Cosa Nostra Courts

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Abstract

This paper uses economic reasoning to analyze the traditions and institutions of one of the most successful criminal organizations in modern American history: La Cosa Nostra (LCN). Drawing on recently declassified FBI reports, I argue that LCN's core institutions helped protect its low-profile status, an asset vulnerable to free riding by its own members. Individual members did not bear the full costs of profile-raising police investigations and thus had a perverse incentive to resolve disputes violently. LCN preserved its low profile by incentivizing peaceful reconciliation. La Cosa Nostra rules, and, more importantly, its surprisingly formal court system, kept disputes from escalating into violence, thereby helping LCN avoid profile-threatening investigations. LCN's longevity and success are, in part, a testament to the institutions' efficacy.

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Why can't we solve our problems peacefully among ourselves?

(quoted in Joseph Bonanno [2013, ch. 23], 20$^{\text{th}}$ century boss of the New York City Bonanno family)

1 Introduction

Criminals have a reputation for violence and impulsiveness. Naturally, then, one might expect organizations comprised of criminals to have institutions that reflect the violent and capricious impulses of their dictatorial leaders. La Cosa Nostra (LCN), one of the most successful and long-lived criminal organizations in modern U.S. history, defies this characterization. Thanks to a trove of recently declassified FBI reports, I have identified previously unstudied Cosa Nostra institutions from the mid-to-late 20$^{\text{th}}$ century and will elucidate the economic rationale behind their existence and design. I find that LCN's institutions do not reflect criminal impulses, but instead reflect the same economizing logic that shapes non-criminal organizations.

There is a paucity of scholarship analyzing LCN's practices and institutions.[1] Past work on Cosa Nostra has examined, for example, its legal and illegal businesses (Anderson 1979) and its contribution to illicit markets (Reuter 1983, 1987). And, while work on the mafia phenomenon (Italian or otherwise) applies to America's own mafia, there remains no economic work investigating its particular institutions.[2] This is due, in part, to the difficulty in acquiring information about the organization's institutions due to its code of silence and injunctions against written agreements. This is no longer a binding constraint, however, thanks to the JFK Assassination Records Collection Act of 1992 that began declassifying FBI documents related to La Cosa Nostra in 1998.

The value of LCN's low profile, I contend, is key for an economic understanding of its core institutions. The value of a low profile to criminals is obvious: it reduces the costs of coordinating criminal activity. Cosa Nostra's low profile, however, possessed an important property: its value was shared amongst all LCN members. That gave members an incentive to free ride on its maintenance.

The incentive to free ride became most significant in the context of violent, extra- and intramural disputes amongst fellow gangsters. Because individual

[1] Catino (2015, 2019) offers some analysis, but only within the broader context of mafias from Sicily and Japan, for example.

[2] For work on mafias and criminal organizations in general, see Gambetta (1993), Bandiera (2003), Varese (2001, 2011), Leeson and Rogers (2012), Catino (2015, 2019), Candela (2020), and Schelling (1984), Reuter (1983), Dick (1995), Baccara and Bar-Isaac (2008) and Garoupa (2000, 2007).

members did not bear the full costs of profile-raising police investigations (costs born by the entire organization), they had a perverse incentive to resolve disputes violently. Uncontrolled violent disputes were, therefore, particularly costly to LCN. To solve this problem, LCN incentivized peaceful reconciliation. This was accomplished through a court system of surprising formality that, according to former member Salvatore Bonanno, had its "own methods of settling disputes" unique to LCN (Abromowitz and Bonanno 2011, ch. 19). La Cosa Nostra's rules and its uniquely designed court system kept disputes from escalating into violence, thereby helping LCN avoid profile-threatening investigations.

La Cosa Nostra's tradition of *omertà* (code of silence) was a straightforward means of maintaining the organization's covert status: it discouraged members from becoming informants to state authorities. The code, taken as a blood oath, prevented the revelation of LCN secrets through deterrence: members who broke the oath were usually murdered. Deterrence alone, however, could not protect LCN's low profile from violent disputes due to contract incompleteness. Something else was needed.

La Cosa Nostra's solution was a surprisingly formal court system to complement its unwritten rules against internal fighting. Cosa Nostra courts offered members a means of resolving disputes amicably rather than violently. To ensure that members considered them fair (i.e., not arbitrary) in disputes within families, Cosa Nostra judges were given a pecuniary interest in the affairs of their family members. LCN further established its own Supreme Court, known as "the Commission," to act as an appellate court and to resolve disputes between families. Court rulings were backed with the threat of violence and they were resolved promptly.

LCN institutions were, by all accounts, a success. Despite its members having a reputation for constantly "beefing" with one another, Cosa Nostra courts kept these "beefs" from being resolved violently. As the boss of LCN's Bonanno family for over thirty years Joseph Bonanno observed, "Contrary to popular belief, business disputes [in his family] rarely rose to the level of violence" (Bonanno 2013, ch. 12).

This paper's contributions are threefold. First, the paper adds to a growing body of theoretical work in industrial organization that examines how a low profile matters for a firm's structure and institutions (Liebeskind 1997; Baccara 2007; Baccara and Bar-Isaac 2008; Lindelauf et al. 2009). Akerlof and Yellen (1994) and Berman et al. (2011) also recognize that uncontrolled violence can be quite costly to organizations such as urban gangs and insurgencies. They do not, however, explain how such organizations bring violence under control. My paper links the two themes by showing that investment in effective and formal peace-keeping institutions is one margin along which a criminal organization may respond to an increase in the value of its low profile.

Second, as this paper analyzes the juridical institutions of a criminal organization, it links the economics of crime with the economics of non-conventional jurisprudence.[3] While scholars have unraveled the economic rationales behind the peculiar judicial practices of medieval Iceland (Friedman 1979), sixteenth-century Anglo-Scottish borderland law (Leeson 2009a), trials by battle in medieval England (Leeson 2011b), medieval-era ordeals of fire and water (Leeson 2012), Liberian trials by poison (Leeson and Coyne 2012), and African oracles (Leeson 2014), few have investigated a judicial system comprised of criminals that rules on behalf of criminals.[4] This paper shows that, surprisingly, such institutions can improve the welfare of high- and low-ranking members alike by preserving resources that are otherwise vulnerable to free riding.

Third, my original archival work fills in previously unknown details of American Cosa Nostra institutions. I draw heavily on recently declassified Federal Bureau of Investigation (FBI) files, a corpus spanning the years 1959 to 1977, that document La Cosa Nostra and its operations.[5] The reports represent some of the most reliable and granular primary source material on the American Mafia available to the public because confidential informants who were either LCN members or close associates furnish their details. The reports contain fine-grained data on the structure, identities, day-to-day operations, meetings, rules, customs, and procedures of LCN, as well as transcripts of taped conversations between LCN members. Notably, the reports contain a great deal of information about LCN's formal method of dispute resolution: the *arguinamenda* and the organization's highest judicial body, the Commission.

I supplement the FBI reports with other government reports, court testimony by former members, and autobiographies of former LCN members and associates. As such, the paper builds on some of the most detailed and reliable information yet available about the rules, structure, and operations of the American Mafia. When discussing other mafias in Italy, I utilize mafia histories that are themselves informed by government documents or the testimonies of former

[3]The economics of crime began with Becker (1968), but other significant works not yet mentioned include Levitt and Venkatesh (2000), Fiorentini and Peltzman (1996), Konrad and Skaperdas (1995). An important subset of the economics of crime investigates the rules and organization of particular criminal groups, including pirates (Leeson 2007, 2009b, 2010, 2011a), prison gangs (Skarbek 2010, 2011, 2012, 2016, 2020; Roth and Skarbek 2014), drug trafficking organizations (Golz and D'Amico 2018; Kostelnik and Skarbek 2013), the Chinese-based Green Gang (Skarbek and Wang 2015), Danish gangs (Sløk-Madsen et al. 2021), and motorcycle gangs (Piano 2017, 2018).

[4]The exceptions are Varese (2001) and Lessing and Willis (2019).

[5]The files were part of larger body of documents relating to the assassination of President John F. Kennedy partly declassified in 1998 due to the JFK Assassination Records Collection Act of 1992. Many of those documents were rereleased with yet fewer redactions in 2017 and again in 2018.

mafioso.

In the next section, I will introduce the better-known aspects of the American Cosa Nostra: its structure and means of earning revenue. Then, in section three, I use economic reasoning to show that it was imperative for LCN to develop institutions that protected its low profile from violent disputes. In section four, I explain how LCN rules incentivized peaceful dispute resolution before then explaining how its courts operated and were designed to be trustworthy and effective. In section five I consider the efficiency of Cosa Nostra courts by studying the history of the American LCN and mafias like it. I conclude in section six.

2 La Cosa Nostra

La Cosa Nostra was and is an Italian-American criminal organization divided into "families."[6] Cosa Nostra families appeared most often in cities with a high concentration of Italian immigrants or descendants. Apart from the American northeast (such as New York, Philadelphia, Boston, Providence) most cities had only one recognized family. As many as 26 separate families existed simultaneously in the middle of the 20th century. The largest and most powerful families resided in the northeastern part of the US.

The first families arrived in New York at the turn of the 20th century (FBI 1977). Many of the earliest members in the New York families were originally Sicilian mafia members before emigrating to the US. While the American mafias did become "Americanized" with time, they retained many of the original rules and regulations from Sicily, rules that continue to shape today's LCN. The American Cosa Nostra's hierarchy of authority and its honor code were, for instance, inspired by Italian mafias (Paoli 2003; Varese 2011; Catino 2019).

While the earliest American mafia families had connections and coordinated with one another, interfamilial cooperation did not become routine until after a brief but bloody war amongst the New York families in 1931. At the end of the war there was a constitutional moment during which the families agreed to not to infringe upon one another's territory and they established an independent mediating body called "the Commission."

LCN families shared a similar organizational structure. Each organized hierarchically with a boss at the top. Beneath the boss was his right-hand, the underboss. Sometimes a family also had a *consigliere*, someone who served as the family's advisor. Below the underboss were the captains, each of whom was

[6]The term "family" did not mean that all LCN members were related to one another by blood. It was common for members to be only loosely related by blood or marriage, if at all.

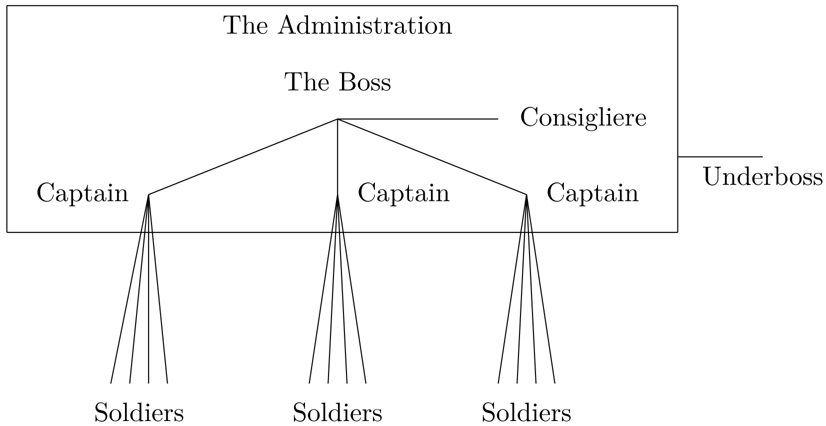

Figure 1: Structure of Bonanno Family
Note. Reproduced from Bonanno and Abromovitz (2011, ch. 16).

responsible for a crew of soldiers. The number of captains and the size of crews in each family were at the discretion of the boss, so crew size could range from 8 to 20 men.

The boss was elected by the family as a whole (Bonanno 2013). Once elected, the boss appointed his underboss, and captains (FBI 1963e, 24). The boss nominated his *consigliere* whose nomination was confirmed via vote by the rest of the family (Bonanno 2013; Pistone 1989, 314).

The boss was the "ultimate authority in the family" and his orders had to be obeyed without question or dissent. According to FBI reports, a refusal "to carry out an order or failure to carry out the order exactly are considered offenses against the family, and the penalty in such cases could be death" (FBI 1964a, 10).

The underboss was the second-in-command. The position came with few formal powers and was typically "a figurehead" within a family who represented "the [boss] on various Family matters" and who had "no independent power of his own" (Bonanno 2013, ch. 12). Most importantly the underboss "would act for the boss in his absence" (FBI 1963c, 4).

The *consigliere* was a specialist who acted "as a neutral counsel for anyone in the family who needs his advice or services in settling disputes and who is available to represent any member of the family who has been accused of a violation of the rules" (FBI 1963c, 4). The *consigliere* had no formal powers apart from acting as an advisor and arbitrator. While the role of the *consigliere* was clear, the position's significance for LCN family's was not uniform. For instance, not every family had a *consigliere* (FBI 1963c, 59). Even when the position was filled, a *consigliere*'s significance depended "upon the personalities involved, and the position itself, in different families, would vary from a minor position to a very important one" (FBI 1964a, 6).

Captains were "directly responsible" for the activities and actions of their crew members, and they oversaw the enforcement of LCN rules and relayed orders from the boss to the crew (FBI 1963c, 4). Soldiers held the lowest rank in LCN. Assigned to a crew upon initiation, soldiers nevertheless enjoyed a great deal of criminal autonomy. In his testimony before a federal court, former Gambino captain Michael DiLeonardo remarked that as a newly made soldier he "had latitude now" and "just about free reins of anything I wanted to do" (U.S.A. vs. Gotti 2006). Former boss Bonanno stated that "each Family member is free to make his own living" (Bonanno 2013, ch. 12).

Two other informal positions are worth mentioning: associates and "the proposed." LCN associates were non-members who worked closely with or for "made" (i.e., initiated) LCN members in criminal rackets. Soldiers, for example, often worked with crews of their own comprised of such associates. An associate might, for instance, partner with a made member in an illicit gambling den or be responsible for collecting loansharking debts owed to the made member. The "proposed" were associates who had been proposed by a current member for LCN membership but who had not yet been initiated. Proposed status occurred often because LCN only "made" new members every few years.

A LCN family did not earn revenue like a typical licit firm; it was a cartel. Thus soldiers did not make money through a salary paid by the boss. Instead, members were encouraged to pursue criminal profits independently and in any manner they chose. Mafia criminologist Letizia Paoli described made members as enjoying "a very high degree of autonomy. Though some profit-making activities—most notably, extortion and business cartels—are centrally managed by the family leaders, even low-ranking 'soldiers' are free to set up any lawful or unlawful venture they want. They are in no way obliged to select their partners from within the mafia community" (Paoli 2003, 5).

As a result, LCN members were involved in a wide range of ventures, both legitimate and illegitimate. FBI records indicate that members participated in submitting fraudulent insurance claims, selling adulterated cooking oil, bootlegging, labor racketeering, fencing, operating vending machine routes, truck hijacking, organizing burglaries, or smuggling cigarettes to name just a few sources of revenue. Similarly, members also frequently were part owners (formally or informally) of restaurants, bars, hotels, casinos, and even real estate. In places such as New Jersey, LCN imposed a street tax on all operators of illicit establishments. Few areas of criminal activity were off-limits to members: they were only forbidden from entering narcotics trafficking, counterfeiting, or financial markets.

By and large, however, LCN members earned the most revenue from gambling and loansharking (FBI 1963c, 147).[7] Here, too, members could earn revenue in numerous ways. Among other things, members could be partners with an associate who runs a gambling business, or they could run it themselves; they could operate or run a layoff operation themselves; they could sponsor high-stakes card and dice games; or they could distribute illegal gambling machines (Pennsylvania Crime Commission 1990). Alternatively, members could simply collect a street tax from otherwise independent gambling operators (Pennsylvania Crime Commission 1990). In loansharking, members either ran their own loansharking operation or they lent their illicit revenue to associates who were themselves loansharks.

To ensure the efficacy of the multi-market cartel, members were forbidden from directly competing with one another or impeding the profits of a fellow member in any way. This non-compete mandate extended to a member's unmade criminal associates or business partners as well. Soldier Joseph Valachi described the practice as follows: "if a man is in any kind of business and he goes partner with a [LCN] member no one can touch that man[,] he must have the same respect as a member as long as he is partner with a member" (Valachi 1964; FBI 1963c, 10). LCN members had exclusive rights to the illicit profits of such associates and other members were not allowed to either "steal" from the associate or otherwise harm him or his profits.[8] However, an associate's protected status was not formally recognized until his soldier "recorded" the relationship with his own captain (see, for example, New Jersey Commission of Investigation 1973). In places like Chicago, the non-compete mandate was enforced territorially rather than on a case-by-case basis: captains were assigned to different sections of the city that were their exclusive domains (see FBI 1961, 242).

Members were obliged to pass on a portion of their criminal revenue to their superior: "if any crimes were committed, they were expected to pay ten percent of any take to the organization" (FBI 1963c, 43). Thus soldiers paid their captains who, in turn, paid the boss (FBI 1963c, 9, 30; U.S.A. vs. Gotti 2006). The amount transferred could vary with the needs of the captain and the earning capacity of the soldier. As former captain James Fratianno testified, "It all depends how you make the money or if it's - what the amount is. You are more or less on your own. If you only make a few thousand dollars, they don't bother you. If you make three-four hundred thousand, that is another story. You

[7]Loansharking is the practice of loaning money at an interest rate above the legal limit where the loan is not legally recorded, both the borrower and lender consider the transaction illegal, and the creditor can use violence if payment is not forthcoming (Reuter 1983).

[8]For a detailed discussion of such an arrangement, see New Jersey Commission of Investigation (1973, 86-89).

would have to go to the boss and he would take - you know, split it up the way he saw fit" (President's Commission on Organized Crime 1984, 32). Even though the amounts could vary, non-compliance was strongly discouraged because, as former Gambino Captain DiLeonardo testified in federal court, "That is the way the machine works. That is how they eat; associates, the soldiers, the captains, right on up. That's how we got to eat" (U.S.A vs. Gotti 2006).

3 The value and vulnerability of a low profile

A low profile was La Cosa Nostra's most valuable asset: it helped its members coordinate criminal activity without going to prison. Outsiders would not recognize a soldier's repeated visits to a particular bar for what they were: meetings with fellow LCN members to coordinate a truck hold-up, for instance. Instead, outsiders would simply see a routine meeting amongst friends. Stealth allowed members to coordinate criminal activity without arousing the suspicions of law-abiding citizens who might otherwise call the police.[9]

Therefore, *ceteris paribus*, the lower La Cosa Nostra's profile, the higher its criminal profits, and vise vera. This is so because performing crimes covertly avoids public attention that might otherwise compel law enforcement to investigate LCN crimes. Less attention implies fewer investigations, arrests, life sentences, and so higher profits. Alternatively, less attention implies that larger, more profitable criminal ventures can be coordinated safely, ventures that would otherwise be too risky. Therefore, norms such as *omertà* that prohibited members from even admitting the existence of Cosa Nostra improved the criminal profits of Cosa Nostra members. The organization's low profile reduced the costs of safe criminal coordination, making it Cosa Nostra's most valuable asset.

But LCN's low profile possessed another important feature: its value was shared amongst all the Family members. Keeping a low profile did not exclusively benefit bosses or soldiers. All members benefited from its covert status because they all engaged in criminal activities. Ergo, the less attention the organization attracted, the greater the welfare of its members: all members could more safely coordinate with one another.

Shared assets are vulnerable to free riding. La Cosa Nostra's low profile was no different. Consider, for instance, a soldier facing a 45-year prison term

[9]Some criminal organizations, like pirates, operate beyond the boundaries broader society. In an environment beyond the scope of the state, they do not need to hide from the government in the same way. Stealth is less important for criminal profits. Insofar as stealth makes criminal coordination safe, such groups do not need to use it. The mafia, by contrast, is surrounded by nosey neighbors and law enforcement. In order to reach the same level of coordination and productivity as other criminal organizations operating outside civil society like pirates, the mafia must increase the stealth of its operations and existence.

for racketeering charges. He bears only a fraction of the costs and gains all of the subsequent benefits by drawing attention to previously unidentified members or criminal activities of the secret society. Thus, the shared quality of La Cosa Nostra's low profile meant that members did not bear the full costs of behaving in ways that increased legal or public scrutiny.

That had important ramifications for how members resolved disputes: it incentivized violent dispute resolution. Given a dispute, LCN members had two ways with which to resolve it: one violent, and one not. Unfortunately, choosing violence was much more likely to attract a law enforcement investigation than not. And, since the costs of said investigation were shared by all members, LCN members had a perverse incentive to "oversupply" violent dispute resolution, threatening LCN's overall profitability and probability of survival.[10]

Among the many ways members could jeopardize LCN's surreptitious status, violent disputes were the most serious threat for two reasons: first, disputes occurred with great regularity, and, second, they were likely to escalate and thereby attract attention.

Disputes occurred often because contracts between members were necessarily underspecified. To avoid self-incrimination, LCN members were forbidden from writing anything down, meaning that members had to use verbal contracts instead of written ones for conducting business (FBI 1963g; Bonanno 2013).[11] The costs of memorization and misinterpretation, however, made creating complex, highly specified verbal contracts uneconomic. Therefore, agreements between members had to be relatively incomplete.

When contracts are underspecified, as most verbal contracts are, disputes will be frequent because traders cannot specify in advance how to divide the value of their trade when unexpected events occur. They must therefore determine who owes whom what after the fact, which invariably leads to a dispute. A drug dealer and his customer may want, for example, to specify in advance that the drug dealer is not at fault for any police raids that interrupt the delivery of his drugs. But in a world where it is prohibitively costly to create complete contracts, the criminals cannot incorporate that stipulation into their agreements ahead of time. They must instead settle for an underspecified, incomplete verbal agreement that contains a tacit promise to "sort it out later" in the event of a police raid. Thus, when a raid does occur, the criminals cannot turn to the contract to determine who is to blame. Instead they must meet after the fact and try to determine amongst themselves who is at fault and who owes whom.

[10]The issue can also be put in terms of the shared benefits of peace: because the benefits of a peaceful outcome were shared with all other members, beefing members had little incentive exert the effort necessary to reach a mutually acceptable resolution.

[11]See Valachi (1964) for examples.

The incomplete and imprecise nature of verbal contracts ensured that disputes occurred regularly amongst LCN members. FBI reports stated that "there is considerable strife within families" and described LCN families as constantly coping with "dissension" and "territorial disputes, as well as disagreements as to the apportionment of [gambling] profits" (FBI 1963c, 49, 147). Joseph Valachi's (1964) autobiography (Valachi was a soldier in the Genovese family), is replete with examples of disputes with fellow members.[12]

The incomplete and imprecise nature of criminal contracts also meant that private solutions were not feasible. LCN members could not simply "contract around" such problems in advance, thereby raising the demand for arbitration services that were 1) provided by a third party and 2) fair (i.e. neither arbitrary nor capricious).

Disputes between LCN members were likely to escalate into violence because members were often recruited for their willingness and ability to use violence (FBI 1963c, 1963). Violence was, after all, one of the LCN's most important methods of enforcing contracts, collecting debts, and protecting cartel arrangements against non-members. So central was violence to LCN that a gun was always present during initiation ceremonies because "the gun signifies the inductee will live by the gun and that he is willing to die by the gun" (FBI 1965b, 8; see also Abromovitz and Bonanno 2011, ch. 18). Moreover, having participated in a murder was a necessary condition for membership up until the 1950s (FBI 1963c, 23). While not a necessary condition for membership after the 1950s, a member still had to be prepared to perform a murder: "Commission of a murder is no longer a prerequisite for acceptance, however, a member is obligated to do whatever is demanded of him by the organization, including murder if necessary" (FBI 1963g, 37). As LCN members had a comparative advantage in settling disputes violently, they had an incentive to produce too much violence too often.

A 1968 FBI report furnished details on precisely the kind of violent territorial disputes LCN wanted to avoid: in 1967, Gambino soldier Tommy Altamura threatened to kill associate Tony Esperti if he did not stay away from the 79th Street Causeway in Miami Beach. Altamura even requested permission from his superiors to have Esperti murdered, but his request was denied because there had been too many recent murders in Miami (FBI 1968b). Then, a few days later, Gambino soldier Joseph Indelicato "told Altamura that he had no authority to order Esperti away from Miami Beach" (FBI 1968a, 250). Shortly thereafter, Tommy Altamura was shot to death in front of six witnesses and Tony Esperti was charged with and ultimately found guilty of Altamura's murder. Esperti

[12] Biographies and autobiographies of LCN associates such as Pileggi (1985) and Coen (2009) paint a similar picture.

spent the rest of his life in prison.[13]

High-ranking members recognized and displayed genuine concern with the damage such murders could do to LCN's profile. After Altamura's murder, Joseph Indelicato and LCN member Joseph Silesi were subsequently "ordered to New York to explain their actions regarding the Altamura killing and to prove that they did not tell Esperti that Altamura was going to kill him" (FBI 1968a, 250). Indeed, in 1963 the head of the Central Investigation Bureau of the New York City Police Department testified before the Senate's Permanent Subcommittee on Investigations that, more than ever,

> public opinion is a concern of the [high-ranking LCN members]. All strong action must be cleared with higher authorities. So compelling is this concern that failure to control bad situations is a serious reflection on the boss. A recent assault on a Federal agent in Brooklyn caused a considerable decrease in the prestige of the head of the faction concerned. Many felt that the absence of discipline within his unit could cause his disappearance, although he personally was not involved (United States Department of Justice Records 1963, 70).

Consider also that a confidential FBI informant relayed that he was instructed that "Fights within the family would not be tolerated" (FBI 1969, 7). Another informant reported that he was told that "any dispute which arose between him and a member of his own family or of another family should not be settled with violence" (FBI 1969, 7; 1967a, 28). Emotions like anger and frustration could cloud a member's judgement during a dispute and so "the object of many of our rules is to help a man contain his emotions while striving to do the right thing for the Family, himself, his personal family, and his friends" (Abromowitz and Bonanno 2011, ch. 19). Thus "[a]n aspect of manly behavior, according to my Tradition, is strict control over one's emotions" (Bonanno 2013, ch. 14). The express goal was to ensure that members took great care in how they behaved and especially when they chose to use violence (Abromowitz and Bonanno 2011).

4 Institutions solve incentive problems

La Cosa Nostra occupied a unique position within the world of organized crime. Whereas pirates or motorcycle gangs operate at the fringes of society, LCN

[13] For additional examples of LCN disputes that escalated into violence and then attracted a police investigation, see FBI (1968a, 260), FBI (1965b, 25-26), and Bonanno (2013, ch. 6).

operated within it.[14] LCN was thus the model "secret society" (Paoli 2003) and had institutions that both explicitly and implicitly protected its low profile against free riding.

4.1 Cosa Nostra commandments

The famous mafia code, *omertà*, the code of silence, was the primary (and explicit) means through which La Cosa Nostra kept its low profile. The norm deterred would-be informants by tying their honor and their life to their secret-keeping capacities. Members who violated the code and revealed the workings of Cosa Nostra to non-members were considered dishonorable because, according to Joseph Bonanno, the former boss of the Bonanno family, "*Omertà* in my Tradition is a noble principle. It praises silence and scorns the informer" (Bonanno 2013, ch. 38). Indeed, members who leaked LCN secrets were considered "unmanly" (Bonanno 2013, ch. 38). More importantly, however, informants were typically murdered (FBI 1963c, 17, 41).[15] Thus the *omertà* norm preserved LCN's low profile by performing a straightforward deterrence function.

LCN had other rules to ensure that its activities, and, in particular, its violent ones, did not attract unnecessary attention. For example, LCN forbade the murder of politicians, journalists, police, and other public servants because "any visible move against a public servant would turn politicians, law enforcement officers, and the public against us and we were sure to expect fierce retaliation against our Families and businesses" (Abromovitz and Bonanno 2011, ch. 7).[16] Using bombs was also prohibited because it specifically risked killing or injuring children, wives, or bystanders, and so when bombs were used "for a 'hit' at Youngstown during which other innocent people were killed," it "so infuriated 'us' that it has been necessary 'to get rid of a lot of young guys"' (FBI 1967a, 30).

The desire to avoid detection was apparent in its other rules as well.[17] Members had to be formally introduced to another member by a third member who knew the status of both people; no member could approach another without first being introduced as such. Members could not write down anything related to Cosa Nostra. Members could not behave in ways that might attract heightened attention from the federal government. Members could not engage in "narcotics, counterfeiting, smuggling, gun running, or any other activity which fell within

[14]For work on pirates see, for instance, Leeson (2007, 2010, 2011) and for motorcycle gangs, see Piano (2017, 2018).

[15]See FBI (1963d, 31) for an example of an underboss murdered for "talking too much."

[16]Renowned bootlegger Dutch Schultz was killed in 1935 because he was planning an unsanctioned "hit" on future Governor of New York, John E. Dewey, then chief assistant U.S. Attorney in the Southern District of New York (Abromovitz and Bonanno 2011, ch. 7).

[17]The rules that follow are from FBI (1963c).

the primary jurisdiction of the federal government" (FBI 1969, 7). Here too violators were punished harshly, often with death (FBI 1963c, 40-41). Even Cosa Nostra recruitment reflected the concern for silence. Any recruits known to have "ratted" on other criminals prior to being "made" were disqualified from joining Cosa Nostra (FBI 1963c, 40-41).

Violent disputes posed a serious threat to LCN's low profile as they attracted unwanted police attention. Cosa Nostra thus implicitly protected its profile by discouraging members from using violence against one another. Two rules were meant to secure this outcome.

First, LCN simply forbade members from using violence of any kind against another member (FBI 1963c, 37-8). Even slapping was considered deeply offensive and prohibited (Bonanno 2013). LCN members took this rule very seriously. A member who raised his hands against another member could be punished with death (FBI 1963c, 42). The purpose of the "no-hands" rule was straightforward. It prevented physical confrontations between made members that might otherwise escalate by increasing the cost of such behavior.

Mafias supplemented the "no hands" rule by giving the family boss the exclusive right to order a murder. No member could commit a murder without first securing the boss' permission:

> Only a boss could give approval for a killing, and a [captain] did not have this authority. [An FBI informant] has advised that the method used by the boss today is to give the contract for a killing to one man (member) whom he holds responsible. This member is also held responsible for anyone he enlists to carry out the killing, as well as for the successful completion of the contract (quoted in FBI 1963c, 47).

Whether the intended victim was a member or not did not matter (see, for example, FBI 1965a, 107). All murders had to be sanctioned by the boss. For example, Gambino member Michael DiLeonardo testified that an associate was blackballed by LCN for almost killing a radio show host without permission: "it wasn't supposed to go that way. [The radio show host] wasn't supposed to be shot, to be killed . . . He was not shot in the leg, he was shot in the torso" (U.S.A. vs. Gotti 2006).

The monopolization of murder carried *de facto* force. FBI informants and testimony by former underbosses furnish numerous examples in which members proactively sought boss permission to murder members and non-members alike.[18]

The boss's monopoly on murder was important because LCN did not forbid

[18]See, for example, FBI (1965a, 113, 107) and U.S.A. vs. Gotti (2006).

members from using violence against non-members, people with whom members often worked and interacted (Bonanno 2013; Abromowitz and Bonanno 2011). Members had an incentive to resolve disputes with associates violently. Indeed using violence against non-members was essential for LCN profits. Without the threat of violence LCN would be an ineffectual cartel and protection firm. Murders, however, are particularly likely to attract public and police attention. To discourage members from committing unnecessary murders that raised LCN's profile, LCN gave bosses the sole authority to order a murder.

4.2 Cosa Nostra courts

The aforementioned rules are straightforward examples of a criminal organization incentivizing its members to avoid escalated disputes. But organizational rules that deter bad behavior cannot entirely remove the threat of escalation, especially when disputes and the thoroughness of police investigations are difficult to predict. As such, LCN supplemented its deterrence rules with a dispute resolution mechanism called the *arguinamenda* or "sit-down" (other names include *arrujemento* or carpet). The *arguinamenda* was the institutional gap-filler where incentive alignment proved unable to deter cheating, disagreements, and violence.[19]

FBI informants explicitly and repeatedly emphasize that *arguinamenda* were provided to keep disputes low-grade. An LCN member-turned-FBI informant reported that "any dispute which arose between him and a member of his own family or of another family should not be settled with violence, but that before this point were reached, he should immediately notify his [captain]" to initiate an *arguinamenda* (FBI 1967a, 28). Another member-turned-informant from New York's Lucchese family relayed that "fights within the family would not be tolerated" and that "differences should be brought to the attention of the [captain] of the participants in the disagreement" to initiate an *arguinamenda* (FBI 1969, 7). Yet another member-turned-informant advised that "Violence to the person of another member is forbidden, but may be mitigated by circumstances if an [*arguinamenda*] is possible before retaliation" (FBI 1963c, 37-8). *Arguinamenda* existed "for the purpose of settling differences" (FBI 1963c, 45-6). Another was "told something to the effect . . . 'if you have a disagreement with another individual who is 'made,' do not try to settle it yourself, but come to us and we will reach the right settlement"' (FBI 1967a, 29).[20]

All Cosa Nostra families, including the remote and smaller families in

[19]For a detailed description of an *arguinamenda*, see for instance FBI (1962e, 29).

[20]See also FBI (1967a, 29) or FBI (1963h, 18), in which Philadelphia boss Joseph Ida had to be called to settle a dispute because "friction was increasing and it could lead to eventual violence."

Michigan, Wisconsin, and California, used *arguinamenda* to keep disputes low-grade. Because any dispute had the potential to escalate and thereby jeopardize LCN's low profile, *arguinamenda* were used to settle a wide variety of issues including those related to honor, the division of criminal proceeds, territorial issues, and violations of Cosa Nostra rules among other things. Sometimes *arguinamenda* resolved disputes between "mobbed-up" associates or associates and "made" members.[21]

Three distinct groups participated in an *arguinamenda*: the judiciary panel, the plaintiff's party, and the defendant's party. Few others could attend.

The judiciary panel presided over the trial and consisted of "the most authoritative and knowledgeable people in the area", usually the family's boss, underboss, *consigliere*, and captains (FBI 1963a, 2, 3; 1964b, 15; 1962a, 481; Bonanno 2013). Since *consigliere* and captains could not always attend, the boss and underboss were often the only high-ranking members present. Formally the judicial panel selected the winner through a vote (FBI 1967a, 33; 1964b, 15). More often than not, however, the boss would make the ruling himself (see, for example, FBI 1964b, 15).

Since members had the right to select someone from the family to represent them, both the plaintiff and defendant attended the trial with representation (FBI 1967a, 33). It was the responsibility of the plaintiff's and defendant's representation to present oral arguments on behalf of their LCN "clients." Typically soldiers had to have their own captains speak on their behalf although the *consigliere* could perform the same function (Valachi 1964). Captains were not compensated for this service; it was their obligation (FBI 1967a, 33).

Disgruntled members could not demand a formal *arguinamenda* immediately. They first had to notify their superior within the family: "when an accusation is made by an [LCN soldier] against another [LCN soldier], both parties relate their side of the story to their [captain]" (FBI 1962c, 6-7). Captains with their own grievance would notify the boss. Frog leaping one's way up the hierarchy was strongly discouraged (FBI 1962c, 6-7; 1963c, 40-41).[22]

That formal procedure ensured that the disputing parties reached an intermediate stage prior to the formal *arguinamenda*. Here the disputing parties had an opportunity to reach an out-of-court settlement through the intercession of their superiors. For soldiers from the same crew hopefully their "[captain] settles the dispute" after hearing both sides (FBI 1962c, 6-7). If the soldiers were from different crews, the soldiers must both "bring it to the attention of

[21] See, for example, New Jersey Commission of Investigation (1973).

[22] One informant stated that this rule had changed, but it is not clear the how widely this practice was adopted (FBI 1963c, 39). Soldiers could not, for example, appeal directly to the boss without first notifying their captain (Valachi 1964; FBI 1969, 7; 1967a, 28).

his [captain] who will then arbitrate the dispute on his behalf" (FBI 1963c, 40-41). A captain with his own grievance "must bring his problem to the [boss] whether the problem is with the [boss] or another [captain]" (FBI 1963c, 40-41). It was considered dishonorable to request an *arguinamenda* without first trying to reconcile with the offending party.

During his attempt to settle, the superior usually contacted witnesses to verify the facts of the dispute. Genovese soldier Valachi, for example, was called by his captain after a fight between two mob associates to verify whether or not he saw a knife pulled. After stating he saw no knife, Valachi reports that his captain "told me that he was not going to use me as a witness" in the upcoming trial (Valachi 1964).

If settlement was impossible, as was often the case, the captain "brings it to the attention of the Family Boss for a hearing in order that the dispute may be resolved" (FBI 1962c, 6-7). The boss then decided whether or not to hear the case. Sometimes bosses considered the disputes insufficiently serious to hear and gave permission to the captains to resolve the disputes (FBI 1963c, 65; Bonanno 2013). When the boss did consider the dispute sufficiently important, the stage was set for a formal *arguinamenda*.

The trials were straightforward. On a set date, the judicial panel, plaintiff, defendant, and their respective representation gather at a prearranged location. There, the judicial panel would hear oral arguments from both the plaintiff and defendant's representatives. The boss was free to interject at any time with probing and pointed questions to measure the veracity and standing of the conflicting parties. Once the judge was close to reaching a decision, he might briefly consult his underboss or *consigliere*. Such deliberations rarely lasted long and the trial ended with "a mutually agreed upon compromise or an authoritative decision" (FBI 1963c, 45-6) made by the boss. The whole trial would likely last less than a few hours and was often completed in one sitting. No one could leave the room during the trial.

Deviations from that general pattern described above did occur. All of the family's high-ranking members were not always present at the trial. For instance, the future boss of the Bonanno family, Joe Bonanno, was a defendant at a trial where the underboss acted as judge (Bonanno 2013).[23] Occasionally, defendants and plaintiffs represented themselves (FBI, 1963d, 11-12) and sometimes oral arguments were given prior to the trial rather than during the trial (Valachi 1964).

Court jurisdiction was determined by the location of the grievance rather

[23]Bonanno wasn't even a member at the time but was granted the right to a trial given that he was very close to being made. For an example in which the underboss is not present for a trial, see FBI (1962a, 100).

than familial membership (FBI 1963c, 149-150). For example, one Magliocco family associate petitioned a Magliocco soldier who, as per proper procedure, notified his captain who in turn notified Joseph Magliocco, the family boss. But rather than resolving the dispute, Magliocco deferred the resolution to Angelo Bruno, boss of the Philadelphia family.

Bosses were expected to use the alleged intent of the litigants to inform his ruling. Thus over the course of the trial bosses had to determine whether "the accused acted with malice" or if instead "[the accused] acted out of emotional strain and not intentionally" (FBI 1967a, 33). Even ignorance was a reasonable defense: "if it can be shown that the member had no way of knowing the person he stole from was also a member, he may be excused" (FBI 1963c, 41).

Despite operating in an anarchic context, LCN courts produced enforceable rulings. *Arguinamenda* rulings, whether handed down by the boss or the Commission, were enforced with the threat of violence. Bosses had the formal authority to compel dispute resolution through a variety of punishments ranging "from censure to death" (FBI 1962d, 88). Indeed "If the violation was one which draws the death penalty, the boss will assign the necessary men to carry out the execution of the accused" (FBI 1962e, 29). Therefore, a soldier who disobeyed a court's ruling to compensate his partner for theft risked execution, for example.

As disputes could escalate within hours if left unresolved, speedy trials were essential. Thus *arguinamenda* were resolved remarkably quickly. Former Bonanno family member Salvatore Bonanno emphasizes speed as one of the defining features of LCN courts in contrast to the legal court system:

> In your world, a trial court is the tribunal where either a jury or a judge makes a factual determination as to who is right and who is wrong . . . The system does not provide swift resolution. In fact, it favors the alleged wrongdoer over the victim, in order to protect the innocent from wrongful punishment. Civil cases can take years to be decided and even longer to go through the appeal process. Meanwhile, the accused goes about his business, exhausting every avenue of defense—while the victim continues to suffer without having closure. In our world, this never happens (Abromowitz and Bonanno 2011, ch. 19).

Thus it was common for a decision to be handed down within a week of a dispute occurring. The Rizzo-Brocato brother dispute was typical. Carl Rizzo and Sam and Joseph Brocato were all soldiers of the Magaddino family in Buffalo. All were partners together in a loansharking operation. After some period of time, Rizzo accused the Brocato brothers of not paying back money owed to him. Their boss, Steve Magaddino, held trial and ruled on the dispute within two days of first hearing of it (FBI 1962b, 11-12). To facilitate the speed with which disputes could be resolved Cosa Nostra families even required that "The whereabouts of a 'soldier' should always be known to his 'capo regime' in order that he can be contacted almost immediately" (FBI 1964a, 10). For perspective, consider the speed with which licit courts operated: for all non-jury cases, both criminal and civil, heard in state trial courts of general jurisdiction across the US in 1956, the average time between when a "first filing" occurred and when the case came to trial was 6.5 months (Bartiloni and Picciotti 1957, 529, ft. 1). As this does not include the time it takes to conduct the trial, this is an underestimate of the full length of time until resolution.

4.3 Resolving disputes within families

Fairness was a serious issue for Cosa Nostra courts. How could members trust bosses to be fair and impartial in their rulings? If disputants could not trust their judge to be just, then members would either avoid going to court or they may dispute the ruling itself. Either decision left a dispute unresolved and therefore likely to escalate into violence.

Indeed, bosses had considerable latitude for self-dealing because they did not face the same formal constraints and informal norms that guarantee a fair trial in licit courts. Cosa Nostra bosses were not bound by precedent; they had no formal legal training; they did not produce written opinions that could be publicly critiqued by a body of well-educated legal specialists; they were often related by blood or marriage to one of the disputants; they held a jurisdictional monopoly; they held their positions for life; and they held absolute authority within the family. An FBI report relays, for example that "Jimmy was a member of the Philadelphia family, but did not approach Angelo Bruno directly in regards to this dispute, but had, however, used an intermediary, Ignatius Denaro . . . [because] Jimmy was not a close friend of Angelo Bruno and was concerned that Bruno would not act impartially because he was a close friend of Sam, even though Sam is a member of another family" (FBI 1962a, 478-481).

Cosa Nostra members solved the problem of fairness and thereby helped to maintain LCN's low profile by giving bosses an "encompassing interest" in their family (Olson 1993). Recall that family members had to pay the boss a percentage of their illicit profits. One member-turned-informant stated that, for example, "if any crimes were committed, they were expected to pay ten percent of any take to the organization" (FBI 1963c, 43). Soldiers usually passed a cut to their captains, who would then pass it on to the boss. Indeed, a soldier "is required to tell his 'captain' before he enters any new business, legal or illegal" (FBI 1963c, 30). According to the FBI, one "Informant stated this is required so the ‘captain’ will be aware of all his men’s business and he can place a higher assessment on them if they make a lot of money or he can take a piece of their operation or business if he so desires” (FBI 1963c, 30).[24]

Giving bosses a percentage of all illicit profits gave them a monetary incentive to protect LCN’s low profile by resolving violent disputes in a mutually agreeable manner. This is true because a boss who was paid a share of all illicit profits would be disproportionately hurt by any disputes that turned violent. While each individual soldier would be made slightly poorer, the fact that the boss was paid a share of all criminal profits ensured that the boss suffered the most monetarily. For example, a police investigation that causes an LCN family with 100 members to lose \$10 per member would reduce the boss’s tributary revenue by $100 * \$10 * x$, where $\boldsymbol{x}$ is the percentage cut each member pays to the boss. As long as $x > 0.01$, the boss will suffer more than any other member from the violent dispute. Indeed, if the boss did not resolve the dispute in a manner that was acceptable to both parties, the dispute went unresolved and, once again, risked escalating into violence. By concentrating the costs of unwanted attention on the boss, the encompassing interest gave bosses a monetary incentive to arbitrate disputes in a manner that was mutually acceptable to all parties involved.

Deep ethnographies, autobiographies, and FBI reports describe LCN bosses as having an “encompassing interest” (Olson 1993) as it pertains to disputes. Bosses had a preoccupation with and a strong aversion to disputes amongst members. For instance, the anthropologist Francis A.J. Ianni who was invited to shadow a New York LCN family for two years observed that the family boss was furious at a family member because “his own interests in New Jersey would be jeopardized by any dispute involving a member of the family” (Ianni and Reuss-Ianni 1972, 142). During a Cosa Nostra trial caused by a violent fight between two soldiers, Gambino family underboss Albert Anastasia excoriated the aggressor for risking a war with his violent behavior (Valachi 1964). In a conversation recorded by the FBI between the boss of the New England family Raymond Patriarca and one of his soldiers, Patriarca displayed concern at the prospect of a mafia war. Patriarca said that Lawrence Gallo, a particularly erratic and violent member of the Profaci family, had to “go.” According to Patriarca, Gallo “is gonna be a trouble maker he’s gonna jeopardize everybody else’s (obscene) life around here. Eventually...he’s gotta go” (FBI 1963e, 22).

[24] Moreover, an FBI informant advised that “when the bosses need money ‘the books will be opened’. Informant stated the act of making individuals is a business proposition. If the bosses need more money, they make more members and therefore have more individuals bringing in money” (FBI 1963c, 32). Another advised that “a good money maker could be proposed and ‘made’, but would not be invited to all the meetings. Actually he would be ‘made’ so the ‘boss’, or ‘captain’ or some member could get some of his money” (FBI 1963c, 21).

Indeed it was "stressed" to one LCN member during his initiation that "they wanted no wars" (FBI 1969, 7).

Qualitative descriptions of bosses' encompassing interest are strongly supported by their behavior. The daily activities of bosses revolved around preventing violent disputes: Philadelphia informants "have repeatedly advised that [the Philadelphia boss] is constantly arbitrating disputes between members of the Philadelphia Family of La Causa Nostra" (FBI 1962b, 70-71). The informants' description of the Philadelphia boss is representative of the chief business of the boss because, as the New York boss Joseph Bonanno stated, "peace-keeping, I reiterate, was the [bosses'] main responsibility" (Bonanno 2013, ch. 12).[25] Indeed Bonanno's insight is echoed by an FBI report on the Pittsburgh family. Pittsburgh's family boss, La Rocca,

> established the axiom that negotiation would be utilized in place of assassination and he commenced a policy of endeavoring to patch up disputes and grievances by discussion and conciliation. If a member was in violation of any of the definitely forbidden acts of the group or was intractable in relation to a lesser matter, La Rocca would not hesitate to authorize a hit. The idea held by La Rocca that greater mutual benefit and profit could result by peaceful arbitration gradually proved its soundness to other racketeers in the Pittsburgh area and the result is that there have been fewer mob killings in the Pittsburgh district than in any other city of comparable population (quoted in FBI 1967b, p. 3-4).

In their conversation and behavior LCN bosses displayed a real concern with resolving disputes amicably. That concern was a direct product of a boss's encompassing interest in the wealth of the family.

A LCN boss's encompassing interest did have limits, however, and for economic reasons. Not all disputes were likely to escalate into violence. Trades between legitimate businessmen, for example, typically do not escalate because they have access to government protection services and the courts system. In the context of LCN, giving bosses an encompassing interest ensures that resolving disputes amicably maximizes his personal wealth. But if members had entirely legitimate businesses, not only are disputes less likely to occur there, but such disputes are also less likely to become violent because the members can use government courts. Such disputes are not, therefore, a threat to LCN's low profile and giving bosses an encompassing interest in such businesses would be superfluous. Access to a cheap substitute like the public court system reduces

[25] Additionally, an FBI informant relayed that "the boss of a family is responsible for the entire family" (FBI 1962c, 28). See also FBI (1962b, 6).

member demand for fair arbitration from their boss and the benefits of giving the boss an encompassing interest.

The limits of the boss's encompassing interest reflected the presence of cheap substitutes for arbitration in legitimate markets: members were usually not required to "kick up" money earned through a licit operation to their superiors. To the contrary, "Members, whether 'soldiers' or 'capos,' can go into and manage their own legitimate businesses; and what they earn in this manner belongs to them and not to the mob . . . However, the syndicate does get its 'take' in whatever illegitimate activities the individual is involved" (New York State Legislature 1986). A former LCN captain admitted that "a lot of people in the family had their own legitimate businesses and what they made was their business. The only thing we were involved in was the illegal activities" (President's Commission on Organized Crime 1984).[26]

Economizing logic predicts that the encompassing interest will extend until the marginal benefits of boss fairness equals the marginal costs of producing it. The limits of a LCN boss's encompassing interest reflected that principle. In licit markets the demand for boss fairness was lower and therefore there was little gained by giving bosses an encompassing interest in legitimate operations. The benefits of extending the encompassing interest further did not exceed its costs. Thus LCN families preserved their low profile by giving bosses a monetary incentive to be fair.

4.4 Resolving disputes between families

LCN's low profile was as vulnerable to disputes between families as it was to disputes within families. Because it was a norm that "no Family and no Father should interfere with the affairs of another Family," there was no easy way to resolve disputes involving two separate families (Bonanno 2013, ch. 13).[27] The Gambino boss, for instance, could dispute the authority of the Lucchese boss to enforce a ruling that harms a Gambino soldier. As each LCN boss was considered the final authority in all issues pertaining to his family, there would be a stalemate. This bilateral enforcement problem leaves the dispute unresolved and at risk of escalation. The value and protection of the organization's low profile made imperative the development of a mechanism for resolving disputes between families in a mutually acceptable, (i.e., fair) way.

LCN overcame this problem through the creation of its own supreme court, the Commission. Considered "the highest governing body of 'La Cosa Nostra' "

[26] Sicilian Mafias have similar rules. See, for example, Paoli (2003, 147).

[27] That norm was a binding one. In Philadelphia, "Bruno explained to Sam that because Sam was not a member of the Philadelphia family, he Bruno, could not offer him any final solution to the problem but merely offer advice" (FBI 1962a, 479).

(FBI 1962a), the Commission was a judiciary panel comprised of the bosses from the nine most powerful LCN families, five of which were in New York. The Commissions was primarily responsible for 1) resolving interfamilial disputes, and 2) acting as an appellate court (FBI 1965b, 4; 1963f, 10). A former boss-turned-informant described the Commission's work as follows: "if there is a problem between one family to another, they more or less, you go to [the Commission] and they settle the dispute, but they have nothing to do with what we do, who we kill, who we do business with. They don't participate in that" (President's Commission on Organized Crime 1984, 33-34).

Resolving interfamilial disputes was the Commission's primary responsibility (FBI 1963c, 45-6; President's Commission on Organized Crime 1984, 33-34.).[28] FBI reports make clear the division of labor between bosses and the Commission: "in the event of troubles within the family the boss will adjudicate them as between members of the family, but should the trouble be between two families he must report it directly to the Commission" (FBI 1962c, 28). The Commission solved the bilateral enforcement problem in disputes between families by adding one higher body of authority above LCN bosses. Just as two "beefing" soldiers could reduce negotiation and enforcement costs by petitioning to a stronger mediator, so too could bosses reduce negotiation and enforcement costs through the Commission, a body whose judicial authority superseded that of any individual boss. This criminal supreme court allowed LCN families to economize on resources that would otherwise be used to produce bilateral enforcement mechanisms like reputation or ostracism.

As in the case of the encompassing interest of bosses, mafioso autobiographies and FBI material show that the Commission was expressly intent on avoiding bloodshed between disputing members (FBI 1977; 1964c, 12). Former Commission member Joseph Bonanno emphasized the avoidance of escalation as the chief responsibility of the Commission during an interfamilial conflict: "Well, after Albert was shot, Tommy Lucchese came to me and said several boys in Anastasia's Family were out for revenge. We had to do something, he said, or there would be fighting. It was up to us on the Commission to keep the peace" (Bonanno 2013, ch. 19). Joseph Bonanno described the Commission as "an agent of harmony" and his son, himself a member of the Bonanno family, confirmed that "The purpose of the Commission was to maintain peace among the Families, not to promote war" (Bonanno 2013, ch. 13; Abromowitz and Bonanno 2011, ch. 5).

The Commission also helped to produce fair trials in disputes within families

[28] For an exception to the rule, see Valachi (1964) where Valachi details one arguinamenda in which a boss from a different family acted as judge. However this exception only occurred because Valachi asked that his own boss not be involved in the *arguinamenda*.

by acting as an appellate court. *Arguinamenda* rulings were not final. If a family member found an *arguinamenda*'s ruling unfair, he could appeal his case to the Commission via his boss whose subsequent decision was final (FBI 1962a).[29] In a secret FBI recording a Philadelphia family captain described this process as follows:

> If there is a beef in the family . . . . The commission gets together and tries to straighten it out otherwise, who the [obscenity] kill them all each other. So they get together and try to straighten it out. You know, somebody intervenes, and then the Commission gets together . . . Say, for instance, Ange, some of us and there is friction, there is fights, some guys disappear. The commission hears about it, you know...they give you a hearing and try to iron the thing out somewhere else. Take a vote (quoted in FBI 1964c, 11-12).

Reversal via the Commission was costly for bosses. Not only did they have to appear before the Commission to explain the dispute and their decision, but the threat of reversal was embarrassing. Bosses were meant to be the final authority in their family, people of strength and deserving of respect (Bonanno 2013). Frequent overruling undermined that reputation. Thus bosses had an aversion to being overruled by the Commission. The Philadelphia Boss Angelo Bruno, for example, is described in FBI reports as hesitant to take a dispute to the Commission. Bruno was instead "anxious to settle the dispute between Jimmy and Sam" and that he "strongly desired that Sam and Jimmy should get together and work out their problem" because having the Commission oversee the trial would make the parties involved look "ridiculous" (FBI 1962a, 478, 479; 1962f, 1).

However, for the threat of overruling to be credible, Commission members had to face incentives that differed from the bosses. If Commission members did not face incentives different from a typical boss, then the boss would not expect the appellate court's decision to differ from his own and therefore he had no incentive to change his behavior.

The Commission was designed to do just that. The Commission was comprised of nine people, all of whom were bosses of LCN families. Having bosses from separate families on the Commission ensured that they had no direct pecuniary or familial interest in the disputants, unlike a typical boss. Furthermore, whereas bosses had complete control over an *arguinamenda* ruling, Commission decisions were determined by majority vote. That way final decisions were the result of navigating the preferences of many separate individuals rather

[29]See also, FBI (1962a, 481; 1962d, 88; 1963c, 45-6).

than a single person.[30] Thus the composition and structure of the Commission gave its members a set of incentives that differed enough from any individual boss to make the threat of overruling credible.

Thus the ability to appeal a decision to the Commission performed an error-correcting function. The existence of an appeals process compelled the lower-court judge, in this case the family's boss, to "take the possibility of review by a decision-maker with different incentives into account when making his or her initial decision, thereby constraining the trial judge's decision making" (Drahozal 1998, 471). The threat of review by the Commission and the associated reputational damage helped to incentivize bosses to resolve disputes in a mutually agreeable manner and thereby preserve LCN's low profile.

5 Efficiency of Cosa Nostra courts

Cosa Nostra courts were potentially valuable not only for their stealth-preserving function, but also because they reduced violence, itself a costly activity. After all, the less money members spend fighting one another, the more they can devote to pursuing additional profit opportunities. Perhaps Cosa Nostra's peace-keeping institutions existed to reduce the costs of violent activity *per se* rather than to protect the organization's low profile from free riding. The history of LCN and other mafias like it suggest otherwise.

5.1 American Cosa Nostra courts were effective

For Cosa Nostra courts to be a solution to the problem of a low profile held in common, they had to be effective. If *arguinamenda* never settled disputes, then Cosa Nostra courts could not be the institutional solution I argue they are. If, however, *arguinamenda* successfully settled disputes, then we can be more confident of their stealth-protecting function.

One measure for evaluating Cosa Nostra court effectiveness is the behavior and assessments of its own members. By that measure, they were a resounding success: the courts were used on a regular basis and they often resolved disputes in an amicable way.

Recall that Philadelphia boss Angelo Bruno was described by FBI reports as "constantly arbitrating disputes between members of the Philadelphia Family of La Causa Nostra" and that Joseph Bonanno, former Bonanno family boss, said that "peace-keeping, I reiterate, was the [bosses'] main responsibility" (FBI 1962b, 70-71; Bonanno 2013, ch. 12). This is no coincidence. Much of a boss's

[30] Indeed the Commission often divided into so-called "conservative" and "liberal" coalitions (Bonanno 2013; Abromowitz and Bonanno 2011).

time was devoted to such disputes because the demand for his services was so high. Indeed a Genovese soldier observed that

> these [courts] are held every day . . . To show you how many there are day after day there are about four to five thousand members in New York City alone that includes young and old one can imagine how things go smooth without killing themselves every day but they manage to keep peace until one of the bosses goes crazy and he wants to rule all the families . . . . I wanted to tell the readers as to make them understand how the mob handles carpets almost every day if it ain't one thing its another and they are always having tables (Valachi 1964, 876, 882).

The demand for arbitration services was a product of the quality of judicial rulings: they typically resolved disputes amicably. In Chicago, for example, an informant described a typical *arguinamenda* outcome where the ruling allowed disputants to "again enjoy a friendly relationship" (FBI 1961, 234).

Even associates sought, and occasionally secured, access to Cosa Nostra's courts (FBI 1964d, 3-5; FBI 1962a, 505-506). That associates pursued the services is further evidence of the institutions' efficacy.

Descriptions of former members further confirms the success of La Cosa Nostra's system of justice.[31] Even the captain-led settlements that preceded formal *arguinamenda* were successful at keeping disputes low-grade. Former boss Joe Bonanno praised them in the following way: "business disputes rarely rose to the level of violence. If two Family members disagreed over a business arrangement between them, the matter was usually resolved at a hearing by their group leaders, whose decisions were binding" (Bonanno 2013, ch. 12).

Thanks to the effectiveness of its stealth-economizing institutions, and, in particular its courts, LCN operated without harassment or public recognition in the U.S. for over half a century. Francis Ianni, an anthropologist who spent two years conducting field work within a New York Cosa Nostra family, observed how LCN evaded undue public attention:

> Not until 1951, when Senator Estes Kefauver's Senate Crime Committee concluded that 'there is a nationwide crime syndicate known as the Mafia' . . . did the specter of a Mafia reappear. Even after the Kefauver Committee's investigations, the existence of a national organization of Italian-American criminals—whether Mafia or something else—remained a plausible but unproved contention of

[31] See also former member Salvatore Bonanno's discussion of LCN customs that "encouraged our members to exhaust all avenues of resolution and accommodation before breaking the peace" (Abromowitz and Bonanno 2011, ch. 19).

> some law-enforcement agencies and federal investigative bodies. In the early 1950's, even the Federal bureau of Investigation doubted the existence of a Mafia or any other national crime syndicate in the United States (quoted in Ianni and Reuss-Ianni 1972, 3).

Indeed, the very existence of the organization was not confirmed publicly until the McClellan hearings in 1963. Further, as late as 1977 confidential FBI reports included sections devoted to evidence confirming the organization's existence, implying uncertainty surrounding whether or not LCN did in fact exist.[32]

Thus LCN managed to preserve its low profile over decades despite the asset's vulnerability to free riding. LCN's longevity and its enduring legacy is a testament to the efficacy of its institutions in incentivizing members to avoid violent disputes altogether.

5.2 The 'Ndrangheta's were not effective

The success of LCN's courts does not necessarily rule out violence *per se* as a factor behind their existence. Ideally, to evaluate the significance of a low profile for the American LCN's peace-keeping institutions, we would like to see how the institutions of an identical mafia that doesn't value a low profile differs from the American LCN. Because maintaining effective and formal dispute resolution institutions is costly, we can expect such a mafia to lack such institutions. Were we to identify such a mafia, we could more confidently conclude that the value of a low profile, not the costs of violence of *per se*, drives the existence of Cosa Nostra courts.

Consider the 'Ndrangheta, a contemporaneous mafia-type organization from Calabria, Italy. Historically, the 'Ndrangheta and its clans shared many important similarities with the American LCN.[33] As it originates from Southern Italy, the organization shared with the American LCN traditional mafia customs, including *omertà*. The 'Ndrangheta and American Cosa Nostra were also similar in size (Catino 2020) and, like the American Cosa Nostra, the 'Ndrangheta membership had autonomy to enter a highly diverse array of criminal activities (Sergi and Lavorgna 2016; Paoli 2003). The 'Ndrangheta, however, differed in an important respect from its American counterparts: the 'Ndrangheta did not value a low profile as much as the American LCN.

The 'Ndrangheta was renowned for its relatively casual concern with secrecy and maintaining a low profile. Mafia scholar Letizia Paoli describes the 'Ndrangheta as "more generally . . . much less rigorous than the [Sicilian] Cosa

[32] See, for example, FBI (1977).

[33] The 'Ndrangheta is today one of the most powerful mafia-type organizations in Italy.

Nostra in enforcing secrecy" (2003, 112) and the former Sicilian Cosa Nostra member Tomasso Buscetta dismissed the 'Ndrangheta as "an entity *sui generis*, from our point of view, because of the lack of seriousness in recruitment and its very low level of secrecy–almost non-existent, really" (Arlacchi 1994, 53 in Catino 2019; see also Paoli 2003).

So unconcerned were 'Ndrangheta clans with maintaining a low profile that, unlike other mafias, they were able to exclusively recruit those related by blood or marriage (Sergi and Lavorgna 2016; Catino 2020; Catino et al. 2022). Sons of 'ndranghetista often follow in their father's footsteps and 'ndrina bosses are usually replaced by their sons (Paoli 2003; Gozzoli et al. 2014). The result, mafia scholar Letizia Paoli declares, is that "for outsiders it is therefore in most cases virtually impossible to distinguish the mafia family from the blood family of the most prestigious members" (Paoli 2003, 31). As a result, locals, law enforcement, and even scholars can identify members with a high degree of accuracy from surname alone (Gozzoli et al. 2014).[34] The same is not true of the American LCN, where recruits needed only to have Italian heritage and associates could come from any background.

The 'Ndrangheta's relative unconcern with maintaining low profile was a natural product of its economic context, one that differed sharply from its American compatriots. Historically, bribery and intimidation have been cheaper in Italy than in the US.[35] Low costs of bribery and intimidation reduces the value of a low profile because bribery and a low profile are substitutes: they both help to avoid imprisonment. If violence erupted amongst 'Ndrangheta members, members could, and often did, simply bribe or intimidate key witnesses or government officials to avoid arrest or lengthy prison sentences.[36] A low profile and the institutions designed to preserve it were, therefore, not as valuable to the 'Ndrangheta given its access to cheap substitutes like bribery or intimidation.

[34] Catino et al. (2022), for example, identifies the membership of major 'Ndrangheta clans using just family trees. Similar work concerning the American and Sicilian mafias cannot reasonably be produced as those mafias not only allow those unrelated by blood or marriage to join, but also because some explicitly cap the number of direct family members in the organization (Catino 2014).

[35] There are many reasons for the lower costs of bribery and intimidation in Italy. Relative to America, Italian politicians do not face severe electoral sanctions for corruption; Italy's government officials have considerable discretion in the enforcement of its complex legal system, the Italian public has little confidence in political and state officials; there is less cultural concern with civic virtuosity within Italy, among many other factors. Vannucci (2009) identifies 15 separate factors considered "traditional" explanations for the high level and persistence of corruption in Italy. See Gambetta (2018) for yet another explanation for the puzzling persistence of Italy's corruption.

[36] According to a Calabrian public prosecutor, the 'Ndrangheta pays witnesses to "retract whatever they have stated or prevent their confessions" (Siebert 2007, 27) and according to criminologist Letizia Paoli, "regional and national politicians continue to accept, and even seek, mafia electoral support in exchange for various favors" (Paoli 2015, 764).

Thus we can expect the 'Ndrangheta not to develop effective or formal institutions that keep disputes low-grade. And indeed, it did not. Instead, violent blood feuding was the 'Ndrangheta's primary dispute-resolution mechanism. Rather than trying to keep disputes low-grade, 'Ndrangheta custom encouraged precisely the opposite: clans encouraged escalation instead of peace, "both the single mafia families and members were entitled—and to a certain extent obliged if they did not want to lose their honor—to react directly against all the violations which affected them directly, even if they were committed by associated individuals or units" (Paoli 2003, 128).

The 'Ndrangheta's three principle values of revenge, honor, and respect defined the rules of feuding practices (Sergi 2018). A common cultural phenomenon in southern Italy, vendettas follow a simple procedure: infractions against a member's honor can only be rectified through violence. All family members were expected to participate in the feud and it is common for subsequent acts of revenge to follow the first (Ingrasì 2021). So important were the values of revenge and honor that, unlike the American LCN, female relatives were not "off limits." Adulterous sisters could be murdered to protect the honor of the family and, when a 'Ndrangheta member was found cooperating with law enforcement, his whole family could be killed, the so-called practice of *vendetta trasversale* (Sergi 2018; Ingrasì 2021). This contrasts sharply with the American LCN where custom dictated that direct family members could not be held responsible for the misdeeds of their made relatives.

The custom of vendetta permeated the 'Ndrangheta's culture and the families of its members. Whereas American LCN members could not tell their wives of LCN's existence, 'Ndrangheta wives and female relatives were instrumental in maintaining the vendetta practice: women often encouraged their 'Ndrangheta relatives to perform acts of revenge so as to protect their family's honor (Ingrascì 2021). Female relatives would, for instance, ritually keep the belongings of victims to remind sons of the necessity for revenge (Ingrascì 2021). Thus a public prosecutor from Calabria described women not as "passive subjects in feuds; women are active subjects, subjects who also, and with great power, call for a vendetta and are heard out of respect, even though they are not part of the organization" (in Siebert 2007, 30).

Consider the following description of a 'Ndrangheta member's sister who,

> after the attempted murder of her brother, protested against her relatives who were hypothesizing a possible reconciliation, stating that the bloody feud should not end and last until the seventh generation. The female relatives of the feud's victims not only did not report the killings or injuries to the police, but even offered

> conflicting and unreliable statements in order to set investigations on the wrong track. Justice for them was a private matter, which could compensated only by an act of revenge" (Ingrascì 2021, 77).

Recall also that, in America, LCN captains, bosses, and the Commission all had the formal authority to intervene and settle disputes amongst LCN members. 'Ndrangheta custom, by contrast, expressly prohibited interventions that would otherwise keep disputes low-grade: "The mafia consortium as a whole was not entitled to intervene and had no means of stopping the lasting conflicts deriving from this procedure of adjudication . . . and even the most charismatic mafia members had no authority to intervene to settle them" (Paoli 2003, 128).

Because of the blood feuding, Calabria was one of the most violent areas in Italy for "Men of Honor." Mafia scholar Letizia Paoli points out that "the Reggio Calabria province has traditionally been characterized by an extremely high rate of violence and murder, much higher than any other Italian area" (Paoli 2003, 60). Between 1970 and 2003 the rate of mafia-related murders in New York City averaged 0.43 per 100k (Raab 2005), while between 1983 and 2012 rate of mafia-related murders in Calabria averaged 2.6 per 100k (Catino 2014). A Calabrian public prosecutor also described the environment as one in which "there was this endless series of continuous homicides that lasted over time, feuds that would start, seem to quiet down, and then explode again even five or six years later" (in Siebert 2007, 30).

Unlike their American compatriots, the 'Ndrangheta did not develop effective and formal dispute resolution institutions until 1991, when the value of 'Ndrangheta's low profile rose due to a particularly violent blood feud amongst the clans.[37] Called "The Second 'Ndrangheta War," the feud accumulated around 700 deaths (Catino 2014), far more than that of the "The First 'Ndrangheta War," during which 233 murders occurred (Dickie 2014, ch. 50). That war and other feuds like it "were attracting the attention of magistrates and law enforcement agencies," causing the value of a low profile to rise (Catino 2019, 289). That prompted the organization to create a Commission-like body called *La Provincia* that would help to protect the low profile against free riders.

La Provincia was an innovation for the 'Ndrangheta because feuds had traditionally been a local affair into which no one could intervene. *La Provincia* broke from tradition as it had both the authority to and responsibility of intervening into disputes. Former 'Ndrangheta member Giacomo Lauro said that *La Provincia*

> established the principle that if disputes arise, of any kind and

[37]For a history of 'Ndrangheta's highly ineffective institutions, see Truzzolillo (2013).

> for whatever reason, between the different *locali*, there would be no recourse to arms before the disputes had come before the Commission for evaluation. This explains why, as of September 1991, all the wars in the province of Reggio Calabria ended. The 'Ndrangheta had managed to find a unifying moment, a centralization of the power of command that was able to function and to enforce the rules and the decisions taken (Ciconte 1996, 151 in Catino 2019, 211).

Like the American Commission, *La Provincia* was "endowed with well-defined powers in the settlement of disputes and empowered to make peace agreements between two or more contending units" (Paoli 2003, 61). Just as in the American LCN, the institution relieved *cosche* (families or clans) of the responsibility to resolve conflict amongst themselves: "any controversy between the *cosche* must be submitted to the attention of the collegial body before violence can be used" (Paoli 2003, 62). *La Provincia* replaced customary vendetta with a new standard of peaceful reconciliation so as to maintain a lower profile. It is no surprise, then, that since *La Provincia*'s creation, 'Ndrangheta feuds have greatly declined (Paoli 2003; Catino 2014).

5.3 The American and Sicilian Commissions

The 'Ndrangheta did not develop effective and formal dispute-resolution institutions until the value of the organization's low profile rose. The experience of the American LCN is quite similar and so should further increase our confidence in the value of low profile driving the efficacy and formality of Cosa Nostra courts. The American LCN too created its Commission-like body when a conflict increased the value of the organization's low profile. Recall that producing and maintaining peace-keeping institutions like the Commission is costly. Bosses must redirect their own resources to gather evidence, negotiate with litigants, and attend Commission meetings. As in the case of the 'Ndrangheta, we shouldn't expect LCN to create the Commission until the value of a low profile rises enough to exceed its cost. And indeed it did not.

Since their arrival at the beginning of the 20th century, each LCN family "was autonomous and operated independently without consulting their counterparts" (Bonanno 2013). Small-scale "wars" amongst families periodically occurred during this period, but they remained quite minor (Dash 2009). This equilibrium changed with the Castellamarese War.

According to Salvatore Bonanno, Bonanno Family *consigliere* and son of boss Joseph Bonanno, hundreds of mafia murders occurred between 1930 and 1931, likely an exaggerated number (Abromowitz and Bonanno 2011, ch. 4). However, there were enough murders and gunfights in a short time span to increase the value of LCN's low profile sharply. An FBI report states that

> Newspaper publicity, according to [confidential informant] NY T-2, caused public uproar and the result was an order from the police of New York to Masseria to end the strife or all would be arrested. This caused Masseria to consider peace, and he did not give any more orders to his men to use arms (FBI 1963g, 13).

Salvatore Bonanno states that Charles "Lucky" Luciano, a high-ranking member of Masseria's family at the time, complained that the Castellamarese War "had to end" because Masseria "was ruining things for everyone" with the murders he ordered (Abromowitz and Bonanno 2011, ch. 4). Masseria wasn't "ruining things for everyone" because war is costly, but because "murdering Castellammarese demanded reprisals that would attract the attention of the police. That in turn affected our other businesses, which police had conveniently overlooked in the past" (Abromowitz and Bonanno 2011, ch. 4).

The increase in the value of LCN's low profile not only made deescalation paramount, but it also made economical the creation of a new peace-keeping institution, the Commission. One of the primary reasons for the Commission's creation, according to former member Salvatore Bonanno, was "to preserve our standing arrangement with politicians. If the Families continued to fight, and dead bodies kept showing up on the streets of New York City, public outrage would force the politicians to crack down and our political power would be lost" (Abromowitz and Bonanno 2011, ch. 5).

The Commission was successful in keeping disputes low-grade and LCN out of the public eye. Salvatore Bonanno states that in "the years that followed [the Commission's creation], there would be far fewer disturbances on the streets of New York, less friction among the Families, and less police involvement with members of our world" (Abromowitz and Bonanno 2011, ch. 4). Bonanno considered the Commission "a successful idea" because "as time went on, people in our world were able to interact with each other because now there was a stabilizing force to keep everyone honest" (Abromowitz and Bonanno 2011, ch. 4).

The evidence above indicates that a rise in the value of a low profile explains the timing of the creation of the American Commission. The timing of the Sicilian Mafia's Commission offers additional robustness to that explanation.

The formality and effectiveness of the Commission of the American LCN was an innovation relative to the Sicilians. Joseph Bonanno, boss of the Bonanno Family and someone who participated in the Commission's creation, described the institution as one that "was not an integral part of my Tradition. No such agency existed in Sicily. The Commission was an American adaptation"

(Bonanno 2013, ch. 13).[38] Until 1957, disputes were usually resolved in an ad hoc manner by "informal meetings involving the most important and influential men of honor from the principal families" (Catino 2019, 155). As Letizia Paoli notes

> The power asserted by these assemblies of mafia chiefs can thus be described as 'sporadic' [. . .] In fact, they met rarely, were allowed to take decisions exclusively as delegates of the single cosche, and were completely dependent upon the latter to enforce their decisions, because they did not have an independent administrative staff (2003, 52).

In 1957 the Sicilians "formalized these occasional meetings into a permanent, collegial body—the provincial commission—to which specific competencies were entrusted" (Paoli 2003, 53).

That Sicilian Mafias did not value a low profile as much as their American compatriots explains the relative absence of a Sicilian Commission. Sicilian mafias did not value a low profile because they did not need to. They had cheap substitutes for avoiding investigations and imprisonment: bribery and intimidation (Paoli 2003). Consequently, Sicilian mafias could afford to maintain somewhat higher levels of publicity and, as a result, have been responsible for assassinating at least 231 high-profile people and government officials since the second half of the 19th century (Catino 2014). The American LCN, by contrast, strictly forbade the murder of law enforcement, journalists or politicians because "even the weekly envelopes of cash they received in exchange for looking the other way would not be enough to neutralize the effect of the public outcry we could expect if we killed such people" (Abromowitz and Bonanno 2011, ch. 7).[39] The benefits of a Sicilian Commission did not exceed their costs.

That equilibrium changed with the United States Boggs-Daniel Narcotic Control Act of 1956, the consequences of which caused the value of a low profile to rise for many Sicilian Mafias. The Narcotic Control Act dramatically increased the punishment and prison sentences for Americans convicted of trafficking in narcotics (Drug Enforcement Administration n.d., 22). Around the beginning of the 1950s, the average prison sentence for a narcotics offense in America was two years. Meant to reduce narcotics trafficking, the Act

> provided a mandatory minimum sentence of five years in prison for a

[38] Dickie (2004) suggests that the Sicilians may have had a similar, obviously short-lived institution operating at the end of the 20th century.

[39] Consider also the case of powerful mobster Schultz who was preemptively murdered by LCN because he was plotting an unsanctioned hit on the U.S. Attorney in the Southern District of New York, Thomas E. Dewey (Abromowitz and Bonanno 2011, ch. 7).

first offense of illegally selling narcotic drugs or marijuana, and from 10 to 40 years for subsequent offenses with no possibility of probation, parole, or suspension of sentence. The act further broadened the authority of both the FBN and Customs to execute search warrants at any time of the day or night (Drug Enforcement Administration n.d., 22).

As a result, many American LCN bosses outlawed drug trafficking activities within their Families. According to a declassified FBI report, the express purpose of the prohibition was to "remove the organization from the notorious publicity that inherently follows arrests of members in connection with narcotics violations" (FBI 1963g, 42). Thus in 1957, the American Bonanno Family encouraged Sicilian Families to instead enter heroine trafficking at a larger scale (Dickie 2004; Catino 2020; United States Senate 1988).

That expansion increased the value of a low profile for Sicilian mafias. Success in international drug trafficking markets required covert navigation of international jurisdictions that were less corrupt. Violent disputes and other sources of supply-chain disruptions were therefore much more costly and the value of peace-keeping institutions finally exceeded their cost.[40] Like its American predecessor, the Sicilian Commission had two "specific competencies" according to mafia scholar Letizia Paoli. First, it was granted the responsibility "to settle conflicts among the [Sicilian] families and single members" and second, "the commission was entrusted with the regulation of the use of violence" (Paoli 2003, 53). Thus the 1957 creation of the Sicilian Commission is best explained by an increase in the value of the organization's low profile.

6 Conclusion

I argue that La Cosa Nostra's central "legal" institutions are best understood as attempts to protect its low profile from free riding by its own members. Since individual members did not bear the full costs of secret-revealing police investigations, they had a perverse incentive to resolve disputes violently. Indeed, that incentive was compounded by the LCN members' comparative advantage in producing violence and their inability to create written and complete contracts with one another.

LCN preserved its low profile by incentivizing peaceful reconciliation. First, its system deterred violent behavior by forbidding the use of violence between

[40] This theory complements Catino (2020, 76) who suggests that "opportunities provided by international drug trafficking favored the creation of [Commission-like bodies], in order to coordinate complex activities on an international scale and contain and regulate conflicts resulting from these new business opportunities."

members and by giving bosses the exclusive authority to order a murder. Second, its court system avoided disputes altogether by encouraging reconciliation and incentivizing Cosa Nostra judges to produce resolutions mutually acceptable to the litigants. In particular, the LCN boss's encompassing interest as well as Cosa Nostra's own Supreme Court, the Commission, protected the organization's low profile by ensuring that if the boss did not resolve the dispute in a mutually agreeable manner, his wealth and reputation suffered. Those institutions kept disputes from escalating into violence, thereby helping LCN to avoid secrecy-threatening investigations and to become one of the most long-lived modern criminal organizations in the United States.

Other factors may have contributed to the existence and formality of Cosa Nostra courts. For instance, besides jeopardizing LCN's low profile, violence is also itself a costly activity. Resources spent fighting have an opportunity cost. Minimizing the costs of routine violence, therefore, may explain the existence of Cosa Nostra's courts.

This "violence *per se*" explanation for the preponderance of LCN courts faces at least one problem: the 'Ndrangheta. The violence *per se* hypothesis predicts that 'Ndrangheta clans, for whom violent blood feuding is common, should have the strongest and most formal peace-keeping institutions of all the mafias. But they did not, maintaining weak and quite informal peace-keeping institutions for many decades. The costs of violence *per se* did not become particularly problematic until a particularly violent war made a lower profile more valuable. The same is true of the American Cosa Nostra. Thus violence *per se* is an insufficient explanation for the existence and formality of such peace-keeping institutions.

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