


4-2006

Tax Fraud, Money Laundering and the Financing of Organized Crime

Erin Todisco
Rhode Island College

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Tax Fraud, Money Laundering & the Financing of Organized Crime

Erin Todisco
Honors Project
Accounting Department
Spring 2006

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Abstract

This honors project will focus on tax fraud and money laundering as they relate to the financing of organized crime syndicates. The purpose of this project is two-fold. First, it will demonstrate that tax fraud and money laundering are a major means of financing organized crime operations. Second, it will show that more aggressive enforcement of the tax code and money laundering legislation are necessary to help stop these organizations from continuing to operate in the future. I will illustrate how cooperation between the IRS and other government agencies (especially the FBI, DEA and US Customs) are essential in apprehending these criminals and seizing their assets. My approach will be to track the evolution of organized crime and its uses of money laundering and tax evasion, as well as the government's responses to it from the 1980's to the present day.

II. Taxes, Tax Fraud and Money Laundering Defined

Taxes are defined as “enforced contributions” by the government (Congress – who is given the power through the Constitution) which are imposed and collected in order to raise revenue which is used for public or governmental purposes.¹ Everyone who earns, or has earned, income in the United States is required to report their earnings and pay any applicable federal and state income taxes. Federal and state income taxes are not payments made to gain special privileges or services. Federal income taxes provide funding for programs and jobs in the federal agencies that benefit United States citizens. These agencies include the Federal Bureau of Investigation (FBI), Central Intelligence Agency (CIA), Drug Enforcement Agency (DEA), US Customs and the Internal Revenue Service (IRS).

Evading these taxes undermines the purposes that they serve which ultimately affects everyone. Tax evasion is a felony punishable by no more than a \$100,000 fine, imprisonment of not more than five years, or both, plus the cost of prosecution and other penalties provided by the law. Other punishment may include a 75% civil fraud penalty plus fines and prison terms imposed by other statutory provisions, if prosecution doesn’t constitute double jeopardy.² In order for tax fraud to be considered a felony, the Internal Revenue Service (IRS) must prove that the taxes were “willfully” evaded. This means that the person or business took certain actions solely for the purpose of avoiding the payment of taxes, or that they simply did not pay their taxes. Corporations can commit tax fraud by altering their financial records (“cooking the books”) to misrepresent

¹ Bittker, Boris and Matrin McMahan, Jr. Federal Income Taxation of Individuals (Massachusetts: Warren, Gorham & Lamont, 1995) 23.1.

² Bittker & McMahan 49.8[2].

their taxable earnings to avoid paying high taxes. Lawyers and accountants can also be held liable for tax fraud if they assist a person or company in the preparation of false financial statements or tax returns.

Money laundering consists of “activities and financial transactions that are undertaken specifically to hide the true source of the income.”³ This process is used because the money is originally obtained through illegal activity and the criminals that have possession of the money want it to appear legitimate. There is a wide range of intricate procedures that can be used in money laundering, which usually involve the placement, layering and integration of the money. Placement involves the initial introduction of the illegal income into the economy’s financial system, or its transportation out of the United States into a country with less stringent laws. The layering part of the process is where the funds begin their transfer through several bank accounts within various financial institutions around the world. This is where the criminals can hide the origin of their income. Finally, the integration of the money is when it is finally brought back into and used within the economy. At this point, the money appears to come from legitimate sources and the criminals are free to use it as they wish without the fear of getting caught.

Prior to the passing of the Money Laundering Control Act (MLCA) in 1986, there was no way to prosecute criminals for this offense. Since then, however, many organized crime members have been charged and convicted of money laundering along with tax evasion. The MLCA imposes a fine of not more than \$500,000 or twice the value of the

³ “Overview – Money Laundering.” Internal Revenue Service. 11 February 2006
<<http://www.irs.gov/compliance/enforcement/article/0,,id=112999,00.html>>.

property involved in the transaction (whichever is greater); imprisonment of not more than 20 years, or both⁴ for anyone who participates in, or attempts to participate in a money laundering operation (knowing that the property derives from illegal activity).

III. Organized Crime Defined

There are many ways in which organized crime has been defined throughout the years. In the 1960's at the Oyster Bay Conferences in New York, organized crime was described as the "product of self-perpetuating criminal conspiracy to wring exorbitant profits from our society by any means – fair and foul, legal and illegal...."⁵ In 1970, the U.S. Attorney General at the time, John Mitchell, defined organized crime as "all illegal activities engaged in by members of criminal syndicates operative throughout the U.S., and all illegal activities engaged in by known associates and confederates of such members."⁶ Today it is viewed as "a self-perpetuating structure and disciplined association of individuals who combine for the purpose of obtaining monetary gains or profits, either wholly or in part, through illegal means."⁷ Regardless of the different words used, it is clear that organized crime syndicates are comprised of a group of individuals whose sole purpose is to make money by whatever means they deem necessary to support the activities of their group. These syndicates include the American, Russian and Italian mafias, the Columbian drug cartels, the Chinese Triads, and the Japanese Yakuza, as well as world-wide terrorist organizations. Since organized crime

⁴ Title 18 USC § 1956

⁵ Bequai, August Organized Crime (Lexington: Lexington Books 1979) 2.

⁶ Block, Alan A. Masters of Paradise: Organized Crime and the Internal Revenue Service in the Bahamas (New Jersey: Transaction Publishers 1991) 3.

⁷ "Organized Crime – 2001 CI Annual Report." Internal Revenue Service. 17 February 2004 <<http://www.irs.gov/irs/article/0,,id=107648,00.html>>.

often overlaps with white-collar crime, this paper will consider companies and financial institutions that assist these criminals in laundering their “dirty” money to be part of these organized crime syndicates.

The beginning of organized crime dates back to the 13th century in India, Asia and Africa where bands of criminals participated in smuggling, drug-trafficking and looting villages. The Italian Mafia began in the Middle Ages as a secret society in Sicily. What started as a group protesting foreign invasions became a “criminal enterprise” that would eventually move onto American soil.⁸ While the Prohibition era did not mark the beginning of this move, it did spur an influx of criminals looking to make money from “America’s thirst for bathtub gin in the Roaring 20’s.”⁹ One such criminal was Alphonse “Al” Capone (also known as Public Enemy #1). Capone was never actually a member of the Mafia, but his affiliation with members, combined with his brutality qualified him as “a gangster of international prominence whose name evokes the very worst of gangland mayhem.”¹⁰ Capone’s demise can be attributed to the IRS’ Criminal Investigation (CI) Division, which will be discussed further in the next section of this paper.

The end of Prohibition brought on two main areas of concern. First was the way in which organized crime syndicates had learned to finance and manage their money with finesse. Second was the new set of interests that syndicates began to focus on in order to make money. These interests included, but were not limited to, weapons and drug trafficking, gambling, prostitution, extortion, theft and money laundering. These

⁸ Nathan, Lauren & Silverman, Rachel, eds. Life-Mobsters and Gangsters: Organized Crime in America, from Al Capone to Tony Soprano (New York: Life Books 1990) 8.

⁹ Nathan & Silverman 8.

¹⁰ Nathan & Silverman 36.

concerns were addressed in 1950 when Senator Kefauver chaired the Special Committee on Organized Crime. The Committee investigated discrepancies between the incomes reported by organized crime members on their tax returns and their wealthy lifestyles. The Committee also held televised hearings based upon these investigations and brought the evolving problem of organized crime to the public's attention.

While Senator Kefauver was exposing the existence and magnitude of organized crime syndicates, the FBI (under the direction of J. Edgar Hoover) had “denied”¹¹ they existed at all. This changed on November 14, 1957 at the Appalachian Conference held at Joseph Barbara's New York estate. Local police officers had been investigating a large gathering of “suspicious” people coming into town. This gathering came to be known as the Appalachian Conference, where officials discovered approximately 70 mafia bosses from around the world at Mr. Barbara's home. The purpose of the conference was to discuss the new structure of the mafia. With the arrest of numerous mafia bosses, the reality of organized crime and “what would go on for years – decades – to come was frighteningly apparent.”¹²

The use of tax fraud investigation became even more prominent in the 1960's with the advocacy of the late President John F. Kennedy. President Kennedy, along with his brother Robert F. Kennedy initiated the Organized Crime Drive (OCD), where they urged the use of taxation enforcement to combat organized crime.

IV. IRS and the Criminal Investigation Division

Organized crime is not usually associated with tax fraud and the IRS; however the

¹¹ Nathan, Lauren & Silverman, Rachel, eds. Life-Mobsters and Gangsters: Organized Crime in America, from Al Capone to Tony Soprano (New York: Life Books 1990) 64.

¹² Nathan, Lauren & Silverman, Rachel, eds. 64.

IRS has been actively investigating and prosecuting these criminals since the Prohibition Era. On July 1, 1919 the IRS Commissioner created the Intelligence Unit (which changed its name to Criminal Investigation in July 1978) to investigate allegations of extensive tax fraud. The CI Division currently consists of 2,900 Special Agents whose role is to investigate tax, currency money laundering and Bank Secrecy Act law violations. CI's structure consists of three inter-reliant programs: Legal Source Tax Crimes, Illegal Source Tax Crimes and Narcotics Related Financial Crimes. The Legal Source Tax Crimes program examines fraud in legal industries, legal occupations and legally earned income. The Illegal Source Tax Crimes program investigates money obtained through illegal sources such as money laundering, currency violations, securities fraud, bribes, etc. The Narcotics Related Financial Crimes program investigates money obtained through narcotics crimes, including drug trafficking and the money laundering activities relating to it. Within these three programs, CI has worked with other U.S. agencies such as the FBI, DEA and U.S. Customs, as well as other state and local agencies. The CI's conviction rate for Federal tax prosecutions from 1919 to present has never fallen below 90%, which is a record of success unmatched in Federal law enforcement.¹³ The necessity of CI to maintain this success rate was summarized by Federal Judge William H. Webster when he said, "If the CI fails to do its job effectively, no other agency will."¹⁴

¹³ "History of Criminal Investigation." Internal Revenue Service. 17 February 2004
<<http://www.irs.gov/irs/article/0,,id=107469,00.html>>.

¹⁴ "Webster Review – Executive Summary 1999." Internal Revenue Service. 17 February 2004
<<http://www.irs.gov/irs/article/0,,id=120416,00.html>>.

Since its inception in 1919, CI has used tax laws and financial investigations to track, indict, prosecute and convict high ranking members of organized crime syndicates along with drug traffickers and money launderers. The most notorious criminal to be prosecuted through the work of the CI division was Al Capone. In 1931, Capone was indicted for income tax evasion from the years 1925-1929 and for failing to file tax returns for the years 1928-1929.¹⁵ Capone was sentenced to 10 years in federal prison and ordered to pay a total of \$95,310.50 in prosecution costs, fines and other court costs, as well as millions of dollars owed in taxes.

V. Methods of Research and Purpose of Project

This honors project will focus on tax fraud and money laundering as they relate to the financing of organized crime syndicates. The purpose of this project is two-fold. First, it will demonstrate that tax fraud and money laundering are a major means of financing organized crime operations. Second, it will show that more aggressive enforcement of the tax code and money laundering legislation are necessary to help stop these organizations from continuing to operate in the future. I will illustrate how cooperation between the IRS and other government agencies (especially the FBI, DEA and U.S. Customs) could be effective in apprehending these criminals and seizing their assets. My approach will be to track the evolution of organized crime and its uses of money laundering and tax evasion, as well as the government's responses to it from the 1980's to the present day.

¹⁵ "History Files - Al Capone." 2003. Chicago Historical Society. 17 February 2004
<<http://www.chicagohistory.org/history/capone/cpn3a.html>>

VI. 1980's

“In the 1980's, while the FBI was locking up the bosses of Mafia families around the country...a new wave of ethnic gangsters swept across America's urban landscape.”¹⁶ Between 1982 and 1989, there were 685,000 legal immigrants that settled in New York City and it was estimated that another 200,000 entered illegally. This influx of immigrants throughout the 1980's, along with the emergence of “ethnic gangsters” and the rampant spread of cocaine turned the United States into a virtual paradise for many different criminal organizations.

At a congressional hearing in 1985 Stephen Trott (Assistant Attorney General of the Department of Justice's Criminal Division) stated that “the Treasury Department estimated...Americans spend more than \$80 billion a year just to buy illegal drugs.”¹⁷ When the money spent on illegal gambling and vice is added, this figure jumps to \$150 billion per year.¹⁸ With the willingness of Americans to spend this much money on illicit activities, the surfacing of new criminal enterprises was inevitable.

Although the Italian Mafia received the most exposure from law enforcement and the media in the 1980's, they no longer dominated organized crime. The Russian Mafia (known as the Russian Organizatsyia), Chinese Triads and Middle Eastern racketeers are just a few of the groups that began to increase their activities in the U.S. during this time. Not only was the configuration of organized crime changing, but the activities in which these syndicates participated in were also expanding. Aside from the illegal activities of

¹⁶ Kleinknecht, William The New Ethnic Mobs: The Changing Face of Organized Crime in America (New York: The Free Press, 1996) 6.

¹⁷ Hearing of the Committee on the Judiciary US Senate 99th Congress Money Laundering Legislation (1985) 53.

¹⁸ Ibid.

drug trafficking, gambling, extortion, racketeering, etc. organized crime was now spreading into “legitimate” businesses. These industries included restaurants, garbage & waste disposal, fuel/petroleum companies and banking, just to name a few. An area of particular interest for a variety of criminal organizations was that of the fuel/petroleum industry.

As of 1982, fuel wholesalers were required by federal law to collect their own sales tax and then remit them to the IRS. The structure of this law required wholesalers to pay the taxes when they sold the fuel to retailers, which enabled criminals to use a tax evasion scheme known as the “daisy chain”¹⁹ This scheme involved moving the fuel through multiple shell companies before actually selling it to retailers. The sole purpose of this process was to create a paper trail. Once the paper trail was in place and the taxes were collected from the sales to retailers, the criminals were able to move the money they received from the sales taxes to off-shore accounts and dissolve the real company they used to sell the fuel. Authorities would have to back-track from the retailers and through all of the shell companies before reaching the real company being used to sell the fuel. By this point in time, the company had already been closed and the owners couldn’t be found, leaving little chance of recapturing the taxes. Before running their scam, these criminal groups would need to purchase a legitimate fuel/petroleum company, or find an existing one whose owner was willing to participate in these activities.

It is believed that Lawrence M. Harrison was the one who “conceived and

¹⁹ “Former Organized Crime Figures Sentenced in Million Dollar Fuel Tax Fraud Scheme.” International Crime 9 August 2005 <<http://www.fas.org/irp/congress/1998-hr/s980421-1f.htm>>.

developed ... 'daisy chain' schemes"²⁰ to benefit himself and his mafia associates in New York and Florida. He estimated that his schemes totaled over \$1 billion in evaded taxes from the 1970's to the 1980's. While it was the Italian Mafia who initially recognized the profitability of fuel tax schemes, by the early to mid 1980's they began working with the Russian Organizatsyia and the Middle Eastern racketeers to maximize their profits. One of the first cases to confirm the joint ventures of these organized crime syndicates and legitimate businesses occurred in 1985 when the Italian Mafia, Russian Organizatsyia, 33 companies and an ex-police officer from New York City teamed up to run a "daisy chain" scheme that spanned five years & nine states and cost the Federal Treasury approximately \$1 billion per year.²¹ One of the goals within this joint venture, aside from making money, was to discover new ways to launder the money that was earned by evading taxes, so it could be used legitimately at a later date.

Money laundering is the "life blood of the drug syndicates and traditional organized crime."²² Although it has recurred throughout history, it was not until the 1970's that money laundering was associated with drug trafficking.²³ The Currency and Foreign Transaction Reporting Act of 1970, known as the Bank Secrecy Act (BSA), attempted to curtail money laundering efforts with the introduction of Currency Transaction Reports (CTR)²⁴, the Report of International Transaction of Currency or

²⁰ Ibid.

²¹ Block, Alan A. Space, Time and Organized Crime (New Jersey: Transaction Publishers, 1994) 319-320.

²² Hearing of the Committee on the Judiciary US Senate 99th Congress Money Laundering Legislation (1985) 57.

²³ Bynum, Timothy Organized Crime in America: Concepts and Controversies. (New York: Willow Tree Press, 1987) 74-77.

²⁴ See Appendix A for sample form

Monetary Instruments (CMIR)²⁵ and the Foreign Bank Amount Report (FBAR).²⁶

Legislation from the BSA required banks and other financial institutions to file these forms in the following circumstances: a CTR for any currency transactions greater than \$10,000; a CMIR for anyone transporting currency or other monetary instruments into or out of the country in an amount greater than \$10,000; and an FBAR for any US citizen who has an account in a foreign bank with a balance of \$10,000 or more.

The requirements of the BSA also impacted the Treasury Department, who now had to keep a computerized database of the CTR's, CMIR's and FBAR's that were filed in order to monitor the movement of money both domestically and abroad to identify possible money launderers.

The most popular way of laundering money in the 1970's and early 1980's was to use a method known as smurfing. This method entailed the use of numerous individuals (smurfs) in different cities who would do one or both of the following: they would deposit small amounts of money (under \$10,000) into various bank accounts and/or they would purchase money orders or cashier's checks in these small amounts which would later be cashed or deposited at other banks.²⁷ The amounts were kept under \$10,000 to avoid the BSA requirements of filing CTR's. Running a large smurfing operation through the structuring of deposits could be very expensive and time consuming. Criminals found that an easier way to avoid CTR's was simply to pay off the bank officials. Isaac Kattan, a money launderer for the Columbian drug cartels, recognized

²⁵ See Appendix B for sample form

²⁶ See Appendix C for sample form

²⁷ Grosse, Robert E. Drugs and Money: Laundering Latin America's Cocaine Dollars (Connecticut: Praegan Publishers, 2001) 72.

this opportunity to avoid CTR's, and between January 1980 and February 1981 he was responsible for laundering more than \$94 million through Miami's Great American Bank. Kattan made payments to the Vice President of the bank's installment loan department, a loan officer and the head teller in exchange for their non-compliance with filing CTR's when he made deposits of more than \$10,000.

For one man to be able to launder \$94 million of illegal income in one year is staggering. Enforcement agencies in the U.S. realized they needed to do something to stop the operations of illegal enterprises and liquidate their assets. In 1980, the IRS and U.S. Customs developed a joint task force, with a liaison from the DEA, called Operation Greenback. This operation was based in Miami and focused on people and companies in Southern Florida whose names appeared extensively on CTR and CMIR filings.²⁸ This operation was responsible for seizing more than \$8 million and prosecuting Isaac Kattan, as well as the Great American Bank and three of its employees. Operation Greenback marks the first time that the IRS coordinated with other agencies to prosecute organized criminals. This operation also showed how ill prepared our laws and justice systems were to deal with the problems of money laundering.

On October 29, 1985 at the congressional hearing on money laundering legislation, David D. Queen (the Acting Assistant Secretary of Enforcement and Operations for the U.S. Treasury Department) stated:

“the increasing magnitude, complexity and diversity of money laundering schemes, indicates that money laundering has become indispensable to the success and profitability of large-scale organized crime ventures. If law enforcement authorities can strike directly at the conduits that enable organized crime to conceal its investments or disbursements of funds, they may be able to...cause

²⁸ Grosse 57.

irreparable damage to the operations of organized crime.”²⁹

Mr. Queen’s opinion on the severity of money laundering and the necessity to stop it was shared by many people. This hearing was the first of many to follow which addressed the issue of money laundering and the necessity of new legislation to stop it. These hearings ultimately led to President Ronald Reagan signing the Money Laundering Control Act (MLCA) into law on October 26, 1986, just a year after the first hearing took place. The MLCA (codified as Title 18, USC §1956 & §1957) made it a criminal offense to “promote specified unlawful activity...design transactions or transport monetary instruments to conceal or disguise the nature, location, source, ownership or control of the proceeds of ‘specified unlawful activity’.”³⁰ With this new law, banks as well as money launderers could be prosecuted for moving any funds originating from criminal activity and evading currency reporting laws.³¹

The efforts to combat money laundering and tax evasion continued in 1988 with the introduction of the Anti-Drug Abuse Act. This Act amended §1956 of the MLCA by expanding the definition of “financial institutions” to include car, boat and airplane dealers, along with real estate brokers.³² At this point in time, it seemed as though the government was taking steps in the right direction to combat the increasing problems of organized crime, money laundering and tax evasion. However, actions taken by U.S.

²⁹ Hearing of the Committee on the Judiciary US Senate 99th Congress Money Laundering Legislation (1985) 57.

³⁰ Grosse, Robert E. Drugs and Money: Laundering Latin America’s Cocaine Dollars (Connecticut: Praegan Publishers, 2001) 72.

³¹ Grosse 97.

³² Grosse 55.

Customs and the DEA in 1989 proved otherwise.

The joint task force that was created between the IRS & U.S. Customs in 1980, called Operation Greenback, became a part of the Florida Caribbean Organized Crime Task Force (FCOCTF) in 1989. The main responsibility of the task force was to investigate drug money laundering activity. Operation Greenback initially consisted of approximately 77 IRS, DEA and Customs personnel and its original purpose was to coordinate the efforts of these agencies to stop the drug money laundering efforts in Southern Florida. When Operation Greenback joined the FCOCTF, Customs and the DEA pulled their agents out of the operation. Although the IRS agents remained in the operation and they were gaining personnel by merging with the FCOCTF, they were losing resources from the two major agencies they had been so successful with in the past. With the increasing complexity of organized crime syndicates, this apparent decrease in resources was a cause for concern.

VII. 1990's

Worldwide political change occurring in the 1990's, such as the fall of the Soviet Union, allowed members of international organized crime groups to join in a "planet-wide consortium unlike any in history."³³ The emergence of a "Pax-Mafiosa (an agreement to avoid conflict, devise common strategy and exploit the planet peaceably together)"³⁴ linked the Italian Mafia, Russian Organizatsyia, Chinese Triads, Japanese Yakuza and the Colombian drug cartels. While each of these criminal groups ran their own operations both on and off U.S. soil, they realized that the potential benefits of

³³ Sterling, Claire Thieves' World: The Threat of the New Global Network of Organized Crime (New York: Simon & Schuster, 1994) 14.

³⁴ Sterling 14.

working together far outweighed working alone and in competition with one another.

Since the Italian Mafia had already established such a strong presence in America, most of these organizations had to work with them in order to continue to build their criminal empires. The Chinese Triads worked with them in their gambling and arms & drug trafficking businesses. The Italians would sell the Triads video poker machines and send their loan sharks to work in the Triads' gambling dens.³⁵ The Italians would also sell guns to the Triads and assist them in distributing the massive amounts of heroin that was coming in from Southeast Asia. On their own, the Triads conducted money laundering operations and other schemes involving bank fraud, insurance fraud and credit card fraud.

The Japanese Yakuza's activities focused mainly on corporate blackmail and capital investment, but they also participated in gambling, arms & drug trafficking and money laundering. The Yakuza worked alone in their drug trafficking business, which mainly focused on crystal methamphetamine (commonly known as Ice), but they had associations with the Italian Mafia in their gambling operations. The Yakuza wanted to have a substantial portion of their gambling operations in Las Vegas, because that is where they could make the most profits. However, since the Italians controlled the majority of operations there, the Yakuza had to work with them and pay them a fee to set up their own businesses there. The Yakuza first started by leasing a few small spaces in hotels for their operations, then they expanded into purchasing their own hotels with small casinos attached to them. The legitimate purchases of these properties served as tools to launder the money they received from their drug trafficking, blackmail and

³⁵ Sterling 152.

gambling activities.

The Russian Organizatsyia had been operating in the U.S. and with the Italian Mafia since the 1980's, but it wasn't until the early 1990's that a formidable relationship was established. In 1991, John Gotti (head of the Gambino crime family at that time) was working with members of the Russian Organizatsyia to form a fuel-oil industry association in an effort to take control of the fuel-oil wholesale market in New York. This collaboration, similar to the "daisy-chain" schemes in the 1980's, led to a \$100 million fuel-tax evasion scheme. Although the Russian Organizatsyia had strong ties to the Italian Mafia, it was because they "did not fit the usual model of an organized crime group, that many federal agencies ignored them."³⁶

On the other hand, the Colombian drug cartels were something that federal agencies were very aware of and had been trying desperately to stop. These cartels were considered to be the major suppliers of cocaine and constituted a large portion of the money laundering activities occurring in the U.S. They supplied cocaine to the Italian Mafia and other smaller criminal entities such as the Dominican, Hispanic and Black crime groups. The vast majority of cocaine the cartels shipped to the U.S. (and their money laundering operations) was based in Florida, California and Texas. In the late 1980's and early 1990's, the cartel's reach extended itself north to the New England region.

Stephen Saccoccia started laundering money for the Colombian drug cartels through his metals business, Trend Precious Metals, formerly located in Cranston, RI. In

³⁶ Kleinknecht, William The New Ethnic Mobs: The Changing Face of Organized Crime in America (New York: The Free Press, 1996) 277.

1990 Saccoccia was taking in over \$150 million in drug proceeds from three major Colombian cartels and moving it into different local and offshore bank accounts. Between 1990 and early 1991, over 400 checks in amounts over \$10,000 (totaling \$26 million) were deposited into Trend Precious Metals' account at Citizens Trust Bank in RI. Saccoccia also deposited numerous checks in amounts under \$10,000 which accounted for several million more dollars that passed through his account, along with \$100 million that was wired into this account. In addition, he coordinated numerous smurfing operations at various banks. Several of these banks that Saccoccia used for these operations had filed suspicious transaction reports with the IRS regarding his activity, but because multiple transactions involving large sums of money was normal in the precious metals business, no further action was taken. Between January 1, 1990 and April 2, 1991 a total of \$136 million was wired to Colombian and other foreign banks from Trend Precious Metals' account at Citizens Trust Bank. The bank questioned Saccoccia regarding the large sums of money being transferred to offshore accounts, and when they were unsatisfied with his answers they closed his account on April 2, 1991. This action did not deter Saccoccia from continuing his money laundering operations. He simply began using a bank in California to continue his business until law enforcement officials arrested and imprisoned key members of his operation in September 1991.

While the 1990's saw the emergence of these increasingly complex, inter-reliant criminal syndicates, it also marked a time of immense government response to the activities of these groups. A combination of new task forces, laws, acts and agencies were developed, on an average of every two years, in an effort to combat the problems

arising from these new crime syndicates. In 1990, the Financial Crimes Enforcement Network (FinCEN) was established and authorized by the Secretary of the U.S. Treasury. FinCEN was created to coordinate efforts to detect financial crimes in the U.S. by using laws that existed from the BSA and anti-money laundering legislation. FinCEN was initially used as a research tool that would assist other agencies in detecting financial crimes, but as of 1994 their responsibilities were expanded to receive and analyze all CTR's, CMIR's and FBAR's, as well as develop new tools to ensure compliance with the BSA and other money laundering laws.³⁷

In 1991, following the creation of a partnership between the Italian Mafia and Russian Organizatsyia in the fuel-oil industry association, the FBI and IRS began working together in Operation Red Daisy. In this operation, FBI and IRS agents created a phony fuel wholesale business in New York to compete with the mafia in selling bootleg fuel and running "daisy-chain" schemes. Once the fake business was operational, the agents were approached by a member of the Gambino crime family who instructed them that they had to pay a mob tax if they wanted to stay in business. The agents complied and the operation continued long enough to get twelve indictments, six of them against members of the Russian Organizatsyia. All of the criminals indicted were either convicted or they plead guilty. This increasing problem of fuel tax schemes led to a change in the federal laws regarding the collection of sales tax. In 1994, a new law was created which required sales taxes to be paid when the wholesalers draw the fuel from the terminal, no longer when they sold it. This eliminated the ability of organized crime

³⁷ Grosse, Robert E. Drugs and Money: Laundering Latin America's Cocaine Dollars (Connecticut: Praegan Publishers, 2001) 72.

groups to run “daisy chain” schemes using shell companies because they now had to pay the taxes up front. The Federal Highway Trust, who collects these taxes, estimated that they would see an increase of \$1.3 billion in 1995 as a result of the new law.

In 1992, the passing of the Anti-Money Laundering Act (referred to as the Annuzio-Wylie Money Laundering Act) brought stricter regulations to the MLCA of 1986. Section 1517 of the Annuzio-Wylie Act required financial institutions to report any suspicious transactions relevant to possible violations of law or regulation. This section included a “safe harbor” provision to protect banks against client and/or 3rd party complaints about being reported as suspicious when they haven’t actually violated any laws or regulations.³⁸ The Act also required financial institutions to conduct anti-money laundering programs to detect money laundering activity. These programs included training employees to look for suspicious activity and keeping records of suspected money laundering activity. Proposed amendments to the act in 1993 would also require banks and non-bank institutions to keep records (name, address, business type) for initiators and recipients of wire transfers above \$3,000.³⁹

The Money Laundering Suppression Act of 1994 required that all firms involved in transmitting funds into, out of, or within the U.S. be licensed to transmit funds and they must comply with government report filings, such as CTR’s and CMIR’s.⁴⁰ Section 2 of this Act relaxed the rules of filing CTR’s by allowing banks to exempt certain clients as long as they kept good records documenting their reasons for exemption and they re-evaluated the clients annually to ensure that their businesses weren’t suspicious.

³⁸ Grosse 60.

³⁹ Grosse 61-62.

⁴⁰ Grosse 62.

On April 1, 1996 the Treasury Department introduced the Suspicious Activity Report (SAR)⁴¹ which was to be filled out by banks and other financial institutions who felt that a client may be participating in illegal activity. These reports are sent to and reviewed by FinCEN, just as the CTR's, CMIR's and FBAR's are. The introduction of the SAR's allowed banks to express their concern of possible money laundering activity and provided them with protection from recrimination when turning over clients' records to law enforcement agencies.⁴²

The Money Laundering and Financial Crimes Act of 1998 required the Secretary of the Treasury to consult with the Attorney General and develop an annual National Money Laundering Strategy (NMLS). The NMLS would be presented to Congress in February of each year from 1999 to 2003. The strategy reports were to cover "research-based goals, objectives, and priorities; coordinated prevention measures; detection and prosecution initiatives; and proposals for partnerships with private sector and cooperation between federal, state and local officials."⁴³ This Act was probably the most forward looking response to organized crime and money laundering in the 1990's.

VIII. 2000-Present

The beginning of the 21st century did not publicly see any major changes in the way organized crime syndicates operated. In fact, there was little to no discussion of their activity and/or new ways to stop them. This all changed with the terrorist attacks on September 11, 2001. Following these horrific acts, the nation's focus was now on

⁴¹ See Appendix D for sample form

⁴² Grosse 63.

⁴³ Reuter, Peter & Truman, Edwin, M. Chasing Dirty Money: The Fight Against Money Laundering (Washington, DC: Institute for International Economics, 2004) 70.

terrorist organizations (who belonged to them, where were they located, how they were financed) and what defenses could be used to stop them.

The nation's first line of defense was the U.S. Patriot Act which was signed into law by President George W. Bush on October 26, 2001. The Act gave federal officials greater authority to track and intercept communications, both for law enforcement and for gathering foreign intelligence. It also gave the secretary of the Treasury regulatory power to combat the corruption of U.S. financial institutions for foreign money laundering purposes.⁴⁴ Title III of the Act (known as the International Money Laundering Anti-Terrorist Financing Act of 2001) required securities brokers and dealers to file SAR's and it required money services to register with FinCEN and file SAR's. The Patriot Act also resulted in the addition of §5331 and §5332 to Title 31 of the United States Code (USC). Section 5331 requires that Form 8300 (which reports currency received in excess of \$10,000 for goods and/or services) be provided to FinCEN in addition to the IRS. Section 5332 created the Bulk Cash Statute and granted IRS's CI division jurisdiction to investigate violations of this statute. This meant that CI could investigate anyone transporting, or attempting to transport currency or other monetary instruments of more than \$10,000 from a place within the U.S. to a place outside, or from a place outside the U.S. to a place within, and knowingly conceal it with the intent to evade statutory reporting requirements.⁴⁵

In an effort to battle the financing of terrorist activities, Operation Green Quest

⁴⁴ Doyle, Charles "The USA Patriot Act: A Sketch." CRS Report for Congress 2002. 28 February 2006 <<http://www.fas.org/irp/crs/RS21203.pdf>

⁴⁵ "Federal Statutes – Money Laundering" Internal Revenue Service 11 February 2006 <<http://www.irs.gov/compliance/enforcement/article/0,,id=113004,00.html>>.

became operational on October 25, 2001. A CI Supervisory Special Agent and four experienced CI agents joined other members of the operation in its Washington headquarters. The focus of the operation was to “identify, disrupt, and dismantle systems and organizations that serve as sources of terrorist funding.”⁴⁶ Other groups involved in the operation were the Secret Service, Department of Defense (DOD), Bureau of Alcohol, Tobacco & Firearms (ATF), Central Intelligence Agency (CIA), Office of Foreign Assets Control (OFAC), FBI and FinCEN. It is believed that a single point to take in information relating to terrorist fundraising will “minimize potential interagency conflict and provide material support for major domestic and international investigations.”⁴⁷

The IRS’s CI Division also participates in the FBI’s Joint Terrorism Task Forces and the U.S. Attorney’s Anti-Terrorism Task Forces. They also assist OFAC in freezing the accounts of charitable organizations that exist solely to raise and send money to support terrorist organizations. The majority of the asset seizures and forfeitures that occur after the accounts are frozen are the result of Title 18 and Title 31 of the USC, relating to money laundering and currency violations. One case that displays the successful cooperation of agencies and the use of money laundering and currency violation laws is that of the Benevolence International Foundation (BIF). The FBI, IRS and OFAC worked together to freeze the assets and block the records of BIF after they determined that the foundation was supplying money to Al Qaeda. The head of BIF pled

⁴⁶ “Counter Terrorism – FY 2001 Annual Business Report.” Internal Revenue Service 17 February 2004 <<http://www.irs.gov/irs/article/0,,id=107499,00.html>>.

⁴⁷ “Counter Terrorism – FY 2001 Annual Business Report.” Internal Revenue Service 17 February 2004 <<http://www.irs.gov/irs/article/0,,id=107499,00.html>>.

guilty to racketeering conspiracy and fraud in February 2003.

IX. Conclusion

Moving further into the 21st century, the “threat posed by the convergence of organized crime, drug trafficking and terrorism is significant. Worldwide economic, political, social and technological changes over the last decade have resulted in a more dispersed, complex, asymmetric threat to our nation.”⁴⁸ The surfacing of a “Pax-Mafiosa”, which was discussed earlier in this paper, has created a veritable hierarchy of these criminal organizations. The Italian Mafia still reigns in the criminal underworld, but they are closely followed by the Chinese Triads. The Triads, like the Italians, now have certain areas (i.e. Chinatown) where they have a wide range of control over criminal activity, including gambling, extortion, fraud, drug trafficking etc. The Triads also share an oath of secrecy similar to that of the Italians “blood oath” of Omerta, which every member must vow to abide by. Following the Triads is the Russian Organizatsyia, then the Japanese Yakuza, and finally the smaller Dominican, Hispanic and Black crime groups. While terrorist organizations are included as part of organized crime syndicates, their agendas (which usually involve attacks on the U.S.) are quite different from that of the other groups and therefore cannot be included in this hierarchy.

Despite the fact that these groups will continue to be a substantial threat to society, there is minimal information written about the activities of organized crime groups from 2000 to the present day. There are a host of possible reasons for why there is such limited information. In my opinion, a couple of those reasons are that not

⁴⁸ Congressional Testimony of Steven C. McCraw, Deputy Assistant Director, Investigative Services Division, FBI Organized Crime, Drug Trafficking and Terrorist Acts 2000. 9 August 2005 <<http://www.fbi.gov/congress/congress.htm>>

enough time has passed to conduct thorough research in the field and the advanced technology we have seen in the past decade has made it more difficult to actually identify the criminal's operations, especially those involving money laundering. "The rise of electronic banking and e-payment systems presents valuable opportunities for money laundering."⁴⁹ Criminals can now move their money with ease and never have to step foot into a bank or other financial institution. This makes it virtually impossible for institutions to know who their customers are. The increased anonymity the criminals gain from on-line banking is something I believe has carried over into their personal lives. Members of organized crime groups no longer live the flashy lifestyle they did back in the 1980's and early 1990's. Criminal organizations are being more discreet about their activities, so they don't draw attention to themselves. I think the criminals' desire for anonymity has been mistaken for inactivity by law enforcement.

Based upon the research I have conducted, I find that throughout history the activities of organized crime syndicates and the efforts to stop them have followed a cause and effect relationship. These criminal organizations have existed far longer than our efforts to stop them and it seems as though these efforts are only initiated after extensive criminal activity. For example, despite the amount of drug trafficking and money laundering that existed prior to the 1970's and 1980's, it wasn't until the 1970's that drug trafficking was associated with money laundering and it wasn't until the passing of the MLCA in 1986 that money laundering was made a punishable crime. I believe that this cause and effect relationship still exists today and I feel that it has been, and will

⁴⁹ Lilley, Peter Dirty Dealing: The Untold Truth about Global Money Laundering, International Crime and Terrorism (VA: Kogan Page, 2003) 116.

continue to be one of the major problems with the way we fight organized crime.

Another problem that I find with our efforts to stop organized crime is §2 of the Money Laundering Suppression Act of 1994. Section 2 of the Money Laundering Suppression Act, as mentioned previously in this paper, relaxed the requirements for filing CTR's and enabled banks to exempt certain clients from the filings. As long as the bank kept records with the reasons for exemption and reevaluated the exempt clients yearly, they would not be required to file the CTR's. In my opinion, this was a step in the wrong direction. This provision creates another opportunity for criminal organizations to bribe bank officials and/or employees into not filing the CTR's.

Perhaps the largest problem I have found with our efforts to stop organized crime is the lack of inter-agency cooperative efforts, especially with the IRS CI Division. Although the IRS' CI Division has been making use of tax laws and financial investigations to apprehend members of criminal organizations since 1919, it wasn't until Operation Greenback in 1980 that they worked with other government agencies in an effort to stop these crime syndicates. Following the success of Operation Greenback, there were not as many joint operations between the CI Division and other agencies as I expected. This began to change in 2001 when the CI Division started working with the FBI's Joint Terrorism Task Forces and the U.S. Attorney's Anti-Terrorism Task Forces, but I still do not believe that they are utilized to their full potential.

It is my opinion that the CI Division has managed to maintain its high level of success by keeping focused on how criminal activity changes over the years and altering their efforts accordingly. With the increasing changes in technology, CI decided to

upgrade its operating systems in 2004 to Microsoft Windows XP Professional and to begin using Microsoft Office XP Professional. In the same year, they also began installing link analysis software which will allow them to structure and present data for analysis and discovery. This software will enable CI to construct representations of monetary networks⁵⁰ and share it with other agencies securely. On April 25, 2005 the IRS and FinCEN established a partnership and signed a Memorandum of Understanding (MOU). This MOU stated that the agencies would exchange information regarding any BSA violations by financial institutions. This arrangement would enable both agencies to maximize their resources while they identify, stop and deter money laundering activities.

I believe that other government agencies need to look at the capabilities the CI Division possesses and their success rates over the years and begin working with them on a permanent basis. The previous task forces and operations that combined the efforts of the CI Division and other agencies were highly effective, but not utilized over a long period of time. I think the establishment of a permanent task force comprised of agents from the FBI, DEA, FinCEN, U.S. Customs, OFAC and the IRS' CI Division would prove to be more effective because it is pooling the resources of all the agencies for an extended period of time.

If we are going to stop the operations of organized crime syndicates, we must eliminate their means of operation (their money). I believe that if you arrest the head of any organized crime syndicate, another will simply take its place because it does not deter their illegal activity. However, if you seize their money, you immobilize their

⁵⁰ Mosquera, Mary "IRS-CI Deploys Pattern Analysis Software." Government Computer News 2004. 28 February 2006 <http://www.gcn.com/vol1_no1/daily-updates/27315-1.html>

operations. For this reason, I feel that it is essential for our government agencies to work together and utilize our tax laws, money laundering legislation and the CI Division to stop the continuing operations of these organizations.

**Appendices A through D (p. 31-45)
are attached to this document as a supplementary file.**

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