

Short WORKSHOP REPORT FORM

Number and title of workshop: WS 1.7 International Organized Crime: A Key Driver of Corruption

Coordinator: Scott Harris, U.S. Department of State

Date and time of workshop: 12 November 2010 9:00 am.

Moderator: Dr. Louise Shelley, George Mason University, TRACC Center

Rapporteur: Diane M. Kohn, U.S. Embassy, Abuja, Nigeria

Panellists

James M. Trusty, Principal Deputy Chief of the Organized Crime and Gang Section, Criminal Division, U.S. Department of Justice

John Picarelli, Society Science Analyst, International Center of the National Institute of Justice, U.S. Department of Justice

Michael J. Mansfield, Commissioner, New York City Business Integrity Commission

Main Issues Covered

Dr. Louise Shelley – Organized crime has evolved to be more vertically integrated, including gang networks that operate in many cities and countries. Organized crime promotes corruption of governments and legitimate industries globally to facilitate criminal enterprises. Organized crime and corruption must be countered jointly through holistic responses, including cooperation between governments, civil society, and the private sector.

James Trusty – Transnational criminal gangs and organized crime have evolved to have many similarities, prompting the U.S. Department of Justice to recently merge the two previous sections to address the two phenomena simultaneously.

- Organized crime has grown in sophistication internationally, developing a global reach that transcends the more geographically-isolated models of the past. Organized crime uses technology and communication networks to extend its reach and is expanding into new areas – manipulating securities/commodities markets and cyber crime.
- The scope of this threat can destabilize financial institutions and undermine commercial markets, jeopardizing confidence in global financial systems. Criminal organizations are making political alliances, enabling them to penetrate energy and other strategic sectors of the economy, with national security implications.
- Transnational organized crime can facilitate terrorism and espionage networks.
- Criminal organizations are increasingly promoting public corruption in governments at all levels, from border guards to senior leaders. Achieving this level of power and influence works hand-in-hand with public corruption – Ex: Ivan Ivanov, Pavel Lazarenko, Arnoldo Aleman.

To counter these threats, U.S. law enforcement is adopting new approaches:

- Requires the best, latest information and intelligence – helps to prioritize and coordinate nationally and internationally.
- Enhanced use of non-law enforcement tools, such as effective regulatory approaches and legislation targeting shell corporations.
- Using the Enterprise Theory -- prioritize and target the leadership of the most significant organized crime threats and most pervasive networks, attacking from all angles to take down the entire enterprise. Important to dismantle the entire organization through proactive investigation and successive, “rolling” prosecutions.
- Use all available legal tools – racketeering laws, conspiracy concept, asset forfeiture can help to dismantle or weaken criminal organizations.

John Picarelli – Organized crime is a generator of corruption. Corruption facilitates activities such as drug trafficking, human trafficking, smuggling, etc. Corruption exists at every link of the chain – senior officials, border agents, police, etc.

- Organized crime needs access to services in order to operate – corruption enables access without calling attention to the activity. Ex: false passports, customs documents, etc.
- Systemic corruption – entire lines of business falling into criminal hands – using legitimate business to facilitate or finance organized crime. Involving businesses, public officials and regulators at all levels.
- Targeting legitimate businesses – often unwitting participants. Gives organized crime access to the global financial system.
- Establish charities and social service groups to buy good will within communities.

By promoting corruption, organized crime creates a vicious cycle, weakening all levels of government and creating very strong networks. This undermines public confidence in government, making effective remedial responses all the more difficult. An early 2010 academic conference focusing on research gaps on corruption and organized crime concluded:

- It is essential to develop reliable information regarding the scope of harm caused by transnational organized crime and corruption, and identifying the most effective approaches.
- Focus on how corruption facilitates crime, including weaknesses in regulatory framework and enforcement, and how “state capture occurs.”

Researchers generate valuable information and approaches to help law enforcement, and need to be a part of effective state responses.

Michael Mansfield – Commissioner Mansfield described the New York City Business Integrity Commission, a law enforcement and regulatory agency charged with eliminating and preventing organized crime and corruption of legitimate industries in New York City. The Commission utilizes a combined law enforcement and regulatory approach to remove organized-crime control over key industries such as private waste disposal. Commissioner Mansfield addressed the conditions that led these industries to become vulnerable to organized crime, and described how criminal involvement added costs to consumers and denied competition in key industries responsible for essential public services. He described how the Commission developed procedures and criteria for licensing companies seeking public contracts in the private sanitation sector, and the importance of working with the private sector in developing transparent standards and business practices. Private sector companies have grown to appreciate how this regulatory regime benefits the overall business climate and their own financial stability. Commissioner Mansfield emphasized that political will is essential in order to sustain diligence to enforce this regulatory approach, and that organized crime is an adaptable, resilient opponent that can return to vulnerable industries if left unchecked. Business environments must be addressed, not simply corrupted businesses, and prosecutions alone are insufficient.

Main Outcomes/Recommendations

- Lessons learned from controlling crime in one place can be applied to transnational crime, but have to be mindful of tackling the entire network, whether it's limited to one location or extends beyond borders.
- If there remains a demand, suppliers will fulfil it. Reforming markets through effective regulation is an essential complement to law enforcement action.
- International intelligence sharing is critical – a comprehensive approach is needed to go after networks.
- Large scale prosecutions have had a deterrent effect on new players/leadership, and over time, can debilitate criminal networks.
- Effective legislation should have private sector buy-in, where relevant.
- In order to address organized crime, law enforcement and the public have to be willing to take on dangerous and powerful players. Political will and continued vigilance are essential. State capture creates a much different problem to address.
- To prevent state capture, the public and civil society must be actively engaged in order to make it more difficult for corrupt actors and criminals to operate. Citizens have to feel comfortable to report criminal activity and make demands of government.
- There have been cases where hopeless situations have come back, such as New York City and Sicily. This requires a coordinated approach between law enforcement, public officials, regulatory authorities, and civil society.
- To address transnational organized crime, governments have to work across borders – easier for organized crime to cross borders than for governments to cooperate sometimes. International efforts to break down bank secrecy and build legal cooperation have been very important.

Workshop Highlights (including interesting quotes)