

Transnational Crime: The Case of Russian Organized Crime and the Role of International Cooperation in Law Enforcement

LOUISE SHELLEY

In the twenty-first century, the handling of transnational crime will become a more important element of international foreign policy. With the end of super-power conflicts at the close of the cold war, international relations are increasingly being affected by the crime issue—whether it be trafficking in drugs, arms, or people or international money laundering.¹ The militarization of the antidrug war, the increasing intelligence emphasis on analysis of nonstate actors such as criminal organizations, and the staffing of embassies with a range of law enforcement personnel all point to this shift in foreign policy.²

The Russian-American foreign policy dialogue is still very much focused on nuclear and military questions, but since the latter half of the 1990s, the crime issue has become increasingly important.³ The Russian-American law enforcement relationship is much more complicated than it appears at first glance. It is not simply an American reaction to the globalization of Russian organized crime. It involves a paradigm shift in the conduct of foreign policy requiring attention to new issues that diplomats have not been trained to address. Their focus is still on traditional security issues. Furthermore, combating transnational crime requires much more informal cooperation than the bilateral relationships of the cold war era. This different approach is very difficult for many traditional diplomats to accept.

Congress has pressured the American ambassador to accept more law enforcement personnel within the American embassy in Moscow. The House International Relations Committee has sought to increase the number of FBI agents in Moscow and expand the capacity of the Moscow mission to conduct investigations.⁴ The government has authorized and spent millions to help train Russian law enforcement personnel in criminal investigative techniques in Russia, at the International Law Enforcement Academy in Budapest, and in the United States.⁵

Louise Shelley is a professor and director of the Transnational Crime and Corruption Center at American University, in Washington, D.C.

The purpose of the training sessions is not only to impart information but to establish the cooperative relations that are so crucial to effective international law enforcement. With serious differences in the legal systems and capacities and in the financial resources available to fight crime, personal connections in international crime fighting assume increased importance. Criminals have developed strong cross-border cooperation, and the law enforcers need to mirror that.⁶

The growth of a Russian-American law enforcement relationship reflects the broader development by the United States of bilateral law enforcement relationships with many countries since the 1980s. Initially, this was a response to drug trafficking, but the agenda has broadened to include counterfeiting, arms trafficking, money laundering, and many other organized crime-related offenses.⁷ Liaisons from many U.S. law enforcement agencies have been posted in many embassies overseas. The United States has created a complex variety of legal, policy, and operational structures to guide police and prosecutorial cooperation with foreign countries.⁸

Just as the military issues of the cold war era were characterized by distrust, issues of verification of information, and lengthy negotiations over treaties, so is the Russian-American relationship in dealing with crime affected by the same problems. Addressing strategic military questions in a bilateral manner requires formal negotiations and routinized inspection trips. Some of the cooperation on the crime issue requires the same formal procedures, such as negotiations over mutual legal assistance agreements and requests for case and bank information. Yet cooperation rather than rivalry is needed to address transnational crime. Many Russian officials are pressured not to cooperate with foreign law enforcement on key cases involving high-level officials. Therefore, the same problems exist as in the military arena, including unreliability of information, issues of corruption, and problems verifying crucial evidence. Misinformation in the press in both countries has distorted perceptions of cooperation in crime fighting. Some articles are a result of deliberate disinformation fed to journalists in both countries.⁹

Problems in both countries have affected the advancement of legal cooperation. These problems include the political pressures applied to Russian investigators, the diversity of agencies on both the Russian and American sides involved in the investigative process, the fear by American law enforcement that criminal cases are being initiated as political vendettas and that members of ethnic minorities are being singled out for prosecution disproportionately. The failure of both Russian and American law enforcement professionals to fully understand the laws and the procedures of their counterparts makes cooperation more difficult.¹⁰ Because of serious corruption on the Russian side, cases involving Russian organized crime are more dependent than others on well-run American investigations.

The Americans more than the Russians have heralded the results of the cooperation, a situation explained by the retention of large amounts of Russian capital within the United States and the failure to repatriate many of Russia's stolen assets. The implication of many Russian officials in the criminal investigations

has created extraordinary sensitivity in Russia and highlighted the centrality of the crime issue to the legitimacy of state governance.

Globalization of Crime and the Russian-American Relationship

The globalization of crime, flowing particularly from the former Soviet Union, has important implications for the development of the Russian state and the image of Russia in the international community.¹¹ Many in Russia believe that its image as a superpower and a source of great intellectual activity has been overtaken by the perception of Russia as the source of the international scourge known as “the Russian mafia.” The politicization of the crime issue has made many Russians believe that the Russian mafia threat has replaced the communist threat in the eyes of many former cold warriors. Many influential Russians also believe that the West has exploited the crime issue for political gain, yet at the same time Western institutions benefit enormously from the billions in Russian assets laundered and stored in the West.¹²

The distribution of Russia’s assets in financial banking centers and offshore havens throughout the world have brought a truly international dimension to investigation of Russian money laundering.¹³ In the Bank of New York case, the assets in the investigated accounts had moved or would move through approximately forty different countries.¹⁴

Ironically, Russia’s criminals and ex-nomenklatura members have been most successful in capitalizing on the globalization of the world’s financial markets.¹⁵ Through their perfection of the vehicles of front companies, trust agreements, and other mechanisms used to hide wealth, they have been the major beneficiaries of the expansion of safe havens in the globalized economy. Many of those involved in these complex financial operations are former KGB personnel who moved funds abroad during the Soviet era. The proficiency of the international lawyers they have hired to craft the trust agreements for the obscure locales where they park their money have made tracing their sheltered assets extremely difficult.¹⁶

Russians are also at the forefront of using technology to exploit the globalized offshore economy. The European Union Bank, an offshore bank in Antigua operated totally through the Internet, was established by a Russian. The bank was closed before the Antigua regulators were ever able to inspect its records. The depositors remained anonymous because the files were encrypted with such sophistication that they could not be opened by American law enforcement. Moreover, none of the depositors has come forth to file a complaint because the sources of their funds or their intentions were probably not legitimate.¹⁷

The discourse on the spread of the Russian mafia has obscured the fact that there is Western complicity in Russian organized crime. The billions laundered through the Bank of New York could not have passed through this institution without the assistance of high-level bank employees. Moreover, Western criminals have exploited the lack of legal norms and well-trained law enforcement in the former Soviet states to commit numerous crimes in Russia. Of the hundreds of cases presently being investigated by the FBI in Moscow, the majority of them involve crimes perpetrated by Americans on Russian territory.¹⁸

Methodology

Very little has been written on the problem of international law enforcement cooperation in general and even less on the problem in relationship to the countries of the former Soviet Union. Part of this is explained by the fact that there is little information available in public documents. Members of the law enforcement apparatus are reluctant to discuss their investigative work because they do not want to jeopardize ongoing and future investigations.

I have relied on a variety of sources to obtain information for this article. The open source materials I have used include information presented at congressional hearings and the testimony of government witnesses. Apart from that, the

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majority of my information comes from my extensive work with law enforcement agencies in the United States, Russia, and Europe. I have spent hundreds of hours discussing the problems of post-Soviet organized crime with American and Russian prosecutors, law enforcement personnel, and even some attorneys retained by criminals

from the former Soviet Union. These in-depth interviews provide the basis of this article. In addition, I have participated in numerous information-sharing meetings in the United States, Western Europe, and the former Soviet Union that have brought together law enforcement personnel from different countries.¹⁹ The Transnational Crime and Corruption Center in Washington, D.C., with support from the Department of Justice, has helped organize meetings and workshops in different parts of Russia to bring together law enforcement personnel from different agencies in the United States and their counterparts in Russia, thus providing greater insights into the actual dynamics of Russian-American cooperation.

The information presented at these meetings on such specific topics as money laundering, trafficking in women, and corruption, as well as the more general problems of securing law enforcement cooperation, has allowed me to observe the development of this problem over the last six years in both a bilateral and multilateral context. Informal and formal exchanges with law enforcement participants have proved invaluable in assessing the problems of corruption within the cooperative relationship and the serious problems posed by significantly different legal codes and procedural norms.²⁰

Work as an expert witness, for the defense and the federal government in immigration cases in the United States, Canada, and Europe has given me an unprecedented opportunity to view the problems of cooperation outside the sphere of traditional criminal investigations.²¹ Those cases have placed American-Russian anticrime efforts in a comparative perspective.

In the article I make limited use of the media because many of the press reports in this area are problematic. Particularly good journalism has been done in the United States on Golden Ada and the Bank of New York, two major money laundering cases. The stakes are so high in these cases that traditional Soviet-era methods are often used to derail investigations. Reporters covering the Bank of New York case revealed in an article that they had been deliberately misled by a source.²² Because Russian newspapers are controlled by oligarchs and regional officials who often use journalists under their control to get at organized crime groups affiliated with their rivals, there may be deliberate distortion of crime reports. A vivid illustration of this was a recent front-page story in *Izvestiya*, published at the time of a law enforcement meeting in Ekaterinburg, that identified a Department of Justice representative and an American University scholar as FBI agents coming to investigate the ties of major American criminal cases to the Urals. The lengthy article did not represent a distortion of the facts but instead was a total misrepresentation of information. The prominence given to the article suggests a deliberate intention to undermine efforts to curtail high-level corruption.

Without access to full-length investigative records and lacking information on many cases in which there has been Russian-American cooperation, it is difficult to provide a comprehensive view of the cooperation. Therefore, my observations are derived only from a sampling of cases involving the FBI, Customs, INS, and organized crime strike forces. I will address a range of cases, including a traditional organized crime case, a crime facilitated by computers, and a complex money laundering case.

The Nature and Quality of American-Russian Law Enforcement Cooperation

Cooperation with the United States is crucial for the Russian state because billions in Russian assets, now needed for the country's reconstruction, are parked in American financial institutions.²³ The presence of this illicit capital is a significant concern to the Department of Justice, which has a responsibility to protect the integrity of the American banking system.²⁴ The laundering of money through American banks provides the working capital for criminal penetration into the American economy.

But cooperation is inhibited by many different factors. Many American law enforcement personnel are unaccustomed and untrained to operate in the international arena. Communication between the Department of Justice and the FBI is limited and there is insufficient communication among the different field offices working on similar and related cases.²⁵ The domestic problems are compounded by the need to operate overseas, particularly in Russia, where there is limited technical capacity, widespread distrust of foreigners, in particular the FBI, and pervasive corruption. Such problems undermine the possibilities for collaboration. Russian law enforcement officials, investigators, and prosecutors feel frustrated by the legal safeguards and the lack of coordination among different U.S. federal agencies, which produce interminable delays and prevent the return of looted Russian assets.

In the absence of formalized legal agreements, Russian-American cooperation is highly dependent on personal and institutional cooperative relationships. There is no extradition agreement, which has made it difficult for the United States to secure the return of criminals who have fled to Russia to escape prosecution in the United States.²⁶ Likewise, the absence of extradition has left the Russians unable to place individuals on trial in Russia who have obtained green cards or have sought political asylum. In several notable cases in the United States, criminals wanted in Russia and other Soviet successor states have appealed successfully to immigration judges on the grounds that they faced persecution at home.

Requests for information on both sides have resulted in lengthy delays. American prosecutors, in interviews, admit that international requests for assistance may fall to the bottom of the to-do pile. Americans likewise complain of both inadvertent and deliberate delays from Russian colleagues. To overcome many problems of cooperation, the United States recently concluded a mutual legal assistance agreement with Russia that encourages but does not require (as would a mutual legal assistance treaty) mutual legal assistance in obtaining information and evidence.

Training has become a pillar of American law enforcement engagement with Russia, a means to develop cooperative relationships.²⁷ Without an understanding of the procedures needed to submit legally admissible documents, months of Russian investigative work will bring no results in American courts. Much training has not been effective, however, because of institutional rivalries among American law enforcement agencies, the failure to prepare trainers for the conditions they would encounter in Russia, and the tendency of trainers to fly in and out without really engaging their Russian colleagues. In a notable example of American corruption, the Justice Department's International Criminal Investigative Assistance Program office was searched and sealed by the FBI in 1997. A major general investigation of the office continued for several years, examining misuse of training funds and other abuses by personnel employed in the office.²⁸ A completely new staff had to be brought in to develop and implement effective training programs.

FBI and Ministry of Interior Cooperation

Leadership in the cooperative relationship with Russia began with the FBI. The State Department was much slower to move in the law enforcement arena and is generally assuming a coordination rather than a leadership role in combating crime. Millions of dollars in foreign assistance money now moves through the Bureau for International Narcotics and Law Enforcement Affairs of the State Department to provide training and other programs to combat a wide range of organized crime activities. Yet the impetus for the major training initiative in Budapest, the International Law Enforcement Academy, came from the FBI.²⁹

Louis Freeh, the director of the FBI, has been at the forefront of moving the FBI into the international arena and addressing the transnational dimensions of crime. The mystique of the FBI has allowed it the autonomy to assume leadership in the international arena when other law enforcement branches of the gov-

ernment could not. Other federal agencies are more hampered by the federal government bureaucracy and lack such a strong constituency in Congress.³⁰

The Russian FBI initiative followed from a larger international initiative within the FBI to globalize its activities and place personnel in countries with large domestic criminal organizations, such as Italy or Hong Kong. Therefore, the FBI office in Moscow was opened by an agent who had previously worked in Hong Kong. The basis for the global expansion is the underlying belief that a network of close working contacts is essential to successful investigations.

In Russia, the FBI is willing to cultivate a variety of relationships with different actors in the law enforcement apparatus because they believe they will remain their present and future partners in investigations, despite oscillations in American-Russian relations. The pragmatism of the FBI and its encompassing approach reveal a very different conduct of policy than that of traditional diplomats. In the late 1990s, State Department officials were interacting almost exclusively with the Yeltsin circle, whereas the FBI continued to maintain contact with ousted law enforcement professionals with whom they had developed good working relationships. Their pragmatic approach made them not want to “put all their eggs in one basket.” The power of the FBI has given them leeway to bypass the ambassador and even the White House on investigations that they have undertaken in cooperation with Russian colleagues.

Other Law Enforcement Cooperation

The FBI has opened an office in Budapest with full investigative powers. The Hungarian-American law enforcement cooperation is intended not only to address Hungarian organized crime but also to fight criminals from the former Soviet Union operating in Hungary and other countries of Eastern Europe. An elite body of investigators, removed from criminal infiltration, was established to deal with serious transnational crime and global money laundering.³¹

Although the FBI was the first law enforcement agency to have a permanent presence in Moscow, other law enforcement agencies are now present at the U.S. Embassy in Moscow—for instance, U.S. Customs, the Internal Revenue Service, the Drug Enforcement Agency, Immigration and Naturalization Service, and the Secret Service—and they are beginning to develop cooperative relationships with Russian colleagues.³² The DEA has had a strong relationship with their counterparts in the Ministry of Interior and with the KGB (now the FSB) since the mid-1990s, and there has been much sharing of information on crop cultivation by region.

The Department of Justice Office of Overseas Prosecutorial Training runs a significant program of training at the International Law Enforcement Academy in Budapest and throughout the countries of the former Soviet Union. It also coordinates the Department of Justice’s prosecutors who are placed overseas to promote law enforcement training and cooperation. Central to this is the development of documents legally admissible in American courtrooms. Personnel have been in Russia since the mid-1990s and numerous training programs have been conducted in different regions in Russia, often in conjunction with ABA/CEELI,

the criminal justice initiative for Central and Eastern Europe sponsored by the American Bar Association.

Politics and Corruption Undermine the Law Enforcement Relationship

Law enforcement relationships are affected by bureaucratic disruptions, frequent changes in personnel, as well as changes in the political climate between the United States and Russia. For example, cooperation in law enforcement was scaled back after the bombings in Kosovo and after Yeltsin's dismissal of Attorney General Yuri Skuratov. From Skuratov's downfall, procurators, members of a highly structured hierarchical organization, once again understood that they were serving the interests of the Kremlin and not the rule of law. The impact was immediate and visible in many General Procuracy activities. In many cases, cooperation may not be obtained at the level of the bureaucracy that supervises work, but there may be much more effective cooperation at the operational level. Illustrative of this is recent investigative work by the Customs Service on child pornography, which I will discuss in more detail later.

Law enforcement personnel working with Russian colleagues always need to be sensitive to the possible political uses of the criminal justice system, a problem that dates to the Soviet period. According to my interviews with field agents, FBI agents often receive requests from Russians to steal Russian resources and move them to the United States. A key concern of many investigators is that documentation may be fabricated or distorted. Past investigations have taught them that Russians may initiate international criminal investigations to get at political enemies or to target members of ethnic minorities involved in crime. The traditional Soviet practice of using the criminal process against one's political enemies was therefore expanded to the international arena, making the FBI party to this practice. The FBI, in response, tries to use its liaison officer in Moscow to check out the credibility of these cases. Yet the sheer number of cases and their distribution throughout the vast territory of Russia taxes the very limited human resources of the FBI in Russia. It has proved impossible to verify the credibility of all cases transmitted to American law enforcement.

The exploitation of foreign law enforcement to pursue the political vendettas and intermafia struggles of Russia is not confined to the United States. In a Dutch immigration case in which I served as an expert, it was clear that criminals close to Russian Interpol had fed information to Dutch authorities to ensure that they would pursue their enemy. Therefore, the criminals could exploit foreign law enforcement to corner their enemy and only needed to send in the hit man at the final stage of the pursuit. Dutch law enforcement in the 1990s, unaware of the sophistication of the Russian mafia, did not even consider that they were being exploited by foreign criminals.

When I asked a subsequent head of Interpol about my observations on the case, he acknowledged that there had been a very serious problem with Interpol in the mid-1990s, the time of the Dutch case. As he explained, General Anatoly Kulikov, in one of his first steps as minister of interior, removed the head of Interpol "for very serious abuses of his position." But one senior member of Russian law

enforcement explained that the misuse of Interpol did not end with the removal of the corrupt chief because criminals in the regions continue to feed requests against their enemies to the national bureau of Interpol. The Moscow-based office does not have the resources to verify the legitimacy of all the requests that are forwarded to them for distribution.

The FBI have developed important collaborative relationships with their Russian counterparts and are ready to share information with them. The information sharing, however, has produced strains with the American intelligence community. At a seminar hosted by the Moscow Organized Crime Study Center, a Russian law enforcement official reported that Americans often failed to recognize the close relationship between criminals and many Russian law enforcement officials. This had led to serious consequences.

In his remarks he gave the following illustration: As a member of a Russian law enforcement delegation sponsored by the U.S. government, he had a meeting with a very high-level official of the FBI. The FBI official informed the visiting Russian delegation that there was now a wiretap on a known Russian criminal that went straight back to the Kremlin. As the Russian official explained, before the trip was completed, a member of his delegation was able to warn his criminal associates in Moscow of the wiretaps. I obtained confirmation as to the veracity of this story from knowledgeable Americans. Therefore, there is concern in the intelligence community that the information sharing of law enforcement agencies undermines information gathering on the criminal links of politicians. The FBI response is that the benefits of sharing information outweigh the intelligence losses and even the occasional leaks of information to criminal groups.

Partnership in Prosecutions

Cooperation occurs on the prosecutorial as well as the investigative level. American prosecutors have been assigned by the Department of Justice to Moscow for extended periods to assist in training, a prerequisite to effective law enforcement cooperation. Cooperation also occurs through formal channels. Prosecutors in the United States request information from their Russian colleagues, often through letters rogatory, and requests from Russian prosecutors are forwarded through the international affairs department of the Procuracy General in Moscow to the Office of International Affairs of the Criminal Division of the Department of Justice. Many inquiries that are forwarded to Moscow by prosecutors from different regions of Russia never reach the United States. Interviews with Russian prosecutors suggest that sometimes these requests for information get lost in the bureaucratic web. Sometimes, the explanation is more pernicious. Criminals intervene in the legal process to derail investigations. Therefore some Russian procurators and members of RUOP, the division of the Ministry of Internal Affairs dedicated to combating organized crime, seek to develop personal relationships with their foreign counterparts, allowing for exchange of information outside of more formal channels. But these informal relationships usually do not lead to materials admissible in American courts because official documents must be submitted through the Moscow office of the Procuracy General.

Exchange of information also proceeds on a more individual level. For example, American prosecutors, from strike forces, travel to Russia to collect depositions, to interview witnesses, and to collect information in preparation for trial. FBI agents also travel to Russia to interview witnesses and to obtain background information on cases in the United States. The travel does not go just one way. For example, the Russian prosecutor in the Konanykhine case (Konanykhine was accused by the Russians of money laundering, and the INS tried unsuccessfully to deport him) came to Washington to work with American investigators, and Russian investigators were given access to files of the Golden Ada case in California.³³

Much of the Russian-American cooperation is coordinated by the international department of the Procuracy General of the Russian Federation, which explains much about the vicissitudes in the relationship. The procuracy, the key institution of the Russian legal system, has not been freed from telephone justice and has been forced to be subservient to the political interests of the Kremlin. This pressure is applied by the Kremlin

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and the oligarchs on the national level and by the governors on the regional level, where the regional international departments of the procuracy also respond to numerous international requests.

The pressure on the procuracy became a subject of national and international media scrutiny after Attorney General Skuratov began an investigation with Swiss authorities of corruption in the Yeltsin family and entourage.³⁴ Not only was Skuratov shown on the national media cavorting with prostitutes but he was forbidden to travel abroad, and a criminal case was initiated against him.

The discreditation of Skuratov made blatantly clear the difficulties of investigating high-level corruption. But the investigation of bribery connected with the Kremlin renovation was not the first case in which procurators were circumscribed in cooperating with their foreign counterparts. Even before this internationally visible derailment of a serious criminal investigation, major efforts were made to impede the investigation of the Golden Ada case, which implicated such high-level officials as the deputy prime minister and the minister of finance.³⁵

Typology of Cases and Cooperation

In the following section I focus on three cases that are emblematic of the Russian-American cooperative relationship. They include a case of child pornography on the Internet, the traditional organized crime investigation around Yaponchik, and the complex financial case of Golden Ada. The three cases show very different degrees of success in cooperation, depending on the type of crime committed and the amount of mutual interest in addressing the underlying prob-

lem. The extent to which corruption influences the cooperative relationship differs dramatically depending on the offense and the level of power of the participants.³⁶ The absence of harmonized legislation can be a problem in some cases but can even prove beneficial in others. The movement of crime into the digital era may complicate the investigations of complex financial crimes, but it may actually facilitate the investigation of child pornography if there is the technical capacity to address the problem.

These cases do not bring out some nuances of the cooperative relationship that should be highlighted. There is much routine cooperation on cases of fraud, homicide, and embezzlement. Representative of this is the Breskin and Korogosky case, which resulted in the conviction of two Russian émigrés for conspiracy, wire fraud, and money laundering in the U.S. District Court for the Southern District of New York. They had committed the crimes after establishing a phony charity to help Chernobyl victims, which served as a front to defraud customers in Russia. In this case, in which there was clear harm done in Russia and the defendants were not Russians or members of the elite, there was significant cooperation. Cooperation from the Russian side appears to be greatest in cases where defendants are members of ethnic minorities rather than Russians. This may be a result of discrimination, political pressure, and also a desire to define the problem of the Russian mafia as not really Russian, a position assumed frequently by members of Russian law enforcement.

Among the most successful Russian-American cooperation is that done in combating child pornography and sex tourism. This investigative responsibility belongs to the U.S. Customs Service because they investigate smuggling over the Internet. Initially, U.S.-based investigations identified Russian-American exchanges of child pornography. Customs officials approached the Russian central law enforcement bureaucracy and received little assistance. But cooperation was more readily established at the local operational level.

The absence of harmonized legislation between Russia and the United States proved to be an advantage. Russians seized computers from the Russian suspects believed to be selling child pornography to American customers. American investigators obtained access to the e-mail records of the seized computers and conducted an investigation tracing the Western Union payments from the United States to Russia for the purchase of child pornography. On the basis of this cooperation, a search warrant was issued in the United States, the tapes made in Russia were found in the suspect's apartment in the United States, and he was arrested. The Russian defendants associated with the case were initially arrested, but charges were dropped under a new amnesty program. But all their pornographic tapes were confiscated and their business halted.

This initial cooperative investigation was reported in the Russian press. But other investigations are ongoing in the areas of child pornography and sex tourism by Americans, with very fruitful cooperation with Russian law enforcement.³⁷ These cases represent a shared commitment to deal with a serious problem. Furthermore, they show the possibilities of cooperating on investigations of computer crime.

The most successful example of FBI-Russian cooperation is in the case of Yaponchik, an alias of Viacheslav Ivankov, a thief-in-law (a translation of *vory v zakkone*), an elite figure in the Russian criminal hierarchy.³⁸ He epitomizes the old type of organized crime in which there is an established hierarchy in the criminal organization, rituals and rules of compliance with the criminal underworld. The thieves-in-law are well known to the Russian law enforcement bodies, which have identified several hundred. They exercise control over a particular territory and are engaged in the violence that characterizes traditional criminal organizations.

Yaponchik ran rackets, extorted money from businesses, and ordered violent retaliation against those who stood in his way.³⁹ He spent many years in Soviet

labor camps in Siberia and emerged from prison in 1991. He had many criminal ties to Siberia as well as to Moscow.⁴⁰

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Yaponchik entered the United States illegally with a fraudulently obtained visa. Russian law enforcement authorities tipped their counterparts in the United States to his arrival. According to both Russian and American law enforcement

authorities, he began to organize and exercise control over different smaller scale Russian criminal activities in the United States. Yaponchik was placed under surveillance and also subject to wiretaps. One of the wiretaps revealed that he was planning a hit against the FBI legal attaché in Moscow. The undercover operation against Yaponchik had to be terminated prematurely because once information is obtained that someone's life is in danger, an operation cannot continue. Consequently, Yaponchik was not tried under a Racketeer Influenced and Corrupt Organizations Act statute, which would have led to a longer sentence, but instead was tried on extortion charges.

Much of the case involved Yaponchik's operations in Brighton Beach, the part of Brooklyn that is home to hundreds of thousands of Russian emigrants. The case involved the cooperation of local law enforcement officials along with the FBI and federal prosecutors in Brooklyn. Russian cooperation was obtained at different stages in the investigation.

In a jury trial in Brooklyn, Yaponchik was sentenced to ten years in prison, a sentence that surprised Yaponchik and the Russian authorities. Russian-American cooperation led to a successful prosecution in the United States, which would not have been possible in Russia because of the powerful links between the criminal underworld and the criminal justice system.

In cases involving high-level officials instead of a gangster like Yaponchik or individuals trafficking in child pornography, Russian-American cooperation has been much more problematic. This has been true in the cases of the Harvard Institute for International Development (HIID), Golden Ada, and most recently the

Bank of New York. The HIID case, conducted out of Boston, involves the investigation of two members of the institute for using personal relationships for private gain while under U.S. government contract. Their Russian partner in the institute, dedicated to the promotion of privatization in Russia, was Anatoly Chubais, a leading official throughout most of Yeltsin's years in power and now chair of the electricity monopoly United Energy Systems. His clout within the Russian government has meant that there has been almost no progress in this investigation since it was initiated several years ago.⁴¹

Likewise, the Golden Ada case, since its inception, has faced very serious investigative challenges because of the very high-level Russian officials involved. Russian officials systematically stole tons of diamonds, jewelry, silver, and gold from the Russian national treasury. They established a diamond store in San Francisco—the Golden Ada—and sold pre-Petrine coins in Los Angeles. This theft was perpetrated by the head of the State Treasury and other high government officials closely associated with Yeltsin. American law enforcement discovered the case because of the large shipments of precious commodities arriving in the country and because the Russians tried to recruit San Francisco police to accompany the diamond shipments. American police tipped off the FBI.⁴²

The high-level Russian corruption and the hundreds of millions in assets that arrived in the United States added a national security dimension to the case. Briefings on the case were held at the National Security Council. The investigative work by local police, IRS, Customs, and federal organized crime strike forces in San Francisco and Los Angeles reflects the diverse group of teams needed to mount such a complex investigation.

Russian and American cooperation occurred primarily through the FBI and reflects the close cooperation they developed with the Ministry of Interior in Russia. The FBI legal attaché in Moscow, Michael di Pretaro, provided for the transport of the chief investigator, Viktor Zhironov, to California to work with American investigators. American investigators developed a relationship of trust with Zhironov during the investigation. Their confidence in him increased after he was beaten up after his return to Russia by those who wanted to impede the investigation. Zhironov and his investigative team from the Ministry of Interior were granted access to twenty thousand pages of American documents and were allowed to interview witnesses for the Russian case.

The cooperation proved most fruitful with the Russian Ministry of Interior rather than with the Procuracy General. Advancing the case required cooperation not only from Russia but several other countries, as the diamonds were shipped to Belgium and the money was laundered in Switzerland. Persistent American prosecutors were able to advance the case at moments when the Russian defendants were not being protected because of the vicissitudes of Russian power. But long periods separated these advances in the case. Complicating the investigation was the failure of many of the federal investigators and prosecutors to understand the government positions of some of the Russian officials implicated in the case. According to one of the American expert witnesses in the case, the American investigators did not recognize the names of the deputy prime

minister or the minister of finance, both of whom were implicated in the legal documents examined.

The case has yet to be concluded, and tens of millions in assets that could be returned to Russia still remain in the United States. Needed documents have still not been obtained from the Russians, a feature characteristic of this lengthy investigation.

The difficulties that characterized the Golden Ada case were only compounded in the Bank of New York case, which illustrates the complex routes by which Russian money laundering is detected in the United States.⁴³ The British law enforcement authorities had tipped American law enforcers to the suspicious transactions being passed through the Bank of New York. The FBI, with only a limited number of personnel, began to conduct an undercover investigation following the money flows through the bank. British officials were disturbed that not enough progress was being made in the case and subsequently contacted international law enforcement in the State Department. With these diverse bodies working on the case, information on the case was leaked to the *New York Times*, after which it was impossible to continue the undercover investigation. Local New York enforcers, federal law enforcers, and the State Department exchanged bitter recriminations, all blaming each other for the leaks.

Once an undercover investigation was no longer possible, a cooperative investigation needed to be initiated with the Russian authorities if money laundering and other charges were to be made. According to law enforcement sources close to the investigation, several Russian agencies offered their help in the investigation, but they were not all committed to getting to the heart of the problem. Information provided by the Russians has yet to link any of the transactions to criminal activity or secure any of the indictments that have come so far. In the absence of a Russian money laundering law, American authorities had to link the money in the Bank of New York to a particular offense in Russia. It will remain to be seen whether there will be further cooperation in the investigation as Putin targets some of the oligarchs.

The difficulties in securing cooperation with Russia and other post-Soviet governments in cases involving high-level corruption, bank fraud, and money laundering have made many American prosecutors reluctant to take on such cases. Although crimes such as the ones in the Bank of New York and Golden Ada cases cannot remain uninvestigated, American prosecutors, if given discretion, may choose not to invest their energies in cases linked with the former Soviet Union. The oscillations in cooperation often lead to unsuccessful outcomes.

Problems in Asset Forfeiture

The problem of asset forfeiture and return of assets is a very difficult one that presently affects Russian-American bilateral relations. Billions in Russian assets, many of them obtained by illegitimate means, have flowed into the United States since the collapse of the Soviet Union. The Bank of New York case is only the most visible, but half a billion dollars are left in the Golden Ada and billions more in many other cases. Since the Bank of New York case broke, there

is much concern at high policy levels that the vast sums of money flowing in from the former Soviet Union, much of it probably of illicit origin, has the possibility of undermining our banking system.⁴⁴ Conversely, on the Russian side there is great concern that little of the looted assets has been returned. Moreover, much political capital is being made from these cases in the West, with little tangible benefit for Russia.

American officials have been successful in repatriating money in only a few cases, and the amount totals only several million dollars. In one case Americans sold Russian businessmen a brick plant that they had no intention of constructing. Based on Russian complaints, an American investigation was launched. Assets forfeited from the Americans after conviction allowed repatriation of funds to Russia.

Significant assets are available for repatriation from the Golden Ada case because FBI, Customs, and IRS agents seized many of Golden Ada's assets just as they were to be shipped out of the country. Other assets cannot be repatriated because under American

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law commodities that are purchased in good faith are not subject to forfeiture. This affects the sale of many gold coins in the Golden Ada case. Therefore, of the \$500 million involved in the case, approximately \$40 million is available for return to Russia. But because of the political delicacy of the case and the Russians' failure to produce needed documentation, the assets have not yet been returned.

Russian law enforcement do not understand the complex laws protecting property in the United States and Western Europe. Many Russians believe that it should be possible to simply provide American law enforcement with the bank accounts of Russians they are investigating and have the money seized and repatriated. However, very complex court procedures govern the seizure and repatriation of funds to ensure that citizens are not unjustifiably deprived of their property.

To prove a case of money laundering, American courts need to show that the funds in question derived from a predicate offense. This is problematic on several accounts. First, high-level Russian corruption often makes it difficult to obtain evidence that the money in question derives from an illegal act. Second, Russian authorities often do not provide documents admissible in American courts that adequately trace the criminal origins of the money. Third, American legal procedures demand strict conformance to court deadlines, which Russian law enforcement are not accustomed or equipped to meet without adequate budgets for express delivery of documents or other forms of communications.

There is frustration on both sides. American prosecutors lose cases in which they have invested months of time and significant financial resources. Russians

believe that Western procedures and protections of property are only pretexts to prevent the recovery of their property.

Conclusion

Transnational crime will become an increasingly important issue for international engagement in the coming decades. In the future, there will be more attention to security threats conducted over computers by crime groups and less attention to the traditional military arena. Russia represents an important test case in understanding the foreign policy transition that is currently under way.

Cooperation in law enforcement is most successful with countries with legal systems and cultures similar to ours, such as England and Canada. There has not been unilateral success in establishing working relations with Russian colleagues. The cooperative relationship has been most successful pursuing crimes on whose severity both groups agree, such as exploitation of children for child pornography and sex tourism. Russians are also more ready to cooperate on traditional organized crime, which is often perpetrated by members of minority groups. Cooperation is more limited when the suspects are Russian.

The cooperative relationship is also less successful in cases that involve high-level officials, corruption, and the movement of large sums of money by politically connected individuals. Russians have never known the prosecution of high-level financiers like Michael Milken and Ivan Boesky, therefore their view of what can be prosecuted as organized crime is much more limited. They have, however, seen the prosecution of well-placed political types for political vendettas or during periods of political transition. This is a political use of the criminal justice system to which American law enforcement do not want to be party.

The failure to successfully prosecute criminal and immigration cases involving high-level Russian corruption does not occur only in Russia. Russians in the United States have learned to work the American system and retain expensive American lawyers, allowing them to exploit the American legal system to the maximum advantage. American efforts to combat Russian organized crime require more interagency cooperation, which is difficult to obtain. When the crimes involved are central to the Russian and the American polities, as in the case of the Bank of New York, they sometimes leave the realm of law enforcement and become subjects of intense political and media interest. Therefore, the combating of crime is subjected to the same politicization that has characterized so many aspects of the Russian-American relationship.

Many of the problems of cooperation are the result of mutual ignorance of laws, legal norms, and methods of operation in the other country. Over time, some of those problems have improved, but in the absence of a mutual legal assistance treaty and an extradition agreement, there are many legal and bureaucratic obstacles to full cooperation. Differing concepts of privacy and minority and overall human rights also affect the quality of the cooperative relationship.

Conflicts and competition between the security services and law enforcement within each country have also impeded cooperation. Years of mutual distrust have not been dispelled overnight; the FBI was once vilified in Russia, and coopera-

tion with the FSB in areas such as combating drugs is hard for many on the American side to accept. Intelligence leaks and deliberate disinformation have not improved cooperation. The penetration of organized crime into Russian law enforcement bodies and the exploitation of Interpol by crime groups have made cooperation difficult, even undermining or derailing investigations.

Training programs in Russia to improve cooperation have been marred by American corruption. In an effort to expend the significant sums designated for training purposes, Americans often descend on Russia in large groups merely to see the country, providing little actual training. Russians perceive this as a waste of money and an American form of corruption because it contributes nothing to mutual efforts to combat crime.

Even though the initial phase of the most intense looting of Russia has passed, the crimes that link Russia and America will continue. Computer technology in both countries will enable future crimes affecting our mutual financial systems, the protection of our citizens, and the integrity of our data systems. A larger framework needs to be developed to address the diverse aspects of our increasing engagement on the crime issue. The problem must involve more than law enforcement; members of the diplomatic community must learn that they need to integrate the crime issue into their larger foreign policy agenda. The vagaries of the Russian-American relationship will increasingly reflect the strength and successes of cooperation in fighting crime rather than the number of nuclear war-heads each has.

NOTES

1. Louise Shelley, "Transnational Financial Crime and Corruption: A High Priority for the 21st Century," in *Organized Crime Watch*, special edition on money laundering, September 1999, <www.american.edu/tracc>.

2. This changing relationship is addressed in Maryann K. Cusimano, *Beyond Sovereignty: Issues for a Global Agenda* (Boston: Bedford/St. Martin's, 2000), 1–43, and will be the subject of a forthcoming book on the Russian-American cooperative relationship by Cusimano.

3. *U.S.–Russian-NIS Cooperation to Prevent Deadly Conflict: Report of a Commission Task Force*, Carnegie Commission on Preventing Deadly Conflict (New York: Carnegie Corporation of New York, 1999).

4. House Committee on International Relations, *The Threat from Russian Organized Crime: Hearing before the Committee on International Relations*, 30 April 1996, 12.

5. House Committee, *The Threat from Russian Organized Crime*, testimony of Louis J. Freeh, 8–9.

6. Linnea P. Raine and Frank J. Cilluffo, eds., *Global Organized Crime: The New Empire of Evil* (Washington, D.C.: CSIS, 1994).

7. Ethan A. Nadelmann, "The Americanization of Global Law Enforcement: The Diffusion of American Tactics and Personnel," and Jonathan Winer, "International Crime in the New Geopolitics: A Core Threat to Democracy," in *Crime and Law Enforcement in a Global Village*, ed. William F. McDonald (Cincinnati: Anderson, 1997), 123–26, 53–64.

8. Ethan Nadelmann, *Cops Across Borders: The Internationalization of U.S. Criminal Law Enforcement* (University Park: Pennsylvania State University Press, 1993).

9. Sergei Avdeev, "Politseiskaia akademiia amerikanskie syshchiki priekhali nabit'siia opyta i russkikh militsionerov," *Izvestiya*, 1 April 2000, 1, and Timothy L. O'Brien, "Doubts Raised About Source in Bank of New York Inquiry," *New York Times*, 17 January

2000, <www.russianlaw.org/nyt-sel-article.htm>.

10. *Russian Organized Crime: A Report of the Global Organized Crime Task Force* (Washington, D.C.: CSIS, 1997), 64–71.

11. See, for example, the depiction of Russian organized crime in Michael Elliott, Douglas Waller, and Dorinda Elliot, “Global Mafia: A Newsweek Investigation,” *Newsweek*, 13 December 1993, 22–24.

12. Much of this was evident in the Russian mass media after the publication of the CSIS report *Russian Organized Crime*.

13. House Committee on Banking and Financial Services, *Hearing on Russian Money Laundering*, testimony of Carla del Ponte, federal prosecutor of the Swiss Confederation, 21–22 September 1999.

14. Timothy L. O’Brien and Lowell Bergman, “Law Enforcement Rivalry in U.S. Slowed Inquiry on Russian Funds,” *New York Times*, 29 September 1999.

15. Claire Sterling, “Containing the New Criminal Nomenclatura,” in *Global Organized Crime: the New Empire of Evil* (Washington, D.C.: CSIS, 1994), 106–11.

16. Raymond Bonner, “Russian Gangsters Exploit Capitalism to Increase Profits,” *New York Times*, 25 July 1999, 3.

17. See “Financial Havens, Banking Secrecy and Money-Laundering,” *UN Crime Prevention and Criminal Justice Newsletter* 34/35, 1998. I also draw on my knowledge of a case I worked on as a governmental consultant.

18. Information provided by the Criminal Division, Department of Justice, 2000.

19. She was a speaker at the first law enforcement information-sharing conference on post-Soviet organized crime in Washington in 1994 and has since participated in such meetings in Russia, Ukraine, Azerbaijan, Georgia, France, Germany, and at a ministerial-level meeting of the European Union in Finland.

20. In addition to participation at conferences, I have presented lectures at the FBI Academy in Quantico and the FBI field office in the Washington area, and I have also lectured and discussed issues of cooperation with many members of different organized crime strike forces in the United States. It is these strike forces that have a leading role in investigating and prosecuting organized crime.

21. My comments on the well-known Konanykhine case, with which I worked for over six months with the Immigration and Naturalization Service, are limited because of a confidentiality agreement I signed, but I am able to discuss other elements of the case outside of the materials that I reviewed.

22. O’Brien, “Doubts Raised About Source.”

23. Frank Pellegrini, “Surprise! Moscow Stonewalls on Laundering Probe,” *Time*, 28 September 1999.

24. House Committee on Banking and Financial Services, *The Nature and Threat of Russian Organized Crime*, testimony of James K. Robinson, assistant attorney general, criminal division of the Department of Justice, 22 September 1999.

25. Robert I. Friedman, *Red Mafiya: How the Russian Mob Has Invaded America* (Boston: Little, Brown, 2000).

26. Bruce G. Ohr and Peter Raven-Hansen, “The (U.S.) Legal Framework for Combating International Organized Crime,” paper presented at the conference *Organized Crime: The National Security Dimension*, at the George Marshall European Center for Security Studies, Garmish-Partenkirchen, Germany, 31 August–2 September 1999.

27. U.S. Senate Appropriations Subcommittee on Foreign Operations, statement of Louis Freeh on international training, 20 March 1999.

28. For an initial report of the investigation see Brian Duffy, “Justice Department Probes Program for Foreign Police Training: Allegations Involve Secrets, Harassment, Contracts,” *Washington Post*, 20 August 1997, A14.

29. For more information on the International Law Enforcement Academy, see <www.usis.hu/ilea.htm>. This is also explained in statement by Jim E. Moody, deputy assistant director of the criminal division of the FBI, in a hearing of the U.S. Senate Gov-

ernmental Affairs Committee on 15 May 1996.

30. For example, the FBI has been represented at many congressional hearings on international organized crime whereas representatives of other federal agencies have been less frequently represented.

31. Duncan Welch, "FBI Nabs Mafia's Alleged Financier," *Budapest Sun*, 15–21 June 2000, 1.

32. Senate Permanent Subcommittee on Governmental Affairs, *Hearing on Russian Organized Crime in the United States*, testimony of George J. Weise, commissioner of U.S. Customs Services, 15 May 1996.

33. David E. Kaplan, "The Looting of Russia," *U.S. News and World Report*, 3 August 1998.

34. David Hoffman, "Russian Parliament Keeps Prosecutor: Nemesis Questions Yeltsin's Motives," *Washington Post*, 14 October 1999, A20; *Russian Organized Crime and Corruption: Putin's Challenge* (Washington, D.C.: CSIS, 2000), 29–30.

35. Kaplan, "The Looting of Russia."

36. Timothy L. O'Brien and Lowell Bergman, "Law Enforcement Rivalry in U.S. Slowed Inquiry on Russian Funds," *New York Times*, 29 September 1999.

37. The information is based on interviews with U.S. customs investigators and continuing reports on their progress. See also David Noack, "Five Charged in Overseas Kiddie Porn Ring," 14 April 2000, <www.APBnews.com>.

38. Organized Crime Task Force, "An Analysis of Russian-Émigré Crime in the Tri-State Region of New York State," commissioned by New York State Organized Crime Task Force, New York State Commission on Investigation, and New Jersey State Commission of Investigation, June 1996.

39. Stephen Handelman, *Comrade Criminal: Russia's New Mafiya* (New Haven: Yale University Press, 1995), 260–62.

40. Aleksandr Grant, *Protsess Iaponchika* (Moscow: Act, 1996).

41. Janine Wedel, "Rigging the U.S.–Russian Relationship: Harvard, Chubais, and the Transidentity Game," *Demokratizatsiya* 7, no. 4 (fall 1999): 469–80.

42. I met one of the FBI agents at Quantico who had been informed by a San Francisco policeman of this suspicious activity.

43. *Russian Organized Crime*, 8.

44. "Global Financial Systems under Assault," in *Global Organized Crime: The New Empire of Evil*, ed. Linnea P. Raine and Frank J. Cilluffo (Washington, D.C.: CSIS, 1994), 14–36.