

# Research Partnership with Ukraine

*Teaming U.S. researchers and practitioners with Ukrainian counterparts to research high priority crime topics.*

## Anticipating and Combating Ukrainian Organized Crime

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### Introduction

This paper provides a brief introduction to the primary conclusions of our research. The research program set out (1) to identify the types and severity of transnational organized crime present within Ukraine; (2) to delineate the response of the Ukrainian government and others to domestic and transnational crime operating in the country; and (3) to develop a set of recommendations for strengthening the efforts to combat organized crime in Ukraine. While our final report provides more detail on each of these topics, this summary briefly discusses our methodology, and then moves into the three empirical areas of interest outlined above, concluding with some implications for practitioners and researchers alike.

### Methodology

In order to arrive at our conclusions, we have relied on rather standard methodological approaches:

- The use of textual analysis. We collected, collated, and analyzed information from between five and seven hundred documents concerning organized criminal activity and groups both within Ukraine or operating in Ukraine. The documents included reports, media stories, books, and other forms of information.
- Interviews with specialists. We conducted interviews with at least a dozen practitioners and other experts within Ukraine or that have direct dealings with Ukraine.
- Scholarly work by our partners. Most importantly, we relied on the scholarly submissions from our Ukrainian colleagues on the project. Through their research and writings, we were able to gain important insights into the various types and forms of transnational organized crime operating within Ukraine.

In effect, we sought to construct an analytic from the current trajectories of organized criminality within Ukraine against the status and future of Ukrainian and international responses to the problem. From this analytic, we were able to identify gaps and shortcomings, from which we make recommendations for policymakers and practitioners both within Ukraine and the US.

## **Empirical Findings**

As noted in the introduction, we wish to group our findings into three broad categories for the purposes of this paper. For the first two sections, the major findings and supporting evidence are discussed, as a prerequisite for the final section of the paper which elucidates a set of recommendations for policymakers and practitioners in both Ukraine and the United States.

### ***Discoveries***

One of the most important statements to make about Ukrainian organized crime, is that it is not Russian organized crime. Many scholars and practitioners alike outside Ukraine have a tendency to discuss any organized criminal group that uses the Russian language or originates from a part of the former Soviet Union as Russian organized crime. While there are obvious similarities and some overlap between organized crime in Russia and organized crime in Ukraine, the latter is not simply an extension of the former. Organized crime in Ukraine has distinctive features that set it apart from the phenomenon in other countries. Indeed, Ukraine faces challenges from domestic and transnational organized crime that are unique. Similarly, its responses reflect a particular set of political, economic and social constraints and opportunities in the country. That said, this section outlines four significant findings, each of which identifies cleavages that help deconstruct organized crime in Ukraine and, establish the analytics necessary to formulate a set of necessary and appropriate policy recommendations.

The first of these findings is that, within the state of Ukraine, organized crime operates in different ways depending on the geographical context. One such set of cleavages is regional, with many groups in particular regions also dominating particular functional areas. Indeed, although all organized crime groups tend to include most of the standard criminal activities within their repertoire, primary criminal activities vary across regions, depending on the opportunities provided by the operation of industrial and financial institutions, and local and regional government. For example, syndicates focusing primarily on smuggling are found within Odessa and the northwest and northeast sections of Ukraine, while criminal organizations in Kiev tend to focus more on financial crime and money laundering. In some cases, criminal organizations are linked in to the clan dominance of heavy industry; in others criminal violence is interlinked with conflict among the political elites giving the situation in Crimea and in Odessa particularly distinctive features. Furthermore, cleavages are found when one examines organized crime as a rural versus urban problem.

Second, it is clear that different types of organized criminal entities operate within Ukraine. One significant cleavage in this regard is the notion of domestic versus foreign. Ukraine is both home state for many criminal organizations and a host state for others. For example, law enforcement in Ukraine commonly identifies foreign criminal organizations as the major source of narcotics trafficking within Ukraine. Moreover, Ukraine, because of its strategic location, is also a major transshipment state for various forms of contraband. Another differentiation is established through analysis of the sophistication and breadth of group operations. Thus, while more traditional organized criminal groups operate in very familiar ways, most significant and potentially damaging (if also most puzzling) are the "clans" that intermix large

business interests, politicians at the regional and national level, and more traditional elements of organized criminality. The implication of all this, of course, is that no single all-embracing law enforcement is likely to be successful. The law enforcement response has to be carefully tailored to the particular strengths and vulnerabilities of the different kinds of criminal organizations.

Third, it is clear that while some transnational criminal organizations operate in and through Ukraine, the country itself is also the base from which Ukrainian criminal organizations operate across a variety of national borders. Ukrainian criminal organizations, for example, have been active in Israel and in Western Europe, particularly in Italy where the Odessa mafia, also known as the oil mafia established a strong presence in the mid 1990s. The transnational activities and linkages of Ukrainian criminal organizations places a premium on international cooperation with international and other national law enforcement agencies.

Fourth, the other important characteristic of organized crime in Ukraine is that involves what Roy Godson has termed the political-criminal nexus. Such a nexus can develop in a variety of ways, reflecting both the political framework within which organized crime evolves, the peculiar needs and demands of the political elites, and the power and reach of criminal organizations themselves. In essence, the political-criminal nexus involves a series of symbiotic relationships between criminals and political elites. It can vary in terms of depth and extent, and the relative power of criminals on the one side and the political and bureaucratic elites on the other. Whatever its peculiarities, however, the nexus revolves around exchange relationships in which criminals fulfill certain functions for the political elites in return for which they receive protection, information, and support. In Ukraine, this nexus operates at various levels from the national down to the local.

Finally, there is the issue of empirical measurements of Ukrainian organized crime. While excellent record-keeping and criminal statistics exist in Ukraine, it remains difficult to determine unequivocally whether organized crime in Ukrainian is an increasingly important problem or is being contained and becoming a smaller, more modest challenge. This problem, of course, is not unique to Ukraine. One difficulty is the lack of a baseline – and Ukraine is certainly not alone in this. Another is interpreting the trends: law enforcement clearly has some successes, but the overall significance of these is far from clear. When criminal leaders are arrested, for example, does this do any more than provide new opportunities for promotion within particular organizations? And even if a powerful group is neutralized this might simply offer new opportunities for another one to take its place. Indeed, one of the problems in this area is that law enforcement, often working without an overall strategic design sometimes has short term success that, in the slightly longer term, leads to a deterioration rather than an improvement in the overall situation. In the final analysis, however, this is not something that can be assessed in terms of statistics alone. It also requires qualitative judgments about broad trends in the political and economic systems, about continuing vulnerabilities and deficiencies in the legal system, and about developments in the organized crime world itself. In making these judgments about Ukraine, there is little room for optimism.

## ***Responses***

Ukraine's criminal justice response to organized crime remains embedded in its Soviet past. While close to a decade has elapsed since the end of the Soviet Union, the Soviet period still heavily influences many of Ukraine's legislation and criminal justice structures. The reasons for this are too complex to explore in this short space, but it suffices to note here that it is not lack of ability or desire that have held back updates in Ukraine's criminal justice codes and procedures but rather the necessity Ukraine places on attending first

to the many other facets of emerging statehood. That said, our research outlines the various structures that comprise Ukraine's criminal justice system, identifies their applicability to the fight against organized crime and especially their connections to parallel law enforcement or other structures in other states, and notes in broad terms the areas where improvement is either desirable or, in some cases, necessary. Some of these recommendations are listed below.

The first has to do with the development of human resources to man the criminal justice entities. Ukraine is slowly but effectively developing a skilled corps of investigators and other professionals to address organized crime. While training and experience remain important, however, protecting and retaining trained, experienced, effective and committed personnel is another problem that Ukraine confronts. For example, as of July 2000 the strike forces against organized crime had lost 12 investigators in the line of duty. The problems are not, however, limited to the law enforcement sphere. Significant inexperience continues to plague the judiciary, where shortages in personnel and protection issues also serve as impediments to the proper functioning of the courts.

The second problem is the lack of resources and infrastructure within the criminal justice system. The Republic of Ukraine in the Soviet system was merely a constituent part of the larger Soviet Union, with the result its communications and other infrastructures were not established along national lines and, in some cases, were severed when the Soviet Union collapsed. For example, the border with Belarus and Russia, internal frontiers during the Soviet Union, did not contain the hard border control points that characterized the frontiers with Moldova and Poland. Furthermore, law enforcement does not have sufficient funding to purchase and/or maintain vehicles, office space, and other basics—not to mention meet the technology needs for modern investigations. For example, the border guard's telecommunications system is based on 1930s era technologies.

The third problem – and this is one that faces many of the former Soviet republics is that organized crime has developed its own space, its *raison d'etre*, and its pervasive reach in conditions characterized by political upheaval, economic dislocation, and social distress. Feeding on these conditions, it has become deeply entrenched, politically and economically, displaying a traditional and familiar willingness to use corruption to defuse opposition and to resort to violence to eliminate that which cannot be defused. The use of traditional instruments of organized crime, however, should not obscure the ways in which it feeds off its environment. Yet the predominant – and very natural response – has been to emphasize law enforcement, without also considering ways in which the environment itself needs to be modified to make it far less conducive to organized crime activities.

## Recommendations

For the purposes of this paper, we wish to outline the most important findings of our research. From the analytic outlined in the empirical section and the brief analysis of existing responses, it is possible to identify seven broad areas that should be priority areas for both Ukraine and the United States.

There needs to be an overall strategy for fighting organized crime. This requires a set of clear objectives that are explicit but also realistic about what is and is not feasible within particular levels of resource constraints. It also requires a comprehensive approach: arresting and incarcerating members of criminal organizations is not enough; it is vital to develop a broader approach that simultaneously targets leaders, organizational structures, overall profits, and the connections between criminals and elites. As part of this,

it is necessary for Ukraine to implement adequate measures against money laundering (and capital flight) especially links with offshore financial centers of dubious respectability. This has been a major area of weakness and deficiency exploited not only by organized crime but also by a former Prime Minister who embezzled millions of dollars.

Furthermore, the strategy needs to go beyond law enforcement and criminal justice to include environmental modification through appropriate regulatory approaches, especially in the financial sector, educational measures, and the like. Partnerships need to be forged between government and law enforcement on the one side and the burgeoning private sector on the other, whether with investigative journalists, or banking officials who exercise levels of due diligence and meet know your customer requirements that accord with international norms and standards. The strategy also needs to incorporate a capacity for learning – about what works and what does not, whether the lessons are derived from experience in Ukraine itself or relevant developments elsewhere.

The issue is not only about strategy it is also about state capacity. Organized crime has been able to flourish and consolidate its position in countries where the state is weak (some of which are characterized by strong leaders but weak institutions). Gaps in state capacity generally lead to functional holes (normal functions of the healthy state that are left unfulfilled because of the capacity gaps) that are either filled (e. g. organized crime providing protection and redress for business – normally a function of the state and its legal system) or exploited by criminal organizations which operate with a high level of impunity because of weaknesses in the criminal justice system. In thinking about priorities for assistance in the fight against organized crime, for example, it is important to define needs broadly rather than narrowly, to develop state capacity in ways that eliminate functional holes of any type that might be exploited by organized crime.

It is critical to target the political-criminal nexus in all its manifestations and at various levels ranging from city and oblast to the national level. The most significant threat to Ukrainian stability comes from organized crime related corruption and other forms of malfeasance by members of government whether national or local. Recent reports of corruption at the higher levels of government and the demonstrated ability of organized crime to penetrate state agencies confirms that corruption remains a serious issue for Ukraine. The difficulty, of course, is that vested interests within the political establishment have no desire for greater openness and transparency, not least because this might reveal their own links with organized crime and any other profitable machinations. Overcoming these entrenched interests will not be easy. Nevertheless, it is essential for those who want political reform to continue to work to establish the rule of law, greater accountability, and more transparency. For its part, the United States should continue to pressure Ukraine to enact the reforms necessary to combat corruption – however, uncomfortable this is for some members of the Ukrainian political and economic elites. It is also important that explicit efforts be made to identify key nodes and connections in the organized crime-corruption networks in Ukraine (and especially the cross-over points between the underworld and the upperworld), a process that can be significantly enhanced by the use of sophisticated link analysis software packages.

The next area, and certainly one that is imminent, is the looming privatization of major Ukrainian economic sectors. While the sale of state industries and utilities is an important step in the consolidation of a market economy in Ukraine, the Russian and Japanese experiences with privatization serve as historical examples of how organized crime can obtain important footholds in legitimate businesses that, over time, prove extremely difficult to eliminate. Thus, it is important that Ukraine strengthen its oversight and regulatory practices before it continues with the sale of its industries. This can be understood as a specific example of the injunction about environmental modification to reduce opportunities for organized crime as

well as a reflection of the need to learn from relevant experience elsewhere.

Finally, it is important to develop a more effective intelligence system for anticipating and understanding developments in organized crime in Ukraine as well as possible links to developments elsewhere. Intelligence-led policing is particularly important in relation to organized crime and is both essential to and consistent with the requirement to think strategically rather than simply try to "buy and bust" or "identify and arrest". Intelligence is critical to understanding the strengths and weaknesses of major criminal organizations and developing strategies that can exploit circumvent the strengths and exploit the weaknesses. In this connection, it is necessary to probe the developing strategic and tactical alliances between organized criminal groups within Ukraine and those outside. While it is important to avoid facile claims of an actual or nascent "pax mafiosa" the research we have undertaken has revealed groups from South America, North America, Western Europe, South and East Asia operating within the borders of Ukraine. We also have identified instances where these groups operate in conjunction with groups located within Ukraine, often in connection with smuggling or money laundering. Although such alliances are often based on mutual convenience and complementary needs, they can act as force multipliers for organized crime. Consequently, identifying and disrupting such alliances ought to serve as a high priority for Ukrainian intelligence efforts. Other areas that need to be examined more closely include the modalities and mechanisms of money laundering, the operation of criminal markets in Ukraine, linkages between criminal and political figures, and the operation of criminal-controlled companies.

It is important to deepen and widen the existing, and very positive, trend towards international cooperation. This needs to be done at various levels. Great strides have been made in reforming and strengthening the legal system, but great efforts are still required to bring Ukraine up to international norms and standards in particularly weak areas such as anti-money laundering legislation. It is also necessary to strengthen the legal basis for extradition and mutual legal assistance by further widening bilateral and multilateral agreements. Wherever possible, Ukraine also needs to participate in regional or multi-national task forces. Such operations help to create trust among law enforcement agents from different countries and in effect allow police to develop the same kinds of transnational connections and networks that the criminals enjoy. This is an important step in the effort to level the playing field.

These recommendations are part of what is obviously a much broader and more comprehensive agenda for the continued strengthening of efforts to combat organized crime and corruption in Ukraine. Nevertheless, they represent a carefully considered set of priorities that promise to overcome continued deficiencies while also building on the progress that Ukraine has already made in what will continue to be an enormously tough endeavor. It is as well to keep in mind that the fight against organized crime is typically characterized as much by setbacks as by success, as much by failure and disappointment as triumph and acclaim. Organized crime is like a constantly mutating virus that out-maneuvers all efforts to destroy it. If it can be isolated and quarantined and then harm can be limited. Yet even this modest objective is one that is enormously difficult to attain. The initiatives suggested here are certainly no guarantee of success even in harm reduction. Yet without such measures, the only certainty is failure - and the eventual emergence of Ukraine as a state and economy captured and dominated by organized crime. The implementation of a strategy that is comprehensive in scope while highly selective in its targets and priorities offers at least some hope that such an outcome can be avoided.