

The Industrial Organization of the Mafia

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Abstract

This paper uses economic reasoning to analyze the organization of one of the most successful criminal groups in modern U.S. history: La Cosa Nostra (LCN). Drawing on recently declassified FBI reports and a hand-collected dataset, I argue that the costs of violent disputes are key for an economic understanding of LCN's core institutions. Violent disputes were costly for LCN as they consumed resources to produce and were destructive. However, violent disputes were especially costly to LCN because of its need to keep a low profile. As a member did not bear the full costs of a profile-raising police investigation, each had a perverse incentive to resolve a dispute with violence. Hierarchical firms and a sophisticated court system were LCN's solution. They gave bosses the authority and incentive to limit violent disputes and to use violence judiciously. LCN's longevity and success are, in part, a testament to the institutions' efficacy.

JEL codes: K10, K42, L23

Keywords: Organized crime, violence, theory of the firm, governance, court systems

Forthcoming, *The Journal of Law and Economics*

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

(Joseph Bonanno [2013, ch. 23], 20th century boss of the New York City Bonanno Family)

1 Introduction

La Cosa Nostra—the American mafia—is one of the most successful and long-lived criminal organizations in modern U.S. history. Previous economic scholarship has examined, for example, LCN’s businesses and its contribution to criminal markets (Anderson 1979; Reuter 1983, 1987). Even so, there remains little economic work analyzing its institutions and legal procedures. This is due, in part, to LCN’s code of silence and injunctions against written agreements. My paper fills that lacuna.¹ Thanks to an archive of recently declassified FBI reports, I identify unstudied La Cosa Nostra institutions and will elucidate the economic rationale behind their existence and design.

The costs of violent disputes are, I contend, key for an economic understanding of LCN’s core institutions. LCN’s members had great autonomy with respect to their criminal activities and relied upon collusion and partnerships with other members to maximize criminal profits. Unfortunately, this cooperation often broke down. Disputes were routine because contracts between members had to remain unwritten and therefore underspecified. Since members could not resolve disputes through the legal court system, they had an incentive to resolve disputes with violence. Such violence is costly as it consumes resources to produce and is destructive. But violence was especially costly to La Cosa Nostra because of its need to keep a low profile. Remaining unseen was essential for protecting LCN members from imprisonment. Moreover, LCN’s low profile possessed an important property: its value was shared amongst all LCN members. That gave its members an incentive to free ride. As

¹There has been some work on mafias and criminal organizations in general across disciplines. See Gambetta (1993), Bandiera (2003), Varese (2001, 2011), Catino (2015, 2019), and Garoupa (2000, 2007).

a member did not bear the full costs of a profile-raising police investigation, each had a perverse incentive to resolve a dispute with violence.

Thus, the costs of violent disputes were a serious threat to their covert criminal cooperation. Hierarchical firms and a sophisticated court system were LCN's solution. As with Alchian and Demsetz's (1972) theory of the firm, La Cosa Nostra members hired a specialist, the boss, to regulate the behavior that most threatened cooperation.² Unlike Alchian and Demsetz's monitor-specialist, however, LCN's Families were tailored to ensure that violence was used judiciously. First, Family bosses had a formal monopoly on the use of extreme violence: a murder could only be committed with the boss's permission. Second, bosses were responsible for administering a surprisingly formal court system. La Cosa Nostra's courts were especially important for curbing members' incentive to free ride as it gave members a peaceful means of resolving disputes. Third, residual claimancy incentivized bosses to keep disputes low-grade and to regulate violence. Each boss was paid a share of all his Family's criminal activities, making him "owner" of the firm. LCN further established its own "supreme court," to act as a court of last appeal and to resolve disputes within and between Families.

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

I contribute to past scholarship in three respects. First, I contribute to classic work on the theory of the firm by showing that the firm can emerge even when "employees" are

²Alchian and Demsetz (1972) offer one of the earliest models of the firm. In their classic model, the firm facilitates team production. They consider a pair of movers lifting heavy cargo into trucks. Monitoring costs prevent the pair from accurately assessing each other's contribution to output. As a result, shirking threatens to obviate the value of their teamwork. To address this problem, the movers create a firm. They enlist a specialist to police and direct their effort and, to discourage self-dealing, make the specialist residual claimant to their combined output.

largely autonomous and self-directed, contra Alchian and Demsetz (1972).³ LCN did not face a conventional shirking problem as presented in Alchian and Demsetz. Instead, LCN’s members had to find a way to protect their low profile from overuse without also sacrificing their autonomy. Even though the problem LCN faced differed from that of Alchian and Demsetz, its members adopted a surprisingly similar solution: they organized into “firms.” Concentrating the right to direct revenue-generating actions in the hands of one person is not, therefore, a precondition for the creation of the firm.

Second, my paper links the theory of the firm with the economics of crime via the costs of violent disputes.⁴ Classic papers on the theory of the firm naturally focus on lawful firms. The focus on legal firms, however, precludes the possibility that violence matters for the organization of the firm. There is a small body of work within the economics of crime that suggests otherwise. Schelling (1967) and Buchanan (1973), for instance, argue that the organization of the firm can internalize the costs of criminal activities that have external effects, including violence. Thus, my novel empirical analysis of LCN Families confirms insights from a body of work that, until now, has been mostly theoretical. My results also challenge Reuter’s early analysis of the mafia’s criminal activities (1983). He dismisses the external costs of violence as an unimportant factor for either the organization of the mafia or illegal markets. By contrast, I show that the unique organization of the mafia is best understood as a response to these costs. The costs of violent disputes can indeed be another reason to organize cooperation within a hierarchical firm. Moreover, past economic work on organized crime does not directly consider criminals’ need to use violence judiciously.⁵ I do. I find that LCN had to balance the benefits of internally enforceable rules, facilitated by violence, against the costs of excess scrutiny. Relatedly, this paper is the first to show

³There have been many surveys of this literature. For prominent ones, see, for instance, Williamson (2002) and Hart (2002).

⁴The economics of crime began with Becker (1968), but other significant works include Fiorentini and Peltzman (1996), Schelling (1984), Levitt and Venkatesh (2000), and Konrad and Skaperdas (1995). There is a growing related literature that investigates rules and organization of particular criminal groups, including, for instance, pirates (Leeson 2007, 2009, 2010), prison gangs (Skarbek 2010, 2011, 2012, 2016, 2020), and motorcycle gangs (Piano 2017, 2018). For related theoretical work, see Chang et al. (2005) and Dick (1995).

⁵Leeson and Rogers (2012) is a notable exception.

empirically that the need for a low profile can shape the internal organization of a criminal firm.⁶

Finally, I contribute to work within the economics of crime with new data about criminal arbitration practices. My original historical work and hand-collected dataset use declassified archival records, recently digitized by the Mary Ferrell Foundation, to furnish new details about LCN.⁷ As confidential informants who were either LCN members or close associates furnish their details, the reports represent some of the most reliable and granular primary source material on the American Mafia. The corpus spans the years 1959 to 1978 and contains 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. Most notably, the reports contain much information about LCN's formal method of dispute resolution: the *arguinamenda*. I supplement the FBI reports with other government reports, court testimony by former members, and autobiographies of former LCN members and associates.

To further supplement the primary source materials, I created a novel data set by hand collecting information on 78 specific, formally resolved disputes within LCN from 1922-1991. As such, the paper builds on some of the most original and reliable information yet available about the arbitration mechanisms and operations of the American Mafia. When discussing other mafias in Italy, I use mafia histories that are also informed by government documents or the testimony of former *mafiosi*.

Such data also links my work to the economics of non-conventional jurisprudence. While economists have unraveled the reasoning behind the peculiar judicial practices of medieval Iceland (Friedman 1979), ancient Athens (Fleck and Hanssen 2012), trials by battle (Leeson 2011), medieval-era ordeals of fire and water (Leeson 2012), Liberian trials by poison (Leeson

⁶On the theoretical significance of a low profile for an organization, criminal or otherwise, see Liebeskind (1997), Baccara (2007), Baccara and Bar-Isaac (2008), and Lindelauf et al. (2009).

⁷The files were part of a larger body of partly declassified documents released by the U.S. National Archives in 1998 relating to the assassination of President John F. Kennedy 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 (www.MaryFerrell.org).

and Coyne 2012), and African oracles (Leeson 2014), few have analyzed a judicial system comprised of criminals that rules on behalf of criminals.⁸ This paper does just that.

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 economize on violent disputes, particularly because of its low profile. In section four, I explain how LCN Families incentivized peaceful dispute resolution through firms, courts, and residual claimancy. In section five I consider the effectiveness of La Cosa Nostra organization with qualitative and novel quantitative evidence. I conclude in section six.

2 La Cosa Nostra

La Cosa Nostra is an Italian-American criminal organization divided into “Families.”⁹ La 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, and 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 region of the U.S.

The first Families arrived in New York at the turn of the 20th century (U.S. Department of Justice 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).

⁸Reuter (1983) discusses arbitration services provided by the mafia to illegal markets in general, whereas this paper explains formal mediation practices within LCN itself. For a recent contribution to the economics of dispute resolution in general, see Guerra et al. (2022).

⁹The 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.

While the earliest American mafia Families had connections with one another, inter-Familial 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 Families established territorial claims between cities and an independent mediating body called “the Commission.”

LCN Families shared a similar organizational structure (see Figure 1). Each was organized hierarchically with a boss at the top. Beneath the boss was his right-hand, the underboss. Sometimes a Family also had a *consigliere* who served as the Family’s advisor. Below the underboss were the captains, each 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.

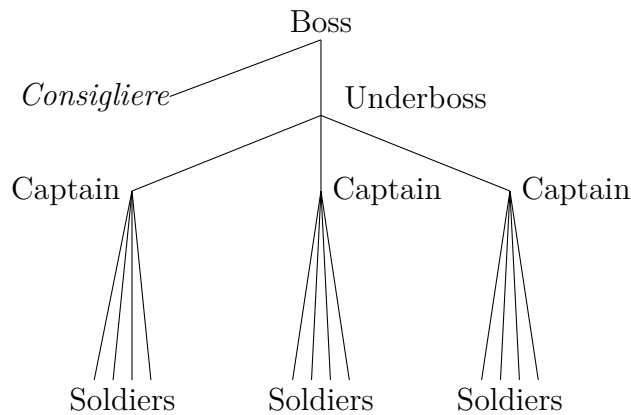


Figure 1. Structure of a typical LCN Family

The boss was typically elected by the Family as a whole (Bonanno 2013). Once elected, the boss appointed his underboss, and captains (U.S. Department of Justice 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” (U.S. Department of Justice 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” (U.S. Department of Justice 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” (U.S. Department of Justice 1963c, 4). The *consigliere* had no formal powers apart from being an advisor and arbitrator. While the role of the *consigliere* was clear, the position’s significance for LCN Families was not uniform. For instance, not every Family had a *consigliere* (U.S. Department of Justice 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” (U.S. Department of Justice 1964a, 6).

Captains were “directly responsible” for the activities and actions of their crew members and relayed orders from the boss to the crew (U.S. Department of Justice 1963c, 4). Crews were comprised of soldiers, the lowest-ranking members in LCN. Each soldier was assigned to a crew upon initiation but was not obligated to work exclusively with that crew. Thus, soldiers often worked with informal “crews” of their own comprised of associates and “the proposed.” LCN associates were non-members who worked closely with or for “made” (that is, initiated) LCN members in criminal rackets. 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.

Even though Families had a hierarchical structure of authority, they were also decentralized in an important way. LCN members did not receive instructions from their superiors on how to earn criminal profits. Instead, as former boss Joseph Bonanno remarked, “each Family member is free to make his own living” (Bonanno 2013, ch. 12; see also U.S. Congress

1963; *U.S. v. Gotti*, 04 Cr. 690. SAS-1. S.D.N.Y. Feb. 22, 2006.). Compared to employees of the Alchian and Demsetz firm, LCN members were more self-directed and could run criminal activities as they pleased. As an FBI report stated, “if the operation is an illegal one, such as bookmaking or numbers, he is free to conduct those operations in anyway in which he wishes” (U.S. Department of Justice 1963c, 10). Thus, according to Mafia criminologist Letizia Paoli, members enjoyed “a very high degree of autonomy . . . 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).¹⁰

Nor did members receive a wage or salary from their boss (Bonanno 2013, ch. 12). Whereas employees in Alchian and Demsetz’s firm are paid by the firm’s owner, LCN members kept most of what they produced. As Joseph Valachi bluntly testified, “You don’t get any salary . . . You get nothing, only what you earn yourself” (U.S. Congress 1963, 109).

These high-powered incentives fostered members’ participation in a wide range of legal and illegal markets. So diverse were their criminal activities that an FBI report concluded that “current intelligence fails to indicate any specialization in the type of criminal endeavor by particular families, all engaging in whatever produces for them the fastest return” (U.S. Department of Justice 1962d, 123). FBI records indicate that, for example, members submitted fraudulent insurance claims, sold adulterated cooking oil, smuggled cigarettes, hijacked trucks, organized burglaries, bought, sold, and operated vending machine routes, fenced stolen goods, and organized labor racketeering. In addition, many members were part owners of restaurants, bars, hotels, casinos, and even real estate. In New Jersey, the Family even imposed a street tax on operators of illicit establishments.

By and large, however, members earned the most from illegal gambling and loansharking (U.S. Department of Justice 1963c, 147).¹¹ Here, too, members earned revenue in numer-

¹⁰A member only needed what was largely *pro forma* approval from a superior to begin the activity. As the Pennsylvania Crime Commission reported, “individual members retain considerable autonomy to make money in whatever way they can” (1990, 105).

¹¹Loansharking is the practice of loaning money at an interest rate above the legal limit. 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).

ous ways. Among other things, members could partner with a fellow member, or with an associate who runs a gambling business, or they could run it themselves; they could run a layoff operation; they could sponsor high-stakes card and dice games; or they could distribute illegal gambling machines (Pennsylvania Crime Commission 1990). Alternatively, members could tax otherwise independent gambling operators (Pennsylvania Crime Commission 1990). In loansharking, members partnered with one another, sometimes ran their own loansharking operation, or lent money to associates who were also loansharks.

Above all, the effectiveness of LCN criminal activities depended upon members working together in a covert manner. LCN members cooperated with one another in two ways: collusion and partnerships. Collusion amongst LCN members was widespread but did not entail fixing of prices. Instead, members were not supposed to impede the profits of a fellow member in any way. This non-compete mandate created a customary but genuine property right to any venture a member claimed before another member. For example, members had to “return” employees poached from gambling operations claimed by other members (U.S. Congress 1963, 115-116). The 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; U.S. Department of Justice 1963c, 10).¹² 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).

As with collusion, partnerships were widespread. Members formed short-and long-term partnerships wherever they operated. Members were partners in gambling operations, loansharking operations, restaurants, bars, clubs, and slot machine routes, among many other

¹²For a detailed discussion of such an arrangement, see New Jersey Commission of Investigation (1973, 86-89). In Chicago, the non-compete mandate tended to be enforced territorially rather than on a case-by-case basis (U.S. Department of Justice 1961, 242).

ventures. The division of responsibilities and remuneration within partnerships were seldom uniform and varied with the venture’s context and the respective partners (Pennsylvania Crime Commission 1990; see also U.S. Congress 1963). As the Pennsylvania Crime Commission’s 1990 report concluded (1990, 12),

income-generating activities [of an LCN] typically involve smaller, operationally-independent groups or partnerships. Members and associates have considerable independence . . . For business purposes, each member is at the center of a workgroup or network that, although tied to every member through the Family’s structure, and benefitting from its resources and reputation, operates independently, on its own initiative

To cooperate effectively, members had to operate unseen by state authorities. This low profile gave members the protection they needed to coordinate their various illegal acts without going to prison. Thus, LCN was a “secret society,” as noted by former member Salvatore Bonanno, for whom a low profile was paramount. To that end, LCN Families had a code of silence called *omertà* that, according to a former boss of the Bonanno Family, tied a member’s honor and life to their secret-keeping capacities: “*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” and typically murdered (Bonanno 2013, ch. 38; U.S. Department of Justice 1963c, 17, 41).¹³

It is a testament to the value of LCN’s low profile that LCN Families either banned or tightly regulated activities that could compromise their covert status. For instance, members of the American LCN could not engage in any “activity which fell within the primary jurisdiction of the federal government,” including “narcotics, counterfeiting, smuggling, gun running” (U.S. Department of Justice 1969, 7). According to a declassified FBI report, the express purpose of the narcotics ban was to “remove the organization from the notorious

¹³See U.S. Department of Justice (1963d, 31) for an example of an underboss murdered for “talking too much.”

publicity that inherently follows arrests of members in connection with narcotics violations” (U.S. Department of Justice 1963g, 42).¹⁴ To further promote their low profile, LCN Families have never used hard-to-fake insignias, ritual scarring, or tattoos that could denote membership to non-members (U.S. Department of Justice 1963c; Paoli 2003). Nor could members write down anything related to La Cosa Nostra. Even LCN recruitment reflected the concern for silence. Any recruits known to have “ratted” on other criminals prior to being “made” were disqualified from joining La Cosa Nostra (U.S. Department of Justice 1963c, 40-41).

But LCN’s low profile was especially valuable. The rules of other, contemporaneous Italian mafias reflect this. One such mafia, the Calabrian ’Ndrangheta, was historically known 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 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).

Further, Italian mafias have a long history of both using bombs and assassinating high-ranking public figures (Paoli 2003). For instance, the Sicilian Mafia has been responsible for assassinating at least 231 high-profile people and government officials since the second half of the 19th century (Catino 2014). The opposite was true of the American LCN. The American mafia 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” (Bonanno and Abromovitz 2011, ch. 7).¹⁵ Bombs were also banned as they risked killing or injuring children, wives, or bystanders. As a result, when bombs were used

¹⁴Families imposed this ban only when drug trafficking risked attracting the attention of federal agents, with the passage of the federal Boggs-Daniel Narcotic Control Act in 1956. The Act dramatically increased the punishment and prison sentences for Americans convicted of trafficking in narcotics (U.S. Drug Enforcement Administration n.d., 22).

¹⁵Even renowned bootlegger Dutch Schultz was killed in 1935 for planning an unsanctioned “hit” on the chief assistant U.S. Attorney in the Southern District of New York (Bonanno and Abromovitz 2011, ch. 7).

“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’” (quoted in U.S. Department of Justice 1967a, 30).

3 The vulnerability of covert cooperation

Covert criminal cooperation was, therefore, La Cosa Nostra’s most precious asset. But this cooperation faced a fundamental problem. It involved criminal acts and so fell outside the purview of the state. Members could not use government-backed arbitration mechanisms when cooperation broke down, which it often did. Disputes occurred regularly because members’ contractual arrangements were necessarily underspecified. To avoid self-incrimination, LCN forbade members from writing anything down. This meant members had to coordinate crime with verbal contracts instead of written ones (U.S. Department of Justice 1963g; Bonanno 2013; see also Valachi 1964 for examples). The costs of memorization and misinterpretation, however, made complex, highly specified verbal contracts uneconomic. Thus, all agreements between members were relatively incomplete and imperfect.

When contracts are underspecified, as most verbal contracts are, disputes will be frequent. Traders cannot specify in advance how to divide the value of their trade when unexpected events occur. They must therefore determine who owes what to whom after the fact, which invariably leads to a dispute. An LCN member may, for example, loan his associate to another member, a loanshark, to facilitate criminal activities. Ideally, both members want to specify in advance to whom the associate belongs if the associate fails to repay an unrelated loan to the second member. However, in a world where complete contracts are prohibitively costly to create, criminals cannot incorporate that stipulation into their agreement ahead of time.¹⁶ They must instead settle for an underspecified, incomplete verbal agreement that contains a tacit promise to “sort it out later” if the associate’s payments are delinquent. If

¹⁶Nor did they. An event exactly like this occurred in the late 1960s. See New Jersey Commission of Investigation (1973, 79-90).

delinquency does occur, the criminals cannot consult the contract to assign blame. Instead, they must meet after the fact and work out amongst themselves fault and compensation.

The autonomy afforded to members along with 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” (U.S. Department of Justice 1963c, 49, 147). One such report from 1962 declared that “A constant source of contention between the families [is] territorial disputes, requiring patient and calm deliberations by the leadership to avoid open friction thereby bringing the spotlight of law enforcement on their nefarious operations” (U.S. Department of Justice 1962d, 123). Joseph Valachi’s (1964) autobiography (Valachi was a soldier in the Genovese Family), is replete with examples of disputes with fellow members (see also, for instance, Pileggi 1985 and Coen 2009).

Thus, the initiative members retained had a cost: the loss of control.¹⁷ Had LCN members not been criminals, disputes between members might have been a routine, if minor, issue. However, LCN’s fundamental problem made certain that this was not the case. The fact that members could not use state arbitration mechanisms shaped how members resolved disputes. It gave members, contrary to their lawful counterparts, an incentive to resolve disputes with violence.

Such violence is costly for two reasons. First, it is destructive. Violence permanently depletes the total human and physical resources available to criminals who work together. Second, resources devoted to using and defending against violent acts have an opportunity cost.¹⁸

But violent disputes have another cost for criminal groups like LCN that work together in secret: they attract law enforcement scrutiny. More importantly, LCN’s low profile had

¹⁷I am grateful to an anonymous reviewer for pointing out that LCN’s context inverts Gibbons’ suggestion that “the cost of control is the loss of initiative” (2005, 206).

¹⁸These costs are universal as they are always present when violence is used.

a key feature: its value was shared amongst all LCN members. Keeping a low profile did not exclusively benefit a boss or soldiers. All members benefited from their covert status because they all took part in criminal activities. Scrutiny of one member endangered others as well. For example, an investigation could reveal details about separate crimes committed by other members and, if arrested, a member could “snitch” on those who evaded suspicion in exchange for a lighter sentence.

Thus, an LCN member bore only a fraction of the costs from resolving a dispute with violence, further magnifying his incentive to resolve disputes violently. As in Alchian and Demsetz’s model of team production, members had an incentive to free ride.

Nor were members reluctant to do so. Members had a comparative advantage in violence that they used to enhance their criminal profits. Indeed, most members were recruited for their willingness and ability to use violence (U.S. Department of Justice 1963c, 1963a). Until the 1950s, all proposed recruits also had to participate in a murder to earn full membership (U.S. Department of Justice 1963c, 23).¹⁹ LCN members used this comparative advantage to advance their criminal activities. For instance, they used threats, beatings, and murder to deter competitor entry (1965a), enforce debt contracts (U.S. Department of Justice 1962a, 1964f, 1968a), and extort licit and illicit businesses (U.S. Department of Justice 1964b).

Without access to legal courts, members then had two ways with which to resolve a dispute: one violent and one not. Choosing violence was much more likely to attract a law enforcement investigation than not. But since the consequences were shared with the entire Family, each had a perverse incentive to “oversupply” violent dispute resolution.

As a result, criminal cooperation was simultaneously revenue-enhancing and the principal source of high-cost, violent disagreements within LCN Families. A 1968 FBI report furnished details on precisely the kind of violent internal disputes LCN Families 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

¹⁹Later members still had to be prepared to perform a murder (U.S. Department of Justice 1963g, 37).

requested permission from his superiors to have Esperti murdered, but his request was denied. His superiors worried that there had been too many recent murders in Miami (U.S. Department of Justice 1968b). Then, a few days later, Gambino soldier Joseph Indelicato “told Altamura that he had no authority to order Esperti away from Miami Beach” (U.S. Department of Justice 1968a, 250). Shortly thereafter, Tommy Altamura was shot to death in front of six witnesses. Tony Esperti was later charged with and found guilty of Altamura’s murder. He spent the rest of his life in prison.²⁰

High-ranking members displayed genuine concern with the fatal and profile-threatening results of such violence. After Altamura’s murder, Joseph Indelicato and another LCN member were “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” (U.S. Department of Justice 1968a, 250). Indeed, in 1963 the head of the Central Investigation Bureau of the New York City Police Department testified (U.S. Congress 1963, 70) 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.

Violent disputes were, therefore, a serious threat to effective and covert cooperation amongst members of the American LCN.

²⁰For additional examples of LCN disputes that escalated into violence and then attracted a police investigation, see U.S. Department of Justice (1968a, 260), U.S. Department of Justice (1965b, 25-26), and Bonanno (2013, ch. 6).

4 Families discouraged bloodshed

The financial success of covert criminals with high-powered incentives required that LCN members temper the costs of violent disputes. Obviously, LCN's criminality precluded the use of state courts. Members could not also, for instance, "contract around" the problem in advance due to the incompleteness of verbal contracts. Thus, there was a demand for an organizational solution. Uniquely designed firms were their solution.²¹

4.1 Families as firms

As with Alchian and Demsetz's theory of the firm, La Cosa Nostra members "hired" a specialist, the boss, to regulate the behavior that most threatened his "team's" cooperation. Unlike Alchian and Demsetz's lawful firm, however, shirking in assigned tasks was not the chief threat to said cooperation. Instead, violent disputes, multiplied by the discretion members had over criminal activities, were the primary concern. Hierarchical Families gave bosses the authority they needed to regulate member violence. Bosses held sole authority to demote their captains (U.S. Department of Justice 1965a), place members on probation (U.S. Department of Justice 1962a), and, most importantly, order a murder (U.S. Department of Justice 1963c, 47):

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.

Bosses used that authority to punish misconduct within their Families. For example, according to one FBI informant, boss Vito Genovese had a captain in his Family murdered

²¹Schelling (1967) and Buchanan (1973) touch on a similar argument.

for disobeying a direct order to see him (U.S. Department of Justice 1965a). Bosses have had members killed for breaking various rules, including internal fighting (U.S. Department of Justice 1965a, 172, 182), snitching (U.S. Department of Justice 1963h; 1965a), unsanctioned murders (U.S. Department of Justice 1964e), disobeying orders (U.S. Department of Justice 1968a), dealing in narcotics (U.S. Department of Justice 1969; 1963c, 40-41), and, according to one FBI report, other rule violations “committed intentionally and with malice” (1967a, 33; see also U.S. Department of Justice 1963c, 45). Ergo, “beefing” soldiers reduced enforcement costs by appealing to a stronger mediator, their boss.

Although bosses could and did punish rulebreakers with murder, such violence was used in moderation. For example, while the American LCN did not hold direct family members responsible for the misconduct of their “made” relatives, Italian mafias such as the ’Ndrangheta and the Sicilian Mafia did. When a ’Ndrangheta member was found cooperating with law enforcement, his entire family could be killed, the so-called practice of *vendetta trasversale* (Ingrasì 2021; see also Paoli 2003). Nor were female relatives “off limits.” Adulterous sisters of ’Ndrangheta members could be murdered by their own brothers to protect the group’s honor (Ingrasì 2021).

Moreover, boss-enforced LCN Family rules were designed to limit the number of violent disputes that occurred. They did so by banning behavior liable to cause a dispute. For example, members could not become romantically involved with each other’s wife, daughter, or sister (U.S. Department of Justice 1963c). Nor could members slander or make disparaging remarks about one another (U.S. Department of Justice 1963c). Furthermore, according to an FBI file, “embezzlement or swindling of another member is forbidden” (U.S. Department of Justice 1963c, 37-38). As with *omertà*, breaches of these rules were grounds for execution (U.S. Department of Justice 1963c, 41).²² Other rules were less direct. As members were free to operate as they pleased, high-ranking members did not closely manage or direct the

²²Even criminal groups that operate away from conventional society, such as pirates and prisoners, have similar codes of conduct enforced by leaders (Leeson 2007; Skarbek 2012). Indeed, codes of conduct tend to be the rule rather than the exception for extra-legal groups. See, for example, Leeson and Skarbek (2010) and Piano and Rouanet (2022).

activities of low ranking members. Recall, however, that LCN members did have to obtain *pro forma* approval from a superior before beginning an illegal activity (U.S. Department of Justice 1963b, d). Since members were not always aware of what their compatriots were doing, this rule helped members to not fleece one another.²³

Bosses also enforced a “no hands rule.” The rule forbade members from using violence of any kind against another member (U.S. Department of Justice 1963c, 37-8). As an FBI report relayed, even “committing any act of violence against another member, (including fighting with or striking another member with the hand)” was punishable with death (U.S. Department of Justice 1962d, 27). The purpose of the “no hands” rule was straightforward. It was meant to deter verbal disputes from escalating.²⁴ As former member Salvatore Bonanno stressed, 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).

Such rules and a boss’s authority to punish members of his Family were complements in limiting the general costs of violence and protecting a Family’s low profile. Giving bosses authority to punish members made rule breaking less likely: bosses could credibly threaten rule breakers with execution.

As the boss’s authority to order a murder was exclusive to him, it solved another problem as well. It discouraged members from committing murders that, while privately beneficial, placed the entire Family at risk. Whereas independent criminals hold the decision-right to commit a murder, every LCN member ceded that right to the Family boss upon initiation: no member could commit a murder without first securing the bosses’ permission, whether the intended victim was a member or not did not matter (see, for example, U.S.

²³The rule also discouraged members from committing non-violent but high-profile crimes.

²⁴Only two rarely exercised and highly constrained exceptions to the rule existed. It was only defensible for a member to kill another in self-defense or to avenge infidelity (Bonanno 2013). Even then, such assaults were only justified if carried out in the moment and could not be done “at a later time when he should have called off, without having first secured permission from his superiors” (U.S. Department of Justice 1967a, 30).

Department of Justice 1965a, 107). 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.* 690).

The fact that members kept all but a few decision-rights over illegal activities was a testament to their bosses’ concern for limiting internal conflict. After all, LCN did not ban members from using violence against non-members (Bonanno 2013; Abromowitz and Bonanno 2011). However, the bosses’ monopoly on murder discouraged members from committing crimes particularly likely to attract public and police scrutiny.

As with any property right, the boss’s exclusive right to order murder was imperfect and so unsanctioned murders did occur. The Altamura murder mentioned above was one such example. However, evidence from FBI informants and testimony by former underbosses confirms that the rule did carry *de facto* force: informants furnished numerous examples in which members proactively sought boss permission to murder members and non-members alike (U.S. Department of Justice 1965a, 113, 107; *U.S.* 690). After all, bosses had no reason to admit members likely to disobey the organization’s formal rules.

4.2 La Cosa Nostra’s courts

As regulators of their criminal firms, LCN bosses clearly shared important qualities with the monitoring specialist described in Alchian and Demsetz’s theory of the firm. Even so, the criminal “specialist” had his responsibilities tailored to the unique problem he faced. For example, while LCN members worked together, an LCN boss was not responsible for regulating shirking per se, as was true of Alchian and Demsetz’s specialist.²⁵ Nor was Alchian

²⁵The risks were too great. While close supervision by bosses could reduce shirking in a loansharking partnership, for example, effective monitoring would also require high geographic and informational centralization. Centralization made police investigations an even greater existential threat by reducing the chance that any member escaped an investigation (Baccara and Bar-Isaac 2008). Such severe repercussions caused close supervision of criminal cooperation by bosses to be uneconomic. It is for this reason that, as discussed

and Demsetz's specialist responsible for resolving disputes, as LCN's bosses were.

The primary mediation mechanism for resolving disputes within a Family was called the *arguinamenda* or "sit-down" (other names include *arrujemento* or carpet). It was a boss's formal responsibility to preside over them. The *arguinamenda* was especially useful for protecting a Family's low profile from free riding. It offset members' incentive to "oversupply" violence with a cheap way to resolve disputes amicably. La Cosa Nostra courts were doubly valuable as well. A peaceful settlement did not just avoid police scrutiny. It also prevented the destruction of valuable men and material. The sit-down was a gap-filler for rules that could not deter all cheating, disagreements, and conflict.²⁶

FBI documents 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* (U.S. Department of Justice 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* (U.S. Department of Justice 1969, 7). *Arguinamenda* existed "for the purpose of settling differences" (U.S. Department of Justice 1963c, 45-6). And yet another member was told "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" (quoted in U.S. Department of Justice 1967a, 29; see also U.S. Department of Justice 1967a, 29; 1963h, 18).

Norms of Italian mafias such as the 'Ndrangheta bring into sharp relief the significance of LCN's system of arbitration for tempering the use of violence. In addition to its historical reputation for having a rather casual concern for secrecy, the 'Ndrangheta has long relied on

above, LCN's membership was relatively decentralized, autonomous, and unsalaried.

²⁶Bans on violence within a Family could not address the root issue: the dispute itself. Without settlement, a dispute could escalate.

violent blood feuding. Rather than trying to keep disputes low-grade, 'Ndrangheta custom has historically 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). Indeed, all were expected to participate in the feud, and 'Ndrangheta custom expressly prohibited interventions that would otherwise keep such disputes low-grade. Even the organization “as a whole was not entitled to intervene and had no means of stopping [blood feuding] . . . and even the most charismatic mafia members had no authority to intervene to settle them” (Paoli 2003, 128). By contrast, the prevalence of the formal *arguinamenda* in the American LCN underscores each Family’s concern for de-escalation of internal violence. As one FBI report about the American LCN noted, “Violence to the person of another member is forbidden, but may be mitigated by circumstances if an [*arguinamenda*] is possible before retaliation” (U.S. Department of Justice 1963c, 37).

All La Cosa Nostra Families, including those in New York and the remote and smaller Families in Michigan, Wisconsin, and California, used *arguinamenda* to keep disputes low-grade. Although that which follows describes the formal procedures within a Family, *arguinamenda* could occur between Families (U.S. Department of Justice 1963c). This mattered for New York, the only city in which multiple, full Families coexisted. *Arguinamenda* between Families could be less formal relative to those within. In such cases, either each Family sent a representative to negotiate a settlement, or the dispute was sent to the Commission for a formal trial (Pennsylvania Crime Commission 1990).

As the primary means of keeping the peace within a Family, internal *arguinamenda* were quite formal (U.S. Department of Justice 1962d, 29). For an *arguinamenda* within a Family, three groups took part: 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 (U.S. Department of Justice 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 rendered its verdict through a vote (U.S. Department of Justice 1967a, 33; 1964b, 15). More often than not, however, the boss would make the ruling himself (see, for example, U.S. Department of Justice 1964b, 15).

Since members had the right to select someone from their Family to represent them, both the plaintiff and defendant attended the trial with representation (U.S. Department of Justice 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 (U.S. Department of Justice 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]" (U.S. Department of Justice 1962c, 6-7). Captains with their own grievance would notify the boss. Frog leaping one's way up the hierarchy was strongly discouraged (1963c, 40-41).²⁷

Following this 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 (U.S. Department of Justice 1962c, 6-7). If the soldiers were from different crews, the soldiers must both "bring it to the attention of his [captain] who will then arbitrate the dispute on his

²⁷One informant stated that this rule had changed, but it is not clear how widely this practice was adopted (U.S. Department of Justice 1963c, 39). Soldiers could not, for example, appeal directly to the boss without first notifying their captain (Valachi 1964; U.S. Department of Justice 1969, 7; 1967a, 28).

behalf” (U.S. Department of Justice 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]” (U.S. Department of Justice 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 internal dispute, the superior usually contacted witnesses to verify the facts of the dispute. Genovese soldier Joseph Valachi, for example, was called by his captain after a fight between two mob associates to verify if 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 so that the dispute may be resolved” (U.S. Department of Justice 1962c, 6-7). The boss then decided whether or not to hear the case. Sometimes bosses considered the disputes insufficiently serious to hear and permitted the captains to resolve the disputes (U.S. Department of Justice 1963c, 65; Bonanno 2013). When the boss did consider the dispute sufficiently important, the stage was set for a formal *arguinamenda*.

The trials within a Family 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. No one could leave the room during the trial and 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” made by the boss (U.S. Department of Justice 1963c, 45-6). As with rule enforcement, bosses did have the right to enforce such “authoritative” decisions with murder (U.S. Department of Justice 1962d).

For *arguinamenda* within a Family, bosses were expected to use the alleged intent of the litigants to inform their 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” (U.S. Department of Justice 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” (U.S. Department of Justice 1963c, 41).

Deviations from these standards did occur. Not all of the Family’s high-ranking members were present at every trial within a Family. 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).²⁸ Occasionally, defendants and plaintiffs represented themselves (U.S. Department of Justice 1963d, 11-12) and sometimes oral arguments were given prior to the trial rather than during the trial (Valachi 1964). Sometimes a dispute occurred between members of one Family in a city belonging to another Family. In that case, the boss of the disputants could defer mediation responsibility to the city’s boss (see, for example, U.S. Department of Justice 1963c, 149-150).²⁹

Since any dispute had the potential to escalate, *arguinamenda* were used to settle a wide variety of problems. Common issues included the division of criminal profits, charges of excess competition or violence, dishonorable conduct, and violations of La Cosa Nostra rules, among other things. Sometimes *arguinamenda* resolved disputes between “mobbed-up” associates or associates and “made” members (see, for instance, New Jersey Commission of Investigation 1973).

As disputes could escalate in hours if left unresolved, speedy trials were essential. Thus most *arguinamenda* were resolved very quickly. Former Bonanno Family member Salvatore Bonanno (Abromowitz and Bonanno 2011, ch. 19) considered speed a defining feature of LCN courts in contrast to the legal court system:

²⁸Bonanno was not 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).

²⁹While Families did respect territories between cities, the five Families in New York did not enforce strict territories with one another (U.S. Congress 1983, 1988). As a result, it is not clear how the Families within New York determined jurisdiction with one another.

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.

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 soldiers of the Magaddino Family in Buffalo. All were partners together in a loan-sharking 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 (U.S. Department of Justice 1963d, 11-12). 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 U.S. in 1956, the average time between when a “first filing” occurred and when the case came to trial was 6.5 months (Bartoloni and Picciotti 1957, 529, ft. 1).³⁰

4.3 Residual claimancy

Just as Alchian and Demsetz’s specialist had the authority to police the effort of his employees, so too did LCN bosses have the authority to regulate the use of violence within their Families. But having such authority did not mean that each boss also had an incentive to use it in a way that reduced violent conflict. Bosses did not have to resolve disputes amicably and could enforce every decision with murder if they so chose. LCN organization had to

³⁰As this does not include the time it takes to conduct the trial, this underestimates the full length of time until resolution.

ensure that bosses could profit from tempering the use of violence within his Family.

In standard Alchian and Demsetz fashion, LCN Families solved the problem of self-dealing through residual claimancy. Like the lawful employees in the Alchian and Demsetz model, lower-ranking LCN members gave bosses a share of their output. To ensure the boss had an interest that was truly encompassing (Olson 1993), every member in the Family member had to “kick up” a share of his illicit gains. Thus, “if any crimes were committed, they were expected to pay ten percent of any take to the organization” (U.S. Department of Justice 1963c, 43). Soldiers paid their captains who, in turn, paid the boss (U.S. Department of Justice 1963c, 9, 30; *U.S.* 690).

The exact percentage could vary with the captain’s needs and the soldier’s earning capacity. 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” (President’s Commission on Organized Crime 1984, 32). Indeed, a soldier “is required to tell his ‘captain’ before he enters any new business, legal or illegal” (U.S. Department of Justice 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” (U.S. Department of Justice 1963c, 30). 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.* 690).³¹

Giving the boss a share of all his Family’s illegal profits incentivized him to temper the use of violence along two margins. Consider disputes between members. Residual claimancy

³¹An 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” (U.S. Department of Justice 1963c, 32; see also U.S. Department of Justice 1963c, 21).

ensured that resolving a dispute amicably could improve the boss's personal wealth. This is true because a boss who was paid a share of all illicit profits would be disproportionately hurt by any disputes that attracted law enforcement scrutiny. While such scrutiny would make other members poorer as well, the fact that the boss was paid a share of profits from every Family member ensured that the boss suffered the most monetarily. Indeed, if the boss did not resolve the dispute in a manner that was agreeable to both parties, the dispute went unresolved and, once again, risked escalating. Thus, the encompassing residual interest solved a key problem. By concentrating the costs of violence and unwanted scrutiny on the boss, it gave bosses a monetary incentive to pursue peaceful, self-enforcing decisions.

Giving the boss a share of his Family's illegal profits did not just incentivize him to care about violence between subordinates. It also encouraged a boss to be judicious about his own use of violence as well. This was important because even executions ordered by a boss could attract unwanted scrutiny. Since a boss was free to compel rule enforcement or *arguinamenda* decisions with a variety of punishments ranging "from censure to death" (U.S. Department of Justice 1963f, 10; 1962d, 29), he could, in theory, order "too many" executions of subordinates if he so chose. Although absolute authority helped a boss enforce rules and judicial decisions, it also meant that, absent residual claimancy, a boss faced no direct cost from abusing his position.

Residual claimancy tempered any such incentive. It ensured that executions could reduce a boss's wealth. A boss with residual claims to his Family had to take care when choosing severe punishments for fear of attracting unwanted attention. As result, a boss had an incentive to balance the benefits of credible punishments against the costs of greater scrutiny in a way that maximized group wealth.

Deep ethnographies, autobiographies, and FBI reports describe LCN bosses as having an "encompassing interest" (Olson 1993) as it pertains to disputes. Bosses had 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 La 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 New England Family boss, Raymond Patriarca, and one of his soldiers, Patriarca expressed 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” (U.S. Department of Justice 1963e, 22). Indeed it was “stressed” to one LCN member during his initiation that “they wanted no wars” (U.S. Department of Justice 1969, 7).

Qualitative accounts of bosses’ interest in the affairs of their Families are strongly supported by their behavior. The daily activities of bosses revolved around mitigating 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” (U.S. Department of Justice 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).³² Indeed, Bonanno’s insight is echoed by an FBI report on the Pittsburgh Family. Pittsburgh’s Family boss, La Rocca (U.S. Department of Justice 1967b, 3-4),

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

³²Consider also that an FBI informant relayed that “the boss of a family is responsible for the entire family” (U.S. Department of Justice 1962d, 28; see also U.S. Department of Justice 1962c).

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.

LCN bosses displayed a real concern for resolving disputes amicably. Their concern was a direct product of their encompassing interest in the wealth of their Family. In the same way Alchian and Demsetz's specialist "earns his residual through the reduction in shirking that he brings about," so too did LCN bosses advance their wealth by tempering internal violence (1972, 782).

4.4 Resolving disputes between Families

Families qua hierarchical firms helped keep internal cooperation relatively peaceful. But, as members had the autonomy to, and so often did, work with members from other Families, disputes between Families could be another source of violence. Like any sovereign nation, a boss's absolute authority did not extend to members of other Families. Indeed, it was a norm that "no Family and no Father should interfere with the affairs of another Family," so there was no easy way to resolve disputes involving two separate Families (Bonanno 2013, ch. 13).³³ This norm created a bilateral enforcement problem that risked leaving disputes between Families unresolved and at risk of escalation. In the same way that lawful firms can use a third party to resolve disputes between firms, so too could LCN Families use an inter-firm adjudication system.

The solution to this problem was LCN's "supreme court," the Commission.³⁴ Created

³³That 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" (U.S. Department of Justice 1962a, 479).

³⁴The problem solved by the Commission was identical to that of the United Nations. Advances in deadly

in 1931 in response to an especially violent “war” amongst the Families in New York City, the Commission was “the highest governing body of ‘La Cosa Nostra’ ” and served as a judiciary panel (U.S. Department of Justice 1962a). Historically, it was comprised of bosses from the nine most powerful LCN Families, five of which were in New York. The Commission was primarily responsible for 1) resolving interfamilial disputes, and 2) acting as an appellate court (U.S. Department of Justice 1965b, 4; 1963f). Despite its authority, the Commission was *laissez faire*. 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 disputes between Families was the Commission’s first concern (U.S. Department of Justice 1963c, 45-6; President’s Commission on Organized Crime 1984, 33-34).³⁵ 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” (U.S. Department of Justice 1962d, 28). The Commission solved the bilateral enforcement problem by adding a body of authority above LCN bosses. It was a body with judicial authority that superseded any individual boss. Thus, just as two “beefing” soldiers reduced haggling and enforcement costs by appealing to their boss, so too did the Commission reduce negotiation and enforcement costs for LCN bosses. This “supreme court” gave LCN Families a way to economize on resources that would otherwise be used to resolve disputes with violence.

As in the case of the encompassing interest of bosses, mafia autobiographies and FBI

weaponry raised the costs of war amongst European states, precipitating the United Nations (UN) 1945 creation. The value of a low profile had a similar effect for LCN. The costs of police scrutiny made having a comparable mechanism for resolving disputes between Families imperative.

³⁵For an exception to the rule, see Valachi (1964) where Valachi details an *arguinamenda* in which a boss from a different Family acted as judge. Note that this was voluntary: it occurred at Valachi’s request.

material show that the Commission was expressly intent on avoiding bloodshed between disputing members (U.S. Department of Justice 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). Bonanno described the Commission as “an agent of harmony” and his son Salvatore Bonanno, 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 could not always find mutually agreeable settlements. For that reason, the panel had the authority to enforce its decisions with violence, which, as my data below suggests, it did exercise. As one FBI report noted, the Commission “has the authority to call upon any ‘capo’ or ‘capodecina’ to furnish men to perform an execution,” regardless of his Family membership (1963g, 41).

Even though such murders risk increased scrutiny, the Commission helped LCN use violence judiciously and stay 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). Indeed, the effectiveness of LCN’s Commission sets it apart from Italian mafias. The Sicilian Mafia and the ’Ndrangheta did not create effective and formal dispute resolution institutions until their low profiles became sufficiently valuable, in 1957 and 1991 respectively. Until then, disputes in these mafias tended to be resolved in

either an ad hoc manner or through blood feuding.³⁶

The Commission also helped to produce consensus in disputes within Families as well. It did so by acting as an appellate court. *Arguinamenda* rulings within Families were not necessarily final. If a Family member disagreed with an *arguinamenda*'s ruling, he could appeal his case to the Commission. The Commission's subsequent decision was final (U.S. Department of Justice 1962a; see also, U.S. Department of Justice 1962a, 481; 1963f, 10; 1963c, 45-6). In a secret FBI recording (quoted in U.S. Department of Justice 1964c, 11-12), 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 [obscurity] 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.

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, men of strength and deserving of respect (Bonanno 2013). Frequent overruling undermined that reputation and implied a weak or inept boss.

However, for the threat of overruling to be credible, Commission members had to face incentives that differed from those of a boss. 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 so would have no incentive to change his behavior.

³⁶Like the American LCN, the 'Ndrangheta created its Commission-like body, *La Provincia*, after an especially violent feud attracted too much public scrutiny (Catino 2019; Paoli 2003). The Sicilian Mafia, by contrast, created its own Commission when it entered the international heroin trafficking market at scale in 1957 (Dickie 2004; Catino 2020).

The Commission was designed to do just that. The Commission's rulings were made by majority vote (U.S. Department of Justice 1964c). Voting ensured final decisions reflected the interests of several Families rather than a single person, thereby making the threat of being overruled credible. Thus, members' ability to appeal and the threat being overruled further pushed bosses to find a mutually agreeable solution for disputes within his Family.

The Commission differed in key ways from that of, for example, cartels comprised of legal businesses. This was due to its ability to use violence judiciously. Consider the secret and illegal cartel formed in the heavy electrical equipment industry during the 1950s (Baker and Faulkner 1993). Like LCN, the conspiring corporate managers aimed to secretly reduce competition across firms and met informally to accomplish this. However, unlike LCN, the conspirators had no formal means with which to police their price-fixing agreements. Without the ability to credibly punish cheaters, the arrangement collapsed within a few years.³⁷ This cartel's short lifespan was not an anomaly. Prominent empirical studies have found that other illegal cartels lasted less than nine years on average (Posner 1970; Gallo et al. 2000). International cartels fared no better. They too had an average duration of less than nine years (Levenstein and Suslow 2006).

Without violence to police their cartel, it is no surprise that collusion quickly broke down. By contrast, collusion amongst LCN Families has almost lasted a century. Thus, violence was a double-edged sword for LCN. While it did help enforce collusive arrangements, it also attracted public scrutiny, thereby requiring its judicious use. The Commission helped LCN accomplish that goal.

5 Empirical evidence of La Cosa Nostra court efficacy

LCN's organization suggests criminals differ from non-criminals mostly in what they economize. Whereas Alchian and Demsetz's lawful firm had to limit shirking in assigned tasks,

³⁷Indeed, testimony by other conspirators repeatedly stresses the sheer ineffectiveness of their covert cartel. See, for example, U.S. Congress (1961, 16608, 16614, 16639, 16669, 16884, 16961, 16962, 17013, 17029).

LCN Families had to promote the judicious use of violence. A boss’s primary responsibilities were tailored to prevent his Family members’ high-powered incentive contracts from exploding into violence. Indeed, the vulnerability of LCN’s low profile to free riding made such tailoring of responsibilities vital. However, such customization is no guarantee of success. Given the value of LCN’s low profile, its organization had to temper the use of violence effectively and sufficiently. My hand-collected dataset concerning LCN’s surprisingly formal court system, as well as the history of LCN, suggests it did both.

5.1 The data

To evaluate the effectiveness of La Cosa Nostra’s courts, I hand collected a novel data set about its formal *arguinamenda*. It is not only the first ever data set about dispute arbitration within La Cosa Nostra, but also the first about criminal mediation in general. The data set contains 78 specific formal *arguinamenda* or “sit-downs” that occurred within LCN from 1922-1991. Most of the data comes from recently declassified FBI reports, but a few other sources are used as well.³⁸ The sources include partial or full summaries of the trials and often identify the trials’ date, disputants, judge, accusation, and outcome. This information is the basis of my data.

Table 1 offers a preliminary summary of the data. Contractual disputes appeared most often in the sample, suggesting that the unwritten and highly incomplete contracts upon which members relied were a major source of strife for LCN. To wit, trials concerning excess competition (23.1%) and indebtedness to a criminal partner (26.9%) comprised most of the sample. The next most common accusation concerned violence. Accusations of murder and assault each comprised 12.8% of the sample, indicating that violence was also an important concern for LCN.

³⁸They are government reports and testimony, member and associate memoirs, mafia histories, and one New York Times article.

Table 1 Primary accusation within a trial

Primary accusation	Number of trials	% of all trials
Assault	10	12.8
Debt	18	23.1
Dispute over Rank	2	2.6
Excess competition	21	26.9
Murder	10	12.8
Personal Insult	1	1.3
Seducing wife	1	1.3
Self-dealing	3	3.8
Threat of Assault	2	2.6
Unknown	8	10.3
Untrustworthy	2	2.6
Total	78	100.0

5.2 Quantitative evidence regarding LCN courts

For La Cosa Nostra courts to be a solution to the problem of excess violence, they had to be effective. If *arguinamenda* never settled disputes, then La Cosa Nostra courts could not be the solution I argue they are. If, however, *arguinamenda* successfully settled disputes, then we can be more confident of their profile-protecting function. My data confirms their effectiveness.

Most trials had information about the outcome, whether settled or otherwise. Table 2 summarizes that information. Trials described as being “settled,” or that were implied as being settled successfully, were counted as such. I counted rulings described as initially failing to settle the dispute or those that had to be relitigated as “unsuccessful.” Consider one such “unsuccessful” trial precipitated by competing claims to an associate. The trial had to be re-litigated because a Genovese Family soldier “was not present at the sitdown in Hackensack and felt in no way bound by the arbitration from that meeting” (New Jersey Commission of Investigation 1973, 81). Trials ending in an execution were given their own category. Some trials had no details about the outcome. Those are coded as such.

Table 2 further confirms the effectiveness of La Cosa Nostra’s courts. For all trials at all ranks, 52.6% were settled successfully and only 12.8% went initially unresolved. My data

Table 2 Share of trial outcomes, by judge rank

Rank of presiding judge	% successfully settled dispute	% unsuccessfully settled dispute	% ending w/execution	% w/unknown outcome	Total number of trials
Commission	39.1	13.0	26.1	21.7	23
Boss	55.2	6.9	3.4	34.5	28
Captain	53.8	23.1	15.4	7.7	13
<i>Consigliere</i>	66.7	33.3	0.0	0.0	4
Underboss	100	0.0	0.0	0.0	2
Soldier	33.3	0.0	0.0	66.7	3
Unknown	80.0	20.0	0.0	0.0	5
All trials, all ranks	52.6	12.8	11.5	23.1	78

indicates that bosses resolved 55.2% of their trials while only 6.9% went initially unresolved. As Commission-level trials can preside over unresolved disputes within Families, the failure of boss-level trials is partly understated. Even so, the Commission was effective as well. 39.1% of the Commission-level trials I document were settled, while 13.0% went unresolved at first. Table 2 also suggests that even trials presumably delegated to lower-ranked members were successful. Not once does the ratio of successful to unsuccessful sit-downs settled by captains, *consigliere*, underbosses, or soldiers fall below one.³⁹

5.3 Qualitative evidence regarding LCN courts

Another measure for evaluating La Cosa Nostra court effectiveness is the conduct and assessments of its own members. By that measure, they were a resounding success. The courts were used regularly and often resolved disputes amicably. Even government reports describe La Cosa Nostra as using violence “sparingly” relative to other criminal organizations (Pennsylvania Crime Commission 1990, 235, 263).

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 . . . was the

³⁹The number of trials with an unknown outcome may cause my results to overstate the effectiveness of LCN courts. For example, all of the trials with missing outcomes may have been unsuccessfully resolved. The boss-led trials indicate that this is unlikely. In the sample, data about boss-led outcomes are both the most numerous and the least complete. Even if every single one of the unknown trials were settled unsuccessfully, an unlikely event, bosses would still settle many more beefs than not.

[bosses'] main responsibility” (Bonanno 2013, ch. 12; U.S. Department of Justice 1962c, 6). This is no coincidence. Much of a boss’s time was devoted to such disputes because the demand for his services was so high. Indeed, a Genovese soldier observed that (Valachi 1964, 876, 882),

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 it’s another and they are always having tables.

The high demand for boss arbitration services was in part due to the quality of judicial rulings. In Chicago, for example, an informant described a typical *arguinamenda* that was “handled properly” such that the disputants “again enjoyed a friendly relationship” (U.S. Department of Justice 1961, 234).

Accounts of former members further affirm the success of La Cosa Nostra’s system of justice.⁴⁰ Even the settlements prior to formal sit-downs kept disputes low-grade. Former boss Joe Bonanno praised them by stating: “[i]f 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). Even associates sought, and occasionally secured, access to La Cosa Nostra’s courts (U.S. Department of Justice 1964d, 3-5; 1962a, 505-506). That associates pursued the services is further evidence of the institutions’ efficacy.

Thanks to the effectiveness of its stealth-preserving institutions, and, in particular its

⁴⁰See also 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).

courts, Families operated with little 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 La Cosa Nostra Family, observed how LCN evaded undue public attention (Ianni and Reuss-Ianni 1972, 3):

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 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

Indeed, LCN’s existence was not confirmed publicly until the McClellan hearings in 1963. And, as late as 1977, confidential FBI reports devoted entire sections to evidence confirming LCN’s existence, implying uncertainty about whether LCN did in fact exist (see, for instance, U.S. Department of Justice 1977). Thus, LCN’s organization was sufficiently effective. LCN managed to preserve its low profile for decades despite its vulnerability to free riding.

6 Conclusion

La Cosa Nostra, “Our Thing,” is one of the oldest and most successful criminal organizations in the U.S. My analysis of its organization leads to three conclusions. First, the costs of violence can be an important factor behind the organization of the firm. Although violence may help criminals resolve disputes, the value of a low profile magnifies the costs of resolving disputes with violence for criminals who cooperate covertly. Moreover, resolving disputes in

such a manner does not just attract scrutiny. Criminals who work together share the value of a low profile and so also have a perverse incentive to resolve most disputes violently. Thus, the organization of the firm offers both criminals and non-criminals an economical means of organizing cooperation.

Second, La Cosa Nostra's Families and court system reflected an efficient organizational response to the specific economic conditions they faced. As in Alchian and Demsetz's theory of the lawful firm, LCN members "hired" their own specialist, the boss, to police behavior that could undermine their "team's" production. But LCN's firms solved a decidedly different problem, to which they were tailored. Rather than preventing shirking in assigned tasks, LCN Families had to ensure that violence was used judiciously. To do so, Family bosses were given a monopoly over extreme violence and formal responsibility for resolving disputes. Residual claimancy ensured that bosses had an incentive to use their authority responsibly and the Commission helped check violence between Families. Criminals, then, like their lawful counterparts, economize via the firm. But due to the separate constraints each faces, the delineation of duties within the firm reflects what each firm economizes.

Finally, my hand-collected dataset is the first ever data set about criminal mediation and so offers new insights into arbitration practices that fall outside of formal institutions. My data shows that criminal-conducted arbitration can be surprisingly adept at keeping disputes low-grade, and also that not all disputes are worth resolving without violence. In most instances, disputes were resolved peacefully. In light of the historical practices of Italian mafias, this result underscores LCN's relative concern for peace and that criminality per se does not preclude effective arbitration. Even so, LCN bosses and criminals more generally must balance the benefits of credible punishments against the costs of greater scrutiny. Thus, 26.1% of the Commission's known decisions in my sample ended with execution. This result is not surprising. Government courts, on occasion, produce similar rulings. They too punish particularly heinous rule breakers with execution.

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