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Statement of

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ACQUISITIONS

Mr. Chairman and Members of the Subcommittee:

I am pleased to be here today on behalf of the Department of Justice and, along with Mr. Webster and Mr. Bensinger, to help initiate the Subcommittee's long-range series of hearings into the nature of modern organized crime.

The Subcommittee's notable tradition, dating back to Senator John McClellan and Chief Counsel Robert Kennedy, has established the value of Congressional investigation in this area. The Department of Justice, charged with the responsibility for enforcing federal criminal law, of necessity focuses in large part on investigating specific crimes and prosecuting individual defendants. We appreciate the important role that can be played by a body such as this Subcommittee. Your inquiry can add to our knowledge of the broader causes, effects and long-term solutions of organized crime. We will do our best to assist in your work.

From the law enforcement perspective, the problem of organized crime is one of knowledge and response: what do we know about the phenomenon and how can we shape a program to contend with its peculiar characteristics? For two decades now within the Justice Department we have worked to increase our knowledge of organized crime and to design and implement a program effectively responding to it.

The single largest activity of the Criminal Division is the organized crime program. Supervised by the Organized Crime

and Racketeering Section here in Washington, that program consists of 140 of our most skilled trial attorneys assigned to 26 Strike Forces and field offices covering every American city that has a major criminal organization. They receive full investigative support from virtually every federal law enforcement agency, most of which assign specialized investigators to the Strike Forces and pool information on identified targets. Many state and local agencies also participate. These prosecutors and investigators have at their disposal our most innovative and sophisticated law enforcement tools and the time and institutional support to put them to use. Let me describe how the activities and priorities of these Strike Forces relate to what we know about organized crime.

It seems to me that the answers to three central questions about organized crime should directly determine the shape and focus of our program: (1) What assets make organized crime strong and, conversely, where is it vulnerable? (2) What are its principal activities and sources of revenue? And, (3) what are organized crime's most harmful effects on society? My testimony will address each of these in turn.

I.

An analysis of the institutional assets of organized crime must account both for its ability to endure in the face of continual law enforcement assault and for its power and apparent vitality. The mob's resistance to prosecution seems

to depend heavily upon organizational cohesion. Vows of secrecy and loyalty, as well as strict discipline, are enforced through violence. In the major organizations these bonds are strengthened by ethnic and family ties. Organized crime invariably attempts to murder informants; consequently, its implied and actual threats against witnesses are credible. The leadership, kept well insulated from high-risk activities, is especially immune to prosecution. Finally, organized crime is wealthy enough to pay for protection from law enforcement and other public officials, retain highly qualified legal representation, and use bribery to obstruct justice.

These organizational characteristics make it very difficult to obtain against organized crime figures the kind of voluntary testimony that produces most criminal convictions. A number of our most innovative law enforcement tools have been developed specifically to penetrate this curtain of silence. Foremost among these is court-authorized electronic surveillance approved by Title III of the Omnibus Crime Control Act of 1968. We know the identity of most important organized crime figures. This fact and their need to conduct far-flung operations by telephone makes them vulnerable to various forms of electronic surveillance based on probable cause. If successful, such surveillance reduces our reliance on witnesses and often enables us to develop additional witnesses. So-called "consensuals;" i.e., recordings made by undercover agents or informants, are also

important. Such recordings of payoff discussions were played with devastating impact in last November's labor racketeering trial of Anthony Scotto, New York labor leader and influential political figure. The relatively small number - 150 - of Title III's approved in fiscal year 1979 far from adequately indicates their importance.

Of course, documentary proof, especially of financial transactions, also reduces the need for live testimony. This is one reason that prosecution for tax offenses has traditionally been an important tactic against organized crime.

The Strike Forces also employ a number of tools designed to obtain witness testimony against organized crime figures. Penetration of groups by informants and undercover agents, sometimes requiring years of careful preparation, has been instrumental in many major cases. For example, in the investigation preceding the conviction of Buffalo gangster Sam Pieri two years ago, an undercover agent actually worked his way into the position of becoming Pieri's chauffeur. The immunity statute -- especially when combined with the special grand jury, whose extended term increases the potential sanction for refusal to testify -- has proven an effective means of compelling testimony and was used by the Criminal Division in over 800 cases of all kinds last year. Finally, the Witness Security Program is designed to respond directly to the problem of witness intimidation. About 360 witnesses and their families are now relocated

and given new identities and employment each year. In a recently concluded case in Rochester, New York, these included two witnesses relocated just hours before hit men from opposing underworld factions arrived at their former homes. I understand Mr. Gerald Shur, the Criminal Division coordinator of the Witness Security Program, will be here later to discuss the program in more detail. Suffice it to say for now that virtually every major organized crime conviction in the last 10 years has depended on the testimony of protected government witnesses. The security of the program has been excellent.

Along with its ability to resist law enforcement efforts, the outstanding attribute of organized crime is its power and vitality. Single organizations have for decades been able to monopolize entire segments of the illicit economy -- and portions of the licit one as well -- and at times threaten to supplant the normal rule of law itself. These may, in fact, be the defining characteristics of organized crime. The well-known formal, almost militaristic structure of the most successful groups is an essential factor in acquiring and retaining this power. Control is centralized within each organization. Subordinates carry out the leader's orders in disciplined fashion. Such a structure makes it possible to marshal forces against potential competitors, avoid many disruptive internal disputes, and administer extensive underworld empires.

Throughout their history, the Strike Forces have paid special attention to this organizational structure. A major assumption of the program has been that convicting as many actual members of the principal groups as possible is the best way to reduce their power and impact. This has been considered especially true of the heads of these hierarchies. Depriving organized crime of stable, and presumably its most competent, leadership is a goal that we have pursued with some degree of success. In the near future, for example, we believe that our Strike Forces will be able to convict the top leadership of four of the most important criminal organizations in this country. In fact, of 75 changes in the leadership of these groups in the past five years, 28 resulted from prosecution.

Though we are past the point of believing we will ever eliminate organized crime simply by convicting members or even leaders, I see merit in this organizational focus. It is the best means we now have of keeping these organizations under pressure, of making their activities difficult and risky. I believe, however, that we must seek points of organizational vulnerability other than simply the leadership. In the area of narcotics enforcement, for example, there are indications that the most assailable target may be the laundering of huge illicit money flows through offshore banks. In fact, in the organized crime field in general we are coming to view the flow of money

as a vulnerable target. Money is the one aspect of criminal activity from which no organized crime figure can remain insulated. Accordingly, we are making efforts to increase our financial expertise in constructing the "paper trails" of illicit money flows that can lead us to the ultimate recipients.

The Racketeer Influenced and Corrupt Organization statute has been a valuable weapon in our attack on the organized crime hierarchy. RICO's concept of a racketeering "enterprise," to which heavy penalties are attached, begins to address the central problem of organized crime -- that an "enterprise" gives the continuity needed to conduct and maintain the activities on which organized crime depends. The 250 RICO enterprises that have now been subject to prosecution range from unions to hotels and include an entire organized crime leadership group. In the narcotics area, the Continuing Criminal Enterprise statute also focuses on the special danger posed by an ongoing organization.

Characteristics besides its hierarchical structure also contribute to the power of organized crime. There were well over 200 gangland slayings last year, enough to make any potentially resistant businessman or recalcitrant union member reconsider. In the Meli case, the defendants, who controlled a steel hauling firm in Detroit, were convicted last August for intimidating the drivers into actually paying the company's share of their own health and welfare and pension payments to the union. As another example, Tino Fiumara was convicted in

Newark last June for extorting a restaurant owner. When the owner had enlisted Fiumara's aid in settling a dispute with an employee, Fiumara set his fee at 25% of the business -- and throughout the trial the restaurant owner refused to admit he was a victim of extortion.

Although most mob violence is directed internally, it is occasionally used against non-members as well. More often, however, notoriety alone allows the mob to bring people into line. In the Winter case, for example, the defendants operated a horserace-fixing operation in five states. They made millions of dollars, most of it by placing bets with independent book-makers. These victims feared Winter so much they paid off even if they discovered a race had been fixed.

Developing an effective law enforcement response is a knotty problem, especially since many threats are simply implied or never reported. We do have some suggestions for legislation that we believe would be helpful. I will discuss these later.

The vitality of organized crime is often explained by the fact that it offers services in demand by the public. This may well be so, although it is equally possible that this factor is really another form of the mob's ability to intimidate -- in this case to organize, extort and "protect" the individual purveyors of illegal services themselves. Congress has given us important legislation to deal with illicit industries, particularly gambling, though our attempts to employ it have often produced only light

sentences. This probably merely reflects society's general ambivalence toward vice, which makes an effective law enforcement response always difficult to achieve.

Finally, there is a self-perpetuating quality to organized crime's power. The major groups have existed long enough to have developed a network of business, labor and political connections and to have generated an image of inevitability, if not acceptability, among the segments of the community with which they interact. More specifically, as these groups have become powerful, they have become wealthy. This has made possible another characteristic mob tool, bribery. Bribery has its most important and detrimental application in the corruption of public officials, either to purchase protection or to obtain favors and assistance. Payoffs to public officials are absolutely essential for the preservation of most ventures conducted by organized crime. Large amounts of available cash also provide investment capital for expansion into new areas, such as legitimate businesses or narcotics.

We have begun to place increased emphasis on depriving organized criminals of their profits from illegal ventures. A number of our most useful statutes -- RICO, the Continuing Criminal Enterprise Statute, the Controlled Substances Act, as well as certain of the Customs and Bank Secrecy statutes -- have forfeiture provisions. Though there have been forfeitures in recent cases, including a total of about \$1 1/2 million under RICO and

even larger totals in the narcotics area, we have, frankly, not yet made optimum use of these statutes. It is often difficult to prove that a defendant's assets are the fruits of a particular crime -- an obstacle that would be removed by Section 2004 of the Senate's version of the proposed criminal code. However, we can make more effective use of existing law, and Strike Force prosecutors continue to receive instruction in the use of RICO's forfeiture provision.

To this discussion of our response to the characteristics of organized crime that make it strong and resistant to law enforcement should be added one final hallmark of Strike Force work. Penetrating organized crime's curtain of silence, employing the sophisticated tools I have discussed, unraveling the complex manipulations of the mob's financial experts, probing large-scale criminal activity often involving many individuals operating over a wide area -- these efforts have necessitated major, long-term investigations involving many agents and prosecutors. The Strike Forces ordinarily conduct our most complex and time-consuming prosecutions, at times in conjunction with local United States Attorneys. Investigations in important cases have lasted up to two years and more. Strike Force prosecutors are intimately involved in the evidence-gathering process at a very early stage -- providing coordination and supervision, giving legal advice to agents, obtaining warrants, identifying additional evidentiary needs, and often supplementing the field investigation with grand

jury investigations. Special grand juries, now used by every one of our Strike Forces, are an important tool in this process. As I alluded to earlier, they can be extended beyond the normal 18 month term, which provides the continuity needed in these complex cases.

What I've described so far indicates that the institutional assets of organized crime have dictated the use of particular law enforcement tactics. In what areas should those tactics be employed? Achieving the appropriate focus for our efforts depends on the answers to the other two of my central questions, namely, what are the sources of revenue and what are the harmful effects of organized crime?

II.

Though lacking specific data, we have a reasonably clear picture of the principal revenue-producing activities of organized crime. Organized crime is still involved in the traditional rackets -- gambling, loansharking, prostitution, and pornography. There has undoubtedly been a loss of income from these sources since Senator Kefauver found vast fortunes amassed from slot machines and the race wire, but gambling is still a principal mob activity in certain areas, primarily New England. As the Subcommittee is well aware from its work last fall, changing economic and urban conditions have added arson-for-profit to the mob's list of illegal services. More significant than all those, however, is narcotics, which is now trafficked by most of

the traditional criminal organizations as well as many of the emerging ones. Finally, in many urban areas we see the mob engaged in a variety of other important illicit industries, such as car theft/insurance fraud in Buffalo, cigarette smuggling in Philadelphia, illegal firearms in Miami -- all subjects of recent prosecutions.

There seem to be a number of reasons for organized crime's continued emphasis on such activities. The illegality of these highly-demanded services produces extraordinary profit potential. The victimless nature of the crime minimizes the probability of detection. And third, these industries are inherently susceptible to being organized and monopolized. Individual entrepreneurs who are themselves criminals can be forced to pay protection money because they are unlikely to seek official assistance and are unable to conceal their marketing activities.

Labor-management racketeering, another traditional activity, is another major source of organized crime income. There are indications that several hundred union locals are now under some degree of mob control. The sources of revenue are obvious: the union membership can be sold out to corrupting managers who would rather pay bribes than full contract wages, union power can be used to extort no-show jobs and other benefits, and union treasuries or pension funds can be looted.

The particularly vulnerable unions seem to be those which are made up of unskilled or semi-skilled workers on dispersed

job sites, which exercise complete control over who works and who doesn't, and which serve industries unable to tolerate a strike of any duration due to heavy competition, a perishable product, or seasonable business. Construction and transportation unions are two which clearly fit this description. The best example is last fall's conviction of George Boylan, Business Manager for the Boilermakers Union local in New York. Boylan not only decided which workers were assigned to a particular job, but headed the committee which negotiated contracts with construction companies. The services of the boilermakers are essential for the construction of the boiler for any power plant in the New York area. One word from Boylan could tie up utility projects so huge that payoffs for his cooperation -- which eventually totaled over \$1 million -- were a relatively minor cost of doing business.

A third source of mob income has been of increasing importance in recent years. We estimate that organized crime has now infiltrated well over 700 legitimate businesses in this country, ranging from bars to banks. There are several varieties of infiltration. Criminals need some place to invest or launder their illegitimate income, and they often choose business establishments. Loansharks may accept or demand a portion of a firm in payment of an overdue loan. Extortionists may make similar demands, as in the Fiumara case mentioned earlier. In a similar case, Vito Giacalone was convicted of extortion in Detroit in 1978 for

agreeing to have an associate stop bothering Titan Laboratories in return for 10% of the company's stock and a \$2500 per month payment. At times a legitimate business may be created or acquired simply as a front for illicit activity. Some types of businesses may be chosen because they offer possibilities for "skimming" -- raking off a share of the profits before taxes -- or "bust-out" fraud -- driving a business into bankruptcy or abandoning it after purchasing large quantities of readily-salable merchandise on credit. More serious than these examples, however, may be organized crime's attempts to monopolize sectors of legitimate business through the same methods that allow it to control the illegal rackets -- extortion, intimidation, and corruption. This has occurred in different cities in the vending, cartage, waterfront and restaurant industries, among others.

Organized crime infiltration of businesses is becoming more sophisticated. A year ago, for example, the Aladdin Hotel and Casino in Las Vegas was featured in a major case which disclosed that individuals in Detroit possessed illegal hidden management interests in the Casino. At the sentencing the defendants presented over 150 laudatory letters, many from lawyers and judges in Detroit and from nationally known entertainers.

As with unions, certain characteristics seem to make a business especially vulnerable or attractive to organized crime. Businesses with a heavy cash flow are attractive prospects for skimming or money-laundering, particularly if record keeping is

lax. Businesses dependent on corrupt unions can be intimidated. Businesses that are undercapitalized or have other financial problems are vulnerable to loansharks. Finally, some kind of technical expertise or common interest may account for an organized crime presence in certain industries - such as the infiltration by motorcycle gangs of repair shops and service stations.

In most localities other activities supplement the income from these three principal sources (illegal services, labor racketeering, and infiltration of legitimate business). For example, until the conclusion last fall of "Operation Lobster," hijacking trailer loads of merchandise had been prevalent in the Boston-New York corridor.

Our effort to interdict these sources of mob income has been fairly direct. In the most general sense, we have gone where the gangsters are. The Strike Force concept permits us to concentrate extraordinary law enforcement capability in those cities with significant criminal organizations; as I stated earlier, all 26 such cities are currently covered.

More specifically, our activities have tended to shift as sources of income have undergone change. Our gambling and other prosecutions of the traditional rackets have declined as the overall significance of these activities has diminished; as organized crime has moved into legitimate business we have attempted to increase our law enforcement expertise and presence there. For example, last summer 15 individuals associated

with Charles Tashjian were convicted for a series of "bust-out" frauds in the Boston area involving as many as 40 stores and \$2-3 million in merchandise. In the famous Hamilton case two years ago, the slot manager of the Argent Corporation casinos in Las Vegas was convicted of tax offenses for running a "skim" operation. We have also prosecuted mob-linked bank officers in Michigan, Massachusetts, Ohio and New Jersey. In spite of successes like these, we are seeking to place greater emphasis on the infiltration of legitimate business by organized crime.

Our focus on labor-management racketeering, always a major organized crime arena, has remained intense. There have been especially significant convictions in the last year of officials of the Teamsters and Longshoremen's Unions, in the Provenzano and Barone cases, respectively.

Finally, the growing involvement of organized crime in narcotics and the severity of the national drug problem have generated a response from the entire federal law enforcement establishment. Twenty-five percent of the entire federal criminal caseload now consists of narcotics prosecutions. As we find organized crime moving into arson-for-profit, the Strike Forces have replied with major convictions such as the Carter case in Tampa and the Cina case in Buffalo.

By saying we respond to the principal revenue-producing activities of organized crime, I do not mean to imply that we are implementing a comprehensive strategy to choke off all the mob's

income sources. As much as we'd like to do that, we lack the resources and sufficiently precise information on their financial operations to achieve such a goal. Though we certainly will prosecute any activity we can prove is a major income source, we have to be selective in allocating our resources. How this allocation is determined is largely influenced by the answer to the last of my central questions: what are the most harmful effects of organized crime?

III.

Of the three questions I have asked, this last one is the most difficult to answer with any degree of precision. Yet, it is probably the most important. In order to carry out a sensible program against organized crime, we must specify as clearly as possible the nature of the harm that concerns us.

Economic harm comes readily to mind. It can take such forms as tax revenues lost through smuggling or skimming; loss of wages to workers through sweetheart contracts, or loss of their dues or benefits through the looting of union treasuries or pension funds; and increased prices to consumers through mob-created monopoly and its general constriction of free market operation.

The effect of the mob on the free market is best illustrated by our most significant prosecutions in the last year -- those resulting from the FBI's massive "UNIRAC" investigation. Years of undercover work by FBI agents revealed in several East Coast

ports a pervasive system of payoffs to International Longshoremen's Union officials to secure labor cooperation, the buying and selling of labor contracts, and numerous instances of embezzlement of union funds. The growing number of convictions of the 121 individuals indicted so far is expected to have a major impact on eliminating the 50 year-old stranglehold of organized crime on the shipping industry.

Another interesting example is the Boylan case mentioned earlier. Boylan's activity probably had a detrimental impact on society far in excess of the \$1 million he received from construction companies in payoffs. Labor racketeering of this variety closes markets to potential competitors either unwilling or lacking the proper connections to make the necessary payoffs. If only a few companies are available to build power plants in New York, construction costs will be artificially high. And since electric rates are based on capital investment, electricity consumers in New York will probably pay for Boylan's crimes for years to come.

Though the economic effects of organized crime activity are extremely difficult to trace or quantify, they are very disturbing. However, Mr. Chairman, I think we all know they are not the public's greatest concern about the mob. The most evident harm caused by organized crime is fear. And in the areas where fear is generated by the mob, individuals become insecure and institutions lose their sense of legitimacy and integrity. That is why we are

here today; that is why the Federal government has made a special commitment to control organized crime.

The fear engendered by organized crime is of a distinct and insidious nature. There is a substantial amount of crime in this country. We all understand that there is a chance we may encounter random violence on most of our city streets after dark and under many other circumstances. This makes us afraid, but our fear of organized crime is different. We know there are police protecting the streets, and if, in spite of their presence, we are mugged, we can report the mugger and do what we can to see that he is punished. Our fear of organized crime derives from the fact that in the face of its threat of violence we seem totally helpless. The police may simply be unable to provide protection from professional killers or enforcers. Or the authorities themselves may be paid off. And if we do report the mob's threat or assault and there is an arrest, we know the assailant's associates may threaten witnesses or seek revenge.

Helplessness is a basic component of fear; we are fearful of organized crime because when we are confronted with its capability for intimidation and extortion there seems to be no recourse. In this respect, organized crime is almost like a government, in that in certain sectors its coercive power makes it nearly a final authority. In many parts of the world people are fearful of government, too, for this reason. In this country elaborate and carefully constructed constitutional

and legal safeguards have eliminated most of that fear. We know that even if we have, in the end, no recourse from the power of government, before reaching that point every reasonable effort will have been made to treat us fairly. We also know that, at least in our democracy, the purposes of government are legitimate and are, in effect, our own. There are none of these assurances about the coercive power of organized crime -- a citizen may be simply robbed, or told to leave his work or business, or forced to cooperate with criminals.

Perhaps in part because of the activities of the Federal government, organized crime, of course, is not a real rival to the legitimate Federal and state governments in this country. The problem is found in particular localities and in specific unions, activities or industries. In limited spheres organized crime does exert a threatening, government-like sense of power.

Organized crime generates not only a sense of direct fear, but also concern that the powerful institutions in people's lives -- the ones they rely on for help and protection and economic well-being -- are being corrupted and diverted from their intended purposes. The big institutions in our lives provide us security. We depend on government, unions, and our economic units to serve our interests. From them we expect fairness and regularity. The insecurity caused by the existence of groups

of criminals apparently able to shatter these expectations is as harmful to society as direct fear of unfettered violence itself.

The words "fear" and "insecurity" do not quite encompass the entire detrimental impact of the mob. Even people not really in a position where they fear mob violence or those not directly threatened by corruption of a particular institution are harmed by organized crime. When institutions lose their sense of integrity and legitimacy, the resulting public skepticism hurts us all. Public confidence in the integrity of our political and other institutions is important to a free society. When this confidence is shaken in particular localities and economic sectors, we all suffer.

This is how those of us implementing the Federal government's organized crime program view our role. Our job is to give the American people the security of knowing that the criminal organizations which can affect their lives and their institutions deliberately, unfairly, and without recourse will not exist unchallenged in any sector. We have devoted our best prosecutive resources to this undertaking. There remain trouble spots, and these must be our future targets. Regardless of the progress we are able to make against particular organizations in any areas or industries, there will always be a need to provide security against uncontained power.

A sensible organized crime program must pay special attention to the areas in which the harm I have described is most severe. The Attorney General has established four Strike Force priorities designed to channel most of our efforts in that direction: labor-management racketeering, infiltration of legitimate business, public official corruption, and narcotics trafficking.

The first three priorities focus on the spheres in which organized crime is most threatening -- unions, business establishments, the political system. It's true, of course, that if criminals gain a foothold in a government unit or labor union or business and are able to use the assets and position of those institutions for their own purposes, they could extend their power over other sectors of society. That's a danger we should work hard to avoid. But it is the fear, insecurity, and skepticism felt by the citizen, the worker, the consumer, or the businessman who rely on these institutions that primarily account for these three priorities.

Narcotics is a somewhat different case. Along with its obvious social consequences, narcotics trafficking by organized crime is a Strike Force priority because of its profitability. The revenue available to organizations trafficking in drugs is immense. In the recently concluded "Black Tuna" marijuana smuggling case in Miami, the evidence showed the defendants were active in deals involving \$250 million worth of drugs. Profits of this magnitude promote the formation of new criminal organizations

and allow them to corrupt public and union officials, purchase legitimate businesses, and finance other illegal activities. Traffickers often do not hesitate to kill for such sums. In short, narcotics trafficking eventually generates the kind of harm I have mentioned. The revenue available from narcotics, along with the sheer prevalence of the problem, has necessitated adding narcotics to our priority list.

We believe our priority structure is an effective way to marshal our efforts against what we perceive to be the most harmful impact on society. We expect our priorities to change as the variety of harm changes and as we understand it more clearly. This latter adjustment is particularly important. Our priority categories are now very broad, and this limits their effectiveness as focusing devices. Rather than emphasizing legitimate business infiltration or labor racketeering, for example, we would be more effective concentrating on the particular kinds and locations of these crimes that are most responsible for generating the fear that concerns us, as well as the greatest economic harm. Our future efforts will be to develop this kind of knowledge.

Mr. Chairman, in the course of your hearing you will be exploring more deeply the answers to each of the central questions I have posed. I believe the focal point you have chosen -- violence -- is an appropriate one for such an inquiry. Violence, fear, and intimidation are central to the operation of successful criminal organizations. Moreover, as I have

suggested, they are also our central concern about organized crime. They make it unique and threatening.

Specifically, how is violence used by the mob? Most violence is internally directed and used to establish and maintain "turf" and organizational control. This is particularly true of younger organizations or when a new source of revenue is being developed, as illustrated by the epidemic of violence now occurring in the narcotics trade. Silencing witnesses and informants is the next most prevalent use of violence and one of great concern to us. Loansharking is a locus of common intimidation and occasional violence. Few citizens, of course, have any contact with violence in these contexts. Intimidation employed to take over businesses or unions exposes greater numbers of people to the threat of mob violence. The possibility of unchallenged coercive power is so threatening that the fear created by such take-over attempts may be somewhat disproportionate to the actual amount of mob violence directed at non-members.

The Department gives violence extraordinary attention as it appears in these different contexts. We treat witness or informant intimidation and assault very seriously, as a current important case in Los Angeles attests. The National Organized Crime Planning Council has made such cases one of our priorities, along with the four others I have mentioned. Intimidation of businessmen and union members is a major reason for establishing business infiltration and labor-management racketeering as Strike

Force priorities. Of course, with limited resources we must choose the most significant targets, and we are simply unable to prosecute the bulk of business and union intimidation. We also rely on local police and prosecutors to handle most gang warfare, unless we work with them in very significant cases like the Rochester case. Local authorities perform this function quite effectively.

Overall, we believe the most effective way to reduce organized crime violence is through our general strategy -- to bring major cases against organized crime leaders in specified priority areas, thereby weakening the organization and containing its power in particular economic sectors.

IV.

Having explored in some detail our knowledge of organized crime and the current state of the federal enforcement program, let me make suggestions for the future. These recommendations are not fully-developed proposals, but are intended to convey our general concerns.

Additional legislation in several areas could improve our ability to deal with violence and intimidation, particularly of witnesses. For example, there is considerable uncertainty about the coverage currently afforded witnesses by the federal obstruction of justice statute. It may be necessary to amend the statute to ensure that the act of threatening or harming a potential witness is also a punishable offense. A 1976 study

showed that fear of reprisal is the principal reason for failure of witnesses to cooperate, and an American Bar Association Committee has concluded the criminal justice system is presently unable to deal adequately with this problem. I cannot over-emphasize the importance of creative legislation in this area.

One step in the wrong direction would be to permit defense counsel to participate in grand jury proceedings. A principal function of the grand jury is to stand between the prosecutor and the accused. But, as I have explained, the grand jury has an equally important investigative function. Particularly in the organized crime area, this function would be severely damaged by granting defense counsel access to the grand jury room. Few witnesses would testify as freely in the presence of a mob figure's lawyer, who would later be able to report on their revelations.

Another possible legislative issue concerns the difficulty of obtaining testimony in organized crime cases. At present we have very few incentives to offer a potential witness or informant who has been incarcerated more than 120 days. Beyond that point, a court may not reduce a sentence, no matter how anxious the individual might be to provide evidence we need. Studies have suggested that the impact of being incarcerated increases after a person has spent a period of time in jail. Someone who might have initially been unwilling to testify, therefore, might well reconsider his position if the government could make a motion to reduce his sentence in exchange for testimony. This

would be a very useful tool for us. We would want any legislation to specify, though, that such reductions could be made only on government motion.

There are other ways to improve our effectiveness against mob violence. The Federal government should play a more direct role in cases of murder-for-hire. I want to make very clear that we do not seek to supplant the efforts of state and local law enforcement agencies, which, as I said, generally handle murder cases very effectively. Nor are we interested in prosecuting every case in which a person offers to reward someone for killing his or her spouse, or in having states forward all their unsolved murder cases to the FBI. What we do need, however, is to be able to apply our full federal investigative and prosecutive resources to murders commissioned by the mob. Professional mob killings -- contract murders -- are very, very difficult to solve. The conspirators are frequently located in more than one state or local jurisdiction, and the killers are often halfway across the country before their victims are even discovered. It makes sense to me, therefore, to bring the Federal government -- with its broad jurisdiction, substantial resources, and organized crime expertise -- into a case involving a professional, mob-related killing as early as possible.

A closely related legislative concern is the need to provide sufficient sentences for federal crimes involving violence. As

the legislative efforts now underway to reduce both the disparity and the length of sentences progress, we must retain longer sentences for crimes carried out through the use of violence.

Finally, the federal assault statute should be amended to include all federal officials involved in the investigation or prosecution of a federal crime, as well as their families.

A number of threats have been made against Strike Force attorneys, including the chief counsel of this Subcommittee when he was a prosecutor for us in Miami. In that case, the FBI verified the existence of a mob contract on both Mr. Steinberg and his co-counsel. Last year the FBI was informed of an assassination attempt planned against four government attorneys, including two Strike Force members, in a narcotics case in Florida. Protective measures, including the wearing of bullet-proof vests, had to be taken. Threats have also been made against prosecutors' family members, and it is appropriate that they be included in the statute as well.

In addition to these suggestions for new legislation, I want to express our frustration with two existing statutes that have seriously impeded us in the difficult task of developing incriminating evidence on organized crime figures. My deputy, Irvin Nathan, at your December hearing explained in detail the impediments created by the disclosure provisions of the Tax Reform Act of 1976. The Subcommittee responded by proposing effective remedial legislation, which the Administration is

studying with great care. I want to emphasize that, while the December hearing focused on narcotics trafficking, in the organized crime context the Tax Reform Act is an even greater handicap, because our entire Strike Force program is based on the pooling of information.

Finally, the Right to Financial Privacy Act has hindered some of the efforts of our Strike Forces. Banks and other institutions which previously cooperated in providing information now resist our inquiries for fear of being sued. Ironically, banks have even at times been unwilling to provide evidence in cases in which they themselves are the victims. Because there continues to be confusion and misunderstanding about the Act by various financial institutions, we have been forced to rely more on grand jury subpoena authority to get the information we need. As a result, most of our investigations requiring financial data have been delayed, and the added paperwork increases costs. Certain investigations have even been prematurely exposed when financial institutions notified the subjects of federal law enforcement inquiries. In some cases the situation has become absurd. One bank required a customer authorization for the FBI to obtain a forged withdrawal slip which the customer denied writing in the first place. Another bank would not report a known teller embezzlement to the FBI, and after the Federal Deposit Insurance Corporation reported it, the bank would not supply the pertinent records.

I think that this Act is sound in its purpose, but it clearly poses some practical problems which need to be remedied.

For the future we need not only new legislation but also more knowledge. Our organized crime program can be only as good as the perceptions on which it is based. I have already alluded to several areas in which our current knowledge is weak. We know a fair amount about the strengths of organized crime; now we've got to pinpoint some of its vulnerabilities. We know generally what revenue-producing activities organized crime is engaged in; now we've got to know why and the size of the various revenue flows. We know what businesses or unions are particularly susceptible to organized crime control; now we've got to know how to protect them and, even better, how they can protect themselves. Finally, and most important, we must develop analytical techniques and sufficient data to give us a clearer picture of the harmful effects of organized crime on our society. We need to know exactly where it occurs and how serious it is -- only then can we effectively respond. I believe the Attorney General is committed to developing this information, and we are presently working with the FBI to initiate that effort.

This concludes my prepared statement. We look forward to following the progress of your hearings and welcome any suggestions and information you develop. At this time I would be pleased to respond to questions.

END