EFFECTIVE METHODS TO COMBAT TRANSNATIONAL ORGANIZED CRIME IN CRIMINAL JUSTICE PROCESSES

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I. INTRODUCTION

One of the most serious unintended consequences of the globalization that we have been experiencing for the last few years has been the rapid rise of transnational organized crime groups. There are several reasons for this, including the following.

First, the increasing ease of international communications brings the world to each individual more directly and potentially more dangerously than ever before. The internet allows the individual to access information, do business with and communicate instantly with persons in every nation, but at the same time it allows criminals to perpetrate confidence schemes and stock market manipulations, run illegal gambling operations and peddle child pornography across the globe.

Second, the growth of international commerce and the staggering number of international banking transactions performed every day by major banks provide vital benefits to the world's economies, but they also present ample opportunity for fraud and theft and allow international money launderers to easily hide their ill-gotten gains.

Third, the fall of Communism in the Soviet Union and Eastern Europe has brought freedom and democracy to millions, but has also resulted in massive economic upheavals in those countries and an often-violent free-for-all among businessmen for the rich natural resources of those regions. These changes have not only spawned new criminal enterprises within the area of former Soviet domination, but have led directly to money laundering and other crimes in the rest of the world as well.

Finally, the international traffic in illegal commodities, chiefly narcotics and would-be immigrants to wealthy nations, shows no signs of abating. Organized criminals have already shown themselves to be masters of these illegal markets. Given these developments, it is easy to see why these are boom times for transnational organized crime.

The growing threat of transnational organized crime is forcing radical changes in traditional methods of law enforcement. Law enforcement has historically been a matter primarily of domestic concern. In the United States, for example, we have traditionally focused our anti-organized crime efforts solely on the American Mafia, or La Cosa Nostra. We, and our colleagues in other countries, have therefore been caught unprepared by the sudden rise in transnational organized crime activities. We are not used to criminals who might reside in country A and travel to country B in order to commit a crime that takes place in countries C, D and E. Our organized crime investigators and prosecutors are not used to obtaining evidence from other countries and conducting joint investigations with law enforcement officials of other countries. Indeed, in many

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instances our laws and procedures slow us down instead of aiding us in these endeavors. And we have not spent enough time studying the new organized crime groups, learning their faces, their organizations, their ways of doing business.

We are now working energetically to close the gaps in our knowledge and to expand cooperation with other countries on law enforcement matters. This work is being done on several fronts. First, our prosecutors and investigators are working hard to improve their understanding of transnational organized crime groups. With the help of the Justice Department's Office of International Affairs, they are investigating new cases in which they are learning to work more closely with their foreign counterparts. Second, the US. Government is stationing more law enforcement personnel in other countries. The FBI has legal attaches in over 20 countries and is planning to open more offices as well. The Justice Department's Office of International Affairs has judicial attaches in London, Rome and Mexico City, and is trying to arrange for a person to be assigned to Moscow as well. Other U.S. law enforcement agencies such as the Drug Enforcement Administration, the Customs Service, and the Immigration and Naturalization Service are also expanding their overseas presence. Finally, we applaud the efforts of forums such as UNAFEI which provide us with the valuable opportunity to meet directly with our colleagues for other countries. These forums are extremely important for strengthening mutual understanding of each others' legal systems and for giving us the chance to improve cooperation on specific matters.

I will first briefly discuss the current situation with respect to transnational organized crime in the United States. I will then cover in somewhat more detail some of the most important methods that we use for fighting transnational organized crime - electronic surveillance, undercover operations, accomplice testimony and the RICO statute. Finally, I will discuss in general terms some of the challenges that we face in improving law enforcement cooperation between countries on transnational organized crime cases.

II. TRANSNATIONAL ORGANIZED CRIME IN THE UNITED STATES

The Organized Crime and Racketeering Section is responsible for overseeing the Justice Department's programme for the fight against organized crime in the United States. As I mentioned, the Section's work and the work of its 24 Organized Crime Strike Forces across the country has historically focused on the activities of La Cosa Nostra, the American Mafia. In recent years, the Attorney General has also directed the Section and its Strike Forces to attack the growing presence of Russian and Asian organized crime groups in the United States. As a result, the Section now supervises investigations into all three major areas of organized crime activity in our country - LCN, Asian and Russian. I should mention that, for operational reasons, the South American narcotics trafficking groups are generally investigated and prosecuted by other parts of the Department of Justice, and the Organized Crime and Racketeering Section does not supervise these prosecutions unless they also involve one of our groups. In addition, while we also see some signs of organized criminal activity from African and South Asian groups, they have not yet reached a serious enough level to demand the attention of our Strike Forces. I will therefore limit my comments to the two major kinds of international organized crime groups within the Section's area of activity - first the Asian, then Russian and East European.

A. Asian Criminal Enterprises

As you are all aware, criminal enterprises have existed in Asian countries for centuries. However, we have so far found little evidence that the traditional Asian criminal groups have been able to set up extensive networks in the United States. Asian immigrant communities in the United States have suffered from the predations of gangs and organized crime groups, but in most instances these are home-grown groups, without formal ties to organized criminal groups in Asian countries. Furthermore, in contrast to La Cosa Nostra, the Asian Criminal Enterprises found in the United States tend to be loosely structured and often lack a formal organization.

Nevertheless, Asian Criminal Enterprises pose a significant crime problem in the United States. These groups commit traditional organized crimes within various Asian communities, such as extortion, murder, kidnaping, illegal gambling, prostitution, and loan-sharking. Additionally, Asian Criminal Enterprises have engaged in international criminal activity, including alien smuggling, drug trafficking, financial fraud, theft of automobiles and computer chips, counterfeiting and money laundering.

1. Chinese Criminal Enterprises

Chinese criminal enterprises operating in the United States often bear names familiar to students of the traditional Hong Kong or Taiwan triads, such as 14 K, Sun Yee On, Wo Hop To, or Hung Mun. However, while these groups may indeed have some links to the traditional Hong Kong or Taiwan triads, the U.S.-based groups usually operate independently of the parent organizations. For example, the Tung On Gang was a major criminal organization operating in New York and other cities on the east coast of the United States. Its former leader was a Red Pole of the Sun Yee On Triad, but the Tung On Gang's only connection to the Sun Yee On was for the purpose of importing Southeast Asian heroin into the United States. Otherwise, the Tung On Gang engaged in local criminal activities in the United States such as extortion, murder, illegal gambling and money laundering without taking direction from Hong Kong.

The range of Chinese criminal groups in the U.S. runs from simple street gangs, such as the Flying Dragons and Ghost Shadows of New York's Chinatown, to quasi-legitimate businessmen, sometimes associated with criminally-influenced Tongs, engaged in complex frauds. Currently, the principal criminal Tongs in the United States are the Hip Shing Tong, located in New York and on the West coast, principally in San Francisco, and the On Leong Tong, located predominately in New York, Chicago, Houston, Detroit, and Atlanta. These Tongs mainly operate illegal gambling, prostitution, alien smuggling and stolen property activities along with narcotics trafficking.

Chinese criminal groups in the United States traditionally preyed almost exclusively on residents of Chinese communities in American cities. More recently, however, these groups have expanded the scope of their activities to attacks on other U.S. companies and institutions and to international crimes such as alien smuggling, drug trafficking, credit card fraud, theft of automobiles and computer equipment, counterfeiting, money laundering, and piracy of intellectual property.

Chinese criminal enterprises have proven themselves to be flexible and sophisticated, capable of engaging in complex crimes requiring a considerable amount of planning and/or coordination

with individuals overseas. Different groups may pool their resources when necessary to complete an ambitious criminal scheme. Furthermore, the loose structures of their organizations makes it difficult for law enforcement to identify and target key individuals.

One of the most dramatic cases of Chinese organized crime in the last couple of years was the so-called "Bites Dust" operation, centered in San Francisco, in which a Chinese criminal group engaged in robberies of computer chips from warehouses and sold them on the black market. Carefully planning their operations, the robbers had arranged in advance with buyers exactly what kind of computer chips to steal. As with many other Chinese criminal enterprises in the U.S., the gang committing the robberies was loosely organized and not affiliated with a specific triad or tong.

2. Vietnamese Criminal Enterprises

Vietnamese criminal enterprises are the major Asian organized crime problem in some parts of the United States such as Texas, Louisiana and the Washington, D.C. area. Currently, more than 750,000 Vietnamese have settled in various parts of the United States, with California housing a large majority.

Compared to other Asian groups, Vietnamese criminal groups are the most flexible groups in terms of cooperating with criminals of other ethnic and racial backgrounds. U.S. law enforcement agencies face not only traditional organized crime problems within various Vietnamese communities such as extortion, murder, kidnaping, illegal gambling, prostitution, home invasion robbery, illegal weapons trafficking, and loan-sharking, but also national and international organized crime problems including alien smuggling, drug trafficking, credit card, check and food stamp fraud, white collar crime, theft of automobiles and computer chips/ equipment, counterfeiting of monetary instruments, money laundering and piracy of intellectual property.

Although the crime problem generated from Vietnamese criminal enterprises in the United States has been in existence for a little more than a decade, their violence and their proliferated criminal activities have generated grave concerns to law enforcement agencies and the public. Vietnamese criminal enterprises are the fastest growing Asian crime group in the United States. Not only have they established a foothold in various newer Asian communities, they are challenging the established crime groups in older Asian communities. For the moment, they are not as sophisticated as other more established Asian crime groups, such as Chinese, Japanese and Korean, and do not have the same level of financial backing, but this is changing.

Recently our Houston Strike Force prosecuted a Vietnamese group engaged in health care fraud. The defendants, who ran four health clinics, would stage auto accidents and then submit false medical bills for reimbursement by the Government. Enlist an attorney to assist them in the scheme, the defendants mastered complicated paperwork to obtain $ 4 million dollars within a three year period.

3. Korean Criminal Enterprises

As with the Chinese criminal groups, Korean criminal enterprises in the United States have ties to Korean criminal groups in Korea and Japan, but they are independent entities. While Korean criminal enterprises are generally less sophisticated and less organized than Chinese criminal enterprises and Japanese Boryokudan, they are best known for and

are extremely proficient in criminal activities related to the trafficking of crystal methamphetamine and Southeast Asian heroin, extortion, illegal gambling, alien smuggling, prostitution, public corruption, and money laundering.

Many of the criminal activities of the Korean groups require an extensive national and/or international network of criminal contacts. Adapting to the expanding international economy, Korean traditional criminal organizations are linking up with organized crime groups abroad, including Japanese and Russian groups, to form business joint ventures and to learn new methods of committing crimes.

Since Korean immigrants in the United States are often reluctant to report crimes to law enforcement agencies, the activity of Korean criminal enterprises often remains undetected by law enforcement organizations in the United States. As a result, these groups have flourished in the past decade. They have gained a strong foothold in various prosperous Korean communities, have controlled a large share of methamphetamine trade in Hawaii and the U.S. West Coast, and have had a network of prostitution/alien smuggling operations that span the nation. Korean criminal enterprises have the potential to become "entrenched organized crime groups" within the United States, similar to their counterpart criminal groups in Korea.

4. Japanese Criminal Enterprises

Japanese criminal enterprises, the Boryokudan, also known as Yakuza, can be categorized as traditional criminal enterprises. Japanese criminals based in other countries with Asian communities, such as the United States, Australia, and Brazil, are either associates of the Japanese Boryokudan, Boryokudan members, or Japanese delinquents (chimpira) who are would-be Boryokudan.

The primary activities of the Boryokudan in the U.S. are money laundering, drug trafficking, handgun trafficking, monopoly of the Japanese tourist trade, and manipulation of the real estate market. The most aggressive Boryokudan groups in the U.S. include Yamaguchi-gumi, Sumiyoshi-rengo-kai, Inagawa-kai, and Toa Yuai Jigyo Kumiai.

The Boryokudan's main activity is money laundering, a very difficult operation for law enforcement to detect. Japanese victims are usually reluctant to report crimes to law enforcement for fear of retaliation. Boryokudan members and their associates have also invested in high-volume cash businesses, such as restaurants, bars, gift shops, and hotels, and in other legitimate businesses, such as construction companies, oil companies, banks, casinos, golf courses, and U.S. securities.

Nevertheless, recent investigations have indicated a decline of the Boryokudan's activities in the United States. It has been speculated that this could be related to Japan experiencing a long period of economic downturn, providing an abundance of opportunities in Japan for the Boryokudan to take over ailing businesses and profit from them.[1] Still, the Boryokudan pose a significant threat to the United States through their financial resources, their ability to launder large amounts of money, their ability to infiltrate legitimate businesses in the United States, and their international connections with high-level political, financial and criminal figures.

[1] See Mary Jordan and Kevin Sullivan, *A New Mob Mentality in Japan*, WASH. POST, April 11, 1999, at A1.

Although the Boryokudan groups have formed alliances with various international organized crime groups, such as Chinese, Korean, Taiwanese, Russian, and Italian, they remain the most closed ethnic crime group. Only Japanese or Japanese-related individuals are included in their organizations. They have established themselves to some extent in Hawaii and Southern California. United States law enforcement organizations are focusing more attention to the Boryokudan because they fear that the Boryokudan will become a truly entrenched criminal organization similar to the La Cosa Nostra crime family. However, evidence thus far does not indicate that they possess a substantial threat in the U.S.

B. Russian and Other Eurasian Organized Crime

The U.S. Justice Department uses the terms "Russian Organized Crime" and "Eurasian Organized Crime" interchangeably to refer not only to organized crime groups operating in Russia, but also those groups operating in or headquartered in countries in Eastern Europe and Asia that were formerly part of the Soviet bloc, such as Poland, Hungary, Georgia, Armenia, Kazakhstan, Ukraine and others. Eurasian Organized Crime has become prominent in the West only in the past ten years, since the collapse of the Soviet bloc.

As I mentioned earlier, the dissolution of the Soviet Union in 1991 led to widespread economic upheaval across the former Soviet bloc countries. The economy of Russia and other former Soviet countries shrunk drastically as unprofitable state enterprises lost their state funding and shut down. The considerable natural resources of these countries became the prizes in a fierce struggle between competing businessmen who often allied themselves with organized crime elements, resulting in dozens of murders and other crimes as the contestants vied for control. Criminals who managed to gain access to these resources sought to cash in on their success, selling oil and other resources overseas in violation of Russian laws and concealing the profits in a series of offshore bank accounts. Finally, the criminals sought to use the proceeds of their crimes to purchase real estate and other assets in the United States and others western countries.

At the same time the loosening of travel restrictions from the former Soviet Union allowed many individuals to emigrate to the United States and other western countries. Among these immigrants were a few criminals who took advantage of the new environment to set up new criminal organizations which preyed on their fellow immigrants. Thus, in the United States, we have seen the growth of organized criminal groups in places such as the Brighton Beach neighborhood of New York, where their members practice extortion on local businesses and commit excise tax and health care frauds, drug trafficking and visa and immigration fraud. The Brighton Beach groups show particular flexibility in working with other established criminal groups such as La Cosa Nostra. In one particularly egregious example, Russian mobsters in New Jersey combined with La Cosa Nostra members in a scheme to cheat state authorities of millions of dollars in excise taxes on the sale of gasoline.

So far we have identified roughly twenty large Russian Organized Crime groups operating worldwide. Over the last decade, these groups have expanded their operations into more than 55 countries, including the former Soviet Union, Europe and North America. The most prominent of these groups are:

(i) the Ivankov group, also known as the "Organizatsiya," based in

Vladivostok and Moscow, with influence in New York, Miami, Boston, and Los Angeles;

(ii) the Semion Mogilevich Organization, based in Budapest and Moscow and located in Philadelphia, Miami, Los Angeles, New York and Boston;

(iii) the Izmailovskaya Organization, which operates in Moscow, Tel Aviv, Paris, Toronto, Miami and New York City; and

(iv) the Solntsevskaya Organization, which is based in Moscow and Budapest, and has moved into Florida, Southern California, and Chicago. These groups are involved in a variety of crimes including business frauds, especially excise tax frauds on gasoline, money laundering, health care fraud, drug trafficking, extortion and visa and immigration fraud.

The transnational aspects of Eurasian Organized Crime, as practiced by the larger criminal groups, pose a particularly acute threat to the societies of the West. Our law enforcement bodies face great difficulties in attempting to investigate large scale financial fraud and money laundering schemes emanating from the former Soviet Union. Often the only part of the crime taking place within western jurisdictions is the movement of millions, or even billions, of dollars through western bank accounts. Obtaining a clear picture of the possibly criminal activities linked to this money requires the close cooperation of authorities from Russia, other members of the Commonwealth of Independent States and many other countries. Such cooperation is extremely difficult to obtain in a timely manner, particularly when many different countries are involved. As a result, it is often impossible to investigate these cases as thoroughly as they deserve, and the criminals gain the ability to hide and make use of their ill-gotten assets in the west.

I don't have to tell you that it is a very dangerous situation when organized criminals have access to large amounts of money in your country. In the United States, La Cosa Nostra historically used its control of the pension funds of certain large labor unions to fund its criminal activities and further the power of the Mafia, including in the political arena. If we fail to check the ability of these criminals to make use of the billions of dollars they have moved out of Russia, you will find the influence of Eurasian Organized Crime spreading to other sectors of the economy and the political life of western countries.

III. METHODS OF COMBATING TRANSNATIONAL ORGANIZED CRIME - DOMESTIC RESPONSES

United States international law enforcement has increased its ability to combat transnational criminals. Prosecutors have worked out the techniques for acquiring evidence from abroad, while extradition and mutual legal assistance treaties have proliferated and become more inclusive.[2] Many domestic legal obstacles to effective international law enforcement have largely been reduced or eliminated by the actions of Congress and the federal courts. Additionally, foreign governments and law enforcement agencies have worked with U.S. officials towards reducing the frictions created by their own criminal justice systems.[3] While much work remains to be done, we feel that our law enforcement bodies are gradually acquiring the necessary tools to do the job.

[2] Ethan A. Nadelmann, Cops Across Borders: The Internationalization of U.S. Criminal Law Enforcement 467-468 (1993)

[3] Id. at 468.

Our fight against transnational organized crime will, however, rely first and foremost on the investigative techniques and prosecutive tools developed in our long struggles against the American Mafia. I would therefore like to begin by discussing with you some of the most important law enforcement tools in our arsenal. I will begin with three techniques used by our investigative agencies with the assistance and under the oversight of prosecutors: electronic surveillance, undercover operations and the use of confidential informants.

A. Electronic Surveillance

Electronic Surveillance represents the single most important law enforcement weapon against organized crime. There is nothing as effective as proving a crime through the defendant's own words. Electronic Surveillance evidence provides reliable, objective evidence of crimes through the statements of the participants themselves. Additionally, electronic surveillance enables law enforcement to learn of conspirators' plans to commit crimes before they are carried out. This allows them to survey the criminal activities, such as delivery of contraband and conspiratorial meetings, or to disrupt and abort the criminal activities where appropriate, making electronic surveillance particularly helpful in preventing the occurrence of violent crimes.

Additionally, electronic surveillance is particularly helpful in transnational crimes because it enables law enforcement to intercept conspirators in the United States discussing crimes with their criminal associates in countries outside the United States. Electronic surveillance gives United States law enforcement evidence of conspiratorial planning against co-conspirators operating outside of the United States that would otherwise be very difficult to obtain.

While electronic surveillance is extremely valuable, it is also a very sensitive technique because of legitimate concerns for a person's privacy interests. These concerns impose significant restrictions on electronic surveillance. For example, electronic surveillance can only be used to obtain evidence of some specific serious offenses listed in the governing statute.[4] If an agent or governing attorney wishes to secure electronic surveillance, he or she must submit an affidavit to a United States district court judge containing specific facts establishing probable cause to believe that the subjects of the electronic surveillance are committing certain specified offenses and that it is likely that relevant evidence of such crimes will be obtained by the electronic surveillance.[5] Thus, the government must receive the approval of a neutral independent judge to be authorized to conduct electronic surveillance. Additionally, before electronic surveillance is permissible, the government must establish probable cause to believe that other investigative techniques have been tried and failed to obtain the sought evidence, or establish why other investigative techniques appear to be unlikely to succeed if tried, or establish why other techniques would be too dangerous to try.

In executing the electronic surveillance, the government must minimize the interception of innocent conversations, taking reasonable steps to assure that only conversations relevant to the crime under investigation are intercepted.[6] In practice, the monitors are required to turn off recording machines when conversations are not discussing matters relevant to the crimes under investigation.

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[4] See 18 U.S.C.A. § 2516 (West Supp. 2000).

[5] See 18 U.S.C.A. § 2518 (West Supp. 2000).

[6] See 18 U.S.C.A. §§ 2511, 2518 (West Supp. 2000).

Once the electronic surveillance begins, the government must submit regular reports to inform the court of the information obtained through the surveillance. In these so-called "10-day reports" the prosecutor lists the number of intercepted calls, the number of calls containing criminal conversations, summarizes of those conversations, and describes any unusual events that transpired in connection with the surveillance. This constant report writing is part of what makes electronic surveillance so labor-intensive for the prosecutor.

Electronic surveillance is also restricted in terms of its duration. Court-authorized electronic surveillance is limited to thirty days.[7] This may be extended for additional thirty-day intervals, provided that all the requirements are met every thirty days and approved by the judge.[8] Although substantially useful in law enforcement, it is evident that there are considerable restrictions on electronic surveillance designed to protect individuals' privacy interests.

B. Undercover Operations

As far as organized crime control goes, undercover operations are second only to electronic surveillance, often working hand-in-hand with each other. An undercover investigation may be of very short duration, lasting only a few hours, or may be quite lengthy, lasting a few years. It may be directed at only a single criminal incident, or a long term criminal enterprise. In some instances, the undercover operation may involve merely the purchase of contraband, such as illegal drugs, stolen property, or illegal firearms, or it may involve the operation of an undercover business, such as a tavern or other operation, where criminals meet and discuss their activities with undercover officers or informers. Through such undercover operations, law enforcement agents are able to infiltrate the highest levels of organized crime groups by posing as criminals when real criminals discuss their plans and seek assistance in committing crimes.

Agents often are able to gain the confidence of criminals, inducing them to reveal their past criminal activities as well as plotting with the agents to engage in additional, ongoing criminal activities. In conjunction with electronic surveillance, the undercover approach provides comprehensive coverage of the targets' daily activities. However, undercover operations are extremely sensitive and pose the danger of luring otherwise innocent people into criminal activity. Because this technique carries the potential for problems, it requires exceptional preparation.

For example, the physical safety of the undercover agent must always be considered. To prevent the premature disclosure of his or her identity, the agent must be provided with a fully substantiated past history, referred to as "backstopping," and careful briefings of the targets' modus operandi. Every conceivable scenario that may induce suspicion of, or hostility towards the agent must be considered in advance. Additionally, the undercover agent must undergo careful testing, often including psychological profiling, to ensure that he or she possesses the intangible qualities to ensure that he will "fit" comfortably into the new identity.

In the United States, before an undercover investigation may occur, the consent of agency supervisors and prosecutors is required. The level at which the activity is reviewed increases as more

[7] See 18 U.S.C.A. § 2518 (West Supp. 2000).

[8] See 18 U.S.C.A. § 2519 (West Supp. 2000).

sensitive circumstances are involved in the investigation. To balance the concerns and avoid harm to the public, the Department of Justice has set up Undercover Review Committees, comprising senior prosecutors and investigators. These Undercover Review Committees are responsible for reviewing, approving, and controlling all sensitive undercover operations. To be approved, an undercover proposal must be in writing, contain a full factual description of the suspected criminal activity and the participants therein, set out, in detail, the proposed undercover scenario, the expertise of the undercover team, the duration of the project, the anticipated legal issues, and it must evaluate the risk to the agents and the public.

If the undercover activity is of relatively short duration, such as a one time purchase of narcotics or other contraband, a first line investigative agency supervisor and first line prosecutor must approve the activity after having been advised of all the facts of the matter. If the undercover activity is of a longer duration, with an undercover agent and informant engaging in what would otherwise be ordinary violations of the law on a repeated basis, then the approval of a higher level supervisor, such as a local lead investigative agent, and a supervisory prosecutor must be informed of all the facts and give his or her approval to the activity. These long-term undercover operations are essential to assist in infiltrating organized crime groups that continue their illegal activities over many years. Finally, if there are sensitive circumstances involved, such as a risk that innocent third parties might be affected by the activity, or there is extensive and ongoing criminal activity of a serious nature, then the activity must be reviewed and approved at the headquarters of the investigative agencies and by Washington-based Department of Justice prosecutors.

Whenever an undercover operation reveals that a crime of violence is about to take place, law enforcement authorities are required to take necessary steps to prevent the violence from occurring. This may include warning the potential victim, arresting the subjects who pose a threat, or ending the undercover operation altogether.

C. Informants

Another critical law enforcement technique involves the use of confidential informants. When United States law enforcement uses the term confidential informant, we refer to an individual who is not willing to testify but who provides information or assistance to the authorities in return for a promise that we will try to keep his identity confidential. We cannot absolutely guarantee such confidentiality because in relatively rare circumstances courts may conclude that due process, or concerns of fundamental fairness, require that a confidential informant's identity be disclosed to a defendant charged with a crime where the informant can provide evidence that could exculpate the defendant. Absent such a rare case, we are able in most cases to keep an informant's identity confidential.

Confidential informants are typically motivated to provide information to the authorities in exchange for money or lenient treatment regarding charges pending against them or likely to be brought against them. In many cases confidential informants are themselves engaged in criminal activities which enables them to provide valuable direct evidence of criminal activities by their criminal associates. Confidential informants frequently provide the information that enables law enforcement officials to obtain judicial warrants authorizing electronic surveillance. Many successful prosecutions of the LCN

leadership have involved information supplied by confidential informants who provided information for many years about the leadership of the LCN; indeed some of the informants have been "made members" of the LCN. Incriminating evidence by informants who deal directly with the LCN leadership is simply invaluable to break through the layers of insulation that the leadership uses to conceal their activities.

However, there are high risks associated with the use of informants. Sometimes, informants do not fully disclose their own criminal activities, or they falsely implicate their enemies in crimes, or they engage in unauthorized criminal activities. In that latter respect, under United States law, law enforcement may authorize informants to participate in some forms of non-violent criminal behavior that would otherwise be illegal, if they were not acting as informants with authority to engage in the activities. For example, depending on the circumstances, in order to protect an informant's cover and to enable him to be in a position to obtain incriminating evidence against others, informants may be authorized to participate in illegal gambling, trafficking in stolen property, and other non-violent crimes. Therefore, it is important for law enforcement to closely monitor the activities of informants to minimize the danger that the informant would use his association with law enforcement to shield his own unauthorized criminal activities.

On balance, however, experience teaches us that as a general rule, the benefits from the use of informants greatly outweigh the risks. But, we must be ever vigilant of the risks.

These three techniques, electronic surveillance, undercover operations, and use of informants are the most important techniques that have assisted the investigative agencies to combat organized crime and transnational crimes. Next, I will discuss the weapons available to the federal prosecutors in the United States to combat organized crime and transnational crimes.

D. Racketeer Influenced and Corrupt Organizations Statute (RICO)

In every organized crime case, the goal is to convict the highest levels of a crime organization. To accomplish this, prosecutors must be equipped with the proper tools. One particularly valuable tool is a law which singles out the activity of ongoing criminal organizations. In the United States, the most important law of this sort is the Racketeer Influenced and Corrupt Organizations Statute (RICO). In general, RICO provides heavy penalties, including life imprisonment in certain circumstances, when a defendant conducts, or conspires to conduct, the affairs of an enterprise through a pattern of specified acts, known as predicate crimes. An enterprise can include anything from a corporation, to a labor union, to a group of individuals working together to commit crime, such as the Asian and Russian organized crime groups discussed above.

Interestingly, the RICO statute did not actually create a new crime, as the crimes of murder, arson, and extortion, to name a few of the 46 predicate offenses in RICO, were all made criminal long before RICO's enaction in 1970. However, RICO was still a dramatic legislative initiative because it permitted many of these generically different crimes to be charged in a single indictment. After RICO, these different crimes could even be charged in a single count against a defendant, so long as the crimes were part of the defendant's pattern of acts that related to the enterprise. In essence, RICO made it a crime to be in the business of being a criminal.

RICO is particularly effective in organized crime cases, as it allows a prosecutor to demonstrate the full range of criminal activity of an individual or a group of criminals. For example, RICO has a reach-back feature that enables a prosecutor to show a pattern of racketeering activity. As long as one of the predicate crimes alleged against a defendant occurred within the five years of when the indictment is brought, the next previous crime in the pattern of racketeering need only be within ten years of the most recent crime. Similarly, the third most recent crime need only have occurred within ten years of the second act. This reach-back feature enables this process to continue, possibly extending twenty years or longer into the past. Ordinarily, the evidence of past criminal activity that may be presented under RICO is outside the period for which a person could be prosecuted, as indictments in the United States generally cannot allege crimes that occurred more than five years prior to the date of the indictment. This makes RICO particularly useful in organized crime cases.

Additionally, RICO's reach is very broad, as the predicate crimes that qualify as RICO predicates span all forms of criminal actions. Without RICO, most United States judges would prohibit the prosecution of such diverse crimes in a single case and would be more likely to break it up into a series of smaller trials, especially if numerous defendants were being charged. Organized crime groups prefer dividing up a prosecution because no one jury gets to see the entire picture. Organized crime is composed of many crimes, all linked by a single chain-of-command to the same enterprise. Thus, any effective prosecution of a crime family requires proof of many crimes in a single trial. RICO allows this, enabling the jury to see an entire pattern of crimes.

RICO allows the government to prosecute criminal activity on a systematic basis, enabling them to punish the members of an organized crime group for the criminal activities each has engaged in on behalf of that group. In an ordinary RICO prosecution, often six or more racketeers are charged with perhaps a dozen or more predicate crimes extending over a decade. In each of the alleged predicate crimes, usually only some of the defendants are named. There have been cases where RICO indictments have charged several defendants with committing over fifty offenses as part of a pattern of racketeering activity!

Furthermore, RICO also allows the presentation of evidence of criminal activity that has been the subject of earlier prosecutions. Ordinarily, this would not be allowed in the United States because of constitutional rules against successive prosecutions for the same conduct. Nevertheless, this is also permitted under RICO. RICO has proven to be an extremely important tool assisting in the prevention of organized crime in the United States.

As powerful as RICO is, there were only a few RICO prosecutions brought against organized crime in its first fifteen years. That was primarily because it took Federal prosecutors that long to feel comfortable enough with the complicated instrument to make it the centerpiece of organized crime prosecutions. Another reason was that the investigative techniques necessary to build a suitable RICO case, such as electronic surveillance and undercover operations, were not routinely used against organized crime bosses in the 1970's.

Currently, it is evident that control of organized crime in the United States would be inconceivable without RICO. Beyond organized crime, RICO cases have also been brought against hundreds of police

officers, judges, and public officials for official misconduct, and against terrorist groups, radical hate groups, street gangs, stock manipulators, and drug cartels. However, like any powerful tool, RICO has the capability of being abused. To protect against potential abuses, the Organized Crime and Racketeering Section has a special unit of attorneys who carefully review all proposed RICO indictments for legal and factual sufficiency. This unit ensures that RICO is used only when it is necessary, disapproving of a RICO charge when less powerful statutes would be just as effective.

E. Organized Crime Strike Force Units

As I previously stated, the LCN is the number one organized crime problem in the United States. The LCN is an extensive nationwide criminal organization. Therefore, it was essential to attack the LCN and other organized crime groups through a closely coordinated nationwide effort. However, law enforcement is very fragmented and decentralized in the United States. The United States Department of Justice at the federal level is divided into 94 different United States Attorneys offices throughout the country that operate with considerable independence of the main Justice Department located in Washington, DC. In addition, there are literally hundreds, perhaps over 1,000 state, county and city prosecutors' offices and police departments that have criminal jurisdictions that are totally independent of the federal Department of Justice. This fragmented prosecutorial authority makes nationwide coordination difficult. These difficulties are made even greater when you factor in the large territorial size of the United States and its relatively large population of over 260 million people.

To improve coordination of federal efforts to attack organized crime, in the late 1960s the Department of Justice created 24 specialized prosecutive units called Organized Crime Strike Forces located in the cities where the 24 LCN families were most active. These Strike Force Units were staffed by career prosecutors who were experienced in electronic surveillance, undercover operations, and long term proactive investigations. Moreover, these prosecutors are only allowed to work on organized crime matters. To assure that they work only on organized crime matters and to assure that the Strike Force cases are properly coordinated from a national perspective, supervising prosecutors in Washington, DC must approve every investigation, every indictment, every wiretap and every other principal activity that each Strike Force Unit undertakes. Through such oversight, the supervising attorneys in Washington, DC are able to maintain the focus of efforts against organized crime groups and to see to it that relevant information developed by one Strike Force office gets to another office in another part of the country that may need it.

Moreover, because the supervisors in Washington, DC, are aware of all LCN investigations and prosecutions in the United States, they are able to reduce duplication of efforts and coordinate investigations and prosecutions conducted by more than one office.

The creation of these Strike Force Units proved to be invaluable. Over the past 25 years, the vast majority of all the major convictions of LCN bosses and members were obtained by these Strike Force Units. Although the LCN remains strong in the metropolitan New York City area where roughly 80% of the LCN members operate, the LCN has been substantially weakened in other parts of the United States -

particularly in San Francisco, Los Angeles, Kansas City, Milwaukee, St. Louis, and other cities.

Although the Strike Force Units were initially created to combat the LCN, their mission was expanded in 1990 to combat Asian and Russian organized crime groups. In 1990, the Attorney General of the United States adopted a national strategy to coordinate the federal attack against then newly emerging organized crime groups operating in the United States. The Strike Force approach became the centerpiece of that national strategy since it had been so successful against the LCN. The Strike Force Units were well equipped to handle the new challenges because of their experience, and also because the Strike Force Units were already located in the cities where the Russian and Asian organized crime groups were most active. Not surprisingly, the Russian and Asian organized crime groups are active in the same large cities as the LCN.

To implement this national strategy, the Attorney General created the Attorney General's Organized Crime Council, the members of which are the heads of the Federal Bureau of Investigation, the Drug Enforcement Administration (DEA), the Division of Enforcement of the Securities and Exchange Commission, the Secret Service, the Marshals Service, the Customs Service, the Postal Inspectors, and the Internal Revenue Service. The Council meets as necessary to set the official priorities of the Federal Government's organized crime programme, which currently are LCN, Asian, and Russian organized crime. In order to set these priorities, each agency and the country's 94 top Federal prosecutors (called United States Attorneys) are required each year to file written plans assessing the problems posed by organized crime groups in their districts and for attacking organized crime groups in their districts. The Department of Justice's Organized Crime and Racketeering Section then reports its analyses of these plans to the Council. The most important feature of this system is control: It obligates the regional prosecutors and agents to keep constant pressure on La Cosa Nostra and Asian and Russian crime groups, and prevent them from succumbing to periodic temptations to assign prosecutors and agents to non-organized crime cases.

Implementing this national strategy has enabled the Federal Government to coordinate its nationwide efforts against organized crime groups and to keep the pressure on them to prevent them from expanding their corrupt influences on society.

F. Immunity System

Another valuable tool used by prosecutors in organized crime cases is the power to grant immunity under certain conditions in return for a witness's testimony. Every individual in our country has a right under Fifth Amendment of our constitution to refuse to testify against himself. The immunity system allows the government to force an individual to testify in return for a promise that the testimony may not be used against the witness in any subsequent criminal case.[9]

Until 1970, there were numerous federal immunity statutes providing transactional immunity, protecting people testifying under these laws against prosecution or penalty on account of any transaction, matter, or thing relating to their testimony or production of evidence. Therefore, under transactional immunity, the witness received immunization from a subsequent

[9] See 18 U.S.C.A § 6002 (West Supp. 2000); *Kastigar v. United States*, 406 U.S. 441 (1972).

prosecution as to any matters about which he or she testified.

Today, however, transactional immunity no longer exists in the federal system. It was replaced by what is referred to as "use immunity."[10] In 1970, the United States Congress enacted the so-called "use immunity" statutes that explicitly proscribe the use in any criminal case of testimony compelled under the order granting immunity. In essence, use immunity only provides that the witness' testimony itself will not be used against him or her; he or she may still be prosecuted using other evidence. Although use immunity is not considered as broad a protection to the individual as transactional immunity, it is nevertheless consistent with the proscriptions of the Fifth Amendment because it "prohibits the prosecutorial authorities from using the compelled testimony in any respect, and it therefore insures that the testimony cannot lead to the infliction of criminal penalties on the witness."[11]

The United States attorney, with the approval of the Attorney General, the Deputy Attorney General, or a designated assistant attorney general is empowered to seek a court order granting use immunity when, in the judgment of the government, the testimony or other information is necessary to the public interest and the individual has asserted or is likely to assert his or her privilege against self-incrimination. In 1999, the Department of Justice authorized 2,059 requests for witness immunity, and 1,444 of those requests were granted to the Criminal Division.

In addition to the Immunity system, there is also the "Crown Witness" system which, although it is not codified in the United States Code, is a widespread and approved practice in obtaining witnesses. Under the "Crown Witness" system, there are two types of agreements that the United States can enter into with witnesses, non-prosecution agreements and cooperation agreements.

Non-prosecution agreements, are mainly used for situations where a witness's involvement in a criminal act is minimal.[12] These agreements grant immunity from prosecution in connection with that case in return for full, truthful cooperation. Although non-prosecution agreements are available, they are rarely used.

Cooperation agreements, on the other hand, are the most commonly used instrument to compel testimony. These agreements require the defendant to incur some type of liability for his or her criminal conduct. In a cooperation agreement, the defendant agrees to plead guilty to certain agreed-upon charges, to fully and truthfully cooperate with prosecution, and to testify in any court proceeding concerning all matters asked of him or her. In exchange for the defendant's cooperation, the government agrees to file a motion pursuant to Federal Sentencing Guideline § 5K1.1.[13] This motion gives a judge discretion with respect to the defendant's sentence, something he or she ordinarily would not possess. Upon receipt of such a motion, the sentencing judge will usually decide to reduce the sentence. This creates a powerful incentive for cooperation, and is a particularly valuable tool in the prosecution of organized crime

[10] See: 18 U.S.C.A §§ 6001, 6002, 6003 (West Supp. 2000); *Kastigar v. United States*, 406 U.S. 441 (1972).

[11] See: Kastigar, 406 U.S. at 453.

[12] US Dep't of Justice, United States Attorney's Manual, ch.9, § 27.600(B)(1)(c) (1997).

[13] US Sentencing Guidelines Manual, § 5K1.1 (1998).

groups.

G. Witness Protection Programs

Another valuable asset that aids the prosecution of organized crime groups is the federal Witness Security Programme. Because of the often violent nature of organized crime, witness intimidation can be a significant obstacle in the way of a successful prosecution. To address that problem, the Department of Justice created the Federal Witness Security Programme in 1970. Requests for protection of witnesses must be made as soon as it is known that the Witness Security Programme candidate will be a significant and essential witness, and will need relocation due to proximity to a "danger area." Naturally, because of the security concerns regarding the witness and his or her family, a witness's pending and actual participation in the Programme is not disclosed unless under the authorization of the Office of Enforcement Operations (OEO). This allows the United States Marshals Service (USMS) time to conduct preliminary interviews, psychological testing, and appropriate review, thereby minimizing the disruption to both the witness and the concerned government agencies.

A witness is admitted into the Programme when he or she is able to supply significant evidence in important cases, and there is a perceived threat to his or her security. Once in the programme, the witness and his or her family are given new identities, relocated to another part of the United States where the danger to their security is decreased, and are given financial assistance until the witness is able to secure employment.

The Witness Security Programme is very costly. Since the beginning of the Programme, over 6,800 witnesses have been admitted, along with an additional roughly 9,000 family members. The average cost is $75,000 per witness, per year, and $125,000 per family, per year. Despite these numbers, the results derived from the Programme have made it worth the cost. Since its inception in 1970, over 10,000 defendants have been convicted through the testimony of witnesses in the Programme.

The vast majority of protected witnesses, about 97 percent, have criminal records. However, the recidivist rate for witnesses in the programme is 21 percent, which is half the rate of those released from prison in the United States. Overall, the Witness Security Programme has proven to be extremely beneficial and effective in the prosecution against organized crime groups.

H. Forfeiture

It cannot be overstated that making money is the primary goal of organized crime and transnational criminal activities. Therefore, it is imperative to take the profit out of crime. Strong forfeiture laws do just that. Forfeiture is a criminal penalty for many offenses in the United States. Generally speaking, upon conviction for an offense that carries forfeiture as a penalty, a defendant may be ordered to forfeit all profits or proceeds derived from the criminal activity, any property, real or personnel, involved in the offense, or property traceable to the offense such as property acquired with proceeds of criminal activity. For example, if a defendant uses a residence or car to distribute drugs, that property is subject to forfeiture. Thus, a convicted defendant may be ordered to forfeit all proceeds of his criminal activity including money and other forms of property.

In addition to criminal forfeiture, civil forfeiture laws also allow the government to obtain property used in criminal

activities. The principal difference between criminal and civil forfeiture is that criminal forfeiture is limited to a convicted defendant's personal interest in property subject to forfeiture, whereas civil forfeiture focuses on the property itself.

For example, suppose a defendant repeatedly used a house to sell drugs, but he did not have an ownership interest in the house. If he is convicted of drug dealing, that house is not subject to criminal forfeiture because the defendant did not own the house. However, a civil forfeiture law suit could be brought against the house itself as a defendant, even if the owner of the house was not engaged in criminal activity. The house, nonetheless, is subject to civil forfeiture because it was repeatedly used to facilitate criminal activities, and the owner did not take adequate steps to prevent his house from being used for criminal activities.

There are various defenses to such civil forfeiture, such as the "innocent owner defense", but I do not want to digress into the complexity of United States forfeiture law. To some extent I have generalized and oversimplified United States forfeiture law which is complex so as not to detract our attention from the main point I am trying to make. That is, that criminal and civil forfeiture laws are powerful weapons in the prosecutors' arsenal to take the profit out of crime.

I. Money Laundering

Strong money laundering laws go hand-in-hand with forfeiture laws as powerful weapons against criminal activities. Under United States money laundering laws, it is a crime to knowingly conduct a financial transaction with the proceeds of certain specified unlawful activity set forth in the statute with either the intent to promote the specified unlawful activity or with the intent to conceal the specified unlawful activity. The term transaction is broadly defined to include "a purchase, sale, loan, pledge, gift, transfer, delivery, or other disposition" and "with respect to a financial institution includes a deposit, withdrawal, transfer between accounts, exchange of currency, loan, extension of credit, purchase or sale of any stock, bond, certificate of deposit, or other monetary instrument, use of a safe deposit box, or any other payment, transfer, or delivery by, through, or to a financial institution, by whatever means effected."

As you can see, the money laundering statute covers nearly every imaginable type of transaction. Moreover, the penalties for money laundering include forfeiture which greatly enhances law enforcement's efforts to take to profit out of crime.

For example, in one recent case in Boston, defendants were convicted of laundering $136 million in drug proceeds for Colombian drug traffickers. The defendants received the cash drug proceeds, and used it to buy money orders, cashiers' checks, or gold to conceal the illegal source of the cash; this constituted money laundering. The defendants argued that they should only be required to forfeit the 5% laundering fee (or roughly $7 million) that they charged the drug traffickers since the $136 million belonged to the drug traffickers. The court rejected this argument and held that the defendants were liable for forfeiture of the entire $136 million that they laundered.

Other examples of money laundering illustrate the breadth of the statute. For example, proceeds of fraud that are deposited in bank accounts or other financial institutions which is commingled with legitimate money in accounts under the names of nominees constitutes money laundering subjecting, under some circumstances, the entire amounts in the

accounts to forfeiture, including the money obtained legally as well as the crime proceeds.

In many cases, not just organized crime cases, money laundering violations coupled with forfeiture have proven to be powerful weapons to take the profit out of crime.

J. Sentences

Finally, I would like to briefly discuss United States sentencing laws. Fair punishment upon conviction is obviously the ultimate goal of all prosecutions. Perhaps most important is the protection afforded by incapacitating the convicted criminal through incarceration. To be sure, imprisonment substantially reduces, but does not totally eliminate, opportunities for criminals to continue their illegal activities.

In 1987, the United States Federal Government adopted a comprehensive change in its sentencing laws to make punishment more definite and more uniform throughout the federal system. First, federal parole was abolished. Therefore, a sentence of 10 years in jail means a defendant will not be paroled at a shorter time and the defendant will actually serve 10 years in jail, with some modest reduction for good time behavior while in jail. Other changes involved substantial restrictions on the discretion of judges in imposing sentences. Pursuant to the changes, sentences are now determined by application of a complex numerical weighing system. Under the formula, specific numbers are assigned to relevant factors such as the type of offense, the nature of the underlying circumstances, the defendant's role in the offense and the defendant's criminal history. The numbers are added up and the defendant is generally sentenced to a guideline range according to the resulting number. Again, I am oversimplifying complex legal provisions.

Most prosecutors and police in the United States would argue that the longer prison sentences under the Federal Sentencing Guidelines and similar state guidelines are in part responsible for the large decrease in the rate of serious crime in the United States over the last ten years. Others may take the contrary view and point to some cases in which the Guidelines, and the mandatory minimum sentences associated with certain drug crimes, lead to harsh results in individual cases. I take no view on this debate, except to argue that for the most serious criminals, especially high-ranking members of organized crime groups, the Guidelines and mandatory minimum sentences have ensured that the most serious criminal conduct will be matched with a serious punishment. The certainty of long sentences for criminal convictions also tends to convince defendants that they would be better served by cooperating with the Government and testifying against their bosses, rather than hope that a judge will be swayed by their lawyers' arguments into giving them a light sentence. In this way the Guidelines help our cases by making it more likely that defendants will choose to "flip" and testify for our side.

IV. METHODS FOR COMBATING TRANSNATIONAL ORGANIZED CRIME - INTERNATIONAL RESPONSES

I would now like to turn my discussion from the principal aspects of the United States domestic responses to transnational crimes and organized crime to what we are doing together with other countries in the international arena to combat such criminal activities.

A. Extradition

It is imperative that international criminals be denied a safe haven.

International extradition treaties remain the most effective legal mechanism to obtain the return of international fugitives. In 1990, the United States sought the extradition of 1,672 accused or convicted criminals. By 1996, that number had jumped to more than 2,894, including numerous fugitives wanted for murder, major drug trafficking offenses, money laundering, multi-million dollar financial scams, and other serious crimes committed against the United States.

The United States is currently party to over 110 such extradition treaties. The United States Departments of State and Justice, with appropriate input from other law enforcement agencies, are involved in an active programme to negotiate modern treaties in order to replace old, outdated instruments, to create extradition treaties where none previously existed, and to ensure that new crimes are covered by extradition treaties. We encourage the international community to work together to deny safe havens to international criminals through procedures consistent with domestic and international law.

B. Mutual Legal Assistance Treaties (MLATS)

In light of the international nature of transnational and organized crime activities, it is also essential to be able to obtain, in a timely way, the testimony of witnesses, bank records, other financial records and other evidence from foreign countries, and in some cases from several different countries, and for the United States to give similar assistance to other countries. Therefore, Mutual Legal Assistance Treaties have become important tools to address international criminal activities.

Barely 20 years ago, the United States entered into its first MLAT. Today, there are the United States has MLATs with 36 countries. These MLATs are invaluable in setting out clear procedures by which prosecutors can gain evidence from other countries. However, MLATs do not execute themselves. In some ways the MLAT is only the first step. Prosecutors in both countries have to work hard to prepare requests that will be understood by the receiving country, and have to work equally hard in preparing responses to incoming requests that will be useful to the requesting country.

In the United States Department of Justice, the Office of International Affairs is responsible for coordinating both incoming and outgoing requests for legal assistance with other countries. The Office's attorneys become experts in the law of their assigned countries and are able to provide assistance and advice both to US prosecutors seeking evidence from abroad as well as foreign countries seeking evidence from the United States. They confront all manner of problems and misunderstandings that arise between different legal systems, where even similar terms like "judge" and "indictment" have very different legal meanings and effects. In the years to come, the Office of International Affairs and its counterparts in other countries will be called upon to play a larger and larger role in our organized crime investigations.

Even where there is no MLAT in force, the United States is hopeful that law enforcement agencies will be able to exchange information and provide mutual assistance in ways that are fully consistent with the laws of the countries involved. Such cooperation is essential to effectively combat the international criminal activities of sophisticated criminals who seek to exploit the difficulties inherent in international investigations.

C. Expanding the Presence of United States Law Enforcement Agents Abroad

Tough United States laws that protect United States citizens and interests abroad will be of little value if the United States does not establish an investigative and law enforcement infrastructure to pursue violations of these laws. United States law enforcement officials stationed abroad work shoulder to shoulder with their foreign counterparts to investigate crimes against United States nationals committed overseas. Where offenders are identified, these officials also work to locate, apprehend, and return the perpetrators of such crimes through extradition, expulsion or other lawful means. They also facilitate the arrest and extradition of international fugitives located in the United States and wanted abroad.

The United States would like to expand its law enforcement presence in other countries to work with the host countries to respond to this growing need. For example, the FBI currently has FBI offices in 44 other countries and is looking to expand further. Similar expansions are being planned by the Customs Service and Drug Enforcement Administration. These expansions will bolster United States law enforcement abilities to arrest and punish fugitives who have committed crimes against the United States, to dismantle international organized crime rings, and to strengthen law enforcement and judicial systems around the globe. I have been fortunate enough to work with FBI Legal Attaches in many foreign countries, and I have found their advice to be absolutely essential to our work. I strongly encourage prosecutors and police officials of every country to make and maintain close contact with the nearest FBI Legal Attache if you have any kind of investigation that touches both your country and the United States, or if you want any kind of investigative assistance from the United States.

One particularly bold step taken earlier this year was the creation of a joint FBI-Hungarian National Police Unit based in Budapest that investigates organized crime cases. This advance was made possible because the Hungarian government recognized that transnational organized criminals based in Budapest were committing crimes that affected many different countries, including the United States. The Hungarians and the Americans agreed that a joint police unit would be better able to pursue transnational investigations that would result in prosecutions in Hungarian or American courts. This unit has already made a big difference in the operating environment for criminals in Budapest, and we are open to considering similar initiatives with other countries.

To complement the increasing number of United States law enforcement personnel overseas, mutual legal assistance is greatly enhanced by the Department of Justice's cadre of overseas attorneys. Their role includes facilitating requests for extradition and mutual legal assistance, providing substantive legal guidance on international law enforcement and treaty matters, and increasing cooperation between United States and foreign prosecutors. Currently, the Department of Justice has prosecutors in Brussels, Mexico City, Paris, London, Geneva, and Rome. This summer we also had a prosecutor stationed in our embassy in Moscow, a position that we hope to make permanent. These attorneys do work similar to that of their Office of International Affairs colleagues in Washington, D.C., but are even more effective because they are on the spot. They have also proved vital for building the long-term working relationships that we hope to establish with our overseas colleagues.

If it were not for budget constraints, I would gladly see these positions expanded to a dozen other countries.

V. CONCLUSION

Transnational organized crime is a rapidly growing problem. The criminals have showed that they can adapt instantly to new technologies, to exploiting opportunities created by the increasing globalization of the world's economies. They know how to use borders to their best advantage to protect themselves, but do not let problems of national sovereignty, ethnicity, or language get in their way when they see an illegal way to make money. We members of law enforcement, by contrast, must obey not only our own rules, with all their technicalities, but must scrupulously obey each others' rules whenever we venture into another country. In the eternal battle between policeman and crook, the criminals threaten today as never before to gain the upper hand on a global scale.

The measures which I have outlined above are at most partial solutions. They will have at best only a limited effect until we undergo a more fundamental shift in our attitudes toward the difficult and frustrating process of international investigations. We all have heavy demands on our time, more cases than we know what to do with, and many leads to follow which will always seem more promising or more urgent than a foreign bank account number, or a telephone call by a criminal that goes overseas. These foreign leads, we feel, are unlikely to amount to anything, and even if they did lead to a case it would be a long and difficult one. My argument to you today is that we have to overcome this reluctance, we have to be willing to take the plunge and reach out for a foreign colleague who may be looking at the other end of the same case that you are puzzling over. It is only when we learn to work effectively across borders that we will be able to mount an effective attack on transnational organized crime.