

TAKING IT TO THE STREETS: ASSESSING THE FBI'S APPROACH TO

COMBATING ILLICIT NETWORKS

BY

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APPROVAL

The undersigned certify that this thesis meets master's-level standards of research, argumentation, and expression.

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## DISCLAIMER

The conclusions and opinions expressed in this document are those of the author. They do not reflect the official position of the US Government, Department of Defense, the United States Marine Corps, or Air University.

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## ABSTRACT

The ways in which terrorism and crime are linked has compelled governments to develop strategies to prevent both, particularly at the transnational level. Some of the most effective instruments governments have at their disposal to combat terrorism are their respective law enforcement and criminal justice systems. Many of the methods used by terrorists do not differ significantly from those used by other criminals, even if their basic motivation differs greatly. Law enforcement strategies, methods, and processes are revealed as very much relevant to the fight against terrorism. Consequently, this study seeks to explore the Federal Bureau of Investigation's Enterprise Theory of Investigation to countering illicit networks and assess its potential in combating terrorism. Specifically, this thesis illustrates how the Enterprise Theory of Investigation, or elements of it can be used to enhance military strategies for combating terrorism.

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# INTRODUCTION

## The Problem and Its Settings

*How will we fight and win this war? We will direct every resource at our command—every means of diplomacy, every tool of intelligence, every instrument of law enforcement, every financial influence, and every necessary weapon of war—to the disruption and to the defeat of the global terror network.*

-- George W. Bush

This study seeks to explore what is known as the Enterprise Theory of Investigation (ETI). Specifically, it sets out to discover if ETI, or elements of it can be used to counter terrorist networks and enhance military strategies for combating terrorism (CT).

### **Background**

Since September 11, 2001, the United States has approached the *War on Terror* as if it was waging war against a monolithic enemy. Even though President George W. Bush called for disruption and defeat of the global terror network, this network is globalized and homophilous.<sup>1</sup> President Bush first described it as “a group with a leader named Osama bin Laden” and claimed that they were “linked to many other organizations in different countries including the Egyptian Islamic Jihad

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<sup>1</sup> Cook, J., McPherson, M., & Smith-Lovin, L. “Birds of a feather: Homophily in social networks”, *Annual Review of Sociology*, Vol 27, (2001), 1-41. Homophily constitutes similarity or likeness between entities. The similarities are in characteristics such as location, origin, language or race. Second, homophily generally is used when describing the communicative relationship between people. That is, people who are similar in socio-demographic backgrounds are more likely to communicate because they are homophilous. The common saying, “birds of a feather flock together,” represents the elementary definition of homophily. Conversely, Block, Cameron and Yin assert the opposite of homophily would be heterophily or dissimilarity in persons. Block, P., Cameron, G., & Yin, J. “A comparative study: Does the word-of-mouth communications and opinion leadership model fit epinions on the internet”, on internet: [http://www.empiricom.org/glensite/PDF\\_articles/Epinions.pdf](http://www.empiricom.org/glensite/PDF_articles/Epinions.pdf), 1-31.

and the Islamic Movement of Uzbekistan.”<sup>2</sup> He concluded by asserting, “There are thousands of these terrorists in more than 60 countries.”<sup>3</sup> While this seemed to make sense at the time, describing this effort in terms of a war might have been too simple and restrictive as it seemed to take law enforcement off the table. Shortly thereafter, the situation became more complicated as it became apparent that the war against “central al-Qaeda” had shifted to a more nebulous war against a “leaderless jihad” also known as the “global Salafi jihad” or “al-Qaeda social movement.”<sup>4</sup> Largely the result of the invasion of Afghanistan, this shift had pronounced effects. Analysts immediately went to work to try discern the meaning of a networked organization.<sup>5</sup>

The move from a hierarchical organization to a more decentralized, networked organization has resulted in many scholarly works attempting to define *network* as it pertains to terrorism. Although, ambiguity exists within the scholarly studies of economics, organizational theories, and sociology, the definition of network adopted here is derived from a close reading of that literature. The review revealed that while many terrorist entities appear network-like, some are hybrid-networks that include hierarchical, clan/tribal, and/or criminal-terror nexuses of centralized or decentralized organizations. Given these attributes, rather than thinking of terrorist groups and organized crime syndicates as separate entities, we might start thinking of them as similar enterprises. These enterprises may consist of both hierarchical and networked, criminal and/or

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<sup>2</sup> George Bush, *Address to Joint Session of Congress*. Office of the Press secretary. <http://www.whitehouse.gov/news/releases/2001/09/20010920-8.htm>

<sup>3</sup> George Bush, *Address to Joint Session of Congress*. Office of the Press secretary. <http://www.whitehouse.gov/news/releases/2001/09/20010920-8.htm>

<sup>4</sup> The global Salafi jihad “consists of a set of more or less formal organizations, linked in patterns of interaction from the fairly centralized. . . to the more decentralized.” Marc Sageman, *Understanding Terror Networks* (Philadelphia: University of Philadelphia Press: 2004), 137.

<sup>5</sup> Marc Sageman, *Understanding Terror Networks* (Philadelphia: University of Philadelphia Press: 2004), 137.

terrorist, organizations that yield a symbiotic benefit—the hybrid-network.

Terrorist groups serve to advance their interests by spanning nations in search of operatives and support resources— i.e. economic, material, and safe havens. These transnational terrorist networks may benefit from support of one or more states whose political agendas coincide with the goals of the organization. However, state support is not a limiting factor for terrorist networks due to their ability to find independent financial backing from wealthy sympathizers or illicit activities. As such, terrorist networks are frequently structured in a way similar to organized crime syndicates and employ networks of semi-independent cells scattered throughout the organization’s region of operation, as well as outside their region to other countries that could be used as bases for profit, resources, recruiting, and training. While some authors postulate close links and potential convergence between terrorist groups and organized crime groups, others postulate that the two are significantly different. The divergence comes from the different analytical lenses used to view criminal and terrorist organizations. Therefore, further discussion about the criminal enterprise/organized crime and terrorism link is included in *Chapter 1: Coming to terms with illicit / terrorist networks*.

Given the similarity to organized crime, the Enterprise Theory of Investigation’s enhanced investigational methods used against distributed and decentralized criminal organizations may provide the Department of Defense (DoD) insights on how to destabilize terrorist networks. Unlike traditional investigative theory, which relies on law enforcement’s ability to react to a previously committed crime, the ETI encourages a proactive attack on the structure of the criminal enterprise/network. Details of ETI are provided in Chapter 2: Enterprise Theory of Investigation and the case study of how ETI was applied to countering the Mafia in the *Pizza Connection* is discussed in Chapter 3.

From understanding the application of ETI as applied during the *Pizza Connection*, a synthesis the mafia and terrorist organizations is discussed in Chapter 4. This synthesis provides indications that terrorist organizations do not differ very significantly from those used by other criminals, even if their basic motivation differs greatly. This synthesis will reveal that law enforcement strategies, methods, and processes are relevant to the fight against terrorism.

From this synthesis of concepts and methodologies, Chapter 5 will provide recommendations based on the insights into the potential for DoD to use ETI and statutes to identify, disrupt, and destabilize terrorist networks.

# Chapter 1

## ***Coming to Terms with Illicit / Terrorist Networks***

*We must move beyond structure and topology and start focusing on the dynamics that take place along the links. Networks are only the skeleton of complexity, the highways for the various processes that make our world hum.*

-- Albert-László Barabási

### ***Introduction***

Numerous scholars and pundits have discussed the nature and characteristics of networks for both criminal and terrorist organizations.<sup>1</sup> Similarly, the distinction between criminal organizations and terrorist organizations has been explored. This Chapter will develop a common understanding of a *network* and discuss the *crime-terror nexus*, which must be established before discussing the Enterprise Theory of Investigation.

### ***What is a Network?***

There is a growing literature on criminal and terrorist networks. Mette Eilstrup-Sangiovanni and Calvert Jones' *Assessing the Dangers of Illicit Networks* provides a review of many of these works and parses the differences between economists, political scientists, organizational theorists, sociologists, and anthropologists.<sup>2</sup> Within this work, Grahame F. Thompson provides a useful starting point. He defines a *network* as “a specific set of relations making up an interconnected chain or system for

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<sup>1</sup> Some key authors discussing the characteristics of networks for both criminal and terrorist organizations are: Frank Bovenkerk, and Bashir Abou Chakra, “Terrorism and Organized Crime”, *Forum on Crime and Society*, Vol. 4, Numbers 1 and 2, (UN Office of on Drugs and Crime: December, 2004); Mette Eilstrup-Sangiovanni and Calvert Jones “Assessing the Dangers of Illicit Networks”, *International Security* Volume 33, Number 2, (Fall 2008); John Arquilla and David Ronfeldt, ed., *Networks and Netwars*, (Santa Monica, CA: RAND Corp., 2001); Tamara Makarenko, “The Crime-Terror Continuum: Tracing the Interplay between Transnational Organised Crime and Terrorism”, *Global Crime*, Vol. 6, No. 1, (February 2004).

<sup>2</sup> Mette Eilstrup-Sangiovanni and Calvert Jones' *Assessing the Dangers of Illicit Networks*, 1.

a defined set of entities that forms a structure.”<sup>3</sup> Working in this vein, Eilstrup-Sangiovanni and Jones highlight the differences among structure, membership, unit relations, and decision modes between hierarchies and networks (See Table 1: Characteristics of Networks and Hierarchies).

“Beyond these core characteristics, networks differ in structure, size, and goals.

Some networks are *open* insofar as they place no restrictions on membership; others are confined to small numbers of like-minded individuals. Some networks are dense, with a large number of connections between individual cells; others are more sparsely linked.”<sup>4</sup>

Another useful definition of network is provided by Joel Podolny and Karen Page as “any collection of actors ( $N \geq 2$ ) that pursue repeated, enduring exchange relations with one another and, at the same time, lack a legitimate organizational authority to arbitrate and resolve disputes that may arise during the exchange.”<sup>5</sup> As such, this definition coupled with Eilstrup-Sangiovanni and Jones’ provides a means for distinguishing among networks, markets, and hierarchies. Although the boundaries between the three are difficult to define, Albert-László Barabási provides insights to delineate their complex overlapping nature. According to Barabási, before understanding the network, the length of an *enduring* relationship must be specified. Once the relationship is specified, the network can take the form of a hierarchy, a web, or a web

Table 1: Characteristics of Networks and Hierarchies

	Networks	Hierarchies
Structure	Decentralized/horizontal	Centralized/vertical
Membership	Homogeneous	Diverse, professional
Unit relations	Trust-based, informal	Rule-based, formal
Decision mode	(Qualified) majority voting or top-down command	Consensus

Source: Mette Eilstrup-Sangiovanni and Calvert Jones *Assessing the Dangers of Illicit Networks*, 13.

<sup>3</sup> Grahame F. Thompson, *Between Hierarchies and Markets: The Logic and Limits of Network Forms of Organization* (New York: Oxford University Press, 2003), 54.

<sup>4</sup> Mette Eilstrup-Sangiovanni and Calvert Jones “Assessing the Dangers of Illicit Networks”, *International Security* Volume 33, Number 2, (Fall 2008), 13.

<sup>5</sup> Joel M. Podolny and Karen L. Page “*Network Forms of Organization*”, *Annual Review of Sociology* Vol 24 (1998), 59.

with no spider.<sup>6</sup> In the case of al-Qaeda, the existence of relatively few nodes with many connections (hubs) introduces hierarchy into the flatness where the *hubs* form a hierarchy to keep the organization together.<sup>7</sup>

Further refining this idea of *enduring relationships*, Arquilla and Ronfeldt's *Networks and Netwars* asserts that networks may be found at different levels of organization.<sup>8</sup> For example, hierarchies at one level may be networked at another or organizations may combine networks and hierarchies into hybrid-network relationships. Networked-hybrids may be defined in this context as either networks that include hierarchical organizations among their nodes or networks that include nodes wielding power within the network through centrality or other characteristics.<sup>9</sup>

According to Marc Sageman, Arquilla and Ronfeldt, and Sangiovanni and Jones, networks can be divided into three structural types. (See Figure 1: Network Types) One is a *chain network* where people, goods, or information move along a line of separated contacts and where end-to-end communication must travel through

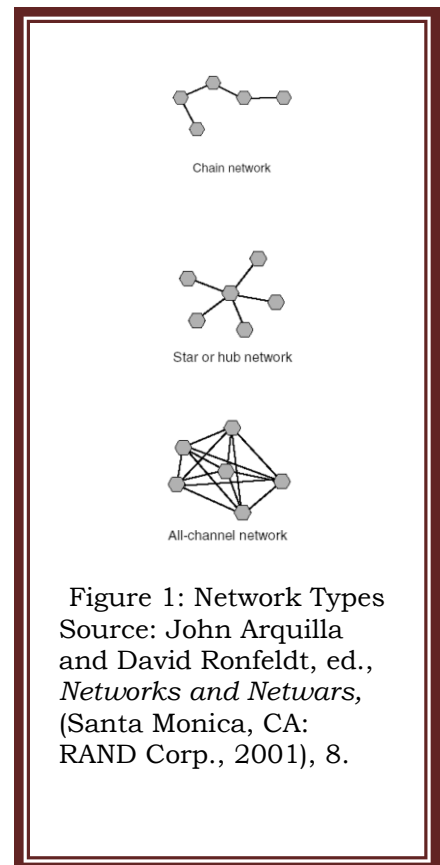


Figure 1: Network Types  
Source: John Arquilla and David Ronfeldt, ed., *Networks and Netwars*, (Santa Monica, CA: RAND Corp., 2001), 8.

<sup>6</sup> Albert-László Barabási, *Linked: The New Science of Networks: How Everything Is Connected to Everything Else and What It Means for Science, Business, and Everyday Life* (Cambridge, Mass.: Perseus, 2002), 222.

<sup>7</sup> Albert-László Barabási, *Linked: The New Science of Networks: How Everything Is Connected to Everything Else and What It Means for Science, Business, and Everyday Life* (Cambridge, Mass.: Perseus, 2002), 222.

<sup>8</sup> John Arquilla and David Ronfeldt, ed., *Networks and Netwars*, (Santa Monica, CA: RAND Corp., 2001).

<sup>9</sup> John Arquilla and David Ronfeldt, ed., *Networks and Netwars*, (Santa Monica, CA: RAND Corp., 2001), 6.

intermediate nodes.<sup>10</sup> A second consists of hubs and spokes in a *star* or *hub* where actors are tied to a central non-hierarchical node, and must go through that node to communicate with each other; and a third is the *all-channel* network where everybody is connected to everybody else.<sup>11</sup> According to these authors, terrorist and criminal networks tend to take the form of either chain or wheel networks.<sup>12</sup>

In addition, networks, both criminal and terrorist, tend to take similar forms. Frank Bovenkerk and Bashir Abou Chakra argue, “political and economic developments have brought terrorism and organized crime into each other’s territory.”<sup>13</sup> There are also a number of similarities that would appear to make collaboration advantageous for both of them.”<sup>14</sup> Similarly Tamara Makarenko states, “...the distinction between political and criminal motivated violence is often blurred. In many respects, the rise of transnational organized crime in the 1990s and the changing nature of terrorism have produced two traditionally separate phenomena that have begun to reveal many operational and organizational similarities.”<sup>15</sup> These similarities suggest that the traditional, separate method of policing organized crime and terrorism may no longer be applicable. Makarenko calls this the *crime-terror nexus*.

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<sup>10</sup> John Arquilla and David Ronfeldt, ed., *Networks and Netwars*, (Santa Monica, CA: RAND Corp., 2001), 8.

<sup>11</sup> John Arquilla and David Ronfeldt, ed., *Networks and Netwars*, (Santa Monica, CA: RAND Corp., 2001), 8.

<sup>12</sup> For further explanation of “chain networks”, “hub-and-spoke” or “wheel” networks see Arquilla and Ronfeldt, *Networks and Netwars*, 7–8 and Mette Eilstrup-Sangiovanni and Calvert Jones “Assessing the Dangers of Illicit Networks”, *International Security* Volume 33, Number 2,(Fall 2008), 13.

<sup>13</sup> Frank Bovenkerk, and Bashir Abou Chakra, ‘Terrorism and Organized Crime’, *Forum on Crime and Society*, Vol. 4, Numbers 1 and 2, (UN Office of on Drugs and Crime: December, 2004), 4.

<sup>14</sup> Frank Bovenkerk, and Bashir Abou Chakra, ‘Terrorism and Organized Crime’, *Forum on Crime and Society*, Vol. 4, Numbers 1 and 2, (UN Office of on Drugs and Crime: December, 2004), 4-6

<sup>15</sup> Tamara Makarenko, “The Crime-Terror Continuum: Tracing the Interplay between Transnational Organised Crime and Terrorism”, *Global Crime*, Vol. 6, No. 1, ((February 2004)), 130

## **THE CRIME-TERROR NEXUS**

There has been a blurring of lines between terrorist and organized crime groups. Authors as diverse as Frank J. Cilluffo, Tamara Makarenko, Frank Bovenkerk, and Bashir Abou Chakra all assert that although the two types of organizations might not be identical, there are close links between them and potential trends towards convergence.<sup>16</sup> Bovenkerk and Chakra and Makarenko further define these links or connections as associations, alliances, confluence, convergence or symbiosis.<sup>17</sup>

The different types of links and potential convergence form a foundation in determining the type of interactions that may occur between terrorist and criminal organizations by effecting each organizations assessment of risks, opportunities and capabilities within a given context. For example, a close connection may provide symbiotic benefits for both groups such as: access to greater financial resources; independence from state sponsorship; the possibility of building an

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<sup>16</sup> Testimony of Frank J. Cilluffo, United States House of Representatives, Hearings before the Subcommittee on Crime, House Committee on the Judiciary, *The Threat Posed by the Convergence of Organized Crime, Drug Trafficking, and Terrorism*, 107th Congress, 1st session (2000) ([www.house.gov/judiciary/cill1213.htm](http://www.house.gov/judiciary/cill1213.htm)); Frank Bovenkerk, and Bashir Abou Chakra, 'Terrorism and Organized Crime', *Forum on Crime and Society*, Vol. 4, Numbers 1 and 2, (UN Office of on Drugs and Crime: December, 2004), 4-6; Tamara Makarenko, "The Crime-Terror Continuum: Tracing the Interplay between Transnational Organised Crime and Terrorism", *Global Crime*, Vol. 6, No. 1, ((February 2004)), 130

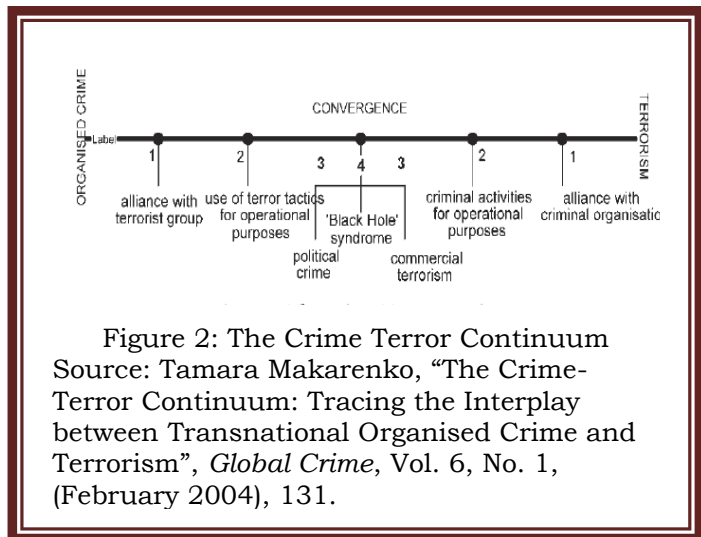
<sup>17</sup> The meaning of the terms "links" and "convergence" within the literature concerning international terrorism and transnational organized crime is widely diverse. The following are provided to define the meanings of "links" and "convergence" using the concepts provided by Frank Bovenkerk, and Bashir Abou Chakra, 'Terrorism and Organized Crime', *Forum on Crime and Society*, Vol. 4, Numbers 1 and 2, (UN Office of on Drugs and Crime: December, 2004), 4-6; Tamara Makarenko, "The Crime-Terror Continuum: Tracing the Interplay between Transnational Organised Crime and Terrorism", *Global Crime*, Vol. 6, No. 1, (February 2004), 132; and Alex P. Schmid, "The links between transnational organized crime and terrorist crimes", *Transnational Organized Crime*, vol. 2, No. 4 (1996), 191; *Association*: brotherhood, cartel, coalition, partnership, syndicate, merger, union. *Alliance*: affiliation, connection, consortium, pact, relationship. *Cooperation*: assistance, collaboration, coordination, help, joint action, mutual support. *Symbiotic*: association of two different organizations attached to one another by mutual benefits. *Convergence*: approaching each other; move toward the same point or place; the formation of similarities in unrelated organizations in the same environment.

economic base; access to special skills (e.g. forging of travel documents, illicit transfer and laundering of money for foreign operations); facilitation of cross-border movements; and, coming into contact with a wider range of potential recruits.<sup>18</sup>

Given these benefits, Makarenko suggests that a new more complex relationship has evolved from the impact of globalization in terms of technology, communication, population movement, weak and failing states, and states in transition. As a result, she asserts that security of a nation be viewed as a mixing of traditional and emerging threats that interact with one another, and may at times converge.

Within this context is where we find the *crime-terror nexus*.<sup>19</sup>

The *crime-terror nexus* suggests that as economic and political powers enhance one another, more groups will become hybrid-networked organizations naturally. “Considering the various components of the crime–terror continuum, one consistent and relatively easily identifiable factor is criminality.”<sup>20</sup> (See Figure 2: The Crime Terror Continuum)



<sup>18</sup> Derived from Tamara Makarenko, “The Crime-Terror Continuum: Tracing the Interplay between Transnational Organised Crime and Terrorism”, *Global Crime*, Vol. 6, No. 1, (February 2004) 131-134.

<sup>19</sup> Tamara Makarenko, “The Crime-Terror Continuum: Tracing the Interplay between Transnational Organised Crime and Terrorism”, *Global Crime*, Vol. 6, No. 1, February. Within this crime-terror nexus, Makarenko discerns four broad groups: (1) alliances, (2) operational motivations, (3) convergence and (4) and the “black hole.” The emergence of globalization is further discussed within the context of the “black hole”. She asserts that, at one time criminal and terrorist were structured upon strict hierarchical lines, but modern groups are in fact loosely affiliated networks based on a cell-like structure. These networks are increasingly multi-ethnic, multi-jurisdictional and willing to form strategic alliances in pursuit of a common profit goal.

Makarenko places the *crime-terror nexus* on a continuum due to its constantly evolving organizational dynamics and operational nature.<sup>21</sup> The continuum illustrates the fact that “a single group can slide up and down the scale—between what is traditionally referred to as organized crime and terrorism—depending on the environment in which it operates.”<sup>22</sup> Within her diagram, organized crime is situated on the far left and terrorism on the far right. “At the fulcrum of the continuum lies the point of *convergence*, where a single entity simultaneously exhibits criminal and terrorist characteristics.”<sup>23</sup> Through her assessment of the various relationships between criminally and politically motivated groups, the seven categories are discernible and illustrated across the continuum (See Figure 2, previous page). Makarenko further categorizes these points into four general groups: (1) alliances, (2) operational motivations, (3) convergence, and (4) the *black hole*.<sup>24</sup>

Makarenko describes the first level of relationship in the crime-terror nexus as that of an alliance—criminal groups seeking alliances with terrorist organizations and terrorist groups seeking alliances with criminal organizations.<sup>25</sup> These alliances can include “one of short-term, and long-term relationships” which are established for a variety of

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<sup>20</sup> Tamara Makarenko, “The Crime-Terror Continuum: Tracing the Interplay between Transnational Organised Crime and Terrorism”, *Global Crime*, Vol. 6, No. 1, (February 2004), 141.

<sup>21</sup> Tamara Makarenko, “The Crime-Terror Continuum: Tracing the Interplay between Transnational Organised Crime and Terrorism”, *Global Crime*, Vol. 6, No. 1, (February 2004), 130

<sup>22</sup> Tamara Makarenko, “The Crime-Terror Continuum: Tracing the Interplay between Transnational Organised Crime and Terrorism”, *Global Crime*, Vol. 6, No. 1, (February 2004), 130

<sup>23</sup> Tamara Makarenko, “The Crime-Terror Continuum: Tracing the Interplay between Transnational Organised Crime and Terrorism”, *Global Crime*, Vol. 6, No. 1, (February 2004), 131.

<sup>24</sup> Tamara Makarenko, “The Crime-Terror Continuum: Tracing the Interplay between Transnational Organised Crime and Terrorism”, *Global Crime*, Vol. 6, No. 1, (February 2004), 131.

<sup>25</sup> Tamara Makarenko, “The Crime-Terror Continuum: Tracing the Interplay between Transnational Organised Crime and Terrorism”, *Global Crime*, Vol. 6, No. 1, (February 2004) 131.

reasons such as “seeking expert knowledge or operational support.”<sup>26</sup> To support this Makarenko uses the relatively straightforward examples of Columbian cartels and the Ejército de Liberación Nacional (ELN) that conduct bombings against the Colombian government as well as the Revolutionary Armed Forces of Colombia (FARC) shipments of cocaine to Mexico for arms shipments.<sup>27</sup> Additionally, the more complex relationships are exemplified by international smuggling operations of illicit narcotics, weapons and human cargo, between countries and continents. To support this further, she examines the activities of the Islamic Movement of Uzbekistan’s strategic relationship with the Afghan drug mafia and Central Asian criminal groups to ensure shipments of heroin could be safely transported between areas.<sup>28</sup> She also examines the relationships between the Albanian mafia and the Kosovo Liberation Army (KLA) after 1997. This relationship centered on authority over heroin-trafficking routes and “provided a well-oiled arrangement: the profits from the Pristina cartel, estimated in the high tens of millions, were funneled to the KLA, where they were used to buy weapons, often in *drug-for-arms* arrangements.”<sup>29</sup> From this, she concludes that in most instances alliances are formed in isolated geographic regions, mostly within unstable regions. Makarenko asserts, “instability is in the interest of terrorists because it diminishes the legitimacy of governments in the eyes of the mass populations—the very people terrorists seek to

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<sup>26</sup> Tamara Makarenko, “The Crime-Terror Continuum: Tracing the Interplay between Transnational Organised Crime and Terrorism”, *Global Crime*, Vol. 6, No. 1, (February 2004) 131.

<sup>27</sup> Tamara Makarenko, “The Crime-Terror Continuum: Tracing the Interplay between Transnational Organised Crime and Terrorism”, *Global Crime*, Vol. 6, No. 1, (February 2004), 132.

<sup>28</sup> Tamara Makarenko, “The Crime-Terror Continuum: Tracing the Interplay between Transnational Organised Crime and Terrorism”, *Global Crime*, Vol. 6, No. 1, (February 2004), 132.

<sup>29</sup> Tamara Makarenko, “The Crime-Terror Continuum: Tracing the Interplay between Transnational Organised Crime and Terrorism”, *Global Crime*, Vol. 6, No. 1, (February 2004), 131-132.

gain support from; and it is in the interest of criminal groups seeking to maximize criminal operations.”<sup>30</sup>

Although alliances do exist, groups have increasingly sought to forego them. Makarenko asserts, “as of the late 1990s, it became apparent that criminal and terrorist groups were seeking to mutate their own structure and organization to take on a non-traditional, financial, or political role, rather than cooperate with groups who are already effective in those activities.”<sup>31</sup> The primary reason for acquiring in-house capabilities is to ensure organizational security and secure operations.<sup>32</sup> This is done to avoid inherent problems present in alliances, including: differences over priorities and strategies; distrust, the danger of defections; and the threat created from competitors.<sup>33</sup> As such, criminal and terrorist groups have developed the capacity to engage in both criminal and terrorist activities.<sup>34</sup>

Makarenko’s second grouping is that of *organizational motivations*—“criminal groups using terrorism as an operational tool, and terrorist groups taking part in criminal activities as an operational tool.”<sup>35</sup> She uses the Italian Mafia in the 1990s as an example. In a response to the Italian government Anti-Mafia Commission, the Italian Mafia used terror tactics to “subvert anti-mafia actions and legislative

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<sup>30</sup> Tamara Makarenko, “The Crime-Terror Continuum: Tracing the Interplay between Transnational Organised Crime and Terrorism”, *Global Crime*, Vol. 6, No. 1, (February 2004), 132.

<sup>31</sup> Tamara Makarenko, “The Crime-Terror Continuum: Tracing the Interplay between Transnational Organised Crime and Terrorism”, *Global Crime*, Vol. 6, No. 1, (February 2004), 133.

<sup>32</sup> Tamara Makarenko, “The Crime-Terror Continuum: Tracing the Interplay between Transnational Organised Crime and Terrorism”, *Global Crime*, Vol. 6, No. 1, (February 2004), 133.

<sup>33</sup> Tamara Makarenko, “The Crime-Terror Continuum: Tracing the Interplay between Transnational Organised Crime and Terrorism”, *Global Crime*, Vol. 6, No. 1, (February 2004), 133

<sup>34</sup> Tamara Makarenko, “The Crime-Terror Continuum: Tracing the Interplay between Transnational Organised Crime and Terrorism”, *Global Crime*, Vol. 6, No. 1, (February 2004), 133

<sup>35</sup> Tamara Makarenko, “The Crime-Terror Continuum: Tracing the Interplay between Transnational Organised Crime and Terrorism”, *Global Crime*, Vol. 6, No. 1, (February 2004), 133

moves, [the] bombings were meant to openly challenge the political elite and send a message to the *powers-to-be*.”<sup>36</sup> Additionally, she discusses the Brazilian administration’s installment of tougher restrictions on drug trafficking leaders already detained and in the prison system. These actions prompted the jailed drug leaders to direct its members to begin bombings and shootings in a *campaign of political violence*.<sup>37</sup>

Comparable to the criminal groups using terrorism, terrorist groups have become well versed in criminal activities. Makarenko uses examples from links between terrorist organizations and drug trade and trafficking by such groups as the FARC, Basque Homeland and Freedom movement (ETA), the Kurdistan Workers Party (PKK), and Sendero Luminoso.<sup>38</sup> Furthermore, she cites other crimes such as fraud, counterfeiting and human smuggling used by Al Qaeda affiliated groups to further the concept of operational motivations.<sup>39</sup> She concludes:

As the 1990s progressed and both criminal and terrorist groups incorporated economic and political capabilities into their remit, many groups lost sight of their original motivations and aims. Thus at the start of the twenty-first century a growing number of groups have simultaneously displayed characteristics of organized crime and terrorism. Furthermore, in assessing the development of these hybrid organizations, it is evident that the motivations, organization, and operations of criminal and terrorist groups have also converged—thus making it analytically difficult to make a distinction between the two phenomena.<sup>40</sup>

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<sup>36</sup> Tamara Makarenko, “The Crime-Terror Continuum: Tracing the Interplay between Transnational Organised Crime and Terrorism”, *Global Crime*, Vol. 6, No. 1, (February 2004), 133.

<sup>37</sup> Tamara Makarenko, “The Crime-Terror Continuum: Tracing the Interplay between Transnational Organised Crime and Terrorism”, *Global Crime*, Vol. 6, No. 1, (February 2004), 134.

<sup>38</sup> Tamara Makarenko, “The Crime-Terror Continuum: Tracing the Interplay between Transnational Organised Crime and Terrorism”, *Global Crime*, Vol. 6, No. 1, (February 2004), 131-134.

<sup>39</sup> Tamara Makarenko, “The Crime-Terror Continuum: Tracing the Interplay between Transnational Organised Crime and Terrorism”, *Global Crime*, Vol. 6, No. 1, (February 2004), 134.

<sup>40</sup> Tamara Makarenko, “The Crime-Terror Continuum: Tracing the Interplay between Transnational Organised Crime and Terrorism”, *Global Crime*, Vol. 6, No. 1, (February 2004), 134

This combining of phenomena leads to the convergence point along the crime-terror continuum. Makarenko uses convergence to describe the potential of transformation into a single entity or a transformation of criminal groups into terror groups and vice versa. She uses two components for her analysis. The first is “criminal groups that display political motivations; and second...terrorist groups who are equally interested in criminal profits, but ultimately begin to use their political rhetoric as a façade solely for perpetrating criminal activities.”<sup>41</sup> Makarenko asserts “these are based on the premise that in a contemporary world dominated by the dynamics of the free market economy, economic strength is the obvious prerequisite for political power; and political power subsequently sustains both the life of the organization and its activities—be they criminal and/or political.”<sup>42</sup> She exemplifies these components by providing details about the Russian and Albanian criminal organizations as “*conglomerates of causes* as both groups seek to produce an environment once only associated with terrorism: to break or ruin the sense of social and political calm in a country.”<sup>43</sup> For example, “In several regions of the Russian Federation... and in Albania, organized criminals have found that in order to mobilize sufficient power to resist the state, they must move their organizations beyond pure criminalism with its limited appeal to most citizens and add elements of political protest.”<sup>44</sup> In contrast, an example illustrative of a terrorist entity evolving into a group primarily engaged in criminal activities is the Abu Sayyaf group in the Philippines. Abu Sayyaf has

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<sup>41</sup> Tamara Makarenko, “The Crime-Terror Continuum: Tracing the Interplay between Transnational Organised Crime and Terrorism”, *Global Crime*, Vol. 6, No. 1, (February 2004), 135

<sup>42</sup> Tamara Makarenko, “The Crime-Terror Continuum: Tracing the Interplay between Transnational Organised Crime and Terrorism”, *Global Crime*, Vol. 6, No. 1, (February 2004), 136

<sup>43</sup> Tamara Makarenko, “The Crime-Terror Continuum: Tracing the Interplay between Transnational Organised Crime and Terrorism”, *Global Crime*, Vol. 6, No. 1, (February 2004), 136

<sup>44</sup> Tamara Makarenko, “The Crime-Terror Continuum: Tracing the Interplay between Transnational Organised Crime and Terrorism”, *Global Crime*, Vol. 6, No. 1, (February 2004), 136.

been primarily engaged in criminal activities such as kidnapping operations and operating marijuana plantations.<sup>45</sup> “In light of Abu Sayyaf’s [criminal focused] operations, there is little indication that the group remains driven by its original political aim, which was to establish an independent Islamic republic in territory currently comprising Mindanao, surrounding islands, and the Sulu Archipelago.”<sup>46</sup> Furthermore, this convergence of organizations into a “conglomerate of causes has lead Interpol to define such groups as *hybrid* groups because their activities indicate that political and criminal activities are deeply intertwined.”<sup>47</sup>

Makarenko asserts that the intertwined nature is further exasperated by situations, in which weak or failed states foster the convergence of organized crime and terrorism, ultimately creating safe havens for the continued operations of the convergent groups—the *black-hole syndrome*.<sup>48</sup> She describes the *black-hole syndrome* as encompassing two situations. The first, “where the primary motivations of groups engaged in a civil war evolves from a focus on political aims to a focus on criminal aims”; and second, as the emergence of a *black hole state*—a state successfully taken over by a hybrid group as outlined in the previous paragraph.<sup>49</sup> Makarenko claims that the end of the Cold War, coupled with the decline of super power support indirectly caused a decline in the strength of revolutionary political ideologies such as the

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<sup>45</sup> Tamara Makarenko, “The Crime-Terror Continuum: Tracing the Interplay between Transnational Organised Crime and Terrorism”, *Global Crime*, Vol. 6, No. 1, (February 2004), 137.

<sup>46</sup> Tamara Makarenko, “The Crime-Terror Continuum: Tracing the Interplay between Transnational Organised Crime and Terrorism”, *Global Crime*, Vol. 6, No. 1, (February 2004), 137.

<sup>47</sup> Tamara Makarenko, “The Crime-Terror Continuum: Tracing the Interplay between Transnational Organised Crime and Terrorism”, *Global Crime*, Vol. 6, No. 1, (February 2004), 137.

<sup>48</sup> Tamara Makarenko, “The Crime-Terror Continuum: Tracing the Interplay between Transnational Organised Crime and Terrorism”, *Global Crime*, Vol. 6, No. 1, (February 2004), 138.

<sup>49</sup> Tamara Makarenko, “The Crime-Terror Continuum: Tracing the Interplay between Transnational Organised Crime and Terrorism”, *Global Crime*, Vol. 6, No. 1, (February 2004), 138.

Khmer Rouge.”<sup>50</sup> The Khmer Rouge “gravitated from a strong ideological agenda to one dominated by economic aims.”<sup>51</sup> She additionally provides the example of Afghanistan in 1989. With the withdrawal of Soviet forces, the state’s instability led to criminal activities that served as the primary means for nation-state survival. In Afghanistan, the lack of stability and order resulted in the Taliban gaining control of the country. In both contexts, the *black hole syndrome* exemplifies that “political motivations do follow the criminal activities of belligerents in violent conflicts, it is evident that the perpetuation of conflict, as opposed to victory, becomes a priority in order to create ideal conditions for transnational criminal activities to flourish.”<sup>52</sup>

In summation, “regardless of where a group sits along the continuum, every point necessitates some degree of involvement with criminal activities.”<sup>53</sup> As a result, the continuum inherently implies that criminal activity, as opposed to political aims and motivations, is a potential method in locating group weaknesses and vulnerabilities to exploit to dismantle a network.

## **CONCLUSION**

Networks have been examined by economists, organizational theorists, and sociologists to analyze social and economic systems in which actors are linked through formal and informal relations. This review revealed that while many terrorist entities appear network-like, some are hybrid-networks that include hierarchical, clan/tribal, and/or criminal-terror nexuses of centralized or decentralized organizations.

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<sup>50</sup> Tamara Makarenko, “The Crime-Terror Continuum: Tracing the Interplay between Transnational Organised Crime and Terrorism”, *Global Crime*, Vol. 6, No. 1, (February 2004), 138.

<sup>51</sup> Tamara Makarenko, “The Crime-Terror Continuum: Tracing the Interplay between Transnational Organised Crime and Terrorism”, *Global Crime*, Vol. 6, No. 1, (February 2004), 138.

<sup>52</sup> Tamara Makarenko, “The Crime-Terror Continuum: Tracing the Interplay between Transnational Organised Crime and Terrorism”, *Global Crime*, Vol. 6, No. 1, (February 2004), 138.

<sup>53</sup> Tamara Makarenko, “The Crime-Terror Continuum: Tracing the Interplay between Transnational Organised Crime and Terrorism”, *Global Crime*, Vol. 6, No. 1, (February 2004), 141.

Given the aforementioned discussions, it is not too much of a stretch to suggest that a change in orientation might be in order. Rather than thinking of terrorist groups and organized crime syndicates as separate entities, we might start thinking of them as similar enterprises. These enterprises may consist of both hierarchical and networked, criminal and/or terrorist, organizations that yield a symbiotic benefit—the hybrid-network. The following Chapter pursues this line of reasoning further.

## Chapter 2

### ***The Enterprise Theory of Investigation***

*If you know the enemy and know yourself; in a hundred battles you will never be in peril. When you are ignorant of the enemy, but know yourself, your chances of winning or losing are equal. If ignorant both of your enemy and of yourself, you are certain in every battle to be in peril.*

-- Sun Tzu

#### **Introduction**

This chapter outlines ETI. However, before doing so it briefly examines the Racketeer Influenced and Corrupt Organizations (RICO) statute. The passage of RICO was the result of the realization by law enforcement professionals that a proactive approach was necessary to combat criminal enterprises.

#### **What is an Enterprise?**

There are several key definitions that must be understood in relation to one another in order to understand what is meant by the words *criminal enterprise*. The FBI defines a criminal enterprise as:

A group of individuals with an identified hierarchy, or comparable structure, engaged in significant criminal activity. These organizations often engage in multiple criminal activities and have extensive supporting networks. The terms Organized Crime and Criminal Enterprise are similar and often used synonymously. However, various federal criminal statutes specifically define the elements of an enterprise that need to be proven in order to convict individuals or groups of individuals under those statutes.<sup>1</sup>

While terms like *Organized Crime* and *Criminal Enterprise* are similar and often used synonymously, the definition of organized crime is more obscure in meaning. The FBI defines organized crime as: “Any group having some manner of a formalized structure and whose primary

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<sup>1</sup> “Organized Crime Glossary” *Federal Bureau of Investigation Website* [Website]; <http://www.fbi.gov/hq/cid/orgcrime/glossary.htm>

objective is to obtain money through illegal activities. Such groups maintain their position through the use of actual or threatened violence, corrupt public officials, graft, or extortion, and generally have a significant impact on the people in their locales, region, or the country as a whole.”<sup>2</sup>

Given this definition of organized crime, it is important to view the federal criminal RICO statute, Title 18 of the United States Code, Section 1961(4) and the Continuing Criminal Enterprise (CCE) statute, Title 21 of the United States Code, Section 848(c)(2), which provide further details into what legally constitutes a criminal enterprise. The RICO statute further defines an enterprise as “any individual, partnership, corporation, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity.”<sup>3</sup> In RICO prosecutions, evidence of acts of racketeering or “predicate acts”—such as drug distribution, any violent acts, witness tampering, mail or wire fraud, or illegal gambling—can be presented to the jury to provide the *story* of the full scope of the enterprise’s criminal conduct.<sup>4</sup> Under RICO, a criminal enterprise is any union or group of individuals engaged in a pattern of criminal activity. For an enterprise to be *criminal*, it is not necessary for it to have written bylaws or written agreements between the individuals or a *traditional* hierarchical organization. The criminal enterprise can be as simple as a group of individuals *associated in fact*

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<sup>2</sup> “Organized Crime Glossary” *Federal Bureau of Investigation Website*; <http://www.fbi.gov/hq/cid/orgcrime/glossary.htm>

<sup>3</sup> Significant racketeering activities as those predicate criminal acts that are chargeable under the Racketeer Influenced and Corrupt Organizations statute are found in Title 18 of the United States Code, Section 1961 and include the following federal crimes: Bribery; Sports Bribery; Counterfeiting; Embezzlement of Union Funds; Mail Fraud; Wire Fraud; Money Laundering; Obstruction of Justice; Murder for Hire; Drug Trafficking; Prostitution; Sexual Exploitation of Children; Alien Smuggling; Trafficking in Counterfeit Goods; Theft from Interstate Shipment; Interstate Transportation of Stolen Property; And the following state crimes: Murder; Kidnapping; Gambling; Arson; Robbery; Bribery; Extortion; Drugs. <http://www.fbi.gov/hq/cid/orgcrime/glossary.htm>

<sup>4</sup> Racketeer Influenced and Corrupt Organizations statute, Title 18 of the United States Code, Section 1961(4)

who engage in a pattern of illegal activity.<sup>5</sup> Whereas, the CCE statute defines a criminal enterprise as: "...any group of six or more people, where one of the six occupies a position of organizer, a supervisory position, or any other position of management with respect to the other five, and which generates substantial income or resources, and is engaged in a continuing series of violations of subchapters I and II of Chapter 13 of Title 21 of the United States Code."<sup>6</sup>

Given these two statutes, investigators must determine the size of the criminal organization as well as their criminal activities (racketeering-RICO; drug control-CCE) to discern which statute will be used to develop the case against the given enterprise.

### ***Brief History of Organized Crime and RICO***

The term *organized crime* first came into regular use in 1919 among the members of the Chicago Crime Commission. It referred not to criminal organizations, but in a much broader sense to the orderly fashion in which the so-called *criminal class* could pursue *crime as a business*.<sup>7</sup> The *crime as business* centered around the conditions that allowed criminals to gain a steady income from crime under virtual immunity from the law.<sup>8</sup> In the late 1920s and early 1930s, the term organized crime no longer referred to an amorphous *criminal class* but to *gangsters and racketeers* who were organized in *gangs, syndicates and criminal organizations*.<sup>9</sup> While the picture of the *criminal class* became more and more differentiated, the understanding of the relation between organized crime and society took a key turn. Organized crime was no longer seen as a product of social conditions that could be remedied

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<sup>5</sup> Racketeer Influenced and Corrupt Organizations statute, Title 18 of the United States Code, Section 1961(4)

<sup>6</sup> Subchapters I and II of Chapter 13 of Title 21 of the United States Code pertain to prosecution of violations in controlled and illegal substances.

See <http://uscode.house.gov/download/pls/21C13.txt> for more details.

<sup>7</sup> H.B. Chamberlin, "Crime as a business in Chicago", *Bulletin of the Chicago Crime Commission*, no 6, 1 October 1919, 1-6.

<sup>8</sup> H.B. Chamberlin, "Crime as a business in Chicago", *Bulletin of the Chicago Crime Commission*, no 6, 1 October 1919, 1-6.

<sup>9</sup> H.B. Chamberlin, "Some Observations concerning organized crime", *Journal of Criminal Law and Criminology*, vol 22, no 5, January 1932, 652-670.

easily at the local level; the emphasis now was on vigorous law enforcement on a national level.<sup>10</sup>

In 1950, when a Senate Committee under its chairman Estes Kefauver set out "to investigate organized crime in interstate commerce," it concluded that numerous criminal groups throughout the country were tied together by "a sinister criminal organization known as the Mafia."<sup>11</sup> The Kefauver Committee asserted that organized crime was not only a product of local conditions but was a problem that existed on a national scale. While the Committee deliberated over the existence of the Mafia, the FBI was hampered by the lack of federal laws covering crimes perpetrated by racketeers—for example, after prohibition, many mafia activities were carried out locally, or if interstate, they did not constitute major violations within the Bureau's jurisdiction. Continued resistance from J. Edgar Hoover—who refused to accept the notion of an Italian-American Mafia—further hampered their efforts.<sup>12</sup>

The tide turned, however, in 1957 when Sergeant Edgar Crosswell of the New York State Police provided evidence that many of the best-known mobsters in the United States had met together in upstate New York. Although the FBI was convinced that the meeting—which became known as the *Appalachian Meeting*—confirmed the existence of a national organized-crime network, it was not until mob insider Joseph Valachi testified that the public learned firsthand of the nature of La Cosa

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<sup>10</sup> Derived from Klaus Von Lampe, "Not a process of enlightenment: the conceptual history of organized crime in Germany and the United States of America" *Forum on Crime and Society* Vol. 1 No. 2, December 2001, 99.

<sup>11</sup> *Senate Special Committee to Investigate Organized Crime in Interstate Commerce, Final Report*, Senate Report No. 725, 82d Cong., 1st Sess. (1951). See Blakey & Cessar, *Equitable Relief*, supra note 2, 572-80.

<sup>12</sup> Judge Morris Plosowe and the Commission on Organized Crime of the American Bar Association—chaired by Robert P. Paterson, *The Kefauver Committee Report on Organized Crime* (Didier Ed. New York undated). The compilation provided the history of the idea that forms the Organized Crime Control Act of 1970. In addition, Rufus King, an Assistant General Counsel to the Kefauver Committee, wrote "The Control of Organized Crime in America" in *Stanford Law Review* Vol. 52 (1951), an article that foreshadowed The Organized Crime Control Act, including RICO.

Nostra, or the *American mafia*.<sup>13</sup> His 1963 testimony provided a detailed look at the inside of the organization that exposed the name, structure, power bases, codes, swearing-in ceremony, and members of this organization.<sup>14</sup>

This marked the first time that a national criminal syndicate existed. Given this, on 27 November 1957 Hoover announced the “Top Hoodlum Program,” in which the FBI took up the fight against the La Cosa Nostra.<sup>15</sup> With the evidence provided by the Valachi disclosures, Congress began to pass new laws to strengthen federal racketeering and gambling statutes that had been passed in the 1950s and early 1960s to aid the Bureau's fight against criminal influence.<sup>16</sup>

In 1966, President Johnson named Attorney General Nicholas Katzenbach to head a commission to study the administration of justice, including the problem of organized crime in all its facets.<sup>17</sup> The commission prepared the *President's Commission on Law Enforcement and Administration of Justice, Task Force Report: Organized Crime 1-2, 1967 (Task Force Report)* on organized crime, and directed its attention to the operation of organized crime and its infiltration of the economy.<sup>18</sup> According to Robert Blakey, chief architect of RICO, the most significant

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<sup>13</sup> “History of the FBI Postwar America: 1945 - 1960's” *Federal Bureau of Investigation Website*; <http://www.fbi.gov/libref/historic/history/postwar.htm>

<sup>14</sup> Ron Chepesiuk's *The Trafficantes, Godfathers from Tampa, Florida: The Mafia, the CIA and the JFK Assassination* (2010) provides a detailed description of Valachi's story of turning informant: When the Mob put a \$100,000 contract on his life, Valachi decided to tell all to the authorities, and in 1962 he turned informant. Valachi became one of the most valuable federal witnesses ever, compelling the U.S. government to put Valachi in the Federal Witness Protection program and to guard him with up to 200 U.S. marshals. In his nationally televised appearance before the McClellan Committee, Valachi formally identified 317 organized crime members. A less descriptive account is located at, “La Cosa Nostra/Italian Organized Crime/Labor Racketeering Unit,” *Federal Bureau of Investigation Website*; <http://www.fbi.gov/hq/cid/orgcrime/lcnindex.htm>.

<sup>15</sup> “A Byte Out of History: Organized Crime and Joe's Barbecue” (November 14, 2003) <http://www.fbi.gov/page2/nov03/crime111403.htm>

<sup>16</sup> Derived from *History of the FBI Postwar America: 1945 - 1960's* <http://www.fbi.gov/libref/historic/history/postwar.htm>

<sup>17</sup> G. Robert Blakey, “RICO: The Genesis of an Idea” Legal Studies Research Paper No. 08-18, *Trends in Organized Crime*, Vol. 9, No. 8 (Notre Dame: 2006), 5.

<sup>18</sup> *Task Force Report: Organized Crime. President's Commission on Law Enforcement and Administration of Justice* (Washington, DC: U.S. Government Printing Office, 1967) hereinafter referred to as *Task Force Report*.

finding of the report stemmed from Professor Donald Cressey's "The Functions and Structure of Criminal Syndicates," which discussed the importance of the origin, structure, and operation of the American Mafia.<sup>19</sup> Cressey asserted that a "description of organizational structure . . . [is] essential to understanding and controlling organized crime."<sup>20</sup> Furthermore, Cressey stated:

Except when conspiracy statutes are violated, it is not against the criminal law for an individual or group of individuals to rationally plan, establish, develop, and administer a division of labor for the perpetration of crime. None of the laws pertaining to legitimate businesses or cartels apply... It is a fact of life, which permits directors of criminal business organizations to remain immune from arrest, prosecution, and imprisonment unless they themselves violate specific criminal laws such as those pertaining to the sale of narcotics.<sup>21</sup>

Therefore, the task of criminalizing *organized crime* was one of "defining illicit business in organizational terms" and then making "participation in such divisions of labor a violation of criminal law."<sup>22</sup> As such, the legislation had to achieve five goals. First, it had to define what would be criminal. Second, it had to identify, specifically if possible, the activity that would constitute the criminality. Third, it had to identify the participants in the criminal activity and their relationship to the organization. Fourth it had to allow for the admission of evidence that characterized the participants in the criminality. And, fifth, it had to avoid the constitutional stigma attached to status legislation.<sup>23</sup> In other words, the legislation had to be careful to focus not on *who* a person

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<sup>19</sup> G. Robert Blakey, "RICO: The Genesis of an Idea" Legal Studies Research Paper No. 08-18, *Trends in Organized Crime*, Vol. 9, No. 8 (Notre Dame: 2006), 4.

<sup>20</sup> Donald Cressey, "The Functions and Structure of Criminal Syndicates" *Appendix A, Task Force Report: Organized Crime. President's Commission on Law Enforcement and Administration of Justice* (Washington, DC: U.S. Government Printing Office, 1967), 25.

<sup>21</sup> Donald Cressey, "The Functions and Structure of Criminal Syndicates," *Appendix A Task Force Report*, 25

<sup>22</sup> Donald Cressey, "The Functions and Structure of Criminal Syndicates," *Appendix A Task Force Report*, 25

<sup>23</sup> Thomas S. O'Neill, "Functions of the RICO Enterprise Concept" *Notre Dame Law Review Vol 64-6* (University of Notre Dame:1989), 20.

was, but on *what* a person did.<sup>24</sup> As such, RICO's drafters followed Cressey's advice by modifying the original bill to reflect the admonition of Attorney General Katzenbach, which successfully overcame constitutional scrutiny and made it unlawful for a person to acquire, maintain, or operate an "enterprise through a pattern of racketeering activity."<sup>25</sup>

From the conclusions of the Katzenbach commission, two new laws were enacted. These were: the *Omnibus Crime Control and Safe Streets Act of 1968*, which provided for the use of court-ordered electronic surveillance in the investigation of certain specified violations; and, the *Racketeer Influenced and Corrupt Organizations (RICO) Statute of 1970*, which allowed organized groups to be prosecuted for all of their diverse criminal activities without the crimes being linked by a perpetrator or an all-encompassing conspiracy.<sup>26</sup>

With these new laws passed, law enforcement needed to shift from the traditional investigative methods of short-term, street-level enforcement activity to a method that was proactive, leveraging sophisticated techniques—such as electronic monitoring, financial analysis, and Title III wire intercept investigations. This was necessary in order to root out and prosecute entire enterprises, from the street-level thugs up through enterprise leaders and, ultimately, the enterprise's command structure.

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<sup>24</sup> Thomas S. O'Neill, "Functions of the RICO Enterprise Concept" *Notre Dame Law Review* Vol 64-6 (University of Notre Dame:1989), 20.

<sup>25</sup> RICO Section 1962 sets forth the unlawful conduct, and section 1961 defines each element. Section 1961 defines the activity that constitutes the criminality, the "pattern of racketeering activity." As well as, specifies each act that may comprise the criminal activity, the "racketeering acts." Furthermore, section 1961 defines the participants, the "person," and the organization, the "enterprise." Sections 1963 and 1964 provide for criminal sanctions and civil remedies, respectively; sections 1965 through 1968 facilitate the civil enforcement of the statute. For a detailed history and description of the RICO, see Thomas S. O'Neill, "Functions of the RICO Enterprise Concept" *Notre Dame Law Review* Vol 64-6 (University of Notre Dame:1989) and G. Robert Blakey, "RICO: The Genesis of an Idea" Legal Studies Research Paper No. 08-18, *Trends in Organized Crime*, Vol. 9, No. 8 (Notre Dame: 2006)

<sup>26</sup> Derived from *History of the FBI Postwar America: 1945 - 1960's*  
<http://www.fbi.gov/libref/historic/history/postwar.htm>

### ***What is the Enterprise Theory of Investigation?***

The approach developed by the FBI was the Enterprise Theory of Investigation (ETI). Normally, evidence developed in an investigation is presented to a prosecutor who structures the indictment and thus the method of prosecution. In other words, the indictment and method of prosecution is determined after the crime has been committed and the arrest or arrests have been made. Under the Enterprise Theory of Investigation, this is not the case; the prosecution is structured from the inception of the investigation.

According to the Statement of Chris Swecker, Assistant Director, Criminal Investigative Division, Federal Bureau of Investigation, before the Commission on Security and Cooperation in Europe, United States Helsinki Commission, June 7, 2005,

This [ETI] approach requires the investigation be intelligence driven, seeks to discover the full scope of the criminal organization and its member activities, and requires strategic planning and a long-term focus. Evidence must be gathered that identifies the predicate crimes of the organization, demonstrates the existence and structure of the organization, identifies the individuals commanding and controlling the organization, and dismantles the organizations through successful prosecution of its members and seizing the economic resources of the enterprise. These investigations are manpower intensive and make use of sophisticated investigative techniques.<sup>27</sup>

In 2006, Swecker further describes the ETI as:

A two-step process that involves identifying the organization and the criminal activities surrounding the organization, while simultaneously identifying the financial assets of the criminal organization for possible forfeiture. ETI can involve covert techniques, which include informants, physical surveillance, electronic surveillance (wiretaps), undercover operations, and the use of pen registers. ETI can also utilize

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<sup>27</sup> Chris Swecker, Assistant Director, Criminal Investigative Division, Federal Bureau of Investigation Before the Commission on Security and Cooperation in Europe, United States Helsinki Commission, June 7, 2005

overt techniques, such as federal grand jury subpoenas, witness interviews, and the review of media reporting. The ETI approach is used with the Racketeer Influenced and Corrupt Organizations statute, which is better known as the RICO statute. ETI furthers RICO prosecutions by identifying predicate crimes, by identifying the existence of a criminal enterprise, and by identifying the individuals in control of the enterprise.<sup>28</sup>

Therefore, ETI identifies, disrupts, and ultimately dismantles criminal enterprises. Stated succinctly, the ETI is a strategy for the FBI, in conjunction with other Federal, State, and local law enforcement agencies, to combat criminal enterprises through sustained, multidivisional, coordinated investigations that support successful prosecution. This strategy incorporates investigative and prosecutorial theories of enterprise investigations that have proven successful in combating traditional organized crime.

ETI analyzes criminal enterprises' full range of criminal activities, determining which components allow the criminal enterprise to operate and at the same time identifies vulnerable areas within each component of the criminal activity.<sup>29</sup> Furthermore, the theory describes criminal activity as being planned and executed with the primary objective of financial profits and/or other goals, such as power and political influence.

By leveraging multi-dimensional constructs to develop the organization-centered understanding of the enterprise through social, economic, and historical contexts, the ETI provides the foundation to identify the characteristics of the criminal activity, the enterprise structure (for example, hierarchical, networks, and/or both), the overarching power relationships within the structure, and types of relationships between the criminal enterprise and legal enterprises or

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<sup>28</sup> Chris Swecker Acting Executive Assistant Director, Law Enforcement Services Federal Bureau of Investigation U.S. House of Representatives Committee on Homeland Security Subcommittee on Management, Integration and Oversight March 8, 2006

<sup>29</sup> Richard A. McFeely, "Enterprise Theory of Investigation", *Law Enforcement Bulletin* May 2001, 19.

businesses. Therefore, the ETI is as much a methodology as it is a theory. The theory guides the actions by leveraging analytic and organizational models in developing a specific investigative strategy tailored to the subject criminal enterprise. While the ETI is designed to incorporate analytical/theoretical models, it is not restricted to using any specific model. This is important due to organized crime's dynamic nature. In essence, the use of any analytical/theoretical model to determine a criminal organization must be continually updated as the crime environment evolves and new enterprises emerge and/or adapt.

As an example, three models were used while examining La Cosa Nostra. These were later refined as more information was obtained and the Mafia grew and diversified. These models were the *hierarchical model*, a *patron-client model* and an *enterprise model*. Each model provided insights into different levels and functioning of the LCN organization. In 1969, Cressey's *Theft of the Nation* emphasized the existence of a "nationwide illicit cartel and confederation...with the governing role of a national commission, hierarchical structure, and the clear division of labor between local branches."<sup>30</sup> This analysis established the La Cosa Nostra as a hierarchical model of organization. This was later expanded by Jay Albanese's *hierarchical model* which described the structure of organized crime as a "family with the ranks from boss to soldiers" typifying the La Cosa Nostra.<sup>31</sup> The 1967 Task Force Report listed the roles and positions that most academic and law enforcement studies use today. The positions and roles are common among all the organizational models of the LCN, which are the *boss*, the

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<sup>30</sup> Donald Cressey, *Theft of the Nation: The Structure and Operations of Organized Crime in America* (New York: Harper and Row, 1969), 109 and Donald R. Cressey, "The Functions and Structure of Criminal Syndicates," in Patrick J. Ryan and George E. Rush, eds., *Understanding Organized Crime in Global Perspective* (London: Sage, 1997), 3-15.

<sup>31</sup> Jay Albanese, *Organized Crime* 2<sup>nd</sup> ed. (Nelson Hall Chicago: 1996) 91-102.

underboss, the *counselor*, the *lieutenants* or *captains*, and the *soldiers* or *made-men*.<sup>32</sup>

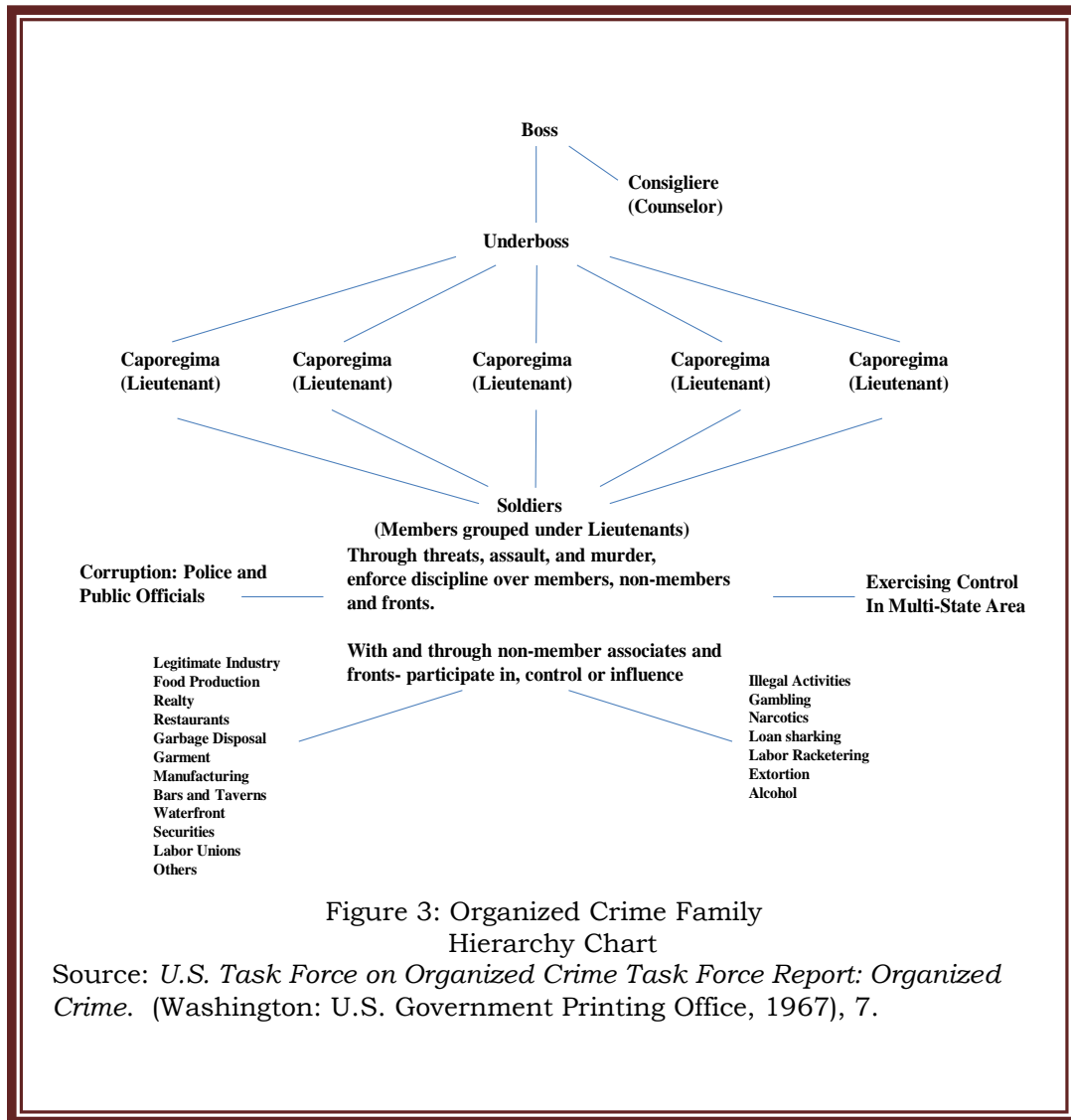


Figure 3: Organized Crime Family Hierarchy Chart

Source: *U.S. Task Force on Organized Crime Task Force Report: Organized Crime*. (Washington: U.S. Government Printing Office, 1967), 7.

The position at the top of the family hierarchy “is one man, the *boss*, whose primary functions are maintaining order and maximizing profits.”<sup>33</sup> (Figure 3: Organized Crime Family Hierarchy Chart) Howard Abadinsky further defines this position as “[a]t the center of an Italian-American crime groups is the boss who in the past was usually a senior

<sup>32</sup> United States Task Force on Organized Crime. Task Force Report: Organized Crime. Washington: U. S. Government Printing Office, 1967, 7.

<sup>33</sup> United States Task Force on Organized Crime. Task Force Report: Organized Crime. Washington: U. S. Government Printing Office, 1967, 7.

citizen-he needed many years to gain the respect of members and the knowledge and connections needed by the group.”<sup>34</sup> The Task Force Report describes the next level of leadership as the:

... *underboss*, the vice president or deputy director of the family. He collects information for the boss; he relays messages to him and passes his instruction down to his own underlings. In the absence of the boss, the underboss acts for him. On the same level as the underboss, but operating in a staff capacity, is the *consigliere*, who is a counselor, or adviser. Often an elder member of the family who has partially retired from a career in crime, he gives advice to family members, including the boss and underboss, and thereby enjoys considerable influence and power.<sup>35</sup>

Within the structure of the family, the next position below the underboss and counselor is that of lieutenants or captains, *caporegime*.<sup>36</sup> The 1967 report describes *caporegime* as: “[serving] as chiefs of operating units. The number of men supervised in each unit varies with the size and activities of particular families. Often the *caporegima* [the position of *caporegime*] has one or two associates who work closely with him, carrying orders, information, and money to the men who belong to his unit. From business standpoint, the *caporegima* is analogous to plant supervisor or sales manager.”<sup>37</sup>

The lowest level within the family is that of the soldier, where the direct illegal activities take place and where the organization has its greatest visibility among the surrounding population and to law enforcement. The Task Force Report describes soldiers as: “The lowest level *members* of a family are the *soldati*, the *soldiers* or *button men* who report to the *caporegime*. A soldier may operate a particular illicit enterprise, e.g., a loan-sharking operation, a dice game, a lottery, a

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<sup>34</sup> Howard Abadinsky, *Organized Crime*, 3rd ed., (Chicago: Nelson Hall, 1990), 30.

<sup>35</sup> United States Task Force on Organized Crime. Task Force Report: Organized Crime. Washington: U. S. Government Printing Office, 1967, 7.

<sup>36</sup> United States Task Force on Organized Crime. Task Force Report: Organized Crime. Washington: U. S. Government Printing Office, 1967, 7.

<sup>37</sup> United States Task Force on Organized Crime. Task Force Report: Organized Crime. Washington: U. S. Government Printing Office, 1967, 8.

bookmaking operation, a smuggling operation, on a commission basis, or he may own the enterprise and pay a portion of its profit to the organization, in return for the right to operate.”<sup>38</sup>

The *hierarchical model* was the foundational model in understanding the LCN. However, as more information about the LCN was discovered, scholars challenged the interpretation. Instead of organized crime as having a rational corporate structure, it was argued that not only was organized crime much more dynamic than portrayed by the previous hierarchical model, but also that patron-client relations and network structures played a critical role in understanding the LCN. For example, Joseph Pistone’s testimony on the Bonanno Family provided insight regarding the lower level of the LCN organization, “There is a surprising similarity, which marks the inner workings of the Mafia and contemporary terrorist organizations. The families are broken down into small, separate cells, commonly called crews. You work with that crew and rarely ever deal with any other crews. In all likelihood, a member of one crew may not even know who are the members of another crew in his own family.”<sup>39</sup>

As such, the *patron-client model* represented by the works of Joe Albini and Howard Abadinsky, re-conceptualized the La Cosa Nostra as a web of asymmetric ties embedded in local or ethnic networks<sup>40</sup> (Figure 4: Patron-Client Model). Within this model, the patron provides aid and protection while the client becomes a loyal member. Therefore, the model is based on a less centralized hierarchy that has less control over subordinates than in the “hierarchical model.”

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<sup>38</sup> United States Task Force on Organized Crime. Task Force Report: Organized Crime. Washington: U. S. Government Printing Office, 1967, 8.

<sup>39</sup> Committee on Governmental Affairs United States Senate, *Organized Crime: 25 Years After Valachi*, One Hundredth Congress, Second sess., 1988, 204.

<sup>40</sup> Jay Albanese, *Organized Crime* 2<sup>nd</sup> ed. (Nelson Hall Chicago: 1996) 91-102 and Joe Albini *The American Mafia: Genesis of a Legend*, (Appleton-Century-Crofts: New York, 1971), 125-130.

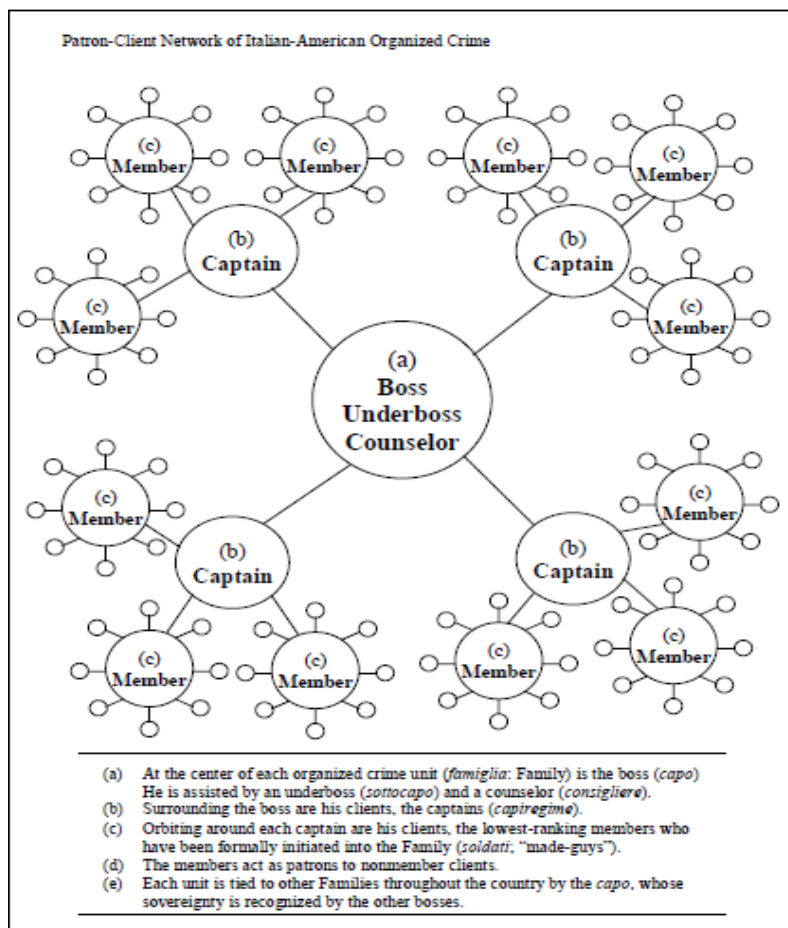


Figure 4: Patron-Client Model

Source: Howard Abadinsky, *Organized Crime, 3rd ed.*, (Chicago: Nelson Hall, 1990), 26.

While this model provided a shift in organizational thinking about the LCN, other authors further expanded on the concept of local and ethnic networks and looked at activity as an organizational driving factor. The diverse criminal activities of the LCN led scholars to consider organizations as enterprises consisting of economic motivations through central and decentralized networks similar to Figures 3 and 4. Dwight C. Smith's *enterprise model*, based on Albanese's *enterprise model*, centered on economic activities and the primacy of market forces

over group structures.<sup>41</sup> These models provided insights into how the activities are organized and carried out.

While there was no *one* correct model, the above were used to gain critical insights into determining the activities, organization, and leadership of La Cosa Nostra. As Jay Albanese stated, “*models* really represent different ways of looking at organized crime, *different paradigms*” in Albanese’s wording, “which can be fruitfully combined to get a more complete picture.”<sup>42</sup>

### ***Enterprise Theory of Investigation Conceptual Phases***

By looking at the organizational structure, the ETI provides the conceptual framework to leverage various models in creating a cumulative body of knowledge, designed to consistently analyze and compare phenomena across historical, social, cultural, and economic contexts. As such, the Enterprise Theory of Investigation has become the standard investigative model for analyzing criminal organizations. Although ETI uses multiple, adapting, and sometimes overlapping models, this paper uses conceptual phases to illustrate how the ETI is applied from the initial estimate through the development of an investigative strategy resulting in a prosecution against a criminal enterprise.<sup>43</sup>(Figure 5: ETI Conceptual Phases)

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<sup>41</sup> Smith, Dwight C., “Paragons, Pariahs, and Pirates: A Spectrum-Based Theory of Enterprise”, *Crime & Delinquency*, Vol. 26, No. 3, 1980, 358-386.

<sup>42</sup> Jay Albanese, *Organized Crime* 2<sup>nd</sup> Ed. (Nelson Hall Chicago: 1996) 77-90.

<sup>43</sup> The ETI conceptual phases were developed by this author from an interview with Assistant Special Agent In Charge Terry Wade Interview 23 Dec 2010, Richard A. McFeely’s “Enterprise Theory of Investigation”, *Law Enforcement Bulletin* May 2001, and the FBI’s Violent Crimes and Major Offenders Section, Criminal Investigation Division website.

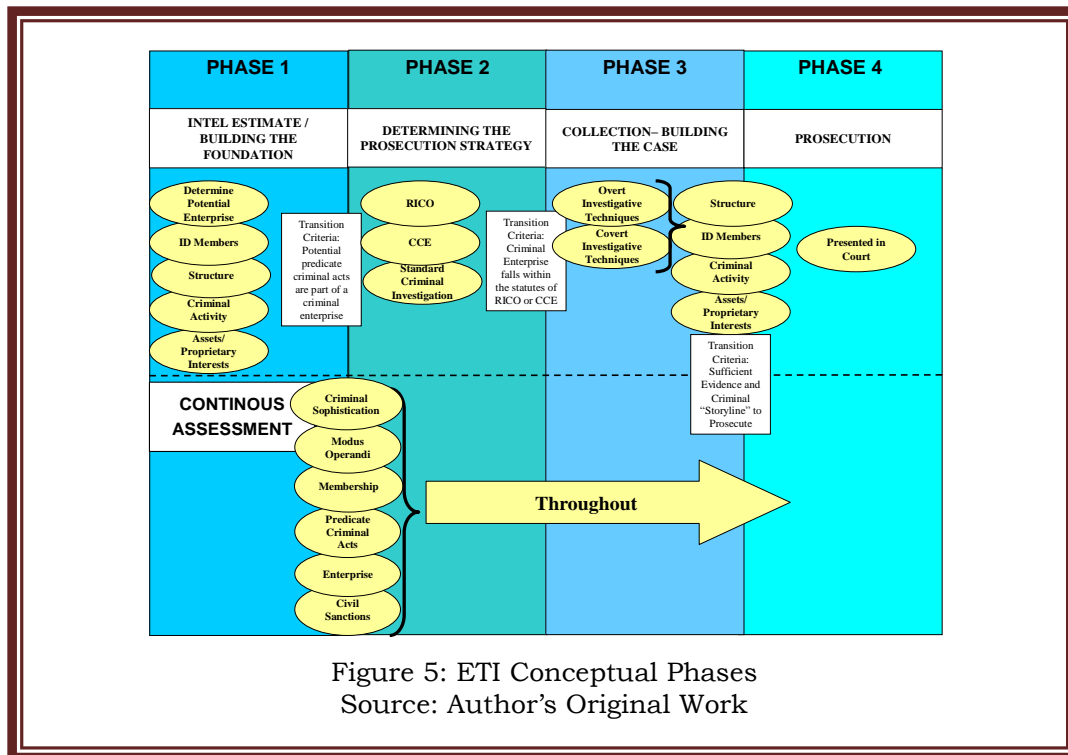


Figure 5: ETI Conceptual Phases  
Source: Author's Original Work

While these conceptual phases are depicted as sequential, the phases usually occur in overlapping and non-linear ways. However, in order to simplify the complex interaction of planning and activities, the phases are delineated sequentially. A detailed description of each phase follows.

***PHASE I- Intel Estimate / Building the Foundation***

The first phase is a review of the available intelligence to estimate the group's structure, membership, and criminal activities. This is accomplished by a background investigation conducted through agency file reviews, agency and public record checks, and by assigning informants in the subject group to check on the individual members and their criminal activities. During this phase, the investigator attempts to identify individual and group assets, as well as proprietary interests of the enterprise. Additionally, investigators seek to identify meeting places, methods of communication among members, and entities used to facilitate their criminal activities. This is done through the use of various investigative techniques. The transition to the next phase occurs once

the investigator evaluates and defines the criminal group, determines potential predicate criminal acts, and determines if these acts are part of a criminal enterprise that can be used to formulate the investigative focus.

### ***PHASE II- Determining the Prosecution Strategy***

If the criminal group meets the criteria to be considered a criminal enterprise, the next phase begins. Consideration is given to determining which sanctions are appropriate and can be obtained, and which type of legal relief and statutes will solve the particular problem. If members of a group are identified and potentially prosecutable, the RICO and/or CCE statutes will most likely meet the requirement for a prosecution strategy. Additionally, any amassed assets must be identified for possible forfeiture and be included within the prosecution strategy.

### ***PHASE III- Collection—Building the Case***

Once the statutes have been determined, the question of whether to pursue an overt and/or covert investigation must be decided. In an overt investigation, the investigator interviews witnesses, subpoenas records, locates expert witnesses, and convenes a grand jury. Covert techniques include, but are not limited to electronic surveillance, physical surveillance, and undercover operations. By using one or both of the aforementioned investigations, investigators seek to gain evidence of the structure, membership, and purpose of each group within the enterprise; identifying assets for each individual and enterprise and determining illegal profit generation. Once the criminal evidence of predicate criminal acts are identified and the prosecution determines that there is enough evidence for prosecution, the investigators must compile and prepare all of the evidence for presentation in a civil or federal court.

#### ***PHASE IV—Prosecution***

The final phase is supporting the prosecution with the evidence and the enterprise's *criminal storyline* for issuance of indictments and prepare for prosecution in court.

#### ***The Continuous Assessment***

Since criminal enterprises can vary in criminal sophistication, modus operandi, and membership over time, the predicate criminal acts, the defined enterprises, and the required civil sanctions and legal statutes must be continually re-evaluated during the course of the investigation and adjustments made throughout each of the aforementioned phases as appropriate to ensure a successful prosecution of the criminal enterprise.

#### ***CONCLUSION***

The ETI is a theory and strategy used to address international organized crime based primarily upon the Racketeer Influence and Corrupt Organization statute and Continuing Criminal Enterprise statutes that enable investigators to identify criminal enterprises and attempt to prosecute them as an entire group for maximum impact. The ETI leverages analytic and organizational models to diagram organized crime groups as they develop. Overtime, a hierarchical structure looking like a pyramid or a network with hubs forming a flattened hierarchical construct will emerge. The head of the organization, the top of the pyramid, or central hubs of a network will be isolated from the day-to-day criminal activities conducted at the bottom of the pyramid or extraneous hubs surrounding the center. The members at the bottom of the pyramid or outer lying hubs are the actors who conduct the day-to-day criminal activities. Through the ETI, investigators attempt to penetrate the criminal enterprise through informants, cooperating witnesses, electronic and physical surveillance, and undercover agents by identifying the lines of communication within the organization. By using these investigative techniques, the analysts/investigators are able

to identify members and use each member's criminal activity to trace to the activities of the organization and as such build a case to further convict the enterprise as a whole.

In order to demonstrate the application of ETI and gain insights into the strengths and weaknesses of the approach, the aforementioned phasing construct will be used as the conceptual construct in the next Chapter to examine how ETI was applied during the *Pizza Connection* case in the 1980s.

## Chapter 3

### ***Enterprise Theory of Investigation, La Cosa Nostra, and the Pizza Connection***

*On April 8, 1984, Pete Alfano and Gaetano Badalamenti were apprehended by police in Madrid, Spain. Authorities charged that they, along with 29 others overseas and in the United States, participated in a multinational, \$1.65 billion heroin/cocaine smuggling and money laundering conspiracy. The conspiracy stretched from poppy fields in Afghanistan to banks in Switzerland, ships in Bulgaria and Turkey, pay phones in Brazil, and pizza restaurants in New York, Oregon, Illinois, and Milton, Wisconsin. The conspiracy would become known as the "Pizza Connection," the successor to the 1950s' and 1960s' "French Connection."*

*-- Jeff Havens*

#### **Introduction**

La Cosa Nostra (LCN) is a collection of Italian-American organized crime *families* that has been operating in the United States since the 1920s. For nearly three quarters of a century, beginning during the time of Prohibition and extending into the 1990s, the LCN was a prominent criminal organization in the United States. The LCN are involved in a wide variety of on-going criminal enterprises that include illegal gambling, prostitution, drug trafficking, theft, fraud, extortion, public corruption, and the infiltration of labor unions.<sup>1</sup> In recent years, the LCN has been severely degraded by law enforcement. "From 1981 through [2000], federal prosecutors brought 1,025 indictments against 2,554 Mafiosi, and have convicted 809 Mafia members or their uninitiated associates."<sup>2</sup>

Although every case may provide insights into the use of the ETI and RICO, the majority of the cases began with targeting the known LCN

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<sup>1</sup> Todd Masse and William Krouse, *CRS Report for Congress* "The FBI: Past, Present, and Future" (October 2, 2003), 34.

<sup>2</sup> *Time* "Hitting the Mafia" June 24, 2001

<http://www.time.com/time/nation/article/0,8599,145082,00.html#ixzz0iwR841s1>

leaders through domestic law enforcement and involved gathering enough evidence to make a case against the known leaders. In contrast to the majority of these cases, the *United States v. Badalamenti*, which became known as the *Pizza Connection*, stands out from the others in that the case was built from the ground up, relying on a massive worldwide investigation to identify transnational criminal activities of the Bonanno family criminal enterprise.<sup>3</sup>

As such, this case was chosen as the primary study due to the transnational nature of the *Pizza Connection* and the transnational nature of terrorist organizations. Given this, the strengths and weaknesses of ETI and RICO may be used as a foundation for exploring a similar approach to transnational terrorist organizations such as al-Qaeda. A narrative of the main events unfolding during the *Pizza Connection* will be used in conjunction with the previous chapter's conceptual phases to illustrate how the ETI was applied from the initial estimate through the development of an investigative strategy resulting in the prosecution of those involved within the criminal enterprise. Subsequently, the chapter will conclude with potential strengths and weaknesses of ETI and RICO. These strengths and weaknesses will be used as a foundation in building the next chapter (Chapter 4) that will discuss potential similarities and differences of the application of ETI and RICO to transnational terrorist groups such as al-Qaeda.

### ***The Pizza Connection: Scene Setter***

On July 12, 1979, the boss of the Bonanno family, Carmine Galante, arrived for lunch at Joe and Mary's Restaurant to reconcile differences between two former friends Joe Turano and Leonard "Nardo" Coppolla.<sup>4</sup> As the boss of the family, Galante would hear the grievances

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<sup>3</sup> James B. Jacobs, *Busting the Mob, United States V. Cosa Nostra* (New York University Press, New York: 1994), 132.

<sup>4</sup> Shana Alexander, *The Pizza Connection: Lawyers, Money, Drugs, Mafia*. (Weidenfeld & Nicolson, New York: 1988), 14.

of both parties and attempt to reconcile their differences.<sup>5</sup> Galante went outside to the patio to wait for Coppolla's arrival.<sup>6</sup> A short time later, Coppolla and two bodyguards, Cesare Bonventre and Baldassare "Baldo" Amato, arrived and sat at a table in the front of the restaurant while Turano told Galante that they had arrived.<sup>7</sup> Coppolla, Bonventre, and Amato then went and sat with Galante out on the patio. During the reconciliation meeting, three armed ski masked gunmen entered the restaurant and fired a double-barreled shotgun into Galante's chest, while a second gunman shot Turano and Cappolla.<sup>8</sup> When police arrived, the gunmen had left the scene and the primary witnesses were the two bodyguards that were unscathed.

### ***Phase I: Intel Estimate-Building the Foundation***

During the July 31, 1979 murder trial, the prosecution asked why the two bodyguards did not return fire or see who came into the restaurant and the two bodyguards responded that they had survived because they fell back in their seats during the altercation.<sup>9</sup> Although the bodyguards were considered primary suspects, there was not enough evidence to convict them.<sup>10</sup> The bodyguards' testimonies were the initial indicator that there may be more to the murders than what was known. The FBI had suspected the Galante assassination was by a rival Bonanno family faction competing for control over the New York heroin trade.<sup>11</sup> This suspicion gave the FBI agents a reason to place the bodyguards under surveillance to observe whom they were meeting and

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<sup>5</sup> Shana Alexander, *The Pizza Connection: Lawyers, Money, Drugs, Mafia*. (Weidenfeld & Nicolson, New York: 1988), 14.

<sup>6</sup> Shana Alexander, *The Pizza Connection: Lawyers, Money, Drugs, Mafia*. (Weidenfeld & Nicolson, New York: 1988), 15.

<sup>7</sup> Selwyn Raab, *Five Families: The rise, decline and resurgence of America's most powerful Mafia empires* (St. Martin's Press, New York: 2006), 206.

<sup>8</sup> Shana Alexander, *The Pizza Connection: Lawyers, Money, Drugs, Mafia*. (Weidenfeld & Nicolson, New York: 1988), 17.

<sup>9</sup> Selwyn Raab, *Five Families: The rise, decline and resurgence of America's most powerful Mafia empires* (St. Martin's Press, New York: 2006), 207.

<sup>10</sup> Selwyn Raab, *Five Families: The rise, decline and resurgence of America's most powerful Mafia empires* (St. Martin's Press, New York: 2006), 207.

<sup>11</sup> James B. Jacobs, *Busting the Mob, United States V. Cosa Nostra* (New York University Press, New York: 1994), 131.

where they were going. This was the beginning of building the foundation for the case that would later become known as the *Pizza Connection*.

The bodyguards were observed meeting with Sicilian immigrants, *Zips*, that were known to be associated with Salvatore “Toto” Catalano, a capo in the Bonanno family.<sup>12</sup> Through this surveillance, Catalano appeared to be a distributor of heroin using sidewalk pizzeria’s in New York as fronts. However, investigators still did not have enough evidence to justify wire-taps or warrants for arrests. In October 1980, an informant in a white-collar criminal investigation tipped off the New Rochelle office about one of Catalano’s crew conducting an overseas transfer of more than \$60 million cash through a variety of money-laundering channels to a Swiss bank.<sup>13</sup> This tip-off resulted in the FBI tracing the money, which led to identifying several *Zips* as the source of funds.

Although the money was initially traced to Zurich, Switzerland, the FBI did not have sufficient evidence to make the link between the money, heroin, and Catalano.<sup>14</sup> In order to prove the link between the money and the heroin distribution, the FBI approached the Swiss bank to place an undercover agent within the bank.<sup>15</sup> Due to pressure on the Swiss bank from Italy, the United States, and the international community to stop protecting the accounts of the drug kings, the Swiss bank was receptive to assisting and allowed the FBI to place an agent within the bank. Over a period of 18 months, the investigation determined that the

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<sup>12</sup> Selwyn Raab, *Five Families: The rise, decline and resurgence of America's most powerful Mafia empires* (St. Martin’s Press, New York: 2006), 205. “Remo Franceschini, a New York detective and mafia expert, attributes the expression ‘Zip’ to a contraction of a Sicilian slang word for ‘hicks’ or ‘primitives’.” Shana Alexander, *The Pizza Connection: Lawyers, Money, Drugs, Mafia*. (Weidenfeld & Nicolson, New York: 1988), 16; describes the term ‘Zips’ as being used by early Sicilian immigrants to refer to the new immigrants because they spoke the native language so fast.

<sup>13</sup> James B. Jacobs, *Busting the Mob, United States V. Cosa Nostra* (New York University Press, New York: 1994), 132.

<sup>14</sup> James B. Jacobs, *Busting the Mob, United States V. Cosa Nostra* (New York University Press, New York: 1994), 132.

<sup>15</sup> James B. Jacobs, *Busting the Mob, United States V. Cosa Nostra* (New York University Press, New York: 1994), 132.

Swiss bank was only a way station—a place to deposit US dollars, convert to Swiss francs and then into Italian lira to Sicilian mafia members.<sup>16</sup> The FBI determined that the Swiss money launderers had extensive contacts in Italian banking and Turkish morphine smuggling.<sup>17</sup> These links allowed the FBI to further expand their investigation by requesting and being granted wire-tapping orders as well as further developing their prosecution strategy.

### ***Phase II- Developing the Strategy***

The strategy sought to answer two questions. The first dealt with the mechanics of heroin smuggling. How did they get the drugs in and the money out? The second dealt with the “dynamics of the Mafia... the secret criminal organization which provided the cement which held this conspiracy together.”<sup>18</sup> These two themes would be the foundation to develop the prosecution under RICO and CCE. With the two themes identified and the information on the Swiss bank links, the FBI had enough evidence to seek wire-tapping orders against Catalano and his associates. The FBI was now entering into the active collection phase to identify and detail which Sicilians Catalano and the Bonanno family were working with.

### ***Phase III- Active Collection***

In 1983, the FBI began their massive physical and electronic surveillance operations as well as undercover operations in support of expanding the investigation.<sup>19</sup> The electronic surveillance led to a vast network of New York and New Jersey organized crime figures as sources of the money and the money laundering, which led to Sicily; however, the key connections were still unknown. A break came in the spring of

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<sup>16</sup> Ralph Blumenthal, *Last Days of the Sicilians: At War with the Mafia—The FBI Assault on the Pizza Connection* (Random House, 1988), 26.

<sup>17</sup> James B. Jacobs, *Busting the Mob, United States V. Cosa Nostra* (New York University Press, New York: 1994), 132.

<sup>18</sup> Shana Alexander, *The Pizza Connection: Lawyers, Money, Drugs, Mafia*. (Weidenfeld & Nicolson, New York: 1988), 11.

<sup>19</sup> James B. Jacobs, *Busting the Mob, United States V. Cosa Nostra* (New York University Press, New York: 1994), 132.

1983, when the Drug Enforcement Agency (DEA) in Philadelphia, which was unaware of the FBI's investigation in New York, was running a covert investigation into heroin traffickers in the northeast.<sup>20</sup> An undercover DEA agent named Stephen Hopson was introduced by a drug informant to a Sicilian mafia member who ran heroin within Philadelphia. Bennito "Benny" Zito owned the front known as Mimmo's Pizzeria.<sup>21</sup>

In April 1983, Hopson took Zito to Las Vegas.<sup>22</sup> Hopson used the trip to flaunt his money to lower suspicions and build a personal rapport with Zito. The DEA's goal was to engage Zito with a proposition to buy heroin and develop the links between Zito and his supplier.<sup>23</sup> Hopson told Zito he was a heroin dealer and his Thai connections had temporarily dried up.<sup>24</sup> Hopson said he needed an alternate source until he could reestablish his Thai connection. Zito told Hopson he could set up a buy. The DEA traced Zito's call to Giuseppe Ganci, a lieutenant in the Bonanno Family in Queens.<sup>25</sup> Hopson called the New York FBI office to let them know Zito would be driving to New York to pick up a heroin supply and Hopson inquired if the FBI knew anything about Zito's drug sources that were associates of someone named Salvatore Catalano.<sup>26</sup> The DEA was surprised to learn the FBI was already wire-tapping Catalano and his crew from suspicions during the Galante murder investigation. This was a key opportunity to engage in the actual heroin purchase, which would be the first time the FBI would be able to establish the link of the drugs coming from the Catalano crew to a buyer.

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<sup>20</sup> Shana Alexander, *The Pizza Connection: Lawyers, Money, Drugs, Mafia*. (Weidenfeld & Nicolson, New York: 1988), 180-182.

<sup>21</sup> Shana Alexander, *The Pizza Connection: Lawyers, Money, Drugs, Mafia*. (Weidenfeld & Nicolson, New York: 1988), 181.

<sup>22</sup> Shana Alexander, *The Pizza Connection: Lawyers, Money, Drugs, Mafia*. (Weidenfeld & Nicolson, New York: 1988), 180-181.

<sup>23</sup> Shana Alexander, *The Pizza Connection: Lawyers, Money, Drugs, Mafia*. (Weidenfeld & Nicolson, New York: 1988), 181.

<sup>24</sup> Shana Alexander, *The Pizza Connection: Lawyers, Money, Drugs, Mafia*. (Weidenfeld & Nicolson, New York: 1988), 181.

<sup>25</sup> Shana Alexander, *The Pizza Connection: Lawyers, Money, Drugs, Mafia*. (Weidenfeld & Nicolson, New York: 1988), 180-181.

<sup>26</sup> Shana Alexander, *The Pizza Connection: Lawyers, Money, Drugs, Mafia*. (Weidenfeld & Nicolson, New York: 1988), 181-182.

The FBI established physical and electronic surveillance to identify the transaction of money for heroin. Zito arrived in Queens with the money that was identifiably wrapped in a birthday package by Hopson for easy identification for the surveillance efforts.<sup>27</sup> Zito arrived at Ganci's house with the package and left with a brown paper bag filled with heroin.<sup>28</sup> While this was a break through, the one buy would not provide corroborating evidence to prove the Bonanno family was in the heroin dealing business enough to be determined a drug conspiracy. Hopson made two other kilo purchases for over \$600,000 to further identify the inner workings of the Bonanno family and links to the Sicilian mafia.<sup>29</sup>

Although the DEA had enough evidence to shut down the Philadelphia elements of the heroin network, the FBI continued to cast their net further to identify the top-leaders and the transnational nature of the heroin connections. The FBI observed and followed boxes and suitcases of cash leaving restaurants in the New Jersey area to pizzerias in New York, Illinois, Wisconsin, and Michigan.<sup>30</sup> Additionally, money couriers were followed between New Jersey, Brooklyn, and Joe Ganci's house in Queens.<sup>31</sup> This evidence was used to further wiretaps to identify the network of drug distribution. Through these wiretaps, "investigators were able to identify the roles played by the conspirators on both sides of the Atlantic."<sup>32</sup> Several wiretaps contained a contact to an unidentified Sicilian voice, which was referred to as the *Uncle*, in Brazil that was directing heroin from Sicily and cocaine shipments from

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<sup>27</sup> Shana Alexander, *The Pizza Connection: Lawyers, Money, Drugs, Mafia*. (Weidenfeld & Nicolson, New York: 1988), 185.

<sup>28</sup> Shana Alexander, *The Pizza Connection: Lawyers, Money, Drugs, Mafia*. (Weidenfeld & Nicolson, New York: 1988), 190-191.

<sup>29</sup> Shana Alexander, *The Pizza Connection: Lawyers, Money, Drugs, Mafia*. (Weidenfeld & Nicolson, New York: 1988), 180-186.

<sup>30</sup> Shana Alexander, *The Pizza Connection: Lawyers, Money, Drugs, Mafia*. (Weidenfeld & Nicolson, New York: 1988), 8.

<sup>31</sup> Shana Alexander, *The Pizza Connection: Lawyers, Money, Drugs, Mafia*. (Weidenfeld & Nicolson, New York: 1988), 8 and 169.

<sup>32</sup> James B. Jacobs, *Busting the Mob, United States V. Cosa Nostra* (New York University Press, New York: 1994), 133.

Latin America to the Bonanno family.<sup>33</sup> Not until the agents heard a reference to an article in an Italian American newspaper about a relative of the *Uncle* being murdered did the agents realize the identity of the *Uncle*.<sup>34</sup> Within the article, the name given was Gaetano Badalamenti, once the most powerful bosses in the Sicilian mafia and one of Italy's most wanted fugitives.<sup>35</sup> For the first time the FBI realized the *Pizza Connection* was transnational and went right to the top of the Sicilian mafia.

By 1984, the FBI had become focused on Badalamenti.<sup>36</sup> As such, he became the FBI's primary target of international efforts to establish his link with the *Pizza Connection* and would be the final focus to complete the criminal story line of the heroin distribution and sales enterprise within America. The FBI investigators contacted the Italian National Police for more information on Badalamenti and to determine why he was on the run. The Italian National Police told the FBI that Badalamenti had fled Sicily because he was wanted, not only by Italian authorities for drug trafficking, but was also at risk of being killed by former friends within the Sicilian mafia.<sup>37</sup> The FBI and Italian National Police signed an intelligence sharing agreement to further gain insight into the transnational connections and how the drug deals worked. Through this agreement, the FBI began a coordinated effort with the Italian National Police to focus their efforts on monitoring negotiations between Badalamenti, his Sicilian counterparts, and the Catalano joint venture members in New York, New Jersey, and Illinois. Through the exploitation of numerous wiretaps, links to Badalamenti began to emerge

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<sup>33</sup> Shana Alexander, *The Pizza Connection: Lawyers, Money, Drugs, Mafia*. (Weidenfeld & Nicolson, New York: 1988), 6-13.

<sup>34</sup> Shana Alexander, *The Pizza Connection: Lawyers, Money, Drugs, Mafia*. (Weidenfeld & Nicolson, New York: 1988), 180-184.

<sup>35</sup> Shana Alexander, *The Pizza Connection: Lawyers, Money, Drugs, Mafia*. (Weidenfeld & Nicolson, New York: 1988), 180-183.

<sup>36</sup> James B. Jacobs, *Busting the Mob, United States V. Cosa Nostra* (New York University Press, New York: 1994), 133.

<sup>37</sup> Ralph Blumenthal, *Last Days of the Sicilians: At War with the Mafia—The FBI Assault on the Pizza Connection* (Random House, 1988), 126.

between Gaetano Mazzara and Frank Castronovo, business partners in the Roma Restaurant and Pizzeria in Menlo Park in addition to Salvatore Evola, Giuseppe Tupiano, Giuseppe Vitale, and Emmanuele Palazzolo, which were all related by blood or marriage to Badalamenti.<sup>38</sup>

In March 1984, the US and Italian investigators were anxious to shutdown the *Pizza Connection*, but had still not located Badalamenti.<sup>39</sup> Phone calls placed by Mazzara and Castronovo to Brazil indicated Badalamenti was living and operating within Brazil; however, when FBI agents were sent to Brazil they were unable to locate him. The FBI then looked to Badalamenti's relatives living in the United States to find indicators of Badalamenti's whereabouts. Through the FBI's previous surveillance identifying pizzerias in the Midwest connected to the distribution network, the FBI narrowed their search to Badalamenti's relatives owning pizza businesses. As such, the FBI extended its surveillance to Badalamenti's nephew, Pietro "Pete" Alfano, a pizzeria owner in Oregon, Illinois.<sup>40</sup> In April 1984, agents identified a crucial conversation between Badalamenti and Alfano to discuss a problem in the drug business and appeared to be setting up a delivery of something within the next month to the Zips in United States.<sup>41</sup> Astonishingly, the agents heard Badalamenti direct Alfano to meet him in Madrid, Spain. The FBI then faced two options, either wait for the arrival of the Florida delivery suspected to be a large amount of drugs and have enough evidence to prosecute the Zips or "grab the fox, and take their chances on the drugs."<sup>42</sup> The FBI decided there would be other opportunities for intercepting drugs, but the opportunity for arresting the high-level

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<sup>38</sup> Shana Alexander, *The Pizza Connection: Lawyers, Money, Drugs, Mafia*. (Weidenfeld & Nicolson, New York: 1988), 8-10.

<sup>39</sup> James B. Jacobs, *Busting the Mob, United States V. Cosa Nostra* (New York University Press, New York: 1994), 133.

<sup>40</sup> Shana Alexander, *The Pizza Connection: Lawyers, Money, Drugs, Mafia*. (Weidenfeld & Nicolson, New York: 1988), 8-10.

<sup>41</sup> James B. Jacobs, *Busting the Mob, United States V. Cosa Nostra* (New York University Press, New York: 1994), 133-134.

<sup>42</sup> Shana Alexander, *The Pizza Connection: Lawyers, Money, Drugs, Mafia*. (Weidenfeld & Nicolson, New York: 1988), 9.

conspirator may not present itself for years to come if they did not act quickly.<sup>43</sup>

The FBI placed several agents on Alfano's KLM flight from Chicago to Madrid. Vito Badalamenti, Gaetano Badalamenti's elder son, met Alfano and a team of Spanish police met the FBI agents. The FBI and Spanish police followed Alfano to an apartment building, and through surveillance, identified that Gaetano Badalamenti was present at the location. On April 8, 1984, Gaetano Badalamenti, Vito Badalamenti, and Pete Alfano were arrested.<sup>44</sup> Upon the verification of the Madrid arrests, the FBI, DEA, Custom's Service, police, and the Manhattan United States Attorney's Office coordinated operations from the FBI command post in Manhattan of over four hundred federal and local law enforcement agents in Illinois, New Jersey, Philadelphia, Wisconsin, Michigan, and New York.<sup>45</sup> The agents simultaneously raided the homes and businesses of the Pizza Connection conspirators. After five years of investigation, 55,000 wire taps, and countless undercover operations the case had finally concluded and was ready for prosecution.<sup>46</sup>

#### ***Phase IV—Prosecution***

The prosecution's challenge was to present the massively complex case, highly dependent upon tapes of intercepted coded conversations, in a way that would be comprehensible and plausible to the jury.<sup>47</sup> The case was projected to take thirteen months for prosecutors to present the evidence and make the connections to prove the existence of a narcotics-smuggling and money-laundering conspiracy.<sup>48</sup> The final indictment,

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<sup>43</sup> James B. Jacobs, *Busting the Mob, United States V. Cosa Nostra* (New York University Press, New York: 1994), 133.

<sup>44</sup> James B. Jacobs, *Busting the Mob, United States V. Cosa Nostra* (New York University Press, New York: 1994), 134.

<sup>45</sup> James B. Jacobs, *Busting the Mob, United States V. Cosa Nostra* (New York University Press, New York: 1994), 134.

<sup>46</sup> James B. Jacobs, *Busting the Mob, United States V. Cosa Nostra* (New York University Press, New York: 1994), 135.

<sup>47</sup> James B. Jacobs, *Busting the Mob, United States V. Cosa Nostra* (New York University Press, New York: 1994), 135.

<sup>48</sup> James B. Jacobs, *Busting the Mob, United States V. Cosa Nostra* (New York University Press, New York: 1994), 135.

filed on February 19, 1985, charged thirty-five defendants with conspiracy to import drugs and evading banking and money-laundering statutes.<sup>49</sup> Additionally, two hundred alleged participants internationally were identified some of which were prosecuted in Italy and Switzerland.<sup>50</sup>

The thirty-one defendants under the *United States v. Badalamenti* were charged with participating in a RICO conspiracy, and ten were charged with managing a *continuing criminal enterprise* as well as other currency importation and transaction reporting statutes.<sup>51</sup> The indictment's sixteen counts against the defendants were:

Count one charged all the defendants with conspiring to import and distribute narcotics; counts two through eleven each charged single defendants with engaging in and managing a "continuing criminal enterprise"; count twelve charged fifteen defendants with conspiring to transport money out of the United States without filing currency transaction reports; count thirteen charged six defendants with causing false statements concerning various cash deposits to be made to the IRS; count fourteen charged fifteen defendants and count fifteen charged ten defendants with failure to file currency transaction reports and international currency transaction reports; and count sixteen charged thirty-one defendants with a RICO conspiracy, specifically, conspiring to conduct and participate in, through a pattern of racketeering activity, an enterprise that engaged in international drug trafficking and money laundering.<sup>52</sup>

The trial's opening statement by Assistant United States Attorney Robert Stewart described the case, "The basic story of what occurred in this case is not very complicated. It is, stated in its simplest terms, the buying and selling of a commodity year in and year out, over and over again. The commodity was massive amounts of contraband narcotic drugs, heroin and cocaine."<sup>53</sup>

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<sup>49</sup>James B. Jacobs, *Busting the Mob, United States V. Cosa Nostra* (New York University Press, New York: 1994), 130.

<sup>50</sup> James B. Jacobs, *Busting the Mob, United States V. Cosa Nostra* (New York University Press, New York: 1994), 134.

<sup>51</sup> James B. Jacobs, *Busting the Mob, United States V. Cosa Nostra* (New York University Press, New York: 1994), 135.

<sup>52</sup> James B. Jacobs, *Busting the Mob, United States V. Cosa Nostra* (New York University Press, New York: 1994), 144.

<sup>53</sup> *United States v Badalamenti*, 84 CR 236 (SDNY: 1987), 30.

The prosecution would set the stage and establish the existence of the enterprise through the testimony of prominent organized crime *turncoats*, hundreds of photographs of meeting among the defendants and thousands of wiretap conversations supported by the witnesses.<sup>54</sup> Over two hundred surveillance agents, financial analysts, and intelligence experts would be called upon to explain the photographic and surveillance evidence.<sup>55</sup> Together the evidence would present a criminal story line of the clandestine meetings, coded conversations, secretive transactions, and the transnational drug distribution networks. “Of the thirty-five defendants, only twenty-two appeared for trial; the remainder had fled, died, been prosecuted in Europe, pled guilty, or entered into cooperation agreements with the government.”<sup>56</sup>

On March 2, 1987, the jury delivered their verdicts and all but one of the remaining defendants was found guilty of at least one or more charges. Gaetano Badalamenti was convicted of narcotics conspiracy and sentenced to forty-five years in federal prison.<sup>57</sup> Salvatore Catalano was also sentenced to forty-five years for racketeering, narcotics conspiracy, and money laundering.<sup>58</sup> The *Pizza Connection* verdicts were a victory for United States law enforcement and the war on the mob and narcotics. See Appendix A for a detailed list of all defendants and the charges and verdicts.

### **Conclusion**

Ultimately, the *United States v. Badalamenti* demonstrated the drug-smuggling alliance between the Sicilian and American organized-

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<sup>54</sup> James B. Jacobs, *Busting the Mob, United States V. Cosa Nostra* (New York University Press, New York: 1994), 135-136. “Turncoats” is the name used to describe Mafia members that are working with the prosecution against other mafia members.

<sup>55</sup> James B. Jacobs, *Busting the Mob, United States V. Cosa Nostra* (New York University Press, New York: 1994), 135-136.

<sup>56</sup> James B. Jacobs, *Busting the Mob, United States V. Cosa Nostra* (New York University Press, New York: 1994), 134.

<sup>57</sup> Shana Alexander, *The Pizza Connection: Lawyers, Money, Drugs, Mafia*. (Weidenfeld & Nicolson, New York: 1988), 402.

<sup>58</sup> Shana Alexander, *The Pizza Connection: Lawyers, Money, Drugs, Mafia*. (Weidenfeld & Nicolson, New York: 1988), 402.

crime families and illustrated the international scope of the operations.<sup>59</sup> The case demonstrated the importance of pursuing international and joint domestic efforts to combat the criminal enterprises. Based upon the cooperative effort, the FBI established an Italian-American working group that continues today, where the two countries meet regularly, share intelligence, and target organized crime groups that are affecting both countries.

The *Pizza Connection* demonstrated the theory and strategy used to address one of the Sicilian and American Mafia international organized crime enterprises, which led to the successful conviction of the entire organization based upon the Racketeer Influence and Corrupt Organization statute and Continuing Criminal Enterprise statutes. The *Pizza Connection* leveraged analytic and organizational models to understand the complex transnational money laundering and drug distribution networks. The leadership of the Bonanno family and the Sicilian Mafia as well as the collaborative relationships between the groups was identified by building upon the known and unknown associations as well as the activities of the members at the bottom of the pyramid or outer lying hubs, as discussed in Chapter 1, that were monitored in their day-to-day criminal activities.

Over time these efforts identified the hierarchical structure and network with hubs that led to an understanding of the operations and leadership of the organizations. Through the ETI, investigators were able to penetrate the criminal enterprise through informants, cooperating witnesses, electronic and physical surveillance, and undercover agents by identifying the lines of communication between the key leadership of both the Sicilian and American Mafia. By using these investigative techniques, the investigators are able to identify members and use each member's criminal activity to trace the activities of the organization and as such build the case to convict the enterprise as a whole.

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<sup>59</sup> James B. Jacobs, *Busting the Mob, United States V. Cosa Nostra* (New York University Press, New York: 1994), 142-143.

Therefore, this case study demonstrates the way ETI can be used against a particular criminal enterprise to identify the various factions or stakeholders with an interest in the enterprise. This approach examines the nature of the interest and assesses how the ranges of interests interact and what the power relationships between the interests might be. For example, the heroin distribution in the *Pizza Connection* consisted of interests that included bosses, capos, heroin wholesalers, heroin retailers, heroin production, and heroin distribution. The interaction between these organizations and the relative power relationships between them determined the nature of the illicit enterprise.<sup>60</sup> The ETI drew into focus the facts that elements that might have an impact on the structure and operation of illicit enterprise are not just those that are in direct association with any one given activity.

Given the effectiveness of ETI in the *Pizza Connection* and similarities to the complex relationships of terrorist organizations, the military and the international community may gain insights into effectively combating terrorism. While the Mafia and terrorist organizations are not driven by the same motivations, their methods are similar and as such, the ETI may provide a way to effectively deter and dismantle terrorist organizations. This subject will be further discussed in the next Chapter.

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<sup>60</sup> Arthur G. Bedeian, , & Raymond F. Zammuto, , *Organizations: Theory and Design*, (Dryden, Chicago: 1991), 68.

## Chapter 4

### **Synthesis: Enterprise Theory of Investigation and Combating Terrorism**

*Al Qaeda is a complex organization which comprises: a centralized leadership in Northwest Pakistan; affiliated franchise organizations around the world, such as Al Qaeda in Iraq; and self-starter cells that are inspired by Al Qaeda propaganda but have no direct relationship. Rather than deal with this complex reality, conservatives have lumped all these groups under the umbrella of "Islamofascism." This oversimplification damages our ability to pursue an effective counterterrorism strategy. We need to understand our enemies if we are to deal with them effectively.*

*-- Anonymous, National Security Network*

#### **Introduction**

This chapter outlines the similarities and differences among organized crime and transnational terrorist organizations such as al-Qaeda. From these similarities and differences, this chapter will examine potential challenges of applying ETI to Combating Terrorism (CT) in order to identify gaps that might be filled by DoD's adoption of ETI.

#### **Differences**

There are fundamental differences between organized crime families and terrorist organizations such as al-Qaida (AQ) that need to be addressed. By recognizing the differences between organized crime and terrorist groups, strategists and investigators can make better-informed assumptions about ETI and its applicability to combating terrorist organizations. This chapter focuses on: goals, ideology, motive, and intent.

Organized crime families tend to focus on illicit enterprises in order to make a profit. Outside of making money, they lack a stated political ideology. They work outside the laws of society and use the gaps in governmental control to make money for their members. They do not

seek to overthrow the government, nor advertise their activities in pursuit of making money, but merely use members of the existing structure to protect their illegal activities. They would rather bribe and control governmental officials than implement a government structure of their own. As Hugh Barlow makes clear, “because it pays off...organized crime will continue to pursue the nullification of government.”<sup>1</sup> In other words, organized crime families depend on the laws of society in order to make money within their illicit enterprises. The criminal enterprises shadow the government in exploiting criminal activities. In contrast, terrorist organizations rely on publicizing their actions to gain popular support among their communities and press their ideological views through the government and in some instances, as with AQ in Afghanistan, use the government entities, such as the Taliban, to further their ideological views and recruit for operations.

Criminal enterprises do not seek membership for the purposes of popular support; they recruit for the purpose of expansion. A member of society cannot simply join up. Potential members are courted by the organization itself for its own advantages and purposes, such as protection or the advancement of profit. In contrast, terrorist organizations have a clearly defined ideology. They seek membership as a basis of ideological and popular support for their cause and use the population in order to maintain an operational base. Some members seek to sign up just for the prestige of belonging and the possibility of being perceived as a hero for their actions.

In other words, “*Would be terrorists* are recruited by signing up for what they believe is a *higher cause* – *God’s work*. They are doing something to further the worldwide jihad, in the name of their religion. In their view, the *fatwas* or religious decrees issued by their terrorist

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<sup>1</sup> Hugh Barlow, *Introduction to Criminology Sixth Edition* (New York: HarperCollins College Publishers: 1993), 291.

leaders' mandate that they participate in the International Jihad.”<sup>2</sup> Therefore, the population becomes the basis of terrorist operations and an enabler for the terrorist organization's profit. For example, “in recent years, the Taliban – which is AQ connected – is indirectly using the drug trade in Afghanistan as a revenue builder, which indirectly supports terrorist operations. Although drugs are considered a non-Islamic activity, they seem to turn a “blind eye” due to the usefulness of it as a money producer.”<sup>3</sup>

Initially the use of ETI as applied during the *Pizza Connection* does not seem fitting considering the perceived differences in goals, ideology, motive, and intent. However, since the ETI focuses on activity and not ideology the aforementioned differences lend to similarities as well.

### ***Similarities***

While the above are some basic differences between criminal enterprises and terrorist organizations, there are some similarities between the Bonnano family in the *Pizza Connection* and international terrorist groups such as AQ. By analyzing the similarities between organized crime and terrorist groups within the correct context, investigators are in a better position to apply the proper law enforcement strategies to combating terrorist organizations. These similarities consist of parallels in command structure, organizational structure, and their abilities to adapt.

The organizational command structure of the criminal enterprise in the *Pizza Connection* and the command structure of AQ are very similar. Both the criminal enterprise in the *Pizza Connection* and AQ have defined networked hierarchies and command structures. The command positions within both organizations are similar and play a similar role within each organization. In the case of AQ, the central AQ leadership, defined as the *Central Staff* by Marc Sageman, with Osama

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<sup>2</sup> Debby Stafford, interview 20 April 2010

<sup>3</sup> Debby Stafford, interview 20 April 2010

bin Laden as *emir*, supported by a *shura majlis* (consultative council) under which are *lieutenants* and *soldiers* of AQ. These positions are similar to that of the *Boss* and *consigliere* of an LCN Family, whereas the *lieutenants* of AQ can be considered the *Capos* of an LCN family. While Marc Sageman and other authors have claimed that AQ's central leadership is no longer a hierarchy and the AQ organization has turned into a networked social movement through a non-centralized network, this decentralization is comparable to that of the Bonanno family's network organizational arrangements at the lower levels of the hierarchy enabling protection of the senior leaders.<sup>4</sup> As such, both are highly dependent on secrecy within the population to evade law enforcement. Like the Bonanno family in the *Pizza Connection*, terrorist organizations are capable of adapting to efforts mounted against them in ways that diminish the effectiveness of those efforts. Therefore, while the central AQ leadership may have lost certain command and control functions, their existence is still part of the overall organization. These similarities lend themselves to the interpretation that AQ is an enterprise. While viewing AQ as an enterprise is a potential way to understanding the threat and strategically targeting resources to dismantle those threats, there are certain challenges to overcome in applying ETI to combating terrorism.

### **Challenges**

Given the similarities and differences between the Bonanno Family and AQ, there are benefits to be gained by adopting ETI to combat terrorism. By incorporating an enterprise-wide approach to understanding terrorism, threats and strategically targeting resources to dismantle those threats, the ETI can be used to deliberately and strategically decide where, when, and how to take action. However, there

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<sup>4</sup> Marc Sageman, *Understanding Terrorist Networks* (University of Pennsylvania Press, Philadelphia: 2004), 138.

are challenges within the application of collection methods, investigative strategies, and goals.

To begin, undercover operations to penetrate a terrorist group are extremely hard to conduct. To do so, you need a human source who not only knows the language and culture of the area where the terrorist group is from, but also *knows* people affiliated with the group.<sup>5</sup> Relationships and associations are everything in the terrorist world, as in the organized crime world. In most crimes, the focus is on the specific individual – one person who is guilty of a crime. Similarly, in the terrorist field, if one person is connected to terrorism, it is likely that other family members and/or close associates are involved, which is the same in the organized crime field.<sup>6</sup> Although this close affiliation may hamper penetrating the terrorist organizations, another way to use undercover agents is by assigning them to work transportation and money laundering issues. This type of undercover operation might be useful in uncovering other larger organizations supporting the enterprise.

Additionally, even if enforcement agencies have trouble penetrating terrorist cells, aggressive efforts to do so may hamper cooperation among cells by making them suspicious of strangers. For example, efforts by terror cells to confirm the trustworthiness of other self-described terrorists may provide opportunities to exploit created vulnerabilities by such actions. In other words, if a terrorist cell has to contact a higher-level leader to gain such confirmation the chatter may provide new leads and insights into the functioning and coordination between cells.

Another challenge of applying similar undercover operations to combating terrorism is attempting to turn members against each other. As evidenced by the *Pizza Connection*, law enforcement efforts exploited distrust between cells and organizations to leverage the organization against itself. For example, different mafia families participating in drug

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<sup>5</sup> Debby Stafford, interview 20 April 2010

<sup>6</sup> Debby Stafford, interview 20 April 2010

dealing compete, sometimes violently, for markets and customers, which investigators can use to turn members against each other. Enforcement can take advantage of this, either by getting one group to inform against the other or by making inter-group or intra-group violence the target of investigative efforts, e.g. assassination of Carmine Galante.

In contrast, there has not been any comparable incentive between different terrorist organizations to interfere with each other since by so doing would be counter to their cause and motivations. For example, “Sunni Islamic terrorist groups tend to support each other at times, while in a similar fashion, Shia groups do too. At times, they do conduct training together, and tend to offer travel and other support among *like minded* groups. Although the groups have different motivations and backgrounds, the groups tend to collaborate instead of *ratting out* one terrorist group to another.”<sup>7</sup> Therefore, the capacity of the government to extort and corrupt the Bonnano family during the *Pizza Connection* investigation was unique and may be difficult if not impossible to apply to AQ or similar terrorist organizations.

The *Pizza Connection* investigation targeted elements that, eventually, would have to be substantiated in a court of law. The goals were clear: put the leadership behind bars, and challenge the mafia’s control of key networks and institutions. A similar goal is found in the *United States National Strategy for Combating Terrorism September 2006*: “The United States and our partners continue to take active and effective measures against our primary terrorist enemies and certain other violent extremist groups that also pose a serious and continuing threat. We are attacking these terrorists and their capacity to operate effectively at home and abroad. Specifically, through the use of all elements of

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<sup>7</sup> Debby Stafford interview 20 April 2010

national power, we are denying or neutralizing what our terrorist enemies need to operate and survive.”<sup>8</sup>

While success during the *Pizza Connection* investigation came slowly, it was able to overcome what was traditionally the mafia’s ability to protect the Boss. The lesson is simple, the implications enormous: the building of a *criminal story line* takes time but, if constructed properly, can produce dramatic effects. However, another challenge between the organized crime enforcement effort and any campaign that might plausibly be mounted against terrorism is a matter of time available. For example, at the investigative level the methods used in the *Pizza Connection* to monitor and ultimately attack the ongoing heroin distribution activity were at times passive in order to build the *criminal storyline*. In contrast, combating terrorism seeks to arrest activity before it occurs. Ideally, would-be terrorists are arrested before their first attack, therefore not lending time for investigators to monitor actions and activities without serious risk of a potential attack occurring.

However, one potential way to mitigate the risk is through international collaboration. As demonstrated in the *Pizza Connection*, the successful FBI and Italian National Police collaborative efforts were effective in reducing the time required to build the case. The challenge in combating terrorism is that we may need to think broader, literally in terms of geographic coverage and in terms of viewing the effort as more than just a crime control initiative.

While coordinating efforts across levels of government, geographic boundaries, and varying types of organizations is challenging, it is essential that allied countries continue to share, and enhance their intelligence sharing of terrorist information to be successful in combating terrorism. In so doing, the time required to affect the terrorist’s decision-making cycle may be reduced.

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<sup>8</sup> United States. *National Strategy for Combating Terrorism September 2006*, 11.

## **Conclusion**

“Terrorism studies are often event driven, spurred by attacks and the need to analyze and respond more effectively to a specific threat.”<sup>9</sup> This reactive nature has resulted in approaches focused on a “descriptive analysis of one group, detailing its organization, structure, tactics, leadership, and so on.”<sup>10</sup> However, this reactive research has led to a focus on causes of the threat and the use of weapons and methods being used or likely to be used with little attention to analyzing the group across functional lines within a wider body of knowledge and research of other terrorist groups and interaction between each.<sup>11</sup>

Other approaches to combating terrorism have focused on the dynamics of the group, including its shared ideological commitment and group identity as a way analysts can separate the means of ending terrorist attacks.<sup>12</sup> While these approaches are useful, the ideological approach and the focus of group identities in an analytical environment disregard the importance of focusing on actions and activities of the groups to determine potential vulnerabilities. This is comparable to the problem prior to the development of ETI, where law enforcement was focused on the traditional investigative methods of short-term street-level enforcement activity instead of using a method that was proactive to root out and prosecute entire enterprises.

Therefore, by using ETI to focus on the activities and enablers of terrorist organizations, two vulnerabilities become apparent: its means of functioning (i.e. economic, material support, safe havens) and its means

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<sup>9</sup> Audrey Kurth Cronin, “How al-Qaida Ends: The Decline and Demise of Terrorist Groups”, *International Security*, Vol. 31, No. 1 (Summer 2006), 8.

<sup>10</sup> Audrey Kurth Cronin, “How al-Qaida Ends: The Decline and Demise of Terrorist Groups”, *International Security*, Vol. 31, No. 1 (Summer 2006), 8.

<sup>11</sup> Audrey Kurth Cronin, “How al-Qaida Ends: The Decline and Demise of Terrorist Groups”, *International Security*, Vol. 31, No. 1 (Summer 2006), 8.

<sup>12</sup> Audrey Kurth Cronin, “How al-Qaida Ends: The Decline and Demise of Terrorist Groups”, *International Security*, Vol. 31, No. 1 (Summer 2006), 12.

of communication.<sup>13</sup> The question then becomes, *How to exploit these vulnerabilities?* The answer is by using ETI to provide the construct to focus on activity that is removed from an ideological focus to identify and act on functional mechanisms as well as identifying communication means ultimately leading to further understandings into terrorist group dynamics.

“One way to make new problems seem familiar is to seek out analogies. That is both a natural psychological response and a rational analytical strategy.”<sup>14</sup> The similarities between the problem of the *Pizza Connection*’s heroin distribution and the problem of foreign-based terrorist activity are both important and somewhat inchoate.

In both cases, countering the mafia and combating terrorism, the problem has domestic and international aspects. Similarly, there is difficulty in either accepting an ongoing high level of damage in a case of terrorism or in formulating a strategy to mitigate the risk to a level that will be acceptable. In both criminal enterprise and terrorist cases, there is a great need, and great difficulty, in coordinating efforts across governments, across levels of government, across agencies and militaries, as well as among international and individual nation’s laws. However, terrorism is also unlike the drug distribution within the *Pizza Connection* in vital ways: the motivations of their participants, ideology, and the tolerance for failure.

While the United States cannot simply rely on successful strategies, tactics, or evaluative techniques from the *Pizza Connection* without modification, refocusing on the activities of terrorist organizations may better focus analytical efforts on identifying illicit activities rather than trying to identify causes that are not admissible as

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<sup>13</sup> Audrey Kurth Cronin, “How al-Qaida Ends: The Decline and Demise of Terrorist Groups”, *International Security*, Vol. 31, No. 1 (Summer 2006), 43.

<sup>14</sup> Mark A. R. Kleiman, Peter Reuter, and Jonathan P. Caulkins, “The ‘War on Terror’ and the ‘War on Drugs’: A Comparison”, *Journal of the Federation of American Scientists* Vol 55 No. 2 (March/April 2002), 5.

evidence in a civilian or military court. Therefore, each case must be thought of within its unique context while leveraging existing legislation in new ways. The next chapter will provide conclusions and recommendations for DoD in leveraging ETI, RICO, and other statutes in combating terrorism.

## Chapter 5

### **Conclusions and Recommendations**

*In attempting to eradicate the threat of international terrorism by Islamist extremists, our country faces enormous challenges. Among the more difficult problems is what to do with individuals who come into the custody of the U.S. government and who are suspected of complicity in terrorist acts. Some detainees may properly be held under the law of war for the duration of active hostilities to prevent them from returning to the field of battle, and without any effort by the government to file charges or impose punishment. However, for some suspected terrorists, military detention is not appropriate and, even if it is, the government may find it both desirable and necessary, at some point, to bring formal charges in the civilian court system with a view toward imposing punishment.*

*- Richard B. Zabel and James J. Benjamin, Jr.*

### **Introduction**

There is no room to compromise on the issue of risk in the counterterrorism world. With combating terrorism taking a prominent role in the *2006 National Security Strategy*, every effort to neutralize terrorists' efforts must be done at each and every step so they cannot accomplish their mission and conduct terrorist attacks. The US armed forces are presently fighting on multiple fronts against al-Qaeda and other Islamist extremist terrorist groups that intend to commit acts of violence against the United States.<sup>15</sup> While the *War on Terror* continues, the United States will continue to capture and detain enemy fighters in order to disable them from fighting against the United States.<sup>16</sup> "This is both lawful and fundamental to the effective prosecution of war, and it does not generally implicate the criminal justice system."<sup>17</sup> However, if

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<sup>15</sup> Richard B. Zabel & James J. Benjamin, Jr., *Human Rights First*, "In Pursuit of Justice: Prosecuting Terrorism Cases in Federal Court" (2008), 2.

<sup>16</sup> Richard B. Zabel & James J. Benjamin, Jr., *Human Rights First*, "In Pursuit of Justice: Prosecuting Terrorism Cases in Federal Court" (2008), 2.

<sup>17</sup> Richard B. Zabel & James J. Benjamin, Jr., *Human Rights First*, "In Pursuit of Justice: Prosecuting Terrorism Cases in Federal Court" (2008), 2.

the detained enemy fighters are brought to trial, the government could lawfully choose among several different forums—federal court, court martial, or military tribunal. Whether prosecution is sought through the traditional role of military justice, military courts, or federal courts the building of the case has a crucial role in the prosecution of individuals who are subject to trial under the law of war or under the civilian criminal justice system.

Therefore, although the law of war allows for detention of enemy fighters in order to disable them from fighting against the United States, the DoD must maintain *criminal storylines* on the detainees in order to facilitate prosecution if the US Government decides to prosecute under the civilian justice system. This thesis has demonstrated the theory and strategy used to build cases and prosecute international organized crime enterprises and has drawn parallels in the potential application by DoD to combating terrorism. From these parallels, this chapter will discuss recommendations for DoD's consideration in combating terrorism.

### ***Recommendations***

Since 9/11, the US intelligence community has relied on traditional, conventional methods of collection and analysis. Analysts screen incoming intelligence messages for clues that could reveal the location of terrorists or terrorist groups. From these reports, a detailed link and social network analysis is constructed based on the available intelligence to determine who is talking to whom, and what is being discussed in an attempt to link known or suspected terrorists or terrorist groups. This method seeks to reveal the hierarchical or networked structure of the organization and identify the key personnel to enable targeting of the network to disrupt current and future terrorist operations.

While this approach is useful in determining the links between organizations, the approach creates an organizational chart based on a predetermined template. As such, the analysts construct message filters

that seek specific information about the enemy to build the situational awareness on the enemy and the organization. From these filters the indicators are sought to identify which individuals are subordinate to whom and how the organization interacts. Terrorists operate in networks, which are more likely to be horizontal rather than vertical. This horizontal nature lends to greater flexibility in interacting with other groups.

This conventional approach concentrates on the operational network and does not capture the entire social network of the interactions between related organizations whether operative or supportive roles, nor does it capture the *criminal storyline* of the terrorist organizations. Additionally, the analysis relies on complete information and *a priori* knowledge of relationships; however, without complete information, social network analysis is limited to a predetermined construct. Therefore, what analysts need is an integrated framework, process, and methodology specifically designed to identify not only known information, but also missing information to leverage collection against the gaps.

As demonstrated in Chapters 2 and 3, the ETI provides the construct to leverage analytic and organizational models to understand the complex interactions within enterprises. The methodology provides links into transnational money laundering and social networks between similar and disparate cells. The ETI develops the framework of collaborative relationships between groups by identifying the known and unknown associations and activities of the members. Overtime these collection efforts identify the hierarchical or networked structure that lead to an understanding of the operations and leadership of the organizations.

The ETI must be conducted from the inception of military operations in order to build and maintain *criminal storylines* on those being detained. This is more than just recording the date, time, and

activity of the person at the time of capture.<sup>18</sup> While this information is enough for detainment under the law of war, complications arise if the detained are brought to prosecution. ETI can be used against a particular criminal enterprise or a terrorist enterprise to identify the various factions or stakeholders with an interest in the enterprise.

Application of the ETI enables analysts to examine the nature of the terrorist or terrorist group interests and assess how the ranges of interests interact. Additionally, ETI aids in understanding what the power relationships between the interests might be. The ETI provides the lens to focus on the fact that elements that might have an impact on the structure and operation of a terrorist enterprise are not just those that are in direct association with any one given activity. This approach mitigates the shortfall of the conventional intelligence approach.

Consequently, by applying ETI at the inception of operations, *criminal storylines* will provide the prosecution, whether military or civilian, with enough evidence to prosecute. One recommendation to DoD is to incorporate the ETI into intelligence operations. By doing so, the pitfalls of the conventional analysis will be overcome and force intelligence analysts to focus on the identification of all activities—from the intelligence world perspective, as well as the criminal world perspective. As this method was successful in disrupting mafia groups in the *Pizza Connection*, this method may also provide a means to further disrupt terrorist efforts and lead to convictions in military or civilian courts.

While the ETI was the methodology used to lead to the successful convictions of criminal enterprises, the strength of ETI resided within the statutes used to prosecute the cases. Since 9/11, the *USA Patriot Act*

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<sup>18</sup> Assistant Special Agent in Charge Terry Wade Interview 23 December 2010.

has amended the RICO statute to include acts of terrorism.<sup>19</sup> While RICO is not the only statute pertaining to terrorism (See Appendix B for the Historical Timeline of Significant Terrorism Statutes Enacted by Congress), this thesis focused on the ways RICO was used in combating the mafia.

Given these updates, another recommendation is for DoD to further explore the potential application of RICO and other statutes pertaining to terrorism for use in prosecuting terrorists and/or affiliates. By considering the statutes in conjunction with applying ETI, DoD may be able to further identify the method—military justice, military courts, or federal courts—to prosecute detainees or establish the case for transfer into the civilian justice system with enough evidence to support any method. Additionally, the ETI and statute approach may provide an effective tool for DoD to prioritize the investigations and prosecutions against alleged terrorist acts, actual members, or those who support the terrorist group.

### **Conclusion**

In conclusion, there appears to be much gained by considering terrorist organizations as an enterprise. If the aforementioned recommendations are implemented, the ETI approach coupled with existing statutes may make it possible for the counter terrorism community—policy-makers, DoD, and Interagency—to effectively focus their resources in order to intervene at the earliest possible phases in ways that will influence, deter, prevent, and dismantle terrorist organizations through a law enforcement approach.

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<sup>19</sup> *USA PATRIOT Act, Pub. L. No. 107-56, 115 Stat. 272* (Oct. 26, 2001) codified as amended 18 U.S.C. § 1961 Amended RICO statute by including “acts of terrorism” as racketeering activity.

## Appendix A

### Pizza Connection Trial Verdicts

Defendants	Counts						Attorneys	
	Count 1 Narcotics Conspiracy	Counts 2-11 Continuing Criminal Enterprise in Narcotics	Banking Violations	12 Conspiracy	13 False Statements	14 Currency - Transaction Reports		15 Failure to File Reports on International Currency Transactions
Gaetano Badalamenti	✓	✓						Michael Kennedy
Salvatore Catalano	✓	✓	✓			✓	✓	Ivan Fisher/Mario Malerba/ Emanuel Moore
Giuseppe Lamberti	✓	✓						Anthony Lombardino
Salvatore Mazzurco	✓	Not guilty						Joseph Benfante
Salvatore Lamberti	✓	Not guilty						Marvin Schechter
Giovanni Ligammari	✓						✓	Steven Kimelman/ Carol Novack
Baldassare Amato	✓*						✓	Paul Bergman
Pietro Alfano	✓	✓						Patrick Burke
Emmanuele Palazzolo	✓						✓	Genay Leitman
Salvatore Evola	✓						✓	David Lewis
Vito Badalamenti	Not guilty							Robert Koppelman
Giuseppe Trupiano	✓						✓	Lawrence Ruggiero
Giuseppe Vitale	✓						✓	
Giovanni Cangialosi	✓						✓	Gerald Di Chiara
Salvatore Salamone	Not guilty		✓	✓	✓	✓	Not guilty	Robert Fogelnest
Salvatore Greco	✓		✓		✓	✓	✓	Lawrence Bronson
Francesco Castronovo	✓	✓	✓		✓	✓	✓	Kenneth Kaplan
Francesco Polizzi	✓						✓	Michael Querques/ Joseph Pisano
Filippo Casamento	✓						✓	Joseph W. Ryan
Vincenzo Randazzo	Pled guilty to lesser charge, deported 2/5/88							Lawrence Schoenbach
Lorenzo DeVardo	Pled guilty to lesser charge, 7/21/86							James Moriarty
Gaetano Mazzara	Murdered 12/86							Marvin Segal/ Harriet Rosen

\*Dropped May 3, 1988.

Source: Shana Alexander, *The Pizza Connection: Lawyers, Money, Drugs, Mafia*. (Weidenfeld & Nicolson, New York: 1988), 424-425.

## Appendix B

### Historical Timeline of Significant Terrorism Statutes Enacted by Congress

Source: Richard B. Zabel & James J. Benjamin, Jr., *Human Rights First, "In Pursuit of Justice: Prosecuting Terrorism Cases in Federal Court"* (2008), 137-141.

Treason, U.S. Constitution, Article 3, section 3 (1787)

Alien Friends Act, ch. 58, 1 Stat. 570 (June 25, 1798)

Alien Enemies Act, ch. 66, 1 Stat. 577 (July 6, 1798)

Sedition Acts, ch. 73, 1 Stat. 596 (July 14, 1798); ch. 75, 40 Stat. 533 (May 16, 1918)

Conspiracies Act (Civil War), ch. 33, 12 Stat. 284 (July 31, 1861)

Smith Act of 1940, ch. 439, 54 Stat. 670, 671 (June 28, 1940)

Atomic Energy Act, ch. 724, 60 Stat. 755 (Aug. 1, 1946)

Substantive offenses codified as amended at:

42 U.S.C. § 2122 Prohibitions governing Atomic Weapons

42 U.S.C. § 2131 License Required

42 U.S.C. § 2138 Suspension of Licenses During War or National Emergency

42 U.S.C. §§ 2272-2284 Enforcement of Chapter 23 Offenses

Immigration and Nationality Act, ch. 477, 66 Stat. 163 (June 27, 1952)

Sections relating to terrorism codified as amended at:

8 U.S.C. § 1158 Asylum

8 U.S.C. § 1182 Inadmissible Aliens

8 U.S.C. § 1184 Admission of nonimmigrants

8 U.S.C. § 1202 Application for Visas

8 U.S.C. § 1227 Deportable Aliens

Espionage and Sabotage Act of 1954, ch. 1261, 68 Stat. 1216 (Sept. 3, 1954)

Substantive offenses codified as amended at:

18 U.S.C. § 794 Gathering or Delivering Defense Information to Aid a Foreign Government

18 U.S.C. §§ 2151, 2153-56 Sabotage

Organized Crime Control Act of 1970, Pub. L. No. 91-452, 84 Stat. 922 (Oct. 15, 1970)

Substantive offenses codified as amended at:

18 U.S.C. §§ 842-844 Relating to Importation, Manufacture, Distribution, and

Storage of Explosive Materials Act for the Protection of Foreign Officials and Official Guests of the United States, Pub. L. No. 92-539, 86 Stat. 1070 (Oct. 24, 1972)

Substantive offenses codified as amended at:

18 U.S.C. § 112 Protection of Foreign Officials, Official Guests, and Internationally Protected Persons

18 U.S.C. § 1116 Murder or Manslaughter of Foreign Officials, Official Guests, or Internationally Protected Persons

18 U.S.C. § 1117 Conspiracy to Murder

18 U.S.C. § 1201 Kidnapping

Antihijacking Act of 1974, Pub. L. No. 93-366, 88 Stat. 409 (Aug. 5, 1974)369

Substantive offenses codified as renumbered, amended and supplemented at:

49 U.S.C. § 46502 Aircraft Piracy

49 U.S.C. § 46504 Interference with Flight Crew Members and Attendants

49 U.S.C. § 46505 Carrying a Weapon or Explosive on an Aircraft

49 U.S.C. § 46506 Application of Certain Criminal Laws to Acts on Aircraft

49 U.S.C. § 46507 False Information and Threats

International Security Assistance and Arms Export Control Act of 1976, Pub. L. No. 94-329, 90 Stat. 729, 744 (June 30, 1976)

Sections relating to terrorism codified as amended at:

22 U.S.C. § 2778 Control of Arms Exports and Imports (see Title 22, Code of Federal Regulations, Part 127 for violations and penalties)

22 U.S.C. § 2779 Fees of Military Sales Agents (see Title 22, Code of Federal Regulations, Part 127 for violations and penalties)

Act for the Prevention and Punishment of Crimes Against Internationally Protected Persons, Pub. L. No. 94-467, 90 Stat. 1997 (Oct. 8, 1976)

Substantive offenses codified as amended at:

18 U.S.C. § 878 Threats and Extortion Against Foreign Officials, Official Guests, or Internationally Protected Persons

International Emergency Economic Powers Act (IEEPA), Pub. L. No. 95-223, 91 Stat. 1626 (Dec. 28, 1977)

Substantive offenses codified as amended at:

50 U.S.C. § 1705 Penalties for violating any license, order, or regulation issued pursuant to IEEPA

Convention on the Physical Protection of Nuclear Material

Implementation Act of 1982, Pub. L. No. 97-351, 96 Stat. 1663 (Oct. 18, 1982)370

Substantive offense codified as amended at:

18 U.S.C. § 831 Prohibited Transactions Involving Nuclear Materials Continuing Appropriations, 1985 (Comprehensive Crime Control Act of 1984), Pub. L. No. 98-473, 98 Stat. 1837, 2186-2187 (Oct. 12, 1984)

Substantive offenses codified as amended at:

8 U.S.C. § 3583(j) Supervised Release Terms for Terrorism Predicates

18 U.S.C. § 1203371 Hostage Taking

18 U.S.C. § 32372 Destruction of Aircraft or Aircraft Facilities

The Omnibus Diplomatic Security and Antiterrorism Act of 1986, Public L. No. 99-399, 100 Stat. 853 (Aug. 27, 1986)

Substantive offense codified as renumbered and amended at:

18 U.S.C. § 2332 Criminal Penalties Relating to Terrorist Acts Abroad Against United States Nationals

22 U.S.C. § 2780 Transactions with Countries Supporting Acts of International Terrorism

Genocide Convention Implementation Act of 1987 (The Proxmire Act), Pub. L. No. 100-606, 102 Stat. 3045 (Nov. 4, 1988)373

Substantive offense codified as amended at:

18 U.S.C. § 1091 Genocide

Biological Weapons and Anti-Terrorism Act of 1989, Pub L. No. 101-298, 104 Stat. 201 (May 22, 1990)374

Substantive offense codified as amended at:

18 U.S.C. § 175 Prohibitions with Respect to Biological Weapons

Violent Crime Control and Law Enforcement Act of 1994, Pub L. No. 103-322, 108 Stat. 1796 (Sept. 13, 1994)

Substantive offenses codified as amended at:

18 U.S.C. § 1119 Foreign Murder of United States Nationals

18 U.S.C. § 930 Possession of Firearms and Dangerous Weapons in Federal Facilities

18 U.S.C. § 1121 Killing Persons Aiding Federal Investigations or State Correctional Officers

18 U.S.C. §§ 1541 et seq. Crimes Facilitated by Unlawful Passports and Visas (originally enacted June 25, 1948, Foreign Relations and Intercourse Act)

18 U.S.C. § 2280375 Violence Against Maritime Navigation

18 U.S.C. § 2281376 Violence Against Maritime Fixed Platforms

18 U.S.C. § 37377 Violence at International Airports

18 U.S.C. § 2332a Use of Certain Weapons of Mass Destruction

18 U.S.C. § 2339A Providing Material Support to Terrorists

Foreign Relations Authorization Act for Fiscal Years 1994 and 1995, Pub. L. No. 103-236, 108 Stat. 382, 463 (Apr. 30, 1994)

Substantive offense codified as amended at:

18 U.S.C. § 2340A378 Torture

Antiterrorism and Effective Death Penalty Act of 1996, Pub. L. No. 104-132, 110 Stat. 1214 (Apr. 24, 1996)

Substantive offenses codified as amended at:

8 U.S.C. § 1189 Designation of Foreign Terrorist Organizations

8 U.S.C. § 1255 Adjustment of Status of nonimmigrant to that of Person Admitted for Permanent Residence

8 U.S.C. § 1531 et. seq. Alien Terrorist Removal Procedures

18 U.S.C. § 2339B Providing Material Support or Resources to Designated Foreign Terrorist Organizations

18 U.S.C. § 2332d Financial Transactions

18 U.S.C. § 2339A Providing Material Support to Terrorists

18 U.S.C. §§ 842, 844379 Unlawful Acts and Penalties Relating to Importation,

Manufacture, Distribution and Storage of Explosive Materials

18 U.S.C. § 2332b Acts of Terrorism Transcending National Boundaries

18 U.S.C. § 956 Conspiracy to Kill, Kidnap, Maim, or Injure Persons or Damage Property in a Foreign Country

18 U.S.C. § 1114 Protection of Officers and Employees of the United States

18 U.S.C. § 1956(c)(7) Addition of terrorism offenses to money laundering statute term “specified unlawful activity”

War Crimes Act of 1996, Pub L. No. 104-192, 110 Stat. 2104 (Aug. 21, 1996)380

Substantive offense codified as renumbered and amended at:

18 U.S.C. § 2441 War Crimes

Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (Chemical Weapons Convention Implementation Act of 1988), Pub. L. No. 105-277, 112 Stat. 2681-866 (Oct. 21, 1998)

Substantive offense codified as amended at:

18 U.S.C. § 229 Prohibited Activities concerning Chemical Weapons  
18 U.S.C. § 229A Penalties

USA PATRIOT Act, Pub. L. No. 107-56, 115 Stat. 272 (Oct. 26, 2001)

Substantive offenses codified as amended at:

8 U.S.C. § 1226a Mandatory Detention of Suspected Terrorists; Habeas Corpus; Judicial Review

18 U.S.C. § 175b Biological Weapons; Possession by Restricted Persons

18 U.S.C. § 1961 Amended RICO statute by including “acts of terrorism” as racketeering activity

18 U.S.C. § 1993 Terrorist Attacks and Other Acts of Violence Against Mass Transportation Systems (repealed by the PATRIOT Improvement and Reauthorization Act of 2005, Pub. L. 109-177, Title I, § 110(a), Mar. 9, 2006, 120 Stat. 205)

18 U.S.C. § 2339 Harboring or Concealing Terrorists

18 U.S.C. § 5332 Bulk cash smuggling into or out of the United States

Terrorist Bombings Convention Implementation Act of 2002, Pub. L. No. 107-197, 116 Stat 721 (June 25, 2002)381

Substantive offense codified as amended at:

18 U.S.C. § 2332f Bombing of Places of Public Use, Government Facilities, Public Transportation Systems and Infrastructure Facilities

Suppression of the Financing of Terrorism Convention Implementation Act of 2002, Pub. L. No. 107-197, 116 Stat. 724 (June 25, 2002)382

Substantive offense codified as amended at:

18 U.S.C. § 2339C Prohibitions Against the Financing of Terrorism

Intelligence Reform and Terrorism Prevention Act of 2004, Pub. L. No. 108-458, 118 Stat. 3638 (Dec. 17, 2004)

Substantive offense codified as amended at:

18 U.S.C. § 175c Variola Virus

18 U.S.C. § 832 Participation in Nuclear and Weapons of Mass Destruction Threats to the United States

18 U.S.C. § 1038 False Information and Hoaxes

18 U.S.C. § 2332g Missile Systems Designed to Destroy Aircraft

18 U.S.C. § 2332h Radiological Dispersal Devices

18 U.S.C. § 2339D Receiving Military-Type Training from a Foreign Terrorist Organization

USA PATRIOT Improvement and Reauthorization Act of 2005, Pub. L. No. 109-177, 120 Stat. 192 (Mar. 9, 2006)

Substantive offense codified as amended at

18 U.S.C. § 226 Bribery Affecting Port Security

18 U.S.C. § 554 Smuggling Goods from the United States  
18 U.S.C. § 1036 Entry by False Pretenses to any Real Property, Vessel or Aircraft of the United States or Secure Area of any Airport or Seaport  
18 U.S.C. § 1510(e) Obstruction of Criminal Investigations; Violations of Nondisclosure Provisions of National Security Letters  
18 U.S.C. § 1956 Laundering of Monetary Instruments  
18 U.S.C. § 1992 Terrorist Attacks and other Violence against Railroad Carriers and Against Mass Transportation Systems on Land, on Water, or Through the Air  
18 U.S.C. § 2237 Criminal Sanctions for Failure to Heave to, Obstruction of Boarding, or Providing False Information  
18 U.S.C. § 2282A Devices or Dangerous Substances in Waters of the United States Likely to Destroy or Damage Ships or to Interfere with Maritime Commerce  
18 U.S.C. § 2282B Violence Against Aids to Maritime Navigation  
18 U.S.C. § 2283 Transportation of Explosive, Biological, Chemical, or Radioactive or Nuclear Materials  
18 U.S.C. § 2284 Transportation of Terrorists  
18 U.S.C. § 2291 Destruction of Vessel of Maritime Facility  
18 U.S.C. § 2292 Imparting or Conveying False Information  
18 U.S.C. § 2312 Transportation of Stolen Vehicles  
18 U.S.C. § 2313 Sale or Receipt of Stolen Vehicles  
21 U.S.C. § 960a Foreign Terrorist Organization, Terrorist Persons, and Groups

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