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**SECURITY IMPLICATIONS OF A
TRANSNATIONAL CRIMINAL ORGANIZATION:
THE RUSSION MAFIYA**

BY

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**Security Implications of a
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The Russian Mafiya**

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ABSTRACT

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Transnational Criminal Organizations are a disease or plague on the world. Using this construct, this paper examines the Russian Mafiya, one strain of this disease, and analyzes the resultant security implications for the United States. It begins with a review of the conditions that led to the recent emergence of the Russian Mafiya as a disease on the world community, followed by an examination of what this disease consists of, how it spreads, and its effects on the health of nation states and the world community. It then provides a review of United States actions to date to combat the disease of transnational criminal organizations in general, and the Russian Mafiya specifically, where examples exist. Finally, it ends with proposed actions to counter the influence of the Russian Mafiya and transnational criminal organizations in the future, both through U.S. unilateral and international means. Due to the scope of transnational criminal organizations, this paper does not attempt to analyze all transnational criminal organizations but concentrates on the Russian Mafiya as an archetype disease organism which threatens the world community.

TABLE OF CONTENTS

ABSTRACT	III
INTRODUCTION	1
GENESIS OF THE DISEASE	1
The Russian Mafiya – What is it?	3
How Does it Spread?	3
What are its Effects?	4
More Powerful	5
More Diverse	7
More Lethal	11
U.S. EFFORTS TO COMBAT TRANSNATIONAL CRIMINAL ORGANIZATIONS	11
PROPOSED FUTURE ACTIONS	15
Unilateral Actions	15
International Actions	20
CONCLUSION	23
ENDNOTES	25
BIBLIOGRAPHY	31

SECURITY IMPLICATIONS OF A TRANSNATIONAL CRIMINAL ORGANIZATION; THE RUSSIAN MAFIYA

Merlin the Magician faced off against the Mad Madam Mimm in a wizard's duel. Assuming a defensive posture, Merlin transformed into a turtle for protection but Mimm countered by transforming into an alligator with jaws capable of crushing the turtle. Merlin quickly transformed into a rabbit and escaped but Mimm pursued as a fox. And so the battle raged, each wizard repeatedly transforming to gain an advantage. Finally, Mimm transformed into the greatest of creatures, a fire-breathing dragon, and seized Merlin. Merlin's fate seemed sealed...until he seemingly disappeared. In truth, Merlin had transformed into a germ—the germ of a rare disease. Mimm, the dragon, unable to locate and destroy her attacker was alternately seized by shivering colds, raging fever, spots, sneezing, and finally incapacitation. The weaker had subdued the stronger.

— From the animated movie, "The Sword in the Stone"

Today, at the cusp of the Twenty-First Century, the United States is the dragon of the world, having no peer competitor and not likely to face a global peer before 2010.¹ In effect, there are no other dragons left to fight, at least for a while. But as in the scenario above, there is a new, almost invisible, disease that possesses the power to do great damage to the United States and the international body of nation states—the transnational criminal organization. Within this new disease, the Russian Mafiya is a particularly virulent strain that is already ravaging the health of the world body of nation states. Like a cancer, it is insidiously destroying its host, Russia, even as it expands to other parts of the body. Unless its effects are arrested, the world body will weaken, sicken, and possibly collapse. However, just as with any other disease, it can be combated if we understand its genesis, how it is spread, and its effects. Knowing this, the world body of nation states can develop a treatment methodology and take those steps needed to begin remission of this cancer.

GENESIS OF THE DISEASE

For almost fifty years the bi-polarity provided by conflicting nation-states of the Soviet Union and United States helped constrain warfare, regional power bids, terrorism, and the use of weapons of mass destruction worldwide.² This bi-polar impasse facilitated a balance of power throughout the world that provided a unique type of stability. While the Soviet Union collapse in 1990 eliminated the United States' one true peer competitor, it also fostered instability in many regions of the world and created new,

unforeseen security concerns.

Like the Ebola virus that laid dormant and then erupted from the rain forests to threaten the world, transnational criminal organizations emerged from the decomposing corpse of the Cold War as a plague on the global community. Today, transnational criminal organizations wield powers that directly threaten the health of the United States, other nation states, and the United States' national strategy of "Enlargement and Engagement," particularly in emerging democracies.³ Even in nation states where this is not the case, they present a formidable security concern that alters the global geopolitical landscape.⁴ They are truly an unanticipated and unwelcome "peace dividend."

Although the regional effects of transnational criminal organizations were apparent early on, it was not until 1997 that transnational criminal organizations were recognized and identified as a major threat to the United States' security and to world stability.⁵ Senator John Kerry, in The New War identified a new, powerful disease capable of great destructive power. Yet, while we have identified several strains of this deadly disease and their effects, we still do not necessarily recognize a transnational criminal organization when we see it. As a result, it is far more difficult to combat.

Determining what a transnational criminal organization is, is simple—and complex. There is currently no uniform definition for international, or transnational, criminal organizations although they are described as "any group of individuals organized to profit by illegal means on a continuing basis."⁶ Nonetheless, experts do agree that there are five main transnational criminal organizations, or strains of this deadly disease; the Russian Mafiya, the Chinese triads, the Japanese *yakuza*, the Italian Mafia, and the Columbian cartels.⁷ Like any disease for which there is no definitive test, transnational criminal organizations are identified through their effects – the conduct of illicit global activities. However, just as it is often difficult to identify a specific strain of a disease, it is equally difficult to determine the various strains of transnational criminal organizations. Just as the Acquired Immune Deficiency Syndrome (AIDS) was recognized by its devastating, debilitating effects long before the HIV virus was identified, so it is with transnational criminal organizations. Although we may not always be able to identify and isolate the virus, we usually can identify its effects.

The Russian Mafiya – What is it?

United States government and academic criminal justice experts estimate that there are approximately 5700 Russian Mafiya gangs operating within the former Soviet Union alone. This Mafiya is supposed to have 100,000 bona fide members and more than 3 million workers.⁸ Unfortunately, where transnational criminal organizations are concerned, estimates are merely estimates; they are only reasonably accurate within an order of magnitude.

As with virtually any criminal organization, the Russian Mafiya is a secretive society. How do you determine the membership of a secretive organization that does not divulge its membership? And who is really a member; the local store owner who pays protection money and sells products to the Mafiya, or the young man that couriers packages around town to make a living, or only the thug coercing both of these? Is the Russian Duma member that is receiving a “kick-back” a member of the Mafiya, simply a corrupt politician, or both? Is each a germ of the disease, a victim, or now carriers of the disease?

How Does it Spread?

Just as a disease or flu is more readily transmitted when people are packed into enclosed spaces, the technologies that have “brought the world closer together” have significantly expanded the spread of transnational criminal organizations, both their power and reach. Global communications, networking, and transportation technologies have blurred the traditional distinction between international and domestic crime, and terrorism.⁹ As a result, transnational criminal organizations are increasingly networked and global in reach, using cutting edge technologies to increase their operational reach and effectiveness, and to multiply their financial clout. Criminal operations can be initiated in one country, supported by intelligence from another, supplied with logistics from another, and executed in still another country—all made possible by global communications and new transportation technologies.

Transnational criminal organizations have also taken advantage of the end of the cold war. They effectively use open borders between east and west, the collapse of the criminal justice systems in Russia and the other states of the former Soviet Union, the development of free trade areas in western Europe and North America, the global drug market, and the emergence of global financial and trading systems to spread their disease and to attain powers comparable to those of nation-states.

Just as viruses often develop a resistance to the drugs used to combat them, transnational criminal

organizations are constantly growing, expanding, and adapting in an evolutionary rather than a revolutionary manner, staying just ahead of countermeasures. Their burgeoning financial power provides the resources needed to obtain and adapt to the new requirements of the information age.¹⁰ What once were criminal organizations only within specific countries or regions have now become global operations. Organizationally, they are moving from hierarchical to information-age network designs. The traditional, core groups, supported by supporters and surrogates, are joined to a new generation of radicals and activists by information-age ideologies that enable them to identify with and shift loyalties from nation-states to transnational societies or causes.¹¹ Even in the United States, right-wing militia and survivalist movements, and individuals, are increasingly networked with like-minded groups worldwide. The internet, and robust encryption technologies, make it possible for these individuals and groups to share ideas, information, ideological views, and to plot operations with little fear of interception.¹² It also enables them to raise funds, recruit, and operate worldwide. For example, the Russian Mafiya has over 100 active cells in at least 50 countries¹³. They are estimated to have 26 gangs operating in the United States alone,¹⁴ in at least 17 different major cities.¹⁵

While identification of a transnational criminal organization, its elements and members, is relatively easy in macro terms, it resists micro-examination. The collaborative efforts of transnational criminal organizations have expanded the diversity of their motivations, sponsorship, and security consequences making identification, prevention, and treatment more difficult. In effect, we can identify the strain but not necessarily the germ. We can identify its spread but not always the means. Size estimates are problematic; it is a living organism, constantly changing shape and adapting to its environment. Just as doctors faced with no definitive tests to aid their diagnoses, we must search for clusters of symptoms to guide our efforts. Fortunately, this approach makes it easier, although still difficult, to identify and isolate this particular disease. To combat transnational criminal organizations and the Russian Mafiya, we must identify the symptoms of this disease—its effects.

What are its Effects?

The global capabilities of transnational criminal organizations have expanded their reach and also their effects. Today, transnational criminal organizations violate national sovereignty, undermine democratic institutions, and add complex and difficult dimensions to nation-state security concerns

worldwide.¹⁶ Through their enormous financial power and collaboration with other transnational criminal groups and even legitimate institutions, they can conduct criminal activities previously thought impossible to undertake—and pay for—on their own.¹⁷ Working in concert, transnational criminal organizations have used each other to expand their influence. For example, the Russian Mafiya is working with the Sicilian Mafia, Chinese Triads and Columbian Cartels, and other organizations, to increase their operations in international drug trafficking, money laundering, and counterfeiting. In the U.S., the Russian Mafiya collaborated with La Cosa Nostra to establish operation in gambling, extortion, prostitution, and fraud.¹⁸ They have even negotiated division of labor agreements.¹⁹ Unfortunately, with increased operational effectiveness and expanded reach, transnational criminal organizations have become increasingly lethal.²⁰ In effect, a local virus has morphed into an international plague with the ability to seriously weaken, incapacitate, or even kill nation states.

More Powerful

With the end of the Cold War, criminal organizations, fueled by globalization, technological advances, and lower barriers to trade morphed into more powerful, global organizations.²¹ They rapidly expanded their local criminal activities worldwide and, today, their global operations run the full gamut of illegal activities; counterfeiting, drug trafficking, intellectual property theft, terrorism, alien and contraband smuggling, weapons smuggling (to include weapons of mass destruction), economic espionage, bribery, fraud, and extortion. There is virtually no criminal activity that they are not involved in, no where that they cannot touch, and little that they cannot do—or purchase.

The financial power of transnational criminal organizations is startling. Godson estimates that transnational criminal organizations financially surpass most fortune 500 companies²² and some have assets exceeding the combined wealth of many nations.²³ James Woolsey, the former director of the Central Intelligence Agency, claims that transnational criminal organizations are a “multibillion dollar transnational business. Profits from drug trafficking alone—some \$200 to \$300 billion a year—dwarf the gross national products of virtually all of the 170 countries in the international system²⁴ and is the second largest industry in the world.²⁵ The narcotics profits for the Italian Mafia alone would reportedly make it the 20th richest country on earth.²⁶ The leading 200 organized crime gangs in Russia are considered

global conglomerates²⁷ with an estimate \$10 billion in Swiss banks alone.²⁸ Indeed, it is the Russian Mafiya and lesser criminal groups that provide Russia its major source of foreign hard currency, approximately \$40 billion in 1994-1995 alone.²⁹ So great is the monetary throughput of transnational criminal organizations that they often weigh, rather than count, money—the former method being too time-consuming.

These monies, eclipsed by the amounts in financial institutions, can undermine a nation state's solvency and credibility, particularly in newly democratic countries -- directly undercutting the U.S. economy and even our strategy of enlargement and engagement. For example, in 1995 Latvia's largest commercial bank collapsed because the bank had been controlled and defrauded by a transnational criminal organization of as much as \$40 million. The resulting collapse provoked a change in the government and forced Latvia to seek short-term assistance from the international monetary fund.³⁰

Advanced design, copying, and publishing technologies have only increased transnational criminal organizations' financial power and, in particular, their ability to produce high-quality counterfeit currency and financial instruments. Some estimates claim that as much as \$1 billion in United States currencies are counterfeited overseas annually and intelligence indicates that rogue nations such as Iraq, Iran, and Syria are supporting the transnational criminal organizations that run these counterfeiting operations.³¹ Between 1992 and 1993, a 300 percent increase in counterfeiting of United States' currencies abroad was detected with a ten-fold increase in Russia alone. Indeed, the Russian Mafiya has aggressively exploited emerging technologies. In 1995, there were 185 known electronic "thefts" committed in Russia that netted over \$4.35 million in damages.³²

Emerging electronic payment systems -- cyber-currency -- are particularly vulnerable to criminal penetration and theft because of the speed and anonymity of these transactions and the fact that they are largely unregulated. As reported in U.S. congressional testimony, "We can now watch money disappear instantaneously and, in the space of one day, transit 5, 6, 7, 10 jurisdictions and any number of corporate shells, so that the speed has made tracing efforts a very, very difficult thing indeed."³³ In fact, as of 1994, there were over 50 tax heavens, i.e., secret, anonymous corporation jurisdictions, outside the United States at which transnational criminal organizations can secretly launder money; all made possible by global financial computer networks.³⁴ The use of state-of-the-art technologies in money laundering nets

\$100 billion annually in the United States alone (1991 estimate).³⁵

More Diverse

Collaboration between transnational criminal organizations has significantly increased the diversity and complexity of their organizations and operations and, as a consequence, their global security consequences.³⁶ Often, they have greater operational capability than their host nation(s). They now use high technology products to conduct counter-intelligence operations, to include undercover investigations, against the police authorities investigating them.³⁷ They have also wire-tapped the phones of national intelligence and police services, organized effective radio monitoring, and established observation posts and mobile counter-surveillance teams to counter police activities and investigations.³⁸ Automation offers transnational criminal organizations unprecedented access to personal or governmental information—for monitoring or destruction. The latter case was aptly demonstrated in one of the Baltic states when their database of stolen cars and the corresponding International Criminal Police Department (INTERPOL) search list disappeared from police computers.³⁹ Similarly, personal and corporate information and financial records are subject to electronic attack or theft, or both. Electronic payment systems (or cyber-currency) provide access to, and the ability, to steal untold wealth as shown above. Also, the anonymity provided by automation makes the act much easier to conduct and more difficult to discover, investigate and prosecute.

Another illicit activity enabled by new technologies is the digital transfer of pornography, particularly child pornography, across the Internet and other global distribution networks. Modern technology allows the storage of vast quantities of pornographic digital images on small and portable devices easily smuggled across international boundaries. The boom in digital pornography has also been accompanied by the dramatically increased trafficking of human beings, especially women and children, across international borders for sexual exploitation and forced labor. In Russia alone, during the last half of 1993, more than 240,000 foreigners departed under mysterious circumstances—foreigners having no record of ever having entered Russia.⁴⁰

More troublesome than the operational diversity of transnational criminal organizations is their organizational diversity, especially when the governments of nation states merge or share interests. Indeed, in some nations it is difficult to separate transnational criminal organizations from the nation's

apparatus itself. The United States 1999 Strategic Assessment claims that, "Many governments are now in danger of becoming organized crime groups themselves."⁴¹ So pervasive is their influence in many countries that transnational criminal organizations are recognized as a "principal determinant of state behavior."⁴² It has been said that Russia is in danger of becoming a "full-fledged kleptocracy"⁴³ where the "political sphere is being criminalized while the criminal sphere is being politicized"⁴⁴

Even in countries that they do not control, the impact of transnational criminal organizations is insidious and far-reaching. Transnational criminal organizations have been identified as a major national security threat in the United States, Germany, Russia, Italy, and a host of other countries.⁴⁵ Their impact is particularly pervasive in emerging democracies where they undercut the United States policy of Enlargement and Engagement. A prime example is Russia, where the Russian Mafiya does not directly threaten the state but does challenge its ability to control its sovereign affairs.

Before the end of the Cold War, the Russian Mafiya was merely an irritant to the Soviet Union and a relatively minor operation. Since then, business has boomed and the Mafiya has obtained powers sometimes rivaling, or exceeding, that of the Russian government. Russian President Yeltsin has called Russia the biggest mafia state in the world and the "superpower of crime."⁴⁶ He further declared the Russian Mafiya "the single greatest threat" to Russian democracy⁴⁷ and in 1994, issued the Decree: "On The Urgent Measures To Defend The Population Against Gangsterism And Other Kinds Of Organized Crime." This Decree has caused widespread dissatisfaction and political turmoil within Russia and undermined its ability to forge forward with democratic reforms. The left claims the measures Yeltsin called for violate existing laws and trample individual rights while the right considers the Decree too mild, calling for intervention by the Russian Army and authority to summarily execute Mafiya members and court-martial corrupt police officials. However, most Russian people view the effort as a necessary evil. In any event, the impact of the Russian Mafiya seriously threatens the tenuous foothold of democracy in the formerly communist state⁴⁸ and challenges or co-opts the state's power in many ways.

The power and reach of the Russian Mafiya is impressive. It possesses and uses to great effect weapons, vehicles, and communications often superior to those of its own government.⁴⁹ The technical capabilities of the Russian Mafiya's personnel rival that of its government—because they often are one in the same. The Russian Mafiya has aggressively recruited former Soviet Union intelligence agency

personnel, particularly from the Committee on State Security or Komitet Gosudarstvennoy Bezopasnosti (KGB). Today, an untold amount of KGB, military, and security officers no longer work for the state but for transnational criminal organizations. With the demise of the Soviet Union, the new Russian government laid off or retired 100,000 KGB "effectives."⁵⁰ These newly unemployed operatives became a ready resource for the Russian Mafiya that greatly increased their operational capability. These intelligence and security agents provided a previously unavailable technical expertise in intelligence statecraft. Moreover, they used their overseas networks to expand the Russian Mafiya's operations, even as they used their influence within the Russian government to protect the Mafiya from investigation and prosecution.⁵¹ Any other skills needed that former KGB operatives could not provide became readily available when the KGB released hardened criminals from Russian jails—there is no lack of manpower.⁵²

The Russian Mafiya has also penetrated the Russian government at all levels, to include the State Duma,⁵³ fostering a climate of corruption⁵⁴ and spending up to 30% of their profits on bribery.⁵⁵ Corruption weakens the government like a cancer does the human body—a direct attack of the disease of the Russian Mafiya on the state's powers to govern. The rule of law—the government's law—and the legal structures supporting it are undermined. Investigations into corruption are stymied by corrupt bureaucrats. A 1996 Russian internal report illustrates the pervasiveness of corruption, providing statistics on the number of indictments rendered for governmental corruption: "personnel of ministries, committees, and local structures—41.1%; personnel of credit and finance system—11.7%; personnel of regulatory agencies—8.9%; deputies—0.8%; personnel of law enforcement agencies—26.5%; personnel of customs service—3.2%; others—7.8%."⁵⁶ Additionally, in 1991, 20,000 Russian police officers were dismissed for collaboration with organized crime. Then, in 1993, another 30,000 police officers, military personnel and civil servants were formally investigated for corruption.⁵⁷ Most recently, in 1997, over 21,000 police officers were dismissed for "violating internal rules" but only 404 were further punished for corruption.⁵⁸

The government's ability to garner resources to wage war on corruption and the Russian Mafiya are also undermined. Since 1991, corrupt government officials and the Russian Mafiya have largely been responsible for the capital flight of over \$300 billion from Russia.⁵⁹ Russian government officials estimate

that 40% or more of their economy is under direct control of organized crime, 80% of all banks and private businesses pay tribute to criminal organizations,⁶⁰ and half of the 25 largest Russian banks are linked to the Mafiya.⁶¹ The deputy director of the Russian Organized Crime Section of the Interior Ministry claims that "around 40 percent of Mafiya gangs use 1,500 front companies for laundering. They control over 40,000 businesses, including 2,000 state enterprises, 4,000 associations, 9,000 cooperatives, 7,000 small enterprises, 407 banks, 47 exchanges for commodities and currencies, and 697 markets."⁶² Some estimates claim that the Russian Mafiya controls 30-40 percent of Russia's total gross national product.⁶³ Consequently, it is hardly surprising that most corporations are believed to transfer up to 80% of their foreign currencies out of Russia, monthly.⁶⁴ The loss of the tax revenues on these monies and those lost to capital flight significantly curtails the fiscal growth of the government. President Yeltsin has declared that the, "stranglehold of non-payment is paralyzing the economy."⁶⁵ In effect, these losses deprive the government of its immunology system while stifling the willingness of other countries and international institutions to provide aid. Commercial corporations are reluctant to establish new businesses in an environment rife with corruption and lacking the stability of the rule of law; in effect, foreign investors are scared away. International aid and banking institutions are reluctant to throw good money after bad. Of the \$120 billion that Russia has received in foreign aid and monies, an estimated 65% has been diverted to secret accounts in foreign countries.⁶⁶ However, this diversion of capital is not the only extension of the Russian Mafiya's powers beyond the boundaries of Russia proper.

The Russian Mafiya freely operates throughout the region of the former Soviet Union, using historic distrust between Russia and the newly developed countries, their borders, and their sovereignty to its advantage. Since the "fall of the wall", Russia has become a major drug conduit and distribution station as well as an international money laundering center. As its power increased, so has the Russian Mafiya's span of operations, attaining enormous global power. The limits of their powers remain to be seen.

The Russian Mafiya now operates throughout Europe, Latin America, the Caribbean, and even in the United States.⁶⁷ As Boris Uvarov, chief investigator of major crime for the Russian Attorney General states, "America is getting Russian criminals; Europe is getting Russian criminals. They'll steal everything. They'll occupy Europe. Nobody will have the resources to stop them."⁶⁸ United States Federal Bureau of Investigation Director Louis J. Frech called the Russian Mafiya the "fastest growing

criminal organization in the United States.⁶⁹ There is virtually no area of the world they cannot touch, sicken or destroy.

More Lethal

Fueled by the availability of large numbers of cheap, high-quality, military-style weapons from central and eastern Europe, transnational criminal organizations have spurred a dramatic increase in the severity of criminal activity worldwide.⁷⁰ As with other elements of the Russian government, the Russian military is highly corrupt. High ranking officers sell military weaponry to buy new homes while lower ranking service members sell equipment simply to obtain the money needed to live.⁷¹ Not surprisingly, transnational criminal organizations have increased their international arms trafficking operations, to include heavy equipment from the east, such as howitzers and missiles, and weapons of mass destruction. They also possess advanced technologies previously available only to nation-state militaries (computers, night vision devices laser range finders, global positioning systems, etc.). These capabilities provide them greater destructive power and greater ease of movement and concealment.⁷² More threatening are German reports of the Russian Mafiya's involvement in the procurement and attempted sale of nuclear fissile materials.⁷³ FBI Director Louis Freeh has testified that the Russian Mafiya is "aggressively looking to buy and sell nuclear materials."⁷⁴

Transnational criminal organizations are also proving increasingly willing and able to employ lethal measures. When bribery and coercion do not work, assassination can. Contract killings are rife in Russia. In 1995 alone, there were 580 reported homicides that were believed to be contract killings for between \$1,000 to \$100,000 a hit, depending on the "stature" of the victim.⁷⁵ In Columbia, the willingness of the cartels to assassinate government officials has virtually destroyed the judicial system. Since the 1980's, 350 judicial personnel have been murdered, to include Attorneys General and ministers of justice.⁷⁶ Little is beyond the capability or willingness of transnational criminal organizations, to include the broker, finance and smuggling of nuclear warheads or weapons-useable nuclear materials.⁷⁷

U.S. EFFORTS TO COMBAT TRANSNATIONAL CRIMINAL ORGANIZATIONS

As with most new and insidious diseases, recognition and response to their existence and effects have been slow. Identification and response to individual strains of the disease, such as the Russian

Mafiya, have been even slower. Nevertheless, initial steps were taken in 1995, when U.S. President Clinton issued Presidential Decision Directive 42 (PDD-42) to combat the disease of international crime.⁷⁸ PDD-42 seeks "to keep foreign crime as far from American shores as possible, to keep foreign crime permanently at bay whenever possible, to help combat more effectively those crimes that do reach our borders."⁷⁹ President Clinton also issued a challenge for an international global assault on "the unholy alliance" of terrorism, organized crime, and drug trafficking at the celebration ceremony of the United Nations' 50th Anniversary.⁸⁰ Nevertheless, despite his efforts, transnational criminal organizations and the Russia Mafiya in particular, still present a significant and growing threat to the security of the United States and the stability of democratic governments worldwide—although much has been done.

In response to PDD-42, the U.S. Department of Justice in concert with the Departments of State and Treasury created the International Crime Control Strategy (ICCS). This strategy supports the National Security Strategy of engagement and enlargement by stressing multilateral action to stop international crime before it reaches U.S. borders, primarily by fostering democracy, free markets, human rights, and the rule of law in other countries. In its current form, the goals prescribed in the International Crime Control Strategy are:

Goal 1: Extend the First Line of Defense Beyond U.S. Borders, providing the authority for traditionally domestic federal agencies to expand operations internationally and demands increased and coordinated actions by law enforcement, diplomatic, and consular personnel.

Goal 2: Protect U.S. Borders by Attacking Smuggling and Smuggling-Related Crimes seeks to: (1) enhance land border inspection, detection and monitoring capabilities; (2) improve the effectiveness of maritime and air smuggling interdiction efforts in the transit zone; (3) seek new, stiffer criminal penalties for smuggling; and (4) target enforcement and prosecutorial resources against smuggling crimes and organizations.

Goal 3: Deny Safe Haven to International Criminals. Transnational criminal organizations use sovereignty issues and jurisdictional restrictions to find safe havens for themselves and their money, and to foil criminal investigations. Countries with limited law enforcement resources, and those that limit extradition, do not accept the validity of some U.S. laws, or have no laws to address some criminal activities are ideal safe havens for criminals evading U.S. justice. To counter safe havens, the

International Crime Control Strategy seeks to: (1) negotiate international agreements for the prompt location, arrest and extradition of international fugitives; (2) implement strengthened immigration laws; and (3) promote cooperation with foreign authorities to provide rapid, mutual access to witnesses, records and evidence.

Goal 4: Counter International Financial Crime by: (1) combat money laundering by denying criminals access to financial institutions; (2) seize assets of transnational criminal organizations through aggressive use of forfeiture laws; (3) enhance international cooperation by enhancing enforcement tools and multilateral anti-money laundering standards; and (4) target offshore centers of international fraud, counterfeiting, electronic access device schemes and other financial crimes.

Goal 5: Prevent Criminal Exploitation of International Trade by (1) interdicting illegal technology exports through improved detection, increased cooperation with the private sector, and heightened sanctions; (2) prevent unfair and predatory trade practices; (3) enhance foreign and domestic law enforcement efforts to curtail counterfeit and pirated goods and educate consumers; (4) counter industrial theft and economic espionage of U.S. trade secrets through increased prosecution; and (5) enforce import restrictions on certain harmful substances, dangerous organisms and protected species.

Goal 6: Respond to Emerging International Crime Threats by (1) disrupting new activities; (2) enhancing intelligence efforts against transnational criminal organizations; (3) reducing trafficking in human beings and crimes against children; (4) increasing enforcement efforts against high tech and computer-related crime; and (5) continuing to identify and counter the vulnerabilities of critical infrastructures and new technologies in high tech areas.

Goal 7: Foster International Cooperation and the Rule of Law by (1) establishing international standards, goals and objectives to combat international crime and by actively encouraging compliance; (2) improving bilateral cooperation with other countries through increased collaboration, training and technical assistance; and (3) strengthening the rule of law as the foundation for democratic government and free markets.

Goal 8: Optimize the Full Range of U.S. Efforts to: (1) enhance policy and operational coordination mechanisms to assess the risks of criminal threats and to integrate strategies, goals and objectives to

combat those threats; (2) mobilize and incorporate the private sector into U.S. government efforts; and (3) develop measures of effectiveness to assess progress over time.⁸¹

The United States, in implementing the International Crime Control Strategy, sometimes unilaterally and sometimes in coordination with the international community, has seemingly employed all instruments of national power – diplomatic, economic, informational, and military (generally substituting police powers for military powers) in the war against transnational criminal organizations. However, as with many of the United States' strategies, the ICCS relies primarily on the military (police in this case) arm of power although there have been efforts in the other areas also. Some of the major initiatives include:

The United States has negotiated numerous multilateral agreements with other nations instituting asset forfeiture regimes to undercut transnational criminal organization profits. This allows the seizure and subsequent division of previously transnational criminal organization assets between the United States and other countries. These agreements directly support the United States' strategy of engagement and enlargement. While weakening transnational criminal organizations, United States' relations with other countries and the economies of those countries are improved by asset sharing.

The Department of State, Department of Justice, and Federal Bureau of Investigation have developed mutual assistance treaties with other countries in their respective functional areas and now have agents in the U.S. embassy of most major countries. The Federal Bureau of Investigation has also established a robust international law enforcement training capability to provide mutual assistance through education, personnel exchanges, investigative cooperation, and technical assistance to other countries.⁸² In particular, the Federal Bureau of Investigation and Department of State established the International Law Enforcement Training Academy in Budapest, a law enforcement training center for law enforcement officers of European and Eurasian countries.⁸³

The Financial Crimes Enforcement Network (FinCEN) was created to link financial information and intelligence, commercial data such as corporate and property ownership, and law enforcement case files and information from federal intelligence services into one massive database to combat transnational criminal organizations.⁸⁴ FinCEN's resulting success against transnational criminal organizations and its apparent importance to both criminal and intelligence operations, and its overwhelming success, ushered

its parent organization, the Department of Transportation, into the U.S. intelligence community as a full member in 1995.⁸⁵

PROPOSED FUTURE ACTIONS

While the U.S. and international assault on transnational criminal organizations is laudable, it is not sufficient today and will be totally inadequate in 2010. Transnational crime is a national security threat to the United States and world stability that requires the employment of all U.S. instruments of power, in concert with the other nation-states of the world, to effectively combat it. United States' international actions to combat transnational criminal organizations have been steadily intensifying since the 1960's and particularly since the end of the Cold War. Today, our foreign policy and criminal justice policies are more intertwined than ever before.⁸⁶ However, the playing field is not level – transnational criminal organizations operate freely while the world community is hampered by self-imposed international rules of law and the sovereignty of nations. Moreover, due primarily to diverging national interests, international responses are often slow and diluted. To effectively engage the international community in this battle, the United States first should take action to increase its own combat power—stronger vaccines and antidotes—while concurrently seeking concerted, coordinated international action.

Unilateral Actions

Although transnational criminal activities are a serious security threat to the United States, to date, our efforts have been fragmented due to previous organizations and methods that have not adapted to this new threat. The threats imposed by transnational criminal organizations strike America at the current seams, transcending and blurring the traditional diplomatic, military, law enforcement, and intelligence roles and missions within the United States government.⁸⁷ While the United States' International Crime Control Strategy attempts to focus the efforts of numerous national agencies against the threat of transnational crime, it is weakened by the underlying bureaucratic structures that must implement the plan.

As recognized in 1999 Strategic Assessment: Priorities for a Turbulent World, "The current U.S. interagency process was created to handle the national security problems of the Cold War. New strategic problems may mandate new organizational solutions for performing the central task of weaving foreign policy, international economic policy, and defense strategy into a seamless web of strong, mutually

reinforcing actions.”⁸⁸ The current and future challenge is to develop comprehensive policies, programs, and means that close these seams to provide an effective defense against the insidious threat of transnational criminal organizations.

In an interesting twist of logic, the 1999 United States Strategic Assessment points to this inefficiency as a safeguard against the corrupting measures of transnational criminal organizations, stating “Criminals would have to expend extraordinary effort to infiltrate and suborn every U.S. agency involved in the drug war. Turf battles among U.S. agencies mean that not only do they at times duplicate efforts, but also they are less complacent. While this may appear to be negative and inefficient to some observers, it helps keep criminals and terrorists at bay. This highly bureaucratic system has helped keep international organized crime and terrorism from more deeply affecting the United States.”⁸⁹ Using our medical and disease metaphor, the logic appears to be that if you don’t know what the cure is, just apply as much medicine, both by type and dosage, as possible in the hopes that something will work. However, the real challenge is to determine what medicine and dosage is best to combat the disease. Do we need new medicines?

Many of the United States agencies leading the current fight against transnational crime are, by their charters, largely domestic institutions. To cope with this emerging threat, these agencies have expanded and adapted to roles never previously envisioned, and, sometimes, beyond the scope of their charters, with little inter-agency coordination.

Effective coordination is difficult in any large nation-state government; inherent inefficiencies and bureaucratic cross-purposes mitigate against it. In the past, when faced with a new threat or challenge that transcends the bureaucratic limitations of the government, the federal government has recognized and countered this inefficiency by creating “Czars” or Special Prosecutors. The most prominent example is that of the “Drug Czar,” an official empowered to direct and coordinate all agencies of the national government to cooperate in a national effort. Any effective effort to counter transnational crime should have a unified control structure that transcends the current bureaucratic limitations.

Recently, the administration announced the appointment of a White House aide to coordinate the effort against transnational crime. Although a step forward, it lacks the import accorded to those positions entrusted with previous major federal efforts, as in the “Czar” example above. In fact, an appropriate

method of effectively and efficiently coordinating and directing federal efforts would be to create an "International Crime Czar." This individual should be a full-fledged member of the National Security Council to ensure asymmetric threats of transnational groups are fully considered and incorporated into appropriate United States' strategy and plans. In keeping with the nation's core values, this "Czar" should be a civilian, leading a primarily civilian law enforcement effort with military support.⁹⁰ He should also be empowered to gather, develop, and use intelligence, law enforcement information, and scientific-technical information in the battle against terrorism and transnational crime.

Another, more radical, option is to create a Deputy Vice President for National Security with command and control oversight of the Departments of Defense, State, and Justice while establishing a Deputy Vice President for the National Commonwealth with oversight over the remaining bureaucracy.⁹¹ Regardless of the means employed, to effectively combat transnational crime, the United States should seek to transcend the inefficiencies of the current bureaucracy by providing one chief for this specific war.

Finally, if creation of a Deputy Vice President or another "Czar" is politically unacceptable, the Departments of Justice and Transportation should be elevated to full membership status in the National Security Council to ensure the complete integration of International Crime Control Strategy into United States' national security strategy and plans. This is particularly relevant considering recent Chinese pronouncements to use asymmetric threats, such as can be provided by transnational criminal organizations, against the United States.⁹² Transnational criminal organizations are a major threat to the United States and our strategy of engagement and enlargement. They now wield the power of many nation-states and can inflict catastrophic damage to the United States through weapons of mass destruction, drugs, cyber-war, and financial network tampering or diversions.

While a unified control structure is essential, execution by disparate governmental organizations must also be well coordinated. Currently, United States' efforts are significantly hampered by artificial compartmentalization that transnational criminal organizations do not labor under. Thus, you could have many U.S. agencies (Federal Bureau of Investigation, Drug Enforcement Agency, Department of Transportation, Department of State, etc.) conducting independent, uncoordinated investigations and operations against transnational criminal organizations whose criminal activities span the artificial

functional boundaries of these agencies. For instance, concurrent, uncoordinated investigations of the Russian Mafiya's activities in Los Angeles by the FBI, DEA, DOT, Los Angeles Police are entirely possible.

As previously mentioned, domestic agencies have now assumed foreign responsibilities exceeding their charters in order to combat transnational crime. Although commendable, this adaptation generates its own inefficiencies that are adequately illustrated in the current overseas operations and training of the above agencies. The Federal Bureau of Investigation, Drug Enforcement Agency, and Bureau of Alcohol, Tobacco, and Firearms all have separate offices operating overseas, sometimes at cross-purposes, and often in isolation. This is also true of their training efforts, where each has exclusive areas of training – with significant functional overlap. Also, there are some areas, such as economic crime, where the Federal Bureau of Investigation, United States Secret Service, U.S. Customs Service, FINCEN, and Drug Enforcement Agency are virtually identical – and uncoordinated. This is enormously inefficient and a waste of precious national resources.⁹³ Even as the law enforcement agencies of the federal government improve their coordination, the other instruments of national power must also be brought to bear in combating this disease.

Any economic assistance provided to Russia must be strictly controlled and accounted for, with future disbursements dependent on past accuracy. In particular, funds must be dedicated to supporting, training, and paying judicial and law enforcement officials. Corruption at lower levels, such as local police, is aided by abhorrently low wages and poor equipment.⁹⁴ The excellent work of the International Law Enforcement Training Academy in Budapest should be expanded to establish a similar academy on Russian soil. Additionally, the United States should expand the International Criminal Investigative Training Assistance Program (ICITAP) beyond its legally constrained boundaries of the Western Hemisphere. ICITAP is tailor made to assist the Russian government with many of the law enforcement challenges currently facing it. ICITAP provides training for prosecutors, judicial officials, law enforcement officers and investigators, forensic scientists, and penal officers. It assists with the development of training curricula and programs for all of the above listed personnel and seeks to enhance the administrative capabilities of law enforcement, judicial, and penal agencies. Such assistance could dramatically aid the Russian government in its battle to combat corruption, establish the rule of law, and

forge a viable democracy. Even the U.S. State Department's 2000 Congressional Presentation for Foreign Operations indirectly recognizes this utility of this application, stating, "Priority is given to countries in transition to democracy, where unique opportunities exist for major restructuring and refocusing of police and investigative resources toward the establishment of law."⁹⁵ In short, one medication to aid in combating this disease is readily available but not prescribed. Now is the time for prescription of this medication. Until a strong legal and judicial foundation is established in Russia, the rule of law cannot be imposed and chaos—and corruption—will reign.

Additionally, investment in Russia by U.S. commercial enterprises must be encouraged. More importantly, these commercial activities must have ready access to U.S. state and law enforcement officials for the reporting of Russian Mafiya activities such as bribery or corruption. To safeguard such investments, the U.S. must obtain the Russian government's agreement to aggressively combat all illicit activities and must actively support the investigation and prosecution of violators. Because of cultural and legal differences between the U.S. and Russia, such agreements will necessarily have to be very specific to be enforceable.

Employing both the diplomatic and informational arms of national power, the United States should continue to develop mutual legal assistance treaties with all sovereign states. These treaties should focus on the sharing of information on transnational criminal activity and organizations, law enforcement training, joint investigations of and technical assistance for transnational crimes, and extradition of transnational criminals to those countries with criminal charges pending. Concurrently, the Federal Bureau of Investigation's Legal Attache Program must be expanding to incorporate all nation states. This program positions agents at United States embassies to establish operational links with foreign police agencies and is, to date, the Bureau's most effective capability for detecting, deterring, and investigating international crime.⁹⁶

Finally, the United States must unilaterally declare that countries that do not cooperate in transnational criminal organization investigations and prosecutions will suffer sanctions and lose all United States foreign aid. Concurrently, we should also press for similar measures in the international arena.

International Actions

Internationally, the United States should build upon existing international policies and conventions. Most specifically, the United States should work within the auspices of the United Nations to create international laws, norms, and programs that provide action mechanisms for the five guiding principles for United Nations policy in the prevention and control of transnational crime. These principles are:

- 1) The prevention of crime within and among states;
- 2) The control of crime both nationally and internationally;
- 3) The strengthening of regional and international cooperation in crime prevention, criminal justice and the combating of transnational crime;
- 4) The integration and consolidation of the efforts of member states in preventing and combating transnational crime; and
- 5) More efficient and effective administration of justice, with due respect for human rights.

Because the United Nations lacks an enforcement capability, the United States' diplomatic agencies must initiate bilateral and multilateral agreements to secure these principles until international agencies are created with the authority to enforce international laws and conventions against transnational crime.

International forums must begin to address the role of national sovereignty and international necessity in the fight against transnational criminal organizations. The United States, through the United Nations, should also seek to harmonize the various nations' criminal legislation into both national and international bodies of law consistent with previous agreements to support the protection of human rights and the promotion of democracy. This effort should begin with internationally acceptable and enforceable agreements focused on immobilizing transnational criminals, which equates to international cooperation in identifying and apprehending criminals, evidence collection, prosecution, imprisonment, and increasingly, also includes the seizure of criminal assets and contraband.⁹⁷ This effort must also be supported by robust international laws, conventions, and treaties for the extradition of transnational criminals. Unfortunately, these aims may be very difficult, if not impossible, to achieve.

Today, many national governments support transnational criminal organizations, directly or indirectly. In many poor countries, crimes are committed with the tacit approval or knowing "ignorance" of the

national government, which is more concerned with the national or regional economic benefits than the "crime." In some countries, the government is so corrupt that it is difficult to separate governmental from criminal elements. Even within developed countries, some nations have politicians with some Mafia involvement at very high levels.⁹⁸ Finally, even where there is general agreement on the need to combat transnational crime, it can be very difficult to determine what local crime supports it or even what a crime is. There is significant variation between nation states in what is considered a crime or what is a serious crime. Where international agreement can be reached, there must be a body of international law created which imposes international, not only United States, sanctions against those countries that do not comply.

The United States, allied nations, or the United Nations—whichever is best positioned in each instance—should also provide technical assistance to emerging democracies in establishing judicial institutions, laws and procedural rules, and penal codes and institutions that support democratic principles. This effort must be supported by the establishment of information sharing methodologies concerning international crime and also forums for regular contact between agencies involved in crime control.⁹⁹ In particular, the U.S. should fully support the information sharing capabilities of the International Criminal Police Department (INTERPOL).

No international effort to combat transnational crime can be effective without free-flowing, accurate, intelligence—it is the basis for any effective response.¹⁰⁰ Unfortunately, like much of the effort against transnational crime, the intelligence effort is also fragmented. To wage an effective intelligence campaign, the United States must solidify the linkages between the law enforcement and intelligence communities. The Director of Central Intelligence must be given the authority to rationalize national intelligence roles and missions and related capabilities as related to transnational criminal and asymmetric threats. To effectively counter transnational criminal organizations, the United States should overhaul its global intelligence operations to eliminate untoward redundancies and bureaucratic infighting. Additionally, the United States must obtain the intelligence support of the world community. Linkages between the law enforcement and intelligence agencies of the United States' and INTERPOL should be strengthened to the greatest possible degree. Unknown to most people, INTERPOL does not have a law enforcement capability of its own but facilitates communications among member countries to combat international law enforcement groups.¹⁰¹ Additionally, we must encourage other nations to focus

their intelligence efforts on transnational criminal organizations or, in many cases, to create new intelligence agencies altogether for this sole purpose.¹⁰²

Unfortunately, even within the United States, many intelligence agencies lack the credibility internationally to conduct intelligence operations against transnational criminal organizations due to their past actions during the Cold War. For example, Dennis Dayle, a former Drug Enforcement Agency (Drug Enforcement Agency) official, stated, for the record, that "in my 30-year history in the Drug Enforcement Agency and related agencies, the major targets of my investigations almost invariably turned out to be working for the CIA."¹⁰³ Over the last decade, German, French, U.S. and British foreign intelligence services and others have engaged in covert arms deals themselves.¹⁰⁴ Thus, many claim that, if the CIA gets involved in the fight against organized crime, the cooperating international forces of law, order, and due process will lose whatever moral high ground they currently claim.¹⁰⁵ This is particularly true in the area of clandestine arms trafficking.

Finally, more potentially effective than all of the above mentioned international efforts, diplomats must work to secure the cooperation of the world's banking institutions to combat transnational crime. Such measures would strike transnational criminal organizations at their weakest point -- money. As Lucrezia Rotolo said, "We follow the money because we have learned that this is what hurts such criminal organizations the most."¹⁰⁶

The United States must lead a global assault to induce bankers world-wide to agree to self-regulation¹⁰⁷ and voluntary disclosure or suspected transnational criminal organization financial activity. Unfortunately, not all financial crime is the domain of transnational criminal organizations; some would claim it is normal banking business in some parts of the world and that there is much that banks do not wish to disclose.¹⁰⁸ Obtaining this support will require overwhelming political pressure and significant time. The United States should also expand operations of the Financial Crimes Enforcement Network of the United States Treasury and offer its services to other nation states in return for their collaboration against transnational crime. If possible, this capability should actually be extended to other countries through the installation of access terminals.

CONCLUSION

The current United States' International Crime Control Strategy provides an excellent foundation to focus United States national power against transnational criminal organizations such as the Russian Mafiya. The ICCS has produced significant advances in a relatively short period of time. But, it is time for a true reanalysis of the threat and the measures required to combat transnational crime. To date, the United States has adapted to the threat of transnational crime through the uncoordinated expansion of national agencies. At the same time, as seen with the Russian Mafiya, transnational criminal organizations have also developed and modified their own strategies, adapting to changes in national and international law and operations, and changing in an evolutionary rather than a revolutionary manner, staying just ahead of countermeasures. To effectively combat transnational criminal organizations in the early Twenty-First Century, the United States and the international community of nation states must reanalyze the threat of transnational crime, the current body of law and means to fight it, and derive both national and international ways and means to combat it. These efforts will determine whether transnational criminal organizations impose a plague, or merely the flu, upon the global community.

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