



Debate

The Alien Conspiracy Theory: aka The Elephant in the Front Parlor

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Abstract: The alien conspiracy theory of organized crime has a peculiar American history. Once accepted there, a version of it was exported to Europe with the acronym “LCN” and accepted by many agencies and authorities without apparent understanding of its purpose and of the circumstances under which it originated. Though some observers have debunked it, the theory survives, largely unquestioned, as a conceptual framework for explaining organized crime. Although research activities have shown that the theory does not apply to data collected, the theory, reinforced by repetition, still dominates sections of governmental and public opinion. This paper describes and assesses the origins of the alien conspiracy theory and its continuing value as a point of reference. A more viable alternative is proposed, based on a spectrum approach to enterprise.

Keywords: Alien conspiracy; Cosa Nostra; Federal Bureau of Investigation; Federal Bureau of Narcotics; illicit enterprise; Mafia; organized crime; Organized Crime Task Force; Wickersham Commission.

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Introduction: A Three-Pronged Premise

I am indebted to Jana Arsovska for prompting this paper. In *Decoding Albanian Organized Crime* her initial goal was to show that the depiction “of Albanian organized crime as a family-based bureaucracy imported from mysterious foreign regions” (Arsovska, 2015: 8) was inaccurate. She succeeded admirably; but why did she have to disprove a theory that from my perspective is without value in the first place? As she observed later, “Some criminologists... argue that the success of this ‘alien’ paradigm of organized crime depends on the ability to isolate organized crime from other structures. One way this is achieved is by presenting organized crime as a sinister entity that threatens the civilized world” (Ibid: 90). To some, its origins are “rather murky,” (Standing undated: 77) yet it is held by others with sufficient conviction that one must prove that it does not apply elsewhere. But why should it apply anywhere?

The “alien conspiracy theory”, or ACT as I will refer to it in this article, was developed in the United States in the mid-1900s as a lens through which to view a particular crime problem. The approach was based on the premise that organized crime is not native to American culture but, rather, a phenomenon introduced by foreigners. In other words, the problem is defined by “difference”. If we rid ourselves of “the others”, as ACT reasoned, we would be rid of the problems they caused.

But is “difference” the correct starting point for addressing the conditions we categorize as organized crime? My goal here is to argue that we will understand the problem better by examining similarities rather than differences, and by learning how to deal with an internal, not alien problem: illicit enterprise.

It is likely that modern-day adherents of ACT are not fully aware of its roots and its history. My intent here is to shine light on some of the “murkiness” of that history. Once we understand how ACT was developed we can consider the real problem from which ACT has diverted us, and how it can be addressed more effectively.

In summary, I will begin with mid-nineteenth century roots in the beginning of Mafia Brotherhoods and the origination, from an Italian perspective, of what we now call organized crime. Initially, mafiosi emigrated to the United States from the time of Italian unification in 1861 to the onset of World War I. There were claims, as national attention focused on a notorious murder investigation, that the Mafia surfaced in New Orleans, Louisiana in 1890, but the claim was never fully investigated.

One can certainly argue that “if not New Orleans, then somewhere else”; but where it first took root in the United States or how it spread, it remained largely out of sight. In the decades between the two World Wars the concept of “organized crime” gained attention, particularly in Chicago, but it was applied to persons known

as “gangsters” or “racketeers”. It had no ethnic focus. The alien conspiracy theory, a particularly American invention, appeared after World War II as the Federal Bureau of Narcotics (FBN) tried to explain its perceived equation of an Italian-run Mafia with the recently-labelled organized crime in America. The FBN’s forced marriage of three unique concepts was eventually adopted as public policy in the United States. As this was taking place the FBI exported the U.S. view under the adopted name “La Cosa Nostra,” or “LCN“. Meanwhile, an alternative based on applying a “spectrum of legitimacy” to enterprise emerged to contest what had now become the “Organized Crime = Mafia = Alien Conspiracy” premise.

As we look once more at the American side of this history, I want to separate some misinterpretations from fact so that the entire alien conspiracy premise can be put to rest and we can focus instead on enterprise. Readers familiar with organized crime literature will recognize that I described this period in great detail in 1975. (Smith 1975) My focus then, however, was on American public opinion and how the label “Mafia” was shaped and, in turn, how that shaping affected American public policy. My focus here is the alien conspiracy theory: where and how it originated, how it became equated with “Mafia” and “organized crime”, and how that equation has affected the way we think and act today.

Consequently, I will be re-examining some of the same source material (contemporary documents and historic reviews) I used in 1975 from a different perspective, a different “connecting the dots,” as it were. I will then extend my sources to comparable material from the past 40 years that will bring us more up to date concerning alien conspiracies.

Let me start, though, with one important observation from Letizia Paoli: “The mafia is, indeed, a very irksome topic for scientific research.” (Paoli, 2003: 20) To that I would add that a major stumbling block for researchers lies in two simple questions: What do you mean by “mafia”; and What do you mean by “organized crime”? In my experience, many casual observers, and even would-be researchers, are fuzzy on either count. The questions lie at the heart of Paoli’s analysis, and that is where I will start.

Mafia Brotherhoods and Their Relationship to Utilitarian, Economic Criminal Organizations

Despite earlier investigations it was not until 1984, and a string of mafia defectors (or *pentiti*) led by Tommaso Buscetta, that today’s understanding of mafia emerged. The first definitive analysis is Paoli’s work, and I would not presume to add to it. I note one component of her analysis: like other organizations, the structure and development of mafia groups were influenced by their social/ethnographic/political setting.

That setting was peculiarly Southern Italian, reflecting unique political and economic factors, particularly the influence of Bourbon rule over Sicily. Paoli's description is extensive, (Paoli, 2003: 178-186) and it suggests a question that has not previously been addressed: how might mafia brotherhoods have developed—if at all—had political conditions been different? That is, would there have been a supportive “niche” in the Sicilian setting if the Bourbons prior to 1861 had developed a local government structure that worked? The same question could be restated in a different setting: when mafia *cosche* moved elsewhere; would they survive in a new environment? Varese (2011) has provided an initial, and provocative, answer (Varese 2011) to which I will return below.

Meanwhile, as Paoli examined the origins and their development, she distinguished between two approaches to organization identified by Weber (1978): a premodern status or fraternization contract; and a utilitarian or purposive contract. The former lies behind the brotherhoods. It means a change in the individual, to become, as Weber put it (p. 672), “something different in quality... from the quality he possessed before”. In other words, “Who am I to be?” The latter entails the promise of monetary or material rewards in exchange for completing specific tasks. In other words, “What am I to do?”

Though beginning as status contracts, Paoli notes that the behaviors of mafia groups and individual mafiosi soon morphed into illegal activity reflecting purposive contracts. The change came through patron-client relationships, mutual arrangements between one who has authority, social status, wealth, or some other personal resource (the mafiosi patron) and others (largely from the peasant class) who would benefit from the patron's support or influence. Those relationships had economic and political ramifications. Economically, they led to profit-making activities that established a base for later, illegal extortionate transactions and other criminal behavior. Because of the absence of local political institutions under the Bourbons, they also led to political power. In return for benefits clients were expected to provide political support - an expectation with roots in an older Roman tradition in which benefits given to *cliens* by a *patronus* “bought” votes (Roniger 2004).¹

At first glance, the purposive contract simply extended the fraternization contract, so that one eventually subsumed the other. In the Italian context the economic aspects of Mafia were understood to be the roots of what we later came to call Organized Crime. But following Paoli's analysis, a more thoughtful reading of the evidence suggests something else. There has been considerable overlap between the two forms of organization in the Italian setting, but they are not congruent. Purposive contracts aimed at illicit enterprise have thrived elsewhere without

1 Though both political and economic aspects became formidable in the Sicilian setting, I will focus on the economic arena, the more important of the two in terms of Sicilian engagement in the American experience.

reference to preexisting fraternization contracts. They flourish because legal entities cannot (or do not) provide what customers want, and they can be found in any economy or social setting. The concept of “Mafia” is not inherent in illicit purposive contracts. Yet the link between them has been accepted by most observers with little examination or question. It underlies claims made in 1967 concerning the nature of American organized crime. It also underlies subsequent associations of the mafia label with non-Italian criminal enterprises, e.g., the “Russian mafia” or, as noted earlier, the “Albanian mafia.”²

The Italian Diaspora, 1860–1915 and “Men of Honour”

Approximately 4 million Italians emigrated to the United States from 1880 to 1920 as part of a larger diaspora in which Italians also moved to Africa, South America and Canada. Most came from the agricultural regions of Southern Italy and Sicily which were impoverished by earlier foreign misrule and then by an oppressive tax system imposed after Unification. The new Italian government encouraged emigration to relieve economic pressures in the South; after 1865 the United States encouraged workers to emigrate to fill a post-Civil War labor shortage (Mangione and Moreale, 1992). The American South was attractive, particularly to Sicilians who took advantage of the Palermo-New Orleans shipping route (Maselli and Candeloro, 2004: 10).

New Orleans was not as friendly to new Italians as it had been for their predecessors. Newcomers were viewed as perpetual foreigners and were restricted to manual labor. They worked on docks, in Macaroni factories, and in nearby sugar plantations (Maggi, 2012). Their frequent lack of formal education, and competition with earlier immigrants for lower-paying jobs and housing often resulted in hostility (Mangione and Moreale, 1992). Particular animosity existed between them and the Catholic Irish, who immigrated earlier and were more established in the city. Even older Italian residents from northern Italy discriminated, recalling sayings that unjustifiably painted all Sicilians as untrustworthy and dishonest.

Other Italian emigrants came through Ellis Island in New York City and other ports along the eastern seaboard. Most found themselves crammed into urban ghettos—“Little Italy’s”. The most populous and famous was on the Lower East Side of Manhattan. Life was not easy there; emigrants lived in crowded, usually decrepit tenements. Men worked in construction and in factories; women worked as seamstresses. A seventy-hour week was common. Newcomers from the same village clustered for a sense of the “old” familiar in the “new” locale; and local politics and policing reinforced old customs. For example, in the early 1900s there were

2 The concept of “Mafia” being a critical link has dominated American public opinion since the 1960s, to the point that it is used in fictive and factual, non-criminal situations that bear little relationship to its actual Italian roots (Smith 1975).

approximately 50 Italian-American police officers in New York City (Smith, 1975: 52). Had their representation been proportionate to the Italian share of the city population, there would have been 1,500 Italians on the force. Instead, the police came predominately from German and Irish stock, predisposed to stay clear of Italian neighborhoods. Other cities reflected similar ethnic disparities and behaviors. To the new immigrants, these circumstances would have seemed like a reconstitution of the old Bourbon regime back home.

Supporting all aspects of discrimination was the American tendency towards xenophobia. Anti-Italian “scare” stories and editorials were common. *New York Times* editorialized about “Undesirable Emigrants” on December 18, 1880 by railing against “promiscuous immigration ... (of) the filthy, wretched, lazy, criminal dregs of the meanest sections of Italy.”

Mafia groups were already established in Southern Italy when the Diaspora began and “Men of Honor” were nestled within it. As Varese (2011) has noted, they did not leave voluntarily but were forced to leave home to escape either mafia wars at home or prosecution—“just making the most of bad luck” (Varese, 2011: 8). They brought with them mafia skills, particularly experience in using violence. Varese’s approach is a slight variance from Paoli’s, and it is not entirely clear how American culture and society affected their continuing fraternization or purposive experiences. Contemporary news reports suggest that old mafia habits of extortion and kidnapping easily fit the ghetto social structure of the Northeastern United States as long as politicians remained indifferent and the police stayed away. As Arthur Warner wrote in 1909, “The public ought to realize, if it is serious in desiring to see the Black Hand [as mafia was then generally known] suppressed, that the police force of our cities, as constituted, is incapable of meeting the problem.”

Although as Varese (2011: 105, 112.) points out, there were mafia-related news accounts in the 1870s and 1880s, there were only two occasions between 1861 and 1914 when “mafia” prompted national attention. Both involved the unsolved death of a police officer in which mafia involvement was alleged. In both cases evidence at the time was circumstantial at best, and interest in mafia faded until both incidents resurfaced in the late 1940s. A review of each illustrates the “murkiness” of mafia history.

The Hennessey Assassination

On October 15, 1890, the New Orleans Chief of Police, David Hennessey, was assassinated by persons unknown. The episode and its aftermath provide a complex story,³ but the basic facts are as follows. He was shot on his doorstep around midnight, and was taken to Charity Hospital where he died nine hours later. After

3 For an extended examination of the event and its aftermath, see Smith 1975, pp. 27-45.

the shooting he was reported to have said either “The Sicilians have done for me,” or (almost as a murmur), “Dagoes”; but there is no record that he said anything more about his attackers. The reputed doorstep comments, which were never subsequently verified, were the first link to the Sicilian community and a presumed “Stiletto Society”.

Mafia entered the story through an ongoing stevedoring rivalry between two Italian families in which Hennessey was involved. Five months before his assassination, workers from one family were ambushed; several were killed or wounded. Members of the other family were accused of the attack. They were convicted two months later, but because of “inconclusive evidence” the verdict was set aside and a new trial was set for October 22. Hennessey had been a friend of the second family, and was suspected of influencing the judge’s order. When he was killed a week before the trial, that second family told reporters that their rivals were mafia, and had shot Hennessey because “he got some things from Italy about them, and at the second trial he was going to tell what he knew, and that would break them up.”

The responses of the Mayor and City Council were to assume that there were “secret societies or bands of death-bound assassins” in the emigrant community; and to appoint a vigilante-like “Committee of Fifty”: public citizens charged to ensure that justice was done. As the mayor put it,

We must teach these people a lesson.... For years past the existence of stiletto societies among the Sicilians in this city has been asserted.... The Sicilian who comes here must become an American citizen and subject his wrongs to the remedy of the law of the land, or else there must be no place for him on the American Continent” (*New York Times*, October 19, 1890, p. 1).

Eventually, the assault was charged to a “Sicilian Assassination League.” Seventeen Italians were arrested, indicted (as principals or accessories) and held for trial the following spring. The case against the nine accused murderers was tried first; and to the consternation of local citizens, on March 13, 1891, all were acquitted. The Committee of Fifty called for a mass meeting at 10 a.m. the next day, “to take steps to remedy the failure of justice in the Hennessey case,” adding: “come prepared for action.” Coincidentally, the next day, March 14, was the birthday of King Umberto I, and some emigrants flew Italian flags in his honor. Locals interpreted the flags as a celebration of the acquittal, and the mood was ugly before the mass meeting began.

Action did follow. A mob stormed the local jail (where the acquitted defendants had been held overnight while release papers were processed) shot nine of the original group of seventeen inside the jail, including five who had not been on trial, and delivered two others to the waiting crowd to be hung publicly. Led by

prominent local citizens and endorsed by the non-Italian community, it was the largest mass lynching thus far in American history.

The issue of Mafia, and of what Hennessey knew, did not enter the murder trial, and no evidence of what he would have revealed was ever found. Actions of the lynch mob ended local concern; the second assault trial was not held. Widespread national interest in the case lasted approximately eighteen months before public discussion of Mafia faded from sight. It is likely that Mafiosi had emigrated to New Orleans, but the Hennessey case does not prove it. The facts may be irrelevant, though: a half-century later, without reference to the lynch mob or the stevedoring dispute, the assassination reappeared as uncontested proof of the presence of the mafia in New Orleans in 1890.

The Petrosino Assassination

On the evening of March 12, 1909, Lieutenant Joseph Petrosino of the New York City Police Department was shot and killed in the Piazza Marina of Palermo. He had been there for two weeks, with diplomatic support from both the United States and Italy, to locate penal certificates - grounds for deportation - for approximately one thousand suspected criminals who might have come to the United States. His two reported assailants were not apprehended.⁴

Back home, Petrosino was a martyr. He was respected in Little Italy. An immigrant himself, he joined the police force in the 1880s and had worked his way to mid-level authority. As one of the few Italians on the force, he became head of an "Italian Squad" that concentrated its efforts on the Italian ghettos. In early 1909 he was transferred to a new Secret Service branch, organized to confront the Black Hand and anarchists. It was in this new post that Petrosino was sent to Italy.

An estimated 250,000 people lined the New York streets to observe his funeral procession. In an obituary for *Harper's Weekly*, Frank Marshall White wrote: "Upheld by an exalted sense of duty he went his way fearlessly, though he knew he had been marked for death by the two most powerful and dreaded criminal organizations of the time, the Camorra and the Mafia."

The facts are not that clear. After his death two associates from the Police Department, Anthony Vachris and detective Crowley went to Palermo and completed his project without opposition.⁵ His death alternatively could have been linked to another Italian-based criminal case for which police work by Petrosino in

4 For a more complete review of the Petrosino case, see Smith 1975, pp. 45-54.

5 Despite their success, the penal certificates were never used. There was a top-level shake-up in the Police Department and the Commissioner was fired for reasons unconnected to Petrosino and Italian criminals. Vachris and Crowley were reassigned and their project was filed.

New York had been important to Italian prosecutors.⁶ As with the Hennessey case, the real cause is less important than the perceived cause: murder by the “Black Hand”. Public concern did not last long, however, and Petrosino dropped from view until the 1940s, when the story of his murder resurfaced as additional “proof” of the mafia’s presence in New York.

Meanwhile, without Petrosino extortion and other criminal activity in the ghetto continued but with no public complaints. Knowledgeable outsiders interpreted this as *omertá*, a “conspiracy of silence,” due not so much to silence on the part of criminals as the pragmatic response of beleaguered victims who had calculated the odds of law enforcement support. Eventually the New World culture affected the old structure. Mafia-like crimes against immigrants decreased as second-generation Italian-Americans moved from the ghettos of their parents and joined the wider society with a less hospitable environment for traditional mafia illegalities.

In summary, the public knew of a mafia presence in the 1860-1915 period, but that awareness was intermittent. A residual sense of the meaning of mafia existed, not well-defined and not holding any public prominence: it stood for “ethnicity, violence, and an alien, or non-American way of approaching life” (Smith, 1975: 88). Whatever it had meant in Italy, it was now known as “Stiletto societies,” “death-bound assassins” and “Black Hand extortionists”.

“Organized Crime” Appears ...

The concept of “Organized Crime” was formulated during the late 1920s, as a different way of understanding the criminal underworld, or criminality, in a multi-ethnic setting. It first appeared in two venues, one local and one national. They reflected different approaches and, consequently, came to different conclusions. The differences are roughly comparable to Weber’s distinction, noted earlier, between fraternization and purposive contracts.

Organized Crime as a Local Issue

The Chicago Crime Commission was the first to use the term in 1919, as the way to describe

the orderly fashion in which the so-called ‘criminal class’ ... in Chicago allegedly could pursue ‘crime as a business’. This characterization of organized crime as an integral part of society apparently reflected the perception of Chicago by the old established Protestant middle class as a city that ... seemed to be drowning in crime, corruption and moral decay (Von Lampe, 2001: 104).

6 Petrosino was prominent in two earlier cases. One concerned Raffale Palizzolo, a defendant in the earlier Notarbartolo murder trials; the other concerned Enrico Alfano, a defendant in a pending Cammorist trial. (Smith, 1975: 54.)

The Commission noted the nascent bootlegging aspect of Prohibition, but did not probe further. In 1927 its investigative responsibility was assumed, for a time, by the Illinois Association for Criminal Justice. Two years later the Association published the *Illinois Crime Survey*. It contained sixteen studies, the largest of which was John Landesco's *Organized Crime in Chicago*. By the time it was published, however, the Association was on the verge of disbanding, and the report received scant attention.

Landesco's conceptual home was the newly emerging "Chicago School" of urban sociology, that focused on the social structure of a city, rather than its criminal justice procedures, to explain the nature and extent of crime. There was a tremendous social distance between the elite Gold Coast residential area along Lake Michigan and the Back-of-the-Yards area around the stockyards where most criminals lived in lower class neighborhoods. Landesco (1929: 221) described them in "The Gangster's *Apologia pro vita sua*":⁷

The story which (the gangster) gives of his own life shows him to be a natural product of his environment — that is, of the slums of our large American cities. These slum areas have been formed in the growth of the city. They have been ports of first entry for each new wave of foreign immigration. These slum areas inhabited by national groups, as well as industrial areas like back-of-the-yards, are subject to the constant misfortune of the drawing off and moving away of the legitimately successful people. The constant ambition that grows with the rise of the people is to get out into the better districts of the city. As the successful families move away they leave behind the unsuccessful, laboring foreigner, who is not accepted as a model for the children and youth in their process of Americanization. But there also remain the gangster and the politician chief, who become practically the only models of success.

Landesco also showed that the roots of organized crime predated Prohibition by nearly a half-century. The emergence, with political collusion, of gambling and prostitution in the 1880s, generated an organization structure that easily moved later into bootlegging. The principal organization change for the modern gangster was to substitute political graft for friendship as the key to immunity from the law. It enabled gang networks to gain city-wide prominence apart from the neighborhoods where they grew up.

Following the Chicago School approach, Landesco's solution to organized crime was to combine a frontal attack on the causes of crime with a long-range and sustained change in public attitudes to break down the barriers separating immigrant communities from Native American communities. But he and his supporters "exerted little influence upon the attitudes and activities of the economic elite of the city [who had sponsored the Association's studies]. Much to the

7 The Chapter title is a play on Cardinal John Henry Newman's 1865 autobiography, a classic defense of his religious opinions.

contrary, these leaders' continuing campaign against Crime in Chicago was rooted in the deterrent tradition⁸." (Haller, 2011: 30) As the Association for Criminal Justice closed shop, Landesco's report was consigned to the files until it was resuscitated in 1968 by Mark Haller.

Organized Crime as a National Question

As Landesco was finishing his study "organized crime" appeared unexpectedly on the national stage. The occasion was President Herbert Hoover's "National Commission on Law Observance and Enforcement," informally known by the name of its chairman, George W. Wickersham.⁹ After the presidential election of 1928 Hoover was faced with Prohibition. He supported it: most of the country did not, and opposition led to support of the illegal bootlegger. Public disdain for the Volstead Act (through which Prohibition had been enacted) was seen as a cover for disobeying other laws as well. In an attempt to defuse the issue, the first topic in Hoover's inaugural address in March 1929 was "Weakness in the System of Criminal Justice." It was due, he said, "only in part to the additional burden imposed upon our judicial system by the Eighteenth Amendment;" there were other problems in federal and state systems. He proposed a national commission "for a searching investigation." Congress approved an appropriation for it, and Hoover named the commissioners in late May. When they assembled a week later, Hoover told them, "The American people are deeply concerned over the alarming disobedience of law, the abuses of law enforcement *and the growth of organized crime....*" *New York Times*, May 29, 1929, p.1 (emphasis added).

The Commission published 14 reports, addressing prohibition; problems internal to the criminal justice process and agencies associated with it; and social science issues surrounding criminal justice. In the latter category was a report innocently labeled "The Cost of Crime," culminating a two-year study led by two New York City lawyers on pro bono assignment to the commission, Goldthwaite H. Dorr and Sidney P. Simpson. It was "common knowledge" that the cost of crime was a serious burden, but data was fragmentary. Dorr and Simpson therefore developed a schematic data framework showing its complexity.

They began with two major categories: the cost of repressing criminal acts through prevention or punishment; and losses caused by criminal acts. The latter category had four components: losses due to criminal acts against persons; losses due to crimes against property; losses incidental to administration of justice (such as unreimbursed costs for jurors and witnesses); and "losses due to other crimes affecting wealth." That final component had two parts: commercialized fraud, in all

8 The "deterrent tradition" assumed that crime was best deterred by credible threats of punishment.

9 For a more extensive discussion of the commission, see Smith, 1991: 25-33.

of its dimensions; and extortion and racketeering. Dorr and Simpson explained why they had been linked by turning first to business fraud:

...the criminal frauds which cause the largest losses are organized schemes, carried on as a regular business.... (They) shade off by imperceptible degrees into enterprises that are so conducted as to avoid criminal liability... and the line between criminal and no criminal activity is thus frequently a rather arbitrary one (Wickersham Commission: 405-6).

There was no clear definition of racketeering, but it entailed relationships between the racketeer and three other parties: the victim (or the ultimate consumer); legitimate businesses; and law enforcement agencies. Understanding those relationships was an indispensable first step to understanding racketeering. Both racketeering and commercial fraud needed further detailed studies, but even without them,

(b)oth of these forms of crime, in their more important manifestations, are examples of organized crime as a business. Both are modern in development and methods, and constitute, it is believed, by far the most serious problem with which criminal justice in present-day America must deal. (412)

This was the first time that “crime as a business” included acts of both legitimate businessmen and persons otherwise known as criminals. There is no record of a conscious decision to make the link; apparently Dorr and Simpson did not think they were breaking new ground. Their usual frame of reference was business law, not criminal law. They could easily visualize “the business man gone wrong,” whose behavior would not have seemed that different from the gangster operating within an illegal business structure. A continuum of behavior linking the two was easier for them to envisage than it would have been for the investigator who started by looking at criminals. Asking about *What* led to behaviors and a framework for associating or linking them, whereas asking about *Who* led to categorizing and distinguishing between groups or “types” of persons.

Landesco had seen a separate category of organized crime: but the back-of-the-yards where it thrived was not the Gold Coast, and there was no continuum linking them. Thus the outcomes of both studies depended on where the investigators had gone in. Although both started by examining crime as a business, Landesco looked at categories of people who engaged in it; Dorr and Simpson looked at their behaviors. Even with this distinction they shared two fundamental premises that set their findings apart from mafia-based claims: ethnicity was not a determining—or even a contributing—factor in their analyses; and the problem was home-grown, not imported.

The Wickersham Commission agreed wholeheartedly with Simpson and Dorr. Its letter of transmittal to Hoover and Congress ended by saying “(t)he

importance of dealing effectively with organized crime, whether commercialized fraud or extortion, cannot be overemphasized....” (7-8). But that is as far as it went. The Commission’s work as a whole foundered because it could not produce a clear and coherent set of recommendations concerning Prohibition. The result was public skepticism and rejection that affected the other work of the Commission. Dorr and Simpson’s effort to define the terms for an investigation of organized crime disappeared into the obscurity of library stacks.

Organized Crime as a Prosecutor’s Rallying Slogan

While neither the Landesco nor the Dorr-Simpson studies generated direct results, the label migrated to New York State where, in 1935, it was appropriated by Thomas E. Dewey when Governor Lehman appointed him as a special prosecutor to probe crime and racketeering in New York City. In a city-wide radio address on July 30, 1935, Dewey said:

We are concerned with vice.... We are concerned with gambling or numbers games.... Any criminal operation which pours money into the coffers of organized crime is a contributing menace.... Organized crime has the means of corrupting public officials and buying immunity from punishment. This flow of revenue to the criminal underworld must be stopped....We will prosecute every crime which is a part of an organized racket.... however minor the crime may be... if it is part of organized crime...¹⁰

As a prosecutor, Dewey followed the Chicago concept of organized crime by focusing on the criminal, not the Dorr-Simpson focus on behavior. He did not annihilate the New York rackets, but his efforts represent the one relatively successful attack on organized criminals in the thirties. In the process he adopted “organized crime” apart from any definition, as a label in his probe of crime and racketeering. Landesco and others in Chicago had thought of “organized crime” in definitional terms as the outcome of the environment in which gangsters associated, gained identity, and prospered; Dewey and his law enforcement successors thought of it simply as the name of the racketeer’s gang.

Even so, the new name was then too remote a phrase to compete effectively with “gangster” and “racketeer” as a public label. Besides, gangsters and racketeers were known to provide services, particularly access to liquor and gambling, for a large segment of the public; they were servants, not enemies (Lippmann, 1931).¹¹ A pejorative label like “Mafia” that had resonated earlier in the century also did not fit the new, multi-ethnic class of servants. Twenty years later both labels returned,

10 For a more complete description of Dewey’s campaign, see Smith 1975, pp. 79-81.

11 See also Smith 1975, pp. 86-89.

accepted as fact by writers intent on advancing an “alien conspiracy” meaning of organized crime.

Revelation, by the U.S. Federal Bureau of Narcotics, of an Alien Conspiracy

In retrospect a pattern emerges in the way in which the FBN communicated to the public from the 1930s to the 1960s. Whether a planned strategy or simply the consequence of an organizational attitude, one sees a strong component of xenophobia underlying its continuing efforts to play on fear and anxiety about “others”. The Bureau demonized drugs and the drug business as it pointed to outsiders as the cause of a drug problem. Mexican immigrants were early targets (Musto, 1999: 219); later the FBN attempted to draw Chinese Communists into the spotlight (Musto, 1999: 230-231). The Bureau was also noted for its sometimes casual attitude toward facts (TheWeedBlog, 2011). Consequently, one views with a certain skepticism its efforts from the mid-1940s to the early 1960s to publicize “mafia” as the alien conspiracy source of organized crime. Three separate efforts were made between 1946 and 1957; when the third effort succeeded it was for a reason totally independent from the FBN campaign.

The first effort occurred on December 17, 1946 when Colonel Garland Williams, FBN’s New York district supervisor, named Frank Costello the “Kingpin of Harlem’s modern Mafia, or Unione Siciliana.” Using bureau records as his authority, he told a *New York Herald Tribune* reporter about the mafia:

During the last several years the Mafia became a thing of great interest... because throughout the United States the largest dealers in narcotic drugs are Italian speaking people. As a result of our investigations we found that these people were members of the Mafia -- the old Unione Siciliana.

From this we have made careful investigation of the Mafia and we have established that, contrary to a great many people’s opinions, the Mafia is not dead; on the contrary, it is a very dangerous criminal organization that is being used to undermine the principles of American ideals of law enforcement... (December 20, 1946, pp. 1 and 18).

Costello had a long history of criminal or near-criminal activities, particularly smuggling and gambling. He managed generally to endure negative publicity, but this time he pushed back. He called his own press conference to denounce William’s claims (“Anyone who knows me knows my opinion of narcotics and the low opinion I have of the people dealing in it...”). He even volunteered to testify before a grand jury, to which District Attorney, Frank Hogan, did not respond. The FBN was not used to targets that fought back. With Costello out of the case a six-man narcotics

ring could not sustain the Mafia label. True or not, Mafia and the Harlem racketeering charge disappeared.

Undaunted, the Bureau turned to the Congressional stage and a better hearing from Senator Estes Kefauver's Special Senate Committee to Investigate Organized Crime in Interstate Commerce¹²--an audience that would listen and not push back. The Committee was created in May 1950 with a broad mission to determine whether interstate commerce was being used for illegal activity and whether "corrupting influences" had developed as a result. For the next year the committee held hearings around the country, ending with seven days of televised hearings from New York City that featured testimony from Frank Costello and New York City mayor William O'Dwyer.¹³ In its Third Interim Report issued after the public hearings, the committee concluded that interstate commerce had been illegally used, and that corrupting influences had developed. Bookmaking on horse racing was a prime example, and the report made special reference to the Continental Press Service, which had received "aid and comfort" from Western Union. They were "businesses gone wrong," as Dorr and Simpson would have put it twenty years earlier.

Frank Costello was a principal target of the Committee because of his known influence over slot machines. But gambling was not the only problem. Organized gangs operated in interstate commerce in narcotics and prostitution—and some of them were bound by ethnic ties. Other Italian-Americans were also called to testify, but refused to answer questions, relying on their Fifth Amendment rights against self-incrimination. Several FBN agents worked with the committee and had provided testimony about a mafia. The First Interim Report provided some strong hints of it; the Second was more direct, actually using the name. It remained for the Third report, however, to bring mafia fully into the picture, by concluding that

there is a sinister criminal organization known as the Mafia operating throughout the country with ties in other nations in the opinion of the committee. The Mafia is the direct descendant of a criminal organization of the same name originating in the island of Sicily.... The Mafia is a loose-knit organization.... the binder which ties together the two major criminal syndicates as well as numerous other criminal groups throughout the country (Third Interim Report, 2).¹⁴

12 For an extended examination of the Kefauver Committee hearings and findings, see Smith 1975 Chapter 5, pp. 121-151.

13 An estimated 30 million viewers tuned in on the New York hearings. I remember them well, particularly Costello's appearance. His lawyers had negotiated with the committee that their client's face would not be shown on TV, so we listened to voices while watching Costello's nervous hands drumming on the table -- a great psychological contribution to the occasion.

14 For further details concerning the Bureau and the Committee, see Smith 1975, pp.131-144. Note that in its dealings with the Kefauver Committee the FBN had extensive support from the San Francisco Police Department.

The Kefauver Committee transcripts show that this conclusion was furnished by the FBN. Throughout the hearings references to Mafia occurred *only* when an FBN agent was testifying. The transcripts also strongly suggest that the committee repeated the FBN claims but did not fully adopt them. In its view organized crime was localized, featuring “wide-open” towns where gangs depended on corruption of local officials. Having said there was a “sinister criminal organization” the committee qualified its position, saying it was “*inclined to agree with the opinion of ... narcotics agents who believe... there is a nation-wide crime syndicate known as the Mafia*” (emphasis added).

To its credit the FBN had described fairly accurately, if superficially, what we generally know today about the Sicilian mafia. It imported an intermixture of fraternization and purposive explanations for mafia organization and behavior. Then it added America’s contribution: in a new social/historical context, “Mafia = Organized Crime = Alien Conspiracy.” But the premise had been forced into the Committee’s agenda, and it did not take hold.

The FBN’s third opportunity came in 1957 when Senator John McClellan’s Select Committee on Improper Activities in the Labor or Management Field was established.¹⁵ As its name suggests, McClellan’s group began by channeling the Dorr/Simpson approach to organized crime, the “business man gone wrong.” Hearings initially focused on arrangements between owners and labor in the garbage industry on Long Island and in Westchester County, north of New York City. The Cartmen’s organization had made a deal with its union for aid in controlling outside competition. Though the deal was collusive, only the labor witnesses were regarded by the committee as hostile. Many of these “bad guys” were Italian-Americans, but when the hearings began they were called “gangsters” and “racketeers”. Nevertheless, “Mafia” flirted around the edges, thanks to the presence of FBN agent Joseph Amato, who was, as he put it, “in charge of the section of enforcement relating to Mafia gangsters and racketeers.” That assignment was recalled on November 13, 1957 by a committee member, New York Senator Irving Ives. As Amato testified about the reputation (as a “prominent racketeer”) of Vincent Squillante, Ives asked whether “these people” were members of the Mafia. Amato concurred, adding

there does exist today in the United States a society, loosely organized, for the specific purpose of smuggling narcotics and committing other crimes.... It has its core in Italy and it is nationwide. In fact, international (pp. 6743-6744).

Over the next two days mafia membership was raised during testimony by several other hostile witnesses. On November 15 Ives asked Chairman McClellan

¹⁵ For further details concerning the McClellan Committee, FBN, mafia and the circumstances surrounding them, see Smith 1975, pp. 152-188.

whether the Mafia question should be investigated further, and Committee Counsel Robert F. Kennedy assured him that more information “would be forthcoming the next year.” Ironically, Kennedy gave his assurance before news broke about the (in)famous gangster meeting at Joseph Barbara’s house in Apalachin, NY the day before.

Many theories and assertions have been advanced, but the meeting at Barbara’s house has never been conclusively explained. It became public when State Police Sergeant Edgar Crosswell, who was assigned to that area, became curious about the large number of visitors, mostly from New York City, who were at Barbara’s house on November 14. He held a grudge against Barbara for an earlier and totally unrelated episode,¹⁶ and set up a roadblock on the dead-end road leading to Barbara’s house so he could stop everyone leaving the premises. He learned the names, addresses and stated occupations of 58 men, and through teletype networks could determine whether any of them were wanted by state authorities or local jurisdictions. He had no charges to bring against them; he could only check for valid driver’s licenses and pistol permits, and he could search the cars (the principal result being a report on how much cash each man was carrying). It was as baffling as it was unexpected, and it was not until November 17 that the *Herald Tribune* reported “a significant fact ... not generally noticed ... is that both Sicilian and Neapolitan factions were represented.”

Crosswell’s roadblock opened a legal can of worms that remained in public view for three years.¹⁷ Immediately, however, it had an effect on the McClellan Committee in two important respects: it provided a setting for continued references to Mafia, thereby keeping the FBN “alien conspiracy” campaign alive; and it changed the testimonial landscape. Prior to the Apalachin event relations between business men and their union had a collusive flavor; after Apalachin, activities by unions were no longer seen as collaborative. Instead, those same activities were “infiltration of legitimate business.” The Dorr/Simpson “business man gone wrong” was no longer a component of organized crime.

A New Name for the Conspiracy and Its Exportation

The Narcotics Bureau had done its work: “mafia” had become a continuing public issue. In the half-dozen years after the Apalachin event the American mafia debate became more visible, but FBN provided an increasingly smaller voice. Its agents were joined by several local and state jurisdictions eager to enter the fight against

16 In 1944 Barbara had declined to press charges against an employee whom Crosswell had caught stealing company gasoline. The Crosswell-Barbara relationship over the next 13 years suggests strongly that the Apalachin roadblock was Crosswell’s way of “getting even.”

17 For a full-scale examination of the Apalachin incident and its aftermath, see Smith 1975, pp. 162-216.

organized crime, but one individual and his agency were conspicuously absent: J. Edgar Hoover and the FBI

Prior to 1963 Hoover steadfastly refused to acknowledge the existence of organized crime. An early biographer, Richard Powers (1987), wrote that Hoover had not only ruled out the notion of an Italian-American Mafia but had also ruled out more general conceptions of syndicates and criminal organizations. Consequently, in November 1957 he was unable to provide any information relevant to the so-called Apalachin meeting. It was a public embarrassment to him personally, and to the FBI. In response, as William Roemer (1989) describes it, Hoover quietly established the “The Top Hoodlum Program; Anti-Racketeering” program, with the racketeering aspects of the Hobbs Act of 1946 as its legal justification. A major element in the program was the use of secret, illegal microphones and wiretapping of organized crime suspects (Roemer, pp.71-81). In 1962, the program led to FBI interrogation of Joseph Valachi at the Atlanta Federal Penitentiary.

Valachi testified in the fall of 1963 before the Permanent Subcommittee on Investigations of the Senate Committee on Government Operations, chaired again by Senator McClellan.¹⁸ He described the creation of “Cosa Nostra” by Salvatore Maranzano following the so-called “Castellammarese War” that Valachi said occurred in 1930-31. His story was that Maranzano had arranged to have his chief rival, Giuseppe Masseria, killed; then Maranzano created and named the new organization. Others later called it the “Americanization” of the Sicilian Mafia in the United States.

At that time, history was unclear as what had happened. There was gang rivalry in 1930-31; Masseria and Maranzano were both killed, as were others. The conventional explanation was that it was a purge of an older generation, the so-called “Mustache Petes”, but David Critchley (2009) has since provided a detailed and well-documented analysis, showing that the war and a “purge” did not happen as Valachi described it. But for our purposes, the reality is unimportant. Accurate or not, Valachi’s story enabled the FBI to join the organized crime fight publicly—but with a distinction. The FBI *never* referred to Mafia. The Bureau adopted and still uses the name Valachi gave them: “Cosa Nostra,” or in the agency’s acronymic shorthand, “LCN - La Cosa Nostra”.

Why did Hoover wait so long, and why did he never use “Mafia”? No one knows. I believe the answer lies somewhere between bureaucratic pride and Hoover’s long-standing antagonistic relationship with Harry Anslinger, head of the FBN. Even though Anslinger had retired from the FBN in 1962, if Hoover referred to “Mafia” now, it would be an admission that Anslinger got there first. The new name avoided that embarrassment. With Cosa Nostra as the target the FBI now

18 For a description of the Valachi testimony, and events surrounding it, see Smith 1975, pp. 217-242.

jumped wholeheartedly into the “war” on organized crime. The reality of organized crime was no different; it was only a name change. Most American investigators - and, overwhelmingly, the public - stayed with Mafia. Only the FBI (and, subsequently, those exposed to the Bureau’s approach) pursued Cosa Nostra, at home and abroad: its agents stationed in embassies in Europe introduced LCN and the alien conspiracy premise to their counterparts. Ironically, despite introducing a new name, Valachi (with later assistance from Mario Puzo) helped Mafia achieve a permanent place in the public vocabulary.

Formal Adoption of the Conspiracy Theory by the U.S. Government

When Valachi testified, several efforts to act against organized crime had begun under Federal, State and local auspices. Though largely uncoordinated, the participants shared a common frustration. They were beleaguered law-enforcement troops fighting an essential war on organized crime while the Supreme Court under Chief Justice Earl Warren was issuing opinions that undercut their efforts. In 1961-2, the now-Attorney General Robert F. Kennedy came to their aid with a new strategic approach that had started to take shape during the Valachi hearings. It centered on conspiracy as a crime, to be fought with new tools of expanded wiretapping and witness immunity. But Congress failed to act.

The 1964 Presidential campaign unexpectedly gave law enforcement a second chance. Reflecting a conservative reaction to the so-called Warren Court and to social and political upheaval during the early sixties the Republican nominee, Senator Barry Goldwater, repeatedly raised the question of high and increasing crime rates. After Democrat Lyndon Johnson won the election, he responded to the crime issue by creating a Presidential Commission on Law Enforcement and the Administration of Justice. On March 8, 1965, in a special message to Congress proposing the Commission, he wrote:

(C)rime is no longer merely a local problem. ... (and) the crime rate continues to increase. The time has come now, to check that growth.... I believe the way to do so is to give new recognition to the fact that crime is a national problem In some areas ... the Federal Government has a special responsibility ... (including) organized crime....

In the longer run we must also deepen our understanding of the causes of crime and of how our society should respond to the challenge of our present levels of crime. ... As the first step, I am establishing the President's Commission on Law Enforcement and Administration of Justice. The Commission will be composed of men and women of distinction who share my belief that we need to know far more about the prevention and control of crime.

The Commission did its work through Task Forces devoted to various study projects—but when the Commission started its work, organized crime was not one

of them. Despite Johnson's references the Commission at first did not intend to take up organized crime. After other projects were under way its staff persuaded the Commission to establish an additional task force on organized crime.

The larger law enforcement community, not just the FBN, finally had a sympathetic audience. Organized crime was no longer an abstraction, and "Mafia" was no longer a shadow. The Task Force provided the ultimate and formal connection in its 1967 report (p.6):

Today the core of organized crime in the United States consists of 24 groups operating as criminal cartels in large cities across the nation. Their membership is exclusively men of Italian descent, they are in frequent communication with each other, and their smooth functioning is insured by a national body of overseers.

This assertion was followed by a plea for concerted action against a fearsome entity that, in the eyes of law enforcement, now met a firmly established test: "Alien Conspiracy = Mafia = Organized Crime."¹⁹ Two consultant papers commissioned by the Task Force provided a platform for change. The first was Donald Cressey's sociological approach to organized crime, which was intended to provide academic cover and a theoretical foundation for the law enforcement community (Cressey subsequently wrote *Theft of The Nation* (1969), an expansion of the consultant assignment). The second consultant paper of note was Robert Blakey's analysis of the problems law enforcement faced in evidence gathering in organized crime cases. It built on Robert Kennedy's earlier effort by providing a base for new legislation that "unshackled" law enforcement while establishing a new way to combat organized crime: as Racketeer Influenced and Corrupt Organizations, or RICO.²⁰

It took a decade for the Justice Department to incorporate RICO into a successful program to prosecute organized crime. The key to its incorporation was a Supreme Court ruling in 1981, in *United States v. Turkette*, that an association-in-fact enterprise (as RICO put it) is "a group of persons associated together for a common purpose of engaging in a course of conduct."²¹

RICO was not simply a change in the legal approach to organized crime. It entailed a new investigative requirement, for which the FBI developed an "Enterprise Theory of Investigation", or ETI.

Because the use of conspiracy or criminal enterprise statutes form the baseline from which agencies develop their investigative strategies, the ETI requires that

19 Because of intense ethnic politics of the time, "Mafia" was not used by the Task Force (although Cosa Nostra was used). Political pressure remained strong enough that in 1970 Attorney General John Mitchell placed an embargo on the use of both "Mafia" and "Cosa Nostra" by Justice Department officials. It lasted for about two years, or until release of "The Godfather" movie, when "Mafia" claimed an identity independent from government control.

20 See the *Omnibus Crime Control And Safe Streets Act Of 1968*, 42 U.S.C. § 3711; and *Organized Crime Control Act of 1970*, Title IX: Racketeer Influenced and Corrupt Organizations Statute, 18 U.S.C. §§ 1961-1968.

21 *United States v. Turkette*, 452 US 576 - June 17, 1981.

departments expand the traditional models of evidence collection. While these traditional models generally only attempt to identify individuals and the crimes they commit, the ETI requires that investigators broaden evidence collection to show that an individual conducted the criminal activity to benefit the enterprise as a whole. By using favorable statutes along with a carefully laid out, multipronged attack on each established component that a criminal enterprise uses to conduct its illegal business, investigators can expand criminal culpability for a single criminal act to all members of the enterprise, regardless of whether they actually committed the crime (FBI 2001).

The time of adoption is not clear: it was first described in 2001 (McFeely). In 2005 the Bureau told the Department's Inspector General (2005) that "its criminal enterprise theory of investigation—building a case against the entire criminal organization—is not a new investigative model; the innovation exists in how the FBI views and utilizes its resources in managing criminal enterprise cases." With good reason, the FBI has promoted ETI, both at home and abroad: from its perspective, ETI works.²² With a new approach to evidence-gathering the Justice Department has been able to use RICO successfully.²³

As RICO was being considered by Congress, President Johnson in 1968 gave the Justice Department formal authority to coordinate all federal law enforcement activity against organized crime, a responsibility that was implemented in 1970 by creation of an Organized Crime Council (AGOCC). Its efforts were primarily focused on La Cosa Nostra organized crime and it met regularly until 1993, when it inexplicably stopped meeting until 2008 (Hesterman, 2013: 27). After a fifteen-year hiatus it was publicly reconvened as part of the Law Enforcement Strategy to Combat International Organized Crime. At that time the Criminal Investigation Division of the FBI contained three units focused on transnational criminal enterprises, the first of which was the "La Cosa Nostra, Italian organized crime, and racketeering Section" (Finklea, 2010).

The "Three-Pronged Premise" Reconsidered

The preceding sections have recounted the process by which ACT evolved. The current interpretation developed through a series of events featuring different participants. The series was not planned and some elements in it were accidental. Nevertheless, the result became the adopted American position centered, as we have seen, on the premise that "mafia" and "alien conspiracy" are synonymous with "organized crime", and are its defining characteristics. Over the 40 years from 1968 to 2008 the Justice Department and the FBI developed a more sophisticated understanding of organized criminality, but the labels of the alien conspiracy days

²² ETI's success is essentially tactical, however, not strategic. It supports prosecutions and convictions of individuals within groups shown to be "different" because of criminality.

²³ For example, see Koppel, Nathan, "They Call It RICO, and It Is Sweeping." *Wall Street Journal*, January 20, 2011.

remain as signs of continued adherence to its premise. The FBI brought it to Europe as *La Cosa Nostra*, where its alien conspiracy aspect took root. Given the unstructured nature of its development, does it fit in Europe - or, for that matter, in the United States? The answer begins by unbundling the premise and examining its individual pieces.

First, “Mafia” refers to something tangible: an organization that is native to Sicily. As we noted earlier, its development was influenced by its social/ethnographic/political context—a context that has changed in Sicily over the years, with consequent changes in its own identity. Over time it emigrated to the United States and became a latent American problem, having to respond to new social/ethnographic/political circumstances in different locales. However it was structured, and whatever it did, prior to the 1940s it remained largely invisible. Its occasional appearance played to the xenophobic strain in America.

Second, “organized crime” is an American idea, developed with no reference to “Mafia”, to describe underworld organizations in this country. It differs from “Mafia” because it is a concept, not a reality; and as it took shape in the 1920s, two separate examinations led to fundamentally different definitions. The first focused on the perpetrator and the social circumstances under which individuals committed crimes that were organized. The ultimate solution lay not in stronger law enforcement (the prevailing perspective at the time) but in changing those circumstances. The second examination focused on the behaviors of people who operated businesses of varying legality. From that perspective a continuum appeared in the marketplace that linked business-like groups rather than differentiating among them. The ultimate solution, not fully articulated at the time, would involve modifying or controlling behaviors. But definitions were, and have remained, largely immaterial. As von Lampe (2016: 16) notes, the name is used today in a larger setting “as a vague denominator of a mixed bag of phenomena”. “Organized crime” is what the user of the label wants it to be. Within the context of this assessment, from the time of Prosecutor Dewey organized crime became the “master trait” of gangsters and racketeers that distinguished them from respectable organized business groups.

Third, the alien conspiracy concept²⁴ rests on the conviction that organized crime came from somewhere else because a foreign predator forced its way into a relatively unprotected society. It is un-American, and can only be resisted by stirring up sufficient moral outrage in the general public. If we could eliminate that conspiracy, so the argument goes, we would eliminate organized crime. The adherents of the alien conspiracy approach believe that a specific alien conspiracy is at the core of the problem: The Mafia.

24 A detailed description of the alien approach is provided in Smith, 1975: 311-321.

The FBN was the source of the alien conspiracy concept. For its own purposes, which in retrospect seem to have had more to do with motivating public opinion than with actually controlling criminal behavior, the FBN arranged a forced marriage between a latent Mafia potential, the “perpetrator” meaning of organized crime, and the alien conspiracy concept. Through dogged persistence the FBN persuaded other law enforcement groups to adopt its three-way premise. Eventually, the FBI joined the law-enforcement campaign. In 1967, with encouragement and support of the law-enforcement community a formal government adoption of ACT came through the Organized Crime Task Force.

With that inheritance, what was lost? The proponents of ACT inherited assumptions about organized crime that were totally at odds with the concepts of those who first proposed it. Though they came at it from alternative perspectives, both Landesco and Dorr/Simpson viewed organized crime as a natural extension of the American social and business worlds. Instead, ACT proponents inherited an assumption that organized crime was alien to American values, not a natural extension of anything. Further, they inherited an assumption that Mafia (or La Cosa Nostra) is the alien conspiracy that defines organized crime.

That inheritance influenced the logic through which the Organized Crime Task Force justified its conclusions and recommendations. The challenge for the Task Force was to explain why organized crime was a unique threat. The answer: it is a threat to basic values of a free society.

Organized crime is not merely a few preying upon a few. In a very real sense it is dedicated to subverting not only American institutions, but the very decency and integrity that are the most cherished attributes of a free society. As the leaders of Cosa Nostra and their racketeering allies pursue their conspiracy unmolested, in open and continuous defiance of the law, they preach a sermon that all too many Americans heed: The government is for sale; lawlessness is the road to wealth; honesty is a pitfall and morality a trap for suckers (Task Force Report, p. 24).²⁵

Apart from its self-righteous tone coupled with a questionable claim of intentionality, the commission’s smorgasbord-appearing analysis was intended to be cumulative, identifying a unique group against whom the charge of holding “threatening values” could be leveled. *Values* are threatened because of a change in *relationships* among those who can establish community standards—changes that are the result of success in certain *activities*. The activities themselves are not the problem, the commission said, but the fact that the activities make money that can be used to influence relationships and, subsequently, values is the real problem.

The commission’s case rested upon an assumption of “difference” that an alien conspiracy represented. But when it leads to threats to decency and integrity, the assumption turns out to be a weak reed. One is bound to ask whether anyone else is

²⁵ The Task Force conclusion is examined in detail in Smith 1975 pp. 331-335.

preaching that sermon? That question leads us back to the assumption of “similarity”, raised by Dorr and Simpson in 1929, and to the alternative to an alien conspiracy: a spectrum of enterprise in the marketplace.

An Antidote for Alien Conspiracies: a Spectrum of Enterprise

There are different ways of looking strategically at illicit enterprise. The classic law-enforcement approach is through its structure: a static view of organization charts and management hierarchies. It has been the backbone of efforts to describe organized crime from the initial testimony of Joe Valachi (built around a series of “family” charts), through Cressey’s analysis for the Task Force (based on the direct descendants of Valachi’s charts), to the ETI investigative process (which produces contemporary equivalents of the Valachi/Cressey material). It focuses primarily on persons and their relationships.

Behind the charts is a seldom recognized but important question: how did early analysts come to focus on them? The answer reveals a critical but generally taken-for-granted selection process. “(T)he immediate purpose of either ‘organized crime’ or ‘illicit enterprise’ is to facilitate the grouping of events into a comprehensible pattern of behavior. Each evokes a taxonomic process through which a series of possibilities can be evaluated and categorized; the end of that process is that central set of circumstances on which public action should be focused” (Smith 1978: 168-69). The alien conspiracy-based charts follow a simple set of taxonomic questions through which data on the charts is selected.

- Is the activity under examination lawful or unlawful?
- Is the unlawful activity organized?
- Is the organization ethnically -- the key to an alien conspiracy -- linked?
- Can ethnic ties be charted as the basis of a putative conspiracy?

The results may look like other, non-criminal organization charts, but they are not the same. The fundamental assumption for picking data points that support the structural approach to organized crime was “difference.” Secrecy, corruption and violence and alien allegiances were the perceived characteristics that set organized crime entities apart from the legitimate world: “those criminals” do it; “us law-abiding people” do not. Today’s investigator is likely to have a more nuanced approach that avoids the alien conspiracy trap, but the idea lingers.

An alternative strategic approach is to focus on how organizations behave in the dynamics of the marketplace, not how they are structured. A singular point of similarity emerges. What all businesses share across the spectrum of enterprise, regardless of their legality, is a desire to survive in an environment of uncertainty.

How can I protect the vital core of my business from external forces that could threaten its existence? How do I define – and defend – my domain, “the points at which the (business) is dependent on inputs from the environment” (Thompson, 1967: 27)? The ways in which legal businesses are engaged in this process is under continuing study by business scholars: would it not be useful to ask how their insights and findings can inform those who study organized crime?

This change in focus takes us away from aliens and ethnicity as signifying characteristics, and from the notion that criminal activity is entirely predatory. Instead, we look at the dynamics of the marketplace—the task environment—to see what makes one enterprise succeed, and another fail. The need to serve customers, for example, and the need to steer clear of unwanted regulatory or law enforcement pressures, are equally concerns of law-abiding and illicit enterprises.

The spectrum approach introduces a different taxonomic base (Smith, 1978: 172-175) that looks at multiple markets in which entrepreneurial behavior ranges from admirably legal to disturbingly illegal.²⁶ Organized criminal activities fall on the latter side of this spectrum of enterprise, much in the way described in 1929 by Dorr and Simpson. A different set of taxonomic questions is used that focus on behavior rather than structure.

- What is the technology of the enterprise? The environmental circumstances of a mediating technology like power brokering – the illicit end of which features corrupters and bribe-takers – are different from those of a long-linked technology such as production and sales – the illicit end of which features narcotics.
- What characteristics distinguish the extent of legitimacy for the market in question?
- What mechanisms are used in a selected market to protect a “core technology” – the technical functions by which it is able to create and dispose of its end product or service; how do they change across a spectrum of enterprise?
- How is domain maintained and expanded in an illicit enterprise?

This article is not the place for an extended discussion about a spectrum of enterprise. The questions above, which outline its taxonomic foundation, hint at some important research questions for the future. For example, returning to Arsovska’s analysis of Albanian organized crime, what can happen to an organization’s domain, and to the mechanisms protecting its core technology, if its

26 Earlier in 2016 the Global Initiative against Transnational Organized Crime suggested that in some circumstances, particularly “fragile” states, gaining political dominance by organized criminal groups becomes the key to “making money”. This idea has interesting possibilities, but my discussion here focuses on entrepreneur-motivated groups. See Ellis and Shaw (2015: 505-528).

task environment enters a state of *liminality*, the anthropologist's way to describe "a state of ambiguity or disorientation that occurs... during periods of rapid political and sociological change" (Arsovska, 2015: xxix)? Though the spectrum approach was first suggested 40 years ago, it requires considerably more refinement, including addressing some taken-for-granted assumptions behind current approaches to enterprise that mask its spectrum quality. Yet even in its present state a spectrum approach to what we call organized crime promises to be a more effective way to understand criminal businesses than an alien conspiracy approach to illegal businesses in isolation from the rest of the marketplace. In Kuhn's (1970: 179) terms it will lead to "the sort of paradigm that identifies challenging puzzles, supplies clues to their solution, and guarantees that the truly clever practitioner will succeed."

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