polygamist and forger. Unconfirmed sources claim that he had worked for the KGB in the 1980s. When negotiating with Islamist fighters to smuggle Chechen oil to countries under the UN embargo, he grew a beard. For reasons as yet unknown, he surfaced in Rome in the early 1990s. When the Solntsevskaya boss arrived in the Italian capital a year or two later, Sergeev offered to help: he registered some of Yakovlev's companies at his address, arranged invitations to Austria for the boss's lieutenant (a fugitive from justice), supplied false German passports, and allowed the crew to use his bank accounts for the transit of vast sums of money. Around April 1996, however, the two grew apart. Yakovlev suspected Sergeev of embezzling money entrusted to him.

Sergeev had been accused of embezzlement before. A few years earlier, he had taken funds from a Russian businessman, *Nikita Morozov*, but never invested or returned them. As one might expect, Morozov was no ordinary businessman. When he died in 1994, he was a partner in two Russian companies based in Vienna and controlled by Ivan'kov, who had escaped to the United States in 1992. Together with two other Russians connected to the Solntsevskaya, Morozov came to the attention of the U.S. authorities when he threatened a drug trafficker based in Antwerp who had started cooperating with U.S. intelligence. The three Russians were

trying to obtain a share in the trafficker's legitimate shipping company. Sergeev had a talent for upsetting powerful people.

When Morozov's son, *Akim*, and his wife, *Ekaterina*, showed up in Rome in June 1996 asking for the money, Sergeev and his wife welcomed them with open arms. After a lavish lunch at their house, they pulled a gun on the couple. According to Ekaterina, a young and attractive blond, they first beat them and then Sergeev tried to rape her. In the ensuing bedlam, Sergeev's wife was holding the pistol. The couple managed to escape after a struggle by climbing over the garden fence. The railing was not high; to this day Sergeev's abode is the same two-story, white, detached house with a small pool in the garden, an estate agent told me. Ekaterina and Akim stopped a police car on the busy main street of the tourist town on the Lazio coast and reported Sergeev. The attack on the Morozovs had momentous consequences. Sergeev was arrested for assault, and the house was searched for over three days by local and special units. On the first day, the police found twenty-two caliber-nine cartridges, several Russian and Polish passports, a gun holster, and a piece of paper listing all Russian criminal groups, including the name of the person in charge and the banks they used. On the second day, they retrieved a gun from the water tank behind the toilet—a rather rudimentary way to hide a weapon. On the third day, Italian authorities found more documents, mainly related to arms sales.

During the summer of 1996 Sergeev was hard at work on his last scam: the sale of cheap Bulgarian meat in Russia. Through political contacts within the European Union, he obtained a certificate stating that his product was from high-quality Italian livestock and intended for humanitarian aid to Russia. The certification allowed him to avoid paying duties in Europe. Once in Russia, the meat would have been sold at market price. To pull off this scam worth twenty million U.S. dollars, he needed capital and official support on the Russian side too. He thought that he had secured the backing of a Moscow brigada. This was the reason for his last trip to his native city in 1996 described in the introduction of this book. Although there is no final word on who ordered and carried out Sergeev's murder at the Tverskaya hotel in September, it is plausible that the Solntsevskaya had grown tired of him and decided to end his career. Some ventured the theory that the hit was carried out with the blessing of officials involved in illegal oil deals in Chechnya. Yakovlev, the boss in Rome, received a call informing him of Sergeev's death at 17.52 Italian time, just one minute

after Sergeev's wife got the news. He remarked, "What, did they kill him? I am not surprised; he has stolen money from half of Russia."[1]

Seen from a distance, international organized crime appears as a monolithic and self-assured Global Corp. Inc. The Solntsevskaya sends a boss to Rome, where he sets up an outpost, and quickly penetrates the upper echelons of national and international finance. Waiting for him is an infrastructure that includes local fixers and a fellow Russian with international contacts that range, according to newspaper reports, from top Moscow apparatchiki to Swiss financiers linked to the Democratic Party in the United States.

Such a picture is not entirely inaccurate, but the complications of the story have been erased. The Solntsevskaya is not a single organization but rather an alliance of independent brigades. The "envoy" to Rome was running for his life after his mentor had been murdered in Moscow. The local help consisted of two people operating a travel agency. The Russian fixer was not a full-time member of the organization but instead a freelance con artist with apparently constrained intellectual capacity and certainly limited credibility, whose plans often floundered and backfired.

The first step for observers of international organized crime is to draw some basic distinctions. Sergeev was part of the "service industry" of organized crime. Although some might be tempted to portray him as a global criminal mastermind floating in hyperspace, a present-day Moriarty, he and other unsavory characters that fill popular accounts of this phenomenon are not independent variables; they are hired to carry out work for states, secret services, legitimate corporations, or mafia groups. When they lose the trust of their paymasters, they are removed and leave no trace.

Mafias do not flit. Rather than being liquid entities, they are firmly entrenched in the territory that they govern. One surprising finding of this study is that most mafiosi do not migrate away from their territory of their own volition (the surprise is of course directly proportional to the belief that mafias migrate easily). They are not the CEOs of a global corporation exploring rationally the best mix of tax breaks, law enforcement, and climatic conditions. In the cases covered here, mafiosi move to new territories in order to escape state prosecution, mafia wars, and internal disputes, or because they are ordered by the state to move away. The recent transplantation of gangs from Southern California to El Salvador and Guatemala is another case of less-than-willing migration. The first wave of migration

of Central American youths to Southern California was due to civil wars and military conflict in Central America in the 1980s. Once in the United States, some individuals joined Latino gangs. In the early 1990s, the U.S. government forced more than 150,000 Central Americans to return to their home countries in a three-year period. Some of them brought their criminal expertise with them, taking over and transforming local bands. By the mid-1990s, one could find "clones" of Los Angeles gangs—such as Mara Salvatrucha and the 18th gang in San Salvador, and the White Fence and Latin Kings in Guatemala. Contrary to what was suggested by the media and some scholars, though, the members of Latino gangs in California had not sought to expand their franchise and drug distribution network through relocation to Central America. They had been forced there by state policies.[2]

Mafiosi are stationary because the service they provide is inherently local. They ensure selective access to resources in a given territory. In order to do so, they build long-term relationships with the place in which they operate as well as with the people, officeholders, and police. Rather than with a CEO, a more apt comparison is with a politician—say, a British Member of Parliament or U.S. Senator. Candidates who have built their power base in a given constituency do not simply pack up and try their luck in the French or Italian political system, even if the salaries and allowances are larger. They would not have enough local knowledge and therefore cannot hope to get things done because they do not have connections to local power holders. As a rule, political (and criminal) reputations are local and are the product of costly investments. To start afresh somewhere else is expensive. As Tocqueville wrote in *Democracy in America*, "The happy and the powerful do not go into exile." Rather, "poverty and misfortune" make them move.

Only under a special set of circumstances do mafias reproduce themselves in new areas. This book has tried to untangle the factors that account for mafia migration and successful transplantation. In so doing, it has challenged some widespread conceptions regarding migration. Generalized population migration on its own cannot explain the mob's successful and long-term transplantation in a new territory. The migration of individuals with specific mafia skills surely increases the risk of mafias becoming entrenched, yet this "variable" is not sufficient for a mafia to become deep-rooted in a new territory.

The findings of this book also qualify the effect of globalization on organized crime. I found no instances in which mafiosi opened outposts abroad in order to obtain resources such as labor and specialized equipment, or where mafiosi rationally decided to start a protection racket in a faraway land—what I called market-seeking motivations. To the extent that globalization has increased labor mobility, mafias have even less reason to open branches abroad to look for recruits. If mafias seek specialized technical equipment, such as arms, globalization could increase the number of international locations from which they obtain these resources, but it also reduces the motivation to own resources abroad. In the mid-1990s, for instance, Russian bosses occasionally traveled to Germany to buy arms. Rather than establishing an outpost in that country, they simply bought arms on the open market. Thus, globalization affects how crime is committed in a given country, instead of making mobsters want to migrate abroad.

Mafias do reinvest the proceeds of their crimes in different markets. A specific function that a mafioso can carry out abroad is to monitor investments for their group back home. The case of Yakovlev partly fits this picture. Although he ended up in Rome because he was fleeing death threats in Moscow, while abroad he kept himself busy investing the funds of his own brigada in the Italian economy. He also had won the trust of other Russian criminal groups and was managing some of their funds as well. Other cases are on record. Anthony Spilotro oversaw the Chicago outfit's investments in Las Vegas in the 1970s, although he did not do a particularly good job. Pippo Calò, the boss of the Porta Nuova Sicilian mafia family, moved to Rome at the start of the 1970s to monitor its investments in real estate and banking. The presence of the Neapolitan Camorra in the Scottish city of Aberdeen also reflected mafia attempts to launder money and invest in the local legal economy.[3] In these cases, the initial motivation for the mafias' presence was not to establish control over a specific sector of the economy.

Why would a mafia send an envoy abroad rather than just monitor its investments from a distance? Mafia investments are informal and often in cash; no recourse to the legal system exists in the event of a dispute. Moreover, money laundering and investments in the legal economy can involve several hundred one-shot transactions between business associ-

ates of the criminal group and legitimate firms in foreign and inhospitable countries. Those tasked with undertaking these decisions enjoy a significant amount of discretion and are difficult to monitor. Investments can go wrong, and the bosses back home cannot easily verify claims and reports. This situation generates specific incentives for mafiosi to go abroad so as to monitor directly transactions with legitimate entrepreneurs. The boss might well be tempted to go himself, since he cannot trust agents fully. On the other hand, if he leaves his territory for a long time, he weakens his position back home. Bosses thus face a dilemma to which there is no optimal solution. While one should not underestimate the danger of criminal groups making such inroads into the legitimate economy, this strategy and its impact differ from territorial penetration. For the latter to succeed, several local conditions must also be in place—most notably a demand for private protection.

Origins and Transplantations

Can our conclusions on transplantation form the basis of a broader theory of mafia emergence and transplantation? Scholars have already explored in considerable depth the reasons why mafias emerged in their territories of origin. Contrary to the view prominent until the early 1990s that these organizations were the product of social and economic backwardness and chaos, recent studies have shown that mafias emerge in societies that are undergoing a sudden and late transition to the market economy, lack a legal structure that reliably protects property rights or settles business disputes, and have a supply of people trained in violence who become unemployed at this specific juncture.[4]

For instance, the origin of the Sicilian mafia is best explained as a perverse response to a late and rapid transition to the market economy in the early nineteenth century, in the presence of a state that failed to clearly define and protect the newly granted property rights, and a supply of individuals trained in the use of violence who became suddenly unemployed. The armed guards (*campieri*) formerly at the service of the feudal lords were now out of work. In addition, the Bourbon army had disbanded after the unification of Italy and its soldiers were in search of a purpose. At this point in history, some members of the violent classes turned to banditry,

while others started to offer their services to more than one aristocratic family. The lethal combination of a demand for the protection of property and property rights, the presence of a threat from banditry and disputes with other owners, and a supply of disbanded soldiers and unemployed field guards ready to offer private protection gave rise to the Sicilian mafia in the early to mid-nineteenth century.[5]

This perspective—what could be called the "property rights theory of mafia emergence"—can be applied to other cases, such as Japan and post–Soviet Russia, to explain how mafias might emerge in times of rapid but flawed transitions to the market economy. Japan made a rapid transition from an agrarian, feudal society to a modern, industrialized economy in the Meiji period, which is traditionally dated from 1868 to 1911. During the Meiji period, the country saw the end of feudalism, the spread of property ownership (mainly in land), the enactment of legal reforms—including land reform (1873–76), a written constitution (1889), and a French-style civil code (1898)—and a process of centralization of government. As a consequence of the spread of property ownership, disputes increased, both between individuals and the state (mainly over the levels of taxation) and between individual owners. The state, however, failed to provide mechanisms for dispute resolution that were quick and efficient. At the same time, the transition to the market produced a crisis for the large and economically useless warrior class. A supply of people trained in violence started to offer services of dispute resolution and protection outside the scope of the state, giving rise to the modern yakuza.[6]

As I have argued elsewhere, Russia underwent a similar process. From 1986 onward, the country witnessed a rapid spread of property rights that was not matched by the establishment of adequate formal enforcement mechanisms by the state. This generated a demand for nonstate sources of protection. Such a demand coincided with the presence of individuals who had acquired violent skills and found themselves unemployed. In the Russian case, these individuals were former Red Army soldiers, Afghan veterans, unemployed sportsmen, and ex-prisoners. The Russian mafia emerged at this historical juncture, and many groups adopted similar norms and rituals.[7]

The property rights theory of mafia emergence remains the most convincing perspective on the origins of mafias. Yet it has also proved to be a special case. Not all mafias have developed during times of transition to

the market as in Sicily and Japan in the nineteenth century and Russia at the end of the twentieth. Mafias may well emerge within functioning market economies, and for reasons other than to ensure the protection of property rights. A sudden boom in a local market that is not governed by the state can lead to a demand for criminal protection, even in countries where property rights are clearly defined, trust is high, and courts work relatively well at settling legitimate disputes among market actors. The presence of a supply of people trained in violence and capable of offering such protection might lead to the emergence of a mafia or the transplantation of a foreign group. Endogenous mafia emergence or transplantation, however, are not a mechanical product of sudden changes in the economy. Authorities or market operators can take actions to govern the transformation, thereby preventing the rise of a demand for mafia protection.

Democratic Paradoxes

A key insight of the perspective outlined above is that the Sicilian, Japanese, and Russian mafias all emerged at times when the market and the political process were both undergoing a process of democratization. Can democracy also provide the means to fight mafias effectively? Chinese authorities battle organized crime and corruption by routinely arresting criminals, and then meting out harsh sentences. As I was writing these lines in early January 2010, seven corrupt officials and criminals were executed in Hebei Province for a variety of crimes. But the structural conditions that give rise to opportunities for graft have not been tackled. Random and personalized "justice" is dispensed from the center, and businesspeople are vulnerable to the changes in fortune of their official protectors. The stability much valued by Beijing rulers in fact betrays uncertainty and deep insecurity for market players.[8]

One might then conclude that the solution is to transit to a fully democratic system of government as quickly as possible. Democracies can fight mafias effectively, yet they also generate their own paradoxes. First, the development of democratic institutions offers a major opportunity for organized crime by creating a market for a commodity that is not meant to be traded: votes. Mafias can help politicians ensure that a section of the electorate is rewarded for selling their votes to the highest bidder. Politicians can return the favor in the way they dispense the resources under their

control, such as public contracts, tips on police investigations, passports, and travel documents, to name a few. The defiant antimafia campaigner and mayor of Bardonecchia, Mario Corino, could not defeat his political opponents when they commanded the support of the few hundred voters controlled by the Calabrese boss Rocco Lo Presti. When constituencies are small, it is easier for an organized minority to control a significant amount of voters and thereby dominate the democratic process. As constituencies grow in size, it becomes ceteris paribus more difficult to control and organize a sufficient number of voters to suppress widespread discontent.[9] Indeed, when Lo Presti tried to get an associate elected to the Piedmont Regional Assembly, he failed. He did not muster enough votes.

William Jay Gaynor, now a relatively forgotten figure of U.S. politics, is also the product of democracy—more specifically, of a reform that enlarged the constituency that elected the mayor of New York and an electorate disgusted by pervasive graft. In 1897, some forty municipal entities were "consolidated" under the single mantle of Greater New York, so that several thousand votes were needed to win the election.[10] Public opinion aided by preachers and the independent media mobilized in support of a change in government. Mayor Gaynor was thus able to reform the city administration, enforce key measures to protect trade unions, and bring an end to the official corruption that protected brothels and gambling dens ("protective umbrella"). As a consequence of his reforms, many city employees were fired, and one was so outraged that he shot the mayor in the throat early in his first term. Gaynor would eventually die because of this wound.

The political legacy of Mayor Gaynor is paradoxical, however. By dismantling the system of protective umbrellas, he opened the way for the Italian American mafia to evolve from petty criminals to a fully formed structure of governance. After his reforms, individuals trained in violence replaced the protective umbrellas. Mobsters now organized the saloons, brothels, and gambling establishments. A well-meaning reform thus had a crucial unintended effect. Likewise, I would expect that a sudden transition to democracy in China might well create a bonanza for mafias.

The media in a democracy can be a powerful tool to fight organized crime. Public opinion leaders at the time of Mayor Gaynor included the Reverend Charles H. Parkhurst of the Madison Square Presbyterian Church. His powerful sermons and personal forays in the vice district of New York City—Satan's Circle—helped galvanize the anticorruption movement. The

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press was mostly supportive as well. Joseph Pulitzer's *New York World* and its fierce competitor, William Randolph Hearst's *New York Morning Journal*, both campaigned against corruption, in conjunction with two other influential local papers, the *Herald* and the *New York Times*. Quite crucially, Hearst commissioned Stephen Crane (the author in 1895 of the Civil War novel *The Red Badge of Courage*) to write a series of pieces on police corruption and brutality in Satan's Circle. Yet both the *World* and the *Journal* also had a possibly pernicious influence. In order to fight its war against the *Journal*, the *World*, through its reporter Herbert B. Swope, led a relentless campaign against a New York Police Department captain, Charles Backer, who was ultimately unjustly accused of murdering the operator of a gambling den and sentenced to die in the electric chair.[11] The fact that prosecutors in the case were also running for office further highlights the paradoxes of democracy. For his part, Hearst—the inspiration for the lead character in Orson Welles's film *Citizen Kane*—used his paper to campaign ferociously against Gaynor—possibly because he stood against him in the election of 1909 and lost. Although the relationship between the media and the fight against the mafia is a complex one, and cannot be explored here, the former follows a logic of its own, which does not always coincide with the latter.

Gaynor's reforms led indirectly to the entrenchment of the Italian American mafia in some key illegal markets, such as prostitution and gambling. The very same Progressive movement that was behind the clean up of City Hall and the New York Police Department was also responsible for passing, a few years later, the Volsted Act and the policy that has come to be known as Prohibition (Hearst was a major supporter of the war against marijuana that led to its prohibition in 1937 in the United States). The New York families were now best placed to reap the benefits of the largest illegal market at the time. As a result of Prohibition, they became a force in New York City and arguably U.S. history.

One might then simply suggest that authorities should pursue the mafia in illegal markets as well, as vigorously as possible. But another paradox presents itself. In markets for illegal commodities, mafias restrict competition, and ensure a degree of order and predictability. In this instance, the public (at least notionally) should welcome inefficient firms organized in cartels, and not want the cheap and efficient delivery of, say, drugs, prostitution, and the like. The fight against the mafias in illegal markets might

then have the effect of making available more products that people generally do not want on the streets. The ability of Cosa Nostra to control the docks of New York City, for example, gave it the possibility to organize the traffic of heroin into the United States. The mafia became the primary supplier of the product across the country for a period. Still, the fact that heroin was going through the New York docks also limited the amount of heroin entering the country. The organization had an incentive to restrict the supply and increase the price, with the end result being a lower quantity available. When Cosa Nostra failed to maintain control of the New York heroin market in the 1970s, by contrast, the city was flooded. The crack epidemic of the 1980s is a postmafia phenomenon.

A further consequence of the fight against the mafia is the displacement effect that I have highlighted in the chapters above. Effective repression of the mafia in one country can simply displace the problem. To use the language of this book, police repression is a most important factor in pushing the supply to other countries. While such measures might go some way to reducing the problem at home, they show a perverse effect of policing. As no country can afford to ignore the entrenchment of the mafia in another land, displacing the problem might just serve to postpone facing up to it.

Subsidies and administrative regulations can foster mafia involvement in frauds and racketeering. A case in point are the subsidies from the Organization for Economic Cooperation and Development and the European Union for the production of crops. Such subsidies have been hijacked by organized crime in many parts of southern Italy. Instead of protecting hard-hit farmers and the countryside, they have generated further exploitation and crime. In order to save on labor costs and rather than work the land themselves, landowners in Calabria employ cheap illegal workers from the Maghreb and sub-Saharan Africa. Workers come in the winter to harvest oranges and clementines for a pittance (the going daily wage is twenty-five euros). The living conditions are dreadful, and immigrants are routinely harassed. When I visited this part of Italy in March 2010, I was taken to a disused factory lacking any sanitation or toilets where immigrants camp out. Racketeers extract five euros from each worker a day. When vast sectors of the population exist beyond the reach of state institutions, as is the case with large communities of illegal migrants, a demand for extralegal services of dispute settlement and governance can emerge among the mi-

grants as well as the entrepreneurs who exploit them. Legitimate structures should prevent the emergence of such pockets of poverty and lawlessness. By ensuring this, they also help prevent mafia emergence.

In recent years, the European Union has curbed some such subsidies, forcing Italian farmers to compete against Spanish and Latin American producers of oranges and orange juice. While previously the `Ndrangheta had helped landowners control and exploit illegal immigrant workers, it could not protect farmers against global competition—in this case, competition against Brazilian and Spanish products. As I have shown in this book, mafias are able to protect local markets, but they find it next to impossible to protect export markets. Thus, a clear policy implication is that more global competition would weaken this criminal organization. Yet deregulation and global competition must be introduced with a grain of salt. In January 2010, riots between immigrants and locals broke out in the town of Rosarno, the epicenter of the labor racket and a `Ndrangheta stronghold. The root cause of the violence was the lack of work. Farmers, who could not squeeze the workers' salaries any further and had failed to modernize, decided to leave the fruit to rot in the fields and just rely on the lump-sum subsidy that the European Union still pays to owners of a field. In a heated social climate, a minor scuffle between a black immigrant and the owner of a car led to large-scale riots. Social tension was the unexpected outcome of a measure intended—among other things—to curb the role of organized crime.

How can we make sense of the paradox that reforms aimed at introducing democracy, reducing corruption, and opening up markets can give rise to a demand for mafia services? Or that riots break out when the mafia is weakened? Observers and policymakers routinely fail to recognize that mafias can serve powerful and entrenched interests in a democracy. In markets for legal commodities, mafias offer, in a nutshell, a form of protectionism against cutthroat competition. Market insiders might prefer this protection to competition that would force them to make painful changes. Elected politicians sometimes find it easier to enlist the services of thugs than to compete fairly with their opponents. Those who pay the price are ordinary people who have to cope with inflated prices and lousy representatives.[12] In illegal markets, mafias bring some order to the trade and can reduce uncertainty. It is not surprising, then, that police forces and some politi-

cians are tempted to come to terms with organized crime in illegal markets; it makes their work easier (the occasional bribe surely helps).

This book is not a list of specific recipes to fight the mafia. It simply suggests that a demand for mafia services originates in the economy, and that state action can foster or hinder such a demand. The best way to fight the presence of a mafia is to drain the demand for its services. It is not enough to reform the public administration or liberalize markets, or let booms go unchecked. Liberalization should be accompanied by effective measures aimed at preventing the formation of cartels in local markets and easing the effect of liberalization on the local workforce to avoid social tension. Liberalization requires more, not less, state intervention in the economy. Opening markets to competition requires state structures strong enough to ensure that market actors are free to sell in a territory. The prohibition and criminalization of certain substances, such as alcohol and drugs, should not be undertaken lightly, as they will generate a demand for forms of governance in illegal markets.

The political climate at the end of the twentieth century and in this decade has promoted the erosion of state monopolies over policing and security, and citizens are encouraged by governments to become "responsible" for the provision of their own protection. Rather than civic associations devoted to the defense of rights, mafias and mafia-like groups are well placed to exploit such a protection deficit. Already in many developing countries—whose local economies revolve around agricultural goods sold at markets, where the demand for the protection of property, goods, trading spots, and transportation routes is high—communities rely on alternatives to state security, such as informal organized security groups, religious police, and ethnic militias, some of which are effective. Although it might be early to speak of full-fledged mafias, groups such as the Bakassi Boys in Nigeria—youths armed with machetes, guns, and charms who engage in anticrime vigilante activities in the Igbo area, and often are accused of illegal activities and human rights abuses—have the potential to turn into mafias.[13]

Once the demand for mafia services has been sapped, it is also necessary to neutralize the threat posed by the supply. The utmost determination on the part of authorities is a central ingredient of any fight against the mafia. Effective policing makes life difficult for bosses, increases mistrust among

the rank and file, and helps to dislodge deeply entrenched criminal groups. And ultimately any fight against criminal organizations set on using violence on the population cannot get started without the actions of a few dedicated campaigners who risk their lives to bring about a better world. This book is dedicated to them.

Introduction

1. Shelley 2006, 43.

2. Williams 2001, 71; see also Shelley 1999.

3. Castells 2000, 201.

4. Shelley, Picarelli, and Corpora 2003, 145; see also Veltri and Laudati 2009, 198; CPA 2008.

5. Castells 2000, 168; Barak 2001; Shelley 2006. See also *Newsweek* special report on the "Global Mafia," December 31, 1993.

6. Albrow 1996; Bauman 1998; Beck 1999. For perceptive studies of the connection between globalization, security, and crime, see Nelken 2003; Loader and Walker 2007; Zedner 2009.

7. Reuter 1985, 21–22, 31; Gambetta 1993, 249–51.

8. Gambetta 1993; Chu 2000; Varese 2001; Frye 2002; Hill 2003; Chin 2003, 54–58. See also Dixit 2004.

9. For instance, the pure extortion of film crews has been recorded in Palermo, Hong Kong, and Moscow (see, respectively, Gambetta 2009, 255–56; Chu 2000, 71; *Independent*, November 2, 1995). The shooting of movies is particularly susceptible to extortion because crews work on tight schedules and cannot afford even the smallest delay in production; as they also tend to be from outside, they have no long-term connection with local men of honor (see Gambetta 2009, 256). In some cases, film crews have entered into partnerships with "location agents" who have ensured a safe production schedule, presumably because they enjoy long-term connections with the local mafiosi.

10. Extortion is often confused with other phenomena, such as the imposition of a tribute and overcharging for a service. Failing to appreciate that protection is subject to economies of scale generates the first confusion. If a group has the resources to protect client X and scare that person's enemies away, the same group must have all the qualities it takes to protect other people as well. This leads protectors to impose their protection on others. Just as states impose their protection on their subjects, so do mafias, although it does not follow that the service provided is bogus. Failing to appreciate that protection is also a natural monopoly leads to the second confusion. Since protectors are monopolists, they will charge a monopoly price and obtain a monopoly profit. Just as states charge more for their protection services than it costs to produce them, so do mafias. For a broader discussion of the economics of protection, see Lane 1958.

11. For parallels between state action and mafia behavior, see Tilly 1985.

12. For instances of services supplied by the mafia, see Bell [1953] 1988, 131; Block 1983, 43; Chu 2000, 43–76, 153–54; Gambetta 1993, 93–94, 171–79, 190–92, 197; Sabetti 1984, 90–91; Varese 2001, 69–72, 110–13, 115–17, 119; *New York Times*, August 29, 1999. For discussions of cartel agreement enforcement, see Landesco [1929] 1968; Reuter 1987; Gambetta 1993, 195–225; Gambetta and Reuter 1995. Nonetheless, extortion and protection are closely related in practice. What constitutes extortion and the consequent possible financial ruin for one victim of the mafia may be genuine protection for another. This is exemplified by a story narrated by Catania-boss-turned-state-witness Tonino Calderone. In the mid-1950s he placed a bomb in the chimney of the offices of the Rendo construction company, the main competitors of the Costanzos, who were then protected by his family. "The goal," he writes, "was to do the Costanzo brothers a favour." After the bomb was placed, "the usual phone call asking for money was made," although Calderone had no intention of supplying any genuine service (Arlacchi 1993, 53). What were extortionary demands on the Rendo amounted to protection against competition for the Costanzos. Joe Bonanno (with Lalli 1983, 79) put it best: "What is seen as extortion from the outsider is viewed as self-protection by the insider." From a dynamic perspective, external factors might turn protection into extortion. For instance, the shorter the group's time horizon, the more likely it will harass customers with purely extortionary demands. The view that extortion is the defining feature of the mafia might be a consequence of selection bias in the evidence that filters out from the underworld: extortion is more likely to require the use of violence. In turn, violent conflicts leave behind more evidence and are more easily reported (Gambetta 1993). For a discussion of these themes, see Gambetta 1993 and Varese 2010.

13. A word often used in Italian is colonization (see Massari 2001, 15). Mark Galeotti (2000, 38) calls it "hard" penetration.

Chapter 2: Mafia Transplantation

1. On the data for Russia, see *Itar-TASS*, July 21, 1998; for the `Ndrangheta, see chapter 3.

2. Reuter 1985, 21.

3. Gambetta 1993, 249, 251.

4. Chu 2000, 130; see also Finckenauer and Chin 2006, 23.

5. Hill 2002, 53; see also 2004, 112.

6. Ibid., 111; 2005, 1. For a perceptive study that downplays the presence of the Russian mafia in the Netherlands, see Weenink and van der Laan 2007. The prosecutors Paolo Giovagnoli and Morena Plazzi (R5 and R6) have concluded that a much-hyped case of alleged Russian mafia presence in Rimini amounted to financial improprieties (PRB 2007). See also *New York Times*, September 28, 1999; *La Repubblica*, August 24, 2008.

7. Reuter 1985, 21–22.

8. Ibid., 21–22nn53–54, 21–22n56, 33; Gambetta 1993, 249–51.

9. Arlacchi 1993, 28; Gambetta 1993, 251, 314; see also MA 1937.

10. Sciarrone 1998, 155–212. See, also, Massari 1998.

11. Chin 2003, 200. In this book, I will use the expression "Taiwanese triads," but organized crime groups in Taiwan are normally called *jiaotou*.

12. Linter 2004, 93.

13. He 2003, 201–3.

14. Hill 2004, 111–12; see also 2002, 55.

15. See, for example, Bovenkerk 2001; Waldinger 1995; Williams 1995.

16. See, for example, CRP 1983, 54, 68–69; CPA 1994, 854. TT 1990, 32 (quoted in Sciarrone 1998, 123) makes a rather crude link between migration and crime.

17. Gambetta 1993, 251. Monica Massari (2001, 29) mentions the settlement of significant immigrant communities from southern Italy as a factor in explaining the entrenchment of mafia groups in northern Italy.

18. Kefavuer 1951.

19. Massari 2001, 12; Veltri and Laudati 2009, 198; see also TT 1990, 32 (quoted in Sciarrone 1998, 123), claiming that the soggiorno obbligato of Calabresi in the Canavese valleys is partly responsible (along with Calabrian migration) for the increase in crime.

20. Quoted in Massari 2001, 12.

21. For other examples, see, e.g., Sciarrone 1998, 248; Massari 2001, 10–11.

22. Finckenauer and Waring 1998, 112–13; see also Grant 1996. Claire Sterling (1995, 5; see also ibid., 1) instead inflates Ivan'kov's role in the United States, and assumes that he was tasked by the Solntsevskaya to turn "an assortment of

unruly and loosely articulated Russian gangs on American soil into a modern, nation-wide crime corporation," as (she assumes) Lucky Luciano did with the Italian American Mafia.

23. Hill 2004, 112.

24. Glonti and Lobjanidze 2004, 32, 37–38; Kukhianidze 2009, 220.

25. Kukhianidze 2009, 228–29.

26. Chin 2003, 193. Similarly, Dawood Ibrahim, the leader of the Mumbai-based crime group D-Company, was forced to move his operations to Dubai because of continued police crackdowns (Weinstein 2008, 28).

27. Campana 2010.

28. A typology first advanced by John Dunning (1993), and subsequently modified and expanded by Srilata Zaheer and Shalini Manrakhan (2001), focused on "resource-seeking," "market-seeking," and "efficiency-seeking" motivations. See also Dunning 1998, 2000.

29. Zaheer and Manrakhan 2001, 670.

30. Gambetta 1993. In one case, Sicilian mafiosi were forced to replace a Turkish-language translator because he had misconstrued a drug dealer's words, leading the parties involved to believe erroneously that a large debt had already been settled. A Swiss man was urgently brought in to sort out the dangerous misunderstanding (Gambetta 1993, 66).

31. For an instance where a mafia family was not so careful, see US 1988; Pistone and Woodley 1989; Pistone with Brant 2007.

32. Sifakis 1999, 397–98; Raab 2005, 205–6, 703; Pistone and Woodley 1989; Pistone with Brant 2007. A capo (also *caporegime* or captain) in a mafia family is a full member who is in charge of several "soldiers," and reports to the underboss and the boss (Davis 1993; Maas 1997; Raab 2005).

33. CAF 1989; Paoli 1995. In 2007, Calò was acquitted of this murder (*BBC News*, June 6, 2007).

34. Coleman 1990, 302.

35. Putnam 1993, 97, 149. The reason that he offers invokes the distant medieval past, and in particular the republican tradition of the city-states in the North and the Norman centralized, autocratic rule in the South: "Social patterns plainly traceable from early medieval Italy to today turn out to be decisive in explaining why, on the verge of the twenty-first century, some communities are better able than others to manage collective life and sustain effective institutions" (Putnam 1993, 121). An alternative view is that trust can be depleted by intentional strategies and is rather fragile, even in territories where it has flourished for centuries. See Pagden 1987; Doria [1709–10] 1973.

36. Rose-Ackerman 1998, 2001a, 2001b. See also Portes 1998; Farrell 2009.

37. Saviano 2007, 51; Varese 2009, 263.

38. Quoted in Pileggi 1987, 60–61.

39. Quoted in Chin 2003, 197.

40. See Sciarrone 1998, 252, 287.

41. Reuter 1995, 92.

42. Quoted in *Il Corriere della Sera*, July 1, 1998. Similarly, Japanese director Fukasaku Kinji said: "They [the yakuza] liked those movies because it made them look good. It was good for their image" (quoted in Desjardinis 2005, 25). For relevant discussions, see Gambetta 1993, 127–55; Varese 2006b; Gambetta 2009, 251–74.

43. On the possibility principle, see Mahoney and Goertz 2004. On the logic of the comparative method more generally, see the restatement in King, Keohane, and Verba 1994. As a substantive example of such research strategy, see the groundbreaking study by Stathis Kalyvas (2006), in particular his focus on two cases that are similar as far as many variables are concerned, except for one crucial outcome: the level of violence during the civil war in Greece in the 1940s. Papers with a similar design include Posner 2004; Miguel 2004; Varese 2006a.

Chapter 3: The `Ndrangheta in Piedmont and Veneto

1. Quoted in Veltri and Laudati 2009, 148; Sergi 1991, 61.

2. Falcone with Padovani 1993, 109.

3. Ciconte 1992, 5–20; Paoli 2003, 37; Montalto [1940] 1973; *Il Corriere della Sera* February 10, 1978. Court sentences and police reports point to the existence of the `Ndrangheta since the 1870s.

4. CPA 2000, 94; see also CPA 1993b, 700; 2000, 92, 97.

5. Sciarrone 2008, 77. Among the many references on `ndrina, see Ciconte 1992, 20; 1996, 17. Cosca or family are also used. For the origins of the word, see Martino 1988.

6. PRC 1998, quoted in CPA 2000, 95. According to former member Francesco Fonti, "Almost all male inhabitants belong to the `Ndrangheta" in San Luca (quoted in Paoli 2003, 29). On Fonti, see Ciconte 1998, 45–48, 202–28); TT 1996. For evidence of the continuing relevence of the Sanctuary of Our Lady of Polsi, see the investigation reported in *Repubblica* July 14, 2010.

7. Quoted in Paoli 2003, 59.

8. CPA 2000, 94–95. Some evidence on the ability of the crimine to rein in local `ndrine does exist. In one case, the annual meeting deprived the locale of Sant'Eufemia d'Aspromonte of its mafia status because it proved unable to prevent the mourning of a police officer killed in the line of duty, and some `ndranghesti even attended the funeral (CPA 2000, 94). The Apalachin meeting of the Italian American mafia took place on November 14, 1957, in Apalachin, New York.

Some one hundred crime bosses attended. On the many sources for this event, see, for example, Raab 2005.

9. CPA 2000, 96. Letizia Paoli (2003, 32) writes that "though enjoying a high degree of operational independence, these units are considered by their own members and their Calabrian correspondents as belonging for all intents and purposes to the `Ndrangheta."

10. CPA 2000, 98. In the northern Irish conflict 3,700 people were killed between 1969 and 1998, which amounts to 128 deaths per year. The average death in the 1986–91 period in Calabria was 136. Since 1991, violence between different groups has declined considerably (DIA 2002, 85).

11. See CPA 1993b, 704–5; 2000, 98; Paoli 2003, 59. For the earliest evidence, see Ciconte 1992, 118–27.

12. CPA 1993b, 705. The `Ndrangheta is also present in the Calabrian provinces Catanzaro and Cosenza. Paoli (2003, 30) reports that there are eighty-six groups in the same province.

13. CPA 2000, 24, 37; 1993, 702. The prefect of Catanzaro, Francesco Stranges, notes that the sum of money regularly demanded from entrepreneurs by the `Ndrangheta is often small. "The mafiosi, since they are not very greedy, practice extortion at an acceptable level, hence it is difficult to find individuals willing to testify in these cases" (quoted in ibid., 37). Mafiosi themselves have expressed concern with high rates of extortion. In one instance, the head of the mafia family of San Luca, which is considered the repository of "certified" values and rules of this mafia, expressed concern at the excessive demands that the head of the Locri family was imposing on the latter's victims. He was overheard saying: "Do you know why I came here [to meet you]? Totò, be careful—when the human race, the people go against you, you will lose what you have achieved in thirty years! You just lose it! When you destroy the shop of one guy, burn the car of another, the people will rebel!" (quoted in ibid., 38). On the resurgence of severe violence in Reggio Calabria, see *Il Sole 24 Ore*, August 26, 2001.

14. CPA 1993b, 702, 709; 2000, 25–27, 35; Mangano 2010, 33–44.

15. *Deutsche Welle*, August 17, 2007; CPA 2008; Forgione 2009.

16. Quoted in CPA 2000, 92.

17. Paoli 2003, 31. Similarly, Antonio Zagari, also a former member, states that "from their birth . . . the sons of Calabrian men of honour are, by right, considered *giovani d'onore*" (quoted in Paoli 2003, 232).

18. Quoted in CPA 1993b, 700.

19. Ibid., 700–701; Falcone with Padovani 1993, 109; Arlacchi 1983, 137. Usually, members of a ruling blood family rise to the post of boss, although political or military merit plays a role in upward mobility within each unit. Also, the *locali* have developed a complex system of ranks that does not always coincide with kin relationships. See Paoli 2003, 50.

20. CPA 1993b, 700–701; 2000, 13, 101–2.

21. See Allum 2001, 332–33; 2006. Unlike the `Ndrangheta, Camorra groups have no notion of being part of the same entity, although some of them are grouped in cartels (for example, the Alleanza di Secondigliano and the Clan dei Casalesi). Recently, the number of Camorra members who have turned state's witness (pentiti) has risen significantly, when bosses started to turn state witnesses. Such a move has prompted many other family members to turn, surely a strategic and collective decision. For the relevant, more recent data, see CPA 2008, 24. I am grateful to Paolo Campana for a discussion on this point.

22. CPA 2000, 102; see also 1993a, 701.

23. See Ciconte 1996, 160–98; 1998; CPA 2000, 13, 15, 17; Paoli 2003, 32; Veltri and Laudati 2009, 150; Forgione 2009. For Canada and Australia, see Minuti and Nicaso 1994.

24. Quoted in CPA 1993b, 703; see also Massari 2001, 15.

25. For instance, a member tried to buy a bank in Saint Petersburg (CPA 2000, 112). The push to export criminal proceeding is partly due to the fact that Italian authorities are quite successful at confiscating properties and businesses bought by the mafia *in loco* (ibid., 59–60).

26. Information on the town comes from Molino 1996; http://www.bardonecchiasci.it/; TT 1996, 59. The resident populations of Bardonecchia and Cuorgnè were—in 1961 and 1971, respectively—2,667 and 3,081 (Bardonecchia) and 8,211 and 9,334 (Cuorgnè). See ISTAT 1971.

27. The Civic Community Index is based on four indicators: preference voting, referendum turnout, newspaper readership, and the scarcity of sports and cultural associations. Data were collected in the 1970s and 1980s (Putnam 1993, 96–97). The variables that form the historical index are the strength of mass parties, the incidence of cooperatives, membership in mutual aid societies, electoral turnout, and local associations founded before 1860 (ibid., 149–50).

28. CRP 1983, 70–71; ASC-CT 2001, table 1. Overall, in the 1950s and 1960s some four million people migrated from southern to northern Italy. See Bonaguidi 1985; Sonnino 1995.

29. See Gratteri and Nicaso 2006, 185–88; Veltri and Laudati 2009, 206–30; Carlucci and Caruso 2009.

30. CPA 1976, 279–80, 289; Sciarrone 1998, 255–56; Massari 2001, 13. Of the forty-eight individuals who resettled in Turin Province during the period 1970–82 due to soggiorno obbligato, Public Prosecutor Sebastiano Sorbello points out that "none appears to be a significant mafia boss" (quoted in CRP 1983, 55). This judgment possibly indicates that although these criminals were not prominent bosses when they arrived, they became prominent under new conditions, so transplantation could be seen as a ladder for upward mobility.

31. The data are from CRP 1983, 26, and refer to legally obtained construction licenses.

32. CRP 1983, 26.

33. In 1994 alone, the city council collected five billion lira in residential dwelling taxes. Similar increases occurred in the nearby Canavese Valley (Sciarrone 1998, 264; *La Luna Nuova*, November 7, 1995).

34. Sciarrone 1998, 257.

35. B5.

36. Quoted in TT 2002, 19–20.

37. B1.

38. CPA 1976, 279; B2; B3.

39. Quoted in TT 1996, 30.

40. CRP 1983, 24. See also CPA 1976, 280; Sciarrone 1998, 257; Massari 2001, 7.

41. CRP 1983, 25.

42. Sciarrone 1998, 273.

43. CRP 1983, 27, 48; *La Stampa*, November 14, 1995.

44. TT 2002, 21. The witness is Francesco Fonti, a high-profile state witness. Bardonecchia's chief inspector (B2) told me that he had no evidence of any motive other than extortion.

45. The murder of another Calabrese took place in Cuorgnè in August 1978 (CRP 1983, 27).

46. One of the most important state witnesses, Francesco Fonti, testified to this effect (see TT 1996, 8).

47. Quoted in ibid., 9. For other instances, reaching well into the 1990s, see ibid., 32; 2002, 27. Lo Presti himself stated in a phone call that "we are at the source of everything here, do you understand?" (quoted in ibid., 32).

48. PT 1995, 15–17; TT 1996, 15–17; *La Stampa*, October 5, 1994; October 26, 1995; November 14, 1995; November 23, 1998; September 19, 2002; October 31, 2002; Caselli 2003a, 2, 4; *La Stampa*, January 24, 2009; *Cronaca Qui*, January 27, 2009; http://www.sosimpresa.it/news.php?id=7922; Ciccarello 2009. See also Saccomanno 2005, 120–55. Interestingly, the name of Lo Presti has been pirated by lesser criminals banking on the reputation of the "real thing." A *Lucio* Lo Presti, also from southern Italy (although Messina, not Reggio Calabria) tried to collect a million lira from a shopkeeper (*La Stampa*, November 9, 2001).

49. Quoted in TT 2002, 19–20; see also ibid., 24.

50. Sciarrone 1998, 260. Stefano Caselli (2003a) gives a different date (1971) for Mazzaferro's move to Bardonecchia. See also Ciconte 1992, 302.

51. Caselli 2003a. Mazzaferro belongs to the reputed Mazzaferro crime family and acted as the representative of the `Ndrangheta to the provincial commission

of the Sicilian mafia. He was arrested again in 1993 and found guilty of drug trafficking.

52. Sciarrone 1998, 271.

53. PT 1995, 3. An investigation established that Lo Presti directly chose the subcontractors in the Campo Smith development (TT 1996, 28–29). For several instances, see *La Stampa*, November 14, 1995.

54. Quoted in PT 1995, 14.

55. Quoted in TT 1996, 10; 2002, 23 (emphasis added).

56. PT 1995, 15. Lo Presti was never convicted, due to an amnesty. See also CPA 1976, 10.

57. CRP 1983, 26; *La Stampa*, November 14, 1995.

58. CRP 1983, 27, 48.

59. Ibid., 51, 61.

60. *La Stampa*, October 24, 1995.

61. Ibid., October 15, 1995; B2.

62. For instance, Mario Mezzani Mezzacuva, who was running a construction company with offices in Calabria and Cuorgnè, and was a reputed member of the `Ndrangheta, was killed in Calabria in 1985. He had been present at the annual gathering in 1969 at the Sanctuary of Our Lady of Polsi that was raided by police. Two individuals were first wounded and then burned alive in 1996 (*La Stampa*, July 16, 1996). The same article includes a list of unsolved murders in the period 1991–96. On July 14, 1998, two construction workers from Calabria who had previous convictions were murdered in Santa Lucia di Cuorgnè (see CRP 1983, 27; *Il Corriere della Sera*, July 15, 1998).

63. TT 1996, 18–19; *La Luna Nuova*, September 12, 1995; *La Stampa*, November 15, 1995; February 6, 1996; January 17, 2001; October 31, 2002; Caselli 2003a, 3.

64. Caselli 2003a, 4; see also TT 1996, 24. The sentence in 2002 against Lo Presti stresses that the "trial has proved the presence of *omertà* and submission in Bardonecchia and Val Susa" (quoted in Caselli 2003a, 4).

65. PT 1995, 8; TT 1996, 26; *La Stampa*, October 5, 1994; Caselli 2003a, 4.

66. *La Stampa*, October 6, 1996.

67. See ibid., April 29, 1995; September 7, 1995.

68. CRP 1983, 25; *La Stampa*, November 14, 1995. The same level of fear among construction workers was observed in the 1990s by trade unionists interviewed in *La Stampa* (May 3, 1995), and episodes of intimidation continue to be recorded (see, for example, ibid., November 16, 1995).

69. Sciarrone 1998, 257.

70. Direzione Centrale per i Servizi Antidroga, available at http://www.vivoscuola.it/us/geometri-pozzo-trento/droghe/2F/ecstasy/ECSTASY.PDF; http://www.exodus.it/sostanze/ ecstasy/belpaese.htm. For more instances of drugs dealing, see TT 1996, 9–10; 2002, 25. Arms sold illegally in Val Susa were found

in the possession of members of the `Ndrangheta in Calabria (see *La Stampa*, June 7, 1996; June 8, 1996; *La Luna Nuova*, May 1, 1998).

71. *La Luna Nuova*, April 17, 1998.

72. TT 2002, 142–43; B2. There were 414 new residents from 1961 to 1971.

73. PT 1995, 8, 18–19; *La Stampa*, April 30, 1995; November 14, 1995; December 8, 1995.

74. Quoted in TT 1996, 40. See also *La Stampa*, November 15, 1995.

75. Quoted in *La Repubblica* (Turin), October 6, 1994; see also TT 1996, 41; TT 2002, 43; *La Stampa*, April 29, 1995.

76. *La Luna Nuova*, October 7, 1994, quoted in Sciarrone 1998, 268; see also TT 1996, 41.

77. PT 1995; PR 1995; MI 1995; TT 1996, 28; Caselli 2003b; Laudi 2003. Additional information is in *La Stampa*, October 6, 1994; October 25, 1995; November 17, 1995; October 5, 1996.

78. PT 1995, 5; TT 1996, 61–62; see also press reports in *Il Corriere della Sera*, March 16, 1995; April 29, 1995; June 5, 1995; *La Stampa*, April 29, 1995; June 27, 1995; Caselli 2003a, 2. For discussions of law 221/91 utilized to disband city councils due to mafia influence, see Gullotti 2003; Maresco and Serpone 2005; Mete 2007. It should be noted that this legislation has come under criticism since it does not apply to administrative post holders. It only revokes the elected officials and calls for new elections within a relatively short period of time. Up to 1995, this procedure had been used for city councils in Calabria (fourteen), Campania (thirty-six), Sicilia (twenty-four), Apulia (seven), and Basilicata (one).

79. Data on the composition of the local administration are taken from *La Stampa*, November 19, 1996; November 20, 1996; October 20, 1996; December 4, 1996; May 15, 2001; June 6, 2001; *La Luna Nuova*, May 15, 2001. For earlier instances of intimidation against elected opposition officials opposed to development projects, see TT 1996, 27. Within Cuorgnè, Giovanni Iaria has a position similar to that of Lo Presti in Bardonecchia. One significant difference is the distinguished political career that he managed to achieve, rising rapidly through the ranks of the Italian Socialist Party to become the deputy leader of Turin Province in 1988 and being elected to a number of offices in the city council. See *La Stampa*, November 15, 1994; Sciarrone 1998, 264, 255, 276–77.

80. TT 2002, 29; see also ibid., 33.

81. Quoted in *La Stampa*, October 5, 1994; see also *La Luna Nuova*, October 7, 1994.

82. Quoted in *La Stampa*, April 29, 1995; February 4, 1994.

83. *La Repubblica* (Turin), quoted in Sciarrone 1998, 271.

84. *La Stampa*, January 19, 2001.

85. B1.

86. *La Luna Nuova*, February 5, 2010.

87. Quoted in *La Stampa*, April 30, 1995.

88. On the march, see ibid., October 5, 1994; October 9, 1994; April 30, 1995. In 1982, a priest accepted thirty million liras from Lo Presti, promising him that he would influence the outcome of a trial, although he failed to deliver. Ibid., December 30, 1994; July 12, 1996.

89. PSB 1995. Naturally, the reason for such lack of enthusiasm for the Lega's rally might be due to the local population's aversion to this political party. Yet in the European elections of June 12, 1994, the Lega obtained 11.13 percent of the valid votes and was the second party after Forza Italia (47.17 percent). Data available at http://elezionistorico.interno.it/index.php.

90. *La Stampa*, April 30, 1995.

91. Data from http://elezionistorico.interno.it/index.php.

92. See TT 1996, 10, 12; 1997, 13. One Aldo Bertolotto testifies that he traveled back to Palmi to undergo the "formal entry ritual" (TT 1996, 10).

93. Data contained in a 1995 report by the Direzione Investigativa Antimafia (DIA, Antimafia Directorate). See an extensive summary of the 1995 DIA report in *La Stampa*, August 6, 1995.

94. B3; *La Stampa*, November 16, 1995; November 21, 1995; December 2, 1995; Caselli 2003a, 4.

95. B4.

96. *La Stampa*, April 29, 1993; April 4, 1995.

97. B2; TT 2002, 33.

98. Putnam 1993, 97. In fact, both regions obtain the same high score on the Civic Community Index. Veneto achieves the same (high) score in the historical index on civic traditions, 1860–1920 (ibid., 150). The indicators mentioned in the text refer to the period 1980–85. See *Il Mondo*, August 29, 1983; Arlacchi and Lewis 1990, 22–23; Ruggiero and Vass 1992, 282.

99. Brugoli 1985; Gaburro 1985.

100. Arlacchi and Lewis 1990, 33.

101. CV 2001.

102. In 1971, the Veneto region's agriculture sector employed 30 percent of the number it employed at the time of the 1951 census (Anastasia and Tattara 2003; Gaburro 1985, 74). As shown by Anna Maria Birindelli (2004, 240), positive and significant "medium range inter-provincial mobility" affected Verona as well as Vicenza, Treviso, and Padua in the 1960s and 1970s, while other provinces in the Veneto region, most notably Venice and Rovigo, lost population. The unemployment rate was between 4 and 6 percent from the early 1960s to the late 1970s (Anastasia and Tattara 2003).

103. FPCI 1981, 13.

104. *L'Arena di Verona*, February 23, 1974.

105. Generally, on the Veronese neofascists in this period, see FPCI 1981, 30–32. On the Rosa dei Venti investigation, see the several articles that appeared in *L'Arena di Verona* in 1974, especially January 3, 1974 and March 28, 1974. For the investigation into Veronesi linked to the Brescia bombing, see, for example, ibid., June 7, 1974; June 11, 1974; June 20, 1974.

106. FPCI 1981, 11. This number is around ten thousand, according to AFV 1983.

107. *L'Arena di Verona*, April 28, 1974; May 15, 1974; June 13, 1974; July 28, 1974; Pedrini 1979, 5; FPCI 1981, 21–3.

108. Arlacchi and Lewis 1990, 51, 73; V4; see also TV 1987; Fogliata, Carrarini, and Mazzoccoli 1987, 25, 27–28.

109. FPCI 1981, 11, 29.

110. V1. The Interporto Web page is available at http://www.quadranteeuropa.it/en/interporto_en.php.

111. AFV 1983, 67; Facchini 1982, 12; V4.

112. *L'Arena di Verona*, February 17, 1974; *La Repubblica*, February 4, 1988; Arlacchi and Lewis 1990, 15, 59–60, 66.

113. *La Repubblica*, November 4, 1988; Arlacchi and Lewis 1990, 46, 51, 53–54.

114. V3; V4; *L'Arena di Verona*, March 23, 2008.

115. FPCI 1981, 34; *L'Arena di Verona*, January 13, 1974.

116. FPCI 1981, 34–35, 49; *L'Arena di Verona*, June 14, 1974.

117. *L'Arena di Verona*, January 18, 1974; April 1, 1974; May 24, 1974; FPCI 1981, 28; Arlacchi and Lewis 1990, 68.

118. FPCI 1981, 50; V1.

119. CD 1986, 46278; V4.

120. FPCI 1981, 27; Facchini 1982, 13; AFV 1983, 70–71.

121. *L'Arena di Verona*, February 12, 1974; FPCI 1981, 32–35.

122. FPCI 1981, 32–35, 28.

123. *L'Unità*, July 9, 1982; Facchini 1982, 14; AFV 1983, 59–62; V1; V2.

124. CD 1980, 21784; V1; V2; *L'Arena di Verona*, March 23, 2008.

125. *La Repubblica*, February 21, 1980; March 10, 1981; April 22, 1981; *Verona Fedele*, November 30, 1980; FPCI 1981, 14, 86–89; AFV 1983; V1; V2.

126. AFV 1983, 87.

127. Ibid., 78–84, 94–95.

128. FPCI 1981, 73–75.

129. See, for example, *L'Arena di Verona*, February 23, 1974; March 29, 1974.

130. FPCI 1981, 60; *Paese Sera*, March 14, 1981.

131. CD 1980, 21784–85; FPCI 1981, 60; AFV 1983, 15–16, 46, 60; *L'Arena di Verona*, March 22, 1981; *Il Nuovo Veronese*, May 29, 1982; V1.

132. FPCI 1981, 16.

133. Arlacchi and Lewis 1990, 69.

134. *La Repubblica*, February 4, 1988; V3.

135. *L'Arena di Verona*, March 23, 2008.

136. For other examples, see Reuter 1995, 91–92.

137. See remarks by ibid., 1985, 31.

Chapter 4: The Russian Mafia in Rome and Budapest

1. Glenny 2008, 79.

2. "He was arrested twice again—once for racketeering, another time for the murder of a casino owner—but was not convicted" (*New York Times*, January 10, 1999). Glenny (2008, 78–79) puts his arrest at 1986.

3. *Moscow Times*, February 22, 2000. On the Solntsevskaya, see also Modestov 1996; Maksimov 1997; Finckenauer and Waring 1998, 110–14; Galeotti 2000; Varese 2001; Karyshev 2001; Glenny 2008, 78–82, 86–89.

4. *Komsomol'skaya Pravda*, December 4, 1998, cited in Varese 2001, 173–74.

5. On Elson in New York, see Friedman 2000, 19–20. On Ivan'kov, see Finckenauer and Waring 1998, 112–13; Grant 1996.

6. See Kochan 2005, 21–36. The Italian investigation into these bank transfers did not lead to any conviction (PRB 2008).

7. Although hard to believe, such an occurrence is not that rare. In 1969 Lefty Rosenthal, the central character of Martin Scorsese's film *Casino*, was able to throw out an indictment because the attorney general had failed to personally sign the wiretap orders (Pileggi 1996, 13).

8. In short, refugees were not allowed to apply for a visa to the United States in Moscow, so they would leave the USSR with an Israeli visa and then stop in Rome, where they applied for refugee status to enter the United States.

9. During the 1970s some 370,000 people, mostly Soviet Jews, were allowed to leave the USSR (Mynz 1995) .

10. In 1989, more than seven thousand Russians were in Ladispoli and Rome awaiting visas to the United States. Overall, seventy-one thousand Russian Jews applied for refugee status to enter the United States that year. A vivid memoir of this migration to the United States is contained in a book evoking everyday life in Rome in 1989 by Anatoly Rozenblat, *Hello America!*

11. Friedman 2000, 15.

12. *Paese Sera*, February 24, 1977.

13. Friedman 2000, 14.

14. R7; American Jewish Year Book 1991, 128–29; Skolnik 2006, 2:62; Rozenblat 2006.

15. The population in Rome (city) was 2,775,250 in 1991 and 2,663,182 in 2001. In 1995, twenty individuals were recorded as having been born in a former Soviet republic, constituting 0.13 percent of the total population and 5.08 percent of the foreign population of the town. These percentages rose to 0.25 and 8.39, respectively, in 1997, when the group was arrested.

16. SCO 1997a, 16–17.

17. SCO 1997b, 31.

18. Ibid., 31.

19. SCO 1997a, 21, 187; SCO 1997b, 36.

20. SCO 1997a, 47–75.

21. Ibid., 191; 1997c, 31.

22. CPA 1997, 18–19.

23. SCO 1997a, 180; 1997c, 37; CPA 1997, 20.

24. SCO 1997a, 81–96.

25. A third Italian, also married to a Russian woman (*Olga Ferrari*), was *Marco Ferrari*, a petty criminal who both consumed and sold drugs, and was a resident of Margherita Laziale. He became a partner in a company set up in Italy by the group and worked mainly in the area of fictitious marriages.

26. Becucci 2006.

27. SCO 1997a, 93, 120; CPA 1997, 19.

28. SCO 1997a, 85.

29. Ibid., 83; SCO 1997b, 65.

30. For example, one such deal was worth US$300 million (SCO 1997b, 98; see also CPA 1997, 21).

31. SCO 1997b, 110.

32. SCO 1997a, 132, 163–64; SCO 1997c, 40–41.

33. SCO 1997a, 120, 89, 51–52.

34. Ibid., 101.

35. Ibid., 244, 188. On protection as a natural monopoly, see Lane 1958; Nozick 1974.

36. SCO 1997a, 97–102.

37. SCO 1997c, 40.

38. SCO 1997a, 204.

39. Ibid., 24–26, 163–64; CPA 1997, 19. At first, Yakovlev was hesitant about killing Vlasik. In a conversation with Yakovlev, Sidelnikov (one of Yakov's deputies) said he wanted Vlasik killed right away, but Yakovlev demurred: "No, better

talk to him, tell him that he should think twice before deciding to cut loose from his own friends." Sidelnikov agreed. Yakovlev had also planned to kidnap and torture Rostovtsev's secretary (SCO 1997a, 26).

40. See, respectively, ibid., 99, 53.

41. Ibid., 77; see also CPA 1997, 19–20.

42. SCO 1997a, 20.

43. R1.

44. Varese 2006c.

45. R1; R2; R3.

46. Friedman 2000, 240–41. Mikhailov reportedly owns a luxury hotel in Budapest. See Maksimov 1997, 329.

47. *Washington Post*, December 21, 1998; see also Wright 1997, 70.

48. Kwist 1991; *Washington Post*, December 21, 1998; Wright 1997, 70; Guy 1997, 83.

49. Information in this paragraph comes from Urbán 1997, 240; Csáki and Karsai 2001, 5, 66; Sárközy 1993, 243; Kornai 1996.

50. Data from Központi Statisztikai Hivatal (Central Statistics Office), available at http://portal.ksh.hu/pls/ksh/docs/eng/xstadat/xstadat_annual/tabl3_01_01ie.html; http://portal.ksh.hu/pls/ksh/docs/hun/xstadat/xstadat_eves/tabl3_01_08i.html.

51. Urbán 1997, 243. For pointed criticisms of the early privatization plans and a blueprint for postsocialist transition in Eastern Europe, see Kornai 1990. For a general assessment of the economic transition and political transformation in Hungary, see Kornai 1996; Rose-Ackerman 2007.

52. Csáki and Karsai 2001, 69.

53. Ibid., 71, 72.

54. Ibid., 71; see also Wright 1997, 74.

55. Csáki and Karsai 2001, 71.

56. Ibid., 71; see also Wright 1997, 69.

57. Csáki and Karsai 2001, 72. Alan Wright (1997, 71) claims that in 1992, Hungary was the third-largest money launderer in Europe, and official statistics up to the end of 1996 record no conviction or completed proceedings for money laundering.

58. Csáki and Karsai 2001, 72.

59. Pap 2001; see also Mawby and Wright 2001.

60. The 31 percent estimate is by Mária Lackó (1997) and is based on electric energy consumption in the year 1994. See also Tóth 1997–98; http://rru.www.worldbank.org. According to *Budapest Week* (February 23–29, 1995, quoted in Wright 1997, 74), between 20 and 40 percent of Hungary's half-million unemployed are estimated to be involved in the shadow economy.

61. Mink 1997, 78–79.

62. Furthermore, the international trade embargo against Yugoslavia offered extraordinary profits for smugglers in the southern and eastern cities of the country, such as Miskolc, Kecskemét, and Kiskörös (Mink 1997).

63. Firearms and explosives have also been easily available since the transition to the market. See Wright 1997, 72; especially Nagy 2000.

64. "The Billion Dollar Don," *BBC1 Panorama*, December 6, 1999.

65. See also Wright 1997, 72.

66. *Hetek*, August 1999; *Russian Business Monitor*, September 1, 1999; *Times* (London), August 20, 1999; *RFE/RL Organized Crime and Terrorism Watch*, January 16, 2003; March 13, 2003; *Jane's Intelligence Digest*, January 31, 2003; *St. Petersburg Times*, February 28, 2003; Kupchinsky 2009. Mogilevich bought 95 percent of the Army Co-op through Arigon Ltd. A rare but significant confirmation of the fact that Mogilevich used Solntsevskaya funds for his investments comes from a phone conversation intercepted by the Austrian police and reported in the Italian file on Yakovlev. The conversation, between Averin and Mogilevich, took place in April 1994. The former reminds the latter that he has to return money that he obtained from the group's common fund. The money involved was US$5 million (SCO 1997a, 79). Most notoriously, Mogilevich injected US$30 million from Arigon Ltd. into YBM Magnex International, which merged with Magnex 2000 (Friedman 2000, 249–51).

67. *Moscow Times*, February 22, 2000.

68. Silber and Little 1996, 102–3; Glenny 1996, 103. In any case and for the purpose of this discussion, it is still a well-meaning policy (intended to help an ally at war) that led to the unintended consequence described above.

69. Mink 1997; *CTK Czech News Agency*, November 8, 1999.

70. "The Billion Dollar Don," *BBC1 Panorama*, December 6, 1999.

71. *CTK Czech News Agency*, November 8, 1999; *Index* (Budapest), June 9, 2000.

72. *Hungarian News Agency (MTI)*, September 17, 1998.

73. *Moscow Times*, February 22, 2000.

74. *Hungarian News Agency* (*MTI)*, November 19, 1998.

75. Clodo created a bomb-making facility in Budapest, where bombs later used in the wave of attacks on criminals and businesspeople in the period 1996–98 were produced (*Duna Satellite TV* [BBC Monitoring], November 6, 2000; December 29, 2001).

76. *Heti Világgazdaság*, November 11, 2000. Steigura was also active in the oil market in Budapest (*Világgazdaság*, November 22, 2000).

77. *Hungarian News Agency (MTI)*, November 5, 2003. Mogilevich was arrested in Russia on January 24, 2008 and released a year later (*Moscow Times*, April 7, 2008; *RIA Novosti* July 27, 2009).

78. Available at http://nbh.gov.hu/english/bmenu7.htm.
79. Spaventa 1999.
80. R1.
81. Gambetta 1993, 104.

Chapter 5: Lessons from the Past

1. Gentile [1963] 1993. There is some dispute on the exact year of Gentile's birth. The year 1884 is claimed somewhere, but 1885 is the year that Gentile himself gave, and it is backed by his Federal Narcotics Bureau file and naturalization records (Critchley, personal communication, January 26, 2009 and December 19, 2009).

2. Extracts from the report are in Farrell 1997, 29–30. See also Hess [1973] 1998, 151; Gambetta 1988, 161; 1993, 97.

3. Franchetti [1876] 1993; Gambetta and Reuter 1995, 121–22. The English press favorably reviewed Franchetti's book at the time. See, for example, *Pall Mall Gazette*, February 26, 1877; March 12, 1877; *Birmingham Daily Post*, February 15, 1894; *Times* (London), April 8, 1891. On the official, inconclusive inquiry that preceded Franchetti's trip, see the discussion in *Pall Mall Gazette*, February 26, 1877. Newspaper reports on the existence of such a "vast organization of the dangerous classes" (*New York Times*, September 24, 1874) had been published in London, Manchester, and New York as early as 1874. See, for example, *Times* (London), September 22, 1874; October 7, 1874; October 15, 1874; October 24, 1874; June 9, 1875; June 21, 1875. Consistent with Franchetti's findings is a piece titled "The Sicilian Maffia" published in the *New York Times* on September 24, 1874: the mafia "comprehends noblemen, judges, lawyers, merchants, agriculturists, every grade of life in short." The author perceptively links the mafia's origin to a lack of trust in the government and absentee landlords who rely on daily laborers and live in cities, feeling no connection to the land or their employees.

4. The 1886 book is Alongi [1886] 1977; see also Lupo 1996, 33. On the *Sangiorgi* report, see Lupo 1988, 466–67; 1996, 117; Paoli 2003, 35; Dickie 2007, 100. Defendants for whose trial the report had been written got light sentences and walked free.

5. Baily 1999, 25; see also Eckerson 1966; Goldin 1994, 238; compare to Raab 2005, 24. Immigration into the United States came to a virtual halt in 1929, when the United States introduced stricter immigration quotas.

6. Klein 1983, 311; Baily 1983, 296; 1999, 61; Lankevich 2002, 119, 122. Data on Italian migration to the United States and Argentina are in Baily 1999, 26, 47. For a discussion of why most Italians preferred the United States over Argentina, see Baily 1999, 56.

7. On Lupo, see Critchley 2009, 47. See also the cases of Giovanni Pecoraro and Joseph Palermo, who were both wanted for murder in Palermo (Critchley 2009, 67, 69). On Masseria's arrival, see Nash 1993, 278; Repetto 2004, 105; Cohen 1998, 58. David Critchley (2009) disputes that he was facing a murder charge. The report of the Immigration Commission discusses three Italian police certificates stating that the individuals are considered "mafiosi" by all in their villages of origin (IC 1911, 282). Oddly, Albini (1971, 168), who discusses these data, does not take them to suggest that mafiosi had arrived in the United States.

8. The *Brooklyn Eagle* reported on March 16, 1875 that a letter sent to the Brooklyn police in 1866 alleged that the Deodati executioners were indeed hired in Sicily, and intended to go to Mexico or Canada immediately after committing the deed. The "murder in the woods" was widely reported at the time. See, for example, *Brooklyn Eagle*, June 3, 1865; June 9, 1865; June 10, 1865; June 13, 1865; June 14, 1865; June 16, 1865; June 17, 1865; November 1, 1865; see also Critchley 2009, 38–39. For additional instances, see, for example, Hess [1973] 1998, 163–64; Lupo 1996, 144. Of course, cases of mafiosi running in the other direction are also on record—namely, persons condemned by the U.S. mafia escaping back to Sicily. See Gentile [1963] 1993, 70–71; Arlacchi 1993, 26.

9. Bonanno with Lalli 1983, 52. See also Lupo 1996, 180. For instance, Mori arrested 450 people from the town of Gangi, 300 of whom were accused of harboring mafiosi. A U.S. anthropologist who was doing fieldwork in Milocca, a town of some 2,500 inhabitants, recounts how the people were rounded up and forced to walk, together with their animals, to the village of Mussomeli, where more than 100 were eventually jailed (Gower Chapman 1971, 7–8). Mori was also instrumental in the reduction of licenses to carry guns in Palermo Province—from 25,459 in 1922 to 11,570 in 1923 and 6,224 in 1928 (according data in Mori 1933, 224). Murders dropped from 268 in 1925 to 77 in 1926; see also Hess [1973] 1998, 182–83. This suggests that Mori's campaign was having an effect. Yet other evidence indicates that the mafia was still able to determine who was to undertake construction work in Palermo (MA 1937); see also Mori's reflections (1933, 151–229).

10. Melchiorre Allegra (b. 1881), a doctor practicing in Palermo who had joined the mafia in 1916, declared that in the 1924 elections, mafiosi had planned to support both the democratic and fascist party lists. In the end, they simply sold their votes to the highest bidder. Allegra himself stood for election, with the support of Salvatore Maranzano, who at the time was still in Italy (MA 1937). See also Lupo 1996, 171; Lupo 2008, 44; Critchley 2009, 144; Gambetta 1993, 293fn20.

11. Arlacchi 1993, 41.

12. When Melchiorre Allegra joined the organization in 1916 in Palermo, he was told by his mentors that the "sect, according to them, had powerful ramifications, not just in Sicily, but also in Tunis, the Americas and in some other centres

of the continent such as, for instance, Marseilles" (MA 1937). Calderone's discussion of the Tunis family is in Arlacchi (1992, 15). Bonanno (with Lalli 1983, 55) had an uncle living in Tunis, although he might not have been in the mafia. For other evidence of Italian criminals passing through Tunis, see IC 1911, 284–85. Tunisia—a French protectorate—was, along with the United States and Argentina, a destination of significant Italian migration, mainly from Sicily and Sardinia, at the end of the nineteenth century. At the beginning of the twentieth century, more than a hundred thousand Italians resided in Tunisia (Alberti Russell 1977, 34–37), mostly living in Tunis. In those years, Sicilians made up 72.5 percent of the community's population (Bonura 1929, 59). Buscetta's reference to his boss's escape to France is in Arlacchi 1996, 99.

13. Bonanno with Lalli 1983, 52. One prominent mafioso that reached the United States in this period was Salvatore Maranzano. He arrived in 1925, at age forty-three, and was soon to become the leader of the Schiro (later Bonanno) family in New York.

14. Chandler 1976, 57–58. Compare to Critchley 2009, 208.

15. Lankevich 2002, 112.

16. I am drawing here on ibid., especially 112, 117, 123.

17. Ibid., 124.

18. Turner 1909, 119; see also the influential investigation, *How the Other Half Lives*, by Jacob Riis ([1890] 1970).

19. Cited in Turner 1909, 120.

20. Lankevich 2002, 127, 130; Dash 2007.

21. Nelli 1976, 115; Dash 2007, 33–34; Turner 1909, 117, 119; Czitrom 1991; Lardner and Reppetto 2000, 96–97; Lankevich 2002, 117–18; see also Nelli 1976, 112. The Tammany Hall leader mentioned in the text is Richard Croker: see Dash 2007, 35–6, 367–8.

22. Thomas 1969, 254; Dash 2007, 40, 49; Lardner and Reppetto 2000, 104; Lankevich 2002, 129; see also Anbinder 2001, 228.

23. Cited in Dash 2007, 47, 49. For the information in this paragraph, see especially Thomas 1969, 256, 260–61; Dash 2007, 39, 47, 58; Turner 1909, 119–34; Lankevich 2002, 140; see also Fogelson 1977, 3; Lardner and Reppetto 2000, 95, 97; Anbinder 2001, 228. Each time a police officer arrived in a post, all the brothels, gambling dens, and dubious saloons that operated in their district were forced to pay an "initiation fee," in the region of $500 each. Similar payments were expected whenever an illegal business changed owner or a gambler or madam expanded into a new building. It cost $500 to reopen a brothel or gaming house after a raid (Dash 2007, 65).

24. *New York Times*, February 9, 1900; Dash 2007, 80.

25. This paragraph is based on Dash 2007, 77–80, 383–84.

26. Quoted in Thomas 1969, 261.

27. This paragraph draws on *New York Times*, May 24, 1911; Thomas 1969, 256–57, 261; Lankevich 2002, 141, 147–49; Dash 2007, 94, 117; see also Thomas 1967; Lardner and Reppetto 2000, 102–7. On the 1910s wave of strikes in New York City, see Lankevich 2002, 149; Drehle 2003. Gaynor also established the rule that vacant positions on the police force should be filled by choosing candidates from the top of the civil service eligible list, in strict numerical order.

28. Quoted in Thomas 1969, 411.

29. Ibid., 261–62, 264; Dash 2007, 119.

30. Dash 2007, 120.

31. Ibid., 335; Critchley 2009, 72. It should be noted that other aspects of the criminal justice system were not reformed. For instance, appointments to magistrate's courts continued to be "rewards for party service and favors in return were expected and received" (Block 1983, 33).

32. Quoted in *New York Times*, October 22, 1888.

33. For evidence on early Italian involvement in counterfeiting, see Critchley 2009, 38–39. The Messina gang exposed in 1865 is mentioned in *New York Times*, June 3, 1865; *Brooklyn Eagle*, June 9, 1865; June 10, 1865; June 13, 1865; June 14, 1865; June 17, 1865. On Morello and Lupo, see Asbury [1928] 1998, 248–49; Nelli 1976, 124; Dash 2009. Lupo was also known as Ignazio Saietta (Asbury 1950, 229). Morello was arrested in 1900 for counterfeiting and eventually slain during the Castellammare War in August 1930. On the mafia oath, see FBI 1963, cited in Critchley 2009, 255n95.

34. *New York Times*, October 31, 1909.

35. See *New York Times*, October 14, 1908; October 31, 1909; Asbury [1928] 1998, 248; Selvaggi 1978, 25; Critchley 2009, 101–3. The Terranova brothers had been linked to horse stealing.

36. Raab 2005, 19; Nelli 1976, 69–100; Pitkin and Cordasco 1977; Critchley 2009, 20–35. A reference to the Black Hand appeared for the first time in the U.S. press in 1903, according to Humbert Nelli (1976, 75–76); see also Pitkin and Cordasco 1977, 15–16. Robert Lombardo (2004) concludes that the Black Hand in Chicago was first reported in 1904 and had disappeared by 1920. By 1915, the Black Hand brand had vanished in New York City (Critchley 2009, 33). For a discussion of criminal brands that are pirated, see Smith and Varese 2001; Gambetta 1993.

37. On the 1910s' wave of strikes in New York City, see Lankevich 2002, 149; Drehle 2003. On early mafia involvement in labor disputes, see, for example, *New York Times*, October 12, 1913; Critchley 2009, 23. On Paul Kelly, see Nelli 1976, 109. Other data come from Critchley 2009, 77, 147–48, 151. More gen-

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erally on the role of the mafia in various markets in New York City, see Jacobs, Friel, and Raddick 1999.

38. See Merz 1932; Behr 1997, 82–86; Kerr 1985. Finland enacted similar legislation, leading to the prohibition of alcohol from 1919 to 1928 (Wuorinen 1932). Immigrant communities more likely thought of Prohibition as the product of bigotry and racist sentiments directed against them (Lerner 2007, 3; Bonanno with Lalli 1983, 64). Beer drinking was of course part of life for German American immigrants, "prohibition's first victims" (Behr 1997, 69–71). On enforcement of the legislation, see Wickersham Commission 1931; Sawyer 1932; Asbury 1950, 220; Bonanno with Lalli 1983, 65; Merz 1932, 130–57.

39. On estimates of the market size, see Sinclair 1962, 222; see also Raab 2005, 25.

40. Asbury 1950, 216–64; Carse 1961, 17; Sinclair 1962, 197.

41. *New York Times*, February 4, 1923; Moray 1929, 82–95, 125–30, 179–88; Asbury 1950, 241–64; Carse 1961, 61–81; Sinclair 1962, 198. Liquor was also coming from the West Indies, in particular the Bahamas, Mexico, and Cuba (Asbury 1950, 242; Carse 1961, 17).

42. Asbury 1950, 251.

43. Moray 1929, 211, which adds: "Several raids have been carried out, actually by one of the partners in a rum-runner. One boat about five miles east of us was raided not long ago" (ibid.).

44. Asbury 1950, 250–51; Moray 1929, xiii, 210; Cohen 1998, 53–54; see also Carse 1961, 62.

45. Ashbury 1950, 251.

46. See Cohen 1998, 54–55.

47. See several reports in *New York Times*, October 13, 1920; October 14, 1920; October 15, 1920; October 16, 1920; October 17, 1920; November 14, 1920; November 20, 1920; February 11, 1921; March 22, 1921; March 30, 1921; February 24, 1922; March 21, 1922; May 9, 1922; August 29, 1922; September 17, 1922; November 4, 1922; December 31, 1922). Elizabeth Street, to the left of Bowery and in the heart of the curb exchange area, housed the core of the New York City Sicilian community (Gabaccia 1984). A report in the *New York Times* (August 29, 1922) contains the list and quotes the prices.

48. *New York Times*, October 13, 1920.

49. Ibid.

50. Ibid., March 21, 1921 ("four barrels and six gallons").

51. Ibid., August 29, 1922; see also ibid., October 13, 1920.

52. Ibid., October 13, 1920.

53. Ibid., August 29, 1922; see also November 20, 1920; November 4, 1922.

54. Ibid., April 15, 1913; October 17, 1920; February 11, 1921; February 24, 1922; April 9, 1922; May 9, 1922; Bonanno with Lalli 1983, 85; Critchley 2009, 154–57.

55. Critchley 2009, 155.

56. Asbury 1950, 263; Sinclair 1962, 199; Cohen 1998, 54–55; Critchley 2009, 142–43. See also Repetto 2004, 110. The "Big Seven" was a short-lived cartel of smugglers active along the Atlantic coast bringing in Canadian liquor. There were originally seven groups (hence the Big Seven), but their number grew to about a dozen. The purpose of the Big Seven was to stabilize the price of imported booze. Established in October 1932, the cartel handled some eight thousand cases of rum monthly. But despite its powerful membership, the cartel broke up in spring 1933 (Prohibition ended on December 5, 1933). *New York Times*, April 1, 1939; April 2, 1939; April 11, 1939; Critchley 2009, 142.

57. Bonanno with Lalli 1983, 70, 75; Critchley 2009, 144, 146; see also MA 1937; Lupo 2008, 84. His warehouses stretched across Dutchess County, New York, where Maranzano bought a house. In March 1929, Rocco Germano, one of Maranzano's associates, fired on a liquor truck traveling on Main Street in Poughkeepsie. The truck's driver and friend abandoned the vehicle, which had been stolen in the Bronx. Detectives concluded that the men in the truck had failed to hand over what they owed to Maranzano. A five-thousand-gallon plant was uncovered as a result of the investigation. In the first decade of the twentieth century, New York was the brewing center of the nation (Lankevich 2002, 146), making it easier to continue the production underground.

58. *New York Times*, September 29, 1929, quoted in Lerner 2007, 1.

59. Landesco 1932; Bonanno with Lalli 1983, 85, 93, 126; Sinclair 1962, 221, 223, 230. This does not imply that the Italian mafia was accepting non-Italians after 1931, nor that a unified structure emerged.

60. Bonanno with Lalli 1983, 76. Buscetta, in his testimony to Italian authorities, recalls that "it used to be possible for a man of honor who migrated to the United States to become immediately, by virtue of his position, a member of the American Cosa Nostra" (quoted in Gambetta 1993, 118; see also Arlacchi 1996, 62).

61. As evidence of such letters of reference, see Flynn 1919, 207; see also Buscetta's testimony in Arlacchi 1996, 62. On Gentile's mafia membership, see Critchley 2009, 93, 269n206; Gentile [1963] 1993.

62. I am grateful to David Critchley for his advice. See also Maas 1997, 46.

63. Quoted in MA 1937.

64. Arlacchi 1996, 62, 52; Gambetta 1993, 117–18. Calderone also makes it clear that the two organizations were independent in the postwar period (Arlacchi 1993, 78; see also Critchley 2009, 196, 187; Cressey 1969, 46). A conversa-

tion recorded in Montreal in 1974 between Paul Violi, most likely a Bonanno man and the head of the Montreal family, and a Sicilian who had plans to set himself up in Canada, demonstrates that the Sicilian and North American mafias were two fully separate and independent entities. Violi makes it clear that if a mafioso were to move to Canada, he would be put on a five-year probation, during which he would be assessed "so that everyone can figure out what he is like" (quoted in OSPA Stajano 1992, 59; see also 60). According to Calderone, Violi was instead a member of the Gambino family operating in Canada (Gambetta 1993, 296n41). Yet the Sicilians were not that accurately informed about the membership of the U.S. families (David Critchley, personal communication, December 19, 2009).

65. Critchley 2009, 91; see also Maas [1968] 2003. Relevant examples are George Barone, Sammy the Bull Gravano, and John Gotti. Still, some mainland Italians like Genovese and Anastasia had been admitted into the New York City mafia during the 1920s, before the Castellammare War. Buscetta claims that even Jews and Irish had been admitted at the height of the Castellammare War—a move that was kept secret for several years (Arlacchi 1996, 164). Generally, criminal groups try to increase their ranks in times of war (see, for example, the case of British street gangs in Yearwood and Hayes 2000, 16; Densley 2009, 6).

66. See, for example, Lupsha 1986, 44; Gambetta 1993, 252.

67. Nelli 1976, 122.

68. Carrasco 1886; Baily 1983, 1999; Gallo 1983; Devoto 1993.

69. Klein 1983, 311; Baily 1983, 296; 1999, 61; Rosoli 1978.

70. Cacopardo and Moreno 1985; Frid de Silberstein 1994.

71. Johns 1991, 491–92; Frid de Silberstein 1993, 133; Gallo 1983; Lanciotti 2004.

72. Carina Frid de Silberstein, personal communication, January 31, 2010.

73. Information presented in this section comes from Frid de Silberstein 1992; 1993, 130, 141–43; 1994; Johns 1994. Chiavari and Lavagna in Liguria were the hub of the first wave of Italian migration to Rosario. The city is famous in Italy for the heartbreaking story of a Genovese child who had gone in search of his mother all the way to Rosario, narrated in De Amicis's *Il Libro Cuore* ([1886] 2001). The city is also the birthplace of Ernesto "Che" Guevara (Anderson 1997, 3–9).

74. Frid de Silberstein 1994, 509, 512; personal communication, January 31, 2010. Frid de Silberstein's estimate is based on the number of Agrigentani that are mentioned in marriage records between 1900 and 1905 in six districts of the city (N = 234 in this period). After applying a coefficient of 4 (a rather conservative one to estimate the average family unit), we get a figure of 936. This figure most likely still underrepresents the total number of Agrigentani who immigrated to Rosario in the first decade of the twentieth century since it is based on civil

marriages only for those five years (ibid., personal communication, January 31, 2010; see also Mormino and Pozzetta 1998).

75. Aguirre 2000, 74, 191; Rossi 2003, 148. Although Rosario was referred to as the Chicago Argentina, the origin of such a name refers to the workers who were killed during a strike in Chicago in 1886. Other historians suggest that the Chicago Argentina refers to the leading position of Rosario as a grain market and grain port (still nowadays, Chicago's Grain Stock Exchange does not close its daily blackboard prices until Rosario's prices are delivered). It was soon used to refer to its criminal reputation (Rossi 2003, 171; Aguirre 2006). Mafia activities were also reported in Andean provinces (San Juan) and to the north of Argentina (La Rioja, Salta, and Santiago del Estero). The Catanesi mentioned in the text were from Regalbuto, Mineo, and San Filippo. Cuffaro is also the last name of a Raffadali mafia boss in the 1970s, Giuseppe Cuffaro.

76. For the press dubbing Galiffi a local Al Capone, see, for example, "Como en Chicago, Contra Al Capone," *Crítica*, October 9, 1932; February 27, 1933. Data on his life are in Caimari 2007, 19; Aguirre 2000, 173–215; Rossi 2003, 149.

77. MHPR 1938a. Samburgo confessed in 1938 before the Comisario de Investigaciones Teodoro Alemán while he was imprisoned at the Penitenciaría Nacional in Buenos Aires.

78. New arrivals pushed out of Sicily by Mussolini included Romeo Capuani, Felipe Campeoni, Santos Gerardo, and Juan D'Angelo. Data on Marrone's life and criminal activities are in MHPR 1938a, folio 122; 1938b, folio 198. The Spanish version of the mafia titles recorded in the judicial documents are "Jefes, sub-jefes, jefes de grupo, consejeros."

79. Alvarez 1943, 14, quoted in Johns 1991, 491. This paragraph draws on Johns 1991, 490–91. See also Gallo 1976, 5–23.

80. Johns 1991, 499.

81. Ibid., 495–46, 498, 507; Gallo 1970; 1983, 166–67. Data on large Italian land properties are also in Frid de Silberstein 1993, 139 (for example, Castagnigno and Pignasco, seventeen thousand hectares). As for manufacturing, the Refinería Argentina, employing eight hundred workers between 1894 and 1920, was the main producer of refined sugar and alcohol in the country (ibid., 152).

82. The words by Ricardo Caballero are quoted in Karush 1999, 597–58. See Gallo 1983; Johns 1991, 494; Thompson 1984; Hasbrouck 1935.

83. Palacio 2004.

84. Johns 1991, 500; Lanciotti 2004. More than a fourth of the population lived in tenements.

85. Lanciotti 2009, 229, 231–32, 189. By 1913, the construction market started to contract.

86. Although I have data for the value of each projects (with some gaps), it should be noted that the owners had an incentive to underreport the cost of the work for tax purposes.

87. Pendino worked in construction between the early 1880s to at least 1910. Frid de Silberstein 1991, 182–90; Aguirre 2000, 47–49.

88. The level of violence was lower in Rosario, although instances are on record. In the local newspaper *El Municipio*, eight reports of robbery of construction machinery and tools are mentioned between August 1909 and July 1910.

89. In Rosario, the number of firms obtaining permits between 1905 and 1909 stood at 172, while in Bardonecchia, in the boom periods 1965–69 and 1970–74, the equivalent figures were 42 and 49, respectively.

90. On the rural folk, see Johns 1991, 501. As documented by Norma Lanciotti (2009, 156–57), a significant number of real estate investors were themselves landowners (22.54 percent in the 1885–95 period and 15.85 percent in the 1896–1914 period of the total investors identified [N = 213]).

91. The defendant was a Carlos Cacciato. MHPR 1939. In another court file, Pendino is described by a defendant as a man "who was respected among his countrymen due to the fact that he always tried to help them" (MHPR 1938b, folio 97).

92. Frid de Silberstein 1991, 182–90; Aguirre 2000, 159. For the 1899 police document, see PR 1899; Revista Órgano Oficial de la Policía del Rosario (Rosario: Imprenta La Minerva, 1924). The shopkeeper mentioned in the text was Vicente Puteti (Aguirre 2000, 86). Puteti was the owner of a small grocery store along the *pampa gringa* (agricultural countryside) that performed a distinctive social function. Such stores provided credit to tenants (*arrendatarios*); they became a key source of information for both tenants and landowners since they usually gathered information on potential work qualifications, knowledge of techniques of agriculture, and capital of the prospective arrendatarios.

93. The victim was Dr. Enzo Bordhabere.

94. Frid 1993; Malamud 1997. The Liga del Sur's political platform included the reform of the electoral system in Argentina. It also supported the extension of citizenship to immigrants. See Gandolfo 1991.

95. Aguirre 2000, 88–89. Other victims of the Mano Negra were Jose Castiglione and Mariano Giangrecco. The Catanese gang was composed of Gaetano Pergola, José Perola, and José Costanzo, all born in Galliano (ibid., 89–91). The gang had attacked, among others, Martiré and Castiglione. Contrary to what Nelli (1969, 379) claims, Argentina did experience the phenomenon of the Black Hand.

96. Aguirre 2000, 122.

97. Aguirre 2000, 296; Caimari 2007, 5. In the 1910s, see the case of a boy, Juan Vicente Parisi, the son of a coal merchant, who was snatched from his parents

in 1915. In 1916, the group led by José Cuffaro successfully organized the kidnapping of Antonio Moressi, a carriage driver (other cases took place throughout 1916). In the 1930s, see the cases of F. Andueza (1931) and the son of the trader Julio Nannini (1932). The kidnapping of a respected Jewish doctor, Jaime Favelukes (1932), and that of another professional, Marcelo Martin (1933), shocked the nation. On the Favelukes's kidnapping, see, for example, *El Mundo*, October 8, 1932; October 13, 1932; *La Nación*, October 7, 1932; *Crítica*, October 7, 1932; October 11, 1932. See also Aguirre 2004.

98. A third movie on the case was produced in 1972, titled *La maffia* (Leopoldo Torre Nilsson) (Caimari 2007, 1, 29; Blanco Pazos and Clemente 2004, 12). The Senate approved the new framework for the Criminal Code in 1933. The death penalty had been abolished in 1922. On rumors regarding the case, see *Crítica*, October 19, 1932; December 14, 1932; December 29, 1932. On the funeral, see *La Nación*, February 24, 1933; Caimari 2007, 6–8. On the kidnappers, see Aguirre 2000, 360; Rossi 2003, 149.

99. *Time Magazine*, May 29, 1944; Zinni 1975, 161–80; Goris 1999; Aguirre 2000, 382–402; Rossi 2003, 147, 150–51. Despite the significant role of Italian crime in Rosario, Italians did not control some of the key criminal markets. For instance, prostitution and the trafficking of women from Eastern Europe was controlled by the Zwi Migdal gang, staffed by Polish criminals of Jewish origin (brothels in Buenos Aires also utilized women trafficked from Eastern Europe and were controlled by "Jewish" criminals). In the aftermath of a trial that decimated the Zwi Migdal in 1931, however, Italians extended their reach to some local brothels. Guy 1991; Rossi 2003, 171.

Chapter 6: The Future of the Mafias?

1. By China, I am referring to mainland China. For the purpose of this chapter, I also use the name "Burma" to refer to the state now officially called the Union of Myanmar. For data on foreign investments in China, see Hsing 1998, 3, 8, 21.

2. Chin 2003, 203; Ngai 2005, 38–39; Goldman 2006, 413.

3. Information in this paragraph comes from Druijven 1993, 151; Hsing 1998, 3, 4, 8, 15, 19–21, 25; Li 1996, 12; Boardman 2005; Bosworth and Collins 2008. The registered economic growth rate for Shenzhen and Zhuhai during 1978–84 averaged 9.5 percent annually. Approximately 75 percent of manufacturing workers had been laid off within less than ten years. In 1985 alone, the armed forces were reduced by over one million individuals. The personnel of the national army went from 4.238 million in 1987 to 3.199 million in 1990. The 1.039 million demobilized soldiers during the first round of disarmament represented 24.5 percent of the army's original strength. The second round of cuts in the strength of

the army started in 1997, when some 700,000 soldiers were made redundant from 1997 to 2003. Most of the redundant soldiers were posted in the northeast (Information Office of the State Council 2005; Zheng 2005; Chan 2002).

4. Tuñón 2006, 5, 6, 8; Hsing 1998, 9; Deshingkar 2006, 8; Zheng 2009, 5; Chang 2008, 12; Jian and Zhang 2005; Wang 2006, 186; see also Wu and Treiman 2004; Mallee 1995. Two hundred million is a 2006 estimate. Internal migration was made possible by the reform of the *hukou* system of internal registration. A clear discussion of definitional problems of the terms "migrant workers" and "agricultural workers" is in Wang 2006. In Beijing and Shanghai, migrants make up a quarter of the population (*Nanfang Daily*, January 11, 2003). Guangdong is one of migrant workers' primary choices, accommodating 35 percent of the total migrant workers in China in 2003. The influx of migrant workers altered the demographic composition of Guangdong. The province officially became the most populous in China in January 2005, with a population totaling 110 million, of which 72 percent were registered permanent residents and 28 percent were migrants from other provinces (*China Daily*, January 29, 2005). Shenzhen has been transformed into "a city of migrants," where 82.1 percent of the total population is composed of people from other provinces (Liu 2004). "In 1995, the number of recorded criminal cases in Guangdong accounted for 10 percent of the national total, whilst the recorded major and serious cases represented 16.7 percent" (Chong and Pu 1997, 252). Official statistics indicated that more than 60 percent of the crimes were committed by nonpermanent local residents, which caused an economic loss of 3.36 billion yuan. The situation was echoed in the statistics revealed by the Ministry of Public Security regarding the crimes in Guangzhou and Shenzhen. In 1994, the crimes committed by the migrant population represented 69.2 percent of the total in Guangzhou; the figure was 97 percent in Shenzhen (Feng 2001, 127). See also People's Government of Guangdong 2006.

5. C10; see also Hershatter 1997, 338; *Telegraph*, August 27, 2000; Ngai 2005, 180; *Sunday Times*, October 22, 2006.

6. He 2002, 353–54.

7. He 2002, 137.

8. Ibid., 136; *Yangcheng Evening Paper*, April 20, 2000; He 2003, 30, 256–57; Liu, Zhao, and Su 2005; Chu 2000, 131. The ransom was for 1.038 billion yuan (US$1.300 million). The Zhazhi ritual is a triad ceremony for the promotion of members. A Blue Lantern is medium-level rank in a triad society, the equivalent of a gang leader, while a Red Pole is the equivalent of an Area Boss (Chu 2000, 28). "The Shenzhen Public Security Bureau arrested over 300 members that were newly recruited by these triads. Liao Tiansong, head of Hong Kong 'Victory' issued a directive to his new members in Shenzhen, stating, 'Stand your ground in Shenzhen, keep growing and wait for the chance to do big things'" (He 2002, 353).

9. Chin 2003, 169.

10. He 2002, 137.

11. Chin 2003, 6–7, 168–72, 202–3, 205, 223; He 2002, 137. As a Taiwanese investor put it, "We speak the same language and enjoy the same food!" (Hsing 1998, 3). Bamboo United was created in 1956 and remains to this day the biggest mafia group in Taiwan (estimates put the membership at ten thousand). In the 1960s, the gang was restructured into five branches. Over the next twenty years the branches grew in number. By 1983, eighteen branches (*tangs*) had been established. As a testament to the international reach of the group, in 1982 an overseas branch (Chao Tang) was formally opened in Hong Kong, the only one outside Taiwan, although some members are said to operate in the United States, the Philippines, and Japan (Chin 2003, 33–34).

12. Chin 2003, 171–72, 202–3; He 2002; Chu 2000, 132; *Washington Post*, December 31, 2000. Some also went to Cambodia.

13. C8; He 2002, 139–40; Chu 2000, 132; Chin 2003, 202, 204; see also Kong 2004. On the 14K triad group, see Morgan 1960, 79–88; Chu 2000.

14. Morgan 1960; Chin and Godson 2006, 7.

15. He 2003; Zhang 2006; Li and Ke 2006; Kang Kang 1998.

16. He 2003, 116–17.

17. C5.

18. Ngai 2005, 1; see also Jiang and Fu 2006; "The Seventh Day," Channel 7, Beijing Television, February 4, 2007 available at at http://www.btv.org/btvweb/sh/2007-02/06/content_153538.htm. For details of the 2003 survey, see *Far Eastern Economic Review* January 22, 2004. Ching Kwan Lee (2007, 110), the author of a groundbreaking ethnography of labor disputes in China's Sunbelt, has concluded that the violation of labor rights and entitlements is "endemic." It is still too early to assess the effects of the introduction of the new Labor Contract Law on January 1, 2008 (available at http://www.bjreview.com.cn/document/txt/2007-10/16/content_80896.htm). On the low quality and unevenness of intellectual property rights enforcement in China, see the important study by Martin Dimitrov (2009).

19. Quoted in *Jiancha Daily*, May 16, 2007.

20. Quoted in Zheng and Xia 2006.

21. Quote from Chin and Godson 2006, 24–25. In a survey of 288 judges published in 1998, none regarded the jurisdiction of courts as completely independent, while 124 of them (43.1 percent) believed that judicial independence had not been achieved in China (Jiang 2004, 5).

22. For data mentioned in this paragraph, see Jiang 2004, 6–7, 9–11, 23–26; 2006, 200. Jiang (2004, 7n32) notes that "the quota [of decisions enforced by courts] could even be lower in reality as some pending cases were considered to be

settled due to long delay." He adds: "In several interviews, lawyers even reported that only around 20% of the judgments can be successfully enforced, and it is believed that the average rate of successful enforcement in all the courts is supposed to be 25–30%" (ibid., 36). In a poll conducted by the China Commercial Press just before the assembly of the People's Congress in December 2002, 91 percent of the respondents said that they were not confident in the judiciary and were pessimistic about "access to justice" (ibid., 1). Another distinctive feature of the court system in China that delays decisions is the presence of a "trial committee" that oversees each judge's decision (ibid., 8).

23. Tuñón 2006, 10–11; *Jinan Daily*, March 10, 2005; *CSR Asia Weekly* 1 (week 11): 10; Druijven 1993, 148; Pan 2008.

24. C10.

25. C7.

26. Chin and Godson 2006; Tian 2001, cited in Chin and Godson 2006, 6; see also Glenny 2008, 364.

27. Varese 2001, 59–72.

28. Forward-looking officials channel bribes to their children living abroad (Glenny 2008).

29. C11.

30. *Jiancha Daily*, May 16, 2007, available at http://www.jcrb.com/200706/ca608419.htm. On the accumulation of bad debts in the banking system, see Shih 2004.

31. Yuan and the other three debt collectors were convicted for using extortion and violence to recover debts (*Jiancha Daily*, May 16, 2007).

32. In 2000, the Ministry of Public Security along with the Administrative Department for Industry and Commerce proscribed by formal decree the operation of debt-collection companies, and forbade the establishment of such companies by any institution or person. In 2002, the Trademark Office of the Administrative Department for Industry and Commerce adjusted the scope of trademark registration. The department lifted restrictions on "detective companies" and "private bodyguards," but still strictly forbade the operation of debt-collection companies (ibid.).

33. Quoted in ibid.

34. Quoted in ibid.

35. Respectively, six out of ten and twelve out of fifteen cases. Seven of the ten cases listed as dispute settlement are also involved in debt collection, so there is significant overlap between the two categories.

36. He 2003, 133–37.

37. Quoted in Chin 2003, 206–7.

38. *New York Times*, March 25, 2007; Bruck 2008, 45; *Xinhua*, March 28, 2005; *Weekly Standard*, May 7–8, 2005; *CCTV Online*, May 12, 2006; *China*

Daily, June 17, 2004. Since Chinese nationals need a special permit to travel to Macau, this increase reflects a deliberate policy on the part of the government as well as an increase in the number of wealthy Chinese (Bruck 2008, 45). The *Standard* (October 2, 2009) reports that Guangdong residents may now apply for a visa every month, rather than every two or three months, as in the past.

39. Quoted in http://a2zmacau.com/macau-casino/combating-crime-in-macau/.

40. See Lo 2005; *South China Morning Post*, December 20, 2000. The official data cited in the text refer to 2004, available at http://www.pj.gov.mo/1024/pj_en/magazine_en.htm. There were 917 illicit activities related to gaming in 2006—only 4 more cases than in 2005. Of these, 164 cases involved loan sharking (4 more than in 2005) and 79 cases involved gambling chips theft (3 more than the previous year).

41. For an insider's account of how high rollers are lured on to the tables in casinos in Las Vegas, see Castleman 2009.

42. C6; SCBC 2003a, 2003b; Wang and Eadington 2008, 241; Siu and Eadington 2009; Godinho 2006; Leong 2002. A recent development is the creation of consortia of VIP room contractors and junket operators with the aim of increasing bargaining powers vis-à-vis the casinos. See https://rp1.tss.db.com/dbdr/publication/PressRel/4602_NOV112007100351PM.pdf; *Business Wire*, January 14, 2009; Wang and Eadington 2008, 251. The western casinos are the Las Vegas Sands, Wynn Resorts, PBL Melco, Galaxy, and MGM.

43. Wang and Eadington 2008, 250.

44. C6. The business of lending money to high rollers is known as the *dupma* business (SCBC 2003a). A case at the center of the Supreme Court of British Columbia involves a Guangzhou resident who failed to repay his debt and was pursued by the creditors. In some cases, lenders have "accounts" at more than one casino (SCBC 2003b). Law 5/2004 allows for operators to collect the debt in Macau courts, although, write Wuyi Wang and William Eadington (2008, 249), these debts are "neither legal nor illegal," and suggest that extralegal efforts to recover the debts are the most common. Jorge Godinho (2006) points out that after the passing of the 2004 law, it is not possible to enforce gaming debts arising in Macau in mainland China.

45. This average is based on data in Wang and Eadington 2008, 256.

46. He 2003, 31–35; Li and Ke 2006, 51.

47. He 2003, 81–85.

48. C2.

49. C1.

50. Ibid.; *China News Website*, April 9, 2003; He 2003, 82–85.

51. C1; *China News Website*, April 9, 2003; He 2003, 82–85. Gambling venues exist also across China, and local crime groups make sure debts are honored. For instance, Mr. Lifeng Tang ran a gang in Ruzhou, Henan Province, whose members had to wear black suits and were paid a monthly wage. This gang controlled the gambling and entertainment sector of the city, collected debts, and even extended its influence over the election of town elders. The members were arrested in 1999, after only one year of operation.

52. Quoted in Chin 2003, 207.

53. See http://mitchmoxley.ca/index.php?option=com_content&view=article&id=9.

54. C6. I also draw upon a video posted on YouTube titled "18 dance and parade."

55. Hershatter 1997, 304; Jeffreys 2004, 96; Zheng 2007, 125.

56. Hershatter 1997, 331, 333–34, table 2; Jeffreys 2004, 97, 168–69; Gil et al. 1994; Zheng 2007, 126; 2009, 3–4, 55, 66; C12. The one trillion yuan estimate refers to 1999. Gail Hershatter (1997) points out that prostitution never completely disappeared.

57. See article 358, Criminal Code of the People's Republic of China, 1998; see also discussion in Jeffreys 2004, 138–49; Zheng 2009, 69; compare to Jeffreys 2004, 151, 157. The lower bound for convicted offenders is five years in prison. Death sentences are usually imposed when some other aggravating factors are present, such as bribery and the use of violence. See, for example, the case of Zhang Fengxiang (*Beijing Fazhi Ribao*, August 26, 2003). Criminal charges would be brought against customers or workers who knowingly transmit sexual diseases or engaged in sex with minors (Jeffreys 2004, 168–69; Zheng 2007, 133).

58. C12.

59. Quoted in Zheng 2007, 132.

60. Ibid., 132; 2009, 70, 71.

61. *China Daily*, January 23, 2005; see also Chin and Godson 2006, 13–17.

62. Chin and Godson 2006, 17.

63. USDJ 2005. It should be noted that other groups in Burma are involved in the drug business in addition to the Wa. They include the Kokang, Mengla, Kachin, and Shan (Beyrer et al. 2000, 77; Chin 2009, 101, 234).

64. Chin 2009, 1, 3, 9, 75; *Bangkok Times*, December 21, 2003; Swanström 2006, 122. This section is greatly indebted to Ko-lin Chin's remarkable ethnography (2009) of the drug trade in the golden triangle. For estimates of heroin production, see Chin 2009, 8, 9, 86. Burmese poppy cultivation accounts for 90 percent of all southeast Asian opium production (USDS 1998). For various estimates of opium-producing countries, see Chin 1990, 147; Chu 2000, 109; Beyrer

et al. 2000, 76; Zhang and Chin 2003, 473. Some authors link the suppression of the popular uprising in 1988 in Burma to the rise of poppy cultivation (Beyrer et al. 2000, 77, 82).

65. Chin 2009, 4, 9, 44, 83, 89; Swanström 2006, 128.

66. USDJ 2002, 5.

67. Quoted in *Xinhua News Agency*, August 3, 2004. Data in this paragraph are in Beyrer et al. 2000, 78–79; Chin 2009, 112, 117; Chu 2000, 187; Swanström 2006, 122; *People's Daily*, June 27, 2002; *China Daily*, June 27, 2002. See also Yunnan Provincial Department of Commerce 2005; the *China Daily* (March 31, 2005) describes a family-run drug smuggling ring operating "in the corridor that runs from Myanmar to Yunnan to Harbin." Hong Kong is the hub for other illegal traffics, such as cigarettes and endangered species. See, for example, Sharma 2003–4, 1–2.

68. Chin 2009, 121; Chu 2000, 187.

69. Chin 2009, 229–30. For similar conclusions, see also Chao Tzang 1993; Milson 2005, both cited in Chin 2009.

70. Chu 2000, 109–14; 2002.

71. C9.

72. See also the discussion of this initiative in Glenny 2008, 389–90.

73. C9.

74. In a recent case, the Italian police proved that the `Ndrangheta had reached an agreement with Chinese smugglers to ensure safe passage through the Gioia Tauro harbor, another port part of the Container Security Initiative (*La Repubblica*, December 22, 2009).

75. Ding 2001; see also *Le Monde*, December 30, 2009.

76. *Times Literary Supplement*, November 27, 2009.

77. See http://www.mckinsey.com/mgi/publications/unleashing_chinese_consumer/index.asp; see also *New Yorker*, December 7, 2009.

Chapter 7: Mafia Origins, Transplantation, and the Paradoxes of Democracy

1. SCO 1997c, 2.

2. Cruz 2010; Arana 2005. Hard state repression helped further shape and strengthen gangs' identities. A large percentage of gang members who came from different areas of El Salvador were held in detention centers organized according to their gang affiliation. Such a policy helped members to meet and coordinate across the country.

3. RCC 2000, 38. More generally on the Camorra in Aberdeen, see Saviano 2007, 259–81; Campana 2010.

4. On the early 1990s viewpoint, see, for example, Hess [1973] 1998; compare to Ruggiero and Vass 1992. A notable exception is the classic inquiry by Leopoldo Franchetti ([1876] 1993).

5. Gambetta 1993; Bandiera 2003.

6. Milhaupt and West 2000; Varese 2003. On disputes over land in the Meiji period, see Brown 1993.

7. Varese 1994, 2001.

8. I am grateful to C3 and C4, both officials in the Hebei Province, for their insights into cases of official corruption and their punishments.

9. The ceteris paribus condition here is crucial. Obviously, in the presence of widespread violence, vote rigging, and electoral fraud, even large constituencies are not safe from manipulation.

10. I refer here to the so-called consolidation movement. Gaynor obtained 250,678 votes (43 percent of the total cast), while his Republican opponent, Otto Bannard, got 177,662 (30 percent). The third candidate, media tycoon William R. Hearst, received 153,843 votes (27 percent). See Thomas 1969, 192; Cerillo 2000; Lankevich 2002, 134, 148.

11. A fictionalized account of the gambler's murder is described by Meyer Wolfsheim in *The Great Gatsby* by F. Scott Fitzgerald ([1925] 1998). I take Becker's innocence from Cohen 2006 and Dash 2007.

12. A parallel exists with protectionist measures in the developing world. For a discussion of how to lift people out of poverty in the developing world, see Collier 2008.

13. Baker 2004.

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B2 Chief inspector, Italian police, Bardonecchia, March 15, 2007.

B3 Maurizio Laudi, deputy district attorney, Turin, May 14, 2007.
B4 Francesco Saccomanno, deputy chief inspector, crime unit, police headquarters, Turin, May 28, 2007.
B5 Giorgio Bortoluzzi, opposition politician, City Council, Bardonecchia, May 17, 2010.
C1 Ministry of Justice official in Zhuhai, Guangdong, June 28, 2008.
C2 Official in Guangdong Department of Justice, Guangzhou, June 28, 2008.
C3 High-ranking prison official, Hebei Province, January 19, 2009.
C4 Official in the mayor's office, Shahe City, Hebei Province, January 20, 2009.
C5 Entrepreneur, Dongguan, September 27, 2009.
C6 Mr. Xin, casino junket operator, Hong Kong, October 3, 2009.
C7 Entrepreneur, Dongguan, October 1, 2009.
C8 Chu Kong, professor, University of Hong Kong, September 23, 2009.
C9 Private security agents, Hong Kong, September 22, 2009.
C10 Taiwanese entrepreneur, Dongguan, September 28, 2009.
C11 Entrepreneur, Shenzhen, September 26, 2009.
C12 Entrepreneur, Guangzhou, September 30, 2009.
R1 Aurelio Galasso, prosecutor, Rome, May 17, 2007.
R2 Police officer in charge of the Yakovev investigation, Rome, May 16, 2007.
R3 Luigi De Ficchy, prosecutor, Rome, May 16, 2007.
R5 Paolo Giovagnoli, prosecutor, Bologna, September 11, 2007.
R6 Morena Plazzi, prosecutor, Bologna, September 11, 2007.
R7 Pier Paolo Mudu, migration expert, Rome, October 18, 2006.
V1 Dino Facchini, former secretary of the Communist Party of Italy, city of Verona, Verona, September 7, 2007.
V2 Guido Papalia, district attorney, Verona, September 13, 2007.
V3 Former chief inspector, Italian police, Verona, September 13, 2007.
V4 Crime reporter, *L'Arena di Verona*, Verona, April 15, 2005.

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Aberdeen, Camorra in, 18, 192
Abruzzi region (Italy), and migration to Argentina, 128
Act on Business Organizations, 1988 (Hungary), 87–88
Administrative Department for Industry and Commerce (China); and regulations regarding debt collection in China, 159, 160, 231n32
Afghanistan, 172
Agrigento (city, Italy), 130, 134
Agrigento province (Italy), 101, 130, 138; and migration to Argentina, 128; and migration to Rosario, 129; as place of origin of mafiosi in Rosario, 131, 138
Agroprom Bank (Russia), 1
Alcohol, 2, 23, 115, 116, 200, 223n38, 226n81; consumption, 28, 59, 125
Alessandria (Italy), 37
Alessandria della Rocca (Sicily), 101; birthplace of Pendino, 130; migration from, 129
Alien conspiracy theory, 16
Allegra, Melchiorre, 121, 220n10, 220n12
Álvarez, Juan, 132
Alzogaray, Silvio, 139
Amato, Arturo, 138
America, Latin, 181; North, 106, 125, 173; South, 129
American Jewish Joint Distribution Committee, 72
Amsterdam, 55
Anti-Mafia Parliamentary Commission (Italy), 4, 31, 34, 42, 43
Antwerp, 188; as the destination of Russian Jewish refugees, 72
Appalachian meeting, 32; see also Italian-American mafia
Apulia region (Italy), 15
Arbat International, 90
Arena di Verona (newspaper), campaign against drugs, 58
Arena di Verona (Roman amphitheater), 53
Argentina, 5, 101, 104, 131, 132, 134, 152, 227n95; Galiffi in, 130, 140; Italian migration to, 126, 128, 132, 219n6; Pendino migration to, 130; trade unions in, 133
Arigon Ltd., 91
Arlacchi, Pino, 53, 55
Arms trafficking, in Hungary, 91; in the former Yugoslavia, 91; in Val Susa, 48
Army, Soviet, 86
Arroyo Seco (Argentina), 129, 138
Artamova, Raisa,* and Yakovlev's crew in Rome, 74, 83; role, 84
Asbury, Herbert, 116
Asesinos (movie), 140
Aspromonte (Calabria, Italy), 32
Association of Concerned Families against Drugs (Verona), 58

Asti (Italy), 37, 51
Australia, 32; `Ndrangheta in, 34
Austria, 2; banks in, 77
Averin, Viktor, 66; in Budapest, 86, 91, 92
Ayerza, Abel, 140

Backer, Charles, 197
Baff, Barnet, murder of, 115
Bajo las garras de la mafia (movie), 140
Bakassi Boys (Nigeria), 200
Ballestreri, Nicolás, 139
Bamboo United crime group (Taiwan), 15, 152; in China, 152, 162; origins of, 230n11; outside Taiwan, 230n11
Banca Popolare dell'Adriatico di Pesaro, and Monya Roizis, 69
Banco Ambrosiano, 20
Banditism, in Argentina, 133; in Sicily, 102
Bangkok, 175
Bangladesh, 55
Bank of New York, 69; scandal, 70, 86
Bardonecchia, 5, 9, 11, 26, 30, 36, 39, 41, 44, 57, 58, 59, 60, 75, 95, 143, 177, 196; city council disbanded, 49; civic engagement in, 52; compared to Rosario, 134–137, 142; construction firms in, 40; construction sector in, 37–39, 45–46, 52, 93, 134, 135, 136, 227n89; elections in, 48–50; geographical position of, 34–35; labor racketeering in, 41, 43, 52; licenses to build new homes in, 39–40; `Ndrangheta in, 46, 125; *omertà* in, 211n64; police and mafia in, 47; politics in, 48; population, 209n26; protection in, 46, 47; violence in, 41, 46–47, 52
Barreca, Pasquale, 33
Basilicata region (Italy), 212n78; and migration to Argentina, 128; social capital in, 22
Baxter Street (New York City), 106
BBC, 91
Beijing, 154, 158, 163, 176, 180, 195; migration to, 147, 229n4; television, 154
Belfiore crime family (`Ndrangheta), 46
Belfiore, Mimmo, 46
Belgium, `Ndrangheta in, 34
Belgrade, 91
Berlin, 119
Bevacqua, Antonio, 139
Big Eddie, 116
Bivona (Agrigento, Italy), 129
Black Hand (extortion), 112, 114; in Rosario, 139
Boemi, Salvatore, 33
Bogdanovich, Oleg,* and protection activities in Rome, 81; and resource acquisition in Rome, 80; and Yakovlev's crew in Rome, 74
Bonanno crime family (New York City), 19, 105, 225n64; name, 123
Bonanno, Joseph, 104, 120; and Maranzano, 119, 120; as boss, 121, 123; on extortion and protection, 204n12; on Masseria, 119; on Mussolini, 105
Bongiovanni construction company (Rosario), 134, 135
Borgata, 119, 120, 121, 123; see also *cosca*
Borgia, Cesare, 68
Boros, Tamás, 91
Boston Globe (newspaper), on the mafia in Hungary, 90
Bourbon dynasty, 102
Bowling Alone (book), 22
Brenno, Riccardo,* and investments in the Italian economy, 79; and Yakovlev's crew in Rome, 75; trip to Moscow, 77
Brescia (Italy), 55
Brezhnev, Leonid, 71
Brigada, 67, 189, 192; see also Russian mafia
Brighton Beach (New York), 72
Bronx, 119
Brooklyn, 17, 104, 119, 120
Brussels, as the destination of Russian Jewish refugees, 72
Buccinasco (Milan, Italy), `Ndrangheta in, 37
Budapest, 9, 70, 95; Solnstevskaya in, 15, 69, 86, 91–93; trust in, 30
Buè, Santiago, 130

Buenos Aires, 131, 132, 139; Agata Galiffi in, 141; Italian migration to, 126, 129; Juan Galiffi in, 130; kidnapping for ransom in, 139; murder of Marrone in, 131; prostitution in, 228fn99
Buenos Aires province, 133
Burgio (Agrigento, Italy), 129
Burma (Myanmar), 172, 173, 175, 176, 178, 228n1
Buscetta, Tommaso, 105, 221n12; and the Castellammare War, 225n65; on the Italian-American mafia, 123, 224n60; on the `Ndrangheta, 31
Byrnes, Thomas, 112

Caccia, Bruno, 46
Cacciatore, Carlo, 130
Calabria region (Italy), 7, 22, 41, 42, 44, 45, 46, 51, 52, 58, 59, 61; migration from, 54
Calderone, Antonio "Tonino," on mafia transplantation, 14, 105; on extortion/protection, 204fn14
California, 190, 191
Calò, Giuseppe "Pippo," in Rome, 20, 192, 206n33
Caltanissetta (Italy), and migration to Argentina, 128
Calvi, Roberto, 1; murder of, 20
Cambodia, 15
Camera, Antonio, in Verona, 57
Camera, Felice, in Verona, 57
Camorra, 24; expansion to Apulia, 15; in Aberdeen, 18, 192; *pentiti* in, 33
Campana, Paolo, 96
Campania region (Italy), 22, 212n78; and migration to Argentina, 128; migration from, 54
Campieri (field armed guards), 193
Canada, 32; `Ndrangheta in, 34
Canavese Valley (Piedmont), 40, 45, 51
Capo crimine, defined, 32
Capone, Alphonse Gabriel "Al," 121
Case selection, 29–30
Casino (film), 20
Casino Royale (book), 164
Castellammare del Golfo (Sicily), 104, 120
Castellammare War (Italian American Mafia), 119, 121, 222n33, 225n65; and its effect on recruitment into the Italian-American mafia, 123
Castells, Manuel, 3
Catania (Italy), 13, 14, 105, 139; migration to Argentina from, 128, 130
Catholic Church, 102; against drug trafficking in Verona, 58
Caucete (Argentina), 141
Celestial Alliance crime group (Taiwan), 152; formation of, 151; in China, 152, 153
Centeno, Carlos, 138
Central America, 191
Ceretto, Mario, 44
Chandler, David, 105
Chang, Anlo (White Wolf), 152
Chang'an town (Dongguan, Guangdong province, China), 162, 168, 169
Changping town (Dongguan, Guangdong province, China), 157
Chechen crime groups (Moscow), 66
Chechnya, 74, 189
Chen, Bosheng (Big Jie), 167, 168
Chen, Kai, prostitution ring led by, 172
Chen, Nuoquan, 152
Chen, Zhixiong (Four-Eyed Xiong), 167, 168
Chernomyrdin, Viktor Stepanovich, 77
Chiavari (Liguria), 225n73
Chicago, 6, 20, 27, 121, 175, 192, 226n75; Black Hand in, 22n36
Chicago outfit (mafia group), and Las Vegas, 20, 27, 192
Chin, Kolin, on Taiwanese triads in China, 17, 162, 168
China, 5, 11, 29, 146, 149, 153, 154, 156, 167, 177, 180, 181, 228n1; and democracy, 196; courts in, 155–156, 230n21, 231n22; debt collection in, 159–163, 178, 232n44; drug trafficking in, 172–177; gambling in, 163, 164, 165, 166, 178, 233n51; Hong Kong triads in, 150; informal economy in, 10, 156; internal migration, 147, 149, 229n4; labor disputes in, 230n18; mafia/

China (*continued*)
mafiosi in, 14, 153; prostitution in, 169–172, 178; protective umbrellas in, 125, 158, 171, 172, 177, 178, 180; special economic zones in, 147; Taiwanese triads in, 17, 125, 151–152, 162–163; trust in, 30
China Central Television, 163
China Daily (newspaper), 172
Chinese Communist Party, 170, 171
Chisinau (Kishinev), birthplace of Monya Elson, 68
Christian Democratic Party (Italy), 41
Chu, Yiukong, 13
Churchill, Winston, 109
Cianciana (Agrigento, Italy), 129
Cinema, as a form of advertisement for mafias, 26
Cirio, 24
Citizen Kane (film), 197
Civic Community Index, 36, 53
Civic culture, 22
Civic engagement, 8, 23, 29; in Bardonecchia, 52, 61; in Verona, 58, 61
Civil Service Board (New York City), 107
"Clean Sweep" police operation (Taiwan), 151
Cleveland, 121
Clodo, Dietmar, 92
Code of Silence/*omertà*, in Bardonecchia, 49–50
Cold War, 71
Coleman, James, 21
Collective action, 21; in Bardonecchia, 47, 50, 211n64
Colombo crime family (New York City), 121, 123
Columbian drugs cartels, 3, 25
Communist Party of Burma, 173
Condizioni politiche ed amministrative della Sicilia (book), 102
Connecticut, 117
Construction firms, in Bardonecchia, 40; in Rosario, 134–136
Construction sector, 5, 9, 23–24, 25, 26, 61; boom in, 8, 28, 134, 137; cartels in, 8, 9, 23; in Bardonecchia, 37–40, 42, 45–46, 52; in Margherita Laziale, 75; in Rome, 75; in Rosario and Bardonecchia compared, 136–137, 142; in Rosario, 134–137
Construction Workers Trade Union, 47
Container Security Initiative (USA), 176–177, 178
Content analysis, 75; of phone wiretaps, 96–97
Conventillos, 134; see construction sector
Córdoba province (Argentina), 131
Corino, Mario, 41, 43, 47; and elections in Bardonecchia, 48; death, 50
Corruption, 9; in Hungary, 88; in New York City, 107–111, 125; in Verona, 58
Corsaro, Antonio, in Verona, 57
Corsaro, Francesco, in Verona, 57
Corsaro, Vincenzo, in Verona, 57
Cosa Nostra, 5; see also Sicilian mafia
Cosca (mafia family), 103, 119
Costello, Frank, 116
Cotai Strip (Macau), 163
Cottian Alps, 35
Counterfeiting, in New York City, 112, 114, 125, 222n33; in Rosario, 131, 140, 141, 142
Crane, Stephen, 197
Crime without Frontiers (book), 3
Criminal Code (Argentina), 140
Critchley, David, 119
Croatia, 91
Csáki, György, 87, 88
Cuffaro, Giuseppe, 226n75
Cuffaro, José, 129; gang led by, 139, 228n97
Cuneo (Italy), 37, 51
Cuorgnè, 45; violence in, 46
Curabà, Esteban, 129, 137
Curb Exchanges, for the sale of alcohol in New York City, 117–118
Curti construction company (Rosario), 135; and Pendino, 134
Cutolo, Raffaele, 15

Dalian (Liaoning province, China), 171
D'Aquila crime family (New York City), 118, 120, 121; See also Gambino crime family

D'Aquila, Salvatore, 118, 120; murder of, 121
Dash, Mike, 107
Debt collection, in China, 154–156, 159–162, 163, 178, 180, 231n31, 231n32, 231n35; in gambling, 163, 166–169; in Hungary, 89; in Macau, 232n44
Democracy, and mafias, 5, 12, 142
Democracy in America (book), 102, 191
Deng, Xiaoping, 147
Deodati, Antonio, 17, 105; murder of, 112
Department of Justice (Guangdong province, China), 167
Department of Justice (USA), 173
Detroit, 121
Ding, Xueliang, 180
Don Chicho (play), 140
Dongguan (Guangdong province, China), 147, 154, 157, 178; "concubine villages" in, 150; industrial area in, 157; Taiwanese triads in, 152
Dragna, Jack, 115
Drugs, consumption in Verona, 55; in Burma, 172–173; in China, 172–177; in New York City, 198; in Val Susa, 48; market, 29, 64; trade, 11, 61; trafficking, 10, 55, 84
Du, Xiangu, 15
Duisburg (Germany), 33

Economic power, 3
Eighteenth Amendment (US Constitution), 115
18th gang (US and Salvador), 191
El Salvador, 190, 191, 234n2
Elections, and registration of voters, 48; European, 63; in Bardonecchia, 48, 49, 50, 63
Elizabeth (city, NJ, USA), 175
Elizabeth Street (New York City), 101, 106
Elson, Monya, and Vyacheslav Kirillovich Ivan'kov, 69; and Yossiff Roizis, 69; arrest in Fano, 70; birth, 68; in Fano, 69, 78; in New York City, 68, 69
Emilia Romagna region (Italy), 22, 78
Employment, illegal, 10, 63
Enterprises, illegal, 13
Erdélyi, Nándor, 92
Esquilino (Rome), and the Russians, 72
Ethnicity, 4
Eural Trans Gas, 91
European Union, 198, 199
Export-oriented economy, 8, 10, 24, 25; of Verona, 63
Extortion, 6, 203n9; and protection, 204n12; defined, 204n10; in Calabria, 208n13; in China, 161, 231n31; in New York City, 112, 114, 118, 125; in Rosario, 131; in Verona, 57–58
Extra-legal governance, mafias as forms of, 6

Facchini, Dino, 55
Facchini, Giorgio,* 82; and resource acquisition in Rome, 80; and Yakovlev's crew in Rome, 75
Famiglia Montalbano (book), 31
Fano, 78; Russian mafiosi in, 68; structure of the economy, 68
Fascism, 15, 17; mafia repression during, 105, 131
Federal Bureau of Investigation (FBI), 66, 92; and Semën Yudkovich Mogilevich, 86; and Monya Elson, 70
Ferrari, Marco,* 81–82; threatens Yakovlev, 81–82; wife of, 82
Ferraris, Maria, 138
Fiat (car manufacturer), 40
Financial crimes, 95
First World War, 104, 126, 135; and economic situation in Rosario, 133–134
Five Families (Italian-American mafia), 5, 121, 123, 126; see also Bonanno, Colombo, Gambino, Genovese, Lucchese crime families
Five Points (New York City), 106, 107
Flaccomio, Antonio, murder of, 112
Florida, 31
Flying Eagle crime group (China), 152
Forced resettlement (*soggiorno obbligato*), 6, 7, 11, 16, 50, 61; Gasparre Mutolo on, 17; to Emilia-Romagna, 37; to

Forced resettlement (*continued*)
Lombardy, 37; to Piedmont, 37; to Turin province, 209fn30; to Tuscany, 37; to Verona, 54
Ford, Gerald Rudolph Jr., 71
Foshan (Guangdong province, China), 166
Four Seas crime group (Taiwan), in China, 152, 167
14K crime group (Hong Kong and Macau), 167, 230n13; and gambling, 168; in China, 152, 167
France, 2, 35, 39, 131; `Ndrangheta in, 34; Sicilian mafia in, 105
Franchetti, Leopoldo, 102
Frejus tunnel, 36, 39
Frid, Carina, 129, 225n73, 225n74
Fujian province (China), 152, 172; and Taiwan, 152, 177; as a special economic zone, 147; crime groups in, 167; migration to, 147; Taiwan triads in, 152
Furforo, Nicodemo, 138
Fuzhou (Fujian province, China), Taiwanese triads in, 152, 153; prostitution in, 172

Gagliano, Tommaso, 115
Galicia (Spain), 3
Galiffi, Agata "Gatta," 140–141
Galiffi, Juan, and connections to political elite, 138–139; background, 130–131; criminal activities, 131, 138, 140; in Italy, 140, 141; known as "Al Capone Argentino," 130
Gálvez (Argentina), 131, 138
Gambetta, Diego, 4, 8, 13, 14, 25, 26
Gambino crime family (New York City), in Bardonecchia, 51–52
Gambling, 10; in China, 163; in Macau, 163–169; in New York City, 107, 125; police protection of, 108
Gangs of New York (book), 116
Garbage collection, 9
Garment industry, 9; mafia protection in, 115
Garton Ash, Timothy, 180
Gaynor, William Jay, 196, 197; reforming the New York City police, 109–111, 114, 120
Gazprom, 91
Genoa (Italy), 36
Genovese crime family (New York City), 123
Genovese, Vito, 119
Gentile, Nick "Zu Cola," 101, 120; background, 219n1; dual membership of Sicilian and American mafias, 121
Germany, 3, 99; `Ndrangheta in, 33, 34; Russian mafia in, 192
Gioiosa Ionica (Calabria, Italy), 41, 45, 51, 57
Global Trading, 2, 3
Globalization, 8, 21, 26, 79, 84; and organized crime, 3, 4, 192; as a factor affecting mafia transplantation, 10–12, 192
Gorbachev, Mikhail Sergeyevich, 1
Great Ring Gang crime group (Macau), 167
Greenwood Cemetery (New York City), 105
Guangdong province (China), as a special economic zone, 147; Courts in, 155; crime groups in, 166; drugs trafficking in, 173, 175; gambling in, 163, 165, 232n38; GDP in, 147; Hong Kong triads in, 150–151, 167, 177; migration to, 147, 229n4; recorded crime in, 229n4; Taiwan triads in, 151, 152
Guangzhou (Guangdong province, China), 147, 154, 232n44; debt-recovery in, 168; Macau triads in, 167–8; prostitution in, 171; recorded crime in, 229n4; Taiwan triads in, 152
Guatemala, 190, 191
Guevara, Ernesto "Che," 225n73

Haikou (Hainan province, China), Taiwanese gangsters in, 152
Hainan province (China), as a special economic zone, 147; Taiwan triads in, 152
He, Bingsong, 150, 151
Hearst, William Randolph, 197
Henan province (China), gambling in, 233n51
Herald (newspaper), 197
Hill, Henry, 24

Hill, Peter H., 13, 14, 15
Historical Index of Civic Traditions, 36
Ho, Stanley Hungsun, 164, 165
Holland, Camorra in, 18; `Ndrangheta in, 34
Hong Kong, 5, 10, 33, 146, , 149, 150, 153, 164, 165, 167, 169, 234n67; and drugs trafficking, 173, 175, 176, 178; anti-triads crackdowns in, 150, 151; investments into China, 147
Hoover, Herbert Clark, 115
Horse theft, in New York City, 112, 125
Hubei province (China), 156
Hungary, 9; Civil Law in, 89; Commercial Code in, 87; confidence in the legal system in, 88; courts in, 88; dispute settlement in, 89; economic criminality in, 88; gross domestic product, 87; migration to, 97, 99; real estate registration system in, 89; Red Army defectors in, 143; Russian gangs in, 86, 95; Solnstevskaya in, 86–93; tax avoidance in, 88

Ierinò, Cosimo, arrest, 59; in Calabria, 59; in Verona, 57
Il Libro Cuore (book), 225n73
Inagawa-kai crime group, 13; see also yakuza
Incaprettare (mafia-style murder), 57
India, 12
International organized crime, 3; see also transnational organized crime
Investments, and resource acquisitions, 83; as discussed in phone intercepts, 75–79, 83; by the Russian mafia in Italy, 76–79, 83; defined, 19, 75; in the economy by the mafia, 11, 61, 75
Inzerillo, Salvatore, 52
Ishii Susumu crime group, 13; see also yakuza, Inagawa-kai
Israel, 72
Italian-American mafia, 6, 16, 19, 25, 26, 101, 112, 143, 197, 206n23, 207n8; admission into, 120–121, 123, 126; admission ritual, 112; and Prohibition, 116–120; and relationship to the Sicilian mafia, 121, 123, 126; birth of, 114–120, 125, 196; Commission, 121; New York families, 121, 123; see also Five Families
Italy, 2, 30, 34, 78, 79, 84, 125, 129, 134, 140, 141; Central, 15, 78, 126, 133; fascism in, 105, 131; medieval, 206n35; migration from, 137; money laundering in, 95; Northern, 11, 15, 22, 30, 61, 78, 126, 128, 133, 137, 141, 205n17, 209n28; Southern, 16, 61, 126, 128, 137, 181, 198, 205n17, 209n28, 210n48; unification of, 193
Ivan'kov, Vyacheslav Kirillovich, 188; and Monya Elson, 69; investments in Hungary, 91; in the United States, 17
Izmailovo crime group (Russia), 78

Jackson, Henry Martin, 71
Jackson-Vanik Amendment, 71
Japan, 12; and the transition to the market economy, 194, 195; foreign criminals in, 15, 151, 230n11; origins of the yakuza in, 194
Japanese Mafia, The (book), 13
Jerome, William Travers, 109
Jiang, Jinxin, 167
Jiang, Qingyun, 156
Jiangmen (Guangdong province, China), 167
Jiangsu province (China), 147
Jiaotou, 151, 205n11; see triads, Taiwanese
Jinan Daily (newspaper), 156
Johns, Michael, 132, 134
Judiciary, in Bardonecchia, 63; in Verona, 63

Kamenskaya, Alina,* 75; and maintaining internal order in Rome, 82; and resource acquisition in Rome, 80
Kandov, Abner, 92
Kanonieri kurdebi, see *vory-v-zakone*
Kansas City, 20, 101
Karsai, Gábor, 87, 88
Katona, Géza, on the mafia in Hungary, 88–89
Kelly, Paul (Paolo Vaccarelli), and Five Points gang, 114

Kezich, Tullio, 26
KGB (Komitet gosudarstvennoy bezopasnosti), 71, 86
Khabarovsk (Russia), Chinese organized crime in, 15
Kidnapping, and Masseria, 118; in Rosario, 129, 131, 139–140, 142; in Verona 57
Korea, 77, 82
Kostina, Sonya,* role in the Russian mafia group in Rome, 83
Krysha ("roof" protection arrangement, Russia), 67, 158
Kurgan crime group (Russia), 78

La Boca (Buenos Aires), 126
La Crítica (newspaper), 131, 139
La Maffia (play), 140
La Rioja province (Argentina), 131
La Stampa (newspaper), 50
La Torre, Pio, 42
La Veronese (type of heroin), 56
Labor market, 3, 9
Labor racketeering, in Bardonecchia, 41, 43, 52
Ladispoli (Italy), 72; camp for Soviet refugees in, 72
Landesco, John, 6
Lao Da (Big Brother), 15
Las Vegas, 20, 21, 27, 163, 164, 192
Latin Kings gang (US and Guatemala), 191
Lavagna (Liguria), 225n73
Law enforcement, in Bardonecchia, 63; in Verona, 63
Lazio region (Italy), 74
Lei, Hanshan, 160
Lemlich, Clara, 109
Lewis, Roger, 53, 55
Lexow Committee (New York State Senate Inquiry, 1894–1895), 108, 109
Li, Deliang, 168
Lianping county (Guangdong province, China), 163
Liga del Sur (political party, Argentina), 138
Liguria region (Italy), and migration to Argentina, 128, 129, 132, 134, 225n73
Liquor Dealers' Association (New York City), 109
Little Italy, 118
Liwan district (Guangzhou, Guangdong province, China), 168
Lo Presti, Rocco, 51, 57; and politics, 48, 63; control of construction sector in Bardonecchia, 44, 49; convictions, 44; death, 45, 50; move to Bardonecchia, 44–46, 50; salary of, 64
Locale, defined, 32
Lombardy region (Italy), 78; and migration to Argentina, 128, 129, 134; forced resettlement of mafiosi to, 16, 37; social capital in, 28
London, 70; arrests rates in, 108; as the destination of Russian Jewish refugees, 72; murder of Roberto Calvi in, 20
Long Island, 116, 117
Lu, Botao, 155
Lubavitch Movement, 72
Lucchese crime family (New York City), 115; in lathing and plastering industry, 115
Luciano crime family (New York City), 123; see also Genovese crime family
Luciano, "Charlie Lucky" (Salvatore Lucania), 114, 206n22; and Prohibition, 116; Boss, 121
Lupara (sawed-off shotgun), 44
Lupo, Ignazio, 104, as a counterfeiter, 112
Lvov University, 86

Macau, as a Special Administrative Region of the People's Republic of China, 163; gambling in, 163–166; loan sharking in, 163–164; Triads, 164, 167, 178; VIP rooms in, 164–166
Machiavelli, Niccolò, 68, 81
Mafia limpia (Rosario), 137
Mafias, 4, 6, 23, 41, 143; ability to collect information by, 14, 25, 26; advertisement by, 26; agency problems in, 14, 25, 26, 27; as a form of extralegal governance, 6; emergence of, 5, 12; liquid, 4, 143, 190; localized, 13, 191; recruitment into, 19

Mafiosi, 8, 156; communication among, 14; fake, 25; migration of, 27, 93, 104–6, 129–131, 150–153, 177, 190, 192 ; supply of, 9, 11, 61, 86
Magazzolo Valley (Agrigento, Italy), 129
Mai, Guoqing, 168
Maintaining internal order, in mafia groups, 76, 96; in the Russian mafia group in Rome, 81–83
Manhattan, 106, 107, 114, 116, 118, 121
Mano Negra, 139, 142, 227n95; see also Black Hand
Mara Salvatrucha gang (US and Salvador), 191
Maranzano, Salvatore, and Castellammare War, 121, 123; and Prohibition, 119, 224n57; as boss, 121; background, 119, 221n13; death, 121, 123; in Sicily, 220n10; in the Schiro crime family, 120
Marche region (Italy), 78; and migration to Argentina, 128, 134, 137; economy of, 68; Russian mafiosi in, 68
Margherita Laziale* (Italy), 73, 75
Maritati, Fabio, murder of, 58
Market economy, transition to, 12, 29, 87–90, 194–195
Markets, emergence of new, 8, 28, 64, 87, 93; illegal, 8, 24, 75; legal, 154–163
Marrone, Francisco "Don Chico," 130; criminal activities in Rosario, 137; death, 131, 140; migration to Argentina, 131
Martiré, Jose, 139
Maspoli construction company (Rosario), 135
Masseria, Giuseppe "Joe the Boss," 104, 117; and Castellammare War, 121, 123; and Prohibition, 118–119; arrival in the USA, 220n7; Boss, 118, 121; death, 123
Maxi Trial of the Sicilian mafia, 104
Mazzaferro crime group (Italy), 9, 29; in Bardonecchia, 36, 51, 63; in Verona, 29
Mazzaferro, Francesco "Ciccio," 44; charges, 45; control of excavation business in Bardonecchia, 45; convictions, 45; in Bardonecchia, 50; move to Bardonecchia, 45
Mazzaferro, Giuseppe, 57
Mazzaferro, Vincenzo, 57
McAdoo, William, 108
McClellan Committee (US Senate), 123
McClure Magazine, 106
McCoy, Bill, 116
Meiji period (Japan), and the transition to the market economy in Japan, 194
Messina (Italy), 112
Micheletti construction company (Rosario), 135
Middle East, 55
Middle Kingdom, 10, 146, 158; see also China
Migration, 3, 6, 7, 10; as a factor conducive to mafia transplantation, 16, 36–37, 53–54, 61, 71–72, 86, 104, 126, 128, 147, 149, 191; from South to North of Italy, 37; of Hong Kong and Taiwan triad members to China, 150–153; of Italians to Argentina, 126–128, 141–142; of Italians to Rosario, 129; of mafiosi, 27, 93, 104–6, 129–131, 150–153; of organized crime, 3; of population, 5, 16, 27, 104, 126–129, 141–142, 147, 149; of Russians to Hungary, 86, 97, 98; of Russians to Rome, 71, 73; of Soviet Jews to the USA, 71–72; to New York City, 104; to Verona, 54; within China, 147, 149
Mikhailov, Sergei, biography, 65–66; in Budapest, 86, 91
Milan, 3, 140; migration from South of Italy to, 37, 54, 61
Milwaukee, 20
Ministry of Public Security (China), 153, 159, 229n4, 231n32
Mochin, Andrey, 92
Modane (France), 36
Mogilevich, Semen Yudkovich, 86, 92; in the oil business, 91; money laundering in Hungary, 90
Moises, Naim, 3
Moldova, 68

Money laundering, in Bardonecchia, 48, 51, 64; in Hungary, 90; in Italy, 76
Mong Kok (Hong Kong), 146
Montevideo, 140
Moray, Alastair, 116
Morello, Giuseppe, 104; arrest, 120, 222n33; as a counterfeiter, 112, 120; *borgata*, 121; death, 222n33
Morello, Tony, 112
Morello, Vincent, 112
Mori, Cesare, 105
Morozov, Akim,* 189
Morozov, Nikita,* 188
Morozova, Ekaterina,* 189
Moscow, 1, 3, 65, 71, 73, 74, 77, 82; Georgian *vory-v-zakone* in, 17; protection activities of the Russian mafia in, 81
Motivations to open a mafia outpost, 4, 6, 18–21, 75–81; acquisition of arms as, 12
Movimento Sociale Italiano (Political Party, Italy), in Verona, 58
Mulberry Street (New York City), 106, 117
Munich, 55
Mussolini, Benito, 105
Mutolo, Gasparre, on forced resettlement, 17

Nanjing (Jiangsu province, China), 155, 159
Nanshan district (Shenzhen, Guangdong province, China), 152
Naples, 24
Nassau county (New York), 116
National Security Authority (Hungary), on organized crime, 92
`Ndrangheta, 5, 9, 13, 125, 199; expansion of, 33; in Bardonecchia 41–53, 63; in the drug market, 64; in Verona, 53–61, 64; origin of the word, 31; role of kin, 33–4
`*Ndrina*, defined, 31
Népszava (newspaper), 92
Netherlands, 3
Network analysis, 97
New Jersey, 116, 117, 118, 175
New York City, 5, 12, 17, 70, 111, 133, 136, 142, 146, 196–197; Black Hand crimes in, 139, 142, 222n36; consolidation of, 196, 235n10; docks in, 198; economic structure, 106, 224n57; immigrant population residential patterns in, 106, 223n47; Italian migration to, 101, 104, 106, 125, 126, 142; police corruption in, 143; Sicilian mafiosi in, 18, 105, 111–114, 129
New York Morning Journal (newspaper), 197
New York Police Department, 109, 197
New York State, 119, 125
New York Times (newspaper), 108, 197; on curb exchanges, 117; on horse stealing in New York City, 112
New York World (newspaper), 197
Newark (NJ, USA), 175
Newell, Claudio, 138
Nixon, Richard, 71
North Korea, 78
Northern League (political party, Italy), 16, 50
Nuclei Armati Rivoluzionari (terrorist group, Italy), in Verona, 54
Nuovo Banco Ambrosiamo (Bank), 1
Nuvoletta crime group (Italy), 24

Obshchak (common fund), of Solntsevskaya crime group in Moscow, 68
Oil sector, in Hungary, 89, 91, 93
Olivetti, 77
Omertà, see Code of Silence
Operation Thunderbolt (Taiwan), 151
Orekhovskaya crime group, 66; see also Russian Mafia
Organization for Economic Cooperation and Development, 198
Organized crime, 4, 22, 190, 199, 200; and democracy, 195, 196; and EU subsidies, 198; and globalization, 3, 4, 192; groups in China, 181–187; in Hungary, 86, 89, 92; in New York City, 120; in Taiwan, 151–152, 205n11; official Chinese definition of, 153; see also *jiaotou*
Outsourcing, 12

Padroni system, 137
Pakistan, 55
Palermo, 103
Parkhurst, Charles H., 196
Parmalat, 24
Partido Comunista de la Argentina, 133
Partido Radical (Argentina), 133, 138, 139, 142; see also Unión Cívica Radical
Partito Comunista Italiano (Italy), 55, 58, 59, 63, 74, 75
Partito Democratico della Sinistra (Italy), 49
Partito Social Democratico Italiano (Italy), and `Ndrangheta's attempt to penetrate it in Verona, 58–59
Paz del Trigo, 133
Pearl River (China), 147, 152
Pendino, Gaetano, 101, 130, 139; and the construction sector in Rosario, 134–135, 227n87; criminal activities, 137, 138, 227n91; mafia boss in Rosario, 130, 138
Pennochio, Tommy, 118
Pennsylvania, 119
Pentito/i (state witnesses), 19, 33, 34, 46, 209fn21
People's Republic of China, 146, 163, 180; see also China
Pepe, Giovanni,* and investments in the Italian economy, 79; and Yakovlev's crew in Rome, 75
Pesaro (Italy), 68
Philadelphia, 120
Philippines, Taiwanese gangsters in, 151, 152, 230n11; yakuza members in, 17
Phnom Penh, 15
Piazza dei Signori (Verona), drugs trading and consumption in, 55
Piazza Delle Erbe (Verona), 53, 59; drugs trading and consumption in, 55
Piedmont region (Italy), 5, 9, 10, 11, 22, 30, 45, 53, 61, 78, 196; forced resettlement of mafiosi to, 16; migration to Argentina, 129, 132
Pine Union crime group (Taiwan), in China, 152
Pisa (Italy), 72
Pittsburgh, 120
Poland, 99
Police, 28, 177, 191, 196, 200; and protection of prostitution in China, 171–172; corruption in China, 161, 171; corruption in New York City, 107–111, 114, 143, 197, 221n23; in Bardonecchia, 63; in China, 150, 151, 159, 163, 168, 175, 178, 180; in Hong Kong, 150, 153; in Hungary, 88; in Rosario, 131, 133, 137, 138, 139, 140, 141, 142; in Taiwan, 151, 153; in Verona, 63; investigation into the Russian mafia in Rome, 83, 85, 95–96, 188, 189; Italian, 70, 76, 83; reform in New York City, 109–11, 197, 222n27; religious, 200
Polifroni, Cesare, 32
Politics, in Bardonecchia, 48, 52, 63; in Verona, 63; penetration by the mafia, 25, 48, 63
Porta Nuova crime family (Palermo), 20, 192
Porto Empedocle (Sicily), 120
Possibility principle, 29
Poultry production, 9
Prague, protection activities of the Russian mafia in, 81
Prioni construction company (Rosario), 134, 135
Prisoners' dilemma, cartel agreements as a solution to, 6
Privatization, in Hungary, 87
Profaci crime family, 121; see also Colombo crime family
Progressive Movement, 114, 115, 125, 197
Prohibition (USA), 9, 28, 61, 115–120, 142, 143, 197; and Finland, 223n38; and the emergence of the Italian-American mafia, 125, 126; and the New York crime families, 121, 197; end of, 224n56
Promstroybank, 1
Property rights, 8, 12; state's ability to define and protect, 28, 93, 95; theory of mafia emergence, 12, 193–195
Prostitution, 10, 23, 84, 177, 178; Chinese legislation on, 171; fight against, 180; in Budapest, 91; in China, 150,

Prostitution (*continued*)
153, 161, 162, 170–172, 233n56; in Dalian, 171–172; in Fuzhou, 172; in Macau, 169–170; in New York City, 9, 107–108, 125, 126, 197; in Rosario, 228n99; in Zhuhai, 167; police protection of, 108, 171, 178; protective umbrellas and, 172, 178
Protection, 5, 6, 8, 9, 24, 42; and transplantation, 8–9, 143; as a market, 16; by the Italian mafia in New York City, 114–120; by the Russian mafia in Rome, 81; criminal, 10, 11, 22, 23, 28, 89, 93; defined, 75–76; demand for criminal, 7–8, 11, 21, 23, 25, 63, 89, 93, 133, 134, 143; in Hungary, 89, 91–93; in Russia, 93, 158; state, 10, 63
Protectionism, 23
Protective umbrellas, in China, 10, 125, 158, 171, 172, 177, 178, 180; in New York City, 106–111, 196
Protector/s, local, 63; see also mafia, mafiosi
Pulitzer, Joseph, 197
Putin, Vladimir Vladimirovich, 1
Putnam, Robert D., 11, 22, 23, 27, 36, 53

Qinhuai district (Nanjing, Jiangsu province, China), 155
Quatertaro, Carlo, 112

Raffadali (Agrigento, Italy), 129, 130, 138, 226n75
Randisi, Francisco, 137
Rapporto Sangiorgi (police report), 103
Ravanusa (Agrigento, Italy), 130
Red Badge of Courage, The (book), 197
Reggio Calabria (Italy), 32, 33, 53
Reina crime family (New York City), 115, 121; see also Lucchese crime family
Reina, Gaetano "Tom," 115
Reputation, 4; for violence of mafia groups, 4, 14, 25, 26
Resource acquisition, 4; and investments in the economy, 83; as a motivation to open a mafia outpost, 4, 11, 18–19, 61; as discussed in phone intercepts, 79–80, 83; defined, 75; ficticious marriages as a form of, 80
Reuter, Peter, 4, 8, 13, 14, 25, 26
Riina, Salvatore "Totò," in Bardonecchia, 52
Río de la Plata, 126
Rise of the Network Society, The (book), 3
Rizzi construction company (Rosario), 134, 135
Roizis, Yossiff, 68; and cooperation with authorities, 70; and Monya Elson, 69; bank transactions, 69; drug dealing, 69; in Budapest, 69; in Fano, 69, 78
Romania, 99
Rome, 1, 2, 3, 5, 10, 11, 21, 30, 70, 71, 74, 75, 86, 90, 93, 96, 125, 177; and Russians, 72, 73, 97; migration from South of Italy to, 37, 54, 61; money laundering in, 76; population of, 216fn15; Solntsevskaya in, 5, 15, 83, 84, 85, 97, 188, 189, 190, 192
Romeo and Juliet (play), 53
Ronco (Verona), 57
Roof protection system, see *krysha*
Rosa dei Venti (terrorist group), in Verona, 54
Rosario, 5, 29, 102, 225n73; as the Chicago Argentina, 226n75; capital of Argentina, 132; construction sector in, 24, 134–137, 142, 143, 227n88, 227n89; criminality in, 137–142; economic conditions, 10, 131–133; Italian migration to, 104, 129, 225n74; mafia in, 5, 29, 126–131, 137–142; police repression of trade unions in, 133, 142; prostitution in, 228n99; Sicilian mafiosi in, 18, 101, 129–131
Rosarno (Italy), 199
Rosas, Juan Manuel de, 132, 133
Rose Revolution (Georgia), 17
Rose-Ackerman, Susan, 22
Rostovtsev, Konstantin,* and Yakovlev's crew in Moscow, 74
Rothstein, Arnold, 116–117
Rum Row, 116, 119, 125; see also Prohibition
Russia, 2, 17, 33, 71, 75, 76, 77, 78, 79, 85, 86, 158, 189, 190, 195, 205n1; de-

[162.10.217.184] Project MUSE (2026-06-15 01:44 GMT) University of Queensland

fault on international loans in 1998, 83; migration from, 93; post-Soviet, 12, 194
Russian mafia, 3, 9, 13; in Hungary, 86–93; in Rome, 68–86; origins, 194; see also Izmailovo crime group; Kurgan crime group; Orekhovskaya crime group; Solntsevskaya crime group
Russian Orthodox Church, 65

Sabella, Salvatore, 118
Sacra Corona Unita, 15
Saint Louis, 20
Saint Petersburg, 1, 71
Salta province (Argentina), 131
San Juan province (Argentina), 141
San Lorenzo (Argentina), 131
San Luca (Calabria, Italy), 32, 33
Sanctuary of Our Lady of Polsi, 32
Santa Fe (city, Argentina), 131
Santa Fe province (Argentina), 131, 138; criminality in, 139; Italian migration to, 126; land tenancy in, 132; political elite in, 139
Santo Stefano Quisiquina (Agrigento, Italy), 129
Santos, Diamantino, 164
Saracco, Cayetano, 138
Satan's Circle (New York City), 106, 196, 197; vice in, 106–107
Schiro crime family (New York City), 119, 120, 121, 221n13
Schiro, Nicolò "Cola," 120
Sciarrone, Rocco, on mafia transplantation, 15
Second World War, 20,53, 68, 87
Serbia, 91, 99
Seres, Zoltán, 91
Sergeev, Boris,* 1, 2, 188; and resource acquisition in Rome, 80; background, 74, 188; cities where he resided, 2, 188; crimes committed by, 2; murder, 3, 83, 189–190
Sergeev, Sasha,* 2
Sergeeva, Nadia,* 2; role in the Russian mafia group in Rome, 83
Serondino (Argentina), 129
Shakespeare, William, 53
Shan State (Burma), 172
Shanghai, debt-recovery in, 168; migration to, 147, 229n4; port of, 176; Taiwan triads in, 152
Sharpe, Ali Ben Amar de, see Francisco Marrone
Shelley, Louise, 3
Shenzhen (Guangdong province, China), 146, 149, 154, 157, 180, 229n8; concubine villages in, 150; crime in, 229n4; drugs trafficking in, 173, 175, 176, 178; economic situation in, 228n3; history of, 147; Hong Kong triads in, 150, 151, 152, 153; migration to, 229n4; Taiwanese triads in, 152, 153
Shenzhen river, 146
Sichuan province (China), 176
Sicilian mafia, 3, 102–104; and Fascism, 17; branches outside Sicily, 15; in Rome, 20, 84; in Tunis, 15, 18, 105; origins, 102–3, 193–194; *pentiti* in, 33
Sicilian Mafia, The (book), 13
Sicily, 7, 12, 17, 22, 33, 45, 105, 111, 114, 115, 119, 120, 125, 129, 136, 220n8, 220n12, 226n78; banditism in, 133; mafia in, 102–104; migration from, 54, 128, 134, 142, 221n12; transition to the market economy in, 195; western, 103, 132
Siculiana (Sicily), 101
Sidelnikov, Fedya,* 73; and Yakovlev's crew in Rome, 74; tasks, 79, 82
Siderno (Calabria), 32
Sidorov, Vladimir,* 98; tasks, 82
Silvestrokie (followers of Timofeev), 73; see also Solntevskaya crime group
Size of territory, as a factor affecting transplantation, 63
Smith, Harald, 36
Smith, Trigwe, 36
Social capital, 11, 22, 23; and transplantation, 64; in Bardonecchia, 51; in Piedmont, 36; measured, 51
Sociedad Cosmopolita de Obreros Albañiles (Rosario), 134, 135
Società dei Mulini (Sicily), 102

Society of Tammany (New York City), 107, 115
Soggiorno obbligato, See forced resettlement
Solnstevo district (Moscow), location of, 65; meaning of the word, 65
Solntsevskaya crime group, 3, 5, 9, 74, 77, 82, 95; as a form of extralegal governance, 6; control of businesses, 68; fictitious marriages of members in Rome, 80; in Budapest, 5, 15; in Italy, 68; in Moscow, 29; in Rome, 5, 15, 17, 84, 97; in the United States, 17; internal division of labor in Rome, 79, 80, 81, 84; *obshchak* (common fund), 68, 84; origins, 65–66; protection activities in Rome, 81; rituals, 85; role of women in Rome, 82; ruling council, 68; size of, 67; study of, 95–97; see also Russian mafia
Sotto-`ndrina, defined, 31
Soviet Union, 1, 3, 17, 65, 72, 81, 97, 158, 181
Spain, Georgian *vory-v-zakone* in, 17
Spatola crime family (Sicilian mafia), in Bardonecchia, 52
Special Economic Zones (China), 147, 173
Spilotro, Anthony, in Las Vegas, 20, 26, 192
State witness/es, see *pentito/i*
Steigura, Leonid Goldstein, 92
Sterling, Claire, 3
Suffolk county, 116
Suifong (Water Room) crime group (Macau), 166, 167
Suizhou (Hubei province, China), 156
Sullivan, Timothy Daniel "Big Tim," and Democratic political 'machine' in New York City, 107–8
Sun Yee On crime group (Hong Kong), in China, 150–151, 152
Switzerland, 78

Taiwan, 10, 33, 146, 147, 150, 157, 169; ban on visiting China lifted, 147; campaigns against organized crime in, 17, 151–153; investments to China, 147
Taiwan Strait, 152
Taiwanese language (Hokkien), 152, 177
Tenderloin, see Satan's Circle
Terranova, Ciro, 112
Thailand, "speed" epidemic in, 173; Taiwanese gangsters in 25, 151, 152
The Criminal Brotherhood (book), 105
The Prince (book), 68
Times, The (London newspaper), 105
Timofeev, Sergei, nicknamed Sil'vestr, and Yakovlev, 73; founder of the Orekhovskaya crime group, 66
Tocqueville, Alexis de, 102, 191
Torre, Lisandro de la, 138
Trade unions, 9; in Bardonecchia, 42, 47; in New York City, 114, 196; in Rosario, 133
Transnational organized crime, 3, 7; consensus, 4; see also International organized crime
Transplantation of mafia groups, 4, 5, 12, 15, 23, 24, 25, 61, 142–143; and presence of local protectors, 25; and relationship with mafia of origin, 7, 51, 64, 92; and size of the new territory, 25, 28, 143; as an un-intended consequence, 21; defined 6–7; factors conducive to, 16–21, 27, 61; failed, 11, 86; in order to conquer new markets, 20; investments in the legal economy as a factor conducive to, 19, 192–193; long-term, 11; to escape mafia wars, 7, 17, 27, 73, 93, 105, 125, 142–143; to escape state prosecution, 7, 8, 17, 18, 105–106, 125, 131, 151–153, 177, 198; to Hungary, 93, 95; to Piedmont, 37; to Rome, 93, 95; to Rosario, 129–131, 137–142; to Verona, 60; what is not, 7
Trapani (Italy), 102
Triads, 3; as a form of extralegal governance, 6; Hong Kong, 6, 10, 13; in China, 125, 150–153; Taiwanese, 5, 6, 10, 25
Trust, 21, 22, 61, 190, 192, 206n35; and mafia transplantation, 64, 143; generalized, 11, 21; high level of, 11, 143, 195; in Bardonecchia, 52; in China, 156; in Piedmont, 36; in Sicily, 219n3; interpersonal, 29, 36, 47, 61, 156; lack

of, 8, 219n3; low level of, 28; social, 11; within criminal groups, 193
Tucumán (Argentina), 139, 141
Tunis, Sicilian mafia in, 15, 18, 105
Turin (city, Italy), 5, 35, 36, 37, 46, 50, 52; `Ndrangheta in, 51; migration to, 54, 61; unemployment in, 40, 60
Turin (province, Italy), 48, 212fn79; elections in, 51; murders in, 46; *soggiorno obbligato* in, 37, 209fn30; the judiciary in, 63; the police in, 63
Turkmenistan, 91
Tuscany, 77, 78
Tverskaya hotel murder, 3–4, 189–190; See also Sergeev, Boris

Ukraine, 91, 99
Unemployment, 12
Unión Cívica Radical (Argentina), 138
Unión Cívica Radical Antipersonalista (Argentina), 138
United Nations, 188
United States, 5, 9, 16, 17, 19, 25, 33, 60, 61, 68, 115, 121, 147, 149, 177, 190, 197; as the destination of Russian Jewish refugees, 71–72, 215n8, 215n10; drugs route into, 175, 176, 178, 198; Italian migration to, 101, 104, 105, 106, 120, 126, 219n5, 221n12; Italian-American mafia in, 114–126, 224n60; Latino gangs in, 191; `Ndrangheta in, 34; Solntevskaya in, 90, 188, 205n22
United States Coast Guard, 119
Urbán, László, 87
Urbino (Italy), 68
Ursini-Scali crime family (Italy), 51
Ursino, Giuseppe, 51

Val Susa (Piedmont), 34, 35, 36, 51, 52, 212fn64, 212fn70; arms trafficking in, 48
Valachi, Joe, 123; testimony of, 123, 126
Variation on the dependent variable, 29–30
Vario, Paul, 24
Vasin, Evgenii Petrovich, 15
Vendetta crime, 137, 138
Veneto region (Italy), 5, 22, 29, 30, 53, 61, 70
Venezuela, 77
Venice, 78
Verbanio-Cusio-Ossola (Piedmont), 51
Verona, 10, 11, 29, 30, 75, 143; `Ndrangheta in, 54, 57–59, 125; drug consumption in, 53, 55; drug trafficking in, 55, 56, 59; economic structure of, 53; extortion, 57; forced resettlement to, 54; kidnappings in, 57; migration to, 54, 61, 213n102; neofascists in, 54; population of, 53; violence in, 56–58
Via Aurelia (Strada Statale number 1, Italy), 72, 73
Victory crime group (Hong Kong), 150, 230n8
Vienna, 2, 70, 72, 74, 188
Vietnam, 25
Villa Constitución (Argentina), 141
Villa Gobernador Gálvez (Argentina), 129
Violence, as a resource for mafias, 14; in Bardonecchia, 41, 46–47, 52; in Hungary, 89, 90; in Rome, 82–84; in Rosario, 131; in Verona, 56–58; industry, 89; supply of people trained in, 12
Vladivostok, Chinese organized crime in, 15
Vlasik,* and Yakovlev's crew in Moscow, 75; cheating on Yakovlev, 82; murder, 82
Volstead Act (USA), 115
Vory-v-zakone (thieves with a code of honor), 81; in Georgia, 17

Wa area (Burma), and drugs production and trafficking, 172–173, 176, 178, 233n63
Wa Army , 173
Waldo, Rhinelander, 109
Washington Post (newspaper), on the mafia in Hungary, 90
Water Room crime group (China), 166
Welles, Orson, 197
White Fence crime group (US and Guatemala), 191
Williams, Phil, 3
Wiseguy (book), 24
Wo Shing Tong crime group (Taiwan), in China, 152

Wo Shing Yee crime group (Macau), in China, 167
Women, in the Russian mafia in Rome, 82, 85
World Trade Center (USA), 176
World War Two, see Second World War
Wu, Tungtang, 152, 153; see also Celestial Alliance

Xiamen (Fujian province, China), 152

Yakovlev, Ivan,* ally of Timofeev, 73; and maintaining internal order, 82, 85; and resource acquisition in Rome, 80; and Sergeev, 188, 189; and the Moscow criminal underworld, 74; arrest, 85; companies, 188; escaping from Moscow to Rome, 17, 73, 83, 125, 192; in Margherita Laziale, 75; in Miami, 73; Italian police investigation into, 70–71;
member of the ruling council of the Solntsevskaya crime group, 70, 73; money laundering in Italy, 76, 77, 78, 79, 192; use of violence, 216n39
Yakovleva, Marina,* and maintaining internal order in Rome, 82
Yakuza, 13; as form of extra-legal governance, 6; members in the Philippines, 17; origins, 194
Yuan, Jiuhong, 160
Yugoslavia, 15, 55
Yunnan province (China), 173, 175

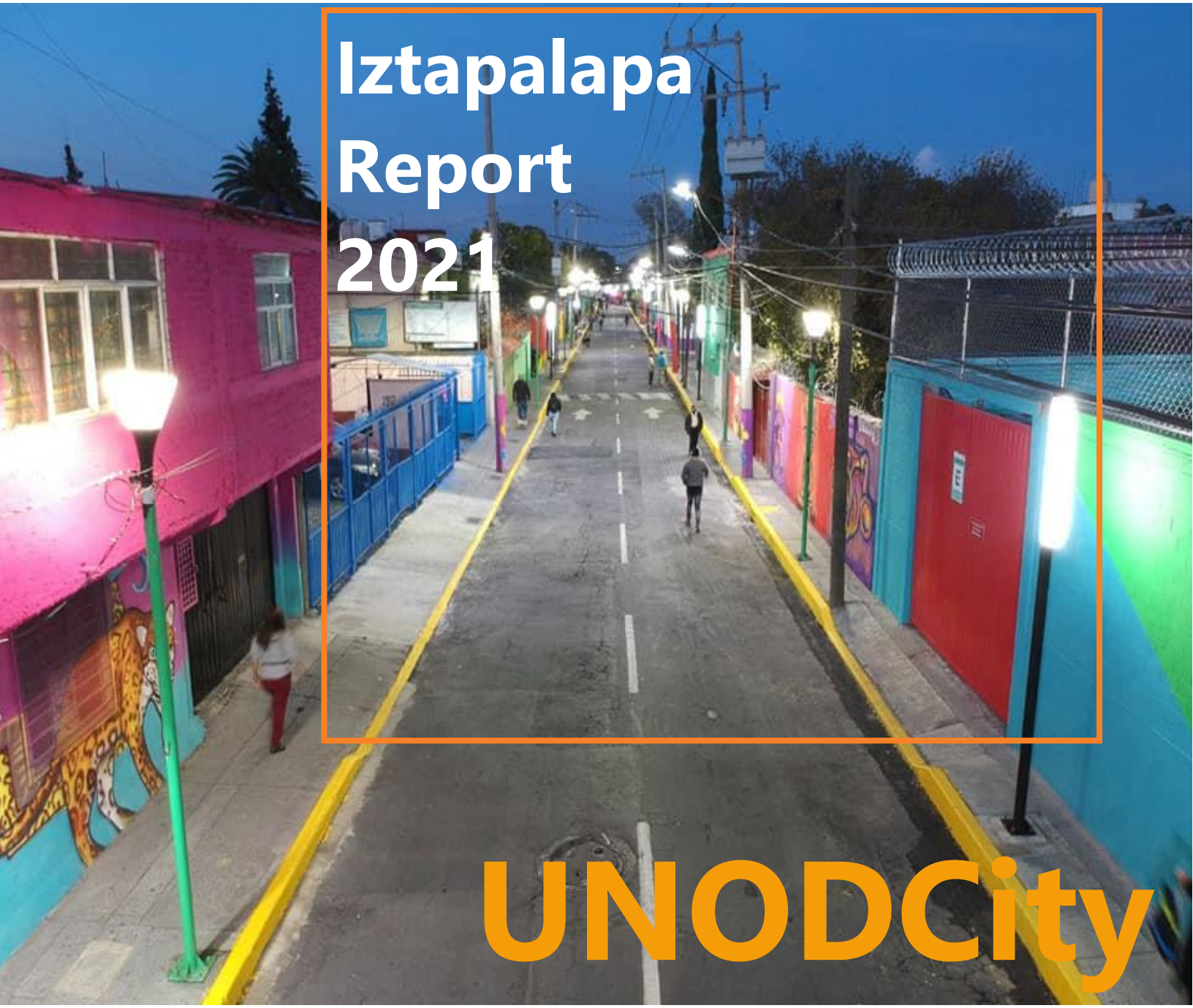
Zedda, Aldo, 40
Zedda, Iginio, 40
Zeng, Jijun, 167
Zhai, Yunfeng, 155
Zhejiang province (China), 147
Zhuhai (Guangdong province, China), 167, 228n3
Zunyi (Guizhou province, China), 161
Zurich, 3

* indicates that the name is a pseudonym.

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STATISTICAL INFORMATION ON GOVERNMENT, CRIME, VICTIMIZATION AND JUSTICE

UNODCity
Urban Safety Governance Initiative



Iztapalapa Report 2021

UNODCity

SAFETY GOVERNANCE APPROACH IN URBAN ENVIRONMENTS

FOR SAFE, INCLUSIVE AND RESILIENT CITIES

United Nations Office on Drugs and Crime
(Mexico)

Urban Safety Governance Assessment

UNODC United Nations Office on Drugs and Crime

Center of Excellence in STATISTICAL INFORMATION ON GOVERNMENT, CRIME, VICTIMIZATION AND JUSTICE

UNODCity Urban Safety Governance Initiative

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Contents

PREFACE 12

INTRODUCTION 13

EXECUTIVE SUMMARY 15

URBAN SAFETY GOVERNANCE ASSESSMENT APPROACH 17

1. URBAN AND INSTITUTIONAL CONTEXT 22

1.1. GEOGRAPHIC CONTEXT 24
1.2. SOCIODEMOGRAPHIC AND SOCIOECONOMIC PROFILE 24
1.3. CULTURAL CONTEXT OF IZTAPALAPA 28
1.4 GOVERNANCE IN IZTAPALAPA 31
1.4.1 Public security legal framework of the Mayor's Office of Iztapalapa 33
1.4.2. Public Security and Justice Institutions working with the Mayor's Office of Iztapalapa 33
1.4.3. Public security actions 35

2. MAIN CHALLENGES IN IZTAPALAPA 48

2.1 CRIME OVERVIEW OF IZTAPALAPA 48
2.1.1 Perception of insecurity in Iztapalapa 48
2.1.2 Witnessing antisocial behavior 50
2.1.3 Most reported crimes in Iztapalapa 52
2.1.4 Illicit drug and arms markets in Iztapalapa 107
2.1.5 Organized criminal groups in Iztapalapa 116
2.2 PROBLEMATIC USE OF ALCOHOL AND DRUGS 129
2.3 URBAN AND ENVIRONMENTAL CHALLENGES IN IZTAPALAPA 135
2.3.1 Housing deterioration and quality 136
2.3.2 Essential urban services 138
2.3.3 Health problems due to environmental abandonment 139
2.3.4 Deficiencies in infrastructure and equipment for urban mobility 141
2.4 RISK ANALYSIS IN 44 NEIGHBORHOODS OF IZTAPALAPA 155

3. ANALYSIS OF THE INSTITUTIONAL CAPACITIES OF THE MAYOR'S OFFICE OF IZTAPALAPA 158

Principle 1. Promoting a participatory society 158
Principle 2. Guaranteeing the Rule of Law 162
Principle 3. Having transparency mechanisms 163
Principle 4. Acting responsibly and reactively 164
Principle 5. Maintaining consensus-oriented decision making 166
Principle 6. Performing in an equitable and inclusive manner 167
Principle 7. Acting efficiently and effectively 171
Principle 8. Accountability 173

CONCLUSIONS 176

METHODOLOGICAL ANNEX 178
INDICATORS ANNEX 189
GOOD PRACTICES IN CRIME PREVENTION PROGRAMS AT THE GLOBAL LEVEL ANNEX 194
DIRECTORY OF SERVICES AND PROCEDURES OF THE MAYOR'S OFFICE OF IZTAPALAPA 196
DIRECTORY OF CIVIL SOCIETY ORGANIZATIONS IN IZTAPALAPA 197
REFERENCES 198

Figure index

List of maps

Map 1. Boundaries, main elevations and territorial division of Iztapalapa 24
Map 2. UTOPIAS in Iztapalapa 39
Map 3. Iztapalapa's division of 9 sectors and 134 quadrants 44
Map 4. Location of Administrative and Territorial Coordinating Bodies 45
Map 5. Prisons in Iztapalapa 47
Map 6. Reported crimes on domestic violence in Iztapalapa, 2015 and 2019 56
Map 7. Spatial concentration of reported crimes on domestic violence in Iztapalapa, 2020 61
Map 8. Case of domestic violence in San Miguel Teotongo, 2019 62
Map 9. Spatial concentration of reported crimes against women in Iztapalapa: rape, femicide, and sexual assault and harassment, 2016 and 2019 66
Map 10. Reported robberies in Iztapalapa, 2015 and 2019 85
Map 11. High concentration of reported robberies from the person in a public location, 2020 89
Map 12. Robbery in public transport in Iztapalapa, reports in 2015-2020 92
Map 13. Victims of robbery nearby metro station Constitucion de 1917 and Tepalcates in Iztapalapa, January to June 2020 92
Map 14. Location of street markets and formal markets 94
Map 15. Most reported crimes committed in *Central de Abastos* and fishmarket *La Nueva y Vieja Viga* 95
Map 16. Crime reports in the Street market El Salado and its proximities. 96
Map 17. Crime reports in the street market Las Torres 97
Map 18. Reported drug dealing in Iztapalapa, 2016 and 2019 108
Map 19. Reported crimes on drug dealing in Iztapalapa, 2020 109
Map 20. Reported crimes committed with firearms in Iztapalapa, 2016 and 2019. 111
Map 21. Reported crimes committed with firearms in Iztapalapa, 2020 113
Map 22. Reported threats and extortions in Iztapalapa 2016 and 2019 117
Map 23. Reported crimes on threats and extortion in Iztapalapa, 2020 118
Map 24. Witnessing of alcohol consumption and drug use in Iztapalapa, and location of civil society attention centers specialized in the treatment of addictions 131
Map 25. Location of irregular human settlements and multi-dwelling units 137
Map 26. Garbage dumps and their relation to irregular human settlements 140
Map 27. Location of crimes and dark places in the Leyes de Reforma 3rd section neighborhood 142

Map 28. Total SCALLs installed in the neighborhoods of Iztapalapa 144
Map 29. Risk of flooding and beneficiaries of the Rainwater Harvesting Program 144
Map 30. Location of the Free and Safe Women's Corridors in Iztapalapa 145
Map 31. Results of the level of risk by neighborhood 156

Lists of graphs

Graphic 1. Population distribution by sex and age in Iztapalapa 25
Graph 2. Referrals to the Public Prosecutor's Office and Civic Judge, 2016-2019 46
Graphic 3. Iztapalapa's most common conflicts. 49
Graphic 4. Percentage of criminal and antisocial behavior that was witnessed by Iztapalapa's inhabitants, 2020 50
Graph 5. Most reported crimes in Iztapalapa, 2015 to 2020 53
Graph 6. Domestic Violence reported in Iztapalapa, 2015 – 2020 54
Graph 7. Victims of reported crimes on domestic violence, by sex and age, 2019 and 2020 55
Graph 8. Reported crimes on domestic violence in Iztapalapa, monthly, 2018-2020 57
Graph 9. Reports on domestic violence in Iztapalapa during COVID-19 lockdown, 2020 58
Graph 10. Phone calls received by Locatel reporting domestic violence 58
Graph 11. Most frequent calls registered by Locatel according to the type of violence reported 59
Graph 12. Calls received by Locatel in which some characteristic of the offender was reported 59
Graph 13. Reported crimes against women in Iztapalapa, 2015-2020 64
Graph 14. Victims from reported crimes on sexual assault, sexual harassment, rape and femicide, 2019 and 2020 65
Graph 15. Correlation between environmental factors and the likelihood of sexual assaults. 68
Graph 16. Reported crimes against women in Iztapalapa: rape, femicide, sexual assault and harassment, monthly, 2018 to 2020 68
Graph 17. Reported crimes committed against women during the lockdown adopted to prevent the spread of COVID-19 in Iztapalapa, 2020 69
Graph 18. Types of reported robberies and thefts in Iztapalapa, 2015-2020 82
Graph 19. Reported crimes on robbery from the person in a public location, burglary of business property and robbery or theft of vehicle in Iztapalapa, 2015- 2020 83
Graph 20. Reported crimes on robbery from the person in a public location, burglary of business property and robbery of vehicle in Iztapalapa, monthly 2018- 2020 84
Graph 21. Reported crimes on robbery from the person in a public location, burglary of business property and robbery of vehicle in Iztapalapa during lockdown, reports in 2020 86
Graph 22. Correlation between environmental risk factors and reported robberies in Iztapalapa 89
Graph 23. Reported crimes on robbery in public transport in Iztapalapa, 2015-2020 90
Graph 24. Reported crimes on robbery from the person in the public transport during lockdown measures adopted to prevent COVID-19, 2020 90
Graph 25. Reported crimes on intentional homicide in Iztapalapa, 2015-2020 98
Graph 26. Reported crimes on intentional homicide committed with firearms in Iztapalapa, 2015-2020 98
Graph 27. Reported crimes on intentional homicide in Iztapalapa, monthly 2018-2020 99
Graph 28. Reported crimes on drug dealing in Iztapalapa, 2015-2020 107

Graph 29. Reported crimes on illicit carrying of firearms and carrying of forbidden weapons, Iztapalapa 2015 to 2020 110
Graph 30. Reported crimes committed with firearms in Iztapalapa, 2015 to 2020 111
Graph 31. Reported crimes on threats and extortions in Iztapalapa, 2015-2020 116
Graph 32. Percentage of antisocial behavior witnessing, 2020 119
Graph 33. Witnessing percentage of alcohol consumption and drug use, 2020 130

List of figures

Figure 1. Principles of good governance 18
Figure 2. Main SDGs for this Governance Assessment (USGA) 20
Figure 3. Challenges in terms of poverty, education and public health access. 26
Figure 4. Challenges in terms of economic challenges. 27
Figure 5. Total population of the traditional towns located in Iztapalapa 29
Figure 6. Total population of indigenous neighborhoods in Iztapalapa 29
Figure 7. Annual music activities from the Communitarian Orchestras program 30
Figure 8. Cultural heritage of Iztapalapa 30
Figure 9. Organizational structure of the Mayor's Office of Iztapalapa 32
Figure 10. Public Security Institutions prevailing in Iztapalapa 34
Figure 11. Law-enforcement officials in Iztapalapa 35
Figure 12. Coordination processes and interinstitutional management for the execution of the Program Dialogues to Achieve Peace and Well-Being in Iztapalapa 37
Figure 13. Percentage of people that felt unsafe in the public space 48
Figure 14. Routines that were modified by Iztapalapa's inhabitants for fear of becoming victim of crime 49
Figure 15. Percentage of victims distributed by age at the local and national level, 2020 51
Figure 16. Time of crime occurrence, in Mexico City and nationally, 2020. 51
Figure 17. Damage suffered by the victims of a crime, 2020 52
Figure 18. Routine activity theory applied to public spaces during lockdown measures adopted to prevent COVID-19 spread 69
Figure 19. Daily trips made in the public transport from Iztapalapa to other points in Mexico City and the State of Mexico 91
Figure 20. Robbery from the person in the public transport in Iztapalapa reported during 2019, by time of crime occurrence 93
Figure 21. External threats to the Urban Safety Governance in Iztapalapa 119
Figure 22. Police officers' witnessing of fear, coercion and involvement imposed by organized criminal groups in the community. 120
Figure 23. Witnessing of the control criminal groups exercise on different illicit markets in Iztapalapa 121
Figure 24. Neighborhood mentions with presence of criminal groups in Iztapalapa 121
Figure 25. Communities' interaction with criminal groups in Iztapalapa 122
Figure 26. Witnessing of illegal acts within the police force 122
Figure 27. Neighborhoods of Iztapalapa and their level of risk 157
Figure 28. The 8 principles of good governance 158
Figure 29. Coordinating mechanisms for the development of good governance 160

Figure 30. SWOT analysis: social participation mechanisms 161
Figure 31. SWOT analysis: mechanisms to guarantee the Rule of Law 162
Figure 32. SWOT analysis: transparency mechanisms 164
Figure 33. SWOT analysis: acting responsibly and reactively 165
Figure 34. SWOT analysis: consensus-oriented decision-making 167
Figure 35. SWOT analysis: performance of the Mayor's Office 170
Figure 36. Personnel distribution per area in the Mayor's Office of Iztapalapa 172
Figure 37. SWOT analysis: acting effectively and efficiently 173
Figure 38. SWOT analysis: accountability 174
Figure 39. Urban Safety Governance Assessment Process 179
Figure 40. Route of the exploratory walk 182
Figure 41. Conduction of focus groups 183
Figure 42. Conduction of technical working groups 184
Figure 43. Conducting of face-to-face interviews 186
Figure 44. Conducting of the online interviews 187
Figure 45. Validation of data collection in the neighborhoods 187
Figure 46. Criminological theories 188
Figure 47. Directory of Civil Society Organizations 197

List of tables

Table 1. Information collected by neighborhood. 183
Table 2. SDG 3-based indicators for Iztapalapa 189
Table 3. SDG 5-based indicators for Iztapalapa 190
Table 4. SDG 11-based indicators for Iztapalapa 191
Table 5. SDG 16-based indicators for Iztapalapa 192
Table 6. Global good practices in crime prevention 194



This symbol conveys the testimonies of the inhabitants of Iztapalapa, collected during the field work carried out in 44 of the borough's neighborhoods.

Acronyms

APA	Animal Protection Associations
BGA	Basic Geostatistical Area
CEDA	Central Market "Central de Abasto" of Mexico City
CoE	Center of Excellence in Statistical Information on Government, Crime, Victimization and Justice
CC	Citizen Council for Security and Justice of Mexico City
C5	Command, Control, Computing, Communications and Citizen Contact Center of Mexico City
CANACO	Commerce Chamber of Mexico City
CANIRAC	National Chamber of Industry, Restaurants and Food
CDMX	Mexico City
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CIJ	Youth Integration Centers
CONAGUA	National Water Commission
CONALEP	National College of Professional Technical Education
CONEVAL	National Council for the Evaluation of Social Policies
COPARMEX	Mexican Republic Confederation of Employers
ENCIG	National Survey on Quality and Government Impact
ENOE	National Survey on Occupation and Employment
ENPOL	National Survey on Prison Population
ENSU	National Survey on Urban Public Security
ENVIPE	National Survey on Victimization and Perception of Public Security
FGJ CDMX	Mexico City General Prosecutor's Office
GN	National Guard
INEGI	National Institute of Statistics and Geography
INVEA	Administrative Verification Institute

INVI	Mexico City Housing Institute
OHCHR	Office of the United Nations High Commissioner for Human Rights
OAE	Organization of American States
PA CDMX	Mexico City Auxiliary Police
PDI	Investigation Police
PROFEPA	Federal Prosecutor's Office on Environmental Protection
SACMEX	Water System of Mexico City
SEDEMA	Mexico City Ministry of Environment
SEMOVI	Mexico City Ministry of Mobility
SEP	Ministry of Education
SEPI	Ministry of Indigenous Communities
SESNSP	Executive Secretariat of the National System of Public Security
SDG	Sustainable Development Goals
SSC CDMX	Mexico City Ministry of Citizen Security
UN	United Nations
UAM-I	Metropolitan Autonomous University in Iztapalapa
UNAM	National Autonomous University of Mexico
UEPD	Special Unit for Crime Prevention
UNDESA	United Nations Department of Economic and Social Affairs
UNDSS	United Nations Department of Safety and Security
UNODC	United Nations Office on Drugs and Crime
USGA	Urban Safety Governance Assessment

Preface

The 2030 Agenda for Sustainable Development acknowledges that "*there cannot be sustainable development without peace, and there is no peace without sustainable development*". Thus, it is imperative to promote sustainability and the development of good governance to address insecurity, violence and corruption. Through the Urban Safety Governance Assessments (USGA), UNODC promotes actions to achieve the goals established in the SDG 3 Good Health and Well-Being, 5 Gender Equality, 11 Sustainable Cities and Communities and 16 Peace, Justice and Strong Institutions, in close coordination with local governments.

Conflicts, insecurity, weak institutions and limited access to justice continue to pose a serious threat to sustainable development[1]. The implementation of an Urban Safety Governance Assessment (USGA) enables the understanding of local risk factors and their interaction with external flows that give rise to security challenges, seeking to re-establish legitimate governance and promote healthy, safe, inclusive and resilient cities.

In the context of the COVID-19 pandemic, new social dynamics adopted to prevent the spread of the virus have caused new challenges to understand crime patterns, which require close collaboration with different sectors from society. This represents an unprecedented challenge for governance at the global, national and local levels, so today more than ever it is necessary to join forces in order to leave no one behind.

Kristian Hölge

[1] UN (2020). Sustainable Development Goals. Available at: https://www.un.org/sustainabledevelopment/es/peace-justice/

Introduction

The Urban Safety Governance Assessment (USGA) is a useful tool for authorities in the implementation of inclusive and participatory decision-making. This participatory approach enables authorities to diagnose social impairments, as well as understanding the dynamics of violence and crime from a holistic perspective, strengthening the interlinkages, communication and shared responsibility with government, other institutions, civil society, academia, businesspeople, and society. The aim is to develop evidence-based policies at the local level that prevent the infiltration of activities linked to transnational organized crime, for example, trafficking in drugs, weapons, or other illicit goods[2].

The Urban Safety Governance Assessment (USGA) is part of a global initiative promoted and funded by the United Nations Department of Economic and Social Affairs (UNDESA) and implemented by the United Nations Office on Drugs and Crime (UNODC). It is conducted simultaneously in four regions around the world[3]:

- St. Michael and Christ Church (Barbados)
- Mathare in Nairobi (Kenya)
- Iztapalapa in Mexico City (Mexico)
- Tashkent (Uzbekistan)

The methodology of the assessment is integrated by four stages (see methodological annex):

1. Planning
2. Data collection and analysis
3. Presentation and validation of the results
4. Strategies and public policies

The period analyzed for this assessment covers statistics from 2015 to 2019 and from 2020 for COVID-19. Quantitative information was complemented with qualitative information collected during the first quarter of 2020. The results were obtained using mixed methods: quantitative (statistical and geographical analysis) and qualitative (focus groups, exploratory marches, interviews and social mapping). For the analysis made on problematic alcohol and drug use, information from the National Survey on Addictions (ECODAT) 2016-2017, was used, as well as information from the National Survey on Urban Public Security (ENSU) to understand these phenomena at the local level and in Mexico City during 2020. Additionally, a risk analysis was

[2] UNODC (2019). Safety Governance Approach for Safe, Inclusive and Resilient Cities: A Practical Guide for conducting Safety Governance Assessments in urban environments. Available at: https://www.unodc.org/pdf/criminal_justice/UrbanSafety/Enfoque_de_Gobernanza_de_le_Seguridad.pdf

[3] The selection of the cities was defined by each country. In the case of Mexico, Iztapalapa was selected because it is the most populated territory in Mexico City, and its inhabitants are predominantly youth. Iztapalapa has a particular economic activity as well as a great sense of identity and belonging among its inhabitants.

conducted to identify the level of risk in 44 neighborhoods in Iztapalapa based on its threats, vulnerabilities, and capacities. Also, a strength, weakness, opportunity and threat (SWOT) analysis was conducted in order to identify the Mayor's Office areas of opportunity regarding good governance.

Due to the COVID-19 pandemic, the methodology was modified in response to the sanitary measures[4] established by the Federal Government. The collection of qualitative information was carried out remotely using digital platforms. *Street view* was also used to identify the capacities of the analyzed neighborhoods.

This document has three sections:

- The first one provides an overview of the borough using information of its geographic, socio-demographic, economic, cultural and political context. It also maps the main actors involved in the decision-making regarding public security and justice in the territory, as well as the actions executed in collaboration with subnational institutions.
- The second section presents Iztapalapa's main challenges. It analyses the manifestations of violence and crime, organized crime, as well as problematic alcohol consumption and drug use. It also describes the main urban-environmental challenges identified in the Mayoralty's territory and presents the results of a risk analysis made from a sample of 44 neighborhoods in Iztapalapa.
- The third section presents a brief analysis of the institutional capacities of the Mayor's Office according to the principles of good governance.

Lastly, conclusions are presented, taking up the main findings and future challenges for strengthening governance in Iztapalapa.

[4] These measures included lockdown, i.e., closure of cultural and social activities, home office, recommended use of mask in public spaces, frequent handwashing, use of antibacterial gel, as well as distance-keeping of 1.5 meters between people in public spaces.



Executive summary

Iztapalapa is characterized by being the most populated borough in Mexico City, as well as the one with the youngest population given that the average age of its inhabitants is 31 years old. There are social impairments that limit Iztapalapa's sustainable development, such as poverty, precarious schooling, and lack or regular access to essential services. Its economic activity is concentrated in trade and services. More than half of the employed population receives an income equivalent to more than two minimum wages (10 USD approximately).

The Mayor's Office has an organizational structure divided into 7 General Offices, 3 Executive Offices and 13 Territorial Directorates responsible for promoting its institutional, social and economic development. It is internal coordination mechanisms, such as the *security cabinets* (public security, academic institutions, business and hospital sectors), which serve as participatory mechanisms to address the population's concerns on different topics. As for public security and justice, the Mayor's Office works with all three levels of government (national level, subnational level and local level) to fight and prevent crime.

Crime dynamics persist in Iztapalapa, limiting its sustainable development (SDG 16). Between 2015 and 2020, reports on domestic violence increased by 47.5%, while reported crimes on sexual assault (141%) and rape (94%) doubled (SDG 5). In the same period of time, reported crimes on robbery in all its modalities decreased by 7%.

Based on this assessment, it was found that the most frequently reported crimes in Iztapalapa registered a decrease between 2015 and 2020, specially robbery to the person in a public location (18%) and robbery of vehicle (19%). In the case of burglary of business property an increased is observed in the number of reported crimes (11%). These three modalities of robbery represent 56% of the total reported crimes. As for organized crime, drugs and arms trafficking represent external threats to Iztapalapa. The main mechanisms of control used by organized criminal groups are fear and coercion.

Iztapalapa presents high levels of alcohol consumption and drug use (SDG 3), mainly affecting young people, which is a risk factor for engaging in criminal activity. The onset of drug use usually occurs between the ages of 12 and 18, with marijuana, inhalants and crack being the main drugs used.

The mayoralty's territory also has acute urban and environmental problems, such as deteriorating and deficient urban structure, poor provision of essential services, and health problems caused by environmental neglect (SDG 11). Only a quarter of the neighborhoods in Iztapalapa have 24-hour water service. There is a problem of garbage concentration and dog feces on public roads; at the same time, the deterioration of urban infrastructure requires immediate attention given the population density.

Regarding the Mayor's Office capacities, there are key aspects to achieve good governance. One of them is the adoption of standard operation procedures and protocols in all programs, mainly those related to crime prevention and security. On the other hand, it is important to establish a methodology for the monitoring and evaluating of all actions. This will ensure accountability and transparency in budget expenditure, activities and results obtained through its implementation.

Risk factors associated with structural inequalities, lack of employment opportunities, early drug use, domestic violence, and violence against women, criminal behaviors, as well as external flows linked to illicit global markets exacerbate the context of insecurity.

In this regard, the adoption of early crime prevention strategies focused on cognitive behavioral therapy, socioemotional skills development and positive parenting, complemented with employment initiatives and projects targeting the youth population would have a positive impact in the human development of individuals. In addition, the adoption of an effective public security strategy that includes the execution and coordination of actions to prevent, investigate, prosecute, punish crime, and promote social reinsertion, is strongly needed.

Urban Safety Governance Assessment Approach

Cities have undergone accelerated urban development largely due to the economic and social growth. By 2050, nearly two-thirds of the world's population are expected to live in urban spaces, challenging governments worldwide[5].

Acknowledging this situation, UNODC generated strategies and actions focused on conflict reduction that promote rule of law, human rights, inclusion, safety and good governance, which are the basis for people's well-being and sustainable development.

The governance approach is closely related to the Doha Declaration approved at the 13th United Nations Congress on Crime Prevention and Criminal Justice, in 2015. It was adopted as a measure to promote crime prevention and public security for cities through the participation of communities at the local level[6].

Governance is understood as all the political structures and processes of the State through which decisions are made and implemented, promoting the understanding of local challenges. It is also the foundation for balancing participatory processes of management and administration that allow shared responsibility between governments, public and private institutions, civil society, and citizens. The purpose of **governance** is to be consensus-oriented, responsible, transparent, responsive, effective, efficient, equitable, inclusive, and respectful of the rule of law[7].

Governance coordination processes generate a horizontal sense of direction of the means and resources needed to achieve the ends set out in matters of collective interest. Transparent and professional governments are needed, with technical skills, equipped with information that gives rise to a plurality of voices and their participation in decision-making[8].

The absence of these characteristics limits the effectiveness of governance and makes it difficult to identify those formal and informal actors involved in both decision-making and its

[5] UNODC (2019). Safety Governance Approach for Safe, Inclusive, and Resilient Cities: A Practical Guide for conducting Safety Governance Assessments in urban environments, p. 4. Available at: https://www.unodc.org/pdf/criminal_justice/UrbanSafety/Enfoque_de_Gobernanza_de_le_Seguridad.pdf

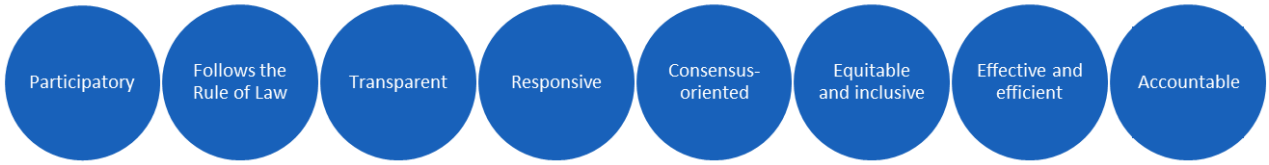
[6] UN (2015). 13º United Nations Congress on Crime Prevention and Criminal Justice. Available at: https://www.unodc.org/documents/congress//Documentation/IN_SESSION/ACONF222_L6_s_V1502123.pdf

[7] UNODC (2019). Safety Governance Approach for Safe, Inclusive, and Resilient Cities: A Practical Guide for conducting Safety Governance Assessments in urban environments, p. 23. Available at: https://www.unodc.org/pdf/criminal_justice/UrbanSafety/Enfoque_de_Gobernanza_de_le_Seguridad.pdf

[8] Ibid.

implementation[9]. **Good governance** is also linked to prevention and fight against corruption. It has eight principles[10]:

Figure 1. Principles of good governance



Source: Own elaboration.

Governance thus strengthens law enforcement institutions and improves coordination between local government policies and practices to effectively tackle the risks and threats posed by multi-causal phenomena such as crime, violence, corruption, consumption of substances harmful to health and illicit financial flows[11].

Urban Safety Governance Assessment

This assessment is a tool that aims to understand the risk factors associated with violence and crime and the interaction they have with external illicit flows that give rise to insecurity challenges. It includes a series of factors related to the prevention, treatment and care of various problems that starts with acknowledging the complex interaction of risk factors at the local, national, and global levels.

Since 2016, UNODC, in-line with the New Urban Agenda (NUA)[12] has applied a theoretical, critical, and methodological route that emphasizes the **Urban Safety Governance Approach** as a strategic vision to achieve good governance and public security. This approach begins with a deep understanding of risk factors and both internal and external threats that condition antisocial behaviors, local crime dynamics and limit resilience[13].

In order to guarantee the **Urban Safety Governance Approach**, priority areas of intervention in terms of public security must be identified, as well as the capabilities that institutions, at the local level, have in order to integrate different social actors in the implementation of public policies and strategies[14]. An urban context encompasses the physical space, as well as educational,

[9] UNODC (2016). United Nations Compendium on crime prevention and criminal justice rules and norms. Available at: https://www.unodc.org/pdf/compendium/compendium_2006_es_cover.pdf

[10] Rothstein, B. y Teorell, J. (2008). *What is quality of government? A Theory of Impartial Government Institutions*. Available at: https://doi.org/10.1111/j.1468-0491.2008.00391.x

[11] Ibid.

[12] UN Habitat (2016). A new urban agenda. Available at: https://onuhabitat.org.mx/index.php/la-nueva-agenda-urbana-en-espanol

[13] UNODC (2016). Governing Safer Cities: Strategies for a Globalised World. Available at: http://www.cdeunodc.inegi.org.mx/unodc/articulos/doc/20a.pdf

[14] UNODC (2016). Urban Safety Governance Assessment: Tool for the conduction of Urban Safety Governance Assessments, p. 15. Available at: https://www.unodc.org/pdf/criminal_justice/UrbanSafety/Enfoque_de_Gobernanza_de_le_Seguridad.pdf

environmental and health development structures necessary for the integration of gender and inclusion issues[15].

The **Urban Safety Governance Assessment** was carried out simultaneously in four regions around the world: St. Michael and Christ Church (Barbados), Mathare in Nairobi (Kenya), Iztapalapa in Mexico City (Mexico), and Tashkent in Uzbekistan[16]. The implementation is carried out in 4 stages[17]:

1. Planning
2. Data collection and analysis
3. Presentation and validation of results
4. Strategies and public policies

An evaluation process under this approach in a defined geographical area allows for a deep understanding of the challenges that exist between government and citizens through a wide range of interactions, allowing the identification of priorities and most appropriate public policies on which the technical assistance and institutional strengthening actions will focus on specific to the problems at the urban level[18].

The 2030 Agenda for Sustainable Development

At the national level, compliance with the Sustainable Development Agenda has been promoted under different strategies and practices that promote awareness actions for sustainability and contribute to achieving and periodically[19] monitoring the Sustainable Development Goals (SDG)[20].

These goals consider actions that contribute to improving people's quality of life. This action plan focuses on 17 interconnected Goals[21] in different areas such as poverty, health, education, environment, gender equality, decent work, reduction of violence, crime, and strengthening of solid institutions and alliances to achieve their goals. Mexico City created a *Council to follow-up*

[15] Ibid.
[16] UNODC (2020). UNODCITY Urban Safety Governance Initiative. Available at: https://www.unodc.org/unodc/en/urban-safety/mexico.html
[17] See methodological annex.
[18] UNODC (2016). Urban Safety Governance Assessment: Tool for the conduction of Urban Safety Governance Assessments, p. 26. Available at: https://www.unodc.org/pdf/criminal_justice/UrbanSafety/Enfoque_de_Gobernanza_de_le_Seguridad.pdf
[19] Government of Mexico, Blog (2017). Sustainable Development Goal 16: Peace, Justice and Inclusive societies. Available at: https://www.gob.mx/agenda2030/articulos/16-paz-justicia-e-instituciones-solidas
[20] INEGI (2019). Information System on Sustainable Development Goals. Mexico, Agenda 2030. Available at: http://agenda2030.mx/#/home
[21] UN (2020). The General Assembly adopts the Agenda 2030 for Sustainable Development. Available at: https://www.un.org/sustainabledevelopment/es/2015/09/la-asamblea-general-adopta-la-agenda-2030-para-el-desarrollo-sostenible/

the 2030 Agenda for Sustainable Development[22] in order to monitor the actions that allow the execution of integral strategies that promote the achievement of the SDG´s at the local level[23].

Five SDG are paramount to the **Urban Safety Governance Assessment (USGA)** in Iztapalapa:

Figure 2. Main SDGs for this Governance Assessment (USGA)



Ensure healthy lives and promote well-being for all at all ages.

Achieve gender equality and empower all women and girls.

Make cities and human settlements inclusive, safe, resilient and sustainable.

Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels.

Strengthen the means of implementation and revitalize the global partnership for sustainable development

Source: Own elaboration.

SDG 3 aims to strengthen the prevention and treatment of consumption of substances harmful to health, including drug and problematic alcohol consumption (Target 3.5), as well as to reduce by half the number of deaths and injuries caused by road traffic accidents worldwide (Target 3.6), among others.

SDG 5 seeks to eliminate all forms of violence against women and girls in the public and private spheres (Target 5.2) to ensure the full and effective participation of women, equal opportunity and leadership at all levels (Target 5.5), and to adopt and strengthen sound policies and enforceable laws to promote gender equality as well as the empowerment of all women and girls at all levels (Target 5c), among others.

SDG 11 promotes access for all to adequate, safe and affordable housing and basic services, the improvement of slums (Target 11.1), as well as providing universal access to safe, inclusive and accessible green and public spaces, particularly for women and children, the elderly and persons with disabilities (Target 11.7), among others.

[22] Mexico City Government (2018). Council for the monitoring of the Sustainable Development Agenda 2030 in Mexico City. Available at: https://evalua.cdmx.gob.mx/storage/app/media/Archivos/Seminario%202018%20sistema%20bienestar%20social/23/Agenda%202030.pdf

[23] National Council for the Evaluation of Social Policy (EVALUA CDMX) (2019). Available at: https://www.evalua.cdmx.gob.mx/entidad/acerca-de

SDG 16 is also aligned with this assessment as its main goals are to significantly reduce all forms of violence and related mortality rates (Target 16.1), in addition to promoting the rule of law at the national and international levels by ensuring equal access to justice for all (Target 16.3), significantly reduce illicit financial and arms flows, strengthen the recovery and return of stolen assets and combat all forms of organized crime (16.4), significantly reducing corruption and bribery in all its forms (Target 16.5) and building effective and transparent institutions that are accountable (Target 16.6), among others.

Finally, **SDG 17** respect each country's policy space and leadership to establish and implement policies for poverty eradication and sustainable development (Target 17.15). It also, encourages and promotes effective public, public-private and civil society partnerships, building on the experience and resourcing strategies of partnerships (Target 17.17), among others.

These objectives and goals contribute to good governance in cities, and this Urban Safety Governance Assessment takes a **cross-cutting approach to gender and human rights**, as well as an **intersectionality approach** that identifies the multiple barriers generated by exclusion that affect the full enjoyment of rights by the most vulnerable people[24].

[24] United Nations System (2018). Toolkit for the design of programmes tackling women's access to justice. Available at: https://www.unodc.org/documents/mexicoandcentralamerica/2019/TK_consolidated_MX_completo.pdf

1. Urban and institutional context

Highlights

Iztapalapa represents 7.6% of Mexico City's territory.

Iztapalapa is Mexico City's most populated territory, with 1,835,486 inhabitants. This is a fifth of Mexico City's population.

51.6% of Iztapalapa's inhabitants are women and 48.4% are men.

32.2% of inhabitants are between 15 and 34 years old.

35% of inhabitants live in poverty.

22% of inhabitants have higher education.

There are 15,809 inhabitants per km^2 in Iztapalapa. Mexico City´s average is 6,202 inhabitants per km^2.

45% of Iztapalapa's economic activity is focused on trade and services.

0.25% of Iztapalapa's inhabitants do not have access to water in their households.

69% of the inhabitants are unsatisfied with water services.

24% of Iztapalapa's inhabitants do not have access to public health services.

Highlights

Iztapalapa concentrates 11% of the traditional towns and 19% of the indigenous neighbourhoods in Mexico City.

22.9% of Iztapalapa's population identifies as indigenous.

75.4% of Iztapalapa's population is catholic.

The Mayor's Office of Iztapalapa has a staff of 12,178 people, of which 6% are on service contracts and 94% are on fixed-term contracts.

The Mayor's Office of Iztapalapa hired 1,020 elements of the Auxiliary Police.

Between 2016 and 2019, police interventions conducted by the Ministry of Public Security in Iztapalapa decreased by 35%.

Five out of ten prisons in Mexico City are located in Iztapalapa.

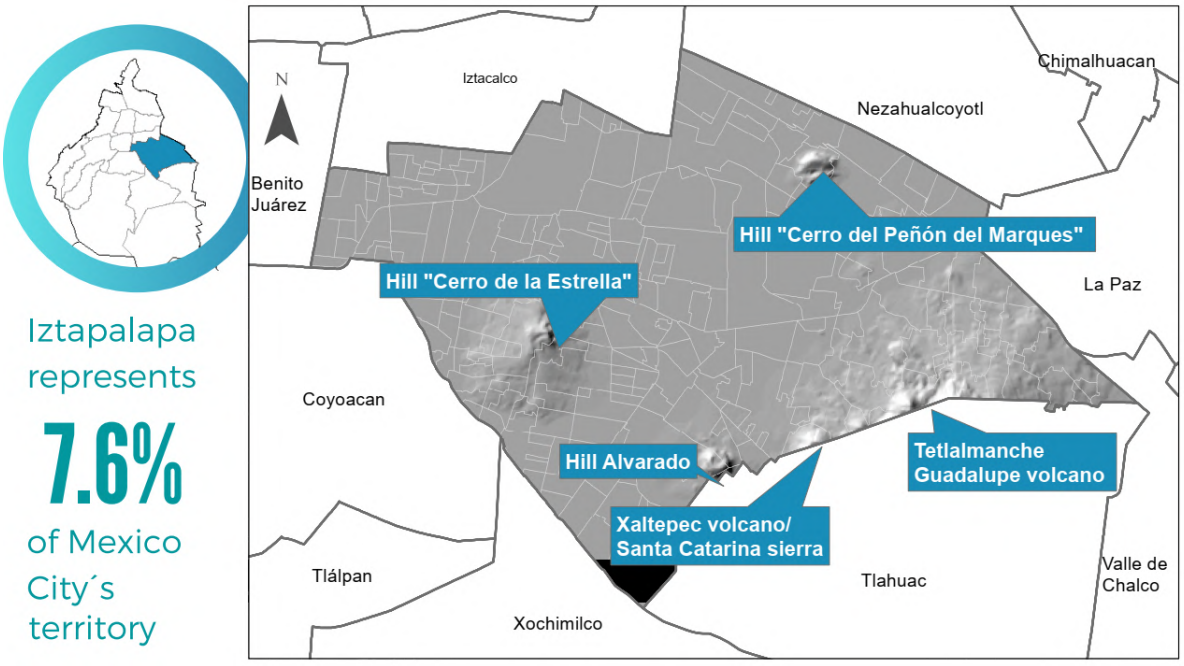
The Mayor's Office of Iztapalapa has 5 crime prevention programmes.

Iztapalapa has a Special Unit on Crime Prevention, conformed by police officers who deliver talks and perform plays in order to contribute to crime prevention.

1.1. Geographic context

Iztapalapa is one of the 16 boroughs that comprise Mexico City. It is the fourth largest borough, covering 116 km^2 and divided into 293 neighborhoods. It is located at the east of the city in what was previously the Lake of Texcoco[25], thus it is prone to flooding due to its low altitude. The soil is made up of clay deposits, separated by sandy layers and superficial covers formed by alluvial soils[26].

Map 1. Boundaries, main elevations and territorial division of Iztapalapa



Source: Own elaboration.

1.2. Sociodemographic and socioeconomic profile

Iztapalapa is the most populated borough (1,835,486 people[27]), concentrating a fifth of all the city's population. It has a young population with 32% of its residents aged between 15 and 34

[25] Official Gazette of the Federal District (2013). Mayor's Office Development Program of Iztapalapa 2012-2015. Available at: http://www.ordenjuridico.gob.mx/Documentos/Estatal/Distrito%20Federal/wo86647.pdf

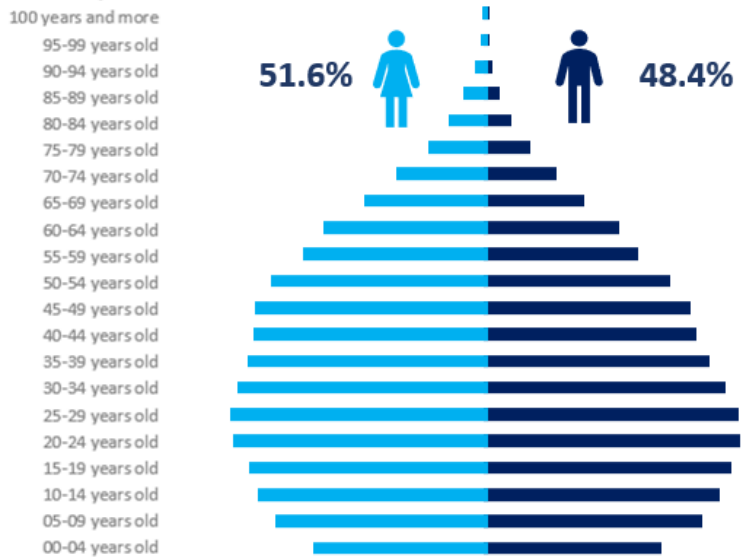
[26] Federal District Public Administration (2008). Mayor's Office Program for Urban Development in Iztapalapa. Available at: http://www.paot.org.mx/centro/leyes/df/pdf/GODF/GODF_02_10_2008_%20ANEXO_02.pdf

[27] INEGI, (2020). National Census on Population and Housing 2020. Available at: https://www.inegi.org.mx/programas/ccpv/2020/#Tabulados

years old[28]. However, in 50 years' time this scenario will likely change and 50% of its population will be older adults[29].

32% of Iztapalapa's population is between 15 and 34 years old.

Graphic 1. Population distribution by sex and age in Iztapalapa



Source: Own elaboration with data obtained from INEGI, National Census on Population and Housing, 2020.

Iztapalapa faces challenges that restrain its sustainable development such as social impairments like the educational gap, lack of access to public health services, poor housing quality and limited access to other essential services[30]. According to the National Council for the Evaluation of Social Development Policy in Mexico (CONEVAL), 35% of Iztapalapa's inhabitants live in poverty[31].

35% of Iztapalapa's population live in poverty.

[28] Ibid. The average age of Iztapalapa's population is 31 years old, two years less than the average age of Mexico City's population,

[29] In 50 years, it is expected that 48% of Iztapalapa's population will have between 60 and 89 years old, of which 25% will be women (44,963). INEGI (2015). Intercensal Survey. Available at: https://www.inegi.org.mx/programmeas/intercensal/2015/

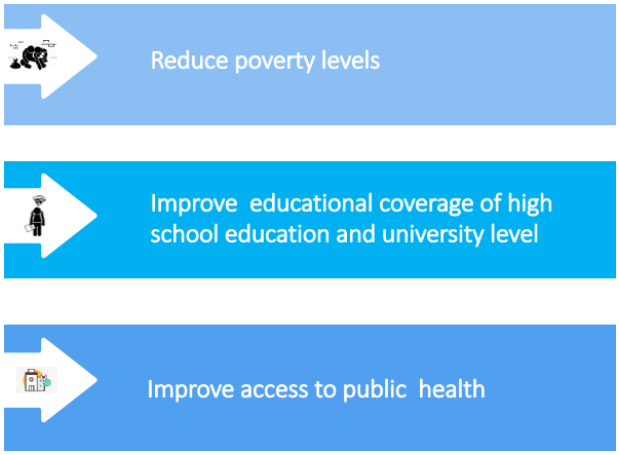
[30] According to CONEVAL (2015), these are the six social deficiencies. Available at: https://www.coneval.org.mx/coordinacion/entidades/DistritoFederal/Paginas/carencias-sociales20102015.aspx

[31] Iztapalapa is the fourth borough in Mexico City with the highest poverty level (35%), only after Milpa Alta (49.2%), Xochimilco (40.5%) and Tlahuac (39.2%). CONEVAL (2015). Poverty levels by boroughs. Available at: https://www.coneval.org.mx/coordinacion/entidades/DistritoFederal/Paginas/pobreza_municipal2015.aspx

As for the educational gap, 10 years is the average number of school years in Iztapalapa[32], with only 22% reaching higher education[33]. Public health affiliation is a challenge, as 24% of Iztapalapa's residents do not have access to this service[34].

22% of Iztapalapa's residents have higher education.

Figure 3. Challenges in terms of poverty, education and public health access



Source: Own elaboration.

Iztapalapa has a high population density, concentrating 15,809 people per km^2 while Mexico City accounts an average of 6,202 people[35] per km^2. In 2020, 503,620 inhabited private households were identified, from which 10,643 were households with 4 or more persons living in one room[36]. In addition to this, Iztapalapa has an important level of social exclusion due to the lack of access

[32] INEGI (2015). Intercensal Survey. Available at: https://www.inegi.org.mx/programmeas/intercensal/2015/default.html#Tabulados

[33] INEGI (2015). Mexico City Sociodemographic panorama. Available at: http://internet.contenidos.inegi.org.mx/contenidos/Productos/prod_serv/contenidos/espanol/bvinegi/productos/nueva_estruc/inter_censal/panorama/702825082178.pdf

[34] Iztapalapa's figures on public health affiliation (75.6%) is three points smallest than Mexico City's figure (78.5%). INEGI (2015). Mexico City Sociodemographic panorama. Available at: http://internet.contenidos.inegi.org.mx/contenidos/Productos/prod_serv/contenidos/espanol/bvinegi/productos/nueva_estruc/inter_censal/panorama/702825082178.pdf

[35] INEGI (2015). Mexico City Sociodemographic panorama. Available at: http://internet.contenidos.inegi.org.mx/contenidos/Productos/prod_serv/contenidos/espanol/bvinegi/productos/nueva_estruc/inter_censal/panorama/702825082178.pdf

[36] No overcrowding when the average number of occupants per bedroom is less than or equal to 2.5 people per room. INEGI (2020). National Census on Population and Housing. Available at: https://www.inegi.org.mx/programas/ccpv/2020/#Tabulados

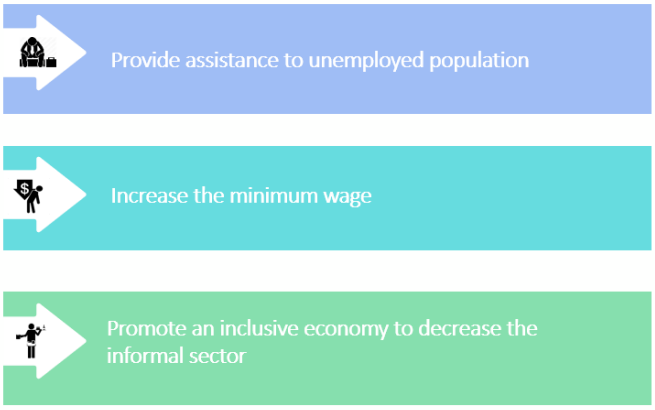
to essential services[37]. This situation is especially severe in the 168 irregular human settlements located in urban zones of high risk[38].

15,809 people concentrate per 1 km^2 in Iztapalapa

According to the National Survey on Occupation and Employment (ENOE, 2014), less than half of the inhabitants have a formal job. Of the 1,502,797 economically active people, 5% are unemployed and 95% are working population[39], as for the latter, 56% perceives a monthly income equivalent to more than two minimum wages[40]. Nearly half of the economic activity focuses on trade and services (45%), while one third focuses in activities related to jobs such as government officials, professionals or technicians (35%)[41].

45% of Iztapalapa's economic activity focuses on trade and services

Figure 4. Challenges in terms of economic challenges



Source: Own elaboration.

[37] At the national level, out of more than 2,500 municipalities/boroughs in Mexico, Iztapalapa is ranked at the 2,377 position with respect to social exclusion. Ministry of Social Development (SEDESOL) (2010). Catalogue of microregions SEDESOL. Available at: http://www.microrregiones.gob.mx/catloc/LocdeMun.aspx?tipo=clave&campo=loc&ent=09&mun=007

[38] Federal District Public Administration (2008). Mayor's Office Program for Urban Development in Iztapalapa. Available at: http://www.paot.org.mx/centro/leyes/df/pdf/GODF/GODF_02_10_2008_%20ANEXO_02.pdf

[39] INEGI (2014). National Survey on Occupation and Employment (ENOE). Available at: https://www.inegi.org.mx/programmeas/enoe/15ymas/default.html#Tabulados

[40] Ibid.

[41] This figure includes temporary accommodation services, food and beverages preparation services (10.2%), and other services except government activities (14.7%) from a total of 73,321 economic units registered in Iztapalapa. INEGI (2014). National Survey on Occupation and Employment (ENOE). Available at: https://www.inegi.org.mx/programmeas/enoe/15ymas/default.html#Tabulados

0.25% of Iztapalapa's residents still lack access to tube water and sanitation services[42]. According to the National Survey on Quality and Governmental Impact (ENCIG), Mexico City's east region reports the highest levels of dissatisfaction regarding drinking water (69%) and sanitation, i.e. drainage and sewer services (71%)[43]. The lack of water supply has motivated the extraction of water from wells located in the Mayoralty's territory, causing an overexploitation of the aquifers[44]. During the rainy season, the subsoil is even more compromised by the flows that descend from the upper parts of the hills, dragging mud and garbage.

0.25% of Iztapalapa's residents lack access to drinking water or piped water in their homes[45].

69% expressed dissatisfaction with the water supply service[46].

Additionally, Iztapalapa has a damaged hydraulic and sanitary network. The sewerage system, which covers 1,951 kilometers, is insufficient to contain the amount of waste produced in the Mayoralty's territory, causing flooding, subsidence and rupture of these networks[47]. The improvement of water supply coverage, its regularity, sufficiency and quality are urgently needed. Likewise, the promotion of a sustainable approach towards the aquifer, as well as the expansion of the sanitary networks are issues that demand attention.

1.3. Cultural context of Iztapalapa

Mexico City has a total of 139 traditional towns and 58 indigenous neighborhoods, of which 15 traditional towns and 11 indigenous neighborhoods are located in Iztapalapa. This is the second borough that holds the largest number of indigenous communities after Xochimilco[48]. Iztapalapa has the highest concentration of indigenous language speakers in Mexico City, 22.9%, equivalent

[42] INEGI (2020), National Census on Population and Housing. Available at: https://www.inegi.org.mx/programas/ccpv/2020/#Tabulados
[43] INEGI (2019). National Survey on Quality and Governmental Impact (ENCIG). Available at: https://www.inegi.org.mx/programmeas/encig/2019/default.html#Tabulados
[44] Ibid.
[45] INEGI (2020), National Census on Population and Housing. Available at: https://www.inegi.org.mx/programas/ccpv/2020/#Tabulados
[46] INEGI (2019). National Survey on Quality and Governmental Impact (ENCIG). Available at: https://www.inegi.org.mx/programmeas/encig/2019/default.html#Tabulados
[47] Ibid.
[48] Xochimilco has 14 traditional towns and 17 indigenous neighborhoods. SEPI (2018). Traditional towns and indigenous neighborhoods Available at: https://sepi.cdmx.gob.mx/storage/app/uploads/public/5e1/776/651/5e17766510a5c597410479.pdf

to 28,716 people approximately, who speak Nahuatl, Otomi, and Mazateco[49]. It also has a high migratory flow mainly from the states of Oaxaca, Puebla and Tlaxcala[50].

Figure 5. Total population of the traditional towns located in Iztapalapa

Santa Martha Acatitla 19,211	Santa Cruz Meyehualco 17,380	Santa María Aztahuacán 10,797	Santaigo Acahualtepec 9,899	Aculco 5,561
San Sebastían Tecoloxtitlán 5,053	Santa María Tomtatlán 4,310	La Magdalena Atlazolpa 3,911	Culhuacán 3,201	Los Reyes Culhuacán 3,080
San Juanico Nextipac 2,665	San Lorenzo Tezconco 1,310	Mexicatlzingo 1,220	San Andrés Tomatlán 1,046	San Juanico S/D

Source: Own elaboration with data from BGA and Urban Block, INEGI, 2010.

Figure 6. Total population of indigenous neighborhoods in Iztapalapa

Santa Barbara 20,300	San Miguel 16,483	San Antonio 15,549	San Lucas 6,615	San Ignacio 6,612	San Simon 4,196
San Pedro 3,950	La Asuncion 3,559	San Pablo 2,297	San Jose 2,436	Tula 577	

Source: Own elaboration with data from BGA and Urban Block, INEGI, 2010.

Iztapalapa has a *Commission of Culture, traditional towns and indigenous neighborhoods* within Iztapalapa's Local Council. This Commission seeks to ensure that indigenous communities have access to their cultural rights, as established in the 2019 Mexico City Constitution.

Iztapalapa's cultural activities

The promotion of culture is one of Iztapalapa's priorities. The Communitarian Orchestras program is an example of how, through art and music, the Mayor's Office is seeking to encourage a culture of peace and preventing violence. The program, which targets children, adolescents, and older

[49] INEGI (2020), National Census on Population and Housing. Available at: https://www.inegi.org.mx/programas/ccpv/2020/#Tabulados

[50] In Mexico City, 24.5% of the population speaks an indigenous language, The Mayor's Office of Iztapalapa (2019). Provisional Government Program 2019-2020. Available at: http://www.iztapalapa.cdmx.gob.mx/concejales/pdf/ProgPro19-20.pdf

adults, aims to encourage socio-affective relations among the participants through music lessons and the integration of musical ensembles, choirs and communitarian orchestras[51].

Figure 7. Annual music activities from the Communitarian Orchestras program



200 cultural events **97 communitarian orchestras**

Source: Own elaboration with information provided by the Mayor's Office of Iztapalapa, 2020.

Iztapalapa has an important cultural heritage constituted by parish churches, convents representative of Mexico City[52], as well as religious events, museums and prehispanic sites. 75.4% of its population is catholic[53].

Figure 8. Cultural heritage of Iztapalapa



The theatrical representation of Jesus Christ's death and resurrection is the biggest cultural event in Iztapalapa. It takes place annually during Easter Celebrations. The participants must be from Iztapalapa's traditional towns or indigenous neighborhoods.

In 2010, this celebration was declared intangible heritage by the Mayor of Iztapalapa and in 2012 the same distinction was made by the Mexico City Government.



Four museums and monuments, 11 parish churches and two convents. Some of them are:

1. Museum of Cultures, passion for Iztapalapa
2. Museum of the New Fire
3. Museum Cabeza de Juarez
4. Museum Ex-convent of Culhuacan.



Prehispanic sites and heritage:

- National park "Cerro de la Estrella"
- Lighthouse East, which hosts art crafts and fabrics
- Cuitlahuac Park
- Cultural Center Democratic Neighborhood
- Historic arcades
- Airplay library

Source: Own elaboration.

[51] Communitarian Orchestras Iztapalapa (2020). Mayor's Office of Iztapalapa. Available at: http://www.orquestasiztapalapa.mx/php/programmea/

[52] Parish churches: Santa Magdalena Atlazolpa, San Andrés Tetepilco, San Juan Bautista Nextipac, San Juan Evangelista, San Lorenzo Tezonco, San Lucas Evangelista, San Marcos Mexicaltzingo, Señor de la Santa Meyehualco, Santa Martha Acatitla, Santiago Apóstol Tehuantepec, Santa Maria Aztahuacan, Convento San Marcos Evangelista Mexicaltzingo, Ex convento de Santa Matías Culhuacán.
Monuments: El Santuario Barrio San Pablo, Piramide del Fuego Nuevo, Las Cruces del Barrio Santa Ana Barrios de Culhuacan, San Francisco Barrios de Culhuacan, San Antonio Barrios de Culhuacan.

[53] INEGI (2020), National Census on Population and Housing. Available at: https://www.inegi.org.mx/programas/ccpv/2020/#Tabulados

The *"mayordomías"*[54], fairs and traditions combine several cultural factors such as identity, idiosyncrasy and specific behaviors that differentiate Iztapalapa's inhabitants. The annual theatrical representation of the death of Christ, Easter celebration, among other cultural activities (Tamale fair, Christmas party, etc.) which take place every year, are examples of the traditions preserved by its population.

1.4 Governance in Iztapalapa

Mexico City is one of the 32 federal entities in Mexico and it is divided into 16 territorial areas, which have a political-administrative government denominated Mayor's Office[55]. These are the level of government closest to the citizens. It is run by a mayor with a three-year term of office with re-election possibility, a Local Council, and an administrative structure[56].

Mayor's Offices are entitled with judicial personality and autonomy with respect to its administration and budget execution, except labor contracts of staff and personnel working within the office and Mexico City's government[57].

The Mayor's Office of Iztapalapa is integrated by 7 General Offices, 3 Executive Offices and 13 Territorial Directorates. Currently, it has a staff of 12,178 people, of which 11,408 are on fixed-term and 770 are temporary contracts [58]. The Mayor's Office is structured as follows:

[54] Refers to a set of festivals or festivities celebrated annually by the communities, this could be solemn or patron saint celebrations. These traditions have great importance in the Hispanic culture and are mostly religious activities. These festivities take place in the streets of a town, where dances, open-air games or concerts are held.

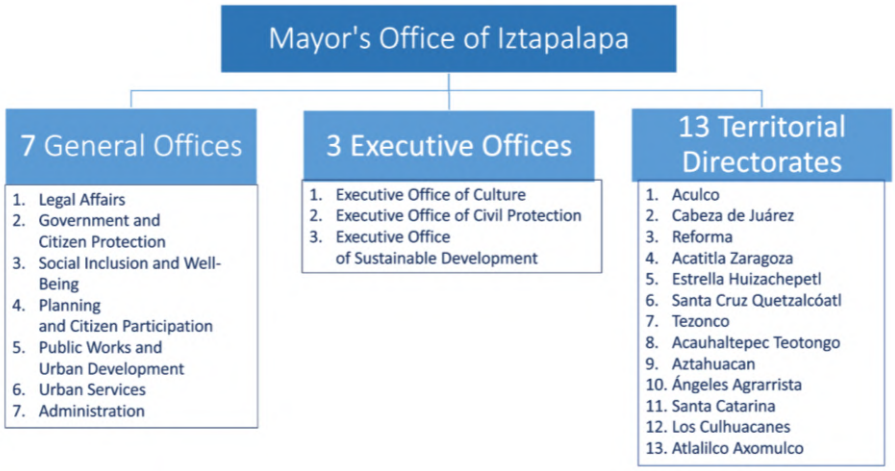
[55] Mexico City Government (2018). Organic Law on Mexico City's Mayor's Offices. Article 2. Available at: http://www.paot.org.mx/centro/leyes/df/pdf/2018/LEY_ORGANICA_ALCALDIAS_CDMX.pdf

[56] According to the las amend made to Mexico City's Constitution in 2019, Mayors and the members of the Local Council can be reelected to its functions in a consecutive manner, for the first time. Mexico City's Constitution amend made in 2019. Article 53. Number 6. Available at: https://www.scjn.gob.mx/sites/default/files/justicia_constitucional_local/documento/2020-01/118922.pdf

[57] Mexico City's Constitution amend (2019). Article 53. Available at: https://www.scjn.gob.mx/sites/default/files/justicia_constitucional_local/documento/2020-01/118922.pdf

[58] Service contract refers to those employees that have a temporal contract with the Mayor's Office. Fixed-term contract are directly hired by Mexico City's Government. In this regard, contractual terms ae no determined by the Mayor's Office of Iztapalapa, nor the number of positions that the Mayor's Office may have. Fix term contract refers to those employees that have an undefined term contract such as public officials.

Figure 9. Organizational structure of the Mayor's Office of Iztapalapa



Source: Own elaboration with data provided by the Mayor's Office of Iztapalapa, 2020.

The Mayor's Office of Iztapalapa has focused its actions in three aspects:

1) Strengthen citizen security.
2) Improve urban infrastructure.
3) Set different actions that seeks to improve people's wellbeing.

Each Mayor's Office has a Local Council that oversees and approves the yearly proposal for the budget expenditure. In the case of the Local Council of Iztapalapa, this collegiate body is constituted by 10 elected members, whose functions are established in the Organic Law of the Mayor's Offices of Mexico City in order to:

- Oversee and evaluate the performance of the Mayor's Office of Iztapalapa.
- Control public spending based on the program objectives.
- Approve the project of budget of every fiscal year according to the applicable norms and regulations.
- Among others.

The local council is integrated by citizens that represent the needs of the Iztapalapa residents. It works by session[59] (ordinary, extraordinary and solemn) and commissions with the aim of discuss and evaluate the progress of the Mayor's Office in different issues. Ordinary commissions are as follows[60]:

[59] The Mayor's Office of Iztapalapa (2019). Internal regulatory framework of the Local Council in Iztapalapa. Available at: http://www.iztapalapa.cdmx.gob.mx/conce/concejales/2%20Instalaci%C3%B3n%20del%20Concejo/ReglamentoConcejo.pdf

[60] The Mayor's Office of Iztapalapa (2019). Regulatory Framework. Article 68. Commissions of Local Council. Available at: http://www.iztapalapa.cdmx.gob.mx/concejales/pdf/ReglamentoConcejo.pdf

- Legal and Government Commission
- Administrative and Public Spending Commission
- Citizen Participation Commission
- Public Works and Urban Development Commission
- Civil Protection and Risk Management Commission
- Urban Services Commission
- Social Wellbeing Commission
- Sustainable and Economic Development Commission
- Culture, Traditional Towns and Indigenous neighborhoods Commission
- Public Security Commission

1.4.1 Public security legal framework of the Mayor's Office of Iztapalapa

The legal framework defines the functions of the institutions regarding public safety:

- Art. 21 of the Political Constitution of the United Mexican States[61]
- General Law of the National System of Public Security[62]
- Political Constitution of Mexico City[63]
- Law of the Mexico City System of Public Security[64]
- Administrative Manual of the Mayor's Office of Iztapalapa 2019[65]

The implementation of these legal frameworks for decision-making in matters of public security and justice implies the participation of community members from various sectors at different levels involved in the exercise of governance.

1.4.2. Public Security and Justice Institutions working with the Mayor's Office of Iztapalapa

[61] National Congress (2020). Article 21 of Mexico's National Constitution. Available at: https://mexico.justia.com/federales/constitucion-politica-de-los-estados-unidos-mexicanos/titulo-quinto/#articulo-115

[62] National Congress (2019). General Law on the National System from Public Security. Available at: http://www.diputados.gob.mx/LeyesBiblio/pdf/LGSNSP_270519.pdf

[63] Mexico City Government, Judiciary Council and Legal Services (2019). Mexico City Constitution. Available at: https://data.consejeria.cdmx.gob.mx/index.php/articulo-leyes-y-reglamentos/31-estatuto-de-gobierno/530-constitucionpoliticadelaciudaddemexico

[64] Mexico City Congress, Session Period I (2019). Mexico City Law on Citizen Security. Available at: https://www.congresocdmx.gob.mx/archivos/transparencia/LEY_DEL_SISTEMA_DE_SEGURIDAD_CIUDADANA_DE_LA_CIUDAD_DE_MEXICO.pdf

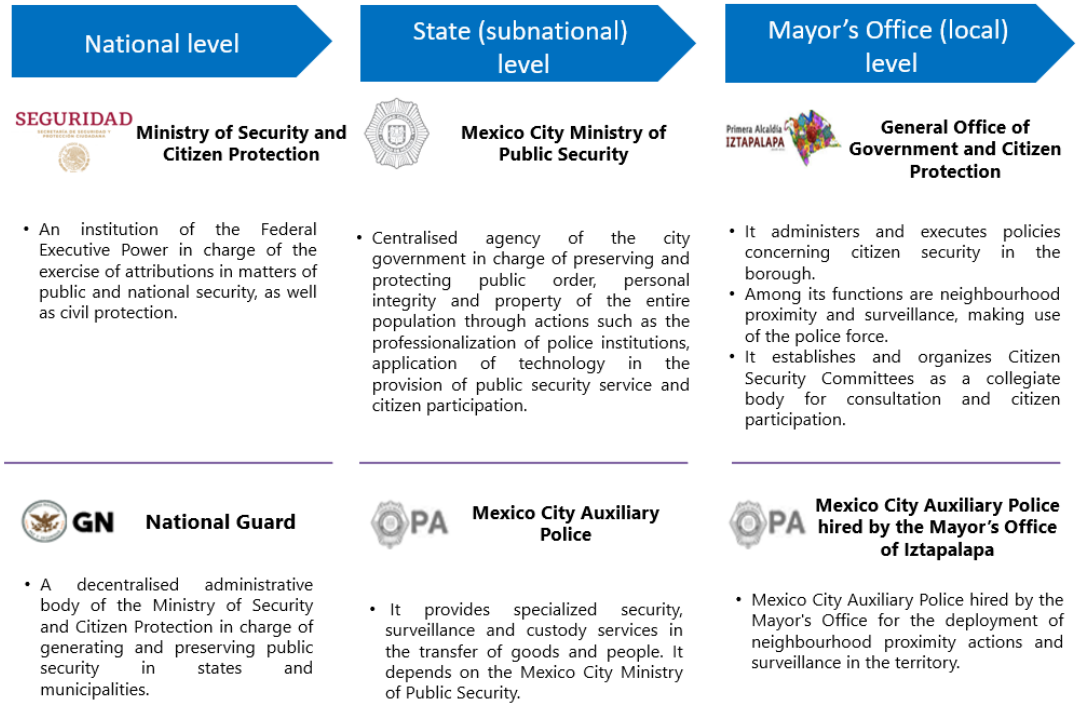
[65] The Mayor's Office of Iztapalapa (2019). Mayor's Office Administrative Manual. Available at: http://www.iztapalapa.cdmx.gob.mx/2alcaldia/manual2020/MANUALADMI2020.pdf

Crime prevention, public security, and justice in Mexico rest on the three levels of government[66]. In this regard, it is important to differentiate the attributions that Mayor's Offices and municipalities have in terms of public security, as well as those that other orders of government have about this subject.

Differences between Mayor's Office and Municipality

Municipality	Mayor's Office
Municipalities have a decentralized autonomy regarding public security. According to the National Constitution, fraction VII[67]: "Preventive police is under the coordination of the President of the Municipality or Mayor".	Mayor's Offices have a centralized autonomy to the Government of Mexico City regarding public security. According to Mexico City Organic Law, article 53[68]: "c) In subordination to the Government of Mexico City, Mayor's Offices may: V. Execute citizen security policies in its territories, VI. Pursue proximity and vigilance functions, VII.

Figure 10. Public Security Institutions prevailing in Iztapalapa



Source: Own elaboration.

[66] National Congress (2020). Mexico's National Constitution. Article 21. Available at: https://mexico.justia.com/federales/constitucion-politica-de-los-estados-unidos-mexicanos/titulo-quinto/#articulo-115

[67] National Constitution. Article 115, fraction VII. Available at: https://mexico.justia.com/federales/constitucion-politica-de-los-estados-unidos-mexicanos/titulo-quinto/#articulo-115

[68] Mexico City Government. Mexico City Official Gazette (2018). Organic Law of Mexico City's Mayor's Offices. Available at: http://www.paot.org.mx/centro/leyes/df/pdf/2018/LEY_ORGANICA_ALCALDIAS_CDMX.pdf

Law-enforcement officials

The Mayor's Office of Iztapalapa has incremented it number of personnel and vehicles assigned to crime prevention, adding to the efforts pursued by Mexico City government to increase police force in the territory. In 2019, the Mayor's Office police force was integrated by a total of 2,745 officials, from which 1,020 were hired[69] by the Mayor's Office to conduct proximity and surveillance actions, plus other 1,725 police elements from the Mexico City Ministry of Public Security operating in the borough[70]. In the same year, the National Guard added 450 of its officials to patrol 22 neighborhoods in the territory with the highest crime incidence[71].

Figure 11. Law-enforcement officials in Iztapalapa



Source: Own elaboration with information provided by the Mayor's Office of Iztapalapa, 2019.

1.4.3. Public security actions

1.4.3.1 Crime prevention

The Mayor's Office of Iztapalapa —through the General Office of Government and Citizen Protection— executes programs for the prevention of crime; seven are implemented directly by the Mayor's Office authorities and three are executed in coordination with Federal Government agencies and the Mexico City Government. The crime prevention programs implemented directly by the Mayor's Office of Iztapalapa are[72]:

[69] According to the attributions given to Mexico City's Mayor's Offices, each one is able to hire police staff to provide public security in its territory. Organic Law of Mexico City's Mayor's Offices. Articles 61, number III. Available at: http://www.paot.org.mx/centro/leyes/df/pdf/2018/LEY_ORGANICA_ALCALDIAS_CDMX.pdf

[70] The Mayor's Office of Iztapalapa (2019). Provisional Government Programme 2019-2020. Available at: http://www.iztapalapa.cdmx.gob.mx/concejales/pdf/ProgPro19-20.pdf

[71] Information provided by the personnel from The Mayor's Office of Iztapalapa during the interviews conducted for this assessment.

[72] All the information presented in this section regarding crime prevention programs implemented by the Mayor's Office of Iztapalapa was provided by personnel of the General Office of Government and Citizen Protection during interviews conducted for this assessment, 2020.

1. Dialogues to Achieve Peace and Well-Being in Iztapalapa Program

According to the Official Gazette of Mexico City, the program began in 2018 and aims to build social, urban and civic culture conditions for the recovery and strengthening of well-being and peace in Iztapalapa[73].

The program was established as part of the intersectoral, intergovernmental and multidisciplinary approach pursued by the Mayor's Office. The program is executed at the local level to promote people's wellbeing, access to public services, security and bolster good governance.

In 2019, 1,909 neighborhood meetings were held with the participation of 51,861 people. There were 4,473 petitions and reports of insecurity. Territorial security work plans were formulated per neighborhood based on these meetings.



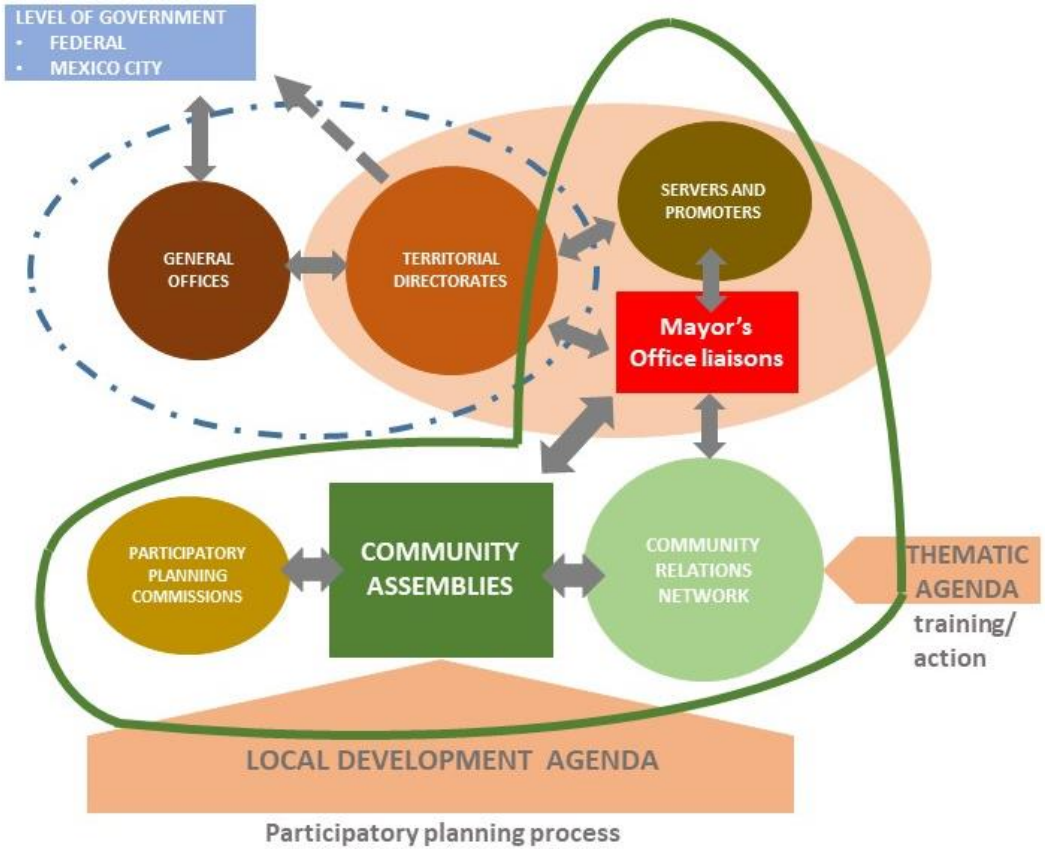
Neighborhood meeting for the Dialogues to Achieve Peace and Well-Being in Iztapalapa Program at the U. H. *Ejercito de Oriente Zona Peñon*, 17 January 2019.

During the second stage of the program, Local Agendas for Development are executed in order to plan, prioritize, generate consensus-oriented proposals and actions that could be arranged between citizens and authorities from the Mayor's Office. The strategies consisted of an integral intervention in the territory, inclusive participatory planning and integrated inter-institutional management, based on an integral intervention model and a methodology of 6 actions related to planning and management:

1. Neighborhood assemblies and communitarian focal points per street and neighborhood.
2. Weekly assemblies to promote communitarian diagnostics and build capacities among communitarian focal points.
3. Design of local agenda for development.
4. Design of actions and projects, as well as working plans for focal points.
5. Integration and socialization of the Local Agenda for Development.
6. Execution of actions and projects.

[73] Mexico City Official Gazette (2019). Rules of Operation of the Program: Dialogues to achieve peace and well-being in Iztapalapa. Available at: http://www.sideso.cdmx.gob.mx/documentos/2019/alcaldias/iztapalapa/114iztapalapa_dialogosporelbienestarylapazeniztapalapa.pdf

Figure 12. Coordination processes and interinstitutional management for the execution of the Program Dialogues to Achieve Peace and Well-Being in Iztapalapa



Source: Mayor's Office of Iztapalapa, 2019.

2. School Security Program for Children[74]

This program aims to generate actions for urban improvement and police surveillance in schools and their proximities. It serves a population of 450 thousand students in basic education (kindergarten, elementary and secondary levels).



- In terms of **urban improvement**[75], repair of streetlights in poor conditions has been promoted, as well as the removal of trash and debris in the vicinity of schools.
- As for **police surveillance actions**[76], between 2018 and 2019, security officials were deployed during student entry and exit times at each one of the 498 educational sites and 766 shifts (morning, afternoon and all-day).

[74] Information provided by personnel from the General Office on Government and Citizen Protection at the Mayor's Office of Iztapalapa, during interviews conducted in 2020 for the preparation of this Assessment, 2020.
[75] Ibid.
[76] Ibid.

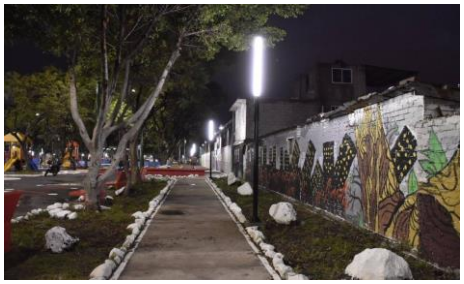
3. Iztapalapa Transformed Program[77]

This program was designed for the improvement of urban development and focuses on transforming and equipping public spaces. Its main achievements are the following:

- **Free and safety corridors for women[78]**

This project aims to provide safe public spaces, free from violence against women. Through the urban transformation and equipment allocated in public corridors such as lightings, emergency alert bottoms and surveillance camaras, the program seeks to prevent aggressions in public spaces against women and citizens in general. In 2019 and 2020, 130 safe corridors were built reaching approximately 320,000 people.





Source: Photo recovered from the social networks of the Mayor's Office of Iztapalapa, 2020: Free and safe women's corridors.

- **Units for Organization, Social Inclusion and Harmony Program (UTOPIAS, as abbreviated in Spanish)[79]**

They are community development centers that aim to provide cultural, educational, artistic and recreational infrastructure to the population at no cost. In addition, these spaces provide attention on different issues to combat inequality and insecurity in the borough. It is expected to prevent antisocial and criminal behavior through the UTOPIAS, as well as the following:

- Recovery of the public space
- Reconstruction of the social fabric
- Community cohesion
- Community participation

UTOPIAs are a cross cutting initiative in which different areas of the Mayor's Office participate. It is expected that at the end of the Mayor's administration, each Territorial Directorate will have a UTOPIA. These centers will provide attention to the inhabitants of the east side of Mexico City, promoting dignified spaces for the communities and ties of solidarity.

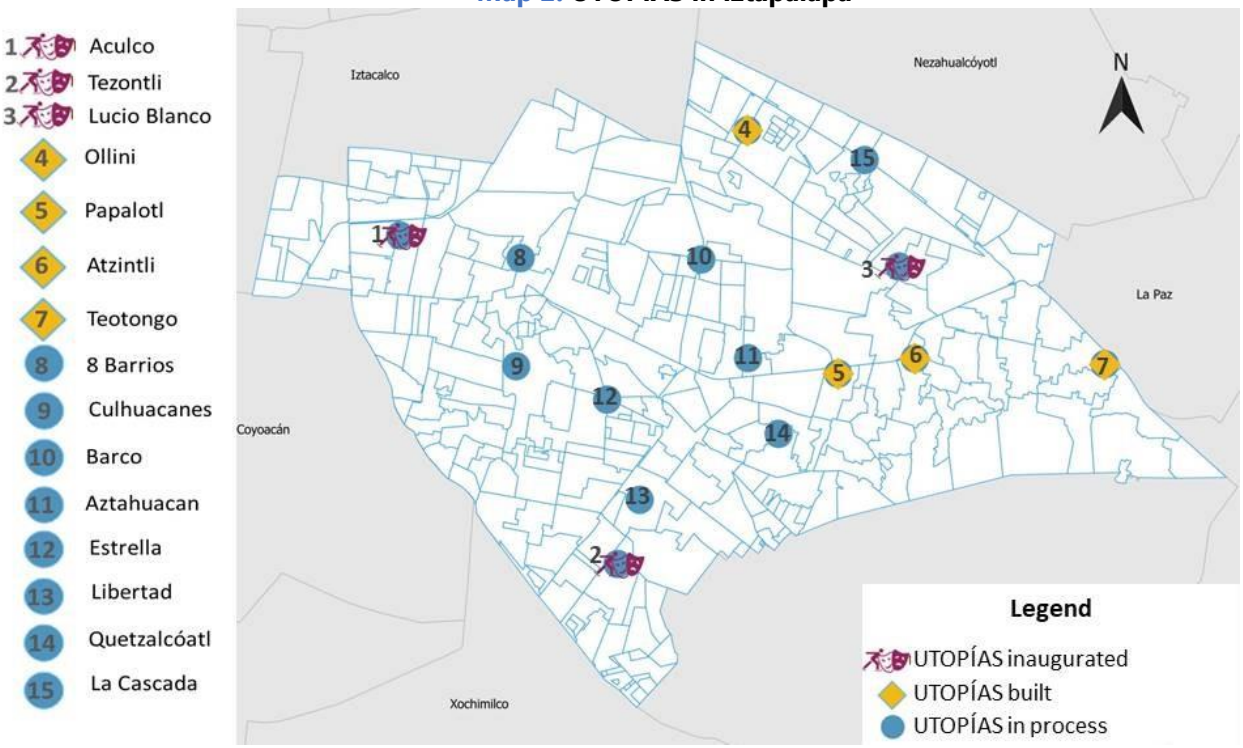
[77] Ibid.
[78] Ibid.
[79] Ibid.



Source: Photo of a UTOPIA (left), recovered from the social networks of the Mayor's Office of Iztapalapa, 2020. Photo of a UTOPIA (middle) provided by the Mayor's Office of Iztapalapa, 2020. Photo from a UTOPIA (right) located in San Miguel Teotongo, obtained from the social media accounts of the Mayor's Office of Iztapalapa, 2020.

The total budged of each UTOPIA varies according to its infrastructure requirements and to the approved budget for Iztapalapa, from the Mexico City Congress. A total of 15 spaces are projected to be built. Until March 2021, seven spaces have been built and, due to the mobility restrictions adopted to the prevent the spread of COVID-19, only 3 UTOPIAS had been inaugurated.

Map 2. UTOPIAS in Iztapalapa



Source: Own elaboration with information provided by the Mayor's Office of Iztapalapa, 2021.

UTOPIAS will offer different activities and sports facilities, among them:

- Semi-Olympic pool
- Facilities for sports.

- An auditorium for 400 persons[80]
- A space to provide medical attention to drugs users and persons with drug-use disorders
- Music, theatre, dance and art lessons
- Space for recreation (technology, reading and games)
- Space for persons with disabilities
- A space for the elderly[81]
- Care, legal and psychological services for women and children' victims of domestic violence.

4. Guidelines to improve the attention provided by police officers to youths and adolescents[82]

Within the framework of the Security Cabinet for the construction of peace, guidelines were established to strengthen the practices and forms of attention of police officers who work with adolescents and youths in the Mayoralty's territory. Based on the commitment established, the aim is to achieve a safe, peaceful and respectful coexistence, as well as to change the perception that young people have on security institutions.

5. Command Center (C2) or Cuitlahuac Base

The Command Center (C2) or Cuitlahuac Base, is an emergency center that receives an average of 800 emergency calls per month from inhabitants living near the base. It also receives requests for attention to various problems through social networks. The base is active 24 hours a day, 365 days a year and requests are channeled based on the identified needs.

In 2019, with the help of the Mayor's Office budget for citizen participation, 3,565 neighborhood alarms were installed, as well as 1,215 video cameras in public passenger transport units, which are directly monitored at the Cuitlahuac Base and are interconnected with the Mexico City Central Command Center.

6. Special Unit for the promotion of Women rights and substantive equality

According to Mexico City's Organic Law[83] and the general law on equality between women and men[84], each Mayor's Office in Mexico City must have a special unit that provides advice to the Mayor's Offices in terms of substantive equality and gender perspective. Based on this, in 2019, the special unit in Iztapalapa was created.

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[80] Iztapalapa only has three auditoriums.
[81] In Iztapalapa there are more than 300 elders' groups that host weekly meetings and organize cultural activities.
[82] information provided by the Mayor's Office of Iztapalapa, 2021.
[83] Mexico City Government. Mexico City Official Gazette (2018). Organic Law of Mexico City's Mayor Offices. Available at: http://www.paot.org.mx/centro/leyes/df/pdf/2018/LEY_ORGANICA_ALCALDIAS_CDMX.pdf
[84] Mexico City Congress (2020). General Law on equality between women and men. Available at: http://www.diputados.gob.mx/LeyesBiblio/pdf/LGIMH_140618.pdf

When the current administration stated activities, the unit conducted a diagnostic on violence against women in Iztapalapa, a cross-cutting issue that is also influenced by the urban conditions, quality of life, mobility, etc.

The special unit oversees that the programs, strategies, or actions executed by the Mayor's Offices has a clear gender perspective. It works closely with the Prosecution Offices located in Iztapalapa with whom they review crime statistics. In some cases, it also provides assistance to the victims by referring them to the Justice Centers for Women.

Among its contributions are the following:

- Legal advice to all administrative offices so they can execute actions with a gender perspective.
- Mechanism of action in case of sexual harassment.
- Capacity building to police officers regarding gender perspective.
- Advice on how to integrate a gender perspective into murals and artistic activities performed in the *Free* and *safety corridors for women*.
- Execution of the program *Always alive*.

In 2020, the unit implemented the **program Always alive**, an initiative that provides capacity building to families in neighborhoods with high crime rates. It aims to strengthen people's capabilities and empowerment. The program is integrated by the following activities:

- **Household visits by a personnel form the Mayor's Office of Iztapalapa**. A qualified team conducts visits house by house and gives talks to families about how to promote a life free from violence.
- **House of the Always alive persons**. Building from a national program called Violet Houses, the unit replicate this practice to the local level and set a model to aid women living violent situations. The Mayor's Office is planning on establishing 9 of these houses inside the UTOPIA and 5 more are planned to be in the Women Aid Modules located in Iztapalapa.
- **Pendants to call authorities in case of emergency.** The Mayor's Office has delivered 700 pendants that are equipped with an emergency button, which can be activated by the victim and send real-time location to the Command Center (C2) or Cuitlahuac Base. Once the alert is sent, the nearest police patrol attends to the event and supports the victim.

All these actions are periodically reported during the Security Cabinets held by the Mayor's Office and respond to the recommendations emitted by the National Commission to Prevent and Suppress Violence against Women (CONAVIM, as abbreviated in Spanish).

7. Special Unit for Crime Prevention (UEPD) of the Mayor's Office of Iztapalapa

The Special Unit for Crime Prevention (UEPD, as abbreviated in Spanish) started operations in October 2010. The Unit has a psychologist, a theatre teacher and four members of the Auxiliary Police, assigned to sector 56 of the Mexico City police force, who in addition to their training as police officers have received training in artistic subjects and theatrical sensitivity.

Their main function is to prevent crime through awareness-raising processes. During 2019, they developed 290 theatre presentations and talks aimed at students of basic, medium and higher levels of education. With these actions, they managed to reach 23,360 people. The topics of their presentations and talks were as follows[85]:

- *Bullying* among teenagers (96 talks)
- Internet risks (37 talks)
- Cyberbullying (35 talks)
- Bullying with puppet theatre (26 works)
- Addictions (21 talks)
- Life project (15 talks)
- Teenage pregnancy (12 talks)
- Dating violence (12 talks)
- Creative parenthood (11 talks)
- Road culture (8 talks)
- Civic culture (6 talks)
- Fables about bullying (5 talks)
- Domestic violence (3 talks)
- Workplace harassment (2 talks)
- Risk prevention in public markets (1 talk



Source: Photos of the members of the UEPD before and after a show, February 2020.

Other crime prevention programs implemented in coordination with other bodies are:

8. Voluntary Arms Surrender Program

Since 2019, the objective of the Voluntary Arms Surrender Program has been to contribute to the reduction of the high rates of violence through the exchange of firearms and ammunition for money. It is being implemented in coordination with the Ministry of National Defense, the Mexico City Ministry of Government and Public Security, parishes and the Mayor's Office of Iztapalapa.

Main achievements: The program was held for 18 days in 2019, in which a total of 972 weapons were collected:

- 642 small firearms
- 309 long firearms
- 21 blank firearms

[85] Information provided by personnel from the Special Unit for Crime Prevention at the Mayor's Office of Iztapalapa, during interviews conducted in 2020 for the preparation of this Assessment.

In addition, 136 grenades were collected: 50 fragmentation grenades, 1 attachment grenade, 5 mortar grenades, 1 howitzer grenade, 79 gas grenades, as well as 1 grenade launcher, 1 rocket launcher, 481,802 cartridges, 6 dynamite cartridges, 7,210 stoppers and 2 magazines.

9. Neighborhood and Community Improvement Program

The program aims to generate urban planning intervention to improve or rescue public spaces through the financing of participatory citizen projects. It is promoted by the Mexico City government covering the 16 boroughs of the capital. In 2019, urban improvement was achieved in locations of the 293 neighborhoods of Iztapalapa through streetlight fixtures and general improvements to the urban environment.

10. My Street Program

The program is carried out by the Mexico City Ministry of Public Security in all 16 boroughs. It consists of the installation of CCTVs. In 2019, 2,402 video cameras were installed in 186 neighborhoods of Iztapalapa.

1.4.3.2 Law-enforcement efforts between the Mayor's Office of Iztapalapa and the Mexico City Ministry of Citizen Security

Since 2019, the Mexico City Government has implemented the **Community Neighborhood Improvement Program,** or **Strategy 333**[86]**,** which aims to reduce violence and improve the quality of life of the residents of the neighborhoods and *barrios* with the greatest vulnerability in each borough, based on the population's requests to develop community projects related to safety and recreation. This program is implemented in 50 neighborhoods in Iztapalapa[87].

In addition, the Mayor's Office of Iztapalapa links the Community Neighborhood Improvement Program or Strategy 333 with the **Dialogues to Achieve Peace and Well-Being in Iztapalapa Program**, which is implemented in 22 neighborhoods with the highest crime incidence[88].

The Quadrants Program[89] is another strategy executed by the Ministry of Citizen Security, that seeks to address crime in all the city's boroughs. In the case of Iztapalapa, for the implementation

[86] Mexico City Government. (2019). City government orients program "Community Neighborhood Improvement Program" to 333 neighborhoods, and towns. Available at: https://www.jefaturadegobierno.cdmx.gob.mx/comunicacion/nota/orienta-gobierno-capitalino-programmea-mejoramiento-barrial-y-comunitario-333-colonias-pueblos-y-barrios

[87] Information provided by the personnel from the Mexico City Ministry of Citizen Security during interviews conducted for this assessment, 2020.

[88] The Mayor's Office of Iztapalapa (2020). Actions for peace: Security Dialogues. Available at: http://www.iztapalapa.cdmx.gob.mx/concejales/pdf/Deterioro.pdf

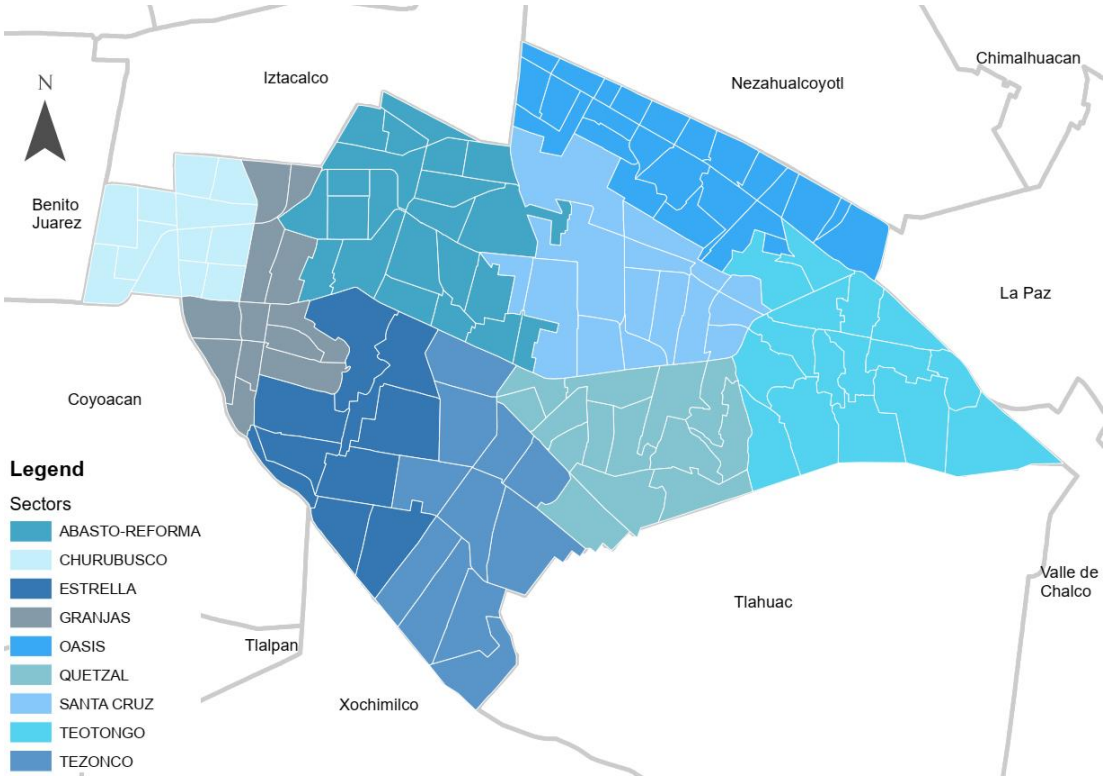
[89] Information provided by the personnel from the Mexico City Ministry of Citizen Security during interviews conducted for this assessment in 2020.

of this program, the Mayoralty's territory was divided into 9 sectors and 134 quadrants, with the following objectives:

- Bring the police closer to the population.
- Reduce the response time to 911 emergency calls.
- Optimize the use of resources.
- Evaluate the individual performance of the police, limiting the space of responsibility of the sectors.

According to the Ministry of Citizen Security, between 2016 and 2019, police interventions decreased -35%.

Map 3. Iztapalapa's division of 9 sectors and 134 quadrants



Source: Own elaboration with information obtained from Mexico City Open Data, quadrants, 2019.

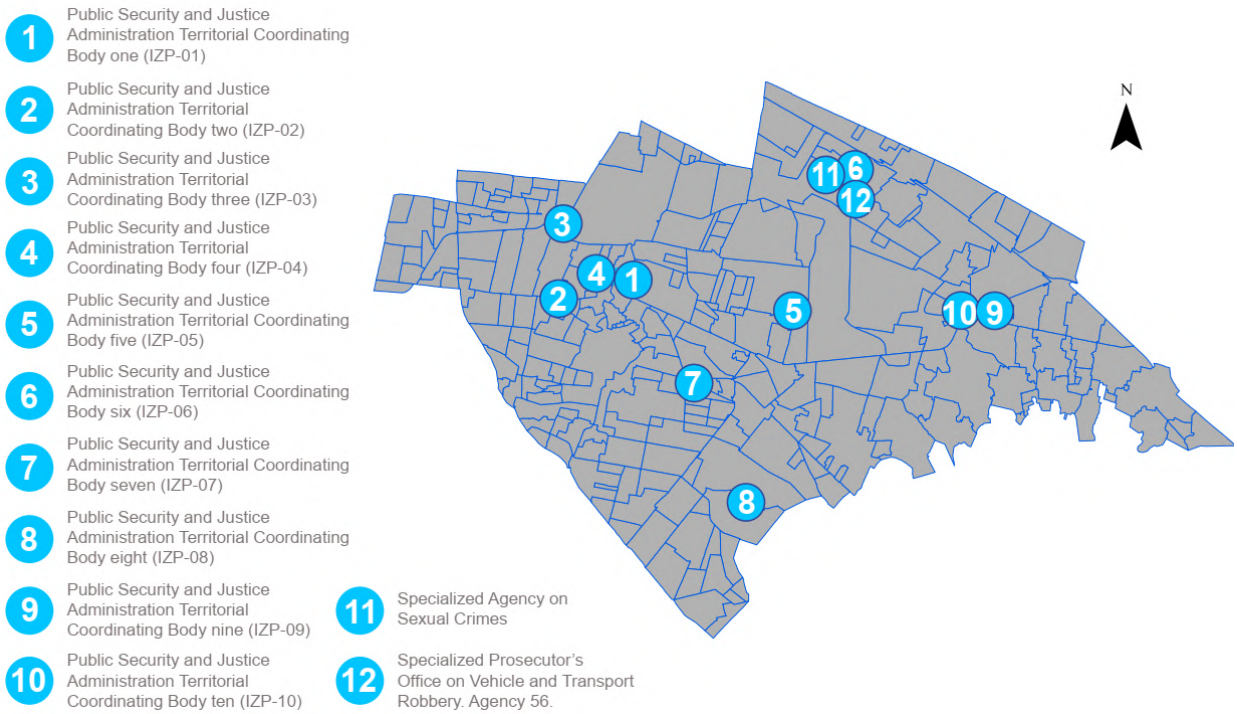
1.4.3.3 Judiciary institutions operating in Iztapalapa

The Mexico City's General Prosecutor's Office (FGJ-CDMX) is in charge of the justice system, i.e. the investigation and prosecution of crimes, and aims to guarantee compliance with the legal framework and respect for rights through the exercise of criminal proceedings. Iztapalapa has ten Territorial Coordinating Bodies for Public Security and Justice Administration in charge of initiating

preliminary investigations and investigating crimes in response to complaints and reports, also in charge of two additional administrative units[90]:

- Specialized Agency on Sexual Crimes
- specialized Prosecutor's Office on Vehicle and Transport Robbery - Agency 56

Map 4. Location of Administrative and Territorial Coordinating Bodies

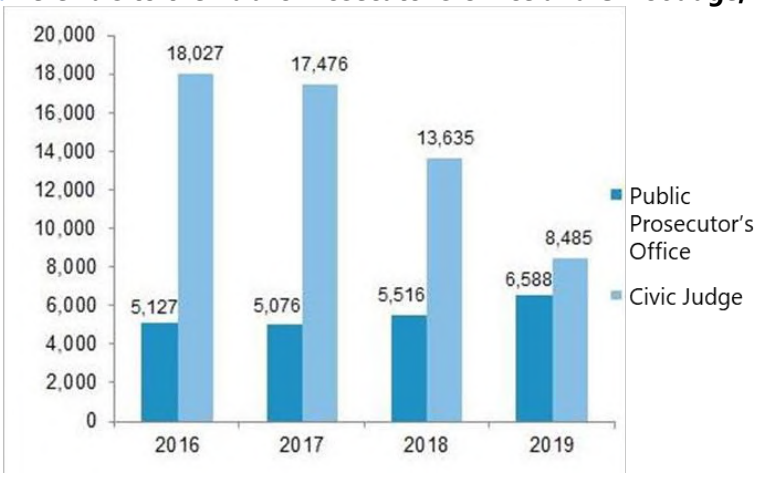


Source: Own elaboration with data obtained from the Territorial Coordinating Bodies for Public Security and Justice Administration, 2019.

From 2016 to 2019, referrals to the civic judge decreased by 53% and referrals to the Prosecutor's Office increased by 28.5%.

[90] General Coordination of the Citizen Security and Justice Provision Cabinet (2019). *Security Territorial Coordination.* Available at: https://datos.cdmx.gob.mx/explore/dataset/comisiones-vecinales/table/?refine.delegacion=IZTAPALAPA&sort=-consecut_1&location=12,19.34224,-

Graph 2. Referrals to the Public Prosecutor's Office and Civic Judge, 2016-2019



Source: Own elaboration with data provided by the Mayor's Office of Iztapalapa, 2016-2019.

1.4.3.4 Penitentiary System

Five out of ten prisons in Mexico City are in Iztapalapa under the protection of the Mexico City Ministry of Citizen Security[91].

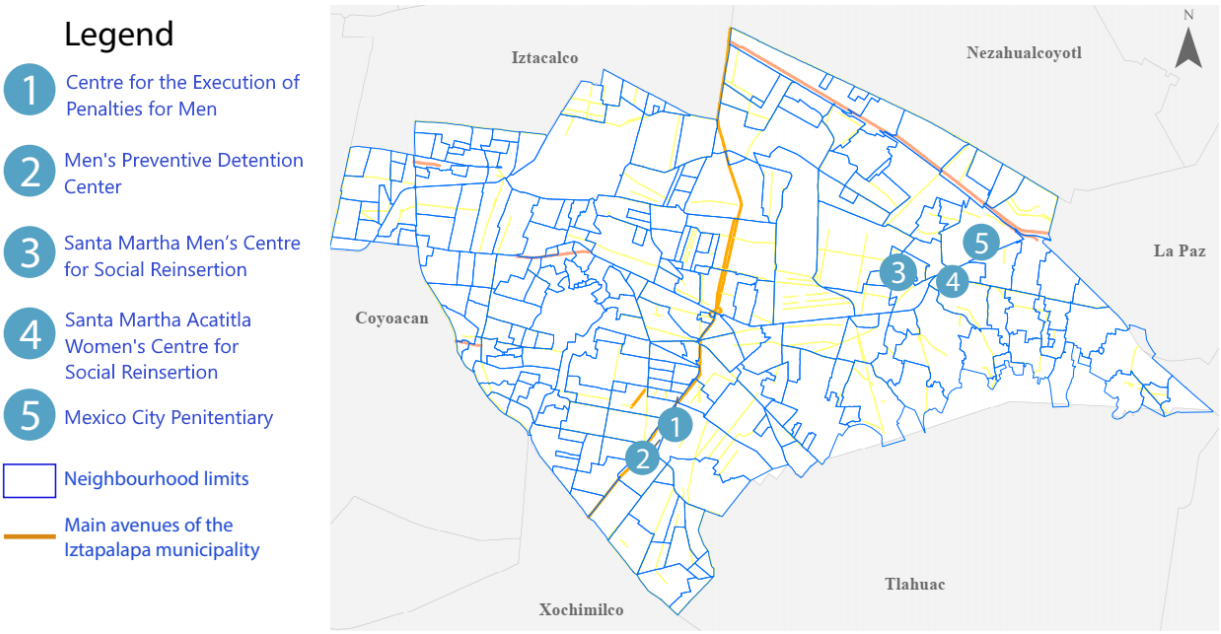
12,150 Men and women deprived of their liberty were living in the prisons located in Iztapalapa in 2020, distributed as follows[92]:

- Men's Preventive Detention Center: 8,247 men
- Mexico City Penitentiary: 1,846 men
- Santa Martha Men's Center for Social Reinsertion: 505 men
- Santa Martha Acatitla Women's Center for Social Reinsertion: 1,379 women
- Center for the Execution of Penalties for Men: 173 men

[91] Office of the Deputy Minister for the Mexico City Penitentiary System (2020). Prisons. Available at: https://penitenciario.cdmx.gob.mx/

[92] Ibid.

Map 5. Prisons in Iztapalapa



Source: Own elaboration with data obtained from the Mexico City Penitentiary System, 2019.

2. Main challenges in Iztapalapa

This chapter addresses the main challenges faced by the population and authorities of Iztapalapa. Firstly, an analysis on Iztapalapa's criminal dynamics is presented, followed by alcohol and drugs use, and lastly, the deterioration of the urban and environmental surroundings is presented. Also, the results from the risk analysis conducted in 44 neighborhoods[93] in Iztapalapa, is presented.

2.1 Crime overview of Iztapalapa

This section presents statistics on insecurity perception and antisocial behaviors. We also include a description of Iztapalapa's criminal context, as well as an analysis of organized crime.

2.1.1 Perception of insecurity in Iztapalapa

From December 2019 to December 2020, the perception of insecurity decreased 6.2%[94]. Over the first quarter of 2020, **93.1%** of the inhabitants indicated they felt unsafe in their neighborhood, mainly in the places shown in the following figure:

Figure 13. Percentage of people that felt unsafe in the public space

Public transport	ATM in a public location	Streets	Bank	Park	Market
					
93.1%	**86.4%**	**81.7%**	75.8%	63.5%	62.4%
Highway	**Vehicle**	**Job**	**Mall**	**Home**	**School**
					
60.2%	53.5%	51.9%	45.6%	35.8%	33.8%

Source: Own elaboration with data obtained from INEGI, National Survey on Urban Public Security (ENSU), December 2020.

In the last quarter of 2020, the population modified the following routines due to fear of becoming the victim of a crime[95]:

[93] The selection of neighborhoods corresponds to those with the higher criminal reports during 2018.
[94] INEGI (2019, 2020). National Survey on Urban Public Security (ENSU). Available at: https://www.inegi.org.mx/programmeas/ensu/default.html#Tabulados
[95] INEGI (2020). National Survey on Urban Public Security (ENSU), Routine Changes, December 2020. Available at: https://www.inegi.org.mx/programmeas/ensu/default.html#Tabulados

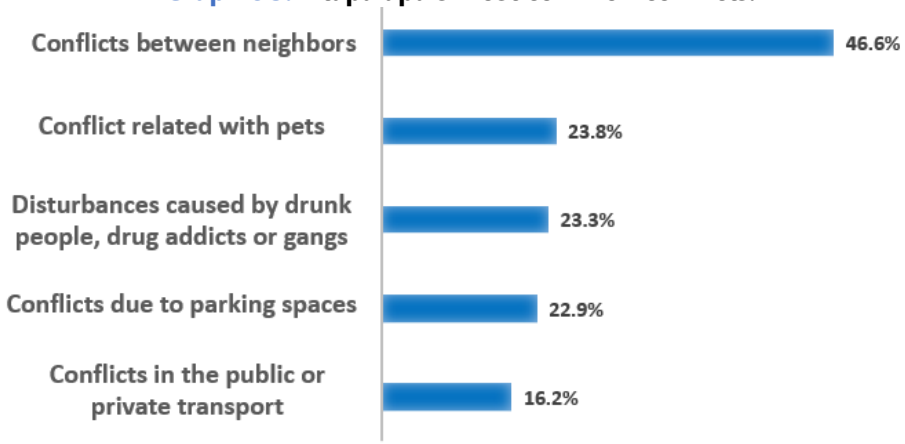
Figure 14. Routines that were modified by Iztapalapa's inhabitants for fear of becoming victim of crime



Source: Own elaboration with data obtained from INEGI, National Survey on Urban Public Security (ENSU), December 2020.

Regarding antisocial behavior, during the last quarter of 2020, conflict between neighbors (46.6%) was the main problem identified by the residents of Iztapalapa. The main causes of these conflicts were noise, parties, garbage disposal, non-payment of fees or poor parental control of children[96].

Graphic 3. Iztapalapa's most common conflicts.



Source: Own elaboration with data obtained from INEGI, ENSU, December 2020.



"There is always a car obstructing the sidewalks. A woman parked her car in the sidewalk and forced me and my son to walk out on the road"

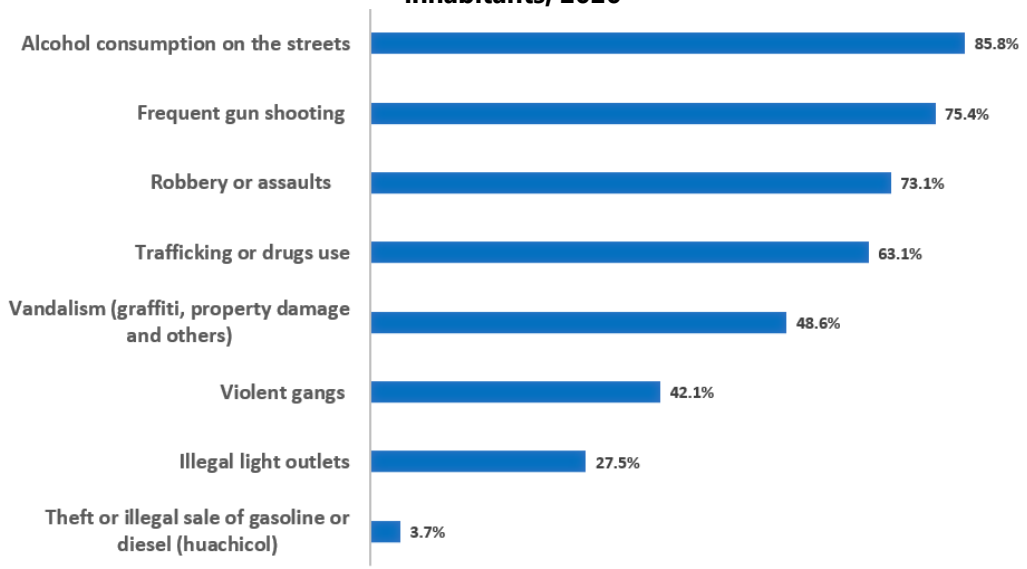
[96] INEGI (2020). National Survey on Urban Public Security (ENSU). Iztapalapa's most common local conflicts, first quarter. Available at: https://www.inegi.org.mx/programmeas/ensu/default.html#Tabulados

"Public transport drivers have problems with one another"

2.1.2 Witnessing antisocial behavior

Over the course of the last quarter of 2020, the most recurrent criminal and antisocial behaviors witnessed by Iztapalapa's inhabitants were alcohol consumption in the streets, regular occurrence of shootings, robbery or assaults, as well as drug use and drug dealing.

Graphic 4. Percentage of criminal and antisocial behavior that was witnessed by Iztapalapa's inhabitants, 2020

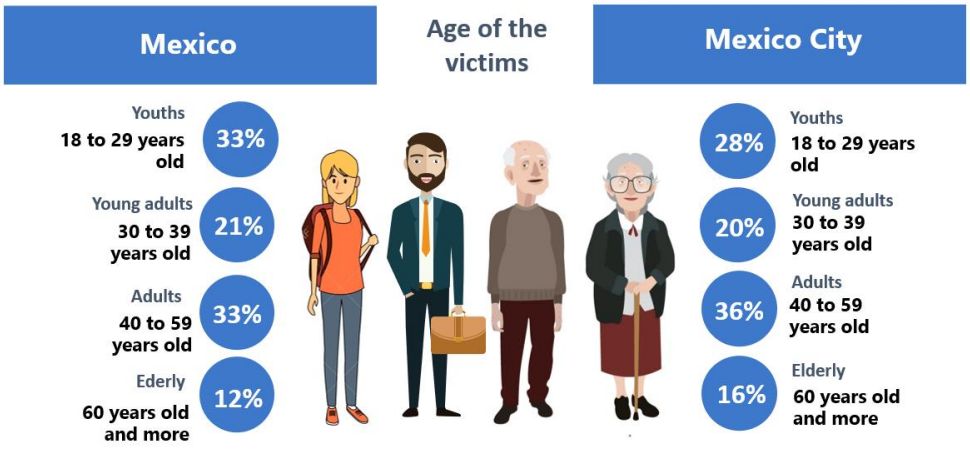


Source: Own elaboration with figures from INEGI, National Survey on Urban Public Security (ENSU), December 2020.

According to the National Survey on Victimization and Perception of Public Security (ENVIPE), 2020 at the national level 51% of the victims of crime were women, while 49% were men. In Mexico City, half were women (50%) and half were men (50%).

In the same period of analysis, at the national level, two groups accumulated 64% of the victims: youths between 18 and 29 years old (33%) and adults between 40 and 59 years old (33%). In Mexico City, these same groups represent 64% of the victims: 36% adults between 40 and 59 years and 28% youths between 18 and 29 years old.

Figure 15. Percentage of victims distributed by age at the local and national level, 2020



Source: Own elaboration with figures from INEGI, National Survey on Victimization and Perception of Public Security (ENVIPE), 2020.

Both nationally and in Mexico City, most of the crimes (40% at national level and 41% in Mexico City) were committed between 12:01 and 18:00 hours[97].

Figure 16. Time of crime occurrence, in Mexico City and nationally, 2020

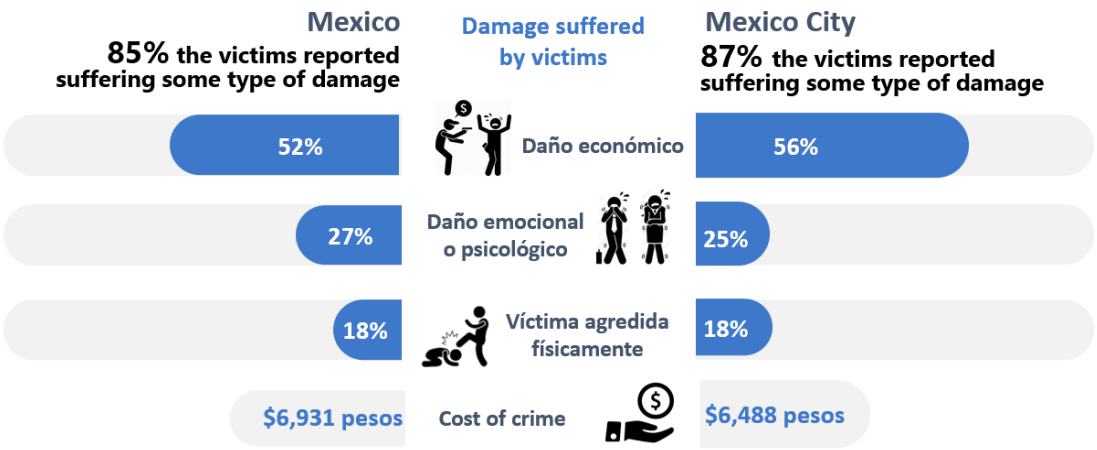


Source: Own elaboration with figures from INEGI, National Survey on Victimization and Perception of Public Security (ENVIPE), 2020.

At the national level, as well as in Mexico City, 85% of the victims reported suffering some type of property damage[98]. At the national level, 52% reported economic damage and in Mexico City, 56% reported also this damage. In both cases, the cost exceeds $6,400 Mexican pesos (320 USD, approximately)[99].

[97] Ibid.
[98] INEGI (2020). National Survey on Victimization and Perception of Public Security (ENVIPE). Available at: https://www.inegi.org.mx/programmeas/envipe/2019/
[99] Ibid.

Figure 17. Damage suffered by the victims of a crime, 2020



Source: Own elaboration with figures from INEGI, National Survey on Victimization and Perception of Public Security (ENVIPE), 2020.

According to figures from ENVIPE, both nationally and in Mexico City 86% of offenders were men[100]. Offenders were mostly young men between 26 and 34 years old, which at the national level represented 33% and in Mexico City 32% of the total. Juvenile male offenders, with 25 years old or younger, represented 23% at the national level and 28% in Mexico City[101].

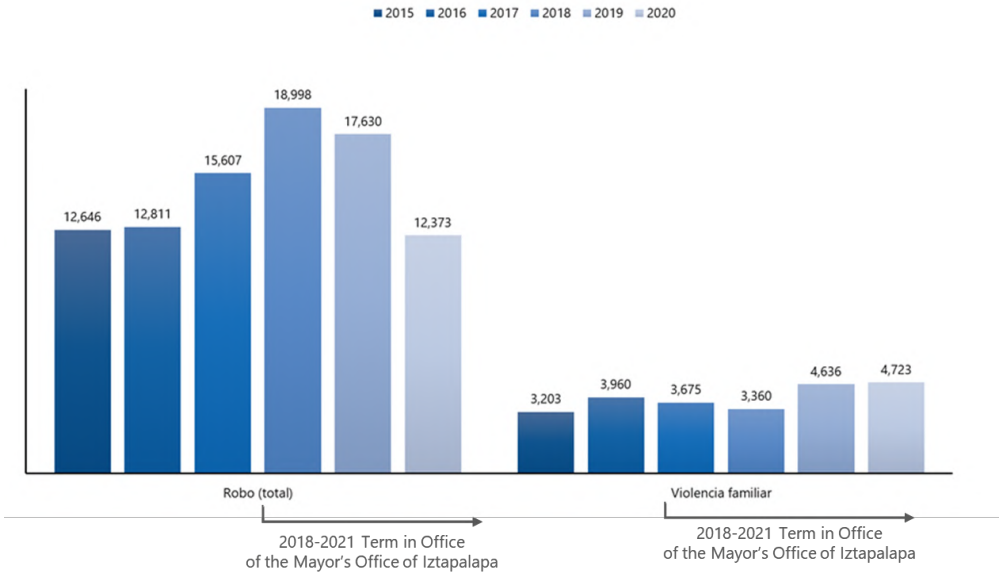
At the national level, 24% of the perpetrators were under the effects of alcohol and drugs at the time of committing the crime. In Mexico City, the percentage of offenders under the effects of alcohol or drugs was 18%. At the national level, in nearly 71% of the cases crimes were committed with firearms, and in Mexico City crimes committed with firearms represent about 75%.

2.1.3 Most reported crimes in Iztapalapa[102]

According to the Executive Secretariat of the National System for Public Security (SESNSP, as abbreviated in Spanish), between 2015 to 2020 robbery in all its modalities and domestic violence were the most reported crimes in Iztapalapa.

[100] Ibid.
[101] Ibid.
[102] The reported crimes presented here derived from the monthly statistics issued by the SESNSP, based on crime reported by the population and consequently filed as an investigative report at the General Prosecutor's Offices. Currently, data from the other part of the population that were victims of a crime and did not report it is estimated by ENVIPE. As such, the analysis in this section focuses only on reported crimes.

Graph 5. Most reported crimes in Iztapalapa, 2015 to 2020



Source: Own elaboration with data obtained from the Executive Secretariat of the National System for Public Security (SESNSP), 2015 to 2020.

2.1.3.1 Domestic violence and crimes against women

One of the objectives pursued by the Urban Security Governance Assessment in Iztapalapa is to shed light on violence and crimes against women and girls. Through an intersectionality and human rights approach, the assessment seeks to highlight the importance of the 2030 Agenda for Sustainable Development and pay close attention to SDG 5 "Gender Equality", which aims to:



Archive gender equality and empower all women and girls

Considering international instruments such as the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) [103] also known as the Convention of Belém do Pará, and the United Nations resolutions on the elimination of violence against women and girls[104], this

[103] OHCHR (1979). Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women. Available at: https://www.ohchr.org/EN/ProfessionalInterest/Pages/CEDAW.aspx

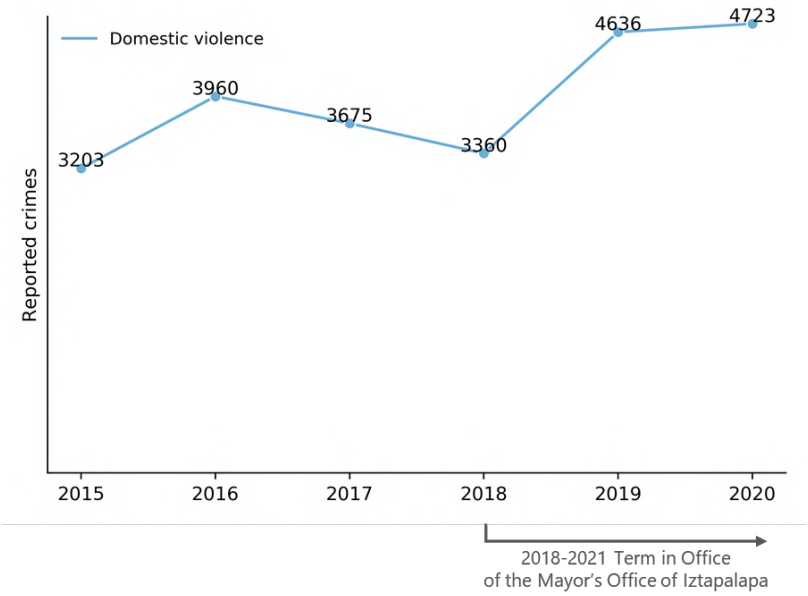
[104] United Nations General Assembly (2011, 2012). Resolutions: 1) Resolution 54/134: International Day on the elimination of violence against women, 2) Resolution 48/104: Declaration on the elimination of violence against women, 3) Resolution AG 61/143 on the intensification of efforts to eliminate all forms of violence against women. Available at: https://www.un.org/es/ga/66/resolutions.shtml

document aims to identify actions that could be adopted to prevent and guarantee women and girls a life without violence as well as ensuring their access to justice and damage compensation[105].

Between 2015 and 2020, reported crimes on domestic violence increased by

47.5%

Graph 6. Domestic Violence reported in Iztapalapa, 2015 – 2020



Source: Own elaboration with figures from the Executive Secretariat of the National System for Public Security (SESNSP), 2015 to 2020.

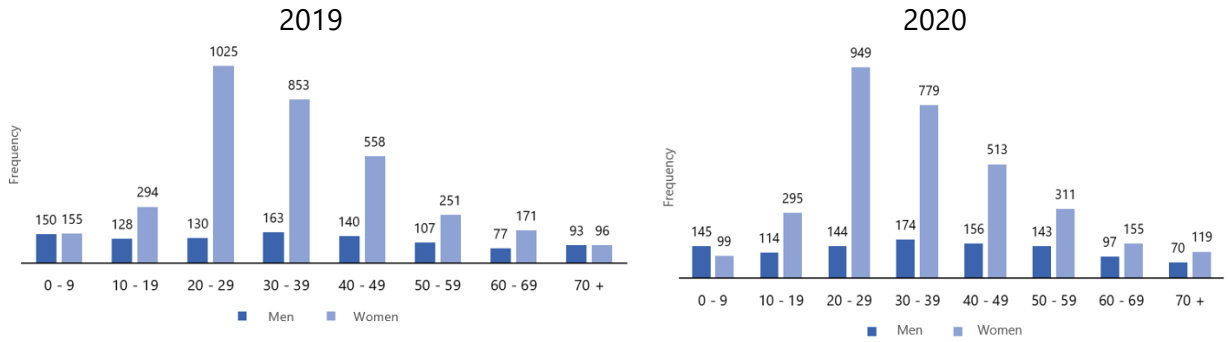
According to the Mexico City General Prosecutor's Office, in 2019 and 2020, most of the victims that reported domestic violence were women and girls.

In 2019, 77.5% of the victims from reported crimes on domestic violence in Iztapalapa were women and 22.5% were men. The majority of the victims were young women between 20 and 29 years old (23%). 16.5% of the victims were between 0 and 19 years old, both women and men.

In 2020, 75.5% of the victims that reported domestic violence were women, while 24.5% were men. 22% of the victims were young women between 20 and 29 years old. Victims between 0 and 19 years old, both women and men, represented 15%.

[105] Minimum requirements to integrate gender equality into the implementation of the UN framework for the socio-economic response to COVID-19. UN Women (2020). UN Women rapid assessment tool to evaluate gender equality and women's empowerment results in humanitarian contexts. Available at: https://www.unwomen.org/en/digital-library/publications/2020/05/rapid-assessment-tool-to-evaluate-gewe-results-in-humanitarian-contexts

Graph 7. Victims of reported crimes on domestic violence, by sex and age, 2019 and 2020



Source: Own elaboration with figures from the Mexico City General Prosecutor's Office (FGJ), 2019 and 2020.

Although data from the Mexico City General Prosecutor's Office is disaggregated by age and sex, and in order to deepen the analysis, it would be important to highlight those cases in which the victim has been re-victimized. This could provide an early warning to the authorities and foster effective crime prevention actions[106].

Spatial concentration of reported crimes on domestic violence

In 2015 and 2019, the spatial concentration of reported crimes on domestic violence in Iztapalapa were located in the following areas:

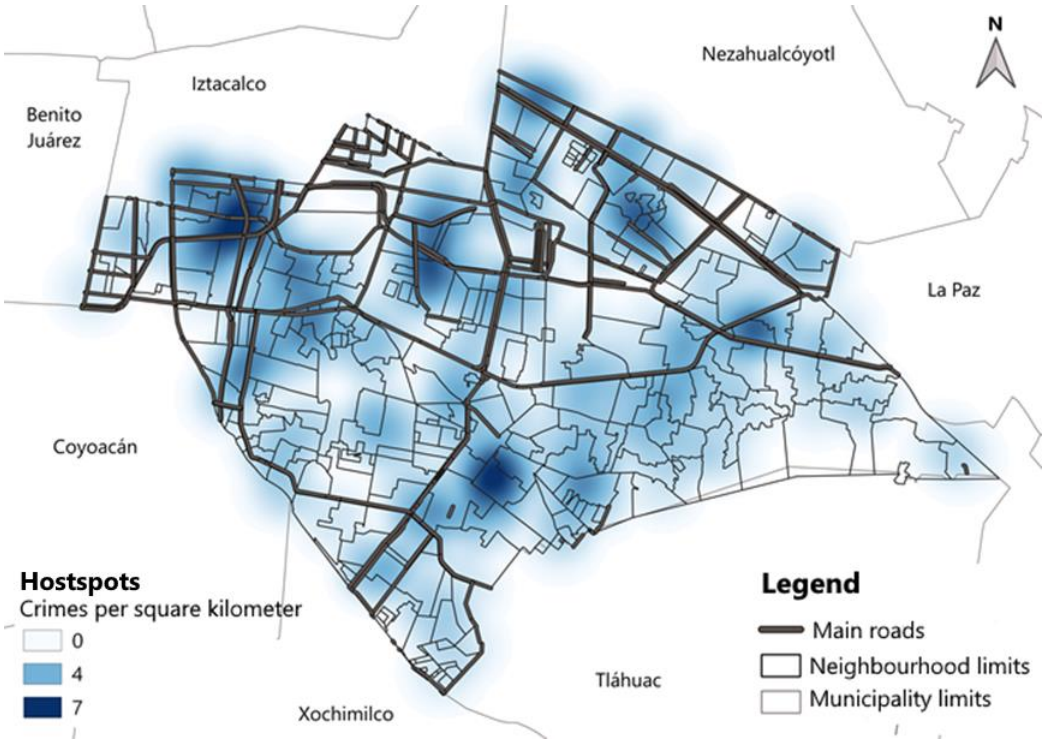
- To the north and south of Iztapalapa in 2015
- To the east and south in 2019

According to figures from the Mexico City General Prosecutor's Office, from 2015 to 2019, the highest number of reported crimes on domestic violence were located in the following neighborhoods in Iztapalapa:

1. Desarrollo Urbano Quetzalcoatl
2. Santa Cruz Meyehualco
3. San Miguel Teotongo
4. Leyes de Reforma 3ª Sección
5. Juan Escutia
6. U.H. Vicente Guerrero

[106] Available figures give us the total number of reports on domestic violence, from this, it is unclear which of these reports belong to victims that have been re-victimized. This would be important for the prevention of other crimes committed against women.

Map 6. Reported crimes on domestic violence in Iztapalapa, 2015 and 2019



2015



2019

Source: Own elaboration with figures from the Mexico City General Prosecutor's Office (FGJ), 2015 and 2019.

Domestic violence during the COVID-19 lockdown

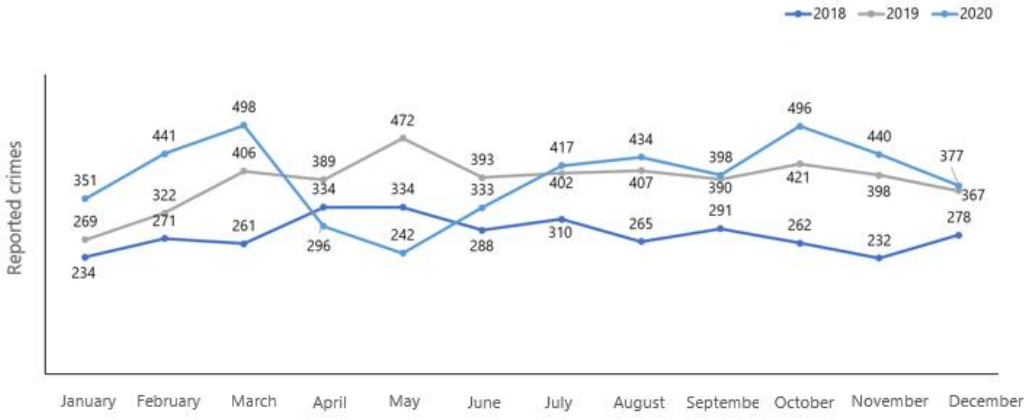
During the first quarter of 2020, domestic violence reports showed an increase, with March being the month with the highest number of reports. On March 23, 2020, the sanitary emergency was issued, and lockdown measures took place in Mexico to prevent COVID-19 contagion[107].

Between March and December 2020, reported crimes on domestic violence reports decreased by

-24%.

A drop on the number of reported crimes on domestic violence could be associated with the lockdown measures imposed to prevent the spread of COVID-19 as victim's were unable to go outside and file a report due to the mobility restrictions adopted in Mexico. Crime reporting may be also affected by the lack of access to digital mechanisms.

Graph 8. Reported crimes on domestic violence in Iztapalapa, monthly, 2018-2020

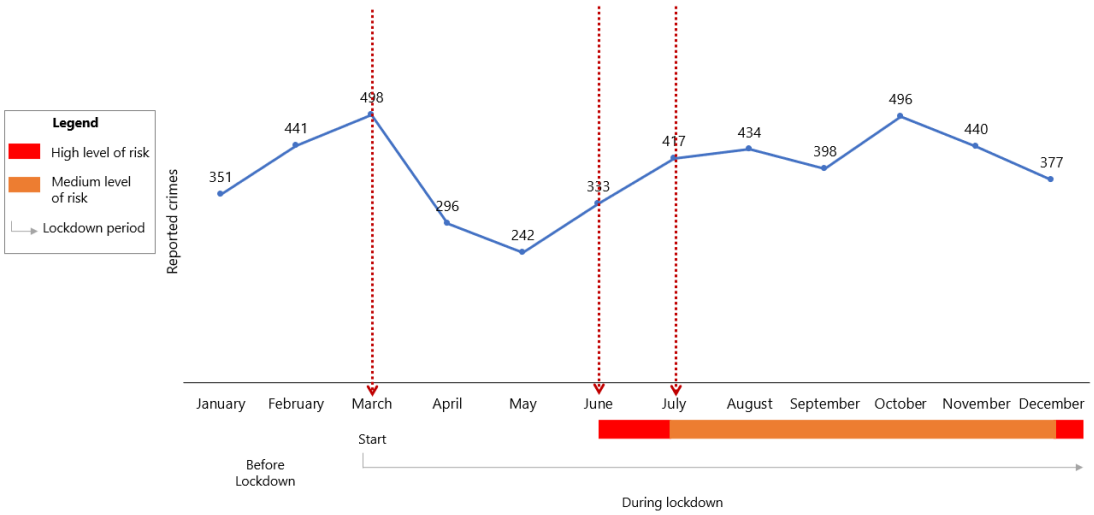


Source: Own elaboration with figures from the Executive Secretariat of the National System for Public Security (SESNSP), 2018 to 2020.

According to national figures, when mobility restrictions became less severe, from July to November 2020, the number of reports on domestic violence increased by 5.5%. This may be associated with the adoption of less strict confinement measures, possibly facilitating crime reporting for the victims.

[107] Official Gazette of Mexico City, (2020). Mexico City Government. Agreement on March 23, 2020. First Agreement by which the temporary suspension of activities of educational centres and commerce is established, as well as public and private events with over 50 people, in order to avoid contagion COVID-19 in Mexico City. Available at: http://data.consejeria.cdmx.gob.mx/portal_old/uploads/gacetas/887ed477612cfc31d077d94d4faa212f.pdf

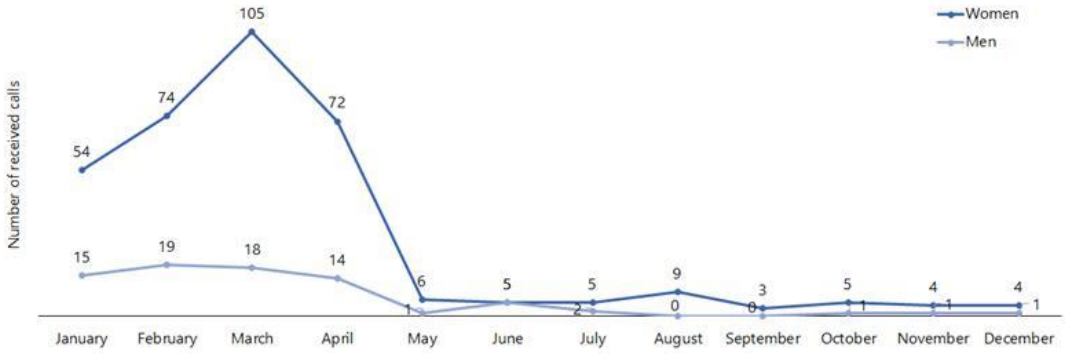
Graph 9. Reports on domestic violence in Iztapalapa during COVID-19 lockdown, 2020



Source: Own elaboration with figures from the Executive Secretariat of the National System for Public Security (SESNSP), 2020.

Based on figures from SESNSP, from January to December 2020 reports on domestic violence decreased by -24%. When analyzing the trend of the phone calls received by Locatel[108], a drop of -96% was identified in calls reporting domestic violence starting from March 2020.

Graph 10. Phone calls received by Locatel reporting domestic violence



Source: Own elaboration with figures from Locatel, 2020

From the total number of calls received by Locatel, in 2020 reporting domestic violence, in all the cases (423) the victim had 18 years old or more.

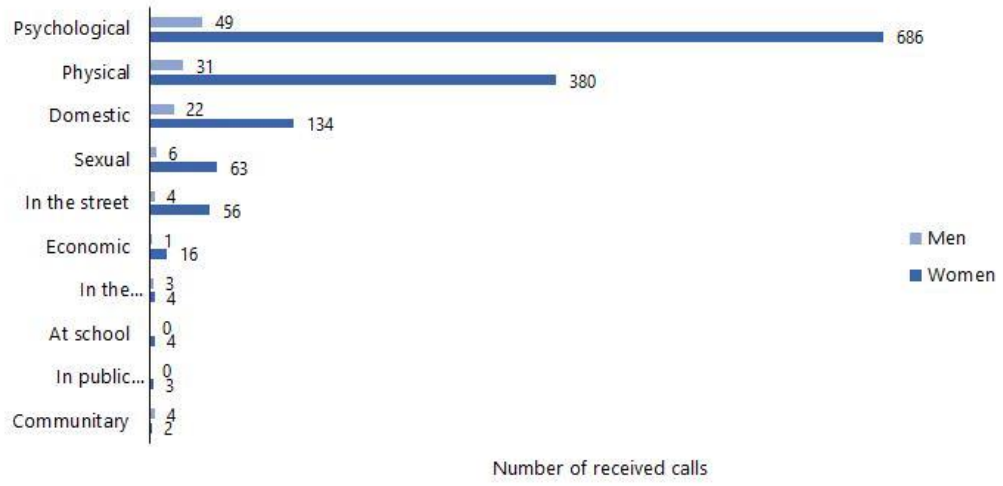
82% of the calls were made by women

18% of the calls were made by men

[108] Locatel is a call centre host in Mexico City that aims to inform and guide citizens about the access to services and administrative procedures of the Mexico City Government. The call centre also provides psychological support, medical and legal attention to the user. Locatel is open 24 hours a day, 365 days a year. Available at: http://locatel.cdmx.gob.mx/

From the total number of calls registered by Locatel, in which the victim was a woman, only 10% corresponded to domestic violence. 51% of the reports referred to psychological violence, 28% to physical violence and in 5% of the case the victim reported sexual violence. In the case of men that were victims of some type of violence, 18% indicated being victim of domestic violence, 40% of psychological violence, 26% of physical violence and 5% of sexual violence.

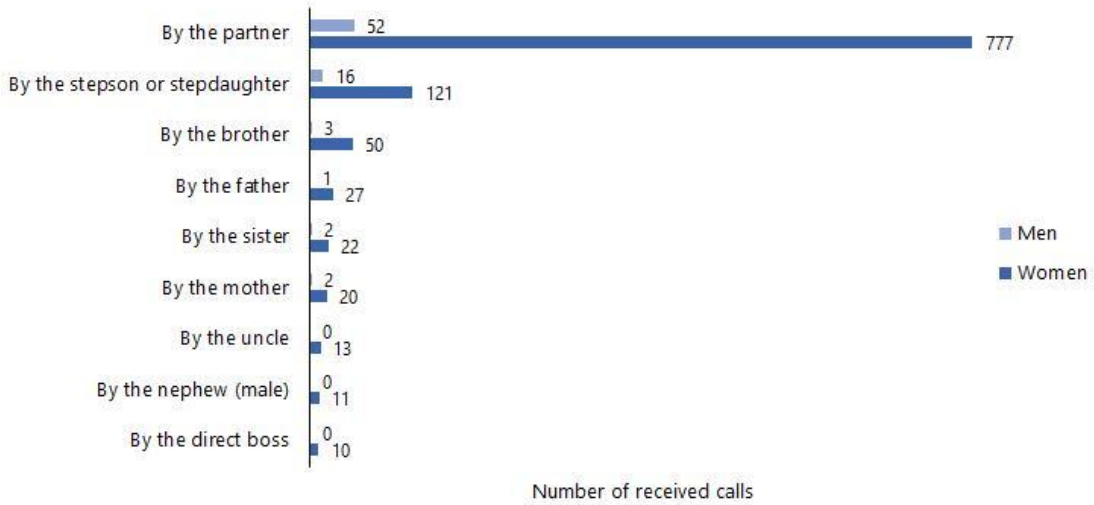
Graph 11. Most frequent calls registered by Locatel according to the type of violence reported



Source: Own elaboration with figures from Locatel, 2020

From the total calls registered by Locatel, reporting some type of violence suffered by the victim, only in 60% of the cases some characteristic of the aggressor was registered. In 72% of the cases, aggression was perpetrated by the victim's partner. In some cases, the offender was a member of the family, mainly close relatives (stepbrother or brother).

Graph 12. Calls received by Locatel in which some characteristic of the offender was reported



Source: Own elaboration with figures from Locatel, 2020

Domestic violence can be identified as a risk factor associated with other antisocial and criminal behaviors, such as early alcohol and drug use. Academic literature has broadly analyzed this subject, especially when referring to childhood risk factors and risk-focused prevention[109]. According to the National Survey of Population Deprived of Liberty (ENPOL), inmates reported they had suffered domestic violence by their parents, and 67% reported having suffered shouting, physical aggressions, insults, and assaults[110].

"Here, women do not open the door if someone goes to their house, even for institutional consultations, because the husband beats the woman due to problems related to their children, and it can be observed that there is domestic violence"



Spatial concentration of reported crimes on domestic violence during 2020

Six areas registered the higher number of crime reports on domestic violence:

- At the north of the demarcation, near to Iztacalco and the Central Market in Iztapalapa.
- Two crime spatial concentrations were identified at the east, one near to Nezahualcoyotl municipality and the other close to Los Reyes La Paz municipality, both from the State of Mexico.
- Two spatial concentrations were detected at the south of Iztapalapa, near to Xochimilco and Tlahuac.

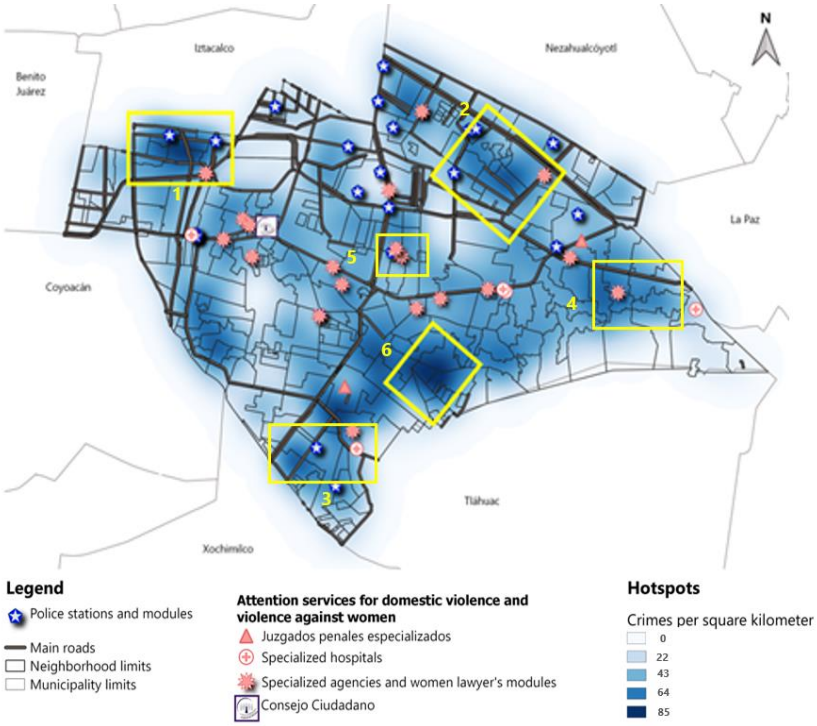
When analyzing the performance of this crime during 2020 the following aspects were identified[111]:

- Due to mobility restrictions adopted to prevent the spread of COVID-19, crime prevention has been harder as the victim may be trap with the aggressor, which suggest that victim's integrity could be at risk. This may explain why reported crimes on domestic violence decreased during lockdown (-24%), as well as the radical drop of the call registered by Locatel about this crime (-96%).
- All spatial crime concentrations identified coincide with a high concentration of population and socially marginalized areas.

[109] Morgan, M., Maguire, M. and Reiner, R. (2007). The Oxford Handbook of Criminology, fourth edition. Oxford University Press, New York.
[110] INEGI (2016). National Survey of Population Deprived of Liberty (ENPOL). Available at: https://www.inegi.org.mx/programmeas/enpol/2016/default.html#Tabulados
[111] According to information provided by personnel of the Coordination of Planning and Crime Combat of the Mayor's Office of Iztapalapa, 2020.

1. The area identified at the north of the demarcation (near to Iztacalco) is highly populated in part, due to the type of housing facilities located in this area such as the multi-dwelling Apatlato and Los Pinos.
2. In the area detected at the east of Iztapalapa, near Nezahualcoyotl municipality, the following multi-dwellings are located: Peñon Viejo, la Joya, as well as multi-dwelling Ejercito de Oriente Zona Peñon and Jose Maria Morelos y Pavon.
3. In the area identified at the south, near Xochimilco, the following multi-dwellings are also located in the zone: Cananea, Nueva Generación, los Molinos, Huixipungo, Jardines de San Lorenzo Tezonco y Uscovi. As well as a high concentration of socially marginalized areas and social vulnerability due to the irregular human settlements located in the area.
4. The concentration perceived at the east, near the municipality Los Reyes La Paz, also has irregular human settlements located in San Miguel Teotongo Hill, the area Campestre de Potrero and Miravalle, zones in which public service provision is limited due to the illegal invasion of these lands.
5. Some factors that may be associated to the high crime concentration in the center of Iztapalapa are high density of population living in the area, such as the case of Vicente Guerrero multi-dwelling, as well as a problematic alcohol consumption.
6. In the spatial crime concentration detected at the south, near Tlahuac, the neighborhood Desarrollo Urbano Quetzalcoatl is located. This neighborhood has lands invaded by groups of people such as Degollado and Maguellera, as well as ahigh level of social marginalization and problematic alcohol consumption.

Map 7. Spatial concentration of reported crimes on domestic violence in Iztapalapa, 2020

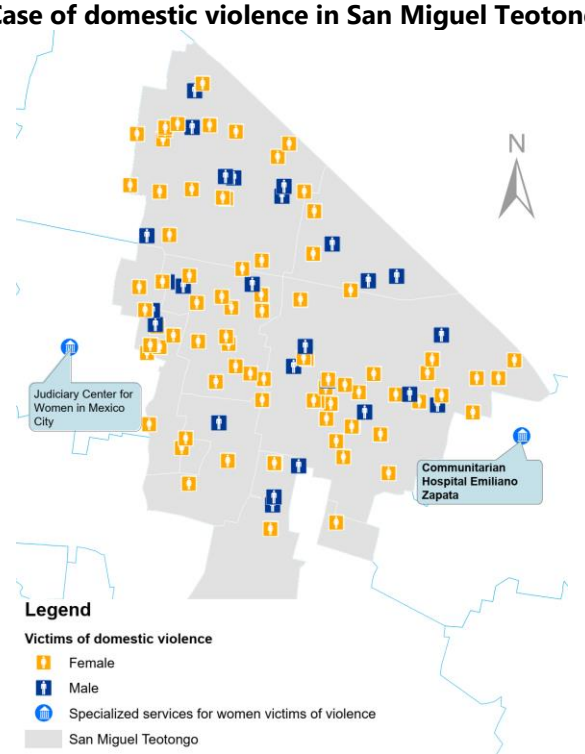


Source: Own elaboration with figures from the Mexico City General Prosecutor's Office (FGJ), 2020.

Domestic violence in San Miguel Teotongo neighborhood

San Miguel Teotongo is located at the east of Iztapalapa, close to the municipality Los Reyes La Paz in the State of Mexico. The neighborhood was selected as a case study because it is the third neighborhood with the higher number of reports on domestic violence, just after Desarrollo Urbano Quetzalcoatl and Santa Cruz Meyehualco, which may be associated with a high level of trust on the authorities. During 2019, 121 domestic violence reports were registered in the neighborhood, of which 88 were women victims and 33 were men victims. Of these cases, 80% of the victims continued with the reporting process.

Map 8. Case of domestic violence in San Miguel Teotongo, 2019



Source: Own elaboration with figures from the Mexico City General Prosecutor's Office (FGJ), 2019.

The analysis made to this neighborhood is an example of how desegregated data could help in understanding better domestic violence. This crime affects both women and men, which have been victims and have report this act to the authorities. However, as it is identified in the map, this neighborhood does not have any specialized center to prevent or provide attention to the victims of this crime. The closest victim's attention center is in the Ixtlahuacan neighborhood. San Miguel Teotongo, also lacks specialized infrastructure to provide health services, to refer those victims that may present sever physical damage.

In this regard, having a special facility such as the houses of the *Always alive program*, an initiative pursued by the Mayor's Office of Iztapalapa, will greatly contribute to provide information on how

to prevent domestic violence, as well as build capacities in emotional management, assertive communication, and awareness about the consequences of violence, among others. This space could also enable reporting, legal advice, psychological support and general orientation to break the cycle of violence.

Crimes against women[112]

Violence against women can happen both at the familiar and community level. According to figures from the SESNSP, between 2015 and 2020 in Iztapalapa, reported crimes on:

Sexual assault[113] increased by **141%**

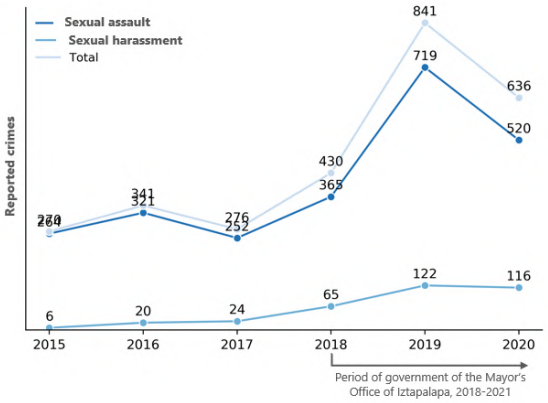
Rapes[114] increased by **94%**

Femicide decreased by **-25%**

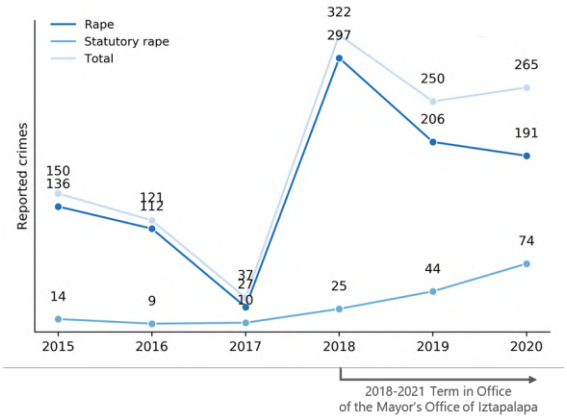
[112] For the purposes of this report, crimes against women refer to rape, sexual assault, sexual harassment and femicide.
[113] Legal definition of sexual assault: Anyone who commits sexual assault without the consent of the person or forces the person to perform sexual acts for themselves or for another person without the purpose of copulation. National Code of Criminal Procedures. Article 260. Available at: https://www.senado.gob.mx/64/gaceta_comision_permanente/documento/47351#:~:text=Art%C3%ADculo%20260.,y%20hasta%20doscientos%20d%C3%ADas%20multa.
[114] Rape legal definition: Rape is committed by anyone who either through physical or moral violence copulates with a person. National Code of Criminal Procedures. Article 266. Statutory rape is understood to be someone who copulates with a person under fifteen years of age without violence; to those who copulate without violence with a person who does not have the ability to understand the meaning of the fact or for any reason cannot resist it. Available at: https://www.gob.mx/cms/uploads/attachment/file/48378/Violaci_n-_2014.pdf

Graph 13. Reported crimes against women in Iztapalapa, 2015-2020

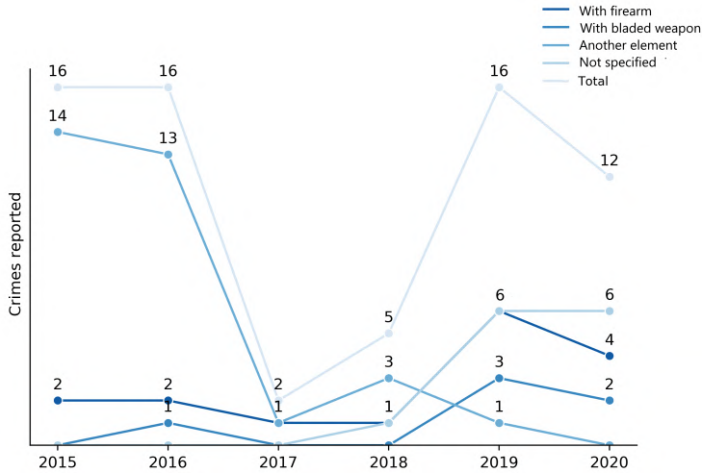
Sexual assault and sexual harassment in Iztapalapa, 2015-2020



Rapes in Iztapalapa, 2015-2020



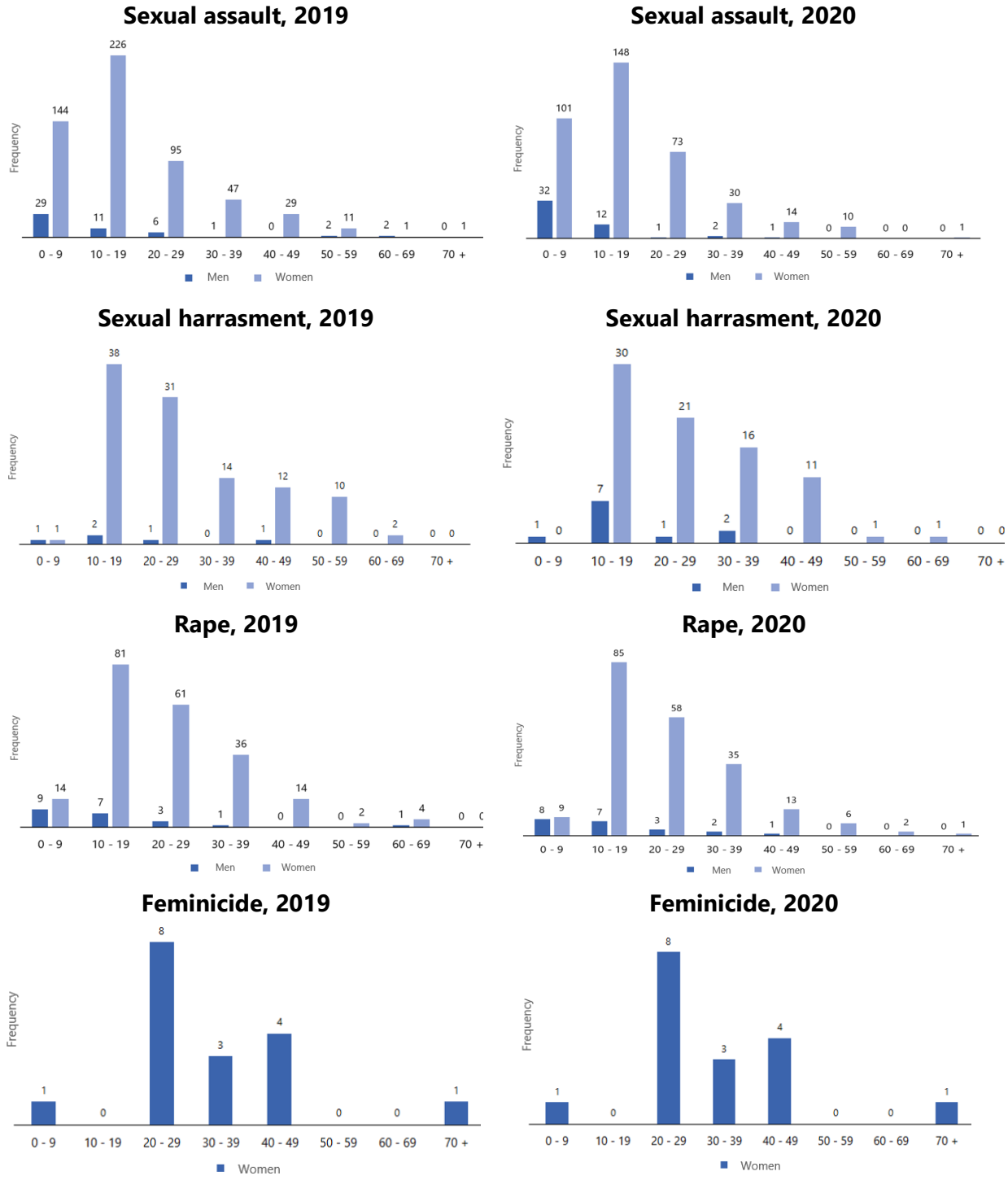
Femicide in Iztapalapa, 2015-2019



Source: Own elaboration with figures from the Executive Secretariat of the National System for Public Security (SESNSP), 2015 to 2020.

According to figures from the Mexico City General Prosecutor's Office, both in 2019 and 2020, most of the victims that reported sexual assault, sexual harassment and rape were women between 10 and 19 years old.

Graph 14. **Victims from reported crimes on sexual assault, sexual harassment, rape and femicide, 2019 and 2020.**



Source: Own elaboration with figures from the Mexico City General Prosecutor's Office (FGJ), 2019 and 2020.

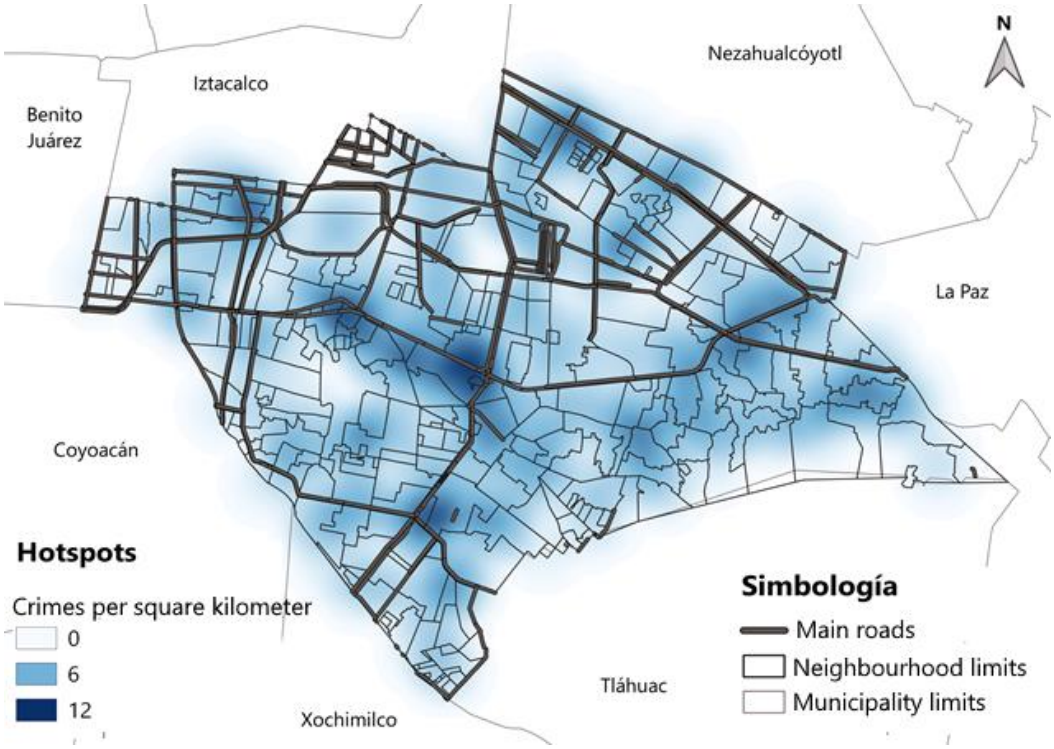
Spatial concentration of reported crimes against women

Between 2016 and 2020, the spatial concentration of reported crimes of rape, femicide, sexual assault and sexual harassment in Iztapalapa were located in the following neighborhoods:

- Central de Abastos
- Lomas de San Lorenzo
- Desarrollo Urbano Quetzalcoatl
- Santa Martha Acatitla
- Santa Cruz Meyehualco

In 2016, these crimes presented a higher spatial concentration at the center and northeast of Iztapalapa, near the Central Market, while in 2019, crime concentration was detected at the south of the territory, near Tlahuac and to the north of Iztapalapa, near the municipality of Nezahualcoytl in the State of Mexico.

Map 9. Spatial concentration of reported crimes against women in Iztapalapa: rape, femicide, and sexual assault and harassment, 2016 and 2019



2016



2019

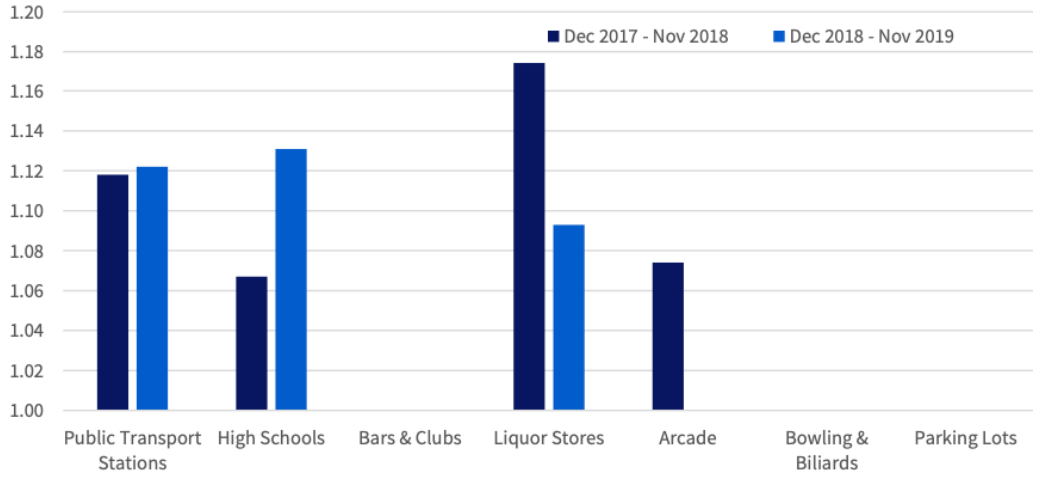
Source: Own elaboration with figures from the Mexico City General Prosecutor's Office (FGJ), 2016 and 2019.

Building from a spatial risk analysis[115], the following could be observed about sexual assaults and rape:

- During 2018, **liquor stores, bars** and **public transport stations** were strongly associated to the occurrence of these crimes.
- Similarly, during 2019, **middle and high schools** were identified as risk places, where the occurrence of these crimes is relevant.

[115] According to the *Spatial risk analysis theory,* crime is associated to urban factors. Places with a higher risk tend to group different environmental, urban, and social risk factors, which may influence crime commission. For this report a *Risk Terrain Modelling* (RTM) was used and allow us to assess spatial vulnerabilities based on a level of risk factors had on crime commission. Kennedy, L. W., y Caplan, J. M. (2012). A theory of risky places. Rutgers Centre on Public Security. Available at: http://www.rutgerscps.org/docs/RiskTheoryBrief_web.pdf

Graph 15. Correlation between environmental factors and the likelihood of sexual assaults.

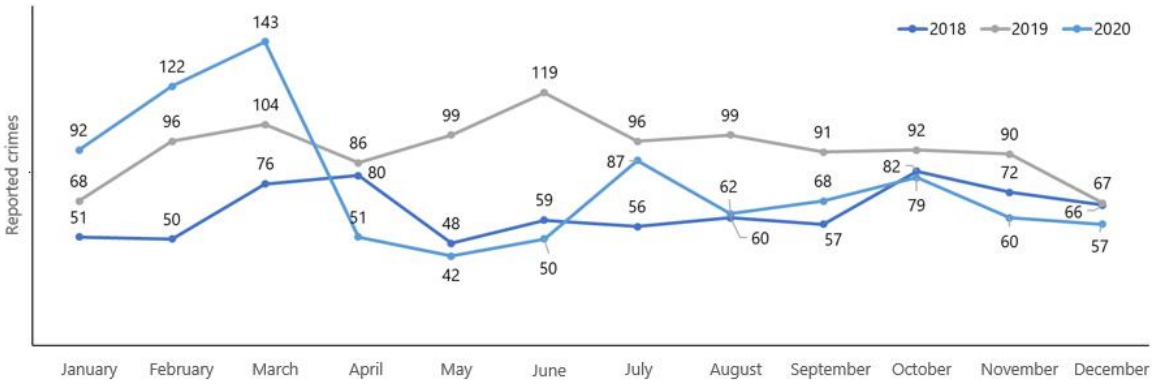


Source: Own elaboration with figures collected by Transcrime, December 2017 to November and December 2028 and November 2019.

Crimes committed against women during the COVID-19 lockdown

According to SESNSP figures, between March and December 2020, reported crimes against women decreased by 61%. Mobility restrictions adopted to prevent the spread of COVID-19 may have influenced crime reporting.

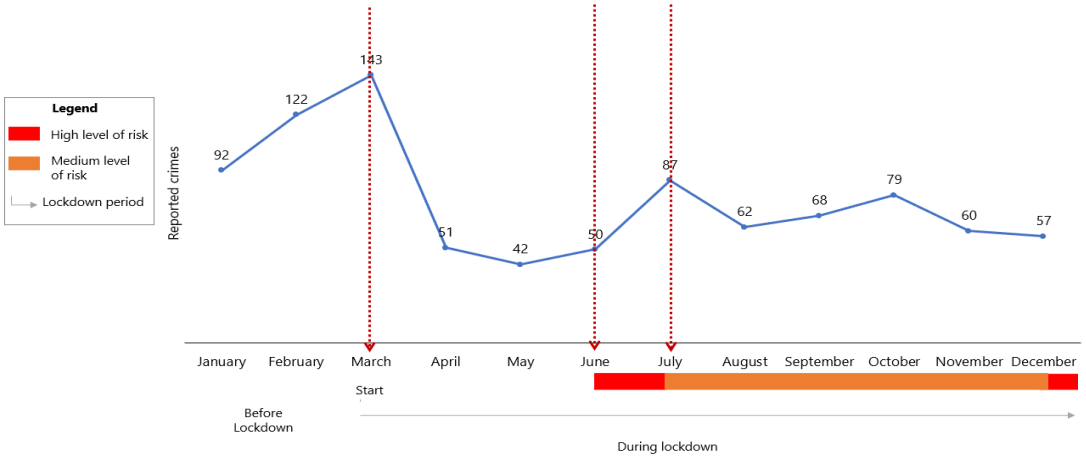
Graph 16. Reported crimes against women in Iztapalapa: rape, femicide, sexual assault and harassment, monthly, 2018 to 2020



Source: Own elaboration with figures from the Executive Secretariat of the National System for Public Security (SESNSP), 2018 to 2020.

According to national figures, when mobility restrictions were more severe (March to July 2020), reports on crimes committed against women decreased by 39%. When restrictions became less rigorous, from July to November 2020, the number of reports on crimes committed against women decreased by 31%.

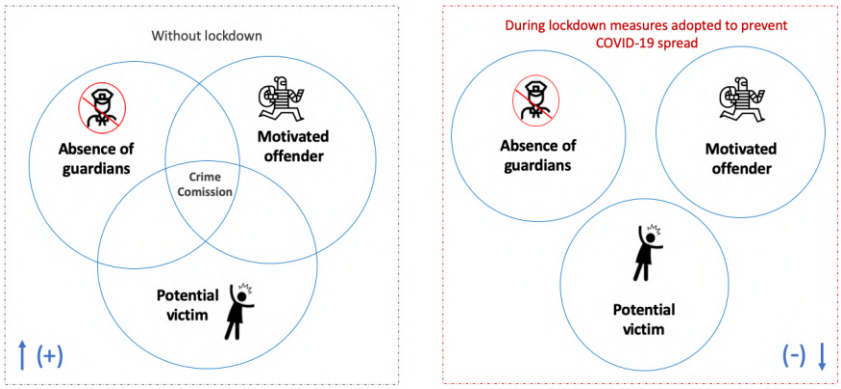
Graph 17. Reported crimes committed against women during the lockdown adopted to prevent the spread of COVID-19 in Iztapalapa, 2020



Source: Own elaboration with figures from the Executive Secretariat of the National System for Public Security (SESNSP), 2020.

When applying the *routine activities theory*[116] to analyze changes in reported crimes such as rape, femicide, sexual assault and harassment, variations in criminal records were identified. A drop in reported crimes on rape, femicide, sexual assault and harassment was observed from March to December 2020, which may be associated with people´s modifications in routines due to the lockdown measures adopted to prevent the contagion of COVID-19.

Figure 18. Routine activity theory applied to public spaces during lockdown measures adopted to prevent COVID-19 spread



Source: Own elaboration.

[116] The theory of routine activities indicates that three elements must converge in time and space for a crime to be committed: a motivated offender, a potential or suitable victim, and the absence of appropriate guardians. Changes in routine activities decrease the opportunity factor for the commission of crime. Under this logic, the effective deployment of guardians, the reduction of potential victims in the spaces in which a greater presence of certain crimes is identified, as well as the reduction of motives for the commission of crime could reduce the levels crime rates. Cohen, L. & Felson, M. (1979). Social Change and Crime Rate Trends: A Routine Activity Approach. American Sociological Review, 44 (August).

Building from the same theory, confinement measures adopted to prevent the spread of COVID-19 may have influenced a decrease in the commission of crimes against women in the public space. As lockdown measures have reduced the mobility of potential victims, these have also modified the opportunity factor for the offenders, inhibiting the commission of crime. Confinement measures are temporary; thus, it is necessary to pay special attention on how to address the root causes of these crimes against women in public spaces and to decrease the number of reported crimes against women.

Citizen Council for the Security and Justice in Mexico City

The Citizen Council for the Security and Justice opened a second office in Mexico City, located in Iztapalapa in 2020[117]. Since the first day of operation, the organization provided 1,034 legal advice services, being July the month with the highest number of legal advices given (218) [118]

Of the total legal advice services provided, **34%** were related to the following crimes: domestic violence, physical aggressions and rape (among other relevant crimes such as threats and fraud).

82% of the reports were initiated by women, 17% by men and 1% by couples. All the victims were between 26 and 30 years old and in 17% of the cases they were transferred to the Justice Center for Women with the aim of encourage victims to file a report[119].

The main services provided by the Citizen Council were: psychological support, legal advice, and legal advice through digital denouncing, with the purpose of scaling the issue to a specialized authority, such as the Special Prosecutor's Office on Sexual Crimes, Special Prosecutor Office on Crimes Committed Against Children and Adolescents and the Elderly's Institute. The office of the Citizen Council located in Iztapalapa, provided 557 psychological services between, January and August 2020, being July the month with the highest number of services given (125) [120.]

Since the pandemic started, the most reported issues were domestic violence, anxiety, depression, fear of COVID-19 contagion, loss of a loved one, and suicide prevention.

Regarding domestic violence, from January to August, 221 reports were addressed, where 80% of victims were women and 20% were men. Ages of victims ranged between 21 and 25 years old,

[117] The Citizen Council for the Security and Justice in Mexico City is a non-profit organization that seeks to foster public security throughout the promotion of justice in Mexico City and bordering municipalities. Among the activities they execute are psychosocial support and free legal advice to the victims, as well as special programmes to encourage citizen participation. The organization is member of the Security Cabinet, initiative from the Mayor Office of Iztapalapa.
[118] Figures obtained during interviews held with personnel from the Citizen Council (2020).
[119] Ibid.
[120] Ibid.

also included minors over 12 years old and people over 70 years old[121]. The neighborhoods that concentrated the highest number of reports were:

- Barrio San Pablo
- Barrio San Miguel
- Leyes de Reforma
- San Pedro
- Guadalupe de la Moral
- San Ignacio
- San Lucas
- El Manto
- La Asuncion
- Santa Bárbara

When the Citizen Council identifies aggressions that can put the victim at a higher risk of femicide, victims are transferred to the Justice Center for Women with the aim to obtain further support. In those cases, in which a higher risk of aggression towards children is observed, victims are transferred to the Integral Family Development Institute (DIF) and to the Mexico City General Prosecutor's Office. If needed, they help the victim to make an emergency call to 911.

In March 2020, the organization launched the campaign "You are not alone" jointly with the Mexico City Government. After launching the campaign, the organization identified an increase in domestic violence reports, with July 2020 as the month with the highest number of reports, reaching 59 cases[122]. However, only in 8% of the cases a report was legally filed, the rest of the cases constitute just an informal report and a request of support by the victim. Only in 2% of the cases a complaint is made throughout the digital platform with the support of the Justice Center for Women.

The organization shares its information with the Investigation Police Department, in order to support the authorities with the compliance of case evidence such as time, location and modus operandi.



According to UNODC, households are the main spaces where violence is perpetrated, and this continues to be a frequent problem. The reduction and suppression of violence against women and girls continues to be a huge challenge for the Mayor's Office of Iztapalapa, citizens, civil society and institutions in general.

Domestic violence is a persistent threat, widely distributed across the Iztapalapa. Victims of this crime are mostly women and in the majority of the cases, offenders are men, family members or close relatives. During the fieldwork conducted for the preparation of this Assessment, this issue was one of the most mentioned problems (see section 2.4 Risk analysis in 44 neighborhoods in Iztapalapa).

[121] Ibid.
[122] Ibid. All figures refer to services provided in person.

Even though some official sources, such as the Mexico City General Prosecutor's Office, provide data disaggregated by sex and age, it would be important that also the Executive Secretariat of the National System for Public Security (SESNSP), publish group age ranges with sex disaggregation regarding reported crimes on domestic violence, sexual assault and harassment, rape, femicide, among other crimes. This would help to shed light on vulnerable groups and well as provide information that could be instrumental in the design of strategies better focalized with a gender perspective.

Crimes committed against women and girls **threatens** their dignity and human rights. According to national figures, young women and girls are the most frequent victims of sexual assault and rape.

Recommendations are presented in the following pages, suggesting concrete actions that can be adopted by the Mayor's Office of Iztapalapa and suggesting possible deadlines, allied institutions and the participation required from citizens.



Domestic violence
Data collection and strategies

Topic Short/ Medium/ Long term	Recommendations for the Mayor's Office	Recommendations for the population
Data for action	• Based on available data, provided by the District Prosecutor's Office in Iztapalapa, keep on implementing the prevention and detection of cases of domestic violence and revictimization to prioritize its attention. • Set an annual update of the ***Urban Safety Governance Assessment*** conducted by UNODC, with the purpose of monitoring the effectiveness of the actions adopted to diminish antisocial behaviors and delinquency.	• Issue a complaint in case of being victim of crime. • Get involved in the actions executed as part of the Urban Safety Governance Assessment.
Law enforcement operations and surveillance actions to diminish domestic violence	• Increase the number of police officers trained to support victims of domestic violence in Iztapalapa, according to the guidelines provided by the ***Special Unit for the promotion of Women rights and substantive equality*** with the aim of improving response times in those zones or neighborhoods with the highest concentration of reported domestic violence.	• In case of suffering from or witnessing domestic violence, call 911 to request police assistance.
Preventive programs	• Continue the execution of the ***Program Always alive*** and disseminate the	• Get involved in the programs "***Line Up, Live***

Topic Short/ Medium/ Long term	Recommendations for the Mayor's Office	Recommendations for the population
	initiative ***Special Houses for the Always alive program*** among women. • Adopt the implementation of UNODC's international programs **"*Line Up, Live Up*"** and **"*Strong Families*"** that seek to improve socioemotional skills and positive parenting. • Expand the implementation of the ***Special program to avoid school dropouts in women***[123] to reduce inequalities among women and girls and scale up public awareness about girl's and women's rights. • Disseminate the tool "Violentometro" in elementary and secondary school levels to raise awareness among girls and boys about the scalation of violence and to help discern the different manifestations of violence hidden in everyday life and that are often confused or ignored.	***Up"*** and **"*Strong Families*"**. • Participate in the program ***Special program to avoid school dropouts in women*** implemented by the Mayor's Office. • Refer to the "Violentometro" to avoid violence escalation and take part in the preventive actions implemented by the Mayor's Office of Iztapalapa.
Programs for victims of domestic violence	• Keep on expanding the networks of women based on the ***Special Houses for the Always alive program*** and the **UTOPIAS** with the	• Report or file a complaint if you are suffering from or witnessing domestic violence.

[123] The Mayor's Office of Iztapalapa (2021). Programs of the Mayor's Office of Iztapalapa. Available at: http://www.iztapalapa.cdmx.gob.mx/2alcaldia/Programas.html



Domestic violence
Data collection and strategies

Topic Short/ Medium/ Long term	Recommendations for the Mayor's Office	Recommendations for the population
	purpose disseminate information on how to prevent domestic violence and violence against women.	• Seek professional support at the Mayor's Office or shelters closest to you.
Possible partner institutions	• District Prosecutor's Office in Iztapalapa • National System for Integral Family Development (DIF) • Mexico City Government: Ministry of Women, Ministry of Education, Ministry of Citizen Security, C5-CDMX • Academic Institutions • Civil Society Organizations: Citizen Council • UNODC	



Violence against women
Special actions

Topic Short/ Medium/ Long term	Recommendations for the Mayor's Office	Recommendations for the population
Data for action	• Strengthen data collection and methodologies regarding the use of data for monitoring and evaluate actions executed by the **Special Unit for the promotion of Women rights and substantive equality.** • Disseminate information among the population regarding the use and functions of the emergency alert buttons located on the	• Issue a complaint in case of being victim of crime. • Participate in the Urban Safety Governance Assessment.



Violence against women
Special actions

Topic Short/ Medium/ Long term	Recommendations for the Mayor's Office	Recommendations for the population
	Corridors for safe and free women[124].	
Law enforcement operations and surveillance actions to diminish violence against women	• Disseminate among the population the use of *Pendants to call authorities in case of emergency* that are part of the ***Always Alive program***. As well as the support offered by the ***Special Houses for the Always alive program***. • The **Special Unit for the promotion of Women rights and substantive equality:** - Strengthen the gender approach methodology according to international standards. - Design a focalized strategy to prevent sexual assault and harassment in the public transport that is regulated by the Mayor's Office.	• If you witness an act of sexual harassment on public transport, report it to the authorities. • Participate in the Urban Safety Governance Assessment.
Special programs	• Keep the execution of the actions pursued by the **Special Unit for the promotion of Women rights and substantive**	• In case of being a victim of gender-based violence, contact the authorities to issue a complaint.

[124] The Mayor's Office of Iztapalapa (2021). Corridors for safe and free women. Available at: https://www.jefaturadegobierno.cdmx.gob.mx/comunicacion/nota/inaugura-jefa-de-gobierno-camino-mujeres-libres-y-seguras-de-la-alcaldia-iztapalapa



Violence against women
Special actions

Topic Short/ Medium/ Long term	Recommendations for the Mayor's Office	Recommendations for the population
	equality and disseminate them throughout the Mayor's Office official web page and social media accounts.	• Participate in the Urban Safety Governance Assessment.
Possible partner institutions	• District Prosecutor's Office in Iztapalapa • National System for Integral Family Development (DIF) • Mexico City Government: Ministry of Women, Ministry of Education, Ministry of Citizen Security, C5-CDMX • Academic Institutions • Civil Society Organizations: Citizen Council • UNODC	



Violence against women
Special actions

Topic Short/ Medium/ Long term	Recommendations for the Mayor's Office	Recommendations for the population
Femicide	• Expand the number of *Pendants to call authorities in case of emergency* that are part of the ***Always Alive program*** with the aim of provide immediate attention to women at risk of femicide. • Continue to keep and up-to-date record on femicides committed in Iztapalapa, action conducted between the **Special Unit for the promotion of Women rights and substantive equality** and	• Promote the creation of support networks for families of victims of femicide. • Report cases of women at risk of femicide to the competent authorities.



Violence against women
Special actions

Topic Short/ Medium/ Long term	Recommendations for the Mayor's Office	Recommendations for the population
	the District Prosecutor's Office in Iztapalapa	
Rape	• Monitor the actions provided at the ***UTOPIAS*** that are currently operating, specially to those actions related to the prevention of violence against women, counseling and therapy services to women and children in order to identify cases of rape and provide attention to victims. • Increment the actions performed as part of the ***Special Houses for the Always alive program*** in the neighborhoods with higher crime rates, in order to set capacities within families regarding prevention, human rights and gender perspective. • Establish alliances with the Ministry of Public Education to prevent and identify cases of rape in schools and their surroundings. • Disseminate the reporting services on rape among the population as well as the actions undertaken by the Specialized agency against sexual crimes located in Iztapalapa.	• If you are a victim of rape, file a complaint. • Encourage respect for women, girls and boys.
Sexual assault	• Increase the counseling and therapy services to women and children provided at the	• In case of witnessing cases of sexual assault



Violence against women
Special actions

Topic Short/ Medium/ Long term	Recommendations for the Mayor's Office	Recommendations for the population
	UTOPIAS in order to raise awareness about gender-based-violence • Promote and disseminate ***UNODC's initiative Chuka***[125], a set of videos aimed at preventing sexual assault in children. • Disseminate the reporting services on sexual assault among the population. • Provide gender perspective trainings to all police officers and the Mayor's Office personnel for better performance in their duties when facing cases of sexual assault.	, report them to the authorities. • Encourage respect for women, girls and boys.
Sexual harassment	• Scale up a culture of respect for women and girls, particularly targeted at men and boys. • Disseminate the reporting services on sexual harassment among the population as well as the actions undertaken by the Specialized agency against sexual crimes located in Iztapalapa. • Continue the training offered as part of the ***Always alive program*** in Iztapalapa, especially in the neighborhoods with higher	• If you witness an act of sexual harassment in public, report it to the authorities. • Encourage respect for women and girls.

[125] UNODC (2018). Chuka initiative. Available at: http://www.chukagame.com/



Violence against women
Special actions

Topic Short/ Medium/ Long term	Recommendations for the Mayor's Office	Recommendations for the population
	number of reported crimes against women.	
Possible partner institutions	• District Prosecutor's Office in Iztapalapa • National System for Integral Family Development (DIF) • Mexico City Government: Ministry of Women, Ministry of Education, Ministry of Citizen Security, C5-CDMX • Academic Institutions • Civil Society Organizations: Citizen Council • UNODC	



Vulnerable populations
Special actions

Topic Short/ Medium/ Long term	Recommendations for the Mayor's Office	Recommendations for the population
Women and girls	• Follow up the academic achievement women reach through the ***Special program to avoid school dropouts in women*** and provide them with employment opportunities.	• Participate in all the activities of the program.
Elder population	• Disseminate and speed up the registration process to the program ***Economic support to achieve the integral well-being of older adults between 60 and 64 years old***[126].	• Sign up for the program.

[126] The Mayor's Office of Iztapalapa (2021). Programs of the Mayor's Office of Iztapalapa. Available at: http://www.iztapalapa.cdmx.gob.mx/2alcaldia/Programas.html



Vulnerable populations
Special actions

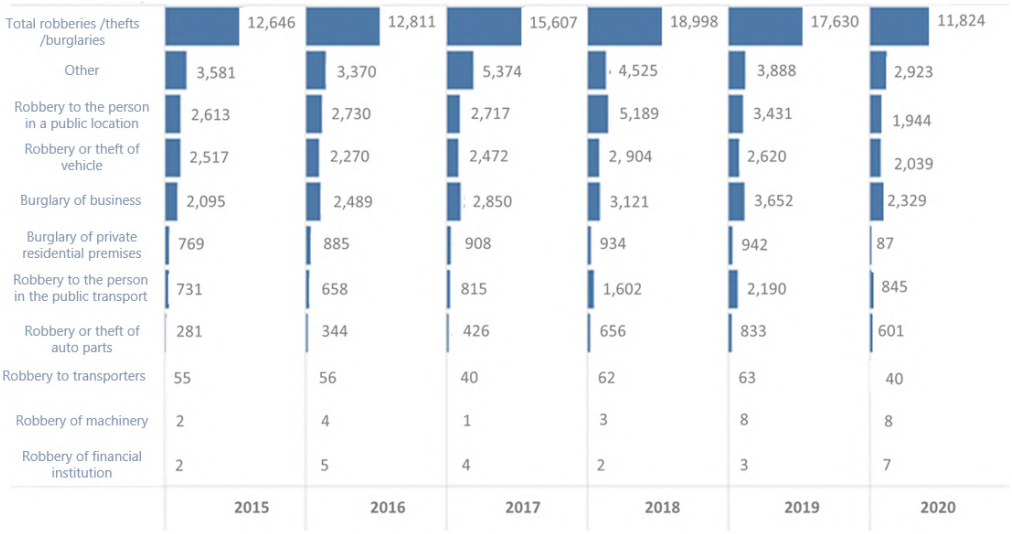
Topic Short/ Medium/ Long term	Recommendations for the Mayor's Office	Recommendations for the population
Public health	• For the execution of the ***Public Care System Program***[127] prioritize inhabitants living in extreme poverty in Iztapalapa.	• Sign up for the program.
Support to livelihoods economic development	• Strengthen institutional alliances to improve food, health, education and employment for the beneficiaries of the ***Extreme Poverty Program***[128]. • Continue with the implementation of the ***Mercomuna program***[129] throughout the COVID-19 pandemic. Evaluate the impact of the program by the end of the pandemic.	• Participate in the actions implemented by the program. • Register for the ***Mercomuna program***.
Possible partner institutions	• National System for Integral Family Development (DIF) • Mexico City Government: Ministry of Women, Ministry of Education, Ministry of Citizen Security, C5-CDMX • Academic Institutions • Civil Society Organizations: Citizen Council • UNODC	

[127] Ibid.
[128] Ibid.
[129] The Mayor's Office of Iztapalapa (2021). Mercomuna Program. Available at: http://www.iztapalapa.cdmx.gob.mx/transparencia/mercomuna.html.

2.1.3.2 Robbery in all its modalities

Between 2015 and 2020, reports on robbery in all its modalities decreased by 7%.

Graph 18. Types of reported robberies and thefts in Iztapalapa, 2015-2020[130]



Source: Own elaboration with figures from the Executive Secretariat of the National System for Public Security (SESNSP), 2015 to 2020.

Robbery from the person in a public location, followed by burglary of business property and robbery or theft of a vehicle are the three modalities of robbery with the highest frequencies. These modalities represent 56% of the total robbery crimes occurred from 2015 to 2020.

According to SESNSP, during this period, reported crimes on robbery from the person in a public location decreased by 18%. In the same years of analysis, 87% of this type of crime were committed with violence. Between 2018 and 2020, period that correspond to the current administration of the Mayor's Office of Iztapalapa, reports on this crime dropped by 58.5%

On the other hand, reported crimes on burglary of business property, between 2015 to 2020, increased by 11%, records indicated that a vast majority were committed with violence (75%). Between 2018 and 2020, reported crimes on burglary of business property decreased by 25%.

Regarding reported crimes on robbery or theft of a vehicle increased by 19% from 2015 to 2019, between 2015 and 2020 and they were mainly executed without violence (58%). In the period that goes from 2018 to 2020, registered crimes on robbery of a vehicle decreased by 30%

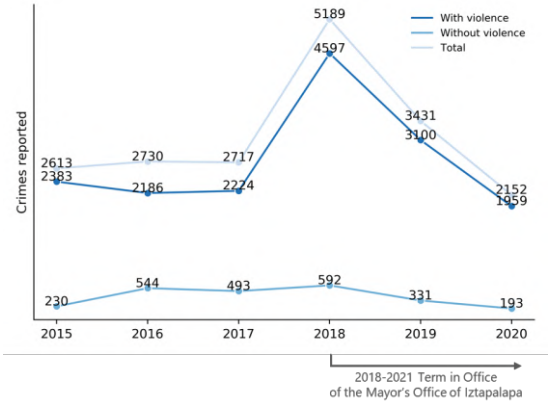
[130] Other acts of robbery or theft include robbery from delivery boys, theft of plates from a vehicle, robbery of documents, burglary of office and schools' premises.

There is no available information, in the official sources, regarding the type of weapons (firearms, knives, etc.) used in the reported crimes committed with violence. This type of disaggregation would be useful for:

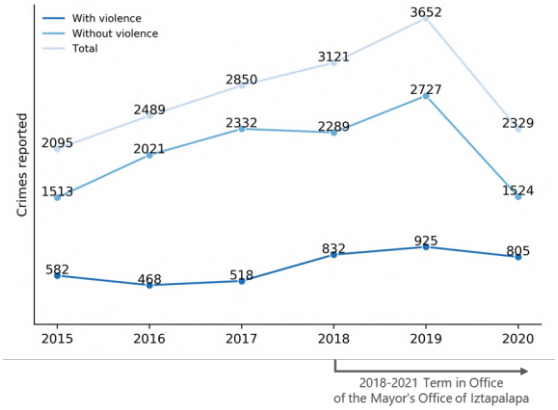
- Elucidating the percentage of cases that had firearms involved, which might be useful in shedding light on local dynamics related to illicit arms trafficking.
- Identifying the level of violence used by the offender as well as the psychological and physical impact on the victim.

Graph 19. Reported crimes on robbery from the person in a public location, burglary of business property and robbery or theft of vehicle in Iztapalapa, 2015- 2020

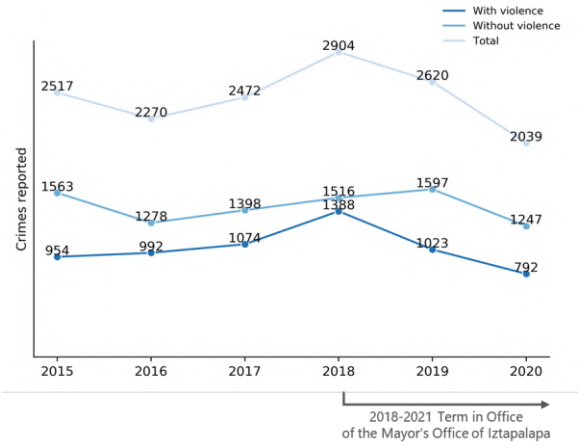
Robbery from the person in a public location in Iztapalapa, 2015-2020



Burglary of business property in Iztapalapa, 2015-2020



Robbery of vehicle in Iztapalapa, 2015-2020



Source: Own elaboration with figures from the Executive Secretariat of the National System for Public Security (SESNSP), 2015 to 2020.

In these three modalities of robbery, more men than women were victims (55% to 45%). Most of the victims were young people between 20 to 29 years old (15%) and 30 to 39 years old (14%).

Reported crimes on robbery to the person in a public location, burglary to business property and robbery of vehicle, during the lockdown adopted due to COVID-19

Since March 2020, the month in which the lockdown measures were adopted, reports on robbery to the person in a public location, burglary to business property and robbery of vehicle decreased. Between March and December 2020, the following was identified:

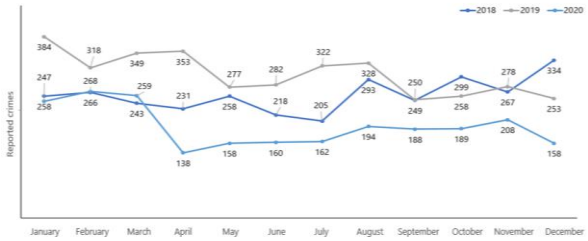
- -14% on the number of robberies from the person in a public location was reported.
- -39% on burglary of business property was reported.
- -6% on robbery of vehicle was reported.

Graph 20. Reported crimes on robbery from the person in a public location, burglary of business property and robbery of vehicle in Iztapalapa, monthly 2018- 2020

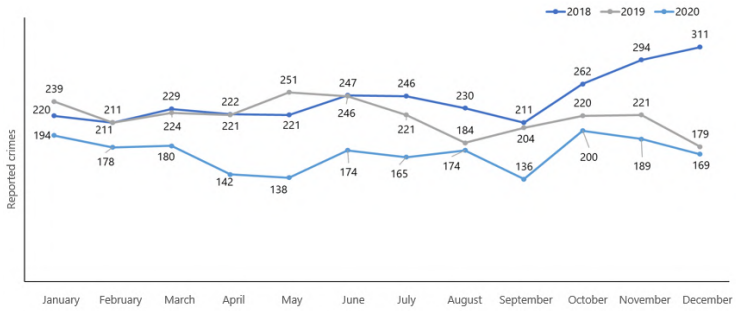
Robbery from the person in a public location



Burglary of business property



Robbery of vehicle



Source: Own elaboration with figures from the Executive Secretariat of the National System for Public Security (SESNSP), 2018 to 2020.

Spatial concentration of reported crimes on robbery in all its modalities

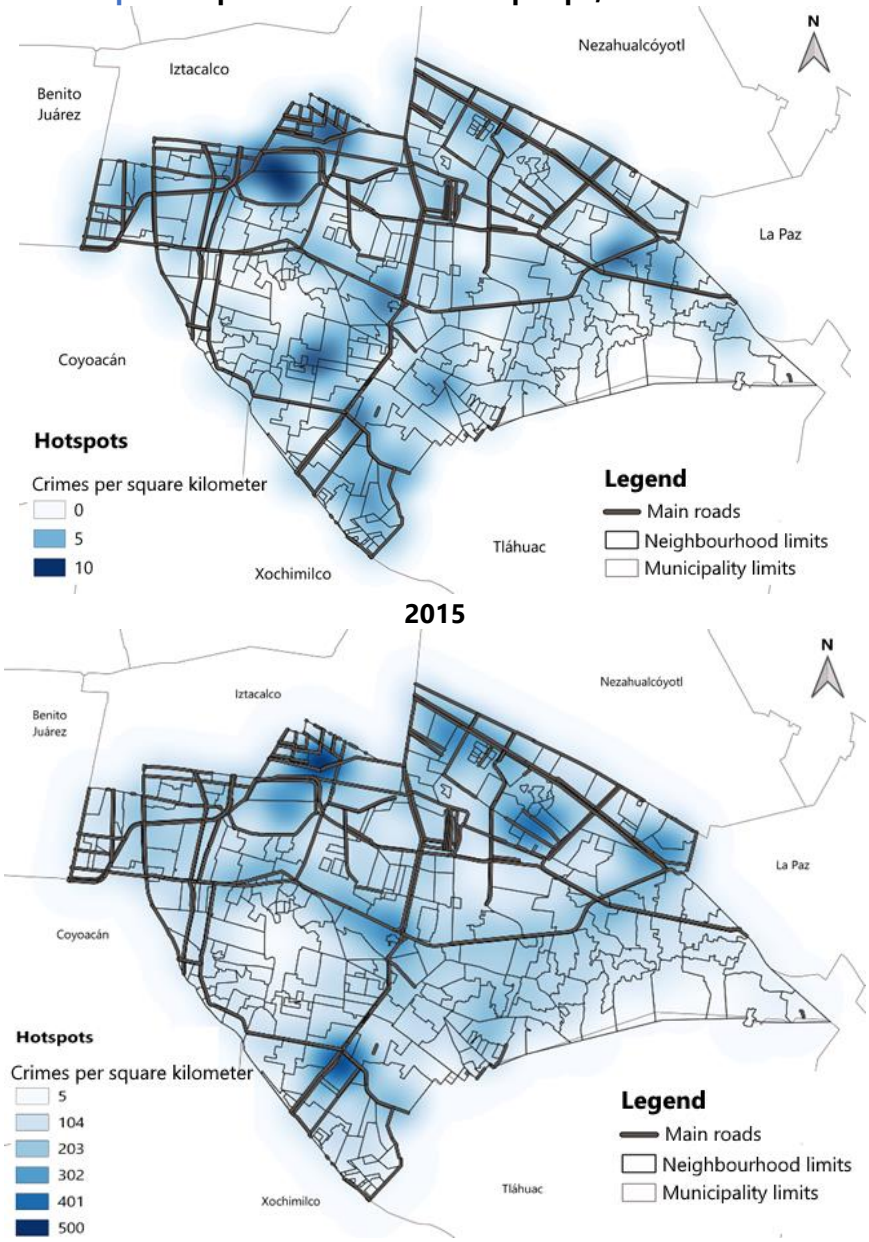
Between 2015 and 2020, the neighborhoods that showed a high crime concentration of reported crimes on robbery in all its modalities were:

- Central de Abastos (neighborhood with the highest crime concentration)
- Desarrollo Urbano Quetzalcoatl
- Juan Escutia
- Santa Cruz Meyehualco

- Chinampac de Juárez
- Santa Martha Acatitla

In 2015, one spatial concentration of reported crimes on robberies was identified to the northern part of Iztapalapa, near Iztacalco and the Central Market. While in 2019, a couple of spatial concentrations were detected at the east, near Nezahualcoyotl in the State of Mexico and at the south between Tlahuac avenue and Canal de Garay Avenue, the latest connects with the Ringway in Mexico City. In 2019, these concentrations maintained an average of 300 to 500 crimes committed per km^2.

Map 10. Reported robberies in Iztapalapa, 2015 and 2019



Source: Own elaboration with figures from the Mexico City General Prosecutor's Office (FGJ), 2015 and 2019.

Robbery in all its modalities during COVID-19 in 2020

As shown in the following graphs, reported crimes on robbery from the person in a public location burglary of business property and robbery of vehicles presented a decrease in crime records, starting from March 2020. This trend matches with the adoption of the lockdown measures to prevent the spread of COVID-19.

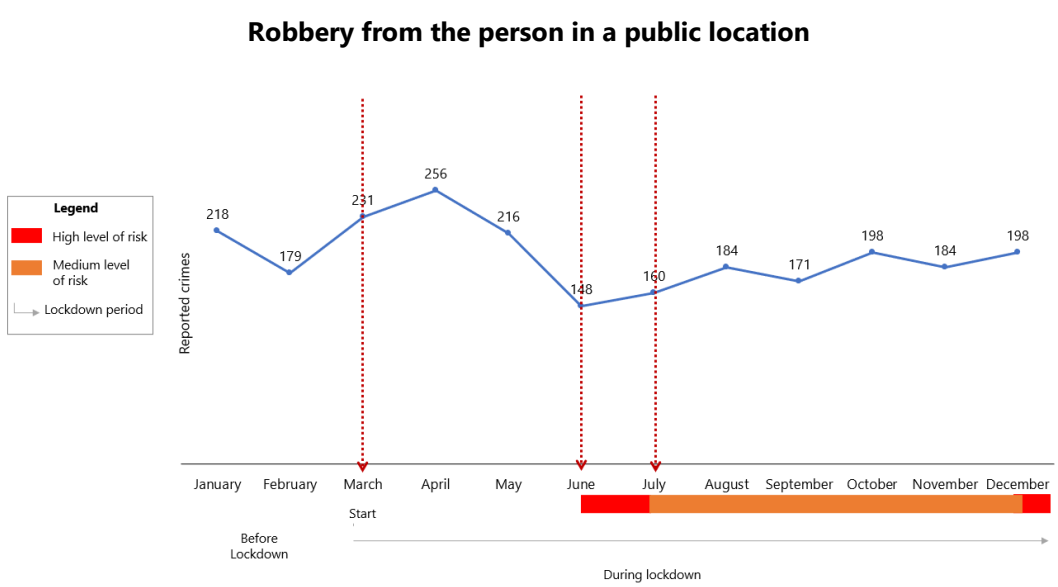
Reported crimes on robbery from the person in a public location decreased by 36% from March to July 2020. However, when mobility restrictions were less rigorous (July to November 2020), reports increased by 15%.

Regarding burglary of business property, from March to July 2020 reported crimes dropped by 37.5%. When restrictions became less severe (July to November 2020), the number of reports on burglary of business increased 28%.

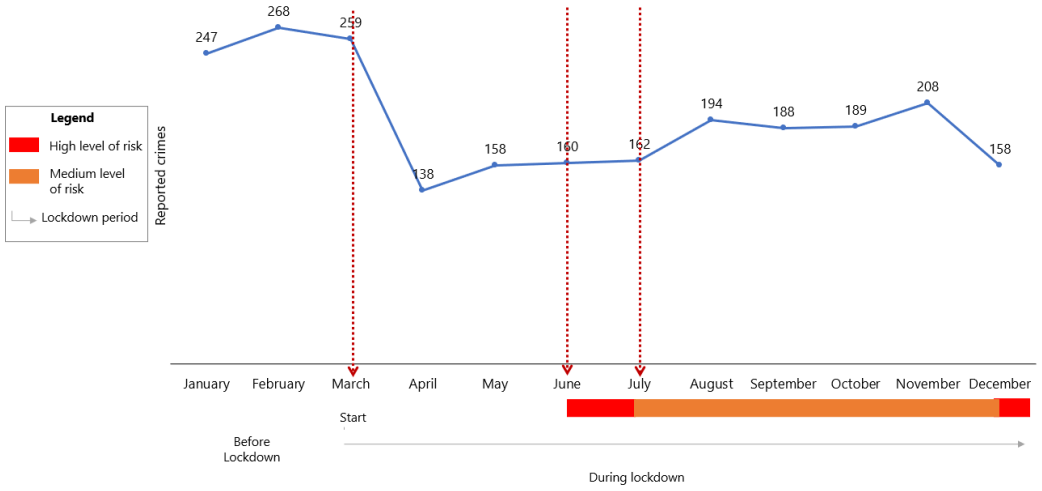
Finally, from March to July 2020 reported crimes on robbery of vehicles decreased by -8%. When mobility restrictions were less rigorous (July to November 2020), reports on robbery of vehicle decreased dropped by 14.5%. This may be associated with the adoption of lockdown measures.

In all the crimes analyzed, variations in crime reporting could be associated to the opportunity factor, as mobility restrictions relaxed, opportunities for crime commission increased as well as crime reporting.

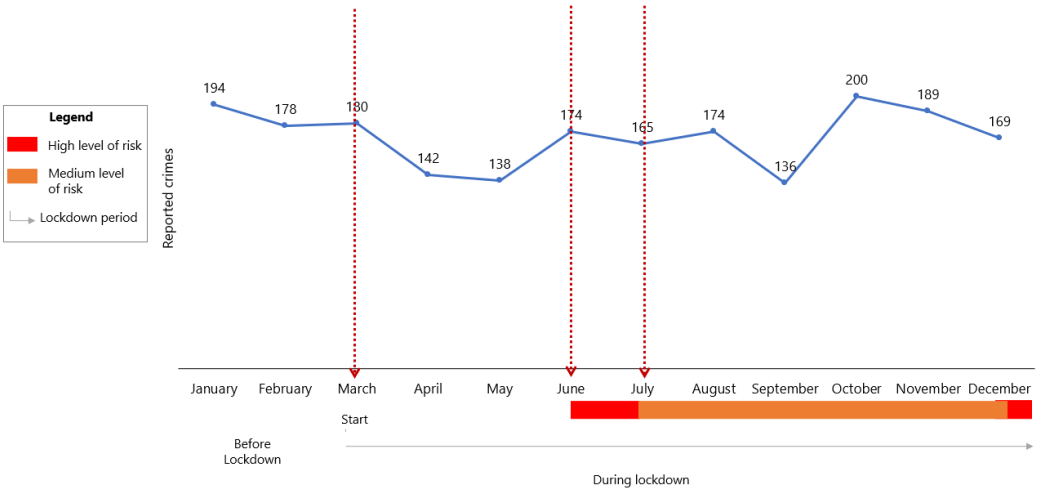
Graph 21. Reported crimes on robbery from the person in a public location, burglary of business property and robbery of vehicle in Iztapalapa during lockdown, reports in 2020



Burglary of business property



Robbery of vehicle



Source: Own elaboration with figures from the Executive Secretariat of the National System for Public Security (SESNSP), 2020.

Spatial concentration of reported crimes on robbery to the person in a public location during 2020

During 2020, reported crimes on robbery from the person in a public location concentrated in three areas: tow at the east and one at the south of Iztapalapa. When analyzing these concentrations, the following was identified[131]:

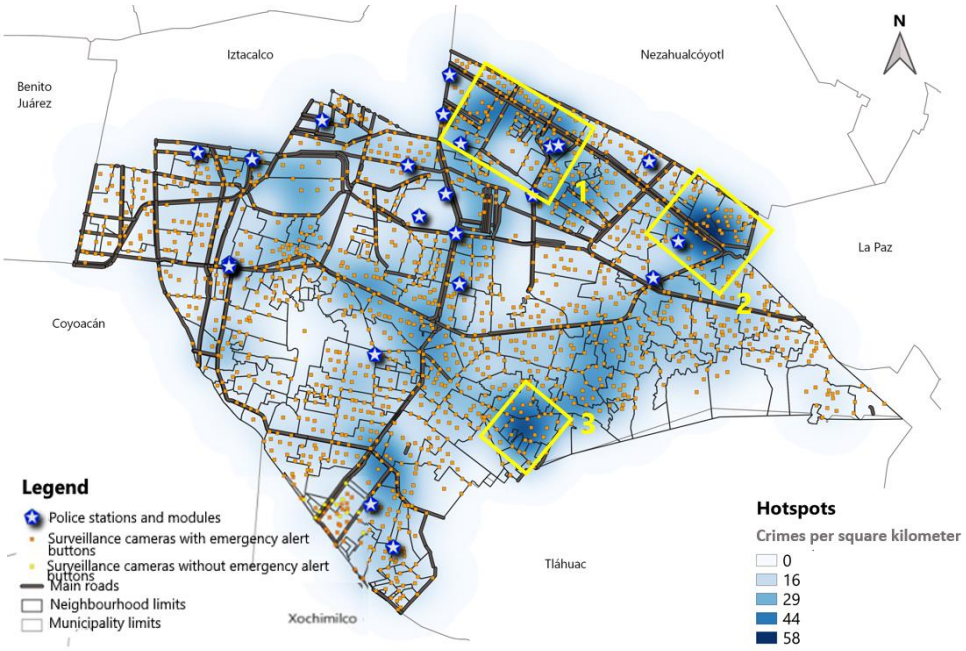
[131] According to information provided by personnel of the Coordination of Planning and Crime Combat from the Mayor's Office of Iztapalapa during interviews conducted for this Assessment, 2020 and 2021.

- The three areas area located in the territorial boundaries with other municipalities in the State of Mexico (Nezahualcóyotl and Los Reyes la Paz), and with other Mayor Offices in Mexico City such as Tláhuac (at the south of Iztapalapa).
- A strong presence of crime inhibitors, such as police stations and surveillance camaras is identified in all the territory[132]. A higher presence is mostly distributed at the northern part of Iztapalapa.
- These three areas of crime spatial concentration could be associated with the dynamic of the territorial borders with other municipalities and Mayor Offices, as offenders may use these frontiers to avoid their persecution or scape from the authorities. Robbery is considered a common crime under the national legislation, which implies that its persecution is limited to the jurisdiction of the Mayor's Office of Iztapalapa.
- Public transport stations and highly transited avenues were identified as facilitators of this type of crime:

1) The crime concentration located at the northeast of the territory, near to the municipality of Nezahualcóyotl, coincides with the location of the Metrobus public station Tepalcates, as well as with the Highway Mexico-Puebla, both concentrate a high number of users.
2) Regarding the hotspot detected at the east, near to Los Reyes La Paz municipality, coincides with the Metrobus public stations Santa Martha and Acatitla, as well as with the Highway Mexico-Puebla and Calzada Ermita Iztapalapa, which cross Iztapalapa from east to west. Also, a penitentiary center (Santa Marta Acatitla) is located in this crime spatial concentration.
3) The hotspot identified at the south of the territory is localized in the neighborhood Desarrollo Urbano Quetzalcoatl, which presents high level of problematic alcohol consumption. In this hotspot some land illegally invaded is also located, such as Degollado, El Molino and Maguellera, which do not have access to public services.

[132] The Mayor's Office of Iztapalapa has installed 2,270 surveillance cameras, 1,605 of them have an emergency button and 495 cameras do not have an emergency button according to information from the Institute of Transparency, access to public information, personal data protection and accountability from Mexico City. Available at: http://www.infocdmx.org.mx/index.php/2-boletines/5567-dcs-089-17.html

Map 11. High concentration of reported robberies from the person in a public location, 2020

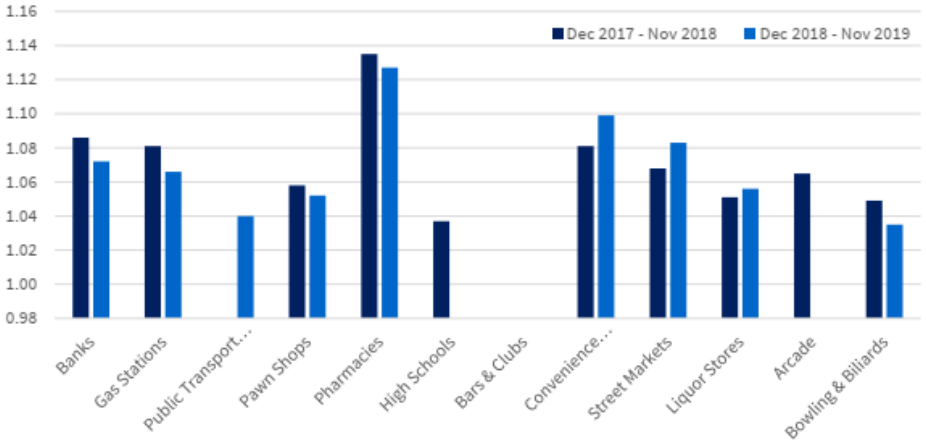


Source: Own elaboration with figures from Mexico City General Prosecutor's Office, 2020.

Based on a *spatial risk analysis*[133] of robberies committed between December 2017 and November 2019 we concluded that:

- A high number of robbery reports are associated with the presence of **pharmacies, stores, street markets and banks**.

Graph 22. Correlation between environmental risk factors and reported robberies in Iztapalapa



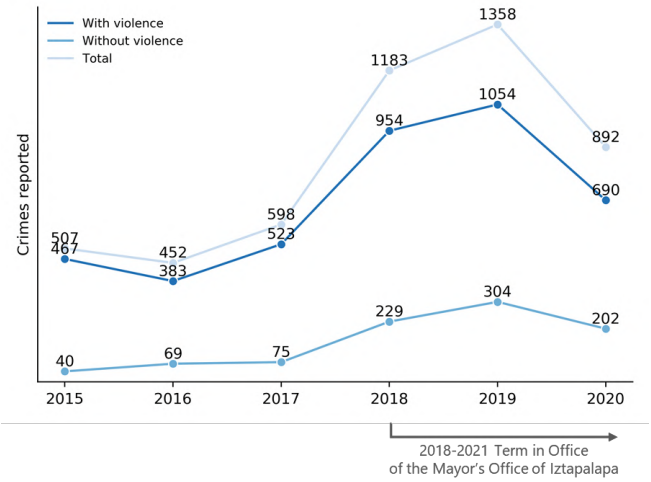
Source: Own elaboration with estimates produced by Transcrime, December 2017 to November and December 2028 and November 2019.

[133] Kennedy, L. W., y Caplan, J. M. (2012). *A theory of risky places*. Rutgers Center on Public Security. Available at: http://www.rutgerscps.org/docs/RiskTheoryBrief_web.pdf.

Robbery in public transport

Between 2015 and 2020, reported crimes on robbery in public transport increased by 76% in Iztapalapa.

Graph 23. Reported crimes on robbery in public transport in Iztapalapa, 2015-2020

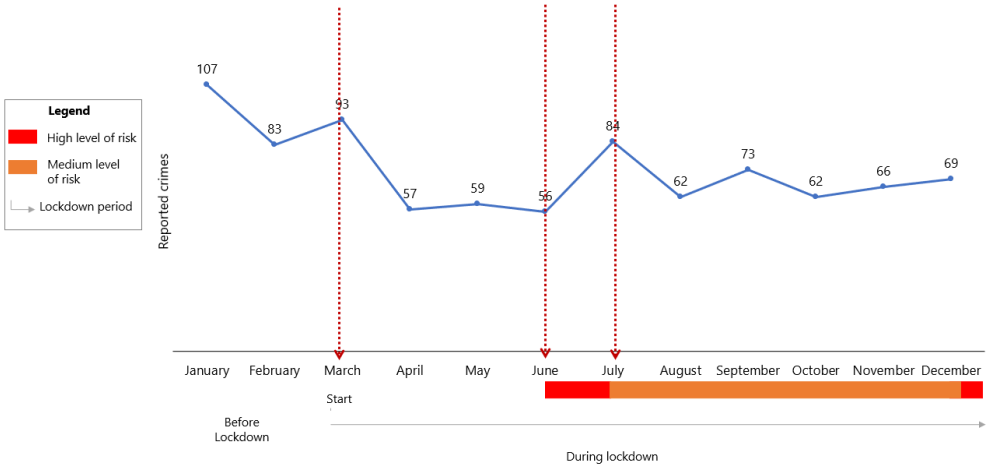


Source: Own elaboration with figures from the Executive Secretariat of the National System for Public Security (SESNSP), 2015 to 2020.

Robbery in public transport during COVID-19

Between January and February 2020, robbery and theft on public transportation remained low, rebounding in early March. From March to December 2020, reported crimes on robbery from the person in the public transport decreased by 26%, in-line with the lockdown measures adopted to prevent the spread of COVID-19.

Graph 24. Reported crimes on robbery from the person in the public transport during lockdown measures adopted to prevent COVID-19, 2020



Source: Own elaboration with figures from the Executive Secretariat of the National System for Public Security (SESNSP), 2020.

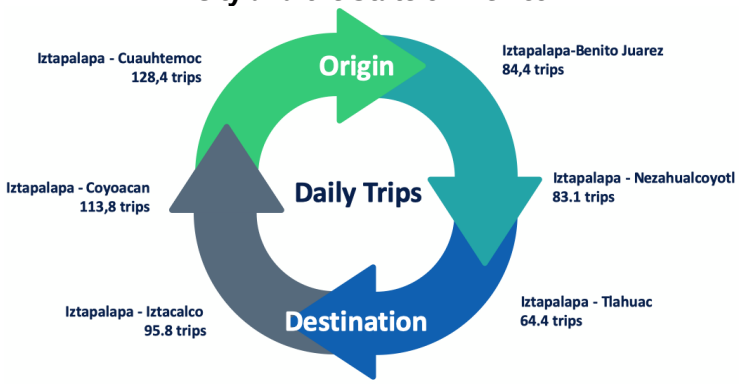
According to INEGI, Iztapalapa accounts for 1,938 public transport trips daily, without taking into consideration informal transportation such as illegal taxis and taxi-bikes that operate and contain a high demand in the most complex urban areas of the borough[134].

Figures from the Mexico City Ministry of Mobility (SEMOVI) indicated that insecurity perception is concentrated in the following six routes of public transport in Iztapalapa:

1. Calzada Ermita Iztapalapa
2. Periferico Canal de San Juan
3. Ermita Iztapalapa-Calzada Zaragoza
4. Calzada Zaragoza-Periferico Canal de San Juan
5. Francisco del Paso-Circuito Interior
6. Tepalcates-Ejercito Constitucionalista

Residents of Iztapalapa travel to other boroughs in Mexico City and other municipalities of the State of Mexico, mostly using the following public transport connections:

Figure 19. Daily trips made in the public transport from Iztapalapa to other points in Mexico City and the State of Mexico



Source: Own elaboration with figures from INEGI, Origin Destination Survey in the Metropolitan Area (ENOE), 2017.

Hotspots of robbery from the person in the public transport were identified in three zones:

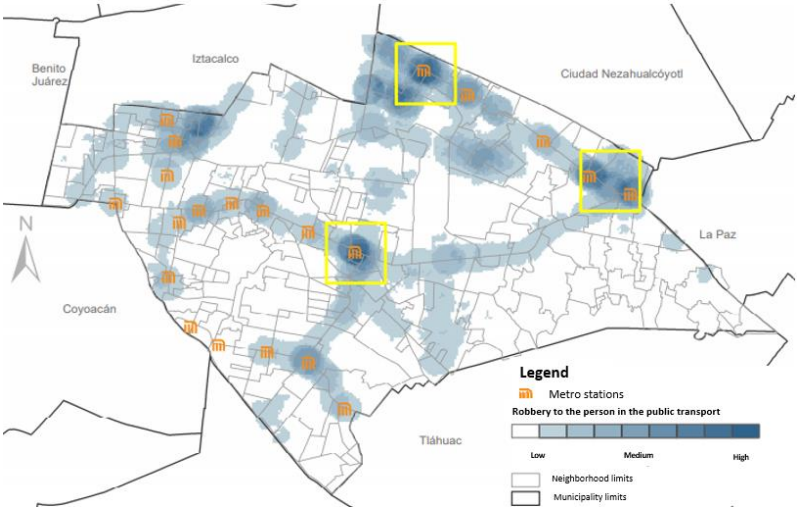
- **Zone 1**. In the center of Iztapalapa, nearby Constitucion de 1917 metro station (line 8), with a user count of 8,332,453 people during the first quarter of 2019[135].
- **Zone 2**. In the north of Iztapalapa nearby metro station Guelatao (line A), with a user count of 2,059,338 people.
- **Zone 3**. In the east of Iztapalapa, nearby Tepalcates metro station (line A), with a user count of 2,035,425 people.

[134] INEGI (2017). Origin Destination Survey in the Metropolitan Area. Available at: https://www.inegi.org.mx/programas/eod/2017/

[135] Mexico City Public Transport System (2019). *User affluence per metro line*. Available at: https://metro.cdmx.gob.mx/afluencia-de-estacion-por-linea-2019

Map 12 illustrates these three zones and, as indicated before, it can be observed that these concentrations concur with those hotspots of robbery from the person in a public location.

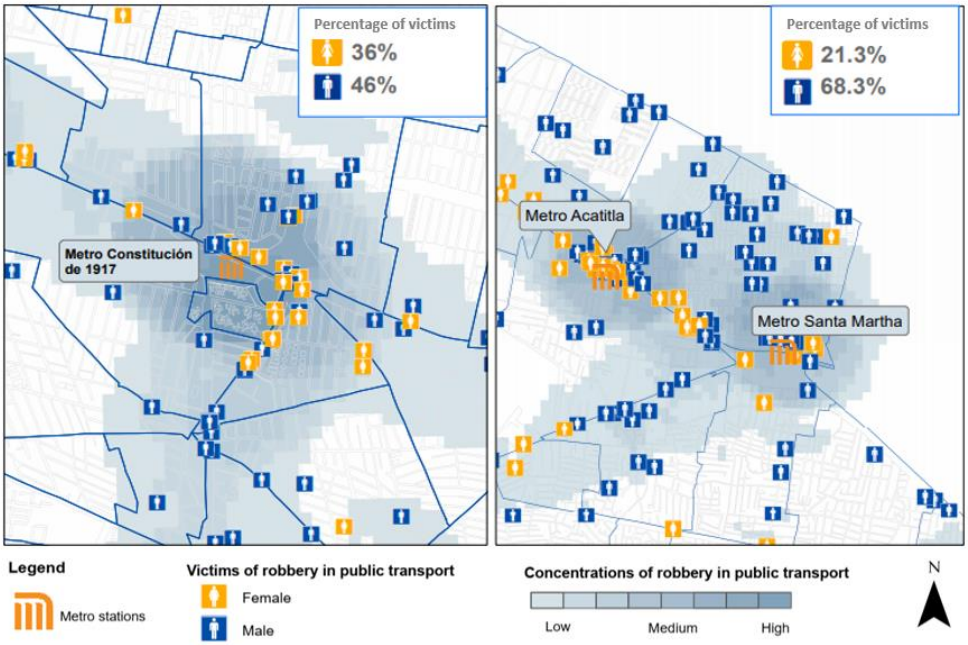
Map 12. Robbery in public transport in Iztapalapa, reports in 2015-2020



Source: Own elaboration with figures from Mexico City Government's open data, 2015 to 2020.

These metro stations also gather other means of public transportation stations, such as buses, taxis, moto-taxis, which can transport people to other points of strategic connection like the avenues Eje 6 and 8, Av. Las Torres, Calzada Ermita Iztapalapa and Anillo Periférico.

Map 13. Victims of robbery nearby metro station Constitucion de 1917 and Tepalcates in Iztapalapa, January to June 2020



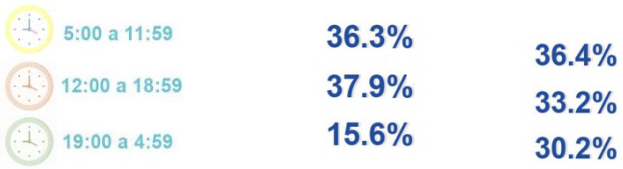
Source: Own elaboration with figures from the Mexico City General Prosecutor's Office (FGJ), January to June 2020.

Robbery in public transport represents a threat to the residents of Iztapalapa, as most metro stations have become vulnerable places prone to the commission of robbery and assault. Men are the most targeted victims and this conduct is committed both with and without violence. In the Constitucion de 1917 metro station, 46% of crimes were perpetrated against men, while in metro station Tepalcates, men victims reached 68.3%.

The commission of this crime has a great opportunity factor for offenders due to the large number of potential victims, as well as the lack of guardians. This situation is even more severe for the victims due to their inability to leave the subway car or bus. The persistence of this crime increases the perception of insecurity within the Mayoralty's territory.

Most of the robberies from the person in public transport occur on Monday, Tuesday and Thursday mornings, when people travel to their job locations or academic institutions (05:00 to 11:59 hours). Victims are equally women and men (36.3% and 36.4%, respectively).

Figure 20. Robbery from the person in the public transport in Iztapalapa reported during 2019, by time of crime occurrence



Source: Own elaboration with figures from the Mayor's Office of Iztapalapa, 2019.

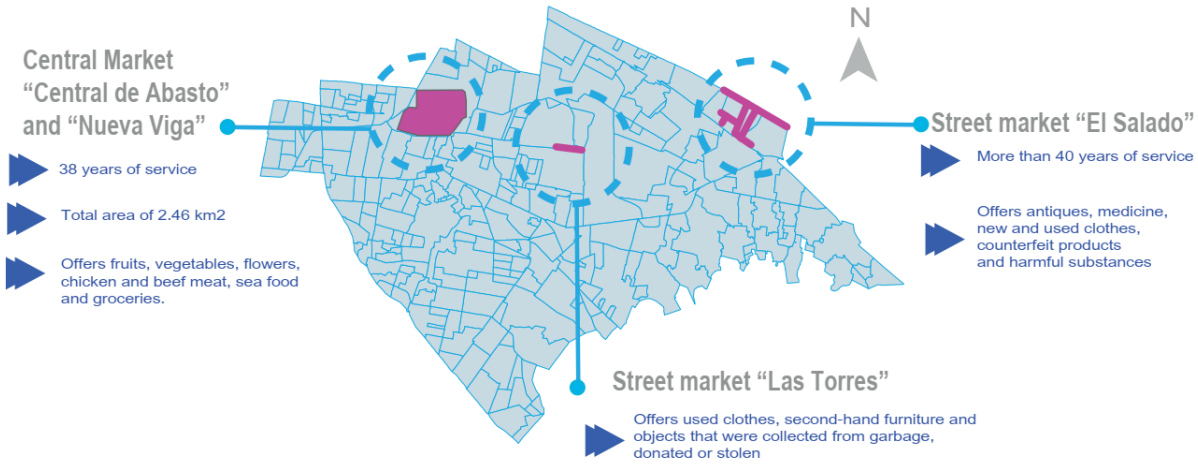
Regarding the perpetrator's characteristics, most offenders were young people between 15 and 30 years old that operate in groups of four. Their modus operandi is clear: once they enter the transport (bus or metro wagon), they divide into groups of two to capture both entrances, one guards the entrance, and another takes the exit door. The other two start intimidating the users with firearms (real or fake) and proceed to assault the passengers[136].

Robbery in street markets and markets

The regulation of the central market *Central de Abastos* and *Nueva y Vieja Viga* are under the supervision of the federal government and have private security. However, the area concentrates many crime reports, an aspect that threatens the security of businesspeople and of the population in general.

[136] Executive Secretariat of the National Public Security System (SESNSP) (2020). Victims and crime rates, 2019. Available at: https://datos.gob.mx/busca/dataset?tags=victimas

Map 14. Location of street markets and formal markets



Source: Own elaboration with figures from INEGI, Street markets and central markets, 2014.

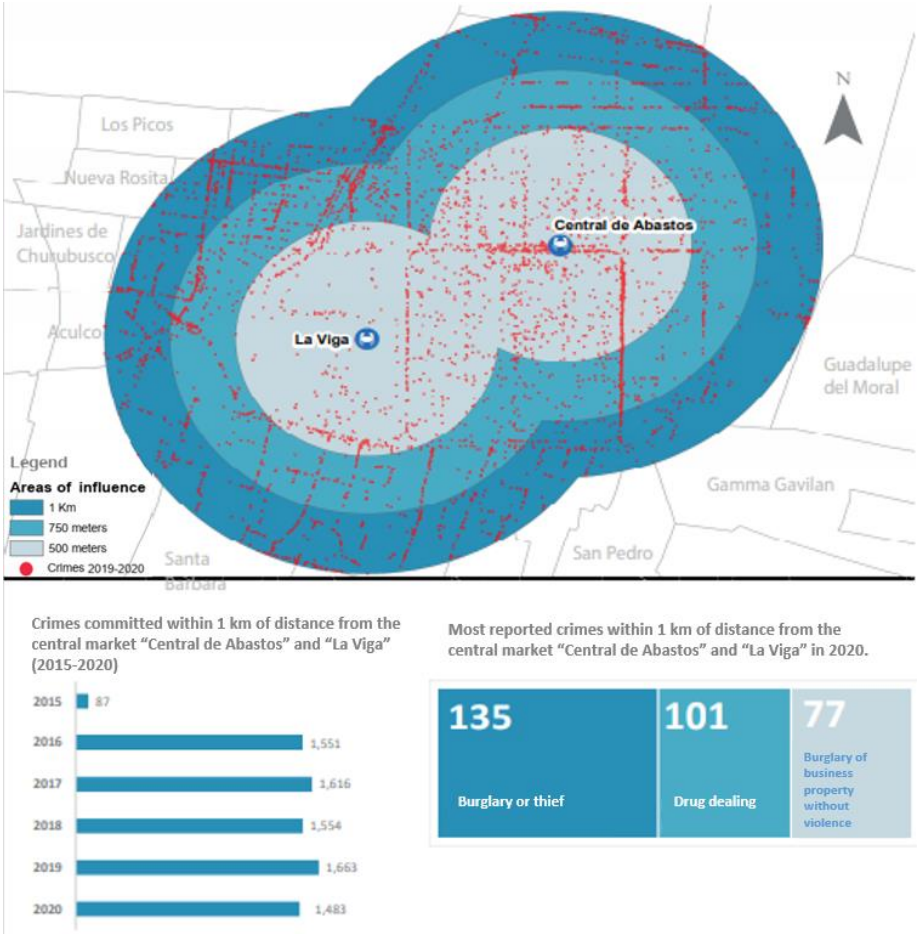
The Market *Central de Abastos* represents one of the largest economic activities in Iztapalapa. The market gathers 90,000 workers, 13,800 workers that provide cargo services to buyers and an average of 370,000 visitors that carry out different transactions[137]. Its high concentration of economic activity remains as an opportunity factor for the commission of crimes.

Burglary of business property, robbery in the streets and robbery of objects are the most reported crimes committed against the businesspeople of the Central Market and against customers, who are common victims in the surroundings of the market. Apart from robberies and assaults, businesspeople and merchants are also victims of kidnapping and extortion. The last one has shown an increase since 2015 in public complaints by victims of extortion and intimidation. These actions were perpetrated by criminal organizations with the use of violence. Although these incidents are not reflected in official records, different media sources have reported them[138], which also suggests that there is an important number of unrecorded crimes.

[137] Central Market "Central de Abastos" in Mexico City (2020). The biggest market in the world Available at: https://ficeda.com.mx/index.php?id=ceda

[138] Fuentes, D., El Universal (2017). Three persons were identified as criminals due to extortion committed in the Central Market "CEDA". Available at: https://www.eluniversal.com.mx/articulo/metropoli/cdmx/2017/05/19/denuncian-cobro-de-piso-en-central-de-abasto

Map 15. Most reported crimes committed in *Central de Abastos* and fishmarket *La Nueva y Vieja Viga*



Source: Own elaboration with figures from the Mexico City General Prosecutor's Office (FGJ), 2015 to 2020.

Street market *El Salado*

This street market offers a diversity of products, such as counterfeit articles and presumably stolen ones such as: auto parts, household items, jewelry, clothes, perfumes, medicines, adulterated products, liquor, shoes, and cell phones.

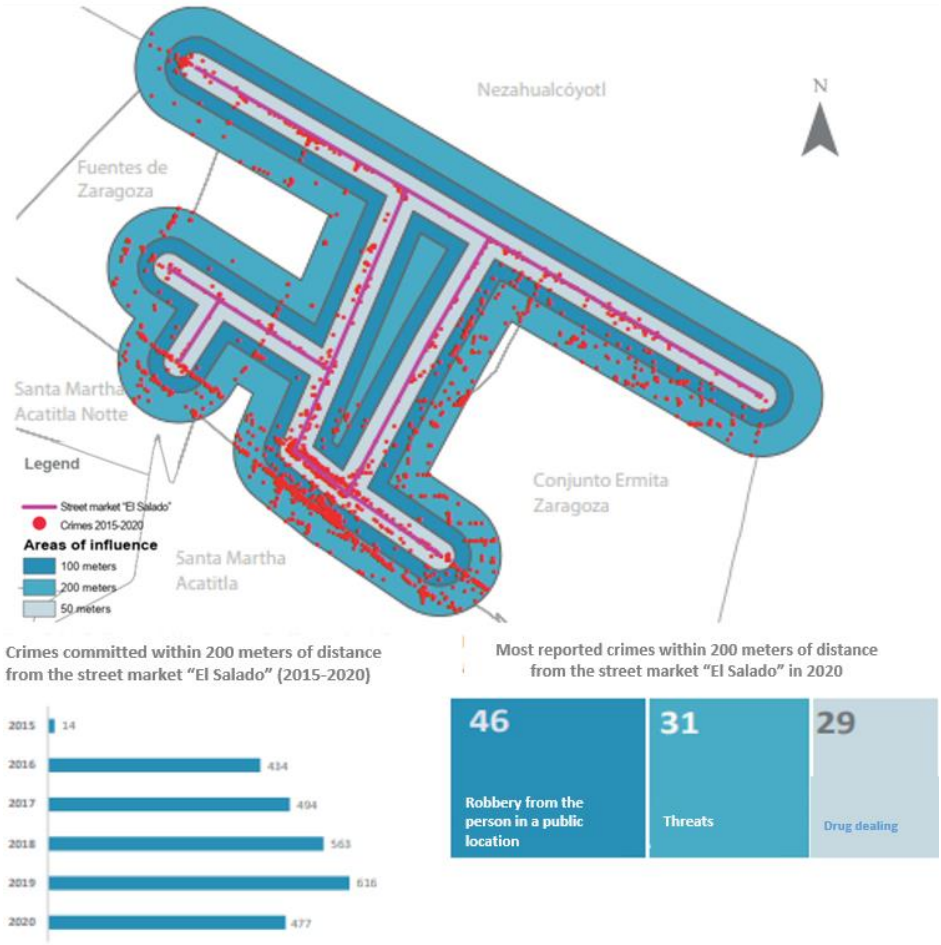
"Trucks and cars arrive at dawn, full of merchandise wrapped in fabrics, which serve as placeholders for the products for sale. In this market there are dozens of stalls that sell alcohol on public roads".

This market is located on the border between Iztapalapa and the municipality of Nezahualcoyotl in the State of Mexico. A zone that, according to some sellers and customers, is prone to crime

incidents and impunity due to the lack of coordination between law enforcement authorities and police officers from the two municipalities, decreasing the likelihood of capture of perpetrators[139].

From 2015 to 2020, the market reported 2,283 robbery crimes committed with firearms. Nearby, burglary of business without violence, robbery from the person in a public location and robbery from the person in public transport were the most frequently reported crimes.

Map 16. Crime reports in the Street market El Salado and its proximities.



Source: Own elaboration with figures from the Mexico City General Prosecutor's Office (FGJ), 2015-2020.

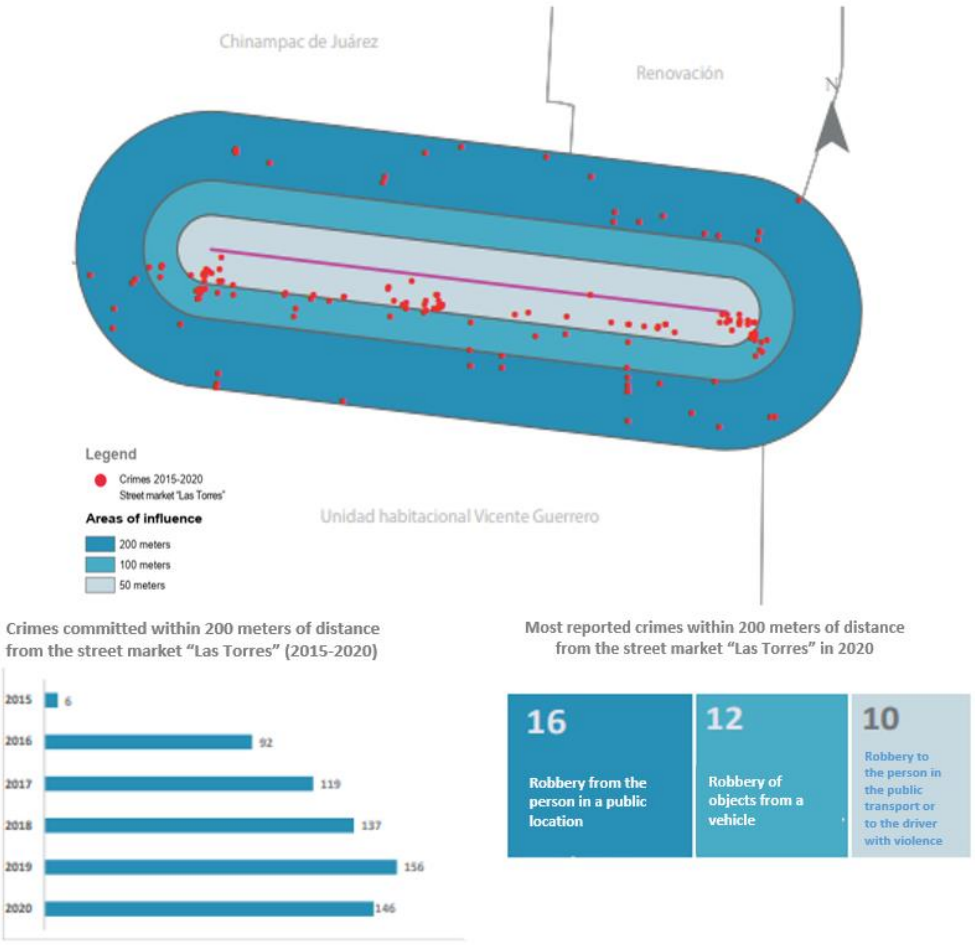
Street market *Las Torres*

The street market in Las Torres is one of the older markets in Iztapalapa, it covers 2 km and sells a range of items mainly collected from the garbage and from solid waste treatment plants. The market has caused different urban issues, such as the temporary closure of roads or avenues, as well as environmental problems related to the enormous amount of garbage that the market

[139] Torres, J., The Diary of Mexico (2017). *Flea market "El Salado" and its impunity*. Available at: https://www.diariodemexico.com/opera-tianguis-de-el-salado-en-la-impunidad-video.

generates every week. Robbery from the person in a public location, as well as, theft of objects from a vehicle are the most reported crimes of the market and its surroundings.

Map 17. Crime reports in the street market Las Torres

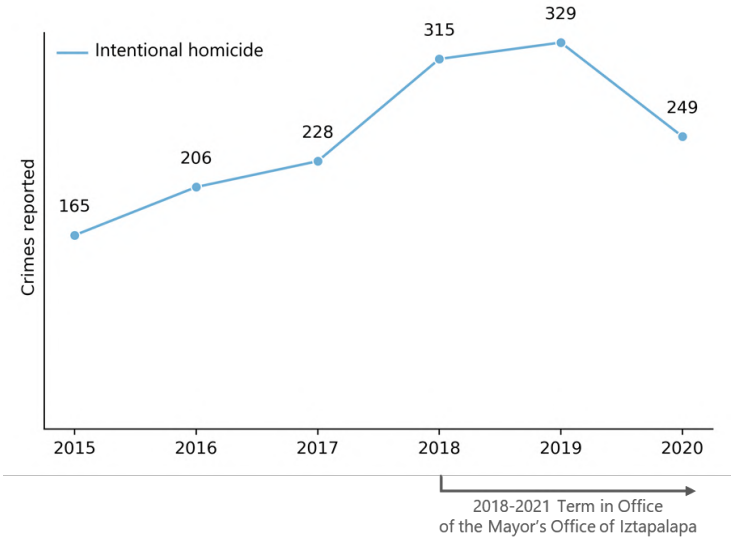


Source: Own elaboration with figures from the Mexico City General Prosecutor's Office (FGJ), 2015 to 2020.

2.1.3.3. Intentional homicides

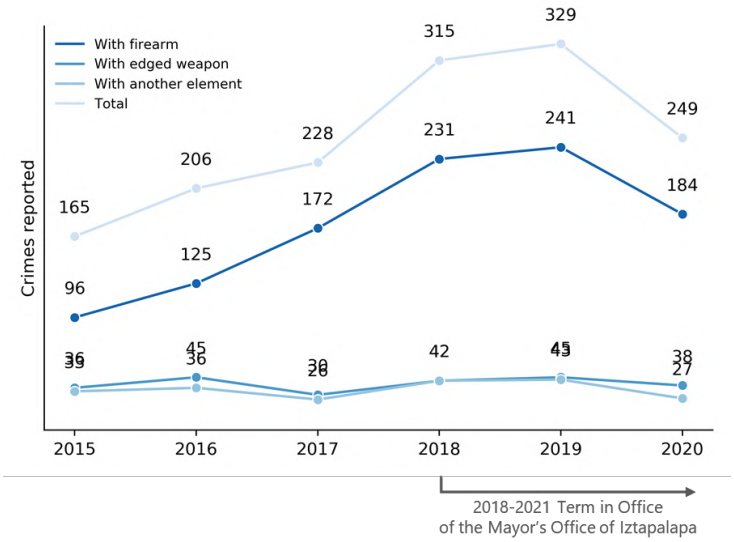
Between 2015 and 2020, intentional homicide reports increased by 51%. Reports of homicides committed with firearms incremented by 92% in the same period. However, when analyzing this trend between 2018 and 2020, period of the current administration of the Mayor's Office of Iztapalapa, it was identified that reported crimes on intentional homicide decreased by 21%. A similar decrease could be observed on registered homicides committed with firearms.

Graph 25. Reported crimes on intentional homicide in Iztapalapa, 2015-2020



Source: Own elaboration with figures from the Executive Secretariat of the National System for Public Security (SESNSP), 2015 to 2020.

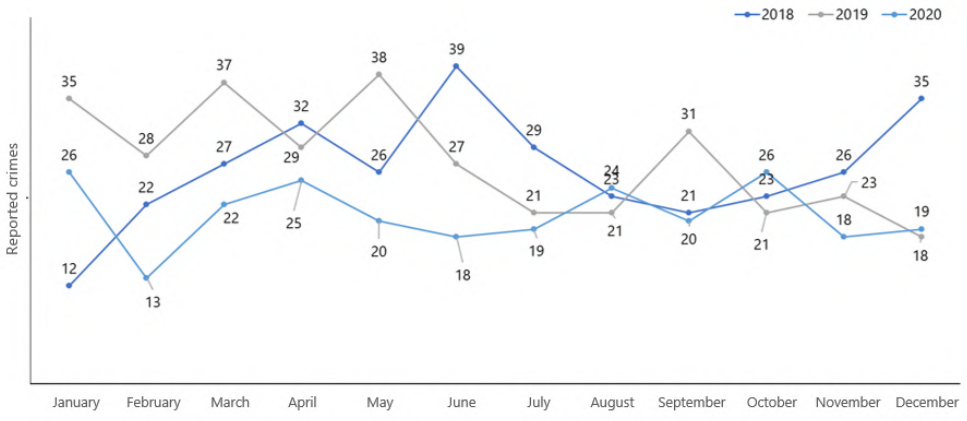
Graph 26. Reported crimes on intentional homicide committed with firearms in Iztapalapa, 2015-2020



Source: Own elaboration with figures from the Executive Secretariat of the National System for Public Security (SESNSP), 2015 to 2020.

When comparing monthly crime records on intentional homicide, it can be observed that the tendency is diverse, although its seriousness relies on the fact that in average over 30 people are kill every month.

Graph 27. Reported crimes on intentional homicide in Iztapalapa, monthly 2018-2020



Source: Own elaboration with figures from the Executive Secretariat of the National System for Public Security (SESNSP), 2018 to 2020.

The SDG 16 seeks to reduce all types of violence, in an aim of promoting peaceful, inclusive and fair communities for all. Based on statistical and geographical information and the one collected during fieldwork, robbery in all its modalities was identified as the most frequent threat for Iztapalapa's inhabitants, affecting their property, livelihoods, businesses, and personal integrity, especially when the crime is committed with violence.

High levels of violence seriously affect social and economic development weakening the rule of law. As figures indicated, apart from economic damage, victims also report emotional and physical damage (see section 2.4. Risk analysis in 44 neighborhoods in Iztapalapa).

In the case of robbery in all its modalities, it is important to notice that there is a lack of disaggregated data regarding the type of weapons used by offenders in reported crimes committed with violence. Having disaggregated data from official statistics on the type of weapons used by offenders would be instrumental in acknowledging the percentage of cases with firearms involved, which might be useful in shedding light on local dynamics related to illicit arms trafficking. This type of information would be useful to understand and address the local dynamics regarding illicit arms trafficking and also to highlight the level of violence adopted by the offender as well as the psychological and physical impact on the victims.

There is also an absence of data disaggregated by sex, gender and age from both the offender and victims. Disaggregated data is fundamental to better understand criminal dynamics and conduct more specific analysis.

In the following pages, some recommendations are listed suggesting concrete actions that can be adopted by the Mayor's Office of Iztapalapa as well as possible deadlines, and potential partner institutions.



Robbery from a person in a public location
Data collection and strategies

Topic Short/ Medium/ Long term	Recommendations for the Mayor's Office	Recommendations for the population
Data collection and analysis	• Improve data collection and disaggregated information obtained from emergency calls registered by the Command and Control Center (C2 or Cuitlahuac Base), based on the International **Classification of Crimes for Statistical Purposes (ICCS)**[140].	• When making an emergency call provide information requested by the authorities. • Report antisocial behaviors and crimes that occur in their neighborhoods.
Data for action	• Based on available data, set an action plan to prevent robbery in those areas with higher crime concentration.	• Issue a report in case of being victim of crime.
Law enforcement operations and surveillance actions to diminish robbery	• Give maintenance to the surveillance equipment installed in the ***Corridors for safe and free women***[141] and their surrounding areas, as well as in the main traffic routes. • Implement emergency alert buttons and surveillance cameras in parks, sidewalks, and areas with high	• Report to the authorities about damages in the equipment located in the ***Corridors for safe and free women***. • Promote safety networks such as WhatsApp groups for communication among neighbors.

[140] UNODC (2016). International Classification of Crime for Statistical Purposes (ICCS). Available at: https://www.unodc.org/unodc/en/data-and-analysis/statistics/iccs.html

[141] The Mayor's Office of Iztapalapa (2021). Corridors for safe and free women. Available at: https://www.jefaturadegobierno.cdmx.gob.mx/comunicacion/nota/inaugura-jefa-de-gobierno-camino-mujeres-libres-y-seguras-de-la-alcaldia-iztapalapa



Robbery from a person in a public location
Data collection and strategies

Topic Short/ Medium/ Long term	Recommendations for the Mayor's Office	Recommendations for the population
	pedestrian concentration in the Mayoralty's territory. • Disseminate the use of the application ***My Police***[142] which, due to its geolocating attributes, reduces police response in case of emergency.	• Promote the use of technological initiatives such as ***My Police*** app in order to have a more effective communication in case of emergency.
Programs to prevent robbery	• Expand the implementation of the ***School Security Program for Children***[143] in the neighborhoods with the highest crime rates.	• Get involved in the activities related to the ***School Security Program for Children***.
Possible partner institutions	• Mexico City Government: Ministry of Citizen Security, Ministry of Mobility, C5-CDMX • Academic Institutions: UAM-I, UNAM, Technological Institutes of Iztapalapa • Civil Society Organizations: Citizen Council • UNODC	



Robbery from a person in the public transport
Data collection and strategies

Topic Short/ Medium/ Long term	Recommendations for the Mayor's Office	Recommendations for the population
Data collection and analysis	• Improve data disaggregation obtained from emergency calls registered by the Command	• When making an emergency call provide information requested by the authorities.

[142] The Mayor's Office of Iztapalapa (2021). Programs of the Mayor's Office of Iztapalapa. Available at: http://www.iztapalapa.cdmx.gob.mx/2alcaldia/Programas.html
[143] Ibid.



Robbery from a person in the public transport

Data collection and strategies



Topic Short/ Medium/ Long term	Recommendations for the Mayor's Office	Recommendations for the population
	and Control Center (C2 or Cuitlahuac Base), based on the ***International Classification of Crimes for Statistical Purposes (ICCS).***	• Report antisocial behaviors and crimes that occur in their neighborhoods.
Data for action	• Based on available data, set an action plan to prevent robbery in those areas with higher crime concentration.	• Issue a complaint in case of being victim of crime.
Inter-institutional coordination to prevent robbery	• Establish an alliance between academic institutions and Mexico City's Ministry of Mobility (SEMOVI) to provide special transportation services to students, especially during the evening and night in order to guarantee their safety. • In coordination with SEMOVI improve public transport conditions, such as: - Expand public transport coverage. - Regulate drivers and other means of public transportation (motorcycle taxis, bicycle taxis) that operate without regulations.	• Take part of the especial actions adopted by authorities to guarantee users safety in the public transport. • Report the existence of public transport that operates without regulation. • In case of being the driver of any public transport that operates without regulation, comply with the traffic rules.



Robbery from a person in the public transport

Data collection and strategies

Topic Short/ Medium/ Long term	Recommendations for the Mayor's Office	Recommendations for the population
Law enforcement operations and surveillance actions to diminish robbery	• Reinforce the implementation of the ***Safe Passenger Program***[144] in metro stations: Tepalcates, Constitucion de 1917 and Guelatao, where a high number of robbery reports was identified.	• Issue a complaint in case of being victim of crime.
Possible partner institutions	• Mexico City Government: Ministry of Citizen Security, Ministry of Mobility, C5-CDMX • Academic Institutions: UAM-I, UNAM, Technological Institutes of Iztapalapa • Civil Society Organizations: Citizen Council • UNODC	



Robbery of vehicle and auto parts

Data collection and strategies

Topic Short/ Medium/ Long term	Recommendations for the Mayor's Office	Recommendations for the population
Data collection and analysis	• Improve data disaggregation obtained from emergency calls registered by the Command and Control Center (C2 or Cuitlahuac Base), based on the ***International Classification of Crimes for Statistical Purposes (ICCS).***	• When making an emergency call provide information requested by the authorities. • Report antisocial behaviors and crimes that occur in their neighborhoods.

[144] Ibid.

Robbery of vehicle and auto parts
Data collection and strategies

Topic Short/ Medium/ Long term	Recommendations for the Mayor's Office	Recommendations for the population
Data for action	• Based on available data, set an action plan to prevent robbery in those areas with higher crime concentration.	• Issue a complaint in case of being victim of crime.
Inter-institutional coordination to prevent robbery	• Formalize the ***Metropolitan Coordinating Program***[145] with the municipalities of the State of Mexico and Mexico City to increase collaboration between law enforcement officials by establishing guidelines for cooperation for investigation and persecution of robbery.	• When buying a used car, review the recommendations provided by the ***Secure Purchase Program***[146]. • Promote a culture of lawfulness by avoiding the acquisition of vehicles and auto parts of illegal origin.
Law enforcement operations and surveillance actions to diminish robbery	• Strengthen the cooperation between law enforcement officials to set joint operations that disassemble criminal groups behind the robbery or theft of vehicles and auto parts.	• Promote a culture of lawfulness in the purchase and sale of vehicles and auto parts.
Possible partner institutions	• Mexico City Government: Ministry of Education, Ministry of Citizen Security, Ministry of Mobility, C5-CDMX • Civil Society Organizations: Citizen Council • UNODC	

[145] Mentioned during an interview with staff of the Mayor's Office of Iztapalapa, 2020.
[146] Mexico City General Prosecutor's Office (2021). Secure Purchase. Available at: https://www.fgjcdmx.gob.mx/nuestros-servicios/servicios-la-ciudadania/Compra_Segural



Burglary of business property
Data collection and strategies



Topic Short/ Medium/ Long term	Recommendations for the Mayor's Office	Recommendations for the population
Data collection and analysis	• Improve data disaggregation obtained from emergency calls registered by the Command and Control Center (C2 or Cuitlahuac Base***)***, based on the ***International Classification of Crimes for Statistical Purposes (ICCS).***	• When making an emergency call provide information requested by the authorities. • Report antisocial behaviors and crimes that occur in their neighborhoods.
Data for action	• Based on available data, set an action plan to prevent burglary of business in those areas with higher crime concentration. • Set a methodology for data collection and analysis obtained from the ***Security Cabinets***[147]**,** based on international standards. • Promote a crime prevention strategy based on the analysis of the information collected from the ***Security Cabinets*** and statistical data available.	• Issue a complaint in case of being victim of crime. • Get involve in the strategies adopted by the Mayor's Office with the purpose of improving crime prevention in the territory.
Inclusive and participatory strategies	• Continue the execution of the ***Security Cabinet with the private sector***[148]**.** • Promote a monitoring and evaluation methodology for this initiative.	• Participate in the initiatives promoted by the Mayor's Office design aim to improve crime prevention. • Made a complaint in case of becoming a

[147] Information provided by the personnel from the Mayor's Office of Iztapalapa (2019). Provisional Government Program 2019-2020. Available at: http://www.iztapalapa.cdmx.gob.mx/concejales/pdf/ProgPro19-20.pdf
[148] Ibid.

Burglary of business property
Data collection and strategies

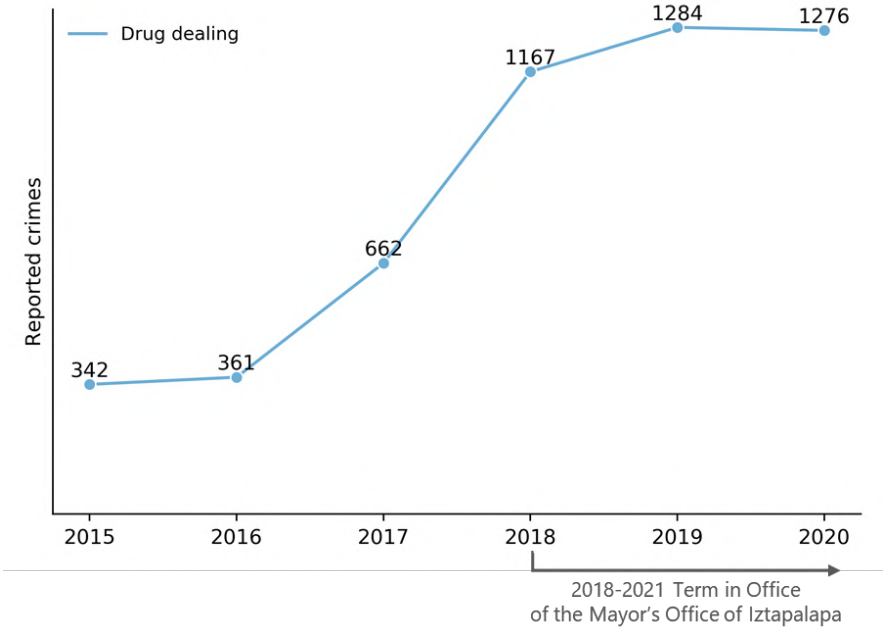
Topic Short/ Medium/ Long term	Recommendations for the Mayor's Office	Recommendations for the population
	• Implement a ***Security Cabinet with vendors and businessmen from markets and street market***[149], in order to better understand their insecurity concerns.	victim of crime or use the digital platforms available to make a complaint.
Law enforcement operations and surveillance actions to diminish burglary	• Strength measures adopted to provide security to the private sector, such as the communication channels created via What's App. • Disseminate the use of the ***My Police*** App.	• Get involved in the communication channels created to provide security.
Possible partner institutions	• Mexico City Government: Ministry of Citizen Security, Ministry of Mobility, C5-CDMX • Central Market and street markets • Civil Society Organizations: Citizen Council • UNODC	

[149] Ibid.

2.1.4 Illicit drug and arms markets in Iztapalapa

According to figures from SESNSP, between the years 2015 and 2019 the number of reported crimes on drug dealing[150] increased by 273%, while from 2018 to 2020 the reports increased by 9%.

Graph 28. Reported crimes on drug dealing in Iztapalapa, 2015-2020



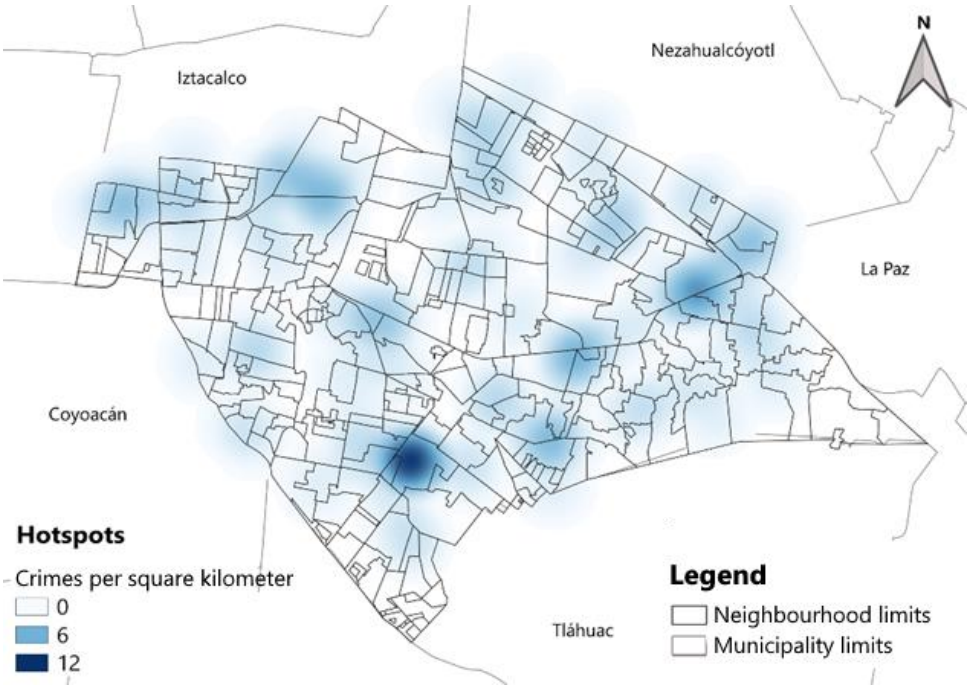
Source: Own elaboration with figures from the Executive Secretariat of the National System for Public Security (SESNSP), 2015 to 2020.

Regarding the spatial concentration of this crime, and according to figures from the Mexico City General Prosecutor's Office, in 2016 a concentration in the southeast of Iztapalapa was identified, while in 2019, four concentrations of reported crimes on drug dealing were identified:

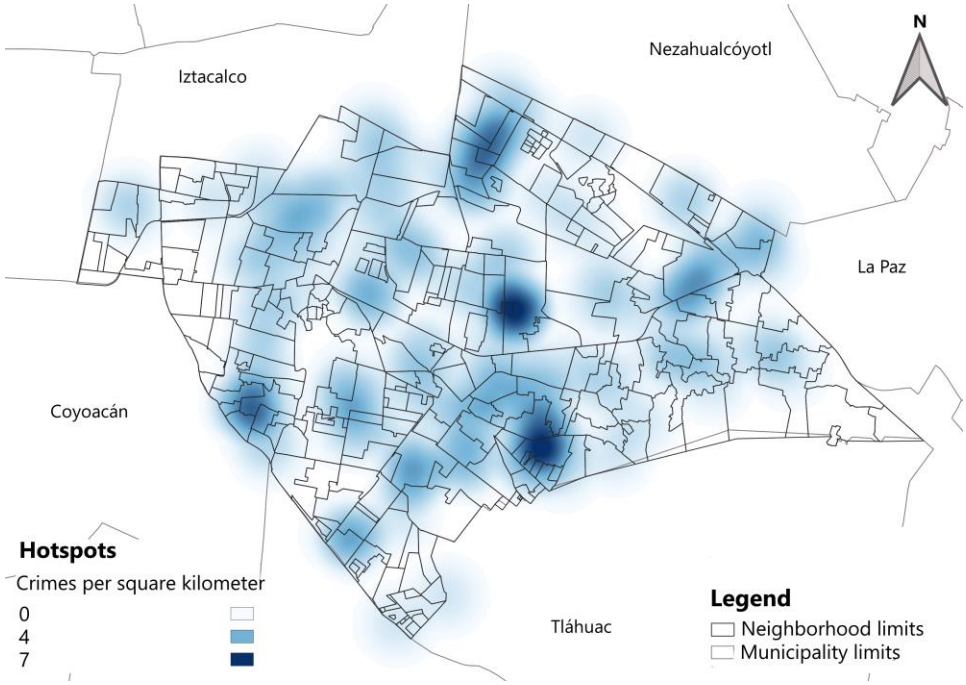
- To the north, near the Mexico-Puebla highway, Iztacalco and the Nezahualcoyotl municipality of the State of Mexico.
- To the center, nearby Recreational Park Santa Cruz Meyehualco.
- To the south, encompassing Desarrollo Urbano Quetzalcoatl and close by Tlahuac.
- To the west, near Coyoacan.

[150] Drug dealing: Subscribed to the General Health Law in the section referring to crimes, which is understood as the trade, sale, purchase, acquisition or alienation, possession or supply of any narcotic drug.

Map 18. Reported drug dealing in Iztapalapa, 2016 and 2019



2016



2019

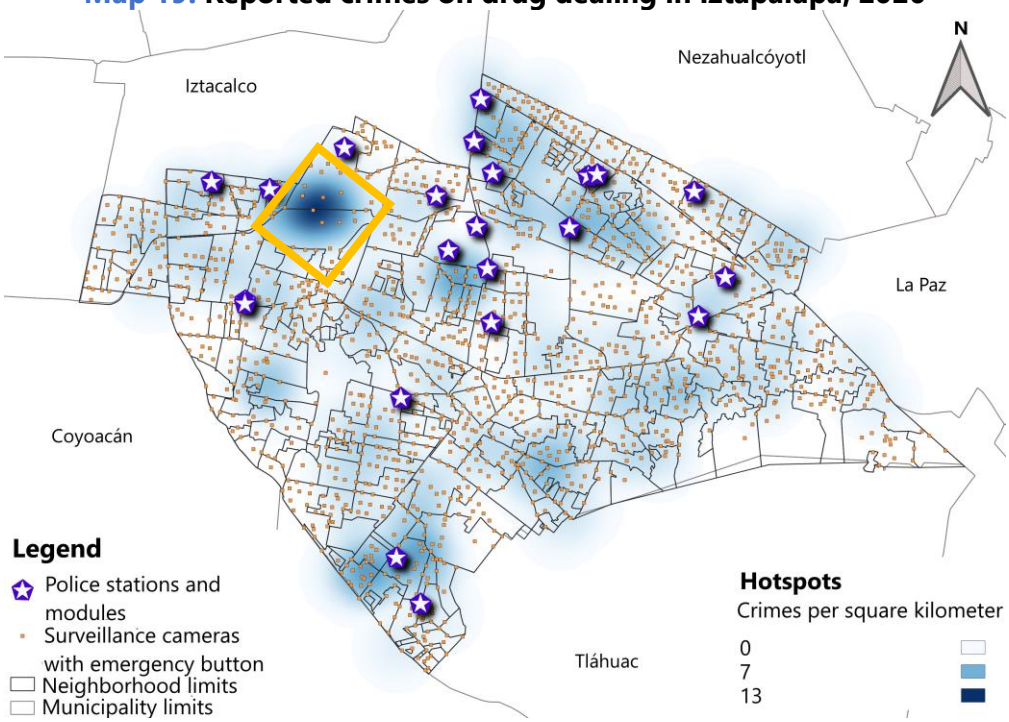
Source: Own elaboration with figures from the Mexico City General Prosecutor's Office (FGJ), 2016 and 2019.

Spatial concentration of reported crimes on drug dealing during 2020

In 2020, the crimes reported for drug dealing were concentrated in the northwest of Iztapalapa, near Iztacalco. By analyzing the behavior of this crime, the following is identified:

1. The concentration was located in the Central Market. According to official information, more than 500 thousand visitors, on average, carry out daily transactions in the Central Market. It is estimated that the value of annual commercial operations is 9 billion dollars, second only to the Mexican Stock Exchange at the national level[151]. Additionally, the area has important road connections such as Mexico City's Anillo Periferico.
2. According to information provided by personnel from the Mayor's Office of Iztapalapa, there are high levels of alcohol and drug consumption in the area.
3. On the other hand, the area has high levels of social marginalization due to the concentration of population living in housing units such as Real del Moral and Tezontle.
4. The crime concentration is adjacent to Iztacalco, which could make it difficult to prosecute crime as it is a different territory from the command of the police elements operating in Iztapalapa.

Map 19. Reported crimes on drug dealing in Iztapalapa, 2020



Source: Own elaboration with figures from the Mexico City General Prosecutor's Office (FGJ), 2020.

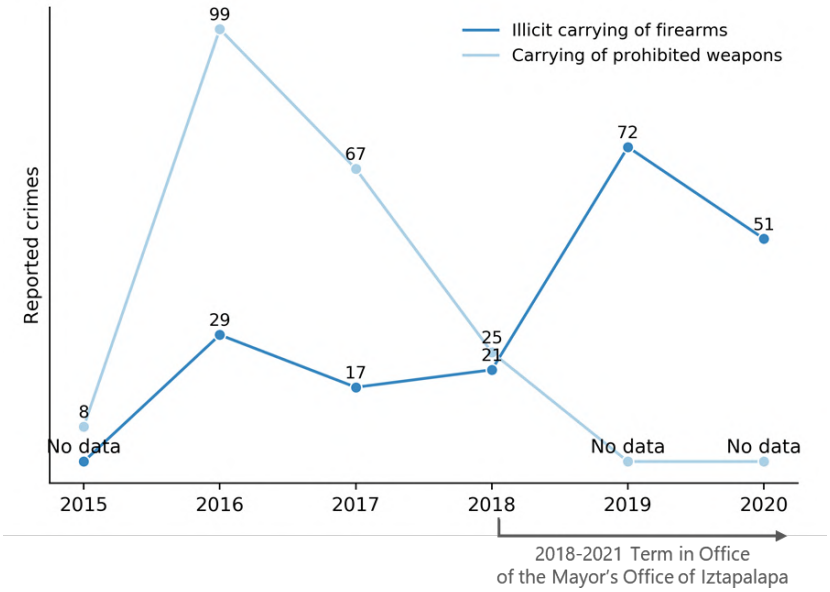
[151] Central Market (2021). General information. Available at: https://ficeda.com.mx/index.php?id=ceda

Reported crimes on illicit carrying of firearms

According to figures from SESNSP, between 2016 and 2020, reported crimes on illicit carrying of firearms increased by 76%[152]. Regarding reported crimes on carrying of forbidden weapons, there was a 75% decrease between 2016 and 2018[153].

Available data on these reported crimes does not specify the type of firearms that were seized by the authorities. There is also no statistical information regarding the value chain (origin, trafficking, selling) involved in illicit arms trafficking.

Graph 29. Reported crimes on illicit carrying of firearms and carrying of forbidden weapons, Iztapalapa 2015 to 2020



Source: Own elaboration with figures from the Mexico City General Prosecutor's Office (FGJ), 2015 to 2020.

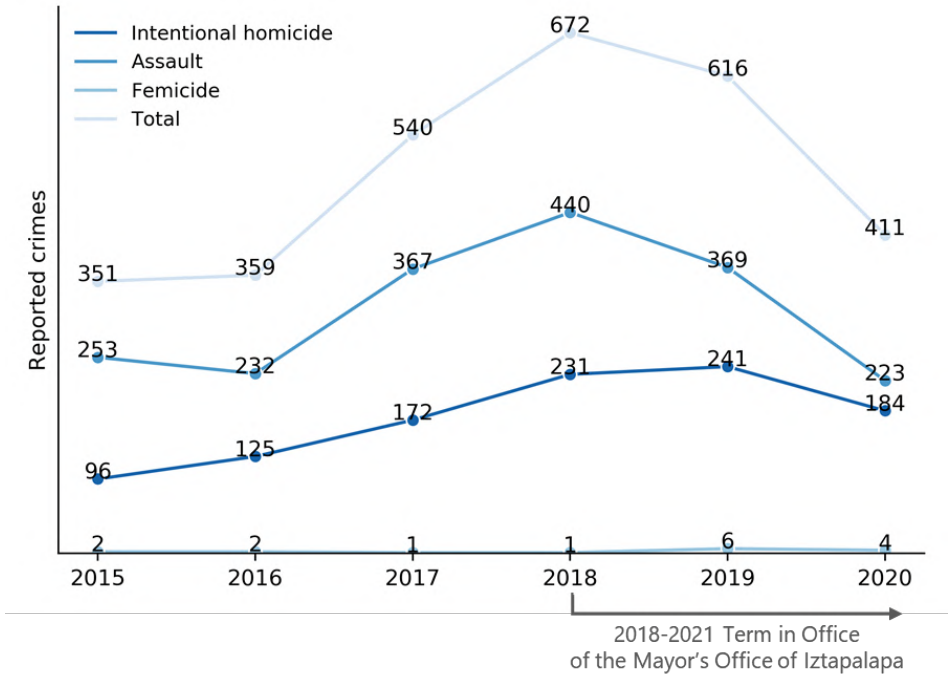
According to figures from SESNP, from 2015 to 2020, reports on crimes committed with firearms behaved in the following way:

- Intentional homicides committed with firearms increased by 92%
- Assaults committed with firearms decreased by 12%
- Femicides committed with firearms duplicated. In 2015, there were only 2 reports on femicide, and by 2020, 4 were reported.

From 2018 to 2020, the term of office corresponding to the current administration of the Mayor's Office of Iztapalapa, a 39% decrease in reports of crimes committed with firearms was identified.

[152] It is important to note that for the analysis of this crime there was no data available for 2015, therefore its analysis begins in 2016.
[153] As for the crime of possession of forbidden weapons, there is no data available for 2015 or after 2018. Therefore, the analysis only considers data from 2016 to 2018.

Graph 30. Reported crimes committed with firearms in Iztapalapa, 2015 to 2020

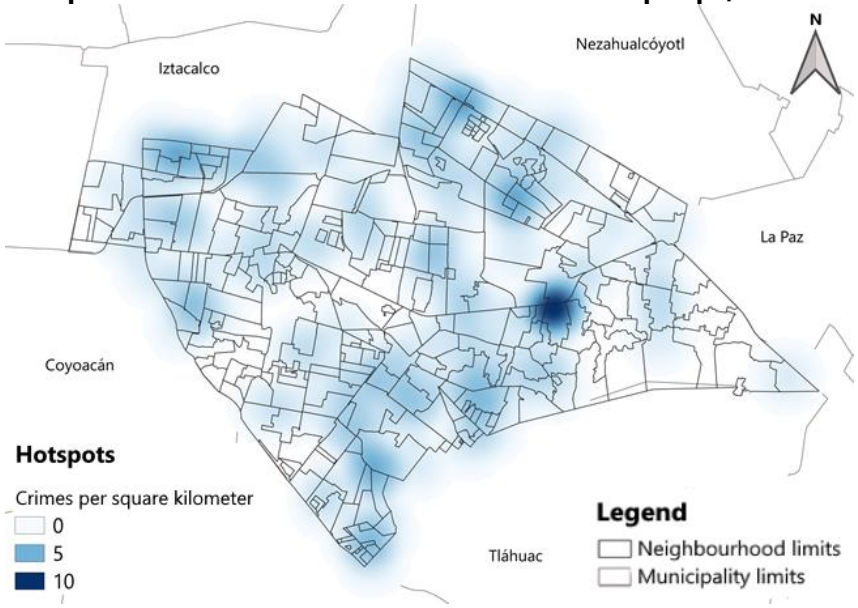


Source: Own elaboration with figures from the Executive Secretariat of the National System for Public Security (SESNSP), 2015 to 2020.

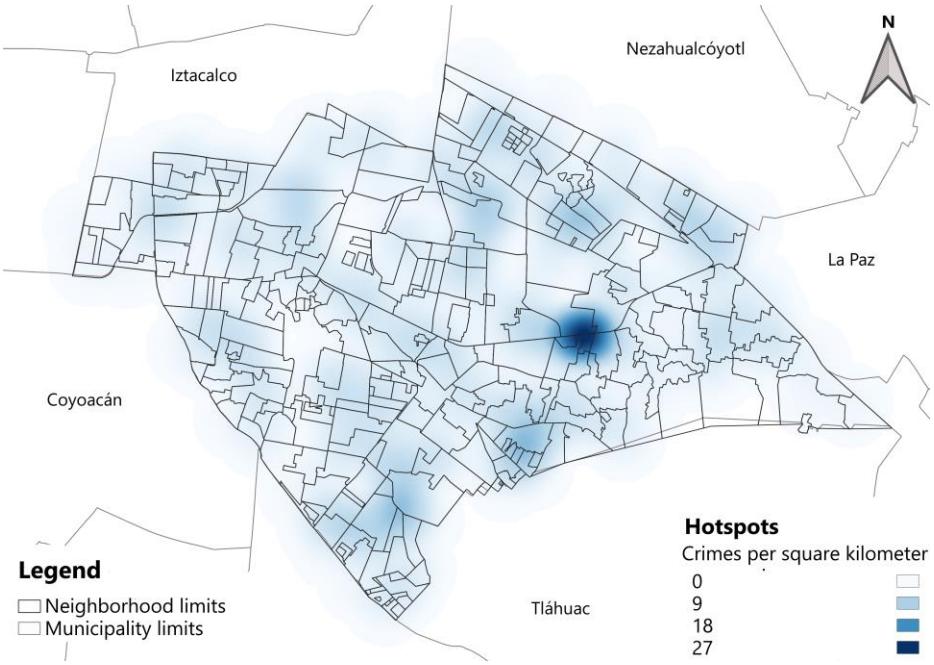
Spatial concentration of reported crimes committed with firearms

The spatial distribution of crimes committed with firearms was concentrated to the southeast of the borough in both 2016 and 2019.

Map 20. Reported crimes committed with firearms in Iztapalapa, 2016 and 2019.



2016



2019

Source: Own elaboration with figures from the Mexico City General Prosecutor's Office (FGJ), 2016 and 2019.

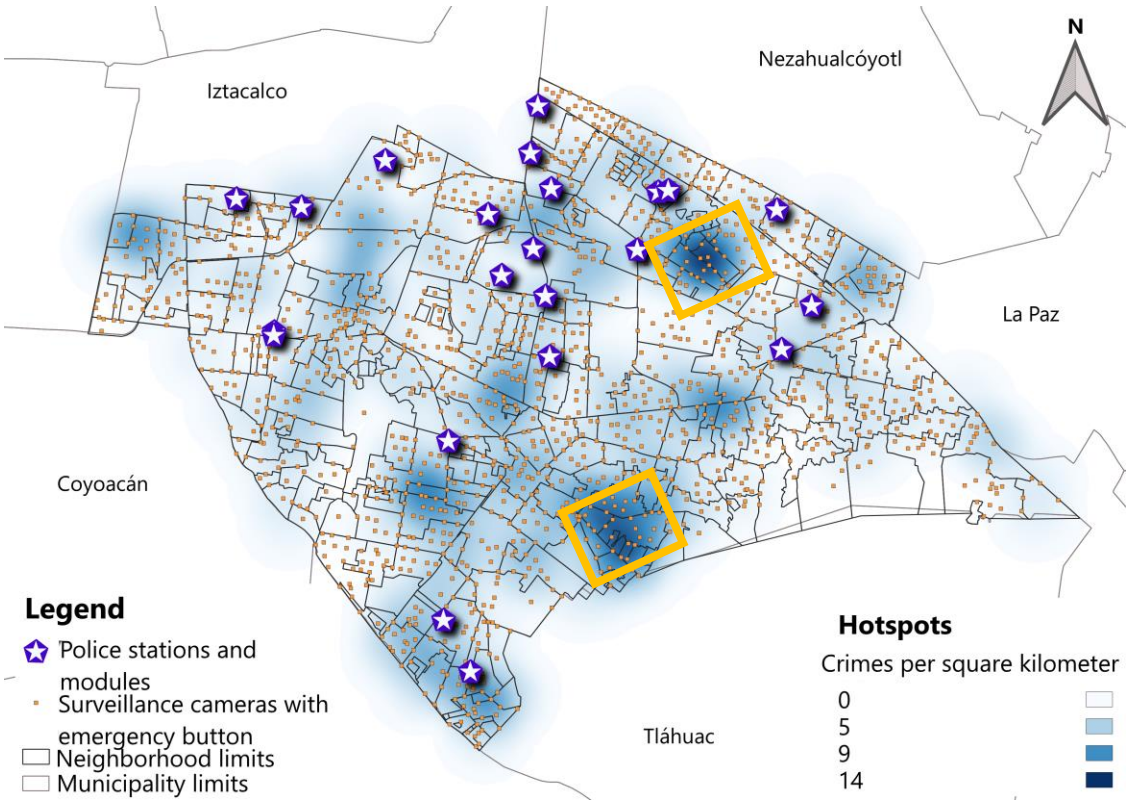
Spatial concentration of reported crimes committed with firearms that came to the attention of the authorities during 2020

In 2020, two concentrations are identified to the south and east of the demarcation of crimes committed with firearms, of which the following is observed[154]:

1. The area located to the east of Iztapalapa near the municipality of Nezahualcóyotl in the State of Mexico shows nearby police stations and modules. In this zone, a high index of social marginalization and population concentration is identified due to the Housing Units (Peñon Viejo, la Joya, Ejercito de Oriente Zona Peñon and Jose Maria Morelos y Pavon) located in the zone.
2. The area to the south of the Mayoralty's territory is on the border of Tláhuac and there is little presence of police stations. Both factors could have an impact on the inhibition of these crimes:
    - On the one hand, the pursuit of this crime in flagrancy could be made more difficult as it is a different territory from the police elements operating in Iztapalapa. On the other hand, the scarce presence of police stations could make it difficult to react quickly.
    - In this zone, the neighborhood Desarrollo Urbano Quetzalcoatl is located, which according to information provided by personnel of the Mayor's Office of Iztapalapa, presents problematic alcohol consumption by its inhabitants.
    - In this area there are also parcels of land that have been invaded, such as Degollado, El Molino and Maguellera, which lack service coverage.

[154] According to information provided by personnel of the Coordination of Planning and Crime Combat from the Mayor's Office of Iztapalapa during interviews conducted for this Assessment, 2020.

Map 21. Reported crimes committed with firearms in Iztapalapa, 2020



Source: Own elaboration with figures from the Mexico City General Prosecutor's Office (FGJ), 2020.



Drug dealing

Combat actions at the local level

Topic Short/ Medium/ Long Term	Recommendations for the Mayor's Office	Recommendations for the population
Institutional strenghthening	• Continue inter-institutional coordination between the Mayor's Office, the municipalities of Nezahualcoyotl and Los Reyes la Paz, as well as with the SSC-CDMX through the Security Cabinet to reduce crime incidence. • Through the SSC, continue training the auxiliary police of the Mayor's Office in **human rights and gender perspective to avoid re-victimization**. • Continue with the police operations deployed to dismantle illicit markets.	• Participate by issuing citizen complaints. • Participate by providing information on the risks detected in their environment.
Data for action	• Continue updating the risk map and geo-referencing of neighborhoods with a high concentration of sale and drug use.	• N/A
Special actions	• Implementation of **UNODC's *Strong Families Program*** for the prevention of antisocial behavior. • Implementation of **UNODC's *Line Up, Live Up Program*** for the prevention of crime, violence and drug	• Participation of the population in the activities taking place at the *UTOPIAS*.



Drug dealing

Combat actions at the local level

Topic Short/ Medium/ Long Term	Recommendations for the Mayor's Office	Recommendations for the population
	use in the sports spaces of each UTOPIA. • Widely disseminate to the population of Iztapalapa the actions provided by the ***Colibrí Integral Care Centers for users of psychoactive substances and their families*** in the ***UTOPIAS***. • Continue with the health protocols, gender and human rights approach in the ***Colibrí Integral Care Centers*** and in the ***UTOPIAS***.	
Possible partner institutions	• Mexico City Government • Ministry of Citizen Security of Mexico City C5-CDMX • General Office of Government and Citizen Protection of the Mayor's Office of Iztapalapa • General Office of Inclusion and Social Welfare • Territorial Directorates • Unit of Planning and Combat against Crime • Civil Society Organizations • Citizen Council • UNODC	

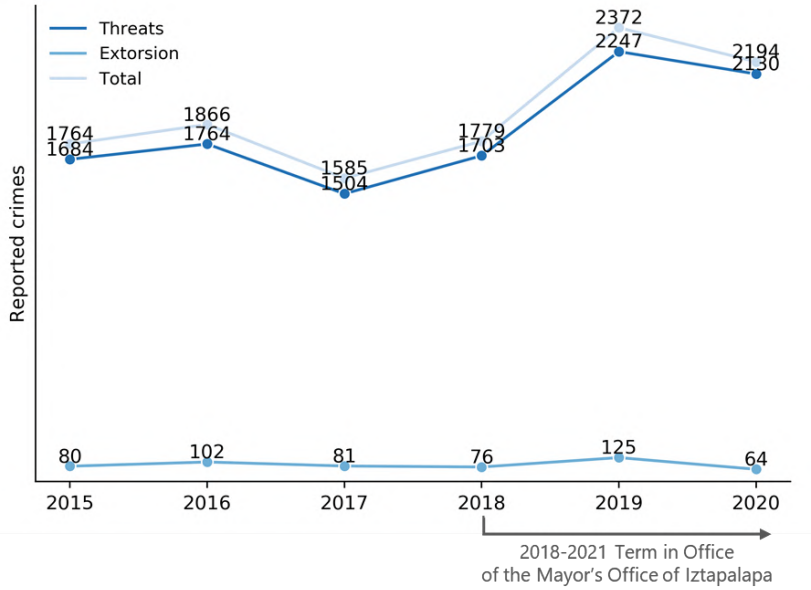
2.1.5 Organized criminal groups in Iztapalapa[155]

There is a presence of organized criminal groups in Iztapalapa that exercise different forms of control in some territories through threats and violence. Although the available statistical information is not conclusive in this regard, the testimonies gathered during the fieldwork indicate their existence.

According to SESNSP from 2015 to 2020 there was an increase in reports of the following crimes:

- 26.5% in threats
- 24% in extortions

Graph 31. Reported crimes on threats and extortions in Iztapalapa, 2015-2020



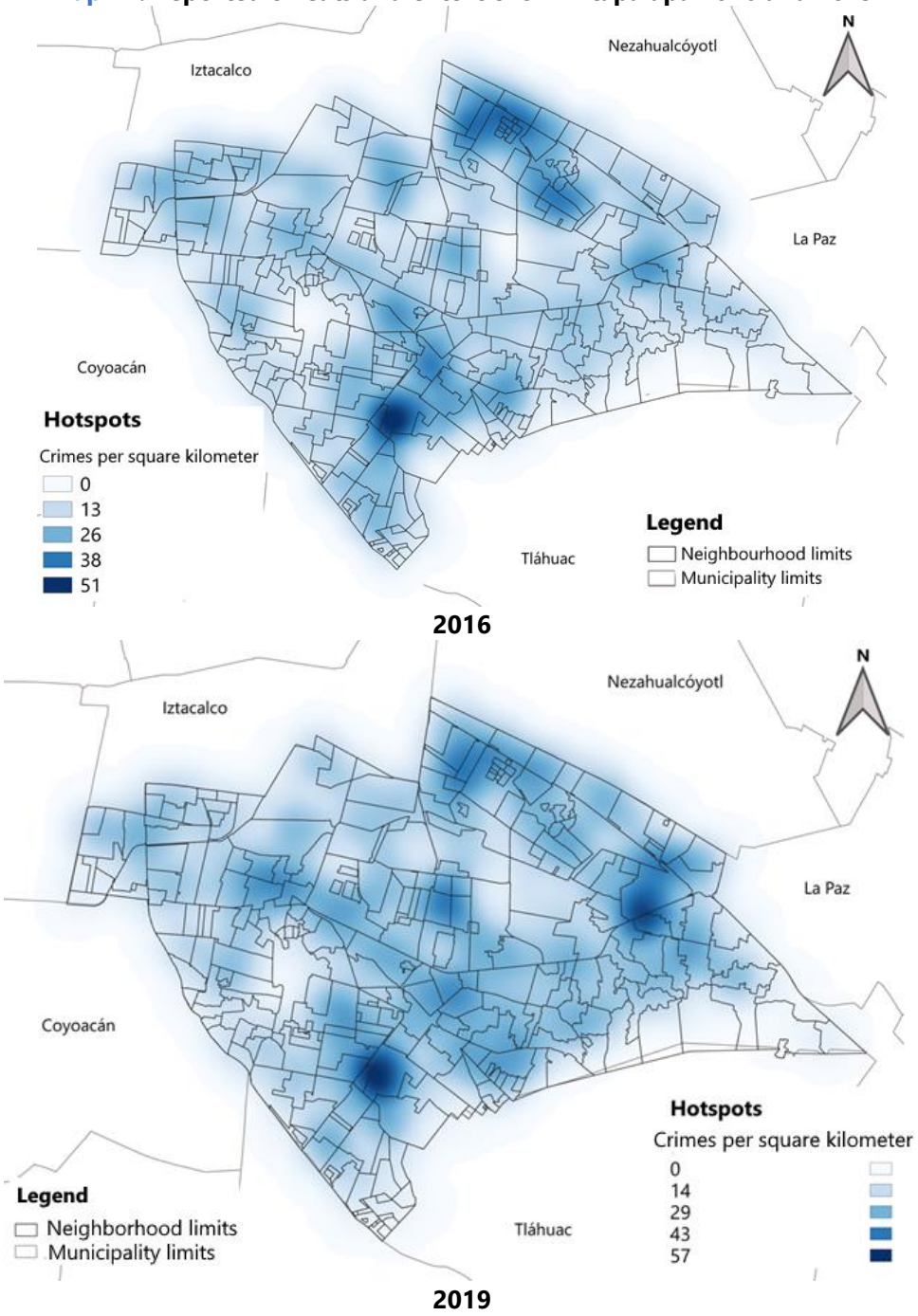
Source: Own elaboration with figures from the Executive Secretariat of the National System for Public Security (SESNSP), 2015 to 2020.

Spatial concentration of reported crimes on threats and extorsions

In 2016, concentrations of threats and extortion were identified in two zones, one to the north and another to the south of Iztapalapa. In 2019, two more were identified, one to the southeast and another to the east of the borough.

[155] The crime data presented here derived from the monthly statistics issued by the SESNSP, based on crime reported by the population and consequently filed as an investigative report at the Prosecutor's General offices. Currently, data estimated from the other part of the population that were victims of a crime and did not report it (dark figure) is calculated by the National Survey on Victimization and Perception of Public Security (ENVIPE). As such, the analysis in this section focuses only on reported crimes.

Map 22. Reported threats and extortions in Iztapalapa 2016 and 2019



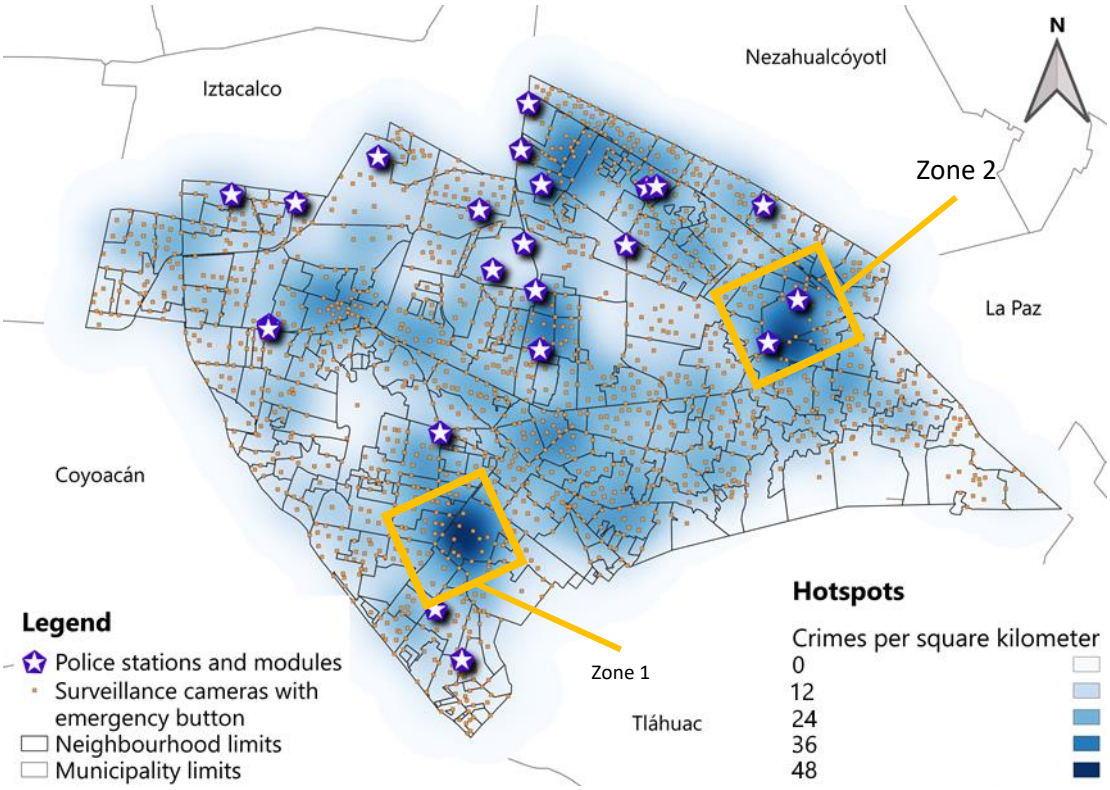
Source: Own elaboration with figures from the Mexico City General Prosecutor's Office (FGJ), 2016 and 2019.

Spatial concentration of reported crimes on threats and extorsions during 2020

In 2020, reported crimes on threats and extorsion were identified in two zones. The first zone to the southwest of the territory is close to the Men's Preventive Detention Center. The second one is located near the Mexico City Penitentiary in Santa Martha Acatitla, bordering the municipality

of Los Reyes La Paz, which implies a mobility connection with the State of Mexico, in addition to the location of the Santa Martha Acatitla bus stop, which allows for a high concentration of people.

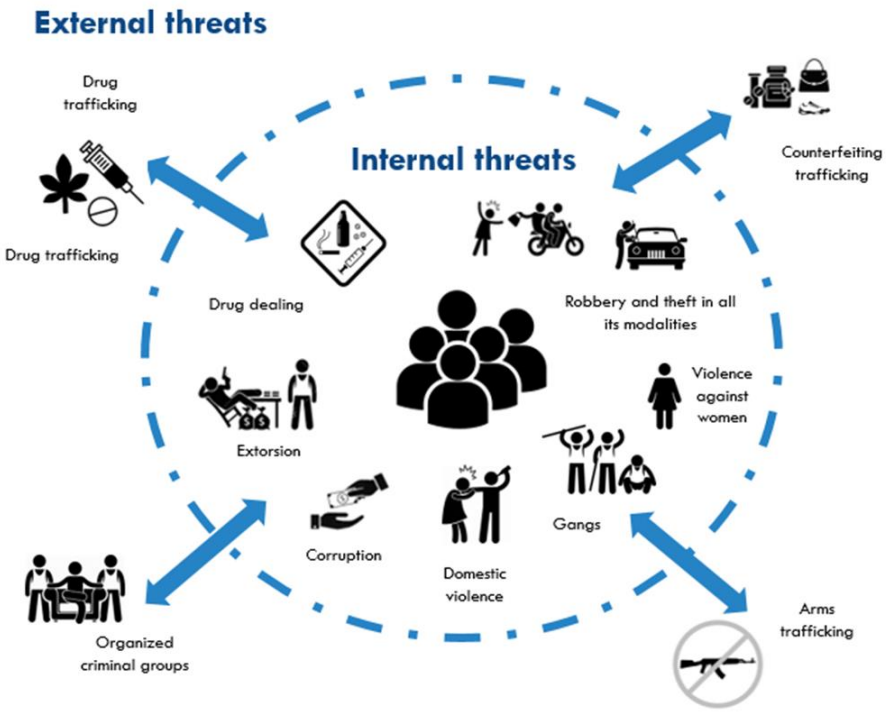
Map 23. Reported crimes on threats and extortion in Iztapalapa, 2020



Source: Own elaboration with figures from the Mexico City General Prosecutor's Office (FGJ), 2020.

The presence of illicit markets in Iztapalapa, such as the illegal drug and arms markets, together with drug use, violent gangs and extortions, have become an important threat to the urban safety and good governance in Iztapalapa.

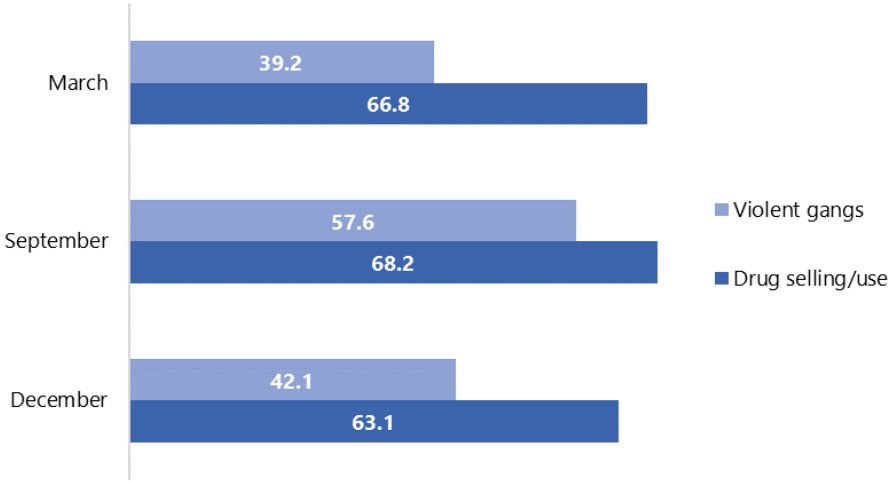
Figure 21. External threats to the Urban Safety Governance in Iztapalapa



Source: Adaptation from the *Safety Governance Assessment Guide* and the qualitative analysis conducted by the Urban Safety Governance Assessment, 2020.

Finally, in addition to the various crimes already mentioned, the existence of antisocial behavior may increase the risk associated with external threats. The witnessing of antisocial behavior in Iztapalapa is not an isolated manifestation, according to ENSU, during the first quarter of 2020, 7 out of 10 persons had witnessed drug dealing and consumption in the borough, while 4 out of 10 had witnessed violent confrontations between gangs.

Graph 32. Percentage of antisocial behavior witnessing, 2020



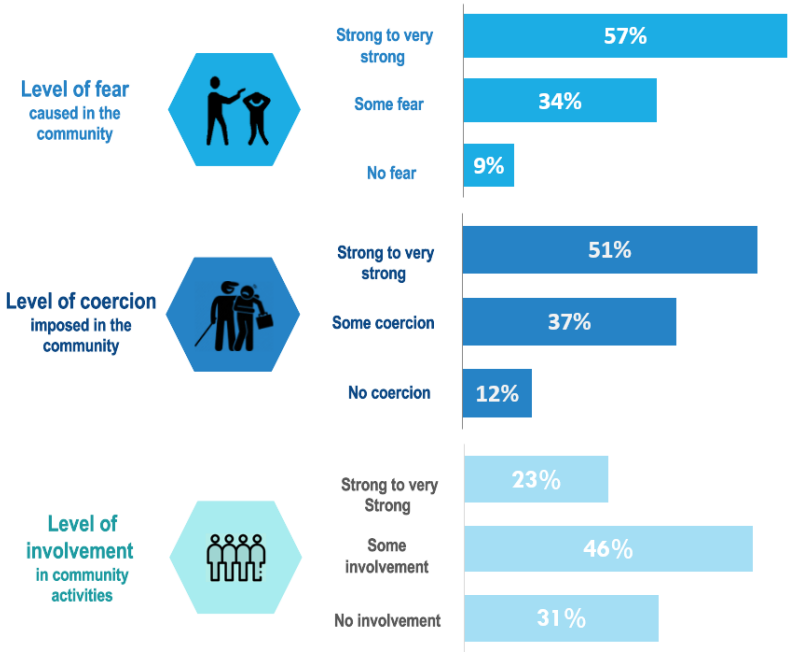
Source: Own elaboration with figures from INEGI, National Survey on Urban Public Security (ENSU), 2020.

Illegal Governance

The analysis of illegal governance is based on Campana and Varese's research on *Illegal Governance of Markets and Communities*[156] to learn on the levels of coercion, fear, and the involvement of criminal groups as reported by the police in Iztapalapa[157].

After surveying 1,261 police officers from the Mexico City Ministry of Public Safety and the Auxiliary Police of the Mayor's Office of Iztapalapa, more than half observed the frequent use of mechanisms such as fear and coercion in the community by criminal groups. Six out of every ten police officers stated that criminal groups exert a great deal of fear in the community, five out of ten considered that these criminal groups exert a strong level of coercion, and five out of ten police officers stated that criminal groups have some involvement in the activities of the community.

Figure 22. Police officers' witnessing of fear, coercion and involvement imposed by organized criminal groups in the community.



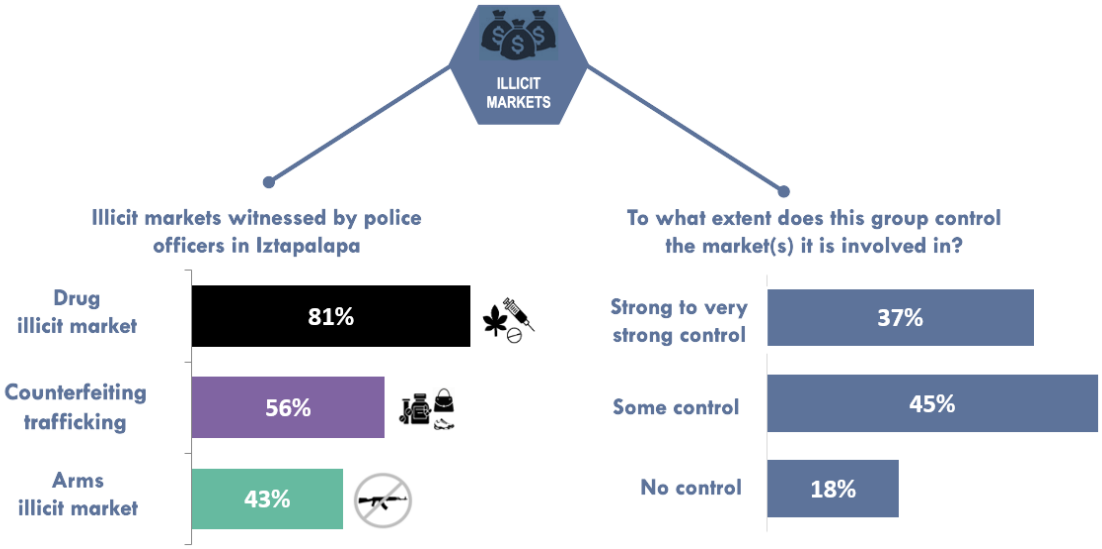
Source: Own elaboration with figures from the local survey on Illegal Governance, 2020.

As for illicit markets, the police identified that criminal groups exert the most control within illegal economies in the drug market (mainly marijuana, solvents and crack), followed by counterfeit products and finally the sale and distribution of firearms, in which an accelerated expansion has been observed in last 5 years (see section 2.1.4. Illicit drug and arms markets in Iztapalapa).
Regarding the control these groups have in those markets in which they are involved in, 45% of police officers perceived they have some control, followed by 37% that perceived their control as

[156] Campana, P., y Varese, F. (2018). *Organized Crime in the United Kingdom: Illegal Governance of Markets and Communities.* British Journal of Criminology, 58 (6), 1381-1400. Available at: https://doi.org/10.1093/bjc/azx078
[157] For this assessment, a *Survey on Illegal Governance* was conducted, targeting the police force deployed in Iztapalapa.

strong to very strong, and 18% that perceived that these groups do not have control over the markets in which they are involved.

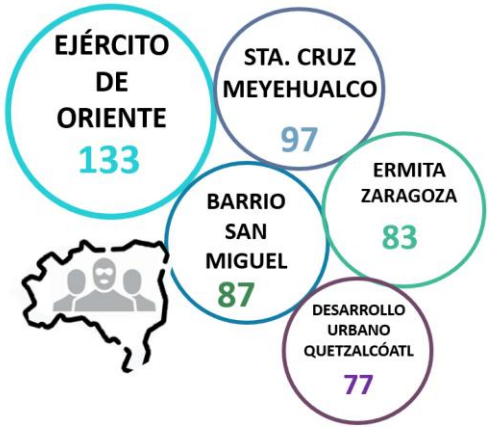
Figure 23. Witnessing of the control criminal groups exercise on different illicit markets in Iztapalapa



Source: Own elaboration with figures from the local survey on Illegal Governance, 2020.

Organized criminal groups are concentrated in five neighborhoods in Iztapalapa, which are characterized by a high level of crime frequency (see section 2.1.3 Most reported crimes in Iztapalapa).

Figure 24. Neighborhood mentions with presence of criminal groups in Iztapalapa

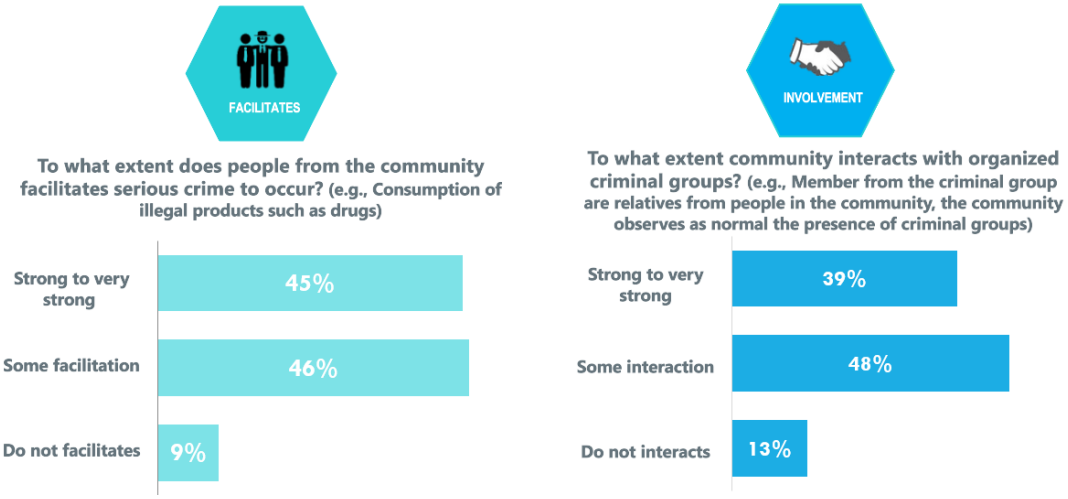


Source: Own elaboration with figures from the local survey on Illegal Governance, 2020.

According to the police officer's perception regarding the role of the community in these illicit activities, 45% indicated that the community strongly facilitates serious crime to occur (such as the consumption of illegal products), while 46% mentioned that people from the community pose some facilitation from these crimes to occur.

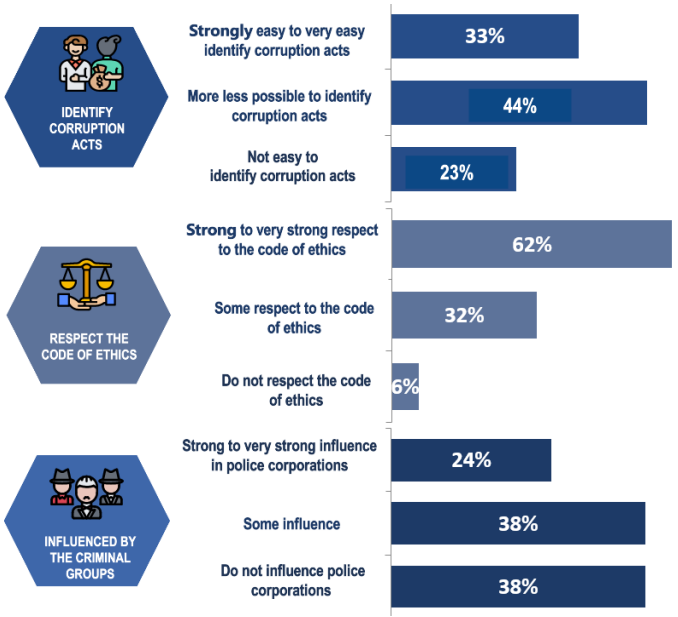
Regarding the level of interaction that the community have with organized criminal groups, 48% of police officer's perceived that communities have some interaction with these organizations, followed by 39% that indicated a strong to very strong interaction between communities and criminal groups.

Figure 25. Communities' interaction with criminal groups in Iztapalapa



Source: Own elaboration with figures from the local survey on Illegal Governance, 2020.

Figure 26. Witnessing of illegal acts within the police force



Source: Own elaboration with figures from the local survey on Illegal Governance, 2020.[158]

[158] Not all questions were answered by the respondents. The results presented indicated the total of non-null responses divided by the number of respondents.

The presence of criminal groups and the criminal social dynamics derived from them are present in the Mayoralty's territory. There is a control of illicit markets (drugs, counterfeit products and weapons) by these groups. This should be a priority for the authorities to address, as its increase could result in territorial control based on coercion and extortion of the inhabitants.



Drugs and arms trafficking present a **major threat** to Iztapalapa's sustainable development. SDG 16 seeks to promote peaceful and inclusive societies, provide access to justice for all and build effective, accountable, and inclusive institutions at all levels. In specific, Target 16.4 aims to *significantly reduce illicit financial and arms flows, strengthen the recovery and return of stolen assets and combat all forms of organized crime* recognizes the importance of reducing illicit arms flows.

During field work, the presence of illicit markets and criminal groups were identified as one of the **most recurrent threats** for Iztapalapa's inhabitants. Extortion is one of the most frequent crimes affecting businesspeople and merchants located in street and central markets. (see section 2.4. Risk analysis in 44 neighborhoods in Iztapalapa).

Regarding drug trafficking, it is important to notice that there is a lack of information on drug production and use. As for arms trafficking, there is also a lack of information about the origin, trafficking and selling of firearms. This type of information would be useful to fully understand the value chains and criminal dynamics associated with these illicit markets.

Topic Short/ Medium/ Long term	Recommendations for the Mayor's Office	Recommendations for the population
Data collection and analysis	• Consider the International Classification of Crime for Statistical Purposes (ICCS) for the recording and disaggregation of all crimes committed and reported in Iztapalapa, in order to strengthen the methodology used by the Mexico City Government and the Mexican Government. • Continue establishing liaisons with the authorities in charge of security and law enforcement of the Mexican Government to follow the protocols for data collection and analysis for the fight against organized crime, from the ***program Dialogues to achieve peace and well-being in Iztapalapa program***[159]. • Continue establishing connections with the corresponding instance to know information about the illegal carrying of weapons and the prosecution of crimes related to illegal firearms in order to design	• When making an emergency call, provide the requested information to the authorities. • Report antisocial behaviors and crimes that occur in your neighborhoods. • Get involved in the activities offered by the ***Dialogues to achieve peace and well-being in Iztapalapa program*** and provide truthful information to the authorities. • If witnessed, report the carrying of firearms. • Promote a culture of lawfulness within the community.

[159] Mayor's Office of Iztapalapa (2021). Programs of the Mayor's Office of Iztapalapa. Available at: http://www.iztapalapa.cdmx.gob.mx/2alcaldia/Programas.html

Topic Short/ Medium/ Long term	Recommendations for the Mayor's Office	Recommendations for the population
	specific solutions to this problem. • Continue the inter-institutional coordination and participation in the Expanded Security Cabinet to strengthen activities related to the illicit drug market, such as drug production, trafficking and consumption, including: - Type of drug - Geolocation - Information disaggregated by sex, gender and age. • In addition to the actions carried out by the Ministry of Citizen Security (SSC) to apply analysis instruments and confidence tests to the elements assigned to its corporation and to the Auxiliary Police in order to identify risks associated with organized crime activities, it is suggested to apply UNODC's Local Survey on Illegal Governance at least once a year. • From UNODC's *Handbook on police accountability, oversight and integrity*[160],	

[160] UNODC (2010). Handbook on police accountability oversight and integrity. Available at: https://www.unodc.org/pdf/criminal_justice/Handbook_on_police_Accountability_Oversight_and_Integrity.pdf

Topic Short/ Medium/ Long term	Recommendations for the Mayor's Office	Recommendations for the population
	take up the above strategies for maintaining the institutional and personal integrity of those involved in police work. • Strengthen the anonymous reporting system to improve information related to organized criminal activities in Iztapalapa.	
Data for action	• Based on available data, set an action plan to prevent crimes associated with organized crimes and illegal governance in those areas with higher crime concentration.	• Issue a citizen complaint in case of being the victim of a crime. • Get involved in the strategies adopted by the Mayor's Office with the purpose of improving crime prevention in the territory.
Possible partner institutions	• Mexico City Government: Ministry of Citizen Security, C5-CDMX • Central Market and local markets • Civil Society Organizations: Citizen Council • UNODC	



Organized crime and illegal governance
Strategies

Topic Short/ Medium/ Long term	Recommendations for the Mayor's Office	Recommendations for the population
Inclusive and participatory strategies	• Continue the collaboration with the corresponding body of the Mexican Government in the ***Voluntary arms surrender program***[161].	• Participate in the ***Voluntary arms surrender program*** implemented by the authorities.
Inter-institutional coordination to prevent crime	• Continue the close collaboration with the authorities in charge of security and justice in the State of Mexico, expanding the network of ***Free and Safe Women's Corridors*** along the border shared by Iztapalapa and neighboring municipalities.	• Promote a culture of lawfulness within the community.
Law enforcement operations and surveillance actions	• Continue monitoring crime prevention actions in the 354 street markets of Iztapalapa, which originated from the ***Sectoral Security Cabinets*** and the ***Expanded Security Cabinet***. • Continue implementing the surveillance program inside the 354 street markets located in the borough, basing the actions on the information obtained from the ***Sectorial Security Cabinets*** and the ***Expanded Security Cabinet***.	• Report the presence of organized criminal groups forcing tenants to participate in illegal activities. • Report antisocial behaviors and crimes that occur in your neighborhoods.

[161] The Mayor's Office of Iztapalapa (2021). Programs of the Mayor's Office of Iztapalapa. Available at: http://www.iztapalapa.cdmx.gob.mx/2alcaldia/Programas.html



Organized crime and illegal governance
Strategies



Topic Short/ Medium/ Long term	Recommendations for the Mayor's Office	Recommendations for the population
	• Strengthen the capacities of the intelligence units and the criminal investigation units.	
Preventive programs	• Adopt the implementation of UNODC's international programs ***Line Up, Live Up*** and ***Strong Families*** that seek to improve socioemotional skills and positive parenting strategies.	• Get involved in the programs ***Line Up, Live Up*** and ***Strong Families***.
Possible partner institutions	• Mexico City Government: Ministry of Citizen Security, C5-CDMX • Central Market and local markets • Civil Society Organizations: Citizen Council • UNODC	

2.2 Problematic use of alcohol and drugs

Highlights

8 out of 10 inhabitants of Iztapalapa have witnessed alcohol consumption near their household	6 out of 10 inhabitants of Iztapalapa have witnessed drug use near their households	The onset of drug use usually occurs between the ages of 12 and 18
The average age of admission at the Iztapalapa Youth Integration Centers (CIJ) is 24 years old	Marijuana, inhalants and crack are the main drugs used by patients at the Iztapalapa Youth Integration Centers	In 2016, 634 deaths related to the use of drugs were registered

According to data from ENCODAT (2016-2017)[162], Mexico City is one of the entities with the highest percentage of alcohol consumption, above the national average with 37% of the population having consumed alcohol during the last year.

Mexico City is the entity with the highest number of drug-dependent patients, of which 74.6% are men and 21.2% are women[163]. Among the drugs most commonly used by drug-dependent patients are alcohol, marijuana and cocaine[164]. In Mexico City, 10.3% of the population between the ages of 12 and 65 have been users of illicit drugs, while 0.7% have been users of medical drugs[165]. Males show a consumption 4 times higher than that of females[166].

[162] National Institute Against Addictions (2017). Report ENCODAT 2016-2017. Available at: https://www.gob.mx/salud%7Cconadic/acciones-y-programas/encuesta-nacional-de-consumo-de-drogas-alcohol-y-tabaco-encodat-2016-2017-136758

[163] INEGI (2018). Statistical and Geographical Yearbook by State 2018. Available at: http://internet.contenidos.inegi.org.mx/contenidos/Productos/prod_serv/contenidos/espanol/bvinegi/productos/nueva_estruc/AEGPEF_2018/702825107017.pdf

[164] Ibid.

[165] National Institute Against Addictions (2017). Report ENCODAT 2016-2017. Available at: https://www.gob.mx/salud%7Cconadic/acciones-y-programas/encuesta-nacional-de-consumo-de-drogas-alcohol-y-tabaco-encodat-2016-2017-136758

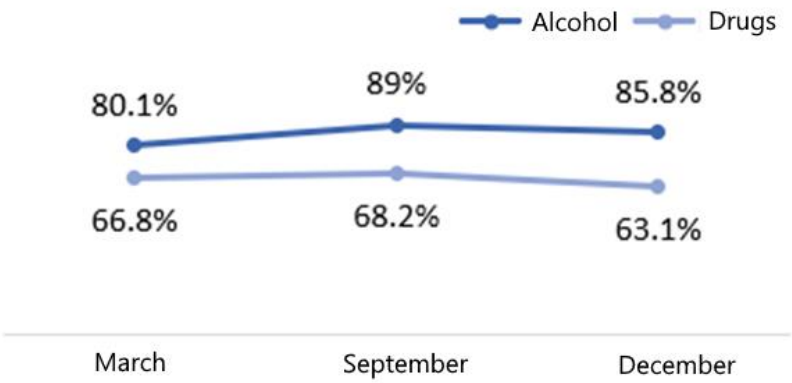
[166] Ibid.

Likewise, problematic alcohol and drug consumption are one of the major public health issues affecting people at the local level. According to the National Survey on Urban Public Security (ENSU) [167], in March, September and December of 2020, in Iztapalapa:

8 out of 10 people witnessed alcohol consumption near their households

6 out of 10 people witnessed drug use near their households

Graph 33. Witnessing percentage of alcohol consumption and drug use, 2020



Source: Own elaboration with data obtained from INEGI, National Survey on Urban Public Security (ENSU), 2020.

"They arrive in unknown cars or sell drugs from their bicycles "

In Iztapalapa there is a high consumption of psychoactive substances among its youngest population[168]. Some of the main causes of drug consumption are family and school problems, as well as moods[169]. On average, the first use of illicit drugs is at 16 years old[170] and the main consumed substances are:

- Marijuana 67.7%
- Inhalants 14.2%

[167] INEGI (2020). National Survey on Urban Public Security (ENSU). Available at: https://www.inegi.org.mx/programmeas/ensu/default.html#Tabulados

[168] Institute for the Attention and Prevention of Addictions. Psychiatric National Institue Ramón de la Fuente Muñiz (2012). Survey on Drug Use in Students Mexico City. Available at: http://www.scielo.org.mx/pdf/sm/v37n5/v37n5a9.pdf

[169] Mexico City Government (2018). General Program for the Integral Attention of Psychoactive substances in Mexico City. Available at: https://www.iapa.cdmx.gob.mx/storage/app/uploads/public/5d0/299/657/5d029965727d9258599313.pdf

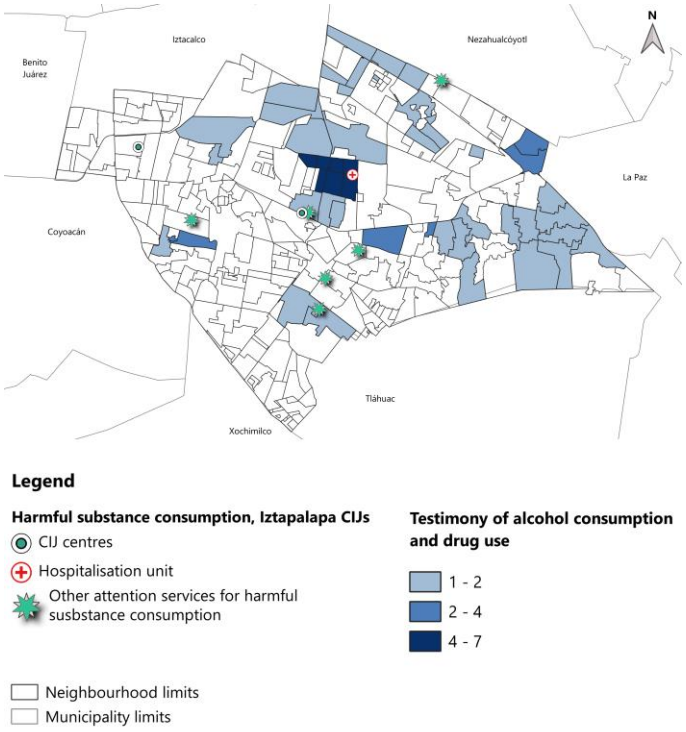
[170] Youth Integration Centres (2018). Assessment on drug use nearby the Youth Integration Centres located in Iztapalapa. Available at: http://www.cij.gob.mx/ebco2018-2024/9470/9470CD.html

- Crack 9.4%[171]

In Iztapalapa, a professional service for drug and alcohol users is offered through three Youth Integration Centers (CIJ, as abbreviated in Spanish): West Iztapalapa CIJ, East Iztapalapa CIJ and the Iztapalapa Hospitalization Unit. Patients seeking care for drug use and alcohol consumption were on average 24 years old on their first admission[172].

These centers implement the preventive model "To live without addictions", which aims to contribute to the reduction of drug demand with the participation of the community through prevention and treatment programs for drug users[173]. In addition, there are six civil society treatment centers, which target population with problems related to alcoholism and drug addiction[174].

Map 24. Witnessing of alcohol consumption and drug use in Iztapalapa, and location of civil society attention centers specialized in the treatment of addictions



Source: Own elaboration with data from the directory of establishments specialized in the treatment of addictions in residential modality recognized by the National Commission Against Addictions 2018; as well as with data derived from the neighborhoods included in the field work of Iztapalapa, 2020.

[171] Ibid.
[172] Ibid.
[173] Youth Integration Centers (2015). Drug use prevention, Preventive Model "A life without drugs". Available at: http://www.cij.gob.mx/programmeas/pdf/ProgrammeaPreventivo2015.pdf
[174] See the Directory of specialized institutions in the treatment of addictions in its residential modality recognized by the National Commission against addictions. National Commission against addictions (2018). Available at: https://www.gob.mx/cms/uploads/attachment/file/377590/Directorio_actualizado_al_23_de_agosto_del_2018.pdf

In 2016, there were 634 deaths related to the consumption of substances harmful to health in Iztapalapa, with a death rate of 3.5 per 10,000 inhabitants[175]. 69% of the total deaths were men and 31% were women. The main cause of death was chronic obstructive pulmonary disease, followed by alcoholic liver disease and alcohol dependence syndrome. Problematic consumption of alcohol and drugs can also be a risk factor for increased violence and crime. According to ENVIPE in 2019, 21% of crimes in Mexico City were committed under the influence of substances harmful to health.

In order to *ensure healthy lives and promote well-being for all at all ages*, as outlined in SDG 3 "Good health and well-being", the following challenges related to data in Iztapalapa were identified:



- The collection of information at the local level on alcohol consumption and drug use
- The need for greater disaggregation of relevant data on alcohol consumption and drug use by age and sex
- Information associated with mortality associates to consumption of substances harmful to health
- Information on crimes committed under the influence of substances harmful to health at the local level

This is relevant to understand the risk of problematic consumption of alcohol and drugs at the local level since both are risk factors associated with violence and crime. During the field work for this Assessment this was one of the issues most identified by the participants from Iztapalapa (see section 2.4 Risk analysis in Iztapalapa).

The following are recommendations aimed at strengthening the public policies of the Mayor's Office of Iztapalapa, suggesting concrete actions, deadlines, ally institutions and the participation required from the population.

[175] Mexico City Ministry of Health (2016). Main mortality causes in Iztapalapa. Available at: http://data.salud.cdmx.gob.mx/portal/media/publicacion_mortalidad_1990_2016/Paginas/Iztapalapa.pdf



Alcohol and drug use

Data collection and strategies



Topic Short/ Medium/ Long term	Recommendations for the Mayor's Office	Recommendations for the population
Institutional strengthening	• Continue strengthening alliances with academic institutions (primary and secondary levels) to expand the scope of the ***Attention to users of psychoactive substance program***[176]. • Continue the actions carried out in the ***Colibrí Integral Care Centers for users of psychoactive substances and their families*** in order to prevent and overcome the consumption of drugs and alcoholic beverages.	• Participate in and disseminate the activities of the ***Attention to users of psychoactive substance program***. • In case of requiring attention for problematic consumption of psychoactive substances and/or alcoholic beverages, go to the ***Colibrís Centers*** located in the ***UTOPIAS***.
Law enforcement operations to diminish illicit alcohol consumption	• Continue coordination with INVEA to increase daily visits to commercial establishments engaged in the sale of alcoholic beverages in open containers, especially to minors.	• Support the actions implemented by the Mayor's Office and INVEA.
Programs to prevent problematic alcohol and drug consumption	• Reinforce the ***Economic support to achieve the integral well-being of children and adolescents' program***[177] by providing cultural and sports activities. • Adopt the implementation of UNODC's international programs ***Line Up, Live Up*** and ***Strong Families*** that	• Participate in the activities implemented by the Mayor's Office. • Get involved in the programs ***Line Up, Live Up*** and ***Strong Families***.

[176] The Mayor's Office of Iztapalapa (2021). Programs of the Mayor's Office of Iztapalapa. Available at: http://www.iztapalapa.cdmx.gob.mx/2alcaldia/Programas.html

[177] Ibid.

Topic Short/ Medium/ Long term	Recommendations for the Mayor's Office	Recommendations for the population
	seek to improve socioemotional skills and positive parenting strategies.	
Possible partner institutions	• National Commission Against Addictions (CONADIC) • Integration Youth Center Iztapalapa (CIJ) • Integral Attention Center for users of psychoactive substances and their families • Institute of Administrative Verification (INVEA) • Mexico City Government: Ministry of Citizen Security, C5-CDMX. • Academic Institutions: Technological Institutes of Iztapalapa, UAM-I, UNAM. • Civil Society • UNODC	

2.3 Urban and environmental challenges in Iztapalapa

Highlights

There are over 168 irregular human settlements in Iztapalapa.

Irregular human settlements lack access to basic urban services.

In 2008, 208 neighborhoods had housing units.

Only 27% of the neighbourhoods have 24-hour water service.

Flooding is a frequent problem in the Mayoralty's territory.

5,832 rainwater harvesting systems (SCALL) have been installed in Iztapalapa.

The neighbourhood with the most SCALLs installed is *Desarrollo Urbano Quetzalcoatl*, with 334 units.

Garbage in the streets is one of the main problems in Iztapalapa.

In 2017, 219 illegal garbage dumps were identified, 78 of which were located within 500 metres of an irregular human settlement.

There is extensive public exposure to accumulated feces that can cause respiratory and gastrointestinal problems.

Public lighting is deficient in some neighborhoods.

Between 2019 and 2020, 130 Free and Safe Women's Corridors were built.

Perimeter blocks, alleys and pavements in poor condition are widespread characteristics of the urban layout found in some neighborhoods.

Urban and environmental problems are related to the perception of insecurity and crime incidence. According to the theory of crime patterns[178] and environmental criminology[179], physical characteristics of the environment could influence offender's decision to commit a crime, e.g., in dark or abandoned places there is a greater likelihood of criminal acts occurring due to a lack of law enforcement elements that protect the space in which a criminal act may be committed.

On the other hand, the theory of social disorganization also suggests that physically degraded spaces may influence the commission of crime at the local level due to a lack of social response, such as reporting damaged spaces. Iztapalapa faces the following challenges in terms of urban and environmental development:

- Deterioration and poor quality of housing
- Poor provision of basic urban services
- Health problems due to environmental neglect
- Deficiencies in infrastructure and equipment for urban mobility

2.3.1 Housing deterioration and quality

In Iztapalapa, there exists a rapid population growth and a lack of urban planning. In its territory, there are 168 irregular human settlements on urban and ecological conservation land[180]. These irregular settlements are characterized by precarious constructions made of sheet or cardboard that lack access to essential urban services. The improvisation of these dwellings and their lack of regularization has generated complex dynamics, such as high levels of overcrowding and insecurity.

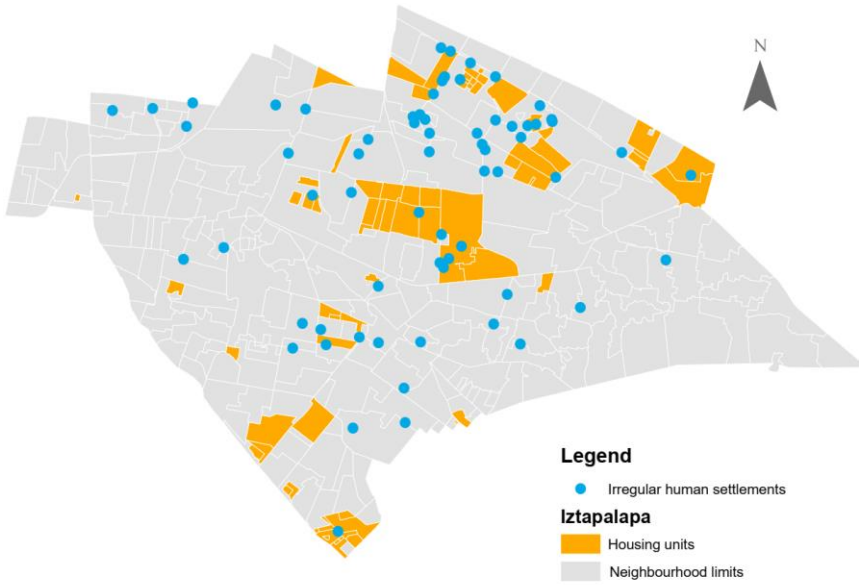
Another housing challenge is multi-dwelling[181]. Most of these housing units present a problem of physical deterioration, poor access to services and a degraded urban image, due to its age of construction, which ranges from 10 to 20 years[182]. Another recurring problem are the cracks in different neighborhoods, which are classified in four levels of risk[183]:

- Level 1. Very slight cracks.
- Level 2. Cracks that affect the ground.
- Level 3. Cracks that damage the water and drainage network.
- Level 4. Cracks that cause subsidence and cause further damage to the territory.

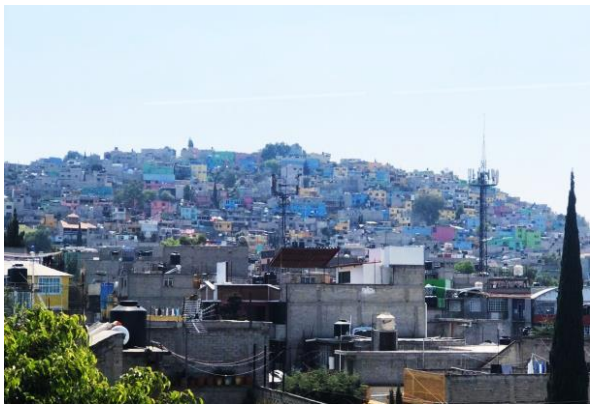
[178] Brantingham, P. L. y Brantingham, P. J. (1984). Patterns in Crime. New York: Macmillan.
[179] Brantingham, P.L. and Brantingham, P.J. (1993). Nodes, Paths and Edges: Considerations on the Complexity of Crime and the Physical Environment. Journal of Environmental Psychology, 13, 3-28. http://dx.doi.org/10.1016/S0272-4944(05)80212-9
[180] Official Gazette of Mexico City (2008). Mayor's Office Program of Urban Development in Iztapalapa. Available at: http://www.data.seduvi.cdmx.gob.mx/portal/docs/programmeas/PDDU_Gacetas/2015/PPDU-IZTAPALAPA.pdf
[181] Multi-dwelling units are residential structures that house multiple families.
[182] Ibid.
[183] The Mayor's Office of Iztapalapa, (2019). Bulletins of the Mayor's Office of Iztapalapa. Available at: http://www.iztapalapa.cdmx.gob.mx/boletines/?bol=985

The following map shows the location of the irregular human settlements and multi-dwelling units throughout the borough. As can be observed, there is a concentration of the latter in the central area.

Map 25. Location of irregular human settlements and multi-dwelling units



Source: Own elaboration with data obtained from the Mayor's Office Urban Development Program for Iztapalapa, 2008 and data from the National Electoral Institute (INE), 2019.





"The streets have become irregular settlements, generating closed streets and walkways, in addition to the progression in the invasion of buildings on the hill"

"The houses, they're made of sheet metal, there are guards, you can't go in, they sell drugs"

2.3.2 Essential urban services

The low quality and poor supply of essential urban services is another problem that the inhabitants of Iztapalapa face.

Water

In Iztapalapa, 27% of the neighborhoods receive water 24 hours a day, 23% receive it from pipes and 50% receive it according to a schedule, which means that it is unevenly distributed and scarce[184]. The inhabitants who receive it also deal with the low pressure in which water is sent which makes it difficult to carry out daily personal hygiene and household cleaning activities.



"The water is deficient, it arrives every 8 days and sometimes, when it arrives it is wormy and smelly, tamarind-like or tiger nut colored. When we have water, we use it for cleaning and try to recycle it"

Drainage

Flooding is frequent in the Mayoralty's territory, mainly caused by the deterioration and lack of maintenance of the drainage system, as well as the accumulation of garbage in the sewers. During the rainy season, irregular human settlements are the areas most prone to flooding.

" We have had 40-centimeter floods for more than 20 years now, and there are five blocks in which the water goes into the houses, sometimes rising up to a meter high "



"During rains, flooding occurs because there are holes. We look for ways to pass when it is flooded, we can't see while crossing, the floor is uneven and flooded. When they go to school, cars pass slowly yet splash all the water"



[184] The Mayor's Office of Iztapalapa (2019). Provisional Government Program 2019-2020. Available at: http://www.iztapalapa.cdmx.gob.mx/concejales/pdf/ProgPro19-20.pdf

2.3.3 Health problems due to environmental abandonment

Garbage

Garbage on the streets is another problem in Iztapalapa. Illegal garbage dumps with all kinds of waste can be found. These are points of infection and represent a health hazard for due to the concentration of harmful fauna plus organic and inorganic waste. In relation to this problem, from field work the following aspects were observed:

a) The garbage collection service[185] does not collect garbage daily in all neighborhoods.
b) Irregular terrains make it difficult for garbage collectors to pick the garbage.
c) There is a lack of consciousness or civic culture related to garbage disposal, which causes many people to litter the streets.
d) Some garbage accumulated on the streets is caused by street vendors and informal commerce[186].

"After the truck passes by, people go and throw their garbage on the street, if we tell them something, it creates more problems. The people who work with garbage keep it all on the street, there is no hygiene".



"In places like Mexico Avenue, many dead dogs are thrown, there is an unpleasant smell, all of that contaminates and harms our health"

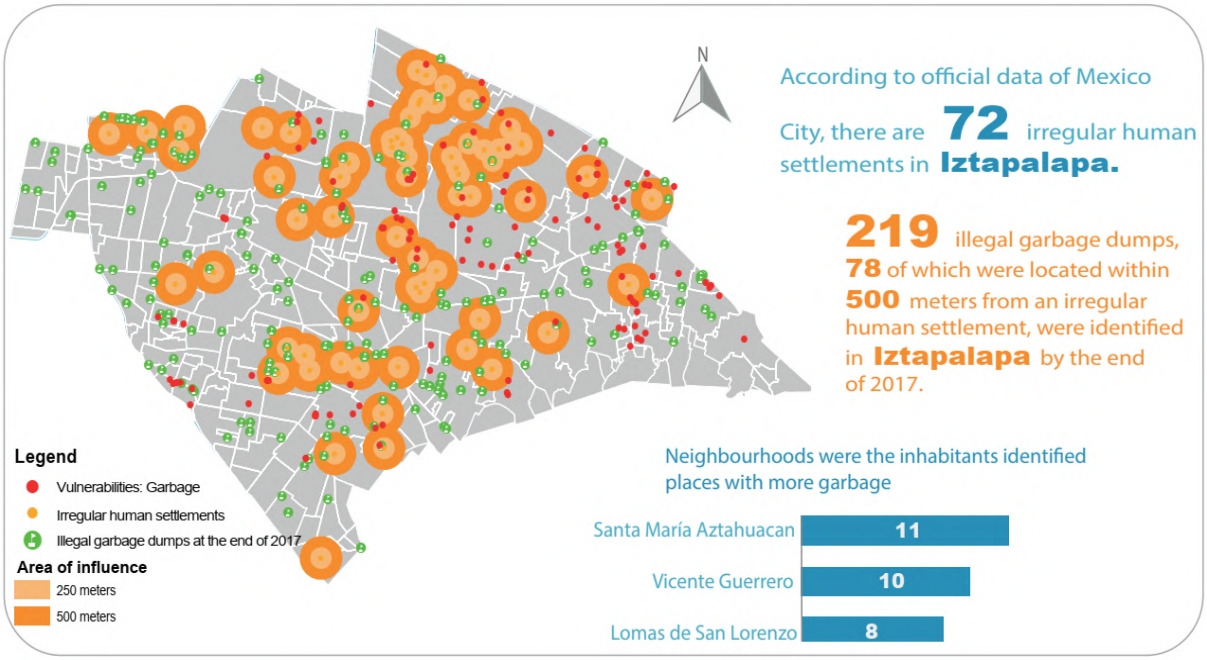




As can be seen in the following map, the sites with the highest concentration of garbage on the streets and illegal dumps in Iztapalapa are linked to irregular human settlements and areas with greater social vulnerability[187].

[185] According to the information provided by the staff from the Mayor's Office of Iztapalapa, garbage collection service is programmed daily to operate in all neighborhoods, 2020.
[186] Informal vendors and street markets do not meet the sanitary standards and the regulations in place such as the Special Regulation for the General Health Law on Health Control, Activities, Establishments, Products and Services. Ministry of Health (1988). Available at: http://www.salud.gob.mx/unidades/cdi/nom/compi/rlgsmcsaeps.html
[187] Social vulnerability is understood as the insecurity perceived by communities, families and induvial caused by a socio-economic event, as well as the strategies they use to face those challenges. CEPAL (2001). Social vulnerability and

Map 26. Garbage dumps and their relation to irregular human settlements



Source: Own elaboration obtained from Mexico City's open data, 2017; qualitative information obtained from field work, 2020.

Stray dogs

The large number of stray dogs in Iztapalapa is a public health risk due to the diseases they can transmit, such as the respiratory and gastrointestinal kind, as well as the formation of packs that represent a danger to the population. Unfortunately, there is no institution that accounts for, or deals with issue.

This was one of the main concerns that the inhabitants of Iztapalapa mentioned during field work for this Assessment. Measures need to be taken so that this problem does not aggravate urban deterioration and public health problems.

its challenges: a view from Latin America. Available at: https://repositorio.cepal.org/bitstream/handle/11362/4762/S0102116_es.pdf

"Then the dogs make a mess, they go and break the garbage bags. Nowadays, many neighbors carry their doggy bags (dog waste), but then they come from other neighborhoods with their dogs, they go on about their business here; there are even packs of up to 10 dogs".





"People take their dog out and don't pick up the feces, they have no education"



2.3.4 Deficiencies in infrastructure and equipment for urban mobility

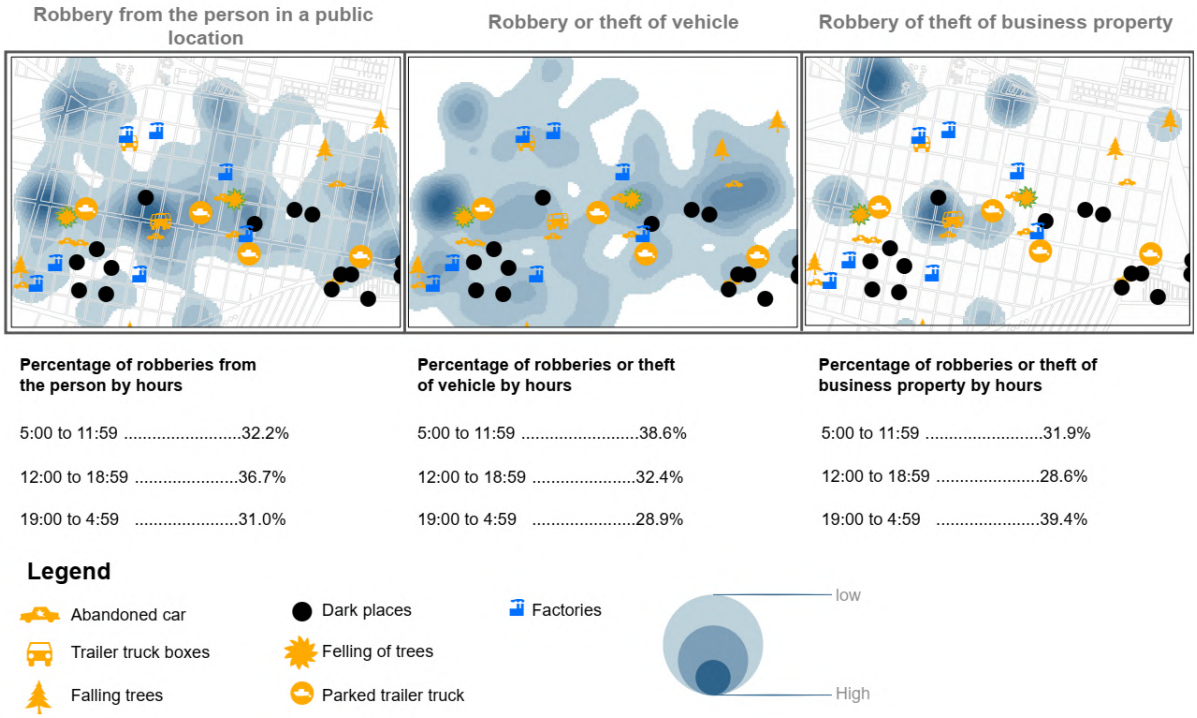
Public lighting

The public lighting service is in poor condition due to poor maintenance and intentional damage provoked by people that seek to create conditions for committing crimes[188]. The following map shows crimes committed between 2016 and 2020 in the Leyes de Reforma 3rd section neighborhood: robbery from the person in a public location, robbery of vehicle and burglary of business property.

- Robbery from the person in a public location is the main crime recorded in the period analyzed, followed by robbery of vehicle. Both concentrate near dark places, where there were also abandoned cars and parked trailer trucks.
- In the case of burglary of business property, there was a concentration of these crimes in specific points of the neighborhood, and most of these were recorded at night, occurring without violence given that the businesses were closed.

[188] Brantingham, P. L. y Brantingham, P. J. (1984). Patterns in Crime. New York: Macmillan.

Map 27. Location of crimes and dark places in the Leyes de Reforma 3rd section neighborhood



Fuente: Own elaboration with data from the Executive Secretariat of the National System of Public Security (SESNSP) from 2016 to 2020, Mexico City's open data, 2017; qualitative information collected during field work, 2020.

"The lack of public lighting generates vulnerability and insecurity, sometimes only the neighbors' lights are on"



Mobility

Pedestrian or vehicular mobility is complex due to the lack of a proper urban layout development for the neighborhoods. They have very narrow streets and the pavement is in poor condition, either narrow or non-existent. As for the neighborhoods located on hills or irregular human settlements, traffic is even more difficult in the alleys or perimeter blocks that predominate, especially in the multi-dwelling units. Difficult access is not only a problem for the inhabitants, but also for emergency services.

"The multi-dwelling unit only has enclosures that are narrow and not very well lit, so you can only enter and leave the unit by walking. In the alleyways, there are people that mug and get high"





"The neighborhood has many enclosures, it is a maze, and also has badly parked cars that make passage difficult and dangerous"



The Mayor's Office initiatives to address urban and environmental problems

The Mayor's Office has implemented two specific actions to address water shortages, flooding and public lighting:

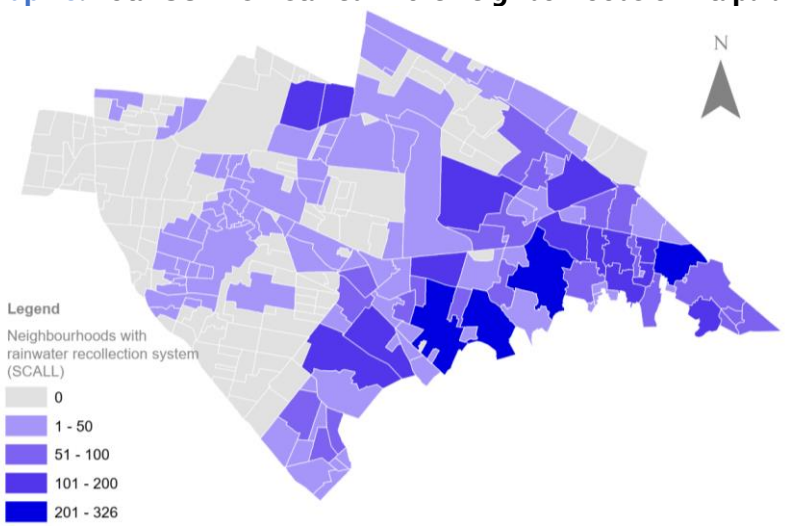
1) Regarding water shortages and flooding, the Mayor's Office has installed Rainwater Collection Systems (SCALLs, as abbreviated in Spanish)[189], hoping that in the future they will be able to reduce the risk of flooding. All the systems implemented correspond to the *Rainwater Harvesting Program*, which has the following goals:

   - Reduce the flow of rainwater that might saturate the drainage system, already in poor condition, or obstructed by garbage.
   - Facilitate access to water services.
   - Avoid the over-exploitation of the aquifer.

As of 2019, 5,832 SCALLs were installed in 100 neighborhoods and 13 original towns. The following map shows those beneficiary neighborhoods.

[189] Ministry of Environment (2021). Registration process to the Rainwater Collection Systems program. Available at: https://www.sedema.cdmx.gob.mx/servicios/servicio/programa-de-sistemas-de-captacion-de-agua-de-lluvia-en-viviendas-de-la-ciudad-de-mexico

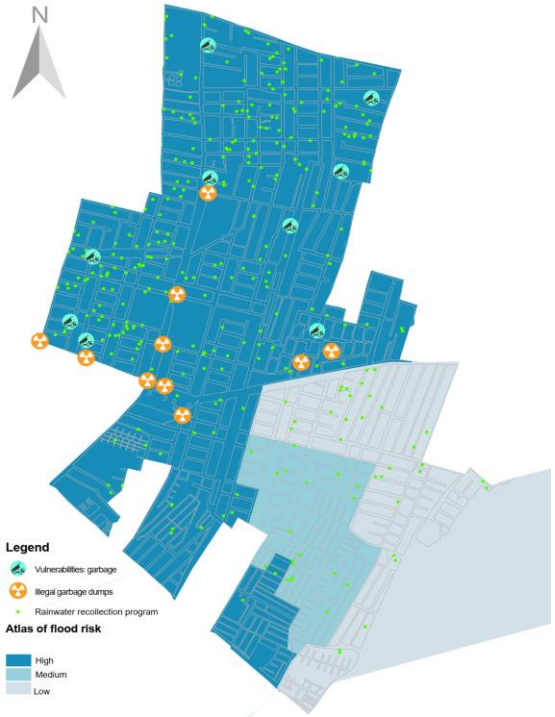
Map 28. Total SCALLs installed in the neighborhoods of Iztapalapa



Source: Own elaboration with data from the Ministry of Risk Management and Civil protection of Mexico City, 2019 and the Ministry of Environment, 2020.

2) The Desarrollo Urbano Quetzalcoatl neighborhood presents risks of flooding due to the high accumulation of garbage on the streets and illegal dumps, which obstruct the drainage. As part of the *Rainwater Harvesting Program*, 334 SCALLs were installed in this neighborhood. These are meant to prevent the saturation of the drainage system by reducing the amount of rainwater.

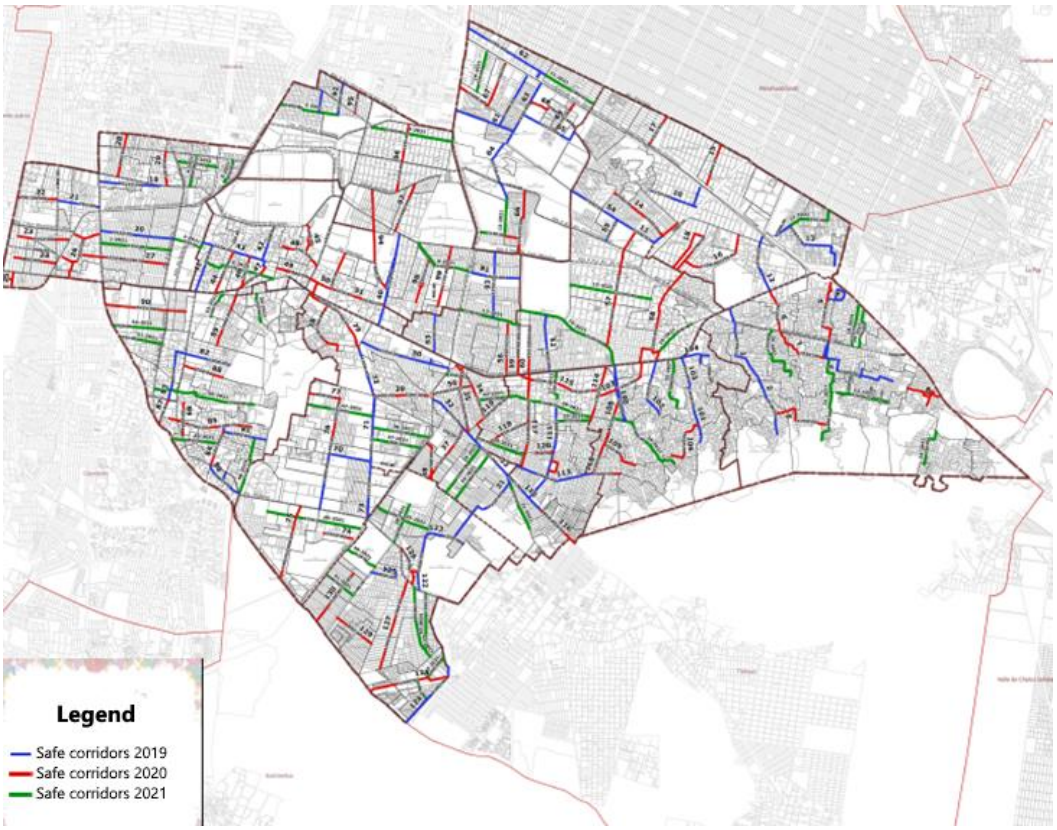
Map 29. Risk of flooding and beneficiaries of the Rainwater Harvesting Program



Source: Own elaboration obtained from the Mexico City Open Data, the Ministry of Integral Risk Management and Civil Protection, 2019 and the Ministry of Environment, 2020.

3) Regarding public lighting, as mentioned previously, the Mayor's Office is implementing Free and Safe Women's Corridors, which aim for the comprehensive intervention of main roads in each of the neighborhoods of the borough[190]. Between 2019 and 2020, 130 corridors were enabled and in 2021, 54 more Corridors are projected, which are shown in the following map:

Map 30. Location of the Free and Safe Women's Corridors in Iztapalapa



Source: Elaborated by the Mayor's Office of Iztapalapa, 2021

4) Regarding the cracks in different neighborhoods of the borough, the Mayor's Office of Iztapalapa has established links with the Mexico City Government and academics from the National Autonomous University of Mexico, who have a track record in the investigation of cracks and their mitigation. The implemented actions consider the four risk levels identified by Works and Urban Development, Civil Protection, Urban Services, and Territorial Directorates[191].

[190] According to information provided by the Mayor's Office of Iztapalapa, 2020.
[191] Ibid.



These issues are directly related to the SDG 11 which seeks to *make cities and human settlements inclusive, safe, resilient, and sustainable*[192].

During field work, the deterioration and poor conditions of housing and urban infrastructure, the lack of urban services provision, as well as the proliferation of environmental problems such as garbage and dog feces on the streets were identified as the main **vulnerabilities** for the population (see section 2.4 Risk analysis in 44 neighborhoods of Iztapalapa).

The following recommendations on urban and environmental matters aim to suggest concrete actions, possible deadlines, partner institutions and the required participation from the population.

[192] UN (2016). Sustainable Development Goals. Available at: https://www.un.org/sustainabledevelopment/es/cities/

Urban and environmental development
Integral and inclusive urban development

Topic Short/ Medium/ Long term	Recommendations for the Mayor's Office	Recommendations for the population
Integral urban development	• Expand the actions carried out by the specialized personnel of the Mayor's Office of Iztapalapa for the protection and recovery of public space to restore its social and public character. One example is the ***UTOPIAS***.	• Report to the authorities about any damages found in public spaces or facilities located in their neighborhoods.
Inclusive and gender-based urban development	• Implement comprehensive urban operations to intervene in degraded areas within intraurban areas. • Set inclusive and participatory urban diagnosis and planning with the population. • Promote an *Urban Quality Audit with a Gender perspective*. • Continue giving maintenance to the ***Corridors for safe and free women***[193]. • Continue the involvement with the academic sector, for example, with the National Autonomous University of Mexico	• Request to the authorities the participation of your neighborhood in the participatory diagnosis. • Take part in the participatory meetings arranged by the Mayor's Office. • Report to the authorities about any damages found in the ***Corridors for safe and free women***. • Participate and support the adoption of strategies that seek to improve the urban environmental development of the borough.
Irregular human settlements	• Establish inter-institutional agreements to intervene in irregular settlements.	• Take part in the meetings arranged by the Mayor's Office.

[193] The Mayor's Office of Iztapalapa (2021). Corridors for safe and free women. Available at: https://www.jefaturadegobierno.cdmx.gob.mx/comunicacion/nota/inaugura-jefa-de-gobierno-camino-mujeres-libres-y-seguras-de-la-alcaldia-iztapalapa

Urban and environmental development
Integral and inclusive urban development

Topic Short/ Medium/ Long term	Recommendations for the Mayor's Office	Recommendations for the population
	• Implement comprehensive improvement programs for irregular settlements. • Implement strategic local development projects in territories with large peripheral deficit groups.	• Get involved in the actions adopted by the Mayor's Office to improve the neighborhoods.
Possible partner institutions	• Federal Government: Ministry of Environment and Natural Resources (SEMARNAT), National Water Commission (CONAGUA). • Mexico City Government: Ministry of Mobility (SEMOVI), Housing Institute (INVI), Mexico City Water System (SACMEX). • Academic institutions: Technological Institutions, UAM-I, UNAM • Civil Society Organizations • UN-Habitat	

Urban and environmental development
Water and sanitation

Topic Short/ Medium/ Long term	Recommendations for the Mayor's Office	Recommendations for the population
Access to water	• Evaluate the impact of the ***Rainwater Harvesting Program***[194] and expand its scope to those neighborhoods with the highest water supply issues.	• Contribute to the proper care of water by using it in a responsible manner. • Request access to the ***Rainwater Harvesting Program***, if needed. • Get involved in the activities executed by

[194] Ministry of Environment (2020). Social program executed by the Ministry of Environment. Available at: https://www.sedema.cdmx.gob.mx/programas/programa/programa-de-sistemas-de-captacion-de-agua-de-lluvia-en-viviendas-de-la-ciudad-de-mexico

Topic Short/ Medium/ Long term	Recommendations for the Mayor's Office	Recommendations for the population

	• Develop a fast-track implementation strategy of a *SCALLs system* in marginalized neighborhoods. That includes:
	  • Territorial analysis for the identification of strategic action neighborhoods.
	  • Generate a critical route to implement the SCALLs system, according to local context.
	  • Offer technical support and development of a governance and co-responsibility mechanism to follow up the technical activities together with the community.
	• Simplify *water service provision*[195] through digital requests via the Mayor's Office official website and social media.
		the Mayor's Office to improve water and sanitation services.

[195] The Mayor's Office of Iztapalapa (2019). Services. Water service provision. Available at: http://www.iztapalapa.cdmx.gob.mx/tramitesyservicios/servicios/8ct.html

Urban and environmental development
Water and sanitation

Topic Short/ Medium/ Long term	Recommendations for the Mayor's Office	Recommendations for the population
Sanitation	• Identify the most critical zones or neighborhoods and elaborate an action plan to provide full coverage of *sanitation service provision*[196].	• Take an active role in demanding water and sanitation services, as well as coverage for their communities.
Possible partner institutions	• Federal Government: Ministry of Environment and Natural Resources (SEMARNAT), National Water Commission (CONAGUA). • Mexico City Government: Ministry of Mobility (SEMOVI), Housing Institute (INVI), Mexico City Water System (SACMEX). • Academic institutions: Technological Institutions, UAM-I, UNAM • Civil Society Organizations • UN-Habitat	

Urban and environmental development
Housing conditions

Topic Short/ Medium/ Long term	Recommendations for the Mayor's Office	Recommendations for the population
Housing conditions	• Continue coordinating meetings between residents of multi-dwelling units and different agencies (INVI) to solve different problems: garbage, pruning, street lighting, water, sanitation, housing	• Report damages and deterioration identified in buildings, houses or condos that may affect the general population. • Demand support from the authorities for the improvement of their

[196] The Mayor's Office of Iztapalapa (2019). Services. Sanitation service provision. Available at: http://www.iztapalapa.cdmx.gob.mx/tramitesyservicios/servicios/8ct.html

Topic Short/ Medium/ Long term	Recommendations for the Mayor's Office	Recommendations for the population
	deterioration, subsidence and fracturing of the subsoil. • Define an action plan to improve housing conditions in collaboration with the Mexico City Institute for Housing Provision and through the ***Housing Improvement Program***[197]. This may include: a general diagnosis of houses conditions and an action plan for improvement. • Update and publish information related to housing development, land use, and irregular human settlements. • Continue the reconstruction work of the spaces damaged by the 2017 earthquake in Mexico City, from the specific area of monitoring of the Mayor's Office.	housing conditions through programs. • Comply with regulations regarding land tenure. • Maintain a neighborhood network (face-to-face or digital) to diffuse and learn about the programs and actions that the Mayor's Office executes to address housing issues.
Technical capacities to improve housing conditions	• Strengthen technical capacities of local authorities for the planning and management of social housing through special trainings.	• N/A

[197] INVI (2020). Housing Improvement Program. Available at: https://www.invi.cdmx.gob.mx/programas/programa/pmv#:~:text=Tiene%20como%20objetivo%20atender%20problemas,el%20arraigo%20familiar%20y%20barrial

Urban and environmental development

Housing conditions

Topic Short/ Medium/ Long term	Recommendations for the Mayor's Office	Recommendations for the population
Possible partner Institutions	• Federal Government: Ministry of Environment and Natural Resources (SEMARNAT), National Water Commission (CONAGUA). • Mexico City Government: Housing Institute (INVI), Mexico City Water System (SACMEX). • Academic institutions: Technological Institutions, UAM-I, UNAM • Civil Society Organizations • UN Habitat	

Urban and environmental development

Public lighting and maintenance of urban infrastructure

Topic Short/ Medium/ Long term	Recommendations for the Mayor's Office	Recommendations for the population
Public lighting	• Continue the maintenance, installation and identification of the poor state of the public lighting service by the territorial directorates. • Continue to provide maintenance to public lighting installed throughout the ***Corridors for safe and free women***[198].	• Take care of the public lighting located in your neighborhood and in public facilities such as the ***Corridors for safe and free women***. • Report to the authorities the lack of public lighting or damages in your community.

[198] The Mayor's Office of Iztapalapa (2021). Corridors for safe and free women. Available at: https://www.jefaturadegobierno.cdmx.gob.mx/comunicacion/nota/inaugura-jefa-de-gobierno-camino-mujeres-libres-y-seguras-de-la-alcaldia-iztapalapa



Urban and environmental development

Public lighting and maintenance of urban infrastructure



Topic Short/ Medium/ Long term	Recommendations for the Mayor's Office	Recommendations for the population
Maintenance of urban infrastructure	• Continue *service provision*[199] regarding the maintenance of urban infrastructure using digital requests via the Mayor's Office official website, social media and Iztapalapa's Attentive Government System (SIGA). • Improve the response time regarding the construction and maintenance of sidewalks.	• Report to the authorities about any damage found in the sidewalks. • Use the different communication mechanisms to report or request the provision of services.
Possible partner institutions	• Federal Government: Ministry of Environment and Natural Resources (SEMARNAT), National Water Commission (CONAGUA). • Mexico City Government: Ministry of Mobility (SEMOVI), Housing Institute (INVI), Mexico City Water System (SACMEX). • Academic institutions: Technological Institutions, UAM-I, UNAM • Civil Society Organizations • UN Habitat	

[199] The Mayor's Office of Iztapalapa (2020). Procedures and Services. Available at: http://www.iztapalapa.cdmx.gob.mx/tramitesyservicios/

Urban and environmental development

Contamination and pets care

Topic Short/ Medium/ Long term	Recommendations for the Mayor's Office	Recommendations for the population
Contamination	• Adopt a circular economy strategy to promote an integral reuse of waste. • Raise awareness about the impacts that disposing garbage on the street has on the sewerage system.	• Facilitate waste reuse through garbage separation. • Contribute to a healthier environment by disposing garbage on their respective garbage bins.
Pet care	• Continue with the coverage of the ***Animal Sterilization Campaign***[200], as well as the coverage of the program for the adoption of abandoned pets. • Continue to disseminate in schools and educational centers the actions for the proper handling of pets. • Raise awareness on the impacts that canine feces have on people's health.	• Sterilize and vaccinate pets. • Support the Mayor's Office adoption strategies for pets. • Take part in the awareness campaign about the impacts that canine feces have on people's health. • Contribute to a healthier environment by picking up after pets' feces.
Possible partner institutions	• Federal Government: Ministry of Environment and Natural Resources (SEMARNAT), National Water Commission (CONAGUA). • Mexico City Government: Ministry of Mobility (SEMOVI), Housing Institute (INVI), Mexico City Water System (SACMEX). • Academic institutions: Technological Institutions, UAM-I, UNAM • Civil Society Organizations • UN Habitat	

[200] The Mayor's Office of Iztapalapa (2020). Canine and feline sterilization campaign. Available at: https://www.facebook.com/AlcIztapalapa/posts/1875718265900856/

2.4 Risk analysis in 44 neighborhoods of Iztapalapa

Based on the social risk theory, capacities, threats and vulnerabilities from 44 neighborhoods of Iztapalapa were analyzed. These neighborhoods were selected according to their crime incidence:

- 25 with high crime incidence
- 13 with medium crime incidence
- 6 with low crime incidence

The categories analyzed were:

1. **Threats:** refers to those circumstances that can damage people's integrity, such as crimes like robbery, extortion, domestic violence, crimes against women, as well as antisocial behavior such as problematic alcohol and drug use, the appropriation of public space for the development of illicit activities (illegal sale of auto parts) and illegal governance.
2. **Vulnerabilities:** refers to people's exposure to urban and environmental risks, for example: overcrowding, abandoned land or houses, infrastructure in poor or precarious condition, insufficient coverage of essential urban services, garbage, dog feces in public roads and floods. In addition, other factors such as homeless people, factories or warehouses were considered.
3. **Capacities:** refers to the strengths that communities have at the local level, either provided by the Mayor's Office or promoted individually or collectively. These can be actions aimed at promoting good governance, cultural activities, workshops, courses, libraries, schools at different levels, universities, hospitals, rehabilitation services, markets, sports, parking lots, churches, government institutions, patrols, neighborhood alarms, public squares, transportation, among others.

Results showed that out of 44 neighborhoods analyzed, 36 presented a very high level of risk and 8 a high level of risk. The analysis by category indicates the following:

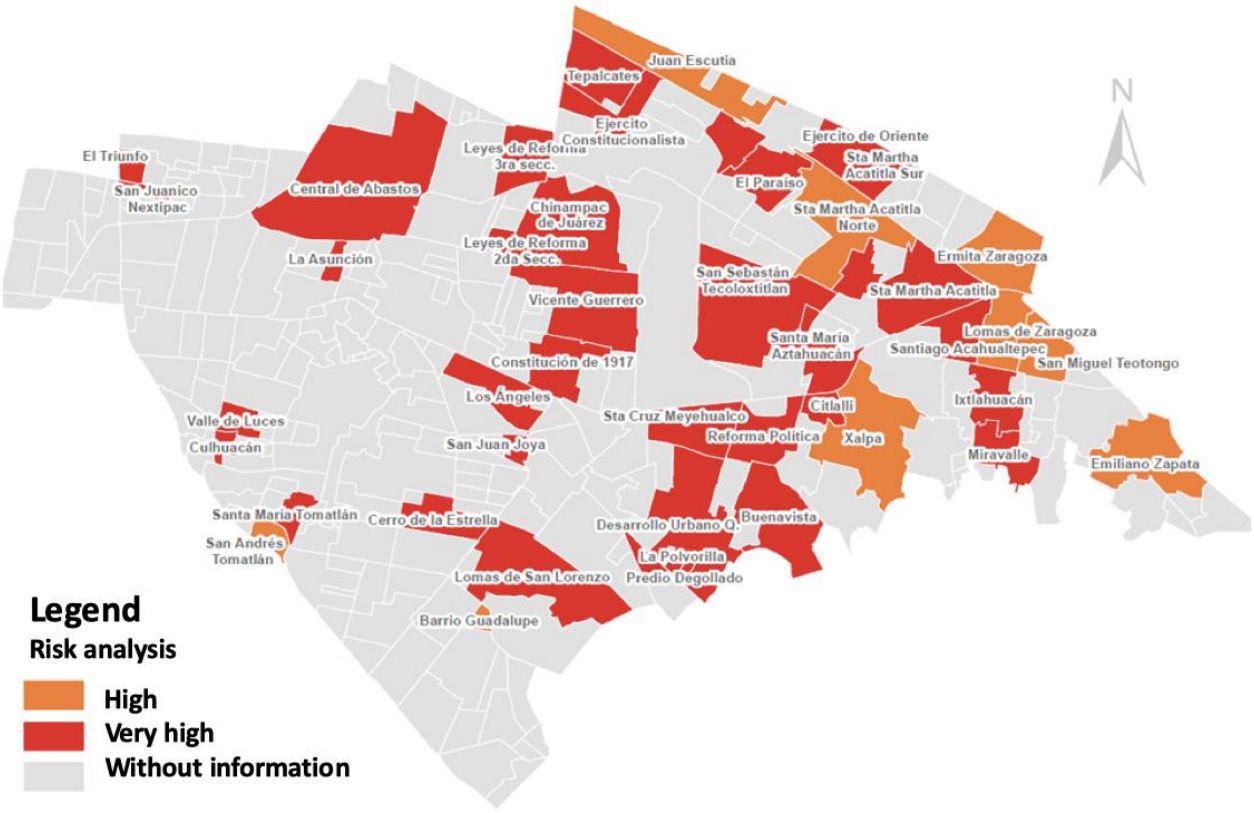
Threats	Vulnerabilities	Capacities
• 44 neighborhoods have a very high level of risk because all the crimes that occur affect people's integrity.	• 33 neighborhoods have a very high level of risk due to the conditions of the public space, which may favor the commission of crimes. • 11 neighborhoods have identified at a high level of risk due to their urban deterioration.	• 21 neighborhoods have very low capacities to deal with insecurity due to a lack of institutional presence (police, law enforcement officers, lack of patrolling) and lack of trust in authorities. • 4 neighborhoods have low capacities due to a lack of access to quality urban services and due to poor service

provision and urban maintenance.

- 18 neighborhoods do not have proper services coverage, especially those regarding: health provision, education, culture and housing.
- 1 neighborhood has strong capacities, which can be reinforced to prevent risks.

The following map shows the results per neighborhood.

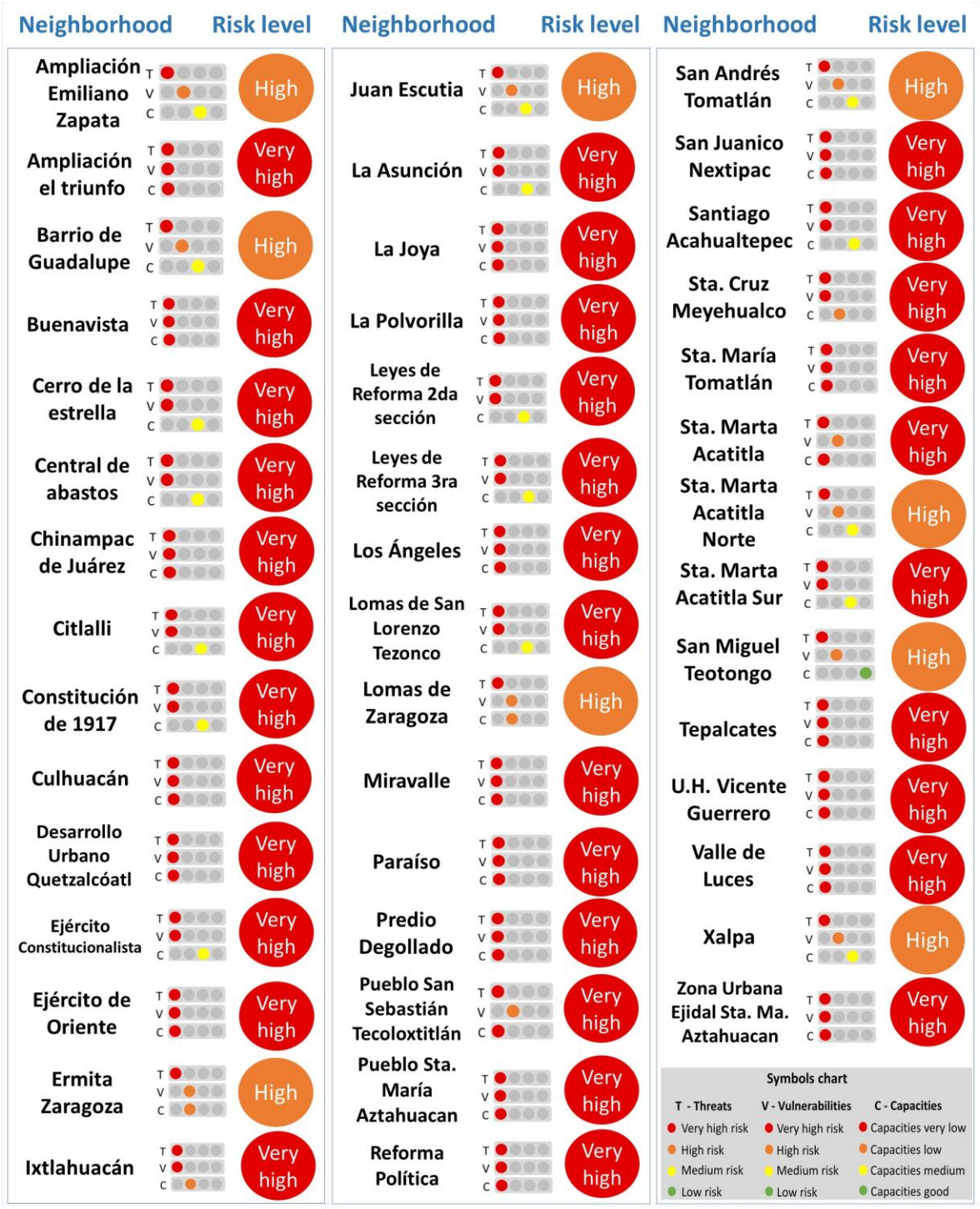
Map 31. Results of the level of risk by neighborhood



Source: Own elaboration with information obtained during field work, 2020.

The following figure presents the same 44 neighborhoods labeled according to the three categories and their level of risk.

Figure 27. Neighborhoods of Iztapalapa and their level of risk



Source: Own elaboration with information obtained during field work, 2020.

3. Analysis of the institutional capacities of the Mayor's Office of Iztapalapa

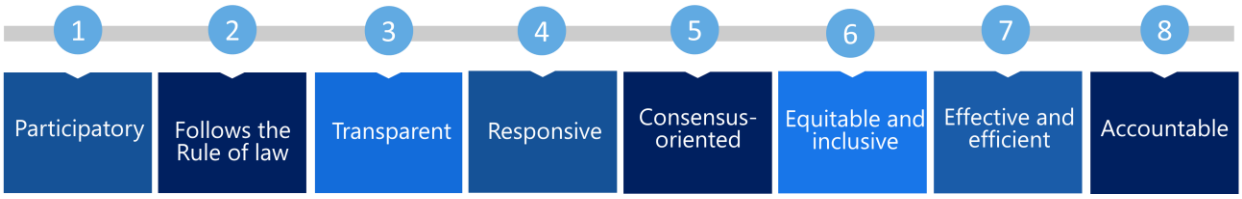
Despite the risk factors and challenges faced by the Mayor's Office, numerous efforts are being made to tackle threats and vulnerabilities, however, for such a complex territory due to its population density, criminality, and cultural diversity, the capacities available can be insufficient.

This Urban Safety Governance Assessment, based on the analysis of statistical and geographic information, as well as the social diagnosis for the identification of such challenges, raises specific recommendations based on evidence, both to guide the good governance of the Mayor's Office and to address specific problems in coordination with other institutions.

3.1 Good Governance

Governance can be understood as a set of processes and structures whereby decision-making is implemented[201]. Achieving effective governance involves promoting the following principles[202]:

Figure 28. The 8 principles of good governance



Source: Own elaboration with information from the Economic and Social Commission for Asia and the Pacific, (ESCAP), 2009.

Based on these principles, a capacity analysis of the Mayor's Office was carried out where strengths, weaknesses, threats and opportunities to improve governance were detected[203].

Principle 1. Promoting a participatory society

From a good governance approach, the Mayor's Office of Iztapalapa has different mechanisms to promote a **participatory society**. This implies that all sectors of society can be actively involved

[201] UN (2016). Security Sector Reform Integrated Technical Guidance Notes Transnational Organized Crime and Security Sector Reform. Available at: https://www.unodc.org/documents/organized-crime/SSR_TOC_ITGN_2016_WEB.pdf

[202] UNODC (2009). What is good governance? Available at: https://www.unodc.org/e4j/en/anti-corruption/module-2/key-issues/what-is-good-governance.html

[203] Most of the information presented in this section was provided by personnel from the Mayor's Office of Iztapalapa during interviews conducted for this assessment in 2020.

in the decision-making process in issues of interest. Participation is informed, organized and citizens have access to this information and can express their opinion[204].

The Mayor's Office has promoted the following programs and actions to encourage social participation:

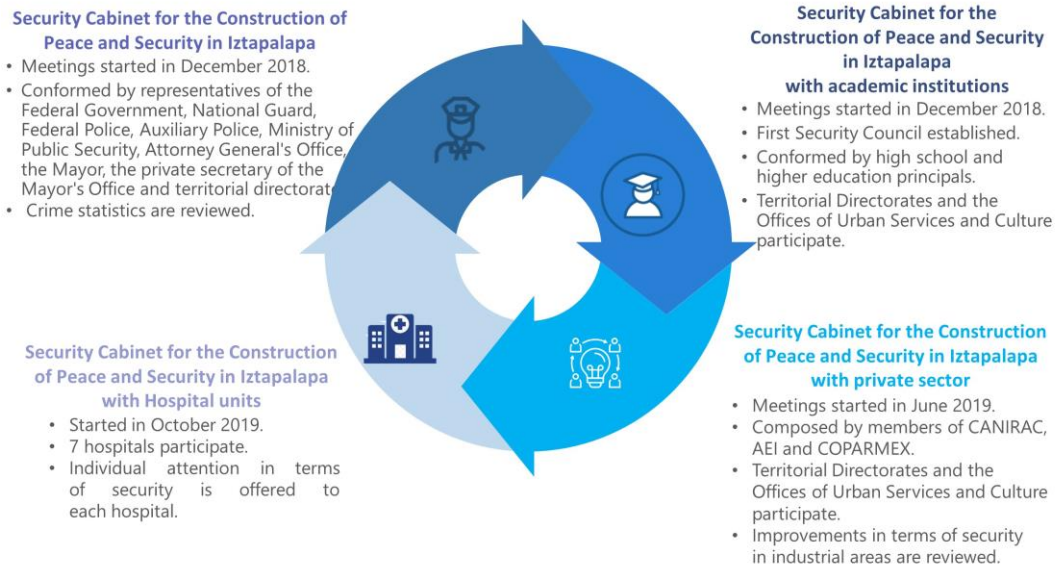
- The program ***Dialogues to achieve well-being and peace in Iztapalapa*** aims to build up social conditions, urban spaces, civil culture and citizen participation to recover and strengthen well-being and peace.
- As part of the program ***Dialogues to achieve well-being and peace in Iztapalapa***, the ***Neighborhood assemblies*** are social participation mechanisms through which the Mayor's Office promotes social conciliation and participatory planning processes. They have an action protocol and are developed from community liaisons understood as people interested in participating on behalf of their community in various issues to promote participation and establish a connection with the Mayor's Office. Up to 2020, the following connections were made by subject[205]:
    - 5,981 Peace and Well-Being
    - 3,184 Health
    - 3,898 Civil Protection
    - 1,631 Women
    - 1,035 Children
    - 745 Elders
    - 612 Youths

- The ***Cabinets for public security and service provision*** are political coordination mechanisms whose purpose is to complement the information available to the authority, based on an exchange of points of view and experiences.

[204] For the definition of this principle the following sources were considered: United Nations Economic and Social Commission for Asia and the Pacific (2009). What is Good Governance? Available at: https://www.unescap.org/resources/what-good-governance and UNODC The Doha Declaration (2020). What is Good Governance? Available at: https://www.unodc.org/e4j/en/anti-corruption/module-2/key-issues/what-is-governance.html

[205] Information provided by the Mayor's Office of Iztapalapa, 2020.

Figure 29. Coordinating mechanisms for the development of good governance



Source: Own elaboration with data provided by the Mayor's Office of Iztapalapa, 2019.

1. The **Security Cabinet for the Construction of Peace and Security in Iztapalapa with academic institutions** was one of the first to be integrated due to the lack of support that schools received in terms of security and lack of infrastructure, water, and garbage collection. Activities that do not fall under the authority of the Mayor's Office are brought before a competent authority of the Mexico City Government.

2. The **Security Cabinet for the Construction of Peace and Security in Iztapalapa**[206] has the goal of coordinating and planning continuous strategic actions for the attention and prevention of crimes, in addition to reviewing crime statistics for decision making. The three levels of government converge in this Cabinet, and its activities have been constant since the beginning of the term of office. From 2018 to March 2021, 425 sessions have been held:
   - 20 sessions in 2018
   - 233 sessions in 2019
   - 40 face-to-face sessions and 109 virtual sessions in 2020
   - 23 virtual sessions in 2021.

3. The **Security Cabinet for the Construction of Peace and Security in Iztapalapa with the private sector** is part of the strategy to tackle insecurity and corruption. The purpose of this cabinet is to hold regular meetings to listen to and address the problems of businesspeople. As a result of these meetings, businesspeople have

[206] Representatives of various security and justice institutions participate, as well as civil society organizations, such as the Citizen Council. Information provided by the Mayor's Office of Iztapalapa and by Mayor's Office of Iztapalapa (2019). Provisional Government Program 2019-2020. Available at: http://www.iztapalapa.cdmx.gob.mx/concejales/pdf/ProgPro19-20.pdf

contributed to setting up safe corridors in the industrial zone and conducting workshops on Civil Protection and Crime Prevention, linking their job demands with the population living in the Mayoralty's territory by way of job listings.

4. The **Security Cabinet for the Construction of Peace and Security in Iztapalapa with hospital units** aims to respond to security problems of the hospitals in the area. In the sessions, topics ranging from illegal taxi stands outside the hospital facilities to citizen complaints by patients are presented to avoid acts of corruption and impunity.

These social participation mechanisms enable communication between the three levels of government and different social sectors with the purpose of promoting joint decision-making. In addition, the Mayor's Office has promoted emerging cabinets, which are formed on the basis of a common problem of interest. One example was the creation of a health cabinet to deal with the COVID-19 pandemic[207].

Figure 30. SWOT analysis: social participation mechanisms

Strengths	Weaknesses

• Three actions aimed at promoting citizen participation were identified:
  • *Dialogues to achieve well-being and peace in Iztapalapa* has a budget and rules of operation.
  • Community Assemblies encourage the detection of problems, the execution of actions to solve them and have an action protocol.
  • Thematic Cabinets of the Mayor's Office (security, business, health, among others). They allow political coordination between different sectors of society in security matters, strengthening decision making.
	• Lack of methodologies to monitor and evaluate the results and impact of programs such as Dialogues to achieve well-being and peace in Iztapalapa and the Mayor's Office thematic cabinets (security, business, health, among others).

Threats	**Opportunities**
• Lack of interest among citizens to participate in the actions and programs implemented by the Mayor's Office. • Lack of trust in the authorities of the Mayor's Office.	• Technical assistance from specialized institutions such as UNODC in the design and evaluation of these programs. • Strengthening an active citizenry with the capacity of being resourceful. • Liaison with different sectors in the development of activities that promote citizen participation in order to increase the social capital of citizens (Mexico City's government agencies, business groups, academic institutions, international organizations, etc.). • Dissemination of the actions carried out within the framework of the Security and thematic Cabinets.

Source: Own elaboration.

[207] Information provided by personnel from the Mayor's Office of Iztapalapa during the interviews conducted for this assessment, 2020.

Principle 2. Guaranteeing the Rule of Law

This principle implies the existence of robust and impartially enforced legal frameworks. Human rights are respected and guaranteed, the justice system is independent and effective, and both the judiciary system and police force are impartial and incorruptible[208].

The actions of the Mayor's Office are based on the Organic Law of the Mayor's Offices of Mexico City[209], in which the rights and duties of the population are established, as well as the purpose of the Mayor's Offices (Article 20 of the Law).

Figure 31. SWOT analysis: mechanisms to guarantee the Rule of Law

Strengths	Weaknesses
• There are legal frameworks that regulate the activities of the Mayor's Office. • The Mayor's Office has a Control and Command Center (C2) Cuitlahuac Base, which attends to citizen emergencies 365 days a year. • There are 13 Territorial Directorates on Public Security and Law Enforcement in the borough, and they coordinate with the Specialized Agency for Public Security and Justice, the Specialized Agency for Sexual Crimes and with the Central Prosecutor's Office for Vehicle and Transport Theft Investigations. • There is a Special Unit for Crime Prevention, as well as Security Cabinets, plus actions to combat crime: operations and closure of illegal points of sale of alcohol.	• Insufficient institutional capacity for the attention and coverage of services and procedures due to the high demand and population distribution. • Lack of legal authority for decision-making regarding crime prevention.
Threats	**Opportunities**
• Persistence of structural problems. • Large population to be attended. • Lack of trust in the authorities could discourage reporting and increase the dark figure.	• Technical assistance from specialized institutions such as UNODC in the design and evaluation of programs. • Inclusion of international standards for the adoption of good governance principles. • Monitoring and evaluation of good governance principles.

Source: Own elaboration.

[208] For the definition of this principle the following sources were considered: United Nations Economic and Social Commission for Asia and the Pacific (2009). What is Good Governance? Available at: https://www.unescap.org/resources/what-good-governance and UNODC The Doha Declaration (2020). What is Good Governance? Available at: https://www.unodc.org/e4j/en/anti-corruption/module-2/key-issues/what-is-governance.html

[209] For more information, see the Official Gazette of Mexico City. Organic Law of Mayor's Offices in Mexico City (2018). Available at: http://www.paot.org.mx/centro/leyes/df/pdf/2018/LEY_ORGANICA_ALCALDIAS_CDMX.pdf

Principle 3. Having transparency mechanisms

This principle means that decision-making and its compliance can be under the scrutiny of members of society and is made in accordance with the norm. The information available must be free, accessible, sufficient and understandable[210].

According to the Mexico City Law on Transparency, Access to Public Information and Accountability[211], the Right of Access to Public Information requires the adoption of specific mechanisms and conditions, as well as the dissemination of data and information of public interest.

The website of the Mayor's Office of Iztapalapa[212] has a section focused on transparency where the articles and fractions of all obligations are available and information requests are also received. All information is updated on a quarterly basis.

The following are the sections contained in the website:

- *Information about COVID-19*: Infographics with preventive messages, a guide of measures to prevent contagion, social programs and a link to the publications issued in the Mexico City Official Gazette.
- *Committee of transparency:* Set of hyperlinks to the meeting acts held by the committee.
- *Historic 2015 - 2018:* Location of the Transparency Unit and applicable regulations.
- *The Mayor's Office of Iztapalapa 2018 – 2021*: Applicable regulation.

The goal of transparency is to keep citizens informed about public decisions. This requires a daily exercise of documentation of executed actions, publication of information through official channels, traceability of subjects and drafting using an inclusive language.

[210] For the definition of this principle the following sources were considered: United Nations Economic and Social Commission for Asia and the Pacific (2009). What is Good Governance? Available at: https://www.unescap.org/resources/what-good-governance and UNODC The Doha Declaration (2020). What is Good Governance? Available at: https://www.unodc.org/e4j/en/anti-corruption/module-2/key-issues/what-is-governance.html

[211] Official Gazette of Mexico City. Organic Law of Mayor's Offices in Mexico City (2018). Chapter 1 "Object of the Law". Available at: http://www.infodf.org.mx/documentospdf/Ley%20de%20Transparencia,%20Acceso%20a%20la%20Informaci%C3%B3n%20P%C3%BAblica%20y%20Rendici%C3%B3n%20de%20Cuentas%20de%20la%20Ciudad%20de%20M%C3%A9xico.pdf

[212] The Mayor's Office of Iztapalapa (2020). Office of Public Information. Transparency. Available at:: http://www.iztapalapa.cdmx.gob.mx/transparencia/index.php

Figure 32. SWOT analysis: transparency mechanisms

Strengths	Weaknesses
• The Mayor's Office website has a transparency section with the following topics: Transparency Committee, Mayor's Office Iztapalapa 2018 - 2021, Historical 2015-2018, and Information on COVID-19. • The official social networks of the Mayor's Office (Facebook, Twitter) are kept up to date, showing the actions implemented. • According to staff of the Mayor's Office, the Institute for Transparency, Access to Public Information and Accountability of Mexico City granted them the highest rating in compliance with their obligations in this area.	• The information on social networks and website is not homologated.
Threats	**Opportunities**
• Lack of continuity and sustainability in transparency actions in the borough regarding administrative changes.	• Technical assistance to homologate and update the Mayor's Office website to make it user-friendly and accessible.

Source: Own elaboration.

Principle 4. Acting responsibly and reactively

This principle implies that institutions and processes readily serve all stakeholders in a prompt and appropriate manner to protect the interests of the entire population. There is an inclusive and decentralized response capacity[213].

In order for the institutions and processes to guarantee the common interests of the population, adequate coordination between areas is required. The following actions have been identified within the Mayor's Office:

- Periodic meetings take place between the areas to ensure coordination and communication between its members.
- There is a close collaboration between all 7 General Offices, 3 Executive Offices and 13 Territorial Directorates of the Mayor's Office, which are organized and coordinated as follows:
    - General Offices plan and generate the programmatic offer and activities.
    - Territorial Directorates promote these activities and facilitate citizen's access to programs and activities.

To handle the health crisis provoked by the COVID-19 pandemic, the Mayor's Office of Iztapalapa responded as follows:

[213] For the definition of this principle the following sources were considered: United Nations Economic and Social Commission for Asia and the Pacific (2009). What is Good Governance? Available at: https://www.unescap.org/resources/what-good-governance and UNODC The Doha Declaration (2020). What is Good Governance? Available at: https://www.unodc.org/e4j/en/anti-corruption/module-2/key-issues/what-is-governance.html

- In terms of prevention, actions such as the mandatory use of masks in public spaces, lockdown measures or healthy distance in crowded places such as street markets, markets, cemeteries, as well as sanitization actions in buildings and public transportation units have been adopted.
- In order to contain the possibility of contagion, actions have been implemented, such as hyper-local health commissions, closure of street markets and markets, hiring of water pipes to supply the population without access to this service and emergency economic support for the families of Iztapalapa (Social Action *Emergency Family Income Mercomuna*).

All areas of the Mayor's Office developed different measures to deal with the pandemic. Among the activities performed were:

1. *Brigadas* or task force groups that attend to citizens at points of major confluence such as street markets, markets and cemeteries.
2. Activities that control the access to street markets, distribution of masks and anti-bacterial gel to citizens, placing of sanitation points such as water tanks or sinks, checking that vendors wear masks at all times.
3. Delivery of food allowances to beneficiaries of Social Action *Mercomuna*, which consisted of the provision of economic support through food allowances called *Cuitlahuac,* and the delivery of baskets with 10 kilos of season fruit, vegetables and grains.

Figure 33. SWOT analysis: acting responsibly and reactively

Strengths	Weaknesses
• Knowledge of functions and recognition of the attributions of other areas is identified. • Close relations between the 7 General Offices, 3 Executive Offices and the 13 Territorial Directorates. • Weekly meetings between areas to ensure organization and coordination. • The Mayor's Office staff shows commitment to service, willingness to provide support to the population, and teamwork. • Implementation of various actions to support the population in the context of the health crisis resulting from COVID-19, for example, the social action Emergency Family Income MERCOMUNA.	• In the case of some reports, the results or progress of social actions and programs are not public knowledge. • Lack of methodologies to monitor and evaluate the results and impact of programs can cause confusion among the population.
Threats	**Opportunities**
• Persistence of structural problems. • Difficulty in achieving 100% coverage due to the large territorial and population extension of Iztapalapa. • Health emergencies.	• Technical assistance from specialized institutions such as UNODC in the monitoring and evaluation of social programs and actions. • Timely dissemination of information to achieve accessibility and inclusion among the population. • Based on the actions implemented against COVID-19, an action protocol can be generated in case of future health crises.

Source: Own elaboration.

Principle 5. Maintaining consensus-oriented decision making

Good governance requires mediation of different community interests in order to reach a broad consensus in society on what is in the best interest of the whole community and how this can be achieved from a broad and long-term perspective. For this to be achieved, a structure for solid, impartial and flexible mediation is needed[214].

The Mayor's Office of Iztapalapa has a **Council** that serves as a consensus-oriented mechanism. The Council is defined as a collegiate body with a horizontal structure made up of 10 elected council people. Its functions are established in the Organic Law for the Mayor's Offices of Mexico City and include the following:

- The supervision and evaluation of government actions.
- The control of the exercise of public spending based on the objectives of the government program.
- The approval of the corresponding Expenditure Budget Project, in accordance with the terms established by the law.

Based on the Rules of Procedure of the Council[215], it should:

- Approve the General Program of the Mayor's Office of Iztapalapa.
- Review the annual and partial report on the budget public expenditure and governmental actions executed.
- Oversee the development of public work and public services in the Mayoralty's territory.
- Establish a commission in charge of monitoring and evaluating executed actions[216].
- Convene the Mayor and Directors to inform about their actions.
- Convene traditional authorities and representatives from indigenous communities to participate in the Council sessions[217].
- Assign a citizen chair for each session.

Since the beginning of COVID-19, the Mayor's Office has presented a report to the Council regarding the progress of the pandemic and the actions taken on a daily basis.

[214] Ibid.

[215] Iztapalapa's Local Council (2019). Rules of Procedure of the Council. Available at: http://www.iztapalapa.cdmx.gob.mx/concejales/pdf/ReglamentoConcejo.pdf

[216] The work of the Council is divided into 10 commissions: Legal and Government, Administration and public spending, Citizen Participation, Urban Development, Civil Protection and Risk Management, Urban services, Social Well-being, Sustainable and Economic Development, Culture and traditional communities and Public Security.

[217] It has three types of sessions: ordinary sessions that take place once every month, extra-ordinary sessions which are convened in case of urgency and solemn sessions that take place when reports are presented by the Mayor's Office.

Figure 34. SWOT analysis: consensus-oriented decision-making

Strengths	Weaknesses
• The Organic Law of Mayor's Offices of Mexico City establishes the actions of the Council. The Council has an internal regulation that regulates its operation. • The sessions of the Mayor's Council are public and can be consulted by the citizens on the Mayor's Office website or at the Council's offices.	• The Council section of the website is not user-friendly so that citizens can understand the functions and duties of the councilors. • The lack of information on how to access the "citizen's chair" limits its effectiveness.
Threats	**Opportunities**
• Lack of citizen participation in decision-making due to apathy or lack of knowledge about the mechanisms. • Lack of continuity of the agreements established by the members of the Council.	• Involvement of the different sectors in decision-making exercises when appropriate (Mexico City government agencies, businesspeople, academic institutions, international organizations, etc.).

Source: Own elaboration.

Principle 6. Performing in an equitable and inclusive manner

This principle implies to ensure that all members of society have opportunities to improve and maintain their well-being, especially the most vulnerable ones. That is, all people are considered in the decision-making processes and no one is deprived of their rights[218].

The Mayor's Office implements various social programs and actions aimed at addressing the social, cultural and economic rights of the population of Iztapalapa, based on a public policy strategy and taking up the 2030 Agenda for Sustainable Development.

Both programs and actions have a positive assessment by the Planning Committee for the Development of Mexico City and the Evaluation Council of Social Development of Mexico City, and were presented in international forums as well as replicated by other government agencies due to the results achieved.

The respective 11 programs and 6 general offices that are responsible for their implementation individually or in coordination with other sub-offices, general offices and operative areas of the Mayor's Office are presented below.

[218] For the definition of this principle the following sources were considered: United Nations Economic and Social Commission for Asia and the Pacific (2009). What is Good Governance? Available at: https://www.unescap.org/resources/what-good-governance and UNODC The Doha Declaration (2020). What is Good Governance? Available at: https://www.unodc.org/e4j/en/anti-corruption/module-2/key-issues/what-is-governance.html

GENERAL OFFICE OF PLANNING AND CITIZEN PARTICIPATION			
Sub-office of Citizen Participation. Head of Unit of Citizen Participation.	Operational Area: Office of the Director of Social Programs; Technical-Operational Unit: Head of Unit of Social Programs "A"; Technical-Operational Unit: Head of Departmental Unit of Social Programs "A".	Operational Area: Office of Social Programs; Technical-Operational Unit: Head of Unit of Social Programs "C".	Operational Area: Office of Social Programs; Technical-Operational Unit: Head of Unit of Social Programs "D".
Program: Strengthening participatory democracy for well-being and peace in Iztapalapa.	**Program:** Integral well-being for elementary school children residing in Iztapalapa.	**Program:** Economic assistance and integral welfare for senior citizens between the ages of 64 and 67 who reside in Iztapalapa and do not have the support of any other federal or local economic assistance program.	**Program:** Integral well-being for elementary school children residing in Iztapalapa.

GENERAL OFFICE OF INCLUSION AND SOCIAL WELL-BEING			
Coordinating Unit of Social Welfare. Sub-office of Sports. Head of l Unit of Community Sports.	Operational Area: Coordination Unit of Social Welfare and Head of Unit of Educational Programs; Coordinating Unit of Inclusion of Priority Groups; Head of Departmental Unit of Development and Welfare of the Elderly and Persons with Disabilities.	Operational Area: Sub-office of Educational Development; Technical-Operational Area: Head of Unit of Educational Programs	Operational Area: Sub-office of Educational Development; Technical-Operational Area: Head of Unit of Educational Programs
Program: Iztapalapa the Sportiest.	**Program:** Public care system, the Mayor's Office of Iztapalapa, 2020.	**Program:** Women studying in Iztapalapa, 2020.	**Program:** Support for families who lost a family provider due to COVID-19 or an associated disease.

GENERAL OFFICE OF INCLUSION AND SOCIAL WELFARE GENERAL OFFICE OF PLANNING AND CITIZEN PARTICIPATION EXECUTIVE OFFICE OF SUSTAINABLE DEVELOPMENT EXECUTIVE OFFICE OF CULTURE
Program: support for the promotion and access to the right to health, good administration, employment, culture and personal self-determination, Iztapalapa with full rights, 2020.

GENERAL OFFICE OF WORKS AND URBAN DEVELOPMENT
General Office of Sustainable Development Operational Area: Coordination Unit of Services and Maintenance Head of the Prevention and Environmental Impact Unit / Technical-Operational Unit: Departmental Unit Heads and Project Coordinating Leaders of the Coordinating Units and General Offices.
Program for the rescue of public space, attention to cracks and environmental attention: Iztapalapa is transformed, 2020.

EXECUTIVE OFFICE OF CIVIL PROTECTION
Program: Strengthening the culture of prevention and emergency response, 2020.

The 13 social actions, general offices, sub-offices and operational areas responsible are presented below. It is worth mentioning that *Mercomuna*[219] is one of the social actions with the greatest impact due to its positive results by tending to 100% of its target population in the whole territory of Iztapalapa. The Mexico City Government recommended its implementation to other Mayor's Offices to address the serious effects caused by the emergency measures of the COVID-19 pandemic.

GENERAL OFFICE OF INCLUSION AND SOCIAL WELL-BEING				
Operational Area: General Legal Department and Private Secretary's Office	Operational Area: Coordination Unit of Inclusion to Priority Groups; Technical-Operational Unit: Sub-office of Social Inclusion	Operational Area: Sub-office of Educational Development; Technical-Operational Area: JUD Educational Programs	Operational Area: Coordination Unit of Social Welfare and Sub-office of Educational Development; Technical-Operational Unit: JUD Educational Projects.	Operational Area: Coordination Unit of Inclusion of Priority Groups; Technical-Operational Unit: Sub-office of Social Inclusion, Sub-office of Educational Development, JUD Educational Projects, JUD for the Development and Welfare of the Elderly and the Disabled
Social action: Financial support to people in situations of vulnerability, extreme gravity and urgency for the health, life and development of individuals and families.	**Social action:** Authorization to grant support for funeral services in Iztapalapa, 2020.	**Social action:** Youths building their history, 2020.	**Social action:** Walking for your rights, school shoes for students in Iztapalapa, 2020**.**	**Social action:** In-kind support to people with disabilities through the delivery of wheelchairs, canes, hearing aids and eyeglasses.

DIRECCIÓN GENERAL DE INCLUSIÓN Y BIENESTAR SOCIAL		
Social action: Market, community, supply and food, Mercomuna Iztapalapa, emerging food and local economy action.	General Office of Government and Citizen Protection General Office of Works and Urban Development	Operational Area: Office of Social Programs; Technical-Operational Unit: JUD Social Programs "D".
	Social action: Awarding of incentives and recognitions to citizens for social aid work during the sanitary contingency, 2020.	**Acción social:** Emergency family income. MERCOMUNA.

GENERAL OFFICE OF GOVERNMENT AND CITIZEN PROTECTION		
Social action: Financial assistance to people who preserve traditional activities in Iztapalapa, 2020.	Operational Area: Technical Support Sub-office	Operational Area: JUD of Traditional Towns and Indigenous Neighborhoods
	Social action: Awarding of incentives and recognitions to elements of institutions responsible for citizen security and the administration of justice that are	**Social action:** Authorization to grant financial assistance to people who integrate the safeguard and preservation of the *comparsas* in Iztapalapa's fiscal year 2020.

[219] The progress and results were presented to the Mayor's Council at each stage and the Mayor's Office's Body of Internal Control accompanied the entire implementation process.

	outstanding in the performance of their duties.	

EXECUTIVE OFFICE FOR CULTURE
Social action to encourage individual or collective activities to disseminate and present artistic creation in Iztapalapa (crearte).

EXECUTIVE OFFICE OF CIVIL PROTECTION
Social action: Extraordinary financial assistance to people whose homes or property are affected by a hydrometeorological, geological, seismic, sanitary, chemical, pyrrhic or another socio-organizational event.

In relation to the budget available to expand its capacity to serve the population, the Mayor's Office has called for an increase in income, since the budget designated by the Mexico City Congress and the Mexico City Government is not sufficient in relation to the population.

The Mayor's Office of Iztapalapa faces several challenges that include poverty, inequality and informality, of which some have intensified since the COVID-19 pandemic. Therefore, during 2020, efforts were focused on generating social programs and actions to address these problems. Social programs and actions on care, economic support, food supply and nutrition, prevention and attention to emergencies and funeral services were strengthened without neglecting other strategies developed for vulnerable groups.

Figure 35. SWOT analysis: performance of the Mayor's Office

Strengths	Weaknesses
• 11 programs and 13 social actions were identified, some of which were carried out in the context of the pandemic by COVID-19. • There is a Unit for the Promotion of Women's Rights and Substantive Equality, which provides cross-cutting advice on the work of the general offices, as well as on the programs and social actions implemented by the Mayor's Office. • From the Security Cabinet for the Construction of Peace of the Mayor's Office, an institutional agreement was reached to improve the care of adolescents and young people in Iztapalapa, which seeks to strengthen the practices of care for this population sector. • Opening of the Colibrí Centers for users of psychoactive substances in order to receive therapeutic treatment applied from a health perspective with full respect for human rights at the UTOPIAS. • Coordinated work between different general offices for the implementation of social programs and actions. • Social programs and actions are focused on attending vulnerable groups. • Most of the programs are oriented to citizen protection and participation. • Some social actions have been promoted for replication in other boroughs, for example, MERCOMUNA.	• Insufficient personnel to provide service for social programs and actions. • The division and operation between social programs and actions is ambiguous due to the way they are presented. • The methodology used for monitoring and evaluation of implemented actions is not publicly identified, nor are there reports with results of executed programs available to citizens and experts.

Threats	Opportunities
• Large population in the Mayoralty's territory to serve. • Lack of continuity and sustainability of social programs and actions that are generating a positive impact in the borough in the face of administrative changes. • Lack of external communication of the social programs and actions implemented could generate little effectiveness and distrust among the population.	• Technical assistance with specialized institutions such as UNODC, to continue strengthening social programs and actions. • Alliances with CSOs for the implementation of social programs and actions in order to ensure their continuity (Mexico City government agencies, groups of businesswomen, academic institutions, international organizations, etc.). • Maintain active participation of the population by involving them in each of the social programs and actions implemented.

Source: Own elaboration.

Principle 7. Acting efficiently and effectively

From a good governance approach, government effectiveness and efficiency exist where processes and institutions make the best use of resources to produce results that meet the needs of society[220]. Effectiveness and efficiency require:

- The **enhancement of quality and standardization** of public service delivery. To this end, the agencies must attend to the needs of citizens in a timely and appropriate manner, simplifying government procedures and reducing bureaucracy, using appropriate technology whenever possible.
- The **professionalization** of public officials will allow for effective performance.
- The focusing of government efforts on **vital functions by eliminating redundancies or overlaps** in functions and operations.

The Mayor's Office's website has a section containing all the requirements needed for demanding a service provision or procedure. On the website, 40 procedures are listed, as well as 19 types of services[221]. The **40 procedures** address 11 different subjects[222], of which 24 procedures are related to commerce and markets, civil protection, public works and maintenance. Of the 40, 20 procedures have a cost, which is not indicated in the web page, 19 are for free and 1 does not provide any information. Waiting time varies, in average half of the procedures are solved in 15 days.

[220] For the definition of this principle the following sources were considered: United Nations Economic and Social Commission for Asia and the Pacific (2009). What is Good Governance? Available at: https://www.unescap.org/resources/what-good-governance and UNODC The Doha Declaration (2020). What is Good Governance? Available at: https://www.unodc.org/e4j/en/anti-corruption/module-2/key-issues/what-is-governance.html

[221] The Mayor's Office of Iztapalapa (2020). Services and Procedures. Available at: http://www.iztapalapa.cdmx.gob.mx/tramitesyservicios/

[222] Water, Civil: identity and land, commerce and markets, events, urban image, environment, public work and maintenance, citizen participation, civil protection and urban services.

Services are focused on seven topics: access to water, public lighting, access to justice, events, loans of different types to organize events, environment and urban works. Of the 19 services offered, 7 are focused on urban works, 4 on environment and 3 on water access. All services are free of charge and the average waiting time is 15 days. Only those services related to the provision of aid to women (MODAM) have no waiting time. It is recommendable to optimize the appointment method used for procedures and services online[223].

The Mayor's Office implemented the Iztapalapa's Attentive Government System (SIGA) to provide citizens with tools to carry out more agile and efficient procedures, as well as to issue comments and complaints about the work of the local government. The request for services can be made through four means of communication:

1. In-person attention at the Central Citizen Attention Unit (UNAC) or any of the 13 territorial directorates.
2. Iztapalapatel Call Center.
3. Free mobile application IztapalAPP.
4. WhatsApp line called Whatztappalapa.

As for the personnel employed by the Mayor's Office:

Figure 36. Personnel distribution per area in the Mayor's Office of Iztapalapa



Source: Own elaboration with information provided by the Mayor's Office of Iztapalapa, 2020.

Two General Offices concentrate more than half of the Mayor's Office personnel:

- The General Office of Urban Services, in charge of public works programs for water supply, drainage and sanitation services, employs 5,307 persons.
- The General Office of Inclusion and Well-Being, in charge of social programs, has employed 1,658 persons.

[223] A good practice could be: https://www.americanprogress.org/wp-content/uploads/issues/2007/04/pdf/citistat_report.pdf

Figure 37. SWOT analysis: acting effectively and efficiently

Strengths	Weaknesses
• Some of the procedures offered by the Mayor's Office are free of charge and the average waiting time is 15 days. • The Mayor's Office has 19 types of services, mostly focused on works, environment and water. • Information on procedures and services is public and is available on the Mayor's Office website. • As of 2021, the Mayor's Office has implemented the Iztapalapa's Attentive Government System (SIGA) program. • To face the health crisis derived from COVID-19, the Mayor's Office had an early and timely response to the population for the prevention of contagion and economic support, for example, to tenants and families.	• The information published on the website about procedures and services is unclear. • Insufficient resources to cover all the services requested, as well as lack of quality in them. • Lack of material resources, office equipment for most of the general offices, as well as personnel professionalization (at university level). • Lack of methodologies for results-based management.
Threats	**Opportunities**
• Large population in the Mayoralty's territory to attend. • The lack of knowledge that the population may have regarding procedures and services could generate distrust among citizens and discourage their participation. • The Mayor's Office does not have control over the personnel that is hired on a regular basis; this is assigned by the Mexico City Government, which could result in a lack of trained and sufficient personnel.	• Strengthen the capacities of the personnel through the generation of alliances with specialized agencies, which provide training to the personnel of the Mayor's Office. • Specialized technical assistance from UNODC to strengthen personnel capacities in data collection and analysis, based on which strategies can be designed to address specific problems.

Source: Own elaboration.

Principle 8. Accountability

From a good governance approach, accountability requires mechanisms through which decision-makers explain and respond to citizens regarding actions implemented. Accountability can be horizontal (checks and balances within the public sector) and vertical (responsibility of governments towards their citizens)[224].

The Mayor's Office has the following accountability mechanisms:

- Mayoral Council Sessions (see Principle 5. Maintaining consensus-oriented decision making). These are held periodically, are public and can be consulted by citizens on the Mayor's Office website (Transparency 2018-2021 (cdmx.gob.mx)) or at the Council Offices.
- Direct and periodic reports with the executive and legislative government bodies on the actions implemented by the Mayor's Office.
- Annual reports on the progress of the work carried out by the Mayor's Office to meet the requests and needs of the citizens.

[224] For the definition of this principle the following sources were considered: United Nations Economic and Social Commission for Asia and the Pacific (2009). What is Good Governance? Available at: https://www.unescap.org/resources/what-good-governance and UNODC The Doha Declaration (2020). What is Good Governance? Available at: https://www.unodc.org/e4j/en/anti-corruption/module-2/key-issues/what-is-governance.html

- Citizen hearings between the inhabitants of the borough and the Mayor of Iztapalapa to address any issue related to various problems, these were held weekly.
- Citizen assemblies led by the Mayor in all neighborhoods of Iztapalapa.
- Social networks and platforms for effective and direct communication with citizens.

Figure 38. SWOT analysis: accountability

Strengths	Weaknesses
• Accountability actions of the Mayor's Office are regulated by the Law of Transparency, Access to Information and Accountability. • Internally, the Mayor's Office of Iztapalapa has an Administrative Manual in which the attributions in this matter are established. • Constant accountability on the actions and achievements of the Mayor's Office through social networks.	• There is a lack of public access to accountability mechanisms, resources and executed expenditures. • Lack of technology that enables public access to information for accountability. • Lack of methodology and indicators to account for the results and impact of social programs and actions.
Threats	**Opportunities**
• Distrust of the population regarding the accountability of the Mayor's Office.	• Technical assistance from institutions specialized in design, monitoring and evaluation, such as UNODC. • Generate alliances between the Mayor's Office and CSOs for accountability. • Strengthen communication mechanisms between the Mayor's Office and citizens.

Source: Own elaboration.

Lastly, since the beginning of the current term of office of the Mayor's Office of Iztapalapa, actions have been oriented to the implementation of programs to reduce and solve the various problems that affect the borough. The efforts implemented have covered the 8 principles of good governance, especially accountability, citizen participation and transparency, even so, the conditions under which Iztapalapa exists represent an important challenge that requires time and assistance from expert institutions.

The strategies aimed at crime prevention carried out by the Mayor's Office have achieved an important impact among the population of Iztapalapa, for this reason, it is recommended to continue generating alliances with other institutions and civil society organizations for the deployment of actions or strategies in this area. An example could be the implementation of UNODC's *Strong Families* and *Line Up, Live Up* programs, linking them to the UTOPIAS.

Based on the information provided before, the following recommendations were identified in order to strengthen good governance in Iztapalapa:

1. **Improve data collection and analysis** according to international standards. Take advantage of the information obtained by the Command Center (C2) and the participatory mechanisms already taking place (*Dialogues to achieve peace and well-being in Iztapalapa* and the *Security Cabinets* with different sectors). Use this information to monitor actions and evaluate its results, as well as for strengthening accountability.
2. **Provide continuity through the design of strategies** for the social programs and actions that operate in the Mayoralty's territory.

3. **Promote** with the competent authorities the training of employees of the Mayor's Office.
4. From the Mexico City SSC, **provide follow-up** for the continuous training of police officers.
5. **Provide sufficient material resources** to all the General Offices and areas that constitute the Mayor's Office of Iztapalapa.

In terms of crime prevention and public security, the following suggestions are put forward for consideration:

1. **Optimize the territorial deployment of police officers** in those areas with the largest presence of criminal activity and organized criminal groups.
2. **Establish guidelines for cooperation** with the authorities from neighboring boroughs or municipalities to strengthen **law enforcement operations**.
3. **Adopt a crime prevention strategy** to improve **socio-emotional skills** (life skills) and **positive parenting**, in line with international standards**.**
4. **Prevent early drugs use** by adopting a strategy that includes up-to-date data of the users, the identification of selling points and a close collaboration with different stakeholders.
5. Strengthen **collaboration with specific sectors of society** (such as street market and Central Market vendors) **to prevent their involvement or collusion with organized criminal groups**.

Conclusions

The ***Safety Governance Approach for Safe, Inclusive and Resilient Cities*** allows for more effective evidence-based interventions to address internal and external threats to the communities. The Urban Safety Governance Assessment (USGA) in Iztapalapa identified the issues affecting its residents, as well as the main challenges faced by the Mayor's Office.

The methodological rigor of this tool, as well as its participatory approach, made it possible to conduct an exhaustive and holistic analysis of the borough, from which it was possible to detect **high** and **very high** risks. In many of the neighborhoods of Iztapalapa, crime had a strong presence and there were social impairments and deteriorating urban-environmental conditions unfavorable to its development. Additionally, the Mayor's Office and other institutions do not always have enough coverage to face these challenges, and its capacities are not sufficient to address these threats and vulnerabilities.

The challenges identified are not only of interest at the local level, but given that they are part of the issues addressed by the 2030 Agenda for Sustainable Development, it is vital to continue strengthening the articulation between various levels of government and sectors to achieve **good governance** and permanently apply gender and human rights approaches.

Iztapalapa is a complex borough due to its geographical location, social context and historicity, however, it has a population with a high sense of belonging and collaborative groups that can contribute to make a difference in achieving a safer environment.

One of the most visible problems is the problematic consumption of alcohol and drugs. This is reflected as an early start of drug use around the age of 16, so it is necessary to strengthen the implementation of actions to address this situation.

The most frequent crimes identified in Iztapalapa are robbery in all its modalities (robbery from the person in a public location, in public transportation and of business property), as well as domestic violence. Other crimes such as femicide, rape, sexual assault and sexual harassment continue to affect the well-being of women and girls, some of which worsened during the pandemic-related lockdown due to a lack of mobility. As a result, women and girls may be victims in their households and in other environments that should be safe for them. Although good practices regarding victim care and identification of femicide risk were identified, strengthening the support centers and timely attending these situations remain an urgent challenge to be addressed.

According to the analysis of illegal governance, the presence of criminal groups and their activities related to the illicit markets of drugs and arms trafficking was confirmed. The main form of control used by organized criminal groups is extortion, which they exercise through violent threats to

both tenants (small merchants) and drivers on public transportation routes; however, citizens in general are not exempt from this problem either.

Regarding urban environmental problems, the scarcity and poor quality of water in 73% of the neighborhoods stands out, as well as the deterioration and lack of coverage in the provision of essential urban services. It is worth emphasizing that there are the serious problems related to garbage and illegal dumps, feces and harmful fauna found across the borough. This situation is especially acute among vulnerable populations, such as the people living in irregular settlements.

To achieve good governance, it is necessary to know the specific context of each community and its relationship with the authorities. Based on the **analysis of the Mayor's Office's capacities,** the strengths, and areas of improvement in the **8 principles of good governance** were detected. There is room for improvement regarding personnel professionalization, strategic planning and program implementation, as well as in the monitoring and evaluation to ensure accountability. It is also essential to redouble efforts towards the digitalization and modernization of processes, procedures and access to services, among others.

In the short, medium and long term, UNODC in coordination with partner agencies and civil society organizations, seeks to build a solid and close relationship with the Mayor's Office of Iztapalapa, as well as with the people of Iztapalapa and their various sectors. To achieve this, it is necessary to address the 109 recommendations made in the Evaluation, which are associated to the following SDGs:

Sustainable Development Goals	Number of recommendations
SDG 3 Good Health and Well-Being	9
SDG 5 Gender Equality	31
SDG 11 Sustainable Cities and Communities	27
SDG 16 Peace, Justice and Strong Institutions	42

Together, we will achieve the implementation of actions that will allow us to understand and continue monitoring the threats and vulnerabilities of the borough. It is vital to jointly contribute to the strengthening of existing capacities to positively influence decision-making and evidence-based actions aimed at achieving **good governance** and the **reconstruction of the social fabric that that will increase the quality of life of its inhabitants and transition towards sustainable development**.

Methodological annex

Study objective

The Urban Safety Governance Assessment is part of a global initiative launched by the United Nations Department of Economic and Social Affairs (UNDESA) and implemented by the United Nations Office on Drugs and Crime (UNODC). The Evaluation is conducted in four regions around the world: Iztapalapa in Mexico City (Mexico), Mathare in Nairobi (Kenya), St. Michael and Christ Church (Barbados) and Tashkent (Uzbekistan).

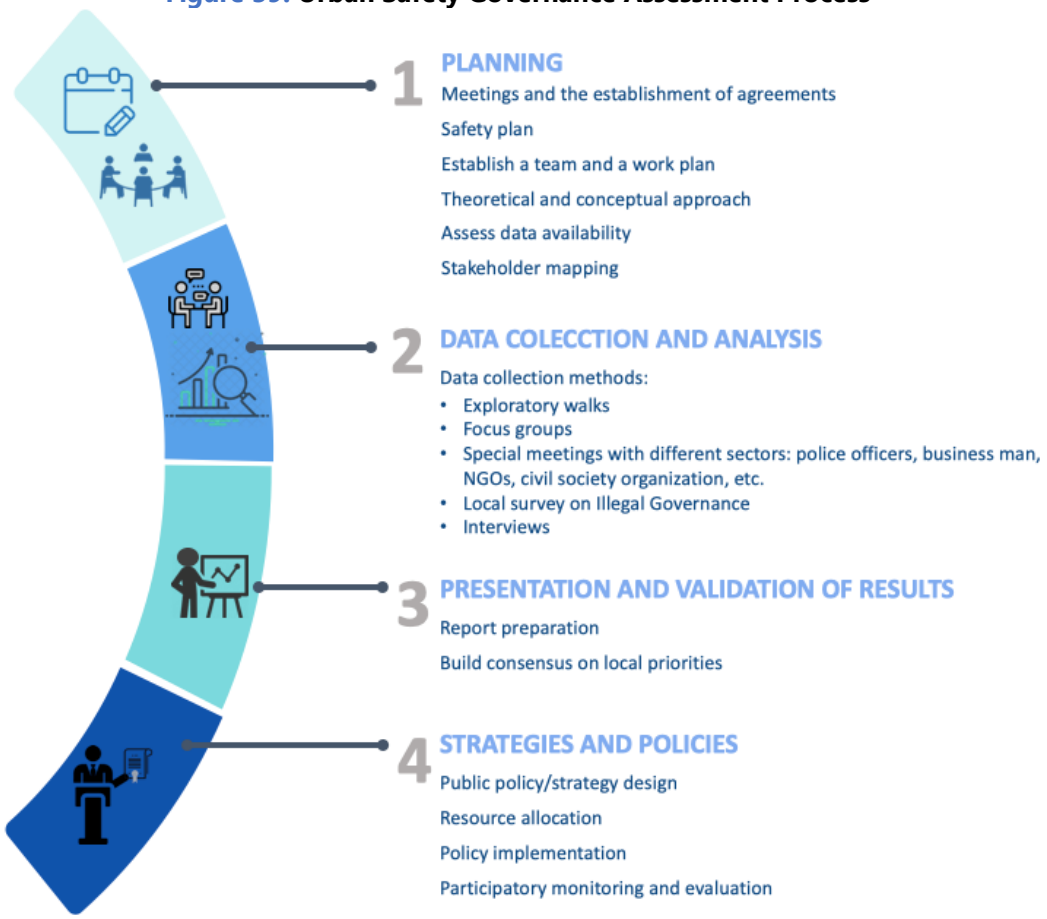
This intervention is based on the project Local Safety Audits[225] and takes the Urban Security Governance Approach[226] as a conceptual framework, which seeks to provide public policy implementers with a framework to address the intersection of global hazards and local dynamics in search of the elements that enable resilience building.

The Urban Safety Governance Assessment process consists of the following stages which have a series of actions that in some cases were carried out simultaneously:

[225] Project focused on improving the capacity of city administrations to collect and analyze crime data, in order to formulate and adopt policies and programs for urban crime prevention and safety, using a participatory approach. It was implemented in three countries: Cali, Colombia; Durban, South Africa and Querétaro, Mexico. Available at: https://auditoriadeseguridad-cdeunodc.org/

[226] It seeks to understand the relationship and interaction of risk factors with illicit external flows and highlights the need for context-specific responses that seek to reverse these risk factors and thus restore governance, reduce inequality and promote individual and community inclusion and resilience.

Figure 39. Urban Safety Governance Assessment Process



Source: Own elaboration. Based on the Safety Governance Approach for Safe, Inclusive, and Resilient Cities, 2019.

Development of the process

The objective of the implementation of this project is the identification of challenges and priority areas for intervention in Iztapalapa based on quantitative and qualitative information. Statistics on crime incidence in the neighborhoods of interest were complemented with the application of a participatory social approach with the use of mapping to identify threats, vulnerabilities and capacities in each of the selected neighborhoods. It is expected that the results will allow the development of policies and strategies based on coordination, as well as an increase in the capacity of the institutions and their officials. All these actions are described in the following sections:

Stage 1 - Planning

Meetings and establishment of agreements with the Mayor's Office of Iztapalapa

- May 16th, 2019: Meeting with the advisory group, the Mayor, CoE-UNODC and the United Nations Department of Safety and Security (UNDSS).

- September 11th, 2019: Meeting with the advisory group for information exchange.
- December 4th, 2019: Signing and exchange of understanding agreement between UNODC and the Mayor's Office of Iztapalapa.
- December 2020: Attendance to sessions of the Cabinet for the Construction of Peace and Security in Iztapalapa.
- January 20th, 2020: Meeting with the advisory group and the Mayor.

The purpose of the meetings was to explain the *Urban Safety Governance Assessment* project, to agree on the actions that will integrate the collaboration between UNODC and the Mayor´s Office, and create a close collaboration to obtain the necessary inputs and access to the Mayoralty's territory.

Safety Plan

In order to guarantee the safety of the team members during field work and clarify the support of the Mayor's Office in terms or security provision, a safety plan was developed through which:

- Regular contact was maintained with UNODC's security focal point and UNDSS, who were informed about the locations in the field and any activities carried out by the team.
- On the other hand, the team was physically accompanied by personnel of the Auxiliary Police (PA) from the Mexico City Ministry of Citizen Security (SSC-CDMX).

Conformation of the work plan and team

The team included seven members who carried out specific tasks for the collection and analysis of information during the different stages. The profiles are varied due to the type of tasks performed and with the aim to have an interdisciplinary perspective:

- Head of the UNODC's Center of Excellence and the Program to Prevent and Counter Corruption
- Researcher in crime prevention
- Assistant in statistical analysis
- Assistant in institutional management
- Assistant in georeferencing
- Assistant in public policy analysis
- Assistant in information systematization

Activity planning began in December 2019.

Theoretical and conceptual approach

One of the priority activities before starting the field work was to establish the base variables to be used for the analysis of threats, vulnerabilities and capacities.

Assessment of data availability

From December 2019 to March 2021, the mapping of statistical, geographical and socio-demographic information was carried out. Official statistical information was obtained mainly from the following sources:

- Executive Secretariat of the National Public Security System.
- Mexico City General Prosecutor's Office.
- National Survey on Urban Public Security (ENSU), INEGI.
- National Survey on Victimization and Perception of Public Security (ENVIPE), INEGI.

The information on the programs, the calls for proposals for each program and the website of the Mayor's Office of Iztapalapa were reviewed. All the information was collected and recorded for later use in the drafting of the final report.

Additionally, after listing the information that was not freely available, several requests for information were made through the Transparency and Access to Public Information portals.

Stakeholder mapping

A database was developed with the name and contact information of key actors, members from civil society organizations, local leaders, representatives from the academic sector, businesspeople, as well as personnel from governmental institutions and non-governmental organizations that volunteered time to take part in the exercise.

Stage 2 - Data Collection and Analysis

Data collection methods

Quantitative and qualitative methodologies were used for data collection. To implement a participatory diagnosis, focus groups and technical meetings were conducted. Guides were designed for the application of interviews and exploration walks. Additionally, a local survey on illegal governance was designed and applied to police officers.

Data collection and analysis process

Phase 1: The collection of information involved an institutional management phase from January to March 2020. This consisted of contacting each of the key actors, the authorities of the neighborhoods or institutions to agree on the entrance to closed spaces[227] and organize the call to gather groups with a maximum of 30, minimum 5, people who live, work, study or have any intervention in the neighborhood of interest. Also, the supplies to be used during all activities (stationery, refreshments and transportation for the CoE-UNODC team) were arranged.

Phase 2: Once the activities were organized, the implementation of the data collection methods began:

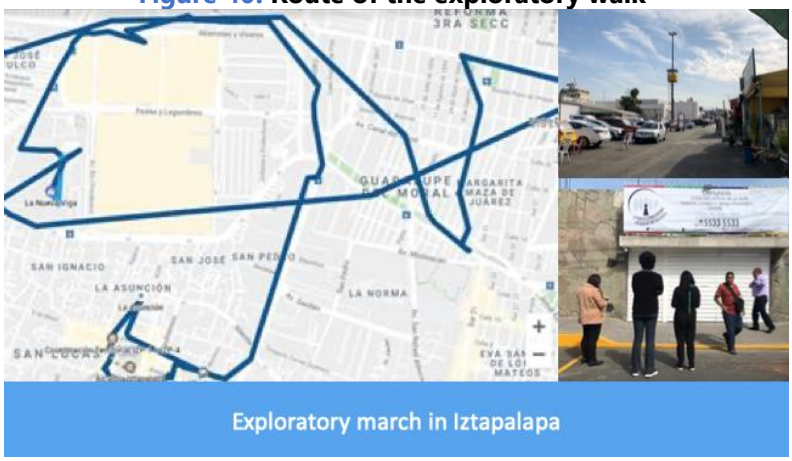
[227] Neutral spaces, without affiliation to any political party in order to preserve anonymity and for people to feel free to express themselves. Some examples of enclosed spaces used were sports facilities, cultural centers, classrooms, work facilities, auditoriums.

- Exploratory walks
- Focus groups
- Technical working groups
- Illegal Governance Survey
- Interviews

Exploratory walks

On January 7, an exploratory walk was held in the company of authorities of the Mayor´s Office of Iztapalapa. The objective was to identify the neighborhoods, organizations and key places of the Mayoralty's territory in order to have a first approach of its urban conditions.

Figure 40. Route of the exploratory walk



Source: Own elaboration with data collected during field work, 2020.

Focus groups

From January to March 2020, participatory social mapping was carried out in focus groups and technical working groups. The application of this qualitative technique focused on identifying the capacities, vulnerabilities and threats of the neighborhood to which the participants belonged (community leaders, citizens in general, children, representatives of civil society, academia or institutional sectors). High resolution maps of the neighborhoods were used as inputs, with symbology presenting the variables divided into the three categories of interest (capacities, vulnerabilities and threats).

Activities conducted by the team members were distributed as follows:

- Two facilitators who asked questions and pointed out on the map the variables mentioned by the participants.
- A person in charge of registering all the mentioned testimonies.
- One person in charge of logistics.

In some neighborhoods two or three information surveys were carried out as a form of validation and to corroborate the testimonies obtained at different times.

Table 1. Information collected by neighborhood.

Number of neighborhoods from which data was collected according to its number of crime reports	Neighborhoods with 1 information gathering	Neighborhoods with 2 information gatherings	Neighborhoods with 3 information gatherings	Total neighborhoods
25 high level 13 medium level 6 low	**35**	**6**	**3**	**44**

Source: Own elaboration.

Figure 41. Conduction of focus groups



Source: Own elaboration with data collected during field work, 2020.

Technical working groups

Eight technical meetings were applied in person with the following actors:

- Special Crime Prevention Unit
- Auxiliary Combat Police
- National Electoral Institute personnel
- Auxiliary Police and Special Crime Prevention Unit police officers
- Entrepreneurs and businesspeople
- Auxiliary Police from the Mexico City Ministry of Public Security, sectors: Oasis, Tezonco and Santa Cruz Meyehualco.

Figure 42. Conduction of technical working groups



Source: Own elaboration with data collected during field work, 2020.

Local Survey on Illegal Governance

The surveys applied were a quantitative instrument based on the proposal of Campana and Varese[228], which consists of the creation of an Illegal Governance Index (i-Gov) based on the implementation of a survey applied to police officers in the United Kingdom.

In the case of the *Urban Safety Governance Assessment* in Iztapalapa, the survey was reused and adjusted to the context of the borough. The target population was the Auxiliary Police (PA) and the SSC-CDMX Police. It was implemented individually, confidentially and optionally, that is, at the end of the activity the participants of each focus group or technical working group could choose whether they wanted to answer it or not.

The survey had 11 questions with optional answers scaled from 0 to 4, organized in three sections:

A. **Organized criminal groups**: The questions in this section were aimed at identifying those criminal groups of which the police were aware of based on their work. The degree of fear, coercion, influence, control, involvement, neighborhoods with greater presence, and illegal markets were considered.
B. **Community role:** The questions were oriented to identify the community's interaction with criminal groups.
C. **Role of the police corporation:** In this section the questions were oriented to identify the acts of corruption within the corporation, as well as the respect they have to the code of ethics.

[228] Campana, P., y Varese, F. (2018). *Organized Crime in the United Kingdom: Illegal Governance of Markets and Communities.* British Journal of Criminology, 58 (6), 1381-1400. Available at: https://doi.org/10.1093/bjc/azx078

The survey was applied in person (43) and online (1,261)[229], resulting in the participation of 1,304 police officers from different sectors and territorial areas of Iztapalapa, both from the Mexico City Ministry of Security and from auxiliary police officers hired by the Mayor's Office of Iztapalapa.

Interviews

Twenty-seven interviews were conducted between February and September 2020, 3 interviews were carried out face-to-face and 24 were conducted online due to the COVID-19 lockdown. All interviews were applied to key actors from different sectors, including personnel from the Mayor's Office of Iztapalapa, officials of the Ministry of Citizen Security and representatives of civil society. The distribution was as follows:

- 17 public officials from the Mayor's Office of Iztapalapa
- 4 officials of the Mexico City Ministry of Citizen Security
- 2 from the business sector
- 3 from civil society
- 1 social stakeholder linked to the topic.

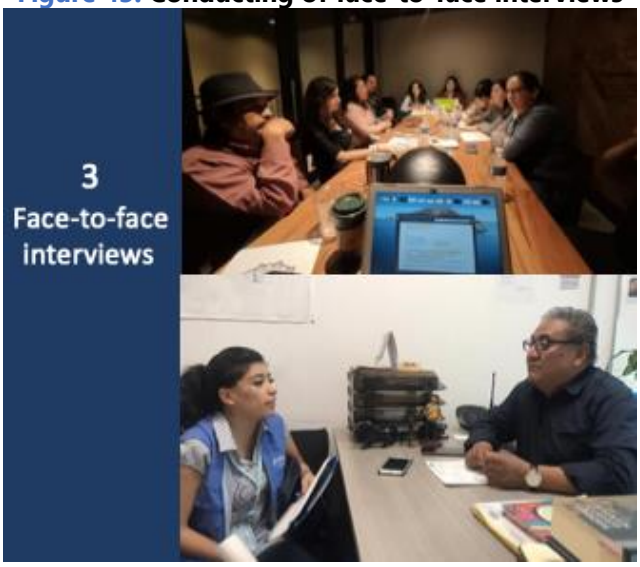
For their application, a semi-structured guide was designed with a series of topics of interest to identify current conditions, implemented actions and areas of opportunity of the Mayor's Office.

The structure of the guide was as follows:

- General data about the interviewee
- General information about the position
- Description of functions (services, programs, coverage and associations)
- Monitoring and evaluation (reports and results)
- Institutional coordination and linkage
- Human Resources
- Material resources and infrastructure
- Economic resources
- Regulations
- Main strengths of the General Office
- Main challenges of the General Office
- Main recommendations to strengthen the General Office
- Responses to COVID-19

[229] For the analysis only, the surveys applied remotely were considered, because the face-to-face ones were a pilot that enabled the improvement of the structure and questions for the analysis.

Figure 43. Conducting of face-to-face interviews



Source: Own elaboration with data collected during field work, 2020.

Phase 3: The systematization of the collected data, from the aforementioned 3 methods, was carried out at the same time the interviews were conducted. Regarding the social mapping and testimonies obtained from each focal group, they were recorded in writing and compiled in a database containing all the variables according to the three categories previously defined. As for the surveys, once the information was collected, it was compiled into a database to start counting the responses. Comments made during the interviews were recorded in the previously established guide, taking note of everything mentioned by the interviewees.

Difficulties in data collection

Field work began in January and activities had to be suspended in March 2020 due to the COVID-19 lockdown. Alternatives were sought out to complement the missing information. For this purpose, during lockdown, activities that had been planned to be carried out in person were carried out remotely, which did not affect the quality of the information collected.

As for the interviews, the missing ones were rescheduled during the months of April, May, June and July. They were applied remotely through a video call via Teams or WhatsApp. The procedure consisted of scheduling the interview days before and calling the interviewee on the selected day and time, when starting the interview the established guide was considered, notes were taken and the information was compiled to have a record and later use it for the analysis.

Figure 44. Conducting of the online interviews



Source: Own elaboration with data collected during field work, 2020.

The application of the survey on illegal governance was also suspended, so it was applied remotely. In the same way, the anonymity of the participants was respected and at the end, a total of 1,261 surveys were answered.

Quality control

Social participatory assessments

The information collected regarding capacities and some vulnerabilities during field work in the focus groups and technical working groups was validated using Google Maps. Based on the search of each neighborhood and using Street View, the variables mentioned were corroborated and those that were not pointed out were identified.

The photographic record of the activities served as evidence, but also as a form of validation of the number of participants. To ensure a greater quality control of the information in some neighborhoods, more than one information survey was carried out to verify the veracity and objectivity of the information. In addition, internal reviews of the final report were implemented.

Figure 45. Validation of data collection in the neighborhoods



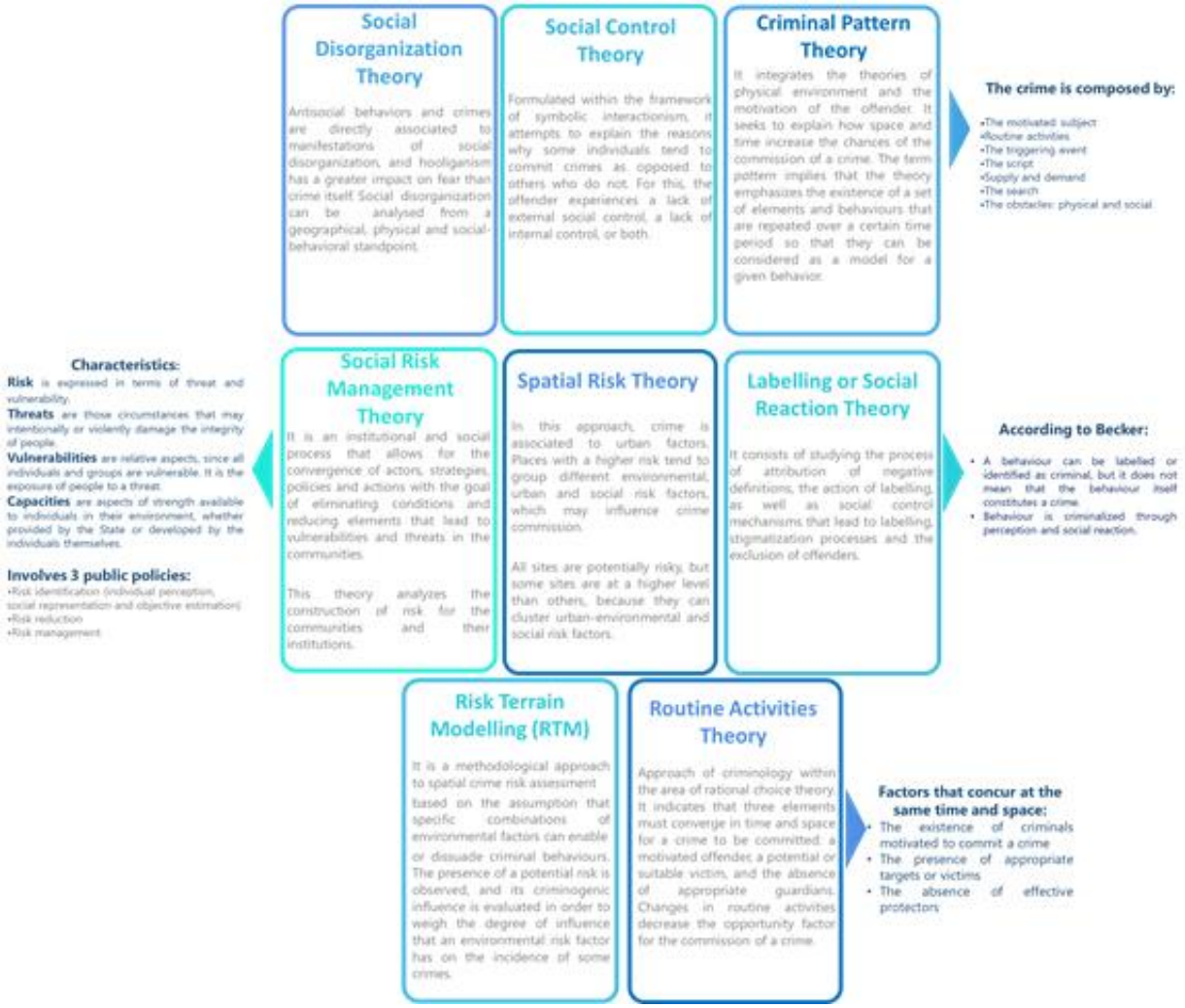
Source: Own elaboration with data collected from Google maps, 2020.

Stage 3 - Presentation and validation of results
This stage is in the process of being drafted and revised.

Stage 4 - Strategies and policies
This stage will be implemented once the final report is presented and agreements are again established with stakeholders to begin the design of strategies and public policies, as well as the execution, monitoring and evaluation of these actions.

Theoretical approach
For the *Urban Safety Governance Assessment in Iztapalapa,* the following criminological theories were considered for the analysis.

Figure 46. Criminological theories



Source: Own elaboration based on criminological theories

Indicators annex

The following indicators were used for the analysis and monitoring of the USGA in Iztapalapa and are mostly available for consultation at the national, state and borough or municipality levels.

Table 2. SDG 3-based indicators for Iztapalapa

SDG 3: Ensuring healthy lives and promoting well-being for all at all ages		
2030 Agenda indicators	**Indicators for the USGA analysis**	**Source and available years**
3.5.1 Coverage of treatment (pharmacological and psychosocial, rehabilitation and aftercare services) for substance use disorders **3.5.2** Harmful alcohol consumption defined according to the national context as the per capita alcohol consumption (from the age of 15) during a calendar year in liters of pure alcohol.	**1.** Average age of first drug use	• Institute for the Care and Prevention of Addictions, 2011
	2. Percentage of witnessed alcohol consumption	• INEGI, 2019-2020
	3. Percentage of witnessed drug use	• INEGI, 2019-2020
	4. Percentage of deaths related to the consumption of drugs	• Mexico City Ministry of Health, 2016
	5. Average age of patients admitted to the Iztapalapa Youth Integration Centers	• Youth Integration Centers, 2018
	6. Number of admissions to the Iztapalapa Youth Integration Centers	• Youth Integration Centers, 2018

Source: Own elaboration.

Table 3. SDG 5-based indicators for Iztapalapa

SDG 5: Achieve gender equality and empower all women and girls		
2030 Agenda indicators	**Indicators for the USGA analysis**	**Source and available years**
5.2.1 Proportion of women and girls aged 15 and over who have suffered physical, sexual or psychological violence at the hands of their current or former partner in the last 12 months, disaggregated by form of violence and age **5.2.2** Proportion of women and girls aged 15 and above who have experienced sexual violence by non-partners in the past 12 months, disaggregated by age and location **5.3.1** Proportion of women aged 20-24 who were married or in a stable union before their 15th birthday and before their 18th birthday	**1.** Number of domestic violence crime reports	• SESNSP, 2015-2020 • Mexico City General Prosecutor's Office, 2015-2020
	2. Number of domestic violence crime reports during the COVID-19 lockdown	• SESNSP, 2015-2020 • Mexico City General Prosecutor's Office, 2015-2020
	3. Number of emergency calls received for domestic violence	• Mexico City Emergency Attention Center (Locatel), 2020
	4. Number of rape crime reports	• SESNSP, 2015-2020 • Mexico City General Prosecutor's Office, 2015-2020
	5. Number of sexual harassment crime reports	• SESNSP, 2015-2020 • Mexico City General Prosecutor's Office, 2015-2020
	6. Number of sexual assault crime reports	• SESNSP, 2015-2020 • Mexico City General Prosecutor's Office, 2015-2020
	7. Number of femicide crime reports	• SESNSP, 2015-2020 • Mexico City General Prosecutor's Office, 2015-2020
	8. Number of violence against women crime reports	• SESNSP, 2015-2020 • Mexico City General Prosecutor's Office, 2015-2020

SDG 5: Achieve gender equality and empower all women and girls		
2030 Agenda indicators	**Indicators for the USGA analysis**	**Source and available years**
	9. Number of violence against women crime reports during the COVID-19 lockdown	• SESNSP, 2015-2020 • Mexico City General Prosecutor's Office, 2015-2020

Source: Own elaboration.

Table 4. SDG 11-based indicators for Iztapalapa

SDG 11: Making cities and human settlements inclusive, safe, resilient and sustainable		
2030 Agenda indicators	**Indicators for the USGA analysis**	**Source and Available years**
11.1.1 Proportion of urban population living in slums, informal settlements or housing	**1.** Number of irregular human settlements and multi-dwelling units	• Public Administration of the Federal District, 2008 • Mexico City Ministry of Urban Development and Housing of Mexico City, 2008
11.6.1 Proportion of borough/municipal solid waste collected periodically and with adequate final disposal in relation to the total borough/municipal solid waste generated, broken down by city	**2.** Percentage of neighborhoods with drinking water service	• Mayor's Office of Iztapalapa, 2018
	3. Number of illegal garbage dumps	• USGA field work in the Iztapalapa borough, 2019 and 2020
	4. Number of Rainwater Harvesting Systems installed per neighborhood	• Ministry of Integral Risk Management and Civil Protection, 2019 • Ministry of Environment, 2020
11.7.2 Proportion of persons who have been victims of physical or sexual harassment in the last 12 months, disaggregated by sex, age, degree of disability and location.	**5.** Number of safe corridors per neighborhood	• SESNSP, 2016-2020

Source: Own elaboration.

Table 5. SDG 16-based indicators for Iztapalapa

SDG 16: Promote peaceful and inclusive societies for sustainable development		
2030 Agenda indicators	**Indicators for the USGA analysis**	**Source and available years**
16.1.1 Number of victims of intentional homicides per 100,000 population, disaggregated by sex and age.	**1.** Percentage of people who perceive insecurity in public and private spaces	• INEGI, 2015-2020
16.1.3 Proportion of the population that has suffered physical, psychological or sexual violence in the last 12 months.	**2.** Percentage of the population changing their routine due to insecurity	• INEGI, 2015-2020
	3. Percentage of the population stating the main problems found in Iztapalapa	• INEGI, 2015-2020
16.1.4 Proportion of the population who feel safe walking alone in their area of residence	**4.** Percentage of the population that witnessed antisocial behavior	• INEGI, 2015-2020
	5. Percentage of the population that witnessed crimes	• INEGI, 2015-2020
16.2.3 Proportion of young women and men aged 18-29 who experienced sexual violence before the age of 18	**6.** Number of crimes committed with firearms	• SESNSP, 2015-2020 • Mexico City General Prosecutor's Office, 2015-2020
16.3.1 Proportion of victims of violence in the last 12 months who have reported their victimization to the competent authorities or other officially recognized conflict resolution mechanisms	**7.** Number of drug dealing crime reports	• SESNSP, 2015-2020 • Mexico City General Prosecutor's Office, 2015-2020
	8. Number of robberies to the person in a public location crime report	• SESNSP, 2015-2020 • Mexico City General Prosecutor's Office, 2015-2020
16.4.2 Provision of seized, found or surrendered weapons whose illicit origin or context has been	**9.** Number of robberies in public transport crime reports	• SESNSP, 2015-2020 • Mexico City General Prosecutor's Office, 2015-2020
	10. Number of robbery/thefts of vehicle crime reports	• SESNSP, 2015-2020 • Mexico City General Prosecutor's Office, 2015-2020

SDG 16: Promote peaceful and inclusive societies for sustainable development		
2030 Agenda indicators	**Indicators for the USGA analysis**	**Source and available years**
determined or established by a competent authority, in accordance with international instruments. **16.6.1** Government primary expenditure in proportion to the originally approved budget, broken down by sector (or by budget codes or similar elements). **16.10.2** Number of countries adopting and implementing constitutional, legal or regulatory guarantees for public access to information.	**11.** Number of burglary of business crime reports.	• SESNSP, 2015-2020 • Mexico City General Prosecutor's Office, 2015-2020
	12. Number of crimes reported near markets or shops.	• SESNSP, 2015-2020 • Mexico City General Prosecutor's Office, 2015-2020
	13. Number of firearms and ammunition collected from the population.	• Ministry of the Interior, 2019
	14. Number crime reports for threats and extortion.	• SESNSP, 2015-2020 • Mexico City General Prosecutor's Office, 2015-2020
	15. Percentage of police staff declaring fear, cohesion and involvement of criminal groups among the police force.	• Illegal Governance Survey to police officers, 2020
	16. Percentage of police staff declaring the influence of criminal acts on the police force.	• Illegal Governance Survey to police officers, 2020
	17. Total police officers.	• Mayor's Office of Iztapalapa, 2019
	18. Number of persons deprived of their liberty in prisons.	• Office of the Deputy Minister of the Mexico City Penitentiary System, 2020
	19. Total police interventions.	• Mexico City Ministry of Public Security, 2019
	20. Total referrals to the Public Prosecutor's Office and Civic Judge.	• Mayor's Office of Iztapalapa, 2016-2019

Source: Own elaboration.

Good practices in crime prevention programs at the global level annex

Globally, different crime prevention and security programs have been adopted showing effectiveness and possible replicability. In Mexico City and in the Iztapalapa borough, some programs that are currently executed share similarities with others implemented in countries like Colombia, Argentina, Brazil, Canada and other locations in Mexico. Programs with sports and art components, as well as with urban transformation, have proven effective when promoting social cohesion.

Six good practices are presented in the following paragraphs, which have shown successful results in terms of crime prevention and security.

- UVA Medellin
- Barrio Adentro Program
- Government of the State of Minas de Gerais
- National Police of Colombia
- Justice Department of Nova Scotia
- The Advisory Center and Youth Promotion A.C.

Table 6. Global good practices in crime prevention

Units for Articulated Life (UVA, as abbreviated in Spanish) The program consists in the edification of 20 urban spaces in different neighborhoods in Medellin, Colombia. The objective of this program was to get the community close to different activities and services such as water, electricity, as well as cultural and leisure activities. These actions intended to boost the sense of belonging from the communities to the environment in which these urban spaces were located.	
Program Barrio Adentro, Altos de San Lorenzo This is a crime prevention program that targeted children and youth that come from vulnerable backgrounds, social exclusion and previous conflict with the law. The program provides individual sessions, as well as family and group workshops with the purpose of achieving social inclusion.	
Fica Vivo The project aims to prevent and reduce homicide in the Mines of Gerais, Belo Horizonte. The strategies adopted by the program focus on cultural and artistic workshops as well as sports. It also involves police intervention in conflict areas within the community.	

National Plan of Surveillance per quadrant The National Plan of Surveillance per quadrant in Cali, Colombia, focuses on violence and crime issues identified at the local level. The plan includes the construction of additional police stations, have small police walking groups and greater contact with the inhabitants from the community.	
Operation Ceasefire HRM[230] The program seeks to prevent youth, in the Halifax borough in Canada, from getting involved in gangs and violent crimes. The program has an extensive collaboration network: civil society organizations, members from the community, police services, schools, local business and other communitarian organizations. Workshops and capacity building sessions are conducted and promoted frequently.	
Transition from elementary school to high school The program is implemented in Ciudad Juarez, Chihuahua and consists of the provision of support to students from elementary schools who are at risk of dropping out of elementary or middle school or deciding against enrolment in high school level. As part of the program, summer courses are offered to students and their families to help them overcome their academic limitations.	

Source: Own elaboration with information from each program referred.

[230] Ceasefire program in the Halifax Regional Municipality (HRM).

Directory of services and procedures of the Mayor's Office of Iztapalapa

Official website of the Mayor's Office of Iztapalapa: http://www.iztapalapa.cdmx.gob.mx

Contact phone numbers for citizen service:

- Mayor's Office of Iztapalapa: 5804 4140
- Procedures: 5685 7040, 5445 1010
- Services: 58041172, 5685 2412

Iztapalapa's Attentive Government System (SIGA):

- Central Citizen Service Unit (UNAC), Monday to Saturday, from 9:00 to 18:00 hours.
- Call Center Iztapalapatel, all 365 days of the year, from 9:00 to 20:00 hours: 55 6651 6651
- Mobile app IztapalAPP
- WhatsApp line Whatztappalapa: 5566516651

Social media accounts:

- Facebook: @AlcIztapalapa
- Twitter: @Alc_Iztapalapa and @ClaraBrugadaM

Directory of civil society organizations in Iztapalapa

The official website of the Local Safety Audits (LSA) [231] hosts a section for the Urban Safety Governance Assessment initiative in Mexico. Among the subsections, a directory of Civil Society Organizations is available for general public consultation. Apart from its contact details, there is a space to register new organizations.

Figure 47. Directory of Civil Society Organizations



Nombre	Dirección	Teléfono	E-mail	Categoría
16 Redes de Promotores de Derechos Humanos	Avenida Tláhuac 1577 Condominio 7 Casa 52 La Esperanza Iztapalapa Ciudad de México	(55) 58599961	16redes@gmail.com angyprax@hotmail.com	Derechos humanos
Abrazo Mixteco	Laringologos 20 El Triunfo Iztapalapa Ciudad de México	(044) 5565766699	abrazomixtecoac@gmail.com abrazomixteco@hotmail.com	Indígenas
Abuelos Trabajando con Arte Fundación Internacional	Uno del Ángel Rico LT62 MZ 11 62 MZ 11 Vicente Guerrero Iztapalapa Ciudad de México	(55) 19990631	abuelostrabajandoconarte@gmail.com	Atención a adultos mayores

Source: Official website of the Local Safety Audits (LSA). Screenshot of the directory of Civil Society Organizations section, 2020.

[231] UNODC-CoE (2021). Official website of the Local Safety Audits (LSA). Available at: https://auditoriadeseguridad-cdeunodc.org/auditoria/evaluacion-de-la-gobernanza-de-la-seguridad-urbana-iztapalapa/

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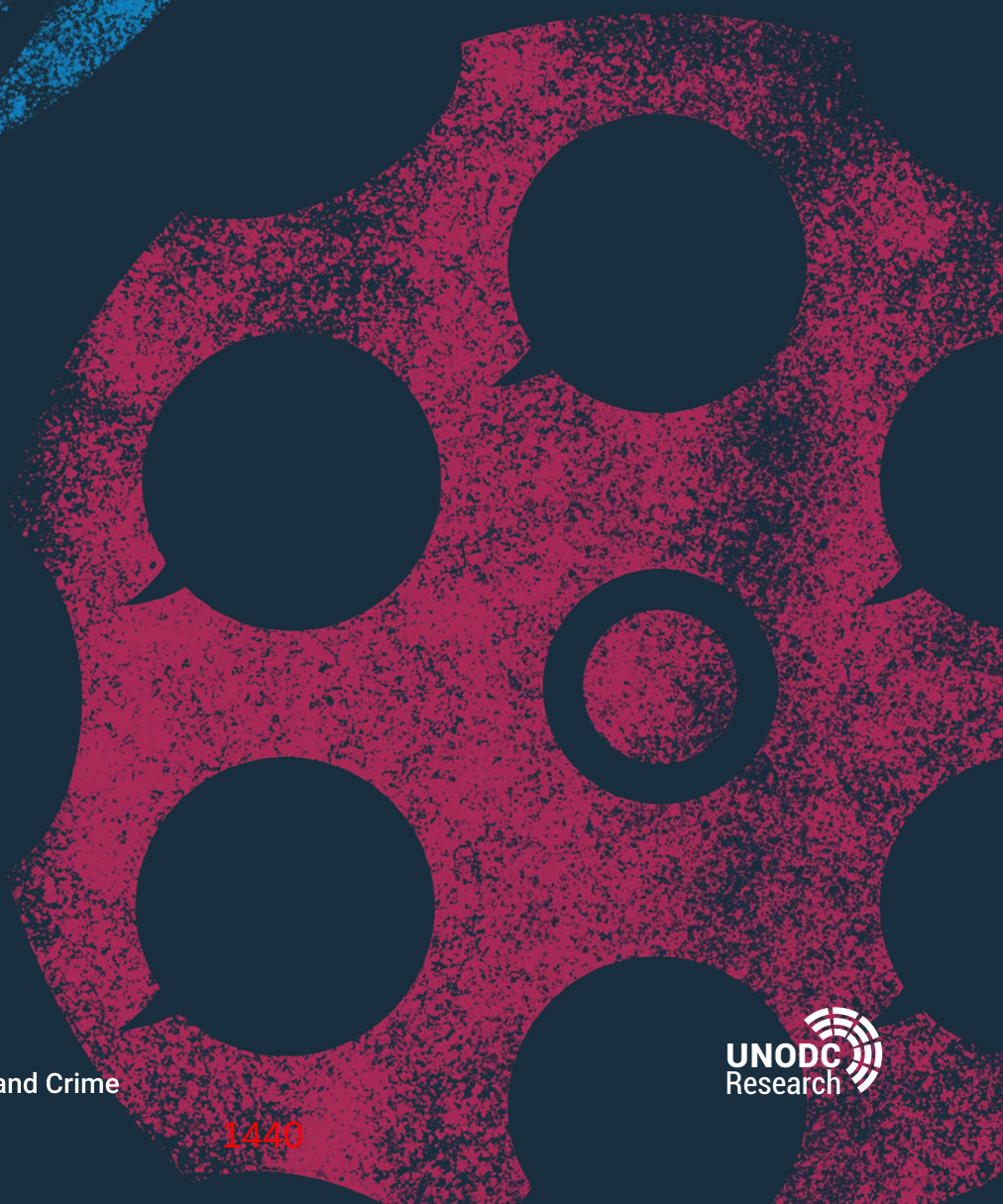
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1440

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Review and comments

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1443

Table of Contents

Executive Summary **6**

Introduction **8**

The UN Convention against Transnational Organized Crime **9**

The manifestations and impacts of organized crime today **11**

The challenge of labelling organized crime 12

Characterizing organized crime 13

The global harm of organized crime is high, but much of it is hidden and not directly measurable 15

Criminal governance – how organized crime captures communities and institutions **19**

Capturing institutions and communities 20

No country is immune to the threat of criminal governance 20

Criminal governance by coercion and violence 21

Criminal governance by consent and provision of financial resources and services 23

Criminal governance as a springboard for other illicit trade and profit seeking activities 24

Illicit markets and their profits – the lifeblood of organized crime **29**

Organized crime and global drug trafficking 31

Operation *Los Blancos* - A transnational response to a transnational drug trafficking organization 34

Illicit firearms trafficking 35

Trafficking in natural resources and crimes that affect the environment 35

Smuggling of Migrants 36

Trafficking in persons 37

Technology – how organized crime exploits global connectivity **39**

Technology amplifies opportunities for organized crime 40

Technology has changed the notion of the geography of crime 41

Large-scale cybercrime operations often concentrate in physical scam centres 42

Casinos and online gambling have multiplied the opportunities for illicit gambling and facilitated new forms of money-laundering 44

Strategic priorities for action against organized crime **46**

Endnotes **49**

Executive Summary

Organized crime is as deadly as armed conflicts

Since the adoption of the UN Convention against Transnational Organized Crime in 2000, **organized crime has been responsible for approximately 95,000 homicides every year**. This is roughly the same as the annual number of deaths caused by armed conflicts worldwide over the same period. However, unlike armed conflicts that can draw significant international attention, much of the human suffering caused by organized crime remains hidden and not fully understood.

While violence targeting the community, rival groups or the State is perhaps the most visible manifestation of organized crime, the absence of violence does not necessarily indicate the absence of organized crime. Dominant organized criminal groups may actively suppress violence in the areas they control by solving disputes and enforcing alternative rules to those of the State.

Competition between rival organized criminal groups can have considerable repercussions. For example, higher levels of lethal violence in Latin America can be partly attributed to competition between organized criminal groups over cocaine markets.

Organized crime is a multi-billion dollar industry

Organized crime groups engage in highly profitable activities, providing groups with significant financial leverage. The global illicit drug trade is likely to generate hundreds of billions of dollars for organized criminal groups each year. In the period 2019–2022, UNODC estimates that between US$3.4 and US$6.9 billion in illicit financial flows related to opiate and methamphetamine trafficking have crossed borders every year along the Balkan route, amounting to a sizeable share of the gross domestic product of some countries along the route such as Afghanistan (US$17.2 billion in 2023) and North Macedonia (US$16.7 billion in 2024). While drug trafficking remains the financial backbone of most transnational organized criminal groups, they are involved in a wide range of other forms of trafficking, from trafficking in persons to firearms, from wildlife to waste, and from fuel to counterfeited products. Cybercrime has also become an important source of income; financial losses from online scams targeting victims in East and Southeast Asia alone were estimated to range from US$18 billion to US$37 billion in 2023.

Organized crime contaminates licit economy, including legal businesses, financial sectors and livelihood

The actors involved in illicit markets associated with natural resources are highly diverse, with **organized criminal groups hiding behind legal businesses and professional service providers, blurring the line between legal and illegal markets**. Crimes that affect the environment typically involve a wide array of actors. In forest crime and mineral crimes, for instance, they range from organized criminal groups to legitimate companies and individuals. Businesses operating legally in these sectors may shift into illegal practices, engaging in bribery, collusion with officials, or violating permit conditions to maximize profits. Members of local populations – including unemployed youth, marginalized groups, Indigenous Peoples and migrant workers – may participate in illegal logging, whether to sustain livelihoods or under coercion. In trafficking in persons, the available evidence indicates that different actors operating under legal façades get involved in the exploitation of victims in forced labour, for instance in the form of licenced recruitment agencies, in the fishing industry, and agriculture and construction sectors among others. These networks are fluid, with illicit actors and lawful corporations often connected through supply chains. The result is a complex web of actors, motivations and relationships that blurs the line between legal and illegal activity.

Criminal organizations converge into the same areas for different markets

Organized crime actors often converge in geographical hotspots to exploit different criminal and criminal financial opportunities. This convergence of organized crime is evident in some parts of Latin America, where drug trafficking proceeds are used by organized criminal groups to further exploit the territories under their control through land speculation, illegal logging, illicit mining and wildlife crime. Trafficking in

1445

persons for forced labour and for forced criminal activities has also been documented in these contexts. Similarly, in some parts of Africa, armed groups recruit children to extract gold and cooperate with organized criminal groups to smuggle these minerals across national borders into international legal markets, while in the so-called "Golden Triangle" in Southeast Asia, organized criminal groups exploit weak jurisdictions to set up industrial-scale cyberfraud compounds, where victims of trafficking are coerced into carrying out online scams.

The organized crime use of cyberspace to target and profit from victims globally

The rapid development of new information and communication technologies (ICTs) has amplified opportunities for organized criminal groups worldwide. **New technologies have enabled criminal groups to more easily target victims globally and exploit the dependence of institutions, businesses, and individuals on ICTs**. While cybercriminals often operate as part of loosely organized networks that form and dissolve around specific projects, some cybercrime groups exhibit more hierarchical structures, carrying out industrial-scale online fraud and extortion operations. No country or community is immune to the threat posed by cybercrime, with increases in incidents reported in developing and developed countries alike. Technological developments have also facilitated the adoption of new money-laundering schemes. For example, virtual assets are used by criminals to launder funds from a wide range of predicate offences, including from fraud, ransomware attacks or drug trafficking.

Introduction

Marking the twenty-fifth anniversary of the adoption of the United Nations Convention against Transnational Organized Crime (UNTOC or "Palermo Convention"), this Research Brief analyses the features and dynamics of organized crime from a transnational perspective. It is based on UNODC studies and data that deal with organized crime at global, regional and national levels, or that examine organized crime through the lens of different illicit markets. UNODC sources were complemented by peer-reviewed academic studies, publicly available research reports and official information provided to UNODC by Member States.

The analysis is supplemented by 12 empirical case studies from different world regions. The case studies are presented in the Annex and illustrate the various trends, dynamics, and mechanisms shaping organized crime today. They are not meant to be comprehensive and should not be interpreted as representing the most harmful manifestations of transnational organized crime. Instead, they serve an illustrative purpose, highlighting issues of particular analytical and policy relevance. As with all desk-based research, the findings are shaped by the availability and quality of the available information. The Brief does not provide an exhaustive account of organized crime worldwide, but instead offers an analytically driven exploration of selected issues using a wide geographical perspective.

The Brief is structured around four chapters. The first chapter maps out the different manifestations of organized crime today and highlights its negative impacts on individuals and societies. The second chapter explores how organized criminal groups[1] (OCGs) establish and maintain criminal governance, enforcing alternative rules to those of the State in the territories under their control. The third chapter analyses how organized crime leverages modern technology to expand its criminal activities, while chapter four explores the different illicit markets in which OCGs are active, from drug trafficking to trafficking in persons and from crimes that affect the environment to firearms trafficking.

To conclude, the Brief presents key policy considerations for Member States, which emerge from 25 years of UNTOC implementation worldwide.

1447

The UN Convention against Transnational Organized Crime

The Convention against Transnational Organized Crime is one of the most widely ratified international treaties, with 194 Parties as of February 2025.[2] The Convention is further supplemented by three protocols, which target specific areas and manifestations of organized crime: trafficking in persons[3], smuggling of migrants[4] and the manufacturing of and trafficking in firearms.[5]

In line with Article 1, the Convention aims to promote international cooperation to more effectively prevent and counter transnational organized crime. To that end, it seeks to bridge differences across national legal systems, set standards for domestic normative responses and establish mechanisms for international cooperation.

Twenty-five years after the adoption of the Convention, tackling transnational organized crime remains a challenge that cannot be addressed by one State in isolation. OCGs continue to operate across national boundaries and take advantage of discrepancies in national legal systems, law enforcement structures and prosecution practices. Closing gaps in national legislation and enabling seamless international cooperation is at the core of effective responses to transnational organized crime.

In that respect, the Convention performs a dual function. First, it provides a subsidiary normative framework enabling cooperation where no bilateral or multilateral agreements exist. Second, it enables normative convergence by aligning national legal systems with international standards, thus promoting greater coherence in cross-border criminal justice efforts. The Convention regulates mutual legal assistance, extradition, and the transfer of criminal proceedings, as well as cooperation in the confiscation of proceeds of crime or property. These mechanisms allow authorities to gather evidence, access critical information, freeze and seize assets derived from criminal activity, and apprehend fugitives who might otherwise evade justice.

A key feature of the Convention is its open-ended definition of "serious crime" contained in Article 2. This prevents the Convention's obsolescence, enabling it to remain functionally adaptable in the face of new, emerging and evolving forms of crime, including, for example, the smuggling of commercial goods, trafficking in cultural property, and organized fraud (including cyber-enabled fraud) among others.

The UNTOC Review Mechanism, launched in 2020, reinforces this framework by providing for the systematic assessment of States Parties' implementation of the Convention and its three supplemental protocols. The process helps States Parties identify gaps, good implementing practices and technical assistance needs, thereby promoting the effective and coherent alignment of national frameworks with the international legal standards set forth by the four instruments.

The manifestations and impacts of **organized crime today**



1450

Key points

- Since the adoption of UNTOC in 2000, organized crime has been responsible for approximately 95,000 homicides every year, roughly as many as the annual number of deaths caused by armed conflicts worldwide.
- Globally, around one-fifth of intentional homicides are caused by organized criminal groups. In the Americas, organized crime-related homicides represent around half of all intentional homicides.
- Organized crime today has many different manifestations, often eluding traditional labels and blurring legal categories.
- While more hierarchical organized criminal groups frequently employ violence to establish territorial control, groups with more horizontal structures are less likely to resort to violence, focusing instead on the efficient, short-term exchange of illicit goods and services.
- The proceeds derived from illicit activities provide organized criminal groups with significant financial leverage. For example, the illicit drug trade alone generates hundreds of billions of dollars per year. These profits enter and destabilise the international financial system and enable transnational organised crime groups to expand.

The challenge of labelling organized crime

UNTOC provides a legal and authoritative definition of organized criminal groups as "a structured group of three or more persons, existing for a period of time and acting in concert with the aim of committing one or more serious crimes or offences [...] to obtain, directly or indirectly, a financial or other material benefit."[6] In practice, a wide range of actors may be engaged in illicit activities, including gangs, insurgents, militias, private security contractors, logistics companies, and even licenced businesses. In many instances, these actors can be found to cooperate along the same supply chains.[7] However, no matter which specific terminology is used to describe the different groups engaged in illicit activities, they all have in common the commission of crimes for the purpose of financial gain.

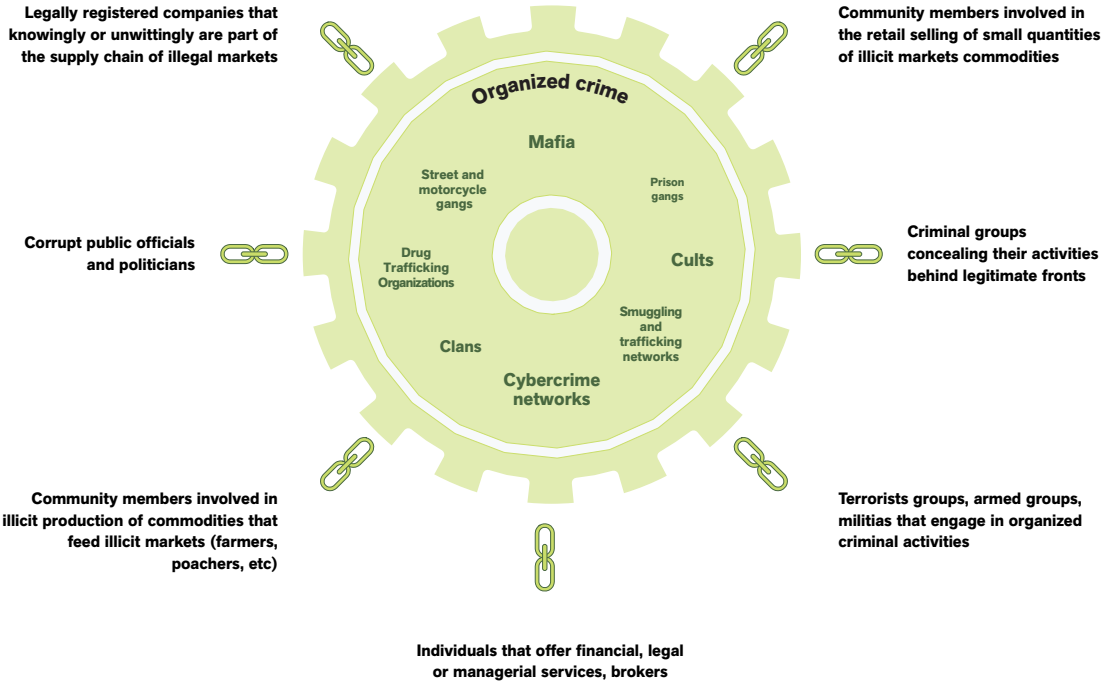
Using strict labels for organized crime can be challenging. Some groups labelled as rebels, insurgents, terrorists or armed groups in conflict settings have adopted organized criminal practices to fund their political agenda; in South America, for instance, the armed groups *Ejército Gaitanista* de Colombia and the *Ejército de Liberación Nacional* are involved in transnational organized crime, including cocaine production and trafficking.[8] In the Mekong region, ethnic armed groups and militias play a key role in protecting physical sites of transnational organized crime, including cyber-enabled fraud compounds ("scam farms")[9] and gambling operations. In some cases, armed groups have been reported to hold direct stakes in the online fraud and gambling industries.[10]

The diversity of actors and practices that are part of or linked to organized crime is particularly evident in relation to crimes that affect the environment. In forest and minerals crime, for instance, involved actors range from OCGs to legitimate companies and individuals. Businesses operating legally in these sectors may shift into illegal practices, engage in bribery or violate permit conditions to maximize their profits.[11] Members of local populations – including unemployed youth, marginalized groups, Indigenous Peoples and migrant workers – may participate in illegal logging and mining, whether to sustain their livelihoods or under coercion.[12] Criminals who engage in trafficking in persons may in turn disguise themselves behind the façade of a licenced recruitment agency,[13] while online gaming platforms in Southeast Asia may appear to be legal entities, even though they engage in industrial-scale money-laundering activities at the service of transnational OCGs.[14] The result is a complex web of actors, motivations and relationships that blurs the line between legal and illegal activities and makes it difficult to use traditional labels for organized criminal groups.

1451

The multitude of actors

involved or connected with organized crime



Characterizing organized crime[15]

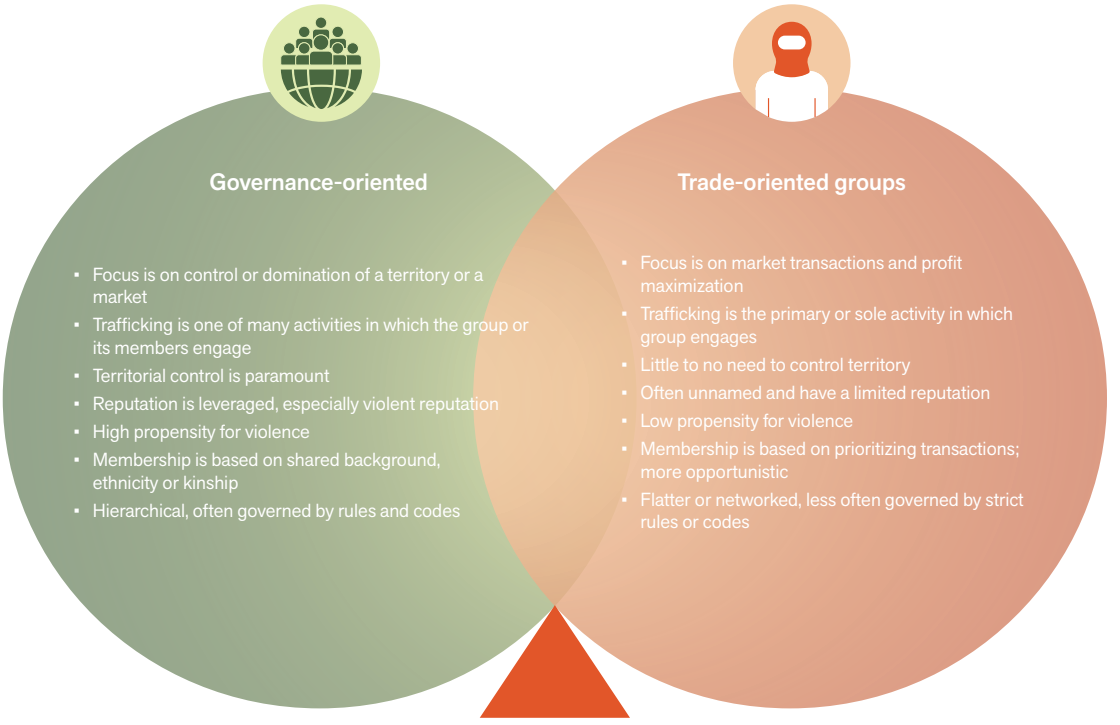
UNTOC provides a global legal reference point to define OCGs. It does not differentiate between different types of organized groups or the structure of the groups, as long as the group is engaged in profit-driven (serious) criminal activities involving three or more individuals and operating over a period of time.[16] By contrast, the academic literature discusses additional defining characteristics of OCGs, such as internal hierarchies, the use or threat of violence, the use of corruption, continuity beyond present membership, and group adherence to an internal code.[17] Much of the academic literature argues that violence is a constitutive factor of organized crime. However, some OCGs, including those that traffic drugs, may not necessarily need to employ or threaten violence.

In relation to drug trafficking groups, the academic literature has analysed how groups vary in their activities and structure, but it is challenging to identify clusters of groups with the same characteristics. Like any other social organization, OCGs find ways to adapt to the environment in which they operate. Each groups' characteristics are dynamic and can change across places and time – shaped by issues such as State capacity to enforce the rule of law and underlying political, cultural and social conditions. This makes every group unique. But within this diversity and fluidity, groups generally appear to be oriented either towards governance or towards trade.

For example, drug trafficking groups oriented towards trade are generally more agile and prioritize market transactions and profit maximization, whereas those oriented towards governance are found to be more hierarchical and seek to control territories or the legal and illegal markets and people within them.[18] A key dimension to consider in analysing an OCG is whether it engages in criminal governance as a distinct activity from illicit trade or purely in predatory activities.[19] Groups oriented towards criminal governance have been identified as engaging in a variety of activities, both legal and illegal, in order to dominate a market or a geographical area.[20] They may have fixed hierarchies and use internal codes of conduct to maintain order. They typically regulate criminal (and sometimes non-criminal) activities, employing violence or the threat of violence to establish and maintain control of their territory, keep members in line, settle disputes and protect the group's reputation.[21] Corruption may also be utilized, including grand corruption that compromises State institutions. Control is paramount to governance-oriented groups, especially control over physical territory and services. Control can also extend to extortion in the form of taxes levied on the activities, licit or otherwise, that are carried out in that territory or market.[22]

Organized criminal groups

can be characterized around a continuum of activities that are oriented towards governance or trade



Transnational organized crime

impact crime



Spread violence

- 95,000 homicides per year
- Spread fear among population
- Violence against state actors

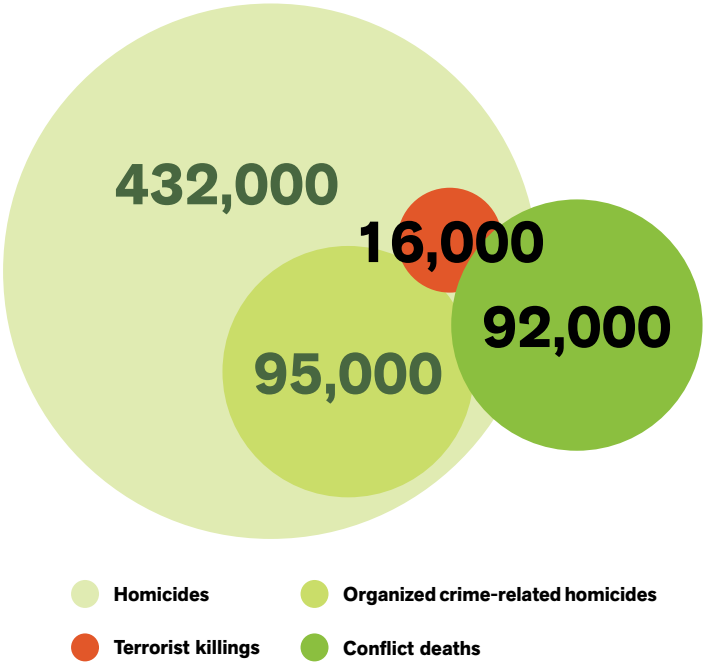
Multidimensional impact

- Harm to peace and security
- Harm to governance and role of law
- Harm to socio-economic development
- Harm to environment
- Harms to - financial stability and financial sector

1453

Average annual number of deaths

caused by homicide, organized crime-related homicide, terrorism and armed conflict, 2000–2023



Sources: Estimates are based on UNODC homicide statistics. Conflict death estimates are from the Uppsala Conflict Data Program/Peace Research Institute Oslo (UCDP/PRIO) Armed Conflict Dataset and include deaths from state-based violence, non-state violence, and one-sided violence. Terrorist killings estimates are from the Global Terrorism Database. Data on terrorist killings for the years 2021-2023 are not available.

Note: Death as a result of terrorist activities is counted as intentional homicide (ICCS). International datasets on conflict deaths and terrorism, on the one hand, and UNODC homicide statistics, on the other, have a certain degree of overlap. The same killing may meet the ICCS criteria, the criteria of the Uppsala Conflict Data Program (UCDP) database and those of the Global Terrorism Database.

By contrast, drug trafficking groups that are oriented towards illicit trade often have flatter structures than governance-oriented groups. This flatter structure facilitates the completion of transactions and enables flexibility in membership and roles.[23] The more fluid organizational structure reinforces their adaptability in different markets or regions.[24]

The global harm of organized crime is high, but much of it is hidden and not directly measurable

No country or region is unaffected by organized crime. OCGs operate in all environments, from local communities to entire sub-national regions, the high seas, and warzones. Across all these geographical areas, organized crime causes wide-ranging harm.

Violence is often the most visible manifestation of the harm generated by OCGs. Quantifying the global impact of violence caused by such groups remains challenging due to limited data. However, a rough estimate indicates that between 2000 – the year of the adoption of UNTOC – and 2023, organized criminal groups were responsible for approximately 95,000 homicides every year, roughly as many as the average annual number of deaths caused by armed conflicts (92,000).[25] Around one-fifth (22 per cent) of intentional homicides globally with information on their situational context are caused by organized criminal groups. In the Americas, organized crime-related homicides represent half (50 per cent) of all homicides with information on the situational context.[26]

Illicit activities are often carried out by individual criminals or opportunistic associations of criminals, but when OCGs engage in these activities, they tend to result in comparatively greater harm. For example, when OCGs engage in human trafficking, they tend to traffic more people than non-organized traffickers, for longer periods and in more violent ways.

Share of homicides by type

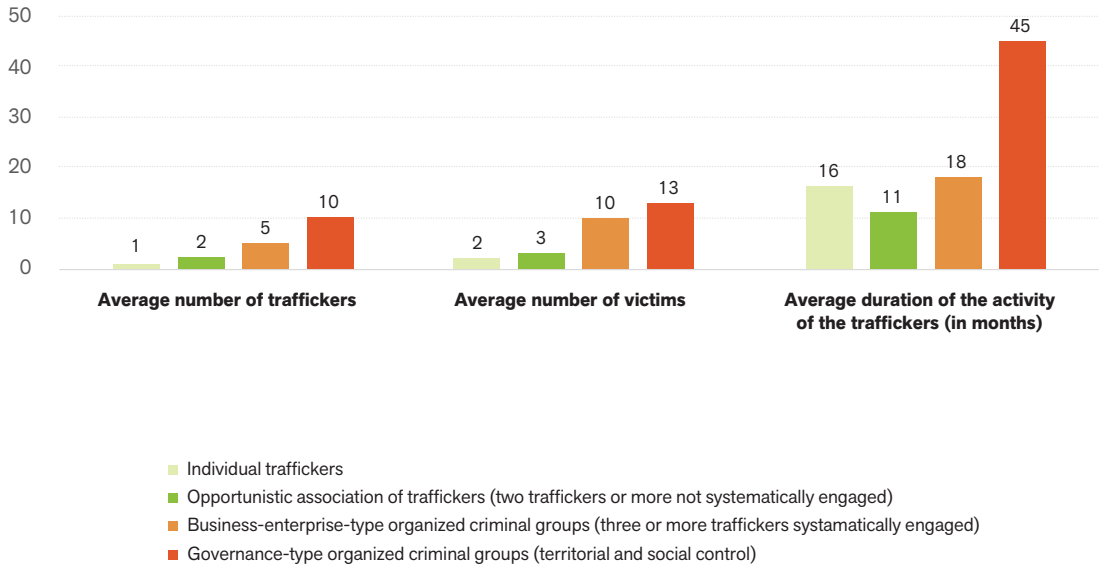
global and regional - 2021 (or latest year available)



Source: UNODC homicide statistics. Note: Data are from 108 countries that reported at least one data point on a homicide type. Missing values for homicide types are set to zero and the difference between reported total homicides and reported homicide types is assigned to the unknown homicide category. The lower bound share refers to the proportion of a reported homicide type over the total reported homicides. The best estimate share refers to the proportion of a reported homicide type over the sum of all reported homicide types (excluding the unknown homicides). The upper bound share refers to the proportion of the sum of a reported homicide type plus the unknown homicides over the total reported homicides. Unknown homicides are "re-assigned" at the regional level rather than the country level. Regional shares are computed by using the simple average shares of countries with data for countries without data. The global share refers to the average national shares weighted by the number of estimated homicides in each country for the year 2021. The total is not equal to 100 per cent due to rounding.

1455

FIG. 1 Average number of traffickers, average number of victims and average duration of traffickers' activity per single case, by type of criminal actor.



Source: UNODC GLOTIP collection of court case summaries.

Note: Based on information on 3,121 traffickers convicted in 942 court case summaries.

Violence is only one part of the harm generated by organized crime. For example, the impact of organized criminal activities on public health is widely documented.[27] Globally, the use of drugs supplied through illicit markets is estimated to lead to millions of premature deaths and healthy years of life lost due to disability every year.[28] In territories where journalists, community leaders, and human rights defenders are targeted or killed for exposing the activities of organized crime, civic spaces shrink and public trust is eroded by fear. Trafficking in cultural property destroys irreplaceable heritage while also funding terrorist operations.[29] Crucially, organized crime also undermines the effectiveness, independence and legitimacy of government institutions, disrupts legitimate trade and financial systems, and exacerbates poverty and inequality.[30] Organized criminal groups may interfere with democratic processes, including by intervening in local elections, capturing local governance institutions, and murdering and intimidating politicians or community members.

The global scale of organized criminal activity and its impacts on the economy are difficult to reliably estimate due to the lack of quality data and the hidden nature of such activities. While estimates of the illicit proceeds from drug trafficking vary, the illicit drug trade is likely to generate hundreds of billions of dollars each year worldwide.[31] Proceeds derived from illicit activities provide organized criminal groups with significant financial leverage over local State institutions, enabling them to infiltrate key government institutions (see *Chapter 2: Criminal governance – how organized crime captures communities and institutions*). Research on illicit economies has shown that they can distort the legal economy and undermine investment and sustainable growth. The International Monetary Fund (IMF), examining the economic correlates of crime and violence in Latin America and the Caribbean, estimates that a 10-percentage point increase in the share of "crime-related news" is associated with a 2.5% contraction in industrial production three quarters later.[32] The cost of crime in the same region has been estimated at some 3.4 per cent of the countries' GDP.[33]

OCGs can also undermine the equal distribution of public resources, compromising and diverting public funds[34] that could be invested in health, education, infrastructure, and other public services.[35] Illicit financial flows from organized crime activities drain resources needed for sustainable development, hindering domestic resource mobilization efforts. Furthermore, OCGs can penetrate the legal economy through illegal means, for example by exerting influence over public administrations to unlawfully obtain public contracts or subsidies. Together with extortion rackets, these practices distort market competition and can drive up the costs of basic goods and services (see *Chapter 2: Criminal governance – how organized crime captures communities and institutions*).

1456

Criminal governance

how organised crime captures communities and institutions



1458

Key points

- Criminal governance refers to the capacity of organized criminal groups to establish and enforce alternative rules to those of the State, often through coercion, corruption, selective service provision, and market manipulation.
- Control over financial assets/proceeds of crime enables TOC groups to establish territorial and governance control and community capture.
- Extortion of local businesses is frequently used as a source of revenue for organized criminal groups engaged in criminal governance.
- No country or community is immune to the threat of criminal governance, which can occur at different levels of sophistication and in diverse contexts, from neighbourhood-level control to the systemic infiltration of national institutions.
- The result of criminal governance is often the erosion of State legitimacy and efficiency, including its capacity to provide protection and security to citizens and businesses.
- Territorial control also allows groups to consolidate and expand illicit activities, facilitating for instance the spread of drug trafficking.

Capturing institutions and communities

Criminal governance is one of the key global threats emanating from organized criminal groups. Criminal governance refers to the capacity of such groups to establish and enforce alternative rules to those of the State, through means that include coercion, intimidation, corruption, selective service provision, and market manipulation.[36] Criminal governance is not a new phenomenon. It has been widely documented since at least the nineteenth century and in all world regions.[37] Yet, it remains a significant threat to countries and communities worldwide. The impact of criminal governance is often the erosion of State legitimacy and efficiency, including its capacity to provide protection and security to citizens and businesses. And it extends to the people living in the affected communities as shown for example by the use of sexual violence against women and girls in the territories under OCG control and instances of recruitment of children in organized criminal groups (see *Case study 1 - Gangs and governance in Haiti: A fragile State at the crossroads of illicit markets*).

No country is immune to the threat of criminal governance

Not all OCGs engage in criminal governance,[38] but those that do pose a significant threat to the rule of law, democratic institutions, and human rights. Criminal governance can occur at different levels and contexts, from neighbourhood-level control to the systemic infiltration of State institutions.

Haiti is a particularly telling example of how criminal gangs can severely compromise State authority. In 2024, Haitian criminal gangs were estimated to control about 85 per cent of the capital, Port-au-Prince, and significant areas beyond. By seizing ports, border crossings and other key access points to the country and key financial resources, they have been able to weaponize crucial supply chains and exert further pressure on Haiti's State institutions.[39] In parts of the world where the rule of law is stronger and countries have greater institutional and financial capacity, OCGs may operate in a much more constrained environment.

1459

Criminal governance

is secured in two ways

By cooperation

Organized crime controls communities by providing services





By coercion

Organized crime controls communities by using violence, threats and intimidation



Targets of organized crime violence

1



Against communities and civil society

2



Against other criminal groups

3



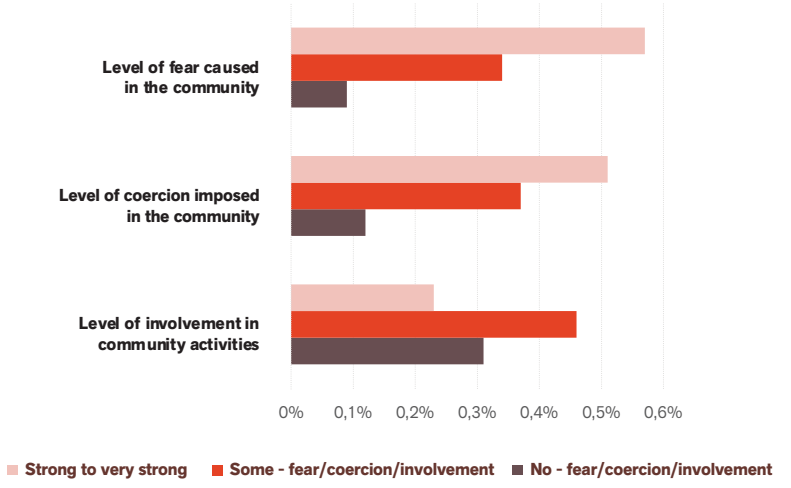
Against state actors and institutions

However, wherever they are active, governance-type OCGs typically seek to position themselves as an alternative source of authority over markets – both illegal and legal – as well as citizen's everyday lives.[40]

High income countries with comparatively strong institutions and entrenched rule of law are not immune to the threat posed by criminal governance, as criminal organizations try to infiltrate the texture of society wherever and whenever they find opportunities to do so. In Sweden, for example, research by the National Council for Crime Prevention (Brå) has shown that OCGs exercise territorial control and criminal governance in local communities. They divide up neighbourhoods to control drug markets, set rules, and claim a share of the profits from local sales.[41] The "physical, territorial control" of OCGs in certain Swedish communities, including through geographical surveillance control over drug markets, and the creation of an atmosphere of fear and insecurity, contributes to a culture of silence, where residents are unwilling to testify or cooperate with authorities.[42] These developments have given rise to what Brå refers to as "parallel structures", where criminal actors exert informal authority, influence local decision-making, and interfere with the provision of services and distribution of resources,[43] often through the systematic use of threats or violence.[44]

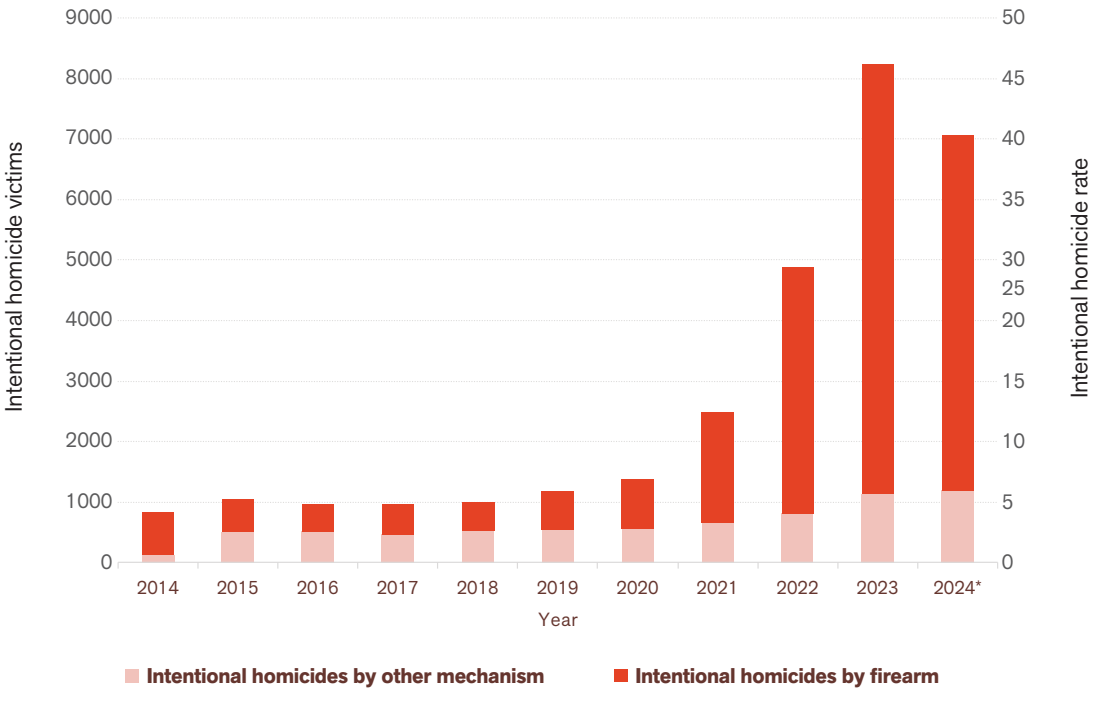
OCGs exercise criminal governance primarily through a mix of coercion – mainly fear – and consent – mainly through service provision.[45] Fear is established through the threat or use of violence, while consent is obtained by the provision of jobs, forms of livelihood, and basic services, such as the regulation of petty crime in the local neighbourhood. Nationally representative surveys conducted in 18 Central and Latin American countries in 2020 point to this double-sided reception of criminal governance by the affected communities. On average, one in three respondents reported the presence of organized criminal groups, gangs or armed groups in the area where they lived. When asked what role criminal groups played in their neighbourhood, 33 per cent reported that the groups use violence against people, 15 per cent reported that they control theft and improve security, and 12 per cent reported that they maintain order in the neighbourhood.[46]

FIG. 2 Police officers' witnessing of fear, coercion and involvement imposed by organized criminal groups in the community, Iztapalapa, Mexico City, 2020.



Source: 2020 Survey on Illegal Governance as cited in Report of the Urban Safety Governance Assessment in Iztapalapa, Center of Excellence in Statistical Information on Government, Crime, Victimization and Justice, UNODC, 2021, p. 119.

FIG. 3 Victims of intentional homicide in Ecuador, by mechanism of killing, 2014–2024.



Source: UNODC based on official data submitted by the Government of Ecuador. *Data for 2024 are from the Ministry of Interior (Policía Nacional del Ecuador)[47]. Population estimates used to compute homicide rates are from the UN World Population Prospects 2024.

1461

Criminal governance by coercion and violence

The use of violence is a key characteristic of OCGs and one of the main mechanisms through which they instil fear and control communities, extort businesses, protect and expand illicit markets against potential rivals, and threaten State actors to ensure impunity. In Latin America, certain countries have reached very high intentional homicide rates due to the violence perpetrated by OCGs.[48]

Violence against communities

To secure control and instil fear in communities, OCGs may target "exposed" citizens such as journalists and community activists. For example, in the period 2020–2022, about 200 journalists were killed globally, 20 per cent of whom were killed in connection to reporting on crime.[49] Local businesses are another segment of the community that is particularly exposed to violence by organized criminal groups.

In Haiti, homicides and kidnappings have increased dramatically as criminal gangs have strengthened their territorial control in recent years.[50] The systematic use of sexual violence against women and girls in areas under gang control and the recruitment of children as members of the gangs also highlight the significant impacts that criminal governance can have on community members.[51]

The extent to which OCGs exercise territorial control over communities through threats and violence was documented in Mexico City's most populous borough (Iztapalapa) in 2020 through a study.[52] Seventy per cent of the 1,261 police officers surveyed for the study indicated the involvement of OCGs in community activities and nearly four in ten perceived strong or very strong community interaction with organized crime, underscoring the territorial dimension of criminal governance.[53] Officers further reported that these groups exerted influence over illicit markets, particularly illicit drugs, counterfeit goods and illicitly sourced firearms.[54] Six in ten officers reported that OCGs generated significant fear in the community, while nearly half noted high levels of coercion being imposed on communities.

The businesses community is also particularly affected by OCG-related violence. The threat or use of violence to extort local businesses is frequently used by OCGs as a source of revenue. Nationally-representative surveys conducted in 18 Central and Latin American countries in 2020 suggest that, on average, about one third of respondents across all countries report organized criminal groups engaging in extortion in their neighbourhood.[55] In Italy, in the first half of 2023 alone, about 5,500 extortion cases by OCGs were reported.[56]Countless cases of intimidation, vandalization, violence and murder against businesspeople at the hands of these groups have been recorded by Italian authorities.[57]

Extortion is a secure and stable income for OCGs.[58] It can take the form of compelling businesses to purchase goods, services, or labour at rates slightly above market value.[59] These practices distort market competition and can, for example, drive up costs of basic goods and services (see *Case study 1 - Gangs and governance in Haiti: a fragile State at the crossroads of illicit markets*). Non-compliant businesses face threats, violence, or destruction of assets. Where there is criminal governance, OCGs can infiltrate the legal economy using criminal methods, influencing the public administration to award public subsidies illegally, and taxing small-scale criminals.[60]

Violence against rivals

Dominant controlling OCGs may also extort less powerful criminal groups that operate illicit businesses in the same territories. For example, some OCGs extort or 'tax' migrant smugglers to cross the territories under their control. Payment of the 'tax' is meant to guarantee migrants a safe passage. Failure to pay can result in the migrants' abduction, torture and killing.[61]

Ecuador today is a telling example of the lethal violence that can be unleashed by rival criminal groups competing for control over territory and illicit markets. Competition between different OCGs, including local and transnational cocaine trafficking groups, has fuelled a dramatic escalation of violence in the country in recent years.[62] Until the late 2010s, Ecuador recorded relatively low rates of intentional homicide compared with other countries in South America.[63] However, from 2020 onward, intentional homicide rates in Ecuador increased dramatically year-on-year, from 7.8 victims per 100,000 population in 2020 to 45.7 victims per 100,000 population in 2023.[64] While in 2024 Ecuador recorded, for the first time since 2016, a reduction in intentional homicides, preliminary data for 2025 indicate that this reduction was only temporary in nature. In the period from January to June 2025, there were 4,619 intentional homicides in Ecuador, compared with 3,149 over the same period in 2024.[65] (see *Case study 3- The rise of organized crime violence in Ecuador*).

Violence against State institutions

Violence against State institutions and their representatives can be common in territories where OCGs try to establish criminal governance. Two examples of this type of violence expanded on in the Annex of this Brief relate to Brazil in 2006 and more recently in Haiti. In 2006, the Brazilian prison-based OCG *Primeiro Comando da Capital* (PCC) orchestrated a number of riots in prisons across the State of São Paulo. At the same time, the PCC targeted individuals outside prisons, including police and prison officers, as well as carrying out assaults on banks, public transports, supermarkets, and police stations (see Case study 2 - *The Brazilian Primeiro Comando da Capital (PCC): from local prison gang to transnational threat*).[66] In February 2024, a coalition of Haitian criminal gangs launched at least ten attacks

against the National Palace, as well as the Ministries of Justice, Defence and the Interior, the general hospital, and Haitian national police units, including the Port-au-Prince police station, with the intention to establish a common front against the Government and disrupt the political transition. [67] (see *Case study 1- Gangs and governance in Haiti: a fragile State at the crossroads of illicit markets*).

Criminal governance by consent and provision of financial resources and services

While violence can be a defining feature of organized crime, the presence of OCGs does not always translate into high rates of violence. Instead, the consolidation of territorial and illicit market control by a single dominant OCG may suppress violence. By solving disputes, imposing rules and establishing a parallel (criminal) order, OCGs can suppress violence in the areas they control.[68]

In Mexico, studies have documented how OCGs impose criminal governance in the territories under their control. The analysis of 2021 data from the National Survey of Urban Public Safety (ENSU) have shown that overall, greater presence of organized crime does not always translate into a higher level of violence.[69] The *Cártel de Sinaloa* is reported to operate protection–extortion schemes while also moderating violence, thereby fostering a local social base.[70] The rival *Cártel de Jalisco Nueva Generación* (CJNG) has likewise undertaken initiatives to exert control and gain some support over communities by imposing order and security against petty crime.[71]

The perceived ability to provide security and resolve disputes is a common feature of OCGs trying to establish themselves as alternative authorities. In connection with solving disputes over criminal markets, a number of studies show that the presence of large criminal organizations in a territory may result in a reduction of violence. The term *pax mafiosa* has been used in Italy to describe how organized crime leaders deliberately reduced overt violence, resulting in fewer mafia-related killings.[72] Similar dynamics have been observed in Latin America, where the related concept of *pax narcotica* has referred to periods of tolerance toward drug trafficking that kept violence at comparatively low levels.[73]

A similar mechanism can also be observed in settings with much lower levels of violence and less entrenched OCGs. Using official police data from an 'average' police force in the United Kingdom for the period 2018–2021, it was found that organized crime exerts a dual effect as both a driver and a suppressor of violence. Higher levels of organized crime presence in a neighbourhood were associated with increased violence, yet a greater prevalence of organized crime members among all active offenders corresponded with lower overall violence.[74] This correlation is indicative of the capacity of organized crime to create high-risk environments, while simultaneously imposing order within illicit markets. This violence-suppressing role of dominant OCGs may conceal their consolidation, enabling such groups to entrench themselves in community life while progressively eroding the legitimacy, effectiveness, and integrity of institutions.[75]

Where organized criminal groups exert territorial control, the illicit economies they foster may also create short-term economic opportunities and help to legitimize their activities among local communities. But the long-term costs for society can be substantial, as illicit economies typically exploit public resources for the undue gain of a few, as in the case of illegal mining in the Sahel, which is providing some immediate relief to local communities, but undermining public benefits.[76]

Criminal governance as a springboard for other illicit trade and profit seeking activities

Control over a territory gives OCGs opportunities to start or expand other illicit activities. In this way, criminal governance can provide not only a consistent income stream via extortion and a way to cement a power base, but also a springboard for developing other illicit activities. In other cases, criminal governance could come as a result of consolidating control over other activities, particularly illicit trade.

Ecuador's geographical location between major cocaine production areas in Colombia and Peru[77] makes it a significant hub for cocaine trafficking and organized crime activity. [78] Yet, until recently, Ecuador did not have 'home-grown' OCGs with the capacity to coordinate transnational drug trafficking operations.[79] However, since the early 2020s, there have been indications that Ecuador's local OCGs, traditionally involved in small-scale robberies, kidnappings and extortion, have expanded their operations and become increasingly interlinked with foreign transnational OCGs active in international cocaine trafficking operations.[80] Strengthened through alliances with international drug trafficking groups, local groups have developed into professionalized criminal organizations, operating across international borders. [81]

In the Sahel, the groups that for a long time have exercised territorial control over informal trading routes have in the past two decades evolved into a more criminalized ecosystem with the transit of cocaine and other high-value commodities across the region, triggering competition over access to significant profits. Within this context, OCGs have played an important role in influencing the Sahel's current political and security challenges.[82]

1463

Prisons at risk of criminal governance

The assumption that once an individual is incarcerated, organized criminal activity ceases, that criminal networks are permanently disrupted or that communication between associates ends, is often premature. Evidence from an increasing number of countries shows that prison systems are highly vulnerable to the risk that members of organized crime continue or consolidate their engagement in crime and project significant power within and beyond prison walls, especially when prison systems are marked by systemic deficiencies, such as overcrowding,[83] inadequate conditions, severe resource constraints and weak management capacities or compromised institutional integrity. The evolution of digital technology has further enhanced the capacities of members of organized criminal groups to operate from within their cells and to rapidly adapt to traditional prison security and disruption measures.[84]

As regards logistical and hierarchical structures, organized crime in prisons differs widely at international level, ranging from informal prison hierarchies dominated by high-level criminals, violent prison gangs and prison-based criminal organizations to a much less visible entrepreneurial trading culture run by professional criminals. What they do have in common is the profit-driven provision of illicit goods and services. If left unaddressed, organized crime has a devastating impact on safety and security in both custodial and community settings.

Prisons throughout Latin America and the Caribbean struggle to contain the unprecedented level of control that prison-based criminal organizations closely linked to drug trafficking have assumed. Violent clashes between rivalling prison gangs have left hundreds of prisoners dead and led to states of emergencies having been declared on various prison systems.[85] The trajectory of the *Primeiro Comando da Capital* (see *Case study 2 - The Brazilian Primeiro Comando da Capital (PCC): from local prison gang to transnational threat*) demonstrates how prison-based gangs can evolve into sophisticated transnational criminal organizations; the group started by providing goods and services to prisoners and support to their families, financed through membership fees, creating cohesion, compliance, and a reputation that facilitated recruitment.[86] It very rapidly managed to build on this core capacity to become a powerful international drug trafficking organization. Similarly, Ecuadorean gangs are primarily prison-based organizations, whose logistical centres are penitentiaries and prisons; these have become part of the struggle for territorial control and recruitment strategies (see *Case study 3- The rise of organized crime violence in Ecuador*).

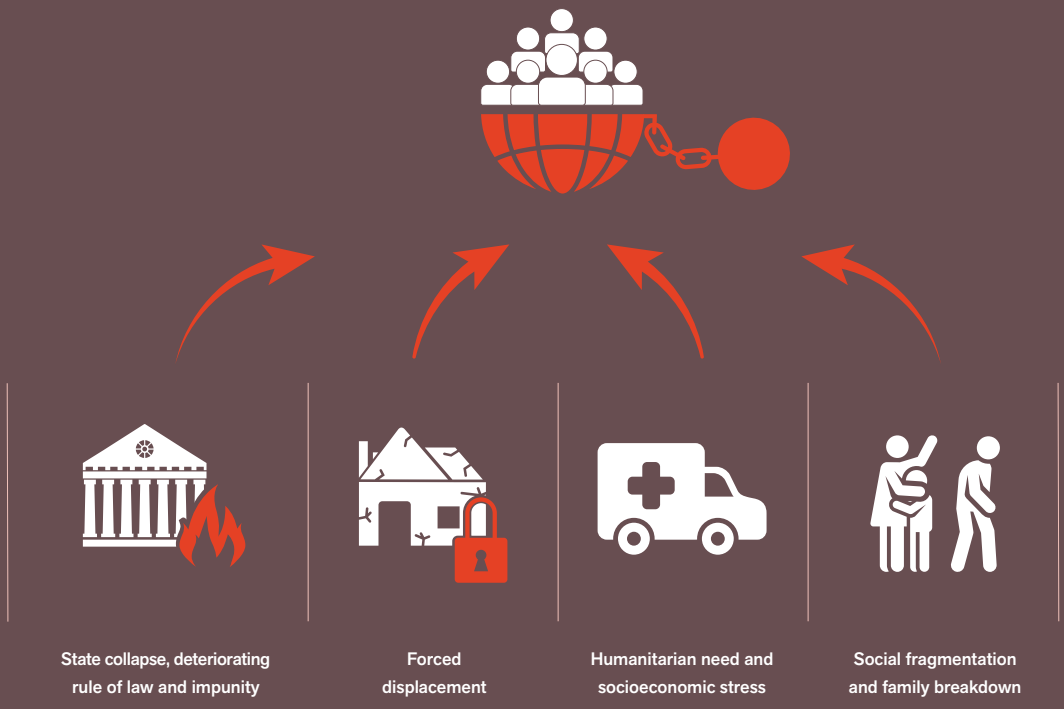
In Eastern Europe and Central Asia, organized crime has often taken the form of powerful criminal networks led by high-level criminals ("thieves-in-law"), which first emerged back in the 1930s in the detention facilities of the Soviet Union.[87] Despite a progressive decline in their influence, influential figures from the criminal underworld continue to play an important role in prisons of the region.[88] More recently, for instance, national authorities in Ukraine dismantled several criminal organizations running call-centres operating frauds from correctional facilities in the country targeting relatives of Ukrainian military personnel (see *Case study 7 - Organized crime involvement in scam centres in Ukraine*).

In the Pacific Island Countries and Territories (PICTs), transnational criminal networks are exploiting the region as a "staging post" for cocaine shipments towards Oceania.[89] Additionally, the Pacific's strategic location between the two main global methamphetamine source regions – Southeast Asia and North America – further heightens its territorial vulnerability.[90] Recently, transnational OCGs from a variety of regions have been attracted to this part of the world, operating and cooperating along trafficking routes through the Pacific region.[91]

1464

Factors increasing vulnerability to

Trafficking in persons in armed conflicts



How organized criminal groups profit from armed conflict

Armed conflicts can disrupt the activities of OCGs, but they can also offer fertile ground for organized crime. While a comprehensive analysis of the role of OCGs in armed conflict situations is beyond the scope of this Brief, previous UNODC studies have documented the links between organized crime and conflict, with conflict creating favourable grounds for OCGs, which in turn may exacerbate conflicts. The breakdown of State institutions and resulting impunity that are characteristic of many armed conflicts contribute to an environment where organized crime can thrive.[92] One aspect concerns people affected by conflict who become at higher risk of falling prey to organized crime. The populations that are forcibly displaced as the result of conflict are vulnerable to becoming victims of various forms of organized crime such as human trafficking[93] and fraud.[94]

Beyond exploiting vulnerabilities, organized crime can also exacerbate conflicts. In the Sahel for example, OCGs with large financial resources fuel armed conflicts by increasing armed competition for illicit profits and territorial control in a region where firearms trafficking underpins a significant proportion of deadly violence.[95] OCGs operating in these territories provide financial and human resources to conflicting parties and delay conflict resolution. In the same region, the competition for control over gold mining sites has also fuelled tensions,[96] and similar patterns have been recorded in conflict-affected areas of Southeast Asia.[97]

There are multiple examples of organized crime activities in areas with geopolitical tensions and conflict, some directly perpetrated by parties to the conflict and some perpetrated by OCGs in cooperation or under the protection of parties to the conflict. For example, in 2023, 80-90 armed groups active in Africa trafficked children and used them in conflict-related operations. These groups recruited children to use them as fighters, support personnel, or force them to work to generate income. Trafficking by armed groups, both non-State and State actors, is carried out in different contexts.[98]

In 2023, cases of children recruited from villages and exploited in gold mining sites were reported after sustained clashes between *Coopérative pour le développement du Congo* (CODECO) factions and *Zaire* militias for the control over illegal mining sites in the Eastern part of the Democratic Republic of the Congo. Moreover, in the Eastern Provinces of the Democratic Republic of the Congo, the convergence of trafficking in persons, minerals trafficking and armed groups has been documented. These provinces are rich with precious minerals attracting armed groups to set up illegal mining operations to finance their activities. Armed groups traffic children to extract minerals and

1465



Source: UNODC World Drug Report 2024, p. 13.

cooperate with organized criminal groups to smuggle these minerals out of the country. The UN has reported gold, tin, tantalum and tungsten being sold by armed groups active in this area, to be then smuggled to international markets, with profits laundered in the region and large international financial centers.[99]

The opportunistic partnership between OCGs and armed groups has also facilitated the convergence of different forms of trafficking, money laundering and illicit markets in the "Golden Triangle" in Southeast Asia. Exploiting instability and rule of law challenges, organized crime has flourished and methamphetamine production has surged in recent years, outpacing the production of traditional opiates, with groups also diversifying their illicit activities beyond drug production, engaging in crimes that affect the environment and industrial-scale cybercrime activities.[100]

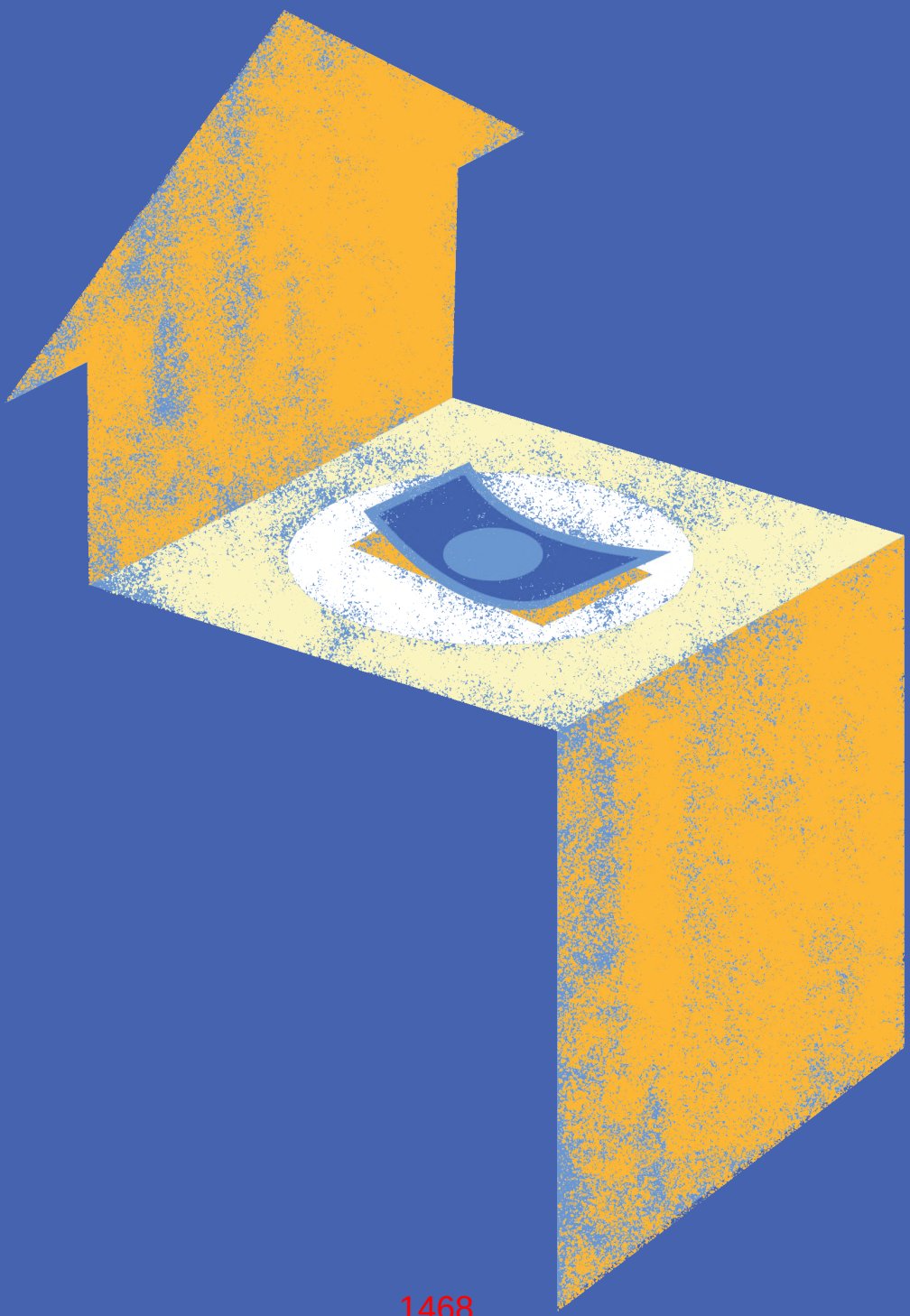
In the Golden Triangle area, transnational OCGs have established a large number of casinos and scam farms where profits are laundering using professional money-laundering services. These services are available to a wide variety of groups, including the multi-billion industry of online fraud. In these areas, OCGs exploit the absence of government control, as well as the complicity of the armed groups de facto controlling these territories (see *the case studies Scam farms in Southeast Asia – highly lucrative criminal enterprises that exploit territories with rule of law challenges* and *The role of the casino industry in money-laundering in Southeast Asia*).

In the context of Ukraine, the full-scale invasion by the Russian Federation in February 2022 has affected trafficking routes, disrupted criminal organizations, and spawned new forms of organized crime.[101] OCGs are now active in the Ukrainian scam-call centres industry, where the war has created conditions conducive for organized fraud targeting displaced people as recipients of State subsidies or deceiving the families of those missing from the frontline with the promise of selling them information about their loved ones.[102] (See *Case study 7 -Organized crime involvement in scam centres in Ukraine*)

Armed conflict and firearms trafficking are closely linked: conflict can exacerbate firearms trafficking and firearms trafficking can exacerbate conflicts.[103] Armed conflict tends to increase the demand for weapons and, therefore, may also result in increased firearms trafficking. At the same time, conflicts can also be a 'source' of such trafficking, since it may be more difficult for authorities to maintain effective control over State stockpiles during conflicts and firearms may end up in the hands of criminals or non-State armed groups. When the conflict is over, a pool of weapons may also remain accessible outside of legal control mechanisms. The availability of such conflict-legacy weapons can significantly undermine peacebuilding and stabilization efforts.[104]

Illicit markets and their profits

the lifeblood of organised crime



1468

Key points

- Drug trafficking remains one of the most profitable activities for organized criminal groups. However, organized crime is involved in a wide range of other forms of trafficking, from trafficking in persons to trafficking in firearms, wildlife, waste, fuel and counterfeited products.
- Transnational drug trafficking today is a highly specialized enterprise involving actors from numerous groups and networks.
- Comparatively high levels of lethal violence in Latin America and the Caribbean can be partly attributed to competition between organized criminal groups over cocaine markets as well as the availability of firearms.
- Actors involved in illicit markets associated with natural resources are particularly varied, with criminal groups cooperating with legal businesses, blurring the line between legal and illegal markets.
- When structured organized criminal groups operate in the field of trafficking in persons, they traffic more people, for longer, across greater distances and in more violent manners than individual or loosely connected traffickers.

Organized criminal groups are fundamentally profit-driven and engage in a wide range of criminal activities that span both illegal and legal economies. Their operations impact both local and transnational economies and, in some cases, they can affect national security and geopolitical relations. The illegal economies that OCGs may create, manage or simply profit from opportunistically are varied in nature. As analysed in Chapter 2, some profits arise from forms of criminal governance whereby OCGs exert control over local territories and profit, for instance, from extortion. However, OCGs likely derive most of their income globally through the illicit production and trafficking of goods and services that constitute the so-called illicit markets.

The range of goods trafficked and services provided by OCGs continues to evolve, often driven by gaps between demand and the availability of legal, regulated supply or by the comparative ease and profitability of unregulated markets. Certain forms of trafficking have remained consistently lucrative for decades. Drug markets remain today the financial backbone of most organized criminal groups operating across the globe. The profitability of other types of trafficking has fluctuated in response to shifting economic and political conditions.

For instance, fuel trafficking surged in the Sahel when disparities in fuel subsidies across national borders created lucrative opportunities (see *Case study 9 - West Africa and the Sahel – regional hubs for illicit trafficking*). In other parts of the world, international sanctions have triggered new trafficking operations. Illicit gold trafficking has in turn intensified during periods of rising global gold prices, while the illicit trade in rosewood has adapted over time by targeting different species to meet persistent demand, despite increasing international protections. These trends highlight the adaptability of organized crime in operating across illicit markets, exploiting regulatory gaps and market dynamics.

The role of OCGs in illicit markets and the business model adopted by OCGs to profit from the trafficking of goods and services vary by group, type of market and geographical reach (see also *Chapter 1, section Different dimensions of organized crime*), but they typically involve a division of roles among groups operating across jurisdictions, with groups – or elements within one group – specialized in the different stages of the supply chain, including production, procurement, shipment, document fraud, and financial transactions.[105] In some cases, OCGs are the primary actors; in others, they are facilitators.

1469

Sanction evasion is one example of a "crime-as-a-service" model with national security implications, whereby OCGs act as enablers of trafficking across different illicit supply chains.[106]

OCGs can have different characteristics, strategies and objectives. Some groups may focus primarily on trafficking and be trade-oriented, focusing on efficient, short-term exchanges of commodities such as drugs, often adopting flatter, more flexible structures and minimal hierarchy. These groups exploit global supply chain vulnerabilities to move drugs or other commodities across borders and typically avoid violence to minimize law enforcement attention.[107] Other groups are more focused on controlling illicit markets, rather than just trading in them.[108] For example, governance-oriented groups typically approach drug activities in the context of controlling a territory. They therefore tend to prioritize control over smooth business operations and they may make greater use of violence or the threat of violence even if it risks destabilizing the market.[109] In some cases, groups exert criminal governance in one territory and adopt a trade-focused approach in other territories, following a strategy that researchers have termed 'functional diversification'.[110]

Illicit markets constitute an important source of profits for OCGs, but not all aspects of illicit markets are managed by OCGs. For example, the markets of plant-based drugs, such as cocaine and heroin, originate from the illicit cultivation of coca leaves or opium, which can be done in remote rural areas by local people looking for income opportunities, with little or no connection to an organized criminal structure.[111] Illegally sourced natural resources, such as gold, timber or wildlife, may also end up in the legal supply chain and be sold, knowingly or unknowingly, at retail level by legitimate businesses.[112]

While illicit markets constitute a major source of revenue for OCGs, they are not the only actors involved; many participants are small-scale or subsistence-level operators who require responses distinct from those designed to target organized criminal groups. This is particularly evident in the illicit trade of natural resources and drugs.[113]

This chapter reports on some of the key global trends and patterns pertaining to the involvement of organized crime in different forms of trafficking, from trafficking in drugs, firearms and natural resources to trafficking in persons and the smuggling of migrants.

Organized crime and global drug trafficking

Drugs remain one of the most profitable markets for OCGs. Different groups are involved in drug trafficking, adopting more or less centralized structures and varying levels of hierarchical control over their members, as well as operating with orientations that range from purely trading activities to governance and control of markets and territories.[114] OCGs typically operate within transnational drug markets in a business-like fashion, coordinating their activities with other groups along the supply chain. This operational model is characterized by an opportunistic focus on exploiting business opportunities and a tendency to minimize violence.[115] In other contexts, OCGs may seek to control the drug trade within territories under their influence, which can generate violent confrontations with competing groups (see *Case study 2 - The rise of organized crime violence in Ecuador*).[116] The dynamics of OCGs can have a considerable impact on drug flows. For instance, when new groups entered the cocaine transnational trade between South America and Europe, the market grew significantly in size (see *Case study 12 - From local facilitators to international players: the growth of Balkan organized crime groups*).[117]

Organized criminal groups are known to operate in virtually all drug markets around the globe.[118] Evidence from Australia, European Union (EU) countries, Japan and the United Kingdom shows that drug trafficking is a major activity for a considerable proportion of OCGs, ranging from more than 50 per cent of groups involved in drug trafficking in the EU to about 80 per cent in Australia.[119] In Albania, drug production and trafficking of cannabis, heroin, and cocaine to the EU were the main activities of the majority (60%) of OCGs active in 2022–2023.[120] In Brazil, drug trafficking was the most common predicate offence linked to financial crimes in 2023, accounting for 31% of cases – up from 17% in 2014. This increase is believed to reflect the expansion of organized criminal activities related to drug trafficking over the past decade.[121]

In Japan, police report that drug trafficking – especially in methamphetamine – is the main income source for OCGs, including the *Yakuza*. In 2020, Yakuza members were linked to about 31% of drug offences in the country, with methamphetamine involved in over 80% of those cases and cannabis in around 15%.[122] In Australia, research indicates that more than 70% of OCGs are involved in methamphetamine trafficking, followed by trafficking in cocaine, cannabis, and heroin. This is unlike the situation in the EU, where cocaine dominates drug trafficking activities.[123]

Transnational drug trafficking today is often a highly specialized enterprise involving actors from numerous groups and networks. For example, drug trafficking organizations operating in the EU are typically not vertically integrated across the drug supply chain; they operate only at certain stages of the supply chain and specialize in specific tasks. Some only produce cannabis, for instance, while others only handle distribution or transport. Evidence from the EU suggests that groups that cover only part of the trafficking process tend to be active for fewer years than those whose control extends over multiple stages of the supply chain (or in some cases, end-to-end control).[124]

In Australia, polydrug trafficking groups that supply many different types of drugs (which account for more than half of the groups active in the country) are significantly more

likely than mono-drug trafficking groups to be involved at multiple stages of the supply chain.[125] People involved in the retail selling of drugs may operate at individual level, handling relatively small quantities.[126]

Drug trafficking is often linked to other serious crimes. For example, persistently high levels of lethal violence in Latin America and the Caribbean can be attributed to complex dynamics relating to criminal groups, including competition for control over illicit markets, record-breaking drug production and the availability of firearms.[127] But the convergence between drug trafficking and violence is not limited to this region. In Germany and Australia, for instance, between 21 and 36% of OCGs have engaged in violence; this figure goes up to 68% when looking at the EU as a whole.[128] Drug- and firearm-related crime can also overlap. The case of Haiti shows that firearms and drug trafficking can in some cases operate in opposite directions; firearms are smuggled into the country, sometimes by the same groups and via the same routes used to traffic drugs out of the country (see *Case study 1 - Gangs and governance in Haiti: a fragile State at the crossroads of illicit markets*).[129] In some contexts, drug trafficking is linked to trafficking in persons, when groups recruit and exploit victims to participate in drug-related activities, including serving as couriers, distributors, or spotters.[130] In Colombia, UNODC has documented the convergence of crime related to coca cultivation and illegal gold mining, as well as with the deforestation of rural areas. This link is deeply connected with the use of the territories for different criminal interests, but also serving the purpose of reinvesting the proceeds of these criminal activities.[131]

Drug trafficking is obviously strongly linked to money-laundering. As documented by literature and investigations money laundering is the enabler of drug trafficking, one cannot exist without the other.[132] Finally, groups may engage with or infiltrate legitimate businesses to support their criminal operations.[133]

1471

Cocaine trafficking: Specific groups may change, but supply chains remain resilient

As for other types of trafficking, in cocaine trafficking from South America to destination markets, the entire supply chain is rarely controlled by one organized criminal group. Different actors operate at different stages, often establishing mutually beneficial partnerships.

These business collaborations can be more or less transitory and volatile. Such volatility contributes to competition among organized criminal groups for control over trafficking corridors or distribution points, sometimes resulting in violence. In other instances, however, groups may cooperate at various points along the supply chain without resorting to violence.[134]

In 2023, it was assessed that small- and medium-sized criminal groups were playing an increasingly important role in global cocaine trafficking. These groups operate as part of larger networks, managing only parts of the supply chain and forming partnerships with other groups. This fragmentation has been observed across regions, accompanied by a trend towards greater specialization among actors.[135]

Linked to the shift toward decentralized cocaine trafficking networks has been the growth of a system of "service providers" that manage parts of the supply chain without owning the drugs. Their tasks include collecting shipments from ports, arranging local transport, or protecting the shipments.[136] In exchange, they guarantee delivery for a fee – sometimes in cash, sometimes in quantities of cocaine – fuelling cocaine availability in transit countries.

The profound changes observed in the global cocaine market in the last decade underscore how changes in the landscape of OCGs can transform a global drug market. The increased direct involvement of Balkan groups in supplying cocaine to Europe around 2012 facilitated an increased supply in Europe that shortly after started to lead to increased use. On the other side of the Atlantic, the dynamics around cocaine production in Colombia also changed following the demobilization of the *Fuerzas Armadas Revolucionarias de Colombia* (FARC) in 2016, and the involvement and later consolidation of groups that started to concentrate their presence in certain areas (see *Case study 10 - Continuity and adaptation: Colombia's enduring centrality in the global cocaine trade*), becoming more efficient and taking cocaine production to record highs. As the result of changes in OCG dynamics in both supply and demand markets, the current cocaine market continues to expand.

The latest data show that cocaine production reached records high in 2023, and while trends in seizures, drug use, and related treatment and deaths also indicate the expansion of the global cocaine market. These indicators reinforce the upward trajectory observed over the past decade in production and availability, and over the past five years in treatment and mortality outcomes.[137] Cocaine trafficking routes have also evolved alongside changes in actors and alliances. For instance, routes to Europe have diversified, with Colombia's ports playing a reduced role. From the mid-2010s, cocaine shipments started to increasingly transit through other South American countries en route to Europe (via the 'Southern Cone' route).[138] Since then, points of arrival in Europe have also shifted, with Northern European ports surpassing the Iberian Peninsula as the main hubs. These trends appear connected, as seizures linked to the Southern Cone route are increasingly detected in North Sea ports.[139] In recent years, Ecuador has increasingly become a main transit point for cocaine, a development that has coincided with a significant rise in violence since 2021 (see *Case study 2 - The rise of organized crime violence in Ecuador*).



Source: UNODC (2023). Global Report on Cocaine. United Nations Publications, p. 140.

1472

Los Blancos - A transnational response to a transnational drug trafficking organization

Operation *Los Blancos*, described as "an unprecedented operation" involving judicial and police authorities from many countries between Europe and South America, led to the dismantling of the transnational organized criminal group *Kompania Bello*, considered one of the most active cocaine trafficking networks in Europe. The investigation was launched in 2015 by the Italian Police following violence that erupted among members of the group over different criminal activities. The investigation led to the identification of an Albanian-speaking organized criminal group which, through its contacts in Ecuador, was able to traffic large amounts of cocaine by managing different phases, from purchase to transport, storage and distribution, with presence and corruptive powers in different European countries.

A highly structured, hierarchical group with trading capacities

Kompania Bello was able to traffic significant quantities of cocaine from South America by container ship. The group established cooperation with criminal actors in Ecuador using front export companies and individuals employed in the ports of departure and of arrival. The cocaine entered the European market, including by using corruption along the routes and at destination. The group had a stable structure with a clear division of roles, responsibilities, and resources, including weapons and equipment. The group members were mainly Albanian nationals. The criminal group, however, had a base in Apulia (Italy) and had placed members and associates in strategic locations, particularly in Antwerp (Belgium), Rotterdam (the Kingdom of the Netherlands) and Bremen (Germany), and others running activities in South America.

The level of criminal governance of this group emerged clearly from a number of very typical characteristics: it imposed a bond of silence on the associates in the event of arrest, under penalty of serious retaliation; it allocated part of the proceeds from cocaine consignments to paying salaries to associates, covering legal costs and maintaining families of arrested members; it recruited new affiliates who were entrusted with executive or manpower tasks; and it could count on the support of allied criminals in Albania with significant corruptive power. As its trafficking capacity increased, the group created a solid commercial network to ensure constant supplies of excellent-quality drugs at competitive prices. The system adopted included the use of non-suspicious individuals used as couriers who transported the imported cocaine across a variety of European countries. The group enjoyed a dense network of corruption along the cocaine route, and it relied on encrypted forms of communication.

From the financial aspect, the group made use of a complex system of internal financing and self-laundering of proceeds from the importation and sale of drugs. This system financed new shipments directed to the European market. Further, it exported large sums of cash in euros and pounds sterling from illicit activities to Ecuador and Albania, reinvesting them in commercial and real estate activities.

Trading across continents

The top figures of the group were reported to be considered equal partners with the drug trafficking groups operating in Ecuador, maintaining also close ties with the *Cartel de Sinaloa* and different Colombian groups based in the cocaine-producing areas. The sourcing, acquisition and shipment of cocaine was handled by members of the organization based in Guayaquil (Ecuador) in direct contact with the Ecuadorian criminal groups.

While the Latin American suppliers were able to offer a choice of shipping methods based on the financial resources of the buyers, the latter, i.e. members of *Kompania Bello*, were able to choose, through feasibility studies, the port of arrival for the cargos. Once the drug was unloaded in European ports, it came under the complete control of *Kompania Bello*. Through its network of cells across the continent, the organization collected the cocaine, stored it in specially rented apartments, concealed it in specially designed compartments in vehicles, and ultimately handled the collection of the proceeds. The group even conducted specialized workshops for couriers on how to best conceal the drugs during transportation.

The cocaine was then forwarded to the consumption markets in various European countries via a network of couriers based on purchase orders, using lorries and cars equipped with false bottoms and automatic concealment devices. Further, the South American drug traffickers were paid using "*fei chi'en*", an informal money transfer system run by another criminal group called *Agenzia*, operated mainly by East Asian nationals. The money-laundering group charged fees ranging from 22 to 27 per cent of the amount transferred.

Investigations and arrests across the regions

In December 2016, a joint investigation team was set up between the Italian and Dutch judicial authorities, with the participation of the national police forces, as well as the assistance and funding of Eurojust and Europol. The operation led to the identification of three different criminal organizations that made up *Kompania Bello*. The investigation brought the arrests of the apical figures of the group active in Europe and South America. As a result of the investigation, 84 people were arrested in Italy, Switzerland, the United Kingdom, Germany, Belgium, France, Malta, the Kingdom of the Netherlands and Ecuador, while authorities seized four tons of cocaine, weapons and €5.5 million (about US$6.5 million).

1473

Illicit firearms trafficking

Illicit firearms trafficking[140] encompasses cross-border transfers of firearms, their parts and components and ammunition that have not been authorized by one or more of the States involved.[141] It is a crime that affects all parts of the world and impacts on society in multiple ways. Firearms are instrumental in much violence, particularly homicide; they are often used by OCGs, and they support operations related to armed conflicts and terrorism. Firearms are the most commonly used weapon in homicides related to gangs or organized crime.[142]

Beyond their role as a commodity, OCGs may use firearms to enforce compliance and sustain control over territories, populations, and illicit activities. In contexts of weak governance or limited State presence, access to firearms facilitates criminal groups to exercise forms of de facto authority, regulate access to routes and markets, and impose rules through violence or the threat thereof.[143] The most common form of weapons trafficking involves small arms and light weapons; however, the character of this trafficking can vary significantly in different geographical contexts and in relation to different weapons.[144]

A variety of methods are used by organized criminal groups to carry out illicit firearms trafficking. Generally, larger consignments of firearms are trafficked via sea and ships, and smaller quantities are trafficked using vehicles on land, or through strategic 'ant trafficking'.[145] This type of trafficking involves many people transporting small consignments – often only what could be considered a violation of possession regulations – to avoid potential trafficking charges, while still meeting the demand for firearms in the destination market.[146] It has also been documented that mail services are exploited for firearms trafficking.[147] These trafficking methods frequently overlap with those used for other forms of contraband. Organized criminal groups commonly reuse the same facilitators, transport routes, concealment techniques, and logistical infrastructure to traffic firearms alongside drugs, migrants, or other illicit goods.[148] This convergence reflects the poly-criminal nature of many organized crime networks, in which firearms trafficking functions as an enabling activity rather than a standalone market.

Firearms trafficking-related cases reported by European countries show the involvement of street gangs and outlaw motorcycle gangs.[149] These actors are often simultaneously engaged in drug trafficking, extortion, and other serious crimes, with firearms serving as a cross-cutting enabler rather than a standalone market.[150] Cases reported by countries in South America in turn indicate the involvement of drug trafficking organizations in the illicit importation of firearms into major illicit drug production areas as well as into drug selling areas where groups sought to maintain a monopoly of violence.[151] In such contexts, firearms trafficking is closely intertwined with drug trafficking and other illicit economies.

Trafficking in natural resources and crimes that affect the environment

Natural resources are finite, and rising global demand is creating stronger incentives for organized criminal groups to engage in crimes that affect the environment as a means of securing profits. Crimes that affect the environment encompass a series of different illicit activities, including wildlife crime, forest crime, crimes in the fisheries sector, minerals crime, waste crime, and pollution crime. Different from drug trafficking, for example, where the business is illicit from production to retail distribution, most of the trafficking related to natural resources may be licit at a certain point of the supply chain. Some minerals, for example, may be legally extracted and processed but exported against national regulations and still sold in legal markets.

Trafficking in natural resources spans all regions of the world. For instance, between 2015 and 2021, wildlife trafficking seizures were recorded in 162 countries and territories, involving around 4,000 plant and animal species.[152] Any country – regardless of its level of development or geographic location – can serve as a source country for trafficking of wildlife, timber, or fisheries products.[153] For instance, several organized criminal networks have been identified as trafficking European glass eels from Europe to Asia. European nationals typically conduct the illegal fishing, while Asian counterparts coordinate logistics and transport. Some eels are poached, while others are diverted from the legal European market. Local fishers often use illegal methods that damage river ecosystems. Criminals also exploit legitimate European companies to launder illegal catches.[154] Compared to some other illicit markets, the trafficking of natural resources is characterized by a wider range of actors and by a more nuanced distinction between legal and illegal economies. For example, in several trade chains in wildlife crime, local people in remote areas might find income opportunities from involvement in illegal wildlife harvesting.[155] In other cases, for example in illegal fishing, more sophisticated and organized actors are involved. At an industrial level, illegal fishing operators often use flags of convenience and complex multi-jurisdictional business ownership networks to avoid exposure to law enforcement. Profits from a wide range of fisheries have attracted the involvement of organized criminal groups.[156] In forest crime, a great variety of organized criminal groups has also been observed: groups that are mainly profit-oriented, groups that are politically motivated, and loosely connected networks.[157]

OCGs rarely operate alone in the illegal markets of natural resources. For instance, organized criminal groups, actors operating under a legal façade, corporate criminals and legitimate businesses[158] are all implicated in forest crime, creating reinforced networks that intensify harm to communities, natural resources, and the environment.[159]

In Latin America, OCGs committing minerals crime create and use shell companies to launder money from drug trafficking.[160] They typically establish intricate transnational networks involving corporations in various countries to launder illicit proceeds.[161]

Illegal markets related to natural resources are particularly volatile, expanding and disappearing with criminal actors quickly moving from one type of resource to another to overcome the shortage of resources due to overexploitation or stricter regulations. This is particularly evident for rosewood, where trafficking is continually shifting from one species to another.[162]

OCGs involved in illegal markets related to natural resources may also exercise illegal governance. Some of the groups involved in illegal extraction and production of minerals for example, exercise control over the communities and the territories where there are minerals with the purpose of ensuring their exclusive extraction (for example in the case of crimes related to critical minerals in the Sahel and in Southeast Asia).[163] At the same time, the production and trade of natural resources may also come as the result of territorial control. In the Amazon for example, territorial OCGs involved in drug trafficking finance and provide support for illegal mining, illegal deforestation and wildlife trafficking.[164] OCGs may exercise violence to impose illegal governance over areas with natural resources that they want to exploit. A recent study from Latin America indicates that OCGs identify forest areas of interest and approach landowners to negotiate access, often offering minimal compensation. When landowners resist, intimidation and violence are employed, and in some cases, timber is harvested without consent or payment. Although landowners have reported such incidents to national authorities, inspections are frequently undermined as criminal groups use threats, kidnappings, and bribery to secure silence or compliance from local communities, private companies, and State officials.[165] There are also groups that are exclusively focused on the illegal trade of natural resources with no connection to illegal governance, such as criminal groups involved in the wholesale trafficking of ivory.[166]

The harms of OCGs engaged in crimes that affect the environment can take different forms, including loss of biodiversity due to wildlife and forest crime,[167] over-exploitation of natural resources such as fish, and pollution of the air, land and water in communities where minerals are illegally extracted and processed, waste is illegally trafficked, or synthetic drugs are illicitly manufactured.[168] Wildlife crime generates biodiversity loss, ecosystem damage, and deforestation, while also threatening food security, spreading zoonotic diseases and undermining preservation of natural heritage. Crucially, crimes that affect the environment undermine governance and the rule of law by fuelling corruption, money-laundering, and illicit financial flows. They deprive governments of revenue from legal activities such as timber licences, export fees, and taxation. Ultimately, this threatens biodiversity, weakens communities, and destabilizes economies.[169] In the Sahel, some transnational organized criminal groups control mining operations and smuggle gold across borders to Western Asia, depriving Sahelian countries of millions of dollars in fiscal revenue each year.[170] Gold extracted from artisanal and small-scale gold mining often bypasses formal channels, evading taxation and regulatory oversight. This allows criminal networks and, in some cases, armed groups to profit from gold laundering, using the proceeds to fund insecurity and interfering with local governance.[171]

Emerging patterns of convergence between crimes that affect the environment and other (serious) crimes have been observed. For instance, convergence between illicit drug trade and illegal deforestation has been highlighted in the context of Latin America. Through a process called 'narco-deforestation,' drug trafficking proceeds are laundered into land speculation, agriculture, cattle ranching, and related infrastructure, creating growing risks for the Amazon forest. Evidence also points to a reverse dynamic: in parts of the Amazon, profits from illegal logging generated by OCGs are reinvested into illicit coca cultivation.[172] Also in South America, OCGs have been documented taking control of gold mining sites while engaging in other criminal activities, such as extorting miners for fees, drug trafficking, arms smuggling, and trafficking in persons.[173] These organizations are diversifying their activities, using their technical skills and networks to trade other raw materials, including precious metals and minerals.[174]

Crime convergence has also been reported in the Sahel region, where many gold-mining areas are along trafficking routes with linkages to various illicit economies, such as drug trafficking, migrant smuggling, arms trafficking and banditry. The regional instability has also facilitated the proliferation of OCG activities around gold-mining areas, which have often become logistical hubs for trafficking activities.[175] In the Sahel, some transnational OCGs control mining operations and smuggle gold across borders to Western Asia, depriving Sahelian countries of millions of dollars in fiscal revenue each year.[176]

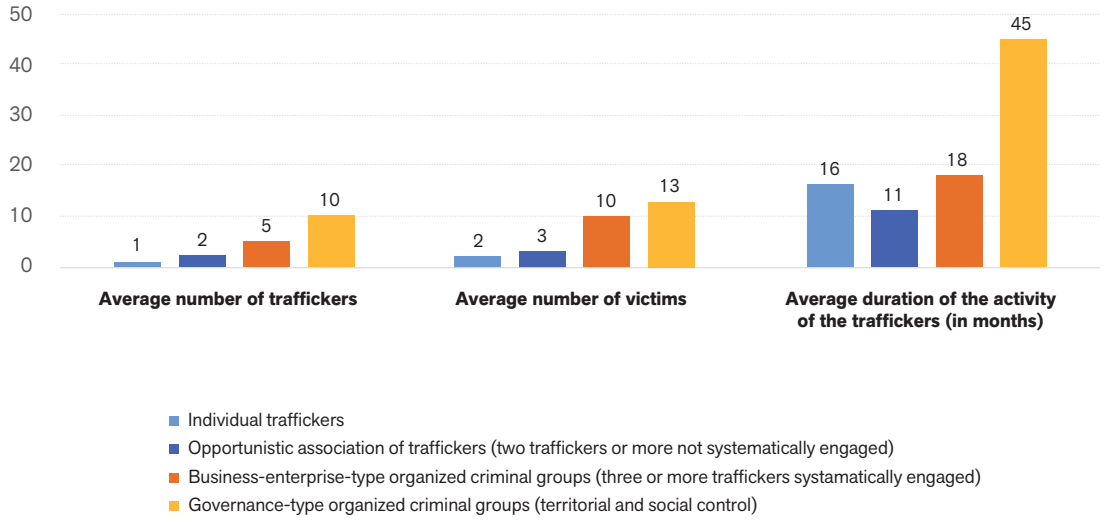
Smuggling of migrants

Smuggling of migrants refers to the facilitation, for financial or other material gain, of irregular entry into a country where the migrant is not a national or resident.[177] The criminals behind this business seize the opportunity created by the need or desire of people to escape not just poverty and lack of employment opportunities but also natural disaster, conflict or persecution.

Migrant smugglers may be organized in loose networks, which do not exhibit strict hierarchies. Smugglers may operate with much autonomy in different parts of the smuggling process, for instance, facilitating a certain border crossing, recruiting a particular group of migrants, counterfeiting documents or preparing vessels for sea smuggling. They do not work exclusively with only one smuggling network and the links connecting these operators are similar to business relations. Smugglers with 'broker' functions play key

1475

FIG. 4 Average number of traffickers, average number of victims and average duration of traffickers' activity per single case, by type of criminal actor.



Source: UNODC GLOTIP collection of court case summaries.

roles in this system as they are able to connect different actors along smuggling routes.[178]

Other smugglers belong to large and well-organized hierarchical criminal operations with transnational links, capable of organizing sophisticated smuggling passages that might involve the use of falsified or fraudulently obtained travel documents. Often, smuggling is sold as a 'package' that involves migrants travelling long distances, using multiple modes of transportation.[179]

Generally, smuggling networks seem not to be involved in other forms of major transnational organized crime. In some parts of the world, however, smuggling networks have links with violent criminal organizations to which smugglers have to pay for the 'right' to safe passage for migrants. In other cases, smugglers may hand over migrants to such groups for extortion of ransom, robbery or other forms of exploitation.[180] One of the most prevalent crimes perpetrated by smugglers is deprivation of liberty and extortion of their clients. The smugglers either demanded a ransom or detained them at 'credit houses' until they paid the full smuggling fee.[181]

Trafficking in persons

Trafficking in persons is the recruitment, transportation, transfer, harbouring or receipt of people through force, fraud or deception, with the aim of exploiting them.[182] In 2022, 42 per cent of all victims detected globally were trafficked for forced labour, 36 per cent for sexual exploitation, 8 per cent for forced criminality – from drug trafficking to working in online scam compounds – while the remaining detected victims were trafficked for other forms of exploitation.[183]

Trafficking in persons is perpetrated by actors with different levels of organizational structures.[184] Perpetrators may include youth who recruit younger schoolmates into sexual exploitation, parents who force their children to beg, street gangs, brokers negotiating child labour in rural villages, transnational organized criminal groups, as well as licenced multinational recruitment agencies and legal companies.[185] Most of the traffickers appear to operate as criminal networks loosely connected in a business-type relationship.[186] However, large criminal organizations with territorial control and governance functions also engage in trafficking in persons (18 per cent of the traffickers in court cases analysed by UNODC[187]). When these governance-type criminal groups engage in trafficking in persons, they appear to traffic more people, for longer, across greater distances and in a more violent manner compared with opportunistic traffickers or business-type trafficking networks that lack territorial control and governance functions.[188]

A structured organized criminal network can operate much longer than loosely connected business-type trafficking networks – an average of 45 months versus 18 months.[189] UNODC has reported examples of groups specialized in trafficking for sexual exploitation across regions operating for more than a decade before being dismantled. These well-organized groups are typically involved in other crimes. Some West African groups trafficking victims to Europe, for example, systematically engage in drug trafficking, money-laundering, financial

1476

fraud and other transnational crimes, as reported by national authorities.[190]

Trafficking in persons cases investigated by national authorities and submitted to UNODC provide examples of how organized trafficking groups engage in multiple types of crimes, including money-laundering, fraud and smuggling of migrants. The criminal phenomenon of trafficking victims exploited in scam centres in Southeast Asia is presented in a supplementary case study to this Brief (see *Case study 6 - Scam farms in Southeast Asia: highly lucrative criminal enterprises that exploit territories with rule of law challenges*).[191] The cases also reveal how governance-type organized criminal groups traffic victims from distant regions for the purpose of sexual exploitation by preying on victims' desire to migrate and exploiting them based on the supposed debt incurred from travel and document procurement.[192]

Analysis of traffickers operating in Africa shows how the continent has a unique landscape of traffickers, with large-scale and systematic operations carried by transnational OCGs, as well as small-scale and less organized operations, including individual and community-based traffickers.[193]

1477

Technology

how organized crime exploits global connectivity



Key points

- Technological developments have made it easier for organized criminal groups to carry out extremely profitable, industrial-scale fraud, extortion and other serious crimes, targeting victims across borders.
- Technological developments have also facilitated the adoption of complex new and traditional money-laundering schemes involving professional enablers. Virtual assets , bank and non bank financial institutions, hawala and other similar service and payments providers and professional money laundering networks. .
- Cybercriminals often operate as part of loosely organized networks that form and dissolve around specific projects. However, some cybercrime groups exhibit more hierarchical structures, carrying out industrial-scale cybercrime operations out of so-called scam centres.
- UNODC estimates financial losses between US$18 billion and US$37 billion from scams targeting victims in East and South East Asia in 2023 alone.
- Scam operators are frequently trafficking victims who are forced to commit cybercrimes.
- Large scale Scam Centres are known to proliferate in South East Asia and Africa and are increasingly detected in all areas of the world.

Technology amplifies opportunities for organized crime

The rapid development of new information and communication technologies (ICTs) has amplified opportunities for organized criminal groups worldwide. New technologies have enabled criminal groups to more easily target victims globally and exploit the dependence of institutions, businesses, and individuals on ICTs. As a result, organized criminal groups are now carrying out online extortions, frauds, and scams at an industrial scale.

Technology has not only amplified the scale, speed and scope of traditional crimes – making them potentially more harmful when cyber-enabled – but technology has also given rise to entirely new forms of crime, often referred to as cyber-dependent crimes.[194] Cyber-dependent crimes can be committed only through the use of ICTs, where the devices are both the tool and the target of the crime. For example, this can include crimes such as illicit intrusions into computer networks (hacking) or the disruption or downgrading of computer functionality and network space through malware or denial of service attacks.[195]

Both cyber-enabled and cyber-dependent crimes affect countries across all regions and income groups. They are extremely profitable due to their ability to victimize huge numbers of organisations and individuals which can transfer money via on-line channels. They pose a growing threat to individuals and businesses, regardless of their resources or digital resilience. Interpol reported a sharp increase in cybercrime incidents across Africa in 2025, with cyber offences accounting for over 30 per cent of all reported crimes in both Western and Eastern Africa.[196] Online scams[197] have been identified as the most frequently reported cybercrime in African countries, followed by ransomware, business email compromise, and other malware-based threats. Digital sextortion and identity theft have also emerged as significant and growing threats in African countries.[198] These trends have made cyber-criminal activity a major law enforcement and security concern on the continent,[199] demanding a greater level of cross-border cooperation among law enforcement, and greater engagement with the private sector.[200] Limited capacity in many African countries, jurisdictional hurdles, and slow access to cross-border data continue to impede cybercrime investigations.[201]

In the EU, according to a 2024 assessment by Europol, ransomware attacks and online fraud schemes remain the most threatening manifestations of cybercrime.[202]

1479

Technology
connects perpetrators, victims and service providers in multiple locations



Among all cyber-enabled fraud schemes reported in the EU, investment fraud, business email compromise and romance fraud were identified as the most common types.[203] Ransomware and multistage extortion schemes are key examples of cyber-dependent crimes affecting EU citizens and businesses, possessing a very high disruption potential.[204] In the EU, cybercrime groups increasingly target small and medium-sized businesses because of their lower digital defences, often relying on Ransomware-as-a-Service (RaaS) providers.[205] According to Europol, the actors involved in cyber-criminal activities in the EU are wide-ranging, from lone actors to groups and networks with various levels of expertise and capability.[206]

In North America, national authorities assess that cyber-enabled fraud and scams remain a common form of cybercrime affecting citizens and organizations. Investigative reports involve ransomware, viruses and malware, data breaches, and others.[207] Ransomware is considered one of the most disruptive forms of cybercrime, as it can hinder an organization's ability to function and produces significant volumes of stolen data that may be used to facilitate further criminal activities.[208] Since 2020, ransomware attacks have grown in scope, frequency, and complexity in North America.[209] Increasingly, cyber criminals provide services and tools which enable less skilled criminal actors to commit cyber-attacks. The development and proliferation of this business model have contributed to the increasing number of attacks. By lowering skills barriers to entry in this criminal activity, this model enables individuals with limited technical expertise to participate in cybercrime, thereby broadening the pool of actors involved.

Technology has changed the notion of the geography of crime

Technological developments have made it easier for criminal groups to target victims across borders, leading to a separation between the jurisdictions where offenders operate and where victims are located. This dynamic is increasingly reshaping the geography of crime and challenges traditional criminological notions that place perpetrators and victims within the same physical space.[210] As a result, crime prevention strategies based on situational opportunity theories,[211] where crimes are understood to occur as the result of the convergence in time and space of motivated offenders and suitable targets (in the absence of capable guardians),[212] are less effective, as evidenced, for example, in the case of online scam farms (see *Case study 6 -Scam farms in Southeast Asia: highly lucrative criminal enterprises that exploit territories with rule of law challenges*) as well as online financial sextortion of minors and adolescents (see *Case study 5 - Online financial sextortion: how West African crime groups leverage technology and social media to exploit vulnerable groups abroad*).

Internet technology has broadened the geographical scope of traffickers' operations. The Internet helps criminal organizations to operate across borders and in multiple locations at the same time, while physically targeting victims in other locations. Further, this evolution results in transforming traditionally very localized and small-scale crimes – such as fraud, extortion, gambling or others – into new forms of cyber-facilitated transnational organized crime activities operating at a global scale, which require international and multinationals responses.

Organized crime has rapidly adapted to the digital age, often operating out of industrial-scale scam centres that target victims across multiple countries. These operations are frequently based in regions or areas affected by armed conflict, rule of law challenges, and illicit economies – conditions that offer greater protection from detection and interdiction. In recent years, for example, a number of organized criminal groups have diversified their activities into cyberfraud[213] operations in several countries in Southeast Asia.[214] Various East and Southeast Asian organized criminal groups, including networks linked to the *14K Triads* and other groups traditionally active in drug trafficking in the region, have been involved in these operations, in addition to armed groups operating in the region.[215] Elsewhere, in Ukraine, call centres dedicated to telephone and online frauds have been identified and linked to the *Dniprovski* and *Khimprom* criminal organizations.[216] Registered fraud crimes in Ukraine have rapidly increased in recent years, from around 15,000 in 2022 to more than 50,000 instances in 2023.[217]

Advances in technology have given rise to increasingly sophisticated and harmful cybercrime schemes. For instance, by using artificial intelligence (AI) to create computer-generated images and voices that are indistinguishable from real ones, cybercriminals are now executing social engineering techniques to defraud victims by exploiting their trust for financial gain,[218] as well as deepfake videos featuring legitimate public figures for investment fraud.[219]

In the case of online financial sextortion schemes, offenders approach victims on social media, gaming sites, and messaging apps using fake profiles, frequently posing as women or girls of a similar age.[220] After victims are deceived into sharing compromising content, they are blackmailed and threatened with the release of the sensitive content unless the victim pays money, sends gift cards, or transfers cryptocurrency.[221] Criminal groups involved in cybercrime often operate through flexible, loosely organized networks that form and dissolve around specific projects, though some develop more structured and hierarchical arrangements.[222]

Personal data of the victims are often a core asset in the operations of cybercriminals, which are subsequently used in phishing schemes and other fraudulent activities.[223] Some criminal groups behind organized fraud operations use the dark net[224] to procure sensitive data for criminal exploitation, such as bank client, postal courier service and mobile operator customer data.[225]

Large-scale cybercrime operations often concentrate in physical scam centres

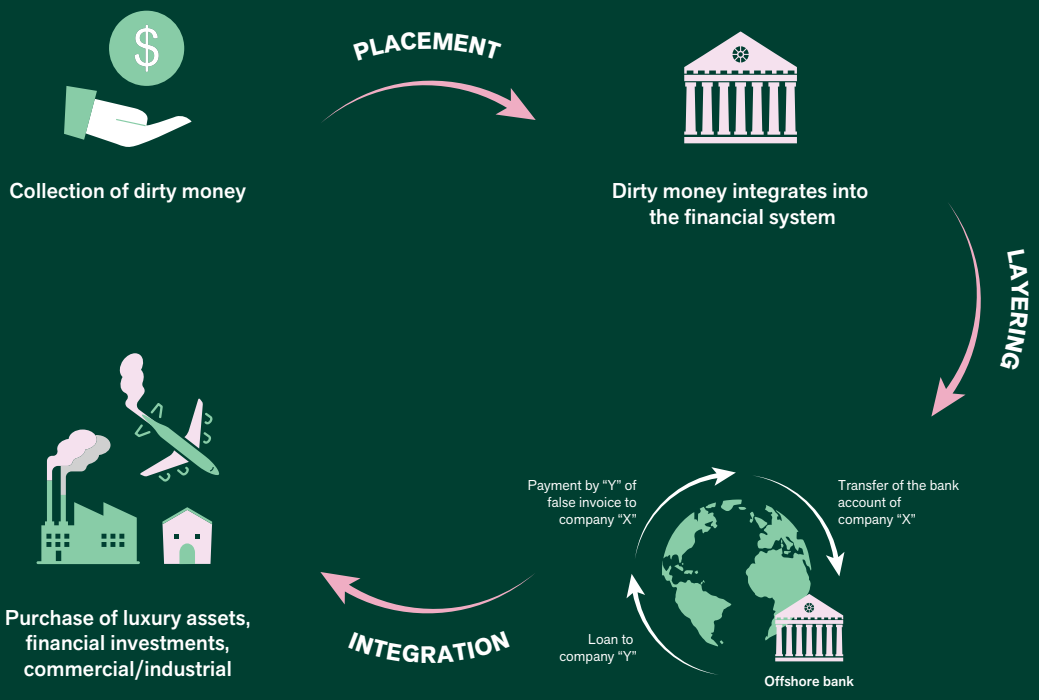
Cybercrime can be perpetrated by single individuals operating remotely in many different locations, but large-scale cybercrime operations that involve OCGs tend to concentrate in specific geographical locations and involve large numbers of operators. For example, the centres operating online and telephone fraud in Ukraine involve large numbers of operators in different locations. In a single case, national authorities dismantled a network of centres operating across 16 regions of Ukraine, with some 2,500 operators employed across the network. Before being dismantled, the criminal network's annual turnover was reported to be around US$74 million, highlighting the significant scale of the criminal operation.[226] Similarly, some online financial sextortion schemes have been documented in specific geographical hubs in West Africa, where horizontal, flexible structures of organized criminal actors are involved.[227] These cybercrime networks collaborate on a project basis with temporary hierarchical relationships, but with no permanent hierarchy within the group.[228]

Large-scale cybercrime operations typically require anonymity – like the scam centres that operate in Ukraine under the façade of IT companies – and weak rule of law. The large scam farms in Southeast Asia, for example, are located in territories characterized by loose regulations and weak jurisdictions, including border areas controlled by armed groups.[229] In these geographical hotspots, it is estimated that several hundreds of thousands of cybercrime operators carry out various cyberfraud and scam activities.[230] UNODC estimates financial losses between US$18 billion and US$37 billion from scams targeting victims in East and Southeast Asia in 2023 alone, with a high proportion of these losses attributed to scams committed by OCGs in Southeast Asia.[231]

In some of the large scam centres in Southeast Asia, people are trafficked and forced to perpetrate cybercrimes. Reports of trafficking in persons and deceptive recruitment into these scam centres began emerging in the early 2020s. In the scam centres, victims are confined in compounds, their passports are confiscated and they are compelled to carry out cyber-enabled fraud.[232] They are forced to interact with social media users and may be given a daily target of numbers of potential new victims with whom they have established contact.[233] While the full scale of trafficking in these centres is difficult to assess, multiple sources, including police reports, court documents, rescue and anti-trafficking groups, survivor testimonies, and media investigations, indicate that it may be widespread. Trafficking victims can find themselves in the same scam centre as individuals who participate voluntarily, as not all scam operators are coerced.[234] Most trafficked victims in scam centres in Southeast Asia are from the region, though recruitment of victims has been documented across South and Central Asia, Africa, Eastern Europe, and Latin America,

1481

Money laundering cycle



Source: UNODC. Available at: https://www.unodc.org/unodc/en/money-laundering/overview.html.

A basic introduction to money-laundering

The UN Convention against Transnational Organized Crime provides a legal definition of the laundering of proceeds of crime in its Article 6. [235] Money-laundering is one of the offences established under the Convention. The international community first called for the criminalization of money laundering in its 1988 Convention on Narcotics.[236] The UN Convention against Corruption contains multiple provisions for preventing money laundering.[237] The Financial Action Task Force (FATF) sets the global anti money laundering, countering the financing of terrorism and counter proliferation financing standards.[238]

In Australia, for example, money-laundering has been considered an intrinsic enabler of serious crimes and organized criminal groups, and has been carried out at different levels of sophistication by most, if not all, organized criminal groups.[239] The interconnectedness of money-laundering networks in Australia and the variety of laundering methods used by organized criminal groups are indicative of a truly global system of criminal business.[240]

In theory, money-laundering can take place in three stages: placement, layering and integration. Placement involves removing the funds from direct association with the crime; layering involves creating complex financial transactions to disguise the source and ownership of the funds; and integration involves making the money available to the criminals again by introducing it back into the economy, but now from seemingly legitimate sources.

In reality, money-laundering schemes may not always exhibit all three stages; some stages could be combined, or several stages repeat several times. For instance, if cash from drug sales is divided into small amounts, then deposited into banking accounts by "money mules", and afterwards transferred as payment for services to a shell company, placement and layering occur simultaneously.[241]

Organized criminal groups that generate income through drug trafficking or other illicit activities typically launder their income to hide its illicit origins. This frequently involves moving large amounts of assets across national borders. For example, it has been estimated that in most countries along the so-called Balkan route,[242] within the time period 2019–2022, between a quarter and half of the illicit net income from illicit drug markets related to opiates and methamphetamines was moved abroad.[243] These estimates suggest that within the defined time period, between US$3.4 and US$6.9 billion crossed borders every year along the Balkan route as illicit financial flows related to the two drugs.[244] The illicit profits accumulated by producing and trafficking opiates and methamphetamine along the Balkan route amount to a sizeable share of the gross domestic product (GDP) of some countries such as Afghanistan (US$17.2 billion in 2023) and North Macedonia (US$16.7 billion in 2024).[245]

reflecting the expanding geographical reach of these operations.[246] Available evidence also indicates that this criminal business model is rapidly spreading to other parts of the world, with groups establishing themselves in the Pacific,[247] Africa,[248] and South America.[249]

Casinos and online gambling have multiplied the opportunities for illicit gambling and facilitated new forms of money-laundering

Using modern ICTs, organized criminal groups have adopted new money-laundering schemes, increasing the challenges for criminal justice systems in tracing and seizing assets. An example of this technology-driven transformation is in the (mis)use of both online and onsite casinos, junket operations,[250] and online gambling to launder proceeds of crime (see *Case study 8 - The role of the casino industry in money-laundering in Southeast Asia*).

Advances in Internet speed and mobile app functionalities have expanded the online gambling sector, bringing additional opportunities for organized criminal groups not only to expand their operations in illicit gambling, but also to use the sector to launder money.[251] Law enforcement agencies reported that, throughout East and Southeast Asia, online casinos have been misused to serve as integral components of the money-laundering infrastructure, just as onsite casinos have.[252] The illicit nature of gambling transactions has generated an unprecedented demand for laundering-as-a-service providers, i.e., operators able to process transactions between players and operators that engage in illicit gambling seeking to circumvent detection. Such operators have been found to be introduced and controlled by organized criminal groups.[253] Additionally, such infrastructure built to launder illicit gambling operations has also been heavily utilized by other powerful criminal networks engaged in many other illicit activities.[254]

The rise of online social gaming has also changed the gambling industry and its associated money-laundering risks as so-called 'crypto casinos' and non-fungible token (NFT) play-to-earn games become more popular.[255] The online gambling sector is characterized by actors that operate remotely and anonymously, interconnected over the Internet, a minimal, if any, number of compliance staff, and large and complex volumes of transactions and financial flows that often span different jurisdictions. The speed and scale of financial transactions together with differences in legal frameworks, as well as legal loopholes, have created enforcement gaps and grey areas, allowing organized criminals to set up professional money-laundering operations.[256]

In East and Southeast Asia, casinos, junkets[257] and online gambling have become critical pieces in the underground banking and money-laundering infrastructure that serves transnational organized crime.[258] Several junkets in the region have been infiltrated or are directly controlled by organized criminal groups such as the *Lazarus Group*, *Sam Gor* or the *14K triad*, who use junkets to move money through and across casinos in order to launder their illicit proceeds.[259]

More broadly, what makes casinos – both online and onsite – together with their junkets and online gambling operations particularly attractive to organized criminal groups is that they can provide an end-to-end money-laundering service covering the entire laundering cycle.[260] Attractive features for organized criminal groups include large cash volumes, anonymous transactions, safekeeping arrangements and cross-jurisdictional credit relationships – all of which facilitate the concealment of illicit origins and the movement of value across jurisdictions.[261]

Organized criminal groups linked to this sector have demonstrated the ability to rapidly evolve and adapt to shifting contexts, regulatory frameworks, and institutional responses.[262] They have aggressively diversified their operations and increasingly exploit highly technical supply chains, complex transactions, and opaque money flows, as demonstrated by the case of online gambling.[263] Online gambling platforms often present themselves as legitimately registered businesses or as 'neutral third parties', sometimes appearing to be affiliated with larger business networks. In reality, many operate without authorization to conduct online payment processing, cryptocurrency trading and exchange, or related activities – functioning with little to no regulatory oversight.[264]

1483

Cheap, fast, and anonymous – the use of virtual assets for money-laundering

Virtual assets[265] are used by criminals to launder funds from a wide range of predicate offences, including from online frauds and scams, ransomware attacks, trafficking in drugs and chemical precursors as well as corruption.[266] Virtual assets are also used for financial transactions in illicit markets (e.g. illicit drug markets), in terrorism financing and proliferation financing,[267] as well as by international money-laundering networks, including for money-laundering services offered directly on dark net[268] marketplaces.[269] This does not, however, suggest that the existence and use of virtual assets are solely for criminal purposes. On the contrary, virtual assets are widely used in global finance and can offer access to finance and value movement for the poorest in society, often at less cost than traditional bank accounts. According to some estimates, which are subject to considerable uncertainty, the use of cryptocurrency in the context of crime represents less than one per cent of the total on-chain transaction volume.[270]

In recent years, Member States have reported the combined use of blockchain-based transactions[271] with other value transfer methods, including Hawala-type methods to launder crime proceeds.[272] In the Northern American context, for example, a recent case documented the work of international money-laundering networks using virtual assets to collect funds in one jurisdiction and making the equivalent value available in another, often by swapping virtual assets for cash.[273] The use of privacy coins[274] and technologies that can hide the identity of the parties involved, the amount being transferred, or even the existence of the transaction itself, has also been reported in relation to transnational money-laundering.[275] Stablecoins[276] have rapidly become the preferred medium for illicit financial transactions (compared with other types of cryptocurrency),[277] which criminals can combine with the use of mixers,[278] bridges, [279] and cross-chain swaps. The appeal of stablecoins lies in low volatility, fast settlement, and high liquidity – features that are valued by criminals.

Where there is the convergence between different forms of organized crime, virtual assets offer a common financial tool for money-laundering purposes. For example, in Southeast Asia, criminal networks involved in fraud, human trafficking for forced criminality, drug trafficking, gambling, and underground banking are increasingly intertwined.[280] Virtual assets are often a common denominator that connects these networks.[281] Criminals rely on over-the-counter brokers, unregistered exchanges, and nested accounts on major platforms to move and layer funds without detection. This convergence creates a resilient and globally connected ecosystem for illicit finance.[282]

Strategic priorities for action against organized crime

More than 25 years after the adoption of the United Nations Convention against Transnational Organized Crime and its supplementing Protocols, countering transnational organized crime increasingly requires a multilateral and multi-pronged response, including to address its ability to exploit technological advancements and its interlinkages with corruption, terrorism, conflict and development. Despite shifts in how organized crime operates, the Convention remains the central framework guiding these efforts, providing a flexible and robust basis for addressing traditional and new, emerging, and evolving forms of organized crime.

A number of actions have been identified below on how to respond to the current and prospective reality of transnational organized crime.

Action: When crime goes digital, so must the global response. As organized crime moves to the cyberspace, the international community must develop strategic responses to address the misuse of technology

Organized criminal groups are exponentially exploiting artificial intelligence and other emerging technologies as tools to carry out their activities. They also often take advantage of the increasing digitalization of public sectors and target key infrastructure to achieve financial gain. Governments, the private sector, and international institutions should strengthen joint threat analysis, improve cross-sector information exchange, and align responses to technology-enabled crime. Unlike traditional forms of organized crime, where public authorities were able to autonomously collect all relevant information for investigation and prosecution of cases, nowadays, cooperation with the private sector is indispensable, given that they are the main holders of key data.

Law enforcement and judicial authorities must be equipped with specialized training that includes real case scenarios, mock trials and simulations, as well as advanced digital forensic tools and software to enable rapid cross-border exchange of admissible digital evidence. Legal frameworks should be updated in line with the UN Convention against Cybercrime to address online- and AI-enabled threats, including the criminalization of deepfake abuse, large-scale organized fraud, and AI-generated exploitative content.

Action: Organized crime is borderless. So must be the institutional response to it. The international community needs to scale up its capacity to building partnerships and strengthen cross-border judicial and law enforcement cooperation

National competent authorities in countries involved in investigations, prosecution of judicial proceeding in respect to the same offences should enhance coordination. The deployment of liaison officers or magistrates, and the designation of specialized and stable focal points for international cooperation across jurisdictions has proven key to responding to the sophistication of organized criminal operations. Liaison magistrates act as an interface between the national central authorities of the deploying country, to which they maintain reporting lines, and the hosting country. In addition to their traditional functions which include facilitating the exchange of information and the transmission of Mutual Legal Assistance (MLA) requests, the Liaison Magistrates provide legal advice and solicit the prompt follow-up on cases and execution of MLA requests with the relevant authorities in the deploying country.

In relation to law enforcement cooperation, the expansion of joint investigations and the use of controlled delivery and other special investigative techniques, such as electronic or other forms of surveillance and undercover operations, have also proved especially impactful in combating organized crime across borders.

Adoption of digital technology solutions to enhance the scope and to speed the communication and the cooperation among national authorities should be in the agenda of the international community to combat transnational organized crime.

Action: Confronting criminal governance with integrated action. Territorial control of organized crime over vulnerable communities is increasing.

1485

Implementing multi-pronged interventions is required to limit such reality.

A combination of measures extending beyond the remit of the criminal justice system is essential to (re)establish State presence and legitimacy in the territories under the influence of the organized crime governance. In many contexts, this will require sustained long-term interventions aimed to reduce the dependence of local communities on criminal economies.

Individuals at the lower levels of the organized crime operations, such as farmers, small-scale smugglers and those involved in drug dealing due to poverty and limited livelihood options should be offered lawful socioeconomic alternatives, alongside focussed interventions to address structural drivers enabling the thriving of illicit activities, including deep-rooted poverty, underdevelopment, insecurity and inequality. Funding for such schemes may be mobilized through partnerships with the private sector, as well as through the social use of confiscated criminal assets. Human rights considerations should sit at the core of any anti-crime intervention.

Action: Profit is the main drive of organized crime. Target the criminal profits and Illicit financial flows to disarm the criminal organizations

Transnational organized crime is incentivized and enabled by its proceeds. Disrupting illegal financial flows, confiscating, and recovering the proceeds of crime through anti- money-laundering/combating the financing of terrorism/combating proliferation financing and anti-corruption measures is one of the most impactful ways in which Member States can combat transnational organized crime.

Such cooperation must be multi-sectoral, bringing together law enforcement authorities, financial intelligence and investigation bodies, prosecutors and the private sector. At the national level, priority should be given to strengthening financial investigation capacities, enhancing anti-money laundering frameworks, and ensuring the effective use of seizure, confiscation, and asset recovery mechanisms.

Cryptocurrencies are increasingly used for illicit purposes, the logic of following the money has expanded to include tracing the mining, transfer, and eventual confiscation of digital assets, including, where relevant, analysis of the energy consumption required to generate them. In response to this threat, digital technology needs to be used as a tool to combat illicit financial flows carried out through digital assets. Capacity-building for national authorities remains key to train relevant officials in the use of digital technologies for the investigation and prosecution of organized crime activities.

Action: Organized crime and instability are increasingly interconnected and interrelated. Address organized crime as agent of instability in conflict and related crisis areas

United Nations entities and other international actors, including peacekeeping personnel, must be able to identify and report organized crime dynamics within their mandates. Children recruited by terrorist and non-state armed groups are subjected to compounded violence and exploitation. At the same time, among displaced populations and veterans, the initiation of, or transition to, harmful use of substances is complex, and it often needs to be addressed against a backdrop of limited health infrastructures and constrained social and economic resources. Successful reintegration requires on targeted programmes combining educational and vocational opportunities, health and psychosocial support, crime prevention, and community-based inclusion measures for affected individuals and their families.

Border authorities and national law enforcement agencies should be strengthened to effectively detect, intercept, investigate, and prosecute illicit arms trafficking and manufacturing, particularly in conflict, post-conflict, and other fragile settings where risks of diversion and proliferation remain acute. These efforts should be reinforced through comprehensive arms control and preventive measures, including systematic record-keeping, marking and tracing, and safe and secure stockpile management to prevent diversion from national holdings.

In conflict situations, armed groups establish criminal partnerships with organized criminal groups to exploit territories under their control, ranging from the extraction of precious minerals to the establishment of scam centres, and from oil smuggling to drug trafficking. Illicit drug economies can flourish in situations of conflict. At the same time, conflicts may also disrupt traditional commercial trade and travel patterns, altering trafficking routes and methods, including drugs that are often concealed within legitimate channels. Systematic monitoring of these patterns based on a sound threat assessment methodology and solid evidence is needed to limit the impact and extension of conflicts.

1486

Endnotes

1 The definition of organized criminal group specifically refers to a structured group that acts "to obtain, directly or indirectly, a financial or material benefit" (Art. 2 (a) of the United Nations Convention against Transnational Organized Crime).

2 Currently, only four UN Member States are yet to adhere to UNTOC (Papua New Guinea, Republic of the Congo, the Solomon Islands and Tuvalu). More information: https://treaties.un.org/pages/viewdetails.aspx?src=treaty&mtdsg_no=xviii-12&chapter=18&clang=_en.

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4 The "Protocol against the Smuggling of Migrants by Land, Sea and Air" adopted by General Assembly resolution 55/25, entered into force on 28 January 2004. It deals with the growing problem of organized criminal groups who smuggle migrants, often at high risk to the migrants and at great profit for the offenders. A major achievement of the Protocol was that, for the first time in a global international instrument, a definition of smuggling of migrants was developed and agreed upon. The Protocol aims at preventing and combating the smuggling of migrants, as well as promoting cooperation among States parties, while protecting the rights of smuggled migrants and preventing the worst forms of their exploitation which often characterize the smuggling process.

5 The "Protocol against the Illicit Manufacturing of and Trafficking in Firearms, their Parts and Components and Ammunition" was adopted by General Assembly resolution 55/255 of 31 May 2001. It entered into force on 3 July 2005. The objective of the Protocol, which is the first legally binding instrument on small arms that has been adopted at the global level, is to promote, facilitate and strengthen cooperation among States Parties in order to prevent, combat and eradicate the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition. By ratifying the Protocol, States make a commitment to adopt a series of crime-control measures and implement in their domestic legal order three sets of normative provisions: the first one relates to the establishment of criminal offenses related to illegal manufacturing of, and trafficking in, firearms on the basis of the Protocol requirements and definitions; the second to a system of government authorizations or licensing intending to ensure legitimate manufacturing of, and trafficking in, firearms; and the third one to the marking and tracing of firearms.

6 The Convention goes on to define "serious crime" as "conduct constituting an offence punishable by a maximum deprivation of liberty of at least four years or a more serious penalty" and "structured group" as "a group that is not randomly formed for the immediate commission of an offence…". Taken together, these elements provide a basis for understanding transnational organized crime as serious profit-motivated criminal actions committed by a group to obtain a direct or indirect financial or other material benefit, conducted across national borders.

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245 World Bank, *GDP (Current US$)*, World Bank Open Data, https://data.worldbank.org/indicator/NY.GDP.MKTP.CD.
246 UNODC, *Inflection Point* (2025) 32.
247 Ibid., 47.
248 Ibid., 53.
249 Ibid., 56.
250 A junket operation is a legitimate business arrangement, whereby an intermediary (known as a junket operator) organises and facilitates groups of gamblers - often high-rollers who spend large sums - to visit a casino, typically in another jurisdiction. Recent law enforcement action has revealed that some junket operators serve as international bank-like entities that provide a variety of underground financial services, as well as an infrastructure for organised criminal groups to move financial assets across borders, including for the purpose of money-laundering. See: UNODC, *Casinos, Money Laundering, Underground Banking, and Transnational Organized Crime in East and Southeast Asia: A Hidden and Accelerating Threat*, 1.
251 Ibid., 19, 41.
252 Ibid., 41
253 UNODC, *Transnational Organized Crime and the Convergence of Cyber-Enabled Fraud*, 70.
254 Ibid.
255 UNODC *Casinos, Money Laundering, Underground Banking, and Transnational Organized Crime in East and Southeast Asia*, 41.
256 UNODC, *Transnational Organized Crime and the Convergence of Cyber-Enabled Fraud*, 69.
257 A junket is an arrangement between a hosting casino and a junket operator to facilitate gambling by an individual or a group of high-wealth players for a period of time through VIP programmes or tours. Through their relationships with casinos, junket operators can offer incentives and perks to their VIP members and other prospective VIP gamblers. Recent law enforcement action has demonstrated the scale at which some junket operators have been able to serve as international bank-like entities, providing a variety of underground financial services including credit issuance, currency exchange and multi-currency payment and settlement solutions, remittances, and extra-legal debt collection mechanisms which have been exploited by organized crime.
258 UNODC *Casinos, Money Laundering, Underground Banking, and Transnational Organized Crime in East and Southeast Asia: A Hidden and Accelerating Threat*, 29; UNODC, *Transnational Organized Crime and the Convergence of Cyber-Enabled Fraud*, 68.
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265 Virtual assets (or crypto assets) are defined by the Financial Action Task Force (FATF) as any digital representation of value that can be digitally traded, transferred or used for payment. It does not include digital representation of fiat currencies. For more information, see https://www.fatf-gafi.org/en/topics/virtual-assets.html.
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267 Chainalysis. 2025. The 2025 Crypto Crime Report. Proliferation financing refers to financing in support of the illegal manufacture, acquisition, or use of nuclear, chemical, or biological weapons.
268 Dark net content is not indexed and consists of overlaying networks that use the public Internet but require unique software, configuration, or authorization to access. For more information, see https://www.fbi.gov/news/stories/a-primer-on-darknet-marketplaces.
269 US Department of Justice, "International Crypto Vendor Sentenced for Money Laundering Conspiracy," 2025, https://www.justice.gov/usao-edky/pr/international-crypto-vendor-sentenced-money-laundering-conspiracy.
270 Chainalysis, *The 2025 Crypto Crime Report*, 4. In the context of cryptocurrencies, the term “on-chain” refers to activities and transactions that occur directly on the blockchain (see below) and that are permanently recorded.
271 The technology behind several cryptocurrencies, blockchain is an open, distributed ledger that can record transactions between two parties efficiently, and in a verifiable and permanent way.
272 *Hawala* is a Money or Value Transfer Service (MVTS) that has been used for centuries, originating in the Middle East and South Asia. It is overwhelmingly used for legitimate purposes, including personal and business financial transactions and for the sending of remittances by migrants and refugees to family members. For more information, see UNODC, *The Hawala System: Its operations and misuse by opiate traffickers and migrant smugglers* (2023).
273 US Department of Justice, "International Crypto Vendor Sentenced for Money Laundering Conspiracy," 2025, https://www.justice.gov/usao-edky/pr/international-crypto-vendor-sentenced-money-laundering-conspiracy.
274 Privacy coins are cryptocurrencies designed for anonymity and reduced traceability.
275 Europol, *Cryptocurrencies: Tracing the Evolution of Criminal Finances*, Europol Spotlight Report (Luxembourg: Publications Office of the European Union, 2021).
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278 Mixers are services that combine and redistribute multiple users' crypto assets so as to obscure the trail back to the assets' original source.
279 Bridges are platforms that facilitate the transfer of assets and data from one blockchain ecosystem to another.
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1497

VIOLENCE IN THE QUEENSLAND CFMEU

A. INTRODUCTION

1. The Administrator of the CFMEU has directed me to investigate violence in the Queensland operations of the CFMEU.[1]

2. Violence is any behaviour which is physically, sexually, emotionally, psychologically or economically abusive. It includes conduct which is threatening or coercive, or which causes a person to feel fear for their safety or well-being. It specifically includes conduct which "*causes a child to hear or witness, or otherwise to be exposed to the effects of, such behaviour".*

3. That definition of violence should not be unfamiliar to the CFMEU – the definition is one drawn up by the CFMEU to be included in its enterprise agreements.[2] The purpose of having such a wide definition of violence was, apparently, to protect CFMEU members from harm.

4. Yet, as will be seen, the CFMEU has breached – deliberately breached – every aspect of its own anti-violence policy. The CFMEU in Queensland actually intended to inflict physical, sexual, emotional, and economic abuse on others. The CFMEU used threats and coercion deliberately to cause fear. As will be seen, the CFMEU directed threats and intimidation at women and children.

5. In summary, there is no doubt that there is violence in the Queensland construction sector and there is no doubt that the CFMEU was a big part of that violence. This is hardly a revelation. In 2024 a federal judge said he did not require evidence of CFMEU violence because it was "*well documented"* that the Queensland CFMEU had "*engaged in thuggish behaviour".*[3]

6. The purpose of the violence is plain – the violence is used by the CFMEU to support a pursuit of political, industrial, and financial power. This included, if necessary, destroying individuals and businesses. The CFMEU is ruthless – it will crush anyone offering any resistance to it.

7. The campaign of violence was very likely planned and directed by the CFMEU leadership – principally by the secretary, Michael Ravbar, and an assistant secretary, Jade Ingham.[4] The campaign was eagerly executed by some CFMEU organisers,

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1 The terms of reference are attached as Appendix A. The terms were altered on 27 May 2025 to extend the period under investigation back to 2015. References in this report to the "CFMEU" should be read as limited to the Union's Queensland operations, either through the Queensland Branch of the federally-registered CFMEU or the state-registered entity, the CFMEUQ.

2 See, as just one example, clause 42.3 of the "*RB Major Projects Pty Ltd and CFMEU Collective Agreement 2023-2027*"

3 Justice Rangiah in *CPB Contractors Pty Ltd v Construction, Forestry and Maritime Employees Union* [2024] FCA 459 at [51].

4 As will be explained, Ravbar and Ingham were given multiple invitations to attend an interview or to respond in writing. They declined all invitations. They were specifically requested to respond to this suggestion regarding their role in the violence. Neither did.

some delegates, and some rank-and-file members. Ravbar and Ingham successfully cultivated a culture of violence in the CFMEU.

8. This report is not motivated by any hostility toward the trade union movement - far from it. This report is generated from a genuine respect for the essential role trade unions hold in redressing the imbalance of power between labour and capital, in improving the lives of working Australians, and keeping workers safe. But the power and benefits conferred through the recognition given to a trade union carries with it responsibility and accountability, and subjects its conduct to scrutiny. The rights of organisation and protest are not unlimited; there is a line somewhere - and violence is always on the wrong side of that line.

9. The Queensland CFMEU has well and truly crossed that line. The problem of violence in Queensland is serious. Numerous instances of violence are detailed in this report.

10. The CFMEU methods have proved effective in Queensland. The CFMEU has got its way, time after time, on numerous aspects of policy and during practical negotiations. Many of the opponents of the CFMEU have stood up to the intimidation, but others have been cowed by the threats. One common CFMEU method is to target individuals, isolate them, attack them, and not let up. The CFMEU is relentless. The conduct of the CFMEU has required some of their targets to quit their jobs, to move their homes, and to seek medical assistance. The CFMEU has ruined careers and caused long lasting emotional and financial damage to its opponents.

11. Yet often the methods employed by the CFMEU are childish and cowardly - *childish* because many of the methods used are scarcely more sophisticated than schoolyard bullying; *cowardly* because the CFMEU commonly sends a dozen or more men to intimidate its targets. The CFMEU imagines that strength is best reflected in sending ten men to threaten one. That is not strength – it is thuggery. Consistent with the thuggery, the CFMEU targets the vulnerable, including women.

12. There is a lot of hypocrisy in the CFMEU. The leadership speaks of its concern for the mental health of workers, but then deliberately damages the mental health of its opponents. The leadership speaks passionately about job security, but then constantly calls for the sacking or resignation of its opponents. The leadership speaks emotionally of unity in the trade union movement, but then tries to wipe out competing unions.

13. But far and away the worst hypocrisy from the CFMEU relates to its treatment of women. The leadership speaks of its concern for women, but then viciously attacks the women who oppose it in degrading and sexist terms. A specific section of this report will focus on violence inflicted on women by officials and members of the CFMEU. One of the witnesses is a health and safety advisor with more than thirty years' experience on Queensland building sites - she said that the belief that conditions for women are

improving is wrong and, if anything, the way in which women are treated has been deteriorating.

14. Unless it is stopped the CFMEU violence in Queensland will get worse. That said, there is evidence that suggests that if changes are made the risk of violence can be reduced and may even be removed.

15. If there is to be a change it will need to be initiated by the Administration. Even though Michael Ravbar and Jade Ingham have been removed, and even though a handful of officials have resigned, there seems to be little willingness amongst the holdover officials to change. Instead, those officials I interviewed were steadfast in denying that there was any problem at all – I was told repeatedly by organisers that they had never seen any violence emanating from the CFMEU. That is laughable given the extensive court findings and the irrefutable video evidence.

16. The Administration's response needs to be swift and ensure long lasting change. To end the violence will require the immediate removal of some officials.[5] Those officials and delegates who remain will need to be warned that repetition of the violence will lead to termination of their employment or appointment. Violence by the CFMEU can no longer be tolerated.

The course of the investigation

17. Over three months, 55 people were interviewed during the investigation, most more than once.[6] Those interviewed included CFMEU officials and members, other trade unionists, politicians, bureaucrats, building contractors, representatives from employers' associations, bystanders and – worst of all – victims of the abuse. Speaking to the victims was especially eye-opening. Extensive video and photographic evidence has been obtained and examined. The information included contemporary press reports and social media posts made by the CFMEU. There are thousands of pages of material.

18. Yet I fear this investigation only scratched the surface of the violence in the Queensland CFMEU. There are many other potential witnesses and many other stories which could have been told. There was no chance nor need to pursue them all. Enough was uncovered to make me confident of the accuracy of the matters included in this report.

19. This investigation was conducted while the CFMEU constitutional challenge to the Administration was unresolved.[7] The investigation was hampered to some extent by that fact. While that decision was outstanding several potential witnesses were reluctant to co-operate in case Michael Ravbar and Jade Ingham were successful and reinstated.

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5 The names of those officials will be provided separately to the Administrator in a private report.
6 A list of participating witnesses has been provided to the Administrator.
7 At the time this report was prepared the judgment had not been handed down.

A lack of co-operation from CFMEU witnesses

20. An investigation like this requires some degree of co-operation: potential witnesses need to be willing to talk; potential witnesses need to be truthful and accurate.

21. There was an obstinate refusal to co-operate from some critical witnesses with connexions to the CFMEU. It seems, sadly, that CFMEU officials are afflicted with widespread memory loss.

22. Four groups of witnesses connected to the CFMEU were identified as especially important to the investigation.

23. The first group comprised the former secretary Michael Ravbar, and a former assistant secretary, Jade Ingham.

24. Given the High Court challenge to the validity of the administration, it was regarded as inappropriate to require Ravbar and Ingham to attend an interview under s 323L of the *Fair Work (Registered Organisations) Act 2009*. Instead, Ravbar and Ingham were given multiple invitations to attend an interview. Neither took up the invitation.

25. This was a pity because there is no doubt that each could have assisted the investigation. It also meant that information adverse to Ravbar and Ingham was left uncontradicted.

26. A second group of current officials was identified as potentially helpful. Because this group comprised current employees of the CFMEU, they were directed by their employer to attend interviews. Independent legal representation was provided. They were [redacted]

27. The interviews were disappointing. Several of these men were deliberately unhelpful and even gave palpably false answers. A summary of what they had to say and the reasons for the adverse assessment of it is provided in my private report to the Administrator.

28. Because of specific matters adverse to him, a further invitation to attend or to provide a written response was sent to [redacted]

29. A third group of witnesses comprised previous employees of the CFMEU. This group could not be directed to attend, so they were invited to attend an interview. Again, independent legal representation was provided. Each of them declined to participate in an interview. This group comprised [redacted] a former co-ordinator, and the former organisers [redacted]

30. [redacted] accepted an opportunity to provide answers to written questions. Those answers are referred to where necessary in this report.

31. Because specific matters of concern arose during the investigation, further invitations were made to [redacted] to attend an interview or provide written responses to address the issues. [redacted] gave a minimal response and [redacted] declined to respond altogether.

32. A fourth group of witnesses are or were CFMEU delegates – ie officials of the CFMEU, but not employees of the CFMEU. They were also given an opportunity to attend an interview or answer questions. As none were employed by the CFMEU there was no power to direct them to attend an interview or to answer questions. Again, legal representation was made available, but each declined an interview. They are [redacted] and [redacted].

33. Because the investigation raised specific issues of concern against them, further invitations to attend an interview or provide written responses were extended to [redacted] to address the matters raised. Both declined the invitation.

The reports

34. My report is in two parts: this public report and a private report which will be provided only to the Administrator.

35. This public version has been deliberately framed to prevent repercussions against those who have provided assistance. Some names and other details have been withheld. Some of the images reproduced have been cropped or altered to protect identities. The content of some social media posts that targeted victims has been suppressed – to republish them would only retraumatise the victims and possibly grant some perverse pleasure to those who posted the abuse.

36. *Warning* - some of which follows in this report will certainly be distressing to some readers. It includes violence and threats toward women and, in one instance toward a child.

B. BACKGROUND: THE CFMEU IN QUEENSLAND

The legal structure of the CFMEU

37. Although references to the CFMEU will be made throughout this report, there are actually three separate bodies relevant to this investigation.[8]

38. The first body is the federally registered organisation, which has three Divisions – the relevant one being the Construction and General Division. The second body (and the principal focus of this report) is the federally registered Queensland and Northern

[8] Even the reference to the "CFMEU" needs to be qualified; because of amalgamations or separations, the Union has had different titles, but those make no difference to this report – throughout the Union will be referred to as the CFMEU.

Territory Branch of the C & G Division. The third body, typically referred to as the 'CFMEUQ', is registered under the *Industrial Relations Act 2016* (Qld).

39. It will generally be sufficient to refer simply to the CFMEU, using that as a means of describing the conduct of one or more of the CFMEU organisations operating in Queensland.

The leadership structure of the Queensland CFMEU

40. Before the Administration commenced the control of the Queensland Branch was vested in the Branch Committee of Management – commonly known as "*the COM*". The COM is elected by members.

41. Beneath the COM, during the period relevant to the investigation, [redacted] a secretary, Michael Ravbar, and two assistant secretaries, Jade Ingham and Kane Lowth. No adverse information was ever received in respect of Lowth.

42. Ravbar and Ingham were removed from their position upon the commencement of the Administration. [redacted] Under the Administration the powers and duties of the executive have been transferred to an executive officer.

43. Beneath the executive were, roughly, 40 organisers. The organisers were allocated roles, sometimes by reference to a geographical area, sometimes by reference to a task or trade. The number and names of the organisers changed occasionally. It will only be necessary to identify a few in this report.

44. The executive and the organisers were directly employed by the CFMEU.

45. Beneath the organisers there were, roughly, 400 delegates. Delegates are supposedly selected through a democratic process – ie a vote of members on a particular site. In practice the members are more commonly presented with a single candidate. The delegates are not employed by the CFMEU; they are employed by the contractor or contractors on a particular site. Upon selection a delegate will be recognised by the CFMEU and given specific training. The number and identity of the delegates changes often, and only those of particular present interest will be mentioned in this report.

46. Together the organisers and delegates are known as "*officials*" of the CFMEU and have a role of representing the Union in different circumstances. They are positions of power and authority.

C. THE CYCLE OF LAWLESSNESS

47. There is a plain and consistent theme running through the operations of the CFMEU in Queensland – that theme is the CFMEU's utter contempt for the law, its disregard for laws and rules, its refusal to be bound by ordinary norms of behaviour, and its attempt to take advantage of its acting outside the law. There is something deeply hypocritical

that, when challenging the validity of the legislation introducing the Administration, the CFMEU took their arguments to the High Court on the basis that the CFMEU was entitled to the protection of the rule of law – a protection it had repeatedly denied to those with whom it dealt.

48. In some ways the problem goes deeper than a mere disregard for the law, it seems to extend to deliberate breaches. The CFMEU wanted to have the reputation of an outlaw.

The CFMEU's attitude to industrial prosecutions

49. In August 2024 the Fair Work Commission detailed how, in the 21-year period between 2003 and 2024, there were 213 separate court proceedings brought against the CFMEU, resulting in 2,600 convictions and the imposition of $28 million in fines. Things were getting worse, not better: in the High Court challenge the Solicitor-General cited records showing how, in the five-year period between 2019 and 2024, the CFMEU had been convicted of 1,163 breaches of industrial laws, resulting in more than $10 million in fines.[9]

50. This is quite out of order with the experiences of other trade unions: the CFMEU had collected 55 times more convictions than its closest competitor; many large trade unions had not been prosecuted for a single breach. While it is fair to observe that the Australian Building and Construction Commission targeted the CFMEU, other unions were also subject to the ABCC, and did not have conviction rates anything like the CFMEU.

51. Some federal judges imposing punishment on the CFMEU have observed that the CFMEU has no regard for the fines and that fines have proved ineffective as a deterrent. Several judges have described the CFMEU's attitude as treating the fines as a cost of doing business.

52. I would go further – it seems more likely that breaching the laws and suffering fines was an integral part of the CFMEU business model. Its reputation as an aggressive outlaw created a fear and reticence amongst those dealing with the CFMEU. Those running the Queensland CFMEU were obviously content that the value of that outlaw reputation well exceeded the amount of the fines.[10]

53. Those statistics apply to the whole of the CFMEU; this investigation is focussed on Queensland Branch. For that reason literally dozens of Queensland court decisions were read as part of this investigation – there is something of a summary below. Reading judgment after judgment is dispiriting: the lawlessness in Queensland affects every aspect of the CFMEU's operations - its relations with government, its relations

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9 See Ravbar v Commonwealth of Australia [2024] HCATrans 90 (10 December 2024).

10 In his evidence in the Trades Union Royal Commission, Michael Ravbar said that "*I don't have a problem*" with the CFMEU breaching court orders, including an injunction: Michael Ravbar, 6/8/14, T: 347.25-39. Referenced Heydon Report, Volume 5, page 400.

with regulators, its relations with other trade unions, its relations with contractors, its relations with women, and its relations with the public.[11]

Who paid the fines?

54. Unless a punishment stings it will not deter. For this reason, there is a statutory power to make an individual liable to pay the fine and to prevent recovery from the CFMEU or some third party.[12] Unless personal payment orders were made, the CFMEU routinely paid the fines imposed upon its officials. That meant the individual official faced no downside; the individual develops the confidence and impudence to continue breaching the law.

55. Several personal payment orders have been made against Queensland CFMEU officials by federal judges.

56. There were strong rumours that the CFMEU protects its officials and members from the impact of personal payment orders. An examination of CFMEU records was conducted which showed payments were being made which had the effect of defeating the sting of the personal payment orders. It seems the CFMEU may have received legal advice that third-party payments would be acceptable if made by the State registered union. That advice appears to have glossed over the complex financial relations between the Queensland Branch and the Queensland Union.

57. When individual officials were asked about the matter, objections were taken invoking the privilege against self-incrimination. Those who claimed the privilege were [redacted]

58. The only reasonable inference is that those claiming the privilege had not complied with personal payment orders made against them. There is no doubt that they and others were being funded in a way to evade the orders of the courts.

59. The step of consciously evading court orders is serious, and a further demonstration of the utter disregard the CFMEU has for the rule of law. It also explains why officials were repeatedly breaching the law.

D. INSTANCES OF VIOLENCE

60. The violence the CFMEU brings into the construction sector occurs in a wide variety of ways – in far too many ways to catalogue the lot. There is chaos – the CFMEU thrives on chaos. This makes it difficult to organise the violence into some kind of sensible order.

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[11] These statistics grossly understate the actual number of breaches. One witness – in a very good position to know – explained that on the Cross River Rail Project there were thousands of individual breaches notified by contractors to the ABCC, but the ABCC were selective as to those which would be prosecuted.

[12] See s 546 of the Fair Work Act 2009.

61. Although there are many other types and occasions of violence, this report is limited to five categories or areas in which the CFMEU deliberately extended its violence.

62. The *first* is the approach the CFMEU took toward the government - the Ministry and the senior bureaucracy. It seems that the CFMEU thought it was, or at least should be, running the Queensland government.

63. The s*econd* is the way the CFMEU treated the Work Health and Safety inspectorate – another area in which the CFMEU decided it should be in control.

64. The *third* is in its relations with the Australian Workers' Union – an Australian trade union which the CFMEU in Queensland seems to have decided should no longer exist.

65. The *fourth* is the relations the CFMEU had with employers and with employer organisations. Here it is perfectly understandable that there would be tensions, but the CFMEU recognised no boundaries and went much too far.

66. The *fifth* is the way in which the CFMEU treated women. This issue has been left until last because in some ways it is the most important. It is a showcase of what is wrong with the CFMEU.

67. As foreshadowed, much of what follows involves abusive language. It might be said that these are only words, but that ignores the real effect the words had. The CFMEU knew by 2014 of the power and effect of abusive language, and why it was unacceptable. In *CFMEU v BHP Coal Pty Ltd*[13] a mine worker's employment was terminated because he was carrying a sign bearing the words "*No principles, SCABS, No guts".* The CFMEU litigated the matter all the way to the High Court, where the termination was upheld because the language was offensive, abusive, humiliating, harassing, and intimidatory.

68. It is stunning to compare those words – "*No principles, SCABS, No guts"* - with the horrifying abuse about to be disclosed below.

HOSTILITY TOWARD GOVERNMENT

69. Australian politics, especially at a State level, is notoriously robust; strong criticism is common. But even by those standards the CFMEU went too far.

70. The problem starts with Michael Ravbar. He, like all Australians, enjoys a freedom of political communication, but that does not entitle him or anyone to engage in persistent, threatening abuse. His language set a low standard of conduct for the whole of the Queensland CFMEU. If the CFMEU was sliding into violence, the slide was starting from the top.

[13] [2014] HCA 41.

"Politically moronic"

71. In speech after speech, Ravbar denigrated politicians because they would not give in to him. The attacks were personal, lifted straight from the Trump playbook. Ravbar described the Prime Minister as *"gutless", "willingly ignorant",* and *"politically moronic".* He said that the Prime Minister had "*lost control",* had a "*glass jaw",* was a "*bed wetter",* and had "*panicked and soiled himself".* In one memorable speech he shouted that the Prime Minister was *"doing a shit job"* four times in about two minutes.[14]

72. Ravbar also attacked a succession of Queensland Ministers. He described successive Premiers as "*increasingly remote and intolerant of criticism",* as demonstrating *"an appalling lack of judgement",* and as being *"a joke of a leader".* He described a Deputy Premier as a *"dud"* and another Minister as the "*worst industrial relations minister Queensland has ever seen".*[15] Meanwhile the CFMEU Facebook page told a Minister you have *"blood on your hands".*[16] Ravbar's standard response when faced with the slightest opposition was to call for Premiers, Deputy Premiers and Ministers to be sacked or to resign.

73. I spoke to politicians about this. Their stories were similar.

74. One Minister described the CFMEU as "*the most aggressive"* trade union, and "*so aggressive so that nothing can satisfy its appetite".* Another said "*the CFMEU is uncomfortable if there isn't a battle or a fight on".* One politician asked a very good question – *"the CFMEU is so aggressive, but the AWU is not. Both are building unions – why the difference?".*

75. On public occasions – even formal occasions – the CFMEU would have members attend and heckle politicians. When one Minister was addressing a group, they were drowned out by CFMEU members - *"you've got blood on your hands".* One Minister's office received so many abusive telephone calls that – ironically - as a workplace safety issue the staff were instructed not to take calls from the CFMEU. That Minister was constantly abused by Ravbar; his abuse was described as *"relentless".*

76. The abuse was so bad that the Queensland police insisted that one Minister be given a security upgrade.

77. The abuse was sexist. Occasionally signs were attached to the door of the ladies' facilities near a female Minister's office - "*Flush Labor Down the Toilet".* One of these signs actually used tampons to form the words.

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[14] See as examples: *"Albanese shields mates, sells out workers",* CFMEU media release, 17 July 2024; *"Queensland Union boss lashes out out at Labor government over CFMEU probe*", Brisbane Times, 17 July 2024; *"Doing a sh*t job: Ravbar takes aim at Albanese" Courier* Mail, 27 August 2024; Ministers Media Centre, 14 August 2024.

[15] "*Michael Ravbar blasts Qld Labor for giving plum IR positions to senior union figures*", The Australian, 5 July 2019; "*Minister rejects resignation calls after worker injured*", Canberra Times, 26 July 2023; "*Ex CFMEU powerbroker savages Miles as 'a joke' '*", The Australian, 27 August 2024

[16] CFMEU Facebook post, 15 February 2024.

78. The aggression was quite mindless. For example, a Minister's electorate office was picketed, but when the Minister asked the men on the picket line what their issue was, they had no idea.

"*You're now working for us"*

79. The following might be the best example of how the CFMEU thought of government, especially a Labor government.

80. When Labor recovered government in Queensland in February 2015 the CFMEU seems to have regarded itself as having taken over administering industrial relations.

81. Just after the change of government, two members of an agency attended the CFMEU offices at Bowen Hills for stakeholder consultation over new industrial legislation. The new law had been a promise of the incoming government. I was told by a senior public servant that, upon arrival, they were verbally attacked by by [redacted]

82. According to that public servant, [redacted] complaint was that the CFMEU should have been involved in *drafting* the legislation, and not just consulted after the law was drafted. In other words, in [redacted] view the CFMEU should be making the law, not the Parliament.

83. The public servant said that [redacted] is a large man and he stood, towering above the consultative team. He shouted for about five minutes. The theme was consistent – *"I am your boss now".* He told them "*You'll take your directions from me"* and added "*You're now working for us".*

84. I wished to raise these issues with [redacted], but he declined my invitation to attend an interview. Instead, he gave a written response which contained no details beyond a bare denial.

"The crack was probably already in the glass… it was probably foreign product."

85. On 5 April 2023 the CFMEU organised a *"National Day of Action"* during which an estimated 5,000 of its members marched through the CBD toward the Commonwealth offices in Waterfront Place in Eagle Street.

86. The principal reason for the protest was to force the federal government to abolish the Fair Work Ombudsman – the body responsible for prosecuting the CFMEU for its many breaches.

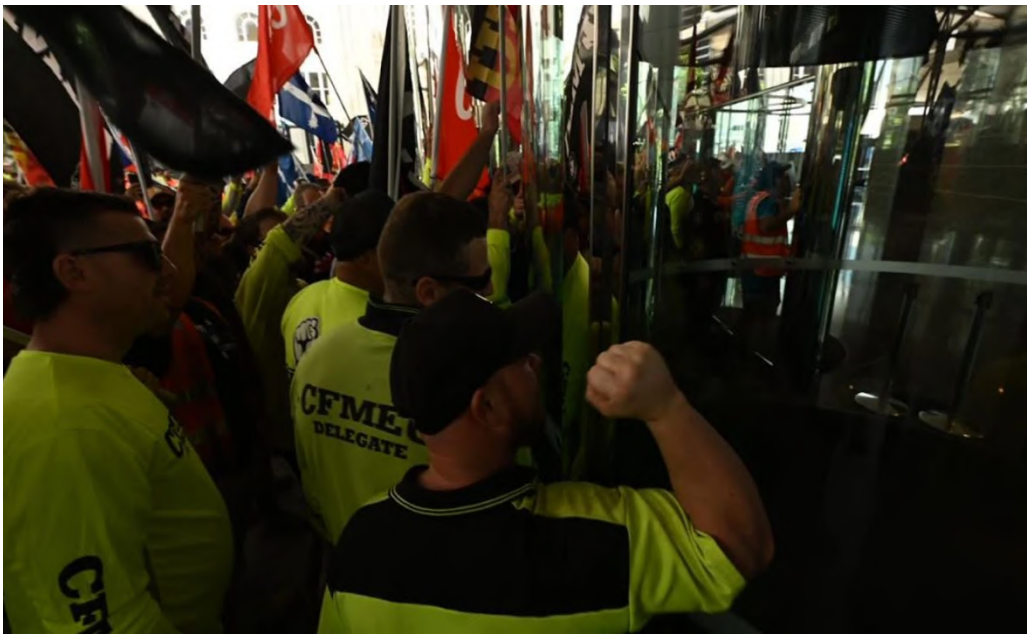


Figure 1: The protesters arrive at the Commonwealth offices (Source: Courier Mail 5/04/2023)

87. The premises at Eagle Street were locked down in advance of the protestors, but several men forced a glass revolving door, smashing it to pieces.

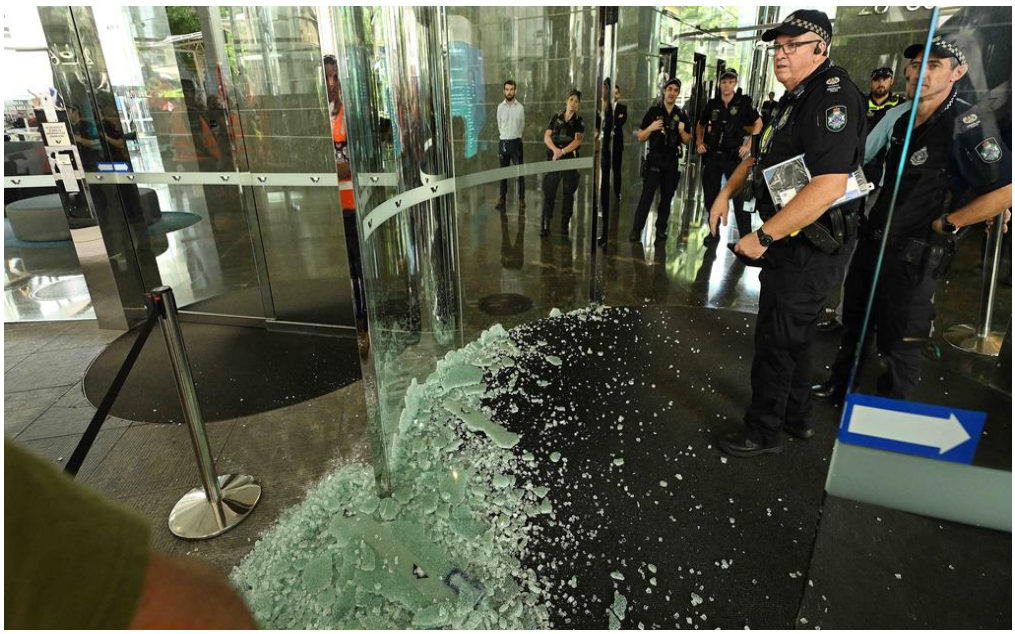


Figure 2:Police inspect the smashed glass door. (Source: Lyndon Mechielsen/Courier Mail 19/04/2023)

88. There was also graffiti found painted onto the building: for example, one message was "*Fuck ABCC*" and another simply said *"Pigs".*[17]

89. Apart from the inconvenience, the cost of the damage to the property was in the order of $25,000.

[17] "T*wo men face court after violent CFMMEU protest"* The Courier-Mail, 19 April 2023. The message regarding the ABCC is puzzling; the ABCC had already been abolished some months earlier.

90. Although there is clear video evidence that the locked door was smashed when CFMEU members were forcing it open, Jade Ingham brushed that aside: he told the mob – "*I know the crack was probably already in the glass and that it wasn't our fault".* He was even able to blame the destruction of the door on foreigners – *"It was probably foreign product to begin with".*

Workers just *"wanting to have a say"*

91. On 23 August 2022 the Queensland Transport and Roads Investment Program had organised an industry briefing at the Department of Transport and Main Roads offices in Mary Street in the CBD. This was an important strategic planning event. Amongst others, three senior officials of the CFMEU were invited to attend.

92. The event never happened. Before the briefing could commence around 200 members of the CFMEU "*stormed"* the premises, forced their way in, and occupied the area in which the briefing was to occur. The mob knocked a security guard to the ground, although he was not seriously injured.[18]



Figure 3: CFMEU protesters occupying the Department of Transport and Main Roads office. (ABC 26/08/22)

93. Departmental workers and persons attending the briefing were forced to take cover. The police were called. The building was placed into lock down. The departmental staff and the visitors were evacuated.

94. The CFMEU's tactic was effective: QTRIP had to abandon the remainder of the briefing program on safety grounds.

95. The Premier, Annastacia Palaszczuk, labelled the CFMEU conduct as "*disgraceful'* and called on the CFMEU to apologise to those hurt. The CFMEU refused: Jade Ingham made a statement that trespassing on the premises was *"nothing more"* than construction workers "*wanting to have a say".* He accepted no blame that an important

[18] See "*Queensland opposition calls on Labor to hand CFMEU donations to anti-bullying charity after protestors entered government building*", ABC News, 26 August 2022; and "*Qld state of disunity as CFMEU flexes muscle in construction industry*", The Courier Mail, 22 July 2024.

industry briefing had to be cancelled; instead he said "*the meeting was cancelled by a government too scared to face scrutiny".*

96. In a gesture typical of the CFMEU, Ingham called for resignations – *"Clean out your sclerotic bureaucracy, starting at the top".*

HOSTILITY TOWARD THE WHS INSPECTORATE

97. The CFMEU had no respect for the independence of the regulators; as far as the CFMEU was concerned, if the regulators would not bend to its will, then they were corrupt or incompetent[19] and could be subject to threats of violence, intimidation and targeting.

98. The CFMEU method for putting pressure on the WHS inspectors was to abuse them, to belittle them, and to whip up an angry response from the membership toward the inspectors. This last matter was commonly done through posts placed on the CFMEU Facebook page. The posts were often accompanied by doctored video images. The worst feature of this was undoubtedly deliberate – it meant the inspectors could be identified.

99. And, as will be seen, their families could be identified too (see "*Is that your old man on the video? – He's a fucking cunt*", below).

100. In case it appears that what follows is a biased account provided only from WHS inspectors, it might be important to know that the fact of the abusive conduct was independently corroborated. There are videos of the CFMEU captured by the inspectors. There is also independent corroboration from others who saw the exchanges on various worksites. For example, an employee of one of the contractors on the Cross River Rail Project was an independent witness to the way in which the CFMEU treated the WHS inspectors. He described how the CFMEU organisers and delegates would openly abuse the inspectors and attack them verbally if the inspectors declined to follow the CFMEU's directions.

"Fuck off – I told you I would get you removed"

101. A theme constantly repeated by the WHS inspectors raised issues surrounding the role of a former WHS director, Helen Burgess. This is problematic because those matters are currently under investigation by the Crime and Corruption Commission.[20] In fairness to Burgess I decided not to review those matters in this investigation.

102. But it is necessary to raise this present matter because it demonstrates just how much power the CFMEU wielded over the WHS Inspectorate.

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[19] For example, in about 2021, a CFMEU organiser, [redacted], was disgruntled with the decision of a WHS inspector and so he told the inspector "*you're on the take from the builder*".

[20] See, for example, "*Health and safety officials under investigation for allegedly giving confidential information to CFMEU*", ABC News, 19 August 2019.

103. In about 2021 a bomb threat was made in respect of a building site in Edmondson Street, West End. The police were called and specialist teams carried out a search for the bomb. After some hours the threat was exposed as a hoax.

104. While work on the site was stopped a CFMEU organiser, [redacted] attacked the safety representative of the builder. [redacted] began screaming at the man that he was "*a fucking cunt*" and "*a fucking dog*".

105. A WHS inspector was standing nearby and stepped in and told [redacted] he was not permitted to speak to the safety representative that way, or to use that kind of language.

106. Within minutes the WHS inspector received a telephone call from his boss who ordered him to "*immediately remove himself*" from the site. When [redacted] saw the inspector preparing to leave, he called out to him "*Fuck off – I told you I would get you removed*".

The inspectors' own workplace became unsafe.

107. Things became so bad for the WHS inspectors that they had to introduce their own safe work practices to protect themselves from the CFMEU. This came in two waves.

108. The first change came in about 2018 when a direction was made that a lone inspector could not attend a site where there were multiple CFMEU officials present. In those circumstances a second inspector had to be called. From that time WHS inspectors have had to attend CFMEU sites in pairs for their own safety.

109. The second change came in 2022 when the inspectors were issued with body worn cameras as part of their PPE.[21] This came about because the CFMEU was shooting their own videos, then editing them to show the inspectors falsely in a bad light. When these videos were published on the CFMEU Facebook page they would be accompanied by critical or even humiliating commentary, setting off a thread of unhinged responses. To counter this, the WHS inspectors began wearing cameras and collecting their own videos. Thousands of hours of those videos have been provided to me.

110. The body worn cameras produced an unexpected beneficial result: when the CFMEU officials became aware they were being recorded, their behaviour improved markedly.

"You're that cunt from the video"

111. In about 2022, during the worst of the period of abuse caused by the CFMEU Facebook page, a WHS inspector attended a site in Brendale, just north of Brisbane. He was accompanied by two female trainee inspectors.

112. The inspector was talking to a representative of the builder on the top deck of the building under construction, when one of the workmen came at the inspector with an

[21] PPE – ie personal protective equipment.

angle grinder. The angle grinder was in operation. The workmen shouted at the inspector, "*You're that cunt from the video*".

113. The inspector shepherded the two trainees to safety but was followed by the man with the angle grinder. The man told the inspector "*I want to take you outside and bash the shit out of you*".

114. This happened shortly after the CFMEU had posted an inflammatory video about that inspector on its Facebook page.

"You're a bit of a fucking dog"

115. A WHS inspector was at the funeral of his friend's wife. His friend was from the construction sector and so were several of the other mourners.

116. The inspector was approached by three men he did not know. One of the men came to him and said "*You're that cunt from the video*". Another added "*You're a bit of a fucking dog*".

117. Not long before the funeral, that inspector had been the subject of an inflammatory video posted by the CFMEU on its Facebook page.

"You're a fucking dog, you're a fucking dog, you're a fucking dog"

118. On 4 April 2018 a CFMEU organiser, [redacted], was troubled by what he felt were deficiencies in an emergency evacuation plan. When a WHS inspector demurred, [redacted] responded by moving in close to the inspector and screaming at him "*You're a fucking dog, you're a fucking dog, you're a fucking dog*".

119. [redacted] admitted he did this.[22]

120. It is true that [redacted] was subsequently acquitted of criminal charges arising from this episode[23], but that in no sense excuses [redacted] for what he did: [redacted] was purporting to act under an authority received from the CFMEU while wearing a CFMEU uniform. His conduct was disgraceful.

121. The response from Michael Ravbar to this incident demonstrates just how far the leadership of the CFMEU had departed from the norms of conduct in a civil society: according to a newspaper report, Ravbar called on the WHS Inspectorate to apologise to [redacted] and the CFMEU.[24]

HOSTILITY TOWARD THE AWU

122. The worst violence coming from the CFMEU has been directed at the Australian Workers Union and its officials.

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22 See [redacted]

23 [redacted]

24 " [redacted]

123. The key factor driving CFMEU hostility toward the AWU is an intention to drive the AWU out of the south-east corner of Queensland – if the CFMEU had its way, the AWU would cease to function in that area or, perhaps, cease to function altogether. The CFMEU could then take control of all building sites.

124. Not only is this inconsistent with the industrial legal system, but it is also directly contrary to the objects of the CFMEU which require the CFMEU "[t]*o work as far as is lawful in harmony with other labour unions*."[25]

125. The CFMEU was driven to illegal methods because legal methods were not open to it. Under the competing coverage rules, if the CFMEU had gone through conventional legal processes they would have lost. There is a sufficiently clear dividing line between the workers covered by the AWU and the CFMEU and it showed that the CFMEU did not cover workers on many sites where it was pressing its involvement. On those occasions where the coverage issue had been litigated, the CFMEU had lost.[26]

The commencement of the personal hostility

126. Before 2022 there had been decades of simmering political and industrial competition between the CFMEU and the AWU, but it did not cross into violence. In about 2022 something changed and the competition was converted into a hostile campaign.

127. It is possible to place a date on the spike in the violence deployed by the CFMEU against the AWU. In August 2022 Stacey Schinnerl was elected as the State Secretary of the AWU – the first woman to hold that office.

128. On 6 November 2022 Schinnerl spoke at the ALP State Conference and made a reference to the incident where the CFMEU had stormed the Department of Transport and Roads (see "*Workers just wanting to have a say*", above). Michael Ravbar was leading the CFMEU contingent at the conference. He erupted and demanded that all CFMEU delegates to the conference immediately leave. Those delegates followed their leader.[27]

129. From that time there has been continuous intimidation of the AWU by the CFMEU.

130. There are numerous instances of different kinds of violence inflicted by the CFMEU on members of the AWU – far too many to list all of them; these are just a few.

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[25] See the Objects stated in Part 4 article (m) of the the most recent iteration of the rules of the CFMEU.
[26] One especially vivd example is in the decision of Justice Munro in *Re Australian Workers Union* (1998) 26 IR 197 at 200-201.
[27] Ravbar was specifically asked to respond to this, but declined. H

"You fucking sell-out cunts"

131. On 23 March 2023 there were two incidents at the Brisbane Metro site at the corner of Grey and Melbourne Streets in the city - one in the morning; the other in the afternoon. Each was serious.



Figure 4: CFMEU members blocking the AWU organiser's entry.

132. In the morning three AWU organisers arrived near the site to attend a scheduled meeting. The meeting was approved by the contractor.

133. The CFMEU were determined to prevent the AWU from gaining access to the site. A dozen or more CFMEU members waited for the AWU organisers and blocked their access to the site. The AWU organisers were then surrounded and two were pushed and shoved and dragged by their clothing.

134. Slogans were shouted – a rhythmic chant which starts "*AWU*" – then a pause before – "*Grubs*". It looks childish on paper but is not so harmless when repeatedly shouted by an angry mob. Personal abuse was hurled – "*You fucking sell-out cunts*" was one memorable line.

135. This was happening on a public street and members of the public were nearby – one CFMEU man, in an agitated an aggressive manner, approached bystanders at a bus stop screaming "*Do you think the AWU are grubs?*" Two women near the scene became distressed and commenced crying.

136. I was told by a person that [redacted] a CFMEU organiser, grabbed and manhandled him. This was corroborated by a witness. [redacted] sent a written response adamantly denying it – but I do not see why I should believe him given this seemed to be a miraculous improvement on his memory during his interview. [redacted] was involved, although it is not clear whether he became physically involved.

137. The AWU organisers, with the assistance of the contractor, were able to extract themselves and escape.

138. [redacted] was asked about this incident and, at least at first, he had some recollection – but, as questioning became closer his memory suddenly failed him. When [redacted] was asked about it he, at first, said he recalled being there, but when allegations were put to him he reverted to his standard answer - "*I don't recall*".

"We're the CFMEU – we're here for the Blue"

139. On the afternoon of 23 March 2023 the same three AWU organisers returned to the Brisbane Metro site with a view to speaking to their members. About 25 CFMEU men

again blocked their entry. Again, the conflict was taking place out on a public street. The chants and threats were repeated at full volume.

140. The episode was captured on a video from which screenshots can be extracted.



Figure 5: The point at which the CFMEU blocked AWU access.

141. These scenes show the point on the public street where the CFMEU blocked the AWU organisers from entering the worksite. The large man in the middle is [redacted], a delegate of the CFMEU. [redacted] had formerly been t[redacted]. The man in the yellow jacket being threatened by [redacted] is an AWU organiser. This was happening on a public street.

142. The screenshots do not convey the chaos and anger at the scene. The video does. The screenshots cannot capture the fact that the CFMEU members were screaming abuse at the AWU organisers. It was as though the CFMEU *wanted* to trigger a physical fight. One chant was "*CFMEU – We're here for the Blue*".[28]

143. The AWU organisers maintained their composure and did not respond; if they had physical violence was inevitable.

144. Participants in the afternoon episode can be identified from the video: the CFMEU officials included [redacted]

145. Some of those involved in this incident were directed to attend an interview with me. The interviews were quite unsatisfactory. I asked [redacted] about the incident but each claimed a defective memory prevented them from assisting.

146. Each of [redacted] and [redacted] declined to attend an interview, so each was sent a written request to answer questions about the incident. Both declined.

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[28] [redacted] said that "*We're the CFMEU – We're here for the Blue*" is a common CFMEU chant, but each implausibly denied that the word "*Blue*" might be speaking of a physical fight.

"We know you have two young sons"

147. On 20 June 2023 there was an especially threatening incident at the Gabba Station site on the CRR.

148. Two AWU organisers had come to the site to address members on the progress toward a new EBA during the workers' lunch break.

149. The meeting should have been straightforward, but it was immediately disrupted by [redacted] and another CFMEU representatitve who were bellowing abuse and chanting "*Australia's Weakest Union*".

150. The meeting could not continue and the AWU organisers, together with the AWU site delegate, suspended the meeting. The AWU organisers were parked at a nearby shopping centre. As the AWU organisers then made their way to leave the site they were warned by a contractor – "*You have a crowd waiting for you*".

151. At the front gate there were about 40 CFMEU members waiting for the AWU organisers. A contractor assisted the AWU organisers to find an escape through a side entrance, but there were about 25 CFMEU members waiting there.

152. The AWU organisers were surrounded and prevented from moving for about five minutes. Meanwhile the abuse revved up – "*What the fuck are you doing here?*", "*You are screwing over workers*", "*You fuckers worked on ANZAC Day*", "*Are you scared now?*" – and more along similar lines.

153. The two AWU organisers were separated. One had his backpack ripped from his shoulders, he was pushed and shoved and encircled by angry men. Two men – one of whom has been identified as [redacted] – then shoulder charged the organiser, forcing him out onto the road into the path of traffic. One of the men told the organiser that he knew where he had previously worked; another said "*We won't stop coming for you – no-one can protect you*" and another said "*We know where you live*".[29]

154. Then one made an especially chilling remark – "*We know you have two young sons*".

155. The AWU organisers made their way back to the shopping centre, still surrounded by the CFMEU. The abuse continued even though they were in a public place - some of what then occurred was captured on CCTV footage taken inside the shopping centre.

[29] The CFMEU men did know where the AWU organiser lived. One morning when retrieving his rubbish bins, he found those bins covered with stickers disparaging the AWU. It is known that these stickers have been designed and purchased by the CFMEU (see *The sticker campaign*, below).



Figure 6: The CFMEU surround two AWU delegates in the Coles shopping centre on Stanley Street.

156. This screenshot shows a moment during which the two AWU organisers were surrounded by over ten CFMEU members. This occurred in a public area, adjacent to the opening of the shopping centre on Stanley Street. The movement of the AWU organisers was impeded for a long period.

157. Those from the CFMEU who can be identified as involved in this incident include the organisers [redacted] and [redacted] and the delegates [redacted], and [redacted]. There are many others, who engaged in criminal conduct, who remain unidentified.

158. [redacted] was asked about this incident, but claimed he had a defective memory which prevented him commenting. I had intended to ask [redacted] but it had become apparent that he was not assisting the investigation. [redacted] and [redacted] declined to attend an interview and declined to respond in writing.

"You don't know who I run with"

159. On 25 May 2023 there was an incident when an AWU organiser attended a site to engage in negotiations with an employer over a new AWU EBA. A CFMEU organiser, [redacted], turned up uninvited and inserted himself into the discussions.

160. When the AWU organiser objected to [redacted] involvement [redacted] insisted they take the matter outside – "*Can I have a word with this bloke?*".

161. Once outside [redacted] spoke aggressively to the AWU organiser:

> [redacted]: "*We have to work collaboratively*".
>
> AWU: "*Why – you have no coverage here*".
>
> [redacted]: "*Okay. You want to be a dog*".

162. When the AWU organiser raised the coverage rules [redacted] stopped him:

> [redacted]: "*Shut up little boy - remember what happened at Cross River Rail – we got you there*".

This was undoubtedly a reference to matters described earlier.

163. The AWU organiser then turned to walk away, but [redacted] called him back:

> [redacted]: "*I will see you down at my car later*".

[redacted] then rolled up his sleeve and showed off a tattoo – the AWU organiser said he did not know what the tattoo meant:

> [redacted]: "*You don't even know who I run with. You better watch yourself*".

164. [redacted] denies being a member of or being associated with any members of the Bandidos or any outlaw motorcycle gang, and I accept that denial – but otherwise the aggression disclosed in this encounter is regrettably consistent with other misconduct by [redacted] described in this report.

"You big fat cunt"

165. On 26 or 27 July 2023 an AWU organiser attended a site known as the Northern Portal on the CRR. The wider project was closed following an accident. The purpose of the organiser's visit was to address AWU members on the progress of the investigation into the accident.

166. To enter the site required the organiser to pass through a CFMEU picket line – which was permissible given the purpose of the visit. But when the organiser began to get out of his car he was surrounded by about ten CFMEU members, who got so close to the organiser he had to back up so that he was pinned to his car. More men joined the mob.

167. For 15 minutes the organiser had to suffer shouted personal abuse – "*You fucking grub*", "*Fuck off – it's our site now*" and the like. The men then started chanting "*You big fat cunt – You big fat cunt - You big fat cunt*". Meanwhile, one of the CFMEU men let the air out of one of the tyres on the organiser's car.

168. A CFMEU organiser, [redacted], was present, although he stood apart, watching the abuse go on, but from across a footpath. The AWU organiser also recognised the CFMEU delegates, [redacted] and [redacted].

169. Jade Ingham arrived a little later and when he arrived and spoke to the AWU organiser the hostility diminished. Eventually the AWU organiser was allowed to leave, driving his car with a partly deflated tyre.

170. I spoke to [redacted] about this incident but he claimed his defective memory meant he had no recall. Similarly [redacted] ability to recall the events was compromised, and he was

unable to assist. Invitations extended to [redacted] and [redacted] to be asked about this incident were declined.

171. Although Ingham had declined to attend an interview he did briefly respond by denying any knowledge of this incident.

"Do you want to step outside with me?"

172. On 28 February 2023 at the Gabba CRR site, two AWU organisers were conducting a scheduled meeting in the smoko shed. One of the organisers was new and was introducing himself to AWU members on-site. A CFMEU delegate, [redacted], entered the shed, disrupted the meeting, aggressively shouting abuse about the AWU.

173. When [redacted] was asked to leave he responded to the new organiser – "*Do you want to step outside with me?*" – obviously a threat of violence. When his threat was ignored, [redacted] remained in the smoko shed, disrupting the meeting by repeatedly shouting "*AWU – Australia's Worst Union*" and heaping childish personal abuse on the new AWU organiser.

174. When the organisers were leaving, [redacted] followed them to the perimeter of the site, hurling more abuse. An opportunity for [redacted] to speak about this incident was declined by him.

The Centenary Bridge incident

175. On 23 February 2024 there was an incident at the Centenary Bridge site at Jindalee. Two AWU organisers had been on the site with the knowledge and permission of the contractor and were leaving in their cars, one car following the other. As the first car reached the gates and was about to enter a public road more than ten CFMEU members surrounded the car, shouting at the driver and rocking the car.

176. The scene was captured by a dashcam on the second AWU car:





Figure 7: Dashcam footage of CFMEU officials surrounding an AWU car, blocking exit.

177. The identity of most of those involved remains unknown. Witnesses at the scene say that the CFMEU members were drawn from the so called "*Youth Crew*".

178. The action continued for about 20 minutes before the CFMEU members dispersed when they became aware the police had been contacted.

"When I say AWU, you say grub"

179. At about 9.30am on 2 March 2023 three AWU organisers attended a scheduled meeting at the Albert Street Mall site of the CRR. Two CFMEU organisers tried to break into the meeting.

180. By the time the meeting ended there were six or seven CFMEU members, including the two organisers, waiting outside. They encircled the AWU officials in a threatening fashion, slinging threats and personal abuse. They plastered "*AWU - Australia's Worst Union*" stickers onto the bodies of the AWU organisers (see "*The sticker and poster campaign*", below). The loud and childish chant was struck up – "*When I say AWU, you say grub*".

181. When the AWU organisers attempted to leave, the group blocked their path and surrounded them. Slowly the group inched forward and out onto the public street, with the abuse and chants still ringing.

182. The CFMEU group remained ringed around the AWU organisers, walking with them all the way back to the Adelaide Street offices of the AWU – a distance of several hundred metres. This was all occurring in a public space. Members of the public were pushed out of the way by the CFMEU to allow them to continue with their abuse.

The sticker and poster campaign

183. As part of its war against the AWU, the CFMEU designed and commissioned a range of stickers and posters with messages disparaging the AWU. It is, quite frankly, one of the most childish protests one could imagine.

184. Here is an example of one of their posters:

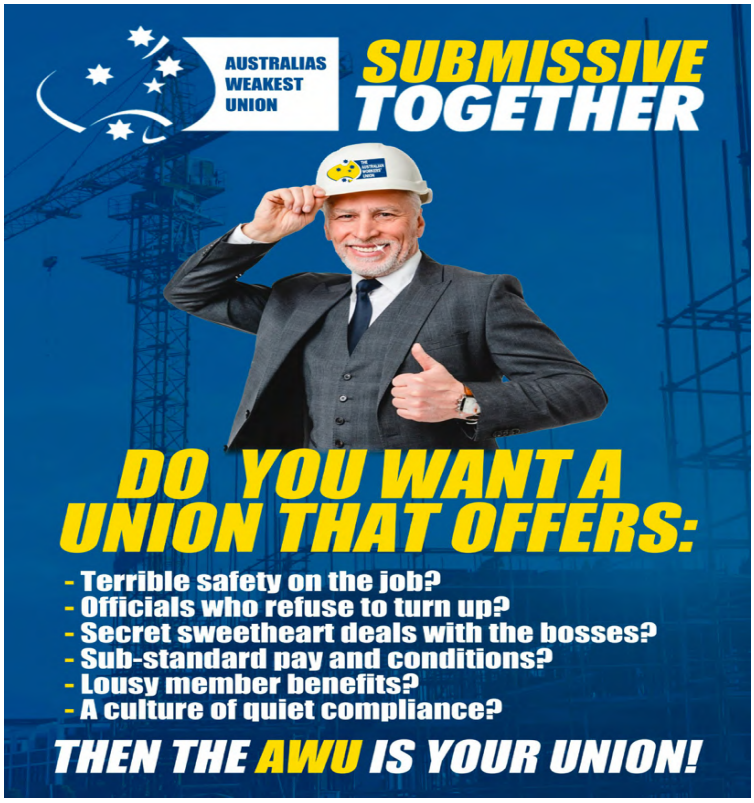


Figure 8A: CFMEU-designed poster.

185. Apart from the sheer stupidity of the campaign, there is a deep irony in some of the messaging. For example, when the poster says something about "*sweetheart deals with the bosses*", it is notorious that the CFMEU has favoured contractors with whom it is close and with whom the CFMEU entered favourable arrangements. When it says the AWU has "*officials who refuse to turn up*" – it is an odd complaint to make when, as shown above, the CFMEU did everything it could to prevent the AWU getting on to sites and organising its members.

186. These are some other examples of CFMEU creative abilities:



Figure 8B: CFMEU-designed stickers and posters.

187. A search of CFMEU financial records shows that substantial sums were spent on these posters and stickers. It is not possible to be precise, but nearly $40,000 of members' money was wasted on this rubbish.

188. The CFMEU went further and applied the stickers to private property.

189. For example, on 24 February 2023 two CFMEU organisers, [redacted] and [redacted], entered a secure carpark beneath the AWU offices and plastered stickers over the AWU vehicles. Stickers were also fixed onto the external walls of the building and the internal walls of the carpark.

190. These are some screenshots taken from CCTV footage from the carpark:

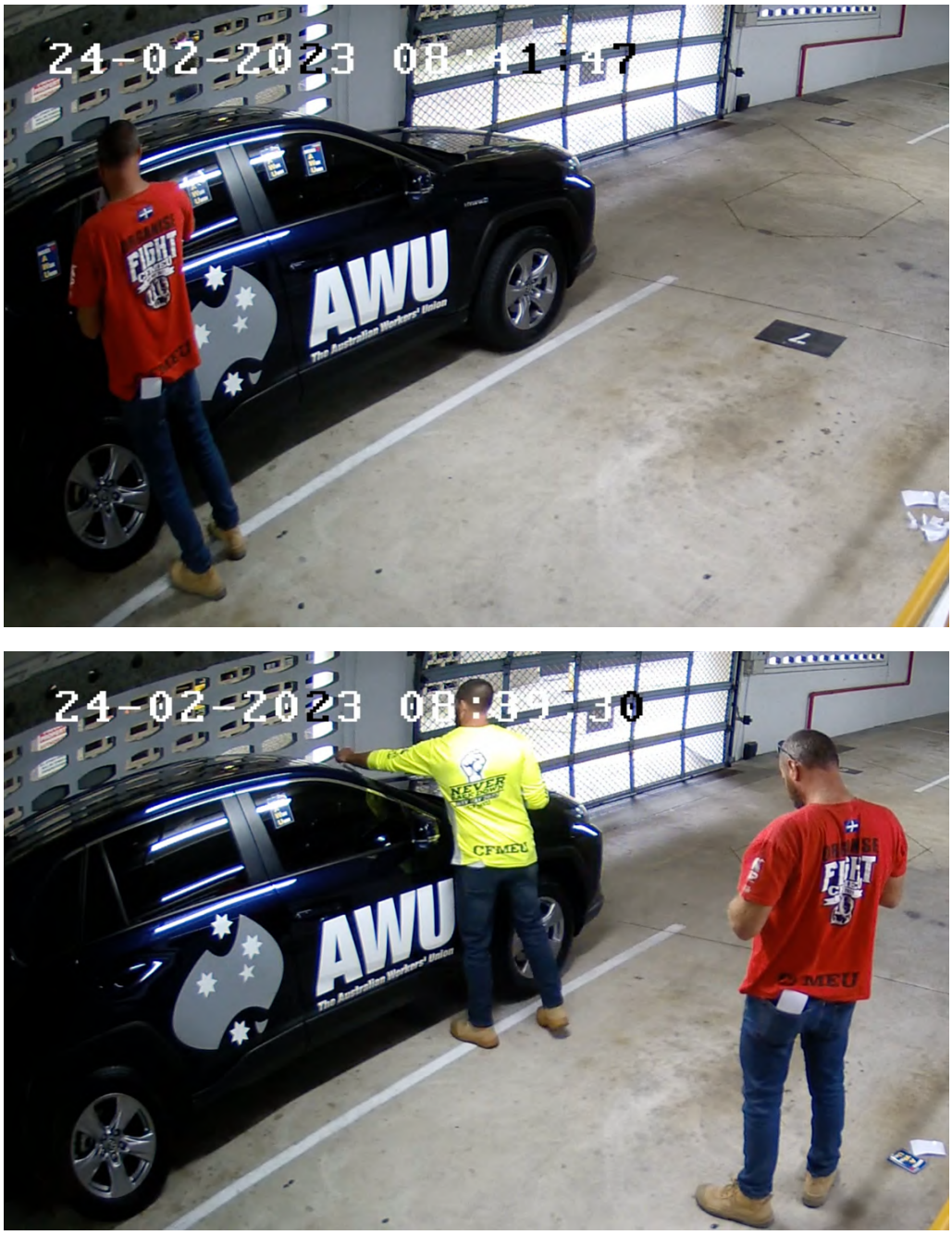


Figure 9: CFMEU member plastering AWU stickers on an AWU vehicle, and around the parking lot (Source: CCTV Camera)

191. An AWU organiser who knew [redacted] and [redacted] saw them and attempted to stop them, leading to a slanging match.

192. When [redacted] and [redacted] were finished the AWU cars were not driveable.



Figure 10: CFMEU-plastered stickers on AWU vehicle.

193. By itself, something like this sounds no worse than a childish prank, but it was the start of a pattern of conduct. The stickers became a large part of the CFMEU campaign. There are other instances where AWU officials returned to their cars and were unable to drive away because the windscreens were covered with these ridiculous stickers.



Figure 11: A separate incident of CFMEU members covering AWU vehicles in similar stickers.

194. In any event, the CFMEU conduct should not be dismissed as a joke - the entry to the carpark, and the damage to the carpark and to the AWU cars constituted deliberate trespasses committed by the senior CFMEU officials [redacted] and [redacted]. It is another example of lawlessness.

195. When I asked [redacted] about this incident he declined to answer the question upon the grounds he may incriminate himself. [redacted] was given the opportunity to be interviewed, but declined.

HOSTILITY TOWARDS CONTRACTORS AND EMPLOYER GROUPS

196. Hostility between trade unions and employers and employer associations is to be expected; in some ways it is the reason each exists.

197. Again, there is plainly a line in a civil society between representing contending interests and unjustifiable aggression. There is no room for violence.

198. Yet, there was violence.

"It's a picket line ya fuckin' cunt"

199. Throughout April 2024 there was a dispute over the Cross River Rail project.

200. As part of the dispute, the CFMEU organised and manned picket lines at various sites on the CRR. Picket lines are a common and legitimate means of protest. They provide an opportunity for the picketers to persuade others to join their cause. They should never result in violence.

201. On 30 April 2024 a picket line was formed at the Dutton Park site on the CRR. Non-CFMEU workers attempted to cross the picket line. There was a violent brawl between the two groups which was captured on video. Two non-CFMEU workers were manhandled, pushed and shoved and punches were thrown; one had his shirt torn off.[30]



[30] The man whose shirt was torn was the subject of an attempted assault at 5am on 31 July 2024 when two men, probably armed with baseball bats, attacked him as he was leaving his home to travel to his work on the disputed site. The press reported that the police were investigating whether the CFMEU was involved: "*I know it was you*: *Cross River Rail worker blames CFMEU for pre-dawn assault*", Nine.com.au, 1 August 2024.



Figure 12: Picket Line Brawl (Source: 9 News 31/07/2024)

202. No doubt it can be argued that responsibility for the outbreak of the brawl should be shared, but that would not excuse either side for participating. To the extent it matters, there is a reason to regard the principal fault to lie with the CFMEU. Amongst the CFMEU picketers were two organisers, [redacted][1] It has been alleged that when a non-CFMEU worker approached the picket line, [redacted] shouted "*It's a picket line ya cunt*" and encouraged a fight by daring the non-union workers with "*Try and cross it. Try and cross it*".[32]

The Grim Reaper

203. On 8 February 2022 the CEO of the Master Builders' Association was contacted by the Special Emergency Response Team of the Queensland Police and warned that a CFMEU protest was coming. SERT is commonly known as the Riot Squad.

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31 [redacted]

32 [redacted]

204. The Riot Squad was correct: approximately 5,000 CFMEU members had gathered in Emma Miller Place in the CBD with the intention of marching on the MBA offices in Spring Hill.

205. The reason for the protest march was over a potential restructuring of BUSSQ – a superannuation fund favoured by Michael Ravbar.[33] It was not a real dispute; the issue had been manufactured by those organising the march.



Figure 13: The Grim Reaper expresses his disquiet with a proposed superannuation reform.

206. The march was led by Michael Ravbar and Jade Ingham, with special guest appearances by the Grim Reaper and a coffin – if what followed was not as serious as it turned out, the scene would have been comical.

207. Inflammatory speeches were given by both Ravbar and Ingham. By the time the protestors arrived at the MBA offices they were described as being in a "*frenzy*". The whole building was placed in lock down. The Riot Squad placed themselves on the ground floor. The offices have glass doors and glass curtain walls on the ground floor. The protestors tried to get access by beating on the glass and trying to force the doors. There was loud chanting, including protestors shouting "*You fucking cunt*" when they saw the CEO.

208. When they could not break in, the protestors hoisted the coffin into the branches of a pandanus tree immediately outside the window of the CEO of the MBA – he was shouted at – "*If you don't fix this we will end you*".

[33] The suggestion was that BUSSQ would be amalgamated with another construction industry superannuation fund, CBUS. But the protest was absurd: an amalgamation of that kind would require months of negotiation before it could be approved by APRA. In any event, the amalgamation never happened.



Figure 14: A coffin hoisted outside the window of the CEO just after the CFMEU promised to "end" him.

209. The cartoonish imagery of the Grim Reaper and the coffin stood as a warning to MBA employees of their likely fate should they disagree with the CFMEU. When the Grim Reaper leads a mob of 5,000 chanting workers it is bound to have some impact and, unsurprisingly, several MBA employees were very distressed by the incident.[34] There were also some quite appalling comments made by members of the CFMEU mob (see "*Come out here and I'll fuck you*", below).

"There's a bullet with your name on it"

210. The Cross River Rail Project was a hotspot for CFMEU violence. One witness called it "*Ground Zero*".

211. An industrial relations representative for one of the contractors on the CRR described how he suffered three years of constant abuse from CFMEU officials. He said the officials and members acted as a "*collective*" and described them as "*angry, foaming at the mouth*" and that they would "*attack anyone with industrial relations in their title*". The IR adviser ended up moving to another project.

212. In one instance it led to a death threat.

213. In 2021 an apparently simple disagreement over an asserted Right of Entry at the Boggo Road site escalated to a point where two CFMEU officials verbally assaulted an IR representative. The officials were named, but they will not be identified in this public version of the report because what follows clearly constitutes a crime.

[34] The estimate of 5,000 participants comes from the CFMEU press release. There was another estimate of "*thousands*" in the article "*Protest disrupts Brisbane traffic, streets closed*", Brisbane Times, 8 February 2022.

214. During the argument the more senior official told the IR representative that "*We know where you live*". By itself that is a threat. But the organiser went further – he told the IR representative "*There's a bullet with your name on it – we're gonna get you*".

A *"Convicted woman basher!!!"*

215. Around April 2023 the CFMEU began a personal campaign against another industrial relations adviser on the Cross River Rail Project.

216. When the CFMEU met resistance from the IR adviser it set out to destroy the man and his career.

217. The technique was crude: officials from the CFMEU made deliberate, serious, and false statements defaming the man and then published the false statements in the most public places in Brisbane.

218. It was an organised campaign: the CFMEU made up crude, hand-painted placards, each about 120cm by 60 cm. The placards named the man and included a large image of his face. The placards carried slogans – "*Convicted woman Basher!!!*" and "*General Degenerate*", and others. These are just two of the placards:



Figure 15: Publicly displayed poster (left) with the text "I like contacting female workers more than half my age!!" and "They scraped the bottom of the barrel when hired me". Another publicly displayed poster (right) with the words: "CPB IR" "Convicted woman basher!!"

219. The placards were placed on the public street in some of the busiest streets of Brisbane – Vulture Street and Roma Street.

"*Come on, fucking hit me, you weak cunts*"

220. On 20 April 2020, two organisers, [redacted] and [redacted], entered the site of the Marine Parade apartments in Labrador on the Gold Coast, fabricating a concern for the safety of workers on the site, and then acting entirely inconsistently with the safety of those workers.

221. [redacted] and [redacted] deliberately blocked a concrete pour. They spoke very aggressively to a Work Health and Safety Inspector who was on the site. [redacted] then tried to start a fight with the workers on the site.

222. [redacted] taunted the truck drivers; "*Come on, fucking hit me. I want you to hit me.*"

223. When the truck drivers declined to run him over, [redacted] turned to the workers on site and said "*Come on, fucking hit me, you weak cunts*."

224. A Deputy President of the Fair Work Commission described [redacted] conduct as "*totally aggressive and improper behaviour*" and said it was delivered in an "*intimidatory manner*". The Deputy President suspended [redacted] Right of Entry.[35]

225. Although this conduct might, by itself, seem extreme, the fact is that it was not the worst thing that [redacted] did on that occasion. [redacted] also abused a woman in the most disgusting and degrading terms – a matter which will be detailed later (see *"You fucking cunt dog"*, below).

"Grubby little cunt"

226. On 8 March 2019 a CFMEU official, [redacted], attempted to stop work on the Sunshine Plaza site because a worker, employed by a shop-fitting business, was not a member of the CFMEU.

227. [redacted] conduct was captured on video. He told the worker that he was a "*grubby little cunt who refused to join the union*".

228. The judge who heard the matter described [redacted] conduct as "*aggressive, intimidatory, loud, abusive*" and as "*pure industrial standover tactics*".[36]

"You fucking dog cunt"

229. On 23 August 2019 [redacted] entered the Logan Enhancement Project on the Gateway Motorway. In a completely unprovoked outburst, [redacted] called the site supervisor "*you fucking dog cunt*" and continued shouting and yelling aggressively.

35 [redacted]
36 [redacted]

230. Although there was no justification for doing so, [redacted] then fabricated an account that he had been assaulted – "*we're going to sue you, you grabbed my throat, you fucking dog cunt*".[37]

Other industrial prosecutions

231. A picture of the CFMEU attitude toward contractors can be obtained by taking a few examples from the long string of industrial prosecutions of the CFMEU. They tell a story that the CFMEU, and its officials, were quite willing to disrupt work on sites to inconvenience and financially damage contractors with a view to obtaining some kind of industrial advantage.

232. There are far too many prosecutions to list the lot - these are just some examples.

233. In 2018 Michael Ravbar, [redacted] disrupted the Bridge 21 site on the Sunshine Highway, shutting down operations, by placing themselves in front of moving trucks, and making "*unprovoked*" and "*entirely inappropriate*" attacks on the site safety officer. Heavy fines were imposed, including personal payment orders against Ravbar and [redacted] was required to undergo "*anger management*".

234. In 2018 a number of CFMEU officials manufactured a Right of Entry dispute, refused to produce entry permits, and shut down operations on a site on the Bruce Highway/Sunshine Coast Motorway. This was repeated on seven or more occasions. The officials were arrested – [redacted] twice, and [redacted] once each. Heavy fines were imposed and personal payment orders made against [redacted][38]

235. In 2018 a number of CFMEU officials disrupted the Logan Enhancement Project by making multiple illegal trespasses onto the site, and false Right of Entry claims. Very heavy fines were imposed, including personal payment orders against [redacted] ($24,000) and [redacted] ($12,000).[39]

236. Between 30 April and 2 May 2018 several officials of the CFMEU disrupted work on the Toowoomba Second Range Crossing by entering a site and refusing to produce entry permits. Amongst others, [redacted] were fined for their breaches.[40]

237. In 2019 [redacted] was prosecuted for stopping a concrete pour at the Bridge 22 Pacific Highway Upgrade. At trial and on appeal, [redacted] claimed an entitlement to have stopped the concrete pour on safety grounds, claiming there was an "*imminent danger*".

37 [redacted]
38 [redacted]
39 [redacted]
40 [redacted]

[redacted] evidence on this was rejected at both levels, with one of the judges expressing "*considerable credibility concerns as to the entirety of his evidence*".[41]

238. In 2020 Michael Ravbar and [redacted] deliberately entered the Southbank New Performing Arts Complex under a false Right of Entry claim. Heavy fines were imposed.[42]

239. In 2020 the CFMEU deliberately stopped a concrete pour during the construction of a Coles Distribution facility in Redbank. The two officials involved were [redacted] and [redacted]. The judge found that their actions were "*motivated by industrial relations conditions referable to the non-union agreement in place*".[43] Very heavy fines were imposed, including personal payment orders against [redacted] and [redacted].

240. In 2020 two organisers, [redacted], abused a site manager, stopping work at the Central Energy Plant Towers Site, telling him "*you don't know what the fuck you are doing*".[44]

241. In 2020 [redacted] and [redacted] manufactured a Right of Entry dispute on the CRR, making "*insultingly childish comments*" toward the site manager.[45]

242. In 2021 the organiser, [redacted], instigated a Right of Entry dispute by refusing to undergo a safety induction, and wandered unaccompanied around a site on the Pacific Motorway Upgrade. His actions caused the stoppage of the laying of a lane of asphalt.[46]

243. In 2021 Michael Ravbar and [redacted] were heavily fined following two instances – one at the Gabba site, and the other at the Roma site of the CRR. These were instances where Ravbar and [redacted] refused to sign in or undertake safety inductions. In the instance of [redacted] he made deliberate physical contact with those on site. Heavy fines were imposed and personal payment orders were made.[47]

244. In 2021 three officials of the CFMEU manufactured an industrial dispute for the purpose of moving a particular dogman from the Brisbane Racecourse project to another site. When the employer refused, the CFMEU simply shut down work on the project. Very heavy fines were imposed ($750,000 on the CFMEU).[48]

245. I could go on, but it seems pointless – it would just be more of the same.

41 [redacted]
42 [redacted]
43 [redacted]
44 [redacted]
45 [redacted]
46 [redacted]
47 [redacted]
48 [redacted]

HOSTILITY TOWARD WOMEN

246. This might just be the single worst aspect of the violence perpetrated by the CFMEU.

247. In addition, the CFMEU's treatment of women is deeply hypocritical.

248. Although the CFMEU boasts of its promotion of equal treatment of women, its actions show otherwise: the material shows the CFMEU had a focus on attacking women, and using tactics which were abusive and degrading.

249. Witnesses came forward with many stories proving dangerous and damaging conduct by CFMEU officials and members toward women. Some of the women are so traumatised they would not permit their stories to be reproduced in this report – they still feared retribution. In addition, I have decided not to include the accounts of some of the women because after speaking to them, I was concerned reproducing what they had to say may cause them emotional harm.

"You fucking cunt dog"

250. On 20 April 2020 [redacted] and [redacted] arrived at a site in Marine Parade, Labrador. Some of what happened that day on that site has already been detailed (see "*Come on, fucking hit me, you weak cunts*", above).

251. The fact is that [redacted] did something worse, much worse: he attacked a female health and safety advisor in terms which should never have been used and should never be used.

252. In his prosecution [redacted] admitted to disgraceful conduct, but as part of bargaining to secure a guilty plea, it was agreed with the CFMEU that the prosecutor would not press offences relating to [redacted] personal abuse of the safety advisor.

253. The true position is that when the safety advisor told [redacted] that she intended to call the police, he loudly said *"you fucking cunt dog*". If that was not bad enough, [redacted] then began to bark like a dog. He then repeated the statement and the barking on and off, until the police arrived, when he ran away.[49]

"You should be dragged out of here"

254. In about 2020 a female public servant arrived at the CFMEU offices as part of a delegation. She was soon asked by [redacted] to separate herself from her colleagues and to come with him into another office.

255. Once she was seated Michael Ravbar entered. He locked the door from the inside – which would prevent other members of the delegation entering the room. [redacted] – a big man – remained, standing beside Ravbar; both stood between the woman and the door – there was no escape.

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[49] This account was given to me by the victim of the abuse. It is also recorded in press articles from the time: "*CFMEU Organiser abused female safety rep*", Courier Mail, 10 December 2020.

256. Ravbar began to berate the woman, shouting, getting close to her face, using abusive and denigrating language. Ravbar made it plain that the woman was being watched by the CFMEU. He said the woman "*should be dragged out of here*" and she was told "*we're after you!*". This went on for about 15 minutes.

257. The woman was alone and scared. There were times when the woman thought Ravbar was about to attack her physically. When the woman was allowed to leave the room she left the CFMEU offices immediately. A report of the incident was made. The woman required psychological assistance.

258. It should be noted that [redacted] responded in writing to questions about this episode. [redacted] vehemently denied it occurred. But I have no doubt the account of the woman, which was confirmed by an independent witness, is true. [redacted] had declined to meet me in person; the woman and her corroborating witness were perfectly believable. It is telling that Ravbar declined an invitation to respond to this matter.

"How does it feel to know your Mum is a fuckin' grub?"

259. The 2023 Labour Day celebration was intended to be a family event and unionists were encouraged to bring their children. There were special activities for children, including face painting.

260. Late in the day a female official from the AWU and her 13-year-old child were confronted by a heavily built man. The man was wearing a CFMEU t-shirt and his face and forehead were painted with the words "*Australia's Worst Union*".

261. The man came right up to the woman and the child and pointed to his forehead:

> Man: "*How do you fuckin' like this?*"
>
> Woman: "*Beautiful – you must be really proud.*"
>
> Man: "*Yeah, I fuckin' am*."
>
> Woman: "*Just leave, just leave*."
>
> Man: "*You're nothing. You're a grub. You're a sell-out. You sell out workers*."
>
> Woman: "*Don't do this in front of my kid*."

The man then drew near to the woman, turned and spoke directly to the child:

> Man: "*How does it feel to know that your Mum is a fuckin' grub who sells out workers?*"

Security then arrived and the man snuck away.

262. The man involved has not been identified, but this cannot be regarded as a rogue member acting on his own initiative. The conduct is similar to and consistent with aggressive conduct of other CFMEU members at around the same time. In any event,

the woman said she recognised Jade Ingham standing less than 50 metres away, probably within earshot of the conversation.

263. Although he declined to take an interview, Ingham did take an opportunity to deny any recollection of this incident in a written response to some questions.

"Come out here and I'll fuck you"

264. The following occurred during the protest by the CFMEU on 8 February 2022 which ended outside the offices of the MBA (see "*The Grim Reaper*", above).

265. When the CFMEU's protest arrived at the offices of the MBA, men in the front line, pressed on the glass walls and called out to young women they could see through the doors and windows – they called out to the young women "*Come out here and I'll fuck you*".

266. The Riot Squad stepped in and shepherded the women away to a safer place in the building.

"Is that your old man on the video? – He's a fucking cunt"

267. Reference has already been made to the use by the CFMEU of its Facebook page to identify and humiliate WHS inspectors (see "*Hostility toward the WHS Inspectorate*", above). The following is a graphic example of that and the CFMEU's attitude toward women.

268. In around June 2022, the 21-year-old daughter of a WHS inspector was attending her local gymnasium in suburban Brisbane. Thankfully, she was there with some friends.

269. Unprovoked and unexplained, a man came to the young woman in the gymnasium, and asked: "*Is your name [withheld]?*". When the young woman said "*yes*", the man responded "*Is that your old man on the video? – He's a fucking cunt*".

270. The young woman's friends intervened and stopped the man taking it further. The identity of the man is not known.

271. The only sensible inference is that the video the man referred to was one of the abusive "videos" posted by the CFMEU on its Facebook page.

"We know where you live"

272. In the afternoon of 23 March 2023 there was an incident involving approximately 25 CFMEU men threatening three AWU organisers, one of whom was female. There is a video recording of the incident (see "*You fucking sell-out cunts*", above).

273. The CFMEU singled the female out for special treatment, yelling at her that they knew her home address and the identity of her husband. One even observed that the organiser had changed her haircut from her Facebook posts.

274. It is not possible to identify the persons who actually conveyed the threats to the woman, but from the video and other means it is known that senior organisers from the CFMEU were present when the threats were made – [redacted] and [redacted] Two CFMEU delegates, [redacted] and [redacted], can also be seen on the video, directly involved when the threats were made.

E. WHAT MUST BE DONE?

275. Several witnesses said that since the commencement of the Administration the south-east Queensland construction sector has been peaceful or, at least, relatively peaceful.

276. This cessation of violence demonstrates two important things. The first is that the CFMEU campaign was planned and controlled from the top: once Ravbar and Ingham were removed, the violence abated. The second is that the cessation of violence proves that the cycle of violence can be broken.

277. In my view, the Queensland CFMEU can be restored to function as it used to function – a tough representative of its members, operating lawfully to secure improved conditions and safety in its members workplaces.

278. To break the cycle of violence and to end the culture of violence will require good strong leadership. That can be assisted, in the short term, by some steps which I will suggest below. But it will take time.

F. RECOMMENDATIONS

An end to the lawlessness

279. It might seem obvious, but the CFMEU's attitude to obedience to the law needs to change immediately. No longer can the CFMEU encourage or tolerate breaches of industrial and criminal and regulatory laws. No longer can a fine be absorbed as a cost of doing business. Members bear the extraordinary costs of such conduct, including by the payment of increasingly large penalties and the significant legal expenses incurred in defending such cases. The CFMEU bares the cost of the reputational damage caused by the lawlessness, but also inflicts it on other parts of the union movement. The Administration is committed to conducting an effective union, but also one that is a lawful enterprise.

> ***RECOMMENDATION 1:*** *I recommend that the employees, delegates and members of the CFMEU be advised that from now if they are successfully prosecuted for breaches of industrial laws they will be required to justify why they should not be disciplined for their unlawful conduct. Such discipline may, if the conduct is sufficiently serious, include termination of employment and expulsion from membership.*

Personal payment orders

280. Any attempt by the Administration to uncover information regarding the defeat of personal payment orders is likely to fail: further investigation will be stone-walled by privilege claims. The Fair Work Ombudsman, however, holds superior investigative powers which may be capable of getting to the bottom of this important issue. Advice should be promptly sought about whether steps taken to defeat personal payment orders is unlawful and, if so, what steps should be taken to draw this matter to the attention of the Federal Court or any other Court that made the order.

> ***RECOMMENDATION 2****: I recommend that the information collected in this investigation be referred to the FWO and that the Administration co-operate with the FWO in determining whether, and if so by whom, any personal payment orders have been disobeyed. Further, advice should be promptly sought about whether steps taken to defeat personal payment orders were unlawful and, if so, what steps should be taken to draw this matter to the attention of the Federal Court or any other Court that made the order.*

Disciplinary action

281. Immediate disciplinary action is warranted against several individuals named in this report. The disciplinary action against each varies depending on their present role with the CFMEU.

282. The reasons for this disciplinary action are sufficiently revealed in the body of the report. In some instances there are additional grounds: some of those named have repeatedly engaged in conduct which has led to heavy fines being imposed on the CFMEU; some have even had their rights of entry cancelled or withdrawn on character grounds.

> ***RECOMMENDATION 3****: I recommend the immediate dismissal of several current officials of the CFMEU and the removal of several more as delegates. Where appropriate, steps should be taken to determine whether their membership of the CFMEU should be terminated*

283. Those persons will be identified to the Administrator in a separate private report.

The Youth Crew

284. The Queensland CFMEU has a group or sub-branch known as the Youth Crew. The age of those eligible to join the Youth Crew is unclear: one witness, [redacted], said the potential members were aged between 17 and 23; another, [redacted] said it was open to members under 35 years. [redacted] said there were about 150 members.

285. Numerous witnesses said that the Youth Crew was a particular problem. Many witnesses described how the Youth Crew was critically involved in many of the violent

episodes catalogued above. One witness described the Youth Crew as a *"wrecking crew"* and "*a hit squad*".

286. It is presently not clear whether the Youth Crew serves any useful purpose. Until matters settle, it would be preferable if the Youth Crew in Queensland ceased operations.

> ***RECOMMENDATION 4****: I recommend that the operations of the group or sub-branch known as the Youth Crew be suspended.*

287. In due course it can be considered if there is good reason to revive the Youth Crew.

Facebook and other social media

288. The abusive and inflammatory content posted by the CFMEU on its Facebook page was repeatedly identified as a serious source of violence. The stories told by individual WHS inspectors, and their families, show just how pernicious these entries were. The most poisonous content was posted as a reply or comment following the original CFMEU post.

289. Yet it was not clear who was placing the posts. Whenever I asked a CFMEU official they claimed they did not know who controlled the Facebook page; when I attempted to ask questions of the person who was paid to be in charge of the CFMEU social media, he would not speak to me without the assistance of a lawyer.

290. There appears to be no clear chain of control, if there is any control at all.

291. This problem can be corrected. This solution can be applied to all aspects of social media used by the CFMEU. I understand that pursuant to a National restructure of the communications function of the Union, including that of the Branch, the role of the Branch in posting material on social media has recently been substantially changed.

> ***RECOMMENDATION 5****: I recommend the CFMEU's use of social media be in accordance with a clear social media policy.*

292. That policy should include the appointment of a small control group, being the only persons able to place posts on social media in the name of the CFMEU. In other words, it would mean someone could be held responsible if and when abuse occurs.

Women

293. The CFMEU's attitude and conduct towards women needs to change urgently.

294. The problem is serious and will be difficult to correct. Removal of some problematic characters will assist, but that is nowhere near enough.

295. I understand that pursuant to a National restructure, the CFMEU will invest $5.4 million over 5 years focussed on addressing behavioural change by men in the industry

towards women, including conduct by staff and delegates of the Union. The CFMEU will employ a Project Officer and staff necessary to deliver on the program and will be subject to a steering committee and an enhanced role for the National Women's Committee. I recommend that the Union appoint staff, as soon as possible, to advise on the design and implementation of a framework to address the gendered issues which currently dominate the CFMEU.

> ***RECOMMENDATION 6****: I recommend that the CFMEU appoint staff, as soon as possible, to advise on the design and implementation of a framework to address the gendered issues which currently dominate the CFMEU.*

296. That will take time, so an interim measure should be implemented.

> ***RECOMMENDATION 7****: I recommend that the employees, delegates and members of the CFMEU be advised that any conduct of a kind which is abusive or threatening, or is sexual harassment, is a ground for immediate termination of employment and may result in termination of membership of the CFMEU.*

Geoffrey Watson

17 June 2025

APPENDIX A

Terms of Reference

I request that that you Geoffrey Watson SC, investigate the CFMEU Construction and General Division, Queensland/NT Branch and the associated state registered entity ("the union") and inquire into the following matters:

1. Credible allegations of violence, threats of violence and menacing conduct from the period 2015 to date, including allegations of such conduct by or against employees and former officers of the union.
2. The culture and actions embraced by the former leadership that tolerated, accepted, promoted and failed to confront a culture of violence and menacing conduct in the union and the industry as a way of doing business.
3. The culture of the union that lead to threats against other unions and unionists, disrespect and threats against regulators, and isolation from the broader union movement.
4. Identify the consequences of the union's culture and attitude to the broader democratic principles of unionism and provide case studies about those consequences.

In the investigation of these matters, I request that you co-operate with and interview, if appropriate, police, regulators, others within the union movement and employers, as well as union employees.

In addressing the staff of the union, I made clear that union values include openness, honesty, accountability and transparency and that the values of criminal and threatening cultures include retribution, retaliation and a code of silence.

I directed staff to fully co-operate with this investigation, and made clear that I will not tolerate pressure, directly or indirectly, on others not to cooperate with the Administration or the investigation.

Information required should be treated with the strictest confidence. The capacity and willingness of those that are the subject of inquiry to seek to victimise and retaliate against members must be considered.

N. 36856/01 R.G.N.R.
N. 74678/02 R.G. GIP

TRIBUNALE DI NAPOLI

Ufficio del Giudice per le Indagini Preliminari

Sezione XXI

ORDINANZA CAUTELARE

Il Giudice dr. Raffaele Piccirillo,
sulla richiesta di applicazione della misura della custodia cautelare in carcere presentata dai Pubblici Ministeri dottori Alessandro Milita e Giuseppe Narducci in data 17 febbraio 2009, integrata con trasmissione atti in data 27 febbraio 2009, 13 maggio 2009, 7 luglio 2009, 27 ottobre 2009 nei confronti di:
COSENTINO Nicola, nato a Casal di Principe il 2 gennaio 1959, ivi residente in Corso Umberto I n. 44

INDAGATO

del delitto di cui all'artt. 110, 416 bis - I, II, III, IV, V, VI ed VIII comma, C.P., perché non essendo inserito organicamente ed agendo nella consapevolezza della rilevanza causale dell'apporto reso e della finalizzazione dell'attività agli scopi dell'associazione di tipo mafioso denominata "clan dei casalesi" - promossa e diretta da Antonio BARDELLINO (fino al 1988), da Francesco SCHIAVONE di Nicola, detto "Sandokan", da Francesco BIDOGNETTI e da Vincenzo DE FALCO (dal 1988 al 1991) e infine da Francesco SCHIAVONE di Nicola e da Francesco BIDOGNETTI - dopo l'arresto di questi ultimi due, da Michele Zagaria e Iovine Antonio, quali esponenti di vertice, tuttora latitanti, della fazione facente capo alla famiglia Schiavone e da Bidognetti Domenico, Bidognetti Aniello, Bidognetti Raffaele, Guida Luigi, Alfiero Nicola, Setola Giuseppe e Cirillo Alessandro, quali componenti apicali che si avvicendavano alla guida della fazione facente capo alla famiglia Bidognetti (nei cui confronti si procede separatamente) che, operando sull'intera area della provincia di Caserta ed altrove, si avvale della forza di intimidazione del vincolo associativo e della condizione di assoggettamento ed omertà che ne deriva, per la realizzazione dei seguenti scopi:

il controllo delle attività economiche, anche attraverso la gestione monopolistica di interi settori imprenditoriali e commerciali;

il rilascio di concessioni e di autorizzazioni amministrative;

l'acquisizione di appalti e servizi pubblici;

l'illecito condizionamento dei diritti politici dei cittadini (ostacolando il libero esercizio del voto, procurando voti a candidati indicati dall'organizzazione in occasione di consultazioni elettorali) e, per tale tramite, il condizionamento della composizione e delle attività degli organismi politici rappresentativi locali;

il condizionamento delle attività delle amministrazioni pubbliche, locali e centrali;

il reinvestimento speculativo in attività imprenditoriali, immobiliari, finanziarie e

commerciali degli ingenti capitali derivanti dalle attività delittuose, sistematicamente esercitate (estorsioni in danno di imprese affidatarie di pubblici e privati appalti e di esercenti attività commerciali, traffico di sostanze stupefacenti, truffe, riciclaggio ed altro);

assicurare impunità agli affiliati attraverso il controllo, realizzato anche con la corruzione, di organi istituzionali;

l'affermazione del controllo egemonico sul territorio, realizzata non solo attraverso la contrapposizione armata con organizzazioni criminose rivali nel tempo e la repressione violenta dei contrasti interni ma altresì attraverso condotte stragiste e terroristiche;

il conseguimento, infine, per sè e per gli altri affiliati di profitti e vantaggi ingiusti;

in particolare contribuiva, con continuità e stabilità, sin dagli anni '90, a rafforzare vertici ed attività del gruppo camorrista facente capo alle famiglie Bidognetti e Schiavone (dal quale sodalizio riceveva puntuale sostegno elettorale in occasione delle elezioni a cui il Cosentino partecipava quale candidato divenendo consigliere provinciale di Caserta nel 1990, consigliere regionale della Campania nel 1995, deputato per la lista Forza Italia nel 1996 e, quindi, assumendo gli incarichi politici prima di Vice Coordinatore e poi di Coordinatore del partito Forza Italia in Campania, anche dopo aver terminato il mandato parlamentare nel 2001) attraverso le seguenti condotte :

garantendo il permanere dei rapporti tra imprenditoria mafiosa, amministrazioni pubbliche e comunali;

assicurando il perpetuarsi delle dinamiche criminali economiche, esemplificativamente esercitando indebite pressioni nei confronti di enti prefettizi per incidere, come nel caso della ECO4 s.p.a., sulle procedure dirette al rilascio delle certificazioni antimafia in situazioni nelle quali erano ravvisabili elementi ostativi al rilascio delle certificazioni stesse ovvero attivandosi ancora, con enti prefettizi e/o strutture del Ministero dell'Interno, al fine di impedire, come nel caso del Comune di Mondagrone, il corretto dispiegarsi della procedura finalizzata allo scioglimento dell'ente locale per infiltrazione mafiosa;

creando e co-gestendo monopoli d'impresa in attività controllate dalle famiglie mafiose, quali l'ECO4 s.p.a., e nella quale il Cosentino esercitava – in posizione sovraordinata a Giuseppe Valente, Michele Orsi e Sergio Orsi – il reale potere direttivo e di gestione, così consentendo lo stabile reimpiego dei proventi illeciti, sfruttando dette attività di impresa per scopi elettorali, anche mediante l'assunzione di personale e per diverse utilità;

Condotta delittuosa avvenuta in provincia di Caserta sin dall' inizio degli anni '90 e perdurante.

1. Coordinate giuridiche della collusione politico – mafiosa

La contestazione cautelare formulata a carico di Nicola Cosentino nel capo G) della richiesta del P.M. impone alcune premesse di tenore squisitamente tecnico – giuridico, fondamentali per chiarire il criterio che ha guidato la lettura del materiale investigativo e la selezione degli elementi rilevanti.

Si può dare per risolta la questione della configurabilità in astratto del concorso eventuale, materiale e/o morale, nel reato associativo mafioso.

Il dibattito ha investito per il passato soprattutto la configurabilità del concorso eventuale materiale, essendovi sostanziale accordo sulla configurabilità di un concorso morale esterno, nel caso emblematico (realmente verificatosi) del genitore ex capo

mafia ormai a riposo che spinga e convinca il figlio ad abbandonare l'attività bancaria alla quale si era avviato, per entrare a far parte di un'associazione mafiosa in qualità di dirigente della società finanziaria costituita e alimentata con i proventi dell'attività dell'associazione.
Più tormentata è stata la questione della configurabilità di un concorso esterno materiale.
Una serie di pronunce risalenti agli anni dell'emergenza terroristica riconosceva la configurabilità del concorso esterno in banda armata o nel reato di cospirazione politica mediante associazione, distinguendo dette ipotesi da quelle dell'appartenenza all'associazione eversiva sulla base del seguente ragionamento:
"l'appartenente all'associazione prevista dall'art. 305 c.p. è l'accolito del sodalizio, cioè colui che, conoscendone l'esistenza e gli scopi, vi aderisce e ne diviene con carattere di stabilità membro e parte attiva, rimanendo al corrente dell'intera organizzazione, dei particolari e concreti progetti, del numero dei consoci, delle azioni effettivamente attuate o da attuarsi, sottoponendosi alla disciplina delle gerarchie e al succedersi dei ruoli. La figura del concorrente, invece, è individuabile nell'attività di chi – pur non essendo membro del sodalizio, e cioè non aderendo a esso nella piena accettazione dell'organizzazione, dei mezzi e dei fini – contribuisce all'associazione mercè un apprezzabile e fattivo apporto personale, agevolandone l'affermarsi e facilitandone l'operare, conoscendone l'esistenza e le finalità, e avendo coscienza del nesso causale del suo contributo".
Nella declinazione giurisprudenziale le teorie negazioniste si fondavano per lo più sulla svalutazione dell'autonomia strutturale o almeno probatoria del requisito soggettivo della fattispecie associativa semplice o mafiosa, quell'*affectio societatis* dimostrabile per *facta concludentia* dalla ricostruibilità del contributo causale prestato dal soggetto alla conservazione o al rafforzamento dell'associazione criminosa. Laddove tale contributo vi fosse, si affermava, poteva presumersi automaticamente la qualità di "partecipe", essendo l'*affectio* insita nella volontarietà e consapevolezza della cooperazione prestata al sodalizio: indipendentemente dal fatto che risultasse o meno *aliunde* l'effettiva volontà dell'agente di "esser parte" del clan e l'effettiva volontà degli altri membri di accettarlo come tale.
In secondo luogo si rimarcava la necessità di non condizionare il giudizio di 'intraneità' associativa alle regole interne all'associazione per delinquere.
Esemplare di questa linea di ragionamento è la seguente massima:
"Al di fuori dell'ipotesi di concorso morale non è configurabile il concorso eventuale ex art. 110 c.p., nell'associazione per delinquere, sia essa di tipo mafioso o non. Ed invero, affinché una condotta sia ritenuta punibile a titolo di concorso in un determinato reato, ai sensi dell'art. 110 c.p., sono necessari un contributo causale (materiale o semplicemente morale o psichico) e il dolo richiesti per il reato medesimo. Ne consegue che, quando tali condizioni si siano verificate in relazione al delitto di associazione per delinquere, sono integrati gli estremi della partecipazione a detta associazione; mentre, allorché le dette condizioni non si siano verificate, il fatto potrà integrare gli estremi di altri reati (corruzione, favoreggiamento, ecc.) ma non quello di concorso in associazione per delinquere".

Il periodo compreso tra la fine degli anni ottanta e i primi anni novanta ha visto alternarsi le tesi negazioniste e quelle favorevoli alla configurabilità del concorso materiale nel delitto di associazione mafiosa, con un ritmo frenetico, soprattutto in relazione ai casi nei quali il soggetto processato appariva estraneo allo stereotipo dell'associato mafioso tipico: l'imprenditore che mantiene con il clan intensi rapporti d'affari; il magistrato colluso che si presti all'aggiustamento di un processo di mafia; il

politico che stringa con l'associazione mafiosa un patto di voto di scambio e di cooperazione, rendendosi disponibile a favorire variamente il sodalizio durante il mandato elettorale o comunque in virtù della sua posizione politica.
Il 1994 segna il momento apicale della confusione giurisprudenziale sulla materia.

Una prima soluzione della *vexata quaestio* viene offerta dalla sentenza S.U. 5 ottobre 1994, Demitry il cui impianto motivazionale può così essere sintetizzato:

Una condotta per essere ricondotta al tipo previsto dall'art. 416 bis c.p. deve rispecchiare "*un grado di compenetrazione del soggetto con l'organismo criminale, tale da potersi sostenere che egli, appunto, faccia parte di esso, vi sia stabilmente incardinato, con determinati, continui compiti anche per settori di competenza*". Il concorrente eventuale però è per definizione colui che pone in essere non già la condotta tipica (vale a dire la condotta di "far parte"), bensì una condotta di altro genere che, per essere rilevante, deve "*contribuire atipicamente alla realizzazione della condotta tipica posta in essere da altri*". Il concorrente eventuale non è "*coautore della stabile permanenza del vincolo associativo*", ma si limita a mettere a disposizione un proprio contributo atipico a favore di coloro per i quali, invece, la condotta è proprio la stabile permanenza nell'associazione. Il suo sarà un contributo 'esterno' che, pur non essendo caratterizzato dalla stabilità, dovrà dare ossigeno agli altri consentendo loro di "*continuare a dar vita alla stabile permanenza del vincolo*".

Il dolo che accompagna la condotta *tipica* di partecipazione è effettivamente un dolo specifico, che consiste nella "*consapevolezza di ciascun associato di far parte del sodalizio con la volontà di realizzare i fini propri dell'associazione*". Non è richiesto lo stesso tipo di dolo nel concorrente eventuale ("*non si può pretendere che chi vuol dare un contributo senza far parte dell'associazione abbia il dolo di far parte…*").
Richiamando le regole generali che governano l'elemento soggettivo del concorso eventuale, le S.U. ricordano che si può avere concorso con dolo generico in un reato a dolo specifico, a condizione che un altro concorrente abbia agito con la finalità specifica richiesta dalla legge.
Il concorrente eventuale può ben agire con un dolo generico, consistente nella volontà e consapevolezza di prestare un contributo destinato ad agevolare l'associazione criminosa, disinteressandosi poi della strategia complessiva di quest'ultima e degli obiettivi che la stessa si propone di conseguire: il concorrente eventuale non potrà avere, per la contraddizione che non lo consente, quel segmento del dolo specifico del partecipe che consiste nella volontà di far parte dell'associazione, ma potrà fornire il suo contributo esterno, in taluni casi con la volontà di contribuire alla realizzazione dei fini dell'associazione; o almeno alla realizzazione di quei fini che sono coerenti con la tipologia del suo contributo: "*volontà che ben può essere propria di chi, non essendo e non volendo esser parte dell'associazione, richiesto di un aiuto, lo presta per contribuire alle fortune dell'associazione, sapendo peraltro che, prestato il proprio contributo, si disinteresserà delle ulteriori vicende dell'associazione*".

Non colgono nel segno le tesi che inferiscono l'inconfigurabilità dell'innesto dell'art. 110 c.p. sul tronco della fattispecie descritta dall'art. 416 bis c.p. dall'introduzione nel sistema dell'aggravante della finalità agevolatoria del sodalizio mafioso (art. 7 della legge n. 203/91), aggravante che produrrebbe l'effetto di rendere superflua e ridondante la categoria del concorso esterno nel reato associativo.
Per confutare l'argomento le Sezioni Unite richiamano l'interprete alla necessità di riflettere sul fine che l'associazione, con la realizzazione di un determinato delitto

strumentale, persegue. Ed esemplificano, ipotizzando il caso del contributo consistito nell'esecuzione di un omicidio finalizzato semplicemente a 'impartire una lezione' a qualcuno che ha osato disobbedire: caso nel quale potrebbe essere corretto ravvisare a carico dell'esecutore non intraneo la sola aggravante dell'articolo 7 della legge n. 203/91. Diversamente, nel caso di un omicidio che ha di mira l'eliminazione di un qualche pericoloso concorrente o di altri che possono minare la vita dell'associazione. In questa ipotesi, se il killer è consapevole del peculiare 'valore' del suo contributo e lo presta con questa consapevolezza, anche se per suoi fini personali (e cioè senza dolo specifico) "*è da escludere che ci troviamo dinanzi ad un semplice esecutore di un delitto, meritevole soltanto di un aggravamento di pena*". Al contrario, tutto lascia ritenere che, in questo caso, ci si trovi di fronte a un concorrente esterno, la cui azione atipica consente la realizzazione dell'azione tipica e contribuisce in altri termini alla stabilità del vincolo associativo e al perseguimento degli scopi dell'associazione.

Un argomento testuale a sostegno del controverso innesto può trarsi dall'articolo 418 c.p. (assistenza agli associati). La Corte valorizza la clausola di riserva che apre la descrizione del comportamento incriminato: "*chiunque, **al di fuori dei casi di concorso nel reato** o di favoreggiamento, dà rifugio o fornisce vitto, ospitalità, mezzi di trasporto, strumenti di comunicazione a taluna delle persone che partecipano all'associazione*".

La clausola si riferisce non già alle ipotesi di concorso necessario, ma appunto alle ipotesi di concorso eventuale nel reato associativo. Quando infatti il legislatore ha voluto riferirsi al concorrente necessario del reato associativo ha fatto uso, nella stessa norma, della locuzione "persone che partecipano all'associazione".

L'argomento trova il conforto della relazione ministeriale sul progetto di codice penale del '30 nella quale si legge che il concorso di cui si parla nella norma dell'art. 418 c.p. "*non è il concorso degli esterni rispetto al reato – fine che gli associati si propongono di commettere, sibbene il concorso rispetto al reato di associazione che, per la sua distinzione, per il parallelo che la relazione fa tra quest'ultimo concorso e il concorso esterno nel reato – fine non può non essere anch'esso il concorso esterno, degli esterni, nel reato di associazione*".

Al termine di questa articolata disamina la Corte si preoccupa di dettare una linea di demarcazione tra il partecipe e il concorrente materiale eventuale, enunciando l'ormai nota 'teoria della fibrillazione' secondo la quale: partecipe è colui senza il cui apporto quotidiano, o comunque assiduo, l'associazione non raggiunge i suoi scopi o non li raggiunge con la dovuta speditezza; è insomma colui che agisce nella "fisiologia", nella vita corrente quotidiana dell'associazione; mentre concorrente eventuale è, per definizione, colui che non vuole far parte dell'associazione e che l'associazione non chiama a "far parte", ma al quale si rivolge, ad esempio, per colmare vuoti temporanei in un determinato ruolo; oppure nel momento in cui la "fisiologia" dell'associazione entra in fibrillazione, attraverso una fase "patologica" che, per essere superata, chiede il contributo temporaneo, limitato anche ad un unico intervento, di un esterno. Concorrente materiale esterno insomma è il soggetto che occupa uno spazio proprio "*nel momento di emergenza della vita dell'associazione o, quanto meno, non lo spazio della normalità, occupabile da uno degli associati*".

Ripropostosi il contrasto agli inizi del decennio 2000 per effetto soprattutto della sentenza Cass., VI, 21 settembre 2000, Villecco, le S.U. intervengono nuovamente sul tema con la nota pronuncia 30 ottobre 2002, Carnevale.

Il percorso argomentativo della pronuncia è il seguente.

Le S.U. contestano la costruzione 'monosoggettiva' del delitto di associazione mafiosa, affermando che in realtà "*tanto la costituzione dell'associazione quanto l'inserimento di un soggetto in un'organizzazione già formata postulano sempre e necessariamente la volontà e l'agire di una pluralità di persone*".

L'associazione mafiosa è dunque fattispecie plurisoggettiva propria giacché "*l'appartenenza di taluno a un'associazione criminale dipende anche dalla volontà di coloro che già partecipano all'organizzazione esistente*".

La prova di tale volontà plurale può desumersi da 'regole statutarie' (come quelle praticate dalle mafie storiche con i loro rituali di affiliazione) ma anche *per facta concludentia* indicativi di una "*volontà di inclusione del soggetto partecipe*". Si tratta di valutare in concreto l'effettiva volontà degli associati: sia la volontà del singolo partecipe di essere incluso nel sodalizio; sia la volontà degli altri membri di apprezzarne e accettarne l'inclusione, indipendentemente dal fatto che tale incontro di volontà possa desumersi dal rispetto di regole o prassi criminali.

Riprendendo la distinzione tra il contributo 'tipico' del partecipe e quello 'atipico' del concorrente eventuale, le S.U. ripropongono anche la definizione per la quale la condotta di partecipazione è ravvisabile in chi "*si impegna a prestare un contributo alla vita del sodalizio, avvalendosi (o sapendo di potersi avvalere) della forza di intimidazione del vincolo associativo, e delle condizioni di assoggettamento e di omertà che ne derivano, per realizzare i fini previsti*".

L'espressione 'far parte' impiegata nel comma 1 dell'articolo 416 bis allude secondo la sentenza a "*una condotta che può assumere forme e contenuti diversi e variabili, così da delineare una tipica figura di reato 'a forma libera', consistendo in un contributo apprezzabile e concreto, sul piano causale, all'esistenza o al rafforzamento dell'associazione e, quindi, alla realizzazione dell'offesa tipica agli interessi tutelati dalla norma incriminatrice*".

A quel 'far parte' dell'associazione "*non può attribuirsi il solo significato di condivisione meramente psicologica del programma criminoso e delle relative metodiche, bensì anche quello, più pregnante, di una concreta assunzione di un ruolo materiale all'interno della struttura criminosa, manifestato da un impegno reciproco e costante, funzionalmente orientato alla struttura e all'attività dell'organizzazione criminosa*". Il che equivale a dire che la condotta di partecipazione comporta "*un inserimento strutturale a tutti gli effetti in tale organizzazione, nella quale si finisce con l'essere stabilmente incardinati*".

Così letta e interpretata, la condotta tipica di partecipazione si sottrae alla critica dottrinale per la quale essa incriminerebbe uno 'status' piuttosto che un comportamento: il partecipe infatti è colui che svolge determinati e continui compiti anche per settori di competenza.

La premessa conduce all'affermazione della configurabilità del concorso eventuale nel reato associativo mafioso.

Se infatti la reciproca volontà di inclusione si atteggia come requisito imprescindibile della partecipazione tipica, non può negarsi la necessità politico-criminale e la rilevanza penale dei contributi significativi che possono esser resi all'organizzazione criminale da parte di chi non sia in essa considerato incluso dagli associati.

Se nel reato associativo la volontà collettiva di inclusione è determinante, da ciò non può scaturire "l'irrilevanza penale di comportamenti significativi sul piano causale e perfettamente consapevoli".

La fattispecie estensiva dell'articolo 110 c.p. non conosce del resto limiti applicativi legati alla fattispecie.

Essa inoltre consente di "dare corpo giuridico" a una distinzione presente nella realtà, quella appunto tra "*chi entra a far parte di un'organizzazione condividendone vita e obiettivi e quella di chi, pur non entrando a farne parte, apporta dall'esterno un contributo rilevante alla sua conservazione e al suo rafforzamento*".

Il limite applicativo non può essere individuato nella natura permanente del reato associativo (come sostenuto nella sentenza Villecco del 2001), perché nulla impedisce di considerare che il permanere di un'offesa possa essere determinato anche dall'aiuto portato da un soggetto estraneo al sodalizio in determinati momenti della vita dell'organizzazione.

Neppure esso può essere collegato alla tecnica di 'tipizzazione causale' che connota tanto la clausola generale dell'articolo 110 c.p. quanto la fattispecie di parte speciale dell'articolo 416 bis.

Se valesse questo limite, occorrerebbe negare il concorso eventuale nell'omicidio, essendo anche questa una fattispecie causalmente orientata:

"*il processo causale che presiede alla tipizzazione della condotta di chi spara e di chi fornisce la pistola è il medesimo, nondimeno il complice che ha dato l'arma all'esecutore materiale dell'omicidio verrà incriminato naturaliter a titolo di concorso e, soprattutto, realizza una condotta che già sul piano causale è pienamente distinguibile dall'altra*".

Sul piano dell'elemento soggettivo del concorso eventuale nel reato associativo, la sentenza Carnevale si discosta dal precedente del '94.

Il dissenso si appunta in particolare sull'affermazione precedente per la quale il concorrente eventuale "può anche avere la volontà di contribuire alla realizzazione dei fini dell'associazione", ma non è affatto richiesto che egli abbia tale volontà "*essendo sufficiente la consapevolezza che altri fa parte e ha voglia di far parte dell'associazione e agisce con la volontà di perseguirne i fini*".

Le S.U. respingono nel 2002 l'idea che il concorrente esterno possa "*disinteressarsi della strategia complessiva (dell'associazione) e degli obiettivi che la stessa si propone di conseguire*".

Il dissenso è così spiegato:

"*Nel reato di associazione per delinquere l'evento è la sussistenza e operatività del sodalizio, siccome idoneo a violare l'ordine pubblico ovvero gli altri beni giuridici tutelati dalle particolari previsioni legislative, la cui attuazione avviene attraverso la realizzazione del programma criminoso. Ne consegue – di necessità – che non può postularsi la figura di un concorrente esterno nel cui agire sia presente soltanto la consapevolezza che altri agisca con la volontà di realizzare il programma di cui sopra. Deve, al contrario, ritenersi che il concorrente esterno è tale quando, pur estraneo all'associazione della quale non intende far parte, apporti un contributo che 'sa' e 'vuole' sia diretto alla realizzazione, magari anche parziale, del programma criminoso del sodalizio. Il risultato così raggiunto, che – come detto – esige nell'atteggiamento psicologico del concorrente esterno sempre la ricorrenza di un dolo diretto, assorbe inevitabilmente le critiche rivolte a quell'elemento, definito eterogeneo, comunque incerto ed equivoco, che sarebbe stato inserito dalle sezioni unite nella componente soggettiva della condotta del concorrente esterno, e polemicamente indicato con le espressioni 'dolo di contribuzione' o 'dolo di agevolazione*'".

La puntualizzazione dell'oggetto del dolo richiesto nel concorrente esterno assume il rilievo di argomento cardine per la confutazione delle teorie negazioniste che s'incentrano sull'esistenza nel sistema di norme – quali l'art. 378 cpv. e l'art. 418 c.p. – che assorbirebbero il disvalore che si vorrebbe stigmatizzare con la figura del concorso eventuale in reato associativo.

Le S.U. hanno buon gioco nel precisare che tanto il reato di assistenza agli associati quanto il favoreggiamento aggravato dalla mafiosità del soggetto favoreggiato si caratterizzano per una finalità circoscritta alla tutela del singolo; laddove assumerebbero rilievo ex artt. 110 – 416 bis le condotte finalizzate al mantenimento o all'assicurazione dell'operatività del sodalizio nel suo complesso.

Trova pregnante confutazione anche l'opinione dottrinale che desume dalla previsione normativa dell'art. 416 ter (scambio elettorale politico - mafioso nella forma 'denaro contro voti') un argomento per affermare l'inconfigurabilità di un concorso eventuale del politico in associazione mafiosa, giacché "*sopperire ai vuoti di tutela determinati dall'infelice formulazione dell'art. 416 ter con la categoria del concorso esterno costituisce operazione apprezzabile sul piano etico-politico, ma scorretta sul piano giuridico penale, configurandosi un aggiramento dei precisi confini entro i quali il legislatore ha considerato penalmente rilevante un accordo politico-mafioso*".

Rovesciando la prospettiva, le S.U. affermano nel 2002 che l'introduzione dell'articolo 416 ter deve leggersi come strumento di estensione della punibilità oltre il concorso esterno, e cioè anche in casi nei quali il patto preso in considerazione, non risolvendosi in un contributo al mantenimento o rafforzamento dell'organizzazione, resterebbe irrilevante quanto al combinato disposto degli artt. 416 bis e 110 c.p.

La 'teoria della fibrillazione' è decisamente ridimensionata dalla sentenza Carnevale che, correttamente, reputa inesatta la massima che ha trasformato in principio generale un'affermazione di carattere eminentemente esemplificativo e strettamente collegata alle peculiarità del caso venuto all'attenzione delle S.U. Demitry.

Nel 2002 le S.U. stemperano il linguaggio, affermando che il concorso dell'esterno può connettersi a condizioni di 'mera difficoltà' del sodalizio o anche a esigenze congiunturali, non necessariamente contrassegnate da situazioni patologiche o di grave emergenza: "*non appare affatto necessario che lo stato di difficoltà sia tale che, senza il soccorso dell'esterno, l'associazione andrebbe inevitabilmente incontro alla sua estinzione (...) non è affatto richiesto che il contributo possa venire solo da quel soggetto e da nessun altro (...) la fattispecie concorsuale sussiste anche prescindendo dal verificarsi di una situazione di anormalità nella vita dell'associazione* ".

Il momento centrale della sentenza Carnevale è quello dedicato all'individuazione del "livello di intensità minimo e idoneo" a considerare il concorso dell'estraneo come concorso nel reato associativo.

Il contributo del concorrente esterno – affermano le S.U. nel 2002 – "*deve poter essere apprezzato come idoneo, in termini di concretezza, specificità e rilevanza, a determinare, sotto il profilo causale, la conservazione o il rafforzamento dell'associazione*".

E' indifferente che l'attività dell'agente esterno sia stata continuativa, ripetuta o sia invece consistita in un intervento occasionale e non istituzionalizzato perché, nell'uno e nell'altro caso, conterà soltanto la concreta e specifica idoneità della prestazione a conseguire il risultato.

Non saranno pertanto riconducibili nello spettro delle condotte punibili di concorso eventuale: la mera 'contiguità compiacente', la 'vicinanza', la disponibilità nei confronti del sodalizio o dei suoi esponenti di spicco; quando a siffatti atteggiamenti non si accompagnino "positive attività" che abbiano fornito uno o più contributi suscettibili di produrre un oggettivo apporto di rafforzamento o di consolidamento sull'associazione o anche su un suo particolare settore operativo.

Ciò che conta insomma "*non è la mera disponibilità dell'esterno a conferire il contributo richiestogli dall'associazione, bensì l'effettività di tale contributo, e cioè*

che, a seguito di un impulso proveniente dall'ente criminale, il soggetto si sia di fatto attivato nel senso indicatogli".
L'insistenza sul tema della concretezza e della 'positività' materiale del contributo consente alle S.U. di superare l'argomento ostativo che viene da chi rimarca l'irrazionalità del fatto che si sottopongano al medesimo trattamento sanzionatorio soggetti intranei e soggetti esterni alle organizzazioni criminali: "*in realtà la pericolosità espressa da chi in ipotesi garantisce con un comportamento illegale un'intera organizzazione criminale è ben maggiore di quella di un aderente di poco conto del sodalizio*".
La **sentenza S.U. 12 luglio 2005, Mannino** tocca più specificamente il tema al nostro esame.
La pronuncia risponde al contrasto giurisprudenziale determinatosi sul tema dell'individuazione dei requisiti per la configurabilità del concorso esterno in associazione mafiosa dell'esponente politico, nel caso paradigmatico di patto di scambio tra l'appoggio elettorale da parte dell'associazione e l'appoggio promesso a questa da parte del candidato.
Richiamato come jus receptum il tema della configurabilità del concorso eventuale nel reato associativo, le S.U. sviluppano in particolare due temi affrontati nelle sentenze del '94 (Demitry) e del 2002 (Carnevale): quello dell'efficienza causale del contributo prestato dal concorrente esterno e quello dell'elemento soggettivo che deve caratterizzarne la condotta.
Sul primo tema le S.U. del 2005 confermano lo stemperamento della 'teoria della fibrillazione'. Nel contempo portano a conseguenze ulteriori quell'istanza di 'effettiva idoneità' del contributo avanzata dalla sentenza Carnevale.
Riprendendo le linee tracciate in un'importante pronuncia in materia di 'colpa medica' (S.U., 10 luglio 2002, Franzese), la sentenza esige che la rilevanza causale del contributo prestato all'associazione dall'agente esterno sia apprezzata ex post e obbedisca a uno standard di '*certezza processuale*' e non di "*mero aumento del rischio*".
"In tema di associazione di tipo mafioso, assume il ruolo di concorrente esterno il soggetto che, non inserito stabilmente della struttura organizzativa dell'associazione e privo dell'affectio societatis, fornisce un contributo concreto, specifico, consapevole e volontario, sempre che questo esplichi un'effettiva rilevanza causale e quindi si configuri come condizione necessaria per la conservazione o il rafforzamento delle capacità operative dell'associazione (o, per quelle operanti su larga scala, come Cosa Nostra, di un suo particolare settore o ramo di attività o articolazione territoriale) e sia diretto alla realizzazione, anche parziale, del programma criminoso della medesima"
In motivazione si esplicita che l'efficienza causale ai fini della realizzazione concreta del fatto criminoso collettivo costituisce elemento essenziale e tipizzante della condotta concorsuale, di natura materiale o morale, per la cui verifica non è sufficiente una valutazione ex ante, risolta in termini di mera probabilità di lesione del bene giuridico protetto, ma è necessario un apprezzamento ex post, in esito al quale sia dimostrata, alla stregua dei comuni canoni di 'certezza processuale', l'elevata credibilità razionale dell'ipotesi formulata in ordine alla reale efficacia condizionante della condotta atipica del concorrente.
Neppure è consentito – secondo la Corte – il ricorso alla 'causalità psichica' cosiddetta da 'rafforzamento dell'organizzazione criminale' la quale consentirebbe di aggirare il compito probatorio e di concludere in ogni caso "*che la condotta atipica, se obiettivamente significativa, determinerebbe comunque nei membri dell'associazione criminosa la fiduciosa consapevolezza di poter contare sul sicuro apporto del*

concorrente esterno, e quindi un reale effetto vantaggioso per la struttura organizzativa della stessa".
Riprendendo il rigore della sentenza Carnevale, la sentenza Mannino esclude la sufficienza di un dolo eventuale, inteso come mera accettazione del rischio di verificazione dell'evento, ritenuto solamente probabile o possibile insieme ad altri risultati intenzionalmente perseguiti.
Si esige invece che la rappresentazione e volontà dell'agente estraneo investano sia il fatto tipico oggetto della previsione incriminatrice, sia il contributo causale recato dalla condotta dell'agente alla conservazione o al rafforzamento dell'associazione, "*agendo l'interessato nella consapevolezza e volontà di recare un contributo alla realizzazione, anche parziale, del programma criminoso del sodalizio*".
Il concorrente esterno dev'essere anche consapevole dei metodi e dei fini dell'associazione, "*a prescindere dalla condivisione, avversione, disinteresse o indifferenza per siffatti metodi e fini, che lo muovono nel foro interno*".

Applicata al caso dell'esponente politico colluso con la mafia, la figura del concorso eventuale in reato associativo esige che: a) tra il soggetto e il sodalizio s'instauri un rapporto basato su un patto di scambio di voti contro favori; b) tra il soggetto e il sodalizio non sussistano rapporti di altro tipo, precedenti all'instaurarsi del patto di voto di scambio, che possano indicare l'esponente politico come soggetto già organico al sodalizio.
L'ipotesi del patto di scambio implica che un candidato formalmente estraneo al sodalizio mafioso contratti con quest'ultimo il procacciamento del voto degli affiliati e la coercizione del voto altrui in cambio dell'offerta di favoritismi: comportamento questo che ordinariamente configura già i reati di corruzione e coercizione elettorale, aggravati ex art. 7 della legge n. 203/91.
Si tratta di stabilire se e a quali condizioni la condotta di questo candidato, complessivamente considerata, possa configurarsi anche come condotta di partecipazione interna ovvero di concorso esterno nel reato associativo di tipo mafioso, tanto più che il soggetto in questione ha dimostrato – con il suo concorso morale nella coercizione elettorale – di voler condividere in qualche misura, e di voler orientare a suo vantaggio, la logica intimidatoria propria del sodalizio.

Il primo provvedimento giudiziario che ha affrontato la questione, configurando la condotta dell'uomo politico colluso come partecipazione interna all'associazione mafiosa, è un'ordinanza del 1992 del Tribunale della Libertà di Reggio Calabria relativa ai rapporti intrattenuti da taluni esponenti politici calabresi con le cosche rosarnesi:
"L'uomo politico si serve dell'attività delle cosche per assicurarsi l'esito favorevole, e il più favorevole possibile, delle elezioni, restando pattuito o inteso che, una volta eletto, si metterà al servizio o a disposizione delle medesime, i cui interessi sono, appunto, l'acquisizione delle gestione o del controllo delle attività economiche, delle concessioni e autorizzazioni, degli appalti e dei servizi pubblici, e comunque, lo sfruttamento di qualsiasi vantaggio derivante dall'esercizio dei pubblici poteri. (...) Rivolgersi alla mafia per simili finalità, o accettarne l'impegno equivale di per sé all'adesione al programma criminoso della medesima, sia pure per la parte relativa agli affari amministrativi e ai relativi abusi".

Pronunciandosi sullo stesso caso, la S.C. conferma sostanzialmente il ragionamento di diritto sia pure rilevando l'insufficienza del quadro probatorio specifico:
"*Il fatto di chi promette voti contro l'impegno del candidato che, una volta eletto,*

concluderà il sinallagma attraverso l'elargizione di favoritismi è espressamente previsto e sanzionato dalla legge penale. A maggior ragione quindi, se un simile patto viene stipulato dal candidato con un'organizzazione di stampo mafioso, e la controprestazione del beneficiario del consenso elettorale è la promessa di agevolare chi gli assicura l'elezione nella realizzazione dei fini elencati dalla norma incriminatrice, il fatto è, se provato, suscettibile di integrare gli estremi non soltanto dello specifico delitto elettorale, ma anche di una partecipazione all'associazione criminale, tanto più se l'accordo risulta di tale portata e intensità da far apparire il candidato stipulante come autentica espressione del sodalizio criminale" (Cass., I, 8 giugno 1992, Battaglini).

In una nota sentenza del 2004 (Cass., II, 15 ottobre 2004, Andreotti) la Corte - occupandosi di un caso del tutto peculiare nel quale l'intraneità dell'imputato al sodalizio mafioso era stata ritenuta con riferimento ad un'epoca anteriore all'introduzione dell'art. 416 bis c.p.- riconosceva la correttezza del ragionamento probatorio della Corte d'Appello secondo cui l'imputato, facendo leva sulla sua posizione di uomo politico e di governo di rilievo nazionale, aveva manifestato la propria disponibilità – sollecitata o accettata da Cosa Nostra – a compiere interventi in armonia con le finalità del sodalizio, ricevendone in cambio la promessa, almeno parzialmente mantenuta, di sostegno elettorale alla sua corrente politica e di eventuali interventi di altro genere.
Il principio di diritto distillato dalla Corte in quel caso è il seguente: "*Integra la condotta di partecipazione, specie in mancanza di un'affiliazione rituale, l'esplicazione di attività omogenee agli scopi del sodalizio, apprezzabili come concreto e causale contributo all'esistenza e al rafforzamento dello stesso, da parte del soggetto che ne sia stato accettato e in esso sia stabilmente incardinato con l'assunzione di determinati e continui compiti, anche per settori di competenza"*.

In buona sostanza l'intraneità del politico al sodalizio sembra ipotizzabile soltanto quando siano provati rapporti collusivi consolidati da tempo e caratterizzati da una risalente continuità di scambi politico-mafiosi. Solo in questo caso il rapporto potrà assumere un carattere clientelare stabile, continuativo e fortemente personalizzato, e potrà implicare il riconoscimento di un 'ruolo' del politico all'interno del sodalizio mafioso.
Una pluralità di patti di scambio implicherà la modifica della posizione dell'uomo politico inizialmente *extraneus* alla compagine e animato da un movente fortemente autonomo. In tal caso il suo movente autonomo verrà inevitabilmente a sovrapporsi, intrecciarsi e confondersi con le finalità associative, sì da assumere una nuova significatività e concludenza in termini di *affectio societatis*. Potrà accadere che il soggetto finisca con il perseguire anche la realizzazione degli scopi del sodalizio, di cui ha mostrato, del resto, di condividere indirettamente la valenza coercitoria.

Qualora invece si ipotizzi che il politico ha allacciato per la prima volta il patto di scambio "voto contro favori", ben difficilmente si potrà configurare la sua condotta in chiave di 'partecipazione interna'. Tale rapporto, inevitabilmente contrassegnato all'origine da un movente fortemente autonomo dell'uomo politico e da una valenza di cooperazione relativamente 'paritaria', sarà tale da denotare un'assenza di affectio. Assenza di affectio che potrebbe rilevarsi anche nell'ipotesi di ripetuti patti di scambio, nel qual caso ci troveremmo in presenza di un concorso esterno nel reato associativo particolarmente intenso, consolidato e continuativo.

Non ricorrerà né intraneità né concorso esterno quando la condotta dell'uomo politico si riduca a un comportamento compiacente del tutto episodico, consistito ad esempio nell'appoggio di una pratica d'ufficio o nell'isolato sostegno del candidato in un concorso. In tal caso saranno eventualmente configurabili delitti specifici (ad esempio corruzione) aggravati ex art. 7 della legge n. 203/91.
Le difficoltà che si avvertono nel definire la posizione giuridica degli uomini politici collusi con la mafia non sono tanto di ordine dommatico – astratto quanto piuttosto di carattere probatorio.
Il *thema probandum* è l'accordo programmatico tra amministratori e cosche, cioè un fatto privo di visibilità esterna e ben nascondibile alle investigazioni, un fatto che può provarsi soltanto attraverso un'opera paziente di tessitura degli indizi.

Il percorso dell'indagine e della sua verifica è così scandito.
Il primo passo è costituito dalla verifica dell'effettivo radicamento in determinati luoghi di un'associazione che annoveri tra i suoi obiettivi quello di trarre profitto dall'amministrazione del potere.

Una volta che si sia data risposta affermativa a questo quesito, occorrerà individuare nella struttura associativa quei ruoli di partecipazione che porrebbero l'associazione nelle condizioni di realizzare gli obiettivi perché delle due l'una: o l'associazione non ha la capacità di realizzare quel programma, e allora manca l'idoneità offensiva; o ce l'ha e allora vi devono essere amministratori pubblici partecipi.

Una volta ammessa l'esistenza dell'associazione e l'idoneità della sua struttura adeguata alla realizzazione del programma di condizionamento dell'amministrazione, il fatto che gli unici personaggi pubblici con cui la cosca ha rapporti sia X costituirà "*un potente centro di gravità attorno al quale far ruotare la costellazione degli indizi*".

Calato nella concretezza del caso affrontato dalla citata sentenza Battaglini, questo modello conduce un commentatore a osservare:
"Quest' associazione vuole mettere sistematicamente le mani sul potere locale; essa non può contattare di volta in volta l'amministratore che le serve perché sarebbe dispendioso e rischioso; essa ha necessità, secondo il suo programma, di contare stabilmente su propri rappresentanti nelle strutture amministrative; il B. ha un ruolo istituzionale che fa proprio al caso dell'associazione; la sperimentata contiguità tra B. ed esponenti eminenti delle cosche, l'inserimento del suo nome nella quaterna dei candidati da votare, l'attivismo e il supporto organizzativo dato dalle cosche alla sua campagna elettorale, le sollecitazioni a lui più volte mosse da personaggi di primo piano delle cosche per l'apposizione del visto di controllo su delibere comunali sono tutti segni che avvalorano l'ipotesi dell'accusa".
Un problema probatorio che frequentemente si pone in concreto è quello della sufficienza della mera accettazione dei voti procurati dalle cosche a integrare il concorso eventuale del politico.
La realtà è che l'accettazione del voto delle cosche sottende sempre un sinallagma, ancorché simulato in termini tali da farlo apparire come una mera accettazione tacita di voti non richiesti; si tratterà allora di impegnarsi in quell' opera di tessitura che potrà consentire di provare il patto paritario.

Qualora invece il voto di mafia non sia stato accettato dal politico e gli sia stato dato a sua insaputa (magari per lanciare messaggi ad altri) e comunque senza alcuna richiesta del beneficiato, il sinallagma dovrà dirsi senz'altro incompiuto.

Altre difficoltà probatorie sono ingenerate dallo sfasamento temporale tra i momenti di esecuzione degli impegni corrispettivi assunti dalla cosca e dal politico: è immediata l'attività di sostegno elettorale; è differita all'epoca e all'eventualità dell'effettivo successo elettorale la traduzione in atto della promessa di favori da parte del politico.
La domanda è se la mera disponibilità data dal politico prima che si sia conclusa la competizione elettorale basti a integrare il contributo alla conservazione o al rafforzamento dell'associazione mafiosa.
Sul punto si sono contrapposti: un indirizzo draconiano che reputa ingenuo supporre un appoggio elettorale non accompagnato dalla disponibilità, sufficiente, del candidato ad assecondare i desideri della cosca; un orientamento che invece sottolinea come la mera promessa (esplicita o implicita) della controprestazione di benefici di là da venire non si traduce ancora, di per sé, in un fattivo contributo all'esistenza o al rafforzamento della struttura associativa.

L'approdo più recente, sostanzialmente recepito con qualche precisazione dalla sentenza Mannino 2005, stempera la divergenza tra le due tesi in conflitto.
Si afferma la necessità di valutare caso per caso se – tenuto conto del prestigio goduto dall'uomo politico, della sua autorevolezza, del livello in cui egli si colloca – la mera disponibilità scaturente dallo scambio di promesse non sia già essa stessa tale da costituire un valido contributo "alla conservazione o al rafforzamento" del sodalizio, idoneo a integrare il concorso esterno. Tutto dipende – osserva un commentatore – dalla qualità della promessa, dall'affidabilità e dalla caratura del politico promittente, dal contesto in cui i fatti si verificano.
Una sentenza del Tribunale di Palermo dà corpo al criterio appena enunciato:
"Nel corso della campagna elettorale il politico aveva promesso di attivarsi per l'erogazione di finanziamenti per appalti di opere pubbliche che il sodalizio mafioso intendeva controllare. La serietà e la concretezza di quell'impegno erano desumibili dal ruolo in precedenza assunto dal politico nell'ambito della giunta regionale, dall'indicazione specifica delle opere che avrebbe fatto finanziare e dalla sua affidabilità nell'assecondare certe sollecitazioni dell'associazione criminale in precedenti occasioni. La promessa fatta ai boss aveva loro consentito di elaborare un progetto occulto di spartizione degli appalti, da bandire dopo l'emissione dei decreti di finanziamento, tra vari imprenditori. Quel progetto, il cui input consisteva nella promessa elettorale dei menzionati decreti, era ovviamente reso possibile dalla forza intimidatoria del sodalizio in quel particolare territorio. Ma la promessa del politico, per ciò solo, aveva accresciuto la capacità del gruppo criminale di coinvolgere nel 'cartello di imprese' chiamato a spartirsi illecitamente gli appalti della zona, nuovi soggetti. Tale contatto con gli imprenditori, in epoca antecedente alle elezioni e alla effettiva emissione dei decreti, aveva fruttato all'organismo criminale vantaggi immediati" (Tribunale di Palermo, VI, 27 aprile 1999).

Si diceva della ricezione di questa visione da parte della sentenza Mannino.
Nella pronuncia in effetti si legge la distinzione tra: l'uomo politico di grande caratura, la cui rielezione sia universalmente percepita come certa, per il quale la promessa di favori può integrare concorso esterno anche prima che la competizione elettorale si sia svolta; l'esponente politico di caratura media, vissuto come affidabile dal gruppo mafioso, il cui contributo potrebbe essere apprezzato al momento dell'esito favorevole del voto; l'uomo politico di caratura 'medio-bassa', la cui sola disponibilità è di regola insufficiente, sicché l'idoneo contributo al mantenimento dell'ente associativo si manifesterà soltanto quando il patto elettorale politico-mafioso avrà avuto almeno un

principio di esecuzione bilaterale.

2. I rapporto di scambio 'voti contro favori' stipulato dall'indagato Nicola Cosentino con il Clan dei Casalesi nel racconto di Gaetano Vassallo

Breve profilo del collaboratore di giustizia

Una prima conferma della credibilità personale del collaboratore di giustizia Gaetano Vassallo ci è fornita dall'entità del compendio patrimoniale che le sue dichiarazioni hanno consentito di apprendere, privandone lo stesso dichiarante e i suoi familiari.

Con provvedimenti del 9/6/2008 (convalida GIP del 19/6/2008) e del 17/7/2008 veniva sequestrato a vari componenti della famiglia Vassallo un compendio mobiliare e immobiliare valutabile in circa 41 milioni di euro, comprendente tra l'altro: 48 appartamenti del valore di € 16.500.000,00; 27 garage/box per del valore di € 3.500.000,00; 1 fabbricato rurale del valore di € 200.000,00; 8 ville stimate al valore di € 4.800.000,00; 8 locali commerciali per € 4.200.000,00; 28 terreni per € 4.000.000,00; la societa' Park Hotel s.r.l. € 4.000.000,00; la società Novambiente s.r.l. € 1.300.000,00; La società Osea s.r.l. € 1.000.000,00; n. 10 conti correnti € 1.400.000; n. 26 auto/motoveicoli per € 500.000,00 (vedi i provvedimenti citati nel faldone n. 5 degli atti trasmessi in data 16.2.2009).

Questo dato concorre ad accreditare il peso imprenditoriale di Gaetano Vassallo, colletto bianco per eccellenza del gruppo criminale capeggiato storicamente da Francesco (Cicciotto) Bidognetti, confermando non soltanto l'autodefinizione del collaboratore, ma l'opinione unanime degli accoliti transitati nei ranghi dei collaboratori di giustizia.

Al rango imprenditoriale ed economico si connette la forte plausibilità delle relazioni istituzionali e politiche, nel cui orizzonte si stagliano i rapporti allacciati e coltivati dal collaboratore con il parlamentare indagato.

Inoltre quei sequestri, fondandosi in larga parte su elementi di prova indiziaria forniti dallo stesso destinatario del provvedimento, avvalorano la serietà della scelta collaborativa.

Si trae poi da quei provvedimenti una prima conferma della tenuta delle dichiarazioni del propalante che ben più solide corroborazioni troveranno nella serie di ordinanze cautelari personali che non si mancherà di citare nel corso di questa trattazione.

Le referenze che conferiscono credibilità al racconto di Gaetano Vassallo ce le forniscono poi tutti i collaboratori di giustizia provenienti dalle file della fazione bidognettiana. Tra questi spicca la figura di **Domenico Bidognetti**, congiunto dell'indiscusso 'titolare' del gruppo criminale, per il quale:

"***VASSALLO Gaetano era uomo di fiducia di Francesco BIDOGNETTI detto Cicciotto 'e mezzanotte. Ho incontrato più volte VASSALLO Gaetano presso l'abitazione di Cicciotto, sita in Casal di Principe in Via Firenze. In queste occasioni ho verificato che si trattava non di riunioni conviviali, ma di incontri finalizzati a pianificare ed a rendicontare gli interessi e gli affari del clan, soprattutto con riferimento al traffico di rifiuti.*** *Ciò è accaduto anche quando Cicciotto era detenuto agli arresti domiciliari, e addirittura quando Cicciotto era latitante. In questi casi gli incontri avvenivano sempre in Casal di Principe,* ***sia alla via Firenze presso l'abitazione di Cicciotto,*** *sia presso la casa di IORIO Pasquale (suocero di CERCI Gaetano),* ***sia presso l'abitazione di CIRILLO Bernardo*** *(...) "ADR: alle riunioni di cui ho detto, effettuate tra Cicciotto e VASSALLO, partecipavano spesso anche Gaetano CERCI ed Elio ROMA.* ***Per dare idea della frequenza con cui VASSALLO conferiva con Cicciotto, dico semplicemente che, per trovare VASSALLO a Casale, o lo si trovava a casa di Cicciotto o a casa di Gaetano CERCI*** *(...) "****ADR: come dicevo, VASSALLO Gaetano era uomo di fiducia di Cicciotto; e ciò non per gli affari di sangue, ma soprattutto per affari illeciti legati al traffico di rifiuti nonché per la gestione dei rapporti con le pubbliche***

amministrazioni e per l'ottenimento dei provvedimenti concessori e autorizzatori; questo perché era lui ad avere la "chiave giusta" per interloquire con le amministrazioni pubbliche. Con questa espressione intendo dire che si occupava di fare le corruzioni ai pubblici ufficiali e aggiungo anche che, nel fare ciò, era molto capace.
Per quanto io abbia capito, sapendo come funziona il sistema, in questi casi VASSALLO Gaetano diceva di impiegare i suoi soldi per fare le corruzioni, ma, con tutta evidenza, egli poi "scalava" le somme corrisposte per le corruzioni dalla quota che assicurava al clan per gli affari illeciti da lui compiuti.
***In poche parole, VASSALLO Gaetano era un "colletto bianco" del gruppo BIDOGNETTI**.*
L'altro colletto bianco del gruppo BIDOGNETTI era l'Avv. CHIANESE Cipriano. (...) ADR: ***Ho detto che VASSALLO Gaetano era persona di fiducia di BIDOGNETTI Francesco; infatti, per lui "la casa di Cicciotto era sempre aperta" e lo stesso avveniva anche quando Cicciotto era latitante perché essi trovavano il modo di incontrarsi con frequenza, come ho detto, presso le abitazioni di IORIO o CIRILLO. Per dare idea della posizione ricoperta da VASSALLO nel gruppo BIDOGNETTI, sottolineo che Cicciotto - quando persone pure appartenenti al clan, ma con un ruolo minore, tentavano di incontrarlo - "si faceva negare". Al contrario, per VASSALLO, Cicciotto "c'era" sempre.***
ADR: so che la famiglia del VASSALLO Gaetano è composta da circa una decina di fratelli.
In alcune occasioni ho visto Gaetano andare a casa di Cicciotto – anche quando questi era latitante - in compagnia di uno dei suoi fratelli che gli assomiglia, di cui però non ricordo il nome" (interrogatorio del 20.9.2008, punto 11 del faldone n. 1 degli atti trasmessi il 13 maggio 2009).

Le dichiarazioni a carico di Nicola Cosentino

Nell'**interrogatorio reso il 1° aprile 2008** Gaetano Vassallo introduce la figura dell'onorevole Cosentino collegandola immediatamente alla società ECO4 della quale Cosentino sarebbe stato 'controllore' politico fin dalla sua costituzione.
VASSALLO Gaetano è inserito nella compagine societaria come rappresentante della fazione bidognettiana del clan dei Casalesi, per investitura del capo Francesco Bidognetti, mediata da MIELE Massimiliano delegato ai rapporti con i fratelli Orsi da Aniello Bidognetti, gestore degli affari del clan sul finire degli anni '90.
Al rapporto tra Cosentino e la ECO 4 VASSALLO connette la dazione da parte di ORSI Sergio della somma contante di cinquantamila euro, consegnati da ORSI Sergio in una busta gialla della quale lo stesso ORSI rivelerà all'odierno collaboratore il contenuto:

"*Confesso che* ***ho agito per conto della famiglia Bidognetti quale loro referente nel controllo della società ECO4 s.p.a. gestita dai fratelli Orsi. Sono stato di fatto loro socio perché richiesto di farlo da parte di Massimiliano Miele investito da BIDOGNETTI Francesco come da questi stesso riferito.*** *All'epoca era BIDOGNETTI Aniello la persona a gestire gli affari del clan, riferiti alla famiglia Bidognetti e, a fronte degli impegni prestati dal clan ai fratelli Orsi, era stata fissata una tangente mensile pari a cinquantamila euro, con la previsione ulteriore dell'assunzione di cinquanta persone scelte dal clan. I rapporti economici tra i fratelli Orsi e il clan sono stati regolati direttamente da MIELE Massimiliano, con modalità che non conosco.*
Posso dire che la società ECO4 era controllata dall'onorevole Cosentino e anche l'onorevole Landolfi aveva svariati interessi in quella società. Presenziai personalmente alla consegna di cinquantamila euro in contanti da parte di ORSI Sergio all'onorevole Cosentino, incontro avvenuto a casa di quest'ultimo a Casal di Principe. Ricordo che Cosentino Nicola ebbe a ricevere la somma in una busta gialla e Sergio m'informò del suo contenuto (…) Spiegando le ragioni della mia presenza in occasione del versamento della somma contante dell'ORSI Sergio al Cosentino,

rappresento che io ero sostanzialmente un 'socio', seppure occulto, all'interno della ECO4 e la cosa era ben nota al Cosentino stesso. Astrattamente era come se quei soldi provenissero anche da me, tanto che Cosentino ebbe a ringraziare entrambi. Ricordo che in quell'occasione approfittai di quel momento per chiedere un favore a Cosentino nell'interesse di mio fratello, all'epoca impiegato nella GEOECO, una società analoga alla ECO4 che però operava nell'ambito del consorzio CE2".

Cosentino era al corrente dei rapporti di Vassallo con Francesco Bidognetti e del ruolo di 'socio criminale occulto, che Vassallo rivestiva nella ECO4 degli Orsi.
"Attraverso" esponenti della famiglia Bidognetti, e anzi proprio *attraverso* il capo Francesco Bidognetti detto 'Cicciotto 'e mezzanotte', VASSALLO asserisce di aver conosciuto l'indagato Cosentino, alcuni anni prima della costituzione della ECO4. In un periodo precedente l'arresto di Cicciotto. Quel risalente incontro ebbe luogo in coincidenza con l'impegno dell'indagato Nicola Cosentino in una campagna elettorale per l'amministrazione provinciale di Caserta:

"*Cosentino sapeva che io ero socio della ECO4 e sapeva perfettamente dei miei rapporti con la famiglia Bidognetti, per la quale ero il referente all'interno della società: faccio presente che io ebbi a conoscere Nicola Cosentino proprio attraverso Bidognetti Francesco, proprio in un periodo antecedente all'arresto di quest'ultimo. Mi ero aggiudicato il servizio di raccolta degli R.S.U.* (rifiuti solidi urbani, n.d.e.) *sul comune di San Cipriano con la SETIA SUD, intestata a mio fratello Salvatore e un giorno Bidognetti Francesco mi convocò affinché indicessi una riunione con le maestranze per sostenere il candidato COSENTINO Nicola per le elezioni provinciali. Me lo presentò come suo amico e io personalmente ebbi a prelevare il Cosentino insieme al fratello minore e a portarlo presso il deposito ove erano state riunite le maestranze, invitandole al voto secondo le indicazioni di BIDOGNETTI Francesco".*

A quella presentazione fecero seguito altri incontri, altre sponsorizzazioni elettorali ma anche l'impegno di proselitismo profuso dall'odierno collaboratore di giustizia in favore del partito dell'indagato:

"*A partire da quell'episodio ebbi ad incontrare il Cosentino anche dopo la sua elezione a parlamentare. Faccio presente che sono tesserato 'Forza Italia' e grazie a me sono state tesserate numerose persone presso la sezione di Cesa: mi è capitato in due occasioni di sponsorizzare la campagna elettorale del COSENTINO offrendogli cene presso il ristorante 'zì Nicola' di mio fratello, cene costose essendo invitate centinaia di persone delle quali io e i miei fratelli ci assumevamo interamente il costo".*

Il ruolo di 'grande elettore' rivestito nel clan Bidognetti da Gaetano Vassallo trova piena conferma in **Domenico Bidognetti** (interrogatorio citato):

"Con riferimento a VASSALLO Gaetano, specifico che tra i suoi compiti rientrava anche quello di convogliare i voti verso i candidati prescelti dai clan. (…) In questo senso, certamente anche VASSALLO Gaetano, che aveva un grosso bacino elettorale a Cesa anche in forza della consistenza numerica della famiglia di appartenenza e in forza delle sue conoscenze, si è sempre attivamente prodigato per convogliare i voti secondo le indicazioni fornitegli da mio cugino Cicciotto".

Il collaboratore di giustizia Vassallo ritorna sulla figura dell'indagato Cosentino

nell'**interrogatorio del 29 maggio 2008.** In quell'atto Vassallo ripercorre le strategie espansive perseguite dalla ECO4, con la piena complicità del presidente del Consorzio CE4 VALENTE Giuseppe, nella gestione dei rifiuti. Strategie il cui centro di gravità si allontana a un certo punto dai territori tradizionalmente controllati dal gruppo Bidognetti, per approdare ai comuni controllati da Cicciariello (SCHIAVONE Francesco di Luigi) e dal gruppo sessano dei 'muzzoni'.
Con questa politica espansionistica, contrassegnata da "grandi e piccole illegalità", Vassallo vede interagire le iniziative politiche dell'indagato Cosentino e del collega Landolfi. Un momento di convergenza è individuato dal collaboratore, nell'affare collegato ai terreni da espropriare per realizzare l'ampliamento della discarica Parco Saurino 2.
Vassallo riferisce di un progetto di ampliamento del sito, nel quale non fu direttamente coinvolto perché risalente già a un'epoca nella quale il gruppo bidognettiano, che lo aveva voluto 'socio' occulto dei fratelli Orsi nella ECO4 s.p.a., gli aveva imposto di ritirarsi ('***il clan dei casalesi mi disse di togliermi da mezzo'*).**
Le notizie relative a questo momento della vita della ECO4 pervengono perciò a Vassallo dai fratelli Antonio e Nicola che, secondo il patto stipulato con gli Orsi, egli era riuscito a far assumere dalla società mista e che ne rimarranno dipendenti mista per alcuni mesi dopo la fuoriuscita dell'odierno collaboratore (fino al novembre 2002).
A comunicargli l'interesse della 'famiglia' mafiosa facente capo agli Schiavone, e in particolare a Francesco Schiavone di Luigi detto 'Cicciariello', nella questione sono gli stessi fratelli Orsi e un consigliere comunale casalese amico di Vassallo, al quale gli Schiavone hanno intimato di non acquistare un terreno adiacente alla discarica perché "*il bene gli interessava*".
Un'ulteriore (diretta) conferma del passaggio di competenze criminali Vassallo la ricaverà allorquando tenterà di raccomandare agli Orsi un fornitore suo amico, tale Bortone, e verrà avvicinato da un emissario degli Schiavone che gli prospetterà persuasivi 'argomenti' ostativi. Di queste ragioni Vassallo avrà definitiva conferma dal geometra Bernardo Cirillo, cugino di Cicciotto Bidognetti.

"***Conosco la vicenda della discarica di Parco Saurino 2. In particolare in relazione all'ampliamento del sito avvenuto nel 2002.*** *Non mi sono occupato direttamente di queste vicende perché il clan dei casalesi mi disse di togliermi da mezzo. Come ho già riferito in precedenti verbali. Se ne occuparono però i miei fratelli Antonio e Nicola Vassallo che feci assumere come dipendenti della Eco4 da Sergio e Michele Orsi.* ***Anche nell'individuazione dei terreni dove ampliare la discarica c'è stato l'interesse della criminalità organizzata.*** *Infatti, Sergio e Michele Orsi mi hanno detto che c'è stato l'interessamento diretto di'Cicciariello'; e ciò mi fu confermato anche da Vincenzo Verazzo, consigliere comunale di Casal di Principe, mio amico, il cui cognato è detenuto per lo stesso processo mio degli arresti del 2002 per fatti di criminalità organizzata. Verazzo infatti sapeva bene i fatti, in quanto egli stesso voleva comprare altri terreni vicino a quello suo e allocati nei pressi della discarica, ma fu avvicinato da Cicciariello, ovvero SCHIAVONE Francesco (*di Luigi, da non confondere con SCHIAVONE Francesco di Nicola detto Sandokan, n.d.e.) *che gli intimò di non fare l'acquisto del terreno perché il bene gli interessava poiché dovevano fare l'ampliamento della discarica.* ***I miei fratelli invece mi riferirono della gestione della discarica ampliata, sempre riferibile a persone legate alla criminalità organizzata.*** *Essi mi specificarono che i fratelli Orsi scaricavano rifiuti speciali provenienti dalle lavorazioni stradali nella discarica ampliata; ciò ovviamente era contro legge perché i rifiuti provenivano da fuori regione e i rifiuti non venivano registrati in ingresso nella discarica per cui si trattava di un sistematico e organizzato*

smaltimento illegale di rifiuti. Di ciò era a conoscenza anche il Valente. In sostanza tutta la gestione della discarica ampliata era realizzata con piccoli e grandi illegalità. Gli imbrogli andavano dall'appropriazione del gasolio per le macchine private, ai fittizi rimborsi per le forniture dei gasolio, alle spese personali effettuate con le carte di credito della società fino al traffico di rifiuti e all'assunzione di persone legate alla criminalità organizzata; queste persone ovviamente non andavano a lavorare, ma intascavano i soldi della retribuzione. Tra questi falsi dipendenti ricordo il figlio di FRAGNOLI di Mondragone, ovvero il figlio del capo clan di Mondragone che conosco e che quindi saprei riconoscere in foto; a Sessa Aurunca vi era invece il suocero di DI LORENZO, ovvero persona legata al clan dei 'muzzoni'.
A.D.R. I gestori del consorzio ECO4 si servivano di società private per effettuare i trasporti dei rifiuti e si trattava di società sempre riferibili agli stessi gestori del consorzio: SOCOM, Flora ambiente, BORTONE Domenico. Proprio io chiesi a Sergio e Michele Orsi di far lavorare Bortone, ma dopo un po' di tempo fui avvicinato da tale 'zì Luigi', che operava per conto di 'Cicciariello', il quale mi disse che Bortone lì non doveva lavorare. ***Chiesi spiegazioni al geometra Bernardo Cirillo, affiliato al clan Bidognetti e lui mi disse che lì dovevano lavorare gli Schiavone. Era infatti il periodo che Sergio e Michele Orsi si erano allontanati da Bidognetti e si erano avvicinati a 'Cicciariello' ovvero Schiavone.*** *Poiché Bortone era stato segnalato da me in qualità di referente imprenditoriale del clan 'Bidognetti', essendo a quel tempo diminuita la forza di Bidognetti rispetto a quella di Schiavone, il Bortone non doveva lavorare più".*
A.D.R. I siti da utilizzare per l'ampliamento della discarica vennero scelti pertanto direttamente da Schiavone Francesco detto 'Cicciariello', spesso su indicazione di Michele e Sergio Orsi. La stessa procedura è stata utilizzata per l'allocazione dei siti dei depositi delle ecoballe. In poche parole tutto il sistema della gestione dei rifiuti – sia degli rr.ss.uu. che dei rifiuti speciali – nelle diverse fasi della gestione stessa (trasporto, smaltimento, raccolta) era completamente gestito e controllato dalla criminalità organizzata e ciò sia nel periodo in cui la gestione fu affidata ai privati, sia nel periodo in cui la gestione è passata al pubblico (ecoballe ecc.).

L'intervento dell'indagato Cosentino, del collega Mario Landolfi e del sindaco di Santa Maria La Fossa Abbate, converge con quello dei fratelli Orsi, allorquando i due parlamentari s'impegnano in una 'forte pressione' affinché in quel territorio fosse realizzato un termovalorizzatore dopo il fallimento del progetto iniziale di allocare in quell'area una discarica. Vassallo non esita ad accomunare le 'pressioni' dei due parlamentari a quelle della criminalità organizzata sul presupposto che la ECO4 fosse un'impresa mafiosa *("diretta espressione della criminalità organizzata")* che, nata da un accordo con il clan Bidognetti, si era poi legata agli Schiavone conservando con costoro un legame che durerà fino all'arresto dei fratelli Orsi. Una testimonianza diretta di questa compenetrazione Vassallo la trarrà da un colloquio avuto con Bernardo Cirillo, cugino di Bidognetti, nell'anno 2004.

"Con riferimento all'individuazione dei terreni da parte della criminalità organizzata, ricordo anche che vi fu una forte pressione da parte di Michele e Sergio Orsi, insieme all'onorevole Cosentino e all'onorevole Landolfi (al tempo in cui Landolfi era alla commissione vigilanza RAI) e al sindaco di Santa Maria La Fossa, affinché si costruisse il termovalorizzatore dopo che era fallito il progetto di realizzare una discarica nello stesso posto. Era il periodo subito prima che fosse nominato Catenacci Commissario Straordinario per l'Emergenza Rifiuti in Campania. <u>Per quanto ho detto prima, le pressioni fatte dalle persone suindicate erano comunque pressioni riferibili alla criminalità organizzata in quanto la Eco 4</u>

era diretta espressione della criminalità organizzata. Parimenti ho già spiegato che inizialmente la Eco4 era riferibile a Bidognetti e, via via, è passata sotto il controllo di Schiavone; e ciò fino all'arresto di entrambi i fratelli Orsi. Di ciò sono certo in quanto nell'estate del 2004 mi incontrai con il figlio di Cicciariello e con il geometra Bernardo Cirillo in Baia Domitia e, nell'occasione, chiesi come mai lui fosse lì. Il CIRILLO mi spiegò che erano stati sequestrati alcuni grossi trattori ed essi si dovevano occupare di farli sparire (a rilettura: i trattori dovevano essere nascosti presso un'azienda del figlio di Cicciariello); gli chiesi della ECO4 e lui mi specificò che "non c'era da preoccuparsi" in quanto i soldi li prendevano anche loro e che poi, quando i cugini sarebbero usciti, se la sarebbero vista loro"

Nell'**interrogatorio reso il 18 giugno 2008** Vassallo si sofferma sui rapporti intrattenuti dai fratelli Orsi con l'onorevole Cosentino, riprendendo l'episodio della consegna del denaro contante in busta gialla (questa volta Vassallo riduce la cifra a 50milioni di lire, per l'equivalente in euro). In quella stessa occasione Cosentino pronuncerà in presenza di Vassallo delle frasi che assumono rilievo cruciale nella presente trattazione:
"Cosentino si espresse, con riferimento proprio alla ECO4, dicendo che quella società era "una sua creatura", dicendo testualmente – sempre riferito alla ECO4 – che quella società "song' io".
Cosentino insomma considera la ECO4 una "sua creatura", anzi s'immedesima nella società mista. Questo elemento (il dominio clientelare e strategico della società mista), confortato da granitici riscontri, costituisce un tassello essenziale della ricostruzione, data la natura camorristica che la ECO4 manifesta sin dal suo sorgere e continua a palesare nelle fasi cruciali della sua irresistibile ascesa.
E' importante notare come in quell'incontro Sergio Orsi – secondo il racconto di Vassallo - non avrebbe mancato di comunicare a Cosentino le sue ambizioni e a perorare presso di lui un aiuto perché potessero tradursi in realtà. L'obiettivo immediato palesato da Orsi era quello di monopolizzare il settore della raccolta degli R.S.U. in tutti i comuni del bacino consortile CE4, per poi estendersi agli altri consorzi della provincia casertana. Detta strategia e le garanzie di praticabilità offerte dagli Orsi, costituivano anche la ragione per la quale i 'cicciottiani' avevano sposato il loro progetto: un matrimonio d'interesse nel quale i camorristi porteranno in dote il *know how* e le referenze del colletto bianco Gaetano Vassallo, ma anche il supporto 'militare' diretto a neutralizzare i concorrenti e ad assicurare gli affidamenti comunali.

"***Per quanto concerne i rapporti tra Sergio, Michele Orsi e i politici, rappresento che ebbi conoscenza diretta delle loro relazioni con Nicola Cosentino. In particolare, in un'occasione databile nel periodo 2002 – 2003, mi incontrai con Sergio Orsi a casa di Nicola Cosentino, in Casal di Principe, abitazione situata sulla strada che collega Casal di Principe a Villa Literno. Quel giorno ci demmo appuntamento a casa del parlamentare e lì presenziai alla consegna di una ingente somma di denaro da parte di Sergio al Cosentino, somma pari a circa 50 milioni di lire, per l'equivalente in euro (a rilettura: fu Sergio a dirmi il valore della somma consegnata al parlamentare, al momento del nostro allontanamento). Si trattava di una somma raccolta in una busta ma comunque ben visibile, poiché raccolta in una busta gialla che avvolgeva la somma di denaro. Io mi ero recato da Cosentino per chiedergli se potesse raccomandare mio fratello Renato il quale aveva subito una menomazione a un arto che gli impediva di svolgere le sue regolari funzioni presso il consorzio CE2, in modo che potesse essere spostato di mansione e non licenziato. Chiesi quindi a Cosentino – che ben conoscevo – che si rivolgesse all'ingegner Madonna affinché***

modificasse le mansioni di mio fratello, cosa che poi fece. Mio fratello fu spostato al controllo della pompa di gasolio posta presso l'impianto di deposito sito in prossimità del nuovo carcere di Santa Maria Capua Vetere. Ricordo che in quell'occasione Cosentino si espresse, con riferimento proprio alla ECO4, dicendo che quella società era "una sua creatura", dicendo testualmente – sempre riferito alla ECO4 – che quella società "song' io". Il progetto di Sergio Orsi, ribadito anche in quella occasione, era volto ad "appropriarsi" di tutti i consorzi dell'area casertana aggiungendo al Consorzio CE4 che già sostanzialmente dipendeva da lui, i consorzi CE1, CE2, CE3.

Cosentino, all'epoca coordinatore provinciale di Forza Italia, controllava tutti i consorzi e Sergio si rivolse a lui per perorare il suo interesse a espandersi.

Nell'occasione Cosentino, affermando e confermando come detto la sua appartenenza alla ECO4, gli disse che sarebbe stato fatto tutto a suo tempo e che Sergio doveva attendere affinché potesse operare gradualmente.

A rilettura: per la precisione, era in particolare su CE2 e CE3 che si concentrava l'interesse degli Orsi, trattandosi di consorzi riferibili all'area politica vicina a Forza Italia.

Faccio presente che questi discorsi erano peraltro a me noti, essendomi stati rappresentati spesso in precedenza, in particolare dallo stesso Sergio Orsi. Sergio mi ribadiva spesso che non vi erano problemi nella gestione dei rapporti con i Comuni, in quanto vi era la copertura offerta da Nicola Cosentino.

Si trattava di discorsi prevalentemente – o quasi esclusivamente – intercorsi con Sergio Orsi, in quanto Michele era decisamente più riservato del fratello.

Io ho sempre preso "con le molle" quello che mi diceva Sergio perché tendeva a ingigantire quelle che erano le sue possibilità, ma nelle occasioni che ho descritto il coinvolgimento di Cosentino del consorzio e nell'Eco4 fu esplicitamente confermato dallo stesso interessato.

Sia Cosentino che Sergio Orsi non badarono alla mia presenza in occasione della dazione di denaro, in considerazione del fatto che quest'ultimo ben sapeva del mio coinvolgimento nella ECO4 e del mio legame con BIDOGNETTI Francesco; faccio presente che la consegna del denaro fu rapida e fugace; nessuno indugiò nel sottolineare questo momento.

Faccio presente che io ho incontrato in varie occasioni Nicola Cosentino che conosco da oltre 15 anni.

Cosentino quindi ben conosceva il mio coinvolgimento in quella società e ciò fu esplicitamente rimarcato anche nell'incontro che si tenne a casa sua con Sergio Orsi.

Nella memoria difensiva del 12.11.2008 l'indagato segnala l'incongruenza dell'attribuzione di un controllo politico esercitabile dal Cosentino sui consorzi CE2 e CE3 che, negli anni 2002 - 2003, sarebbero stati riconducibili all'area politica dei DS. Ricorrono però in atti elementi indicativi di una 'trasversalità' dei rapporti politici allacciati da Cosentino in relazione alla 'questione dei rifiuti'.

Il primo è costituito da un'intercettazione (n. 3261 del 5.3.04, decreto n. 2501/03 relativo a un'utenza in uso a Sergio Orsi) nella quale Sergio Orsi, dialogando con Carlo Savoia (presidente di nomina cosentiniana della società mista ECO4) propone di cedere proprio al consorzio CE2 due dipendenti (PICONE e OLIVIERO) piuttosto inefficienti ed evoca il Cosentino come persona da consultare per realizzare la 'cessione'.

Valente Giuseppe, nell'interrogatorio reso al P.M. in data 23.2.2009, fa un'osservazione che troverà puntuale conferma nella ricostruzione della vicenda IMPREGECO (un superconsorzio che sarà costituito tra il consorzio CE4 controllato dai politici del centrodestra casertano; e i consorzi NA1 e NA3 riferibili invece al centrosinistra). Dice Valente di Landolfi e Cosentino (che aderirono all'operazione): "*Nessuno dei due si interessò al fatto che il nuovo ente era di natura politica trasversale, trattandosi peraltro di fatto indifferente, nella norma, per i*

politici".

Nello stesso **interrogatorio del 18.6.2008** Vassallo ripercorre e precisa lo svolgimento del suo primo incontro con l'indagato Cosentino, attribuendo la presentazione del politico, all'epoca candidato alle elezioni provinciali, al geometra Bernardo Cirillo e situando quell'incontro in un'epoca anteriore all'anno 1992, nella quale Francesco Bidognetti era libero:

"Ho conosciuto il Cosentino perché me lo aveva presentato il geometra CIRILLO Bernardo, in periodo in cui BIDOGNETTI Francesco era ancora libero; quindi certamente prima del 1992. Bernardo Cirillo disse che il 'parente', ossia BIDOGNETTI Francesco aveva chiesto di aiutare Cosentino per le elezioni che all'epoca si stavano per svolgere; mi disse di raccogliere tutte le maestranze che lavoravano per me presso il Comune di San Cipriano d'Aversa, organizzare un buffet e indurre i miei uomini a fare del volantinaggio e a promettere il loro voto e quello dei loro familiari al Cosentino, cosa che feci.
Io convinsi il personale a fare quanto richiesto, promettendo loro che l'amicizia con il politico, qualora eletto, avrebbe consentito di ampliare l'impegno anche su altri comuni e quindi consentire assunzioni di ulteriore personale da reperire presso i loro parenti. Non ricordo se venne poi eletto.
Ebbi personalmente a recarmi da Nicola Cosentino e accompagnai quest'ultimo insieme al fratello più piccolo e a CIRILLO Bernardo presso il cantiere di San Cipriano d'Aversa.
Qui si tenne l'incontro con le maestranze, si trattava di 15-20 persone.
A memoria posso dire che questa riunione dovrebbe essersi tenuta prima della creazione della Ecologia 89 di Gaetano Cerci. Era ovviamente risaputo chi fosse all'epoca BIDOGNETTI Francesco e la presenza del nipote CIRILLO Bernardo si spiegava da sé".

Nell'**interrogatorio del 1° luglio 2008** VASSALLO Gaetano intrattiene gli inquirenti sul tema dei rapporti del gruppo BIDOGNETTI con esponenti politici di rilievo nazionale, come poté apprenderli dalla viva voce di BIDOGNETTI Raffaele, all'epoca reggente del gruppo camorristico, in una riunione avvenuta nel 2007, poco prima dell'arresto dello stesso BIDOGNETTI:

"*Mi sono ricordato di una riunione tenuta nel 2007 presso il domicilio di un parente di Raffaele Bidognetti, e più in particolare presso l'abitazione ove Raffaele Bidognetti è stato arrestato in occasione della sua ultima latitanza.*
In questa abitazione mi sono recato più volte proprio per incontrarmi con Raffaele. Si tratta di una casa sita nei pressi della piazza Padre Pio di Casal di Principe, di piccole dimensioni, dove peraltro avevo già accompagnato i Carabinieri di Caserta per indicargli il luogo dove si nascondeva Raffaele Bidognetti.
Nel corso di questa riunione, che peraltro avvenne nello stesso giorno, poche ore prima, dell'arresto di Bidognetti Raffaele, io parlai della circostanza che mio fratello Salvatore voleva cedere le quote del Park Hotel di sua spettanza a Ventre, di cui non ricordo il nome, e a Nicola Gargiulo 'o capitone, entrambi di Lusciano.
(omissis)
Tornando alla riunione in cui venne arrestato Bidognetti Raffaele, ricordo che si fecero i nomi anche di alcuni politici nazionali. In particolare, Bidognetti Raffaele alla mia presenza e alla presenza di DI TELLA Antonio, riferì che gli onorevoli Italo Bocchino, Nicola Cosentino, Gennaro Coronella e Landolfi facevano parte del

"nostro tessuto camorristico".
Devo dire che non era la prima volta che, con riferimento a queste personalità politiche, sentivo parlare in tal senso e cioè come politici che potevano favorire gli interessi del clan camorristico e che per questo stavano a nostra disposizione.
Ricordo che Landolfi, in occasione della penultima campagna elettorale, aveva chiesto l'assunzione presso l'ECO4 di diverse persone da lui indicate tramite Peppe Valente e Sergio Orsi che poi lo avrebbero dovuto votare.
In cambio Landolfi era a disposizione del clan al fine di consentire l'aggiudicazione di appalti intervenendo su politici locali, ovvero per i trasferimenti di affiliati detenuti.
(…) A proposito del trasferimento di detenuti, ricordo che una figlia di Sergio Orsi a nome Flora è amica della sorella di "Carusiello", di cui non ricordo il nome, e spesso l'accompagnava a fare i colloqui con "Carusiello". Sergio Orsi mi ha raccontato di aver mandato dei soldi a "Carusiello" in carcere, ammontanti a circa cento milioni di lire. Ciò avveniva alla fine degli anni '90. Inoltre il "Carusiello" aveva chiesto di intervenire su qualche politico locale per avere un trasferimento dal carcere. Sergio Orsi parlò con Nicola Cosentino per il trasferimento di Cantiello Salvatore, alias Carusiello in un altro carcere e il Cosentino si mise a disposizione per la richiesta di Orsi. Non so se il trasferimento si è avverato".

Nella memoria depositata presso l'ufficio di Procura il 12.11.2008 l'indagato segnala l'implausibilità della raccomandazione di Cantiello Salvatore per un trasferimento carcerario, rimarcando come il Dipartimento dell'Amministrazione Penitenziaria sia costituito in gran parte da magistrati.
Deve osservarsi che questo passaggio delle dichiarazioni di Vassallo non risulta riscontrato, né smentito da risultanze obiettive.
Pertanto ad esso non si attribuirà rilievo nella presente decisione. Tanto più che si tratterebbe di un favore personale promesso da Cosentino a Sergio Orsi, i cui esiti sono sconosciuti allo stesso collaboratore.
L'unica utilità che tale episodio (ove adeguatamente provato) potrebbe rivestire sarebbe quella di delineare l'esistenza di rapporti tra Cosentino e Sergio Orsi, rapporti che però possono peraltro ritenersi pacifici in base ad una serie di - ben più tranquillizzanti - evidenze.
Qualora poi si volesse inferire dalla 'teorica implausibilità' dell'assunto, un profilo di inattendibilità di tutta la narrazione di Vassallo, dovrebbe osservarsi che il dichiarante riferisce l'episodio per averlo appreso da Sergio Orsi e non per scienza diretta. Potrebbe dunque trattarsi di una millanteria del 'socio', incapace di inficiare di per sé la genuinità di Vassallo che si limita a riportarla, avendo cura di precisarne la fonte. Sono del resto acclarati, in base alle dichiarazioni convergenti di Luigi e Alfonso Diana, i rapporti tra Sergio Orsi e Salvatore Cantiello (vedi nel capitolo 3).

L'**interrogatorio del 28 agosto 2008** si apre con una manifestazione di intenti. Gaetano Vassallo intende storicizzare e puntualizzare i rapporti intrattenuti con Nicola Cosentino e quelli che gli risultano allacciati dal medesimo con esponenti di gruppi diversi della criminalità organizzata casalese.

"*Intendo ricostruire precisamente tutte le vicende concernenti i miei incontri con l'onorevole Cosentino Nicola e i suoi rapporti con i diversi gruppi della criminalità organizzata. Ciò fin dall'origine dei nostri rapporti e fino alle elezioni politiche del 2006.*

Il punto di partenza è segnato da una candidatura del nostro indagato alle elezioni provinciali casertane, per un partito che Vassallo non è in grado di rammentare, elezioni tenutesi molti anni addietro ('circa agli anni 80' dice il collaboratore).
La conoscenza dell'indagato è propiziata, ribadisce Vassallo, da Cirillo Bernardo,

espressamente delegato da Francesco Bidognetti attraverso un'imbasciata mandata dal carcere.
I canali attraverso i quali l'autorevole detenuto poté incaricare Cirillo e il significato di quel patrocinio sono chiariti dal collaboratore:
"Il fatto che si trattasse di un nostro candidato significava che si trattava di un candidato del clan Bidognetti: il messaggio era arrivato attraverso un'imbasciata ovvero attraverso canali illegali (avvocati o familiari) in quanto il Bidognetti era a quel tempo detenuto e, ciononostante, continuava a gestire gli affari del clan".
Questa ricostruzione rappresenta l'ultimo approdo di un lavorio mnemonico del quale è dà atto lo stesso dichiarante: "***In questo senso preciso le dichiarazioni precedentemente rese –*** dice Vassallo - ***in quanto, facendo mente locale, ho ricostruito in maniera più precisa e dettagliata diversi passaggi".***

Il collaboratore descrive i contenuti della riunione elettorale con le maestranze, ma anche l'offerta di disponibilità formulata dall'indagato Cosentino. Ribadisce poi il ruolo giocato Cirillo, cugino di Cicciotto e pacificamente affiliato al clan già all'epoca, nell'organizzazione di quella riunione.

"La mia conoscenza con l'attuale onorevole di Forza Italia Nicola Cosentino risale a molti anni addietro, circa agli anni '80, quando lo stesso era appena uscito dall'allora P.S.D.I. e si era candidato alla provincia, non ricordo per quale partito.
Ricordo che in quell'occasione fui contattato da Bernardo Cirillo il quale mi disse che dovevamo organizzare un incontro per il Cosentino che era uno dei 'nostri' candidati di riferimento. In particolare Cirillo specificò che era stato proprio lo 'zio' a far arrivare questo messaggio mediante un'ambasciata. In questo senso preciso le dichiarazioni precedentemente rese, in quanto, facendo mente locale, ho ricostruito in maniera più precisa e dettagliata diversi passaggi.
Il significato della richiesta del Cirillo era molto chiaro. Infatti lo 'zio' altri non era che BIDOGNETTI Francesco alias Cicciotto 'e mezzanotte, denominato, come ho specificato in altri verbali, 'zio barbone'. Il fatto che si trattasse di un nostro candidato significava che si trattava di un candidato del clan Bidognetti: il messaggio era arrivato attraverso un'imbasciata ovvero attraverso canali illegali (avvocati o familiari) in quanto il Bidognetti era a quel tempo detenuto e, ciononostante, continuava a gestire gli affari del clan.
Alla richiesta del Cirillo, organizzai una riunione presso il mio deposito – riunione di cui ho riferito in altri verbali – e avvisai di ciò il Cirillo. Il giorno stabilito pertanto io e il Cirillo ci recammo presso l'abitazione del Cosentino, mi sembra trattavasi della casa paterna, in Casal di Principe 'in miez 'a villa' e prelevammo Nicola Cosentino e il suo fratello minore. Ricordo che il fratello minore del Cosentino era molto amico di Bernardo Cirillo, mi pare per questioni di scuola.
(…) Come ho già rappresentato in altri verbali, la riunione ebbe luogo presso il mio deposito. Presente il candidato, io rassicurai i presenti che lo stesso ci avrebbe in futuro ricompensato del nostro appoggio in quanto "se fosse cresciuto lui, saremmo cresciuti anche noi". A titolo esemplificativo, tra l'altro, io avrei avuto altri appalti dai comuni limitrofi della provincia e avrei pertanto potuto assumere i figli dei miei dipendenti che avessero avuto bisogno di lavoro. Come ho già specificato altrove, dopo un breve discorso, il Cosentino mi lasciò del materiale elettorale.
A.D.R. alla fine dell'incontro il Cosentino mi prese da parte e, alla presenza solamente di Bernardo Cirillo e del fratello minore del Cosentino stesso, mi disse "per qualsiasi cosa di cui avete bisogno fate riferimento al geometra Bernardo, che lui sa rintracciarmi".

A.D.R. Alla riunione avevano partecipato anche i miei fratelli Amedeo e Renato.

Non è convincente il rilievo svolto dall'indagato nella memoria datata 12.11.2008 circa l'implausibilità del ruolo giocato da Bernardo Cirillo nella presentazione del candidato Cosentino all'imprenditore Vassallo. Non è vero infatti che Vassallo colloca quel comportamento del Cirillo nell'anno 1980 (nel quale il 'geometra' cugino del famigerato Bidognetti Francesco aveva 14 anni di età). In realtà Vassallo, esercitando palesemente lo sforzo di ritornare con la memoria a un passato lontano, situa quell'incontro più genericamente "negli anni '80". Egli usa un'espressione che denuncia il carattere approssimativo della collocazione temporale di quell'evento: ***"La mia conoscenza con l'attuale onorevole di Forza Italia Nicola Cosentino risale a molti anni addietro, circa agli anni '80".***
Detta espressione non può non essere coordinata con quanto Vassallo afferma nel verbale del 5 giugno 2008, in cui ricostruisce il suo rapporto con Bernardo Cirillo situandolo sul finire degli anni '80: "*Faccio presente che CIRILLO Bernardo, da me già indicato nel corso di altri interrogatori come il geometra CIRILLO, fu da me conosciuto a partire dal periodo relativo all'ECOLOGIA 89 di CERCI Gaetano, la società di cui ho già parlato a proposito del traffico di rifiuti provenienti dal nord Italia;* ***lo conobbi verso la fine degli anni '80".***
Può dunque affermarsi che lo stesso collaboratore colloca in realtà l'incontro in epoca non anteriore alla fine degli anni '80, quando il cugino di Bidognetti (nato il 6 ottobre 1966) aveva ventitre o ventiquattro anni.
E' probabile l'imprecisione della rievocazione di Vassallo, laddove egli situa sul finire degli anni '80 una consultazione elettorale (quella relativa alle provinciali casertane) che ebbe in realtà luogo nel 1990. Trattasi però di modesta discrasia assolutamente compatibile con la realistica 'traccia mnesica' di un individuo normale il quale peraltro ebbe (stando a quanto afferma non solo il dichiarante qui scrutinato, ma anche il collaboratore BIDOGNETTI Domenico) con Francesco Bidognetti e i suoi affiliati una consuetudine quotidiana, contrassegnata da una pluralità di eventi; e che, soprattutto, non poteva prevedere all'epoca di doverli memorizzare per riferirne all'A.G.
Si vedrà poi in apposito capitolo quanto il profilo criminale di Bernardo Cirillo sia compatibile sul piano cronologico e della tipologia di ruolo con la vicenda della presentazione del candidato Cosentino.

Il sostegno dell'imprenditore camorrista accompagna altri momenti della carriera politica dell'indagato. Ricostruita una cena elettorale tenutasi in favore di Cosentino e di altri candidati aversani, con esborsi di Vassallo per il pagamento dei manifesti elettorali e della relativa affissione, Vassallo ripercorre un incontro con Bernardo Cirillo, successivo alla cena appena menzionata, nel quale costui lo invitava a "mettersi a disposizione degli Orsi" perché questi potessero operare nel settore dei rifiuti:

"Ebbi modo di sostenere politicamente il Cosentino anche nelle campagne elettorali del '93-'94. Ricordo che l'avv. Castelluzzo venne a trovarmi presso la mia abitazione in quanto ero detenuto agli arresti domiciliari e mi propose di organizzare una riunione per sostenere l'elezione politica di Mario Gatti e dell'onorevole Giuliani. L'avv. Castelluzzo era in compagnia di mio fratello Antonio. Io gli feci presente che ero agli arresti domiciliari e chiesi se anche gli altri ne fossero a conoscenza ed egli mi rassicurò in tal senso. L'avv. Castelluzzo mi specificò che ero io tra i fratelli il più idoneo ad organizzare l'incontro in quanto dotato di più forte personalità e di maggiori contatti. Fu così che l'incontro venne organizzato a casa di mio padre, attuale abitazione di mio fratello Salvatore e vi parteciparono 200/300 persone. Nell'occasione l'avv. Castelluzzo fece riferimento alla mia pregressa conoscenza con Cosentino che all'epoca era coordinatore provinciale di Forza Italia, o almeno così mi sembra. All'incontro seguì un buffet da me ordinato al bar Pink House, cui mi ero rivolto per avere un servizio di qualità e fu da me pagato. E' per questo che dico che detti sostegno alla compagine politica cui apparteneva lo stesso Cosentino.

Ebbi poi un ulteriore incontro con Cosentino.
Infatti Pino Salpa, segretario cittadino di Forza Italia, come riferito in altri verbali, mi disse che Nicola Cosentino gli aveva chiesto di organizzare una manifestazione dello stesso tipo di quella che avevo organizzato a casa di mio padre per Giuliani e Gatti.
Egli mi specificò che avevamo fatto 'bella figura'. Visto il numero delle persone che vi avevano partecipato e che adesso, anche in relazione al fatto che ero libero, dovevamo organizzare una cosa più in grande e più bella per sostenere i candidati Santulli e Cosentino alla Camera dei deputati e Giuliani al Senato.
Mi sembra, se non erro, che per l'occasione organizzammo la cena al ristorante 'zì Nicola', di cui ho parlato nei precedenti verbali.
Questa cena elettorale è stata pagata da me; provvidi pure a far stampare a mie spese manifesti elettorali e a pagare gli 'attacchini' (omissis).
Continuando nella narrazione dei miei rapporti con il Cosentino, ricordo che, successivamente a quella cena elettorale, fui chiamato da Bernardo Cirillo che mi disse che dovevo 'mettermi a disposizione' con i fratelli Orsi nel settore dei rifiuti".

Nella memoria del 12.11.2008 Nicola Cosentino evidenzia, quale profilo ulteriore della ritenuta inattendibilità del propalante, la collocazione negli anni 1993 – 1994 di una manifestazione di sostegno elettorale in suo favore. L'indagato segnala che in realtà negli anni 1993 e 1994 egli non partecipò alle elezioni politiche e che, per giunta, essendosi aggregato dopo lo scioglimento del Partito Socialdemocratico Italiano alla formazione di Alleanza Democratica (orbitante nell'area di centrosinistra), egli non poteva essere sostenuto da Vassallo nei termini di schieramento indicati dal collaboratore; né poteva rivestire l'incarico di coordinatore di Forza Italia.
In realtà la cena elettorale che Vassallo asserisce di aver organizzato e pagato negli anni 1993/1994 non riguardò il Cosentino ma altri candidati. Fu l'avv. Castelluzzo – secondo il collaboratore di giustizia – a spendere la referenza del rapporto tra Vassallo e Cosentino per ottenere dal primo la promozione dell'iniziativa.
Si riferisce invece al Cosentino la seconda iniziativa di sostegno elettorale narrata dal collaboratore: quella che sarebbe stata richiesta a Vassallo dal segretario cittadino cesano di F.I. Iniziativa che Vassallo chiaramente colloca in epoca successiva indicando anche i candidati di centrodestra che, con il Cosentino, furono effettivamente coinvolti in quella competizione politica.
Detto riferimento induce a ritenere plausibile una collocazione dell'iniziativa di sostegno dell'indagato Cosentino nell'anno 1996 (in cui Cosentino pacificamente concorse con successo alle elezioni politiche nelle file di Forza Italia, per poi effettivamente assumere, nel 1997 e nel 2005, incarichi interni di coordinamento territoriale).
Deve comunque affermarsi l'irrilevanza delle due cene di sostegno del candidato Cosentino nell'economia di questa trattazione. La prima infatti non riguarda l'indagato personalmente e viene ascritta al medesimo sulla base non già di una richiesta che Vassallo affermi di aver da lui ricevuto, bensì di una referenza spesa da terzi. La seconda (quella che abbiamo collocato nell'ambito della campagna elettorale per le politiche del 1996) è collegata alla richiesta che lo stesso Vassallo asserisce di aver ricevuto da un segretario politico di F.I. e non già da un camorrista.
Il valore assegnabile a questa parte delle dichiarazioni del collaboratore Vassallo è dunque soltanto quello di 'tassello' della ricostruzione di un risalente e consolidato rapporto di conoscenza e supporto politico.

A questo punto Vassallo, ripercorsi gli aspetti salienti della collaborazione prestata agli Orsi, situa un altro incontro personale con Cosentino nell'epoca in cui – mutato l'asse territoriale strategico dell'interesse degli Orsi – egli viene costretto dai "cicciottiani" ad abbandonare il suo impegno nella ECO4.

A Cosentino egli si rivolge per poter rientrare, attraverso la *finestra politica,* nel lucroso affare dal quale gli era stato imposto di uscire dalla *porta camorrista*.
Vassallo puntualizza che la cessazione della partnership tra Bidognetti e la ECO4 coincide con una fase nella quale la priorità strategica è rappresentata dalla realizzazione di un termovalorizzatore, da realizzarsi in ambito consortile quale struttura 'differente' da quella affidata contrattualmente a livello regionale al gruppo FISIA Italimpianti – FIBE s.p.a.

"Successivamente, come ho riferito in altri verbali, sono uscito dalla società mista per aderire alla volontà del clan Bidognetti. (…) Ovviamente ero rimasto male per questa mia uscita forzosa dalla compagine societaria e intendevo 'riciclarmi' in qualche maniera.
La mia uscita dalla società mista ECO4 fu determinata da un mutamento degli equilibri. Siamo ormai nel periodo in cui si discute anche la tematica della individuazione dei terreni ove realizzare il termovalorizzatore.
Si trattava di un termovalorizzatore differente rispetto a quello della FISIA – FIBE, in quanto avrebbe dovuto essere un termovalorizzatore realizzato con finanziamenti dello stesso consorzio CE4. Era stato all'uopo individuata un'area del comune di Santa Maria La Fossa.
E' per questo che nascono i problemi in quanto, in quel territorio, il gruppo Bidognetti non ha nessun referente, essendo la zona di Santa Maria La Fossa sotto il dominio incontrastato di Francesco Schiavone detto Cicciariello, del gruppo degli Schiavone".

Al mutamento dell'area territoriale d'interesse e al conseguente mutamento del 'clan' di riferimento degli Orsi fa seguito dunque, secondo il racconto di Vassallo, un cambiamento dei referenti criminali di Cosentino, considerato da Vassallo come partner a tutti gli effetti dell'impresa mafiosa dominata dagli Orsi:

"Ne deriva che Cosentino, con gli Orsi, per realizzare il progetto economico della costruzione del termovalorizzatore in Santa Maria La Fossa, lasciano il gruppo Bidognetti e 'passano' con gli Schiavone.
Tale passaggio è stato ovviamente incruento, in quanto rispondente esclusivamente a dinamiche di controllo territoriale già preesistenti all'interno del clan dei casalesi. In altre parole, il gruppo imprenditoriale, al fine di garantire il buon esito al suo progetto, ha seguito la geografia criminale del clan dei Casalesi.
Da Sergio Orsi ho avuto una conferma di questa ricostruzione. Infatti egli mi ha spiegato che il sindaco di Santa Maria La Fossa ABBATE, mentre per un verso, in maniera palese, con la popolazione contrastava il progetto di costruzione del termovalorizzatore sul territorio di Santa Maria La Fossa; per altro verso aderiva, o comunque soggiaceva, alle necessità imposte dal clan Schiavone e sosteneva il progetto di fattibilità del termovalorizzatore".

Nella memoria difensiva già citata l'indagato contesta con toni decisi l'assunto del collaboratore di giustizia Vassallo che lo vede fautore della realizzazione di un termovalorizzatore in Santa Maria La Fossa e allega: 6 interpellanze e interrogazioni parlamentari (in data 2.3.04, 29.4.03, 17.9.03, 30.9.02, 26.6.03, 8.10.01), nonché vari articoli di stampa (pubblicati tra il 2004 e il 2007) nei quali egli manifesta decisa contrarietà per l'ipotesi di localizzazione del termovalorizzatore e di siti di stoccaggio inseriti nel C.I.R. regionale (quello governato dall'asse Commissariato di Governo – ATI FISIA ITALIMPIANTI) nel territorio di Santa Maria La Fossa e in altri comuni del bacino consortile. Negli atti parlamentari allegati e nelle dichiarazioni rese alla stampa si palesa una linea di contrarietà per

la gestione accentrata in sede regionale del ciclo dei rifiuti; unita all'auspicio di una rapida cessazione della (fallimentare) gestione commissariale, di un'immediata restituzione ai Comuni delle loro competenze, dell'instaurazione di un regime di 'provincializzazione' del ciclo dei rifiuti.
A ben vedere la contestazione dell'onorevole Cosentino si traduce nella conferma di una strategia di boicottaggio del C.I.R. regionale che è puntualmente riscontrata dall'indagato **VALENTE Giuseppe, 'uomo di Cosentino' nel Consorzio CE4, nell'interrogatorio reso al P.M. il 23.2.2009** (allegato alla missiva trasmessa a questo Ufficio in data 27.2.2009).
E' proprio Valente ad evidenziare come detta strategia prevedesse la creazione di un ciclo integrato alternativo e concorrenziale, destinato anzi a soppiantare quello gestito dalla FIBE; ciclo del quale avrebbe fatto effettivamente parte, come momento terminale, la realizzazione e gestione consortile di un termovalorizzatore. Ed è ancora Valente a coinvolgere in questo progetto di lungo termine l'indagato Cosentino:
"ADR: ***attraverso IMPREGECO si intendeva garantire tutto il ciclo dei rifiuti, a livello regionale, e si intendeva anche garantire la fase terminale, quella della termovalorizzazione, anche se si pensava ad un sistema diverso rispetto a quello praticato da FIBE, quale ad es. l'elettropirolisi. Faccio presente che oltre all'IMPREGECO – che offriva una soluzione alternativa a FIBE a livello regionale - il progetto politico di COSENTINO e VENTRE era anche quello di "provincializzare" i rifiuti, ossia di creare un'autonomia gestionale completa a livello provinciale, coinvolgendo tutti e quattro i Consorzi di Bacino, creando dei Consorzi specializzati in determinate attività della filiera. Vi erano poi anche gli impianti propri del bacino del Consorzio CE4, disponendo il Consorzio direttamente non solo di una discarica ma anche di un impianto di stabilizzazione e anche di vagliatura. L'impianto di stabilizzazione fu formalmente imposto da FACCHI con delle ordinanze, nelle quali questi imponeva al Consorzio di acquistare dalla ICOM di Milano – una società di impianti – queste strutture.***
La stabilizzazione dei rifiuti, anche provenienti dai Comuni del bacino CE4, fu attuata in questi impianti. FACCHI ci disse che per poter disporre e realizzare un impianto di stabilizzazione era necessario rivolgersi alla ICOM, l'unica società che disponeva di un brevetto – a suo dire – adeguato.
Era quello l'unico modo per farci autorizzare alla realizzazione di un impianto di stabilizzazione.
ADR: (...) il rifiuto "secco" sarebbe stato destinato alla discarica sita a Lo Uttaro-Torrione, non ancora attiva a quella data e mai entrata in esercizio (che io sappia non sono stati neppure acquistati i suoli). Il rifiuto "umido" era già stabilizzato negli impianti di Santa Maria La Fossa, quelli ubicati in Parco Saurino, vicino alla discarica. ***A quel punto sarebbe stato possibile gestire anche un termovalorizzatore – come espongo nella conversazione – per essere del tutto autonomi. Come si può vedere in questa conversazione, che ne è prova, io comunicavo tutto a COSENTINO e ne ricevevo la sua precisa disposizione.***
(…) Nicola COSENTINO (…) voleva che "tutto quel che si faceva doveva passare attraverso di lui". Non era pensabile che la FIBE potesse realizzare un termovalorizzatore in Santa Maria La Fossa, così come chiunque che volesse procedere ad una rilevante attività economica in quella zona, con carattere pubblico.
Nicola COSENTINO insieme a Gennaro CORONELLA incisero sul Sindaco di Santa Maria La Fossa, Bartolo ABBATE, il quale fece delle manifestazioni contro il termovalorizzatore, prendendo posizione diretta a livello comunale, contro FIBE.
Sia COSENTINO, sia CORONELLA, sia Bartolo ABBATE hanno sempre comunemente affermato che il termovalorizzatore non sarebbe mai stato realizzato lì e il ruolo del sindaco dipendeva necessariamente dal CORONELLA e dal COSENTINO, sicché ABBATE era vincolato a seguire la linea a lui imposta.
Faccio presente che COSENTINO Nicola, per quel che mi disse Sergio ORSI per dimostrarmi la solidità del suo legame con il politico, aveva una quota azionaria all'interno della Enterprais, società acquirente di quote della Flora Ambiente *(....)".*
Nell'interrogatorio del 12.9.08 è poi lo stesso Vassallo a precisare che il 'termovalorizzatore' 'voluto' da Cosentino, dagli Orsi e dai Casalesi non è quello programmato dalla FIBE ma un impianto diverso, finalizzato proprio all'emancipazione del bacino CE4 dal CIR regionale: "***il***

tutto collegato alla necessità di realizzare un termovalorizzatore nella zona di Santa Maria La Fossa e così rendere possibile la realizzazione di un ciclo integrato dei rifiuti gestito autonomamente dal Consorzio CE4".

Di questo spostamento, in parallelo, degli Orsi e del politico Cosentino sulle direttrici della "geografia criminale casertana", Vassallo trae la conferma certa da alcune parole pronunciate dallo stesso Cosentino (ormai onorevole) in occasione dell'incontro personale nel quale il collaboratore andava a perorare la causa del proprio rientro nell'affare ECO4. Cosentino, dice Vassallo, rispondeva negativamente argomentando di essersi 'adeguato' ai mutamenti della 'geografia criminale' .

"A.D.R. Ho avuto un'altra conferma della correttezza della ricostruzione proprio dallo stesso Cosentino.
Infatti avevo sostenuto Cosentino anche nelle elezioni del 2001 e durante questo periodo avevo avuto altri incontri con lui.
In queste occasioni egli mi rassicurava sulla possibilità di essere io ricompensato del mio appoggio in diversi modi, tra cui mediante il mio inserimento nella compagine del consorzio CE4.
Anche in questa campagna elettorale ho partecipato a cene elettorali.
Subito dopo le elezioni telefonai personalmente all'onorevole Cosentino sul suo telefono cellulare e gli dissi "onorevole, vi devo chiedere una cortesia!".
Egli pertanto mi fissò un appuntamento presso la sua abitazione di Casal di Principe di lì ad un paio di giorni dopo. Mi recai all'appuntamento da solo verso le 10 del mattino. L'incontro ebbe luogo solo tra noi due.
Sono in grado di descrivere l'abitazione. Ricordo di non essere salito al primo piano della casa, ma di essermi fermato al piano terra. Entrai in una stanza che si trova nel cortile, appena entrati sulla destra, e adibita a ufficio. Si trattava comunque del medesimo stabile dove anni prima ero andato a prenderlo. In quell'occasione chiesi all'onorevole Cosentino di essere inserito nella compagine del Consorzio Pubblico CE4 che a sua volta faceva parte della società mista ECO4. L'onorevole mi disse che, a causa dei miei precedenti penali e poiché erano 'cambiate alcune situazioni', non poteva aiutarmi. Mi specificò di essere perciò dispiaciuto di dirmi di no perché io ero un suo 'buon elettore'. Mi propose pertanto 'per accontentarmi' di divenire concessionario di un distributore di gas. Ciò in quanto il fratello dell'onorevole Cosentino è titolare di un'azienda operante nel settore petrolifero, l'Aversana Petroli che all'epoca stava aprendo diversi distributori di GPL.
Io insistetti nella mia richiesta perché tenevo molto a non rimanere fuori dalla gestione dei rifiuti, anche perché una mia esclusione significava perdita di prestigio sia a livello imprenditoriale che a livello di 'sistema'. Per 'sistema' intendo gruppo criminale camorristico.
L'onorevole Cosentino mi spiegò, vista la mia palese delusione, quali erano le ragioni del suo diniego, e quindi della mia esclusione dal Consorzio. Mi spiegò pertanto che ormai gli interessi economici del clan dei Casalesi si erano focalizzati, per quanto riguarda il tipo di attività in questione, nell'area geografica controllata dagli Schiavone (in particolare Francesco Schiavone detto Cicciariello, unico ad avere potere su tutto il territorio di Santa Maria La Fossa) e che pertanto il gruppo Bidognetti era stato 'fatto fuori' perché non aveva alcun potere su Santa Maria La Fossa. Ne derivava la mia estromissione.
In poche parole l'onorevole Cosentino mi disse che si era adeguato alle scelte fatte 'a monte' dal clan dei casalesi che aveva deciso che il termovalorizzatore si sarebbe dovuto realizzare nel comune di Santa Maria La Fossa e che anche l'affare del Consorzio CE4 / ECO4 era uno degli affari degli SCHIAVONE. Egli pertanto aveva

dovuto seguire tale linea e avvantaggiare solo il gruppo Schiavone nella gestione dell'affare e, di conseguenza, tenere fuori il gruppo Bidognetti, e quindi anche me.
Da quanto detto fino a ora, risulta chiaro che, a questo punto, l'affare Consorzio CE 4/ ECO 4, nato per favorire il clan Bidognetti, era diventato un 'affare' del gruppo Schiavone.
Ne conseguiva la mia estromissione e quella dei miei fratelli Nicola e Antonio da qualsivoglia vantaggio economico. Io non sono entrato nella compagine sociale e i miei fratelli sono stati licenziati dall'ECO4.
In questo senso rettifico e preciso le mie precedenti dichiarazioni in quanto ho avuto tempo di ripensare con calma a questi fatti".

In data **12 settembre 2008** Vassallo Gaetano ritorna sul tema dell'incontro avuto con l'indagato dopo la sua estromissione dalla ECO4 e lo situa più precisamente nel tempo sulla base di una serie di antefatti coerenti e significativi:

"Precisando il contesto temporale faccio presente che questo incontro avvenne tempo dopo rispetto all'imposizione da me subita – da parte degli uomini di Bidognetti di cui ero il referente nei rapporti societari con gli Orsi di abbandonare i fratelli Orsi, uscendo dalla società con loro intercorsa. Colloco temporalmente l'incontro in un periodo di poco successivo a quando i miei fratelli Antonio e Nicola vennero licenziati dall'ECO4. In via approssimativa dovrebbe trattarsi del 2003. Non ricordo esattamente quale fosse il giorno della settimana, ma posso dire che generalmente l'Onorevole incontrava le persone in Casal di Principe, il sabato, la domenica o – al più – il lunedì. Ricordandomi meglio, deve essersi verificato il sabato mattina poiché ricordo che l'onorevole Cosentino – che contattai telefonicamente qualche giorno prima rispetto all'incontro – mi disse che ci saremmo potuti incontrare il giorno successivo al suo ritorno da Roma.
Chiamai l'onorevole Cosentino con un cellulare, ma non posso ricordare quale fosse. All'epoca utilizzavo anche cellulari con schede non registrate. Io possedevo all'epoca il numero di telefono cellulare di Cosentino ed ebbi a chiamarlo sul numero che questi ebbe a lasciarmi, affinché potessi contattarlo.
Faccio presente che nella sezione di Forza Italia in Cesa, sezione che io frequentavo e alla quale ero iscritto, si aveva la disponibilità dei recapiti telefonici dell'onorevole, sia in Roma che a Casal di Principe.
Posso dire con sicurezza che io rappresentai a Pino Salpa – segretario cittadino di Forza Italia nel comune di Cesa – la necessità di parlare con Cosentino. Non ricordo invece se ebbi a rendergli note le ragioni della necessità di incontrarlo.
In relazione alla natura dei rapporti tra me e Salpa, è possibile che io lo abbia informato delle ragioni per cui volevo incontrare Cosentino.
Intesi rivolgermi a lui perché volevo rientrare nel Consorzio, superando il divieto imposto dal gruppo di Bidognetti e l'imposizione a uscirne, e volevo farlo proprio attraverso la via politica. Io già sapevo che l'ECO4 degli Orsi si era legata al gruppo Schiavone e venni informato della cosa anche da Sergio Orsi al quale mi rivolsi chiedendo che fossi nuovamente inserito, rimanendo nell'ECO4, nei ruoli che questi – inteso Sergio Orsi – avrebbe voluto concedermi.
Sergio Orsi mi fece presente che 'era cambiata la geografia', facendo poi esplicito riferimento al fatto che ormai erano gli Schiavone a dirigere le scelte.
Per queste ragioni mi rivolsi a Cosentino, come via per superare ogni impedimento e consentire il mio nuovo ingresso in ECO4 con gli esiti negativi che ho riferito.
Non ho ritenuto necessario chiedere alcun preventivo permesso al gruppo di Bidognetti prima di rivolgermi al Cosentino perché ormai non vi era nessun rapporto

con Bidognetti, ma le relazioni erano intercorse ormai con gli Schiavone.
Temporalmente ritengo rilevante il momento del licenziamento dei miei fratelli Antonio e Nicola dall'ECO4.
Durante la riunione durante la quale venne minacciato Michele Orsi, cui presenziai e di cui ho già parlato, Cirillo Bernardo e Fioretto Giosuè imposero a Michele che non avrebbe dovuto comunque licenziare i miei fratelli e questi garantì, con MIELE Massimiliano, il perpetuarsi del rapporto lavorativo.
I miei fratelli furono invece licenziati sei o sette mesi dopo quell'incontro e Sergio motivò quel licenziamento facendo riferimento al pericolo rappresentato dalla presenza di miei familiari nell'ECO4 e parlando del passaggio di consegne dai BIDOGNETTI agli Schiavone: il tutto collegato alla necessità di realizzare un termovalorizzatore nella zona di Santa Maria La Fossa e così rendere possibile la realizzazione di un ciclo integrato dei rifiuti gestito autonomamente dal Consorzio CE4".

L'informativa del Nucleo Investigativo – Prima Sezione del Comando Provinciale dei Carabinieri di Napoli in data 25 febbraio 2009 (allegato c della nota di trasmissione di atti integrativi datata 27 febbraio 2009) così ricostruisce la carriera politica e istituzionale dell'indagato Cosentino:

negli anni **1978-80** Consigliere Comunale di Casal di Principe nelle file del P.S.D.I.;
nell'anno **1980** è eletto alla Provincia di Caserta;
negli anni **1985** e **1990** è rieletto alla Provincia di Caserta;
il 23 aprile 1995 è eletto al Consiglio Regionale della Campania;
nel **1996** è eletto alla Camera dei Deputati nelle file di Forza Italia ed entra nel direttivo parlamentare del partito;
nel **1997** la base del partito lo elegge coordinatore di Forza Italia per la Provincia di Caserta e vice coordinatore regionale per la Campania;
nel **2001** è nuovamente eletto alla Camera dei Deputati nelle file di Forza Italia;
nel **2005** assume l'incarico di coordinatore regionale del partito;
nel **2005** è candidato alla Presidenza della Provincia di Caserta, ma è superato dal candidato di centro-sinistra DE FRANCISCIS Sandro;
nel **2006** è eletto alla Camera dei Deputati nelle file di Forza Italia;
nel **2008** è rieletto alla Camera dei Deputati nelle file del Popolo delle Libertà.

Gli uffici assunti dall'onorevole Cosentino durante i suoi mandati parlamentari sono i seguenti:

dal **1996** al **2001** (componente della commissione Politiche U.E. e della commissione per le questioni regionali);
dal **2001** al **2006** (vicepresidente della X commissione - attività produttive, commercio e turismo)
dal **2006** al **2008** (componente della commissione politiche U.E.);
dal **2008** ad oggi (componente della commissione bilancio, tesoro e programmazione, nonché Sottosegretario di Stato all'Economia ed alle Finanze) (*ALL. 1-2-3-4, annotazione citata*)

Riportate le dichiarazioni di Gaetano Vassallo specificamente riferite all'indagato Nicola Cosentino, non ci si può esimere dallo svolgere alcune considerazioni che guideranno il ragionamento valutativo secondo un modulo che progressivamente avvicinerà l'obiettivo della prova del rapporto di scambio 'voti contro favori' instaurato dall'indagato con il gruppo camorristico denominato clan dei casalesi.
Vassallo descrive in buona sostanza un patto societario stipulato tra il clan Bidognetti e i fratelli Orsi nel momento in cui costoro (l'iniziativa sembra ascrivibile nelle sue fasi iniziali soprattutto a Sergio Orsi) decideranno di investire nel settore dei rifiuti.
I termini esatti del patto saranno precisati dallo stesso collaboratore nelle dichiarazioni che di seguito si riporteranno. Troverà in esse precisazione l'assunto della sostanziale appartenenza dell'ATI capeggiata dagli Orsi e partner della società mista ECO4 s.p.a. alla 'criminalità organizzata casalese', con una scansione dei legami strettamente

collegata alla ripartizione territoriale delle competenze criminali: gruppo Bidognetti (e dunque socio occulto Vassallo) fino alla metà circa del 2002; gruppo Schiavone da quell'epoca in poi.
Alla società con Bidognetti si ascrivono: la nascita della società mista, con la selezione, quale partner privato, del gruppo di imprese controllato dagli Orsi; la partecipazione all'iniziale fase di realizzazione del progetto di monopolizzazione dei servizi di raccolta dei rifiuti affidati dai comuni consorziati.
Al patto con il gruppo Schiavone si annettono le lucrose prospettive collegate all'ampliamento della discarica di Parco Saurino 2.
I collanti che tengono insieme l'alleanza tra soggetti politici e soggetti criminali sono rappresentati da: le assunzioni clientelari a fini di aggregazione del consenso elettorale; e soprattutto da quello che i Pubblici Ministeri procedenti chiamano – in più parti delle loro richieste e delle annesse memorie integrative – "la strategia diretta alla creazione di un Ciclo Integrato dei Rifiuti", alternativo e concorrenziale rispetto a quello stabilito a livello regionale dalle Ordinanze della Presidenza del Consiglio dei Ministri e dai contratti già stipulati dagli organi commissariali con l'ATI FISIA ITALIMPIANTI.
Trattasi però soltanto della definizione di sintesi di una serie di comportamenti ai quali l'indagato Cosentino avrebbe prestato il proprio rilevante contributo di: soggetto politico autorevole; referente ed effettivo controllore del Consorzio CE 4; in una logica che, secondo il narrato di Vassallo, culmina nella perfetta identificazione tra il politico e le ragioni dell'impresa mafiosa (***"l'ECO4 è una mia creatura, l'ECO4 song'io"***).
Il primo passo del ragionamento non può che essere quello della prova dell'effettiva mafiosità dell'impresa in oggetto.
Una prova che questo Giudice ritiene pienamente raggiunta sulla base degli elementi che saranno esposti nella lunga trattazione che farà seguito a questa premessa.
Questo essenziale segmento della dimostrazione deve molto al collaboratore di giustizia Gaetano Vassallo, le cui dichiarazioni hanno però trovato riscontri (documentali, intercettivi, dichiarativi) tutti assolutamente autonomi rispetto alla fonte da verificare e, per giunta, di densità e significatività tali da assumere il valore di prova autosufficiente; sì da conferire al narrato del chiamante in correità il valore residuale di mera chiave di lettura e di trama espositiva, cronologicamente ordinata, di un composito intreccio di evidenze.

3. I fratelli Michele e Sergio Orsi, dominatori della Eco4, erano imprenditori mafiosi. Le dichiarazioni di Luigi e Alfonso Diana

La forte compenetrazione tra i fratelli Orsi e gli uomini del clan dei Casalesi è dichiarata da una serie di collaboratori di giustizia, provenienti sia dalle file del gruppo Bidognetti che da quelle del clan La Torre, imperante in Mondragone nell'epoca in cui quel territorio rappresentava il centro di gravità delle attività economiche della Flora Ambiente e delle altre società del gruppo Orsi dedite al settore dei rifiuti.
Una prima affermazione della storica compenetrazione tra gli Orsi e il clan dei Casalesi si trova nelle dichiarazioni di DIANA Luigi e DIANA Alfonso: due collaboratori di giustizia di provatissima estrazione bidognettiana (almeno fino al transito nel gruppetto scissionista capeggiato da Guida Luigi detto ' drink).
Nelle dichiarazioni di DIANA Luigi figurano: il legame particolare, anche se non esclusivo, degli Orsi con il gruppo camorristico capeggiato da Bidognetti; la relazione di scambio e reciproco vantaggio, non confondibile con una posizione meramente vittimistica (sostenuta invece, più o meno ostinatamente, dagli Orsi nei loro interrogatori); la partecipazione sistematica del gruppo Bidognetti agli utili imprenditoriali del gruppo Orsi; la prosecuzione del rapporto d'affari anche dopo

l'arresto di 'Cicciotto'; la partecipazione dei Bidognetti all'affare degli r.s.u. che costituiva una novità rispetto al tradizionale impegno dei fratelli nel settore edile.

DIANA Luigi, nell'interrogatorio reso il 12.5.2005, riferiva delle parentele criminali illustri dei due fratelli; dell'aiuto prestato a uno dei fondatori del sodalizio casalese (IOVINE Mario) durante la sua latitanza; della disponibilità offerta per la trasmissione del messaggio estorsivo ai colleghi imprenditori; della notizia carceraria inerente il patto sociale stipulato dagli Orsi con Bidognetti per l'affare dei rifiuti; ma anche del ruolo di interfaccia tra il clan e il potere politico (***Siccome avevano legami con ambienti della politica, portavano i politici a parlare con il clan***):

"*...**posso affermare con certezza che i due ORSI sono imprenditori del clan; essi sono lontanamente imparentati a Mario IOVINE e, durante il periodo in cui Mario IOVINE è stato latitante, ha utilizzato l'abitazione di Sergio ORSI per nascondersi e per fare riunioni. Io stesso ho accompagnato Francesco BIDOGNETTI a casa di Sergio ORSI per incontrarsi con Mario IOVINE e con altri componenti del clan**. Ho già riferito poco sopra come Sergio ORSI, proprio grazie al clan e grazie ai rapporti con Gaetano CORVINO, aveva aperto delle cooperative sociali in cui faceva false assunzioni di personale. **Gli ORSI però, che erano anche imprenditori edili, erano anche disponibili a fare da intermediari per fare estorsioni da fare ad altri imprenditori.** Siccome avevano legami con ambienti della politica, **portavano i politici a parlare con il clan. Dopo la morte di Mario IOVINE, i fratelli ORSI si sono legati a BIDOGNETTI; tutto quello che riguardava i loro lavori veniva gestito con il gruppo BIDOGNETTI. Tutti i soldi che lui doveva versare al clan per i lavori che prendeva, li concordava con il gruppo BIDOGNETTI; lo stesso BIDOGNETTI Aniello si è incontrato più volte, anche in mia presenza, sia con Michele che con Sergio ORSI durante il periodo della latitanza di Francesco BIDOGNETTI. Anche dopo l'arresto di Francesco BIDOGNETTI gli ORSI si sono incontrati sia con Aniello che con Domenico BIDOGNETTI. Non so che cosa si dicessero perché non partecipavo alle discussioni, ma sono certo che anche nell'acquisizione dei lavori il gruppo BIDOGNETTI aiutava i fratelli ORSI. Quando sono stato arrestato, ho saputo in carcere parlandone con CATERINO Mario, APICELLA Pasquale, Sebastiano PANARO e altri, che i f.lli ORSI erano entrati in un consorzio che si occupava della raccolta dei R.S.U. Mi venne riferito in quell'occasione che gli ORSI avevano chiuso il lavoro con i BIDOGNETTI al quale riconoscevano il 6% degli introiti dell'attività. Prima degli arresti di "Spartacus" ho incontrato una volta a casa di Walter SCHIAVONE, ORSI Sergio. Non so perché era a casa di Walter SCHIAVONE, ma certamente l'ho visto lì**...*".

Diana Alfonso, in data 13.1.2006, confermava il legame tra gli Orsi e Bidognetti operando un interessante confronto con quelli che emergeranno come i più temibili competitori degli Orsi nel settore dei rifiuti: i fratelli FERRARO, titolari della Ecocampania, collegati alla famiglia Schiavone:

"*…D: Lei conosce la famiglia ORSI ? R: Si tratta di tre fratelli, uno dei quali si chiama Sergio; gli altri non li ricordo. Ho avuto modo di incontrarli a Casale, presso l'abitazione di mio cugino DIANA Carmine; Sergio aveva rapporti con mio cugino, anche lui imprenditore. Si tratta di incontri intercorsi tra il 1990 ed il 1993; l'ORSI Sergio gestiva un'impresa edile, così come i fratelli. Essendo un imprenditore, per quanto ne so, versava la tangente estorsiva quando era impegnato in lavori nella nostra zona. **Ricordo che, nel periodo 1997 - 1998, il padre di CANTIELLO Salvatore***

giunse a casa di PANARO Francesco, chiedendo l'intervento del figlio per far riappacificare ORSI Sergio e il cognato, titolare della DIANA Gas, persona che io non conosco personalmente. Non so dire, peraltro, chi dei due avesse interpellato CANTIELLO. *C'era stata una lite, per quel che compresi, legata a questioni familiari e venne richiesto l'intervento di CANTIELLO Salvatore, perché conosceva entrambi e per il suo prestigio in zona di Casal di Principe, essendo affiliato al clan. Posso dire che, alcuni giorni dopo essersi prodigato per risolvere il litigio, incontrai il CANTIELLO con un Rolex di valore; mi disse che glielo aveva regalato l'ORSI, quale ringraziamento, avendo questi risolto la questione.* ***Il padre del CANTIELLO Salvatore era stato inoltre assunto dall'ORSI Sergio – credo che in realtà fosse pagato in nero – perché aprisse e chiudesse i cancelli di un deposito di camion della N.U. dell'ORSI, in Casal di Principe, un impegno di lavoro del tutto insignificante. Posso dire che gli ORSI avevano un legame con il gruppo di BIDOGNETTI, mentre i fratelli FERRARO si riferivano al gruppo di SCHIAVONE. Gli accordi erano stati già presi con i vertici delle due famiglie e il mio gruppo – partecipato da me, mio fratello Luigi, i fratelli CANTIELLO, APICELLA Pasquale, PANARO Francesco, ZARA Nicola ed alcuni altri ragazzi - era estraneo alla cosa, pur essendo tutti stipendiati dalla famiglia SCHIAVONE. Sia gli ORSI che i FERRARO avevano ottenuto degli appalti comunali; non so dire quale fosse il ruolo del clan nell'aggiudicazione degli appalti e se ve ne fosse uno. Si trattava di rapporti curati dai vertici, sui quali noi non potevamo entrare.*** *Per far comprendere i limiti delle mie conoscenze, faccio presente che io fui arrestato nel febbraio 1993 e fui scarcerato nell'ottobre 1995, rimanendo agli arresti domiciliari fino al giugno del 1996. A ottobre del 1996 mi resi latitante all'ordine di cattura successivo all'indagine cd. "Spartacus 2" e dopo poco iniziò la guerra con il gruppo di BIDOGNETTI; sono rimasto latitante fino all'inizio della collaborazione di mio fratello LUIGI, nell'aprile 2005. Era prevalentemente mio fratello, fino al suo arresto del 1999, a mantenere i rapporti con gli SCHIAVONE, unitamente a CANTIELLO Salvatore. A partire dal suo arresto, ricevendo il consiglio di mio fratello Luigi, preferii evitare di espormi, "richiudendomi". Del mio gruppo ero rimasto io solo, gli altri erano stati tutti arrestati ed ho preferito evitare i vertici; mi limitavo a mandare qualche ambasciata ma ero rimasto isolato; temevo potessi essere ucciso. C'erano infatti degli accordi nascosti che mi facevano temere. Io avevo una mia autonomia patrimoniale, tramite la società Concordia, di cui ero socio; non era quindi vitale o necessario espormi troppo.* ***ADR: l'esistenza di rapporti stringenti tra gli ORSI e i BIDOGNETTI era un fatto noto, all'interno del gruppo, già a partire dagli inizi della scissione tra noi e la famiglia BIDOGNETTI, collocata verso la fine del 1996 - inizio 1997. Me ne parlò CANTIELLO Salvatore, mio fratello DIANA Luigi, DE VITO Luigi ed anche ZARA Nicola. Non so dire quanto denaro versassero, ma ritengo si trattasse di una quota pari al 5 o 6% sul valore degli appalti aggiudicati presso i Comuni ove svolgevano la raccolta dei rsu.*** *Non ho peraltro informazioni specifiche su questo punto, si tratta di una mia deduzione sulla base delle nostre consuetudini. Non so dire nulla quanto a specifici rapporti con le Amministrazioni comunali concedenti gli appalti. Ricordo che la madre degli ORSI è imparentata con IOVINE Mario o con la famiglia della moglie.* ***All'epoca della latitanza di IOVINE Mario – anni 1989, 1990 – talvolta questi si recava a dormire presso l'abitazione della madre degli ORSI, notizie tratte dall'interno del nostro gruppo….".***

4. I fratelli Orsi s'inventano imprenditori nel settore dei rifiuti e stringono un patto con il gruppo di Francesco Bidognetti. La neutralizzazione del concorrente Ecocampania s.r.l. di Nicola Ferraro

Vi è un momento nel quale la compenetrazione tra le iniziative economiche degli Orsi e i programmi del gruppo Bidognetti prende corpo in maniera irrefutabile: è il momento nel quale i due fratelli s'inventano imprenditori del settore rifiuti e si aggiudicano, senza disporre di alcuna competenza specifica né di mezzi adeguati, il ruolo decisivo di partner privato del consorzio CE4, nella società mista Eco4.
La vicenda è ricostruita nel procedimento n. 49946/03 N.R. ed è compendiata in una serie di ordinanze cautelari: la n. 215 del 22.3.2007; la n. 707 del 29.10.07; la n. 45 del 26.1.2009; la n. 472 del 7.7.09; tutte emesse dal GIP del Tribunale di Napoli dr. Alessandro Buccino Grimaldi (le prime due sono contenute nel faldone n. 9 degli atti trasmessi il 18.6.08; la terza è contenuta nel faldone n. 4 degli atti trasmessi il 13.5.2009; la quarta è stata trasmessa dal P.M., insieme all'informativa n. 1065/11 del Nucleo Investigativo – Comando Provinciale dei Carabinieri di Caserta, con missiva del 27.10.2009).
Si osserva nella dinamica di quell'aggiudicazione la perfetta sinergia tra: l'azione corruttiva e la turbativa d'asta esercitate con il concorso rilevantissimo di VALENTE Giuseppe e Claudio De Biasio, presidente e direttore generale del consorzio che costituiva il partner pubblico della futura società mista; la pressione intimidatoria esercitata dagli uomini del gruppo Bidognetti per ridurre al silenzio il più temibile avversario degli Orsi in quella competizione, la Ecocampania dei fratelli Ferraro, già indicati da DIANA Alfonso e Gaetano Vassallo come operatori vicini alla famiglia Schiavone; la massiccia attività fraudolenta finalizzata a stornare sul partner pubblico le uscite clandestine.

5. L'azione corruttrice e la turbativa d'asta

Gli Orsi costituivano in data 18.11.1999 la srl Flora Ambiente, quindi operavano su due fronti.
Da un lato instauravano uno scambio pressoché paritetico con il vertice della famiglia Bidognetti (Bidognetti Aniello, Miele Massimiliano e Cirillo Alessandro).
Chiamati a partecipare alla creazione della costituenda società mista, i '*Cicciottiani'* (secondo la designazione invalsa in Casal di Principe, riferita dalla vedova del defunto Orsi Michele) rispondevano offrendo il know how, le referenze bancarie e i mezzi operativi di Gaetano Vassallo, imprenditore del settore dei rifiuti storicamente collegato al clan dei Casalesi, prima di transitare nei ranghi dei collaboratori di giustizia.
Il partner criminale offriva poi la sua risorsa tipica, l'intimidazione finalizzata a piegare l'opposizione concorrenziale dei fratelli Nicola e Luigi Ferraro.
Gli Orsi conferivano dal loro canto: un continuativo contributo economico determinato in lire cinquanta milioni mensili, oltre ad altre somme collegate all'accaparramento della gestione del servizio di raccolta nei più importanti Comuni consorziati; l'assunzione di soggetti collegati con il gruppo criminale; i loro rapporti preferenziali con il Presidente del consorzio e della costituenda società mista Valente Giuseppe.
Il secondo piano d'intervento, successivo alla stipula del patto con i camorristi, è costituito dal negozio corruttivo contratto con Valente Giuseppe, che si presterà – concorrendo alla predisposizione di un bando di gara cucito su misura per l'associazione temporanea d'imprese degli Orsi e attraverso ulteriori condotte turbative - a violare i propri doveri d'ufficio per consentire alla Flora Ambiente di aggiudicarsi in data 10.7.2000 il ruolo cruciale di 'braccio operativo' della società mista.
Il coordinamento dei due piani di intervento è reso evidente dal fatto che gli affiliati al clan dei Casalesi sapevano, addirittura prima che fosse approvato il bando di gara

(28.3.2000) e che questo fosse pubblicato (19.4.2000), non soltanto che gli Orsi erano destinati ad aggiudicarsi la gara ma anche che il progetto di medio termine prevedeva l'affidamento del servizio di raccolta da parte di plurimi comuni casertani.
E' illuminante la conversazione telefonica n. 33 del 25.2.2000, ore 17.31, nella quale Miele Massimiliano tratta l'argomento con Setola Giuseppe: *"...sono quei camion dell'immondizia, sono vecchi diciamo, non è che sono camion nuovi...mo' a lui gli servono perché tengono il decreto sopra per fare la raccolta, hai capito ? Se li deve prendere per forza perché, diciamo, subito può incominciare a lavorare con quei decreti. Man mano che lavora, prende l'appalto e se li compra. Ogni Comune si deve comprare..."*

Emerge pure dall'indagine captativa come il vertice del consorzio Ce4 fosse informato della penetrazione mafiosa della società creata dai fratelli Orsi e non esitasse a fornire ai camorristi casalesi notizie rilevantissime sulle iniziative assunte dai fratelli Nicola e Luigi Ferraro: il tutto in un momento nel quale la rivelazione non poteva che rispondere al fine di propiziare la pressione camorrista sugli avversari dei fratelli Michele e Sergio Orsi (cfr. la conversazione oggetto di intercettazione telefonica avvenuta in data 10.8.2000, alle ore 10.54, tra il Miele Massimiliano ed il Cirillo Alessandro e le dichiarazioni rese dal Vassallo Gaetano in data 10.7.2008, sulle quali ci si soffermerà in seguito).

La sinergia di delitti contro l'imparzialità della pubblica amministrazione e di pressioni camorristiche consentirà alla ATI Flora Ambiente di riuscire vincitrice della gara in data 10.7.2000 e di formare, in data 28.8.2000, la spa Eco4, che effettivamente poi acquisirà l'affidamento diretto del servizio di raccolta dei rifiuti solidi urbani in numerosissimi comuni del bacino consortile.
La compiuta ricostruzione della vicenda corruttiva e della turbativa d'asta coinvolgente il presidente Valente e il Direttore Generale del consorzio CEe4 (nonché presidente della commissione aggiudicatrice) De Biasio Claudio è contenuta nel capitolo dell'ordinanza n. 707/2007 dedicato alla verifica dell'addebito cautelare sub A).
In quel provvedimento (pagg. 11-34) si rinviene l'accurata ricostruzione della procedura amministrativa viziata, una ricostruzione affidata a fonti inoppugnabili.
Le prime sono costituite dalle dichiarazioni dei beneficiati **Orsi Sergio e Orsi Michele**.
Il primo, negli interrogatori resi in data 8 e 25 giugno, 23 luglio 2007, descriveva puntualmente l'attività corruttiva svolta nei confronti di Valente Giuseppe, precisando in quali termini e con quali complicità aggiuntive fosse stato confezionato il bando di gara per favorire le pretese della neonata Flora Ambiente:

"(...) prendendo atto della parte delle dichiarazioni rese da GUIDA Luigi in data 7.6.2007, laddove questi afferma di avermi incontrato ricordandomi che lui aveva fatto molto per me e che quindi era necessario che io mi sdebitassi e prendendo altresì atto del fatto che l'ufficio mostra perplessità sulla regolare aggiudicazione della gara indetta dal Consorzio CE4, ***voglio dire che io ho effettivamente vinto l'appalto grazie all'aiuto che mi ha dato VALENTE Giuseppe****. Accadde che io ebbi a incontrare un giorno,* ***prima dell'indizione del bando di gara****, il VALENTE; (...) In quell'occasione* ***questi mi fece presente l'opportunità di partecipare alla gara che stava per essere indetta dal Consorzio CE4 di cui lui era presidente facendomi presente le sue difficoltà economiche in quel periodo, in particolare per alcuni pignoramenti che, a suo dire, gravavano alcuni immobili. Io gli parlai della società Flora Ambiente la quale disponeva dei requisiti della "imprenditoria giovanile" collegati alla giovane età delle mie figlie; alla fine ci accordammo che a fronte del versamento di 100***

milioni lui avrebbe fatto in modo da inserire esplicitamente questo requisito nel bando, per farmi vincere. *(...) Ricordo che riferii l'accordo preso a mio fratello Michele. Agii in modo sommerso come un palombaro e così riuscii praticamente a sorprendere tutti, tanto da aggiudicarmi la gara superando addirittura l'Ecocampania di Nicola FERRARO che era una società nettamente più potente della Flora Ambiente"* (8.6.2007).

"*Sponte. Sempre con riferimento agli scorsi interrogatori, voglio rappresentare come fu attuato il versamento dei 3/10 del capitale sociale all'atto della costituzione della società Eco4. Non ricordo a quanto ammontasse la quota spettante all'Ati capeggiata dalla Flora Ambiente, né l'ammontare complessivo del versamento. Posso dire che comunque l'intera quota devoluta dall'ati-Flora Ambiente fu versata da me, nelle modalità che descrivo: quanto alla quota riferita alla Flora Ambiente Srl, si tratta di una somma versata che proveniva dai conti correnti della BNL, agenzia di Caserta, le quote riferibili alla Brignoli ed a CAPASSO Ciro vennero ugualmente pagate da me ma – per simulare il pagamento delle stesse da parte dei soci dell'Ati – furono formalmente imputate a quelle società, monetizzando dei fondi disponibili presso conti correnti riferibili a me aperti presso altre banche ove avevo i conti correnti (Banca di Roma, BNL, Banca Commerciale di Capua); operai dei prelevamenti in contanti e versai le somme ai soci dell'Ati, per imputarne il versamento di loro spettanza".*

Si armonizzano perfettamente con il narrato di Gaetano Vassallo (che tra breve compiutamente esporremo) le dichiarazioni con le quali Sergio Orsi scolpisce il legame corruttivo instaurato con il funzionario commissariale Bruno Orrico:

"Sponte: voglio riferire in ordine alla persona di ORRICO Bruno; questi era un vecchio funzionario della cassa del mezzogiorno che fu nominato tecnico dal Commissariato di Governo o dalla Regione o dal Prefetto e che risultava fondamentale in relazione alle sue competenze. Questi mi fu presentato da VALENTE Giuseppe prima che fosse indetta la gara dal Consorzio CE4 e il VALENTE mi indicò l'utilità di rivolgermi a questi per costituire una Ati che fosse attrezzata formalmente per disporre dei requisiti indicati sul bando di gara. Fu proprio attraverso l'ORRICO che ebbi a conoscere BRIGNOLI Ettore, di Cretaro (BG), cui proposi di partecipare alla costituenda Ati.
ADR: dal contenuto dei colloqui tra me, VALENTE e ORRICO era chiaro che quest'ultimo sapesse degli accordi presi con VALENTE per aggiudicarmi la gara.
Faccio presente che io insieme al VALENTE ci rivolgemmo all'avv. ADINOLFI, anche questi conosciuto dall'ORRICO e, mi sembra, proprio da questi indicato, al fine di stabilire e predisporre il bando di gara in modo da consentire l'aggiudicazione alla Ati-Flora Ambiente.
Il bando fu quindi tecnicamente redatto grazie all'apporto di questo legale. Il legame con ORRICO Bruno si è sviluppato maggiormente nel tempo a seguire; posso dire che ho avuto modo di prestare gratuitamente della manodopera privata per la realizzazione di un manufatto (un muro) a una signora sua amica in Valle di Maddaloni e dei lavori d'imbiancatura della sua abitazione.
Ci adoperammo inoltre per procurare una Bmw allo stesso, grazie ad un concessionario di Caserta attraverso un rappresentante di nome ISERNIA Fabio; voglio subito dire che l'intenzione era quella di concedere gratuitamente la Bmw qualora l'ORRICO si fosse dato disponibile a nostro favore e se ce lo avesse chiesto; di fatto la vettura non fu poi mai consegnata né pagata; l'ORRICO era importantissimo per noi per i suoi rapporti col Commissariato di Governo e per la sua

competenza tecnica (25 giugno 2007).

"ADR: per quanto concerne la predisposizione del bando di gara indetto dal Consorzio CE4 per l'individuazione del partner privato, faccio presente che mi sono personalmente recato insieme al VALENTE Giuseppe presso l'avvocato ADINOLFI, presso lo studio DE MARTINO in via Riviera di Chiaia, in modo da predisporre il bando stesso secondo i requisiti che mi avrebbero consentito con certezza l'aggiudicazione.
Ricordo che io e VALENTE fummo accompagnati da ORRICO Bruno il quale individuò il legale come colui che avrebbe curato la redazione del bando; non rammento se ORRICO presenziò personalmente o se si limitò ad accompagnarci presso questo studio, fu comunque VALENTE Giuseppe a dare l'incarico formale a questo legale.
Rammento che personalmente curai che nel bando fosse inserito il requisito dell'imprenditoria giovanile e che fosse limitata ai 29 anni l'età massima di coloro, soci, il cui inserimento avrebbe consentito l'assegnazione del punteggio. Curai inoltre che nel bando fosse inoltre riportata un'indicazione che escludesse che l'assegnazione del punteggio potesse essere attribuita a quella società che non vedeva una maggioranza assoluta numerica dei soci giovani.
Si trattava di un requisito attributivo di punteggio che, calcolato in 40 punti, avrebbe dovuto essere sufficiente per consentirmi agevolmente di aggiudicarmi la gara.
Faccio presente che la Flora Ambiente aveva la maggioranza assoluta numerica di soci giovani, nelle persone delle mie figlie, Elisa Flora e Antonietta e anche la totalità delle quote sociali a loro intestate.
Sulla base delle mie esplicite indicazioni venne quindi redatto il bando di gara.
ADR: io mi presentai personalmente all'avvocato ADINOLFI, dichiarandomi come ORSI Sergio, insieme a VALENTE Giuseppe, presentato da ORRICO quale presidente del Consorzio.
Dal colloquio che si ebbe con il legale nella materiale stesura del bando e nel contesto in cui ebbi a dare indicazioni di quelli che erano i punteggi da attribuire, era evidente che il legale comprendesse che vi fosse in animo la volontà di creare un bando su misura di un concorrente; io non precisai che avrei partecipato alla gara ma posso dire che se io fossi stato l'avvocato l'avrei capito o comunque avrebbe certamente dovuto comprendere che io ero interessato all'aggiudicazione.
All'epoca il bando di gara non era ancora ovviamente presentato ed io non avevo idea delle società con cui i fratelli FERRARO avrebbero partecipato né avevo idea di chi potessero essere altri concorrenti. Avevo una generica conoscenza di quelle che erano le società facenti capo ai FERRARO e rammento che ritenevo probabile che gli stessi avrebbero potuto partecipare alla gara con una società partecipata da SCIALDONE Antonio; non ricordavo esattamente che età avesse costui ma credevo che la sua età fosse superiore ai 29 anni; anche per questo limitai il massimo di età fissato per il punteggio per l'imprenditoria giovanile ai 29 anni.
Sulla base della bozza redatta con l'apporto dell'avvocato ADINOLFI fu quindi pubblicato il bando di gara e lo schema dell'atto costitutivo della società mista che si sarebbe formata a seguito dell'aggiudicazione.
Furono presentate le varie domande di partecipazione e ricordo che gli unici concorrenti ammessi alla gara furono l'Ati Flora facente capo a me e mio fratello Michele e l'Ati capeggiata dall'Ecocampania dei fratelli FERRARO.
Rammento che, onde impedire anche l'ammissione alla gara della Ecocampania, fu inserito nel bando l'impedimento alla partecipazione per le società morose o che comunque avevano contenziosi in corso con il Consorzio o con i Comuni consorziati; fu VALENTE a dirmi che Ecocampania era morosa rispetto al Consorzio e per questo

inserimmo tale clausola nel bando; non so dire chi abbia informato VALENTE della cosa.
Rappresento che il VALENTE ebbe anche a curare la riscossione di questi crediti, agendo comunque successivamente agli atti della gara; non so dire le ragioni per la quale abbia poi proceduto ad esigere questi crediti né so se siano stati riscossi od altro.
La commissione di gara fu decisa da VALENTE Giuseppe che diede la presidenza a DE BIASIO Claudio, essendo questi il direttore generale facente funzione del Consorzio e nominò il professor INGROSSO e il professor NAPOLI.
Mentre so che il professor Napoli ha avuto delle consulenze da parte del Consorzio insieme a Orrico Bruno, il professor Ingrosso era vicino all'onorevole Coronella e amico del Ferraro: ricordo, in particolare, che quest'ultimo potesse fare gli interessi del Ferraro e mi preoccupai della cosa parlandone col Valente. Fu Valente a parlarmi del pericolo rappresentato dal professor Ingrosso.
ADR: VALENTE Giuseppe non partecipava all'attività della commissione ma agiva attraverso le persone da lui nominate, tra cui principalmente DE BIASIO Claudio, dipendente del Consorzio.
ADR: io mi aspettavo che l'Ati Ecocampania fosse esclusa dalla gara per i debiti con il Consorzio e quando seppi che ciò non era avvenuto mi lamentai col VALENTE dicendogli che avevo pensato di denunciare la commissione; non so dire attraverso chi il VALENTE Giuseppe abbia presentato alla commissione la morosità della Ecocampania, ma ritengo che quasi certamente ciò sia avvenuto attraverso il DE BIASIO.
VALENTE Giuseppe mi sconsigliò qualsivoglia denuncia nei confronti della commissione, rappresentandomi che non mi dovevo preoccupare in quanto avrei vinto lo stesso, anche palesandomi che questa morosità avrebbe inciso sui punteggi da attribuire alla capacità finanziaria.
Prendo atto che la mia aggiudicazione si collega in modo decisivo al punteggio attribuito per l'imprenditoria giovanile e prendo atto altresì che non vi è alcuna specificazione nel bando dei parametri attraverso cui calcolare tale punteggio; prendo atto altresì che anche l'Ati Ecocampania risultava avere un socio infra-trentenne.
Faccio presente che secondo me il bando avrebbe dovuto escludere che potesse essere attribuito qualsiasi punteggio all'Ati Ecocampania in relazione alla carenza di una "maggioranza aritmetica" di soci "giovani". Prendo atto che ciò non è avvenuto ma rappresento che non fui informato delle modalità attraverso cui la commissione decise di attribuire i punteggi, modalità che furono decisive per la mia aggiudicazione.
Rappresento che alle mie deduzioni nei confronti del VALENTE quanto alla mancata estromissione della Ecocampania, questi fece esplicito riferimento al fatto che "avrei vinto comunque" e che era preferibile che vi fossero dei punteggi attribuiti al concorrente, anche oltre misura, in modo da fornire una "copertura" alla commissione e a lui stesso quanto alla turbativa della gara, e in modo da eludere successive verifiche.
Posso dire che fino a questo momento non mi era chiaro che la ragione formale decisiva della mia aggiudicazione era legata solo ai punteggi di fatto attribuiti all'imprenditoria giovanile, secondo i parametri stabiliti dalla commissione aggiudicatrice.
ADR: VALENTE aveva piena conoscenza che la nostra Ati-Flora fosse costituita al 100% da "soci giovani" e posso dire che in un periodo di tempo che non so indicare mi sono adoperato per acquisire le visure camerali delle società facenti capo all'Ati Ecocampania; non ricordo se fu VALENTE Giuseppe a consegnarmi una copia della visura afferente alla compagine societaria della società che includeva il socio

"giovane" oppure fui io a procurarmela autonomamente, consegnandola al VALENTE.
Non so dire quale fu l'uso di tale documento da parte di VALENTE, ma a me servì per valutare eventuali comportamenti del concorrente suscettibili di essere valutati per una sua estromissione ovvero per paralizzare anticipatamente loro ricorsi; rammento ad esempio che parlai con SCIALDONE Antonio rappresentandogli che, nel caso di un suo ricorso, io l'avrei denunciato per le dichiarazioni infedeli nelle autocertificazioni di accompagnamento della domanda di partecipazione alla gara.
Voglio conclusivamente dire che a me interessava vincere e che VALENTE mi aveva assicurato il risultato finale sicché non mi interessava come ciò fosse avvenuto e così spiego il fatto che non fui messo a conoscenza dei dettagli in ordine all'andamento dei lavori della commissione di gara".

Orsi Michele confermava le dichiarazioni del fratello sul tema che ci occupa in due interrogatori.

<u>Interrogatorio in data 15 giugno 2007</u>:

"Ho chiesto di essere interrogato per chiarire integralmente i miei rapporti con la famiglia BIDOGNETTI e raccontare la progressione dei fatti che hanno condotto all'aggiudicazione della gara indetta dal Consorzio CE4 che fu vinta dal gruppo Ati-Flora capeggiato da me e da mio fratello Sergio. Tutto ***iniziò nel '99 quando incontrammo, io e mio fratello Sergio, VALENTE Giuseppe a Mondragone****.*
Fu un incontro casuale durante il quale VALENTE si rivolse a Sergio – persona che conosceva da tempo per una comune militanza politica – e si confidò con lui raccontandogli delle sue difficoltà economiche; ci disse che era divenuto presidente del Consorzio CE4 e ci chiese se fossimo in grado di prestargli del denaro, 70 o 80 milioni di lire.
Mio fratello manifestò la sua disponibilità e gli diede la somma che questi gli aveva chiesto versandola con modalità che ignoro nello specifico; seppi che VALENTE fece un assegno a mio fratello quale ipotetica garanzia per il prestito anche se era inteso tra i due che in realtà non vi sarebbe stata alcuna restituzione.
Credo che l'assegno sia ancora nella disponibilità di mio fratello.
(…)Faccio presente che VALENTE dopo la disponibilità manifestata da mio fratello ebbe a proporci la costituzione di una società mista che doveva essere gestita da noi come partner privato; la sua idea, poi attuata, prevedeva che noi costituissimo una Ati per partecipare alla gara che il Consorzio stava per indire in modo da poterla aggiudicare proprio con l'aiuto di VALENTE Giuseppe. VALENTE decise quindi di creare un modo per realizzare un bando vestito "su misura" sulla Ati da noi creata e si fece aiutare da un tecnico per riuscire nell'intento.
Venne quindi stabilito un bando di gara che fosse calibrato sui requisiti della nostra Ati-Flora in modo da consentirci una sicura aggiudicazione; tra i requisiti decisivi che poi ci consentirono effettivamente di vincere la gara come stabilito con il VALENTE vi fu il punteggio fissato per la presenza tra i soci dell'Ati-Flora di componenti sociali di sesso femminile e rientranti in una età inferiore agli anni 21.
Secondo questi accordi, precedenti al bando, questo fu pubblicato in modo che l'Ati capeggiata dalla Flora Ambiente fosse sicura di aggiudicarsi la gara.
Il progetto dava per scontato che una volta aggiudicata la gara e costituita la società mista quest'ultima avrebbe ottenuto tutti gli affidamenti da parte dei comuni del bacino CE4, il che avrebbe garantito la gestione di tutti i servizi di raccolta degli rsu.
(…) Ricordo che fu poi formata la commissione aggiudicatrice nella quale erano

presenti DE BIASIO Claudio, INGROSSO e NAPOLI.
Avevo già conosciuto DE BIASIO Claudio come persona presentatami dal VALENTE ma i rapporti con lui si strinsero dopo l'aggiudicazione e dopo la costituzione della società.
Anche se gli accordi intercorsi con VALENTE Giuseppe e i punteggi stabiliti a tavolino ci tranquillizzavano sull'esito dell'aggiudicazione, fu necessario evitare sorprese e seguire anche i lavori della commissione.
VALENTE Giuseppe un giorno venne a dire a mio fratello Sergio che l'On. Gennaro CORONELLA, amico del FERRARO Nicola, aveva segnalato alla commissione l'Ecocampania.
Si trattava di una decisione riservata, con riferimento all'aggiudicazione, e si rese necessario redigere un memoriale scritto, redatto dai legali, in modo da sottolineare che avremmo vigilato su eventuali altrui scorrettezze sulla aggiudicazione.
Si trattava di una mossa che voleva impedire possibili sorprese da parte del nostro concorrente.
L'Ati-Flora grazie al contributo decisivo del VALENTE si aggiudicò quindi la gara e venne costituita di lì a poco l'eco 4 nell'agosto del 2000.
(...) Faccio presente che ORRICO Bruno fu da me conosciuto attraverso VALENTE Giuseppe, prima che costituissi l'Ati –Flora Ambiente; dopo che ideammo di costituire l'Ati al fine di aggiudicarci l'appalto grazie al contributo di VALENTE, fu necessario reperire i nostri partner.
ORRICO già lavorava nel Consorzio quale consulente della Prefettura e conosceva diverse imprese; VALENTE si rivolse a lui e fu l'ORRICO a indicarci quello che poi fu il nostro principale partner nell'Ati e cioè BRIGNOLI Ettore.
Fu mio fratello a occuparsi personalmente dei rapporti con ORRICO e con BRIGNOLI ed è lui a conoscere il grado di consapevolezza dell'ORRICO in ordine agli accordi presi con VALENTE per pilotare la gara".

Interrogatorio in data 19.6.2007**:**

(…) ADR: Posso dire che i Carabinieri di Caserta ebbero a sentire mio fratello Sergio e sua figlia ORSI Elisa Flora in relazione – per quel che mi dissero – all'aggiudicazione della gara svolta dal CE/4; rappresento che non mi preoccupai dell'indagine benché l'aggiudicazione, come ho detto, era stata pilotata attraverso VALENTE GIUSEPPE. *(...)*

Lo stesso **Giuseppe Valente,** presidente del Consorzio CE4 nell'epoca in cui si svolse la procedura diretta alla selezione del partner privato dell'ente nella costituenda società mista, non poteva fare a meno di rendere dichiarazioni che - per quanto inattendibilmente riduttive e precipuamente tese ad escludere la propria consapevolezza circa il patrocinio camorristico dell'*affaire* ECO4 - suonano sostanzialmente ammissive in ordine al risalente rapporto personale con Sergio Orsi e alla relazione corruttiva allacciata con il medesimo nei mesi che precedettero l'indizione della gara.

Dal verbale dell'interrogatorio di garanzia celebrato innanzi al GIP in data 6 febbraio 2009 (allegato alla nota integrativa trasmessa dall'Ufficio di Procura in data 27.2.2009):

"*Io Sergio l'ho conosciuto verso la fine degli anni settanta, adesso con precisione, l'anno preciso non glielo so dire, penso il 1979 sia, in occasione delle elezioni politiche che furono fatte in quell'anno nel 1979. Conobbi questo Sergio Orsi perché*

frequentavamo a livello politico la stessa componente che faceva capo all'onorevole Grippo (...) Democrazia Cristiana. L'ho conosciuto come un imprenditore, come una persona…Io ero certo che fosse una persona per bene, tanto è che insieme ad altre persone che facevamo politica ci consentiva di fare, cioè quando c'erano della riunioni a Caserta ci vedevamo e quindi ci si frequentava in termini politici (...) che io sapessi lui era un imprenditore che si interessava in generale del movimento terra, fogne, escavazioni, costruzioni, insomma sapevo che avesse…, però di preciso io non è che ne avessi la conoscenza perché non avevo questa certezza. Cioè era un problema che, tutto sommato, io non mi ero mai posto. E quindi poi questa conoscenza è continuata negli anni. (...) ***più che 1999 io vorrei dire veniamo al 2000 perché poi in effetti io di fatto ho iniziato le mie funzioni di presidente del Consorzio il 30 o 31 dicembre dell'anno 1999, quindi di fatto stiamo nel 2000.*** *Che io ricordi, dal momento che sono passati nove anni, io ho cercato in questi tre giorni di sforzare la mia mente per cercare di mettere insieme quante più date possibili per potermi ricordare.* ***Di questo ne ho certezza, del fatto che appena eletto Presidente, immediatamente dopo, venni contattato da Sergio Orsi e da lui venni contattato, non dal fratello. Venni contattato da Sergio Orsi perché, ripeto, fu lui a contattare me, non è che io contattai lui. Contattai Sergio Orsi e lui venne a Mondragone e ci incontrammo (…) Lui mi disse che aveva saputo della mia elezione a presidente e che aveva una società che si interessava della raccolta, smaltimento rifiuti, cioè tutto quello che attiene al mondo dei rifiuti. E mi chiese se potevo dargli una mano. Io chiaramente dissi "vabbè, se tu lavori in questo…" (…) Lui mi disse che si voleva interessare di questo settore e se io gli potevo dare una mano.*** *Siccome il precedente consiglio di amministrazione, perché io fui eletto a seguito di un cambio del consiglio di amministrazione, nel passare in consiglio di amministrazione si stava lavorando per la creazione di una società mista. Dissi "vabbè, ma tutto quello che è già avviato dalla passata amministrazione non intendo, non credo ci siano motivi per poterlo cambiare".* ***Lui mi chiese se io potessi in qualche maniera dargli una mano in questa vicenda. Al che io, lì per lì, non è che ero in grado di potergli dire se potevo dargli una mano o non potevo dargli una mano. Dissi "vabbè, se si deve fare una gara, se si deve trovare un partner privato, dei partners privati per fare questa gara, io, per me, insomma o uno o l'altro non è che cambia molto. Se dovesse essere una società che fa riferimento a te la cosa potrebbe farmi piacere perché sei una persona che conosco da tanti anni, so che sei una persona per bene e quindi*** *(...) fu lui che cercò me (...) era una cosa già conosciuta e se ne parlava. Tanto è che di questa vicenda all'interno del consorzio che è che aveva grosso interesse che andasse avanti era una società che all'epoca lavorava e svolgeva il servizio a Mondragone, che era la COVIM. Quindi, in effetti, erano questi qua che…perché all'interno del consorzio io trovai…la maggior parte del personale del consorzio era personale che proveniva dal ramo di azienda della COVIM che gestiva la discarica di Castel Volturno…Bortolotto. (...)* ***Orsi venne da me a chiedere la disponibilità per poter essere aiutato lui con questa società. Che poi mi disse che era una società proprio familiare, perché era una società in cui ci stavano…, i riferimenti erano i suoi tre figli, tre o quattro figli, tre figli (…) e quindi lui mi chiese di poter essere aiutato in qualche maniera per questa società (****...) Io certamente non gli potevo dire 'non ti preoccupare, tu vincerai la gara!'. Io dico "se tu hai delle caratteristiche per poter partecipare alla gara, puoi partecipare e potrai eventualmente anche vincere" (...) Io gli chiesi "ma tu, innanzitutto questa società è una società che può avere le caratteristiche per partecipare alla gara (...) A seguito di ciò l'Orsi iniziò a frequentarmi, veniva spesso a Mondragone, spesso iniziò a portare anche la moglie, veniva a casa mia lui e la moglie…e,* ***tra un parlare e l'altro, lui continuamente mi chiedeva di questa gara (…) stiamo parlando sempre del 2000 (…)***

poi Orsi venne anche al Consorzio. *Le stavo dicendo in quel periodo Orsi iniziò a venire spesso a Mondragone e a frequentare casa mia, con una scusa o con l'altra portava pure la moglie, veniva ospite a casa mia con la moglie. La moglie conobbe pure mia moglie.* ***Subito dopo di questo iniziò a venire al consorzio dove conobbe anche il direttore generale (…) Claudio De Biasio (…) La mia era una funzione di rappresentanza (…) chiaramente politica e di rappresentanza con rapporti istituzionali a livello politico.*** *La figura del direttore generale era una figura che comprendeva tutto ciò che riguardava la gestione amministrativa e tecnica del consorzio stesso (…) Per carità non intendo assolutamente esimermi da una responsabilità del genere.* ***Se in qualche maniera lei vuole dire che io ho cercato di favorire o ho favorito, io non ho nessun problema a dire che probabilmente l'ho anche favorito, gli ho dato anche una mano. Ma nella certezza e nella convinzione di dare una mano a una persona onesta, ad una persona per bene (****…) Innanzitutto io non ho fatto nessuna accordo corruttivo con Sergio Orsi, assolutamente. Non ho mai detto a Sergio Orsi "tu mi dai dei soldi e io ti faccio una favore"; mai! Non è mai successo questo.* ***E' successo che durante – e qua, in questo io ho commesso, credo di aver commesso, anzi sono convinto di aver commesso prima una leggerezza e poi mi rendo conto di avere commesso un reato. Durante queste frequentazioni di Sergio Orsi a casa mia lui venne a sapere che io avevo delle difficoltà di carattere economico e non abbiamo fatto nessun accordo corruttivo. Sergio Orsi mi ha prestato dei soldi a fronte dei quali io gli ho fatto un assegno e non credo che quando due persone fanno un accordo "io ti do, tu mi dai", quello che riceve dà in garanzia…E' stato all'inizio del 2000…certamente sì, prima della gara. Questo prima della gara. Sergio Orsi ha ancora il mio assegno in mano (…) Io ebbi un prestito da Sergio Orsi per far fronte a delle mie difficoltà di carattere economico, perché non navigavo nell'oro, non ci navigavo nel mentre e non ci navigo adesso (…) settantuno milioni delle vecchie lire. Settantuno milioni delle vecchie lire. Io questi soldi non glieli ho restituiti a Sergio Orsi. Per la verità lui non me li ha chiesti e io non li ho restituiti. Però Sergio Orsi non è che mi ha restituito l'assegno, io sono sempre debitore nei confronti di Sergio Orsi. Perché lui ha un titolo di credito nei miei confronti (…) P.M.: questi soldi glieli diede in contanti Sergio Orsi? Valente: credo di sì. Credo di sì. Sì, sì in un'unica soluzione (…)*** *Io avevo dei debiti con la banca che avevo estinto e questi soldi me li aveva prestati, per pagare, me li aveva prestati mio suocero (…)* ***Io non glieli ho chiesti (…) Io posso dire che, chiaramente, il fatto che Sergio Orsi mi avesse prestato questi soldi mi metteva in una condizione di poterlo in qualche maniera dare una mano rispetto alla gara, nel senso di dare qualche consiglio. Però da questo a dire che io avessi un patto scellerato con il Sergio Orsi…****".*

Altra voce sentita a conferma della ricostruzione è quella del soggetto penalizzato dal favoritismo prezzolato dei dirigenti del Consorzio CE 4: **FERRARO Nicola**, già amministratore della EcoCampania S.r.l., il quale confermava quello che riduttivamente definiva un sospetto circa la regolarità del bando e della gara. **Non possono sfuggire i riferimenti di Nicola Ferraro al dissimulato 'patrocinio' di Nicola Cosentino sull'iniziativa degli Orsi.**

<u>Dal verbale delle informazioni rese dal FERRARO Nicola in data 11.6.2007</u>:

"(…)Se ricordo bene ***entrambi i f.lli ORSI parlarono e mi dissero che stavano preparandosi a partecipare alla gara per la società mista che doveva fare il consorzio CE 4, gara alla quale avevano grosse chances di vincere perché all'interno del***

consorzio potevano contare sui rapporti con VALENTE Giuseppe, che conoscevano da tempo, e con DE BIASIO Claudio, che pure conoscevano da tempo.(…)
A.D.R.: io non avevo mai saputo, prima di questo incontro, che il consorzio CE 4 volesse costituire una società mista; non vi era sicuramente ancora alcun bando di gara. (...) mi dissero che con o senza di me avrebbero partecipato alla gara e con o senza di me avrebbero vinto. (...) A distanza di pochi mesi da questo incontro, ricordo che eravamo nel periodo del marzo/aprile 2000, quando era in corso la campagna elettorale per le regionali, venne emanato il bando di gara da parte del CE 4. ***Io appena vidi il bando di gara, capii chiaramente che il bando era stato vestito addosso agli ORSI e che vi erano indicati dei requisiti che gli ORSI avevano creato proprio per vincere questa gara. Ricordo che io mi lamentai di questo fatto con il coordinatore provinciale di F.I. on. Nicola Cosentino, rappresentandogli che l'amministratore del consorzio era vicino al nostro partito (all'epoca anche io facevo parte di F.I.) e che gli Orsi erano notoriamente vicini ad un esponente dei popolari, tale Giuseppe Sagliocco da Trentola. L'on. Cosentino mi disse che lui non poteva fare niente perché Valente non rispondeva a lui e se ne lavò le mani senza precisarmi le ragioni per le quali lui non poteva intervenire su Valente.*** *(...)A.D.R.:* ***ritengo che gli ORSI non disponessero di nessun requisito per potersi aggiudicare la gara, ad esclusione del punteggio legato all'imprenditoria giovanile (…) A distanza di pochi mesi dall'aggiudicazione della gara, ho incontrato i fratelli Orsi a Casal di Principe, nella segreteria dell'on. Cosentino e sono rimasto molto deluso dalla loro presenza in quel luogo tanto che questa è stata la principale ragione per la quale decisi di abbandonare F.I."***

Solidi riscontri delle dichiarazioni degli Orsi erano contenuti nell'informativa della Tenenza G.d.F. di Mondragone in data 3.7.2007 e negli atti allegati.

Premesso l'integrale rimando all'atto di sintesi e all'ordinanza cautelare che lo riprende, basterà in questa sede evidenziare:

la costituzione in data 18.11.1999 della società Flora Ambiente s.r.l.;

il conferimento della veste formale di amministratore unico alla ventenne ORSI Elisa Flora;

il conferimento di procura speciale, nell'ottobre 2000, ai fretalli Sergio e Michele Orsi con poteri statutari assai estesi;

la costituzione dell'ATI partecipante alla gara con le imprese: CAPASSO Ciro, di Ciro CAPASSO, nato a Grumo Nevano (NA) il 10/02/1956; B.E.A. - BRIGNOLI ECOLOGICA AMBIENTE s.r.l. con sede in *Credaro (BG)*, rappresentata da BRIGNOLI Ettore, nato il 4/05/1945 a Castelli Calepino (BG); CALEPIO SCAVI S.p.a., con sede *Credaro (BG) alla via Rossini n°2*, P.I. 02145510166, rappresentata dallo stesso BRIGNOLI Ettore, nato il 4/05/1945 a Castelli Calepino (BG);

l'approvazione in data 28.3.2000 del bando di gara ad evidenza pubblica a firma di VALENTE Giuseppe, con la fissazione del termine di presentazione delle candidature dal 19 aprile alle ore 12 del 15 maggio 2000;

la partecipazione alla gara di due sole entità: l'A.T.I. FLORA AMBIENTE S.r.l (capogruppo); l' A.T.I. ECOCAMPANIA S.r.l (capogruppo), GREEN LINE s.a.s. – TREA SUD S.r.l.

Soprattutto rileva l'individuazione di un verbale della commissione di gara datato 28 giugno 2000, ore 15.00 nel quale si precisano i requisiti dettati dal Bando di Gara assegnando (ex post) decisiva rilevanza al requisito del 'socio infratrentenne', unico rispetto al quale l'a.t.i. Flora Ambiente era avvantaggiata rispetto alla concorrente .

Più precisamente, in quella riunione sarà stabilito che, nel caso in cui entrambi i

concorrenti potessero vantare la presenza di "soci infratrentenni", il punteggio sarebbe stato attribuito "*in misura proporzionale alla percentuale di capitale sociale" in possesso del socio giovane"*.
Questo criterio di graduazione del punteggio risulterà decisivo, atteso che la Flora Ambiente poteva vantare una proprietà assegnata al 100% a soci giovani; mentre la Ecocampania si attestava sul 66%.
Dall'esame della Nota del 15/5/2000 – allegata al verbale – e dalla lettura del verbale di commissione del 28.6.00 emergeva poi che l'unico soggetto in quel momento a conoscenza delle domande presentate e dell'identità dei candidati poteva essere DE BIASIO Claudio, uomo strettamente collegato a Valente, a Cosentino e naturalmente agli Orsi.
Dal verbale emergeva che invece gli altri due componenti della Commissione (l'Ing. Rodolfo Napoli e il Prof. Manlio Ingrosso) avevano preso visione dell'elenco dei candidati soltanto in quello stesso giorno.
Appariva dunque decisamente anomala la fissazione di un criterio di valutazione delle offerte operata su indicazione dell'unico commissario che era in quel momento già in grado di tradurlo in punteggi.

Illuminanti sul punto risultano **le deposizioni rese dal prof. Manlio Ingrosso in data 26.7.2007 e dal prof. Rodolfo Napoli in data 20.7.2007.**
Il primo, oltre a confermare di aver preso visione soltanto nella data del 28.6.00 delle candidature pervenute, ripercorreva la discussione avvenuta sulla questione del punteggio da assegnare per il requisito dell'imprenditorialità giovanile e segnalava le ragioni (palesate a suo dire anche in sede di commissione) per le quali riteneva inopportuno che a presiedere la commissione di gara fosse il direttore generale del partner pubblico. Egli rappresentava inoltre una richiesta di esclusione della Ecocampania formulata da Di Biasio sulla base dell'acquisita conoscenza di 'morosità' della società nei confronti del consorzio:

"*…una più particolare e approfondita discussione si è avuta riguardo al punteggio da attribuire alla voce imprenditoria giovanile. Ricordo che io personalmente posi il problema di interpretare correttamente il punto relativo al requisito del ventinovesimo anno perché poteva lasciarsi a prestare ampi margini di discrezionalità alla commissione. Io stesso proposi subito di adottare la soluzione che poi è stata verbalizzata, in quanto da me ritenuta la più garantista nello spirito della legge sulla imprenditoria giovanile. I restanti membri della commissione manifestarono dubbi sulla interpretazione giuridica in quanto per loro il ventinovesimo anno scadeva al compimento del ventinovesimo anno stesso…Confermo di avere preso visione della nota n. 1943 del Consorzio CE4 datata 15.5.2000, relativa all'elenco dei candidati trasmesso alla commissione. Confermo di avere conosciuto in quella sede l'architetto De Biasio il quale svolgeva le mansioni di direttore generale del Consorzio CE4. Mi accorgo solo ora che me lo fate notare che la nota n. 1943 del Consorzio CE4 datata 15.5.2000 era indirizzata anche al direttore generale dell'ente, il quale devo rilevare che aveva assunto anche le funzioni di presidente della commissione.* ***Premesso che nell'atto dell'insediamento avanzai una perplessità circa l'opportunità dell'avvenuta nomina a presidente della commissione dello stesso direttore generale dell'ente, in quanto è prassi consolidata che tale nomina avviene all'interno della commissione medesima e solo dopo l'insediamento, ora che ho preso visione del fatto che il De Biasio sia venuto a conoscenza delle società partecipanti anticipatamente all'insediamento della commissione sarebbe stato sicuramente avanzato da me un ulteriore dubbio sulla procedura.*** *Preciso che all'atto dell'insediamento e della mia*

prima perplessità il De Biasio mi fece presente che la nomina era stata già deliberata e non era quindi la commissione a dover scegliere il presidente. ***Ricordo che l'architetto De Biasio nella sua qualità di direttore generale del Consorzio CE4 ci mostrò l'elenco dei morosi nei confronti dell'ente dal quale si evinceva che due società dell'a.t.i. capeggiata dalla Ecocampania erano morose e chiedeva quindi alla commissione di valutare l'esclusione della citata a.t.i.. Preciso che tale osservazione non fu accolta in quanto non di competenza della commissione medesima, nello spirito di massima garanzia per i concorrenti. Questo passaggio del De Biasio, ripeto, fatto in qualità di direttore generale del Consorzio CE4 e non di presidente della commissione, aumentava in me i dubbi circa l'opportunità del doppio ruolo rivestito dal medesimo. La commissione non doveva essere a conoscenza di tale morosità, in quanto ininfluente ai fini dell'attribuzione dei punteggi;*** *tale controllo poteva e doveva essere eseguito dal Consorzio anche in una fase successiva alla conclusione dei lavori della commissione…".*

Il prof. Rodolfo Napoli confermava la decisività del criterio di graduazione del punteggio indicato nella rappresentata riunione di commissione, oltre che la conoscenza acquisita soltanto in quella sede delle candidature pervenute:
"*…ricordo che l'esito della gara in argomento fu nettamente a favore di un candidato rispetto all'altro, questo soprattutto in virtù del punteggio attribuito all'elemento presenza di imprenditorialità giovanile, per il quale fu adottato il criterio parametrico derivante dal rapporto tra il numero di soci giovani e le quote di capitale sociale da ognuno di loro detenute…Preciso che le voci da valutare ed i relativi punteggi erano già stati stabiliti dall'ente appaltatore nel relativo bando di gara, che prevedeva per ogni voce da valutare un punteggio massimo attribuibile; in sede di discussione preliminare, la commissione decise all'unanimità solo i criteri da adottare per l'attribuzione dei punteggi ai concorrenti nel rispetto di quanto stabilito dal bando…D: quando è venuto a conoscenza dei nomi delle società partecipanti alla gara ? R: solo dopo l'insediamento della Commissione, precisamente durante le fasi relative alla procedura per la valutazione delle offerte descritte precedentemente…".*

Il rilievo del commissario Ingrosso circa la segnalazione operata da De Biasio per ottenere l'esclusione di Ecocampania (unico concorrente della Flora Ambiente nella gara) per 'morosità' trovava conferma documentale nei verbali delle riunioni nn. 2 e 3, tenutesi rispettivamente in data 3 e 10 luglio 2000 (allegati nn. 8 e 9, dell'informativa della Tenenza GdF di Mondragone).
Il verbale n. 3 del 10 luglio 2000 faceva anche emergere come il criterio di graduazione del punteggio connesso all'imprenditorialità giovanile aveva deciso le sorti della gara che si chiudeva in favore dell'ATI Flora Ambiente con un punteggio di 78 contro i 69 punti assegnati all'ATI ECOCAMPANIA: di questi 78 punti ben 40 corrispondevano al requisito suddetto, contro i 27 assegnati per lo stesso requisito (diversamente graduato) alla Ecocampania.
Questa dunque, in sintesi, la ricostruzione del patto corruttivo stipulato dagli Orsi con i pubblici amministratori.

6. Il patrocinio della fazione bidognettiana
Veniamo ora alla ricostruzione dell'accordo contratto con i camorristi di fede 'Cicciottiana', con l'avvertenza che i materiali che saranno qui di seguito valorizzati sono stati già vagliati dal GIP nelle ordinanze nn. 45 del 26 gennaio 2009 e 472 del 7 luglio 2009 (la prima annessa al faldone n. 4 degli atti trasmessi con la richiesta del 16.2.09; l'ultima trasmessa con missiva del 27.10.09).

Lo squarcio di questo antefatto della vicenda di corruzione e turbativa d'asta che si è appena richiamata è aperto naturalmente da Gaetano Vassallo.

Le dichiarazioni di Gaetano Vassallo

Vassallo Gaetano comincia, **nell'interrogatorio del 1° aprile 2008**, a presentarsi come referente della 'famiglia Bidognetti' nel controllo della società mista Eco4 s.p.a. la cui gestione senz'altro attribuisce ai fratelli Orsi. Indica immediatamente i soggetti che hanno deciso e che hanno curato l'instaurazione della collaborazione d'affari con i due imprenditori casalesi, nonché il soggetto che lo ha cercato a nome del capo detenuto.

Si tratta di BIDOGNETTI Aniello, riconosciuto reggente del clan negli anni '99 e 2000; e di MIELE Massimiliano. Sono noti a Vassallo anche i termini economici del contributo dovuto dagli Orsi all'organizzazione dei 'cicciottiani. Non esita Vassallo a definirsi 'socio occulto' della società mista e a precisare: i conferimenti che gli meritano questa qualità (automezzi; referenze bancarie; ma soprattutto *know – how*); le prospettive lucrative personali che lo inducono ad accettare la proposta di MIELE (l'assunzione di due fratelli con incarichi di responsabilità; la direzione, almeno di fatto, della discarica del cd. Parco Saurino 2).

"*…confesso…che ho agito per conto della famiglia Bidognetti quale loro referente nel controllo della società Eco4 spa gestita dai fratelli Orsi.* *Sono stato di fatto loro socio perché richiesto di farlo da parte di Massimiliano Miele, investito da Bidognetti Francesco, come da questi stesso riferito.* ***All'epoca era il Bidognetti Aniello la persona a gestire gli affari del clan riferiti alla famiglia Bidognetti e, a fronte degli impegni prestati dal clan ai fratelli Orsi, era stata fissata una tangente mensile pari a cinquantamila euro, con la previsione ulteriore dell'assunzione di cinquanta persone scelte dal clan.*** *I rapporti economici tra i fratelli Orsi e il clan sono stati regolati direttamente da Miele Massimiliano, con modalità che non conosco (…)* ***Io ero sostanzialmente un socio, seppure occulto, all'interno dell'Eco4 (****…) Faccio presente che quando fu creata la società di fatto tra me e i fratelli Orsi io fornii loro sette od otto automezzi per la raccolta dei rifiuti urbani.* ***Gli Orsi non erano minimamente attrezzati e, grazie ai miei mezzi, fu possibile per loro apparire concorrenziali nella gara dell'ATI. Non venni pagato al momento del conferimento proprio perché ero in realtà loro socio (…) Faccio presente che l'inadeguatezza degli Orsi nel gestire e operare nell'ambito della raccolta e gestione dei rifiuti era tale che fu necessario far assumere nell'Eco4 e impiegare operativamente due miei fratelli, Nicola ed Antonio, i quali furono impegnati operativamente nella gestione della discarica del Parco Saurino 2 (…)"**

Nell'**interrogatorio dell'8 maggio 2008** Vassallo si sofferma su LUBELLO Giovanni, genero di Cicciotto per averne sposato la figlia Katia, che egli stesso, su incarico di Bernardo Cirillo, asseriva di aver inserito tra i fornitori della ECO4, per via di affidamento diretto:

"Conosco Lubello Giovanni, titolare della rivendita di computer sita in Villa di Briano, sulla strada che da Frignano conduce a Casal di Principe. So che ha sposato la figlia di Bidognetti Francesco alias Cicciotto 'e mezzanotte'. ***Sapevo che era affiliato al clan Bidognetti da quando si fidanzò con la figlia del Bidognetti perché me lo riferì lui stesso. Quando io fui incaricato dal clan Bidognetti di dare una mano per la gestione della Eco4****…****mi fu detto da Cirillo Bernardo, cugino di Bidognetti, di far effettuare la fornitura di computer e programmi alla Eco4 a Lubello Giovanni, titolare della*

società La Nota. *Infatti, questo Giovanni effettivamente venne negli uffici della Eco4 di S. Maria Capua Vetere e fece la fornitura dei computer così come richiesto dal gruppo Bidognetti.* ***Sergio Orsi accompagnò il Lubello al Comune di Villa Literno dove ottenne un appalto per la fornitura dei computer.*** *In particolare, ricordo che il Lubello doveva vincere l'appalto perché così aveva deciso la famiglia Bidognetti e non si doveva fare la gara ma l'affidamento privato…Tali episodi sono avvenuti alla fine degli anni '90. Per la mia intermediazione per la fornitura alla Eco4 il Lubello mi regalò un computer portatile.* ***Il Lubello, per quanto mi risulta, è stato affiliato ai Bidognetti, in particolare a Bidognetti Francesco alias Cicciot' 'e mezanotte', fino al 2007, come mi ha riferito Cirillo Bernardo in occasionale di una festa di laurea della fidanzata di Bernardo Ciro avvenuta nel periodo estivo dell'anno 2006 – 2007 presso il mio albergo****"*

La vicenda è obiettivamente riscontrata dalle indagini eseguite dai CC del Comando Provinciale di Caserta e dalla Tenenza di Mondragone della Guardia di Finanza. Da queste emergeva che:

LUBELLO Giovanni, nato a Casal di Principe in data 24.8.1976, marito di **BIDOGNETTI Katia**, figlia del **BIDOGNETTI Francesco,** nel periodo indicato dal Vassallo Gaetano, era libero (egli risulta tratto in arresto in epoca recentissima dal 19.3.2008 al 18.6.2008).

Era titolare di un negozio per la vendita di materiale informatico;

E' inserito tra i fornitori della ECO4 con riferimento proprio al periodo indicato dal collaboratore di giustizia (1.1./31.12.2000) in relazione alla vendita di beni strumentali (computer pentium III e accessori) venduti da LA NOTA s.n.c. per l'importo di lire 65.700.000.

L'**interrogatorio del 3 giugno 2008** è in larga parte dedicato al rapporto di Vassallo con i fratelli Sergio e Michele Orsi.

Il collaboratore descrive la presentazione degli Orsi che gli fu fatta da MIELE Massimiliano in un incontro, tenutosi nell'ufficio di Vassallo Salvatore in Cesa, al quale Vassallo era stato convocato da Bernardo Cirillo, cugino di Cicciotto (la stessa persona che ebbe a presentare Vassallo a Nicola Cosentino tra l'89 e il '90).

All'incontro presenziavano, oltre ai fratelli Vassallo, il già menzionato MIELE Massimiliano, tale Borrato e naturalmente ORSI Sergio.

E' interessante notare come, nello spiegare le ragioni per le quali accettò l'idea di cooperare con gli Orsi, Vassallo si soffermi sulle grandi ambizioni del soggetto che sarebbe divenuto di lì a poco il *'braccio operativo'* della società mista ECO4. Il progetto di Orsi troverà infatti conferme molteplici nell'indagine intercettiva e documentale compendiata nelle richieste in esame e costituirà un cruciale momento di convergenza tra le strategie della camorra imprenditrice e quelle politiche di Nicola Cosentino.

E' significativo pure che quel primo scambio verbale con Sergio Orsi contenga già la chiara definizione della più importante contropartita che gli Orsi possono garantire ai soci camorristi: le relazioni preferenziali con le istituzioni, e in particolare con Giuseppe Valente e Claudio De Biasio, rispettivamente presidente e direttore tecnico del Consorzio CE 4, entrambi come vedremo uomini di Cosentino.

Orsi esplicita il progetto – che vedremo poi puntualmente realizzato – di accaparrarsi 'senza gara' il servizio di raccolta dei rifiuti solidi urbani per quasi tutti i comuni consorziati CE4; ma anche le lucrose prospettive annesse all'ampliamento della discarica di Parco Saurino 2.

A garanzia della 'fattibilità' del progetto Sergio Orsi descrive a Vassallo il meccanismo (il bando *su misura* del quale abbiamo già detto) attraverso il quale conta di accaparrarsi il ruolo di braccio operativo della società mista.

*"**conosco entrambi i soggetti. Ricordo a tal proposito che un pomeriggio alla fine degli anni '90 fui chiamato dal geometra Cirillo Bernardo, nipote di Bidognetti Francesco e affiliato al clan Bidognetti, dicendomi che voleva incontrarmi. Il Cirillo mi chiese, a nome del clan Bidognetti, di dare una mano ai fratelli Sergio e Michele Orsi di Casal di Principe ad inserirsi nel mondo dei rifiuti. Io risposi che da parte mia non c'era nessun problema, però volevo capire qual era il mio compito. Ricordo in particolare che ci incontrammo nell'ufficio di mio fratello Salvatore Vassallo sito in Cesa alla via De Tilla n. 43, dove eravamo presenti io, mio fratello Salvatore e i seguenti soggetti: Massimiliano Miele, fratello di Gaetano Miele cognato del geometra Bernardo Cirillo, affiliato del clan Bidognetti Francesco (ricordo che fu arrestato per traffico internazionale di stupefacenti); Borrato, non ricordo bene il nome, mi sembra Nicola o Francesco ed era di Lusciano (anche lui arrestato con Massimiliano Miele per lo stesso reato a Caserta sud ed anche lui attualmente detenuto come Miele) e Sergio Orsi di Casal di Principe. Iniziò a parlare Massimiliano Miele che mi disse che, come mi aveva già anticipato Bernardo, il Compare, ossia Francesco Bidognetti detto Cicciotto 'e Mezzanotte, voleva che io dessi una mano con la mia conoscenza e la mia esperienza agli Orsi a entrare nel mondo dei rifiuti e mi riferì che i fratelli Sergio e Michele Orsi di Casal di Principe avevano costituito una società la FLORA AMBIENTE Srl – Amministratore unico la figlia di Sergio ORSI, FLORA ORSI - e che doveva entrare a lavorare nel Comune di Mondragone ma non aveva i requisiti per entrare.** Io gli dissi che non conveniva entrare nel Comune di Mondragone a fare il servizio, perché non c'erano grossi utili per il servizio di raccolta; infatti conoscevo la ditta che stava già facendo il servizio di raccolta che è la "COVIM" di Pierino, di cui non ricordo il cognome, e Lello Sarnataro, che si lamentavano già da prima del fatto che avevano molti operai assunti e che non lavoravano perché appartenevano al clan "Fragnoli", come ad esempio il figlio di Fragnoli. **Gli Orsi mi diedero ragione ma dissero che il loro progetto era quello di essere il braccio operativo del consorzio pubblico "Ce 4" il cui presidente è Giuseppe Valente di Mondragone, mentre il direttore del consorzio Ce4 è l'Architetto De Biaso che "erano persone loro"; gli Orsi mi dissero che non dovevano fare solo il servizio di raccolta e trasporto dei rifiuti solidi urbani nel Comune di Mondragone, ma bensì in tutti i Comuni che fanno parte del bacino di utenza del Consorzio Ce4 e dovevano fare anche lo smaltimento dei rifiuti solidi urbani con l'ampliamento della vecchia discarica di Parco Saurino e farne una nuova; per far questo si doveva costituire una società mista il cui 51% è del pubblico (Consorzio dei Comuni Bacino Caserta 4) ed il 49% ai privati della FLORA AMBIENTE Srl. In tal modo avrebbero preso gli appalti per tutta la provincia di Caserta della N.U. La Flora Ambiente è stata costituita con la legge dell'imprenditoria giovanile al fine di agevolare l'aggiudicazione dell'appalto in questione, poiché tra le voci di capitolato era prevista come condizione quella di essere una società i cui soci dovevano essere donne, come mi disse lo stesso Sergio Orsi. Gli Orsi mi chiesero di aiutarli a trovare le attrezzature che la FLORA AMBIENTE non aveva e in particolare gli automezzi e le attrezzature speciali da indicare nel capitolato della gara, così da superare qualsiasi ditta che volesse partecipare alla gara. Io accettai l'incarico, m'impegnai a fargli avere tutto quello che serviva per vincere l'appalto; in cambio della mia collaborazione dovevo essere assunto come direttore della discarica Parco Saurino".***

Ricostruiti i temi di quel primo incontro, nello stesso interrogatorio, Vassallo ripercorre le tappe iniziali di quella collaborazione, con una ricchezza di dettagli che agevolerà la ricerca dei riscontri.
Riferisce del trasferimento degli automezzi nella titolarità della SETIA Sud (una sua

società) alla Flora Ambiente; del bando di gara studiato per neutralizzare la concorrenza di Nicola Ferraro, con l'introduzione del requisito dell'imprenditorialità giovanile e (aspetto fino quel momento sfuggito agli inquirenti) di una clausola di 'capacità finanziaria' che troverà perfetto riscontro; di Giuseppe Valente e Claudio De Biasio che, come sopra si è plasticamente dimostrato e come ulteriormente si dimostrerà, "*facevano tutto quello che gli chiedevamo";* delle complicità interne al sistema bancario, e in particolare all'agenzia BNL di Caserta; dell'avvenuta assunzione dei fratelli Nicola e Salvatore presso la ECO4 e dell'assunzione dello stesso Gaetano Vassallo presso la SOCOM, altra società del gruppo Orsi:

*" **Ci salutammo e per 3 o 4 mesi lavorammo solo per creare le condizioni e tutti i requisiti necessari per far vincere l'appalto alla Flora Ambiente. La prima cosa che feci fu quella di andare a Giugliano io, Sergio Orsi, Massimiliano Miele ed Aldo Schiavone, prestanome di Michele Orsi e fratello dell'assessore Schiavone di Casal di Principe e da quest'ultimo fatto assumere presso la ditta dell'Orsi dalla ditta CAVIS di Guarino, a ritirare tutti gli automezzi nostri della SETIA Sud che avevo venduto alcuni giorni prima a tale Guarino titolare della ditta Cavis di Giugliano. Ricordo che al ritorno fummo fermati dalla Polizia e registrati. Parlai con Guarino che, dopo essersi allontanato in disparte con Miele Massimiliano, accettò di restituirmi i mezzi che non mi erano stati ancora pagati. Pertanto, riavuti i mezzi, la S.E.T.I.A. SUD SRL vendette alla Flora Ambiente 7 – 8 autocarri compattatori monopoli di marca Antonicelli X1 e X2, autorizzati per la raccolta dei rifiuti solidi urbani dal cassonetto.** Inoltre dalla NOVAMBIENTE SRL dei F.lli Vassallo fu venduto alla Flora ambiente un compattatore HANOMAG CL 66. Dopo questi passaggi ci incominciammo a interessare al capitolato di gara che il Consorzio Caserta 4 doveva indire e, in particolare, ricordo che la prima cosa che fece Sergio Orsi fu quella di portare via alla ECOCAMPANIA di Nicola Ferraro che aveva l'ufficio a Teverola un loro esperto in materia di raccolta differenziata, il sig. GOLINO di Marcianise, non ricordo il nome ma lo saprei riconoscere dalle fotografie, il cui padre è un funzionario della Bnl di Caserta. **Voglio precisare che il capitolato della gara doveva essere fatto da Giuseppe Valente, presidente del consorzio, insieme a Di Biasio, direttore del consorzio Ce4, i quali facevano tutto quello che gli chiedevamo.** Inoltre in quel periodo **Bidognetti Francesco attraverso i suoi affiliati, come prima vi ho riferito, aveva deciso che l'appalto doveva vincerlo la società dei fratelli Orsi e non la Ecocampania società di Ferraro Michele, fino a quel momento sponsorizzata dalla famiglia Bidognetti**. Ricordo a tal proposito che **Sergio Orsi e Michele Orsi fecero inserire, oltre quella della imprenditoria femminile, nel capitolato la voce "possono partecipare quelle ditte che dimostrano avere una potenzialità economica notevole e che la ditta partecipante doveva allegare una garanzia rilasciata da un istituto bancario…". A tal fine ricordo che i fratelli Sergio e Michele ORSI esibirono in sede di partecipazione alla gara una lettera di credito rilasciata dalla Bnl di Caserta sita in Corso Trieste, tramite il funzionario GOLINO papà del GOLINO di cui ho parlato in precedenza, poi sparita nel nulla nella fase dei controlli eseguiti a seguito di esposti fatti anonimamente.** Tuttavia la lettera era citata, se ben ricordo, nell'atto di aggiudicazione della gara. Ricordo ancora che all'inizio della vicenda i fratelli ORSI si appoggiavano per le operazioni amministrative presso gli uffici del Consorzio CE 4 siti in Castelvolturno, vicino al Commissariato di Polizia, poi ci incominciammo a incontrare presso gli uffici della SOCOM srl di Schiavone Aldo, ma di fatto di Michele e Sergio Orsi, siti in Santa Maria Capua Vetere. Dopo vinto la gara la FLORA AMBIENTE srl, si doveva dare una denominazione e una sede legale alla nuova società che aveva vinto la gara che fu chiamata ECO4. **Ricordo che io, Golino, Sergio***

e Michele Orsi ed il Presidente Peppe Valente, eravamo da poco scesi dal Notaio Decimo di Santa Maria Capua Vetere e, appena entrati negli uffici della SOCOM che erano situati dall'altro lato della strada, Sergio Orsi telefonò al direttore del Consorzio CE 4, arch. De Biase, e gli chiese di preparare due mandati di cinque milioni di vecchie lire alla Flora Ambiente come anticipo e dopo gli avrebbero portato le fatture*…I soldi servivano ufficialmente per sistemare i loro impegni economici della Flora Ambiente ma in realtà mi disse il Sergio Orsi che se li sarebbero divisi, Sergio e Michele Orsi e Giuseppe Valente e l'Arch. Di Biase…Michele Orsi aveva i conti correnti presso una piccolissima banca sita in SanTammaro (CE) ove riteneva più facile sfuggire ai controlli. Successivamente feci avere delle fideiussioni bancarie ed altri automezzi alla FLORA AMBIENTE che aveva la partecipazione del 49 % nella spa Eco 4 mentre il Consorzio CE4 aveva il restante 51%. Gli uffici della ECO4 furono fittati in Santa Maria Capua Vetere di fronte agli uffici della SOCOM ed erano di proprietà di Sergio Orsi.* ***Io non fui assunto come Direttore perché avevo delle pendenze giudiziarie ma furono assunti presso la ECO 4 come responsabili di cantiere della discarica i miei fratelli Nicola ed Antonio Vassallo, che si avvalevano dei miei consigli per la gestione della discarica perché gli Orsi non avevano alcuna esperienza. Io invece fui assunto presso la SOCOM come geometra.*** *Quando furono fatti i lavori per allestire gli uffici della ECO 4 negli appartamenti di proprietà degli Orsi, ricordo che i computer furono forniti dalla ditta LA NOTA di Giovanni Lubello, marito della figlia di Bidognetti Francesco, affiliato al clan come già riferito. Ho lavorato…con FLORA AMBIENTE ed ECO 4, mettendo a loro disposizione tutta la mia esperienza e le mie conoscenze per fare avere i mezzi all'ECO 4 (ricordo che in una occasione, per far fronte ad una emergenza a Castel Volturno dove non si era ancora cominciato il servizio, chiamai la ditta CICCARELLI Giovanbattista SpA di Giugliano che inviò 12 autocompattatori con autisti) (…)*

L'assunzione dei fratelli di Vassallo presso la ECO4 è riscontrata dall'esame del libro matricola della società dal quale risulta l'iscrizione dei dipendenti Vassallo Nicola e Vassallo Antonio, con mansioni di addetti ad impianto di smaltimento nel periodo 20.11.2000 - 25.11.2002.
Ha trovato conferma documentale anche l'assunzione di Gaetano Vassallo presso un'impresa del gruppo Orsi. Non si tratta però della Socom, indicata dal collaboratore, ma della ditta individuale ORSI MICHELE, dalla quale Gaetano Vassallo risulta avere percepito redditi negli anni 2000 *(vedi inf. del 22/10/2008, allegato n. 4)* e 2001 *(allegato n.5).*
L'imprecisione mnemonica conferma quanto quell'assunzione rappresentasse un dato puramente formale, essendo ben altra l'allocazione effettiva della risorsa umana Vassallo Gaetano.
L'argomento vale a superare anche un passaggio della memoria difensiva depositata dall'indagato Cosentino presso l'ufficio di Procura in data 13.11.2008 nel quale si richiamano una serie di cause di lavoro che sarebbero state intentate da esponenti della famiglia Vassallo nei confronti della ECO4 e del Consorzio CE4. Questi contenziosi dimostrerebbero, nella prospettiva dell'indagato, che Vassallo si attribuisce nella sede investigativa un ruolo di 'socio occulto' che evidentemente nega (non è dato stabilirlo con certezza, atteso che gli incarti indicati non sono stati mai acquisiti) davanti al giudice del lavoro. In realtà però il ruolo effettivo di Vassallo nell'operazione ECO4 trova conferme plurime, promananti da fonti esterne rispetto al dichiarante (primi fra tutti i fratelli Orsi), sulle quali non mancheremo di intrattenerci.

E' stata pure riscontrata l'introduzione nel bando di gara del requisito di capacità finanziaria, così come la collaborazione prestata da Vassallo a tale riguardo.
Nel bando di gara del 28.3.2000 *(allegato n. 6 inf. del 22/10/2008)*, al punto 9. ("criteri di scelta") è appunto previsto il requisito di "Capacità finanziaria", così definito "*per capacità finanziaria si intenderà il possesso in proprio di detta capacità e/o il possesso di idonee referenze bancarie*". Nel verbale di gara n. 3 *(allegato n.7 inf. del 22/10/2008)*, la Commissione

rilevava che effettivamente la referenza bancaria richiesta da tale A.T.I. era stata rilasciata dalla "*Banca B.N.L.*".
E'stato poi Michele Orsi a riscontrare l'impegno profuso dal Vassallo per assicurare ai fratelli Michele e Sergio Orsi la concessione di fidi bancari. Vanno poste in risalto le dichiarazioni rese dall'Orsi Michele in data 6.6.2007 che così descrive un momento della sua rottura con il partner Vassallo: "(*...) **VASSALLO** si infastidì del diniego e **di lì a poco ci fece revocare un fido che era stato aperto, attraverso lui, presso la banca Monte Paschi di Aversa, trattandosi evidentemente di un rapporto che il funzionario di banca aveva deciso di accettare soltanto ed esclusivamente in funzione della persona del VASSALLO Gaetano**...".

La parte finale dell'interrogatorio è dedicata alla ricostruzione degli avvicendamenti al vertice del gruppo Bidognetti, per tutto il periodo della militanza di Vassallo: da Cicciotto 'e mezzanotte ad Alessandro Cirillo detto 'o sergente:

*" **In ogni caso, essendo io un fiancheggiatore del gruppo Bidognetti, posso dire che per tutto il periodo in cui sono stato legato, e per quanto appreso in prima persona, le gerarchie erano le seguenti: al vertice vi era Bidognetti Francesco detto Cicciotto 'e mezzanotte, poi i figli, in particolare Bidognetti Raffaele e Aniello; dopo l'arresto di Francesco Cicciotto 'e mezzanotte, le redini del gruppo passarono a Bidognetti Aniello**, che poi fu arrestato e pertanto **passarono a Guida Luigi detto o'drink**, anche se vi era una forte pressione all'interno del gruppo Bidognetti per far fuori il Guida e far gestire il gruppo a Bidognetti Raffaele. **Dopo l'arresto del Guida il gruppo viene comandato da Bidognetti Raffaele detto il puffo**, con il sostegno di Emilio Di Caterino, Cirillo Alessandro detto o' sargente, Letizia Giovanni e altri fiancheggiatori, come Di Tella Antonio e tale Oreste. **Dopo l'arresto di Bidognetti Raffaele il gruppo viene comandato da Alessandro Cirillo (**...)*"

Nell'**interrogatorio del 5 giugno 2008** Vassallo confermava e precisava quanto già riferito in relazione alla convocazione ricevuta da Bernardo Cirillo per il primo incontro con Sergio Orsi, ribadendo la provenienza della disposizione dallo stesso Cicciotto o comunque dagli esponenti apicali del gruppo. Si soffermava con ricchezza di dettagli sul risalente rapporto con Bernardo Cirillo. Riprendeva il tema delle grandi ambizioni di Sergio Orsi, rimarcando nuovamente quanto e perché fosse appetibile ('un progetto eccezionale') il programma di Orsi sulla discarica Parco Saurino 2. Rivela il collaboratore che l'ambizione reale della società mista (e dei camorristi che ne divennero di fatto soci) era quello di monopolizzare il settore della raccolta e, sul lungo termine, di dar vita ad un ciclo integrato alternativo a quello dominato dall'ATI FIBE s.p.a. – FISIA Italimpianti in base ai contratti stipulati nel 2000 e nel 2001.
L'analisi dei benefici è degna di un professionista del settore e l'indagine intercettiva la riscontrerà in pieno.
Stabilisce Vassallo una cronologia tra l'azione corruttiva e quella camorristica messe in campo dagli Orsi: all'epoca dell'incontro negli uffici della SETIA Sud era già sorta la Flora Ambiente, nella titolarità esclusiva (e nominale) di due donne infratrentenni che lasciava presagire quale sarebbe stato l'*atout* fondamentale previsto dal bando di gara.

"*Ricevo lettura di parte dell'interrogatorio reso il 3 giugno 2008 nella parte in cui parlo di Sergio e Michele ORSI, di seguito riportato: "ricordo a tal proposito che un pomeriggio alla fine degli anni '90 fui chiamato dal geometra Cirillo Bernardo nipote di Bidognetti Francesco e affiliato al clan Bidognetti, dicendomi che voleva incontrarmi. Il Cirillo mi chiese, a nome del Clan Bidognetti, di dare una mano ai fratelli Sergio e Michele Orsi di Casal di Principe ad inserirsi nel mondo dei rifiuti. Io risposi che da parte mia non c'era nessun problema però volevo però capire qual era il*

mio compito". Confermo quanto riferito e posso dire che io non conoscevo prima di allora Michele e Sergio ORSI ed ebbi a conoscerli nell'incontro successivo di cui ho parlato, proprio a seguito della mia manifestazione di disponibilità nei confronti di CIRILLO Bernardo. Quanto al ***CIRILLO questi ebbe e riferirmi che l'incarico di avvicinarmi per saggiare la mia disponibilità gli fu dato dal "parente", intendendo riferirsi in tal senso, apertamente, a BIDOGNETTI Francesco oppure ad una persona dei suoi familiari più stretti.*** *Era evidente dal discorso, in ogni caso, che la decisione proveniva da BIDOGNETTI Francesco e doveva essere stata veicolata attraverso uno dei suoi figli; faccio presente che in quel periodo BIDOGNETTI Francesco era ovviamente detenuto da lungo tempo e ricordo che invece BIDOGNETTI Aniello era latitante, ricordo per un fatto omicidiario. Anche BIDOGNETTI Raffaele era detenuto in quel periodo. Faccio presente che CIRILLO Bernardo, da me già indicato nel corso di altri interrogatori come il geometra CIRILLO, fu da me conosciuto a partire dal periodo relativo all'ECOLOGIA 89 di CERCI Gaetano, la società di cui ho già parlato a proposito del traffico di rifiuti provenienti dal nord Italia;* ***lo conobbi verso la fine degli anni '80 e questi svolgeva effettivamente le mansioni di ragioniere per l'ECOLOGIA 89 di Gaetano CERCI. I rapporti con CIRILLO Bernardo erano talmente solidi che io ebbi a farlo risultare assunto fittiziamente presso la società NOVAMBIENTE s.r.l. dei f.lli VASSALLO,*** *allorché si ebbe il c.d. passaggio di cantiere tra gli operai impiegati presso la mia discarica e il consorzio che subentrò nella gestione a seguito della requisizione ed esproprio della discarica. Ciò accadde in un periodo di poco successivo al '95, ma rifiutò di recarsi presso una discarica di Salerno per svolgere l'attività e quindi di fatto fruì di un assegno di mobilità per 7/8 mesi.* ***Nell'occasione CIRILLO Bernardo, in quel primo contatto, mi rappresentò che se mi fossi messo a disposizione per BIDOGNETTI si poteva fare una grossa operazione nel campo dei rifiuti: in quel periodo c'era il boom dei consorzi e delle società miste pubblico-private e mi disse a grandi linee che era un'operazione che consentiva di trarre cospicui guadagni. Fu quindi fissato un incontro. Dopo pochi giorni da questa mia assunzione di disponibilità, CIRILLO Bernardo mi chiamò telefonicamente preannunciandomi l'incontro specificativo degli accordi che si sarebbero dovuti tenere e del ruolo che io avrei dovuto assumere per conto di BIDOGNETTI Francesco. Mi disse che sarebbe venuto da me Massimiliano MIELE, fratello di Gaetano MIELE e cognato del CIRILLO, senza anticiparmi chi sarebbero state le altre persone che avrei potuto incontrare a casa mia. L'incontro si tenne dunque presso l'Ufficio di mio fratello Salvatore sito in Cesa alla Via De Tilla n° 43, ove io e Salvatore incontrammo Massimiliano MIELE, tale BORRATA di Lusciano e Sergio ORSI.*** *Faccio presente che io non conoscevo prima di allora nessuna di queste tre persone ed ebbi a frequentarli assiduamente a partire da quel giorno.* ***Per questo seppi poi che sia il MIELE che il BORRATA vennero arrestati per un traffico di droga.*** *Fu in quella riunione che si specificò, per quanto mi riguarda, l'accordo societario che evidentemente era stato già preso tra le persone ivi convenute. Faccio presente che io in quella riunione ero l'unico, insieme a mio fratello Salvatore, che avevo una esperienza specifica e professionalità nel settore dei rifiuti, sicché il mio giudizio e le mie decisioni sarebbero state chiaramente determinanti per la concretizzazione del loro progetto. Compresi chiaramente dai discorsi che l'unico interlocutore tra i presenti che aveva un chiaro programma era Sergio ORSI, mentre gli altri due erano palesemente del tutto inesperti in quel settore.* ***Dal discorso che si fece e di cui ho già parlato nell'interrogatorio del 3 giugno scorso, era chiaro che Sergio ORSI avesse già creato i presupposti e definito i termini per la concretizzazione del suo programma. Ho già descritto l'andamento di quell'incontro e della discussione nello***

scorso interrogatorio del 3 u.s. Era chiaro che Sergio ORSI avesse preso accordi con il gruppo di BIDOGNETTI e che le persone del gruppo avevano necessità, non essendo esperte, di comprendere la bontà del progetto per calcolare anche i proventi e per questo si erano rivolti a me godendo con loro di relazioni privilegiate ormai da anni*. Compresi immediatamente le specificazioni di Sergio ORSI e capii che* ***quello era un progetto eccezionale: si trattava del primo caso di una società mista pubblico-privata che avrebbe monopolizzato la raccolta degli R.S.U. sull'intero bacino consortile. Da quando era iniziato il commissariamento del ciclo dei rifiuti in Campania, praticamente tutti i privati erano stati esclusi dalla gestione diretta e i consorzi erano interamente Comunali. La previsione, di cui mi parlò ORSI Sergio, di una società mista pubblico-privato costituiva una breccia fondamentale per consentire nuovamente ai privati e, conseguentemente anche ai gruppi organizzati mafiosi quali quello di BIDOGNETTI, di ingerirsi direttamente nella gestione. Mi spiegò inoltre Sergio ORSI che il loro progetto prevedeva che il consorzio avrebbe creato un c.d. "braccio operativo" che avrebbe non solo acquisito tutti gli appalti per la raccolta degli R.S.U. comunali, ma cosa molto più importante e lucrosa, avrebbe assunto anche la gestione della discarica di Parco Saurino. La discarica di Parco Saurino era una discarica dismessa sita molto vicino alla calcestruzzi BASCHI, sotto sequestro e abbandonata, e il progetto di cui mi parlò Sergio ORSI era quello di sfruttarne le capacità residue e provvedere al suo ampliamento. Era previsto inoltre lo sfruttamento del biogas della discarica, la messa in sicurezza della discarica e anche la realizzazione di un impianto di tritovagliatura da collocare nell'area Parco Saurino. Faccio presente che quella discarica avrebbe dovuto sostenere il peso di tutto il carico dei rifiuti della Campania perché in quel periodo non vi erano soluzioni alternative e quindi la gestione di quella discarica avrebbe comportato dei profitti elevatissimi. Già soltanto gestire lo smaltimento dei rifiuti in discarica comporta dei profitti elevatissimi, senza parlare poi dei lavori accessori a questo, che consentono spazi di manovra altissimi e incontrollabili…Posso dire che la gestione della discarica comporta la gestione diretta dei lavori per trasporto di ghiaia, dello smaltimento del percolato, dell'acquisto del terreno vegetale per la copertura, la messa in opera dei teli, la realizzazione di pozzi per il biogas, la realizzazione del progetto di messa in sicurezza e così via, senza qui entrare nello specifico, preciso che tutte queste attività furono demandate alla SOCOM, previa gara o licitazione, del tutto pilotata; la SOCOM era una società degli ORSI, amministrata da SCHIAVONE Aldo; fui io stesso ad accompagnare SCHIAVONE Aldo e Michele ORSI presso il MPS di Aversa, istituto di credito presso il quale io ero cliente e che scelsi per loro, avendo dei privilegi.*** *Ricordo che addirittura fu ORSI Michele a siglare con una firma al posto di SCHIAVONE Aldo le sottoscrizioni necessarie per operare su quel conto corrente. Ritornando a parlare di questa prima riunione, faccio presente che mio fratello Salvatore era presente durante l'intero colloquio e la sua partecipazione era non solo motivata dal fatto che ci trovavamo negli uffici della SETIA SUD da questi amministrata, ma anche legata al fatto che anche Salvatore sarebbe entrato a far parte di questa società.* ***Questo primo incontro si ebbe certamente diversi mesi prima della indizione della gara che intervenne da parte del consorzio CE4; come ho già sinteticamente riferito era stata già creata la società FLORA AMBIENTE da parte di Sergio ORSI, predisponendo quelli che sarebbero stati i dati distintivi della società che avrebbero consentito l'aggiudicazione della gara attraverso la delibazione di un bando costituito proprio su misura della FLORA AMBIENTE. Faccio presente che la FLORA AMBIENTE all'epoca era praticamente una "scatola vuota" e l'unica peculiarità di questa società che avrebbe consentito di pilotare l'aggiudicazione di una…gara d'appalto era costituita dal fatto che i soci erano di sesso femminile".***

La ‘scatola vuota’ che Vassallo aveva il compito di riempire di esperienza e mezzi aveva un unico avversario: la Ecocampania dei fratelli Ferraro, con i quali Sergio Orsi asseriva di aver stipulato un ‘patto di desistenza’, un patto che sarebbe stato però sospetto se avesse comportato addirittura l’astensione dell’impresa dalla partecipazione al bando.
In sostanza Ferraro Nicola, dopo essere stato avvicinato da uomini di Bidognetti, aveva garantito – secondo quanto Orsi ebbe a riferire al socio Vassallo – “***che la sua partecipazione sarebbe stata del tutto formale e che non si sarebbe comunque opposto alla sua successiva esclusione”.***

“ *Si trattava di un requisito insufficiente* (Vassallo sta parlando del requisito legato alla giovane età dei soci, n.d.e) *per una competizione con altre società strutturate e, in particolare, in una gara partecipata anche dalla ECOCAMPANIA.* ***Praticamente l’avversario con cui concorrere era la ECOCAMPANIA e per noi era necessario creare quindi un’ATI competitiva, cosa di cui mi occupai io personalmente. Faccio presente che in realtà Sergio ORSI mi disse che era già stato avvicinato, prima della gara, Nicola FERRARO, amministratore della ECOCAMPANIA unitamente al fratello. ORSI Sergio mi disse che a seguito dell’avvicinamento Nicola FERRARO aveva garantito che non avrebbe concorso realmente a quella gara, ma che avrebbe partecipato al bando soltanto perché sarebbe stato singolare non farlo. Aveva garantito, sempre a dire di Sergio ORSI, che la sua partecipazione sarebbe stata del tutto formale e che non si sarebbe comunque opposto alla sua successiva esclusione. Sergio ORSI mi disse che il FERRARO era stato avvicinato da qualcuno del clan BIDOGNETTI e proprio per questa ragione si era reso disponibile”.***

Un’altra prestazione faceva parte del ‘pacchetto’ conferito dal gruppo bidognettiano agli Orsi: la mediazione criminale con i clan dominanti nei territori in cui avrebbe operato la ECO4, dopo l’affidamento dei servizi. E anche questo tema illustrato da Vassallo è copiosamente riscontrato dagli atti.

“ Faccio presente che il ruolo e l’impegno del gruppo BIDOGNETTI era proprio quello di garantire l’aggiudicazione di quella gara a ORSI Sergio e garantire la società affidataria dei servizi con tutti i Comuni del consorzio nei rapporti con i singoli clan locali. In pratica compresi agevolmente che gli accordi tra Sergio ORSI e BIDOGNETTI prevedevano che tutti i clan che insistevano sui singoli Comuni sarebbero stati garantiti nel percepire una tangente attraverso il gruppo BIDOGNETTI, che si poneva come intermediario necessario. Era un modo per evitare che diversi clan potessero fare confusione e che il servizio funzionasse bene senza che vi fossero contrasti da parte dei singoli capi zona”.

Abituato ad agire all’ombra di Bidognetti, Gaetano Vassallo diventa l’eminenza grigia degli Orsi. E’ lui, tra l’altro, a individuare nella rete delle sue conoscenze i soggetti idonei a diventare *partners* della Flora Ambiente nell’ATI che parteciperà alla gara. Il racconto è, come al solito, puntuale nell’enunciazione delle referenze degli imprenditori prescelti (CAPASSO e BRIGNOLI) e delle ragioni per le quali ciascuno di loro accettò la proposta. La precisione del propalante è tale da indurci a ritenere che, quando Sergio Orsi afferma di avere in prima persona scelto gli imprenditori da associare alla Flora Ambiente, tace deliberatamente la segnalazione ricevuta da Vassallo, con il comprensibile intento di allontanare da sé i sospetti di mafiosità. Vassallo ritorna poi sugli stretti rapporti tra la coppia Valente – Di Biasio e i fratelli Orsi.

E’ emblematica della forte coerenza delle dichiarazioni la spiegazione che Vassallo fornisce dell’attività posta in essere per rendere competitiva la ATI capeggiata dalla Flora Ambiente dei fratelli Orsi.
Sergio Orsi – dice il collaboratore – non si fidava pienamente della promessa di desistenza formulata dall’avversario Nicola Ferraro. L’indagine intercettiva che tra breve illustreremo dimostra quanto detti timori fossero fondati e quanto fu decisivo l’intervento minatorio dei *cicciottiani* per indurre Ferraro alla rassegnazione!

“ Ritornando alla prima riunione, praticamente in quel contesto io entrai in società con loro proprio quel giorno e da quel giorno in poi, praticamente tutti i giorni, sono stato sempre con Michele e Sergio ORSI. A partire quindi dal giorno dopo o comunque dai giorni immediatamente successivi, ebbi modo di conoscere Michele ORSI, fratello di Sergio…Già nel corso di questa riunione, Sergio ORSI mi disse che l’affare era seguito anche da suo fratello e quindi già sapevo che mi sarei dovuto relazionare con i due fratelli. A partire da quel giorno io ho collaborato per molti mesi per la realizzazione dei progetti di questa società; certamente ho operato con loro anche alcuni mesi dopo la costituzione della ECO 4 avvenuta presso il notaio Decimo di S. Maria C.V.. Faccio presente che io praticamente tutti i giorni stavo con loro e i due fratelli operavano congiuntamente presso l’ufficio del consorzio CE 4 in Castel Volturno, uffici dislocati vicino al locale Commissariato. Quando invece era necessario uscire per portarsi nei luoghi diversi secondo le varie necessità i due fratelli operavano disgiuntamente; quando c’era Sergio non c’era Michele e viceversa. Praticamente fin quando le persone del gruppo BIDOGNETTI mi imposero di abbandonare la società con i f.lli ORSI, sono stato protagonista diretto degli avvenimenti. Fui io stesso, nel periodo antecedente alla partecipazione alla gara, a creare i presupposti della sua aggiudicazione individuando i partner che avrebbero partecipato all’ATI in modo da consentire un’agevole aggiudicazione, individuando i requisiti che sarebbero stati inseriti nel bando di gara.
Come già riferito, ***VALENTE Giuseppe, presidente del consorzio, e l’arch. Claudio DE BIASIO, direttore generale del consorzio stesso, erano “culo e camicia” con entrambi i fratelli ORSI; si trattava di quattro persone che rappresentavano un unico soggetto; facevano tutto insieme, uscivano, mangiavano e praticamente tutto ciò garantiva l’aggiudicazione della gara.***
L’attenzione che abbiamo posto nella creazione di un’ATI apparentemente competitiva e nella individuazione dei requisiti per rendere certa l’aggiudicazione era legata al fatto che Sergio ORSI non si fidava di quello che Nicola FERRARO aveva garantito quando era stato avvicinato dagli uomini di BIDOGNETTI. Fu sempre Sergio ORSI a far presente la sua sfiducia nelle promesse di FERRARO e da qui la necessità di attrezzarci in modo pienamente adeguato al risultato da raggiungere. Sergio ORSI aveva il progetto imprenditoriale ma non aveva le capacità e le relazioni per portarlo a compimento e fui quindi io a fare tutto. Individuai, quale partner dell’ATI: CAPASSO Ciro, il quale era uno dei pochi a godere delle autorizzazioni per la raccolta dei rifiuti direttamente dal cassonetto e tale autorizzazione all’epoca era vantata anche dalla sola ECOCAMPANIA. Convinsi CAPASSO Ciro di partecipare all’ATI, partecipazione peraltro meramente formale, in quanto alla sua quota del 10% non corrispondeva alcun versamento, promettendogli che una volta aggiudicati i servizi di raccolta dei RSU con i diversi Comuni ci saremmo rivolti a lui per il noleggio di alcuni automezzi; gli feci presente che nell’ATI i miei soci erano “due amici di Casale” evitando di dargli eccessive spiegazioni circa le relazioni che questi avevano con BIDOGNETTI. CAPASSO Ciro sapeva invece perfettamente i miei trascorsi con il gruppo di BIDOGNETTI Francesco, ma comunque decise di

partecipare perché "non stavamo facendo delle rapine" e si trattava di un modo per lavorare. È ovvio che alla gara avrebbe potuto partecipare qualsiasi società e la necessità di porre dei requisiti particolarmente stringenti era legata alla necessità di sconfiggere qualsiasi ipotetico concorrente. Individuai poi in tale BRIGNOLA di Brescia un altro partner dell'ATI. Lo conobbi attraverso un mio amico (…) Toni MAROTTA. Gli chiesi se conoscesse qualcuno che stesse facendo gli smaltimenti in Campania e che fosse stato autorizzato a farlo, in quanto mi serviva una società che fruisse delle autorizzazioni per lo smaltimento dei rifiuti. Non gli diedi altre spiegazioni e lui m'indicò questo BRIGNOLA, il quale stava facendo dei lavori sulla discarica LO UTTARO di Caserta. Promisi al MAROTTA di concedergli poi la progettazione della messa in sicurezza della discarica Parco Saurino, nell'ipotesi in cui avesse convinto BRIGNOLA a partecipare all'ATI, cosa che poi accadde. *BRIGNOLA prese poi gli accordi diretti con Sergio ORSI e il primo acquistò formalmente una quota dell'ATI, senza versare alcunché, per una contropartita che non so riferire nel dettaglio o che comunque al momento non ricordo. Ricordo comunque che BRIGNOLA era interessato a disfarsi di un'azienda sita a Venafro e ORSI gli garantì che avrebbe poi acquistato questa società denominata ECO TOP, che svolgeva la raccolta delle batterie esauste".*

Protagonista, durante tutti i mesi della partnership Bidognetti – Orsi, delle vicende salienti del progetto nel periodo '99-2002, Vassallo può attendibilmente riferire quali fossero i rapporti instaurati dagli ORSI con la coppia Valente - De Biasio.

"Per quanto riguarda i rapporti tra VALENTE ed i f.lli ORSI, questi erano estremamente legati tra loro; VALENTE era originariamente un funzionario INPS e faceva attività politica per F.I. e fu individuato come presidente del consorzio CE 4, ritengo proprio grazie ai f.lli ORSI; credo che la scelta del presidente del consorzio spettasse al comune più popoloso nell'ambito del consorzio, ma io non posso dire il dettaglio perché io conobbi VALENTE dopo i f.lli ORSI quando era divenuto già presidente. Per quanto concerne il direttore Claudio DE BIASIO io, nei primi giorni in cui operavo con Sergio ORSI, chiesi a quest'ultimo per quale motivo fosse stato scelto proprio il DE BIASIO quale direttore, in considerazione del fatto che palesava dei chiari limiti in materia di rifiuti, poteva essere un bravo architetto, ma capiva poco, era però intelligente e ci mise poco a impratichirsi della materia. Chiesi quindi a Michele ORSI le ragioni per le quali era stata scelta questa persona e Sergio fece riferimento al fatto che, oltre ad essere una "persona loro", era parente di un magistrato di Napoli. Si trattava di una di quelle affermazioni dopo le quali non si fanno più domande ed io non indagai oltre; non so dunque dire se quest'affermazione corrispondesse a realtà. Non mi interessai molto di approfondire la questione anche perché Sergio, a differenza di Michele, mi ispirava meno fiducia in quel che diceva; eccedeva in chiacchiere. Una volta creati i presupposti per rendere agevole l'aggiudicazione della gara, il bando fu predisposto dai fratelli ORSI unitamente a VALENTE e DE BIASIO, inserendo tutti i requisiti che caratterizzavano l'ATI".

A questo punto del lungo interrogatorio sostenuto il 5.6.2008 Vassallo riprende e precisa alcuni dei temi già trattati. Ritorna sul rilievo strategico dell'operazione Parco Saurino 2 e sulla sua ambizione di divenire, di fatto, direttore tecnico di quella discarica.
Puntualizza anche come fu necessario l'esercizio di una certa capacità 'persuasiva' per ottenere, dal soggetto al quale aveva già venduto i suoi automezzi (tale Guarino della

CAVIS di Giugliano), la restituzione degli stessi al fine di conferirli agli Orsi: operazione questa che richiese l'intervento di MIELE Massimiliano.

" Confermo quanto dichiarato nell'interrogatorio dello scorso 3 giugno di seguito riportato e di cui ricevo lettura: "La Flora Ambiente è stata costituita con la legge dell'imprenditoria giovanile al fine di agevolare l'aggiudicazione dell'appalto in questione poiché tra le voci di capitolato era prevista come condizione quella di essere una società i cui soci dovevano essere donne, come mi disse lo stesso Sergio Orsi. Tale escamotage era stato suggerito all'Orsi da un commercialista di SMCV, tale Pirone…Intendo fare le seguenti precisazioni: quando mi riferisco al fatto che la FLORA AMBIENTE era nata con una legge che favoriva l'imprenditoria giovanile, in realtà intendo dire che la legge agevolava le partecipazioni femminili per le società e la cosa mi fu detta da Sergio ORSI (omissis) Faccio presente incidentalmente che la mia unica formale presenza con i f.lli ORSI era legata alla mia formale assunzione come geometra presso la SOCOM facente capo di fatto a Michele ORSI, ma formalmente riferita ad Aldo SCHIAVONE. ***Faccio presente che io avevo interesse di avere ruoli formali nella ECO 4 e chiesi di fare il direttore della discarica di Parco Saurino, ma i f.lli ORSI mi dissero che, per i miei precedenti giudiziari, la cosa avrebbe potuto creare dei problemi per la certificazione antimafia e quindi mi dirottarono con un ruolo formale alla SOCOM. Certamente risulto ancora sul libro matricola della SOCOM, ma comunque non ho mai preso nessuna retribuzione. La FLORA AMBIENTE era talmente poco attrezzata che fu necessario dotarla, in vista della partecipazione alla gara di appalto e per la futura realizzazione dell'attività, dei mezzi necessari; furono pertanto da me alienati 6/7 autocarri Fiat 145.13, specificamente autorizzati per la raccolta dei rifiuti dal cassonetto, e un compattatore Hanomag CL 66, gli autocarri intestati alla SETIA SUD e il compattatore alla NOVAMBIENTE s.r.l.. Fu pattuita una somma pari a 15/20 milioni di lire circa per mezzo e comunque sono state emesse le fatture, anche se poi il pagamento dei mezzi avvenne dopo la mia uscita di scena dalla società. Non ebbi particolare interesse nel fruire di un pagamento immediato dei veicoli, perché il tenore degli accordi era tale che mi sembrava irrilevante; secondo gli accordi economici degli ORSI la mia partecipazione alla loro società avrebbe visto un corrispettivo di 6/7 milioni al mese, a fronte dell'investitura – necessariamente di fatto alla luce delle cautele dei f.lli ORSI - quale direttore della discarica di Saurino. Si trattava di un ruolo strategico attraverso il quale era possibile praticamente dominare la discarica e tutti gli affari ad essa legati. Faccio presente che presso la discarica Saurino furono assunti regolarmente a operare come responsabili tecnici, ben pagati, i miei fratelli Antonio e Nicola (licenziati…dopo la rottura)*** *e la nostra presenza familiare nella discarica avrebbe comportato la gestione di fatto del sito.* ***A proposito della vendita degli automezzi, faccio presente che, quando fui fermato con MIELE Massimiliano e gli altri, stavamo tornando da Giugliano essendomi recato lì da GUARINO della CAVIS per indurlo a restituirmi i mezzi che io gli avevo già praticamente venduto ad un prezzo anche più elevato, benché ancora non corrisposto, rispetto a quello stabilito con gli ORSI. Ero andato con MIELE Massimiliano proprio perché attraverso MIELE sarebbe stato impossibile per GUARINO eludere la restituzione dei mezzi. Ricordo che MIELE si allontanò con il GUARINO, parlò brevemente con lui e fu evidentemente persuasivo nel restituire i mezzi affinché io li cedessi alla FLORA AMBIENTE. I mezzi poi rimasero alla FLORA AMBIENTE e, quando fu costituita la ECO 4, la FLORA AMBIENTE li noleggiò alla struttura pubblico - privata ad un prezzo certamente più elevato rispetto a quello di mercato".***

Ha trovato conferma la circostanza per la quale il Vassallo Gaetano, già amministratore unico della S.E.T.I.A. Sud, ne rimaneva amministratore di fatto. Tanto emergeva da pregressa attività investigativa originata dall'incendio di un compattatore di proprietà della S.E.T.I.A. Sud e noleggiato alla GEO.ECO Servizi S.P.A.
Il puntuale resoconto del collaboratore consentiva anche di riscontrare e situare precisamente nel tempo il controllo stradale eseguito dalla Polizia mentre Vassallo faceva ritorno, con Orsi e gli altri soggetti indicati, dalla Cavis di Guarino ove aveva ottenuto in restituzione gli automezzi che contava di conferire alla 'scatola vuota' della Flora Ambiente: in data 22.3.2000, alle ore 17,54, alla via A. Gramsci di Caserta, veniva controllata dalla l'autovettura targata AW569HG a bordo della quale vi erano**: ORSI Sergio**, nato il 05/06/1957; **SCHIAVONE Aldo**, nato il 21/10/1969; **MIELE Massimiliano**, nato il 26/07/1972 a Caserta e **VASSALLO Gaetano**, nato il 18/10/1958 a Cesa (CE).
La consultazione dell'elenco delle attrezzature, presentato in data 10.5.2000, dalla capogruppo FLORA Ambiente s.r.l. per partecipare alla gara indetta dal consorzio CE4, combinata con il controllo dei certificati cronologici forniti dal Pubblico Registro Automobilistico, conferma poi tanto l'avvenuta cessione degli automezzi, quanto l'inserimento degli stessi tra le referenze presentate dalla società privata al momento della gara.
Figurano in quell'elenco i seguenti automezzi, tutti di proprietà della SETIA Sud di Vassallo e trasferiti alla capogruppo dell'ATI concorrente: un autocarro targato CE563751; un autocarro targato CE551166; autocarro targato NAS40490; un autoveicolo per il trasporto dei rifiuti targato AW470NV; un autoveicolo per il trasporto dei rifiuti targato AW471NV; autoveicolo trasporto rifiuti targato AC866HJ; autoveicolo trasporto rifiuti targato CE588212.
Il tema del noleggio a freddo degli automezzi acquistati dalla Flora Ambiente alla società mista ECO 4 è riscontrato dalla registrazione, in data 14.12.2000, presso l'Agenzia delle Entrate – Ufficio di Caserta, del contratto con il quale la srl FLORA AMBIENTE concedeva a titolo di "nolo a freddo" mezzi meccanici. Il contratto reca la data del 15.11.2000 e palesa il conflitto di interessi tra i soggetti contraenti: srl FLORA AMBIENTE, rappresentata dall'ORSI Elisa Flora; ECO4 s.p.a. rappresentata da ORSI Sergio.

L'interrogatorio del 5.6.2008 si conclude con il racconto di due incontri di Gaetano Vassallo con esponenti del gruppo Bidognetti, emblematici della fase in cui si chiude (con alcuni conti in sospeso) il rapporto societario tra i fratelli Orsi e i 'cicciottiani'.
Il segnale della rottura è l'intimazione a Michele Orsi (presente al secondo dei due incontri) di pagare gli automezzi ricevuti da Vassallo al momento della costituzione dell'ATI.
In un colloquio in auto sulla strada del ritorno dal luogo dell'incontro Bernardo Cirillo presagisce quello che sarà l'effettivo destino di Michele Orsi: "***Tornando in macchina, CIRILLO Bernardo fece riferimento al fatto che ormai avevano la sentenza di morte e, prima o poi, avrebbero regolato i conti"***.
Il 1° giugno 2008 (quattro giorni prima che Vassallo rendesse le dichiarazioni in commento) ORSI Michele rimarrà vittima di un agguato nei pressi del Roxy Bar di corso Dante in Casal di Principe. Ad attingerlo saranno i colpi esplosi da almeno quattro bocche di fuoco (due pistole semiautomatiche Beretta cal. 9x21; una pistola cal. 9x17; una 357 magnum).
Per il delitto di sangue e i connessi delitti di detenzione e porto illegale di armi saranno sottoposti a fermo, convalidato dal gip con la contestuale emissione di ordinanza cautelare: SETOLA Giuseppe, CIRILLO Alessandro, LETIZIA Giovanni, ALFIERO Massimo e DI PUORTO Mario.

"Per quanto concerne gli ulteriori incontri che ebbi direttamente con esponenti del gruppo BIDOGNETTI, relativi alla specifica vicenda della ECO 4, ho ricordi nitidi in ordine a due incontri. ***Un primo incontro si è verificato in un periodo che colloco immediatamente dopo la scarcerazione di GUIDA Luigi detto o drink; venni convocato dal geom. CIRILLO Bernardo e da FIORETTO Giosuè; il primo ebbe a***

contattarmi telefonicamente dandomi appuntamento nei pressi di DITELLANDIA di Mondragone; mi sono lì recato con la mia macchina da solo e lì incontrai il FIORETTO e il CIRILLO i quali mi dissero di seguirli con la mia macchina dicendomi che saremmo dovuti andare a parlare da Gigino o drink che si trovava poco distante da lì. *In particolare parcheggiai l'auto in un distributore Q8 sito sulla variante che porta verso la tangenziale e salii a bordo della loro auto. Ci portammo quindi in prossimità della pista di kart sita nelle vicinanze di Castelvolturno e poco distante dal luogo dell'appuntamento e mi portarono presso un podere di bufale ove mi aspettava il GUIDA con altre tre o quattro persone che non avevo mai visto prima; ricordo in particolare una persona veramente brutta, ma comunque colloquiai con GUIDA separatamente rispetto a queste persone, insieme al CIRILLO e al FIORETTO.* ***In quell'occasione il GUIDA, persona che non avevo mai incontrato ma che conoscevo di nome e che avevo visto nelle foto apparse sul giornale, mi chiese sostanzialmente quello che io avevo fatto insieme ai fratelli ORSI.*** *In pratica m'interrogò sulla situazione che mi aveva visto implicato con i f.lli ORSI, situazione che chiaramente già conosceva, ma di cui aveva necessità evidenti di dettagli. Io ho detto a GUIDA tutto quello che ho già riferito nel corso dei miei interrogatori, in modo più essenziale, e ricordo interventi sia di FIORETTO sia di Bernardo che confermavano quella che era la mia fedele ricostruzione degli avvenimenti, dal mio punto di vista.* ***Compresi che GUIDA aveva bisogno di chiarimenti diretti dalla mia persona per decidere cosa fare e comunque prima di incontrare gli ORSI, in modo da essere pienamente informato.*** *Io mi proposi di essere presente in un incontro con gli ORSI e risolvere eventuali falsità che potessero loro dire nei miei confronti e quindi salvaguardarmi; gli dissi dunque che potevo anche rimanere per un eventuale confronto laddove fosse stato necessario.* ***Il GUIDA mi disse testualmente: "comparié vattenne, perché se vengono potrebbero non tornare a casa !", aggiungendo che quelle erano cose che se le regolavano loro****. Io andai via con FIORETTO e CIRILLO. Strada facendo ricordo che interpellai CIRILLO e gli chiesi chi fosse quella persona con la faccia brutta; CIRILLO mi rispose in modo molto eloquente dicendomi che io ero il primo che avevo visto in faccia quella persona potendosene poi tornare a casa, facendo chiaro riferimento al fatto che si trattava di un killer. Mi disse anche che erano lì riuniti pronti per partire per Villa Literno per uccidere alcuni liternesi. Da quello che mi dissero, in quel giorno stesso o nei giorni successivi, avrebbero incontrato i f.lli ORSI. Ricordo che durante il colloquio con GUIDA, CIRILLO Bernardo disse che i f.lli ORSI non venivano mai tutti e due insieme, ma il GUIDA disse che avrebbe fatto in modo di farli arrivare insieme all'appuntamento. Parlando davanti a tutti e tre i presenti disse che avrebbero preso il figlio di Michele per costringerli ad andare insieme all'appuntamento.*

Alcuni giorni dopo avvenne un ulteriore incontro di cui ho già parlato nell'interrogatorio del 3 u.s., presso l'autoricambi di VEROLLA in Lusciano, dove erano presenti oltre che me, GUIDA Luigi detto o'drink, Massimiliano MIELE, Michele ORSI, BORRATA, Giosuè FIORETTO. *Fu in quell'occasione che* ***venni a conoscenza degli accordi economici tra Aniello BIDOGNETTI e i f.lli ORSI secondo cui l'impegno degli ORSI era quello di pagare 50 milioni al mese e di assumere 50 persone a lavorare presso l'ECO 4, persone indicate dal gruppo BIDOGNETTI.*** *In quell'occasione si fece anche riferimento a un momento temporale in cui era avvenuto questo accordo, poiché FIORETTO Giosuè contestò ad ORSI Michele che i precedenti accordi avevano visto scomodare BIDOGNETTI Aniello durante la sua latitanza sottolineando la gravità del fatto; fece riferimento FIORETTO ad un incontro con i f.lli ORSI presso un distributore dell'autostrada, dove si era parlato di questi accordi.* ***MIELE Massimiliano cercò di mediare dicendo di garantire per gli ORSI, ma fu***

FIORETTO a intervenire con durezza dicendogli che, se avesse voluto garantire per gli ORSI, avrebbe potuto essere ucciso in quel momento stesso. *A quel punto FIORETTO disse che Aniello BIDOGNETTI avrebbe regolato direttamente i conti con loro, perché prima o poi sarebbe uscito, dicendogli che prima o poi gli avrebbe fatto "la cartella".* ***GUIDA a quel punto intervenne dicendo ai presenti che queste cose se le sarebbero regolate le persone che avevano preso accordi diretti e che lui per il momento avrebbe dovuto avere dagli ORSI 15 mila euro al mese, la stessa somma che la COVIM pagava al clan per Castel Volturno…allorché FIORETTO Giosuè contestò a Michele ORSI il contenuto degli accordi presi con Aniello BIDOGNETTI, ORSI Michele rimase completamente muto e impallidì, senza opporre alcuna versione.*** *Faccio presente che questi due incontri avvennero quando la ECO 4 aveva già iniziato ad operare sui Comuni di Mondragone, Castel Volturno e Sessa Aurunca ed erano in corso trattative per l'affidamento del servizio di raccolta degli R.S.U. su Grazzanise. GUIDA aggiunse che ORSI Michele avrebbe dovuto pagarmi gli automezzi il cui prezzo non era stato ancora corrisposto e mi impose di abbandonare gli accordi societari intercorsi con gli ORSI. Michele ORSI mi disse che il giorno dopo sarei potuto andare in sede per riscuotere il danaro che mi spettava, cosa che effettivamente feci, riscuotendo gli assegni dalle mani di Sergio ORSI. Tornando in macchina,* ***CIRILLO Bernardo fece riferimento al fatto che ormai avevano la sentenza di morte e prima o poi avrebbero regolato i conti****. Ricordo che il periodo in cui incontrai GUIDA era il periodo primaverile e comunque faceva sufficientemente caldo.* ***In un incontro successivo che ebbi con Bernardo CIRILLO e il figlio di SCHIAVONE Francesco detto Cicciariello, in Baia Domitia, seppi poi che gli ORSI si erano legati proprio a Cicciariello e compresi che i soldi che prima arrivavano direttamente alla famiglia BIDOGNETTI, in relazione al servizio di raccolta degli RSU sui Comuni, venivano percepiti indirettamente tramite proprio Cicciariello, all'epoca latitante…"***

Lo scioglimento dell'accordo degli Orsi con il ramo bidognettiano del clan dei Casalesi avvenuto, secondo Vassallo, nella primavera dell'anno 2002 evidentemente si riflette nella seguente **conversazione (n. 3519 del 26.7.2004, ore 11.56)**.
Decreto n°: 1478/04
Progressivo: 3519
Numero intercettato: 335…..999 in uso a Michele ORSI
Data fonia: 26.07.2004 ora: 11.56.46
Interlocutore: Giuseppe VALENTE
Chiamata: Entrante
Numero: 335……879
LEGENDA
M: Michele Orsi
P: "Peppino" Valente
M: Peppino
P: Michele, scusami se ti disturbo...
M: Sì, dimmi
P: Senti un poco, **io avrei bisogno di un numero, di parlare con Gaetano VASSALLO**, ma tu ce l'hai ancora il numero di telefono?
M: Qua no
P: E chi mi può...
M: **Non è il caso, capito**?
P: Come ?
M: Non è il caso
P: No, lo so, per carità, ci mancherebbe, **ma è per la questione dell'albergo, no, no, per l'albergo, lui sta aprendo un albergo** e mi serviva, volevo chiedergli se poteva assumere una signora in gamba **perché so che stanno aprendo**, niente di particolare, no, no…

Nell'interrogatorio del 18 giugno 2008 Gaetano Vassallo ribadisce la circostanza per la quale la predestinazione delle imprese degli Orsi a divenire 'braccio operativo' della costituenda società mista era nota tra gli uomini del gruppo Bidognetti. Spiega poi una serie di meccanismi fraudolenti (sovraffatturazioni e fatture per operazioni inesistenti), servendosi dei quali i fratelli Orsi scaricavano sul partner pubblico tutti i costi sostenuti, per convogliare sulle loro imprese tutti i profitti; seguendo uno schema che definiremmo di "socializzazione delle perdite e privatizzazione degli utili".
Anche di questo aspetto del comportamento societario del partner Flora Ambiente esistevano, già prima che Vassallo decidesse di collaborare, numerose testimonianze.

"Proseguendo nel narrare le vicende relative alla costituzione della ECO 4 e agli accordi intercorsi per la relativa attività, ribadisco che l'esistenza di un accordo predeterminato circa l'aggiudicazione della gara alla ATI FLORA AMBIENTE, indetta dal consorzio, era ben nota agli uomini di BIDOGNETTI, come appresi nel corso del primo incontro di cui ho già riferito; io appresi proprio in quel primo incontro di tale decisione e del coinvolgimento delle persone del consorzio per avvantaggiare i f.lli ORSI. Si trattava di notizie che non erano all'epoca note nell'ambiente, che mi colsero di sorpresa (...) Per quanto concerne la questione relativa al maggior costo del servizio svolto dalla società ECO 4 rispetto ad altre società selezionabili attraverso la pubblica gara, devo dire che i costi della società mista ECO 4 erano sostenuti totalmente dal partner consortile, mentre i ricavi facevano capo solo ai privati e cioè ai f.lli ORSI. ***Posso riferire alcuni casi esemplificativi ed emblematici del modo di agire. Come già detto, l'ECO 4 iniziò a ricevere affidamenti da parte dei Comuni pur non essendo minimamente attrezzata a svolgere i relativi servizi e procurai io alcuni mezzi necessari attraverso la SETIA SUD; fu poi necessario incrementare il parco automezzi e ricordo che mi portai personalmente con Michele ORSI presso una rivendita di veicoli, dal concessionario ESPOSITO di Melito, meglio conosciuto come "ex COSCIA e BORRELLI"; fui io a individuare questo rivenditore essendo una persona che già conoscevo e acquistammo da lui 30 automezzi per un ingente valore; i veicoli non furono pagati immediatamente, ma fu soprafatturato il prezzo di acquisto, in modo che l'intero costo fosse assunto dal solo Consorzio lasciando indenne la FLORA AMBIENTE dal sostenere l'impegno economico. In pratica fu stabilito con il rivenditore di non calcolare formalmente lo sconto che poteva essere praticato in relazione all'importanza di questo acquisto, così da poter rientrare del valore dello sconto, restituito brevi manu dal rivenditore ai f.lli ORSI. Spiego come si agì: il valore dei mezzi era orientativamente pari a 4 miliardi di lire, lo scontro praticato dal concessionario era pari a circa il 30%, ma non figurò nella cifra fatturata; quando poi il Consorzio doveva versare le somme al concessionario questi avrebbe restituito la somma in contanti agli ORSI, equivalente al valore dello sconto. Per la precisione, ricordo con chiarezza che Michele ORSI disse al concessionario che avrebbe simulato l'espletamento di lavori di ristrutturazione presso il concessionario stesso, in modo che quest'ultimo pagasse con assegni la differenza tra il fatturato ed il pattuito, in modo da giustificare formalmente il versamento della somma stessa. Questo tipo di soprafatturazione fu praticata anche per le successive opere di attrezzatura degli autocarri secondo accordi presi con una ditta privata della zona di Bari, da me stesso individuata; furono pattuiti lavori per oltre un miliardo e gli accordi furono analoghi a quelli già riferiti, anche se lo sconto questa volta fu inferiore..il titolare di questa ditta, se ricordo bene, si chiama FARELLI Filippo e la regolamentazione e copertura della tangente attraverso la fattura di comodo fu realizzata attraverso la SOCOM riferita a SCHIAVONE Aldo, prestanome degli ORSI. Analoga sovraffatturazione fu attuata attraverso i cassonetti riciclati,***

falsamente fatturati come nuovi (fu individuata la ditta venditrice tramite FARELLI); analoga azione fu ideata elevando fittiziamente le buste paga degli impiegati".

Le dichiarazioni di VASSALLO relative alle prestazioni di "attrezzatura" dei mezzi della Eco4 s.p.a. eseguite dalla ditta intestata a FARELLI Filippo sono state riscontrate da due conversazioni telefoniche. Nella prima (**n. 160 del 5.1.2004)**, intrattenuta con TOMMASINO Carmelo sul tema della gara d'appalto indetta dal Comune di Sessa Aurunca per l'aggiudicazione del servizio di raccolta dei r.s.u., Orsi Sergio afferma: "…*Altamura, Altamura poi è il paese, no, di Filippo FARELLI … Da loro non mi devo mai comprare più un mezzo, da Filippo.... un mezzo di questo* ...". Nella seconda (**n. 2631 del 27.2.2004**) Orsi Sergio domanda a Farelli Filippo se fosse possibile bloccare la riscossione di un assegno. Il FARELLI Filippo lamenta di essere, da un anno e quattro mesi, in attesa del pagamento di alcune macchine.

Sul tema delle sovraffatturazioni, effettuate dagli Orsi per stornare sul partner pubblico gli esborsi destinati alla criminalità organizzata, si sofferma l'ordinanza cautelare n. 45/2009 (procedimento n. 49946/03 N.R.) nella parte in cui suffraga l'addebito di truffa aggravata formulato al capo E) di quel provvedimento (pagg. 316-327).
Un primo momento di specificazione e riscontro di questo profilo delle dichiarazioni di Vassallo è segnato dalle propalazioni di **Di Caterino Emilio *detto Emiliotto*** che, in data 12.11.2008, indicava BIDOGNETTI Claudio, titolare di un'impresa denominata Oleodinamica e cugino dell'odierno collaboratore BIDOGNETTI Domenico, come esattore del contributo versato dagli Orsi al partner camorrista. Nel contempo DI CATERINO assegnava a BIDOGNETTI Claudio il compito di rilasciare false fatture "*che consentissero agli ORSI di far figurare tali tangenti come costo, fatturandole falsamente…In pratica le fatture venivano gonfiate e così si dava copertura formale e giustificazione al versamento della tangente".*
L'assunto trovava la conferma di **Orsi Michele, negli interrogatori resi in data 6.6.2007 e in data 15.6.2007.** L'imprenditore, pur situando la *vicenda nella cornice di una mera dazione estorsiva*, affermava*: "(...) Pensai di rivolgermi a BIDOGNETTI Claudio, un meccanico di Casal di Principe, parente di Francesco; faccio presente che in quel periodo tutte le persone che io sapevo essere referenti di zona per conto di BIDOGNETTI erano state arrestate (mi riferisco a BIDOGNETTI Aniello e a MIELE Massimiliano) e quindi non reperii una persona diversa da Claudio quale possibile interlocutore (...) A partire dal 2001 - 2002 fu deciso di stabilire modalità di pagamento meno pericolose e fu attuato un sistema che prevedeva una sovrafatturazione per il versamento della tangente che durò per svariati anni, fino alla fine del contratto.* ***Poiché usavamo servirci, come Eco4, di un'officina di Casal di Principe gestita da Claudio BIDOGNETTI, appartenente alla omonima famiglia, decidemmo di sovrafatturare i pagamenti calcolando anche il costo della tangente di 10.000 euro mensili. La fattura veniva emessa da Claudio BIDOGNETTI a nome della società OLEODINAMICA, con cadenza mensile; la fattura veniva quindi pagata da Eco4 e Claudio BIDOGNETTI si preoccupava di consegnarla al destinatario….***".

In senso analogo si esprimeva **Orsi Sergio, nell'interrogatorio del 28.6.2007**: "(…) *Faccio presente che individuai "zio Armando" quale referente della famiglia BIDOGNETTI attraverso BIDOGNETTI Claudio, il quale curava l'assistenza e la manutenzione dei mezzi utilizzati per la raccolta dei rsu, essendo l'unico sul territorio.* ***Chiedemmo a BIDOGNETTI Claudio che ci desse informazioni sulla persona a cui rivolgerci e questi ci indicò "zio Armando" (…) venne definita la tangente da versare, quantificandola nella somma di 10.000 euro mensili; dopo il versamento di due o tre rate periodiche nelle mani di FORLANO Pasquale, fu stabilito, su richiesta di "zio Armando", un sistema per versare la somma senza apparire personalmente. Venne quindi da loro chiesto di incrementare artatamente la fattura mensilmente emessa da BIDOGNETTI Claudio, attraverso la società OLEODINAMICA, in modo da includere nella stessa sia il costo del servizio svolto da questa società sia il costo della tangente. La fattura veniva utilizzata dall'Eco4 s.p.a. e computata quale costo, includendo dunque anche la tangente…".***

Veniva quindi reperita nelle scritture contabili delle ECO4 s.p.a. la traccia delle fatture emesse, negli anni 2000 – 2004, dalla Oleodinamica per un ammontare complessivo superiore al milione di euro. Il cerchio si chiudeva con alcuni reperti intercettivi.

Ancora nell'interrogatorio del 18 giugno 2008 Vassallo riprendeva il tema delle connivenze che gli Orsi potevano vantare nell'ambiente bancario. Tema anche questo, per così dire, pre-riscontrato.

"…per quanto concerne i rapporti con funzionari della BNL, ricordo che i f.lli ORSI ***conoscevano il direttore della BNL di Caserta che poi fu trasferito a Napoli, il quale aveva garantito e garantiva dei favori agli ORSI, in particolare per quanto concerneva gli affidamenti. Gli ORSI non avevano inizialmente disponibilità finanziarie, né godevano di persone in grado di garantire i fidi e gli affidamenti bancari, sicché fu per loro necessario reperire funzionari compiacenti presso gli istituti di credito tra cui questa persona di cui ho già riferito.*** *Oltre a questo direttore, vi era anche GOLINO che favoriva nelle operazioni gli ORSI. Io stesso ebbi a garantire delle fideiussioni personali nei rapporti creditizi che i f.lli ORSI aprirono presso il Monte dei Paschi di Siena – ag. di Aversa - a favore sia della SOCOM che della FLORA AMBIENTE…".*

Il miglior riscontro delle dichiarazioni rese da Vassallo sulle relazioni corruttive allacciate da Orsi con funzionari della BNL di Caserta si rinviene nelle pagg. 512 – 551 dell'ordinanza cautelare n. 707/2007.
Vi si ricostruisce un'ingegnosa frode che ha comportato per la società mista un'esposizione debitoria pari a 4milioni700mila euro, derivata dalla combinazione dei seguenti artifici: l'emissione di fatture ideologicamente false da parte delle società Flora Ambiente e Ambiente e Territorio s.r.l. nei confronti del Consorzio; il riconoscimento (frutto di deceptio) del debito da parte del Consorzio Pubblico CE4; la cessione del credito gonfiato, indebitamente riconosciuto dagli organi consortili, alla BNL; l'utilizzo di detto credito ceduto quale garanzia atipica per l'apertura di una linea di credito e per lo sconto delle false fatture; la contraffazione di un verbale delle adunanze e deliberazioni del Consorzio datato 14.7.2004, riflettente l'accettazione da parte del (presunto) debitore della cessione di credito operata dagli Orsi nei confronti dell'istituto bancario. All'esito di questa operazione il Consorzio si ritrovava debitore della BNL per l'ammontare sopra indicato, mentre gli Orsi ricevevano dallo stesso istituto bancario l'apertura di una linea di credito per complessivi 3milioni700mila euro. Le pagg. 528 – 540 espongono elementi intercettivi e copiosi riscontri (tra i quali le dichiarazioni rese da ORSI Michele in data 21 giugno 2007) circa la relazione 'corruttiva' allacciata da ORSI Michele con alcuni funzionari della BNL di Caserta coinvolti nell'operazione.

Tra le assunzioni fittizie operate per assecondare i desiderata delle organizzazioni criminali di zona, Vassallo rammentava - nell'interrogatorio del 18 giugno 2008 - quella di un familiare di Antonio Mezzero, esponente del clan imperante in Grazzanise e amico di Michele Orsi.

A proposito delle ***assunzioni fittizie di persone legate alla criminalità organizzata****, ricordo un familiare di MEZZERO Antonio, anche questi di cognome MEZZERO, il quale si presentò direttamente presso l'ufficio della SOCOM, a Santa Maria Capua Vetere, affermando di essere dipendente della società affidataria del servizio su Castelvolturno prima dell'appalto alla ECO 4. Ricordo che MEZZERO fece riferimento al fatto che Sergio ORSI era già a conoscenza della sua richiesta e chiese direttamente che il passaggio di cantiere lo includesse; noi in realtà non lo avevamo mai visto al lavoro, ma si decise comunque di assumerlo fittiziamente; in particolare Michele disse che avrebbe parlato direttamente con MEZZERO Antonio, con cui era*

amico, e che avrebbero deciso congiuntamente di vedere dove impiegarlo fittiziamente; non so dire dove venne poi assunto, credo a Grazzanise, almeno questi furono i discorsi dell'epoca. A rilettura: ricordo che Sergio ORSI suggerì a MEZZERO di mettersi in malattia, per farlo poi assumere dopo il passaggio di cantiere, così da giustificare la sua assenza dal cantiere…

Il MEZZERO Antonio richiamato dal collaboratore Vassallo s'identifica in MEZZERO Antonio, nato a Grazanise il 25.06.1962. Fino alla data del 12.03.1999, giorno della sua cattura avvenuta a seguito di periodo di latitanza, era il capozona per conto del clan dei Casalesi di Grazzanise e zone limitrofe. Egli risultava strettamente legato al super latitante **ZAGARIA Michele** ed al braccio destro di questi, **NOBIS Salvatore** detto "scintilla". **MEZZERO Antonio**, allo stato, risulta essere detenuto in quanto condannato alla pena dell'ergastolo per un omicidio di stampo mafioso. Dall'interrogazione della banca dati carceraria risulta che **MEZZERO** ha scontato i seguenti periodi detentivi:
- dal 7.11.1990 al 16.04.1991;
- dal 17.04.1992 al 19.01.1994;
- dal 4.7.1995 al 27.10.1995;
- dal 5.5.1996 al 16.04.1998;
- dal 12.03.1999 ad oggi.

Il rapporto esistente tra ORSI Michele e il boss Mezzero è attestato da una segnalazione del 15/9/1987, connessa al fatto di essersi accompagnato con MEZZERO Antonio, all'interno di un'autovettura condotta da quest'ultimo, ove veniva rinvenuta una pistola clandestina (vedi inf. G. di Finanza del 14/4/2005, all. 16).
MEZZERO era stato più volte tratto in arresto, da ultimo in esecuzione dell'o.c.c. n. 7279/99 mod.21 - n. 5300/99 R.GIP, n. 514/02 R.Mis.Caut. emessa dal Tribunale di Napoli - uff. del G.I.P. - in data 26.11.2002 per i reati di associazione mafiosa, omicidio, estorsione, violazione legge sulle armi, truffa ed altro.
Il congiunto di MEZZERO Antonio effettivamente assunto presso la ECO4 s'identifica, stando al libro matricola della società, in MEZZERO Giuseppe.

Nell'**interrogatorio del 24 giugno 2008** Vassallo rievocava due relazioni corruttive allacciate dagli Orsi con l'indagato Bruno Orrico e con l'ispettore del lavoro Salvatore Andreozzi. Si tratta di relazioni importanti perché garantiscono agli imprenditori camorristi: il rilascio del certificato antimafia richiesto da alcuni dei comuni ai quali la ECO4 si proponeva per la gestione della raccolta; l'autorizzazione a sversamenti non consentibili, per ragioni tecniche accuratamente descritte dal collaboratore, presso la discarica di Parco Saurino; attestazioni di esaurimento della capacità recettiva di discariche gestite da consorzi concorrenti, con il conseguente incremento degli sversamenti effettuati nella discarica gestita dalla ECO 4; comportamenti omissivi che garantivano agli Orsi l'indisturbata perpetrazione delle loro frodi. Anche l'esistenza di queste relazioni risulta da evidenze granitiche, acquisite prima che Vassallo cominciasse a parlare.

*"Mi sono ricordato, in riferimento all'ECO 4 e quindi voglio aggiungere, che **c'è una persona della Prefettura di Caserta che ho conosciuto: si tratta del dottore Orrico, all'epoca vice commissario per l'emergenza rifiuti di Caserta**. Ricordo che alla fine degli anni '90 - inizio 2000 una mattina ci incontrammo per pranzo io, Michele e Sergio Orsi, con il dottore Orrigo e una giovane donna la sua amante, in un ristorante tra Capua e l'ingresso dell'A1, nei pressi della strada direzione Trifrisco. Ricordo che il ristorante si chiamava La stalla, La mangiatoia o cosa simile e che di fronte c'era un mercato di meloni. Non ricordo bene il contenuto della riunione, ma **si doveva parlare del certificato antimafia che gli Orsi (Michele e Sergio) non riuscivano a ottenere e si erano rivolti in precedenza ad un'altra persona, tale Salvatore Andreozzi ispettore***

<u>del lavoro e facente parte della commissione per il rilascio del certificato antimafia.</u> *In relazione a quest'ultimo soggetto, ricordo che una sera ci vedemmo ad Aversa piazza Lucarelli io, Salvatore Andreozzi e Michele Orsi; in quella occasione ricordo che l'Andreozzi estrasse dalla propria borsa dei fascicoli, tra cui quello che interessava l'Eco 4, dove c'erano i pareri espressi dalle altre forze di Polizia per l'informativa del certificato Antimafia, e lo assicurò che nella prossima seduta avrebbe fatte carte false affinché gli fosse rilasciato. Già conoscevo Salvatore Andreozzi che mi aveva chiesto più volte del danaro che in due tre occasioni gli ho dato sempre fra il 1999 ed il 2000 in cambio del parere favorevole per il rilascio del certificato antimafia della Setia sud ed altre pratiche che ci interessavano come per la 488. Analogo comportamento, come vi ho riferito, ANDREOZZI ha avuto con i fratelli ORSI. A tal proposito, tornando all'incontro di Piazza Lucarelli di Aversa, ricordo che l'Andreozzi riferì all'Orsi che a seguito dei passaggi di cantieri la commissione della Prefettura aveva riscontrato che l'Orsi aveva assunto diversi soggetti affiliati a famiglie camorristiche come tale Mezzero e altri di Mondragone di cui adesso non ricordo il nome ma di cui già ho parlato. Adesso che mi dite il nome ricordo uno di questi nominativi: era il figlio di Fragnoli. Questo era un motivo ostativo per il rilascio della certificazione, secondo quanto indicato dalla relazione della Commissione, e pertanto l'Andreozzi, che aveva il compito di verificare i libri matricola della società dell'Orsi, disse di licenziarli. L'Orsi Michele riferì che non poteva perché temeva rappresaglie ma* ***l'Andreozzi disse testualmente: "licenziamoli, prendiamoci il certificato antimafia e dopo li riassumi."*** *Il Michele Orsi mi disse che in cambio delle notizie dategli dell'Andreozzi gli aveva versato del danaro in più occasioni ed in particolare due tremila euro ogni volta che lo vedeva. Voglio riferirvi il numero di cellulare di Salvatore Andreozzi che è 339 11 69632; lo stesso aveva una 190 Mercedes grigio metallizzata che gli aveva regalato tale Dello Margio di Gricignano, che ha una impresa di trivellazioni del quale faceva il consulente e percepiva uno stipendio e si fece da me dare le ruote dalla 190 di mio padre che doveva essere rottamata. Tornando al* ***dottore Orrico, ricordo che questi era il vice Commissario di Governo per l'Emergenza rifiuti in Campania ed era colui che doveva attestare la regolarità dei lavori sulla discarica Parco Saurino, che era gestita da Sergio e Michele Orsi.*** *In cambio di tale attestazione, durante il pranzo presso il ristorante che prima ho indicato,* ***Orrigo chiese a Michele Orsi di completare i lavori sulla villa della signora, l'amante del dottor Orrico, che furono poi fatti come mi disse il Michele per un valore di 50 - 60 milioni di lire, e di assumere sulla discarica un suo parente di cui non ricordo il nome.*** *Seppi poi dai miei fratelli Nicola e Antonio che lavoravano presso il consorzio che effettivamente fu assunto come responsabile della discarica ed era originario di Torre del Greco o Annunziata. In particolare ricordo che questi si dimise dopo un po' in quanto non voleva attestare falsamente dei noli di automezzi e l'utilizzo di questi sul Parco Saurino, discarica della società dei fratelli Orsi. In realtà questi automezzi lavorano a Siena o Avezzano presso cantieri edili degli Orsi o addirittura in officina, fermi per riparazione. Mi spiego meglio.* ***I fratelli Orsi, per sottrarre soldi dalle casse del CE 4, fatturavano con il consorzio Geoeco noleggi di escavatori, bob cat, autocarri ecc. che in realtà stavano in officina per autorimessa oppure stavano lavorando presso altri cantieri di Siena e di Avezzano, a favore di proprie ditte…come Flora Ambiente e Socom.*** *Di questi falsi noleggi erano ben a conoscenza Peppe Valente e l'architetto De Biasio. L'Orrico in cambio dei favori ricevuti degli Orsi non ha mai creato problemi agli Orsi e anzi ha consentito il raddoppio del quantitativo di rifiuti da smaltire presso la discarica degli Orsi di Parco Saurino, attestando che la discarica Geoeco che si trova a San Tammaro aveva esaurito i quantitativi smaltibili, non rilevando altresì - per favorire gli Orsi - che*

anche la loro discarica di Parco Saurino era esaurita, cosi consentendo a tale discarica di accogliere i rifiuti della Geoeco".

L'interrogatorio del 25 giugno 2008 è dedicato al tema del traffico illecito di rifiuti speciali e alla complicità offerta dai Consorzi campani. La discarica Parco Saurino della ECO4 riceveva ad esempio rifiuti cimiteriali e riuscì ad ottenere, grazie al sistematico rapporto corruttivo allacciato dagli Orsi con il già mentovato Orrico, un'autorizzazione *ad horas* per la ricezione di questa tipologia di rifiuto.

"...Presso la "NOVAMBIENTE", come anche presso l'ALMA di Luca AVOLIO e presso le altre discariche, come anche quella di Parco Saurino, sono stati scaricati sistematicamente per tutto il tempo in cui le stesse hanno funzionato - lecitamente e illecitamente – anche i rifiuti cimiteriali. ***Infatti, in un primo periodo, i rifiuti cimiteriali sono stati smaltiti in maniera clandestina e successivamente in forza di vere e proprie autorizzazioni fornite dai Consorzi. Ovviamente, queste autorizzazioni non avevano alcuna validità sotto il profilo tecnico in quanto le discariche non erano minimamente attrezzate per ricevere questi tipi di rifiuti. Basti pensare che le discariche non erano adeguate a ricevere i rifiuti solidi urbani, figurarsi i rifiuti cimiteriali; e ciò anche in considerazione del fatto che, oltre ai fiori ed ai lumini che erano le categorie previste, sistematicamente giungeva alle discariche anche materiale proveniente dalle esumazioni, bare e parti di esse, sia di legno che di zinco.*** *Ricordo che, quando abbiamo aperto la discarica di "Parco Saurino" dell'ECO/4, già il primo giorno si pose il problema dei rifiuti cimiteriali, in quanto era arrivato un carico di rifiuti cimiteriali insieme ai carichi di rifiuti solidi urbani.* ***Il carico era stato scaricato e immediatamente bloccato dagli addetti; eravamo presenti sul posto io e Sergio ORSI, nonché Peppe VALENTE. Immediatamente, Sergio ORSI e VALENTE telefonarono a ORRICO della Prefettura (che a quel tempo era vicecommissario dell'Emergenza Rifiuti) e si fecero autorizzare a ricevere anche questo tipo di rifiuto.*** *Nell'occasione, Sergio ORSI fece pressioni a ORRICO per ottenere tale autorizzazione nel senso che fece valere la preesistenza di un rapporto sistematico di corruzione tra lo stesso Sergio ORSI e ORRICO;* ***di tale rapporto di sistematica corruzione ho già accennato in altri verbali.*** *C'è anche da dire che un parente di ORRICO era stato messo quale responsabile della discarica per attestare la conformità dei carichi e la corretta gestione della discarica; tale responsabile era stato assunto su richiesta di ORRICO".*

Nell'interrogatorio del 10 luglio 2008 Gaetano Vassallo ritorna sui progetti espansivi della ECO4 e sull'ambizione dei creare un C.I.R. consortile, completamente autosufficiente, nel quale gli Orsi avrebbero potuto monopolizzare tutti i servizi: dalla raccolta degli rr.ss.uu. municipali, alla tritovagliatura del rifiuto, alla gestione delle discariche, alla creazione di nuovi invasi per lo sversamento dei rifiuti, fino all'esazione della T.A.R.S.U. di fatto aggiudicata alla ECO4 da alcuni Comuni. Fa la sua comparsa, in questo quadro, anche l'*intenzione* di Sergio Orsi di realizzare un termovalorizzatore in Santa Maria La Fossa.

"...come già riferito nel corso di precedenti interrogatori, ***decisi di seguire il progetto di Sergio ORSI, realizzato attraverso la società ECO 4, perché altamente redditizio e molto rilevante.*** *Il progetto iniziale, parlo del periodo in cui ebbi ad incontrare Sergio ORSI - risalente ai mesi finali dell'anno 1999 - prevedeva che* ***la costituenda società mista (poi denominata ECO 4), avrebbe dovuto progettare e gestire un ciclo integrato dei rifiuti in ambito consortile, ossia ricadente sui comuni costituenti il consorzio CE***

4…Il progetto prevedeva che la società mista ricevesse tutti gli affidamenti dei servizi di raccolta degli RSU comunali, predisponesse e realizzasse la raccolta differenziata dal cassonetto e gestisse le discariche ove smaltire i rifiuti comunali stessi. Ovviamente ***ciò avrebbe poi comportato la gestione dei ruoli, da parte di ECO 4, per l'esazione della TAR.SU, cosa che fece poi su alcuni Comuni****.* ***Questo progetto non prevedeva originariamente, a mia memoria, nessuna realizzazione di impianti di termovalorizzazione e di CDR.*** *Come ho già detto era un progetto particolarmente allettante e per questo consigliai ai miei referenti appartenenti al gruppo BIDOGNETTI di seguire gli ORSI e di entrare nell'affare…****Già all'origine il progetto prevedeva l'individuazione delle discariche in Parco Saurino (quella che poi sarà effettivamente la discarica gestita da ECO 4) e in S. Maria la Fossa.*** *La prima discarica insisteva su una ex discarica dismessa e non presentava delle volumetrie così ampie da poter sostenere per lungo tempo lo smaltimento;* ***la seconda discarica di S. Maria la Fossa, invece, doveva essere una cava o una gross**a vallata, interamente disponibile previo attrezzamento.* *Posso dire peraltro che,* ***a partire da un certo periodo successivo alla mia estromissione dalla società mista (quale socio occulto), Sergio ORSI mi parlò della previsione di realizzare un termovalorizzatore a Santa Maria la Fossa; l'interesse era quello di gestire il termovalorizzatore, ma non so dire se la realizzazione di un termovalorizzatore implicasse una revisione del CIR originariamente progettato dal CE 4 e per esso dall'ECO 4; oppure costituisse semplicemente un modo per localizzare l'impianto di termovalorizzazione in un sito facente capo territorialmente al consorzio stesso. Sempre in tempi successivi, effettivamente l'ECO 4 avrebbe dovuto realizzare un impianto di selezione di materiali presso la discarica Parco Saurino;*** *si trattava di un impianto che aveva lo scopo di selezionare e suddividere i rifiuti secchi dagli umidi, per ridurre il carico di rifiuti da smaltire. Effettivamente questo tipo di selezione prelude a uno smaltimento anche attraverso la termovalorizzazione, ma non so dire se il progetto iniziale includesse anche questa fase ultima.* ***Certamente Sergio ORSI mi parlò dell'intenzione di realizzare un termovalorizzatore".***

Per rendere l'idea di quale solida conferma abbia trovato l'assunto di Vassallo inerente l'importanza strategica assunta per la ECO4 dal sito denominato Parco Saurino 2, basti pensare alle 18 ordinanze emesse dal sub commissario Facchi tra il 2001 e il 2004 con le quali si autorizzavano una serie di impianti destinati a realizzare quel C.I.R. parallelo funzionale alla neutralizzazione di fatto dell'esclusiva contrattualmente riconosciuta all'ATI FIBE – FISIA ITALIMPIANTI. Nella sponsorizzazione politica di questo progetto la Pubblica Accusa fa consistere il principale 'favore' concesso da Cosentino al clan dei casalesi (vedi sul punto l'annotazione di P.G. del Nucleo Carabinieri per la Tutela dell'ambiente di Roma in data 20.4.2009, trasmessa a questo Ufficio con nota del 13.5.2009):

l'***Ordinanza n. 398***, del *14/8/2001*, di realizzazione di un impianto di **"biostabilizzazione"** ;

l'***Ordinanza n. 570***, del *21/11/2001*, di realizzazione dell'installazione di un **"impianto di pressatura ed imballatura"** dei rifiuti;

l'***Ordinanza n. 001***, del *14/1/2002*, di **esproprio dei terreni e realizzazione dell'ampliamento della discarica di "Parco Saurino"**;

l'***Ordinanza n. 004***, del 11/2/2002, dell'**esercizio dell'impianto di "stabilizzazione"**;

l'***Ordinanza n. 009***, del 22/02/2002, dell'esercizio dell'impianto di "tritovagliatura";

l'***Ordinanza n. 019***, del 11/4/2002, dell'esercizio dell'impianto di "pressatura e rotoimballatura";

l'***Ordinanza n. 051***, del 13/9/2002, di autorizzazione all'**integrazione dell'impianto di "biostabilizzazione"** ;

l'Ordinanza n. 055*, del 23/10/2002,* di autorizzazione alla realizzazione delle opere previste per l'allocazione di **due linee di biocelle per la fase di biossidazione della frazione organica proveniente dalla raccolta differenziata***;*

l'***Ordinanza n. 63***, del 17/12/2002, di autorizzazione, ex art. 28 D. lgs.vo 22/97, all'**esercizio**

provvisorio del bacino di stoccaggio definitivo di "Ampliamento della Parco Saurino2';

l'***Ordinanza n. 003,*** del 05/2/2003, di autorizzazione alla realizzazione del "Centro Integrato Recupero rifiuti*" (C.I.R.R.);*

l'***Ordinanza n. 022,*** del 28/03/2003, di **autorizzazione alla redazione di un progetto di Bonifica e Riqualificazione ambientale delle aree di P.co Saurino, con recupero volumetrico degli spazi frapposti tra la discarica di "P.co Saurino 2" e lo stoccaggio definitivo "Ampliamento di P.co Saurino***";*

l'***Ordinanza n. 051***, del 09/6/2003, di **approvazione il progetto di Bonifica, riqualificazione ambientale e geomorfologia della discarica "P.co Saurino 2" e ampliamento di "P.co Saurino***" ;*

l'***Ordinanza n. 065,*** del 16/7/2003, di autorizzazione, in via provvisoria, l'utilizzo del recupero volumetrico di cui al progetto di "Bonifica, riqualificazione ambientale e geormofologica della discarica di "P.co Saurino", stimati in circa 405.000 mc. *;*

l'***Ordinanza n. 97,*** del 27/10/2003, di **autorizzazione la spesa per l'acquisto del "mescolatore mobile Doppstadt DM215", della ICOM MILANO Spa***;*

l'***Ordinanza n. 85,*** del 19/9/2003, di autorizzazione ex art. 28 D. lgs.vo 22/97, ad utilizzare l'impianto della ditta "Natura Ambiente", sito nel comune di Castelvolturno, da parte del CE/4 per il deposito temporaneo e per la trasferenza dei rifiuti urbani prodotti dai comuni della provincia di Caserta;

l'***Ordinanza n. 100,*** del 05/11/2003, di **approvazione ed autorizzazione il progetto esecutivo presentato dal Consorzio CE/4 relativo al "2° lotto – Ampliamento discarica***;*

l'***Ordinanza n. 001,*** del 09/1/2004, di **autorizzazione all'ulteriore utilizzo per il conferimento delle frazioni provenienti dagli impianti di CDR e di tritovagliatura***;*

l'***Ordinanza n. 027,*** del 20/2/2004, di **autorizzazione ad utilizzare, per la trasferenza dei rifiuti urbani prodotti dai comuni consorziati, l'area già autorizzata e destinata alla rotoimballatura**.

Quindi Vassallo parla delle difficoltà incontrate dagli Orsi, allorquando alcuni dei Comuni (Vassallo ricorda distintamente il caso di Castel Volturno) ebbero a chieder loro la 'certificazione antimafia'.

"...Ho già riferito in ordine ai problemi che si rilevarono per il rilascio della certificazione antimafia all'ECO 4, problemi che collego agli affidamenti dei servizi di raccolta dei rifiuti da parte dei singoli comuni o alcuno di essi. Per quel che concerne invece la partecipazione alla gara indetta da CE 4 da parte della FLORA AMBIENTE, ricordo che si doveva trattare di una mera autocertificazione; in ogni caso ritengo che la FLORA AMBIENTE fosse una società "apparentemente pulita" e credo che possa non aver avuto problemi. Il problema del rilascio della certificazione antimafia alla ECO 4 si collegò alla nomina di Sergio ORSI quale amministratore della ECO 4 e i problemi sorsero per questo. ***Ricordando meglio, il problema della certificazione antimafia nacque in relazione all'affidamento alla ECO 4 del servizio di raccolta di RSU da parte del comune di Castelvolturno. Rammento personalmente di aver questionato e litigato con TRAETTINO, responsabile dell'ufficio ecologia del Comune di Castel Volturno, il quale condizionava in modo rigoroso l'affidamento del servizio al rilascio della certificazione antimafia; certamente questi aveva ragione, ma io personalmente spinsi in modo che fosse affidato il servizio a prescindere dalla certificazione stessa.*** *Stessa posizione l'avevano gli amministratori comunali e in particolare l'assessore alla N.U. dr. SCHIAVONE…*

L'accaparramento dei servizi comunali di raccolta richiese in qualche caso la spendita delle referenze camorristiche della ECO4. Accadde ad esempio a Castel Volturno, dove lo stesso Vassallo s'impegnò, su incarico di Sergio Orsi, a persuadere i titolari della COVIM (Pierino Barbieri e Lello Sarnataro) ad abbandonare il campo.

"Per quanto riguarda gli affidamenti del servizio raccolta di RSU dei comuni di Mondragone e Castelvolturno, prima che fossero affidati alla ECO 4, gli stessi era in capo alla COVIM. Fu dunque necessario convincere i titolari della COVIM a cessare l'attività su questi comuni in modo che l'ECO 4 li sostituisse. Fu Sergio ORSI personalmente a richiedermi di avvicinare i titolari della COVIM Pierino BARBIERI e Lello SARNATARO, in modo da convincerli ad abbandonare il campo alla ECO 4. Costoro evidentemente non avevano tale intenzione ed io stesso, insieme allo stesso Sergio ORSI, incontrai i due titolari presso il bar SCALZONE di Castel Volturno; lì feci chiaramente riferimento al fatto che in quella zona si era deciso che dovesse operare ECO 4 e si trattava di un modo chiaro per far capire che vi erano delle decisioni da parte di gruppi potenti che non potevano essere contraddetti, gruppi facenti capo a organizzazioni mafiose. *I titolari della COVIM resistevano all'allontanamento e quindi fu necessario intervenire personalmente per convincerli.* ***Sia SARNATARO che BARBIERI sapevano che io ero legato a BIDOGNETTI e ben sapevano altresì che il gruppo BIDOGNETTI aveva scelto Sergio ORSI quale loro referente in quella zona****...Posso dire peraltro che ORSI Sergio fu in quella occasione accomodante nei riguardi dei titolari, proponendogli anche di noleggiare i veicoli della COVIM, non avendo peraltro mezzi disponibili per sostenere il servizio.* ***SARNATARO e BARBIERI non avevano evidentemente capito che dovevano risolvere i loro rapporti contrattuali con i due comuni e per questo fu necessario spiegarglielo apertamente; la presenza di Sergio era appunto legata a dimostrare loro che questa era la determinazione del clan."***

L'interrogatorio del 10 luglio 2008 si chiude con importanti precisazioni circa: il riferito ruolo agevolatore di Orrico, con la specificazione de: la vicenda inerente la chiusura per esaurimento della discarica gestita dal consorzio CE2 in San Tammaro; i termini esatti della relazione corruttiva allacciata dagli Orsi con questo funzionario.
Quindi Vassallo illustra i profili di alcuni dei criminali 'puri' del gruppo Bidognetti che ha indicato nei precedenti interrogatori o che assumeranno rilievo per la comprensione delle indagini di riscontro: VERDE Enrico, capozona 'cicciottiano' di Villa Literno; ALFIERO Nicola detto 'capretto', munito di ruoli di comando in Castel Volturno; MIELE Massimiliano e BORRATA Francesco, già indicati come latori del messaggio di Bidognetti di mettersi a disposizione degli Orsi.

(*...) in uno scorso interrogatorio ho parlato di* ***un impegno profuso dal dr. ORRICO per favorire i f.lli ORSI****; tra queste agevolazioni ricordo la chiusura della discarica aperta a S. Tammaro in modo da consentire lo sfruttamento esclusivo e lo smaltimento presso la sola discarica Parco Saurino 2. Per la precisione le due discariche si trovavano in luoghi limitrofi l'uno all'altro ma facevano capo a due consorzi diversi: la discarica di S. Tammaro faceva capo alla CE 2 e per esso alla GEOECO, mentre Parco Saurino 2 faceva capo al Consorzio CE 4 e per esso alla ECO 4. ORRICO, su pressioni degli ORSI, riuscì a far chiudere la discarica di S. Tammaro per esaurimento delle volumetrie e consentire dunque l'esclusivo smaltimento presso la Saurino 2; fu proprio ORRICO l'artefice. L'espediente fu quello di far apparire che del provvedimento beneficiasse soltanto il consorzio CE 4 e non invece la società di gestione, società mista, ECO 4..nell'interrogatorio del 29 maggio 2008, ho riferito in ordine allo smaltimento di rifiuti illegali avvenuti presso la discarica Saurino 1; faccio presente che si trattava di rifiuti prodotti da opere di lavorazione dei f.lli ORSI, i quali gestivano una impresa edile ed operavano in Avezzano e Siena, rifiuti che venivano appunto smaltiti presso quella discarica. Ivi erano smaltiti anche rifiuti di diversi*

produttori, ricordo tra questi quelli relativi alla SIRTE, società di telefonia (...) ***per quanto concerne gli aiuti forniti dal dr. ORRICO di cui ho già parlato, questi fu remunerato sia con del denaro consegnato attraverso il suo uomo che lavorava presso la ECO 4, proprio presso la discarica Saurino 1, sia attraverso i lavori che vennero realizzati presso l'abitazione della sua amante, come già ho riferito in altro precedente interrogatorio***
Il nome di VERDE Enrico *che mi fa l'Ufficio corrisponde al luogotenente per BIDOGNETTI nella zona di Villa Literno. Quest'ultimo comune fa capo al consorzio CE 2 e VERDE Enrico era il capo zona di Villa Literno*
Il cognome ALFIERO *che mi fa l'Ufficio corrisponde al cognome di Nicola ALFIERO detto capretto; si tratta di un affiliato del clan BIDOGNETTI e aveva ruoli di comando sul litorale domizio, zona di Castel Volturno. Era legato anche a FRAGNOLI, e con ciò mi riferisco al padre, detenuto in carcere a S. Maria C.V., ove fui io stesso detenuto insieme a lui ed uno dei suoi figli. Fu DI MAIO Francesco, alias ciccio 'o luongo, a presentarmelo proprio in carcere e mi raccomandò a lui indicandomi quale "compariello", in modo da far comprendere che ero una persona a loro vicina. Io conobbi DI MAIO proprio dentro il carcere allorché questi mi si avvicinò, mi prese sotto braccio e mi disse che aveva ricevuto l'imbasciata di Bernardo CIRILLO il quale gli aveva detto di mettersi a mia disposizione perché ero un amico loro. Sono stato detenuto a S. Maria C.V. nel gennaio 2002 per circa 15 giorni.*
In un precedente interrogatorio ho parlato di ***MIELE Massimiliano e tale BORRATO o BORRATA****; quest'ultimo era una persona che in quel periodo si accompagnava sempre a MIELE Massimiliano ed ebbi modo di incontrarlo 6 - 7 volte; nei rapporti tra lui e MIELE appariva come se il BORRATA avesse un ruolo subordinato, sembrava il suo autista, ma comunque anche lui s'interessava attivamente delle vicende afferenti alla ECO 4. BORRATA fu poi arrestato e comunque non ebbi più modo di incontrarlo a partire dal mio allontanamento dalla società con gli ORSI".*

Infine Vassallo adduce argomentazioni convincenti a sostegno dell'assunto per il quale **VALENTE e DE BIASIO, i soggetti situati al vertice della ECO4 e del superconsorzio IMPREGECO** (del quale parleremo in seguito)**,** erano perfettamente consapevoli del suo ruolo di rappresentante occulto del gruppo Bidognetti nella società mista.

*"**Per quanto riguarda il presidente del consorzio CE 4, VALENTE Giuseppe, ebbi a conoscerlo tramite Sergio ORSI e da allora ci fu una assidua frequentazione, direi amicizia tra noi, anche separatamente, ci incontravamo spesso, così come accadeva riguardo a Claudio DE BIASIO. Erano tutti a conoscenza che io fossi una persona molto vicina a BIDOGNETTI Francesco e che fossi stato prescelto per aiutarli proprio dal BIDOGNETTI stesso attraverso le persone già indicate negli altri interrogatori. Faccio presente che era talmente chiara la mia origine e il mio legame che VALENTE Giuseppe e ORSI Michele, diversamente da ciò che pensava di fare Sergio ORSI, ritennero di evitare di farmi figurare all'interno della ECO 4, temendo che i miei legami potessero incidere negativamente sullo sviluppo della società; è per questo che venni assunto presso la SOCOM degli ORSI in modo da agire nella sostanza ma non apparire nelle forme. A proposito di VALENTE Giuseppe lo ricordo anche come il mio primo cliente in assoluto presso il mio albergo Vassallo Park Hotel; ha preso una stanza, per qualche ora, e non lo feci pagare. Si trattava del mese di luglio del 2004".***

Nell'interrogatorio del 28 agosto 2008 (dedicato per la gran parte all'odierno indagato e

perciò integralmente riportato nella parte iniziale di questa esposizione) Vassallo ribadisce il fatto che fu Bernardo Cirillo a chiedergli di mettersi a disposizione degli Orsi. E non può sfuggire che lo stesso Cirillo presentò Vassallo all'indagato Cosentino e fu da questi indicato, in occasione di quella riunione elettorale avvenuta nel 1990, come il tramite del quale Vassallo avrebbe dovuto servirsi per rappresentare al politico le proprie necessità.

"…Fui chiamato dal Bernardo Cirillo che mi disse che dovevo mettermi a disposizione dei fratelli Orsi nel settore dei rifiuti. Successivamente ebbi numerosi incontri con gli Orsi e con gli altri, tra cui Miele Massimiliano – incontri di cui ho già parlato – al fine di incanalare e di avviare la costituzione della società mista che sarebbe poi stata denominata Eco4…"

I riscontri raccolti sulle dichiarazioni di Vassallo inerenti la genesi mafiosa, le dinamiche intimidatorie, le strategie espansive della società mista ECO4 sono di consistenza tale da fungere, per moltissimi aspetti, da prova autosufficiente di questa parte del ragionamento accusatorio.
Il materiale ha varia natura (intercettivo, dichiarativo, documentale) e risale spesso a epoca anteriore rispetto alla scelta collaborativa di Vassallo.
Può affermarsi che la buona memoria del collaboratore e l'effettività delle sue conoscenze (anche tecniche) hanno in molti casi soltanto propiziato il recupero di elementi la cui significatività non era ancora emersa per l'assenza di un racconto capace di cucirli in una sintassi leggibile.
Ma procediamo con ordine.

7. Le intercettazioni telefoniche del 2000 e i riscontri documentali delle dichiarazioni di Gaetano Vassallo sull'origine mafiosa di Eco4

Il **servizio di intercettazione telefonica compendiato nell'informativa redatta in data 20.11.2008, n. 462/166 – 5 di prot. 1999, dal Comando Provinciale di Caserta** testimonia il decisivo sostegno economico e "militare" fornito dalla famiglia Bidognetti, all'A.T.I. capeggiata da Flora Ambiente, onde assicurare alla stessa l'aggiudicazione della gara indetta dal Consorzio Ce4 per la scelta del partner privato della costituenda società mista.
Questo sostegno veniva fornito, come si è anticipato e come Vassallo ha spiegato, a partire da un'epoca anteriore all'approvazione e alla pubblicazione del bando di gara (28.3 – 19.4.2000). Il che non può che dimostrare la preesistenza, rispetto alla vicenda di corruzione e turbativa procedurale, dell'accordo camorristico tra gli Orsi e i bidognettiani.

La prima conversazione interessante è la n. 33 del 25.2.2000, avvenuta alle ore 17.31 tra Miele Massimiliano (soggetto che Vassallo indicherà otto anni dopo come protagonista della fase iniziale del patto societario Orsi - Bidognetti) e il famigerato Setola Giuseppe.
Il primo informava il secondo delle attività in corso per concretizzare il 'conferimento' del gruppo camorristico alla società con gli Orsi. E' chiaro il riferimento all'ambizione della società costituenda di acquisire l'affidamento del servizio di raccolta dei rifiuti solidi urbani in plurimi Comuni del casertano. Così come non può sfuggire il riferimento il ruolo di un *amico* a nome *Gaetano* (che, a questo punto, possiamo ben identificare nel dichiarante Vassallo) il quale fornirà alla società appena costituita (Flora Ambiente) i 'camion' abilitati al servizio di trasporto dei rifiuti:

"***…si sta comprando pure i camion…i cosi da quel GAETANO là, quell'amico…e perché quello… per prendersi la società di quello, si deve comprare per forza pure i camion…perché tiene già i decreti per fare la raccolta…come soldi non ci vuole assai, il problema è cartaceo, roba di carte che è problematica, hai capito?…quelli tutti i camion, tutto cose, pare che sono 140 milioni… cinque camion, sei camion…sono quei camion dell'immondizia, sono vecchi diciamo, non è che sono camion nuovi……mo' a lui gli servono perché tengono il decreto sopra per fare la raccolta hai capito?...se li deve prendere per forza perché diciamo subito può incominciare a lavorare con quei decreti…man mano che lavora, prende l'appalto e se li compra, ogni Comune si deve comprare…***".

E' significativa poi **la conversazione telefonica n. 1189 avvenuta in data 8.5.2000, alle ore 14.32, tra Cavaliere Mario e Russo Giovanni,** durante la quale costoro – affiliati al gruppo Bidognetti con mansioni 'esattoriali' – commentano con disappunto ("abbiamo fatto un grande figura di merda") la decisione assunta da Bidognetti Aniello ("il figlio dello zio"), Miele Massimiliano ("Emiliano") e da Cirillo Alessandro di mollare l'impresa di Nicola Ferraro in favore degli Orsi. La preoccupazione degli affiliati è ovviamente quella che Nicola Ferraro non voglia più pagare il suo 'contributo'. Se ne fa interprete Russo Giovanni:

"***e' un bordello qua…io mo' gliel'ho mandato a dire… che abbiamo fatto una grande figura di merda…a questo l'abbiamo gettato nel cesso… questo i soldi non li vuol cacciare neanche più 'sto mese. Là si va a taccariare EMILIANO*** (MIELE Massimiliano) ***là, io non voglio sapere niente più***".

Cavaliere Mario domanda: "***com'è, mo' lui ci dovrebbe dare venticinque*** (milioni) ***a noi o no?***". E Russo ribadisce: "***non ci dà neanche il cazzo. Se l'abbiamo gettato nel cesso, l'abbiamo garantito e poi l'abbiamo gettato, scusa…chi te li dà questi soldi****…**io l'ho detto. Va da EMILIANO*** (MIELE) ***e se li fa dare da EMILIANO. Come la vedi****?...**e mo' gliel'ho detto pure un'altra volta, perché le cose non stanno bene. Ma quello deve andare pure su QUEST'APPALTO….".***

I due affiliati sono in perfetta sintonia nella valutazione di questa scelta dei capi. Cavaliere Mario rivela anzi di avere avuto un aperto contrasto con Bidognetti Aniello e con Cirillo Alessandro:
"…***io ho ribattuto vicino al figlio dello ZIO*** (BIDOGNETTI Aniello). ***Lui*** (CIRILLO Alessandro) ***non ha detto neanche una parola…non disse neanche una parola, quando mi stavo appiccicando****…**quando io mi misi ad appiccicarmi con il figlio dello ZIO, quando mi misi ad appiccicarmi. Il compagno nostro non disse neanche una parola, Alessandro non disse neanche una parola, non gli disse niente***".
La convenienza avrebbe consigliato - secondo i due *cicciottiani* (evidentemente all'oscuro delle grandi prospettive strategiche dell'accordo stretto dai capi con gli Orsi) – di rispettare l'intesa con Ferraro Nicola: "…***pure lui lo sapeva, che…dovevano rimanere sempre questi… come ha cambiato idea non ho capito…mo' quando quello inizia a non dare più i soldi, si va da EMILIANO*** (MIELE Massimiliano) ***e ve li dà EMILIANO****…*".

All'indomani (**9.5.2000, ore 12.59, telefonata n. 1228**) **CAVALIERE Mario e Russo Giovanni** s'interrogano sull'opportunità di pretendere comunque da Ferraro il contributo legato ai profitti conseguiti nel mese precedente:

"…***Quello della MONNEZZA là…ce li dobbiamo far dare…. Il mese che lui ha faticato ce li dobbiamo far dare i cosi. O no?***". RUSSO risponde affermativamente ma ribadisce che "***comunque ha fatto sempre figure di merda…gli scemi siamo sempre noi qua…***".

L'indagine intercettiva, coordinata con l'acquisizione di alcuni documenti, ci offre anche la prova autosufficiente della pressione militare esercitata dai 'cicciottiani' sui fratelli Ferraro per scoraggiare, una volta aggiudicata la gara ai fratelli Orsi, qualsiasi iniziativa procedurale diretta all'annullamento del risultato.

In data **10.7.2000, alle ore 12.45 (n. 525)**, Cirillo Alessandro ordina a Verde Enrico (capozona di Villa Literno): "***…mi dovresti fare l'appuntamento un poco con quella guagliona che va a scopare sul MUNICIPIO… che dopo…una cosa urgente però***". VERDE Enrico dimostra di avere inteso: "..***ho capito, ho capito…quello che parlammo allora…e mo' vedo di rintracciarlo, mo' vado a casa sua…***".
Il riferimento alla 'guagliona che va a scopare sul municipio' deve intendersi evidentemente alla Ecocampania, titolare *illo tempore* del servizio di raccolta per il comune 'comandato' da VERDE.

Alle **ore 15.14 del 10.7.2000 (tel. n. 531)** VERDE Enrico domanda a Cirillo Alessandro: "…***dimmi che gli devo dire a questo…***". CIRILLO Alessandro palesa la necessità di portare il Ferraro Nicola al cospetto di un altro affiliato che una conversazione successiva ci consentirà di identificare in Alfiero Nicola.
VERDE Enrico rappresenta che è per lui difficile convincere Ferraro Nicola, estremamente diffidente, a presentarsi ad un incontro con estranei: "***…è una parola mo'…non lo so se ci viene. Quello è un tipo un poco curioso, è un tipo un poco…. È fatto così, se per esempio: <<se devo andare con te>> ha detto <<non ci sono problemi… però se mi dite qualche problema a girare torno torno, non esiste proprio!***". CIRILLO Alessandro spiega all'interlocutore che l'incontro si risolverà in un colloquio fraterno ("…***con un fratello mio…***"). VERDE Enrico risponde che però Ferraro Nicola conosce perfettamente quale sarà l'argomento e preferisce trattarlo con un soggetto del quale si fida come lo stesso Verde: "***…già sa tutti i cazzi… ha detto: <<perché, non è la stessa cosa… me lo dicono… voglio avere a che fare solo con te, me lo dicono e stiamo a posto… che cambia qualcosa? Fattelo dire e parliamo a me e te…>>***".

Nel **colloquio n. 532 del 10.7.2000, ore 15.17**, Verde Enrico domanda a Cirillo Alessandro se sia sua intenzione portare Ferraro Nicola al cospetto di BIDOGNETTI Aniello (" ***il grosso***"). Ricevuta una risposta negativa, VERDE Enrico propone di occuparsi da solo e in prima persona dell'incontro con il Ferraro Nicola: "***…e allora vediamo noi, che ce ne fotte… l'importante solo che…ce la vediamo noi, dimmi a me quello che devo dire ed è la stessa cosa...***". CIRILLO Alessandro ribadisce l'importanza per il gruppo della questione da trattare con Ferraro. Egli è evidentemente al corrente del calcolo di convenienza che sta alla base della scelta del gruppo di allearsi con gli Orsi ("***è importante, è una cosa buona per noi… deve parlare con uno…***").
VERDE Enrico - per persuadere Cirillo Alessandro della necessità di non urtare la comprensibile diffidenza di Ferraro Nicola, costringendolo ad un incontro plurale - racconta di avere di già contattato il fratello Ferraro Luigi che gli aveva confermato i suoi dubbi circa l'eventualità che il germano si facesse condurre con vari affiliati: "***…e***

non lo so, fammici prima… io già gliel'ho detto… io già gli ho parlato un poco di corsa – di corsa così…però l'ho detto al fratello… il fratello… ha detto: <<vedi se ci devi parlare tu non ci sono problemi.. però io lo so che è capace che vado torno torno>>. Si preoccupa assai, quello è tutte cose…poi vedi tu, se poi è necessario proprio che dobbiamo fare… però se è così fattelo dire…glielo diciamo noi…".
Quindi il CIRILLO Alessandro ribadisce la sua posizione, spiegando che la questione è complicata che egli stesso avrebbe difficoltà ad illustrarla compiutamente: "***….quella persona glielo deve spiegare…è un impicchiaccarolo, devo andare io con un libro in mano là e mi devo far spiegare tutte cose… mi scordo qualcosa… qualche punto e virgola…***". VERDE Enrico promette allora di contattare nuovamente Ferraro Nicola, e di proporgli un incontro per "domani" (11.7.2000) "***…dal lava piatti…***".

Nella **conversazione n. 552 del 10.7.2000, ore 18.23**, è ALFIERO Nicola a rammentare a Cirillo Alessandro la necessità di fissare un appuntamento con il Ferraro Nicola (affidatario del servizio di raccolta dei rifiuti solidi urbani nel Comune di Villa Literno): "***…non ti scordare il fatto di…di Villa Literno…di Villa Literno…***". CIRILLO Alessandro lo rassicura, segnalandogli di avere già provveduto: "***…non ti preoccupare ho già chiamato…domani vede se stasera ci fa l'imbasciata e domani lo vado a prendere…***".

Alle successive ore 20.39 Verde Enrico informa Alessandro di avere proposto l'appuntamento a Ferraro: "***…ohè…ho parlato con…me lo fa sapere stasera a che ora è, tu chiama a questo e viene al lato dei piatti…hai capito? Prendi a questo al lato dei piatti, poi ti do la conferma più precisa…***".

La piena comprensione della sequenza colloquiale finora riportata e la definitiva certezza sull'identità dei soggetti menzionati la conseguiamo grazie ad alcune acquisizioni documentali, che chiariscono anche la ragione per la quale i 'cicciottiani ' hanno tanta premura di incontrare il Ferraro.

In data 10.7.2000 (ossia nello stesso giorno in cui avvengono le conversazioni nn. 525, 531, 532, 552 e 572) la Commissione aggiudicatrice del Consorzio Intercomunale Obbligatorio Ce4 si riuniva per la valutazione delle offerte relative alla gara per la scelta del partner privato della costituenda società a capitale misto, gara cui avevano partecipato la srl FLORA AMBIENTE (riconducibile ai fratelli Michele e Sergio Orsi) e la srl l'ECOCAMPANIA dei germani Nicola e Luigi Ferraro (entrambi costituitesi in due distinte a. t. i.).
Al termine della riunione, tenutasi dalle ore 10 alle ore 14 (come si rileva dall'esame del verbale n. 3 del 10.7.2000), la Commissione aggiudicatrice dichiarava vincitrice l'A.T.I. FLORA Ambiente.
Sennonché dagli atti preliminari all'aggiudicazione della gara (la cosiddetta fase di verifica dei presupposti amministrativi) risulta che non presenziarono a questa operazione i rappresentanti dell'A.T.I. ECOCAMPANIA.
Tantevvero che con missiva acquisita al protocollo del consorzio CE4 in data 12.7.2000 al n. 283 (ossia due giorni dopo l'aggiudicazione) la srl l'ECOCAMPANIA lamentava: "*...apprendiamo con viva sorpresa che la gara in oggetto risulta essere stata già aggiudicata a precisamente, come da Voi indicato, alla A.T.I. FLORA Ambiente S.r.l. (quali sono le atre imprese associate?). La sorpresa ci deriva dal fatto che, sebbene regolarmente ammessi alla gara in questione, non siamo stati avvisati del giorno, dell'ora e del luogo di svolgimento della stessa, come a Voi ben noto, la segretezza della seduta di gara, enunciata nel bando, si riferiva testualmente, com'è ovvio e*

legittimo, alla fase di "raffronto concorrenziale" delle candidature, che è una fase successiva a quella della verifica dei presupposti amministrativi per la gara medesima…ci permettiamo al riguardo di ricordare come la Corte di Giustizia CEE abbia reiteratamente ritenuta illegittima la mancata indicazione del giorno, dell'ora e del luogo dell'apertura delle offerte…".

Nella **conversazione telefonica n. 1033 del 13.7.2000**, ore 14.35, Verde Enrico domandava a Cirillo Alessandro: "***…ma che dobbiamo fare, non ci dobbiamo parlare più con quello?***". Alessandro rispondeva che la necessità di incontrare il Ferraro Nicola perdurava. Al che Verde mostra rammarico spiegando che l'imprenditore era disponibile ma, non avendo ricevuto specifiche indicazioni, era ritornato "…***un'altra volta a Gaeta…***".
Inoltre VERDE Enrico informava CIRILLO del proposito di darsi nuovamente da fare per contattare il Ferraro Nicola, chiedendo delucidazioni sull'effettiva urgenza dell'appuntamento ("***…comunque non è una cosa urgente, si può aspettare, diciamo, si può fare ancora…***"). CIRILLO Alessandro replicava: "***…domani o dopodomani, si può aspettare ancora, non ti preoccupare…***".

La conversazione n. 1513 delle ore 17.47 del 19.7.2000 conferma ulteriormente il coinvolgimento di MIELE Massimiliano nella questione.
Il Miele aveva cercato vanamente più volte di contattare telefonicamente Cirillo Alessandro. Si rivolgeva quindi a Di Maio Francesco che confermava di aver anch'egli trovato difficoltà per rintracciare 'o sergente ("***…non sono capace di rintracciarlo a questo, mannaggia Dio, il telefono non risponde***"). Quindi Miele chiede di Alfiero Nicola detto *'o zio* ("***ma neanche NICOLA ?***"), ottenendo analoga risposta negativa: "***…no, neanche lo ZIO, il numero dello ZIO non lo tengo…***".

Alle ore 22.09 (tel. n. 1723) MIELE Massimiliano contattava il CIRILLO Alessandro chiedendogli l'esito di un colloquio che Alfiero Nicola doveva avere in quella giornata con uno dei Ferraro: "…***mi dovevi far sapere una risposta, mi vuoi far sapere ?...***". CIRILLO Alessandro si giustificava affermando di non essere ancora riuscito a parlare con l'Alfiero Nicola: "…***e come non ti dovevo far sapere! Sto ancora ad aspettare, questo ancora lo devo rintracciare…s'è ritirato alle nove*** (ore 21)***…io me ne sono andato dal Paese*** (Casal di Principe)***… mo' ho mandato a uno là, però penso che ci ha parlato, mo' mi dovrebbe telefonare…***".

Il 20.7.2000, alle ore 12,24 (tel. n.1803), CIRILLO Alessandro riusciva finalmente a contattare ALFIERO Nicola e a domandargli l'esito del colloquio: "***…'O ZIO, ci avete parlato con quello?***". L'ALFIERO Nicola risponde, informandolo di avere parlato con il Ferraro Luigi: "***…ho parlato con il fratello ha detto <<sì, però questa è una cosa di mio fratello… io non c'entro con mio fratello…>>. Però ho detto: tu inizialo a chiamare… Ha detto: <<ma per telefono come glielo spiego?>>. Mo' questo viene mercoledì, il fratello lo deve andare a prendere mercoledì all'aeroporto…***".
Terminato il colloquio con Alfiero, Cirillo Alessandro, alle ore 12.27, chiamava Miele Massimiliano (**tel. n. 1808**) al quale riferiva l'esito dell'incontro avvenuto il giorno precedente con Ferraro Luigi, affermando falsamente di avervi preso parte direttamente: "***io ci ho parlato con… sono andato proprio, diciamo, da lui…l'interessato, diciamo, mo' abbiamo parlato con lo scemo*** (il fratello)***…perché questo qua sta fuori, non so dove ha detto che sta… mercoledì lo va prendere all'aeroporto***". Miele replicava che non era possibile attendere il successivo mercoledì (26.7.2000): a quel punto sarebbe stato tutto inutile. Ipotizzava che Nicola Ferraro,

fiutate le possibili richieste, si stesse deliberatamente sottraendo all'incontro: "***…Noi dobbiamo avere una risposta, perché là si deve fare una cosa pesante… hai capito? Allora se non si sa la risposta…mercoledì non c'è più tempo… questi lo stanno a fare apposta… è inutile… guaglio'… se è dimmelo… che io glielo dico a questi… <<guaglio', non è cosa più>>, ci togliamo di mezzo. Perché questi hanno detto la data proprio, che non si può fare niente più. Hai capito? Questa data che ti hanno detto a te, non si può fare niente più…hai capito? Perciò hanno detto questa data…***". Infine Miele concordava con l'interlocutore un incontro personale.

A chiarirci le ragione della premura di Miele è ancora una volta l'acquisizione documentale.
In data 19.7.2000, con protocollo n. 2937, il consorzio CE4 invitava l'ATI ECOCAMPANIA a fornire le certificazioni richieste dal bando di gara entro dieci giorni dal ricevimento della richiesta; in data 20.7.2000 (lo stesso giorno in cui avveniva la conversazione telefonica n. 1808), PALMA Nicola nella qualità di amministratore unico della srl ECOCAMPANIA - società capogruppo dell'A.T.I. - presentava a mano una richiesta di accesso agli atti di gara, acquisita al protocollo n. 2946.

Sempre in data 20.7.2000, alle 12.29 **(n. 1809)**, CIRILLO Alessandro contattava nuovamente Alfiero Nicola per riferirgli l'urgenza della convocazione di Ferraro: "***…'O ZIO questo dice, per esempio, che per mercoledì…dice che per mercoledì…è tardi…non ce la fanno…dice che non per niente lo hanno fatto apposta…***". A questo punto Alfiero Nicola chiedeva ordini, dichiarandosi pronto ad assumere iniziative intimidatorie nei confronti dei familiari di Ferraro Nicola: "***…dimmi tu che devo fare e io lo faccio…questo non ci sta, dimmi che devo fare…lo devo andare a dire alla mamma, al padre, a chi lo devo andare a dire?***". CIRILLO suggeriva di ritornare su Ferraro Luigi, fratello di Nicola. Era esplicito il messaggio da riferire: "***…si deve dire allo scemo che si deve ritirare tutte cose… si deve dire…per quieto vivere… come si dice…***". ALFIERO rappresentava di avere già operato in tal senso nel colloquio avvenuto il giorno precedente: "***…eh! Ma io già gliel'ho detto questo. Lui ha detto: <<quello che posso fare io lo faccio… però>>, ha detto, <<là se non mette la firma mio fratello…>>, ha detto, <<io non sono nessuno…>> ha detto <<se vado là e voglio ritirare ci vuole la firma… non sono autorizzato a firmare, a fare…***". CIRILLO informava poi ALFIERO Nicola del fatto che i fratelli Nicola e Luigi Ferraro stavano con ogni probabilità cercando di guadagnare tempo per eludere il comando promanante dal gruppo Bidognetti: "***…questi sono proprio figli di puttana, perché l'hanno fatto apposta, mercoledì non c'è più tempo… hai capito? Va bene, dopo parliamo da vicino di questo fatto, dai…***". ALFIERO Nicola concordava un incontro personale con l'interlocutore: "***…dimmi quando ci dobbiamo vedere, parliamo da vicino e decidiamo…***". CIRILLO riferiva brevemente il 'messaggio' da mandare a Ferraro Nicola: "***eh! Ma questo qua ancora lo deve fare, capito? Tutte cose, non lo deve far andare avanti… hai capito? Dopo parliamo da vicino…***".

Alle ore 12.56 **(tel. 1818)** Cirillo Alessandro chiedeva ad Alfiero Nicola di organizzare un incontro con Ferraro Nicola, al quale anche lui si riprometteva di presenziare: "***…ci vuoi far fare un appuntamento, ci voglio stare pure io quando viene…***". ALFIERO Nicola si rendeva disponibile, stabilendo che l'incontro sarebbe avvenuto alle ore 17 di quello stesso giorno. Cirillo segnalava di aver saputo che in realtà Ferraro si trovava sul territorio, diversamente da quanto aveva riferito il fratello Luigi: "***…mi hanno detto che il fratello grosso sta qua…t'hanno detto la bugia…me l'hanno detto a me…***".

ALFIERO Nicola rassicurava Cirillo Alessandro: ***"…lo chiamo e ci parliamo tutt'e due…".***

Alle ore 14.40 (tel. 1831), Alfiero Nicola informava Cirillo Alessandro di avere provveduto ad organizzare l'incontro: "***…ho fatto l'appuntamento alle cinque*** (ore 17)". Appreso ciò, il Cirillo Alessandro domandava: "***…alle cinque! Dove, a casa vostra ?...***", ottenendo risposta affermativa.

Alle ore 18.24 (1884), Cirillo riferiva a Miele Massimiliano, che lo contattava per ricevere notizie, l'avvenuto svolgimento del rendez-vous: "***…ho parlato a quattr'occhi stretto con quello…ho parlato con quello, con quello che tenevo l'appuntamento alle cinque…***". Ogni dettaglio era rimandato ad un incontro personale da realizzare al più presto: "***…poi te lo dico da vicino, dai; quando stai nella zona mia, vieni là e te lo dico…***".

Alle ore 18.28 dello stesso giorno, Cirillo Alessandro, conversando con Alfiero Nicola, gli manifestava il convincimento che, dopo l'incontro avvenuto tra loro due e il fratello, Ferraro Nicola avrebbe fatto immediatamente ritorno: "…***subito viene, quell'amico…è capace subito viene domani…***". ALFIERO Nicola conveniva: "***è normale. Quello mo', ti faccio vedere, subito prende l'aereo e viene qua…***".

Il 21.7.2000, alle ore 12.25 (tel. n. 1968), MIELE Massimiliano chiedeva a Cirillo Alessandro di incaricare Alfiero Nicola del controllo sull'avvenuto ritorno di Ferraro Nicola: "***…che volevo dire… diglielo a NICOLA*** (ALFIERO) ***che vada a vedere se quello se n'è venuto…che insista, hai capito… mandalo a casa sua…***". CIRILLO Alessandro tranquillizzava l'interlocutore sul fatto che l'incontro del giorno prima aveva destato timore in Ferraro Luigi: "***…io gli feci un parlare ieri… dopo non se ne voleva andare più da lì, dice <<me ne posso andare, non me ne devo andare…>>"***. MIELE Massimiliano sottolineava che era comunque necessario completare l'opera mediante un colloquio diretto con il Ferraro Nicola: "***no, e tu devi parlare con il fratello…***". CIRILLO Alessandro ribadiva : "***…quello disse: <<io mo' lo telefono subito>>. Quando se ne andò, uscì là fuori… <<me ne posso andare, non me ne posso andare?>>***…".

Tre ore dopo aveva luogo tra gli stessi Miele e Cirillo un colloquio del tutto analogo: ***"…ma a quello lo hai chiamato a vedere se se n'è venuto quel cane di pecora…*** " - ***"…e mo' tengo l'appuntamento dopo, non ti preoccupare. Dopo ti faccio sapere stasera…***".

Alle ore 20,35 (**tel. n. 2065**), i due affrontavano lo stesso tema. Cirillo rassicurava nuovamente Miele sull'atteggiamento remissivo tenuto da Ferraro Luigi nel pomeriggio del giorno precedente: "***…eh! Disse: <<io mò sto a fare…>> disse <<però non ti preoccupare, come è stato fatto, come è stato parlato la prima volta, così tornano le cose… c'è stato un frainteso… io non mi permetto proprio… non voglio sapere più niente, se me ne devo andare fuori me ne vado fuori…>>***…".
Il 25.7.2000, alle ore 13.42 (**tel. n. 2507**), ALFIERO ricordava a CIRILLO Alessandro un appuntamento fissato con i germani Nicola e Luigi Ferraro per il pomeriggio dell'indomani: "***…ti volevo pure avvisare che noi domani alle cinque teniamo l'appuntamento…deve venire quell'amico che ci parlasti… i due fratelli…***". CIRILLO faceva presente che avrebbe preferito evitare di prender parte alla riunione, temendo di essere pedinato e controllato dalle forze dell'ordine: "***…io non vengo***

perché… non vengo là, che ne so, se mi vanno trovando !?...".

Alle ore 19.26 **(tel. n. 2550)**, CIRILLO Alessandro segnalava ad Alfiero di avere avuto notizia di un ricorso presentato dall'A.T.I. Ecocampania: "***…'o zio, ma questo che ha fatto 'sto Picone, ha mandato le carte là sopra là, ha mandato il fax per fare il ricorso?***". Alfiero Nicola mostrava sorpresa, essendo stato diversamente informato da tale D'Agostino (evidentemente vicino ai fratelli Ferraro). D'Agostino si era presentato da lui in mattinata, asserendo che i Ferraro intendevano incontrarlo all'indomani per risolvere definitivamente la questione nel senso auspicato dai 'cicciottiani': "***….D'AGOSTINO mi ha detto di no. E' venuto stamattina a dirmi vicino a me il fatto dell'appuntamento di domani…che loro domani si voglio incontrare; e poi faceva questo ?...***". A questo punto Cirillo Alessandro aveva invitato Alfiero Nicola a sincerarsi dell'accaduto: "…***chiamalo e avvertilo, devi dire: <<ma che hai fatto qualcosa ?>> Ma fai che qualcuno ha fatto qualcosa e lui non lo sa!...***". ALFIERO Nicola ribadiva il contenuto distonico dell'incontro avuto con Ferraro Luigi: "…***e senti: quello è venuto lui da me stamattina, però sempre il piccolino*** (FERRARO Luigi), ***non il grosso*** (FERRARO Nicola)***…è venuto a dire che il fratello*** (FERRARO Nicola) ***questa sera si ritirava, no, che domani mattina se ne veniva e che domani pomeriggio dovevano fare quell'incontro…Mo', se era qualcosa, quello*** (FERRARO Luigi) ***non ci veniva da me !...***". Comunque Alfiero avrebbe 'mandato a prendere' Ferraro Luigi per chiedergli spiegazioni: "***…comunque mo' lo mando a prendere subito e vedo che ha combinato…***". Cirillo esortava Alfiero Nicola a usare decisi toni minatori: "***…digli: <<ma che cazzo state a combinare, ma manco lo volete capire?>>, devi dire: <<ma che dobbiamo fare domani, ce lo dobbiamo mandare per posta a questo fratello !!>>…***".

Alle ore 19.39 **(tel. n. 2552)**, Cirillo contattava nuovamente Alfiero Nicola e apprendeva che era imminente la 'traduzione' di Luigi presso 'o capritto: ***"..hai parlato con questo ?...***" - "…***mo' l'ho mandato a chiamare, ancora lo devo trovare, mo' proprio ohè… appena ci parlo…***". Cirillo ribadiva l'esortazione a minacciare: "***…devi dire: <<ma la volete finire di fare gli scemi, ma che dobbiamo fare… in faccia al muro !! Che dobbiamo fare…domani va a finire che così succede…***".

Alle ore 20,14 (**tel. n. 2553**), Alfiero informava Cirillo Alessandro: "***…quella situazione che mi hai detto tu… IL FAX… non esiste proprio…sta vicino a me, <<non esiste proprio>> ha detto. Ha detto: <<fategli fare la copia>>, ha detto, <<poi domani teniamo l'appuntamento che ci dobbiamo incontrare>>, ha detto…perché li stanno a calunniare in questa maniera, quando loro non hanno fatto niente ?...***".

Dopo tre minuti (**tel. n. 2554**), Cirillo Alessandro contattava Alfiero Nicola. Prima di iniziare la conversazione, Cirillo Alessandro chiedeva a una persona che si trova con lui: "***… se me la puoi far recapitare questa carta prima delle cinque…"***. Quindi assicurava all'interlocutore telefonico che 'quella carta' era stata effettivamente presentata dall'A.T.I. Ecocampania al consorzio Ce4: "***…'O ZIO, il nome è il suo, domani gli porto pure la carta…il nome è il suo… mi senti ?...il nome è il suo, è CAMPANIA*** (ECO CAMPANIA, n.d.e.)***…capiscimi…il nome è il suo perché dopo, domani ti faccio vedere pure la carta…'ste cartelline che cazzo le mandano a fare..***.". Appreso ciò, ALFIERO Nicola invitava Cirillo a portare 'la carta' con sé quando si sarebbero incontrati con i fratelli Ferraro, all'indomani: "***…allora portati la carta…allora domani, quando facciamo l'incontro, portati la carta…***" .

La 'carta' menzionata nel colloquio sopra riportato s'identifica in un fax 'provocatorio' pervenuto alla sede consortile CE4 alle ore 18.00 del giorno **24.7.2000.** Il fax proveniente da ECOCAMPANIA s.r.l., protocollo n. 2986 del 25.7.2000, aveva il seguente contenuto: "*OGGETTO: richiesta documentazione… Con riferimento all'oggetto, Vi richiediamo copia dell'Ordinanza o Istanza che Autorizza la Vs. attività di discarica. Certi di Vs. sollecito riscontro porgiamo distinti saluti"*. Il consorzio Ce4 rispondeva con nota n. 2992 del 25.7.2000, del seguente tenore: "*facendo seguito alla vostra nota n. 2068/99 del 24.7.2000, genericamente firmata Ecocampania s.r.l., si chiede motivazione della richiesta"*.

Claudio De BIASIO, direttore generale del consorzio Ce4, riferiva alla p. g. in data 2.12.2004: "*....con nota protocollo 2986 – l'Ecocampania faceva pervenire via fax una richiesta di documentazione riguardante l'ordinanza o l'istanza che autorizza l'attività di discarica al consorzio CE4. A tale nota venne fornita risposta con nota 2992 del 25.7.2000 con la quale il consorzio chiedeva motivazioni della richiesta. Voglio cogliere l'occasione per rappresentare che in relazione a tale ultima corrispondenza della Ecocampania mi venne qualche dubbio sulla effettiva provenienza della missiva anche perché non vi fu più alcun seguito…*".
In data 26.7.2000, alle ore 11,48 (**tel. n. 2666**), Cirillo Alessandro prima esternava ad Alfiero Nicola il proprio allarme per la pressione delle forze dell'ordine: "***…la cosa è seria! Mo' che ne so com'è la situazione…da me che vogliono? E perché, ieri sera si è fatta un'altra situazione ad un'altra parte……andai ad una parte e stavano…poi andai ad un'altra parte e mi chiamarono e mi dissero: non venire che stanno ad aspettare…stavano nelle piante ad aspettare…mo' che ne so che cazzo vogliono. Se era una cosa normale…dice: vieni qua, fatti vedere come stai…il medico mi visitava e mi mandava…invece quelli stanno come i cani da presa dietro le piante…***". Quindi rispondeva a una domanda di Alfiero sull'incontro fissato per il pomeriggio: "…***dopo ti faccio sapere, ZIO…alle cinque dai…alle cinque, quando siete pronti mi chiamate, se è prima, prima mi chiamate…***".

Alle ore 17.36 (**tel. n. 2752**), Alfiero chiamava Cirillo e lo avvertiva dell'arrivo dei fratelli Ferraro. Quindi l'informava del fatto che Ferraro Nicola si era definitivamente convinto a non coltivare azioni oppositive avverso l'aggiudicazione della gara: "***…ha parlato con me, ha detto: <<senti, tutto questo non esiste proprio…io mi sono levato da mezzo, non mi interessa più…>>*** ". Sentito ciò, CIRILLO Alessandro appariva provvisoriamente rassicurato, fermo restando il proposito – qualora in futuro Ferraro Nicola avesse disatteso questo impegno – di intraprendere una reazione 'tipica': "***…allora facciamo una cosa, se sta un'altra carta*** (documento) ***faccio a modo mio, faccio a cosa mia…senza che…se c'è qualche altra carta, se esce qualche altra carta…faccio…diciamo a modo nostro…***".
ALFIERO Nicola tranquillizzava il sodale ribadendo la solennità dell'impegno assunto da Ferraro Nicola: "***…ha detto: del suo non può arrivare mai niente più là sopra là, soltanto il primo giorno quando…quando noi lo chiamammo… - ha detto – lui non si è interessato più. Ha chiamato gli avvocati, ha detto: <<levate da mezzo, perché è una situazione che a me non interessa>>.*** Ferraro aveva anzi dimostrato una sorta di complicità nei confronti dell'interlocutore, mettendolo in guardia rispetto al pericolo rappresentato dalle voci correnti circa l'impegno tangentizio assunto dall'ATI aggiudicataria. E così raccogliamo l'ennesima obiettiva conferma dell'accordo riferito da Vassallo:

"***Lui l'unica cosa che voleva parlare, voleva parlare di un'altra cosa, voleva parlare,***

ha detto: <<stanno a fare troppo bordello, 'sta cosa la stanno a fare andare in bocca a tutti quanti>>. Ha detto: <<sta quell'amico là, parla troppo…tiene fiducia di tutti quanti…>>. Ha detto: <<io vi voglio assicurare che dopo se succede qualcosa non ve la venite a prendere con me, ma prendetevela con lui, perché è lui che sta parlando con tutti quanti…>>. Ha detto: <<perché non si rende conto che la sopra là, se stanno venti persone, di dieci può avere fiducia ma degli altri dieci non deve avere fiducia…perché se va a dire qualcosa così lo vanno a rapportare… LA TANGENTE… cose…e questa cosa sta in bocca a tutta la provincia…>>, ha detto: <<solo di questo vi voglio…però se mo' me la vogliono dare io non la voglio…>>. Ha detto: "perciò non mi interessa e non dicessero bugie perché io non ho fatto niente più… non ho chiamato IL PRESIDENTE… gli avvocati". Ha detto: "non mi interessa, se mo' me la volete dare…non la voglio". Queste sono le parole sue…".

In data 1.8.2000, alle ore 15,52 (**tel. n. 3493)**, Alfiero contattava Cirillo Alessandro per informarlo del fatto che il Ferraro Nicola gli aveva riferito di avere ricevuto una comunicazione dal consorzio Ce4 alla quale egli si riteneva obbligato a rispondere trattandosi di lettera protocollata: "…***senti un poco, ma quell'amico che ci parlammo assieme…sta da ieri a venire da me perché dice che…che questo là…gli hanno mandato la lettera a lui…mo' quello stava qua che voleva parlare con te…***(…) ***perché dice: <<non dobbiamo fare che loro si vogliono acconciare le cose loro…perché hanno sbagliato a fare…>> dice <<se vogliono acconciare le cose loro e a me mi vogliono buttare nel casino>> dice <<perché gli hanno fatto una lettera che io devo presentare urgentemente certi documenti…così…così…così…>> mo' dice: <<la lettera me l'hanno mandata tramite protocollo>> ha detto <<che io…>> Ha detto che lui deve rispondere per forza…dice che è una lettera che loro devono presentare certi documenti…Poi lui ha detto, ha detto: <<io mo' gli rispondo, però dopo andateci voi, andateglielo a dire che non mi devono scrivere più…comunque mo' questo torna a venire qua, che gli devo dire?...***". Proseguendo nel resoconto Alfiero riferiva:"***…il consorzio ha mandato la lettera a lui e lui mo' gli deve rispondere per forza…deve rispondere per forza perché quello è tramite protocollo, perché là sopra ha scritto…entro tre giorni ci deve mandare…***".
Alessandro domandava quali sarebbero state le conseguenze di una mancata risposta. ALFIERO riportava le asserzioni di Ferraro Nicola: "***dice: mi metto in difficoltà se non rispondo. E perché quello là dice: <<quello il CONSORZIO quello vuole, vuole che non rispondo, perché se succede qualcosa dice: vedete? Quello è lui che non ha risposto>>. Dice: <<mo' perché mi scrivono, se è una cosa che io mi sono tolto di mezzo…quello è d'accordo, perché mi scrivono ancora?>>***".

La lettera che Ferraro Nicola comunicava di aver ricevuto dal Consorzio CE4 s'identifica nella missiva datata 19.7.2000 (protocollo n. 2937) con la quale il consorzio Ce4 invitava la srl ECOCAMPANIA a produrre le certificazioni richieste dal bando di gara nel termine di dieci giorni. Tale missiva, inviata a mezzo raccomandata, veniva ricevuta dalla srl Ecocampania in data 27.7.2000. Ne derivava che i dieci giorni previsti per la trasmissione della documentazione richiesta dal consorzio Ce4 sarebbero scaduti il 5.8.2000 (cfr., al riguardo, la conversazione oggetto di intercettazione telefonica n. 3493 dell'1.8.2000).
In risposta a tale richiesta, la srl ECOCAMPANIA con nota recante la data dell'1.8.2000 - assunta al protocollo del consorzio Ce4 n. 3102 – esponeva, non senza ironia: *<<Oggetto: gara per la costituzione società mista (Vs. comunicazione prot. n. 2937 del 19.7.2000). In riferimento all'oggetto vi significhiamo, anzitutto, che la Vs. richiesta relativa alle certificazioni di cui al punto 8 lett.a) e b) del bando di gara ci*

sorprende sia per la sua intempestività che per la sua inutilità. Lo scopo di tale richiesta, infatti, come agevolmente si evince dal combinato degli artt. 1 comma 2, 2 comma 3 ed 11 del d. lgs n. 403/98 è quello di verificare la rispondenza a verità delle dichiarazioni sostitutive sia di certificazioni che dell'atto notorio, così che, qualora dai controlli emerga <<la non veridicità del contenuto della dichiarazione, il dichiarante decade dai benefici eventualmente conseguenti al provvedimento emanato sulla base della dichiarazione non veritiera>> (art.11 comma 3). Ora, posto che la scrivente A.T.I. ormai non risulta aggiudicataria della gara in oggetto, non si comprende da quali benefici, allo stato attuale, essa potrebbe o dovrebbe decadere. Ad ogni buon conto, vi rimettiamo la documentazione da Voi richiestaci, invitandoVi, nel contempo, ad inviarci a stretto giro di posta i documenti richiestiVi ai sensi della legge n. 241/90 con la detta ns. nota del 12/07/2000, comprensivi delle certificazioni da Voi richieste (supponiamo) anche all'A.T.I. vincitrice.>>

In data 3.8.2000, alle ore 14.46 (tel. n. 140), Cirillo Alessandro, evidentemente preoccupato per il contenuto della risposta epistolare di Ecocampania, chiedeva ad Alfiero di organizzare un nuovo incontro con il solito Ferraro: "….***senti una cosa: vorresti fare un appuntamento con quel FUCONE***…***ci devo parlare un poco a quattro occhi seriamente. Poi dopo vi faccio sapere pure a voi come stanno le cose…***". ALFIERO rispondeva che Ferraro Nicola si era già portato presso di lui, dicendosi disponibile per un incontro: "***…e quello venne, voleva parlare, non è che non è venuto…***". A questo punto CIRILLO illustrava le ragioni che intendeva rappresentare a Ferraro: "***…ho capito che venne e voleva parlare…poi vi faccio vedere che il CONSORZIO non gli ha mandato nessuna carta…è stato lui che ha mandato la CARTA AL CONSORZIO". A***LFIERO confutava l'ipotesi dietrologica di Cirillo asserendo di avere visto la missiva del consorzio Ce4: "***…quello mi portò la carta, l'ho vista la carta del CONSORZIO, la lettera…***".

A seguire con preoccupazione le evoluzioni della vicenda era anche Miele Massimiliano (espressamente indicato da Vassallo, si ricordi, come coinvolto nel patrocinio armato dell'operazione ECO4). Miele, nella conversazione n. 187, rappresentava a Cirillo la necessità di contattare urgentemente Ferraro Nicola: "***…tu allora devi chiamare solo a quello del paese nostro*** (di Casal di Principe)***…devi andare avanti, perché quello là ha fatto quel fatto di quelle carte. Capito?...***".

Qualche minuto dopo **(tel. n. 189)** Miele rappresentava la necessità di dissuadere Ferraro dall'intento di recarsi all'indomani presso il consorzio Ce4: "***…che volevo dire: quello là con cui tu dovevi parlare…del paese nostro*** (Casal di Principe)***…domani verso le dieci - le undici devono andare a ritirare dei documenti su quell'ente***…***mo' tu per stasera glielo devi mandare a dire che non ci devono andare*** (…) ***il fatto di quella carta che hanno mandato, mo' si dovrebbero andare a prendere la risposta…tu glielo devi far sapere…che non devono andare…***".

Alle ore 21,38 (tel n. 202), CIRILLO Alessandro – adempiendo a quanto a lui richiesto dal Miele Massimiliano nella precedente conversazione n. 189 - contattava Alfiero affinché rintracciasse Ferraro Nicola, per dissuaderlo dal recarsi all'indomani presso il consorzio Ce4: "***…sentitemi: allora domani mattina, l'amico che vende il concime…quello che vende il concime…allora: domani mattina alle undici e mezzo dovrebbe andare a firmare una cosa lui…mo' se lui quella cosa là non la firma, allora va tutto a posto; ma se lui ci mette la mano sua sopra, ha detto che inguaia tutte cose…Lui non può firmare domani mattina, se vuole non firma, se poi ci vuol***

fare dispetto firma…si deve vedere come si deve rintracciare… domani mattina vengo là, ci parlo, perché non deve firmare alle undici…perché se vuol fare il dispetto firma…". Quindi l'ALFIERO Nicola si dichiara disponibile a rintracciare al più presto il Ferraro Nicola.

La preoccupazione palesata dagli affiliati del gruppo Bidognetti nella ultime conversazioni riportate si connette alla nota n. 3004 del 26.7.2000, con la quale il consorzio Ce4 comunicava alla srl Ecocampania che: *<<…l'accesso è consentito in conformità delle previsione della legge n. 241/90 e potrà avvenire il giorno 4.8.2000 dalle ore 10.00/11.30; la riproduzione fotostatica di atti e documenti sarà possibile all'esito dell'accesso, a fronte di dettagliata istanza scritta e previo pagamento dei costi di riproduzione….>>***.

In data 4.8.2000, alle ore 11,38 (tel. n. 234), Cirillo Alessandro contattava Alfiero Nicola per chiedergli se fosse riuscito a rintracciare Ferraro Nicola o il fratello Luigi. Alfiero Nicola rispondeva di aver parlato con Luigi che aveva escluso l'intenzione sua o del fratello di mettere in pericolo l'aggiudicazione della gara da parte dell'A.T.I. Flora Ambiente: "***…gliel'ho fatta…ha detto: <<non esiste proprio>>. Ha detto: <<prima di tutto…quello il grosso*** (FERRARO Nicola) ***non ci sta manco, figurati se alle undici*** (ore 11) ***potrebbe stare là...>> Ha detto <<poi non hanno fatto altro che rispondere a quella lettera che loro…>> che ti dissi, che loro gli hanno fatto…e hanno detto soltanto…Ha detto <<in quella lettera>> ha detto <<non ci scrivete più, che è una cosa che a noi non interessa, perché ci mandate a chiamare a chiedere questi documenti se è una cosa che a noi non interessa…>> ha detto: <<se noi non l'abbiamo presa noi sta cosa, perché ci scrivete a noi?>> ha detto <<è una cosa che non ci interessa, perciò noi non vi rispondiamo proprio…>>. Mi ha portato la copia, me l'ha fatta leggere…***".

Evidentemente l'assidua pressione di CIRILLO Alessandro, MIELE Massimiliano e ALFIERO Nicola produceva i suoi effetti.

La mattina del 4.8.2000 i titolari della srl Ecocampania non si presentavano presso la sede del consorzio Ce4 per avere accesso agli atti della gara bandita il 19.4.2000 (cfr. la nota n. 3004 del 26.7.2000).
Formalmente la srl ECOCAMPANIA giustificava l'assenza con il tardivo ricevimento dell'invito: *<<…vi comunichiamo che la Vs nota prot. n. 3004 del 26..7.2000 ci è pervenuta soltanto in data 5.8.2000. Vi richiediamo, pertanto, di comunicarci quando potrà avvenire l'accesso agli atti, con le modalità descritte nella Vs. citata nota….>>*.
Dalle comunicazioni telefoniche appena riportate traiamo invece il convincimento che i Ferraro fossero perfettamente al corrente della convocazione per il giorno 4 e che furono altre ragioni a dissuaderli dell'esercizio del loro diritto.

Come pronosticato da Sergio Orsi nei suoi colloqui con il socio Vassallo, il comportamento di Nicola Ferraro continuava però a essere ambiguo. L'uomo della Ecocampania non sembrava rassegnarsi del tutto alla sconfitta subita dagli Orsi.

La nota consortile n. 3205, preso atto delle giustificazioni fornite da Ferraro, lo riconvocava per la data del 10.8.00: *<<la nostra nota n. 3004 del 26.7.2000 risulta pervenuta con ricevuta del 4.8.2000; la nuova richiesta di accesso del 10.8.2000, consentita ai sensi della legge n. 241/90 con le modalità già descritte, potrà avvenire in data 1.9.2000, alle ore 10.00 – 11.30>>*.

In tempo reale i camorristi venivano informati della cosa.
In data 10.8.2000, alle ore 10.54 (tel. n. 1062) Miele Massimiliano – nell'esternare nuove preoccupazioni a Cirillo Alessandro – ci rivelava l'esistenza di una 'gola profonda' che rivelava ai 'cicciottiani' le faccende interne che potevano compromettere il varo della ECO4 secondo il progetto camorrista. Il comportamento di Giuseppe Valente ci dice quanto sia stretto il rapporto tra le tre componenti della società mista che sta per nascere (consorzio pubblico – privati – camorra) sin dalle sue origini.
E' assai rilevante anche il fatto che il bidognettiano MIELE – perfettamente aderendo alla rappresentazione di Vassallo - parli della costituenda società come di 'cosa loro': ***"noi stiamo a fare pure la società…".***

"***…l'avvocato di quello sporco di Casale no…è andato là, si è andato a prendere la carte stamattina…ma questi sono sporchi davvero allora. Mo' mi ha chiamato il Presidente e me l'ha detto…Noi stiamo a fare pure la società, tutte cose, questo è andato a prendere le carte, l'avvocato suo proprio. Guaglio', dobbiamo fare subito o sennò questo ci inguaia tutte cose…dobbiamo fare pure i versamenti per la società…".***

Ancora una volta il soggetto delegato per i contatti con i Ferraro è Nicola Alfiero detto 'capritto':***"…chiama un poco allo ZIO là e vedi un poco dai…***".
Alla domanda di CIRILLO Alessandro su quale impiego potrebbe fare Ferraro Nicola della documentazione acquisita presso il consorzio Ce4, MIELE Massimiliano risponde con una formula che esprime plasticamente la partecipazione diretta della fazione camorristica 'cicciottiana' nell'iniziativa.
Ferraro Nicola, con la sua ambiguità, non mette a rischio semplicemente l'interesse di imprenditori 'protetti' dalla camorra ma un investimento diretto dell'organizzazione criminale:

"***…se questo fa un coso*** (un ricorso, n.d.e.)***…perdiamo tutte cose, ci fa rimettere…questo deve fare il versamento di centocinquanta milioni qua …abbiamo fatto tutto questo, ci stiamo a taccariare*** (litigare) ***una continuazione e mo' sto bastardo, <<tutto a posto!>>, e poi piglia e fa il merda…***".

Ancora una volta i dati documentali ci aiutano a comprendere il colloquio. Risulta infatti che il 10.8.2000 (lo stesso giorno in cui è avvenuta la conversazione n. 1062), alle ore 12.40 (due ore dopo il colloquio tra MIELE e CIRILLO), il consorzio Ce4 deliberava con voti unanimi espressi per alzata di mano: "*...di approvare lo schema di Statuto per la costituzione della società mista* (consorzio Ce4 e a. t. i. Flora Ambiente) *ai sensi dell'art. 22 comma 3 lett. e) della legge n. 142/90, composto da n. 30 articoli…*" (v. Deliberazione dell'Assemblea Consortile n. 15 del 10.8.2000).

MIELE Massimiliano operava poi un esplicito ***riferimento alla somma di £ 150.000.000,*** da versare all'atto della costituzione della società a capitale misto.
Dall'atto costitutivo della spa Eco4 rogato in data 28.8.2000 dal notaio dott. Antonio DECIMO di Santa Maria Capua Vetere (esattamente il professionista indicato da Gaetano Vassallo nelle sue dichiarazioni) risulta allegata la ricevuta della Banca Nazionale del Lavoro n. 0127681 del 18.8.2000 relativa al deposito provvisorio dei tre decimi del capitale della medesima società per la somma di lire 150.000.000 – somma così proporzionalmente suddivisa: consorzio Ce4 lire 76.500.000; Flora Ambiente lire 64.500.000; Calepio Scavi spa lire 3.750.000; Brignoli Ecologica Ambiente srl lire

3.750.000; Capasso Ciro 1.500.000 - (v. l'atto costitutivo repertorio n. 5657 raccolta n.588).

In data 10.8.2000 (lo stesso giorno della conversazione telefonica n. 1062) la srl Ecocampania presentava al consorzio Ce4 la nota protocollata con il n. 3171, con la quale comunicava: *<<…che la Vs nota prot. n. 3004 del 26.7.2000 ci è pervenuta soltanto in data 5.8.2000. Vi richiediamo, pertanto, di comunicarci quando potrà avvenire l'accesso agli atti, con le modalità descritte nella Vs. citata nota…>>*.
Con nota n. 3205 del 21.8.2000 il consorzio Ce4, pur segnalando che la nota n. 3004 del 26.7.2000 era pervenuta alla srl Ecocampania in data 4.8.2000, fissava un nuovo accesso agli atti della gara pubblicata per l'1.9.2000, sempre dalle ore 10 alle ore 1.30.
In data 1.9.2000, l'avvocato Pietrofranco Purgato, all'uopo delegato dalla srl Ecocampania, si recava presso la sede dal consorzio Ce4 per avere accesso agli atti della gara e per ritirare la relativa documentazione (cfr. la nota n. 3280 di cui al protocollo del consorzio Ce4).
Tuttavia Ecocampania s.r.l. non presentava il temuto (dai bidognettiani ma anche dal *presidente*) ricorso.

8. Le dichiarazioni rese da Emilio Di Caterino, Nicola Ferraro e Michele Orsi

Chi ancora dubitasse della matrice mafiosa della società ECO4 non ha che da leggere le seguenti dichiarazioni rese dal collaboratore di giustizia **DI CATERINO Emilio**, anch'egli ex – militante del gruppo bidognettiano.
Nell'interrogatorio reso il 12.11.2008 DI CATERINO esprimeva, con linguaggio 'atecnico' consono alla sua adibizione a ruoli 'esattoriali' e militari, concetti sovrapponibili a quelli espressi, con maggiore competenza, dal colletto bianco Gaetano Vassallo.

La convergenza tra DI CATERINO e VASSALLO riguarda:
la stipula di un patto societario tra il gruppo Bidognetti e i fratelli Orsi relativo all'affare del Consorzio dei Rifiuti;
l'individuazione dei soggetti che all'interno del clan gestivano gli affari ed ebbero a decidere la stipula di detto accordo;
l'individuazione degli affiliati di rango inferiore che curarono l'attuazione dell'iniziativa, primi fra tutti MIELE Massimiliano e ALFIERO Nicola;
il ruolo strategico assegnato all'intraneo Gaetano Vassallo nella realizzazione di quel progetto;
il dominio sostanziale esercitato dagli Orsi sulla società mista ECO4;
il conferimento di automezzi e autocompattatori effettuato, gratuitamente, da Vassallo agli Orsi;
le sovraffatturazioni attraverso le quali i privati stornavano sul partner pubblico i contributi versati al socio criminale, con specifico riferimento al duplice ruolo di Claudio Bidognetti e della Oleodinamica;
il ruolo di Bernardo Cirillo;
l'inadempimento dei patti sociali da parte degli Orsi, la rottura e la reazione che ne conseguì.

Le dichiarazioni del DI CATERINO si fanno apprezzare come pienamente attendibili anche perché coerenti con il materiale intercettivo sopra esposto, così come con le conoscenze investigative valorizzate nelle ordinanze cautelari emesse nell'ambito del procedimento n. 49946/03 r.g.n.r. che si sono sopra più volte richiamate.

Rilevano in particolare i seguenti temi: attribuzione ad Aniello Bidognetti della scelta di sacrificare la Ecocampania di Nicola Ferraro sull'altare del remunerativo accordo con i fratelli Orsi; il ruolo protagonistico di Alessandro Cirillo nella fase in cui tale scelta trovò esecuzione; pretese estorsive del clan La Torre e del clan Esposito in relazione agli appalti del servizio di raccolta ottenuti dalla ECO4 in Mondragone e Sessa Aurunca; il ruolo di Vincenzo Filoso nella vicenda estorsiva mondragonese; la scelta di BIDOGNETTI Claudio quale esattore del contributo sociale mensilmente versato dagli Orsi al socio criminale e, nel contempo, quale fornitore della ECO4, emittente fatture ideologicamente false, utilizzate dagli Orsi per stornare le uscite clandestine.

"…Il reggente del clan, nel 2001, era Alessandro CIRILLO il quale fu incaricato della gestione dopo le catture, avvenute in successione in tempi diversi, di Domenico BIDOGNETTI, Aniello BIDOGNETTI, DELL'AVERSANA Giuseppe e SETOLA Giuseppe, quest'ultimo tratto in arresto nel 2000 a Pompei. ***CIRILLO Alessandro, nel 2000, decise di estromettere i fratelli FERRARO – monopolisti degli appalti comunali del casertano per la raccolta dei rsu – dallo specifico settore per affidarlo ai fratelli ORSI, Michele e Sergio. Gli ORSI furono scelti da Aniello BIDOGNETTI, prima del suo arresto, perché avevano raggiunto un accordo con il capo clan nel dividere al 50% i profitti tratti dalla complessiva attività; a ciò si aggiungeva una somma da versare "a titolo di camorra", che era stata pattuita riguardo al servizio che gli ORSI, con la società ECO4, avrebbero svolto sui Comuni di…Castel Volturno****. **Fui incaricato io stesso nello svolgere distinte operazioni, sicché le mie informazioni sono frutto di mie esperienze dirette****. ***L'esistenza di un accordo tra gli ORSI e Aniello BIDOGNETTI mi fu rappresentata sia da CIRILLO Alessandro, nel periodo che precede il suo arresto del 17 agosto del 2001, sia da VASSALLO Gaetano, nel 2002****.** *Quest'ultimo è* ***un amico intimo della famiglia BIDOGNETTI e per conto del clan aveva sempre trattato nel campo dei rifiuti. Gaetano VASSALLO aveva messo a disposizione i suoi mezzi proprio alla famiglia BIDOGNETTI in modo da consentire agli ORSI di operare; inizialmente gli ORSI erano dei semplici imprenditori edili e non avevano alcuna struttura per poter svolgere il servizio, sicché i mezzi di VASSALLO – si trattata di autocompattatori - furono determinanti per consentire lo svolgimento dei servizi****. ***VASSALLO aveva praticamente "regalato" i suoi mezzi ad Aniello BIDOGNETTI e quindi erano stati utilizzati dagli ORSI con la società che io conosco con il nome ECO4.*** *Per quelle che sono le mie informazioni* ***l'ECO4 era una società dei fratelli ORSI. I fratelli FERRARO furono allontanati – come seppi poi da FERRARO Luigi, in tempi successivi, quando vi fu il loro riavvicinamento a CIRILLO – perché minacciati proprio da CIRILLO Alessandro il quale gli puntò una pistola alla tempia, costringendoli ad abbandonare i territori, prima da loro governati in questo settore. Gli ORSI non hanno mai tenuto fede all'impegno di pagare il 50% degli utili e si sono limitati soltanto a pagare "la camorra", ossia a versare una somma pari ad iniziali lire 10 milioni, poi elevate a 15 mila euro, il tutto in relazione al servizio svolto dall'Eco4 nei comuni di Castel Volturno…Gli ORSI svolgevano anche il servizio di raccolta dei rifiuti nei Comuni di Mondragone e Sessa Aurunca e anche lì erano vincolati a versare la "camorra"; su Mondragone, governata dal clan La Torre, la tangente veniva riscossa da Vincenzo FILOSO, all'epoca reggente o comunque incaricato della esazione, non so tramite chi.*** *Su Sessa Aurunca la persona delegata era Vincenzo GALLO, che ricordo latitante nel 2002. Ricordo che ebbi a incontrare con GUIDA Luigi proprio Vincenzo GALLO, a Pontecorvo, in modo che i due si conoscessero. Con me c'era anche ALFIERO Nicola e GRASSIA Luigi e rammento che sopraggiunse FILOSO Vincenzo, insieme a Enzo*

*GALLO, responsabile appunto, in quel tempo, di Sessa Aurunca…**Gli ORSI hanno sempre versato la "camorra" per 15 mila euro al nostro gruppo ed era stato incaricato della riscossione BIDOGNETTI Claudio, il quale era titolare della Oleodinamica Isa, una società di Casal di Principe che si occupa della realizzazione di tubi idraulici. Claudio BIDOGNETTI è cugino di primo grado di Domenico BIDOGNETTI. Poiché Claudio BIDOGNETTI era stato scelto dall'ECO4, per volontà degli ORSI, come una delle società di servizio per i lavori di idraulica e saldatura che si rendevano necessari per i camion (veicoli acquistati dalla Germania, in tempi successivi alle forniture di VASSALLO, mezzi da modificare proprio per renderli servibili per l'aggancio dei cassoni della nettezza urbana), gli ORSI utilizzarono proprio BIDOGNETTI Claudio per il versamento, facendo figurare tali tangenti come costo, fatturandole falsamente; in pratica le fatture venivano gonfiate e così si dava copertura formale e giustificazione al versamento della tangente. Fu proprio Claudio BIDOGNETTI a informarmi della cosa e anzi proprio lui mi suggerì – dopo che mi aveva personalmente consegnato un paio di rate mensili – che sarebbe stato più opportuno che le consegne del denaro contante fossero poi attuate a casa di Esterina PAGANO, zia di Domenico BIDOGNETTI e moglie di Armando LETIZIA. Si trattava di un modo per evitare pericolose esposizioni per Claudio BIDOGNETTI: io ero noto alle forze dell'ordine e se fossi stato visto vicino all'officina di Claudio, posta vicino all'Ipam di Dante Passatelli, Claudio BIDOGNETTI avrebbe potuto correre dei rischi.** *In pratica io ho sempre raccolto la "camorra", ogni mese, intorno al 20 - 22 di ogni singolo mese, portandomi con GRASSIA Luigi, prima presso l'officina e poi prelevando le somme a casa di PAGANO Esterina, la quale le raccoglieva per noi. La donna sapeva che si trattava della tangente proveniente dai fratelli ORSI. Tutto questo è accaduto – con assoluta certezza – dal 2001 al 16 settembre 2003, quando iniziai la mia latitanza e mi allontanai dalla operatività nel clan. In pratica la cosa dovrebbe essere proseguita allo stesso modo anche nel periodo successivo. Il denaro, una volta prelevato, veniva portato da VEROLLA Nicola, il quale lo custodiva per il clan, in pratica teneva la cassa comune…**Come detto, gli accordi tra i fratelli ORSI ed il clan BIDOGNETTI prevedevano che i primi avrebbero dovuto corrispondere la metà dei profitti al clan ma, atteso il mancato rispetto dei patti, vi furono degli incontri volti ad imporne il rispetto; io stesso ebbi ad accompagnare, insieme a SPENUSO Salvatore, MIELE Massimiliano e GUIDA Luigi a casa di Sergio ORSI, in Casal di Principe. Io e SPENUSO scortammo a bordo di una vettura il GUIDA insieme a MIELE; il GUIDA era latitante e l'incontro si ebbe nel 2002.** *Io e SPENUSO non assistemmo e ci limitammo ad accompagnare i due sotto il portone dell'abitazione di Sergio ORSI e lì si intrattennero per un paio d'ore, dalle undici e mezzo fino all'una e mezzo di notte. L'incontro doveva tenersi con entrambi i fratelli ORSI ed è probabile che anche Michele – il quale abitava vicino a casa di Sergio – abbia partecipato, essendo socio del fratello. L'esito dell'incontro non fu peraltro come previsto, poiché gli ORSI si limitarono a garantire un aumento della tangente, portandola dagli originari previsti 10 milioni di lire mensili alla somma di 15 mila euro, che da lì in poi pagarono secondo questo importo…**non so dire le ragioni per le quali gli ORSI non mantennero i patti societari, non ne sono stato informato.** *Per quanto concerne la tangente di 15 mila euro, la somma veniva consegnata a Claudio BIDOGNETTI a volte dagli stessi ORSI, a volte da SCHIAVONE Alduccio, il loro geometra che dovrebbe essere stato anche inserito in una loro società o nella stessa Eco4.* **MIELE Massimiliano era una persona del clan, era vicino a noi in qualsiasi cosa ed è imparentato con Bernardo CIRILLO: la sorella di quest'ultimo ha sposato il fratello di MIELE Massimiliano, di nome Gaetano. Si trattava di una persona di estrema fiducia e CIRILLO Bernardo presentò a GUIDA Luigi proprio il MIELE,**

insieme a BORRATA Francesco, quali suoi fiduciari. MIELE Massimiliano era anche molto vicino ad Aniello BIDOGNETTI e aveva un buon rapporto con entrambi i fratelli ORSI. *Tale era il suo rapporto con entrambi che il MIELE prendeva sempre le parti dei due fratelli e ciò accadde anche quando GUIDA decise di togliere da mezzo i due ORSI, ripristinando il rapporto esclusivo con i fratelli FERRARO…*" .

Le dichiarazioni di **Nicola FERRARO** sono perfettamente compatibili con il quadro risultante dalla combinazione delle dichiarazioni dei collaboratori di giustizia Vassallo e Di Caterino, degli esiti intercettivi e delle acquisizioni documentali; pur essendo piuttosto "prudenti" in ordine alle indicazione soggettive che, stando alle captazioni, il dichiarante sarebbe stato senz'altro in grado di effettuare.

Nel verbale di assunzione delle informazioni rese in data 11 giugno 2007 egli dichiarava:

"…Io mi sono occupato del settore dei rifiuti dal 1987 ed ero socio della ECOCAMPANIA s.r.l. che, se ricordo bene, fu costituita nel 1994; sono stato anche amministratore della predetta società dal '95 al '99, periodo dopo il quale io rimasi semplicemente socio di maggioranza insieme a mio fratello Luigi. Nel periodo del '99, i Comuni del casertano presso i quali l'ECOCAMPANIA operava per la raccolta dei R.S.U. erano Castelvolturno, S. Maria C.V., Bellona, Frignano, San Marcellino, Gricignano, Carinaro, Marcianise e Maddaloni. Non sono sicuro se i Comuni che ho indicato sono stati gestiti contestualmente o in periodi sfalsati; aggiungo che ci occupavamo della raccolta dei R.S.U. anche in altri comuni fuori regione; ricordo a solo titolo esemplificativo Assisi e Riva del Garda. A.D.R.: nel 1999, come ECOCAMPANIA, avevamo raggiunto la categoria di iscrizione che ci permetteva di partecipare agli appalti per Comuni sino a 500 mila abitanti; avevamo anche acquisito delle certificazioni di qualità, quali ISO 14000 e ISO 9000. ***Nel 1999, se ricordo bene, il consorzio CE 4 che era stato costituito a metà degli anni '90, vide un mutamento dei suoi vertici; in particolare VALENTE Giuseppe, che era collegato ai popolari insieme al sindaco di Mondragone Ugo CONTE, passarono a F.I. e modificarono la maggioranza all'interno del consorzio precedentemente in capo al centro sinistra. Il VALENTE in questo modo divenne presidente del consorzio con i voti del centro destra.*** *Alla fine del '99, attraverso un comune amico, il dr. Antonio SCIALDONE, gli ORSI mi chiesero un incontro; SCIALDONE mi portò a S. Maria C.V. in uno studio che si trovava di fronte al bar Seven Up. SCIALDONE era stato vicino al gruppo politico della DC di cui facevano parte gli ORSI e nell'ultimo periodo si era avvicinato a me; in quel periodo SCIALDONE era amministratore di una società denominata TREA SUD che io stesso avevo costituito. A.D.R.: credo che gli ORSI mi contattarono tramite SCIALDONE perché all'epoca noi non avevamo particolari rapporti. Quando arrivai nell'ufficio mi pare che vi fossero entrambi i fratelli ORSI; all'incontro partecipò per tutto il tempo anche Antonio SCIALDONE. Se ricordo bene* ***entrambi i f.lli ORSI parlarono e mi dissero che stavano preparandosi a partecipare alla gara per la società mista che doveva fare il consorzio CE 4, gara alla quale avevano grosse chances di vincere perché all'interno del consorzio potevano contare sui rapporti con VALENTE Giuseppe, che conoscevano da tempo, e con DI BIASIO Claudio, che pure conoscevano da tempo. Ricordo che loro facevano riferimento al DI BIASIO come una persona in stretti rapporti con loro****. A.D.R.: io non avevo mai saputo, prima di questo incontro, che il consorzio CE 4 volesse costituire una società mista; non vi era sicuramente ancora alcun bando di gara. Prima di questo incontro, tra l'altro, io non avevo mai saputo che gli ORSI fossero interessati al settore dei rifiuti; non sapevo*

assolutamente che gli ORSI avessero, o avessero intenzione, di costituire società operanti in questo ambito. ***A.D.R.: ho un ricordo preciso di questo incontro, perché si è trattato di una di quelle cose che hanno cambiato il corso della mia vita. Nel corso di questa chiacchierata, gli ORSI mi chiesero se ero disponibile a collaborare con loro; mi dissero che con o senza di me avrebbero partecipato alla gara e con o senza di me avrebbero vinto.*** *Mi dissero che se io ero disponibile, loro mi avrebbero fatto lavorare per conto loro. Io risposi in modo alquanto piccato che non ero interessato a questa proposta e che al massimo avrei potuto accettare di fare una società a condizione che essi avessero riconosciuto a me il diritto di nominare l'amministratore; gli dissi che io avevo il KNOW HOW e che quindi avevo ben diritto a pretendere un ruolo di primo piano. Dissi agli ORSI che avremmo potuto nominare amministratore proprio Antonio SCIALDONE. Aggiunsi che volevo anche capire fino a che punto essi fossero effettivamente in condizione di vincere la gara e loro mi dissero che ne avevano la possibilità e che, se avessimo operato insieme, avremmo vinto senza discussione. L'incontro si chiuse in modo interlocutorio nel senso che io precisai che l'unica condizione per la quale avrei accettato di collaborare con loro era quella di fare la società con l'amministratore da me nominato. A distanza di qualche giorno, gli ORSI riparlarono con SCIALDONE e chiesero a SCIALDONE qual era la mia posizione; nel corso di questo incontro gli ORSI dissero a SCIALDONE cose che credo SCIALDONE non mi ha mai riferito con precisione per non farmi innervosire; ricordo comunque che* ***SCIALDONE mi disse che gli ORSI avevano utilizzato un linguaggio alquanto minaccioso dicendo che mi avrebbero distrutto e non solo imprenditorialmente.*** *A distanza di pochi mesi da questo incontro, ricordo che eravamo nel periodo del marzo/aprile 2000, quando era in corso la campagna elettorale per le regionali, venne emanato il bando di gara da parte di CE 4. Io, appena vidi il bando di gara, capii chiaramente che il bando era stato vestito addosso agli ORSI e che vi erano indicati dei requisiti che gli ORSI avevano creato proprio per vincere questa gara…Alla gara per la società mista io partecipai con un'ATI ECOCAMPANIA - TREA SUD, ATI che mi garantiva il requisito della imprenditorialità giovanile in quanto della TREA SUD faceva parte Antonio SCIALDONE che aveva da poco compiuto i 29 anni, anni fino ai quali valeva il punteggio aggiunto per l'imprenditorialità giovanile.* ***Poco dopo venne espletata la gara e ricordo che l'aggiudicazione all'ATI FLORA ci venne comunicata con una raccomandata o con un fax. Io restai un po' perplesso perché mi sarei aspettato di essere convocato al momento in cui si aprivano le buste, cosa che non avvenne affatto.*** *Io come socio della ECOCAMPANIA, tramite il mio avvocato, cercai di prendere visione degli atti di gara;* ***devo dire che il direttore DI BIASIO cercò di fare melina sino a quando l'avvocato non riuscì a vedere gli atti. Il giorno in cui l'avvocato si recò a visionare gli atti presso la sede della CE 4, nella stessa mattinata, a casa di mio padre, a Casal di Principe, si recarono due giovani con modi molto spicci che chiesero insistentemente a mio padre di incontrarmi; mio padre si preoccupò di questa visita e mi informò immediatamente. Il giorno dopo, si ripresentarono questi due giovani a casa di mio padre e chiesero di nuovo di me in modo insistente e in modo che mio padre si preoccupasse molto. All'epoca, io abitavo a Casale nello stesso palazzo in cui abitava mio padre, ma mi stavo separando con mia moglie e non andavo spesso a casa, anche perché mia moglie aveva già lasciato la nostra casa. Questi giovani sono venuti per due o tre giorni di seguito e io non sono mai andato a Casale proprio perché non volevo assolutamente incontrarli. A.D.R.: Io ricollegai la visita di questi giovani al fatto che l'avvocato si era recato a visionare gli atti presso la sede del CE 4. A.D.R.: le visite di questi giovani si sono interrotte quando noi facemmo sapere, tramite il nostro avvocato, che non avevamo alcun interesse a impugnare l'aggiudicazione della gara. A.D.R.: faccio presente che*

il bando del concorso prevedeva che fossero inammissibili le partecipazioni da parte di società "in contenzioso" con il consorzio e accade che, proprio in vista e in un periodo coevo al bando di gara, ricevetti una lettera del consorzio nella quale venivano chieste delle spettanze arretrate; si trattava evidentemente di una richiesta pretestuosa e compresi subito che era un ulteriore modo per pilotare la gara. *Ebbi comunque a pagare la somma richiesta che peraltro non era neppure ingente e che quindi non diede luogo a nessun contenzioso. A.D.R.: ritengo che gli ORSI non disponessero di nessun requisito per poter aggiudicarsi la gara, ad esclusione del punteggio legato all'imprenditoria giovanile.* ***A.D.R.: quanto al comportamento dei due giovani di cui ho parlato, faccio presente che gli stessi vennero a casa di mio padre in diverse occasioni, almeno tre o quattro giorni diversi, continuativi; ogni volta si rivolgevano a mio padre per fissare un appuntamento con me, per un incontro da tenersi a casa mia. Proprio temendo di incontrare queste persone, evitai di far ritorno a casa di mio padre dove in quel periodo dimoravo. Faccio presente che non tornai fin tanto che non giunsero a scadenza i termini per presentare ricorso al TAR a fronte dell'aggiudicazione all'ATI FLORA. Faccio presente che dopo la nostra estromissione, noi preparammo, insieme ai legali, sia una richiesta di accesso agli atti amministrativi, sia una formale contestazione quanto alle modalità di svolgimento della gara. Ribadisco che vi fu una sostanziale sovrapposizione tra le nostre deduzioni e richieste di chiarimenti al consorzio e la visita ricevuta a casa di mio padre, tanto che ricordo che la prima telefonata ricevuta da mio padre, particolarmente allarmante, fu fatta proprio mentre io mi trovavo con il mio legale al suo ritorno dal consorzio dopo aver richiesto di visionare gli atti per la prima volta, parlando con DE BIASIO Claudio. Ritenni che tale coincidenza non potesse essere casuale anche con riferimento al fatto che gli stessi giovani smisero di cercarmi quando decorsero i termini per ricorrere al TAR. A.D.R.: mio padre mi parlò di due giovani, sempre gli stessi, che minacciandolo richiedevano urgentemente un appuntamento con me perché dovevano parlarmi. A.D.R.: non ebbi mai a denunciare questo episodio neppure quando fui sentito dai CC. di Casal di Principe i quali mi interrogarono proprio sulla gara, peraltro facendolo in contemporanea proprio con gli ORSI.*** *A.D.R.: ricordo che mio padre, al cospetto delle minacce, mi chiese chiarimenti di quali fossero gli affari rilevanti che io stavo trattando; parlando con lui compresi con chiarezza che* ***l'unica questione che poteva giustificare un comportamento così pesante nei confronti della mia famiglia e tanto assiduo era quella relativa al possibile ricorso al TAR a fronte della mia esclusione. Ne ero e ne sono tuttora assolutamente certo****. Faccio presente che si trattava di un ricorso al TAR che io ritenevo già vinto…".*

Fungono da argomento di chiusura rispetto a questo profilo del ragionamento probatorio le **dichiarazioni rese da Orsi Michele in data 3.10.2006 ed in data 6.6.2007**.
Per quanto assai attento ad allontanare da sé qualsiasi sospetto di mafiosità e piuttosto propenso ad presentarsi quale 'pura vittima' della criminalità organizzata, ORSI non poteva fare a meno di ammettere l'incontro con Aniello Bidognetti e Gaetano Vassallo avvenuto nelle fasi iniziali dell'iniziativa ECO4; la vicenda del trasferimento dei mezzi della SETIA SUD; la partecipazione a questa fase di Massimiliano Miele.

"…Io e mio fratello Sergio, abbiamo sempre svolto attività imprenditoriale nell'ambito del settore edile nel centro-nord Italia e solo sporadicamente abbiamo svolto attività in zona…Utilizzando la società FLORA AMBIENTE, io e mio fratello pensammo di partecipare a questo bando e siccome non avevamo ancora i mezzi e

*nemmeno il know-how decidemmo di creare un ATI con entità che già operavano nel settore e che avevamo conosciuto per motivi lavorativi…**Rappresento che la nostra esperienza nel settore era limitata e così pure la dotazione di mezzi da parte della nostra società, sicché l'idea era quella di consorziarci con società e persone che avessero una specifica esperienza e potessero fornirci adeguata copertura strutturale e relazionale**…**Rappresento che MIELE Massimiliano, come ho detto, ebbe a introdurci ad Aniello BIDOGNETTI, e successivamente ci fece conoscere VASSALLO Gaetano; in particolare ricordo che essendo necessario acquistare 7-8 camion per la Flora Ambiente, il MIELE ci disse che avremmo potuto acquistare quanto necessario da VASSALLO Gaetano. Questi era un imprenditore specializzato nella raccolta dei rifiuti e che disponeva di mezzi per svolgere il servizio; per quale che ci disse si trattava di una persona inquisita e per problemi giudiziari aveva interrotto l'attività, sospendendola; a detta del MIELE avremmo potuto acquistare dei mezzi per la raccolta dei rifiuti. Si recarono dunque MIELE Massimiliano, VASSALLO Gaetano, ORSI Sergio e Aldo SCHIAVONE presso un deposito di Giugliano dove si trovavano parcheggiati gli autoveicoli; nell'occasione fu proposto l'acquisto a un prezzo contenuto di circa 60 milioni, acquisto che venne poi perfezionato**…**Non venne precisato se intendesse partecipare in modo occulto o palese. Faccio presente che non era stato ancora corrisposto il denaro pattuito per la vendita dei mezzi, vendita che si era già perfezionata; si trattò di un acquisto che avvenne dopo l'aggiudicazione della gara.** ADR: **Ancorché possa apparire singolare, faccio presente che l'interesse di acquistare i veicoli in capo alla Flora Ambiente era legato alla necessità di attrezzare, nella prospettiva di possibili appalti al di fuori dell'attività che sarà svolta dell'Eco/4; i mezzi erano in capo alla CAPASSO Ciro, componente dell'ATI e la Flora ne era sprovvista. Faccio presente che la Flora Ambiente ebbe poi a noleggiare alla Eco/4 i mezzi essendo la Eco/4 sprovvista di sufficienti automezzi ma questa utilità non era stata immediatamente prefigurata…"*

9. La realizzazione della prima tappa del progetto strategico di Sergio Orsi e Gaetano Vassallo. La monopolizzazione del servizio di raccolta

La richiesta presentata dal Pubblico Ministero in data 16.2.2009 dà conto, nelle pagg. 64 – 96, di come la ECO4 s.p.a. riuscì a realizzare il primo e fondamentale obiettivo strategico della partnership Orsi – Bidognetti: l'accaparramento del servizio di raccolta dei rifiuti solidi urbani presso quasi tutti i comuni consorziati.
L'obiettivo è nitidamente esposto dal collaboratore Vassallo nelle dichiarazioni rese il 3.6, il 5.6, il 18.6 e il 1° luglio 2008:

*"…omissis…**Gli Orsi mi diedero ragione ma dissero che il loro progetto era quello di essere il braccio operativo del consorzio pubblico "ce 4" il cui presidente è Giuseppe Valente di Mondragone, mentre il direttore del Consorzio CE 4 è l'Arch. Di Biaso che "erano persone Loro"; gli Orsi mi dissero che non dovevano fare solo il servizio di raccolta e trasporto dei rifiuti solidi urbani nel Comune di Mondragone, bensì in tutti i Comune che fanno parte del bacino di utenza del Consorzio Caserta 4 e dovevano fare anche lo smaltimento dei rifiuti solidi urbani con l'ampliamento la vecchia discarica di " Parco Saurino " e farne una nuova; per far questo si doveva costituire una società mista il cui 51% è del pubblico (Consorzio dei Comuni Bacino Caserta 4) ed il 49% ai privati della " FLORA AMBIENTE Srl ". In tal modo avrebbero preso gli appalti per tutta la provincia di Caserta della n.u."* **(interrogatorio del 3.6.08)**

"Compresi immediatamente le specificazione di Sergio ORSI, e capii che quello era un progetto eccezionale: si trattava del primo caso di una società mista pubblico-privata, che avrebbe monopolizzato la raccolta degli R.S.U. sull'intero bacino consortile. Da quando era iniziato il commissariamento del ciclo dei rifiuti in Campania, praticamente tutti i privati erano stati esclusi dalla gestione diretta e i consorzi erano interamente Comunali.
La previsione, di cui mi parlò ORSI Sergio di una società mista pubblico-privato, costituiva una breccia fondamentale per consentire nuovamente ai privati e, conseguentemente anche ai gruppi organizzati mafiosi, quali quello di BIDOGNETTI, di ingerirsi direttamente nella gestione.
Mi spiegò inoltre Sergio ORSI, che il loro progetto prevedeva che il consorzio avrebbe creato un c.d. "braccio operativo"che avrebbe non solo acquisito tutti gli appalti per la raccolta degli R.S.U. comunali, ma cosa molto più importante e lucrosa, avrebbe assunto anche la gestione della discarica di parco Saurino **(interrogatorio del 5.6.07)**

"***Una volta costituita l'ECO 4, la stessa iniziò a ricevere gli affidamenti da parte dei comuni; si trattava di affidamenti diretti, senza alcuna gara, e proprio la previsione di affidamenti diretti alla ECO 4 da parte dei comuni del consorzio, costituiva una delle ragioni fondamentali per cui si era inteso dare seguito a questo progetto; faccio presente che i Comuni partecipavano al consorzio CE 4, ente presieduto da VALENTE Giuseppe e il cui direttore generale era Claudio DE BIASIO, uomini legati agli ORSI, la presenza dei quali dunque garantiva i successivi affidamenti da parte dei singoli comini.***
Compresi agevolmente che si trattava di accordi prestabiliti e posso dire con sicurezza che vi fu anche il contributo del Commissariato di governo nel consentire l'attuazione di questo progetto*…omissis…"* (interrogatorio del 18.6.08)

"**I*l progetto prevedeva che la società mista ricevesse tutti gli affidamenti dei servizi di raccolta degli RSU comunali, predisponesse e realizzasse la raccolta differenziata dal cassonetto e gestisse le discariche ove smaltire i rifiuti comunali stessi.***
Ovviamente ciò avrebbe poi comportato la gestione dei ruoli, da parte di ECO 4, per l'esazione della TARSU, cosa che fece poi su alcuni Comuni.
Questo progetto non prevedeva originariamente, a mia memoria, nessuna realizzazione di impianti di termovalorizzazione e di CDR.
Come ho già detto era un progetto particolarmente allettante e per questo consigliai ai miei referenti appartenenti al gruppo BIDOGNETTI di seguire gli ORSI e di entrare nell'affare. Successivamente venne aggiudicata la gara a livello regionale alla FIBE ma io ero già stato estromesso dalla ECO 4 e praticamente ebbi modo di ricevere informazioni occasionali da parte di Sergio ORSI, senza conoscere nel dettaglio quali fossero, e se vi fossero, delle interferenze tra la gestione affidata alla FIBE e il progetto ideato e sviluppato nel tempo da parte dell'ECO4. Già all'origine il progetto prevedeva l'individuazione delle discariche in Parco Saurino (quella che poi sarà effettivamente la discarica gestita da ECO 4) e in S. Maria la Fossa". **(interrogatorio del 1° luglio 2008)**

La premessa normativa di questa parte del nostro discorso è segnata dai contratti stipulati in data 07.06.2000 (per la provincia di Napoli) e in data 5.9.01 (per le altre province campane), in attuazione dell'ordinanza n. 16 datata 09.02.2000, tra il Presidente della Giunta Regionale della Campania - Commissariato di Governo delegato ai sensi dell'O.C.P.M. n. 2425 del 18.3.1996 e l'ATI capeggiata da FISIA

ITALIMPIANTI s.p.a.
Il contratto aveva ad oggetto "*il servizio di smaltimento dei rifiuti solidi urbani a valle della raccolta differenziata, prodotti nella regione Campania*".

Fu così previsto che lo smaltimento avvenisse attraverso impianti di produzione di combustibile derivato dai rifiuti (C.D.R.) e di termovalorizzazione del CDR, a fini di produzione dell'energia elettrica.

La FIBE S.p.A. sarebbe così divenuta l'unico affidatario dei servizi e prestazioni a valle della raccolta differenziata, ivi compresa la realizzazione delle discariche di servizio.
L'O.P.C.M. n. 3100 del 22/12/2000 all'art. 3 dava seguito al regolamento contrattuale stabilendo la sospensione del *"rilascio delle autorizzazioni alla costruzione ed esercizio degli impianti di smaltimento dei rifiuti";* se non in presenza delle seguenti condizioni:
1) che vi fossero "particolari situazioni";
2) che l'ordinanza venisse sottoscritta dal Presidente della regione Campania quale commissario delegato.

Rimaneva in capo ai consorzi di bacino il solo compito di organizzare la raccolta differenziata ed il relativo trasporto.

La lettura di alcuni verbali di conferenze di servizi tenutesi nell'aprile e nel maggio 2001 - con il coinvolgimento dei comuni consorziati, del Direttore Generale De Biasio e del Presidente del Consorzio Ce/4, della società Eco/4, del Commissariato di Governo per l'Emergenza Rifiuti in Campania - conferma le affermazioni di Vassallo relative ai soggetti pubblici coinvolti nell'azione che garantì all'impresa mafiosa l'ambito monopolio.
Si legge ad esempio nel verbale del 04.05.2001 *(allegato n.11, inf. del 22/10/2008)*, una dichiarazione del subcommissario Facchi per la quale "*tutti i contratti in scadenza saranno affidati al Consorzio, fermo restando che successivamente bisogna innescare un meccanismo di concorrenzialità tra il partner del Consorzio e il mondo imprenditoriale esterno*".
Nel verbale del 24.5.01 si leggono dichiarazioni di tenore identico del direttore generale De Biasio *(allegato n.12 inf. del 22/10/2008): "l'affidamento dei servizi da parte dei Comuni è al Consorzio e, per esso, alla società consortile ECO QUATTRO s.p.a. e ciò si rende necessario per prevenire la concreta possibilità che a sostituirsi ai consorzi sia la FIBE Italimpianti, aggiudicataria di appalto regionale per la gestione e livello regionale. Con l'affidamento ai Consorzi invece si garantisce il ruolo degli stessi e anche dei singoli comuni nella politica di gestione delle attività di competenza. Per rendere concreta questa possibilità, i Comuni dovranno affidare i servizi al Consorzio e quindi alla ECO Quattro s.p.a. come forma di gestione scelta ai sensi dell'art. 113 del T.U. Altre possibilità per i comuni non esistono, prevedendo la normativa la gestione unitaria a livello di bacino".*

Il riscontro documentale delle aggiudicazioni per affidamento diretto e senza gara è incorporato nell'informativa della Tenenza di Mondragone del 22.10.08 che riporta l'analisi delle procedure di affidamento seguite nei comuni di Bellona, Calvi Risorta, Carinola, Castel Volturno, Cellole, Falciano del Massico, Francolise, Giano Vetusto, Grazzanise, Mondragone, Pastorano, Pignataro Maggiore, Roccamonfina, Santa Maria La Fossa, Sessa Aurunca, Sparanise, Teano, Vitulazio.
La notevole acquisizione documentale consente di apprezzare innanzitutto il

generalizzato sistema di affidamenti diretti, realizzato: ora con la proroga reiterata di affidamenti temporanei (13 proroghe per il comune di Bellona; 10 proroghe per il comune di Calvi Risorta; 10 per il comune di Sessa Aurunca); ora con affidamenti diretti di durata quinquennale o decennale (Carinola; Castel Volturno, dopo 5 proroghe di affidamento temporaneo; Cellole; Falciano del Massico; Grazzanise; Mondragone; Pastorano; Pignataro Maggiore).

Ha poi trovato pieno riscontro il passaggio delle dichiarazioni di Gaetano Vassallo nel quale il collaboratore evidenziava il caso 'isolato' del comune di Cancello e Arnone che non aveva aderito al diktat consortile:

"Rappresento che non tutti i Comuni, in realtà, furono d'accordo nell'affidare all'ECO 4 il servizio di raccolta dei RSU…omissis… ***ricordo in particolare il comportamento del sindaco di Cancello Arnone, AMBROSCA, il quale si dimostrò apertamente contrario a quella soluzione affermando che si trattava di una decisione che spettava esclusivamente al Sindaco e che era contraria all'interesse del Comune. Il subentro di una diversa società e comunque quelle condizioni provocavano un incremento – per lui ingiustificabile e effettivamente ingiustificato – della spesa pubblica. Questo sindaco fu convinto proprio grazie all'impegno di FACCHI il quale gli inviò una lettera e lo indusse a mutare il suo orientamento.*** *Per la precisione ricordo con chiarezza che il sindaco di Cancello Arnone aveva già predisposto il capitolato di gara con la precisione di un certo esborso per sostenere il costo del servizio e contrastava l'ipotesi di affidamento alla ECO 4 perché svantaggiosa economicamente. Fu per questo necessario che Giulio FACCHI inviasse una specifica lettera per indurre il Sindaco ad affidare il servizio alla ECO 4; non so dire se vi fossero delle intese precedenti tra FACCHI e i f.lli ORSI, ma in ogni caso* ***si trattava di una "politica" che consentiva ai Comuni di cautelarsi, appoggiandosi a un provvedimento commissariale, per affidare direttamente il servizio anziché svolgere una gara pubblica****".*
…omissis…

Si riporta qui di seguito la scheda dedicata al caso del comune di Cancello e Arnone dall'informativa sopra citata che riscontra pienamente le dichiarazioni:

"In merito, veniva accertato che il Comune di Cancello ed Arnone in data 23.03.2000 con determina n. 110 del 16.03.2000 indiceva una gara col sistema del pubblico incanto per l'affidamento dell'appalto del servizio di raccolta e trasporto RR.SS.UU. – spazzamento ed igiene urbana – raccolta differenziata, eseguita il 27.04.2000.
La Struttura Commissariale con Ordinanza n. 81 del 29.03.2000 (a firma di LOSCO) disponeva, tra l'altro:
"…che i Comuni ricadenti nei Consorzi di Bacino … CE4 … possano procedere a nuove gare di appalto per il servizio di raccolta del rifiuto, solo tramite intesa con il Commissariato e con Capitolato d'appalto approvato dalla Struttura Commissariale;
che tutti i Comuni della Regione Campania nell'affidamento delle gare di appalto relative alla raccolta dei rifiuti urbani, a valle della raccolta differenziata, evidenzino l'obbligo derivante dalle emanande ordinanze commissariali di conferimento dei suddetti rifiuti agli impianti di produzione del CdR. …"""

Con nota n. 3321 del 14.04.2000, l'Ufficio Tecnico del citato Comune richiedeva chiarimenti al Commissariato di Governo in ordine all'espletamento della gara già in atto, visto che il capitolato d'appalto non poteva essere sottoposto alla preventiva approvazione commissariale, in quanto approvato e pubblicato tempo prima rispetto alla emissione dell'ordinanza n. 81/2000.

Alla suddetta nota, il Sub Commissario - Giulio FACCHI - con nota n. 3654/CD del 02.05.2000 invitava il Comune di Cancello ed Arnone a **sospendere l'aggiudicazione** e a **prorogare** fino ad un massimo di mesi 6 il servizio di raccolta attualmente in corso.

In ossequio a questa direttiva, l'Ente, con delibera di G.C. n. 87 del 10.05.2000, provvedeva a prorogare per mesi 6 (**così come da invito del Sub-Commissario dott. Facchi**) il servizio in favore della ditta appaltatrice dello stesso (GEKON SNC di Napoli).

Si rappresenta che a tale ultima data non solo non era ancora stata costituita la società ECO/4, ma non si era neppure proceduto all'apertura delle buste (28.06.2000 ndr) per l'aggiudicazione della gara finalizzata all'individuazione del partner privato da affiancare al Consorzio Ce/4.

Con nota n. 8640 del 26.10.2000 l'Ufficio Tecnico del predetto Comune, richiedeva alla Struttura Commissariale (dott. Giulio FACCHI) il rilascio del nulla osta all'affidamento diretto del servizio rr.ss.uu. e raccolta differenziata alla Eco/4 o, viceversa, di autorizzare l'Ente a procedere all'indizione di gara per affidamento con bando pubblico.
Il Sub Commissario - **Giulio FACCHI** - con nota n. 9931/CD del 26.10.2000 **concedeva il nulla osta all'affidamento al Consorzio CE/4,** a condizione che venisse effettuato il servizio di raccolta differenziata.

Infatti, con Ordinanza n. 51 del 10.11.2000, il Sindaco **affidava il servizio al Consorzio CE/4** per il periodo 11.10.2000-31.12.2000. Tale servizio veniva prorogato con O.S. n. 57 del 29.12.2000 fino al 31.01.2001.

Con determina n. 5 del 12.01.2001 a firma del Responsabile U.T.C. veniva approvato, tra l'altro, il verbale di gara redatto in data 03.01.2001 relativo al servizio di raccolta e trasporto r.s.u. con aggiudicazione dell'appalto alla "ECOCAMPANIA SRL".

Il sub Commissario - **Giulio FACCHI** -, con nota n. 873/CD del 16.01.2001 disponeva:
"…di affidare, per un periodo non oltre mesi 6 (sei) al Consorzio di Bacino CE/4 il servizio di raccolta integrata dei R.U. del Comune di Cancello ed Arnone e ***si diffida il Comune dal procedere all'aggiudicazione della gara*** *per il servizio di raccolta dei R.U.. Il Consorzio dovrà altresì, entro 30 gg., documentare i costi sostenuti per il servizio e dovrà elaborare una proposta economica documentata, riferita al sistema integrato.".*

In risposta alla suddetta nota del Commissariato, l'Ente, con nota n. 766 del 26.01.2001, indirizzata anche alla Prefettura di Caserta, chiedeva chiarimenti in merito alla vicenda, affermando, tra l'altro, che:
"…non appare, inoltre, ipotizzabile l'affidamento di un servizio in dispregio alle disposizioni di cui al D.Lgs n. 157 del 17.03.1995 attuativo della Dir. 95/50/CEE in materia di affidamento dei pubblici servizi, considerato che non appare ricorrente, ne tantomeno richiamato in motivazione, alcuno dei presupposti che legittimino la disapplicazione della normativa in questione; …".

In data 29.01.2001, in forza della espletata gara d'appalto, tra il Comune di Cancello ed Arnone e la "ECOCAMPANIA SRL", veniva stipulato il contratto per l'esecuzione del servizio di raccolta e trasporto RR.SS.UU. – Rep. 07 del 29.01.2001.

Il Sub Commissario – **Giulio FACCHI** – con nota n. 2246/CD del 31.01.2001, rispondeva alla richiesta del Comune, ribadendo quanto già disposto nella nota n. 873/CD del 16.01.2001, ***diffidando***, nuovamente, il Comune di Cancello ed Arnone ***"…a procedere all'aggiudicazione della gara per il servizio di raccolta dei R.U."*** ed informava, inoltre, che ai sensi dell'art. 4 comma 7 *"il Commissario Delegato nelle more della costituzione e dei modi della cooperazione e delle società miste … provvede in ciascuno dei Bacini di utenza serviti dai*

consorzi individuati con L.R. 10 febbraio 1993, all'esercizio delle funzioni amministrative relative alla gestione dei rifiuti ed assicura le attività di raccolta, trasporto, recupero e smaltimento dei rifiuti ***anche*** *mediante i predetti consorzi".*

Nella stessa data - 31.01.2001 – il Presidente del Consorzio CE/4 (**VALENTE Giuseppe**), trasmetteva un telegramma indirizzato sia al Comune di Cancello ed Arnone che alla ECOCAMPANIA SRL con il quale, ribadendo il contenuto delle suddette note Commissariali (873/CD e 2246/CD), rappresentava che:

"…lo scrivente Consorzio, si presenterà in data 01.02.2001 all'espletamento del servizio, con le proprie maestranze in ottemperanza agli obblighi di legge posti a suo carico. …".

Con nota n. 358/15.5/GAB del 02.02.2001, il Prefetto di Caserta **richiamava l'attenzione del Comune su quanto ripetutamente disposto dal Sub Commissario delegato**.

A tale nota, il Sindaco rispondeva con nota n. 999 del 02.02.2001 trasmettendo, nuovamente, la nota n. 766 del 26.01.2001.

Va evidenziata, altresì, la relazione prot. n. 998 del 02.02.2001 a firma del Segretario Comunale - D.ssa Carmela Bruna TRIMARCO – con la quale **sosteneva l'illegittimità** (per i particolari si rimanda al documento) della nota prot. 873/CD del 16.01.2001, consigliando il Sindaco **affinché questi impugnasse il provvedimento** nelle sedi competenti.

In tale documento, tra l'altro, si legge:

"La nota del Presidente della Giunta Regionale della Campania – Commissario del Governo, ***prot. n. 873/CD del 16.01.2001****, a firma del Sub Commissario Giulio FACCHI, …* ***apparirebbe a parere della sottoscritta illegittima*** *sotto diversi profili, tra i quali, …: …****la violazione dello statuto e della convenzione col Consorzio, nella parte in cui prevedono il carattere obbligatorio solo per la gestione degli impianti di smaltimento e non anche per la gestione della raccolta differenziata, la cernita, il recupero, il riciclo dei rifiuti e delle M.P.S.****; …*

In relazione al telegramma trasmesso dal Consorzio CE/4, l'Ufficio Tecnico del Comune di Cancello ed Arnone, rispondeva con la nota n. 1042 del 05.02.2001 inviando la stessa anche alla Struttura Commissariale ed al Prefetto di Caserta, chiarendo che:

"In relazione al Vs. telegramma … l'affidamento del servizio di raccolta e trasporto RR.SS.UU. al Consorzio CE/4, è venuto a cessare in data 31.01.2001.
Pertanto, non avendo lo stesso alcun titolo all'espletamento del servizio, che anzi è stato ***affidato con regolare procedura di evidenza pubblica ad altra ditta****, a partire dal 01.02.2001,* ***si invita ad astenersi da qualunque attività in contrasto …****"*

Tale ultima frase, fa presumere che il Consorzio CE/4 abbia posto in essere condotte idonee ad ostacolare la ditta vincitrice della gara di appalto (ECOCAMPANIA SRL) nel regolare svolgimento del servizio in parola.

Infatti, l'ECOCAMPANIA, con nota n. 277 in data 01.02.2001, **data coincidente con l'inizio del servizio**, aveva segnalato al Comune di Cancello ed Arnone:
"*…il Ns. automezzo con targa BR239AN, che ha effettuato il previsto servizio di igiene urbana sul Vs. Comune,* ***non ha potuto effettuare sulla discarica "Saurino2" lo sversamento dei rifiuti*** *pur essendo l'automezzo in possesso di tutte le autorizzazioni richieste e* ***senza alcuna motivazione e/o giustificazione da parte del personale della discarica****. …".*

Il Prefetto di Caserta - dott. SCHILARDI - con ulteriore nota n. 400/15.5/GAB del 06.02.2001, ribadendo il contenuto della precedente nota 358/15.5/GAB del 02.02.2001, richiamava nuovamente l'attenzione del Comune di Cancello ed Arnone su quanto già disposto dal Sub

Commissario delegato.
Il Sindaco del suddetto Comune, con nota 1162 del 07.02.2001, invitava il Responsabile dell'Ufficio Tecnico Comunale ad adottare i conseguenti e necessari provvedimenti di competenza al fine di conformarsi al disposto della nota n. 2246 del 30.01.2001 del Sub Commissario di Governo.

Quindi, con determinazione n. 42 del 08.02.2001, il Responsabile dell'U.T.C. determinava:

*Di prendere atto **dell'affidamento da parte della struttura commissariale del servizio di raccolta integrata dei rifiuti del Comune di Cancello ed Arnone al Consorzio CE/4 per il tramite della società mista "ECO QUATTRO SpA"** per un periodo di sei mesi a decorrere dal 09 febbraio 2001, giuste note del Sub Commissario n. 873/CD del 16.01.2001 e n. 2246/CD del 31.01.2001, alle condizioni e nei modi dallo stesso stabilito.*

*Di **revocare l'aggiudicazione disposta in favore della EcoCampania srl** e per l'effetto risolto il contratto stipulato, venendo meno la "condicio iuris" alla sua base.*

Come visto nel riportato caso di Cancello e Arnone gli affidamenti diretti dei servizi comunali di raccolta non mancarono di essere caldeggiata dai *partners* criminali della società mista.

Valente Giuseppe, nell'interrogatorio reso al GIP il 6.2.2009 (trasmesso con missiva del 27.2.2009 a questo ufficio) affermava di aver ricevuto le lamentele di alcuni sindaci (citava i casi del sindaco di Falciano del Massico Zannini e di Sparanise Merola) per i metodi arroganti con i quali gli Orsi peroravano gli affidamenti alla ECO4.
Lo stesso Valente, nel rappresentare agli Orsi che "*i sindaci con loro non ci volevano avere a che fare perché avevano paura*", si sentiva rispondere "*ed è bene che sia così !*".

Ma la testimonianza più vivida del metodo mafioso con il quale quegli affidamenti venivano ottenuti in molti casi - quando evidentemente non bastava la *moral suasion* degli organi consortili e del sub commissario Facchi - è costituita dagli atti di concorrenza illecita violenta posti in essere, tra il 1° e 10 novembre 2000, in danno della COVIM s.r.l. al fine di indurla alla risoluzione anticipata degli impegni contratti con i Comuni di Mondragone e Castel Volturno per il servizio di raccolta degli r.s.u.
La vicenda è ricostruita nell'ordinanza 45/2009 del 26.1.2009 (pagg. 312-324), alla quale si fa in questa sede rinvio.

10. La *mediazione criminale* ofefrta alla eco 4 dal gruppo bidognetti

Altro aspetto della relazione sinallagmatica allacciata dagli uomini della ECO4 con la camorra casalese è costituito dalla mediazione che ha consentito agli Orsi di operare, attraverso gli affidamenti ricevuti dai diversi comuni consorziati, in territori controllati da altre organizzazioni criminali, estromettendo i 'clienti' tradizionali e talvolta lucrando più favorevoli condizioni estorsive, proprio grazie all'autorevole raccomandazione di 'Cicciotto'.
Su questo profilo dello scambio appaiono illuminanti le dichiarazioni di una serie di Collaboratori di giustizia provenienti dalle file del clan La Torre: (LA TORRE Augusto, ORABONA Salvatore, SPERLONGANO Mario, PICCIRILLO Stefano, PERSECHINO Michele, VALENTE Giuseppe, DIANA Giacomo, VALENTE Giuseppe) e del clan Esposito (DE MARTINO Antonio).
Esse realizzano una *mutual corroboration* probatoria così puntuale da rendere sufficientemente persuasiva la riproduzione sequenziale.

La Torre Augusto (cfr. i verbali degli interrogatori resi in data 21.2.2003, in data 20.3.2003, in data 22.7.2003 e in data 30.7.2003): "…per quanto riguarda il consorzio CE4 e soprattutto gli appalti a Mondragone non sono a conoscenza diretta dell'avvicinamento di VALENTE. *Se vi è stato un avvicinamento, comunque, questo deve essere stato effettuato da FRAGNOLI, sempre con l'appoggio di BIDOGNETTI. Dico che ci sia stato un interessamento di BIDOGNETTI perché ho ricevuto questa informazione da mio cognato..." – ossia dall'Orabona Salvatore - "...durante un colloquio in carcere qui a L'Aquila. Durante il colloquio io mi preoccupavo di capire se vi fosse la possibilità di ottenere la quota di danaro che ci consentiva di fare gli stipendi e difatti dopo l'arresto di DIANA Giacomo, SARNATARO ed altre persone era venuta meno una parte delle estorsioni che noi ricevevamo.* ***Mio cognato mi fece capire che per il nuovo appalto della CE4 si era interessato Panzone, soprannome con il quale indicavamo BIDOGNETTI e che noi avremmo avuto la nostra quota… seppure non sono in grado di essere preciso è certo che qualcuno del clan ha fatto in modo che la CE4 avesse l'appalto anche su Mondragone***…Per quanto riguarda invece la gestione della nettezza urbana dopo la COVIM io ho avuto contatti per avvicinare la nuova ditta, la CE4, che stava lavorando a Mondragone. *Attraverso mio cognato, ho mandato delle imbasciate a Tonino IOVINE 'o ninno per chiedergli di intervenire e sistemare la questione del pagamento su Mondragone perché sapevo che alcuni camion della CE 4 erano stati bloccati a S. Cipriano, Castelvolturno e in altri Comuni.* IOVINE si è interessato per un periodo e mi aveva assicurato che avrebbe risolto la situazione e in questo periodo mi ha anche mandato un regalo a titolo personale di 50 milioni. ***Successivamente mi ha fatto sapere che non era in grado di risolvermi la questione. Allora io ho mandato un messaggio a BIDOGNETTI tramite l'avv (…)…che spesso nei colloqui mi portava i saluti dello zio, termine con cui intendevamo BIDOGNETTI. In questo biglietto io avevo scritto di chiedere un interessamento di BIDOGNETTI per l'immondizia a Mondragone. Successivamente mio cognato mi ha confermato che la questione era stata curata da BIDOGNETTI ed era stata chiusa bene anche se non a quel livello in cui prendevamo i soldi dalla COVIM….****Voglio dire poi che, successivamente all'arresto di SARNATARO, BARBIERI e DIANA avvenuto nel settembre del 2000, rimase scoperto l'appalto della raccolta e smaltimento dei rifiuti con il Comune di Mondragone. Ebbe termine l'appalto e mi occupai di trovare una ditta compiacente che potesse sostituirli e diedi incarico a mio cognato ORABONA Salvatore di interessarsi per verificare come stessero andando le cose. Venni a sapere che era subentrato nell'appalto della raccolta e smaltimento dei RSU affidato dal Comune di Mondragone il consorzio CE4; lo stesso consorzio gestiva analogamente la raccolta e lo smaltimento per conto di altri Comuni della Provincia di Caserta. Onde capire quale fosse il rapporto del consorzio con il clan dei Casalesi – avendo inoltre letto sui giornali che vi erano stati degli avvertimenti in zone diverse di Mondragone ai gestori del servizio – diedi incarico ad ORABONA Salvatore mandandogli un bigliettino per lui ed una lettera che lui avrebbe dovuto consegnare a IOVINE Antonio detto "o ninno" – il principale esponente dei Casalesi a partire dall'arresto di Sandokan e comunque già molto stimato prima - onde assumesse informazioni relative al rapporto che legava il consorzio al clan; avrei così compreso come mi sarei dovuto comportare in relazione al comportamento tenuto dallo IOVINE. Sono in grado di riferire maggiori dettagli ma ora sono un po' stanco e posso* ***comunque aggiungere che diedi l'incarico scritto ad ORABONA i primi mesi del 2002 e ricevetti la risposta verbale ma criptica, in sede di colloquio, un mese dopo circa. Seppi che il consorzio era avvicinabile, nel senso che pagava la tangente a titolo estorsivo e che quindi avrei potuto regolarmi di conseguenza.*** *La prima imbasciata dello IOVINE era che questi avrebbe contattato direttamente il*

responsabile del consorzio quanto alla competenza per l'appalto di Mondragone e che avrebbe chiuso lui l'estorsione e che mi avrebbe dato i soldi, certamente una somma ben più bassa di quella che avevo ricevuto nei tempi precedenti, anche in ragione del diverso rapporto che c'era in precedenza con gli appaltatori. ***Incaricai l'avv…– scrivendoglielo - di riferire a BIDOGNETTI Francesco di interessarsi della questione relativa all'appalto, cosa che fece, secondo quanto mi riferì poi ORABONA****…Prendo atto del contenuto delle dichiarazioni rese nel corso del precedente interrogatorio innanzi alla S.V., datato 22 luglio 2003, nella parte in cui ho riferito in ordine ai rapporti con il consorzio CE4, appaltatore dello smaltimento dei rifiuti con il Comune di Mondragone;* ***voglio subito specificare che, allorché ho riferito di aver scritto all'avv….di riferire a BIDOGNETTI Francesco di interessarsi della questione relativa all'appalto, io ebbi a intrattenermi a colloquio con questi presso questo stesso carcere tra dicembre 2001 e gennaio 2002. Nell'occasione io scrissi su un foglietto di "dire a mio zio, non appena andava allo studio, di interessarsi per l'appalto delle immondizie di Mondragone perché stavamo in difficoltà"; collocai questo foglietto tra gli atti processuali e lo posi sul vetro affinchè potesse vederlo. Con tale messaggio io, indicando "mio zio", intendevo riferirmi a BIDOGNETTI Francesco – cosa che egli ben sapeva – e, riferendomi "allo studio", intendevo indicare il carcere ove era recluso BIDOGNETTI al quale l'avvocato avrebbe dovuto riferire il mio messaggio. Tali cautele si rendevano necessarie nell'eventualità che il colloquio potesse essere registrato e filmato. Faccio presente che era noto a…che io parlando di "mio zio" intendevo alludere a BIDOGNETTI Francesco; il riferimento al medesimo avrebbe comportato per l'avvocato la chiara comprensione del fatto che parlando de "lo studio" in realtà intendevo un futuro colloquio da tenersi – da parte dell'avvocato…– presso il carcere ove era detenuto BIDOGNETTI. In due successivi colloqui, uno con l'avv…ed un altro con ORABONA Salvatore, seppi poi che l'imbasciata era stata effettivamente portata a BIDOGNETTI e che l'estorsione era stata chiusa proprio grazie all'intervento offerto dal BIDOGNETTI e dai suoi uomini.** *In particolare lo stesso avvocato, in un colloquio di qualche mese successivo, dicendomi che aveva parlato con BIDOGNETTI, mi disse che si stava interessando della cosa – ossia della tangente sull'appalto per lo smaltimento dei rifiuti di Mondragone – affermando in modo criptico, ma per me chiaro, che "i documenti processuali se li stava facendo lui e che tutto stava a posto". Nel colloquio con mio cognato ORABONA Salvatore, questi – alludendo a BIDOGNETTI mimando la sua precedente grassezza (fece in particolare il gesto della pancia) – disse che "per quanto riguardava il capannone l'aveva messo quasi come nuovo don Andrea". Faccio presente che avevo già precedentemente spiegato ad ORABONA, attraverso messaggi fatti pervenire nei modi che ho già riferito, che per "il capannone" doveva intendersi un nome di copertura per indicare l'appalto dei rifiuti; quanto a "Don Andrea" si trattava di una persona esistente ma priva di significato, utilizzata solo per sviare eventuali ascoltatori. Ho così avuto conferme del fatto che la tangente è stata effettivamente percepita…Quanto ai dettagli relativi alle persone che si siano materialmente interessate per richiedere la tangente e riscuoterla, così come quanto ai valori della stessa, non sono in grado di riferire alcun dettaglio.* ***Posso solo dire che ORABONA Salvatore mi disse che la tangente sull'appalto aveva dei valori decisamente minori rispetto al passato, pari a circa la metà, come mi fece capire tramite allusioni…".***

<u>Orabona Salvatore</u> (cfr. i verbali degli interrogatori resi in data 21.5.2003 ed in data 10.12.2003): "***quando ci furono gli arresti collegati alla vicenda COVIM venne sospeso l'appalto alla COVIM. Non so dire a distanza di quanto tempo, ma so per***

certo che con l'arresto di SARNATARO si crearono grossi problemi perché gli operai non venivano più pagati. *Io sapevo di questa vicenda perché mio genero era stato assunto da SARNATARO grazie all'intervento di Giacomo DIANA. Mio genero quando cominciarono a non pagare, non si recò più a lavorare.* ***Il clan con l'arresto di SARNATARO ebbe un duro colpo perché non riscuoteva più i 60 milioni mensili. A distanza di non molto tempo, l'appalto già della COVIM venne vinto da un consorzio che si chiama CE4. Di questa situazione s'interessò anche Augusto dal carcere, perché sapeva che sarebbe stata una grossa perdita per il clan il mancato introito dei 60 milioni. Nel corso di un colloquio, mi fece capire che io dovevo andare a parlare di questa vicenda con Enrichetta che era il nome in codice che noi utilizzavamo per indicare Antonio IOVINE detto 'o ninno.*** *Io riuscii a fare un appuntamento con IOVINE al quale portai un biglietto di Augusto che chiedeva ad Antonio IOVINE di dargli dei soldi e soprattutto di interessarsi della vicenda della raccolta dei rifiuti, in modo che anche il clan di Mondragone potesse continuare ad avere degli introiti. Riuscii con le modalità che dirò a fare un incontro con IOVINE Antonio il quale non appena vide il biglietto mi disse che per i soldi non vi era problema e che me li avrebbe dati, ma che per l'immondizia non poteva fare niente perché non era una questione di cui si interessava lui.* ***FRAGNOLI Giuseppe si era già mosso autonomamente, mi disse attraverso una persona del consorzio che forse era di Mondragone, ed era riuscito a parlare con uno dei titolari della ditta che si occupa della raccolta e cioè l'ing. ORSI. Era riuscito ad ottenere, quale somma che veniva versata mensilmente, quella di 30 milioni, somma che ORSI consegnava al figlio di FRAGNOLI, Giacomo, che poi la portava al clan. Giacomo FRAGNOLI era dipendente della ditta di ORSI così come era stato dipendente anche della COVIM.*** *Io a FRAGNOLI chiesi di interessarsi anche della vicenda di mio genero che non essendosi più recato a lavorare, aveva perso il posto e non era stato riassunto dalla CE4. FRAGNOLI mi disse che si sarebbe interessato, ma mi disse che forse potevo io personalmente andare a parlare con ORSI. Mi rappresentò che uno dei fratelli ORSI aveva una villa a Baia Domitia. Mio genero riuscì ad avere l'indirizzo della villa e io mi recai a Baia Domitia, dove dopo molti tentativi riuscii a parlare con uno dei fratelli ORSI. A costui io mi presentai come il cognato di Augusto LA TORRE e chiesi di far riassumere mio genero. Questa persona fu gentile, mi offrì il caffè, ma non volle accettare di riassumere mio genero perché mi disse che essendo parente a LA TORRE lui avrebbe avuto non poche scocciature da parte delle ff.oo. e della magistratura. (...) Si riferisce, invece, a me quando afferma che il cognato Salvatore gli portò i saluti di Gigino "o Drink", cioè di Guida Luigi, dicendogli "tutto a posto".* ***Riferii, infatti, a mio cognato La Torre di un colloquio avuto con il Guida affinché questi intervenisse presso il titolare di una ditta di raccolta di rifiuti di Casal di Principe avente un appalto a Mondragone, la "Eco 4", presso la quale intendeva essere assunto mio genero Parascandolo Salvatore.*** *Quest'ultimo aveva già lavorato per la ditta "Covim", che in precedenza aveva l'appalto della raccolta dei rifiuti a Mondragone. A tale ditta, a seguito dell'arresto del suo titolare Sarnataro Raffaele, era subentrata la "Eco 4". Essa aveva assunto tutti i dipendenti della "Covim" che avevano lavorato fino al momento della sostituzione. Mio genero, invece, un paio di mesi prima aveva abbandonato il lavoro poiché i dipendenti non venivano più pagati.* ***Avevo parlato a mio cognato La Torre Augusto del desiderio di mio genero di essere assunto dalla "Eco 4". Augusto, pertanto, mi aveva indirizzato da Gigino "o Drink", che fino ad allora conoscevo soltanto di nome, dicendomi che sarebbe potuto andare a parlare lui dal titolare della "Eco 4", rappresentando di parlare a suo nome.*** *(...)".* .

Sperlongano Mario sosteneva (cfr. i verbali degli interrogatori resi in data 26.8.2003,

in data 2.9.2003, in data 8.9.2003 ed in data 26.9.2003): "…*Mi risulta che FILOSO abbia avuto anche degli incontri con Ugo CONTE e con* ***VALENTE Giuseppe*** *e che abbia fatto sì che il clan si sia impegnato a favore della lista di CONTE. Io stesso ho dato indicazioni di aiutare il dott. PAGLIARO. FILOSO, a proposito di CONTE, mi fece sapere che di lui ci potevamo fidare perché fra l'altro era cugino di Mario CONTE, dipendente comunale e persona da tempo a noi vicina. Il dott. PAGLIARO è stato eletto ed è diventato anche vice sindaco per un periodo. Io non ho mai incontrato il sindaco CONTE che pure conosco bene in quanto entrambi mondragonesi.* ***So però che si è incontrato in almeno due occasioni con Peppe FRAGNOLI e a questi incontri ha partecipato anche Giuseppe VALENTE il politico, presidente della CE 4, e FILOSO Vincenzo.*** *Si tratta di incontri per i quali io stesso sono stato preventivamente informato e che si sono verificati presso il ristorante degli Ulivi a Formia. Ci sono stati almeno due incontri ai quali ha partecipato Peppe FRAGNOLI con il sindaco, in uno dei quali si è parlato della questione della raccolta dei R.S.U. e del nostro interessamento a favore dei f.lli ORSI e, in un'altra occasione, si è parlato delle difficoltà della Giunta CONTE che nel 2000 stava per cadere e che non cadde grazie al fatto che noi intervenimmo facendola appoggiare da Maria D'AGOSTINO…****Le vicende dell'estorsione versata sulla raccolta dei R.S.U. nel periodo successivo all'arresto di SARNATARO sono state seguite direttamente da Peppe FRAGNOLI che si è incontrato in più occasioni con Peppe VALENTE il politico e con il sindaco CONTE. Mi risulta che l'appalto per la raccolta dei rifiuti sia gestito da un parente del titolare della DIANAGAS e che proprio il titolare della DIANAGAS abbia fatto da tramite per la chiusura dell'estorsione.* ***<u>So anche che vi è stato un intervento da parte del gruppo BIDOGNETTI</u>*** *che ha fatto sapere ai titolari della ditta che loro avrebbero dovuto versare una somma anche a Mondragone e certamente ha avuto un ruolo da tramite anche Nicola ALFIERO detto 'o capritto. L'estorsione che venne concordata era di 30 milioni al mese ed è stata raccolta da Giacomo FRAGNOLI che svolge il ruolo di coordinatore nella società che si occupa della raccolta dei rifiuti. Giacomo FRAGNOLI soprattutto dopo il pentimento di PERSECHINO ha cercato di evitare di farsi dare lui la somma per paura di essere arrestato e in questo periodo la somma è stata versata per il tramite del titolare della DIANAGAS a SORRENTINO Gennaro detto bello 'e papà,*** *che a sua volta la faceva avere a PIGNATARO Aniello e successivamente ad Amerigo DI LEONE. Subito dopo l'arresto di Peppe FRAGNOLI si è verificato un problema con la ditta che si occupava della raccolta dei rifiuti. Costoro non volevano pagare per tre mesi perché sostenevano di avere versato tre ratei anticipatamente a FRAGNOLI. Io mandai un'imbasciata tramite Giacomo al padre in carcere per sapere notizie di questa vicenda e Peppe mi fece sapere che lui aveva avuto anticipato un solo rateo. Siccome i titolari della ditta insistevano che non volevano versare i tre ratei, io diedi disposizioni di farli andare via da Mondragone. <u>Venne trovato però un accordo tramite ALFIERO Nicola detto o capritto e GUIDA Luigi detto o drink, persona fidata di BIDOGNETTI, nel senso che la ditta avrebbe dovuto pagare per un periodo 27 milioni invece di 30 per scalare i 30 milioni</u>…l'intervento di GUIDA Luigi è stato necessario perché i titolari della ditta che raccoglie i rifiuti a Mondragone, di cui non ricordo il cognome, sono amici dei Casalesi e quindi GUIDA avrebbe potuto effettuare una mediazione vincente. Siccome la ditta in parola aveva anche la gestione della raccolta dei rifiuti su Cellole, Enzo FILOSO nel 2001, dopo l'arresto di FRAGNOLI, chiuse un'ulteriore estorsione; stabilì che per l'appalto di Cellole dovessero essere versate le somme di 4 milioni al mese e per i primi tre mesi dieci milioni al mese…SORRENTINO è stato anche utilizzato nell'estate del 2000, perché stava per cadere la giunta CONTE. Di questa questione mi informò direttamente Giacomo DIANA in un incontro a Pescara, dicendomi che Ugo*

CONTE si era rivolto a lui per avere un mio intervento, recandosi insieme a Peppe VALENTE della CE4. Io mandai Enzo FILOSO a parlare con SORRENTINO, che è l'amante di Maria D'AGOSTINO, affinchè Maria appoggiasse la Giunta CONTE. Maria ha accettato di fare questa operazione ma ha preteso in cambio tre posti di lavoro per tre suoi parenti nella raccolta dei R.S.U. Per quanto riguarda Assunta D'AGOSTINO, costei è la compagna di Mimì BIDOGNETTI e la figlia è fidanzata con Mario FRAGNOLI figlio di Peppe. So che Peppe e Mimì BIDOGNETTI si sono molto legati in carcere e so che quando Peppe ha bisogno di far sapere qualcosa a Mimì BIDOGNETTI manda le imbasciate proprio tramite Assunta. Del resto i rapporti di conoscenza che hanno portato al fidanzamento dei figli derivano dalle frequentazioni di Assunta con la moglie di Peppe FRAGNOLI…Nel '97 so che c'è stato uno screzio fra Giacomo e Salvatore per una questione di 10 milioni e Giacomo FRAGNOLI si è allontanato dal clan, nel senso che non ha voluto più la responsabilità della gestione della cassa. È rimasto però a tutti gli effetti attivo e anche con la nuova gestione della raccolta dei rifiuti, in qualche occasione, ha ritirato lui direttamente le somme delle estorsioni versate dalla CE4. Era inoltre il trait d'union fra il padre che non poteva stare in Campania e numerosi imprenditori. Lui stesso ha accompagnato più persone a parlare con il padre a Pescara. Era presente quando Giacomo DIANA è venuto insieme a FRAGNOLI Giuseppe ad un incontro verificatosi nei pressi del lago di Scanno ed in particolare al ristorante Il Vecchio Mulino, incontro nel corso del quale si stabilì che CORNACCHIA Ernesto dovesse violare gli obblighi e rendersi irreperibile. Io stesso ho parlato telefonicamente con CORNACCHIA e lui dal giorno dopo si è reso irreperibile. Quando FRAGNOLI è stato arrestato era attraverso Giacomo che mi portava richieste ed imbasciate. Ricordo che Giacomo venne in un'occasione ad Avezzano e mi portò un foglietto manoscritto da Peppe FRAGNOLI, in cui vi erano tutta una serie di debiti che dovevano essere saldati dal padre…GRAVANO in società con Giacomo FRAGNOLI ha anche gestito il deposito dei camion della nettezza urbana che era una vera e propria estorsione, una quota della quale veniva al clan. In particolare la ditta CE4 paga per il deposito dei camion una certa cifra pari a circa 3 milioni al mese ed il clan ha imposto il parcheggio individuando quello spazio di Cicciotto GRAVANO. Una quota di questi soldi viene versata al clan. Non conosco vicende estorsive specifiche a cui ha partecipato. So che è molto legato ad Antonio LA TORRE anche per il rapporto di parentela che c'è…Titolari ditta raccolta R.S.U. di Cellole; la raccolta dei rifiuti a Cellole veniva effettuata dalla CE4 dei f.lli ORSI che già pagavano 30 milioni al mese per Mondragone. FILOSO chiuse l'estorsione tramite Peppino DIANA della DIANAGAS che è cognato a uno dei fratelli ORSI facendosi dare 30 milioni da versare nelle prime tre tranches e poi 3 milioni al mese. Organizzò un incontro che si verificò dopo il Garigliano con uno dei fratelli ORSI che fu portato proprio da Peppino DIANA e in quell'occasione chiuse l'estorsione. I soldi venivano consegnati da Peppino DIANA a Gennaro SORRENTINO che a sua volta li dava a Enzo FILOSO…".

Piccirillo Stefano (cfr. i verbali degli interrogatori resi in data 5.9.2002 ed in data 11.9.2002): *"**…mi sono effettivamente interessato di una questione che riguarda l'appalto per la raccolta dei rifiuti solidi urbani. Si tratta di una vicenda particolarmente complessa che ancora oggi non ho compreso completamente ed ho sempre pensato che in realtà si trattasse di una trappola. Nel mese di maggio - giugno 2002 venne da me un giorno Nicola "O' Capritto" e mi disse che vi era un compariello di Cicciotto Bidognetti che voleva parlare con qualcuno dei mondragonesi di una vicenda che riguardava la raccolta dei rifiuti. Mi disse che questo compariello di BIDOGNETTI, che lui chiamava "COMPÀ GIGINO", aveva***

avuto una imbasciata diretta da Augusto. Con il soprannome compà <u>Gigino, Nicola faceva riferimento a un personaggio noto come "O' DRINK</u>", ritenuto un personaggio di vertice del gruppo BIDOGNETTI che aveva un vero e proprio gruppo di fuoco, tant'è che si spostava sempre con due, tre macchine e sempre armati. Io dissi a Nicola che di questa vicenda si sarebbe potuto parlare direttamente con Enzo FILOSO e con Mario SPERLONGANO, perché io anche per ragioni di cautela preferivo non vedermi con questi personaggi. *Questa era una mia decisione che risale a tempi pregressi. Mandai attraverso Amerigo l'imbasciata a Enzo FILOSO e venne organizzato un incontro che si tenne nei pressi dell'uscita dell'autostrada di Cassino. All'incontro doveva partecipare un personaggio di Sessa, certamente latitante, che si chiama Enzuccio, detto "FASULIELLO". All'incontro però parteciparono Nicola o' Drink, accompagnato da tre, quattro persone tutte armate, questo Enzuccio di Sessa che credo si chiami Gallo, Amerigo, Enzo Filoso e Antonio Luongo che accompagnò Amerigo. Questo Antonio Luongo è uno estraneo al clan ma è un amico del DI LEONE ed io stesso mi sono meravigliato del fatto che abbia partecipato a questo incontro. Sperlongano Mario, malgrado dovesse andare, non si recò all'incontro, ma mandò in regalo un orologio a questo Drink (...)* ***Giorni dopo quest'incontro, venne di nuovo da me Nicola e mi disse che bisognava andare a parlare con Peppe Valente, presidente del consorzio CE4, persona che io conosco a titolo personale da moltissimi anni. Nicola mi disse che io dovevo fare questo discorso a Peppe Valente; dovevo dirgli che lui non doveva preoccuparsi se della raccolta di immondizia non si sarebbe più occupato Orsi in quanto la sua parte sarebbe stata assicurata e anzi aumentata.*** *Io andai da Peppe Valente e gli feci il discorso che mi disse Nicola. All'incontro venni accompagnato da Nicola O' CAPRITTO, da Amerigo e da Antonio LUONGO. Peppe Valente rimase stupito dal discorso che gli feci; mi disse che pochi giorni prima si era incontrato con Enzo FILOSO e che Enzo FILOSO gli aveva chiesto di far rinnovare l'appalto agli Orsi in tempi più rapidi possibili. In carcere ho poi saputo da Aniello PIGNATARO che a questo incontro c'era pure lui e che Valente non me lo aveva detto perché aveva avuto la raccomandazione da Aniello stesso di non parlare della sua presenza. Aniello del resto già prima che fosse arrestato aveva più volte detto che bisognava parlare con Valente per far rinnovare l'appalto agli Orsi.* ***Devo qui rappresentare che gli Orsi versavano all'organizzazione 30 milioni al mese che venivano versati, a quello che so, tramite il socio di Gennaro SORRENTINO della Domizia Gas. Più affiliati, tra cui lo stesso Aniello PIGNATARO e PALMIERI Salvatore, mi hanno detto che questi Orsi sono persone di Bidognetti e che tramite BIDOGNETTI avevano fatto l'accordo anche con i mondragonesi, perché è noto che esiste un rapporto diretto fra BIDOGNETTI Francesco e Augusto La Torre.*** *Io ho fatto una serie di collegamenti dopo quest'incontro che ho avuto con Valente della CE4; avevo saputo che agli Orsi era stato fatto un attentato esplosivo poco prima e mi era stato detto che ciò era dovuto al fatto che non vi era un accordo sulle quote che gli Orsi versavano ai Casalesi. Successivamente a questo incontro con Valente della CE4, io ho raccontato tutto a FILOSO e FILOSO mi è sembrato stupito dell'imbasciata del CAPRITTO e mi ha detto che si trattava di una sua iniziativa che non era stata concordata con il clan. Quest'affermazione di FILOSO mi ha fatto convincere che effettivamente quest'incontro era finalizzato a una trappola in cui si voleva attirare SPERLONGANO.* ***Ho anche pensato che pure io e VALENTE potevamo essere attirati in trappola da questi Casalesi perché, pochi giorni dopo l'incontro con VALENTE, venne un giorno da me 'O CAPRITTO accompagnato da un soggetto chiamato EMILIO, di giovane età certamente al di sotto dei 30 anni, che mi venne presentato come un compariello di CICCIOTTO 'E MEZZANOTTE. Nel corso di quest'incontro nel quale non parlammo di niente, Nicola mi chiese due o tre volte***

come mai non vi era il DOTTORE, cioè VALENTE Giuseppe, fatto che mi lasciò molto preoccupato perché pensai che si voleva fare un agguato contestualmente a me e VALENTE Giuseppe*. Quest'incontro si è verificato presso l'Hotel D'AMORE sulla SS. Domitiana. I titolari dell'Hotel D'AMORE sono amici di Augusto e so che spesso Augusto manda lì a dormire amici siciliani o baresi. Spesso mi sono incontrato con Nicola nell'Hotel D'AMORE e precisamente in un saloncino subito dopo l'entrata dal lato del parcheggio…Quando ho incontrato Giuseppe Valente della CE4 mi sono recato a casa sua e ho parlato nella sua cucina. Ricordo che Valente mi disse che non era andato a lavorare perché doveva portare una sua parente, o una zia o una nonna, o in ospedale o comunque a fare degli accertamenti. Ci siamo recati a casa di Valente con una macchina Y10 di proprietà di Antonio Luongo, al cui interno vi era oltre il Luongo anche Amerigo e Nicola o' capritto che era stato prelevato nella sua casa di Pineta Riviera. Anche Nicola doveva salire per parlare con Valente ma non potette più salire perché ricevette una telefonata all'ultimo momento. Nicola mi disse che in quella stessa giornata nella quale io andai a parlare con Valente i sessani erano andati a parlare con un altro soggetto che si occupava della nettezza urbana per il Comune di Sessa e lo stesso Nicola aveva provveduto a far bloccare da sue persone sulla Domiziana uno dei fratelli ORSI a cui era stata fatta un'imbasciata. Nicola mi disse che le tre azioni vennero fatte nello stesso giorno perché evidentemente bisognava che tutti i soggetti che si occupavano della nettezza urbana si preoccupassero di quanto stava avvenendo…Nicola o'capritto mi indicava i f.lli Orsi come coloro che gestivano la situazione della nettezza urbana per conto di BIDOGNETTI Francesco. Mi disse Enzo FILOSO, quando gli ho raccontato tutta questa vicenda, che i f.lli Orsi gli avevano mandato un messaggio che io non ho ben compreso e che cioè loro pensavano che su Mondragone era uscito qualche personaggio più importante di Augusto che voleva cambiare le carte in tavola e per questa ragione era stata fatta tutta questa operazione. Come ho già riferito nell'altro verbale in tutta questa vicenda c'è qualcosa che mi sfugge. Palmieri Salvatore in carcere mi ha anche detto, commentando queste vicende che riguardavano gli Orsi, che il genero di Orabona Salvatore, per un periodo, aveva lavorato con gli Orsi ed era stato licenziato o comunque se ne era andato ed Orabona pretendeva dagli Orsi che continuassero a dargli lo stipendio senza lavorare. Orabona si era comunque legato al dito questo rifiuto degli Orsi ed aveva quindi lui potuto mettere bacchetta con Augusto contro gli Orsi.* ***Voglio precisare che quasi tutte le persone che a Mondragone lavorano per la nettezza urbana sono state raccomandate dal clan e sono o amiche o parenti di componenti del clan. Questa presenza di persone del clan fra i lavoratori del clan della nettezza urbana data ormai da moltissimi anni. Qualunque iniziativa volessero prendere i lavoratori dovevano concordarla con il clan, compresa l'iscrizione al sindacato o comunque eventuali iniziative di protesta. Mi risulta per esempio che con il venir meno della società che si era occupata prima degli Orsi della raccolta della nettezza urbana tutti i dipendenti avrebbero dovuto ricevere una corposa liquidazione ed invece hanno solo avuto una piccola somma di circa due milioni e non hanno potuto dire nulla perché il clan così aveva stabilito.*** *Mi risulta che nel corso degli anni sono stati organizzati dal clan vari pranzi o riunioni elettorali nei periodi immediatamente precedenti alle elezioni per cercare di far votare tutti i dipendenti della nettezza urbana per una certa persona…".*

Persechino Michele (cfr. il verbale dell'interrogatorio reso in data 31.1.2002): *"…Gli introiti riguardavano estorsioni che in gran parte non ho chiuso io ma che ho già trovato e mi risulta che prima della mia scarcerazione si recava a prendere una parte di questi soldi TIMPANELLI, soggetto che è stato da poco arrestato insieme a Razzino Pasquale; il Timpanelli, prima di abbandonare l'incarico su ordine del Fragnoli, mi*

portò da una serie di persone che pagavano e mi presentò come colui che si sarebbe occupato delle future riscossioni; ***gli introiti erano:...30 milioni al mese vengono dalla società CE4 che gestisce la raccolta dei rifiuti solidi urbani in Mondragone; voglio precisare che quando fui scarcerato la raccolta dei rifiuti veniva gestita da una società, la Covim, che faceva capo a Sarnataro Raffaele e che versava 60 milioni al mese già da molto tempo; quando il Sarnataro venne arrestato per un periodo vennero versate ancora le somme dal suo socio, un uomo molto grosso di statura…Successivamente la COVIM ha lasciato l'appalto che è stato preso dalla CE 4; non so materialmente con chi ha parlato il titolare della CE4, credo che si sia visto tutto il FRAGNOLI Giuseppe. I soldi mensili della CE4 mi venivano portati da FRAGNOLI Giacomo, figlio di Giuseppe e dipendente della CE 4. FRAGNOLI Giacomo era già dipendente della COVIM ed era lui stesso che mi portava i soldi del SARNATARO;*** *voglio precisare che il SARNATARO Raffaele io lo conosco di persona, così come conosco il socio; io stesso su ordine di Renato Pagliuca nei primi anni '90 sono andato a chiamarlo sulla discarica per dirgli di venire a Mondragone perché Renato gli doveva parlare…".*

Valente Giuseppe, mero omonimo dell'indagato Valente Giuseppe (cfr. i verbali degli interrogatori resi in data 16.4.2003, in data 3.7.2003 ed in data 30.5.2003):

"...non ho mai conosciuto personalmente GUIDA Luigi detto "O DRINK", ma ne ho sentito parlare sia in passato sia nel presente. PICCIRILLO mi aveva detto che lui aveva villeggiato per un periodo a Mondragone e che era in buoni rapporti con Augusto LA TORRE. Se pure era di Napoli era legato a BIDOGNETTI, cosa che mi è stata riferita da Aniello PIGNATARO a seguito della vicenda che Le racconto. ***Nel 2001, prima del suo arresto, una sera io mi trovavo presso la sua officina e venne una persona a fargli visita con un paio di macchine. Aniello si mise in una parte dell'officina, in una specie di ufficio, ed io non riuscì a vedere chi c'era né mi volevo io far vedere. Aniello parlò con queste persone e fu raggiunto da Salvatore ORABONA che mi si avvicinò ed io gli dissi di allontanarsi perché Aniello stava parlando con delle persone. Quando andarono via Aniello mi disse che chi era venuto era Giggino O DRINK che era accompagnato con delle persone legate a BIDOGNETTI; lui era venuto a rappresentare che essendo amico di Augusto stava a disposizione se noi avevamo bisogno di lui. Aniello mi disse che questo Giggino gli aveva parlato del fatto che un mondragonese, Pietro TIMPANELLI detto "Cacatiello", stava dando fastidio nella zona del Villaggio Coppola e lui voleva sapere se si doveva fare qualcosa. Aniello gli aveva risposto che lui non si interessava di queste cose. Successivamente a questo incontro, mi è stato riferito che Giggino O DRINK, Enzo FILOSO ed Enzo GALLO in rappresentanza dei sessani si sono incontrati dopo il Garigliano per un incontro. O DRINK era stato accompagnato a questo incontro da Americo DI LEONE che lo aveva portato dove stava Enzo FILOSO e lì erano stati raggiunti da Enzo GALLO. Questo incontro doveva riguardare una vicenda collegata all'appalto per la nettezza urbana che riguardava sia Casale, sia Mondragone che Sessa A.*** *A questo incontro avrebbe dovuto partecipare anche Mario SPERLONGANO che però non vi si recò e mandò soltanto un regalo a Gigino. Io ho sempre pensato che questo incontro era stato fatto per far vedere a Giggino Mario SPERLONGANO per poi successivamente ammazzarlo. So che successivamente a questo incontro Enzo GALLO venne riaccompagnato a Roma e che in quel periodo era latitante. Sempre a seguito di questo incontro mi risulta che Stefano PICCIRILLO è andato a parlare con VALENTE Giuseppe del consorzio che si occupava dei rifiuti. In quella stessa giornata i casalesi avrebbero dovuto o fare*

un'azione o andare a parlare con un'altra persona che si occupava dei rifiuti in quella zona e pure i sessani avrebbero dovuto fare un'altra azione…Dell'incontro di cui ho parlato mi ha riferito Americo DI LEONE che, come ho detto, aveva accompagnato "O DRINK" a parlare con FILOSO…mi risulta che il regalo che venne mandato da Mario SPERLONGANO era un orologio…mi risulta che insieme ad Americo fosse andato Antonio LUONGO che era un amico di infanzia di Americo DI LEONE che mi risulta estraneo alle vicende del clan…forse a Roma Enzo GALLO è stato accompagnato da Americo, ma non sono sicuro di questa circostanza…Nella fotografia n. 75 riconosco SORRENTINO Gennaro. Questa persona prima faceva l'idraulico, oggi è socio di una grossa rivendita di gas dove sono stati arrestati CORNACCHIA, FRAGNOLI ed i fratelli BOVA…Non appena siamo rientrati nel clan, Aniello PIGNATARO ha riferito a me ed al PICCIRILLO che ***SORRENTINO (Gennaro n.d.r.) si occupava di riscuotere i soldi da parte della ditta incaricata dell'appalto per i RSU e di portarli ad Enzo FILOSO. Per la precisione il socio di Gennaro SORRENTINO, che era cognato o comunque parente del titolare della ditta incaricata della raccolta dei RSU, prendeva il denaro e lo consegnava a Gennaro, il quale a sua volta si incaricava di farlo giungere ad Enzo FILOSO…L'Ufficio dà atto che la foto n. 75 ritrae il volto di SORRENTINO Gennaro…Della vicenda di cui lei mi ha richiesto so cose molto vaghe. Quando l'appalto era gestito dalla COVIM di SARNATARO al clan entravano 60 milioni al mese. Con la nuova società invece entravano 30 milioni al mese. Ho sentito dire che per un periodo questi soldi venivano ritirati da un socio di Gennaro SORRENTINO che era imparentato con uno dei soci della società che si occupava della raccolta dei rifiuti. I soldi venivano dati a Gennaro da questo suo socio e Gennaro li dava a Enzo FILOSO. Ricordo che durante il periodo in cui noi eravamo rientrati nel clan, Nicola ALFIERO detto 'o capritto chiese a me e a PICCIRILLO di andare a parlare con Peppe VALENTE di Mondragone in quanto nella stessa giornata bisognava fare un'imbasciata contestuale, oltre che a questo VALENTE, ad una persona di Sessa da parte dei Sessani e da una persona di Casale o di Caserta da parte dei Casalesi. Siccome io avevo soggezione di questo VALENTE, che forse è anche un mio lontano parente, io non volli andare e dissi a PICCIRILLO di recarsi lui e fu lui quindi che si fece precisare da Nicola quello che doveva dire…***".

<u>Diana Giacomo, già titolare di fatto della srl Covim</u> che gestiva il servizio di raccolta dei rifiuti solidi urbani nel Comune di Mondragone, prima che le subentrasse la ECO4, nell'interrogatorio reso in data 14.4.2005, dichiarava: *"…Nel maggio del 2000 si è verificato un altro episodio importante di cui intendo parlare.* ***La moglie di Augusto, GIARRA Anna Maria, mi mandò a chiamare tramite Angelo BARBATO. Io andai a casa sua e GIARRA mi disse che Augusto LA TORRE aveva mandato a dire dal carcere che lui voleva che io fossi presente a un incontro fra Peppe FRAGNOLI e Raffaele SARNATARO. L'incontro doveva riguardare il pagamento della somma mensile da parte della COVIM. Io diedi il mio assenso e la GIARRA mi disse che l'incontro si sarebbe fatto a Formia. Fu la GIARRA che organizzò l'incontro e mi fece sapere tramite Angelo BARBATO il giorno nel quale si sarebbe tenuto; mi disse che l'appuntamento era al mercato di Formia. Io andai facendomi accompagnare da Angelo BARBATO e trovai nel mercato SARNATARO che era già arrivato. SARNATARO mi disse che l'appuntamento era fissato in un ristorante di cui aveva l'indirizzo. Il ristorante si trovava in una traversina nei pressi del mercato ed era al secondo piano di uno stabile. Salimmo nella sala ristorante e trovai a mia insaputa un tavolo nel quale erano presenti il sindaco Ugo CONTE, Giuseppe VALENTE, presidente del consorzio che si occupava della raccolta dei R.S.U., e due***

***persone vestite di nero che mi vennero presentate come i f.lli ORSI. Di lì a poco giunse Peppe FRAGNOLI. FRAGNOLI disse che lui era il latore di un messaggio di Augusto LA TORRE, disse che gli risultava che il sindaco e VALENTE stavano costituendo con questi ORSI una società privata per la raccolta dei rifiuti in Mondragone che si chiamava ECO 4; aggiunse che Augusto LA TORRE non avrebbe mai tollerato di perdere l'introito su questo settore e che quindi, qualunque cosa sarebbe stata fatta, si doveva tener conto di questo fatto. Disse poi al sindaco che lui non si era messo a disposizione del clan perché non gli aveva mai fatto avere la lista dei lavori. CONTE disse che non gliela aveva mai fatta avere perché non gli era mai stata chiesta. VALENTE disse che effettivamente stavano facendo questa società, ma che loro non avevano mai pensato di escludere LA TORRE. FRAGNOLI disse che LA TORRE voleva il 5% di questa società che si stava formando, oltre i 60 milioni che venivano versati da SARNATARO. VALENTE disse che su questo punto avrebbero riflettuto e poi ne avrebbero parlato. Ribadì che per il denaro erano a disposizione. FRAGNOLI, dopo aver parlato con tono anche alterato, si allontanò. Io rimasi molto imbarazzato e, dopo aver mangiato il primo, me ne andai…la mia presenza a quell'incontro si spiegava con il fatto che io ero stato presente all'incontro fra SARNATARO e LA TORRE nel '95, quando si era concordato il pagamento di 60 milioni al mese…**"*.

Rozzera Girolamo (cfr. i verbali degli interrogatori resi in data 8.10.2003 e in data 22.12.2003):
*"…**VICENDE CO.VI.M.** Devo premettere che fino al nostro arresto avvenuto nel gennaio del 1991, il servizio di raccolta RSU del comune di Mondragone veniva affidato a più ditte. Nel '89 – '90, come ho già spiegato in precedente verbale, una di tali ditte era quella mi pare intestata alla moglie di **PALUMBO Luigi**, i cui proventi venivano divisi al 33% tra il **PALUMBO** stesso, **PAGLIUCA Renato e Augusto LA TORRE**. Questa attività era perfettamente legale. Successivamente, nel 1991, il **PAGLIUCA** si attivò presso l'amministrazione comunale per unificare il servizio di raccolta RSU, che fu affidato alla CO.VI.M. Si tenga presente che alla fine degli anni '80 il **LA TORRE** incominciò ad avere un parziale controllo dell'amministrazione comunale di Mondragone. Devo premettere che il **LA TORRE**, sin dalla seconda metà degli anni ottanta, instaurò stretti rapporti con **DIANA Giacomo**, il quale sin dagli anni settanta aveva avviato un'importante attività nel settore delle discariche. Il **DIANA,** che era diventato con gli anni una persona assai facoltosa, era proprietario di una grossa discarica sita in località Bortolotto, situata tra Mondragone e Castelvolturno. Con il **DIANA,** il **LA TORRE** aveva risalenti rapporti familiari che si intensificarono verso la seconda metà degli anni ottanta, allorquando il **DIANA** cominciò a fare, tra l'altro, prestiti in denaro che a volte non venivano nemmeno restituiti. Nel 1990 il **DIANA**, incoraggiato anche dal **LA TORRE**, decise di vendere la sua discarica. Il **LA TORRE** fece da intermediario e la discarica venne venduta per la somma di circa 2 miliardi, con pagamento dilazionato, a tali **Raffaele** e **Pierino**…il Raffaele di cui parlo è **SARNATARO Raffaele**, come mi ricorda la S.V. Non ricordo bene invece il cognome del **Pierino**. L'occasione fu propizia per avviare gli interessi del clan nel settore dei rifiuti. Il **LA TORRE** fece da intermediario, stabilendo con **Raffaele** e **Pierino** che dopo aver completato il pagamento del prezzo al **DIANA** si sarebbe dovuto definire l'importo della tangente a lui spettante. **Fatto sta che successivamente tale tangente non fu mai pagata a noi, in quanto successivamente al nostro arresto si intromisero i "Casalesi", i quali stabilirono che la tangente spettasse ai loro referenti di Castelvolturno in quanto la discarica era situata in territorio di loro competenza. Tale situazione fu, seppure a malincuore, da noi accettata.** Intanto,*

*il **Raffaele** ed il **Pierino** erano anche i proprietari di fatto della CO.VI.M., cui come ho detto nel 1991 fu affidato l'appalto comunale per i RSU sull'intero territorio di Mondragone. La società del **PALUMBO** pertanto scomparve ed il **PAGLIUCA** stabilì che la CO.VI.M., dovesse pagare una tangente di 40 milioni mensili, ripartita per un terzo al **PALUMBO**, per un terzo al **PAGLIUCA** e per un terzo ad **Augusto LA TORRE**…Il **LA TORRE**, che fu arrestato nel 1991, seguiva ed impartiva le direttive dal carcere. Il **PAGLIUCA**, da parte sua, divideva la sua quota di tangente con **FILOSA Vincenzo**, il quale era confluito nel gruppo **LA TORRE** nel 1991 insieme al **PAGLIUCA,** cui era legato da stretti rapporti di amicizia. Tali vicende mi furono riferite dal **BRODELLA** successivamente alla mia scarcerazione, il quale tra l'altro si lamentava di tale situazione in quanto la somma non veniva interamente versate nelle casse del clan. In effetti, dei 40 milioni della tangente CO.VI.M., la parte del **PALUMBO** si giustificava quale sorta di "risarcimento" per la dismissione della precedente attività, la parte del **PAGLIUCA** costituiva lo "stipendio" di quest'ultimo e la parte di **Augusto** era a titolo personale. Il **BRODELLA** si lamentava con me in quanto, in assenza di **Augusto,** io ero destinato a prendere il comando e ad assumere le decisioni per quanto riguardava la gestione del gruppo. Io gli risposi che volevo prendermi un periodo di riflessione, per cui mi riservai di fornirgli ulteriori indicazioni in merito. Nel 1994 - 95 il **FRAGNOLI** mi mise al corrente che dopo la scomparsa del **BRODELLA** si era stabilito che i 40 milioni dovessero interamente confluire nelle casse del clan. Credo che tale decisione dovesse essere concordata tra il **PAGLIUCA**, il **LA TORRE** e forse anche **Mario ESPOSITO.** Dico ciò sia in quanto all'epoca il gruppo **ESPOSITO** era un'unica cosa con il gruppo **LA TORRE** sia in quanto, successivamente alla scomparsa del **BRODELLA,** il **PAGLIUCA** non era personaggio di grosse capacità…Successivamente alla morte del **PAGLIUCA**, e cioè a fine estate del 1995, prima dell'imprevista scarcerazione del **LA TORRE**, designai il **FRAGNOLI** per la futura gestione del clan. In quel frangente, decisi di aumentare l'importo della tangente CO.VI.M. da 40 a 60 milioni di lire mensili. Dopo la morte del **PAGLIUCA**, il **Pierino** ed il **Raffaele** chiesero un incontro o con me o con il **FRAGNOLI**. Devo precisare che il **PALUMBO** Luigi faceva da tramite per il pagamento della tangente, nel senso che i soldi venivano consegnati a lui, il quale poi provvedeva a consegnarli o al **PAGLIUCA** ovvero ai referenti del clan. Al **PALUMBO**, inoltre, era stato dato anche un lavoro presso la CO.VI.M. Per chiarire il clima di quei giorni, devo dire che la morte del **PAGLIUCA** aveva un po' agitato gli animi. **VALENTE** e **PICCIRILLO** non si facevano vedere più in giro, mentre il **FILOSA** ed il **PERSECHINO** si erano addirittura allontanati da Mondragone. In altri termini, si era diffusa la voce che ad ordinare la morte del **PAGLIUCA** ero stato io. Tramite il **PALUMBO**, **Raffaele** e **Pierino** chiesero di incontrare me oppure **FRAGNOLI**. Poiché il **FRAGNOLI** non era all'altezza, prima mandai a chiamare **DIANA Giacomo** e gli chiesi se era disposto a tenere l'incontro a casa sua; ottenutane la disponibilità, dissi al **FRAGNOLI** che tramite il **PALUMBO** doveva riferire a **Pierino** e **Raffaele** che l'incontro si sarebbe tenuto presso l'abitazione del **DIANA**. L'incontro si tenne presso l'abitazione del **DIANA** sita in Mondragone dietro il bar Europa. Presenti erano il **DIANA**, **Raffaele**, **Pierino** ed io. Preciso che il **DIANA** era a conoscenza che il Raffaele e il Pierino pagavano la tangente. Dopo i convenevoli, chiesi al DIANA la cortesia di farci parlare da soli. Inizialmente Raffaele e Pierino mi chiesero cosa stesse succedendo dopo la morte del **PAGLIUCA**. Io deviai il discorso e li rassicurai. A questo punto iniziammo a parlare della tangente. Io feci presente che erano passati alcuni anni e che, tenuto anche conto dell'importo dell'appalto, l'importo della tangente andava riveduto. **Raffaele**, con il quale io avevo buoni rapporti, mi manifestò una generica disponibilità ed io iniziai a chiedergli la somma di 50 milioni per il mese di agosto che ancora non*

era stata pagata. Gli dissi inoltre che per il futuro avrebbe avuto rapporti con il ***FRAGNOLI****, che gli indicai come "persona" di* ***Augusto****. Rimanemmo d'accordo che comunque ne avremmo riparlato a breve termine. Di lì a poco uscì* ***Augusto*** *dal carcere, il quale poi seguì in prima persona gli sviluppi…Devo ricordare che all'epoca io ero detenuto e non seguii personalmente la vicenda, mi risulta però che ci furono dei "contatti" con le altre ditte interessate, alle quali fu anche riconosciuta una "buona uscita". Non so dire di quali appoggi il* ***PAGLIUCA*** *ed il* ***LA TORRE*** *in particolare godessero presso l'amministrazione comunale. E' ovvio però che qualche appoggio vi fosse. Fu il* ***BRODELLA*** *che mi riferì i fatti di cui sto parlando. Preciso inoltre che, benché già nel 1991 ci si attivò per portare l'operazione a termine, non escludo che poi l'operazione stessa sia stata completata in epoca successiva e cioè fino al 1992…mi risulta che successivamente all'intervento di* ***Augusto*** *l'importo della tangente fu portata a 60 milioni di lire. La tangente è stata regolarmente pagata dal 1996 fino al 2000 ai vari referenti che si alternarono alla guida del clan. Nella primavera del 2000* ***FRAGNOLI*** *fu scarcerato con divieto di dimora in Campania. Iniziai una corrispondenza cifrata con il* ***FRAGNOLI****, il quale mi scriveva e mi informava delle vicende del clan. Ad un certo punto, verso la fine del 2000, il* ***FRAGNOLI*** *mi mise a conoscenza che l'appalto alla CO.VI.M. stava per scadere definitivamente e che ovviamente Raffaele e* ***Pierino*** *non avrebbero più pagato. Ciò avrebbe sicuramente cagionato un notevole danno alle casse del clan. A quell'epoca anche lo* ***SPERLONGANO*** *aveva il divieto di dimora, ma si teneva un po' lontano dalle vicende del clan, per cui chiesi al* ***FRAGNOLI*** *se era disposto a seguire le vicende del clan. Il* ***FRAGNOLI*** *mi diede la sua disponibilità.* ***Successivamente il FRAGNOLI mi comunicò che l'appalto della nettezza urbana era stato o doveva essere assegnato al consorzio e mi comunicò che si stava adoperando per cercare un "contatto" e stabilire un'eventuale tangente sul futuro appalto. Il FRAGNOLI però mi fece capire che c'erano i "casalesi" di mezzo. Io scrissi al FRAGNOLI facendogli capire che doveva farsi valere e non doveva farsi mettere i piedi in testa. Devo dire che io all'epoca non ero ancora al regime di cui all'art. 41 bis dell'Ord.Pen., che mi fu successivamente applicato solo nel mese di marzo del 2001, per cui la mia corrispondenza non era sottoposta a censura. In tutto questo devo far presente che, successivamente alla sua scarcerazione, il LA TORRE mi disse che durante la detenzione aveva incontrato Cicciotto BIDOGNETTI con il quale c'era stata una sorta di riavvicinamento.*** *Mi disse anche che si era incontrato anche con "****Sandokan****" con il quale però non riusciva in alcun modo a dialogare…Quanto ai rapporti recenti, nel 2000, se ricordo bene FRAGNOLI mi mandò una lettera con la quale mi fece sapere che aveva avuto un incontro con il Sindaco CONTE o comunque un approccio con costui che aveva ad oggetto l'appalto per la raccolta degli R.S.U. che in quel periodo stava passando o doveva passare al nuovo consorzio….di questo consorzio* ***FRAGNOLI in altra occasione mi ha fatto sapere che vi era un interesse diretto dei casalesi nel senso che erano i casalesi che erano dietro il consorzio, tant'è che lui doveva avere contatti proprio con i casalesi per concordare la somma che dovevano avere i mondragonesi…****".*

De Martino Antonio, collaboratore di giustizia reduce del gruppo camorristico sessano dei 'muzzoni' (Esposito) - interrogatori del 24.5.2006, 25.5.2006, 21.6.2006:
"…Di Gino Fragnoli ho sentito poi parlare a proposito di un'altra vicenda che riguarda Nicola 'o Capritto, persona che era presente all'incontro di cui ho detto. Un giorno Giannino Esposito, tramite Aquilino, mi convocò nella zona di Cellole; ci incontrammo e lui mi disse che tramite Cipriano io dovevo urgentemente contattare Nicola 'o capritto perché Nicola doveva far avere a lui 5000 euro che era un ulteriore

residuo di soldi che il clan doveva ricevere dalla ECO4…In un'altra occasione, circa un anno fa o persino di più, Giannino mi diede l'incarico di bloccare i lavori che si stavano facendo nella periferia di Cellole, non lontano dall'abitazione di Mimmo Gallo. Stavano facendo degli scavi e credo che stavano facendo delle fognature; si tratta di un lavoro molto significativo perché dura già da tempo. ***Giannino mi disse che i titolari dell'impresa erano i fratelli ORSI di Casale e che io dovevo recarmi a bloccare il lavoro con più persone, in quanto gli Orsi erano persone pericolose per essere legati ai casalesi e, quindi, qualcuno avrebbe potuto anche reagire****. Ho poi saputo che il clan Esposito ha ottenuto 25 mila euro per questo lavoro; non so se a titolo di anticipo o definitivamente; l'ho saputo indirettamente e perché un giorno, di circa tre -quattro mesi fa, io dissi ad Orlandino che avevo bisogno di soldi e di dirlo ad Emilio. Orlandino mi disse che il clan stava aspettando i 25 mila euro di Orsi e che...* ***Sono stati effettuati degli atti intimidatori anche nei confronti della ECO 4 che pure si occupa della raccolta dei rifiuti urbani, credo in Cellole, oltre che certamente a Mondragone. So che di questa vicenda Emilio ESPOSITO aveva più volte parlato con Roberto PAGLIUCA e Roberto aveva detto ad Emilio che loro erano in contatto con il Presidente del Consorzio VALENTE, non so precisamente se VALENTE volesse o meno pagare.*** *So per certo che nell'autunno/inverno 2005 Orlandino LETTIERI con Armando MARTUCCI vennero a prendersi la moto e andarono a bruciare dei camion nella zona di Falciano della Eco 4. Io non so se poi materialmente sono o meno andati, Orlandino mi disse che lo avevano fatto. A distanza di tempo e cioè all'inizio del 2006, penso già eravamo in marzo, Orlandino mi disse che Emilio aveva dato ordine di andare a bruciare i camion della Eco 4 e voleva che partecipassi anch'io. Ci siamo recati una sera con l'autovettura di Giovanni FLORIO, io, Giovanni e Orlandino e siamo andati nei pressi della Stazione di Falciano e lì Orlandino ha scavalcato il muro di cinta, salendo dal tetto della macchina e ha bruciato più di un camion. Questo episodio non è avvenuto in periodo molto distante a quello analogo riguardante la Eco Campania. Di questa vicenda poi ho parlato con Emilio che mi ha detto che dell'estorsione si stavano occupando direttamente i Mondragonesi; non so però altre notizie su questa storia e né so se sono state o meno pagate estorsioni dalla ditta Eco 4…".*

Assume particolare rilievo ai fini che ci occupano la posizione del Presidente del Consorzio CE 4 Valente che risulta coinvolto nella vicenda estorsiva realizzata in danno della ECO4 s.p.a. dal clan La Torre, dal racconto convergente di: DIANA Giacomo, ORABONA Salvatore, SPERLONGANO Mario, ROZZERA Girolamo, ORSI Michele, ORSI Sergio.
La combinazione di questo comportamento con altri, sintetizzati alle pagg. 500 e ss. dell'ordinanza cautelare n. 707 del 29.10.07, fonderà a carico del Presidente del Consorzio CE4 e della stessa ECO4 s.p.a. (a partire dal 9.6.2004) un addebito di collusione con l'attività associativa del clan La Torre che la dice lunga sulla personalità del principale *rappresentante politico* dell'onorevole Cosentino nelle questioni ECO4.

11. La nuova alleanza stretta dagli Orsi con il gruppo Schiavone

Si è già visto come le dichiarazioni, sopra già riportate, di Emilio Di Caterino offrano adeguato riscontro a quelle rese da Vassallo sul tema della rottura tra i fratelli Orsi (ovvero la società mista ECO4) e il gruppo bidognettiano.
Vale ora la pena di soffermarsi sul momento finale del lungo racconto dedicato dal collaboratore di giustizia alle *liaisons* camorriste del gruppo imprenditoriale casalese.
La ricostruzione assume particolare significato perché, sullo sfondo di quel 'passaggio

di competenze mafiose', si situa un incontro tra il parlamentare Nicola Cosentino e l'imprenditore camorrista Vassallo nel quale il primo pronuncerà parole dense di significato:

"Io insistetti nella mia richiesta perché tenevo molto a non rimanere fuori dalla gestione dei rifiuti, anche perché una mia esclusione significava perdita di prestigio sia a livello imprenditoriale che a livello di 'sistema'. Per 'sistema' intendo gruppo criminale camorristico.

L'onorevole Cosentino mi spiegò, vista la mia palese delusione, quali erano le ragioni del suo diniego, e quindi della mia esclusione dal Consorzio. Mi spiegò pertanto che ormai gli interessi economici del clan dei Casalesi si erano focalizzati, per quanto riguarda il tipo di attività in questione, nell'area geografica controllata dagli Schiavone (in particolare Francesco Schiavone detto Cicciariello, unico ad avere potere su tutto il territorio di Santa Maria La Fossa) e che pertanto il gruppo Bidognetti era stato 'fatto fuori' perché non aveva alcun potere su Santa Maria La Fossa. Ne derivava la mia estromissione.

In poche parole l'onorevole Cosentino mi disse che si era adeguato alle scelte fatte 'a monte' dal clan dei casalesi che aveva deciso che il termovalorizzatore si sarebbe dovuto realizzare nel comune di Santa Maria La Fossa e che anche l'affare del Consorzio CE4 / ECO4 era uno degli affari degli SCHIAVONE. Egli pertanto aveva dovuto seguire tale linea e avvantaggiare solo il gruppo Schiavone nella gestione dell'affare e, di conseguenza, tenere fuori il gruppo Bidognetti, e quindi anche me.

Da quanto detto fino a ora, risulta chiaro che, a questo punto, l'affare Consorzio CE 4/ ECO 4, nato per favorire il clan Bidognetti, era diventato un 'affare' del gruppo Schiavone".

L'esistenza di relazioni degli ORSI con i componenti della famiglia SCHIAVONE, in epoca compatibile con quella riferita dal collaboratore, è comprovata dagli elementi compendiati nell'informativa n.1000/II/2006/S.M. del 6 dicembre 2006, redatta dalla Squadra Mobile di Caserta, nell'ambito del Procedimento Penale 48659/03 R.G.N.R. (vedi faldone n. 1).

In data 13 dicembre 2004 la Squadra Mobile eseguiva una perquisizione presso l'abitazione di SCHIAVONE Vincenzo, nato a Santa Maria Capua Vetere il 10.10.1974 residente a San Cipriano d'Aversa (CE) alla via Tevere nr.10.

Nel corso della perquisizione, nelle tasche di un giubbotto in renna, custodito nell'armadio della camera da letto occupata dallo SCHIAVONE, venivano rinvenuti vari involucri contenenti:

Lista manoscritta su foglio di carta uso bollo e su foglio di carta a quadri, riportante il nominativo di capi e affiliati al clan dei "casalesi" recante a margine l'indicazione di somme di denaro, da intendersi corrispondenti ai salari mensili dei camorristi (Lista n. 1 in allegato 1 dell'inf.va citata)

Lista, redatta con l'uso di p.c., riportante il nominativo di capi e affiliati al clan dei "casalesi" con l'indicazione a margine della posizione giuridica e di altre somme di denaro (Lista n.2 in allegato 2)

Lista, redatta con l'uso di p.c., riportante anche in questo caso il nominativo di capi e affiliati al clan dei "casalesi", la posizione giuridica e la somme di denaro (Lista n. 3 in allegato 3).

L'analisi dei 3 elenchi conduceva alle seguenti evidenze:

gli elenchi contenuti nelle liste n.1 e n.3 sono identici benché il primo sia scritto a mano e il secondo redatto con l'uso di un personal computer;

l'elenco contenuto nella lista n. 2 non riporta i nomi degli affiliati al gruppo c.d. dei sanciprianesi né degli affiliati a RUSSO Giuseppe, che appaiono invece sia nella lista nr.1 e nella nr.3;

nella lista nr.1 manca l'indicazione della posizione giuridica degli associati che invece è riportata sia nella lista nr.2 che nella lista nr.3;

i nomi contenuti nelle liste consentono, nella maggior parte dei casi, l'esatta identificazione degli affiliati al gruppo;

il clan si presenta all'esterno con un'unica struttura di vertice mentre al suo interno è organizzato in 10 gruppi o bande ognuna di esse con propria giurisdizione territoriale;

il clan dispone di una cassaforte comune che viene in parte ridistribuita ai singoli affiliati sotto forma di stipendio o quota di partecipazione;

in nessuno degli elenchi viene indicato il gruppo di riferimento alla famiglia Bidognetti, nonostante il capofamiglia Bidognetti Francesco sia uno dei fondatori del clan ;

in nessuno degli elenchi vengono indicati gli affiliati al gruppo Zagaria, benché sia riportata la somma complessiva da corrispondere al gruppo, per l'ammontare di euro 33mila.

Nel corso della medesima perquisizione veniva rinvenuto altro involucro sigillato con nastro isolante con sopra riportata la dicitura "LAV." (evidentemente 'lavori').
Questo involucro conteneva altre quattro liste:

In una era riportato un elenco di lavori e di imprese, a margine del quale erano indicate somme di danaro (Lista n.4 in allegato 4)

In un'altra, manoscritta, erano riportati altri nominativi di imprenditori. (Lista n.5 in allegato 5)

In un'altra ancora, manoscritta su un foglio di carta di piccole dimensioni di colore bianco/verde, altri nominativi di imprese e imprenditori estorti. (Lista n.6 in allegato 6)

Nella quarta lista, redatta con l'uso di un p.c, comparivano esclusivamente lavori eseguiti nel comune di Casal di Principe, con l'indicazione a margine di somme di danaro (Lista n.7 in allegato 7).

Era senz'altro possibile, in base a questi rinvenimenti, assegnare a SCHIAVONE Vincenzo il ruolo di contabile della fazione 'Schiavone' del clan, addetto: sia al pagamento dei salari mensili; sia al controllo delle dazioni estorsive.
Tra i dati riportati nei documenti caduti in sequestro figurava la seguente scritturazione "*39) ORSI ?"*.

In altra parte del documento, era annotato accanto al nome Orsi, l'indicazione numerica corrispondente evidentemente alla tangente dovuta ("300"), interpretata dagli inquirenti come corrispondente a 300mila euro annui.

Dagli interrogatori di DI GRAZIA Paolo e DI GRAZIA Riccardo, titolari in Carinaro dell'omonimo clan, si traevano notizie utili a leggere anche la relazione allacciata dagli Orsi con il gruppo Schiavone come improntata a corrispettività di vantaggi.
In particolare i due collaboratori di giustizia fornivano informazioni sul ruolo di Sergio ORSI nella Multiservizi (altra società mista partecipata al 49% dagli Orsi) e sull'espansione delle commesse, propiziata dall'impegno dei clan.

Di Grazia Paolo, il 22 giugno 2006:

(...) in quel periodo, era stato pensato un discorso più generale in relazione alla gestione dei rifiuti per i comuni di CARINARO e GRICIGNANO, disegno del quale era parte anche (...), che era ***uno dei fondatori della MULTISERVIZI, la quale aveva sostanzialmente la gestione, insieme al comune di GRICIGNANO, della gestione dei rifiuti. Mi pare che la società vedesse la partecipazione anche di altri comuni. La gestione era di estremo rilievo per i clan camorristici della zona perché nella MULTISERVIZI il 49% era partecipato da ORSI Sergio, dietro al quale vi erano i CASALESI e in particolare - per le nostre zone - il LETIZIA. L'eventuale ingresso del comune di CARINARO nella MULTISERVIZI si sarebbe tramutato in un vantaggio anche per il mio gruppo criminale, perché in base ad un accordo con i CASALESI, noi avremmo avuto una percentuale per tonnellata di rifiuti in relazione al comune di CARINARO.*** *(...)*

10 aprile 2008:

(…) Sapendo a questo punto del legame della Multiservizi con ORSI Sergio e di questi con i casalesi, mi rivolsi quindi a LETIZIA Raffaele "Lello", che era il referente dei casalesi nei rapporti con me, per ricevere ulteriori informazioni ed avere assicurazioni.
Io mi incontravo sovente con il LETIZIA e nel corso di uno di questi incontri questi mi confermò dell'esistenza di un accordo quale quello riferitomi dal (…)e delle intese intercorse tra (…) ed il LETIZIA stesso, a nome dei casalesi.
LETIZIA mi garantì che, se fossi stato in grado di convincere il Sindaco di Carinaro MASI a far accedere il Comune di Carinaro nella Multiservizi, mi sarebbe stato assicurato un provento, in percentuale, sui rifiuti trasportati e destinati alla discarica.
(...) In questi incontri ebbi conferma dal (...) che questi aveva stretto accordi con (...)e con ORSI Sergio in ordine al successivo ingresso del Comune di Carinaro nella Multiservizi.

Di GRAZIA Riccardo il 9 luglio 2008

(...) Come già ampiamente riferito il clan dei casalesi manteneva con noi rapporti attraverso ***LETIZIA Lello, una persona di Casal di Principe che ci fu presentata da RUSSO Giuseppe "il Padrino", in occasione degli accordi intercorsi con il gruppo dei Casalesi.*** *Devo ricordare che le relazioni sono state sempre tese tra il nostro clan e quello dei casalesi, per le ragioni legate all'opposta militanza nella NCO e Nuova Famiglia.*
LETIZIA era dunque per noi il referente nei rapporti con il clan dei casalesi, facendo lo stesso capo specifico alla famiglia dei RUSSO.
LETIZIA aveva comunque rapporti anche con il gruppo BIDOGNETTI e ZAGARIA come ho desunto dagli episodi – di cui ho già parlato in precedenza – in cui il LETIZIA ebbe a spendersi e richiedere nostri favori per conto di queste due famiglie.
Nei limiti dunque di un possibile eventuale riserbo del LETIZIA rispetto ai mandanti, questi agiva per conto di RUSSO Giuseppe e della sua famiglia.
Un giorno del 2003 LETIZIA incontrò dunque sia me che Paolo, giungendo presso l'abitazione di mio fratello Paolo, sita a Vico dell'Assunta. Ci incontrammo, come al solito, all'interno del portone e qui LETIZIA ci spiegò sinteticamente ciò che ora riferisco (...).
Il LETIZIA ci disse che aveva un "discorso aperto" con ORSI Sergio, persona da loro "tenuta", con la quale si era accordato – per conto del gruppo – in modo da

gestire i servizi dei Comuni di Gricignano, Succivo ed Orta di Atella. La società di ORSI era entrata dentro questi Comuni (non sono in grado di essere più preciso sulle modalità con cui fu reso possibile) ed il progetto vedeva la possibilità di estendere anche a Carinaro l'influenza di questa società; (…).
LETIZIA spiegò che tramite la società di ORSI era possibile gestire non solo la raccolta dei rifiuti e i servizi accessori ma persino discariche ed appalti per opere comunali varie.
Si trattava di una prospettiva estremamente allettante, perché "più si operava e più si guadagnava". LETIZIA ci disse cha a fronte del nostro impegno per garantire che ORSI agisse anche su Carinaro, avremmo ricevuto la somma annua di Euro 50 mila, denaro che ci avrebbe consegnato proprio il LETIZIA.
Si trattava dunque di un'attività che rimaneva riservata esclusivamente a LETIZIA Lello e le persone che lo avevano incaricato. Accettammo dunque la proposta del LETIZIA (…). ***Evitammo di spiegare a (…) che dietro la società degli ORSI vi fossero i Casalesi e quindi, ai suoi occhi, in quel periodo, eravamo noi gli sponsor.(…)***

<u>Sergio ORSI</u>, sempre nella cornice di un rapporto descritto come puramente estorsivo, riferiva il 15 luglio 2008:

"Da allora non abbiamo più pagato il gruppo BIDOGNETTI ma altri diversi pagamenti vennero fatti in mano a LETIZIA Lello, a nome di RUSSO Giuseppe detto il padrino (in occasione delle festività; sarò più preciso in un successivo interrogatorio) e, precedentemente, a CATERINO Oreste e DIANA Raffale detto Rafilotto. (…) Diverse altre promesse vennero fatte direttamente a SCHIAVONE Francesco detto cicciariello, nel periodo in cui era attiva la discarica Saurino, prima del suo arresto in Polonia, anche se non venne mai versato il denaro".

12. La Ecoquattro e il paradigma dell'impresa mafiosa

Sono maturi i tempi per confrontare gli accertamenti svolti sulla nascita, l'espansione imprenditoriale e le dinamiche di mediazione criminale praticate dalla società mista ECO4 con il paradigma dell'impresa mafiosa dettato dalla giurisprudenza della Suprema Corte di Cassazione.
Sul punto basterebbe richiamare l'ordinanza n. 45 del 26.1.2009 (nel faldone n. 4 degli atti trasmessi il 13.5.2009), le cui pagg. 337 e s., scolpiscono l'intraneità dell'imprenditore Sergio Orsi al sodalizio casalese, ritenendo che egli abbia 'navigato' tra le due fazioni (Bidognetti e Schiavone) in ragione delle congiunturali convenienze.
Si è pure detto degli elementi di collusione – questa volta con il clan La Torre – gravante sul presidente del *partner* pubblico Valente Giuseppe.

Appare francamente inequivocabile nelle vicende trattate il riconoscimento di quegli indici che consentono di far propendere – nella nota alternativa tra *contiguità compiacente* e *contiguità soggiacente* – per l'appartenenza della ECO4 e dei suoi principali esponenti alla prima categoria.

La sentenza Cass., I, 11 ottobre – 20 dicembre 2005, D'Orio scolpisce questa distinzione sottolineando che 'imprenditore vittima' è colui che cede all'imposizione e subisce il relativo danno ingiusto, limitandosi eventualmente a perseguire intese volte alla limitazione del danno; mentre ciò che caratterizza l'imprenditore colluso è l'esistenza di un 'rapporto sinallagmatico' con la cosca, tale da produrre vantaggi ingiusti per entrambi i contraenti, e tale da consentire all'imprenditore di rivolgere a proprio profitto il fatto di essere venuto in relazione col

sodalizio mafioso.

La sentenza esemplifica i vantaggi ingiusti che possono caratterizzare il sinallagma in favore dell'imprenditore (e qui pare davvero di leggere la sintesi del quadro probatorio appena descritto): "***ingresso dell'imprenditore in un sistema illecito di esercizio dell'impresa contraddistinto da appalti e commesse ottenuti grazie all'intermediazione mafiosa";*** **al "*beneficio insito nella possibilità di assicurarsi illegalmente una posizione dominante a scapito della concorrenza, nonché risorse e/o linee di credito a prezzi di favore, sino a godere di un sostanziale monopolio su un dato territorio***".

La sentenza specifica come poi l'imposizione dell'imprenditore colluso in posizione dominante su una certa area debba essere contrassegnata dall'intervento del sodalizio "***il cui apparato intimidatorio si è reso disponibile a sostenere l'espansione dei suoi affari in cambio della sua disponibilità a fornire risorse, servizi o comunque utilità al sodalizio medesimo***".

Soltanto quando sia raggiunta la prova di una tale relazione di scambio di vantaggi ingiusti il comportamento dell'imprenditore assumerà rilevanza penale: in termini di piena intraneità, quando il soggetto risulterà inserito stabilmente nella struttura organizzativa dell'associazione, sì da avervi consapevolmente assunto un ruolo specifico, funzionale al perseguimento dei fini programmatici del clan o di un settore di essi; in termini di concorso eventuale, quando il soggetto – privo di *affectio* e non inserito stabilmente nel tessuto organizzativo – agisca dall'esterno con la consapevolezza e la volontà di fornire un contributo causale alla conservazione o al rafforzamento dell'associazione, nonché alla realizzazione, anche parziale, del suo programma criminoso

Resta invece vittima l'imprenditore che "*non tenta di venire a patti con la mafia per rivolgere a proprio vantaggio il relativo apparato strutturale – strumentale basato sull'intimidazione, ma cede all'imposizione mafiosa (versando tangenti o piegandosi a prestazioni di altro tipo) e subisce il relativo danno ingiusto limitandosi a perseguire semmai un'intesa col sodalizio al solo fine di tentare di limitare il danno*".

Appare inequivocabile che, nel rapporto con il clan dei Casalesi, i fratelli Orsi e la Eco4 s.p.a. abbiano allacciato una relazione sinallagmatica nella quale il corrispettivo rappresentato dall'erogazione del *contributo sociale* fu ampiamente remunerato con: l'inserimento dell'esperto imprenditore camorrista Vassallo; l'ausilio intimidatorio offerto per sbaragliare sia la concorrenza di Ferraro (nella fase genetica dell'aggiudicazione del contratto), che quella successivamente incontrata a mano a mano che si affermava il sistema degli 'affidamenti diretti' e l'ambizione espansiva di Sergio Orsi; l'avallo nella mediazione con i clan preposti ai territori dove la ECO4 andava ad operare.

Mutuando degli stilemi dottrinari può davvero dirsi che gli Orsi, dominatori della ECO4 allacciarono, con la piena complicità degli organi consortili, con l'*industria casalese della protezione* un rapporto attivo.

Essi stabilirono un'interazione fondata, anziché sulla pura coercizione,

su legami personali di fedeltà.
La loro cooperazione fu contenutisticamente ricca (assunzioni di personale; inclusione del socio criminale; versamenti periodici di denaro); fu motivata da prospettive di vantaggio economico, da incentivi materiali e simbolici che alimentarono un buon margine di *voice,* spesa: all'esterno del gruppo criminale, come una credenziale che favorì l'assegnazione dei lavori pubblici o privati*;* all'interno del mondo criminale, come possibilità di negoziare in maniera più favorevole i termini della protezione.
L'agire esterno della ECO4 s.p.a. fu insomma dinamico.
Per gli Orsi il legame con il camorrista – piuttosto che essere imposto da cogenti esigenze di *non conflittualità* - fu una credenziale che moltiplicò le occasioni espansive e poté determinare l'acquisizione di una presenza monopolistica nel mercato di competenza.

13. Profilo di Bernardo Cirillo 'o geometra

La posizione associativa di Bernardo Cirillo merita di essere esplorata per varie ragioni:

Bernardo Cirillo ha, secondo il racconto di Gaetano Vassallo, un ruolo importante nell'inclusione dell'odierno collaboratore nella costituenda società mista;

egli accompagna Vassallo in più momenti della sua relazione con i fratelli Orsi, ivi compresi quelli che sanciscono la rottura dell'accordo societario e, probabilmente, concorrono alla condanna a morte dell'imprenditore;

è lo stesso Cirillo, secondo la versione 'definitiva' di quell'evento risalente che Vassallo ha illustrato in data 28.8.2008, a presentare l'indagato Nicola Cosentino all'odierno collaboratore di giustizia, in occasione delle elezioni provinciali dell'anno '90;

il rapporto tra Nicola Cosentino e Bernardo Cirillo è confermato da Anna Carrino in pregnanti dichiarazioni che in seguito si riporteranno, sì da costituire un fatto provato capace di consolidare la tenuta complessiva del racconto di Vassallo sul patto 'voti contro favori' che si è sopra illustrato.

Conviene prendere le mosse dalle dichiarazioni di **Michele Orsi** che inserisce Cirillo Bernardo tra i soggetti che avevano partecipato attivamente, nella prima metà dell'anno 2002, alla riunione che segnava la definitiva estinzione del rapporto societario con la fazione bidognettiana.

Nell'<u>interrogatorio reso in data 6.6.2007,</u> Orsi riferiva:

"….tornando a parlare dell'incontro con Vassallo e Miele, questo avvenne in Lusciano presso l'autoricambi di tale Verolla Nicola. Qui ***erano presenti Vassallo Gaetano, tale Bernardo, Miele Massimiliano, tale Giosuè detto avvocato e un altro che non conosco; sono in grado facilmente di riconoscere sia Bernardo sia Giosuè.*** *Si dà atto della esibizione di un fascicolo fotografico del Comando Provinciale di Caserta IV sezione datato 11.10.2005 n. 92/115 prot. composto da n. 252*

fotografie, chiedendo all'indagato se riconosce Bernardo e Giosuè (…) ***Proseguendo nella narrazione dell'incontro, ricordo che in quella occasione Vassallo rappresentava ai presenti la circostanza secondo la quale io gli avrei promesso una quota della costituenda società; gli opposi che mai gli avevo fatto una promessa simile. Nel discorso fu Bernardo Cirillo che sostanzialmente sostenne le ragioni di Vassallo Gaetano e che rispetto agli altri svolgeva il ruolo di arbitro tra le mie ragioni e quelle del Vassallo stesso.*** *Non mi piegai a quella che era la pretesa del Vassallo e ribadii che nessuna promessa era stata espressa.* ***Ovviamente si fece riferimento al debito che io avevo in relazione all'acquisto degli automezzi ed io promisi al Vassallo di pagare il prezzo pattuito, cosa che feci successivamente mediante un assegno tratto sul conto della Flora Ambiente.*** *Ricordo che* ***poco prima di allontanarmi Bernardo Cirillo mi disse, con riferimento ad un appalto per operazioni di scavo per il metadonotto da indire da parte del Comune di Villa Literno (appalto per il quale gli assessori…mi avevano dato assicurazioni per una aggiudicazione), che non mi sarei dovuto più interessare, cosa che poi effettivamente non feci…****".*

Lo stesso episodio emerge dalla narrazione 'de relato' di **Orsi Sergio,** in data 8.6.2007:

*"…****sono in grado riferire in ordine ad un incontro che mio fratello Michele ha avuto con Bidognetti Aniello, a due incontri intercorsi con Guida Luigi, a un incontro con un parente di Bidognetti di nome zio Armando che sarei in grado facilmente di riconoscere, con tale Bernardo (mi sembra Cirillo) e altre persone di cui parlerò…"****.*

Un significativo indice rivelatore dell'inclusione di Cirillo nel gruppo Bidognetti, è costituito dalla richiesta formulata a Michele Orsi dopo la sua scarcerazione nel luglio 2007:

"…in un periodo di poco successivo alla scarcerazione di Michele, quindi dopo il 15.7.2007, questi venne avvicinato da Cirillo Bernardo, il quale gli chiese se lo avesse accusato. Michele gli disse che non lo aveva affatto accusato, così tranquillizzandolo…".

V'è poi **Di Caterino Emilio** che, nel ricostruire il complesso rapporto tra gli Orsi e i cicciottiani in maniera aderente alla narrazione del Vassallo, non trascura il particolare dello stretto vincolo fiduciario esistente *illo tempore* tra Cirillo Bernardo e Miele Massimiliano (interrogatorio reso in data 12.11.2008):

"…Miele Massimiliano era una persona del clan, era vicino a noi in qualsiasi cosa ed è imparentato con Bernardo Cirillo; la sorella di quest'ultimo ha sposato il fratello di Miele Massimiliano, di nome Gaetano. Si trattava di una persona di estrema fiducia e Cirillo presentò a Guida Luigi proprio il Miele, insieme a Borrata Francesco, quali suoi fiduciari…".

E' molto interessante la testimonianza di **Diana Miranda,** vedova di

Orsi Michele che, in data 16.9.2008, rivelava:

"…dopo la morte di Michele ho trovato un suo memoriale da lui manoscritto, insieme a un incartamento relativo ad atti processuali. Non so ovviamente dire se il relativo contenuto sia poi stato reso in un atto istruttorio, ***ma ho letto attentamente il documento e mi sono rimaste impresse alcune vicende ivi scritte: si trattava di quattro o cinque pagine manoscritte, interne a un block notes, documento che però Sergio volle prendere e trattenere con sé. Faccio presente che io ho trovato il memoriale una ventina di giorni dopo l'omicidio e ritengo che lo stesso sia stato scritto negli ultimi tempi. Con certezza posso dire che in quel memoriale Michele aveva scritto l'episodio del litigio con Vassallo e dell'intervento di Miele Massimiliano – che io comunque già sapevo – nonché un incontro intercorso con Cirillo Bernardo e Letizia Armando, vicenda quest'ultima che invece ignoravo.*** *Dallo scritto io ho compreso che Michele si era incontrato, giungendo a uno specifico appuntamento con i due, in un periodo certamente precedente all'arresto di Michele.* ***Dal contenuto del memoriale veniva affermato che Cirillo volesse partecipare all'Eco4 e che Michele si era preoccupato per la sua incolumità e quindi aveva – per quel che ricordo – chiamato Miele Massimiliano a sua tutela. Un altro incontro tra Cirillo Bernardo e Michele avvenne verso l'ottobre del 2007 a seguito di vari tentativi di incontro…".***

Numerose altre sono le conferme dell'inclusione e del ruolo di Bernardo Cirillo nel clan capeggiato dal cugino Francesco Bidognetti.
Il collaboratore di giustizia **CIRILLO Francesco** rendeva poi, in data 19 aprile 2002, le seguenti dichiarazioni:
…omissis…La foto nr. 91 raffigura una persona che non conosco. L'Ufficio dà atto che la foto nr.91 ritrae CIRILLO Bernardo nato a Casal di Principe (CE) il 06/10/1966. CIRILLO Francesco dichiara: in questa foto è irriconoscibile per come me lo ricordo. ***E' un mio parente. E' una pedina importante del gruppo criminale di BIDOGNETTI, in quanto faceva la contabilità ai BIDOGNETTI. In seguito, venne un po' accantonato e al suo posto subentrò CORVINO Davide, poi ucciso.*** *…omissis…*

Francesco CIRILLO, in data 11 novembre 2004, riferiva:

"*…omissis… La foto nr. 35 ritrae una persona che conosco; trattasi di* ***Cirillo Bernardo. Alla fine degli anni 1980, BIDOGNETTI gli aveva intestato la pasticceria Katia, pasticceria dove anche io lavoravo.*** *Lo chiamavano il ragioniere perché effettivamente aveva fatto ragioneria. Proprio lavorando in pasticceria, mi capitava di vedere Bidognetti che discuteva di conti con CIRILLO Bernardo; si trattava però di conti che riguardavano le masserie e non la pasticceria.*
A.D.R. Nel corso del 1990, ricordo che Bidognetti Francesco era latitante per cui molto spesso stava fuori; tuttavia egli rientrava ogni tanto a Casal di Principe. Ricordo, poi, che era molto assidua la sua presenza prima delle elezioni comunali, perché sosteneva un candidato che si chiamava Antonio che faceva l'architetto. Ricordo il particolare

molto bene perché Bidognetti Francesco, prima delle elezioni mi disse "mi raccomando, vota Antonio" ed io, un po' imbarazzato, gli dissi che non potevo votare perché avevo ancora 17 anni".

Diana Luigi poi, nell'interrogatorio del 29 aprile 2005, dichiarava:

"***…omissis… Le preciso che CIRILLO Bernardo, grazie ad un diploma di geometra preso in tarda età, riuscì a convincere BIDOGNETTI Francesco di poter svolgere la funzione di colletto bianco dell'organizzazione. BIDOGNETTI Francesco fu ben contento di assegnare questo ruolo al CRILLO Bernardo sin dalla fine degli anni 80.*** *Il CIRILLO Bernardo aveva il compito di parlare con gli avvocati, doveva tenere la contabilità del gruppo, far avere gli stipendi agli affiliati.* ***Dal canto suo, riceveva uno stipendio assai cospicuo ben superiore al mio.*** *Noi ci appoggiavamo sempre a casa sua, che è esattamente di fronte alla casa di APICELLA Pasquale, non solo perché era una persona "pulita" ma anche per una specifica ragione: su suggerimento del BIDOGNETTI Francesco, CIRILLO Bernardo aveva richiesto e ottenuto il porto d'armi per uso caccia e, quindi, teneva a casa un fucile, che ricordo ancora bene, era marca Franchi a sette colpi con caricatore automatico; aveva altresì una pistola Pietro Beretta 9X21, queste armi erano state acquistate con i soldi di BIDOGNETTI Francesco ed erano custodite in una vetrina le cui chiavi erano in possesso sia di BIDOGNETTI Francesco che di CIRILLO Bernardo.…omissis…*

Lo stesso **DIANA**, in data 03 maggio 2005, affermava:

"*…omissis… In particolare, tramite IOVINE Antonio detto 'o ninno, Francesco DI PUORTO e DIANA Giuseppe, BIDOGNETTI era entrato in contatto con imprenditori della zona di Lucca che avevano l'esigenza di smaltire illegalmente i rifiuti tossici e speciali.* ***BIDOGNETTI subodorò l'affare, creò una società nella quale inserì due suoi parenti, e cioè CERCI Gaetano e CIRILLO Bernardo e utilizzando la discarica del CHIANESE e, simulando conferimenti di rifiuti ordinari, faceva immettere in discarica rifiuti speciali****.…omissis…*

In data 26 maggio 2005:

"*…omissis… Ho avuto, molte volte, incontri con DE ANGELIS Gennaro, sia a Casal di Principe, dove lui veniva spesso per incontrarsi con i capi, sia nelle sue zone.* ***Quando veniva a Casal di Principe, era solito appoggiarsi nella casa di CIRILLO Bernardo. Il CIRILLO Bernardo era il suo punto di riferimento, era colui il quale gli fissava gli appuntamenti a Casale, l'andava a prendere dalle parti di Cassino. Posso chiarirle, che questa particolare confidenza, fra il De Angelis Gennaro e il Cirillo Bernardo, discendeva dal fatto che quando il De Angelis, 30 o 40 anni fa abitava a Casale, era vicino di casa del Cirillo Bernardo****. De Angelis Gennaro nasce come un bardelliniano di ferro; fu lui che creò la rete di appoggi alla famiglia Bardellino a Formia, rete di appoggi che consentì poi alla famiglia Bardellino di insediarsi in quelle*

zone. …omissis… Come le ho già accennato in precedenza, io stesso mi sono recato presso il De Angelis, dalle parti di Cassino, dove lui abitava; non si trattò di una visita di cortesia, avevamo uno scopo preciso. ***Eravamo andati io, Cirillo Bernardo, Domenico Bidognetti e Sagliano Giovanni. …omissis… Il viaggio a Cassino, era stato fatto, in quanto, il De Angelis Gennaro, doveva rifornirci di tritolo. Così fu, e in effetti il De Angelis, dopo averci salutato, ci condusse in un vicino capannone dove teneva occultato circa 200 Kg di tritolo, perfettamente confezionato e con l'imballo nuovissimo. Caricammo l'esplosivo sulla Lancia Delta rubata, con cui eravamo giunti, e insieme all'esplosivo ci diede micce e detonatori.*** *Preciso quale era esattamente la nostra formazione: Bidognetti Domenico andava avanti a bordo della sua motocicletta; seguiva Cirillo Bernardo a bordo della sua auto pulita; dietro ci stavamo io e Sagliano a bordo della Lancia Delta rubata, ove era stato caricato l'esplosivo.…omissis…****La foto nr. 35 ritrae una persona che conosco, trattasi di Cirillo Bernardo, di cui ho parlato ampiamente in precedenti interrogatori. E' il cugino di Bidognetti Francesco e fa parte del suo gruppo".***

Ancora DIANA Luigi, in data 21/06/2005:
" …omissis… Nei fogli nono, decimo e undicesimo, voglio riferire di CIRILLO Bernardo e dell'utilizzo della sua abitazione, nella quale egli stava con la madre Lina per fare gli appostamenti per ammazzare Pacifico DIONIGI, nipote di Enzo DE FALCO. CIRILLO Bernardo ha fatto lo specchietto e ci doveva indicare quando si trovava in zona il Pacifico. A casa sua eravamo appostati io, BIDOGNETTI Raffaele e BIFULCO Luigi armati di un mini UZI, un kalashnikov e fucili e con una Tipo rubata. Questo episodio risale al 94. Il medesimo CIRILLO Bernardo, che noi chiamavamo magnariello o Nuova Famiglia, è titolare di un autosalone che si trova sulla strada di S. Maria a Cubito nei pressi dell'abitazione di CIOFFI Fortunato, cognato del fratello, che dovrebbe essere il fittizio intestatario dell'autosalone. ***L'autosalone in questione è stato acquistato con i soldi del clan, in quanto CIRILLO Bernardo ha la cassa del gruppo BIDOGNETTI. CIRILLO Bernardo è persona che ha sempre avuto, fin dagli anni 80, rapporti con altri gruppi della camorra campana; noi per tale ragione lo chiamavamo Nuova Famiglia. Egli teneva, per conto dei BIDOGNETTI, rapporti con il clan MALLARDO, con il clan MOCCIA, con il clan VERDE, con la famiglia CIPOLLETTA di Mugnano, con i LUBRANO di Pignataro*** *e con tante altre persone.* ***Lui ci guardava dall'alto in basso perché ci considerava dei piccoli delinquenti mentre lui si considerava un boss.…omissis…"***

In data 8 settembre 2005 **Luigi Diana riferiva**:

"*I Bidognetti si avvalevano di Morrone Pasquale, Dell'Aversana Giuseppe detto "o riavolo", Letizia Armando, …omissis…, D'Alessandro detto "o' sergente", …omissis… Miele Massimiliano, …omissis…****Cirillo Bernardo,*** *…omissis… ed altri soggetti.…omissis…*

In data 16 settembre 2005:

"*…omissis… A proposito di* ***Cirillo Bernardo****, il Diana precisa che veniva utilizzato dal Bidognetti Francesco come* ***suo ambasciatore*** *per le famiglie camorristiche Mallardo e Moccia. Di ciò ebbi la prova quando la prima volta che mi incontrai con Giuseppe Mallardo agli inizi del 1988, questi mi disse di salutargli Bernardo Cirillo.* ***Quest'ultimo, inoltre, unitamente a Gaetano Cerci, aveva il compito di occuparsi dell'affare della raccolta e dello smaltimento di rifiuti e, addirittura, per stare più all'interno della situazione si fece assumere, non so con quale qualifica, all'interno della società controllata da Gaetano Cerci****. …omissis…*

In data 26 settembre 2005

"*Confermo integralmente il contenuto sintetico dell'appunto. Si dà atto che come da registrazione vengono specificati tali beni.* ***In particolare i beni intestati a:…omissis… CIRILLO Bernardo, cugino di BIDOGNETTI Francesco, abitante in via Firenze di Casal di Principe. Era il contabile del clan come ho già detto in tanti interrogatori;…omissis…***

In data 8 ottobre 2005 **Luigi Diana** affermava:

" *…omissis…Quanto all'avv. CHIANESE preciso che lo stesso era in rapporti con BIDOGNETTI Francesco fin dagli anni "80, avendolo visto io più volte a casa di "CICCIOTTO".* ***Altre volte ho visto il CHIANESE a casa di CIRILLO Bernardo che era il contabile dei BIDOGNETTI, come ho già spiegato.*** *Inoltre, BIDOGNETTI Aniello mi spiegava che il CHIANESE trafficava in rifiuti unitamente a CERCI Gaetano, CIRILLO Bernardo ed allo stesso BIDOGNETTI Francesco. ….omissis…*

E' la volta del collaboratore di giustizia **DIANA Alfonso**.

In data 24 novembre 2005:
"*…omissis… A questo punto il P.M. sottopone in visione al DIANA Alfonso l'album fotografico predisposto dalla Questura di Caserta – Squadra Mobile - dal quale è stata preliminarmente separata la legenda che riporta nominativi: sono riportate 128 fotografie numerate progressivamente da 1 a 128 e l'album è composto da 32 pagine. In ognuna delle citate pagine sono riportate n. 4 fotografie anch'esse numerate progressivamente di modo che le generalità delle persone raffigurate sono individuabili nel corrispondente numero progressivo dell'elenco che segue. …omissis…* ***La n. 98 ritrae CIRILLO Bernardo, che abita nella mia stessa strada ed è il cugino di BIDOGNETTI Francesco. Si tratta di un affiliato al clan BIDOGNETTI presso la cui abitazione si sono sempre tenute le riunioni del clan. Ho già dichiarato che egli ha preso parte in qualità di mandante ad un omicidio e, precisamente, a quello di "SCASSACARRETTA". Nell'ultimo periodo, aveva molti contatti con Nicola ALFIERO detto "o' capritto" e imponeva la propria ditta per la realizzazione di lavori edili privati. Inoltre il CIRILLO mantiene i contatti tra il clan e gli avvocati. Negli***

anni 90 aveva realizzato una società con Gaetano CIRCE per la gestione dei rifiuti ed ha avuto un ruolo nell'importazione di rifiuti dal nord Italia. Per questa attività mentre il CIRCE è stato processato il CIRILLO, che mi risulti, non è stato mai inquisito. Anzi su domanda della S.V. mi correggo: il socio del Bernardo CIRILLO si chiama CERCI e non CIRCE. …omissis…

DIANA Alfonso, in data 2 dicembre 2005 riferiva:

"*…omissis…* ***I fucili ci furono consegnati a casa di CIRILLO Bernardo direttamente da BIDOGNETTI Domenico; noi chiamammo BIDOGNETTI Michele fratello di "CICCIOTTO" che faceva il muratore, MACCARIELLO Raffaele e il tunisino Ben MAZUR che doveva trasportarli a bordo di un furgone***. *…omissis…*

DIANA Alfonso, in data 25 gennaio 2006, proseguiva:

"*…omissis…A questo punto si sottopone al DIANA il medesimo album già indicato negli ultimi due interrogatori del 18 e del 20 gennaio 2006. …omissis…Foto n.189: si tratta di* ***CIRILLO Bernardo, cugino di Francesco BIDOGNETTI Francesco di cui ho più parlato varie volte. Il CIRILLO Bernardo si occupa di curare i contatti tra gli avvocati e la famiglia BIDOGNETTI e si incarica di portare i soldi ai difensori. Qualche volta mi sono recato insieme a CIRILLO Bernardo ed a BIDOGNETTI Aniello presso lo studio dell'avv. …omissis….***

BARRA Angela, ex-convivente di Francesco Bidognetti, in data 5 aprile 2003 riferiva:

"*..omissis… l'Ufficio mi chiede di chiarire di spiegare nel dettaglio quanto successo negli scorsi giorni con riferimento alla visita ricevuta. Le rispondo che,* ***senza alcun preavviso telefonico l'altro ieri, senza alcun preavviso, si è presentato presso la mia abitazione Michele Bidognetti, fratello di Francesco. Per la verità Michele Bidognetti era già venuto a casa mia altre due volte nel periodo in cui stavo agli arresti domiciliari La prima volta venne insieme al fratello Renato, al cugino Bernardo, di cui non conosco il cognome, e insieme a Giosuè.*** *In questa circostanza si discusse del fatto che io aveva cambiato avvocato …omissis….* ***Venne dopo qualche giorno e in quella occasione si incontrò a casa mia con Giosuè, Michele Bidognetti, Renato Bidognetti e Bernardo***. *Fu in questa occasione che i predetti pagarono l'avvocato …omissis…* ***Spontaneamente: voglio dirle che Bernardo, il cugino di Cicciotto, era venuto anche un'altra volta a casa mia. In particolare una volta, circa 4/5 mesi fa, siccome io avevo avuto una discussione con il Giosuè, e non avevo voluta accettare il mensile da lui, si presentarono a casa mia il Bernardo e il Giosuè. Il Bernardo mi chiese cosa era successo e io gli dissi che il Giosuè aveva minacciato di spararmi in quanto io avevo tradito Cicciotto convivendo con Antonio Pannone. Il Bernardo, allora, redarguì il Giosuè e disse che non dovevo dargli retta****…omissis…*

Cirillo Bernardo risulta poi imputato nell'ambito del procedimento penale contrassegnato dal n. 19341/05 R.G.N.R. P.M. Trib. Napoli, relativo all'omicidio di Chiarolanza Arcangelo, commesso in data 15.10.1992 in S. Cipriano d'Aversa e realizzato, secondo l'ipotesi di accusa, in concorso con Bidognetti Francesco, Bidognetti Aniello, Diana Alfonso, Maccariello Raffaele.
Sono stati poi controllati alcuni passaggi descrittivi delle dichiarazioni di Gaetano Vassallo che investono il Cirillo:
1) Cirillo Bernardo è effettivamente cugino del Bidognetti Francesco detto Cicciotto 'e mezzanotte, essendo i due figli delle sorelle Maddalena e Cristina Iorio;
2) Miele Gaetano è effettivamente cognato del Cirillo Bernardo, avendone sposato la sorella Cirillo Giuseppina;
3) Miele Massimiliano è effettivamente fratello del Miele Gaetano, cognato del Cirillo Bernardo;
4) Miele Massimiliano, unitamente a Borrata Francresco, è stato effettivamente tratto in arresto in data 9.12.2002 nell'ambito del procedimento penale n. 60345/02 R. G. N. R. per il reato di traffico internazionale di sostanza stupefacente del tipo eroina (e da allora si trova ininterrottamente in stato di detenzione intramuraria);
5) le strette relazioni esistenti tra il Cirillo Bernardo da un lato ed il nucleo familiare dei Miele dall'altro risultano confermate dalla circostanza che il predetto Cirillo, raggiunto da un provvedimento che gli vietava di continuare a detenere le armi il cui possesso era stato da lui in precedenza denunciato agli Organi competenti, in data 4.8.1998 aveva a cederle al Miele Gaetano.

Di notevole interesse risultano anche dei colloqui oggetto di intercettazione telefonica (captati tra il mese di gennaio ed il mese di agosto dell'anno 2000, sì da riscontrare l'intraneità del Cirillo nell'arco temporale interessato dalla vicenda della società Orsi - Bidognetti), tutti attestanti consolidati rapporti fiduciari e intensa cooperazione criminale tra il Cirillo Bernardo, tra i quali SETOLA Giuseppe, DI MAIO Francesco, MIELE Massimiliano, CIRILLO Alessandro detto 'o sergente.
Per la lettura integrale dei dialoghi si rinvia alle pagg. 327-331 dell'ordinanza cautelare n. 472 del 7 luglio 2009 (corredata dell'informativa del Nucleo Investigativo del Comando Provinciale dei Carabinieri di Caserta n. 1065/11 del 20 giugno 2009), ordinanza trasmessa dall'Ufficio di Procura con missiva del 27.10.2009.
L'ultimo dato meritevole di essere riportato è quello che attesta la militanza perdurante di Cirillo Bernardo nel gruppo Bidognetti, nonostante l'arresto intervenuto in data 19.12.2007.
In data 14.1.2009, all'interno del rifugio ubicato alla via Cottolengo del Comune di Trentola Ducenta, utilizzato dal latitante Setola Giuseppe, venivano sequestrati dei documenti riflettenti la contabilità della banda. Tra i nominativi degli affiliati beneficiari dello stipendio mensile, figurava quello di *Bernardo*.

Tirando le somme, può affermarsi la sussistenza dei seguenti elementi di plausibilità della narrazione di Vassallo che associa Cirillo alla presentazione dell'indagato

Cosentino, conferendogli il ruolo di emissario di Bidognetti, primo decisore di quell'endorsement elettorale:

Cirillo Bernardo è indicato da CIRILLO Francesco e DIANA Luigi come '*pedina importante e colletto bianco*' del clan sin dalla fine degli anni '80 (epoca compatibile con quella nella quale si tennero elezioni provinciali);

Gli è riconosciuta da più collaboratori (DI CATERINO, DIANA Luigi, DIANA Alfonso) il ruolo di ambasciatore del cugino latitante presso i professionisti e presso i criminali di altre consorterie;

Gli è riconosciuta poi (DIANA Alfonso, DIANA Luigi) una speciale competenza nel traffico dei rifiuti in cui si inserì sul finire degli anni '80, stringendo esattamente le stesse relazioni indicate dal collaboratore Vassallo per datare l'inizio della sua conoscenza (in particolare CERCI Gaetano socio di Vassallo nella Ecologia '89).

14. Il dominio gestionale di Sergio Orsi sulla società mista ECO4

Occorre a questo punto dimostrare il dominio gestionale effettivo che l' imprenditore mafioso Sergio Orsi ha esercitato sulla società mista ECO4, anche dopo la sua costituzione.

Si tratta di un altro passaggio che ci avvicina al riscontro individualizzante dell'addebito formulato a carico di Nicola Cosentino.

Le relazioni tra Orsi e l'odierno parlamentare non rappresentano infatti soltanto un enunciato del collaboratore. Esse sono solidamente provate dall'attività intercettiva utilizzabile (quella cioè che non coinvolge, neppure *casualmente*, il parlamentare) e da altri contributi dichiarativi (primi fra tutti quelli del presidente Valente e dell'imprenditore Michele Orsi).

E' importante allora chiarire il profilo in rubrica per fissare un tassello di quella gerarchia di rapporti che vede:

Sergio Orsi e il fratello Michele (conclamati imprenditori mafiosi), titolari delle scelte gestionali della società mista;

Nicola Cosentino, loro interlocutore assiduo, dominatore (o co-dominatore) politico delle assunzioni e delle strategie della società mista;

Una gerarchia che – è appena il caso di dirlo – ulteriormente avvalora la credibilità del racconto di Vassallo.

Il dominio effettivo degli ORSI – soci del gruppo Bidognetti – sulle vicende della ECO4 s.p.a. emerge dalle risultanze intercettive compendiate nell'informativa della Tenenza di Mondragone, N. 39/R-bis/8995 del 27.01.2004.

Al momento della costituzione (28.8.00) la società mista aveva un consiglio di amministrazione presieduto (a titolo puramente formale, secondo il racconto di Valente) da MIRRA Bruno.

In data 10.10.2000 ORSI Sergio veniva nominato Amministratore delegato con poteri di firma e rappresentanza. Gli succedevano prima TRAPANI Giovanni, poi RAGUCCI Michele.

Alla cessazione formale della carica di Amministratore Delegato non conseguiva però la reale perdita del potere gestionale

ORSI Sergio, titolare dell'utenza cellulare intestata alla ECO4 (335/1216000), evitava soltanto nel colloquio con interlocutori 'sconosciuti' o 'scomodi' – di far trapelare l'effettiva posizione di dominio sulla società.

Ciò accadeva ad esempio in due conversazioni captate proprio sull'utenza sopra

menzionata.
Nella prima (n. 117) ORSI veniva chiamato da tale RUBINO, della cooperativa di vigilanza "Lavoro e Giustizia" che riferiva di aver avuto un colloquio con l'onorevole Paolo ROMANO relativo al deposito di Castel Volturno e che questi lo aveva indirizzato all'Orsi. Sergio rispondeva di non essere più l'amministratore della ECO/4 ma di essere ancora in grado, avendo conservato dei rapporti, di passare la notizia.
Nella seconda (n. 208) Orsi, contattato dalla Polizia Stradale di Pozzuoli per il controllo di un mezzo della ECO/4 in pessime condizioni, negava qualsiasi ruolo nella società, pur ribadendo la conservazione di alcuni contatti.

Le altre comunicazioni registrate facevano emergere invece l'assiduo controllo di Sergio ORSI sulle faccende societarie e la propensione a delegittimare gli amministratori formali che credessero di poter 'fare di testa loro'.
A titolo esemplificativo si riporta sommariamente il contenuto delle seguenti comunicazioni.
n. 59 – Sergio ORSI conviene con tale Ciro un incontro finalizzato a nominare i responsabili di cantiere;
n. 87 – Raffaele PICARO chiama Sergio ORSI e lo porta a conoscenza del fatto che SAVOIA (presidente del CdA) osa dare direttive sull'impiego del personale. I due concordano sul fatto che tali decisioni spettano all'amministratore delegato (RAGUCCI). Sergio dice a Raffaele (con tono perentorio) di chiamare SAVOIA per un appuntamento, in modo da chiarire con chi il personale deve interloquire. Piccato per quella che considera evidentemente un'insubordinazione, Sergio manifesta l'intenzione di prendere a calci SAVOIA, chiamandolo "*zuzzuso*". I toni della conversazione rivelano la sottomissione del dipendente verso il categorico Orsi;
n. 386 – Sergio chiama l'ECO/4. Interloquisce con tale Francesca che gli riferisce il rifiuto di Carlo SAVOIA di firmare un documento che pare formi oggetto di un ricorso. Francesca ipotizza che il diniego di SAVOIA sia in realtà dovuto a ragioni politiche. ORSI dice a Francesca che SAVOIA non vale niente e ordina che il documento sia firmato.

Il servizio di intercettazione effettuato sull'utenza 348/3126450 corrobora l'assunto del ruolo dominante di Sergio Orsi nelle cose della ECO4.
Nella telefonata n. 203 Sergio ORSI riceva da Carlo SAVOIA un resoconto degli atti che sta per compiere in relazione all'aggiudicazione di un appalto in Sessa Aurunca.
Tra le conversazioni captate sull'utenza 0823/812678 meritano di essere richiamate le telefonate:
n. 705 – il presidente SAVOIA, conversando con tale Elio, rimanda l'adozione di alcune direttive all'esito di un incontro con Sergio;
n. 833 – tale Franco chiede alla segretaria se ha sentito il "capo". Questa risponde "chi, Sergio ?", ottenendo risposta affermativa.

La gerarchia reale vigente nella ECO4 è plasticamente rivelata anche dalla conversazione n. 689 (utenza n. 335/1216000) nella quale l'amministratore delegato della ECO4, Michele RAGUCCI chiama Sergio ORSI, lamentandosi sommessamente di sentirsi abbandonato dai fratelli ORSI ("*senza il vostro contatto io mi sento perso perché ho cercato di contattare Michele in tutti i modi inutilmente, che devo fare, rassegnare le dimissioni?*"). Sprezzante, Sergio risponde a Ragucci che in quel momento non può fargli da balia, perché ha problemi seri. Al che RAGUCCI, sottomesso, si scusa ripetutamente.

Assunzioni e licenziamenti passano ovviamente per il placet, obbligatorio e vincolante, di Sergio ORSI.
Nella conversazione n. 924 del 17.01.2004 (utenza n. 335/1216000) Raffaele PICARO, consulente del lavoro della ECO/4, dà lettura di un fax che il Presidente SAVOIA ha inviato all'Amministratore delegato, al direttore generale ed alla CONTAB, concernente i temi della tipologia di contratto dei lavoratori in forza alla ECO/4, delle mansioni e dei cantieri nei quali operano detti lavoratori. Nella missiva SAVOIA statuisce altresì che ogni decisione sul personale dovrà essere da lui stesso preventivamente autorizzata. Nel commentare la disposizione, i due definiscono SAVOIA "pazzo" e "scemo", mostrandosi contrariati da una missiva che evidentemente intacca quella che ritengono una loro prerogativa.

Nella conversazione n. 441 del 09.01.2004 (utenza 335/1216000) tale dottor Monaco verifica con Sergio Orsi la serietà di un colloquio avuto con SAVOIA in ordine ad alcune assunzioni di personale. Sergio lo rassicura asserendo di avere egli stesso promosso l'iniziativa. Egli autorizza pertanto le assunzioni, raccomandando che si tratti di qualifiche non elevate come quella di operatore ecologico.

Nella conversazione n. 203 del 09.01.2004 (utenza n. 3483126450) è lo stesso CARLO SAVOIA a consultarsi con Sergio Orsi circa assunzioni da effettuare sul territorio di Teano (*"...sennò faccio una brutta figura..."*). Sergio assume un atteggiamento concessivo, condizionato al fatto che si tratti di assunzioni di breve durata, del genere di quelle già effettuate in Roccamonfina quando una persona '*non ha mantenuto l'impegno'*. Nella stessa conversazione SAVOIA comunica la necessità di assumere un soggetto di Casal di Principe, a nome ZACCARIELLO, su input di *Nicola* (individuabile, in base ad un interrogatorio di Orsi Michele che di seguito si riporterà, nell'indagato Nicola COSENTINO).

La pretesa di SAVOIA di esercitare poteri reali evidentemente finiva per sfibrare i fratelli Orsi. Michele riceve da Raffaele Chianese, soggetto strettamente collegato all'onorevole Mario Landolfi, la seguente informazione.

N. 6 del 20.04.2004 - ore 11:53 - (3351215999).
CHIANESE informa ORSI Michele che nella mattinata Mario (Landolfi) è andato a Roma insieme a Nicola (cosentino). Riferisce che i due hanno parlato tra di loro e che "*a questo punto diciamo l'operazione defenestrazione del Presidente è un'operazione che penso che sia pronta* "

Le seguenti due conversazioni, oggetto di captazione ambientale, ritornano sul tema della 'defenestrazione' del presidente Savoia ma soprattutto rivelano linee di tendenza generale nella gestione del Consorzio CE4 e della società mista:
- l'indicazione di Claudio De Biasio come uomo degli Orsi al quale sarebbe stato auspicabile far assumere incarichi maggiormente significativi;
- l'obiettivo di Raffaele Chianese, strettamente collegato all'onorevole Mario Landolfi, è quello di assumere nel consorzio incarichi la cui remunerazione gli consenta di ricavare profitti significativi (evidentemente maggiori di quelli rivenienti dal ruolo di consulente informatico rivestito all'epoca della conversazione) da destinare al 'finanziamento della politica' e, in particolare, dell'onorevole Landolfi;
- l'organigramma deve tener conto non già della migliore efficienza dei servizi demandati al consorzio, ma dell'inserimento di soggetti capaci di stringere il patto con la politica nel reciproco vantaggio dei contraenti;

- l'affidamento degli incarichi è considerata una forma di remunerazione del partner politico.

N. 15026 del 26.04.2004 - ore 15:56 (conversazione "tra presenti" intercettata presso gli uffici dell'Eco/4).
Trascrizione
....Omissis.....
R (Raffaele CHIANESE): abbiamo iniziato un ragionamento, diciamo che abbiamo iniziato un ragionamento
M (Michele ORSI): sì
R: nel bene o nel male, questo ragionamento richiedeva una serie di cose
M: mmh
R: richiedeva il cambio della dirigenza, per due ordini di motivi, il primo perché ci veniva indicato dalla prefettura come uno dei, delle cose positive, cambio della dirigenza, cambio della presidenza, ci veniva indicato dalla prefettura come una delle cose positive, io ho pensato di far quadrare il cerchio, come dissi già a lui adesso lo dico pure a te, io ho pensato di fare a Claudio io, proprio io, autonomamente
S (Sergio ORSI): ma mica hai sbagliato
R: perché ho pensato di far quadrare il cerchio dicendo, alla Madonna, ***Claudio sicuramente veniva visto da Mario come l'uomo degli ORSI all'interno del Consorzio***
S: ed è giusto
...Omissis....
R: poi facciamo il fatto del cambio della presidenza
M: eh
....Omissis.....
R: l'incarico ci interessa e serve nella cornice generale, ma solo l'incarico
M: posso dire una cosa?
R: non serve a niente
....Omissis.....
R: se io, o le cose le so oppure se le cose non le so a me il consulente informatico non mi serve a un cazzo
M: certo
R: perché il consulente informatico a me sai a cosa serve, Michè, mi serve soltanto a fare un po' di soldi, per fare altri cazzi
M: quella è una risposta immediata
R: e non ad altro (le voci si accavallano) perché io a Michele gli piglio i soldi, li piglio e li do, ci faccio altre cose
...Omissis....
R: adesso che tu dici io ti faccio fare il consulente informatico, ma a me che me ne fotte del consulente informatico. Non me ne fotte un cazzo!
...Omissis...
S: il dunque qual è, altro dunque, il dunque è per esempio, allora, dobbiamo levare il Presidente dall'Eco/4 vabbè, bene, è una cosa che ci siamo stranamente, di nostra iniziativa partita da noi che ci fa piacere, cioè il fatto che tu vuoi la stessa cosa nostra a noi ci fa piacere perché se non la volevi noi stavamo adesso a casa tua a convincerti a dire 'guagliò, noi dobbiamo fare questa cosa!'. Non so se è chiaro, questo fatto qua, questo fatto qua che noi dobbiamo fare questo che cosa succede, succede in questo modo, che noi ci siamo detti tutti quanti, dice guarda: fare Presidente GAMBARDELLA non lo possiamo fare, se però vogliamo dare una risposta ancora migliore, ancora migliore, aspettiamo tanto sono altri 15 giorni ....incomprensibile... allora io che facetti, chiamai Antonio RUSSO, ci stava lui e Mattia. Allora dissi: guagliò però

facciamo una cosa, se GAMBARDELLA tra 15/20 giorni dovesse
...Omissis...
S: tra 15-20 giorni pure se COSENTINO dovesse dire guagliò lo avete fatto apposta, sì a quel punto non ci stanno problemi, e questo era il problema (le voci si accavallano)
R: …incomprensibile… Carlo SAVOIA non è difendibile
S: ma, ma figurati
R: ma non è difendibile nemmeno da COSENTINO
S: ma si
R: …incomprensibile… quello COSENTINO deve chiamare a Mario e poi Mario gli dice caro Nicola, ma questo faceva questo, questo questo e questo
S: COSENTINO non me lo voglio inimicare
..Omissis....
S: noi dobbiamo essere amici
R: io non voglio soldi
S: ma noi dobbiamo essere pure quelli, se serve …incomprensibile… la campagna elettorale
R: …incomprensibile… bene, lavorando e guadagnando
S: però io ti voglio dire una cosa ...incomprensibile... non che volessi convincere, questo o quell'altro
R: senti Sergio, Mario i soldi se li può prendere solo da me, e non se li può prendere da nessun altro, quindi è inutile
S: questi sono fatti
R: è un discorso ... ma non i soldi che io mi piglio, sti soldi
S: no
R: si fanno cose che servono al partito, no che
S: lo so, lo so
R: io soldi non ne piglio Sergio
S: ma figurati
R: lui soldi non ne piglia
S: ma lo so bene
R: cioè, i soldi che danno per fare l'attività, …incomprensibile… finanzia il partito
…Omissis…
R: io me ne avvantaggio dal partito, perché io prendo un incarico, prendo una cosa e io giustamente devo dare un contributo di quello che io faccio ...incomprensibile... è un fatto normale
S: non dico adesso, ma nel futuro se potessimo partecipare
R: tu come puoi partecipare, puoi partecipare ...incomprensibile... se tu devi prendere un appalto per un lavoro che va fatto, anziché darlo a un altro, lo dai a me
...Omissis...
R: tu così ottieni
S: questo
R: due risultati, caro Sergio
S: ma questo qua, questo qua già è una cosa
R: ottieni il lavoro fatto da un lato, e quindi contribuisci perché quello è un contributo, perché tu a farlo fare a un altro, lo fai fare a me, e non me lo fai fare perché io sono più bravo ma lo puoi fare perché hai la referenza, ma ottieni un'altra cosa
S: ...incomprensibile...
R: che è ancora più importante di questa caro Sergio, oltre a questo, il tuo contributo, anziché dirti dammi i soldi, ti dico fammi lavorare. È un contributo anche questo, che tu invece di farlo fare a qualcun altro, preferisci a me, ma che cosa ottieni oltre a

questo, oltre ad avere il lavoro fatto, Sergio, ottieni il coinvolgimento per altre cose, ma perché aspetta, perché è normale che se io vedo le tue carte e so quello che succede ma non perché voglio fare i cazzi tuoi Sergio, non me ne fotte un cazzo dei fatti tuoi ...Omissis... però almeno voglio dire, posso dire di averci capito, di sapere cioè posso essere partecipe ...Omissis... tutti i ragionamenti che abbiamo fatto si vanifica nel momento in cui, cioè si vanifica nel momento in cui io non essendo partecipe di niente e con il consulente informatico per esempio non sono partecipe di niente... ...Omissis...
…Omissis…

N. 15032 del 26.04.2004 - ore 16:43 - conversazione "tra presenti" intercettata presso gli uffici dell'Eco/4.

Trascrizione
…omissis…
M (Michele ORSI): … il Presidente, la figura del Presidente, penso se ho capito bene, spetta comunque sempre a Forza Italia, no
R (Raffaele CHIANESE): uh
M: diciamo a dare un indirizzo
…Omissis…
R: questo qua non merita di stare qua …incomprensibile…
M: non merita proprio
R: no, a prescindere
…Omissis…
M: perché vuoi fare questo
R: io perché voglio fare questo?
M: bravo
R: prima di tutto perché questo si è comportato male
M: ma con chi?
R: con tutti quanti, anche con noi
…Omissis…
R: perché quello appena è stato nominato è venuto anche a parlare con noi, è venuto a Mondragone, due volte, nel mio studio
M: uh
R: a dire che lui voleva fare la guerra a
S: noi
R: voi, perché voi aaah, e io dissi hai una ragione …incomprensibile… perché questi non si sono comportati bene, gli diedi pure un consiglio, dissi, tu hai l'unico modo, vi dico pure quello che gli ho detto, dissi tu hai un unico modo per comandare là dentro, gli devi togliere il blocchetto d'assegni dalle mani
M: perfetto, non c'è riuscito
…Omissis…
R: il secondo motivo …Omissis… il discorso qual è, il prossimo CDA ovviamente, se le cose vanno come devono andare, prima ***Mario sarà costretto a prendere parte attiva all'approvazione del CDA...non solo con i suoi nomi, ma voglio dire giustamente potrà dare anche qualche indicazione a Nicola, dice Nicola guarda, però....visto che adesso è andata così, visto che i motivi sono questi, visto che dalla Prefettura ci hanno fatto sapere questo e questo, forse sarebbe il caso di fare un nome di alto profilo***
...Omissis...
M: atteso che oggi tu interloquisci direttamente per me e per Sergio e questo devono

essere i fatti che poi lo devono.... spero di non ritornarci più sopra e di fare le cose concrete però.....atteso questa cosa qua, penso che l'intento di Lello, dico Lello in senso generale, no, è quello di avere un ruolo importante nella società, come lo vuoi, Lello non ci può venire qua lui personalmente
R: no
M: giusto? deve mandare uno dei suoi, allora se ti dico Lello, io da oggi in poi, Michele ORSI, ricopro la qualifica la nomina di direttore generale no, eh, sarò il Claudio DE BIASIO del Consorzio
R: sarebbe la meglio cosa questa
…Omissis…
M: bravo, allora io devo prendere un altro cristiano che deve essere amico tuo, che deve rispondere in pieno, io penso che fuori a me e Gianni FUSCO
R: non ce ne stanno
...Omissis..
S (Sergio ORSI): la società dovrebbe chiudere con 6 milioni di euro all'attivo
R: cosa che non può essere
S: non può essere
R: tu devi pagare 3 milioni di euro (le voci si accavallano) non può essere
…Omissis…
R: 1 milione e mezzo va al Consorzio
S: guarda che il milione e mezzo al consorzio è la cosa meno male
R: eh
S: perché alla fine direi tu me ne devi dare 10 me ne dai 8 e mezzo e farei vedere pure che do i soldi al Consorzio, il problema è un altro i soldi, le tasse allo stato

15. Il controllo politico di Nicola Cosentino sulla società mista ECO4 e le sue assidue relazioni con Sergio Orsi

15a. Il dominio delle assunzioni, degli incarichi, delle nomine del c.d.a.

Si è visto quanta importanza annetta Vassallo Gaetano alla ricostruzione dei rapporti tra l'indagato, i fratelli Orsi e, più in generale, la ECO4.
Occorre dar conto delle conferme che i menzionati legami hanno trovato per bocca dei diretti interessati e del riscontro intercettivo.
A tale ultimo riguardo deve premettersi che saranno qui valorizzate (spesso mediante il mero richiamo delle conversazioni riportate nelle richieste cautelari, sì da non appesantire ulteriormente la trattazione) soltanto le conversazioni non coinvolgenti, neppure causalmente, il parlamentare, secondo il dettato dell'articolo 6 della legge 20 giugno 2003 n. 140.
Occorre osservare infatti che la Corte Costituzionale, con la sentenza n. 390 del 23 novembre 2007, ha dichiarato l'illegittimità dei commi 2, 5 e 6 della disposizione "*nella parte in cui stabilisce che la disciplina ivi prevista si applichi anche nei casi in cui le intercettazioni debbano essere utilizzate nei confronti di soggetti diversi dal membro del Parlamento, le cui conversazioni o comunicazioni sono state intercettate*".
Resta invece preclusa l'utilizzazione, senza previa autorizzazione della Camera di appartenenza, delle intercettazioni 'casuali', quando essa sia orientata alla prova di una responsabilità dello stesso parlamentare.

Nell'interrogatorio reso il 15.06.2007 **Michele Orsi** confermava il rapporto politico privilegiato allacciato sin dagli albori della società mista, a suo dire su sollecitazione del presidente Valente, con Nicola Cosentino e Mario Landolfi. Michele Orsi

descriveva i termini essenziali dello scambio instaurato con i detentori del potere politico.
L'accaparramento dei contratti di raccolta degli r.s.u. presso tutti o quasi tutti i Comuni consorziati e la promozione di un ciclo integrato alternativo era l'impegno che i politici assumevano verso gli uomini del Consorzio.
Massicce assunzioni (Orsi parla del 70% delle risorse umane) di personale inutile e talvolta del tutto inoperoso, effettuate in concomitanza con le scadenze elettorali o per conquistare il favore di persone che potevano tornare utili in ragione del ruolo professionale o politico rivestito (un consigliere comunale liternese; un membro della giunta comunale di Trentola Ducenta; un giornalista del maggiore quotidiano della provincia; un ispettore di P.G. in servizio presso la Procura della Repubblica di Santa Maria Capua Vetere; un cardinale) rappresentavano la contropartita che i protettori politici richiedevano e puntualmente ottenevano dagli imprenditori mafiosi della ECO4 s.p.a.
E' interessante notare come il soggetto cui Michele Orsi accredita il ruolo di 'interfaccia' con il mondo politico, sin dal momento della costituzione della società, sia Giuseppe Valente che ampiamente si diffonderà sulla riferibilità a Cosentino di tutte quelle 'decisioni strategiche' della società mista che vedremo convergere con i piani espansivi dei gruppi camorristici descritti da Vassallo.
"*ADR:* ***VALENTE Giuseppe aveva dei rapporti con i politici onorevoli COSENTINO e LANDOLFI e, dopo la costituzione della società mista ECO4 mi disse che "i politici dovevano sostenere questa società" così indicandomi la via che avrei poi dovuto seguire come effettivamente feci****..omissis…L'Ati Flora, grazie al contributo decisivo del VALENTE, si aggiudicò quindi la gara e venne costituita di lì a poco la ECO 4 nell'agosto del 2000.* ***Una volta costituita l'Eco4, fu necessario renderla concretamente operativa, rendendosi necessario ottenere gli affidamenti da parte dei comuni. Intervenne anche qui VALENTE Giuseppe il quale ci consigliò di rivolgersi ai suoi referenti politici On. COSENTINO Nicola e LANDOLFI Mario, affermando che era necessario tale sostegno per gli interessi della società. L'Eco4 si rivelò poi una società che "faceva comodo a tutti". Rappresento che circa il 70% delle assunzioni che vennero poi operate per la Eco4 erano inutili ed erano motivate per lo più da ragioni politico-elettorali, richieste da VALENTE, COSENTINO e LANDOLFI.***
Vi erano poi alcune assunzioni che furono motivate dalla necessità di assecondare gli interessi delle amministrazioni comunali, utili per ottenere gli affidamenti: ricordo ad esempio le assunzioni di PICONE Nicola, vicesindaco di Trentola, e quella di OLIVIERO, consigliere di Villa Literno, entrambe richieste dall'On. COSENTINO. Sempre COSENTINO ci richiese l'assunzione di due nipoti del Cardinale SEPE, da noi regolarmente attuate, così come ricordo anche l'assunzione del fratello di MEROLA Carmine, quale autista richiesta da quest'ultimo, trattandosi di un ispettore di Polizia che lavorava presso la Procura di Santa Maria Capua Vetere. Faccio presente che molte delle assunzioni, quali ad esempio quelle di PICONE Nicola e OLIVIERO, erano non solo inutili ma sostanzialmente fittizie, dato che questi praticamente non svolgevano alcuna attività continuativa.
In questo momento mi sovviene anche l'assunzione di Gianni DI ROSA, il "commercialista" dell'Eco4, assunto su richiesta dell'On. COSENTINO e genero di un giornalista de "il Mattino" di nome DI STASIO".

Nell'interrogatorio del 5.7.2007 il tema delle assunzioni richieste dai referenti politici e, tra questi, da Cosentino è più organicamente trattato da Michele Orsi al quale viene sottoposto un elenco a margine del quale vengono riportati, su indicazione dello stesso

dichiarante, i soggetti politici che li avevano raccomandati. Tra le altre, Orsi Michele commenta l'assunzione di un fratello di D'AGOSTINO Maria effettuata "per dare sostegno al sindaco Conte":

"ADR: ricevendo lettura della conversazione n. 1588 del 06.05.2004 tra DIANA Giuseppe e me, rappresento che la persona di cui DIANA Giuseppe mi chiedeva era un dipendente dell'ECO4 era un dipendente assunto in prova, segnalatomi da SORRENTINO Gennaro e DIANA Giuseppe, ***sicuramente il fratello di D'AGOSTINO Maria; i certificati di cui si parla sono i certificati medici che DIANA mi aveva dato e che custodiva anche presso il suo deposito;*** *evidentemente il fratello della D'AGOSTINO non aveva lavorato nei giorni di cui alle certificazioni ma nego dovesse trattarsi di un rapporto d'impiego fittizio;* ***fu assunto su richiesta di DIANA Giuseppe e SORRENTINO Gennaro, uno dei due, per le ragioni che ho rappresentato ad una necessità di dare sostegno al sindaco CONTE; so che SORRENTINO Gennaro e la D'AGOSTINO Maria stavano insieme "politicamente", non so meglio specificare….omissis….***
…omissis… ADR: ricevendo lettura della conversazione, nelle parti rilevanti, n. 15026, 15030, 15032 e 15034 del 26.04.2004, intercorsa in ambientale tra me, CHIANESE Raffaele e mio fratello Sergio, posso spiegare l'antefatto e fornire alcune delucidazioni.
Come ho già riferito nel corso di precedenti interrogatori noi ci siamo sempre proposi di mantenere i migliori rapporti con i politici dando massima disponibilità nell'assumere i dipendenti anche oltre quelle che erano le reali esigenze della società. Ci si è poi proposti di assecondare i politici "fin dove era possibile", ritenendo che il limite fosse legato ai nostri interessi patrimoniali collegati alle nostre esposizioni personali e patrimoniali con le banche; per questo io e mio fratello non abbiamo mai inteso contribuire finanziariamente alle richieste dei politici.
Ho già riferito che le parti politiche principali che intendemmo soddisfare erano rappresentate da LANDOLFI Mario e COSENTINO Nicola, il primo agendo attraverso CHIANESE Raffaele.
Ovviamente le assunzioni erano legate anche a esigenze di voto dei politici in relazione alle periodiche elezioni.
Con particolare riferimento a CHIANESE Raffaele le sue richieste furono sempre esaudite essendo stato questi nominato consulente dell'Eco4 prima e poi nominato sindaco della GMC, avendo provveduto ad assumere dipendenti su sua richiesta, essendo stato incaricato il LANDI (persona di cui ho già parlato)…Omissis…
…Omissis… ADR: con riferimento alle numerose assunzioni di dipendenti effettuate su richiesta dei politici, all'interno dell'Eco4 e consultando l'elenco messomi a disposizione ora dall'ufficio, sono in grado di fornire le seguenti specificazioni.
Rappresento immediatamente che l'elenco, pur riportando il luogo e la data di nascita, non riporta la residenza delle persone assunte presso l'Eco4, circostanza tale da non rendermi facilmente memorizzabile quelle assunzioni esperite in funzione elettorale, chiaramente connesse al luogo di rispettiva residenza degli assunti.
Indico le seguenti persone, riportando di seguito le persone che mi richiesero l'assunzione…".

Consultato l'elenco ricavato dal libro matricola della società (e riportato a pag. 125 della richiesta presentata dal p.m. in data 18.2.2009), Orsi individuerà in DI ROSA Gianni, FERRARO Rossella, GRAVINA Anna, OLIVIERO Giuseppe, PARISE Donato, PICONE Nicola, SEPE Luigi, ZACCARIELLO Mario le persone assunte su segnalazione di Cosentino. Nel prosieguo dell'interrogatorio aggiungerà altri nomi:

*"**ADR: quanto a DIANA Antonio rappresento che nell'elenco rilevo che vi sono due omonimi uno nato a Napoli e l'altro a Caserta; posso dire con certezza che uno dei due è certamente residente a Casal di Principe e si tratta di colui che venne assunto su richiesta di COSENTINO Nicola; faccio presente che il padre di questi DIANA Aldo fu assunto sempre su richiesta del COSENTINO presso il Consorzio Ce4….omissis…***

E' interessante notare come le assunzioni rappresentassero un grimaldello per scardinare le resistenze dei comuni all'affidamento 'senza gara' del servizio di raccolta alla ECO4 s.p.a.: il primo passaggio della strategia espansiva del gruppo Orsi e del socio criminale. Tra i nomi contenuti nell'elenco Orsi indicherà numerosi soggetti assunti su raccomandazione dei sindaci di Grazzanise, Calvi Risorta, Vitulazio, Cellole: tutti compresi nell'elenco sopra richiamato.

Nell'interrogatorio reso il 12.7.2007 Michele Orsi preciserà che il DIANA Antonio assunto su richiesta di Cosentino s'identificava in DIANA Antonio, nato a Napoli il 16.10.62, residente a Casal di Principe (n. 359 del libro matricola) e aggiungerà all'elenco un altro dipendente assunto su richiesta di Cosentino, tale MARINO Roberto:

"*ADR: **il nome di MARINO che mi fa l'ufficio corrisponde a MARINO Roberto persona che ebbi ad assumere all'Eco /4 su richiesta dell'on. Nicola COSENTINO;** essendo lo stesso, a suo dire, un avvocato, lo impiegammo, io e Sergio, presso l'ufficio legale ove realmente si intratteneva per lavorare; pur avendo disbrigato pratiche per l'ufficio, il MARINO mi disse in un'occasione che non poteva esercitare la professione non essendo "abilitato".*

Il tema dell'assunzione del dipendente Marino su richiesta di Nicola Cosentino trova conferma nella seguente conversazione, avvenuta tra Sergio Orsi e tale Tommaso:

Nr. 1563 – 09.02.2004 - ora: 11.31 dec. 2501/03

Tommaso chiama ORSI Sergio e gli dice di avere la sensazione che SAVOIA Carlo stia per adottare un comportamento poco corretto nei suoi confronti. ORSI gli risponde che SAVOIA non può permettersi di toccarlo altrimenti avrebbe litigato con questi, dandogli un "calcio nel culo". ORSI accenna alla faccenda dell'assunzione di MARINO che è stata motivo di contrasto tra lui e il presidente del CdA Carlo SAVOIA. ORSI spiega che MARINO è stato assunto "*quando NICOLA ha chiamato Michele*", ovvero il fratello ORSI Michele.

Numero intercettato: 3483126450 in uso a Sergio ORSI
Data fonia: 09.02.2004 ora: 11.31.12
Durata: 00.03.56
Interlocutore: Tommaso
Chiamata: ENTRATA
Numero:

S: Sergio ORSI
T: Tommaso

S: Tommaso?

T: *mi hai chiamato?*
S: *eh ti ho chiamato. (parlando con persone a lui vicine) aspetta a Tommaso che dovevamo chiedere? (rivolgendosi a Tommaso) Ah oggi stai qua ha detto Salvatore?*
T: *chi è Salvatore ARGENZIANO?*
S: *eh…*
T: *se non passo stamattina, se non passo oggi domani sto tutta la giornata, anche perché ti devo parlare.*
S: *pure perché… mi senti? A me pure?*
T: *eh…*
S: *e ci vogliamo vedere subito?*
T: *no, vabbuo', io comunque…*
S: *ma mi devi dire cose buone o malamente?*
T: *no, di certe sensazioni. Ieri ti ho chiamato e tu tenevi il telefono spento, poi andai a trovare Michele…*
S: *stavo a casa!*
T: *io ti telefonai alle 5 e mezza, alle 5 e mezza (inc.) (sovrapposizione di voci)*
S: *eh stavo a casa, stavo a casa! Tu quando non mi acchiappi chiamami a casa. A me mi faceva piacere, infatti…*
S: *accennami qualcosa delle sensazioni.*
T: ***no tengo la sensazione che Carlo SAVOIA sta facendo un po' lo scemo, hai capito?***
S: *con te?*
T: *eh…*
S: ***ma Carlo SAVOIA tutto quanto non si può permettere proprio di toccarti. Io gli do un calcio in culo sai dove lo faccio arrivare? Davvero ci uccidiamo qui. Ma non esiste proprio! Eh ma cazzo, noi abbiamo fatto quel bordello per Carlo… per quel MARINO là!***
T: *vabuò…*
S: ***quel MARINO è entrato dentro a lavorare e cose però sai quando? Quando Nicola COSENTINO ha chiamato a Michele.***
T: *vabbuo' ci sentiamo, se non oggi…*
S: ***cioè io, io per Raffaele PICARO, che non è amico, e praticamente ho fatto come dicevo io. Nel senso che ora se se ne manda Raffaele PICARO, si manda perché lo ha stabilito Michele e coso, perché veramente 50.000 lire è troppo. Hai capito? Rispetto agli altri. Ma il resto non si può permettere proprio, lui lo sa bene.***
T: *Sergio ci vediamo o oggi o domani.*
S: *eh…*
T: ***digli a Salvatore 800 euro al giorno va bene?***
S: ***senti, vedi se… diceva, diceva come si chiama?***
T: ***Salvatore?***
S: ***aiutami? No, no quegli altri 3…***
T: ***Franco… Franco… Elio…***
S: ***no, Elio DIELIN (?) e Antonio DE MARCO.***
T: ***va bene Sergio, la trovo io la soluzione, dai!***
S: ***stavano troppo poco, tu puoi vedere con il fatto dei mezzi…***
T: ***Sergio sai che faccio? Sergio sai che facciamo? Facciamo… capziosamente facciamo capire che queste 800.000 lire sono in acconto. Vabuò?***
S: *eh, eh, eh…*
T: *vabbuo'?*
S: *vabuo'.*
T: ***cioè ci lasciamo aperta la porta nel dire guarda…***
S: ***oppure, oppure, ci sta pure un'altra possibilità, il fatto… il fatto della manutenzione. Hai capito?***
T: ***eh… fermi quanto dovuto ancora per la manutenzione, insomma.***
S: *esatto, esatto.*
T: *me lo vedo io.*
S: *che ti volevo dire? non ti scordare che gli dobbiamo mandare quella lettera però al comune, che disse...*

T: *sì, sì, sì… io domani sto tutta la giornata lì.*
S: *stasera fammi sapere che se sta Peppe… a parte gli scherzi. Però io lo facevo domani perché alle volte questo sta sempre fiacco così, e sta così a vuoto a parlare perché non gli devo dire niente… anzi niente di niente.*
T: *no, no ma infatti noi ieri non facemmo, non parlammo niente. Stemmo così.*
S: *e perché non mi chiamasti a casa?*
Nota: *Sergio continua a lamentarsi del fatto che Tommaso non lo chiamò a casa. Poi si salutano.*

Altro soggetto assunto su richiesta di Cosentino, per quanto Michele Orsi ometta di menzionarlo nel suo interrogatorio, è DI IORIO Lorenzo.

Nr. 2636 – 27.02.2004 - ora: 11.10 dec. 2501/03
SAVOIA Carlo chiama ORSI Sergio e parlano della richiesta di assunzione di DI IORIO Lorenzo, pervenuta da NICOLA e da RUSSO Antonio. ORSI chiede conferma dell'interessamento di NICOLA. SAVOIA risponde di non preoccuparsi perché la persona in parola gli è stata 'sollecitata' da diverso tempo.
E' significativo il riferimento di Orsi alle richieste di esponenti dell'amministrazione comunale di Cellole che gli hanno chiesto delle assunzioni come contropartita dell'affidamento dei servizi di raccolta così lucrosi per la ECO4.

Numero intercettato: 3483126450 in uso a Sergio ORSI
Data fonia: 27.02.2004 ora:11.10.46
Durata: 00.03.06
Interlocutore: Carlo SAVOIA
Chiamata: ENTRATA
Numero:

S: *Sergio ORSI*
C: *Carlo SAVOIA*

S: *pronto?*
C: *Sergio?*
S: *oh dici?*
C: *no ti volevo dire, quello* ***ora sta venendo Lorenzo DI IORIO eh? lo sai****?*
S: *sta venendo qua?*
C: *eh…*
S: *e vabbuo'…*
C: *penso che lo sai no?*
S: ***sì, mi hanno accennato qualcosa. Chi te lo ha detto a te****?*
C: *me lo ha detto…* ***mi ha chiamato lui e mi ha chiamato Antonio RUSSO****, si credeva che stavo pure io là, ho detto "Antonio purtroppo non posso venire."* ***Tu mi raccomando, appariamo a tutti quanti, cioè facciamo la parte, cioè chiarisciti tu****.*
S: ***no, non ho niente da chiarire. Cioè io voglio solo capire una cosa, ora stiamo solo io e te, ma è una cosa pure di Nicola?***
C: ***no, no, è una cosa di Nicola, non ti preoccupare.***
S: ***e questo è.***
C: ***no, Nicola sopra a questo…***
S: *capito? Io poi davanti ad Antonio RUSSO feci la parte per dire…*
C: ***no e lo so, io poi non ho… pure Nicola me lo sollecitò già parecchio tempo fa.***
S: ***e questo dico.***
C: *io ho sempre tenuto in mano per trovare anche una collocazione…*
S: *e hai fatto bene, hai fatto bene.*
C: *cioè tipo a Fratta, no, noi possiamo prendere lui come interlocutore, non lo so a*

Fratta o ad un'altra parte.
S: ***guarda quello qua non ci sta un posto per niente più, eh, stiamo in esubero, pigliamo pure a questo.***
C: ***no però mettiamolo****… mettiamoci…*
S: ***pure per non fare la figura di merda, però ora ti dico pure perché alla fine ieri vennero quelli là di Cellole, no, dice "ma non ho capito, io ti devo approvare la delibera, io ti devo approvare questo, io ti devo approvare quell'altro, poi mi devi assumere due persone e non me le assumi? Quando poi io ti do un miliardo e mezzo all'anno solo per pagare questa gente." Hai capito?***
C: *va bene…*
S: *poi teniamo coso… comunque…*
C: *ci sta pure (inc.) Comunque Sergio…*
S: *vabuò…*
C: *no ti volevo dire, però non facciamo…* ***quei due Gesù Cristi, là, non facciamo la stessa cosa come PICONE e coso****…*
S: *vabbuo', ora questo ora iniziamolo (inc.) (sovrapposizione di voci))*
(…)

La connessione delle assunzioni di personale con il conseguimento degli affidamenti comunali dei servizi di raccolta ritorna in una conversazione avvenuta tra Michele Orsi, Giuseppe Valente e un terzo.

N. 325 bis – 23.04.2004 – utenza 335/1215999

La conversazione presenta vari profili d'interesse. Il tema centrale è lo scambio corruttivo tra tale ispettore Diana (che si trova in compagnia di Giuseppe Valente) e Michele Orsi: l'ispettore sollecita alcune assunzioni, promettendo in cambio l'affidamento diretto del contratto di raccolta degli rr.ss.uu. nel comune di Pastorano, con l'estromissione della Ecocampania. Naturalmente la premura dell'ispettore di ottenere le assunzioni si connette ad un'imminente scadenza elettorale.
Uno dei soggetti raccomandati dall'ispettore viene indicato come DI BERNARDO Giuseppe, indicato come un grande elettore per il fatto di appartenere ad una famiglia numerosa.
E' testimoniata l'intensa attività di Michele Orsi nel reperimento di siti di stoccaggio (si fa cenno al caso di Cellole) e di affidamenti (Orsi lamenta di aver perso recentemente quello del Comune di Castel Volturno)
Il colloquio fa poi comprendere come l'intervento di Nicola (COSENTINO) rappresenti un *passaggio* necessario per la stabilizzazione degli equilibri interni della società mista: a lui si è rivolto il consigliere Gambardella per rappresentare lo scarso attivismo clientelare del presidente Savoia, in un momento ritenuto delicato per l'imminenza di alcune scadenze elettorali.
Cosentino sembra decisivo anche per risolvere la questione delle nomine del consiglio di amministrazione dell'ente e l'eventuale sostituzione dell'inviso Savoia. A riprova dell'inaffidabilità di quest'ultimo si cita il caso di due assunzioni di persone di Casal di Principe che il presidente avrebbe operato, millantando un mandato di Cosentino. A ben vedere anche questa millanteria rappresenta una conferma del ruolo decisivo rivestito dall'indagato nella società mista.

LEGENDA
U1.\ M.= MICHELE
U2.\ P.= PEPPINO VALENTE
U3.\ TERZA VOCE UOMO

(…)

P. \ *Senti un po', **io ho qui con me l'ispettore Diana per quella vicenda di quel suo concittadino**, **Di Bernardo, che sai pure tutti i dati**, **Di Bernardo Giuseppe***
M. \ Sì
P.* \ *Come lo dobbiamo risolvere questo problema, dai? **Almeno fino alle elezioni cominciamo a risolvere
M. \ Ah, per…, ho capito
P.* \ *Per un fatto elettorale, questo rischia
M.* \ *Questo è il secondo?
P. \ Eh, eh, eh
M. \ ***Perché uno già lo sistemammo***
P. \ Già l'abbiamo sistemato, (ride)
M. \ (Ride), non te l'ha neanche detto, (ride)
P. \ (Ride), segnati, "Miche' ", segnati un po' questo numero di telefono, dai
M. \ Sì, dammelo
P. \ (Rivolto ad altri: ditemi, ispettore)

- A questo punto si sente un'altra voce maschile dire: no, e ora io non ce l'ho, ora chiamo un attimo l'amico, no? E poi gli facciamo fare subito la telefonata?; subito dopo: -

P. \ Eh, intanto segnati questo nome, "Miche' "
M. \ Sì
P.* \ *Di Bernardo Giuseppe
M. \ Sì
P. \ ***L'ispettore dice quando può venire? Lui viene con questo ragazzo, con questo Di Bernardo, viene da te***
M. \ Ah
P. \ Dimmi tu, pure domani
M. \ No
P. \ No, domani è sabato, forse non
M. \ Domani è sabato, eh, lunedì, dai
P.* \ *Lunedì mattina, verso che ora? Verso le undici li faccio venire alla "Eco quattro"?
M. \ No, fallo venire verso le nove e trenta, perché dopo poi
P. \ Eh, nove e trenta, lunedì alle nove e trenta, senti, ma tu ora dove stai?
M. \ Io ora sto andando a Cellole
P.* \ *Come sta la situazione su Cellole?
M.* \ *E siamo quasi pronti, martedì ci sarà il nulla osta definitivo per il sito
P. \ Ma state lavorando praticamente là?
M. \ Sì, sì, sì, sì
P. \ Ho capito, senti un'altra cosa volevo dire
M. \ Siamo quasi pronti
P. \ ***Ma per il consiglio di amministrazione com'è andata a finire poi la situazione? Come stiamo combinati? Non la Prefettura e cosa, perché quello è un altro problema***
M.* \ *Eh, è rimasta bloccata, "Peppi' "
P.* \ *E che dobbiamo fare?
M.* \ *Cioè è rimasta congelata, l'unica cosa è che Gambardella
P.* \ *Eh, che ha fatto Gambardella? Perché me lo disse…, come si chiama? Mattia Di Lorenzo
M.* \ *Mattia? Eh, quel cretino, praticamente, in questa confusione che noi congelammo la storia, no?
P.* \ *Eh
M.* \ *Per I problemi che tu sai, lui fece un passaggio, andò da Nicola
P.* \ *Ah, e gli svelò tutto praticamente
M. \ ***No, no, no, no, e infatti ho avuto pure la conferma, no, andò lì per lamentarsi di***
P. \ ***Di Carlo Savoia***
M.* \ *Bravo, di Carlo Savoia, disse: ma è mai possibile? Ho due nomi, tengo l'elezione e qua non si fa niente, Carlo Savoia ha pensato lui solo a lui; insomma tutte queste cose

P. \ ***E che disse Nicola?***
M. \ ***E Nicola disse: no, ora vediamo come dobbiamo fare; e quello poi che gli poteva dire, no?***
P. \ ***Eh***
M. \ ***E lo mise in "stand by"***
P. \ Uhm, uhm
M. \ ***Ora dissi: Enzo, e allora hai fatto il passaggio? Tutto a posto? Quindi possiamo andare avanti?***
P. \ Uhm
M. \ ***Dice: "Miche' ", ora insomma aspettiamo un poco per vedere se questo fa qualcosa, no? Ora ho capito che lui praticamente in relazione a – inc. -, poi alla fine disse: "Miche' ", facciamo una cosa, adesso si devono presentare le liste, Nicola mi deve dare una mano per queste liste e mi sta dando una mano, appena si presenta la lista ufficiale il giorno dopo io sono pronto***
P. \ ***Io sto a disposizione, "Miche' ", decidete voi quello che volete fare e io faccio, non ci sono problemi***
M. \ ***Io casomai ti aggiorno, in modo tale che se dobbiamo fare, un giorno prima ti chiamo e ti dico***
P. \ ***Ma – inc. – sta continuamente a creare "casini", eh***
M. \ Madonna, io non ce la faccio più
P. \ Non ti dico quello che combina
M. \ ***Ma non ce la faccio più pure perché sta facendo…, ora mi ha fatto un'altra "cazzata" insomma e io ho parlato pure con Nicola, perché portò due persone del mio paese***
P. \ Uhm
M. \ ***Uno per la sicurezza e un altro per il medico, diciamo, per i lavoratori, eccetera, no?***
P. \ Uhm
M. \ ***La verità, io li conoscevo pure, perché sono del paese***
P. \ Eh
M. \ ***E insomma…, ora che vengo a sapere?***
P. \ ***Che Nicola non sapeva niente***
M. \ ***"Mannaggia la miseria", però dissi: "Nico' ", vediamoci, perché non se ne può più di questo scemo, questo viene qua, viene a nome tuo e viene a fare questo, questo e questo; disse: no, no, vediamoci, congela questa situazione, bloccala; perché tra le altre cose uno di questi due ha fatto pure, diciamo, uno sgambetto a Nicola cinque, sei mesi fa***
P. **\ Scusa, ma Di Fazio si è dimesso?**
M. **\ Chi?**
P. **\ Di Fazio**
M. **\ Sì**
P. \ ***Ah, e allora ne servono tre***
M. \ ***Eh, esatto***
P. \ ***Quelli i consiglieri sono sei, basta che se ne mettono tre***
M. \ ***Sì, sì, l'unica cosa che concordammo tutti quanti, dice: tiriamoci pure Gambardella, perché è sempre buono***
P. \ ***Va beh, aspettiamo altri quindici, venti giorni***
M. \ ***Eh, questi quindici giorni, presenta la lista, se fa, fa, se no andiamo avanti noi, hai capito? Questo è***
P. \ ***Va beh, allora, "Miche' ", "Miche' ", "Miche' ", hai sentito che dice l'ispettore?***
M. \ No, non ho capito
P. \ Ha detto… ora te lo passo, ueh, "Miche' ", io intanto ti saluto, ti passo l'ispettore
M. \ Va bene, "Peppi' "
P. \ E tu per qualsiasi cosa chiamami, anzi, "Miche' ", sarebbe opportuno che ci vedessimo un poco, dai
M. \ Eh, e insomma un giorno di questo vediamoci
P. \ Va bene, va bene
M. \ Eh

- Subito dopo: -
U3.\ Ingegnere
M. \ Ueh, dottore
U3.\ Come state? Tutto a posto?
M. \ Insomma, ce ne hanno mandato da Castelvolturno
U3.\ E lo so, ma ora prendiamo il servizio a Pastorano, dai, è un paese piccolino, però appena saliamo
M. \ Eh, come!
U3.\ Io perciò sto a dire una cosa, che noi ti diamo una mano
M. \ E' centomila volte meglio Pastorano che Castelvolturno
U3.\ No, là sono paesi tranquilli, onesti, hai capito?
M. \ Bravo
U3.\ Sono persone serie
M. \ Bravo, là sono tutti camorristi
U3.\ Sì, sì, ingegnere, loro praticamente hanno fatto la proroga ora fino a giugno, quindi l'hanno data per qualche mese alla "Eco Campania", però non appena andiamo noi capovolgiamo tutta la situazione, avete capito?
M. \ Eh
U3.\ A favore nostro
M. \ Eh
U3.\ E quindi ora per questo mi dovete dare una mano
M. \ Certo
U3.\ Quindi lunedì mattina verso le nove e mezza vengo da voi con questa persona, perché il presidente già l'ha visto e tutto, voi casomai lo prendete subito, vediamo un po', fatemi fare bella figura, avete capito?
M. \ Va bene, è certo
U3. ***Quello poi vi dirà il contratto, non il contratto, voi gli dite…, va beh, a voi non mancano le parole, voi gli dite: senti, per il momento non ti preoccupare; avete capito? Fategli prendere un posto pure vicino insomma***
M. \ Sì, sì, non vi preoccupate, ci vediamo lunedì alle nove e trenta
U3.\ Lunedì alle nove e trenta
M. \ Siate puntuali, perché poi può darsi che
U3. ***No, ingegnere, però, sentite, avete capito? Dobbiamo fare subito, perché siccome io devo mettere il fratello all'interno della ditta, perché questo è un buon…, avete capito? E' una buona famiglia, mi portano parecchi voti, allora prima la facciamo questa cosa e meglio è, quindi dopo qualche giorno mettetelo subito a lavorare, avete capito?***
M. \ Vi aspetto lunedì alle nove e trenta
U3.\ Eh, va bene? Fatemi fare una bella figura, mi raccomando, eh
M. \ Certo, come sempre
U3. ***Poi a disposizione, ingegnere***
M. \ Eh, (ride)
U3.\ Subito vi do il servizio, non vi preoccupate
M. \ No, non vi preoccupate, grazie
U3.\ Va bene?
M. \ Va bene, arrivederci
U3.\ Arrivederci.

Si è riscontrato che il Comune di Pastorano ha affidato il servizio di raccolta, trasporto e smaltimento RR.SS.UU. - per il periodo 28.01.2000-31.10.2005 - alla società "ECOCAMPANIA SRL", aggiudicataria di apposita gara d'appalto. Con Delibera del C.C. n. 44 del 28.10.2005 il servizio integrato gestione rifiuti è stato direttamente affidato, ai sensi dell'art. 113, comma 5 lett. c) del D.Lgs n. 267/2000 e s.m.i., al Consorzio Intercomunale RSU CE/4 – EGEA SPA, di cui il Comune di Pastorano fa parte, e stante le condizioni previste dalla stessa lett. c) del comma, per anni 5 e mesi 2 (e comunque fino al 31.12.2010).

Analogo significato probatorio hanno le comunicazioni nn. 1128, 1139, 1242, 1332, 1333, 1335 (decreto 800/04 r.r.) succedutesi tra il 14.5.04 e il 18.5.04.
Il tema è quello dell'**assunzione di un consigliere comunale di Villa Literno a nome Musto** che, secondo quanto Michele Orsi riferisce al fratello, sarebbe fortemente caldeggiata da Savoia a nome di Nicola Cosentino. Sergio Orsi si riserva di verificare, in un incontro personale che avrà all'indomani con il parlamentare, l'autenticità del mandato speso da Savoia.
Intanto Sergio Orsi appura l'appartenenza politica del consigliere comunale da assumere in una telefonata con il consulente Oliviero che gli assicura trattarsi di un esponente di Forza Italia.
Il 17.5.2004 Sergio Orsi comunica a Savoia gli esiti dell'incontro personale che ha avuto con il parlamentare il quale sembra non aver manifestato particolare interesse per l'assunzione di Musto. Sergio rinfaccia francamente a Savoia di ritenere che il vero artefice dell'operazione sia lui.
La conversazione n. 1251 merita di essere interamente riportata perché rivela un incontro a tre, avvenuto tra il parlamentare e i fratelli Orsi nel quale si era stabilito che, per evitare le petulanti visite di soggetti che mendicavano posti di lavoro, questo genere di rapporti sarebbe stato delegato a Savoia, uomo di Cosentino:

S:Sergio Orsi (33512162433 utenza monit.)
C:Carlo Savoia (33512161680 – chiamato)
C: uhè!
S: gli hai parlato?
C: non risponde al telefono… ma non ti preoccupare
S: sto venendo lì!
C: ma io gli voglio dire: senti…
S: ma il problema è un altro, Carlo, io non mi permetterei mai, no?…
C: ma io mi voglio togliere proprio di mezzo, forse non hai capito, io lo voglio incontrare per dirgli: io mi levo di mezzo a queste cose!… perché anche Sergio ha ragione… perché se è vero che ti ha detto questa cosa e se è vero che è successo questo, dico: tu non mi puoi mettere in mezzo le "tarantelle", mi dai un nome, poi mi fai fare…
S: Nicola, il povero Dio… io ti dico una cosa: lo capisco. Disse: Sergio, ma io tutti questi cazzi di dietro non li conosco… quando io e Nicola concordammo insieme a Michele che certe cose le facevamo passare tramite te per evitare che tutti questi venivano a casa mia e venivano a dire: quello voleva il posto, quello si voleva buttare giù dal palazzo…
C: allora chiariamo una procedura…
S: tanto è vero che quando dissi questo, disse Nicola: mettiti d'accordo, perché non mi deve far esaurire… ed aveva ragione. Diceva: tu mi dici così, poi vieni e mi dici in un altro modo… si può sapere? Dissi: Nicola, ma là il fatto così… disse: io, poi, non lo so questo, perché se lo sapevo, figurati… la casa di cui mi dispiace è che diamo immagine, sempre a Nicola, come se io e te fossimo due partiti diversi
C: perciò voglio evitare
S: se tu ti chiamassi Nicola, no? Carletto, ma a quello non lo hai assunto!? Allora tu mi prendi (inc.), sai perché non ti ho assunto? Perché questo qua credevo fosse un amico ed un uomo… purtroppo là dice che è un uomo di merda, perché mi aveva detto che avevi parlato con me domenica e tu avevi detto questo e questo
C: Sergio, io dico: Nicola, guarda, siccome esistono delle problematiche che a me sfuggono, tu mi dai il nome e cose varie… problematiche di natura personale…
S: il problema è un altro. Se noi abbiamo licenziato due di Villa Literno, lo dovresti sapere di più tu che Nicola… il discorso era questo, si presume, se volgiamo dire come stanno i fatti, che tu dovevi chiamare me e dirmi: ragazzo, ci stanno questi qua che mi stanno rompendo il cazzo, noi abbiamo licenziato due persone là, com'è il fatto? Ti metto in

difficoltà?...
C: il problema fondamentale è che per forza devo dire: Nicola, penso che tu ti sia visto con Sergio e Sergio ti ha spiegato la situazione…
S: eh!
C: quindi, voglio dire: devo tenere in mano?
S: sì, sì!
C: io purtroppo sono costretto a spiegarle, hai capito?
S: al posto tuo sai cosa farei? Lo chiamerei per un altro motivo, poi direi: ah, a proposito Nicola, ieri ti sei visto con Sergio?...

Nota: la conversazione prosegue sull'incontro di Sergio con Nicola nel quale si è parlato della questione di cui sopra.

S: se domani mattina viene qualcuno… dice: sentite, possiamo prendere… se Peppe Sagliocco, per non nominare Nicola o un altro politico, chi vogliamo nominare? Mi chiama e dici: senti, là a Sant'Arpino, così e così. Allora io dico: non mi dite niente voglio chiamare anche Carletto, perché non so i suoi impegni quali sono
C: io su questa persona… sta da tre mesi a smaniare questo cristiano che Nicola mi chiama una volta, mi chiama due volte… allora io penso che sia una persona…
S: e quello c'è Franco Policarpo… e Francuccio Mercurio che buttano da sotto
C: bravo!
S: ma io glielo dissi e lui disse: eh!
C: adesso secondo te, ti faccio un esempio…
S: a questo rimandalo. Gli dici: siamo andati a vedere la pianta organica e deve aspettare un altro poco che stiamo ampliando e ti faccio sapere più in là
C: gli dico: guarda… a Santa Maria la Fossa come lavoro per un camionista…
S: siamo andati a vedere la pianta organica e adesso dobbiamo portare l'ampliamento nel consiglio di amministrazione e ti farò sapere… anche per non far vedere all'esterno. A me quando dicono: là, Carlo Savoia… e qualcuno si fa una risatina. Dico: ragazzi, con Carlo Savoia prima eravamo amici, adesso siamo addirittura soci!... come sarebbe? Eh, quello rappresenta il pubblico…
C: immagina… mi sto facendo nemici gratis su tante cose
S: lo so bene! infatti dico: stiamo litigando su una cosa, sul posto di uno a Villa Literno… se questo era di Sant'Arpino… ed io parlavo, diceva: Sergiolino e che cazzo!... per dirti una stronzata… il parente tuo venne… adesso c'era mia moglie, dissi: Celeste, fammi un piacere… ma lo feci per dare una botta a lui
C: sta lì, aspetta. Sta di fronte a me! Aspetta…

Nella conversazione n. 1332, avvenuta tra Sergio Orsi e l'assessore Franco Mercurio, il ruolo egemone dell'indagato Cosentino nelle faccende della ECO4 emerge da almeno due passaggi: quello nel quale Mercurio prospetta, quasi minacciosamente, l'eventualità di informare Cosentino delle difficoltà che Orsi sta frapponendo all'assunzione del consigliere liternese; quello nel quale lo stesso Orsi comunica a Mercurio di aver detto al giovane raccomandato che impetrava l'assunzione: ***"Nicola Cosentino è il mio padrone!".***
La prospettiva di essere additato a Cosentino come un avversario preoccupa evidentemente Sergio Orsi che, cinque minuti dopo aver sentito Mercurio, chiama OLIVIERO Giuseppe (altro uomo di Cosentino nella società mista) per intrattenere la seguente, emblematica, conversazione:

S:Sergio Orsi (33512162433 utenza monit.)
G:Giuseppe Oliviero (3382820383 – chiamato)

G: pronto?
S: Peppino dove sei, da Francuccio Mercurio?

G: no!
S: sicuro?
G: eh!
S: **perché il padre di quelli là è andato da Francuccio Mercurio… sapeva anche che ci dovevamo vedere domani… ma insomma, stiamo scherzando!**
G: in che senso, Sergio? Fammi capire
S: questo mi ha chiamato, Francuccio Mercurio là, io devo parlare, come dici? Lo devo dire a Nicola? No, perciò sto chiamando te… insomma non ha capito niente questo!
G: c'è andato lui da Mercurio
S: lo so! Dice: no, perché quello va avanti e indietro. Ho detto: ma chi ce lo mette a camminare avanti e indietro?… ho detto: ti faccio sapere io domani. Che poi non gli faccio sapere niente a Mercurio
G: ho capito
S: va bene
G: e vedi tu. Come vogliamo fare?
S: che ne so!… io volevo che… troppo… hai capito?
G: ho capito… troppo…
S: gli ho detto: Francuccio, ma fai che poi per farci un amico ci dobbiamo fare due nemici?… ho detto: questo nemmeno sta bene… dice: ma qua, là, Nicola… io non glielo voglio dire a Nicola. Ho detto: ma diglielo!… Francuccio, ma perché non glielo devi dire!?… dice: no, perché lì c'è il messaggio che Nicola ha dato il via e tu hai bloccato. Ho detto: no, non può essere perché io dissi a quello: Nicola è il padrone nostro, però ci sono certi problemi giuridici e poi, dopo, lo assumiamo. Quindi questo messaggio se si vuole farlo passare proprio per farlo passare…
G: va bene… come dici tu così facciamo!… tu mi dicesti una cosa?
S: eh, ma nell'interesse anche tuo, cioè li vedo poco seri. Questo è rimasto per te?… è vero che un paio di giorni gli abbiamo dato l'appuntamento…
G: **allora questo qua si è trovato intontito, perché questo qua quando parlò con te, poi venne da me la sera… disse: ma quello là non comanda nemmeno il cazzo!**
S: e perché, non è la verità?
G: eh, però…
S: lui credeva che tramite Nicola Cosentino…
G: (inc.) Cosentino e Carlo Savoia… io sto a lavorare… quando ha capito che l'antifona non è così… hai capito? Questo è! E adesso si è rivolto un'altra volta là
(…)

Attestati plurimi di soggezione di Sergio Orsi al parlamentare si leggono poi nella conversazione n. 1335, intercorsa tra Orsi e Franco Mercurio:
(…)
F: questi non sono amici nostri! Gli amici nostri siamo noi, Nicola Cosentino…
S: certo!... noi stiamo sempre agli ordini Francuccio!
F: eeh! Qua non si fa niente senza l'ok tuo!
S: non è vero! E poi non è mia intenzione… ti ho detto il fatto di quel cristiano…
F: quando tu mi hai detto il fatto di Zaccaria, ho capito che non dipende da te…
S: il problema è un altro… al cristiano dissi: aspettate una decina di giorni e vi risolvo il fatto… ***però gli dirò le stesse cose: sentite, dissi al ragazzo, allora, sappi che il mio padrone è Nicola Cosentino e più di quello nessuno ti poteva raccomandare per quanto riguarda noi, fai conto che già sei dentro, solo devi avere pazienza per una decina di giorni… punto!*** *E questo se ne andò contento… poi parlammo di Villa Literno… mi permisi di fare qualche elogio a te, a Corrado Caterino…*
F: a questo, Nicola già lo disse ad ottobre…
S: lo so!
F: poi successe che facendo una riunione tutti noi di Forza Italia, uscì fuori quasi… non aveva fatto il piacere a Musto… e stavano tutti qua: Oliviero, Policarpo, Zaccaria. Dice: allora, questo Musto che fine sta facendo? Dice: io ho parlato con il capo, ha detto che aveva un impegno con te e tu non l'ahi mantenuto… per me! Dissi: vuoi sapere l'impegno per me

qual'era? Che l'ho portato da Nicola! Si doveva assumere a dicembre e poi non è stato fatto niente. Va Oliviero e dice: guarda che qualche assunzione è stata fatta, perché non vediamo di insistere? Dissi: siccome dobbiamo parlare con Nicola Cosentino domani mattina, andiamo tutti e tre e sposiamo tutti e tre la causa di coso… andiamo tutti da Nicola Cosentino… io, Oliviero, Policarpo e Zaccaria e tutti a Nicola: Nicola, vediamo di mettere…
S: ma nessuno di questi mi ha detto…
F: dicemmo a Nicola: vediamo di recupera questo Musto…
S: lo so, me lo disse Nicola. Disse: tutti quelli di Villa Literno mi hanno chiesto questa cortesia. Dissi: Nicola, permetti che io… disse: lo so. Tanto è vero che lui disse: senti Sergio, mi devi far capire, alle volte dici: non mi chiamare davanti agli altri, sennò vengono tutti a casa mia, poi alle volte… dissi: fammi capire anche tu! Disse: no, qua c'è un fatto particolare che lo stesso vado a Roma… ***adesso, il ragazzo quando venne, io gli dissi: non ci sono problemi!… gli dissi: sei andato da Nicola? E vale 100.000 volte che sei venuto da me. Insomma, sei andato da Nicola, basta! Non devi andare più da nessuna parte. Solo per un problema giuridico aspetta una decina di giorni… questo è…***
(…)

La seguente conversazione, avvenuta tra Sergio Orsi e Savoia, chiarisce in termini inequivocabili che il *NICOLA*, segnalatore del DI IORIO, deve identificarsi nell'indagato Nicola COSENTINO. E' significativo anche il fatto che Sergio Orsi, intenzionato a licenziare un dipendente (tale Mosca Roberto) proveniente da Casal di Principe, teme che questi possa rivolgersi a Nicola Cosentino che, una volta di più, emerge come persona alla quale il padrone della ECO4 non può permettersi di opporre un rifiuto. E' rilevante poi il riferimento alla frequenza assillante con la quale Cosentino avanza, direttamente, o tramite i suoi rappresentanti interni (Savoia, Valente, Gambardella), le richieste di assunzione.

Nr. 2650 – 27.02.2004 - ora: 13.18 dec. 2501/03

Numero intercettato: 3483126450 in uso a Sergio ORSI
Data fonia: 27.02.2004 ora: 13.18.32
Durata: 00.08.06
Interlocutore: Carlo SAVOIA
Chiamata: ENTRATA
Numero:

S: Sergio ORSI
C: Carlo SAVOIA
…
S: ***ho visto a Lorenzo DI IORIO qua****.*
C: eh…
S: stava Nicola, ho detto "No, parla con Antonio RUSSO." Lui ha detto "allora a chi devo ringraziare?" Ho detto "ora te lo dico io: COSENTINO, Carlo SAVOIA, Antonio RUSSO…" E poi dice "e Peppe SAGLIOCCO?" "E Peppe SAGLIOCCO, ho detto, a me no, non ti preoccupare." Ho fatto bene?
C: …(ride)… hai fatto… non ti preoccupare!
S: no dice che ce l'avevi tu là il libretto, cose…
C: eh lo tenevo io.
S: e se me lo davi stamattina!
C: …(ride)… quest'uomo di merda vuoi vedere che sono io il malamente, (parla ridendo) vuoi vedere che sono io il malamente perchè non ti ho dato il libretto, no? Ragazzo sei che cazzo proprio, dai!
S: come?
C: vuoi vedere sono io il malamente che non ti ho dato il libretto?

S: no, no, no.
C: se hai detto così, come l'hai messo tu, lì, quello "perché non me lo hai dato stamattina?" "Come mi ha visto quel fetente di merda non mi ha dato il libretto."
S: no, no…
C: non hai fatto così?
S: no, no, no… no, no. E gli ho detto quello che ti ho detto.
C: e hai fatto bene guarda, senti lasciamo… fai così.
*S: pure un'altra cosa: **ora ci sta MUSCO Roberto di Casale, noi l'abbiamo assunto, lo zio di questo è ex consigliere comunale di Forza Italia**.*
C: eh, eh… che dobbiamo fare con questo?
*S: **ora se io lo licenzio, fai che questo poi va da Nicola**… poi dopo pure se viene BERLUSCONI io… hai capito?*
C: ma tu se sai che non è buono, se sai che non è buono…
S: poi per dentro Casale me ne devo fuggire poi. Hai capito?
C: tu mi senti a me? Se tu sai che non è buono e noi le zavorre ce le dobbiamo togliere da mezzo poi a Nicola ci parlo io, perché Nicola mi ha dato altri due nomi, cose, mi sta uccidendo la salute.
S: devi dire "aspetta Nicola."
C: allora Nicola un po' alla volta…
S: che poi questo non è che non è buono, uno lo fa per cercare di alleggerire. Hai capito?
*C: no ma alleggeriamoci perché… cioè **ma pure questo PICONE, io non ce la faccio più, questo PICONE ed OLIVIERO io non li vedo più, ma questi che cazzo stanno a fare**?*
S: e ma perciò, questo qua…
C: questo ci dobbiamo organizzare, gli diamo i compiti e poi vediamo che succede.
S: però questi qua che teniamo provvisori no, perché non sono effettivi…
C: no questo provvisori stoppiamoli fai bene, stoppiamoli. Teniamo in mano perché poi con Nicola ci mantengo io in mano. Capito? teniamo in mano, teniamo in mano. Poi non ti prendere la colpa tu, cioè…
S: no vabbuo' quello è un fatto aziendale.
C: dici, bravo, "l'organizzazione aziendale per ora mi devo stoppare un attimo, dobbiamo vedere l'organigramma che stiamo facendo perché stiamo caricando troppo… un poco alla volta, poi vediamo…" Comincia a dire ora vediamo, poi…
S: vabbuo'.
…

Tra le assunzioni propugnate da Nicola Cosentino l'indagine intercettiva utilizzabile ha fatto emergere quella di D'AGOSTINO Maria.
La conversazione n. 5257 intercorre, il 1° marzo 2004, tra Sergio Orsi e il presidente Savoia:

"SERGIO: è la verità io mi sono salvato, quando la Commissione d'accesso è andata a Mondragone per -incomprensibile- il Ce4, il bravo -incomprensibile- nostro, invece di mandarlo al CE4 disse mandiamolo all'eco 4, io tutto mi sono salvato per mezzo di questo -incomprensibile-
INTERLOCUTORE: -incomprensibile-
SERGIO: no vabbè io non ho detto niente, allora io gli ho detto senti questi qua sono i dipendenti, si questo è camorrista lo so e però fu raccomandato quando è stato assunto dalla COVIM (le voci si accavallano) anzi, io ho licenziato due persone (le voci si accavallano)
SAVOIA: la Covim la società no -incomprensibile- per camorra
SERGIO: lo arrestarono
SAVOIA: no peggio ancora (le voci si accavallano)
INTERLOCUTORE: -incomprensibile- un passaggio di cantiere -incomprensibile-
SERGIO: allora adesso ti dico una cosa, la D'AGOSTINO la stanno –incomprensibile - D'AGOSTINO e allora mi appiccicai con Peppe Valente, la consigliera comunale di

Mondragone D'AGOSTINO, che il comune di Mondragone rischia di essere sciolto per mezzo di quella dal Prefetto
INTERLOCUTORE: tipo a elezione
SERGIO: no vabbè ma quello -incomprensibile- allora che successe
A.INTERLOCUTORE: attualmente non lo sciolgono perché va -incomprensibile- ad elezione
***SERGIO: Peppe Valente disse assumila** INTERLOCUTORE: -incomprensibile-*
SERGIO: Cosentino, Peppe Valente disse assumila dissi non esiste proprio, dissi non esiste e perché io fortunatamente la conoscevo a questa perché se non la conoscevo -incomprensibile-
INTERLOCUTORE: bravo
SERGIO: dissi Peppe questa qua è stata -incomprensibile- ma chi te l'ha detto disse ma è vero o no -incomprensibile- non me ne fotte e allora mi iniziai ad appiccicare con Peppe Valente, poi lui l'ha fatta assumere da un'altra parte e adesso se ne sono accorti il consiglio della sinistra e cose ed hanno i problemi con il Prefetto, con il coso insomma,
SAVOIA: non lo sapevo questo fatto
SERGIO: e allora io che ho fatto ci stava un altro dipendente che -incomprensibile- di sessa Aurunca che dice che questo è un camorrista
SAVOIA: -incomprensibile-
SERGIO: lo licenziai subito la legge 53 (le voci si accavallano)
SAVOIA: il giudice mi ha fatto la sentenza di reintegro
SERGIO: eh, eh (le voci si accavallano) io ti ho licenziato quando vennero quelli dice che hai fatto ho licenziato a questo, a questo , a questo e a questo e già ho fatto -incomprensibile-
SAVOIA: no, su questo....(le voci si accavallano)
SERGIO: embè è questo, e il giudice sai che ha detto devo reintegrare tu che hai fatto -incomprensibile-
…omissis…

La D'AGOSTINO segnalata da Cosentino e Valente a Sergio Orsi s'identifica con il consigliere comunale di Mondragone, raggiunto da gravi indizi di colpevolezza per corruzione aggravata dall'art. 7 della legge n. 203/91 e concorso esterno in associazione di stampo mafioso in relazione ad una complessa vicenda compendiata nelle pagg. 303 – 322 e 491-512 dell'ordinanza cautelare n. 707/2007 versata nel faldone n. 9 dei primi atti trasmessi.
In buona sostanza l'assunzione della consigliera comunale e di quattro suoi congiunti (D'AGOSTINO Amodio, D'AGOSTINO Pietro, PISCITIELLO Alfredo e PISCITIELLO Claudio) da parte della ECO4 rappresentava la contropartita del voto favorevole che la medesima aveva espresso per la giunta guidata dal sindaco Ugo Conte, giunta fortemente sostenuta dal clan La Torre, come si dimostra nelle pagg. 322 – 331 della stessa ordinanza.
L'assunzione della D'AGOSTINO risulterà peraltro truffaldina dal momento che – come dichiarerà Michele Orsi – ella venne retribuita senza mai essersi presentata al lavoro.
In questa sede corre soltanto l'obbligo di riportare le dichiarazioni rese da **Giuseppe Valente** al P.M. il 17.2.2009 (trasmesse con la nota integrativa del 27.2.2009) in ordine alla successiva riassunzione della D'AGOSTINO presso il superconsorzio IMPREGECO. Oltre a confermare il collegamento di quell'assunzione con la vicenda corruttiva, le dichiarazioni di Valente ribadiscono il ruolo che ebbe in quelle decisioni l'indagato Cosentino:

"*Assunsi la D'Agostino Maria presso l'IMPREGECO con compiti modesti. prendeva la posta e poco altro; l'ho assunta presso l'IMPREGECO dopo le sue dimissioni da ECO4 da cui questa fu licenziata;* ***fu il sindaco Conte a chiedermi di assumerla presso l'IMPREGECO e io lo feci per fare un favore al sindaco. Il mio riferimento diretto era Nicola Cosentino con il quale ho – a partire dal 2000 – avuto rapporti diretti;***

poiché il consorzio CE4 aveva come riferimento politico Nicola Cosentino e Mario Landolfi, nel caso di specie mi sono rivolto ad entrambi i soggetti nel ricevere disposizioni".

Ricorre in numerose conversazioni dei dirigenti, formali e di fatto, della ECO4 il tema dell'inutilità di due dei dipendenti assunti su segnalazione di Cosentino: PICONE e OLIVIERO.
A titolo esemplificativo si riporta il seguente brano di un colloquio intervenuto tra Sergio Orsi e Carlo Savoia:

Nr. 3261 – 05.03.2004 - ora: 21.37 dec. 2501/03
Numero intercettato: 3483126450 in uso a Sergio ORSI
Data fonia: 05.3.2004 ora: 21.37.28
Durata: 00.08.51
Interlocutore: Carlo SAVOIA
Chiamata: USCITA
Numero: 393351216168

(...)
S: ***eh, senti solo una cosa, se ci vediamo verso le 10 e mezza, le 10?***
C: ***no, io alle 10 mi devo incontrare con NIC.***
S: ***ah… e…***
C: ***alle dieci finisco da NIC e ci vediamo da te.***
S: *e come dici tu, dai.*
C: *tu dove stai?*
S: *meglio ancora.*
C: *eh ci vediamo dopo? Ma io… non ci dovevamo prendere il caffè…*
S: ***e perciò io, se no sai che devi fare? piglia appuntamento per oggi, con Nicola, hai capito?***
(...)
C: ***ma stavo pensando pure a PICONE e OLIVIERO***
C: ***"… Nicola noi abbiamo trovato il posto per altri due, dico, se tu… però dobbiamo fare un'operazione a PICONE e OLIVIERO li dobbiamo (inc. parla ridendo) nel CE 2. Quegli altri due posti in più e mettiamo…"***
S: ***devi dire "questi li diamo a quelli, poi altri due che lavorano (inc.)"***
C: ***eh altri due che lavorano ti accontentiamo, cioè… però scusa…***
S: ***questi qua giacché sono alte professionalità…***
C: ***sono troppo professionisti, devono essere CE 2 perché là…***
S: ***(inc. sovrapposizione di voci)***
C: ***ma anche in ambito loro, Villa Literno, Trentola, coso, loro stanno meglio là.***
S: ***sì, sì… nel bacino loro.***
C: ***nel bacino loro. E quindi voglio dire, facendo questo passaggio di cantiere è tutto…***
S: ***andremmo che cazzi.***
C: ***no ma secondo me guarda, io sto pensando veramente questa cosa, sto da stamattina a pensare questo. Te lo giuro, tu ridi?***
S: ***e glielo dobbiamo dire, perché tu vedesti, io per spostarli involontariamente non sapevo niente, disse…***
C: ***però secondo me, guarda devi dire "ragazzi noi facciamo una cosa buona." Perché lui se ne vuole andare (inc. segnale irregolare) il CE 4, il CE 4, il CE 4. se ne va al CE 2 è la stessa cosa, è meglio scusa!***
S: ***eh questo, vanno che cazzo!***
C: ***perchè noi li mettiamo come amministrativi sopra al cantiere.***
S: ***e certo…***
C: ***sto pensando "sentite ragazzi, io vi mando al CE 2 in grazia di Dio." Amministrativi sopra al cantiere, facciamo un'operazione seria, almeno due di voi***

incominciano ad andare di là …(ride)…
(…)

Una conversazione emblematica della funzione assegnata dai politici, primo fra tutti Cosentino, alla società mista è quella avvenuta tra Enzo Gambardella e Sergio Orsi (decreto 2501/03 r.r. – n. 5353):

Nr. 5353 – 07.04.2004 - ora: 11.02 dec. 2501/03

Il consigliere di amministrazione Enzo GAMBARDELLA chiama Sergio ORSI Sergio e lo informa di un'accesa discussione avuta con SAVOIA, per gli ostacoli frapposti da quest'ultimo ad assunzioni caldeggiate dallo stesso GAMBARDELLA. Gambardella spende una legittimazione autorevole, affermando di avere avuto *carta bianca* da NICOLA, interessato a incrementare le assunzioni in vista di un'imminente scadenza elettorale:
"a me no, dissi "a me non me ne fotte proprio, perché quando è domani, glielo dissi, io domani vado da Nicola e dico come sta la situazione, perché io ho carta bianca da parte di Nicola perché Nicola sa che deve fare la CAMPAGNA… e su questo non si discute".
Savoia è accusato da Gambardella di ipocrisia per avere falsamente frapposto alla richiesta di assunzioni l'ostacolo di un rifiuto opposto da Sergio Orsi, ad altra segnalazione di 'Nicola'. Rifiuto che Sergio Orsi ovviamente smentisce.
GAMBARDELLA non ha alcuna difficoltà ad ammettere che il suo compito nel cda è *ben preciso* ed è quello di *onorare* il referente politico.
Nel prosieguo della conversazione GAMBARDELLA menziona una passata riunione tenuta nell'abitazione di Sergio nella quale si era raggiunto un accordo funzionale – non all'efficienza del servizio o all'economicità della gestione – ma al "***bene dei partiti***": Alleanza Nazionale e Forza Italia. GAMBARDELLA si ripromette di informare Nicola (continuamente evocato durante la conversazione) del fatto che, a causa di Savoia, non possono essere rispettati gli accordi: ***"io non ho problemi perché nel momento in cui noi facemmo un discorso a casa tua, cerca di seguirmi, cioè che tutti eravamo un gruppo e tutti le cose le dovevamo fare in amicizia ….. però poiché le cose non sono state fatte in amicizia, io in qualsiasi momento, pure il discorso, ora a prescindere dalle cose che ci siamo già detto, no? … Però noi in qualsiasi momento questo discorso lo possiamo portare pure avanti a Nicola. Cioè non so se è chiaro, io tu, RUSSO, pure quello di Alleanza Nazionale, dice "senti Nicola noi abbiamo stabilito, abbiamo fatto un patto, noi avevamo detto dove ci stava la necessità, le cose bisognava stabilirle a tavolino, dovevamo fare il bene dei partiti, quello è Alleanza, quello è Forza Italia, però tutto questo non è avvenuto." Questo comunque allora… cioè io sono pronto a fare tutto, cioè non so se è chiaro…" .***
I due continuano a lamentarsi di SAVOIA che ostacola il 'lavoro clientelare' degli altri, mentre svolge indisturbato il proprio (avendo assunto recentemente una consulente con delega al personale 'gradita' a Cosentino):
"***allora a questo punto se noi vogliamo affrontare un'altra volta a lui, vogliamo andare da Nicola, facciamo tutto quello che vogliamo, perché giustamente questa è una società mista di utilità? Noi abbiamo stabilito, gli abbiamo dato una situazione a lui che lui andava trovando (inc.) quella maledetta benedetta che ora sta a fare la consulente del lavoro? …***
ORSI si ripromette di ripagare SAVOIA con la stessa moneta, a partire dall'assunzione di tale DI DONA che è stato segnalato da Nicola attraverso il presidente SAVOIA. Sergio spiega di avere avuto in passato una discussione con Nicola (Cosentino) su

questo argomento. In quell'occasione egli aveva chiesto a NICOLA di rivolgersi direttamente a lui, anziché ricorrere alla mediazione di Savoia: "*perché tu poi non sei stronzo. E io il fesso non lo faccio, non lo faccio. I ragazzi si prendono e si assumono, punto. Però a lui, ti ho detto a te, lo voglio far soffrire. A lui oggi pomeriggio… prima di tutto a DI DONA non lo assumo perché assumo prima i ragazzi e poi assumiamo a DI DONA, questo per principio. E' uno, seconda cosa, seconda cosa…* ***ora dice che l'ha mandato Nicola. All'epoca Nicola non lo aveva mandato, aveva preso impegni con lui, poi mi ha acchiappato Nicola in però io giacché ti dico tutti i cazzi, come sono fatti. Quando poi Nicola ha detto qua e là, andai io e dissi "Nicola scusa e perché non me lo hai detto a me?" "Ma no, io pensavo qua, là…" "Ma no Nicola tu, se non me lo dici a me, la prossima volta succede la stessa cosa. Proprio così, quanto è vero dio. Dice poi là… e accennammo il fatto tuo. Mi sono spiegato?***"

Affiora da numerose conversazioni, avvenute tra gli uomini della ECO4 dopo la nomina di Carlo Savoia quale Presidente del CdA, il fastidio per il comportamento di quest'ultimo.
L'accusa più ricorrente è quella di spendere abusivamente il 'mandato' di Cosentino. A ben vedere questa censura rimarca il potere reale dell'indagato sulla struttura. A titolo esemplificativo riportiamo il brano di una conversazione avvenuta il 23.1.04 tra Sergio e Michele Orsi, titolari indiscussi della gestione:

n. 796 del 23.01.2004 - ora: 19.34 decreto 2501/03
S:Sergio Orsi (3483126450 utenza monit.)
M: Michele (3351215999 – chiamata)
M: pronto?
S: uhé Michele?
M: uhé?
S: dove stai?
M: a Santa Maria.
S: ah mi pensavo a Casale. Vabbuo' dai… io sono stato (inc.)
M: tu stai a casa?
S: mica hai sentito a Nicola?
M: eh…
S: che ti ha detto?
M: e ci dobbiamo vedere. Ha detto "Michele, ha detto, ora sto a Bellona, dopo devo andare a (inc.) e ha detto, appena ho finito ti chiamo e ci incontriamo."
S: ho capito, vuoi che vengo pure io o è la stessa cosa?
M: e come vuoi tu. Io comunque ora mi deve chiamare. Ha detto "pure se si fa sul tardi, ti chiamo e ci vediamo."
S: eh va bene dai…
M: hai capito?
S: tu glielo dici, dici "senti io mi devo marca… quegli altri fetenti di merda di Alleanza Nazionale o che…" Capito? "Ora, devi dire, fa la sponsorizzazione… ora ha fatto una sponsorizzazione, me lo vuoi dire a me?" Devi dire!
S: però li dobbiamo mettere con le spalle al muro. Capito? Va bene dai, mi fai sapere, dai. Poi valuta tu se ritieni che devo venire pure io. Sto a casa, sono arrivato a casa.
Nota: i due si scambiano qualche battuta sull'opportunità che Sergio partecipi a questo incontro con Michele.
S: quel Pasquale non ti ha chiamato?
M: Pasquale? Ci dobbiamo vedere domani.
S: ah, ma ha fatto qualcosa?
M: eh ha parlato con quello, ha detto che vuole fare, ha detto "però domani vieni a vedere questa cosa qua, a Bellona, ha detto, vedi se è grossa, è piccolina se è buona…"! Tutte queste cose, dopodiché… E ora domani ci dobbiamo vedere e dobbiamo andare a vedere.

S: vabbuo'…
Nota: i due continuano a parlare sull'opportunità che Sergio partecipi all'incontro che Michele dovrà avere tra poco con Nicola.
S: ***tu devi dire tutto quello che ti senti di dire, devi dire "questo sta esagerando."***
M: è normale, io tutte queste cose non so se gliele dico.
S: se lui dice qua, là… devi dire "senti allora Nicola mi devi fare un piacere lo devi chiamare, ci dobbiamo vedere io, tu e lui." Perché questo ogni cosa dice "che vuoi da me, io ho il mandato di questo." Capito?
M: io devo dire "se vogliamo continuare su questa strada allora mi devi far fare, perché se no io non posso…"
S: no, ma devi dire…
M: no, bello chiaro e tondo. Hai capito?
S: sì…
M: direttamente all'obiettivo, senza girare attorno, attorno.
S: vedi tu, vedi tu, vedi tu… come dici tu.
M: "vedi che oggi mi sono presentato, mi sono presentato oggi, mi presenterò ancora, tu ora devi dare una mano a quel fratello mio, perché quando è una cosa… (inc.)"
S: no, devi dire "tu dicesti questo fatto qua…"
M: "piglia a questo, fammi il piacere, toglilo da mezzo, perché questo qua non è fatto per noi. Per tanti motivi, per questo, questo, questo…
S: ***si mette a nominare a*** *(inc.)*
M: può scatenare una situazione che… che diventerà pericolosa. (inc.)"
S: vedi tu sì, sì, sì…
M: questo gli devo dire.
S: va bene...
M: poi in base a quello che mi dice lui, quello è.
S: ti regoli tu, hai ragione. Vabbuo', mi fai sapere tu.
Si salutano.

L'assunzione di 'impegni' da parte di Nicola Cosentino verso gli uomini della ECO4 traspare dalla seguente conversazione, intercorsa tra Sergio Orsi, Michele Orsi, Giuseppe Sagliocco e Giuseppe Valente e captata su un'utenza in uso a Sergio Orsi.

N.5790 – 17.04.2004 - ora: 10.40 dec. 800/04

S: Sergio ORSI
M: Michele ORSI
P: Peppe VALENTE
SAG: Peppino SAGLIOCCO

S: pronto?
M: uhe Sergio?
S: dimmi?
M: dove stai?
S: da Peppino, a Mondragone.
M: da chi?
S: da Peppino VALENTE.
M: ah…
S: tu?
M: io sto a Santa Maria, stavo insieme a Peppino. Ho visto una macchina pareva che eri tu.
S: no, no, no. Anzi ora te lo passo che ti vuole salutare.
M: mhm…
S: capito?
M: va buo'… Sergio?

S: uhe dimmi?
M: va buò, passa prima a questo.
S: eh…
P: direttore?
M: uhé, buongiorno.
P: ***come stai? Senti ma tu tieni il presidente che non è buono proprio, eh?***
M: eh…
P: ***ma ieri… poi quando ci incontriamo ti dico quello che mi ha combinato a telefono***
M: ***me lo vuoi dire tu a me? Io te lo venni a dire io a te! vediamo che dobbiamo fare?***
P: ***e ma… perché non facciamo… perché non facciamo un bel discorso?***
M: ***eh…***
P: ***io mi volevo incontrare un poco con te proprio per dirti queste cose e per dire chiudiamo…***
M: ***perché hai capito, è impossibile.***
P: ***no, non è cosa proprio. Non è proprio…***
M: ***ieri mi chiamò, là, "tu vuoi assumere la gente di Peppe VALENTE, non ho capito…"***
P: ***ma per telefono, cose, dissi "ma quando mai! io assumo la gente?" - dissi "ma tu fossi scemo veramente?"- Dissi "e quando mai mi sono permesso di fare una cosa del genere?"- Dissi "ma come una società seria, io…"- Ma per telefono ma non si deve mai parlare!***
M: eh ma io…
P: ***ma proprio mi sembrava un libro aperto. Dissi "ma come ti permetti? Dissi, Carlo mi devi fare un piacere, se mi devi telefonare per queste cose non mi telefonare più."***
M: eh…
P: *"****perché io non mi permetto assolutamente di fare niente, dissi, voi tenete un'amministrazione vostra, io mi permetto di imporre, di fare?" Dice "(inc. segnale irregolare) imposto per il figlio." "Ma come ti permetti?" dissi. "Ma quelli sono di Mondragone." "E che devo fare? ma chi li conosce? Anzi fammi sapere pure chi sono che magari faccio vedere che ho fatto pure io qualcosa, che io non so niente. Dissi, ma a chi conosci?" Ma ti dico una cosa incredibile, eh! Ma poi ma tu hai saputo quello che dovetti combinare io con l'avvocato che si portò appresso?***
M: eh là pure chissà… questo è un uomo di merda proprio.
P: a Santa Maria La Fossa?
M: no ma pare che me lo hai detto.
P: ***ma un avvocato scemo che in presenza del sindaco, in presenza dei consiglieri comunali "io non capisco, questo ostracismo del CE 4 nei confronti dell'Eco Quattro…" Ho detto "avvocato tu non ti devi proprio permettere di dire queste cose, hai capito o no? Dissi, che io se no in 24 ore te ne mando da sopra l'Eco Quattro."***
M: ***no ma il proble… il problema che mi chiamò, dice "Michele ma quello Peppino così, così, dice che tu ti vai vendendo il nome suo, vai assumendo la gente." Dissi "Carlo, innanzitutto vediamoci da vicino…"***
P: io?
M: eh…
P: io ho detto una cosa di questa?
M: ***"dice -quello allora Michele si va vendendo il mio nome…- "***
P: ***io? Ma quando mai! Ma questo è scemo proprio.***
M: ma non mi fecero parlare proprio, io stavo a Napoli ieri…
P: ***a me sai che mi disse? A me sai che mi disse? Disse "Quello mi ha detto Michele che questi nomi sono i tuoi." Dissi "guarda secondo me Michele ha sbagliato, ha capito male, perché non esiste proprio." Cioè questo praticamente va mettendo bacchette tra me, te, Sergio una continuazione.***
M: ***perché quella la consulente, giacché fa capo a lui, allora ogni cosa che passa lo chiama "qua ci sta questo, che devo fare?" Capito?***
P: *ma* ***pure questa consulente si deve togliere da mezzo. Ma chi è questa consulente****? Ma chi è questo consulente?*

M: ah io perciò dissi “Peppino…”
P: no, ma chi è questo consulente?
M: è una donna.
P: allora ora ti dico una cosa Michele, mi devi fare un piacere dobbiamo fare un consiglio… dobbiamo fare un consiglio di amministrazione, bisogna azzerare tutto e tutto quello che ha fatto lui, tutto quello che ha portato lui si deve togliere tutto da mezzo.
M: si deve togliere tutto da mezzo.
P: tutto! perché non si può proprio andare avanti. Insomma non ho capito, qua andiamo fuggendo dalla mattina alla sera, questo cazzo, cazzo, fresco, fresco…
M: eh poi viene…
P: sistema i cazzi suoi e poi va trovando pure chi ha fatto questo e chi ha fatto quello?
M: eh…
P: ma io gli sputo in faccia!
M: ma che uomo di merda!
P: ma veramente… ti devo dire la verità, ti devo dire la verità? L’avvocato è stato poi proprio una cosa incredibile. Disse ”io telefono a chi di dovere.” “Telefoni? Dissi, ma tu hai capito che io comando tutto quanto io lì dentro? Ma a chi devi telefonare, ho detto, ma tu fossi scemo veramente?”
M: ha telefonato, vedi …(ride)…
P: mannaggia, guarda è una cosa incredibile. Senti…
M: questo se ne viene una mattina… dimmi?
P: vediamo di chiudere questa vicenda.
M: eh…
P: ieri mattina è andato tutto quanto bene?
M: sì, sì tutto a posto.
P: speriamo che facciamo qualche cosa.
M: almeno… mannaggia la miseria…
P: e vediamoci un poco tutti e quattro, vediamo di chiudere questa vicenda, non la portiamo troppo a lungo.
M: e infatti questo…
P: ***perché io ho l’impressione che anche Nicola… (inc.) perché quello praticamente rispetto alle aspettative è stato… è stato una truffa.***
M: eh, eh, eh…
P: ***rispetto alle aspettative è stato una truffa.***
M: ***è stato una truffa. Perciò noi dobbiamo andare avanti per i fatti nostri, velocemente. Almeno mettiamo la bandiera.***
P: andiamo avanti per i fatti nostri, andiamo avanti per i fatti nostri.
M: va bene.
P: se ci possiamo organizzare domani, ci vediamo, se no… secondo me <u>è opportuno però che ci vediamo un poco tutti e quattro, facciamo il punto</u>…
M: facciamo un poco il punto, eh…
P: va bene allora ci organizziamo così, domani quando sto con Claudio vi chiamiamo e ci organizziamo. Va buò…
M: passami a Sergio, Peppino.
P: va bene, ora ti passo a Sergio.
M: ciao.
(…)

E’ a questo punto naturale che il coinvolgimento di Cosentino nella ECO4 implichi il sostegno elettorale dell’indagato e del suo partito in occasione delle elezioni politiche del 2001, epoca in cui il progetto lucrativo illecito degli Orsi e del gruppo Bidognetti (abbiamo visto quanto sia stretto e dimostrato il rapporto tra queste due entità) faceva i suoi primi passi. Un sostegno che sarà ribadito alle elezioni provinciali del 2005, prima del passaggio degli Orsi al centrosinistra.

Nell'interrogatorio del 19.06.2007, **Michele Orsi** riferisce:
"*Faccio presente che sia prima che dopo questa riunione ricevemmo una indicazione di sostegno elettorale nei termini sopra stabiliti. Quest'incontro si tenne nel 2005, durante la campagna elettorale.* ***Come accadde in tutti i casi in cui fu necessario sostenere un candidato per le elezioni, ci impegnammo affinché tutte le maestranze della GMC seguissero le nostre indicazioni; posso dire che, attraverso il controllo della GMC, disponevamo di un pacchetto voti pari alle 60 unità impiegate presso la società, in aggiunta ai loro familiari; forse il principale nostro sostegno era legato alla nostra partecipazione attiva durante comizi, cene elettorali od incontri; faccio presente che in quel momento e prima del mio primo arresto io e mio fratello Sergio eravamo persone "importantissime", io mi sentivo talvolta "un Dio".***
Il bacino di voti controllati attraverso la Eco4 era persino superiore a quello della GMC, potendo contare su circa 250 dipendenti e loro familiari.
Tra gli impegni elettorali dei diversi candidati nelle rispettive elezioni ricordo: il sostegno di Forza Italia attraverso l'Onorevole COSENTINO alle politiche del 2001, il sostegno di BRANCACCIO alle regionali del 2005 e quello di COSENTINO alle provinciali del 2005, quello di BRANCACCIO alle ultime comunali di Orta di Atella, quello di Andrea LETTIERI alle ultime comunali di Gricignano. Posso dire che il nostro sostegno come detto si è estrinsecato in assunzioni…omissis…"

Il 05 luglio 2007 **Michele Orsi** precisa che il controllo di Cosentino sulla ECO4 avviene anche attraverso la scelta dei consiglieri di amministrazione di spettanza del partner pubblico della società mista (il consorzio CE4):

"*I politici ebbero altresì a spartirsi il consiglio di amministrazione per quanto concerne le componenti personali pubbliche: ricordo che LANDOLFI scelse quale componente del CDA dell'Eco4 il D'ALONSO e* ***COSENTINO individuò nel sindaco di San Nicola la Strada (persona di cui non ricordo il nome) un altro componente del CDA. L'andamento gestionale della società rimase sostanzialmente nelle mie mani e in quelle di Sergio e di fatto l'Eco4 faceva capo a noi ed era da noi controllata. Con il passar del tempo questi equilibri vennero a mutarsi quando COSENTINO Nicola decise la nomina di Presidente del CDA individuandolo in SAVOIA Carlo che ebbe a succedere a MIRRA Bruno, quest'ultimo avendo ricoperto un ruolo puramente formale".***

Nello stesso interrogatorio Michele Orsi dà conto del fastidio e della diffidenza ingenerati negli Orsi e negli amministratori 'formali' della ECO4 dai comportamenti del presidente Savoia voluto da Cosentino. Sarà perciò organizzata la 'defenestrazione' di Savoia in favore del collaudato Valente, operazione che non potrà prescindere dall'avallo del padrino politico:

"Con il passar del tempo questi equilibri vennero a mutarsi quando COSENTINO Nicola decise la nomina di Presidente del CDA individuandolo in SAVOIA Carlo che ebbe a succedere a MIRRA Bruno, quest'ultimo avendo ricoperto un ruolo puramente formale.
Ricordo che noi controllavamo il CDA soltanto attraverso RAGUCCI Michele, atteso che non disponevamo di investiture formali per parteciparvi.
A partire dalla nomina di SAVOIA Carlo, che ricordo avvenuta nel 2004, cambiò significativamente il comportamento della parte politica.
SAVOIA Carlo intese fin da subito gestire materialmente la società comportandosi in modo inequivoco e palesando l'intenzione di sfruttare la società stessa attingendo i

suoi fondi per finanziare i politici di riferimento; *io compresi chiaramente che questa era la sua prospettiva e anche materialmente si dimostrò autonomo nel gestire alcuni aspetti societari: decise da subito di aumentarsi le spettanze quale Presidente del CDA elevandole fino alla somma di 5 o 6 mila euro mensili; decise autonomamente distinte assunzioni, acquistò per sé una BMW 320 e incrementò significativamente le spese di rappresentanza.*
In realtà non riuscì nella sua palesata intenzione di distrarre fondi dall'Eco4 per finanziare i suoi riferimenti politici – intenzione ribadisco inequivoca – ma il suo atteggiamento era chiaro e riuscimmo a contenerlo esclusivamente perché avevamo in mano i punti nevralgici della società.
Decidemmo poi di porlo in cattiva luce innanzi ai suoi referenti politici, in particolare il COSENTINO, necessariamente in accordo con il LANDOLFI, e la nostra strategia ebbe poi successo quando riuscimmo a "defenestrarlo", allorché venne sostituito da VALENTE Giuseppe.
ADR: il SAVOIA rimase Presidente del CDA, a mia memoria, per circa sei mesi, ma non fu in grado di riuscire a realizzare il suo intento.
Nel corso di incontri separati intercorsi sia con COSENTINO che con LANDOLFI, ricordo che opponemmo loro il comportamento del SAVOIA eccessivamente indipendente e affatto contenuto quanto alle spese, rimostranze che ebbero un loro peso".

Infine Michele Orsi ci dice che il sistema delle assunzioni e degli incarichi rappresentava la contropartita dovuta ai *partners* politici dell'impresa, essendo invece riservata ai mafiosi la tangente in denaro:

"***ADR: prendo atto del fatto che questo ufficio mostra perplessità per il fatto che si decise di distrarre fondi per pagare tangenti ai camorristi mentre diverso comportamento venne seguito per quanto riguarda le tangenti ai politici; rappresento che le tangenti da pagare alla camorra erano ai miei occhi inevitabili, mentre il nostro impegno con i politici poteva essere largamente garantito attraverso le assunzioni nelle società ed incarichi di consulenze oppure ancora nel consentire la scelta dei ruoli amministrativi nella società"***

DIANA Miranda, vedova di Michele Orsi, nel verbale di assunzione di informazioni l'interrogatorio del 2.12.2008 confermerà che la nomina di Savoia fu effettuata proprio su sollecitazione di Cosentino:

"*(...) quando mio marito lo nominò negli interrogatori – come emerse dai giornali –* ***Nicola Cosentino ammise ciò che aveva detto mio marito e in particolare ammise di aver perorato assunzioni proprio a mio marito…Posso dire che Michele mi disse che Cosentino gli 'aveva fatto mettere' un dirigente, tale Savoia, all'interno dell'ECO4; si trattava del fratello del sindaco di Sant'Arpino e aveva degli incarichi elevati e ruoli di rilievo. Michele litigava in continuazione con questa persona, finché riuscì a farlo mandare via".***

V'è infine un colloquio tra i fratelli Orsi, intercettato il 7.5.2004 (n. 699 – decreto n. 800/04) nel quale, discorrendo del buon esito di un affare concluso da Michele con Cosentino, Sergio chiede ***"gli ha fatto piacere a Nicola? Sono sempre voti che ha, no?***", riscuotendo l'ovvio assenso del fratello ("eh!").

15b. La promozione autorevole dell'onorevole Cosentino delle decisioni strategiche

dirette ad aprire 'una breccia' nel sistema fibe – fisia italimpianti

15c. Le dichiarazioni di Giuseppe Valente e il superconsorzio IMPREGECO

Giuseppe Valente - raggiunto dall'ordinanza cautelare n. 45 del 26 gennaio 2009 con addebiti di turbativa d'asta e corruzione aggravate ex art. 7 della legge n. 203/91 in relazione alla gara pubblica che condusse, nell'estate del 2000, alla scelta dell'ATI costituita dai fratelli Orsi quale partner privato del Consorzio CE4 nella società mista ECO4 – **rendeva al GIP (in data 6.2.2009) e al P.M. (in data 17 e 23.2.2009)** interrogatori variamente corroborativi delle dichiarazioni di Vassallo, accreditando inoppugnabilmente il ruolo giocato da Nicola Cosentino nel controllo della società e nella promozione politica dei suoi obiettivi.
Il ruolo di Cosentino, accostato a quello del parlamentare Mario Landolfi, emerge già dall'interrogatorio reso al P.M. il 17 febbraio 2009.
Valente conferma Michele Orsi sul potere di designazione dei membri del CdA di parte pubblica (a Cosentino vengono in particolare ascritti i consiglieri Mirra e Falconetti, oltre che il presidente Savoia, successore dello stesso Mirra in quella carica) e sul tema del sistema di assunzioni, rispondente esclusivamente alle esigenze clientelari di Cosentino e dei colleghi Landolfi e Sagliocco.
Egli individua nell'indagato il suo referente più diretto.
Si tratta di affermazione di non poco conto, ove si consideri l'alto tasso di adesione alle logiche criminali dimostrato da Valente con i comportamenti (concorso nell'estorsione organizzata dal clan La Torre; turbative d'asta e corruzione di fatto funzionali all'affermazione della società patrocinata da Bidognetti) per i quali egli è stato sottoposto a misure cautelari personali.
Era ovvio per Valente consultare Cosentino prima di operare qualsiasi scelta strategica, prima fra tutte quella di entrare nel superconsorzio IMPREGECO che, insieme ad altri obiettivi, consentiva a Landolfi e Cosentino di incrementare il sistema delle assunzioni e dei conferimenti di consulenze a scopo clientelare.
Cosentino è indicato anche come patrocinatore dell'iniziativa di far acquistare dall'IMPREGECO alcune quote della Eco4 detenute dalla società degli Orsi (Flora Ambiente) e dell'affidamento di appalti a imprese dei due fratelli, dei quali si è dimostrata la qualità di soci prima di Bidognetti e quindi degli Schiavone.

"Come già detto i ruoli operativi gestionali, in seno al Consorzio CE4, erano svolti principalmente – se non esclusivamente – da Claudio DE BIASIO; questi fu inizialmente assunto come consulente esterno e poi, dopo un regolare concorso indetto dal Consorzio per la nomina del Direttore Generale, assunse tale ruolo.
In coerenza con tale ruolo DE BIASIO aveva poteri totali che non richiedevano il mio assenso o altro; cumulava anche il ruolo di Direttore Tecnico del Consorzio e dunque responsabile di tutti gli impianti di discarica, gestiti dal Consorzio, quali Parco Saurino e la discarica Bortolotto.
Progressivamente il DE BIASIO si legò a CHIANESE Raffaele e, tramite questi, a LANDOLFI Mario, mantenendo il legame inscindibile con i fratelli ORSI, sicché – a un certo punto, dopo pochi mesi dalla sua nomina, fui praticamente estromesso dalla gestione operativa.
Sapevo ciò che faceva, ma sovente ne venivo a conoscenza soltanto dopo; le cose più importanti le sapevo dopo; DE BIASIO faceva comunque costantemente capo a LANDOLFI, CHIANESE ed ai fratelli ORSI e costoro si erano legati insieme in modo indissolubile.
Il rapporto era ormai tenuto, da loro, in modo diretto e ho sperimentato personalmente

tale loro relazione.
Il Consorzio faceva capo a due referenti politici, l'uno era Mario LANDOLFI, quale espressione del partito AN, l'altro era Nicola COSENTINO, quale espressione del partito FI. Vi era una buona relazione tra i due. Ho infatti assistito a delle telefonate tra i due, trovandomi o con Nicola COSENTINO o con LANDOLFI, colloqui durante i quali i due parlavano di nomine del cda del Consorzio e dell'ECO4 s.p.a., essendo loro due sostanzialmente a decidere le nomine della parte pubblica. In particolare, quanto ai primi componenti del CDA dell'ECO4 spa, ricordo che BENCIVENGA e D'ALONSO erano stati nominati dal LANDOLFI mentre MIRRA e FALCONETTI dal COSENTINO.
Il DE BIASIO aveva ***poteri diretti di assunzione,*** *all'interno del Consorzio, mentre* ***nell'ECO4 i poteri erano di Sergio ORSI.***
Quanto all'ECO4 s.p.a. le assunzioni erano decise su segnalazione di LANDOLFI, COSENTINO e SAGLIOCCO e spesso – nelle occasioni in cui i Comuni affidavano il servizio all'ECO4 per la raccolta degli rsu - erano anche gli amministratori comunali a determinare le nuove assunzioni, in aggiunta al personale che veniva naturalmente assorbito dal nuovo affidatario.
Quanto al Presidente Carlo SAVOIA dell'ECO4, nomina precedente alla mia, questi era stato scelto da Nicola COSENTINO, questi faceva infatti politica con Forza Italia. Suo fratello era, all'epoca, sindaco di un Comune del Bacino del CE2, in particolare del Comune di Sant'Arpino, e ricordo che militava in un partito dei DS.
(…)
ADR: quanto alla società IMPREGECO s.r.l. di cui io sono stato il primo Presidente, si tratta di un ente che accomunava tre Consorzi – in parti uguali - il Consorzio CE4, NA1 ed NA3. *Fu costituito su iniziativa di GERLINI Giacomo e FACCHI Giulio – fu in realtà quest'ultimo a propormi di assumere il ruolo di presidente e comunque di entrare a parteciparne - e* ***attraverso tale Ente si intese gestire gli impianti regionali, non gestiti da FIBE, ossia l'impianto di tritovagliatura di Giffoni Valle Piana e l'impianto di tritovagliatura di Paolisi e l'impianto di tritovagliatura di Giugliano****.*
Vi erano molteplici interessi nella costituzione dell'IMPREGECO: da una parte vi era l'interesse di GERLINI e FACCHI di mantenere un potere di gestione di quegli impianti in relazione al fatto che GERLINI – responsabile allora del Consorzio NA3 o NA1 – aveva perso il controllo del Consorzio per un mutamento degli equilibri politici; correva il rischio di perdere il controllo della società GESEN, società a maggioritaria partecipazione consortile. Attraverso l'IMPREGECO, GERLINI non solo evitava di perdere il controllo della GESEN ma riusciva persino a ***garantirsi il controllo dei tre impianti esistenti su base regionale****.*
Io ho sempre agito su esclusivo mandato dei miei referenti politici, Nicola COSENTINO e Mario LANDOLFI, tant'è che tra i revisori dei conti dell'IMPREGECO, Mario LANDOLFI mi fece inserire proprio Raffaele CHIANESE, ricevendo questi delle retribuzioni non insignificanti – pari a circa 4 mila euro al mese per il relativo impegno (il collegio si riuniva, al più, 6 – 8 volte al mese).
Furono dunque Nicola COSENTINO e Mario LANDOLFI a darmi il via; l'interesse sotteso alla partecipazione del Consorzio nell'IMPREGECO era costituito da quanto scaturiva dalla gestione degli impianti: assunzione di personale e di consulenti. IMPREGECO era alimentato esclusivamente con fondi di provenienza del Commissariato di Governo. (…) ADR: il mio riferimento diretto era Nicola COSENTINO con il quale ho avuto – a partire dal 2000 – rapporti diretti; poiché il Consorzio CE4 aveva, come riferimento politico, Nicola COSENTINO e Mario LANDOLFI, nel caso di specie mi sono rivolto ad entrambi i soggetti, nel ricevere

disposizioni.

Rivestono particolare interesse per la dimostrazione del dominio esercitato dall'indagato sulla strategia diretta alla creazione di un ciclo integrato dei rifiuti alternativo e diretto all'espulsione dell'ATI FISIA ITALIMPIANTI, almeno dalla provincia casertana, le seguenti affermazioni del presidente Valente:

"Rimasi Presidente dell'IMPREGECO per un paio d'anni, a partire dal 2001, fino al 2003-2004.
L'IMPREGECO gestiva anche impianti localizzati fuori dai bacini consortili e ciò non collideva apertamente con lo Statuto dei singoli Consorzi, partecipanti dell'IMPREGECO. Le quote non variarono mai.
A un certo punto vi fu un'intesa volta ad acquistare – per conto dell'IMPREGECO – le azioni dei partner privati delle società che agivano per conto dei Consorzi, l'ECO4 per conto del CE4, la GISEN per conto di NA3 (o NA1) e una terza società, per conto di NA1 (o NA3). Quest'ultimo Consorzio faceva capo inizialmente a Michele CAIAZZO e poi a Mimmo Pinto.
L'IMPREGECO acquistò, in particolare, alcune azioni dell'ECO4 dalla FLORA AMBIENTE degli ORSI e costoro accettarono la vendita allo scopo di entrare nei rapporti lavorativi con IMPREGECO; ricordo, in particolare, che furono stipulati dei contratti di trasporto di rifiuti tra IMPREGECO ed ECO4. Ovviamente tale decisione fu presa dai miei referenti politici, sopra indicati (…)".

L'interrogatorio reso da Valente al P.M. in data 23 febbraio 2009 conteneva la più schietta ammissione del ruolo strategico assegnato all'IMPREGECO da una serie di soggetti istituzionali: il superconsorzio doveva essere il cardine di un Ciclo Integrato dei Rifiuti alternativo a quello assegnato al sistema FIBE – FISIA Italimpianti dalle ordinanze governative della fase emergenziale e dai contratti stipulati dal Commissariato.
Tra i propugnatori di questo sistema (che Vassallo ci rappresenta come perfettamente convergente con gli interessi della criminalità organizzata) Valente non esitava a collocare i suoi padrini politici Cosentino e Landolfi.
Così Valente individuava i momenti attuativi di questa strategia: la gestione di impianti di tritovagliatura, solo apparentemente diversi e *complementari* rispetto a quelli affidati a FISIA Italimpianti, ma nella sostanza perfettamente sovrapponibili ai CDR; la gestione di impianti di stabilizzazione; l'apertura di un impianto di biostabilizzazione in Santa Maria La Fossa; l'obiettivo di realizzare e gestire un termovalorizzatore, tecnologicamente diverso da quelli programmati nel circuito FIBE, ma rispondente alla medesima funzione produttiva; l'apertura della discarica Lo Uttaro Torrione.
Il dichiarante accennava poi a un progetto politico di *provincializzazione* dell'intero ciclo dei rifiuti - totalmente incompatibile con l'assetto normativo e contrattuale dell'epoca, e cionondimeno propugnato dal parlamentare Cosentino.
In tale progetto s'inseriva come momento strategico l'autorizzazione relativa alla discarica Lo Uttaro.
All'onorevole Cosentino infine Valente attribuiva, sulla base di confidenze ricevute da Sergio Orsi, persino la partecipazione attraverso prestanome in una società del gruppo facente capo ai fratelli Orsi (la Enterprais).

"Sponte: nello scorso interrogatorio ho riferito in ordine ai miei rapporti con la società IMPREGECO s.r.l. ma mi sono venute in mente altre circostanze di rilievo che al momento non ricordavo. ***L'IMPREGECO fu costituita nel 2001 e la scelta di***

FACCHI Giulio di far entrare al suo interno i Consorzi CE4, NA1 ed NA3 si legava alla gestione, da parte di quei Consorzi, delle discariche che in quel momento erano le uniche attive nella Regione Campania: le discariche di SAURINO, in Santa Maria La Fossa, gestite dal Consorzio CE4, la discarica di Giugliano, gestita dal Consorzio NA1 e la discarica di Tufino, gestita da NA3. In pratica attraverso l'IMPREGECO, ente consortile di gestione formale, era possibile disporre delle uniche discariche esistenti.

Era poi già stata progettata la possibilità di gestire, attraverso l'IMPREGECO, gli ***impianti di tritovagliatura che non facevano capo alla FIBE****; si trattava di Impianti* ***che facevano sostanzialmente le stesse attività che svolgevano gli impianti di CDR di FIBE****, ma essendo non riferibili a quella società e preesistenti, potevano essere gestiti unitariamente attraverso un ente di gestione creato all'uopo, appunto l'IMPREGECO.*

Poco tempo dopo la sua costituzione ***venne infatti stipulata una convenzione tra IMPREGECO ed il Commissariato di Governo, convenzione firmata da BASSOLINO in persona, attraverso cui la gestione di quegli impianti e degli impianti da realizzare nel futuro, nella Regione, sarebbe passata all'IMPREGECO.***

Attraverso quella convenzione, strumento operativo fondamentale anche per il futuro, ***l'IMPREGECO assunse la gestione formale degli impianti di tritovagliatura di Giffoni Valle Piana, di Paolisi e di Giugliano****.*

Nella sostanza attraverso l'IMPREGECO s'intendeva sostituire la gestione della FIBE; questo era l'obiettivo finale auspicato.

Il progetto di costituire l'IMPREGECO mi fu proposto da FACCHI Giulio in termini meno espliciti e rappresentandomi i vantaggi che avrei potuto ricevere da una posizione di potere di quel tipo. ***Compresi agevolmente nel tempo che l'IMPREGECO serviva quale strumento per sostituire la FIBE;*** *faccio presente che* ***FACCHI esternava continuamente, anche pubblicamente, la sua avversione rispetto a FIBE e lo stesso faceva PAOLUCCI, altro Sub- commissario di Governo.***

Era inoltre facilmente comprensibile, osservando in modo ragionato le competenze di IMPREGECO, che questo Ente rappresentasse un ente analogo alla FIBE, per quel che erano le sue attività.

Anche nel concreto IMPREGECO si dimostrò ente di natura formale; aveva una struttura molto ristretta. Io ero il Presidente, vi erano altri due amministratori delegati; vi erano poi tre Direttori con funzioni amministrative: D'ALTERIO Pina, DE BIASIO Claudio ed ESPOSITO Enzo. Vi fu un automatismo nell'individuazione dei Direttori, essendo gli stessi i medesimi Direttori Generali dei rispettivi Consorzi. ***L'Impregeco era un ente che sostanzialmente agiva sul fronte meramente contabile e negoziale. Io decisi di partecipare ad IMPREGECO dopo essermi consultato con i miei due referenti politici".***

E' interessante notare il dettaglio per il quale, quando Valente lo informò dell'operazione IMPREGECO, l'onorevole Cosentino ne risultava già al corrente e pretese per il consorzio CE4 l'attribuzione di un ruolo apicale, ruolo che di fatto sarà attribuito allo stesso Valente:

"Avvisai Nicola COSENTINO il quale già aveva avuto informazioni – questa fu la mia impressione, avendo questi accennato a un consigliere regionale, credo COZZOLINO – sul progetto di costituire IMPREGECO. Nicola COSENTINO mi disse che era d'accordo ma di condizionare il mio ingresso alla presidenza dell'Ente: essendo gli altri due Consorzi riferiti ad area politica di Centro sinistra, per ragioni di "bilanciamento" sarebbe stato necessario disporre della Presidenza dell'Ente.

Informai anche Mario LANDOLFI e questi assentì anche a lui a questo progetto.

Nessuno dei due si interessò al fatto che il nuovo ente era di natura politica trasversale, trattandosi peraltro di fatto indifferente, nella norma, per i politici.
Io tenni costantemente informato i due di ciò che facevo come IMPREGECO – così come facevo abitualmente da Presidente del Consorzio (da Presidente dell'ECO4 non era invece necessario perché lo facevano stabilmente gli ORSI) – e ho sempre ricevuto le necessarie autorizzazioni o ratifiche relative al mio operato. Il reale scopo dell'IMPREGECO, quello di sostituire la FIBE, era chiaro a tutti coloro che stavano partecipando al progetto, ovviamente comprendendo anche i due miei referenti politici.
L'IMPREGECO fu un ente certamente voluto da BASSOLINO tanto che la stesura del documento di convenzione con il quale si affidava la gestione degli impianti di tritovagliatura all'IMPREGECO fu redatta dallo Studio SOPRANO – quanto meno in modo informale – con la collaborazione di DE LUCA Felicio e D'ALTERIO Pina.
L'Ufficio mi chiede come sia possibile che le stesse persone che si sono impegnate contrattualmente con FIBE abbiano agito parallelamente sostenendo IMPREGECO; rappresento che gli interessi economici erano troppo rilevanti per affidarli ad una società estranea del Nord, quale era la FIBE.
Era nota l'avversione dei vari Commissari per FIBE e, per quel che mi consta, era FACCHI tra i principali antagonisti. Quando si parlava di FIBE si parlava come se si trattasse di un loro "nemico"
Con la convenzione di cui ho accennato l'IMPREGECO avrebbe gestito tutti gli impianti Regionali.
ADR: attraverso IMPREGECO s'intendeva garantire tutto il ciclo dei rifiuti, a livello regionale, e s'intendeva anche garantire la fase terminale, quella della termovalorizzazione, anche se si pensava a un sistema diverso rispetto a quello praticato di FIBE, quale ad es. l'elettropirolisi.
Faccio presente che oltre all'IMPREGECO – che offriva una soluzione alternativa a FIBE a livello regionale - il progetto politico di COSENTINO e VENTRE era anche quello di "provincializzare" i rifiuti, ossia di creare un'autonomia gestionale completa a livello provinciale, coinvolgendo tutti e quattro i Consorzi di Bacino, creando dei Consorzi specializzati in determinate attività della filiera.
Vi erano poi anche gli impianti propri del bacino del Consorzio CE4, disponendo il Consorzio direttamente non solo di una discarica ma anche di un impianto di stabilizzazione e anche di vagliatura.
L'impianto di stabilizzazione fu formalmente imposto da FACCHI con delle ordinanze, nelle quali questi imponeva al Consorzio di acquistare dalla ICOM di Milano – una società di impianti – queste strutture.
La stabilizzazione dei rifiuti, anche provenienti dai Comuni del bacino CE4, fu attuata in questi impianti. FACCHI ci disse che per poter disporre e realizzare un impianto di stabilizzazione era necessario rivolgersi alla ICOM, l'unica società che disponeva di un brevetto – a suo dire – adeguato. Era quello l'unico modo per farci autorizzare alla realizzazione di un impianto di stabilizzazione.

L'interrogatorio si sofferma poi sull'autorizzazione della discarica in località Lo Uttaro – Torrione e sul progetto di 'provincializzazione' del ciclo integrato dei rifiuti, implicante l'espulsione dell'ATI quanto meno dal territorio provinciale casertano:

"ADR: (...) ***nel colloquio con Nicola COSENTINO si parlava del progetto di provincializzazione del ciclo dei rifiuti, tenendo reciprocamente presenti le attività per le quali già si agiva in autonomia; il rifiuto "secco" sarebbe stato destinato alla discarica sita a Lo Uttaro-Torrione, non ancora attiva a quella data e mai entrata in***

esercizio (che io sappia non sono stati neppure acquistati i suoli). Il rifiuto "umido" era già stabilizzato negli impianti di Santa Maria La Fossa, quelli ubicati in Parco Saurino, vicino alla discarica. A quel punto sarebbe stato possibile gestire anche un termovalorizzatore – come espongo nella conversazione – per essere del tutto autonomi. Come si può vedere in questa conversazione, che ne è prova, io comunicavo tutto a COSENTINO e ne ricevevo la sua precisa disposizione.
COSENTINO nel dirmi di "andare avanti così e trattare questa cosa" alludeva al fatto che io avrei dovuto impegnarmi per acquistare i terreni ove doveva sorgere la discarica di Lo Uttaro, discarica "vitale" in quel periodo perché le discariche di parco Saurino erano in via di riempimento.
Avevamo un'autonomia ancora di pochi mesi, con Parco Saurino, laddove i siti fossero stati utilizzati per ricevere rifiuti dell'intera provincia.
La discarica di Lo Uttaro era enorme e, per quel che mi spiegò CUNDARI – il Presidente del CE3 ove insisteva il sito – poteva sostenere per parecchio tempo tutto lo smaltimento della Provincia di Caserta.
Questa cava si trova tra Caserta e il Comune di San Nicola La Strada ed era vicina a un'altra discarica già esaurita.
Il Consorzio CE1 e il Consorzio CE2 mi sembra che disponessero anche di impianto di compostaggio dei rifiuti.
La realizzazione della discarica de Lo Uttaro era funzionale alla provincializzazione dei rifiuti. Il progetto era stato proposto da CUNDARI (presidente del Consorzio C3, n.d.e.) ***e questi ne aveva parlato con COSENTINO, con FACCHI e con me.***
Faccio presente che io non ho mai letto il contratto FIBE e non avevo una precisa idea di ciò che fosse inconciliabile, o meno, con la privativa a quella società; era FACCHI a dare le indicazioni tecniche a DE BIASIO, colui che principalmente frequentava il Commissariato, ma era chiaro comunque – come può rilevarsi nella telefonata – che l'attività che si voleva svolgere era la stessa che svolgeva FIBE e, dunque, impraticabile. ***Il progetto era quello per cui si doveva agire a livello del Commissariato di Governo per sollecitare affinché il contratto con FIBE fosse risolto per inadempimento; io non facevo parte di questo progetto ma era evidente che lo scopo di FACCHI fosse questo".***

Valente chiarisce anche le 'vere ragioni' della documentata (vedi le interrogazioni parlamentari annesse alla memoria difensiva del 12.11.08) avversione di Cosentino per il termovalorizzatore FIBE di Santa Maria La Fossa e del piano di provincializzazione dei rifiuti:

"ADR: (...) ***Nicola COSENTINO questi voleva che "tutto quel che si faceva doveva passare attraverso di lui". Non era pensabile che la FIBE potesse realizzare un termovalorizzatore in Santa Maria La Fossa, così come chiunque che volesse procedere a una rilevante attività economica in quella zona, con carattere pubblico. Nicola COSENTINO insieme a Gennaro CORONELLA incisero sul Sindaco di Santa Maria La Fossa, Bartolo ABBATE, il quale fece delle manifestazioni contro il termovalorizzatore, prendendo posizione diretta a livello comunale, contro FIBE.***
Sia COSENTINO, sia CORONELLA, sia Bartolo ABBATE hanno sempre comunemente affermato che il termovalorizzatore non sarebbe mai stato realizzato lì e il ruolo del sindaco dipendeva necessariamente dal CORONELLA e dal COSENTINO, sicché ABBATE era vincolato a seguire la linea a lui imposta.
Faccio presente che COSENTINO Nicola, per quel che mi disse Sergio ORSI per dimostrarmi la solidità del suo legame con il politico, aveva una quota azionaria all'interno della Enterprais, società acquirente di quote della Flora Ambiente a dire

dell'ORSI, attraverso CATERINO Luigi, titolare di quote societarie. L'ENTERPRAIS era infatti per il 50% partecipata dalla Flora Ambiente degli ORSI e per la restante quota dal COSENTINO, attraverso il fiduciario CATERINO."

Di questa avversione di Cosentino per il termovalorizzatore che doveva completare il ciclo affidato alla FISIA ITALIMPIANTI è traccia anche in una conversazione tra Sergio Orsi e Antonio Russo avvenuta il 18.1.2004 (n. 958 (decreto 2501/03), nella quale Orsi comunica:

"sono venuto a conoscenza che Cosentino ha riunito tutti i consiglieri regionali, tutti quanti questi, nel dire che si deve bloccare Santa Maria La Fossa…pure perché si sente pigliato in giro insomma…ho parlato e gli hanno detto questo: che ci è stata una riunione ieri per tutte queste cose che vogliono organizzare a Santa Maria La Fossa…si sono scocciati, vuol dire che si deve chiudere e si deve andare a fare da un'altra parte. Ora dove cazzo lo vanno a fare, lo fanno, dice, però ci hanno rotto il cazzo perché ci stanno a prendere in giro. Perché una volta dicono che si deve fare Carinola, un'altra volta non si deve fare. E allora se serve per prenderci in giro a noi, noi non vogliamo più sopportare questa cosa…e ieri si sono riuniti Rosario e Gennaro Coronella, Cosentino, qualche consigliere regionale, insomma per…per chiudere Santa Maria La Fossa insomma"

Innanzi al GUP investito del giudizio abbreviato relativo agli addebiti formulati a suo carico nel procedimento n. 49946/03 N.R. (quello nell'ambito del quale furono emesse le ordinanze cautelari personali nn. 215 del 22.3.2007 e 707 del 29.10.2007 versate nel faldone 9 degli atti presentati a sostegno della prima richiesta cautelare) **VALENTE Giuseppe** ribadiva la sua stretta dipendenza dai referenti politici Landolfi e Cosentino, puntualizzando il particolare legame con quest'ultimo, appartenendo il Valente al partito di Forza Italia:

" *GIP: …lei non ha mai pensato di dimettersi? Risposta di Valente: Certo che ho pensato di dimettermi – GIP: perché non l'ha fatto? – Valente: questo purtroppo non è possibile, perché i miei riferimenti politici non mi hanno mai consentito questo, perché io ero incardinato in una struttura politica –* ***GIP: chi erano i suoi referenti politici? – Valente: Io sto nel centro – destra, sono di Forza Italia, quindi erano i rappresentanti sia di Forza Italia che di Alleanza Nazionale, a livello provinciale Forza Italia era rappresentata dall'onorevole Nicola Cosentino*** *– GIP: lei gli diceva questi problemi? – valente: no, assolutamente! Aspetti un attimo. Evidentemente non…io ho esternato diverse volte i miei riferimenti politici che avevo problemi anche di natura professionale, io sono ispettore del lavoro, ispettore dell'INAIL e avevo idea di potermi divincolare da questo, glielo dico un attimo dopo cosa è successo - GIP: no, me lo dica adesso, io le ho fatto adesso la domanda. Mi interessava questo aspetto, se mi vuol rispondere – Valente: sì, come no!* ***Ho esternato parecchie volte l'idea di dimettermi e i miei riferimenti politici mi dicevano: "resta ancora perché successivamente troveremo altre persone che possono stare al posto tuo"(…)*** .

15d. I contratti stipulati dal Commissario Bassolino con l'ATI FISIA ITALIMPIANTI e la strategia di ridimensionamento della clausola di 'esclusiva'

Occorre subito premettere che la strategia di espulsione dalla Campania del sistema FIBE – FISIA ITALIMPIANTI, della quale Valente ammette di essere stato co-esecutore attribuendo ruoli primari all'indagato Cosentino, ma anche a esponenti

della struttura commissariale come Giulio Facchi, contrastava con gli impegni assunti dal Presidente Bassolino nella veste di Commissario Delegato all'emergenza rifiuti in Campania ai sensi dell'O.P.C.M. n. 2425 del 18.3.96.
Il Commissario sottoscriveva infatti, in data 7 giugno 2000, un Contratto per il servizio di smaltimento dei rifiuti solidi urbani a valle della raccolta differenziata, prodotti nella **provincia di Napoli**, mediante la realizzazione di tre impianti per la produzione di combustibile derivato dai rifiuti (CDR) e di un Impianto di termovalorizzazione del CDR, dedicato alla produzione di energia elettrica. *(*Allegato n. 6-A dell'informativa NOE in data 20.4.2009 – faldone 2 degli atti trasmessi il 13.5.09).

In data 5 settembre 2001 lo stesso Commissario stipulava con l'A.T.I. FISIA ITALIMPIANTI S.P.A. un Contratto per il servizio di smaltimento dei rifiuti solidi urbani a valle della raccolta differenziata, prodotti nelle **province di Avellino, Caserta, Benevento e Salerno,** mediante la realizzazione di quattro Impianti per la produzione di CdR e di un impianto di termovalorizzazione del CdR, dedicato alla produzione di energia elettrica (Allegato n.7-A dell'annotazione NOE del 20.4.2009).

I contratti in oggetto contemplavano espressamente (art. 2) l'assegnazione all'ATI FISIA ITALIMPIANTI de*l "servizio, **in regime di esclusiva**, di smaltimento dei rifiuti urbani che residuano dalla raccolta differenziata"*, prodotti nelle province indicate, previa la realizzazione degli impianti per la produzione di combustibile derivato da rifiuti (C.d.R. realizzati in Caivano, Tufino, Giugliano, Santa Maria Capua Vetere, Casalduni, Avellino – Pianodardine, Battipaglia) e degli impianti dedicati alla produzione di energia mediante la termovalorizzazione del CdR (programmati in Acerra e Santa Maria La Fossa).
Il sistema si completava con la previsione di adeguate aree di messa in riserva del CdR e di idonee discariche di servizio, per lo smaltimento dei residui delle ceneri inertizzate e delle scorie prodotte dagli Impianti sopra descritti.
L'art. 24 di entrambi i contratti disciplinava gli "*oneri e obblighi a carico dell'affidatario"* prevedendo l'impegno dell'ATI affidataria a provvedere con mezzi finanziari propri a*:*
lo smaltimento dei residui e scorie e dei reflui liquidi eventualmente prodotti sia dagli Impianti di produzione di CdR che da quello di termovalorizzazione del CdR;
la gestione del servizio di smaltimento dei rifiuti che residuano dalla raccolta differenziata, per il periodo convenuto in Contratto ivi compresa l'utilizzazione del combustibile derivato dai rifiuti

Il Commissario delegato si assumeva l'onere (a***rt. 26),* tra l'altro** di:
" disporre con apposite ordinanze d'obbligo per tutti i Comuni e/o i soggetti che effettuano la gestione di rifiuti urbani, prima della messa in funzione …
*4a) **il conferimento in via esclusiva agli impianti CdR di tutti i rifiuti urbani prodotti che residuano dalla raccolta differenziata** e raccolti sul loro territorio …*
*4b) **divieto assoluto di conferire a terzi o, comunque, di smaltire diversamente, i rifiuti urbani che residuano dalla raccolta differenziata** prodotti e raccolti ….."*

Coerente con gli obblighi contrattuali assunti era l' O.P.C.M. n. 3100 del 22.12.2000 il cui **art. 3** stabiliva che **"***il rilascio delle autorizzazioni alla costruzione ed esercizio degli impianti di smaltimento dei rifiuti **è sospeso***",** ammettendo la possibilità di autorizzare impianti ex artt. 27 e 28 del D. lgs.vo 5 febbraio 1997, n. 22"":
in presenza di "*particolari situazioni*".
con ordinanza sottoscritta dal Commissario Delegato, Presidente della Giunta Regione

Campania.

Il diritto di esercitare in esclusiva le funzioni previste da contratto era stato rivendicato dalla società FIBE, in un momento di acuzie della situazione emergenziale, con la nota del 12/05/2004, che contestava la decisione del Commissariato di Governo di conferire gli r.s.u. prodotti nella regione Campania in Germania, asserendo che detta modalità di smaltimento:
"*viola apertamente gli obblighi contrattuali assunti e le stesse ordinanze Commissariali che impongono ai Comuni ed ai soggetti gestori di smaltire tutti i rifiuti urbani raccolti sul territorio solo ed esclusivamente attraverso il conferimento agli impianti di CDR, con divieto assoluto di conferire a terzi o di smaltire diversamente, tenuto conto che il conferimento dei rifiuti è correlato alla produzione di energia".*

15e. Il ruolo cruciale di IMPREGECO nella strategia descritta da Valente
Rispetto a questo quadro normativo e agli obblighi contrattuali assunti dal Commissariato nel 2000 e nel 2001 (vigenti fino alla risoluzione ex lege dei contratti avvenuta alla fine del 2005) appare decisamente distonica la convenzione stipulata dallo stesso Commissariato di Governo con il superconsorzio I**MPREGECO** presieduto da Giuseppe Valente, autorizzata con ordinanza n. 30 del 29.1.2002 avente ad oggetto lo "***schema di convenzione, relativa alla disciplina della gestione degli impianti che saranno individuati esistenti e/o realizzandi concorrenti il programma di cui al Piano regionale emergenza rifiuti, da stipularsi tra il Commissario delegato e la Società IMP.RE.GE.CO. a r.l.".***

In forza di tale ordinanza, il 12 febbraio 2002, il Commissario di Governo delegato Antonio BASSOLINO e VALENTE Giuseppe stipulavano la Convenzione che all'art. 2 *(*allegato 9-A dell'informativa del NOE di Roma in data 20.4.09*)* stabiliva l'affidamento "***alla Società Consortile a r.l. "IMPREGECO", che accetta, la gestione degli impianti di selezione, trattamento, valorizzazione e riciclaggio dei RSU, di proprietà dei Consorzi di Bacino e di quelli che sono in corso di individuazione da parte del Sub Commissario delegato".***

Con quella convenzione il Commissariato si liberava (almeno transitoriamente) del vincolo di esclusiva contratto con l'ATI del 'Nord' assumendo con IMPREGECO l'impegno di far conferire nei suoi impianti "*i rifiuti ai sensi di legge, ivi compresi i rifiuti provenienti da raccolte differenziate, prodotti sul territorio dei Comuni che saranno individuati con atto del sub commissario delegato".*

Le pagg. 13-22 dell'annotazione di P.G. trasmessa con la memoria integrativa del 13.5.09 riportano i testi integrali dell'ordinanza commissariale n. 30/2002 e della convenzione stipulata tra Bassolino e Valente, mettendo in luce come da detti testi scomparisse qualsiasi riferimento agli impegni assunti con l'ATI FISIA ITALIMPIANTI e si tendesse a integrare in un unico piano regionale quanto già contrattualizzato (nel 2000 per la provincia di Napoli; nel 2001 per le altre province campane) e quanto formava oggetto della nuova convenzione, a dispetto della palese incompatibilità tra le due discipline.
Deve soprattutto osservarsi come l'ordinanza 30/2002 e la convenzione successiva - dietro il paravento di una fase transitoria di impasse addebitata alla chiusura per esaurimento delle discariche in esercizio e ad alcuni provvedimenti giudiziari di sequestro, fase della durata preventivata di 6/9 mesi - nascondessero l'affidamento

all'IMPREGECO presieduta da Valente di un processo di lungo termine come quello di 'valorizzazione' degli R.S.U.
Non può esservi dubbio sulla perfetta identità funzionale del processo di valorizzazione espressamente previsto nell'ordinanza n. 30/02 (confermato da Valente che ha parlato di un processo di elettropirolisi) e quello già affidato alle cure dell'ATI FISIA ITALIMPIANTI.
Dalla consultazione del sito della ditta I.C.O.M. Milano il N.O.E. di Roma ha tratto la definizione del processo di elettropirolisi: "*decomposizione termochimica di materiali organici con applicazione di calore in assenza di ossigeno – (agente ossidante)* ovvero "***Pirolisi o piroscissione indica un processo di*** **dissociazione molecolare** ***generato a*** "bassa temperatura" ***in grado di produrre con l'impiego di rifiuti urbani, rifiuti industriali o biomasse energia termica ed elettrica."***
Il confronto di questa definizione con quella di ***termovalorizzatore*** (***"****impianto moderno, ove il calore sviluppato durante la combustione dei rifiuti ad alta temperatura viene recuperato e utilizzato per produrre vapore, poi utilizzato per la produzione di energia elettrica o come vettore di calore (ad esempio per il teleriscaldamento). Questi impianti con tecnologie per il recupero vengono indicati col nome di inceneritori con recupero energetico, o più comunemente termovalorizzatori")* conferma la conclusione di Valente.

Per comprendere il tipo di complicità che si venne a creare tra il consorzio casertano CE4 (leader nell'ambito dell'IMPREGECO) e la struttura commissariale rappresentata da Facchi al momento dell'adozione dell'ordinanza citata, della stipula della relativa convenzione e di altre ordinanze collegate, occorre poi confrontare: un passaggio dell'ordinanza n. 398 del 14.8.01 (quella che autorizzava l'impianto di stabilizzazione in Santa Maria La Fossa) con un brano delle già riportate dichiarazioni del presidente Valente.

Questo il contenuto dell'ordinanza emessa dal sub commissario Facchi il 14.8.01, per la parte di interesse:
"***considerato il progetto presentato dal Consorzio di Bacino CE4, dopo che lo stesso Consorzio ha svolto un'indagine tecnica e di mercato, per individuare tecnologie in grado di soddisfare le esigenze di economicità, di rapidità di realizzazione, di scarso fabbisogno di volumi e di rapidità del processo di stabilizzazione (…) DISPONE di autorizzare la realizzazione dell'impianto di biostabilizzazione con tecnologia 'Orsttabb sistem" fornite dalla società ICOM Milano s.p.a. presso la discarica in località Parco Saurino, comune di Santa Maria La Fossa"***

Queste le dichiarazioni di **Valente** sull'impianto di stabilizzazione ICOM, rese nell'interrogatorio del 23.02.2009***:***

"l'impianto di stabilizzazione fu formalmente imposto da Facchi con delle ordinanze, nelle quali questi imponeva al Consorzio di acquistare dalla ICOM di Milano – una società di impianti – queste strutture. La stabilizzazione dei rifiuti, anche provenienti dai Comuni del bacino CE4, fu attuata in questi impianti. Facchi ci disse che per poter disporre e realizzare un impianto di stabilizzazione era necessario rivolgersi alla ICOM, l'unica società che disponeva di un brevetto – a suo dire – adeguato. Era quello l'unico modo per farci autorizzare alla realizzazione di un impianto di stabilizzazione."

Può insomma ragionevolmente ritenersi che quella che l'ordinanza definisce come

‘indagine tecnica e di mercato’ fu in realtà una contropartita chiesta da Facchi in cambio dell’assegnazione all’IMPREGECO del potere di realizzare di fatto un C.I.R. concorrenziale.
Il sospetto di un sostrato corruttivo della convenzione si fa ancora più forte se si considera che la società ICOM raccomandata da Facchi forniva all’IMPREGECO non solo l’impianto di “stabilizzazione” di Santa Maria La Fossa, ma anche altri impianti ed accessori; e che la stessa società diveniva, negli anni a seguire, società partecipante nella società GMC Multiservizi Spa, società mista anche questa, facente capo ai fratelli ORSI.

Deve poi osservarsi – a riprova della sostanziale sovrapponibilità delle prestazioni affidate all’IMPREGECO in spregio dell’esclusiva di Fisia Italimpianti – che la *biostabilizzazione* autorizzata da Facchi in Santa Maria La Fossa costituiva già parte dei processi di produzione affidati ‘in esclusiva’ al gruppo d’imprese settentrionale (vedi sul punto la pag. 29 dell’annotazione di P.G. del 20.4.09).

Icastiche riprove di quanto la creazione del superconsorzio IMPREGECO e la stipula della citata convenzione fossero percepite, anche dagli amministratori della FIBE, come momento di una strategia tesa alla loro espulsione dal territorio regionale campano la traiamo dalle seguenti conversazioni, avvenute il 9 e il 16 aprile 2002 tra l’amministratore delegato Cattaneo e tale avvocato Macrì.
Nella conversazione n. 12121, captata sull’utenza in uso a Cattaneo, integralmente trascritta alle pagg. 87-92 della nota integrativa trasmessa dai PP.MM. nel maggio 2009) l’amministratore della FIBE così commenta la bozza di convenzione n. 30 della quale è entrato in possesso:
“quella,in quel..., in questo momento, cioè io dico...io ho la bozza di ordinanza firmata da Bassolino e mandata a Roma (…) …è una lotta qui a Napoli che sappiamo che c'è Facchi che sta tentando in tutti i modi di costituire una società, un super Consorzio un qualche cosa per subentrare, no? (...) quindi non è... E’ chiaro, no? La società l'ha già fatta, si chiama pure Impregeco (…) non so nemmeno se...questo nome, Impre.., l'ha fatto artatamente...omissis…Impregeco è una società, è un... è una società tra i Consorsi di bacino che attualmente avrebbe lo scopo di bilanciare la tariffa tra Comuni in emergenza e Comuni non in emergenza, però è la struttura Facchiana pronta a dire, eccola qua, no? L'ente competente...(inc)...la società dei Consorzi di bacino, a cui probabilmente pensa di mettersi a capo lui personalmente alla fine dell'emergenza, no? (...) e no ma è un problema enorme, io (inc) mi fa una rabbia guarda perché è da settembre che ne stiamo parlando (...) e sì, sì perché poi noi, diciamo che cosa sta succedendo che tutte le nostre ehm... come dire tutte le nostre richieste affannose, ci serve per le banche eccetera, diventano punti di debolezza su cui ci colpiscono perché le sanno anche le pietre no?....omissis……...questo è il problema, quindi quando noi andiamo a... dire disperatamente “ah ci servono le cave, ci servono le discariche se no le banche eccetera” immediatamente le discariche mi costano il doppio, ma dalla sera alla mattina eh, qui c'è proprio una...una catena di gente che approfitta, che corre no? Io non...cioè...è capitato adesso per un terreno per lo stoccaggio, siamo affogati con lo stoccaggio, perché c'hanno non gradito un sito…”

Nella conversazione n. 13410 lo stesso Cattaneo così si sfogava con l’amico Macrì. Significativa è l’esatta percezione da parte di Cattaneo di quella divisione interna alla struttura commissariale sulla quale ci hanno già intrattenuto Vassallo e Valente:

"(…) perché non cada in mano a Consorzi di condi…di bacino, strane…strane strutture…diciamo que…locali legate ai Comuni che sarebbe pernicioso per il bene del progetto, sottolineo, perché quando un progetto di questo tipo mi cade in mano ad una S.p.A. formata da 18 Consorzi di bacino (…) no…è un'ipotesi che…che nemmeno nominiamo alle banche non diciamolo a nessuno (…) e chiaramente un…, delle fazioni di nostri nemici che sono nell'ambito dei rifiuti immaginano di creare un super Consorzio formato da 18 consorzi (…) funzionari dell'emergenza rifiuti (…) parliamoci chiaro dottor Facchi, Giulio Facchi (…) è chiaro! Violentissimi… perché tutto qui c'è una guerra tra Facchi, dottor Giulio Facchi …fa la guerra. In primis la fa a Vanoli e ad Acampora che sono i nostri interlocutori diretti, e indirettamente la fa anche Bassolino che sostiene questa linea e sparge veleni di ogni tipo sul nostro conto ecc…e siccome lui vuole…lui…diciamo questo (…) il professor Vanoli è uno stimatissimo professore universitario, progettista, persona diciamo che ha modo di avere redditi da professione, da università, prestigio tutto quello che vuole, fa questo per spirito di servizio, quando finisce va fare il professore, va a fare il professionista non ha un problema nella vita. Acampora è un funzionario ad alto livello della Regione, la sua poltrona, la sua scrivania non gliela toglie nessuno. Facchi che è un verde, quindi di un partito italo cubano, sì, il giorno che finisce l'emergenza diventa il signor Giulio Facchi da Bergamo, torna a Bergamo e sta seduto ai giardinetti. Allora, cosa c'è? Guerra mortale per cercare di essere colui che gestirà l'ordinario dei rifiuti…"

Ma la riprova più chiara dell'esistenza del progetto di un CIR alternativo e del coinvolgimento in esso degli imprenditori mafiosi si trae dalla seguente conversazione, avvenuta nel periodo caldo dell'agosto 2002.
In quell'epoca l'IMPREGECO stava vivendo l'entusiasmante fase dell'appagamento di tutti i suoi appetiti: pochi giorni prima era stata emessa l'ordinanza che autorizzava la discarica in località Lo Uttaro, attribuendo all'IMPREGECO (e dunque alla ECO4) i compiti più remunerativi. Erano intanto in pieno svolgimento i lavori per l'ampliamento di Parco Saurino, con l'annesso lucroso affare dei suoli.

La conversazione (n. 4487 del 23.8.2002) avviene tra Giuseppe Valente e Sergio Orsi e non ha bisogno di commento:
Sergio: Presidè?
Valente: Oèh!
Sergio: Dimmi!
Valente: Senti nu' poco noi dall…..da settembre
Sergio: Sì
Valente: Ma, ma pure prima di settembre se fosse possibile addirittura da rimane noi ne i comuni nostri amma a' fa a' raccolta differenziata totale
Sergio: Vabbene pure è dovuto
Valente: Sai pe' quale motivo?
Sergio: Si
Valente: Eh!
Sergio: Si
Valente: Pecché no…
Sergio: Lo so i.. io aggi itt' accattateve u' ventiquattrore
Valente: Sa da fa' a raccolta differenziata immediatamente pecché co la raccolta differenziata il… il nostro rifiuto non ha più motivo di andare al CDR
Sergio: Sì
Valente: Pecché è differenziato
Sergio: E certo!
Valente: Quindi lo dobbiamo trattare noi integralmente

Sergio: Esatto
Valente: E guarda che pe fa a raccolta… e gua……
Sergio: *(incomprensibile in quanto le voci si accavallano)* … deciso pero e…
Valente: Come?
Sergio: Questo e…. rientra nel famoso CIR
Valente: Ma nu e… lu lu cir mentre… adesso noi il cir non ce l'abbiamo ma però non significa de…
Sergio: Lo so lo so lo so…
Valente: Noi pe fa' u' cir non facimm chest, incominciamo a fare questo!
Sergio: Certo!
Valente: Che ce ne fotte a noi cioè lu cir è un….
Sergio: So d'accordo con te
Valente: …Il cir deve seguire la sua strada quando è pronto è pronto noi non è che emmo a' fa pe… pe aspettà na' cosa non ne faccimmo n'ata
Sergio: Questo è vero e solo che tu, dicimmo, col cir tieni costi…. cinque senza cir tieni costi mille per esempio se mo te cont naa…. barzelletta no Ilside non vuole ricevere più…..
Valente: Questo lo andiamo a verificare poi no…. questo poi amm a' verè
Sergio: No già già ce l'ha fatto ci ha bloccato i conferimenti
Valente: Va bene, poi qualcuno ci dovrà dire dove dobbiamo andare… o Dio ma voglio dire il problema come lo teniamo noi lo tiene anche…
Sergio: Sì sì
Valente: Eh….il CDR quindi è un problema che deve…
Sergio: E' normale è normale
Valente: E' un probl è un problema che deve essere risolto in altra sede a noi….
Sergio: Sì sì sì !
Valente: … Non ci interessa, cioè Ilside nun si pija a' cosa vabbè significa che lu commerciale du' governo, il governo qualcuno ci dovrà dire dove deve andare a finire sta roba che prima Isside nun se vo' pijà
Sergio: Umh umh!…Vabbene
Valente: Possiamo crearci anche noi Isside
Sergio: Ma noi già stiamo organizzando pure sume, tanto tennimmo 'e buste biodegra….
Valente: Poi ti di… poi ti dico na' cosa che la raccolta differenziata fatta organizzata bene costa… viene a costare di meno della raccolta normale
Sergio: Si! Specialmente si tiene però si tiene gli impianti tua capit….
Valente: Lo so ma noi noi… noi attualmente sient…siente me siente…
Sergio: Noi però nel frattempo che facimme n' facimme niente?
Valente: Ah!.... Noi facimece a raccolt noi facciamoci la raccolta differenziata pecché se…
Sergio: Sì sì …..
Valente: Se noi… se noi per la metà di settembre va in funzione la nostra discarica del secco il differenziato nostro il differenziato nostro da raccolta differenziata il secco….
Sergio: Si si sì…..
Valente: …Noi lo portiamo alla nostra discarica mica ammo a' porta a…. l'impianto di CDR
Sergio: Certo, certo, certo…
Valente: L'umido l'umido ce lo andiamo a gestire noi lo portiamo noi dir.. l'impianto
Sergio: E' normale è normale
Valente: Noi teniamo l'impianto di biostabilizzazione, ce lo biostabilizziamo noi
Sergio: Esatto esatto no ma questo già lo stai facendo tant'è vero non so se Claudio te l'ha detto noi abbiamo or… abbiamo ordinato ci devono arrivare pure i sacchetti, le buste biodegradabili che ce li doveva dare (incomprensibile)
Valente: Tutti questi, tutti questi, tutti sti porter, tutti sti porter che abbiamo acquistato noi li utilizzeremo tutti quanti per la raccolta differenziata
Sergio: Esatto, esatto, esatto
Valente: Pecché kello basta che… noi a' raccolta differenziata vedi è…. noi senza essere senza fare i sofisti no non è che poi c'amme a' nventà niente la raccolta differenziata se noi la facciamo nei comuni di Castel Volturno Mondragone Cellole, Sessa e Teano
Sergio: Sì sì, già basta

Valente: Stamm già già e… già il CDR della provincia di Caserta e…
Sergio: A fatt…
Valente: A… a a non….ha più…. convenienza a stare aperto perché…
Sergio: Si si…
Valente: Lui il dispositivo che ha fatto Facchi oggi prima e poi l'ha revocato in parte, pecché mo' sta arrivanno u dispositivo che riguarda solo Mondragone e Castel Volturno
Sergio: Eh e Sesse e cose
Valente: Sessa niente n'ha voluto fa pecché a ditto che l'impianto di CDR già è troppo che ammo fatto accussì perché hanno protestato che non arriva cchiù mondezza adda loro
Sergio: Ah se…
Valente: Cioè praticamente qua ne o….
Sergio: E kist Sessa e… Cellola però *(incomprensibile in quanto le voci si accavallano)*
Valente: Eh… c'aggio a' fa e che ci pozzo fa i
Sergio: A baia domizia come fa
Valente: E…. non lo so non lo…
Sergio: Facci aggiungere almeno a baia domizia
Valente: E guarda pe ce fa aggiunge Mondragone ce voluta a mano de Dio voleva fa solo Castel Volturno voleva fare solo Castel Volturno
(…)
Valente: E Sessa poi fa quello che cazzo vo Sessa facesse quello…. Sessa a… allora a Sessa, tu gli dovevi dire "telefonate a Facchi e faciteve fà 'o provvedimento pure pe' voi
Sergio: Eh.....
Valente: Tu dici che so stati i sindaci, se è qualcosa dici che so stati i sindaci che hanno… che hanno spinto per fare questo provvedimento
Sergio: Certo, certo
Valente: Oh…..l'impianto di CDR l'impianto di CDR va a regime ed è economicamente vantaggioso per loro se riceve….
Sergio: Se riceve rifiuti
Valente: Se arrivano almeno nove milleduecento tonnellate al giorno ma se da mino…(incomprensibile in quanto le voci si accavallano) Se da milleduecento ce ne arrivano ottocento loro hanno chiudere pecché non tene cchiù interesse…. leee… economicamente non hanno più la laa……
Sergio: Presidè, sai come *(incomprensibile)* te ne accorgi 'e vvote che quando, ogni tanto quando parlo io, nun me sienti…
Valente: Ma chi te a' rit?
Sergio: Si a vo' sto strunz a… *(incomprensibile in quanto le voci si accavallano)*
Valente: Ah' facc du u' caspite, nun te sento…i te… i e Claudio T'hammo fa girà a' capa fa a' raccolta differenziata
Sergio: …..(incomprensibile) So contrarie…però io lo subordinavo al cir questo era il mio errore
Valente: E' chiaro pecché chisto è l'errore tuo, perchè 'u cir quanno sarà fatto, 'u cir sarà fatto
Sergio: (incomprensibile) .. Tornavo al cir per un problema di costi
Valente: No…. ma quale costi
Sergio: Solo per un problema di costi pecché io dicevo… *(incomprensibile in quanto le voci si accavallano)*
Valente: Ma pecché…..non signi….. ma pecch….ma che significa i costi tu tu hai….
Sergio: Eh mo te spiego pecché quando i faccio la raccolta differenziata
Valente: Eh!...
Sergio: Po io ci devo aggiungere il costo di smaltimento se il costo di smaltimento….
Valente: Ma non è vero! Ma non è vero se tu la raccolta differenziata la porti al cinquanta per cento tu hai un vantaggio in entrata pecché tu la roba la vendi tu hai degli incassi
Sergio: No ma….
Valente: Oi' Se…oì Se… eh… la raccolta differenziata na' cosa e…. i comuni già ti pagano a te pe fa a' raccolta differenziata
Sergio: Si però costa cchiù assai 'u progetto mio e questo qua, guarda che ne diede atto ma mo

no ‘a n’anno passato Facchi perché mo ti spiego qual è se no il mio modesto punto di vista…
Valente: Oì Se… il cir è na cosa che s’a da fa, però in attesa del cir noi nun putimmo non fare questo
Sergio: Chisto è n’ato paro ‘e maniche
Valente: E allora parlammo e chisto lu cir se….
Sergio: Se nu po’ ice che pe mezzo che nu tiene a’ machina tu nu puoi i a Napoli….*(espressione dialettale incomprensibile)*
Valente: Sergio allora…. Sergio sono due… sono due sono due amministrazioni diverse na cosa a’ da fa lu cir a da i’ pè fatti suoi, na cosa è chesta. Quindi mo’ stammo a parlà de chesta e parlammo ‘e chesta, poi fra cinque minuti vuo’ parlà de lu cir, parla de lu cir
Sergio: No e vabbuò, io te stongo a dicere per quale motivo io vedevo…. dicimme si me sta calendo no? Per giustificare perché io dicevo quando faccio u’ progetto io u’ fa Isside isso tu u’ fa i cinquanta lire pecchè tiene gli impianti suoi i faccio u’ progetto i cento lire pecché *(incomprensibile in quanto le voci si accavallano)*
Valente: Ah…. Sergio ma vuoi… vogliamo raggiungere l’obiettivo dee…. di essere alternativa a Fisia
Sergio: E certo
Valente: E per essere alternativa amma a’ fa a raccolta differenziata solo co la raccolta differenziata Fisia non ha motivo di esistere
Sergio: E lo so lo so esattamente ma tu nun ce porti niente cchiù a’ roba
Valente: Non ce va cchiù niente là hanno chiuso…
Sergio: Pecchè dumete dumete… cioè demente vando impianto e’ compostaggio…
Valente: Noi intanto siamo obbligati intanto siam….. noo… noi intanto siamo obbligati ad andare da Fisia perché perché noi abbiamo il tal quale, il tal quale non lo possiamo portare da nessuna parte allora siccome ci sta l’impianto di CDR nella provincia tu l’hai a’ portà all’impianto di CDR ma quando tu il prodotto lo hai differenziato umido e secco il prodotto non è più di Fisia
Sergio: Si si si so d’accordo con te
Valente: Quindi ad Fisia non ce di kiù niente
Sergio: Vabbene….
Valente: Mo’ tu immagina nu’ poco se viene meno, se viene meno il consorzio CE4 gli è venuto meno un terzo della provincia di Caserta, da milleduecento scendono a novecento tonnellate, loro è antieconomica la loro raccolta
Sergio: Sì, sì, e se n’anna ì….
Valente: E se n’anna ì, hanno da chiudere l’impianto i CDR
Sergio: Esatto
Valente: chist è!
(…)

Riecheggia soprattutto in queste telefonate e in tutte le notizie finora riportate la strategia accaparratrice programmata dai fratelli Orsi e condivisa da Vassallo nella veste di ‘consulente’ di Bidognetti (**interrogatori di Gaetano Vassallo il 3, il 5 e il 18 giugno 2008)**:

“La previsione, di cui mi parlò ORSI Sergio di una società mista pubblico-privato, costituiva una breccia fondamentale per consentire nuovamente ai privati e, conseguentemente anche ai gruppi organizzati mafiosi, quali quello di BIDOGNETTI, di ingerirsi direttamente nella gestione”.

*”…**il progetto di Sergio ORSI…era volto ad appropriarsi di tutti i consorzi dell’area casertana aggiungendo al CE4, che già sostanzialmente dipendeva da lui, i consorzi CE1, CE2, CE3**…..omissis……”*

Si risente anche la voce di un soggetto di quel progetto fu protagonista, **Giuseppe VALENTE,** già presidente dell’IMPREGECO (interrogatorio del 23/02/2009)**:**

"*…omissi……****il progetto di costituire l'IMPREGECO mi fu proposto da FACCHI Giulio in termini meno espliciti e rappresentandomi i vantaggi che avrei potuto ricevere da una posizione di potere di quel tipo. Compresi agevolmente nel tempo che l'IMPREGECO serviva quale strumento per sostituire la FIBE;* …***faccio presente che FACCHI esternava continuamente, anche pubblicamente, la sua avversione rispetto a FIBE e lo stesso faceva PAOLUCCI, altro Subcommissario di Governo****…****era facilmente comprensibile, osservando in modo ragionato le competenze di IMPREGECO, che questo Ente rappresentasse un ente analogo alla FIBE, per quel che erano le sue attività.** *(…)* **gli interessi economici erano troppo rilevanti per affidarli ad una società estranea del Nord, quale era la FIBE".**

Antonio BASSOLINO, presidente della Regione Campania, escusso come persona informata sui fatti, sull'ordinanza e sulla convenzione, che pure ebbe a firmare, non sapeva fornire ragioni.
In compenso confermava la paternità di Facchi (**Sommarie informazioni del 13 febbraio 2009***):*

"ADR: ***quanto alla società IMPREGECO a responsabilità limitata, società di fusione dei Consorzi CE4, NA1 e NA3, non ricordo tale sigla societaria, anche se rammento che in un certo periodo si realizzò una convergenza tra tali Consorzi per esigenze che in questo momento non rammento specificamente. Il mio ruolo e le plurime mie incombenze non mi consentivano di avere una cognizione tecnica specifica delle vicende; fu per queste ragioni che io nominai PAOLUCCI Massimo quale mio Vicario e, in tempi successivi, mi dimisi – nel 2004 – dall'incarico di Commissario di Governo. .omissis…***R: ***Pur prendendo visione del testo dei due documenti e leggendo il contenuto, non riesco a ricordarmi le ragioni per le quali si giunse a tale convenzione. Faccio presente che l'ordinanza n. 30 del 20 gennaio 2002, reca quattro siqle per la sottoscrizione – firme che non sono in grado di riconoscere – attraverso cui è possibile individuare coloro che hanno formato l'atto o comunque condiviso il relativo contenuto, predisponendola (…) Dalla lettura dell'atto nella quale si individua nel Sub-commissario il ruolo funzionale deputato all'individuazione degli "impianti di selezione, trattamento, valorizzazione e riciclaggio dei RSU" (art. 2 della convenzione) posso dire che certamente fu Giulio FACCHI ad essere tra gli autori principali della convenzione stessa; era infatti lui il Sub-commissario incaricato di tali individuazioni".***

Il profilo politico della faccenda è chiarito - oltre che dalle inequivoche dichiarazioni di Valente dalle quali abbiamo preso le mosse - da una conversazione tra Claudio De Biasio e lo stesso Valente avvenuta il 3.7.2002 (n. 1483 – integralmente riprodotta alle pagg. 99- 102 della nota integrativa 13.5.09). Le parole spese dai due uomini della ECO4 divenuti, rispettivamente, direttore e presidente del superconsorzio che aggrega il Consorzio CE4 e i consorzi NA 1 e NA3 non hanno bisogno di commento.

Così ***Valente: "…. Io mo' devo chiamare pure a Nicola perché devo prendere appuntamento, dobbiamo andare io e Castaldo da Nicola e poi da… da… come si chiama… il coordinatore regionale di Forza Italia, come si chiama…? Martusciello! Anche perché noi dobbiamo mettere nelle loro mani uno strumento di potere, per dire: "Qua la comandiamo noi! Che volete fare, volete fare così o andiamo avanti per fatti nostri?",…tanto la IMPREGECO è formata da tre consorzi, non è che la IMPREGECO ce l' ha fatta la Regione, nel senso che… sia ben chiaro questo eh!***

…noi abbiamo sempre una convenzione…"
De Biasio concordava: ***"…teniamo solo una convenzione ma poi ci sta la massima autonomia dei tre consorzi insomma…."***;
Riprendeva il **Valente**: ***"…ma che stiamo scherzando veramente? …ma quello il dottor Gellini lo sa bene che sta per andare con le "pacche nell'acqua"….inc… (livello di voce bassissimo) l'assemblea, dobbiamo azzerare …inc… la cosa che dobbiamo fare, la prima cosa che dobbiamo fare… io mo' chiamo al volo a Cosentino…".***

Anche De Biasio del resto è uomo di Cosentino, come dimostra la conversazione che segue nella quale, parlando con Sergio Orsi dell'eventualità di una sua candidatura a sindaco di Calvi Risorta, il direttore tecnico della ECO4 riferisce il seguente dialogo con il deputato (conversazione del 30.1.04 n. 1051):

"C: perché lui girava, voltava, ho detto "onorevole vi ho chiamato 3 volte lunedì non mi avete risposto al telefono, ho detto, vi volevo dire di questa questione di Calvi." Lui già come ho detto questo ha sbandato …(ride)… Ho detto "a me se COSENTINO non mi vuole come coso, me lo deve dire guardandomi negli occhi, perché la mia disponibilità io l'ho data perché piaceva a lui e piaceva a Mario LANDOLFI."
S: esatto.
C: ho detto "ma se non fa piacere a nessuno di questi due oppure anche ad uno solo dei due, io sto bene dove sto perché a me questo mi piace fare."
S: e lui che ha detto?
C: "Claudio ma tu stai giocando, ma che stai dicendo?" Ho detto "No, io vi sto dicendo che Gabriella PERROTTA ha detto – ma chi lo ha detto che a COSENTINO va bene il nome di Claudio DE BIASIO?" "Se ha detto questo è una stronza perché non è vero. Ha detto "io quello che non tollero Claudio è il caparchismo galeno." Su questo lui ha ragione. Ha detto "io, Antonio CAPARCO la deve finire di pensare che fa lui, gestisce lui, perché se lui oggi è qualcuno e può usare la parola è perché gliel'ho fatto fare io." Il fatto di… Ho detto "su questo voi avete il mio… il mio sostegno, perchè pure io penso la stessa cosa. Ho detto, a me se Nicola COSENTINO mi avesse fatto fare il direttore generale del Ministero delle Attività Produttive, io starei in orizzontale, a tappetino e invece lui…" Ha detto "ho ragione o non ho ragione, ha detto, e questo e sopra la centrale gli unici che mi contestano sono quelli là che fanno capo al polo e sopra a questo… la vogliamo finire! Ha detto, non si discute proprio, il sindaco di Calvi Risorta sei (inc. segnale irregolare)"

La corrispondenza del progetto IMPREGECO agli interessi degli imprenditori mafiosi Sergio e Michele Orsi si trae, oltre che dal ruolo dominante che in quel superconsorzio ebbe ad assumere il consorzio CE4, da una conversazione avvenuta negli uffici della ECO4 tra Sergio Orsi, la segretaria e un rappresentante di impianti.
La conversazione (n. 15423 del 29.4.04 – decreto n. 2501/03) è interamente riportata nelle pagg. 76-79 dell'annotazione di P.G. e contiene, tra l'altro, le seguenti affermazioni di Sergio Orsi che avvalorano la stretta relazione tra ECO4 e IMPREGECO:

"…***Ve lo dico io perché non è un segreto... insomma, devo dire la verità... lui quando parlavano con me...; perché lui... la società ...(inc)..., è la società Eco4... cioè mista... prevalente capitale pubblico e Consorzio Ce 4; però poi a sua volta è socio della Impregeco, di cui lì ci sta Napoli1, Napoli3 e dovrebbero gestire gli impianti in Campania; quindi noi saremmo dei ...(inc)... di Caserta... attraverso l'Impregeco ...(inc)...; quindi se si dovesse fare ...(inc)... giuridicamente, poi nei fatti; se si dovesse fare ...(inc)... qualche impianto eccetera eccetera, alla fine noi dovremmo...; ecco perchè ne so qualcosa...""***.

Michele Orsi del resto, nell'interrogatorio reso il 5 aprile 2007 al GIP di Santa Maria Capua Vetere, sia pure riduttivamente, ammetteva:

"IMPREGECO era solo…perché la società IMPREGECO si doveva occupare, ripeto, di attività di impianti, impiantistica e noi, giacché siamo imprenditori, dottore, chiaramente laddove si intravede una possibilità di poter lavorare, di poter costruire, noi comunque eravamo felici e contenti di poter entrarne a far parte"

L'esistenza di un progetto di espulsione della ATI FISIA ITALIMPIANTI dal circuito campano, o almeno da quello casertano, è confermata con chiarezza da un protagonista 'occulto' dell'operazione, il sub commissario Giulio Facchi.
In una conversazione avuta con il sindaco di Santa Maria Capua Vetere il 29.8.2002 (captata sull'utenza del Facchi con numero progressivo 1552), a margine di un controllo con esito negativo effettuato dall'ARPAC sul prodotto dell'impianto CDR gestito dall'ATI FISIA in Santa Maria Capua Vetere, Giulio Facchi descrive efficacemente il quadro politico della vicenda, tacendo ovviamente il suo ruolo:

"*...**però oggi c'è in piedi una corrente forte che vorrebbe mandare a casa FISIA per impossessarsi di tutto e li stanno massacrando. Infatti io ieri sera ho cercato di capire come mai Ventre sta forzando. Allora lì c'è una guerra tra lui e Cosentino sulla questione del termo distruttore. Nel senso che Ventre fu uno di quelli che aveva indicato Santa Maria la Fossa (**...) adesso Cosentino e compagnia bella stanno cominciando ad alzare le barricate perché vogliono entrare nel gioco (**...) Sto dicendo: ma se FIBE **sta vendendo le quote…perché non parliamo con aziende pubbliche grosse e non mettiamo in piedi una cordata di aziende pubbliche (…) entriamo, e questo può essere l'alibi poi per rivedere tutto (…) perché lo facciamo con soggetti pubblici, cazzo! perché regaliamo a Ventre e Cosentino e compagnia bella la possibilità di…di scegliere chi compra, chi non compra, se proprio siamo coglioni insomma…"***

15e. L'IMPREGECO come diaframma formale posto tra gli imprenditori camorristi e il Commissariato di Governo

Dalla conversazione tra l'amministratore delegato di FIBE Cattaneo e l'avvocato Macrì che si è sopra riportata è già emerso come la strategia espulsiva passasse attraverso il monopolio delle discariche assegnato alla IMPREGECO che rendeva di fatto costosissima, per l'affidataria del CIR regionale, il disimpegno delle sue funzioni, soprattutto nelle fasi di crisi determinate dalle periodiche chiusure degli sversatoi.
La questione assume particolare rilievo perché gli accordi assunti dal Commissariato con il gruppo d'imprese affidatario e le richiamate ordinanze prevedevano che, al contrario, il Commissariato sospendesse – salve particolari esigenze – l'autorizzazione di discariche diverse da quelle poste al servizio del CIR gestito dall'ATI affidataria.
L'elenco delle 18 ordinanze emesse dalla struttura commissariale in relazione all'area di parco Saurino dice quanto quella zona fosse divenuta cruciale per gli affari della ECO4 e quanto siano riscontrate, fino al dettaglio, le dichiarazioni con le quali Vassallo commentava l'"*eccezionalità del progetto*' di Sergio Orsi per gli interessi della criminalità organizzata.

l'***Ordinanza n. 398***, del *14/8/2001*, autorizzava la realizzazione di un impianto di **"biostabilizzazione"** ;
l'***Ordinanza n. 570***, del *21/11/2001*, per la realizzazione dell'installazione di un **"impianto di**

pressatura ed imballatura" dei rifiuti;

l'***Ordinanza n. 001***, del *14/1/2002*, relativa all'**esproprio dei terreni e realizzazione dell'ampliamento della discarica di "Parco Saurino"**;

l'***Ordinanza n. 004***, del 11/2/2002, autorizzativa dell'**esercizio dell'impianto di "stabilizzazione"**;

l'***Ordinanza n. 009***, del 22/02/2002, autorizzativa dell'esercizio dell'impianto di "tritovagliatura";

l'***Ordinanza n. 019***, del 11/4/2002, autorizzava l'esercizio dell'impianto di "pressatura e rotoimballatura";

l'***Ordinanza n. 051***, del 13/9/2002, di autorizzazione dell'**integrazione dell'impianto di "biostabilizzazione"** ;

l'Ordinanza n. 055*, del 23/10/2002,* autorizzativa della realizzazione delle opere previste per l'allocazione di **due linee di biocelle per la fase di biossidazione della frazione organica proveniente dalla raccolta differenziata***;*

l'***Ordinanza n. 63***, del 17/12/2002, di autorizzazione, ex art. 28 D. lgs.vo 22/97, all'**esercizio provvisorio del bacino di stoccaggio definitivo di "Ampliamento della Parco Saurino2';**

l'***Ordinanza n. 003,*** del 05/2/2003, autorizzativa della realizzazione del "Centro Integrato Recupero rifiuti*" (C.I.R.R.);*

l'***Ordinanza n. 022,*** del 28/03/2003, di **autorizzazione alla redazione di un progetto di Bonifica e Riqualificazione ambientale delle aree di P.co Saurino, con recupero volumetrico degli spazi frapposti tra la discarica di "P.co Saurino 2" e lo stoccaggio definitivo "Ampliamento di P.co Saurino***";*

l'***Ordinanza n. 051***, del 09/6/2003, recante **approvazione del progetto di Bonifica, riqualificazione ambientale e geomorfologia della discarica "P.co Saurino 2" e ampliamento di "P.co Saurino***" ;*

l'***Ordinanza n. 065,*** del 16/7/2003, di autorizzazione, in via provvisoria, l'utilizzo del recupero volumetrico di cui al progetto di "Bonifica, riqualificazione ambientale e geormofologica della discarica di "P.co Saurino", stimati in circa 405.000 mc. *;*

l'***Ordinanza n. 97,*** del 27/10/2003, di **autorizzazione la spesa per l'acquisto del "mescolatore mobile Doppstadt DM215", della ICOM MILANO Spa***;*

l'***Ordinanza n. 85,*** del 19/9/2003, di autorizzazione ex art. 28 D. lgs.vo 22/97, ad utilizzare l'impianto della ditta "Natura Ambiente", sito nel comune di Castelvolturno, da parte del CE/4 per il deposito temporaneo e per la trasferenza dei rifiuti urbani prodotti dai comuni della provincia di Caserta;

l'***Ordinanza n. 100,*** del 05/11/2003, di **approvazione ed autorizzazione il progetto esecutivo presentato dal Consorzio CE/4 relativo al "2° lotto – Ampliamento discarica***;*

l'***Ordinanza n. 001,*** del 09/1/2004, di **autorizzazione all'ulteriore utilizzo per il conferimento delle frazioni provenienti dagli impianti di CDR e di tritovagliatura***;*

l'***Ordinanza n. 027,*** del 20/2/2004, di **autorizzazione ad utilizzare, per la trasferenza dei rifiuti urbani prodotti dai comuni consorziati, l'area già autorizzata e destinata alla rotoimballatura.**

Non si comprenderebbe però pienamente il coinvolgimento dell'impresa mafiosa ECO4 s.p.a. nell'affare Parco Saurino, se si prescindesse da un passaggio delle dichiarazioni di Giuseppe Valente:

*"**Anche nel concreto IMPREGECO si dimostrò ente di natura formale; aveva una struttura molto ristretta. Io ero il Presidente, vi erano altri due amministratori delegati; vi erano poi tre Direttori con funzioni amministrative: D'ALTERIO Pina, DE BIASIO Claudio ed ESPOSITO Enzo.** Vi fu un automatismo nell'individuazione dei Direttori, essendo gli stessi i medesimi Direttori Generali dei rispettivi Consorzi. **L'Impregeco era un ente che sostanzialmente agiva sul fronte meramente contabile e negoziale. Io decisi di partecipare ad IMPREGECO dopo essermi consultato con i miei due referenti politici".***

Il fatto che IMPREGECO fosse nient'altro che un "ente di natura formale" e che nel

contempo fosse interamente finanziata dal Commissariato di Governo implica alcune importanti conseguenze:

per operare l'IMPREGECO doveva rivolgersi a soggetti 'privati' che così recuperavano quel mercato che i contratti regionali stipulati con l'ATI Fisia Italimpianti avevano precluso;

tra questi operatori privati facevano la parte del leone gli imprenditori mafiosi del rifiuto, e in particolare Cipriano Chianese e la ECO4 dei fratelli Orsi;

l'IMPREGECO costituiva di fatto un diaframma di facciata tra l'impresa mafiosa e la struttura commissariale, fungendo talvolta da stanza di compensazione degli interessi dei vari operatori criminali.

La conferma probatoria di questo ruolo della IMPREGECO si ricava dalla cronologia di provvedimenti della struttura commissariale e conversazioni intercettate che può apprezzarsi attraverso la lettura dell'informativa del S.O.C. – R.O. del Comando Carabinieri per la Tutela dell'Ambiente in data 20.11.2007.

I dati più significativi rinvenibili in quell'elenco ragionato sono i seguenti.

Facchi, con l'ordinanza n. 32 del 17.6.2002, autorizzava la RESIT di Cipriano Chianese a sfruttare per lo smaltimento la cava Z e contestualmente imponeva all'IMPREGECO (finanziata dal Commissariato, con espressa previsione di un diritto ad essere rimborsata per i maggiori costi eventualmente sostenuti) di pagare le relative fatture.

L'IMPREGECO aderiva supinamente ai rendiconti presentati dalla RESIT, senza poterne di fatto controllare esaustivamente la gestione per il combinato disposto di più fattori:

la mancanza di strutture idonee ad effettuare tale controllo;

lacune e incongruenze dei provvedimenti autorizzativi emessi in favore della RESIT. L'ordinanza n. 32 del 17.6.2002 ometteva di indicare, ad esempio, il quantitativo massimo di rifiuti conferibili. Le ordinanze relative alla Cava Z della RESIT propiziavano una contabilità confusiva, nel momento in cui autorizzavano contestualmente: lo sfruttamento dell'80% dell'invaso per rispondere alla domanda pubblica e del residuo 20% per lo smaltimento di rifiuti conferiti da privati;

la opaca gestione amministrativa del Chianese e gli artifici documentali descritti nelle informative di P.G. del 5.10.05 e 20.11.2007 (faldone n. 2 punti 1 e 4).

Ciononostante l'IMPREGECO e per essa il suo presidente Valente erano in condizione di percepire almeno alcuni degli artifici posti in essere da Chianese per gonfiare le proprie pretese economiche.

Valente decideva tuttavia di non opporsi al pagamento riservandosi di tirar fuori la cosa "al momento opportuno": "***ma io direi, t'aggio dicere 'a verità, io direi "sta cosa di farla venire fuori al momento opportuno. Io non la evidenzierei nemmeno, io non la evidenzierei proprio, anzi lassa perdere, teniamocela per noi. Poi quando…".***

La scelta di soprassedere si collegava all'aspettativa del rilascio dell'autorizzazione alla realizzazione e gestione della discarica situata in Caserta, località Lo Uttaro - Torrione.

15f. La sponsorizzazione di Nicola Cosentino per l'autorizzazione della discarica Lo Uttaro (2002)

Appurato il rilievo della questione Lo Uttaro per la strategia complessiva dell'impresa mafiosa, passiamo ad evidenziare gli elementi che suffragano la sponsorizzazione

politica offerta dall'indagato a quella operazione.

Il primo ce lo fornisce l'imprenditore **Sergio Orsi,** nell'interrogatorio reso il 25 giugno 2007 alle ore 12.24:

"Sponte: voglio riferire in ordine alla persona di ORRICO Bruno; questi era un vecchio funzionario della cassa del mezzogiorno che fu nominato tecnico dal Commissariato di Governo o dalla Regione o dal Prefetto e che risultava fondamentale in relazione alle sue competenze. Questi mi fu presentato da VALENTE Giuseppe prima che fosse indetta la gara dal Consorzio CE4 e il VALENTE mi indicò l'utilità di rivolgermi a questi per costituire una Ati che fosse attrezzata formalmente per disporre dei requisiti indicati sul bando di gara. Fu proprio attraverso l'ORRICO che ebbi a conoscere BRIGNOLI Ettore, di Cretaro (BG), cui proposi di partecipare alla costituenda Ati.
ADR: dal contenuto dei colloqui tra me, VALENTE e ORRICO era chiaro che quest'ultimo sapesse degli accordi presi con VALENTE per aggiudicarmi la gara.
Faccio presente che io insieme al VALENTE ci rivolgemmo all'avv. ADINOLFI, anche questi conosciuto dall'ORRICO e mi sembra proprio da questi indicato, al fine di stabilire e predisporre il bando di gara in modo da consentire l'aggiudicazione alla Ati-Flora Ambiente.
Il bando fu quindi tecnicamente redatto grazie all'apporto di questo legale. Il legame con ORRICO Bruno si è sviluppato maggiormente nel tempo a seguire; posso dire che ho avuto modo di prestare gratuitamente della manodopera privata per la realizzazione di un manufatto (un muro) ad una signora sua amica in Valle di Maddaloni e dei lavori di imbiancatura della sua abitazione.
Ci adoperammo inoltre per procurare una BMW allo stesso, grazie a un concessionario di Caserta attraverso un rappresentante di nome ISERNIA Fabio; voglio subito dire che l'intenzione era quella di concedere gratuitamente la BMW qualora l'ORRICO si fosse reso disponibile a nostro favore e se ce lo avesse chiesto; di fatto la vettura non fu poi mai consegnata né pagata; l'ORRICO era importantissimo per noi per i suoi rapporti col Commissariato di Governo e per la sua competenza tecnica.
Proprio tramite l'ORRICO vi era un progetto che vedeva il promesso inserimento di una nostra società per l'utilizzo di una discarica che doveva essere autorizzata dal Commissariato, situata in località Lo Uttaro. Si tratta di una vicenda che si colloca verso il 2003, in prossimità dell'esaurimento della discarica Saurino 2. Faccio presente che non so dire se si trattasse di un sito già adibito a discarica oppure una cava ancora inutilizzata; so che in località Lo Uttaro vi erano almeno due invasi, uno dei quali già esaurito e l'altro era quello di cui sto parlando.
ORRICO ci promise lo sfruttamento dei nostri mezzi per le attività di smaltimento da realizzarsi in quella discarica, con indifferenza rispetto alla società che sarebbe stata formalmente incaricata di tale attività: poteva trattarsi indifferentemente della Eco4 o di Ambiente e Territorio; posso dire che recentemente in carcere ho avuto modo di incontrare il proprietario di quella cava il quale mi disse che era stato arrestato per l'omicidio del nipote, comproprietario proprio di quella cava.
Proseguendo nel raccontare della vicenda di Lo Uttaro, faccio presente che fu interessato anche VALENTE Giuseppe della cosa ma non so dire se poi la discarica sia stata o meno autorizzata ma comunque non venne da noi utilizzata.
ADR: faccio presente che conoscevo personalmente FACCHI Giulio, anche se meno di quanto conoscessi BELOSI; gli davo del "tu" ed ebbi modo di chiedere - mostrandomi interessato – se fosse possibile autorizzare la cava di Lo Uttaro e se comunque il sito rientrasse tra i piani del Commissariato.

Non mi ricordo se poi FACCHI ebbe a disporre l'autorizzazione della cava in questione, ma certamente fu ORRICO Bruno l'interlocutore principale tra me e il Commissariato rispetto a questa autorizzazione, unitamente al VALENTE Giuseppe.
ADR: faccio presente che per la vicenda afferente la cava di Lo Uttaro io mi rivolsi anche ad alcuni politici onde comprendere se vi potessero essere ragioni contrarie ad investire il mio tempo e le mie energie in questa direzione; parlai quindi col sindaco di Caserta FALCO, gli onorevoli COSENTINO e LANDOLFI, i quali ci diedero il loro "assenso", dicendo che la zona si poteva prestare.
ADR: rappresento che ebbi personalmente a visionare insieme all'ORRICO il sito di Lo Uttaro, che si presentava come una cava, completamente vuota e con terreno "vergine"; compresi che doveva operarsi con la "messa in sicurezza" di quel sito, da attuarsi in un modo che ignoro.
ADR: quando parlo di messa in sicurezza, mi esprimo intendendo che la cava doveva essere utilizzata come discarica, previo attrezzamento, per poi essere "messa in sicurezza".

Sergio Orsi dunque ammette l'interesse imprenditoriale per la discarica; riconosce il ruolo (acclarato dall'indagine intercettiva) di ORRICO e Valente; individua l'onorevole Cosentino tra gli sponsors politici dell'operazione.

Di questo sostegno v'è chiara traccia in alcune conversazioni anteriori all'emissione dell'ordinanza che autorizzerà la realizzazione della discarica.

Nella **conversazione n. 2645**, del **22 luglio 2002** (registrata sull'utenza n. 335-7580865, in uso a VALENTE Giuseppe) è **Sergio ORSI** a comunciare al presidente della IMPREGECO **Giuseppe VALENTE:**
"mi sono incontrato con Nicola (COSENTINO), di cui gli ho chiarito quell'aspetto …..e issu a itto: "ma quanno mai…" A ittu: "che stai dicennu, ma non può essere…"; ha ditto: comunque, ad ogni buon fine m'o veco io!"…poi issu a ditto: "'uagliò, però tu me fai sempre mortificà, sai pecché? Ma tu non tieni fiducia in me? Io songo leale, io pe te me faccio accidere…".

Non si può fare a meno di sottolineare il patto di lealtà con l'imprenditore mafioso che lo stesso Cosentino, nel resoconto telefonico di Sergio Orsi, orgogliosamente rivendica.

Nella **conversazione n. 2690 del 23/07/2002**, **Valente Giuseppe,** si rivolge a Claudio De Biasio, direttore amministrativo di IMPREGECO, per concertare un incontro con l'ingegner ORRICO, funzionario della struttura commissariale e nel contempo progettista della discarica.
Valente si preoccupa subito di concordare con l'interlocutore un comportamento volto a non far comprendere alle altre persone che parteciperanno alla riunione la posizione di alcuni dei soggetti coinvolti nel progetto. In particolare così si esprime: ***"…O…ma … tu, ma tu non dire niente nemmeno a loro mo de sta questione di Orrico parliamone dopo pecché se no chist subito…."*** e ancora ***"…Eh… e allora ci siamo visti e nun… però io de Cosentino non gli vorrei parlare per la verità.."***. Quindi De Biasio commenta l'atteggiamento del politico sulla questione: ***"…Vuole avere… no, ma lui vuole avere proprio il ruolo di artefice in tutto se ci hai fatto caso…"***

Il 26 luglio 2002, **VALENTE** (conversazioni nn. 2896 e 2892) riferirà ai soggetti coinvolti nel progetto:
"…<u>ieri sera ho parlato con NICOLA</u> …gli ho spiegato come stanno le cose e lui mi

ha detto: andate avanti, non vi preoccupate, se sta qualche problema intervengo io ! Non ci sono problemi, ha ditto, perché lui con PAOLUCCI già c'aveva pure parlato (…) mo' bisogna solamente vedere di fare questo tavolo comune con VANOLI e con (…) tenete conto che politicamente la questione e' superprotetta !".

Nella stessa giornata è ancora Valente (conversazione n. 228 captata sull'utenza n. 335-7825307, in uso a FACCHI Giulio), nel chiedere a tale **Marilena** di essere messo in contatto con **FACCHI**, ad anticiparle:

"…..io, politicamente ho avuto disposizione di fare una certa operazione ….che è stata quella d'incontrarmi con il Presidente CE/3 ….per la questione di Uttaro ……per la realizzazione di questa opera, a UTTARO. Ora mi è stato chiesto di contattare Giulio per poter siglare in tre questa operazione…… I riferimenti politici lui sa chi sono, n'somma, è inutile che …Nicola Cosentino ed altri .."

Il tema della 'superprotezione politica' della questione di LO UTTARO è ribadito da Valente a Orrico nella **conversazione n. 2977**, del **28 luglio 2002 (**registrata sull'utenza n. 335-7580865, in uso a VALENTE Giuseppe):

"…ieri sera ho parlato con NICOLA (Cosentino, ndr) …gli ho spiegato come stanno le cose e lui mi ha detto: ANDATE AVANTI, NON VI PREOCCUPATE, SE STA QUALCHE PROBLEMA INTERVENGO IO…..non ci sono problemi, ha itto, perché lui con PAOLUCCI già c'aveva pure parlato……"".

L'ordinanza n. 48 del 9.8.02 sarà poi aspramente censurata dal Ministro Matteoli con una missiva, datata 18.10.2002, indirizzata al Commissario Bassolino.
La missiva enuncia incisivamente le principali ragioni di illegittimità del provvedimento e merita di essere riportata.

> *Caro Presidente,*
> *mi risulta che il subcommissario per l'emergenza rifiuti della Regione Campania ha autorizzato con ordinanza n. 48 del 9 agosto u.s. la realizzazione di una discarica da utilizzare, in caso di fermo o di altre situazioni d'emergenza degli impianti di produzione ed utilizzazione del CDR.*
> *Tale ordinanza è basata sull'art. 3, comma 3 dell'OPCM 3100/00. Tale disposizione attribuisce al Presidente della Regione – Commissario delegato (e non già al subcommissario), il potere "in presenza di particolari situazioni di fatto di autorizzare impianti ai sensi degli artt. 27 e 28 in coerenza con le finalità e gli obiettivi della gestione integrata di rifiuti in ambito provinciale".*
> ***Si tratta, pertanto, dell'esercizio da parte del subcommissario di un potere che l'ordinanza attribuisce in via esclusiva al Presidente della Regione – Commissario delegato.***
> ***Sempre sotto il profilo della legittimità, va inoltre notato che, a seguito della scadenza del termine del 22 agosto fissato dall'art. 5 del D. lgs.vo 22/97 e succ. int. E modificazioni, su Sua richiesta ho espresso intesa "esclusivamente per quanto attiene all'autorizzazione alla prosecuzione delle attività di smaltimento in discarica dei rifiuti già in corso, fino all'entrata in vigore del decreto legislativo di recepimento della direttiva comunitaria 31/99/CE sulle discariche previsto dall'art. 5, comma 6 del Dlgs 22/97".***
> *Ciò evidentemente contrasta con l'attuazione dell'ordinanza che mira a realizzare una nuova discarica.*

In secondo luogo si osserva che le motivazioni contenute nell'ordinanza del subcommissario, risultano in contrasto con le informazioni contenute nel documento sul piano di rientro nella fase ordinaria, allegato alla nota prot. N. 77763/Gab del 20 settembre u.s., da Lei trasmessa.

Tale documento evidenzia che alla data odierna risultano trattati, negli impianti di produzione del CDR, circa l'85% dei rifiuti urbani prodotti. Dallo stesso documento risulta che entro il prossimo mese di novembre, con l'attivazione dell'ultimo impianto di produzione del CDR, sarà smaltito negli impianti il 100% dei rifiuti prodotti.

Ne consegue che la Regione Campania risulterà pienamente autosufficiente nello smaltimento dei rifiuti urbani a valle della raccolta differenziata.

Pertanto, non sembrano ricorrere le "particolari situazioni di fatto" previste dall'ordinanza ministeriale e citate dall'ordinanza del subcommissario.

In terzo luogo si evidenzia come non venga rispettata la "coerenza con le finalità e gli obiettivi della gestione integrata dei rifiuti a livello provinciale" definita con l'ordinanza n.2774/98 e successive modifiche ed integrazioni. Tale ordinanza dispone all'art. 1, comma 2 che "il commissario delegato …stipula…a seguito di procedure di gare comunitarie, contratti per la durata massima di dieci anni, di conferimento dei rifiuti urbani, a valle della raccolta differenziata, prodotti nei comuni della Regione Campania, con operatori industriali che si impegnino a realizzare impianti per la produzione di combustibile derivato da rifiuti ….. impianti dedicati per la produzione di energia mediante l'impiego di combustibile derivato da rifiuti…" *L'art. 4 dell'ordinanza n. 3060/00 ha aggiunto a tale articolo il comma 6-bis che stabilisce che "il commissario delegato ..dispone l'obbligo, a carico dei comuni, di conferimento dei rifiuti urbani, con esclusione della raccolta differenziata, nei siti di produzione del combustibile derivato dai rifiuti, fermo restando l'onere del conferimento, determinata in base alla tariffa definita dai contratti ….e del trasporto a carico dei comuni stessi".*

In attuazione a tale disposizione è stata esperita una gara comunitaria che ha portato all'individuazione di un operatore industriale al quale è stato affidato l'attuazione e la gestione del sistema di gestione dei rifiuti a valle della raccolta differenziata.

Ai sensi dell'art. 22 del capitolato d'oneri posto a base della gara e dell'art. 24 del contratto stipulato, l'affidatario è obbligato con mezzi finanziari propri, a rendere lo smaltimento dei sovvalli solidi e dei reflui liquidi eventualmente prodotti sia dagli impianti di produzione del CDR, che da quello di termovalorizzazione del CDR.

Ad abundatiam, l'art. 25 del contratto stipulato stabilisce che "il commissario delegato procederà all'approvazione delle discariche di servizio, delle aree di stoccaggio e di messa in riserva, ove ne ricorrano i presupposti, successivamente alla presentazione dei progetti da parte dell'affidataria".

Nel caso di fermo impianto o per qualsiasi altra causa, l'affidatario del servizio dovrà garantire lo smaltimento dei rifiuti e in nessun caso potrà sospendere il servizio di conferimento agli impianti di produzione del CDR (art. 27 del capitolato d'oneri; art. 29 del contratto).

Non emerge, di conseguenza, la necessità da parte del subcommissario di attivarsi per "disporre ….di un idoneo sito di smaltimento dove conferire, in caso di fermo o di altre situazioni di emergenza degli impianti di produzione e utilizzo del CDR …..la frazione secca", come invece il subcommissario evidenzia nelle premesse dell'ordinanza.

Sembra, poi, singolare, il ricorso a un affidamento diretto per progettare,

realizzare e gestire una discarica.
Per quanto sopra esposto, l'unico soggetto che deve provvedere alla gestione dei rifiuti urbani a valle della raccolta differenziata, compresa la realizzazione delle discariche di servizio, è l'affidatario del servizio. Tutto questo deve avvenire dietro il pagamento del solo corrispettivo determinato dal contratti; altri oneri a carico dei comuni ovvero della gestione commissariale configurerebbero un evidente profilo di danno erariale.
Infine, l'ordinanza rischia di accollare alla contabilità speciale gli oneri di realizzazione della discarica, qualora non si realizzasse il "conferimento".
Resto in attesa di conoscere i provvedimenti che riterrà opportuno adottare in regime di autotutela.

Due giorni dopo l'arrivo della lettera del Ministro veniva allertato l'onorevole Cosentino, come apprendiamo dalla conversazione **n. 6013,** del **30 ottobre 2002 (**registrata sull'utenza **n. 335-7825307,** in uso a FACCHI Giulio).
Rivolgendosi al collega sub commissario **Massimo PAOLUCCI, Facchi dice**:
"Massimo ti prego, non sottovalutare la lettera del Ministro, perché gli do' una lettura davvero pesante… adesso su quella lettera lì il primo che fa il cinema è COSENTINO, che m'ha promesso che domani va da MATTEOLI e fa il cinema; però non sottovalutarla perché io purtroppo vedo qualche tendenza interna, non la leggo bene".

Nella conversazione n. 8372 del 31/10/2002 è poi Valente Giuseppe, in una conversazione con Claudio De Biasio, a riferire i contenuti di un colloquio telefonico che ha avuto poco prima con l'onorevole Cosentino.

Trascrizione integrale
Claudio: *Presidè?*
(…)
Valente: Senti, poi stamattina poi so gghiuto addò Nicola, però purtroppo so arrivato dieci minuti di ritardo, lui già era partito per Roma che doveva andare subito. C'ho parlato per telefono, secondo lui l'operazione l'ha fatta Facchi !
Claudio: Secondo lui l'operazione?
Valente: L'ha fatta Facchi
Claudio: Stesso Facchi?
Valente: Sì, e pecché, ma giustamente è così; Facchi venti giorni fa ha fatto un incontro in Prefettura e hanno fatto il protocollo d'intesa erano tutti d'accordo
Claudio: Eh!
Valente: Ha aspettato, perché ha aspettato tutto questo tempo prima di approvare il progetto?
Claudio: Umh… e questo pure è vero!
Valente: Cioè ha fatto in modo che dal Ministero ci arrivasse questa nota
Claudio: Ho capito
Valente: …Quindi, ha ditto Cosentino, ha ditto: "se loro vonno chesto, vuol dire che le facimme a' guerra; 'o termovalorizzatore 'ccà non lo costruiranno mai! Aggio ditto e…Nicò a itt perché poi tutto sommato, io per quale motivo mi devo esporre per fare vedere che io voglio fa la, l'impianto di discarica? A ditto fanno così….aggio itto vabbuò Nicò, mo' noi facimmo già l'assemblea e quando quello disse che era d'accordo con il sindaco
Claudio*: Eh!*
Valente*: E ci a' it tre…ma tre anni fa a' it era d'accordo col lu sindache… a' it tre anni fa parlò con il sindaco e cose, a' it ma mo le cose so cagnate*
Claudio*: Quindi secondo lui l'operazione è partita stesso da là?*
Valente*: Sì, sì, stesso da là*
Claudio*: Concordata?*

Valente: *Sì, ma pure io penso che sia così*
Claudio: *Ma!*
Valente: *Credo che sia la, è… è…probabilmente è…. è…Vanò… è cose, comme se chiama, è Bande… a…..come se chiama chillo du Ministr….si è…*
Claudio*: Matteoli?*
Valente*: Matteoli si è praticamente prestato al gioco*
Claudio: *All'operazione*
Valente: Tanto Matteoli che ce ne fotte, tanto chi ce l'ha fatto firmà qualche capo di gabinetto, qualcuno de chiste…
Claudio: E va a finire che poi è un'operazione per conservare il suo posto là!
Valente*: Può darsi*
Claudio*: .Umh!*
Valente*: Ma! Può darsi che sia questa*
Claudio*: E stamattina comm'è che non ti si fatto senti?*
Valente*: Come?*
Claudio*: Stamattina com'è non ti sei fatto sentire?*
Valente: E pecché stamattina sono andato da Nicola, so' stato fino alle dieci, *poi sono venuto a Mondragone, dovevo vedere alcune cose per il cimitero che domani c'ho i morti a… a tomba là mio suocero le fotografie e cose, poi dovevo andare a Napoli a firmare i mandati per i pagamenti de gli…de i cosi e sono andato a la…all'Impregeco e poi so tornato, s'è fatto tardi e aggio itto vabbuò a sto punto jammoce a'a casa e me n'aggio gghiuto 'a casa*
Claudio*: Mo poi quello c'è stato il terremoto là, tutto nu' casino io dovevo andare a Napoli non ci sono andato più perché (incomprensibile le voci si accavallano)*
(…)
Dopo una consultazione con l'avvocato Soprano – che confermerà le buone ragioni del ministro – Facchi revocherà l'autorizzazione illegittima.
E' interessante notare come l'operazione Lo Uttaro riguardava un'area compresa nel bacino del Consorzio CE3. Eppure la parte del leone fu assegnata da Facchi al Consorzio CE4, e dunque all'impresa mafiosa degli Orsi.
A questo infatti il subcommissario affidò la realizzazione dell'impianto e la gestione della fase di conferimento rifiuti e di riempimento dell'invaso .
Al **Consorzio CE/3**, fu invece demandata la redazione del progetto e l'acquisizione dei suoli.
Può allora affermarsi che, anche con questa operazione, l'IMPREGECO ambì a realizzare il progetto di Sergio Orsi che – dice Vassallo, che ebbe a valutarlo nella veste di consulente di Bidognetti - era "***volto ad "appropriarsi" di tutti i consorzi dell'area casertana aggiungendo al Consorzio CE4 che già sostanzialmente dipendeva da lui, i consorzi CE1, CE2, CE3".*** In quel progetto dunque coerentemente Vassallo ricomprendeva l'indagato Cosentino: ***"Cosentino, all'epoca coordinatore provinciale di Forza Italia, controllava tutti i consorzi e Sergio si rivolse a lui per perorare il suo interesse a espandersi".***

16. Valutazione conclusiva sul patto 'voti contro favori' addebitato da Gaetano Vassallo all'indagato Nicola Cosentino
Le dichiarazioni di Gaetano Vassallo relative al contributo consapevolmente prestato dall'onorevole Cosentino al clan dei Casalesi, attraverso la promozione politica e la sponsorizzazione delle attività e iniziative dei fratelli Orsi hanno finora trovato puntuale riscontro.
Il punto cardinale della verifica ha investito la mafiosità delle iniziative imprenditoriali dei fratelli Orsi nel settore dei rifiuti e su questo aspetto si sono conseguiti esiti conoscitivi che - emancipandosi dallo stesso narrato di Gaetano Vassallo - hanno confermato l'assunto della connessione genetica e funzionale di quell'impresa con la camorra casalese, nelle sue due espressioni fondamentali.

Si è osservata anzi – nelle intercettazioni che monitoravano nell'anno 2000 la pressione esercitata in danno del concorrente Nicola Ferraro – come persino i reparti militari della famiglia bidognettiana (SETOLA Giuseppe, Alessandro Cirillo detto 'o sergente, Nicola Alfiero detto 'capritto) considerassero Flora Ambiente e la costituenda ECO4 come 'cosa loro'; sì da temere e prevenire le iniziative di ECOCAMPANIA con la premura e l'attivismo di chi cura un 'personale' investimento.
Accertato come la ECO4 e la sua espansione incarnassero appieno il paradigma dell'impresa mafiosa, restava da verificare se effettivamente l'indagato vi avesse rivestito il ruolo che Vassallo gli attribuisce: promozione politica delle iniziative, controllo delle strategie, dominio (condiviso) delle assunzioni, delle nomine, degli incarichi.
Le chiarissime dichiarazioni di Giuseppe Valente e dei fratelli Orsi hanno confermato questo quadro.
Le intercettazioni ci hanno mostrato come i momenti cruciali della strategia di creazione di un ciclo integrato dei rifiuti, espulsivo per l'ATI affidataria dei contratti regionali, siano tutti stati patrocinati da Nicola Cosentino. Non può dimenticarsi lo scambio tra Facchi e Paolucci avvenuto dopo l'annullamento ministeriale dell'ordinanza Lo Uttaro, nel quale il primo prefigura e auspica che Cosentino vada dal ministro e faccia 'il cinema'.
Il mondo dei quadri e dirigenti della ECO 4 ci è stato rappresentato come un teatrino di figuranti, animati dalla precipua preoccupazione di non deludere le aspettative del 'capo' Cosentino. Le stesse rivalità tra dirigenti si alimentavano sul terreno di una gara di abilità nel 'fare campagna', nel 'fare voti' per Cosentino (si ricordi la vicenda della *defenestrazione* del presidente Savoia).
Persino il 'padrone' Sergio Orsi ci è parso intimorito dalla sola prospettiva che qualcuno potesse presentarlo a Nicola Cosentino come un ostacolo sul percorso delle assunzioni clientelari e ha sentito il bisogno di ribadire un rapporto di soggezione: "Cosentino è il mio padrone !".

Michele Orsi poi ci ha francamente rappresentato l'inefficienza della struttura, tutta protesa a soddisfare le esigenze elettorali dei padrini politici.
Valente, i fratelli Orsi, le intercettazioni di costoro e dei loro corrispondenti hanno insomma dato corpo a quella frase che Vassallo attribuisce all'indagato e che ci era parsa, alla prima lettura, esagerata: "l'ECO4 è una mia creatura, l'ECO4 song'io!".
Ancora una volta insomma il riscontro – anche quello individualizzante – ha acquistato lo spessore di una prova autosufficiente.
Si potrebbe osservare che né Valente, né gli Orsi ammettono collusioni o intraneità mafiose; che pertanto resterebbe irriscontrata la valenza sintomatica dei rapporti allacciati da Cosentino con loro e con le loro strategie.
Simili perplessità debbono essere superate con una serie di argomenti.
Il primo. La necessità del riscontro esterno individualizzante non significa che questo debba conseguire un livello di autonomia dimostrativa tale da vanificare il valore conoscitivo della chiamata di correo. Le Sezioni Unite (30 maggio 2006 – 31 ottobre 2006, n. 36267, Spennato) - nella stessa sentenza in cui consacravano il principio della massima omogeneità (possibile) tra i parametri valutativi della prova dibattimentale e quelli della prova indiziaria a fini cautelari – non mancavano di puntualizzare che "*l'elemento di riscontro individualizzante deve confermare non necessariamente in via diretta la condotta illecita ascritta all'accusato, ma le dichiarazioni del propalante e quindi la loro attendibilità nella parte di riferimento*".

Il secondo. Il fatto che Valente e gli Orsi neghino collusioni e/o intraneità mafiose non

ci consente di prescindere da quelle evidenze (decine di collaboratori di giustizia provenienti dalla fazione bidognettiana, da quella degli Schiavone, dal clan La Torre, per gli Orsi; i collaboratori di giustizia mondragonesi e le evdienze intercettive, per Valente) che invece dette collusioni e intraneità documentano, in maniera del tutto autonoma rispetto al dictum di Vassallo. Sicché la valenza sintomatica del rapporto allacciato da Cosentino con costoro non può essere negata.

Terzo. Il riscontro logico. La politica di boicottaggio del sistema affidato a FISIA ITALIMPIANTI, la promozione dell'IMPREGECO, la monopolizzazione dei servizi di raccolta dei rifiuti obbediscono obiettivamente ad una strategia convergente con quella del clan dei casalesi e degli operatori criminali campani del settore che dovettero sentirsi penalizzati dall'esclusiva conferita agli imprenditori del Nord.
Lo dicono innanzitutto le massime di esperienza, delle quali da tempo la S.C. avalla l'utilizzo quali regole di copertura del ragionamento probatorio sui temi della criminalità organizzata.
Lo dice la storia giudiziaria del clan in argomento.
Lo dice poi Vassallo, che anche per questo è coerente e attendibile.
Lo dicono infine le pressioni militari che accompagnarono la conquista del monopolio e che indussero una serie di operatori, concorrenti degli Orsi, alla ritirata: pressioni documentate in questo provvedimento, ma anche nelle altre ordinanze cautelari che si sono sopra richiamate con i relativi sostegni probatori (anche questi autonomi rispetto al collaboratore Vassallo).
Possiamo anzi affermare che proprio la coerenza dei comportamenti dell'indagato con questa strategia di interesse della criminalità organizzata insediata sul territorio a costituire il collante che tiene insieme gli elementi indiziari, di ogni natura, che si sono sopra esposti.
La disamina che segue serve ad ogni modo a rafforzare questo tassello del ragionamento. Chi pensasse che l'indagato ha promosso le iniziative sopra enunciate per mera convinzione politica o, al più, per ragioni clientelari scevre da connotazioni camorristiche, apprenderà da Dario De Simone, Carmine Schiavone, Domenico Frascogna, Domenico Bidognetti, Anna Carrino quanto siano risalenti e consolidati i debiti di gratitudine di Nicola Cosentino con la camorra casalese. E quanto dunque sia plausibile la lettura collusiva dei comportamenti finora rappresentati.

17. Dario De Simone
Il tema dell'appoggio elettorale prestato all'indagato dal clan dei Casalesi, con specifico riferimento alle elezioni regionali del '95, è centrale nell'interrogatorio reso il 13 settembre 1996 dal collaboratore di giustizia Dario De Simone.
Nel dettaglio il collaboratore si sofferma sul coinvolgimento di tutti i capizona dell'area aversana nel sostegno al candidato Cosentino, evocando l'impegno profuso da: Biondino Francesco, capozona di Aversa; Costanzo Luigi, controllore della zona di Lusciano; Autiero Andrea detto 'o scusuto, capozona di Gricignano; Verolla Luciano detto 'o trentulese, competente sulla zona di Casaluce; il ragionier Messina Gennaro per la zona di Teverola.
L'*endorsement* è concordato al livello più alto delle gerarchie criminali dell'epoca. Vi concorrono, oltre che DE SIMONE, soggetti apicali del calibro di SCHIAVONE Walter e ZAGARIA Vincenzo, SCHIAVONE Vincenzo**.**
Il dichiarante enuncia elementi significativi di un *tasso di identificazione* più intenso di quel calcolo opportunistico che normalmente caratterizza il 'concorso' esterno' del politico. Cosentino non esita ad incontrare De Simone durante la sua latitanza, trascorsa per una parte in casa di DE CRISTOFARO Gaetano. Nel racconto di DE SIMONE si

legge un rapporto talmente confidenziale dall'avere indotto il collaboratore a "tenere nascosta" nei suoi primi interrogatori la conoscenza dell'allora consigliere regionale.
Il politico sembra condividere, anche ideologicamente, i timori ingenerati dal pentimento di Carmine Schiavone; conviene con il capoclan nella lettura 'politica' dell'offensiva giudiziaria scatenata dalla DDA napoletana nei primi anni '90; suggerisce i nomi dei parlamentari considerati più pericolosi per il mantenimento dello strapotere criminale campano. Caldeggia la ricezione legislativa di una proposta presente nel dibattito socio-politico dell'epoca: quella di estendere alla criminalità mafiosa il regime premiale della 'dissociazione'. Il significato che il collaboratore assegnava all'epoca all'istituto era quello di uno strumento che avrebbe consentito ai camorristi di scontare un periodo di detenzione relativamente breve, di sfuggire ai rigori del '41 bis' e di 'uscirne puliti' per ritornare a curare le loro "attività".

**"*A questo punto ritengo che sia necessario riferire una circostanza che, nonostante una specifica domanda che mi venne fatta, io ho tenuta nascosta. Mi venne chiesto se conoscevo l'onorevole Nicola Cosentino e io risposi di non conoscerlo. Non è così. In realtà ho riflettuto approfonditamente e ho deciso che, benché io abbia ricevuto aiuto e assistenza dalla famiglia del Cosentino, è giusto che parli di questi rapporti per dimostrare che la mia scelta di collaborazione è genuina e non soggetta ad alcuna riserva. L'onorevole Cosentino, consigliere regionale in carica presso la Regione Campania e anche assessore, ha sposato ESPOSITO Marisa, nipote di DE CRISTOFARO Gaetano, cugino della moglie di mio fratello Aldo. A sua volta la moglie di DE CRISTOFARO Gaetano è sorella di LETIZIA Domenico. Ho trascorso una parte della latitanza a casa del DE CRISTOFARO Gaetano in Trentola Ducenta e molto spesso mi sono incontrato in quell'abitazione con l'avv. Cosentino Nicola anche durante il suddetto periodo. In occasione delle elezioni regionali del 1995 COSENTINO Nicola mi chiese espressamente di aiutarlo nell'imminente campagna elettorale. Mi pare che egli fosse candidato del C.C.D. e, a suo dire, puntava a diventare assessore alle finanze. In effetti io mi diedi da fare per aiutarlo nella campagna elettorale e parlai anche con un dentista di Ducenta, del quale non ricordo in questo momento il nome, anzi mi sovviene che si chiami Enselmi di cognome, coordinatore nella zona di Forza Italia. Ciò sempre durante la latitanza. Ho parlato anche con SCHIAVONE Walter e ZAGARIA Vincenzo, SCHIAVONE Vincenzo, tutte persone che peraltro ben conoscevano il Cosentino. Un buon gruppo di noi frequentava il club Napoli sito nel corso Umberto di Casal di Principe, circolo che abitualmente frequentava il Cosentino. Durante la latitanza talvolta io e SCHIAVONE Walterino abbiamo dormito nei locali del suddetto circolo. In realtà, giocando a carte fino a tardi, più che altro aspettavamo che si facesse giorno. Ritornando alla casa del DE CRISTOFARO Gaetano faccio presente che lì ho fatto celebrare il battesimo di mia figlia Maria, alla fine di giugno o all'inizio di luglio del 1995. La madrina di battesimo è stata la fidanzata del figlio di De Cristofaro Gaetano. Solo in Trentola Ducenta Cosentino, in occasione delle elezioni, ha raccolto 700 preferenze. Io stesso ho chiesto a varie persone la cortesia di votare Cosentino Nicola. Certamente quando io chiedevo delle cortesie ai vari amici di Trentola nessuno me le rifiutava. Un po' tutta l'organizzazione si è occupata delle elezioni di Cosentino Nicola. Per la zona di Aversa si è interessato Biondino Francesco; per la zona di Lusciano Costanzo Luigi, per la zona di Gricignano la famiglia di Autiero Andrea detto 'o scusuto, per la zona di Casaluce tale Verolla Luciano detto 'o trentulese, per la zona di Teverola, il ragionier Messina.*
A.D.R. Anche dopo le elezioni di Cosentino Nicola e fino al momento del mio arresto mi sono sempre incontrato con quest'ultimo, sempre nella casa di DE CRISTOFARO

Gaetano. In quelle occasioni con il Cosentino ho avuto vari colloqui nel corso dei quali, tra l'altro, discutevamo della situazione che si era venuta a creare dopo l'ordinanza di custodia cautelare relativa all'operazione "Spartacus". Il Cosentino mi tranquillizzava dicendo che la sola parola di SCHIAVONE Carmine non poteva consentire una mia condanna definitiva e che, pertanto, nell'eventualità di un mio arresto, dopo un periodo di carcerazione preventiva, sarei comunque uscito. Parlavamo anche della situazione politica sempre in riferimento alla nostra vicenda giudiziaria. Il Cosentino mi riferì tra l'altro che la vittoria della coalizione di Forza Italia avrebbe sicuramente comportato un alleggerimento della pressione nei nostri confronti e in particolare si riferiva alle disposizioni di legge sui collaboranti di giustizia. Ricordo che parlavamo anche degli orientamenti politici dei giudici che si occupavano delle nostre vicende in particolare del dottor Greco e del dottor Cafiero che ritenevamo particolarmente agguerriti nei nostri confronti. Arrivammo alla conclusione che l'affermazione di Forza Italia avrebbe potuto mutare la situazione nel senso che i giudici di sinistra sarebbero stati ridimensionati cioè non avrebbero più avuto quel potere che avevano alla Procura di Napoli. Parlammo anche dello sviluppo che doveva avere la dissociazione e dei colloqui avuti tra don Riboldi e il ministro Conso. E' evidente che avevamo interesse che la dissociazione fosse maggiormente valorizzata. In questa maniera avremmo potuto fare sette o otto anni di carcere senza il 41 bis e uscire puliti e continuare a curare le nostre attività. Il Cosentino mi disse che bisognava stare attenti soprattutto in riferimento all'attività politica degli onorevoli Diana e Natale in quanto persone vicine all'onorevole Violante e che facevano pressioni affinché vi fosse un intervento costante nella zona da parte delle Forze dell'Ordine. Non ho mai ricevuto personali favori dall'onorevole Cosentino, non so se altri ne abbiano ottenuti o se li abbiamo richiesti. E' chiaro però che l'onorevole Cosentino il quale aveva avuto espressamente il nostro aiuto per le sue elezioni era a disposizione per qualunque cosa noi gli avessimo potuto richiedere. Se noi gli avessimo chiesto un certo tipo di lavoro pubblico non esisteva che egli potesse rifiutarsi. Egli stesso esplicitamente ci aveva detto di essere a nostra disposizione. L'avv. Cosentino non era il legale di fiducia di nessuno di noi appartenenti all'organizzazione".

18. Domenico Frascogna e Raffaele Ferrara

L'effettività della sponsorizzazione criminale del candidato Cosentino e il livello apicale della decisione trova conferma nel racconto di due collaboratori che rivestivano, durante la militanza criminale, ranghi decisamente meno elevati di quello del DE SIMONE.

Il significato probatorio/indiziario delle dichiarazioni di FRASCOGNA Domenico e FERRARA Raffaele è quello di confermare - dalla prospettiva di soggetti gregari ovvero di capizona preposti ad aree territoriali circoscritte - gli ordini diramati dai 'capi' per l'appoggio della candidatura di Cosentino nelle elezioni regionali del '95.

FRASCOGNA Domenico, militante nel medesimo gruppo di Dario De Simone, nell'interrogatorio reso il **22 dicembre 1997** attribuisce a SCHIAVONE Francesco di Luigi detto 'Cicciariello' l'emanazione dell'ordine di appoggiare il candidato Cosentino e opera una distinzione, sicuramente significativa della caratura politica attribuita al personaggio dai vertici del sodalizio casalese: l'intervento in favore di Cosentino sarà più capillare di quello speso per altro candidato, in ragione della maggiore importanza dell'organo politico nel quale l'indagato ambiva ad entrare.

"*Eravamo sicuri di riuscire a fare eleggere Petrillo Arturo perché già in altre occasioni noi dei Casalesi ci eravamo attivati per altri candidati e sapevamo che, muovendoci*

noi, il risultato elettorale era assicurato. ***Mi riferisco anche a un altro candidato, tale COSENTINO, indicatomi in una elezione precedente a quella di Petrillo dai Casalesi come candidato da appoggiare. Il Cosentino non l'ho conosciuto personalmente, la sua candidatura mi fu sponsorizzata da Schiavone Francesco di Luigi. Mi pare intorno al marzo 1995. C'era anche con me mio cognato Zara Alfredo. Abbiamo sostenuto la candidatura di Cosentino il quale mi pare fosse candidato alla Regione e ciò perché abbiamo mandato nostri emissari anche in altri paesi diversi da Casapesenna.***
Ciò non è avvenuto nel caso di Petrillo Arturo per il quale i miei uomini hanno girato solo in Casapesenna. Non so spiegare la diversità delle due situazioni. Penso che la spiegazione sia nel diverso Organo di elezione e anche nel fatto che negli altri paesi ciascuno portava un suo candidato*".*

Nell'interrogatorio del 26 gennaio 1998 Frascogna arricchisce il profilo di Nicola Cosentino detto *'o mericano* rappresentandolo nell'atto di svolgere compiti agevolatori di natura diversa da quelli classici del 'politico colluso':

"(…) NATALE Sebastiano. Si tratta di un parente degli SCHIAVONE. Questo NATALE fa da "staffetta" tra il gruppo ed il "Sandokan" latitante portando ordini e notizie e lettere di quest'ultimo. In pratica quando "Sandokan" intendeva farci avere notizie utilizzava questo NATALE. Il NATALE peraltro svolgeva questo suo compito unitamente ad un politico originario ed abitante a Casal di Principe. Non ricordo il nome di questo politico ma so che viene soprannominato 'o americano e che svolge l'attività imprenditoriale nel campo del gas G.P.L.. Se non sbaglio questo politico non opera a livello locale di Casal di Principe ma ad un livello superiore. Mi sono incontrato con questo politico almeno un paio di volte a casa di Nicola PANARO a Casal di Principe, fratello del noto Sebastiano. Era insieme al NATALE e si mise a parlare con Sebastiano PANARO al quale i due consegnarono anche la lettera di "Sandokan". La lettera, peraltro accuratamente sigillata con scotch, non fu aperta in quella circostanza in quanto era assolutamente vietato agli affiliati leggere le lettere inviate da capo senza che fossero presenti i rappresentanti di tutti i gruppi. In un'altra circostanza ancora il NATALE insieme al politico in questione vennero alla mia pizzeria di Casapesenna che si trova in Corso Europa ed è l'unica del paese e consegnarono una lettera di "Sandokan" a "Rafilotto" Raffaele DIANA e ZAGARIA Vincenzo, presente in quel momento nel mio locale. Questi due episodi si sono verificati tra la fine del '95 e l'inizio del 1996".

Anche **FERRARA Raffaele**, contendente di FELICIELLO Domenico detto 'Mimì 'e cuglietiello nel comando della zona di Parete**,** nell'interrogatorio del 19 febbraio 1998, rammentava da mero esecutore degli ordini di scuderia l'intervento elettorale in favore di COSENTINO Nicola, all'epoca della sua candidatura per le elezioni regionali del '95.

"Potrò riferire anche di infiltrazioni del mio gruppo camorristico nel comune di Parete e della spartizione dei proventi derivanti dai lavori pubblici gestiti dal comune, nonché sulle nostre possibilità di influenzare le elezioni amministrative e politiche. In proposito già pongo in evidenza che FELICIELLO Domenico attraverso il padre FELICIELLO Raffaele "portava" l'On. DI DONATO. ***Io mi sono interessato, ultimamente, dell'apporto elettorale a favore di COSENTINO Nicola che adesso non ricordo se venne eletto quale Consigliere Regionale. Trattasi di appartenente al partito politico di Forza Italia. - A.D.R. Non posso dire perché si appoggiava un personaggio politico***

anziché un'altro. Gli ordini venivano direttamente dall'alto ossia dai BIDOGNETTI e dagli SCHIAVONE. BIDOGNETTI Aniello mi disse che "la cupola" aveva deciso di appoggiare COSENTINO Nicola, in quanto parente di RUSSO Giuseppe detto "il padrino". In proposito mi sembra che una sorella di quest'ultimo era fidanzata con un fratello di COSENTINO. Il COSENTINO è di Casal di Principe".

19. Carmine Schiavone

Risalgono all'epoca della candidatura di Nicola Cosentino alle elezioni provinciali del 1990 i ricordi del primo importante collaboratore di giustizia proveniente dalle file del clan dei Casalesi.
Carmine Schiavone, nell'interrogatorio reso il 29.10.96, indica Cosentino come il candidato della famiglia Schiavone in quella competizione.
Egli opera un raccordo tra la figura dell'indagato e quella di un imprenditore e politico amico, Sebastiano Corvino, già sindaco democristiano di Casal di Principe, da sempre vicino alla famiglia criminale egemone.
Favorito da Cosentino nell'assegnazione dell'appalto provinciale per un edificio scolastico in Casale, Corvino avrebbe remunerato con una fornitura gratuita di cemento (scaricata poi nella contabilità dell'appalto pubblico) un parroco che, su richiesta dello stesso Carmine Schiavone, aveva sostenuto l'elezione di Cosentino.

"....omissis..... Conosco CORVINO Renato, che è mio parente, in quanto la madre e mia madre erano cugine di primo grado. Sia lui che il fratello sono titolari di imprese edili.
CORVINO Renato ha realizzato l'ampliamento del manicomio di Aversa ed io stesso con la BASCHI gli ho fornito il calcestruzzo nel 1990. CORVINO Renato ed il fratello Tommaso abitano ad Aversa. Hanno mostrato disponibilità verso l'organizzazione, mettendo a disposizione il loro certificato di iscrizione, quando occorreva. In realtà non vi erano imprenditori a Casale che quando occorreva il certificato di iscrizione non lo dessero.
A.D.R. Mi viene chiesto se a CORVINO Renato e Tommaso siano mai stati affidati dall'organizzazione specifici appalti. Posso dire che erano cugini non solo miei ma di SCHIAVONE Francesco SANDOKAN., nonché di SCHIAVONE F.sco di Luigi e pertanto ni loro confronti veniva usato un particolare riguardo.
In origine la casa abitata da SCHIAVONE Francesco di Luigi in via Bologna, apparteneva a CORVINO Renato che gliela vendette a buon mercato. Dopo la vendita mio cugino Francesco di Luigi la ristrutturò totalmente, anzi la ricostruì.
CORVINO Renato è stato favorito dall'organizzazione dei casalesi con l'affidamento di lavori da parte della Provincia, da parte di altre pubbliche amministrazioni e da parte del Consorzio di Bonifica, perché parente degli SCHIAVONE, non perché apparteneva all'organizzazione.....omissis..... A D.R. ***CORVINO Sebastiano è persona a me nota. E' stato sindaco di Casal di Principe prima degli anni '80, è stato segretario della D.C., ha costruito l'edificio scolastico per ragionieri a Casale, è molto amico mio e di SANDOKAN . Posso dire che mi ha cresciuto. Egli era disponibile in favore dell'organizzazione a qualunque richiesta. Fino al 1992 è stato molto vicino al sodalizio dei Casalesi, anche se un episodio costituì motivo di momentaneo raffreddamento nei rapporti suoi con Walter SCHIAVONE.*** *Ricordo che Walter SCHIAVONE, alla fine del 1990 - inizi 1991 gli impose una tangente di 300 milioni con riferimento alla costruzione dell'edificio scolastico di Casale. Intervenni io determinando un accordo sulla misura di L.150.000.000. Corvino era il raccordo con la politica, essendo molto legato ai CAPPELLO, a BOSCO e, in modo profondo, a*

SANTONASTASO. Il CORVINO abita di fronte alla Camera di Commercio di Caserta. E' proprietario di aziende agricole e terreni. Uno di questi terreni, quello di Villa Literno, sito di fronte all'uscita della superstrada, venne messo a disposizione di mio cugino Francesco SANDOKAN e del fratello Antonio, per la gestione di un centro A.I.M.A dagli inizi degli anni 1980.
E' stato beneficiario di lavori da parte del Consorzio di Bonifica e da parte della Provincia di cui divenne Vice Presidente COSENTINO Nicola fin dalla metà degli anni 1980. Il Cosentino favorì Corvino Sebastiano nell'aggiudicazione dell'appalto per la costruzione dell'edificio scolastico di Casal di Principe. Il CORVINO nell'offerta pose un forte ribasso, il 24-25%, e poi secondo gli accordi venne compensato con il sistema della revisione dei prezzi. Ricordo che sempre il CORVINO pagò il cemento che io avevo fornito alla chiesa di San Nicola di Casale per la costruzione della nuova ala dell'edificio adiacente alla chiesa. Alla base della fornitura gratuita a Don Giuseppe DIANA vi era il sostegno che il medesimo Diana aveva dato, su mia richiesta, a COSENTINO Nicola per le elezioni Provinciali nel 1990. Io stesso fornii il cemento per l'ampliamento dell'edificio adiacente alla chiesa di San Nicola e fatturai a CORVINO Sebastiano, che pagò come fosse stata una fornitura eseguita nell'ambito dei lavori di realizzazione dell'edificio scolastico. La madre di COSENTINO Nicola è una SCHIAVONE ed è una larga parente nostra. COSENTINO nel 1991 venne votato dalla famiglia SCHIAVONE, dopo che vennero invalidate le elezioni Provinciali in cui la lista "LA CAMPANA", lista autonoma creata a seguito di scissione interna alla D.C., riuscì vittoriosa con l'elezione di SCHIAVONE Fabio, figlio dell'Avv. Francesco SCHIAVONE".

Di CORVINO Sebastiano - favorito da Nicola Cosentino durante l'espletamento del suo incarico nella Giunta Provinciale di Caserta e coinvolto da Carmine Schiavone in una fornitura di cemento effettuata gratuitamente in favore del parroco che aveva sostenuto in campagna elettorale Nicola Cosentino – Carmine Schiavone aveva già parlato in un interrogatorio reso in data 25 maggio 1993, anche lì designandolo come imprenditore non affiliato ma amico del clan casalese**.**

"*....omissis...Nicola DI MURO iniziò la sua carriera politica nel partito della DC in Santa Maria Capua Vetere e consigliere comunale. La sua collaborazione con i clan camorristici inizia fin dal 1976 quando SANTONASTASO Geppino si candidò al Senato della repubblica nel collegio Aversa (...) Fu allora che, attraverso la segreteria politica DC di Casal di Principe gestita da Sebastiano CORVINO, ci fu data indicazione di votare il SANTONASTASO. Del CORVINO ho già parlato nei miei precedenti interrogatori ed ho chiarito la sua posizione all'interno del nostro gruppo. In particolare il CORVINO non è un nostro affiliato tuttavia ci è sempre stato amico e ci ha sempre favorito, è un imprenditore di gran rilievo nella zona del casertano...omissis...".*

Nell'interrogatorio del 21 marzo 1994 Carmine Schiavone aveva anticipato il tema della fornitura al prete e dell'appoggio politico fornito a Cosentino, in termini sostanzialmente sovrapponibili a quelli utilizzati due anni dopo:

"(...) Nel 1990 ho fornito a Don Peppe il cemento per costruire i fabbricati adiacenti alla chiesa. A tal proposito ricordo che dopo la scissione della D.C. del 1990 facemmo confluire i nostri voti a livello regionale su CAPPELLO Vincenzo, portato da Enzo DE FALCO e Mario IOVINE, e a livello provinciale su Fabio SCHIAVONE, che si era presentato nella lista LA CAMPANA. ***Don Peppe sostenne la campagna elettorale***

dell'avvocato COSENTINO Nicola, Vice presidente della Provincia, che si era presentato nelle liste del P.S.D.I., sia per le provinciali che per le regionali. L'avvocato COSENTINO fu eletto e, avendo assegnato a Sebastiano CORVINO, detto "O Mustacchio", ex segretario della D.C. di Casale un appalto per 3.700.000 di lire per la costruzione dell'Istituto Tecnico di Casale, per ricambiare l'impegno di Don Peppe nella campagna elettorale, chiese allo stesso CORVINO di devolvere una somma per la costruzione dei fabbricati adiacenti alla chiesa. Io stesso fornii circa 9 o 10 milioni di lire di cemento, accontentandomi della somma di 5 milioni corrispostami da CORVINO Sebastiano. La BA.SCHI. emise fattura, tre o quattro mesi dopo, a favore della CORVINO Sebastiano s.n.c. di Corso Trieste e Trento di Caserta con la causale di fornitura di cemento per la costruzione di edificio scolastico. La fornitura del cemento avvenne verso la fine di settembre – ottobre del 1990. Il CORVINO pagò la fornitura di cemento con un assegno bancario a vista mentre, solitamente, effettuava i pagamenti in favore della BA.SCHI. con rimessa bancaria della Cassa rurale ed artigiana di San Marcellino.

….omissis…….

Mi viene chiesto se conosco Pasquale CORVINO. Conosco Pasquale CORVINO detto "Mustecce" figlio di Carlo CORVINO abitante in prossimità della chiesa di S.Nicola. Questi è cognato di mio cugino SCHIAVONE F.sco Paolo Saverio, fratello di Francesco di Luigi.

Riconosco nell'immagine digitalizzata che mi si mostra Pasquale CORVINO di cui ho parlato sopra..

Si dà atto che tale immagine digitalizzata viene allegata al presente verbale, corrispondendo a Pasquale CORVINO, di Carlo, nato a Casal di Principe (CE) il 19.9.1951.

Mi viene chiesto se Pasquale CORVINO sia stato inserito nel nostro gruppo camorrista e rispondo che non mi risulta affiliato. Aveva rapporti di frequentazione con SCHIAVONE F.sco Paolo e F.sco SCHIAVONE di Luigi, nonché con Mario CORVINO, ma non so fino a qual punto si sia spinta la loro amicizia. Nulla mi risulta sul suo conto se non il suo coinvolgimento nelle truffe AIMA, in quanto effettuava cessioni fittizi di frutta ai centri AIMA. Egli è proprietario terriero ed agricoltore.

….omissis…….

I rapporti tra Cosentino e la famiglia Corvino che Carmine Schiavone indica come beneficiata dal politico indagato, all'epoca della sua elezione quale consigliere provinciale di Caserta nei primi anni '90, sono riscontrati da una vicenda relativa all'ampliamento della discarica Parco Saurino degli anni 2002-2003.

Da una conversazione telefonica avvenuta il 13.7.2002 (n. 2050 registrata sull'utenza n. 335/7580865, in uso a Valente Giuseppe) tra Pasquale Corvino e il Presidente dell'IMPREGECO Valente, incaricato dell'esproprio dei terreni da destinare all'ampliamento (ai sensi dell'ordinanza del sub commissario Facchi n. 1 del 14.1.2002) apprendiamo la notizia di un intervento del politico finalizzato a favorire un esponente della famiglia Corvino.

La lettura di altre conversazioni succedutesi nello stesso periodo e l'analisi degli atti della procedura ci rassicura sul fatto che quell'intervento riguarda la questione degli espropri. In data 29.6.2002 infatti il geometra Sebastiano Izzo aveva proceduto alla ricognizione delle particelle interessate dall'esproprio, all'immissione in possesso e al relativo picchettamento.

Il piano particellare poi investiva, tra le altre, le particelle nn. 58 e 71 (mq.3800 e mq. 13140, da espropriare) nella titolarità di Sebastiano Corvino, senz'altro identificabile nel politico e imprenditore menzionato da Schiavone: Sebastiano Corvino, nato a Casal di Principe il 25.10.29, socio accomandatario della Corvino Sebastiano s.n.c. con sede in Caserta, via Roma n. 158, socio di DELLA GATTA Giovanni.

Successive conversazioni tra Valente e Pasquale Corvino (vedi in particolare la n. 2180 del 15.7.02 captata sulla stessa utenza sopra indicata) facevano comprendere il tipo di favore

richiesto dal congiunto di Corvino e sponsorizzato da Cosentino, oltre che la disponibilità di Valente a concederlo: **"*no, quel fatto là, noi lo facciamo eh, non esiste che non lo facciamo, però tutto è legato al progetto generale nel senso che se facciamo l'ampliamento stai tranquillo che tuo zio rientra nella cosa, di questo statti tranquillo, non ci sono proprio problemi. L'unico problema xche abbiamo l'abbiamo con Bartolo Abbate che stiamo vedendo di cercare di smussare un poco gli angoli, che lui ci ha fatto una serie di richieste un poco…lo sa pure Nicola, gliel'ho spiegata…se l'operazione va in porto, va in porto nella sua globalità…se noi facciamo l'operazione anche per un metro…ci sta pure lui, quindi stesse tranquillo".***

In questo contesto si colloca anche la conversazione tra Claudio De Biasio e Giuseppe Valente (n. 2690 del 23.7.02) in cui viene ribadita la centralità di Cosentino nella vicenda: **"*Cosentino…vuole avere, no, ma lui vuole avere proprio il ruolo di artefice di tutto*!".**

Il 23.7.2002 è la data nella quale viene redatto un protocollo di intesa che, a seguito di pressioni del sindaco di Santa Maria La Fossa Abbate, riduce le dimensioni dell'intervento (da un invaso di 49mila600 mq., ripartito in 4 lotti da 12mila mq. cadauno circa, si passa ad un unico invaso di 12mila mq.).

Ebbene quel ridimensionamento non intaccherà le aspettative di Sebastiano Corvino (vedi il verbale del sopralluogo eseguito in data 29.7.2002 nell'allegato 7-B dell'annotazione di P.G. in data 20.4.2009).

Dagli accertamenti compendiati nell'annotazione di P.G. citata risulta che anzi CORVINO Sebastiano cederà al Consorzio CE4, a titolo oneroso, una superficie persino maggiore di quella originariamente prevista (mq. 22mila750 in luogo degli originari 13mila140): il tutto sulla base di un nuovo piano particellare datato 21.2.2003 che non risulta neppur trasmesso al Commissariato di Governo e che dunque non sarebbe giuridicamente ricompreso nell'autorizzazione all'esercizio dell'attività di discarica rilasciata dal Commissario in data 17.12.2002 (ordinanza n. 63).

Oltre a fornirci un riscontro sulla plausibilità del racconto di Carmine Schiavone relativo al sostegno elettorale offerto dalla famiglia Schiavone all'indagato Cosentino in occasione delle elezioni provinciali dei primio anni '90, la vicenda riscontra Gaetano Vassallo quando focalizza l'affare dell'individuazione dei terreni da espropriare come una delle attrattive che la vicenda Parco Saurino esercitava sulla criminalità organizzata.

20. Domenico Bidognetti. La scelta dei candidati e il sistema di organizzazione del consenso praticato dal *clan dei casalesi.* Gaetano Vassallo come procacciatore di voti. Il sostegno elettorale di Nicola Cosentino

L'interrogatorio reso da Domenico Bidognetti il 20 settembre 2008 corrobora in vari modi il racconto di Vassallo Gaetano relativo all'indagato Cosentino.

Innanzitutto il collaboratore di giustizia accredita a Vassallo una posizione di particolare vicinanza al capo indiscusso Francesco Bidognetti, che non esitava a coinvolgerlo nella gestione degli affari del clan, con specifico riferimento al settore del traffico dei rifiuti:

"*VASSALLO Gaetano era uomo di fiducia di Francesco BIDOGNETTI detto Cicciotto 'e mezzanotte. Ho incontrato più volte VASSALLO Gaetano presso l'abitazione di Cicciotto, sita in Casal di Principe in Via Firenze. In queste occasioni ho verificato che si trattava non di riunioni conviviali, ma di incontri finalizzati a pianificare ed a rendicontare gli interessi e gli affari del clan, soprattutto con riferimento al traffico di rifiuti. Ciò è accaduto anche quando Cicciotto era detenuto agli arresti domiciliari, e addirittura quando Cicciotto era latitante. In questi casi gli incontri avvenivano sempre in Casal di Principe, sia alla via Firenze presso l'abitazione di Cicciotto, sia presso la casa di IORIO Pasquale (suocero di CERCI Gaetano), sia presso l'abitazione di CIRILLO Bernardo".*

In secondo luogo BIDOGNETTI Domenico tratteggia la figura di Bernardo Cirillo, in termini tali da rendere non soltanto plausibili le affermazioni di Vassallo sul nipote di Cicciotto, ma anche particolarmente significativo, sul piano della prova di collusione, il fatto che Cosentino sia stato presentato a Vassallo proprio da Cirillo e con questi abbia dimostrato un rapporto confidenziale:

"(...) CIRILLO Bernardo aveva una posizione molto elevata all'interno del gruppo BIDOGNETTI tanto che, quando Cicciotto era latitante, i soldi contanti del gruppo BIDOGNETTI venivano custoditi proprio a casa di CIRILLO Bernardo. Questo lo so con certezza perché, davanti a me, Cicciotto in diverse occasioni ha consegnato alcune buste di plastica del tipo di quelle della spesa, piene di denaro contante, a CIRILLO Bernardo affinché le custodisse per conto di Cicciotto. CIRILLO Bernardo ha sempre curato gli interessi di Cicciotto, ricordo che la sua famiglia aveva come soprannome i Magnarielli.

Quale 'colletto bianco' del gruppo Bidognetti, Vassallo era accomunato dal collaboratore soltanto ad altri tre grossi esperti del traffico di rifiuti: Cipriano Chianese, Gaetano Cerci ed Elio Roma, con una gerarchia che vedeva Vassallo in posizione equiordinata rispetto al Chianese, ma molto più assiduo (o meno prudente) di questi nel frequentare le case abitate da Cicciotto.

"ADR: alle riunioni di cui ho detto, effettuate tra Cicciotto e VASSALLO, partecipavano spesso anche Gaetano CERCI ed Elio ROMA. Per dare idea della frequenza con cui VASSALLO conferiva con Cicciotto, dico semplicemente che, per trovare VASSALLO a Casale, o lo si trovava a casa di Cicciotto o a casa di Gaetano CERCI".

Da buon 'colletto bianco' della cosca Vassallo curava i rapporti corruttivi con le pubbliche amministrazioni
"ADR: come dicevo, VASSALLO Gaetano era uomo di fiducia di Cicciotto; e ciò non per gli affari di sangue, ma soprattutto per affari illeciti legati al traffico di rifiuti nonché per la gestione dei rapporti con le pubbliche amministrazioni e per l'ottenimento dei provvedimenti concessori ed autorizzatori; questo perché era lui ad avere la "chiave giusta" per interloquire con le amministrazioni pubbliche. Con questa espressione intendo dire che si occupava di fare le corruzioni ai pubblici ufficiali e aggiungo anche che, nel fare ciò, era molto capace.
Per quanto io abbia capito, sapendo come funziona il sistema, in questi casi VASSALLO Gaetano diceva di impiegare i suoi soldi per fare le corruzioni, ma, con tutta evidenza, egli poi "scalava" le somme corrisposte per le corruzioni dalla quota che assicurava al clan per gli affari illeciti da lui compiuti.
In poche parole, VASSALLO Gaetano era un "colletto bianco" del gruppo BIDOGNETTI.
L'altro colletto bianco del gruppo BIDOGNETTI era l'Avv. CHIANESE Cipriano.
(...) Alle ore 12,38 si sospendono per una breve pausa il verbale e la fonoregistrazione.
Alle ore 12.45 si riprendono le operazioni di verbalizzazione e fonoregistrazione.
ADR: ***Ho detto che VASSALLO Gaetano era persona di fiducia di BIDOGNETTI Francesco; infatti, per lui "la casa di Cicciotto era sempre aperta" e lo stesso avveniva anche quando Cicciotto era latitante perché essi trovavano il modo di incontrarsi con frequenza, come ho detto, presso le abitazioni di IORIO o CIRILLO.***
Per dare idea della posizione ricoperta da VASSALLO nel gruppo BIDOGNETTI, sottolineo che Cicciotto - quando persone pure appartenenti al clan, ma con un ruolo

minore, tentavano di incontrarlo - "si faceva negare". Al contrario, per VASSALLO, Cicciotto "c'era" sempre.
ADR: so che la famiglia del VASSALLO Gaetano è composta da circa una decina di fratelli.
In alcune occasioni ho visto Gaetano andare a casa di Cicciotto – anche quando questi era latitante - in compagnia di uno dei suoi fratelli che gli assomiglia, di cui però non ricordo il nome.

In qualche occasione il collaboratore poté constatare il genere di attività che Vassallo curava in combutta con Cerci e Roma, le classiche falsificazioni di formulari necessarie per realizzare ogni traffico illecito di rifiuti che si rispetti:

"ADR: in alcune occasioni mi sono personalmente recato sulla discarica di VASSALLO Gaetano sita in località Tre Ponti unitamente a CERCI Gaetano ed Elio ROMA in quanto li accompagnavo quando essi incontravano VASSALLO Gaetano per redigere falsi FIR e false fatture in relazione al traffico di rifiuti che si realizzava lì. Ricordo precisamente che l'ufficio consisteva in un grosso locale posto all'ingresso della discarica. In queste occasioni ho verificato che alla discarica erano presenti un paio dei fratelli del VASSALLO Gaetano, entrambi grassi, di cui però non ricordo il nome.
(...)ADR: Come dicevo, in più occasioni, ho visto che, insieme a VASSALLO Gaetano, partecipavano agli incontri con BIDOGNETTI Francesco detto Cicciotto anche Elio ROMA e Gaetano CERCI, nonché CIRILLO Bernardo.
Ricordo anche che fu regalata a Cicciotto un'autovettura BMW 535 M3 di colore grigio metallizzato, intestata a PAGANO Gaetano (fratello di mia madre), o da ROMA Elio o da VASSALLO Gaetano.
ADR: ho detto che VASSALLO Gaetano era "colletto bianco" di fiducia di Cicciotto, devo ora precisare che in tale settore il VASSALLO aveva un ruolo molto elevato, tanto che si può dire che, per questo settore, "non vi era nessuno sopra di lui".
Prima ho detto che l'altro "colletto bianco" era CHIANESE Cipriano; i due, però, anche se rivestivano la stessa funzione e avevano la stessa importanza, si ponevano diversamente rispetto a Cicciotto in quanto VASSALLO Gaetano faceva continuamente "la spola" con la casa di Cicciotto, mentre invece CHIANESE Cipriano apparentemente si teneva un po' più defilato.

Rientrava tra i compiti di Vassallo quello di organizzare il sostegno elettorale per i candidati prescelti dal clan che, quando si trattava di individuare il politico da sponsorizzare, "si comportava come una sola famiglia". Scomparivano insomma al momento della scelta del referente istituzionale le tradizionali divisioni tra le famiglie Schiavone e Bidognetti. La diffusione dell'ordine era capillare. Il messaggio partiva dalla casa di Cicciotto o dei reggenti per diffondersi tra i capizona dei paesi controllati dal gruppo: Cesa, Parete, Lusciano, Villa Literno. Identica diffusione aveva il messaggio elettorale nei territori controllati dal gruppo Schiavone:

"Con riferimento a VASSALLO Gaetano, specifico che tra i suoi compiti rientrava anche quello di convogliare i voti verso i candidati prescelti dai clan.
(...) ADR: il sistema per l'individuazione del candidato da sostenere era attuato sempre in accordo tra i due gruppi - BIDOGNETTI e SCHIAVONE - che nella gestione di questo affare si comportavano come una sola famiglia. [a rilettura – ADR: Ciò avveniva sia quando essi erano liberi che quando erano detenuti.]
Per quanto riguarda il gruppo BIDOGNETTI, era Cicciotto a inviare emissari del clan a Cesa, Parete, Lusciano e Villa Literno al fine di comunicare ai rispettivi capizona le

sue determinazioni in ordine al candidato da sostenere ed acquisirne il consenso; in verità, più che di consenso, si trattava della comunicazione di una decisione perché essi non avrebbero potuto discostarsi delle scelte fatte a monte da Cicciotto. La stessa cosa accadeva per il gruppo SCHIAVONE. In poche parole, Cicciotto e SCHIAVONE sceglievano insieme il candidato da sostenere".

A questo punto il collaboratore Bidognetti rievoca il sostegno elettorale dell'indagato Cosentino come caso addirittura emblematico del sistema praticato dal clan dei Casalesi per scegliere e promuovere i propri referenti politici. E' significativo il fatto che il collaboratore si preoccupi di precisare come, pur essendo il Cosentino maggiormente vicino per ragioni parentali alla famiglia Schiavone, abbia ricevuto il sostegno dei Casalesi senza distinzioni:

"A titolo esemplificativo, ricordo che questo sistema è stato utilizzato anche nelle candidature di MARTUCCI e COSENTINO; entrambi avevano un legame molto più stretto con la famiglia SCHIAVONE rispetto alla famiglia BIDOGNETTI; e ciò, per il COSENTINO, in ragione di rapporti parentali esistenti con RUSSO Giuseppe appartenente al gruppo SCHIAVONE e, per il MARTUCCI, per il fatto che egli era difensore di SANDOKAN.
(…) ADR: l'accordo tra SANDOKAN e Cicciotto per l'individuazione del candidato da sostenere avveniva, quando gli stessi erano liberi, mediante una riunione tra i due e, quando gli stessi erano detenuti, mediante emissari che portavano "imbasciate"; nel periodo in cui entrambi sono stati detenuti a Carinola, si utilizzava il sistema di far andare a colloquio i parenti di SANDOKAN e quelli di Cicciotto nello stesso giorno, in modo che proprio i parenti (come ad esempio CARRINO Anna) fungevano da tramite per la comunicazione delle "imbasciate".
ADR: ho conosciuto personalmente l'Onorevole COSENTINO in quanto, fin da piccolo, ho frequentato la sua famiglia ed in particolare i fratelli minori (il terzogenito ed il quartogenito).
(…)Ricordo, inoltre, che il padre dell'Onorevole COSENTINO, che conoscevo personalmente, durante una campagna elettorale negli anni 80, aveva regalato buoni di 50 litri di carburante a chi gli assicurava che avrebbe votato il figlio".

Il riferimento del collaboratore di giustizia ai rapporti parentali che avvicinano l'onorevole Nicola Cosentino alla famiglia Schiavone può essere compreso se lo si coordina con le seguenti notizie acquisite dalla DIA di Napoli presso gli uffici comunali di Casal di Principe, Santa Maria Capua Vetere e Formia (vedi l'informativa in data 13 giugno 2008, costituente il punto 3 del faldone 1 allegato alla nota integrativa del 13 maggio 2009).

COSENTINO Aurelio di Silvio e di SCHIAVONE Olga, nato a Casal di Principe il 10.10.1966, ivi residente alla via Corso Umberto nr.472, è il **fratello** di Nicola**. Ha** contratto matrimonio in Napoli, in data 23 ottobre 2000, con DIANA Giuseppina di Emilio e di CANTIELLO Maria, nata a Caserta il 21.04.1975, figlia di **DIANA Emilio** fu Antonio e fu Caprio Giuseppa, nato a S. Cipriano d' Aversa il 19.4.1946, residente a Grazzanise, frazione "**Borgo Appio**", coltivatore diretto, tratto in arresto per il reato di associazione a delinquere di stampo mafioso, nell'ambito dell'operazione denominata "**Spartacus 2 AIMA**".

COSENTINO Giovanni di Silvio e di SCHIAVONE Olga, nato a Casal di Principe il 20.11.1954, ivi residente alla via Corso Umberto I° nr.643, amministratore unico della società Aversana Petroli s.r.l. è il **fratello** di Nicola. Ha contratto matrimonio in Casapesenna (CE), il 10 giugno 1982, con DIANA Maria di Costantino e di PICCOLO Maria Natalina, nata a San Cipriano D'Aversa il 29.06.1959, quest'ultima figlia di **DIANA Costantino** fu Salvatore Nicola e di Cirillo Teresa, nato a S. Cipriano d'Aversa il 12.6.1931, residente a Casapesenna,

via Quasimodo n. 4, imprenditore edile, detto " '**O repezzato** ", deceduto in data 17/02/2005, tratto in arresto per associazione a delinquere di stampo mafioso, nell'ambito dell'operazione denominata "**Spartacus 1**".

COSENTINO Mario di Silvio e di SCHIAVONE Olga, nato a Casal di Principe (CE) il 01.01.1965, residente in Formia alla via G. Paone s.n.c. parco Belevedere (emigrato da Casal di Principe in data 07 agosto 2006) è il **fratello** di Nicola. Ha contratto matrimonio in Gaeta in data 29 ottobre 1992 con RUSSO Mirella di Costantino e di Balbinot Caterina, nata a Isola di Capo Rizzuto (CZ) il 31.10.1967, **sorella di RUSSO Giuseppe di Costantino e di Balbinot Caterina, nato a Casal di Principe il 5/1/1964, ivi residente, via Genova n.51, detto "'O padrino", esponente di rilievo del clan dei casalesi**.

COSENTINO Palmiro Giovanni di Aldo e di Natale Maria nato a Napoli il 17/11/1974, residente in Santa Maria C. Vetere alla via Avezzana parco Lerida nr.84 (emigrato da Casal di Principe in data 19 luglio 2004) è il **cugino** di primo grado di Nicola. Ha contratto matrimonio in Casal di Principe in data 11.04.2003 con **SCHIAVONE Alfonsina,** nata a Napoli 25/5/1979, figlia di **SCHIAVONE Francesco di Luigi**, nato a Casal di Principe il 6.1.1953, residente a Cancello Arnone, via Delle Ginestre, Podere n.695, coniugato, detto "' **Cicciariello**" oppure "**O becchino**", "**ciccillo**", "**junior**".

Sul tema dei rapporti esistenti tra le famiglie Cosentino e Bidognetti, giova richiamare i seguenti accertamenti relativi alla partecipazione di componenti il nucleo familiare di BIDOGNETTI Francesco ai festeggiamenti per il matrimonio di COSENTINO Palmiro Giovanni e SCHIAVONE Alfonsina.

Dal verbale di interrogatorio dell'11 aprile 2008 ore 11.00 in Napoli, reso dalla c.d.g., CARRINO Anna.
Si parte dalla pos. 24.52
In questo passaggio stiamo parlando del fatto che stava per sposarsi SCHIAVONE Alfonsina, la figlia piu' grande di SCHIAVONE Francesco di Luigi inteso "Cicciariello". Ovviamente ci erano arrivati gli inviti per partecipare alla cerimonia e si discuteva su chi dovesse andarci in rappresentanza della famiglia. Mio marito avrebbe voluto mandarci Gianluca che però rifiutò. ***Infine, dopo un mio intervento, mio marito, con alcune riserve acconsente che al matrimonio partecipino mia figlia Katia ed il fidanzato LUBELLO Giovanni. Per quanto riguarda quest'ultimo nel brano ascoltato riportiamo il fatto che il LUBELLO era stato pressantemente sollecitato da Paolo SCHIAVONE a partecipare alla cerimonia ma che lui aveva preso tempo dicendo che la decisione finale spettava al suocero BIDOGNETTI Francesco. Il LUBELLO e SCHIAVONE Paolo si incontravano spesso in quanto quest'ultimo è cugino di PETRILLO Michele il socio di Giovanni….omissis…..***
In occasione del predetto matrimonio, in data 10 aprile 2003, veniva effettuato dallaDIA un servizio di osservazione nei pressi del ristorante "**Villa Lucrezio**", in Napoli. Veniva così rilevata, tra le altre, l'autovettura marca Mercedes, modello serie E 270 targata CG919AD, risultata intestata a LA NOTA s.r.l. con sede in Casal di Principe alla via Genova nr.64. Si trattava, com'è noto, della società di LUBELLO Giovanni sicché risultava altamente probabile che il medesimo si fosse effettivamente portato alla cerimonia.
Dagli ulteriori accertamenti effettuati alla banca dati in uso alle FF.PP. è emerso che LUBELLO Giovanni nato a Casal di Principe (CE) il 24.8.1976, genero di BIDOGNETTI Francesco, risulta essere stato controllato, come di seguito, a bordo della predetta autovettura:
28.01.2004 controllato unitamente a SCHIAVONE Paolo dai militari del Gruppo CC di Aversa in Lusciano alla via Colombo
27.07.2004 controllato dai militari del Comando Provinciale CC di Viterbo, nel piazzale del carcere di VITERBO unitamente a STARACE Rita, CARRINO Anna e BIDOGNETTI Michele.

Infine il collaboratore precisa quali potevano essere i metodi attraverso i quali i camorristi garantivano l'elezione dei propri referenti: metodi differenziati in ragione della condizione economica e della posizione sociale dell'elettore contattato. Ai più

indigenti si somministravano generi alimentari; ai più abbienti si chiedeva di far uso delle proprie influenze:

"ADR: Continuando il discorso sulla gestione dell'elettorato da parte del clan dei Casalesi, specifico che vi era una gestione differente per indirizzare i voti degli elettori indigenti rispetto a quella utilizzata per indirizzare gli elettori più abbienti. Con riferimento agli elettori indigenti, infatti, il clan dei Casalesi - e per esso soprattutto il gruppo SCHIAVONE (nello specifico quantomeno Walter SCHIAVONE, Sebastiano FERRARO, Sebastiano PANARO, Nicola PANARO, Giuseppe MISSO detto Caricalieggi) - reperiva grossi quantitativi di generi alimentari di prima necessità (pasta, pelati, zucchero, latte, ovvero generi voluminosi, ma di basso costo) che poi stoccava a casa del padre di Walter SCHIAVONE ed in un'altra abitazione (che ha all'interno un grosso cortile, ma che adesso non ricordo con precisione a chi appartenga). Walter SCHIAVONE si recava, poi, casa per casa a indicare il nominativo del candidato da votare e nell'occasione precisava "se non vi offendete, passate per casa mia che c'è un po' di spesa per voi". Gli elettori indigenti si recavano, quindi, a prelevare i pacchi regalo a casa di Walter SCHIAVONE assicurando il loro voto. (…)
Certamente per gli elettori più abbienti (quali ad esempio imprenditori, professionisti etc.) non si utilizzava questo sistema, ma vi era una movimentazione generale di tutte le persone del clan per convogliare i voti verso il candidato prescelto dal clan. In questo senso, certamente anche VASSALLO Gaetano, che aveva un grosso bacino elettorale a Cesa anche in forza della consistenza numerica della famiglia di appartenenza e in forza delle sue conoscenze, si è sempre attivamente prodigato per convogliare i voti secondo le indicazioni fornitegli da mio cugino Cicciotto".

21. Le dichiarazioni di Anna Carrino e le intercettazioni eseguite tra l'aprile e il giugno 2004 presso il carcere di Ascoli Piceno

Nel periodo compreso tra l'aprile e il giugno del 2004, nell'ambito del procedimento n. 10402/03 N.R., vennero registrate conversazioni nelle quali il detenuto Francesco BIDOGNETTI chiedeva al genero LUBELLO Giovanni di intervenire presso un soggetto non nominato al fine di procurare vantaggi ad un giovane militare legato alla famiglia di STOLDER Raffaele, all'epoca detenuto in regime di cui all'art. 41/bis O.P. nello stesso carcere di Ascoli Piceno.
Questi i brani intercettati:

Colloquio dell'8 aprile 2004 (all. 2 dell'informativa DIA 9.1.2009) -
Inizio ore 12.31.01
BIDOGNETTI FRANCESCO … il fatto del soldato… no?
LUBELLO GIOVANNI (annuisce)…
BIDOGNETTI FRANCESCO … a posto?
LUBELLO GIOVANNI ci ho parlato un'altra volta… ci ho parlato un'altra volta pure prima…
BIDOGNETTI FRANCESCO a loro? (con il pollice il detenuto indica la postazione alla sua destra occupata da STOLDER Raffaele in quel momento intento al colloquio con la moglie FERRIERO Patrizia)
LUBELLO GIOVANNI sì con la signora …
BIDOGNETTI FRANCESCO ma quando?
LUBELLO GIOVANNI sta a vedere come sta messo, se sta messo che può portare la macchina, se tiene la patente per portare la macchina…

BIDOGNETTI FRANCESCO sì ma perché, non la tiene? Non te l'ha detto? (ancora accenna alla sua destra)
LUBELLO GIOVANNI non la tiene quella per il soldato !…
BIDOGNETTI FRANCESCO non la tiene?
LUBELLO GIOVANNI (cenno di diniego)…
BIDOGNETTI FRANCESCO e come la tiene?
LUBELLO GIOVANNI normale, normale
BIDOGNETTI KATIA normale, come la teniamo noi su…
BIDOGNETTI FRANCESCO e se la tiene normale che ci vuole che si piglia …
LUBELLO GIOVANNI gliel'ho detto, gliel'ho detto!
Cambia discorso….
Inizio ore 12.44.42
BIDOGNETTI FRANCESCO ne Giovà, tutto a posto, ma sta a fà 'e chiacchiere, non tiene la patente, che ci vuole a prendere la patente ! Non tiene la patente fà un'altra cosa!
BIDOGNETTI KATIA papà, tu perché te la compravi la patente…
LUBELLO GIOVANNI _non è semplice, perché ha messo la firma…
BIDOGNETTI FRANCESCO …embè?
LUBELLO GIOVANNI Non è soldato normale, è volontario
BIDOGNETTI FRANCESCO ci hanno fatto mettere pure la firma….
LUBELLO GIOVANNI e non è semplice
BIDOGNETTI FRANCESCO (fa un gesto di scetticismo)
LUBELLO GIOVANNI io ci sto provando…
BIDOGNETTI FRANCESCO prima lo facevano così
BIDOGNETTI KATIA … papà, una volta!
LUBELLO GIOVANNI io a loro l'ho domandato, glielo dissi. Sai come disse? Non conosco nessuno!
BIDOGNETTI FRANCESCO ….Noo! Ma questa, che ne sa quella…(accennando alla sua destra) ma stai perdendo la cervella? Che ne sa? Che glielo dici a fare a lei?
BIDOGNETTI KATIA ….disse che lei ci provava, per vedere se…
BIDOGNETTI FRANCESCO … nooo, devi parlare con …(inc)
CARRINO ANNA (rivolta a BIDOGNETTI KATIA) ma se ci voleva provare già l'avrebbe detto
BIDOGNETTI KATIA va bene papà, ma comunque ci sta provando lui, no?
BIDOGNETTI FRANCESCO sì ma (inc: parla coprendosi la bocca con la mano sinistra)
Cambia discorso

Dal colloquio del 20 maggio 2004 (Allegato 3)

BIDOGNETTI Francesco chiede notizie a BIDOGNETTI Katia sul "fatto del soldato". Katia risponde che è "tutto a posto" e che il soldato verrà trasferito a giorni. Bidognetti chiede se tale circostanza è stata riferita alla madre del soldato, ottenendo risposta affermativa
13,26.55 Bidognetti Francesco (B.F.) si rivolge a Carrino Anna (C.A.)
B.F. dì così a…. che si mettesse a disposizione (con la mano accenna alla postazione adiacente dove è a colloquio STOLDER Raffaele), prendi il numero di telefono, hai capito?
BK lo teniamo papà…
BF il fatto…
BK papà, è tutto risolto… non ti preoccupare…a Napoli…

BF eh?
BK a Napoli!
BF il fatto del soldato…
BK sì, a Napoli
BF a Napoli, a Caserta….
BK no, no, no, è Napoli lui disse… non ti preoccupare.. va bene..
BF… ma hai parlato con quello che dissi io?
BK ***sì papà, tutto a posto. Se non ci andava a parlare lui da solo quando lo faceva? Tuo cugino non ottiene niente da nessuno, quando lo vedono scappano tutti. Non lo può vedere nessuno***
B.F. a chi?
B.K. a Bernardo
B.F. sì ?
B. K. uhhh, quando andava con lui, a Giovanni si negavano sempre. Dice no, dici che non ci sto. Andò una domenica, no? Fece in cinque minuti. Ha detto se lo avessi saputo dal primo giorno almeno mio suocero non mi avrebbe cazziato. E che caspita!
BF no, ma quella è una brava persona…
BK sì, sì…
BF quelli sono bravi, sono meglio questi, perlomeno non si scordano mai …
BK perché non lo sai ?

Dal colloquio del 17 giugno 2004 (Allegato 4)

Nel prosieguo del brano intercettato a partire dalle 12.40.28

Carrino Anna: il fatto del figlio (con la mano accenna alla postazione degli STOLDER)
… del figlio… il fatto del soldato…
Bidognetti Francesco annuisce…
C. A.: ha detto che lascia stare perché non lo vuole fare più…
B.F. il figlio? E così…!
C.A. ha detto lascia stare che non lo vuole fare più, per mezzo del fatto di tutta questa guerra… avanti, indietro, BUSH, ha detto che non lo vuole fare più
B. F. digli che metta la firma e se ne va!

La lettura dei brani delle intercettazioni, coordinata con il rilievo visivo dei gesti degli interlocutori, faceva già emergere che:

prima dell'aprile 2004 Francesco BIDOGNETTI aveva richiesto ai familiari di recarsi da una persona della quale aveva cura di omettere l'indicazione perché raccomandasse il figlio del compagno di detenzione STOLDER Raffaele, militare in ferma di leva "volontaria", che aspirava ad un trasferimento in Napoli o in Caserta. Il giovane disponeva di una patente per veicoli 'normale', a quanto pare insufficiente per essere trasferito in un reparto militare di 'autieri';

i familiari avrebbero dovuto dire alla persona da contattare di "*mettersi a disposizione*", in modo da garantire le istanze del giovane;

CIRILLO Bernardo e LUBELLO Giovanni si erano recati dalla persona indicata da Bidognetti Francesco, della quale avevano evidentemente compreso l'identità;

la *persona* aveva accolto la richiesta, in un incontro intercorso con LUBELLO Giovanni;

il 17 giugno 2004 BIDOGNETTI Francesco aveva reso noto ai familiari l'intenzione del figlio dello STOLDER di lasciar stare tutto, temendo di essere coinvolto in eventi bellici.

Con delega del 23.09.2004 il P.M. delegava l'attività di riscontro sollecitata dalle riportate conversazioni.
Con nota 1708 del 15.10.2004, la P.G. riferiva di aver appurato presso il Distretto Militare di Napoli, che il soggetto interessato al trasferimento s'identificava in STOLDER Alessio di Raffaele e di FERRIERO Patrizia, nato a Napoli l'11.12.1984, ammesso alla ferma volontaria di un anno in qualità di VFA, a partire dal 18.02.2003.
Lo STOLDER, incorporato con il 2° Battaglione VFA 2003 presso il Comando Regionale "Abruzzo" dell'Aquila, risultava poi aggregato al 123° Reggimento "Chieti"; per fare poi rientro all'Aquila, ove prestava servizio nel "plotone supporto" con la qualifica di "conduttore generico di automezzi" (18/A).
Scaduto il periodo di ferma, in data 18.02.2004, STOLDER Alessio presentava domanda quale aspirante volontario in ferma breve. Il successivo 25 maggio 2004 veniva posto in congedo su domanda.
Le acquisizioni documentali ben si armonizzavano le cadenze temporali e i contenuti delle conversazioni intercettate per come sopra interpretati.
Si apprendeva dunque che l'intervento richiesto non aveva sortito effetti in ragione della spontanea rinuncia dello STOLDER Alessio, intimorito dalla prospettiva di essere coinvolto in una missione internazionale.
L'unica circostanza oscura restava l'identificazione del personaggio al quale LUBELLO Giovanni, su indicazione del BIDOGNETTI, aveva rivolto le richieste di intervento in favore del giovane STOLDER.
Un elemento di rilievo era costituito dal fatto che, in almeno un'occasione, nel visitare il soggetto indicato dal BIDOGNETTI, LUBELLO si era accompagnato a "Bernardo" cugino del detenuto, che non può che identificarsi nel noto CIRILLO Bernardo.

Anna CARRINO, convivente per molti anni di BIDOGNETTI Francesco, nell'anno 2007 transitava nelle file dei collaboratori di Giustizia.
Presa visione delle videoregistrazioni effettuate presso la sala colloqui del penitenziario di Ascoli Piceno, la CARRINO individuava l'artefice della segnalazione del "soldato" STOLDER, nell'onorevole Nicola Cosentino.

Interrogatorio del 16.04.2008:
"(...) A questo punto alla CARRINO viene sottoposta in visione la videoregistrazione del colloquio tenuto l'8 aprile 2004 presso il carcere di Ascoli Piceno con il detenuto BIDOGNETTI Francesco. Alla pos. VHS 12.44.50.…omissis…Dopo aver ascoltato il brano in questione la Carrino dichiara di non aver percepito quanto detto dai colloquianti per il sovrapporsi di voci provenienti dai box adiacenti. Chiede pertanto che venga data lettura della trascrizione, a verbale. Avuta lettura del brano in questione, la CARRINO dichiara: "In questo passaggio stiamo parlando del fatto che un figlio di Patrizia STOLDER, che in quel periodo stava prestando servizio militare aveva bisogno di un trasferimento o di qualche altro favore. Di questa vicenda ho già parlato in una precedente occasione.
ADR: mi si chiede quale sia il senso della frase pronunziata dal LUBELLO: "io ci sto provando".
Rispondo di aver saputo dallo stesso Giovanni LUBELLO, che una sera si era ritirato a casa con un certo ritardo, che insieme a CIRILLO Bernardo era stato a casa di Nicola COSENTINO detto "o' mericano", al quale avevano chiesto di intervenire per risolvere la vicenda in questione.
ADR: Nicola COSENTINO è un esponente politico di Casal di Principe, credo sia un onorevole o un senatore.
ADR: Appresi dallo stesso LUBELLO che il COSENTINO aveva promesso che si

sarebbe interessato della vicenda propostagli, dicendo che però non sarebbe stato facile.
ADR: Mi si chiede come potessero il LUBELLO e il CIRILLO avere accesso presso il COSENTINO.
Rispondo che la famiglia del LUBELLO era in rapporti di conoscenza con il COSENTINO che, in particolare era certamente in buoni rapporti con un defunto zio del LUBELLO, Ugo CORONELLA geometra. Mi risulta peraltro che, dopo la morte del CORONELLA, non corresse buon sangue tra il LUBELLO e il COSENTINO. Infatti il LUBELLO, commentando quella sera l'incontro avuto con il COSENTINO, disse una frase del tipo " Deve ringraziare mio suocero… perché altrimenti la mia faccia non l'avrebbe vista né ora né mai". Non conosco i motivi per i quali tra LUBELLO e COSENTINO non corresse buon sangue. D'altra parte mi risulta che invece il CIRILLO Bernardo fosse in buoni rapporti con il COSENTINO. Non conosco la natura di tali rapporti ma credo fossero nell'ambito dei consueti rapporti di conoscenza correnti tra compaesani di un piccolo centro come Casal di Principe.
ADR: Mi si chiede se il ricorso al COSENTINO fosse stato suggerito da mio marito o se invece fosse solamente frutto di un'iniziativa di Giovanni LUBELLO. Rispondo che non lo so.
…omissis….

A questo punto alla CARRINO viene sottoposta in visione la videoregistrazione del colloquio tenuto il 20 maggio 2004 presso il carcere di Ascoli Piceno con il detenuto BIDOGNETTI Francesco.
Alla pos. VHS 13.26.55
In questo passaggio mio marito mi raccomanda di dire a GUIDA Luigi di mettersi a disposizione di STOLDER Raffaele. *In realtà quando per le prime volte mio marito decise di fornire un aiuto agli STOLDER doveva proprio essere il GUIDA a fornire la somma concordata, tuttavia le cose funzionarono così soltanto per poco e infatti, dopo la discussione sorta con il GUIDA, che come ho appena esposto non s'interessava piu' di nulla e voleva fare di testa sua io pagai il mensile alla signora Patrizia prelevando i fondi da quelli a me destinati.*
Nella seconda parte del brano ascoltato mio marito chiede notizie ancora una volta del "fatto del soldato". Mia figlia Katia gli risponde che è tutto sistemato, che il ragazzo è stato trasferito o che sarà trasferito a breve a Napoli. ***Mio marito chiede conferma se abbiano parlato con la persona che lui aveva indicato e ottiene risposta positiva da Katia la quale nella circostanza precisa che con il soggetto indicato ci aveva parlato Giovanni da solo dopo che, per molte volte, presentandosi a casa di questi insieme a CIRILLO Bernardo, si era sentito dire che in casa non c'era nessuno. Katia precisa che l'incontro era avvenuto una domenica. In realtà io so bene che all'incontro di cui io sono a conoscenza parteciparono LUBELLO Giovanni e CIRILLO Bernardo. Mia figlia racconta questa bugia al padre solo per accreditare ulteriormente il marito ed esaltarne i meriti.***
ADR: La persona cui mio marito allude è Nicola COSENTINO.
ADR: Mi si chiede di quanti incontri tra LUBELLO e il COSENTINO io sia al corrente. Io so di un unico incontro, avvenuto di sera e di cui ho già fatto cenno in precedenza. Tuttavia quanto mia figlia racconta al padre mi fa supporre che potrebbe esserci stato un secondo incontro, di cui però non ho alcuna cognizione essendo soltanto una mia illazione.
…omissis…
Alla pos. VHS 12.44.20
In questo passaggio si torna a parlare della vicenda della raccomandazione per il

figlio di Patrizia e Raffaele STOLDER, di cui ho detto sopra. ***Nel colloquio io dicevo a mio marito che il figlio di Patrizia non intendeva più avere quella raccomandazione legata al suo status di soldato, per paura della guerra in corso. Io avevo avuto questa informazione direttamente da Patrizia STOLDER che era venuta a casa mia e ne avevo subito riferito a Giovanni LUBELLO che si era occupato della raccomandazione con Nicola COSENTINO. Giovanni mi disse che se la sarebbe vista lui. Per essere piu' precisa, ricordo che l'incontro con la signora STOLDER in cui si parlò di questo non avvenne in casa mia, ma ci demmo appuntamento telefonico per incontrarci a Capodimonte davanti alla chiesa. Sono sicura di questo perché a quel tempo la STOLDER non frequentava casa mia ma ci sentivamo per telefono. La Stolder ha iniziato a frequentare casa mia dopo il pentimento di Luigi GUIDA.*** *Quando io ho riferito a mio marito, durante il colloquio, di questo fatto, lui già ne era a conoscenza perché lo aveva saputo da STOLDER Raffaele nel carcere".*

Nel verbale del 21.04.2008 e in una serie di interrogatori che qui si passeranno in breve rassegna Anna Carrino, visionate le videoregistrazioni dei colloqui suoi e dei suoi familiari con l'illustre congiunto detenuto, descriveva il rapporto di sovvenzionamento, amicizia e reciproco sostegno che, su disposizione del convivente, si era allacciato per iniziativa di 'Cicciotto' con la famiglia del noto boss napoletano Raffaele Stolder.

"*Si passa al colloquio del 16 settembre 2004 presso il carcere di Ascoli Piceno con il detenuto BIDOGNETTI Francesco.*
…omissis…
Si passa a questo punto al colloquio presso il carcere di Ascoli Piceno tenuto da CARRINO Anna in data 28 OTTOBRE 2004 (ALL. 08) con il convivente BIDOGNETTI Francesco.
…omissis…
Alla pos. VHS 13.28.50
In quest'ultimo brano si fa riferimento alla necessità di far pagare gli avvocati e di dare il denaro ai familiari di STOLDER Raffaele. Il messaggio è per GUIDA Luigi e mio marito soggiunge che quando qualcosa non funziona per il verso giusto il GUIDA deve informarlo attraverso l'Avv. BONANNO indicata con l'espressione "mandarmelo a dire come sa lui". Inoltre, il mio convivente mi riferisce di rappresentare al GUIDA la sua delusione per la vicenda dell'investitura di CIRILLO Alessandro quale responsabile del Clan.…omissis…A questo punto alla CARRINO viene sottoposta la registrazione del colloquio del 25 novembre 2004 presso il Carcere di Ascoli Piceno con il detenuto BIDOGNETTI Francesco
…omissis…
Alla pos. 13.02.00
In questo tratto del colloquio mio marito mi chiede se io avessi risolto la questione dei soldi che erano destinati a STOLDER. Subito dopo si alza e si accosta alla postazione adiacente occupata dallo STOLDER Raffaele e dal suo visitatore, una persona robusta, di alta statura che io conosco con il nome di battesimo Ciro. ***Mio marito chiede a Ciro se sia andato alla Sanità a incontrare la signora CASANOVA, alla quale avrebbe dovuto dire che il marito, GUIDA Luigi, doveva comportarsi bene.***
ADR: Comportarsi bene, nello specifico, significava che GUIDA avrebbe dovuto mandare i soldi allo STOLDER come disposto da mio marito.
ADR: mi si fa notare che nel corso di altri verbali ho dichiarato che le somme destinate allo STOLDER, ritirate dalla moglie Patrizia, erano da me tratte dalla mia quota mensile. Confermo quello che ho detto precisando però che questo è accaduto soltanto a partire dall'arresto del GUIDA, in quanto precedentemente a tale evento le somme

allo STOLDER erano effettivamente versate dal GUIDA.
…omissis….

Verbale del 22.04.2008*:*
…omissis…
Nella foto n.1 riconosco PATRIZIA moglie di STOLDER Raffaele di cui abbiamo più volte parlato nel corso degli interrogatori;
nella foto nr.2 riconosco Ciro STOLDER fratello di Raffaele STOLDER;
…omissis…
nella foto nr.5 riconosco il figlio di Raffaele STOLDER che ho visto nel corso di un colloquio in Ascoli Piceno, non conosco le generalità;
…omissis…
Foto nr.1 FERRIERO Patrizia, nata a Napoli il 06.08.1960;
Foto nr.2 STOLDER Ciro, nato a Napoli il 26.06.1965;
…omissis…
Foto nr.5 STOLDER Roberto, nato a Napoli il 23.12.1982;
..omissis….
A questo punto alla signora CARRINO viene sottoposta in visione la registrazione del colloquio con BIDOGNETTI Francesco, presso il carcere di Ascoli Piceno, in data 17.02.2005 (ALL. 09)
…omissis…
Alla pos.VHS 13.40.00
In questo brano, Francesco BIDOGNETTI, in considerazione della visita effettuata presso l'abitazione di Annunziata CASANOVA unitamente a Orietta VERSO, si raccomanda di stare attenti. Proseguendo il mio convivente mi chiede se è stato corrisposto il mensile alla famiglia STOLDER ed io confermo di averlo consegnato di persona.

Verbale del 10.03.2008:
Si passa a questo punto alla visione della videoregistrazione del colloquio presso il carcere di Ascoli Piceno intrattenuto con BIDOGNETTI Francesco il 20 ottobre 2005.
Alla pos.: 13.14.15
In questo brano si fa riferimento alle somme di denaro che mensilmente, su richiesta di mio marito, versavo alla moglie di MORELLI Domenico, prima detenuto nello stesso carcere di mio marito. Devo premettere che mio marito mi chiese di versare 1000 euro mensili sia alla moglie del MORELLI che a Patrizia STOLDER le quali venivano a prelevarli direttamente a casa mia a Casale. In quel periodo la signora MORELLI non era venuta e ci domandavamo come mai. Avevamo saputo anche che era l'avvocato ad averle consigliato di non venire a prendere questi soldi, anche in relazione ad un processo che la signora stava affrontando. Inoltre, si era sparsa la voce che il marito della signora MORELLI avesse intenzione di collaborare con la giustizia. Ad ogni modo, la signora si è assentata da questo appuntamento per un paio di mesi circa mentre successivamente è tornata a venire e io ho versato sia a Patrizia STOLDER che a lei la somma prefissata fino al luglio del 2007.

Verbale del 14.03.2008:
Si passa alla pos. 11.56.30 del colloquio del 18/10/2006 (ALL. 11).
Dopo aver preso visione del brano indicato la CARRINO dichiara:
"In questo brano stiamo parlando della signora Patrizia, coniuge di STOLDER, che periodicamente mandava delle cartoline a mio marito. Quando io gli dico che intendo mandargli un libro, faccio riferimento effettivamente a un libro di canzoni napoletane,

che mi aveva inviato Patrizia. Mio marito pensava che gli mandavo il libro "Gomorra" e non voleva ciò, per paura della censura. Il rapporto di mio marito con STOLDER Raffaele nasceva dal fatto che i due erano codetenuti. Fu proprio mio marito, nel corso di un colloquio ad Ascoli Piceno, a incaricarmi di corrispondere uno stipendio alla moglie dello STOLDER. Io mensilmente invitavo presso la mia abitazione Patrizia Stolder per consegnarle lo stipendio che ammontava a mille euro mensili.
…omissis…
Si passa alla pos. 31.25 del colloquio del 15/11/2006 (ALL. 12).
Dopo aver preso visione del brano indicato la CARRINO dichiara:
"Mio cognato Michele, parlando con il fratello, fa riferimento al pentimento di Guida Luigi. Io avevo in quel periodo incaricato Patrizia STOLDER di accertare se la famiglia di Guida si trovasse ancora alla Sanità, ovviamente su mandato di mio marito. Voglio precisare, diversamente da quanto ho detto sopra, che i primi mesi in cui corrispondevo lo stipendio a Patrizia STOLDER mi recavo personalmente a Capodimonte, ove mi incontravo con Patrizia nei pressi del santuario di Capodimonte. Poi, come ho detto, anche per precauzione, dissi a Patrizia STOLDER di venire a casa mia. In una di queste occasioni la STOLDER mi tranquillizzò dicendomi che la signora CASANOVA era sempre presente alla Sanità. Voglio precisare che la madre di Patrizia abita proprio in zona Sanità.

Nell'interrogatorio del 29.04.2008 Anna Carrino sintetizzava tutta la vicenda che aveva riguardato il 'soldato' Alessio STOLDER:

*"…omissis…**ADR: per quanto concerne la questione relativa al "fatto del soldato" di cui si parla nelle intercettazioni, ho sinteticamente già riferito; specifico quanto segue. Seppi dell'incontro tra Giovanni LUBELLO e CIRILLO Bernardo con l'onorevole Nicola COSENTINO lo stesso giorno in cui si tenne. Del contenuto me ne parlò Giovanni LUBELLO che quella sera tornò tardi a casa; ricordo che si doveva trattare del 2004/2005. Mi disse che si era incontrato a casa di Nicola COSENTINO insieme a CIRILLO Bernardo e in quell'occasione avevano chiesto un interessamento del parlamentare a favore di un figlio di STOLDER Raffaele, detenuto presso lo stesso carcere di Ascoli Piceno, insieme a BIDOGNETTI. Questo ragazzo doveva andare a fare il soldato, come volontario e BIDOGNETTI Francesco aveva disposto che i due si rivolgessero a COSENTINO per favorire il ragazzo per un avvicinamento a Caserta o a Napoli. LUBELLO e CIRILLO si erano dunque portati dal parlamentare per chiedergli un intervento. Per quel che mi disse LUBELLO, COSENTINO disse che si sarebbe interessato per questo ragazzo e durante i colloqui si parlò spesso di questa questione, fino a che il ragazzo ebbe timore di poter essere mandato all'estero, e quindi si disinteressò alla cosa. Rappresento che BIDOGNETTI Francesco conosce COSENTINO Nicola da quando erano ragazzi. Non so dare informazioni più specifiche quanto al contenuto dei loro rapporti. Ricordo che LUBELLO Giovanni non aveva piacere a recarsi da COSENTINO ed è per questo che si fece accompagnare da CIRILLO Bernardo che conosceva bene il parlamentare. L'onorevole COSENTINO era soprannominato "O' mericano", tutti lo chiamano così a Casale.** Posso dire che CIRILLO Bernardo andava spesso a Roma per portare le carte o il denaro all'Avv. ARICO' Giovanni – da noi chiamato spesso come "Il professore" – nelle occasioni degli impegni presso la Corte di Cassazione".*

Nell'interrogatorio del 30.04.2008 CARRINO Anna ribadiva:

"A D.R.: Con riferimento alla questione di cui ho parlato nello scorso interrogatorio

riferita alla raccomandazione per un militare, parente di STOLDER Raffaele, richiesta all'onorevole Nicola COSENTINO, faccio presente che – come si rileva in alcuni colloqui – il militare doveva essere trasferito e riavvicinato a casa, a Napoli o a Caserta. Lo arguii dai colloqui, ma non so dire a quale arma appartenesse questa persona…..".

Può in conclusione affermarsi che Anna Carrino attribuisce all'indagato Cosentino un comportamento rivelatore di effettiva disponibilità verso le richieste di uno dei principali capi detenuti del clan dei Casalesi.
Una disponibilità che, inserendosi (e anzi concorrendo ad alimentare) la relazione di reciproco sostegno instaurata da Francesco Bidognetti con uno dei più potenti suoi omologhi campani, non è priva di incidenza sul piano del rafforzamento del prestigio del boss, del quale è documentata la perdurante dedizione alla cura degli interessi criminali (si considerino i messaggi mandati, attraverso i familiari ammessi al colloquio, al sodale GUIDA Luigi, proveniente dal napoletano rione Sanità; il controllo mediato esercitato su costui; l'intervento nella designazione di Cirillo Alessandro quale reggente).
Il valore delle dichiarazioni della collaboratrice Carrino relative al tema della disponibilità manifestata dall'onorevole Cosentino per favorire il soldato Stolder sta pure nella corroborazione dell'assunto relativo al rapporto esistente tra il Cosentino e il criminale Bernardo Cirillo, esponente di rango elevato della fazione bidognettiana del clan dei casalesi, già indicato da Gaetano Vassallo come *trait d'union* tra lui e l'odierno parlamentare.

22. Le notizie 'd'ambiente' riferite da Oreste Spagnuolo e Michele Froncillo
Ben diversa consistenza hanno, rispetto ai contributi finora passati in rassegna, le dichiarazioni di Oreste Spaguolo e Michele Froncillo.
I due collaboratori non riferiscono contatti diretti avuti con l'indagato (come fanno invece Vassallo e De Simone), né specifici mandati di diramazione del messaggio elettorale (come fanno Frascogna e Ferrara Raffaele).
Il loro contributo vale soltanto ad avvalorare la notorietà nell'ambiente criminale casalese del legame del parlamentare con il clan, senza apprezzabili specificazioni.
Per quanto non essenziali alla ricostruzione dell'addebito, le voci di Spagnuolo e Froncillo meritano di essere riportate, sia per ragioni di completezza espositiva, sia perché la S.C. riconosce a questo genere di informazioni un certo valore probatorio, quando afferma: *"Hanno rilievo probatorio le dichiarazioni del collaboratore di giustizia su fatti e circostanze relative alla vita del sodalizio criminoso di appartenenza, se sono corroborate da elementi di verifica in ordine al fatto che* ***le notizie riferite costituiscano oggetto di patrimonio conoscitivo comune, derivante dal flusso circolare di informazioni attinenti a fatti di interesse comune degli associati****, e ciò in aggiunta ai normali riscontri richiesti per le propalazioni dei collaboratori di giustizia".*

Nell'interrogatorio reso il 24 aprile 2009, **Oreste Spagnuolo** ricostruisce l'affiliazione del famigerato Giuseppe Setola al clan Bidognetti e ricorda un commento indicativo, se non altro, di quanto fosse diffusa nel gruppo criminale la fama del rapporto privilegiato dell'indagato con il capo:

"Per quanto concerne i rapporti del clan con i politici posso soltanto dire che ***SETOLA Giuseppe ebbe, in un'occasione, vedendo alla televisione il politico COSENTINO Nicola (non so dire che ruoli istituzionali ricopra, a parte il fatto che***

so essere del PdL) disse che era un "amico di Cicciotto", facendo riferimento ai tempi in cui Francesco BIDOGNETTI era libero*. Vedendolo in televisione "ne parlò bene", anche se non so dire nulla di preciso, né lui fece commenti, né io feci ovviamente domande.* ***Diceva che, testualmente, era una persona "acconcia", ossia "a posto".***

Valore analogo può attribuirsi alla dichiarazione di **Michele Froncillo**, esponente di spicco della camorra marcianisana (clan Belforte) che, nell'interrogatorio reso il 29 gennaio 2008 riferiva:

"GIULIANI inoltre aveva numerosi rapporti nel senso che era pienamente disponibile con gli esponenti di spicco del clan "dei casalesi", quali, nel tempo, ZAGARIA Vincenzo, ZAGARIA Michele, IOVINE Antonio detto "O'NINNO", e ultimamente Peppe il padrino ovvero RUSSO Giuseppe e, dopo il suo arresto avvenuto il 2003 in Germania, è subentrato il fratello Massimo RUSSO, attraverso il cognato COSENTINO Nicola, onorevole di Forza Italia*…Omissis……Ricordo che, ad esempio, nell'anno 2001, mi sono incontrato nel capannone di Orta di Atella gestito da GIULIANI, che posso indicare in sede di sopralluogo, con GIULIANI, Bruno BUTTONE,* ***Lello LETIZIA che è una faccia pulita ma è un affiliato al clan "dei casalesi" per il quale gestisce l'aspetto economico imprenditoriale ed ha rapporti per conto del clan anche con esponenti istituzionali, quali l'onorevole COSENTINO*** *…Omissis…*
…Omissis…Voglio precisare che GIULIANI Raffaele aveva rapporti diretti ed indiretti con gli ***onorevoli COSENTINO*** *e …omissis… attraverso Massimo RUSSO e RUSSO Giuseppe detto "o'padrino".*
In particolare Massimo RUSSO …Omissis…

23. Valutazione conclusiva del quadro indiziario e confronto con il paradigma del concorso esterno del politico

La rassegna di contributi appena esposta (capitoli 17 e ss.) fa registrare convergenze specifiche sulle seguenti, significative, circostanze:

il sostegno offerto dal clan dei Casalesi all'indagato in occasione delle elezioni provinciali casertane del 1990 (Gaetano Vassallo e Carmine Schiavone);

il sostegno offerto in occasione delle elezioni regionali dell'anno 1995 (Dario De Simone, Raffaele Ferrara, Domenico Frascogna);

il sostegno nelle poilitiche del 2001 (Gaetano Vassallo e Michele Orsi);

la disponibilità esplicitata da Cosentino verso i supporters elettorali di estrazione camorrista (Gaetano Vassallo, Dario De Simone, Domenico Frascogna);

il rapporto di protezione e confidenza con Francesco Bidognetti e con il cugino Bernardo Cirillo (Gaetano Vassallo, Anna Carrino, Domenico Bidognetti);

il sistema di individuazione apicale del candidato da sostenere e di diramazione del messaggio ai capizone (Domenico Bidognetti, Dario De Simone, Raffaele Ferrara, Domenico Frascogna).

E' dunque provato – al livello di gravità indiziaria richiesto dall'articolo 273 c.p.p. - anche questo aspetto dello scambio 'voti contro favori'.

I rapporti di affinità familiare, comune estrazione territoriale e acclarata confidenza/gratitudine impediscono, allo stato, di ritenere credibili argomenti difensivi che siano incentrati sul tema dell'inconsapevolezza dell'indagato circa l'estrazione camorristica dei soggetti con i quali venne di volta in volta a relazionarsi, nelle vicende sopra enunciate.

Non può infine dubitarsi che nell'anno 2000, quando iniziò a patrocinare le iniziative

dei fratelli Orsi nel settore dei rifiuti, Cosentino fosse un politico di caratura medio-alta in costante ascesa.
Tale classificazione è suggerita dalla progressione senza inciampi della sua carriera politica, dalla conquista (avvenuta già nell'anno 1996) del ruolo di parlamentare, dal fattivo controllo di molte delle amministrazioni comunali che avrebbero conferito alla società mista gli affidamenti diretti, dalle conclamate relazioni con la struttura commissariale e con altri esponenti politici importanti del territorio.
Così classificato il ruolo politico dell'indagato, la sentenza Mannino del 2005 consentirebbe di riconoscere all'indagato un livello di 'affidabilità' tale, da attribuire rilevanza causale (in termini di rafforzamento del sodalizio) già al solo dato della sua '*promessa di disponibilità*'.
Come si è visto però ricorrono nel compendio indiziario prove di effettiva ed efficace attivazione talmente consistenti, da far ritenere che il contributo offerto da Cosentino alle iniziative imprenditoriali del clan dei casalesi, sarebbe causalmente rilevante, anche se egli fosse un politico di modesta caratura.

24. Le esigenze cautelari

E' pacifico in giurisprudenza che anche il concorso esterno in associazione di tipo mafioso sia assoggettato alle presunzioni sancite dall'art. 275 comma 3 c.p.p.: presunzione relativa di sussistenza dei *pericula libertatis; presunzione juris et de jure* di esclusiva adeguatezza della misura custodiale carceraria.
E' chiara sul punto l'affermazione contenuta nella sentenza della Seconda Sezione della Suprema Corte (Cass., II, 18.11 – 16.12.2004, n. 48444, Cozza) per la quale: "*anche il concorso esterno in associazione di stampo mafioso rientra tra i reati per i quali, in ordine alle esigenze cautelari, l'articolo 275 c.p.p. pone una presunzione di pericolosità: esso invero integra pur sempre nuna partecipazione nel reato associativo e comunque persegue – quanto meno – il fine di agevolarte l'attività di tali sodalizi*".
Il regime presuntivo esimerebbe questo giudice da ulteriori considerazioni sul tema.
Non possono tuttavia sottacersi:
- la peculiarità del ruolo politico rivestito dall'indagato, parlamentare e sottosegretario di governo;
- la datazione delle principali risultanze di prova indiziaria che non supera l'anno 2004.
La prima circostanza induce a ritenere superata la presunzione del 'pericolo di fuga', dal momento che la sottrazione al processo implicherebbe per l'imputato anche uno sradicamento dai territori in cui si esprime la sua personalità politica e istituzionale.
La seconda non è sufficiente invece a ritenere elisa l'esigenza di cui all'articolo 274 lettera c) c.p.p. Ciò per vari ordini di ragioni.
Innanzitutto per il costante insegnamento giurisprudenziale che in materia di criminalità organizzata mafiosa, persino nei casi di sopravvenienza di periodi detentivi, esige la prova effettiva del recesso dal legame criminale per ritenere terminata la condotta.
In secondo luogo, deve considerarsi che il tema dell'attualità' delle esigenze non coincide (neppure nelle materie non governate da presunzioni) con quello dell'attualità del comportamento incriminato.
Nel caso in esame non possono sottacersi gli indici di allarme rappresentati in concreto: dall'aggressività del sodalizio camorristico denominato clan dei Casalesi; dal perdurare della sua operatività, in ragione anche del permanente stato di latitanza di alcuni degli esponenti apicali; del permanere dell'interesse del sodalizio per l'investimento in attività imprenditoriali con vocazione monopolistica (settore

specifico nel quale l'indagato risulta aver rpestato il proprio contributo).
Orientando l'ottica verso indici di allarme maggiormente personalizzati, non può omettersi di considerare: il consolidamento e la continuità dei rapporti criminali che hanno agevolato il Cosentino nella sua carriera politica; la pluralità di competizioni elettorali nelle quali il Cosentino risulta essere stato sostenuto dall'organizzazione criminale; il rilievo strategico e di lungo termine del contributo documentato dalle indagini qui compendiate; la persistenza del debito di gratitudine verso un'organizzazione cui egli deve (almeno in parte) le sue fortune.
Tutti questi dati inducono a ritenere allo stato insussistente la 'prova contraria' capace di vincere la presunzione relativa di cui alla norma citata.
E' per definizione insuperabile la presunzione di esclusiva adeguatezza della misura custodiale carceraria.

Sospensione dell'esecuzione
Essendo accertato in atti lo status di parlamentare rivestito dall'indagato, l'esecuzione della presente ordinanza è subordinata alla condizione che sia rilasciata dalla Camera dei Deputati l'autorizzazione prevista dall'articolo 4 della legge 20 giugno 2003 n. 140.
L'autorizzazione sarà richiesta da questo Giudice ai sensi e nelle forme previste dagli artt. 4 comma 2 e 5 della legge citata.

P.Q.M.

Letti gli artt. 291 e ss. c.p.p.,
applica all'indagato Nicola Cosentino, nato a Casal di Principe il 2 gennaio 1959, ivi residente in Corso Umberto I n. 44, la misura della custodia cautelare in carcere.
Letti gli artt. 4 e 5 della legge 20 giugno 2003 n. 140,
sospende l'esecuzione del presente provvedimento e contestualmente dispone la trasmissione di copia dell'atto al Signor Presidente della Camera dei Deputati con richiesta di apposita autorizzazione.
Si riserva di trasmettere a detta Autorità gli ulteriori atti depositati ai sensi dell'articolo 291 c.p.p., ove ciò risulti necessario ai fini della richiesta autorizzazione.
Trasmette copia della presente ordinanza ai Pubblici Ministeri richiedenti, dottori Alessandro Milita e Giuseppe Narducci.
Napoli, 7 novembre 2009

Il Giudice
dr. Raffaele Piccirillo

Politics | Australia

Australian Workers' Union leader Stacey Schinnerl warned she wasn't safe at building site after CFMEU threats

The Queensland head of the Australian Workers' Union was told to stay away from a project targeted by CFMEU because her safety was at risk.

Aaron Patrick
THE NIGHTLY
3 MIN READ · 02 DEC 2025 · UPDATED 02 DEC 2025

1 COMMENTS SAVE



The CFMEU targeted women as part of its attempt to gain control of Queensland construction sites, an inquiry in Brisbane heard. Credit: Darren England/AAP

One of Queensland's most senior union leaders was warned it was not safe for her on a building site because the CFMEU was waging a violent campaign to take control of the project and squeeze out her union.

Australian Workers' Union secretary Stacey Schinnerl was one of several women targeted by the rival Construction, Forestry and Maritime Employees Union when it tried to expand its influence across the state, Queensland Council of Unions head Jacqueline King told an inquiry into the CFMEU Tuesday.

A large construction company that had an agreement with the AWU, BMD Group, tried several times to get the police to intervene when CFMEU officials turned up at BMD building sites, Ms King said in a written statement to the inquiry.

The police refused to get involved because they said it was a matter for the State workplace safety regulator, which the CFMEU had also targeted with a campaign of intimidation against a senior female manager, according to Ms King.

"Ms Schinnerl also told me she had been informed by BMD senior management that they could no longer protect or provide safety to her as the union state secretary to come on to site because they could not control the violence or escalation of incidents that might occur in the future involving the CFMEU," Ms King said.

"I recall Ms Schinnerl had been quite upset about that, because the AWU had an enterprise agreement with BMD and she couldn't access the site with her legal right-of-entry permit."

Turned against

Ms Schinnerl is due to give evidence on Wednesday. Her appearance and Ms King's at an inquiry initiated by the State Liberal-National government suggests the State's top union leaders have turned against the previous leaders of the construction division of the CFMEU, which was placed under the control of an independent lawyer by the federal Labor government last year.

Ms King told the inquiry today the union targeted Kim Bancroft, the deputy director general of the Office of Industrial Relations, who had a been hired from the private sector to improve the safety of building sites.

"The union had a view that they wanted to be able to control her when she went into that job," Ms King said Tuesday morning. "She became almost a captured pawn of just their issues. She was at the union office several times a week, which was unusual.

"When she pulled back from that, the union then adopted what appeared to be a campaign of directly targeting Ms Bancroft. They were texting, emailing and sending phone calls ... and demanding she respond to every compliance mater that the union had within a 24-hour period or else she would be responsible for people dying on work sites.

"She couldn't do her day-to-day job while that was occurring."

Ms Bancroft resigned within 12 months of being appointed.

The CFMEU's previous leaders, Michael Ravbar and Jade Ingham, have not had a chance to respond to any of the allegations in the inquiry although may be called as witnesses next year.

The Nightly does not suggest any wrongdoing on Mr Ravbar or Ms Ingham's part, only that they may be called as witnesses during the inquiry.

Intimidation and violence

So far the inquiry has focused on conflict between the CFMEU and the AWU, which represented many of the workers on large government building sites in Queensland, including railways, train stations and freeways. The inquiry heard the CFMEU wanted to expand from buildings into civil construction and used intimidation and violence to take over sites from the AWU.

In 2023, about a dozen CFMEU members known as the "Youth Crew" surrounded an AWU car and chanted "scab, scab, scab". AWU officials were followed through traffic by men on motorcycles and Ms Schinnerl was verbally abused in front of her young son at a May Day family picnic, the inquiry was told.

In her written statement, which was admitted into evidence at the inquiry under commissioner Stuart Wood KC, Ms King said BMD told her groups of between 30 to 35 men wearing CFMEU clothing gathered daily at the Centenary Bridge project in suburban Brisbane and blocked access to AWU officials.

"They also told me that they had hired a private investigator to investigate who the people were, and that they had been advised that the guys on the picket line were Croatians, most likely associated with John Setka's crew from Melbourne, and that some may have had some connections with bikies," she said in the statement.

"BMD also told me that the investigator had found three trackers on BMD vehicles and that they had concerns for the safety of some of their crew and for the security of the site."

Mr Setka is a former Victoria CFMEU leader who was charged this month with threatening the union's government-appointed administrator, Mark Irving KC.

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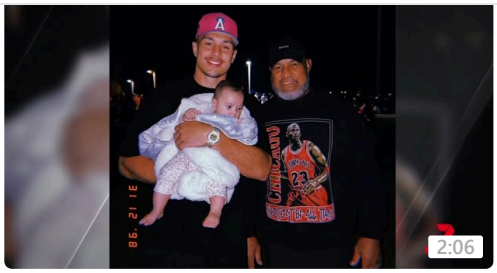
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Australia

CFMEU paid $40 million-$50 million into the wrong account, corruption inquiry told

The misdirection of money took place in Queensland, where the union's leaders hadn't faced an election in 15 years, administrator Mark Irving said.

Aaron Patrick
THE NIGHTLY
3 MIN READ · 20 NOV 2025 · UPDATED 20 NOV 2025

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Stuart Wood KC is leading an inquiry into CFMEU practices. Credit: DARREN ENGLAND/AAPIMAGE

Around $40 million to $50 million of CFMEU members' dues were paid to the wrong part of the union, breaking union rules, industrial relations law and depriving the workers of the right to vote in union elections, CFMEU administrator Mark Irving KC told a corruption inquiry today.

The misdirection of the money may have been designed to protect the leaders of the CFMEU's Queensland construction division from interference by their Federal counterparts, Mr Irving told the inquiry being conducted by barrister Stuart Wood KC in Brisbane today.

After previously watching dramatic footage of violence on Queensland building sites, the inquiry shifted on its third day to financial irregularities in the union, which was placed under the control of Mr Irving in 2024 by the Federal Labor government.

Mr Irving portrayed the CFMEU as Australia's most lawless union, and said it had been found to have broken the law 1163 times between 2019 and 2024, while other unions had few or no convictions. He blamed the union's problems in Queensland on former State secretary Michael Ravbar and deputy Jade Ingham, who he removed from their jobs.



CFMEU administrator Mark Irving. Credit: AAP

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'Violence, not organised crime'

Unlike the union's leaders in Victoria, who used criminals and motorcycle gangs to take control of building sites, Mr Irving said, the Queenslanders did not need outside help because they had controlled the division for 15 years "unhindered by the laws of society and the laws of civil society" without facing an election.

"The cancer in Queensland was violence, it wasn't organised crime," Mr Irving told the inquiry. "Ravbar and Ingham ran the Queensland branch as their own fiefdom."

The two men continued to have "effective control" over the division until June, this year, through the loyalty of union representatives known as delegates across hundreds of building sites, Mr Irving said.

Firing the delegates would have triggered "industrial chaos" across the state, he said, but he was able to use a report on union-orchestrated violence that was published in June to wrest control of the division about 10 months after he was legally placed in charge.

The inquiry heard on Wednesday that when a corruption investigator, Geoffrey Watson, conducted interviews for the report, union officials were driven to his interviews by a relative of Mr Ingham later charged with murder.

The union officials recorded the interviews. Those recordings were given to the driver and likely passed on to Mr Ingham, Mr Irving said, a process he agreed was a form of "coercive control".

Mr Irving said he was considering expelling Mr Ravbar and Mr Ingham and recommending legal action against them. Neither has been charged or had an opportunity to defend themselves to the inquiry, although have hired lawyers to attend each day. They are expected to be compelled to give evidence next year in what could be the inquiry's climax.

The inquiry was initiated by Queensland's Liberal-National government to clean out corruption in the building industry before big construction projects start for the 2032 Olympic Games.

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Workplace agreements doubt

Under a complicated legal structure that created two Queensland branches, $10m of members' dues each year was paid to an entity out of the control of the national division.

As a consequence the only construction workers considered paid-up members, and entitled to vote in union elections, were 163 members in the Northern Territory, Mr Irving said. The inquiry is considering if this could mean industrial agreements struck on behalf of Queensland members were legally valid.

In the 24 hours before Mr Irving took over, $3m was transferred from the union's accounts, he said. Fearing the money would disappear or be used to campaign against the administration, Mr Irving was able to get the money back.

On Wednesday Mr Watson, the corruption investigator, told the inquiry the union had reached an agreement with the police union that the police would not get involved in workplace disputes, even if they descended into physical intimidation or violence.

The Queensland Police Association vehemently denied signing any such deal. "I find it offensive and outrageous any insinuation suggesting police who have sworn an oath to disrupt and stop criminal behaviour would not act where required by law and jeopardise their own integrity," President Shane Prior said.

Contacted Thursday morning about Mr Prior's statement, Mr Watson declined to comment.

Both Mr Watson and Mr Irving said the union should not be deregistered, or abolished, because it would cause too much disruption to the building industry and hurt workers.

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CFMEU inquiry hears rival union boss Stacey Schinnerl held 'significant concerns' for her safety after perceived threat

By Ciara Jones Unions

Wed 3 Dec 2025 at 5:35am



The commission of inquiry into the state division of the CFMEU is holding its second block of public hearings in Brisbane. *(ABC News: Luke Bowden)*

In short:

Australian Workers Union (AWU) Queensland branch boss Stacey Schinnerl has given evidence about the CFMEU's alleged use of violence and intimidation towards the AWU, its main rival.

Ms Schinnerl told the inquiry about receiving what she perceived to be a threat on her life.

What's next?

The commission of inquiry into alleged misconduct and corruption within the state division of the CFMEU continues on Thursday.

A rival union boss has told an inquiry she lives in a "perpetual heightened state of anxiety" amid an "orchestrated" fear campaign against her by the Construction, Forestry and Maritime Employees Union (CFMEU).

Australian Workers Union (AWU) Queensland branch boss Stacey Schinnerl has given evidence at the commission of inquiry into alleged misconduct and corruption within the state's division of the CFMEU.

In an explosive day of testimony, Ms Schinnerl revealed she had received what she perceived to be a death threat amid escalating hostilities between the militant union and the AWU, its main rival.

The inquiry heard she was given a personal message by the CFMEU via an AWU delegate, "to the effect of: 'if I stick my head up, it will get knocked off'".

"I took that to be a threat on my life," Ms Schinnerl said.

She detailed another instance in which she was "followed" from a shopping centre with her 13-year-old son.

Ms Schinnerl told the inquiry the "cumulation" of such incidents had left her in a "perpetual heightened state of anxiety and fear" for herself and her children.

"There were multiple instances that … caused me to believe I was in genuine danger," she said, telling the inquiry she felt "unsafe" in her "own home."

Starting a 'war'

Ms Schinnerl said tensions were heightened after she made a joke during a speech at the 2022 state Labor Party conference, which resulted in ousted

CFMEU state secretary Michael Ravbar "yelling" and staging a walkout with his union's delegation.

She told the inquiry the "quip" related to the CFMEU's "storming" of the Transport and Main Roads building in Brisbane's CBD.



The probe has focused heavily on the CFMEU's alleged use of violence and intimidation towards rivals. *(ABC News: Luke Bowden)*

"I've been told by multiple sources that Mr Ravbar has identified that particular moment as myself starting a war with the CFMEU," Ms Schinnerl said.

"The following week, he called all staff in to Brisbane whereby he discussed plans to, and I quote, take down the AWU.

"I think it's very childish and … very convenient, I think the CFMEU probably always had those plans but I provided an opening and an excuse."

'Orchestrated campaign'

Yesterday, Queensland Council of Unions (QCU) general secretary Jacqueline King took the stand, telling the inquiry that Ms Schinnerl

sought help from the state's top cop and had installed home CCTV and other personal safety measures amid an "orchestrated campaign" of threatening and abusive behaviour.

In her written statement to the inquiry, Ms King recalled an incident in which Ms Schinnerl was "certain she was being followed in … traffic by two intimidating men on large motorcycles".



Jacqueline King told the inquiry Stacey Schinnerl was concerned for her family's safety. *(AAP: Liam Kidston)*

"She could not say whether these persons were CFMEU-affiliated or whether they were 'bikies' but she was clearly shaken," Ms King wrote.

"On the same weekend, one of her organisers had been in a similar incident on the Sunshine Coast motorway while driving with their grandchild in the back seat, where they believed they were followed aggressively by men on large motorcycles.

"Ms Schinnerl was concerned … these incidents were part of an orchestrated campaign against the AWU by the CFMEU."

The inquiry heard Ms King and Ms Schinnerl organised a meeting with Queensland Police Commissioner Steve Gollschewski and his deputy

Cheryl Scanlon in July 2024.

> "You had concerns that were sufficiently serious [enough] that you thought a meeting with the most senior officers of Queensland police was appropriate?" counsel assisting Mark Costello asked Ms King.
>
> "Yes," she replied.

The women never heard back, the inquiry heard.

The inquiry was announced by the Queensland government in July following a scathing report of the state branch released that same month.

In August last year, all state and territory branches of the construction arm of the CFMEU were placed into administration.

Ms Schinnerl will continue giving evidence on Thursday.

Posted

Wed 3 Dec 2025 at 5:35am

, updated

Wed 3 Dec 2025 at 5:27pm

NEWS iview listen

Queensland CFMEU member allegedly harassed rival union boss in front of teenage son, inquiry hears

By Ciara Jones Unions

Thu 4 Dec 2025 at 1:10pm



Stacey Schinnerl told an inquiry she was publicly harassed and berated by a CFMEU member.

In short:

A Queensland inquiry has heard a CFMEU leader "watched on" as AWU state branch leader Stacey Schinnerl was publicly harassed and berated by a CFMEU member in 2023.

Ms Schinnerl, the AWU's first female Queensland leader, broke down as she recounted the confrontation.

What's next?

The commission of inquiry into alleged misconduct and corruption continues.

A rival union leader has broken down in tears at a Queensland inquiry while recounting how a CFMEU member allegedly publicly berated and harassed her in front of her 13-year-old son.

The commission of inquiry into alleged union misconduct and criminal links in Queensland is holding its second block of public hearings in Brisbane.

Australian Workers' Union (AWU) state secretary Stacey Schinnerl — the first woman to lead an AWU branch in its nearly 140-year history — has taken the witness stand for a second day.



The Australian Workers Union Queensland branch leader Stacey Schinnerl has given evidence in the Queensland CFMEU inquiry. *(Supplied)*

Ms Schinnerl gave emotional testimony about an incident in which she came "chest to chest" with a CFMEU member at a 2023 Brisbane Labour Day event.

The inquiry heard the man approached Ms Schinnerl in the AWU marquee at the RNA Showgrounds and said: "How do you f***ing like this?" while

gesturing to his face, which was painted with the words: 'Australia's Worst Union'.

Ms Schinnerl said she told him to "just jog on" but he repeatedly called her "weak".



Ms Schinnerl says she told a union member to “just jog on” but he repeatedly called her “weak”. *(Supplied)*

She broke down while describing how her teenage son was watching the incident unfold.

> **"I kept on saying: 'My son is here. Just go. Don't do this here'," she told the inquiry.**

"He [the CFMEU member] then really pushed up against me ... we very much ended up chest to chest."

"It felt like he was trying to get past me to my child and the man said to [my son]: "How does it feel to know your mum's a f***ing grub who sells out workers?" she said.

She told the inquiry she saw former CFMEU Queensland assistant state secretary Jade Ingham "watching on".

"Mr Ingham made no attempt to pull him away," she said.

Ms Schinnerl was then briefly followed by a group of men wearing CFMEU shirts while leaving the event, the inquiry heard.

Some AWU officials 'moved homes' out of fear

Ms Schinnerl told the hearing "prolonged" violence, abuse, harassment and intimidation have taken a significant personal toll on her and her union colleagues.

> **"I've had [AWU] people feel that the risk is so great, they have had to move homes," Ms Schinnerl said.**

"I have not done so, I would never let them win like that over me."

She told the inquiry she believes Mr Ingham and former Queensland CFMEU boss Michael Ravbar know her home address — and that speaking out may make her an even "bigger target".



Ms Schinnerl told the inquiry she believes Michael Ravbar knows her home address *(ABC News: Mark Leonardi)*

> **"I cannot explain to you as a parent ... how vulnerable that makes me feel."**

"But it is the right thing to do because I have not done anything wrong ... and if I am guilty of anything, it is actually standing up to them and I don't think they thought I was going to do that," Ms Schinnerl said.

She added that what "pains me most" is the damage the situation had caused to the union movement.

"Unions exist to improve the lives of working people ... I think workers have been forgotten in this, I think political ... and industrial agendas have taken over," she said.

'Utter pariahs' of the union movement

The inquiry heard the CFMEU plastered anti-AWU stickers and posters on buildings and erected flags on AWU offices amid an "aggressive campaign" to push their rivals from civil construction sites.



The inquiry heard the CFMEU plastered anti-AWU stickers and posters on buildings and erected flags on AWU offices. *(ABC News)*

Ms Schinnerl told the inquiry she was reluctant to report alleged misconduct to police because of a deep-rooted "unwritten code" in the union movement about "not grassing on your mates."

> **"That would be seen as the absolute antithesis of solidarity," she said.**

She became emotional again while telling the inquiry she would "do things very differently" if she had her time again.

"Perhaps if I had followed through with some of those complaints more formally … I could have stopped more of the serious stuff," she said.

"We would have been the complete and utter pariahs of the union movement, had we done so."

On Wednesday, Ms Schinnerl described being subject to a years-long campaign of fear, harassment and intimidation by the CFMEU that included

a perceived threat on her life.

The inquiry heard CFMEU members told her to: "keep her head down or it would be knocked off".

The inquiry was announced by the Queensland government in July following a scathing report of the state branch released that same month.

In August last year, all state and territory branches of the construction arm of the CFMEU were placed into administration.

Posted

Thu 4 Dec 2025 at 1:10pm

, updated

Fri 5 Dec 2025 at 7:46am

VIDEO: CFMEU inquiry hears allegations of intimidation and death threats

Tom Hartley

7.30

Thu 4 Dec 2025 at 6:51pm



CFMEU inquiry hears allegations of intimidation and death threats

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A probe into the CFMEU has continued in Brisbane with allegations of bullying, violence and misogyny at the powerful construction union.

Tom Hartley reports.

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CFMEU inquiry hears Labor leaders ignored 'repeated' industry warnings

By Ciara Jones Unions

Tue 10 Feb 2026 at 5:02pm



An inquiry is underway in Brisbane into the CFMEU's alleged links to organised crime across Queensland. *(ABC News: Luke Bowden)*

In short:

An ongoing inquiry into alleged misconduct within the CFMEU has heard industry leaders were "ignored" by the former Labor government.

The inquiry heard construction industry bosses expressed concerns about the impact of the controversial BPIC policy, introduced in 2018.

What's next?

The inquiry continues with a final report due to be handed to the Queensland government in July.

The former Queensland premier and senior Labor ministers ignored repeated warnings from several high-ranking industry bosses about a key CFMEU-linked government policy, an inquiry has heard.

Civil Contractors Federation Queensland chief executive Damian Long has fronted a commission of inquiry into alleged union misconduct and criminal links in Queensland, which is holding its third block of public hearings in Brisbane.

Mr Long's evidence was centred on the development and rollout of the Palaszczuk government's controversial best practice industry conditions (BPIC) policy, which outlined conditions and pay for construction union workers on all major state projects worth more than $100 million.



The former Labor government's best practice industry conditions (BPIC) policy came under fire during the inquiry on Tuesday. *(ABC News: Glenn Mullane)*

The deal, introduced in 2018, included a five per cent pay rise annually, double time for some workers when it rained, a month of rostered days off each year and an allowance of $100 a week for workers using their own mobile phone.

The current LNP government scrapped the conditions, citing cost blow-outs and crippling productivity on state builds.

Mr Long told the inquiry the policy was "essentially a CFMEU enterprise agreement" with union officials reportedly involved in departmental negotiations.

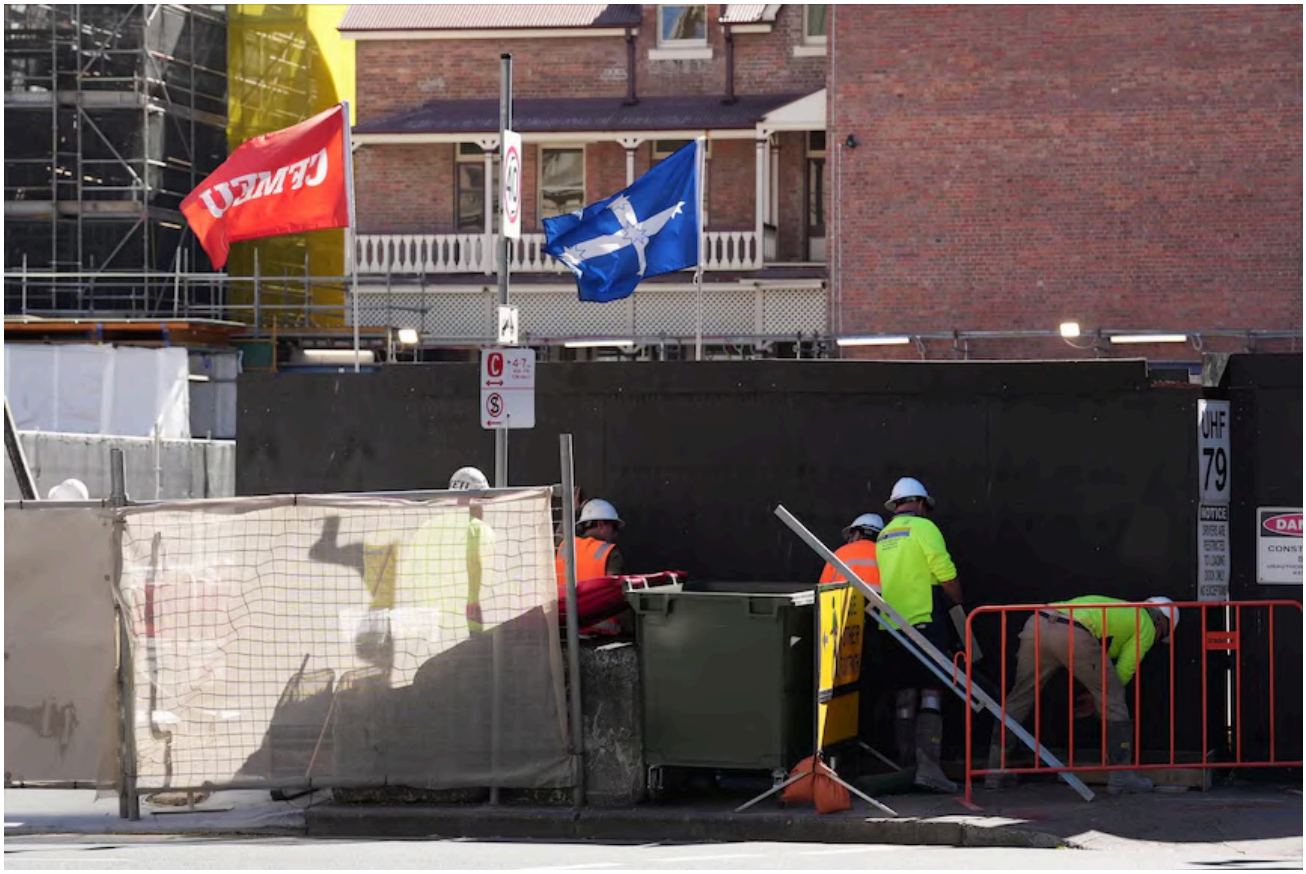
He accused the former government of running a "sham of a collaborative process" and said the militant union ultimately had a "driving hand" in BPIC's implementation.

"The collaborative process and consultation process was nothing more than tabling documents to show where the government was going," Mr Long said.

> **"There was no acceptance of any feedback from industry ... there was no opportunity to give feedback."**

Mr Long cited internal evidence showing the conditions reduced productivity to as little as two days of work per week, contributed to increased labour costs, reduced labour capacity, and caused delays on major projects.

The inquiry heard the policy cost the state between $13.1 billion and $38.6 billion.



Mr Long told the inquiry industry leaders had "no opportunity" to provide the government with feedback. *(ABC News: Brigham Edgar)*

Government 'embarrassingly silent' on industry concerns

The inquiry heard in 2020, Mr Long and several other industry group leaders, including Master Builders and the Infrastructure Association of Queensland, outlined their concerns in a letter to then premier Annastacia Palsazczuk.

"Apart from 'noting' the letter, there was no response verbally or otherwise," Mr Long said.

"We could see the cost increases ... and we couldn't reconcile the government's response that it was 'good for Queenslanders and the Queensland economy' when we could plainly see that it wasn't and we were providing evidence to the contrary.

"I found it quite insulting ... a group of industry heads that represented such a large part of the economy — [weren't given the] courtesy to even pull together a small working group to run through our concerns.



Mr Long said the government was "embarrassingly silent" on industry concerns. *(AAP Image: Darren England)*

"It [the government] was embarrassingly silent," he said.

Mr Long told the hearing BPIC was the "worst" and "most damaging" policy he had seen in his 30-year career.

Anti-corruption barrister Geoffrey Watson SC, who authored a damning report into the union's Queensland branch which triggered the probe, is due to be cross-examined when he takes the witness stand for a third time on Wednesday.

Commissioner Stuart Wood KC is due to deliver his final report to the Queensland government in July.



The inquiry is being run by Commissioner Stuart Wood. *(AAP Image: Liam Kidston)*

New legal action against CFMEU

In a separate matter, the workplace watchdog today launched legal action against the CFMEU and two officials for alleged illegal conduct on a Brisbane work site.

The Fair Work Ombudsman alleges that in November 2024, organisers Cody Budgeon and Dylan Howard entered an exclusion zone at the Woolloongabba Cross River Rail station construction site without authorisation, despite requests to leave.

It is further alleged the men refused to leave the zone for about an hour, delaying work.

The pair could be fined almost $20,000 per contravention, while the CFMEU faces penalties of up to $99,000 per contravention.

The matter will be heard in the Federal Circuit and Family Court in Brisbane on May 25.

Posted

Tue 10 Feb 2026 at 5:02pm

NEWS iview listen

The identities linked to corruption at the CFMEU, according to Queensland's Commission of Inquiry

By investigative reporter **Jessica Longbottom**

Construction and Real Estate Industry

Thu 12 Feb 2026 at 4:14am



Geoffrey Watson's report named dozens of people who have allegedly benefited from corrupt conduct at the CFMEU. *(Graeme Powell)*

abc.net.au/news/cfmeu-inquiry-report-corruption/106333306 Share

The CFMEU construction union has been under a cloud since Nine newspapers raised serious concerns about corruption in its ranks two years ago.

It forced the federal Labor government to place the union in administration and order an investigation into its operations.

The full depths of criminality that plagued the union have now been revealed in a report by Geoffrey Watson SC, tendered to Queensland's Commission of Inquiry into the CFMEU on Wednesday.

In a colourful and unusually candid report, Watson tears the CFMEU apart — naming dozens of people who have benefited from corrupt conduct.

Among them are convicted and alleged killers employed as CFMEU health and safety officers, to untrained relatives of CFMEU delegates who were hand-picked to work shifts where they made as much as $15,000 a week.

The report also exposed the role Outlaw Motorcycle Gangs (OMCGs) have played, alleging they were so embedded in the CFMEU that they were using government building sites as drug distribution centres.

"The CFMEU was actively employing criminals. During the [John] Setka era, the CFMEU was forcing contractors to employ patched bikies, meth-abusers, violent stand-over men, killers, boxers and cage fighters," the report states.

"The CFMEU succeeded in casting a shadow of fear over the whole building sector."

The losers in all this — alongside the law-abiding construction workers and companies intimidated by the union — were the people of Victoria.

The report estimates $15 billion of taxpayer money was wasted on corrupt payments linked to the CFMEU.

This is because of the union's heavy involvement on building sites associated with Victoria's Big Build. This $100 billion mass public infrastructure project includes the recently completed Metro Tunnel, the North-East Link, and various rail upgrades.

More than 25 people who benefited from or are linked to corrupt behaviour are named in the report.

Who are they?



JOHN SETKA



MICK GATTO



JOE MYLES



FARUK ORMAN



TOBY MITCHELL

Union delegates who were bikies

It goes without saying that union delegates and health and safety officials should be people of good standing who have the best interests of workers at heart.

"Ordinarily, the position of a delegate is one earned by skill, dedication and long service to the Union. It would usually take years before an ordinary worker could become a delegate," the report says.

However, the report says those appointed included dangerous criminals, killers, drug dealers, and violent bikies.

Few had experience or qualifications in the building industry.

Here are just some that the report says infiltrated the union.



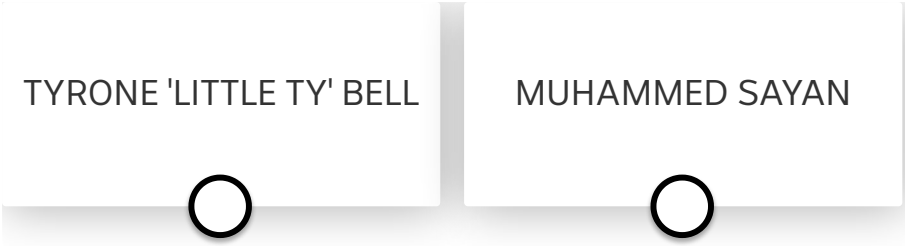
LUKE MOLONEY



JONNY 'TWO GUNS' WALKER



JOEL LEAVITT



What was going on?

There were several ways the corruption happened, including:

- Contractors and builders were extorted. They would be threatened with industrial disruption — unless they paid money to union officials or associates. Closing worksites is highly costly, so builders would often comply.
- The CFMEU controlled the awarding of Enterprise Bargaining Agreements to companies that wanted to work on government projects. They allegedly would approve them only if a bribe were paid or in exchange for other favours.
- Some workers on Victoria's Big Build projects had to pay union delegates or organisers up-front in cash to get a job.
- There were also notorious 'ghost shifts' where union delegates ensured they got paid twice for the same shift — once from a labour hire company and then from the contractor they were working for. Taxpayers again footed the bill for this double-dip.
- Highly lucrative jobs were given to mates and family members — sometimes, where they did not even need to turn up to get paid. The shift penalties were so huge that they could make $15,000 a week for an unskilled labourer.



Workers protested at a Hawthorn East site after the bashing of a union organiser.
(Queensland's Commission of Inquiry into the CFMEU)

On top of losing money, the fear of actual violence was real. One union organiser lost the use of his eye after being bashed in an attack, the report says, which was 'covered up' by the CFMEU leadership.

Misogyny was also rife, with women strippers allegedly being recruited for Big Build jobs from strip clubs and being paid to perform by male workers.

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CFMEU inquiry hears Workplace Health and Safety Queensland 'captured' and 'weaponised' by union

By Tobi Loftus Unions

Tue 10 Mar 2026 at 1:38pm



The inquiry is examining alleged misconduct within the construction union. *(ABC News: Luke Bowden)*

In short:

The fourth round of hearings as part of the inquiry into alleged misconduct within the Queensland branch of the CFMEU began in Brisbane on Tuesday morning.

Senior counsel assisting Patrick Wheelahan alleged Workplace Health and Safety Queensland became "captured" and "weaponised" by the union when Labor was in government.

What's next?

The inquiry continues, with current and former senior WHSQ personnel set to give evidence this week.

Queensland's workplace health and safety regulator was "captured" by the CFMEU when Labor was last in power in the state, a commission of inquiry into the union has heard.

The fourth round of hearings as part of the probe into alleged misconduct within the construction union began in Brisbane this morning.

Senior counsel assisting Patrick Wheelahan in his opening remarks alleged there was "regulatory capture of Workplace Health and Safety Queensland by the CFMEU during the period that ... Grace Grace was the Minister for Industrial Relations".

He said regulatory capture was "a form of institutional corruption".



Senior counsel assisting Patrick Wheelahan delivered his opening remarks in the CFMEU inquiry in Brisbane on Tuesday. *(ABC News)*

"That is, in this case, Workplace Health and Safety Queensland, whose legitimate objectives are to protect the health, safety and welfare of all individuals affected … became improperly dominated by the interest of the CFMEU."

It was then "weaponised" by the CFMEU for "illegitimate industrial control purposes" in the construction industry, Mr Wheelahan said.

He said this took many forms over several years.

"Evidence will be put before the commission of firstly improper external pressure by the CFMEU … by way of example that includes aggressive and intimidatory behaviour towards inspectors while they were performing their duties," he said.

"The alleged outcome of regulatory capture of WHSQ by the CFMEU is that the CFMEU was treated beneficially when compared to other stakeholders."



The fourth round of hearings into the Queensland branch of the CFMEU began on Tuesday. *(AAP Image: Darren England)*

Mr Wheelahan alleged CFMEU officials were allowed to behave towards WHSQ inspectors in ways that would "not be permitted by other industry

participants".

"Evidence ... of a culture of fear within the regulator, that if staff acted in contrary to the CFMEU wishes they would suffer detrimental consequences in their employment, or be targeted, demeaned or ridiculed."

He alleged resources were diverted away from higher priority matters towards areas of interest to the CFMEU.

Former director a 'focus' of inquiry

Mr Wheelahan said a focus for the inquiry was former director of construction, compliance and field services, Helen Burgess.

"Under the leadership of Helen Burgess ... the CFMEU was unduly prioritised and favoured in terms of health and safety notices and site access," he said.

"It will be alleged that Ms Burgess was the primary conduit between the CFMEU and WHSQ."



Patrick Wheelahan alleged the regulator had been captured by the CFMEU. *(ABC News)*

He alleged Ms Burgess improperly directed inspectors to deal with CFMEU issues as a priority and directed inspectors to assist CFMEU officials to enter worksites in circumstances where those CFMEU officials did not have a legal right to enter.

He also alleged she "worked hand in hand" with the CFMEU to use compliance monitoring and enforcement policies to "pressure inspectors to issue infringement notices at the CFMEU's bidding".

"Ms Burgess telephoned an inspector on the way to a right of entry issue to a site, and I quote 'to make sure the CFMEU officials don't get arrested'," Mr Wheelahan said.

Current WHSQ operations manager and former principal inspector Deborah Dargan, and former principal inspectors Noel Hayes and Paul Watts will give evidence this week.

A fourth former principal inspector is expected to give evidence at a later date.



The inquiry heard WHSQ was influenced by the CFMEU while Grace Grace was minister for industrial relations. *(AAP: Darren England)*

Mr Wheelahan said that evidence would show a "culture developed following the election of the Palaszczuk Government and the appointment of Grace Grace [as minister]".

"[Their evidence will show WHSQ] went from a relaxed and effective workplace, to one with a culture of bullying, intimidation and harassment."

Mr Wheelahan told the hearing 14 WHSQ inspectors made a complaint to the Crime and Corruption Commission alleging "systemic bulling, intimidation and abuse" by CFMEU officials to WHSQ inspectors, supported by senior WHSQ staff.

The complaint alleged Ms Grace failed to act on complaints and "allowed... unprecedented influence" over WHSQ by the CFMEU.

In a response to one of those complainants, the CCC said it would "not be taking any action in relation to the complaint about Minister Grace".



Senior counsel assisting Patrick Wheelahan alleged the CFMEU "captured" Workplace Health and Safety Queensland. *(ABC News: Luke Bowden)*

"The CCC takes the view that the performance of the official duty of a person elected to office would not involve corrupt conduct unless the

conduct would if proved amount to a criminal offence," the CCC said in the response read to the inquiry by Mr Wheelahan.

"In the absence of evidence that would support a criminal offence, the CCC is unable to deal with the matter."

Commissioner Stuart Wood KC is due to deliver his final report to the Queensland government in July, but that date could be pushed back.

Speaking in Mackay this morning, Opposition Leader Steven Miles defended the former government and his colleague.

"[Grace Grace's] focus was on ensuring safe workplaces," he said.

"The construction industry can be dangerous work, and we were always motivated to make sure those workers who go to those construction sites go home to their families every day."

Ms Grace said it would be "inappropriate" to comment on the ongoing commission of inquiry.

"Queensland Labor placed the CFMEU into administration and have supported the Commission of Inquiry since its inception," she said.

Union complaints treated as high priority

WHSQ operations manager Deborah Dargan, who was previously a principal inspector, gave evidence to the inquiry on Tuesday afternoon.

She told the inquiry the "appetite for prosecution" into the alleged failure of the union to give 24-hour right of entry notices "had ceased" soon after Labor came to power in 2015.

The 24-hour entry notice rule was subsequently scrapped by the Labor government.

She told the inquiry union complaints were then treated as a high priority, and that escalated further after Ms Burgess became the construction director in 2018.



WHSQ operations manager Deborah Dargan said union complaints were treated as a high priority. *(ABC News)*

"[Inspectors] were expected to leave whatever they were doing to attend a union right of entry request," Ms Dargan told the inquiry.

"Once they got the call, initially they would argue, then they would realise there was no point in arguing.

"It was very seldom there would be a genuine risk present."

She said inspectors would then have to walk around the construction site for "hours and hours" doing a general audit and "following the union around" .

Ms Dargan will continue to give evidence on Wednesday.

Posted

Tue 10 Mar 2026 at 1:38pm

, updated

Tue 10 Mar 2026 at 4:27pm

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General

Robyn Wuth
Mar 10, 2026, 2:41 PM

Safety inspectors 'bullied and abused' by CFMEU

Construction and Property Crime Crime, Law and Justice Health and Safety At Work Inquiry Organized Crime Politics Queensland Unions



Safety inspectors say bullying and abuse from CFMEU officials drove many from the industry. (Darren England/AAP PHOTOS)

An ongoing inquiry into a militant union has heard its "systematic bullying, intimidation, and abuse" leeched into the department charged with keeping its members safe.

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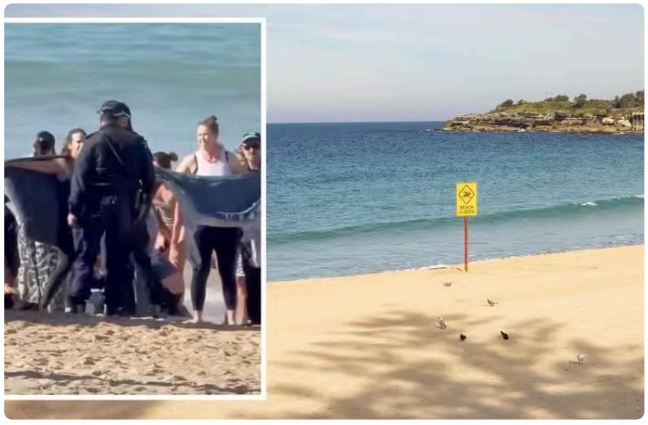
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Former construction commissioner tells inquiry CFMEU breached Queensland industrial laws 25 times in 14 years

By Tobi Loftus Unions

Tue 14 Apr 2026 at 4:59pm



Former ABCC commissioner Nigel Hodgkiss has given evidence at the Commission of Inquiry into the CFMEU in Queensland. *(ABC News: Glenn Mullane)*

In short:

Former Australian Building and Contruction Commission (ABCC) head Nigel Hadgkiss has told the Commission of Inquiry into the CFMEU in Queensland that the union breached industrial laws 25 times in the past 14 years.

Mr Hadgkiss advocated for a code of conduct and enforcement agency, telling the inquiry less days were lost to industrial action when the ABCC existed.

What's next?

Mr Hadgkiss will return to the witness box at a later hearing when he will be cross examined by lawyers for the CFMEU administrator.

The Construction, Forestry and Maritime Employees Union (CMEU) breached industrial laws in Queensland at least 25 times in 14 years, the former head of Australia's construction watchdog has told an inquiry into misconduct in the union.

Former Australian Building and Construction Commission (ABCC) boss Nigel Hadgkiss addressed the Commission of Inquiry into the CFMEU in Queensland on Tuesday about the need for a code of conduct and enforcement agency.

Mr Hadgkiss told the inquiry a major component of a code — which would apply to builders wanting to work on government projects — would be rules that preserve the integrity of legislated right of entry mechanisms, or the process in which union officials can enter a workplace.



Mr Hodgkiss told the inquiry the CFMEU breached industrial laws in Queensland at least 25 times in the past 14 years. *(AAP Image: Darren England)*

He said the CFMEU had repeatedly entered sites "with a flagrant disregard" for legal requirements, disrupting work and creating safety risks.

The inquiry heard this resulted in at least 25 right of entry and other industrial law breaches, resulting in $4.57 million in fines for the CFMEU and $1.48 million for individuals.

Need for code of conduct, inquiry hears

Mr Hadgkiss cited a 2023 incident in which senior CFMEU officials Michael Ravbar and Andrew Blakely entered Cross River Rail sites at Woolloongabba and Roma Street to host an unauthorised union barbecue.

"[They] refused to complete the site induction, entered the construction sites over the occupier's objection, refused to leave when directed to do so, and set up their union barbecue during work hours," he said.

"Their conduct in doing so disrupted productivity and presented an unnecessary safety risk. The Queensland industry is replete with examples of conduct of this kind."



Mr Hodgkiss says the union's breaches resulted in $4.57 million in fines for the CFMEU and $1.48 million for individuals. *(ABC News: Luke Bowden)*

Mr Ravbar received a $9,320 fine as a result of that incident, Mr Blakeley received a $12,000 fine, while the union as a whole received a $204,000 fine.

Mr Hadgkiss told the inquiry he had been involved in the creation and implementation of several building and construction industry codes across the country.

That included leading the ABCC, which was the statutory authority set up to enforce workplace relations compliance in the building and construction industry.



Nigel Hadgkiss gave evidence at the commission of inquiry into the CFMEU in Queensland on Tuesday. *(ABC News)*

Mr Hadgkiss told the inquiry that when the ABCC existed, there were less days lost to industrial action.

"In every jurisdiction where I have observed an active regulator administering an effect code, there have been corresponding improvements to productivity, safety and freedom of association within the industry," he said.

> **"There is a need for a more robust code in Queensland to deal with the problems the industry is confronting."**

Mr Hadgkiss resigned from the ABCC in 2017 after admitting to breaching the Fair Work Act over right to entry rules.

That resignation was welcomed by groups such as the Australian Council of Trade Unions, whose secretary Sally McManus said Mr Hadgkiss "oversaw a draconian and authoritarian body that breached Australia's

international obligations, persecuted workers and stripped away the right of silence from ordinary hard-working Australians".

Push for limit on flags at worksites

Mr Hadgkiss said right to association, or in effect the right to not associate with the union, was also paramount to any future code — and that could involve limiting the number of flags a union can display on a construction site.

The CFMEU is well known for displaying flags on construction sites.

"Flags in particular are an indication this is a union-run site and woe betide you if you're not a member of the union," he said.

"It emboldens [the union], the flying of flags from cranes, various graffiti, posters that litter building sites ... and when employers tried to remove it, they were in serious trouble," he said.

"In some instances, I can recall harassment, violence being put upon them. They were told to basically put back the posters."



Mr Hodgkiss says a right to associate is critical to a future code, potentially limiting the number of flags a union can display on a worksite. *(ABC News)*

He said employers at times were also "obliged to comply" with requests to put CFMEU-endorsed logos on work uniforms.

"When contractors were more afraid of the enforcement body around than it was of the union, then there would be a change of behaviour," he said.

"But as soon as there was no enforcement body, then they would succumb to the demands of the union.

"They had to... to obtain industrial harmony.... industrial peace."

Mr Hadgkiss will return to the witness box at a later hearing when he will be cross examined by lawyers for the CFMEU administrator.

Posted

Tue 14 Apr 2026 at 4:59pm

, updated

Tue 14 Apr 2026 at 5:05pm

NEWS iview listen

Inquiry into Queensland CFMEU branch hears of union's impact on construction of Brisbane's Cross River Rail

By Tobi Loftus Unions

Sat 2 May 2026 at 7:56am



Queensland's Commission of Inquiry has this week heard from one of the main companies working on Cross River Rail. *(ABC News: Luke Bowden)*

Brisbane's Cross River Rail has been touted as a game-changing public transport project.

But Queensland's Commission of Inquiry into the Construction, Forestry and Maritime Employees Union (CFMEU) has heard construction was plagued by sabotage, violence, and years of interference.

Michael O'Brien, the former senior industrial relations advisor for CPB Contractors — one of the main companies working on the project — told the inquiry of the time he felt "fearful" on site.

They were constructing the 10.2km underground rail line and associated stations, which will provide a second Brisbane River crossing in the city area.

In June 2023 Australian Workers Union (AWU) delegates visited the Gabba Station construction site to address their members about a new enterprise agreement.



Brisbane's Cross River Rail will include 5.9km of twin tunnels running under the Brisbane River and CBD. *(ABC News: Christopher Gillette)*

The union had for a while, the inquiry has heard, been the target of the CFMEU — who were allegedly trying to push their AWU rivals from civil construction sites.

Mr O'Brien told the inquiry two AWU organisers, who had the correct paperwork, signed in, followed the induction process and had a meeting with their members.

It was what most workplaces would deem an ordinary start to an on-site union meeting. But this was not an ordinary workplace.

"I did notice, on that day, there was no interruption to the meeting," Mr O'Brien said.

"I thought it was unusual as we were expecting trouble."

The meeting concluded and Mr O'Brien said he went to lead the two AWU organisers off the site. But then he checked the front gate.

"There were at least 30 persons in black shirts … they were furious, angry, it was the only time I would say I was fearful on the project," he said.

> **"The language, the ferocity … it was unlike anything I had ever seen."**



Former senior industrial relations advisor for CPB Contractors Michael O'Brien gave evidence at the inquiry this week. *(ABC News)*

The group belonged to the CFMEU's youth crew — and were being led by Richie Atutolu, who worked at the project site. Other CFMEU organisers present allegedly included Brodie Wood, Dean Rielly and Matt Clark.

"I immediately told [the AWU organisers] to stay where they were," Mr O'Brien said.

Police were called and Mr O'Brien escorted the duo to a side exit. Their movements and that of the CFMEU's youth crew were closely monitored on CCTV by site security.

Mr O'Brien said the AWU organisers only got about three metres before "the crowd came tearing around the corner yelling and screaming at them".

"I stayed at the boundary of the fence and told them to 'come back inside'," Mr O'Brien told the inquiry. "They said 'no mate, we'll be fine.'"

But the group managed to catch up with the pair.

"I [had not] seen CFMEU prior to that point get physical," Mr O'Brien said.

"They were shoulder charging them, pushing them, grabbing their backpack and shoving them around."



CFMEU members surrounded two AWU delegates after they visited the Gabba Station construction site. *(Supplied)*

Geoffrey Watson SC's report into the Queensland CFMEU, which was one of the triggers for the inquiry and has been tendered as evidence, further detailed the incident.

He wrote one of the AWU organisers was pushed onto the road into the path of traffic.

> "One of the men told the organiser that he 'knew where he had previously worked'; another said 'we won't stop coming for you — no one can protect you' and another said 'we know where you live'," Mr Watson wrote.
>
> "Then one made an especially chilling remark: 'we know you have two young sons'."

The duo were then followed into a nearby shopping centre before the incident dissipated.

'Strikes everywhere' in bid for deal

While the CFMEU had disputes with the AWU, there was a protracted and ongoing dispute with CPB, often around conditions.

It began before the contractor had even won the program.

In his written statement, Cross River Rail Authority Delivery boss Graeme Newton said the CFMEU had "made clear" their intentions to pursue a single project agreement setting out worker conditions.

They also wanted a say on which contractors would be most suitable for the project.

"The CFMEU's actions and conduct appear to have been undertaken as a means to influence the direction of the procurement process and industrial relations settings in a number of different ways," he said.

In 2019, negotiations began between CPB and various unions, including the CFMEU, to reach a conditions agreement.

CPB Contractors general manager Vince Sanfilippo spent almost two days in the witness box.

He said consultants linked to the Cross River Rail Delivery Authority, with connections to former deputy premier Jackie Trad, who had oversight of the project at the time, pressured the company to sign up to a CFMEU-preferred pay deal.

This would have pushed wages for workers to about $334,000 a year and was an early version of the controversial Best Practice Industry Principles (BPICs) policy.

The company refused to sign on, and Mr Sanfilippo said throughout the project they were subject to "manufactured" safety complaints from the CFMEU and Workplace Health and Safety Queensland, which the inquiry heard had been under "regulatory capture" by the union.

There were safety issues on the project. Serious ones. But union action, Mr Sanfilippo said, led to a massive drop in productivity as there were "strikes everywhere".



In 2024 thousands of union members rallied in Brisbane to protest the Queensland government's decision to suspend a raft of perks for construction workers.

In 2024, Mr Sanfilippo said, there was a "noticeable increase" in sabotage incidents on the project.

"There was also an increase in the number of issues with toilets … being intentionally clogged, locks being removed off female toilets," he said.

"Even concrete slurry being poured into toilets."



Vince Sanfilippo told the inquiry there was an increase in sabotage incidents on the project in 2024. *(ABC News)*

He said CCTV footage captured men in masks spray-painting security cameras, while entry keypads were damaged and graffiti sprayed around sites.

"During rallies, protests and other forms of industrial action … the CFMEU appeared to adopt a strategic and tactical approach to site disruption," Cross River Rail Delivery Authority chief executive Graeme Newton said in his written statement.

"In these instances, the CFMEU appeared to use their knowledge of major construction phases to purposefully disrupt specific works, maximising negative impact on the wider project delivery program.

"The CFMEU appeared to target critical ... works with an aim to disrupt site operations ... force significant rescheduling of works and prevent the project from achieving major milestones."



CFMEU leaders and those with allegations made against them have yet to be called to give evidence at the inquiry. *(AAP Image: Darren England)*

Mr Newton told the inquiry the CFMEU "consistently made unsubstantiated claims" on social media and through media organisations about "poor safety" on worksites, including asbestos exposure and heat stress.

In one incident, where CFMEU members pretended to be climate change protesters to block a concrete pour, works were delayed by 12 days.



In April 2023 a dozen people wearing masks sat in front of the Albert Street Cross River Rail construction site in the Brisbane CBD. *(Supplied)*

Mr Sanfilippo said the timing was "purposeful" to "create maximum havoc".

"But the type of behaviour from the CFMEU ... I guess we had become accustomed to and were trying to deal with it on a day-to-day basis, every day," he said.

The inquiry heard Cross River Rail was five years behind schedule and is now due to open in 2029, though that was not directly attributed to CFMEU action with the COVID-19 pandemic and other global influences impacting the project too.

Costs have ballooned from $5.4 billion, to an estimated $19 billion.

Mr Sanfilippo said the implementation of the Best Practice Industry Conditions policy and associated CFMEU activity impacted productivity by about 55 per cent, costing taxpayers about $580 million.

CFMEU leaders and those with allegations made against them have yet to be called to give evidence at the inquiry, but the ABC understands anyone

who may be subject to adverse findings will be given the opportunity to respond.

The inquiry resumes on May 12.

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