

LA COSA NOSTRA CONTINUING PRESENCE IN WASTE-DISPOSAL BUSINESS INDUSTRY IN NEW YORK CITY

*By Leandro Di Natala
ESISC Research Associate*

FBI considers the Italian Mafia, also known as La Cosa Nostra (LCN) in the United States, “the foremost organized criminal threat to American society”. Most members of the LCN operate in the New York metropolitan area, but the LCN also operates in Boston, Chicago, Newark, Detroit, Philadelphia and Miami. Its activities vary from usury to gambling, from drug trafficking to money laundering.

On January 16th 32 members of La Cosa Nostra were arrested by the FBI after a multi-year investigation that highlighted the continuing presence of organized crime in the multimillion-dollar waste-disposal business industry in the greater New York City metropolitan area and in parts of New Jersey. The suspects participated in one of the most “traditional” businesses involving mafia’s members: a racketeering enterprise that, according to the indictment, “asserted illegal and extortionate control over commercial waste-hauling companies” through extortion, intimidation and usury. To recall, even the protagonist of the famous tv series “The Sopranos”, Tony Soprano, worked as a “waste management consultant.”

The members and associates of three famous LCN clans, Genovese, Luchese and Gambino, controlled waste disposal business through a system called “Waste Disposal Enterprise,” or “Enterprise”. The indictment states that the Waste Disposal Enterprise was coordinated by factions of La Cosa Nostra “through the use of ‘sit-downs’ to determine which faction would control a particular waste disposal company and established the financial terms upon which control of that company could be transferred from one faction to another in return for payment”.

The Enterprise members controlled the businesses by enforcing purported “property rights” over the trash pick-up routes and extorting payments in exchange for protection. The system imposed a criminal tax on business owners and communities and excluded any competitor that might offer lower prices or better services.

The LCN affiliates hid themselves behind waste disposal businesses that were officially owned and operated by front men, the so-called “Controlled Owners”, who were able to obtain the necessary licenses because they had no known affiliations with organized crime. The system allowed also the Controlled Owners to commit

crimes as stealing property of their competitors and defrauding businesses of their customers.

Their system was dismantled because one of the Controlled Owners, who endured extortion by a number of different factions of the Waste Disposal Enterprise, was a cooperating witness. His identity remains anonymous but it is likely that he may have been working with the FBI because he himself had been charged with a crime and was seeking more indulgent treatment.

The mafia's control over the carting industry in New York was broken in large measure in 1995 by a huge investigation on racketeering and the creation of a regulatory framework that would later become the Business Integrity Commission, which played a significant role in the indictment unsealed last week. In 1995 four waste hauling associations affiliated with the Gambino and Genovese families were accused, according to the indictment, of having carved out a similar system of property rights: "a carter 'owns' the building where his customer is located. If the customer leaves or goes out of business, the carter has the right to service the new customer. If the carter loses a stop to another carter, the 'owner' of the stop has the right to be compensated for his loss either by receiving a stop of comparable value or through the payment of a multiple of the monthly charges the 'owner' had charged. The multiple is frequently '40 to 1' or more, meaning 40 times the monthly fee charged by the 'owner.'"

Like in the Waste Disposal Enterprise, disputes were mediated by the associations. Carters not belonging to the associations faced intimidation, both economic and physical, if they tried to compete with association members. In that occasion, the organized crime system was dismantled after an FBI agent worked three years undercover for a firm that refused to join the cartel.

The solid waste collection industry is subjected to exceedingly competitive conditions. The entrepreneurs have often a low-status background and their firms are usually small, family-based and local. Profits tend to be driven down so it is an ideal environment for organized crime because the various entrepreneurs can form an illegal and informal cartel to divide up the industry, the areas, the prices and the customers. As seen in this recent case, very often the system is controlled by an organized crime group or the entrepreneurs ask its services to intimidate the concurrence.

In 2001 New York City set up the Organized Crime Commission, now renamed as the Business Integrity Commission, regulating the private solid waste hauling industry having both regulatory and law enforcement authority. The Commission, to grant license or registration, can impose a monitor to oversee the activities of the applicant business and can carry out searches pursuant to warrants and arrests for criminal activities.

The indictment unsealed against the Waste Disposal Enterprise includes no evidence of organized crime influence on companies licensed in New York City thus showing the effectiveness of a well-financed and aggressive regulatory agency in keeping organized crime out of an industry.

However the single most powerful tool against the organization has been the Racketeer Influenced and Corrupt Organizations Act (RICO). RICO enables law enforcement to attack the structure of an organized crime organization prosecuting anyone who participates or conspires to participate in a criminal enterprise/organization through two acts of “racketeering activity” within a 10-year period of time.

Civil RICO lawsuits have been particularly efficient in eradicating the LCN from legitimate industries and unions, such as the New York moving and storage industries and the union representing truckers servicing JFK airport in New York. Despite the fact that law enforcement in the United States has been really successful in combating La Cosa Nostra and it may have obliged it on a diminished criminal role in some areas of the country, in New York, the historical Five Families (the Bonanno, the Colombo, the Genovese, the Gambino, and the Luchese) which have dominated organized crime in the United States since the thirties, are still extremely strong and viable. The Genovese family has an estimated strength of 250-300 members and another thousand or more associates.

La Cosa Nostra is today much less powerful and pervasive than in the past but as the “Waste Disposal Enterprise” case demonstrates, it is still able to contrast a free market economy based on competition gaining monopoly over criminal markets and using violence to maintain that control.

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