The Penetration Of Legitimate Business By Organized Crime—An Analysis

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THE PENETRATION OF LEGITIMATE BUSINESS BY ORGANIZED CRIME - AN ANALYSIS

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U.S. DEPARTMENT OF JUSTICE

Law Enforcement Assistance Administration
National Institute of Law Enforcement and Criminal Justice

FOREWORD

In 1969 the New York State Identification and Intelligence System and the National Institute of Law Enforcement and Criminal Justice jointly sponsored a pilot study to examine a problem of considerable national concern - the infiltration of organized crime into legitimate business.

This document is the result of that pilot study. It offers a survey of the legitimate business activities of selected members of organized criminal groups in New York State and a general framework for analyzing their penetration of legitimate business. It also presents many interesting - and potentially testable - hypotheses concerning organized criminal infiltration of legitimate business and its threat.

Thirteen law enforcement agencies in New York State cooperated in providing data for the study but, as the report points out, the data do not represent a completely comprehensive survey of what is known to law enforcement agencies in New York State. Because agency intelligence is collected primarily for the purposes of criminal prosecution rather than aggregate problem analysis, some of the kinds of data that would have been useful in a study of this type were not available.

The Institute hopes, by offering to the public and the law enforcement community a document that is at once an extremely preliminary study and the most systematic and advanced work on the problem, to encourage both law enforcement officials and the research community to take further steps toward achieving an understanding of organized crime, developing countermeasures, and gathering the data necessary to do so.

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Introduction

The present study has been conducted in conjunction with a pilot effort by the New York State Identification and Intelligence System to undertake a systematic collection of organized crime intelligence, and to explore potentialities for the analysis and dissemination of those materials. The program involved the cooperation of thirteen New York State law enforcement agencies. A target population of 200 individuals, identified as principals and associates of major crime "families" operating in the state, was selected for study. The criminal records and other information bearing on the activities and associations of these individuals were taken from the files of the cooperating agencies and assembled into master files. While the bulk of the information pertained to the criminal behavior of these individuals, especially their connections with illicit enterprises such as gambling, loansharking, narcotics, counterfeiting, and systematic theft, there was much evidence, as well, of participations by these individuals in the sphere of legitimate business enterprise.

In 1969, NYSIIS secured a grant under the Law Enforcement Assistance Administration's Acorn program to support a preliminary study focusing on these business associations and seeking, more broadly, to theorize about criminal penetration of the private economy. The objective, generally, was to strive for perspectives which might be useful in describing and assessing the character and magnitudes of these "penetrations," with special attention to their growth prospects and hence to their ultimate economic and social impacts. These issues define the scope of the present report, which takes recently published discussions of these matters as its point of departure. In pursuing these questions we were mindful, as well, of the need for such insights as might contribute to effective collection and analysis of relevant intelligence, and to the development and implementation of strategies to counter the destructive consequences of criminal participation in business enterprise. The findings of the report are considered from these standpoints in the final section.

The thrust of "penetration"

While there is strong concensus that the "infiltrations" or "penetrations" of legitimate business by organized crime principals and associates are socially destructive, there are at least several distinct emphases in evaluating the phenomenon in relation to its general path of development and so to its ultimate impacts. These varying interpretations derive partly from differences in appraisal of the motives for penetration and the functions it performs.

One view, stressing, first the quest for a safe haven for profits from illicit enterprise and, second, a desire for legitimacy, suggests moderate limits to the damaging consequences. It recalls earlier "robber barons" whose fortunes, built by disreputable and often criminal methods, have been purified by time and by the willingness of "second generation" and later heirs to conform with business and social convention. This view has been put forward by Ferdinand Lundberg,[1] who advances the more general proposition that the threat of organized crime within the private sector is of relatively minor proportions. The thesis is somewhat diluted, however, by Lundberg's inclination to minimize the distinction between illicit and legitimate bases of economic or political power and, also, by his preoccupation with the very wealthy and their defenses against major incursions by the underworld.

A second view, reflecting a more profound respect for the power of organized crime and the techniques at its disposal, interprets the present holdings and activities of crime "families" in legitimate enterprise as the early phase of a process leading to criminal permeation of large sectors of private industry in a comprehensive "takeover." This was the main thrust of the conclusions presented by the Kefauver committee two decades ago, and of the McClellan and later government investigations. The same message is conveyed by a number of recent writings, especially those of Cressey,[2] Reid,[3] and Salerno[4] who see the Mafia's accomplishments in Sicily as a valid model of the penetration phenomenon.

A third thesis would shift the emphasis, acknowledging dangers to the sphere of legitimate enterprise, but stressing penetration as ancillary and, in the main, subordinate to the purely criminal enterprises in which crime "families" are rooted and from which they draw their strength. The holdings and controls established in legitimate business can be seen as a second base of power whose primary impacts may lie in reinforcement, and possibly in the expansion, of criminal enterprise itself.

There is evidence supporting each of these overall interpretations, though not any of them so persuasively as to establish it as preeminent. Many distinct processes appear to be at work. What is emphasized is the diverse character of the activities which have been included under the omnibus concepts of "infiltration" and "penetration." We need, at the outset, to distinguish among these various activities, so that they can be considered separately in terms of: (1) methods or techniques which support them, (2) the individuals or groups affected adversely by them, (3) the industrial locus of the penetrations, (4) the economic magnitudes involved, (5) the functions performed by the penetrations, (6) the vulnerability or susceptibility of private industry to these incursions and, alternatively, the structural or built-in resistances which may impose barriers or set limits to them, and (7) the outlook for expansion of these activities. Discussion in the following sections is directed to these points.

Types of penetration

In this recent book, Theft of the Nation, Donald Cressey proposed the following typology of criminal activities within private enterprise:

1. Businesses legitimately purchased "with the fruits of crime" and operated:
   a. legitimately
   b. illegitimately
2. Businesses illegitimately acquired and operated:
   a. legitimately
   b. illegitimately

An elaboration of this scheme, pitched more directly to the questions raised in the preceding section, would facilitate the analysis, and so we propose the following classifications, based primarily on the methods and functions of the business participations by organized crime principals and associates: (1) legal holdings, legally operated, (2) predatory or parasitic exploitation, (3) monopoly, (4) unfair advantage, and (5) business activity supportive of illicit enterprise and reciprocally supported by it. In this section we shall simply describe the sorts of activity falling under these headings, deferring discussion of them in terms of the questions posed above, to the succeeding sections.

I. Legal holdings, legally operated

Under this heading we propose to include not only functioning economic enterprises operated with conventional propriety and apparently for normal rates of return on investment, but also other holdings, not in the first instance socially destructive but which constitute bases of power and influence for organized crime in the economy and the society at large.

A. Liquid assets

1. Cash hoards
2. Domestic bank deposits
3. Stocks and other securities
4. Foreign bank deposits
5. Other foreign assets

B. Other holdings

1. Real estate
2. Businesses engaged in production or sale of goods and services (construction, manufacturing, wholesale and retail trade, etc.)

II. Predatory or parasitic exploitation

These activities do not require ownership interests in business firms but only some means of tapping the resources, revenues or profits of the target businesses. Accordingly, classification of these activities is by the technique employed to extract criminal gain.

A. Coercion and extortion

1. Victimization by sweetheart contract

2. Extortion by threat of labor difficulties

3. Exploitation in connection with loansharking

4. Forced purchases of supplies or services

B. Bankruptcy fraud

III. <u>Monopoly</u>

Strictly speaking, monopoly is control of an entire industry by a single firm; its essence is the exploitation of this position for surplus profit by charging prices above the competitive level. Monopoly profits may be secured, however, by other means, among which the following should be noted:

A. Limitation of entry

1. Destruction of competitors

2. Threats to potential new entrants

B. Illegal price fixing

1. Voluntary collusion

2. Forced collusion

IV. <u>Unfair advantage</u>

Sometimes related to monopoly techniques but oriented mainly to a redistribution of profits within an industry rather than to the enhancement of industry profits through price control are a number of activities which produce gain for favored firms at the expense of competitors. But we include here, as well, illegal devices to produce gain at the expense of customers.

A. Discrimination in wage and other standards by control and manipulation of labor organizations

B. Advantages from peaceful labor relations where competitors are damaged by disruptions and uncertainties induced by control of labor organizations

C. Kickbacks from competitors through forced membership in trade associations or other payoffs

D. Guaranteed market shares

1. By intimidation of competitors to refrain from dealing with particular customers

2. By intimidation of customers to refrain from seeking alternative suppliers

E. Unfair advantage in securing government contract through corruption of public officials

F. Unfair advantage by departure from conventional standards

1. Adulteration of goods

2. Failure to observe minimum standards (sanitation, safety, etc.) prescribed by law.

V. <u>Businesses supporting illicit enterprise and receiving reciprocal support</u>

Under this heading are included businesses whose principal operations are formally licit, but which give active support to illicit enterprises and which may receive special benefits in return.

A. Businesses providing bases or outlets for illicit services:

1. gambling

2. loansharking

3. narcotics

4. prostitution

B. Businesses supportive to organized crime principals or associates:

   1. by providing minimal "legitimate" income, through normal profits

   2. by providing "legitimate" incomes through wages and salaries for strong arm and other retainers whose contributions to the business are fictional

C. Business facilitating and benefiting from systematic theft, e.g.:

   1. transport and storage facilities for hijacking, and robbery or pilferage

   2. businesses providing outlets for sales of stolen goods.

A general framework for the analysis of penetration

Our central concern is with the prevalence of penetrations of the sort just outlined and of the prospects for their growth. We view the extent of penetration as governed, in general, by three major variables: (1) the structural vulnerability of legitimate enterprise to infiltration or control by techniques traditional to organized crime, where the vulnerability of a given industry may be related to the size or scale of individual firms, the types of product, the nature of the customers or suppliers, the nature of production processes, the degree of competition and other industrial or market characteristics affecting the feasibility of penetration, (2) the effort made by organized crime to penetrate legitimate enterprise, where that effort depends on the motivation to penetrate, and on the capacity of crime associates to develop techniques to exploit firms and industries already entered, or to enter those hitherto free of criminal influence, and (3) the effort made by government to counter and roll back the presence or effectiveness of penetrations, where this effort depends on law enforcement techniques and on the resources allocated by society to implement them. The following discussion is conducted within this general framework, and attention is focused on these variables, in the order listed.

Penetration patterns and prospects

I. Legal holdings, legally operated

The ownership interests held by organized crime associates derive from three principal sources: (1) profits from gambling and other illicit enterprises, (2) acquisitions made in payment of gambling debts and through foreclosure on usurious loans, and (3) earnings from existing holdings. The magnitudes of these flows have been subject to widely ranging estimates, none of which has been put forward with great certainty. For some time there has been strong concensus that the first source listed is the principal one. But according to Charles Grutzner of The New York Times, a long-time reporter of the activities of organized crime, "A few officials privately hazard the guess that the profits from underworld investments in legitimate business already exceed those from gambling and loansharking."[5]

Estimates of net profits from gambling, thought to account for the lion's share of organized crime's gain from illicit enterprise, have been derived indirectly from estimates of annual gross betting volume. The President's Task Force Report on Organized Crime reported estimates of gross revenues ranging from \$7 to \$50 billions per year. Taking \$20 billions as a conservative estimate of these revenues, and setting profits at some one-third of the gross, the Task Force put the annual net profits from gambling at \$6 to \$7 billions. Profits in excess of \$1 billion more were assigned to loansharking, narcotics, and other illicit services.[6] Grutzner's estimates, from other government sources, is from $7 to $10 billions in net profits annually.[7]

Consider what these estimates imply. The register of those identified as full members of organized crime "families" includes approximately 5,000 individuals. And it is believed that approximately 50,000 others are engaged with them in illegal pursuits. If we assume that the incomes of these auxiliaries average as high as $50,000 annually, the remainder accruing to the 5,000 principals would be in excess of $5 billions, or $1,000,000 per "family" associate per year. These figures should be compared with the U.S. Bureau of Internal Revenue's statistics reporting net taxable incomes of individuals not connected with organized crime. In 1960, there were only 306 individuals with taxable incomes of over $1 million, and another 735 with incomes between $500,000 and $1,000,000. In 1961, the corresponding figures were 398 and 985.[8] This would suggest that, currently, those reporting legitimate incomes of $1 million or more per year would number under 1,000 and those with incomes of between $500,000 and $1 million, in the neighborhood of 2,000 to 3,000. If the estimates of criminal net profits offered above can be accepted, some two-thirds of the national elite, in terms of annual income, consists of associates of organized crime.

Can this be true? It is possible that the net incomes ultimately available to criminal associates are reduced substantially by the amounts paid regularly for protection from the law. An estimate of $2 billions, annually, has been made of funds directed to corruption of public officials. But such a deduction merely moderates the general conclusions concerning the affluence of criminal associates implied by the estimates offered above.

While many organized crime principals live well, it appears to be standard among the leaders to maintain modest residences and equally unostentatious life styles. If we maintain the assumption that "family" associates earn from $500,000 to $1 million annually, it must be the case that the great bulk of these incomes are put aside. Assuming that the volume of illicit services has been fairly stable over the past decade, we should expect the holdings of organized crime to run to the order of $30 billions from these accumulations.

But $30 billions are not easy to conceal. Certainly, the fortunes of those at the pinnacle of legitimate wealth and income have not been easy to conceal. Lundberg has placed the wealth of the "Du Pont Dynasty" numbering hundreds of individuals at over $7 billions, and he is able to account for the major part of it in specific industrial and commercial holdings. The same detailed cataloging is possible for other wealthy families. If invested domestically by organized crime, $30 billions could not be maintained covertly. And, if it were secreted in various stocks and other securities, the dividends and other returns would have amounted to perhaps another $5 to $10 billions over the past decade, and returns from these sources would be equally difficult to conceal.

A frequently cited estimate of certain organized crime holdings in New York City real estate runs to some \$200 to \$300 millions. Even ten of such holdings would account for only a third of the 10-year normal returns on \$30 billions. So then, most of the returns on this investment, and the principal itself, remain to be identified.

It is clear that a considerable portion of criminal profits are held in cash hoards and in foreign bank accounts. But it is evident as well that major sums are invested in domestic businesses. Recent disclosures of holdings by leading organized crime associates in a major midwestern city revealed a control or large financial interests by these individuals in 89 business firms with total assets of more than \$800 millions. On the face of these figures, the firms appear to be substantially larger in scale than the bulk of those identified in the present study, and also those identified as "infiltrated" or "penetrated" in past governmental revelations. Since a number of savings and loans companies were included among the 89 cited, to use assets, instead of net worth, as a measure of size may distort the overall picture. A more modest indication of the average size of criminal holdings in legitimate business enterprise is given by the report published last year by the Internal Revenue Service. Some 98 of 113 major organized crime figures were found to be involved in 159 individual businesses. Over two-thirds of these holdings were in casinos, night clubs, hotels, motels, real estate, machine vending, restaurants, trucking, manufacturing, sports, entertainment and food wholesaling.

As a rough guide to magnitudes, $30 billions invested in domestic business firms might be distributed over 15,000 companies with an average net worth of $2 million. If we assume for example, that ownership is confined solely to the 5,000 "family" members, the holdings would come to three per crime associate. This is in rough correspondence with our findings for the NYSIIS pilot study group. As an upper limit, however, we should mention the conjecture of Charles Grutzner that "organized crime today owns or has decision-making influence in 50,000 commercial or industrial companies."[9] The two estimates are perhaps not at great variance with each other. It seems likely that the average net worth of companies owned by organized crime associates is considerably less than $2 million. And "decision-making influence" covers a host of involvements which may entail no ownership interest.

The total value of industrial and business assets for the national economy is approximately $3 trillions.[10] If organized crime associates control as much as $30 billions, their share is one per cent. Such a share is far from a "take over" but it is impressive nevertheless. And it would be a cause for grave concern on several counts even if the share were half this size, as may well be the case, given the volume of funds thought to be simply hoarded or held abroad, and even if all holdings were in companies currently operated without resort to illegal methods.

First, since these holdings derive mainly from profits taken from illicit enterprise, they represent a final consummation of criminal enterprise, and so operate as a basic rationale or practical justification for those activities. If the possibilities of realizing such gains were removed, in other words, a powerful motive for illicit enterprise would be removed.

Second, while cash and other liquid assets may be passively held for safety and for safe normal returns, and while controlled businesses may be operated with full propriety for similar reasons, the character of the owners and their connections with criminal enterprise, and their personal functions within "family" and related structures strongly suggest that departures from fully legitimate operation may well occur if profit possibilities attach to such departures.

Finally, these holdings stand as a reservoir of economic power which entrenches the position of organized crime associates and so strengthens their position not only with respect to the operation of illicit enterprise, the chief source of funds for penetrations of legitimate enterprise, but also with respect to opportunities for expansion in other modes of penetration.

Predatory and parasitic exploitation

Predations are drains on the resources of other ownership interests by means which establish a control over the decision process governing any of the principal operating functions of the business firm: e.g., the purchases of inputs (labor, materials, equipment) the production process, including the storage and transport of goods, or marketing of final goods and services. Each such function is a possible port of entry for "infiltration" or alternatively, a tap through which the resources of the firm may be drained.

The traditional method of predation is coercion by the threat of personal injury or property damage. The "protection" racket, historically worked on proprietors of restaurants, barber shops, and other tiny establishments is the essential model. But the once-primitive technique has evolved considerably, as is illustrated by the case of the Nylo-Thane Plastics Corp. at Farmingdale, New York, developed at length by the State Investigation Commission. Word that Maurice Minuto, the firm's president, was in search of funds to expand his operations reached the racketeers. A phone call to Minuto, professing an interest in supplying funds, led to a meeting with Julius Klein who was accompanied by a number of strong arm men. A gun and knives were bared and Minuto was told that he would be killed unless he turned over $25,000. Minuto was held captive until the next day, and released when the check he wrote for this amount was cashed. Minuto's next move was to approach John Masiello, a major loanshark, with whom he testified he had had previous dealings. He wanted to borrow $25,000 to reimburse his company. He sought also to secure protection against a repetition of the extortion. Masiello arranged a loan of $50,000 for Minuto from the Royal National Bank. Half the amount was turned over to Masiello, apparently in payment for his services. This transaction was followed by further loans from the bank, and by additional payments to Masiello. In all, Minuto borrowed over a half million dollars of which nearly

$300,000 went to Masiello and his associates. Interest, insurance, and other charges came to $179,000. Eventually, $1.3 million of Minuto's Nylo-Thane stock was held either by the bank as collateral or had been turned over to Masiello.

The vulnerability of business firms to predations of this sort is greatest where the enterprise is relatively small, so that the decision-making authority is centered in one or a few individuals. But small scale of operation is associated with other factors lending effectiveness to strong arm methods: (1) limited resources to withstand damage or interruption, (2) few or relatively weak commercial or political allies, and (3) relatively low visibility to the public at large.

The reasonable inference is that the effectiveness of predatory techniques—victimization by sweetheart contract, coercion by the threat of labor difficulties, forced purchases of supplies or services, exploitation through loansharking,—tends to be confined to the sphere defined by very small and moderately small scale enterprise. The celebrated failure of the attempt to force detergent sales on the A & P can be interpreted as an instance in which the upper limit came into view.

In this case, standard operating procedures called for referral of the proferred detergent to the testing laboratory, where it was found that the product did not meet the company's specifications. Rejection of the product led to bombings and murder, but the decision process governing the purchase of manufactured products for resale could not be controlled by these means. In the same way, other strategic decision processes in large companies are insulated from the techniques which organized crime can apply effectively to small firms.

Still, if A & P represents the scale of enterprise that is effectively resistent to such predations, there is little enough solace in this fact. For while firms of such scale account for a large part of total business activity, major sectors of the private economy are dominated by small firms. Approximately 55 per cent of all industrial and business activity is conducted by firms which meet the eligibility requirements of the U. S. Small Business Administration. In manufacturing, the line is established by employment of less than 250. In wholesale trade the line is drawn at annual sales of $5,000,000. In retail trade and services whose aggregate employment exceeds that in manufacturing the line is drawn at annual sales of $1,000,000. Approximately 95 per cent of all business firms in the country are sufficiently small to meet these tests.

So then, the field for predatory behavior is large. Predations of sort described above gave entry into legitimate business for many now high-ranking figures in crime families. Many of these have moved on to more sophisticated participation in legitimate business enterprise. But there is little reason to suppose that these exploitations will diminish. For there are always those in the lower levels of established criminal hierarchies for whom such penetrations represent appealing opportunities for gain.

Monopoly gain

The ultimate target of monopoly is the consuming public which is made to pay the monopoly price and so to finance surplus profits. There are two routes to effective monopoly: (a) fewness of sellers of a distinct product or service where the sellers, recognizing their mutual interest in avoiding price competition, establish a price well above competitive levels, and (b) where there are many sellers, effective agreement to follow a price leader, or otherwise to adhere to pricing decisions aimed at maximizing the industry's gain. Since it is typically in the interest of a single competitor to undercut an artificially high price in order to expand his share of the market, effective monopoly typically requires the establishment of a powerful discipline to prevent such actions, and also to prevent the potential entry of new firms drawn by the prospect of exceptional gain.

As Schelling has pointed out, the illicit enterprises of organized crime are typically conducted as monopolies, through means that are unavailable to legitimate businesses.[11] Discipline over the participants is the keynote of the criminal "family" structure. By means of it, the markets for illicit services can be divided into regional sectors within each of which a single group may establish dominance, and bar potential entrants. At the same time, criminal organization establishes protection from government interference, an essential ingredient of stable monopoly, whether in licit or illicit enterprise.

The critical question is the extent to which the same techniques or others potentially available to organized crime can be transferred to effective monopoly exploitation of consumers of legal goods and services.

The route to monopoly by fewness of sellers is generally closed to organized crime in the case of products with large national markets, partly because the scale of operations is typically so large as to be beyond the financial resources of these individuals and partly also because enforcement of anti-trust regulation is especially effective in these cases. The potential field for monopoly gain is, rather, in local markets for products or services, requiring only relatively small investment, and a degree of managerial and technical competence which is within the capabilities of organized crime principals and associates. The few known instances in which something approaching monopoly has been achieved—olive oil distribution, linen supply, vending machines—correspond closely to these specifications.

When monopoly has been successfully effected, it is generally quite visible. Consumers know they are paying premium prices and potential competitors are only too aware that they have been debarred from operating in the market. So it is highly unlikely that organized crime has been able to achieve substantial monopoly in a host of fields that have not as yet come to public attention. The more reasonable supposition is that monopoly achievements have been modest in number and moderate in impact.

This conclusion is reinforced by the fact that the techniques to achieve monopoly by imposing discipline upon industries in which there are many sellers are also highly visible, and because the techniques available to organized crime to this end are limited in their effectiveness. While some successes in achieving conditions approaching monopoly can be cited, there are failures, as well, and these give some insight into the limitations attending efforts at monopoly exploitation.

The New York State Investigation Commission has recently exposed efforts by organized crime to secure monopoly gains in kosher meats, bagels, and butcher tools servicing. It is significant that after extensive search for instances of criminal penetration of legitimate business, the Commission's findings were limited to industries of such small size. Even in these cases, the yields were small and the coercive measures taken to secure them were highly visible. In none of these cases were monopoly and the attendant monopoly price levels and surplus profits achieved. Of the three, butcher tools servicing was the most naturally susceptible to monopolization since the industry was already well organized under a reasonably cohesive trade association. What emerged was not monopoly, but extortion in which the original group paid approximately $175,000 for the exit of the intruders. The sum is significant. It can be seen as equivalent to an investment in the industry. The inference is that the returns from maintaining a hold on the industry were modest.

We have singled out monopoly as a distinct form of penetration because the spectre of "takeover" is typically accompanied by overtones suggesting this type of systematic exploitation. Our conclusion, however, is that the character of the U. S. economy is such as to impose strong resistance to this method, and that the resources and capabilities of organized crime have not, to date at least, been of such a character as to achieve substantial gains through this route.

Unfair advantage

While the ultimate target of monopoly is the consuming public, the immediate losers in instances in which the goal of monopoly is sought are the competing enterprises which are placed at a disadvantage or are shouldered aside. If penetrations fall short of monopoly, they may be profitable nevertheless, through special advantages available to controlled firms from techniques traditional to organized crime. What is achieved, in general, is a larger share of the penetrated markets than would normally accrue to the firms run by individuals associated with organized crime and, at the same time, a foothold that may be especially useful for other purposes. In this section, however, we want to confine the discussion to the potential for profits that are associated with legal goods and services only, and the extent to which these profits may be enhanced by unfair methods available to criminal proprietors.

The methods in question have been cited earlier. Unfair advantage may derive from (1) strong arm methods, (2) control of unions and (3) corruption of government officials. The relevant question, again, is: what industries are especially vulnerable and which are naturally resistant to these special advantages?

What is the natural locus of profitable penetrations of this type?

Out initial proposition is that firms controlled by organized crime must be able to operate on roughly equal terms with their competitors, as a starter, in order to be in a position to realize extra profits from the illegal methods they employ. But to arrive at this position of competitive equality requires, in many industries large investments, skilled top executives who can devote full time to their businesses, experienced managements capable of supervising complex technology in production, marketing, and other business functions and, often, well-established relationships with large and sophisticated industrial buyers.

It is apparent that organized crime associates have not met these requisites in many major sectors of the economy. But the special advantages arising from the techniques mentioned above cannot come into play until successful entry and operation have been effected. Our inference is not that industries displaying the characteristics listed above are structurally impervious to criminal exploitation, but only that until criminal associates can pay the entry fee in terms of investment and expertise, they are effectively debarred from the application of their own traditional sources of special advantage.

Industries in which substantial holdings by organized crime associates have been noted tend on the whole to be those in which firms are small, products or services are of a relatively simple character, and production and marketing processes are correspondingly simple. The pattern, in general, is one defined by situations in which the demands on top management are relatively modest and, by the same token, permit close observation and control of the full operations of the enterprise. While these features may obtain because they correspond to the capacities of the proprietors, they may be required as well by the methods through which unfair advantages are obtained. We should expect the industrial locus of profitable penetrations to be defined in large measure by the potential effectiveness of the methods themselves.

The first of these is coercion by strong arm tactics. As in the case of predatory behavior, effectiveness is likely to be greatest where competing firms are small, and where potential customers are of small or moderate size. Reported instances of intimidation of competitors and buyers conform generally to these specifications: as in the case of bagels and kosher meats, butcher tools, mentioned earlier. Others include: linen supplies, machine vending, bakeries, small furniture manufacturers, refuse disposal, trucking, meat jobbing, and poultry.

A substantial base for unfair advantage derives from influence within established labor organizations. Unions are worth controlling when they are strong relative to the employer. That strength derives ultimately from the power of the strike. A powerful strike weapon is at the disposal of perhaps 15 to 20 per cent of employees within the private economy.

Unionism and collective bargaining, inclusive of the right to strike, are governmentally sponsored. But in fact only about a quarter of all private employees who are eligible for these rights avail themselves of them. For the vast majority of these employees are unable to mount strikes of sufficient power to achieve wages and working conditions which are substantially superior to what may be obtained in the open labor market without resort to collective bargaining. The Achilles heel of the strike is the employer's ability to secure replacements cheaply, or his ability to maintain production with supervisory employees and others who can be called upon to fill in temporarily. The majority of employers are effectively insulated from the strike.

Among the industries in which employees have found it worth their while to unionize, there exists a considerable variation in the power of the strike. In some of these industries the strike is merely of nuisance value and the yields of collective bargaining are marginal. In such cases unionism itself is marginal, with many employees declining to join or otherwise to support the organizations or their policies.

The construction industry has historically been subject to powerful strikes by its employees. This power has derived from the difficulty of replacing the skilled craftsmen who comprise the majority of the industry's employees. Unskilled laborers have, however, been able to share this power because the craft organizations have typically observed their picket lines. Employers in the industry are also especially vulnerable to the strike because they tend to be small and are engaged in a highly competitive industry. The unions have been able to secure substantial premium wages from the industry, and these costs are passed forward to the ultimate buyers. Meanwhile, profits in the industry are relatively low in comparison with returns in other industries and lines of trade.

A legitimately run union normally concerns itself with its industry as a whole, since it is through the industry that wage gains can be secured (ultimately from the final buyers). But racketeer control of unionism seeks special gains from individual firms in the industry. Kickbacks and other benefits may be extorted from these smaller targets by the threat of labor difficulties which would bring losses rather than profits from a given construction project and which, over a longer span of time, might place the firm at a crucially destructive competitive disadvantage. The other side of the coin, favored treatment, involves opportunities for illicit gain, as well, especially where the racketeers have financial interests in the favored firms.

The situation described above is duplicated in many particulars in the trucking industry, for the Teamsters Union can mount extremely effective strikes, and individual employers are typically small and vulnerable. Selective strikes can be devastating in the garment industry, as well, and freedom from labor difficulties may be the margin between profitability and survival.

These are the industries in which associates of organized crime have the most substantial holdings, and it is obvious that their connections with labor organizations play a major part in supporting these businesses. The critical question, however, is whether these holdings represent but the leading edge of penetrations, with expansion to other industries a likely prospect. The preceding comments have indicated that there may be substantial limitations to the unfair advantages which may be garnered from control of unions. The possibility cannot be foreclosed that the observed participations have already in good part realized the potentialities for gain from this source.

The third major source of unfair advantage is that deriving from the corruption of public officials. A potentially lucrative source of gain in this connection is favored treatment in securing government contracts. Government at all levels—federal, state and local—is the largest purchaser in the nation, with expenditures on goods and services from private suppliers currently running at the rate of some $200 billions annually.

Associates of organized crime stand at a disadvantage in competing with legitimate business interests for major government contracts. Public exposure of a connection between these individuals and a firm doing business with the government can lead to immediate concellation of contracts and an effective bar to future contracts, even where the work done is being carried out with full propriety. Apart from this, organized crime has no monopoly on the "wheeling and dealing" attending the solicitation of governmental favors. They stand, in fact, only at the portals of this sphere. But influence in government is a cumulative phenomenon, and it is obvious from recent revelations, in New

Jersey, that political influence, sought initially for protection of the operation of gambling and other illicit activities, can be utilized effectively, though control of licensure, e.g., to generate unfair advantage within legitimate industry.

But the greatest economic potentialities for gain from government influence attach to the possibilities of tapping the massive public expenditures. Assuming success by organized crime in achieving substantial effectiveness within government, the potential gains are bounded by the capabilities of controlled companies in terms of the contracts to be let. To date, it would appear that these capabilities have been of modest proportions. The most frequently reported contracts are those involving waste disposal for local government. But a number of substantial contracts exist in construction, typically also in local government. Proliferation of organized crime holdings in this and other industries in which a substantial foothold has already been established create expanding opportunities to exploit governmental corruption.

Businesses supportive to criminal enterprise

We have dealt, so far, mainly with participations in formally legitimate businesses where the destructive influence of organized crime derives from illegal methods of securing income and extra profit. We are concerned now with ownership or control of firms whose principal operations are formally licit, but which give active support to criminal enterprise and which may be reciprocally supported by it.

An essential contribution in this regard is that of establishing the minimal legitimacy required of criminal personnel to operate freely within the society by establishing a basic income that can stand inspection. A number of holdings, spread throughout industry and trade, accomplish this purpose perhaps without any other substantial impacts or significance.

But a source of special gain is developed by other holdings, especially those in bars, restaurants, clubs, and other entertainment and recreation facilities which, while generating income in their own right, also provide a base of operations for the sale of illicit services: gambling, loansharking and prostitution. A third type of holding includes such enterprises as garages, trucking, and warehousing which facilitate hijacking and other systematic theft as well as control over freight terminals and the opportunities for large-scale pilferage which they offer. Related to these are firms, perhaps to some extent represented in the categories already discussed, which are engaged in the systematic disposal of stolen goods. Any of these firms may provide ostensible employment and hence "legitimate" income for the functionaries who perform the more menial services of criminal enterprise.

It would seem that the potential growth of these activities depends, like the first type mentioned above, on possibilities for expanding the market for illicit services themselves. But while gambling, theft and other illegal enterprises represent "big business" in terms of volume, their technology is relatively simple, and expansion occurs by mainly the proliferation of outlets of relatively small size. Bars, restaurants, and entertainment centers are highly competitive and so are prone to limited rates of return and the risk of failure. But those which give support to illicit services benefit in turn from assured clienteles, and from side benefits in the form of low-cost liquor, food and other supplies that may be regularly available from hijacking operations, and from the freedom from labor problems which the tie to criminal interests so often assures.

Summary

Of the five types of penetration distinguished, two depend directly on the extent and profitability of illicit enterprise, and so it would appear that their prospects for further growth hinge primarily on the likelihood of the further extension of these illicit enterprises. The three other types of penetration are not directly related to criminal enterprise itself, but depend rather on criminal methods—coercion, controlled unions, corruption of public officials, etc.—which are the stock in trade of organized crime. The expansion of these penetrations depends on the effectiveness of these techniques, or others that may be developed—a matter to be dealt with in a later section—in relation to the structural vulnerabilities of business firms in particular industries or lines of trade. The keynotes of all types of penetration have been (1) small scale and (2) relative simplicity of operation, with the effectiveness of successful penetrations apparently limited where these features do not obtain. Still, it would appear that potentialities for expanded participations within legitimate business enterprise are considerable, even without major innovations in criminal technique. For, if existing instances of control and exploitation define a demonstrated vulnerability of industry and business, then where organized crime principals or associates have secured control over firms in a given industry in a particular locality—*e.g.*, machine vending, linen supply, auto or truck leasing, etc., the presumption is that other firms in the same industry or locality are vulnerable to similar control. And to the extent that control over firms in a particular industry or line of trade is established in one locality, the presumption is that similar controls may be established in other localities, perhaps most localities. So then within the field defined by existing penetration, the potentialities for further growth are large.

Business Holdings of the NYSIIS Pilot Study Group

This section deals with the pattern of participation in legitimate business enterprise displayed by the 200 individuals in the NYSIIS Pilot Study Group. The pooled information from the 13 cooperating agencies linked these individuals to approximately 400 business firms, most of which were located in New York State.

The available materials included fully documented investigations by the State Investigation Commission, as well as information made public by other governmental agencies. In a large number of cases the ownership interests of organized crime associates were openly acknowledged by these individuals. In many others, the identification of ownership interest reported by the cooperating law enforcement agencies was attributed to unnamed informants, or other unspecified sources. In a few cases, the status of the organized crime associate was reported as that of employee of the company cited, and there was no further evidence to indicate that this individual or any other in the pilot study group owned or controlled the company. Where employment appears to have been maintained for a substantial period of time, the company was included. On the other hand, companies in which a single case of extortion has been exposed were eliminated, and so also were those destroyed by bankruptcy fraud. The final results are summarized in Table 1.

There is no certainty that all of the businesses listed are still in existence, though the strong presumption is that nearly all of them are. The materials collected by NYSIIS covered

Table 1

Participation in Business Firms by
200 Individuals in NYSIIS Pilot Study Group

Industry Group		Number of Firms
Construction		31
Manufacturing		60
Food	15	
Apparel	35	
Textiles	2	
Furniture	1	
Printing and publishing	2	
Fabricated metal products	4	
Miscellaneous manufacturing	1	
Transportation, Communications, Electric, Gas and Sanitary Utilities		45
Trucking and warehousing	38	
Local transit	1	
Water transportation	2	
Waste disposal	4	
Wholesale trade		42
Retail trade		115
Food	11	
Automotive, gasoline service stations, garages	11	
Apparel	4	
Home furnishings	1	
Eating and drinking places	74	
Miscellaneous retail	14	
Finance, Insurance and Real Estate		15
Services		81
Hotels, motels, etc.	11	
Personal services	13	
Miscellaneous business services	29	
Auto repair services, etc.	3	
Amusements and recreation	15	
Miscellaneous services	10	
Industry group not identified		18
TOTAL		407

events reaching back into the decade of the 1950's and earlier. But, our tabulations were confined to cases in which the alleged ownership interests were identified during the past decade, most during the last five years. Unfortunately the quality of available data made it impossible to refine the information; the limited and resources of the present study ruled out the possibility of field investigations to check doubtful cases.

Notwithstanding these deficiencies, Table 1 probably represents a conservative estimate of the holdings of the 200 organized crime associates in the legitimate enterprise field. For the business holdings of organized crime associates have not been made the subject of direct investigation in more than a few instances. Information collected about the 200 subjects had as its primary focus, the purely criminal activities of these individuals—that is, their involvement in gambling, narcotics, loansharking, robberty, hijacking, extortion and so on; systematic searches for connections with business firms in legitimate pursuits have not normally been carried out. Consequently, a number of instances in which business associations are reasonably open probably escaped notice in the files of the agencies participating in the pilot project. Further, while many of the cooperating agencies received information from other agencies not directly involved in the pilot project, the materials fell short of those potentially available. Undoubtedly, many more ownership interests would have been revealed had there been full access to all files. Finally, it is likely that there are many holdings which organized crime associates have been able to conceal from all law enforcement authorities.

So then, we assume the enumerated firms to account for considerably fewer than the total in which the 200 subjects held control or a substantial ownership interest, especially where these holdings were in real estate or in enterprises outside of the New York region. It should be noted that for nearly a fifth of the subjects, no single association with legitimate business enterprise was recorded. While it is possible that many of these individuals have no such association, it seems more likely in view of the typical need of such individuals for at least one "legitimate" source of income, that the absence of association was in good part merely the result of a deficiency in the information pooled within the pilot project.

Then to what extent have the businesses contained in the tabulations understated the actual number of holdings by the 200 subjects? In view of the preceding comments and, taking into consideration the patterns of ownership disclosed in cases where there has been intensive investigations of particular individuals, our general impression is that the number disclosed by the pilot study resources have fallen short by perhaps one-third of the actual holdings.

The distribution of holdings shown in Table 1 discloses participations by the pilot study group in a large number of industries and lines of trade, though it may be seen that the major concentrations fall within relatively few of them. A closer inspection of the data reveals further specialization within these categories. Detailed financial statistics were generally unavailable, but it is apparent from the materials at hand that, on the whole, the firms represented in the table display the characteristics of small size and of simple industrial and commercial operations, mentioned earlier.

In construction, large firms undertaking major projects on a regular basis are virtually unrepresented. For the most part, the firms noted here were specialized to a single function. And these were well distributed. Among the specialities represented were tile and marble work, masonry, lathing, concrete, plastering, hoisting, demolition, grading and filling, drainage, and home improvement.

In manufacturing, holdings were concentrated in the garment and allied industries, with the greatest number appearing in dresses and other women's wear, and a few in textile finishing. Two firms produce specialty items (buttons, zippers) for use by other garment manufacturers. Food manufacturing is confined to small producers operating within narrowly defined geographical markets. In this category, there were bakeries, beverage bottlers, and small meat packing and dairy concerns. Wholly absent were large companies, those producing for the national market, and those whose products involved even moderately complex technologies.

In transportation and the utility field, the primary representation was in local trucking, also on a small scale, with a substantial number of the firms servicing the garment industry.

Other firms were specialized to waterfront and air freight haulage. The waste disposal firms contracted with both industrial users and government. In the water transportation field, the companies provided maintenance services. The local transit entry was a taxicab company.

The largest single concentration in wholesale trade was in machine vending. Other participations were in fruit and other produce, meat supply, tobacco, candy, janitorial supplies, electrical appliances, and construction materials. In retail trade, by far the greatest number of holdings appeared in restaurants, bars, grills, lounges, and other eating and drinking places. The other retail outlets were, for the most part, single establishments engaged in such lines as automobile sales (both new and used cars) fuel oil supply, meat and grocery stores, dairy products, delicatessens, liquor stores, candy stores, dress shops, sportswear shops, florists, dry cleaning establishments, music supplies, novelties, gasoline service stations, and garages.

Real estate companies predominated in the next category, but it is difficult to guage the size or character of the operations of these firms. No major finance or insurance firms were represented in the sample, but there was active participation in at least one bank and two brokerage firms. One of the firms was an insurer of union funds. A sprinkling of credit and finance companies round out the list.

Finally, among the service industries, there were participations in auto and truck leasing firms, travel agencies, music companies, labor consulting, catering, funeral services, country clubs, pest exterminating, interior decorating, linen supplies, car washes, parking lots, commercial laundries, and bowling alleys.

That listings published elsewhere of firms controlled by organized crime associates correspond in general to these patterns suggests that Table 1 may reasonably well define the present scope of criminal participation in business enterprise. But what has been missing from other surveys and is missing also, unfortunately, from the present one is detailed information about the operations of these firms, such as might permit some clearer impression of how the holdings are distributed among the various types of penetration distinguished earlier and of the purposes they serve for the NYSIIS pilot study group.

<u>The effort to penetrate</u>

It cannot be assumed that organized crime has unlimited or unqualified demands for increased participation in the sphere of legitimate business. The effort to penetrate is conditioned by the purposes served by these participations and by the costs or risks or other difficulties associated with them. The motives for penetration have been reviewed earlier. They include, principally, (1) minimal needs for legitimate income to secure organized crime associates from prosecution for income tax evasion in connection with normal living expenditures, (2) a generalized demand for incomes above this level, generated especially by the flow of profits from illicit enterprise, and (3) a desire for holdings which may support or enhance the profits from gambling and other illicit enterprise. We need to consider the possibility that various internal limits may exist in connection with each of these motives.

Such a limit is implied directly by the nature of the first motive. That is, the number of business firms in which participations are sought is governed, in the first instance, by the volume of personal consumption expenditures for which incomes need to be justified. The second motive suggests limits, also, to the extent that costs or risks attaching to these participations are substantial in relation to the possible gains. The limits indicated by the third motive relate to such practical considerations as the number of outlets acutally required to establish contacts with the potential clienteles for illicit services.

Reasons were offered earlier in support of the proposition that the current resources and capabilities of organized crime associates fall short of those needed to enter many industries, especially where operations of substantial scale and of considerable technical complexity predominate. But it is clear as well that the potentialities for expansion are very great, merely by the duplication of holdings in the types of firms and industries already entered. Table 1 showed the average number of participations by members of the NYSIIS pilot study group to average roughly two or, if the understatement is of the degree suggested earlier, perhaps three. The immediate question is whether holdings in this range approximately meet the current demands for penetration by crime associates or if these magnitudes are of little lasting significance, reflecting perhaps only a point along a curve of rapid expansion.

Table 2, which shows the number of business participations by individuals in the NYSIIS pilot study group, serves as our point of departure for this discussion. As can be noted, the holdings are distributed fairly evenly over the group, with over 80 per cent of the subjects participating in three or fewer firms. The wide distribution of holdings would be expected, given the mean of two (or even three), if it can be accepted that the first priority is the establishment of some source of business income to meet the minimal requirements of legitimate status in the economy and society. As most of the firms are of relatively small size and lie in industries in which competition is intense, so

Table 2

Number of Participations in Business Firms Per Individual by Individuals in NYSIIS Pilot Study Group

Number of Participations per Individual	Number of Individuals
None identified	39
1	57
2	41
3	27
4	18
5	7
6	1
7	4
8	1
9	1
10 or more	4
TOTAL	200

that rates of return tend to be of modest proportions, the possibility arises that the major share of these holdings serve this purpose.

If so, it follows that penetration for profits in excess of minimal incomes for legitimacy has been a rather restricted phenomenon, and that for reasons either of motivation or capability only a small proportion of those associated with criminal "families" engage in it. That interpretation is supported by Table 2 which shows less than ten per cent of the pilot study group with five or more participations. We shall need to examine the character of these multiple holdings more intensively. First, however, let us consider some of the possible reasons why such multiple holdings are comparatively rare, and why, more generally, penetration for profit in excess of minimal legitimacy may be of qualified feasibility for those well established in crime "family" structures.

In considering various overall interpretations of the significance of criminal penetration of legitimate business, we introduced the possibility that penetration might be seen largely as ancillary to criminal enterprise. A related point, a corollary of the obvious fact that crime is the main business of criminals, is that the chief attentions of those associated with organized crime are necessarily occupied with their primary sources of gain. The proposition, in short, is that effective conduct of illicit enterprises may be sufficiently demanding of the executive and managerial capacities of criminal associates as to impose substantial limits upon the contributions of time and effort they may make to the pyramiding of ventures in legitimate business enterprise.

The criminal activities attributed to the NYSIIS pilot study group are summarized in Table 3. About three-fourths of the individuals are engaged in some aspect of gambling and a third have been identified as active in loansharking activities. In addition, involvement in labor organizations is attributed to about a fifth of the group, and this in many cases entails active participation as union officials. About a quarter of the pilot study group have substantial records of involvement in hijacking, robbery, and other theft. So then, as a rule, the pilot study individuals are not specialized to a particular criminal activity. Two-thirds have multiple involvements.

The general conclusion is that members of organized crime are busy men. These "rackets" do not run themselves. Gambling, for example, is geared to daily activity and a multitude of individual transactions. In the "numbers" or "policy" games, menials handle these transactions, but the network of runners and others engaged in the primary traffic must be supervised, and there are a host of other administrative activities which claim the time of those in whom the ultimate control of these ventures is vested, not the least of which is maintaining the system of protection from law enforcement the essential ingredient of successful operation. In other forms of gambling, especially that centering on competitive sports, closer contacts with the clientele are demanded. And close touch with the sports themselves inclusive of attendance at sports contests is typically required.

Successful loansharks must promote their services, frequenting gambling locales to make themselves immediately available

Table 3

Criminal Activities Associated with Individuals Included in NYSIIS Pilot Study Group

Activity	Number of Individuals Engaged in the Activity
Gambling	154
Loansharking	68
Labor racketeering	42
Hijacking or other theft	47
Narcotics	26
Coercion, Extortion	25
Other	12

Number of activities per Individual	Number of Individuals
1	77
2	78
3	39
4	6
	200

when loans are needed, and conducting searches for others in need of ready funds. In general this "marketing" activity requires the maintenance of an extensive network of personal relationships. And the loanshark must be accessible to his clientele in order to service his loans. A typical routine has the loanshark appearing daily at a fixed place of business—a particular bar or club, a given street corner—and spending a substantial part of the day at this place.

Effective control of labor organizations may be equally demanding of time and attention. These positions of power can be maintained only by effective intimidation of elements within the membership who resent criminal control and of others who seek personal advancement within the organization. At the same time, there is the need to carry on normal bargaining relationships with employers, typically numerous in the industries in which racketeer-controlled unions are concentrated. Extraction of money gain from the membership or from the employers thus demands close personnal attention by criminal exploiters.

The burden of the preceding comments is that the administration of illicit enterprises may be so demanding as to create a "bottleneck" in the realm of enterpreneurial or managerial capacity for the expansion of criminal control within legitimate business enterprise. Such a shortage would help to explain the small scale of operations evidently characteristic of organized crime's business holdings.

To operate businesses of substantial size requires not only heavy executive commitments but also a well-developed infrastructure of trusted managerial, professional, and technical personnel. This would be a requirement for survival in most industries even where perfectly legitimate operations are conducted. But the value to associates of organized of investment in firms which make extensive demands on their time is limited where the anticipated gains approximate normal business profits. A superior alternative, it would seem, is simple purchase of securities and the passive receipt of normal yields. The motive for active participation in major businesses will be strong only where special gains can be obtained, for example, by the introduction of strong arm methods at strategic points or by illegal manipulations through controlled labor organizations. But these methods are not free of risk. If they are to be applied in conjunction with ownership interests in firms of substantial size, the need for trusted strata of managerial and technical personnel is underlined. In this case, the trust must rest not only in industrial or business competence but also in the willingness of the personnel to serve silently within enterprises tainted by corruption or illegal methods. Even if such loyalties can be secured, criminal proprietors open themselves to other dangers. Their investments are imperiled since exposure of illegal methods is typically accompanied by loss of sales, as legitimate business and other customers draw away from the tainted firms. And conviction for illegal business conduct is likely to be penalized with special severity by law enforcement agencies and the courts conversant with the involvements of the proprietors in illicit enterprises. In short, gain from illicit enterprise, the principal sources of criminal income are imperiled. It is well known that organized crime "families" have been reluctant to jeopardize their positions by involvement in narcotics distribution, despite the great profits to be derived from this activity, precisely because of the exceptional dangers associated with convictions on narcotics charges. The same principle, it would seem, ought to apply in connection with the risk entailed by over-extending illegal operations in the legitimate business sphere.

This is not to imply that crime associates have no rational interest in seeking extra profits from unfair advantage through the many techniques outlined earlier. It implies only that a reasonable balance of risk and potential gains be struck and that the risks be minimized by maintaining close personal supervision over penetrations of this type. This implies, in turn, both small scale of enterprise and a limit to the number of controlled firms corresponding to the executive or administrative "span of control" which can be practicably exercised by individual associates of organized crime and those whom they can trust.

These comments are generally consistent with the patterns of ownership interests attributed to the handful of individuals in the pilot study whose participations in business enterprise were the most numerous. Invariably, the multiple holdings consisted of relatively small firms whose daily operations could be entrusted to a few close confidants. For the most part, there was a considerable diversification of interests. A typical holding, one of eight firms, included interests in a hotel, two restaurants, a catering service, a gasoline service station, a garage, a liquor store, and a real estate firm. Another, of twelve firms, included interests in labor consulting services, restaurants, a printing shop, two small manufacturing establishments and several real estate companies. The method of acquisition of these firms was not documented by the available information, but a reasonable conjecture is that a number were secured as "targets of opportunity" in connection with loansharking and related activities. An interest in real estate companies is typically in evidence where the holdings of an individual crime associate are numerous. It might be noted in this connection what the major multiple holders tended to be those individuals who rank relatively high in crime "family" structures. The inference is that these individuals have tended to be major recipients of income from illicit enterprises and that the real estate firms serve the function of channeling substantial sums into safe investment.

Several of the individuals with the most numerous holdings have tended to concentrate their interests within particular industries or lines of trade. The most concentrated holding,one of nine firms, included eight trucking and carting concerns, with the companies involved mainly in waste disposal. Other concentrations appeared also in trucking in the garment industry, construction and in restaurants and bars. In most cases, a connection with unions in these fields was identified. The inference is that the multiple expansion of holdings within a particular industry has been carried on primarily where there is a strong rooting in a criminal technique offering the possibility of sustained special advantages to the controlled firms.

In this section we have stressed certain internal limitations, deriving both from motive and capability, on the drive for participations by legitimate business enterprise by organized crime associates. Nothing which has been said, however, implies that a halt to the expansion of these business holdings is in prospect. We need to turn now to the consideration of a number of factors suggesting an acceleration of these participations.

<u>Factors conducive to further growth of penetration</u>

In discussing the various types of penetration, we have identified certain resistances deriving from the structure of industry and trade itself and other limitations deriving from the motives and concerns of crime "family" associates. In each case, however, a field for further expansion of holdings was defined, on the assumption that the resources and capabilities of organized crime would remain approximately at current levels. There are reasons for supposing, however, that these capabilities will increase with time.

A primary impulse for expansion lies in the accumulations of funds realized from illicit enterprise. If it is the case that net profits of the order of billions of dollars annually are extracted from gambling and other illegal activities, the pressure to find income generating assets must be considered very powerful indeed. It is clear that heavy concentrations of these funds have been channeled into extensive holdings in real estate of a conventional sort—office buildings, apartment houses, etc.—with the apparent intent to operate these holdings passively for the normal returns they yield. But the growing affluence of organized crime principals has enabled them to think aggressively in terms of investment on a scale that was not feasible at an earlier time. Major recreation and entertainment complexes are a case in point. The most prominently publicized of these ventures have been those relating to gambling, conducted legally, in a number of Caribbean locales. But investments of impressive size have been made in domestic resort areas where the opportunities for illicit gain from gambling are a special attraction, and where legitimate profits from the secularly expanding recreation industry may be obtained as well. At the same time, the capability to extend operations to fields previously beyond reach is being enhanced by other factors.

First, the personal acumen and technical capacity of organized crime to compete with others in undertaking of substantial size and complexity is increasing. The first generation leaders, predominantly men of little education highly, stigmatized by past criminal records, and otherwise handicapped by origin and early experience, are being followed by a second generation without these handicaps and more adequately endowed with education and with maneuverability in the business world. But aside from those tied by blood or marriage to organized crime principals, growing professional cadres (lawyers, accountants and others) have been recruited to facilitate entry and to administer and promote investments in new lines—finance and insurance and on a more ambitious scale in construction, manufacturing, transportation, trade and services.

Second, with growing participation in these fields, the proliferation of business and social relationships yield organized crime principals and their intermediaries, entree into wider circles of acceptance and influence, and so establish further contact with formerly remote phases of business and industrial activity.

Third, the massive infusions of funds required to buy political support and protection for the operation of criminal enterprise are useful as well in support of operations in legitimate enterprise. An immediate economic yield may be in the form of favored treatment in the letting of government contracts, with the expectation that current success at the local level of government in securing contracts for waste disposal may be augumented by equal success in other fields and at higher levels of government.

Fourth, growing holdings in increasingly diversified industries and lines of trade permit larger and more extensive exploitation of illegal operations. The larger the size and number of businesses operated by organized crime, the greater are the outlets for hijacking operations, auto theft, pilferage, stolen securities, and so on.

Fifth, entrenchment in a particular industry facilitates penetration in collateral industries. Thus the spread of holdings in night clubs, restaurants, and bars provides support for criminal interests in coin-operated machines, linen supply, liquor supply, food supply and other services. This is already a familiar pattern. But the same processes apply to trucking and construction, with expansion to larger scale and more diversified operations indicated.

To summarize, growing wealth and increasingly extensive holdings in diverse fields give rise to cumulative effects improving entrepreneurial capabilities and otherwise supporting expansion of operational scale, and so offer a better chance to surmount the size and technology barriers which appear to have been the most resistant to the standard techniques by which penetration has been effected. No particular rate of expansion can be inferred directly from these developments. It may be slow or rapid within particular industries or localities. Nor need the expansion, if rapid, depend upon such dramatic events as prodigious feats of innovation by evil geniuses at the service of crime. The improvement of methods contemplated here are those deriving from naturally evolving advantages associated with simple growth. A plausible prognosis, it would seem, is that of further growth, barring major new efforts by government to halt it. In relation to the latter certain comments based on the preceding analysis are in order.

Limiting penetration

We have described penetration as a heterogeneous phenomenon, whose distinctive types are, in large part, self-supporting and self-generative of growth, and which in many ways reinforce each other. Each type relates to illicit enterprise, either directly or through criminal "family" associates whose primary concerns are with illicit enterprise. Taken altogether, a wide-ranging system with strong internal links is defined. The primary inference is that efforts to combat penetration should be commensurately broad in scope, while at the same time sufficiently articulated to deal directly with the separate facets of penetration. No single technique or strategy can be expected to defeat penetration. By the same token it is certainly premature to regard any current strategy—attrition, harassment, exposure, etc.—as ineffectual.

Our analysis suggests that a blow at organized crime in any pursuit, whether in criminal enterprise proper or in operations in legitimate enterprise, will damage it in any other. If the expansion of penetration is appropriately traced to factors of scale and cumulativity, it may be the case that "the" ultimately effective strategy to counter it is similar reliance upon the cumulative impacts of many efforts, with the ultimate degree of effectiveness determined mainly, perhaps, simply by the quantity of resources allocated by society to these efforts. These comments notwithstanding, it is useful to consider particular strategies whose impacts may be especially destructive to the lifelines of penetration.

If a single primary "lifeline" had to be designated, the most likely candidate is illicit enterprise, in which the reigning crime "families" are rooted and in relation to which the family structures, themselves, were originally designed. Elimination of gambling, loansharking and other illicit industries would not entirely eliminate criminal participation in legitimate business, since many exploitations are achieved directly by strong arm and related methods. But it would eliminate the heavy flow of profits seeking outlet in the private sector, remove the rationale for many establishments currently servicing gambling, loansharking, etc., and reduce the unfair advantage enjoyed in many cases through corrupted public officials and law enforcement officers whose purchased support of crime spins off by-product benefits within the sphere of legitimate business enterprise.

It has been said often that the hope of eliminating illicit services is meagre so long as large elements within the general public demand those services. It has been reiterated often, as well, that the arrest and conviction of those engaged in illicit enterprises, serves mainly as a governmentally sponsored "retirement" policy, and that the places of those convicted are forthwith filled by others, with the basic machinery of crime remaining unimpaired. But the other side of the coin is the possibility of substantially increasing the costs of these operations. "Attrition" of criminal personnel has tended to operate in disparate spurts. Maintaining the pressure on illicit enterprises can substantially reduce current levels of profitability and so reduce funds available for business investment. At the same time, the harassment of principals and associates of organized crime may serve the function of reducing their effectiveness as entrepreneurs and managers within the sphere of legitimate business.

Participants in illicit enterprise are generally well identified. Exposure of their associations with gambling, etc., is not an effective deterrent. But exposure of their ties with legitimate business enterprise can be extremely damaging, because success in these involvements may depend crucially on the patronage or other business dealings of individuals who are unsuspecting of the criminal ownership interests and who would withdraw from these contacts if they had this information. Unlike the clients of illicit enterprises who welcome and support these activities, the business community and consumers at large are antipathetic to the presence of crime associates, and are inclined to draw away from them. Effective exposure of criminal ownership interests can achieve a second major blow by depriving controlled firms of key managerial and technical personnel. It is clear, of course, that many lawyers, accountants and other professionals are content to serve organized crime. But the effective expansion of criminal associates into businesses of substantial size requires the large-scale recruitment of managerial and technical personnel of high calibre. With substantial careers at stake, such individuals are generally disinclined to take the stain of identification with crime "family" interests. The evidence is clear that such identifications are disastrous for elected public officials and for public administrators. In sum, concealment of criminal ownership interests and secrecy of operations can be vital to the success of existing penetrations and to further growth. Exposure is their nemesis. The strategy is currently in operation, but should be pressed more vigorously.

Public meetings to alert businessmen to the dangers of inroads by organized crime have been conducted in many communities. Illustrations of specific exploitations are presented, and check-lists of danger signals to detect the presence of criminal infiltration are distributed. Carrying these messages to the business world is an indispensable part of the efforts to counter penetration. But is has been the common experience of law enforcement officers that little initiative is displayed by the business community in reporting evidence of criminal activities in their respective industries. As one observer has commented

> Why have members of the business community so often failed to respond to evidence of inroads into their companies by organized crime? Is the failure due to naivete or inability to read the telltale signs? If so, why have the widely circulated warnings made by law enforcement agencies and other experts somehow failed to get across to businessmen? Or is the failure due to the fear of physical or economic reprisal—or perhaps to the strain of larceny which is said to lurk in most humans? If so, do many businessmen really believe that they can profit from involvement with organized crime without eventually becoming its victims?

The initial question is followed by a number of answers which undoubtedly account for a good deal of the observed reticence. Part of the failure may well lie in the inadequacy of the government's "outreach" efforts. A more positive program of cooperation between government law enforcement agencies and the business community would seem to be mandatory. There is a need for special instruments geared to the principal contour lines of the private economy—i.e., those defined by distinct industries.

An effective vehicle for this approach might well be adapted from the "strike force" concept, now employed in a number of localities, primarily in attacks upon gambling and other illicit enterprises. The keynotes of this technique are expanded investigatory efforts, the pooling of information, and above all sustained operations on the local scene by the personnel involved. The principal objective of existing strike forces is to secure evidence adequate for conviction, a difficult task in purely criminal matters. But "industry" strike forces, designed to counter existing penetrations of legitimate business and to inhibit its expansion, may succeed with more modest accomplishments. The primary task is the collection of information for the exposure of criminal "presence." It is precisely in this realm that the gulf between information normally available to business and that normally accessible to law enforcement agencies has been the most apparent. The business community possesses intimate knowledge of industrial and commercial operations but is lacking in ability to identify the associates and functionaries of organized crime. Law enforcement officials, on the other hand, have voluminous information identifying these individuals but have not normally carried on sustained and detailed investigations of their activities within the sphere of legitimate business, except in isolated instances of overt wrong-doing as, for example, in the individual cases of bankruptcy fraud. But the destruction of firms by this technique represents only a marginal aspect of the penetration phenomenon. More significant is the network of controlled companies which provide a continuing base for criminal participation in the private economy and constitute the point of departure for further expansion.

The structure of industry strike forces may take many forms. But their essence should involve sufficient permanency and enough active participation by government to encourage individual businessmen in the belief that their cooperation is worthwhile and they will receive adequate protection from an agency that is devoted to the purification of their respective industries of criminal infiltration. At the same time, the existence of such bodies, actively engaged in processing intelligence from both government and business sources, should serve as a deterrent to the entry of crime associates and to the collaboration with these individuals by those whose primary base is in legitimate business activity.

The socially destructive consequences of business penetration by organized crime has been generally recognized. But it is clear from the present study that the investigatory efforts of agencies participating in the present pilot study have fallen far short of those which ought to be mounted. The approach to penetration should be so designed as to deter, inhibit, and prevent the expansion of criminal influence. From the standpoint of intelligence, what is needed is a comprehensive picture of the penetration phenomenon in all its aspects. This entails a systematic mapping not only of specific holdings, by company and industry—a primitive account of which was presented above—but also an equally systematic analysis of the industrial, commercial, and financial operations of the controlled firms, in relation to the distinct modes of penetration. At the same time, there is need for a complementary mapping of business participations, by individual associates of organized crime, and a parallel analysis of the interrelationships between the respective holdings of these individuals and their primary illicit concerns. Identification of ownership interests is often, of course, extremely difficult. The use of nominees can seriously obscure the link between crime associates and controlled businesses. But these difficulties are not insurmountable. Apparently innocuous nominees can be linked to their underworld associates by sufficiently diligent investigation. It would seem that it is not the intrinsic difficulty of collecting vital information about the extent and character of business penetrations that has been the effective bottleneck but, rather, thelack of manpower and other resources required for adequate collection of this intelligence, its pooling, and its analysis for use in mounting counter measures.

Conclusions

A general impression which emerges from the present study is that the penetration of legitimate business by organized crime is a "manageable" phenomenon. To put the proposition in this form is, in part, a reaction to the terror and feelings of helplessness which are invited by assertions that the dominant hand of organized crime is everywhere, that criminal associates "have invested in every conceivable kind of legitimate business,"[12] that "organized crime will put a man in the White House some day,"[13] that we are witnesses to the "theft of the nation," and that "the real danger is that the trend will continue to the point where syndicate rulers gain such a degree of control that they drive supporters of free enterprise and democracy out of 'business' and then force us to pay tribute in the forms of traditional freedoms."[14] Such views have driven Professor Cressey to suggest the possibility of a bargain with organized crime:[15]

> It is highly unlikely, but not inconceivable, that Cosa Nostra would agree to give up its political involvements and its illegal operation of legitimate businesses, which in combination threaten to undermine the whole nation, if it could be assured that it will be permitted to keep the profits, after payment of taxes, on bet-taking.

We are concerned less with the morality and the feasibility of such a scheme—it is questionable on both counts—than we are with the underlying appraisal of the potency of organized crime in the national economy.

There is no evidence that organized crime has significant influence in "every conceivable industry." Our findings, to the contrary, indicate a substantial presence in a relatively restricted number of industries and lines of trade, and our analysis of the various modes of penetration has underlined important limitations deriving from the structure of business enterprise itself and from the motives and capabilities of organized crime. It is true that in certain localities there has been impressive infiltration of the political structure, and that these accomplishments by crime associates have produced control over a number of local industries. These stand as models of extreme penetration which are capable of duplication elsewhere. But there is little to suggest that the process of expansion is irresistible; indeed there are good grounds for believing that it can be halted and substantially reversed. The comment that penetration is "manageable" was intended to convey the idea that these invasions are highly susceptible to social control. This view is premised on the following points:

1. As noted in the preceding section, the sphere of legitimate business is essentially hostile to criminal associates. Unlike the individual consumers of illicit services who welcome the presence of criminal purveyors, the business community is basically averse to this presence and, with sufficient encouragement and support, is naturally inclined to cooperate with governmental efforts to defeat it.

2. For this and other reasons noted earlier, the counter strategy of exposure is inherently powerful. Conducted effectively, it may be devastating to criminal efforts to expand their business holdings, even where illegitimate operation of these businesses is not of great consequence.

3. The penetrations which can be most perfectly concealed are those which are conducted with propriety. We have included in our definition of penetration passive wealth-holding for the purpose of securing safe normal yields. The magnitudes may be enormous; but the destructive impacts of these holdings are limited. When transferred to modes of penetration which are socially destructive, the visibility of these holdings is increased, and their vulnerability to counter-measures by government is commensurately increased.

4. The methods by which organized crime exploits private industry, either by predations upon individual businesses or by securing unfair advantage over competitors, are basically simple and are, in large part, highly visible. No space-age prestidigitation is involved. Strong arm methods, domination of unions, etc. are fairly crude techniques and are, in principle, subject to effective limitation by

the sufficient application of social resources to law enforcement. Criminal control of strategically placed government officials is more subtly accomplished. But making effective use of this influence in the sphere of legitimate business requires overt actions which disadvantage legitimate business competitors. It is markedly different from inducing the sins of omission which give protection to gambling and other illicit enterprises. The opportunities for exposure are thus greater.

5. The controlled firms, disclosed to date, tend to be relatively small and tend to be restricted to pursuits involving simple production and marketing techniques. This pattern reflects the presence of a number of limiting factors: (a) the limited technical and commercial capabilities of criminal entrepreneurs, (b) the limited effectiveness of their exploititive techniques, (c) the need to maintain close control over illegal operations of these firms and, related to this, (d) the need to avoid defection within extensive managerial superstructures required in large firms and to avoid infiltration into them by government agents.

It has to be admitted that our generalizations about penetration have been based on information which is grossly incomplete. The files of police departments and other law enforcement agencies which fed the NYSIIS pilot study provide, in most instances, only the barest scraps of information about the financial holdings of criminal associates and about the activities of the firms with which these individuals are identified. Effective measures to counter criminal influence in the sphere of legitimate business should begin with a major effort to improve the flow of this intelligence. As Schelling has noted:[16]

> Evidence of the lack of professional attention to the economy of the underworld is the absence of reliable data even on the magnitudes involved, of techniques for estimating them—even of a conceptual scheme for distinguishing profits, income, turnover, transfers, waste, destruction, and the distribution of gains and losses due to crime.

These comments were directed primarily to the economics of gambling and other illicit enterprises, but they apply with equal force to the sphere of legitimate business. The most fundamental data are lacking concerning even the number of holdings and the industrial location of controlled firms. There is a general disposition to believe that the business penetrations are increasing, but there is no confirmation of this fact from police files.

Reference was made earlier to the need for a systematic mapping of criminal penetration, to compile information of the sort just mentioned, and also to secure a firmer comprehension of the operations of controlled firms. It is perhaps too much to hope for a reasonably complete census of these holdings and operations, but something of this nature—certainly something more adequate than currently exists—might be approached by intensive investigation of a sample group of crime associates, selected from various strata within established "family" structures. In the same way, intensive field investigation of sample industries in which substantial holdings have been identified, might cast more light on the functions which these interests perform for crime associates, and on the strategic limitations and potentialities for expansion to which attention was directed above. Organized crime obviously has substantial footholds within the legitimate business sphere but the firmness of those footings is inadequately comprehended. The time has come for intrusive anatomical study of the penetration phenomenon.

Footnotes

1. Ferdinand Lundberg, The Rich and the Super-Rich, Lyle Stuart, Inc. New York, 1968.

2. Donald R. Cressey, Theft of the Nation, Putnam, New York, 1969.

3. Ed. Reid, The Grim Reapers, Henry Regnery Co., Chicago, 1969.

4. Ralph Salerno and John S. Tompkins, The Crime Confederation, Doubleday and Co. Inc., Garden City, New York, 1969.

5. Charles Grutzner, "How to Lock Out the Mafia," Harvard Business Review, March-April, 1970, p. 49.

6. The President's Commission on Law Enforcement and Administration of Justice, Task Force Report on Organized Crime, U. S. Government Printing Office, Washington, D. C., 1967, pp. 2-4.

7. Grutzner, op. cit., p. 49.

8. U. S. Department of the Treasury, Statistics of Income for the years cited.

9. Grutzner, op. cit., p. 49.

10. S. Kuznets, Capital in the American Economy: It's Formation and Financing, National Bureau of Economic Research, 1959 (mimeographed). The estimate in the text has been adjusted by reference to growth rates during the past decade.

11. Thomas C. Schelling, "Economic Analysis and Organized Crime," Task Force Report on Organized Crime, pp. 115ff.

12. Cressey, op. cit., p. 2.

13. Ibid., the comment is attributed to Ralph Salerno.

14. Ibid.

15. Ibid., p. 324.

16. Schelling, op. cit., p. 114.

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