National Advisory
Committee on
Criminal Justice
Standards and Goals

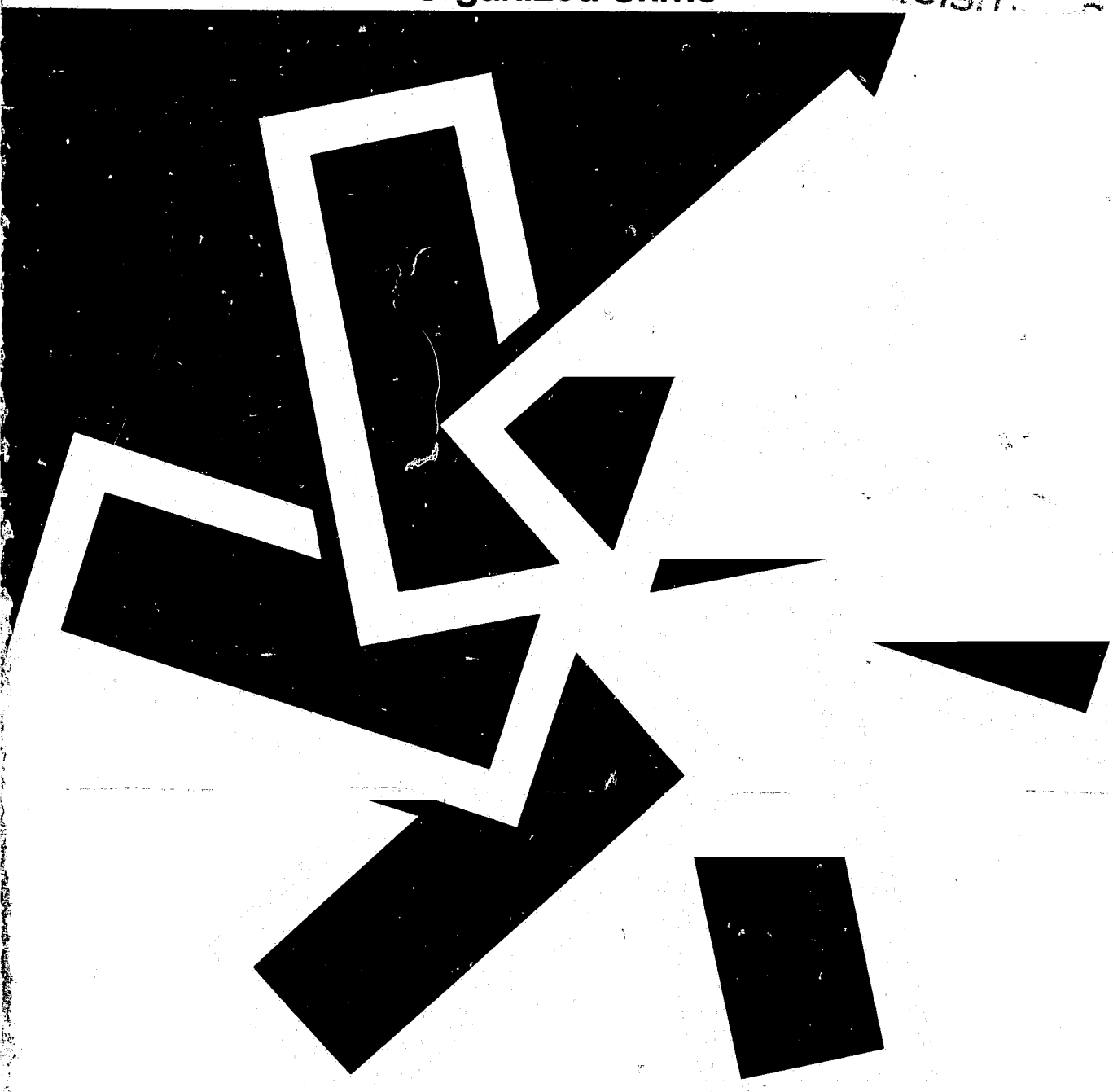
Organized Crime

Report of the Task Force on Organized Crime

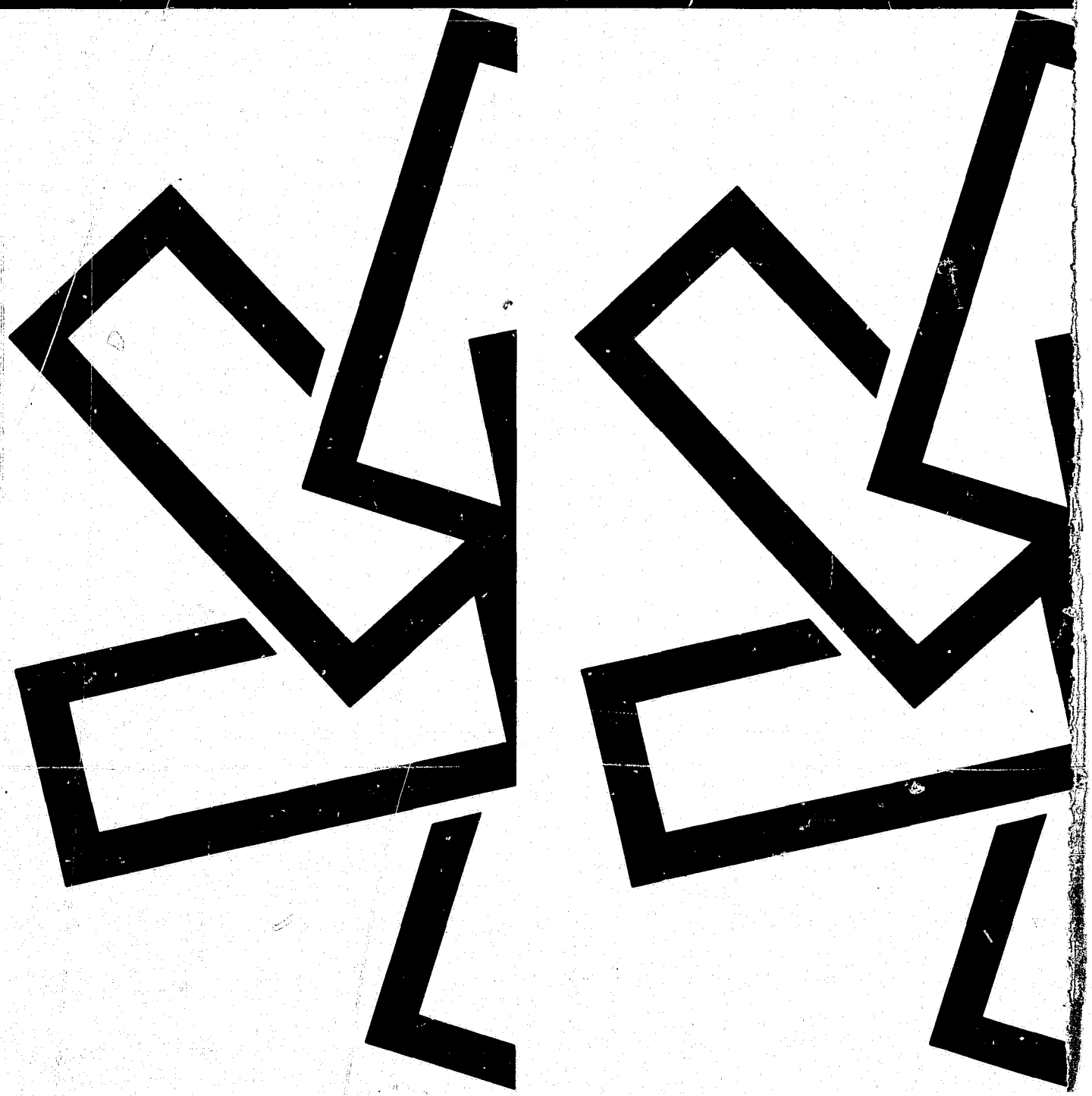
National Advisory
Committee on
Criminal Justice
Standards and Goals
Washington: 1976

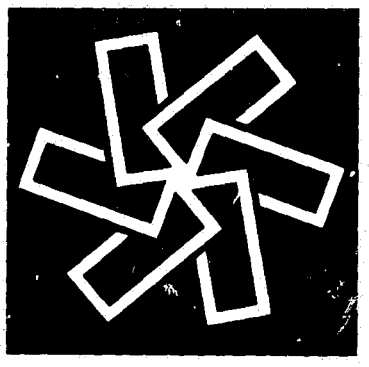
Organized Crime

Report of the Task Force on Organized Crime



Statement of the Administrator





This volume, *Organized Crime*, is one of five reports of the National Advisory Committee on Criminal Justice Standards and Goals.

The National Advisory Committee was formed by the Law Enforcement Assistance Administration (LEAA) in the spring of 1975. Governor Brendan T. Byrne of New Jersey was appointed Chairman of the Committee. Charles S. House, Chief Justice of the Connecticut Supreme Court, was named Vice-Chairman. Other members were drawn from the three branches of State and local government, the criminal justice community, and the private sector. Four of the 12 members were elected officials of general government.

The purpose of the Committee was to continue the ground-breaking work of its predecessor organization, the National Advisory Commission on Criminal Justice Standards and Goals. In 1973 the Commission published a six-volume report setting forth standards and goals for police, courts, corrections, the criminal justice systems, and crime prevention. Two years later, the National Advisory Committee addressed several additional areas of concern: juvenile justice and delinquency prevention, organized crime, research and development, disorders and terrorism, and private security. Task forces were established to study and propose standards in each of these areas. The task forces were comprised of a cross section of experts and leading practitioners in each of the respective fields.

The Committee reviewed the standards proposed by each task force and made suggestions for change, as appropriate. The process was a dynamic one, with an active exchange of views between task force and Committee members. In almost all instances, the Committee and the task forces ultimately concurred on the standards adopted. In a few cases, there were differences in philosophy and approach that were not resolved. Where such discrepances exist, each view is presented with the Committee's position noted either in the Chairman's introduction or in a footnote to the particular standard.

Standards and goals is an ongoing process. As standards are implemented, experience will dictate that some be revised, or even discarded altogether. Further research and evaluation will also contribute to growing knowledge about what can and should be done to control crime and improve the system of criminal justice.

Although LEAA provided financial support to both the Committee and the task forces, the recommendations and judgements expressed in the reports do not necessarily reflect those of LEAA. LEAA had no voting participation at either the task force or Committee level. And, as with the 1973 report of the previous Commission, it is LEAA's policy neither to endorse the standards nor to mandate their acceptance by State and local governments. It is LEAA policy, however, to encourage

each State and locality to evaluate its present status in light of these reports, and to develop standards that are appropriate for their communities.

On behalf of the Law Enforcement Assistance Administration, I want to thank the members of the National Advisory Committee and the task forces for their time and effort. Those members of the Committee who did "double-duty" as task force chairmen deserve special thanks.

I want to express LEAA's sincerest gratitude to the Chairman of the National Advisory Committee, Governor Byrne. Much of the success of this undertaking is directly attributable to his leadership, hard work, and unflagging good humor.

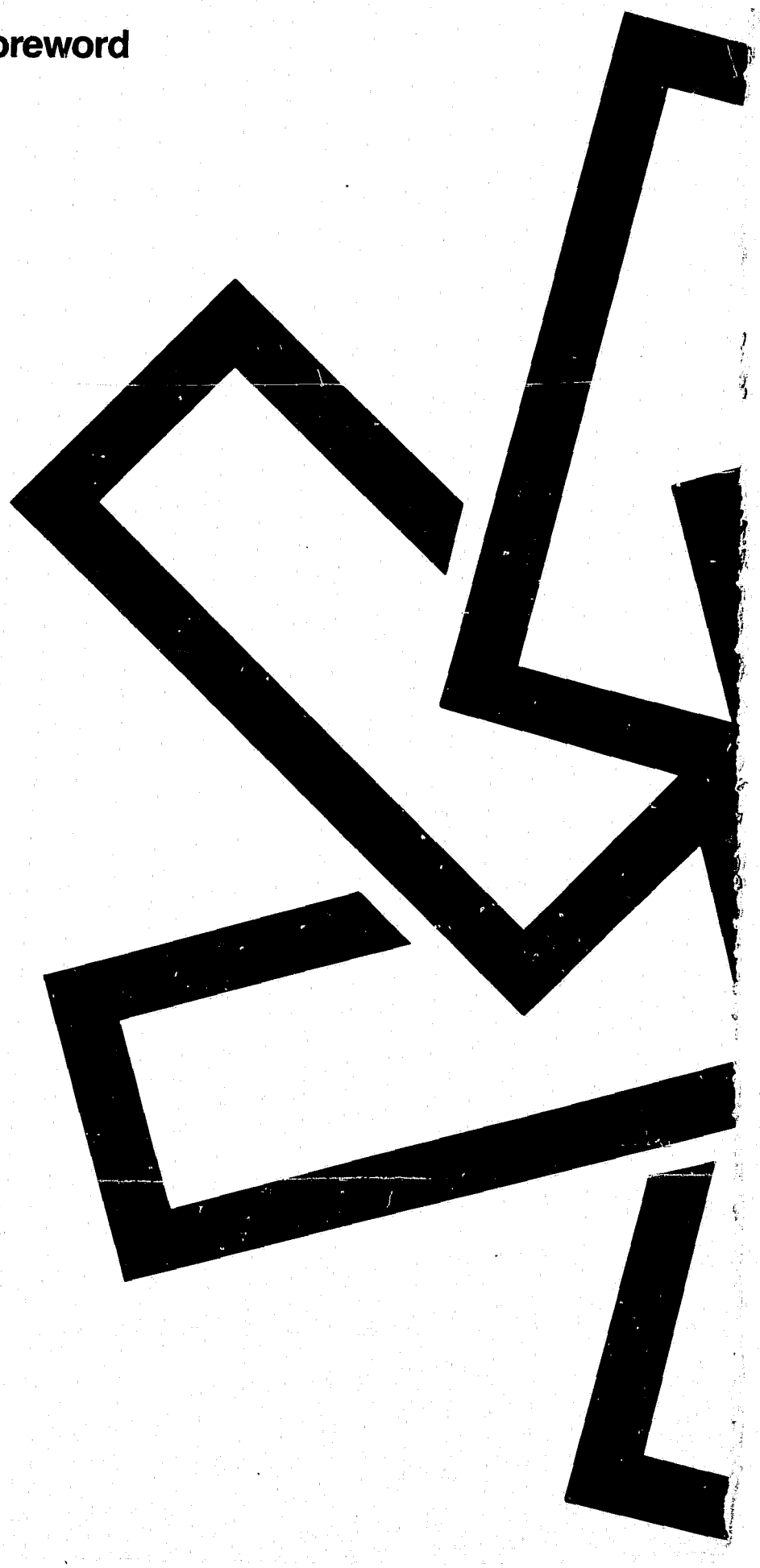
Finally, it is also appropriate to pay tribute to William T. Archey of LEAA for his outstanding and dedicated service to the Committee and for bringing this entire effort to such a successful conclusion.

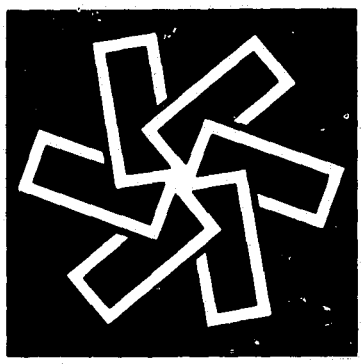
Richard W. Velde

RICHARD W. VELDE
Administrator
Law Enforcement Assistance Administration

Washington, D.C.
December 1976

Foreword





"Well, I used to be bad when I was a kid, but ever since then I have gone straight as I can prove by my record, thirty-three arrests and no convictions." (Damon Runyan, "Guys and Dolls.") *

Organized crime has changed a great deal since the days that produced such humorous but often accurate commentary. The degree of sophistication with which organized crime operates makes it a greater menance now than ever before. No geographical section of the United States has been free of organized crime, and no aspect of society has been untouched by it. One reads on a daily basis of corruption in government, bribery, kickbacks, and the like, and of infiltration of criminal elements into private business. The extent to which these kinds of illegal activities have made their way into our culture has been so great that at the Federal, State, and local levels there has been a tremendous commitment of resources in an effort to turn the tide and, if not eliminate, at least effectively control the problem.

On the basis of many months of concerted research and study, the Task Force on Organized Crime concluded that any massive effort to combat organized crime of necessity would involve not only those charged with specific responsibility in the area, such as police and law enforcement personnel, but also the citizenry at large—persons who have for so long been content to see the problem dealt with by others either because of outright complacency or, as so often was found to be the case, because of fear of the consequences that might flow from involvement.

An increased concern by the private citizen is an indispensable prerequisite, however, to the success of an organized crime control program. The Task Force recommends the establishment of citizen crime commissions to work in cooperation with official law enforcement agencies in the establishment of measures to root out organized crime and to assure effective prosecution of wrongdoers. In addition to such citizen crime commissions, the Task Force offers standards for involvement by virtually all the components of our society, including persons such as the homemaker, the consumer, the politician, and the business person. No one is beyond the reach of the illegal efforts of organized crime, and experience shows that organized crime cannot flourish in any area or in any phase of society where an aroused citizenry is impelled to take specific steps toward detection and prosecution.

---

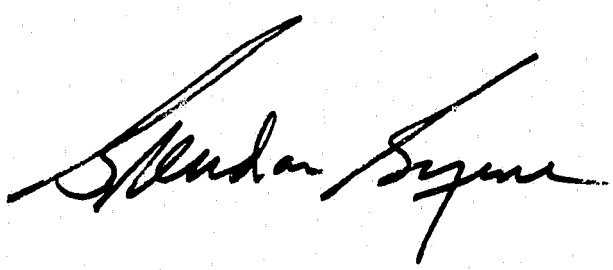
* Excerpt from musical play "Guys and Dolls"; Used by permission. © Copyright, 1951 by Jo Swerling, Abe Burrows and Frank Loesser. All Rights Reserved. International Copyright Secured.

The Task Force has offered, in the form of standards, many tools for dealing with organized crime. For example, provision is made for the creation in the States of independent investigating commissions with authority to conduct public hearings, to subpena witnesses and documents, to extend immunity to witnesses, and, ultimately, to make proposals to the executive and legislative branches of government. There are also recommendations that prosecutors' offices be removed from the political arena and that assistant prosecutors be full-time, career government employees. Other specific suggestions include the adoption of nonpartisan merit selection plans for the judicial branch of government, restrictions on political campaign financing, financial and professional disclosure requirements, and strict conflict of interest laws. In addition, there are standards for training, the review and modernization of penal codes, specialized sentencing standards and uniformity of those standards, intelligence gathering, and integrated programs of law enforcement among various sovereigns and at varying levels of government. These are but a few of the many proposals contained in this report.

In the discussion and formulation of standards dealing with the allocation of money and other resources to combat organized crime, invariably there were discussions of philosophical issues, including the matter of the decriminalization of certain offenses. Many persons involved over the years with law enforcement have come to the conclusion that some acts traditionally labeled "criminal" are no longer seriously regarded by the population as so heinous or socially repugnant as to require the vast expenditure of effort that has prevailed for so long. Intertwined with such discussion is the matter of the so-called victimless crimes, such as gambling, certain drug offenses, and prostitution, to name just a few. On the one hand, some contend that certain offenses should no longer be handled through the traditional criminal justice system. They urge that the criminal code should not be used to enforce moral standards of the community that affect only private persons. Counter arguments assert that organized crime would prosper and flourish if offenses, such as gambling, that are now criminal were legitimized by statute. It seems likely that this will be a matter that will receive continued scrutiny in the years to come.*

* There were divergent views among the members of the National Advisory Committee on the matter of decriminalization of certain offenses. However, the Committee was unanimous that decriminalization is an important subject. As a result, the Committee requested that a separate report on the subject be prepared. That report is included as an appendix to this volume. It summarizes the views, pro and con, and identifies much of the existing literature in this area.

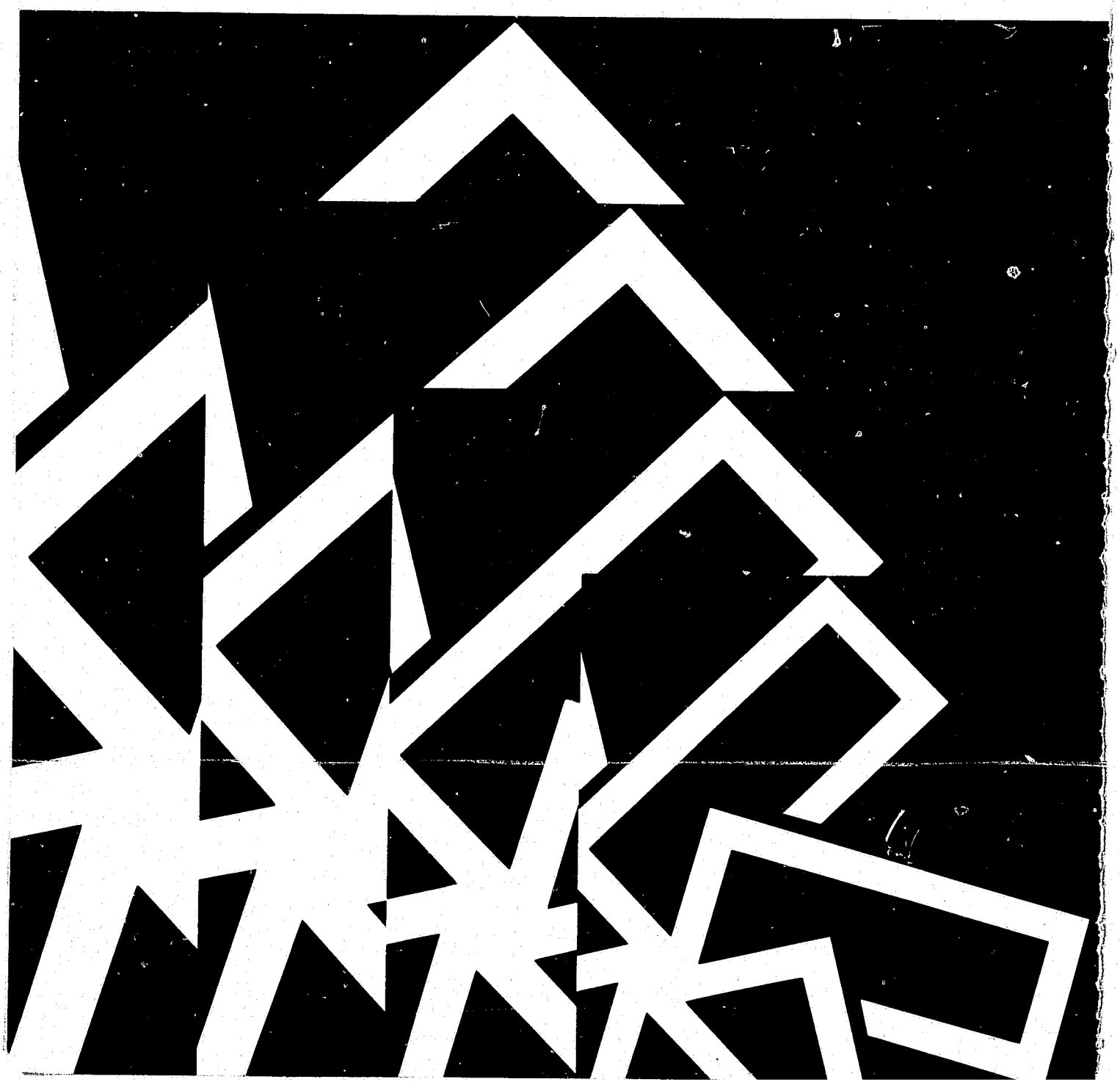
The standards produced by the Task Force on Organized Crime are the results of concentrated study by persons having vast experience in the criminal justice field. This report provides a modern blueprint for dealing with organized crime. The proposals are innovative and will no doubt be invaluable in the continuing and mounting offensive against organized illegal endeavors. A sincere debt of gratitude is owed to the members of the Task Force for this most worthy product.

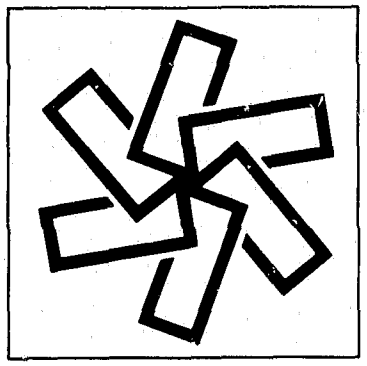


BRENDAN T. BYRNE
Chairman
National Advisory Committee
on Criminal Justice Standards and Goals

Trenton, N.J.
December 1976

Preface





Organized crime is a field that calls out for attention. It is one of the least understood and most neglected areas in criminal activity in America. Organized crime is a secret, conspiratorial activity that eludes and evades the legal apparatus of criminal law enforcement on the one hand and government regulation on the other. As a result, persons engaged in the business of organized crime operate in a kind of extralegal world that is insulated from prosecution and regulation alike.

For this, the entire Nation suffers. Although precise information is sadly lacking in this area, it can be stated with considerable assurance that organized crime results in losses in tax revenues at all levels of government. It results in takeovers of legitimate businesses by interests who have no regard for fairness in competition or for legality in the conduct of business. It results in intimidation of witnesses and the concealment of wrongdoing. Worst of all, it results in the corruption of the very public officials responsible for protecting citizens from criminal activity.

The idea of developing standards and goals on organized crime—for State and local governments and for communities as a whole—arose in 1971, but it was not then pursued. At that time, the Law Enforcement Assistance Administration (LEAA), part of the U.S. Department of Justice, established the National Advisory Commission on Criminal Justice Standards and Goals, which was charged with developing standards and goals for the criminal justice system as a whole. The Commission produced five reports entitled *Police, Courts, Corrections, Criminal Justice System,* and *Community Crime Prevention.* It also produced an overview report entitled *A National Strategy to Reduce Crime.*

Eight advisory task forces, including one on organized crime, recommended policy and reviewed material, but they were not provided with staff and did not produce reports as such.

Because of the success of the initial effort, LEAA in 1975 established as a successor to the Commission the National Advisory Committee on Criminal Justice Standards and Goals. LEAA activated the advisory task forces, thus creating the National Task Force on Organized Crime. The Task Force was provided with staff, which was located in Arlington, Va. LEAA grant funds supported staff effort and Task Force expenses. The Task Force was charged with assessing the problem of organized crime throughout the United States and recommending standards and goals that would help State and local criminal justice agencies and other elements of society to develop means to combat it.

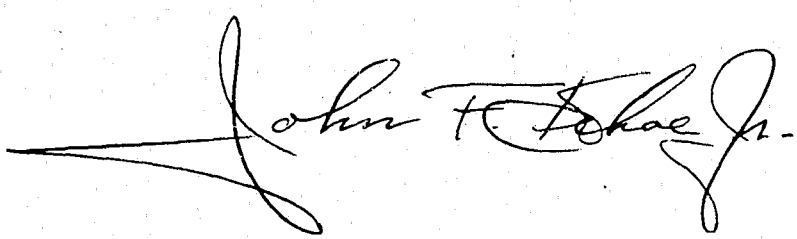
Members of the Task Force were appointed by the Administrator of LEAA. The members represented diverse criminal justice and community experience in various parts of the country.

The Task Force was aware that it was not the first group to study the problem of organized crime. It came quickly to share the view of students of this subject that the lack of information on organized crime

represents one of the more serious obstacles to public understanding of the phenomenon, to the enactment of effective legislation against it, and to the development of comprehensive public policy on the matter. This report therefore calls for further indepth study of organized crime, a call that I repeat here.

The Task force also was keenly aware of the difficulty of developing comprehensive standards in an area so new and untried. The thrust of this report, therefore, is toward a general framework for public and private effort against organized crime. The report leaves to the individual State, municipality, organization, business, or citizen many particulars of how to implement that framework.

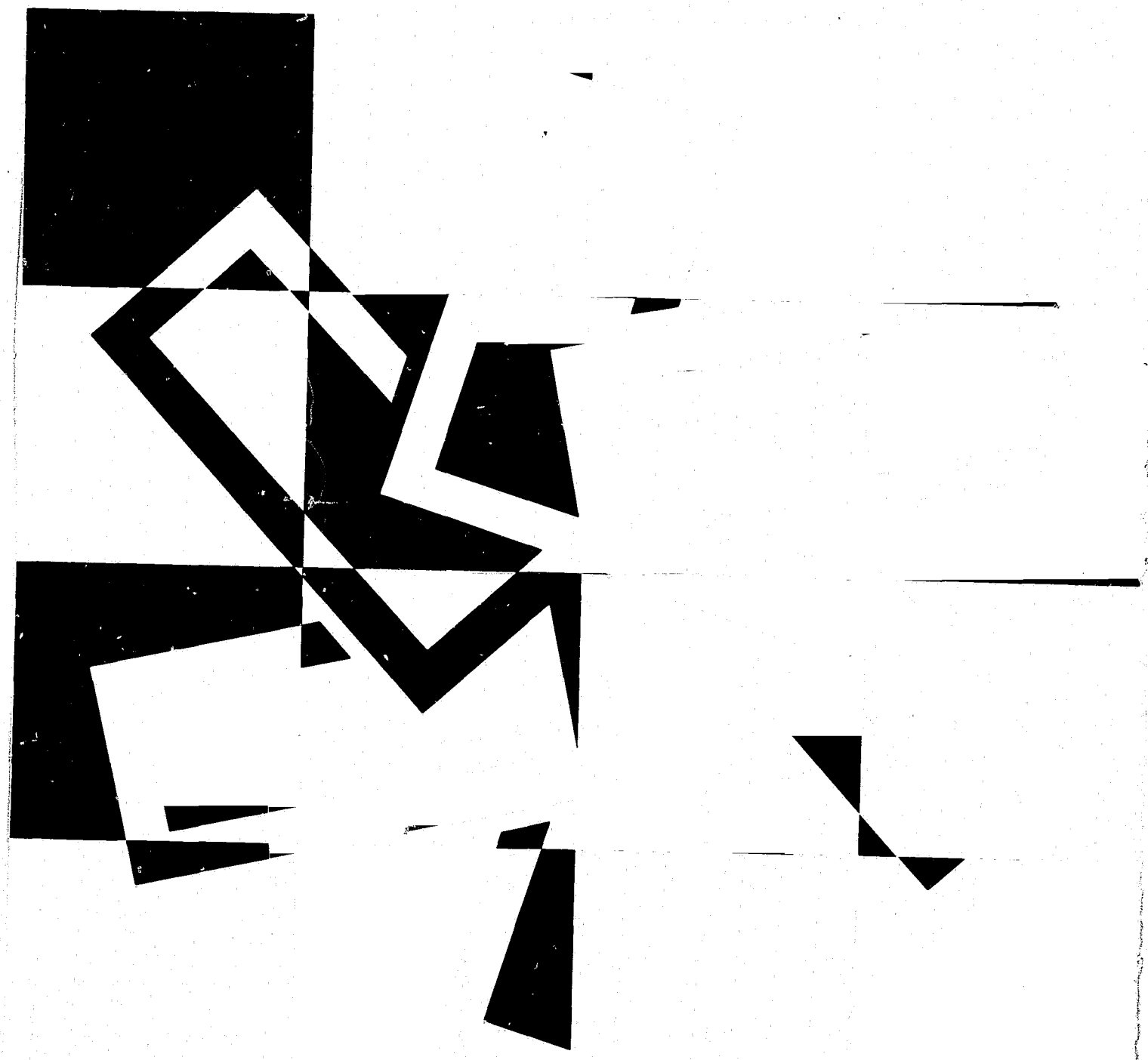
I wish to thank each member of the Task Force for giving generously of time and effort in the preparation of this report. I also thank John A. Herzig and Katryna Regan, staff directors, and other members of the staff, for their hard work and dedication.



JOHN F. KEHOE, JR.
Chairman
National Task Force on
Organized Crime

Washington, D.C.
July 21, 1976

Masthead



NATIONAL ADVISORY COMMITTEE ON CRIMINAL JUSTICE STANDARDS AND GOALS

Chairman

Brendan T. Byrne
Governor of New Jersey

Vice Chairman

Charles S. House
Chief Justice
Connecticut Supreme Court

Arthur J. Bilek
Vice President
Pinkerton's, Inc.

Allen F. Breed
Director, California Youth Authority

Doris A. Davis
Mayor of Compton, Calif.

Lee Johnson
Attorney General,
State of Oregon

John F. Kehoe, Jr.
Commissioner of Public Safety, Commonwealth of Massachusetts

Cal Ledbetter, Jr.
Member, House of Representatives,
State of Arkansas

Peter P. Lejins
Director, Institute of Criminal Justice and Criminology, University of Maryland

Richard C. Wertz
Executive Director,
Commission on Law Enforcement and the Administration of Justice, State of Maryland

Jerry V. Wilson
Institute for Advanced Studies in Justice
Washington College of Law
The American University

Pete Wilson
Mayor of San Diego, Calif.

Counsel to the Committee

Barry H. Evenchick

Executive Coordinator

William T. Archey

Staff Consultant

Lynn Dixon

Task Force On Organized Crime

Chairman

John F. Kehoe, Jr.
Commissioner of Public Safety
Commonwealth of Massachusetts

Rex P. Armistead
Director, Regional Organized Crime Information Center
Metairie, La.

Prof. G. Robert Blakey
Professor of Law
Cornell Law School

Garrett Byrne
District Attorney
Suffolk County, Mass.

Charles E. Casey
Assistant Director
Organized Crime and Criminal Intelligence Branch
California Department of Justice

Aaron M. Kohn
Managing Director
Metropolitan Crime Commission of New Orleans, Inc.

John J. Mullaney
Executive Director
New Jersey State Law Enforcement Planning Agency

Maurice Nadjari
Former Special Prosecutor of the State of New York

E. Wilson Purdy
Director of Public Safety
Dade County, Fla.

Victor G. Rosenblum
Professor and Program Director
Law and the Social Sciences
Northwestern University

Jonathan B. Rubinstein
Project Director
Policy Sciences Center
New York, N.Y.

Judge Robert W. Warren
U.S. District Judge
Eastern District of Wisconsin

Benjamin Louis Zelenko
Attorney-at-Law
Washington, D.C.

Task Force Staff

Staff Directors

J. A. Herzig
Katryna Regan

Research Directors

George W. Shirley
Matthew T. Abruzzo

Researcher

M. Agnes de la Garza

Administrative Clerical Support

Judy Dellas
Margie B. Garves
Norma Henwood
Jacqueline Johnson
J. Jeffrey Jones

Editorial Staff

Executive Editor

Joseph Foote

Associate Editors

Ann Bryan
Elvira J. Crocker
Ruth Macy
Roma K. McNickle
Carol Q. O'Neil
Judith M. Ross
David Sheridan
Deborah Willoughby

Special Assistant to the Executive Editor

Claude E. Owre

Editorial Support

Blue Pencil Group
Editorial Experts
Peter Smith Associates

Copy Editors

Patricia B. Fox
William Galle
Joyce E. Latham
Jean A. McRae
Martha Straley
Norma Jean Traylor
Stephen Winter

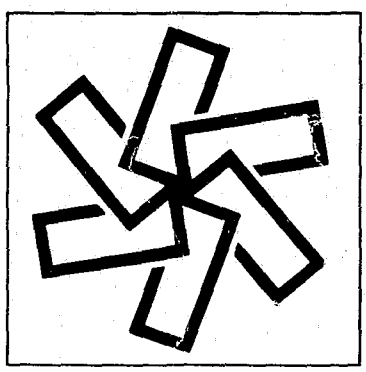
Assistants to the Editor

Pamela M. Larratt
Frank A. Mariano, Jr.

Design and Art Direction

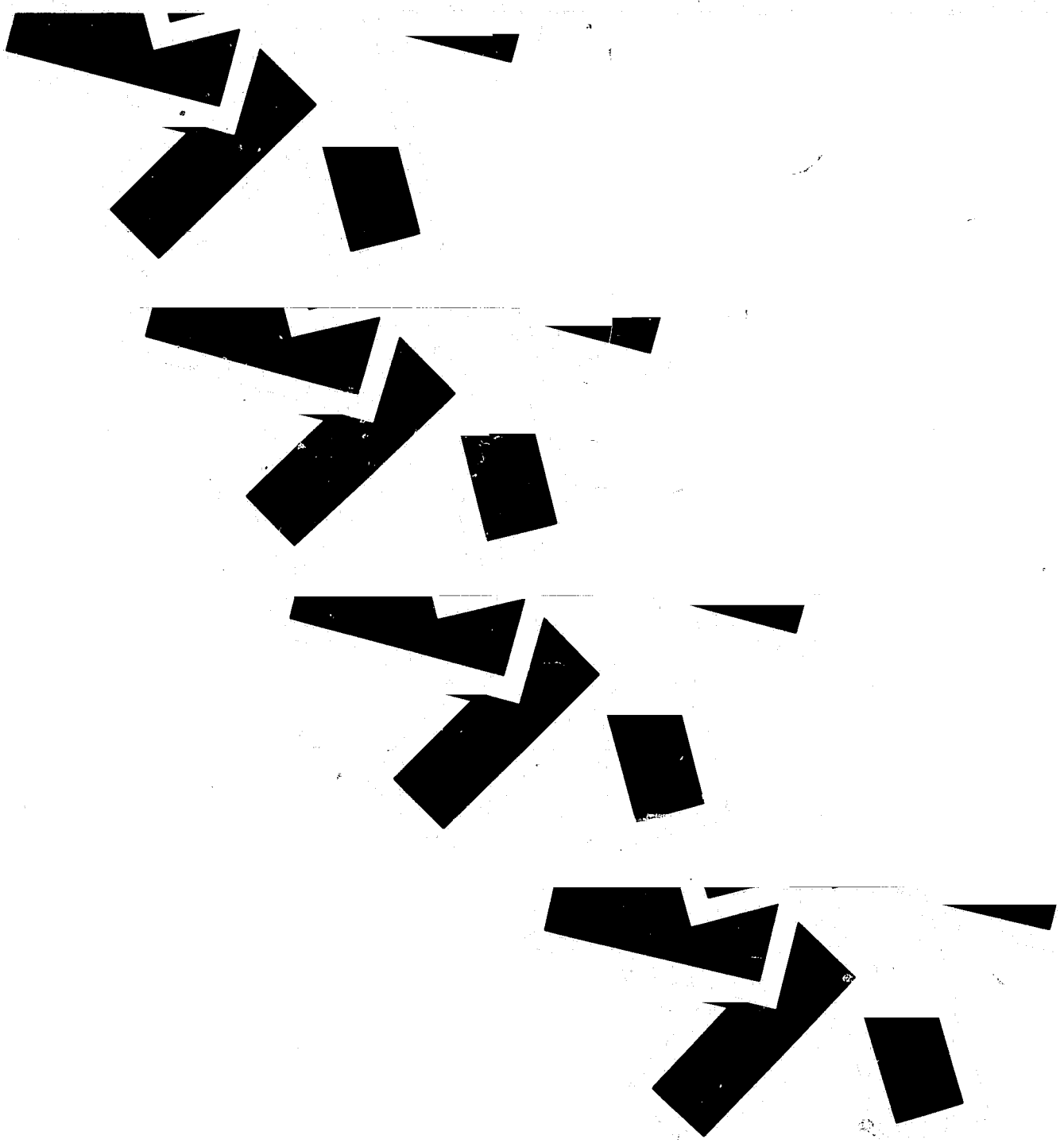
Morgan-Burchette Associates, Inc.

Table of Contents



This project was supported by Grant Number 75–TA–99–0014, awarded by the Law Enforcement Assistance Administration, U. S. Department of Justice, under the Omnibus Crime Control and Safe Streets Act of 1968, as amended. Points of view or opinions stated in this document are those of the Task Force on Organized Crime, and do not necessarily represent the official position of LEAA or the U. S. Department of Justice.

Part 1
Introduction



This report represents the most comprehensive effort to review the problem of organized crime from the perspective of State and local criminal justice authorities, and to recommend standards designed for adoption at the State and local levels, for the purpose of preventing and reducing organized crime in America.

The work of the National Task Force on Organized Crime was based on the conviction that responsibility for preventing and controlling organized crime rests not only with the criminal justice system, but also with public officials at all levels and the private sector of the Nation's communities—including business, industry, labor, the professions, the communications media, and individual citizens. The standards recommended in this report, therefore, were formulated to assist all sectors of the community, as well as the agencies of State and local governments, in designing and implementing programs to combat organized crime. As a unit, these standards constitute a comprehensive plan for the prevention and control of organized criminal activity in this country.

The Task Force Approach

This Task Force concentrated its efforts on three major tasks: (1) definition of the problem of organized crime for the purpose of devising standards; (2) examination of the extent of organized criminal activity in the United States today; and (3) drafting standards that recommended specific State and local actions directed at preventing and controlling organized crime.

Special attention is given to the findings and recommendations of previous studies on organized crime. Among these were the American Bar Association study, *Organized Crime and Law Enforcement* (1952), and the Task Force report on organized crime of the President's Commission on Law Enforcement and Administration of Justice (1967). The Task Force researched existing programs and criminal justice planning documents, as well as articles and reports on crime prevention and reduction programs. These and other documents, listed in the bibliography of this report, provided historical background, results of previous studies of the problem, and general recommendations. Part 2 of this report presents a brief history of organized criminal activity in the United States and a review of the Nation's efforts to control it.

Defining the Problem

Although organized crime has been considered a major problem for the American society for half a century, it remains one elusive in nature and difficult to define. Legal definitions of organized crime have been included in Federal and State laws, and working definitions adopted by government agencies, but such definitions are limited in scope, designed to fulfill specific purposes. The Task Force concluded that until the scope of organized criminal activity has been researched thoroughly on a nationwide basis, a comprehensive definition of organized crime cannot be formulated. For this reason, and because the standards in this report are addressed to many different groups—components of the criminal justice system, political units, business, and private citizens—the Task Force decided to propose a working description of organized crime. This description, based on the general characteristics of organized criminal activity, and a discussion of the problem of defining organized crime are presented in Part 2.

Assessing the Problem

The Task Force considered various approaches to the task of assessing the extent of organized crime in the United States. Attempts to obtain sufficient data to formulate a national perspective on the problem were limited by factors including lack of intergovernmental cooperation, restrictions on intelligence information, and the difficulties of using statistical information on organized crime figures classified on a case-by-case basis only.

The lack of data at the Federal level is a problem that has broader implications than those faced by this

Task Force. For example, the absence of data and an assessment of the problem at hand and the resulting inability to share relevant information makes it very difficult to achieve the intergovernmental cooperation needed to combat organized crime. Also, it impedes a systematic allocation of sufficient resources needed in this area.

The Task Force concluded that the most important research on which to base standards was an examination of the problem of organized crime at State and local levels. Because limitations of time and resources would not permit an exhaustive survey of organized crime activities in the 50 States, Task Force members and staff conducted meetings with State and local criminal justice officials representative of the broad spectrum of efforts to investigate and combat organized crime across the Nation. Participants in these meetings, held in 14 locations throughout the country, were asked to describe the major activities of organized criminal groups in their regions and the criminal justice system's efforts to control them.

The Task Force found unanimous agreement on the pervasive nature of organized crime activity and the major problems involved in combating this threat. Part 2 presents the results of the study, summarized in descriptions of the regional manifestations of organized crime. The comments of the participating officials provided valuable information on many problems associated with the control of organized crime.

Drafting Standards

Part 3 of this report presents standards to guide State and local governments, officials of the criminal justice system, and private citizens in the design and implementation of programs to combat organized criminal operations. Some standards are based on successful models operating in one or more States. Where no models exist, standards are based on concepts that the Task Force and the National Advisory Committee considered necessary for effective prevention and control of organized crime.

The standards are intended both to define the roles of the various segments of society with respect to organized crime control efforts and to provide a basic structure for programs directed to that end. The Task Force's knowledge of the variance among State's organized crime problems and their capability to deal with them is not complete. Therefore, although the recommendations of the Task Force often are couched in language addressing all States, they must in fact be read and applied in the context of specific State and local organized crime problems.

However, it must be stated that, in the view of the Task Force, organized crime problems exist in every State and metropolitan area of the Nation. Unless authority and procedures are created to search out and measure organized crime, it can, as it has in the past, escape detection.

Predicated on society's cooperative responsibility for control efforts, Chapters 1 through 4 examine the responsibilities of public officials at all levels of government; the executive and legislative branches of State governments; private citizens; and members of industry, business, and the professions.

Because investigations of organized crime have almost always uncovered concomitant official corruption, the Task Force presents an extensive analysis of this problem. Methods of prevention, discovery, and control of corruption in government are recommended in the standards.

State executive and legislative branches are urged to assume strong leadership in efforts to control organized crime. The responsibilities of these branches of State government with respect to organized crime control include review of State criminal codes, major responsibility for law enforcement activities, and provision of adequate direction and appropriation of State resources. The Task Force recommends that State legislatures treat the issues of victimless crimes, privacy, and freedom of information legislation with thoroughness and sensitivity.

The role of the private citizen is crucial to any effective organized crime control program. This role demands much: that citizens organize commissions to aid law enforcement efforts, that they take the risks of reporting organized crime activity and corruption, and that they demand integrity and effective action from public officials. The Task Force, also recognizing the great power of the communications media, recommends that they pursue vigorous investigations of organized criminal activities.

The involvement of business, industry, labor, and the professions in organized crime control is important for two reasons: because these groups are the victims of devastating organized criminal activity and because members of these groups often aid the organized criminal operations through willful cooperation or unwitting neglect. The Task Force recommends that these groups undertake appropriate action for the purpose of eliminating the influence of organized crime in their sphere of activity.

In drafting these standards, the Task Force considered activities traditionally associated with organized crime, such as gambling, loansharking, drugs, and prostitution. The increasing presence of organized crime in business fraud schemes and in infiltration of legitimate business and labor groups was also examined. The Task Force addressed issues such as corruption of the political process at all levels of government, and the impact of organized crime on the economy.

The appropriate participation of State regulatory and administrative agencies is a matter of great consequence to the overall effectiveness of organized crime control programs. Because such agencies regulate most of the transactions of the Nation's business community, they are in a unique position to uncover, penalize, and in some cases prevent the illegal activities of organized criminal groups. The Task Force urges State administrative and regulatory agencies to participate in organized crime control programs to the fullest extent of their statutory authority. Proposals in this area are contained in Chapter 4.

The Task Force examined the need for intelligence, investigative, and prosecutorial capabilities in comprehensive organized crime control programs. The standards in Chapters 5 through 8 recommend specific policies, law enforcement mechanisms, prosecutorial tools, and legal procedures for adoption by the criminal justice system. Because offenders associated with organized criminal activities present special problems for the criminal justice system, the Task Force urges that State legislatures, courts, and correctional authorities give careful consideration to the standards in this report dealing with sentencing procedures, length of terms, correctional handling, and probation and parole policies for these offenders.

The Task Force maintains that training and education programs in the field of organized crime are necessary preliminaries to development of effective State programs in response to the problem. The standards in Chapter 9 recommend that appropriate training programs in organized crime control be instituted for all levels of the criminal justice system. General education programs for the private sector are also recommended.

Major Problems and Recommendations for Sustained National Efforts

The Task Force recognizes three major problems that inhibit effective efforts to prevent and control organized crime. These problems are of such a general, persistent, and pervasive nature that proposed solutions cannot be recommended as discrete standards. For these reasons, the Task Force has formulated corresponding recommendations for sustained national efforts.

Lack of Research Methodology and Systematic Documentation

No reliable research methodology for the study of organized crime—a phenomenon secret in nature and sophisticated in operation—has ever been developed. No national-level group has ever been appointed and empowered to undertake a systematic documentation of the extent of organized crime in the United States, on a State-by-State and region-by-region basis. The Nation's attempts to control and arrest this menace have been hampered by both inadequacies. Lack of a reliable methodology has inhibited research efforts designed to obtain information on the nature of organized criminal groups and their operations. The paucity of data, in turn, has prevented criminal justice officials from mounting effective response campaigns.

The Task Force recommends that a thorough investigation of organized criminal activity in the United States be commissioned, as a federally directed effort or as an intergovernmental program. Before such a study can be undertaken, a workable research methodology must be developed; in conjunction with such a work, a comprehensive definition of organized crime should be formulated.

Restrictions on Law Enforcement Investigation and Control Efforts

Efforts of the criminal justice system to investigate organized crime and prosecute members of criminal organizations are hampered by several factors: the inadequacy or absence of State laws designed to deal with this type of criminal activity, a lack of sufficient financial resources to sustain necessary operational and intelligence efforts, and legal restrictions on investigative and prosecutorial procedures.

Lack of personnel and fiscal resources has been a recurring problem for organized crime prevention and control efforts and for the entire criminal justice system. This problem is found at the Federal, State, and local level and the solution to it is essential if the spread of organized crime is to be contained. The total or partial adoption of the standards proposed here will be of little consequence without an adequate commitment of resources. Federal, State, and local governments must be alerted to their financial obligations in this area and must determine how they best can be met, unilaterally and as a coordinated effort.

The Task Force urges State and local governments to provide adequate legal, financial, and personnel support for the investigation and prosecution of participants in organized crime's activities, as part of the statewide organized crime control programs.

Lack of Intergovernmental Cooperation

As discussed in the body of this report, joint Federal, State, and local operations and interstate intelligence units offer the greatest potential for enhancing local capabilities in organized crime control. Unfortunately, general reluctance or refusal to share intelligence information and a persistent lack of intergovernmental cooperation in law enforcement

investigations pose serious obstacles to the establishment of integrated organized crime control efforts.

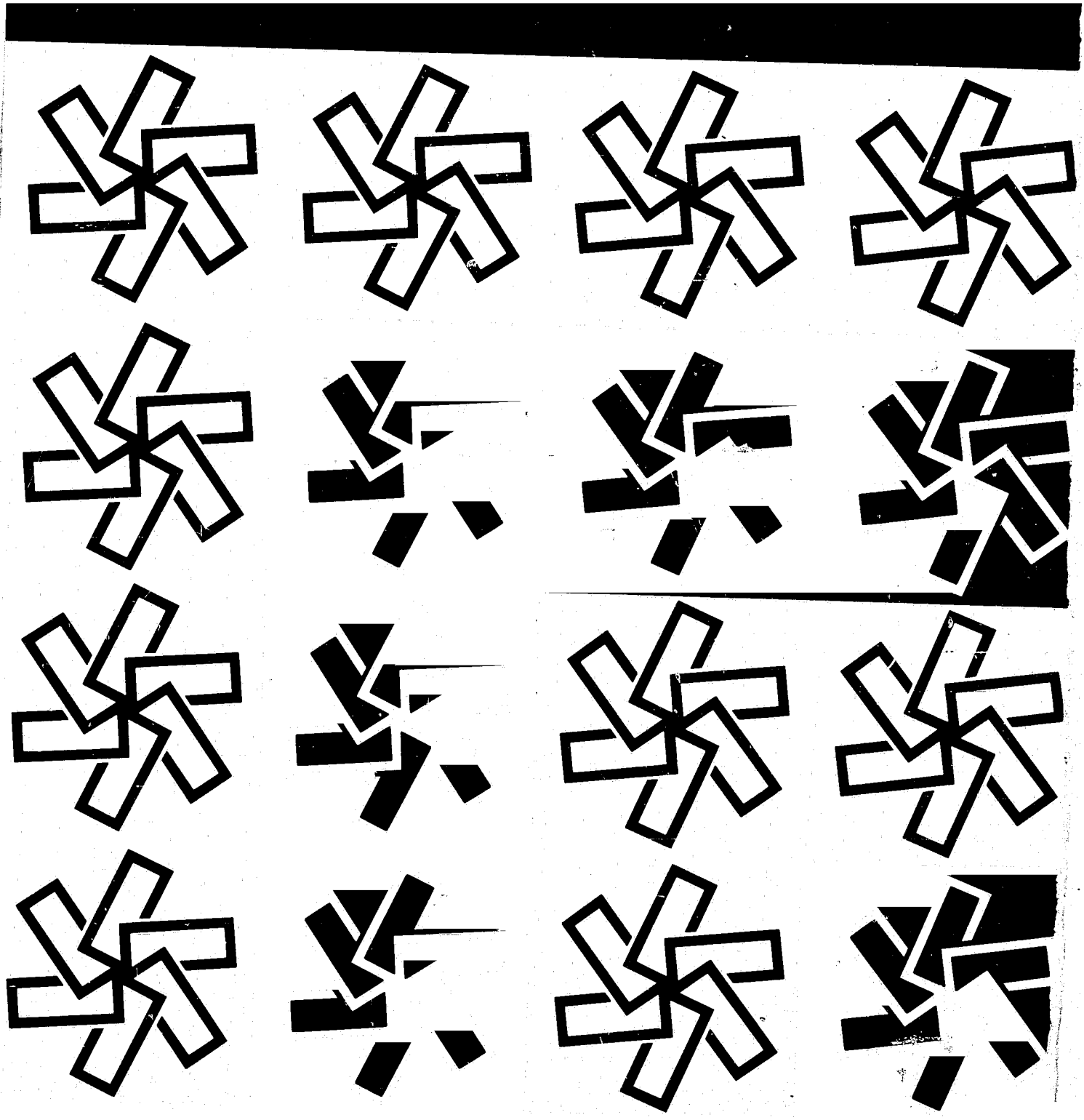
The Task Force recommends that Federal, State, and local law enforcement agencies establish formal mechanisms for the sharing of intelligence information and that they maintain effective liaison at all levels of the criminal justice system for the purpose of preventing and controlling organized crime.

Lack of Private Sector Understanding

Control and prevention of organized crime are not the responsibility of the law enforcement community alone. The public also must be involved. An uninformed public cannot be expected to become involved in or actively seek support for anti-organized crime activities.

The Task Force urges that the public be informed of the nature and extent of organized crime activity in their areas and made aware of how it can assist in prevention and control of organized crime.

It is hoped that the standards recommended in this report will help all elements of the society to define their responsibilities for efforts to control organized crime and to initiate effective programs to combat this national menace. Although State resources are limited by fiscal and political constraints, organized crime control must become a major priority within those limitations. The Task Force has not attempted to establish detailed priorities for allocating resources. Just as the extent and manifestations of organized criminal activity vary from State to State, so will effective responses to it. Ultimately, the capability to develop an organized crime control program will depend upon a dedicated public and private commitment to solving this problem and sustained intergovernmental cooperation.



DEFINITION OF ORGANIZED CRIME

Organized crime is a difficult phenomenon to define. To date, attempts to define organized crime have resulted in a variety of statements. Most recently, the Department of Justice as well as the Federal Bureau of Investigation, and the Law Enforcement Assistance Administration have adopted a comprehensive definition for use in their programs. (See Appendix 1.) Although the Federal Organized Crime Control Act of 1970 [1] does not specifically define the phenomenon, the Federal Safe Streets Act of 1968 [2] does, as do many State laws. The latter range from Delaware's 11-word definition to the California law, which discusses in detail five categories of organized crime activity.

In nonlegal terms, organized crime has been called everything from nonexistent to a vast conspiracy. As one observer of the organized crime scene has noted, "For most purposes the term 'organized crime' has no precise legal configuration, although some specific attributes of syndicated criminal operations can be accurately defined." [3] An indepth national study of the nature and extent of organized crime would help in clearing the way for a solution to this problem.

The purpose for which a definition of organized crime is needed should determine its construction. Obviously, the degree of specificity required will differ according to the needs of the users, be they legislators, law enforcement officials, prosecutors, other criminal justice personnel, citizen groups, planners, or local or State officials.

For purposes of this report, no single definition is believed inclusive enough to meet the needs of the many different individuals and groups throughout the country that may use it as a means to develop an organized crime control effort. Therefore, instead of adopting a specific definition, the Task Force proposes the following description of organized crime, which attempts to (1) explain something of the nature of organized criminal activity, and (2) dispel some of the myths and eliminate some of the stereotypes surrounding organized crime by indicating what it is not.

[1] P.L. 91–452, October 15, 1970.
[2] 42 U.S.C. 3701.
[3] *Organized Crime Control Legislation*, National Association of Attorneys General, January 1975, p. 3.

CHARACTERISTICS OF ORGANIZED CRIME

1. Organized crime is a type of conspiratorial crime, sometimes involving the hierarchical coordination of a number of persons in the planning and execution of illegal acts, or in the pursuit of a legitimate objective by unlawful means. Organized crime involves continuous commitment by key members, although some individuals with specialized skills may participate only briefly in the ongoing conspiracies.

The President's Commission on Law Enforcement and Administration of Justice remarked that the actions of organized criminals "are not impulsive but rather the result of intricate conspiracies." [4] Because prohibitions against conspiracy are the only tools available under existing law to prosecute organized crime participants who have not been implicated in a specific crime, the approach to the crime of conspiracy adopted by the Model Penal Code—increasing the penalty for conspiracy where it is continuing in nature and contemplates numerous as yet unspecified crimes—is valuable in the fight against organized crime. In terms of "hierarchical coordination," organized crime members may be part of a set structure where each participant's role is well defined. This kind of hierarchy, with all the components of a stratified, formal organization, is especially true of La Cosa Nostra (LCN), which is responsible for many, but by no means all, of the activities characteristic of organized crime.[5]

2. Organized crime has economic gain as its primary goal, though some of the participants in the conspiracy may have achievement of power or status as their objective.

Economic gain is achieved through supplying illegal goods and services, including drugs, loansharking, and gambling. As many organized crime studies

[4] *Task Force Report: Organized Crime*, p. 1.
[5] *Task Force Report: Organized Crime*, p. 14.

point out, achieving a monopoly or near-monopoly in providing these goods and services guarantees high profits, and is thus a primary goal.[6] These illegally acquired funds are frequently used to infiltrate legitimate businesses.

3. Organized crime is not limited to patently illegal enterprises or unlawful services such as gambling, prostitution, drugs, loansharking, or racketeering. It also includes such sophisticated activities as laundering of illegal money through a legitimate business, land fraud, and computer manipulation.

Organized crime often seeks to secure partial or complete control over many kinds of profitable, legal endeavors. Organized crime attempts to infiltrate wherever there is a potential for profit.

4. Organized crime employs predatory tactics such as intimidation, violence, and corruption, and it appeals to greed to accomplish its objectives and preserve its gains.

These tactics may be sophisticated and subtle, or crude, overt, and direct. They are used to secure economic gain through a monopoly in illegal goods and services, as well as to infiltrate legitimate enterprises and to corrupt public officials. As part of this strategy, the application of blackmail, violence, or threats is particularly effective, after victims are led to believe that the relationship could be handled at purely an economic level in an "honor among thieves" atmosphere. As one study points out, "When organized crime embarks on a venture in legitimate business it ordinarily brings to that venture all the techniques of violence and intimidation which are employed in its illegal enterprises." [7]

5. By experience, custom, and practice, organized crime's conspiratorial groups are usually very quick and effective in controlling and disciplining their members, associates, and victims. Therefore, organized crime participants are unlikely to disassociate themselves from the conspiracies and are in the main incorrigible.

The President's Commission on Law Enforcement and Administration of Justice remarked that organized crime members are "subject to laws more rigidly enforced than those of legitimate governments." [8] The individuals involved know that deviation from the terms under which they operate will evoke a prompt response from the other participants. This response may range from a reduction in rank to a death sentence.[9]

6. Organized crime is not synonymous with the Mafia or La Cosa Nostra, the most experienced, diversified, and possibly best disciplined of the conspiratorial groups.

The Mafia image is a common stereotype of organized crime members. Although a number of families of La Cosa Nostra are an important component of organized crime operations,[10] they do not enjoy a monopoly on underworld activities. Today, a variety of groups is engaged in organized criminal activity.

7. Organized crime does not include terrorists dedicated to political change, although organized criminals and terrorists have some characteristics in common, including types of crimes committed and strict organizational structures.

Although violent acts are a key tactic of organized crime, the use of violence does not in itself mean that a group is part of a confederacy of organized criminals. Organized crime groups tend to be politically conservative, desirous of maintaining the status quo in which they succeed, contrary to terrorist groups dedicated to radical political change through violent acts.

TASK FORCE STUDY: REGIONAL MANIFESTATIONS OF ORGANIZED CRIME

Systematic documentation of organized crime activities in the United States is not available on a Federal, State, or local level. This is true partly because the phenomenon of organized crime has not been defined and because there is no concurrence on exactly which crimes should be categorized as constituting elements of organized crime. It is true also because of the difficulty of formulating a durable research methodology for the study of a nationwide activity that is secret, conspiratorial, and dedicated to obstructing society's efforts to learn about its members or its operations.

The Task Force explored several avenues of research and found that it was unable to obtain sufficient data to formulate a Federal perspective on organized crime. The Task Force found that the only promising avenue lay in the direction of State and local conditions. Therefore, it scheduled a series of regional meetings with State and local officials engaged in a broad spectrum of efforts to combat orga-

[6] See especially *Deskbook on Organized Crime.*

[7] "Organized Crime: Challenge to the American Legal System," Earl Johnson, Jr., *Journal of Criminal Law, Criminology, and Police Science,* Dec. 1962; Vol. 53, No. 4, p. 406.

[8] *Task Force Report: Organized Crime,* p. 1.

[9] *Task Force Report: Organized Crime,* Appendix A, "The Functions and Structure of Criminal Syndicates," Donald R. Cressey, pp. 40–50.

[10] *Task Force Report: Organized Crime,* p. 6.

nized crime—from those concerned with the traditional Mafia groups to those concerned with the newer entrants into the field.

State and local law enforcement officials are sometimes reluctant to detail the level of organized criminal activity in their respective areas. In some instances, they are reluctant to do this because they had no reliable measurement tools. In other cases, because law enforcement officials have had to set priorities for organized crime control activities, and they believe that any assessment of the level of organized crime will provide detailed information primarily about the priority areas, they point out that the lack of information on other organized crime activities does not necessarily mean that they do not exist, but only that they have not been investigated thoroughly enough to determine how significant a problem they pose. In addition, most available statistical reports are primarily case-oriented, and therefore provide only a limited overview of organized criminal activity.

Task Force staff and members conducted regional meetings with State and local law enforcement officials in 14 States throughout the country.[11] Participants were asked to address several primary issues: illegal organized crime activities and their legitimate fronts; organized crime's structure; corruption; the relationship of organized crime to street crime; involvement of the public in organized crime control; sources of information about organized crime activity; and organized crime control efforts.

Information about organized crime in particular States provided the basis for the regional descriptions that follow. The State of Nevada (specifically Washoe County) is discussed in detail because it is the only State with legalized gambling in full operation. These regional descriptions of organized crime are based solely on the assessment of the problem presented by the participating officials.

The descriptions below of organized crime in each region of the country do not fill the void that exists in the documentation of the problem nationally. They do, however, provide a general picture of the various types of organized crime activity facing State and local law enforcement officials.

Law enforcement officials report that intelligence information—particularly information provided by other law enforcement officers and by informants—is the primary source of information about organized crime. Other useful sources of information include regulatory agency records, Federal Strike Forces, and citizen complaints, notably complaints from citizen's crime commissions. In certain areas, law enforcement officials report the existence of an aggressive news media that focuses on organized criminal activity. However, some law enforcement officials believe that investigative reporters may have some knowledge and understanding of the local situation, but are not familiar with the statewide or regional scope of organized crime and its national and international implications. Cooperation between law enforcement officials and the media is limited because there are constraints on the kinds of information that law enforcement officials can share with the media.

The Task Force found general agreement among law enforcement officials about the pervasive nature of organized criminal activity and the major problems involved in combating it. Law enforcement officials cite both the lack of resources and the problem of official corruption as serious obstacles to organized crime control. There is some dispute, however, about the magnitude of the problem. This again underscores the basic problem that law enforcement and other public officials encounter in dealing with organized crime: inadequate assessment of the extent of organized crime activity in a given area. Without this assessment, it is difficult to determine what priority should be assigned to organized crime control and what level of resources should be committed to this effort. An additional serious obstacle to discovery is official corruption with the resulting collusion between underworld figures and people in public positions of trust.

There seems to be no question that organized crime is extracting a high price from society; the question is how high the economic, social, and political costs are. Some law enforcement officers specifically point to the amount of public resources needed to cope with the street crimes that they believe are connected to organized crime operations, as an indication of the cost of organized crime. An example of the link between street crime and organized crime is a credit card conspiracy case that operated in six States and involved as principal figures several persons known to be active in organized crime operations. The overall organization consisted of approximately 35 people, who obtained the credit cards through burglaries, contacts with thieving prostitutes, thefts by mail carriers, and armed robberies. There were also many cooperating merchants who knowingly allowed items to be charged with cards that they knew had been stolen. Initial investigation into this case began after an armed robbery resulted in $8,000 being charged to a victim's credit card account. The net loss to one metropolitan area from this conspiracy was ultimately estimated at more than a million dollars over an 18-month period.[12]

[11] Federal Strike Force representatives attended meetings in two States, and representatives from the Drug Enforcement Administration, Department of Justice; Federal Bureau of Investigation, Department of Justice; the Internal Revenue Service, Department of the Treasury; and the Alcohol, Tobacco, and Firearms Division, Department of the Treasury.

[12] Information provided by Dade County, Fla., Department of Public Safety.

Law enforcement officials find that the public response to organized crime is generally limited to reacting to crisis situations. They believe that public support for organized crime control efforts will be forthcoming when the public understands the impact organized crime has on their daily lives. In a community where the relationship between organized crime operations and other offenses can be documented, this documentation can be used to inform the public about how organized crime affects them directly.

Law enforcement officers stress that organized crime is not limited to La Cosa Nostra or Italian-surnamed individuals, although they say that in some areas where La Cosa Nostra does function, it creates a more complex problem than do other criminal organizations. Law enforcement officials question whether La Cosa Nostra now wants to maintain control over the crimes in which it has traditionally been involved, such as gambling, prostitution, and drugs, when it can realize equal or greater profits for less effort in more sophisticated crimes that involve the infiltration of legitimate businesses. Thus, some officials believe that in some places La Cosa Nostra is allowing those traditional crimes to pass into other hands, although it may be financing, supplying, or extending protection to some of these independent operators and nonmember associates.

Other population groups are inheriting traditional organized crime activities. Elements of the Hispanic community are emerging in such activities as drugs and gambling. Some blacks are active in those two crimes, are in control of illegal lottery operations, and are active in prostitution. There is evidence that their operations are expanding outside predominantly black neighborhoods.

Although some Mafia figures are investing in pornography, blacks, Spanish-speaking people, and other groups are now becoming more involved in the production of pornographic films. Finally, the participation of illegal aliens in smuggling operations has been noted.

Emerging minority groups often are said to lack both leadership and contacts among public officials. Thus many are forced to pay off the street police officers and gradually work their way up to those public and criminal justice officials who are more powerful. However, this pattern is changing now as small splinter groups become stronger and begin to dominate certain organized criminal activities. Furthermore, organized crime recruitment methods are changing. Although the male-dominated Mafia generally looked to ethnic and blood relations as a source of new members, emerging minority groups are recruiting from cell mates in prison and from street gangs; their membership now includes a number of women. The issue of ethnic succession is one that needs immediate study in order to understand the implications for future organized crime prevention and control work.

Organized Crime in the Northeast

In the Northeast, organized crime exists in both urban and rural areas. Organized criminals in this region, many of whom are associated with traditional Mafia operations, maintain relationships with their counterparts in other States and in other countries.

Organized crime income in this region is presently invested in a variety of businesses, including liquor establishments, nightclubs, health spas, travel agencies, massage parlors, motels, real estate agencies, nursing homes, and pornographic book stores. Law enforcement officials do not have sufficient information at this time to clearly indicate that labor unions are dominated by organized crime in the Northeast, but this area is under investigation. In short, there are no "safe" enterprises, for organized crime may choose to infiltrate and take over wherever there is a potential profit.

Tactics adopted by organized crime in the Northeast include homicide, arson, and intimidation. Law enforcement officials in one State note that organized crime-related homicides are much more prevalent now than they seemed to be in the past. They estimate that the odds against solving an underworld homicide in the Northeast are about 600 to 1. Furthermore, a major city reports not only contract murders, but also at least one commercial arson in connection with an organized crime every 30 days. Almost every witness connected with an organized crime prosecution in that city is subject to intimidation.

Gambling has long been a traditional arena for organized crime, and in one area law enforcement officials fear that there may be attempts by organized crime elements to take over any gambling operations that may be legalized in the future. As for other activities, the drug business (notably cocaine trafficking) is growing; pornography also is showing astronomical distribution profits. Loansharking is found to be tied into several other activities, including gambling, and arson and fraud are tied into insurance irregularities. There are also large, organized hijacking rings, armed robbery groups, and increasing vehicle losses, including heavy equipment. Untaxed cigarettes are another major problem. Credit card and stock frauds, sale of stolen and counterfeit securities, and the manufacture and distribution of counterfeit money are among prevalent white collar crimes.

There apparently is a link between organized crime and street crime where drug operations, fencing, gambling, and certain burglaries are concerned.

Drug addicts pose a major problem in terms of burglaries. Some law enforcement people believe that most established crime figures began their careers in street crime operations. They also point to ties between organized crime and thefts of credit cards, airline tickets, securities, and money. They believe that channels controlled by organized crime are used both to launder stolen money and to distribute stolen credit cards.

The relationship between corruption and street crime also is important, with elements creating a subculture in which certain people believe they are above the law. In some communities their impact is so strong that they in fact become the law, while maintaining a well insulated position and buying official protection.

In one area, State police became active in fighting organized crime in the late 1960's. At that time, much of the State was affected by organized crime control of certain political figures and the police. State police made raids and did the job the cities were not doing. Now politicians can no longer give guarantees of protection to organized crime figures. As a result, it is estimated that the level of corruption in the State has been cut in half.

Organized Crime in the Southeast

Organized crime is an extensive, successful, and growing enterprise in the Southeastern United States. Law enforcement officials report that organized crime operations are rapidly expanding to include sophisticated white collar crimes.[13] Examples include illegal financial investments and infiltration of legitimate business, but traditional organized criminal activities—such as prostitution, gambling, loansharking, and drug trafficking—are prospering.

In addition to the large number of Mafia families and associates operating in this region, during the past 10 years there has been a significant growth in the number of traveling criminals there. These criminals, often referred to as the Dixie Mafia, cover approximately 17 States and have centralized operations in certain major metropolitan areas. Law enforcement officials have detailed records on approximately 750 traveling criminals, who work together in theft and fencing operations, drug trafficking, white collar crime operations, and gambling rings.

One State bureau of investigation finds that about 60 percent of its work involves these traveling criminals; a major metropolitan area in that State has found that 80 percent of its crime problems results from the activities of one or more of these traveling groups. As many as 10 to 12 gangs operate in one State at any given time, each under its own leader. Although the traveling gangs in both rural and urban areas generally rely on similar criminal activities as their principal sources of income, the rural gangs are not as well organized as the gangs in the metropolitan areas. Both rural and urban groups use similar tactics to maintain control of their operations. These include contract murder; arson—particularly in connection with pornography operations; and bribery and intimidation of witnesses, informants, and coconspirators.

---

[13] In August of 1973, the original developers of a major oceanfront, highrise apartment hotel sold their property for $18,400,000. At that time, the building's prior income did not support that price, and immediately following the sale, the property began operating at a loss. The sellers accepted the deal because they received in cash all money in excess of the first mortgage of $12,250,000.

The buyer obtained the cash needed for purchase by securing a large second mortgage from a real estate trust, a procedure known as a leverage operation. The buyer anticipated that through rental increases he could increase the building's income enough to justify the excessive price he had paid. After taking title to the building, he proceeded to add numerous secondary mortgages, and took in other leverage operators as partners.

In November of 1974, the property was sold again, this time for $24,000,000. In December, the State of Florida filed a large tax warrant against the building. Shortly afterwards, a foreclosure was filed by the second mortgage holder, and a receiver was appointed to take over the property.

The first buyer operated the highrise for just 30 days. His cash investment in the property was $2.64 for a long distance phone call. His profits for the 30 days: $500,000.

Here is how the new buyer took title without cash. The full purchase price was mortgaged as follows:

1st	Mortgage:	$12,250,000
2nd	Mortgage:	7,500,000
3rd	Mortgage:	800,000
4th	Mortgage:	850,000
5th	Mortgage:	850,000
6th	Mortgage:	1,000,000
7th	Mortgage:	150,000

The balance of the price was in credits and unrecorded mortgages. The credits came about because the new buyer agreed to pay some of the previous owner's outstanding debts.

The manner in which the new buyer made $500,000 or more is as follows:

1. An escrow account with $550,000 in prepaid rents and $300,000 in security deposits was completely depleted when the receiver took over.
2. The building had an accumulation of $160,000 in unpaid trade accounts.
3. A $68,750 interest payment on the second mortgage was not made, and a $98,612 first mortgage payment was also omitted.
4. A utility company was not paid $54,000.
5. The new buyer collected a full month's rent from 272 apartments.

Depositions revealed that the new buyer bought the highrise only 2 days after having been shown the property. The operation was clearly a "bust-out" or planned foreclosure, of a type which generally escapes prosecution because of the insufficient experience of local officials and the lack of clear-cut legislation on this type of crime.

Source: Florida Department of Criminal Law Enforcement.

Legitimate fronts used by the traveling groups include restaurants, nightclubs, and bars. Other types of underworld organizations use all varieties of business firms. They use:

- Hotels and racetracks as fronts for gambling;
- Freight companies and airlines as fronts for smuggling drugs, weapons, jewelry, cigarettes, and alcohol;
- Massage parlors as fronts for prostitution; and
- Theaters, book stores, and film companies as fronts for pornography.

Legitimate businesses in the region are not only infiltrated or manipulated, but also are taken over by organized crime. For example, the liquor industry is a primary arena for organized crime operations—one often ignored in crime reports and one that benefits from weaknesses in law enforcement. Alcoholic beverage outlets are the underworld's retail market for all its goods and activities, and tax fraud is a frequent occurrence in connection with liquor operations.

Another vulnerable area is the vending machine industry—whether the machines are operated for services, entertainment, or other purposes. Because they involve large cash flows, these machines are a growing operational area for organized crime. This development is occurring all over the South, notably in certain large cities.

Law enforcement officials report that one southern city seems to be the center for financial fraud for the entire Nation. There, organized crime figures are believed to have influence over the banking industry, grand juries, and some members of the legal profession. High-level official corruption is a significant factor in these white collar crimes; it may encompass payment in stocks and bonds in the names of corrupt officials' children, or favorable zoning laws for illegal operations.

Organized crime influence in labor unions is apparent in this region. The shop stewards of corrupt unions have considerable control over both management and the workers. In some plants, workers are expected to wager a percentage of their pay in underworld gambling operations. The management is reluctant to allow enforcement of antigambling laws because such enforcement could result in strikes. In communities where there is one major plant employing many area residents, the effect of organized crime infiltration into the union is especially evident. In such communities, the union may control everything from the political structure of the community down to the clubs, the bars, and the machines in them. Extortion and agreements between management and underworld labor leaders to pay union members low wages are also a problem in the Southeast.

Gambling in the region takes many forms, including sports bookmaking in horseracing, football, baseball, and basketball; dice games; coin-operated machines; ontrack betting; bingo; and lotteries. Conservative estimates indicate that there are 50 major gambling rings in one State alone, with one gambling figure running an operation which reportedly nets $4.5 million annually. One State Racing Commission estimated that of the approximately $200,000,000 that passed through the State's parimutuel systems in a year, the ratio of illegal to legal gambling was 4 to 1.

Law enforcement officials believe that area organized crime figures have smuggling ties in the entire Eastern half of the United States. A Canadian crime family is involved in weapons smuggling in the region. Also, heavy equipment fencing rings are linked to foreign organized crime operations.

Drug traffic is substantial in the Southeast. Law enforcement officials know that organized crime figures import and distribute drugs directly to a number of independent operators. In one State, the volume of hard narcotics has clearly increased in the past 5 years—there are more pushers, peddlers, wholesalers, and users in evidence now.

About half of the cocaine and marihuana seized in the United States in 1975 came from a city in this region. As an example of how profitable such activity is, it costs about $20,000 to bring 3 tons of marihuana from Colombia; a week and a half after the drug is in the United States, the value of those 3 tons increases to $1.4 million.

One State reports that there are more people engaged in prostitution now than there were 5 years ago, although prostitution activities are less open at present. Prostitution is frequently linked to drug use and pornography: The youthful performers in pornographic films are often paid in drugs for their services, then drawn into prostitution. Books, movies, and peep machines are the most common pornography enterprises; peep machines are the most lucrative.

There are signs that organized crime figures from the Northeast and West are involved in pornography in this region, and that it is an extremely profitable and expansive operation. They also point out that legitimate movie companies are now making X-rated movies, and there is some concern about organized crime involvement in this endeavor.

Areas of alleged corruption include licensing and zoning, savings and loan charter requirements, tax assessment and collection, public contracts, and State governments. In terms of police corruption, it can be either the officers on the street or administrative officials, though it may be stronger at the latter level. A specific area of police corruption in one State involves "accident deals" or kickbacks made between police and auto repair shops that often are fronts for

fencing operators (sometimes involving doctors and lawyers, too) following an automobile accident.

Law enforcement people say that one of the greatest advantages for organized crime is the myth that only the police are needed to combat it. In reality, law enforcement agencies are often ill-equipped and lack the resources and personnel needed to deal with this problem, which the whole society must address.

In one urban area where there has been minimal public involvement against organized crime, law enforcement officials believe that nonresponse is a result of their having told the public that there are few, if any, traditional Mafia operations in the area. Thus citizens assume that they face no significant organized crime threat from any other group either.

Another factor is the complacent public and political view toward dealing with criminals, which has resulted in penalties that are inadequate and of no deterrence to the actual criminal organization. Law enforcers believe that if this trend continues and there is no resolution to the rehabilitation versus punishment conflict, the crime wave brought on by the traveling criminal groups mentioned earlier will intensify. Also, if the outcry against intelligence operations and police operations in general continues, all crimes may increase, including those for which the organized criminals are responsible.

Organized Crime in the Midwest

The structure of organized crime varies in this region. In one State, for example, organized crime can be traced back to the 1920's, with Mafia operations appearing in the 1930's. Since then there have been five ruling organized crime figures. Recent deaths have resulted in retirees being called back into service. In another State, there is one Mafia family in residence, and those in the district attorney's office and U.S. Attorney's office are engaged primarily in prosecuting the members and associates of this family. Within the region, organized crime responsibilities may be divided by expertise or along geographic lines.

Underworld activities in the Midwest include the sale of stolen and fraudulent certificates, loansharking, burglary, fencing, auto theft, pornography, infiltration of legitimate businesses, labor racketeering, and sports-related gambling. In one State, illegal gambling is increasing despite a legal lottery. Law enforcement officials in this State estimate that underworld profits in sports betting and numbers range from $500-$700 million a year.

In running its operations in the Midwest, organized crime figures employ such tactics as murder; arson; and the intimidation of witnesses, juries, informants, and coconspirators. As traditional organized crime groups become more sophisticated, however, they tend to discard such tactics for more sophisticated techniques, such as extortion.

The public and private response to the activities of organized criminals varies in the Midwest. Cities and States that in the past made no active efforts to control underworld activities are now trying to develop a complete picture of the extent of such activity. In one area, State prosecutors were chiefly concerned with corruption cases in the early 1970's; now they are primarily working on economic or white collar crimes involving banking, security fraud, and antitrust cases.

This State's Department of Justice and the regulatory agencies also have an organized crime control program. Program officials are involved in joint efforts with a local district attorney's office. Their current investigations are primarily operations concerned with antitrust violations, bank fraud, drug traffic, vice, some extortion, and security fraud. One of the principal goals of the organized crime control programs in this State is to increase the monetary penalties for antitrust violations to allow for treble damages.

Finally, an independent citizens' crime commission is active in this region. Thus, there is some involvement by the public in organized crime control. But the citizens in this region, like the citizens in other regions, do not focus on the need to fight organized crime because they do not know the magnitude of the losses inflicted by underworld operations.

Organized Crime in the West

Although organized criminal activity in the West seems to be centered in metropolitan areas, there is evidence of it throughout the region. In one State, it may take the form of a variety of alliances resembling a loose-knit confederation. One unusual phenomenon that law enforcement officials notice in the West is the frequent association and the apparent compatibility among organized crime figures. This contrasts with the feuding that is often seen in the East. Law enforcement officials do not believe that operations in this region are divided by territory.

Organized crime figures from the East continue to migrate to the West. One possible explanation offered for this is that law enforcement pressures on the underworld in the East have caused some of these people to seek new territory. The West may also be attractive to organized crime figures because some of the regulatory agencies in this region have difficulty in enforcing many of their regulations, primarily because of a lack of personnel. Law enforcement officials believe, however, that the integration of intelligence activities and the sharing of intelligence information among various law enforcement agencies

has prevented organized criminals from getting a stranglehold on this region.

The tactics used by organized criminal elements to maintain control over their activities include the standard tactics used in other regions: periodic contract murders; arson; extortion; and bribery and intimidation of witnesses, coconspirators, business people, and informants. Informants are frequently murdered. One relatively unusual tactic employed in the West is to link business burglaries with bankruptcies: Just before a company fails, there is a burglary at the main office and all records are stolen.

Some of the fronts for organized crime operations in this region include lending institutions, real estate companies, bars, hotels, specialty food stores, automobile dealerships, dancing establishments, and pornography enterprises. The pornography enterprises frequently entail connections between West and East coast organized crime figures, because the distribution involved in this national operation requires a network of contacts throughout the country.

The major manifestations of organized crime in the West are:

- Fraud, particularly land and security fraud. This activity frequently requires specialization among underworld figures.
- The misuse of pension funds. These funds are frequently used to buy into a legitimate business.
- Fencing operations. Underworld ties in fencing operations extend outside the continental United States.
- Loansharking. Few complaints about this activity are ever filed with the police.
- Gambling activities, including sports betting and cockfights. In some areas, bookmaking is increasing.
- Drug importation and distribution. This activity is a significant source of revenue for the underworld. There are many independents operating in the areas bordering Mexico.
- Pornography and massage parlors. Law enforcement efforts and conservative community standards have served to keep these activities out of many areas.
- Prostitution. This is frequently a mobile operation. When law enforcement officers pressure prostitutes, they often move into another jurisdiction.
- Corruption. There have only been isolated cases of corruption reported in the West. Most of the reported cases have been in small cities and towns, where one group of people has maintained political control over a long period of time.

In the opinion of many law enforcement officials, organized crime and white collar crime cannot survive without the aid of public officials and agencies. Many regulatory agencies, for example, protect the interests of the industries they regulate rather than the interests of the public.

The amount of public involvement in organized crime control activities, or even interest in law enforcement steps to control the problem, is minimal in certain parts of the West. When there is a spectacular crime, or one affecting a large number of people, the public tends to become active, demanding results from the law enforcement community and offering to help. In time, however, public interest fades. Still, law enforcement officials believe that the public is not really apathetic, but simply does not realize the severity of the financial drain from organized criminal activity and the ramifications of corruption associated with it.

Many citizens have a false sense of security; organized crime problems are not expected to decrease in the near future. Illegal businesses and crime figures have money to retain the best attorneys available, so they are less and less likely to be subject to severe, if any, criminal penalties.

Nevada

This State is particularly noteworthy in terms of organized crime activities and operations. The following discussion presents some general information about the State, then details organized crime in Washoe County (Reno) in particular.

In 1931, a bill legalizing gambling was signed into law by the Governor of Nevada. In 1946, the first major hotel-casino in the State was opened just outside Las Vegas by an underworld figure. In 1955, legislative efforts were initiated to eliminate underworld participation in gambling operations and to regulate the licensing and operation of gaming.[14] The Nevada State Gaming Commission and State Gaming Control Board are responsible for overseeing all facets of gaming operations in the State. The commission is responsible for granting or denying licenses; the board is responsible for all day-to-day administrative, clerical, and tax assessment functions, as well as for enforcement and investigative work. There seem to be very few instances of attempts to influence the licensing process, because the number of people involved in the licensing process makes it unlikely that any such attempt would succeed. Also, extensive background investigations are conducted on all employees of the gaming commission and board, and employment standards are high.

One area of organized crime involvement in the gaming industry—large-scale stealing in the rooms where the money is counted is no longer a problem

[14] Gaming Nevada Style; State Gaming Control Board Securities Division, Economic Research; Carson City, Nev., July 1975.

in the larger corporate-run casinos. In large corporate-held casinos, the owners and associates no longer gather there to collect their profits—the count rooms are under constant video and audio surveillance by top management and security people, personnel are regularly rotated and all transactions are closely audited. It appears that current skimming must be done through paper transactions (e.g., in collection of credit extended by the casinos) rather than where the money is actually handled.

In the casinos, fraudulent disbursement of chips, fraudulent table records, and collection of casino credit markers are the biggest problems involving the underworld, as are any operations that involve the cooperation of a dealer, "floor man," or "pit man" with outside criminal associates. And such potential criminal associates are encouraged to patronize the casinos.

In at least some areas, junket representatives for casinos are convicted illegal gamblers, connected with syndicate operations, and some of the people brought into Nevada on the junkets also are convicted felons.

As Reno and the surrounding county grow, however, law enforcement officials see evidence of outside organized criminal elements coming into the gaming industry. But the major activities for organized crime figures at present are political corruption and the infiltration of law enforcement agencies and legitimate businesses. Political corruption is designed to negate the laws, thereby allowing special interests or cartels to gain a stranglehold on the community in order at least to manipulate some aspects of community life and politics.

Business infiltration in and around Reno seems to be focused on major hotels, convention centers, and gambling casinos. Land prices in the area are very high. Money to develop a new gaming or hotel enterprise is difficult to obtain. Organized crime money, which is available, can appear attractive to the business person who has no other lending source. There is some indication that certain labor unions are also involved in loaning money to developers in the greater Reno area, sometimes through an organized crime figure.

In order to maintain their position of power and control, organized crime figures provide women and money to those they wish to corrupt. To a smaller extent, extortion and blackmail are used, as are intimidation and bribery of informants and witnesses.

In the future, law enforcement officials expect far more financial infiltration into casinos, hotels, and other recreation areas in the State. As money becomes more easily available and gaming expands as a major industry in Reno and surrounding counties, law enforcement officials anticipate an increase in their problems with organized crime. They also believe that legitimate banks may become a prime target for underworld infiltration for the purpose of gaining funds for organized crime. Federal investigations now pending may make it impossible for established organized crime funding sources to continue to lend money. Law enforcement officials in Nevada believe that they will continue to see very little loansharking, bookmaking, or other traditional organized crime activities. Instead, the problems described above, corruption of public officials and infiltration or takeover of legitimate enterprises, especially the carnival industry, will be primary.

NATIONAL EFFORTS TO CONTROL ORGANIZED CRIME

Evidence that the criminals of the Prohibition era had organized their operations along businesslike lines was first reported to the Nation while the modern underworld syndicates were in their infancy. The National Commission on Law Observance and Enforcement, which became known as the Wickersham Commission, after its chairman, George W. Wickersham, detailed its findings in a 1931 report. The lawlessness of the Prohibition years had prompted a concerned President Hoover to establish the Commission, which was the first national body appointed to study crime throughout the United States and the first to recognize the potential menace of organized crime.

Fortunes amassed from the sale of illicit liquor in the 1920's were used to convert the gangs that operated around the turn of the century into criminal groups vastly improved in organization and efficiency. This was done by a group of younger men who took over from the older crime leaders after a bloody underworld war in 1930 and 1931.[15]

The Wickersham Commission, alarmed at the businesslike approach to crime, urged in its report: "The carrying out of our recommendation for immediate, comprehensive, and scientific nationwide inquiry into organized crime should make possible the development of an intelligent plan for its control." [16] The recommendation was not followed. In fact, little official attention at the national level was paid to the problem of organized crime for the next 20 years. With the country's energies consumed by the Great Depression in the 1930's and by World War II in the 1940's, there were no successful efforts to approach the problem of the crime cartels on the "comprehensive and scientific nationwide" basis that the Wickersham Commission recommended.

[15] Ralph Salerno and John S. Tompkins. *The Crime Confederation,* (Garden City, New York: Doubleday & Co., Inc., 1969), pp. 278–280.

[16] Donald R. Cressey, *Theft of the Nation* (New York: Harper and Row, 1969), p. 162.

The conviction of several crime leaders, including Chicago boss Al Capone and New York racketeer Lucky Luciano, in the 1930's made sensational headlines and perhaps lulled some law enforcement officials and private citizens into believing organized crime had been badly hurt by the loss of top-level leaders.

In truth, the crime syndicates had grown and prospered during those decades.[17] A national conference on organized crime was convened in 1950 by the U.S. Attorney General after several national associations of local government and law enforcement leaders voiced concern about the increasing problems their communities faced in combating the activities of crime syndicates, particularly in gambling operations.[18] Tennessee Senator Estes Kefauver launched the organized crime hearing of his Senate Special Committee a few months later. Little legislation or improvement in law enforcement resulted.[19] However, the revelations of the Kefauver committee sparked organized crime studies in several areas around the Nation, notably the States of New York and New Jersey and the cities of Chicago and New Orleans.[20]

Two vastly different events served to rivet public attention on organized crime again in 1957. A Senate Select Committee on Improper Activities in the Labor or Management Field, under the direction of Senator John L. McClellan of Arkansas, began an investigation that disclosed extensive criminal penetration of labor unions and businesses. Later in the year, an alert New York State Police sergeant uncovered information that led to the discovery of the infamous Apalachin meeting of more than 70 criminal syndicate leaders from throughout the Nation. A number of Federal, State, and local probes were launched into the affairs of the participants at the Apalachin gathering and several of the crime bosses arrested there were questioned by the McClellan committee in 1958.[21]

In 1963, nationwide television once again broadcast sensational revelations about the activities of the crime cartels, this time from Joseph Valachi. A lifelong member of organized crime who had turned government informer, Valachi testified before the Senate Permanent Subcommittee on Investigations, chaired by Senator McClellan. For several days before the cameras, Valachi described the organization, operations, and membership of a nationwide criminal confederation which he called "Cosa Nostra." [22] Members of the criminal justice system have credited Valachi with adding substantially to the body of knowledge about organized crime. The information obtained from Valachi and other underworld informants, "is important not only because it can help us know what to watch for, but because of the assistance it can provide in developing and prosecuting specific cases," according to the late Robert F. Kennedy.[23]

An investigation of the wide-ranging operations of the crime cartels was completed in 1967 by the President's Commission on Law Enforcement and Administration of Justice. The Commission's Task Force on Organized Crime made a total of 22 recommendations dealing with proof of criminal violations, investigation and prosecution units, crime investigating commissions, and noncriminal controls.[24] The Omnibus Crime Control and Safe Streets Act of 1968 and the Organized Crime Control Act of 1970 incorporated all eight of the task force recommendations on proof of criminal violations. Many of the recommendations dealing with investigation and prosecution units were put into effect by the appropriate agencies of the criminal justice system. The National Conference on Organized Crime held in October 1975 issued a report which reviewed and updated action taken on all of the recommendations of the task force.[25] (See Chapters 6 and 9.)

Most of the investigative efforts by State governments have come within the last quarter century. One of the first studies was done by the Moreland Commission in New York, during the early 1950's. The Commission's crime hearings were prompted by Kefauver Committee findings of organized crime infiltration in the Port of New York.[26] Nearly half the States have established organized crime prevention councils and several others have created State crime commissions or legislative study committees.[27] The records of State commissions in New York and Illinois, established in 1958 and 1963, respectively, prompted a recommendation by the Task Force on Organized Crime of the 1967 President's Commission that all States with organized crime

[17] See *The Crime Confederation*, pp. 284–288, for a discussion of organized crime's booming business in gambling, drugs, and blackmarketeering during World War II.

[18] The President's Commission on Law Enforcement and Administration of Justice, *Task Force Report: Organized Crime*, 1967, p. 10, footnote 100.

[19] *Task Force Report: Organized Crime*, p. 11; Patrick J. Malone, The Problems of Categorizing and Controlling Organized Crime, *Albany Law Review*, V. 36, Winter 1972, p. 336.

[20] *The Crime Confederation*, pp. 289–290.

[21] Ibid., pp. 295–303.

[22] *Task Force Report:Organized Crime*, p. 11.

[23] Ibid., p. 33.

[24] Ibid., p. vii.

[25] United States Department of Justice, Law Enforcement Assistance Administration, *Report of the National Conference on Organized Crime*, 1975.

[26] *The Crime Confederation*, p. 289.

[27] National Association of Attorneys General, Committee on the Office of Attorney General, *Organized Crime Control Legislation*, January 1975, p. 5.

problems create investigation commissions.[28] (See Chapter 1.)

The recommendations for improvement of organized crime control at the State and local level are the product of study by this task force, and in many cases concur with those of the earlier commissions established to examine the menace of the organized underworld.

LAWS DESIGNED TO CONTROL ORGANIZED CRIME

The majority of laws designed specifically to combat and control organized crime have been passed within the last decade, both on the Federal and State levels. Although investigative commissions and law enforcement officials have studied the problem of organized crime for nearly 50 years, there had been few attempts, until the past 2 decades, to develop legislation aimed directly or exclusively at organized crime. As a result, points out the Committee on the Office of Attorney General of the National Association of Attorneys General, there is often not enough case law to evaluate the constitutionality of organized crime control legislation or enough practical experience to evaluate its effectiveness.[29] The recent Federal laws already have undergone, and usually have withstood, some constitutional tests in the courts.[30] Much of the State legislation is even more recent than the Federal acts and there has not been enough time for conclusive court tests.

The chief Federal laws aimed at organized crime are the Hobbs Anti-Racketeering Acts of 1946, the Omnibus Crime Control and Safe Streets Act of 1968, which established grants to be used for improvement of State and local law enforcement and clarified the law on electronic surveillance, and the Organized Crime Control Act of 1970, which strengthened the law in several important areas dealing with proof of criminal violations and extended Federal jurisdiction over illegal gambling.

The Law Enforcement Assistance Administration EAA), established within the Department of Justice by the 1968 act, was directed to administer grants to States that had LEAA-approved plans for "the organization, education and training of special law enforcement units to combat organized crime, including the establishment and development of State organized crime prevention councils, the recruiting and training of special investigative and prosecuting personnel and the development of systems for collection, sorting, and disseminating information relating to the control of organized crime." [31] A study of 96 LEAA-funded projects showed that they resulted in a $1.5 billion capital loss to organized crime and the assignment of 1,293 personnel to various areas of organized crime law enforcement across the Nation.[32] (See Chapter 8.)

Electronic surveillance is seen by the great majority of law enforcement officials as an indispensable tool in the investigation and prosecution of organized criminals. Confusion that resulted from conflicts between Federal and State legislation and practices led the President's Commission to observe: "The present status of the law with respect to wiretapping and bugging is intolerable. It serves the interests neither of privacy nor of law enforcement. One way or the other the present controversy with respect to electronic surveillance must be resolved." [33] Title III of the Omnibus Crime Control and Safe Streets Act of 1968 was designed to provide a solution that protected individuals' constitutional rights of privacy while preserving a valuable investigatory tool for law enforcement officials. The title provided for electronic eavesdropping under a carefully detailed warrant procedure and strict court supervision. The warrant procedure includes requirements for justification and reporting of results that go beyond the rules for a traditional search warrant. Sections 2516 and 2518 of the title specify that electronic surveillance may be used only in States that have passed authorizing legislation. By late 1975, 23 States and the District of Columbia had this authorizing legislation.[34]

Another portion of the 1968 act allows U.S. attorneys to appeal pretrial orders for suppression of evidence if the evidence is an important element in the proof of the charge against the defendant.[35]

The purpose of the Organized Crime Control Act of 1970 is "to seek the eradication of organized crime in the United States by strengthening the legal tools in the evidence-gathering process, by establishing new penal prohibitions, and by providing enhanced sanctions and new remedies to deal with unlawful

[28] *Report of the National Conference on Organized Crime*, p. 14.

[29] *Organized Crime Control Legislation*, p. 2.

[30] See *Report of the National Conference on Organized Crime* for discussions of court tests of several sections of Federal legislation.

[31] *Report of the National Conference on Organized Crime*, p. 9.

[32] For a fuller discussion of the 96 projects surveyed, see the *Report of the National Conference on Organized Crime*, 1975, pp. 9–11.

[33] *Task Force Report: Organized Crime*, p. 18. The report describes conflicts between Federal and State laws in New York that discouraged cooperation between State and Federal law enforcement officials. Inadequate legislative standards also led to invasion of citizens' privacy.

[34] National Commission for the Review of Federal and State Laws Relating to Wiretapping and Electronic Surveillance, *Commission Studies*, (Washington: 1976), p. 6.

[35] Omnibus Crime Control and Safe Streets Act of 1968, 82 Stat. 197–239.

activities of those engaged in organized crime." Sections of the act:

- Provide for the establishment of special grand juries in localities where there are major organized crime operations. These grand juries have expanded power to control the duration of their terms and the right to appeal any arbitrary termination. They also may issue reports recommending removal of any public officer or employee for noncriminal misconduct involving organized criminal activity and reports concerning organized crime conditions generally in their districts.
- Establish a general Federal immunity statute under which witnesses can be ordered by a court to testify in return for immunity from prosecution and can be jailed for up to 18 months if they refuse to do so. Witnesses are given "use immunity" rather than the "transactional immunity" provided for in legislation that the 1970 act supersedes. "Use immunity" forbids the use of information derived from witnesses while they are under court order to testify but does not protect them from prosecution for those acts about which they testified if evidence is developed entirely independently.
- Provide protection for witnesses in organized crime cases and for members of their families. Federal officials are authorized to provide secure housing and otherwise assure the safety of witnesses.
- Provide for perjury prosecution when a witness knowingly makes a false statement under oath or makes two sworn statements that are completely contradictory. The law eliminates previous requirements of two witnesses and direct evidence for proof of perjury.
- Provide for the taking and use of pretrial depositions "whenever due to exceptional circumstances it is in the interest of justice."
- Expand Federal jurisdiction over illegal gambling operation because it "involves widespread use of, and has an effect upon, interstate commerce. . . ."
- Prohibit persons who engage in a "pattern of racketeering activity" from using their illegal profits for the purpose of penetrating and taking over legitimate businesses and unions.
- Provide for extended sentences for persons convicted of participation in continuing illegal businesses or who are habitual criminals, chief participants in conspiracies, or repeat offenders.[36]

Among the earliest Federal laws expressly formulated to bring organized criminals to justice are the so-called Travel Acts. One made it a Federal crime to travel in interstate or foreign commerce in connection with illegal business operations involving gambling, liquor, narcotics, prostitution, extortion, or bribery that violated State or U.S. laws. Two others prohibited interstate transportation of wagering paraphernalia and transmission of wagering information. The acts were passed September 13, 1961.[37]

Historically, law enforcement officials have employed a wide variety of laws in their fight against syndicated crime. From the Prohibition era until the passage of the Travel Acts, the criminal justice system relied greatly on tax statutes as a means of prosecuting organized crime figures. One of the first and most famous cases is that of Chicago gangster Al Capone. Government efforts to jail Capone failed until the Internal Revenue Service (IRS) succeeded in proving charges of income tax evasion against him in 1931.[38]

Even though Congress has provided more legislative weapons, officials still find tax laws useful. For example, more than 60 percent of the organized crime convictions recorded between 1961 and July 1965 resulted from IRS tax investigations.[39]

Conspiracy laws have been invoked, particularly against the leaders of organized crime who seldom actively participate in the perpetration of the illegal operations that they plan.

The Gambling Devices Act of 1962 and the extortionate credit provisions of the Consumer Credit Protection Act of 1968 are most violated by agents of organized crime. The Comprehensive Drug Abuse Prevention and Control Act of 1970 legislated mandatory minimum sentences for professional criminals. This section of the act can be invoked against organized crime figures who market illicit drugs. Title II of the law establishes a minimum sentence of 10 years in prison and maximum fine of $100,000; the sentence for a second conviction is 20 years with a maximum fine of $200,000.[40] Federal statutes covering securities and mail fraud, antitrust violations, liquor stamp requirements, extortion, bribery, interstate transportation of stolen property, embezzlement, sale of drugs, and interference with commerce by threats of violence have all been brought to bear on the activities of the organized underworld.

The type and extent of State organized crime control legislation vary widely. Few States have been successful at following the Federal lead in enacting, during one legislative session, a package of laws

[36] Public Law 91–452, 91st Cong., S. 30, October 15, 1970, known as the Organized Crime Control Act of 1970. See also *Report of the National Conference on Organized Crime*, pp. 1–9, for a fuller discussion of several provisions of the Organized Crime Act of 1970.

[37] 18 U.S.C., Section 1952, 1953, and 1084.

[38] *The Crime Confederation*, p. 280.

[39] *Task Force Report: Organized Crime*, p. 11.

[40] *Attorney General's First Annual Report on Federal Law Enforcement and Criminal Justice Assistance Activities*, 1972, p. 61.

directed at organized crime. The States that do have a set of laws designed to cover the illicit operations most often conducted by the criminal organizations usually have developed the legislation over a period of years within the last decade. In other States, there may be only one or two statutes directed at the agents of organized crime.[41]

Although there is some disagreement among law enforcement people about the universal utility and applicability of certain organized crime control tactics, the following are generally identified as essential:

- Electronic surveillance.
- Civil remedies and training in their use.
- Comprehensive intelligence efforts.
- Communication and coordination between members of the criminal justice system, and appropriate public agencies.
- Witness immunity and protection.
- A statewide grand jury with subpena power.
- Strong investigative reporting supported by media executives.
- A more sophisticated research methodology for organized crime.
- Federal cooperation with localities on the major problem of the traveling criminal, including a mechanism for maintaining and distributing current information on travels by known organized crime figures.
- More realistic sentencing laws, court policies, and corrections practices.

Several States have successfully applied antitrust laws to organized crime activities. Such statutes already exist in most States; others have passed antitrust legislation in recent years. (See Chapter 4)

CURRENT FEDERAL EFFORTS TO CONTROL ORGANIZED CRIME

Federal efforts to combat organized crime are spearheaded by units of the Department of Justice. Spurred by the successful prosecutions of organized crime figures identified by the Kefauver hearings in the early 1950's, the Department of Justice established the Organized Crime and Racketeering (OCR) Section in 1954 to continue the campaign to bring members of the organized underworld to justice. Duties assigned to the Section included coordination of all Federal law enforcement activities against syndicated crime, formulation of general prosecutive policies, accumulation and correlation of data, initiation and supervision of investigations, and provision of assistance to all Federal prosecuting attorneys across the Nation. The Section also coordinates Department of Justice work with that of other Federal agencies, whose organized crime efforts often are exerted through the 18 Organized Crime Strike Forces, which are directed by OCR lawyers.[42] (See Chapter 4.)

The only Federal-level intelligence gathering and storage organization, the Intelligence and Special Services Unit, is a part of the OCR Section. The unit correlates and indexes information about organized crime figures. The unit also is responsible for the protection and relocation of witnesses in organized crime cases and aids local law enforcement agencies in protection of their witnesses.[43] The Special Operations Unit of the Section handles a variety of jobs, such as processing requests to apply for witness immunity and for court permission to conduct electronic surveillance.[44] (See Chapters 5 and 6.)

The Federal Bureau of Investigation has had a continuing role in the Federal effort to combat and control organized crime. Statutes passed in 1961 established Federal jurisdiction in interstate gambling cases and authorized the FBI to strike at sources of revenue for the criminal syndicates. The Federal jurisdiction over illicit gambling operations was expanded in the Organized Crime Control Act of 1970.[45]

At the end of 1975, FBI Director Clarence M. Kelley told an audience at the National Conference on Organized Crime that: "In FBI cases alone, convictions of leading and supporting vice and racketeering figures have virtually tripled during the 1970's."

JOINT FEDERAL, STATE, AND LOCAL EFFORTS TO CONTROL ORGANIZED CRIME

The Strike Force Program is the principal Federal contribution to organized crime control efforts. The Strike Forces now operate in 18 cities.

State and local investigators and prosecutors joined the New York Strike Force at the time of its establishment in 1969. Local participation proved

[41] Ibid., p. 9. See *Organized Crime Control Legislation* for a fuller discussion of State legislative approaches. This study also includes descriptions of individual State laws by types of offenses.

[42] *Annual Report,* Attorney General of the United States, 1974, p. 85.

[43] Ibid., p. 90; *Annual Report,* Attorney General of the United States, 1973, p. 81; *Report of the National Conference on Organized Crime,* p. 12.

[44] *Annual Report,* Attorney General of the United States, 1974, p. 90.

[45] *Task Force Report on Organized Crime,* pp. 6 and 11; Clarence L. Kelley, Director, Federal Bureau of Investigation, Address to National Conference on Organized Crime, October 1–4, 1975, *Report of the National Conference on Organized Crime,* p. 138.

successful and later was extended to some other units in the Strike Force Program.

CURRENT STATE AND LOCAL EFFORTS TO CONTROL ORGANIZED CRIME

A source of support for organized crime control efforts by State and municipal governments was provided by the establishment, in 1968, of the Law Enforcement Assistance Administration (LEAA).

Although LEAA grants support a wide variety of law enforcement activities in the Nation's States and municipalities, the agency has concentrated many programs on organized crime. By late 1975, States had received more than $70 million in LEAA funds for projects that included development of special organized crime control units, creation of several regional intelligence networks, recruitment and training of special investigative and prosecutive personnel, and development of information systems.[46] (See Chapters 5 through 8.)

One of the most significant LEAA-funding efforts is in the area of training and education. Funding of seminars, conferences, and specialized training sessions has afforded the criminal justice system an opportunity to enhance its anti-organized crime efforts throughout the Nation. LEAA support during the past 5 years has led to the creation of three major centers of learning:

- Dade County (Fla.) Institute on Organized Crime
- Western Regional Institute on Organized Crime (Sacramento, Calif.)
- Cornell Institute on Organized Crime (Ithaca, N.Y.).

Organized Crime Prevention Councils (OCPC) have been formed in 18 States with LEAA support. The councils perform a variety of tasks, depending on the needs of their States. (See Chapter 1.)

Examples of State attacks on organized crime are the efforts of the crime investigation commissions of New York, Illinois, New Jersey, New Mexico, and Pennsylvania. The commissions investigate the operations of criminal syndicates in their States and develop proposals for legislation to combat them.[47]

A State-initiated effort, the Law Enforcement Intelligence Unit (LEIU) was formed in 1956 and has grown into a nationwide network for the exchange of information among State and local law enforcement agencies on organized crime. LEIU now has approximately 225 member agencies, including municipal police and sheriff departments, district attorney's offices, and State police agencies in the United States and Canada.[48] With the help of an LEAA grant in 1971, the LEIU has developed the Interstate Organized Crime Index (IOCI), which is a computerized collection of information on organized crime. (See Chapter 4, Standard 4.5, and Chapter 5.)

CITIZENS' EFFORTS TO COMBAT ORGANIZED CRIME

Private citizens, usually working with citizen or business groups, have made significant contributions to the organized crime control efforts in this century. The major accomplishments of individuals and private groups have been in the area of increasing public awareness of the existence of organized crime and its impact on the lives of all Americans. (See Chapter 2.)

A number of American cities where crime syndicates are active now have citizens crime commissions, made up of representatives from most private sectors of the community. The commissions are fact-finding bodies that inform the public about the extent of the organized crime problem and marshal public support for law enforcement efforts against the criminal elements. Commissions exist now in 18 cities, but the Report of the National Conference on Organized Crime concluded that they are needed in many other cities.

American news agencies have long been reporting on the activities of organized crime, with varying degrees of success. In recent years concern about the operations of the criminal syndicates has heightened among reporters. A number of newspapers, magazines, and television networks, through their reporting, have made important contributions to public awareness of the problem. (See Chapter 2.)

"In some parts of the country revelations in local newspapers have stimulated governmental action and political reform. Especially in smaller communities, the independence of the press may be the public's only hope of finding out about organized crime. Public officials concerned about organized crime are encouraged to act when comprehensive newspaper reporting has alerted and enlisted community support," observed the 1967 Task Force on Organized Crime.[49]

One of the most insidious, and most difficult to detect, operations of syndicated crime is the infiltration of legitimate business. Awareness, vigilance, and sound management practices are the indispensable weapons of businessmen in areas where the crime cartels seek to penetrate law-abiding enterprises.

[46] Ibid., p. 145.

[47] *Report of National Conference on Organized Crime*, p. 14.

[48] *Task Force Report: Organized Crime*, p. 13.

[49] *Task Force Report: Organized Crime*, p. 23.

Business organizations and associations at all levels can be particularly helpful in developing awareness of organized crime activities and of helping business and industry develop programs to resist infiltration. For example, the Chamber of Commerce of the United States, made up of individual businessmen and professionals, trade and professional organizations, corporations, and local and State chambers of commerce, has formed a Panel on Crime Prevention and Control. The panel has produced two manuals that have proved highly valuable to the business and professional worlds.[50] (See Chapter 3.)

The National Chamber was instrumental in organizing the support of businessmen throughout the country for the passage of the Organized Crime Control Act of 1970. Representatives of a citizens crime commission and the National Chamber presented testimony that aided the bill's swift progress through committees and its passage by the Congress.[51]

Another contribution by the National Chamber is the participation in a program under which witnesses in organized crime cases are provided with jobs and new identities in order to protect them from reprisal by criminal elements. Response by businessmen to National Chamber initiatives has been good and more than 800 witnesses have been relocated through the program.[52]

During the past 25 years, television has performed an important service by broadcasting the hearings of congressional committees, notably those of the Kefauver committee in 1950–51 and of the McClellan committee in 1963 when underworld figure Joseph Valachi made his startling revelations about La Cosa Nostra. The drama of these hearings, and the sensational testimony about organized crime, captured public attention and made Americans considerably more aware of the organized crime problem.

Television also can demonstrate the national implications of organized crime activities that are seemingly local in nature. An example is provided by the CBS news report on Arizona land frauds in 1975. The report, broadcast on the program "60 Minutes," showed how buyers from all over the Nation—many of them retirees and persons of limited means—were defrauded in purchase of homes in Arizona. The report traced the origins of the fraud to the threshold of organized crime figures.

CONCLUSION

The picture of organized crime in America that emerges from this brief overview is one of an elusive, changing, nationwide activity involving criminal, quasi-criminal, and deceptively legitimate individuals. The structure and operation of organized crime are conceived and executed in a manner intended to minimize penetration by police, grand juries, or other instruments of the criminal justice system and to frustrate public understanding or to entirely cloud the facts. Organized crime appears to be a conspiratorial effort to profit from the operations of American commerce, without abiding by laws or paying taxes.

Although Federal, State, and local law enforcement efforts against organized crime are meritorious, more remains to be done. More funds are needed. More involvement of more agencies at all levels of government is needed. All elements of the criminal justice system should share in the effort against organized crime, and efforts in the private sector—by citizens and businesses alike—must be encouraged.

The remainder of this report contains detailed examinations of different areas of the society that could be mobilized in a national effort against organized crime and carefully evaluates suggestions about how it can be affected.

---

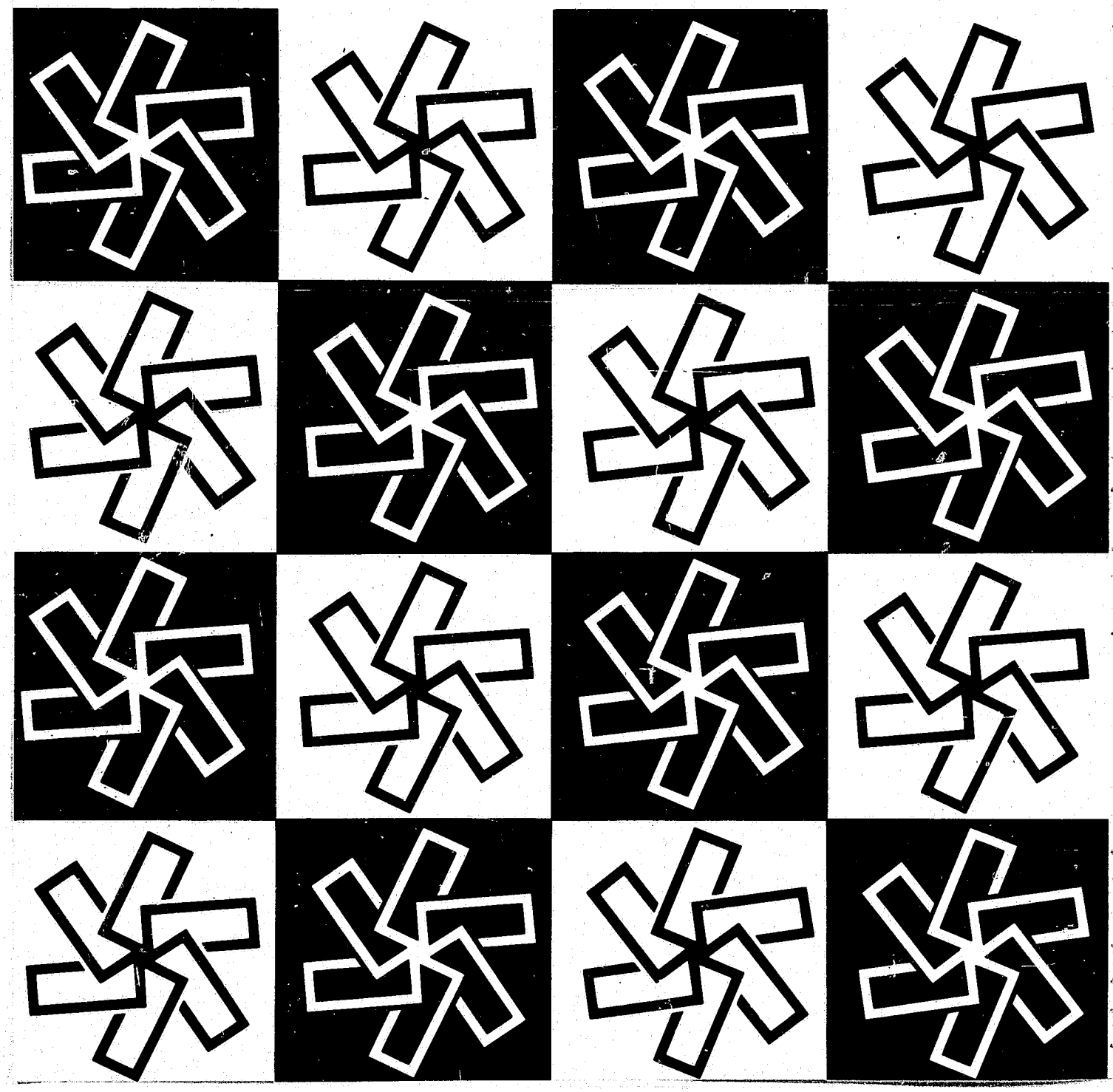
[50] *The Deskbook on Organized Crime* and the *Handbook on White Collar Crime*. The *Deskbook* describes eight categories of racketeer penetration of business, the warning signals businessmen should watch for, and where they can seek help. The *Handbook* covers similar ground in relation to white collar crime.

[51] *Report of National Conference on Organized Crime*, p. 17.

[52] *Organized Crime Control Legislation*, p. 112.

Part 3
Table of Standards

Chapter 1
Organized Crime and Corruption



Seventy-five years ago, muckraker Lincoln Steffens attacked official corruption in *The Shame of the Cities,* declaring that "The spirit of graft and of lawlessness is the American spirit." Today, similar charges of corruption are directed at officials at all levels of government and the judiciary, and enough of them have been proven in court to suggest that the problems Steffens described are still common.

In recent years, a Vice President of the United States resigned from office after pleading nolo contendere to tax evasion. A United States Senator was convicted of accepting payoffs from a mail order house in return for lobbying for lower postal rates. A mayor of a large eastern city was convicted, along with several of the city's councilmen, of extorting moneys from contractors doing business with the city. A judge in one city's court of common pleas was convicted of conspiring to run the Bureau of Cigarette and Beverage Taxes so as to facilitate cigarette smuggling.

Federal, State, and municipal employees, too, have been found guilty of abusing a variety of laws and regulations. Grain inspectors were found to have ignored massive impurities in foreign grain shipments. A number of States have discovered widespread kickbacks by doctors and laboratories participating in the Medicare and Medicaid Programs. A Federal subsidy program designed to encourage renovation of older housing resulted in flagrant building code violations by contractors and widespread profiteering by government employees charged with inspection of the buildings. And police officers in departments across the United States were found guilty of soliciting and accepting bribes not to enforce laws against gambling, prostitution, loansharking, drug trafficking, and fencing.

The purpose in listing these incidents of official corruption is not to single out individual wrongdoers or to convey the impression that corruption is a uniform or even predominant pattern of government and judicial operations in the United States. Indeed, it should be noted that the vast majority of elected officials and public servants are steadfastly honest and resist all temptations. Rather, these illustrations suggest that corruption is found today in a wide variety of settings and in the context of many different types of government activity. Corruption, therefore, remains a persistent threat to the integrity of our democratic process.

Corruption is, moreover, a frequently used tool of organized crime. "Syndicate rulers," says criminologist Donald Cressey in *Theft of the Nation,* "are among the most active monopolizers of the democratic process." Cressey quotes a police expert on organized crime who, on his retirement from the Criminal Investigation Bureau of the New York City Police Department, said, "Organized crime will put a man in the White House some day, and he won't know it until they hand him the bill." Former Chief Justice of the United States Earl Warren said that it could be taken as a "rule of thumb" that corruption is, in fact, the basis of organized crime.

The standards in this chapter address ways in which corruption can be combated. In order to illustrate best how this can be done, the chapter (1) examines the reasons behind the specific alliance between organized crime and corruption, (2) sets forth theories on the causes of corruption in general, and (3) attempts to assess its impact on American society.

Relationship Between Organized Crime and Corruption

The primary goals of organized crime, whether through enterprises such as illegal gambling or legitimate businesses such as construction, are the making of money and the maximization of profit. In order to achieve the greatest possible return, organized crime has found it expedient to invest some of its capital in government; that is, to distribute varying sums of money to carefully chosen individuals serving in strategic government and law enforcement capacities who can provide organized crime with the services it requires. If the individual happens to be a publicly elected official, a bribe may arrive in the form of a cash contribution to the campaign fund or a promise for the delivery of large

blocs of votes. Sometimes, though, an individual whom organized crime has designated as desirable to be "in their hip pocket" will refuse to accept a bribe. In such cases, organized crime will seek to corrupt through threats and/or blackmail.

There are basically two areas where a corrupt relationship between organized crime and public officials can occur:[1]

1. Corrupt relationship between organized crime figures and public officials charged with the investigation and prosecution of the organized crime figures for their criminal activity; and

2. Corrupt relationship between organized criminals who have infiltrated legitimate businesses and the public officials charged with regulating those businesses.

If organized crime somehow succeeded in putting its man in the White House and in corrupting key members of Congress and the Supreme Court, it still could not conduct its day-to-day illegal enterprises. The gambler, the pimp, the prostitute, and the loanshark all need the protection of the police and the courts. In this respect, the goal of organized crime, as Cressey puts it, is the "nullification of government." Only by thwarting police investigations, effective prosecutions, judicial proceedings, and the corrections process can organized crime flourish.

The police officer on the beat is often the first human link in our formal criminal justice system to encounter organized crime. Using discretion, a law prohibiting crimes such as gambling or prostitution can be enforced or not enforced. Because it is, of course, to the benefit of organized crime that the officer not enforce the law, the syndicate often takes steps to insure this particular behavior. The police officer may be paid either on the spot to forget what was seen, or on an ongoing basis to ignore or even to protect it. In some cases, corruption within sections of a police department is so widespread that the payoff mechanism can be centralized and the money paid to a single officer who, in turn, distributes it to either superiors or subordinates.

The report of the Knapp Commission, the most extensive investigation into police corruption to date, indicates how large and complex the organization can be in its description of "the pad"—a system for distributing payoffs received for tolerating gambling in New York City.[2]

Failure to arrest and prosecute those whom the officer knows have violated the law is only one form police corruption can take. Herman Goldstein, in his monograph, *Police Corruption,* lists several others:[3]

- Agreeing to drop an investigation prematurely;
- Agreeing not to inspect various locations where a violation may be occurring;
- Reducing the seriousness of a charge against an offender;
- Agreeing to alter testimony at trial;
- Influencing departmental recommendations regarding the granting of licenses, e.g., recommending for or against continuance of a liquor or amusement license by either giving or suppressing derogatory information;
- Agreeing to alter departmental records of arrested persons.

Of course, not all police corruption is rooted in organized crime. The officer who accepts a bribe from a businessman, even on a continuing basis, not to enforce certain parking regulations is guilty of corruption, but not corruption perpetrated by a syndicate. However, the Knapp Commission testimony revealed alliances between enough police officers and organized crime figures to lend credence to the belief that such relationships exist. And other instances of the phenomenon indicate that such police corruption is not limited to New York City.

In 1974, a Kansas City patrolman was convicted, along with the attorney for Kansas City's syndicate boss, for involvement in a scheme of payoffs to protect prostitution.

When corruption exists, the capability of the police department to carry out its duties is diminished. "The officer who spends his time in corrupt activities," says Goldstein, "does little police work."[4] The officer does not perform his assigned duties because he sees such requirements as intrusions on the time he might otherwise spend pursuing graft.[5]

Police corruption has other serious implications. In addition to eroding public confidence in the police, both intradepartmental and interdepartmental cooperation is undermined. Officers do not know whom they can trust. Says Cressey, "If a policeman in one city calls the police department of another city to report a piece of valuable information about organized crime activities in either of the two communities, he can never be sure that a corrupt policeman will not answer the telephone."[6]

There are examples of police officers who have teamed up with other legislative and judicial officials

[1] Stephen Sawyer, *Proceedings, Advanced Organized Crime Seminar, Houston, Texas, December 1974* (National College of District Attorneys, 1975).

[2] Commission to Investigate Allegations of Police Corruption and the City's Anti-Corruption Procedures, *Commission Report,* Dec. 26, 1972, p. 74.

[3] Herman Goldstein, *Police Corruption* (Police Foundation, 1975), pp. 16–18.

[4] Ibid., p. 11.

[5] Ibid.

[6] Donald R. Cressey, *Theft of the Nation* (Harper and Row, 1969), p. 258.

to protect organized criminal activities. In Pittsburgh, the testimony of former numbers baron Anthony Grosso, whose name is borne by the landmark Supreme Court wagering tax ruling, and who is now serving 10 years, resulted in the indictment of one city alderman and the conviction of another, along with the Allegheny County racket squad chief, for receiving protection payoffs. And another jury in Pittsburgh convicted Constable Pronty Ford for taking protection payments from numbers king Anthony Grosso. A former Allegheny County district attorney who was indicted on the same charge committed suicide.

A retired police expert on organized crime who also served as a member of the Organized Crime Task Force of The President's Crime Commission, believes that corruption perpetrated by organized crime is more extensive than court records indicate. The results of corruption, says Salerno, are nearly invisible to the public. "All levels of justice can easily hide evidence of corruption by their severity and straightforwardness in handling routine crime in the streets." [7] He says that our system of justice is really a numbers game, where the public is satisfied as long as they see a lot of muggers and rapists arrested and prosecuted successfully. They don't notice the organized crime offenders who are permitted to go free.[8]

The Policy Sciences Center, with the cooperation of the New York City Police Department, conducted an extensive study into policy banks (illegal lottery operations run by organized crime) in the Bedford-Stuyvesant area of Brooklyn from 1960 to 1970.[9] During this decade, 71 raids were conducted, resulting in the positive identification of 99 persons. These 99 individuals had totaled 356 arrests among them, because many had been arrested more than once. Of these arrests, 198 were dismissed, 63 were acquitted, 12 were found guilty and given suspended sentences, 77 were fined, and 5 served jail sentences. The average fine was $113 and the average jail sentence was 17 days. Although judicial corruption is evident, it is difficult to prove.

When an organized crime figure does go to prison, his stay is often made comparatively comfortable. Sam Giancana, for instance, frequently used the warden's office in the Cook County jail for business conferences, was permitted out of his cell after "lights out," and had easy access to liquor, special foods, and expensive cigars.[10] And 3 weeks after Sam DeStefano was moved by court order from Illinois Stateville Prison to a Chicago hospital for surgery, it was discovered that he was operating a loansharking business from his hospital room and enjoying fine foods, vintage wines, card games with underworld friends, and visits from women.[11]

Organized crime tends to engage in those legitimate businesses that can profit from political influence. Its profits are made possible, to a large extent, by its corruption of the public officials charged with regulating those businesses.

The opportunity for corruption exists in every instance where government regulates business. The public officials charged with such regulatory activities are open to bribery in exchange for disregarding, for example, character requirements in the area of liquor licensing, zoning laws in the issuance of construction permits, and fire and health violations in building inspection.

The dispensation of public contracts by competitive bidding presents yet another opportunity for corruption. Often, a legitimate business backed by organized crime pays off a public official so that it can obtain the contract.

Such instances of corruption can be found all over the United States, not just in States with large urban centers. As explained in Part 2, organized crime activity can be found in small cities as well as large, and in different regions of the country.

Theories of Corruption

Why do public officials violate the laws they have been selected to implement or enforce and often become the instruments of organized crime? This question has been debated for many years, and a variety of explanations—some conflicting, some complementary—have been offered. Some of these explanations focus on the individuals involved and their backgrounds and personalities; others focus on the situations in which corruption arises and their relationship to broader social and political environments. This report will not provide a complete statement of these theories, or even select one that seems superior; all the explanations have a degree of validity and are useful in explaining some facets of the problem. As in any complex human behavior, the reasons for and reactions to the situation are multifaceted and, therefore, not subject to simple labeling or explanation. This chapter, then, will discuss only the major arguments that have appeared over the years.[12]

[7] Ralph Salerno, *The Crime Confederation* (Doubleday, 1969), p. 245.
[8] Ibid.
[9] 1972–73 Report of the New York State Select Committee on Crime: Its Causes, Control, and Effect on Society, p. 73.
[10] Salerno, p. 183.
[11] Ibid.
[12] John A. Gardiner and David J. Olson, *Theft of the City: Readings on Corruption in Urban America* (Indiana University Press, 1974), pp. 277–281.

Examinations of corruption have differed in their conclusions in part because they have analyzed different factors. Some authors have focused on the acts of corruption, seeking to ascertain whether they are isolated events or parts of systematic patterns of illegality. A second set of studies looked at the characteristics of the participants in the corruption. In some cases they are merely the few "rotten apples" that one might, on a statistical basis, expect to find in any group; in other cases they seem to be average persons representative of their society. Finally, a third body of research attempted to measure the significance of the settings in which corruption occurs, asking whether it arises from the ways in which governments conduct their business. A discussion of each of these approaches follows:

Corrupt Acts: Premeditated Greed or Crimes of Opportunity? For over a century, criminologists and psychologists have sought explanations of criminality in family relationships, personalities, medical histories, job and educational skills, friendships, and other characteristics of offenders. During the past decade, scholarly attention also has been directed at the nature of the crimes committed, distinguishing between premeditated crimes and the so-called "crimes of opportunity." For example, one homicide may be a carefully planned gangland execution, while another the unfortunate consequence of an overheated barroom brawl.

In terms of corruption, some acts involve systematic looting of the public till—often by organized crime—using the skills of many conspirators and developing complicated procedures to conceal the frauds. By comparison, the decision of a traffic officer to accept $10 in lieu of writing a ticket might be made on the spur of the moment. The latter type of corruption presumably could be reduced by removing the opportunities. However, the reduction of planned corruption, including that perpetrated by organized crime, will require more complicated steps to alter the costs and benefits perceived by potential offenders.

What determines whether a particular governmental activity might be seen as an opportunity for a potential corrupter or corruptee? Among the factors that first come to mind are legal constraints, surveillance and supervision practices, and market demand for the activity.

Whether some public employees succumb to the temptation to abuse their offices may depend on the degree to which they are bound by legal constraints and citizen attitudes. Are government purchases left to the discretion of purchasing agents or do they require advertisements, competitive bidding, and independent auditing? Do the laws and regulations governing the officials' conduct—those the police officer enforces or the bureaucrat implements—allow substantial or even excessive discretion, or are they specific? These factors can be manipulated to facilitate corruption, but the presence of formal procedures will increase the possibility of discovery and thus the risks involved, and, consequently, will make the opportunity seem less alluring.

One of the major facilitators of official corruption is secrecy, and those governmental activities that go unnoticed are most susceptible to abuse by organized crime and other corrupting influences. There is great variation in how often and how carefully these potentially corrupt activities are reviewed by supervisors, auditors, concerned citizen groups, and the news media. Some government transactions, such as major Federal contracts, are subjected to a series of checks and reviews, and potential irregularities can be challenged by superiors within an agency, an auditing or monitoring office, unsuccessful bidders and others within the industry, investigative journalists, and the general public. However, if a decision is not of widespread public interest, the possibility or likelihood of detection is low. Few people are likely to notice the approval of a minor zoning variance, a technical amendment to the tax code, or a police officer's on-the-street evaluation of a drug purchase.

This situation suggests that, to maximize both the possibility and the probability of detection, a comprehensive program to reduce corruption must include accountability and supervision. Such a program should provide affirmative answers to such questions as: Are instructions clear and comprehensive? Are decisions recorded and justified in writing? Are these records routinely reviewed by supervisors, even if only on a random sample basis? Are decisionmakers and their supervisors prevented from tampering with the records to conceal irregularities? Can citizens, reporters, and interest groups gain access to those records? Finally, and most fundamentally, are the individuals within the organization committed to developing integrity in particular areas of government? If bureaucrats and officials can assume they are on their own, that no one will check up on them, the likelihood of corruption may well depend solely on the official's personal morality, as tempered by need or greed.

The level of demand for the goods and services controlled by public officials—the funds, jobs, contracts, programs, privileges, and restrictions that can be allocated as prescribed by law or to the highest bidder—also can determine the frequency of corruption. If these have potential value to corrupters, an opportunity has been created. For example, if an office supply contract with city hall offers no greater reward that that available from other business opportunities, a stationery supply house would have no incentive to offer a bribe to

get the contract. If, however, business was slow or the amount of the contract inflated, the bribe would be a good investment.

It may, therefore, be prudent to assess the relative profitability of various government activities to insure that the highest levels of scrutiny are directed at the points where the temptation will be greatest.

It is also important to recognize that public officials can—wittingly or unwittingly—use their powers to *create* a market for corruption. For example, legislators occasionally might introduce "ripper" legislation—a bill whose impact on a group or industry would be so catastrophic that they are offered substantial bribes to kill it. Similarly, because laws and ordinances often control the degree of success of a business, the motivation to bribe officials is created. For example, when the number of taxicabs that will be granted licenses is determined arbitrarily by a city government rather than by demand for the service, a setting for bribery or extortion is established. When a city asks police to control the hours of convenience stores or bars, an opportunity to ignore or bend the enforcement of these laws is created. Thus, whether these regulations are good or bad, they have often been identified as a leading source of corruption that facilitates inroads by organized crime.

The Participants. Whenever corruption is uncovered, the first impulse is to question the character of the people involved. Was Officer Smith the sort of "rotten apple" found in every organization? Should it have been obvious that council member Jones would be a crook because he came from the wrong neighborhood, his parents were poor, and he did not go to the best schools? These popular assumptions offer the virtue of simplicity, but evidence shows they are both wrong and not very helpful. For example, the legal profession has long served as an elite group in American society and public life, yet most of the persons involved in the Watergate affair, including the President, were trained in the law and worked in prestigious law firms. Apparently, formal training in the codified values of American society and successful careers in the upper strata of legal and public life are not reliable predictors or measures of integrity in high office. Also, with respect to organized crime, social and professional strata have no bearing, because all levels are represented in syndicate membership.

One must avoid simplistic theories that offer an easy explanation of why people are or may become corrupt. Many grafters act simply on the basis of greed, while others seek prestige or power. Some may be coerced into cooperating—because of threats by organized crime figures, for example—and then subjected to threats of blackmail. Others may rationalize their behavior by thinking that they will be subject to "enforcement" by organized crime. And still others may be involved in corruption or organized crime activities to advance the interests of relatives or friends. Like all citizens, public officials vary in their definitions of "the public interest." Although most officials genuinely regard public office as a public trust, some view it as "their turn"—their 2 or 4 years to use public resources for their own or their group's benefit.

Although it is difficult to explain the behavior of officials on the basis of their backgrounds, one can learn a great deal by examining their interactions with their colleagues and the values that are transmitted. As individuals move into new roles, whether they be State Governors or legislators, city council members, State purchasing officers, or city building inspectors, they quickly become aware of the expectations of their superiors, the attitudes of their peers, and the demands made by the outsiders with whom they deal. Social scientists call this learning process "socialization." In some cases, this socialization process results in the officeholders accepting clear job values and expectations and guiding their subsequent behavior in accordance with these norms. In other cases, the employees reject or fail to recognize what is expected of them. In yet a third set of positions, the employees conclude that there are no clear norms, and that they will be praised for some actions and condemned for others, with a large undefined gray area in between.

The socialization argument—that corruption results from honest people moving into situations that do not reward honesty—has its limitations, because there are many public servants who do not become corrupted by corrupt environments. For example, in 1972 the Knapp Commission concluded that a vast majority of New York City's police officers performed honestly, and that only a few of the corrupt officers were agressively seeking shakedown opportunities.[13] Furthermore, the socialization theory cannot explain how corruption begins, or whether persons who are predisposed to become corrupt might seek out a corrupt environment. However, the argument does raise two questions that should be considered when attempting to build a corruption-fighting program.

First, does the agency truly stress the importance of integrity in personnel training and retraining, or do its employees conclude correctly that the lectures on honesty are simply window dressing before the training instructor gets down to the real work of the organization? Unless the agency follows up the training program homilies with reinforcements (e.g.,

[13] Commission to Investigate Allegations of Police Corruption and the City's Anti-Corruption Procedures, *Commission Report*, Dec. 26, 1972, p. 65.

swift and certain punishment at the first infraction), new employees will be quick to realize that the real code of behavior is less rigorous.[14] The second, and perhaps less obvious question is whether an agency has a definite mission for its employees to pursue. If the mission is so vague or the agency so underfunded that employees feel useless, they may well turn their attention to whatever corrupt opportunities are available. However, if the organization can develop a sense of purpose and pride in accomplishment, the resulting esprit de corps may well provide ammunition against temptation and develop a process, formal or informal, of self-policing.

Settings for Corruption. The theories set forth above focus on acts of corruption and the people involved in those acts. A final set of theories addresses the environment of corruption, the broader political and structural settings that may determine whether specific reforms will succeed. The first theory argues that corruption will thrive in a setting in which the public does not support the laws or is divided about their value. The second is that a weak government, one that is poorly organized to carry out its duties, is less able to mount an effective fight against the major source of corruption—organized crime.

Ideally, government functions to carry out the will of the people, translating public values into daily policies and operations. On many topics, however, the American public is sharply divided. While one point of view may be represented in statute books, a large segment of the populace may find the law overly restrictive or even abhorrent, and may try to bribe officials to ignore it. In the 1920's, for example, the lack of support for Prohibition by a large proportion of the American public resulted in massive payoffs to local police officials. Current examples of this problem may be found in such crimes as gambling, prostitution, and pornography.

Public opinion about these activities tends to be ambivalent. For example, on the issue of gambling,[15] the overwhelming majority of American States strictly forbade all forms of gambling until the fiscal crisis of the 1970's led to the rapid spread of public lotteries under the theory that this was a painless form of voluntary taxation. Nevertheless, surveys conducted before the seventies revealed substantial public tolerance of gambling. For example, three nationwide surveys conducted by the American Institute of Public Opinion between 1938 and 1963 reported that between 48 and 51 percent of the public supported public lotteries "to help pay the costs of government." More recently, 76.3 percent of the residents of an Eastern urban area agreed that a government-run lottery is an effective way to raise needed funds.[16]

In a 1973 Market Opinion Research survey, Michigan residents overall *opposed* legalized gambling activities, while most Detroit residents favored legalized numbers (59 percent), sports-by-event betting (66 percent), and off-track betting (52 percent). Finally, in a 1974 national survey, 71 percent opposed legalization of sports betting; 51.3 percent were against legalization of off-track betting; and 59.5 percent opposed the legalization of numbers.[17]

The purpose here is not to debate the merits or faults of the various "victimless crime" laws,[18] but rather to point out that the public's divided opinions about them create an environment in which the opportunities for corruption and exploitation by organized crime will multiply. (Standard 9.3 discusses this issue.) In addition to those citizens who actively seek the goods and services forbidden by these laws and made available by organized crime, there are others who simply believe that the laws are ill advised or inappropriate investments of public resources. In this context, it is not surprising to find either open nonenforcement (e.g., the "wide-open" vice and gambling towns that occasionally operate on the fringes of major metropolitan areas) or covert double standards: suppression of such organized crime activities as prostitution, gambling, and drug trafficking in "nice" neighborhoods while allowing them to operate in areas where residents' complaints may be either not voiced or ignored.

As Harvard political scientist James Q. Wilson has pointed out, the practice of "passing the buck" to public officials—asking them to make choices on issues that society at large has been unable to resolve—predictably leads at least some of those officials to come up with answers that none of the citizenry likes. On the one hand, society tells police officers, tax collectors, and building inspectors that they are public servants who should uphold a public trust and who may risk real dangers in doing so; on the other hand, these officials receive relatively low pay, little public esteem, and frequent pressures not to enforce the laws against some persons some of the time. As Wilson concludes with specific reference to the police, "the inconsistent expectations of society imply that the police officer will be called upon either

[14] Jonathan Rubinstein, *City Police* (Farrar, Straus, and Giroux, 1973).

[15] John A. Gardiner, *The Politics of Corruption* (Russell Sage Foundation, 1970), Chapter Four, pp. 47–48.

[16] Bureau of Social Science Research, Inc., *The Washington Survey* (1973).

[17] Institute for Social Research, *Gambling in the United States* (University of Michigan, 1975).

[18] James Q. Wilson, "The Police and Their Problems: A Theory," *Public Policy*, XII (1963), pp. 190–216. See also, Appendix 3.

to use socially unapproved behavior to attain socially approved goals or vice versa." [19]

Several other characteristics of public opinion also contribute to the growth of organized crime and corruption. First, members of the public tend to pay little attention to the operation of government unless they see it affecting them personally. Even if they follow the workings of the legislative process on television and in the newspapers, the mundane details of the implementation of public policies are of little interest to most people. "Low visibility" may be the best way to describe the day-to-day decisions of tax collectors, inspectors, police, prosecutors, and even most judges as they handle the problems that have proven most susceptible to corruption.[20]

Second, the public tends to think of organized crime and corruption as problems whose impact is rather narrowly confined. Although citizens may find protection payments by a bookie regrettable, they are unlikely to think of them as essential to financing moves by illegal syndicates into legitimate business, drugs, labor racketeering, or any other operations initially funded from gambling profits. If citizens were aware of the broader consequences and costs of corruption, their tolerance might decline markedly.

Third, the public may tend to be cynical regarding the possibilities of reform when it believes that organized crime has captured control of political processes. A 1971 survey of Illinois residents produced the startling finding that 75 percent of the respondents believed that underworld elements were currently corrupting or securing important favors from politicians. The Illinois Law Enforcement Commission, which sponsored the survey, concluded that this corruption "seriously impaired the image of the criminal justice system and the effectiveness of this system in preserving law and order." [21]

The final explanation offered for the growth of organized crime and corruption concerns the structure of government in the United States—particularly at the State and local levels. In many nations where the concepts of federalism, separation of powers, and the rule of law are less thoroughly developed than in this country, an outright "war on crime" can be waged successfully and with little difficulty. The American pattern of fragmentation of governmental authority, however, tends to guarantee that attacks on crime syndicates or other corrupters will be fragmented, that results will be delayed, and that most reform movements simply can be outwaited.

Although it might be argued that this fragmentation at least protects the public from systematic tyranny by a corrupt leader, that same public must be prepared to pay the price of inefficient and protracted law enforcement efforts. Furthermore, in a nation divided into thousands of local governments, a crime syndicate that can buy control of key officials in just one police department can thereby secure for itself a base of operations for a gambling or drug network spanning an entire metropolitan area.

A more indirect result of fragmented government structure also should be noted. Public trust in and respect for government depends, to a large extent, on the government's record of accomplishment. Where governments' structures prevent them from satisfying public expectations legitimately, one should not be surprised to find illegal strategies. In times of war, people have often overlooked corruption and profiteering by those industries that succeeded in advancing the war effort. It must, therefore, be asked whether a community invites corruption when it throws procedural roadblocks before those asked to accomplish important goals.

Effect on American Society

The costs of corruption in American government extend far beyond the "Watergate morality" of individual deals and illegal activities. When police, prosecutors, and judges sell justice or protection to the highest bidder, they violate the trust of the American people. When legislators represent criminals instead of their constituents, they tear at the fabric of our democratic process. When gunplay is used to conduct "legitimate" business, our economic institutions begin to crumble. And when public officials distribute government subsidies, privileges, and contracts in return for kickbacks and payoffs, they pass on the inflated costs to all taxpayers.

It is the influence of organized crime in the political sphere that permits all of its operations—the legitimate and the illicit—to flourish. Said the President's Commission on Law Enforcement and Administration of Justice:

> All available data indicate that organized crime flourishes only where it has corrupted officials. As the scope and variety or organized crime's activities have expanded, its need to involve offiicals at every level of government has grown. And as government regulation expands into more and more areas of private and business activity, the power to corrupt likewise

[19] James Q. Wilson, "The Police and Their Problems: A Theory," *Public Policy*, XII (1963), pp. 190–216.

[20] James Q. Wilson, *Varieties of Police Behavior* (Harvard University Press, 1968), Chapter Eight; John A. Gardiner, *Traffic and the Police* (Harvard University Press, 1969), Chapter Six; and Joseph Goldstein, "Police Discretion Not to Invoke the Criminal Process: Low-Visibility Decisions in the Administration of Justice," *Yale Law Journal*, LXIX (March 1960), pp. 543–594.

[21] IIT Research Institute and Chicago Crime Commission, *A Study of Organized Crime in Illinois* (Illinois Law Enforcement Commission, 1971), p. 3. See also Gardiner, *The Politics of Corruption*, Chapter Four.

affords the corrupter more control over matters affecting the everyday life of each citizen.[22]

When the money of organized crime elects a legislator, it is not the interests of the majority of the American people that are promoted. Not only can representatives work to prevent the passage of laws that would hurt organized crime, they can block appropriations to fight organized crime, and can work to insure the appointment of inept or dishonest criminal justice officials.

Some of us must pay extra to have our trash hauled, because organized crime owns the sanitation company—the only one permitted to do business in our area as a result of a bribe to a licensing official. The meal we buy in a restaurant may cost us extra, because the restaurant is being forced to buy its food from a syndicate-owned wholesaler. Our insurance rates are inflated, because of the thefts, frauds, and acts of violence committed by organized crime in conducting its "legitimate" business operations. Thousands of factory and farm workers must toil for bare subsistence wages because of "sweetheart" contracts between their unions and companies owned by organized crime. And, says Michael Dorman, "Since most Mob invasions of legitimate business are designed in one way or another to confound the Internal Revenue Service, billions of dollars in revenue go untaxed—resulting in higher taxes for the typical American.[23]

What Can Be Done

American history indicates that corruption has been a recurring aspect of politics and government. Those who hope to solve the problem simply by finding and punishing a few offenders completely misunderstand this long and complex history. Although prosecution and punishment are certainly appropriate responses to individual cases, long-term reductions in the frequency and severity of corruption require publicly understood and supported mechanisms to detect and combat it on a system-wide basis.

Sustained effort and commitment to change are critical in this fight. In 1970, the Pennsylvania Crime Commission concluded that, "The end result of the entrenchment of gambling syndicates is an intricate web of conspiratorial and individual crimes. Corruption, concealment, and public apathy come to pervade communities where such syndicates exist. Only the brute force of honest law enforcement and vigorous prosecutorial agencies can pierce this shield and destroy it." [24]

Such an attack needs and deserves public support. The prevention and control of organized crime and corruption must be a joint effort of public agencies and private citizens, including business and labor. Without firm implementation of policies by public agencies, any civic reform movement must founder, and without commitment from the public, any public official must despair of the possibility of enduring change.

Thus far, there have been inadequate pressures from the public for integrity in government and strict law enforcement. As suggested earlier, there are few persons or organizations who lobby for integrity, who scrutinize the operations of government agencies, or who even consistently observe the policies followed. There have been, as well, too many public officials who have succumbed to corruption and who have actively intervened to suppress effective enforcement of our laws, often on behalf of organized crime.

To combat this apathy and the corruption it breeds, a mechanism is needed that would: (1) inform the public about the costs of organized crime and the requirements for an effective system of countermeasures; (2) develop and advocate appropriate legislation; and (3) work on an ongoing basis with planning and funding agencies to develop and implement attainable standards and goals.

One vehicle that has proven effective in meeting these needs is the State Organized Crime Prevention Council, as recommended in Standard 1.1. Working with operating law enforcement agencies, these councils develop profiles of the extent and nature of organized criminal activity and comprehensive plans to combat it. Depending on the specific problems uncovered and the structure and role of the State Planning Agency (SPA), the council's plan can be developed and presented as part of the SPA's comprehensive plan, as a separate effort, or as some combination of the two.

A second major goal of the Organized Crime Prevention Council should be to develop effective mechanisms for sharing and using intelligence. (See Chapter 5 for further discussion on intelligence.) For decades, the fight against organized crime has been hampered by the failure of law enforcement agencies to share operational intelligence with planning and other agencies developing preventive programs. Federal, State, interstate, regional, and local criminal justice agencies, as well as private groups

[22] The President's Commission on Law Enforcement and Administration of Justice, *Task Force Report: Organized Crime*, p. 6.

[23] Dorman, p. 257.

[24] Pennsylvania Crime Commission, *Report on Organized Crime* (Pennsylvania Crime Commission, 1970).

and regulatory bodies, can be mobilized under the leadership of the council for preventive as well as reactive programs.

To develop this coordinated attack, the council should insure that there is: (1) an areawide intelligence-gathering capability (whose scope should be at least as wide as the sphere of the major crime syndicates); (2) a policy of systematic analysis and dissemination of current intelligence; (3) cooperation among existing intelligence systems; and (4) identification of the various intelligence resources agencies can use. In addition, the council can serve to improve liaison among criminal justice agencies in all geographic areas and at all levels of justice.

Going beyond this intelligence-sharing function, the council can be particularly valuable in identifying and evaluating the organized crime-fighting mechanisms tried elsewhere, and in framing legislation to assist prosecution and investigation efforts.

In support of operating agencies, the council can assist in the design and conduct of training programs and research, provide for specialized personnel and equipment needs, and implement public information programs describing the dangers of organized crime and measures of self-protection.

The second mechanism that should be established in every State is the Organized Crime Investigating Commission (see Standard 1.2). Complementing the Prevention Council's efforts, the Investigating Commission is an independent, official government agency whose function is to expose and attack organized crime and corruption. In too many cities and States, organized crime figures and corrupt officials have hidden behind the secrecy and privileges of office, inhibiting and often totally frustrating attempts at prosecution.

The role of the Investigating Commission is not to replace grand juries or prosecutors, but rather to supplement their preventive roles through the development of periodic reports. Particularly where police and prosecutors ignore or are ineffective against combating organized crime, or may need assistance in this area, the independent commissioners can use public hearings to expose the activities of criminal syndicate figures and the networks of protection under which they operate. Focusing publicity on officials who may be attempting to use their influence to protect or further a conspiracy can force them to abandon their plans; it also can serve to deter other would-be conspirators.

Obviously, this is a powerful mechanism which must be strictly controlled. To guarantee that it will not be used or regarded by the public as an instrument of one political group, every effort should be made to select commissioners and staff who display both nonpartisanship and the highest standards of integrity. Their authority should be set forth clearly and monitored by the appointing agency.

The operation of the Independent Investigating Commission demands a high level of tact, combined with commitment and dedication. On the one hand, the commission must demonstrate to the public and the critics who will inevitable arise that it is proceeding carefully, legally, and fairly, proving its facts while protecting the rights of witnesses and those being investigated. On the other hand, the commission must be willing to take on tough targets, both to erode the greatest bastions of corruption and privilege and to convince the public that it is making a serious dent in official problems rather than building a record based on insignificant but newsworthy cases.

The third step recommended to be taken in the war on organized crime and corruption is the removal of politics from the office of the prosecutor, which Standard 1.3 recommends. As society's representatives in the courtroom, prosecutors and their staffs should exemplify professional standards and nonpartisanship. All assistant prosecutors should serve on a full-time basis, should receive salaries comparable with those in private practice, and should be prohibited from engaging in partisan political activities while in office.

The city, county, or State that the prosecutor's office serves should provide the level of funding needed to implement these standards. Prosecution should be considered a permanent career for lawyers, rather than a steppingstone, as might presently be the case. It must be on a full-time basis and at an adequate salary level, so that there are no temptations or reasons to moonlight. The removal of the prosecutors from the realm of partisan political life closes one further source of improper access and will increase public confidence in the fairness of prosecutorial decisions.

The fourth step recommended to combat official corruption is the separation of judges from politics, as recommended in Standard 1.4. In too many cases, political influences arising during pre-judicial careers carry over when a lawyer ascends the bench, conveying at least the appearance, and sometimes the reality, of favoritism. Investigations of deeply entrenched organized crime operations have often uncovered instances in which organized crime cases are suppressed, either through obstructive trials or trivial sentences, as the result of political pressures brought to bear on the judge.

To bring about a separation of judges from politics, three policies should be adopted. First, judges should be selected on the basis of merit rather than political service. Second, sitting judges should run on their records in nonpartisan elections. Third, judges

should be subject to investigation by a commission on judicial misconduct and disability, when the need arises. Throughout our history, the autonomy of the judicial branch has been a vital component in insuring the separation of powers; that status must be protected.

At least since the Prohibition era, there have been recurring waves of investigation and prosecution of the connections between organized crime and police, court, and correctional agencies. However, the infiltration by organized crime of executive and legislative agencies at Federal, State, and local levels seldom has been confronted directly. In too many areas, the funds provided by crime syndicates determine which candidates will win nominations or elections as mayors, council members, Governors, and legislators. These officials then work either to award public goods and services to favored associates or to minimize obstacles to syndicate activities. The changes proposed in Standards 1.5, 1.6, and 1.7 are, therefore, directed not simply at the governmental agencies immediately involved in the fight against organized crime, but at the total range of public agencies and activities jeopardized by corruption.

The first problem to be addressed is that of campaign finances. The dangers of campaign contributions as a source of corruption are well known. In all but the most lopsided contests, all candidates need extensive contributions to mount viable campaigns. As a result, they are exposed to offers of support that may include implicit or explicit assumptions about how they will behave while in office. The quid pro quo for campaign contributions is sometimes a direct action to provide the contributor with contacts, favors, or specific benefits; at other times, the contributor is seeking a more generalized access to power and influence. Although it is relatively easy to prosecute cases of direct bribes to officeholders, the intent and impact of campaign contributions is usually more difficult to prove. A candidate may claim, for example, that "The syndicate never gave *me* any money; how should I know if they gave money to my campaign committee?" However, as recent prosecutions and congressional investigations have clearly documented, there have been many abuses of campaign finance to secure political influence for special interests. A number of States, along with the Federal Government, are exploring devices to restrict campaign contributions and expenditures.

Another result of the covert linkage between organized crime and public officials is the unexplained accumulation of wealth by some officeholders. A wide variety of governmental functions have been the target of very lucrative bribery opportunities; the outcomes of government decisions on zoning, tax assessment, licensing, and inspections are highly important to many persons and organizations, who are willing to pay to insure a decision favorable to them. To guard against subversion of these regulatory processes, it is critical that decisionmakers be selected impartially for their professional expertise, and that all decisions be made openly, with full opportunity for public access to relevant records and documents. Furthermore, all persons involved in making these decisions—from lower level inspectors and assessors to high level commissioners and department heads—should be subject to the strictest financial disclosure and conflict-of-interest requirements.

Finally, and perhaps most importantly, there is a great need to open up the affairs of government, both to expose actual or apparent conflicts of interest and to restore public faith in the integrity of government operations. An ongoing system of accountability (see Chapter 9, Executive and Legislative Responsibilities, for a more complete discussion of accountability and openness in government operations) would give the officeholder an opportunity for self-evaluation and for communication with others about the agency's strengths and weaknesses. Too often, this principle of accountability has meant simply a call for more money and personnel, without considering the real problems involved and what results can realistically be expected over different time periods. However, public agencies that adopt the principle would have not only greater public understanding and support, but also a more viable mission and a better understood set of responsibilities.

Implementing the principle of accountability, both in the narrow sense of disclosing conflicts of interest and in the broader sense of discussing program accomplishments, also would restore to citizens their rightful role in the governmental process. As both reformers and corrupters have known for many years, open government is one of the best guarantees of honest government.

The potential for corruption exists in all regulatory and law enforcement agencies, including police departments. The levels and interpretations of corruption may range from accepting a free cup of coffee in return for a favor to providing protection or even assistance to organized crime figures involved in illegal operations. There must be open and candid discussion of police corruption between the police administrator, senior officers, and the other members of a police department. This effort to uncover possible corruption or prevent future corruption in the department is certainly more positive in its effect and less painful than to ignore the problem, only to discover rampant police corruption later on.

A thorough analysis of all vulnerable areas can help determine what action must be taken to eliminate those situations leading to the eventual corrupt activity. Police administrators are ultimately responsible in the eyes of the agencies and the public for any wrongdoing by employees. In most cases, that means that they must suffer the consequences in terms of lack of confidence and trust in the community. Part of this responsibility should rest with the administrator's senior officers. They should be held accountable for the actions of their sections, and it is entirely up to the administrators to relay this message aggressively and to insure that it is fully implemented. Standard 1.8 offers several methods for developing an anticorruption program for a police agency, and Standard 1.9 discusses procedures for selecting police administrators and removing them in the event of incompetent, improper, or corrupt activity.

Additionally, police agencies must continually seek to provide adequate salaries for their employees. The recruitment of capable personnel cannot be overemphasized. Salaries should be competitive with those in private business. As stated by the National Advisory Commission ". . . inadequate salaries may result in various forms of unacceptable behavior . . . ranging from inattention to duty to 'sick-ins' to outright corruption." [25]

Corruption of personnel within the criminal justice system itself can protect organized crime figures. Standard 1.10 therefore proposes that prosecutors be required to undertake investigation and subsequent prosecution, where warranted, of other members of the criminal justice system (ranging from police and prosecutors through court officers and judges).

[25] National Advisory Commission on Criminal Justice Standards and Goals, *Report on Police*, 1973, p. 355.

Standard 1.1

Organized Crime Prevention Councils

Every State should establish, by legislative act, constitutional amendment, or executive order, an Organized Crime Prevention Council with responsibility for developing and implementing a statewide program to prevent and control organized crime and the corruption related to it.

Commentary

The Organized Crime Prevention Council should stimulate action by regulatory and criminal justice agencies, and should focus public attention on organized crime problems, including corruption. It is crucial that council staff be highly sophisticated in organized crime control problems and methods. Participating agencies should consider recruiting a completely separate staff rather than detailing experienced practitioners from their various personnel rosters. As an interim measure, the council's functions could be lodged with the State's chief law enforcement officer until the need develops for full-time staff.

The council would have the responsibility to:

1. Develop standards and goals for a statewide program to combat organized crime;

2. Develop a comprehensive public information program, using the news media, schools, cooperating citizen groups, and other resources to inform citizens about the extent of organized crime and the need for appropriate countermeasures;

3. Encourage the establishment of area- and statewide intelligence-gathering mechanisms to measure and evaluate the nature and extent of organized crime problems.

4. Encourage liaison between neighboring States, especially between local, regional, interstate, and Federal criminal justice agencies;

5. Recommend and/or help design and conduct appropriate training programs for official personnel engaged in organized crime control;

6. Recommend appropriate legislative changes to combat organized crime; and

7. Facilitate a formal Federal, State and local strike force-type approach to a specific organized crime problem. Careful policies should be established as to the financing, overtime, sharing of information and credit and control of personnel during the initiation of such a group.

A central, ongoing task of the council would be development of a comprehensive statewide organized crime prevention and control program. To provide a basis for recommending needed changes, the council should have the research capability to identify and evaluate appropriate mechanisms employed in other States, to determine whether they would be suitable for adoption. To support its planning function, the council and its staff should be

familiar with the legal, jurisdictional, demographic, and economic characteristics of the State. They also should be aware of the specific services and industries threatened by organized crime in the area, or those most susceptible to penetration or manipulation by organized crime interests.

The members of the council should be appointed by the appropriate executive or legislative body, and should represent those regulatory and criminal justice agencies whose responsibilities and missions provide an opportunity to prevent or reduce organized crime. At present, most council members are appointed by Governors. The exceptions to this practice include Maryland, where the head of the Governor's Commission on Law Enforcement and Administration of Justice appoints council members. Also, in Virginia, three council members are named by the Governor, six by the Speaker of the House of Delegates, and three by the Senate Committee on Privileges and Elections. The Virginia Attorney General also serves ex-officio on the council.

In setting the membership of the council, primary emphasis should be placed on the major law enforcement agencies. However, consideration also should be given to the potential contributions of other agencies whose jurisdictions suggest either exposure to organized crime infiltration or a particular ability to detect and combat it. For example, in States where organized crime is moving into consumer fraud operations, consideration should be given to including the consumer protection agency. Other appropriate members include:

Secretary of State
Department of Commerce
State Corporation Commission
State Insurance Commission
Real Estate Commission
Department of Education
Department of Labor
Alcoholic Beverage Control Board
Department of Revenue
Racing Commission
Banking Commission
Members of the legislature
Members of the judiciary
Citizen members

It is advisable to keep the council at a manageable size; 7 to 10 members is a recommended range. Primary decisions about council membership should be based on a recognition of its two major audiences. They are the operating agencies, which will be implementing council recommendations, and the general public, whose input and support will be critical for long-term impact. In selecting the citizens members, careful thought should be given to selecting persons of the highest integrity who are willing to devote substantial time and effort to the task, and who represent broad segments of the community. Such representation could be achieved by appointing a member from the local Citizens Crime Commission (see Standard 2.1).

Each council will, of necessity, emphasize a somewhat different set of activities, depending on the nature of the State's organized crime problems and the capabilities of its existing agencies. Occasionally, frictions may develop until the council and the different agencies become familiar with one another; officials of each must keep in mind the degree to which they are interdependent.

These agencies can and should use the council staff for support in identifying problem areas and developing promising alternatives. In turn, the staff can use the agencies' superior resources to develop meaningful data and evaluate proposed solutions. The Ohio Organized Crime Prevention Council, for example, has shown how this mandate can be carried out. On the basis of intensive research on both State and local regulatory and law enforcement agencies, the council developed a detailed, systematic organized crime prevention program. Among its components are: training for State and local law enforcement officers; encouragement of intelligence-gathering and analysis programs to be operated by local agencies; and eliciting and developing recommendations for new legislation.

References

1. National Association of Attorneys General, Committee on the Office of Attorney General. *Organized Crime Prevention Councils.* Raleigh, N.C. September 1973.
2. U.S. Department of Justice, Law Enforcement Assistance Administration. The Role of State Organized Crime Prevention Councils.
3. National Conference of Organized Crime Prevention Councils, by Indiana Organized Crime Prevention Council. Bloomington, Ind., October 1974.

Related Standards

The following standards may be applicable in implementing Standard 1.1:

2.1 Review of State Criminal Codes
2.6 State Reporting Responsibilities
2.7 Review of State and Local Appropriation Levels
3.1 Independent Citizens Crime Commissions
5.3 Authorization for Access to Records
6.3 Regional Organized Crime Intelligence Networks

Standard 1.2

Investigating Commissions

Every State should establish by executive order, constitutional amendment, or legislative act a statewide Organized Crime Investigating Commission with independent, permanent status and the specific mandate to expose the role that organized crime plays in illegal activities, corruption, and improper practices in government.

Commentary

One of the common techniques used by organized crime is the undermining of established legal authority and regulatory procedures by corrupting the officials who enforce those laws and regulations. Corruption can develop at any level and in all three branches of government. It can involve virtually any government function and can be intermittent or ongoing. Consequently, to control organized crime's efforts to corrupt public officials, an independent investigating commission is a necessary supplement to the efforts of traditional law enforcement agencies, but it should work in close coordination with them and with the statewide organized crime prosecutor (see Chapter 6). (Use of the characteristic term "independent" in this standard means that the investigating commission should be structured in authority and personnel in such a manner that would remove it from pressures and control by the agencies it might investigate.) The commission's activities are not intended to preclude other State agencies or bodies from engaging in organized crime prevention and control efforts.

It is also important to note that some States may wish to use this mechanism for other, more general criminal investigations, and the commissions can be useful in that regard. However, because of the unique character of organized crime, the independent investigating commission is recommended primarily as a tool for exposing organized crime and corruption.

By revealing to the public the activities of major syndicate figures and corrupt officials, the commission can remove the secrecy cloaking their illegal activities. With this exposure, not only will the individual participants be prevented from carrying out their plans, but others may be deterred. Also, the publicity could generate support for legislative changes to close loopholes and pinpoint critical problems.

As indicated previously, the public ultimately plays the central role in determining whether official corruption can or will be stopped. Much information can be expected from private citizens and public employees who reject the subversion of worthy objectives by dishonest officials. Citizens may come forth as witnesses to testify as the result of well-documented news stories and a few successful pros-

ecutions stemming from the work of this commission and the statewide organized crime prosecutors. These witnesses will appreciate the fact that others share their concern for integrity and that capable official agencies are prepared to take significant action on behalf of the public. Building and maintaining this public confidence is crucial, as the regular channels of law enforcement and prosecution sometimes are—or are perceived to be—central participants in the corruption that accompanies organized crime.

The commission should be authorized to request grants of immunity from the court and prosecution of cases of contempt in the courts. In exercising its power regarding immunity, the investigating commission should notify relevant prosecutive authorities of request for transactional immunity. However, if use immunity is to be given, no such notice would be required.

The commission also should be granted the authority to subpena witnesses, question them under oath, and compel production of appropriate records, documents, and other materials. Finally, it should be noted that, witnesses appearing before the commission shall, of course, be entitled to all due process rights guaranteed to them by the Constitution and other laws and regulations.

In 1967, the President's Commission on Law Enforcement and Administration of Justice recommended:

> States that have organized crime groups in operation should create and finance organized crime investigation commissions with independent, permanent status, with an adequate staff of investigators, and with subpoena power. Members should be appointed on a bipartisan basis for fixed terms to minimize conflicts of interest. Such commissions should hold both public and private hearings and furnish periodic reports to the legislature, Governor, and law enforcement officials.

This recommendation was based upon the impressive records compiled by such commissions in New York (established in 1958) and Illinois (established in 1963). Both groups have since continued to investigate and publicize organized crime and corruption problems. Since 1967, New Jersey, New Mexico, and Pennsylvania have established similar organizations. The successful record of these five investigating commissions underscores the importance of establishing similar programs in other States.

References

1. President's Commission on Law Enforcement and Administration of Justice, *Task Force Report: Organized Crime.* Government Printing Office, 1967.

Related Standards

The following standards may be applicable in implementing Standard 1.2:

2.5 Local Prosecutors' Reports
2.6 State Reporting Responsibilities
3.2 Crime and Corruption Reporting Responsibilities
7.1 Statewide Capability to Investigate and Prosecute Organized Crime
7.8 Recalcitrant Witness
7.9 Immunity Statute
7.10 Witness Protection Statute

Standard 1.3

Nonpolitical Prosecutors

Assistant prosecutors should be full-time, career government employees and should be prohibited from engaging in outside employment or partisan political activity. Assistant prosecutors should be selected on the basis of professional qualifications, and must be adequately compensated. Where initially necessary to attain this standard, State and Federal funds should be provided.

Commentary

The objective of this recommendation is to provide highly qualified, experienced, professional assistant prosecutors in all jurisdictions who will be sufficiently removed from politics and conflicts of interest to mount successful campaigns against organized crime.

In most State and local criminal justice systems, the prosecutor makes the critical decisions about charging, trial strategy, sentence rocommendations, and the allocation of office resources to combat different types of crime. Where the prosecutor's office is corrupt, the efforts of the most dedicated police agencies can be destroyed. To separate the prosecutor's office from corrupting influences, all members of that office should be barred from partisan political activity.

An additional source of conflicts of interest, both real and apparent, has been the part-time law practices maintained by some prosecutors. It is impossible for them to completely separate their private cases from their prosecutorial duties. The problems inherent in a situation where prosecutors intermingle public and private functions were stated in 1967 by the President's Commission on Law Enforcement and Administration of Justice:

> Although direct conflicts of interest between the prosecutor's public office and his private practice are clearly unlawful and, we may assume, rare, there are many indirect conflicts that almost inevitably arise. The attorneys he deals with as a public officer are the same ones with whom he is expected to maintain a less formal and more accommodating relationship as counsel to private clients. Similar problems may arise in the prosecutor's dealings with his private clients whose activities may come to his official attention.

To guard against these conflicts, States should enact strict prohibitions against prosecutors engaging in private practices, and should provide salary levels for prosecutors that are comparable with those earned in private practice. State bar associations could conduct and maintain timely economic surveys showing the income of private practitioners by specialization and years of experience to establish a standard of comparability within the State. State and Federal funds should be available to allow local governments time to provide for future budget allow-

ances for prosecutors' salaries. Adequate compensation will permit younger prosecutors to stay in public service longer and will help them avoid conflicts of interest. In too many prosecutors' offices, lawyers are forced to return to private practice after 1 or 2 years, depriving the prosecutor of those with the greatest experience.

As an ultimate objective, prosecution should be a true career option for qualified lawyers, rather than a brief sojourn on the way to private practice. Elements of this career system could include a merit system type of tenure, from which chief prosecutors and their first assistants are exempt; protection against political interference; and adequate and competitive long-range compensation and fringe benefits. Implicit in this development is the idea that prosecutors would no longer be selected through, or dependent upon, the patronage of party leaders, whether as young law graduates or as senior prosecutors. Removing the influence of politics from the selection and retention of prosecutors would afford greater job security and the freedom to make difficult decisions when necessary.

References

1. President's Commission on Law Enforcement and Administration of Justice, *Task Force Report: The Courts*. Government Printing Office, 1967.

2. National Advisory Commission on Criminal Justice Standards and Goals, *The Courts*. 1973, Chapter 12.

Standard 1.4

Judicial Selection and Removal

In order to insure that judges are not influenced by organized crime or other corrupting elements, States should consider the adoption of a nonpartisan merit selection plan.

Judges also should be subject to investigation by a commission on judicial misconduct and disability, which should be distinct from the judicial nominating commission.

Commentary

Neither direct popular election nor executive appointment has consistently provided judges of exceptional professional integrity and capability who are both responsive to community needs and politically independent. As a result, many States have adopted a selection process designed to combine the advantages of both the elective and appointive methods and thereby obtain the highest caliber of judges. This standard recommends that a judicial selection process include the following elements: (a) a judicial nominating commission to nominate candidates for the bench; (b) an elected official (most likely, the chief executive) who would make appointments only from the list submitted by the commission; and (c) subsequent nonpartisan and noncompetitive elections in which such judges would run on their records.

It is important that the composition of the judicial nominating commission be bipartisan or nonpartisan and include judges, lawyers, and lay members. Often, the judicial member, appointed by the chief executive, chairs the group. Its lawyers are usually selected by the appropriate State bar association. When present, lay members are chosen by the chief executive or a bipartisan State legislative committee.

A judicial commission should have sufficient staff resources to conduct an active search for and an initial screening of the best qualified potential judicial candidates. The commission should publish rules of procedure and formulate criteria for confidentially evaluating all potential candidates, so that each is given thorough and equal consideration. The commission should then conduct a formal investigation of those candidates submitted to the appointing official.

Although some judicial commissions now act as screening or investigating agencies only for candidates referred to them, this standard proposes that the elected official appoint judges only from among those persons recruited, investigated, and nominated by the judicial commission. The value of this is that the commission performs the dual function of providing a range among those best qualified, while giving the executive the final choice.

At the end of an initial term, a judge appointed under the merit plan must win in a nonpartisan elec-

tion in order to remain on the bench. If the judge loses, a vacancy occurs, and the judicial nominating commission again submits a list of candidates to the appointing official.

Another means of preventing corruption and the possibility of influence by organized crime is to compensate judges sufficiently, so that they will not need other employment and thus will avoid possible conflict of interest situations. Also, their participation in partisan political activities while in office should be prohibited, to insure judicial impartiality during the trial of cases.

Removal of judges by impeachment, legislative resolution, or recall by popular election has often proven unsatisfactory, because all are cumbersome, expensive, and, sometimes, lengthy processes. Moreover, a distinction is rarely made between disability and wrongful conduct on the part of the judge. A judicial conduct commission with the capability to screen and impartially investigate complaints of both incompetence and misconduct is the most appropriate remedy for this situation. Referral to the appropriate body (e.g., the State Supreme Court) for action would provide both a speedy and a public means for verifying or disproving allegations or rumors of corruption. Further, it would help restore public confidence in the court system.

The investigating commission should be composed of judges, lawyers, and lay members, who could recommend discipline, removal, or retirement of judges after thorough investigation. Grounds for recommending removal could include: (a) a permanent physical or mental disability that would seriously impair a judge's ability to perform his or her duties; (b) intentional misconduct as a judge; (c) willful and persistent failure to perform judicial duties; (d) habitual intemperate behavior; and (e) conduct prejudicial to the administration of justice.

References

1. Ashman and Alfini. *The Key to Judicial Merit Selection: The Nominating Process.* The American Judicature Society, 1974.
2. National Advisory Committee on Criminal Justice Standards and Goals. *Courts.* Standards 7.1 and 7.2, 1973.
3. American Bar Association. *The Function of the Trial Judge.* Section 9.1, 1972.
4. Michigan Advisory Commission on Criminal Justice. *Criminal Justice Goals and Standards for the State of Michigan.* 1975.
5. Winters and Lowe. *Judicial Disability and Removal Commission, Court and Procedures.* American Judicature Society, 1973.

Related Standards

The following standard may be applicable in implementing Standard 1.4:
9.7 Judiciary

Standard 1.5

Political Campaign Financing

To reduce the potential for corruption and influence by organized crime and other special interests, every State should enact legislation dealing with campaign financing and disclosure of personal financial information by candidates.

Commentary

For over a century, political campaigning has been so expensive that candidates have become unduly dependent upon outside sources of revenue. As has been documented repeatedly within the past 5 years, much of this revenue has come from individuals and corporations seeking such goals as government contracts, favors, or protection from interference in their activities. As a result, the American public is being served by some public officials whose judgments have been corrupted by improper influences, including that of organized crime. Although many States have statutes that define direct bribery, the forms of influence gained through campaign contributions are more vague and thus more difficult to discover. Therefore, every State should review its campaign finance legislation to establish rules and guidelines to insure objective behavior by all officials. Provisions of this legislation could include:

1. Limiting contributions to candidates by individuals.
2. Prohibiting contributions that are anonymous; in cash; or from corporations, labor unions, partnerships, trade, professional, or other organizations currently doing business with the State or local governments.
3. Requiring regular and complete disclosure of all campaign receipts and expenditures made by, to, or on behalf of candidates, either directly or through campaign committees.
4. Requiring all candidates for public office to file, not less than 2 weeks before a primary or general election, a statement disclosing personal financial information covering the period since the last election (for incumbents), or the past 2 years (for nonincumbents).

Several issues must be articulated in great detail in developing this legislation. First, there is the question of which persons should be covered, both as recipients and as donors. Any disputes should be resolved in favor of broader coverage, including officials at municipal, county, and State levels, and all enterprises that do business with or are subject to regulation by the government involved. Second, the laws should require disclosure mechanisms that are sufficient to pinpoint improper contributions or expenditures. Finally, in the process of reviewing campaign finance legislation, consideration should be

given to some form of public subsidy to reduce the campaign costs that must be met through private contributions.

According to a recent report by the National Association of Attorneys General, 13 States have taken steps to provide some public financing of campaign legislation. Still others have created ethics commissions, which enforce conflict-of-interest indirect public financing in the form of income tax credits or deductions. Twenty-four States prohibit contributions from corporations; 3 States bar funds from certain corporations; and 29 prohibit anonymous contributions. Twenty States have established special State commissions to administer and enforce campaign legislation. Still others have created ethics commissions, which enforce conflict-of-interest statutes and require financial disclosure statements from candidates and officials. Florida, for example, has an elections commission with enforcement capabilities that files reports with the secretary of state, and an ethics commission that requires personal financial disclosure by State officials. Colorado has an ethics commission that requires personal financial disclosure by all candidates for public office. Thus, States have followed a variety of approaches in combating this problem, and effective mechanisms are available that can be adapted to the needs of each State.

References

1. National Association of Attorneys General, Committee on the Office of the Attorney General, *Legislative Approaches to Campaign Finance, Open Meetings and Conflict of Interest.* Raleigh, N.C., December 1974.
2. Alexander, Herbert E. "A Way to Clean Up State Politics." *Reader's Digest.* July 1974.
3. "Cash in Politics: Drive for Cleanup Runs into Snags." *U.S. News & World Report.* August 20, 1973.

Standard 1.6

Financial and Professional Disclosure Requirements

Every State should adopt strict provisions, with appropriate enforcement mechanisms, requiring State and local officials, including high-level management officials (prosecutors, judges, appropriate law enforcement and corrections officials, and other criminal justice personnel) and those in policymaking positions, to disclose their financial interests and professional activities.

Commentary

Identifying situations where public officeholders, whether career or elected, are receiving funds from questionable sources is an essential tool in reducing corruption and organized crime. All officials affected by this policy should, within 10 days of assuming office and annually thereafter, file financial disclosure statements. Such statements by those in top management positions should be accessible to the public. Officials in senior policymaking positions should be required to submit these reports to the chiefs of their departments.

These statements should contain at least the following information:

1. The identity and amount of all assets legally or constructively owned;

2. The sources and amounts of all income, including, but not limited to, outside employment, consultant fees, or other services performed during the preceding reporting period;

3. The nature and amounts of all debts in excess of $1,000, and the names of the persons or institutions to whom those debts are owed;

4. The identity of all businesses, agencies, or corporations with which the official is affiliated;

5. If the official is a partner in a law firm, a list of all the firm's clients whose annual fees exceed $2,000 or constitute 5 percent or more of the firm's annual fees, and the amounts of such fees;

6. The source and nature of all gifts received that are in excess of $500;

7. The nature and extent of all interests in any business venture, whether legally or constructively owned; and

8. The source and amount of all honoraria received that are in excess of $500.

Financial disclosure statements should be used as a screening device before individuals are placed in positions of responsibility. For example, the judicial nominating commissions recommended in Standard 1.4 should have access to this disclosure information in reviewing the qualifications of judges. For both elected and appointed officials, disclosure statements should help identify any special interests the officials represent and should indicate whether they have unexplained wealth. Sudden changes in financial status or standards of living are causes for concern

and should be investigated until all doubts are resolved. In short, the statements should be scrutinized by responsible officials to guard against corruption and should be accessible to the public.

Elected officials should be required to submit a series of financial disclosure statements that are comparable to those mandated for candidates by Standard 1.5.

In order for these requirements to be effective, disclosure must be mandatory and at regular intervals. Without this information, supervisory officials will lack the basis for making intelligent selection, assignment, and retention decisions, and will risk leaving corrupted persons in positions of influence. With mandatory reporting and appropriate enforcement mechanisms, pressure can be brought to bear on everyone, and the onus of suspicion removed from uncorrupted persons. By requiring periodic reports, changes in financial condition can be recognized quickly.

References

1. Alexander, Herbert E. "A Way to Clean Up State Politics." *Reader's Digest*. July 1974.
2. "Cash in Politics: Drive for Cleanup Runs into Snags." *U.S. News & World Report*. August 20, 1973.
3. "Correcting a Drift Toward Corruption." *Business Week*. October 20, 1973.
4. MacKenzie, John P. "Judging the Judiciary." *The Progressive*. August 1974.
5. Schluter, William. "From the Back Room into Spotlight." *State Government Campaign Finance Disclosure*. Vol. 47, 1974, pp. 153–155.

Standard 1.7

Conflicts of Interest

Every State should enact a conflict-of-interest statute controlling State and local officials, whether elected or appointed, including all positions of trust involving the allocation of public funds or imposition of government regulatory authority.

Commentary

As one of its anticorruption measures, every State should adopt new legislation, or update current legislation, to regulate conflicts of interest. The statute should have appropriate enforcement mechanisms and should prohibit the following:

1. Any outside financial interests that involve a conflict of interest, as defined by State law;
2. Outside employment involving a conflict of interest;
3. The solicitation or acceptance of gifts from anyone with whom the officials have contact in the course of their duties;
4. Any personal financial transactions based on information gained by virtue of an official's position; and
5. The exercise of official authority, whether through voting or legislation or through executive or judicial decisionmaking, in any case where there is an actual conflict of interest. This prohibition does not apply to participation in discussion of the matter, such as in legislative debate, so long as there is full disclosure of the official's private interest in the matter.

Any violation of these prohibitions should be treated as a felony.

The legislation should govern all elected and appointed officials at the State, county, and municipal levels, including the executive, legislative, and judicial branches. In defining the personnel to be covered, consideration should be given to the specific duties of the employee or officeholder. The statute should cover all offices involved in the allocation of public funds or the imposition of public regulatory authority.

As of the spring of 1976, at least 38 States had legislation governing conflicts of interest, and 23 of these had established specific agencies to monitor and enforce the law's requirements. States that have such laws should review them to insure that they are sufficiently comprehensive. Those with conflict-of-interest laws, but no mechanisms for enforcement, should consider creating such agencies as part of the implementation of new ethics legislation. In 1973, the National Advisory Commission on Criminal Justice Standards and Goals recommended that States establish an ethics code that would spell out what behavior is and is not permitted, and an ethics board to enforce the code.

Most of the 38 States with conflict-of-interest laws

prohibit officials from taking part in official acts that involve potental indirect economic benefits. For example, in Connecticut, members of the general assembly cannot participate in any Senate or House action on legislation in which they have an interest, unless:

1. When voting, they go on public record stating the nature of their interest and that notwithstanding their interest, they are able to cast a fair and objective vote; or
2. The members decide to abstain and advise the presiding officer in advance of their interest, in which case they are excused from stating that interest on the public record.

Depending on the current provisions of State statutes and judicial decisions, the provisions of the conflict-of-interest code should specify both the level and type of outside interests covered, the kinds of decisionmaking roles involved, and penalties for any violations, including dismissal from office. These provisions would not apply to officials holding part-time positions or representing family members, unless a conflict-of-interest were involved in those activities. The code should provide for referral of all cases of possible conflict to the governing board, which should be granted the authority to decide whether the outside activity should be prohibited or the official should abstain from involvement in any decision relating to it.

References

1. 18 United States Code, Sections 201, 202, and 203.
2. National Association of Attorneys General, Committee on the Office of the Attorney General. *Legislative Approaches to Campaign Finance, Open Meetings, and Conflict of Interest.* Raleigh, N.C., December 1974.
3. Special Committee on Congressional Ethics, Report of the Association of the Bar of the City of New York. *Congress and the Public Trust.* Atheneum, N.Y., 1970.

Standard 1.8

Police Anticorruption Program

Every police executive should establish measures to insure integrity and prevent or eliminate corruption within the police agency.

Commentary

Because police officers are just as susceptible to corruption as other members of the criminal justice system, public officials, and the public, they must be just as vigilant in their efforts to guard against and eliminate it. Among the measures police executives should take are the following:

1. Placing greater emphasis within an agency's internal affairs unit on ferreting out evidence of corruption by police officers. This unit also should have responsibility for review and analysis of complaints of alleged police corruption, in order to determine possible trends or patterns of such corruption within a specific division or section (e.g., vice or drugs). Appropriate investigative steps should be taken to uncover criminal or policy violations and findings should be reported to the senior police official.

2. Formalizing rules and regulations on employee conduct and the administration of internal discipline. The rules and regulations developed should be made available to every employee within the agency and to the public.

3. Lodging responsibility for the administration of internal discipline with the chief police executive.

4. Establishing a formal procedure for the receiving, recording, investigation, and disposition of complaints received from both within and outside the agency. These records should be complete with investigation and adjudication remarks, and should be permanently and chronologically recorded in a central record file. Every complainant should be advised that the report is being processed, and that notice of final disposition will be made. All allegations of corruption should be referred to the appropriate internal affairs unit for action. (See #1 above.) Allegations of a minor nature should be referred to the first-line supervisor for appropriate investigation and action, if necessary. The seriousness of the infraction will determine when disciplinary action should be taken.

5. Developing policies and procedures to minimize the potential for employee misconduct. This should be done through:

   a. Review of the agency's policies and attitudes toward expense funds, dealings with and payment of informants, acceptance of gratuities, handling recovered property, and disposition of evidence or items seized, but not used as evidence.
   b. Analysis of why employees become involved in corrupt practices. Employees who have undergone discriplinary action should be interviewed off the record by a specialized

person or unit to determine the circumstances that led to the wrongdoing. All information pertinent to future prevention should be documented. The interviewee, however, should be permitted to remain anonymous.

c. Specific training for all employees in the avoidance of corruption through the use of case studies that arouse interest and encourage group discussion.

Employees should be encouraged to participate in drafting internal policies and procedures; this will insure a greater understanding and acceptance of such policies. Once finalized, these policies should be strictly enforced, and clear lines of responsibility and accountability at all levels of command should be established. All new employees should receive copies of these policies for their review. Training sessions for new recruits and other employees should review these policies, so that there is no doubt about what is required of police officers and what disciplinary action will be taken should they violate that policy.

References

1. Commission to Investigate Allegations of Police Corruption and the City's Anticorruption Procedures, *Commission Report*. December 1972.
2. Goldstein, Herman. *Police Corruption: A Perspective on its Nature and Control*. Police Foundation, Washington, D.C., 1975.
3. President's Commission on Law Enforcement and Administration of Justice. *The Challenge of Crime in a Free Society*. 1968.

Related Standards

The following standard may be applicable in implementing Standard 1.8:

9.1 Police Executives and Administrators

Standard 1.9

Police Administrator Selection and Removal

State and local governments should consider adopting an independent, nonpartisan committee to recruit, screen, and investigate applicants, and make recommendations to the appointing authority for hiring a full-time permanent police administrator.

Commentary

Police administrators are presently selected in various ways, including by appointment by the Governor, mayor, or city manager, by promotion from within the police agency, or by recruitment from outside the agency or even the State. Many are elected directly in a partisan or nonpartisan election. Some police administrators are appointed for a certain period of time, some serve at the pleasure of the city manager, and some have permanent civil service status, as in Cincinnati.

Each jurisdiction is in a unique situation when faced with the fact that a present administrator is leaving. Most public officials are not familiar enough with the police agency and the requirements of its domain, let alone with what specific qualifications and requirements a new police administrator should have. Thus, they may generalize about qualifications by saying only that they need an honest person with strong and proven managerial abilities.

To provide unity and consistency and to insure selection of qualified police administrators, States should consider, if they have not already done so, the establishment of minimum qualifications.[26]

The establishment of a selection committee made up of those who are familiar with the inner workings of a police agency, as well as public officials and members of the public, will provide a balanced, knowledgeable approach to determining the requirements and needs of an area. Once these prerequisites have been established, active recruitment can begin. A list of candidates who have been properly screened, tested, and investigated would be given to the appointing authority; appointment of a police administrator would be made from this list. All aspects of professional and personal qualifications should be considered in the selection process. The appointing authority may reject the list and ask the selection committee to submit a new list of possible candidates. There is, however, the danger that this will develop into a back-and-forth situation. Every effort must be made by the selection committee and appointing authority to locate and select a qualified candidate. (The term "appointing authority" is meant to indicate that public official within the State or local jurisdiction who has authority, as designated

[26] For further information see *The Police Chief Executive Report,* a report of the Police Chief Executive Committee of the International Association of Chiefs of Police.

by the city charter or State legislation, to make such appointment.)

A separate removal committee, composed of private citizens, elected officials, and those familiar with the police agency, would have the responsibility to hear and investigate any allegations of incompetent, improper, or corrupt behavior on the part of the police administrator. The committee would then make a recommendation to the appointing authority for action. The police administrator should be accorded all rights for representation by counsel, favorable witness, notice of charges or allegations, and right to appeal. If these rights are not already guaranteed to all employees, appropriate procedures should be established to provide them.

References

1. A Report of the Police Chief Executive Committee of the International Association of Chiefs of Police. *The Police Chief Executive Report.* Washington, D.C., 1976.

2. Kelly, Michael J. *Police Chief Selection: A Handbook for Local Government.* Police Foundation and International City Management Association, December 1975.

Standard 1.10

Operations to Insure Integrity

The organized crime prosecutor[27] should be permitted by State law to undertake various types of operations, including those of an undercover nature, to insure that the criminal justice system within the jurisdiction is free from the corrupting influence of organized crime. As part of this, mock cases to test integrity should be authorized only under judicial supervision.

Commentary

Throughout this report, both the narrative and references to source material have stressed that organized crime perpetrates much of the corruption found in government. Criminal justice personnel processing cases against organized crime figures—from the judge on the bench to the turnkey in the prison—are likewise targets for its influence. Moreover, they are highly susceptible. Many judges want to insure their reelection or reappointment; organized crime can help make that possible. Many prosecutors want to advance professionally, and organized crime can help them too. Similarly, many police officers want preferred assignments, and organized crime's influence can get them.

These examples are not by any means inclusive, nor does this discussion imply that every person working in the criminal justice system is susceptible to influence by organized crime. Most are honest, hardworking people who stand fast against any outside influences.

In order to fight the corrupt influences of organized crime that have penetrated the criminal justice system, this standard proposes that the organized crime prosecutor be responsible for periodically undertaking operations to test those within the system. This procedure would help eliminate the few corrupt individuals.

Operations undertaken by the prosecutor could involve having a witness on occasion simulate a criminal situation in which the grand jury is not informed in the line of duty in order to test an allegedly corrupt district attorney. Mock crimes could be staged to test corrupt members of a police department. An undercover agent could be imprisoned to check on corrupt prison officials and probation officers.

Organized crime prosecutors should be fully aware of possible abuses of authority or mistaken beliefs as to criminal behavior on the part of the participants inherent in simulating criminal justice processes. Although not required by current constitutional or statutory standards organized crime prosecutors should undertake operations involving violations of

[27] For a complete discussion of the organized crime prosecutor, see Chapt. 7.

the law in judicial proceedings, e.g., embracing false oaths, only after they have obtained judicial authorization upon a showing of the intended nature of the operation, where and when it will occur, and the names of the persons to be involved.

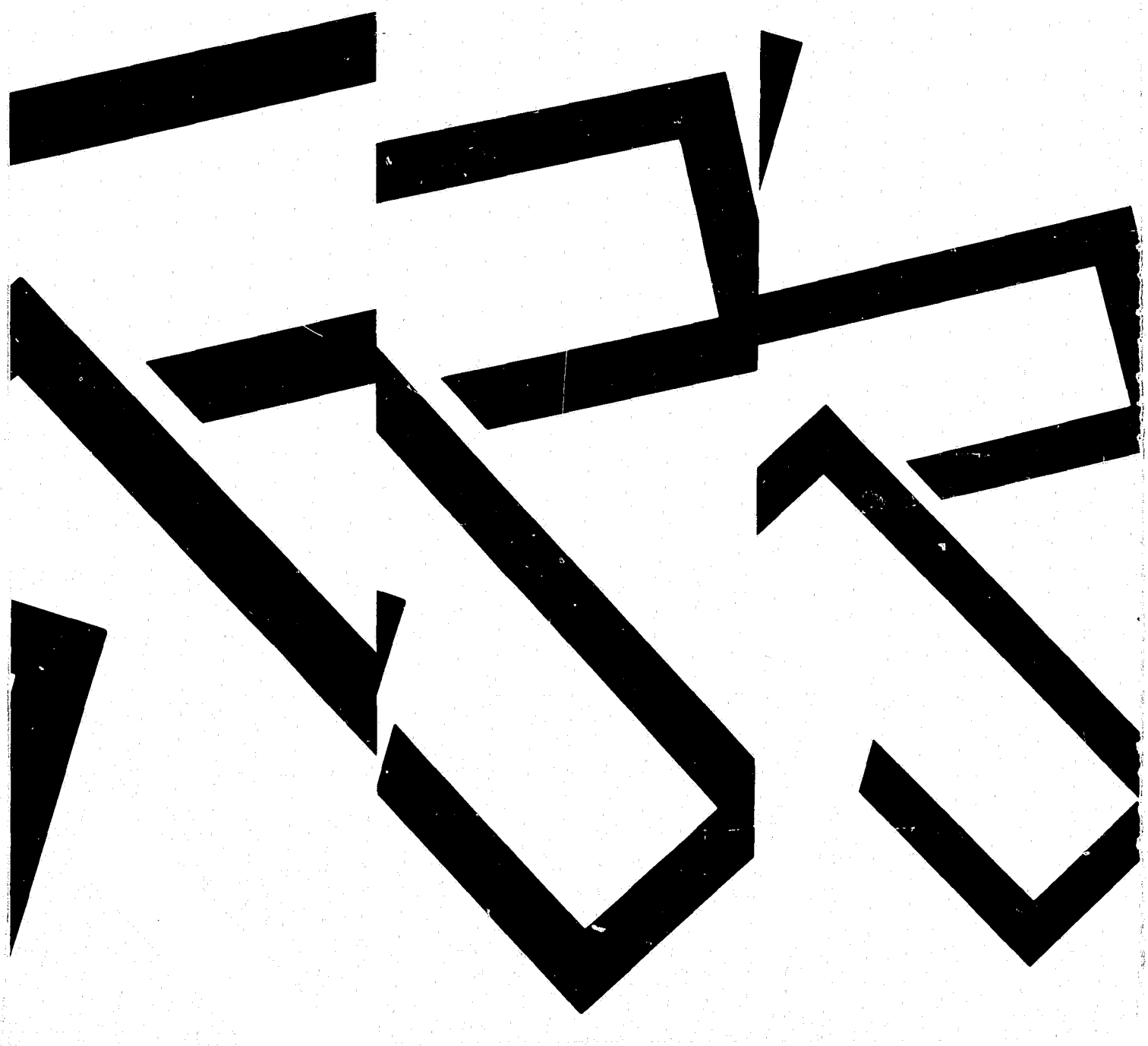
The purpose of these special operations is to demonstrate to the public that no one is above the law, including those whom the public has designated to administer the laws. No one, including judges and prosecutors should be exempt from examination of their integrity.

Related Standards

The following standard may be applicable in implementing Standard 1.10:

7.1 Statewide Capability to Investigate and Prosecute Organized Crime.

Chapter 2
Executive and Legislative Responsibilities



The major responsibility for law enforcement rests with the States. Therefore, if organized crime is to be successfully combated, State and local officials in both the executive and legislative branches must exercise strong, informed leadership. The effectiveness of State and local criminal justice agencies is largely determined by these officials, because they are responsible for insuring the adequacy of existing laws, initiating new legislation, and allocating appropriations.

Control of organized crime in a State requires the support and coordinated efforts of many officials at all levels and in all branches of government. To mount an effective organized crime control and prevention effort, all officials—governors, mayors, county commissioners, State and local legislators, etc. —must be informed of the extent of organized crime within their jurisdictions. They must be able to rely upon accurate and comprehensive information about the scope of organized criminal activity and existing and proposed criminal justice system approaches to controlling and combating it.

Of all officials, the State and local prosecutors are in the best positon to gage the strengths and weaknesses of the criminal justice system in combating organized crime. It is they who see firsthand the daily operations of law enforcement. For this reason, the standards in this chapter propose that State and local prosecutors make annual, public reports on the status of organized crime in their jurisdictions. Their reports should include a documentation of the results of investigations and prosecutions of organized crime figures, an estimation of the economic impact of organized crime, an assessment of existing law enforcement capabilities, and a statement of further requirements for effective control of organized crime. The State's organized crime prevention council, its organized crime investigating commission, and the media can also provide useful information.

The data in these prosecutors' reports would be especially helpful to State legislators and officials of criminal justice agencies; such persons must be involved in any comprehensive State effort to expose and combat the destructive effects of organized crime.

The reports could reveal, for example, any legislative deficiencies in particular jurisdictions that prevent successful prosecutions of organized criminals, or that conviction and imprisonment of those who are convicted fail to break their ties with organized crime. Conviction of organized crime offenders is only a first step; protection of the public requires that appropriate sentences be imposed upon career criminals so that their underworld connections can be broken. The reports also could indicate that certain State or local investigative agencies lack sufficient funding for enough staff, properly trained personnel, or adequate equipment to employ the innovative techniques used successfully in other jurisdictions to combat organized crime.

The reports of some State and local prosecutors may indicate that their State penal codes are not suited to deal with organized crime, especially because of the insulation of its leaders and its sophisticated infiltration of legitimate businesses. Standard 2.1 addresses this problem and proposes that each State revise laws pertaining to those crimes particularly associated with organized crime, e.g., conspiracy, and to those crimes that are important sources of its funds, e.g., fencing.

Most penal codes concentrate on individual crimes and do not give enough attention to ongoing organized crimes. This makes it difficult to prosecute criminal organizations. However, it is possible to reform State penal codes for better control of activities or organized crime. Therefore, the State's law enforcement agencies should inform legislators of the limitations of present laws.

More and more, organized crime is infiltrating legitimate business with its vast income from criminal activities. Traditional legal means have not been able to check this trend, largely because the threat of jail for the lower-echelon syndicate members is not an effective deterrent. Legislators must, therefore, devise new and more effective remedies—both criminal and civil. Granting new powers to regulatory agencies can also help to curtail organized crime infiltration of legitimate organizations.

A major portion of the illegal funds that organized crime invests in legitimate business or uses to corrupt or manipulate government officials comes from loan-

sharking and gambling. Legal attempts to control loansharking vary from State to State, but generally the laws against usury and extortion are applied. For the most part, these laws have been inadequate, primarily because neither loan sharks nor their victims pursue their claims or complaints in criminal judicial proceedings. Comprehensive legislation is needed to deal with both exorbitant interest rates and extortion.

Illegal gambling is, without doubt, a mainstay of organized crime. But, like loansharking, gambling rarely occasions complaints in the criminal justice system. In its gambling operations, organized crime not only encourages violations of the law by bettors, but also systematically corrupts and thwarts law enforcement itself. The average bettor probably has no idea of the extent of the organization that makes illegal betting possible, nor of the other enterprises to which the revenue is channeled—such as drugs—nor of the violence and other means that syndicates use to obtain their ends. New laws aimed at syndicated gambling should be considered; they are discussed in the commentaries of Standards 2.1 and 2.3.

Many propose, as at least a partial remedy, the legalization of gambling. Supporters of legalization contend that such action would reduce significantly the influence of organized crime. Some State and local governments already use lotteries as a source of revenue. Opponents of legalization argue that organized crime's profits from gambling would increase, rather than decrease, as a result of legalization. In support of their position, they cite these facts: (1) organized crime already has a foothold in gambling; (2) legalization will encourage increased public participation in gambling; and (3) legalization amounts to official tolerance of gambling.[1] State legislators confronted with conflicting arguments about gambling and certain other so-called "victimless" crimes should exercise caution when considering legalization of these activities. (See Standard 2.3.) State executive and criminal justice agencies should furnish legislators with information about social consequences of legalizing such activities as gambling, in light of organized crime infiltration of legalized gambling operations.

There is a pressing need in many States, not only for new substantive laws, but also for procedural reforms to provide adequate legal tools to enforce the law.[2] Law enforcement techniques used to combat street crimes have proven ineffective when directed against organized crime. The continuing nature of organized criminal activity, its centralization of authority and chain of command that insulate its principal figures, and its high degree of specialization require that innovative investigative techniques be applied. Standard 2.2 proposes that every State review and, when necessary, enact comprehensive legislation to insure the adequacy of investigative tools available to its law enforcement agencies to combat organized crime.

In 1967, the President's Commission on Law Enforcement and Administration of Justice stated, "From a legal standpoint, organized crime continues to grow because of defects in the evidence-gathering process." In most cases, a grand jury investigation is required before a prosecutor can compel release of this information. However, in some cases, a grand jury investigation may not be effective, for reasons either of timing or confidentiality. For this reason, vesting the power to obtain such material in a regulatory or administrative agency would be invaluable. Further, all regulatory or administrative agencies should cooperate with law enforcement agencies and should be permitted to apply a wide variety of civil sanctions against offenders. These sanctions could include withdrawals of licenses, fines, injunctions, and even imprisonment for violations. (See Standards 5.3 and 5.4.)

Evidence would also be easier to gather if there were statutory authority to impanel grand juries to investigate specifically the activities of organized crime. At present, State prosecutors who lack the power to compel the appearance of witnesses for interrogation are rendered virtually impotent. (See Standard 7.4.)

State prosecutors also could be aided by legislation that would grant them authority to compel the appearance of witnesses at their offices. (See Standard 7.3.) Also, prosecutors should be permitted to take the testimony of prospective witnesses by deposition and to preserve this testimony for use at trial should the witness be unavailable to testify in person or should the witness testify in a contradictory manner. This power of deposition would protect testimony should the witness be killed or threatened. (See Standard 7.7.)

States also should authorize contempt sanctions against witnesses who refuse to testify or to produce requested documents. (See Standard 7.8.) The granting of immunity should be considered in order to obtain evidence that otherwise would be difficult or impossible to obtain. (See Standard 7.9.) And, to encourage the testimony or production of documents from cooperative witnesses, State legislatures should enact provisions for the physical protection of persons vulnerable to retaliation. (See Standard 7.10.)

---

[1] See Appendix 3, "Victimless Crimes: Should They Be Illegalized or Decriminalized."

[2] "Substantive law means law that defines crime, in contrast to adjective or procedural law, which tells how criminal cases are to be processed." National Advisory Commission on Criminal Justice Standards and Goals, *Criminal Justice System*, 1973, p. 173.

The use of electronic surveillance and undercover techniques also could facilitate the gathering of evidence against organized crime figures, especially because witnesses often will not come forward. Much could be learned about organized crime operations, including the persons involved and the targets for future infiltration. (See Standards 6.6 and 7.6.)

Innovative evidence-gathering techniques such as these inevitably raise questions of due process and threats to privacy. The commentaries to the proposed standards mentioned above recognized this and discuss the safeguards to individual rights that must be built into such legislation and the procedures for implementing it. State legislators must balance competing social goals of protecting the public by proper law enforcement and preserving the rights of individuals.

Privacy and freedom of information legislation necessarily adds to the dilemma of achieving these dual goals. The commentary to Standard 2.4 explains how this legislation can severely limit the ability of law enforcement to provide the protection needed against organized crime activities.

The gathering of information by law enforcement personnel facilitates the formulation of an effective strategy against organized crime, whose interstate activities and infiltration of legitimate businesses make essential the exchange of intelligence by law enforcement, regulatory, and administrative agencies on Federal, State, and local levels of government. But, both privacy and freedom of information legislation can severely restrict this free flow of information. The Privacy Act of 1974, for example, requires the purging and sealing of records, thereby preventing different government agencies from collecting an inclusive criminal history on any one individual. In addition, the Federal Privacy Act restricts government surveillance activities, and prevents the public —the actual victims of organized crime—from knowing the actual threat posed by syndicate members.

Freedom of information legislation also can impede law enforcement. Unless law enforcement data are specifically exempted, law enforcement files could be examined by the persons under investigation, who could then destroy evidence or otherwise nullify the investigation.

State officials charged with the control of organized crime must consider both the requirements of their jurisdictions to prosecute and convict organized crime figures and their responsibility to protect the rights of individuals. They should not, therefore, adopt privacy and freedom of information legislation without thorough analysis and complete coordination with all affected agencies and, indeed, with the public.

Even with the benefit of substantive laws, innovative investigative techniques, and procedural reforms, State criminal justice agencies can implement those laws effectively only with proper funding. Standard 2.7 proposes that each State and locality review the level of its appropriations for the various components of the criminal justice system and provide funding that will give them full capability to combat organized crime in the State.

Standard 2.1

Review of State Criminal Codes

Every State should review and, where necessary, revise or supplement its penal statutes to insure the adequacy of its laws for dealing with organized crime.

Commentary

A comprehensive program to combat organized crime must include careful review and, where necessary, reform of each jurisdiction's penal code.

Each jurisdiction could review and reform its penal code to insure that those of its criminal statutes that are particularly relevant to organized crime activities are adequate—that there are no loopholes or unnecessary impediments to obtaining convictions and that they carry effective penalties. When conducting this review, jurisdiction could refer to recent comprehensive penal code reform efforts in this country—particularly, the American Law Institute's (ALI) Model Penal Code, the proposed new Federal Criminal Code, and those enacted in [illegible] jurisdictions, such as Wisconsin, New York, Illinois, and Massachusetts.

Every jurisdiction should undertake this review of its penal code. Organized crime activity exists throughout the Nation; it is not limited to particular cities nor is it merely a big-city problem. It can occur in areas where it is not presently found.

In reforming substantive criminal law in order to cope more effectively with organized crime, care should be taken not to draft provisions in a manner that will make crimes out of otherwise permissible business activities, or make a conviction possible on less than adequate proof. The challenge in law reform efforts directed at organized crime is to effect needed improvements without threatening existing legal rights.

In reviewing its criminal statutes, a jurisdiction should focus on the following:

1. The crime category that makes the criminal organization itself illegal, namely, the law of conspiracy;
2. Crimes that involve supplying illegal goods and services, such as gambling, drugs, and prostitution;
3. Other crimes relating to business activities, such as bankruptcy fraud, loansharking, extortion, bribery, and racketeering;
4. Traditional offenses, such as theft and receiving stolen property; and
5. Crimes of corruption, such as official bribery and perjury.

Focusing on Conspiracy

Even though the complexity of organized crime is not adequately described by "antique conspiracy law referring to any agreement of 'two or more' to

commit a single crime," [3] a jurisdiction may decide that the prohibition against conspiracy is a sufficiently flexible tool for prosecuting the organizational aspect of illegal syndicates.

Some modifications to existing conspiracy law may be required, however. The Model Penal Code's approach to the crime provides a useful model for examination and comparison with existing law.[4] Although many of the innovative features of the Model Penal Code's conspiracy proposals are not specifically directed to organized crime issues,[5] they merit consideration for adoption. At least one such feature also may have special relevance to organized crime. Under the Model Penal Code, a conviction can be obtained for both the conspiracy and the crime itself where the conspiracy is a continuing one and contemplates the commission of additional crimes.[6] Whether or not a jurisdiction adopts this idea, its underlying principle is appropriate for use against organized crime.

Offenses That Provide Revenue to Organized Crime

Major sources of revenue for organized crime are provided by offenses involving prohibited activities such as gambling, drugs, and prostitution. These crimes of vice share a number of characteristics. They all play on human weakness and desire. They provide a scarce good or service at high cost to members of the public. They can generate, or are often accompanied by, the commission of other incidental crimes. And, because they all involve a type of business activity, they can be operated like any business, involving wholesale and retail outlets, channels of distribution, and, if organized on a sufficient scale, can generate large sums of money.

Statutory revisions aimed at these crimes of vice should include measures for general improvement of the penal laws in this area. For general purposes as well as for dealing with organized crime, the vice laws should, of course, reflect sound penal policy. Thus, for example, the abolition of a doctrine like that of the "purchasing agent"—viz. that defendants cannot be convicted of selling drugs to purchasers if they were acting as agents of the purchasers[7]—seems desirable.

Legislative reform also may be directed particularly at factors that are suggestive of organized crime's involvement in vice. All jurisdictions should operate on the assumption that "[t]he larger the operation and the greater the number of its members, the more likely it is that it will be connected directly or indirectly with syndicated crime." [8] More specifically, drug legislation, for example, should distinguish for grading purposes between possession and possession with intent to sell, and between commercial and noncommercial possession with intent to sell. Legislation in this area also should define wholesaling and grade the offense depending on the type and amount of drugs involved.

In defining and grading gambling offenses, factors such as the size of the operation, the length of time it has been in existence, the number of persons involved, and the amount of business it does should be taken into account. Key operations in organized commercial prostitution rings, such as procuring prostitutes for a brothel or recruiting persons to become professional prostitutes, should be defined clearly and subject to appropriate penalties. The principle of singling out for higher penalties those performing a managerial or supervisory role in these vice offenses should also be considered.

The issue of decriminalization inevitably arises in connection with some forms of vice, and is thus relevant to the organized crime problem and should, therefore, be considered. Many believe that the prohibition of an illicit product or service increases its scarcity, raises its price, and, therefore, makes it a potentially lucrative source of revenue for those willing to trade in it. According to this viewpoint, decriminalization (or legalization) would make the good or service more readily available, reduce its price by opening the door to competition, and might make trade in the good or service less attractive to organized crime.

But because any decriminalization is usually only partial and is accompanied by some form of regulation, it may not entirely eliminate scarcity. Hence, the illegal market, albeit a smaller one, may continue. Also, in connection with activities such as gambling, decriminalization (or legalization) is not likely to eliminate the interest of organized crime, because that activity, conducted on any scale, always involves large sums of money.

Evidence of the effect that decriminalization or legalization of some forms of vice has on individuals, groups, and society is conflicting. Scientific research on this impact has been inadequate. States should, therefore, avoid amending legislation on the basis of simplistic theories and incomplete evidence. Standard 2.3 addresses this issue further.

---

[3] *Working Papers of the National Commission on Reform of Federal Criminal Laws,* Vol. I, 1970, p. 383.

[4] Consult *Conspiracy: Statutory Reform Since the Model Penal Code,* 75 Col. L. Rev. 1122 (1975).

[5] Compare, however, use of the concept of "a scheme of organized criminal conduct" as the test for joinder of criminal defendants. ALI, Model Penal Code, Proposed Official Draft, Section 5.03(4) (a) (ii) (1962).

[6] ALI, Model Penal Code, Tent. Draft No. 5, p. 32 (1956).

[7] Consult *Working Papers,* Vol. II, p. 1104.

[8] *Working Papers,* Vol. II, p. 1174.

Other Offenses

Organized crime promotes and engages in a variety of other offenses—crimes such as loansharking, which converts the ordinary business activity of lending into a method for victimizing persons in financial distress; crimes such as bankruptcy fraud, extortion, bribery, and racketeering, which use illegal methods in the course of otherwise legitimate business ventures; and more traditional offenses, such as theft and receiving stolen property.

Almost every jurisdiction already has laws on its statute books proscribing such crimes, but in some instances these laws are antiquated and require substantial revision, apart from the organized crime issue. Law reform efforts must, of course, be sensitive to the fact that defining some of these offenses involves careful distinctions between prohibited conduct and otherwise legitimate business activity.

Each jurisdiction also should consider the possibility of supplementing existing law relating to these crimes with special provisions aimed at organized crime. For example, judges could be accorded discretion to impose more severe penalties where it can be proved that the crime was committed in support of organized crime activity.[9] (See Chapter 8.) Or, the grade of the particular offense could be aggravated where organized crime can be implicated. Such implication might involve proof that (1) illegal profits were channeled into organized crime coffers; (2) organized crime figures exercised some control over the criminal operation; or (3) in the case of crimes committed incidental to operation of a legitimate business, there has been a pattern of certain types of criminal activity, and organized crime figures have a substantial investment in the business.

Loansharking—lending money at usurious rates and using strong-arm techniques (or threats thereof) to enforce collection—is thought by many law enforcement officials to be a multibillion dollar business and the second largest source of income for organized crime.[10] In many States, substantial statutory revision is necessary even to make the law adequate to deal with loansharking, let alone to cope with organized crime involvement in the offense. This poses a special dilemma for the legislative draftsman. Though usurious loans may be undesirable, even without the use or threat of force for collection purposes, they do not pose as great an evil as does loansharking. Indeed, this is why there is dispute over the issue of prohibiting usurious loans through criminal law.[11] Many jurisdictions, therefore, may not wish to adopt the New York statutory approach for dealing with loansharking, i.e., making it a felony to charge a rate of interest that is higher than that specified unless authorized by law to do so.[12]

A second approach, which is reflected in existing Federal law,[13] emphasizes conviction for the use of implicit or explicit threats to enforce collection. But because direct evidence of such threats is often difficult to obtain, the Federal law relies on a special evidentiary provision that describes what must be proved for a *prima facie* case: civil unenforceability of the loan agreement; an interest rate of 45 percent; and the debtor's reasonable belief regarding the lender's use or reputation for use of extortionate means for collection purposes.

In part because of doubts concerning the constitutionality of such special evidentiary provisions, a variant on the New York approach was proposed in the *Study Draft of a New Federal Criminal Code.* It makes criminal the act of engaging in the business of extending credit at such a rate of interest that repayment is civilly unenforceable.[14] Emphasis on engaging in a business makes it clear that the law covers only the professional loan shark, thus making the establishment of a connection to organized crime more likely. Further, both existing law and the Federal study draft make criminal the advancing of capital to finance the loan shark.

Specific provisions such as these should be considered by every jurisdiction as a more direct means of making criminal the conduct of the organized crime bankers behind many professional loan sharks, rather than relying only on general principles of complicity or conspiracy.

In recent years, organized crime has acquired a large number of legitimate businesses—either by direct purchase, using funds accumulated from illegal activities, or by forfeiture because of gambling debts, or through foreclosure on usurious loans. Once acquired, such businesses may be operated legitimately, but, more often than not, illegal practices are used to increase profits. The Task Force Report describes one such practice, involving bankruptcy fraud:

> With the original owners remaining in nominal management positions, extensive product orders were placed through established lines of credit, and the goods were immediately sold at low prices before the suppliers were paid. The organized criminal group made a quick profit of three-quarters of a million dollars by pocketing the receipts

[9] Compare Section 3203, *Study Draft of a New Federal Criminal Code* (1970), which authorizes special sentencing authority if, *inter alia,* the court finds the felony was "committed on behalf of or in the course of operations of a criminal syndicate" and the defendant was a leader thereof.

[10] *Task Force Report: Organized Crime,* p. 3.

[11] *Working Papers,* Vol. II, p. 984.

[12] N.Y. Penal Law Section 190.40 (McKinney 1967).

[13] 18 U.S.C. Sections 891–896.

[14] Section 1759 (1970).

from sale of the products ordered and placing the firm in bankruptcy without paying the suppliers.[15]

Other types of frauds sometimes perpetrated after an organized crime takeover of a business include fraudulent stock sales and arson of the business property (committed with intent to defraud the insurance company).

When organized crime takes over a business or enters the field of labor, it brings with it a variety of criminal techniques that supplement ordinary business activity in a manner designed to extract extra profits. Bribery and illegal kickbacks are used extensively. In addition, the President's task force found that, "Strong-arm tactics are used to enforce unfair business policy and to obtain customers . . . ," and that "[I]nfiltration of labor unions . . . provides opportunities for stealing from union funds and extorting money by threats. . . ." [16]

The fact that organized crime is heavily involved in commercial vice and illegal activities in connection with otherwise legitimate businesses does not mean that it has abandoned traditional crimes, such as theft and receiving stolen property. Looting and pilferage frequently accompany organized crime's entry into legitimate activities, and receiving stolen property can itself be big business.[17]

Corruption Offenses

Corruption of public officials is an extremely serious matter whenever it occurs. It is, however, particularly significant when perpetrated by organized crime, which has both the need and the resources to engage in corruption on a large scale.

Of all the forms of illegal conduct in which organized crime engages, official corruption is the most pernicious, for it undermines the operations of government itself and corrodes the body politic. (Chapter 1 elaborates on this subject.) The vast economic resources and strong-arm techniques available to organized crime are used to obtain favors and influence from public officials. The methods they use include bribery—either by direct cash payment or political campaign contributions—and threats.

This is an area of State criminal law where the statutory offenses are often a hodgepodge, containing loopholes and omissions in offenses. For example, many jurisdictions do not have a criminal provision proscribing the taking of money for procuring an appointment or advancement in the public service.[18]

Statutes should be revised or, in some cases, drafted to eliminate gaps and arbitrary distinctions. In connection with bribery of public officials, the law should be made applicable to bribes paid or arranged before the officials assumed their positions. The requisite mens rea should be defined clearly. The statute also should describe specifically those categories of persons whom it is illegal to bribe. The "thing of value" that qualifies for consideration as a bribe should be adequately defined to exclude de minimis cases. Exertion of special influence by means short of bribery and intimidation also should be made criminal. Penalties for offenses in this area should generally be severe, because of the consequences the conduct can involve.

Another specialized form of corruption that is directed against governmental processes interferes with the proper functioning of the law enforcement-prosecutorial-judicial process. The offenses involved relate to interfering with witnesses and jurors through bribery, intimidation, or violence; tampering with physical evidence or public records; perjury; and the making of false statements to government agencies.

The conduct involved is another means used by organized crime to protect its functionaries against prosecution and/or conviction. Combined with the other forms of official corruption described above, its use can nullify government and judicial processes.

It is important to enforce adequately the relevant offense categories prohibiting this kind of conduct; such enforcement will make it possible both to gather evidence against and prosecute organized crime figures. Though the 1967 President's Commission did not, in general, recommend changing the substantive criminal laws relating to organized crime, it did make specific recommendations for strengthening laws against the crime of perjury:

> Lessening of rigid proof requirements in perjury prosecution would strengthen the deterrent value of perjury laws and present a greater incentive for truthful testimony.
>
> The Commission recommends [that] Congress . . . abolish the rigid two-witness and direct-evidence rules in perjury prosecutions, but retain the requirement of proving an intentional false statement.[19]

The criminal laws of all jurisdictions that deal with these offense categories generally require tightening. In many jurisdictions, much of the conduct involved is prosecuted under the vague and amorphous crime of "obstructing justice." Jurisdictions should rectify this deficiency by composing crime categories that are much more specific and that describe completely the conduct proscribed. Numerous issues must be considered, such as how

[15] *Task Force Report: Organized Crime*, p. 4.
[16] *Task Force Report: Organized Crime*, p. 5.
[17] See generally, *Legislative Responses Dealing in Stolen Goods* (National Association of Attorneys General, December 1975).
[18] ALI, Model Penal Code, Tent. Draft No. 8, p. 116.
[19] *Task Force Report: Organized Crime*, pp. 16–17.

to describe the category of persons with whom tampering is prohibited; whether there must be a pending proceeding; and how to describe the prohibited tampering.

In conclusion, it should be noted that this commentary is not all-inclusive but merely discusses certain crimes illustrative of the issues. Elsewhere procedural issues are discussed. (See Standard 2.2.)

Reference

President's Commission on Law Enforcement and Administration of Justice, *Task Force Report: Organized Crime,* 1967, p. 16.

Related Standards

The following standards may be applicable to implementing Standard 2.1:

1.1 Organized Crime Prevention Councils
1.5 Political Campaign Financing
1.6 Financial and Professional Disclosure Requirements
7.1 Statewide Capability to Investigate and Prosecute Organized Crime

Standard 2.2

Review of State-Enacted Investigative Procedures

Every State should review and, where necessary, enact comprehensive legislation to insure the adequacy of investigative tools available to its law enforcement agencies to combat organized crime.

Commentary

This standard suggests that each State review its existing legislation to determine if its law enforcement officers have available to them a sufficient array of investigative procedures.

This report proposes many investigative tools that are essential to the successful prosecution of organized crime offenders. The tools, which are listed below and discussed at length in appropriate sections of this report, would facilitate the gathering of evidence and the compilation of complete criminal histories. These tools, then, would enable prosecutors to perform their duties more effectively, and judges to make more informed decisions on sentencing.

Following is a list of the standards recommended for developing evidence and furnishing relevant information:

- 1.10 Operations to Insure Integrity
- 5.3 Authorization for Access to Records
- 5.4 Civil Sanctions
- 7.3 Authority for Subpena of Witnesses to Prosecutor's Office
- 7.4 Statewide Organized Crime Grand Juries
- 7.5 Electronic Surveillance
- 7.6 Undercover Techniques
- 7.7 Use of Depositions
- 7.8 Recalcitrant Witness
- 7.9 Immunity Statute
- 7.10 Witness Protection Statute
- 8.1 Presentence Reports
- 8.2 Increased Sentences for Dangerous Special Offenders
- 8.3 Maximum Terms
- 8.4 Economic Sanctions

These standards typify the kinds of investigative, prosecutorial, and correctional legislation required to fight organized crime, but they clearly are not exhaustive. States could consider legislation to deal with other procedural and evidentiary matters, such as joinder and severance, search warrant, and prior inconsistent statements.

References

1. President's Commission on Law Enforcement and the Administration of Justice, *Task Force Report: Organized Crime,* Government Printing Office, 1967.

2. National Association of Attorneys General, Organized Crime Control Legislation, January 1975.

3. National Association of Attorneys General, Committee on the Office of Attorney General, The Office of the Attorney General, February 1971.

4. Report of the National Commission for the Review of Federal and State Laws Relating to Wiretap and Electronic Surveillance, Washington, D.C., 1976.

5. Blakey, Robert G., Phillip Rapoza and Jan Richards Schlichmann, "Model Organized Crime Control Act," Cornell Law School, Ithaca, N.Y., September 1975.

Related Standards

The following standards may be applicable to implementing Standard 2.2:

1.1 Organized Crime Prevention Councils

7.1 Statewide Capability to Investigate and Prosecute Organized Crime

Standard 2.3

Victimless Crimes

States and localities should exercise caution in considering the legalization or decriminalization of so-called "victimless crimes," such as gambling, drug use, prostitution, and pornography, which are known to provide income to organized crime because there is insufficient evidence that legalization or decriminalization of such crimes will materially reduce the income of organized crime and on the contrary, evidence does exist that the elimination or reduction of legal restraints can encourage the expansion of organized crime activities.

Commentary

Those seeking to reform the laws prohibiting gambling, drug use, prostitution, and pornography rarely seek total decriminalization—that is, the removal of all criminal sanctions on those activities. Rather, they propose making certain aspects of those activities legal but subject to government regulation. State and local governments can then assess charges on the participants and thus can derive needed income for other public programs without imposing the burdens of additional taxation. Many proponents believe that removing the legal prohibitions that created the monopolistic conditions essential to profitability for organized crime causes organized crime to wither away. Moreover, they hold that participants in those activities are not complaining of injury, and do not see themselves as victims of organized crime. Unenforceable laws would no longer divert scarce law enforcement resources from combating other crimes; public officials would not need to be corrupted. So the argument runs.

Actual experience with legalization in certain areas indicates that these arguments are not realistic; on the contrary, legalization of certain gambling and pornography activities appears to have increased organized crime profits, as described below.

In terms of gambling, proponents of legalization hold that government regulation and even operation of certain gambling enterprises will painlessly raise revenue while diverting bettors from organized crime activity. This premise may be illusory. First, the heavy administrative costs of government regulation or operation not only seriously curtail net revenue but cut the payoff to bettors, so that regulated gambling is not competitive with illegal gambling. Also, enforcement of the regulations requires additional security and police resources as indirect costs, and provides new oportunities for corruption of the officials responsible for such enforcement.

In 1974, a task force on legalized gambling was established by the Fund for the City of New York and Twentieth Century Fund to examine the possibility of legalization both as a revenue measure and as a means for controlling organized crime. The

task force concluded that "legalization is not an effective weapon against organized crime." It found that State-run gambling would inevitably have higher overhead costs than illegal operations and probably could not offer equal or better odds and services; the study also questioned whether or not legal games could ever be competitive. Legalization, furthermore, would require increased enforcement to protect the legal games. The task force believed, in short, that current legalized games had not significantly affected organized crime.

Legal off-track betting (OTB) on horse races was created in New York in 1970. At that time it was believed that OTB would not only raise revenue but also hurt organized crime. It would appear, however, that while OTB has attracted many new participants, it has not drawn the heavy bettor away from organized crime bookmakers and its impact on organized crime's gambling profits was thus negligible. Not only were criminal syndicates *not* deprived of income, but it also appears that there was an overall increase in illegal gambling; bookmakers now lay-off on OTB. Illegal gambling can offer bettors services that legalized games such as OTB cannot match, including better credit, quick payoffs, and anonymity.

Legalized lotteries were also expected to attract bettors away from the numbers racket, which flourished in New York and New Jersey especially. However, the legalized game could not compete with respect to door-to-door service, quick payoff, credit, anonymity, and satisfaction with community contacts; it appears that the legalized lottery market is made up primarily of new bettors. Some observers even claim that gambling, both legal and illegal, increased, because the lottery made it appear that the government sanctioned gambling, certainly an unintended side effect of legalization. Thus the objective of reducing organized crime and raising revenue by legalization may well be fundamentally incompatible.

The source of greatest profits for major organized crime gambling enterprises is sports betting, considered difficult to legalize because of its low profit margin. Professional sports organizations, moreover, are opposed to legalization because of criminal attempts to fix athletic contests.

Other games, such as dog racing, poker, and charity games, have been legalized or are proposed for legalization; even though they may not be a major source of revenue for organized crime, its involvement in their operation has been noted.

As to drug abuse, organized crime's involvement there appears to have been focused on the heroin trade. Thus there are proposals to remove control over the sale and use of heroin from the criminal justice system and place it with treatment and educational institutions instead. However, after investigating those alternatives, neither the President's Commission on Law Enforcement (1967) nor the National Advisory Commission on Criminal Justice Standards and Goals (1973) recommended legalization.

Legalization proposals usually take the form of government regulation of authorized clinics where only maintenance doses are provided; the artificially created monopoly that fosters organized crime's involvement in the drug trade would then be eliminated. However, only addicts would be admitted to the program and this would leave a sizable illegal market. Also, a maintenance dose would not provide many addicts with what they really want, the feeling of euphoria. Finally, street purchases would continue to be more convenient for the addict. Few can predict what effect a heroin maintenance program would have on organized crime, as there has been no experience in this country with legalized heroin programs since the 1920's.

As to prostitution, its current connection with organized crime appeals to be increasing through ownership of bars and massage parlors where the women work. When prostitution was redefined in New York City in 1967 as a "violation" and the penalties were reduced, the result seemed to be that new prostitutes from all over the country were attracted to the city.

The Commission on Pornography and Obscenity was unable to assess the involvement of organized crime when it conducted its study during 1968-1970, but later investigations indicate that pornography has become organized crime's latest business. Court decisions in the 1960's left unclear the legal status of pornographic materials. Indeed, a de facto legalization has occurred in some areas. Because legitimate distributors were reluctant to handle such potentially illegal material, organized crime moved in; first, in the distribution of pornography and then into all aspects of the industry: literature and films of all types and their production, wholesaling and retailing.

In conclusion, the partial legalization of gambling and pornography not only appears to have increased the levels of those activities, but also may have increased profits for oganized crime. Those profits are then put into other illegal activities such as loansharking, extortion, consumer frauds, infiltration of legitimate business, and corruption of public officials. Thus the issue of revising laws on victimless crimes is one that States should view with considerable caution.

Reference

First Interim Report of the Commission on the Review of the National Policy Toward Gambling, Washington, D.C., 1975.

Standard 2.4

Privacy and Freedom of Information Legislation

States should review existing and proposed privacy and freedom of information legislation to insure that such legislation (1) accommodates the legitimate needs of law enforcement agencies in their organized crime control and police intelligence programs, and (2) protects basic individual rights of privacy.

Commentary

Central to all law enforcement efforts to deal with organized crime is the legitimate need to gather investigative and intelligence data on the conduct of persons and businesses suspected of participation in organized criminal activities. (See Chapters 6 and 7.) The collection and handling of such data pose the problem of how to balance the individual's right to privacy with society's right to be protected from criminal conduct. A related consideration is the right of access by the public to information about government activities and their influence on society.

State and Federal legislation (notably the Privacy Act of 1974, P.L. 93–579, 5 U.S.C. Sec. 552a) already attempts to balance these competing social values. Legislation pending in some States would, if enacted, shift the balance of these competing needs and limit severely the ability of law enforcement agencies to provide the protection needed against expanding criminal activity.

The scope of organized crime activity, in terms of both its diversity and its multijurisdictional nature, presents unique problems for law enforcement agencies. A basic characteristic of American law enforcement is local control. This means that a single police agency within a State or community has great difficulty dealing with an organized criminal operation in its own area if that operation is controlled from out of State, or if organized crime figures use political boundaries to evade or circumvent prosecution. Further, criminals' use of banks, companies, or legitimate fronts in other States, prevent a local agency from gathering the information needed for successful prosecution. Chapter 5 (Regulatory and Administrative Agencies) addresses this problem by proposing State and Federal liaison functions.

The solution is not, however, to relinquish law enforcement of these types of cases to the Federal Government. Rather, this particular field requires the free interchange of information among police agencies at Federal, State, and local levels. Moreover, the pervasive nature of organized crime activity requires that such interchange be maintained with licensing and regulatory agencies as well. In addition, members of the public must be informed of the threat posed by organized crime's infiltration into the private sector.

In order to investigate organized crime, law enforcement agencies collect and store intelligence

information over long periods of time. The information is analyzed, tested for reliability, and exchanged with other agencies in the process of identifying and prosecuting specific criminal acts.

The potential for abuse of rights of privacy in this process exists. This has been demonstrated by recent disclosures of questionable Federal intelligence activities (see especially the April 1976 report of the U.S. Senate Select Committee to Study Governmental Operations with Respect to Intelligence Activities). The increasing sophistication of surveillance techniques also increases the risks of invasion of privacy. Also, raw data gathered in the intelligence process are often of untested reliability; they must, therefore, be secreted until they are verified, so that persons are not wrongly linked to organized crime.

The significant problem here is to fashion privacy legislation so as to preserve law enforcement's essential need to investigate crime and ferret out covert criminal conspiracies, and, at the same time, protect the privacy of the individual.

Intertwined with the law enforcement-privacy dilemma as it relates to organized crime is the right of the public to be informed. For example, disclosure legislation such as the Federal Freedom of Information Act (FOIA, P.L. 93-502, 5 U.S.C. Sec. 552) authorizes public inspection of broad categories of government documents and records. However, both freedom of information and privacy legislation are usually accompanied by specific exemptions for criminal law enforcement data. The impact of such legislation on the intelligence and investigative functions varies with the breadth of those exemptions.

A recent State statute was passed without any law enforcement exemption. The law apparently was enacted without obtaining advice or concurrence of law enforcement officials concerning its scope or its lack of an exemption. If the law were allowed to go into effect without an exemption added, all law enforcement files could be examined by the persons under investigation; effective organized crime investigation would end. An amendment to the law that would remedy this situation was signed by the governor.

Potentially, all privacy and freedom-of-information legislation could have a threefold impact:

1. Restricting the actual gathering of information;
2. Restricting the exchange of data between law enforcement agencies, as well as limiting the ability to store and transfer the data acquired; and
3. Allowing inspection of records by those under investigation, thereby alerting them to informants and investigative leads. The criminal suspect would then have a chance to destroy evidence, change methods of operation, or otherwise circumvent the legal process.

Although the Federal Freedom of Information Act does not apply directly to the States, it can have an impact on them when material shared with Federal agencies and contained in their files becomes the subject of a demand to the storing Federal agency for disclosure. Such disclosure could, in turn, guide the subject of the file to seek further disclosure from the State file (and obtain it if State law permits). Obviously, such risk tends to impede the flow of information from State agencies to the Federal Government, and thereby limits the effectiveness of any joint effort to deal with organized crime.

Federal privacy legislation is generally directed at limiting the availability of criminal history data.[20] This is accomplished by requiring the purging and sealing of records, thus restricting the ability to maintain data. This type of legislation also places limitations on the exchange of data between government agencies, as well as between those agencies and outside persons or entities.

The law enforcement exemptions of the Privacy Act seem broader than those of the Freedom of Information Act, in terms of disclosure of criminal investigative and intelligence information (see 5 U.S.C. 552a(d)(1) and 552a(d)(2)). However, certain provisions of the latter law (see especially Sec. 552a(b)(7)) could well prevent the flow of needed information to State agencies. For example, if a Federal agency knows of an organized crime move into a State or local area, a strict reading of the act would seem to preclude the Federal agency from supplying the needed information, even if it were willing to do so. Further, the State agency could hardly request information that it did not know existed.[21]

In summary, the effect of both privacy and freedom-of-information legislation is to reduce the

[20] The following distinction should be observed between criminal history data (also known as Criminal Offender Record Information) and criminal investigative or intelligence data:

- Criminal history information (i.e., an individual's "rap sheet") essentially consists of arrest and conviction records, plus correctional and release information.
- Criminal investigative information is associated with an individual or an entity; it has been gathered in the course of investigating a specific criminal act and is made up of data received from informants, investigations, and surveillance.

[21] In her speech at the National Conference on Organized Crime held in Washington, D.C., October 1–4, 1975, Mary Lawton, Deputy Assistant Attorney General, Department of Justice, recognized the absence of any provision in the Privacy Act ". . . for a Federal agency to volunteer law enforcement information to another Federal agency or to a State or local agency having enforcement responsibilities."; as a possible solution to this problem she pointed out that ". . . Federal agencies have been urged to include among their 'routine uses'—required to be published in the Federal Register for public comment—the referral of information to appropriate law enforcement agencies and prosecutors."

flow of information, either by direct restriction or by risk of disclosing shared information. Such legislation does not totally prevent State-Federal cooperative efforts to deal with organized crime, but does require awareness by the participants of the requirements of these statutes and care in the way they cooperate.

LEAA rules and regulations also bear on criminal investigation and recordkeeping. LEAA provides funding to assist State and local law enforcement agencies throughout the country in a wide variety of endeavors, including organized crime investigation. The use of Federal funds, in turn, gives LEAA a voice in regulating the recordkeeping and data dissemination of those recipient agencies.

In March 1976, LEAA published revised regulations applying to all State and local agencies and to individuals collecting, storing, or disseminating criminal history information with LEAA funding. The basic thrust of the regulations continues to place restrictions on the maintenance and exchange of criminal history information, but the new revisions now provide that both conviction data and pending charges may be disseminated without limitations. As to nonconviction record information, dissemination of such data after December 31, 1977 would be allowed for any purpose authorized by a [State] statute, ordinance, executive order, or court rule, decision, or order. The regulations as amended permit dissemination to criminal justice and certain government agencies; other individuals and agencies may have access to the data for certain research, evaluation, and statistical purposes. However, restrictions of confidentiality are placed on such use. Finally, the subject of the data has the right to inspect the records, which must be accurate and complete, and must include information on the disposition of arrests within 90 days of such disposition.

A few States have laws pertaining to individual privacy that might affect criminal intelligence or investigative efforts directly or indirectly. For example:

1. Fifteen States limit the use of polygraph examinations by government or private employers.
2. Nine States have expungement or sealing provisions with regard to criminal records and limitations on their use.
3. Five States impose limits on the ability of law enforcement agencies to participate in regional or national criminal information systems (dealing with criminal offender record information).

Several other States impose limits on the ability of law enforcement agencies to conduct, or to use the results of, wiretapping or other forms of electronic surveillance.

The judiciary has also played a role in the privacy-criminal intelligence dilemma. In California, a State constitutional provision worded identically to the fourth amendment to the United States Constitution was interpreted as restricting the right to gather financial data from third parties. (See *Burrows* v. *Superior Court,* 13 Cal. 3d 238; 529 P2d 590; 118 Cal. Rep. 166 (1974); California Constitution Article 1, Section 13.)

At issue in this case was whether a bank could turn over copies of account holders' records voluntarily to police when such records were "owned" by the bank. The court found an "expectation of privacy" on the part of the depositor that the bank would not release such records unless served with legal process, or unless the bank itself was a victim of the depositor. (Cf. *California Bankers Association* v. *Schultz,* 416 U.S. 21 (1974) holding essentially contrary on fourth amendment grounds.) However, in April 1976, the U.S. Supreme Court ruled in *U.S.* v. *Miller* (44 L.W. 4528 April 21, 1976) that the customer's expectation of privacy in regard to bank records was not justified. (See Standard 5.3.)

Proposed Legislation and Special Problem Areas

In recent years, a veritable flood of privacy-related legislation has been offered or enacted that covers a broad range of records and activities dealing with the collection and use of personal data. This legislation considers, for example, bank records, criminal justice information, electronic surveillance, and the use of polygraph examinations. The basic provisions of such legislation that relate to the criminal investigative or intelligence function include:

1. Requirements for early sealing or purging of information not leading to conviction;
2. Provision for access of individuals to criminal history information collected on them;
3. Limitations on the intelligence or investigative data may be stored; and
4. Limitations on the dissemination of data.

Much of both existing and proposed privacy legislation is aimed at restricting the flow of criminal history data. This comes at a time when business is more than ever the target of illicit infiltration by criminal elements. Such legislation, therefore, has a significant impact on business, because it deprives employers of information on the possible criminal activity of present and prospective employees.

New restrictions on criminal history data prohibit release of such data to nongovernment employers. The loss of this information, along with legislative restrictions on asking employees about arrest records, and sealing or expungement statutes, which allow a convicted individual to deny prior arrests or convictions, make employers more vulnerable to victimization. This problem is discussed further in Chapter 4.

Again, a balance must be sought that insures that individuals are not deprived of rights or privileges because of incorrect information, and that enables law enforcement officials to perform their duties to protect society from criminal conduct. The rights and responsibilities of business to protect itself and its customers from criminal acts also must be considered.

Determining the point at which the individual's right of privacy is balanced with the public's need to know is difficult. Clearly, persons can be arrested without justification and a record developed on them. Raw, untested data may be used to deny someone employment, a license, or other opportunity. This possibility for abuse should be a primary consideration when legislating in this area.

Lastly, the sealing and expunging of records create a further problem. Such provisions are intended to aid in the rehabilitation of offenders by providing them with a "clean slate." This, however, conflicts with the right and responsibility of employers to know the character of those they are about to hire—a knowledge that can help prevent infiltration by organized crime figures and other personnel and financial risks into legitimate businesses. Some legislative accommodation beyond the present privacy provisions is needed in this area.

Despite its inability to disclose information within files, law enforcement agencies have a duty to inform executive agencies, legislative bodies, and the private sector of the problems in our society created by the growth of organized crime. Even if specific names and places cannot be given, the citizens' right to be informed, at least in general terms, about organized crime infiltration is basic to organized crime control efforts.

Knowledge of the extent of organized crime's involvement in business, for example, can stimulate action by regulatory agencies. (See Chapter 5.) Such agencies are, at present, somewhat limited in their ability to effectively regulate businesses controlled by criminal elements, either because they are unaware of the infiltration or because of the large number of industries into which organized crime has entered. A cooperative relationship between law enforcement agencies and agencies regulating these industries would provide an effective tool that could both identify infiltration and thwart growth by use of licensing and other regulatory powers. Law enforcement agencies could, for example, exchange data with alcohol beverage control boards, the Securities and Exchange Commission, and local zoning or planning groups.

In many instances, existing State privacy laws do not seem to prevent regulatory agencies from providing information to law enforcement agencies at the State level. Federal privacy legislation, however, prohibits some Federal agencies from providing data to State and local law enforcement agencies and even to Federal law officers, at least without giving notice to the subject of the data. That notice, though, might well serve to thwart an investigation.

Conclusion

The problem of organized crime in a free society requires that law enforcement agencies have the capability to gather and analyze data. The traditional reactive approach to crime control is not effective when dealing with the scope and nature of organized crime. Law enforcement officials also must have the capability to retain data in bits and pieces, and the right to review the material until they can determine whether or not a given enterprise has a proven criminal base. Also, they must have the capability to exchange information with other law enforcement agencies, regulatory agencies, and the business sector. In the absence of these tools, the diverse and sophisticated schemes of organized crime cannot be combated.

Reference

1. *Federal Register,* Vol. 41, No. 55, Friday, March 19, 1976 (Title 28, Chapter 1, Part 20, Subpart B, Sec. 20.21.)
2. U.S. Department of Justice (LEAA), *Compendium of State Laws Governing the Privacy and Security of Criminal Justice Information,* 1975.
3. *Final Report of the Select Committee to Study Governmental Operations with Respect to Intelligence Activities,* April 26, 1976, Report #94–755, Vols. I–III.

Related Standards

The following standards may be applicable to implementing Standard 2.4:

5.3 Authorization for Access to Records
5.4 Civil Sanctions
5.5 Organized Crime State-Federal Liaison Office
6.1 State Organized Crime Intelligence Unit
6.2 Local Organized Crime Intelligence Unit
6.3 Regional Organized Crime Intelligence Networks
6.5 Access to Files and Dissemination of Information
6.6 Purging of Files

CONTINUED

1 OF 4

Standard 2.5

Local Prosecutors' Reports

All local prosecutors should be required to publish annual reports detailing the need for and use of local resources for combating organized crime and accounting for the activities of their offices.

Commentary

The annual reports of local prosecutors should describe the status of organized crime and corruption within their jurisdictions; disclose the numbers of organized crime cases referred to their offices including those still under investigation and those where prosecution has commenced; indicate the dispositions of completed cases; and present data on the kinds and lengths of sentences imposed on organized crime figures (such as the use of maximum sentences). The reports also should include specific information about the use or absence of criminal justice techniques especially relevant to organized crime. Such information should include data on pretrial detention or conditional release for organized crime figures; the number of matters brought before the organized crime grand jury; the number of wiretaps authorized for the various jurisdictions; the use of immunity and witness protection measures; and the number of post-conviction hearings for special offender sentencing. Local prosecutors also should indicate in their reports any staffing or budgetary deficiencies, failures in interjurisdictional cooperation, or legislative deficiencies that hamper successful prosecutions.

The prosecutors' reports should be in sufficient detail both to educate members of the public on the problems of organized crime in their area and to permit them to judge the effectiveness of their criminal justice systems in combating such crime. Public disclosure of deficiencies will help generate support for reform in those jurisdictions where local prosecutors have inadequate investigative or prosecutorial staff to cope with the extent of organized crime in their area, or are without necessary legal tools, such as conditional pretrial release, wiretap, subpena, or special offender sentencing legislation.

Prosecutors should not operate unobserved by the public. Their offices are too important to exist without a mechanism for accountability. The public should be kept informed of the status of organized crime and corruption within their jurisdiction, of their community's capacity to counter these criminal activities, and of the treatment of convicted organized crime offenders by the courts and correctional institutions.

(Standard 7.12, on the continuing role of the prosecutor, also deals with the accountability factor by proposing: that prosecutors keep track of orga-

nized crime figures after conviction; that they furnish information for the presentence report and be consulted on any intended changes in the correctional treatment of organized crime figures; and that their recommendation to judges and correctional authorities in the public interest be given due consideration. Subsequent public disclosure of the kind of action taken by judges and correctional authorities against organized crime offenders will reinforce the prosecutor's role.)

Related Standards

The following standards may be applicable to implementing Standard 2.5:

1.1 Organized Crime Prevention Councils
7.1 Statewide Capability to Investigate and Prosecute Organized Crime
7.12 Continuing Role of the Prosecutor
8.5 Correctional Policies
8.6 Probation Supervision
8.8 Parole Supervision

Standard 2.6

State Reporting Responsibilities

State organized crime prosecutors, the chief law enforcement officers of States, or State Organized Crime Prevention Councils, as appropriate, should submit to the public annual reports on organized crime control activities in their States. These annual reports should (1) describe the operations of the offices involved; (2) consolidate information reported annually by local prosecutors; (3) summarize cooperative efforts among the States' law enforcement and regulatory agencies; and (4) assess the effect of sentencing and correctional treatment on convicted organized crime offenders.

Commentary

There are presently no standard reporting procedures that both periodically measure local levels of organized crime and their statewide connections and also quantitatively analyze actions taken by local and State police, prosecutors, courts, and corrections officials against organized crime figures. This standard recommends that the State organized crime prosecutor, or surrogate, issue on an annual basis a comprehensive report that should:

1. Make public the results of local and statewide organized crime investigations and prosecutions, both civil and criminal;
2. Itemize the types of crimes associated with illegal syndicate operations, particularly those concerning the penetration of legitimate business;
3. Describe the participation of the State's regulatory agencies in controlling organized crime;
4. Publicize the kinds and lengths of sentences imposed on convicted organized crime offenders;
5. Maintain a public record of the numbers of organized crime offenders on pretrial release, probation, in confinement, pardoned and paroled; and
6. Indicate deficiencies in funding and legislation necessary to achieve their objectives.

Based on the accumulation and analysis of such data, the reports can identify areas of priority for concentration of criminal justice resources. They also can recommend coordination of efforts among various State law enforcement and regulatory agencies; recognize and alert the public to trends and techniques associated with organized crime; measure the effectiveness of cooperation between local and State prosecution efforts; and assess the results of correctional measures on convicted organized crime offenders.

Law enforcement agencies in many States have developed new techniques for establishing evidence while investigating the complex and covert operations of organized crime. However, there has been no formal qualitative assessment of the effectiveness of these techniques. The wiretap, for example, has

been considered by some States an indispensable tool for gathering evidence. But how effective are investigations in jurisdictions that have not authorized the wiretap? Annual State reports would serve as a basis for comparison for such inquiries.

The use of civil remedies against organized crime figures also has proven to be a successful prosecution tool. But what type of cooperation between a State's regulatory and law enforcement agencies assures that success? What preventive measures can a State's regulatory agencies take, for example, in licensing certain public activities? Does withholding of business licenses after investigation control organized crime in a particular jurisdiction? Only by maintaining regular statistics can these questions be answered.

Different types of corrective treatment are available for rehabilitating convicted criminals. But which of these measures, if any, work for organized crime offenders? How often, for example, have U.S. Attorneys requested increased sentences for dangerous special offenders during the past 5 years? How often do State judges give maximum terms to convicted organized crime offenders? These data are not available.

This standard proposes that each State organized crime prosecutor collect and analyze such data, so that State legislation providing for investigative procedures and criminal penalties can effectively address the problems of controlling organized crime.

Related Standards

The following standards may be applicable to implementing Standard 2.6:

1.1 Organized Crime Prevention Councils
7.1 Statewide Capability to Investigate and Prosecute Organized Crime
7.12 Continuing Role of the Prosecutor
8.5 Correctional Policies
8.6 Probation Supervision
8.8 Parole Supervision

Standard 2.7

Review of State and Local Appropriation Levels

Each State and locality should review the level of its appropriations for the various components of its criminal justice system, focusing on their capabilities in curtailing organized crime.

Appropriate legislative committees and executive units responsible for criminal justice should review and release to the public the annual reports of the State organized crime prosecutor or chief law enforcement officer that describe the nature and extent of organized crime and document the control efforts of law enforcement agencies.

Commentary

There can be no control of organized crime unless (1) those who are involved are arrested by the police and are successfully prosecuted and convicted, and (2) those convictions are routinely followed by appropriate sentences that are carried out by correctional institutions. Each component of a State and local criminal justice system must be adequately funded so that it can meet these goals. Lack of adequate resources must not create a gap in the criminal justice process that allows known organized crime figures to continue their criminal activities.

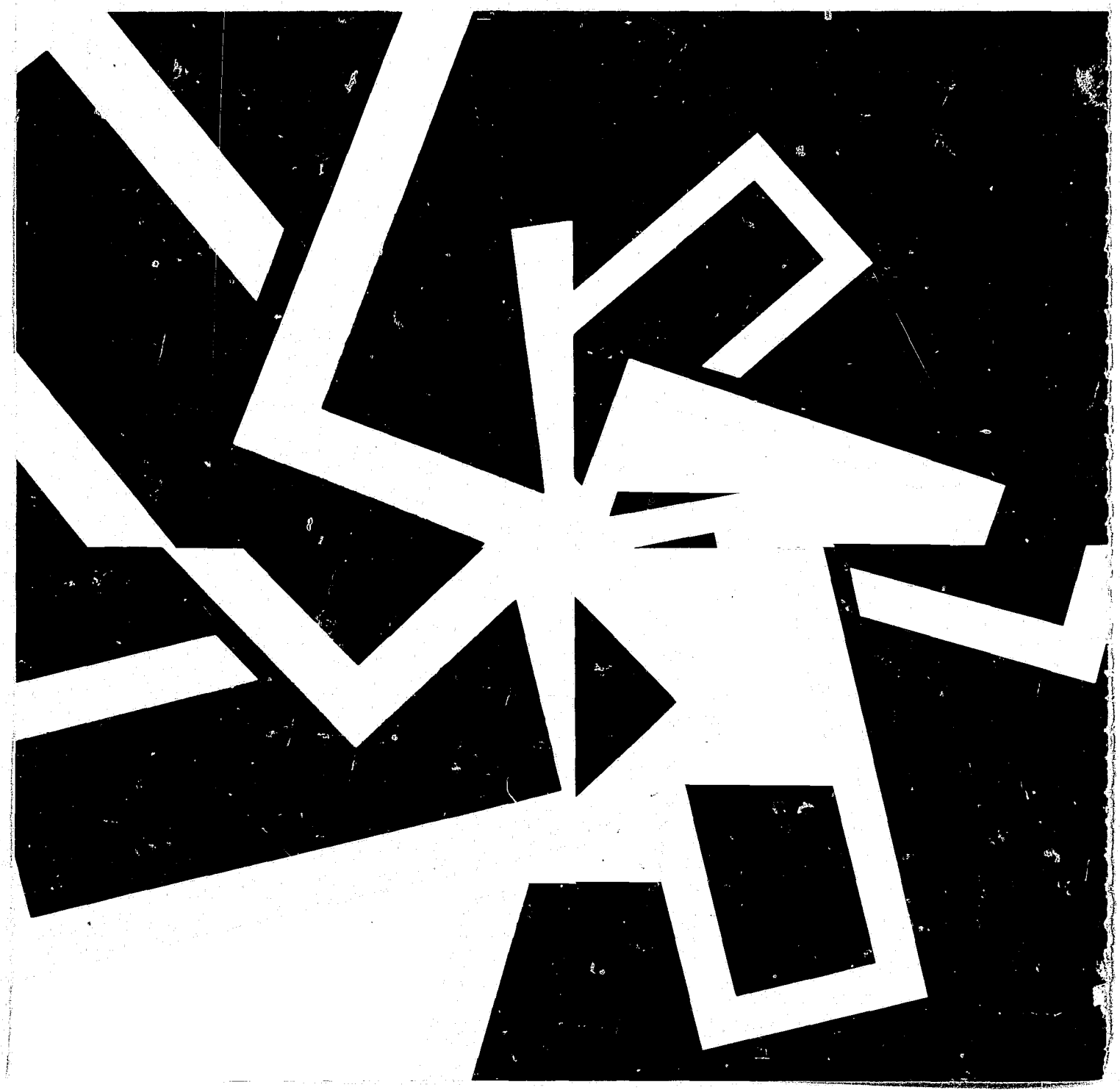
The reporting procedures proposed in Standards 2.5 and 2.6 should be designed to reveal any weaknesses in certain components of the system. These reports could then serve as a rational basis for justifying budgetary requests made by the State's executive branch to its legislature.

Related Standards

The following standards may be applicable to implementing Standard 2.7:

1.1 Organized Crime Prevention Councils
7.1 Statewide Capability to Investigate and Prosecute Organized Crime

Chapter 3
The Private Citizen



Organized crime is a parasite on the American body politic. Through the years its destructive influence has spread so widely that virtually no American is unaffected by it. Many citizens may not be aware of the pervasive impact of organized crime—considering it to be a menace primarily in major cities, where bookmakers, loan sharks, and drug peddlers are much in evidence. But organized crime is taking an economic, social, and moral toll on all Americans.

Organized crime contributes in significant ways to the rising cost of living. Each year, American business and industry suffer losses estimated in the billions of dollars as a result of organized criminal activities such as hijacking. These losses are passed on to the American consumer in the form of higher prices. When a criminal syndicate takes over a legitimate business, the average citizen loses again; costs rise and quality deteriorates. Finally, Americans must pay a higher tax bill each year so that the government can finance the elements of the criminal justice system needed to conduct a counteroffensive against organized crime.[1]

The moral and social damage done by organized crime is greater still. Using their considerable financial resources, crime bosses corrupt public officials at every level, buying protection for their illegal activities and contributing to Americans' growing distrust of government. An example of this distrust was indicated in a survey conducted in Illinois, which revealed that a majority of citizens interviewed believed that criminal elements were corrupting government officials and criminal justice agencies.[2]

United States Assistant Attorney General Richard L. Thornburgh has described the dimensions of the "moral rot" that can be spread through a community by agents of organized crime:

> Racket influence and corrupt politicians can combine to form a "politico-racket" complex which can truly bring a community to its knees. At its worst, this combine teaches a ghastly lesson to the young, the deprived and members of minority groups, to whom the American dream becomes a warped parody. In a community where justice is for sale, where the big man may be a narcotics pusher or numbers bookmaker and where "payoffs" and "protection" are a way of life, it is a major effort to get across a message that hard work, education and "keeping your nose clean" is the way to get ahead. For a different scenario appears to be played out in real life.[3]

Public commitment to the fight against organized crime is considered by members of the criminal justice system to be a key to the success of efforts to root out the syndicates. Few officials will initiate investigations into organized crime if they feel no pressure from the citizenry to do so and sense no public concern about the problem. One of the main political deterrents to initiating such investigations is that the investigations, when successful, usually produce evidence of bribery and corruption of public officials. This requires those conducting the investigations to face the risk of making political enemies. It is a risk generally not taken when there is neither public pressure nor assurance of public support.[4]

One author describes the situation as follows:

> Government action alone cannot wipe out the Mob or eliminate its corruption of American politics. Honest officials and law-enforcement officers must have the unwavering support of the citizenry if they are to move effectively against organized crime. Experience has shown that the Mob is strongest where the public is most indifferent to corruption . . . It will take a resurgence of old-fashioned morality and public indignation to break the Mob's grip on American society and political life. The people must make forcefully clear that they will not abide corrupt government. They must exhibit a genuine determination to take the risks, spend the

[1] National Association of Citizens Crime Commission, *How to Organize and Operate a Citizens Crime Commission*, Atlanta, Ga., 1974, p. 4. Copies available from the Law Enforcement Assistance Administration.

[2] *How to Organize and Operate a Citizens Crime Commission*, pp. 4–5.

[3] Richard L. Thornburgh, Assistant Attorney General, Criminal Division, U.S. Department of Justice, "Organized Crime—A Community Concern," address to 1975 Annual Conference of the National Association of Citizens Crime Commissions, Dec. 1, 1975.

[4] The President's Commission on Law Enforcement and Administration of Justice, *Task Force Report: Organized Crime*, 1967, p. 15.

money, and make the sacrifices necessary to obliterate the scourge of Mob rule from the national scene.[5]

Unfortunately, public demands for action against organized crime are infrequent and short-lived, usually sparked by cases of extreme violence or by revelations of widespread or high-level corruption.[6] Sustained public awareness and concern are unusual in this country. The concluding sentence of a Federal report has been widely cited as an accurate assessment of the citizenry's attitude: "The extraordinary thing about organized crime is that America has tolerated it for so long."[7]

Several explanations for this tolerance have been offered:

- The large majority of the public has no direct contact with organized crime and does not understand its effect on society;
- Citizens who do have contact often are fearful of sharing their knowledge with law enforcement officials and are distrustful of the criminal justice agencies;
- Others, usually residents of urban areas where organized crime is active and firmly in control, want the services the syndicates provide;
- Criminal syndicates are extremely efficient at obscuring their activities and often are aided by corrupt public officials; and
- Many honest public officials are too quick to deny the existence of an organized crime problem in their communities, usually for political reasons.

A major reason for the lack of public support for campaigns against organized crime "simply (is that) it is difficult to believe that in fact it exists," commented Rep. Richard H. Poff of Virginia during Congressional hearings in 1970.[8]

Residents of most American communities see no direct evidence of organized crime operations and are prone to think that the underworld operates in only a few large cities.

As Assistant Attorney General Thornburgh said:

> To many of our citizens, organized crime exists only in New York and Chicago—what many of our citizenry perceive to be modern day counterparts of Sodom and Gomorrah. Many millions of otherwise astute Americans perceive the rackets to exist only in popular fiction or on the silver screen as they patronize "Godfather I," "Godfather II," and so on. . . .[9]

The syndicates effectively maintain this low profile, their chief weapons being bribery of public officials and intimidation of private citizens. Victims of syndicate crime who could provide evidence against underworld figures are often afraid to do so. Criminals make direct threats against potential witnesses and regularly demonstrate their willingness to maim and murder those who betray them. Individuals with evidence against organized crime may distrust public officials' ability to protect them or, in communities where corruption of officials is suspected, their willingness to protect them.

Still other citizens, such as those who gamble illegally, or borrow from loan sharks, are the "customers" of organized crime and do not want to report their suppliers.

A common device by which organized criminals conceal their identity is the legitimate "front" business. Their association with legitimate businesses, their contributions to charitable and civic causes, and their contact with reputable members of the community and public officials all contribute to the criminals' image of respectability.[10] Often, when issues involving illegal syndicate operations surface in a community, corrupted officials deny the very existence of organized crime there.

Honest leaders, too, can err in proclaiming that their communities have no organized crime problems. They may make that claim in the heat of a political campaign or as a defensive response to reports of organized crime and corruption in the community. Once stated, it is difficult to abandon such a position; therefore, the official is inclined to resist acknowledging evidence of organized crime.

Private citizens, too, have important responsibilities in the fight against organized crime:

- To educate themselves about the nature and activities of organized crime and its impact on society;
- To reject the goods and services from which the underworld derives its financial support; and
- To report any knowledge of criminal activity so that criminals, including corrupt public servants, can be detected and apprehended.

The public needs to be made aware that money lost on an illegal sports bet, paid to a loan shark, or spent on a stolen television set or fur coat is likely to flow into a cash pool that will be used to bribe public officials, finance heroin traffic, and set in motion fraudulent bankruptcy schemes. People who are appalled by details of underworld violence may not realize how they contribute to the "dirty money" that finances such violent acts. Leaders of business,

[5] Michael Dorman, *Payoff, the Role of Organized Crime in American Politics* (New York: David McKay Co., 1972), p. 332.

[6] The President's Commission, *Task Force Report: Organized Crime*, p. 15.

[7] Ibid., p. 24.

[8] U.S. House of Representatives, Committee on the Judiciary, *Hearings before Subcommittee No. 5 on S 30 and Related Proposals*, 1970.

[9] Thornburgh, loc. cit., p. 79.

[10] *How to Organize and Operate a Citizens Crime Commission*, p. 6.

industry, labor, and the professions can provide a real service to the community by developing programs to educate citizens about the workings of organized crime.

In communities with long-established organized crime syndicates, education of young people is particularly necessary. In such communities, adults come to accept as normal the evidence of vice and public corruption. If the young are to reject this same attitude, they must be made aware of how they are victimized by organized crime's vice, gambling, drugs, and stolen goods operations. They must also be taught that corruption in public office can be corrected through legal, democratic processes; this teaching is the first step in reestablishing confidence in the American system of government. The importance of the vote and the value of public opinion are other important lessons.

Schools, religious institutions, civic clubs, public broadcasting, and public service programs on commercial radio and television stations are but some of the means for promoting broader understanding about organized crime.

In the set of standards listed at the end of this chapter, the specific actions that private citizens can take are recommended. The first concerns citizens crime commissions, which represent an exception to the general rule of public apathy toward organized crime. Crime commissions have been founded in 18 American communities. Senate committees, Presidential commissions, and officials of the criminal justice system have emphasized the value of these commissions.[11]

Purposes of the commissions, as stated in the latest edition of an informational booklet published by the National Association of Citizens Crime Commissions, include:

> . . . the monitoring of law enforcement agencies and public officials with respect to crime control and the administration of justice; the fostering of public interest in and support of criminal laws, honest government and a strong, properly functioning criminal justice system, through various educational and informational activities; and the carrying out of scientific, objective research into all facets of the criminal justice system.[12]

Such groups usually are chartered or incorporated as nonprofit, nonpartisan, fact-finding bodies. They draw their members from various segments of the community: business, industry, the professions, labor, and other interested groups. Although they lack official status, citizens crime commissions can be an effective means for organizing community support behind the efforts of law enforcement and government officials to control organized crime. "The citizens commission neither assumes nor exercises any more rights, privileges or legal standing than any individual citizen. There is no room for illegal, extra-legal or questionable activities in the work of the citizens crime commission."[13]

The commissions are financed in various ways: among them, the contributions of organizers, fundraising events, membership dues, and foundation grants. Whatever the sources, a broad base of continuing financial support is imperative to the independence of commissions. Contributors should realize, of course, that their support of a commission gives them no special privileges or authority.

Citizens crime commissions now exist in 17 cities: Atlanta, Ga.; Burbank, Calif.; Chattanooga, Tenn.; Chicago, Ill.; Crown Point, Ind.; Dallas, Tex.; Fort Worth, Tex.; Gulfport, Miss.; Kansas City, Mo.; Miami, Fla.; New Orleans, La.; Philadelphia, Pa.; Phoenix and Tucson, Ariz.; Seattle, Wash.; Waukegan, Ill.; and Wichita, Kans. Each has a governing body of private citizens, and each decides on its own programs, policies, and activities.

The Chicago Crime Commission, founded in 1919 after Chicagoans became outraged over the murder of two men in a daylight robbery, was the first in the Nation. It published the first "public enemy" list, which identified gangster Al Capone, and gathered information for a U.S. Senate rackets investigation.

In one other project, the commission has sent observers to criminal courtrooms to gather data on the rate of indictments and convictions, on the handling of cases involving unlawful use of weapons, on cases in which the defendant is on probation, and on armed-robbery cases. As a result of such studies, the criminal justice process in Chicago has been reviewed and improvements recommended. For example, the commission discovered a high incidence

[11] The late Senator Estes Kefauver of Tennessee, chairman of the Special Senate Committee to Investigate Organized Crime in Interstate Commerce, strongly supported citizens commissions. The Kefauver Committee report (1951) stated: "the function of a local crime commission is to provide both knowledge and guidance. Its task is to expose pitilessly the racketeers who grow fat on crime and their allies in law enforcement and in political organizations."

In 1967, the President's Commission on Law Enforcement and Administration of Justice recommended creation of permanent citizens crime commissions to combat organized crime.

An indication of Federal support of these independent groups was the Department of Justice granting Public Services Awards, in April 1975, to officials of the Metropolitan Crime Commission of New Orleans. The awards read, ". . . in recognition and appreciation of meritorious acts and service which have materially contributed toward the attainment of the highest standards of law enforcement and justice in the United States. . . ."

[12] *How to Organize and Operate a Citizens Crime Commission*, p. 13.

[13] Ibid., p. 14.

of repeat offenders being put on probation and recommended legislation to improve the probation system.

The commission has provided victims of crimes with free information about the judicial process and about their roles as witnesses. The group provides a special 24-hour telephone service to receive anonymous reports of criminal activities. Other activities have included educational programs for university students, businessmen, and civic groups.[14]

One such commission was instrumental in breaking up loan-shark operations that collected more than $1 million in interest every year. The group also played an important part in preventing racketeers from getting bank loans to finance loansharking. Further, the committee uncovered information that thwarted a check-kiting scheme involving $650,000.[15]

Other citizens commissions can list these accomplishments:

- Developing information leading to prosecution and removal of corrupt officials;
- Offering rewards for information leading to the arrest of notorious organized crime figures;
- Assisting in the comprehensive rewriting of State criminal laws;
- Alerting both private and public sectors about an alarming increase in credit-card frauds and other types of white-collar crime; and
- Mobilizing support for prosecution of those frauds by encouraging employees to become witnesses and making it possible for them to do so without losing pay.

Citizens who are not members of a crime commission can also contribute to the fight against organized crime. For instance, they can educate themselves about organized crime, reject goods and services provided by the underworld, and report any underworld activities they encounter to the police. Such cooperation is more likely to be offered when criminal justice officials keep the public informed of their activities and react promptly and positively to citizen's reports.

A serious obstacle to citizen cooperation is the underworld's notorious practice of intimidating and doing bodily harm to actual and potential witnesses. In 1967, the Task Force on Organized Crime of the President's Commission on Law Enforcement and Administration of Justice noted that "No jurisdiction has made adequate provision for protecting witnesses in organized crime cases from reprisal." Since that time, a number of improvements have been made in both Federal and State criminal justice systems. In addition, the U.S. Chamber of Commerce, with the cooperation of the Federal Government and the business community, conducts a program that provides new identities, jobs, and homes to witnesses in organized crime cases. By 1975, more than 800 witnesses had been relocated through the program.[16]

Particularly important and difficult is the task of educating the public about the realities of organized crime. This is the job especially of the public news media.[17] Television and radio stations, newspapers, and national magazines are the major, but not the only, channels of information to the public. Information is also provided by a wide variety of publications distributed by civic, professional, and religious organizations, by special interest groups, and by elected officials.

The task of educating the public about organized crime is complicated by the emphasis the entertainment media places on the monetary rewards of underworld activity. Generally, movies and novels give a distorted picture of organized crime by glamorizing its leaders and ignoring the price it extracts from society.

Reporters investigating organized crime and its associated corruption are in a unique position outside the spheres of government and special interests. Journalists can aid efforts to control organized crime by using the extensive power inherent in their access to millions of Americans. By discreet cultivation of underworld sources, reporters can often obtain information that is not available to police and government investigators.

Investigative reporters maintain close relationships with law enforcement officials, who are a primary source of information about criminal activities. In pursuing organized crime stories, they face the challenge of balancing their desire to cooperate with police and prosecutors—who often request an embargo on details that, if revealed, would impede official investigations—against their obligation to inform the public. Complicating the reporters' dilemma is the possibility that a request to delay disclosure could be a technique to thwart justice. The media have an obligation to develop and adhere to a set of ethics that does not place value on headlines at the cost of justice for all.

---

[14] Ibid., p. 93.
[15] Ibid., p. 135.

[16] National Association of Attorneys General, *Organized Crime Control Legislation*, January 1975, p. 112.
[17] A number of national and local electronic and print news organizations have established admirable records in organized crime reporting. These include daily newspapers, such as *The New York Times, Newsday,* and *The Wall Street Journal;* national magazines, notably *Life, Time,* and *Reader's Digest;* and television organizations.

Because the organized crime "beat" is complex, it is recommended that training be arranged for carefully selected individuals for the job of gathering information about organized crime. Penetrating well-insulated criminal alliances is a difficult, time-consuming task; whenever possible, reporters assigned to it should be relieved of other assignments.

Today, reporters and editors must be particularly alert when covering the business world, because of the increasing trend of organized crime to infiltrate and to operate under the cover of legitimate business. A newspaper, radio, or television station may unwittingly enhance the legitimate image of organized crime leaders and their collaborators in the business community.

Reporters who attempt to expose organized crime operations and official corruption regularly encounter opposition and even danger. A dramatic example is the murder, in June 1976, of Don Bolles, a 47-year-old reporter for *The Arizona Republic,* who was investigating organized crime activity in Arizona. Bolles had written extensively about land fraud and criminal infiltration of legitimate businesses in Arizona.[18]

Despite the hazards, news organizations have continued—and must continue—to pursue the story of organized crime. Indepth reporting of the activities of organized criminals performs the vital service of informing the public. In addition, it can provide law enforcement officials with valuable assistance.

[18] *New York Times,* June 14, 1976, p. 34. Mr. Bolles had been investigating and reporting on the links between organized crime and the business and sports worlds in Arizona since the 1960's. He uncovered evidence of possible official corruption and sparked officials' investigations into illegal land schemes. Land frauds in the Southwest are estimated to have cost the public about $500 million in the past 10 years. He died of injuries sustained when a bomb exploded in his car.

The State and local communities were outraged by Bolles' murder. A suspect has been charged in the case, and reporters, local police, and Federal law enforcement agencies have continued to pursue their investigations of the suspect and his ties to organized crime in the State. Many citizens have offered information to the police and reporters. Since Bolles' death, the State legislature has passed several bills designed to control organized crime.

Standard 3.1

Independent Citizens Crime Commission

Citizens should consider establishing a local or metropolitan citizens crime commission composed of representatives from the civic, labor, business, professional, and other segments of the community. This commission would help to expose and suppress organized crime and corruption, and would help to enhance respect for the law.

Commentary

A citizens crime commission should:

1. Review the nature, causes, and extent of organized crime in the community;
2. Share findings with responsible government agencies and the general public;
3. Aid law enforcement officials in the suppression of organized crime and the exposure of corruption;
4. Motivate the citizenry to reject goods and services provided by organized crime;
5. Conduct continuous educational programs about the relationship between prevalent vices such as illegal gambling and the destructive effect of organized crime on the community;
6. Educate the community to understand the need to control organized crime in order to reduce crime in the streets;
7. Stimulate public support for the use of government resources and personnel in the fight against organized crime;
8. Assist public officials who are honest and competent and work for the exposure and removal of those who are not; and
9. Serve as a watchdog to alert the community to early signs of organized crime infiltration.

A citizens crime commission must be nonprofit and nonpartisan, independent of governmental authority and financing. It should conform to ethical standards established by the National Association of Citizens Crime Commissions, which provides guidelines for the organization and operation of a citizens crime commission.

References

1. For further information contact the nearest citizens crime commission. For a copy of the manual, *How to Organize and Operate a Citizens Crime Commission*, contact the National Institute for Law Enforcement and Criminal Justice, Law Enforcement Assistance Administration, 633 Indiana Avenue, N.W., Washington, D.C., 20531.
2. Report of the Chicago Crime Commission. *Spotlight on Legitimate Businesses and the Hoods—Part II.* 114 Congressional Record—Senate, June 24, 1968, pp. 18354–18356.

3. "Citizens versus Crooks: Local Crime Commissions at Work." *Changing Times: The Kiplinger Magazine*. December 1972, pp. 47–50.

4. The President's Commission on Law Enforcement and Administration of Justice. *Task Force Report: Organized Crime*. 1967, p. 23.

5. Prepared testimony of Aaron M. Kohn, Managing Director, Metropolitan Crime Commission of New Orleans, Inc., before the Legal and Monetary Affairs Subcommittee of the Committee on Government Operations, House of Representatives, Congress of the United States, August 13, 1970.

6. "Organized Crime—A Community Concern." Address by Richard L. Thornburgh, Assistant Attorney General, Criminal Division, U.S. Department of Justice, to 1975 Annual Conference of the National Association of Citizen's Crime Commissions, December 1, 1975.

Related Standards

The following standards may be applicable in implementing Standard 3.1:

1.1 Organized Crime Prevention Councils
1.2 Investigating Commissions
2.5 Local Prosecutors' Reports
2.6 State Reporting Responsibilities
4.1 Company Policy and Internal Controls

Standard 3.2

Crime and Corruption Reporting Responsibilities

All citizens are urged to report to local or State law enforcement officials any incidents or suspected illegal activity believed to involve organized crime and corruption.

Commentary

Law enforcement agencies need information from citizens about organized crime activities. The failure of witnesses and even victims to report crimes has been a major obstacle to government action against them. Observation or suspicion of illegal activity, including official corruption, should be made known to local, State, or Federal law enforcement agencies.

A citizens crime commission can provide guidance for the reporting of sensitive information; and it can serve as an intermediary, protecting the source of the information while assuring that the information gets to the proper individuals within the law enforcement agencies. Both the private and public sectors should develop programs to involve citizens as partners in the suppression of organized crime. This means something considerably broader than the community relations program of police departments. Criminal justice officials have the responsibility to keep the public better informed than it has been in the past, thereby stimulating and increasing public concern and cooperation.

References

1. The President's Commission on Law Enforcement and Administration of Justice. *Task Force Report: Organized Crime.* 1967, p. 23.
2. Hills, Stuart L. "Combating Organized Crime in America," *Federal Probation.* March 1967, pp. 23–28.
3. Armbrister, Trevor. "Join the War Against Crime and Drug Pushers," *Reader's Digest.* September 1973, pp. 103–106.
4. Kefauver, Estes. *Crime in America.* Greenwood Press, New York, 1968, pp. 313–316.

Related Standards

The following standards may be applicable in implementing Standard 3.2:

1.1 Organized Crime Prevention Councils
1.2 Investigating Commissions
2.5 Local Prosecutors' Reports
2.6 State Reporting Responsibilities
7.10 Witness Protection Statute
9.10 General Public

Standard 3.3

Media Responsibility

All major news media are urged to designate highly competent, specially trained, and full-time reporters to investigate and report on organized crime activity and related corruption, and on the quality of governmental attempts to control them.

Commentary

The media have an essential role in the control of organized crime. Radio, television, and print news reporting are necessary to convey adequately the meaning of government action, to identify for the public the true scope and activity of organized crime, and to reveal governmental failures and inadequacies in dealing with problems.

The sophisticated, clandestine, and widespread nature of organized crime activities requires that reporters and editors develop a thorough knowledge and understanding of the phenomenon. They should exchange information with police and prosecutors, commissions, regulatory agencies, unions, and other sources. The goal is to present an accurate picture to public officials and to citizens, who are paying the price of organized crime operations. Reports should point up the relationship between individual incidents and the overall pattern of organized crime activities.

News organizations in small communities may recognize a threat from the crime syndicates but lack the financial and personnel resources to conduct in-depth investigations. Officials of these organizations should consider working cooperatively with nearby metropolitan media or with national news organizations. They may also call on the nearest independent citizens crime commission for asistance and guidance.

References

1. Armbrister, Trevor. "Join the War Against Crime and Drug Pushers," *Reader's Digest*. September 1973, pp. 103-106.

2. Palmer, Stuart. "Education through the Mass Media," *The Prevention of Crime*, 1973, pp. 149–153.

3. President's Commission on Law Enforcement and Administration of Justice. *The Challenge of Crime in a Free Society*, February 1967, p. 13.

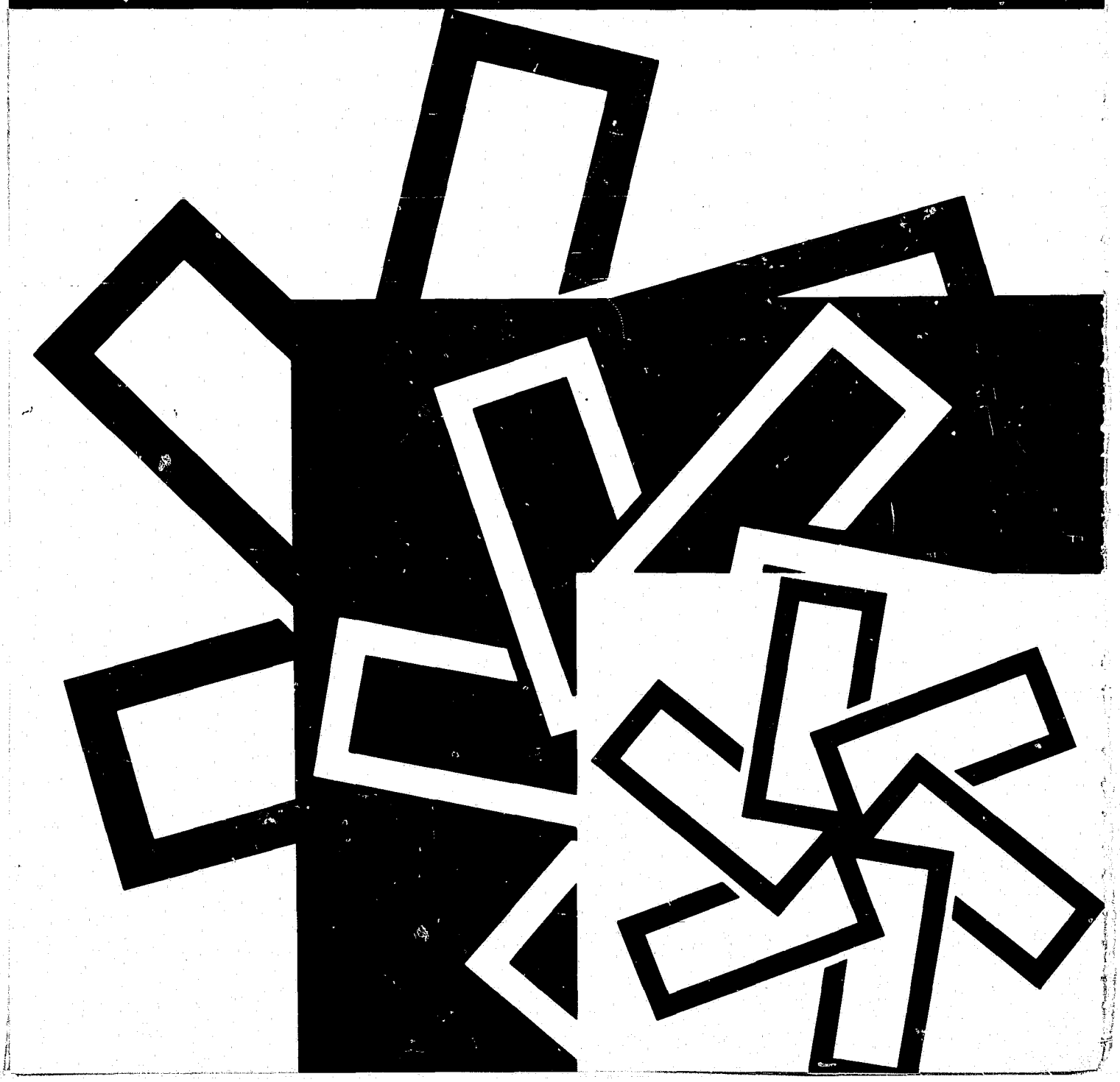
4. Rosenthal, Alan. "Your Role as Eyes and Ears for Police," *Today's Health*. September 1969, pp. 58, 60–61, 88.

Related Standards

The following standards may be applicable in implementing Standard 3.3:

1.1 Organized Crime Prevention Councils
1.2 Investigating Commissions
7.1 Statewide Capability to Investigate and Prosecute Organized Crime
9.12 Media Representatives

Chapter 4
Business, Industry, and the Professions



Like all businessmen, some leaders of organized crime operations often rely on sound financial planning to expand into legitimately profitable areas. "Organized crime is a corrupt business system." [1] Their blueprint for infiltration into legitimate enterprises reflects a consistent pattern. First, they select targets that are easy to exploit. These include businesses that require low capital expenditure and produce a high cash volume (e.g., parking lots, tow companies, leasing operations, bars, and restaurants) and firms dependent on heavy credit and complex bookkeeping, such as construction outfits. They then infiltrate and "milk" these companies, and invariably reinvest their profits in larger legitimate concerns vulnerable to corrupt penetration.

In pursuit of its quest for business profits, organized crime operates like a powerful conglomerate. Syndicate "businessmen" combine illegal techniques and sophisticated business procedures to take over existing operations and to carve out profitable footholds in diversified business markets. This range of businesses reflects a multiplicity of goods and services. The U.S. Chamber of Commerce suggests that organized crime bosses, in order to handle complex legitimate operations, have set about acquiring specialized business administration skills and technical knowledge.[2]

Exactly how pervasive is organized crime's influence in legitimate business?

Neither law enforcement officials nor businessmen themselves can answer this question because the extent of organized crime's incursion into legitimate enterprise cannot be measured accurately. Agreement exists, however, that underworld involvement in certain legitimate businesses and labor unions is extensive.[3]

The President's Commission on Law Enforcement and Administration of Justice found that "the kinds of production and service industries and businesses that organized crime controls or has invested in range from accounting firms to yeast manufacturing," and that "one criminal syndicate alone has real estate interests with an estimated value of $300 million." [4]

Organized criminals are drawn to legal enterprises for at least four main reasons:

1. They offer the potential of considerable profit.[5]
2. They provide ostensibly legal sources of employment and reportable income.
3. They provide cover for illegal activities and provide outlets for distribution of goods derived from illegal activities.
4. They afford the criminal the respectability and social standing associated with commercial success.

No business that operates profitably is immune to criminal penetration. Criminal organizations exercise influence over or control businesses of varying size, cash flow, and net worth. Melvin Bers found, during a study of racketeer links to business firms, that "the field for predatory behavior is large." [6]

Large firms have experienced various problems. A major appliance manufacturer, generating $1 billion in sales, lost $400,000 worth of merchandise to

[1] Statement by Philip Manuel, Chief Investigator, Senate Subcommittee on Permanent Investigations, to Frank Browning, quoted in "Organized Crime in Washington," *Washingtonian*, April 1976, p. 93.

[2] U.S. Chamber of Commerce, *Deskbook on Organized Crime*, 1972, p. 6.

[3] The U.S. Chamber of Commerce estimates that organized crime's net annual sales are as high as $50 billion, from which substantial volume is generated by legitimate business operations (*Deskbook on Organized Crime*, p. 6). An Internal Revenue Service study of 2,000 racketeers concluded that about 85 percent of them were engaged in "legitimate business activities covering a broad spectrum of occupations," including real estate, insurance, restaurants, bars, hotels, banking, savings and loan associations, legalized gambling, construction, and manufacturing (Internal Revenue Service, 1971 Annual Report, p. 37).

[4] President's Commission on Law Enforcement and Administration of Justice, *Task Force Report: Organized Crime*, 1967, p. 4.

[5] *Deskbook on Organized Crime*, p. 10. The Chamber of Commerce has concluded that "Business ventures not only attract, and earn a good return on, the vast sums generated by illegal activities but also are frequently sufficiently profitable to provide the capital to start or sustain illegal enterprises, such as narcotics, loansharking, etc."

[6] Melvin Bers, *"The Penetration of Legitimate Business by Organized Crime: An Analysis"* (Law Enforcement Assistance Administration, 1970), p. 20.

organized crime by accepting worthless notes. At least two major airlines and the Nation's largest air freight forwarder succumbed to racketeer pressure at New York's Kennedy Airport and agreed to deal with syndicate-approved suppliers. A $10-billion-a-year wholesale subsidiary of a large diversified corporation was milked of its assets by the underworld and was sold to a Canadian corporation, which eventually filed a bankruptcy petition for the wholesale operation.[7]

Large firms can be penetrated when their top executives or managers are compromised by underworld strategists. Employing such techniques as threats or blackmail, organized crime has induced businessmen to reveal corporate secrets and to throw company business to syndicate-run firms.

To be sure, smaller firms are usually easier targets. The "softening up" process is a favorite underworld technique used against them. This process may include use of sabotage, extortion, corruption, theft, and even murder. Citing arson as a case in point, one leading crime author explains that it is used to effect the desired cooperative frame of mind:

> . . . arson might involve the burning out of a restaurant which would not install an organized crime jukebox or take its liquor supply . . . arson is used as a . . . warning or punishment. This kind of extortion is getting something of value (here, business for a service company) through the use or threat of force or fear—the value being one of future potential rather than immediate cash income.[8]

In general, four principal methods are used to acquire business concerns: (1) investing illegal profits; (2) accepting business interests in lieu of gambling debts; (3) foreclosing on usurious loans; and (4) using extortion techniques. More sophisticated approaches to gain control include lending money with a proviso for preemptive stock option rights and promoting illegal operations after foreclosing on long-standing debts.[9]

Sometimes operating control is not the objective. Instead, a wide range of tactics is used simply to generate profits—in-plant gambling and loansharking, cargo theft, labor racketeering, scam operations that make accounts receivable uncollectable, extortion to compel purchase of goods and services from suppliers controlled by organized crime, and "buying into" and monopolizing pension funds.

Legitimate business is one of organized crime's top income producers. Some law enforcement officials, in fact, calculate that profits from legal concerns surpass illegal sources of revenue—gambling, loansharking, and drugs. Equally staggering are the ever-spiraling indirect costs to business. They include: "Spiraling insurance costs that stem from the underworld's unique set of competitive methods; inequitable tax burdens resulting from the considerable tax-dodging ability of racketeer entrepreneurs; increasing consumer anger that is evoked when syndicate-owned enterpises supply inferior goods and services or when legitimate enterprises must raise prices to compensate for underworld harassment; growing reluctance by some commercial finance companies to extend credit to businesses unfortunate enough to be operating in a racketeer-infested industry."[10]

Not to be overlooked are organized crime's labor-racketeering activities vis-a-vis business. Reportedly, union locals in 25 different sectors of business and industry are under the effective control of the underworld. Indeed, many law enforcement officials rate unions as organized crime's number one future target, largely because of their multibillion-dollar welfare and pension funds.[11]

Labor racketeering costs to businesses are incalculable. Financially troubled employers have been known to offer bribes and kickbacks to labor racketeers in return for loans from union welfare and pension funds. At the same time, corrupt union officials may abuse their life-or-death grip over labor-intensive businesses. In one case, a union secretary-treasurer indicated that $5,000 would assure a large trucking firm trouble-free access to Kennedy Airport. In another case, Gateway Army Ammunition Plant in St. Louis was strapped with a $14-million cost overrun after a syndicate-controlled union local engaged in "union featherbedding, ghost payrolling, work slowdowns, phoney overtime and virtually every other kind of on-the-job chicanery. . . ." [12]

Why Organized Crime Succeeds in Business and Industry

An analysis of organized crime's successful exploitation of business reveals two principal problems: poor management policies, controls, methods, and procedures in many businesses; and a general lack of initiative by the business community in reporting criminal activities.

It is clear that inept management policies and methods facilitate organized crime's infestation of business. Conversely, a well-run organization usually is less vulnerable to criminal influence. The manage-

[7] Jean Jester, "An Analysis of Organized Crime's Infiltration of Legitimate Business," *Criminal Justice Monograph*, vol. v, pp. 11, 33.

[8] Ralph Salerno and John Tompkins, *The Crime Confederation* (Doubleday & Company, 1969), pp. 234–235.

[9] *Task Force Report*, loc. cit.

[10] *Deskbook on Organized Crime*, p. 15.

[11] *Deskbook on Organized Crime*, pp. 35–36.

[12] Ibid.

ment of such an organization provides strong leadership, establishes realistic performance standards, delegates duties and accountability effectively, and supplies "specific standards for conduct in specific situations." [13] These policies help promote honesty and integrity. On the other hand, their absence can lead to corrupt or questionable employee practices. Such activities may include the donation or receipt of unethical or illegal gifts and favors that hurt the company.

One executive offers this advice:

> Employees must know exactly what is expected in the moral area and how to respond to warped ethics. . . . A good place to start is to establish realistic sales and profit goals, goals that can be achieved by accepted business practice. Under the stress of patently unrealistic goals, otherwise responsible subordinates will often take the attitude that anything goes. Deals will be made under the table, under the carpet, anywhere and anyhow, as the only way they can comply with the chief executive's targets. . . . If an individual violates the ethical code, there can be only one course of action: dismissal. And should criminality be involved, there should be total cooperation with law enforcement authorities.[14]

There are other poor management practices that aid criminal efforts. Inefficient credit procedures, for example, often leave a company open to bankruptcy, fraud, or cashflow and loan-shark problems. Similarly, inadequate inventory control and recordkeeping can result in the inability of companies to gage unit product losses; even after recovery, owners can't identify items because of failure to note individual serial numbers or other markings.

Private security represents another management trouble spot. Inadequate supervision of personnel or equipment use invites exploitation. Substantial cargo thefts, for example, develop because of poor private security, as evidenced by unguarded terminals, unscreened employees, and ill-trained security personnel who are unable to spot signs of organized crime. Recently, a U.S. Department of Transportation official observed in *U.S. News and World Report* that 85 percent of stolen cargo was removed by employees or other authorized persons—and during working hours.[15]

Organized crime often succeeds simply because managers and employees are unaware of how the underworld exploits legitimate concerns. Some illegitimate schemes have involved the use of sophisticated computer operations. Instances of computer abuse range from embezzlement and misuse of electronic data processing time, to program thefts and illegal acquisition of information. Organized crime has already shown its ability to infiltrate both inhouse and pool computer systems for the purpose of diverting supplies and defrauding companies.[16]

Underworld incursions into legitimate business also succeed because they are hard to detect. Some of the more subtle techniques include bankruptcy fraud; pilferage; illegal use of stocks, bonds, and credit cards; and stock takeovers. Although a detailed analysis of these crimes is not within the scope of this study, it should be noted that numerous businessmen either fail to spot their early warning signs or are remiss about establishing effective controls and procedures to arrest them.[17]

Related to this is the businessman's careless attitude in intercompany dealings. In brief, businessmen generally show too much trust and too little healthy skepticism in innumerable transactions with others, thus creating a fertile climate for criminal fraud and infiltration.[18] Without knowing it, businessmen succumb to the successful public relations ploys that obscure the identity of organized criminals.

The willing partner in organized crime, the businessman who actively solicits help to secure some business advantage, is, however, the most dangerous threat to legitimate firms. Some prominent examples are:

1. A substantial number of companies in a midwestern city pay a leading underworld figure to insure labor peace and the absence of creditor and police troubles.
2. A pipeline company pays off racketeers to obtain access to a right-of-way.
3. A large metropolitan newspaper refrains from attacking a mob-connected union in return for the union waiving certain work rules, which saves the paper about $1 million yearly.[19]

Others have demonstrated their willingness as partners because, although they realize they are being victimized, they fear reprisals if they inform the authorities. Others, who have been subjected to syndicate harassment for a long time, view it as a routine cost of doing business.

Businessmen rarely take the initiative to report illegal activities to the proper authorities—the second major factor in the underworld's successful infiltration process. Many executives, particularly in smaller

---

[13] U.S. Chamber of Commerce, *White Collar Crime*, 1974, pp. 56–58.

[14] Fred Allen, Chairman and President of Pitney-Bowes, "Corporate Morality: Is the Price too High," *The Wall Street Journal*, Oct. 17, 1973, op. ed. page.

[15] "Growing Battle Against Cargo Hijackers," *U.S. News and World Report*, Mar. 10, 1975, pp. 38–39. Improvement of cargo security measures is discussed in: The Secretary of Transportation, *A Report to the President on the National Cargo Security Program*, Mar. 31, 1976.

[16] Robert Farr, *The Electronic Criminals*, McGraw-Hill Book Company, 1975.

[17] A fuller discussion of these schemes and methods for detecting them can be found in *White Collar Crime*, pp. 12–53, and *Deskbook on Organized Crime*, pp. 21–55.

[18] *Task Force Report*, loc. cit.

[19] Quoted in *Deskbook on Organized Crime*, p. 19.

firms, are simply unaware of existing laws to report and fight organized crime.[20] Others are so preoccupied with business pressures that they are left with little time to think about law enforcement problems. Responsibility for preventing organized crime inroads often rests with security officers hired to protect against lesser crimes like shoplifting. Security personnel frequently are contracted from outside agencies with limited resources to combat underworld infiltration. As a rule, their employees lack proper training in this area, including an investigative background. There are some notable exceptions, however.[21]

Police and prosecutors generally concur that business tends to give little publicity to crime. Apart from shoplifting, business people express a general reluctance to testify against criminals, unless subpenaed.[22] A common reason advanced is that reporting means "too much trouble." Some managers prefer to skirt the difficulty and avoid potential trouble rather than notify the law. Some business people express little or no confidence in the criminal justice system, believing that law enforcement officials are too preoccupied with personal crimes to give much attention to property crimes.

Other anxieties that prevent business people from reporting crime include: fear of a tarnished image with the public and shareholders, fear of countersuits or other legal actions, and fear of further burdensome government regulation. The fragmentation of business and industry also works to the advantage of crime. No firm wants to incur the cost, notoriety, and possible legal retaliation or competitive erosion stemming from a lone crusade against a powerful criminal group.

Business needs a strategy for action. Experience points to three effective ones: (1) action within the company, (2) action in cooperation with other companies, and (3) business cooperation with law enforcement. A collective approach offers the greatest promise of success, because it would enable groups of businesses to take effective stands against organized crime that might be too expensive, unfeasible, or dangerous for isolated companies to undertake.

Central to any joint crusade against the underworld is active cooperation with the criminal justice system. Law enforcement and other government and regulatory agencies can help business in diverse and effective ways. They can supply enforcement information, crime-fighting techniques, and technical assistance, and, in general, support business efforts to mobilize against organized crime. Aided by criminal justice agencies, business and industry will gain the confidence necessary to establish comprehensive programs to combat organized crime.

Organized Crime and the Professions

One important characteristic distinguishes the professional community from business—the responsibility for self-regulation. Over the years, this function has taken on added importance because of our society's increasing dependence on the professional's specialized knowledge. Attorneys, accountants, and others play a key role in helping individuals and corporations conform to complex laws and regulations.

Because of new laws designed to combat organized criminal activity and expanded law enforcement investigative ability, organized crime figures also rely more on professional assistance.

To be sure, professional service extended to underworld figures to help them conform to the law may be reasonable and proper. However, some professionals misuse and violate their roles by helping known criminals to exploit the law. Professionals also act as direct consultants and advisers to organized crime groups for the purpose of assuring the success of criminal conspiracies. This conduct is clearly unethical and, in some cases, illegal.

Various professions have established standards of conduct through their national associations, e.g., the American Bar Association, the American Medical Association, and the American Institute of Certified Public Accountants. Although the vast majority of professionals adhere to these standards, sufficient exceptions exist to make organized crime successful in obtaining the technical assistance it requires.

Unfortunately, professional associations generally do not deal effectively with unethical members. Nor do they regularly assist government efforts to gather needed evidence to prosecute members for conspiratorial roles.[23]

[20] For example, Title IX, Section 1962 of the 1970 Organized Crime Control Act specifically prohibits (1) the use or investment of funds acquired through racketeering in any enterprise engaged in interstate commerce, and (2) control or acquisition of interest by racketeers in such an enterprise. Section 1964(c) covers treble damage provisions that also could be applicable.

[21] "Some companies here hired crime consulting firms to monitor employee pilferage and check out suspicious acquisitions and mergers . . . a big problem is that certain of these concerns can be Mafia-controlled." Stanley Penn, "No Mobsters Wanted: More Businessmen Hire Private Investigators to Weed Out the Mafia," *The Wall Street Journal,* Dec. 21, 1970, p. 1.

[22] Charles Grutzner, "How to Lock Out the Mafia," *Harvard Business Review,* March–April 1970, p. 56.

[23] See United States Attorney, Department of Justice, Southern District of New York, *Report of Activities,* June 1973–October 1975. The prosecution of lawyer-criminals has been of priority concern in the office of the U.S. Attorney for the Southern District of New York. This office has also attempted to see that convicted lawyers are permanently disbarred. Although the office has been successful

Any endeavor to reduce corruption as a tool that aids and abets conspiratorial crime must include more consistent processes to detect, reduce, and eliminate misconduct by the small but significant element of the legal profession who have either deliberately violated the law or have shown "a kind of moral myopia that (leads) them to do things without seeing any ethical questions. . . ." [24]

As part of an overall program of organized crime control, it is essential that all public and private professional groups establish and enforce realistic and responsible standards of conduct. This is an extremely important task for members of the legal profession.

in convicting 40 lawyers of felonies in the past 2½ years, there have been few disbarments. Most of those occurred months or years after the convictions, and none was permanent. There were legislative attempts to require disbarment of lawyers admitted to practice in New York, upon conviction of a felony in the Federal courts. Those efforts failed in 1975.

[24] Vermont Royster, "When 'Not Proscribed' Comes to Mean 'Approved', We're All Adrift," *Washington Star*, Sept. 21, 1975, p. C–3.

Standard 4.1

Company Policy and Internal Controls

Business and industry management should train internal auditors to detect and prevent organized crime infiltration, and should focus special attention on the vulnerability of business to criminal manipulation through illegal use of computers.

Business and industry also should establish effective recordkeeping systems and strong administrative controls over inventories and money. The importance of both managerial and procedural controls and their relationship with the private security industry should be emphasized in training and management seminars.

Commentary

As noted earlier, inadequate management policies and methods are major factors in organized crime's exploitation of legitimate business. A clear, well publicized policy of honesty and integrity, combined with comprehensive training programs and strong administrative controls, can help business and industry counter organized crime's insidious encroachment.

This policy should include a strict ban against accepting, offering, or soliciting improper gifts or favors.

In carrying out this policy, executives have a special responsibility to set an example for all personnel. In particular, these officials should guard against fostering a climate receptive to organized crime's inroads.

Specific training programs are vital control measures. Internal auditors must be alerted to conditions that facilitate organized crime manipulation and signs of possible criminal infiltration. For example, auditors should be trained to detect dummy corporations, uncover fraudulent bankruptcies, and recognize schemes involving the manipulation of stocks, bonds, credit cards, and other credit sources.

Companies with computers have a potentially strong weapon with which to detect fraud and other crimes. The computer could be programed to audit and detect such things as:

- Out-of-character purchases or consumption of materials in a department (false purchases from a fictitious supplier?)
- Payroll expenditures in excess of what is known to be the true figure (embezzlement?)
- Abnormal spending patterns (stolen credit card?)
- Unusual trading patterns on stock exchanges (manipulation?)
- Customers whose credit limits have been exceeded by a given amount (scam?)
- Out-of-line ratios, such as raw materials usage in relation to units produced (high ratio may indicate theft)

• Sudden fluctuations, such as in expense accounts (padding?) or in commissions (kickbacks?).[25]

Finally, businesses should initiate marking procedures, such as serial numbers, for certain high-price, high-demand items. These programs should expedite identification and accounting procedures plus enhance documentation techniques. These programs also would strengthen law enforcement efforts against trafficking of stolen goods.

[25] *White Collar Crime*, p. 22.

References

1. Quinney, Richard. "Crime in Business and the Business of Crime," *The Problem of Crime.* New York: Dodd, Mead and Company, 1973, pp. 175–180.

2. Remarks of Richard L. Thornburgh, Assistant Attorney General, U.S. Department of Justice, before the 1976 National Cargo Security Conference, March 31, 1976, Washington, D.C.

Standard 4.2

Employee Education Program

Business operations, in cooperation with labor, should develop a process whereby all personnel can report known or suspected incidents or conditions indicating the presence of organized crime. This process should include educating all employees to recognize the dangers of organized crime and the impact it has on legitimate business. Employees must be aware of organized crime's infiltration tactics and should pay particular attention to the business activities most likely to be target areas.

Commentary

Because of their daily involvement in business operations, employees are in a good position to observe illegal activities. These activities can range from large outsider-operated gambling to fencing and loansharking. These forms of organized crime are often the first steps taken to contact employees, who later are induced to cooperate in more serious crimes, including warehouse theft, burglary, and infiltration by racket-dominated labor unions.

To implement this standard, management should appoint, and identify to all personnel, an executive to receive employees' advice, assistance, and reports that relate to organized crime. This executive should respond to information received. Employees should be assured of confidentiality and freedom from disciplinary action in the event that they have participated in the illegal activities.

It is important that employees be kept informed of the followup to their reports for two reasons: to encourage continued service and to reinforce other workers' support of the program.

Employee motivation to report illegal activity can derive from serveral sources. First, if employees have a strong sense of loyalty to the company, they will want to protect themselves, their coworkers, and the business itself from victimization by organized crime.

A business may want to offer some reward for employee conscientiousness—either a certificate of appreciation or a cash reward. Because it is important to respect the confidentiality of any information received from an employee, rewards should not involve publicity. Employees' fear of being labeled a "company man" or a "fink" is a deterrent to reporting illegal acts. Another deterrent is fear of retaliation from offenders or their associates. This retaliation may come either from organized crime figures, or the employee's coworkers, because the "rip-off" of company property has, in many instances, become an unofficial fringe benefit. In cases where employees request discretion, rewards may be distributed as an annual raise or promotion.

Failure to provide incentives to report criminal activity may cause employees to question why they

should care when management is apathetic. Workers may, instead, be tempted to cooperate with criminals who offer attractive inducements.

Management should be made aware of the sundry and unsavory methods organized crime uses to infiltrate businesses (including the "softening up" techniques noted earlier). The direct "crimes for profit" techniques bear watching. These include security and real estate frauds, advance fee swindles, gambling, loansharking, counterfeiting, labor racketeering, fencing activities, and various forms of monopolistic practices.

Unless employees are aware of these infiltration methods, they may be unable to spot criminal activity within an organization. Accordingly, the work force's healthy skepticism should be a key objective in combative efforts against organized crime.

Management should work with labor in setting up education programs. Industrial associations and organized labor groups across the Nation should pool their resources to draft uniform training programs and guidelines to be used in local plants. Resource experts, too, should be drawn from various organizations, including local law enforcement agencies, citizens crime commissions, and the chambers of commerce.

References

1. Salerno, Ralph, and Tompkins, John S. *The Crime Confederation.* Doubleday and Company, 1969, pp. 234–235.

2. Grutzner, Charles. "How to Lock Out the Mafia: Management Can Play a Leading Role in Countering the Alarming Increase in Infiltration into Reputable Companies," *Harvard Business Review,* Vol. 48, March 1970.

Related Standards

The following standards may be applicable in implementing Standard 4.2:

3.1 Independent Citizens Crime Commissions

3.2 Crime and Corruption Reporting Responsibilities

Standard 4.3

Role of Business, Industry, and Labor Associations in Fighting Organized Crime

Business, industry, and labor associations, whether organized along industrial, occupational, geographical, or professional lines, should develop coordinated programs to prevent and detect organized crime intrusion into their activities.

Commentary

The passive attitude of business poses a big stumbling block to any active campaign against organized crime. Generally, the reasons for this laissez-faire attitude include failure to recognize victimization, fear of reprisals, and acceptance of syndicate extortion as a routine cost of business. Of available strategies, collective action by the business community represents the most effective method to combat the menace of organized criminal infiltration of legitimate enterprise.

An association's program of organized crime control should:

1. Provide professional staff that can devote the needed time, personnel, and expertise to organized crime problems affecting the membership;
2. Alert both the membership and the public to the presence of organized crime and explain why law enforcement cannot combat the problem alone;
3. Generate peer pressure to motivate otherwise reluctant firms to implement countermeasures;
4. Provide an industrywide perspective on organized crime and develop the capability to spot the growth of trouble, including union problems;
5. Act as a vehicle for unified action, effectively shielding individual members from adverse consequences (retaliation, higher operating costs than competition, etc.) that would result if this action were taken by only a few firms;
6. Act as an information clearinghouse on organized crime for members;
7. Funnel information to and from members and criminal justice agencies, initially cloaking complainants with anonymity, if necessary, until mutual trust is established;
8. Urge the news media to publicize organized crime tactics and association efforts to combat them; and
9. Initiate and support State legislation against organized crime, including State statutes on Racketeer Influenced and Corrupt Organizations.[26] This statute authorizes both civil and criminal remedies, and as of December 1975, five States, Connecticut,

[26] The purpose of Title IX of the Organized Crime Control Act of 1970 is to "outlaw the infiltration and illegal acquisition of legitimate economic enterprises to further criminal activities."

Florida, Hawaii, Pennsylvania, and Ohio had enacted similar laws. Associations are in the best position to know about changing conditions within their areas of interest. This knowledge should become a part of a structured program for pooling information and common experiences. The ultimate goal of such a program is protection of the business itself and the general public as well.

Information can best be gathered through industrywide organizations, whose joint efforts can develop the contacts and capabilities needed to protect business, labor, and industry interests. As an example of the kind of information needed, the insurance industry could gather and publicize data on organized crime "scam" operations when media reports indicate their existence in a particular area. The data also could assure the public that the industry is denying "scam" operators access to the insurance business. Similar efforts could be mounted by financial, real estate, and merchandising associations.

References

1. 18 U.S.C., Sec. 1961 (1970).
2. National Association of Attorneys General. *The Use of Civil Remedies in Organized Crime Control.* Raleigh, North Carolina, December 1975, p. 9.
3. Edwards, Jack. "Businessmen Warned on Organized Crime," *Congressional Record—House,* Vol. 114 (10), May 15, 1968.
4. Schelling, Thomas C. "What is the Business of Organized Crime," *American Scholar,* Vol. 40, Autumn 1971.
5. McKeon, Thomas J. "The Incursion by Organized Crime into Legitimate Business," *Journal of Public Law,* Vol. 20, 1971.

Related Standards

The following standards may be applicable in implementing Standard 4.3:

1.1 Organized Crime Prevention Councils
3.1 Independent Citizens Crime Commission

Standard 4.4

Action by Professional Associations Against Organized Crime

The unethical conduct of a member of any profession should be subjected to vigorous disciplinary action by the appropriate professional associations (e.g., medical, accounting, legal, etc.). These groups should set up adequate investigative and administrative staffs to provide uniform and speedy disposition of all allegations of professional impropriety.

Commentary

Organized crime needs the specialized talents of various professions to succeed in developing its criminal conspiracies. Hence, professional associations must promote the highest ethical standards among their members, barring those whose conduct is unethical or knowingly criminal.

Lawyers and other professionals violate their legal and ethical responsibilities when they knowingly:

1. Perform services intended to assist the planning of illegal activity with maximum precautions against detection or successful prosecution based on technical and highly skilled manipulations of laws and regulations toward illegal ends;

2. Engage in a joint financial venture with organized crime members, as a partner, corporate officer, stockholder, or registered agent;

3. Use their names, as an interposed party, to conceal the true interest or identity of an organized crime principal in order to circumvent the law;

4. Act as public relations spokespersons for organized crime members, except as private citizens; and

5. Accept compensation from a member of an organized crime group for services to other members of that group, for the benefit of the person paying without consideration of the person receiving the services.

Because of the lawyer's special responsibility in society, bar associations and other organizations need to give further consideration to the vexatious issues of legal multirepresentation or organized crime clients.

In a recent State Supreme Court case,[27] the court upheld a trial judge's order disqualifying two lawyers hired by a police organization from representing 12 police officers subpenaed before a grand jury investigating police corruption. The court found that a fee paid by a third party for multirepresentation created a potential conflict of interest. In addition, the court's holding noted that multirepresentation could abridge a grand jury investigation and impair

[27] Pirillo v. Takiff, 341 A 2d 896 (Pa. 1975) *cert. denied*, 44 U.S. L.W. 3424 (1976), *Contra In Re April Grand*, 18 Crim. L. Reptr. 2401 (D.C. Cir. Feb. 3, 1976).

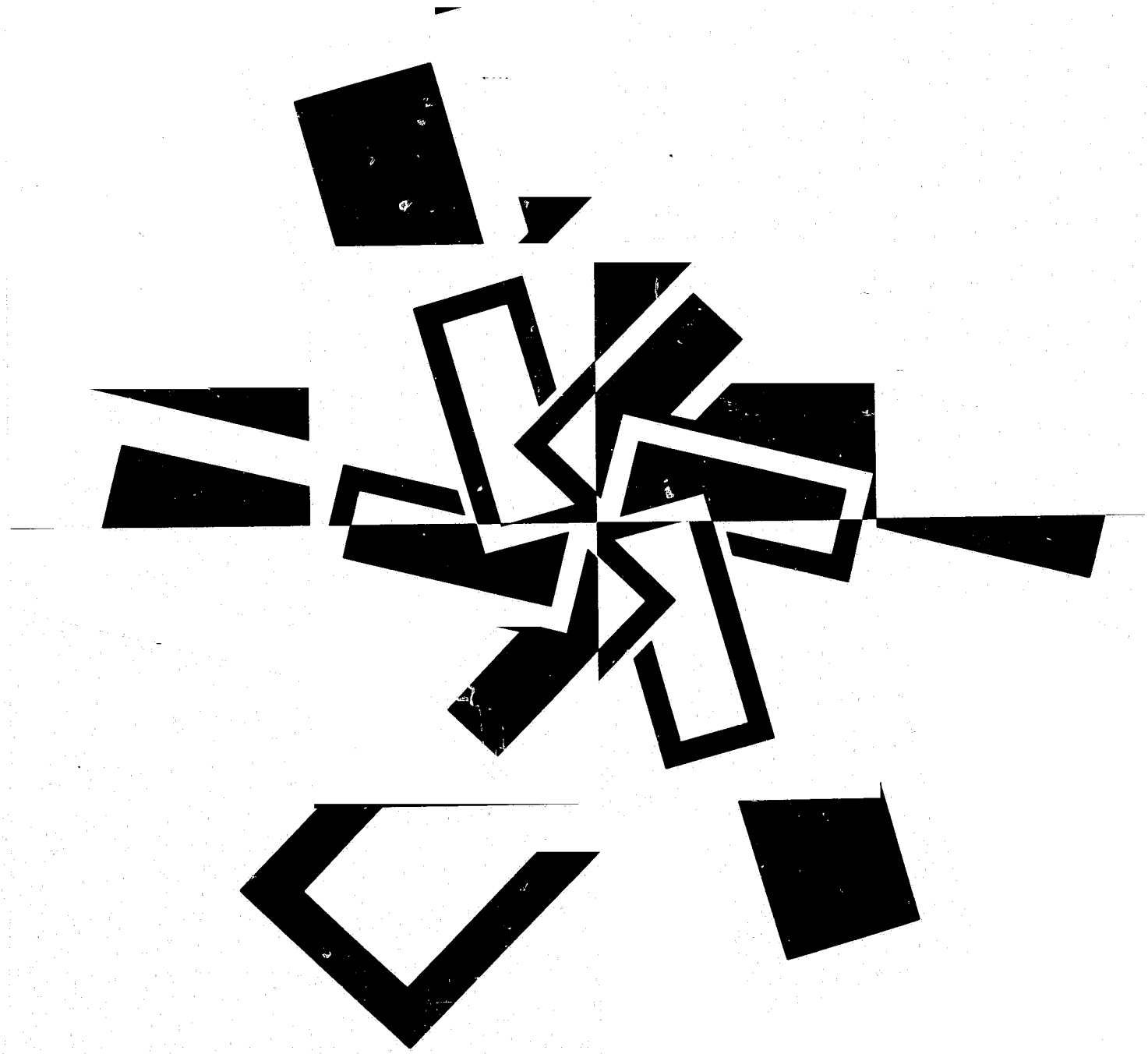
its secrecy. The upshot was that one client/witness ethically cannot be advised as to the best course of action because the lawyer's advice could potentially injure clients.

In conclusion, professional associations should move rapidly and decisively against any behavior that smacks of underworld influence. Furthermore, they should set up special committees to deal with breaches of conduct as well as initiate appropriate disciplinary proceedings against unethical members. Equally important, they should inform appropriate law enforcement agencies of any reported or discovered criminal violations.

References

1. Jacob, Herbert. *Justice in America: Courts, Lawyers, and the Judicial Process*. Boston: Little, Brown and Company, 1972.
2. James, Howard. *Crisis in the Courts*. New York: David McKay Company, Inc., 1974.
3. Bloom, Marray Teigh. *The Trouble with Lawyers*. New York: Simon and Schuster, 1968.
4. Schwartz, Murray L. "The Lawyer's Professional Responsibility and Interstate Organized Crime," *Notre Dame Lawyer*, Vol. 38 (6), 1963.
5. *Pirillo* v. *Takiff*, 17 Cr. L. 2381 (Supreme Court of Pennsylvania, July 7, 1975).

Chapter 5
Regulatory and Administrative Agencies



This chapter proposes that States and municipalities mount a campaign against organized crime that includes certain governmental elements that are not part of the formal criminal justice system, namely, regulatory and administrative agencies.

States and localities should work out an approach to attacking organized crime with regulatory and administrative agencies that suits their particular structure and needs. This chapter recognizes that there is enormous variance in the number and effectiveness of State and local agencies, so much so that no detailed blueprint could be developed that would cover all cases.

Civil sanctions can be especially effective in controlling organized crime because they directly affect its economic activity. Such sanctions can be applied by either State or local administrative agencies through their regulation of a wide variety of business transactions or by joint efforts of law enforcement officials and State and Federal administrative and regulatory agencies. While recognizing that there is perhaps a greater opportunity to control organized crime at the local level, this chapter has exemplified Federal administrative and regulatory agencies because of their greater experience and of their vast store of information which could be useful to State and local officials.

Federal, State, and local agencies regulate virtually every area of economic activity in this country. From the mundane zoning approval of adding a garage to a home to the complex regulating financial and corporate institutions, government is in the business of gathering information and approving or regulating public and private entities.

From time to time, a locality, State, or the Federal Government has recognized the potential of regulatory bodies for assisting criminal law enforcement agencies in complex investigations of white-collar and organized crime cases. Because of its resources and national jurisdiction, the Federal Government has been the leader in this effort. One example of the Federal strategy is the well known Strike Force—integrated teams composed of specialists from several agencies (e.g., Internal Revenue Service [IRS], Securities and Exchange Commission [SEC], Alcohol, Tobacco, and Firearms Division [ATF] of the Treasury Department). The Strike Force concept has been an important component in Federal efforts in breaking complex criminal activity, with the conviction of Al Capone an early example of this approach.

In 1970 Congress passed the Racketeer Influenced and Corrupt Organization ("RICO") Statute (Title IX 18 U.S.C., 1961). This contains provisions for dealing with varying organized crime activities. Section 1964 of the law authorizes a variety of civil sanctions against violators that are particularly useful in cases where proof of criminal activity is difficult to obtain. The "RICO" provision is another attempt by the Federal Government to use the regulatory approach in combating organized crime.

An excellent discussion of this statute is found in a 1975 publication of the National Association of Attorneys General, which deals with the use of civil remedies in organized crime control.[1] The report notes that several States, including Connecticut, Florida, Hawaii, Pennsylvania, and Rhode Island, have enacted similar statutes. However, only Florida has brought actions under it, and that State's statute since has been declared unconstitutional because of vague draftsmanship.

These are only some of the ways to use the potential variety of administrative agency resources. However, the States have generally failed to use or even realize the potential of these agencies for organized crime investigation, nor have Federal and State governments fully used the potential of joint or integrated efforts. Standards 5.1 and 5.2 recommend that State administrative and regulatory agencies should receive sufficient funding to provide for the adequate staffing and investigative resources and to initiate and support training programs on organized crime for agency personnel. Standard 5.5 recommends the establishment of a State/Federal liaison mechanism to facilitate intergovernmental efforts to control organized crime.

The most important causes of State and intergov-

[1] National Association of Attorneys General, *Organized Crime Control Special Report,* December 1975, pp. 6–9.

ernmental failures to involve administrative and regulatory agencies in organized crime control are the following:

1. Lack of concentrated knowledge within State and Federal Governments of the nature, power, and authority of their agencies;
2. Parochial differences between agencies within the same governmental framework, and distrust between Federal and State agencies as to capability and motives;
3. Jurisdictional rivalry between Federal and State agencies over investigation and prosecution of significant cases; and
4. Balkanized approach to criminal investigation, with no centralization of information gathering, analysis, and assistance at the State level.

A more recent problem, which should be of some concern in the fight against organized crime, is the reluctance of some agencies to share or utilize their regulatory powers in areas outside of their immediate jurisdictions. An example of this is the IRS expression of doubts over the level of its continued cooperation with the Organized Crime Section of the Justice Department's Criminal Division. This situation reflects the appropriate concern of many as to the proper balance of legitimate joint government operations in combating organized and white-collar crime, versus the fear of arbitrary abuses of this potent power against the public. It is therefore important that effective oversight and supervision be part of any integrated governmental program in order to offset the vulnerability of this power to abuse.

Administrative agencies exist at all levels of government in bewildering numbers and with a variety of purposes and powers. In terms of their potential participation in the investigation and control of organized crime, four types of agencies are important for intergovernmental programs to control:

1. Regulators of financial institutions;
2. Regulators of public and private corporations;
3. Taxing agencies; and
4. Licensing agencies.

The following discussion will concentrate on those agencies; the wide range of administrative agencies in the States should be considered by the appropriate governmental unit in light of the standards presented here.

Regulators of Commercial Banks

Bank regulatory agencies have broad powers to obtain and inspect all bank records, and to require the maintenance and filing of special records and reports. They can also fight organized crime through their licensing and sanction powers by denying the charter that allows a banking operation to begin; by challenging and even prohibiting certain bank loans; or by removing board members and officers.

It is ironic that this area of government regulation, which could potentially be the most useful in organized crime investigations, is also the most complex and chaotic. It is impossible, for example, to separate State and Federal functions in this area, as the jurisdiction and authority within the government framework is a maze of both. However, for this report, some understanding of the work, purpose, and authority of the key agencies in these areas can be noted.

To understand the reason for the jurisdictional complexity of bank regulation, it is important to go back to its historic roots in the United States. With the brief exception of the ill-fated Bank of the United States in the early 19th century, control of commercial banking up to the Civil War period was a State function. In 1863 and 1865, Federal statutes initiated what is now called the Dual Bank System. This consisted of State-chartered banks supervised by State governments, and national banks supervised by the Federal Government, through the Office of the Comptroller of the Currency (established as a quasi-independent bureau in the U.S. Department of Treasury).[2] These two independent systems competed against each other. As a result, commercial bank regulations were affected by each system trying to encourage membership. Thus over the years banks fluctuated, as the laws permitted, between State and National chartered institutions, depending on which regulator was more liberal in approach. This situation still exists to some extent today.

In 1913 Congress passed the Federal Reserve Act, which added a new dimension to bank regulation. Essentially, the new Federal Reserve Board was to be a monetary policy agency, but it has gained extensive regulatory powers over the years. Under the Federal Reserve Act, all national banks automatically became members, while State charter banks could join if they wished. This development created two agencies with concurrent regulatory jurisdiction over national banks at the Federal level and, on the State level, a Federal regulator overlay over State charter banks that joined the Federal Reserve. In 1933, the Federal Deposit Insurance Corporation (FDIC) was added as a third Federal agency with concurrent jurisdiction over banks.

For regulatory purposes, commercial banks break down into four groups:

1. **National banks, primarily regulated and examined by the U.S. Comptroller of the Currency.** As members of the Federal Reserve Board insured by the Federal Deposit Insurance Corporation, these

[2] See 12 United States Code, Section 1.

banks are under the jurisdiction of those two agencies. However, as a matter of policy, the Comptroller is the principal supervisor. (State agencies have no jurisdiction over national banks.)

2. **State-chartered banks that are members of the Federal Reserve Board and insured by the FDIC.** At the Federal level they are primarily regulated by the Federal Reserve Board, with the FDIC sharing concurrent jurisdiction. State banking agencies, as the chartering authorities, also have general supervisory jurisdiction.

3. **State-chartered banks insured by the FDIC but not members of the Federal Reserve Board.** At the Federal level the FDIC is the only regulator with supervisory jurisdiction. State banking agencies, as the chartering authorities, also have general supervisory jurisdiction.

4. **State-chartered banks not insured by the FDIC and not members of the Federal Reserve Board.** There is no Federal supervisory jurisdiction over these banks, though there is limited Federal Trade Commission and Securities and Exchange Commission jurisdiction. State banking agencies have the principal supervisory function.

When considering these categories the following figures are instructive. Category 4, State-chartered banks with no FDIC insurance or Federal Reserve membership, constitutes only about 200 or about 1.5 percent of the approximately 14,000 commercial banks in the United States. Also, they hold only about .8 percent of the banking assets in the country. Therefore, in a specific investigation such a bank could be significant, but generally they are a negligible factor in banking.

National banks, in Category 1, constitute 32 percent of the commercial banks in the country, and have over 51 percent of the banking assets. Because no State agency has any jurisdiction or authority over national banks, it is important to recognize that a significant portion of banking is exclusively a Federal enclave. Further, Categories 1, 2, and 3, which include more than 98 percent of the commercial banks, and more than 99 percent of banking assets, are subject to Federal supervision and jurisdiction. The Federal impact is therefore vital in bank regulation, and must be considered in any integrated program for State-level action against organized crime.[3]

The powers and authority of the bank regulatory agencies are not as well known as they should be to law enforcement agencies. Each, of course, has its own separate statutory powers, but there are some general characteristics that apply to most State or Federal bank agencies.

First, these regulatory bodies prefer to operate alone. Maintaining the pivacy of their records and operations is important to them. This is particularly true of the examination reports resulting from the periodic examination of each bank under their jurisdiction. The Comptroller of the Currency, at the Federal level, for example, has traditionally been reluctant to permit even Federal law enforcement agencies the authority to see the "confidential" sections of such reports. The focus of these agencies is the safety and solvency of the banks under their charge. As such, they are reluctant to take actions that, in their judgment, could adversely affect "their" banks.

Banking is sometimes described as a record-keeping business, for essentially everything a bank does results in a piece of paper or record. Today there are few transactions that do not involve a commercial bank in some way with a resulting piece of paper or record. Even "cash" transactions require obtaining the cash from a commercial bank with a withdrawal record, check, or loan. Most corporate transactions end up as records in a commercial bank.

The power of bank regulatory agencies to obtain or inspect such records is practically unrestricted. All administrative agencies, State or Federal, have the authority, usually through the administrative subpena to obtain books and records of their regulatees. However, few have the absolute visitorial and inspection powers of the banking agencies' bank examiners. They have the authority to make standard bank examinations without notice or warning. All records are open to them. Further, they may visit and see any record they deem necessary at any time and, indeed, can seek records themselves without telling any bank employee specifically what they are looking for. The expertise and authority of the bank examiners, State and Federal, can obviously be one of the most valuable tools in any investigation of white-collar crimes perpetrated by organized criminal groups.

Within the powers of the banking agencies are a variety of sanctions and licensing authorities that can play a role in detecting or preventing organized crime operations. First, it is the banking agencies that issue the charter permitting an institution to commence the business of banking. These agencies normally screen all applicants and have great discretionary power in their processes.[4] Most jurisdictions follow the Federal law that permits five or more citizens to apply for a charter. They can and do refuse charters to applicants where the agencies have not resolved questions about the integrity or honesty of the proposed bank's organizers.

Banking agencies can challenge any loan made by

[3] Public Regulation of Banking Institutions, tentative draft 1973, Professor Kenneth Scott and Paul Cootner.

[4] *Camp* v. *Pitts*, 411 U.S. 138, 1973, Title 12, USC 26.

the bank and order it removed if they have reason to question the loan's value or validity. Where there is reasonable cause, they can prohibit loans to certain individuals and corporations. The agencies can also require the maintenance or filing, for periods of time, of certain records and reports.

Beyond these rather extensive regulatory powers over financial institutions, Congress recently enacted a further comprehensive reporting statute known as the Bank Secrecy Act of 1970,[5] for the specific purpose of maintaining records that "have a high degree of usefulness in criminal, tax, or regulatory investigations. . . ." [6]

Among the many reporting requirements of the act are records on all checks of $100 or more, extensions of credit of $5,000 or more (except real estate), and any transfer of funds of $10,000 or more to outside the United States. In actuality, under this statute the Secretary of the Treasury is empowered to issue regulations that can require almost complete reports and records on financial dealings both in and outside the United States (i.e., through the FDIC or Federal Home Loan Bank Board [FHLBB]).

The Department of the Treasury has issued extensive regulations pursuant to the act [7] which makes vital data for organized crime investigation available to Federal authorities. In 1974, the statute was challenged and found constitutional by the United States Supreme Court in *California Bankers Association, et al.* v. *Schultz* (94 S. Ct. 1494), a case that reflects the broad extent of regulatory powers within the constitutional framework.

Regulation of Other Financial Institutions

Another significant financial institution is the savings and loan (S&L) association that deals primarily with savings accounts or shares and loans for housing and construction purposes. However, the regulatory structure of these associations is similar to, if less complex than, that of the commercial banks. At the Federal level is the FHLBB (which includes the S&L equivalent of the FDIC or deposit insurance). The FHLBB regulates federally chartered S&Ls and State level agencies regulate State-chartered S&Ls. (There is a concurrent State and Federal power over State S&Ls insured by the Federal agency.) Other financial institutions such as credit unions and mutual funds have a lesser importance in the area of organized crime intelligence and enforcement, but can play a role in a given case and should be included in any comprehensive program utilizing administrative agencies.

Another important business entity, though not considered a financial institution, should also be considered in this area. This group consists of the finance or loan companies, whose regulation by government can play a role in the white-collar and organized crime area. This is particularly true where usury or loansharking is an element of a State's organized crime problem.

Regulation of finance companies (except for large public corporations) and enforcement of State usury laws such as Small Loan Acts are uniquely State functions. Awareness of the State law (or its shortcomings) and the agencies involved in the regulation of these companies should be part of any statewide program. However, the Federal Government does have some role in this area. In 1969, the Congress passed the Truth-in-Lending Act (15 USC 1601 *et seq.*), which requires certain disclosures to a borrower in every consumer loan. The Board of Governors of the Federal Reserve Board is the agency charged with enforcement of this act, violation of which could bring a variety of criminal and civil sanctions. The Board has delegated day-by-day enforcement of the act to several Federal agencies, with the FTC having jurisdiction over finance companies. Little has been done under the Truth-in-Lending Act to control loansharking, as this is a business done outside the normal finance company business structures; however, awareness of this statute and the power it gives for obtaining information and imposing sanctions provides one more tool for State and Federal government. Of course, under 18 USC 891–894, these are specific criminal sanctions which the U.S. Department of Justice enforces and administers. However, this does not mean that civil sanctions should not be used.

Regulators of Public and Private Corporations

The Securities and Exchange Commission is the leading regulator of public corporations, while the States' "mini-SECs" have an important role in enforcing State securities laws. Because State agencies vary in degree of sophistication and resources, the SEC provides them with assistance and guidance. The SEC convenes regular regional conferences to educate State securities law officials, and to foster the kind of cooperation needed in any serious effort to combat organized crime.[8]

[5] 12 U.S.C. 1829b, 1730d, 1951–1959 and 31 U.S.C. 1051–1122.

[6] 12 U.S.C. 1829b (a) (2); see generally U.S. Code Congressional and Administrative News, 1970, p. 4394.

[7] 37 Fed. Reg. 6912, 23114, and 38 Fed. Reg. 2174.

[8] P.L. 1, *White-Collar Crimes: Defense and Prosecution*, Herbert Edelhertz, 1971.

Although the SEC and the State securities' regulatory agencies do not have the broad visitorial powers of the bank regulatory agencies, they generally can use the administrative subpena to obtain records and testimony regarding their enforcement of the securities laws. These agencies have considerable expertise in analyzing and understanding the significance of corporate and intercorporate relationships; this, coupled with the subpena power, can be of major use in gathering information. Indeed, the SEC on the Federal level has played a significant role with organized crime strike forces and with other Federal agencies in developing criminal cases.

The importance of the administrative subpena, a power enjoyed by most regulatory agencies, cannot be overemphasized. Standard 5.3 discusses the need for legislation that would authorize regulatory and administrative agencies to subpena records and compel testimony in order to obtain information on organized crime. Standard 5.4 supplements this provision in terms of third-party record holders.

Regulators of Taxing Agencies

The revenue or taxing agencies have as vast a power as any administrative body for obtaining information. Their authority crosses all lines, for the tax power covers the endeavors of all citizens. The Federal IRS is well known as a key agency in the Federal system; in the past it has participated in many interagency cases. Also, at the Federal level the tax power has traditionally been used as a basis for regulatory control (i.e., Harrison Act for drugs, National Firearms Act for gun control).

Within the ambit of revenue agencies also comes the Customs Bureau and the agencies dealing with import-export, corporate, and other taxes. Most States have equivalent income tax agencies but also have specialized revenue-producing bureaus dealing with sales, liquor, and real estate taxes, plus a variety of licensing taxes.

Within this broad area comes an equivalent enforcement power. The State agencies vary in their sophistication and many rely on the Federal IRS for much of the information needed for State tax purposes. However, an understanding of the State's structure and ability to use both its tax power and its sanctions is another key element in establishing a comprehensive State program for organized crime. States may vary in their use of tax power and the kind of agencies that enforce their tax laws, but they share the power to establish, with the necessary enforcement tools, such agencies as they deem necessary to collect their revenues. That power is crucial to organized crime control efforts, particularly in such areas as cash flow businesses, which are highly vulnerable to tax cheating by organized crime infiltrators. All Federal, State, and local taxing authorities should furnish law enforcement officials with all information regarding any nontax criminal violations that they may find.

Regulators of Licensing Agencies

The power to issue licenses, while shared to a great extent by the Federal Government, is still a State matter in most of the public areas. Indeed, the average State requires a license for more than 100 occupations.[9]

Generally, the official bodies that administer licenses, particularly occupational licensing laws, come from occupational groups themselves. The trend in most States is that these licensing boards, commissions, and groups operate individually with little control or even awareness by the other arms of government. This system often results in built-in conflicts of interest that offset any real reliability as part of a law enforcement program. An example of this "hodgepodge" system was noted in 1962 when California attempted to overhaul its "invisible government" and found 52 separate licensing agencies operating within the State.[10]

If the States organized their licensing procedures into a coherent system, particularly in the commercial licensing area, these agencies could play a fundamental role in an organized crime program. At a minimum, it is essential for the State office involved in an organized crime program to be aware of who issues licenses, their powers and procedures, and what businesses need licenses. For example, in the areas of liquor licensing, small loan companies, trucking, waterfront, or dock activities there is a vast potential for the exercise of legitimate control and investigation. Every State has, as part of its licensing system, laws authorizing procedures for revocation of such licenses together with the allied power of inspection and investigation. This is indeed a fertile area for an integrated organized crime program.

The proposed standards that follow are general in intent and purpose, as they are intended to create a framework for an effective program. Each State can adopt this framework on the basis of its individual needs.

---

[9] *Organized Crime Control Special Report*, National Association of Attorneys General.

[10] See 14 *Stanford Law Review* 533 (1962).

Standard 5.1

Staffing and Budget

State administrative agencies, particularly those identified as critical to an integrated government program against organized crime, should receive enough budget support to insure the following:

1. Adequate professional and support staff to fulfill the agencies' statutory duties, including the resources to conduct necessary administrative investigations; and

2. Adequate resources to maintain a continuing personnel training program, to assure the most professional and competent staff possible.

Commentary

Administrative agencies have been created at the Federal and State level not to satisfy an abstract governmental theory, but to deal with specific problems of public concern or need. Traditionally, most agencies over a period of time have futher responsibilities and duties added to their original purpose, as events and expenses broaden that purpose. Such duties can and should relate to organized crime.

State agencies tend to be small, unprofessional, and limited in their capacity to fulfill the need that prompted their creation. Often a State will create an agency or commission in response to public demand, then ignore its basic needs when the harder question of budget appropriation is considered. In time there can be in a State a large number of agencies whose function and purpose are obscured. Because of a lack of resources, these are merely skeleton organizations where the offices of commissioner and/or agency head are political dumping grounds. Or these agencies may be primarily composed of representatives from the very group to be regulated.

Each State must, of course, determine what agencies are needed to serve its particular public purpose. However, it is important that any agency to be created, or one already existing, serve a vital function and be provided with the staff and resources to fulfill its responsibilities. This requires adequate resources to maintain a trained career professional staff with adequate legislative support to do the job. Although the above is an obvious requirement, it is too often the most neglected.

References

1. *Stanford Law Review* 533, 1962.
2. President's Commission on Law Enforcement and the Administration of Justice. *The Challenge of Crime in a Free Society*. 1967.
3. National Association of Attorneys General.

Organized Crime Control Special Report. December 1975.

4. Robinson, Glen. *On Reorganizing the Independent Regulatory Agencies*. 57 Virginia Law Review 947, 1971.

5. Gelhorn and Byse. *Administrative Law*. Foundation Press: 6th Edition (1974).

6. Council of State Governments. *Suggested State Legislation*. Committee of State Officials on Suggested State Legislation, 1970.

Standard 5.2

Training

A systematic training program should be initiated for all enforcement personnel of State and local administrative agencies, so that they will understand the role of the organized crime enforcement agency, the requirements of the statute it enforces, and the problems involved in developing prosecutable cases.

Commentary

All administrative agencies must ". . . operate on a spot check basis . . .," reacting to complaints or performing routine regulatory inspections. The vigilance and expertise of investigators in administrative agencies often results in the discovery of crucial information, which in turn leads to successful prosecution of organized crime cases. Such agencies need periodic training programs to familiarize them with the problems of organized crime in their States and the difficulties and complexities of investigating regulatees involved in organized crime. Training programs should instruct agency personnel in the methods of reporting suspected criminal activity.

References

1. Edelhertz, Herbert. *Nature, Impact and Prosecution of White-Collar Crime.* 1 Handbook, p. 40.
2. State of Ohio. *Criminal Justice Services of the Executive Branch.* p. 12.
3. President's Commission on Law Enforcement and the Administration of Justice. *The Challenge of Crime in a Free Society.* 1967.
4. National Association of Attorneys General. *Organized Crime Control Special Report.* December 1975.
5. Robinson, Glen. *On Reorganizing the Independent Regulatory Agencies.* 57 Virginia Law Review 947, 1971.
6. Gelhorn and Byse. *Administrative Law.* Foundation Press: 6th Edition (1974).
7. Council of State Governments. *Suggested State Legislation.* Committee of State Officials on Suggested State Legislation, 1970.
8. National Advisory Commission on Criminal Justice Standards and Goals. 1973.
9. American Bar Association Standards for Criminal Justice Relating to *The Prosecution Function.* 1971.

Related Standards

The following standards may be applicable in implementing Standard 5.2:

1.1 Organized Prevention Councils
9.9 Administrative and Regulatory Authorities

Standard 5.3

Authorization for Access to Records

Each State should have legislation that empowers State regulatory and administrative agencies to subpena records and compel testimony. All State agencies should be charged with the duty to be aware of and to refer to appropriate law enforcement bodies all possible criminal violations discovered in their administrative investigations.

Commentary

Many, but not all, regulatory and administrative agencies are authorized by their particular statutes to obtain information by issuing administrative subpenas. Others have visitorial and inspection powers, but cannot subpena or otherwise order reports from their regulatees. Some agencies, notably bank regulators, have all of the above powers to a considerable degree.

Generally, when administrative subpenas are authorized they are enforced (as in the Federal system) in court through a court order and subsequent contempt citation. Enforcement of such subpenas for investigative purposes by the courts is almost *pro forma*. The U.S. Supreme Court has described this administrative power as being akin to the power of a grand jury to obtain information, and enforceable even if the purpose is for a "fishing expedition." Also, visitorial, inspection, and reporting requirements over regulatees have generally been upheld as valid governmental powers.

These administrative powers to obtain information are particularly valuable as tools for an organized crime investigation. Generally, prosecutorial offices do not have the power to compel information until they have a grand jury investigation underway. However, for reasons of timing or maintaining confidentiality in the investigation, a grand jury may not be feasible. (Some States, particularly where grand juries are no longer used, are experimenting with prosecutorial power to issue summones.) It would therefore be an invaluable asset to be able to use, when necessary, some of the powers of an administrative agency.

Agencies with a regulatory function should have the powers to obtain information and data needed to fulfill their responsibilities, and all States should provide these powers by an appropriate statute. Providing for such power on a statewide basis, possibly in a State Administrative Procedures Act, would help standardize the procedures and subsequent judicial decisions. In many jurisdictions the laws and procedures operate on an ad hoc basis, depending on the language of each statute establishing each agency.

For a variety of reasons, many administrative agencies, when they have investigative powers, are reluctant to utilize these powers for criminal law enforcement purposes. There is sometimes reluctance

to expend resources and manpower for goals that are not specifically spelled out in their statutes. There is often a legitimate question as to whether their power to obtain information can be legally used for criminal investigation purposes. The Federal IRS has often had this ambivalent view on the use of information it obtains in non-tax-related cases, and Federal bank regulatory agencies have traditionally shared this apprehension.

It should be a State policy that, in criminal law enforcement, the government is a united entity; and that all government agencies should have a particular responsibility to assist in law enforcement. Further, State legislation should provide that any information obtained by one governmental body can be used by a criminal law enforcement agency.

Standard 5.3 also proposes that by statute all agencies be charged with the duty to refer to the appropriate criminal law enforcement bodies any possible criminal violations they uncover.

At the Federal level, this duty is generally mandated by agency rules or regulations. However, a statutory requirement is even more advantageous, as it further reenforces the legal duty of all agencies to cooperate in all law enforcement endeavors of the State government.

Law enforcement and regulatory agencies should cooperate with each other to provide for an exchange of information on a specific violation as well as on a routine basis, mindful always of public rights.

Standard 5.3 does not address itself directly to the following problem that has developed from recent court cases. However, the possible implications of those cases should be viewed with some concern.

Traditionally Federal and local law enforcement officers have had relationships with financial institutions and other quasi-public corporations whereby, as an aid to a bona fide investigation, the corporations have provided certain records and information to the officers upon an informal request. Such corporations have an obvious independent interest voluntarily to assist legitimate criminal investigations. Indeed as with any good citizen, their desire to cooperate should be expected. (See *Coolidge* v. *New Hampshire*, 403 U.S. 443, 488 (1971); see also *Schneckloth* v. *Bustamonte*, 412 U.S. 218 (1973).)

Recently, the California Supreme Court in *Burrows* v. *Superior Court of San Bernardino County* 529 P2D 590 (1975) raised serious questions about this relationship. In *Burrows* the Court found that records given voluntarily by a bank to law enforcement officers must be excluded as evidence, as the Court considered this activity a search requiring a probable cause warrant.

The California Court noted that such records can be procured by the government without a probable cause search warrant if a subpena or summons is issued by an administrative agency.

In a recent decision, the U.S. Supreme Court confirmed the principle that the probable cause requirements of the Fourth Amendment do not apply to records held by third parties (i.e., bank records) and that such records are subject to production by subpena. The Court distinguished *Burrows* as in that case there was no legal process such as a subpena. *U.S.* v. *Miller* 44L.W. 4528, April 21, 1976. The Supreme Court's 1976 decision in the Miller case enhances the legality and utility of the State's subpena power as an instrument for the control of organized crime.

Another problem within the scope of this standard is whether the third party holder of records must inform the subjects of an investigation that their records have been subpenaed or obtained by the government. It is believed that where nondisclosure of such information is important to an investigation, a formalized procedure should be established to insure nondisclosure.

Each agency should establish, by agency regulation, a procedure whereby an investigator can be authorized to request nondisclosure by the record holder.

It is proposed that nondisclosure be in effect for 1 year, unless the regulatee is notified sooner by the regulator that the investigation has been terminated. At the end of 1 year, the regulatee may notify the regulator of its intention to make disclosure and the regulatee is free to notify the subject after that time.

Where nondisclosure is not essential to the investigation, the decision to disclose or not to disclose should be left to the record holder.

References

1. *United States* v. *Morton Salt Company*, 338 U.S. 632, 643 (1950); *Oklahoma Press Publishing Company* v. *Walling*, 327 U.S. 186 (1946).

2. *U.S.* v. *Biswell*, 406 U.S. 311 (1972).

3. *Coolidge* v. *New Hampshire*, 403 U.S. 443, 488 (1971); *Schneckloth* v. *Bustamonte*, 412 U.S. 218 (1973).

4. *U.S. v. Miller*, 44 LW 4528 (1976).

5. *California Bankers Association* v. *Schultz*, 416 U.S. 21 (1974).

6. Jaffe and Nathanson. *Administrative Law*. Little, Brown: 3rd Edition (1968).

7. Davis. *Administrative Law*. West Publishers: 5th Edition (1973).

8. Robinson and Gelhorn. *The Administrative Process*. West Publishers (1974).

9. Kadish and Paulson. *Criminal Law and its Processes*. Little Brown: 3rd Edition (1975).

10. Michigan Commission on Law Enforcement and Criminal Justice. *First Comprehensive Plan*. 1969.

11. U.S. Department of Justice. *Role of State Organized Crime Prevention Councils*. Law Enforcement Assistance Administration.

12. Public Law I. *White Collar Crimes Defense and Prosecution*. 1971.

13. National Association of Attorneys General. *Organized Crime Control Special Report*. December 1975.

14. 65 Justice Criminal Law and Criminology 345. *The Imposition of Administrative Penalties and the Right to Trial by Jury*. 1974.

15. Council of State Governments. *Suggested State Legislation*. Committee of State Officials on Suggested State Legislation.

16. Shonkwiler, James; Beck, James. *A New Concept—State Central Services to Prosecutors*. Prosecutor, Volume 7, 1971.

Standard 5.4

Civil Sanctions

Administrative and regulatory agencies should be authorized, by the State, to establish a formal procedure for obtaining pertinent investigative information from law enforcement agencies, including access to relevant criminal records. The former agencies can then proceed to apply civil sanctions against organized crime activities.

Commentary

Many State agencies have a variety of civil sanctions that can be imposed against their regulatees, by procedures requiring a lesser burden of proof than is imposed on the government in a criminal prosecution. These procedures range from the formal imposition of a cease-and-desist order to relatively informal proceedings. The sanctions can include withdrawal of a license to conduct a business, imposition of fines, orders to cease participation in certain activities, or civil punishments for violating the regulations and rules of the agency. In many instances, refusal to comply with the orders of the agency is a criminal violation. Further, for agencies with visitorial inspection powers (e.g., bank regulatory agencies), regulatees can be placed under a diligent inspection program with almost daily monitoring of their activities. Finally, there is possible imprisonment for contempt for violations of injunctions and cease-and-desist orders brought by agency action.

When law enforcement people provide administrative agencies with information and other support, their actions can serve almost as salutory a purpose as successful criminal prosecution. For a variety of reasons, a criminal prosecution may be impractical, or too demanding in time and resources for any ultimate effect on the illegal activity. However, helping the agencies enforce their statutes civilly may produce the desired result of curbing or even eliminating illegal activity. By its very nature, organized crime operating in a "legitimate" business area cannot withstand for long the public scrutiny of its activities, source of funds, credit, and other procedures. Also, in many business areas licensed by the government, officers, directors, and key personnel must meet minimum character qualifications. Appropriate administrative agencies are usually empowered to deny or withdraw licenses to operate if they become aware that these personnel do not meet the requirements.

The scope of these administrative civil sanctions will vary with each jurisdiction. Thus it is vital that the law enforcement agency is aware of what is available within the total government framework, and is willing to cooperate with the administrative agency in an appropriate case. Cooperation must be a two-way street with the agencies, and the organized crime

law enforcement agency can play a key role as a coordinator of the information obtained from all available sources.

The successful use of the civil approach requires that communication be established to assure a steady flow of information. The Oregon experience in the Sportservice case led that State to establish a cooperative structure between certain State regulatory agencies and the Governor's Commission on Organized Crime. These agencies designated a person to act as liaison with the commission to exchange information on a regular basis. Meetings were held, at which time information was exchanged and agency representatives became familiar with techniques for identifying organized criminal activity.[11] For further information regarding this formal liaison effort see Standard 1.1——Organized Crime Prevention Councils.

[11] In Oregon the Sportservice case involved administrative action brought by the Liquor Control Commission to cancel liquor licenses held by the corporation in connection with its operation of concessions at a Portland racetrack. Investigation by the Attorney General's office showed that Sportservice's license was based on the fact that Emprise, together with six individual defendants, had been convicted in Federal court in Los Angeles of violating 18 U.S.C. Sec. 1952, the Travel Act.

Administrative rules promulgated by the Oregon Liquor Control Commission prohibit a convicted felon from holding a liquor license. The commission held that the felony conviction of Emprise made the subsidiary corporation, Sportservice, ineligible for a license, although the latter had not violated any specific provisions of the Oregon Liquor Control Act. The commission action was affirmed by the Oregon Court of Appeals. *Sportservice Corp.* v. *OLCC,* 1550 r. App. 226, 515 P.2d 731 (1973); *United States* v. *Polizzi,* 500 F. 2d 856 (9th Cir. 1974), cert. denied U.S. Supreme Court 42 L.Ed. 2d 820 (1975).

For more detailed information, see State of Oregon Department of Justice, Criminal Justice Special Investigation Division, "The Use of State Regulatory Action Against Organized Crime—The Sportservice Case." Criminal Infiltration of Legitimate Business, October 1975.

References

1. President's Commission on Law Enforcement and the Administration of Justice. *The Challenge of Crime in a Free Society.* 1967.

2. National Association of Attorneys General. *Organized Crime Control Units.* Committee on the Office of Attorney General. 1975.

3. National Association of Attorneys General. *The Office of Attorney General.* Committee on the Office of Attorney General. 1971.

4. National Association of Attorneys General. *Organized Crime Special Report.* December 1975.

5. National Advisory Commission on Criminal Justice Standards and Goals. *A National Strategy to Reduce Crime.* 1973.

6. Research and Policy Committee for Economic Development (C.E.D. 1972). *Reducing Crime and Assuring Justice.*

7. National Association of Attorneys General. *Consultant's Report.* Report on the Office of Attorney General. 1971, pp. 567–580.

8. U.S. Department of Justice. *Annual Report of the Attorney General.* 1969.

9. Smith, Dwight C., Jr. *Cooperative Action in Organized Crime Control.* 59 Journal of Criminal Law, Criminology and Police Science 494. 1968.

Related Standards

The following standards may be applicable in implementing Standard 5.4:

1.1 Organized Crime Prevention Councils

6.5 Access to Files and Dissemination of Information

Standard 5.5

Organized Crime State-Federal Liaison Office

States should develop procedures or direct an existing office to:

1. Assist administrative and regulatory, as well as law enforcement agencies, in obtaining information from Federal sources, and

2. Assist and coordinate organized crime investigations and prosecutions among the States and the Federal Government.

Commentary

State-Federal cooperation is probably the most important aspect of an intelligent, coordinated program against organized crime. It is ironic that formal cooperation in information sharing for criminal law enforcement purposes is greater on an international scale than within the United States. For example, Interpol is a limited, quasi-private, international organization established to facilitate cooperation between police organizations in its member nations, but it provides a formal centralized method for obtaining specific information and assistance from other jurisdictions.

A formal integrated system of cooperation among States and the Federal Government for sharing information and the resources of their administrative agencies is nonexistent. There are, of course, numerous examples of Federal/State cooperation in criminal law enforcement, and of cooperation by administrative agencies. However, these are on an *ad hoc* basis, such as the FBI program of limited information and data sharing with police agencies nationwide.

The Federal SEC provides some guidance and assistance to State securities agencies. Federal bank regulatory agencies, notably the FDIC, also have a cooperative approach toward State banking agencies, though this varies from State to State.

Unfortunately, the type of liaison between Federal and State regulatory bodies and State law enforcement agencies varies from bitter suspicion to a high degree of cooperation. It also varies from agency to agency and from State to State, and oftentimes may depend on personal relationships between individual personnel. Further complicating the national scene is the rivalry that sometimes exists between Federal criminal law enforcement agencies and State prosecutors. The latter often resent what they consider interlopers who assume jurisdiction over significant cases, with resultant favorable publicity. On the other hand, Federal authorities sometimes consider State forces as inept, unprofessional, lax in protecting confidential information, and involved on occasion in corrupt practices.

Needless to say, there is no immediate solution to the myriad problems, personal and logistical, that interfere with a formal integrated system of Federal-

State cooperation in organized crime investigations. However, a first step should be taken, and every State office involved in organized crime investigation should have reasonable access to the wealth of information available to the Federal system.

As noted previously, in the key area of regulating financial institutions, the Federal agencies are the significant governmental regulators. They have the resources and powers to obtain all or any of the financial data found in the institutions they regulate.

It is wasteful, inefficient, and unjustified to permit access to such information to be on an *ad hoc* basis, with generous access for some States or agencies, and none or little for others. The States should insist on an office that would be the channel for assistance from the Federal Government. This office could be a national, regional, or State entity with the authority to assure cooperation from Federal agencies. It would not be a substitute for Strike Forces and the States would not be restricted to using only this mechanism. Rather, this would be the place where a State could submit its request for whatever information it needs. The office would then assume the responsibility of contacting the appropriate Federal agency and supplying the data and any other assistance requested.

The liaison office would also screen requests so as not to overburden the Federal agencies and could coordinate information sharing among States and Federal organized crime investigators to prevent duplication or wasted efforts. Also, where feasible, the liaison office could help create joint efforts among the jurisdictions. It could also be an effective arbiter in disputes between Federal and State authorities where both have an interest in pursuing prosecution in the same area.

Whatever may be the ultimate power of this liaison office, at a minimum it should provide an Interpol-type service for all States involved in anti-organized crime enforcement efforts.

References

1. Edelhertz, Herbert. *Nature, Impact and Prosecution of White-Collar Crime.* Public Law 1 and Handbook, p. 49.

Related Standards

The following standards may be applicable in implementing Standard 5.6:

1.1 Organized Crime Prevention Councils
6.5 Access to Files and Dissemination of Information

Standard 5.6

Regulation of Corporate and Fictitious Name Organizations

Every State should enact laws requiring registration, as a public record, of every corporation and every other company or enterprise doing business in that State.

Minimal information required for registration should include disclosure of the full and accurate identification of everyone having a substantial beneficial interest and policymaking authority.

Significant criminal penalties should be provided for failure to register, for the withholding of required information, or for false information.

Resources should be provided for the full and vigorous enforcement of the registration law.

Commentary

Data to be supplied to the State, as part of a sworn statement, should include:

1. Names and addresses of *all* officers, directors, registered agents, partners, or owners, reflecting the percentage of ownership, or shares of stock, held by each.

2. For corporations, the total number of authorized shares of preferred and common stock issued, par value of each, and the names and addresses of each holder of 3 percent, or more, of each class of stock.

3. An exact description of the business to be conducted within the State, setting forth the nature of commodities or services involved.

4. Agreement that, upon presentation of a search warrant or other legal authority, immediate access will be given to all books and records for examination by any regulatory or law enforcement agency of the State or its political subdivisions. The purpose of this immediate access is to prevent dislocation of destruction of such records.

5. Certification by registrants that every person named is, in fact, a true officer, director, agent, owner, or stockholder and is not, in any instance, an interposed party.

6. Certification by registrants that all activities of the corporation or company are to be in accordance with the laws and regulations of local, State, and Federal Government.

The regulations should also require that no such corporation or enterprise may actually engage in any business transactions, other than those necessary for organization and registration, until the appropriate State agency gives notification that registration is satisfactory and accepted.

The appropriate State agency should have the authority, consistent with due process, to reject registration for lack of adequate or satisfactory information or certification.

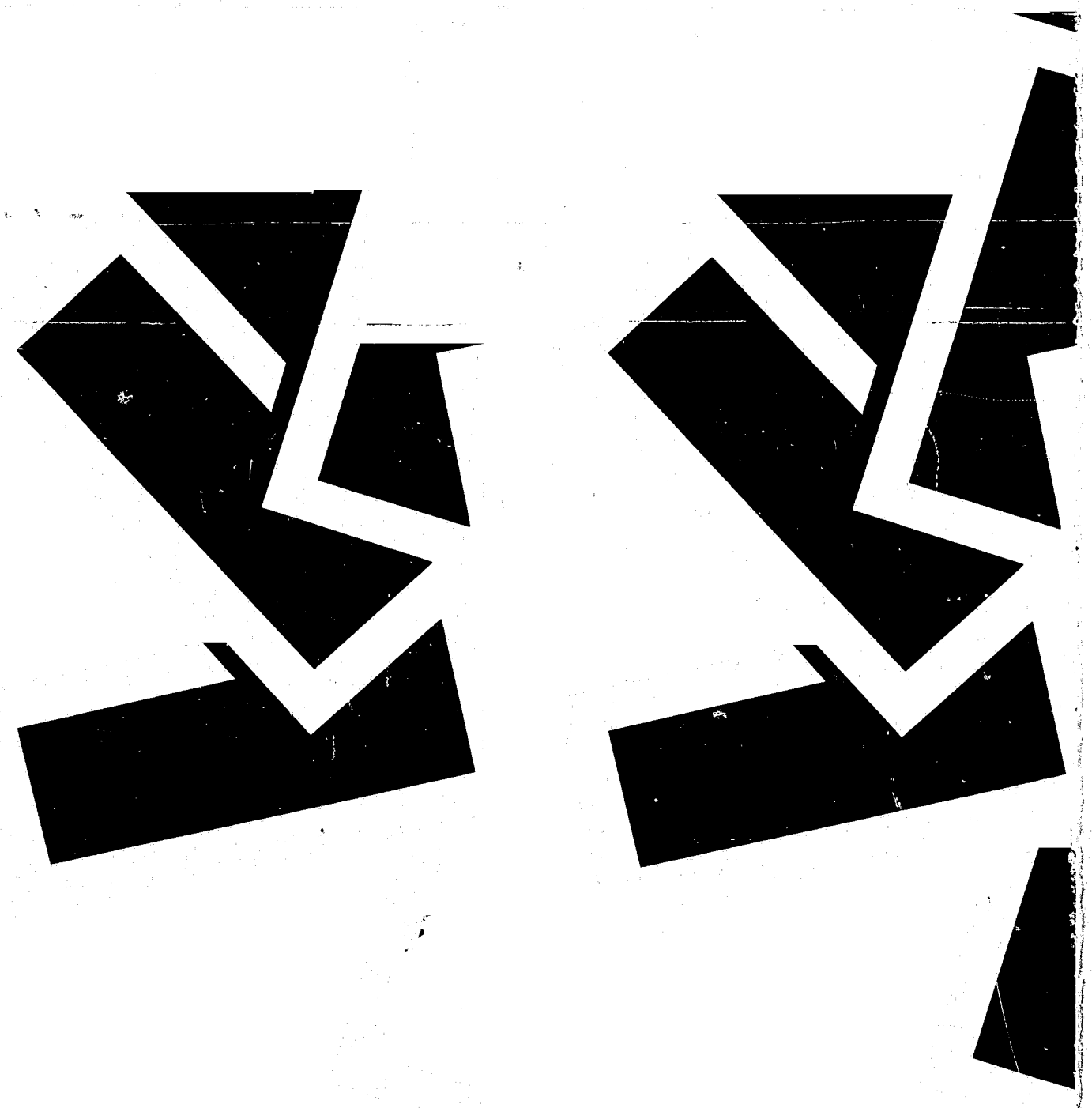
The regulatory agency should have the authority to refuse or revoke the right to do business in that

State upon conviction of the corporation, or of the principal officers and/or owners for any offense associated with organized crime, or one involving willful fraud or deception against the public or any agency of government.

The authority to revoke the right to do business should also exist whenever it is found that false or misleading information was made part of the registration, and which thereupon constitutes fraud against the State government.

In addition, economic sanction should be imposed to deter such fraudulent practices.

Chapter 6
Intelligence



This chapter proposes methods by which States and communities can establish or enhance intelligence activities aimed at the operations of organized crime.

Intelligence, by that or any other name, always has been vital to law enforcement. Intelligence can take the form of a reasonable conclusion arrived at by an individual investigator based on information from a variety of sources. It can be the result of sophisticated analysis of data by a trained organized crime intelligence team. Or it can be the product of a combination of human and computer analysis, in more advanced situations.

Law enforcement agency intelligence activity can serve the public in a variety of ways. It can help police to predict the time and location of a terrorist bombing and to move to prevent its occurrence. It can disrupt the flow of drugs from foreign nations or within this Nation. And it can lead to the apprehension of persons engaged in organized crime, which is one of the most secretive areas of crime and one of the most difficult to detect and prove.

Two words, "reactive" and "proactive," illustrate the value and unique characteristics of criminal intelligence, as compared with other types of investigative data. An example of police operating in a reactive mode occurs when a law enforcement officer attempts to gather information after a crime has been committed. The information gathered, it is hoped, will be instrumental in identifying and apprehending the perpetrator. But, the crime has already been committed.

Police operate in a proactive mode when a law enforcement agency receives prior information about the date, place, time, and method of a drug dealer's plans to transport a shipment of heroin. Through the intelligence process, this information is related to other known facts and becomes the basis for devising an effective plan to apprehend the individuals or trace the goods involved. It is in this proactive mode of law enforcement operations that the intelligence function becomes vitally important.

Some of the broader needs of police intelligence were explored in 1964 Warren Commission Report. In reviewing the events that led to the assassination of President John F. Kennedy, the Commission found a need for improved sharing of information and increased liaison between local and Federal intelligence agencies.[1]

In another area, the Kerner Commission, in its review of police reaction to urban civil disorders in the 1960's, noted that police departments were slow to react to the developing problems partly because of a "lack of accurate intelligence information." [2]

Intelligence gathering has been the subject of extended public scrutiny in the 1970's, largely because of disclosures of improper domestic activities by the Central Intelligence Agency. A number of leading criminal justice figures, including Clarence M. Kelley, Director of the FBI, have spoken out against the improper gathering, retention, or dissemination of intelligence. Law enforcement agencies must take the lead in assuring that intelligence activities are conducted properly and according to law and that they do not threaten the constitutional rights of any citizen.

The potential for abuse of criminal intelligence files exists. Attorneys, judges, police, legislators, government officials, college students, private citizens, and others are much concerned about this issue, in the light of recently disclosed abuses in the gathering and use of intelligence information at the national level. If the maintenance of criminal intelligence in this society is to continue, special precautions must be taken to avoid interfering with or impairing the constitutional rights of citizens to maintain their own privacy. At the same time, it must be recognized that, in order for law enforcement and the rest of the criminal justice system to detect and prevent illegal acts, the effective collection, production, maintenance, and use of criminal intelligence is essential.

What Intelligence Is

Before discussing what intelligence is in a criminal

[1] The President's Commission on the Assassination of President Kennedy, GPO, 1964, pp. 24, 27, 463–5.

[2] Report of the National Advisory Commission on Civil Disorders (Kerner Commission), GPO, July 1968, p. 24.

justice setting, it would be wise to say what it is not. Intelligence is not the same as information. Intelligence is the product of systematic gathering, evaluation, and synthesis of raw data on individuals or activities suspected of being, or known to be, criminal in nature. Information is the raw data from which intelligence is produced.[3]

Two kinds of intelligence are used to meet different needs of criminal justice agencies: Tactical and strategic intelligence. Tactical intelligence is designed to meet short-term needs, to help police, for instance, deal with incident crime. For example, use of intelligence files could help police deal rapidly with a fleeing felon by analyzing details to develop what his probable destination is and whom he will seek out there.

Strategic intelligence, on the other hand, gives a look at the overall picture, often over a considerable period of time. The President's Commission on Law Enforcement and Administration of Justice points out its usefulness in the field of organized crime:

> Here there are identifiable individuals systematically setting out to accomplish criminal purposes. . . . Here preventive police work offers a hope of success. Long term investigations may be set up without having first to isolate a particular criminal act. Dig long enough and evidence of their unlawful activity will turn up. Against this sort of criminal activity, strategic intelligence . . . is not only useful but indispensable.[4]

Strategic intelligence can best be described as a product whose worth is of a more lasting nature. With respect to organized crime, it may: (1) describe the structure and movement of organized crime elements into a State; (2) illustrate how organized crime elements are gradually gaining control of a particular industry in a given locale; or (3) enable an analyst to project organized crime activity trends under various economic and enforcement conditions.

The unique characteristic of the criminal intelligence function, then, is that, when properly carried out, it can effectively pinpoint and predict organized crime activities so that they can be prevented or neutralized. Through intelligence, law enforcement agencies can gage the magnitude, scope, and potential threat of organized crime elements in their jurisdictions. This knowledge helps them plan the most effective countermeasures against organized crime.

[3] Frank A. Zunno, "Let's Put Intelligence in Perspective," *Police Chief* (September 1971), p. 46.

[4] President's Commission on Law Enforcement and Administration of Justice, *Task Force Report: Organized Crime* Appendix C, Aspects of the Evidence Gathering Process in Organized Crime Cases: A Preliminary Analysis, G. Robert Blakey, GPO, 1967, p. 92.

In order to prevent and control organized crime, law enforcement agencies must rely on a comprehensive criminal intelligence system. Its function should be to collect, synthesize, evaluate, store, and disseminate intelligence information. Standards 6.1, 6.2, 6.3, and 6.4 discuss the establishment and operation of State, local, and regional organized crime intelligence units.

Key Issues in Intelligence Efforts

A basic principle in collecting information for a criminal intelligence file is that such information should be restricted to what an agency needs to know in order to fulfill its responsibility to detect and combat organized crime in its jurisdiction. The ethnic origin or the political or religious beliefs of any individual, group, or organization should never be the reason for collecting information on them. Criminal activities or associations must be the key factors. If associations are found to be not criminal in nature, the data collected on them should be dropped from the files. If, on the other hand, they are criminal, the basis for further intelligence assessment is established.

Law enforcement agencies constantly receive information from a variety of sources, e.g., the press, public records, hearings, court cases, investigations, and informants. All of this information must be evaluated to determine its relevance, completeness, and accuracy. The source should be evaluated to determine its reliability. All reasonable measures must be taken to verify the information,[5] including contacting other "reliable" sources or followup investigation. Once the raw information has gone through this process, it can be classified as intelligence and is ready for filing, dissemination, and use.

Current dissemination practices differ widely. Some agencies share intelligence only with other intelligence units. Others share it with regulatory and other semipublic agencies such as licensing boards or utility companies. Still others share intelligence only with other criminal justice agencies. The reason for this variety of practices is that few States or local jurisdictions have any statutory or other guidelines setting limits on access.

It is not within the scope of this effort to establish specific standards for each State on which agencies should or should not have direct access to criminal intelligence files. Laws, needs, and philosophies differ,

[5] The U.S. Justice Department's Organized Crime and Racketeering Section maintains profiles on organized crime figures. This information is programed into the Department's computers as "verified" or "unverified." A verification process such as this should be part of all intelligence gathering efforts.

and each State should consider enunciating its particular philosophy via penal or other statutory codes. This would accomplish two things: (1) it would act to minimize the need for the Federal Government to impose on the State and local levels; and (2) it would provide clearer guidelines to intelligence unit commanders for developing tests to determine the "right to know," as discussed in Standard 6.5.

Standard 6.6 addresses the importance of purging files regularly. This is an important process for two reasons: protection of the individual citizen's privacy and effective maintenance of files. Only by requiring that files be constantly reviewed and properly purged can officials be certain that they contain accurate, complete, and reliable intelligence.

Each organized crime intelligence unit commander should develop and implement procedures for evaluating the unit's activities. The results of such an evaluation will be of assistance in setting priorities for unit activities, identifying its strengths and weaknesses, exposing areas in which organizational and operational changes are needed, and determining the results of the data collection and analysis done by the unit.[6] At this time, evaluation strategies for organized crime intelligence units are in a formative stage. Standard 6.7 discusses the need for such evaluation, which can be a tool for more effective management.

Standard 6.8 addresses the issue of accountability, which is an important and sensitive subject. Developing an appropriate accountability program that does not cripple an organized crime intelligence unit's effectiveness is a delicate and challenging endeavor. But the task is a necessary one. Society is demanding more and more that due process provisions be made for individuals to challenge information contained in private and government files. Law enforcement agencies can and should be leaders in complying with that demand, while continuing to perform the effective and timely function of improving the base on which both operational and policy decisions are made.

Concurrently with the development of intelligence capability, a certain mystique has developed about the intelligence function. This has had some negative results, which are being overcome with more complete integration of the intelligence unit functions into the operational aspects of a department. This does not mean a merging of the two separate units but a more complete planning and coordinating effort at the management level.

In the past, both operations and intelligence units have often operated far below maximum efficiency, although intelligence has been available to assist investigation. This has occurred because of lack of coordination at the policy level, lack of understanding of the value of and need for adequate intelligence or, in some cases, a lack of understanding on the part of the intelligence unit of the support it should and could provide. It should be made clear at the policy level that the objective in organized crime cases can best be attained through cooperation.

Another area that should be examined is local application of the concept of "need to know" when other agencies seek information from the intelligence unit's files. In some instances, control has been so rigid that it has hampered an investigation because information was deliberately withheld.

This lack of cooperation may stem from envy of another unit, need for headlines to support an official or a department, lack of understanding between prosecutors and police, need to justify a budget or position, or, indeed, a policy leading to the concept that sharing of intelligence or information is a one-way street.

These problems can be addressed through frankness, planning and coordination, and proper evaluation of efforts.

[6] Evaluation Study on Organized Crime Intelligence Units for California Department of Justice, 1975.

Standard 6.1

State Organized Crime Intelligence Unit

Every State should develop an organized crime intelligence unit to receive from and provide support to local and Federal agencies in the detection, investigation, and prosecution of organized crime.

Commentary

Organized crime activity is generally multijurisdictional in nature. Consequently, criminal intelligence functions are performed by law enforcement agencies at all levels. Yet, organized crime continues to flourish, apparently wherever it wishes.

A partial explanation for this phenomenon is that intelligence efforts are not as effective as they might be. Often there is duplication of effort, withholding of information from other agencies, technically poor data gathering and analysis activity, and, in many cases, lack of material and personnel resources. Further, investigative and prosecutorial activities are often planned and conducted independently without adequate coordination. This lack of understanding of the need for joint efforts among allied agencies unnecessarily increases the risk that a defendant will escape prosecution because of insufficient evidence to substantiate the charges or because of legal technicalities that could have been overcome through adequate preparation.

A properly conceived and administered State organized crime intelligence unit would minimize a number of these problems. The unit could be developed from a legislative mandate providing statutory authority and funding for centralized criminal intelligence collection, evaluation, synthesis, storage, dissemination, and training. Or, the program could be set up by other means, such as an Executive order. This unit could perform the following functions:

1. Provide leadership for coordination between intelligence agencies, to reduce duplication of effort;
2. Foster and facilitate intelligence sharing between agencies through example and also by functioning as a central repository;
3. Provide training or resources for developing local capability in data collection, storage, and analysis;
4. Lend investigative equipment and provide specialized on-the-job training to local officials and technicians through cooperative projects;
5. Provide advice and assistance to insure that legal and technical requirements are met when using sophisticated equipment and techniques; and
6. Where needed, assist local police and prosecutorial agencies in coordinating their efforts.

The State organized crime intelligence unit, with the support of local agencies, would have the capability to brief members of the executive branch and of the State legislature on matters relating to or-

ganized crime and could recommend new legislation to help combat it. When requested, the unit could provide guidance and help in creating and operating local and regional organized crime units, and it could serve as the liaison office for interstate sharing of intelligence and information.

References

1. New Jersey State Police. *Intelligence Bureau Manual.* July 1, 1975.

2. CACI, Inc. *Basic Elements of Intelligence.* October 31, 1975.

Related Standards

The following standards may be applicable in implementing Standard 6.1:

1.1 Organized Crime Prevention Councils
2.1 Review of State Criminal Codes
2.2 Review of State-Enacted Investigative Procedures
2.4 Privacy and Freedom of Information Legislation
2.5 Local Prosecutors' Reports
2.6 State Reporting Responsibilities
2.7 Review of State and Local Appropriation Levels
5.3 Authorization for Access to Records
5.4 Civil Sanctions
5.5 Organized Crime State-Federal Liaison Office
7.1 Statewide Capability to Investigate and Prosecute Organized Crime
7.5 Electronic Surveillance
9.2 Commanders and Supervisors of Organized Crime Units
9.4 Organized Crime Investigators
9.5 Organized Crime Analysts
9.9 Administrative and Regulatory Authorities

Standard 6.2

Local Organized Crime Intelligence Unit

Each local law enforcement agency should develop its own organized crime intelligence capability, patterned after the State model.

Commentary

In each municipality, the chief law enforcement administrator and his or her superiors should recognize and approve the establishment of an intelligence unit. Although specific details on investigative activities and methods must remain confidential, the fact that the department has such a unit and what its general objectives are must not remain secret if it is to receive the financial and administrative support needed to be effective. In the past, some officials have avoided acknowledgment of these units, but it now appears essential that the public be informed of the general nature, scope, responsibilities, and results of their operations. Such information would go a long way toward enlightening the public about the fact that intelligence must be an essential part of law enforcement if a preventive capability in organized crime control is to be effective. It could also help remove the stigma of what has been portrayed as a questionable type of activity.

References

1. Dade County, Fla., Department of Public Safety. *Organized Crime Bureau Operations Policies.* March 1976.

Related Standards

The following standards may be applicable in implementing Standard 6.2:

1.1 Organized Crime Prevention Councils
2.1 Review of State Criminal Codes
2.2 Review of State-Enacted Investigative Procedures
2.4 Privacy and Freedom of Information Legislation
2.5 Local Prosecutors' Reports
2.6 State Reporting Responsibilities
2.7 Review of State and Local Appropriation Levels
5.3 Authorization for Access to Records
5.4 Civil Sanctions
5.5 Organized Crime State-Federal Liaison Office
7.1 Statewide Capability to Investigate and Prosecute Organized Crime
7.5 Electronic Surveillance
9.2 Commanders and Supervisors of Organized Crime Units
9.4 Organized Crime Investigators
9.5 Organized Crime Analysts
9.9 Administrative and Regulatory Authorities

Standard 6.3

Regional Organized Crime Intelligence Networks

Contiguous States should consider establishing regional organized crime intelligence networks to facilitate the sharing of information.

Commentary

Most organized crime figures today enjoy a high degree of mobility. As noted in the introduction to this report, some criminal organizations have headquarters in many States and members travel constantly between these cities to conduct their business and to avoid detection.

The mobility factor and the distance these figures travel make it virtually impossible for an individual State or local agency to follow their activities single handedly. The formation of regional organized crime intelligence networks would provide a centralized mechanism for collecting, evaluating, storing, and disseminating criminal intelligence information on such activities. Further, such networks could coordinate the investigative efforts of local, State, and Federal agencies on cases of investigations of mutual concern and interest.

The success of some prototype networks indicates that they can serve various functions. The federally funded Regional Organized Crime Information Center in Metairie, La., is an information-sharing organization whose member agencies conduct interstate investigations as well. The Nationwide Law Enforcement Intelligence Unit, which is organized by regional zones, is a self-supporting organization which acts only in an information-sharing capacity. The federally funded Interstate Organized Crime Index is a national information exchange that tracks the movement of organized crime figures throughout the United States.

Regional agencies should send their members bulletins on the latest developments and should call meetings periodically for the purpose of sharing information personally and attending to administrative matters. In this fashion, trust and rapport are built up between members, which in turn further encourage the sharing of information.

All the security and privacy concerns associated with the operation of a State or local organized crime intelligence unit must also be addressed by regional networks. Their directors must be responsible and efficient persons whose attention to details of the operations of the network, in conjunction with their leadership ability, will be key factors in the success of such arrangements.

References

1. Regional Organized Crime Information Center, Metairie, La.

2. Interstate Organized Crime Index, c/o Organized Crime & Criminal Information Branch, California Department of Justice.

3. Law Enforcement Intelligence Unit, Executive Committee Chairman, c/o Long Beach, California Police Department.

Related Standards

The following standards may be applicable to implementing Standard 6.3:

1.1 Organized Crime Prevention Councils
2.1 Review of State Criminal Codes
2.2 Review of State-Enacted Investigative Procedures
2.4 Privacy and Freedom of Information Legislation
2.5 Local Prosecutors' Reports
2.6 State Reporting Responsibilities
2.7 Review of State and Local Appropriation Levels
5.3 Authorization for Access to Records
5.4 Civil Sanctions
5.5 Organized Crime State-Federal Liaison Office
7.1 Statewide Capability to Investigate and Prosecute Organized Crime
7.5 Electronic Surveillance
9.2 Commanders and Supervisors of Organized Crime Units
9.4 Organized Crime Investigators
9.5 Organized Crime Analysts
9.9 Administrative and Regulatory Authorities

Standard 6.4

Organized Crime Intelligence Unit Operations

To combat organized crime effectively, each State, local, and regional organized crime intelligence unit must develop documented operational policies and procedures so that its activities may be directed in an orderly and appropriate fashion, thereby maximizing efficiency and effectiveness. These policies and procedures will, of necessity, reflect the varying State and local requirements, and should be based on clear legal interpretations of the laws under which the units function.

Commentary

At a minimum, the policies and procedures for the operation of an Organized Crime Intelligence Unit should include:

Personnel Security

Because the human element is most likely to cause a breach of security procedures, standards must be established for screening of employees prior to assignment to the unit. Their reputation, habits, integrity, and other characteristics that form a basis for judgments on their suitability as security risks must be carefully ascertained and considered. Failure to do so could result in information leakage and such consequences as jeopardizing an investigation, endangering lives through the disclosure of confidential sources, withholding information from other sources in the intelligence community, or impairing the constitutional rights of citizens to maintain their privacy.

Physical Security

Information housed by the unit must be protected from accidental loss through fire, flood, and other disasters, as well as from intentional destruction or compromise resulting from sabotage and the unauthorized alteration or removal of information from the files. Measures taken to reduce the risk of accidental intrusion should also be directed against intentional intrusion. A variety of preventive techniques should be employed, including creation of an inventory system, electronic surveys for bugs, file control, limited access to the area, and control of reproduction machines.

Data Collection

Data should be collected by a comprehensive exploration of all possible sources of relevant information; yet they must be within the scope of the law. Illegal and unethical activities should be clearly defined and prohibited in appropriate operations orders or manuals. Violations of these instructions

should be treated by the unit commander as serious offenses, because assignment to an intelligence unit should be considered as a special position of trust.

Collection efforts must also be carefully planned in order to maximize success. Appropriate targets should be identified, specific intelligence goals should be stated, and deadlines for obtaining the information should be set. The latter activities should be conducted and reviewed by the intelligence unit commander on a monthly basis. Through such procedures, data collection efforts can be targeted toward what is essential to accomplish the department's objectives.

Data Analysis

Data must be collected and analyzed in a systematic fashion. If data are not adequately handled and processed, many indicators of organized crime go undetected and unrecognized. A formal program of data analysis, wherein employees conduct case-oriented as well as generalized analysis, is necessary to produce a valid picture of what is happening in the area and in each case. This approach also assures that the unit commander and the chief law enforcement administrator can be kept fully informed. Without such a view, it is almost impossible to develop effective strategies for coping with organized crime operations.

Information Storage

Whether the storage medium is electronic, mechanical, or manual, specific procedures must clearly govern the maintenance of the unit's intelligence files. These should include the following:

1. Criteria for entering information on individuals and organizations;
2. Criteria for evaluating the completeness, accuracy, and validity of information on individuals and organizations;
3. Procedures for indexing and cross-indexing information;
4. Criteria and procedures on the classifying, reclassifying, and declassifying of information;
5. Procedures for a regular and systematic review and update of information; and
6. Procedures for purging information that is not relevant to the law enforcement responsibility at the time.

Finally, the files must be constantly monitored to assure that they are in compliance with all existing legislation and policies on security and privacy considerations.

Training of Personnel

Without proper training, unit personnel will in all probability perform their tasks at less than optimal levels. Further, their exposure to new ideas, techniques, concepts, and philosophies will be minimal. To offset these problems, all unit commanders should develop training programs for themselves and their subordinates. Unit personnel should avail themselves of the variety of professional training programs available through Federal, State, regional, local, and private resources. Many programs are free of charge or subsidized by grants from governmental institutions.

A word of caution: systems, policies, and procedures are only as effective as their level of implementation. Without thorough orientation and training programs, along with followup and monitoring by management, full realization of program potentials will not be attained. It is all too common for personnel in any unit to receive excellent training, then find they cannot use what they have learned because there is no real administrative commitment to improving the efficiency, and perhaps the effectiveness, of that unit.

References

1. New Jersey State Police. *Intelligence Bureau Manual.* July 1, 1975.
2. CACI, Inc. *Basic Elements of Intelligence.* October 31, 1975.

Related Standards

The following standards may be applicable in implementing Standard 6.4:

1.1 Organized Crime Prevention Councils
2.1 Review of State Criminal Codes
2.2 Review of State-Enacted Investigative Procedures
2.4 Privacy and Freedom of Information Legislation
2.5 Local Prosecutors' Reports
2.6 State Reporting Responsibilities
2.7 Review of State and Local Appropriation Levels
5.3 Authorization for Access to Records
5.4 Civil Sanctions
5.5 Organized Crime State-Federal Liaison Office
7.1 Statewide Capability to Investigate and Prosecute Organized Crime
7.5 Electronic Surveillance
9.2 Commanders and Supervisors of Organized Crime Units
9.4 Organized Crime Investigators
9.5 Organized Crime Analysts
9.9 Administrative and Regulatory Authorities

Standard 6.5

Access to Files and Dissemination of Information

Each organized crime intelligence unit must develop specific and documented controls stating the conditions under which various individuals may have access to any or all portions of the files. Audit trails or logs should be maintained to record the date when information is released to a specific individual and the purpose or use to be made of those data.

Commentary

There is a continuing concern in many segments of society—including those who understand and accept the need for maintaining criminal intelligence files—that the information in them will be misused. Many fear that the information may be disseminated to persons or agencies and that such information might be used for other than legitimate purposes. Clearly, then, direct access to criminal intelligence files should be limited to authorized employees who have been found through departmental screening processes to be trustworthy.

Dissemination of file information should be on a "right to know" and "need to know" basis. "Right to know" means that the requester has statutory or other authority (e.g., by court order) to receive the information in question. "Need to know" means that the requester has a legitimate law enforcement purpose for the specific information involved.

Presently there is a continuing controversy about the rights and needs of regulatory and semipublic agencies (e.g., licensing boards or utility regulators) for access to intelligence and other criminal justice information files. Unequivocal legislation at the State level would clarify this matter and enable organized crime intelligence units to develop better and more uniform procedures in this area. At the same time, legislation should control the use to which this information is put when disseminated to other agencies, such as to an alcohol control board.

Chapter 5 (specifically Standard 5.5) points out the need for regulatory and administrative agencies to obtain pertinent investigative information from law enforcement agencies. This interagency communication is essential because of the significant role regulatory and administrative agencies can play in organized crime prosecution. (See Chapter 5 for an extended discussion of this topic.)

Raw data on individuals or events should rarely be transmitted to anyone, because of the possible lack of validity inherent in one report from one source. Intelligence officials must be aware of the potential risk of damaging the reputations of innocent individuals or causing unnecessary concern or confusion. When raw information must be conveyed, its nature should be clearly stated. However, it is important to note that usually an assessment of this material could be given in place of the raw data itself.

For example, notice could be given of a possible assassination attempt against a political leader without disclosing the raw information on the case.

In terms of procedures, properly maintained audit trails or logs will produce a record of those who have had access to and received file information.

Finally, all receiving agencies should also exercise and enforce this standard in their subsequent use and dissemination of intelligence information.

References

1. New Jersey State Police. *Intelligence Bureau Manual.* July 1, 1975.

2. CACI, Inc. *Basic Elements of Intelligence.* October 31, 1975.

Related Standards

The following standards may be applicable in implementing Standard 6.5:

1.1 Organized Crime Prevention Councils
5.4 Civil Sanctions
9.2 Commanders and Supervisors of Organized Crime Units
9.4 Organized Crime Investigators
9.5 Organized Crime Analysts

Standard 6.6

Purging of Files

Each organized crime intelligence unit should develop and implement documented procedures for the systematic and regular purging of its files.

Commentary

Organized crime intelligence units should purge from the files information found to be unverified, misleading, obsolete, or otherwise unreliable. With effective screening processes, the retention of such information will be kept to a minimum. Even with the best of procedures, however, new developments, the passage of time, and other factors (including inertia and the tendency to accumulate paper) make necessary the systematic and regular purging of the files if they are to reflect current, accurate, legal, and complete information. Poorly maintained records can hamper investigative efforts, produce confusion, or cause professional embarrassment to the file's custodians. More importantly, they may result in invalid judgments.

When errors are discovered, each agency should not only purge them from its files, but also make every reasonable effort to promptly notify all others who may have received the erroneous information that it has deficiencies. Receiving agencies that have also passed on those data should proceed likewise.

References

1. New Jersey State Police. *Intelligence Bureau Manual.* July 1, 1975.

Related Standards

The following standards may be applicable in implementing Standard 6.6:

5.5 Organized Crime State-Federal Liaison Office
9.2 Commanders and Supervisors of Organized Crime Units
9.4 Organized Crime Investigators
9.5 Organized Crime Analysts

Standard 6.7

Organized Crime Intelligence Unit Resource Management

Each organized crime intelligence unit commander should develop measures to provide for the continual and proper management of resources.

Commentary

The goals and objectives of an organized crime intelligence unit should be documented and clearly stated so that its activities and achievements can be measured against them. Measurements must be continually made to determine the unit's level of effort relative to various investigative and prosecutorial activities. Additionally, the quality with which the various functions are being performed should also be of particular interest to the intelligence commander.

The development of thorough, valid, and objective evaluation methods is a difficult process and may require assistance from specialists. However, good management practice dictates that it be undertaken if the unit is to perform at the highest possible levels and meet the targets of both the community and the department.

References

1. CACI, Inc. *Basic Elements of Intelligence.* October 31, 1975.
2. California Department of Justice. *Evaluation Study on Organized Crime Intelligence Units.* 1975.

Related Standards

The following standards may be applicable in implementing Standard 6.7:

2.2 Review of State-Enacted Investigative Procedures
2.5 Local Prosecutors' Reports
2.6 State Reporting Reponsibilities
9.2 Commanders and Supervisors of Organized Crime Units

Standard 6.8

Accountability

Officials at all levels in the organized crime intelligence field should consider developing a means of assuring both unit and individual accountability.

Commentary

Officials must assure the public that the organized crime intelligence unit's operations are legal, defensible, and essential to the successful detection and prevention of organized crime. Each chief administrator therefore must develop a system of controls to minimize abuses.

Any agreed-upon activity for monitoring the unit's activities and procedures must never jeopardize confidential information or result in the public disclosure of any legitimate means for obtaining and using intelligence data. Without such confidentiality the unit's stability and effectiveness will suffer.

Because of the special nature of criminal intelligence files and the need for confidentiality, individuals and organizations generally cannot be told whether or not their names are being retained in them. Nor can individuals be permitted to review the files on them. Legal remedies (due process provisions) exist for those who believe that they have been damaged by inaccurate or incomplete information in criminal intelligence files. For example, a plaintiff may petition the court for an in camera hearing, where the judge may subpena intelligence records on the plaintiff. The judge may then privately review the records, make a final determination on the validity of the plaintiff's allegation, and rule accordingly. The plaintiff then can decide on any further legal actions he or she may wish to pursue.

Accountability cannot be shirked, and it must be commensurate with responsibility. The suggestions made here, if adopted by each State, will help guarantee that the individual's rights to privacy are not violated, and that the public understands the need for an adequate and responsive intelligence function. Police chief executives must insure that these procedures for accountability are established.

References

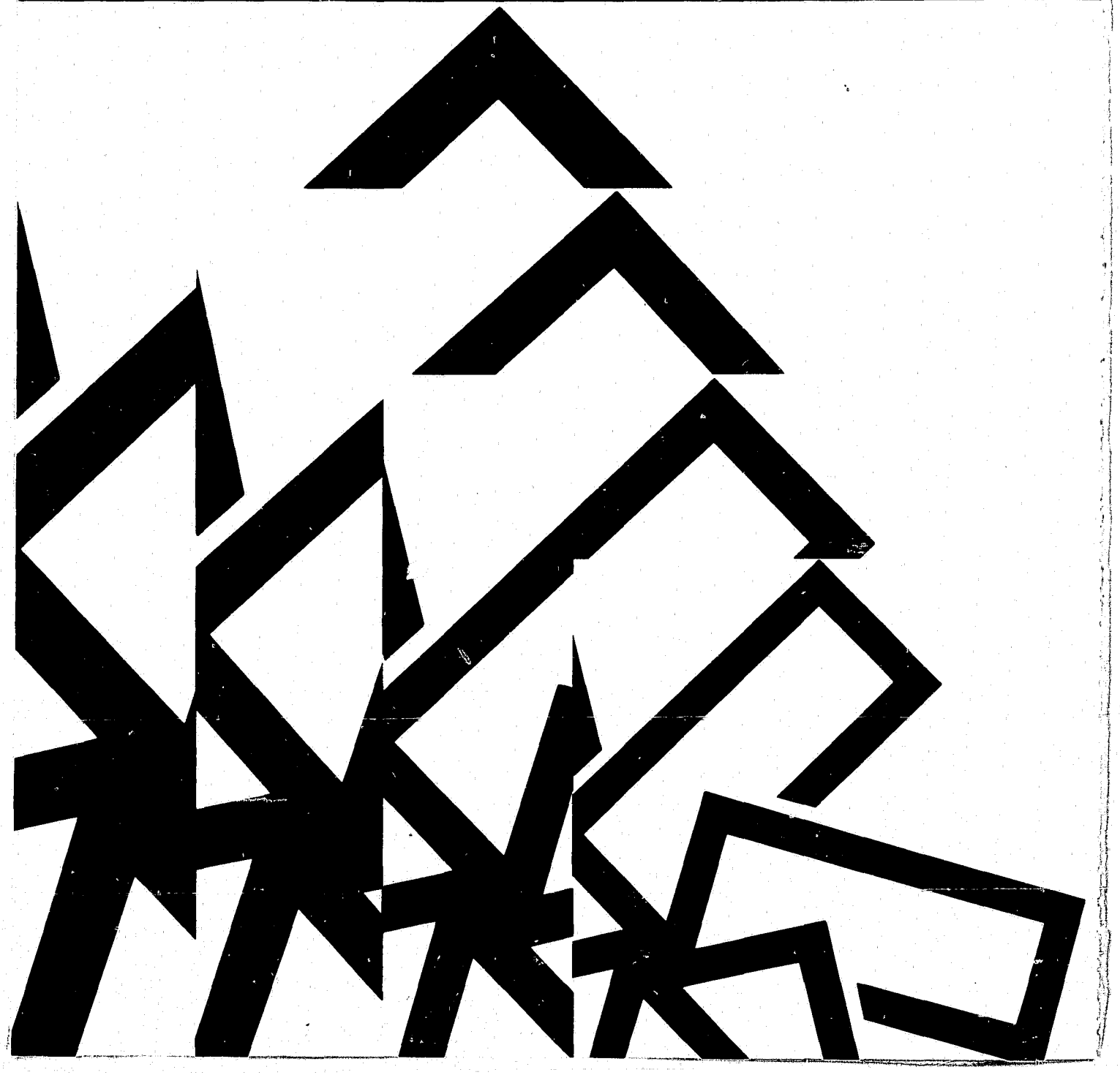
1. California Department of Justice. *Policy Guidelines and Operations Procedures,* 1975.
2. Dade County, Fla., Department of Public Safety. *Organized Crime Bureau Operations Policies.* March 1976.

Related Standards

The following standards may be applicable in implementing Standard 6.8:

9.1 Police Executives and Administrators
9.2 Commanders and Supervisors of Organized Crime Units
9.4 Organized Crime Investigators
9.5 Organized Crime Analysts

Chapter 7
Investigation and Prosecution



This chapter suggests some methods of achieving capability to investigate and successfully prosecute organized crime. As noted in the Introduction to this report, the operations of organized crime have been described as "the result of intricate conspiracies, carried on over many years and aimed at gaining control over whole fields of activity in order to amass huge profits." [1] The breadth of the conspiracy, the secrecy with which it necessarily works, the rigid enforcement of discipline on its members and its victims by terroristic methods, and the immense profits by which it can infiltrate legal business and also corrupt public officials indicate how difficult investigation and prosecution are likely to be. They may indeed require years of work and the skillful use of many investigative tools and prosecutorial powers.

The key to successful prosecution of organized crime is solid investigative effort that will lead to well-prepared cases. Such prosecution can best be accomplished if there is statewide capability to both investigate and prosecute organized crime, as recommended in Standard 7.1. Several possibilities suggest themselves: An Office of Special Prosecutor for Organized Crime that is independent of all existing State agencies; location under the jurisdiction of the attorney general or chief law enforcement officer; a special investigating commission; or a special grand jury.

The statewide organized crime prosecutor should have the authority to supersede a local prosecutor in a specific case, (statewide capability is not meant to preempt local prosecutors generally) upon showing that the matter is related to organized crime and that supersession is required to protect the public interest (Standard 7.2).

Interagency Cooperation

The nature of organized crime operations is such that well-organized and coordinated efforts of all criminal justice agencies are necessary to prevent and control them. Securing such cooperation is one function of the appropriate law enforcement officials. Special emphasis must be laid on planning.

Some of the key ingredients of successful organized crime control planning are:

1. Analyzing in detail an organized crime operation, using every resource that could contribute to the analyst/investigator's knowledge;

2. Identifying gaps in the complete picture of organized crime operations, and taking steps to fill those gaps by reviewing resources and techniques that can provide the necessary details;

3. Assigning sufficient personnel with appropriate skills that will add to the value of the operation;

4. Coordinating law enforcement efforts with prosecutorial personnel, so that investigation is based on sound legal techniques that will withstand court challenges;

5. Analyzing laws and regulations under which suspects are being investigated, to insure that the effort stands a reasonable chance of success in court;

6. Commitment on the part of each office, agency, or person involved, to insure that all have a clear understanding of their functions, duties, personnel requirements, schedules, and essential details;

7. Review of the above by policymakers, to prevent duplication of effort or inadequate objectives;

8. Assessment of the commitment by each agency of its personnel, money, and time, to guarantee the availability of all the ingredients of success; and

9. Scheduling of resources at the optimum time, to assure continuity of effort with no loss of momentum.

It should be noted, however, that joint planning and coordination of effort must be tempered by security considerations to insure that organized crime has not corrupted staff members of the participating agencies. Many students of organized crime believe it is so closely linked with corruption that it is prudent to assume that where one is found, the other is present also.

[1] President's Commission on Law Enforcement and Administration of Justice, *Task Force Report: Organized Crime*, Government Printing Office, 1967, p. 1.

Gathering Evidence

In organized crime areas, witnesses rarely volunteer testimony, whether from loyalty to the syndicate or from fear of its disciplinary measures. Hence the compulsory process is necessary, and it normally begins with the grand jury. This is the body that can require a citizen to appear before it and produce books and records. Moreover, its proceedings are secret, although in some jurisdictions grand juries publish reports. Compulsory powers and secrecy are particularly useful in investigations of organized crime. One writer stated, "As an instrument of discovery against organized crime, the grand jury has no counterpart." [2]

Standard 7.4 recommends that a grand jury should be impaneled to inquire into organized crime on a statewide basis, for much the same reasons as the organized crime prosecutor's office is recommended as a State activity. For some States, special grand juries with adequate tenure may be most appropriate, where local prosecutors act as counsel. Standard 7.3 suggests that the prosecutor should have power to subpena witnesses to appear at his office for questioning. But the major interrogative activities of the prosecutor who serves as questioner and legal advisor take place before the grand jury. In selecting the grand jury panel, careful attention should be given to recent U.S. Supreme Court decisions on this subject so that juries meet the requirements of due process.

Other methods of gathering evidence include the use of electronic surveillance, to be discussed in Standard 7.5. Another device to improve prosecution is the deposition. When it becomes apparent to a prosecutor that the testimony of a witness is critical to successful prosecution of a case, that testimony should be transcribed and preserved in a form that can be used at trial, should the witness die or otherwise be unavailable to testify. Rule 15(a) of the Federal Rules of Criminal Procedure permit depositions to be taken of material witnesses who "may be unable to attend or prevented from attending a trial or hearing" when the deposition is necessary "in order to prevent a failure of justice."

Delaware, Hawaii, Maine, and Maryland have modeled their rules of criminal procedure on the Federal Rules. Standard 7.7 recommends the use of depositions and suggests safeguards to protect the interests of defendants.

The prosecution has often been frustrated in its efforts to deal effectively with organized crime, which, as noted, normally takes the form of a conspiracy. Conspirators or coactors in these criminal activities generally have refused, on the grounds of fifth amendment protection, to furnish any information about unlawful activities. In most cases, these potential witnesses are liable to prosecution and thus are protected under the fifth amendment against any enforced disclosure or self-incrimination. Even those who only think they might be liable to prosecution will usually, on advice of counsel, "take the fifth," and some jurisdictions have no effective method of testing the legitimacy of this claim.

When a witness actually fears self-incrimination, an immunity grant is an effective means of obtaining testimony as indicated below and in Standard 7.9. However, some key witnesses in organized crime cases typically refuse to cooperate because of allegiance to a criminal organization or fear of retaliation. Under these circumstances, the prosecutor or investigating body should bring the issue to the attention of the court. If the court finds the refusal to testify to be without just cause, it can order the witness to reply. A witness who again refuses may be held in contempt and a civil or criminal contempt penalty imposed (see Standard 7.8).

An important provision that deals with recalcitrant witnesses is a sensible and workable immunity statute. The prosecutor will be faced time and time again with the need to use discretion in the choice of whom to prosecute in order to control organized crime most effectively in the State. This may require immunizing members of organized crime groups and their associates in order to extract from them information critical to a successful prosecution of the group's more important members. An immunity grant is a valid and proper prosecutorial tool, and States should enact or revise legislation to provide for immunity from the use of compulsory testimony before a grand jury, court having felony jurisdiction, or investigating commission. Moreover, experience has shown that immunity is not to be lightly given. When authorized, it should be strictly granted on a "use" rather than "transactional" basis.[3] In this regard, the Federal immunity statute[4] might serve

[2] Younger, The Grand Jury Under Attack, 46 *J. Crim.* L., C., and P.S. (1955) 214, 224. Quoted in ibid., p. 84.

[3] One authority defines the two terms as follows: " 'Transactional' immunity means that once a witness has been compelled to testify about an offense he may never be prosecuted for that offense, no matter how much independent evidence might come to light, while 'use' immunity means that no testimony compelled to be given and no evidence derived from or obtained because of the compelled testimony may be used if the person were subsequently prosecuted on independent evidence for the offense." U.S. Senate, *The Constitution of the United States of America: Analysis and Interpretation,* Document No. 92–82, (Government Printing Office, 1973), p. 1115.

[4] Title 18, U.S. Code, Sections 6001 ff.

as a guideline and benchmark for implementing Standard 7.9.[5]

Some witnesses whose testimony is crucial to the case can be persuaded to testify if, in addition to a grant of immunity, they are promised protection from the vengeance of the syndicate. It may be necessary to relocate the witness with a new name, a safe place to live, and a complete set of documents that the citizen normally possesses. State and Federal cooperation will be required in some parts of the protective processes, as discussed in Standard 7.10.

One of the most important tools for the organized crime investigation is an up-to-date and responsive intelligence system. The characteristics of an effective intelligence unit are discussed in Chapter 6 of this report.

A substantial amount of the funds budgeted for organized crime investigations must be used as a confidential fund to develop information. To protect public monies, these funds should be subject to audit, but only under secure circumstances by an independent and trustworthy person not affiliated with the organized crime prosecutor's office. The size of the confidential funds obviously will depend on circumstances.

Informants make up an important segment of the witness class. As all prosecutors know, however, their testimony must be treated carefully from the standpoint of credibility. For example, a person faced with a serious charge may well think that the way to avoid prosecution or even to win freedom from it without indictment and trial, is to tell whatever the prosecutor wants to hear. So far as possible, the testimony of informants should be corroborated. In some States, the testimony of an informant who also is an accomplice must be independently corroborated.

Sometimes informants and sworn officers are used in undercover roles in order to infiltrate organized crime operations. General considerations in using undercover techniques are discussed in Standard 7.6.

The internal affairs unit of a police department normally investigates corruption there, as addressed in Chapter 1 of this report, although matters of serious police corruption can become the subject of the prosecutor's investigative powers. Realistic machinery must exist to initiate prosecution in the case of corruption or bribery of local officials, particularly when local prosecutors are involved.

[5] Data on the implementation of Federal immunity/perjury provision and recalcitrant witnesses may be found in the testimony of H. Petersen, Hearings before a Subcommittee on Appropriations, House of Representatives, 92nd Cong., 2nd Sess. (1972) and in the Report of the National Conference on Organized Crime, U.S. Department of Justice, Law Enforcement Assistance Administration (1975).

Use of Wiretaps and Microphonic Surveillance Devices

This chapter has already emphasized that the central problem in controlling organized crime is breaking through the insulation of its decision makers. The top figures are isolated from the people who do the overt and more easily detected work. More often than not, their only contact is by telephone, and most of the intimate criminal conversations of those at the top take place in private. There is a critical need for strong investigative tools to break through these layers of insulation to the managers who actually profit from illegal bookmaking operations, theft and drug rings, or other activities characteristic of organized crime. However, without carefully controlled and court-approved wiretap and microphonic surveillance procedures, it is almost impossible to obtain evidence for the indictment, prosecution, and conviction of these higher-echelon figures.[6] The crucial issue is the preservation of the defendant's right to privacy vis-a-vis the protection of the public through what appears to be the major method of acquiring information in organized crime cases. This issue is discussed and safeguards recommended in Standard 7.5. (The issue of privacy is further discussed in Chapter 2.)

Both Federal and State prosecutors have found leads and evidence obtained from court-approved wiretap and microphonic intercepts to be useful in organized crime prosecutions. Examples of cases in this area include the Cox cases, which involved Federal prosecutions, and the Tortorello case, which was a State prosecution.

[6] The Omnibus Crime Control and Safe Streets Act of 1968, 82 Stat. 197–239, contains, in Title III, provisions for use of electronic surveillance in criminal investigations. It establishes a careful warrant procedure and court supervision designed to balance individual rights of privacy and the investigatory needs of law enforcement officials.

See the Commission Studies, National Commission for the Review of Federal and State Laws relating to Wiretapping and Electronic Surveillance, pp. 1–24, for a history of the development of the law on electronic surveillance and court opinions regarding it.

The Supreme Court has declined to consider cases challenging the constitutionality of Title III but has issued six opinions in cases interpreting Title III standards. Nine of the 11 Federal Circuit Courts of Appeals have upheld the constitutionality of the electronic surveillance provisions of the act. Judicial opinions have discussed constitutionality only in the cases of challenges based on the fourth amendment's prohibition of unreasonable searches and seizures, which have been the basis of the majority of the attacks on Title III's constitutionality. Some other challenges have been based on provisions of the 1st, 5th, 6th, 9th, and 14th amendments. Most recent decisions have relied on prior authority because sufficient precedent on the constitutionality of Title III has been recorded.

The Cox Cases

A 20-day intercept on the telephone of Eugene James Richardson, a Kansas City, Mo., drug trafficker, during May 1970, resulted in the break-up of a large drugs ring, and the arrests of several persons involved in other crimes including bank robbery, and illegal possession of firearms. Richardson had been known to authorities as a drugs trafficker since the 1960's but had never been arrested. Agents of the then Bureau of Narcotics and Dangerous Drugs obtained permission on April 30, 1970, from the U.S. District Judge for the Western District of Missouri to intercept communications on Richardson's telephone. Details of the narcotics operation were obtained from the intercepted telephone conversations along with names of other persons involved with Richardson in the drug traffic. Authorities also overheard plans for a Kansas City, Kans., bank robbery and plans by Richardson and a confederate to murder another member of the drug ring. BNDD agents prevented the killing and the intended victim provided information about the drugs operation. Richardson, his wife and six other persons were convicted on charges of conspiracy to distribute and sell drugs. Four men were convicted in connection with the bank robbery. The intercepted telephone conversations also led authorities to a cache of illegal weapons in Kansas City, Mo., where 23 firearms were recovered.[7]

The Tortorello Case

Information from informants and investigation by agents of the New York County District Attorney's office in 1969 resulted in the discovery of a fencing operation in New York City directed by Jack Maislich (a/k/a Jack Mace). A number of known criminals were observed entering and leaving the Rio Coin Shop, operated by Mace who had a record of arrests for grand larceny, assault, and robbery dating from 1930. On the basis of this data, New York County authorities obtained court permission to tap two telephones and install a listening device in the coin shop. Five renewals were obtained and the electronic surveillance lasted 173 days. Mace and six associates were arrested and indicted as a result of information obtained from the surveillance. Authorities also overheard conversations identifying Arthur Tortorello, who operated a business called Todd Associates in New York City. Court permission was obtained to tap three telephones at Todd Associates and to put a listening device in the firm's offices. Evidence of traffic in stolen securities and a complicated stock fraud conspiracy was discovered during the 149 days that the electronic surveillance of Todd Associates continued. Tortorello and eight other defendants were indicted by a Federal grand jury on October 27, 1970, for violations of the Secuities Act of 1933, the Federal mail fraud statute, and for conspiring to commit these crimes. In June 1972, Tortorello was sentenced to 5 years in prison and fined $10,000; his conviction was upheld by the Second Circuit Court of Appeals and by the Supreme Court.[8]

States that do not have a wiretap and microphonic surveillance law should carefully consider its effectiveness in organized crime control. Moreover, there is a strong need for improving State-Federal cooperation in wiretap applications. Many State law enforcement agencies do not have an adequate exchange of information with comparable Federal officials who, in turn, exercise extreme care in sharing sensitive information with local law enforcement agencies. State officials sometimes believe that sharing information with Federal law enforcement officials means that the latter may claim jurisdiction over the case, make arrests, and receive public credit, although the majority of the background work has been done by State or local officials.

This situation is not unique to the area of wiretap. However, because of the expense of wiretap operations, due to the great investment in time and personnel, Federal efforts should include adequate acknowledgment of the State and local efforts. This will contribute to an effective working relationship between law enforcement at the three levels.

If only because law enforcement agencies at all levels must account for their use of resources to secure the necessary budget support, it is in the public interest to share credit for joint efforts.

There also have been some positive examples of sharing of investigations and prosecutions, then insuring that each element of the law enforcement community receives due acknowledgment of its role in the detecting and eliminating complicated organized crime mechanisms. Each agency can receive credit for the work it does, and fair and equitable public recognition should be viewed as both possible and necessary.

The tools described above must be adequately funded if they are to be effective in investigating and prosecuting organized crime. Then too, such tools as the statewide grand juries should be authorized by the legislature if they are not already.

[7] National Commission for the Review of Federal and State Laws Relating to Wiretapping and Electronic Surveillance, Commission Hearings, Volume 1, p. 55.

[8] Ibid., p. 51.

Postindictment Responsibilities of the Prosecutor

The trial, like the investigation of organized crime figures, is apt to be long and drawn out. Prosecutions of low-level syndicate members are merely first steps. It often requires many prosecutions before the top level is reached. Moreover, lawyers for the defense typically seek to delay the trial by making interminable pretrial motions. It is the prosecutor's duty to answer such motions promptly, and he or she will need to have experienced, scholarly, and articulate staff assigned to motion and appellate work. For the prosecutor in organized crime cases the sixth amendment's mandate for a speedy trial has special meaning (see Standard 7.11).

The sentence handed down to convicted organized crime figures is of interest to the prosecutor who, with his or her staff, has put great effort into securing that conviction. At the sentencing hearing, the prosecutor should be able to present the judge with all the facts about the convicted man, so that the judge may be able to assess the relative value of various types of sentence. Sentencing is discussed in Chapter 8.

It is recommended in Standard 7.12 that the prosecutor play a continuing role in the case of a convicted organized crime figure after the sentence, by tracking the offender through the correctional system. In the past, fellow members of the syndicate have been known to exercise improper influence on correctional personnel to secure preferential treatment for their colleague in the way of special privileges in prison or early parole. Either probation or parole may allow the offender to continue his or her criminal activities unless he or she is under close supervision.

Finally, the organized crime prosecutor has special responsibility to report at least annually to the public, setting forth the activities of the office during that period. The report would serve to alert the public to the operations of organized crime as revealed in completed investigations. Also included should be recommendations on governmental reorganization that would act to reduce or eliminate corruption and changes in legislation that would lead to more effective investigation and prosecution of organized crime. Further discussion of reporting appears in Chapter 2 of this report.

Standard 7.1

Statewide Capability To Investigate and Prosecute Organized Crime

Every State should have a statewide, in addition to local, capability for investigation and prosecution of organized crime.

Commentary

As stated by the National Advisory Commission on Criminal Justice Standards and Goals, "the primary objective of a formally constituted statewide office is to attack public corruption and organized crime."

The statewide office should have the responsibility to:

1. Initiate investigations of organized crime conspiracies and corruption;
2. Prosecute organized crime cases within the State, or refer evidence and cases to the appropriate State or local law enforcement authority;
3. Provide technical and management assistance to State and local government units, commissions, and authorities;
4. Participate in and coordinate the development of a statewide organized crime intelligence network; and
5. Recommend to the legislature more effective measures to combat organized crime and corruption.

States will vary as to which office will have responsibility for this statewide capability, and should develop their own method of implementing this standard in accordance with the documented extent of organized crime activities within their jurisdictions, and their existing capability to deal with it.

For example, a State experiencing a problem in controlling organized crime might establish a statewide capability in a newly created office: the Office of Special Prosecution for Organized Crime. The special prosecutor should be nominated by the Governor and thereafter receive legislative confirmation for a 5-year period. There should be no limit on the number of terms this prosecutor may serve; however, if required by circumstances, a legislative mechanism should be created for impeachment of the special prosecutor.

Another approach would be for the State to establish a statewide capability within the State attorney general's office. The responsibility to perform the statewide functions of investigating and prosecuting organized crime can lie directly with the attorney general, a special assistant, or a deputy attorney general. This can also take the form of the strike force concept, which would be a self-contained investigative and prosecutorial unit assembled by and responsible to the State attorney general. Its personnel would be drawn from several State departments.

Other bodies that could be convened to investigate organized crime are special grand juries author-

ized by and operated upon judicial order, and special commissions convened by legislative act or executive order. The attorney general or local prosecutor may be counsel to the grand jury.

In preparing organized crime cases, alternatives to criminal prosecutions should sometimes be considered. Civil remedies, including injunctions, are possible alternatives.

To be effective, the statewide office must have adequate resources and a staff, to include assistant prosecutors and investigators of all types, undercover and electronics specialists, auditors, engineers, laboratory technicians, statisticians, and analysts who can interpret patterns of organized crime and corruption.

This office should have jurisdiction to investigate organized criminal activity wherever it exists in the State. Such jurisdiction would be in addition to that of existing local prosecutors' offices throughout the State and would not preempt their investigations and prosecutions in the area of organized crime. Whether the statewide or local prosecutor will investigate and prosecute a particular organized crime case will depend upon their close cooperation and mutual agreement.

Successful implementation of this standard requires a provision, in the legislation or constitutional amendment establishing the statewide organized crime investigative and prosecutorial capability, that would prohibit a defendant from raising a jurisdictional challenge as to whether the statewide or local official conducts the prosecution.[9]

Among the powers of the statewide office are the power to (1) compel testimony for the purposes of investigation and prosecution and (2) undertake operations to insure the integrity of this statewide jurisdiction.

There has already been much concern expressed over the present power of discretion within prosecutorial offices throughout the country. The answer is not to avoid the problem by refusing to give such powers to an agency, however, but to provide a mechanism to control, supervise, and, where necessary, punish and prevent abuses or violations of the agency's powers. The specific method for doing this can vary with each jurisdiction.

[9] See *People v. Rallo*, 39 N.Y. 2d 217, 383 N.Y.S. 2d 271, 347 N.E. 2d 633 (1976).

References

1. The President's Commission on Law Enforcement and Administration of Justice. *The Challenge of Crime in a Free Society*. 1967.
2. The National Association of Attorneys General. *Organized Crime Control Units*. Committee on the Office of Attorney General. June 1975.
3. The National Association of Attorneys General. *Organized Crime Control Legislation*. Committee on the Office of Attorney General. January 1975.
4. Hearings of the Florida Bar Association Special Committee on the Statewide Prosecution Function, January 30 and May 4, 1976.

Related Standards

The following standards may be applicable in implementing Standard 7.1:

1.1 Organized Crime Prevention Councils
1.2 Investigating Commissions
1.3 Nonpolitical Prosecutors
1.6 Financial and Professional Disclosure Requirements
1.10 Operations to Insure Integrity
2.1 Review of State Criminal Codes
2.2 Review of State-Enacted Investigative Procedures
2.5 Local Prosecutors' Reports
2.6 State Reporting Responsibilities
2.7 Review of State and Local Appropriation Levels
5.4 Civil Sanctions
6.1 State Organized Crime Intelligence Unit
9.6 Attorneys General and Prosecutors

Standard 7.2

Statewide Authority for Supersession

Procedures should be established by appropriate legislation, constitutional amendment, or executive order authorizing the statewide organized crime prosecutor to supersede a local prosecutor in a specific case or investigation.

Appropriate measures should be taken to preclude witnesses called before statewide organized crime prosecutors from raising any questions of propriety of State as compared with that of local prosecutors.

Commentary

The primary reason for recommending supersession is the prompt, effective prosecution of organized crime. The standard is designed in part for those instances in which a criminal operation has statewide ramifications and no other mechanism has been established to deal with it. In this situation, the statewide organized crime prosecutor may supersede local authority and prosecute the case. To do so, the State official must make a showing before a judicial tribunal that this action is related to organized crime and is required for protection of the public interest. When so acting, the statewide organized crime prosecutor assumes all powers and duties of the local prosecutor. Such supersession should be granted on a case-by-case basis by a judge of the highest State court on a showing that the local prosecutor is unable or unwilling to prosecute effectively. Supersession is particularly applicable when local prosecutors fail to investigate or prosecute allegations of public corruption.

This standard also envisions a reciprocal relationship between the statewide organized crime prosecutor and local prosecutors. The former may intervene or supersede for nonfeasance, misfeasance, or malfeasance, or at the request of the local prosecutor, who may request intervention for the following reasons:

1. The local attorney is investigating/prosecuting a public official with whom he works closely, thus jeopardizing the sources of the case;
2. The local prosecutor is believed to have a conflict of interest, such as being a close personal friend or relative of the accused;
3. The case was originally investigated and handled by a State agency;
4. The local prosecutor determines that the case could better be handled jointly with an agreed-upon "lead" agency;
5. The local attorney is incapable of continuing the prosecution for reasons of health or other incapacity.

References

1. The President's Commission on Law Enforce-

ment and Administration of Justice. *The Challenge of Crime in a Free Society*. 1967.

2. Ehrenwerth, David H. "The Effect of the New Pennsylvania Crime Code on Organized Crime: Too Little, But Not Too Late." *Duquesne Law Review*. Volume 12, Number 4. Summer 1974.

3. The National Association of Attorneys General. *Organized Crime Control Legislation*. Committee on the Office of Attorney General. January 1975.

4. Pitler, Robert M. "Superseding the District Attorneys in New York City—The Constitutionality and Legality of Executive Order Number 55." *Fordham Law Review*. Volume XLI, Number 3. March 1973.

5. The National Association of Attorneys General. *The Office of Attorney General*. Committee on the Office of Attorney General. February 1971.

6. The American Bar Association. Standards relating to "The Prosecution Function and the Defense Function," Approved Draft (March 1971) Standard 2.10.

Standard 7.3

Authority for Subpena of Witnesses to Prosecutor's Office

State and local jurisdictions should grant prosecutors the authority to issue investigative subpenas in organized crime cases. Such subpenas would compel prospective witnesses to appear at the prosecutor's office for interrogation. They would also compel testimony and/or production of records.

Commentary

This investigatory tool permits prosecutors to summon witnesses to their offices for questioning in organized crime matters. The standard contemplates that prosecutors will either proceed on the suspicion that laws are being violated or will assure themselves that there are no such violations. The grant of authority to the prosecutor will be limited to a specific statutory area, in this case, organized crime, and could be enacted for other areas as deemed appropriate. This authority must be carefully drawn to prohibit violation of constitutional protections, and should include provisions for the presence of counsel, adequate warning, and all other procedures required to insure protection of witness rights.

Legislation authorizing such prosecutor's subpenas should also explicitly preclude subpenaed witnesses from contesting authority as between the State and local prosecutor, because statewide use of such subpena does not displace local use.[10]

References

1. National Association of Attorneys General. *The Office of Attorney General.* Committee on the Office of Attorney General. February 1971.

[10] But see *Sussman v. N.Y.G.C.T.F.* 39 N.Y. 2d 227, N.Y.S. 2d 347 N.F. 2d 638 (1976).

Standard 7.4

Statewide Organized Crime Grand Juries

A statewide grand jury or juries should be impaneled to deal with organized crime prosecutions. These bodies should be authorized by the State legislature at the request of the organized crime prosecutor for periods of 18 months, with provisions for 6-month extensions if necessary.

Commentary

Where a State does not have legislation permitting statewide organized crime grand juries, the legislature should enact it. Without these juries, statewide organized crime prosecutors who lack the power to compel the appearance of witnesses for interrogation are hampered in their efforts to fight organized crime on a statewide basis.

Such legislation should explicitly preclude a witness called before this grand jury from raising the issue of its jurisdiction, because the statewide body would not preempt local grand juries in the area of organized crime.

The standard recommends the impaneling of statewide grand juries specifically to deal with organized crime. It is recognized, however, that such grand juries may well be of general utility in investigating other crime throughout the State.

References

1. The President's Commission on Law Enforcement and Administration of Justice. *The Challenge of Crime in a Free Society*, E. P. Dutton & Co., Inc.: New York, 1968.
2. The President's Commission on Law Enforcement and Administration of Justice. *Task Force Report: Organized Crime.* 1967.
3. National Association of Attorneys General. *Organized Crime Control Legislation.* Committee on the Office of Attorney General. January 1975.
4. *Crime in Urban Society.* The Dunellen Company, Inc.: New York, 1970.

Related Standards

The following standards may be applicable in implementing Standard 7.4:

1.2 Investigating Commissions
6.1 State Organized Crime Intelligence Unit

Standard 7.5

Electronic Surveillance

Every State should have a wiretap and microphonic surveillance statute permitting the use of nonconsensual procedures in cases involving organized crime and related corruption. States should also provide for vigorous enforcement of laws against the illegal use of wiretap and microphonic surveillance.

Commentary

Because of their organization and methods of operation, organized crime activities require sophisticated means of evidence gathering. Often witnesses will not come forward; and members of some organizations are bound either by an oath of silence or threats of violence. Often the use of informants is of limited value, and many organizations are difficult, if not impossible, for undercover agents to penetrate to the point where they can obtain useful evidence.

One way to break through these conspiratorial safeguards is to enact a State statute permitting nonconsensual wiretap and microphonic surveillance. States should recognize the conflicting needs of effective law enforcement and individual rights and provide for adequate protection of such rights by statute consistent with the problem of organized crime within their own jurisdictions. In laws which authorize State wiretap and microphonic surveillance statutes, provisions for safeguarding individual rights should be strictly adhered to. Such court-authorized procedures by law enforcement officers were approved under certain conditions by Congress in Title III of the Omnibus Crime Control and Safe Streets Act of 1968. They were also the subject of a study by the American Bar Association on Standards for Criminal Justice. These procedures were authorized by 23 States plus the District of Columbia as of 1975 [11] and several States were studying the adoption of an appropriate law or the expansion of existing uses of such authority. For States that do not have such electronic surveillance laws, it is widely held that consensual electronic surveillance is proper and does not require court approval. Such States, however, are precluded from fully cooperating with Federal law enforcement agencies that are acting under a federally authorized wiretap or microphonic surveillance.

Inasmuch as the recent report of the National Wiretap Commission reveals that wiretapping has been particularly effective in gambling, fencing, and drug investigations, implementation by a State of the proposed statute should at least include these areas.

The principal prosecuting attorney of the State or its political subdivisions should establish wiretap and

[11] National Commission for the Review of Federal and State Laws Relating to Wiretapping and Electronic Surveillance, *Commission Studies,* (Washington: 1976), p. 6.

microphonic surveillance guidelines that conform to existing legislation. These guidelines should focus on obtaining authorization to apply to a State court judge of competent jurisdiction in order to use wiretap and microphonic surveillance techniques.

A wiretap and microphonic surveillance statute should describe the following:

1. Offenses for which an intercept may be authorized;
2. Authority to apply for an intercept;
3. Content of the application;
4. Type and length of the intercept;
5. Use of the intercept as evidence;
6. Requirement to notify the subject of the wiretap and microphonic surveillance after the intercept is terminated;
7. Penalties for illegal wiretap and microphonic surveillance; and
8. Periodic public reports that do not compromise ongoing investigations, or do not reveal derogatory information about persons not formally accused of crimes.

Drafters of this statute should insure that the public and the media have a clear idea of the difference between the misuse of wiretap and microphonic surveillance by nonofficial groups and its legal use as a tactic to enforce the law and to improve law enforcement techniques, while also preserving the privacy rights of citizens.

Either the principal prosecuting attorney of the State or local jurisdiction should have final review of wiretap and microphonic surveillance applications to the appropriate State court having felony jurisdiction. This will insure that wiretap and/or microphonic surveillance for the prosecution of organized crime meets all legal requirements. That is essential if the products of wiretap and microphonic surveillance are to meet the rigorous safeguards required for use of this tactic.

The agency controlling wiretap and microphonic surveillance equipment must assure that it is properly used so as to obtain the evidence in a clear and understandable form. In all instances, this agency also must be accountable for the equipment, maintaining a clear, complete, and permanent record of its use. That record should include the personnel involved as well as the duration of and authority for use.

The principal prosecuting attorney or the organized crime prosecutor should have authority to prosecute violations of this law in the interest of public safety and privacy. This will insure its use only under circumstances authorized by a court and under the control of law enforcement official agencies and personnel, and only for the specific reasons and duration cited in the request for authority.

References

1. The President's Commission on Law Enforcement and Administration of Justice. *The Challenge of Crime in a Free Society.* 1967.
2. The National Association of Attorneys General. *Organized Crime Control Legislation.* Committee of the Office of Attorney General. January 1975.
3. The National Association of Attorneys General. *Organized Crime Control Units.* Committee of the Office of Attorney General. June 1975.
4. "Organized Crime Symposium," Comments by William S. Lynch, *Journal of Public Law.* Volume 20, Number 1. 1971.
5. Comments by District Attorney of New York County Frank S. Hogan before the Hearings on S. 674 & S. 675 (Subcommittee on Criminal Laws and Procedures of the Senate Committee on the Judiciary, 90th Congress, 1st Session, 1092 (1967)).
6. American Bar Association Project on Standards for Criminal Justice, Standards Relating to Electronic Surveillance II, Approved Draft, (1971).
7. *Report of National Commission for the Review of Federal and State Laws Relating to Wiretapping and Electronic Surveillance.* 1976.

Related Standard

The following standard may be applicable in implementing Standard 7.5:

9.6 Attorneys General and Prosecutors

Standard 7.6

Undercover Techniques

States should develop the capability to conduct undercover investigative operations to infiltrate organized crime enterprises. The term "undercover techniques" as used in this standard includes, but is not limited to, the use of informants, sworn officers or agents who assume undercover roles, and the establishment by law enforcement authorities of undercover enterprises, for the purpose of infiltrating organized crime operations.

Commentary

The reason for using undercover agents is to penetrate an illegal operation, learn, and develop evidence of crime by infiltrating groups or associating with persons who have the known propensity to commit such crimes.

Undercover operators who are sworn officers should be carefully chosen and trained, so that they fit easily into the environment in which they operate. They should be carefully selected and supervised to insure that they do not abuse their unique status and injure the interests of the public or innocent parties.

Selection and supervision are especially important for undercover operators who are not sworn officers. These individuals may be informants either because that is their occupation, or because they are defendants who hope to earn lenient treatment by working undercover.

Chapter 6 (Intelligence) and Chapter 9 (Organized Crime Training and Education) provide further insight on use of undercover techniques.

References

1. Report of PFFI, Inc., (Metropolitan Police Department, District of Columbia File No. 52–16597, 1976).

Related Standard

The following standard may be applicable in implementing Standard 7.6:

9.4 Organized Crime Investigators

Standard 7.7

Use of Depositions

Whenever a proper judicial authority determines that exceptional circumstances and the interests of justice will be better served, the prosecutor should be authorized to take testimony of a prospective witness by deposition in the presence of counsel and to preserve it. The testimony will then become part of the actual case when it is heard. To introduce such a deposition the government should be required to show that a witness is dead, has testified inconsistently with statements already made, or is otherwise unavailable to testify.

Commentary

This standard relates to a recommendation by the 1967 National Task Force Report on the Courts—namely, that the expanded use of deposition for a variety of purposes is appropriate. Although taking depositions is a time-consuming and expensive process, State evidentiary procedures should include provisions to take depositions from witnesses in organized crime cases. This is particularly valuable in such prosecutions, because organized crime elements have applied to their defense in criminal cases the same techniques of intimidation and bribery that they regularly use in their illegal activities.

A deposition can help to remove the incentive to bribe, threaten, or kill witnesses, because it preserves their testimony in a form that can be used at trial even if witnesses are unavailable, if they fail to testify, or if they testify in a contradictory manner as the result of threats or intimidation. Depositions also aid prosecutors in the proper performance of their duties by allowing them to preserve testimony that otherwise might be lost, not only through retaliation but through terminal illness, mental or physical disability, or other causes.

References

1. Kelly, Peter A. "Organized Crime Control Act of 1970" (Legislative Notes). *University of Michigan Journal of Law Reform.* Volume 4, Number 3. Spring 1971.
2. Delaware Supreme Court Rules, Rule 15(a).
3. Hawaii Rules of Criminal Procedure, Rule 15(a).
4. Kentucky Rules of Criminal Procedure, Rule 7.10(i).
5. Maine Rules of Criminal Procedure, Rule 15(a).
6. Maryland Rules of Procedure, Rule 727 (See a).

Related Standard

The following standards may be applicable in implementing Standard 7.7:

9.6 Attorneys General and Prosecutors

Standard 7.8

Recalcitrant Witness

States should amend or enact legislation to provide for contempt sanctions against witnesses who refuse, without showing just cause, to testify or to produce documents or other required materials before any State court, grand jury, or investigating commission.

Commentary

Sometimes witnesses refuse to testify or to provide records, papers, or other materials as evidence out of loyalty to a criminal organization of which they are members. This standard proposes codification of what is in many States existing law.[12] The proposed statute authorizes a State court to confine summarily a witness who, without just cause, refuses to comply with a court order to testify or to provide other information, including documentary material, in a proceeding before or ancillary to any State court of record, grand jury, or investigating commission.

Incarceration for civil contempt is a remedial effort to produce testimony or documentation. The summary and severe nature of this remedy is justified by the fact that the witness can secure release from such confinement at any time by testifying or producing the required documents. Confinement may be "until such time as the witness is willing to give testimony or provide such information," but should not exceed 18 months or the life of the court proceeding, grand jury, or investigating commission involved, whichever is shorter.

The standard proposes, for the prosecutor's use, criminal as well as civil contempt remedies. If a State does not have a criminal contempt statute that provides for long terms of imprisonment, the State legislature should enact such a provision. Thus, hardcore, recalcitrant witnesses may be indicted for criminal contempt and, if convicted, punished heavily for their steadfastness in defending organized crime colleagues. In some instances, stiff sentences after conviction for this criminal offense can turn otherwise contemptuous defendants into cooperating witnesses. Where a recalcitrant witness is already serving a sentence of confinement, punishment for contempt of court in the form of confinement should be in addition to the prison sentence. The latter is suspended during the contempt period. Also, in those cases where another grand jury is impaneled at a later time, the recalcitrant witnesses may still be held in contempt should they again choose not to testify.

Care should be taken in codifying contempt provisions. Other factors, such as fear of retribution, may prevent a witness from testifying. In these situations, every consideration should be given to other means of attaining the goals of the sitting body.

[12] See Fn. 5, Chpt. 7.

These means could include protection or relocation of the witness.

The two opposing considerations here are the purpose of the sitting body and the rights of the witness. Decisions on the rights of the public in these instances are difficult, but the authority to take action should be available.

References

1. *Columbia Journal of Law and Social Problems.* Volume 9, Number 4. Summer 1973.

2. Special Counsel on Organized Crime. *Organized Crime: A Desk Book for Florida Prosecutors.* Office of the Governor. February 1975.

3. Walter C. Reckless. *The Crime Problem.* Appleton-Century-Crofts: New York, 1973. Fifth Edition.

4. "Limiting the Criminal Contempt Power: New Roles for the Prosecutor and the Grand Jury." *Michigan Law Review.* Volume 73, Number 3. January 1975.

Standard 7.9

Immunity Statute

States should enact or revise legislation to provide for immunity from the use of compelled testimony by witnesses before a grand jury, investigating commission, or State court having felony jurisdiction. These witnesses should receive only "use" immunity—i.e., they should be immunized only from the use of evidence derived directly or indirectly from the compelled testimony.

Commentary

In conspiratorial crimes, the key recourse available to a prosecutor is granting immunity from prosecution to potential defendants in order to obtain their testimony against others. Ordinarily, immunity will be granted in cases involving a high degree of secrecy because the only probable witness whose testimony is essential to obtain convictions against more culpable persons also was a participant in the criminal acts.

As a matter of general practice, immunity should be granted only to the minimum number of coconspirators in order to obtain convictions against one or more key individuals. This favorable treatment of several "low-level" witnesses is justified if it results in the conviction of a defendant suspected or known to be a major figure in organized crime operations. However, government officials or high political officeholders who are participants in a conspiracy should not be granted immunity in order to obtain convictions against less important or less culpable coconspirators.

An immunity grant is a valid and proper tool for the prosecutor and has proved useful in pursuing top-level members of organized crime organizations.[13] The purpose of an immunity statute is to provide a prospective witness with enough legal protection to supplant the fifth amendment privilege against self-incrimination. This permits the compulsion of testimony or the production of other incriminating evidence. An immunity statute should provide for the situation where a witness refuses on the basis of the privilege against self-incrimination to testify or provide information in a proceeding before a grand jury, investigating commission, or a State court having felony jurisdiction.

After the grant of immunity, testimony may be compelled. However, according to the "use and derivative use" immunity provisions (Title II) of the Organized Crime Control Act of 1970, the testimony that is so compelled, or information derived from that testimony, may not be used against the witness in most criminal cases.

Title II was drafted to reflect the use and derivative use restriction of *Murphy* v. *Waterfront Commission,* 378 U.S. 52 (1964), rather than the transactional

[13] See Fn. 5, Chpt. 7.

immunity concept of *Counselman* v. *Hitchcock,* 142 U.S. 547 (1892). The Supreme Court upheld the constitutionality of the "use and derivative use" immunity provisions of the 1970 Organized Crime Control Act (18 U.S.C. Section 6002) in *Kastigar* v. *United States,* 406 U.S. 441 (1972). In reaching its decision, the Court approved the general concept of immunity provisions on both logical and historical grounds, finding them compatible with fifth amendment rights.

The standard prescribes that use rather than transactional immunity be granted because it strikes the proper balance between the rights of the witness, who may be a potential defendant, and the public's right to learn details known by the witness of an organized criminal conspiracy.

As a matter of related interest, case law precludes local authorities from using testimony compelled under Federal authority against the witness in a State trial. In addition, the use immunity statute, like previous transactional immunity statutes, extends only to past offenses and does not prohibit the prosecution of the witness for offenses committed in the future, or for contempt or perjury committed in the course of the compelled testimony.

References

1. The President's Commission on Law Enforcement and Administration of Justice. *The Challenge of Crime in a Free Society.* 1967.
2. Salerno, Ralph and Tompkins, John S. *The Crime Confederation.* Doubleday and Company, Inc., 1969.
3. Lavine, Lorin G. "Immunity Legislation: Making Better Use of a Valuable Law Enforcement Tool." *Columbia Journal of Law and Social Problems.* Volume 9, Number 2. Winter 1973.
4. The National Association of Attorneys General. *Organized Crime Control Legislation.* Committee on the Office of Attorney General. January 1975.
5. N.Y. Rev. Stat. Sec. 2A:81–173 (1968).
6. Ohio Rev. Code Sec. 2939.17.

Related Standard

The following standards may be applicable in implementing Standard 7.9:

9.6 Attorneys General and Prosecutors

Standard 7.10

Witness Protection Statute

State legislatures should enact protective laws and establish procedures, including relocation, new identities, etc., for persons who cooperate and/or provide information in organized crime investigations, to insure that they are not harmed as a result of their testimony. This provision would also protect persons who testify before appropriate State legislative committees.

Commentary

In view of the scarcity of evidence in organized crime prosecutions, it is imperative that public officials take positive steps to encourage witnesses to come forward. Witnesses who choose to testify because of their sense of obligation to the community, their legal duty, or other reasons, may be exposed to the danger of violent retaliation from organized crime figures. Government at all levels must provide physical protection for such witnesses. The Federal Government has this authority and can make its facilities available to State and local prosecutors.

Special problems exist in protecting witnesses in organized crime cases. Such cases often rely on informants who are granted immunity in return for their testimony, and the testimony may involve third persons vulnerable to retaliation. It is necessary to protect these witnesses and their families to insure that (1) they continue to agree to testify, and (2) they are not prevented from testifying. Moreover, a witness protection program is generally important in protecting life, assuring that justice is done, and controlling organized crime.

Such legislation should identify the agency or official responsible for requesting and providing such protection and the types of proceedings involved.

Procedures should be established to address the special issues that arise in protecting witnesses in organized crime cases. These will include the sources of funding and time limits, if any, placed on the period before and after trial during which protection may be afforded. The answers to these important decisions depend on the agency and laws existing in each jurisdiction.

Witness protection can be an expensive operation. Furnishing personal and family guards and security may involve a great expenditure of personnel. Placing witnesses in a "safe house" or special secure facility requires a restriction on their activities, and it is difficult to keep the location of such facilities confidential. Further, relocation of witnesses and family members involves a variety of details to accomplish the move in secret and establish a new identity in the new location.

There are also problems connected with reemploying witnesses. Documentation must be substituted for actual records that would reveal their true identity.

Records must be changed or replaced without violating laws or requiring individuals to commit perjury. The people being protected often have criminal histories, which pose problems of employability and adaptability. An outstanding reemployment program has been implemented at the national level through the U.S. Chamber of Commerce, and this effort may serve as a guide.

The costs of witness protection on a large scale may be prohibitive for most States and local jurisdictions. If State legislatures enact a witness protection statute, adequate funding is needed. No information is available as to whether any States budget funds specifically to provide protection for witnesses. However, the National Association of Attorneys General reports that "a number of State organized crime control units . . . have (used) confidential funds" for witness protection.

The formidable obstacles associated with a program of detailed witness protection may dictate that State programs should be part of a Federal-State cooperative effort. That has been successfully undertaken in the past. Cooperative efforts are particularly helpful in completing elements of a witness protection program that has national or international implications, such as providing the witness with a new name, job, documents, passport, etc.

In accordance with the directive of the Omnibus Crime Control and Safe Streets Act of 1968, which requires special emphasis on "programs dealing with the prevention, detection and control of organized crime," Federal funds may be made available to aid in providing for proper protection of government witnesses.

The U.S. Department of Justice raised certain witness protection issues during hearings on the Organized Crime Control Act of 1970, noting that "The question of protecting government witnesses is not one of law but of practicality." The Department agreed that funds should not be limited to acquiring facilities but should also be allowed for such items as the salaries and expenses of U.S. Marshals. Further, appropriations should be authorized to protect witnesses "in whatever manner is deemed most useful under the special circumstances of each case." Such a provision in a State law would provide the necessary flexibility to adequately deal with a problem that is not unique to, but is very much a part of effective organized crime control at every governmental level.

References

1. The President's Commission on Law Enforcement and Administration of Justice. *The Challenge of Crime in a Free Society*. 1967.

2. National Association of Attorneys General. *Organized Crime Control Legislation*. Committee on the Office of Attorneys General. January 1975.

3. (84 Stat. 933–34). This statute gives the Attorney General authority to establish and operate protected housing facilities for the safety and security of witnesses and their families who are in danger of violence because of their cooperation with the government.

4. Chamber of Commerce of the United States. *Deskbook on Organized Crime*. 1972.

Standard 7.11

Speedy Trial of Organized Crime Cases

Immediately after the return of an indictment or information or the waiver of such proceedings, the prosecutor should advise the court administrator or chief judge as to those cases involving organized crime activity; and they should receive priority in being assigned for trial.

Commentary

It is generally held that trial delay tends to favor the defendant in any criminal case. With the passage of time, witnesses are less likely to appear in court, their memories become impaired, they become ill or incapacitated, they move from the area, or, as is the real danger in organized crime cases, they are bribed, coerced, intimidated, or even killed by the criminal organization. These facts indicate the importance of a prompt trial of an organized crime offender.

Further, expeditious resolution of pretrial appeals should be encouraged so as to insure the prompt trial of the organized crime defendant. This may require appellate courts to give priority hearings to these appeals.

Priority treatment is also needed to maximize the deterrent effect of prosecution and conviction and to avoid extended pretrial freedom, when other crimes may be committed.

References

1. Steinberg, Marc I. "Right to Speedy Trial: Maintaining a Proper Balance Between the Interests of Society and the Rights of the Accused." *U.C.L.A.-Alaska Law Review*. Volume 4, Number 1. Fall 1974.

2. Kirkpatrick, Terry. "Speedy Trial: A Comparative Analysis Between the American Bar Association Standards of Criminal Justice and Arkansas Law." *Arkansas Law Review*. Volume 25, Number 3. Fall 1971.

3. Godbold, John C. "Speedy Trial: Major Surgery for a National Ill." *Alabama Law Review*. Volume 24, Number 2. Spring 1972.

Standard 7.12

Continuing Role of the Prosecutor

Organized crime prosecutors should maintain continuity in organized crime cases, following them from investigation through prosecution. Prosecutors should also be involved and present evidence at key points as offenders are processed through the criminal justice system. Special attention should be given by the organized crime prosecutor to dispositional issues such as sentencing, whether it be probation or confinement, parole, or pardon.

Commentary

Special techniques used to augment normal investigative procedures in organized crime cases include wiretaps, search and seizure, grand jury subpena, witness immunity, and the use of informants. Because these techniques are used, the prosecutor's legal judgment is required to assure the development of evidence that is properly admissible at trial. The prosecution of organized crime offenders must, therefore, be structured into a unified enforcement effort through close and continuous cooperation among the police, their investigators, and the prosecutor's staff. All applications by law enforcement officials for search and arrest warrants in organized crime cases, moreover, should be screened by the prosecutor before law enforcement officers submit them to a judge for approval.

The exercise of prosecutorial discretion as to organized crime figures should be used rarely and only in circumstances that would lead to successful prosecution of organized crime leaders.

After the arrest of an organized crime figure and at the individual's first appearance before a judicial officer or for arraignment, the prosecutor should furnish information to the judge about the defendant's involvement in organized crime. In appropriate cases, the prosecutor should recommend to the judge pretrial detention of the defendant, upon a showing that release would seriously endanger the community or that the risk of flight is substantial.

The absolute right to bail in many States restricts the use of preventive detention. Nevertheless, where the defendant is an organized crime figure, the prosecutor may be able to show that there is a danger that the defendant will commit a serious crime or will try to intimidate witnesses. The prosecutor can then recommend that the judicial officer place conditions on pretrial release by entering an order prohibiting the defendant from association with certain persons, going to certain described places, possessing dangerous weapons, or engaging in certain activities. The order can also require the defendant to report regularly to and remain under the supervision of an officer of the court.

In those jurisdictions with legislation providing for increased sentences for dangerous special offend-

ers, the prosecutor should file the required notice at the beginning of the trial. After conviction, the prosecutor should recommend to the court that the appropriate increased sentence be given to the defendant upon a showing that such statutes apply to that individual because of a prior history of and involvement with organized crime.

In those jurisdictions where such special legislation does not exist, the prosecutor should recommend to the court that a convicted organized crime offender be given the maximum applicable sentence; and the prosecutor should assure that the presentence report contains all relevant information about the defendant's involvement with organized crime.

After sentencing of an organized crime figure, the prosecutor should be advised of any actions taken by the probation office or the correctional institution. For the protection of the community, the prosecutor should recommend maximum supervision of an organized crime offender throughout the period of probation. If such an offender is serving a sentence in prison, the prosecutor should recommend denial of certain rehabilitative conditional releases from prison, such as work releases, on the grounds that the public requires continual protection from such professional criminals. Furthermore, the prosecutor should be notified whenever an organized crime figure serving a sentence is being considered for parole or pardon, and should be given the opportunity to present relevant information.

Finally, organized crime prosecutors should report annually to the public on the effectiveness of their offices. They should also make recommendations on State governmental actions that would help eliminate or reduce organized crime and corruption.

References

1. National Association of Attorneys General. *Organized Crime Control Legislation.* Committee on the Office of Attorney General. January 1975.

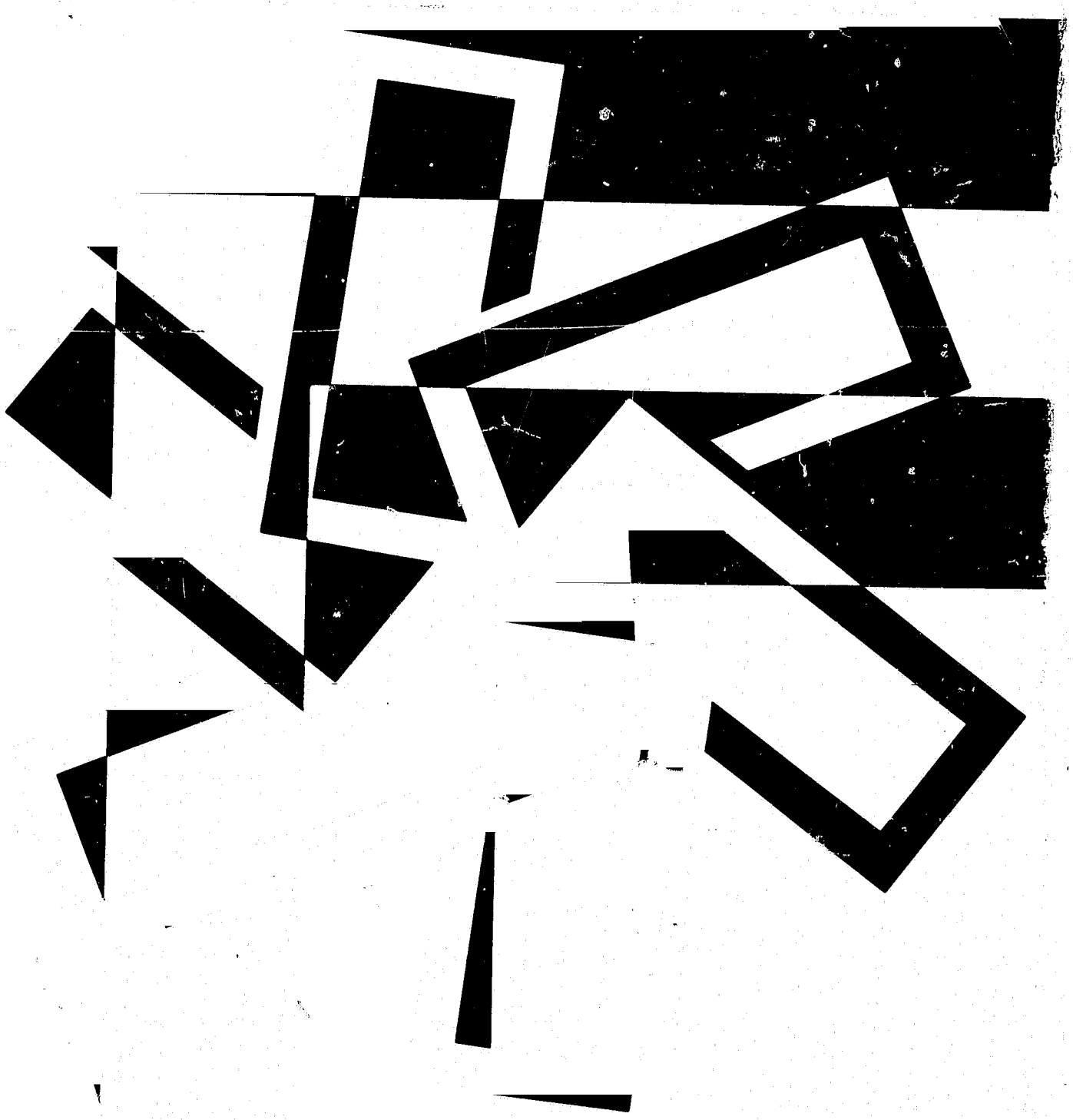
2. National Association of Attorneys General. *The Office of Attorney General.* Committee on the Office of Attorney General. February 1971.

Related Standards

The following standards may be applicable in implementing Standard 7.12:

2.1 Review of State Criminal Codes
2.2 Review of State-Enacted Investigative Procedures
2.3 Victimless Crimes
2.4 Privacy and Freedom of Information Legislation
2.5 Local Prosecutors' Reports
2.6 State Reporting Responsibilities
2.7 Review of State and Local Appropriation Levels
8.1 Presentence Report
8.2 Increased Sentences for Dangerous Special Offenders Dispositional Hearing
8.6 Probation Supervision
8.8 Parole Supervision
9.6 Attorneys General and Prosecutors

Chapter 8
Posttrial Procedures



Recent years have seen great changes in posttrial procedures in criminal cases in the United States. Generally, the trend has been away from incarceration and toward the use of community-based correctional programs, with consequent increased opportunity for judges to select the form of correction best suited to the individual offender. The movement from correctional institutions has occurred not only because institutions are expensive but also because there is little evidence that they are useful in rehabilitating offenders. Designed to provide a range of opportunities for rehabilitation, correction in the community has many forms—including probation, community correctional centers, halfway houses, work and study release programs, and various types of treatment and counseling centers. Parole is also community-based in that an offender released from prison lives in the community under supervision.

In the last decade, court orders in many jurisdictions have required that greater attention be given to health and decency in prison conditions. Judicial consideration of the constitutional rights of incarcerated offenders has resulted in an expansion of prisoners' rights, including access to courts and legal services, and access to the public through correspondence with and visits by family and friends. Today, many prisons offer educational programs, vocational training, and counseling services to inmates.

Although these developments have had, in general, a positive impact on the corrections system, they have done nothing to make more effective that system's management of the organized crime offender. The nature of an offender's involvement in organized crime clearly requires that the disposition of the case be given special consideration.

This chapter examines the special problems that convicted members of organized criminal groups pose to the criminal justice system, reviews the treatment of such offenders in the present system, and presents recommendations for appropriate posttrial procedures for cases involving organized crime offenders.

Sentencing the Organized Crime Offender

Sentencing provisions of Federal and State statutes generally have been established to deal with isolated offenders and individual crimes and do not distinguish the organized crime offender as one who should receive special treatment by the criminal justice system. For this reason, current sentencing provisions are partially ineffective against members of a criminal organization; they do not provide for long confinement of organized crime figures which is the only effective deterrent of future criminal behavior.

This situation was confirmed by a study prepared by the staff of the Criminal Law Subcommittee of the Senate Judiciary Committee, using data gathered by the FBI. It was found "that two-thirds of La Cosa Nostra members indicted [between 1960 and 1969] faced maximum sentences of 5 years or less and fewer than one-fourth received the maximum term. Twelve percent received no jail terms, and the sentences of the remaining offenders averaged from 40 to 50 percent of the maximum." [1]

The presentence report should be a means for helping judges first to assess accurately the situation of an organized criminal and then to set an adequate sentence for the crime committed. However, all too often, the probation officer is ill-served in attempts to prepare this report. Individuals from whom information about the criminal is sought are often uncooperative, because they fear their cooperation might result in harm to themselves, their families, or their property. Hence, witnesses and other sources of information about an offender involved in organized crime may volunteer only positive statements about the defendant, satisfying both legal requirements and the expectations of the offender, but failing to present a true picture of the case.

Complicating further the matter of presentence reporting is the issue of an offender's right to due process. Other safeguards would include disclosure of presentence reports to assure that they are accurate and

[1] Hon. John L. McClellan, Hearings before Subcommittee No. 5 of the Committee on the Judiciary, House of Representatives, 91st Cong., 2nd Sess., on S. 30, and Related Proposals, Relating to the Control of Organized Crime in the United States, May 21, 1970, p. 108. Recent experience is consistent with this study; organized crime figures continue to face sentences in the lower ranges.

reliable, as now required in the Federal courts under Rule 32(c) of the Federal Rules of Criminal Procedure.[2] Contents and use of the presentence report in cases involving organized criminals are discussed in Standard 8.1.

The Organized Crime Control Act, passed by Congress in 1970, attempts to deal with the organized criminal as a "special offender," defined as one who (1) has been convicted of two or more offenses within the last 5 years, or (2) commits a felony as part of a pattern of criminal conduct, or (3) commits a felony in furtherance of a conspiracy with three or more other persons. In addition, the subject must be found dangerous.[3] Title X of the act authorizes extra sentences for such offenders and requires a hearing prior to imposition of increased sentences. At the hearing, held before the court sitting without a jury, the prosecutor can introduce additional information about the defendant, which the latter may contest. Any procedure adopted by the States that would require separate treatment for a class of offenders must be carefully developed, objective, and free of violations of individual constitutional rights. At the same time, the procedure should recognize society's competing claim for adequate protection against organized crime figures. Increased sentencing for special offenders and use of the dispositional hearing are discussed in Standard 8.2.

A way for States to protect the public from organized crime without mandating the extra sentences authorized in the Federal statute would be to require judges to impose the maximum term specified in State law for the particular offense of which an organized crime figure is convicted. The report of the Task Force on Corrections of the National Advisory Commission on Criminal Justice Standards and Goals notes that "The professional criminal is not susceptible to correctional programing. His activity is based on the calculation appropriate to a business enterprise. The lengthy incapacitation of such offenders not only is justified but is perhaps the only appropriate response."[4] Standard 8.3 recommends that all criminal court judges sentence major organized crime offenders to the maximum terms available under State penal codes, when incapacitation of such criminals is considered necessary to protect the public.

Because organized crime is a business that provides substantial profits to its participants, imposition of fines may be an appropriate sanction for convicted organized crime figures. Economic sanctions should be sufficiently large to serve as a deterrent to future activity on the part of offenders and to seriously interfere with the ongoing criminal activity of which they have been a part. Standard 8.4 discusses considerations involved in setting fines.

Incarceration of Organized Crime Offenders

All correctional institutions classify inmates for management purposes and to determine if an offender should be assigned to treatment programs. Criminals convicted of felonies in connection with organized crime come to an institution with full reports of their offenses, which should serve as bases for classification. The question then becomes, should such offenders be subject to special supervision to prevent them from continuing to manage their illegal operations from prison and to protect their fellow inmates?[5]

Programs of rehabilitation, for example, are an area where special regulations for organized criminals might be appropriate. "Rehabilitation is clearly not the reason for incarcerating offenders involved in organized crime," according to Norman A. Carlson, Director of the Federal Bureau of Prisons.[6] The limited likelihood that these felons will profit from the programs designed to rehabilitate the general prison population—and, in some cases, the opportunity for pursuing illegal activities that such programs represent—indicate that organized crime offenders should not be given access to such programs.[7]

---

[2] 89 Harvard Law Review #2, 356–386. December 1975.

[3] 18 U.S.C., Sec. 3575(e). For other provisions regarding sentencing of dangerous offenders, see also, 18 U.S.C., 3575–3578. *U.S.* v. *Stewart* 531 F2d 326 (6th Cir. 1976).

[4] National Advisory Commission on Criminal Justice Standards and Goals, Task Force Report: Corrections, 1973, p. 157.

[5] See above, Chapter 1, for a description of an organized crime offender's abuse of prison regulations.

[6] Address by Norman A. Carlson to the National Conference on Organized Crime, October 1–4, 1975, in Report of the National Conference on Organized Crime, p. 98.

[7] Carlson, loc. cit.: "An organized crime figure, however, has little need for education, training and all other programs available in prison to help an inmate change himself into a law-abiding person. . . . Placing organized crime offenders on furlough or in other community programs would also make it easier for them to resume the illegal activities that sent them to prison in the first place. Furthermore, they are a threat to those witnesses who helped the prosecutors to convict them and put them in prison."

See also, National Advisory Commission on Criminal Justice Standards and Goals, Task Force Report: Corrections, 1973, Standard 11.5, p. 375.

Only realistic approaches to organized crime figures in the criminal justice system, including severe sentences and close supervision while they are in prison, will incapacitate them until release and serve to deter others from participating in organized crime. Standard 8.5 addresses this issue in greater detail.

Probation and Parole for Organized Crime Offenders

A significant proportion of convicted organized crime offenders never reach the institutional part of the criminal justice system because they are placed on probation. A study conducted by the General Accounting Office for the 4-year period, July 1, 1968 through June 30, 1972, indicated that for certain types of convictions in Federal cases, organized crime figures received sentences of probation in a substantial percentage of cases. For example:

Embezzlement and fraud—42 percent
Auto theft—33 percent
Controlled substance—67 percent
Extortion and racketeering—38 percent
Gambling and lottery—52 percent
Weapons and firearms—30 percent
Immigration laws—47 percent
Liquor and internal revenue—41 percent

Overall, probation was granted in 39 percent of the 1,365 cases where sentences were passed on criminals identified by the Department of Justice as being associated with organized crime.[8]

These statistics and the probability that organized crime figures will resume illegal activities lend weight to the opinion of some experts that convicted organized crime felons should be specifically excluded from probation and parole.

Organized crime figures characteristically behave as model probationers, so that they do not usually attract the attention of their probation officers, who often have excessive caseloads. It is easy for the professional criminal on probation to maintain discrete contact with criminal associates, particularly if the probation officer has not been trained in the supervision of this type of offender. Standard 8.6 recommends that an organized crime offender sentenced to probation should receive intensive supervision by specially qualified personnel.

Parole supervision of organized crime figures presents equally difficult problems to the corrections system. Parole for these offenders must include careful surveillance of their activities. Many parole officers, busy with the demands of large caseloads and defiant parolees, are not able to deal properly with organized crime figures who appear to comply with parole regulations. Indeed, many parole officers may not even be aware of an offender's association with organized crime activities. Unless a special unit monitors the activities of paroled organized crime figures, as is done in New York and California, these parolees can apparently satisfy the requirements of a parole system while pursuing illegal activities.

Standard 8.7 recommends the development of parole policies for those associated with organized crime or designated as special offenders. Standard 8.8 recommends intensive supervision of organized crime figures who have been paroled.

The Corruptive Influence of Organized Crime Offenders

Although organized criminals enter the corrections system as offenders, they wield enough power and influence to enable them to engage actively in illegal activities while on probation and parole, to supervise illegal activities from prison cells, and to demand and receive favorable treatment in the corrections system. For this reason, Standard 8.9 proposes that corrections officials establish investigation and review mechanisms to deal with complaints of corruption in prisons and in probation and parole departments.

Posttrial Procedures for Organized Crime Offenders and Organized Crime Control

In considering special posttrial procedures for organized crime offenders, States should examine such procedures in the content of their law enforcement efforts to control organized crime activities. Provisions for extra sentencing of organized crime figures and for special management of such offenders in the corrections systems can insure protection of society by incapacitation of criminals and can provide some measure of deterrence. Without adequate posttrial procedures, investment of law enforcement personnel and money to investigate and prosecute organized crime figures can be fruitless.

Standard 2.5 proposes that each State require its organized crime prosecutor to publish an annual report on organized crime activities and law enforcement efforts to control them. The report would list the number and kinds of criminal cases brought against organized crime figures and would describe their disposition. The status of organized crime offenders in the corrections system would also be presented. Such a presentation would enable the public to measure the effectiveness of all components of the criminal justice system in this important control effort.

[8] Letter from Victor L. Lowe, Director, U.S. General Accounting Office, to Hon. Charles B. Rangel, Mar. 25, 1974.

Standard 8.1

Presentence Report

Sufficient financial and personnel resources should be provided to insure adequate presentence investigation of cases involving organized crime figures. Written reports of these investigations should be prepared so that judges processing such offenders may make informed decisions about the purpose and conditions of sentencing.

Commentary

The presentence report should be made available to the following:

1. The sentencing court, for use in determining the sentence;
2. Individuals or agencies having a legitimate professional interest in the kind of information contained therein (e.g., court-appointed physicians and psychiatrists, probation and parole departments, examining facilities, and correctional institutions);
3. Reviewing courts, where relevant to an appeal issue;
4. The defense attorney; and
5. The prosecuting attorney.

The contents of presentence reports on organized crime figures must be detailed because of the gravity of their offenses and the harm inflicted on society by organized crime operations. Every effort should be made to provide adequate funds for the conduct of competent presentence investigations. These investigations should include a complete description of the offense, the victim, and the offender, the circumstances surrounding the crime, and the offender's ties to organized crime.

Such reports should also include a narrative in which is contained the following information about the offender: criminal record, known associates, social history—including family relationships and marital status, interests and activities, religious affiliations, places of residence, employment history, military record, educational background, medical history, and, if applicable, psychological or psychiatric records.

The presentence report should also include a financial profile of the offender, giving sources of income, property holdings, borrowing habits, and liabilities. Pertinent comments from the investigating and arresting officers and the prosecutor and defense counsel should be a part of the report, along with information on cooperation with the prosecution, and a summary of the main points of the report. The summary should include an evaluation of the potential success of probation and other sentencing alternatives, and should make specific sentencing recommendations, if requested by the sentencing court. Where probation is being considered, a thorough investigation and report are essential. In these instances, proposed employers should be carefully in-

CONTINUED

2 OF 4

vestigated because organized crime controls so many legitimate businesses. Finally, the report should list the kinds of correctional options available within institutions and the community.

The report should provide the sentencing judge with the range of descriptive and evaluative information necessary for passing an appropriate and effective sentence. This kind of thorough report is particularly important when the defendant is a member of an organized crime network, because it provides the judge with a picture of the offender's ties to organized crime, the degree of the offender's involvement in its illegal activities, and the relationship between these factors and the particular crime for which the offender is to be sentenced.

On the occasion of passing sentence, the judge should prepare a report in which are stated the rationale and the objectives of the sentence. This document should be attached to the presentence report and made available to the appropriate correctional institution and parole board, if the offender is sentenced to custody.

It is strongly recommended that the information contained in the presentence report be verified. The Supreme Court validated the use of hearsay evidence in a presentence report in the case of *Williams* v. *New York,* 337 U.S. 241 (1949). It has been the trend of recent court decisions and legislative acts to disclose the presentence report to defendants and their counsel. The Model Sentencing Act does not make disclosure mandatory in the ordinary case, but does require disclosure when the sentence is more than 5 years, for the so-called "dangerous" offender. There is also some indication that courts are beginning to scrutinize the sources, validity, and manner of collecting information in the presentence report. It is proper that they do so, to protect the rights of the accused.

References

1. National Council on Crime and Delinquency, 2nd Edition, 1972, Model Sentencing Act.

2. American Bar Association on Standards for Criminal Justice. *Sentencing, Alternatives and Procedures.* 1968 (Draft). p. 210.

Related Standards

The following standards may be applicable in implementing Standard 8.1:

7.12 Continuing Role of the Prosecutor
9.7 Judiciary
9.8 Probation and Parole

Standard 8.2

Increased Sentences for Dangerous Special Offenders

States should review the Federal provisions on the sentencing of dangerous special offenders (Title X of the Organized Crime Control Act of 1970) and relevant Federal Court decisions. They should then enact legislation that establishes a similar special offender status, authorizes increased sentences and fines for such offenders, and provides for a dispositional hearing prior to sentencing. All provisions should accord offenders due process of law.

Commentary

Organized crime figures are prosecuted for specific crimes and, if convicted, are subject to the same penalties as ordinary criminals. Such penalties, however, may fail to provide adequate public protection against organized crime figures. In many cases, such criminals should be removed from society for periods longer than maximum terms specified in the penal codes. A dispositional hearing, such as that set forth in Title X of the Organized Crime Control Act of 1970, enables the prosecuting attorney to produce for the court, after trial and conviction, additional information identifying the defendant as an organized crime figure. The hearing also affords the defendant the opportunity to contest such evidence.

Prior to trial, the prosecutor should file with the court a notice that identifies the defendant as a dangerous special offender subject to an increased sentence. Before sentence is imposed, there should be a hearing by the court without jury; the defendant and defense counsel should be notified of this hearing and should have the opportunity to inspect the presentence report. If parts of the report are withheld by the court, all parties should be informed of the retention and the reasons for it.

At the hearing, the defendant should be entitled to (1) the assistance of counsel; (2) the right to demand, through compulsory process, the production of witnesses and records, testimony under oath, and other measures believed necessary; and (3) the right to cross-examine witnesses who appear at the hearing. If a preponderance of evidence indicates that the defendant is a dangerous special offender, the court can order the defendant committed for a term longer than that specified for the crime. Extended confinement for an organized crime figure is intended neither to punish nor to rehabilitate the offender, but rather to protect society.

There is a lack of documentation in the use of extended sentences and so their effect on organized criminal activity is not yet available. The Department of Justice has stated that Title X procedures are considered for persons indicted in all Organized Crime Section cases, and they are used often by United States attorneys. States considering the enactment of legislation based upon Title X should examine its

Federal use for adaptation according to the provision and needs of their own jurisdictions. In a case decided in February 1976, the Court of Appeals for the Sixth Circuit reversed the District Court and held that the sentencing structure and the definition of "dangerous" under Title X were not unconstitutional.[9]

[9] *U.S.* v. *Steward*, see Fn. 4, Chpt. 8.

References

1. The President's Commission on Law Enforcement and Administration of Justice. *The Challenge of Crime in a Free Society*. 1967.

Related Standard

The following standard may be applicable in implementing Standard 8.2:

7.12 Continuing Role of the Prosecutor

Standard 8.3

Maximum Terms

All criminal court judges are urged to sentence major organized crime offenders to the maximum terms and fines allowed.

Commentary

The expansion of organized criminal activity suggests that normal sentencing procedures are inadequate. The elaborate structure of organized criminal operations suggests that only lengthy incarceration of and heavy economic penalties imposed on organized crime leaders will effectively reduce their activities. Title X of the 1970 Organized Crime Control Act provides for a maximum sentence of 25 years for dangerous special offenders; this standard recognizes that penal codes of a State may specify maximum terms appropriate to the conditions of that State.

Normal approaches to criminal sentencing generally are not applicable to members of criminal organizations. The organized crime offender is a professional criminal, who weighs possible risks and potential gains before committing a crime. To such individuals, crime is a way of life; the potential for their rehabilitation, through correctional programs, is extremely low. The National Advisory Commission on Criminal Justice Standards and Goals concluded that the lengthy incapacitation of organized crime offenders not only is justified but is perhaps the most appropriate sanction.

References

1. National Advisory Commission on Criminal Justice Standards and Goals. *Task Force Report on Corrections*. 1973. p. 157.
2. *Furman* v. *Georgia*, 408 U.S. 238.
3. American Bar Association Project on Standards for Criminal Justice. *Sentencing, Alternatives and Procedures*. 1968 (Draft). p. 1 and 129.
4. Johnson, Elmer Hubert. *Crime, Correction and Society*. The Dorsey Press, 1968. p. 256.

Related Standards

The following standards may be applicable in implementing Standard 8.3:

7.12 Continuing Role of the Prosecutor
9.7 Judiciary
9.8 Probation and Parole

Standard 8.4

Economic Sanctions

State legislatures should determine the categories of offenses for which an economic sanction is appropriate. They then should provide a formula for applying such sanctions to each category of illegal activity associated with organized crime. The economic sanction should be sufficient to deter the particular offense, to serve as an appropriate correctional technique for the individual offender, and to inhibit the illegal operation.

Commentary

Although the fine is as traditional a sanction as imprisonment, it is counterproductive when applied indiscriminately. The laws on fines are as inconsistent and unevenly applied as are sentencing provisions; little guidance has been given to the courts on imposing fines. State legislatures should revise penal codes so that they state accurately those offenses for which economic sanctions are appropriate. To guarantee adequate sanctions and avoid disparity, minimum amounts should be established, and each fine should be proportionate to the size of the illegal profit.

Legislation authorizing the imposition of fines should include the following provisions:

1. Authority to fix an economic sanction based on multiples of the profit from the illegal activity, with a minimum of double that profit;

2. Authority to impose an economic sanction payable in installments; and

3. Authority to revoke part or all of an economic sanction in order to avoid undue hardship either to the defendant or to others who may not have been involved in the crime. The original prosecutor should be notified if the sanction is revoked.

Sizable fines should serve as a deterrent against organized criminal activity. Illegal syndicates deal in large sums of money; only regular application of economic sanctions will seriously affect them. Sanctions should not be imposed for the purpose of obtaining revenue for the government, nor should a fine be imposed when it would interfere seriously with the offender's ability to make reparation or restitution to a victim. Similarly, a sanction levied against a business or corporation should be imposed with appropriate consideration for the employees of that firm who did not take part in the crime.

Legislation authorizing fines against corporations that conduct illegal business operations or serve as willing instruments of organized crime should include the following special provisions:

1. Authority for the court, where appropriate, to base fines on sales, profits, or net annual income of a corporation, so that the sanction has a consistent impact on various defendants; and

2. Authority for the court to proceed against specified corporate officers or against the assets of the corporation when a fine is not paid.

References

1. American Bar Association Project on Standards for Criminal Justice. *Sentencing, Alternatives and Procedures.* 1968 (Draft). pp. 3 and 117.

Related Standard

The following standard may be applicable in implementing Standard 8.4:

2.1 Review of State Criminal Codes

Standard 8.5

Correctional Policies

Correctional agencies responsible for institutions with adult populations should reexamine and revise or establish their policies, procedures, and practices so that organized crime figures are treated, appropriately, as special offenders.

Commentary

Inmates should be classified as organized crime figures only if the facts indicate that they are important members of a structured criminal organization composed of professional criminals who rely primarily on unlawful activity as a way of life. In making such a determination, the following factors should be considered: (1) the type and seriousness of the crime for which the inmate was incarcerated; (2) evidence presented in the presentence report; (3) information submitted by law enforcement officers; (4) reports made by the prosecutor and sentencing judge; (5) admissions or confessions made by the inmate or by codefendants; (6) information obtained from the dispositional hearing; and (7) records of prior periods of probation and/or parole.

The superintendent of each correctional institution should forward to the State supervisory authority a list of all special offenders in that facility, with specific and detailed reasons for such designation.

Correctional authorities are responsible for insuring the safety of inmates and the security of the institution. It is necessary, therefore, to identify as special offenders those who are likely to harm others, either inmates or correctional authorities, and to limit associations among special offenders.

Constitutional due process requirements must be observed when identifying special offenders. They must receive at least 10 days' notice that they are being considered for special offender classification. This notice should specify the reason(s) for this decision and briefly describe the underlying evidence. Prisoners, if they so request, should receive hearings before the superintendent as soon as possible, so that they can attempt to refute this designation. The subjects and any witnesses should testify under oath to minimize the chances of false testimony; any documentary evidence should also be presented at this hearing.

Because special offenders must be screened more carefully than the general prison population for such programs as work or study release, furlough, and halfway houses, a recent Federal Court of Appeals decided that inmates being considered for such status should be accorded rights of due process that go beyond the procedures outlined above. The court required additional safeguards, which include retaining counsel or counsel substitute, written

factual findings, cross-examination, and review procedures.

Correctional authorities should consult the organized crime prosecutor regarding any change in confinement status of an organized crime offender. The prosecutor's recommendations should be weighed to adequately determine whether or not an offender is being subjected to conditions or requirements that are contrary to the objective of the sentencing authority or not demonstrably consistent with the purpose of the sentence.

Correctional authorities must be fully aware of the procedures that must be followed in supervising organized crime offenders and of the requirement that all parties concerned be notified about any anticipated rehabilitative or conditional release from prison, or consideration for parole or pardon.

References

1. *Cardaropoli et al.* v. *Norton* 523 F2d 990 (2nd Cir. 1975)

Related Standards

The following standards may be applicable in implementing Standard 8.5:

7.12 Continuing Role of the Prosecutor
9.8 Probation and Parole

Standard 8.6

Probation Supervision

In States where the law permits probation for organized crime offenders, procedures should be established to insure that local probation agencies adhere to special standards in supervising organized crime offenders. For example, special caseloads allowing intensive supervision of such offenders should be established; probation personnel of suitable skill, training, and temperament should be assigned. Secondly, probation officers should provide the court with a monthly chronological report of the offender's progress. Thirdly, probation staff should be empowered to petition the court to amend probation conditions to fit the needs of each case.

Commentary

Until all States eliminate the practice of granting probation to organized crime offenders, there should be minimum standards for adequate control. Probation supervision of organized crime figures and other special offenders is a difficult and sometimes dangerous task. Consequently, officers should be properly screened and trained before assuming their duties. Supervision is an ongoing and continuous responsibility, and, with time, circumstances change. For this reason, the probation staff should be able to ask the court to amend conditions to suit the needs of each case. The organized crime prosecutor should be notified prior to this request and due consideration should be given to the prosecutor's recommendations. Requests for reduced supervision should be approved by the court, except when these involve purely administrative practices; the latter should be addressed to the chief probation officer, whose review should respect the rights of both the probationer and the public. Assessment of the amount, duration, and nature of supervisory contact needed should be presented by the trained probation staff. Court review of the probation officer's request should be completed as expeditiously as possible.

Finally, conditions of probation should be fair and flexible but, at the same time, they should effectively restrict the activities of organized crime probationers, particularly associations and travel. Because organized crime is a conspiracy, its perpetrators must be in regular contact with one another; travel and meetings are essential to their success. Only strict restraints on mobility and the opportunity to contact criminal associates are likely to prevent an individual from continued involvement with organized crime.

Probation officers should establish liaison with police agencies to make possible a mutual exchange of information about a probationer's activities. This should benefit the community through early detection of a special offender's reversion to criminal activities. This liaison should also insure that viola-

tions of probation conditions are acted on promptly and information about arrests is communicated quickly.

The monthly chronological report of the offender's progress should include: (1) a complete list of contacts for the month; (2) a detailed account of the individual's employment and residential situation; and (3) an analysis of the probationer's overall adjustment.

References

1. American Bar Association Project on Standards for Criminal Justice. *Probation.* 1970 (Draft). p. 77.

Related Standards

The following standards may be applicable in implementing Standard 8.6:

6.1 State Organized Crime Intelligence Unit
6.2 Local Organized Crime Intelligence Unit
6.3 Regional Organized Crime Intelligence Network
7.12 Continuing Role of the Prosecutor
9.8 Probation and Parole

Standard 8.7

Parole Policies for Special Offenders

Where State law permits parole for organized crime offenders, all parole jurisdictions should develop policies to govern parole release hearings for offenders associated with criminal organizations or designated as special offenders. Ample notice of such a hearing should be given to all local, State, and Federal agencies involved in organized crime matters of their opportunity to testify for or against the granting of parole.

Commentary

Until such a time when each State eliminates the practice of granting parole to organized crime offenders there should be minimum standards applicable to such offenders.

All parole jurisdictions should establish policy guidelines for parole of organized crime offenders. These guidelines should include a minimum standard for length of commitment.

Organized crime figures often have exemplary prison conduct records and are represented at parole hearings by able and experienced counsel. Therefore, when considering parole for such offenders, the board should conduct a thorough review of all data about them. The parole board should strive for a truly objective analysis of the person's behavior while incarcerated. Further, it should review the presentence report, criminal history, recommendations from law enforcement agencies, communications from employers and neighbors, reports and records of probation, and parole experiences. Also to be considered are the recommendations of the trial court and prosecutor, and medical, psychiatric, and psychological reports on the offender.

The parole board should consider all relevant reports and materials in determining parole release. The parole hearing should be conducted informally, with the applicant afforded adequate time to prepare. Any documentary evidence should be accepted and weighed. A record of the proceedings should be made and preserved in the official case folder.

Should the parole board decide to grant parole, it should impose special conditions that will apply for the duration of the parole. These conditions should be suited to the offenders' criminal background and should provide them with an opportunity and perhaps even the motivation to shun their former way of life. For example, a parolee might be forbidden to accept otherwise permissible employment because the particular business is known to be controlled by organized crime.

Finally, when parole is denied, parole officials, within 30 days, must send the offender written notice of the denial, the reason for the denial, and the date (within 1 year) of the next hearing.

Standard 8.8

Parole Supervision

Each State should require local parole agencies to observe minimum standards in supervising parolees associated with organized crime. These should include the following: establishment of special caseloads so that parolees can be intensively supervised; monthly chronological reports of such parolees' progress; and permission for parole staff to request changes in parole conditions to meet the needs of each case.

Commentary

The Corrections Task Force of the National Advisory Commission on Criminal Justice Standards and Goals advocated special caseloads for certain types of offenders who require intensive supervision. Organized crime figures should be the objects of such supervision. They usually avoid flagrant parole abuses so parole officers must be alert to their subtle manipulations of the system. Competently trained parole officers with limited caseloads of organized crime parolees can conduct the intensive supervision necessary for parole to have the desired effect. These officers can then develop contacts in other agencies and detect behavior patterns. As a result, parole officers can provide maximum assistance to both the parolee and society.

Supervision is an ongoing responsibility, but parole circumstances often change. For this reason, the parole staff should be allowed to request the parole board to amend conditions to fit the needs of each case. However, the organized crime prosecutor should be notified prior to this request and due consideration should be given to the prosecutor's recommendations. Requests for reduced supervision must be approved by the Director of Parole Operations.

Parole officers should develop liaison with police agencies to facilitate a mutual exchange of information about a parolee's activities. This promotes community protection by increasing the probability of early detection of special offender's reversion to crime. Such detection may even enable parole officers to prevent an offender's return to crime.

Monthly progress reports on parolees, furnished to an appropriate official (e.g., Director of Field Parole Operations), should include: (1) a complete list of parolees' contacts; (2) a detailed account of their work and home conditions; and (3) an analysis of their overall adjustment.

References

1. Johnson, Earl. "Organized Crime: Challenge to the American Legal System," *Journal of Criminal Law, Criminology, and Police Science*, June, 1963. p. 143.

Related Standards

The following standards may be applicable in implementing Standards 8.8:

6.1 State Organized Crime Intelligence Unit
6.2 Local Organized Crime Intelligence Unit
6.3 Regional Organized Crime Intelligence Networks
7.12 Continuing Role of the Prosecutor
9.8 Probation and Parole

Standard 8.9

Response to Complaints

The chief executive of every corrections agency should be responsive to public and interagency complaints and allegations of criminal misconduct and corrupt practices by corrections personnel. The complaints and allegations should be investigated and, when appropriate, corrective action taken.

Commentary

Vulnerability to corruption is as present within the corrections system as within other components of the criminal justice system. There are documented cases of parole and probation officers, as well as high-level corrections officials, taking bribes for favorable treatment of organized crime figures. This standard proposes prompt agency response to allegations of corruption, to include provision for long-term investigations if warranted.

The chief executives of correctional agencies should designate staff members to investigate allegations of misconduct by corrections personnel in managing convicted criminals, whether probationers, inmates, or parolees.[10] As progress is made toward centralizing all correctional activities within a State, criminal justice officials should consider establishing a statewide office that reports directly to the State's chief executive and is empowered to implement approved recommendations.

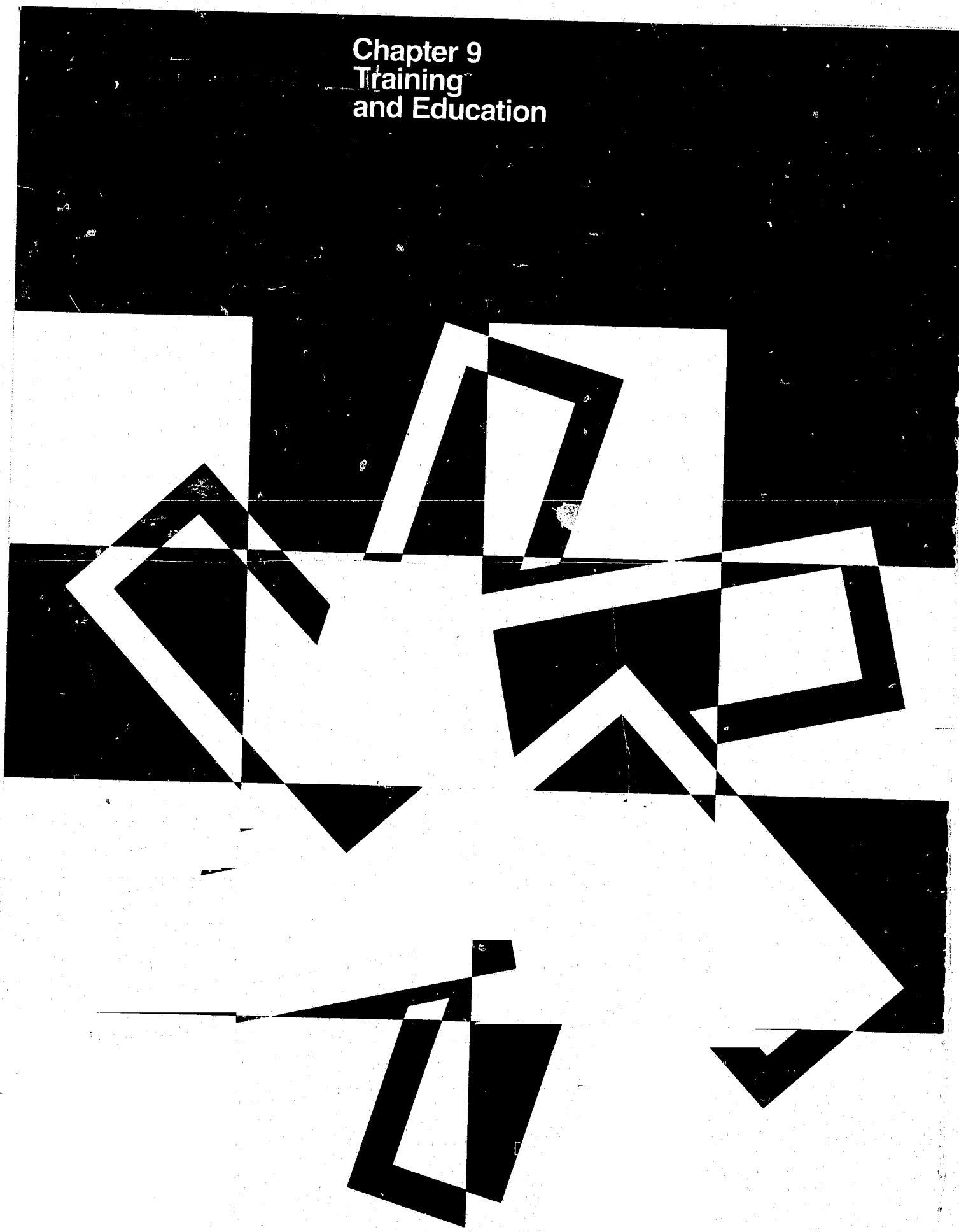
[10]The investigation team should make a full report of its findings and make recommendations.

The chief executive of each correctional agency should have responsibility for maintaining internal discipline and formluating written policies, procedures, and regulations for internal discipline and control. Staff members are responsible for implementing procedures and for registering complaints alleging employee misconduct. Experience has shown that many false allegations are made out of spite or other unworthy motives. Therefore, the staff should be able to screen complaints and investigate those that are well founded. Where there is a finding of misconduct on the part of an employee, prompt and commensurate disciplinary action should be taken.

The proper procedure is to inform complainants that their complaints have been received and either are being processed or have been dismissed because of insufficient grounds. All investigations should be concluded 30 days from the date a complaint is filed, unless an extension (not to exceed 30 days) is required.

Accused employees should be informed in writing of the charges against them, their rights during an investigation (including the right of appeal), and the procedures for legal representation. Those who file complaints should be notified of their final disposition. Finally, the annual public report of each corrections agency should provide details about complaints filed and investigations conducted.

Chapter 9
Training and Education



Organized crime cannot be controlled effectively unless the criminal justice system becomes organized in its efforts to combat it. If an aggressive prevention and control program is to be developed, all persons working within the criminal justice system must be aware of the intricacies of organized criminal activities. This basic knowledge needs to be supplemented by specific training programs geared to each particular function of the criminal justice system. Government and private sectors also need a comprehensive knowledge of organized crime so that they can aid the criminal justice system in detecting and curtailing this form of criminal activity.

Educational programs designed to provide a general knowledge of organized crime are almost nonexistent. Colleges and universities offering criminal justice degrees or courses of study rarely include the study of organized crime in their curriculums. Schools of law, public administration, and government fail to provide their students with a fundamental knowledge of this national menace.

Training programs for criminal justice practitioners are inadequate in number and scope, largely because training in organized crime control has not been a priority of State and local governments. Such training as is available to law enforcement practitioners is generally part of police academy curriculums or orientation sessions for new officers. There is one organized crime training institute specifically for law enforcement officers—the Western Regional Organized Crime Training Institute in Sacramento, Calif. There are several programs offering training seminars for organized crime prosecutors, including The National College of District Attorneys in Houston, Tex.; the Committee on the Office of Attorney General of The National Association of Attorneys General in Raleigh, N.C.; and the Cornell Institute on Organized Crime in Ithaca, N.Y.

The Dade County Institute on Organized Crime in Miami, Fla., is the only comprehensive institute for training and education on organized crime in the Nation. This institute offers seminars for the business community in addition to seminars for judges, prosecutors, and probation and parole officers. The Dade County Institute also offers courses designed specifically for organized crime investigators and intelligence officers and has provided training for officers from 25 States.

These few training programs are not enough. Courses in organized crime must be added to the curriculums of colleges and universities offering courses in criminal justice, as well as to the curriculums of schools of law, business, and public administration. In addition, a coordinated approach to training all components of the criminal justice system must be adopted. The public and private sectors must be educated to deal with the manifestations of organized crime within their spheres of influence.

Education and training in the field of organized crime must be integrated. Blending the knowledge of the educator and the experience of the practitioner offers the best alternative for teaching methods of combating organized crime.[1] Law enforcement personnel have extensive knowledge of the activities of organized criminals derived from investigative activities. Other important sources of information about organized crime include: Federal agencies, organized crime prevention councils, citizens crime commissions, attorneys general, administrative and regulatory agencies, and prosecutors. All of this firsthand knowledge should be gathered and integrated in education and training programs across the country.

Training and education programs specifically dedicated to combating organized crime should be developed, implemented, and adequately supported in every region. The States should establish regional institutes on organized crime, which would consolidate learning resources and disseminate knowledge on a multidisciplinary basis. Ideally, such institutes would possess the following elements:

- They should be law enforcement-sponsored and administered.

[1] In the last decade, such integrated programs have been developed and instituted at institutions of higher education in the areas of police training and corrections. Standards 13.1 and 13.2 of the *Task Force Report: Criminal Justice System* of the National Advisory Commission on Criminal Justice Standards and Goals recommends integrated programs for criminal justice training and education.

- They should have a full-time faculty comprised of law enforcement training and education personnel with academic credentials.
- They should have an in-house capability for research, development, and implementation of a wide spectrum of programs.
- Their curriculums should be designed to meet a wide variety of needs. These should include a continuing program of seminars and workshops in specialized areas of interest.
- They should have an organized crime resources library, including an operational strategy library.
- They should be able to call upon other institutions, agencies, and outside experts for advice and assistance when the need arises.
- They should maintain a field service component that will provide institute courses throughout the region.

Training and education in organized crime control should not be limited to regional institutes. Existing training programs in investigation and prosecution techniques should include courses in organized crime. Additional regional or multi-State programs should be instituted as needed.

Education and training in organized crime control for police chief executives and administrators should receive priority attention. Executive-level seminars for police administrators should be conducted, with emphasis on the need to develop liaison with all elements of the criminal justice system involved in organized crime control. The understanding and support of organized crime intelligence efforts should be stressed at these seminars because the police chief is responsible for the intelligence functions of his or her department.

Inservice training of intelligence officers is also of prime importance. These officers must receive guidance to insure that their efforts are consistent with the interests and priorities of their departments. Commanders and supervisors of organized crime intelligence units should be aware of the latest management concepts, including establishment of goals and priorities, and budgeting. Some police departments are outlining new guidelines for intelligence operations. It is essential that intelligence officers understand and comply with these guidelines.[2] Regional courses would provide an opportunity for commanders and supervisors of intelligence units to discuss these new techniques and guidelines.

The role of the organized crime intelligence officer must be clearly defined and established (see Chapter 5). The investigator must be knowledgeable about the complexity of organized crime activities in order to be most effective. An organized crime investigator should receive several weeks of training at the institute level in order to be aware of the techniques necessary to carry out an effective intelligence operation. The corruptive influence of the organized criminal must be clearly outlined. Accountability must be stressed in order to make officers aware of the best method of handling sensitive intelligence operations requiring close control of informants and undercover activities.

Intelligence officers assigned to investigate highly specialized financial crimes also need comprehensive training. Most law enforcement officers have neither business backgrounds nor an extensive knowledge of finance and accounting. This presents a serious liability to investigative agencies encountering complex financial crimes perpetrated by organized crime figures. Investigations of financial crimes are frustrated frequently by inadequate knowledge; criminal justice investigatory efforts must match the sophistication of such criminal activity. Organized crime analysts also need specialized training. The analyst occupies a key position in successful intelligence and investigative efforts. Working with intelligence information, the analyst searches for patterns of criminal behavior and evidence of organized criminal activity.

The training requirements for organized crime prosecutors differ sharply from the training requirements for other components of the criminal justice system. Unlike law enforcement officers, attorneys engaged in the investigation and prosecution of organized crime cases often are not career public servants. Surveys show that prosecutors assigned to specialized organized crime units typically remain in such units for fewer than 5 years. Thus, formal training that is not immediate, intensive, and thorough is wasteful of prosecutorial resources. On-the-job training is too slow a learning process.

The legal complexities associated with organized crime investigation and prosecution require formal study far beyond that currently offered by most law schools. The law pertaining to such areas as search and seizure, legal process, immunity, and electronic surveillance is constantly evolving, and, to be effective, an organized crime prosecutor must be provided with specialized, continuing legal education. He or she should be exposed to new and expanding legal avenues of combating organized crime. For example, antitrust suits and civil injunctive proceedings may offer means of combating organized crime in the future, although these procedures have not been used regularly in the past.

[2] In December 1972, the New York City Commission to Investigate Allegations of Police Corruptions and the City's Anti-Corruptions Procedures reported startling revelations resulting from, among other things, the lack of proper supervision and accountability.

Effective prosecution requires that attorneys and investigators coordinate their efforts at the outset of the investigation. The prosecutor should have a working knowledge of the activities of organized crime, the law enforcement agencies with which he or she is dealing, and the law. The prosecutor also should have a working knowledge of the work of other components of the criminal justice system involved in controlling organized crime. Thus, the organized crime prosecutor should be familiar not only with the methods by which gamblers, drug traffickers, fences, stock manipulators, and other criminals operate, but also with the latest law enforcement procedures, such as investigative accounting, and economic analysis. Finally, the prosecutor must be trained to develop legal strategies and to administer, plan, coordinate, and prosecute organized crime cases. (See Chapter 6.)

In general, there are few mechanisms available to provide judges with reliable information about organized crime. Because judges should be thoroughly familiar with a convicted criminal's relationship to organized criminal activity before passing sentence, it is crucial for judges sitting on organized crime cases to be provided with an overview of organized crime in their jurisdictions. This information should be updated continually by law enforcement officials.

Organized crime figures pose special problems for correctional authorities, as detailed in Chapter 8. Probation and parole officers need specialized training in organized crime control, including a thorough understanding of the special supervision that is necessary to control the activities of organized crime offenders on probation or parole. Corrections personnel must be aware of the importance of keeping law enforcement officials informed about the activities, travel, and associates of paroled organized crime offenders. They must realize the importance of consulting the organized crime prosecutor regarding any contemplated change in the status of the convicted organized criminal.

The administrative and regulatory capabilities of State and local agencies are overlooked often as a means of detecting and curtailing organized crime. Continuing seminars involving prosecutors and police, as well as regulatory and administrative personnel, would provide much-needed opportunities to plan a coordinated approach to organized crime in a specific locality. Such interaction, detailed in Chapter 5, would enable agency personnel to identify and implement civil sanctions applicable to organized criminals. These seminars could highlight organized crime trends and suggest new areas for regulation and legislation. Seminars would encourage civil agencies to contribute their special resources to an overall program to combat organized crime.

The business community needs to understand the impact of organized crime on its operations. The crimes perpetrated in an organized campaign against business are many. They include: cargo theft, labor racketeering, planned bankruptcy, investment fraud, arson, land fraud, and fencing of stolen goods. Businessmen and women must understand these crimes and learn to take preventive measures against them. A curriculum for members of the business community also should include study of the applicable regulatory sanctions and State and Federal laws. It should address the problem of reporting increasing losses at all levels without creating a panic among financial backers or overreaction on the part of the public. It is recommended that communities institute comprehensive training programs in organized crime control involving employers and employees, security agencies, local civic organizations, citizen crime commissions, and the public. Such programs could stimulate meaningful exchanges of ideas for preventing and controlling organized crime's infiltration of legitimate business. (See Chapter 4.)

Education and training efforts also need to be aimed at raising public awareness about the impact of organized crime on society. Regional organized crime institutes and criminal justice agencies should assist in developing programs to inform the general public about organized crime and law enforcement efforts to control it. (See Chapter 3.)

The news media have the potential to play a valuable role in heightening public awareness of organized crime. Good liaison between the criminal justice system and the media is essential to keeping the public informed about organized criminal activity. Responsible reporting on organized crime can arouse public concern about the problem and develop support for the efforts of the criminal justice system in this area. It can spur public officials to take firm action against organized crime by investigating official efforts in this area and bringing any failures to act to the attention of the public. Inviting journalists to be part of an appropriate law enforcement training program will acquaint them with the tools, goals, and objectives of law enforcement, and will demonstrate a willingness to improve their professional interaction.

Standard 9.1

Police Executives and Administrators

Periodic executive-level seminars should be conducted for executives, policymakers, and administrators to inform them of the trends, problems, and impact of organized crime within their jurisdictions. The role of police intelligence in organized crime control efforts should be fully explained in such programs.

Commentary

The chief administrators of police departments have the primary responsibility for directing law enforcement efforts, including efforts against organized crime. An understanding of this type of crime is essential in order for the administrator to establish an enforcement and investigative capability that will reduce existing criminal activity. It is equally important that administrators understand how to initiate preventive measures and how to deal with the corruption that contributes to organized crime. The administrator must also project the budgetary needs to appropriate legislative bodies as they relate to the goals and objectives of the police department. Therefore, the unique characteristics of organized crime should be discussed in conjunction with the concept that a police administrator's responsibility is not limited to enforcement alone.

The formation of an intelligence capability is necessary in order to overcome the traditional case-by-case approach to organized crime problems. Police executives must insure that the intelligence function fits into their agency operations, and that all operational levels of their departments are integral parts of the intelligence process. This does not mean that other operations will be subservient to the intelligence units; instead, it assures that they will contribute to and benefit from the intelligence function.

Clear and concise legal guidelines relating to intelligence operations and investigative methods must be developed. There must also be cooperation among law enforcement, prosecutorial, and judicial elements of the criminal justice system. The ramifications of privacy and security issues must be considered carefully when addressing the problem of organized crime. (See Chapter 2, Standard 2.4, Privacy and Freedom of Information.) A sensitivity to these conditions and policies is incumbent upon law enforcement administrators.

The ideal forum for discussing crime control theories and techniques in organized crime control with chief executives is a regional 2-day seminar. Resources and curriculums can be coordinated through regional organized crime institutes.

References

1. Western Regional Training Institute, Program

Announcement, State of California Department of Justice. January, 1976.

2. Dade County (Florida) Institute on Organized Crime sponsored by the Dade County Public Safety Department. Miami, Fla.

Related Standards

The following standards may be applicable in implementing Standard 9.1:

1.8 Police Anticorruption Program

2.4 Privacy and Freedom of Information Legislation

6.2 Local Organized Crime Intelligence Unit

6.4 Organized Crime Intelligence Unit Operations

6.8 Accountability

7.12 Continuing Role of the Prosecutor

Standard 9.2

Commanders and Supervisors of Organized Crime Units

Regular regional training seminars should be conducted for all commanders and supervisors of organized crime intelligence units. The sessions should focus on the administration, management, and supervision of organized crime intelligence units.

Commentary

The proper administration, management, and supervision of organized crime intelligence units is critical to the success of the intelligence operation. Thus, the development of highly efficient managers through specifically designed programs should be a priority concern.

Commanders and supervisors of intelligence units must be versed in standard operating procedures. They should be taught how to determine goals and priorities for their units, how to select and train personnel, how to budget their operations, and how to deal with the media. They must understand the role of the analyst and the prosecutor in the intelligence process, as well as the necessity for joint Federal, State, and local cooperation in investigative operations.

Accountability procedures and evaluation techniques are other proper areas of study for managers of organized crime intelligence units. Logs, journals, and reports carefully compiled and maintained will make effective evaluation possible and will contribute to a professional investigative operation.

The laws of privacy and security should be emphasized. In States having wiretap and microphonic surveillance statutes, training for intelligence unit managers should focus on the technical and legal aspects of these procedures; the situations where a wiretap is advisable; and the methods for maintaining surveillance equipment. Security and counterintelligence measures are also appropriate topics for these programs.

Students should develop a working knowledge of organized crime intelligence operations. This knowledge can be developed through the use of expert presentations and problem-solving workshops, incorporating actual case studies. The use of case studies will create an understanding of the need to establish an intelligence unit and to select personnel to meet the objectives of this unit.

In view of the large body of information to be covered, a 2-week seminar is the ideal format for this supervisory training. Thought should be given to screening prospective attendees because of the sensitive subject matter.

References

1. Western Regional Training Institute, Program

Announcement, State of California Department of Justice. January, 1976.

2. Dade County (Florida) Institute on Organized Crime sponsored by the Dade County Public Safety Department. Miami, Fla.

Related Standards

The following standards may be applicable in implementing Standard 9.2:

2.3 Victimless Crimes
2.4 Privacy and Freedom of Information Legislation
3.3 Media Responsibility
6.2 Local Organized Crime Intelligence Unit
6.4 Organized Crime Intelligence Unit Operations
6.5 Access to Files and Dissemination of Information
6.6 Purging of Files
6.7 Organized Crime Intelligence Unit Resource Management
6.8 Accountability
7.5 Electronic Surveillance
7.12 Continuing Role of the Prosecutor

Standard 9.3

Detective and Uniform Patrol

Newly appointed members of law enforcement agencies should receive preservice organized crime orientation. All patrol officers and detectives should receive inservice training in organized crime and police intelligence.

Commentary

Uniformed patrol officers and detectives who are aware of the problem of organized crime are valuable potential sources of information and are a vital part of the intelligence operations of any police agency. Preservice and inservice organized crime training for all law enforcement officers will create an overall awareness of conspiratorial criminal activities.

Where statewide minimum standards are in effect, newly appointed law enforcement officers should receive a minimum of 4 hours of orientation on organized crime. Additionally, each police officer in patrol and detective divisions should receive between 8 and 16 hours of training on the structure of organized crime and the pattern of such activities in the area. Regional institutes on organized crime could coordinate training programs in cooperation with police departments throughout the Nation.

Training programs should address the intelligence process in terms of the benefits available to both the enforcement and intelligence units of a police agency. Furthermore, curriculums should present the intelligence process as an integral part of police operations. Because limited dissemination of information from intelligence units to patrol units is a frequent cause of inter-unit dissension, participants should be informed of the legal restrictions on the distribution of information acquired by intelligence units.

References

1. Chamber of Commerce. *A Handbook on White Collar Crime.* 1974.
2. Law Enforcement Assistance Administration, Office of Criminal Justice Assistance, Technical Assistance Division. *Police Guide on Organized Crime.*
3. Dade County (Florida) Institute on Organized Crime sponsored by Dade County Public Safety Department. Miami, Fla.

Related Standards

The following standards may be applicable in implementing Standard 9.3:

1.2 Investigating Commissions
1.8 Police Anticorruption Program
6.1 State Organized Crime Intelligence Unit

6.2 Local Organized Crime Intelligence Unit
6.3 Regional Organized Crime Intelligence Networks
6.4 Organized Crime Intelligence Unit Operations
6.5 Access to Files and Dissemination of Information
6.6 Purging of Files
6.7 Organized Crime Intelligence Unit Resource Management
6.8 Accountability
7.1 Statewide Capability to Investigate and Prosecute Organized Crime

Standard 9.4

Organized Crime Investigators

Organized crime investigators should receive a substantial amount of inservice training on organized crime detection and control.

In addition, financial investigators should receive specialized inservice training that details the types of organized crime most prevalent in the area and presents the methods of analyzing financial records that have proved to be the most useful for uncovering and prosecuting organized criminal activity.

Commentary

Competent investigators are basic to all efforts to control organized crime. Because of the intricate difficulties inherent in conducting organized crime investigations, all investigators in this field should attend a 5-week training course. This course should provide a broad overview of the history and development of organized crime, as well as detailed information on all aspects of investigation.

A training program for investigators should review each step of the intelligence process, including procedures relating to data collection; methods of reporting, evaluating, collating, analyzing, and disseminating information; and mechanisms for regular reevaluation of data. Investigators should be trained to develop and use informants, conduct undercover investigations, research supplemental sources of information, write reports, and take statements. They also need a working knowledge of how to conduct specific investigations, such as:

1. Illegal gambling investigations into bookmaking, numbers, and lottery rackets;
2. Cash-flow investigations concentrating on the movement of organized crime profits in the legal and illegal markets;
3. Drug investigations beyond the street level, focusing on distributors, smugglers, and financiers;
4. Fencing and hijacking investigations; and
5. Corruption investigations.

The impact of corruption on government and the private sector, and particularly on the criminal justice system, should receive special attention. Effective investigative approaches should be presented in lectures and in workshops. The probability that organized criminals will sidetrack investigative efforts can be reduced if the concepts of accountability and counterintelligence are stressed in these training sessions. Special emphasis also should be placed on the skills required to gather the maximum amount of information with limited investigative resources. To this end, investigators must be trained in electronic surveillance methods where statutory authority for their use exists. Investigators also should be trained in the use of photographic surveillance procedures.

It is important that investigators understand the

relationship between investigators and prosecutors in organized crime cases. Because indicted organized crime figures frequently retain skillful legal counsel, testimony and other evidence comes under closest scrutiny. Organized crime investigators must work closely with prosecutors in order to avoid dismissal of cases, or personal and departmental liability resulting from inadmissible evidence being brought into court. Laws relating to surveillance and interception should be discussed, based on cases containing applicable precedents. Investigators should learn how to prepare a case or conspiracy book as an investigative and prosecutorial tool. Practical exercises should be conducted under realistic field conditions. Field exercises should be concluded only after the participant completes an acceptable investigative report.

The increase in economic crime and the manipulation of financial reports has created a need for business training for financial investigators, in addition to the general training necessary for all organized crime investigators. Financial investigators should be informed about the types of organized criminal activities to investigate, such as land and stock fraud, and false business reporting. Financial investigators need to know what specialized accounting techniques have been used to effectively uncover these activities.

References

1. Western Regional Training Institute, Program Announcement, State of California Department of Justice. January, 1976.
2. Dade County (Florida) Institute on Organized Crime sponsored by Dade County Public Safety Department. Miami, Fla.

Related Standards

The following standards may be applicable in implementing Standard 9.4:

1.5 Political Campaign Financing
1.6 Financial and Professional Disclosure Requirements
7.1 Statewide Capability to Investigate and Prosecute Organized Crime
7.5 Electronic Surveillance

Standard 9.5

Organized Crime Analysts

Organized crime analysts should receive training in the analysis and assembly of data related to the development of intelligence information.

Commentary

The sophisticated and conspiratorial nature of organized crime requires an increased capability for analyzing and probing sources of data on the part of law enforcement agencies. Analysis is a critical component of the intelligence process. It involves assembling bits and pieces of related information to reveal a pattern of meaning. The integration of raw data through analysis is necessary for the effective operation of the intelligence unit.

Analysts should be given at least a 2-week training course, preferably at the institute level, which will furnish students with the skills necessary for the effective analysis of organized crime information. Such training should include presentation of techniques for:

1. Developing a unit collection plan;
2. Storing and retrieving information;
3. Analyzing information links;
4. Evaluating data;
5. Establishing priorities based on departmental needs;
6. Disseminating intelligence to operations requiring this information;
7. Developing sources of information outside of the department; and
8. Developing recommendations for the unit chief on how to enhance the intelligence process.

References

1. Western Regional Training Institute, Program Announcement, State of California Department of Justice. January, 1976.
2. Dade County (Florida) Institute on Organized Crime sponsored by Dade County Public Safety Department. Miami, Fla.

Related Standards

The following standards may be applicable in implementing Standard 9.5:

6.1 State Organized Crime Intelligence Unit
6.2 Local Organized Crime Intelligence Unit
6.3 Regional Organized Crime Intelligence Networks
6.4 Organized Crime Intelligence Unit Operations
6.5 Access to Files and Dissemination of Information

6.6 Purging of Files
6.7 Organized Crime Intelligence Unit Resource Management
6.8 Accountability
7.1 Statewide Capability to Investigate and Prosecute Organized Crime

Standard 9.6

Attorneys General and Prosecutors

Attorneys involved in organized crime prosecution should participate, within their first year of assignment, in an intensive and comprehensive training program in the legal, practical, and administrative aspects of the investigation and prosecution of organized crime cases.

Advanced training also should be made available to prosecutors who have successfully completed the basic course or its equivalent. Seminars presenting specialized techniques in the investigation and prosecution of organized crime cases should include interdisciplinary studies, including intelligence gathering and analysis processes, financial accounting, and relevant social science analysis.

Commentary

Frequently, a law school education is the only training a prosecutor receives prior to assuming a caseload. Even though complicated organized crime prosecution is usually assigned only to senior prosecutors, tenure is so brief that most senior prosecutors have no more than an apprenticeship training in their assigned tasks. There is a clear and pressing need to provide organized crime prosecutors with the legal knowledge and skill necessary to successfully investigate and prosecute organized crime cases. This knowledge must be transmitted to new prosecutors at the outset of their assignments to organized crime units.

Ideally, new prosecutors should attend extensive training seminars. However, balance must be achieved between the immediate needs of the prosecutorial program and the need for a new prosecutor to assimilate a great deal of material. Courses of instruction that are too brief or too basic should be avoided. In order to be even minimally effective, a training course should last at least 1 week.

Organized crime prosecutors can be trained most successfully in an institutional setting with a student body from diverse local, State, and Federal jurisdictions. A course of studies attended by both Federal and State officials has the potential for promoting cooperation between these officials in specific localities. Institutional programs can coordinate resources that can bring new ideas and insights to prosecution efforts. Because the training provided by practitioners is often narrow, and the education offered by academicians is frequently not concrete, instruction at institutes for organized crime prosecutors should integrate the two in a program of lectures and student participation workshops. Lectures should always be tied to specific problems and given in the context of student participation. Explanations of laws and procedures not covered in the lectures should be provided in written form to the students.

Because the legal tools available to prosecutors in

the organized crime field vary from jurisdiction to jurisdiction, a special effort must be made to make the training relevant to those who are receiving it. Every effort must be made to keep the student body homogeneous in terms of investigative and trial capabilities, and in terms of organized crime problems relevant to their jurisdictions.

Organized crime prosecutors are not simply legal technicians whose role is limited to that of the courtroom advocate. These prosecutors must know how to use resources effectively and must understand administrative procedures in addition to law. Organized crime prosecutors must become familiar with police work and be able to participate actively in investigations. Experienced prosecutors should attend advanced training seminars lasting a minimum of 3 days. They should be trained to look beyond the conviction and sentence in a single case to opportunities for changing patterns of operation in the underworld. To this end, they must be trained to evaluate the probable consequences of alternative strategies of law enforcement.

References

1. National Association of Attorneys General, Committee on the Office of Attorney General. Raleigh, N.C.
2. National College of District Attorneys, College of Law, University of Houston. Houston, Tex.
3. The Cornell Institute on Organized Crime, Cornell Law School. Ithaca, N.Y.
4. P.L. 90–83. Section 497, 87 Stat. 209 (1973).

Related Standards

The following standards may be applicable in implementing Standard 9.6:

1.3 Nonpolitical Prosecutors
5.3 Authorization for Access to Records
5.4 Civil Sanctions
5.5 Organized Crime State-Federal Liaison Office
7.1 Statewide Capability to Investigate and Prosecute Organized Crime
7.2 Statewide Authority for Supersession
7.3 Authority for Subpena of Witnesses to Prosecutor's Office
7.4 Statewide Organized Crime Grand Juries
7.5 Electronic Surveillance
7.6 Undercover Techniques
7.7 Use of Depositions
7.8 Recalcitrant Witness
7.9 Immunity Statute
7.10 Witness Protection Statute
7.11 Speedy Trial of Organized Crime Cases
7.12 Continuing Role of the Prosecutor

Standard 9.7

Judiciary

State court systems or regional institutes should conduct seminars to inform judges of the extent of organized crime in their jurisdictions.

These seminars should present information that aids in knowledgeable fulfillment of sentencing responsibilities.

Commentary

Seminars for the judiciary should be designed to provide an overview of organized crime activities and the impact of these activities on the community. These seminars should also provide an understanding of the problems encountered by law enforcement agencies in combating organized crime. Preferably, these seminars should last at least 2 days.

The practice of conducting seminars should be governed by these considerations:

1. All States should provide a biennial sentencing institute, available to all sentencing judges without cost.
2. All judges appointed or elected since the last convening seminar should be required to attend the sentencing institute.
3. The training sessions should address the special considerations involved in sentencing the organized criminal. They should also discuss the effect of "special offender" status in a correctional facility.

In jurisdictions where it is not practical to conduct such training, resources should be made available to send judges to courses or special seminars offered elsewhere.

References

1. Dade County (Florida) Institute on Organized Crime sponsored by Dade County Public Safety Department. Miami, Fla.

Related Standards

The following standards may be applicable in implementing Standard 9.7:

7.12 Continuing Role of the Prosecutor
8.1 Presentence Report
8.2 Increased Sentences for Dangerous Special Offenders
8.3 Maximum Terms
8.4 Economic Sanctions

Standard 9.8

Probation and Parole

Probation and parole officers should receive orientation and continuing inservice training on the investigation and supervision of organized crime cases. This training should include study of case management techniques for supervisors, including the use of civil remedies.

Commentary

Because of the problems involved in supervising organized crime figures who have been placed on probation or parole, officers assigned to these cases need specialized training. They should be familiar with the characteristics of organized criminal activity and with State and Federal racketeering statutes. In addition to this general background, they need detailed training at both preservice and inservice levels in the intricacies of supervising organized crime offenders.

Newly appointed probation and parole officers need a minimum of 4 hours of orientation. This training should include techniques for providing in camera information to the court; procedures for transmitting confidential information; and methods for preparing a data base and for classifying organized crime offenders by status, criminal background, and conspiratorial association. Probation and parole officers must be acquainted with procedures for identifying organized crime cases when the presentence report is prepared and must know how to prepare other appropriate reports in cases where the presentence report is waived. The officers should know how to facilitate case management by recommending special probation conditions to the court before sentence is passed. They must understand the importance of consulting with the organized crime prosecutor before recommending any change in the offender's confinement status and the importance of liaison with law enforcement agencies, which can assist in the investigation and supervision of the offender. In addition, new probation and parole officers should be familiar with the recent due process decisions on classifying individuals as organized crime offenders and the procedures for protecting government witnesses who testify in organized crime cases.

Inservice probation and parole officers should receive a minimum of 1 day of advanced training. Supervisors of large metropolitan offices should undergo at least 1 week of training at a regional institute. Supervisors from other areas should receive a minimum of 2 days of advanced training. This training should include statistical data on the prosecution and supervision of organized crime cases and procedures for coordinating these cases at a management level. It should underline the importance of monitoring the travels of organized crime figures and clear-

ing travel requests with other jurisdictions. Inservice training should provide probation officers with guidelines for handling cases taken over from other jurisdictions, procedures for supervising cases, and standardized reporting procedures for such cases. In addition, inservice training should focus on case management techniques, including procedures for funneling organized crime cases and special requests through a central supervisor; the use of felony registration statutes, where applicable; the use of photographs in presentence reports; and the legal ramifications of improper case management techniques.

All probation and parole supervisors should receive intensive training in case management techniques. In addition to focusing on the need to constantly review and update cases, this training should include:

1. Procedures for developing specialized record-keeping indexes to allow classification of cases by type of offense—such as gambling, drugs, land fraud, and extortion;
2. Techniques for classifying and indexing professional and conspiratorial cases;
3. Procedures for developing case plans and initial case supervision reports; and
4. Procedures for developing special organized crime supervision units in large metropolitan offices.

References

1. Dade County (Florida) Institute on Organized Crime sponsored by Dade County Public Safety Department. Miami, Fla.

Related Standards

The following standards may be applicable in implementing Standard 9.8:

7.10 Witness Protection Statute
7.12 Continuing Role of the Prosecutor
8.1 Presentence Report
8.5 Correctional Policies
8.6 Probation Supervision
8.7 Parole Policies for Special Offenders
8.8 Parole Supervision

Standard 9.9

Administrative and Regulatory Authorities

Law enforcement training should provide a series of seminars on organized crime for civil and regulatory agency personnel to include representatives from such agencies as transportation, banking, insurance, mortgage, real estate, zoning, alcoholic beverage licensing and control, and gambling and racing commissions who should know of the role that they have in organized crime control.

Commentary

Law enforcement training can teach civil and regulatory agencies how to detect organized crime operations in the enterprises that they regulate. These agencies are frequently unaware both of their full range of authority and of their law enforcement potential. Because they lack a sophisticated knowledge of organized crime, local agencies frequently provide these criminals with permits and licenses to create legitimate fronts for illegal operations.

Employees of civil and regulatory agencies should be provided with a seminar lasting at least 2 days to increase their awareness of organized criminal operations and their potential for drastically reducing these operations. Such a seminar will not only create lines of communication among the various regulatory and law enforcement agencies, but can also help to identify gaps in enforcement and regulation that were not known to exist.

References

1. State of Ohio. *Criminal Justice Services of the Executive Branch*. p. 12.
2. Dade County (Florida) Institute on Organized Crime sponsored by Dade County Public Safety Department. Miami, Fla.

Related Standards

The following standards may be applicable in implementing Standard 9.9:

1.1 Organized Crime Prevention Councils
5.1 Staffing and Budget
5.2 Training
5.3 Authorization for Access to Records
5.4 Civil Sanctions
5.5 Organized Crime State-Federal Liaison Office
5.6 Regulation of Corporate and Fictitious Name Organizations

Standard 9.10

General Public

Regional institutes on organized crime or appropriate criminal justice agencies should provide for or assist in developing public education programs to make known the extent and nature of the organized crime control program in their localities. Training for law enforcement and criminal justice personnel should include methods of involving the public in the organized crime control programs at both State and local levels utilizing crime commissions, civic and social groups, and concerned citizens.

Commentary

The objective of public information programs on organized crime is to bring the existence and operations of organized crime to the attention of the community. Public information programs can enhance public understanding of the problem and garner support for efforts to control organized crime. As part of this effort, public service announcements relating the presence of organized crime to street crime can be aired. These announcements would serve to make citizens aware of law enforcement efforts to curtail organized criminal activity. This public information effort has the potential of involving, among others, local citizens crime commissions, chambers of commerce, and veteran and service groups in the effort to raise public awareness of the menace of organized crime.

The institute concept lends itself to the use of selected criminal justice professionals to address civic organizations. The institute can have a meaningful role in the planning of public awareness programs.

References

1. Dade County (Florida) Institute on Organized Crime sponsored by Dade County Public Safety Department. Miami, Fla.

Related Standards

The following standards may be applicable in implementing Standard 9.10:

1.1 Organized Crime Prevention Councils
3.1 Independent Citizens Crime Commissions
3.2 Crime and Corruption Reporting Responsibilities

Standard 9.11

Business Community

Law enforcement agencies or regional institutes on organized crime should conduct seminars to make the business community aware of the operations and threat of organized crime. These seminars should also give criminal justice agencies the opportunity of sharing with the business community the concerns that management personnel have about the unfavorable aspects of the impact of crime on their public and private operations. Training seminars should include such businesses as transportation firms, banks, insurance companies, mortgage firms, land development concerns, real estate firms, retail stores, brokerage firms, import-export firms, and manufacturing concerns.

Commentary

The business community is important to the effort to control organized crime because it is a prime target of this type of criminal activity. Business people need to know which businesses are most susceptible to infiltration by organized crime. A regular series of seminars should illustrate the types of crime that are directed against particular industries.

They should also be apprised of the schemes that may lead to bankruptcy fraud and of the clues that indicate that a business is about to fail by design. The curriculum should include an overview of the laws regulating particular industries and a list of Federal, State, and local agencies responsible for enforcing these laws and regulations. Business people need to know which agencies are available to assist them when they suspect infiltration of their operations by organized crime.

The business community must have a solid understanding of the relationship between organized crime and the cost of doing business. Seminars for business people should include methods for keeping law enforcement officials aware of the nature and extent of crime-related losses; insuring sound inventory control measures for accounting for and reducing such losses; screening personnel; maintaining effective internal security measures; and keeping the public from reacting negatively to these security measures.

Because of the sensitive nature of disclosing profits and losses in the commercial world, business people also need to know:

1. How to inform insurance companies of crime-related losses;
2. How to inform boards of directors of such losses so that they do not overreact and place undeserved blame on management staff; and
3. How to keep stockholders informed of the nature of crime-related losses.

References

1. Dade County (Florida) Institute on Organized

Crime sponsored by Dade County Public Safety Department. Miami, Fla.

Related Standards

The following standards may be applicable in implementing Standard 9.11:

1.1 Organized Crime Prevention Councils

4.1 Company Policy and Internal Controls

4.2 Employee Education Program

4.3 Role of Business, Industry, and Labor Associations in Fighting Organized Crime

Standard 9.12

Media Representatives

Criminal justice agencies and institutes on organized crime should invite representatives of the news media to programs and/or seminars on organized crime activities and methods.

Commentary

The mass communication media can perform a valuable function in the fight against organized crime by informing the general public of the extent of organized crime operations. All representatives of the media should have the opportunity to learn about the extent and nature of organized crime problems and the criminal justice system's response to them. To this end, a 2-day seminar should be provided for the media and representatives of the criminal justice system.

Reporters should be apprised of the investigative restraints placed on law enforcement officials. Particular emphasis should be given to the danger of disclosing information prior to trial that may prejudice a case and result in dismissal.

Investigative reporters can inform the general public of the need for action by describing the extent of organized crime operations both locally and nationally, and can encourage law enforcement's efforts against these illegal activities.

References

1. "Crime Reporting—The Need for Professionals" by Attorney General Nicholas deB. Katzenbach at the 25th Annual Heywood Broun Award Presentation, *Thirty-two Vital Speeches*, March 15, 1966. p. 352.

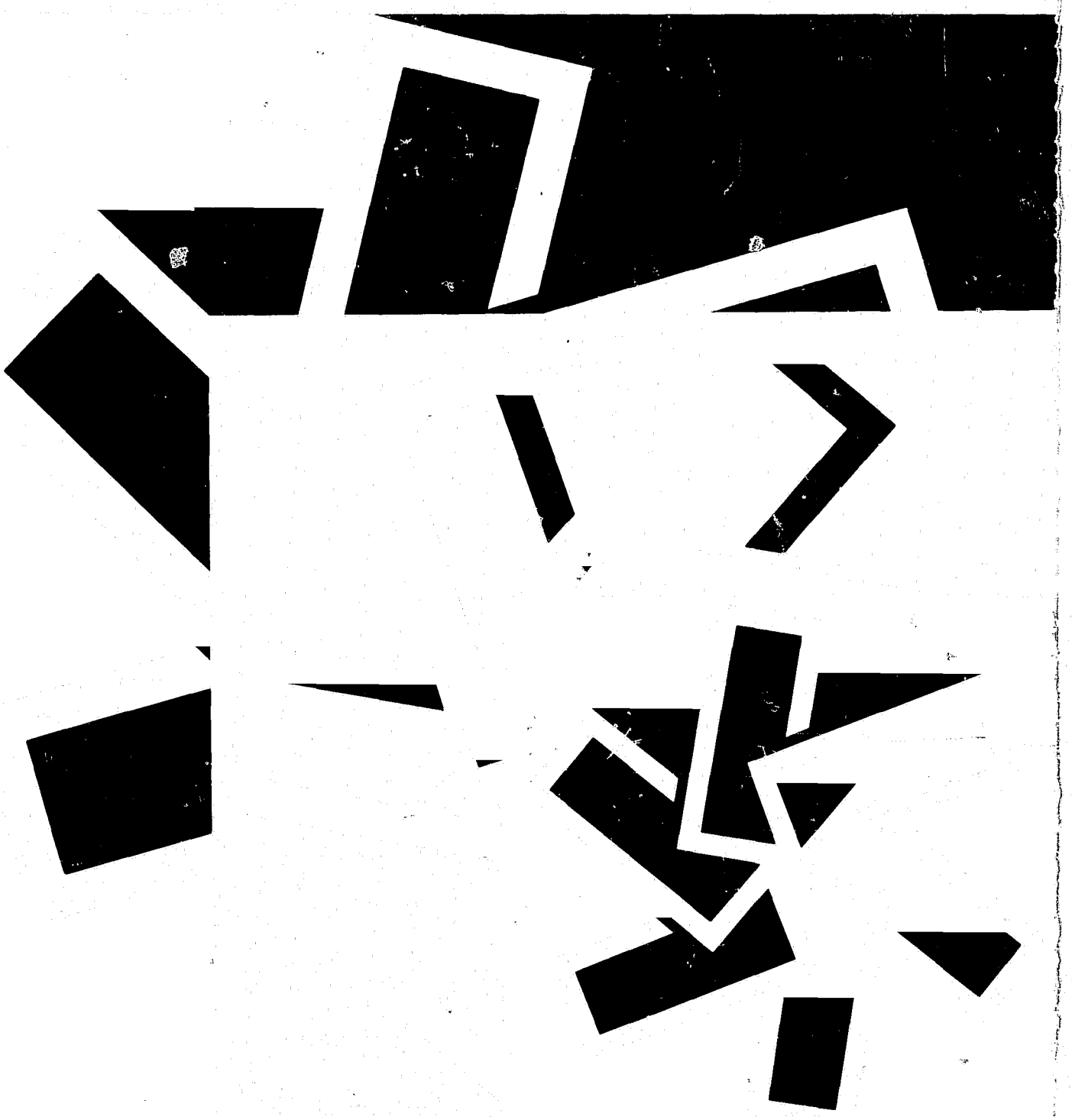
2. Dade County (Florida) Institute on Organized Crime sponsored by Dade County Public Safety Department. Miami, Florida.

Related Standards

The following standard may be applicable in implementing Standard 9.12:

3.3 Media Responsibility

Separate Views of Benjamin L. Zelenko



Although I concur with much of what the Task Force has recommended, there are a number of areas covered by the report about which I feel compelled to make a separate statement.

Status of Organized Crime Today

At the outset of its work the Task Force requested a report from the Department of Justice on the utility and effectiveness of various provisions of the Organized Crime Control Act of 1970 (P.L. 91–452). This recent Federal statute was designed to combat organized crime activities by strengthening the government's investigative and prosecutive capabilities. It was anticipated that the Department of Justice report, based on more than 4½ years experience, would assist the Task Force in appraising the current status of organized crime and in determining which provisions of Federal law should be recommended to the several States for enactment. Copies of the Task Force letter of inquiry dated May 21, 1975* and the Department of Justice response dated November 6, 1975 are attached to this statement and made a part hereof.

Regrettably neither the Department of Justice nor Part 2 of the Task Force report furnishes a definitive statement as to the current status of organized crime. The Task Force staff was unable to provide more than a general description of a crime problem alleged to be burgeoning and which, depending on the particular law enforcement source, was described as "extensive," "significant," or "growing." The inability to present a more precise description of current organized crime activities impairs to some degree the validity of the standards recommended by the Task Force. Also, the Department of Justice report in certain areas fails to substantiate Task Force recommendations for new State laws.

* The Task Force letter of inquiry has been deleted. The substance of the letter of inquiry is set out in the Department of Justice response. Ed.

Operations to Insure Integrity

Standard 1.10 of the Task Force report is intended to deal with corruption in public office at the State and local level. It recommends methods to be pursued by organized crime prosecutors and envisions the staging of crimes and mock criminal cases. Through such manufactured cases it is suggested the integrity of public institutions and officers can be tested and assured. At a time when an increasing incidence of violent crime threatens the peace and security of citizens in cities and suburbs throughout the Nation, it appears a sorry waste of resources for law enforcement agencies to manufacture crimes and criminal cases. In addition to the dubious use of scarce resources of personnel and money, mock criminal cases represent a form of entrapment not likely to guarantee public support for the criminal justice system. Recent news disclosures document a history of Federal undercover activities which have instigated and in some cases financed criminal acts. I do not agree that such undercover techniques should be promoted under the guise of ferreting out corrupt officials.

Electronic Surveillance

The Task Force recommends in Standard 7.5 that every State enact laws to authorize electronic surveillance. Such enactment is recommended irrespective of the nature and extent of organized crime activity within the State. I dissent. I would prefer to allow each State to decide how the conflicting demands of individual privacy and law enforcement should be balanced. The recent report of the National Commission on Wiretapping reveals that wiretapping has been effective exclusively in gambling and narcotics investigations. Experience has been too limited to show its effectiveness as to other criminal investigations. Moreover, the Commission report shows that once wiretapping is legalized, policing its limitations and protecting individual privacy is increasingly difficult to guarantee. A majority of States *do not* authorize wiretapping. I am unable to say categorically

that all States, irrespective of organized crime activity within their borders and on the basis of the recent Wiretap Commission report, must decide to authorize electronic surveillance and thereby jeopardize the protection of individual privacy.

Increased Sentences for Dangerous Special Offenders

The Task Force recommends that the States consider special offender sentencing as set forth in the Organized Crime Control Act of 1970 (Standard 8.2). In this connection, I refer the reader to the Department of Justice response on the utility of the special offender provisions. It would appear, therefore, that the Task Force recommendation is not based on any body of experience developed in the past 5 years at the Federal level. An excellent examination and appraisal of the constitutionality of the so-called two-tiered sentencing system proposed in Standard 8.2 is contained in a recent law review article. See note, *The Constitutionality of Statutes Permitting Increased Sentences for Habitual or Dangerous Criminals*, 89 Harv. L. Rev. 356 (1975).

Investigation and Prosecution Standards

Standards 7.1 and 7.2 mandate the establishment of statewide investigation and prosecution of organized crime offenders. The creation of such statewide authority is proposed for *all* States irrespective of any documentation of organized crime activity or the inadequacy of local prosecutors. Both standards recommend that judicial challenges of statewide prosecutors be prohibited. Thus, witnesses as well as subjects of a criminal investigation would be precluded from questioning the authority of a State official conducting an organized crime investigation or prosecution. However, Standard 7.2 would require a judicial determination before a local prosecutor could be superseded by statewide authority. These standards are not based on a documented need. Mandating the creation of another level of bureaucracy in law enforcement in every State without some showing of need seems to constitute an unwarranted waste of resources. Depriving the accused as well as witnesses of the right to challenge the jurisdiction of a statewide prosecutor would favor the State official over the local prosecutor and present serious constitutional questions of due process. Even if lawful, the wisdom of such procedure in the name of criminal justice is open to serious question. Although the rights of the local prosecutor are to be protected by judicial review before a State official can supersede, public witnesses and subjects of investigation are to be denied a judicial forum to review jurisdictional challenges. Perhaps certain aspects of these standards are warranted in certain States and in certain circumstances, but the Task Force obtained no information to justify its wholesale recommendations of such statewide authority in all States.

Standards 7.8 (Recalcitrant Witness) and 7.9 (Immunity Statute) call for changes in State law incorporating provisions of the Organized Crime Control Act of 1970. As mentioned earlier, the Department of Justice report to the Task Force does not furnish data warranting the recommended changes in State statutes. The Department of Justice information does not document the usefulness of these mechanisms in combating organized crime.

Victimless Crimes

Standard 2.3 recommended by the Task Force concludes that decriminalization or legalization of certain conduct "can encourage the expansion of organized crime activities." No documented evidence supports this general conclusion. In view of an excellent review of this subject by a consultant to the Task Force, a more appropriate recommendation would seem to be that the subject of victimless crimes deserves careful reappraisal by each State, and that such study should include whether incarceration is an appropriate remedy; whether certain conduct should be subject to administrative rather than judicial process; and whether the limited resources of the criminal justice system can be better mobilized by reclassifying certain conduct as noncriminal. The relationship of so-called victimless crimes to organized crime is one, but not the only, subject that needs further study. I, for one, concur with the decision of the National Advisory Committee to include the review of this subject. I hope that it will encourage State and local jurisdictions to reevaluate the issue.

UNITED STATES DEPARTMENT OF JUSTICE

Washington, D.C. 20530

RLT:WSL:ANK:hrl
123-01-2

Nov. 6, 1975

Mr. J. A. Herzig
Staff Director
National Task Force
on Organized Crime
Suite 805
1501 Wilson Boulevard
Arlington, Virginia 22209

Dear Mr. Herzig:

In answer to the questions posed in your letter of May 21, July 9 and July 29, 1975, we know of no reports filed by Special Grand Juries under the Organized Crime Control Act of 1970 (hereafter: the Act). Naturally, no one was indicted and convicted as a result of these non-existant (sic) reports.

Special Grand Juries have been established in every District covered by the Act except Los Angeles, where, we are informed, the Chief Judge has simply refused to do so. The elongated terms of these Grand Juries have proved particularly helpful in persuading recalcitrant witnesses to testify under immunity. These grand juries have returned virtually all Strike Force indictments in headquarters cities since they were established, and we suspect the written reports called for by the Act may be of much more utility on a State or local situation than they are to us.

Exact figures on immunity grants have never been kept. Figures on immunity *authorizations* are, however, available:

Fiscal Year	*Overall No. Of Witnesses*	*Criminal Div. Witnesses*
1972	2338	983
1973	2715	1598
1974	3331	1853
1975	3800 (estimated)	not available

Transactional immunity has not been used to any great extent since October 15, 1970, the effective date of the Act. Indeed, Title 18, Section 2514 expired under the provisions of the Act on October 15, 1974. In fiscal year 1973 less than 1% of the immunity requests were made under the provisions of Section 2514.

Perfunctory checks are usually made with State and local law enforcement officials before immunity is granted. This is particularly true of Strike Forces having State or local representatives present. But some exceptions may be made for especially sensitive situations or instances where the local police are believed to be under the influence of the organized criminal element. These checks are merely a matter of commity (sic) at any rate so long as the testimony is obtained in a Grand Jury setting. In such circumstances the State officials are generally unable to obtain the testimony and, per *Murphy* v. *The Board of Waterfront Comm'rs*, 378 U.S. 52 (1964) the State is still free to act against the witness.

We keep no accurate figures on the use of the contempt sanction, however Strike Forces usually file daily reports of such actions. Examination of these reports reveals the following contempt convictions for the fiscal years indicated:

1969	0
1970	1
1971	9
1972	7
1973	15
1974	14
1975	38

The jump in the 1975 figure is probably due more to an improvement in our reporting procedures than an actual increase of that magnitude.

Use of the amendments to the Fugitive Felon Act, (18 U.S.C. *1073*) are administered wholly by the Federal Bureau of Investigation and inquiry of their experience with fugitive witnesses from State Commissions should be made directly of them.

Section 1623 of Title 18 has, for all intents and purposes, practically replaced the use of Section 1621 since the passage of the Act.

Guidelines for the protection of Government witnesses are contained in Department of Justice Order OBD 2110.2 dated January 10, 1975. We have consistently resisted making the contents of this and predecessor memoranda public in view of the sensitive nature of these operations.

Since 1969 the Department has relocated approximately 1,295 Federal witnesses and a much smaller number (6 to 12) State witnesses. In addition, a handful of witnesses were relocated at the request of the United States Congress.

Use of the deposition authority has been resorted to on about six occasions since passage of the Act. However, the new provisions of Rule 804 of the Federal Rules of Evidence are expected to increase this use in the future.

Section 1955 of Title 18 has become the prime means by which this Department has prosecuted illegal gambling. Of course other relevant Sections of Title 18 (*i.e.* 1084, 1952, 1953 and 1962) are also used when appropriate. But Section 1955 has given us our best and most used weapon in combatting illegal gambling. In fiscal 1975, over 85% of all gambling prosecutions were prosecuted under Section 1955.

Shortly after its passage an intensification drive of gambling enforcement was undertaken which continued in diminishing form for three years. At the end of that time the statistics were drawn together which, for the first time, gave us a picture of the extent of illegal gambling in this country, ending in an estimate that over $28,000,000,000 was bet illegally every year in this country. Over $12,000,000 in fines and recoveries were made from FY 1971 through FY 1973 and over 750 convictions were had during the same period. Unfortunately, the average jail sentence imposed in these cases dropped to less than one half year in the same period (although presently, it is between one half and one year). At any rate, it can be said that many gamblers were brought to the bar who otherwise may not have so appeared, and this was accomplished at great expense to them and their operations.

It is impossible to detail the nature and scope of every case under 18 U.S.C. 1962 because we never comment on pending investigations. However, there is attached to this letter a summary of all indicted and convicted cases as of June 3, 1975.*

Forfeitures under Title IX of the Act have been few, however. Indeed, we know of only one: that detailed on page 4 of the enclosed memorandum. We have no way of being informed about private civil damage suits brought under Title IX of the Act. Your best source of such information might be the Administrative Office of the United States Courts. Divestment has been ordered in only one civil injunctive action in Chicago that we are aware of. In that case a building used by a book-making ring was ordered sold.

Such forfeitures and other penalties should increase in the future after the criminal provisions of the Act are tested in the Courts.

As to Title X, Dangerous Special Offenders are encountered in all phases of law enforcement work. We, therefore, cannot keep track of exactly how many have been filed or are in litigation, but such procedures are considered for all indictees at the time of indictment in all Organized Crime Section cases. In addition, they are relatively well used by the United States Attorneys in the course of their cases. Our one test case of Title X's provisions is presently pending in the Court of Appeals for the Eighth Circuit. There is no internal control over the accuracy of criminal records other than the desire of any competent prosecutor to use

* Attachment deleted.

only such records as he knows, to a moral certainty, are accurate. However, the defendant has every opportunity to challenge inaccurate records in the course of a hearing. We do not regard this as a problem.

As to concentration of our efforts, the concentration on gambling has already been noted. We note that Section 1962 cases being worked with electronic surveillance now take up about 10% of the Title III applications approved. This is a very great increase over past years, and probably indicates a trend toward that type of prosecution.

One thing we have learned from Strike Force operation, as contrasted with some State efforts in this field, is the necessity to retain the control of the prosecuting attorney over the group's activities. Control by the investigators tends to allow the group to lose its organized crime orientation and allow it to enter other, sometimes totally unrelated fields, such as general law enforcement or militant-subversive suppression.

The costs of organized crime are impossible to estimate. Our gambling study estimates that $29.8 billion was bet illegally. We have recovered over $100,000,000 in our operations from January 1969 to July 1975, but that is a very inexact and unreliable *partial* figure. We really do not know the cost and know of no one who would.

We are presently conducting a study of one Strike Force city for the year 1975 and will forward this to you upon completion.

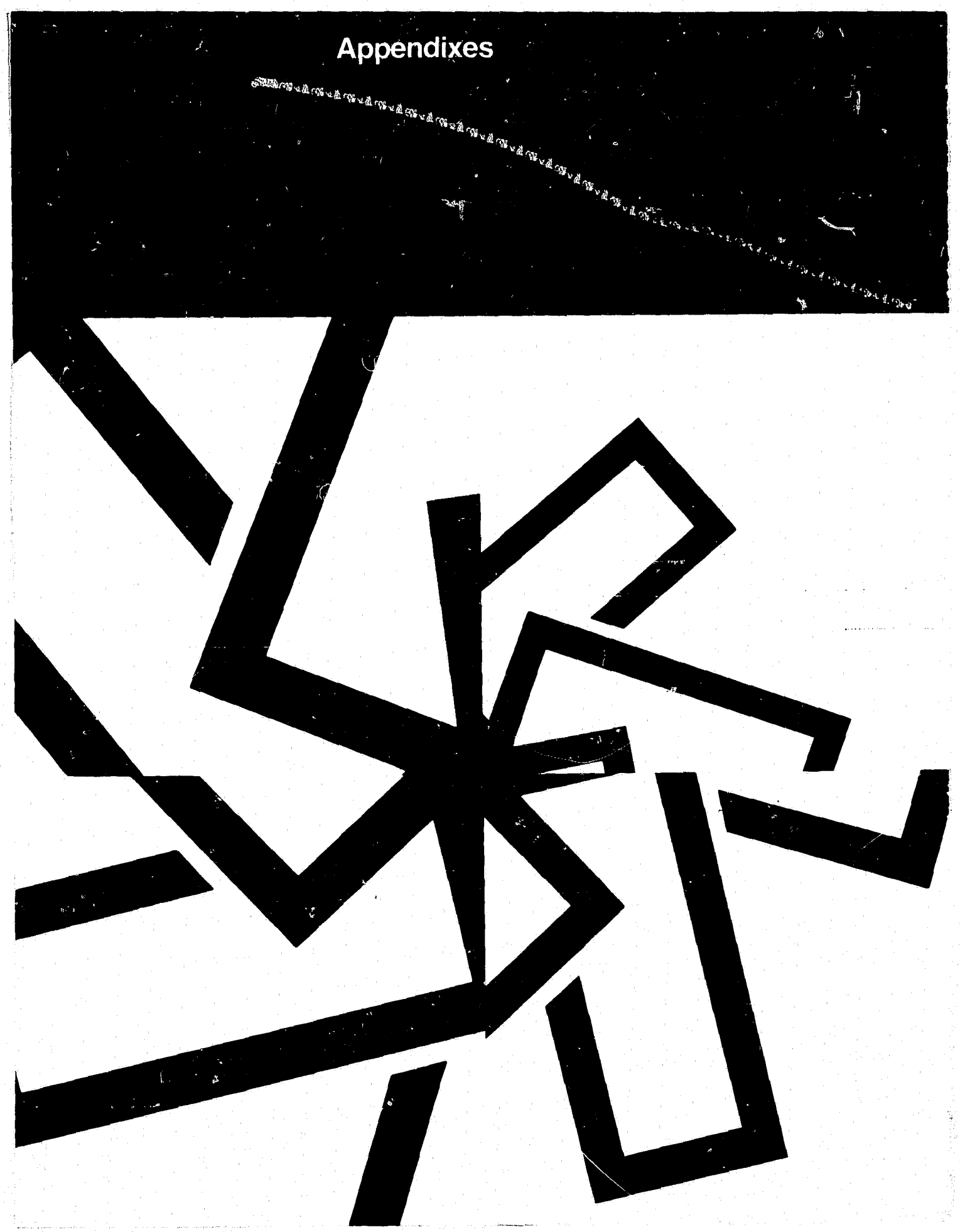
Sincerely,

RICHARD L. THORNBURGH
Assistant Attorney General
Criminal Division

By:
/s/ WILLIAM S. LYNCH
Chief, Organized Crime and
Racketeering Section

Enclosure

Appendixes



APPENDIX 1

DEFINITIONS OF ORGANIZED CRIME

U.S. Department of Justice: The deliberations of the policy making law enforcement officials who participated in the National Commission on Organized Crime, together with the excellent presentations made by leading law enforcement representatives at the Federal, State and local levels, make it patently clear that organized crime today goes far beyond the interpretations sometimes referred to in the past by law enforcement officials and news media, and as portrayed in fictional movies, television programs and novels. It follows, therefore, that organized crime can be more effectively attacked by acknowledging its scope and expanse of influence and activities over the years.

Organized crime includes any group of individuals whose primary activity involves violating criminal laws to seek illegal profits and power by engaging in racketeering activities and, when appropriate, engaging in intricate financial manipulations.

The key to the success of an underworld narcotics operation (i.e., a highly disciplined organization, operating in secrecy and avoiding the disclosure of the identity of those within the organization) is no different than the key to the success of those engaged in commercial bribery or political corruption. They, too, are highly disciplined, are steeped in secrecy, work in close union (when appropriate) with the racketeer element and avoid disclosure of their identities to the outside world.

Accordingly, the perpetrators of organized crime may include corrupt business executives, members of the professions, public officials, or members of any other occupational group, in addition to the conventional racketeer element. The nature of their violations may range from crimes of terror and violence, hijacking, shylocking, narcotics trafficking and gambling, to the more subtle and sophisticated, less understood, but equally serious, crimes of extortion, commercial bribery and political corruption. The violators backgrounds may range from uneducated hoodlum types to sophisticated members of the professions. Both types of operations fit the description of organized crime, are becoming interrelated and drain millions of dollars from the economy of the United States.

At the outset of the planning stages of the National Commission on Organized Crime, one of the first objectives agreed upon by the Policy Committee was the need to "present the current state-of-the-art in organized crime control for the information and education of State and local criminal justice and public organizations whose activities and support are necessary in controlling the problem of organized criminal activity nationwide."

We can think of no better way to contribute to the objective than by refining the description of "Organized Crime" in the United States. (U.S. Department of Justice, Law Enforcement Assistance Ad-

ministration, Report of the National Conference on Organized Crime, 1975.)

California: Organized crime consists of two or more persons who, with continuity of purpose, engage in one or more of the following activities: (1) The supplying of illegal goods and services, i.e., vice, loansharking, etc.; (2) Predatory crime, i.e., theft, assault, etc.

Several distinct types of criminal activity fall within this definition of organized crime. The types may be grouped into five general categories:

1. Racketeering—Groups of individuals which organize more than one of the following types of criminal activities for their combined profit.

2. Vice Operations—Individuals operating a continuing business of providing illegal goods or services, such as narcotics, prostitution, loansharking, gambling, etc.

3. Theft/Fence Rings—Groups of individuals who engage in a particular kind of theft on a continuing basis, such as fraud and bunco schemes, fraudulent document passers, burglary rings, car thieves, truck hijackers, and associated individuals engaged in the business of purchasing stolen merchandise for resale and profit.

4. Gangs—Groups of individuals with common interests or background who band together and collectively engage in unlawful activity to enhance their group identity and influence, such as youth gangs, outlaw motorcycle gangs, and prison gangs.

5. Terrorists—Groups of individuals who combine to commit spectacular criminal acts, such as assassination and kidnapping of public figures to undermine public confidence in established government either for political reasons or to avenge some grievance.

Delaware: A group of individuals working outside the law for economic gain.

Hawaii: Any combination or conspiracy to engage in criminal activity as a significant source of income or livelihood, or to violate, aid or abet the violation of criminal laws relating to prostitution, gambling, loansharking, drug abuse, illegal drug distribution, counterfeiting, extortion, corruption of law enforcement officers or other public officers or employees.

Kansas: We use the definition which was first adopted when this office, through the Kansas Bureau of Investigation, applied for a Law Enforcement Assistance Administration grant from the United States Department of Justice to fund a statewide Organized Crime Intelligence Unit. Organized Crime is "a continuing criminal conspiracy organized for power and profit utilizing fear and corruption to obtain immunity from the law."

Louisiana: A continuing criminal conspiracy operating legally and illegally in society for a profit motive utilizing the tools of fear and corruption.

Maryland: The definition of organized crime used in Maryland would follow that promulgated by the United States Department of Justice at this time. However, in the course of revising the standards and goals of the Committee, a revised definition is being discussed.

Michigan: There exists in Michigan, whether characterized as Organized Crime, the Syndicate, the Mafia, or La Cosa Nostra, a loose confederacy among a relatively stable group presently promoting and participating in criminal activity and having a common purpose of extending that criminal activity wherever possible. This group is allied by familial relationships and agreements for mutual support and common action. This confederacy is comprised of individuals of varying degrees of influence and authority within its structure, who jointly establish policies and administer forms of discipline to persons who attempt to interfere with its activities. A substantial cadre of associates is dependent upon and totally subservient to this group, and is directly involved in these illegal enterprises. The core of the criminal activity is in furnishing the illegal goods and services of loansharking, gambling, labor racketeering, and narcotics. But the group's participation is definitely not limited to these enterprises.

Mississippi: Two or more persons conspiring together to commit crimes for profit on a continuing basis.

Missouri: Organized crime has been defined as a self-perpetuating criminal conspiracy for power and profit, utilizing fear and corruption and seeking to obtain immunity from the law.

Nevada: The definition of organized crime is the same definition used by the United States Department of Justice.

New Hampshire: 'Organized crime' means the unlawful activities of the members of a highly organized, disciplined association engaged in supplying illegal goods and services, including but not limited to homicide, gambling, prostitution, narcotics, marihuana and other dangerous drugs, bribery, extortion, blackmail and other unlawful activities of members of such organizations. (RSA 570–A:1,XI)

New Mexico: Organized crime is defined as "the supplying for profit of illegal goods and services, including, but not limited to, gambling, loansharking, narcotics, and other forms of vice and corruption, by members of a structured and disciplined organization." (Section 39–9–2A., NMSA, 1953 Comp., 1973, P.S.)

The Governor's Organized Crime Prevention Commission of New Mexico ("Commission"), in its 1973 Annual Report, supplemented this statutory definition with the following language, and the Commission has adhered to this supplement in defining and determining its jurisdictional areas of operation:

> Where there is evidence of continuing criminal conspiracy, structured according to authority or skills, operating substantially for the purpose of unlawful profit and power, which uses fear, force or corruption, or supplies illegal goods or services, or supplies goods or services illegally, there is evidence of organized crime.

Ohio: Organized criminal activity:

(A) When directed by the governor or general assembly, the attorney general may investigate any organized criminal activity in this State. "Organized criminal activity" means any combination or conspiracy to engage in criminal activity as a significant source of income or livelihood, or to violate or aid, abet, facilitate, conceal, or dispose of the proceeds of the violation of, criminal laws relating to prostitution, gambling, counterfeiting, obscenity, extortion, loansharking, drug abuse or illegal drug distribution, or corruption of law enforcement officers or other public officers, officials, or employees.

(B) When it appears to the attorney general, as a result of an investigation pursuant to this section, that there is cause to prosecute for the commission of a crime, he shall refer the evidence to the prosecuting attorney having jurisdiction of the matter, or to a regular grand jury drawn and impaneled pursuant to section 2939.17 of the Revised Code. When evidence is referred directly to a grand jury pursuant to this section, the attorney general and any assistant or special counsel designated by him has the exclusive right to appear at any time before such grand jury to give information relative to a legal matter when required, and may exercise all rights, privileges, and powers of prosecuting attorneys in such cases. (Revised Code Section 109.83.)

Oregon: Organized crime is a self-perpetuating, continuing conspiracy operating for profit or power, seeking to obtain immunity from the law through fear and corruption.

Pennsylvania: The Pennsylvania Crime Commission's *1970 Report on Organized Crime* cites the description of "organized crime" contained on page 1 of the *Task Force Report: Organized Crime*, President's Commission on Law Enforcement Administration of Justice (1967).

Two Pennsylvania statutes also define the term. Pennsylvania's Corrupt Organizations Act states:

> Organized crime is a highly sophisticated, diversified and widespread phenomenon which annually drains billions of dollars from the national economy by various patterns of unlawful conduct including the illegal use of force, fraud, and corruption. (Act of December 6, 1972, No. 334, 18 Pa. C.S.A. Section 911.)

In addition, Pennsylvania's immunity law provides:

> 'Organized crime' and 'racketeering' shall include, but not be limited to, conspiracy to commit murder, bribery or extortion, narcotics or dangerous drug violations, prostitution, usury, subordination of perjury and lottery, bookmaking or other forms of organized gambling. (Act of November 22, 1968, P.L. 1080, No. 333, 19 Pa. C.S.A. Section 640.6.)

Puerto Rico: We have given no special definition to Organized Crime, other than that given by the Task Force Report on Organized Crime of the President's Commission on Law Enforcement and Administration of Justice published in 1967. However, our problem of organized crime in Puerto Rico, up to now has been local in nature. There are four general areas which point out some organization. These are narcotics, gambling, prostitution and automobile theft. There are other areas but these are the most prominent of them.

Tennessee: The unlawful activities of the members of an organized, disciplined association engaged in supplying illegal goods and services, including, but not limited to, gambling, prostitution, loansharking, narcotics, labor racketeering, and other unlawful activities of members of such organizations. (T.C.A. Section 38–508.)

Washington: Those activities which are conducted and carried on by members of an organized, disciplined association engaging in supplying illegal goods and services and/or engaged in criminal activities in contravention of the laws of this State or of the United States.

Wisconsin: The Wisconsin Department of Justice has defined organized crime in the same manner as the Task Force on Organized Crime for the President's Commission on Law Enforcement and the Administration of Justice did in its 1967 report.

APPENDIX 2

VICTIMLESS CRIMES: SHOULD THEY BE LEGALIZED OR DECRIMINALIZED?

The Debate in the Context of Controlling Organized Crime

Fact Research, Inc., Washington, D.C.

Statement of the Task Force on Organized Crime

The Task Force on organized crime deliberated for a number of months how best to consider decriminalization, a subject that inevitably arises during discussions on organized crime. One possible way further to inform itself was to have a study on so-called victimless crimes prepared by a consultant. Upon examination of the consultant's paper, the Task Force decided that although it was a competent and workmanlike study based upon the existing literature, and thus adequately served its purpose as a briefing paper, its conclusions did not reflect the findings of the Task Force based upon the experience of its members. Hence, the Task Force decided not to make the consultant's paper on victimless crimes a part of the report. The sense of the Task Force on the subject of so-called victimless crimes has already been set forth in Standard 2.3 and its commentary.

While recognizing the right of the National Advisory Committee to have the consultant's paper included in this report, its length and format still seem inappropriate to the Task Force in relation to the presentation of other matters. The Task Force is acutely aware, moreover, that inclusion of this paper, which presents a multitude of opposing views, may well generate misquotations out of context that will be attributed to the Task Force itself and that will heighten the emotional level of the current debate.

It must be explicitly stated, therefore, that the Task Force voted not to include the paper.

Part I. Introduction

Victimless Crimes: General Background

There is no precise definition of "victimless" crimes that is universally accepted, but two are frequently used. Sociologist Herbert Packer describes them as "Offenses that do not result in anyone's feeling that he has been injured so as to impel him to bring the offense to the attention of the authorities. . . ." [1] Sol Rubin, counsel for the National Council on Crime and Delinquency (NCCD), describes a victimless crime as "Behavior not injurious to others but made criminal by statutes based on moral standards which disapprove of certain forms of behavior while ignoring others that are comparable." [2]

Some basic characteristics of victimless crimes appear in most discussions, though not every characteristic fits each crime or each situation. These characteristics are as follows:

[1] Kiester, Edwin, Jr., *Crimes With No Victims,* New York: Alliance for a Safer New York, 1972, p. 3.
[2] Ibid.

- There is no complainant.
- Victimization seems remote and arguable. Injury, if any, is only to the consenting party. The participants do not judge themselves to be harmed.
- A voluntary exchange of goods and/or services takes place, usually for profit by the supplier. Frequently a third party shares in the profits.
- The above exchange often occurs in private or semiprivate locations, and has low visibility.
- There is a pattern of continuing involvement, liable to occur spontaneously at any time.
- The activity is proscribed because it has been or is considered immoral by much of society. Nevertheless, there is a large public demand for it.

Crimes commonly considered victimless include public drunkenness, gambling, prostitution, pornography, drug use, vagrancy/loitering, abortion, homosexuality, and other practices.

A great many people disagree that there is such a thing as a victimless crime. With regard to the participant, they argue, the absence of a complaint does not mean there was no harm done or no victim. A prostitute's customer, or "john," may contract venereal disease or be robbed, and a gambler may be cheated. These victims may not complain for a number of reasons: the activity is illegal; they fear exposure, embarrassment, and retaliation; or they believe a complaint would be futile. Nor do people always act in their best interests or take into account possible long-range consequences, such as addiction to a drug or financial disaster as a result of gambling.

Society as a whole may be the victim of the cumulative effects of these seemingly innocent activities. Consider, for example, the numbers bet. It is one part of a major source of revenue for organized crime,[3] which uses the money for other illegal activities, e.g., corruption of public officials and takeover of legitimate businesses.

A Call for Reform of Victimless Crime Laws

Traditionally, victimless crime offenses have been handled through the criminal justice system. Recently, this policy has become an issue for a number of reasons. Questions have been raised about the constitutionality of the laws and the way they are enforced, and about the efficacy of these laws in deterring or helping offenders. In addition, there is the practical matter of where best to spend limited law enforcement resources. These doubts have led many people to call for reform. Among the possible reform approaches are decriminalizing or legalizing the proscribed activities.

These alternatives are often cited by people who are concerned with combating the involvement of organized crime in four areas: gambling, drug use, prostitution, and pornography. Briefly, the argument is as follows: the prohibition of certain activities for which there is considerable public demand encourages the participation of organized crime and enables it to reap large profits. Because public demand is widespread and the supply of illegal goods and services is virtually limitless, the laws, in a practical sense, are unenforceable, and they put a heavy burden on the criminal justice system, sapping its ability to deal with more serious crimes.

If gambling, narcotics, prostitution, and pornography were decriminalized or legalized, say the proponents of these views, there would be increased competition and reduced profits, and organized crime thus would be eliminated from participation. In addition, there would be other important and related benefits. Many proponents believe, for example, that the widespread corruption of public officials would cease. They also maintain that the resources of the criminal justice system would be freed for a stronger assault on more serious crimes. In the process, this assault would bring to justice the high-echelon members of organized crime itself.

This paper provides a summary of what has been written to date about the involvement of organized crime in the four activities mentioned above. The paper also describes the potential effect that decriminalization or legalization would have on organized crime's operations in these areas.

Part II gives an overview of organized crime's involvement. The section also contains a brief description of the origins and results of the prohibition amendment to the U.S. Constitution, a description that gives a historical perspective to the current situation. Public drunkenness—generally classified as a victimless crime—is considered in terms of recent reforms to decriminalize the offense and establish treatment and rehabilitation programs. These steps may be a model for the reform of other victimless crime laws.

Part III deals with the alternatives of decriminalization and legalization as they relate to the four crimes discussed. This section begins with a look at the moral, legal, and practical arguments for reforming the laws and the counterarguments against such actions. Following that is a discussion of the potential impact of the alternatives on organized crime's involvement in each crime. Finally, brief mention is

[3] Task Force on Legalized Gambling, *Easy Money*, New York: Twentieth Century Fund, 1974; Geis, Gilbert, *Not the Law's Business? An Examination of Homosexuality, Abortion, Prostitution, Narcotics and Gambling in the United States*, Crime and Delinquency Issues, NIMH Center for Studies of Crime and Delinquency, Washington, D.C.: U.S. Government Printing Office, 1972; and Weinstein, David and Lillian Deitch, *The Impact of Legalized Gambling: The Socioeconomic Consequences of Lotteries and Off-Track Betting*, New York: Praeger Publishers, 1974, p. 17.

made of the issues that reform raises for society to address.

A Note on the Sources

The information for this paper was obtained from three broad categories of material: books; articles in popular and professional magazines and journals; and government reports, especially those of national commissions investigating the crimes in question or reform of the criminal justice system. A bibliography of the material reviewed is included.

Much has been written about victimless crimes, but little about organized crime's involvement in these activities. When that issue is considered, the material rarely deals in detail with the potential impact of decriminalization or legalization on organized crime operations. Opinions about victimless crimes are frequently stated without factual support or sources, and some key questions have not been explored at all. For example, if gambling and narcotics were legalized, depriving organized crime of major revenue sources, what would be the impact on organized crime generally and on its other activities, such as loansharking? Could organized crime survive even if it were deprived of a monopoly on gambling and drugs?

Part II. The Involvement of Organized Crime in Victimless Crimes

The Broad Picture

Advantages for Organized Crime

The nature of some victimless crimes makes them excellent targets for organized crime. Says one observer: "Organized criminal groups participate in any illegal activity that offers maximum profit at minimum risk of law enforcement interference." [4] Generally, these activities involve something the public wants badly enough to risk criminal sanctions. Providing them requires certain skills and an organization, in return for which there is great potential for profit.

Gambling, drugs, prostitution, and pornography all meet these conditions, and supplying them is relatively free of risk. Because the public tolerates the activity—indeed, a large segment demands it—there rarely is a complainant. Moreover, there is little incentive for strict law enforcement or tough judicial decisions. Even if there were, the laws are extremely difficult to enforce. Evidence is hard to come by, witnesses are scarce, and the organized crime masterminds are insulated from implication in the activities.

Characteristics of Involvement

Organized crime attempts to achieve monopolistic control over specific activities and geographic areas in which it operates. However, there is some dispute over the extent of this control. The Organized Crime Task Force of the President's Commission on Law Enforcement and Administration of Justice (1967) stated that few independent operators exist in cities where organized crime is present.[5] Others agree, saying that where independents exist, they do so at the sufferance of organized crime, and last only as long as they are not a threat or major source of competition to that element. In short, "Until they become a threat to the 'big group' they are permitted to exist and to continue to grow." [6]

It is also probable that organized crime tolerates independents only up to a point, so that "Only when profits are of sufficient consequence do the larger organizations move in to become affiliated with local groups." [7]

On the other hand, one authority thinks that, for an unknown reason, organized crime's hegemony is limited primarily to Los Angeles in the West and Northwest and is absent in some areas of the East as well.[8] Similarly, 1974 Justice Department statistics suggest that organized crime's control of gambling may not be all that complete. The percentages showing that control, by region, are as follows: Far West—29.2 percent; Midwest—47.4 percent; Northeast—53.2 percent; Southeast—35.7 percent; Southwest—2 percent.[9] There is reason to believe that organized crime's control of the drug trade is also slipping, and that these criminals are no longer very much interested in prostitution.

The top echelons of organized crime have established a shield between themselves and the law. Actual street merchandising of illegal goods and services usually is handled by nonmembers of the organization who know little about their suppliers, and thus are unable to inform on them. For those who do know, organized crime figures combine the threat of retribution with a promise to provide a lawyer and

---

[4] Task Force on Organized Crime, The President's Commission on Law Enforcement and Administration of Justice, *Task Force Report: Organized Crime*, Washington, D.C.: U.S. Government Printing Office, 1967, p. 2.

[5] Ibid.

[6] Pace, Denny F. and Jimmie C. Styles, *Organized Crime: Concepts and Control*, Englewood Cliffs, N.J.: Prentice-Hall, Inc., 1975, p. 16.

[7] Ibid., fn., p. 21.

[8] Conklin, John E., "Organized Crime and American Society," in: Conklin, John E., ed., *The Crime Establishment, Organized Crime and American Society*, Englewood Cliffs, N.J.: Prentice-Hall, Inc., 1973, pp. 1–24.

[9] Op. cit., Task Force on Legalized Gambling, p. 9.

court costs in case of arrest, and to care for an individual's family in the case of conviction.

Some observers stress the significance of this buffer, contending that as long as the higher levels of the organization are protected, the supply of goods and services will flow without interruption, because there will never be a shortage of sellers or customers. Others, however, believe this point is exaggerated. They argue that organized crime depends entirely on its market; and if that can be severely disrupted, organized crime will be crippled.[10]

A third point to note is that the survival of organized crime does not depend on a single individual. "Like any large corporation, the organization functions regardless of personnel changes, and no individual—not even the leader—is indispensable." [11]

The next factor to consider is control. Organized crime is able to hold sway over not just its street-level operators but, to some degree, the official forces arrayed against it. There is general agreement that organized crime's illegal activities could not be sustained without the complicity of local law officers, judges, and politicians at all levels. In effect, "The organization . . . provides a systematized method of corrupting the law enforcement process by centralizing procedures for the payment of graft." [12] Corruption has been well documented, perhaps most elaborately by the Knapp Commission in New York City [13] and in a study of Reading, Pennsylvania, by John Gardiner.[14]

The method of corruption varies with the positions of the officials to be corrupted. The higher they are, the more subtle and difficult the corruption will be to trace. Politicians are offered campaign contributions, for example, and there are cases where organized crime has swung an election or affected the course of legislation.[15]

Many authors cite the parallels between organized crime operations and large-scale, legitimate businesses. They may speak, for example, of a "large-scale, organized system, often of national scope, comprising an integration of the stages of production and distribution of the illicit product on a continuous and thoroughly business-like basis." [16]

Thomas Schelling, author of a number of economic analyses of organized crime, adds that because organized crime must use extortion to monopolize its area of activity, the street-level suppliers are vulnerable to this tactic. These suppliers cannot complain to the police, because they are committing crimes. Also, they cannot hide, because they must be accessible to their customers, and they cannot move their businesses out of town.[17]

As with legitimate enterpirses, organized crime's "businesses" require certain conditions and characteristics in order to be profitable. Schelling believes that by analyzing the structure and operations of the businesses, a strategy can be devised to affect their profitability, a practice that occurs among competitors in the legal marketplace.

An economic approach might involve "regulation, accommodation or the restructuring of markets and business conditions." [18] If, for example, an illicit operation is profitable because a law "protects" it from legitimate competition, then removal of the law should undercut it. However, if the operation is profitable because it is a monopoly based on extortion, removing the law would have little effect.[19] The end of the Prohibition period, followed by a free, though regulated, liquor trade, is an example of how competition drove organized crime out of one activity.[20]

Independent Factions of Organized Crime

The characteristics described above refer to one type of organized crime—the larger networks of criminal groups typified by certain kinds of structures and ways of operating. For example, the executive levels of the structure are buffered from the visible, daily operations for which they could be more easily arrested. There is an attempt to establish monopolies and a tendency to resort to extortion, intimidation, and other illegal and unsavory tactics.

---

[10] See, for example, Pace and Styles, op. cit. and Wilson, James Q., Mark H. Moore, and I. David Wheat, Jr., " 'Dealing with Heroin': What Public Policy toward Heroin?" from "The Problem of Heroin," *The Public Interest,* in: *Current* (January 1973), pp. 10–39.

[11] Op. cit., Task Force on Organized Crime, p. 7.

[12] Ibid., p. 3.

[13] The Commission to Investigate Allegations of Police Corruption and the City's Anti-Corruption Procedures, *Knapp Commission Report on Police Corruption,* Dec. 26, 1972, New York: George Braziller, 1973.

[14] Gardiner, John A., "Wincanton: The Politics of Corruption," in: *Task Force Report: Organized Crime,* Task Force on Organized Crime, The President's Commission on Law Enforcement and Administration of Justice, Washington, D.C.: U.S. Government Printing Office, 1967.

[15] Op. cit., Pace and Styles, p. 25; and Salerno, Ralph and John S. Tompkins, "Crime and Politics," in: Conklin, John E., ed., *The Crime Establishment, Organized Crime and American Society,* Englewood Cliffs, N.J.: Prentice-Hall, Inc., 1973, pp. 147–158.

[16] Kadish, Sanford, H., "The Crisis of Overcriminalization," *The Annals of the American Academy of Political and Social Science,* 374 (November 1967), p. 164.

[17] Schelling, Thomas C., "What Is the Business of Organized Crime?" *The American Scholar,* 40 (Autumn 1971), pp. 643–652.

[18] Schelling, Thomas C., "Economic Analysis and Organized Crime," in: *Task Force Report: Organized Crime,* The President's Commission on Law Enforcement and Administration of Justice, Washington, D.C.: U.S. Government Printing Office, 1967, p. 114.

[19] Ibid.

[20] Op. cit., Schelling, "What Is the Business of Organized Crime?"; Schelling, *Organized Crime;* and Packer, Herbert L., "The Crime Tariff," *The American Scholar,* 551–557, date unknown.

However, it is important to note that throughout the country there are other crime factions that can and are called organized. "No city in America is entirely free from the influence of some type of organized criminal activity. Not all have members of national affiliation, but most have organized elements who work together for their common good." [21]

Quite numerous, most of these elements are probably small and local, and they may or may not be independent of the more formal organized crime networks. Not a great deal has been written about the former groups. However, because of the importance some have assumed in the last few years, they are now being studied more frequently and carefully.

A detailed analysis of some of the New York factions is provided by sociologist Francis Ianni, who studied several blacks involved in three victimless crimes—gambling, drugs, and prostitution.[22] Although not nearly as tightly knit as the infamous Italian families, these individuals did seem to be linked in an informal network, primarily for exchange of information and customers.

The ties within these groups vary. With the Cubans, as with the Italians, ethnicity and kinship are dominant. Among blacks it is often childhood friendships, political militancy, or friendships formed in prison.

Ianni believes that it is only a question of time before the black groups set up larger, better organized, monopolistic networks. He points out that some Cuban rings dealing in cocaine already evince many of the characteristics of the Italian groups: a pattern of criminals moving up through the hierarchy, arriving at the top, and moving into legitimate enterprises; tight organizations; links with many areas of the country; and good protection for those at the top.

Ianni mentions several conditions that he believes must be met if the independent groups are to expand and consolidate. First, they must gain control over several activities, instead of each individual working a specialty. The groups also must find a common ground on which to join forces, and should expand their territorial control, especially to markets outside the inner cities. This action may mean ousting the Italian groups from their traditional fields, or developing new markets with new goods.

Blacks could capitalize on their control of the numbers racket, but Ianni believes that this game eventually will be legalized. He believes that drugs may be the most ideal area for expansion, because the inner city is a good place to deal from and the market can be entered easily. However, it would be essential that they develop a market outside black neighborhoods, for there is very strong and active opposition by many blacks to drug use. As for prostitution, blacks seem dominant now, but that activity does not yield enough profits to provide a base for a larger organization.

Finally, these small groups must begin to provide for their own protection on a systematized basis.

Ianni sees as one of the long-term effects of the formation of these groups "the continued displacement of Italian-American syndicates from the international drug traffic . . .," [23] new patterns of wholesaling, changes in the ethnic balance of organized crime, and the increasing importance of cocaine.

The changes may already be occurring with the black groups. A 1975 *New York Times* article [24] on the heroin trade in New York mentions a Council of twelve, a black organization that allegedly controls Upper Manhattan. This council settles disputes, controls competition, and keeps the peace. The recent increase in the heroin traffic is attributed to the work of this and other groups. The fact that the price has stabilized and quality improved suggests they are providing a large and steady supply of drugs, which indicates good organization.

Some of these black groups are believed to be involved in all stages of the drug trade, from importation to final street sales. The *New York Times* article suggests that some of the improved organization may, ironically, have resulted from the tough Rockefeller drug laws, which drove out the amateurs and required closer and better organization and new tactics.[25]

The Crimes

Gambling

Games of chance provide organized crime with its largest source of revenue. The major games are sports betting, bookmaking, numbers, and casino gambling. Accurate figures on the amounts bet and numbers of bettors are not available, and the estimates vary too much to be of use. However, almost all sources agree that sports betting provides the bulk of organized crime's revenues, followed by numbers and illegal off-track betting (OTB). Casino-type gambling is possibly the smallest activity, and consists primarily of the game of craps.

There is some disagreement about organized crime's involvement in sports card betting. Although

[21] Op. cit., Pace and Styles, p. 21.
[22] Ianni, Francis A., *Black Mafia,* New York: Simon & Schuster, 1974, p. 245.
[23] Ibid.
[24] Raab, Selwyn, "Illegal Narcotics Tariffic Is Worst Here in Five Years," *New York Times,* Dec. 8, 1975, 1, p. 49.
[25] Ibid.

most authors list this as at least a low-ranking organized crime operation, a *New York Times* study of sports betting found no evidence of illegal syndicate involvement.[26]

It appears that football is by far the most popular wagering sport, followed by baseball, basketball, hockey, horseracing, and miscellaneous events.[27] Where legal OTB is available (currently in New York and Nevada), the volume of illegal horserace betting generally seems to decline (see Part III for a more complete discussion).[28] For example, the *New York Times* found that the percentage of a bookmaker's business based on horseracing declined from about 50 percent to 10 percent with the advent of legal OTB in New York, and that sports bet bookmakers sometimes refuse the small $10 horse bet.[29] Instead, they refer the bettor to OTB.

In Las Vegas, the decrease in this illegal activity is attributed largely to the lowering of the Federal tax on wagers from 10 to 2 percent, an action that makes the licensed bookmaker more attractive.[30]

Illegal gambling is found everywhere. It is generally believed that organized crime's influence over the operations is quite pervasive, in that this element either controls the games or takes a cut of someone else's operation. Some dispute this assumption, however. Consider, for example, the Justice Department figures cited earlier; these indicate a good deal of independent action, and the *New York Times* states that "Thousands of independent bookies either not connected to the mob, or paying nominal franchise fees, operate outside the main structure." [31]

Organized crime's control of gambling is maintained by violence when necessary, but is usually guaranteed through the provision of services the street-level operator needs to survive. Essentially these services include protection, "layoff" or sharing of risks, assistance in the event of arrest and conviction, and financial aid. Organized crime's operation is a "highly developed, intricately detailed corporate structure . . . a smoothly functioning system of distribution and marketing extending to the grass roots, with a method of spreading the risks to the small operator ['laying-off'], a means of protecting the business from the majesty of the law, and enough muscle to squelch the competition." [32]

[26] Cady, Steve, "Sports Betting: States Act to Legalize It but U.S. Opens Inquiry," *New York Times,* Jan. 19, 1975, Section 5, 3:4.
[27] Cady, Steve, "States Ignore Bet Laws in Split on U.S. Policy," *New York Times,* Jan. 20, 1975, 1:1.
[28] Op. cit., Cady, "Sports Betting: States Act to Legalize It . . .;" and Weinstein.
[29] Op. cit., Cady, "States Ignore Bet Laws . . .," 36:1.
[30] Op. cit., Cady, "Sports Betting: States Act to Legalize It. . . ."
[31] Op. cit., Cady, "States Ignore Bet Laws . . .," 36:1.
[32] Op. cit., Kiester, p. 28.

Independent operators would have difficulty running a profitable game on their own. One longshot can wipe out an entire bankroll. Heavy betting on one team could force an operator to change the odds or refuse to accept new wagers, moves that are very unpopular with customers. With the organization behind independents, they can balance their books by laying off bets with other bookies or with organized crime's bankers, and they also have a ready, if expensive, source of credit.

"Comeback" betting, apparently less used today,[33] is another service the individual bookie could not provide. Protection can be a major expense, especially for sports bet bookmakers, whose margins of profit are very slim. They benefit greatly by organized crime's systematized network of payoffs, with the bonus of protection from competition.

In return for these services, organized crime of course exacts a sizable share of the take, and has little to fear from law enforcement efforts, because its top managers are not involved in street-level operations. The street people are part of the organized crime network, but are not part of organized crime itself, and know little about it. By comparison, the brains in the organization are buffered from involvement in the most open operations, where arrests occur most frequently.

The supply of the illegal goods and services is very hard to prosecute. Electronic equipment, such as telephonic jump boxes, is used extensively to avoid detection. This makes it very difficult to catch the people involved. The New York City Police Department estimates that there are at least 200 major organized crime service offices and 30 big money layoff rooms in the city alone,[34] and most of these operate with impunity.

Organized crime is not involved in illegal games only. It has infiltrated legal sports, though the degree of its involvement now seems much less than in the days when Arnold Rothstein allegedly rigged the world series. Scandal after scandal has rocked legalized casino gambling in Nevada, and many racetracks have, at one point or another, been tarnished by organized crime. Recently, the New York harness racetracks banned all superfecta betting when betting patterns indicated it was being fixed.[35] This was an exotic wager that offered large payoffs at very high odds.

Legal charity games have also been exploited. In Brooklyn, organized crime has been known to pay a legitimate organization, one that is permitted by

[33] Op. cit., Task Force on Legalized Gambling.
[34] Op. cit., Cady, "States Ignore Bet Laws . . .," 36:1.
[35] Op. cit., Weinstein, p. 102.

law to operate charity games, for the use of its name.[36]

The major exception to the rule of organized crime infiltration is the lottery, which seems to be free of its connections in all States.

Not much has been written about the involvement of independent factions in gambling. Ianni and others have documented that blacks and Puerto Ricans are in the numbers business in New York, especially in Harlem and Brooklyn. Their operations do not seem to be well organized, and Ianni believes that some still depend on Italian families for capital and protection.[37]

It is important to note at this point what the ordinary bettor gets from organized crime's operations, even when legitimate games are available. Organized crime offers greater variety, regular services, and a fast, guaranteed payoff. Clients can telephone their wagers, bet on credit, and receive very personal service, especially from the numbers runners. They also have anonymity and freedom from paying Federal taxes on their winnings, and the odds are better than they could get from an individual operator. "The bettor gets credit, good odds . . ., a reasonable takeout (4.5 percent, one-fourth the rate at which States tax horseracing), prompt service, maybe even a bottle of whiskey at Christmas." [38]

Of course, there are also disadvantages to playing illegal games—the risk of arrest, lack of recourse from cheats, and the danger of owing a debt to organized crime. However, not many players seem to be deterred by them.

Drugs

Drug use is a national problem of growing proportions, especially the abuse of heroin. Almost every locality has experienced it. Heroin addiction, once thought to be a problem for large cities only, is now apparently spreading to smaller cities and the suburbs and is no longer considered an inner city problem.[39]

An example is Phoenix, Ariz. This city has one of the fastest growing heroin problems in the country, and use is increasing most rapidly among middle class whites. The problem undoubtedly is related to the proximity of Phoenix to the Mexican border, so that the city's situation is somewhat atypical. However, that problem is now shared by many other localities.[40]

Organized crime's involvement in the drug trade appears to be largely concentrated on heroin. Some who have analyzed the situation trace this involvement to 1924,[41] when the domestic production of opium poppies was banned. Others blame this development on World War II, which caused the supply of the drug to be shut off.[42]

The heroin trade has been made to order for organized crime. As in gambling there is a large demand: People want to buy no matter what the price, so the profits are enormous. Obtaining the supply requires a very efficient organization with a good deal of capital. Protection at the street level is also important.

"The sale of narcotics is organized like a legitimate importing-wholesaling-retailing business,"[43] says one commentator. The main supply was previously via the Turkish pipeline while it was still functioning. Through ties with organized crime contacts in Europe, American gangsters purchased heroin in large quantities and arranged to have it smuggled into this country. Once here, it was distributed in smaller lots to middle-level wholesalers, who cut and packaged it. They in turn distributed it to lower level wholesalers, who cut it further and sold it to dealers on the street.

Organized crime's direct involvement did not usually extend beyond the middle level, though it probably collected a lion's share of the profits all the way down the line. Thus the illegal syndicate was protected from law enforcement. The Organized Crime Task Force of the President's Commission on Law Enforcement determined that organized crime's lack of involvement beyond the middle level was the result of the severity of mandatory Federal penalties and the more active enforcement at lower levels,[44] another example of how organized crime buffers itself from law enforcement.

At no point has the involvement of organized crime been monolithic. In certain regions of the country—notably the West Coast and along the Mexican border—trade has been largely in the hands

---

[36] Fellows, Lawrence, "Old Saybrook's Serenity Rocked by Gambling Raid," *New York Times*, Aug. 19, 1975, 26:1; " 'Las Vegas Nite' Was the Real Thing, Police Raiders Say," *New York Times*, Aug. 4, 1975, 21:1; Buckley, Tom, "Professional Gamblers Copy Churches' 'Las Vegas Nites,' " *New York Times*, Mar. 7, 1974, 41:1; and op cit., Task Force on Legalized Gambling.

[37] Op. cit., Ianni.

[38] Op. cit., Cady, "Sports Betting: States Act to Legalize It. . . .," 3:2.

[39] See, for example, *The Washington Post*, Mar. 17, 1976, 1:1.

[40] Kasindorf, Martin, "By the Time It Gets to Phoenix," *New York Times Magazine*, Oct. 26, 1975, p. 18 ff.

[41] Op. cit., Pace and Styles.

[42] Glaser, Daniel, "Interlocking Dualities in Drug Use, Drug Control and Crime," in: Inciardi, James A. and Carl D. Chambers, eds., *Drugs and the Criminal Justice System*, Sage Criminal Justice System Annuals, Sage Publications, Vol. II, 1974.

[43] Op. cit., Task Force on Organized Crime, p. 3.

[44] Ibid.

of independents, who are difficult to control.[45] It is believed that the farther one moves from the borders, the more likely is organized crime's involvement, because more organization and protection are needed.[46]

There is much conflicting information about the place of organized crime in the heroin trade. There are claims, however, that Mafiosi went to Mexico to establish new ties after the French connection was broken,[47] and there are also reports that new groups have taken over.[48] The latter are composed primarily of Spanish Americans and blacks, who have better connections in Latin America.[49]

Two *New York Times* reporters, Selwyn Raab and Nicholas Gage, have noted the growth of black and Cuban rings.[50] Raab quotes a Drug Enforcement Administration (DEA) official who doubts that Italian organized crime controls more than 50 percent of the heroin trade.[51] He gives the names of the 13 top traffickers in New York, according to police records. Five are black, four are Hispanic, and four are Italians connected with the Mafia. No group is considered to be in control now, but the newcomers are believed to be holding their own. One black group has extensive national ties and is involved in all steps of the heroin trade, while another specializes in the Asian traffic.[52]

A number of sources seem to believe that the Italian organized crime network has been waiting for the French connection to open up again,[53] and recent information indicates that this may have occurred. Nicholas Gage says that the French connection is again dominant in New York City. The network has been reorganized, with most of the heroin entering the country through the Midwest, where security is not so tight. Purity has gone up to 7 percent from the low of 2 percent of the last few years, an indication that the supply is ample and stable.[54] Some is believed to come from stockpiles laid up in 1972, when the French connection was broken,[55] but law enforcement officials think that much (with more to come) is from new crops in Turkey, which is once again cultivating the opium poppy.[56]

Perhaps the answer is found in a combination of two factors. The first is that a pattern of regional control may have emerged. Near the Mexican border there seems to be a lot of independents, but in areas of the country other than New York the new groups seem to be dominant. Gage estimates that Latin American heroin comprises 80 percent of the supply in Chicago, 70 percent in Houston, 60 percent in Los Angeles, and 50 percent in Denver.[57] In New York City, European heroin is dominant, and its supply is controlled by the Italian organized crime families.

The second factor is the changing or changed nature of organized crime's involvement in the drug arena. Wherever it is involved, most sources agree, the nature of organized crime's operations has changed. It is now primarily a financier, putting up capital for large-scale purchases; import and distribution have passed to other hands.[58]

B. Bruce-Briggs, in an article in *New York Affairs* dated 1974, says that organized crime's withdrawal from much of the drug trade goes back as far as the Apalachin, N.Y. meeting of organized crime figures in 1958. At that meeting, he maintains, organized crime decided to get out of drugs, except as financier, expediter, and protector. Wholesalers are now "small, independent criminal gangs increasingly drawn from the minority groups who are the biggest market." [59]

There is one important question in all this: If the French connection reassumes its former role, and given the fact that the quality of European heroin is better, will organized crime try to reassert its former influence, or will the new groups move into the trade?

There has been little speculation about the change. One theory is that as the risks of drug business increase, organized crime is less willing to get involved, especially because it is now moving into safer, legitimate businesses. Another theory is that when the Turkish trade was disrupted, it was far easier for blacks and Spanish Americans to establish links with Mexican sources, which now account for 70 to 90 percent of the supply. Most sources state that, since

[45] Op. cit., Pace and Styles; and the President's Commission on Law Enforcement and Administration of Justice, *The Challenge of Crime in a Free Society*, Washington, D.C.: U.S. Government Printing Office, 1967.

[46] Op. cit., Pace and Styles.

[47] Gage, Nicholas, "Latins Now Leaders in Hard-Drug Trade," *New York Times*, Apr. 21, 1975, 1:1, 26:1.

[48] Op. cit., Ianni; and Raab.

[49] Ibid.

[50] Op. cit., Raab; and Gage.

[51] Op. cit., Raab.

[52] Raab, Selwyn, "Top Dealers Named by Police," *New York Times*, Dec. 9, 1975, 1:1.

[53] Op. cit., Raab, "Illegal Narcotics Traffic. . . ."

[54] Gage, Nicholas, "French Connection Stays Dominant in Market Here," *New York Times*, Apr. 23, 1975, 57:1.

[55] Ibid.

[56] Op. cit., Raab, "Illegal Narcotics Traffic. . . ."

[57] Gage, Nicholas, 'Drug-Smuggling Logistics Bizarre and Often Fatal," *New York Times*, Apr. 22, 1975, 1:7, 24:1.

[58] Op. cit., President's Commission on Law Enforcement; and Walker, Leslie, *The Mob*, New York: Delacorte Press, 1973.

[59] Bruce-Briggs, B., "Should Heroin be Legalized?" *New York Affairs*, 2, Fall 1974, p. 35.

about 1973, Latin America has been the primary source of heroin and most other drugs.

Although the heroin traffic situation may be unclear, the same cannot be said for cocaine, the new "in" drug according to several sources.[60] Demand for it rose greatly during the heroin shortage of the early seventies, and, as always, supply rose to meet demand. This time it was not the Italian organized crime families who predominated, but a number of new rings—Cubans, Colombians, Mexicans, and some black groups. Their entrance is logical, because they obviously have connections in Latin America.

Not a lot has been written about these rings, because they are fairly new, as is the extensive demand for cocaine. Most information comes from Ianni's work and from two recent articles.

The first article is by Thomas Plate, who studied the Cuban connection in New York.[61] He found that these rings are highly organized and self-financed, with extensive national links. A main pipeline is through Miami, a major import point and home of Cuban immigrants. Members "prefer to remain aloof from the actual dirty work and confine their involvement to financing other gangsters . . . whenever possible, of course, with the paid-for cooperation of the relevant law enforcement authorities. They provide the venture capital to cocaine rings struggling to get started and they will on occasion handle large quantities of very high quality cocaine." [62] Plate also believes, however, that the success and newness of the trade has encouraged a lot of independent operators, especially former couriers, who supply large amounts of the drug.[63] But he believes that this freelance system and the mutual toleration of the various ethnic groups will break down.[64]

Plate makes an important point in connection with the cocaine trade and the role of supply and demand. Although demand for heroin is quite inelastic, meaning that use is not much affected by changes in price, Plate does not believe this is true with cocaine. "An iron law of drug marketing holds that it is *supply* that determines demand. This is so because the demand side of the equation is largely determined by the underworld's ability to deliver."[65] Plate believes that it will be extremely difficult, if not impossible, to eliminate the supply. The coca plant, from which cocaine is derived, grows readily throughout Latin America, especially in the inaccessible mountains, and is a major cash crop of the very poor peasantry.

In 1975 Nicholas Gage did a series of articles for the *New York Times* on the cocaine trade.[66] He found that the Colombians were very heavily involved and that their country was the major source of supply. A DEA official working there told Gage that there were at least 60 to 80 major Colombian organizations involved.[67] The trafficking was very sophisticated, involving hundreds of planes, boats, and couriers. Further, those involved used clever techniques. To escape coastal radar, two planes would fly very close together, appearing as one blip on the screen. Once through the radar, the empty plane would land and clear customs, while the one with the drugs would continue on to a pickup point.[68]

Once the drug was inside the United States, it was turned over to major Latin American distribution rings centered in New York and New Jersey, where the Colombians were joined by the Cubans. The cocaine was then sold in one kilo lots to a wholesaler, who cut it and sold it to retailers, who in turn sold it in 1-ounce lots. Much of the drug was moved through restaurants and bars.[69]

Marihuana, perhaps the most widely used drug today, appears to be mostly in the hands of independents.[70] There is no indication as to why organized crime has not established control, or even if it has tried. One suggestion is that so much is distributed and there are so many sources of supply and suppliers that it would be impossible to control the trade. LSD and other hallucinogens also seem to be in the province of independents.

It is also unclear whether organized crime is involved in the illegal production or distribution of prescription drugs, though that practice has been alleged but not proved.[71] The New Jersey State Commission on Investigation found evidence in the early 1970's that organized crime and some newer black groups were financing illegal laboratories to produce "speed." They were located in Newark, Atlantic City, Philadelphia, Detroit, and Canada, and served an international and national market.[72] On the other hand, *The American Connection: Profiteering and Politicking in the "Ethical" Drug Industry,* discusses the widespread illegal traffic in prescription drugs in the 1950's through the 1970's. The author does not indicate that organized crime was much involved.[73]

[60] Op. cit., Ianni; Gage; and Plate, Thomas, "Coke: The Big, New Easy-Entry Business," *New York,* circa 1973, pp. 63–69.
[61] Op. cit., Plate, pp. 63–69.
[62] Ibid., p. 66.
[63] Ibid., p. 67.
[64] Ibid., pp. 68–69.
[65] Ibid., pp. 63–64.
[66] Op. cit., Gage.
[67] Op. cit., Gage, "Latins Now Leaders. . . ."
[68] Op. cit., Gage, "Drug-Smuggling Logistics. . . ."
[69] Ibid.
[70] Op. cit., President's Commission on Law Enforcement.
[71] Ibid., p. 218.
[72] Janson, Donald, "Drug Inquiry Asks Police Be Aided," *New York Times,* Dec. 21, 1973, 74:8.
[73] Pekkanen, John, *The American Connection,* Chicago: Follet Publishing Company, 1973.

Whether or not organized crime groups are or are not currently involved in prescription drugs, many people believe that they will be, because the profits will prove tempting.[74]

A number of important questions remain untouched concerning the relationship of organized crime to the drug trade. If organized crime is actually withdrawing from the heroin trades in New York, is this true elsewhere, and why? Will organized crime attempt to establish monopolies in other substances, including prescription drugs? Will the illegal syndicate attempt to become involved in the growing marihuana trade? Or has it done so already, and if so, why has it failed? What is the relationship of organized crime with the other rings now forming?

Prostitution

Prostitution was one of organized crime's early rackets, dating from the turn of the 20th century. Unfortunately, not much has been written about how organized crime got into and ran the operations, or where illegal syndicates were most heavily involved. Because of the notorious Lucky Luciano's extensive involvement with prostitution in New York, more is known about the market there—at least up to the time he was successfully prosecuted by Thomas E. Dewey.[75]

One author says that the heyday of organized crime's control was during the Depression. The number of prostitutes soared, as that trade seemed the only source of income. Supposedly the supply of customers was also plentiful—unemployed men seeking escape. In Chicago, it is said, there were so many prostitutes that Al Capone felt compelled to limit the number of hours they could work.[76]

A number of sources believe that the situation has changed drastically now.[77] The Organized Crime Task Force of the President's Commission on Law Enforcement quoted from the *Second Interim Report* (1952) of the U.S. Senate's Kefauver committee, which investigated organized crime. Said the committee: "Before the First World War, the major profits of organized criminals were obtained from prostitution. The passage of the Mann White Slave Act, the changing sexual mores, and public opinion, combined to make commercialized prostitution a less profitable and more hazardous enterprise." [78]

The Task Force of the President's Commission concluded that: "Prostitution is difficult to organize and discipline is hard to maintain. Several important convictions of organized crime figures in prostitution cases in the 1930's and 1940's made the criminal executives wary of further participation." [79] There are probably more independents now than ever.[80]

One form of prostitution—streetwalking—probably became too conspicuous and hard to regulate for organized crime. It is the street prostitute whom the police arrest most frequently, and she may have a bad reputation because of prostitution-related crimes (e.g., robbery of customers, assault, etc.). Also, most streetwalkers have pimps, who serve the practical functions of providing bail and clients. It has been said that organized crime does not want to be involved with pimps, believing that they are stupid, unreliable, and treacherous.[81] The 1967 Task Force also believed that several convictions under the Mann Act greatly discouraged organized crime.

Thus it seems that organized crime, when it is involved in prostitution, has concentrated on call girls and the brothel trade, employing a variety of legal fronts such as massage parlors and "rap" and "encounter" joints. For example, in New York, "Only in the last two years has organized crime regained a strong foothold here—courtesy of the massage parlors." [82] Attorneys' names appear on licenses to hide the identity of actual owners. Many of the members of organized crime who own these facilities are extensively involved in other real estate. Among their holdings are a number of apartment buildings and hotels used as the residences of call girls and pimps,[83] and many of the hotels regularly used by streetwalkers in midtown Manhattan.[84]

Though organized crime exacts a large share of the take and limits the prostitutes' independence, it does provide services that many consider valuable—housing, clients, and protection—the latter in the form of (1) payoffs to law enforcement officials and (2) electronic devices, such as jump boxes, that hinder enforcement. "Prostitution in New York could not exist without the protection and property of organized crime." [85]

Organized crime has also invented some ingenious gimmicks involving prostitution. For one, prostitutes apply for computer dates, enabling them to obtain economic data on prospective "pigeons" who are

[74] Op. cit., President's Commission on Law Enforcement.
[75] Winick, Charles and Paul M. Kinsie, *The Lively Commerce,* Chicago: Quadrangle Books, 1971, p. 155.
[76] Ibid.
[77] Op. cit., Task Force on Organized Crime; Ianni; Winick; and Esselstyn, T. C., "Prostitution in the United States," *The Annals of the American Academy of Political and Social Science,* 376 (March 1968): 123–135.
[78] Op. cit., Task Force on Organized Crime, p. 4, fn. 45.
[79] Ibid.
[80] Op. cit., Winick; and Geis.
[81] Sheehy, Gail, "Cleaning Up Hell's Bedroom," *New York,* Nov. 13, 1972, p. 58.
[82] Sheehy, Gail, "The Landlords of Hell's Bedroom," *New York,* Nov. 20, 1972, p. 68.
[83] Ibid.
[84] Op. cit., Sheehy, "Cleaning Up Hell's Bedroom."
[85] Ibid., p. 52.

then set up to be robbed. Others are placed in public relations companies, which they then represent at business conventions, an ideal situation for blackmailing the men they entice.[86]

In New York the streetwalking trade seems to have been taken over by black pimps—Gail Sheehy estimated in 1972 that 99 percent were black.[87] These pimps operate all over the city, and although they have no formal organization, there seems to be an informal network for the exchange of information and mutual assistance.[88]

Pornography

Probably the most comprehensive study of pornography was conducted by the Commission on Obscenity and Pornography from 1968 to 1970. The Commission was unable to assess the degree of involvement of organized crime, but assumed that this element might be involved because so many criminals were in the industry.[89] The Commission did find that the pornography industry consisted of several distinct markets and submarkets, some organized, some chaotic.[90] The wares consisted of films, magazines, books, sexual devices, and various "service" establishments. Subdivisions of the industry were production, distribution, and retail outlets. The market was primarily composed of white, heterosexual males. The Commission did not think that the business was overly profitable.[91]

Since that report, a number of studies have indicated that pornography has become organized crime's latest business. It is a logical field for entry given the facts of a prohibited product with a large market; susceptibility to good organization and muscle; and lax law enforcement.[92]

Just when organized crime became involved in pornography is uncertain, but a contributing factor may have been a Supreme Court decision in 1967, *Redrup* v. *New York*. This ruling left unclear what exactly constitutes pornography, thus making it difficult for law enforcement officers to make cases, but also making it hard for legitimate businesses to know if they were handling legal or illegal material. Thus legitimate distributors were unwilling to handle potentially pornographic material.[93]

That development created a situation ripe for organized crime. Al Goldstein, publisher of *Screw*, one of the better selling publications, admits freely that organized crime businesses distribute his magazine. He says that he has no choice in the matter, because no legal firms will undertake distribution. Although Goldstein has been left editorial independence, his books and production facilities are watched closely.[94]

Organized crime's links to the pornography industry were documented as far back as the early 1950's in the Kefauver committee investigations,[95] but most sources show few links before the late 1960's.

One author says that organized crime got involved in pornography in New York in 1968, when John Franzese, a member of the Colombo family, realized how profitable the peepshows in Times Square were. Subjected to typical strongarm tactics, the owners soon had to give organized crime 50 percent of their profits. From there, it was but a short step to insisting that all outlets use projection machines supplied by organized crime. By 1969, the Colombo family had obtained about 60 percent control of the porno movies in New York.[96]

Organized crime is believed to be in all aspects of the pornography industry: literature and films of all types (i.e., hard core, soft core, art, 16mm, magazines, books), sexual devices, "service" establishments (including live sex shows), production, wholesaling and retailing, and distribution.

For example, Michael Zaffarano of the Bonano family is said to be a major operator on both the east and west coasts. He is involved in the production and distribution of films and owns theaters. He also finances production of films through many legitimate fronts.[97]

The Peraino brothers, informally adopted members of the Colombo family, are said to be the biggest in the business. They, too, operate behind various legal fronts headquartered in New Jersey and Florida. They are said to have put up the money for "Deep Throat," one of the most successful of pornographic films, which has grossed at least $25 million. With the proceeds of that venture, the Perainos set up Bryanston Distributors, which is involved in legitimate films such as Andy Warhol's "Franken-

[86] Op. cit., Pace and Styles.
[87] Op. cit., Sheehy, "Cleaning Up Hell's Bedroom."
[88] Op. cit., Kiester, p. 40; and Ianni.
[89] The Commission on Obscenity and Pornography, *The Report of the Commission on Obscenity and Pornography*, Washington, D.C.: U.S. Government Printing Office, Sept. 1970, p. 19.
[90] Ibid., p. 7.
[91] Ibid.
[92] "The Porno Plague," *Time*, Apr. 5, 1976, pp. 58–63; Gage, Nicholas, "Organized Crime Reaps Huge Profits from Dealing in Pornographic Films," *New York Times*, Oct. 12, 1975, 1:1; and Gage, Nicholas, "Pornographic Periodicals Tied to Organized Crime," *New York Times*, Oct. 13, 1975, 1:1.
[93] Op. cit., Gage, and Goldstein, Tom, "Experts Say Two Laws Proposed to Clean Up Times Square Face Constitutional Problems," *New York Times*, Nov. 3, 1975, 42.
[94] Ibid.
[95] Op.cit., Pace and Styles.
[96] Denison, George, "Smut: The Mafia's Newest Racket," *Reader's Digest*, Dec. 1971, 157–160.
[97] Op. cit., Gage, "Organized Crime Reaps. . . ."

stein." [98] In fact, one New York City police official fears that organized crime eventually could become a major factor in the legitimate film industry.[99]

Organized crime also has become heavily involved in the distribution of pornographic materials. The two distributors of *Screw* were once legitimate companies that suddenly developed very strong organized crime ties about the time that recent Supreme Court decisions scared off legal distributors. Star Distributors in Manhattan is one of the largest national distributors (its position is enhanced by its exclusive rights to *Screw*), while Astro News of Brooklyn handles the New York City market.[100]

Some independent producers say they actually prefer dealing with organized crime enterprises because the latter are the most reliable of companies and pay quickly. Others find that they must deal with organized crime in order to protect themselves from extortion or piracy.[101]

Piracy is a big part of organized crime's pornography business. If a producer refuses to allow organized crime figures to distribute a film, those figures threaten piracy, among other actions. If its request is still refused, organized crime elements make their own copies of the film and distribute them widely, very often closing substantial markets to the legitimate producer.

The fate of "Behind the Green Door," another successful porn movie, is a case in point. Organized crime figures approached the producers concerning distribution rights, which the producers continuously refused to grant, despite threats of piracy. Within a short time, hundreds of pirate versions appeared all over the country. The producers lost several key markets—Las Vegas, Miami, and Dallas among them. Also, because the pirated versions were often of poor quality, the movie got a bad reputation, which further reduced its market.[102]

According to one source, few independents in any area of the industry can escape the influence of organized crime. Says this observer: "Combining old-fashioned muscle with sizeable payoffs to cops and politicians, Mafia dons from coast to coast make sure no dirty magazine, hard-core film or peep show machine enters their city without the payment of tribute to the local crime 'family.' " [103]

The centers of organized crime's pornography activities are Los Angeles[104] and New York City.[105] The New York police estimate that three out of five Italian crime families are involved in the New York business and are responsible for 90 percent of the pornography in the area.[106]

Organized crime's operations actually blanket the country. A former Dallas chief of police said: "The pornography business in Dallas has all the earmarks of an organized crime operation. We have learned that the organizations in Dallas are linked to an organization which owns and controls the production, printing, distribution and retail sale outlets for pornographic material." [107]

No accurate figures exist on what profits organized crime receives from the industry, but money must be good or organized crime would not be involved. One source puts the gross from peepshows in Baltimore alone at about $10 million a year in 1973,[108] while another says that each peepshow machine earns $10,000 a year.[109] A third source says that a high quality, 12-minute pornographic film takes about an hour to make at a cost of $3 (the actors and actresses are paid in drugs), and sells for about $50.[110]

Prosecution of organized crime pornography operations has been very difficult.[111] In New York City, for example, this legal action has run up against not only the Supreme Court's imprecise definition of pornography, but also the slowness of the court system and the lack of city resources. If a film is declared pornographic, the producer simply doctors it enough to qualify it as a new film, forcing the city to go through a long, expensive court procedure all over again.[112] In the meantime, the film is shown.

Licensing and code violation enforcement has also had little success against pornography, because most violations are eventually corrected. Also, organized crime lawyers file a steady stream of challenges to new laws or regulations, especially zoning laws, and have even sued a city for harassment.[113] All this means more delay and expense for the city and continued operations for organized crime. Some cities have more or less compromised. Boston, for example, has opted for a policy of containment to a cer-

[98] Ibid.

[99] Ibid.

[100] Op. cit., Gage, "Pornographic Periodicals. . . ."

[101] Ibid.

[102] Op. cit., Gage, "Organized Crime Reaps. . . ."

[103] Barrett, James K., "Inside the Mob's Smut Rackets," *Reader's Digest*, Nov. 1973, p. 129.

[104] Rafferty, Max, "Crack Down on the Smut Kings!" *Reader's Digest*, Nov. 1968, pp. 97–100.

[105] Op. cit., Sheehy, "The Landlords of Hell's Bedroom."

[106] Ibid.

[107] Op. cit., Pace and Styles, p. 176.

[108] Op. cit., Barrett.

[109] Op. cit., *Time*.

[110] Op. cit., Barrett.

[111] Op. cit., Goldstein, "Experts Say . . .," and Goldstein, Tom, "City Is Moving with Difficulty to End Times Square Pornography," *New York Times*, Nov. 2, 1975, 1, p. 46.

[112] Op. cit., Goldstein, "Experts Say. . . ."

[113] Op. cit., Sheehy, "The Landlords of Hell's Bedroom."

tain part of town—the so-called Washington Street "combat zone." [114]

The Broader Implications

Much concern over the involvement of organized crime stems from the broader ramifications. First, here is concern over the use to which profits from these crimes are put: possible illegal activities such as loansharking, extortion, consumer frauds, and subversion of the political system. For example, "In recent years it has been possible for organized elements to allocate sufficient financial resources and exert enough influence at the local level to dictate who will or will not be elected." [115]

Second is the widespread corruption connected with organized crime. Although most officials are honest, "It is a matter of public record in some cities . . . that certain policemen and police officials —other public officials as well—have protected bookmakers, prostitutes, and narcotics pushers, . . . have favored politicians or other people with 'pull' and have acted in concert with leaders of organized crime." [116] Bribery is a vicious circle in which the briber is in a position to make more demands and the official is not in a position to refuse.

Even honest officials may be reluctant to enforce the laws. The public does not support them, they absorb scarce resources, and the jail sentence may be more harmful than the offense. At best the sentence has no effect.

A third concern is that cynicism toward law enforcement and government generally is engendered by ineffective and arbitrary enforcement, the existence of meaningless laws, and extensive corruption.

The Experience of Prohibition

Before proceeding to the arguments on reform of the laws as to specific crimes, it is instructive to examine the experiences of this country with Prohibition[117] and the involvement of organized crime in bootlegging. These developments have parallels in the current proscription of victimless crimes and the involvement of organized crime in those activities.

As with current victimless crime laws, the Volstead Act sought to proscribe alcohol, a product very much in demand by a public that had used it traditionally. Many authors believe that there was no widespread support for the act, but opponents were intimidated by the strong stand of Prohibitionists. For fear of being accused of having no morals or patriotism, opponents of the law said nothing.

The arguments of Prohibitionists were rarely based on scientific fact or careful research; instead these views were militantly moralistic and propagandistic. There was legitimate need for reform of the liquor business, but the actual abuses were lost in a wave of rhetoric and falsehoods. Prohibitionists also benefited from an unusual combination of factors which created a climate that enabled their minority views to prevail. For example, World War I had bred a hatred of Germans. Because beer was originally a German drink, consuming it was tantamount to collaboration. Alcohol also became the scapegoat for all sorts of social problems, such as racism. In the South, Prohibition was supported ostensibly for the sake of Negroes, who were said to be unable to handle liquor.[118]

Against this background, the Volstead Act was passed, but the law proved unenforceable. Demand was enormous and suppliers ubiquitous. The resources of law enforcement agencies were taxed to the hilt, and the costs of this unenforceable law were enormous. For example:

- Bathtub booze accounted for many deaths and permanent physical and mental injuries.
- The law bred a general disrespect for law enforcement and created a large group of criminals out of otherwise respectable citizens.
- Prohibition encouraged heavier drinking. Breaking the law became a challenge, for people thought they should take advantage of the supply while it lasted. Drinking was no longer just a social activity, but an end in itself.
- Corruption was rampant among public officials.
- The law is believed to have provided a spur for the growth and structure of organized crime as it exists today.[119] Herbert Packer cites Prohibition as the classic example of a law that acted as a protective crime tariff, enabling criminal organizations to take over and monopolize the supply of a desired but illegal good.[120]

Prohibition offered great profits and attracted many suppliers. To maximize profits, reduce competition, and control territories, it became necessary to set up efficient organizations. Centralized and sys-

[114] King, Seth S., "Foes of Pornography Winning a Few Skirmishes but Not the Major Battles," *New York Times,* Nov. 28, 1975, p. 52.

[115] Op. cit., Pace and Styles, p. 25.

[116] Op. cit., President's Commission on Law Enforcement, p. 115.

[117] Sinclair, Andrew, *Prohibition: The Era Of Excess,* Boston: Little, Brown and Co., 1962; *Marihuana: A Signal of Misunderstanding,* First Report of The President's Commission on Marihuana and Drug Abuse, Washington, D.C.: U.S. Government Printing Office, 1972; and The President's Commission.

[118] Op. cit., Sinclair.

[119] Op. cit., Task Force on Organized Crime, p. 125; and Kiester.

[120] Op. cit., Packer.

tematized protection were equally important. It was natural that local organized crime groups should capitalize on this opportunity, and as they sought to establish control, violence spread. Ultimately the strongest predominated, and their national organizations were here to stay.

After 13 years, repeal of the law was generally favored. There had been genuine abuses in the liquor trade before Prohibition, and few people wanted to return to an unregulated industry. The law's repeal legalized the consumption of liquor, but made it subject to a number of regulations to curb the earlier problems.

Reform of the Public Drunkenness Laws

Of all victimless crimes, public drunkenness is the most burdensome to the criminal justice system.[121] Probably half of the annual arrests in this country are for this offense, and almost 40 percent of prison inmates are alcoholics, most of them habitual. The cost of processing and caring for these people is enormous. In 1971, *Newsweek* magazine reported that in the District of Columbia six alcoholics had been arrested for public drunkenness 1,049 times, collectively serving 125 years. The cost to the city was about $600,000.[122] No wonder most experts agree the problem is out of hand.

The expense, the drain on the criminal justice system resources, and a recognition that the alcoholics themselves were not being helped prompted the District and a number of States to reform their laws. This policy was further encouraged by two court decisions that defined alcoholism as an illness, not a crime.

Most States have enacted the Uniform Alcoholism and Intoxication Act, which abolishes public drunkenness as a crime.[123] Instead, the act calls for preventive detention in civil detoxification centers and for treatment and rehabilitation programs. Alcoholics can be taken into protective custody by police and placed in the centers.[124] There they are provided with whatever services they choose and are encouraged to remain or to enter another program for treatment and assistance.[125]

Most of the programs are of fairly recent origin, and their impact on alcoholics is uncertain. However, New York police report that arrests have dropped 60 percent since the Vera Institute of Justice began its Bowery project in that city. Also, far less police time is involved in taking the alcoholics to the centers than in the traditional arrest and booking procedures (50 minutes as opposed to 190).[126]

One problem often mentioned in connection with these kinds of programs is how long an alcoholic should be required or can be committed to stay in a program. Too long a stay might be considered unconstitutional, because it would be a form of incarceration without due process. Yet too short a stay will do little good.

Part III. Reform of the Laws: Decriminalization and Legalization

Decriminalization and Legalization Defined

Decriminalization and legalization are two alternatives to combat organized crime's involvement in victimless crimes and solve the related problems of corruption and the burden on the criminal justice system. It should be noted that the literature provides no single definition of what these terms mean, and decriminalization often appears as a code word for all reform. The definitions given here are general and reflect what most authors seem to interpret them to mean.

Decriminalization is the removal of all criminal sanctions for a given activity or aspects of it—people would be free to engage in it as they wish. The primary regulators would be nonlegal, nongovernmental institutions such as family or church. Government involvement would be limited primarily to two areas: providing suitable treatment and rehabilitation programs for abusers and educational programs to prevent abuse. Where an activity or aspects of an activity are classified as civil offenses, the police would issue civil citations. Police could also be used to transport abusers to treatment facilities. In neither instance would an arrest take place, unless there were disorderly conduct or some other criminal behavior.

Legalization involves making an activity or aspects of it legal, subject to certain regulations. Government would remain the regulator, and violation of the regulations could be either a civil or a criminal offense.

Prospects for Reform in General

Total decriminalization is rarely proposed as an alternative. Generally this approach is applied to certain very specific situations, such as social gambling at home or private use of a proscribed substance.

Legalization seems to be the preferred of the two alternatives. It is the more pragmatic approach, given

[121] Op. cit., Geis; Kiester; President's Commission on Law Enforcement; and President's Commission on Marihuana.
[122] "Victimless Crimes," *Newsweek*, Nov. 29, 1971, 83.
[123] Op. cit., Kiester.
[124] Ibid.
[125] Ibid.
[126] Ibid.

traditional and continued social and political opposition to certain activities and the need to control abuse. Legalization preserves an aura of disapprobation, and enables people to reconcile their desire for reform with their fears and uncertainties over the actual effects of an activity. Legalization also allows government to combat abuse.[127]

There is no typology of the crimes that might best lend themselves to decriminalization or legalization. However, a look at the arguments proposed for and against these alternatives suggests some critical factors.

Public attitudes are a key to the prospect of reform. An activity must be widely in demand and seen as not overly harmful to individuals or society. Also, the behavior should not arouse strong opposition in any sizable segment of society. There should be a feeling that the costs of enforcing the law outweigh its benefits or that the problem is really not a legal one, but a social or medical concern better handled by institutions in those spheres.

Also important is the social group for whom the activity is a problem. When it pertains to the middle and upper classes, there is generally an opening up of discussion and a gradual call for modification of sanctions and adoption of a new approach.

Finally, the revenue-raising potential of a legalized activity may also be a key factor.

It should be noted that few authors call for national decriminalization or legalization of all victimless crimes, particularly if the aim is to control organized crime. Public feelings about victimless crimes vary a great deal throughout the Nation, as do the influence and nature of organized crime. Therefore, reform on a local-option basis is usually proposed.

Similarly, most reformers do not call for across-the-board decriminalization or legalization of victimless crime laws. Some activities or aspects of an activity are considered more detrimental personally, socially, and morally than others; offenses are also differentiated. For example, heroin is considered to be far worse than marihuana, pimping more reprehensible than prostitution. Thus most reformers advocate a varied approach: One aspect of an activity may be decriminalized, another legalized, and another proscribed.

Summary Arguments

A decision to combat organized crime by reforming victimless crime laws will not be based solely on the arguments relating to that objective. Equally important will be the other philosophical, moral, and practical arguments on the merits of the decriminalization/legalization approach in general. These views provide the framework within which the organized crime decision will be made. A summary of these other points is provided here to give broader perspective to the ensuing discussion on reform to combat organized crime.

General Arguments for Reform

- It is not the proper function of government or the criminal justice system to regulate private morality or behavior through criminal laws; that is the role of nonlegal institutions.
- The laws are ineffective. They do not deter involvement in the proscribed activities, either by organized crime or the public. Neither fines nor jail rehabilitate or alter the behavior of offenders.
- The laws are unenforceable. The volume of activity is too great, public support is lacking, and criminal justice system resources are inadequate.
- There is no evidence that legalization/decriminalization will lead to a harmful increase in immoral behavior. The activities are already easily accessible to anyone who wants them.
- The rights of individuals to live as they want, so long as they do not harm others, is a fundamental principle on which this Nation was founded.
- There is no proof that the moral standards of the country are declining, or that the Nation as a whole is being negatively affected by victimless crimes.
- The burden of proof that harm results from these crimes should rest with those wishing to impose sanctions, not with participants in the activities.
- Society cannot morally declare persons to be victims when they do not see themselves as such.
- Even if the law's function is to provide symbolic guidance for a correct standard or behavior, it is questionable that the laws against victimless crimes guide people in the right direction. Instead, they may engender cynicism and disrepect for the criminal justice and legal systems and for government in general.
- The laws are hypocritical. They allow some activities while proscribing others that are comparable; they penalize some people involved in an activity, but not others.
- More realistic and well-founded policies must be developed. Current policies are based on emotion, outdated moral norms and values, and inaccurate information. Using up-to-date information on the effects of an activity, and bearing in mind the many priorities to be met, policymakers must weigh the costs of an activity against the costs of ineffective

[127] Schur, Edwin A. and Hugo Adam Bedau, *Victimless Crime: Two Sides of a Controversy*, Englewood Cliffs, N.J.: Prentice-Hall, Inc., 1974; and op. cit., Kiester.

laws. Goals and effective approaches must then be developed.

- The laws have many hidden costs: creation of a class of criminals who would not otherwise be considered criminals; discriminatory, arbitrary, and selective application of the laws; unsavory and often degrading tactics employed by the police to obtain evidence or make arrests; increase in crime associated with victimless crimes; creation of subcultures of criminals who reinforce one another's behavior; overburdening the criminal justice system; creation of antagonism among minority youth toward police as a result of enforcement that hits the inner city hardest; and failure to afford constitutional rights to the accused because of efforts to process cases quickly.
- There is a lack of public support for the laws.
- Overemphasis on the law blunts efforts to find other solutions to abuses of the proscribed activities.
- The basis on which the laws were originally promulgated no longer apply; social mores and values have changed, and new information on the effects of the activities contradicts previously held theories and assumptions.

General Arguments Against Reform

- The activities known as victimless crimes are antithetical to Christian beliefs and the principles on which the Nation was founded.
- Modification of the sanctions against these activities will result in a disastrous increase in their occurrence. This in turn will lead to a moral decline of society. The Nation will become a second class power. Both the Greek and Roman civilizations were destroyed by the decadence of their citizenry.
- Because morality affects the viability of a nation, it is a proper function of government to regulate morality by the use of criminal laws.
- Laws are a reflection of social values and should be used, even symbolically, as a guide to proper behavior.
- There has never been a serious, sustained effort to enforce the laws, so it is inaccurate to say the statutes are ineffective. A reform government backed by the public can wipe out organized crime, vice, and corruption.
- Better law enforcement in terms of other crimes will not necessarily result from freeing resources by modifying the victimless crime laws, for "There is no empirical evidence that the police do a better job of protecting persons and property." [128]

[128] Goldberg, William I., "Victimless Crimes: Should Police Preserve Community Morals." *Tennessee Law Enforcement Journal*, p. 56, reprinted from *Police Law Quarterly*, 1 (April 1972).

Perhaps there is a limit to the amount of resources a police department can effectively spend.

- There are better ways to combat corruption than eliminating the victimless crime laws. Legalization will not eliminate the temptation to corrupt, because it will involve new regulations.
- It is traditional in this country for government to protect individuals from themselves. For example, the state requires motorcycle drivers and riders to wear helmets.
- The fact that a law seems unenforceable is no reason to abolish it. For example, murder and theft laws are not 100 percent enforceable but are nevertheless needed. A preferable alternative to abolishing the victimless crime laws is providing more resources to implement them.
- The laws do not serve as deterrents because they are not strictly enforced and the sanctions are not strong enough.
- If the criminal justice system is overburdened, the answer is not to eliminate certain laws. It is to increase the resources available to it.
- If the laws result in more related crime, enforcement efforts should be stepped up.
- There are not enough hard facts on the impact of victimless crimes to justify modifying the laws.

Arguments for Reform to Combat Organized Crime

- Laws create the conditions under which organized crime can thrive—namely, prohibition of a good or service for which there is large demand and whose supply requires capital, expertise, and continuous organization. The laws should be changed in order to deprive organized crime of these conditions.
- Capital essential to organized crime's survival derives largely from its operations in victimless crimes. This capital is used to finance other illegal activities that are clearly detrimental to the public interest.
- Given the unenforceability of the laws, criminal justice officials are too often cooperative targets for corruption. The source of temptation must be removed.
- Reform of the laws would free valuable resources for a more concerted and effective attack on the upper levels of organized crime.

Arguments Against Reform to Combat Organized Crime

- Decriminalization or legalization would allow organized crime to continue in the victimless crime activities, but on a legal basis. Because of its prior experience, organized crime would have an advan-

tage over the competition. Even in legal games, organized crime can still find ways to increase its profits illegally.

- Legalizing only selected activities or aspects of them will not affect organized crime overall. That element of society will still have other illegal and legal businesses and will in all likelihood find other activities to move into, as at the end of Prohibition.
- Legalization, because it involves regulations and licenses, offers ample opportunity for corruption.
- It will be difficult to establish legal activities that can compete with the services and advantages organized crime operations offer. Competitive legal activities may not be possible unless some Federal laws are changed, such as the tax on gambling winnings.
- It is not certain that either private interests or the government will want to provide all goods and services—for example, prostitution and heroin.[129]

The Laws and the Alternatives

Gambling

The history of State and local gambling legislation in this country is one of flux between permissiveness and prohibition.[130] The legal and informal status of gambling at any given time was closely tied to the extent of abuse, the limits of public tolerance, and the State's need for revenue without taxation. When abuses got out of hand, reformers would provoke a crackdown. After a period of quiescence, the games would reemerge. Sooner or later abuses would mount again, and a new crackdown would be ordered. From time to time some games would be legalized in the interests of revenue raising, but, until the Depression, abuses of legal games usually led to renewed prohibition.

A new swing toward legalization came during the Depression. States needing revenue and unable or unwilling to raise taxes looked to gambling as an answer. A trend to legalization as a revenue measure has continued to the present day, and in some States has been expanded to include consideration of a wide range of games.

The Federal Government has always prohibited gambling and sought to restrict it by outlawing the use of mails and interstate commerce for gambling activities. Since the 1950's, when the involvement of organized crime with illegal gambling was well documented by the Kefauver committee, much of the Federal emphasis has been on combating its involvement. Various laws have been passed with that in mind. For example, in 1952 the Wagering Tax Act was enacted; it required gambling operators to pay a 10 percent excise tax on wagers they accepted and a $50 occupational tax annually, with parimutuel betting excepted.

The purpose of this law was to provide the government with a means of convicting organized crime figures. Because it was unlikely that any of these figures would pay the tax, since they would be incriminating themselves, they could then be prosecuted for tax evasion.

Recent Federal legislation has continued to focus on combating organized crime. However, if more States decide to legalize gambling, the Federal Government may have to revise many of its gambling laws. Most experts feel that because of the Federal tax on winnings, for example, it is impossible to set up a competitive legal game. This point was discussed in an article on sports betting in the *New York Times*. The article quoted licensed bookies in Las Vegas, who complained that "to compete, you have to cheat." [131] Since the Federal excise tax was lowered from 10 to 2 percent, legal business has increased.[132]

Probably more attention has been paid to the legalization of gambling than to any other victimless crime. While much of the discussion has focused on the revenue-raising potential of legalization and on social issues, a fair amount of attention also has been paid to the impact of this action on organized crime. Obviously, if maximum revenues are to be raised, organized crime's markets must be won over.

A 1974 Task Force on Legalized Gambling examined the feasibility of legalization, both as a revenue measure and as a tool in combating organized crime.[133] The Task Force concluded that there was no adequate justification for legalizing gambling. Of all the arguments offered, that of fighting organized crime had the most merit, but the Task Force still concluded that legalization "is not a substitute for a broad and sustained assault on all aspects of organized crime." [134]

The group also cited those reasons most often given by opponents of legalized gambling. First is the serious concern as to whether legal games could ever be competitive. These games would have to offer equal or better odds and services, which would be difficult. Conceivably, a private or State-run game would inevitably have higher overhead costs than illegal operations. Given the small margin of profit in some illegal games, these higher costs might be an insurmountable obstacle.

[129] Ibid.
[130] Op. cit., Task Force on Legalized Gambling; and Weinstein.
[131] Op. cit., Cady, "Sports Betting: States Act. . . ."
[132] Ibid.
[133] Op. cit., Task Force on Legalized Gambling.
[134] Ibid., p. 2.

Second, elimination of organized crime from gambling would not necessarily have any effect on the survival of this subculture. Organized crime would still be involved in other activities, and nothing would preclude its shift to a new field.

Third, even with legalization the need for enforcement would remain. In fact, many feel that enforcement would have to be increased to protect the legal games. In those areas where some games have been legalized, there has been no concomitant effort toward greater control.

Fourth, the Task Force on Legalized Gambling did not feel that current legalized games had affected organized crime to any degree. However, the group recognized that generally this had not been the intent of legalization to date, and in order for an impact to be realized, all illegal games would have to be legalized.

Fifth, the Task Force did not accept the argument that the laws against gambling should be eliminated because they protect organized crime's operations, contribute to corruption, and insure the profitability of gambling. Thus, after looking at the available arguments and information, the Task Force concluded that "Legalization is not an effective weapon against organized crime." [135]

Despite these kinds of misgivings, there is still substantial support for legalization from a wide range of advocates. As one observer points out, "Frustrated law enforcement officials, too, are calling for legalization. They say their efforts are hopelessly compromised by judges—and a public—who do not take the gambling laws seriously. Plea bargains are common; fines are low; and jail sentences are very rare." [136]

New York City's Knapp Commission favored legalization, with offenses to be controlled by civil regulations. Carl M. Loeb, Jr. of the NCCD likewise feels legalization would be an effective way to combat organized crime. He does not think the lack of success in New York with legalized games is a good indicator, since legalization only involved the two games least important to organized crime. He has urged the State to experiment with legalized numbers and sports betting.[137] In addition, another observer believes that, "On balance, it would seem that moves to legalize and thereby to control gambling offer the most promising method that has been put forward for dealing effectively with organized crime in this field." [138]

Inevitably, attention turns to the experiences of various States with legalized gambling. Nevada, of course, has been a focal point, since this State permits all forms of gambling except numbers, subject to State regulation and Federal tax laws.

Extensive involvement of organized crime in Nevada casinos has been documented since the earliest days of legalization. Organized crime not only became involved with legal operations, but found ways to maximize its profits illegally—by skimming off the top of the profits and sending that money out of the country to be disguised or "laundered." Thus the first lesson in Nevada was that legalization per se would not preclude the involvement of organized crime, at least not without carefully planned regulations.

To end organized crime's influence, Nevada has enacted several reforms over the years, and the State maintains that these attempts have been successful. The absence of any proof to the contrary in the literature of recent years suggests that the claim may be valid.

What is the situation elsewhere? Horseracing is the most common form of legalized gambling. Though often beset by organized crime scandals—fixing of racing dates and results, illegal communication of results from the tracks, altering of the odds—most thoroughbred racetracks now seem to be free of organized crime's influence. Whether this is also true for dogtracks is less clear, and there have been accusations recently of fixes at New York harness racing tracks.

A local option, off-track betting (OTB) law was enacted in New York in 1970, primarily to raise revenue, though many people, including OTB President Howard Samuels and Police Commissioner Patrick Murphy, felt the law would also hurt organized crime's bookmaking business.[139]

At this point, OTB seems to have had little, if any, impact; however, firm conclusions are hard to draw, given the varying information available. On the plus side is the composition of OTB's market. While it has attracted many new legal bettors, as well as those who bet previously at the tracks, OTB has also drawn in about 50 percent of the illegal bettors.[140] However, some of the latter group may be betting only the exotic wagers with OTB (since these wagers are not offered by the illegal operators) and placing their regular bets with illegal bookies.

On the negative side, the impact of OTB may be less than the 50 percent decline in illegal clientele suggests. The bulk of illegal horserace betting, in terms of dollar volume, is attributed to a small percentage of very heavy bettors; these people are be-

[135] Ibid., p. 9.
[136] Ibid., p. 29.
[137] Op. cit., Geis.
[138] Ibid., p. 129.
[139] Op. cit., Packer; and Weinstein.
[140] Op. cit., Task Force on Legalized Gambling; Weinstein, p. 140–142; Cady, "Sports Betting: States Act . . ."; and Eskenazi, Gerald, "Rise in Illegal Gambling Linked to OTB Climate," *New York Times*, Jan. 10, 1975, 1:1.

lieved to have stayed with the illegal game.[141] Also, the decline in business has probably only affected the small bookmakers, since they handle the small bettor, while the heavy bettors wager with the larger operation.[142]

As mentioned previously, the bookies themselves do not seem to mind the loss in business caused by OTB, since they viewed the small bettor as not worth their efforts.[143]

Finally, the impact of OTB on organized crime's gambling profits overall is probably negligible. Horserace bets were only about 10 percent of the betting activities in New York,[144] and, according to one source, the total amount bet on horses was $150 million, compared to $1 billion for sports bets.[145]

One other source of information on OTB's impact is worth mentioning. That source is a white paper on OTB, prepared by members of the New York City Police Department. This paper holds that while OTB appeared to have cut into the illegal market by around 40 percent, that achievement was nullified by the overall increase in gambling that OTB created. The police estimated that the increase in illegal gambling was 62 percent. They also believed that bookies used OTB to layoff or share risks, and that since the inception of OTB more organized crime figures had become involved in horserace betting operations. Further, OTB President Samuels was quoted as saying that a major objective of OTB—curtailing organized crime—had not been reached.[146]

The stability of the illegal market is attributable mainly to superior services that OTB cannot match —better credit, quick payoffs, anonymity with the Internal Revenue Service (IRS), and social contact. (No loitering is allowed at OTB's parlors.) OTB has thus instituted some changes in order to compete more effectively. For example, the system now takes telephone bets and offers credit to those who make deposits on account. However, the services are still not as good as the bookmakers, and the tax liability is a definite drawback. For example, a new State tax recently was imposed on OTB bets. Some speculate that this may drive many of the new bettors to illegal bookmakers, meaning that OTB will have enlarged organized crime's operations.[147]

The lottery is the game most often legalized now. Instituted primarily to raise revenue, it was also intended to cut into the numbers racket in areas where that game flourished, particularly New York and New Jersey. That does not appear to be the case, despite efforts to make lotteries competitive. New Jersey, for example, started a daily drawing and allows players to pick their own number, a popular feature of the numbers game. Still, the legal activity is unable to match the door-to-door service, quick payoff, credit, anonymity, and community satisfaction that numbers offers.[148] Though some numbers bettors may also play the lottery, it appears that the legal market consists primarily of new bettors.[149]

One New Jersey official disputes these conclusions, stating that the lottery has decreased the numbers business by 50 to 60 percent, forcing operators to decrease their payoff odds.[150] However, another source indicates that a modest decrease in numbers betting (estimated at 10 to 15 percent) has been offset by an overall increase in gambling, both legal and illegal. That increase supposedly resulted from a belief among participants that the government sanctioned gambling, since it had instituted a legal game.[151]

Casino-type games, bingo, and other legal charity operations are also fairly common, and organized crime is involved here too. In several New York cases, organized crime has used a charity operation as a front for high stakes gambling or has taken an overly large share of the charitable enterprise's yield as its fee for running the game.[152]

Is there any indication of how organized crime figures feel about the prospect of extensive legalized gambling? There are allegations that these figures are behind lobbying campaigns against legalization, but there is too little evidence to reach a conclusive answer to this question.

There are almost no advocates of total decriminalization, though that alternative has been proposed for social gambling. (For example, one advocate believes that "There is no economic or political justification for interference by government in any of the common forms of private, social gambling. . . ."[153]) This caution about decriminalization results from a recognition that gambling does have some negative social consequences that should be controlled, and that the public needs to be protected from unscrupulous operators. Further, a large segment of the population opposes gaming, and its opinions cannot be totally ignored. Perhaps the main reason, though, is the desire of States to tax gambling operations.

Currently, a significant incentive for regulation is the desire to combat illegal gambling and to keep or-

[141] Op. cit., Weinstein.
[142] Ibid.
[143] Op. cit., Cady, "States Ignore. . . ."
[144] Op. cit., Cady "Sports Betting: States Act. . . ."
[145] Op. cit., Weinstein, p. 141.
[146] Op. cit., Eskenazi.
[147] Op. cit., Task Force on Legalized Gambling.
[148] Op. cit., Weinstein, pp. 139–140.
[149] Op. cit., Kiester.
[150] Op. cit., Task Force on Legalized Gambling.
[151] Op. cit., Weinstein.
[152] See footnote 36.
[153] Op. cit., Task Force on Legalized Gambling, p. 16.

ganized crime out of the legal games. By comparison, total repeal "would leave the market to large, exploitative criminal organizations that would probably use violence to protect their monopoly privileges."[154] The experience of Nevada shows that organized crime is only too happy to participate in legitimate businesses and that carefully drawn, strictly enforced regulations are necessary. Likewise, strict prohibition of illegal games is essential.

New York's Task Force on Legalized Gambling felt that increased and stronger enforcement would probably follow legalization. The group believed that any participation in illegal games where legal ones were available would clearly indicate support for organized crime, and that law enforcement officials and judges would be less inclined to be tolerant in this situation.[155]

In view of the consensus favoring some kind of legalized game, what kind of operation is recommended and what are the prospects for success? Generally, for legalization to be a success in combating organized crime, the same games with the same or better odds and services would be required. Also needed are revised Federal laws, including those taxing winnings and prohibiting interstate transport of gambling paraphernalia.

There are three basic approaches to legalization. First, a State can set up and operate the games itself. Or the State can issue franchises to private organizations to operate the games in the State's name. Finally, the State can allow the games to be run by private businesses under close supervision and regulation.

The preferable system will depend on the characteristics of the game and the State's objective in legalization. For purposes of this discussion, the objective is assumed to be combating organized crime. In some cases, this objective may be coupled with the goal of raising revenue. However, the two are generally considered incompatible, and a State must choose between them.[156]

Numbers. To be competitive, a legalized numbers game would have to match the advantages of the illegal operation: credit, door-to-door service, same-day payoffs, no taxes. Add to these the broad, sometimes intangible benefits, including the psychological satisfaction of playing a game that the player's community accepts; the employment of local residents in the operation of that game; and the availability of numbers profits as capital for business and other loans otherwise unavailable in the inner city.[157]

While a venture run directly by the State would probably be most effective in eliminating or preventing infiltration by organized crime, few believe that a State could set up a competitive numbers game acceptable to low-income communities. The State could not extend loans and would not be an ideal employer. Residents of inner city areas, where the numbers racket thrives, are suspicious of government and might resent its intrusion. Many observers raise a moral question, too: should the State encourage gambling among its poorest residents?

The consensus is that a State-operated numbers game is not feasible. The alternative is a privately run, State-regulated game. Most likely a community group would be the only acceptable private operator, and there should be minimum interference from the State to avoid tension and conflict. The big questions are whether the State would accept these terms and whether it could effectively regulate such a system.

Despite these potential problems, the New York Task Force on Legalized Gambling concluded that numbers legalization has the greatest potential for solving law enforcement problems, and that States might contemplate experimenting with this strategy.[158]

Opponents of legalized numbers, however, feel this is an impractical and unfeasible proposition. They do not see how the game could be policed adequately, or how it could be competitive, and they are not sure that the community, which already has its own operation going, would accept even indirect intervention or supervision by government.

Sports betting. Sports betting provides organized crime with its greatest profits and is its major gambling enterprise.[159] As such, sports betting should be a prime target of a competitive legal game, but it is considered the hardest to legalize competitively. Again, it would be very difficult for the State to match the services and advantages of the illegal operation, and legalization would necessitate a privately run, State-regulated game, with all the attendant risks. Sports bookmaking is complicated, organized crime has the expertise, and many fear it would naturally take over legal enterprises.

The most critical factor is that sports betting has a very low margin of profit. Private or State-run games would probably have higher overhead costs than the illegal operations—costs possibly greater than the margin of profit, which would make a competitive enterprise impossible.[160]

Sports betting also carries the risk of substantial short-term losses, which could be hard to sustain without a well-developed organization. Certainly it would be hard for government to accept such losses.

[154] Ibid., p. 63.
[155] Ibid., p. 64.
[156] Ibid., p. 2.
[157] Op. cit., Weinstein, p. 156; and Geis.
[158] Op. cit., Task Force on Legalized Gambling, p. 18–19.
[159] Op. cit., Weinstein; Cady, and Task Force on Legalized Gambling.
[160] Op. cit., Task Force on Legalized Gambling.

If the State turned to a parimutuel system, an alternative which precludes losses, it would be unable to offer odds as high as those now offered by organized crime.

The background paper to the Task Force report concluded that sports betting could not be legalized on a competitive basis because of the small margin of profit and high risk. On the other hand, strict enforcement could raise overhead costs enough to eat into that narrow profit margin and make the game unprofitable for organized crime. However, enforcement would have to be continuous.[161]

Professional sports organizations are adamantly opposed to legalization. These groups believe such action would create tremendous pressures on athletes by subjecting them, for example, to enormous temptations from criminals trying to fix contests. Further, Steve Cady, in his *New York Times* series, says that some licensed Las Vegas bookies think that as sports betting has increased, so has the desire for betting coups. They think that more athletes are betting on themselves, and are much warier than ever.[162]

Opponents of this argument point out that sports betting is already a huge business and the pressures would not be any greater than they are now. Yet there is presently little evidence of fixed games.

Cady suggests that one reason the games may be honest is the bookies themselves. They watch the betting very closely. At the first sign of any unusual betting patterns, they remove the game from the odds board. Officials overseeing sports use bookies as a major source of information, and many investigations have originated with bookies' suspicions.

Some opponents of legalization fear that if the State legalized sports betting, probably using a parimutuel system, the temptation and possibility of fixes would grow. Since the State would not be involved with its own money, it would be far less concerned about a fix and would not keep as close an eye on the betting as the bookies do.[163]

An adjunct to sports betting is the sports card game. This activity is not a major moneymaker, though it is popular with some bettors, particularly low-income people. The Task Force on Legalized Gambling believes this type of legal game could be competitive and cut into organized crime's business. However, the game would probably have to be privately run, and that situation presents greater risks of infiltration.[164]

Off-track betting. In organized crime's game the odds are not as good as the track's, but there is convenience, credit, and, for some, social contact. An indicator of the popularity of the illegal game is OTB's inability to dominate the market or attract more than 50 percent of the illegal gamblers. The early indications are that neither New York nor Las Vegas has yet set up a fully competitive game, despite efforts to do so. The Task Force on Legalized Gambling concluded that "There is no evidence that it [OTB] has substantially reduced the business of illegal operations in New York."[165] However, the Federal tax laws involved may not be giving the legal games a fair chance.

Casino-type gambling. A relatively small share of organized crime's gambling profits comes from casino-type gambling, but a State would have to compete for that market. It appears unlikely that the State itself could run a competitive operation, nor would it want to engage in the promotion necessary for success, since encouraging people to gamble is not considered to be a proper function of government.

The alternative is privately run, State-regulated and licensed casinos. But opponents fear a repeat of the Nevada scandals, where "casinos have a history of attracting participation by organized crime and thereby producing a difficult regulatory problem."[166] Many see organized crime elements as having a monopoly on the expertise necessary to run a casino, and with the willingness of those individuals to be involved in legal businesses, their participation is all but assured.

A further argument against legalization is that large, formal casinos may be unable to attract the typical big-city gambler who likes to play all night in an informal setting.[167]

Some proposals would allow casinos only in certain areas, such as depressed regions that could benefit by a tourist attraction. Here only tourists would be allowed to play, though the enforcement problems this idea suggests are overwhelming.[168]

Nevada, Great Britain, and Puerto Rico are three areas where privately-run, State-regulated casinos are allowed. Nevada, which primarily regulates ownership and collects taxes, has perhaps the loosest system of the three; Great Britain may have the tightest. When the latter discovered that organized crime was infiltrating the English casinos, strict regulations were enacted and rigidly enforced. For example, licenses must be renewed annually, gambling must be separated from any other activities on the premises, and casinos are open to members only. These regulations caused enough economic problems that only the large

[161] Ibid., and op. cit., Weinstein.
[162] Op. cit., Cady, "Sports Betting: States Act. . . ."
[163] Ibid., and Cady, Steve, "Sports Betting: States Plan 'No Risk' Futures," *New York Times*, Jan. 22, 1975, 30:5.
[164] Op. cit., Task Force on Legalized Gambling.
[165] Ibid., p. 20.
[166] Ibid., p. 23.
[167] Ibid.
[168] Ibid.

and well-established clubs could afford to stay open.[169]

Puerto Rican casinos are likewise closely supervised, with limits on hours and bets, and this supervision has discouraged gambling there to a degree.[170]

In considering these systems, some advocates of legalization feel a middle ground is best—i.e., restrict the number and location of casinos and have strict licensing.[171]

Other games. A number of other games have been legalized or proposed for legalization, among them jai-alai (a game similar to handball), dog racing, poker, lotteries, and charity operations. From time to time, stories have alleged organized crime involvement in all of them. The indications are that even in these games, legalization does not preclude organized crime's influence, even though the games may not be major sources of revenue.

Corruption. Some opponents of legalization say that the regulation involved provides an incentive for corruption. This is true for gambling enterprises as well as other regulated industries. Further, elimination of corruption is only possible in a situation where all legal games are completely competitive with illegal ones, and that situation appears unlikely.

Drugs

The history of drug use and the evolution of drug laws in the United States is instructive.[172] Up to the 20th century there were few State or local laws and no Federal one governing use or traffic in psychoactive substances. Morphine was so widely used in the Civil War that addiction came to be known as "Soldier's Disease." Opiates were basic ingredients of mail-order and over-the-counter medicines. It has been estimated that probably 1 to 2 percent of the population were unknowing addicts at the turn of the century, with most of them middle and upper-class Americans and the majority probably women. Certain ethnic groups imported their drug habits; these included the Chinese immigrants, many of whom smoked opium. Ironically, when heroin was discovered in the 19th century, it was hailed as the solution to morphine addiction.

Several factors combined to end public apathy about drug use; these factors led to the adoption of legal controls. First, it became apparent that heroin was more addictive than morphine and a definite danger, particularly when injected. Also, drug abuse was becoming widespread; it was no longer a middle and upper-class phenomenon. As the country became more industrial and urban, the poor concentrated in cities and began to use drugs to escape their misery. In a third development, moral crusaders tended to overstate the horrors of drugs and spread many myths that caused rampant fear among the public.

The States acted first to control drugs. The first Federal law was not passed until 1914 (the 1906 Pure Food and Drug Act simply required medicines with opiates to be so labeled). Ironically, the purpose of the 1914 Harrison Narcotic Act was not so much to stem abuse as to offset and disrupt the British monopoly of the opium trade. The law was essentially a tax on opium imports to the United States, and it required registration of importers, saying nothing about domestic opium.

Once the door was open, however, more laws followed quickly. Congress and the States reacted to the charges of reformers and to public agitation over the rumor that the Germans, discoverers of heroin, were using drugs as a war weapon, attempting to turn the United States into a nation of zombies.[173]

The approach to drug abuse that evolved in this period—strict enforcement of sanctions to discourage use—lasted until the 1960's. Medical or social service programs were almost unheard of, and those that were tried often had a negative effect on public opinion. For example, between 1919 and 1923, some 40 heroin maintenance clinics were set up around the country. They so affronted people living near them that they were closed, and their failure lent support to the theory that tough criminal laws were the only recourse.

As the rate of addiction increased, the penalties for drug use and illegal trade in drugs were made stiffer, reflecting the ever increasing belief in the deterrent effect of criminal sanctions. Mandatory minimum sentences became common. The Federal Government established two hospitals for addicts in 1935 and 1938, but their purpose was really to relieve the overcrowding of Federal prisons, caused by the rising influx of convicted addicts. The hospitals served as little more than holding pens; they made almost no effort to rehabilitate addicts or to treat addiction. The general belief was that heroin use was evil per se and heroin users were depraved individuals who deserved little sympathy.

One more Federal drug law was added to the books in 1937, when marihuana was effectively prohibited by a tax statute. By that time, many States had already included this drug in their prohibitive laws.

In the 1960's there was a movement to reform the

[169] Ibid.
[170] Ibid.
[171] Ibid.
[172] Op. cit., Geis; Kiester; President's Commission on Law Enforcement; President's Commission on Marihuana; and Schroeder, Richard C., *The Politics of Drugs: Marijuana to Mainlining*, Washington, D.C.: Congressional Quarterly, 1975.
[173] Op. cit., Kiester.

approach to drug abuse. This movement was generated in part by the obvious failure of severe criminal sanctions to stem the tide of drug use, which was increasing rapidly. Addicts were believed to be a major factor in the increasing crime rate. Because control laws had proven ineffective, perhaps some other means should be explored. There was also increasing sentiment that addiction was a social and health problem, best dealt with by nonpunitive institutions.

Other reformers pointed to the costs of enforcement—e.g., overcrowded jails, overworked officials, and corruption. Still others deplored what they considered the unequal, often unconstitutional treatment of addicts by the police and the courts. Also important to the reform movement was the realization that drug abuse had become once again a middle class problem. Finally, new information on the effects of drugs contradicted some of the premises on which the old laws had been based.

Two States, New York and California, led the way to a new approach by setting up treatment and rehabilitation programs and trying to get addicts out of the criminal justice system and into these health and social welfare programs. Several private groups such as Synanon in Los Angeles also initiated new programs. Finally, the impetus to design a new approach was provided by a 1962 Supreme Court decision, *Robinson* v. *California,* which defined addiction as an illness, not a crime.

The Federal Government was reluctant to join this movement at first, but by the mid-sixties was beginning to provide funds for experimental programs, including methadone maintenance. Federal support for treatment and rehabilitation programs has continued into the 1970's.

Also in evidence is a new approach in applying criminal sanctions. The government now distinguishes among participants in the drug trade, classifying some as worse offenders than others. Stiff sanctions are maintained for traffickers, but penalties for users, especially first offenders, have been reduced. (Marihuana violators can receive suspended sentences on the first offense.) The laws also provide for different ways of treating offenders who are addicts—for example, by qualifying some for diversion to treatment and rehabilitation programs before trial. If an addict successfully completes the program, trial will be waived and the criminal record expunged. Increasing attention also is being paid to alternative civil commitment programs.

A final chapter of the history of drug laws involves prescription drugs, which became a new abuse problem in the 1960's. Barbiturates and amphetamines were appearing on the black market in increasing quantities, with serious consequences to users. Efforts to reform the drug industry were slow to evolve, however, because of strong lobbying by drug companies. In 1965 the first control legislation was passed, but it proved too weak. Finally, in 1970 the Comprehensive Drug Abuse Control and Prevention Act was passed. This law contained strict regulations, such as quotas on production, the permissible number of refills, and the quantity of pills that could be prescribed. The legislation also required that comprehensive records be kept on the disposition of drugs.[174]

Following is an examination of the debate on legal reform in terms of specific drugs.

Heroin. As pointed out previously, organized crime's involvement in drugs seems to center on the heroin trade. There is little evidence of this group's extensive participation in marihuana, cocaine, hallucinogens, or prescription drugs. No analysis of a pattern of involvement has been undertaken, but some authors suggest that it would be very hard for organized crime to control the supply and distribution of drugs other than heroin. It has also been suggested that the demand for drugs other than heroin is elastic, in that it can be reduced by changes in price or supply. This unstable market characteristic may be a reason for organized crime's seeming disinterest.

The traditional argument for legalization of heroin is as follows. The law itself sustains organized crime's involvement by assuring a monopoly in the supply of a good for which demand is inelastic. Only an element such as organized crime is able to supply that demand, because it requires a good deal of capital and an extensive network.[175] To eliminate organized crime from the trade, the law must be changed.

Change, however, is a highly charged issue. Of all the victimless crimes, the sale and use of heroin arouses the most heated opposition when legalization is proposed (decriminalization is almost never mentioned). For example, the Alliance for a Safer New York believed that control should be taken out of the criminal justice system and placed with treatment and educational institutions, but the group stopped short of recommending legalization because that approach is so controversial.[176] Likewise, neither the President's Commission on Law Enforcement (1967) nor the National Advisory Commission on Criminal Justice Standards and Goals (1973), both of which investigated the alternative, recommended legalization. These commissions thought the risks were too great and that too little was known about the possi-

[174] Op. cit., Pekkanen.
[175] Op. cit., Packer.
[176] Op. cit., Keister.

ble impact of such an approach.[177] The President's Commission, however, did note that if enforcement continued to be unsuccessful, with society paying the costs of ineffective enforcement, the alternative should perhaps be reconsidered.

Both commissions urged that more attention be paid to a comprehensive treatment strategy and efforts to get addicts out of the criminal justice system by such means as civil commitment programs, probation, and deferred prosecution. Said the 1973 body: "Conduct, such as drug abuse or prostitution, may remain illegal, but, because corrections is (sic) not equipped to deal with it effectively, it should be handled through other resources."[178]

Opposition to legalization stems primarily from a firm belief by most people that use of heroin is destructive to the individual and society. Therefore, the government should not get involved in the business of providing heroin to anyone. In particular, many minority group members are adamantly opposed to legalization, regarding it as a means of enslaving and regulating their people.[179] They and others also criticize an approach that fails to address the underlying socioeconomic conditions causing addiction.[180]

Proponents of legalization cite a number of points. Even if heroin per se is bad, the costs of prohibiting it are greater. In particular, the artificially high prices are what drive addicts to commit crimes. Addicts often support their habits by pushing, and they need to expand their market constantly to support the ever more costly habit. The easiest prey are youth; many addicts also turn to prostitution to earn money.[181]

In any event, say the legalization proponents, the law is unenforceable. Heroin is now grown on only 1 percent of the earth's land area suited to it, but even that cannot be policed adequately. Nor can the United States police its extensive border. Once heroin has been smuggled into the country, most officials agree, it is impossible to locate. With demand inelastic, as long as the drug is illegal there will always be an incentive to supply the market.

The President's Commission was unable to conclude whether or not enforcement had been that ineffective. High prices, low quality, and the limited availability of the drug in the mid-1960's indicated some success in curtailing traffic. However, the Commission still concluded that the "illegal importation of drugs can never be completely blocked."[182]

Most legalization proposals are an adaptation of the current British system. The government would be the source of all supplies, as well as the distributor and regulator. Heroin would be available only through authorized clinics, where the drug would be administered. Most experts propose only a maintenance dose, administered orally; this prevents the addict from achieving a high or feeling of euphoria.

Most view the administration of heroin as a temporary measure, to be replaced by methadone and eventually by total withdrawal from all drugs.[183] The maintenance/withdrawal program would be combined with therapy, vocational training, and whatever other health and welfare services would encourage an individual to become a productive member of society. Heroin maintenance would be part of a broader system of treatment and rehabilitation programs, because no single program works for every individual.[184] This multimodality program approach is thought to be a key ingredient in the success of any efforts.

Still others recommend that the program be expanded to include additional services aimed at ameliorating the socioeconomic conditions that create the desire for drugs. These advocates would add income maintenance, housing, and other social services.[185]

A number of practical arguments have indicated that legalization would do little to eliminate organized crime's role in drug abuse. The first argument concerns entrance requirements into the maintenance program. Only confirmed addicts would be admitted, which would leave a substantial illegal market for organized crime to tap.

Second, major attractions of the drug for the addict are the "high" and the feeling of euphoria, both of which the clinic would eliminate. Unless the program provides what addicts want, they are unlikely to stay in the program as long as they can get the drug on the street.[186] Even when addicts do stay, they may still try to supplement their maintenance dose from dealers on the street. Under the best of circumstances, according to one study, heroin maintenance would attract only 50 percent of the addicts.[187]

[177] Op. cit., President's Commission on Law Enforcement; and The National Advisory Commission on Criminal Justice Standards and Goals, *A National Strategy to Reduce Crime*, Washington, D.C.: U.S. Government Printing Office, 1973.

[178] Op. cit., National Advisory Commission, p. 119.

[179] Op. cit., Kiester.

[180] Kunnes, Richard, *The American Heroin Empire*, New York: Dodd, Mead & Co., 1972.

[181] Ibid.

[182] Op. cit., President's Commission on Law Enforcement, p. 219.

[183] Op. cit., Kiester.

[184] Op. cit., Bruce-Briggs, B., pp. 32–45; and National Advisory Commission.

[185] Op. cit., Kunnes.

[186] Op. cit., Wilson, et al.

[187] McGlothlin, William H. and Victor C. Tabbush, "Costs, Benefits, and Potential for Alternative Approaches to Opiate Addiction Control," in: Inciardi, James A. and Carl D. Chambers, eds., *Drugs and the Criminal Justice System*, Sage Criminal Justice System Annuals, Sage Publication, Vol. II, 1974.

Another drawback is that heroin wears off after about 6 hours, thus requiring several visits to the clinic. The street purchase offers a more convenient supply.

A Hudson Institute Study cites other potential problems. Where would the clinics be located? They should be convenient to addicts, but no residential neighborhood wants them. Those cities with programs would experience an influx of addicts from cities without them. The study concluded that widespread legalization should not be tried yet, though an experimental program might be appropriate.[188]

Because there has been no experience in this country with legalized heroin programs since the 1920's, and because those efforts were not comparable with the programs currently proposed, few can predict what the effect of such activities might be on organized crime. The experiences of other countries are generally not considered applicable to the United States.

Based on an economic analysis, Herbert Packer concludes that legalization would eliminate organized crime from the trade. Says Packer: "With the disappearance of controls, the price of narcotics would plummet and the financial ruin of the present illegal suppliers would quickly ensue."[189]

The closest thing to heroin maintenance to be tried in the United States is methadone maintenance, and it is worth looking at the problems that program has experienced.[190]

As with heroin maintenance programs, a maintenance dose of methadone is administered orally at a clinic. One problem has been diversion of the drug to the black market, although new regulations and forms of the drug may solve this problem. Another is that the program has been able to attract and keep only older addicts who no longer have the enthusiasm and energy to seek heroin. Younger addicts have stayed away. Also, there have been cases of addicts in the program who try to supplement their methadone dose with other drugs, especially cocaine, which does not show up in laboratory tests.

Marihuana. Although marihuana does not seem to be controlled by organized crime, brief mention will be made here of proposals and actual reforms in terms of this drug, because those efforts can provide information on possible models of reform in other areas. Some observers fear that as marihuana use increases, organized crime will try to take over the market. Decriminalization or legalization might be a means of preventing that development.[191]

The movement for marihuana reform in the 1960's was a result of greatly increased use, the spread of the drug to middle class families, a belief that marihuana users were not "ordinary" criminals, and new information that indicated the drug was not as harmful as had been supposed.

Several kinds of reform have been proposed or instituted. One is modification of the laws. Generally, the offenses of private use and possession of less than one ounce are reclassified as misdemeanors. First offenders can receive suspended sentences (sometimes only if they agree to undergo psychiatric counseling or to enroll in a treatment program), and fines are reduced. This is the most typical reform now and has been followed by the Federal Government and many States.

A second type of reform, total decriminalization, has not been a popular approach and is proposed least frequently. However, partial decriminalization —e.g., for use and possession of less than one ounce —is suggested quite often, and a few States (notably Alaska, Maine, Colorado, and California)[192] have enacted this reform.

Oregon has decriminalized private use and possession of less than one ounce. In addition, public possession of an ounce or less was reclassified as a civil offense subject to ticketing and a fine. However, the impact of this law is unclear. One source says there have been few problems resulting from the reform and that patterns of use have not changed.[193] However, Superintendent of State Police H. V. Holcomb notes that: "We are now spending more time enforcing drug laws and the young people of our State are becoming more liberal and casual in their attitude toward marihuana usage and the use of this drug is on an increase."[194]

Under this type of reform, other aspects of use remain criminal offenses—e.g., driving while using the drug, sale of large amounts, and importation.

A third type of reform is to adopt some sort of legalized system of marihuana distribution. The government would be the sole source of supply and would grade and label for potency and quality. The drug would be available through licensed outlets and would be taxed to raise revenue and cover the costs of administration. Sale or distribution to a minor would be illegal, as would illegal production, manufacture, cultivation, and distribution. Likewise, driving while using the drug and improper behavior while under its influence would be subject to criminal sanc-

[188] Op. cit., Bruce-Briggs.
[189] Op. cit., Packer, p. 553.
[190] Op. cit., Kiester and Kunnes.
[191] Op. cit., Kunnes, p. 138; and Kaplan, John, *Marijuana —the New Prohibition*, World Publishing Company, 1970.
[192] Oelsner, Leslie, "In a Sometimes Bitter Fight, States and Cities Are Easing Marijuana Laws," *New York Times*, July 13, 1975, 28:1.
[193] Op. cit., Schroeder, pp. 27–28.
[194] Reitzer, W. W., "Addressing the Dangers of Marijuana," in: Letters to the Editor, *The Washington Post*, Feb. 26, 1976.

tions. No advertising would be permitted. Keith Stroup, a lawyer with the National Organization for the Reform of Marihuana Laws (NORML), is one who advocates this approach, because it would guarantee quality and potency and prevent sales to minors."[195]

The Commission on Marihuana and Drug Abuse favored partial decriminalization. Private use and possession of less than 1 ounce would be decriminalized, as would casual transfers. Public possession of less than 1 ounce would be subject to confiscation. Public possession of larger amounts would be a criminal offense subject to a $100 fine, as would casual transfers in public and public use. Cultivation, sale, and distribution would still be classified as felonies; disorderly conduct and driving while using the drug would be crimes.

Two commissioners on the national body believed that the provision for confiscation of publicly possessed marihuana should be dropped, because it was confusing and served no practical purpose. Such confiscation might even lead to invasions of privacy, they contended. Similarly, they thought the sanctions against casual transfer should be eliminated. Definition of casual transfer is too vague, and given its frequency among friends, the provision would be impossible to enforce. Likewise, all not-for-profit sales should be decriminalized, as should public possession for private use of more than 1 ounce.[196]

The then Director of the Bureau of Narcotics and Dangerous Drugs (BNDD) took strong exception to these recommendations. He thought that these views would mean legalizing the market on which the drug trafficker relies. And if marihuana is safe enough to use, why should there be any sanctions against it at all? The Director believed that a preferable alternative reform would be an approach somewhere between legalization and strict penalties, such as reduced penalties.[197]

Prescription drugs. Again, although organized crime does not seem involved in the supply of these drugs, they are legal and subject to a regulatory system that could have implications for reform of other drug laws. More important, though, some believe that if the regulations are successful in controlling the availability of the drugs while demand for them persists, organized crime may be tempted to get into the trade, probably through illegal manufacture. Packer believed that placing these drugs on a dangerous drugs list would extend the crime tariff to them and make the drugs ripe for exploitation by organized crime.[198]

The Comprehensive Drug Abuse and Control Act of 1970 classified drugs according to their medical use and potential for abuse; each classification was subject to certain sanctions or controls. Schedule I, for example, lists drugs for which there is no known medical use and a high potential for abuse. All these drugs, including heroin and marihuana, are prohibited entirely. Schedule II drugs are those with a known medical use, but a high potential for abuse. They are subject to strict quotas on production and regulations covering their distribution. The Justice Department and the Food and Drug Administration (FDA) can add to the list any drug they believe is being abused.[199]

Other drugs. Cocaine does not feature in most drug abuse literature that deals with organized crime, because it was not part of their trade and not a major drug of use until recently. Hence there is little that deals with the question of legalization or decriminalization of cocaine use. The Commission on Marihuana and Drug Abuse did not recommend any change in the status of current laws because too little was known at the time about the effects of the drug.

Similarly, hallucinogens have received little attention from most reformers. They are no longer widely used; thus there is little call for either decriminalization or legalization.

Prostitution

In the early days of America, prostitutes were seen by many as making needed contributions to a frontier society.[200] Their role in the womanless West is well-documented. They initiated young men at a time when sexual mores precluded other learning opportunities; they helped reduce frustration and tension. Many people who thought prostitution was sinful did not necessarily call for its elimination, urging instead restriction to specific areas of a community and public identification of the prostitutes.

Exactly when this tolerance came to an end is hard to pinpoint, but by the last quarter of the 19th century the change was evident. A great many people were calling for reform—namely, elimination of the trade.

[195] Op. cit., Oelsner.
[196] Op. cit., President's Commission on Marihuana.
[197] Ingersoll, John E., "The Effect of Legalizing Marihuana and Heroin," *Vital Speeches of the Day*, 39, Oct. 15, 1972, pp. 24–27.
[198] Op. cit., Packer.
[199] Op. cit., Pekkanen.
[200] Ferguson, Robert W., *The Nature of Vice Control in the Administration of Justice*, St. Paul: West Publishing Co., 1974; Roby, Pamela, and Virginia Kerr, "The Politics of Prostitution," *The Nation*, 214: Apr. 10, 1972, 463–466; Holmes, Kay Ann, "Reflection by Gaslight: Prostitution in Another Time," *Issues in Criminology*, 7, Winter 1972, 83–101; and op. cit., Esselstyn, T. C., pp. 123–135.

Two groups with very different motives led the movement. The humanitarians believed that prostitutes were desperately unhappy women forced by circumstance to suffer a horribly degrading life. These advocates believed that prostitutes needed and wanted to be saved and set on a new path. By contrast, the moral crusaders believed them to be depraved, mentally incompetent, brazen pariahs, who destroyed families, spread disease, and encouraged sin. Thus they believed that the trade of these women should be outlawed. To these voices were added those of the feminists, who believed prostitutes were being exploited, and the politicians, who were seeking votes by using this controversial issue.

State after State passed laws affecting the trade, laws that were upheld by a 1893 Supreme Court decision confirming prostitution as a vice that States could prohibit. Some statutes were aimed directly at the prostitute; these laws generally were favored by the moral crusaders. Other legislation was aimed at the exploiters—panderers, pimps, and brothel owners. These efforts were favored by the humanitarians.[201]

In 1910, the Federal Government enacted the Mann Act, making it illegal for a third party to profit from a prostitute's work and banning interstate commerce in prostitution. Most brothels closed down, and prostitution was generally illegal everywhere. The reforms sometimes went to extremes: Some States authorized sterilization of deviants, moral perverts, syphilitics, and other weak people.[202]

On the whole, the laws have not changed a great deal since they were first enacted. Change may be coming now, however. There is speculation that the courts, before which many laws are being challenged, will find the laws discriminatory to women and otherwise unconstitutional.[203] As of 1974, six States were considering reform. Also, prostitutes themselves have become more active on their own behalf, and have even formed their own lobbying group.[204]

Most discussions about decriminalizing or legalizing prostitution center on arresting the spread of venereal disease and crime, granting women their constitutional rights, and saving criminal justice system resources. Because of the lack of detailed information on the degree and manner in which organized crime is currently involved, it is hard to assess the impact on this group of any legal reform. For instance, one former Federal official says that proposing legalization of prostitution to combat organized crime is unnecessary, because organized crime is not involved.[205] On the other hand, Gail Sheehy, who studied prostitution in New York City for *New York* magazine, says the laws generate crime and involvement by the Mafia.[206]

Some authors believe decriminalization or legalization would alter the position of pimps, who are organized criminals of a sort, though generally on a small scale.[207] Say these observers: "It is our guess that pimping tends to be enforced by stringent laws against prostitution and to decline with the elimination of such laws."[208] Others disagree, saying that what really ties the prostitute to the pimp is an emotional relationship; thus reform would be to no avail.[209] Still others say the argument is irrelevant because most prostitutes are now independent of pimps.[210]

Decriminalization is offered as a serious alternative to prostitution, but the rationale has little to do with combating organized crime. Proponents of decriminalizing all aspects of the trade believe that prostitution should be looked on as just another occupation or business, and that any laws or regulations deprive women of their fundamental constitutional rights. Legalization proposals would perpetuate their deprivation, because they generally restrict the women to certain areas and otherwise regulate them. Another argument is that legalization proposals requiring prostitutes to work in licensed brothels simply substitute slavery to a pimp with slavery to the State government, legislators, vice profiteers, and the managers of the house.[211]

More common are the arguments for decriminalizing private prostitution, with public solicitation, soliciting minors, pandering, and pimping still considered as crimes. The Alliance for a Safer New York recommended this approach, but urged that rehabilitation programs also be provided for those wanting them.[212] Margaret Mead believes that decriminalization would also free police to control the abuses of the trade more effectively.[213]

One city, San Francisco, conducted a quite thorough analysis of its victimless crime problems, among

[201] Op. cit., Kiester.
[202] Op. cit., Holmes.
[203] Williams, Roger M., "The Oldest Profession in Nevada —and Elsewhere," *Saturday Review World*, Sept. 7, 1974, p. 9 ff.
[204] Ibid.
[205] Ruth, Henry S., Jr., "Why Organized Crime Thrives," *The Annals of the American Academy of Political and Social Science*, July 1967, pp. 113–122.
[206] Op. cit., Sheehy, "The Landlords of Hell's Bedroom."
[207] Op. cit., Roby.
[208] Op. cit., Geis.
[209] See, for example, Sheehy, "Cleaning Up Hell's Bedroom," op. cit.
[210] Op. cit., Geis, p. 177.
[211] Women Endorsing Decriminalization, "Prostitution: A Nonvictim Crime?" *Issues in Criminology*, 8 (Fall 1973), pp. 137–162.
[212] Op. cit., Kiester.
[213] Mead, Margaret, "Margaret Mead Answers," *Redbook*, 136, Apr. 1971, p. 50 ff.

them prostitution. Based on its findings, the San Francisco Committee on Crime came out in favor of "discreet" prostitution—i.e., prostitution in private. The committee did not condone the activity, but was persuaded to take that stand by what it perceived to be the costs of the law and the difficulty of enforcing it. Prostitution was ubiquitous, related crime was not that serious, and cases were hard to make. In 1967, the city spent an estimated $375,000 to process 2,116 arrests. Enforcement was arbitrary and discriminatory. Finally, the committee believed that the role of the pimp was created by the law.[214]

A number of legalization proposals have been put forward. Most are a variation on the same principle: Make private prostitution legal, but ban public solicitation, pandering, soliciting minors, and prevent third parties from living off the earnings of a prostitute. The trade would be regulated in any of several ways. Prostitutes would be required to work only in licensed brothels, obtain licenses themselves, and have periodic medical checkups. They would only be allowed to work during certain hours.

One of the few States in the country with legal prostitution is Nevada, where it is on a county-option basis. Fifteen of seventeen counties had legalized the activity by 1971. Prostitutes generally must work in a brothel licensed by the county, are fingerprinted, carry identification cards distributed by the police or district attorney, and have weekly medical exams. Brothels must be located a certain distance from other types of buildings, such as schools.[215]

Legalized prostitution is valued in Nevada for its tax revenues. In Storey County (pop. 700), for example, the one licensed brothel pays a monthly fee of $1,000 and an annual license fee of $18,000. These fees constitute one-fifth of the county's annual budget.

The Nevada house is open 24 hours a day and employs 20 women. Customers are charged $10 for 20 minutes. Prostitutes earn from $500 to $1,000 a week. About half the customers are local, half are tourists. In the county, as elsewhere in the State, prostitutes are considered to be good citizens and are accepted by the community.[216]

There does not seem to be much involvement by organized crime. One source, however, implies otherwise. The Mustang Ranch, Nevada's largest brothel, is located near Reno and owned by Joe Conforte, an easterner with two penitentiary records. Conforte has received a good deal of bad publicity in the State, including one accusation that he rigged a local election by telling his employees how to vote. Conforte denies this charge, and the allegations have not been proven.[217] In general, the county seems grateful for his business.

Great Britain also has legalized private prostitution. Public solicitation is banned, as is living off the earnings of a prostitute and knowingly renting out premises for prostitution. However, according to Gilbert Geis, this system does not work very well.[218] Public solicitation has continued, and arrest rates have increased. A regulation on renting premises has been avoided by using the back seats of taxis; drivers charge a fare, not rent. It does appear, however, that the incidence of pimp-prostitute relations has decreased.

Geis says the experiences in other countries with legislation covering prostitutes have often been equally unsuccessful. Italy banned its legal brothels and prostitution along with them. Streetwalking now flourishes, and the venereal disease rate is up 300 percent. In France, the same action was taken. The woman spearheading the reform is now its most ardent opponent, because all that has resulted is an increase in venereal disease. Japan has had a similar experience.[219]

New York has tried a number of alternatives, ranging from strict to lax enforcement or greatly reduced sanctions. The latter occurred in 1967, at the behest of a judiciary concerned about the abuses prostitutes were suffering at the hands of courts and police. Prostitution was redefined as a "violation," and penalties were reduced.[220] The only clear result seemed to be that New York City attracted new prostitutes from all over the country. However, it did appear that the involvement of organized crime was slight: "Prostitution, however, was reported to be operating without much organized crime involvement in New York, perhaps a benefit of the relaxed statutes and the lesser need for protection. . . ."[221] There was some concern, though, that organized crime was more subtly involved through ownership of the bars where the women worked.

By 1970, dissatisfaction with the results, spurred by an increase in prostitution-related crime, led to new and stricter legislation that many hoped would serve to deter the trade. It did not. "The lesson seems clear. Neither under the first rather stringent law, nor under the second, more moderate law, nor under the present, even more stringent law, has prostitution apparently changed very much in New York."[222]

Pornography

Going back to the crusades of Anthony Comstock,

[214] Op. cit., Geis.
[215] Ibid.
[216] Op. cit., Williams.
[217] Ibid.
[218] Op. cit., Geis.
[219] Ibid.
[220] Ibid.
[221] Ibid., p. 199.
[222] Ibid., p. 200.

which climaxed in the 1870's in New York, pornography has been a forbidden vice. A few States had banned it as far back as 1821, but from the 1870's on, every State that had not done so already enacted a law against obscene materials.[223]

Recent Supreme Court decisions have greatly complicated enforcement and lawmaking. The Court has not extended first amendment protections to pornography, so it is not automatically legal, but the Court's decisions have left unclear what constitutes pornography. At present, there are three somewhat vague criteria: The dominant theme of the material must appeal to "prurient" interests; the material must be utterly without redeeming social, political, literary, or scientific value; and the material must be patently offensive in its depiction of sexual matters, in terms of contemporary community standards. Each State must pass its own legislation defining the standards, but a jury, representing the community, decides on individual works.

The pornography picture is complicated by a 1969 Supreme Court ruling. In *Stanley* v. *Georgia*, the Court held that pornography for private use in one's own home was legal. This decision may be a basis for arguing the unconstitutional nature of prohibitions on private use in other States, on importation of materials for private use, and on interstate transport of materials for private use.[224]

Some pornography laws have successfully withstood legal challenge. Public display of pornography and mailing unsolicited material are banned nationally, as is sale or distribution to minors. In addition, the Federal Government bans using the mails or interstate commerce facilities for conveying pornographic material. The Supreme Court has upheld these laws.

This is a relatively new field for organized crime, and the focus of attention recently has been more on the definition of what is pornographic and how to control all pornography, no matter who is involved. Thus little attention has been paid to means of controlling organized crime specifically. A number of the measures suggested for controlling pornography would seem to affect organized crime operations as they exist now—for example, zoning regulations prohibiting pornographic shops in certain areas. However, many of these laws have been successfully challenged.[225]

The 1970 Commission on Obscenity and Pornography looked at the industry, the theories commonly held about the impact of pornography, and the experiences of other countries with legal pornography. After its review, a majority of the Commission (with 5 of the 17 members dissenting) made a number of controversial recommendations.[226] Most important was the view that adults should be permitted to possess pornographic materials for private use. Restrictions would remain on distribution to minors, unsolicited mailings, and public display. The Commission indicated that an overall educational approach—providing, where appropriate, good, accurate sex education information—would prove a far better means of combating pornography than the law.

The Commission based its recommendations on a number of reasons, none of which involved combating organized crime. The majority of its members did not believe that decriminalization would result in a major increase in incidence or use of pornography. The material was already easily available and the market appeared to be well-saturated. The Commission did not find that pornographic material results in any increase in sexual crimes or deviancy, and found that a surprisingly large number of people had at some point had contact with pornographic material.

The group did not find strong public sentiment against the private use of pornography. In fact, many people believed it served some useful purposes: as an educational tool, an outlet for sexual hangups, or a means of promoting communication about sex. The Commission also believed that protecting individual rights—the right to conduct one's life as one sees fit—was more important than controlling a supposed vice. Government could not regulate morals, which must evolve from the public. Also, from a practical standpoint, the laws were impossible to enforce.

The Commission also looked at the experience of Denmark, which had completely discriminalized pornography in 1968. It found no ill effects there as a result. In fact, indications were that certain sex crimes had actually decreased. Many store owners said that business had not increased appreciably and that the domestic market was saturated. Most of their business consisted of foreigners or foreign trade.

By contrast, a *New York Times* article in 1973 noted an increasing trend in Europe toward curbing pornography. A major factor was said to be "fears of criminality and drug peddling. . . ." Denmark, for example, was said to believe that there was evidence of links between live sex shows and the criminal underworld.[227]

---

[223] Op. cit., Ferguson; and The Commission on Obscenity and Pornography, "IV. Legal Considerations Relating to Erotica," *Report of the Legal Panel to the Commission on Obscenity and Pornography*, Washington, D.C.: U.S. Government Printing Office, 1970, pp. 293–369.

[224] Ibid.

[225] Op. cit., Sheehy.

[226] Op. cit., The Commission on Obscenity and Pornography.

[227] Schuster, Alvin, "Europeans Act to Curb the Sex Market," *New York Times*, Feb. 19, 1973, 1:1.

The Issues for Society

At the heart of the reform debate on victimless crime laws are some hard issues that must be addressed, particularly by the public, before policies can be set. Almost all authors stress the role the public plays. They are the customers, establishing the demand; they influence law enforcement policy and the stand legislators will take.

Society must decide if it really wants these laws, and if so, is it willing to support them, both through personal behavior and by accepting a strong enforcement policy? The question of resources is also critical: How much is the public willing to devote to enforcement, and is that level of commitment consistent with the desired and actual return? If only partial control of these activities is desired, how does the public want to handle that control—through the criminal justice system, the civil courts, or nonlegal institutions?

Does the public want to tolerate the corruption that seems inevitably linked to victimless crime laws, and what does it believe is the most suitable method for dealing with corruption? Is the public, in order to regulate private behavior, willing to countenance laws that many think are unconstitutional and alien to the democratic and egalitarian principles on which the Nation was founded?

In a related area, should the criminal code be the vehicle through which private behavior is controlled and a certain standard of behavior encouraged? Is the public, in its desire to engage in illegal activities, willing to ignore the role it plays in assisting organized crime? Are citizens willing to ignore the wider implications of their involvement with organized crime? Finally, given the many conflicting attitudes and goals in this pluralistic country, what are the appropriate compromises and accommodations that must be made on these issues?

Bibliography for Appendix 2

Barrett, James K., "Inside the Mob's Smut Rackets," *Reader's Digest,* Nov. 1973, 128–132.

Bayles, Michael D., "Comments: Offensive Conduct and the Law," in: Care, Norman S. and Thomas K. Trelogan, eds., *Issues in Law and Morality,* Cleveland: The Press of Case Western Reserve University, 1973, 111–126.

Bell, Joseph, "Could Danish Smut Laws Work Here?" *Today's Health,* 48, Nov. 1970, 24 ff.

"Betting Cards: Too Small for Big Bettor, Just Right for Millions," *New York Times,* Jan. 21, 1975, 30:5.

Bickel, Alexander M., "How to Beat Crime," *The New Republic,* 161, Aug. 30, 1969, 10–12.

Blum, Richard H., "Drugs, Behavior, and Crime," *The Annals of the American Academy of Political and Social Science,* July 1967, 135–146.

Brotman, Richard and Frederic Suffet, "The Concept of Prevention and Its Limitations," *The Annals of the American Academy of Political and Social Science,* Jan. 1975, 53–65.

Bruce-Briggs, B., "Should Heroin Be Legalized?" *New York Affairs,* 2, Fall 1974, 32–45.

Brudnoy, David, "Decriminalizing Crimes without Victims: The Time Is Now," *New Guard,* Apr. 1973, 4–8.

Buckley, Tom, "Professional Gamblers Copy Churches' 'Las Vegas Nights,' " *New York Times,* Mar. 7, 1974, 41:1.

"Bulletin Linking Tongs to Crime Brings Coast Official's Apology," *New York Times,* Nov. 25, 1973, 33:1.

Cady, Steve, "Sports Betting: States Act to Legalize It but U.S. Opens Inquiry," *New York Times,* Jan. 19, 1975, 3:4.

Cady, Steve, "Sports Betting: States Plan 'No Risk' Future," *New York Times,* Jan. 22, 1975, 30:5.

Cady, Steve, "States Ignore Bet Laws in Split in U.S. Policy," *New York Times,* Jan. 20, 1975, 1:1.

Chambers, Marcia, "Two Justices Cited on Precinct Bail." *New York Times,* Apr. 20, 1975, 17:1.

Collier, Peter, "Pirates of Pornography," *Ramparts,* Aug. 10, 1973, 17–23.

The Commission on Obscenity and Pornography, *The Report of the Commission on Obscenity and Pornography,* Washington, D.C.: U.S. Government Printing Office, Sept. 1970.

The Commission to Investigate Allegations of Police Corruption and the City's Anti-Corruption Procedures, *Knapp Commission Report on Police Corruption,* Dec. 26, 1972, New York: George Braziller, 1973.

Conklin, John E., ed., *The Crime Establishment, Organized Crime and American Society,* Englewood Cliffs, N.J.: Prentice-Hall, Inc., 1973.

Conklin, John E., "Organized Crime and American Society," in: Conklin, John E., ed., *The Crime Establishment, Organized Crime and American Society,* Englewood Cliffs, N.J.: Prentice-Hall, Inc., 1973, 1–24.

Cressey, Donald R., "Corruption of the Law-Enforcement and Political Systems," in: Conklin, John E., ed., *The Crime Establishment, Organized Crime and American Society,* Englewood Cliffs, N.J.: Prentice-Hall, Inc., 1973, 131–145.

Cressey, Donald R., "Methodological Problems in the Study of Organized Crime as a Social Problem," *The Annals of the American Academy of Political and Social Science,* Nov. 1967, 101–112.

Demone, Harold W., Jr., "Mental Illness, Alcoholism, and Drug Dependence," *The Annals of the*

American Academy of Political and Social Science, July 1968, 22–33.
Denison, George, "Smut: The Mafia's Newest Racket," *Reader's Digest,* Dec. 1971, 157–160.
Domestic Council Drug Abuse Task Force, *White Paper on Drug Abuse,* Washington, D.C.: U.S. Government Printing Office, Sept. 1975.
Dorman, Michael, *Payoff,* New York: David McKay Company, 1972.
Drucker, Peter F., "How to Take the Profit out of Hard Drugs," editorial, *Saturday Review,* May 13, 1972, 26–27.
"Drugs and Social Policy," *The Annals of the American Academy of Political and Social Science,* Jan. 1975, 417 pp.
Eskenazi, Gerald, "Rise in Illegal Gambling Linked to OTB Climate," *New York Times,* Jan. 10, 1975, 1:1.
Esselstyn, T. C., "Prostitution in the United States," *The Annals of the American Academy of Political and Social Science,* 376, March 1968, 123–135.
Feinberg, Joel, " 'Harmless Immoralities' and Offensive Nuisances," in: Care, Norman S. and Thomas K. Trelogan, eds., *Issues in Law and Morality,* Cleveland: The Press of Case Western Reserve University, 1973, 83–109.
Fellows, Lawrence, "Old Saybrook's Serenity Rocked by Gambling Raid," *New York Times,* Aug. 19, 1975, 26:1.
Ferguson, Robert W., *The Nature of Vice Control in the Administration of Justice,* St. Paul: West Publishing Co., 1974.
"The Flatfoot Floozies," *Newsweek,* 75, May 18, 1970, 99–100.
Friedman, Milton, "Prohibition and Drugs," *Newsweek,* May 1, 1972, 104.
Gage, Nicholas, "Argentine Filled Key Role in Latins' Drug Network," *New York Times,* Apr. 23, 1975, 1:6, 57:1.
Gage, Nicholas, "Drug-Smuggling Logistics Bizarre and Often Fatal," *New York Times,* Apr. 22, 1975, 1:7, 24:1.
Gage, Nicholas, "French Connection Stays Dominant in Market Here," *New York Times,* Apr. 23, 1975, 57:1.
Gage, Nicholas, "Latins Now Leaders in Hard-Drug Trade," *New York Times,* Apr. 21, 1975, 1:1, 26:1.
Gage, Nicholas, "Organized Crime Reaps Huge Profits from Dealing in Pornographic Films," *New York Times,* Oct. 12, 1975, 1:1.
Gage, Nicholas, "Pornographic Periodicals Tied to Organized Crime," *New York Times,* Oct. 13, 1975, 1:1.
Gardiner, John A., "Wincanton: The Politics of Corruption," in: *Task Force Report: Organized Crime,* Task Force on Organized Crime, The President's Commission on Law Enforcement and Administration of Justice, Washington, D.C., U.S. Government Printing Office, 1967.
Geis, Gilbert, "Abortion and Prostitution: A Matter of Respectability," *The Nation,* 217, Sept. 3, 1973, 179–180.
Geis, Gilbert, *Not the Law's Business? An Examination of Homosexuality, Abortion, Prostitution, Narcotics and Gambling in the United States,* Crime and Delinquency Issues, NIMH Center for Studies of Crime and Delinquency, Washington, D.C.: U.S. Government Printing Office, 1972.
Germann, A. C., Frank D. Day, and Robert R. J. Gallati, *Introduction to Law Enforcement and Criminal Justice,* Springfield, Ill.: Charles C Thomas, 1975.
Glaser, Daniel, "Interlocking Dualities in Drug Use, Drug Control and Crime," in: Inciardi, James A. and Carl D. Chambers, eds., *Drugs and the Criminal Justice System,* Sage Criminal Justice System Annuals, Sage Publications, Vol. II, 1974.
Goldberg, William I., "Victimless Crimes: Should Police Preserve Community Morals," *Tennessee Law Enforcement Journal,* 55–56, reprinted from *Police Law Quarterly,* 1, April 1972.
Goldstein, Tom, "City Is Moving with Difficulty to End Times Square Pornography," *New York Times,* Nov. 2, 1975, 1, 46.
Goldstein, Tom, "Experts Say Two Laws Proposed to Clean Up Times Square Face Constitutional Problems," *New York Times,* Nov. 3, 1975, 42.
Gooberman, Lawrence A., *Operation Intercept: The Multiple Consequences of Public Policy,* New York: Pergamon Press, Inc., 1974.
"Governor Grasso Asks for Tighter Control of Gaming Activity," *New York Times,* Feb. 12, 1976.
Hatcher, J. C., "Acadiana Authorities Oppose Decriminalizing Prostitution," *Morning Advocate,* Baton Rouge, La., Feb. 22, 1976.
Holmes, Kay Ann, "Reflection by Gaslight: Prostitution in Another Time," *Issues in Criminology,* 7, Winter 1972, 83–101.
Ianni, Francis A., *Black Mafia,* New York: Simon & Schuster, 1974.
Inciardi, James A. and Carl D. Chambers, eds., *Drugs and the Criminal Justice System,* Sage Criminal Justice System Annuals, Sage Publications, Vol. II, 1974.
Ingersoll, John E. "The Effect of Legalizing Marihuana and Heroin," *Vital Speeches of the Day,* 39, Oct. 15, 1972, 24–27.
"Islip Is Planning to Establish an 'Adult Entertainment Zone,' " *New York Times,* Oct. 16, 1975, 1, 29.
Janson, Donald, "Drug Inquiry Asks Police Be Aided," *New York Times,* Dec. 21, 1973, 74:8.

Johnson, Earl, Jr., "Organized Crime: Challenge to the American Legal System, Part I—Organized Crime: The Nature of Its Treatment, the Reasons for Its Survival," *The Journal of Criminal Law, Criminology and Police Science,* 53, Dec. 1962, 399–425.

Johnson, Earl, Jr., "Organized Crime: Challenge to the American Legal System, Part II—The Legal Weapons: Their Actual and Potential Usefulness in Law Enforcement," *The Journal of Criminal Law, Criminology and Police Science,* 54, March 1963, 1–29.

Johnson, Earl, Jr., "Organized Crime: Challenge to the American Legal System, Part III—Legal Antidotes for the Political Corruption Induced by Organized Crime," *The Journal of Criminal Law, Criminology and Police Science,* June 1963, 1 ff.

Kadish, Sanford H., "The Crisis of Overcriminalization," *The Annals of the American Academy of Political and Social Science,* 374, Nov. 1967, 157–170.

Kaplan, John, *Marijuana—The New Prohibition,* World Publishing Company, 1970.

Kasindorf, Martin, "By the Time It Gets to Phoenix," *New York Times Magazine,* Oct. 29, 1971, p. 18 ff.

Kiester, Edwin, Jr., *Crimes with No Victims,* New York: Alliance for a Safer New York, 1972.

King, Rufus, " 'The American System': Legal Sanctions to Repress Drug Abuse," in: Inciardi, James A. and Carl D. Chambers, eds., *Drugs and the Criminal Justice System,* Sage Criminal Justice System Annuals, Sage Publications, Vol. II, 1974.

King, Seth S., "Foes of Pornography Winning a Few Skirmishes but Not the Major Battles," *New York Times,* Nov. 28, 1975, 52.

Kunnes, Richard, *The American Heroin Empire,* New York: Dodd, Mead & Co., 1972.

" 'Las Vegas Nite' Was the Real Thing, Police Raiders Say," *New York Times,* Aug. 4, 1975, 21:1.

"Legalizing Prostitution," *Newsweek,* 80, Sept. 4, 1972, 88.

Markham, James M., "Heroin Hunger May Not a Mugger Make," *New York Times Magazine,* Mar. 18, 1973, 39 ff.

McGlothlin, William H. and Victor C. Tabbush, "Costs, Benefits, and Potential for Alternative Approaches to Opiate Addiction Control," in: Inciardi, James A. and Carl D. Chambers, eds., *Drugs and the Criminal Justice System,* Sage Criminal Justice System Annuals, Sage Publications, Vol. II, 1974.

Mead, Margaret, "Margaret Mead Answers," *Redbook,* 136, April 1971, 50 ff.

Meiselas, Harold and Leon Brill, "The Role of Civil Commitment in Multimodality Programming," in: Inciardi, James M. and Carl D. Chambers, eds., *Drugs and the Criminal Justice System,* Sage Criminal Justice System Annuals, Sage Publications, Vol. II, 1974.

Michener, James, "The Weapons We Need to Fight Pornography," *Reader's Digest,* Dec. 1968, 125–130.

Morris, Norval, "The Law as a Busybody," *Current,* 152, June 1973, 3–15.

Mushklin, Selma, "Politics and Economics of Government Response to Drug Abuse," in: "Drugs and Social Policy," *The Annals of the American Academy of Political and Social Science,* Jan. 1975, 27–40.

The National Advisory Commission on Criminal Justice Standards and Goals, *A National Strategy to Reduce Crime,* Washington, D.C.: U.S. Government Printing Office, 1973.

The National Commission on Marihuana and Drug Abuse, *Drug Use in America: Problem in Perspective,* Washington, D.C.: U.S. Government Printing Office, 1973.

Oelsner, Leslie, "In a Sometimes Bitter Fight, States and Cities Are Easing Marijuana Laws," *New York Times,* July 13, 1975, 28:1.

"Oregon Has Not Become a Drug Haven for Pushers Despite Nation's Most Liberal Drug Law," *New York Times,* Oct. 7, 1973, 81:1.

Pace, Denny F. and Jimmie C. Styles, *Organized Crime: Concepts and Control,* Englewood Cliffs, N.J.: Prentice-Hall, Inc., 1975.

Packer, Herbert L., "The Crime Tariff," *The American Scholar,* (date unknown), 551–557.

Packer, Herbert L., "Decriminalizing Heroin," *The New Republic,* 166, June 3, 1972, 11–13.

Pekkanen, John, *The American Connection,* Chicago: Follett Publishing Company, 1973.

Plate, Thomas, *Coke: The Big New Easy-Entry Business,* New York, 1973.

"The Porno Plague," *Time,* April 5, 1976, 58–63.

"Pot Can Hurt, but Does Prison Help?" *U.S. News and World Report,* Dec. 2, 1974, 80.

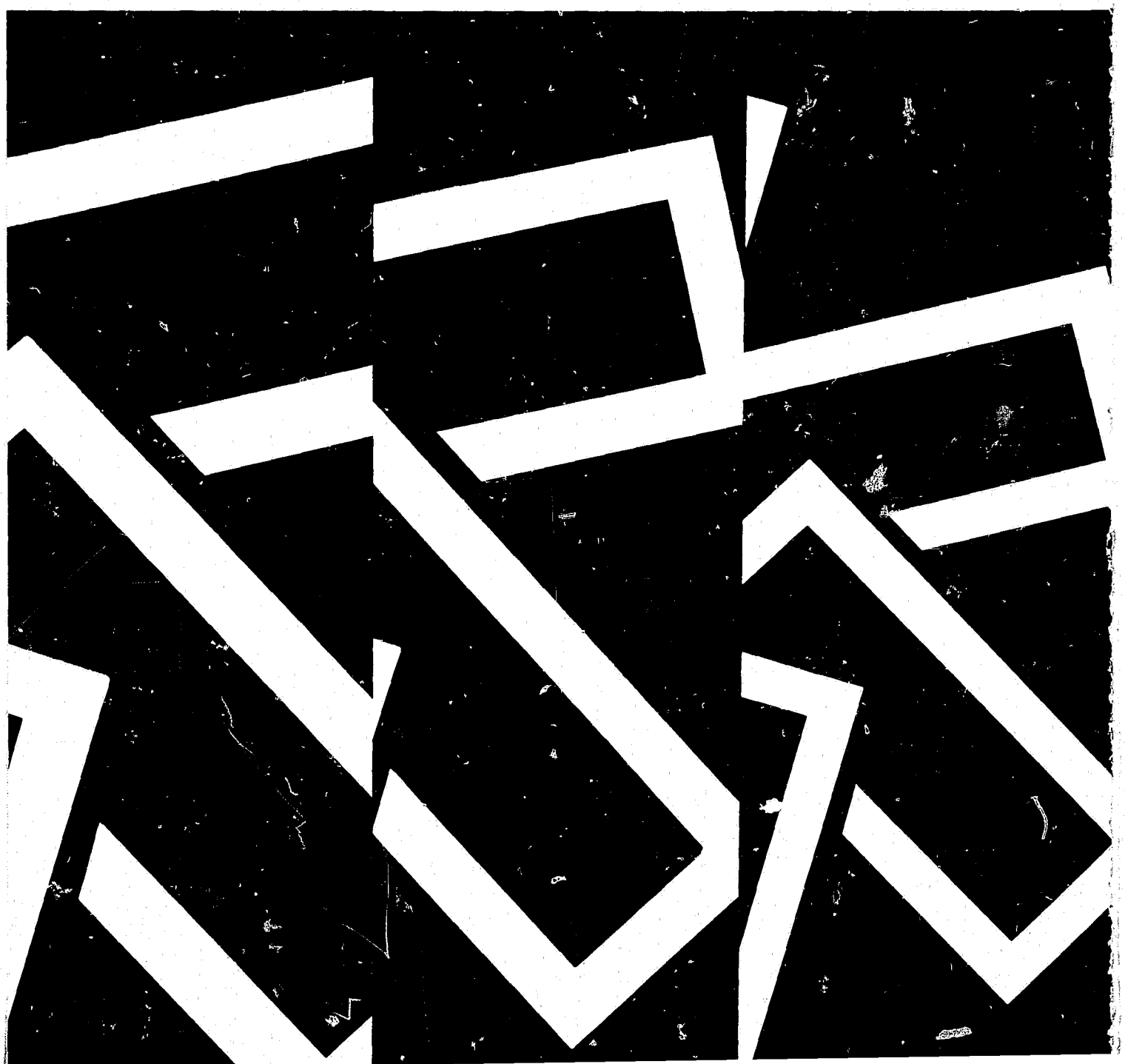
The President's Commission on Law Enforcement and Administration of Justice, *The Challenge of Crime in a Free Society,* Washington, D.C.: U.S. Government Printing Office, 1967.

The President's Commission on Law Enforcement and Administration of Justice, Task Force on Narcotics and Drug Abuse, *Task Force Report: Narcotics and Drug Abuse,* Washington, D.C.: U.S. Government Printing Office, 1967.

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

The President's Commission of Marihuana and Drug Abuse, *Marihuana: A Signal of Misunderstanding,* Washington, D.C.: U.S. Government Printing Office, 1972.
Raab, Selwyn, "Illegal Narcotics Traffic Is Worst Here in Five Years," *New York Times,* Dec. 8, 1975, 1, 49.
Raab, Selwyn, "Top Drug Dealers Named by Police," *New York Times,* Dec. 9, 1975: 1:1.
Rafferty, Max, "Crack Down on the Smut Kings!" *Reader's Digest,* Nov. 1968, 97–100.
Reiss, Albert J., Jr., *The Police and the Public,* New Haven: Yale University Press, 1971.
Reitzer, W. W., "Addressing the Dangers of Marijuana," in: Letters to the Editor, *The Washington Post,* Feb. 26, 1976.
Roby, Pamela and Virginia Kerr, "The Politics of Prostitution," *The Nation,* 214, Apr. 10, 1972, 463–466.
Ross, Irwin, "The Great Debate over 'Victimless' Crimes," *Reader's Digest,* 105, Oct. 1974, 53 ff.
Ruth, Henry S., Jr., "Why Organized Crime Thrives," *The Annals of the American Academy of Political and Social Science,* July 1967, 113–122.
Salerno, Ralph and John S. Tompkins, "Crime and Politics," in: Conklin, John E., ed., *The Crime Establishment, Organized Crime and American Society,* Englewood Cliffs, N.J.: Prentice-Hall, Inc., 1973, 147–158.
Samuels, Gertrude, "Pot, Hard Drugs and the Law," *New York Times Magazine,* Feb. 15, 1970.
Schelling, Thomas C., "Economic Analysis and Organized Crime," in: *Task Force Report: Organized Crime,* Task Force on Organized Crime, The President's Commission on Law Enforcement and Administration of Justice, Washington, D.C.: U.S. Government Printing Office, 1967.
Schelling, Thomas C., "What Is the Business of Organized Crime?" *The American Scholar,* 40, Autumn 1971, 643–652.
Schroeder, Richard C., *The Politics of Drugs: Marijuana to Mainlining,* Washington, D.C.: Congressional Quarterly, 1975.
Schur, Edwin M. and Hugo Adam Bedau, *Victimless Crime: Two Sides of a Controversy,* Englewood Cliffs, N.J.: Prentice-Hall, Inc., 1974.
Schuster, Alvin, "Europeans Act to Curb the Sex Market," *New York Times,* Feb. 19, 1973, 1:1.
Sheehy, Gail, "Cleaning Up Hell's Bedroom," *New York,* Nov. 13, 1972, 50–66.
Sheehy, Gail, "The Landlords of Hell's Bedroom," *New York,* Nov. 20, 1972, 67 ff.
Shoben, Edward Joseph, Jr., "Volstead Exhumed?" *The Nation,* 207, Sept. 30, 1968, 306–308.
Siegel, Max H., "Free 'Drying Out' Given Alcoholics," *New York Times,* June 17, 1973, 35:1.
Simons, Mary, "What the English Are Doing about Heroin," *Look,* 34, Apr. 7, 1970, 47 ff.
Sinclair, Andrew, *Prohibition: The Era of Excess,* Boston: Little, Brown and Co., 1962.
Smith, Alexander B. and Harriet Pollack, "Crimes without Victims," *Saturday Review,* 54, Dec. 4, 1971, 27–29.
Smith, J. Y., "D.C. Ponders New Status: Commercial Sex Haven," *Washington Post,* Dec. 7, 1975, B–1 ff.
Stanmeyer, William A., " 'Victimless Crimes' and Public Morality," *Modern Age,* Fall 1974, 369–379.
Stern, Gerald, "Public Drunkenness: Crime or Health Problem?" *The Annals of the American Academy of Political and Social Science,* July 1967, 147–156.
Task Force on Legalized Gambling, *Easy Money,* New York: The Twentieth Century Fund, 1974.
"Tax Cut Gives Legality a Chance Against Illegality in Nevada Betting," *New York Times,* Jan. 22, 1975, 30:5.
Walker, Leslie, *The Mob,* New York: Delacorte Press, 1973.
Weinstein, David and Lillian Deitch, *The Impact of Legalized Gambling: The Socioeconomic Consequences of Lotteries and Off-Track Betting,* New York: Praeger Publishers, 1974.
Whipple, Dorothy V., Dr., "What Causes More Harm, Drugs or the Laws Against Them?" *McCall's,* 94, Mar. 1972, 70 ff.
Williams, Roger M., "The Oldest Profession in Nevada—and Elsewhere," *Saturday Review World,* Sept. 7, 1974, 9 ff.
Wilson, James Q., Mark H. Moore, and I. David Wheat, Jr., " 'Dealing with Heroin': What Public Policy toward Heroin?" from "The Problem of Heroin," *The Public Interest,* in: *Current,* Jan. 1973, 10–39.
Winick, Charles and Paul M. Kinsie, *The Lively Commerce,* Chicago: Quadrangle Books, 1971.
Women Endorsing Decriminalization, "Prostitution: A Nonvictim Crime?" *Issues in Criminology,* 8, Fall 1973, 137–162.

Bibliography



A Professional Thief. *The Professional Thief.* Annotated and Interpreted by Edwin H. Sutherland. Chicago: The University of Chicago Press, 1937.

Adamic, Louis. *Dynamite—The Story of Class Violence in America.* New York: The Viking Press, 1931.

Adams, Thomas F. "Organized Crime in America," *Police,* May–June, September–October, November–December, 1962.

Adrian, Charles R. *Governing Urban America.* New York: McGraw-Hill, 1961.

Allen, David D. *The Nature of Gambling.* New York: Coward-McCann, 1952.

Allen, Edward J. "Apalachin Aftermath," *The Police Chief,* March, 1961.

———. "La Mafia and Omerta," *The Police Chief,* September, 1951.

———. "La Mafia-The Blackhand," *The Police Chief,* March, 1951.

———. "The Mafia: Mediator and Protector," *Police,* July–August, 1961.

———. "The Mafia Menace Has Deep Roots," *The Police Chief,* July, 1956.

———. "The Mafia and Salvatore Carnevale," *Police,* September–October, 1961.

———. "Merchants of Menace: The Mafia," *Police,* March–April, 1961.

Alexander, Herbert. *Regulation of Political Finance.* Berkeley, California: Institute of Governmental Studies and Princeton Citizens Research Foundation, 1966.

Allsop, Kenneth. *The Bootleggers and Their Era.* Garden City, New York: Doubleday and Company, Inc., 1961.

American Bar Association. *The Function of the Trial Judge.* Section 9.1, 1972.

American Bar Association, Commission on Organized Crime. *Model Anti-Gambling Act.* Morris Ploscowe (ed.), New York: The Crosby Press, 1952.

———. *Model Department of Justice Act.* Morris Ploscowe (ed.), New York: The Crosby Press, 1952.

———. *Model Police Council Act.* Morris Ploscowe (ed.), New York: The Crosby Press, 1952.

———. *Model State Witness Immunity Act.* Morris Ploscowe (ed.), New York: The Crosby Press, 1952.

———. *Organized Crime and Law Enforcement.* 2 vols. Morris Ploscowe (ed.), New York: The Crosby Press, 1952.

Anderson, Annelise. *Organized Crime: The Need for Research.* Law Enforcement Assistance Administration. Washington: Government Printing Office, 1970.

Anderson, Robert. "From Mafia to Cosa Nostra," *American Journal of Sociology,* 71 (3): 302–310 (1956).

Ansley, Norman. "International Efforts to Control Narcotics," *Journal of Criminal Law, Criminology and Police Science,* Vol. 50 (July–August 1959).

Anslinger, Harry J., and Will Dursler. *The Murderers: The Story of Narcotic Gangs.* New York: Farrar, Straus and Cudahy, 1961.

———. *The Protectors.* New York: Farrar, Straus and Company, 1961.

———, and William F. Tompkins. *The Traffic in Narcotics.* New York: Funk and Wagnalls Co., Inc., 1953.

Arm, Walter. *Payoff.* New York: Appleton-Century-Crofts, Inc., 1951.

Armbrister, Trevor. "Join the War Against Crime and Drug Pushers," *Reader's Digest,* September 1973.

Asbury, Herbert. *The Barbary Coast—An Informal History of the San Francisco Underworld.* New York: Alfred A. Knopf, 1933.

———. *The Chicago Underworld.* New York: Ace Star, 1940.

———. *The French Quarter—An Informal History of the New Orleans Underworld.* New York: Alfred A. Knopf, 1936.

———. *Gangs of New York—An Informal History of the Underworld.* New York: Alfred A. Knopf, 1928.

———. *The Great Illusion.* Garden City: Doubleday and Company, 1950.

Ashman and Alfini. *The Key to Judicial Merit Selection: The Nominating Process.* The American Judicature Society, 1974.

Aubry, Arthur S. Jr. "Internal Revenue Service Intelligence Division," *Police*, 4:35 (1969).

Bachelder, W.K. "The Suppression of Bookie Gambling by a Denial of Telephone and Telegraph Facilities," *Journal of Criminal Law and Criminology*, July, 1949.

Bah, Tan Jee. "Secret Societies in Singapore," *F.B.I. Law Enforcement Bulletin*, January. 1965.

Baker, Russell. "Equitable Remedy to Combat Gambling in Illinois," *Chicago-Kent Law Review*, September, 1950.

———. "Taxation: Potential Destroyer of Crime," *Chicago-Kent Law Review*, June, 1951.

Baltimore Criminal Justice Commission. *Reports on Crime and Related Matters.* 1962.

Banfield, Edward C., and James Q. Wilson. *City Politics.* Massachusetts: Harvard University Press, 1963.

Barnes, Harry E., and Negley K. Teeters. *New Horizons in Criminology,* 3rd ed. New Jersey: Prentice-Hall, 1959.

Barrett, James K. "Inside the Mob's Smut Rackets," *Reader's Digest*, November, 1973.

Bayles, Michael D. "Comments: Offensive Conduct and the Law," *Issues in Law and Morality.* Norman S. Care and Thomas K. Trelogan (eds.), Cleveland: The Press of Case Western Reserve University, 1973.

Barzini, Luigi. *The Italians.* New York: Atheneum, 1964.

Bates, Jerome E., and Edward S. Zawadski. *Criminal Abortion.* Springfield: Charles C Thomas, 1964.

Bell, Daniel. "Crime as an American Way of Life," *Antioch Review*, 13(2): 131–154, (1953).

———. *The End of Ideology.* New York: Free Press, 1960.

Bell, Joseph. "Could Danish Smut Laws Work Here?" *Today's Health,* 48 (November 1970).

Bender, Erle. *Tickets to Fortune.* New York: Modern Age Books, 1938.

Bergler, Edmund. *The Psychology of Gambling.* New York: Hill and Wang, 1957.

Bers, Melvin K. *The Penetration of Legitimate Business by Organized Crime—An Analysis.* Law Enforcement Assistance Administration, U.S. Department of Justice: Government Printing Office, 1970.

"Betting Cards: Too Small for Big Bettor, Just Right for Millions," *New York Times*, Jan. 21, 1975.

Bickel, Alexander M. "How to Beat Crime," *The New Republic,* 161: Aug. 30, 1969).

Blakey, G. Robert. "Organized Crime in the United States," *Current History*, 52(310): 327–333, 364, (1967).

Blanche, Ernest E. *You Can't Win: Facts and Fallacies About Gambling.* Washington: Public Affairs Press, 1949.

Bloch, Herbert A. "The Gambling Business: An American Paradox," *Crime and Delinquency,* October, 1962.

———. "The Sociology of Gambling," *American Journal of Sociology*, November, 1951.

Bloom, Marray Teigh. *The Trouble with Lawyers.* New York: Simon and Schuster, 1968.

Bloomquist, Edward R. *Marijuana.* Beverly Hills: Glencoe Press, 1968.

Blum, Richard H. "Drugs, Behavior, and Crime," *The Annals of the American Academy of Political and Social Science,* July, 1967.

Bluth, Ira. "Collected Essays on Police Functions," *Police*, 1969.

Bohardt, P.H., and H.N. Rasmussen. "Selection and Training of Organized Crime Investigators," *The Police Chief,* September, 1971.

Bolitho, William. "The Natural History of Graft," *The Survey*, April, 1931.

Boydston, Horace E. "The Santa Clara Valley Intelligence Unit," *The Police Chief*, November, 1973.

Brean, Herbert. "World Crime—A Series," *Life,* Jan. 11, 18, 25 and Feb. 1, 1960.

Brennan, Ray. *The Stolen Years.* Cleveland: Pennington Press, 1959.

Brotman, Richard and Frederic Suffet. "The Concept of Prevention and Its Limitations," *The Annals of the American Academy of Political and Social Science,* January, 1975.

Brown, Thorvald T. *The Enigma of Drug Addiction.* Springfield: Charles C Thomas, 1975.

Bruce-Briggs, B. "Should Heroin Be Legalized?" *New York Affairs*, 2, Fall, 1974.

Brudnoy, David. "Decriminalizing Crimes without Victims: The Time Is Now," *New Guard*, April, 1973.

Buck, Frederick S. *Horse Race Betting: A Complete Account of Parimutuel and Bookmaking.* New York: Greenburg, 1946.

Buckley, Tom. "Professional Gamblers Copy Churches' 'Las Vegas Nights,' " *New York Times,* Mar. 7, 1974.

Buckwalter, J.A. *Merchants of Misery.* Mountain View: Pacific Press Publishing, 1956.

Bullough, Vern L. *The History of Prostitution.* New Hyde Park, New York: University Books, 1964.

Burgess, Ernest W. *The New Step in the War on Crime—Legalize Gambling.* Chicago: Governmental Research Association, 1935.

Burns, Walter Noble. *The One-Way Ride: The Red Trail of Chicago Gangland from Prohibition to Jake Lingle.* Garden City: Doubleday, Doran and Co., 1931.

Buse, Renee. *The Deadly Silence.* Garden City: Doubleday and Co., 1965.

Butler, Smedley D. "Making War on the Gangs," *Forum,* March, 1931.

Cady, Steve. "Sports Betting: States Plan 'No Risk' Future," *New York Times,* Jan. 22, 1975.

———. "States Ignore Bet Laws in Split in U.S. Policy," *New York Times,* Jan. 20, 1975.

California. Special Crime Study Commission on Organized Crime, 1947–1950. *Progress Report #2,* Mar. 7, 1949.

———. *Progress Report #3,* Jan. 31, 1950.

———. *Final Report.* Sacramento: Nov. 15, 1950.

California. Special Crime Study Commission on Organized Crime, 1951. *Final Report.* Sacramento: May 11, 1953.

California Assembly. Interim Committee on the Judicial System and Judicial Process. *Final Report.* Assembly Journal, May 2, 1949.

California Assembly. Interim Committee on Judiciary. Report of the Sub-Committee on Rackets. *Organized Crime in California.* Sacramento, 1959.

California State. Interim Committee on Initiative Legislation. *Legalizing Gambling for Support of Pensions, Final Report.* Senate Journal, Volume 1, 1951.

Chafetz, Henry. *Play the Devil.* New York: Clarkson N. Potter, 1960.

Chalmers, David Mark. *The Social and Political Ideas of the Muckrakers.* New York: Citadel Press, 1964.

Chamber of Commerce of the United States. *Deskbook on Organized Crime.* Washington: Government Printing Office, 1969.

———. *Deskbook on Organized Crime.* Revised Edition, Washington: Government Printing Office, 1973.

———. *Marshaling Citizen Power Against Crime.* Washington: Government Printing Office, 1970.

Chamberlin, Henry B. "Some Observations Concerning Organized Crime," *Journal of Criminal Law and Criminology,* January, 1932.

Chambers, Marcia. "Two Justices Cited on Precinct Bail," *New York Times,* Apr. 20, 1975.

Chapman, Samuel G. "Functional Problems Facing Law Enforcement Stemming From Supreme Court Decisions," *Police,* 1966.

Chicago Crime Commission. *Report on Chicago Crime and Criminals.* Issued annually.

———. *Spotlight on Organized Crime—The Chicago Syndicate.* Chicago, 1967.

Citizens' Committee of Massachusetts, Inc. *Confidential Surveys to Review Scope of Gambling Problem in U.S. and its Massachusetts Ramifications.* Boston, 1949.

Collier, Peter. "Pirates of Pornography," *Ramparts,* Aug. 10, 1973.

Collinson, Owen H. *King Crime.* New York: Holt, Rinehart and Winston, 1959.

"Combating Organized Crime," *Annals of the American Academy of Political and Police Science,* May, 1963.

Conboy, Martin. "Organized Crime as a Business and Its Bearing Upon the Administration of Criminal Law," *New York University Law Review,* Dec., 1929.

Conklin, John E., editor. *The Crime Establishment, Organized Crime and American Society.* Englewood Cliffs, New Jersey: Prentice-Hall, Inc., 1973.

Connecticut Governor's Committee on Gambling. *A Report.* Hartford, 1965.

Cook, Fred J. *A Two Dollar Bet Means Murder.* New York: Dial Press, 1961.

———. *The Secret Rulers: Criminal Syndicates and How They Control the U.S. Underworld.* New York: Duell, Sloane and Pearce, 1966.

Cooper, Courtney Riley. *Designs in Scarlet.* Boston: Little, Brown and Company, 1939.

———. *Here's To Crime.* Boston: Little, Brown, and Company, 1939.

"Cooperation Vital in Meeting Threat of Organized Crime," *F.B.I. Law Enforcement Bulletin,* January and February, 1961.

Council of State Governments. Governor's Conference. *Proceedings, 43rd Annual Meeting.* Chicago, 1952.

Cressey, Donald R. "Corruption of the Law-Enforcement and Political Systems," in John E. Conklin (ed.), *The Crime Establishment, Organized Crime and American Society.* Englewood Cliffs: Prentice-Hall, Inc., 1973.

———. "Methodological Problems in the Study on Organized Crime as a Social Problem," *Annals,* Vol. 374 (November 1967).

———. *Other People's Money.* Glencoe, Illinois: The Free Press, 1953.

———. *Theft of the Nation.* New York: Harper and Row, 1969.

Crawford, Francis Marion. *Southern Italy and Sicily and the Rulers of the South.* London: The Macmillan Co., 1900.

Crowther, Samuel. "Invisible Government," *Ladies Home Journal,* February, April and May, 1931.

Danforth, Harold R., and James D. Horan. *The D.A.'s Man.* New York: Crown Publishers, Inc., 1957.

Davidson, Bell. "The Mafia Can't Crack Los Angeles," *The Saturday Evening Post*, July 31, 1965.

Davidson, Sheldon. "Schemes and Methods Used in Perpetrating Bankruptcy Frauds," *Commercial Law Journal*, 71:383–387, December, 1971.

Davis, Clyde B. *Something for Nothing*. Philadelphia: Lippincott, 1956.

Davis, J. Richard. "Things I Couldn't Tell Till Now," *Colliers*, July 22 to Aug. 26 incl., 1939.

DeLeeuw, Hendrik. *Underworld Story: The Rise of Organized Crime and Vice-Racket in the U.S.A.* London: N. Spearman, 1955.

Demaris, Ovid. *Captive City*. New York: Lyle Stuart, Inc., 1969.

De Mattei, Kenneth. "The Use of Taxation to Control Organized Crime," *California Law Review*, June, 1951.

Demone, Harold W., Jr. "Mental Illness, Alcoholism, and Drug Dependence," *The Annals of the American Academy of Political and Social Science*, July 1968.

Denison, George. "Smut: The Mafia's Newest Racket," *Reader's Digest*, December, 1971.

Dobyns, Fletcher. *The Underworld of American Politics*. New York: Fletcher Dobyns, 1932.

Doherty, Bill. *Crime Reporter*. New York: Exposition Press, 1964.

Dolci, Danilo. *Waste*. New York: Monthly Review Press, 1964.

Donfante, Jordan. "Mafia in Trouble on Its Home Grounds," *Life*, Mar. 6, 1964.

Donnelly, Richard C. "Electronic Eavesdropping," *Notre Dame Lawyer*, 38(6): 667–689, 1963.

———. "The Fifth Amendment Privilege and Immunity Legislation," *Notre Dame Lawyer*, 38(6): 641–654, 1963.

Dorman, Michael. *Payoff*. New York: David McKay Company, 1972.

Drucker, Peter F. "How to Take the Profit out of Hard Drugs," *Saturday Review*, May 13, 1972.

"Drugs and Social Policy," *The Annals of the American Academy of Political and Social Science*, Jan. 1975.

Drzazga, John. "Gambling and the Law," *Journal of Criminal Law, Criminology and Police Science*, November 1951; May 1952; September 1952; January 1953; January and February 1954.

———. *Wheels of Fortune*. Springfield: Charles C Thomas, 1963.

Dubins, Lester E., and Leonard J. Savage. *How to Gamble If You Must*. New York: McGraw-Hill, 1965.

Dulles, Allen. *The Craft of Intelligence*. New York: Harper and Row, 1963.

Eastman, George. "Further Consideration on Organized Crime," *Police*, 1965.

Edelhertz, Herbert. *The Nature, Impact and Prosecution of White Collar Crime*. Washington: Government Printing Office, 1970.

Edwards, Jack. "Businessmen Warned on Organized Crime," *Congressional Record-House*, Vol. 114, May 15, 1968.

Egen, Frederick W. *Plainclothesman: Handbook of Vice & Gambling Investigation*. New York: Arco Publishing Co., Inc., 1959.

Eliasberg, Wladimir. "Corruption and Bribery," *Journal of Criminal Law, Criminology and Police Science*, September–October, 1951.

Ellison, E. Jerome, and Frank W. Brock. *The Run for Your Money*. New York: Dodge, 1935.

Elliot, J. F. *Some Thoughts on the Control of Organized Gaming*. G.E. Electronics Laboratory, 1968.

Eseknazi, Gerald. "Rise in Illegal Gambling Linked to OTB Climate," *New York Times*, Jan. 10, 1975.

Esselstyn, T. C. "Prostitution in the United States," *The Annals of the American Academy of Political and Social Science*, Vol. 376 (March 1968).

Feder, Sid and Joachin Joesten. *The Luciano Story*. New York: David McKay Co., 1960.

"Federal Gambling Tax and the Constitution," *Journal of Criminal Law, Criminology and Police Science*, January, 1953.

"Federal Regulation of Gambling," *Yale Law Journal*, December, 1951.

Feinberg, Joel. " 'Harmless Immoralities' and Offensive Nuisances," in Norman S. Care and Thomas K. Trelogan (eds.), *Issues in Law and Morality*. Cleveland: The Press of Case Western Reserve University, 1973.

Fellows, Lawrence. "Old Saybrook's Serenity Rocked by Gambling Raid," *New York Times*, Aug. 19, 1975.

Ferguson, Robert W. *The Nature of Vice Control in the Administration of Justice*. St. Paul: West Publishing Co., 1974.

"The Flatfoot Floozies," *Newsweek*, May 18, 1970.

Ford, Henry Jones. "Municipal Corruption," *Political Science Quarterly*, 1904.

Frasca, Don. *Vito Genovese: King of Crime*. Revised edition, New York: Avon Books, 1963.

Friedman, Milton. "Prohibition and Drugs," *Newsweek*, May 1, 1972.

Gage, Nicholas. "Argentine Filled Key Role in Latins' Drug Network," *New York Times*, Apr. 23, 1975.

———. "Drug-Smuggling Logistics Bizarre and Often Fatal," *New York Times*, Apr. 22, 1975.

———. *Mafia—U.S.A.* New York: Dell Publishing Co., 1972.
———. "Organized Crime Reaps Huge Profits from Dealing in Pornographic Films," *New York Times,* Oct. 12, 1975.
———. "Pornographic Periodicals Tied to Organized Crime," *New York Times,* Oct. 13, 1975.
"Gambling," *Annals of the American Academy of Political and Social Science*, May, 1950.
Gambling Devices. Hearings on H.R. 3024, 87th Congress. Washington, 1961.
"Gambling—Should It Be Legalized?" *Journal of Criminal Law and Criminology*, Vol. XL (September–October, 1949).
Gardiner, John A. *The Politics of Corruption: Organized Crime in An American City.* New York: Russell Sage Foundation, 1970.
———. "Public Attitudes Toward Gambling and Corruption," *Annals of the American Academy of Political and Social Science*, November, 1967.
———. "Wincanton: The Politics of Corruption," in *Task Force Report: Organized Crime.* The President's Commission on Law Enforcement and Administration of Justice. Washington: Government Printing Office, 1965.
Geis, Gilbert. "Abortion and Prostitution: A Matter of Respectability," *The Nation*, Sept. 3, 1973.
———. *Not the Law's Business? An Examination of Homosexuality, Abortion, Prostitution, Narcotics and Gambling in the United States.* Crime and Delinquency Issues, National Institute on Mental Health Center for Studies of Crime and Delinquency, Washington: Government Printing Office, 1972.
Gelhorn and Byse. *Administrative Law.* Sixth Edition: Foundation Press, 1974.
Germann, A.C., Frank D. Day, and Robert R.J. Gallati. *Introduction to Law Enforcement and Criminal Justice.* Revised 12th printing. Springfield: Charles C Thomas, 1970.
Gianni, Francis, A.J. *A Family Business, Kinship and Social Control in Organized Crime.* New York: Basic Books, 1972.
Gibbons, Thomas. "Should Gambling Be Legalized," *Saturday Evening Post*, Jan. 3, 1959.
Gillen, Daniel J. "Noisless Rackets I Have Heard," *Journal of Criminal Law and Criminology*, November, 1937.
Giordano, Henry L. "Law Enforcement Presents United Front in Crackdown on Narcotics Traffic," *Police*, 1965.
Glaser, Daniel. "Interlocking Dualities in Drug Use, Drug Control and Crime," in James A. Inciardi and Carl D. Chambers (eds.), *Drugs and the Criminal Justice System,* Sage Criminal Justice System Annuals, Sage Publications, Vol. II, 1974.
Glueck, Sheldon. "The Gang Phenomenon," *Social Service Review,* December, 1927.
Godbold, John C. "Speedy Trial: Major Surgery for a National Ill," *Alabama Law Review*, Vol. 24, Number 2, Spring, 1972.
Goettel, Gerard L. "Why The Crime Syndicate Can't Be Touched," *Harper's*, November, 1960.
Goldberg, William I. "Victimless Crimes: Should Police Preserve Community Morals," *Tennessee Law Enforcement Journal,* reprinted from *Police Law Quarterly,* April 1972.
Goldstein, Tom. "City Is Moving with Difficulty to End Times Square Pornography," *New York Times,* Nov. 2, 1975.
———. "Experts Say Two Laws Proposed to Clean Up Times Square Face Constitutional Problems," *New York Times*, Nov. 3, 1975.
Gooberman, Lawrence A. *Operation Intercept: The Multiple Consequences of Public Policy.* New York: Pergamon Press, Inc., 1974.
"Governor Grasso Asks for Tighter Control of Gaming Activity," *New York Times,* Feb. 12, 1976.
Gowen, Emmett (ed.). *True Expose of Racketeers and Their Methods.* New York: Popular Books, 1930.
Great Britain Royal Commission on Betting, Lotteries and Gaming. *A Report.* London, 1949–51.
Grutzner, Charles. "How to Lock Out the Mafia: Management Can Play a Leading Role in Countering the Alarming Increase in Infiltration into Reputable Companies," *Harvard Business Review,* Vol. 48 (March 1970).
Gunther, John and J.W. Mulroy. "The High Cost of Hoodlums," *Harper's,* October, 1929.
Hagan, Charles B. "Wire Communications Utilities and Bookmaking," *Minnesota Law Review,* February, 1951.
Halper, Albert (ed.). *The Chicago Crime Book.* Cleveland: World Publishing Co., 1967.
———. *The Cleveland Crime Book.* Cleveland: World Publishing Co., 1967.
Hamilton, Charles. *Men of the Underworld.* New York: Macmillan Company, 1952.
Harney, Malachi L., and John C. Cross. *The Informer in Law Enforcement.* 2nd Edition, Springfield: Charles C. Thomas, 1968.
———. *The Narcotic Officer's Notebook.* Springfield: Charles C Thomas, 1961.
Hatcher, J. C. "Acadiana Authorities Oppose Decriminalizing Prostitution," *Morning Advocate,* Baton Rouge, Louisiana, Feb. 22, 1976.
Heard, Alexander. *The Costs of Democracy.* Chapel Hill: University of North Carolina Press, 1960.
Heckethorn, Charles. *The Secret Societies of All Ages and Countries.* New Hyde Park, New York: University Books, 1965.

Helbrant, Maurice. *Narcotic Agent 319*. New York: Vanguard Press, 1941.
Herald, George W., and Edward D. Radin. *The Big Wheel*. New York: Morrow, 1963.
Herman, Robert D. *Gambling*. New York: Harper and Row, 1967.
Herskovits, Melville Jr. *Man and His Works*. New York: Alfred A. Knopf, Inc., 1956.
Hewitt, William H. "Politics and Organized Crime in America," *Police*, 10(1): 40–46, 1965.
Hill, Albert Fay. *The North Avenue Irregulars: A Suburb Battles the Mafia*. New York: Cowles, 1968.
Hills, Stuart L. "Combating Organized Crime in America," *Federal Probation*, March, 1967.
———. "Organized Crime and American Society," *Midwest Quarterly*, 9(2), 1968.
Hirsch, Carl. *Public Enemies in Public Office*. New York: New Century Publications, 1951.
Hobsbawn, E.J. *Social Bandits and Primitive Rebels*. Glencoe, Illinois: The Free Press, 1959.
Hoeveler, Hans J. "Camorra, Mafia and Cosa Nostra," *Kriminalistik*, 19(6), 1965.
Holmes, Kay Ann. "Reflection by Gaslight: Prostitution in Another Time," *Issues in Criminology*, Winter, 1972.
Homer, Frederick D. *Guns and Garlic*. West Lafayette, Indiana: Purdue University Press, 1974.
Horan, James D. *The Mob's Man*. New York: Crown, 1959.
Hostetter, Gordon L., and Thomas Beesley. *It's a Racket!* Chicago: Les Quin Books, Inc., 1929.
"How to Form A Citizen's Crime Commission," *Journal of Criminal Law, Criminology and Police Science*, November 1955.
Hughes Aircraft Company. *A Review of the Functions of the Central Investigation Bureau of the New York City Police Department*. Washington, Jan. 24, 1966.
Hughes, Rupert. *Attorney for the People—The Story of Thomas E. Dewey*. Boston: Houghton-Mifflin, 1940.
Hundley, William G. "That Nature of Interstate Organized Crime and Problems in Law Enforcement," *Notre Dame Lawyer*, 38(6), 1963.
Hutchinson, John. "The Anatomy of Corruption in Trade Unions," *Industrial Relations*, Vol. 8 (February 1960).
Ianni, Francis A. *Black Mafia*. New York: Simon & Schuster, 1974.
Illinois Association for Criminal Justice. *Illinois Crime Survey*. Chicago, 1929.
Illinois Crime Investigating Commission. *Juice Racketeers: Report on Criminal Usury in the Chicago Area*. Illinois Crime Investigating Commission, June, 1970.
Illinois Independent Voters. *The Kohn Report: Crime and Politics in Chicago*. Chicago, 1953.
Inciardi, James A., and Carl D. Chambers (eds.). *Drugs and the Criminal Justice System*. Sage Criminal Justice System Annuals, Sage Publications, Vol. II (1974).
Ingersoll, John E. "The Effect of Legalizing Marihuana and Heroin," *Vital Speeches of the Day*, Oct. 15, 1972.
"Interchange of Information Battles Organized Crime," *F.B.I. Law Enforcement Bulletin*, January, 1962.
International Association of Chiefs of Police. "Committee on Organized Crime," *Police*, January–February, 1961.
———. "Proposals for Improving Criminal Law and Procedure," *Journal of Criminal Law and Criminology*, January, 1934.
"Interstate Organized Crime," *Notre Dame Lawyer*, Symposium (1963).
Irey, Elmer L., and William Slocum. *The Tax Dodgers—The Inside Story of the T-Men's War with America's Political and Underworld Hoodlums*. New York: Greenberg, 1948.
Irwin, John and Donald R. Cressey. "Thieves, Convicts and the Inmate Culture," *Social Problems*, Fall, 1962.
"Islip Is Planning to Establish an 'Adult Entertainment Zone,' " *New York Times*, Oct. 16, 1975.
Jacob, Herbert. *Justice in American: Courts, Lawyers, and the Judicial Process*. Boston: Little, Brown and Company, 1972.
Jacoby, Oswald. *Jacoby on Gambling*. New York: Hart, 1963.
James, Howard. *Crisis in the Courts*. New York: David McKay Company, Inc., 1974.
Janson, Donald. "Drug Inquiry Asks Police Be Aided," *New York Times*, Dec. 21, 1973.
Jennings, Dean. "Mickey Cohen: The Private Life of a Hood," *Saturday Evening Post*, Sept. 20 to Oct. 11, 1958.
Johnson, Earl, Jr. "Organized Crime: Challenge to the American Legal System, Part I—Organized Crime: The Nature of Its Treatment, the Reasons for Its Survival," *The Journal of Criminal Law, Criminology and Police Science*, December, 1962.
———. "Organized Crime: Challenge to the American Legal System, Part II—The Legal Weapons: Their Actual and Potential Usefulness in Law Enforcement," *The Journal of Criminal Law, Criminology and Police Science*, March, 1963.
———. "Organized Crime: Challenge to the American Legal System, Part III—Legal Antidotes for the Political Corruption Induced by Organized Crime," *The Journal of Criminal Law, Criminology and Police Science*, June, 1963.

Johnson, Malcolm. *Crime on the Labor Front.* New York: McGraw-Hill, 1950.

Joseph, Howard. "Should the Forcible Recovering of Gambling Losses Constitute Robbery?" *Journal of Criminal Law and Criminology,* Vol. 41 (November 1950).

Kadish, Sanford H. "The Crisis of Overcriminalization," *The Annals of the American Academy of Political and Social Science,* November, 1967.

Kadish and Paulson. *Criminal Law and its Processes.* Third Edition, Boston: Little, Brown and Company, 1975.

Kaplan, John. *Marijuana—The New Prohibition.* World Publishing Company, 1970.

Kasindorf, Martin. "By the Time It Gets to Phoenix," *New York Times Magazine,* Oct. 29, 1971.

Katcher, Leo. *The Big Bankroll: The Life and Times of Arnold Rothstein.* New York: Victor Gollanez, 1958.

Kavanagh, Marcus. *The Criminal and His Allies.* Indianapolis: Bobbs-Merrill Company, 1928.

Keating, Kenneth B. "Organized Crime—What Can Congress Do About It?" *Journal of Criminal Law, Criminology and Police Science,* Vol. 51 (November–December, 1962).

Keating, William J., and Richard Carter. *The Man Who Rocked the Boat.* New York: Harper and Row. 1956.

Keesing, Felix M. *Cultural Anthropology.* New York: Rinehart and Company, 1958.

Kefauver, Estes. *Crime in America.* New York: Greenwood Press Publishers, 1951.

———. *The Kefauver Committee Report on Organized Crime.* New York: Didier Publishers, 1951.

Kelly, David B. "The Name of the Game," *The Police Chief,* September, 1972.

Kennedy, Robert F. *The Enemy Within.* New York: Harper and Brothers Publishers, 1960.

———. "The New Surge," *Nation's Business,* May, 1959.

———. "The Program of the Department of Justice on Organized Crime," *Notre Dame Lawyer,* 38(6), 1963.

Kent, Sherman. *Strategic Intelligence for American World Policy.* Princeton, New York: Princeton University Press, 1966.

Kiester, Edwin, Jr. *Crimes with No Victims.* New York: Alliance for a Safer New York, 1972.

King, Rufus. " 'The American System': Legal Sanctions to Repress Drug Abuse," in James A. Inciardi and Carl D. Chambers (eds.), *Drugs and the Criminal Justice System.* Sage Criminal Justice System Annuals, Sage Publications, Vol. II (1974).

———. "The Control of Organized Crime in America," *Stanford Law Review,* December, 1951.

———. "The Fifth Amendment Privilege and Immunity Legislation," *Notre Dame Lawyer,* 38(6), 1963.

———. *Gambling and Organized Crime.* Washington: Public Affairs Press, 1969.

King, Seth S. "Foes of Pornography Winning a Few Skirmishes but Not the Major Battles," *New York Times,* Nov. 28, 1975.

Kirkpatrick, Terry. "Speedy Trial: A Comparative Analysis Between the American Bar Association Standards of Criminal Justice and Arkansas Law," *Arkansas Law Review,* Vol. 25, Number 3 (Fall 1971).

Kossack, Nathaniel, and Sheldon Davidson. "Bankruptcy Fraud Alliance for Enforcement," *Journal of the National Conference of Referees in Bankruptcy,* January, 1966.

Knapp, Whitman. *Knapp Commission Report on Police Corruption.* New York: Braziller Inc., 1973.

Kunnes, Richard. *The American Heroin Empire.* New York: Dodd, Mead & Company, 1972.

Landesco, John. *Organized Crime in Chicago.* Second Edition, Chicago: University of Chicago Press, 1968.

" 'Las Vegas Nite' Was the Real Thing, Police Raiders Say," *New York Times,* Aug. 4, 1975.

Lashly, Arthur V. *Professional Criminal and Organized Crime.* Chicago: American Bar Association, 1928.

Lasswell, Harold D. *Bribery, 2 Encyclopedia of the Social Sciences.* New York: Macmillan, 1930.

Lavine, Emanual H. *Cheese It—The Cops.* New York: Vanguard, 1936.

Law Enforcement Assistance Administration. U.S. Department of Justice. *Basic Elements of Intelligence.* Washington: Government Printing Office, 1971.

———. *Organized Crime—Stolen Securities.* Washington: Government Printing Office, 1971.

———. *Organized Crime—Techniques for Converting Worthless Securities into Cash.* Washington: Government Printing Office, 1972.

———. *Police Guide on Organized Crime.* Washington: Government Printing Office, 1972.

———. Organized Crime Program Division. *The Role of State Organized Crime Prevention Councils.* Washington: Government Printing Office, 1970.

Leff, Nathaniel H. "Economic Development Through Bureaucratic Corruption," *American Behavioral Scientist,* November, 1964.

"Legal Methods for Suppression of Organized Crime," *Journal of Criminal Law, Criminology and Police Science,* November, 1957 and January, 1958.

Levine, H., and J. P. Jorgenson. "Organized Crime—A Civil Approach," *The Police Chief,* April, 1970.

"Legalizing Prostitution," *Newsweek,* Sept. 4, 1972.
Lewis, Jerry D. (ed.). *Crusade Against Crime.* New York: Bernard Geis Association, 1962.
Lewis, Milton. "Portrait of an Informer," *This Week Magazine,* Mar. 22, 1964.
Lewis, Norman. *The Honored Society.* New York: G. P. Putnam's Sons, 1964.
Lewis, Oscar. *Sage Brush Casinos.* Garden City, New York: Doubleday and Company, 1953.
Lippman, Walter. "Underworld: Our Secret Servant," *Forum,* January and February, 1931.
Lofton, Oliver. "Organized Crime in the Ghetto," *Congressional Record,* May 4, 1970.
Ludovici, Laurence J. *The Itch for Play.* London: Jarrolds, 1962.
Lyle, John H. *The Dry and Lawless Years.* Englewood Cliffs, New Jersey: Prentice-Hall, Inc., 1960.
Lynch, Dennis Tilden. *Criminals and Politicians.* New York: The Macmillan Company, 1932.
Maas, Peter. "Mafia: The Inside Story," *The Saturday Evening Post,* Aug. 10, 1963.
———. *Serpico.* New York: Viking Press, 1973.
———. *The Valachi Papers.* New York: G. P. Putnam's Sons, 1968.
MacDonald, John C. R. *Buncos, Rackets, Confidence Schemes.* Stanford, California: Stanford University Press, 1939.
MacDougall, Ernest David (ed.). *Crime for Profit.* A Symposium on Mercenary Crime. Boston: Stratford, 1933.
———. *Speculation and Gambling.* Boston: Stratford, 1936.
MacDougall, Michael. *Gamblers Don't Gamble.* New York: Greystone Press, 1939.
"The Mafia, A Criminal Phenomenon," *International Criminal Police Review,* 21(197), 1966.
"Mafia Steps Up Infiltration and Looting of Business," *New York Times,* Feb. 14, 1965.
"The Mafia vs America," *Time,* Aug. 22, 1969.
Manes, Hugh R. "Gambling and The Law," *Journal of Criminal Law, Criminology and Police Science,* July, 1951.
Manson Research Corporation. *Plan for an Operation. Research Study of Organized Crime in the United States.* San Francisco: Manson Research, 1966.
March, James G., and Herbert A. Simon. *Organizations.* New York: Wiley, 1958.
Markham, James M. "Heroin Hunger May Not a Mugger Make," *New York Times Magazine,* Mar. 18, 1973.
Martin, Raymond V. *Revolt in the Mafia.* New York: Duell, Sloane, and Pearce, 1963.
Marx, Herbert J. (ed.). *Gambling in America.* New York: H. W. Wilson, 1952.
Maryland Crime Investigating Commission. *Gambling Devices Within The United States.* Baltimore, 1963.
———. *The Gambling Rackets in Baltimore City.* Baltimore, 1966.
Massachusetts Senate Special Commission. *Reports: The Existence and Extent of Organized Crime and Gambling.* Boston, 1955.
———. *Special Report.* Boston, 1965.
Maxwell, Gavin. *Bandit.* New York: Harper and Brothers, 1956.
McCarthy, Katherine O. "Racketeering: A Contribution to a Bibliography," *Journal of Criminal Law and Criminology,* November, 1931.
McClellan, John L. *Crime Without Punishment.* New York: Duell, Sloane and Pearce, 1962.
McConaughy, John. *From Cain to Capone—Racketeering Down the Ages.* New York: Brentano's, 1931.
McGlothlin, William H., and Victor C. Tabbush. "Costs, Benefits, and Potential for Alternative Approaches to Opiate Addiction Control," in James A. Inciardi and Carl D. Chambers (eds.). *Drugs and the Criminal Justice System.* Sage Criminal Justice System Annuals, Sage Publications, Vol. II (1974).
McKeon, Thomas J. "The Incursion by Organized Crime into Legitimate Business," *Journal of Public Law,* Vol. 20 (1971).
McKitrick, Eric L. "The Study of Corruption," *Political Science Quarterly,* December, 1957.
McLellan, Howard. "Gangs, Bosses and Judges," *Review of Reviews,* October, 1930.
McMenimen, H. N. *High Profitability—The Reward for Price Fixing.* National Institute of Municipal Law Officers, 1969.
McMullan, M. "A Theory of Corruption," *Sociological Review,* July, 1961.
McNickle, Roma K. "Gambling Controls," *Editorial Research Reports,* Mar. 17, 1950.
———. "Suppression of Crime Syndicates," *Editorial Research Reports,* Mar. 17, 1950.
Mead, Margaret. "Margaret Mead Answers," *Redbook,* April, 1971.
Meiselas, Harold, and Leon Brill. "The Role of Civil Commitment in Multimodality Programming," in James M. Inciardi and Carl D. Chambers (eds.). *Drugs and the Criminal Justice System.* Sage Criminal Justice System Annuals, Sage Publications, Vol. II (1974).
Merriam, Charles E. *Chicago: A More Intimate View of Urban Politics.* New York: Macmillan, 1929.
Merton, Robert K. *Social Theory and Social Structure.* Revised edition, New York: Free Press, 1957.
Messick, Hank. *Lansky.* New York: G. P. Putnam's Sons, 1971.

———. *The Silent Syndicate.* New York: Macmillan, 1967.
———. *Syndicate in the Sun.* New York: The Macmillan Company, 1968.
———. *Syndicate Wife: The Story of Ann Drahmann Coppola.* New York: Macmillan, 1968.
Meyers, Sidney W. *The Great Las Vegas Fraud.* Chicago: Mayflower, 1958.
Michener, James, "The Weapons We Need to Fight Pornography," *Reader's Digest,* December, 1968.
Michigan Advisory Commission on Criminal Justice. *Criminal Justice Goals and Standards for the State of Michigan.* 1975.
Milligan, Maurice M. *The Inside Story of the Pendergast Machine.* New York: Charles Scribner's Sons, 1948.
"The Mob," *Life,* Sept. 1, 8, 15, 1967 and Aug. 30, 1968.
Mockridge, Norton, and Robert H. Prall. *The Big Fix.* New York: Holt, 1954.
Moley, Raymond. *Politics and Criminal Prosecution.* New York: Minton Balch and Company, 1929.
Mooney, Martin. *Crime Incorporated.* New York: Whittlesey House, 1935.
Mori, Cesare. *The Last Struggle with the Mafia.* New York: Putnam, 1932.
Morris, Norval. "The Law as a Busybody," *Current,* June, 1973.
Moynihan, Daniel P. "The Private Government of Crime," *Reporter,* July 6, 1961.
Murphy, George A. "Organized Crime," *The Police Chief,* November, 1971.
Murtagh, John M. "Gambling and Police Corruption," *Atlantic Monthly,* November, 1960.
Murtagh, John, and Sara Harris. *Cast the First Stone.* New York: McGraw-Hill, 1957.
Mushklin, Selma. "Politics and Economics of Government Response to Drug Abuse," in "Drugs and Social Policy," *The Annals of the American Academy of Political and Social Science,* January, 1975.
National Advisory Commission on Criminal Justice Standards and Goals. *The Courts.* 1973.
———. *A National Strategy to Reduce Crime.* Washington: Government Printing Office, 1973.
———. *Police.* Washington: Government Printing Office, 1973.
National Association of Attorneys General. Committee on the Office of the Attorney General. *Legislative Approaches to Campaign Finance, Open Meetings and Conflict of Interest.* National Association of Attorneys General, 1974.
———. *Organized Crime Prevention Councils.* September, 1973.
———. *Report of Committee on Crime Control.* Chicago, 1950.
The National Commission on Marihuana and Drug Abuse. *Drug Use in America: Problem in Perspective.* Washington: Government Printing Office, 1973.
National Council on Crime and Delinquency. *Search Warrants and Organized Crime: A Policy Statement.* New York, 1966.
National Symposium on Law Enforcement Science and Technology, Chicago, 1967. *Law Enforcement Science and Technology: Proceedings of the First National Symposium on Law Enforcement Science and Technology.* Washington: Thompson Book Company, 1967.
Nellis, Joseph. "Legal Aspects of the Kefauver Investigation," *Journal of Criminal Law, Criminology and Police Science,* Vol. 42 (July–August 1951).
Ness, Elliott, and Oscar Fraley. *The Untouchables.* New York: Julian Messner, Inc., 1957.
New England Citizens Crime Commission. *A Two Billion Dollar Problem.* Boston, 1960.
New Jersey Law Enforcement Council. *Law Enforcement and Organized Gambling.* Newark, 1956.
"New Ways Gangsters Muscle Into Business," *Nation's Business,* August, 1965.
New York City Anti-Crime Committee, Inc. *Annual Reports.* New York, 1952–1955.
New York Office of Counsel to the Governor. *Combatting Organized Crime.* Albany, 1965.
New York State Commission of Investigation. *An Investigation of Law Enforcement in Buffalo.* Albany, 1961.
———. *An Investigation of the Loan Shark Racket.* Albany, 1965.
———. *Racketeer Infiltration into Legitimate Business.* March, 1970.
———. *Report of Investigation of the State Liquor Authority.* Albany, 1956.
New York State Crime Commission. *Proceedings Pursuant to Governor's Executive Orders of March 29, 1951: August 29, 1951, November 10, 1952.* Albany, 1953.
———. *Public Hearings.* Albany, 1953.
———. *Study of the Port of New York.* Albany, 1953.
New York State Governor. *Record of the Public Hearings for Remedying Conditions on the Waterfront of the Port of New York.* Albany, 1953.
New York State Identification and Intelligence System. *A New Concept in Criminal Justice Information Sharing.* Albany, 1966.
New York State Temporary Commission of Investigation. *An Investigation of Bingo in New York State.* Albany, 1961.
———. *An Investigation of the Loan Shark Racket.* New York, 1965.

———. *Seventh Annual Report to the Governor and the Legislature.* New York, 1965.
———. *Syndicated Gambling in New York State.* Albany, 1961.
New York Waterfront Commission. *Annual Report to the Governors of New York and New Jersey.* 1954–55.
———. *Special Report to the Governors and Legislatures of New York and New Jersey.* 1960.
"Obstacles to Enforcement of Gambling Laws," *Annals,* May, 1950.
O'Conner, J. J. *Broadway Racketeers.* New York: Liveright, 1928.
Oelsner, Leslie. "In a Sometimes Bitter Fight, States and Cities Are Easing Marijuana Laws," *New York Times,* July 13, 1975.
Olmstead, Charlotte. *Heads, I Win; Tails you Lose.* New York: Macmillan, 1962.
Omnibus Crime Control and Safe Streets Act, 1968. *Public Law 90–351,* 90th Congress, H.R. 5037, June 19, 1968, 82 Stat. 197.
"Oregon Has Not Become a Drug Haven for Pushers Despite Nation's Most Liberal Drug Law," *New York Times,* Oct. 7, 1973.
"Organized Crime Robs All of Us," *Changing Times,* June, 1969.
"Organized Crime's Growing Threat to American Business," *Business Management,* November, 1963.
Ottenberg, Miriam. *The Federal Investigators.* Englewood Cliffs, New Jersey: Prentice-Hall, Inc., 1962.
Owen, H. Collison. *King Crime.* New York: Holt, Rinehart and Winston, 1959.
Oyster Bay Conference on Combating Organized Crime, 1965. *Combating Organized Crime.* Albany, 1966.
Pace, Denny F. *Handbook of Vice Control.* Englewood Cliffs, New Jersey: Prentice-Hall, Inc., 1971.
Pace, Denny F., and Jimmie C. Styles, *Organized Crime: Concepts and Control.* Englewood Cliffs, New Jersey: Prentice-Hall, Inc., 1975.
Packer, Herbert L. "The Crime Tariff," *The American Scholar,* (date unknown).
———. "Decriminalizing Heroin," *The New Republic,* June 3, 1972.
Pantaleone, Michele. *The Mafia and Politics.* New York: Coward-McCann, Inc., 1966.
Parker, W. H. "California Crime Rise," *Journal of Criminal Law, Criminology and Police Science,* March–April, 1957.
Pasley, Fred D. *Al Capone: The Biography of a Self-Made Man.* New York: Ives-Washburn, 1930.
———. *Muscling In.* New York: Ives-Washburn, 1930.
Paulsen, Monrad G. "Civil Liberties and The Proposals to Curb Organized Crime," *Notre Dame Lawyer,* 38(6), 1963.
Pekkanen, John. *The American Connection.* Chicago: Follett Publishing Company, 1973.
Pennsylvania Crime Commission. Office of the Attorney General Commonwealth of Pennsylvania. *Report on Organized Crime.* Harrisburg, Pennsylvania, July 2, 1970.
Peterson, Virgil W. *Barbarians in Our Midst—A History of Chicago Crime and Politics.* Boston: Little, Brown and Company, 1952.
———. "Citizens Crime Commission," *Federal Probation,* March, 1953.
———. "Gambling—Should It Be Legalized?" *Journal of Criminal Law and Criminology,* Vol. XL (September–October, 1949).
———. "How to Form a Citizen's Crime Commission," *Journal of Criminal Law, Criminology and Police Science,* November, 1955.
———. "Obstacles to Enforcement of Gambling Laws," *Annals,* May, 1950.
———. "Rackets in America," *Journal of Criminal Law, Criminology and Police Science,* Vol. 49 (March–April, 1959).
———. "Shades of Capone," *Annals,* May, 1963.
"Philadelphia Justice for Chicago's Al Capone," *Literary Digest,* June 15, 1929.
Pileggi, Nicholas. "The Lying Thieving Murdering, Upper-Middle-Class Respectable Crook," *Esquire,* January, 1966.
Plate, Thomas. "Coke: The Big New Easy-Entry Business," *New York,* 1973.
Ploscowe, Morris. "Crime in a Competitive Society," *Annals,* September, 1941.
———. "New Approaches to Gambling, Prostitution and Organized Crime," *Notre Dame Lawyer,* 38(6), 1963.
"The Porno Plague," *Time,* Apr. 5, 1976.
"Pot Can Hurt, But Does Prison Help?" *U.S. News and World Report,* Dec. 2, 1974.
Prager, Ted, and Larry Craft. *Hoodlums: New York.* New York: Retail Distributors, 1959.
President's Commission on Crime in the District of Columbia. *A Report.* Washington: Government Printing Office, 1966.
President's Commission on Law Enforcement and Administration of Justice. *The Challenge of Crime in a Free Society.* Washington: Government Printing Office, 1967.
———. *Task Force Report: Narcotics and Drug Abuse.* Washington: Government Printing Office, 1967.
———. *Task Force Report: Organized Crime.* Washington: Government Printing Office, 1967.
The President's Commission on Marihuana and Drug Abuse. *Marihuana: A Signal of Misunderstanding.* First report, Washington: Government Printing Office, 1972.

"The Program of the Department of Justice on Organized Crime," *Notre Dame Lawyer,* 38(6), 1963.

Proskauer, Julien. *Suckers All.* New York: Macaulay, 1934.

Puzo, Mario. *The Godfather.* New York: G. P. Putnam's Sons, 1969.

Quinn, John Philip. *Fools of Fortune.* Chicago: G. Howe, 1890.

Raab, Selwyn. "Illegal Narcotics Traffic Is Worst Here in Five Years," *New York Times,* Dec. 8, 1975.

———. "Top Drug Dealers Named by Police," *New York Times,* Dec. 9, 1975.

Rafferty, Max. "Crack Down on the Smut Kings," *Reader's Digest,* November, 1968.

Ramon, F. C. "Suppression of Vice," *The Police Chief,* December, 1966.

Randolph, Robert I. "Business Fights in Chicago," *Saturday Evening Post,* Aug. 2, 1930.

Ransom, Harry H. *The Intelligence Establishment.* Cambridge, Massachusetts: Harvard University Press, 1970.

Raymond, Allen. *Waterfront Priest.* New York: Holt, Rinehart and Winston, 1955.

Reckless, Walter C. *Vice in Chicago.* Chicago: University of Chicago Press, 1933.

Rector, Milton G. "Association Action Against Organized Crime," *Association Management,* September, 1969.

Redston, George, and Kendell F. Crossen. *The Conspiracy of Death.* Indianapolis: Bobbs-Merrill, 1965.

Reeves, Ira. *Ol' Rum River.* Chicago: Thomas S. Rockwell Company, 1931.

Reid, Ed. *The Grim Reapers: The Anatomy of Organized Crime in America.* Chicago: Henry Regnery Company, 1962.

———. *Mafia.* Revised edition, New York: Signet Books, 1964.

———. *The Shame of New York.* New York: Random House, Inc., 1953.

Reid, Ed, and Ovid Demaris. *The Green Felt Jungle.* New York: Trident Press, 1963.

Reiss, Albert J., Jr. *The Police and the Public.* New Haven: Yale University Press, 1971.

Reitzer, W. W. "Addressing the Dangers of Marijuana," Letters to the Editor, *Washington Post,* Feb. 26, 1976.

Research Institute of America. "Protecting Your Business Against Organized Crime: Research Institute Staff Recommendations. April 15, 1968." Remarks of Jack Edwards. *Congressional Record,* (Daily Edition) Vol. 114 (May 15, 1968).

Rice, Robert. *The Business of Crime.* New York: Farrar, Straus and Cudahy, 1956.

Riordan, William L. *Plunkitt of Tammany Hall.* New York: E. P. Dutton and Company, Inc., 1963.

Robinson, Glen. *On Reorganizing the Independent Regulatory Agencies.* 57 Virginia Law Review 947, 1971.

Robinson and Gelhorn. *The Administrative Process.* West Publishers, 1974.

Roby, Pamela, and Virginia Kerr. "The Politics of Prostitution," *The Nation,* Apr. 10, 1972.

Rogow, Arnold A., and Harold D. Lasswell. *Power, Corruption, and Rectitude.* Englewood Cliffs, New Jersey: Prentice-Hall, 1963.

Rosenthal, Alan. "Your Role as Eyes and Ears for Police," *Today's Health,* Sept., 1969.

Ross, Irwin. "The Great Debate over 'Victimless' Crimes," *Reader's Digest,* Oct., 1974.

Rubner, Alex. *The Economics of Gambling.* London: Macmillan, 1966.

Ruth, Henry S., Jr. "Why Organized Crime Thrives," *The Annals of the American Academy of Political and Social Science,* July, 1967.

Salak, John. *Dictionary of Gambling.* New York: Philosophical Library, 1963.

Salerno, Ralph. "Organized Crime's Growing Threat to American Business," *Business Management,* Vol. 35 (Nov., 1968).

Salerno, Ralph, and John S. Tompkins. *The Crime Confederation.* Garden City, New York: Doubleday and Company, Inc., 1969.

———. "Crime and Politics," in John E. Conklin (ed.). *The Crime Establishment, Organized Crime and American Society.* Englewood Cliffs, New Jersey: Prentice-Hall, Inc., 1973.

Samuels, Gertrude. "Pot, Hard Drugs and the Law," *New York Times Magazine,* Feb. 15, 1970.

Sann, Paul. *The Lawless Decade.* New York: Crown Publishers, 1957.

Scarne, John. *Scarne's Complete Guide to Gambling.* New York: Simon and Schuster, 1961.

Schelling, Thomas C. "Economic Analysis and Organized Crime," in The President's Commission on Law Enforcement and Administration of Justice. *Task Force Report: Organized Crime.* Washington: Government Printing Office, 1967.

———. "What Is the Business of Organized Crime?" *The American Scholar,* Vol. 40 (Autumn, 1971).

Schiavo, Giovanni. *The Truth About the Mafia and Organized Crime in America.* New York: The Vigo Press, 1962.

Schilder, L. Clark. "The Organization and Functions of Citizens Crime Commissions," *Police,* July–August, 1959.

Schroeder, Richard C. *The Politics of Drugs: Marijuana to Mainlining.* Washington: Congressional Quarterly, 1975.

Schultz, Donald O., and Loran A. Norton. *Police Operational Intelligence.* Springfield: Charles C Thomas, 1973.

Schur, Edwin M., and Hugo Adam Bedau. *Victimless Crime: Two Sides of a Controversy.* Englewood Cliffs, New Jersey: Prentice-Hall, Inc., 1974.

Schuster, Alvin. "Europeans Act to Curb the Sex Market," *New York Times,* Feb. 19, 1973.

Schwartz, Murray L. "The Lawyer's Professional Responsibility and Organized Crime," *Notre Dame Lawyer,* 38(6), 1963.

Scott, Hugh. "Wiretapping and Organized Crime," *Howard Law Journal,* 14(1), 1968.

Seidl, John Michael. *Upon the Hip—A Study of the Criminal Loan Shark Industry.* Ph D. dissertation, Harvard University, 1969.

Seidman, Harold. *Labor Czars: A History of Labor Racketeering.* New York: Liveright, 1938.

Seidman, J. I. "The Federal Government and Organized Crime," *Editorial Research Reports,* Aug. 10, 1943.

Sheehy, Gail. "Cleaning Up Hell's Bedroom," *New York,* Nov. 13, 1972.

———. "The Landlords of Hell's Bedroom," *New York,* Nov. 20, 1972.

Shoben, Edward Joseph, Jr. "Volstead Exhumed?" *The Nation,* Sept. 30, 1968.

Shonkwiler, James, and James Beck. *A New Concept —State Central Services to Prosecutors.* Prosecutor, Vol. 7 (1971).

Siegel, Max H. "Free 'Drying Out' Given Alcoholics," *New York Times,* June 17, 1973.

Silver, Edward S. "Organized Gambling and Law Enforcement," *Journal of Criminal Law, Criminology and Police Science,* Vol. 50 (November–December, 1959).

Simons, Mary. "What the English Are Doing About Heroin," *Look,* Apr. 7, 1970.

Sinclair, Andrew. *Prohibition: The Era of Excess.* Boston: Little, Brown and Company, 1962.

Siragusa, Charles. *The Trail of the Poppy: Behind the Mask of the Mafia.* Englewood Cliffs, New Jersey: Prentice-Hall, 1966.

Smith, Alexander B., and Harriet Pollack. "Crimes Without Victims," *Saturday Review,* Dec. 4, 1971.

Smith, Alson Jesse. *Syndicate City: The Chicago Crime Cartel and What to Do About It.* Chicago: Henry Regnery Company, 1954.

Smith, Dwight C., Jr. "Cooperative Action in Organized Crime Control," *Journal of Criminal Law, Criminology and Police Science,* Vol. 59, No. 4 (Dec., 1968).

Smith, Edgar A. (ed.). *Vice Control—A Handbook for Law Enforcement.* Los Angeles, California: Office of Special Programs, California State College.

Smith, Edgar A., and Donald R. Cressey. *Principles of Criminology.* Seventh edition, Philadelphia: J. B. Lippincott Company, 1966.

Smith, J. Y. "D.C. Ponders New Status: Commercial Sex Haven," *Washington Post,* Dec. 7, 1975.

Smith, William. "The Unseen Impact of Organized Crime on Manufacturing," *Modern Manufacturing,* Vol. 1 (July, 1968).

Sondern, Frederic. "A City Beats the Rackets," *National Municipal Review,* Oct., 1950.

Sondern, Frederic, Jr. *Brotherhood of Evil: The Mafia.* New York: Farrar, Straus and Cudahy, 1959.

Spergel, Irving. *Racketville, Slumtown, Haulburg: An Exploratory Study of Delinquent Subcultures.* Chicago: University of Chicago Press, 1964.

Stanmeyer, William A. " 'Victimless Crimes' and Public Morality," *Modern Age,* Fall, 1974.

Stanley, David T., and Marjorie Girth. *Bankruptcy, Problems, Process, Reform.* Washington: The Brookings Institution, 1971.

Starkey, Lycurgus Monroe. *Money, Mania and Morals: The Churches and Gambling.* New York: Abingdon Press, 1964.

Starr, John. *The Purveyor—The Shocking Story of Today's Illicit Liquor Empire.* New York: Holt, Rinehart and Winston, 1961.

State or Federal Prison. "The Gambler's Dilemma," *Alabama Law Review,* Spring, 1954.

"Statutory Trends Toward Legalization of Gambling," *Iowa Law Review,* May, 1940.

Stead, William T. *If Christ Came to Chicago.* Chicago: Laird and Lee, 1894.

Steffens, Lincoln. *The Shame of the Cities.* New York: Hill and Wang, 1904.

Steinberg, Marc I. "Right to Speedy Trial: Maintaining a Proper Balance Between the Interests of Society and the Rights of the Accused," *U.C.L.A.—Alaska Law Review,* Vol. 4, No. 1, Fall, 1974.

Stern, Gerald. "Public Drunkenness: Crime or Health Problem?" *The Annals of the American Academy of Political and Social Science,* July, 1967.

Stern, Michael. *The White Ticket.* New York: National Library Press, 1936.

Stevenson, Adlai, E. "Crime and Politics," *Journal of Criminal Law and Criminology,* Nov., 1950.

———. "Organized Crime and Law Enforcement: A Problem for the People," *American Bar Association Journal,* Jan., 1952.

Stinchcomb, J. D. "Organized Crime Workshop," *The Police Chief,* Dec., 1965.

Stoker, Charles. *Thicker'n Thieves.* Santa Monica, California: Sidereal Company, 1951.

Sullivan, Edward Dean. *Chicago Surrenders.* New York: The Vanguard Press, Inc., 1930.

CONTINUED

3 OF 4

———. *Rattling the Cup in Chicago Crime.* New York: The Vanguard Press, Inc., 1929.

Surface, Will. "Planned Bankruptcy: The Racket that Cheats Us All," *Reader's Digest,* May, 1966.

Susini, Jean. "The Bureaucratization of Crime," *Revue de Science Criminelle et Droit Penal Compare,* 21(1), 1966.

Sutherland, E. H. "Crime and Business," *The Annals of the American Academy of Political and Social Science,* Sept., 1941.

———. *White Collar Crime.* New York: Holt, Rinehart and Winston, 1949.

Taft, Donald R., and Ralph W. England, Jr. *Criminology.* Fourth edition, New York: The Macmillan Company, 1964.

Talese, Gay. *Honor Thy Father.* New York: World Publishing, 1971.

Tannenbaum, Frank. *Crime and the Community.* New York: Columbia University Press, 1951.

Tappan, Paul W. *Crime, Justice and Correction.* New York: McGraw-Hill Book Company, Inc., 1960.

Task Force on Legalized Gambling. *Easy Money.* New York: The Twentieth Century Fund, 1974.

"Tax Cut Gives Legality a Chance Against Illegality in Nevada Betting," *New York Times,* Jan. 22, 1975.

Taylor, G. *Organized Crime in America—A Book of Readings.* Ann Arbor: Michigan University Press, 1962.

Taylor, J. E. "Transmission of Racing Information by Wire in Missouri," *Missouri Law Review,* Jan., 1952.

Terrett, Courtenay. *Only Saps Work—A Ball for Racketeering.* New York: The Vanguard Press, Inc., 1930.

Texas Legislature. House Special Crime Investigating Committee. *Final Report.* Austin, 1953.

Thompson, Craig, and Allen Raymond. *Gang Rule in New York—The Story of a Lawless Era.* New York: Press, 1940.

Thornton, Robert Y. "Organized Crime in the Field of Prostitution," *Journal of Criminal Law, Criminology and Police Science,* Vol. 46 (March–April, 1956).

Thrasher, Frederic M. *The Gang: A Study of 1,313 Gangs in Chicago.* Second revised edition, Chicago: University of Chicago Press, 1936.

Touhy, Roger, and Ray Brennan. *The Stolen Years.* Cleveland: Pennington Press, 1959.

Train, Arthur. *Courts, Criminals and Camorra.* New York: Charles Scribner's Sons, 1922.

Tully, Andrew. *Treasury Agent.* New York: Simon and Schuster, 1958.

Turkus, Burton B., and Sid Feder. *Murder, Inc.* New York: Farrar, Straus and Young, 1951.

Turner, Wallace. *Gamblers' Money.* Boston: Houghton-Mifflin Company, 1965.

"Two Approaches to the Problem of Preventing the Use of Interstate Communications Facilities to Aid Illegal Gambling Interests," *Georgetown Law Journal,* Nov., 1951.

Tyler, Gus. "An Interdisciplinary Attack on Organized Crime," *Annals,* Vol. 347 (May, 1964).

———. *Organized Crime in America: A Book of Readings.* Ann Arbor: University of Michigan Press, 1962.

———. "The Roots of Organized Crime," *Crime and Delinquency,* Oct., 1962.

"Underworld Moves in on Business," *U.S. News and World Report,* May 5, 1969.

U.S. Attorney General's Conference on Crime. *Commercial Racketeering.* Washington: Government Printing Office, 1934.

U.S. Attorney General's Conference on Organized Crime. *Hearings on Gambling Devices.* Washington: Government Printing Office, 1951.

U.S. Congress. Hearings Before the House Legal and Monetary Affairs Subcommittee. *Federal Training Programs for Investigative Personnel.* Washington: Government Printing Office, 1970.

U.S. Congress. Hearings Before the Senate's Permanent Subcommittee on Investigations. *Organized Crime: Stolen Securities.* Washington: Government Printing Office, 1971.

U.S. Department of Justice. *A Report of the Attorney General's Conference on Organized Crime.* Washington, 1950.

U.S. Department of Justice. Criminal Division. *Federal Prosecutions of Racketeers.* Washington, 1953–1959.

U.S House Committee on Education and Labor. *Hearings on Investigation of Welfare Funds and Racketeering.* Washington, 1954.

———. *Report on Investigation of Welfare Funds and Racketeering.* Washington, 1954.

U.S. House Committee on Education and Labor and Committee on Government Operations. *Federal Effort Against Organized Crime.* Washington, 1968.

———. *Hearings on Investigation of Racketeering in the Cleveland Area.* Washington, 1954–1955.

———. *Hearings on Investigation of Racketeering in the Minneapolis Area.* Washington, 1954.

———. *Hearings on Strikes and Racketeering in the Kansas City Area.* Washington, 1953.

———. *Interim Report on Investigation of Racketeering in the Detroit Area.* Washington, 1954.

———. *Investigations of Racketeering in the Pittsburgh Area.* Washington, 1954.

———. *Investigations of Racketeering in the Washington, D. C. Area.* Washington, 1954.

———. *Joint Hearings on Federal-State Cooperation in Enforcement of Anti-Racketeering Laws and Labor-Management Relations Act.* Washington, 1954.
———. *Joint Hearings on Investigation of Racketeering.* Washington, 1953.
U.S. House Committee on Interstate and Foreign Commerce. *Gambling Devices.* Hearings, on H.R. 3024, 87th Congress. Washington, 1962.
———. *Hearings on Gambling Devices.* Washington, 1950.
———. *Report on Prohibiting Transportation of Gambling Devices in Interstate and Foreign Commerce.* Washington, 1950.
U.S. House Committee on the Judiciary. *Prohibiting Certain Acts and Transactions Involving Gambling Materials.* Hearings on H.R. 7975, 83rd Congress. Washington, 1954.
———. *Report of the Special Group on Organized Crime in the U.S.* Washington, 1961.
U.S. Senate Committee on Armed Services Preparedness Subcommittee. *Hearings on Illegal Gambling Activities near Keesler Air Force Base.* Washington, 1951.
———. *Report on Investigation of the Preparedness Program.* Washington, 1952.
U.S. Senate Committee on Commerce. *Hearings on Crime and Crime Control—Investigation of So-called "Rackets."* Washington, 1934.
U.S. Senate Committee on the District of Columbia. *Investigations of Crime and Law Enforcement in the District of Columbia.* Washington, 1952.
U.S Senate Committee on Government Operations. *Gambling and Organized Crime. Hearings before the Permanent Subcommittee on Investigations.* Washington, 1961.
———. *Investigation into Federally Insured Banks: Interim Report.* Washington, 1966.
———. *Report by Permanent Subcommittee on Investigations.* Washington, 1962.
U.S. Senate Committee on Government Operations. Permanent Subcommittee on Investigations. *Stolen Securities.* Washington: Government Printing Office, 1971.
U.S. Senate Committee on Interstate and Foreign Commerce. *Hearings on Anti-Crime Legislation.* Washington, 1951.
———. *Hearings on Anti-Gambling Legislation.* Washington, 1954.
———. *Hearings on Transmission of Gambling Information.* Washington, 1950.
———. *Hearings of Waterfront Investigations.* Washington, 1953.
———. *Interim Report. Waterfront Investigation: New York-New Jersey.* Washington, 1953.
———. *Report on Interstate Transportation of Slot Machines.* Washington, 1950.
———. *Report on Licensing the Transmission of Certain Gambling Information in Interstate and Foreign Communications.* Washington, 1951.
———. *Report on Prohibiting the Importation, Transportation and Mailing of Gambling Materials; Broadcasting of Gambling Information; Transmission of Bets by Means of Interstate Communications; and Interstate Transportation of Certain Gambling Devices.* Washington, 1951.
———. *Report on Prohibition of Transmission of Certain Gambling Information in Interstate and Foreign Commerce by Communication Facilities.* Washington, 1954.
———. *Report of Transmission of Gambling Information.* Washington, 1950.
———. *Report of Transmission of Gambling Information.* Washington, 1951.
———. *Report of Transmission of Gambling Information.* Washington, 1953.
U.S. Senate Committee on the Judiciary. *The Attorney General's Program to Curb Organized Crime and Racketeering.* Washington, 1961.
———. *Obstruction of Criminal Investigations.* Report No. 307. Washington: Government Printing Office, 1967.
———. *Permitting the Compelling of Testimony and the Granting of Immunity with Respect to Certain Crimes.* Report No. 308. Washington: Government Printing Office. 1967.
———. *Report on Interstate Gambling.* Washington, 1950.
U.S. Senate Committee on the Judiciary. Subcommittee on Criminal Laws and Procedures. *Controlling Crime Through More Effective Law Enforcement.* Washington: Government Printing Office, 1967.
———. *Measurers Relating to Organized Crime.* Washington: Government Printing Office, 1969.
———. *Profits from Bankruptcy Sales.* 89th Congress, 2nd Session, Washington: Government Printing Office, 1966.
U.S. Senate. Long Committee. *Reports.* Washington, 1965.
U.S. Senate. McClellan Committee. *Final Report.* Washington, 1960.
———. *Gambling Report.* Washington, 1962.
———. *Labor Racketeering Activities Report.* Washington, 1967.
———. *Narcotics Report.* Washington, 1965.
———. *Organized Crime and Illicit Traffic in Narcotics.* Part I. Washington, 1963.
U.S. Senate Special Committee to Investigate Organized Crime in Interstate Commerce. *Report Relating to Issuance of Warrants of Arrest for Certain Persons Desired as Witnesses before the Committee.* Washington, 1950.

———. *Reports: Interim, Second Interim, Third Interim, Final.* Washington, 1950–1951.
U.S. Senate Subcommittee on Constitutional Rights. *Wiretapping and Eavesdropping, Summary Report of Hearings.* Washington, 1958–1961.
U.S. Senate Subcommittee on Improvements in the Federal Criminal Codes. *Illicit Narcotics Traffic.* Washington, 1956.
Van Cise, Philip C. *Fighting the Underworld.* Boston and New York: Houghton-Mifflin Company, 1936.
Varna, Andrew. *World-Underworld.* London: Museum Press Limited, 1957.
Vedder, Clyde B. (ed.). *Criminology—A Book of Readings.* New York: Dryden, 1953.
Vold, George B. *Theoretical Criminology.* New York: Oxford University Press, 1958.
Vollmer, August. *The Criminal.* Brooklyn: The Foundation Press, 1949.
Volz, Joseph, and Peter J. Bridge. *The Mafia Talks.* Greenwich, Connecticut: Fawcett Publications, Inc., 1969.
Walder, Hans. *Drive Structure and Criminality.* Springfield, Illinois: Charles C Thomas, 1959.
Waller, Irle. *Chicago Uncensored: Firsthand Stories about the Al Capone Era.* New York: Exposition Press, 1965.
Washburn, Charles. *Come Into My Parlor.* New York: Knickerbocker Publishing Company, 1934.
Wendt, Lloyd, and Herman Kogan. *Lords of the Law.* New York: Garden City Publishing Company, 1943.
Wessel, Milton R. "The Conspiracy Charge as a Weapon Against Organized Crime," *Notre Dame Lawyer,* 38(6), 1963.
Weinstein, David, and Lillian Deitch. *The Impact of Legalized Gambling: The Socioeconomic Consequences of Lotteries and Off-Track Betting.* New York: Praeger Publishers, 1974.
Whipple, Dorothy V., Dr. "What Causes More Harm, Drugs or the Laws against Them?" *McCall's,* March, 1972.
White Paper on Drug Abuse. Report to the President from the Domestic Council Drug Abuse Task Force. Washington: Government Printing Office, September, 1975.
Whyte, William Foote. *Street Corner Society—The Social Structure of an Italian Slum.* Second edition, Chicago: University of Chicago Press, 1955.
Wigmore, John H. (ed.). *The Illinois Crime Survey.* Chicago: Blakely Printing Company, 1929.
Willemse, C. W., C. J. Lemmer, and J. C. Koford. *Behind the Green Lights.* New York: Alfred A. Knopf, Inc., 1931.
Williams, Francis E. *Lotteries, Law and Morals.* New York: The Vantage Press, Inc., 1958.
Williams, John B. *Vice Control in California.* Beverly Hills: Glencoe Press, 1964.
Williams, Roger M. "The Oldest Profession in Nevada—and Elsewhere," *Saturday Review World,* Sept. 7, 1974.
Wilson, Alan N. *The Casino Gamblers Guide.* New York: Harper and Row, 1965.
Wilson, James Q., Mark H. Moore, and I. David Wheat, Jr., " 'Dealing with Heroin': What Public Policy toward Heroin?" from: "The Problem of Heroin," *The Public Interest,* in: *Current,* January 1973.
Wilson, O.W. "How the Police Chief Sees It," *Harper's Magazine,* April, 1964.
Winick, Charles, and Paul M. Kinsie. *The Lively Commerce.* Chicago: Quadrangle Books, 1971.
Winters and Lowe. *Judicial Disability and Removal Commission, Court and Procedures.* American Judicature Society, 1973.
Women Endorsing Decriminalization, "Prostitution: A Non-Victim Crime?" *Issues in Criminology,* Fall, 1973.
Wood, Arthur Evans, and John Barker Waite. *Crime and Its Treatment—Social and Legal Aspects of Criminology.* New York: Alfred A. Knopf, Inc., 1931.
Wyden, Peter. *The Hired Killers.* New York: William Morrow, Inc., 1963.
Wykes, Allen. *The Complete Illustrated Guide to Gambling.* Garden City, New York: Doubleday and Company, Inc., 1964.
Yefsky, S.A. (ed.). Selections from Proceedings of the First National Symposium on *Law Enforcement, Science and Technology.* Washington: Thompson Books.
Zeiger, Henry A. *Sam the Plumber.* New York: Signet Books, 1970.
Zunno, Frank A. "Let's Put Intelligence in Perspective," *The Police Chief,* September, 1971.
———. "NYSIIS and NEOCIS," *The Police Chief,* September, 1971.

Consultants and Contributors

CONSULTANTS

Norman Abrams
Professor of Law
School of Law
University of California
Los Angeles, Calif.

Eugene Barkin
Research Professor of Applied Social Science
Applied Social Science Department
University of Miami
Coral Gables, Fla.

Richard N. Billings
President
Fact Research Inc.
Washington, D. C.

Abraham Dash
Professor of Law
University of Maryland
Baltimore, Md.

Herbert Edelhertz
Research Scientist
Law and Justice Study Center
Battelle Memorial Institute
Human Affairs Research Center
Seattle, Wash.

William D. Falcon
Hancock, N. H.

Dr. John A. Gardiner
Department of Political Science
University of Illinois at Chicago Circle
Chicago, Ill.

Richard Huffman
Chief Deputy District Attorney
San Diego County
San Diego, Calif.

Alan Lew
Chief, Criminal Intelligence Bureau
Organized Crime and Criminal Intelligence Branch
California Department of Justice
Sacramento, Calif.

Alfred J. Scotti, Esq.
Aranow, Brodsky, Bohlinger, Benetar, Einhorn, and Dann
New York, N. Y.

Whitney Watriss
Assistant Editor
Fact Research Inc.
Washington, D. C.

John Winters
Investigative Reporter
The Arizona Republic
Phoenix, Ariz.

Joyce Latham
Editor/Writer
Washington, D. C.

CONTRIBUTORS

Vernon Acree
Commissioner, U.S. Customs Service
U.S. Department of the Treasury
Washington, D.C.

Arthur John Anderson, Jr.
Director
Criminal Justice Division
Office of the Attorney General
Little Rock, Ark.

Larry Bennett
Attorney Advisor
Office of Policy and Planning
U.S. Department of Justice
Washington, D. C.

Hon. Bruce E. Babbitt
Attorney General
Phoenix, Ariz.

Maj. Steven Bertucelli
Commander of Organized Crime Bureau
Dade County Public Safety Department
Miami, Fla.

Pat Bosch
Special Assistant to the Governor
Office of the Governor
Phoenix, Ariz.

Allan Benson
Region IV Project Manager
Department of Public Safety
Metropolitan Council of Governments
Washington, D. C.

Hon. John B. Conlan
United States House of Representatives
Washington, D. C.

Joseph Curtis
Dean
School of Law
University of Baltimore
Baltimore, Md.

Michael Capezzi
Assistant District Attorney
Orange County, Calif.

Norman Carlson
Director, Bureau of Prisons
U.S. Department of Justice
Washington, D. C.

George K. Campbell
Regional Administrator
Law Enforcement Assistance Administration
U.S. Department of Justice
Boston, Mass.

Hon. Raul Castro
Governor of Arizona
Phoenix, Ariz.

Lt. James N. Chilcoat
Intelligence Section
Arizona Department of Public Safety
Phoenix, Ariz.

George Corcoran
Chief, Enforcement
U.S. Customs Service
U.S. Treasury Department
Washington, D.C.

Stephen Cooley
Specialist
Organized Crime Section
Law Enforcement Assistance Administration
Washington, D. C.

Henry S. Dogin
Deputy Commissioner
New York State Division of Criminal Justice Services
New York, N. Y.

Capt. Arnold DeLuca
Section Supervisor
Strategic Investigation Section
Organized Crime Bureau
Dade County Department of Public Safety
Miami, Fla.

Thomas E. Dwyer, Jr.
Special Assistant to the District Attorney
Suffolk District
Boston, Mass.

William Dunman
Coordinator
Institute on Organized Crime
Biscayne College
Center for Continued Education
Miami, Fla.

John Jay Douglass
Dean
National College of District Attorneys
College of Law
University of Houston
Houston, Tex.

George Diffenbaucher
Administrator
Population Management
Bureau of Prisons
U.S. Department of Justice
Washington, D. C.

Barry Evenchick, Esq.
Special Assistant to the Governor of New Jersey
Newark, N. J.

John Eversley
Senior Parole Officer-in-Charge
Office of the Inspector-General
New York State Department of Correctional Services
New York, N. Y.

Ted Finnegan
Staff Director
Committee on Criminal Justice
Organized Crime Control Council
Boston, Mass.

James Foughner
Executive Director
Georgia Organized Crime Prevention Council
Office of the Governor
Atlanta, Ga.

Thomas D. Fox
Chief, Strategic Intelligence Staff
Drug Enforcement Administration
U.S. Department of Justice
Washington, D. C.

Robert S. Fertitta
Associate Dean
National College of District Attorneys
College of Law
University of Houston
Houston, Tex.

James P. Fernan
Chief
Cargo Division
U.S. Department of Transportation
Washington, D. C.

Jonathan Goldstein
U.S. Attorney
Newark, N. J.

William Garrison
Administrator of Correctional Management Branch
Correctional Program Division
Bureau of Prisons
U.S. Department of Justice
Washington, D. C.

Kenneth J. Hodson
Executive Director
National Committee for the Review of Federal and State Laws Relating to Wiretapping & Electronic Surveillance
Washington, D. C.

Michael W. Hard
Vice President
Valley National Bank
Phoenix, Ariz.

Wayne Hopkins
Senior Associate
Crime Prevention and Control
U.S. Chamber of Commerce
Washington, D. C.

M. Kay Harris
Project Director for Changes & Corrections by Judicial Decree
American Bar Association
Washington, D. C.

Prof. Allen Harris
Chief, Legislative Affairs
Special Investigations and Surveys Bureau
Office of the Special Prosecutor
New York, N. Y.

James L. Hurd
Chief Probation Officer
U.S. District Court
Western District of Kentucky
Louisville, Ky.

William Hogan
Chief Probation Officer
U.S. District Court of Massachusetts
Boston, Mass.

Richard Harris
Director
Division of Justice and Crime Prevention
Commonwealth of Virginia
Richmond, Va.

Jack F. Hyde
Inspector
Metro Transit Police
METRO
Washington, D. C.

Wayne P. Jackson
Chief, Division of Probation
Administrative Office of U.S. Courts
Washington, D. C.

Chet Johnson
Senior Management Analyst
Metropolitan Police Department
Washington, D. C.

Albert Jackson
Inspector-General
New York City Department of Corrections
New York, N. Y.

John E. Kelly, Jr.
Supervisor
Criminal Intelligence and Organized Crime Section
Federal Bureau of Investigation
U.S. Department of Justice
Washington, D. C.

Clarence M. Kelley
Director
Federal Bureau of Investigation
U.S. Department of Justice
Washington, D. C.

John C. Keeney
Deputy Assistant Attorney General
Criminal Division
U.S. Department of Justice
Washington, D. C.

Mary C. Lawton
Deputy Assistant Attorney General
Office of Legal Counsel
U.S. Department of Justice
Washington, D. C.

William S. Lynch
Chief, Organized Crime and Racketeering Section
Criminal Division

U.S. Department of Justice
Washington, D. C.

Roy G. Leyrer
Chief, Planning and Training
California Department of Justice
Advanced Training Center
Broderick, Calif.

John E. Matson
Assistant Commissioner, Investigations
Immigration and Naturalization Service
Washington, D. C.

Sidney E. Mitchell
Chief Deputy
Office of the Maricopa County Attorney
Phoenix, Ariz.

George McLeod
Editor, Editorial Page
Tucson Daily Citizen
Tucson, Ariz.

Harry Meyersohn
Training Supervisor
Dade County Public Safety Department
Miami, Fla.

Lt. Anthony Morris
Fifth District
Metropolitan Police Department
Washington, D. C.

Gerald McDowell
Attorney-in-Charge
New England Organized Crime Strike Force
U.S. Department of Justice
Boston, Mass.

Maria Lago
Research Assistant, Standards and Goals
Bureau of Criminal Justice Planning and Assistance
Tallahassee, Fla.

Kazunori Matsushita
Senior Police Superintendent
Chief
4th Criminal Investigation Section
Criminal Investigation Division
Metropolitan Police Department
Tokyo, Japan

James E. McDonald
Special Counsel to the Governor
Office of the Governor
Tallahassee, Fla.

L.D. "Pat" Murphy
Editor
Editorial Pages
The Arizona Republic
Phoenix, Ariz.

James B. Mayer
Chairman of the Board
Valley National Bank
Phoenix, Ariz.

Pat Murphy
President
Police Foundation
Washington, D. C.

Mary Lou Marshall
Deputy Director
Commission on the Review of the National Policy Toward Gambling
Washington, D. C.

Walter Nemetz
Chief
Scottsdale Police Department
Scottsdale, Ariz.

Angus B. MacLean
Director
Metro Transit Police
METRO
Washington, D. C.

Rocky Pomerance
Chief of Police
Miami Beach, Fla.

Martin Pera
Chief
Conspiracy Operations and Mobile Task Force Section
Drug Enforcement Administration
U.S. Department of Justice
Washington, D. C.

Burrill A. Peterson
Assistant Director
Office of Investigations
U.S. Secret Service
Washington, D. C.

Michael Ringer
Director of Training
National College of District Attorneys
University of Houston
Houston, Tex.

Peter Reuter
Research Director
Commission on the Review of the National Policy Toward Gambling
Washington, D. C.

Henry Ruth
General Counsel
United Mine Workers Health and Retirement Fund
Washington, D. C.

Sgt. Lucette Reichardt
Unit Supervisor
Organized Crime Bureau
Dade County Public Safety Department
Miami, Fla.

John Rhoads
Prince George's County Police
Forestville, Md.

Benjamin H. Renshaw
Executive Director
Office of Criminal Justice Plans and Analysis
Law Enforcement Assistance Administration
Washington, D. C.

James Ritchie
Executive Director
Commission on the Review of the National Policy Toward Gambling
Washington, D. C.

Hon. Sam Steiger
United States House of Representatives
Washington, D. C.

Col. Thomas Smith
Superintendent
Maryland State Police
Pikesville, Md.

Don Campbell
Assistant U.S. Attorney
District of Columbia
Washington, D. C.

Maurice Sigler
Chairman
U.S. Board of Parole
U.S. Department of Justice
Washington, D. C.

Stanley Sporkin
Director of Enforcement
Securities Exchange Commission

Hon. Herbert Stern
State of New Jersey
Newark, N. J.

James Simmons
President
United Bank of America
Phoenix, Ariz.

Lt. Glenn Sparks
Inspectional Services Bureau
Phoenix Police Department
Phoenix, Ariz.

Howard Safir
Chief
Special Enforcement Programs Section
Domestic Investigations Division
Drug Enforcement Administration
U.S. Department of Justice
Washington, D. C.

Maxwell B. Spoont
Acting Deputy Attorney General
Organized Crime Task Force
Office of the Attorney General
Albany, N. Y.

Eugene M. Sadoian
Chief Probation Officer
U.S. District Court
District of Nevada
Las Vegas, Nev.

Tom Sullivan
Counsel for the Subcommittee on Government and Individual Rights
Congressman Steiger's Office
U.S. House of Representatives
Washington, D. C.

Robert E. Sanders
Special Assistant to Deputy Assistant Secretary for Enforcement
U.S. Department of the Treasury
Washington, D. C.

Earl J. Silbert
U.S. Attorney
District of Columbia
Washington, D. C.

Jerry Shur
Attorney in Charge
Intelligence and Special Services
Organized Crime and Racketeering Section
U.S. Department of Justice
Washington, D. C.

William T. Smith
Staff Director
Police Foundation
Washington, D. C.

Wallace L. Timmeny
Associate Director
Division of Enforcement
Securities Exchange Commission
Washington, D. C.

Barbara Thompson
Fairfax, Va.

Patton Wheeler
Executive Director
National Association of Attorneys General
Committee on the Office of the Attorney General
Raleigh, N. C.

Dr. Don Harris
Annandale, Virginia

Larry Wetzel
Chief of Police
Phoenix Police Department
Phoenix, Ariz.

Sgt. Jack Weaver
Intelligence Division
Phoenix Police Department
Phoenix, Ariz.

Sgt. Oscar Long
Intelligence Division
Phoenix Police Department
Phoenix, Ariz.

Daniel Ward
Director for Transportation Security
U.S. Department of Transportation
Washington, D. C.

Robert Weber
Associate General Counsel for Litigation
Small Business Administration
Washington, D. C.

H. G. Weisman
Executive Secretary
National Conference of State Criminal Justice Planning Administrators
Washington, D. C.

Theodore R. Zanders
Assistant Chief
Metropolitan Police Department
Washington, D. C.

Robert L. Zink
Inspector
Intelligence Division
Metropolitan Police Department
Washington, D. C.

Richard Wertz
Executive Director
Governor's Commission on Law Enforcement and the Administration of Justice
Cockeysville, Md.

Col. K. W. Watkins
Montgomery County Police Department (Retired)
Rockville, Md.

Richard Ward
Criminal Justice Center
John Jay College of Criminal Justice
The City University of New York
New York, N. Y.

James Golden
Director
Organized Crime Section
Law Enforcement Assistance Administration
Washington, D. C.

Thomas F. Angelis
Davidsonville, Md.

Sam J. Papich
Executive Director
Governor's Organized Crime Prevention Commission
Albuquerque, N. Mex.

Frank Zunno
Police Management Consultant (Former)
Police Management & Operations Division
International Association of Chiefs of Police, Inc.
Gaithersburg, Md.

Herb Hoover
Chief
Field Operations Bureau
Organized Crime & Criminal Intelligence Branch
Division of Law Enforcement
California Department of Justice
Sacramento, Calif.

INSTITUTIONAL CONTRIBUTORS

Illinois Bureau of Investigation
Chicago, Ill.

Intelligence Bureau
New Jersey State Police
West Trenton, N. J.

State Gaming Control Board
Nevada Gaming Commission
Carson City, Nev.

Field Operations
Florida Department of Criminal Law Enforcement
Tallahassee, Fla.

Washoe County Sheriff's Department
Reno, Nev.

Organized Crime and Criminal Intelligence Branch
Division of Law Enforcement
California Department of Justice
Sacramento, Calif.

Georgia Bureau of Investigation
Hateville, Ga.

Indiana State Police
Indianapolis, Ind.

Miami Strike Force
U.S. Department of Justice
Miami, Fla.

Intelligence Division
New York City Police Department
New York, N. Y.

Connecticut State Police
Meriden, Conn.

Bureau of Criminal Investigation
New York State Police
New York, N. Y.

Fulton County District Attorney's Office
Atlanta, Ga.

Office of the Attorney General
Wisconsin Department of Justice
Madison, Wis.

Office of the Attorney General of New Jersey
West Trenton, N. J.

Law Enforcement Assistance Administration Regional Office
U.S. Department of Justice
Des Plaines, Ill.

Minnesota Bureau of Criminal Apprehension
St. Paul, Minn.

Intelligence Unit
Louisiana State Police
New Orleans, La.

Intelligence Unit
Jefferson Parish Sheriff's Office
New Orleans, La.

Intelligence Unit
Vice Squad
New Orleans Police Department
New Orleans, La.

Organized Crime & Racketeering Unit
Louisiana Attorney General's Office
New Orleans, La.

Intelligence Division
Internal Revenue Service
U.S. Department of Treasury
New Orleans, La.

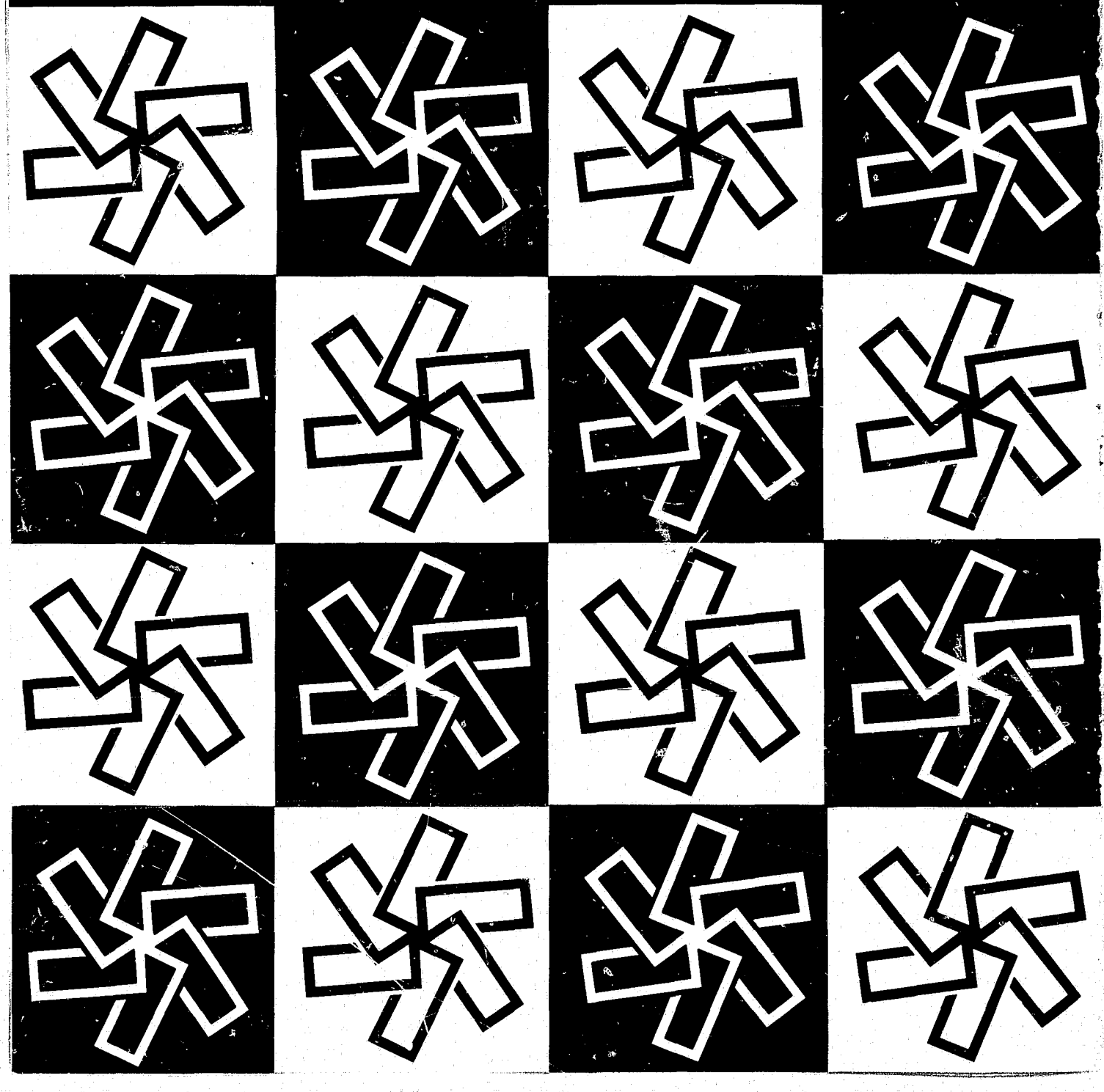
Drug Enforcement Administration
U.S. Department of Justice
New Orleans, La.

Alcohol, Tobacco, and Firearms Bureau
U.S. Department of Treasury
New Orleans, La.

Organized Crime and Racketeering Unit
U.S. Department of Justice
New Orleans, La.

Federal Bureau of Investigation
U.S. Department of Justice
New Orleans, La.

Biographies



National Advisory Committee on Criminal Justice Standards and Goals

Brendan T. Byrne

Brendan T. Byrne was elected as the 54th Governor of New Jersey on Nov. 6, 1973, by the largest plurality ever awarded to a gubernatorial candidate in State history.

Governor Byrne was born on April 1, 1924, in West Orange, N.J. He was educated in West Orange public schools.

Governor Byrne was commissioned a lieutenant in the Army Air Corps in March 1943, and served as a squadron navigator in the European Theater. He was honorably discharged in September 1945, having been awarded the Distinguished Flying Cross and four Air Medals.

He was graduated from the Princeton University School of Public and International Affairs in 1949. He received his law degree from Harvard University, served his legal clerkship with Judge Joseph Weintraub (who later became Chief Justice of the New Jersey Supreme Court) and, upon admission to the bar, practiced law in Newark and East Orange.

Governor Byrne was appointed an Assistant Counsel to Governor Robert B. Meyner in October 1955, Governor Meyner's Executive Secretary in 1956, and Deputy Attorney General in charge of the Essex County Prosecutor's Office in 1958. Governor Meyner named him to a full 5-year term as Essex County Prosecutor in July 1959, and he was reappointed by Governor Richard J. Hughes in 1964.

While a prosecutor, Governor Byrne served as president of the County Prosecutors' Association of New Jersey and as vice president of the National District Attorneys' Association.

In 1968, Governor Hughes appointed him to be president of the New Jersey State Board of Public Utility Commissioners.

In 1970, he was appointed to the Superior Court by Gov. William T. Cahill and served as Assignment Judge for Morris, Sussex, and Warren Counties until he became a candidate for Governor in April 1973.

Governor and Mrs. Byrne, the former Jean Featherly, reside with their seven children at Morven, the Governor's official residence in Princeton, N.J.

Charles S. House

Charles S. House has served as Chief Justice of the Connecticut Supreme Court and as chairman of the Connecticut Adult Probation Commission since 1971.

From 1933 to 1953, Chief Justice House conducted a general law practice. He served in the Connecticut General Assembly as a member of the House of Representatives from 1941 to 1943, and as a member of the State Senate from 1947 to 1951. He was Assistant State's Attorney for Hartford County, Conn., from 1942 to 1946; chairman of the Connecticut Legislative Council from 1949 to 1951; and legal adviser to Governor John Lodge from 1951 to 1953. Chief Justice House served as a judge in the Connecticut Superior Court from 1953 to 1965, when he was named Chief Judge. He became an Associate Justice of the Connecticut Supreme Court in 1965. He was chairman of the Conference of Chief Justices for 1975-1976.

Chief Justice House received the bachelor of arts degree from Harvard College and the bachelor of laws degree from Harvard Law School.

Arthur J. Bilek

Arthur J. Bilek has been a vice president of Pinkerton's, Inc., since 1974.

Mr. Bilek served in the Chicago Police Department from 1953 to 1962, rising through the ranks to lieutenant and acting director of the training division. He was appointed Chief of the Cook County Sheriff's Police Department in 1962 and was instrumental in professionalizing and reforming that

agency while replacing patronage practices with the merit system. Mr. Bilek was cofounder of the Illinois State Police Emergency Radio Network (ISPERN), an all-department, statewide emergency police system. He founded the first degree program in administration of criminal justice in the United States at the University of Illinois, where he was professor of criminal justice from 1967 to 1969. He served as chairman of the Illinois Law Enforcement Commission from 1969 to 1972 and later as Corporate Security Director developed the security program of the Hilton Hotels Corporation.

Mr. Bilek is chairman of the Private Security Advisory Council of the Law Enforcement Assistance Administration. He is a member of the board of the Law in American Society Foundation. He received bachelor of science and master of social work degrees from Loyola University in Chicago.

Allen F. Breed

Allen F. Breed has been director of the Department of Youth Authority, State of California, since 1967.

Mr. Breed began work in the field of juvenile justice in 1945, as group supervisor at the Stockton Camp. Subsequently, he served in nearly every capacity in juvenile corrections including superintendent of three youth facilities and as administrative superintendent of the Northern California Youth Center. Mr. Breed is chairman of the Center for Correctional Justice, chairman of the American Correctional Association's Council on Youth Correctional Services, a board member of the American Justice Institute and the American Correctional Association, and a member of the Council on Corrections of the National Council on Crime and Delinquency.

Mr. Breed also serves on numerous advisory groups, including the National Advisory Committee on Juvenile Justice and Delinquency Prevention, the National Assessment Study of Correctional Programs for Juvenile and Youthful Offenders, and the American Bar Association's Juvenile Justice Standards Project Joint Commission. He holds the bachelor of arts degree from the University of the Pacific.

Doris A. Davis

Doris A. Davis was elected Mayor of Compton, Calif., in 1973, thus becoming the first black woman to hold the office of chief executive of a large metropolitan city.

Prior to her election as mayor, she served as Compton City Clerk for 8 years. Mayor Davis is a member of the State of California Joint Committee for the Revision of Election Laws and of the State of California Joint Committee on the Revision of the Election Code. She is a member of the board of directors of the National Association for the Advancement of Colored People. She also is director of Daisy Child Development Centers, a nonprofit organization that provides services to unwed teenage mothers.

Mayor Davis holds a bachelor of arts degree from the University of Illinois, a master of arts degree from Northeastern University, and a doctor of philosophy degree in public administration from Laurence University, Santa Barbara, Calif.

Lee Johnson

Elected Attorney General of Oregon in 1968, Lee Johnson is currently completing his second 4-year term. He was elected Judge of the Oregon Court of Appeals in 1976 for a 6-year term beginning January 1977.

Mr. Johnson was selected under the Attorney General's Honor Recruitment Program, in 1959, to serve as an antitrust attorney for the U.S. Department of Justice in Washington, D.C. In 1961, he returned to Oregon and began private law practice in Portland. He was elected to the Oregon House of Representatives in 1964 and reelected in 1966. Mr. Johnson has served as a member of the Oregon Criminal Law Revision Commission and the Governor's Commission on Judicial Reform, and as chairman of the Oregon Law Enforcement Council and the Governor's Commission on Organized Crime.

Mr. Johnson received the bachelor of arts degree from Princeton University and the bachelor of law degree from Stanford Law School. He is admitted to practice before the U.S. Supreme Court.

John F. Kehoe, Jr.

The biography of Mr. Kehoe appears below with those of other members of the Task Force on Organized Crime.

Cal Ledbetter, Jr.

Cal Ledbetter, Jr., is serving his fifth term in the Arkansas House of Representatives. He also is chairman of the department of political science and criminal justice at the University of Arkansas at Little Rock.

From 1955 to 1957, Professor Ledbetter served in Germany with the U.S. Army Judge Advocate General Corps. He was chairman of the Law Enforce-

ment and Criminal Justice Task Force of the National Conference of State Legislatures for 3 years and was a member of the Arkansas Legislative Council. He is co-author of *Politics in Arkansas: The Constitutional Experience.*

Professor Ledbetter received the bachelor of arts degree from Princeton University and was graduated from the Woodrow Wilson School of Public and International Affairs at Princeton. He received the bachelor of law degree from the University of Arkansas and the doctor of philosophy degree in political science from Northwestern University.

Peter P. Lejins

Peter P. Lejins is director of the Institute of Criminal Justice and Criminology and a professor of sociology at the University of Maryland.

Dr. Lejins has held many appointments to major international conferences on crime prevention and treatment of offenders. He has served as a member of the U.S. Government Delegation to the six United Nations Congresses on the Prevention of Crime and Treatment of Offenders since 1950. In 1965 and 1972 he received Presidential appointments for 6-year terms as a U.S. Correspondent to the United Nations in the area of crime prevention and treatment of offenders. Dr. Lejins is chairman of the board of directors of the National Criminal Justice Education Consortium and is one of the two official United States representatives to the International Penal and Penitentiary Foundation. He is president of the Scientific Commission of the International Society for Criminology. Dr. Lejins is a past president of the American Correctional Association and long-time chairman of that association's research council. He is president of the board of directors of the International Center of Biological and Medico-Forensic Criminology in Sao Paulo, Brazil, a position he has held since 1974.

Dr. Lejins studied philosophy and law at the University of Latvia. He received his doctorate from the University of Chicago.

Richard C. Wertz

For the past 6 years, Richard C. Wertz has served as executive director of the Maryland Governor's Commission on Law Enforcement and the Administration of Justice. In September 1976, Mr. Wertz was also appointed to serve as Special Assistant to the Governor of Maryland for Criminal Justice and assigned the task of resolving the State's serious prison overcrowding problems. Mr. Wertz has been an adjunct professor at the Georgetown University Law Center in Washington, D.C., since 1975.

From 1966 to 1970, Mr. Wertz was director of public safety for the Metropolitan Washington Council of Governments. He is immediate past chairman of the National Conference of State Criminal Justice Planning Administrators and a current member of the Advisory and Evaluation Committee of the Council of State Governments' Criminal Justice Research Project. Mr. Wertz is a member of the Advisory Committee on Corrections Reform of the Southern Governor's Conference and the Criminal Justice Advisory Committee of the Council of State Governments' Southern Legislative Conference.

Mr. Wertz holds the bachelor of arts degree in political science from Knox College and the master of business administration degree in public administration from the Wharton Graduate School, University of Pennsylvania.

Jerry V. Wilson

For the past 2 years, Jerry V. Wilson has been project director of a study, conducted by The American University Institute for Advanced Studies in Justice, of the efforts to control crime in the District of Columbia for the period 1955 through 1975.

From 1969 to 1974, Mr. Wilson served as chief of police of the Metropolitan Police Department of Washington, D.C. He joined the force in 1949 and was promoted through the ranks during his 25-year career with the department. He served as budget officer of the department from 1960 to 1965, when he was appointed to head the planning and development unit and the data processing division. He was named assistant chief of police for field operations in 1968.

He is the author of two books, *Police Report* and *Police and the Media.* Mr. Wilson was graduated magna cum laude from The American University in 1975, with a bachelor of science degree in administration of justice.

Pete Wilson

Pete Wilson was elected the nonpartisan mayor of San Diego in 1971 and was reelected in 1975.

Mayor Wilson began his political career in 1966 when he was elected to the California Assembly. A Republican, he won reelection twice. He served on various committees in the legislature, including the Committee on Drug Abuse of the (International) Commission of the Californias. As mayor of San Diego, he has gained recognition as the architect of the city's efforts to control its urban growth through planning. He is a member of many committees and organizations, including the Mayor's Task Force on Drug Abuse Treatment and Prevention, jointly sponsored by the National League of Cities and the U.S. Conference of Mayors.

Mayor Wilson was graduated from Yale University in 1955 and received his law degree from the University of California School of Law at Boalt Hall in 1962.

Task Force on Organized Crime

John F. Kehoe, Jr.

John F. Kehoe, Jr., is commissioner of public safety for the Commonwealth of Massachusetts. He was appointed to this position in 1971 and was reappointed in 1975.

Mr. Kehoe joined the Federal Bureau of Investigation (FBI) in 1941. During his 28-year career with the FBI, he served as special agent coordinator and supervisor and, for his last 8 years, as supervisor in charge of the organized crime section of the Boston field office.

From October 1970 through August 1971, Mr. Kehoe served as executive director of the New England Organized Crime Intelligence System in Wellesley, Mass. He holds the bachelor of science degree in education from Boston College.

Rex P. Armistead

Rex P. Armistead is director of the Regional Organized Crime Information Center at Metairie, La.

Mr. Armistead began his criminal justice career as the criminal deputy sheriff of Coahoma County, Miss., a position he held for 14 years. He then joined the Mississippi Highway Patrol, serving as an investigator for the criminal division for 4 years and as chief investigator for 4 years. Prior to receiving his present assignment, he was an investigator for the Organized Crime Section of the Mississippi Attorney General's Office.

Mr. Armistead has studied at Castle Heights Junior College and at Memphis State University and has taken additional courses at Harvard University and the Universities of Mississippi, Oklahoma, and Texas.

G. Robert Blakey

G. Robert Blakey is professor of law at the Cornell Law School and director of the Cornell Institute on Organized Crime.

From 1960 to 1964, Mr. Blakey was a special attorney with the Organized Crime and Racketeering Section of the Criminal Division, U.S. Department of Justice. He was an assistant professor of law (1964 to 1967) and professor (1967 to 1969) at the Notre Dame Law School. He served as chief counsel of the Senate Subcommittee on Criminal Laws and Procedures, Committee on the Judiciary, from 1969 to 1973. In 1966 and 1967, Mr. Blakey was consultant on organized crime for the President's Commission on Law Enforcement and Administration of Justice and consultant on conspiracy and organized crime for the National Commission on the Reform of Federal Criminal Laws. He served as reporter on electronic surveillance for the American Bar Asso-

ciation Project for Minimal Standards in Criminal Justice (1967 to 1968), as consultant for the Commission on the Review of the National Policy Toward Gambling (1974 to 1975), and as a member of the National Commission for the Review of Federal and State Laws Relating to Wiretapping and Electronic Surveillance (1974 to 1976).

Mr. Blakey received the bachelor of arts degree and his law degree from the University of Notre Dame.

Garrett H. Byrne

Garrett H. Byrne has served as district attorney of Suffolk County, Mass., since 1953.

Mr. Byrne was assistant district attorney for the county from 1933 to 1952. He served in the Massachusetts legislature for two terms. Mr. Byrne was a member of the President's Commission on Law Enforcement and Administration of Justice. He is past president of the National Association of District Attorneys and the Massachusetts District Attorneys Association. Mr. Byrne received the bachelor of laws degree from Suffolk University in Boston.

Charles E. Casey

Charles E. Casey has been the assistant director of the Organized Crime and Criminal Intelligence Branch (OCCIB) of the California Department of Justice since 1970. In this capacity, he coordinates the State's efforts to control organized crime and is responsible for the training, research, criminal intelligence, and field service programs of the OCCIB.

Mr. Casey began his criminal justice career as a patrolman with the Carmel, Calif., Police Department in 1948. After 4 years with the department, he joined the U.S. Army Military Police Corps, where he attained the rank of captain. He spent a year as an investigator with the California Department of Justice and 4 years as coordinator of security activities for the Standard Oil Company. Prior to assuming his current position, he served as assistant director of the California Department of Corrections.

Mr. Casey holds the bachelor of arts degree in police administration from San Jose State College.

Aaron M. Kohn

Aaron M. Kohn has been the managing director of the Metropolitan Crime Commission of New Orleans, Inc., since it was activated in 1954 as a nonprofit civic organization to work for improved law enforcement and criminal justice, and to cope with the problems of organized crime.

Beginning in 1930, Mr. Kohn served in various capacities, including special agent and administrative assistant to J. Edgar Hoover, with the Federal Bureau of Investigation. Thereafter, from 1939 to 1952, he held executive positions with Sears, Roebuck & Company and the Sonjean International Corporation. In 1952 he was the chief investigator and acting chief counsel for the Emergency Crime Committee of the Commission Council probing the alliances between crime and politics in Chicago, Ill. In 1953 he directed the investigation of the police department in New Orleans for a Special Committee of the Commission Council of that city. Immediately thereafter Mr. Kohn started in his current position. He has been involved in many of the major planning forums for development of national capability against organized crime. He was a participant in the Oyster Bay, Long Island, Conferences (1965-67). He served as an advisor to the 1966-67 Organized Crime Task Force of the President's Commission on Law Enforcement and Administration of Justice; as a member of the 1972-73 Organized Crime Task Force of the National Advisory Commission on Criminal Justice Standards and Goals. He was a discussion leader at the January 1973 National Conference on Criminal Justice. He served as a member of the Panel on Crime Prevention and Control of the U.S. Chamber of Commerce (1969-73). He was a speaker at the October 1975 National Conference on Organized Crime, and a contributing editor to the report of that conference. He has testified before various congressional committees, and was a principal witness on behalf of the Organized Crime Control Act of 1970. He is a regular lecturer and seminar leader on various aspects of the organized crime problem to criminal justice personnel and to the private sector.

Mr. Kohn is a member of the bar of the District of Columbia, where he received his law degree from Columbus Law School.

John J. Mullaney

For the past 7 years, John J. Mullaney has been executive director of the New Jersey State Law Enforcement Planning Agency. His agency is responsible for the development of statewide programs in all areas of law enforcement and criminal justice operations.

From 1961 to 1969, Mr. Mullaney was a special prosecutor with the Organized Crime and Racketeering Section, U.S. Department of Justice. He has served on the executive committee of the National Conference of State Criminal Justice Planning Administrators.

Mr. Mullaney earned the bachelor of science degree and his degree in law at Fordham University in New York.

Maurice Nadjari

Maurice Nadjari served as special prosecutor for the State of New York from 1972 to 1976, and was in charge of investigating the criminal justice system of the city of New York.

From 1953 to 1967, Mr. Nadjari was assistant district attorney for New York County. From 1967 to 1972, he served as chief assistant district attorney for Suffolk County, N.Y. In 1972, he was general counsel to the Scott Commission, which investigated the operations of the city of New York. Mr. Nadjari has taught at Northwestern University and at the College of District Attorneys of the University of Houston Law School.

He holds the bachelors degree in business administration from the College of the City of New York and a law degree from New York University.

E. Wilson Purdy

E. Wilson Purdy has been director of public safety for Dade County, Miami, Fla., since 1966.

Mr. Purdy was with the Federal Bureau of Investigation for 12 years. He served as chief of police of St. Petersburg, Fla., from 1958 to 1963 and taught police administration at St. Petersburg Junior College from 1961 to 1963. Mr. Purdy held the post of commissioner of the Pennsylvania State Police from 1963 to 1966. In 1976, Mr. Purdy became chairman of the organized crime committee of the International Association of Chiefs of Police. He has been active in many organizations in the criminal justice field, including the Governor's Council on Criminal Justice, the Governor's Organized Crime Task Force, the Governor's Criminal Justice Information System Council, the Governor's Commission on Criminal Justice Standards and Goals, in Florida, and the National Council on Crime and Delinquency and the National Crime Prevention Institute.

Mr. Purdy received the bachelor of science degree in police administration from Michigan State University and the master of science degree in management from Florida International University.

Victor G. Rosenblum

Victor G. Rosenblum is director of the Program in Law and the Social Sciences and a professor of law at Northwestern University.

From 1957 to 1958, he was associate counsel to the Subcommittee on Executive and Legislative Reorganization of the Committee on Government Operations, U.S. House of Representatives. From 1966 to 1967, Professor Rosenblum was a visiting Fulbright professor at the School of Law at the University of Louvain, Belgium. Professor Rosenblum served as president of Reed College from 1968 to 1970. From 1958 to 1962, and again in 1965, he was editor of the Administrative Law Review of the American Bar Association. Professor Rosenblum is a trustee and past president of the Law and Society Association. He is a member of the Committee on Professional Ethics and Academic Freedom of the American Political Science Association, as well as a member of the board of directors of the Center for Administrative Justice of the American Bar Association. Professor Rosenblum is author, contributing author, and editor of several books and articles, including *Constitutional Law: Political Roles of the Supreme Court* and *Law as a Political Instrument.*

Professor Rosenblum received the bachelor of arts degree and the bachelor of law degree from Columbia University. He holds a doctorate from the University of California at Berkeley.

Jonathan B. Rubinstein

Jonathan B. Rubinstein is project director for the Policy Sciences Center in New York City.

From 1964 to 1968, Dr. Rubinstein was a history instructor at Harvard University. In 1968, he was a reporter for the *Philadelphia Evening Bulletin.* He studied police patrol work in Philadelphia on an LEAA grant for 2 years. Subsequently, he worked as a liquor salesman in New York City for 2 years as part of a study on liquor regulation supported by the Henry Frank Guggenheim Foundation. He has been a member of the peer review panel of the National Institute of Law Enforcement and Criminal Justice. In 1974, as a consultant for the Commission on the Review of National Policy toward Gambling, he wrote a paper entitled "Police Corruption and Gambling Regulation." Dr. Rubinstein has received a number of honorary and working grants and fellowships, including a Fulbright fellowship, a Harvard University traveling fellowship, a Humboldt-Stiftung research fellowship, an LEAA grant for study of police patrol practices, and a University of Pennsylvania grant for study at the Center for Urban Ethnography.

Dr. Rubinstein holds a bachelor of arts degree and a doctorate from Harvard University. He is the author of *City Police* (1973).

Robert W. Warren

Robert W. Warren has served as U.S. District Judge for the Eastern District of Wisconsin since 1974.

From 1951 to 1953, Judge Warren was a foreign affairs officer with the U.S. Department of State. He engaged in private law practice from 1956 to 1959. In 1959, he became assistant district attorney of Brown County, Wis., and in 1961, district attorney of Brown County. From 1965 to 1969, Judge Warren served as a Wisconsin State senator. He became attorney general of Wisconsin in 1969, and remained in that office until assuming his present position.

Judge Warren received the bachelor of arts degree in economics from Macalester College, the master of arts degree in public administration from the University of Minnesota, and the law degree from the University of Wisconsin.

Benjamin Louis Zelenko

Benjamin Louis Zelenko is of counsel to the law firm of Weisman, Celler, Spett, Modlin, Wertheimer & Schlesinger, in Washington, D.C.

Mr. Zelenko was a hearing attorney for the Federal Communications Commission from 1959 to 1961. He served as counsel to the Committee on the Judiciary of the U.S. House of Representatives, from 1962 to 1969, and as general counsel, from 1969 to 1972.

Mr. Zelenko received the bachelor of arts degree from Princeton University and the bachelor of law degree from Harvard Law School.

Task Force Staff Directors

John A. Herzig

John A. Herzig is criminal justice program director of Public Technology, Inc., a nonprofit, Washington-based organization that transfers information on new technology to city and State administrators.

From 1968 to 1970, Mr. Herzig was associated with the Washington Metropolitan Police Department as director of special projects in the planning and development section. During 1970, he was an assistant director of the Maryland Governor's Commission on Law Enforcement and the Administration of Justice. He joined the Washington Metropolitan Council of Governments as assistant director of the department of public safety in late 1970, and served as director of the department from 1974 to 1975. Mr. Herzig is the author of a U.S. Department of Defense study on American prisoners of war in Korea, and has been a consultant to The New Yorker magazine. He also lectured in psychology at Washington Technical Institute for several years.

Mr. Herzig received the bachelor of science degree in psychology from Long Island University and has done graduate work at The American University and the University of Southern Illinois.

Katryna Regan

Katryna Regan is a consultant to The Urban Institute.

Ms. Regan assumed the position of staff director of the National Task Force on Organized Crime in July 1976. She had been a senior research writer for the Task Force since April 1975. From 1971 to 1975, Ms. Regan was a research associate with The Urban Institute in Washington, D.C. She is co-author of several publications in the field of health, as well as a study on police department programs for burglary prevention.

Ms. Regan received the bachelor of arts degree in sociology from Trinity College, Washington, D.C.

Index

Footnotes have not been indexed.

O

P

R

S

T

U

V

W

Z

For sale by the Superintendent of Documents, U.S. Government Printing Office
Washington, D.C. 20402 - Price $3.75
Stock Number 052-003-00220-5

☆U.S. GOVERNMENT PRINTING OFFICE: 1976 O—219-285

U.S. DEPARTMENT OF JUSTICE
LAW ENFORCEMENT ASSISTANCE ADMINISTRATION
WASHINGTON, D.C. 20531

OFFICIAL BUSINESS
PENALTY FOR PRIVATE USE, $300

POSTAGE AND FEES PAID
U.S. DEPARTMENT OF JUSTICE
JUS-436

U.S.MAIL

SPECIAL FOURTH-CLASS RATE
BOOK

END