Partners Against Crime: Joint Prosecutions of Israeli Organized Crime Figures by U.S. and Israeli Authorities

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Abstract

This article discusses the criminal case of Israel v. Mizrahi and Reisch, which is the largest joint prosecution—between U.S. and Israeli law enforcement authorities—ever undertaken against Israeli organized crime figures for acts committed outside Israel’s borders.
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In Tel Aviv, Israeli and U.S. prosecutors recently concluded a trial which sets new standards of international cooperation in the fight against organized crime. The prosecution of Israel Mizrahi and Joseph Reisch for the killing of Russian mobster Michael Markowitz took place nearly seven years after the event and almost six-thousand miles from the quiet Brooklyn street where the execution occurred.¹ The saga of this trial illustrates the increasingly intricate world of international organized crime, and provides an example of law enforcement professionals from differing legal systems combining their efforts against members of international criminal enterprises.

In the past, the term "organized crime" was automatically associated with the traditional Italian mafia, also known as "La Cosa Nostra."² In recent years, however, not only have emerging organized crime groups³ appeared around the globe, but criminal enterprises of various nationalities have begun working together. The Mizrahi trial, as a case in point, involved organized crime figures not only from the emerging “Israeli mafia” and its often-connected Russian counterpart, but also members of the Italian mafia and Dominican drug distribution rings.

The investigation of a case of this sort is never simple. At the very least, law enforcement authorities will be hampered by

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¹ See Two Fugitives Arrested: Caught in Israel, They're Wanted by Feds on Long Island, N.Y. NEWSDAY, Nov. 30, 1993, at 31; Hit in Brooklyn, Trial in Tel Aviv, N.Y. NEWSDAY, June 29, 1994, at 34.

² Italian: “this thing of ours.”

³ “Emerging organized crime groups” refers to criminal organizations of recent origin and of nationalities other than those traditionally associated with organized crime. These include, but are not limited to, Colombian, Dominican, Israeli, Jamaican, Nigerian, and Russian organized crime enterprises.
differences in language, manners, and customs. If, in addition, evidence, witnesses, and suspects are spread across national boundaries, the difficulty of concluding the case is compounded by varying extradition laws. And if one or more countries, for reasons of law or politics, is unable to extradite suspects for trial in the jurisdiction where they committed crimes,\(^4\) pursuing justice would seem well-nigh impossible.

The investigation in the case of \textit{Israel v. Mizrahi and Reisch},\(^5\) however, overcame these problems. The trial of these two suspects for the alleged murder of Markowitz has involved an unprecedented degree of cooperation between U.S. and Israeli law enforcement authorities. While precedents do exist for the trial in Israel of crimes perpetrated in the United States, this trial is the first instance of combined efforts of U.S. and Israeli police, investigators, and prosecutors directed at the prosecution of organized crime figures.

Mizrahi and Reisch were members of the Israeli Mafia, which has operated in the United States since the late 1970's and has already established a significant presence in drug trafficking and various forms of fraud and money-laundering.\(^6\) The two suspects were associates of what was then the largest of the Israeli criminal organizations operating in the United States, the New York gang headed by notorious Israeli mobster Jonny Attias, also known as “Jonny ha-Gadol.”\(^7\) Attias was one of the most successful and flamboyant Israeli gangsters ever to operate in the United States. His criminal career began in Israel at the tender age of fifteen, when he masterminded a scheme to steal weapons from an Israeli army depot.\(^8\) Later, as proprietor of a disco, he

\(^4\) It is not uncommon for national governments to refuse to extradite their own citizens. In addition to Israel, this practice is followed by countries as diverse as Mexico and France. Furthermore, many nations place restrictions on extradition to countries which practice capital punishment. For example, Canada and many European countries will not extradite suspects in potential capital cases unless they are assured that the prospective defendant will not face the death penalty.

\(^5\) Tel Aviv-Yafo Dist. Ct., Felony File 503/93 (Mizrahi), 200/94 (Reisch) (Isr.). While the charges against Mizrahi and Reisch are technically separate, the two defendants were tried together and their case will be treated as a single case in this Essay.

\(^6\) \textit{See And Now, the Israeli Mafia}, NEWSWEEK, Jan. 5, 1981, at 40 (discussing rise of Israeli organized crime in United States and its activities in late 1970's).

\(^7\) Hebrew: “Big Jonny.” Not surprisingly, “Big Jonny’s” idol and role model was notorious Gambino crime boss John Gotti.

\(^8\) \textit{Jonny Attias Killed: No One Saw, No One Heard, and No One Knows Anything}, YEDIOT AHRONOT, Jan. 22, 1990, at 5.
became the patron of the local hoods in Kiryat ha-Carmel, the
ghetto neighborhood on the outskirts of Haifa where he resided.

By the early 1980's, Attias — a French-speaking Sephardic
Jew of Moroccan descent — had moved his operation to France,
where he became involved in international drug smuggling with
his wife Ofra. After several stays in French prisons, Attias moved
to the United States with the aid of false documents. Attias
quickly established himself as the pre-eminent Israeli crime boss
in New York by eliminating his chief rival, Israeli-Arab gangster
Moussa Aliyan.

In 1989, the Attias gang, also known as the Group of Eleven,
was at the peak of its power, working closely with the “Russian
Mafia” and with Italian mobsters from the Colombo family in
operating a number of “daisy chain” gasoline tax scams in Long
Island and Brooklyn. One of the leaders of this operation was
Markowitz, a Romanian-born member of the Russian Mafia who
came to the United States by way of Israel, and the operation’s
“muscle” was provided by both Israeli and Italian organized
crime members. In addition, Markowitz was forced to pay
“protection” money of up to US$80,000 per month to Michael
Franzese, the Colombo “Yuppie Don,” for permission to run his
operation. Thus, Israel Mizrahi and Joseph Reisch, as members
of the Attias gang, were working in conjunction with mob-

9. Id.
10. Members of the Israeli Mafia in the United States Will Be Sentenced to 14 Years to Life,
LEXIS, News Database, UPI File (discussing “daisy chain” operations). Essentially, daisy
chain scams used a chain of shell corporations to avoid paying the New York State
gasoline tax. Between 1982 and 1992, the gasoline tax burden was on the distributor
rather than the retailer. Daisy chain schemes took advantage of the distributor’s tax
burden by creating a long trail of paper sales in which no gasoline was actually ex-
changed. Somewhere along the paper trail, an accomplice in the crime would fraudu-
lently mark the tax as paid, with the long chain of corporations making it difficult or
impossible to determine who had in fact failed to pay the taxes.
Markowitz was the “Meyer Lansky” of the Russian mob, a Six Day War veteran with a
master’s degree who eschewed the drug trade and violence in favor of sophisticated
financial scams. He was, however, not unwilling to use Israeli and Italian muscle to
protect his operations.
13. Mizrahi and Reisch, Tel Aviv-Yafo District Court, Felony File 503/93, at 186
(Isr.) (testimony of prosecution witness Ron Ephraim on direct examination); see Wit-
ness for U.S. is Gunned Down on Brooklyn Street, supra note 12, at 2 (referring to Franzese).
sters who had somewhat more traditional names, such as Frankie “the Bug” Sciortino and Anthony “Gas Pipe” Casso.

Eventually, however, the gasoline tax scam turned sour. Both New York State and Federal authorities, who had been investigating Markowitz’s activities for several years, closed in.\(^\text{14}\) Markowitz reached a plea bargain with Federal authorities that did not include jail time.\(^\text{15}\) This plea agreement, which was highly unusual in cases dealing with the prosecution of high-ranking members of criminal organization, raised the suspicions of his Italian associates that Markowitz had become a government informant.

As a result of this suspicion, the Colombos decided that the potentially troublesome Markowitz had to be eliminated and before long, a “contract” was out on his life. According to prosecution witnesses, this contract was allegedly picked up by Reisch, an Israeli confederate of Markowitz residing in Brooklyn. Reisch, in turn, allegedly delegated the hit to Attias, who assigned Mizrahi — a seasoned hitter and the Attias gang’s specialist in violence\(^\text{16}\) — to complete the task. It was alleged that Mizrahi executed Markowitz during the early morning hours of May 3, 1989, as Markowitz entered his car after his weekly poker game at Reisch’s Mill Basin house.\(^\text{17}\)

Thus far, there is little to distinguish the murder of Markowitz from an ordinary gangland slaying. If anything, the Markowitz hit lacked the professionalism that is characteristic of similar executions by Italian criminal organizations. The discussion at Attias associate Ron Ephraim’s Long Island home the morning after the murder, during which Attias allegedly berated Mizrahi for “shoot[ing Markowitz] with only three bullets,”\(^\text{18}\) is illustrative of this lack of professionalism. Mizrahi apparently had fired the other three bullets at a nightclub several days before the hit in order to scare a small-time Israeli hood who owed him money, and never bothered to reload.\(^\text{19}\)

\(^{14}\) See Witness for U.S. is Gunned Down on Brooklyn Street, supra note 12, at 2.
\(^{15}\) Id.
\(^{16}\) See Mizrahi and Reisch, Felony File 503/93, at 36 (testimony of prosecution witness Ron Ephraim). Mizrahi had become known to the Group of Eleven as “the undertaker” or “the grave digger” after stumbling and falling into a newly dug grave following his execution of Attias associate Beber Soussan. Id.
\(^{17}\) Id. at 135-40.
\(^{18}\) Id. at 141.
\(^{19}\) Id. at 142-43.
The absence of professionalism is actually not uncommon among Israeli gangs, who lack the rigid organizational hierarchy and strong traditions that bind such established organized crime groups as the Italian Mafia or the Japanese Yakuza. In addition, Israeli criminal organizations generally are not based on family ties. Members of Israeli gangs typically meet in Israeli prisons, during their military service, or through shared backgrounds in Israeli ghettos such as Bat Yam, Hazor, and the Shunat Hatikvah area of Tel Aviv. Thus, there are usually no strong outside ties, either of tradition or of family, that bind members of Israeli gangs.

In contrast, Israeli criminal organizations are bound only by shared loyalty to a successful and charismatic boss. Israeli gangs are generally identified by the name of the boss, and the identity of the boss is subject to change as ambitious or resentful subordinates plot to eliminate and supplant him. Accordingly, shortly after Markowitz's murder Attias himself was executed outside the Dolphin, a Brooklyn restaurant where he often held court. After Attias' death, the gang quickly fell apart. Without the strict codes of honor that bind organizations such as the Italian mafia or the Chinese triads, the members of the Attias gang made deals with prosecutors and turned each other in without reservation. Mizrahi and Reisch, feeling the heat coming down, fled the United States and returned to their native Israel.

Their choice to return to the Holy Land was not motivated by religious observance or even by a desire to return to the land of their birth. Under a controversial 1978 law enacted by the


21. See Mizrahi and Reisch, Felony File 503/93, at 36 (testimony of prosecution witness Ron Ephraim). The testimony in Mizrahi and Reisch provides a fascinating picture of internal politics and methods of operation of Israeli gangs. Ron Ephraim, a long-time member of the Group of Eleven, described constant infighting between members of the gang over perceived slights or dissatisfaction with their shares of the profits, with the group held in an uneasy truce by Attias' force of personality. In addition, although the Group of Eleven was possibly the most successful Israeli gang to operate in the United States, many of the drug smuggling operations and violent incidents described by Ephraim read like a comedy of errors, with miscommunication and professional incompetence rampant throughout the organization.

22. See Jonny Attias Killed: No One Saw, No One Heard, and No One Knows Anything, supra note 8, at 6 (discussing Attias' career and eventual demise).

Israeli Knesset (Parliament), Israeli citizens cannot be extradited from Israel for any crime committed abroad after gaining Israeli citizenship. This law was passed for the understandable purpose of protecting Israelis from anti-Semitism in foreign courts; however, it also had the unfortunate effect of making Israel a safe haven for Israeli organized crime figures who had committed crimes abroad.

Israel is not a country normally associated with organized crime, and Israel indeed had a relatively low crime rate for the first two decades of its history. However, increasing criminal activity among Sephardic and especially Moroccan Jews, who are disproportionately represented in the Israeli underclass, in combination with the industrial development of the 1960's, produced an increase in urban crime in Israel. In the five years following the Six Day War of 1967, violent crime in Israel rose thirty-five percent.

In the face of the increasing crime rate and the emergence of criminal gangs, Israeli politicians and police during the 1970's debated the existence of organized crime in Israel. In 1978, an investigation sponsored by then-Member of Knesset Ehud Olmert and led by former state prosecutor Erwin Shimron concluded that organized crime was well-established in the Jewish State. The Shimron Commission, in its 136-page report, found that Israeli criminal organizations, much like their U.S. counterparts, derived much of their income from drug trafficking and had strong footholds in legitimate industries such as diamond

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24. *Id.* It should be noted that Israel will extradite suspects who have not yet obtained Israeli citizenship at the time their crimes were committed. Notable cases where suspects have been extradited from Israel to the United States include “Crazy Eddie” Antar, who was wanted by U.S. authorities on charges of embezzlement and fraud, and Robert Manning, who was accused of sending two letter bombs to the office of an Arab-U.S. organization in California, causing the deaths of a director of the organization and a secretary. In such cases, terms of extradition are governed by Israel’s 1962 treaty with the United States. Extradition Convention, U.S.-Isr., Dec. 10, 1962, 14 U.S.T. 1707, 2 I.L.M. 186 (1963), corrected version in 18 U.S.T. 382 (1967).


The extradition reforms of 1978 and the increasing profits to be made from the international drug trade gave added impetus to Israeli organized crime on an international scale so that, by the late 1970's, Israeli criminal organizations were operating in a number of countries, including the United States.

In the United States, the early Israeli criminal organizations were active primarily in the cities of New York and Los Angeles. Like most, if not all, fledgling organized crime groups, the early Israeli gangsters preyed on members of their own community: Israeli-Americans and other U.S. Jews. The activities of Israeli mobsters in the United States began with extortion from neighborhood merchants, especially those with family in Israel who could be threatened. Israeli gangsters also moved to take control of local drug dealers of Israeli origin. An incident in Los Angeles in 1979, which introduced the Israeli mafia to U.S. authorities, involved the grisly drug-related murders of Israeli-Americans living in California. In October of that year, Eliahu and Esther Ruven, a married couple apparently involved in cocaine dealing who had a dispute with Israeli drug smugglers over a US$70,000 payment, were murdered and hacked to pieces in their hotel room, with fragments of their bodies stuffed in bags and suitcases.

As time went by, however, Israeli organized crime expanded into other U.S. cities, notably Miami and Boston, and became

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31. By the mid-1980's, Israeli gangs were active in several European countries with large Jewish and Israeli communities, including France, Belgium, and the Netherlands. France was an especially attractive country for Israeli criminals, as many of the leaders of Israeli criminal organizations were Sephardic Jews from French-speaking countries such as Morocco and Tunisia. In addition, Israeli organized crime figures were active in heroin source countries such as Thailand. Notable among these Israelis was Marinel Hershko, an Attias associate who had a wife and family in Thailand in addition to his Israeli family. Israeli organized crime has also made its presence felt in England. See British Police: Israeli Businessman is London Crime's 'Mr. Big', JERUSALEM POST, Feb. 2, 1989, at 3. In addition, Israeli criminals have operated in connection with South American drug traffickers both in the United States and South America. Several members of the Attias gang, notably Eli Ohana, had South American connections. Ohana, in fact, fled to Bolivia after the breakup of the gang but was subsequently captured and returned to the United States. See One of the Chiefs of Israeli Organized Crime in New York is Captured in Bolivia, MA'ARIV, Nov. 27, 1991.
32. Dennis A. Williams & Ron LaBrecque, And Now, The Israeli Mafia, NEWSWEEK, Jan. 5, 1981, at 40 (discussing murders of Eliahu and Esther Ruven).
33. Id.
involved in more sophisticated drug importation and money laundering networks that were not limited to the Israeli-American community. One of the Israeli mob's natural partners was the growing Russian Mafia. Many of the Russian gangsters operating in the United States were Soviet Jews who had spent time, or even served prison time, in Israel while awaiting their immigrant visas to the United States and had thus acquired Israeli criminal connections. Israelis also increasingly began to cooperate with South American drug traffickers. In Boston, for example, the Shmuel David ring operated in close conjunction with confederates in Miami and with members of the Colombian cartels. Another Israeli mobster, Connecticut-based Adi Tal, carved out a niche as a major money launderer for Colombian drug lords.

It is noteworthy that Tal, who served several years in U.S. prisons on money-laundering charges, was able to evade prosecution for other money-laundering offenses by fleeing to Israel. Furthermore, Tal could not be prosecuted in Israel on the U.S. money-laundering charges because prosecution in lieu of extradition only applies under Israeli law when the offender is accused of committing an act that is a crime in both jurisdictions. Because money-laundering is not an offense in Israel, Tal could not be prosecuted by Israeli authorities for his offenses against U.S. law.

Murder, however, is of course a crime in both the United States and Israel. Consequently, Mizrahi and Reisch were able to escape the U.S. authorities but were unable to escape prosecution in Israel. Once Mizrahi and Reisch surfaced in Israel, U.S. prosecutors began the process that culminated in the largest joint prosecution ever undertaken against Israeli organized crime figures for acts committed outside Israel's borders.

34. See id.
35. Many, if not most, of the Russian gangsters in the United States are Jewish, as Soviet Jews were accorded automatic refugee status in the United States pursuant to legislation sponsored by Senator Frank Lautenberg of New Jersey in 1989 and Immigration and Naturalization Service ("INS") regulations of January 17, 1990. Thus, Soviet Jews were able to enter the United States much more easily than non-Jewish Russians. Organized crime within Russia itself is dominated by ethnic Russians and contains a much smaller Jewish presence.
Israeli-U.S. cooperation in this case actually began even before Markowitz was murdered, when members of the Israeli National Police arrived in New York to assist U.S. investigators in monitoring wiretaps placed on the telephones of members of the Attias gang. Israeli authorities, therefore, were already somewhat familiar with the circumstances of the case, and some of its participants, by the time Mizrahi and Reisch fled to Israel. Although most of the evidence against Mizrahi and Reisch was gathered by U.S. law enforcement agencies and the star witnesses for the prosecution were ex-gangsters enrolled in the Federal Witness Protection Program, the actual prosecution of the case was headed and conducted by Israeli prosecutors. The U.S. prosecutors, Eric Seidel and Cecilia Gardner, were relegated to the role of expert witnesses in the Tel Aviv District Court, testifying about the U.S. law enforcement system and criminal procedure in the United States. While their testimony and assistance were invaluable in reconstructing the facts of the case, both direct and cross-examination of witnesses in court were conducted exclusively by Israeli prosecutors. The key prosecution witnesses who testified in Israel were former members of the Attias gang who had been prosecuted and convicted in the United States by Seidel and Gardner. The U.S. prosecution team, however, contributed to the strategy by taking depositions from witnesses in the United States and providing the Israeli prosecutors with the benefit of personal knowledge of the witnesses and the crimes they perpetrated in the United States.

Seidel was uniquely suited to assist his Israeli counterparts in bringing Mizrahi and Reisch to justice. Not only had he and Gardner successfully prosecuted the key witnesses in the case, but Seidel was fluent in Hebrew, knowledgeable of Israeli criminal procedure, and had achieved a reputation as an authority on Israeli organized crime both as chief of the organized crime bureau in the Kings County District Attorney’s Office and then as the head of the New York State Organized Crime Task Force. In fact, Seidel, although a U.S. citizen, was a former Israeli para-
trooper who had fought in the Yom Kippur War. Although other U.S. prosecutors such as Mark Cohen of Suffolk County, New York, and Patrick McKinley of Santa Barbara, California, had assisted Israeli prosecutors in obtaining convictions of drug dealers and even murderers, Seidel's extensive knowledge was invaluable in prosecuting a complex organized crime case.

Israeli law and criminal procedure, while not entirely unfamiliar to U.S. attorneys, differs in many respects from the U.S. criminal justice system. Israel has a single national police force, as opposed to the complex interlocking jurisdictions of U.S. law enforcement agencies. The Israeli court system is also unified under national jurisdiction, therefore, there are no state or local courts in Israel that exercise independent jurisdiction. In major cases, the Israeli judicial system also contains only one level of appellate jurisdiction. Appeals from trials in the district courts are heard directly by the Supreme Court of Israel.

While the U.S. and Israeli legal systems are both based upon English common law, Israeli criminal procedure has remained much more faithful to its English roots. Israel, for example, has no exclusionary rule, and the litigation which is routine in U.S. courts concerning such matters as the reliability of a confession or the manner in which evidence was obtained has little place in Israeli law. Other evidentiary matters would be familiar to U.S. attorneys. For instance, Israeli prosecutors must disclose evidence to defense attorneys through a discovery procedure similar to that used in U.S. jurisdictions. Prosecutors in Israel must

41. See 20 OXFORD ENGLISH DICTIONARY 760 (2d ed. 1989) ("Yom Kippur War, an Arab-Israeli war that began on Yom Kippur on 6 October 1973 and ended in the same month.").

42. The first Israeli trial in which U.S. prosecutors took part was the 1990 trial of Yair Orr and Nadav Nakan for the murder-for-hire of a wealthy Santa Barbara couple, Carmen and Jack Hively, in 1987. The prosecution of Isaac Kirman, a 20-year-old small-time drug dealer who fled the United States for Israel in 1983, is discussed above at length.

43. 1 CHARLES E. TORCIA, WHARTON'S CRIMINAL PROCEDURE § 149 (12th ed. 1974). In the United States, under the exclusionary rule, the Fourth Amendment to the U.S. Constitution bars the use of evidence obtained through an unreasonable search and seizure. Id.

44. See Mark Cohen, A Prosecution in Tel Aviv under Israeli Law for a Narcotics Offense Committed in New York, 4 Crim. L.F. 597 (1998). Cohen, a prosecutor with the Suffolk County District Attorney's office in New York, led the U.S. prosecution team in the trial of Israeli drug dealer Isaac Kirman, who was the first Israeli criminal to be tried in Israel for offenses committed in the United States.

disclose their witnesses to the defense. In fact, prosecution witnesses must be listed on the face of an Israeli indictment, although the prosecution may add or delete witnesses at any time before a plea is entered.\(^46\) In addition, although plea bargaining is permitted in Israel and used increasingly often, the practice is still rather limited because Israeli court calendars are not nearly as congested as their U.S. counterparts. Most criminal matters in Israel are still settled at, rather than before, trial.\(^47\)

Police investigation in Israel operates under somewhat looser rules than similar procedures in the United States. As in the United States, Israeli police must obtain a warrant before setting up a wiretap or conducting a search. However, permission for wiretaps as well as search warrants may be obtained upon a finding of reasonable suspicion, in contrast to U.S. laws, which require police to show that all other mechanisms have been used to further their investigation before obtaining permission for a wiretap. Further, Israeli investigators may listen to an entire telephone conversation, as opposed to U.S. investigators who must "minimize" their invasion of a suspect's privacy by listening only to the criminal element of the conversation or enough to know that the conversation is not criminal.\(^48\) Thus, investigation of suspects who have fled to Israel after committing crimes in the United States, and admission of evidence against them, may, ironically, be easier than it would have been had they remained in the United States.

In some ways, however, Israel has departed markedly from English and U.S. procedure. Instead of grand juries, charges are filed in Israel directly by the Ministry of Justice.\(^49\) In addition, there are no jury trials in Israel. Cases involving crimes which carry sentences of less than fifteen years imprisonment are generally tried before a single judge, while more serious felonies are tried before a panel of three judges.\(^50\) While the State retains the burden of proof of guilt beyond a reasonable doubt and the suspect has the right not to testify, failure to take the stand may be commented upon by the prosecution and will "add

\(^{46}\) Cohen, supra note 44, at 602.

\(^{47}\) Israel v. Kirman, Tel Aviv Dist. Ct., Felony File 56/93, at 7 (1993) (Isr.).


\(^{49}\) See Cohen, supra note 44 (detailing Israeli criminal procedure).

to the weight" of the prosecution's case in an Israeli court.\textsuperscript{51} Additionally, in what, to a U.S. attorney, may be the most shocking departure from common law policy, prosecutors are allowed to appeal an acquittal.\textsuperscript{52}

Conducting a joint prosecution in Israel involves more than learning to navigate new rules of criminal procedure. U.S. prosecutors, quite naturally, cannot file charges against suspects in Israeli courts based on their U.S. authority. Commencing a trial in Israel under the Offenses Committed Abroad Act\textsuperscript{53} requires a formal application by the U.S. prosecutor to the Israeli Ministry of Justice, transmitted through both the U.S. Justice Department and State Department.\textsuperscript{54} In the case of Isaac Kirman, a small-time drug dealer who fled to Israel in 1983, this resulted in a delay of nearly ten years in bringing him to trial. The relevant laws had never been utilized before the \textit{Kirman} trial, and delays resulted while both countries developed acceptable procedures. Five years had passed before U.S. prosecutors made the relevant applications and Israeli prosecutors had traveled to Suffolk County to gather evidence in support of the accusation. By the time the Ministry of Justice ultimately filed charges, Kirman had completed his army service and disappeared. It was not until 1993 that he was finally apprehended after being stopped in Tel Aviv for a routine traffic violation.\textsuperscript{55}

Subsequent U.S.-Israeli joint prosecutions, however, have had the benefit of established procedure in minimizing delays. The time lag from the death of Michael Markowitz to the arrest of Mizrahi and Reisch in Israel was little more than four years.\textsuperscript{56} In fact, due to streamlined procedures and more efficacious apprehension of the suspects in Israel, the trial of Yair Orr and Nadav Nakan, Israelis accused of committing murder in California, was held before the \textit{Kirman} trial even though their offense was committed at a later date. By that time, Israeli and U.S. police had become more used to working together, developing a

\begin{itemize}
\item \textsuperscript{51} Criminal Procedure Law § 162 (Isr.).
\item \textsuperscript{52} Id. § 198 (Isr.).
\item \textsuperscript{53} Penal Law (Offences Committed Abroad) § 4A(a) (Isr.) (allowing Israeli courts to try suspects for offenses committed outside Israel which are extraditable offenses under Extradition Law of 1954 (Isr.)).
\item \textsuperscript{54} See Cohen, supra note 44, at 602.
\item \textsuperscript{55} Id. at 603.
\item \textsuperscript{56} See Two Fugitives Arrested: Caught in Israel, They're Wanted by Feds on Long Island, supra note 1, at 31.
\end{itemize}
certain mutual familiarity with each other's systems, enabling them to effectively bypass procedure. 57

With charges filed, one of the most important and troublesome issues that arises in any international joint prosecution is transporting evidence and witnesses so they may be examined before the foreign court. Prior to trial, Israeli prosecutors often travel to the United States to examine evidence and arrange for the translation of testimony and other relevant papers. For trial, however, evidence must be internationally certified 58 and brought to Israel for examination by the court. Where the evidence in question is limited to paperwork, this process is relatively easy. All that is necessary is to obtain certification and maintain security for the evidence chain. Physical evidence such as dangerous drugs, however, requires more intensive security and complicated licensing procedures in the host country. In fact, the transportation of such evidence in the Kirman trial very nearly caused a mishap when the U.S. prosecution team was caught with a sealed evidence envelope of cocaine by Israeli customs agents at the Tel Aviv International Airport. 59

The testimony of witnesses can be even more problematic. Especially in a complex organized crime case such as the trial of Mizrahi and Reisch, the expense of transporting all the prosecution witnesses to Israel and maintaining them there for the duration of the trial can be prohibitive. In that case, only three key witnesses, all former members of the Jonny Attias gang who were enrolled in the Federal Witness Protection Program, were flown to Israel under the protection of Federal marshals and kept there for the duration of the trial. Other witnesses, including U.S. law enforcement agents, were flown to Israel for short stays to present their testimony. Finally, other witnesses, including some who were serving prison time in the United States, such as Anthony "Gas Pipe" Casso, were present at the trial via videotaped depositions. 60

60. Mafia Man Testifies Against Two Israelis, JERUSALEM POST, Mar. 20, 1995, at 3.
Problems with presenting testimony in U.S.-Israeli joint prosecutions inevitably raise the issue of the right to confront prosecution witnesses. This is a right which the defense has in the Israeli criminal justice system as it would in the United States. However, the defense often lacks the resources to transport its own witnesses from the United States and may thus claim that it has been deprived of the right to effectively present its case.

The Israeli Supreme Court, in considering the Kirman case, removed a potentially significant obstacle to joint prosecutions when it ruled that Kirman had no right to compel Israel or the United States to subpoena his alleged partner, Joseph Carnesi, and fly him to Israel at government expense.\textsuperscript{61} The Court held that Israeli courts had no jurisdiction to subpoena a non-domestic witness and that Kirman could have conducted an examination of Carnesi through international letters rogatory\textsuperscript{62} if he had chosen to do so.\textsuperscript{63} With this ruling, a major stumbling block to Israeli-U.S. joint prosecutions was removed before it had the chance to impede cooperation between the two countries.

Indeed, with the need for face-to-face confrontation of certain witnesses eliminated, Kirman’s trial was concluded considerably faster than it would have been in U.S. courts due to Israel’s streamlined criminal procedure.\textsuperscript{64} Prosecutor Mark Cohen estimated that the cost of the Kirman trial to U.S. prosecutors, even with the expense of transporting the prosecution team, witnesses, and physical evidence to Israel, was less than it would

\textsuperscript{61} Kirman, Felony File 56/93, at 42-45 (quoting Supreme Court ruling).
\textsuperscript{62} International letters rogatory are the means by which documents or depositions may be requested from foreign jurisdictions. See Dept. of Justice Mem. No. 386 (June 15, 1977) (discussing U.S. procedures involving service of foreign documents in United States and processing of requests by U.S. litigants for service of documents in non-U.S. jurisdictions). Eric Seidel notes that the use of international letters rogatory was rarely necessary in conducting joint prosecutions with Israel, as Israeli police agencies shared information freely and informally with their U.S. counterparts. Use of international letters rogatory in the Mizrahi and Reisch trial was largely limited to requests for information from third countries, primarily European countries where the Attias gang conducted drug operations. Interview with Seidel, supra note 48.
\textsuperscript{63} Kirman, Felony File 56/93, at 42-45 (quoting Supreme Court ruling).
\textsuperscript{64} Cohen notes that, although Israeli trials are finished faster than equivalent U.S. trials in actual court time, there may be delays because Israeli courts will often hear testimony on more than one case at a time, causing delays of several days between court days on any one case. Cohen attributes the five-month duration and US$250,000 cost of the Orr-Nakan trial to these delays in the Israeli judicial process. Interview with Cohen, supra note 59.
have been had the trial been conducted in a U.S. court.\textsuperscript{65}

The fact that the Mizrahi and Reisch trial ended with the acquittal of both defendants on the murder charges brought against them\textsuperscript{66} should not detract from the value of the trial as a model for international law enforcement cooperation. The verdict of the Tel Aviv District Court acknowledged the substantial evidence pointing to the defendants' guilt, and stated that they were being released due to reasonable doubt alone. In addition, Mizrahi was convicted on drug importation charges which will result in his imprisonment for a substantial period.\textsuperscript{67} Furthermore, the primary value of this trial is not its result but the mere fact that it was undertaken and the standards it sets for cooperation between nations in fighting organized crime.

An interesting counterpoint to the trials of Kirman and Mizrahi and Reisch occurred recently in Boston, where U.S. authorities shared US$35,000 in forfeiture monies with the Israeli National Police. These funds were obtained from the breakup of the Shmuel David cocaine trafficking ring. This was the first time that law enforcement authorities in the United States shared forfeiture receipts with any non-U.S. police force.\textsuperscript{68}

Shmuel David, who was ostensibly the owner of a limousine agency in Brookline, Massachusetts, operated a drug trafficking operation that consisted of fourteen Israelis living in Boston, Miami, Ohio, and Belgium, and was conducted in cooperation with Colombian cocaine smugglers.\textsuperscript{69} In preparing the case against David and his cohorts, U.S. police and prosecutors enlisted the aid of Israeli police not only in monitoring wiretaps

\textsuperscript{65} Id. Cohen, in fact, noted that the cost of the prosecution, which totaled US$12,000, was more than paid for by Kirman's forfeited bail and confiscated drug money, and that the United States benefited further by having the cost of Kirman's incarceration borne by Israel. Cohen estimated that the Kirman trial, had it been conducted in an U.S. court, would have cost New York State more than US$3500 per week. Id.

\textsuperscript{66} Court in Tel Aviv Acquits Two Israelis who were Prosecuted for the Murder of their Partners in the United States, YEDIOT AHRONOT, Mar. 1, 1996, at 8.

\textsuperscript{67} Id.


\textsuperscript{69} See Indictment Unsealed on Israeli Drug Ring, UPI, May 21, 1988, available in LEXIS, News Database, UPI File.
but also in providing invaluable intelligence about the suspects' criminal past in Israel and the record of the group's Israeli connections in Belgium. In addition, David associate Joseph Zalmanovich, who fled Brookline for Israel just before indictments were handed up by Federal prosecutors, was tried and convicted for his crimes in Israel. Although U.S. prosecutors did not take part in Zalmanovich's trial, the level of mutual cooperation was such that the breakup of the David gang can be considered a joint effort. The sharing of forfeiture monies by Federal authorities is a recognition of this achievement.

These two joint prosecutions — one in Israel, one in the United States — represent the future of international efforts against organized crime. With criminal organizations becoming increasingly international in scope, and with emerging organized crime groups from throughout the world taking an ever larger place in the world of international crime, the two main obstacles to controlling organized crime have become language and international evidence gathering. Emerging organized crime groups often come from small ethnic communities whose languages are not widely spoken in their host countries. The police agencies of the host country are often hard put to collect evidence against emerging organized crime groups without the aid of experts from the group's homeland. In addition, nations such as Israel often keep track of the criminal activities of their nationals throughout the world, and indeed work in cooperation with many European and Asian nations as they do with the United States. Thus, Israeli police can provide U.S. law enforcement authorities with valuable information on the international connections of Israeli criminal organizations in the United States, and assist in obtaining extradition or indictments in non-domestic countries.

In addition to Israeli-U.S. cooperation, U.S. law enforcement authorities also have begun operating on a limited basis in other countries. The Federal Bureau of Investigation recently established offices in Moscow and Italy in order to combat crim-
nal organizations originating from those countries. We can expect this form of international cooperation to expand, and the precedents and procedures established by Israeli-U.S. joint law enforcement will be a valuable aid in paving the way for future joint efforts against the increasingly sophisticated world of organized crime.