

### **Long WORKSHOP REPORT FORM**

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

**Coordinators:** Scott Harris, U.S. Department of State

**Date and time:** 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, Social 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

#### **Summary**

International organized crime represents a growing threat to the safety, health and development goals of people and societies on a global basis. The extent of transnational organized crime has increased enormously with the spread of our interdependent world economy, and wherever it becomes entrenched, it corrupts public institutions and legitimate commercial enterprises as a matter of course. This workshop convened experts from law enforcement agencies, the academic community, and regulatory authorities with expertise on the particular role played by international organized crime in facilitating corruption, including both 'official' corruption of public officials and infiltration and corruption of otherwise legitimate private sector industries.

**Dr. Louise Shelley**, the event's moderator and Director of George Mason University's Terrorism, Transnational Crime and Corruption Center, noted that 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.



Drawing on expertise from academia, law enforcement and regulatory authorities, panellists illustrated the extent and means by which international organized criminal organizations promote systematic corruption to further their illicit criminal enterprises, including in key commercial sectors vital to the global economy. The panel also shared examples of successful law enforcement and regulatory practices for preventing and detecting corruption facilitated by organized crime, and identified gaps that increased cooperation between the public and private sectors may help to overcome. The panel also identified important research gaps that require additional investigation.

### Summary of presentations

**James Trusty** provided an overview of the evolution of transnational organized crime and transnational criminal gangs over the recent past, noting the similarities and how this has prompted the U.S. Department of Justice to recently merge the two previous sections to address the two phenomena simultaneously. Mr. Trusty assessed that 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.

Mr. Trusty further described examples of how 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. Mr. Trusty also described how the United States Government is adopting new law enforcement approaches to counter these threats. These approaches include:

- Making use of the best, latest information and intelligence to prioritize and coordinate law enforcement operations 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. This approach is necessary for dismantling entire organizations through proactive investigation and successive, “rolling” prosecutions.
- Using all available legal tools – racketeering laws, conspiracy concept, asset forfeiture can help to dismantle or weaken criminal organizations—and promoting international cooperation on common responses, codified in international legal standards such as the UN Convention against Transnational Organized Crime.

**John Picarelli** summarized a growing body of academic research that characterizes organized crime as an active agent in generating corruption globally, in contrast to the common viewpoint that criminal interests merely take passive advantage of corrupt environments. Dr. Picarelli described levels of corruption at every stage of market supply chains and all levels of state institutions, from senior officials to border agents and local police forces, on a global basis. Organized crime needs access to state-sanctioned services in order to operate, without calling attention to the activity. Examples include the acquisition of false passport and travel document, customs documents and shipping manifests, and public procurement. Dr. Picarelli described some cases of systemic corruption – entire lines of business falling into criminal hands – using legitimate business to facilitate or finance organized crime, involving public officials and regulators at all levels. Some legitimate businesses are often unwitting participants. Regardless, these corrupt pathways allow

organized crime considerable access to the global financial system. Some organized crime groups have also established charities and social service groups to buy good will within communities, and increase their legitimacy.

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 conclude that 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. Dr. Picarelli also called for additional academic research on how corruption facilitates crime, including weaknesses in regulatory framework and enforcement, and how “state capture” occurs.

**Commissioner Michael Mansfield** described the work of 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. Regulatory bodies such as the Commission must be staffed with skilled experts, knowledgeable in both business practices and law enforcement experience. Business environments must be addressed, not simply corrupted businesses, and prosecutions alone are insufficient to address vulnerable commercial sectors prone to criminal racketeering. Commissioner Mansfield emphasized that this regulatory approach is a necessary complement to aggressive law enforcement action, and that the model of the Commission is applicable on a broader scale, both geographically as well as additional commercial sectors.

**Louise Shelley** pointed out that there are lessons from the problematic privatization of the garbage industry in New York City for many in the audience who are facing privatization in criminalized environments. The examples discussed by Commissioner Mansfield addresses ways in which a government, with enormous effort, can remove the criminal presence from a sector of the economy. Dr. Shelley also pointed out that American laws have been used to recover assets and to prosecute corrupt government leaders who have taken refuge in the United States such as in the Pavel Lazarenko case, the former Prime Minister of Ukraine.

### **Recommendations, Follow-up Actions**

- 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.